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CONGRESSIONAL RECORD,

FORTY-SIXTH CONGRESS, SECOND SESSION.

Mr. COOK. Mr. Chairman, I desire to have read an extract from the Daily Constitution, Atlanta, Georgia.

The Clerk read as follows:

FAST MAIL LINES.

The North and West are enjoying the advantages of a fast mail service. The appropriations for those sections have hardly ever been refused; but when $400,000 is asked for the purpose of expediting the mails between New York and both Jacksonville and New Orleans, why that is another matter. True, the South is not as populous or as full of business as it might be; but should that fact deprive the entire section of special postal facilities when it has to pay in part for such facilities in other sections of the country? The postal business of the country is not wholly based upon population or anything of that nature. The Government reserves the right to carry all mail matter, and in so doing it is in duty bound to use all sections fairly. It has no moral right to foster business in one section and neglect it in another. It has no more right to say to the people of New Mexico that they shall have no postal facilities because of their small population than it has to say to the South that it shall have a slow service while the North and West have a fast service. If any Southern member stands in the way of the necessary appropriation to give the South a fast mail service, he is doing the business interests of his section great injury. With an appropriation of $400,000 it is estimated that New York would be placed one day nearer in time to Atlanta than it now is; that is, a train could leave New York at four o'clock in the afternoon and yet reach Atlanta as soon as the train that now leaves the metropolis early in the morning. The advantages of such a quickening of the trains would be felt in every part of the South, and it is to be hoped that there will be a solid South in Congress in favor of the desired appropriation.

Mr. BLOUNT. Mr. Chairman, the gentleman from Mississippi expresses surprise at the action of the Committee on Appropriations in declining to recommend any sum of money to be used outside of the present law for compensating railroad companies for carrying the mails with a view of obtaining special mail facilities. Now, sir, I might retort and say that I was greatly surprised that the Committee on Post-Offices and Post-Roads should have neglected by proper legislation to give to the country star service facilities and railway mail facilities regulated by law so as to avoid abuses.

For one, sir, the objecction I have to such legislation is this: we are not without illustrations of the evil effects of giving to a single officer of this Government a "slush fund" to be used according to his own order. I have heard this talk before about aiding the South. I remember quite well two years ago when we were asked to vote a million and a half for the purpose of increasing the star service that we were then told it would go mainly to the South. The time passed, and the records disclosed the fact that more than the increase itself, that increase being a million and a half, that not $1,500,000 but $1,800,000 had gone simply to a few States and Territories under executive order. The hundred routes covered by this vast sum of money were in violation of laws intended to restrain the Department. But this goes beyond that. There is a sum beyond which they cannot pay for expedition, but here it is proposed to vote $150,000 more. Now, you say it is a small sum. My friend from Mississippi says that it is not enough and proposes to increase it, and says we may expect throughout this country that from time to time there will be an application for increase.

Now, Mr. Chairman, I am in favor of wisely extending these facilities, and think that the mails should be carried throughout the whole country with expedition. But what is the basis of the argument here? I want to tell the gentleman from Mississippi that if this odious legislation is to be had what its effects are to be in the future. In the first place, I oppose the proposition. I oppose $150,000 or $350,000; for I see that since it has already run up from $150,000 to an estimate of $400,000 in one year it will reach a million in another year, and perhaps a million and a half or two millions more at the end of the next year, until a single officer, importuned for service here and there and induced by representations made to him to put on service where these applications are made, will absolutely control the whole system. I say that instead of being a railway mail service regulated by law, this system would place it in the hands of one officer who has a status peculiarly subject to temptation—temptation to dishonest administration, if you please; or, if not that, to yielding to importunities for service here and there which is not calculated at all to result in good administration of the Department. And, sir, it is on this ground that I hope we will not vote any slush fund to place in the hands of any single officer. It would be better that the Committee on Post-Offices and Post-Roads would regulate that service by law so that we should have a fair and economical administration of it.

Mr. BLACKBURN. I desire to give notice that I shall in future object to the withdrawal of any *pro forma* amendments, in order that the time of the committee may not be consumed in debate.

The CHAIRMAN. There is no *pro forma* amendment here. There is an amendment to an amendment pending.

Mr. PAGE. Mr. Chairman, I rise to favor the amendment of the gentleman from Massachusetts——

Mr. BLACKBURN. Has not debate been exhausted?

The CHAIRMAN. As there are two amendments pending the Chair deems it proper that there should be fair time allowed for debate on each.

Mr. PAGE. Mr. Chairman, I rise to favor the amendment of the gentleman from Massachusetts, [Mr. ROBINSON,] and I am glad to witness the fact that the Appropriations Committee is not exactly harmonious on this proposition. The gentleman from Connecticut as well as the gentleman from Illinois will not go with the gentleman from Georgia, as I believe, on this amendment. This is an appropriation of $150,000 to put on extra mail service.

Mr. BLACKBURN. Three hundred and fifty thousand dollars.

Mr. PAGE. Well, $350,000 for extra mail service and expedited service in the East. I want this amendment to be adopted. I want to see this expedited mail service. I shall vote for the amendment and then when this bill is enacted into a law, if this proviso in the next section is to be allowed to remain, then I want the people of this country to understand all the facts in reference to this expedited service which my friends, the gentleman from Illinois and the gentleman from Connecticut, are so much in favor of while all join hands in striking down the star service which covers almost the entire service west of the Mississippi River. That service is to be emasculated, is to be stricken down, one-half of it to be cut down entirely and in many cases two-thirds.

I am for the amendment, Mr. Chairman, because I want the people of this country, in every section of it, to have the very best mail service that the wants of the people and the business interests of the community demand; whether they be east or west of the Rocky Mountains or the Mississippi River, I want them to have it. And I want these people east of the Rocky Mountains to have this two and a half million dollars that is provided for carrying the letters from the post-office to their doors two or three times a day, delivering letters in this way to every business man in every town which has a population of not less than twenty thousand people, and I expect my friend from Illinois [Mr. CANNON] and my friend from Connecticut [Mr. HAWLEY] to help strike down this proviso that emasculates the western service of the country. I want this vast amount of two and a half million dollars that has been appropriated for the carrier service to be continued, which is an amount almost as great as the entire mail service in the West, comprising five great States and nine Territories, and I shall expect this House to aid in this act of justice; and I indorse heartily and cordially the sentiment expressed in the Atlanta Constitution which has been sent up by the gentleman from Georgia [Mr. COOK] and read from the Clerk's desk.

I repeat, Mr. Chairman, that I am against discriminating in favor of any section of the country, West, South, East, or North, whether the people representing the great money interests of the country and its great marts of trade and commerce, or the people living in the agricultural and mining regions. All are entitled to the very best service that the Government can give them, and this mail service which is of such vast importance to the whole country should give equal advantages to all. I hope the amendment will be adopted and that this House, carrying out that wise and humane proposition, will strike out the proviso in the succeeding section which militates against the star service.

The CHAIRMAN. The question is on the amendment of the gentleman from Mississippi to the amendment of the gentleman from Massachusetts, namely, to strike out $150,000 and insert $350,000.

Mr. CANNON, of Illinois. I would like to ask the gentleman from Mississippi to withdraw his amendment for a moment to permit me to make a few remarks, after which I will renew it.

The CHAIRMAN. The gentleman from Kentucky has given notice that he will object to the withdrawal in future of any amendments.

Mr. BLACKBURN. My notice was in reference to *pro forma* amendments.

Mr. MONEY. I did not hear the proposition of the gentleman from Illinois.

Mr. CANNON, of Illinois. My request was that the gentleman from Mississippi would withdraw his amendment to the amendment, and I will renew it after I have made a few remarks.

Mr. BLACKBURN. If it is desired to have further discussion upon this amendment, then I shall object. I want the committee to come to a vote upon it.

The question was taken on the amendment of Mr. MONEY. The committee divided, and there were—ayes 86, noes 38.

Mr. BLACKBURN. No quorum having voted, I call for tellers.

Tellers were ordered, and Mr. BLACKBURN and Mr. MONEY were appointed.

The committee again divided, and the tellers reported—ayes 98, noes 34.

Mr. BLACKBURN. I will not make the point of order that no quorum has voted, but I give notice that I shall reserve the vote by yeas and nays in the House on the amendment.

Mr. STONE. I desire to offer a further amendment.

Mr. CANNON, of Illinois. I would like to have an opportunity to say a few words before the gentleman offers his amendment. If I could have five-minutes' time on an informal amendment it would be all I desire.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois, he being a member of the Committee on Appropriations, under the practice of the House, which is to recognize gentlemen who are members of the committee having the bill in charge.

Mr. STONE. I shall ask first to have the amendment which I propose read.

The Clerk read as follows:

In line 61, strike out $9,500,000 and insert $9,850,000.

Mr. HAYES. Is there not an amendment already pending?

The CHAIRMAN. The Chair will state to the gentleman from Michigan that the committee has already amended the clause to which he refers changing the amount from $9,500,000 to $9,450,000.

Mr. CANNON, of Illinois. And I understand an amendment to the amendment has been adopted. I understand that merely the amendment offered to the amendment by the gentleman from Mississippi [Mr. MONEY] has been adopted, but the amendment of the gentleman from Massachusetts [Mr. ROBINSON] has not been. I desire to be heard on that amendment.

The CHAIRMAN. The gentleman from Illinois is correct. The gentleman from Michigan [Mr. STONE] proposes to amend the amendment. But in the form in which he sends it to the desk it is an amendment to the text of the bill. An amendment to the amendment of the gentleman from Massachusetts would be in order.

Mr. STONE. I will withdraw my amendment for the present till the amendment of the gentleman from Massachusetts is adopted.

Mr. CANNON, of Illinois. I move to strike out the last word.

I offer this formal amendment for the purpose of making a single remark. I am in favor of the amendment pending before the committee, and I am in favor of it for the reason that under the general law the pay of railways is regulated by weight and space to all railways alike. Yet it is true that the business of all railways is not similar. For instance, the space of a great trunk line that runs its cars full of passengers and express matter is worth more than that of a small railroad that has not a great number of passengers or much express matter or baggage. In one case the trip is the important thing; in the other case the space is the important thing.

Now, sir, it is difficult to get trains upon the great trunk lines with enough space, and trains sufficiently frequent to do the mail service. But on one of the new roads they want you to take all the space you can occupy and as many trips as you please, and they will regulate their time very much as the Department desires. Now, to make this thing run easily, the law being general, this fund goes to the Postmaster-General to enable him to get a special train; so that in New York, for instance, on the New York Central the train that leaves at six o'clock in the afternoon takes the mail that is made up at 4.30 p. m. They get a train an hour and a half later to take the mail that comes in till six o'clock. That train runs upon the same road and overtakes the other at Buffalo, and they go on together to the great West.

I believe the law ought to be amended completely touching the method of compensating railroads; but we have not the time and knowledge here and now to amend it completely. Therefore I believe in giving temporarily this fund for this special purpose.

Having said this much, I wish to make one word of reply to the gentleman from California, [Mr. PAGE.] I believe in doing exact and full justice to the service everywhere. But, for one, I am not here to dicker for service, to say, "You give me a slice of service and I will give you a slice." If this proposition to appropriate $150,000 or $350,000 per annum for special facilities in this railway mail service does not rest upon its merits, then let it fail. I place it upon the merits pure and simple; and for the purpose of getting that which is right in reference to the carrying of 95 per cent. of all the mails in the United States, as the gentleman from Mississippi well said yesterday, I am not willing, for getting what we are entitled to, to agree in any shape or form to give any other service that which it is not entitled to, and which costs millions, while this which we are entitled to costs hundreds of thousands of dollars.

All I want to say about the other matter is that I am ready to meet that when it comes up.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts [Mr. ROBINSON] as amended on the motion of the gentleman from Mississippi, [Mr. MONEY.]

Mr. DUNNELL. Let the amendment be again read.

The amendment, as amended, was again read.

The question was taken on the amendment as amended; and there were—ayes 87, noes 17.

Mr. BLACKBURN. A quorum not having voted I call for tellers.

The CHAIRMAN. The Chair appoints as tellers the gentleman from Massachusetts [Mr. ROBINSON] and the gentleman from Kentucky, [Mr. BLACKBURN.]

The committee again divided; and the tellers reported—ayes 103, noes 21.

Mr. BLACKBURN, (one of the tellers.) No quorum.

The CHAIRMAN. The tellers will continue the count; and gentlemen will please vote on the one side or the other to make a quorum.

The count was continued; and the tellers reported—ayes 115, noes 35.

So the amendment, as amended, was agreed to.

Mr. BLACKBURN. I will call for a vote in the House by yeas and nays on this amendment.

Mr. STONE. I move to amend by striking out in the sixty-first line "$9,490,000" and inserting "$9,840,000."

Adding this amount will accomplish I think what the friends of this service desire. I propose to give the sum of $350,000 in addition to the sum in the present bill as reported by the Committee on Appropriations; and I desire to say a few words on the merits of the question.

Mr. BLACKBURN. I reserve all points of order. What is the gentleman's amendment? I did not hear it.

Mr. STONE. It is to add $350,000 to the amount in the bill as amended by the amendment of the gentleman from Massachusetts, [Mr. ROBINSON.]

Mr. BLACKBURN. The gentleman knows the amount in the bill was not increased by the amendment.

Mr. STONE. It was decreased; and now I want to increase the total sum by $350,000.

Mr. BLACKBURN. And upon that I make the point of order.

Mr. STONE. I am willing the Chair should rule upon the point of order after I have been heard a moment. It seems to me this amendment is in order. I know of no rule that is violated by increasing the total amount reported by the committee on this bill. I do not now, by this amendment, attempt any new legislation or the change of any existing law. I simply propose an increase of the aggregate sum, the clause otherwise having already been amended satisfactorily to me.

Mr. BLACKBURN. I have not heard the amendment read, so as to know its exact language.

Mr. STONE. It is simply to increase the sum appropriated in this paragraph by $350,000.

Mr. BLACKBURN. Then it is a proposition to strike out $9,490,000 and substitute therefor a sum which will be $350,000 greater?

Mr. STONE. That is the proposition.

Mr. BLACKBURN. Then the point of order I make upon it is that the gentleman is endeavoring—and I say it without intention of personal offense—to do by indirection what the rule of the House as construed and applied by the Speaker of the House and by the present occupant of the chair in Committee of the Whole declares to be out of order. It was not in order for the gentleman in the first place to make the motion he now submits.

The gentleman from Massachusetts, [Mr. ROBINSON,] acting with entire propriety and putting himself in the judgment of the present occupant of the chair within the limits and scope of the rule, offered an amendment which did change existing law, but which was not obnoxious to a point of order under the rule because it reduced the amount of money covered by the bill. Now, as soon as that amendment, as amended, was agreed to, a proposition is submitted to increase the total amount carried by this bill $350,000, by striking out the very identical sum which has this moment been inserted by order of the committee and substituting therefor a greater sum.

Now, that proposition is amenable to the point of order in two respects. In the first place, that part of the bill which has been perfected by the Committee of the Whole by inserting certain words cannot be amended by striking out any of those words thus inserted and substituting others therefor. Secondly, the amendment is amenable to a point of order because a recognition of it would totally subvert the purpose of the rule and put a premium upon processes of indirection. Such a construction of the rule would give to every member of this House the power to accomplish by indirect procedure what the rule expressly prohibits by direct action. Therefore, on either the one or the other ground the amendment now offered is not in order.

Mr. STONE. The amendment which I have offered stands as an independent proposition. It has no connection whatever with the amendment offered by the gentleman from Massachusetts, [Mr. ROBINSON.] I suppose the true question is whether my amendment of itself is objectionable under the rule. I hold that it is not, because it does not propose to change existing law; it simply proposes to increase the total amount contained in the bill.

Mr. PAGE. And is germane to the subject-matter of the bill.

Mr. STONE. Of course it must be conceded that it is germane and is not a change of existing law. I submit the question to the ruling of the Chair.

Mr. CANNON, of Illinois. I desire to make a single remark upon this amendment. I think it is perhaps the fault of the rule if by indirection there can be accomplished what the gentleman from Kentucky [Mr. BLACKBURN] says cannot be done directly. Of course the Chair is not responsible for the rule.

Mr. BLACKBURN. The point of order upon which I raise my objection is that it is not in order under the rule to strike out what the House has just inserted.

Mr. CANNON, of Illinois. Of course I am not going to undertake to controvert that view, because I am not clear about it. But it occurred to me that until the committee has left a section or a paragraph, any conceivable amendment to perfect that section or paragraph is in order.

I think I have a right to move as an amendment to strike out $490,000 and to insert $1,000,000 if I choose, or $14,000,000 if I choose, because this is an appropriation for the service under existing law. So much for the point of order. I have no desire to say anything further about it, except to call the attention of the gentleman from Kentucky to the fact that however this point of order may be decided, whether it be held to be well taken or not, we have practically swelled the amount in this bill by $35,000, and we ought to appropriate enough money to meet it.

Mr. BLACKBURN. I beg the gentleman's pardon, but the House holds his assurance that the amendment just agreed to did not swell this bill to the extent of one solitary dollar. The amendment just agreed to never would have been admitted by the Chair, as the Chair stated, except upon the ground that it did not add to but did take from the amount carried by the bill the sum of $10,000.

Mr. CANNON, of Illinois. The gentleman does not quote me quite correctly. What I said yesterday was that probably this amount,

$9,500,000, would be sufficient to pay for the railroad service, and also to allow $150,000 for special service. But since that time $350,000 has been set apart for special service, and therefore I think some additional amount is necessary.

Mr. BLACKBURN. I call for the ruling of the Chair.

Mr. STONE. I am ready for the ruling of the Chair.

The CHAIRMAN. If the amendment of the gentleman from Michigan [Mr. STONE] had been moved as an amendment to the one proposed by the gentleman from Massachusetts [Mr. ROBINSON] the Chair would have had no hesitation in ruling it to be out of order, upon the ground that it was accomplishing in the form of an amendment and by indirect means the precise thing which the rule prohibits being accomplished by direct means. But the Chair thinks that it is not necessary for him to decide that question at this time, as this is not an amendment to an amendment.

The Chair decides this amendment out of order upon another ground entirely, which ground the Chair can perhaps state better in the language of the Manual than in his own. The Clerk will read what will be found on page 80 of Jefferson's Manual, which governs in the absence of any express rule of the House, and there is no express rule upon this subject.

The Clerk read as follows:

Although it is not in order to strike out by itself what has been inserted, it may be moved to strike out a portion of the original paragraph, comprehending what has been inserted, provided the coherence to be struck out be so substantial as to make this effectively a different proposition.

The CHAIRMAN. The gentleman from Michigan [Mr. STONE] will see, therefore, that his motion is a motion to strike out by itself the very thing which the committee has just voted in.

Mr. STONE. Only a portion of it.

The CHAIRMAN. But the thing which the gentleman moves to strike out, so far as it goes, is identically that which the committee has inserted. Now, under the parliamentary law the gentleman might move to strike out a thing which had been inserted, provided he would connect with it something in the original bill which the House had not just inserted and which cohered with the words to be struck out. But there is no such motion as that before the committee.

Mr. REAGAN. Now I propose to offer my amendment, as follows:

Provided, That railroads carrying less than two hundred pounds of mail matter shall, in the discretion of the Postmaster-General, be paid for carrying the mails such sum less than $50 per mile as he shall determine to be equitable.

Mr. Chairman, I offer this to meet a necessity which has developed itself—the necessity of enabling the Post-Office Department to contract with railroads for carrying the mails where the weight of mail matter daily is less than two hundred pounds.

Mr. CANNON, of Illinois. If the gentleman will allow me, I rise for the purpose of reserving a point of order on the amendment. I do not know whether it is subject to such a point; but I would like to have it reserved.

Mr. BLACKBURN. I think the gentleman from Illinois will not object to the amendment.

Mr. REAGAN. I desire to illustrate the necessity of a provision of this kind by a single case. The mails are now being carried from a point on the Great Northern Railroad across the Trinity River to Eastern Texas at an expense of $2,000. A *pro rata* allowance to a narrow-gauge railway into that country would secure the transportation of the same mails six times a week for $600, while they are now being carried three times a week for $2,000. I simply mention this as an illustration of how the amendment would promote economy to the Government, expedition of the mails, a more frequent service—accommodating the country better in every way, as by rail the mails could be carried without interruption, while under the existing arrangement the mails during high water are entirely suspended.

It will be observed that the object of this amendment is to enable the Postmaster-General, in his discretion, to contract for carrying the mails on railroads where the daily weight of the mails is less than two hundred pounds, at such price as he may fix, below the $50 per mile allowed on the lowest class of railroads. I trust it will be the pleasure of the Committee of the Whole to adopt the amendment. Whether it is subject to a point of order, I am not sure; but if so I trust the point will not be made, because the amendment is in the interest of economy and an expedition of the service.

Mr. BLOUNT. I do not see how this amendment can retrench expenditures. As I understand, it provides that where the compensation for weight is less than $50, the Department may pay in its discretion.

Mr. REAGAN. No, sir; the gentleman misunderstands the amendment. It provides that where the mails carried are less than two hundred pounds daily the Department may nevertheless contract for carrying them on railroads at such price less than $50 a mile as the Department may determine to be equitable. In other words, the Department may adopt a *pro rata* plan. For instance, if the weight is one hundred pounds it may allow $25 a mile.

Mr. CANNON, of Illinois. It can do that now.

Mr. REAGAN. On the question of economy the illustration I have given shows that the service in a very extensive part of the country can be performed six times a week for $600, while under the present plan there is a service by horse and wagon only three times a week—often interrupted by high water—which costs $2,000.

The CHAIRMAN. The Chair will state to the gentleman from Texas that the provision embraced in his amendment seems to be the law now. The law simply provides that the rate shall not exceed $50 per mile where not more than two hundred pounds of mail matter is carried.

Mr. REAGAN. Mr. Chairman, the provision of the law is that—

The pay per mile per annum shall not exceed the following rates: namely, on routes carrying their whole length an average weight of mails per day of two hundred pounds, $50.

The Department holds that it cannot under that provision contract for carrying the mails where there is less than two hundred pounds weight daily. This very railroad of which I have spoken has offered to carry the mails on such terms as my amendment proposes, as I am informed by citizens not connected with the railroad; and the Department has declined, I understand, on the ground of want of authority.

Mr. CANNON, of Illinois. Mr. Chairman, the gentleman is in error. Every railroad in the United States is by a general provision of our statutes made a post-route; and I am quite sure that the service goes upon every railroad as fast as it is prepared to do the service. This is in accordance with a general regulation.

Now, in my own section of country, as I personally know, a very great number of roads do not carry two hundred pounds per mile per annum, and they get smaller compensation. Some roads are compensated as low as $25, some $30, some $35, under this general law.

But the gentleman's amendment does not retrench expenditures, because at present in order to get the $50 a mile per annum the road must carry two hundred pounds per mile per annum on an average over the whole line; while, if I understand the amendment, it changes the law so as to enable the Department to pay $50 a mile per annum.

Mr. REAGAN. Oh, no; such sum less than $50 per mile as the Postmaster-General shall determine to be equitable.

Mr. CANNON, of Illinois. Such sum less than $50, although they might not carry this weight over the whole line, but might carry it over half the line, so they would be compensated half way at $50, and the other half at a much less rate. If it does not mean that it does not mean anything, and does not change the law at all, and therefore is not in order.

Mr. REAGAN. If the gentleman from Illinois is through, I wish to say that I know that at one time, such is my impression now, the Department, under the recognition of the railroads as post-routes, did contract, as the gentleman from Illinois suggests, for rates less than $50 per mile. But this comes to me with the information that the Department holds, under the act of 1875, it cannot contract with the railroad, although it may be declared a post-route, for the carrying of mails, because of the limitation of this clause. I have not consulted the Department, and can only speak from the information which comes to me from people interested, who have told me the Department will not contract with them because the railroad does not carry an average of two hundred pounds of mail over its whole line.

The CHAIRMAN. The Chair would suppose under this the Post-Office Department might contract with a railroad company which carried less than two hundred pounds; that the limitation prescribed by the statute would not apply; that simply under the general power to have the mails carried the Postmaster-General might make a contract in such a case as that without being governed by limitations in section 4002——

Mr. REAGAN. One moment.

Mr. BLOUNT. I wish to ask a question.

The CHAIRMAN. In other words, what the Chair means to say is this: as he understands section 4002 it fixes no limitation on the price the Postmaster-General may pay unless the company carries an average of two hundred pounds of mail matter.

Mr. CANNON, of Illinois. I wish to say to the Chair, if the gentleman from Texas will allow me, and also to the gentleman from Texas himself, (and I think I am not mistaken about the practice of the Department,) the rate of pay under the general law and regulations passed thereunder for the carriage of mails on any of the railroads, whether they carry one hundred pounds or fifty pounds, is not to exceed $50 a mile. I think I am not mistaken about that, and if the gentleman has any contrary information I am quite sure he will find it is not reliable.

Mr. MILLS. This amendment can do no harm.

Mr. REAGAN. Under this the Postmaster-General is to arrange railway routes on which the mail is carried, including those in which the service is partially by railroad and partially by steamboat, into three classes, according to the size of the mail, speed at which it is carried, and the importance of the service, so each shall receive, as far as practicable, a proportionate and just rate of compensation. Then it goes on that—

The pay per mile per annum shall not exceed the following rates, namely: On routes carrying their whole length an average weight of mails per day of 200 pounds, $50; 500 pounds, $75; 1,000 pounds, $100; 1,500 pounds, $125; 2,000 pounds, $150; 3,500 pounds, $175; 5,000 pounds, $200, and $25 additional for every additional 2,000 pounds, the average weight to be ascertained, in every case, by the actual weighing of the mails for such a number of successive working days, not less than thirty, at such times, after June 30, 1873, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster-General may direct.

Now, then, if the Department has ever made a contract to carry the mails on a railroad under the law prescribing the rate for the star service, I have never heard of the instance.

Mr. CANNON, of Illinois. Oh, yes!

Mr. MILLS. Since this law?

Mr. CANNON, of Illinois. A great many railroads make contracts.

Mr. MILLS. Under the star service?

Mr. CANNON, of Illinois. Not under the star service.

Mr. REAGAN. My proposition is, if they ever did make any such contract I do not know it, and do not see how they can do it without violation of law. I will repeat again, the information does not come from the Department but from people interested directly in this matter, and I hold in my hand the letter of an intelligent gentleman who is interested in this matter and certainly must be informed on this point. I have been informed by such gentlemen that they have been unable to undertake the carriage of the mail on that railroad. The mail which is now carried across the Trinity three times a week at a rate of $2,000 could be carried six times a week at a cost of $600, if the Post-Office Department were permitted to contract with that railroad company. There would thus be a saving of $1,400 for that particular service on that particular route.

Mr. BLOUNT. Mr. Chairman, as to the question of fact between my friend from Texas and my friend from Illinois, as to whether less than $50 per mile per annum could be paid, I find on page 86 of the report for 1879–'80 tables in which one railroad company is paid $29.22, another $24.20, and another $42.45.

Mr. MILLS. What year was that?

Mr. BLOUNT. The last fiscal year. And I might go on with quite a number of other instances which would establish this point. So, I think it is clear the Department has been construing the law and acting upon it in the very way that my friend proposes in his amendment.

Mr. MILLS. Then the amendment can do no harm.

Mr. CANNON, of Illinois. I think the general law covers it.

Mr. REAGAN. If there is such a law, of course I do not want to re-enact it; and from the facts presented by the gentleman from Georgia, in the statement which he has read as to the law and its construction by the Department, I will withdraw the amendment; but I cannot comprehend how it can be, because the gentleman representing it to me is a public officer of great intelligence, and I do not see how he could have been mistaken.

Mr. BLOUNT. The gentleman will see that this is conclusive as to the construction.

Mr. REAGAN. Yes; undoubtedly so, and I will withdraw the amendment; but if hereafter I should find that it is an error here I will seek to introduce it as an amendment when the bill comes from the Senate.

The Clerk read as follows:

For inland transportation by steamboat routes, $825,000.

Mr. KING. I move, in lines 72 and 73, to strike out "$825,000" and insert "$900,000;" making it read:

For inland transportation by steamboat routes, $900,000,

Mr. Chairman, the amendment is germane to the subject-matter of the bill, and does not change existing law.

Mr. BLACKBURN. What is the character of the amendment offered by the gentleman from Louisiana?

Mr. KING. My proposition is to insert $900,000 in place of $825,000 for this item. This amount is recommended by the Department, and why the reduction is proposed by the Committee on Appropriations I cannot understand. In 1860 the steamboat-route service extended over 15,000 miles, and it received an appropriation of $1,000,000. In 1879 we had a steamboat-route service extending over 18,000 miles, and the proposition was made to reduce the appropriation to $750,000, but it was finally increased to $900,000.

At present our steamboat mail service extends over 21,240 miles, and it is proposed to give it but $825,000. Now, we ask for an increase of this sum to $900,000. The reduction proposed is against the recommendation of the Post-Office Department, and I believe it will prove most detrimental to the interests of that portion of the country involved, as well as to the whole country. We along the river courses would suffer largely from this reduction. Our population is not decreased; it is increased. Our commerce and commercial relations have not decreased; they have been and are constantly increasing. Why, then, these discriminations in the mail service against us?

I hope the committee will grant the increase recommended in this amendment.

Mr. BLACKBURN. Mr. Chairman, I am not disposed to make any issue with the gentleman from Louisiana. If he is indeed in doubt as to the reasons and motives which operated on the committee in the recommendation it makes I can solve it for him very promptly. I am friendly to the steamboat service. The great artery of American inland commerce is absolutely dependent upon the steamboat mail service. There is not a railroad line that runs parallel with the Mississippi River east or west save one on the east, and that is the New Orleans, Jackson and Great Northern route, running at an average distance of sixty miles from the river. There is no parallel line of railway on the western bank at all.

I readily appreciate the anxiety that is felt by the gentleman from Louisiana and other gentlemen from his section whenever these items of the bill are considered which seem, although I am by no means disposed to admit that assumption, but look like a policy on the part of the Committee on Appropriations to restrict their mail facilities. For myself and for the Committee on Appropriations I feel sure it is unnecessary to contradict such an assumption, or to declare that there is not the slightest intention to do anything of the kind or to make any discrimination against them. I shall not feel grieved, therefore, if the amendment of the gentleman from Louisiana shall be agreed to. But the figures and facts compel me to state to this committee that it does not appear that the sum of $900,000 is necessary for this purpose.

In the last Post-Office appropriation bill the recommendation of the Committee on Appropriations was disagreed to, and the House added very largely to this item of the bill, making it $900,000. I find the Post-Office Department has not expended that amount of money in the present fiscal year. I will give you the figures. I find that the Department is now operating the steamboat service at the rate, or on a basis rather, of $900,000 a year. I am assured by the Department, and I take it that the gentleman who offers this amendment will not controvert the assertion, that the best system of steamboat mail service that ever was given to this country exists to-day. He has upon that great river a daily line from Saint Louis to Cairo. He has a tri-weekly line, with one additional trip from Cairo to Memphis. He has a tri-weekly from Memphis to Vicksburgh, with two additional trips a week, and substantially a daily line from Vicksburgh to New Orleans.

The Post-Office Department assured the Committee on Appropriations that the best steamboat mail service this country ever has had exists to-day. This is the statement of the officials of that Department; and I also oppose the increase asked for by the gentleman from Louisiana, because I hold in my hand a statement from the Department showing the expenditures for the current year, and dated on the 29th of April, just six days ago. This communication from the Sixth Auditor's Office shows that out of the $900,000 appropriated for steamboat service for the current fiscal year the sum of $192,325.32 was expended during the first quarter. The sum of $189,168.79 was expended during the second quarter. This does not seem to be an increasing service. Upon the contrary, the first quarter of the present year was more expensive than the second quarter by the difference between $192,325 and $189,168.

Mr. KING. Will the gentleman permit me to ask him one question?

Mr. BLACKBURN. Certainly.

Mr. KING. Is your estimate based on the expenditures of the four quarters or of the two quarters?

Mr. BLACKBURN. I will state, in answer to the gentleman from Louisiana, that it is based on the estimate of the four quarters. It is impossible for me to state what the amount is for the third quarter, because the Post-Office Department does not know; and still more impossible to tell what it is on the fourth quarter, because that fourth quarter has just begun and is now running.

But here is the statement: $900,000 was appropriated for the present year. For the first half of the present year only $381,494.11 has been expended. At the present rate of expenditure the current fiscal year will only cost us for steamboat mail service $762,988.22, leaving a margin of $137,000 unexpended and not needed.

MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having taken the chair, a message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 4227) for the relief of settlers on public lands; and

A bill (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier.

The message further announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1650) authorizing the President to make the necessary arrangements to carry into effect any convention between the United States and Nicaragua for the adjustment of claims which may be duly concluded between the two Governments.

Mr. MAGINNIS. I ask the House to concur in a verbal amendment to a bill just received from the Senate.

The SPEAKER. The rising of the committee is informal. That request cannot now be entertained.

POST-OFFICE APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. CHALMERS rose.

Mr. BLACKBURN. Had my time expired when the committee rose to receive a message from the Senate?

The CHAIRMAN. It had.

Mr. BLACKBURN. Very well.

Mr. CHALMERS. I am satisfied that the gentleman from Kentucky [Mr. BLACKBURN] who last addressed the committee is, as he states, very friendly to the river service and especially that on the Mississippi River. The gentleman could not be otherwise. Having lived many years on its banks, and having to-day and in my own district many valued relations living there, I am sure he would not do injustice to this service if he knew the facts. I simply reply to him, then, for the purpose of setting him right in regard to the facts of the case. The gentleman states truly that the expenditures of the first two quarters of the current fiscal year do not show an expenditure of the full amount given by the last bill which passed this Congress.

Mr. BLACKBURN. If the gentleman will allow me, I wish to say I meant to have added the scourge to which that section was subjected doubtless had much to do with the reduction of those expenditures.

Mr. CHALMERS. Yes. I intended to call attention to that.

The Post-Office Department requires monthly reports to be made showing the exact amount of service and the increase of service during each month, and I have here a statement which shows that on the 30th day of April the service was at the rate of $825,888. The gentleman made his calculation by the report of the second quarter, and very liberally, I think, added more than the expenditure seemed then to justify, because, according to his own figures, it was only $762,000. The committee, allowing something for increased service, gave us $825,000. Now, sir, when we look to the facts and find that already the expenditure is at the rate of $825,888, as based upon the present service reported on the 30th day of April last, we ask this committee to do what the Committee on Appropriations itself did—add to it the sum of $75,000 for further increase of service.

I repeat, Mr. Chairman, I do not think either the gentleman who has charge of the bill or any large number of the Committee on Appropriations desire to do injustice to the river service. But, sir, I have found in examining the affairs of the Post-Office recently some difficulty in getting at the facts in regard to other subjects besides this. But on the subject of the increase and decrease of the postal service monthly reports are made, about which there can be no mistake.

If, then, the report made to me which I have just read or the figures furnished to me be the correct statement of the case, this committee will certainly agree that if $825,888 are now being expended it is fair to add $75,000 more for that service.

Mr. BLOUNT. How much does the gentleman say is the present rate of expenditure?

Mr. CHALMERS. Eight hundred and twenty-five thousand eight hundred and eighty-eight dollars is the rate as reported on the 30th of April last by the monthly report. And I simply ask you to add to that amount about what you did add to the figures as you supposed them to exist, which I think was fair and liberal on the part of the Committee on Appropriations; and I think this committee will agree to about the same increase of appropriation.

Mr. BLOUNT. I think there is no doubt, and I suppose the Committee on Appropriations will concur in the suggestion, that this appropriation ought to be increased. But I think the amount the gentleman seeks to have added is too large, for these reasons: the steamboat service, unlike the star route and the railway service, is not constantly increasing. I have here a statement, from page 222 of the report of the Postmaster-General, showing the number of miles of steamboat service for the last ten years. I will give the amounts in round numbers. For 1870 there were 20,000 miles of steamboat service; for 1871, 20,000 miles; for 1872, 18,000 miles; for 1873, 16,000 miles; for 1874, 18,000 miles; for 1875, 15,000 miles; for 1876, 14,000 miles; for 1877, 17,000 miles; for 1878, 18,000 miles; and for 1879, 21,000 miles. The amount required to pay for this service has been variable, in accordance with the number of miles of service. The service does not have the rate of increase that the other branches of the service have.

The gentleman from Mississippi [Mr. CHALMERS] says, and so says the Department, that we now have the finest steamboat service that we have ever had in the history of this country. The gentleman says that the monthly statement of the Department for April discloses the fact that this steamboat service is now going on at the rate of $825,888 per annum. I suggest to my friend that we agree upon adding $25,000 to the amount here proposed. That will retain the service as it is and will allow for increase. I hope that amount will be agreed upon.

Mr. HAZELTON. I would like to ask the gentleman a question.

Mr. BLOUNT. Certainly.

Mr. HAZELTON. Do you concede that in this case the Committee on Appropriations misapprehended the amount that was necessary to be applied to this service?

Mr. BLOUNT. I certainly do. I take the statement of my friend from Mississippi [Mr. CHALMERS] as correct, and he says that what he states is verified by the Department. We have nothing except the telegraphic statement of their accounts——

Mr. HAZELTON. Oh, no; I hold in my hand here their official communication, dated April 29, 1880.

Mr. BLOUNT. I simply meant to say that the information given, and which we had, omitted any reference to yellow fever, and of course we did not calculate in regard to that. And there is no information of that sort in the communication of April 29. I suggest to the gentleman to put in an additional sum of $25,000, which will not only retain the service as it now is, but will allow for additional increase.

Mr. BLACKBURN. I will answer the question of the gentleman from Wisconsin, [Mr. HAZELTON.] I do not think the Committee on Appropriations made any mistake.

Mr. HAZELTON. That is what I want to know.

Mr. BLACKBURN. That committee is not infallible, but I do not think it was mistaken upon this point. I never did and I never will, however much I may err in my conclusions, advise or counsel this House to the adoption of a policy which in my judgment, whether that judgment be correct or erroneous, will hamper or restrict any Department of this Government in the amount of money necessary for the conducting of its affairs.

Mr. HAZELTON. Will the gentleman answer a second question?

Mr. BLACKBURN. If I can.

Mr. HAZELTON. It is this: whether in this case you have not after all taken the judgment and estimates of the Department upon which you relied; whether after all your real light does not come from the Department instead of from any other source?

Mr. BLACKBURN. Of course it does.

Mr. HAZELTON. Very well, then. Now when the officials of a Department make an estimate which they say is fair and honest and right, and you concede that they know what they are about, why not accept their estimate in other cases as you do in this?

Mr. BLACKBURN. Simply because if we did so, then so far as the appropriations for carrying on this Government is concerned Congress might as well be abolished, except it be called in session for twenty-four hours in each year to register the edicts and confirm the estimates of departmental officers.

There is not a single proposition in connection with this bill in regard to which the Committee on Appropriations have not advised with the Post-Office Department. I want the gentleman from Mississippi [Mr. CHALMERS] to bear in mind that upon the basis of expenditures for the current fiscal year an appropriation of $900,000 for steamboat service left a margin of $137,000 for an increase of that steamboat service. The steamboat service of the country cannot increase as the railroad mail service increases. You are extending your railroad facilities at the rate of four thousand miles for this year, and there will be an increase of six thousand miles next year. Your steamboat service is measured and limited by nature itself; it cannot grow, it cannot be increased except to a limited extent.

Now, a margin of $137,000 for increase over the present rate of expenditure for this year the committee thought was an extraordinary allowance, more than could or would be used. Therefore, instead of $137,000 the committee concluded that $38,000 was enough margin to give.

I am perfectly willing to agree, if the gentlemen living upon these great water courses are apprehensive of a diminution of the service and of a failure of the appropriations to meet any extension that may occur—I am perfectly willing to allow an increase of $25,000 of the amount here named.

Mr. BLOUNT. Would it be objectionable to the gentlemen to agree to add $25,000?

Mr. BLACKBURN. On the contrary, I offered that in committee, and I would be glad to have the sum put at $850,000 instead of $825,000.

Mr. KING. That is right.

Mr. BLACKBURN. Then I ask that, by unanimous consent, the amendment be modified so as to make the amount $850,000 instead of $825,000.

The CHAIRMAN. The gentleman moving the amendment has the right to modify it.

Mr. KING. I modify my amendment so as to make it $850,000.

The amendment, as modified, was then adopted.

The Clerk read the following:

For inland transportation by star routes, $7,375,000: *Provided*, That on all star mail-routes upon which increased compensation for increased expedition beyond 50 per cent. over original contract price has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of original contract price.

Mr. EWING. I have an amendment which I desire to offer.

Mr. BLACKBURN. I am instructed by the Committee on Appropriations to offer an amendment.

The CHAIRMAN. The amendment proposed by the gentleman from Ohio [Mr. EWING] will be stated.

Mr. EWING. I move to amend the clause just read by striking out the proviso.

Mr. BLACKBURN. By instruction of the committee, having under the rule the right to perfect the text before the motion to strike out is put, I propose to amend by inserting before the words "original contract price," where they first occur, the words "the sum of the;" and by inserting after the same words, "original contract price," the words "and the cost of service for additional trips;" so that portion of the paragraph will read:

That on all star mail routes upon which increased compensation for increased expedition beyond 50 per cent. over the sum of the original contract price and the cost of service for additional trips has been allowed, &c.

Mr. PAGE. I submit that the amendment of the gentleman from Ohio is first in order, because his is a motion to strike out.

The CHAIRMAN. The gentleman from Ohio has a perfect right to submit his amendment, and it is pending; but pending that amendments designed to perfect the text are in order.

Mr. BLACKBURN. I propose, as a part of the same amendment, which comes from the committee, to insert after the words "per cent.," in line 83, the words "of the sum of the," and after the word "price," at the conclusion of the clause, to insert "and the cost of service for additional trips."

Mr. PAGE. Let the provision be read as it will stand if amended.

The Clerk read as follows:

Provided, That on all star mail routes upon which increased compensation for increased expedition beyond 50 per cent. over the sum of the original contract

price, and the cost of service for additional trips has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation as shall not be in excess of 50 per cent. of the sum of the original contract price and the cost of service for additional trips.

Mr. BLACKBURN. Mr. Chairman, the proviso as printed in the bill looks to a reduction of the compensation upon all star routes where compensation beyond 50 per cent. per annum of the original contract price has been allowed, to a rate not exceeding 50 per cent. of the excess over the original contract price. If the proviso as printed in the bill had been adopted it would have resulted in curtailing the expenditures for this service to the amount of $800,000 per annum in round numbers. The modification which by instruction of the committee I have just offered provides, not that the increased compensation beyond 50 per cent. for expedition of schedule on star routes shall be reduced to 50 per cent. of the original contract price, but that it shall be reduced to a sum not greater than 50 per cent. of the original contract price, plus whatever compensation or allowance has been made for a multiplication of trips upon the route. In other words, neither the printed proviso nor the modification as offered by the committee proposes to touch any compensation that has been allowed by the Post-Office Department on any route for any multiplicity of trips. If upon any route let as a weekly route daily service has been granted, a multiplication of trips ordered, and additional compensation to the amount of seven times the original contract price has been allowed, this proviso does not propose to reduce that compensation at all. It does not propose to reduce the multiplied trips as ordered by the Department on any route. As now offered by the committee the proviso simply contemplates that upon routes where extra compensation has been allowed in excess of 50 per cent. of the contract price the compensation shall be reduced to 50 per cent. above the contract price, plus the allowance that may have been made for multiplication of trips.

Mr. ELAM. I would like to ask the gentleman from Kentucky a question. If, under the general law, the Department has increased the number of trips per week on star routes and increased the expedition—if that has been done and if it is lawful—have we the right in equity or morals to set aside such contracts?

Mr. BLACKBURN. I will answer the gentleman's question, but before doing so will hear a question which the gentleman from Texas [Mr. UPSON] desires to ask.

Mr. UPSON. I wish to know whether by this provision the committee intend to decrease the expedition of service?

Mr. BLACKBURN. Most certainly.

Mr. UPSON. Or simply the compensation?

Mr. BLACKBURN. I will take the questions in their order. In answer to the gentleman from Louisiana [Mr. ELAM] I say that if you look at the report of the Committee on Appropriations accompanying this bill you will find that under the law and under the express provision of every star contract that was ever entered into by the United States, the Government reserves the right to cancel the whole service or to curtail it at its pleasure, upon one condition, that the Government shall give one month's extra pay to the contractor and continue the compensation *pro rata* for such service as is retained.

Now, Mr. Chairman, it does seem to me when the Government of the United States makes a contract with an individual under the law, and then puts in express conditions and terms in the contract itself, giving to the Government the right to cancel that contract and abrogate it absolutely, or to curtail it, or to reduce at its pleasure upon certain conditions, that no charge of bad faith can be brought against the Government if it exercises the right which both the law and the express terms of the contract give it.

Mr. ELAM. If my friend from Kentucky will allow me, I do not doubt that; but have we the right to cut down the price agreed upon, and let them go on and carry the mail?

Mr. BLACKBURN. The law says you shall, and the contract says you shall if you want to. You are both governed by the terms of the law and the contract.

Now, further, the gentleman from Texas [Mr. UPSON] asks whether our construction of this proviso will curtail the expedition on the routes in question. I answer most unreservedly and unhesitatingly in the affirmative; it is exactly what it is meant to do. I say where a contract was let for $10,000 a year, and the Post-Office Department issued an order making it a daily mail instead of a weekly mail, and under the law as the Postmaster-General had the right and power to do, made that compensation $60,000 instead of $10,000, this proviso says he shall let that additional allowance and extra compensation alone; but where the Post-Office Department expedited the schedule from ten to eight days, and allowed $60,000 or $100,000 for that, this proviso as proposed to be amended by the Committee on Appropriations says, "You shall not interfere with the daily mail; your extra allowance for multiplied trips shall stand; you shall only interfere with the expedited schedule of delivery, and that only to this extent you shall keep down that expedition of schedule so as to bring the allowance of extra compensation for expedition within 50 per cent.—50 per cent. excess, not of the original contract price only, not of the $10,000, but on the $70,000, including the multiplicity of trips."

Mr. UPSON. When?

Mr. BLACKBURN. From the date of the passage of this law.

These contracts, I beg this committee to remember, have yet two or three years to run.

Mr. UPSON. Two years.

Mr. BLACKBURN. Here is a strong argument in support of this proviso: The Congress of the United States, by act of April 7, 1880, has inhibited the Post-Office Department from ever granting expedition of schedule again on any new contract over 50 per cent. of the original contract price. The law stands to-day, passed by both Houses and approved by the President, which strips the Post-Office Department of the power to grant expedition of schedule beyond 50 per cent. on the original contract price on any star route in reference to which any contract shall ever again be entered into with this Government.

A MEMBER. Without advertising?

Mr. BLACKBURN. Extra compensation cannot come under advertising. Now, this proviso simply proposes to do—what? Proposes to take existing contracts on seventy-three routes and put them on an exact dead level under what Congress, by the act of the 7th of last month, has declared shall be the absolute law for all future contracts into which this Department shall enter.

[Here the hammer fell.]

Mr. EWING. Mr. Chairman, it is very true that but a few days ago Congress passed a bill which prohibits the Post-Office Department from hereafter adding more than 50 per cent. to any star-route contract for increase of celerity, but it does not reduce the rate of speed on any route under existing contracts. When new contracts come to be let, the Post-Office Department will hereafter provide in the first instance for a rate of speed in advance of the immediate needs of the communities on the line, so that a margin of 50 per cent. increase may be enough to provide for the growing demands of the service. Hence that provision, applicable as it is only to future increase of speed, may not work any great hardship in the West, but to apply that rule to existing contracts I say will work very great mischief and wrong. Existing contracts were made under a practice as old as this Government, a practice arising from the fact we always have had a frontier people whose wants are constantly increasing, a frontier people who at first can get along with a weekly mail, but in six months after its establishment will want a tri-weekly mail, and in six months more a daily mail; a people who can get along with two miles an hour for the weekly trip, but want three or four miles an hour for the tri-weekly trip, and six miles for the daily trip. Why? Because the business and the population along the route are increasing, because new communities and new States are growing up, having their urgent and incessant need of cheap, reliable, and expeditious communication with their brethren of the East.

The existing contracts were generally let, to begin with, at a rate of speed of two miles an hour; then their cost was increased 100 or 200 per cent. to secure an increase of speed to say four miles an hour, and then doubled again to secure an increase of speed to six miles an hour, such increase of expedition in almost every instance having been imperatively demanded by the rapidly growing business on the lines. And now the Committee on Appropriations propose to largely reduce existing facilities in the postal service of the Western States and Territories by a rude and arbitrary reduction of the compensation to 50 per cent. of the original contract price.

Let me show the House how it will work in one single instance. Take the daily mail from the Union Pacific Railroad to Deadwood, three hundred miles—Deadwood that two years ago had a population probably not exceeding one thousand, but which now has in and immediately about it near thirty thousand people. This mail-route when established had no branches, but now has many branches starting out from end to end of the main line; and from the terminus at Deadwood spreading off into Montana, Dakota, and Idaho. That now great trunk route was originally let at $9,500. By increase of trips and increase of expedition it is now a daily route, and instead of running at two miles is now running at six miles per hour, so that the three hundred miles is made in fifty hours. Now, this bill will strike that great trunk route down—that route which carries one thousand pounds of mail matter a day.

Mr. PAGE. Two thousand pounds.

Mr. EWING. Yes, one ton of mail matter each and every day is carried under existing contracts over that three hundred miles at the high speed of six miles an hour. This service will be stricken down by a reduction of compensation to less than half the present paltry pay of $29,500 per annum.

Mr. BLACKBURN. That is not the whole compensation. That does not include the increase.

Mr. EWING. It does. You limit the whole compensation to the original sum and 50 per cent. added.

Mr. BLACKBURN. But what would be the total amount of the increase?

Mr. EWING. The original amount was $9,500. The increase is 50 per cent. The total amount will be $14,250.

Mr. PAGE. That route was originally let at six times a week, I believe?

Mr. EWING. I am not informed as to that; but at any rate that mail company now carries it for $29,500, and performs a service that costs it in all probability near $200,000 every year, and the Government and that great community which has grown up so rapidly about Deadwood gets the benefit. The stage line carries, in addition to the mail, from six to seven million dollars of treasure every year because the express companies are unwilling to do the service. And that com-

pany on that one route has lost one hundred lives and several hundred of horses in doing the service.

I say, Mr. Chairman, that it is mischievous legislation for a committee not having special knowledge or information on this subject to come in and by its weight and influence force through such a sweeping rule of reduction of the postal service—a reduction which will obviously derange and interrupt the business of the great and growing communities of the West.

[Here the hammer fell.]

Mr. VALENTINE obtained the floor and yielded his time to Mr. EWING.

Mr. BLACKBURN. I trust there will be no objection to allowing this debate to run.

The CHAIRMAN. The Chair will not interpose any objection unless the committee sees proper to limit it.

Mr. EWING. I am much obliged to my friend from Nebraska.

Now, to show with what want of fair consideration this subject has been treated by the Committee on Appropriations, I refer to a provision of the bill of that committee which heretofore passed the House—the Post-Office deficiency bill. That bill as it came from the committee and passed the House prohibited all future increase of compensation on any route beyond $2,500, and cut off all compensation heretofore allowed on existing contracts in all cases where such allowance exceeded $2,500 for each route, no matter what might be the length or importance of the line.

Now see the effect of that amendment on the Deadwood route, three hundred miles long, to which I have referred. This provision would have allowed an increase sufficient to maintain the present rate of expedition on all the small branch routes leading off from the main line and would have stricken down the great trunk line itself.

Mr. BLOUNT. The gentleman does not mean to say that there could not have been an increase of trips beyond the $2,500?

Mr. MAGINNIS. By the first bill there could not have been.

Mr. BLACKBURN. The gentleman is referring now to a bill brought in as a substitute for the first bill reported by the Committee on Appropriations.

Mr. BLOUNT. The Committee on Appropriations never asked the House to agree to the bill to which the gentleman is referring. The bill came in but no vote was taken upon it; it was withdrawn and reconsidered by the Committee on Appropriations, and the one that was presented to the House was altogether a different one.

Mr. EWING. I refer to the bill which came from the Committee on Appropriations and passed the House; and which was amended by the Senate so as to apply the limitation on the power of the Post-Office Department only to future contracts for increased expedition. I have the bill here and will now read the provision to the House, an extract from the bill which the committee did report, and upon which I have been and am now speaking.

Mr. BLACKBURN. I am sure the gentleman intends to be entirely fair in what he says, and he certainly knows that the committee reported an entirely different bill.

Mr. MAGINNIS. Before the bill was voted on the committee brought in another bill.

Mr. BLACKBURN. And withdrew it before the House voted upon it.

Mr. MAGINNIS. They did not dare to come to a vote on it in the House.

Mr. BLACKBURN. The committee never came to a vote on it.

Mr. MAGINNIS. The committee brought in one bill which cut down all the service, trips or expedition. Next day they brought in another cutting down expedition only. Then it brought in the Senate bill, and that was passed against their recommendation. This morning they bring in a bill to cut off all expedition above one-half of the original contract, and now they virtually come in with an entirely new proposition. Such has been the stable course of the committee on this matter.

Mr. EWING. I am very much obliged to the gentleman from Montana for illustrating so forcibly the point I was trying to make clear.

Mr. BLACKBURN. I would have been obliged to the gentleman from Montana if in his statement he had confined himself to what the record shows to be the facts of the case.

Mr. MAGINNIS. I appeal to the record for the verification of my statement.

Mr. BLACKBURN. The record will not verify his statement that the Committee on Appropriations brought in one bill one day and the day after brought in another.

Mr. MAGINNIS. Another bill came from the Senate.

Mr. BLACKBURN. Why did the gentleman say the Committee on Appropriations brought it in when they never touched it?

Mr. MAGINNIS. The point is not an important one.

Mr. BLACKBURN. The fact may be unimportant, but I insist that the fact shall be stated.

Mr. EWING. I will read from the bill which passed the House. As it came from the Committee on Appropriations it contained this provision:

Provided, That upon any route where there has been an increase on the original contract price upon the last or current fiscal year for expediting the delivery of mails on any such route at the rate of more than $2,500 per annum, the compensation for expedited service on such route shall be reduced to the terms of the original contract on and after the 1st day of March, 1880.

Mr. BLOUNT. Now I will ask my friend from Ohio, having read the bill in which the language expressly confines the $2,500 to expedited service, if he asserts it was for the multiplication of trips?

Mr. EWING. I did not assert that.

Mr. BLOUNT. I asked the gentleman distinctly and he said it was for both.

Mr. EWING. I think my friend is mistaken. Some one else may have said that.

I say the committee deliberately reported a bill making the limit of increase for expedition the same for all routes, big and little, costly and cheap. Yes; worse than that. It took away all increased compensation from the great lines, while it left the little lines untouched. Thus it allowed not a dime for increased expedition of this great trunk line from the Pacific Railroad to Deadwood, while it permitted $2,500 to be given for increased expedition to every petty branch and to every little branch of a branch from the trunk line.

Mr. BUCKNER. Will the gentleman allow me to ask him a question?

Mr. EWING. Yes, sir.

Mr. BUCKNER. Will the gentleman state to the committee what this company realized from passengers and express matter on that route?

Mr. EWING. I have no doubt they realized largely.

Mr. BENNETT. I understand that company has not paid its expenses until the last year.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. EWING] has expired.

Mr. BLACKBURN. I hope the gentleman will be allowed five minutes more.

The CHAIRMAN. On account of the interruptions to which the gentleman has been subjected the Chair will allow him to continue his remarks.

Mr. EWING. I believe that an incidental business has grown up which has made this Deadwood line profitable. But here is the Government getting a ton of mail matter carried every day at the rate of six miles an hour, or fifty hours for three hundred miles, and paying only $29,500 for that service—paying only one-fourth per pound of what all the express companies charge upon that same stage-line for any matter carried by them. The express companies charge the citizens twenty cents a pound, and the Government pays the contractors less than five cents a pound.

Mr. Chairman, I regret to differ from the Appropriations Committee on this question. I remember and recognize the fact that that committee in this and the last two Congresses have by their economy and vigilance cut down the expenses of the Government very largely; and I am the more reluctant to differ from them from the fact that both the republicans and the democrats on that committee seem to be united in favor of this provision.

Mr. BLACKBURN. It is a unanimous report.

Mr. EWING. Yes; and therefore I hesitate the more. But, Mr. Chairman, I have lived on the frontier. I know with what indifference and lack of full understanding the people east of the Mississippi generally treat the wants of that pioneer population that is struggling to plant civilization in what was the great American desert. I have lived on the border and know how exigent and imperative is the need of good mail facilities—what social joy and business life the quick coach is freighted with, and how saddening and destructive of business is the laggard mail. I was present when the first fleet horse of the pony express—that splendid achievement by Ben Holladay—the most characteristic of all the American enterprises of this century—I was present when that courser flung the dust of the Missouri from his feet and sped away to the desert amid the Godspeeds and acclaims of all Kansas; and I remember, too, how his reception on the Pacific thrilled the continent. A grander and more loving welcome was given to horse and rider begrimed with soil and sweat than was ever accorded there to hero or statesman; for the hearts of our brethren on that far coast leaped with joy to know that they were brought within a fortnight mail communication with their kindred in the East. That spider's thread thus swung across the desert has drawn after it railroad and telegraph, city and State, vast fields of wheat and herds of cattle, and the pulses of this great artery of commerce now throb throughout our continent.

Mr. Chairman, let us by all means have further reduction of public expenditures; but I would rather have it anywhere than in the postal service. I would not vote to strike out; on the contrary I voted just now to insert the $150,000.

Mr. BLACKBURN. Three hundred and fifty thousand dollars.

Mr. EWING. Three hundred and fifty thousand dollars. I voted to insert that sum to secure only two hours expedition on three great mail-routes from New York City. I will vote to retrench expenditures anywhere sooner than in the postal service. But I will vote in the postal service to retrench expenditures anywhere rather than in that branch which is for the happiness and prosperity of our kinsmen on the frontier. [Applause.]

We can find safe fields for retrenchment if we want. We have for many years had an opportunity of stopping the payment by the Government of a useless annual subsidy to the national banks of about $10,000,000. Let us save that. Let us save, too, by putting salaries to where they were before the war. Let us save by increased vigilance in catching the rogues of the custom-houses and the internal-revenue

service. But I would rather double the star service than to so legislate as to disturb or distress the brave and adventurous communities who with noble enthusiasm are braving all dangers and hardships in developing the latent wealth of the continent.

[Here the hammer fell.]

Mr. CANNON, of Illinois. I do not know that this committee will give me its attention and follow a plain statement of fact touching this service after having listened to that burst of eloquence that can only come from the gentleman from Ohio [Mr. EWING] when he is in good trim. But if they will get out of the realm of eloquence and have any relish for facts, I will not attempt the eloquence but will give the facts, so far as I can in my limited time, touching this service; and by the facts I am willing to stand or fall, so far as I am concerned, and to see this bill stand or fall. If the facts condemn this proviso, strike it out; if the facts justify the proviso and it is condemned only by the eloquence of the gentleman from Ohio, [Mr. EWING,] then let the facts prevail and the eloquence go to the winds.

Now, what are the facts? On an average of eighteen months ago service was let upon eighty-six out of ten thousand star mail-routes at what was then thought to be a sufficient compensation, unless that service was let with an intention of increasing it, and the facts can speak of that without my saying anything further about it. I have a table here, made by the statistician of the Post-Office Department, showing that service was let on those eighty-six routes at an aggregate sum of $613,000 per annum in that magnificent West that the gentleman from Ohio has talked about, twenty years after he left there. Most of these routes were old routes and had been established for years. Since that time additional trips have been put upon those eighty-six routes at a cost of $477,906 per annum, in round numbers; and since that time the schedule of time has been increased, at a cost of $1,149,000 per annum. That makes what cost eighteen months ago by contract the sum of $613,000, and which in the opinion of the Department was a sufficient sum then, cost to-day at the rate of $2,240,504 per annum.

That increase resulted in a deficiency. Estimates came in to Congress; an investigation was had; the House acted and the Senate acted; and what was the result? These increases had so alarmed Congress at the unwise exercise of discretion by the Department that you solemnly enacted into law these words:

> That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally made.

That is as to the future. You let alone these contracts and abuses which made you enact that legislation. In my opinion that legislation was right, and you should take hold of this ring of contractors and make them loose their hold upon the swag they have got already by, under existing contracts, virtue of the abuses which led you to pass that law.

Mr. PAGE. What does the gentleman mean when he talks about swag? I would like to have him explain.

Mr. CANNON, of Illinois. I mean just what I say. I mean this undue compensation which has swollen in less than eighteen months from $613,000 to $2,240,000. I say when you come to consider these eighty-six routes out of all the ten thousand in the United States, and consider that the expedition upon all the other routes does not amount to $50,000, I am justified in saying that a part of that $2,200,000 is swag, especially when you consider that this is an increase of cost on these routes of 400 per cent., when Mr. Salisbury admitted in his evidence that the development of the country and demands of the service had only increased 25 per cent.

Mr. PAGE. If the gentleman will allow me to interrupt him, the swag which these men have they obtain upon contracts——

Mr. CANNON, of Illinois. I cannot yield for a speech.

Mr. PAGE. I want to ask the gentleman if it is not true——

Mr. CANNON, of Illinois. My time is nearly all gone, and the gentleman can get time to speak.

Mr. PAGE. Is it swag that your railroad companies get? Do you call that swag?

Mr. CANNON, of Illinois. No, sir.

Mr. PAGE. What is it?

Mr. CANNON, of Illinois. I will answer the gentleman's question. It is pay under the general law for services performed, ascertained by weight of mails carried and by car space used.

Mr. PAGE. And is not this star service, under laws made by Congress and enforced by the Post-Office Department, still existing?

Mr. CANNON, of Illinois. A service established under a discretion exercised, in my opinion, unwisely by the Post-Office Department, "bulldozed" by members of Congress and Senators in some instances, and by large petitions gotten up by contractors. That is my belief.

[Here the hammer fell.]

Mr. BRIGHT obtained the floor and yielded his time to Mr. CANNON, of Illinois.

Mr. CANNON, of Illinois. This is a proposition not to put back the service to $613,000, at which it was let, not to take off the $478,000 for additional trips, but to let all that stand and to give one-half of the gross sum of $545,000 in addition a year for this expedition, and to cut off the expedition above that. What does it cut off? It makes a reduction at the rate of $603,000 per annum, and after paying the month's extra compensation for decreasing the contracts it will result in a saving this year of $553,000. For the contract term the saving amounts to about $1,500,000, because these contracts run on an average about two and a half years. Now, will this work a hardship? Will it do injustice?

Gentlemen may say, and the gentleman from Ohio [Mr. EWING] did in fact intimate, that the law of the 7th April last which we passed was all right, but would not operate fairly upon existing contracts, because the trips under existing contracts were not fixed with a view to the operation of this law. I undertake to show gentlemen that these trips have been increased on many routes from weekly to daily trips at a cost of nearly double the original contract price.

Mr. EWING. The gentleman must have misunderstood me or I must have failed in expressing my meaning. I meant to say that these existing contracts were not let in contemplation of any difficulty in increasing the expedition, as contracts would be when let hereafter under the lately amended law. In other words, when the existing contracts were let there was nothing to prevent the Postmaster-General from starting the service at two miles an hour, which might have been the need in the beginning, because he knew that six months afterward he could increase the speed to four miles an hour, and six months afterward, as the population increased, could expedite to six miles an hour. But under the law as now existing, when the Postmaster-General comes to let his contracts on the 1st of July, 1882, he will have to look ahead as to the future wants of the new communities, and in many cases let the contracts at four miles an hour to begin with, when two miles might for a while answer all needs.

Mr. CANNON, of Illinois. Ah! they do not run at six miles an hour in that country. But I find I understand the gentleman correctly. These trips have been increased until the people have all the trips they want. Now, we recognize that fact; and in this reduction of the old contracts we put them upon all fours with the contracts under the new law, because we allow 50 per cent. additional upon the original contract price, with an allowance for increase of trips.

Now, the gentleman was not happy in his reference to the Sidney and Deadwood route. I venture to say he had not given to that route the investigation to which it was entitled. If gentlemen will look at page 236 of the evidence taken before the committee in the course of the investigation, they will find that Mr. Salisbury was before that committee. What did he testify? That route was let at $9,775 per annum for daily service during the last fiscal year. It was not let to Mr. Salisbury, but to another man; and Mr. Salisbury paid him $600 for a sub-contract under it for daily service. It was expedited at a cost of $19,000. Mr. Salisbury stated further, or rather the facts which he stated in evidence before the Senate and House committees showed, that he was making a profit upon that route of $214,000 per annum.

Mr. UPSON. Where does that appear in Mr. Salisbury's testimony?

Mr. CANNON, of Illinois. On page 236 and subsequent pages, and in statements before the Senate committee. I do not mean to say that he is making this much out of the mail-carrying on that route, but out of the business upon the route, the carrying of the mails being a part of this business, the mail being carried in the same coaches with which he does a passenger and express business. Now I asked Mr. Salisbury whether, if this expedition of $19,000 a year was taken off, he would drop back to the old schedule. "Oh, no," he said in effect after divers questions; "as for speed, I would stop at just that point where I could retain my passenger and express matter, and carry the mails upon the same stage-coach, and at the same time keep out competition." I spoke fully of the service upon this route on another occasion to the House, stating the facts about it, and my remarks can be found on page 2070 of the RECORD. If gentlemen have the desire, they can find the facts there stated.

Mr. HASKELL. Did not Mr. Salisbury state that if the business other than carrying the United States mails should be taken from him he could not perform the mail service one minute at the compensation given him by the United States?

Mr. CANNON, of Illinois. Certainly that is true.

Mr. HASKELL. And do you not stand here now proposing to cut that compensation in two, and take the largest part from him, although if his other business were taken away he could not carry the mails for the sum you now give him?

Mr. CANNON, of Illinois. Why, Mr. Chairman, I tried to show this House on a former occasion that when this service is built up and these great routes established, the carrying of the mails is merely incidental, the passengers and express matter being the main items for compensation, just as they are on all the railroads and many of the star routes in other parts of the country.

Mr. Salisbury took this contract for $9,000 for the purpose of keeping out competition. He swears to that. I asked him could a railroad carry the mail for the mail pay. He said, not at all. You have arrived at a point in the development of the West on most of these routes when the carrying of the mails is incidental, when the passengers and express bring you the necessary compensation, and the carrying of the mail is so much gain.

The CHAIRMAN. The gentleman's time has expired.

Mr. KITCHIN. I will take the floor and yield my time to the gentleman from Illinois.

Mr. CANNON, of Illinois. Mr. Chairman, I say, and say it in all kindness (because I have no ill feeling toward any member, or, for that matter, toward anybody else) that this has ceased to be a ques-

tion of the development of the great West and the benefit of its inhabitants, and under the name of a benefit for the great West, under that glittering generality, it is practically a benefit to less than half a dozen great contractors who put their hands into the Treasury and draw out this undue compensation.

As I said once before to the House, you had as well "steal the livery of heaven to serve the devil in" as to talk about the interests of the West, and under that cover and pretense help these contractors to plunder the Treasury. Sir, Christopher Columbus, under the patronage of Isabella and Ferdinand, got his small subsidy and plowed his way across the untracked ocean and discovered the New World, and from that time to this cormorants who have got their hands into the public Treasury never have failed to speak of Christopher and what a magnificent cruise he had, when they want to grab something. [Laughter.] Sir, we have reached a point in the development of this country, east and west, when substantially this mail service, so far as the carrying of the mails is concerned on these great routes, railroad and star, is incidental, and not the main factor in the compensation. I allow no man to be more generous than myself in feeling and in action toward the development of the country wherever it may be and in whatever congressional district it may be, and I would be reprehensible, faithless, and worse than faithless, if I sat in my place and permitted, without protest, in the name of the development of the country, contracts to go on at $2,200,000 per annum which eighteen months ago were let at $613,000. And especially, Mr. Chairman, should I be faithless if I permitted such a thing to be done when I call the attention of the committee to the fact that Congress has disapproved of it and said it shall not exist hereafter. I come with equity in one hand and justice in the other to ask this committee and this Congress to make these contracts, the abuses about which produced the law, conform to what that law provides. I leave the question with the committee.

Mr. PAGE. Mr. Chairman, my objection to the amendment as printed in the bill and now under consideration is that, as originally reported, it would cut down every star mail-route in the United States upon which there has been expedited service one-half, and in many instances two-thirds or three-quarters. Under these amendments a large portion of the service on many of the great routes in the West would be cut down materially.

Now, Mr. Chairman, I want to take this occasion to thank the gentleman from Ohio, [Mr. EWING,] who has raised his voice in behalf of the people who inhabit the section of the country I have the honor in part to represent. I can say to him that the people I represent honor the men who stand on the floor of this House and at the other end of the Capitol and speak in their behalf. They have recently shown the manner in which they honor men who have proved to be true to the interests of that section of the country. I say the people of the West will honor the gentleman from Ohio, who has had the manliness to stand up here on the floor of this House and utter words of encouragement and in favor of maintaining intact the mail service of my State and of many other States of the West.

The gentleman from Illinois [Mr. CANNON] talks about "swag." Let me tell him, if there is any swag, he takes it in this other amendment, and, if there is anything in that, he is welcome to it.

Mr. CANNON, of Illinois. What do you mean?

Mr. PAGE. The amendment for which you voted and I voted in the other section of the bill now passed, giving to the people of the country $350,000 of additional mail service east of the Rocky Mountains.

I am not aware that the people of the West have done anything for which they should receive punishment from the hands of the gentleman from Illinois or the Appropriations Committee of this House. I am not aware because, under existing law, the Post-Office Department two years ago made contracts for the star service of the country, that now, because Congress has passed a law limiting the amount of expedition in the future to 50 per cent. of the original contract price, this House is called upon to go back two years and strike down the mail service or the mail contractors there. I was raised in that school that believes that honor between individuals, recognized always in every community, should be that a contract once made and entered into should be faithfully and honestly kept.

These mail contractors entered into contracts with the Post-Office Department to carry the mails for four years, from July, 1878, to July, 1882. This bill proposes to strike down the contract made under existing law one-half, and who is to suffer by it? Not alone the mail contractors, although they have put stock on the road and gone to extra expense in many cases, and under this bill many of them will be completely ruined.

That is not all, Mr. Chairman, but you propose to reduce the mail service on many of the roads. I admit that the amendment will obviate somewhat the striking down; but on many of the lines and many of these great roads this bill will strike off one-half of the amount to which they are entitled under the law.

[Here the hammer fell.]

Mr. BENNETT obtained the floor and yielded his time to Mr. PAGE.

Mr. CANNON, of Illinois. I hope the gentleman will be allowed fifteen minutes' time.

Mr. REAGAN. Has the time of the gentleman from California expired?

The CHAIRMAN. The Chair will state that in accordance with an understanding gentlemen have been permitted to yield their time to other gentlemen without objection.

Mr. REAGAN. I thought the gentleman had concluded.

Mr. PAGE. There is a section of the Revised Statutes that provides that the Postmaster-General may annul certain contracts for the following reasons: for instance, he may annul a contract for repeated failures to run agreeably to contract; he may annul it for assigning the contract; for violating the post-office laws, or disobeying the instructions of the Department; for refusing to discharge a carrier when required by the Department, &c.

These are some of the conditions upon which contracts may be withdrawn or annulled, and in another section it is provided that the Postmaster-General may when the contract has been violated for any of the reasons assigned annul it and relet the route. This section provides that in case of any change in the contract the Postmaster-General shall immediately enter into a new contract by bids. Now, this bill does not repeal that law, and therefore the Postmaster-General will have it at his discretion to readvertise all of these routes which are stricken down by the bill and let them over again, and make contracts for them possibly far beyond the amount which is now being paid. There is no restriction in that regard.

I say, therefore, that this bill repeals absolutely two sections of the Revised Statutes that now give to the Postmaster-General discretion, a discretion under the law, to annul a mail contract for certain specified reasons and a discretion, where a change has been made necessary, that he may readvertise and relet the route.

Mr. WHITE. How does that change the law?

Mr. PAGE. It changes the sections of the Revised Statutes to which I have just referred. This bill provides a different mode for complying with the law. It does not annul the contract for any of the causes specified, but reduces the pay. For these reasons, in my judgment, this provision of the bill should be stricken out, because, as I have shown, if it is carried into effect it not only changes the existing law in that respect, but it absolutely compels a reduction on many of these mail-routes very materially and may require a reletting of most of them, and possibly at a higher rate.

Let me call the attention of the House to some of them that will be affected by this provision: On the route from Eureka, Nevada, upon which the Post-Office receipts, including the money-order system, is $96,743.71 per annum. Take also the route referred to by my friend from Ohio, [Mr. EWING,] from Sidney to Deadwood. As he has truly said, upon that route, that carries two thousand pounds of mail matter per day instead of one, that is expedited at a schedule that would justify the Department and is agreeable to the people, the whole cost per annum of which is only $29,000 over a distance of three hundred miles, yet it is here proposed that this route shall be reduced one-half. If my recollection serves me right, it was originally let at six or seven times a week, and upon that route, as well as all others, let at six or seven times a week, the service is decreased one-half. Am I correct?

Mr. CANNON, of Illinois. Yes, sir.

Mr. PAGE. The gentleman says I am correct that the original route was let at the rate of six times a week, and according to this bill the expedited service would be reduced one-half. That is the effect of the provision upon many of the most important routes.

This House, or a committee of this House, has recently reported in favor of the bill introduced by the gentleman from Ohio [Mr. WARNER] to allow four pounds of silver to pass through the mails. If this bill becomes a law, as I have no doubt it will, it will largely increase the expense that these contractors are now under by the existing contracts, and they will be compelled to carry this heavy material without any extra compensation under the existing contracts. Now, in my judgment this is an act of gross injustice, not alone to the contractors but to all the people who are interested in the receipt of their mails. It is a great wrong on the part of Congress to overturn these contracts, because they were honorably entered into with the Postmaster-General under the sanction of the law and have been faithfully observed. I voted for the bill providing a limitation to future contracts, believing it was right; but a law regulating contracts already entered into, limiting them to one-half of the original contract prices, does not justify me to vote to make it retroactive and cut down this service that has been in operation for eighteen months or two years, and cut it down, too, without just compensation or notice.

[Here the hammer fell.]

Mr. BINGHAM was recognized and yielded his time to Mr. PAGE.

Mr. PAGE. I voted cheerfully for the amendment proposed in the other section to add $350,000 for the railroad service, that my friend from Connecticut [Mr. HAWLEY] might not be deprived of the New York papers brought into his district every morning before breakfast. I also voted for it that my friend from Illinois [Mr. CANNON] living, I believe, upon one of the great trunk lines of the great West, should have some expedited mail service. As my friend from Ohio [Mr. EWING] properly said, that $350,000 may increase the speed two hours on three or four different railroad routes in this country. But although I did that, although I voted with my friend from Connecticut and my friend from Illinois upon that amendment, yet when we come in here asking as we do for the people of the great West living in seven States and nine Territories that you shall allow our mail service to stand as it is, we do not get the assistance of those gentlemen. We do not ask you for any additional appropriation. We say to you,

leave the service as the contracts have been made; do not cut it down; we do not ask it to be increased; nor do we ask for any additional amount of money.

Mr. Chairman, I cannot admire that Representative upon this floor, come from what State he may, who is willing to stand up here and vote an additional amount for extra railway mail service and for expediting mail service, and who, when we come to the very next section, votes to cut down the mail service west of the Mississippi River. On the Appropriations Committee there has not been since I have been in this House a single Representative of the country west of the Mississippi River. We are few in numbers, having less than twenty Representatives upon this floor. We appeal to you, gentlemen of the East, you who have your railway service, you who have your free delivery, costing two and a half millions of dollars, bringing your letters to your houses and putting them into your boxes, we appeal to you not to forget that we are an integral portion of the Union. And certainly the cutting down of our mail service cannot meet the approbation of the people I represent. But, Mr. Chairman, I believe the judgment of this House, when it shall finally be determined by a yea-and-nay vote, if that shall be permitted, will stand by the people of the great West.

My friend from Illinois [Mr. CANNON] in a sneering way talks about the Great West. I suppose that, although he has been a member of Congress for nearly eight years, he has never yet looked across the State line of Illinois; he knows not what is beyond the lines of that great State; he has never traversed the State of Missouri, the State of Iowa, the State of Minnesota, of Nebraska, of California, of Oregon, and the great Territories of the West. If he had done so he would hide his head in shame before he would come into this House and propose to strike down a single mail-route in the West. I represent a people who will feel grateful to the men who have spoken kindly words for them in their weakness and in their want of strength upon this floor. They are not now sufficiently represented and I believe the next census will make an important change in the number of Representatives from those great States. At present we are in a very small minority, and we are thankful to any gentleman who rises in his place on this floor and speaks a word in our behalf.

[Here the hammer fell.]

Mr. REAGAN. I wish to state briefly the reasons why I shall support the recommendation of the Committee on Appropriations. That recommendation does not affect the number of trips now existing or that may be hereafter established. If it is adopted it will not call for the reduction of a single trip in the service anywhere. It takes away no mail facilities from any part of the country. It only prevents an abuse in the postal service which is believed by many, and by myself among that number, to be an unconscionable outrage upon the people. It does this by limiting the power of the Post-Office Department to grant unlimited compensation on account of expedited service.

The recommendation of the committee allows the expediting of service to the amount of 50 per cent. on the original contract price. It allows the increase of trips to any number that the needs of the service call for.

But, sir, we are told that this must be opposed in the interest of the great West; that it must be opposed in the interest of the people upon the suffering frontier. Mr. Chairman, I have lived all the life of my manhood in the great West. I have lived all the life of my manhood in a frontier State, and for many years upon the very outside of the frontier where the Indian with his tomahawk and scalping-knife was menacing the peace and lives of the people. I owe to the people of the great West, to the people of a frontier State, whatever preference I have had among my fellow-men; and I mention this to show I have a right to speak in behalf not only of the great West but of the frontier. And I speak in behalf of the frontier and of the people of the frontier in advocating the policy embodied in the committee's recommendation. Here let me appeal to a few facts. The increased service on the seventy-three expedited routes named for two years is to cost $2,328,000. Will the people of the frontier get that money? Would they lose service by taking a portion of it from those who do get it? Was it obtained on contract made upon fair competition, or was it obtained in a way that no man upon his conscience can upon investigation of the facts justify? Let us see.

Now, I will take a single route, the one from Vinita to Las Vegas. That route was originally let under competition for $6,330, which was increased to $150,502, or about twenty-six times the original contract price. If you expedite the trips to seven times a week instead of once a week, and give seven times the original contract price, that would only make it some $45,000. Then, if you double that amount for expedited service you would have only $90,000. Yet you have $150,000 given for the expedition and increase of service on that one route.

Now, what people does that $150,000 benefit? What "frontier," what "great West" does it benefit? It goes into the pockets of contractors, who mainly stay here in this city and engage in the business of obtaining contracts, the business of contract brokerage, and in plundering the Treasury by some occult means which those outside of the Departments and of their confidence do not know. Yet we are told that the "suffering people of the frontier" demand such outrageous expenditures. Do they demand to be taxed $150,000 in order that a contractor may have that sum of money for performing service which he bid off at $6,330? Do they not have to pay taxes to help raise the revenue to pay this sum? Is any of this money expended there, except what merely pays for carrying on the service?

These gentlemen are very well able to do as they have done since we acted upon this matter a few days ago—send to a distant city and have villainous publication made, to be distributed in the State which I have the honor in part to represent, for the purpose of traducing and vilifying me, because I stood up here in my place and denounced fraud and asked that the honest sentiment of the people should be respected and recognized.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MCKENZIE. I will take the floor and yield my time to the gentleman from Texas.

The CHAIRMAN. If there is no objection, the gentleman from Texas will be allowed to proceed in the time of the gentleman from Kentucky.

Mr. REAGAN. Here is another contract, which was let out upon competition for $2,350, from Bismarck to Fort Keogh. That has been increased in consequence of increase of trips, that could not exceed seven trips per week, and for expediting the service, from $2,350 to $70,000, being over thirty times the original contract price.

Mr. BLOUNT. By executive order?

Mr. REAGAN. By executive order; not under competition, not when other people could have the privilege of going before the Department and saying that they would perform the service for a less amount of money. Is that in the interest of the people of the West? I repeat that they have to pay the taxes to support the Government to enable it to discharge its obligations to these fraudulent and outrageous robbers.

Then there is the route from Fort Worth to Yuma. The contract was let out at $134,000. For expedition of the service, without increase of trips, there was added $165,000; making the entire service on that route cost $299,000. There was no increase of trips, simply an expedition of the service. That, however, is the least departure from honesty in all the routes to which I propose to call attention before I get through.

The route from Bozeman to Fort Keogh was let at $16,500; there has been an increase of $68,766.81, making the present price of this service $85,266.81, instead of $16,500, for which it was originally let.

Then there is the route from Rock Creek to Fort Custer, which was originally let at $10,507.25, and the price has been increased to $88,768.12. Then there is the route from Las Vegas to Las Cruces, which was originally let at $14,900 and has been increased to $91,211.68. Then the route from Prescott to Mohave City was increased from $7,440 to $66,959.99.

Mr. BLOUNT. All by executive order.

Mr. REAGAN. All by executive order, mind you, not by competition. From The Dalles to Baker City the route was let at $8,288 and was increased to $64,232.

Then there is the route from Soledad to Newhall, which was let at $29,000, and afterward increased to $55,424.33; and the route from Redding to Alturas, which was let at $5,988 and afterward increased to $35,928; and the route from Phœnix to Prescott was let out on competition for $680 per annum, and the pay on it increased to $32,640.32, by executive order, without competition.

On these and other routes which I might name, the average rate of increased pay is twelve and three-fourths times the original contract price. The service has been increased by additional trips on some of these routes, expedited on others, and on some there has been both an increase of trips and an expedition of service.

These are some of the facts to which I appeal in order to show that when the argument is made here that this service must be preserved at this present rate in the interest of the people, it should be understood that it is in the interest of the contractors, at the expense of the people, and without reference to the interests of the people.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WISE. I rise for the purpose of taking the floor and yielding my time to the gentleman from Texas.

Mr. MILLS. That gentleman has already occupied ten minutes.

Mr. BLACKBURN. The gentleman from California [Mr. PAGE] has had fifteen minutes, and the gentleman from Texas [Mr. REAGAN] has now had but ten minutes.

Mr. MILLS. There are others who desire to speak on this subject.

Mr. BLACKBURN. Who does?

Mr. MILLS. I want to speak.

Mr. BLACKBURN. While this debate is going on by unanimous consent, I insist that something like fairness shall be observed. The gentleman from California [Mr. PAGE] occupied the floor for fifteen minutes.

Mr. MILLS. I only want some understanding about it.

Mr. REAGAN. If the gentleman will allow me to get through, I have but a few things more to say.

Mr. MILLS. I desire to be heard myself on the opposite side of the question.

Mr. BLACKBURN. The opposite side of the question has had fifteen minutes, and I ask in all fairness that the gentleman from Texas [Mr. REAGAN] be allowed to go on.

The CHAIRMAN. The Chair will state what has been the course of the discussion. The gentleman who offered the amendment occupied fifteen minutes in support of it; another gentleman has also advocated it for fifteen minutes. One gentleman has occupied fifteen

minutes against it; and the gentleman now on the floor, when he has used the five minutes proposed to be yielded to him, will have occupied fifteen minutes.

Mr. MAGINNIS. When this question was before the House heretofore the representatives from the Territories, which are more interested in the question than any of the States, were cut off.

Mr. BLACKBURN, (to Mr. MAGINNIS.) You will have a chance next.

Mr. REAGAN. The recommendation of the committee does not reduce the service, but leaves the number of trips as they were; and in case expedition is demanded for the benefit of that service, it empowers the Department to add 50 per cent. additional to the cost of the service. Now, are gentlemen prepared to say that they wish to give more than this? The House and the Senate by their recent solemn action have declared this to be enough. But it is said that our action on this subject related to future contracts, and that the provision here proposed will affect existing contracts. So it will, justly, righteously, necessarily, if we consider the public interest, affect existing contracts to this extent: that it will authorize the Department to stop these enormous expenditures and relet or reduce the pay, as the order may provide, upon the payment of one month's extra compensation. That is authorized by the law of the land, and is provided for in each contract, and is the practice of the Department. If we adopt these provisions we conform to the law of the land and the practice of the Department. We do no injustice to any one. All these contractors know when they make their contracts the conditions upon which they make them. But previous discussion on this subject has shown the gross fraud which intermingled with some of these contracts; and this, in my judgment, is an additional inducement for Congress to take such action as will fully preserve the postal service and save to the Treasury annually over $600,000 for the next two years. Is it nothing to save to the public this sum without injuring the service—to save it from grossly outrageous contracts?

It is said that it is the West that is calling for this; that the frontier calls for it. Sir, no people on the earth would spurn and spit upon such frauds more earnestly and decidedly than the people of the West. They ask for an honest service and just compensation to those who furnish that service; but they do not ask to make millionaires of mail contractors who, living in Washington or any other great city, never saw and do not care for the frontier or its condition.

This is all I wish to say on the subject upon this occasion; and I would not have said so much but that I felt the cause of justice and truth, the vindication of the frontier and the West, required it to be said.

Mr. MAGINNIS. When the attacks upon the western mail service were begun in the press and the committee early in the winter, the Delegates from the Territories, being naturally interested, endeavored to find out how far the movement would go. We were assured from various sources that there was no disposition on the part of the committee to attack the service in the Western Territories, that the committee proposed to deal with questions of the violation of law by the Post-Office Department in creating a deficiency. That was a great, statesmanlike question. If the investigators had found that the Postmaster-General had violated the law or that he had been guilty of any corrupt practices or of any extravagant expenditures this House could have met the case by a resolution of impeachment; and as I was in the House at a time when corruption in another Department was investigated I knew that if any such practice should be found it certainly would be unearthed and suitable measures would be brought in punishment by gentlemen who had brought down a great cabinet officer and impeached him before the bar of the Senate. I knew that gentlemen on that committee, and especially the gentleman in charge of the bill, would know how to manage a great political issue of that kind, and that once having struck the broad trail of corruption in any Department he could not be led off into the squirrel-tracks of petty economies or fritter away a great issue in attacks upon the few mail-routes that supply the people of the West.

If the revelations failed to impeach the Department and only revealed corrupt combinations on the part of contractors, it was still in the right direction. I fully concur in all that my friend [Mr. REAGAN] has said upon that subject. The people of the Territories have no interest in the profits of contractors; no desire except that the Government shall get the best service at the least cost. The great contractors are non-residents of the Territories. They have little interest in us and we have none in them. Therefore, we would have been content if any wrong proceedings on their part had been punished in the hope perhaps that hereafter residents of the Territories would get their share of a business which is being monopolized by great companies. But what was the result of the investigation? Did the committee bring in resolutions of impeachment or of censure against the Department? No. Did they bring in a bill to annul those contracts, to declare them void on account of fraud, (if they were fraudulently obtained,) and to relet them at the rate of speed now required by the country? Either of these measures would have met my cordial approbation if the evidence elicited had warranted the committee in bringing them in. But what did the committee do? They first brought in a bill based upon sectional grounds as clearly as if a line had been drawn through this country—a bill which struck down every mail-route west of the Mississippi, and there were no others, on which there had been an increase of over $2,500 either for trips or for expedition. The most flagrant job and most corrupt increase up to the amount of $2,500 might stand, but the most meritorious proposition above that was to be struck down. All of one class were east of the Mississippi. Members might vote for the bill without injury to their own constituencies, while all the long routes, routes in a country without railroads, the very frame-work of the star service, was to be ruthlessly demolished, and nobody would be hurt except the Western States and Territories, which have but a small representation on this floor.

That bill was brought into the House, but there was such a general murmur of disapprobation at its manifest injustice that the committee at once abandoned it—scuttled their boat before it was fairly launched. Then the substitute of the gentleman from Indiana [Mr. BAKER] was brought in the next morning. This was quite sweeping but applied only to expedited service, and we were asked what was the objection to that.

Then we were told, as we are told now, that the committee did not want to hurt the star service; they only wished to get at these large contractors and to give the Territories their rightful mail service. Then why did they not annul the contracts? If they were obtained by fraud they ought to be annulled, and the people given fair service under new and proper contracts. See the position in which the committee places itself according to the gentleman from Illinois, [Mr. CANNON.] He says or intimates that these contracts were made fraudulently slow two years ago in order that the contractors and the officials might mutually profit by an increase.

Mr. CANNON, of Illinois. I do not charge that.

Mr. MAGINNIS. But you said it looked that way.

Mr. CANNON, of Illinois. I said that is the effect of the contract being made slow and then expedited at an enormous increase.

Mr. MAGINNIS. Very well. Suppose, then, the contracts were made slow, either dishonestly or with honest intent, what do you propose to do in this bill and where will it leave us? You do not propose to annul those contracts, so that they can be let again, in order that the people may have the mail service which they desire and which they need at this time. But you only propose to put the service back where it was two years ago; to tie it there; to say that a country which is rapidly growing in population, with towns springing up in every direction, shall remain just where the Department put it two years ago so far as mail facilities are concerned. Not only that, but that for the next two years it shall stay where it was two years ago. And yet you say you do not strike this mail service, when you have hamstrung it, when you have hobbled it, and when you say that for the next two years, no matter how many mines are discovered, how many towns spring up, how many railroads are built, the service shall so remain, hamstrung, hobbled, crippled, till the end of the contract term in 1882. Better abolish all of these contracts and let new ones. That might be hard on the contractors, but it would only be just to the people.

This bill punishes the people and the contractors both.

Gentlemen say it only affects seventy or eighty routes. These are the main arteries of the star service. Half a dozen of the great railroads of the country get the lion's share of this seventeen millions for railroad service. I can change the schedules on half a dozen—yes, on three of the great railroads leading out of New York, Philadelphia, and Baltimore—and throw the whole railway service of the Union into confusion. You can reduce the schedule on one railroad—the Union Pacific west of the Missouri—and throw the whole mail service of the West into confusion. If your mail should be delayed two days—yes, or two hours—on the roads from Chicago, Saint Louis, or Louisville here, gentlemen who say so easily that a few days' time makes no difference to the West would be quite excited over the delay. There are few of these roads which are criticised in my Territory; there are none, or but one, which this bill, as amended, touches, but there are routes leading into Montana from other Territories by which we receive our mails. The gentleman instances the Bismarck and Fort Keogh route. That was increased from $16,000 to a very large sum; I do not remember exactly the figures.

Mr. REAGAN. The increase was from $613,000 to $2,200,000 in all.

Mr. MAGINNIS. That route was let two years ago over a country where white men had scarcely ever been, a primeval solitude, across the prairies and the bad lands. How is it now that the increase is criticised? There is a railroad under contract to be completed on the first Monday of September over every mile of that route. Yet that is put down as an unimportant route, unnecessary, no demand for mails, when, as I have said, there is a railroad under contract to be completed over every foot of it by September next, and the builders, graders, track-layers, surveyors, and all the vast army of men engaged in constructing that railroad are being supplied with mail as well as Fort Keogh, Miles City, and other important towns. The contractors have two years under their contract yet to run, but before half their contract has expired they will be obliged to take down their stations, abandon their stables, and sell their horses, coaches, and plant for half or less than half their original cost. Will you cut off the few months between now and September, when the locomotive will reach the Yellowstone?

The CHAIRMAN. The gentleman's time has expired.

Mr. CANNON, of Utah. I will take the floor, Mr. Chairman, and yield my time to the gentleman from Montana.

Mr. MAGINNIS. That is no unimportant route such as has been

described, running through a little fringe of scattered settlements, but it is a great national highway, a route of so much importance, Mr. Chairman, that a railroad is being built over it at the rate of a mile a day. Every week a mail station and a barn will go down and a water-tank and railway station will go up, and by next September, two years before this much-abused contract expires, the whole of this star contract will be done away with and the stage route will be replaced by a railroad carrying the mail. All this progress will have been made within two years, and the most solitary and unfrequented region in America crossed by a daily train and traversed by thousands of people. Years ago by special bill Congress appropriated $350,000 to put once-a-week service on this route. Take the Rock Creek and Fort Custer route, another route to which the gentleman has referred as an especial instance of extravagance. One county in Wyoming subscribed $400,000 to build a railroad on that route, and a hundred miles, or nearly half of the distance between the termini, will be built this year.

These are the routes upon which this bill will strike down expedition. One route in Montana which the bill would cut down is the Fort Keogh and Bozeman route up the Yellowstone River, on which contracts have also been let to build two hundred miles of railroad this year. On all these routes the railroad is rapidly devouring the star contracts.

What does this propose in regard to this route? It proposes to take off this service, which now runs in three days, and put it back to six days as it was originally let. This reduction will reduce the speed of mails three days' time and sets the service back where it was two years ago, and fixes it there for two years to come. If this bill annulled those contracts and allowed the Postmaster-General to make new contracts, while it might be very hard on the contractors, it would not be, at the same time, unjust to those people; and I am speaking for the people and not for the contractors.

My friend from Illinois [Mr. CANNON] claims to still be a friend of the great West. If he is he has a strange way of showing his love. If he comprehended the needs of the West he would not have struck down those routes upon which he now wants the service reduced, nor set the rate of speed back where it was two years ago. At one time Illinois was in the West. It is now an Eastern State. There is no West this side of the Mississippi. The genius of American progress has long ago traveled through that fertile and magnificent mud-hole called the Mississippi Valley and planted her feet on the high ground and golden hills beyond; and after her have followed lines of railroad and telegraph. And before the advance of these the stage-men and mail-carriers are disappearing from the country as the Indians and buffaloes disappeared before them. The men who have carried the profession of coaching, the American stage-drivers, to a greater extent than ever before in the world, who ran their coaches fearlessly over trackless deserts and high mountains, will soon pass away, and in a few years their business will be done by others, and the express and the mail and the passengers will be carried by the fast railway train. Do not strike them down for a few years yet, until their time has been accomplished. Surely gentlemen on this side can stand by the requirements of that new country which was added to this Union by the genius and bravery of their fathers in war, diplomacy, and statesmanship.

[Here the hammer fell.]

Mr. WRIGHT. Mr. Chairman, I have but little to say on this subject, and I shall not detain the committee but a very short time. According to the way in which I look at it, this is not a question of money at all. It is not a question of expediting the time in the transportation of the mails. It is a question of contract, and of contract alone. Now, sir, without speaking in reference to the merits of the bill generally, I maintain that when one of the departments of this Government enters into a contract with an individual for the performance of any duty, I repeat, when the Government, through one of its departments, makes a contract with an individual or with a company for the performance of a certain service, that contract ought to remain unviolated on the part of the Government, and it ought to be enforced. You have no right, sir, when you make a contract with an individual to carry the public mails of this country from one point to another for a period of four years, and when one-half of this time is expired, and the contractor has performed the service, to come in here and say that you propose to withdraw that contract from him and reduce his pay.

Mr. BLACKBURN. But suppose the contract provides in the first instance for the reduction at the pleasure of the Government?

Mr. WRIGHT. There has been a discretion used on the part of the Government, and if it is not observed it is the duty of Congress to maintain it.

Now, sir, here is a contract made between the Government and an individual. It is ascertained that the contract cannot be carried out without additional pay. The Government increases the price that is to be allowed for the purpose of discharging that service. The man who has the contract in obedience to that wish of the Government for increased service expends money for the purpose of increasing his facilities to carry it on and to accommodate the wants of the Government. He must necessarily add to what he agreed originally to do the work for; but now, as I understand it, after two years' work in accordance with these conditions or these changed conditions, you say we will now abandon the contract, and you may look to the Government to get what additional allowance is agreed or might be agreed to be given you if the contract is not completed.

I say that is all wrong. If we make a contract let us maintain it. If we agree to pay the money here for carrying the mails and agree to pay extra compensation for increased service and induce a man to put on extra force and go to extra expense to accomplish the purpose, we have no right to back out from the position we took and refuse him his money. That is all that is necessary for me to say on that point. It is not necessary to enter into the question as to whether there has been fraud in the Department or not.

I believe, Mr. Chairman, for myself, that the Post-Office Department, under the distinguished gentleman now at the head of it, has been faithfully and well conducted and managed during the time of his administration, and now in the retirement of that gentleman, as I understand he is going out, I do not think there can be a word said with regard to mismanagement or fraud upon his part.

Mr. BRAGG. The gentleman speaks of the "head of the Department."

Mr. WRIGHT. I understand the Postmaster-General to be the head of the Post-Office Department.

Mr. BRAGG. The figure-head? [Laughter.]

Mr. WRIGHT. Well he is the responsible man, the one to be looked to.

Now, I say it is not for me to examine into the question of fraud in any particular whatever. I have nothing to say about fraud. I stand here as an advocate for the Government to maintain its contracts; that is all. I do not want the Government to do a great wrong. That is my position, and it is tenable among men of intelligence and honor. A contract is not to be made and then abandoned through any political machinations, or for any other purpose. It is binding upon the Government. I have nothing to say here which touches the interest of anybody who is outside of this body. I do not know anything of the contractors. I do not know how they perform their service. I know nothing about them, or any charges that have been made against them for dereliction of duty. I only know, Mr. Chairman, and I maintain it, that if we have a contract entered into here we are bound in good faith to stand by it.

Mr. BRAGG. Will the gentleman yield for a question?

Mr. WRIGHT. Well, I will.

Mr. BRAGG. I would like to ask the gentleman how that would apply to the doctrine of changing the gold-bearing bonds and paying them in greenbacks? [Laughter.]

Mr. WRIGHT. That does not touch the subject, and is not germane to the question under consideration. [Laughter.] But if I had the opportunity and the time I would answer the question of the gentleman thoroughly and fully. But I am not now upon that line of argument. I am in favor, as I have said, of maintaining a contract of the Government as entered into wherever and whenever it is made, and every other gentleman on this floor ought to be in favor of it or throw up his seat in this body.

Mr. BLACKBURN. As the House has ordered a night session, and the hour for adjournment having now arrived, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the committee having had under consideration the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, had come to no resolution thereon.

FAST MAIL SERVICE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting a communication from the postmaster at New York, showing the necessity for continuing the appropriation for fast mail service; which was referred to the Committee on Appropriations.

GURDON H. WILCOX.

The SPEAKER also laid before the House a letter from the Postmaster-General in regard to the operations of a certain claim agent, Gurdon H. Wilcox; which was referred to the Committee on Appropriations.

ROLL OF HONOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting recommendation for an appropriation of $20,000 for printing an edition of the revised-roll of honor; which was referred to the Committee on Appropriations.

HOMESTEADS FOR SOLDIERS, ETC.

The SPEAKER also laid before the House a resolution of the Legislature of California, relative to the act of Congress enabling honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands; which was referred to the Committee on the Public Lands.

JACOB RHOADS.

Mr. GILLETTE, by unanimous consent, introduced a bill (H. R. No. 6067) granting a pension to Jacob Rhoads, of Panora, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISAAC HERRING.

Mr. GILLETTE also, by unanimous consent, introduced a bill (H. R. No. 6068) granting a pension to Isaac Herring, private of Company D, Seventeenth Iowa Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

A. W. RICHARDS.

Mr. GILLETTE also, by unanimous consent, introduced a bill (H. R. No. 6069) granting a pension to A. W. Richards, of Indianola, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RIGHT OF WAY—MEMPHIS AND VICKSBURGH RAILROAD.

Mr. CHALMERS. I ask unanimous consent for the present consideration of a small bill, which has been reported unanimously by the Committee on Military Affairs. It was passed by the House in the Forty-fifth Congress, and was only lost in the Senate on account of want of time.

The SPEAKER. The bill will be read for information, after which the Chair will ask for objections.

The Clerk read as follows:

A bill (H. R. No. 460) granting the right of way to the county of Warren, in the State of Mississippi, and to the Memphis and Vicksburgh Railroad Company, through the United States Cemetery tract of land near Vicksburgh, Mississippi.

Be it enacted, &c., That the right of way is hereby granted to the county of Warren, in the State of Mississippi, and to the Memphis and Vicksburgh Railroad Company, chartered by the State of Mississippi, for a public wagon-road and a railroad through the United States Cemetery tract of land near Vicksburgh, Mississippi, from the south line to the north line of said tract, around and outside of the wall of the cemetery grounds, and on the western boundary of said tract of land; and that this act take effect and be in force from and after its passage.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. CONGER. I suggest to the gentleman, after the words "that the right of way is hereby granted," to insert the words "subject to the approval of the Secretary of War."

Mr. CHALMERS. I have no objection to that amendment.

Mr. WHITE. This bill is all right.

Mr. MAGINNIS. It is unanimously reported by the Committee on Military Affairs.

There being no objection, the bill was taken from the House Calendar and brought before the House for consideration.

The SPEAKER. The question is first on the amendment of the gentleman from Michigan to insert the words "subject to the approval of the Secretary of War."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CHALMERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE CLERKS.

Mr. BICKNELL, by unanimous consent, introduced a joint resolution (H. R. No. 299) in relation to committee clerks of the House of Representatives; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

COMMITTEE ON MISSISSIPPI RIVER AND ITS TRIBUTARIES.

Mr. FROST, by unanimous consent, submitted a resolution appointing a standing committee on the Mississippi River and its chief tributaries; which was referred to the Committee on Rules.

FORT LOGAN, MONTANA.

Mr. MAGINNIS. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier, which has passed the Senate with an amendment.

There being no objection, the bill was taken from the Speaker's table and the amendment of the Senate was read, as follows:

In line 7, after the word "of," insert "in parcels or otherwise."

Mr. MAGINNIS. I move to concur in the Senate amendment.

The amendment was concurred in,

Mr. MAGINNIS moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASA ESTABROOK.

Mr. STONE, by unanimous consent, introduced a bill (H. R. No. 6070) for the relief of Asa Estabrook, late second lieutenant Battery C, First Regiment Michigan Light Artillery Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SALARY OF POSTMASTER AT WASHINGTON CITY.

Mr. STONE also, by unanimous consent, introduced a bill (H. R. No. 6071) to fix the salary of the postmaster at the city of Washington, District of Columbia; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

SECTION 232 OF POSTAL LAWS AND REGULATIONS.

Mr. MONEY. I ask unanimous consent to have considered at this time the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Committee on the Post-Office and Post-Roads is hereby authorized to investigate the effect upon the postal revenue of section 232 of the postal laws and regulations, and to report the result to this House; and said committee is authorized to sit during the sessions of the House, with power to send for persons and papers.

Mr. MILLS. I object.

Mr. HUNTON. I move that the House take a recess until half past seven o'clock.

The motion was agreed to.

The SPEAKER. The chair this evening will be occupied by the gentleman from Georgia, Mr. SPEER, as Speaker *pro tempore*.

And accordingly (at four o'clock and thirty-three minutes p. m.) the House took a recess till 7.30 p. m.

EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m., Mr. SPEER in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order under which the House meets this evening.

The Clerk read as follows:

Mr. HUNTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That there shall be evening sessions of this House on Wednesday and Friday of each week, commencing on Wednesday, April 21, 1880, which sessions shall be devoted exclusively to the consideration in the Committee of the Whole House on the state of the Union of House bill No. 5541, to establish a municipal code for the District of Columbia, and shall continue till the consideration of said bill is concluded.

CODE FOR THE DISTRICT.

Mr. HUNTON. I move that the House now resolve itself into Committee of the Whole for the purpose of considering the bill to establish a municipal code for the District of Columbia.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. BURROWS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of further considering the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia. The Clerk will report the pending section.

The Clerk read as follows:

SEC. 244. The commissioners of the District of Columbia shall maintain public free schools for the education of all the children within said District between the ages of six and seventeen years, and may continue to provide separate schools for white and for colored children, and to cause necessary books and stationery to be furnished free of charge to destitute pupils attending the public schools. They shall divide the trustees of public schools of said District into three classes, one of which shall go out of office on the 30th day of June of each year; and all appointments of trustees hereafter made, except to fill unexpired terms, shall be for the term of three years unless sooner removed.

The CHAIRMAN. When the committee was last in session upon this bill the point of order was made that a quorum had not voted upon an amendment which was pending, and thereupon the committee rose. The amendment was one moved by the gentleman from New York, [Mr. LAPHAM,] to strike out the word "may" and insert the word "shall" before the words "continue to provide separate schools for white and for colored children." The question recurs upon agreeing to that amendment.

Mr. HUNTON. That point of order was raised by the gentleman from Illinois, [Mr. SPARKS.] I had an interview with that gentleman this evening, and he promised to be here when the House met and withdraw the point of order upon certain conditions; and he authorized me if he was not here to withdraw the point of order upon the condition that the amendment might be offered in the House and a vote taken upon it.

The CHAIRMAN. If there is no objection the amendment will be regarded as rejected, with the understanding that it be offered in the House.

There was no objection, and the amendment was accordingly disagreed to.

The CHAIRMAN. There was another amendment pending, moved by the gentleman from New York, [Mr. LAPHAM], to insert after the words "separate schools for white and for colored children" the words "as now provided by law."

Mr. HUNTON. I trust that amendment will not be pressed. One of the objects of this code is to combine all the laws on the subjects embraced in it, without reference to any other law. All the laws governing this District are repealed by this bill, except the organic act establishing a permanent form of government for the District.

If this amendment prevails, then anybody who desires to ascertain the law upon the subject of schools will have to wade through all the previous legislation upon that subject. We determined in committee that we would avoid all trouble of that sort. This is really a codification of all the laws relating to the District of Columbia, and a codification of laws is understood to embody all the laws on the subjects embraced in the code.

Mr. ROBINSON. This amendment was offered by the gentleman

from New York, [Mr. LAPHAM,] who is not now here. After the close of the session when this amendment was offered that gentleman conferred with some members of the Committee on the District of Columbia, and he himself decided that it would be better to waive the amendment at this place, and allow an amendment to be offered later, when we come to the repealing section of this bill, which would accomplish all that he desires to accomplish.

The question was taken upon the amendment, and it was not agreed to.

The Clerk read the following:

SEC. 246. And said board of trustees shall have power, and it shall be their duty,

First. To appoint a secretary, who shall also act as auditing clerk, and remove him at pleasure;

Second. To appoint all teachers and employés required for the public schools of said District and authorized by the commissioners, and the same to change at pleasure; but no supervising principal, instructor in any special branch, or teacher employed in schools above the seventh grade, shall be appointed or removed unless by a vote of the majority of the whole board;

Third. To prescribe, and ascertain by examination and other evidence, the qualifications of applicants for teacherships and promotions;

Fourth. To suspend, expel, or punish pupils who will not submit to reasonable rules of order and discipline, or authorize the suspension, expulsion, or punishment of such pupils;

Fifth. To prescribe the course of studies and the books to be used in the schools, but no book shall be changed unless by a vote of two-thirds of the whole board and approval of the commissioners, and the books in all the schools shall be uniform;

Sixth. To make frequent personal inspections of school buildings, furniture, and premises, and to cause frequent examinations of the schools to be made by the superintendents and supervising principals, or other competent persons;

Seventh. To make annually, on or about the second Tuesday of August, a report, in print, to the commissioners, giving an account of its proceedings during the year, the reports of the superintendents, and school statistics;

Eighth. To divide the district into school divisions, and change the same at pleasure.

Ninth. To examine and report upon all bills or accounts against the District for the maintenance of the public schools, or involved in their establishment and support, and no such bill or account shall be paid without the approval of said board of trustees;

Tenth. To make a statement in writing to the commissioners whenever, in the judgment of said school board, a new building, or any addition to, alteration of, or repairs to a building is needed for school purposes, showing the necessity of the proposed building, addition, alteration, or repairs; and no contract for the purchase of any building, or for any addition to, or alteration of, or repairs to any building for school purposes shall be authorized by the commissioners until such statement has been made, nor until the locality and plans for the same have been approved by the trustees of public schools.

Eleventh. To make and execute such by-laws and rules as may be necessary or convenient for the proper administration of the powers herein granted, and the same to amend or abrogate at pleasure; but no by-law or rule shall be made, amended, or abrogated unless by a vote of two-thirds of the whole board;

Twelfth. To determine upon and do all matters and things respecting the care and management of the public schools, agreeably to the provisions of this chapter and by-laws and rules made in pursuance thereof.

Mr. ROBINSON. I desire to call attention to the fifth subdivision of the section just read in relation to books used in schools. It has been suggested by a member of the board of trustees that the words "and approval of the commissioners" be stricken out. Upon consultation with one of the members of the Committee on the District of Columbia, the gentleman from Maryland, [Mr. HENKLE,] he said that such an amendment would be approved by the committee.

Mr. HUNTON. I do not think it would be approved by the committee, though I do not consider it a matter of much importance. The object of the committee in putting in this provision was to prevent the frequent change of school-books. If there is one evil greater than another in our public schools it is the frequent change of books; and the committee desired as far as possible to avoid that evil. By this provision "but no book shall be changed unless by a vote of two-thirds of the whole board and approval of the commissioners" there will be no change unless it is absolutely necessary.

Mr. ROBINSON. There was an understanding that such an amendment had better be made, and I will therefore move to strike out the words "and approval of the commissioners." I desire to say that the law now limits the change of school-books to a vote of two-thirds of the board of trustees, and that would be a very strong guard against any sudden and ill-advised change. It seems to me it would be unusual to require the commissioners of the District to take cognizance of this little matter and to vote upon it. I think that would be wholly unnecessary and irregular, and I hope the amendment will be adopted.

The amendment was agreed to.

Mr. BARBER. I would like to inquire of the gentleman in charge of this bill [Mr. HUNTON] as to the meaning of the words "or punish pupils," contained in the fourth subdivision of this section?

Mr. HUNTON. Does the gentleman want to know what is meant by punishing pupils?

Mr. BARBER. I want to know the gentleman's idea about this provision.

Mr. HUNTON. I can refer the gentleman to his own school-boy days. [Laughter.] Punishment, of course, is any penalty inflicted upon the pupil.

Mr. BARBER. This section relates to the powers of the school board. Does the gentleman mean that the board shall inflict corporeal punishment upon pupils?

Mr. HUNTON. This has been the law of the District for a great while, and there has been no complaint about it; we have made no change in the law in this respect.

I beg leave to state, as a general remark, that most of the laws in regard to schools and matters of this sort we have left as they have been in existence in this District for many years. We have made very few, if any, changes, and none unless there were satisfactory reasons for them, and they were suggested by the parties most interested. We had the trustees before us when we prepared this part of the bill. We also had before us the superintendent of the colored schools and the superintendent of the white schools. I think there is not a provision here that did not in the main meet their approbation.

Mr. BARBER. If the term means anything, it conveys a pretty broad authority to the board of trustees.

Mr. HUNTON. I think they ought to have such authority.

The Clerk read as follows:

SEC. 251. Whenever suitable sites cannot be purchased for the erection of school-houses, the commissioners shall have power to condemn and value land suitable for that purpose, not exceeding one acre for each site, by giving ten days' notice in writing to the proprietors thereof, except in cases where notice cannot be served, and in cases of minors, married women, and persons *non compos*, and filing in their office for inspection a certificate describing such lands, with the value assessed thereon, which shall be sufficient notice to the proprietors of such land that the commissioners are ready to pay the amount of damages so assessed.

Mr. DUNNELL. I will inquire of the gentleman in charge of this bill whether ten days' notice, as indicated in the fourth line of this section, is not quite short?

Mr. HUNTON. Why should there be any more time? The only object of the notice is to let the owner of the property understand that the commissioners propose to condemn the property for public-school purposes. I cannot conceive what the man would want to do that he could not do in five days or even one day.

The Clerk read as follows:

SEC. 252. If within thirty days from the filing of the certificate as provided by the preceding section, the proprietors of the land shall not appeal from the decision of the commissioners, by written notice left with the commissioners, the amount so assessed shall be paid to the proprietors, and the title of such land and premises shall pass to and be vested in the District of Columbia, and said certificate shall be recorded in the land records of the District.

SEC. 253. If the proprietors of such land and premises shall, within thirty days, notify the commissioners, in writing, of their dissent from the valuation of such land so made, or if the land, or any part thereof, be owned by a minor, married woman, or person *non compos*, or if notice cannot be served, it shall be lawful for the commissioners to issue their warrant to the marshal of the District, commanding him to summon a jury of five freeholders, not interested in the matter, to appear, on a day appointed, on the premises, and after having each taken an oath (which the marshal is authorized to administer) that he will, without favor or prejudice, assess the damages sustained by the proprietor of the land by reason of the condemnation of said land, the jury so qualified shall proceed to value and assess the damages accordingly.

SEC. 254. If the amount assessed by the jury shall not be greater than the amount previously assessed, the whole costs of the appeal shall be chargeable to the appellant, to be paid by the commissioners and deducted from the cost of the land in settlement therefor; otherwise the commissioners shall pay the expenses incurred by reason of such appeal, the marshal's and jurors' fees to be computed as provided in Title V, Chapter II.

SEC. 255. The jury immediately after they shall have completed their inquest and assessed the damages shall make out a written verdict, setting forth a full and distinct description of the land and premises and the valuation or damages assessed therefor, which shall be signed by them, or a majority of them, and having been attested by the marshal shall be immediately returned to the commissioners, and shall be final.

Mr. BARBER. Allow me to inquire of the gentleman in charge of this bill whether there is any provision here for any notice whatever to persons who are under the various disabilities mentioned in the act?

Mr. HUNTON. No, sir; how can we give notice to any such persons?

Mr. BARBER. It might be given to the guardian or legal representative. Certainly these parties under disabilities are entitled to have some notice given to their representatives; otherwise the proceeding must necessarily be absolutely void.

Mr. HUNTON. If the gentleman desires to make an amendment in this respect he had better go back to section 251 and amend line 5 by inserting after "proprietors" the words "or the controllers," so as to provide for giving ten days' notice "to the proprietors or controllers thereof." Then the provision would apply to anybody having control of the land, whether guardian, trustee, or anything else.

Mr. LOUNSBERY. I wish to submit an amendment to strike out from this bill all the sections, commencing with section 251, which provide for a compulsory taking of land for school purposes.

The CHAIRMAN. The gentleman will please designate how many sections he desires to strike out.

Mr. HUNTON. Sections 251 to 258 embrace the subject to which the gentleman refers.

The CHAIRMAN. The Chair would suggest that the motion be withheld until the sections indicated have been read.

Mr. LOUNSBERY. That was my purpose.

The Clerk read as follows:

SEC. 256. Upon payment, or offer of payment, to the proprietors of the land of the damages assessed according to the provisions of the three preceding sections, the title to such land shall pass to and be vested in the District of Columbia, and the verdict of the jury shall be recorded in the land records of the District.

SEC. 257. In any of the cases mentioned in the four preceding sections it shall be optional with the commissioners to abide by the verdict of the jury and occupy the land or abandon it, without being subject to damages therefor.

Mr. LOUNSBERY. Mr. Chairman, I now make my motion to strike out. I think the sections which have been read embrace all the provisions giving to the commissioners the right to enter lands of private individuals without their consent and take possession of them. The very last section read is the one which specially called

my attention to the provision in the existing statutes, which I think a very dangerous one. Of course I am aware that many statutes of the States, and perhaps some of our United States statutes, authorize land to be taken upon an assessment for public purposes. But the object here is to take land for the use of public schools; and I wish to state that in my experience I have never seen the demand for real estate for school purposes so great and pressing that the lands of a private individual should be taken for such purposes without his consent at any valuation whatever. I need not say (because every one knows it) that when a man has become the owner of a piece of land and has placed there his habitation, it frequently happens that there is no compensation which he is willing to receive in lieu of the home that he has made.

Now look at this statute as applicable to minors and insane persons who have not the mental capacity and are frequently without the physical capacity to protect their titles and secure a proper value for their lands. The provision here is that in the case of minors and insane persons a jury may be called *ex parte*, without notice, without allowing to the parties interested a day in court. Thus their land may be taken; and the minor on attaining years of discretion or the lunatic on regaining the exercise of his faculties may find that under this code of laws of the District of Columbia a title dispossessing him has been recorded upon the record books of the District.

In the first place I object to the practice of taking lands for public schools by compulsion, driving a man from the home he has selected when he is unwilling to part with it at any price. Let these commissioners when wishing land for school purposes go to some person willing to sell, and not to a person who has fixed his home and is unwilling to take any price for it.

I object to the provisions which I have mentioned; and I object to the manner in which the jury are to proceed. I object because there is no day in court. There is no record court provided for the trial of these cases where the title may be recorded after adjudication of the right to it.

I make another objection, and that is to section 257. That simply goes to the general carelessness, and I dislike to use that word, with which this particular statute has been drawn. The statute provides, in case an appeal is taken to a jury, instead of accepting the valuation the commissioners put on the land and the jury shall assess the value at less than the commissioners, the charge shall be upon the owner, but if it be at a greater sum than the commissioners shall put upon it then the charge shall be upon the commissioners. And yet just as soon as this jury has determined the price at a greater sum than the commissioners valued it at, they have a right to abandon the land and leave the owner charged with the expense of this litigation in the appeal which they have put upon his hands. I refer to that to show the general carelessness with which this statute has been drawn.

[Here the hammer fell.]

Mr. HUNTON. Mr. Chairman, I disclaim any degree of carelessness in the formation of this code or any part of it. The committee gave to each portion of it the strictest and most careful attention.

Mr. LOUNSBERY. I make no charge against the gentleman.

Mr. HUNTON. You do against the committee. But I do not take it as offensive at all; but it is not true. The same charge of carelessness which the gentleman has brought against the committee he might have brought against the Congress of the United States which assembled here in 1862 and 1864; for my friend will find on examination of the Revised Statutes of the District of Columbia, and I am almost prepared to say it, that not a syllable or letter of the old law has been changed by the committee. All these sections to which my friend objects and which he has moved to strike out are contained in the old law, which has been in force here for sixteen or eighteen years. And when this committee was considering these questions, and had the school trustees and all these parties before them, there was not an atom of complaint on the part of anybody in the District of Columbia as to the operation of this law.

Now, the objection to taking private property for public uses is a question which has been discussed for I do not know how many hundred years, and just the arguments have been made and reiterated by persons in different generations which we heard from the gentleman to-day. Public opinion has sustained the laws which authorize condemnation of private property for public uses upon payment of its value. And this mode of condemnation of private property for public uses has been in operation in this District for sixteen or eighteen years. It has worked well without complaint on the part of anybody and I hope it will not be changed.

Mr. BARBER. I see no difficulty in perfecting these sections by a slight amendment, so there will be no doubt as to who has the proper title. I doubt whether the District of Columbia has a perfect title to land upon which school-buildings have been erected, if they have proceeded under a statute similar to this. I should tremble at the result of some minor arriving at age, and there is plenty of time for it to occur if these statutes have only been in force for sixteen or eighteen years.

Mr. ROBINSON. In all probability they have never condemned any land but have acquired title by purchase and the title therefore has never been tested.

Mr. BARBER. This is to be considered in a double aspect. In the first place we have not only to see that the Government acquires perfect title, but, in the second place, to protect the rights of minors and other persons under disability. If it should turn out some of our finest school-buildings are located upon land to which the title is imperfect, then, in the future, the lesson might be quite severe. I know in those latitudes where real estate is valuable and increasing in value with great rapidity, your title would be put to a test very speedily.

Mr. LOUNSBERY's amendment was rejected.

Mr. NEAL. I suggest to the gentleman from Illinois that he prepare an amendment to meet his views, and, while he is doing so, the committee can pass on to other sections. I think it is a good plan to amend that section so as to provide for notice.

The CHAIRMAN. Is there objection to passing over the pending section to be recurred to hereafter?

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

SEC. 283. In cases where notice cannot be served on the owner, and in all cases where the land through which it is proposed to run a road shall belong to a minor or minors, it is presumed that objection is made, and damages shall be assessed accordingly.

Mr. ROBINSON. I suggest an amendment in the third line of this section, after the word "minors," to insert the words "married women or persons *non compos;*" so that, if amended, it will read:

Where the land through which it is proposed to run a road shall belong to a minor or minors, married women or persons *non compos;* &c.

Mr. HUNTON. I have no objection to that amendment.

The amendment was agreed to.

The Clerk read as follows:

CHAPTER IV.

BUILDING REGULATIONS.

Mr. DUNNELL. Mr. Chairman, I am assured that the following section from page 106 to page 142, referring to building regulations, has been very carefully prepared by the committee, and that it would be perhaps entirely safe to take that much of this document without the necessity of reading it at length. I hope there will be no objection to considering this, which is a mere matter of detail, as having been read, so that we can avoid the delay consequent upon reading it now.

Mr. HUNTON. The title to which the gentleman from Minnesota refers is on the subject of buildings and building regulations, and we have very fully examined the whole subject and prepared this section with a great deal of care. We had all of the parties in interest before us, the engineer, commissioner, and the inspector of public buildings, and endeavored to make the law satisfactory to all, making as few changes as possible in the original law. I think it will be found on comparison there is little if any change—none of any considerable consequence in the law.

Mr. DUNNELL. I ask unanimous consent that the reading be dispensed with, and this title be considered as having been read.

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

CHAPTER II.

NUISANCES TO PUBLIC HEALTH AND THEIR REMOVAL.

Mr. BARBER. Mr. Chairman, I have looked carefully through this title, the first chapter of which has been read, and find that it refers simply to police regulations of no greater importance than those chapters which have already been passed over by unanimous consent. I will suggest, therefore, that this chapter be passed over without reading, in like manner.

Mr. NEAL. From page 145 to page 189, beginning with Title VIII.

Mr. BARBER. I think there will be no objection, perhaps, to my suggestion, as these sections in that title are nothing of a higher character than mere ordinances.

Mr. HUNTON. I have no objection to the motion of the gentleman from Illinois; but before passing this title there is a suggestion which I wish to make as an amendment to section 350, on page 152, to strike out in the first line of that section the word "shall" and insert the word "may," so it will read "the commissioners may issue permits," &c.

Mr. ALDRICH, of Illinois. That amendment was voted down by the committee, and I hope it will not be adopted now. The health officer asked that it should be done, but the committee voted it down.

Mr. NEAL. I want to say that this section was drafted so as to prevent a monopoly in this new business of removing night-soil which existed heretofore. The health officer desires, of course, that the word shall be changed, so that he may have an option in the matter of issuing these permits, or, in other words, that he shall not be compelled to issue a permit to anybody who may wish to engage in this business. The supreme court of the District decided that the law as it exists now was in effect to make this a monopoly, and this change in the law, by using the word "shall" in place of "may" in the section, will enable other responsible parties to come in and undertake to do this work, thereby making a competition in reference to it which will cheapen the cost to the people. I hope the amendment will not be adopted.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 443. Licensed auctioneers shall not receive goods for sale, of any servant or minor, unless accompanied by a certificate from the owner or owners thereof; nor expose to public sale any real or personal property, without first making out in writing, and signing, and publicly reading the conditions of such sale, and

advertising the property intended for sale, and the time and place of sale, if to be sold in the city of Washington, in one or more of the newspapers published in said city, and also giving notice of the same by a crier and the ringing of a bell; nor either directly or indirectly to purchase at auction any article or articles put up to sale by him to sell again, and not for his own use, under a penalty of $25 for any such offense; nor to sell, by auction, dry goods or groceries, in lots or parcels, of less value than $5, or liquors of any kind in less quantity than five gallons, under a penalty of $5 for every offense.

Mr. NEAL. This provision of the bill is the law as it now stands in regard to auctioneers, hucksters, dealers in coal, ice, &c., up to page 202 of chapter 6. I suggest they be passed over as by unanimous consent without reading.

Mr. BREWER. Before doing that I wish to ask the gentleman in charge of this bill what is the object of this section which has just been read? Is it the object to control the sale of real estate in the District as between individuals?

Mr. NEAL. This section refers to licensing of auctioneers.

Mr. BREWER. I understand that; but why should they be compelled to advertise as this section requires? It seems to me that that is a private matter for them to determine for themselves and between themselves and the parties for whom they make sales. If it was an execution sale I could see some right or some reason in undertaking to require it, but I cannot see any reason for undertaking to regulate the sale of property at auction.

Mr. NEAL. This section is in the language of the law as it now stands. There is no change in any respect whatever.

Mr. HUNTON. I wish to call the attention of my friend from Ohio to chapter 2 of this section in reference to hucksters. I think there is a change there.

Mr. NEAL. I am speaking now of this section 443. The object of this is to prevent property being put up for sale at public auction without some sort of notice. A private individual may of course dispose of his property or cry it off at auction without giving any notice, but when it comes to licensed auctioneers it is proper that they should be required to give some notice, otherwise stolen property may be sold at public auction in the streets and nobody know anything about it.

As I say, individuals of course can sell their property under the hammer, but licensed auctioneers or those persons who make a regular business of selling at auction personal property or real estate should be required to give some notice of it. In codifying these laws the committee has as far as possible adopted the plan of changing existing law only when it seemed to be absolutely necessary. These sections are just the same as in the present law. And no objection has been made, it seems, to that law up to this time by the people, and we are willing that they shall have it if it is not objectionable to them and operates for the public good.

Mr. BREWER. I do not desire to criticise the working of the committee, but it strikes me that this is an important step for us to take in the way of legislation.

Now, supposing my friend from Ohio who has charge of this bill has a piece of property or real estate here in the city of Washington which he desires to sell, and he employs a licensed auctioneer to make the sale; what business is it to the United States, or what business is it to Congress, or what business is it to any person except the party interested that it should be advertised? The suggestion that has been made by my friend from Ohio, that it might be well for Congress to regulate the duties of the auctioneer as there might be stolen property put up for sale at auction, might probably apply where there was personal property to be sold; but it could not apply to the sale of real estate.

It seems to me that that section should be stricken out or at least so amended that we should not attempt to regulate the sale of individual property where the Government or the city of Washington or the District of Columbia has no interest whatever in any shape or way. It is a matter entirely between individuals, and I undertake to say that the individual has a right to advertise the sale of his property just as he sees fit, and not to do it at all unless he does see fit. If this was a sale under the order of some court the case would be entirely different, and it would be perfectly proper.

Mr. BRIGGS. This bill goes further than that. It provides that a man shall not sell in this way any property unless he is a resident of the District. It provides that:

No person whatsoever shall sell, or expose to sale by way of vendue or auction, any property, real or personal, within the District of Columbia, unless such person or persons shall reside within the said District, and first obtain a license for the purpose.

The CHAIRMAN. The Chair would suggest that no amendment is pending. Unless some amendment is pending the Clerk will continue to read.

Mr. BREWER. I move to strike out the section, but I would be perfectly willing that this matter should stand to be reviewed by the committee. If, however, the enactment is to be made in this way I shall move to strike out sections 432 and 443.

Mr. ALDRICH, of Rhode Island. I suggest that the Committee on the District will take this into consideration.

Mr. BREWER. I am satisfied, if it is agreed to pass this over for the present.

Mr. DUNNELL. I hope we will not agree to pass over these sections. We will never know when we get through with this book if we have to return to a number of sections and go all over it again.

Mr. ALDRICH, of Rhode Island. The RECORD will show what sections are passed over.

Mr. BREWER. I hope the suggestion of the gentleman from Rhode Island will be adopted. I have no doubt this will be changed so as to obviate any objection.

Mr. DUNNELL. Very well.

The CHAIRMAN. If there be no objection these two sections will be reserved.

Mr. HUNTON. I desire to offer an amendment to section 450, relating to the hucksters.

Mr. BREWER. I do not understand how much it has been agreed shall be passed over informally.

Mr. ALDRICH, of Rhode Island. The two sections, 442 and 443.

Mr. BREWER. I suggest that we pass over informally the sections 442 to 449, inclusive.

Mr. ALDRICH, of Rhode Island. Sections 442 and 443 are all that relate to the point raised by the gentleman from Michigan.

Mr. HUNTON. I ask the Clerk to read section 450, to which I desire to offer an amendment.

Mr. ROBINSON. What has become of section 444 and the following sections?

The CHAIRMAN. It was the understanding of the Chair that these sections were passed over to be returned to hereafter.

Mr. HUNTON. Only sections 442 and 443.

Mr. ROBINSON. There is a difference on the floor as to whether we are to return to all those sections or only to two of them.

The CHAIRMAN. The Chair understood the gentleman from Michigan [Mr. BREWER] to ask that all these sections should be reserved.

Mr. BREWER. My proposition was they should all stand.

Mr. HUNTON. Let it be understood we may return to any of those sections for the purpose of considering any amendments thereto.

Mr. BREWER. To any of the sections in chapter 1?

The CHAIRMAN. If there be no objection it will be so understood.

There was no objection.

The Clerk read as follows:

CHAPTER II.

HUCKSTERS.

SEC. 450. Each and every person engaged in the business or trade of a huckster shall provide and have for use at their respective stands, stalls, or benches, or in their respective vehicles in each of the several market-houses of this District, while engaged in selling from their respective vehicles in any other part of the District, scales and measures of the proper standard, and so marked by the sealer of weights and measures of this District, and shall, on demand of the purchaser, weigh or measure all flour, meal, corn, oats, mill-offal of every description, and all the other articles of grain, and all other articles or commodities of every kind sold by weight or measure which they may sell, at the time the same is sold and delivered to the purchasers thereof.

Mr. HUNTON. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to section 450 the following proviso:

Provided, That no owner, proprietor, or driver of any vehicle running from the country into the District, bringing grain, poultry, eggs, butter, wild game, vegetables, fruit, or other articles for table use, whether raised and produced by themselves or bought of the inhabitants of said country, for sale in the District either by wholesale or retail, shall be liable for any license tax, but such owner, proprietor, or driver shall on the demand of the purchaser measure or weigh the articles offered by them for sale.

Mr. DUNNELL. I hope the gentleman from Virginia will explain the proviso.

Mr. HUNTON. The object of the proviso is to make certain there would be no tax placed upon the parties who bring their own produce to sell here in the city of Washington. Persons go around in the adjoining counties to a distance of fifty or sixty miles and collect loads of eggs, butter, &c., and bring them to market and sell them wholesale and retail. The object of this proviso is to prevent any taxation on those parties thus coming to this city to sell produce. It was considered by the commissioners for the advantage of the city to encourage those parties to come here. It makes the market more abundant and supplies fresher and better articles.

Mr. NEAL. There is no necessity for that amendment. We do not provide in this bill anywhere for licensing hucksters. That is considered an honest employment, one which the people of the city are interested in keeping up. Not having provided for requiring hucksters of any kind to pay license fees, there is no necessity for this proviso of the gentleman from Virginia, [Mr. HUNTON,] who says he desires to exempt from license tax persons who bring to the city for sale products of their own raising. If the committee shall hereafter provide for putting a license upon hucksters, which I trust they will not do, then it will be entirely proper for the gentleman to offer his amendment, and in that case I hope it will have the support of every member of the committee. No man should be compelled to pay a license fee for selling the products of his own farm or garden. No license fee is now required from hucksters, and therefore this amendment is altogether unnecessary.

Mr. HUNTON. As my friend and I agree entirely upon the object to be attained, and as I believe there was no disagreement in the committee, it will do no harm to adopt this proviso.

Mr. NEAL. Yes it will, for it is unnecessary.

Mr. HUNTON. If it is unnecessary, it will do no harm to adopt it.

Mr. CLAFLIN. What does the gentleman mean by a wholesale huckster?

Mr. HUNTON. A wholesale huckster is one who comes here and sells out all that he has to parties in the city, who deal in the article, instead of going around and selling by retail to housekeepers.

Mr. DUNNELL. Sell by the wagon-load.

Mr. HUNTON. Yes, one who sells by the wagon-load, and does not go around selling by retail.

Mr. CLAFLIN. Then you do not mean to tax the man who goes out and picks up hay by the ton?

Mr. HUNTON. No, sir.

Mr. NEAL. The effect of this amendment will be to limit the meaning of the word "huckster," giving it a more limited meaning than it ordinarily has.

The amendment of Mr. HUNTON was not agreed to.

The Clerk read the following:

SEC. 451. Any person or persons violating the provisions of this chapter shall, on conviction thereof, be liable to a fine of $5 for each offense.

Mr. CONGER. I move to amend the section just read by inserting the word "willfully" before the word "violating."

The amendment was agreed to.

Mr. NEAL. There is a verbal amendment which I desire to have made; it is to strike out the words "or persons," as entirely unnecessary. If those words are stricken out the section will read "any person willfully violating the provisions of this chapter," &c.

The amendment was agreed to.

Mr. BARBER. I would suggest now the propriety of passing by unanimous consent the sections of this bill to page 209, Title IX, "Police and asylum."

Mr. DUNNELL. Before that is done I would ask whether chapter 6, beginning on page 202, and entitled "the regulation of pharmacy," is the law as it is now in force in the District?

Mr. HUNTON. I think that is a new law.

Mr. DUNNELL. Then I think we had better consider these sections as we go along.

The Clerk read the following:

CHAPTER III.

DRY MEASURES.

SEC. 452. No person shall sell any article by dry measure, unless the same shall be measured in dry measures made to conform in all respects to the standard measures of the United States; and any person or persons selling or offering to sell by dry measure any article by any other form or size of measure shall be deemed guilty of an offense, and shall, upon conviction, forfeit and pay for every such offense a fine not exceeding $5 nor less than $3.

Mr. CONGER. This section does not seem to apply to the sale of articles by traders or hucksters or any other persons engaged in trade, but it says "no person shall sell any article," &c.; nobody in the District, no neighbor shall sell to another by dry measure, unless the same conforms to the standard measure of the United States, without forfeiting upon conviction of the offense a fine not exceeding $5 nor less than $3. What is the object of the provision as applied to persons not engaged in trade?

Mr. NEAL. It is to prevent a man from selling by what he calls a half bushel or a peck or a gallon measure which is too small. The words "dry measure" have a generic meaning.

Mr. CONGER. You have already provided that everything that could be sold by dry measure shall be sold by weight, and that the weight shall accompany the vehicle or be at the stand from which the sale is made.

Mr. ALDRICH, of Rhode Island. By weight or by dry measure?

Mr. NEAL. That provision relates to hucksters. This provision is to the effect that any person selling by dry measure shall use the standard measures provided by Congress.

Mr. CONGER. And you make this section penal?

Mr. NEAL. Certainly. If you buy anything by the half bushel you want to know that that half bushel conforms to the United States standard measure. The object of this section is to prevent cheating. If you do not make it a penal offense for a man to use a false measure, then every man disposed to be dishonest would use such measures.

Mr. CONGER. If you confine it to traders that would be well enough. I do not think there is any propriety in requiring a man who sells a quart of pease or a pint of beans to his neighbor——

Mr. NEAL. If you buy a quart of pease you want to know you have a quart.

Mr. ALDRICH, of Rhode Island. Is there any amendment pending?

The CHAIRMAN. There is not.

Mr. ALDRICH, of Rhode Island. Then I object to debate.

Mr. OSMER. I will move to amend by inserting in the first line, after the word "person," the words "engaged in merchandise."

Mr. HUNTON. I trust this amendment will not prevail. The object of the section is to require every person who sells by measure to sell by a legal measure; but it does not compel anybody to sell by measure. A man can go around among the citizens and sell to them in such a way as he and they shall agree—by the bucket or the barrel or anything of that kind. But the object of the section is that the man undertaking to sell by measure shall sell by a sealed measure. It seems to me this is eminently proper.

Mr. CONGER. I suppose this would prevent the selling of strawberries in boxes.

Mr. NEAL. No; they can be bought by the box.

Mr. HUNTON. A man can go round and sell strawberries by the box to such as choose to buy them in that way; but if he undertakes to sell them by the quart or bushel, then he must sell by a legal quart or bushel. That is the only object of the section.

The amendment of Mr. OSMER was not agreed to.

Mr. BARBER. I move to amend by inserting after the word "measure," in line 6, the words "with intent to cheat or defraud."

The amendment was not agreed to.

The Clerk read as follows:

SEC. 455. Every person selling coal shall keep, at any yard or other place where coal is stored and sold by him, a suitable set of scales which, before use, shall have been tested and found correct by a sealer of weights and measures, and shall be sufficient to weigh a load of at least one thousand pounds at one time. But parties selling coal by measure or otherwise, in quantities not exceeding one hundred pounds at a time, shall not be required to keep scales as herein prescribed. The sealer of weights and measures shall as often as once in two months, at irregular intervals, carefully examine, try, prove, and seal all scales used for weighing coal, and report the result to the commissioners. For each load of coal weighed for sale upon scales not so examined, tried, proved, and sealed, the dealer selling the same shall be liable to a fine of $5.

Mr. HUNTON. By direction of the committee, I move to amend by striking out the word "two," in line 10, and inserting "three," so as to provide for an inspection every quarter, instead of every two months.

The amendment was agreed to.

The Clerk read as follows:

SEC. 456. It shall be the duty of every seller of coal to send with each and every load of coal sold by him a card or ticket, which shall indicate on its face, in plain characters, the seller's name, the date, the weight of coal contained in the vehicle in which it is being transported, and the weight of such vehicle. Any vender of coal violating such provisions, or being found selling or delivering any load of coal without such card or ticket, shall be liable to a fine of $5 for every such violation. It shall be the duty of the sealer of weights and measures and of police officers, from time to time, and whenever they suspect that the quantity of coal being transported for sale will not correspond with the amount indicated on the card or ticket aforesaid, to cause the said load of coal to be weighed upon any lawful scale most accessible for that purpose and to be reloaded; and if, upon the weighing thereof, it shall be found that such load of coal is less than the net amount indicated upon said card or ticket, shall so report, and the person furnishing such load of coal shall be liable to a fine of not more than $50 for every offense. The sealer of weights and measures shall be entitled to receive for any coal he may be called upon to weigh a fee of ten cents per load, payable by the seller of such coal, unless upon weighing such coal it shall be found that the amount indicated on said card or ticket is correct, or so nearly correct as not to indicate any evidence of fraud, when the person furnishing said coal shall not be liable to any expense or fee for reweighing it.

Mr. CONGER. I move to amend by striking out in line 18 the words "and the person furnishing such load of coal shall be liable to a fine of not more than $50 for every offense." This section provides that if upon weighing a load of coal by any policeman, or anybody who may meet it in the streets, the weight be found less than the net amount indicated upon the card or ticket accompanying it, the seller of the coal shall be liable to a fine of not more than $50 for every such offense. The coal dealer may never have loaded that coal himself or seen it loaded; the work may all have been done by agents; yet he is subjected to a fine of $50. Now, I submit that no man should be made liable to such a penalty without proof of some intent to do wrong. The chances of a loaded cart or wagon of coal losing off enough to bring it beneath the weight when it was loaded are so great as not to be overlooked. No safeguard is provided against the possibility that a police officer or any other person might be actuated by malice or ill will in having the coal weighed. It is to be weighed upon the nearest scale that can be found, and if it lacks one pound of being the amount named on the ticket the seller of the coal is liable to this fine.

There is no kind of propriety or justice in such a provision. The intent to do wrong is not required to be proved before conviction. The mere fact that the coal is below the weight specified on the ticket makes the person furnishing it liable in each case to a fine of $50. In passing from one part of the city to another enough coal may be lost to bring the load below the weight named, and this may happen without the knowledge or intent of the person furnishing the coal.

Mr. NEAL. The object of this provision is to put some sort of a pressure upon the dealers of coal so as to compel them to give full weight. I suppose every man who is a householder has had more or less experience in this regard and has seen the necessity of laws of this character. A man may buy coal by the load; he is not compelled to buy by weight. The dealer may sell by the cart load or wagon load, and whether the weight be one ton or two tons is a matter between him and the purchaser. But if the dealer undertakes to sell a ton of coal, he ought to be required to do so; and this section is intended to put such a pressure upon him as will make it for his interest to give good weight. The penalty may seem to be large, but if the coal dealer systematically violates the law and is caught at it, he ought to be punished as severely as this section provides. The police court, who will have cognizance of this offense, need not fine the man more than $1 or fifty cents, or ten cents if the offense is thought to be deserving of no greater punishment. If it should appear that the load was full weight when it left the yard, but some coal had dropped off, as the gentleman from Michigan suggests, then I have no doubt the dealer would escape punishment entirely. That this is the intention of the section may be gathered from this language:

The sealer of weights and measures shall be entitled to receive for any coal he may be called upon to weigh a fee of ten cents per load, payable by the seller of such coal, unless upon weighing such coal it shall be found that the amount indi-

cated on said card or ticket is correct, or so nearly correct as not to indicate any evidence of fraud, when the person furnishing said coal shall not be liable to any expense or fee for reweighing it.

The police judge will construe the section as a whole. If he thinks there is no evidence of fraud, if he imposes any penalty, it will be a nominal one. If there is evidence of fraud, if the dealer has gone systematically to work to cheat his customers, then $50 is not too great a fine.

Mr. MITCHELL. How is this fine to be imposed?

Mr. NEAL. Before we finish the code it will be found all these fines, penalties, and so on, are to be prosecuted by information in the police court. There may be an appeal from the police judge to the supreme court when the fine assessed is over $20, and on that the man can have a second trial with a jury.

Mr. CONGER's amendment was disagreed to.

Mr. OSMER. I move to insert after line 27, as follows:

And said fee shall be paid by the person at whose instance said coal shall have been reweighed.

Mr. HUNTON. That is the law now.

Mr. OSMER. It is not in this bill.

Mr. HUNTON. Yes, sir.

Mr. OSMER. Oh, no. The bill provides for the payment of ten cents per load, payable by the seller of such coal, unless upon weighing such coal it shall be found that the amount indicated on said card or ticket is correct, or so nearly correct as not to indicate any evidence of fraud, when the person furnishing said coal shall not be liable to any expense or fee for reweighing it. As it is here, therefore, there is a premium of ten cents offered to the officer to convict the coal dealer.

Mr. NEAL. If the committee will turn back to line 9 they will find this section makes it the duty of the sealer of weights and measures and the police officers, from time to time, and whenever they suspect that the quantity of coal being transported for sale will not correspond with the amount indicated on the card or ticket, to cause the said load of coal to be weighed upon any lawful scale most accessible for that purpose and to be reloaded. That is, the sealer of weights and measures, whose duty it is. Will you make him put his hand into one pocket and take out a ten-cent piece and then pass it over into the other hand to be put into another pocket? Yet that is the effect of the gentleman's amendment. You say he shall pay ten cents for reweighing this coal. Or if the police officers do it they are in the discharge of a public duty. If they are actuated by malice in this matter, then, as a matter of course, there are other ways to punish them. We make provision for punishing police officers actuated by malice.

There are only two classes of persons who can do this, the sealer of weights and measures and the police officers. What propriety is there in requiring the police officers to pay the sealer of weights and measures who does this thing a ten-cent piece? Where are they to get the money? As a matter of course, it will be refunded by the District. They are discharging a public duty.

If my friend had read this carefully he would have seen his amendment was not a judicious one, to say the least of it.

Mr. OSMER. I apprehend the gentleman will understand, under the provisions of this bill, that the purchaser of coal who may suspect he is not getting full weight may call on the officer, may put in operation the provisions of this bill, and cause that coal to be reweighed, thereby subjecting the dealer to the annoyance and suspicion of that transaction when it may turn out as a matter of fact he has given full weight. This bill, as it now reads, offers a premium of ten cents to the officer to find the coal-dealer has been violating the law.

Mr. NEAL. I suggest to the gentleman from Pennsylvania, then, that he shall say any person other than the sealer of weights and measures and police officers, because they have to discharge a public duty. I have no objection to that.

Mr. OSMER. Very well; that is all right.

Mr. ROBINSON. It seems to me, Mr. Chairman, there is confusion in the minds of gentlemen themselves about this matter. If they will bear with me to make a statement——

Mr. NEAL. Go ahead; we like to be illuminated.

Mr. ROBINSON. I do not know I can do all that. It seems to me this section means just this, if I may have attention for a moment. In the first place, a person selling coal shall provide for the weighing of it, and there is no requirement that any fee is to be paid in any instance for that weighing of the coal, because he is to weigh it on his own scales. Then he sends with each and every load of coal sold by him a card or ticket, &c. That is when everything goes right. When there is suspicion of dishonesty, it is necessary; if a person sells without a card or ticket, he is liable to a fine. We next come to this provision: if there is any suspicion that the load is not right, the sealer of weights and measures may be called in. He has not been called in before. Or a police officer may be called in. Now, a police officer is under pay regularly for doing his duty and ought not to have any fee for work like this.

But the sealer of weights and measures does work for fees. He is paid by fees. Therefore if he does any work necessary to be done outside of his regular duties he ought to be paid by a fee. But it is only in these extra cases where he is called in that he is to be paid, and not in the ordinary weighing. Therefore, in the twentieth line, where it is provided that the sealer of weights and measures shall be entitled to receive for any coal he may be called upon to weigh a fee of ten cents per load, reference is had to any coal he may be called upon to weigh under the provisions of this section, which is only where there is a suspicion of wrong. If he calls upon himself to weigh of course he is not entitled to a fee.

Again, he shall not have that fee if the load is correct, or he shall not have it if it is nearly correct or substantially correct, because there is no one to pay it. The seller ought not to pay if the weight is correct, and of course the purchaser ought not to pay it.

Mr. BRIGGS. Why should the sealer of weights and measures be called upon to weigh it?

Mr. ROBINSON. Simply in the performance of a general duty.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 458. The fee of the sealer of weights and measures shall not exceed fifty cents for each of said scales examined and sealed as required under the provisions of this chapter.

Mr. HUNTON. I promised the sealer of weights and measures to move to strike out "fifty cents," in line 2 of this section, and insert "one dollar;" so that it will read if amended:

That the fee of the sealer of weights and measures shall not exceed one dollar for each of said scales, &c.

The committee determined that fifty cents was fee enough for this service, but the sealer of weights and measures did not think so, and the present law gives him $1.

Mr. ALDRICH, of Rhode Island. The committee voted down that amount, and I see no reason why it should be changed from fifty cents. That sum is sufficient for the service.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 459. One-half of all such fines shall go to the "police fund."

Mr. CONGER. I move to strike out that section. This is a chapter of fines running all the way from a dollar up to $50. Every section is one of fines and penalties. The persons who may detect those liable to a fine are the police officers. Those persons who are liable to the penalties imposed by these various chapters are to be detected by the persons who are to receive a portion of the fees which are imposed in the way of penalties. One-half of all the fines obtained out of the people of the District shall go to the "police fund," whatever that is.

Now, Mr. Chairman, the temptation here is a little too great. I do not know what the police fund is or what it is for. I wait to hear.

Mr. HUNTON. The object of this section, which the gentleman from Michigan moves to strike out, was twofold: First, to stimulate policemen to do their duty by the reward which was indirectly to be obtained, one-half of the fine, which half was to be placed to the credit of the police fund, which I understand to be a fund of this character, set apart for the purpose of supporting disabled policemen.

Mr. CONGER. Very well, if a legal purpose provided for in this chapter of fines is to stimulate the police officers to increase their fund $50 here, or one-half of it, one-half of $10 or the half of $5, I say the inducement to make reports upon cases where they thus will become themselves the sole witnesses of the fact, as in this case of weighing coal and reporting the same as lacking in weight, I say it is too much of a temptation to place before any set of men. You make it a violation of the law if a load of coal shall fall short a pound even by accident or dishonesty of the driver, and therefore a fine may be imposed upon the seller, and therefore I repeat that the inducement is entirely too great because of this fine—one-half is to go to the fund in which the informant is specially interested. Why, sir, I can remember when all through this land the charge was rung in every form, and speeches were made against the fugitive-slave law that provided $10 should be given to the officer who secured and kept a fugitive slave, and $10 was offered to the commissioner to find the man, a slave, as a premium which he would obtain for the declaration that the fugitive was a fugitive slave. Now, that was slight in comparison with this. Those cases occurred in one, or two, or three of the States in one, or two, or three, or four years; but here is a fine or a provision which gives $25, or one-half of the fine in each case to the fund for the support of the police, if they can only find some one upon whom they can have a fine imposed. I think the absurdity of such a proposition would be apparent to any person who looks at it, and at the injustice of it.

Mr. NEAL. My learned friend from Michigan is very acute; he has also been a very diligent member upon this floor, as I can testify. Now, this is simply a provision which has been the law of the District of Columbia for years, and if it is such an iniquitous measure as the gentleman represents it to be it is a remarkable fact that he has never discovered it until now.

Mr. CONGER. I want to ask the gentleman right here if the papers have not been filled at different times with complaints of this very provision?

Mr. NEAL. If that be so I ask the gentleman from Michigan why he has been so derelict in his duty as not to obtain a repeal of this measure on the floor of the House?

Mr. CONGER. I could not prevail upon the Speaker to place me upon the Committee on the District of Columbia [laughter] or else a great many of these errors and wrongs might have been rectified.

Mr. NEAL. The gentleman from Michigan has his privilege as a member on this floor to introduce any bill he pleases relating to the District of Columbia; and if he had introduced a bill to repeal this clause of the law as it exists, it certainly would have received all proper consideration from the District committee. Moreover, we would have given the gentleman himself permission to come before us one, two, three, or four hours, as he might have desired, and allowed him to expatiate on the fugitive-slave law and the American eagle to his heart's content. I hope the amendment will not prevail.

Mr. CONGER. It is the gentleman from Ohio himself who has taken down the American eagle—I do not know for what purpose; I used to hear when I was a boy. [Laughter.]

Now, when I to-night oppose this proposition the gentleman from Ohio complains. I have never done it before. What encouragement would there be for any man to do it when I am ridiculed for even offering this amendment now?

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan [Mr. CONGER] to strike out section 459.

Mr. CONGER. I call for a division.

The committee divided; and there were—ayes 9, noes 27.

So (further count not being called for) the amendment was not agreed to.

Mr. ROBINSON. For the purpose of enabling me to ask a question I move to strike out the word "such," in line 1 of this section. I wish to ask gentlemen of the committee to what the word "such" refers?

Mr. HUNTON. It has reference to the fines in this chapter.

Mr. ROBINSON. I suggest there might be grave doubt about that. This whole code, so far as we have gone, is numbered by sections from 1 to 459 consecutively, and the word "such" might apply to all the fines which have been imposed in the preceding chapter as well as in this chapter. If it only refers to fines imposed on frauds in the selling of coal let it be so stated.

Mr. ALDRICH, of Rhode Island. Let the gentleman suggest words to limit the reference to the fines provided for in this chapter.

Mr. ROBINSON. I offer the following amendment:

Strike out the word "such," and after the word "fines" insert "imposed under the provisions of this chapter;" so that it will read:

"One-half of all fines imposed under the provisions of this chapter shall go to the police fund."

I wish to say further in this connection with reference to what the gentleman from Michigan has said that I find by a hasty inspection of the statutes that the "police fund" is made up out of the fines imposed on policemen by the board of police for failure to perform their duties. I call the attention of the gentleman from Michigan to this fact. I think his criticism is a sound one.

Mr. CONGER. This, then, transfers the raising of the fund from the default of policemen to whatever they can capture by weighing and overweighing and reweighing coal in the market.

Mr. ROBINSON. That is it.

Mr. CONGER. I wish I had the names of all the gentlemen who voted against striking out this section; but I presume I cannot have them.

The question being taken on Mr. ROBINSON'S amendment, it was agreed to.

The Clerk read as follows:

SEC. 471. Any person offending against the provisions of the two preceding sections shall forfeit and pay the sum of $5 for every offense, to be collected and applied as other fines are.

Mr. HUNTON. I offer the following amendment:

Strike out the word "two" and insert the word "four."

The word "two" is a misprint. The object of the amendment is to make the penalty in this section apply to the four preceding sections relating to the sale of charcoal, ice and milk, lime, and oysters.

The amendment was agreed to.

The Clerk read as follows:

CHAPTER VI.

THE REGULATION OF PHARMACY.

Mr. NEAL. This chapter 6 in regard to pharmacy is simply the law passed two years ago by the Forty-fifth Congress. I would suggest to the committee, as there are only one or two doctors present, that we consider this chapter as adopted without reading and proceed to title 9, relating to the police force.

There was no objection.

The Clerk read as follows:

MEMBERS OF THE POLICE FORCE.

SEC. 2. To appoint a major of police; a captain of police; ten lieutenants of police; twenty sergeants of police; six detectives; such number of privates not exceeding two hundred, for the regular service, as they may deem necessary.

Mr. CONGER and Mr. HUNTON rose.

Mr. CONGER. I will give way to the gentleman from Virginia if he has an amendment to offer.

Mr. HUNTON. I desire to offer an amendment to increase the number of the police force, so that the clause just read shall read:

Such number of privates not exceeding three hundred, for the regular service, as they may deem necessary.

The Committee on the District of Columbia desire that this amendment shall be made. They have had their attention called to the necessity for an increase of the police force. We hear of crimes of the very darkest nature committed in this city night after night for the reason that there is not a sufficient police force to guard the people of the city.

Mr. DUNNELL. How many are in the service now?

Mr. HUNTON. Two hundred privates.

Mr. CONGER. Is this a request for two hundred more?

Mr. HUNTON. For one hundred more.

Mr. CONGER. I thought a bill had been introduced providing for an increase of the force.

Mr. HUNTON. The bill provides for an increase of one hundred to the force.

Mr. CONGER. I hope that will be adopted.

Mr. CLAFLIN. It seems to me that this committee should hesitate a little before they vote to increase the police force of this city by so large a number. The police force of this city now costs nearly twice as much as it costs other cities of an equal number of inhabitants to maintain their police force.

Mr. McCOOK. Why?

Mr. CLAFLIN. Because we pay more to them. By this amendment you propose to lay an additional tax upon this District of $100,000 or $125,000. If it was an amendment to put up two or three additional school-houses for this District, it would be very hard to get it through this committee, although everybody knows that there are needed in this District eight or ten more school-houses. It is now proposed to increase the police force enough to pay for several school-houses needed here. Why? Because we have had a few high crimes committed here. We have had none of any considerable magnitude for six weeks past.

Mr. NEAL. Yes; there was a case of rape last night.

Mr. CLAFLIN. Do you suppose that if you put on this additional one hundred policemen you will stop these crimes at once?

Mr. HUNTON. We will stop a great many of them.

Mr. CLAFLIN. So large an addition to the police force cannot be needed in this District.

Mr. HUNTON. Will my friend allow me to state a fact which is probably not within his knowledge? Within the last six weeks a petition of the tax-payers of this District has been presented to the Congress of the United States, signed by twenty-five thousand people, asking for this increase of the police force. They asked it for the protection of their wives and daughters from outrage.

Mr. WILBER. And it is right, too.

Mr. CLAFLIN. And if you wanted to do so you could get a petition presented here for two hundred policemen just as well as for one hundred.

Mr. HUNTON. It has not been done yet.

Mr. CLAFLIN. It has not been done, it is true. The commissioners do not say that they need a hundred more policemen.

Mr. NEAL. And this amendment does not say that they shall have a hundred more. It says that they shall appoint not exceeding a hundred more; they may appoint not more than twenty if they are not needed.

Mr. HUNTON. It is within the control of the House by appropriations.

Mr. CLAFLIN. If the House shall pass a bill providing for four hundred policemen they will appoint them.

Mr. HUNTON. It is always within the control of the House.

Mr. CLAFLIN. Then why make the change in this bill?

Mr. HUNTON. Because we are now making a law for the District and then we will call upon the Committee on Appropriations to appropriate for such a number of policemen as the commissioners may estimate for and the Secretary of the Treasury may approve. All that has to be done before the increase can be made.

Mr. CLAFLIN. Well, there is a guard there, to be sure.

The amendment of Mr. HUNTON was then agreed to.

Mr. CONGER. I move to amend the clause relating to the number of privates on the police force by adding what I will read, being the law as it now stands:

Provided, That no person shall be appointed a member of the police force who has not been a soldier in the Army of the United States and been honorably discharged therefrom.

Mr. ALDRICH, of Rhode Island. I would suggest to the gentleman from Michigan that his amendment would come in more properly at the end of clause 3 on the next page, relating to "qualifications and removals."

Mr. CONGER. Very well; I will withdraw my amendment until that clause is reached.

The Clerk read the following:

A police secretary and property clerk.

Mr. HENKLE. I move to amend by adding the words "and one assistant clerk." There is a bill now pending in Committee of the Whole, reported from the Committee on the District of Columbia and recommended by the commissioners of the District, providing for an increase not exceeding one hundred of the number of privates on the police force in this District, and also providing for two additional clerks. It is absolutely necessary that there shall be additional clerical force in order to do the work of the office. There is now but one clerk or secretary, and he is also the property clerk of the whole department. We are informed by the commissioners that this additional clerk is absolutely necessary.

Mr. DEUSTER. I am somewhat sorry to oppose this amendment; but I think if the number of the police of this District is increased to

three hundred, two men from that police force can be found to act as clerks. I believe that this increase of the police of this District to three hundred is unjust and unnecessary. I come from a city which has almost as large a population as that of this city, and we get along there with eighty policemen, and it is an orderly city.

If you increase the police force of this city 50 per cent. and provide two clerks also, I think that would be wrong; and I shall not vote for it. It seems to me that among three hundred policemen there can be found two men who can act as clerks.

Mr. HENKLE. A man may be a very proper man to put on the police force and yet not make a very good clerk. I think it is a self-evident proposition that if you add one hundred men to the police force of this District you will need one more clerk. They want more clerical force now.

I will say to my friend from Wisconsin [Mr. DUESTER] that in the city of Baltimore, which is not more than twice the size of Washington, there are six hundred policemen; and the territory of the city is not larger than that of Washington and Georgetown in this District.

Here the police force has to patrol the whole of the territory of the District of Columbia. Misdemeanors, crimes, and outrages are committed upon the outskirts or in the suburbs of the city, in the rural portions, rather than in the densely populated parts; and it is just as necessary that you should have a vigilant and efficient police force in the suburbs as in the more thickly populated portions of the city. The records of crime in this District for the last year attest abundantly the insufficiency of the present police force. I do not mean that the men composing the force are inefficient, for I presume no gentleman within the sound of my voice will contest the statement that the police force of Washington City is remarkably efficient and faithful in the discharge of duty. The difficulty is in the insufficient number of the policemen.

Mr. COBB. I move to amend the amendment by striking out the last word. I am not prepared to say that the police force of this District is large enough; but when gentlemen talk about that force being an efficient one, I submit that while the officers and men as individuals may be efficient, they are so used as to make them inefficient as a police force. What does the chief of police tell us in his report? That out of two hundred policemen only one hundred and twenty-five are in actual service doing police duty, such duty as they ought to perform. Why is this? Because members of this police force are detailed to attend every church door, every wedding party, every dinner party, every festival in the city. You cannot go to a dinner party at seven o'clock in the evening without finding stationed there from three to five policemen; you cannot attend a wedding without finding six, eight, or ten of these policemen. Thus the time of members of this force is taken up in attending to service that does not properly belong to the police force.

The gentleman who preceded me [Mr. HENKLE] said that there must be police in the suburbs, out in the rural portions of the District. If you propose to police the rural parts of this District so as to prevent crime, you must have something like two thousand policemen. It occurs to me that it is a mistake for gentlemen to expect to prevent crime in those portions of the District. It cannot be done unless you have a policeman stationed at every tree. Let the peace officers take care of the peace of the country, as they do elsewhere. What you want is an efficient detective force, who, when any crime has been committed, will at once detect the criminal, arrest him, and bring him to justice. That is one of the main features of a police force. In the rural districts, the suburbs of the city, you cannot have force enough to keep crime from being committed otherwise than by promptly arresting and bringing to justice the offenders.

I know there are police-stations away out in the country; but I take it that they afford very little protection. It is no protection to life or property to have policemen patrolling the highways once an hour or once in two hours. You cannot police the rural portion of this District so as to prevent crime; but you may police it so as to detect and punish offenders when crime has been committed; and thus crime will be prevented. Even in the most densely populated parts of the city you cannot absolutely prevent crime. A man might go upon Pennsylvania avenue when it is crowded with people and commit murder, and perhaps for the time escape; but he would be promptly arrested by the police force.

I do not complain of ineffectiveness in the existing force, for I have noticed that where crime has been committed in secret it has been ferreted out within a day or two by the police and the offender brought to justice. In this way the people receive protection.

[Here the hammer fell.]

Mr. TOWNSEND, of Ohio. I understand that the amendment in regard to the police force has been adopted.

The CHAIRMAN. It has been.

Mr. TOWNSEND, of Ohio. This amendment is in regard to the propriety of an additional clerk. I am in favor of the amendment.

The amendment of Mr. HENKLE was agreed to.

Mr. COBB. From information I have received, I desire to withdraw my remarks, which I understand were not applicable to the question then pending. [Laughter.]

Mr. CONGER. I object to their being withdrawn, for I think it was upon the strength of those arguments that we adopted the amendment.

Mr. ROBINSON. I desire to suggest a verbal correction in line 21. The words "closing of all places," should read "to close all places." I move this amendment. The Committee on the District of Columbia no doubt intended to give to the police force the power "to close all places where intoxicating liquors are sold on holidays and such other days as they may deem expedient when in their judgment public peace and order require it"—a discretionary power. Now, using the words "and the closing of all places" gives no power. Nobody will claim that. The tenth clause is to enforce all laws. Then read "and to close all places."

Mr. HUNTON. There is no objection to that.

The amendment was adopted.

The Clerk read as follows:

QUALIFICATIONS AND REMOVALS.

SEC. 3. To appoint no one to office, or to hold office, in the police force, except additional privates, who cannot read and write the English language, or who is not a citizen of the United States, or who shall have ever been indicted and convicted of crime.

Mr. ALDRICH, of Rhode Island. I move to strike out the words "except additional privates."

The motion was agreed to.

Mr. ALDRICH, of Rhode Island. I move to add the following words:

No person shall be appointed on the police force unless he shall have served in the Army or Navy of the United States and received an honorable discharge.

Mr. CONGER. Mr. Chairman, that is the present law. In the revision of the law I cannot understand why it should have been left out. I do not propose now to discuss it, for I presume there will be no one here who will be disposed to change the law in that respect, or to strike thus early at the thousands of soldiers of our Army and seamen of our Navy, not only in this city, but throughout the country, strong, vigorous, hearty men, and the best men in the world to be on that police force, who are to-day needing employment, who are to-day seeking employment, who are to-day the most suitable persons, from their military training and discipline, to be such police officers.

I know myself, sir, of many strong, hearty, stalwart young soldiers who have applied to be placed on that police force. As the law stands, there have been violations of it, or else I am incorrectly informed. It is too early by ten or fifteen years to strike this blow at the soldiers of the United States, at the discharged soldiers of our Army and the seamen of our Navy.

I will venture to say there is scarcely any gentleman, from the North at least, who has not had during the last year applications for places on this police force from discharged soldiers of our Army and seamen of our Navy.

I would like some one to tell me why this law is to be changed now. I would like some one to tell me why, as I have charged on another occasion, almost every law which favors the Union soldier of the United States is modified and changed or left out so that they have no preference and no chance for preference here in the capital city of the United States in a District governed solely by the Congress of the United States.

Sir, it reflects upon the patriotism of Congress every time a law favoring soldiers and sailors who have served their country well is repealed or stricken out, and it has been done so often that it is attracting much comment and large attention throughout the country.

Mr. HUNTON. Mr. Chairman, the gentleman from Michigan need not get excited over this question. There was no blow aimed at the Union soldier or the Union sailor, and none was intended. If this provision is adopted as it is reported by the committee it cannot be construed into any blow against a Union soldier or a Union sailor, because if the amendment does not prevail the Union soldier and the Union sailor may still be appointed on the police force.

I for one, sir, am probably the last man coming from the section I do who would strike a blow at the Union soldier or the Union sailor. But there was a reason for this in the committee, a reason which does not go to any desire to strike a blow at the Union soldier or the Union sailor, but it was a reason arising from purely business considerations and none other. And it was done at the instance of the board of commissioners, two of whom, at least, are republicans, and one of whom was a gallant Union soldier. The reason which operated upon the committee was not to strike a blow at the Union soldier or the Union sailor, but because we were informed by the commissioners who made the appointments that, as a rule, Union soldiers and Union sailors are now getting too old to go on the police force. By a regulation adopted by the commissioners no one is eligible to a place on the police force who is more than forty years of age.

Mr. NEAL. State the reason for that.

Mr. HUNTON. Because they keep them on the force all their lives so long as they are efficient men, and therefore they take young men, vigorous men, to do the onerous duties of the policemen of the city of Washington.

Mr. BRIGGS. Will the gentleman allow me to ask whether the same police board has not adopted another regulation that it will not appoint anybody on the police force here unless he has been a resident of this District for two years?

Mr. HUNTON. I know of none such.

Mr. BRIGGS. I speak of a regulation and not of a law.

Mr. HUNTON. I know of no such regulation.

Mr. BRIGGS. I know of an instance where a young man applied

for a position on the police force, a man young enough, bright enough, smart enough to make as good a policeman as you have in Washington, a Union soldier who had served during the war, and yet who could not be appointed because he had not resided here for two years.

Mr. HUNTON. I know of no such regulation, and my colleagues are not aware of any such. I do not say there is none, but I have not heard of any.

Now, sir, the commissioners informed us that by reason of this requirement or restriction as to Union soldiers and sailors the police force of the District was not so efficient as if they could appoint younger and more vigorous men. The gentleman from Michigan will recollect that the war ended fifteen years ago, and to take a man who enlisted at the age of eighteen years at the very close of the war would now make him thirty-three years old.

Mr. HAWLEY. This amendment does not require that he shall have served in the war, but in the Army, as I understand it.

Mr. HUNTON. Very well; but the gentleman will remember that very few persons have enlisted in the Army since the war who are now out of the service and who could be appointed to fill these places; and, as I have said, the youngest man who served in the war is now not less than thirty-three years of age. For that reason the permission is desired that this restriction as to appointments on the police force should be stricken out. And I tell the gentleman from Michigan that no blow was intended to the Union soldier or to the Union sailor.

[Here the hammer fell.]

Mr. SPARKS. I move to strike out the last word. Mr. Chairman, I want to direct the attention of the committee to a statute existing, which provides that generally throughout the Government in all civil offices preference is to be given to the Union soldiers.

Section 1754 of the statutes is as follows:

SEC. 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

Mr. ALDRICH, of Rhode Island. Will the gentleman allow me a question?

Mr. SPARKS. Yes, sir.

Mr. ALDRICH, of Rhode Island. Does the gentleman think that applies to the appointments by the District commissioners?

Mr. SPARKS. I shall come to that.

Mr. ALDRICH, of Rhode Island. I hope the gentleman will answer that question.

Mr. SPARKS. That statute has existed for years and was adopted to cover precisely the point the gentleman from Michigan makes in his remarks, that this class of men who had served in the Army should be preferred in selections to fill these offices.

I wanted in this connection to state the fact that I presented that section of the law to a Department of the Government for the appointment of a Union soldier, who had lost his left arm at the shoulder in the service, to a little post-office, amounting to $150 per annum, and they refused to appoint him for the reason that he was a democrat and for no other reason. He had been sheriff of the county in which he lived, elected by democrats, a democratic county, discharging the functions of that office with one arm, the other having been lost in the service; but the Post-Office Department refused on the ground which I have stated. I think it rather late in the day for the gentleman from Michigan to insinuate that anybody on this side of the House with that statute staring him in the face is trying to do anything against the Union soldiers or in any way to do them injustice. I state this circumstance on my responsibility, because the facts came within my own observation.

Mr. PAGE. Does the gentleman pretend to say that there are no democrats holding office in any of the Departments?

Mr. SPARKS. I presume my meaning will be understood. I stated that this statute has existed for years, that it now exists, and I stated that under its provisions I had made this application in behalf of a man who ought to be preferred under the statute, but he was rejected, and his appointment refused to a little petty post-office paying $150 per annum, simply on the ground that he was a democrat.

Mr. ALDRICH, of Rhode Island. I did not understand the gentleman from Illinois as answering my question, and if he will be kind enough to answer it I shall be glad. I want to know if he thinks that statute applies to appointments by the District commissioners?

Mr. SPARKS. I do not know anything about that. I was answering the point made by the gentleman from Michigan on the insinuation on this side of the House.

Mr. CONGER. I rise to oppose the amendment of the gentleman from Illinois. The gentleman as usual furnishes additional reasons to any that I could give for the passage of the amendment proposed to be inserted in this section. If it be so that there is any authority anywhere that will refuse to carry out the principal object of that amendment, then it ought to be made more positive in the law.

Now, if in this District these commissioners may refuse to appoint a democratic soldier who would be a good policeman, let the gentleman join with me and compel them to appoint Union soldiers even if they be democrats.

Mr. SPARKS. How can you compel them when there is an express statute which the officials refuse to execute?

Mr. CONGER. If they do refuse to do it with a positive law, because as the gentleman from Virginia says here they are too old, let us have a law that will let them do it. Look over this whole House; the most vigorous men, the most valiant men, the most energetic men on both sides of the House were soldiers in the war. What an insult to them to intimate that they have gone into their second childhood!

Mr. NEAL. They are all over forty, are they not?

Mr. CONGER. They may be all over forty. The ablest detectives in the United States or in any other country are those who have been disciplined and trained till they have become old men; and one of those old men knows more than twenty young sprouts anywhere. They are the best policemen. They have the best judgment. They have the best executive ability. Gentlemen may say what they choose. I wonder that the committee could have stricken this provision out of the law. If we have commissioners here that refuse to appoint soldiers and sailors like men I know of who have applied, and like men for whom other gentlemen here have applied—vigorous, active, and energetic men, suitable men, disciplined men—let us have a law that will compel them.

Sir, we have had an example lately of the feelings and views of the superintendents of some of our institutions that has made the heart of the people of this country quiver all through the North. This has occurred in the very place where we educate the commanders of our soldiers. Some law has got to be laid upon them strong, positive, unavoidable, or the institutions over which they preside will need no head in the coming few years. So with the commissioners of this District. If they so far forget the uniform, general, unalterable wish of the whole people of these United States to provide places for those who saved this country, and who are the most suited of all others to be the policemen of the capital of this nation, let us have a law that will bind them so that they cannot escape its provisions. All through this country there are strong, vigorous, energetic men who lost their employment, who lost their business through engaging in the war, and who have never been able in the days that have since passed to regain that employment or business. They are seeking employment and this is in the very line of duty which they have learned best to execute.

I do not desire to dwell upon this. Some time there will be a vote upon this proposition, I hope, where the yeas and nays shall be taken, and where the people of the United States shall see how easy it is and how eagerly men rush to strike out of our laws all provisions which by chance favor the defenders of the country.

The *pro forma* amendment was withdrawn.

Mr. MAGINNIS. I renew the formal amendment. I very rarely go out of my way to mix in affairs that are outside my own Territory. But this unfortunate District of Columbia, like my Territory, has no self-government, and I desire to say a word on its behalf.

I believe I am as warm a friend of the Union soldier as perhaps any one in this House, and I believe this is a fair and equitable regulation. The war is a matter of twenty years ago. The men who made the efficient soldiers in that war were from eighteen to twenty-six years old when they went into the Army. I know I went in nearly as young as any of them, and I am far from feeling myself competent to do a soldier's duty now, though otherwise perhaps as vigorous as any one in this House.

When my old friends of the Army of the Cumberland marched down the Avenue the other day, and I remembered the smooth-faced, brown-haired boys who had marched through Tennessee and Virginia in the war and saw now their gray and silver locks, I could not help thinking how long it was since the war and how unfit those men would now be to stand on picket, to ford rivers, to remain all night in their wet clothes, and endure the hardships which soldiers have to undergo. No man who served in that war, if there was a draft to-day, would be liable to that draft; he would be exempt from military service. There is scarcely a man among them that would pass a medical examination for a soldier. Gentlemen in speaking of the war must remember it was a long time ago. While some of us may be fit for officers now, none of those who served in the war would be fit for private soldiers.

When we have been discussing matters relating to the regular army on this floor I have heard gentlemen speak of the vast army of veterans who would be available in case we got into a war with a foreign country. Now, sir, there is scarcely a man who fought in that war that would be fit to go into the ranks in the event of a war with a foreign country. In that event we would have to depend on the younger generation that has grown up.

I do not think it fair and right and proper to impose these men on this city as its police force, when it ought to have active and vigorous men in that force, able to stand out all night and endure fatigues equal to those a soldier is exposed to. And I am sure that gallant gentleman, my old comrade and friend, Major Twining, would not have recommended this amendment if in his judgment he had not felt it to be necessary.

Mr. CONGER. Will the gentleman permit me to ask him a question?

Mr. MAGINNIS. Yes, sir.

Mr. CONGER. Are not our records full here to-day of the names

of men who served in the Mexican war and all through the war of the rebellion?

Mr. MAGINNIS. For all other offices they are fit enough.

Mr. CONGER. That is not what I mean. Are not our records of applications for pensions full of the names of men who served in two or three wars apart from the last war?

Mr. MAGINNIS. None of them would be fit for police duty now. There is no city in the Union that has a restriction of this kind, neither New York, Boston, Philadelphia, or any other city; and no other city than this would stand it, for other cities have self-government. This city would not stand it if it governed itself. Men who fight in the wars of their country often get a good deal of praise while they are in the service, but the cold shoulder of both political parties is ever turned toward them when they come out of the service. I have heard a great deal said about what should be done for the soldiers who lost their places when they went into the war, and found it very hard to get into places when they came home. That is so, because the politicians filled all the places and crowded them out.

Take the State of the gentleman from Michigan, or the State of Maine, a thoroughly republican State. I know the soldiers of Maine; I served with them; they were gallant soldiers; there never were men more useful in any capacity. Among those soldiers were engineers and lumbermen who were able to bridge rivers, build rafts, make boats, and perform service in any capacity. But who ever saw a soldier from Maine in either House of Congress?

A MEMBER. Do you forget Colonel FRYE?

Mr. MAGINNIS. I remember the Michigan regiments with which I served, and I know of other Michigan regiments. Who ever saw a soldier from Michigan in either House of Congress? I forget; I will correct myself. There was one, a gallant soldier, a soldier of two wars—of the Mexican and of the last war. He was a soldier who brought his force over from the right and filled up the gap at Gettysburgh on the 2d day of July, and saved that battle. But because he was not a republican he was defeated in the loyal State of Michigan, and his honest, brave old patriotic heart was broken by his defeat, and he died. I refer to General Williams, who was on this side of the House.

Mr. MCMILLIN. Do you say that occurred in Michigan?

Mr. MAGINNIS. Yes. In Illinois and Ohio, and New York and other doubtful States, republicans and democrats sometimes put a soldier in the front because he can carry some votes and get through. But I say that in those States where the politicians of either side have the control, the soldiers are hardly ever given a chance.

[Here the hammer fell.]

Mr. HAWLEY. I think my friend rather over estimates the age of the mass of the soldiers of the last war. Of course this restriction will have to be removed before many years, anyhow.

Mr. HUNTON. When?

Mr. HAWLEY. Within three or five years, perhaps. But as long as you can get plenty of able-bodied men under thirty-eight years of age there will be no harm in continuing this restriction.

Mr. HUNTON. The commissioners say they cannot get them.

Mr. HAWLEY. I do not know how hard they try.

Mr. HUNTON. Neither do I; but that is what they say.

Mr. HAWLEY. The war closed fifteen years ago. There were then in the Army probably one hundred thousand soldiers who were twenty-one years of age, we will say; they would now be thirty-six years old. There were also a great many who enlisted as late as 1864 and 1865, who were then but eighteen or nineteen years of age, and they would now be still younger than the others. I do not think there will be any difficulty in finding such men under thirty-eight years of age abundantly capable of discharging all the duties of policemen.

I think the limitation of two years' residence in this District is rather too long. A residence of one year would be sufficient to enable a man to obtain a pretty thorough knowledge of the geography of the District. I am not disposed to dilate upon the claims of soldiers. But this law is upon the statute-book, and I am willing to continue it there still longer. I see here among our number two able-bodied men who are not far from the age I have mentioned, and I think they would be abundantly qualified to perform all the duties required of a policeman.

Mr. BLACKBURN. General MCCOOK does not want his age told. [Laughter.]

Mr. HAWLEY. I will not refer to the age of one of the old bachelors of the House, [laughter,] but the other one is certainly under forty years of age. I think there are plenty of men of that age to be found, especially if we make the limitation of residence in the District one year or less. If a man should come here and be put on the police force who had not lived so long in the District he would soon become acquainted with it.

The amendment offered by the gentleman from Rhode Island [Mr. ALDRICH] does not require the policemen to be soldiers who served in the late war, only that they shall be ex-soldiers of the Army and Navy. But there are many who are ex-soldiers of the late war that would make good policemen.

Of course there were many wild boys, rough fellows, who went into the army and who would not make good policemen. But the officers of the Army will tell you now that the enlistments within the last six or eight years have very much improved; and you will find plenty of men who have come out of the regular Army within the last five or six years who would make excellent policemen.

[Here the hammer fell.]

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. MAGINNIS. I withdraw my amendment.

Mr. HENKLE. I renew the amendment. I am not going to make a political speech, but I desire to submit a few suggestions in connection with the provisions of this bill which have not been made by any gentleman who has spoken on this subject.

The provision in the law for the District of Columbia, requiring that the policemen for the District should be discharged soldiers and discharged sailors was a war provision; a provision inserted in the municipal code for the District away back prior to the year 1865. It was evidently right and proper then. There were strong reasons why that class of men should be put on the police force of the District at that time.

We were in the midst of civil war; the enemy was right across the river and near the national capital. It was all-important for a thousand considerations that there should be no men upon that force except such as were loyal to the interests of the country. For that reason, as well as for the additional purpose of rewarding and providing for men who had served the country faithfully, this clause was inserted in the laws of the District of Columbia. But I submit, Mr. Chairman, there is no such reason now. We are not in the midst of civil war; there is no enemy threatening the capital of the country; and there are thousands of men just as capable and just as suitable for the performance of this duty as discharged soldiers and sailors.

Further than that, these men who served in the war are now growing old, too old to render for many years efficient service. It is the custom in this District when a man is put upon this force to keep him there for the remainder of his efficient life-time. But if a man is forty years of age when placed on the force, he has not many years of efficient service before him; he will soon become a burden upon the District of Columbia and the Government.

Some gentlemen have said that the amendment is not restricted to those who served in the late war, but may apply to soldiers and sailors who have enlisted and been discharged since the war. Now, I submit that men of this class have no peculiar claim upon the country in this regard. Those who bore the burden of the war, who fought its battles and defended the country in time of peril, had a claim upon the Government; but men who have since enlisted for the pay and served their ordinary term of three or five years until discharged have no claim to entitle them to preference over others.

Besides, Mr. Chairman, here is the question I want to ask the gentleman from Michigan, or any other gentleman on the opposite side of the House: Where is the city in this Union that has in its municipal law a regulation of this kind? What is there peculiar in the city of Washington and its surroundings that requires the police force here to consist of discharged soldiers and sailors, while in no other city in the Union is there any such regulation? I think I may safely challenge gentlemen of this House to produce such a requirement in any other city. So far as I am acquainted there is none. Gentlemen certainly cannot be serious in proposing this amendment, and asking that it shall be ingrafted upon the law of the District, imposing upon the people here a burden in the form of old men who will soon become inefficient and a tax upon the citizens.

Mr. CONGER. If the gentleman from Montana [Mr. MAGINNIS] meant any disrespect to our Chairman [Mr. BURROWS] when he spoke of Michigan soldiers not being sent to Congress, or meant to ignore him, it was very disrespectful and very unkind. Every one knows the services of my colleague in the Army, and most men know he is now a member of Congress and has been such in former years. Why this special I will not say insult but disrespectful remark was made in regard to Michigan never sending soldiers here, while right before the gentleman, in the chair, sat one example, I cannot tell.

Mr. MAGINNIS. It was because I saw so many in the Army and so few here.

Mr. CONGER. The gentleman may apologize at his leisure. Another of my colleagues [Mr. MCGOWAN] was a soldier during the war. General Stoughton, whom some gentlemen here recollect as a member of Congress from Michigan for four years, was a soldier in the war and lost one of his limbs in the service. General Williams, who served here from the State of Michigan for the greater part of six years—he was elected for three terms—is another example.

Mr. MAGINNIS. I spoke of him.

Mr. CONGER. The gentleman remembered him only. Unfortunately my young friend cannot remember a soldier unless to-day he is a democrat. He cannot see a man who sits right before him but must charge right in his presence that either he was not a soldier or is not a member. I excuse the disrespect shown to my colleague, and I presume he himself will not feel remarkably offended about it.

Mr. MAGINNIS. I trust I have not personally offended the gentleman himself by ignoring his services.

Mr. CONGER. My services? I served every year through the war as a member of our State military board in organizing every regiment that was sent to the field. [Laughter on the democratic side.] I gave my time as faithfully to that service as my friend from Montana did to his branch of duty.

Mr. SPARKS. How many brothers-in-law and cousins did my friend from Michigan send into the Army? [Laughter.]

Mr. CONGER. It was my duty as a member of the State military board of Michigan to gather, to feed, to clothe, to equip, to organize and send into the field troops that every one of you gentlemen remembered to your sorrow when you met them.

Mr. BLACKBURN. Why did not you come?

Mr. CONGER. I had other duties to perform.

Mr. BLACKBURN. More pleasant.

Mr. CONGER. I was appointed to that service, and I performed it faithfully. The gentleman himself, if I understand aright, was not in the regular service. Why not?

Mr. BLACKBURN. Who is he talking about? Was not in what service?

Mr. CONGER. In the regular confederate service.

Mr. BLACKBURN. I was for just four years, and regretted during all that time the lack of opportunity to meet my friend from Michigan. [Laughter and applause.]

Mr. CONGER. I had understood the gentleman was performing home duty.

Mr. BLACKBURN. The gentleman is mistaken.

Mr. CONGER. Such as he charges me with.

Mr. BLACKBURN. Not a battle-field in the West that I did not appear upon. The country might have profited if the gentleman from Michigan had graced them with his presence.

Mr. CONGER. When the gentleman was there he was at that battle-field, I take it.

Mr. BLACKBURN. When—what?

Mr. CONGER. When the gentleman was at the battle-field that is where he was. [Laughter.]

Mr. BLACKBURN. Yes, sir. I entered the service in 1861 and surrendered thirty days after General Lee had surrendered in Virginia.

Mr. CONGER. Before Johnston surrendered?

Mr. BLACKBURN. No, sir, afterward.

Mr. CONGER. Ah! the gentleman then engaged in his unlawful service. [Laughter.]

Mr. BLACKBURN. And I only regret——

Mr. CONGER. I leave him to his honors and his glory. I served where I was appointed to serve in the best way I could. [Laughter.]

Mr. BLACKBURN. Reputably in the rear. [Renewed laughter.]

Mr. CONGER. And did it as well as I was able.

Mr. BLACKBURN. Yes, sir; to the satisfaction of everybody except the confederates.

Mr. CONGER. I have not made a boast of my services, and have never alluded to them before.

Mr. BLACKBURN. I am sure I did not, and I am sure the gentleman from Michigan cannot——

Mr. CONGER. The gentleman has frequently spoken of his gallantry and heroism; and we all understand them.

Mr. BLACKBURN. Now the gentleman from Michigan misstates the record; and that he is not in the habit of doing.

Mr. CONGER. Never intentionally.

Mr. BLACKBURN. This time by accident, I hope.

Mr. CONGER. This time from hearsay. [Laughter.]

Mr. BLACKBURN. Which is very deceptive. [Renewed laughter.]

Mr. SPARKS. You did not go but you sent out others. [Laughter.]

Mr. CONGER. I heard the gentleman from Illinois was in the service too. [Laughter.] I have searched for his record. [Renewed laughter.]

Mr. DUNNELL. I move the committee rise.

Mr. HUNTON. I hope the gentleman from Minnesota will withdraw that motion and let us come to some understanding about this amendment.

Mr. DUNNELL. It is time to adjourn and I cannot withdraw it.

Mr. HUNTON. There will be a vote in the House on this matter, and we can arrange that now as well as at any other time. I presume the gentleman who offered the amendment wants a vote in the House.

Mr. ALDRICH, of Rhode Island. I want to say something before that vote is taken.

Mr. HUNTON. I suggest to my colleague who offered this amendment that it shall be voted on in the House separately where the yeas and nays can be called.

The CHAIRMAN. The gentleman in charge of the bill will consent that the amendment shall be offered in the House.

Mr. ALDRICH, of Rhode Island. I cannot accept a suggestion of that kind without an opportunity to say a few words. I will agree to that after I have had the chance to speak five minutes on it.

The CHAIRMAN. The pending question, then, is on the motion that the committee rise.

Mr. HUNTON. We will have this understanding, then. I will say to my friend from Rhode Island that he shall be permitted to speak five minutes for the amendment, and somebody shall be permitted to speak five minutes against it before the vote is taken in the House. Is that satisfactory?

Mr. ALDRICH, of Rhode Island. The opponents of the amendment have had more time now, I take it, than those who favor it.

Mr. HUNTON. No, sir.

Mr. DUNNELL's motion was agreed to; and Mr. SPEER having taken the chair as Speaker *pro tempore*, Mr. BURROWS reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia, and had come to no resolution thereon.

And then, on motion of Mr. McMILLIN, (at ten o'clock and thirty-three minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. NELSON W. ALDRICH: The petition of John W. Tillinghart and others, of Providence, Rhode Island, that newspapers, magazines, and other periodicals be placed on the free list—to the Committee on Ways and Means.

By Mr. BAYNE: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, approving the suggestions of the Secretary of State regarding the publication of the commercial reports from our diplomatic and consular officers—to the Committee on Foreign Affairs.

Also, resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, indorsing the action of the Merchants' Exchange of Saint Louis, Missouri, favoring a standing committee of Congress on the Mississippi River improvement—to the Committee on Rules.

Also, resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, favoring the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. BERRY: Resolutions of the Legislature of California, asking for an investigation of the manner in which certain public lands in that State have been disposed of by entry under the homestead laws—to the Committee on the Public Lands.

By Mr. BINGHAM: The petition of the German Society of the State of Pennsylvania, for the passage of the bill to regulate immigration—to the Committee on Foreign Affairs.

By Mr. BRIGGS: The petition of the Concord (New Hampshire) Manufacturing Company, for the passage of the bill providing for the creation of a tariff commission—to the Committee on Ways and Means.

By Mr. BUCKNER: A bill to establish a post-route from Danville to Bethlehem, Missouri—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDWELL: A bill to establish a post-route from Litchfield to Readyville, Kentucky—to the same committee.

By Mr. CRAPO: The petition of James C. Ware, of Wareham, and of the Wareham Nail Company, of South Wareham, Massachusetts, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. CULBERSON: Papers relating to the Indian depredation claim of Mrs. Ella P. Murphy—to the Committee on Indian Affairs.

By Mr. DEERING: The petition of citizens of Cottage Grove, Hardin County, Iowa, for the defeat of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. DIBRELL: The petition of the Roane Iron Company, of Chattanooga, Tennessee, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. ERRETT: The petition of William A. Barrett, for an investigation of the matter of the rejection of his pension claim—to the Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. FORD: The petition of Thomas R. Jones and others, of Missouri, soldiers of the United States Army, engaged in the late war, for the early passage of a law providing for the payment of the difference between the value of greenbacks, in which they were paid for their services, and the value of gold at the time of payment—to the Committee on Military Affairs.

By Mr. FORNEY: The petition of R. P. Sibley, lessee of the Round Mountain Iron Works, Round Mountain, Alabama, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. FROST: The petition of Samuel T. Henley, for a pension—to the Committee on Invalid Pensions.

By Mr. FRYE: The petition of John Garner & Co., of Lewiston, Maine, that salt be placed on the free list—to the Committee on Ways and Means.

By Mr. JOHN HAMMOND: The petitions of the Horicon Iron Company, of Ticonderoga, and of the Ausable Horse-Nail Company, of Keeseville, New York, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. HISCOCK: The petition of Stephen Patrick and others, for a special tax on oleomargarine—to the same committee.

By Mr. JONES: The petition of citizens of Robertson County, Texas, for the repeal of all internal-revenue laws—to the same committee.

By Mr. KELLEY: The petitions of Alexander Foster & Co. and of Thomas Dolan & Co., of Philadelphia, Pennsylvania; and of the New Castle (Delaware) Iron and Steel Co., for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. KETCHAM: The petition of the Clove Spring Iron Works Co., of Clove Valley, New York, of similar import—to the same committee.

By Mr. KLOTZ: The petitions of the Montour Iron and Steel Company, of Danville, and of William Neal & Sons, of Bloomsburgh, Pennsylvania, of similar import—to the same committee.

By Mr. LINDSEY: The petition of Lewis Anderson & Co., of Skowhegan, Maine, of similar import—to the same committee.

By Mr. McKINLEY: The petitions of Wick, Ames & Co.; of Himrod Furnace Company; of Youngstown Rolling Mill Company; of Merchant's Hoop and Band Iron Company; of Eagle Furnace Company; and of Andrew Hitchcock, of Youngstown, Ohio; of Niles Iron Company; of Bolton, Bullege & Co., of Canton; of Volcano Furnace Company, of Massillon; of Smithers Iron Company, of Mahoning County; and of the United States Potters' Association, of similar import—to the same committee.

Also, the petitions of John R. Tallentire and of D. W. Sprinkle, of Ashland County, Ohio, against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

Also, the petition of citizens of Sullivan, Ashland County, Ohio, to be relieved from the oppressions imposed by railroad monopolies—to the Committee on Commerce.

Also, the petition of citizens of Sullivan, Ashland County, Ohio, for amendment of the patent laws—to the Committee on Patents.

By Mr. McMAHON: Papers relating to the petition of Jacob Wittenbach for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. MORTON: The petition of the Raritan Woolen Mills Company and of the Somerset Manufacturing Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. OVERTON: The petition of Hon. B. S. Dartt, Woster Mandeville, and 310 others, soldiers of Bradford County, Pennsylvania, against the passage of the pension bill introduced by Senator WITHERS, of Virginia, and for the passage of that introduced in the House by Mr. GEDDES, for the creation of a court of pensions—to the Committee on Invalid Pensions.

By Mr. PERSONS: The petition of citizens of Georgia, that salt be placed on the free list—to the Committee on Ways and Means.

By Mr. PRICE: The petition of citizens of Muscatine, Iowa, of similar import—to the same committee.

By Mr. ROBINSON: The petitions of the Bel Air Manufacturing Company, of Pittsfield, and of the Farr Alpaca Company, of Holyoke, Massachusetts, for a commission to investigate the tariff—to the same committee.

By Mr. SAPP: The petition of citizens of Iowa, for a post-route from Viola Centre to Audubon, Iowa—to the Committee on the Post-Office and Post-Roads.

By Mr. SHERWIN: Three petitions of citizens of Saint Charles, Hinckly, and Capron, Illinois, for the removal of the duty on salt—to the Committee on Ways and Means.

Also, the petition of soldiers of Marengo, Illinois, for the passage of the Geddes pension bill and against the passage of the Withers bill—to the Committee on the Payment of Pensions, Bounty, and Back Pay.

By Mr. SPRINGER: The petition of William D. Coward, for a pension—to the Committee on Invalid Pensions.

By Mr. R. W. TOWNSHEND: The petition of 11 citizens of Le Seur, Minnesota, for the abolition of the duty on salt—to the Committee on Ways and Means.

By Mr. TYLER: The petition of Charles W. Sargent, S. C. Newton, and 100 others, citizens of Windham County, Vermont, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. WADDILL: The petition of 16 citizens of Henry County, Missouri, soldiers of the United States Army, engaged in the late war, for the early passage of a law providing for the payment of the difference between the value of greenbacks, in which they were paid for their services, and the value of gold at the time of payment—to the Committee on Military Affairs.

By Mr. WHITTHORNE: The petition of George H. Nixon, for compensation for services rendered as register of the land office in the Nemaha land district of Nebraska—to the Committee on Claims.

By Mr. WISE: The petition of 300 soldiers of Pennsylvania, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. WRIGHT: The petitions of William A. Keller and 45 others, citizens of Kensington, Illinois, and of P. P. McIntyre and 70 others, citizens of Farmingdale, New Jersey, for the passage of the bill (H. R. 269) known as the Wright supplement to the homestead act—to the Committee on the Public Lands.

By Mr. CASEY YOUNG: Papers relating to the claim of Alexander Moffitt for pay for property taken for the use of the United States—to the Committee on Claims.

CHANGE OF REFERENCE.

Change of reference, under the rule, was made of the petition of Mary Vredenburgh from the Committee on Invalid Pensions to the Committee on Pensions.

IN SENATE.

THURSDAY, *May* 6, 1880.

Prayer by Rev. E. H. CUMPSTON, of Maryland.

ELECTION OF PRESIDENT PRO TEMPORE.

The SECRETARY (JOHN C. BURCH, Esq.) called the Senate to order and said: I have this morning received the following communication from the Vice-President:

VICE-PRESIDENT'S CHAMBER,
Washington, May 6, 1880.

SIR: Please notify the Senate that I shall be absent at the meeting to-day, and ask it to choose a President *pro tempore*.

Respectfully, W. A. WHEELER,
Vice-President.

To the SECRETARY OF THE SENATE.

Mr. WALLACE. I move that the Senate proceed to the election of a President *pro tempore*.

The SECRETARY. The question is on the motion of the Senator from Pennsylvania.

The motion was agreed to.

Mr. WALLACE. I offer the following resolution:

Resolved, That in the absence of the Vice-President Hon. ALLEN G. THURMAN be, and he is hereby, chosen President of the Senate *pro tempore*.

The resolution was considered by unanimous consent, and agreed to *nem. con.*

The SECRETARY. The Senator from Ohio will please take the chair.

Mr. THURMAN was escorted to the chair by Mr. WALLACE and Mr. FERRY, and upon taking it said:

Senators, for this renewed mark of your confidence and good-will, I beg leave to return you my thanks.

Mr. HARRIS. I offer the following resolution:

Resolved, That the Secretary wait upon the President of the United States and inform him that, in the absence of the Vice-President, the Senate has chosen Hon. ALLEN G. THURMAN, a Senator from the State of Ohio, President of the Senate *pro tempore*; and that he make a similar communication to the House of Representatives.

The resolution was considered by unanimous consent, and agreed to.

THE JOURNAL.

The PRESIDENT *pro tempore*. The Secretary will read the Journal of yesterday's proceedings.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, with an accompanying copy of report of Major G. Weitzel, Corps of Engineers, upon surveys of the navigable channel of Saint Mary's River, Michigan, and of the approaches from Lake Superior to Saint Mary's Falls Canal, for a sixteen-foot channel; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. TELLER. I present the memorial of Jacob Geiger and other citizens of Colorado, remonstrating against the passage of the bill proposed by the commission known as the public land commission. I desire to say that I have submitted to the Committee on Public Lands a large number of memorials of this character from Colorado. There seems to be a general disposition on the part of the people in the West to oppose the suggestions made by that commission, with respect to the disposal both of the agricultural and of the mineral lands. It seems to me that the committee should take some action and make some report upon the suggestions and the bill submitted to them by the commission, in order to allay the excitement which has arisen in the mining regions, especially with reference to the suggestions which they have made. I move that the memorial be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. FERRY presented a petition of 100 citizens of Michigan, praying that salt be placed on the free list; which was referred to the Committee on Finance.

He also presented the petition of the Spring Lake Iron Company, of Fruitport, Michigan, manufacturers of pig-iron, employing three hundred and fifty hands, and the petition of the Bangor Furnace Company, of Bangor, Michigan, manufacturers of pig-iron, employing five hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. BUTLER presented a petition of the faculty of the Charleston Medical College, of Charleston, South Carolina, in favor of the passage of the bill (S. No. 1718) increasing the efficiency of the Marine Hospital Service; which was referred to the Committee on Commerce.

Mr. COCKRELL presented the petition of the Vulcan Steel Company, of Saint Louis, Missouri, manufacturers of pig-iron and steel rails, employing nine hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had concurred in the

amendment of the Senate to the bill (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier.

The message also announced that the House had passed a bill (H. R. No. 460) granting the right of way to the county of Warren, in the State of Mississippi, and to the Memphis and Vicksburgh Railroad Company, through the United States cemetery tract of land near Vicksburgh, Mississippi, in which it requested the concurrence of the Senate.

PRINTING OFFICE DEFICIENCY.

Mr. EATON. I am directed by the Committee on Appropriations to report back without amendment the bill (H. R. No. 6066) appropriating money to provide for the public printing, and I should be glad to have it considered this morning. [A pause.] I supposed I was authorized unanimously to ask the consideration of the bill; but my friend from Minnesota [Mr. WINDOM] very kindly informs me that he shall propose an amendment. Therefore I do not ask for the present consideration of the bill.

Mr. WINDOM. I am entirely willing that the bill shall be acted upon now. I suggested to the Senator that I would offer an amendment on my own responsibility and I should like to have it considered.

Mr. EATON. I do not care myself, after the veto the other day upon this matter, to have an amendment offered so as to get us into a general discussion again upon the subject of the marshals. I prefer that we should have no more printing done rather than that. The bill is subject to the call of any other Senator. I do not myself ask for its present consideration.

Mr. EDMUNDS. I venture, knowing how the public service is embarrassed by the want of money, to ask unanimous consent to have the bill considered now.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. EATON. I do not object.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole, and will be reported at length.

The Chief Clerk read the bill, as follows:

That the sum of $250,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to continue the public printing, the public binding, and for paper for public printing, including the cost of printing the debates and proceedings of Congress in the CONGRESSIONAL RECORD, and for the Departments, and for lithographing, mapping, and engraving, being a deficiency for the present fiscal year.

Mr. WINDOM. I have a very small amendment to offer, embracing only four lines, but very important for a service that is now very much in need of money. I move to add at the end of the bill:

DEPARTMENT OF JUSTICE.

For payment of the fees and expenses of the United States marshals and their deputies, earned during the fiscal year ending June 30, 1880, $600,000.

Mr. McDONALD. I will ask if that is not a rider.

Mr. WINDOM. It is hardly a rider, I think, in the sense the Senator would suggest.

Mr. EDMUNDS. It is a provider.

Mr. WINDOM. It provides for a service that is quite as important as any service that can be suggested. Without it I understand that the courts must very soon be closed. The marshals have exhausted their own funds in running your courts, and unless Congress provides them with the means the administration of justice in this country will be very seriously interfered with.

Mr. COCKRELL. Is the amendment in order? Has it been referred to the Appropriations Committee, or any other committee of the Senate?

The PRESIDENT *pro tempore*. If the Senator makes the point of order that the amendment is out of order, will he please state the rule under which he claims that it is out of order?

Mr. COCKRELL. The twenty-seventh, I believe, is the number of the rule.

Mr. EDMUNDS. It is in pursuance of the estimate of the head of a Department.

Mr. EATON. Would a motion to lay the amendment upon the table of necessity carry the original bill with it? If not, I shall move that the amendment lie on the table.

The PRESIDENT *pro tempore*. In the opinion of the Chair the amendment is in order, because this is not a general appropriation bill. The rule referred to by the Senator from Missouri relates to general appropriation bills.

In answer to the question of the Senator from Connecticut [Mr. EATON] the Chair will state that the provision in Rule 29 is:

And any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

In the opinion of the Chair this is not a general appropriation bill; and laying the amendment on the table would lay the bill on the table. The question is on the amendment offered by the Senator from Minnesota, [Mr. WINDOM.]

Mr. DAVIS, of West Virginia. I understand that the appropriation for printing is actually necessary within the next few days, or perhaps few hours for aught I know, or the printing for Congress will be stopped. I therefore ask for the yeas and nays on the amendment offered by the Senator from Minnesota.

Mr. EDMUNDS. I second the demand.

The yeas and nays were ordered.

Mr. SAULSBURY. I do not intend to discuss the amendment. I simply desire to say that the President of the United States has manifested an indisposition to sign bills with riders upon them, and I shall be compelled to vote against the amendment of the Senator from Minnesota. However proper it may be to vote $600,000 for the marshals of the United States, when we know that the President of the United States is opposed to that kind of legislation, I shall be compelled to vote against it.

Mr. EDMUNDS. I have no doubt that the Senator from Delaware is entirely sincere, as he always is, in stating that this amendment falls within the class to which the President of the United States is understood to have made objection. It is understood that his objection is to providing general legislation affecting the government of the country, making new laws, as the condition upon which only he is to aid Congress in passing laws to provide money out of the Treasury by appropriation to execute the laws that are already in force. Therefore when the Senator from Minnesota offers an amendment pursuant to the estimate of a head of a Department and confessedly (because the Senate has already passed it once or twice) necessary to make up the want of a previous appropriation for actual expenses incurred in the administration of justice in carrying on the courts, paid for so far out of their pockets or out of money they could borrow, by the officers intrusted with the administration of an important part of the business of the courts of justice, I do not think that that is such a rider as the President of the United States objects to, or is any rider at all. I have no doubt the Senator from Delaware is perfectly sincere and states it according to the light as it breaks upon him; but to other Senators on that side of the Chamber I wish to make a very brief appeal.

Nobody has made any question of the propriety of this appropriation, on either side of the Chamber. The money is necessary to repay to officers of the United States the fixed fees and expenses that the law has authorized them to earn and to expend, and that confessedly they have earned and expended, an estimate and statement of which has been more than once reported to Congress from the Department of Justice and the Secretary of the Treasury. So far there is no dispute at all; and the only thing that is astonishing is that the Executive Department should have been able to persuade these officers, necessary to the courts of justice, to go on with their duties at their own expense, advancing money for the benefit of the United States, instead of bringing all the administration of justice to a stop. This sort of thing cannot proceed long; it cannot proceed much longer. I noticed in a newspaper this morning or last night that one very important court of the United States in the city of New York has had to stop operations for the want of these moneys and the other moneys for similar incidental expenses of the courts, the pay of jurors, &c. I think we have a right to expect that the Chief Executive of the United States will feel it to be his duty to inform the marshals of the United States and all others connected with the administration of justice, or any part of the administration of the Government but particularly this, that as Congress has evinced an entire unwillingness to appropriate money for the purposes of carrying on the administration of justice, it must stop. Very well, let it stop. We shall take our responsibility in compelling it to stop, and shall answer for it where we are all so eager to say we are always ready to answer,—to the intelligent and conservative public opinion of the people of the United States. Meantime the courts will wait; meantime those who have drawn upon their bankers and borrowed of their friends or advanced their own money to pay moneys that the law provides shall be paid and that the law provides shall be paid out of public funds from the Treasury, must go without reimbursement. Very well.

I say this without any desire to wake up any party dispute that we have had as to what marshals are to do about elections hereafter or what they have done about elections heretofore, but only in respect of what the Senate has been unanimously of the opinion ought to be provided for, the payment of this deficiency for this fiscal year connected with the administration of the duties and the disbursements of these moneys. I do not make these observations in any party spirit at all, but only to state as clearly as I can exactly what the situation is, and to appeal to Senators to adopt the amendment.

Mr. EATON. If I understood the Senator from Vermont correctly—and if I misunderstood him he will correct me—I understood him to say that the President of the United States, the Chief Executive, might find it necessary pretty soon to inform certain public officers of the United States that Congress was indisposed to carry on the Government of the United States and advance the money necessary to do it. The President of the United States has not yet so informed any of the public officers of the Government, and when he does so inform them he will state what is not true. If he should undertake to inform any officers of the Government that Congress is not willing to grant money necessary to carry on the different departments of the Government, he will state what is not true. We are ready to do it; but when we do it we propose to do it in our own way and in a proper way as we regard it. The Senators upon this side of the Chamber are quite as anxious as Senators upon the other side of the Chamber to grant all the money that is necessary to carry on the Government, but they propose to do it in a proper manner, and do not propose to

be lectured, as though they were school-boys, as to the manner in which they shall perform their public duties.

Mr. DAVIS, of West Virginia. In addition to what the Senator from Connecticut has so well stated, I believe Congress has three times appropriated the money asked for in this amendment and each time it has been vetoed.

Mr. EDMUNDS. Yes, I believe it has, thereby showing that Congress is of opinion and knows that this money is absolutely necessary for deficiencies in carrying on the just and necessary operations of the Department of Justice through the courts. But it has said three times that it will not appropriate this money unless the President of the United States will agree to make new laws changing the course of executive administration, and new laws that he so far has been unwilling to make. That is the issue. Congress has said that it will not appropriate money to carry on the Government unless a co-ordinate branch of the Government, (vested by the Constitution with the duty of approving if he co-operates in it, and the duty of disapproving if he does not, every act of legislation that we pass,) will consent to approve that which he does not approve as a condition upon which the two Houses of Congress are willing alone that the Government shall be carried on. That is the question.

Mr. BAILEY. My recollection is that the Senate and the House of Representatives have passed a bill making appropriations for the payment of deficiencies in respect of services rendered by marshals of the United States, and have passed it at this session. It is said that the Executive has returned that bill to one House of Congress, but I do not understand that that veto message has been acted upon yet by that body. Inasmuch as the objection that is said to have been made by the President of the United States relates only to the form and method of the appropriation, and has made no objection whatever to the substance of what is called the political rider, no doubt the House of Representatives will by the constitutional majority, as will the Senate no doubt, having respect to their powers and their privileges as legislators to settle the form of legislation, by the constitutional majority, pass the measure into law over the presidential veto. I submit that it is premature for us now to pass another law when we have already acted upon one precisely similar in spirit.

Mr. EDMUNDS. May I not ask my friend why it is not premature to pass this bill at all, then, as reported from the committee, because the item in the bill is one taken out of the bill to which the Senator refers as having been vetoed by the Executive? It was thought to be urgent by the House of Representatives and by the Committee on Appropriations that we should go on piecemeal with the bill that had been vetoed.

Mr. BAILEY. Perhaps the bill may be justified from the consideration of the fact that it is said the money for the Printing Office is exhausted.

Mr. EDMUNDS. So it is for this branch of the Department of Justice.

Mr. BAILEY. To relieve the Printing Office from all embarrassment it may be proper to go on with this bill, but I submit that the other item moved by the Senator from Minnesota is premature. I did not ask for the present consideration of the bill; I believe it was the Senator from Vermont who asked for it; he brought it to the attention of the Senate. I am willing to agree with the Senator from Vermont, and to oblige him to that extent, but I myself am unwilling to consider this other measure until the two Houses of Congress shall have acted upon the message which is said to have been sent by the President of the United States to the House of Representatives.

Mr. WINDOM. I cannot conceive any difference between the proposition sent from the House, as suggested by the Senator from Vermont, and the amendment I have offered. It is true that the necessity for an appropriation to continue the printing is very pressing, but I think it is no more pressing and no more important than an appropriation for continuing the courts. The amendment which I have offered I may say is not the item to which both Houses of Congress attached the rider which was sent to the President. That was with reference to special deputy marshals; this simply contains an appropriation for marshals and their deputies.

Mr. McDONALD. This covers it.

Mr. WINDOM. It seems to me that if it is necessary to act now upon the printing, it is equally necessary to act upon that which we are obliged to appropriate in order to the proper execution of another department of the Government. It seems to me that keeping open the courts and maintaining justice in this country in its proper execution is quite as important as publishing the debates of the two Houses of Congress.

Mr. McDONALD. I should like to ask the Senator from Minnesota if this amendment of his does not embrace the compensation of special deputies appointed in connection with elections, as well as any other deputy marshals?

Mr. EDMUNDS. Just as the former bill; that is all.

Mr. CONKLING. It does what the other bill did.

Mr. McDONALD. Is not that what it proposes?

Mr. WINDOM. It is substantially as the other bill, I think; it embraces the marshals and their deputies.

Mr. McDONALD. I again renew my question, whether if the amendment is adopted it will not embrace the compensation of special deputies appointed by the marshals in connection with elections?

Mr. WINDOM. The amendment says not a word about special deputies.

Mr. McDONALD. That is an evasion of the question.

Mr. WINDOM. The Senator must give his own construction to the language. He is quite as good a lawyer as myself.

Mr. McDONALD. I thought I had a right to apply to the mover of the amendment to know what he meant; but if he is not willing to state it, of course we are left to our own inferences.

Mr. EDMUNDS. We have all read this provision so many times that I am sure there can be no misunderstanding as to what is embraced in the amendment. Without the Senator from Indiana asking anybody, if he will just run his eye over the clause that has been printed, that passed the Senate, as it is said, three times, he will see that as it passed the Senate before it was divided into two items and made $607,600. The amendment of the Senator from Minnesota is consolidated into one item of $600,000, making the appropriation $7,600 less than it was before, and the change in the phraseology is striking out the word "general," which is a phrase unknown to the statutes of the United States anywhere in respect of the appointment of deputy marshals by marshals; I think I am safe in saying anywhere; and belongs——

Mr. McDONALD. I think it will be found in the election laws.

Mr. EDMUNDS. I think not. I said in respect of the appointment by United States marshals of their deputies. It may be that it will be found in the election laws, but I think not; certainly not as descriptive of the appointments. If the phrase may be used somewhere, it is not used in respect of the power of appointment or as the title of an office.

The amendment expresses exactly what this body were unanimously in favor of on the former occasion, except that it is $7,600 less than on the former occasion, there being a special separate clause for special deputy marshals of elections $7,600, it being understood, as I was informed through the debates and otherwise, that that was the total amount of the expense connected with elections which had occurred, and that was in the State of California, I think. Therefore while the amendment in legal effect clearly embraces all legal appointments that the marshals have made hitherto, and all legal fees that they have earned, whether in connection with elections or otherwise, it is exactly what the bill was before which made special provision for the election expenses separate. That is all there is to it; so that it is the same proposition that the Senate has already passed.

Mr. CONKLING. Mr. President, I do not think this amendment is premature, and I do think that, if the amendment be premature, the objection goes to the whole bill. If it be premature to provide for carrying on the Government in this way, it must be premature to provide an appropriation to publish in the RECORD what is said by those who refuse to carry it on.

Mr. EATON, (in his seat.) No one refuses except the man at the other end of the Avenue.

Mr. CONKLING. The Senator from Connecticut informs me, in confidence I suppose, and I inform the Senate in the same way, that nobody refuses to carry on the Government except the man at the other end of the Avenue. I should not dare to say that had I been the Senator from Connecticut, but he says it, and I repeat it to the Senate for whatever it is worth.

I differ with the honorable Senator from Connecticut, and I differ respectfully, because I believe that when the majority of the two Houses of Congress refuse appropriations the need of which is undoubted, unless the President, with whom is deposited one-sixth of the law-making power of the nation, will agree to the overthrow or the harmful modification of general standing laws, that act amounts to a refusal to carry on the Government, a refusal to perform that duty in the mode and measure ordained by the Constitution.

But I did not assert anything on that subject when the Senator from Connecticut interposed. I repeat my remark that it is as important at any time to carry on the Government as it is to furnish money to publish in the RECORD what may be said by those who refuse to carry it on. That was my assertion, and that I maintain. Now I do not believe that either the amendment or the bill is premature for the reason stated by the Senator from Tennessee, and I rose to assign my reason for differing with him.

We are informed, the Senator says, that the Executive has returned the bill in which both these appropriations are found, with his objections. He has sent, we are told, a veto message; and should that message or the bill to which it relates come here for action, it will be your duty, Mr. President, to propound to the Senate this somewhat curious question, somewhat curious in an instance like this, "Shall this bill pass the objections of the President of the United States to the contrary notwithstanding?"

Since hearing of the present veto message I have reflected somewhat upon the meaning and scope of that inquiry to be propounded to the Senate, which every Senator must answer. If it should be held to mean "Shall this bill pass there being no objection to it save that assigned by the President," I am not sure that the Senator from Tennessee would not have very broad warrant for his prediction or supposition. He said, I think, that his supposition was or that the presumption was that the requisite majority would be found in the House of Representatives to repass the bill, and I think he ventured to hope that the requisite majority, that is two-thirds, would be found in the Senate also.

It is possible that the Senator from Tennessee might not be oversanguine in that if as I said the meaning of the Constitution is that every Senator shall vote upon the bill there being no objection to it save that indicated by the so-called veto message. As I hear that message interpreted by those much more likely to know its true meaning than I, it proceeds chiefly, perhaps wholly, upon this objection, not that the legislation in and of itself is unconstitutional, improvident, inexpedient, baneful, but that in one and the same bill has been found a piece of legislation which is not an appropriation of money and also a piece of legislation which is merely an appropriation, and because these two species (if I may so call them) of legislation are found incorporated in the same bill, therefore that bill is objectionable. I say again, without at this moment expressing any opinion by which I am to be bound, that I can understand that there may be a great deal of latitude for difference of opinion as to what might be said by the Senate or the House on the one side or on the other if brought to vote upon the simple question whether a presidential veto is well grounded which rests solely upon the point that the two Houses of Congress in shaping legislation have put into the same bill an appropriation of money and something else.

But, sir, I suppose when the Chair propounds the question, "Shall this bill pass the objections of the President to the contrary notwithstanding," that it will be the right, if not the duty, of every Senator, when his name is called, to answer as he did originally whether the bill, in spite of any objection which he believes can be found to it, should become a law; and if it should happen that the President in his wisdom and in the multiplicity of objects which demand his attention has overlooked objections which might be deemed perhaps more serious even than those adverted to in his veto message, I suppose that any Senator seeing and feeling those objections will have a right, nay will be bound to vote in reference to them. If I am right in this, it requires no guess-work, no uncertainty of supposition to inform us that as this is political legislation, a partisan experiment, a party device, the members of each House, not of the party, but opposed to the party whose contrivance this legislation is, will vote against it as they voted against it before; and therefore to every intent of moral certainty, in every sense except a purely technical one we do know this morning as well as we shall know a week or a fortnight from this morning, that whatever may have been thought by the President the particular objection to be made to this bill, a minority larger than one-third in each House will adhere to the conviction expressed by the votes of that minority on every occasion when this question has undergone action. How, then, can it be premature, at any stage of any session of Congress, even if the Printing Office were not without funds, even if the courts of justice were not starved and impeded in their operation by a failure to appropriate money, to accept as a fact that which we all know to be a fact instead of lying on our oars, and waiting until in a special and technical manner that fact is brought to our notice? No, Mr. President, we may as well meet this now as at any time.

The Senator from Indiana with some industry inquired, and the Senator from Minnesota with some industry refused to answer whether this amendment covered deputy marshals whose vocation and ministry it might be on election day to enforce law. I take it it does. I have not read the amendment or heard it read. I shall be very much astonished if the Senator from Minnesota, the late chairman of the Committee on Appropriations to whom this subject must be very familiar, would prepare so slatternly and loose-twisted an amendment that it would not cover what the honorable Senator from Indiana inquired about; and therefore I assume that the purpose of this amendment is to appropriate the needed money to pay the stated legal compensation to the ministers of the law for observing and enforcing the law. If it did not mean that, and I knew that it did not, or felt that it did not, I would offer an amendment myself taking care that it should mean all that.

Sir, it seems to me that we should dispose of this matter now without finesse, without diplomacy, without any attempt (unintentional of course though it would be) to mislead so inexperienced and unsophisticated a politician as my honorable friend from Indiana. If anybody were to fall into a political trap, I know it would be he; I should pick him out as the first man who would be caught by some inadvertent thing in an amendment, and particularly would vote to have marshals on election day in Indiana without ever knowing that he was voting for them. I will venture to say that if they spare an election in Indiana by mistake, the Senator from Indiana will be one of the first to notice it. So I think we had better dispose of this matter as far as we can dispose of it by our votes and with a full knowledge that a good many people in the Senate and out of the Senate will have no difficulty in concluding that even if the reason assigned in a veto message against a bill may not be the full reason or the gravest reason against it, nevertheless they would not exclude all other reasons as if they were voting merely as critics upon what had been said by the Executive.

Mr. WINDOM. I was about to say a moment ago, when on my feet, that so far from being premature, it seems to me the amendment I have offered is more pressing than the bill itself. The printing is a matter of convenience. It is only a question as to what we shall do for the rest of the current fiscal year; so it is so far as keeping the courts open hereafter is concerned; but the amendment covers another proposition, to pay for money already expended upon the faith that this Government would repay it; and the amendment involves a question of public faith and public honesty as well as convenience, which latter alone is involved in the appropriation required for printing.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota, upon which the yeas and nays have been ordered.

Mr. ALLISON. I desire to say a word before this vote is taken. It seems to me that the amendment not only covers what the Senator from Minnesota has stated, but it also covers a necessity quite as pressing as that of the public printing. On next Monday, in my own State, the circuit court of the United States convenes. In that State it convenes but twice a year. There are a thousand cases upon the docket. People are brought there from various places, some three or four hundred miles away, distant portions of the State, as litigants. They have no choice with reference to these matters. Our marshal has now discharged his duty for nearly nine months without compensation and without pay, and so have his deputies.

Mr. EDMUNDS. More than ten months.

Mr. ALLISON. Yes; it is more than ten months. Now, here we stand upon a little technicality; because some people in this country want to amend the election laws they say that all the litigants and all the persons who are brought into our courts shall be inconvenienced and subjected in one way and another to all sorts of annoyances until we shall be able to compel the President of the United States to agree to our particular notions with reference to the election laws. Why do we not say to the Public Printer, "go on with your printing; if you have not the money advance that money?" That is what we have said to our marshals for ten months. Why are we troubling ourselves about the Public Printer? Why does he not do as the marshals do, go on with the public printing and advance the money for it?

Now, Mr. President, I submit to Senators, whatever we may say with reference to the question relative to the election laws, that it is our plain duty to provide for the expenses that have been already incurred by marshals and for the expenses that are to be incurred for the remaining two months of this fiscal year; and, therefore, I hope that we shall not stand here either upon the idea that this question is a premature one, or upon the idea that it can be settled hereafter by some juggle with reference to the election laws, but that we shall appropriate the money which has been properly and legitimately expended under our laws for the maintenance of our courts in every State of this Union.

Mr. HEREFORD. Mr. President, I have heard this statement whenever the subject has come up. The Senator from Iowa has said several times before that these marshals have paid out money, and that it is a great breach of public duty if it is not returned to them, and that the courts of justice will stop if we do not appropriate this money. The Senator from Iowa is a lawyer, and as a lawyer he must know better, and he should not attempt to make a false impression on the mass of the people who are not lawyers. The marshals stand in the same position with regard to the courts of the United States that the sheriffs do in the various States to the State courts. What moneys do they pay out? What is the duty of a marshal? It is to serve your writs, subpœnas, summonses, &c.; it is to levy executions upon property and sell it. When he levies an execution upon property and sells it, as far as all the civil procedure is concerned, he gets his fees out of the property like the sheriffs do; and when in criminal cases the marshals serve a warrant or a subpœna, do they pay out any money? The Senator knows they do not. In the various States your sheriffs and your constables serve the same class of writs. The Senator's own State does not make an appropriation in advance to sheriffs and constables for the service of criminal process. They do these acts, they serve these writs, and make their returns to the proper tribunal. Their accounts are there audited, and when audited and allowed an appropriation is made out of the county treasury or the State treasury, as the case may be, for the purpose of paying the sheriffs for these services. That is just the way it is with the United States marshals.

Did any man ever hear of a State court being stopped from the foundation of the Government down to the present time because the State or the county had not made an appropriation in advance to pay for the service of the various kinds of process? No, sir. The argument is not worthy the Senator who has just taken his seat. He, as a lawyer, knows better; he must know better as a lawyer; he must know that the courts are not going to stop, that there is no reason why they should.

Then, again——

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. HEREFORD. If this appropriation was of this importance, why were we not so informed?

Mr. FERRY. The morning hour extends to half past one.

Mr. CONKLING. While the Chair was absent from the Senate some days ago, I think it was agreed that the morning hour should extend till half after one. That took place in the absence of the present occupant of the chair.

The PRESIDENT *pro tempore*. I have not heard of it before. The Senator from West Virginia will proceed, then.

Mr. HEREFORD. So far as this argument is concerned there is nothing in it. All there is left, then, is simply as to the pay of the

jurors. Are the courts of the United States going to stop because the jurors are not paid at the time they render the service? Go to your own State courts in your various States; are your jurors there, either in civil or in criminal cases, paid at the time they render the service? In most States they are not, and no man yet has ever heard of a State court or a United States court stopping because there had not been an appropriation made in advance for jurors.

All this—I say it with all due respect to the Senator—is for the purpose of alarming the people, to frighten them upon a false issue, upon an assumption of fact that does not exist.

The PRESIDENT *pro tempore*. The Chair has looked at the rule, and he is of the opinion that the morning hour ends at one o'clock, and then the Calendar should be taken up from that time till half past one; there is no doubt about that. But before the expiration of the morning hour it requires unanimous consent to proceed with a bill out of its regular place on the Calendar. That was required in this case; and now, the morning hour having expired, a motion to postpone the Calendar and continue the consideration of this bill is in order.

Mr. EDMUNDS. That is the motion that I make, Mr. President.

The PRESIDENT *pro tempore*. And a majority of the Senate can so order.

Mr. EDMUNDS. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Calendar be postponed and that the Senate continue the consideration of this bill.

COUNT OF ELECTORAL VOTES.

Mr. MORGAN. I ask the Senator from Vermont to yield to me a moment until I offer a resolution, which I desire to have read at the Clerk's desk and to have printed.

Mr. EDMUNDS. If it is the resolution that the Senator has spoken to me about, I think that it is quite long and it is not necessary to read it at the desk. Let it be printed in the usual way and we shall all have it in print.

Mr. MORGAN. I think it an important matter that ought to be read.

Mr. McDONALD I ask leave to introduce a bill.

The PRESIDENT *pro tempore*. Will the Senator from Alabama state the object of his resolution?

Mr. MORGAN. The object of the resolution is to provide a rule for counting the electoral votes for President and Vice-President, and my purpose in asking that it should be read was that it might find its way into the RECORD, so that members of Congress generally might have an opportunity to read it.

The PRESIDENT *pro tempore*. If the Senator insists on it, the resolution will be read.

Mr. MORGAN. I have no desire to have it read at the Clerk's desk if it can go into the RECORD.

Mr. McDONALD. I should like to introduce a bill.

Mr. EDMUNDS. The Senator from Alabama is introducing a resolution now.

Mr. MORGAN. I am on the floor now by the courtesy of the Senator from Vermont.

The PRESIDENT *pro tempore*. The Chair understands the resolution of the Senator from Alabama will be received and inserted in the RECORD, and referred to the special committee of which the Senator from Alabama is chairman, and will also be printed in document form.

The resolution is as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the following joint rule be, and the same is hereby, adopted:

JOINT RULE FOR COUNTING THE VOTES OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

The meeting of the Houses.

SECTION 1. The Senate and House of Representatives shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m. on the day prescribed by law for opening and counting the votes of electors of President and Vice-President of the United States, and the President of the Senate shall preside over them.

Appointment of Tellers.

SEC. 2. Two tellers shall be appointed on the part of the Senate, and two on the part of the House of Representatives, to record and compute the votes of electors.

Opening the list of votes and receiving them.

SEC. 3. The certified lists of votes of electors shall be opened by the President of the Senate in the presence of the Senate and House of Representatives and in the alphabetical order of the States, beginning with the letter "A." He shall open all of the certified list of votes of electors (or papers purporting to be such certified list of votes) of each State, respectively, which shall have been delivered to him as provided by law, and in the order herein prescribed, and shall deliver them to the tellers, by whom they shall be read in the presence and hearing of the two Houses.

After such papers have been so read, and before another sealed package or list of votes of electors has been opened, the President of the Senate shall call for objections to receiving such certified list of the votes of electors. If no objection is made, in the manner hereinafter provided, such list shall be received, and no other package purporting to be a certified list of votes of electors from such State shall be opened.

If objection is made to receiving such certified list of the votes of electors such objection, or objections if more than one objection is made, shall each be submitted in writing and shall state the grounds of objection succinctly and without argument, and must be signed in duplicate by at least two Senators and three members of the House of Representatives; and one of said duplicates shall be handed to the President of the Senate and the other to the Speaker of the House of Representatives; and the said objections shall be stated by the President of the Senate in the presence and hearing of the two Houses; whereupon he shall then proceed to open another package, if there be any other, purporting to contain a certified list of votes of electors from said State. And the same proceedings shall be had, and in the same order, with reference to said list and any other certified list of votes of electors from said State, or papers purporting to be such lists, in succession, if two or more lists are opened and read in accordance with this rule.

If any list of votes of electors from such State is so opened and read, and no objection is made to receiving such list, it shall be received as the valid and authentic list of votes of electors from such State, and the list or lists previously opened, read, and objected to shall be rejected.

If upon the reading of the certified list or lists of votes of electors from any State no list has been received without objection, the Senate shall withdraw to its Chamber, and shall proceed to consider such objections as have been so made and received to such list or lists purporting to be certified lists of votes of electors from said State. And thereupon the House of Representatives shall also proceed to consider said objections.

Senators and Representatives in their respective Houses may each speak upon such objections ten minutes and not longer, or oftener than once, (except by unanimous consent,) and after one hour's debate on the objections to each list of votes of electors from any State the main question shall be put separately upon receiving each list of votes in the following form: "Shall the list of votes of electors now under consideration be received notwithstanding the objections made to the same in the presence of the Senate and House of Representatives?" And when all objections so made are decided upon in either House, it shall communicate its decision to the other House; and when both Houses have disposed of such objections, they shall immediately again assemble in the Hall of the House of Representatives, and the President of the Senate shall state the decision of each House upon the questions so submitted to them.

If but one list of votes of electors from a State has been so submitted to each House for its decision, and it shall appear that the Houses have not concurred in rejecting said list, the same shall be received.

If more than one list of votes of electors from any State, or paper purporting to be such list, has been submitted to each House for its decision upon objections made thereto, and it shall appear that the Houses have not concurred in receiving either of said lists, they shall each be declared by the President of the Senate, in the presence of the Senate and House of Representatives, as being rejected; and no list of votes of electors so rejected shall be afterward read in the presence of the two Houses except for information.

Counting the votes.

SEC. 4. After a list of votes of electors from any State has been received under the foregoing provisions of this rule, and before the vote of the electors of another State is considered, the President of the Senate shall cause the name of each elector on such list, and also the votes of such electors for President and Vice-President of the United States, to be read in the presence and hearing of the two Houses; and after all the names of electors on such list and their votes have been read, he shall put this question: "Is there objection to the vote of any elector from the State of?" (naming the State.) If no objection is made to any vote of any elector on said list in the manner hereinafter provided, all such votes shall be counted by the tellers and entered on the lists to be kept by them. If objection is made to any one or more of the votes of electors on said list, the same shall be presented in writing and in duplicate, and shall specify the elector and also the vote or votes of such elector objected to, and shall state the grounds of objection succinctly and without argument, and the same must be signed by at least two Senators and three members of the House of Representatives, and must be presented before the reading of any certified list of votes of electors from another State has commenced, or within thirty minutes after the list of electors has been declared to be received if the State whose vote is being considered is the last one on the alphabetical list of States.

When objection is made to any vote or votes of electors the Senate shall withdraw to its Chamber and consider such objection or objections; and the House of Representatives shall also proceed to consider such objection or objections, and in each House the objection or objections shall be read. The question to be decided upon each vote to which objection has been made shall be stated by the presiding officer, as follows: "Shall the vote under consideration be counted notwithstanding all objections that have been made in the presence of the Senate and House of Representatives to the same?" After all said objections to the votes of electors from any State have been so disposed of in either House, it shall communicate its decision to the other House.

Senators and members of the House of Representatives may each speak, in their respective Houses, for five minutes upon the votes of any elector to which objection has been made; but not more than once, or for a longer time than five minutes on the vote or votes of the same elector, except by unanimous consent; and after debate has continued for thirty minutes on the vote or votes of any elector, the main question as above stated shall be put separately upon such vote or votes.

After the two Houses respectively shall have come to a decision upon all the votes of electors from a State that have been so submitted to them, and have each communicated to the other the decision so made, they shall immediately reassemble in the Hall of the House of Representatives and the President of the Senate shall announce in the presence of both Houses the decision of each upon each vote of each elector so submitted to it.

If it shall appear that the Senate and House of Representatives have concurred in their decision to reject any vote of any elector, or person claiming to be an elector, so submitted to them respectively for decision, the same shall not be counted by the tellers; otherwise all of said votes shall be counted.

Preserving order.

SEC. 5. When the Senate and House of Representatives are assembled to count the votes of electors for President and Vice-President of the United States, and any question of order shall arise, it shall be decided by the President of the Senate. And no debate shall be had on any question, except by unanimous consent, when the two Houses are in meeting. But the question of receiving a certified list of votes of electors from any State to which objection is made or the question of counting the vote of any elector to which objection is made, as provided in these rules, before the Houses have considered the objections to the same in the manner provided in these rules, shall not be considered as questions of order to be decided by the President of the Senate. Appeal may be taken by any Senator or member of the House of Representatives from any decision made by the President of the Senate; and when so taken, the question of order and the decision upon the same shall be reduced to writing and signed by the President of the Senate; and a copy of the same shall be delivered to the Speaker of the House of Representatives; and thereupon the Senate shall repair to its Chamber, and each House shall consider and decide, without debate, whether such decision of the President of the Senate while presiding over the two Houses shall stand as the judgment of such House. And the decision of each House having been communicated to the other, the Senate and House of Representatives shall again assemble in the Hall of the House of Representatives; and the decision of each House shall be announced by the President of the Senate; and if it shall appear that each House has voted to overrule the decision of the President of the Senate while he was presiding over the two Houses, said decision shall be set aside, otherwise it shall stand.

Arrangement of seats, recess, etc.

SEC. 6. At such joint meeting of the Senate and House of Representatives, seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall upon the right of the President of the Senate; for the Representatives,

in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and the Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless when a question has been submitted to each House in regard to receiving a list of votes of electors or to counting any of such votes, and the Houses have separated to consider the same, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess of such House not beyond the next day at the hour of one o'clock, p. m.

REPORTS OF COMMITTEES.

The PRESIDENT *pro tempore*. If there be no objection, the Chair, before putting the question on the motion of the Senator from Vermont, [Mr. EDMUNDS,] will receive morning business.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1702) for the erection of a monument in the city of Washington, to the memory of Joseph Henry, late Secretary of the Smithsonian Institution, reported it with an amendment to the title.

Mr. WILLIAMS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1152) for the relief of Basil Moreland, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. KIRKWOOD, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri, reported it with amendments.

Mr. RANSOM, from the Committee on Commerce, to whom was referred the bill (S. No. 1271) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection districts of California, reported it without amendment.

Mr. BAILEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 1496) to establish a dead-letter office at the city of San Francisco, reported it without amendment.

Mr. COKE, from the Committee on Commerce, to whom was referred the bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal, reported it without amendment.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 6021) to perpetuate, until a hearing is had, the suit of Thomas McBride in the Supreme Court, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

AMENDMENTS TO POST-OFFICE APPROPRIATION BILL.

Mr. KIRKWOOD, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BAILEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1724) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1725) for the relief of Henry C. De Ahna; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Judiciary.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1726) regulating the pay and appointment of special deputy marshals; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PLATT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1727) for the relief of James Caler; which was read twice by its title, and referred to the Committee on Commerce.

BILL RECOMMITTED.

Mr. WALLACE. I have the permission of the Committee on Pensions to move that the bill (H. R. No. 2450) granting a pension to Mary Wade be referred back to that committee. The bill is now on the Calendar, reported adversely the day before yesterday by the Senator from New Jersey, [Mr. MCPHERSON.]

The PRESIDENT *pro tempore*. Is there objection to the recommittal of the bill? The Chair hears no objection, and it is recommitted.

GENEVA AWARD FUND.

Mr. HOAR. I offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report to the Senate forthwith a bill providing compensation for all persons whose ships were destroyed by confederate cruisers during the late rebellion from the moneys received under the Geneva award.

Let the resolution lie over until to-morrow.

The PRESIDENT *pro tempore*. The resolution will lie over.

HOUSE BILL REFERRED.

The bill (H. R. No. 460) granting the right of way to the county of Warren, in the State of Mississippi, and to the Memphis and Vicksburgh Railroad Company through the United States cemetery tract of land near Vicksburgh, Mississippi, was read twice by its title, and referred to the Committee on Military Affairs.

PRINTING OFFICE DEFICIENCY.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, [Mr. EDMUNDS,] to postpone the Calendar of General Orders and proceed with the consideration of the appropriation bill in regard to printing, which was before the Senate during the morning hour.

The motion was agreed to; and the consideration of the bill (H. R. No. 6066) appropriating money to provide for the public printing was resumed as in Committee of the Whole, the pending question being on the amendment submitted by Mr. WINDOM.

Mr. SAULSBURY. Let the amendment be read.

The CHIEF CLERK. The amendment is to add to the bill:

DEPARTMENT OF JUSTICE.

For the payment of the fees and expenses of United States marshals and their deputies, earned during the fiscal year ending June 30, 1880, $600,000.

The Secretary proceeded to call the roll.

Mr. TELLER, (when the name of Mr. HILL, of Colorado, was called.) My colleague [Mr. HILL] is paired upon all political questions with the Senator from Arkansas, [Mr. WALKER.] If my colleague were present he would vote "yea."

Mr. PADDOCK, (when his name was called.) As this seems to be a political question, I will not vote, as I am paired with the Senator from Florida [Mr. JONES] on all political questions.

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Missouri, [Mr. VEST.] If he were present I should vote "yea."

Mr. GARLAND, (when Mr. WALKER'S name was called.) My colleague [Mr. WALKER] is paired on this question with the Senator from Colorado, [Mr. HILL.] If my colleague were here, he would vote "nay."

The roll-call was concluded.

Mr. VOORHEES, (after having voted in the negative.) The remark of the Senator from Arkansas reminds me of what I had forgotten, that I am paired on political questions with the Senator from Illinois, [Mr. LOGAN.] I will therefore withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. BURNSIDE, (after having voted in the affirmative.) I am paired with the Senator from Georgia, [Mr. GORDON,] and therefore I withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. ALLISON, (after having voted in the affirmative.) I am paired with the Senator from Maryland [Mr. WHYTE] on political questions, and therefore withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

The result was announced—yeas 22, nays 32; as follows:

YEAS—22.

Anthony,	Cameron of Pa.,	Ingalls,	Rollins,
Baldwin,	Conkling,	Jones of Nevada,	Saunders,
Blair,	Dawes,	Kirkwood,	Teller,
Booth,	Edmunds,	McMillan,	Windom.
Bruce,	Ferry,	Morrill,	
Cameron of Wis.,	Hoar,	Platt,	

NAYS—32.

Bailey,	Eaton,	Jonas,	Randolph,
Bayard,	Farley,	Kernan,	Ransom,
Beck,	Garland,	McDonald,	Saulsbury,
Butler,	Hampton,	McPherson,	Slater,
Call,	Harris,	Maxey,	Thurman,
Cockrell,	Hereford,	Morgan,	Vance,
Coke,	Hill of Georgia,	Pendleton,	Williams,
Davis of W. Va.,	Johnston,	Pryor,	Withers.

ABSENT—22.

Allison,	Groome,	Lamar,	Voorhees,
Blaine,	Grover,	Logan,	Walker,
Burnside,	Hamlin,	Paddock,	Wallace,
Carpenter,	Hill of Colorado,	Plumb,	Whyte.
Davis of Illinois,	Jones of Florida,	Sharon,	
Gordon,	Kellogg,	Vest,	

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLOW SPRINGS DISTILLERY.

The PRESIDENT *pro tempore*. The Calendar is now in order.

Mr. PADDOCK. I desire to call the attention of the Senator from Delaware, the chairman of the Committee on Finance, [Mr. BAYARD,] to a request I am about to make of the Senate, and that is to take up a little bill, order of business No. 511, a special act which should be passed immediately and will take but a moment. I move to proceed to the consideration of Senate bill No. 1549.

Mr. EDMUNDS. What has become of the District of Columbia appropriation bill?

The PRESIDENT *pro tempore*. It is not half past one o'clock yet.

Mr. EDMUNDS. But if the morning hour expires at one o'clock, that bill must be up, I suppose.

The PRESIDENT *pro tempore*. The morning hour, as the Chair

understands it, expires at one o'clock for ordinary morning business; and then the Calendar is to be taken up and proceeded with until half past one. The Senator from Nebraska moves to proceed to the consideration of Senate bill No. 1549.

The motion was agreed to; and the bill (S. No. 1549) to authorize the Willow Springs Distillery Company to use a certain building in the city of Omaha, Nebraska, for the rectification of distilled spirits was considered as in Committee of the Whole.

An amendment was reported by the Committee on Finance to strike out all after the enacting clause of the bill and to insert:

That the Commissioner of Internal Revenue is hereby authorized to permit Iler & Co., of the city of Omaha, in the State of Nebraska, to carry on the business of rectifying spirits in a certain building leased or to be leased by them, situate on the bluff in said city: *Provided*, That such building is not less than six hundred feet by any available line, nor less than three hundred feet in a direct line, from the premises of the Willow Springs Distilling Company in said city: *And provided further*, That the said Iler & Co. comply with all other laws in relation to the rectification of spirits.

Mr. HOAR. What is the meaning of that? I do not understand it.

Mr. BAYARD. I will state to the honorable Senator that the bill has been submitted to the scrutiny of the Internal Revenue Department, and from the Commissioner of Internal Revenue we have a letter stating that there is no objection to the bill in its present shape. The general law prevents the placing of a rectifying establishment within less than six hundred feet in a direct line from a distillery; but in the present case the rectifying house is situated upon a bluff some hundreds of feet higher than the distillery. In a direct air line it would be less than six hundred feet, but in any approachable line it is something about a thousand feet. The topographical position of the situation makes perfectly safe and secure the object intended by the law, to prevent the combination of rectification and distillation.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PADDOCK. The title should be amended. It should read "A bill to authorize Iler & Co. to use a certain building in the city of Omaha, Nebraska, for the rectification of distilled spirits" instead of "the Yellow Springs Distillery Company."

The PRESIDENT *pro tempore*. The title will be so amended.

JOHN D. DEFREES.

Mr. BAYARD. There is a bill reported by the Committee on Finance for the relief of the Public Printer, which I ask the Senate to take up. I think it will lead to no debate; and to be effectual for the relief of this officer, it ought to be passed soon. I ask the Senate to proceed to the consideration of the bill (S. No. 1090) to relieve John D. Defrees, Public Printer.

The PRESIDENT *pro tempore*. The Senator from Delaware moves that the Senate proceed to the consideration of the bill he has named.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1090) to relieve John D. Defrees, Public Printer. It proposes to direct the proper accounting officers of the Treasury to allow John D. Defrees, Public Printer, in the settlement of his accounts with the Treasury Department, $9,813, being the sum taken by robbers from the safe of the Government Printing Office on the 2d of January, 1879, for which they stand indicted in the criminal court for the District of Columbia.

Mr. COCKRELL. I should like to hear that explained.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk proceeded to read the report submitted by Mr. BAYARD, from the Committee on Finance, April 1, 1880.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the regular order is before the Senate.

Mr. BAYARD. I ask that the reading of the report be concluded. I believe there will be no debate necessary in the Senate to show that this is a case in which the money lost was the money of the Government and that the loss should be the loss of the Government and not of the official to whom it had been intrusted, and from whom it was taken without any negligence or contributary fault on his part. It will take I believe but a moment.

Mr. WITHERS. I shall not call up the unfinished business unless debate springs up.

The PRESIDENT *pro tempore*. The reading of the report will be continued.

The Chief Clerk resumed and concluded the reading of the report, as follows:

The Finance Committee, to whom was referred the bill (S. No. 1090) for the relief of John D. Defrees, Public Printer, having had the same under consideration, submit the following report:

Mr. John D. Defrees is the Public Printer, and under provisions of the act of July 31, 1876, (Stats. at Large, vol. 19, page 105,) has given bond in the sum of $100,000 "for the faithful performance of the duties of his office."

Among his duties is included that of paying the employés of the Government Printing Office; and sums averaging $90,000 a month in this way pass through his hands.

Since 1861, when the Government Printing Office was established, Mr. John Larcombe has been the pay clerk, and to his hands these large sums of money have been solely intrusted, and no inaccuracy or default has in this long term of service been imputed to him.

He has gained and still retains the entire confidence of all who know him.

On the 2d day of January, 1879, certain envelopes, containing $9,813, were abstracted from the fire-proof safe in the Government Printing Office, and the circumstances are detailed in the subjoined statements of Mr. Defrees and Mr. Larcombe.

Both of these gentlemen were before your committee and responded to a long and careful inquiry and examination.

The result of the deliberations of your committee is, that the loss of the money in question was caused by an adroitly planned burglary committed by professional safe-burglars.

Your committee concur in exonerating Mr. Defrees and his employés from any contributory negligence or default in respect of this loss, and consider that they each and all performed their duties under the law faithfully and honestly, so that the loss is justly to be borne by the United States Government, to whom the stolen money belonged.

They therefore report the bill back and recommend that it be passed.

OFFICE OF PUBLIC PRINTER,
Washington, March 18, 1880.

SIR: I have the honor of acknowledging the receipt of your letter of yesterday, asking me to furnish a detailed statement in relation to the robbery of the safe at the Government Printing Office, which I proceed to do.

In the purchase of Mr. Wendell's printing establishment, (in 1861,) a large safe, then considered the best made, became the property of the Government. It has been in the office ever since; though since the robbery I purchased a safe with all the modern improvements, in which only small amounts of money are now kept.

Mr. John Larcombe was Mr. Wendell's paying clerk, and is and has been the paying clerk of the Government Printing Office from its establishment. He was born and raised in this city, and is known to many of the prominent bankers and others as a most painstaking and careful business man.

His method of transacting the business of the office was to get the money from the Treasury to pay off employés on the day previous to that on which it was to be paid, to assort it, and to place in an envelope the amount earned by each individual, so as to facilitate its payment on the signing of the pay-roll. These envelopes were then put into the safe.

On the 2d day of January, 1879, having paid off the employés of the document-room, he proceeded to the bindery to pay off those employed there, leaving the envelopes containing money for the employés of the folding-room in the safe, which was locked by him and the key put into his pocket. This fact is not only established by his own testimony, but by two employés who always assisted him in making payment. While in the bindery-room, between eleven and one o'clock, the safe was entered by means of a false key, and the envelopes containing the $9,813 intended for the payment of the employés of the folding-room were taken.

Detectives were immediately employed to find out and arrest the robbers, if possible. It was soon ascertained that the robbery had been committed by three notorious professional safe-burglars of New York, one of whom is now in the New York penitentiary for another offense. One of the others afterward robbed a bank in Charleston, South Carolina, was apprehended and escaped from the jail.

These robbers are well known to the New York detectives, and we still hope to bring two of them to trial on the indictment found in the criminal court of this city.

The Public Printer being the disbursing officer, and who has given a bond for $100,000, is responsible for all losses, and, therefore, no bond is required of Mr. Larcombe, who is a clerk receiving $1,800 per year.

I believe I have fully answered inquiries made in your letter, and given you all the information within my knowledge in relation to the robbery.

Very respectfully, yours, &c.,

JNO. D. DEFREES,
Public Printer.

Hon. T. F. BAYARD,
Chairman of the Committee on Finance.

On the 31st of December, 1878, at about 10.40 a. m., I brought to the Government Printing Office, from the Treasury, $64,213.78, with which to begin, on the 2d of January, the payment of the employés therein. I began at once the work of putting the money in the envelopes, (each person's money, except the small change, being put in an envelope,) which occupied me until after four p. m., when, after putting all the money away in the safe, I left the office for the day. I was at my desk on the morning of the 1st of January from nine to twelve o'clock. The office was closed on that day. Next morning, (January 2, 1879,) by nine o'clock, I was at work paying the principal composing-room, which occupied me until eleven o'clock. From there I returned to my room for the purpose of getting the money with which to pay the employés in the bindery, and to put away some eight or ten envelopes containing the money of absentees on the first floor paid. Having now the money for that purpose, I went into the bindery to pay the employés there, and remained there until just before one o'clock, (the beginning of the dinner hour,) when I returned to my room with the money not then paid out, and put it back into the safe. When I left my room (at a little after eleven o'clock) to go to the bindery there was about $10,000 in the safe, including small change, all except the change being contained in envelopes, and nearly all of it intended for the payment of employés in the folding-room. Just after one o'clock Mr. W. H. Norton (an employé) came to me to get a sheet of the pay-roll and the money with which to wait upon and pay an absent sick compositor. When I opened the safe to get out the money for this purpose, I then discovered the safe had been robbed; every envelope containing money (except two) and over six hundred empty ones had been carried off while I was in the bindery. Undoubtedly it had been opened with a false key. It was locked, and the key in my possession, during my absence from the room. The robbers had carried off $9,813. Detective officers were sent for instantly, two of whom arrived within a half hour. They went to work immediately and earnestly, and not many days had elapsed before they ascertained who the robbers were. They are known to detectives here and elsewhere to be the most expert sneak thieves in the country. Three of them have been indicted by the grand jury of this District for this robbery.

JOHN LARCOMBE.

WASHINGTON, D. C., *March* 30, 1880.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. R. No. 179) authorizing the Public Printer to print additional copies of bills and other public documents.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1881, and for other purposes.

REPORT ON FISH AND FISHERIES.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the action of the House of Representatives on the joint resolution (S. R. No. 100) to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1879. The Senate non-concurred in the House amendment, and the House insists on its amendment, and asks for a committee of conference.

Mr. RANSOM. I move that the Senate insist upon its disagreement to the amendment of the House of Representatives and agree to the conference asked by the House on the disagreeing votes of the two Houses.

The motion was agreed to; and the President *pro tempore* having been authorized by unanimous consent to appoint the committee, Messrs. RANSOM, PENDLETON, and ANTHONY were appointed the conferees on the part of the Senate.

DISTRICT OF COLUMBIA APPROPRIATIONS.

Mr. WITHERS. I call for the regular order.

The PRESIDENT *pro tempore*. The regular order is the District of Columbia appropriation bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

The PRESIDENT *pro tempore*. The pending question is whether the amendment offered by the Senator from Tennessee [Mr. HARRIS] is in order. The Chair wishes to make a statement before further proceedings are had.

I stated from my seat in the Senate yesterday, when the then occupant of the chair had submitted the question to the Senate whether the amendment was in order, that it was debatable, it being the general rule that when questions of order are submitted to the Senate they are debatable. In that I overlooked the express provision of Rule 29, under which the submission was made in this particular case, which declares that it is not debatable. The debate, however, went on by unanimous consent, and the Chair thinks it is his duty to allow it to go on until some Senator objects; but a single objection stops all debate on this question.

Mr. HARRIS. The Senator from Massachusetts [Mr. HOAR] who raised the question of order left the Chamber a moment since and called at my desk to say that if he had the power to withdraw the question of order he desired me to state that he wished to do so.

The PRESIDENT *pro tempore*. It is in the power of the Senator from Massachusetts to withdraw his point of order.

Mr. HARRIS. The Senator from Massachusetts authorized me to say that he desired to do so, telling me that he would probably be absent when the bill was taken up, and he will be absent perhaps for fifteen or twenty minutes more.

The PRESIDENT *pro tempore*. Does the Senator from Tennessee state that the Senator from Massachusetts withdraws the point of order?

Mr. HARRIS. I so state.

The PRESIDENT *pro tempore*. If there is no point of order, the question is on the amendment of the Senator from Tennessee.

Mr. FERRY. Let it be reported.

Mr. HARRIS. I propose to modify the amendment offered by me yesterday, after the word "act," in the second line, by inserting:

And only so long as appropriations are made by Congress to aid in the support of the following institutions, societies, and associations, respectively.

So as to read:

And that from and after the passage of this act, and only so long as appropriations are made by Congress to aid in support of the following institutions, societies, and associations, respectively, &c.

The PRESIDENT *pro tempore*. The Senator from Tennessee modifies his amendment, and the question is on the amendment as modified, which will be read.

The CHIEF CLERK. It is proposed, after the word "dollars," in line 101, to insert:

And that from and after the passage of this act, and only so long as appropriations are made by Congress to aid in the support of the following institutions, societies, associations, respectively, one of the commissioners of the District of Columbia, to be selected by the board of commissioners, shall be a trustee, with all the powers, privileges, and duties of other trustees of the Reform School and of the Columbia Hospital for Women and Lying-in Asylum. And one of said commissioners, selected by said board of commissioners, shall be a director, with all the powers, privileges, and duties of other directors of the Children's Hospital of the District of Columbia. And one of said commissioners, selected by said board, shall be a member of the board of managers, with all the powers, privileges, and duties of other members of the board of managers of the Industrial Home School, the National Association for the relief of Destitute Colored Women and Children and of the Women's Christian Association. And the commissioners of the District of Columbia shall have the right to visit, investigate, and have a full report of the management, receipts, and expenditures of the Saint Ann's Infant Asylum.

Mr. HARRIS. I find in this bill appropriations for public charities amounting in the aggregate to $99,500, one-half of which the taxpayers of the District of Columbia have to pay and the other half the tax-payers of the country; and in respect to every dollar of that sum except $10,000, in respect to $89,500, the people of the District of Columbia who pay the one-half of that amount have no voice in determining how much these expenditures shall be or what the objects of expenditure. To the extent of $44,750 are the people of this District taxed for these charities, without the right to be heard by any representative as to how these funds shall be appropriated or expended, how they shall be administered—no right to demand even a report of what has been done in the premises.

This in the estimation of a gentleman of broad and liberal views such as those expressed by the Senator from Kansas [Mr. INGALLS] yesterday may be a very small matter; but I undertake to say that with the average tax-payer of the District of Columbia, nay the average tax-payer of the whole country, it is not a matter so insignificant as the honorable Senator from Kansas represented in his opinion yesterday.

All that my amendment proposes, Mr. President, is that in respect to each one of these charities to which these appropriations are made the commissioners of the District of Columbia shall have the right to be heard by one of their number being a member of the board of directors, trustees, or managers, by whatever name the managers of the institution may be called—shall have a right to be heard as to the extent of these expenditures and as to the objects to which such expenditures shall be appropriated.

In respect to two or three of the institutions to which appropriations are made, institutions governed wholly and entirely by the Sisters of Charity, I confess that I met with serious difficulty in giving the commissioners absolute control in the institutions. I desired to do so, and the Senator from Vermont, [Mr. EDMUNDS,] yesterday, who I regret is not now in his seat, expressed his opinion that it would be quite an easy matter to do so. I had hoped the Senator would be in his seat to-day because I desired to appeal to him to formulate such an amendment as would give the commissioners exactly the same power and the same control in respect to those institutions that my amendment proposes to give them in respect to the others, and I shall gladly accept as a modification of my amendment any provision that the Senator from Vermont or any other Senator may present that will give exactly the same measure and extent of power and control to the commissioners of the District in respect to those Catholic institutions that I ask by my amendment to give to the commissioners in respect to the Protestant institutions.

I hope, therefore, that the amendment will be adopted, so that the commissioners of the District may be heard in respect to the amount that we shall be asked to appropriate to these charities hereafter, if anything; that they may be heard with equal power of any other manager of the institution as to the general objects to which this money shall be appropriated.

As to the Catholic institutions to which I have referred, my amendment provides, not that the commissioners shall have a vote, not that they shall have a voice in respect to these matters further than the right to visit, to investigate, to demand and receive a full and accurate report of the management of the institutions and their receipts and expenditures. The whole object is to give the tax-payer a voice in respect to the amount that he shall be taxed for these charities, and a voice as to the objects for which he shall be taxed. I therefore hope that the amendment will be adopted.

Mr. KERNAN. Mr. President, in part I agree with the Senator from Tennessee. So far as his amendment provides that the commissioners of the District of Columbia or any other proper officials who may be designated shall have a right to visit all these institutions and examine into their management and have a right to require a report of their expenditures and receipts, I believe that it is right and wise, and no one will object to it. But so far as these are what we call private charities, I am opposed to declaring that some officer of the Government shall *ex officio* be one of their trustees or managers, and I will state the reason why I think so.

First, what are these private charities? A great number are here enumerated, all of which I understand are private charities; the Columbia Hospital for Women and Lying-in Asylum, the Children's Hospital, the Saint Ann's Infant Asylum, the Industrial Home School, the National Association for Destitute Colored Women and Children, the Women's Christian Association, the Little Sisters of the Poor, and the German Orphan Asylum. Those eight, as I understand, are all what are known as private, not public, charities. I mean by private charities those where benevolent individuals, moved to alleviate poverty and suffering, found and support with their own means an orphan asylum, a foundling asylum, or a lying-in institution. They become incorporated, they raise means and get aid to erect a building, and then mainly by appealing to the benevolent and charitable around them they sustain them, not out of the public funds but chiefly out of private funds. As to all such institutions, I believe it is better for the public and better for the institutions that we permit them to manage by their own trustees their own affairs, making them subject to visitation, examination, and report to public bodies wherever they get anything from the public, or even if they do not.

I object, first, on the ground that the moment you put an official of the Government as a managing trustee in one of these institutions, you to a certain degree will set everybody to looking to the public Treasury for means to carry it on. All my observation and experience in my own State and elsewhere is that this gathering together and incorporating of benevolent and charitable individuals to manage an institution to take care of children or sick or aged people will be best managed so long as it is managed by the persons who mainly support the institution, because they are charitable and are benevolent and take a great interest in it, and when you begin to put in an officer representing the Government, whether city, county, or State, you will have them all turning to the public Treasury and turning away from

that source whence comes really the great share of the means which support the benevolent institutions of every creed and of no creed throughout the country.

Therefore I shall offer an amendment providing that all these institutions which receive appropriations of money from Congress shall be subject to visitation, and examination by, and to make reports to the commissioners, as those seem to be the persons in the District most likely to look after them and who can judge whether there be abuses or not. I do not believe we should make them *quasi* public institutions in the sense of having Government officers with them. Take the Women's Christian Association. Why should we say that an officer of the District selected for other duties, very likely a stranger to them, should be made by statute a trustee to go in and act with them in their board? The same as to the institutions under the control of the Sisters of Charity, the same as to other institutions. I would be reluctant to say that we should put a man, a stranger to them, with them to have a controlling influence with them in managing the charity for which they have raised money and will continue to raise money for its support.

Mr. TELLER. I should like to inquire of the Senator how many members these institutions have in their boards?

Mr. KERNAN. I will tell the Senator just all I know. I did not know until yesterday that there was any Catholic institution in this bill except the Little Sisters of the Poor. I understand that they are incorporated under the general law here. I do not know how many there are that were incorporated by that act.

Mr. HARRIS. Almost all of these societies are incorporated under the general law.

Mr. KERNAN. I do not know, but I suppose there are five, or seven, or some such number in the respective boards. My first suggestion is not an objection to the measure *per se*, I must say, but I object to making these institutions *quasi* public, and having them look to the Treasury for any considerable amount of their support. They are more beneficial, better sustained, more thriftily managed while they gather the main support which they have from the charitable and benevolent of the community.

Upon what principle do we give money to these institutions? Not that they are public institutions supported by the Government, managed by the Government. The poor-houses and asylums that we have under the public charge are managed by public officers; but, as I understand, in the States and here, we give a lying-in asylum money upon what principle? On the principle that where there is a private institution of that kind which has got property and buildings, which is supported mainly by private contributions, that bless those who give as well as those who receive, as they are doing a work that relieves the public largely from pauperism and expense, and doing it out of private contributions, we may properly give a little aid to carry on a work which would cost the public Treasury very largely if it became dependent upon it.

Mr. EATON. Will my friend permit me to interrupt him?

Mr. KERNAN. With great pleasure.

Mr. EATON. I agree with the subject-matter of his remarks very fully, but I desire to say, and it might make a difference with his amendment, that in the case of the Reform School, so called, the property belongs to the Government.

Mr. KERNAN. I had drawn an amendment, which I will send up now and let it be read before I make any further remarks, and I ask my friend from Connecticut to say whether it will not answer. Let the Secretary read the amendment, which I shall offer at the close of my remarks.

The Chief Clerk read as follows:

The commissioners of the District of Columbia are authorized to visit, investigate the management of, and have a report of the receipts and expenditures of the above-mentioned private charitable institutions so long as they respectively accept money appropriated by Congress for their aid.

Mr. KERNAN. I think, and if not we can make it so, that defines properly what are private charitable institutions. They are private corporations. I thought that amendment would meet certainly the case of all those we have been talking about. Where they are public, where the Government establishes something with its means, it is very proper that the Government should have its representatives there, and I have no objection to that; but I think it is wiser as to these private institutions that we should make them subject to visitations and let the commissioners examine into their management. Every well managed institution is delighted to have officials go there and visit it that it may have witnesses to appeal to in order to show that it is doing a good work when it needs some aid. My amendment proposes to subject all these charities to this visitation and report so long as they accept anything appropriated by Congress.

I hope, therefore, with great respect to my friend from Tennessee, that we shall not attempt to put by statute an officer as a trustee into these private institutions. I always regret any talk about whether the people who are managing them are Protestants or Catholics; yet it is perfectly proper to have all institutions aided by Government subject to its inspection. I object to putting a trustee into one of these private institutions by act of Congress, because we give $15,000 a year where they are managed by Protestant men and women as well as when managed by Catholic men and women, or by Catholic women alone or Protestant women alone. Why should we do that?

Here is the Children's Hospital; here is the Saint Ann's Infant Asylum, which is in charge of the Sisters of Charity, a charitable corporation; and here are the Sisters of the Poor, with their corporation and their trustees. Why should we send a citizen, no matter how high an official, by an act of Congress into the board of the Children's Hospital? We give them $5,000 out of the Treasury to aid in a work that saves this District thousands and thousands of dollars which would have to be taken out of the Treasury if they did not take care of the little waifs, who would go to destruction and crime if they did not take them. We give it on the principle that they are doing a good work, beneficial to the public, economical for the people, and so we give them a little aid. That is the way we have done in the States. So with each of the others. Take the Saint Ann's Infant Asylum to which we give $5,000. If it were a public institution $5,000 would not begin to pay the expenses. They take up a collection in the churches; they appeal to Christain ladies; they get up a tea party or a fair, or something of that kind. It is a good work and they raise the money and no tax-payers feel it. I like the institutions that are supported by that benevolence among our people of all denominations, and I am generally opposed to having them paid for out of the Treasury, although I am always willing to give something to encourage them where they need encouragement.

Mr. HARRIS. Will my friend from New York allow me to ask him a question?

Mr. KERNAN. Certainly; I only want to do what is best for the institutions and for the public, and I shall be happy to hear the Senator.

Mr. HARRIS. If you lay the legislative hand upon one of these private charities by requiring by act of Congress that the commissioners shall visit, shall investigate, and shall demand a report of its management, receipts, and expenditures, do you not give it just as high a claim to demand appropriations from Congress as you would do by saying that one commissioner shall belong to the board of directors?

Mr. KERNAN. I say frankly I think not. The only reason why I think it right wherever we give anything to reserve this power of visitation is that there may be such inspection, such examination, such report, that we know that they are doing a good work, and that they are not asking us except for what is necessary to aid them in addition to what they get from private individuals. I have had some experience on this subject. In my State a general law has been in existence for many years, requiring orphan asylums of all denominations, all the private institutions that occasionally get a little share of an appropriation, $3,000 sometimes, $2,000 sometimes, according to their need, to send every year to our comptroller a detailed statement of the number they support, the amount of their receipts, and the amount of expenditures; and if we saw it was a generous and a public charity, the State then was quite satisfied to give it a little aid where it found it necessary.

I have always believed that the best way to alleviate the tax-payers, the best way to preserve children from crime, the best way to administer comfort to the sick and aged people who are poor, is by encouraging, as we do by general laws, persons to organize corporations in my State and it seems here also, and to depend upon the charity and benevolence of the friends of each institution to support it, the State giving something now and then just as it pleases, and never getting in the way of giving a regular stipend.

As to these institutions, I am quite sure that if this idea is carried out my friend from Tennessee will find that every institution, Protestant and Catholic, would be happy to have an examination made and to send in a report, and then if we find they are sustained and are not in need, or are expending more than we think they ought to expend, we need not give them anything. We give them no pledge about it at all. They are creatures created by the statute. They are not like private individuals. The Government ought to have a fair right to visit them through its officers to see that they carry out the objects of the appropriation without any pledge of giving them more.

Mr. HARRIS. Does the Senator from New York believe that a commissioner in the exercise of this power of visitation would be as accurately and as fully informed as to the necessity of further appropriation as he would be if he were made a director with the responsibility of the directorship upon him, having to participate in the mangement of the institution? Would he be as accurately and as fully and as well informed through this power to visit as he would if he were made an actor in the management of the affairs of one of these institutions?

Mr. KERNAN. I concede that a man who would sit with the board whenever they met and look into the details, having nothing else to do, would have a more accurate knowledge of the details, but I have not the least idea that one of these commissioners would be more useful to us or more useful to the institution practically by being so, because he could not give an examination into the details as the ladies or the men do who know they have to get along without the public Treasury mainly, and look therefore not to it. Suppose that I or any one of the rest of us were made a trustee; and I have been made a trustee I will say of one of these institutions, without my consent, and as I have never had time to attend to the duties I am going to ask the President to put some gentleman in my place. The zeal of these men and women is exerted in raising money and very often putting their hand in their own pockets. These gentlemen would visit them a few times a year and see how they were getting

along, and I think that my proposition would give us all the good that would come from a supervision and relieve us from the effect that would grow out of the idea of reliance upon the Government, that they can put their hands in the Government Treasury whenever the trustee of the Government says they need money.

Mr. EATON. If my friend from New York will allow me, I will suggest to my friend from Tennessee that he let this thing be tried as suggested by the Senator from New York, and when we get our report from the commissioners a year hence it will be seen very plainly whether the end desired has or has not been attained. My own impression is that it will be fully attained.

Mr. KERNAN. The very reason why I wish this done is to have the law applied to all alike of every creed and of every nationality. Take the Women's Christian Association and other of these institutions. They have women, I think, generally in the entire board, and they have women interested in their work to look to the children and feed them there, women inside of the association and outside of it. If there is any extravagance they have got to make it up by appealing to their friends. I hope, therefore, getting rid of all notion about difference of creeds among the promoters of these institutions, that we shall, as my friend from Connecticut says, at least try this experiment and see if we need anything more to be sure that we understand that what little we give is very well used in aid of that large amount which the charitable give to support these institutions, which is necessary in order that the children do not go to the jail and become criminals instead of citizens; and that the old people do not have to go to the poor-house where they will not have the kindly treatment that they receive in these homes for the aged of both the Protestants and the Catholics here and in the city where I live.

I hope my amendment will be adopted, and I trust that my friend from Tennessee will let us try the experiment. I believe it will work well. I offer the amendment as a substitute for the amendment of the Senator from Tennessee, and I ask that it be read again.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment of the Senator from New York offered as a substitute for the amendment of the Senator from Tennessee, which the Secretary will report.

The Chief Clerk read as follows:

The commissioners of the District of Columbia are authorized to visit, investigate the management of, and have a report of receipts and expenditures of the above-named private charitable institutions, so long as they respectively accept money appropriated by Congress for their aid.

Mr. DAVIS, of West Virginia. Let the amendment of the Senator from Tennessee be read, so that the Senate can understand the question now before it.

The PRESIDING OFFICER. The Secretary will report again the amendment of the Senator from Tennessee to which the Senator from New York offers a substitute.

The Chief Clerk read Mr. HARRIS's amendment.

Mr. DAVIS, of West Virginia. I should like to ask the Senator from New York a question. Did I understand the Senator from New York to say that in certain of these institutions now there are only female directors and no male directors?

Mr. KERNAN. I cannot say certainly. The Saint Ann's Infant Asylum I understand is a corporation and the Sisters of Charity are the corporators. Whether there is anybody outside of them in the board, I cannot state. Usually in my city the Sisters incorporate and they select those of their own body, and now and then they will put in a lady who can give them aid, and are glad to get her in, as a trustee; but generally they incorporate with their own members who live at the institution, and elect their trustees from year to year themselves.

Mr. TELLER. I suppose every Senator on the floor is in full sympathy with the purposes and objects of these several institutions, but because he is in full sympathy with the purposes and objects it does not follow that he is bound to support them by an appropriation of public money. I am in favor, however, of the Government appropriating a reasonable amount of money to these institutions, whether they be denominated public or private, provided it can be done legally and properly. It seems to me that unless the Government has some sort of supervision and some control to bring them within the general rule so that they are in some way connected with the Government and the Government has some authority over them, it is not proper to vote money for that purpose.

It seems to me that the amendment offered by the Senator from Tennessee is in that direction, and but for that amendment I must say, having full sympathy with the purposes and objects, I should be constrained to vote against these appropriations; but if that amendment is adopted I think it brings them within the rule and we can recognize then the right of the Government to appropriate money to them. If they are purely private institutions, then we may vote money, and will be called upon if we establish a precedent of this kind to vote money to other private institutions.

I have some little delicacy about making these objections after the very eloquent speech of the Senator from Kansas, [Mr. INGALLS,] made yesterday, but if he had made his speech in behalf of appropriating money to a church he could have made it just as eloquently and just as pointedly and just as logically as he did, because while the church may not afford consolation to the body it affords consolation to the mind, which is quite as material and quite as advantageous to man.

I want to inquire of the honorable Senator from Tennessee, who proposed the amendment, why he does not include the German Orphan Asylum? I see that the Government is to appropriate $1,000 to that, which I take to be a private institution. If so, I think the same provision may be extended over that that is extended over the others, and so with the Little Sisters of the Poor.

Mr. HARRIS. Does the Senator want an answer now?

Mr. TELLER. Yes, sir.

Mr. HARRIS. I answered yesterday that in respect to the Little Sisters of the Poor and the German Orphan Asylum, to which the Senator refers, the appropriations to each are specific appropriations to aid in the construction of their buildings. They are not annual appropriations to the general purposes of the charity, except so far as the construction of a building may be considered as aiding in the general purposes of the charity. Those stand on a different footing from the other appropriations, and we do not know that any appropriation is ever going to be administered as a charity by these institutions. For that reason, and that reason alone, I excepted them from the amendment I prepared.

Mr. TELLER. That does not seem to me to answer the question satisfactorily, at least to me. We do not know that any of these appropriations will be repeated after this appropriation bill; these are not permanent appropriations; and it seems to me as a question of principle the right of the Government to see to the distribution of the money that it appropriates and have control over the institutions which it in part or in whole supports does not depend upon the way in which they use the money. It seems to me, therefore, that in these institutions there should be reserved to the Government at least a supervision of some kind. I do not care about its being an entire supervision of the affairs of the institution as it was suggested by the Senator from New York it would be. It is clear to everybody who will think a moment that if they have four or five or ten members of a managing board and we appoint one member he will have very little control, but it gives the Government some supervision of it and brings it within the only correct principle upon which we can appropriate money.

Mr. HOAR. I wish the honorable Senator from Tennessee would accept the amendment of the Senator from New York instead of his own. It seems to me to accomplish in a simple and direct way all that he desires by his amendment. The amendment of the Senator from Tennessee is open not only to the objection made by the Senator from New York; but I wish to call the Senator's attention to this point in regard to the amendment which he has offered, which seems to me to distinguish it from that of the Senator from New York: Is there any other instance known to him in which the Legislature has ordered an important public officer to accept duties and responsibilities of a serious nature imposed upon him by another authority than itself? The amendment provides that the commissioners of the District of Columbia, who are among the most important and dignified public officers in the country, shall be *ex officio* trustees or officers of five or six private corporations, and imposes on them all the duties of such officers, so that it will become a part of the sworn official duty of these men to do everything which any one of these six corporations makes it the duty of its officers to do, and it will be avoiding an official duty if they refrain from the performance of it. I submit to the honorable Senator from Tennessee himself that it is not a very good precedent in legislation, and that any advantage which he may attribute to his own amendment over that framed by the Senator from New York is not sufficient to counterbalance that objection.

Mr. MORRILL. I hope the Senator from Tennessee will accept the amendment of the Senator from New York. It happens that I am acquainted somewhat with the management of two of these institutions, the National Association for Colored Women and Children, and the Women's Christian Association. They are managed by ladies, who receive contributions from all parts of the country, sometimes in cloth, sometimes in ready-made clothing, and they meet together often for the purpose of manufacturing this clothing and for the conduct of the institution itself.

Mr. HOAR. The duty of the commissioner might be to cut out the gowns and pantaloons! [Laughter.]

Mr. MORRILL. The amendment of the Senator from Tennessee will not really give the commissioners a particle of power in these institutions. There will only be one of them in a body of numerous ladies who assemble together for the purpose of conducting these institutions. If the Senator will accept the proposition of the Senator from New York, and allow the commissioners to visit the institutions when they please to know what they are doing and require a report to be made from them, I think that would be eminently proper.

I desire to say that at one of these institutions, and I have been there, nearly a hundred little orphan children are gathered, girls and boys. They have a school-teacher and they are there trained until they arrive at an age when they can be bound out. They go to all parts of the country, to Massachusetts, to the West, to New York, and to any State where they can find persons willing to adopt them and bring them up. It is a relief to this community of so many that would otherwise be a public charity. Perhaps there has been no institution that has been conducted so economically and with such beneficial results. It does seem to me it would be wrong to intrude a gentleman into the councils of these ladies. I think the object of

the Senator from Tennessee can be accomplished fully by the amendment proposed by the Senator from New York.

Mr. ALLISON. Mr. President——

Mr. HARRIS. If the Senator from Iowa will yield to me a moment, I desire to say that if the Senator from New York will accept a modification I shall very cheerfully accept his amendment. First, I propose to insert in line 75, after the word "dollars," in the appropriation for the Reform School:

Provided, That one of the commissioners of the District of Columbia, to be selected by the board of commissioners, shall be a trustee, with all the powers, privileges, and duties of other trustees of said Reform School.

Then in line 89 I propose this proviso in reference to the Columbia Hospital:

That one of the commissioners of the District of Columbia, to be selected by the board of commissioners, shall be a trustee of said Hospital and Lying-in Asylum, with all the powers, privileges, and duties of other trustees of the same.

If the Senator from New York will except from his amendment these two institutions I shall very cheerfully accept his amendment in respect to the rest of them.

Mr. KERNAN. Are not those two public institutions?

Mr. HARRIS. They are.

Mr. KERNAN. Then I have no objection. I meant to leave the public institutions out, and sought to apply my amendment to private charitable institutions.

Mr. ALLISON. Mr. President——

Mr. HARRIS. If the Senator from Iowa will yield further I will offer the amendment.

Mr. ALLISON. I yield to the Senator from Tennessee.

Mr. HARRIS. Then I offer the amendment in line 75, to come in after the word "dollars:"

Provided, That one of the commissioners of the District of Columbia, to be selected by the board of commissioners, shall be a trustee, with all the powers, privileges, and duties of other trustees of said Reform School.

The PRESIDING OFFICER. The question is on the former amendment offered by the Senator from Tennessee, but by consent the Senate can go back to line 75, and the question will be on the amendment now offered.

Mr. ALLISON. I hope the amendment just offered by the Senator from Tennessee will be adopted. He has anticipated me by offering that amendment. This Reform School is not a private charity, but it is a public institution which is wholly supported from the Treasury of the United States and from the treasury of the District of Columbia; that is, by taxation and appropriation. I think the board of District commissioners ought to have a representation in that institution certainly. It is my fortune under the existing law to be a trustee of that institution, having been appointed by the Vice-President to that office, and I am satisfied that the institution would be promoted by having a representation from this board of commissioners. Therefore, I hope that amendment will be adopted without objection.

I am not so clear as to the next amendment proposed by the Senator from Tennessee. I think when we have done that, that we have gone as far as it is necessary to go, although I would not object to the amendment proposed by the Senator from New York. These are little private charities to which we make from year to year an annual donation. If we take them by this power of control into our care we shall find that these appropriations will be increased from year to year, and very soon instead of being private charities they will become public charities principally supported by the Government of the United States and the tax-payers of the District of Columbia.

Therefore it seems to me that after we have provided for these two public institutions, if they both be public, we had better allow these small donations to go to these private hospitals and charities, and trust to the people who have the care of them that the money will be faithfully disposed of and expended for the purposes suggested. I think if we undertake the supervision of the private charities and require annual reports the appropriations will swell from year to year, and the private contributions to them from year to year will grow smaller.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee, to add the proviso in line 75.

The amendment was agreed to.

Mr. HARRIS. In line 89, after the word "dollars," I move to insert:

Provided, That one of the commissioners of the District of Columbia, to be selected by the board of commissioners, shall be a trustee of said hospital and lying-in asylum with all the powers, privileges, and duties of other trustees of the same.

Mr. ALLISON. I should like the Senator from Tennessee, if he can, to refer to the statute in reference to that institution.

Mr. HARRIS. It happens to be the only one of these appropriations as to which I have not a reference to the statute. I do not know how it happens, but I find on my memorandum that I have no reference to it, and I do not remember the date of the statute.

Mr. ALLISON. If this Columbia Hospital is a wholly public institution, as I think it is, the amendment is a proper one.

Mr. HARRIS. That is my understanding; and the commissioners state that it is.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. HARRIS. Now, I have no objection to the adoption of the amendment of the Senator from New York in lieu of my former amendment.

The PRESIDING OFFICER. The Senator from Tennessee accepts the amendment of the Senator from New York.

Mr. MCMILLAN. Let it be reported.

The CHIEF CLERK. In line 101, after the word "dollars," it is proposed to add:

The commissioners of the District of Columbia are authorized to visit, investigate the management of, and have a report of the receipts and expenditures of the above-mentioned private charitable institutions, so long as they respectively accept money appropriated by Congress for their aid.

Mr. KERNAN. I think that should come in at the end of line 100. Line 101 is an appropriation of $10,000 for the relief of the poor of the District of Columbia. The amendment should not come after that.

The PRESIDING OFFICER. Is the Senator from Tennessee satisfied with that suggestion?

Mr. HARRIS. Yes, sir.

The PRESIDING OFFICER. If there is no objection, the amendment will be placed after line 100. The question is on agreeing to the amendment of the Senator from New York accepted by the Senator from Tennessee.

The amendment was agreed to.

Mr. BECK. I move to strike out lines 429 and 430, in the following words:

For purchase of police-court building, $20,000.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

Mr. BECK. I should like to say a word and give the reason for offering the amendment. The Committee on Appropriations recommended a reduction of this appropriation from $20,000 to $14,000, but the Senate, with the consent of a good many members of the committee, who had received further information, declined to make the amendment, and it now stands $20,000, as proposed by the House. I have been applied to, as I said yesterday, by a number of persons living in the neighborhood to look into the matter upon the ground that it was wrong to devote that building to this purpose for a variety of reasons, which I stated yesterday. Much was said about it on one side and the other. I took pains this morning to go to the building myself and look at it, and to look at its surroundings. I am thoroughly satisfied myself that the building is wholly unfit for the purpose for which it is contemplated, as Mr. Davidge said in his written communication to the commissioners and to the chairman of the Committee on Appropriations of the House and to the Senate committee. I examined the cells, and I desire to make a statement in regard to them.

The Senator from Ohio [Mr. THURMAN] spoke so highly of the building yesterday that I desire to say now in his hearing that I went to the door of those cells this morning in the basement of that church. I saw in one little cell four, six, or seven men; they happened all to be colored men this morning; and in an adjoining cell were several colored women, how many I could not see, for those cells had neither air nor light. There is a little tube that goes up through the floor somewhere to allow the worst of the air perhaps to pass away; but they are such cells that if they were to exist in any Southern State or had existed at any time since the war in any Southern State, the denunciation of the inhumanity of the people in allowing them to remain would have been rung from one end of the Union to the other as a disgrace to the civilization of the age. If any gentleman who thinks that is a proper place for a police court will go and look at those cells and see their inmates, as he can see them any morning, and as I saw them this morning, and then will come and say that it is a fit place in which to confine any human being, I shall be very much mistaken.

Mr. MORRILL. The Senator from Kentucky of course does not wish to give a wrong impression. I ask him if he does not know that the prisoners are brought from the station-houses in the morning, and are only kept there a little while until they can be tried, and then are returned to the station-houses if they have to be kept over another day; they are never kept there over night at all.

Mr. BECK. They are brought there at all times of the night, as I understand.

Mr. MORRILL. No, not until morning. They are brought from the station-houses in the morning.

Mr. BECK. I called the attention of the Senator from Vermont to it this morning, and I urged him to go and see them, and I wish every Senator would go and see them; how long the prisoners are kept in them I do not know, but they were there this morning inclosed behind bars that no human being ought to be inclosed in, and in places unfit for men to live in.

Mr. WITHERS. Will the Senator permit an interruption there directly in connection with the subject he is discussing?

Mr. BECK. Yes. I wish every Senater to go and look at it for himself.

Mr. WITHERS. Here is a communication from the judge of the police court. He says:

I have to say that prisoners are delivered there in the morning and as their cases are disposed of they are immediately removed to prison, never remaining over night. The cells are washed daily thoroughly after prisoners are removed.

That is from the judge of the police court himself.

Mr. BECK. I do not know how they wash the cells, but they have neither light nor ventilation in them. We were told yesterday that it is a fit place, but it only requires the personal visit of any Senator to go and see how utterly unfit those cells are for anybody to be there. At eleven o'clock this morning I saw them. I am told that on Monday morning it is much worse than any other day. Every man is liable to be placed in those cells. Senators and Representatives if they happened to be attacked in the night and should knock down the fellow who attacked them, would have to go and stay there until they could get a hearing, although they are presumed to be innocent. Those are not the places where guilty men are placed, but men who have been arrested with or without cause are placed in those cells, without regard to race, color, or previous condition, and they remain there until they can get a hearing, at what hour of the day I do not know.

Mr. VOORHEES. Let me ask the Senator from Kentucky to explain the location of these cells. Is it a basement arrangement of the old church?

Mr. BECK. It is in the basement of the church, going five or six steps under-ground, and the cells are constructed across it, without windows or any light except what comes through the iron bars.

Mr. VOORHEES. I understand that there is a system of cells, several of them.

Mr. BECK. There are two in connection, one for females and one for males, running one-half of the way through and across the church. I wish the Senator from Indiana would go and see them.

Mr. VOORHEES. I do not like to see such things.

Mr. BECK. I do not, either, and I did not believe such things existed in the city of Washington. They exist nowhere else. That is the building that is said to be so well adapted that it is important to buy it and give $20,000 for it, more than anybody in the neighborhood thinks it is worth, to deprive men in the neighborhood of the right to test the question before the Supreme Court, where their case is now pending; to take it without title, without investigation, without any security at all, when we have plenty of other good places where a police court can be located.

Mr. ALLISON. Will the Senator yield to me?

Mr. BECK. Yes, sir.

Mr. ALLISON. I understand that he examined the building this morning?

Mr. BECK. Yes, sir.

Mr. ALLISON. Are these cells under-ground?

Mr. BECK. They are partly under-ground.

Mr. ALLISON. So far under-ground that windows cannot be put in?

Mr. BECK. So far under-ground that windows are not there, and I do not believe they can be placed there.

Mr. ALLISON. I have passed the building a great many times, and occasionally have been in it.

Mr. BECK. Have you ever been in a cell there?

Mr. ALLISON. No, sir.

Mr. BECK. Have you ever looked into the cells?

Mr. ALLISON. I never have.

Mr. BECK. You are as liable to go there as anybody else is.

Mr. ALLISON. Of course, and perhaps more so than the Senator from Kentucky.

Mr. BECK. Not a bit more.

Mr. ALLISON. More liable, because I do not behave as well as he does. [Laughter.]

Mr. BECK. Not a bit more or a bit less; we are both liable to go there.

Mr. ALLISON. When I last passed that building my recollection is that the first floor was a considerable distance above the ground, so that with a few dollars a window could be placed in each one of the cells unless the cells are below the basement story, under-ground; then of course it could not be done. I understand that the commissioners have expended $4,000 in preparing the building; if they would expend about $25 more they could certainly place windows there and admit light into each one of the cells, so that it would be a perfectly proper place for prisoners.

Mr. BECK. There is a passage-way between the cells and the exterior nearest to Fifth street, which gives what little light can possibly get into them. They are so dark that a man in looking in can hardly tell whether an inmate is black or white, and the inmates themselves can hardly see each other. That is the place which is regarded as so fit for a police court! I had placed in my hand this morning for examination a petition signed by fifty-one of the residents of that neighborhood protesting against the location of the police court there. I walked down Sixth street. It was said yesterday that there are no residences there. There is not a better residence street in the city of Washington than Sixth street. Most of the residents there live in their own houses, and their families cannot pass down that street and reach Pennsylvania avenue on the side where the police court is for many hours in the day, and often for many days in the week. The offices that are on the street leading from Fifth to Sixth, along the side of the street on which the court is situated, are many of them vacant, and the lawyers, who are leaving them, assure me that they will have to give them all up, because respectable clients, male or female, will not come to their offices to transact business with them on account of the nuisance of that police court. To the whole square and for squares up Sixth street it is an intolerable nuisance.

I said that we had made an appropriation of $117,000 to increase the building on Judiciary Square. I was told by gentlemen, the distinguished Senator from Ohio being one of them, that there were magnificent residences on Fourth and Fifth streets, to each of which this police court on Judiciary Square would be a nuisance. I examined that location as well, and I aver here (and I ask each Senator to go and see for himself) that the fine residences on Fourth street spoken of are removed over one hundred yards, I think one hundred and fifty yards, from where the building would be, or from the present building, and the trees on Fourth street, young as they are now, are so dense that the people on Fourth street can hardly see the building, and are far less likely to be affected by any nuisance that might be there. They are so far removed that they would not be affected at all. So with Fifth street. Beautiful young trees are planted and growing there, which remove the building almost from their sight. The people on Fourth street and the people on Fifth street, with this police court located on Judiciary Square, would not be compelled to pass near it, through it, or by it, as all their streets leading to the avenue or leading to any part of the town are remote from it, and they would never be compelled even to approach it.

Mr. VOORHEES. Will the Senator allow me to ask him if these petitioners are property-holders on Sixth street?

Mr. BECK. They are citizens there, fifty-one of whom have signed the petition protesting against its location there because of the destruction to their property.

Mr. VOORHEES. I beg pardon of the Senator, but I have not yet got the run of this proposition. I voted yesterday with the friendly hope that the purchase of this property might be to the best interests of both the Government and the citizens.

Mr. BECK. I desire to say to the Senator from Indiana that I never knew any of those men until Mr. Davidge, Mr. Wilson, Mr. Hanna, and other respectable gentlemen called my attention to the matter, until I saw the protest of the commissioner, Mr. Dent, and until I saw that when the lease was made Mr. Bryan, then a commissioner, protested against it; when I saw fifty-odd men living in that neighborhood all protesting, and when I saw a bid put in and said to indicate the value of the property; when the men certified themselves that they raised $5,000 to make the bid $18,000, and were willing to lose $6,000 in order to have located there the law school of the college of Georgetown, which would not have been a nuisance, and give it to them at $12,000, paying $6,000 themselves rather than have this court located among them. That was charged here as evidence that the property was worth $18,000 because they offered that sum. I read the letters—they are all in the RECORD—from these very men who protested that their property was injured and that their wives and children were subjected to inconvenience when there was no necessity for it.

I call attention here, and I hope Senators will all examine it, to the fact that we gave $117,000 to improve the present building on Judiciary Square. According to the plan which was laid before us when we voted the money for the improvements, which I have here, Mr. Davidge and all of the lawyers say that that addition will provide ample room for all the courts needed, for all the offices needed, and for as good a police court as it is possible to have, and in a locality where there can be no inconveniences, and with no additional expense. The plan, if Senators will observe, shows two large court-rooms to be built on the north side of the present building. It shows an open court-yard between the present building and the new one. It shows entrances on the north side where the prison vans can be driven in. I was asked if I would have walls to disfigure this grand building. No, sir, in the center entry there, where that building is two hundred and sixty-four feet long, and the plan laid down, in these green places [indicating] are open spaces into which under the basement the vans can be driven. It is to be a two-story building.

Mr. VOORHEES. Where is that?

Mr. BECK. In the rear of the present building on Judiciary Square. A first-rate police court can be put in the basement and the other courts above it. There is a space of twelve feet now into which they are huddling these poor devils into the cells that I spoke of, and in the present Judiciary Square building, for I examined that too, which is two hundred and sixty-four feet long, with all these wings one hundred feet deep, with good windows and with abundant cells, all to-day are standing vacant and are not used for any purpose whatever.

Mr. VOORHEES. Do I understand that can be done without building an additional structure for the police court?

Mr. BECK. I say that will be provided for in the building that we now propose to erect, and for which we have made an appropriation, and that bill is now pending in the House, and if I am allowed to speak of what is going on in the House I may say that before the House pass it they will require it to be erected so that the whole city can be secure from any nuisance whatever either on Fourth street, Fifth street, or Sixth street anywhere. That is the front of it. [Indicating.] There is the ground plan of it, and there are the court-yards in which the vans can come with these people, and where they can be discharged without a mob surrounding them, free from crowds following them to see what vice has come up during the night, and when men are dismissed they can go away without interruption, and when men are found guilty they can be sent to their place of punishment without being followed up. It is to be a handsome structure.

The only interest I have in the matter is to see the best thing done. I do think it is wrong for the Senate to adopt the provision as it stands in the bill. We have a sundry civil bill which will come up in a few weeks. This is new legislation on this bill. We have a sundry civil bill coming up in a few weeks from now, and if in those few weeks it can be shown that there is no better place than the present location, or that the present building can be made suitable, I as a member of the Committee on Appropriations pledge my word now to vote for whatever the Committee on Appropriations may think is the best to be done after careful examination. But with my present information I do not want this provision to pass in the face of the report against it by the committee of the House of Representatives, in the face of the pending appeal in the Supreme Court by the men living in that neighborhood protesting against it; doubtful whether there is any law that authorizes it, because these commissioners have shown no power.

I read the argument of Mr. Davidge this morning, and it is hard to answer, that all the effort of purchasing, the whole act of leasing a building out of repair, the transaction is illegal and void, and the House committee so reported, signing their names to it. Whether that is so or not, not desiring to injure the commissioners nor the church nor any one to whom the money is coming, I desire time for these people to let the Senate and House fairly understand what their grievances are, to see if the facts are not true as to the improvements that may be made upon Judiciary Square without injury to anybody, and in the mean time strike out the provision.

I have the leases that were made, the originals and copies. There is no man in the Senate to-day who can say, although it takes $20,000 to purchase this property, that it was sold in accordance with the orders of the church. On the 31st day of May, 1877, the seat and pewholders held a meeting. It does not say there was a majority of them. They met "in pursuance of due notice," but it does not state what notice was given. They authorized these men to make this lease giving this right. On the very next day the lease was made for four years. I have that all here and have read it carefully.

Mr. VOORHEES. For how much?

Mr. BECK. Twelve hundred dollars the first year and $1,400 the next year, perhaps $1,500 now, with the right to buy it at $18,000 the first year, $19,000 the second year, and $20,000 the third and fourth years. Let it not be forgotten that the lease runs until June, 1881. Another session of Congress meets before that time. The building we are now providing for on Judiciary Square will be erected before that time if the House agrees with us. All the facts can be known then.

Mr. BUTLER. If the Senator will permit me to interrupt him I should like to ask for information, has it not been stated that the enlargement of the present City Hall is absolutely necessary for the accommodation of the courts as they now exist in this District without regard to the police court? Has not that been stated? Was not in point of fact the reason for asking for the enlargement of the City Hall to accommodate the other courts? I have so understood it, and so understood it when I voted for the appropriation for the enlargement of that building.

Mr. BECK. The Senator from South Carolina asks me whether there will be enough room to supply this police court by the addition to the building on Judiciary Square, and I answer yes, because there can be two court-rooms, one above the other, made just as well as not at very little additional expense. I desire to add the testimony of a very respectable gentleman and a good lawyer who is well known here. After Mr. Davidge had referred to these other letters, he said:

> Besides, the Senate has by bill now pending in your House appropriated $117,000 for the extension of the City Hall, and the police court can readily be accommodated in such extension without being a nuisance to the neighborhood.

That is signed by Mr. Davidge, one of the most respectable lawyers in the city; and he is sustained by many other lawyers. It will be obvious to any gentleman who looks at it that you cannot build the addition to the City Hall to the elevation laid down on this plat corresponding with the present building without having two stories, in each of which there can be a court-room of the same kind where there will be ample accommodations; and no one can pass the ground without seeing that there can be no nuisance connected with it there.

Mr. BUTLER. I have understood that the judges of the District supreme court have stated that the extension of the City Hall is necessary for the accommodation of the other courts.

Mr. HOAR. May I ask the Senator from South Carolina in that connection, and the Senator from Kentucky also, if he will permit me, whether it is not true that the commissioners of the District, the judge of the police court, the district attorney, all the judges of the supreme court of the District of Columbia, without exception, and the inspector of public buildings of the District have concurred in saying that this is the best place for the police court, and that it has been there three years?

Mr. BUTLER. That is my information Mr. President.

Mr. HOAR. The Senator is discussing the question whether they are right.

Mr. BECK. I will answer the question as to one of them. The president of the board of commissioners entered his protest this very year against this appropriation of $20,000. He is in the Senate Chamber now, or I saw him a minute ago. He will tell any Senator what he tells me. He protested against it; he objects to it now; he thinks it is unfit; but the other two commissioners were willing to make the purchase and he acquiesced after entering his formal protest on the record.

Mr. WITHERS. I wish to ask the Senator if the board of commissioners have not officially stated that this is a suitable place and a suitable building, and recommended the appropriation?

Mr. BECK. They made their estimate for it; here it is; I read it yesterday. Protest was made against it by the president of the board, as I read yesterday, in these words:

> The following is an extract from the minutes of the board of commissioners, District of Columbia, of November 17, 1879—
>
> Last November, after they had been occupying this building for two years.
>
> "Commissioner Dent entered the following protest in connection with the estimates for the District government for the fiscal year ending June 30, 1881; and the secretary was directed to place the same in the minutes of the board: 'I object to the item of $20,000 for purchase of the property now occupied by the police court, but am willing it shall go before the Secretary of the Treasury and Congress for consideration.'
>
> "WILLIAM TINDALL, *Secretary.*"

There is the official entry of the president of the board, in answer to the question of the Senator from Massachusetts. The estimate was sent in with that protest. We are now considering whether we will heed that protest. He submitted the question to us for our consideration, and I am submitting the facts to the Senate for their consideration. All I ask, all I desire, is that the Senate shall strike out now this item from a bill where it ought not to be—an item for the purchase of property which does not require any investigation as to the title, which does not tell to whom the title shall be made. The lease itself does not even indicate whether the title is perfect or not; and while there are provisions of law, perhaps, existing whereby when the United States pays money for property the title shall be made to her, this title does not purport to be made to the United States; it is not intended to be made to the United States; it is to be made to the commissioners of the District of Columbia, or to the District of Columbia. And yet $10,000 is to be taken out of the Treasury of the United States for that purpose, to buy land when we have got so much land of our own, and when the District is seeking to sell land, and has bills now pending before us asking the privilege to sell land.

Besides, if we are willing to go anywhere else than this place, if Senators will go and examine lot No. 3 on Louisiana avenue, adjoining the market, they will find a lot that has 10,394 feet of ground in it, that runs to Canal street, with no residences in front and no business houses in front, but the Agricultural Grounds and the Smithsonian Grounds lying one side and on the other side a front where there is not a dwelling-house near it. There we have ground of our own, with buildings on it double the size of this and twice as valuable, where we can put this police court, if we do not want to put it on Judiciary Square. I have examined that ground, too, and I aver that no Senator can look at it without saying that that location on Louisiana avenue, within three squares of where the police court is now, adjoining the market-house, below the market-house on Pennsylvania avenue, fronting on Canal street, toward the Smithsonian Grounds, with an entrance on both sides, neither entrance interfering with anybody, will be more suitable, a better place for this purpose, if you do not put it on Judiciary Square, and it can be done for half the cost of this building.

I am glad that the Senator from Indiana [Mr. VOORHEES] is paying attention to this case. I know he will come to the right conclusion when he examines it. None of us have examined it before; and that is the difficulty. A committee of the House reported unanimously, I believe, against this purchase. I read the names yesterday; very respectable men. Mr. Williams, of Michigan; Mr. BLACKBURN, of Kentucky; Mr. HENKLE, of Maryland; Mr. BOUCK, Mr. CLAFLIN, Mr. HUNTON, Mr. CLYMER, Mr. Brentano signed a report to the House of Representatives protesting against this building being used, and they employed this language:

> The committee do not propose to impute to the commissioners any improper motives or designs, but simply assert that their action in the premises is not, in the judgment of the committee, to be defended or sustained either upon the score of expediency or warrant of law.

An injunction was taken out by the property-holders in the vicinity and granted by one judge, but disallowed by the others because they could only test the question of law and could not go into the question of nuisance. An appeal has been taken to the Supreme Court of the United States and is pending there; and these property-holders beg the Senate not to interfere by the supreme power of the commonwealth to buy the property, and thereby dismiss their suit and destroy their chance, which they think a good one. Judge Cox and Mr. Davidge have been prosecuting it in their name. Why not allow them a chance to see if they cannot prove what they allege, that the law is against the commissioners, as the committee of the House have reported? Especially why should we act now when there is no necessity for action for a year to come, when, as I say, the probabilities are that there are many better places? When a highly respectable body of citizens are asking this of Congress, why should they and their property be crushed out without a hearing, in order to rush this matter through in the face of the protests of all these people, with a suit pending, and when it is obvious to every man who goes and examines it that there is no necessity for immediate action.

I said a good deal yesterday about the value of this property. I went this morning and inquired of a man who, I know, is a good lawyer and an honest man and a good judge of property and a trustee of large property in that neighborhood, Mr. Thomas J. Miller. He certifies—and Mr. Bradley, his co-trustee, agrees with him—"that this property is not worth over $12,000." He has tried to sell the opposite corner, more land and more valuable property, and he has been unable to do it. My friend from West Virginia [Mr. HEREFORD] showed me some papers this morning, lying before him, going in the same direction, showing the unsuitableness of this building. With the scanty information we have had, with the lack, I may say, of any information, with a lack of knowledge about it, with a certainty that great injury is being done, and that we may supply all the wants of the city and do injury to nobody, I want a little time to look at it; I want to give the citizens time, and I pledge myself, if on careful examination it turns out nothing better can be done, when the sundry civil bill comes over providing for all public buildings, I will go as far as any man on this floor to see that the city is supplied with a proper police court there or somewhere else.

Mr. VOORHEES. It has been my fortune during my service in Congress to have resided while in this city in the immediate vicinity of where this police court is now located. I know the character of the people who live there and the property that is owned there, and I will not vote against their protest. I consider it a cruelty and a wrong, especially when there is plenty of vacant ground for this purpose to be obtained elsewhere. I would not obtrude an offensive institution in the vicinity of any class of people unless I was entirely compelled to do so, and in this instance there is no such compulsion. It is a very nice and handsome locality for residences. This corner is a place that is passed every day by the wives and daughters of most respectable families in this city, and they are compelled to come in contact with and see the worst and most vicious classes of society as a matter of course. I do not think it is right to compel them to do this. Many of them built their residences there after this church was located, built their homes with reference to a place of devotion and worship, and not with reference to a police station or headquarters. The Senator from California [Mr. FARLEY] in his seat asks me whether that was the reason I located there or not. [Laughter.] I can only say that I located there because it was a pleasant place to live, church or no church, and the church was no drawback; but I can say to him that I would not settle myself in the vicinity of a police station or headquarters as a place to spend my time here as a member of Congress or Senator, nor would any Senator here take his family to that vicinity, and if there were the most spacious and beautiful rooms to rent in the city of Washington within hail and sight daily and hourly of the incomings and outgoings of a police court, there is not a Senator on this floor who would go to them or rent them, and the people who live there are governed by the same feelings that we are. We should be doing a rank injustice to that locality to force upon them a nuisance of this kind. It is a necessary nuisance and a necessary evil growing out of the sinfulness of mankind and has to be located some place, but we can find some other place than to deface that nice locality by taking a church edifice, which, being no longer required for the worship of God, is turned into a police headquarters.

Let the police headquarters go some place else; let them go to some obscurer part of the city; let them go where everybody who passes down Sixth street to reach Pennsylvania avenue shall not be forced to see the swarming mob which gathers around there morning and evening. Let it go where the Senator from Kentucky speaks of, in the rear of the present judiciary building. There are plenty of localities. I do not see the slightest necessity for taking this church property and converting that neighborhood into an undesirable place to live where people have invested their all for their homes and have lived quietly and undisturbed for years. I think it my duty to say this much, and these are the reasons that will govern my vote.

Mr. WITHERS. Mr. President, we have all listened with a great deal of attention to the impassioned utterances of my friend from Kentucky, [Mr. BECK,] and of course by nothing that I can say will the Senate be deprived of the very strong appeal as well as argument that he has adduced in support of his proposition; but at last I have heard nothing new on the subject with the exception of the personal testimony of the Senator from Kentucky. He appears to have examined this question very thoroughly in many of its aspects and appears before the Senate in various characters, but always presenting an interesting spectacle and an able argument. Whether he appears as an architect discussing the suitable character of the building, as a sanitarian denouncing the unhealthy condition of the cells, as an assessor affixing the value of real estate, as a judge pronouncing upon the legal points involved in the case, he shines conspicuous in each and every one of these characters. But, Mr. President, let us go back and consider the actual facts in the case.

Testimony has been adduced here to show that this place was not suitable, and my friend from Indiana [Mr. VOORHEES] has joined in the chorus. I have only to say in reply, and in vindication of the report of the committee which has recommended that the appropriation be made, that the testimony before the committee satisfied them that the place was a suitable place, that the building was a proper building, and that the appropriation asked for ought to be made. I would call attention to the fact that this house has been occupied for this purpose for the last three years. I would call attention to the fact that the commissioners of the District have officially declared, whatever may have been the protest of the presiding officer of that body two years ago, or one year ago, or during the present year, the official action of the board of commissioners of this District is to the effect that the building is a suitable one, that the location is a good one, and that the price is not an excessive one.

Mr. EATON. My friend from Virginia ought to state that the president of the board stated before the committee that he acquiesced in the decision of the majority. Those were his very words.

Mr. WITHERS. That was stated yesterday in the course of the discussion, and is certainly true.

Mr. VOORHEES. Who is president of the board?

Mr. WITHERS. Mr. Dent.

Mr. VOORHEES. He lives in Georgetown.

Mr. WITHERS. But it is on his protest that the Senator from Kentucky seems especially to rely, and if it is of any value I want to rebut it with the statement of the fact cited by my friend from Connecticut that Mr. Dent has acquiesced in the decision of the commissioners, and, therefore, practically that protest is withdrawn.

Now, Mr. President, I am disposed to yield as much as any one could ask, I think, to the personal inspection which has been made by my friend from Kentucky, but I do not think his testimony in this case is entitled to all the consideration which is claimed for it. I do not think that it should be permitted to outweigh the concurrent testimony of others who are certainly in a position and whose official duties require that they shall be as well or better prepared than the Senator from Kentucky to enlighten the Senate upon this question. I have in my hand here and I produced to the Senate yesterday evidence to prove not only that the value of the property was not less than the amount appropriated, but that the location itself was an exceedingly desirable one, that the building itself was very well adapted to the purpose, and that the appropriation asked ought to be made. I hold, in addition to the evidence then presented as to the value of the property, additional evidence to-day.

It is proposed by the Senator from Kentucky that this police court shall be removed from the present location and placed in the basement or some other portion of the building in Judiciary Square, for which provision has been made by the vote of the Senate. The $117,000 voted to extend the accommodations of the court-house of the District of Columbia it is claimed will amply provide quarters for the police court in that building; and yet it was stated here yesterday authoritatively that that extension did not contemplate the occupancy of any portion of that proposed building by the police court; on the contrary, that every room proposed to be added by the addition of that building would be required for the necessities of the courts now occupying it.

In addition to that, I hold in my hand a letter from Judge Cartter, in which he urges the purchase of the present police-court building and protests against the proposed occupancy of any portion of the City Hall building by it. In this he is joined by all the associate justices of that court, Justices Wylie, MacArthur, and Hagner, one of whom granted the injunction about which so much has been said.

I hold in my hand a paper from the inspector of buildings of Washington, which I desire to use to rebut the allegation which was made here by more than one Senator yesterday that this building was so old and dilapidated that but a few years would elapse before it would be found necessary to construct a new building. Here is the certificate of the inspector of buildings, an officer of the Government, to this effect:

OFFICE OF THE INSPECTOR OF BUILDINGS,
DISTRICT OF COLUMBIA,
Washington, D. C., May 6, 1880.

SIR: I have the honor to state that the cost of making alterations and repairs to the old Unitarian Church, now occupied as police court, was about $4,000, and that the arrangements have been found to give excellent accommodations for the purpose.

I would also state that the expenses of repairs since have been but nominal, and that the building at present is in very good condition and substantial in all respects, and with but little cost of repairs from year to year will last for half a century.

Very respectfully,

THOS. B. ENTWISLE,
Inspector of Buildings, District of Columbia.

Hon. R. E. WITHERS,
United States Senator.

There is the official evidence of the inspector of buildings, which I take it is probably entitled to as much consideration on the part of the Senate as the opinion of any Senator in this body can be upon such a subject.

Details have been given by the Senator from Kentucky, which will have their effect, of the condition of the cells and the architectural structure of those cells; but all that goes for little in my estimation when I recognize the fact that by the expenditure of probably not exceeding $100 any requisite amount of light and ventilation can be thrown into those cells, because I take it for granted it has been established here that these are not subterranean apartments, that they are simply in the basement of the building, and consequently that by opening windows into the basement whatever is now found to be lacking of air or of light can be furnished at very limited expense.

I have in this connection a communication from Judge Snell, which I have already given to the Senate, in which he states distinctly that these cells are not occupied during the night at all, and instead of

persons being carried there during the night, as my friend from Kentucky alleges to be the case, they are carried to the station-house when arrested, not taken to the police court until morning, when their cases are investigated and the parties are disposed of according as the facts warrant, either by committing them to prison or by releasing them from confinement.

In addition to that I have another communication from Judge Snell, indorsed by the United States district attorney and by both the assistant district attorneys, to wit, Messrs. Francis Miller and Joseph E. Hayden. It reads:

POLICE COURT, DISTRICT OF COLUMBIA,
May 6, 1880.

DEAR SIR: In relation to the "building" occupied by the police court, I beg leave to say that it is ample in its accommodations and well adapted to its use; substantial in its structure and centrally located; and has been pronounced by competent persons the best court-room in the District.

Judging from the experience of ten years, it will be amply sufficient for many years to come.

In 1870, when established, the court tried upward of ten thousand cases a year. The arrests made were upward of fifteen thousand annually. Though population has increased, arrests have fallen to about twelve thousand annually, and cases presented and tried have fallen below seven thousand.

Some fears were entertained that the surroundings of the court might make it an annoyance to the neighborhood, but since it occupied its present quarters no complaints have reached me from any quarter.

Should a new building be erected, I should not expect, on the whole, accommodations equal to those we now possess, because they would not be obtainable except upon terms which would involve too great expenditure to be admitted.

Very truly, &c.,

WILLIAM B. SNELL,
Judge Police Court.

Hon. R. E. WITHERS,
Committee on Appropriations.

I fully concur in the above.

FRANCIS MILLER,
Assistant Attorney District of Columbia.

I concur with his honor, Judge Snell, and know that it is of no small importance to the Government to have suitable accommodations for judicial purposes; and this building is just what is needed.

JOSEPH E. HAYDEN,
Assistant United States Attorney District of Columbia.

I heartily concur with Judge Snell in his statement here; the facts I know to be as stated by him.

GEORGE B. CORKHILL,
United States District Attorney.

Here is the testimony of persons who have no personal interest whatever in the matter, who have no pecuniary interest in the matter, and I humbly submit to the Senate that what they say is well worthy of very serious consideration. Confirmatory of this is a letter of Major Brock, the chief of police, which I have, who states that there has been no complaint that the police court has been a nuisance from any one. If it were the terrible eye-sore which has been described by the Senator from Kentucky, is it reasonable to suppose that the attention of the chief of police would not have been called to the existence of such a nuisance there?

Whether the proposed new court-rooms can be used for that purpose or not, I am unable to say; but the fact that the bill providing for the extension of that building did not contemplate any such use, I take it for granted furnishes evidence enough to justify us in asserting that no such purpose was contemplated when the appropriation for the extension of the building was made.

Further than that, great stress has been laid upon the report made by a committee of the other House in the last Congress which was quoted extensively by the Senator from Kentucky. The only reply I think it necessary to make in rebuttal of that testimony is that one of the gentlemen whose names are appended to that report is the chairman of the House Committee on the District of Columbia, that another is the member of the Committee on Appropriations who reported this appropriation bill which passed the House, so far as I know, without even an objection. No person raised his voice there to demonstrate how unfit this place was or how out of proportion to the value of the property was the price proposed to be paid for it. I take it if this testimony was of much value some of the gentlemen who signed it would have been ready and willing to rise in their places and, at this session of Congress when this bill passed the House, protest against the passage.

It would not have been me, Mr. President, to undertake to discuss the legal question raised by the Senator from Kentucky as to the title to this property. I stated when I was up before that there is a provision of law which prohibits the Secretary of the Treasury from paying any money on account of any public building until the title thereto shall be made clear and undisputed; and that will furnish all the protection that is required on the question of title. If this title be defective, the Senator may rest assured that his object will be accomplished, and the money appropriated by this bill will not be paid for the purpose indicated.

But we are told that it will interfere with judicial proceedings, that a case has now gone up on the appeal to the higher court, and will soon be adjudicated, and that it is a great outrage for the Senate to undertake to step in and anticipate a judicial decision by voting an appropriation which will take the case out of court. I do not pretend to judge of that question further than this: that within one short week the Senate by an overwhelming majority has done precisely that thing. Less than a week ago the Senate voted an appropriation to pay for property which was then at the very time the appropriation was made in process of adjudication before the Court of Claims. Therefore the precedent has been established, and it is no new departure that the Senate should now undertake to make the appropriation which is asked for by this bill.

Mr. President, I have briefly touched upon the salient points which have struck me as cropping out in the debate on this question. I have not undertaken to repeat the arguments with regard to the value of the property, of which I have cumulative evidence before me, because I know that evidence on both sides can be readily procured to an almost indefinite extent; but as that question was argued very fully yesterday, and as the opinion of the Senate was taken upon it by a yea-and-nay vote, which resulted in the decision of the Senate by a vote of almost two to one that the valuation put upon the property was not in excess, I do not think it necessary further to discuss that question, and I leave it to the Senate to decide.

Mr. HEREFORD. Mr. President, it was stated yesterday and has been again to-day—yesterday by the Senator from Ohio and to-day by the Senator from Virginia—that this is a very substantial building. The Senator from Ohio said it would last fifty or perhaps five hundred years. Now I desire to call the attention of the Senate to a few letters which I shall read. The first one that I shall read is from the builder, the man who made the alterations, who ought to know all about it:

WASHINGTON, *May* 5, 1880.

DEAR SIR: In reply to your request asking me to state the condition of the old Unitarian church previous to alterations made by me some years ago, will state that the roof had given way, and it being a segment of a circle and not being properly constructed had thrust the side walls out and would have fallen down had not measures been taken to stay it; the roof was propped up and tie-rods of iron—

And any gentleman can go there and see them now. I went in there yesterday afternoon after the adjournment of the Senate and saw them for myself—

And tie-rods of iron were put through the walls from side to side, and the walls were drawn together; buttresses of brick were built on both sides to give additional strength—

Any Senator can go there and see those buttresses built up all along the length of this building on both sides in addition to the immense iron rods extending from side to side.

Mr. ALLISON. So that the roof is now safe.

Mr. HEREFORD. I should think it was not a very good roof when you hold it together by iron rods, nor a very safe wall when it has to be buttressed in this way—

since which time it has stood in about the same condition as when we left it.

Very truly,

WM. H. BALDWIN.

Mr. J. B. WILSON.

Mr. MORRILL. I desire to ask the Senator if he does not know that that is precisely the form in which large railroad depots are held together and heavy roofs supported, and that this was done many years ago?

Mr. HEREFORD. That is done when such buildings are originally constructed and not when they are in process of falling down and after the walls have been thrust out of their proper level. Any Senator can go there to-day and see those large buttresses and iron rods fastened through that building and holding it together.

Again, here is a letter from a gentleman who was present in this Chamber yesterday as to the value of the property, G. W. Wight, and he is a member of this church and knows all about what he is talking of. Here is what he says.

WASHINGTON, D. C., *5th May*, 1880.

Hon. FRANK HEREFORD—

I never talked with him in my life—

I was present in the Senate to-day while the question of purchasing the police-court building was under discussion, and it was then stated that it was a very substantial building. I know that the building in question is old and insecure—

He was a member of this church at the time and is to-day—

so much so that it was found necessary to build seven buttresses on either side to keep the walls from falling outward. These can be seen by any one from the outside. They were even insufficient to make the building secure, and five two-and-a-half-inch iron rods had to be run across the audience-room and secured on the outside, and they can also be seen. Notwithstanding all these precautions I still regard it as a very insecure building and as a building of no value to the purchaser.

Very respectfully,

G. W. WIGHT.

He was at the time this congregation left this building a member of the church and is a member of the same church to-day, and these are the facts that he states about it. Now you may come here with all the certificates of the officers mentioned to supervise public buildings in the District of Columbia and they are no answer and they can be no answer to the builder who reconstructed it, and to the member of the church who was a member at the time this was done. These men who know all about it say that the building is insecure and they state a fact which no gentlemen controverts; that it was about to fall down; that the roof was falling in, and they had to sustain it in the way I have stated.

Now, as to the value of this property, I have a letter from Mr. M. G. Emery, president of the Second National Bank:

SECOND NATIONAL BANK,
Washington, D. C., May 6, 1880.

DEAR SIR: In my judgment the lot corner of Louisiana avenue and Sixth street, northwest, occupied by the police court, would bring from $1.75 to $2 per superficial foot, if sold for cash.

The building upon this lot is not worth more than the cost of removing.

Very respectfully, &c.,

M. G. EMERY.

J. B. WILSON, Esq.

At the rate of $1.75 a foot, it containing about six thousand square feet, the value would be from nine to ten thousand dollars.

Mr. EATON. There are over seven thousand square feet in it.

Mr. HEREFORD. At seven thousand square feet, it would be less than $14,000.

Again, as to the assessment of this property. I have a certificate from the assistant assessor that it was assessed in 1875 for $15,790, which was just prior to the time when they wanted to sell it.

Mr. WITHERS. I would call attention to the fact that not the assistant assessor, but the assessor, says that the present taxable value of the property as it stands on the assessor's books is $18,700.

Mr. HEREFORD. Here is what he says:

TREASURER AND ASSESSOR'S OFFICE,
Washington, D. C., May 6, 1880.

Value of lot 3, $10,490, $2,000; of lot 4, $3,300; total, $15,790. For the year ending June 30, 1875.

WILLIAM MORGAN,
Assistant Assessor.

The above property is exempt from taxation and has been for years.

Mr. WITHERS. It is now assessed at $18,700, and here is the official testimony of the fact.

Mr. HEREFORD. Here are several letters from builders and contractors:

WASHINGTON, *May* 6, 1880.

We are well acquainted with the property occupied by the police court, situated at the corner of Sixth and D streets, northwest, in this city, and being well acquainted with real estate, our business being that of builders and contractors, in our opinion it is not worth more than $9,000. We attach no value to the building, it being old and insecure.

W. B. DOWNING & BROS.,
Builders and Contractors.

WASHINGTON CITY, *May* 6, 1880.

DEAR SIR: You ask my valuation of the police-court property as an expert in such matters. I think it would be fair to put it at from nine to twelve thousand dollars. I have known it for many years, and would not give over $10,000 for it if I had a desire to purchase.

Respectfully,

S. H. WALKER.

J. B. WILSON, Esq.

WASHINGTON, D. C., *May* 6, 1880.

To JESSE B. WILSON, Esq., *Washington, D. C.:*

I am well acquainted with the value of real estate in the city of Washington and perfectly familiar with the property on the corner of Louisiana avenue and Sixth street, northwest, known as the "police court-house," and in my opinion the full value of the same is not more than $13,500.

J. T. COLDWELL.

I concur in the above as the full value of the property.

GEO. W. STICKNEY.

WASHINGTON, D. C., *May* 6, 1880.

SIR: In answer to your inquiry relative to the value of the property located at the corner of Sixth and D streets, northwest, now occupied by the police court of this city, and being well acquainted with the value of real estate in this city, I have no hesitation in saying that $12,000 is about the value of said property.

Very respectfully,

SAML. NORMENT.

J. B. WILSON, Esq.

WASHINGTON, D. C., *May* 6, 1880.

DEAR SIR: I consider the property located on the corner of D and Sixth streets, northwest, at present occupied by the police court, to be worth, at the present market value of real estate, $2 per square foot. The building upon the same I regard as of no value for either business purposes or private residences.

E. E. WHITE.

Mr. J. B. WILSON.

WASHINGTON, *May* 6, 1880.

I have examined the tax and assessment books of the District of Columbia in regard to the Unitarian church property, now occupied by the police court, being lot No. 3 and the south twenty feet of lot 4, in square No. 489. I can find no assessment of this property except in 1875, when the ground was assessed at $13,790, and the building at $2,000. This was prior to the reassessment, which considerably reduced the valuations. Under the present assessment the ground is valued at $10,369. I find no valuation of the building. No taxes were ever paid on it.

The property on the opposite corner, namely, the northwest corner of Sixth and D streets, is assessed as follows: Lot 1, in square No. 457, fronting fifty-nine feet ten inches on D street, by seventy-five feet deep on Sixth street, at $7,255 for the land.

The relative assessment per square foot appears to be, for the police-court property at $1.75 for lot 3 and $1.40 for part of lot 4, and for the corner opposite at $1.60 per square foot.

The above was made at the suggestion of Jesse B. Wilson, esq.

WM. R. WOODWARD,
Examiner of Titles.

WASHINGTON, D. C., *May* 6, 1880.

I called upon Mr. B. H. Warner this morning, a large dealer in real estate in this city, and his valuation of the property located at the corner of Sixth and D streets, northwest, was $2 per square foot. He placed no value upon the building, and that he would so state before any committee if called upon to do so.

J. B. WILSON.

Now, why under this state of facts are Senators so anxious, when we have any number of acres of land belonging to the Government in this city, to go outside and pay $20,000 for such a piece of property as this? We have real estate all over this city; and why not station the police court on some of that property? There is no contract on the part of the General Government to buy this; it is optional; and we have a year left yet within which to decide whether the Government will take this property or not. Why not wait for twelve months more and then determine the fact whether we want it or not?

With me the most important inquiry to consider is this: Will you force on the people in that part of the city this which I regard as a nuisance? The other day there was a property offered at public auction across the street, and no bid was received for the reason that people will not buy property in that neighborhood. I was there yesterday afternoon; I saw the cells. The Senator from Kentucky was more venturesome than I. I did not go into them; for certainly the appearance of them was enough to prevent my going in. I did not venture in.

I have also a report from the committee to which the whole matter was referred by the House of Representatives. They say:

The building at present occupied by the police court is held at a rental of $1,200 per annum, but is asserted by the commissioners of the District of Columbia to be unfitted and not suitable for such purpose, which the committee believes to be true.

They then go on and argue the question as to the rights of the commissioners to lease or buy this property. I will not take up the time of the Senate by going over that argument. They examine it, and come to the conclusion in this report that the commissioners had no power to buy it. This report is signed by A. S. Williams, Jo. C. S. BLACKBURN, E. J. HENKLE, GABL. BOUCK, WILLIAM CLAFLIN, EPPA HUNTON, HEISTER CLYMER, and Lorenzo Brentano, all of them concurring in these facts.

Why, I ask, should we be in such hot haste, a year in advance of the time when we must decide, to take $20,000 out of the Treasury of the United States and buy this property which, in my judgment, is unsuitable, when we have plenty of property all over the city that belongs to the General Government? During the time I have been in Congress—and I expect to continue to do so unless I see some good reason for a change—I have invariably voted against the appropriation of money out of the Treasury to buy land in the District of Columbia where we have so much. It is said we own half the land in the District; and yet we are all the time buying more. It is said that at one session of Congress we gave to a railroad company for depot purposes an immense body of land, and at the very same session we appropriated $400,000 to buy more land; and so we are going on expending the people's money.

For these and for many other reasons I think we should vote for the proposition of the Senator from Kentucky to strike out the whole twenty-thousand-dollar appropriation. There is not a Senator on this floor who, if you proposed to place a police court near his residence, would not protest against it. Then why force on the residents of Sixth street this nuisance there when you would not like it in your own case?

I see the Senator from Vermont [Mr. MORRILL] desires to take the floor, and I ask him if he would like to have a police court placed near his beautiful residence? No, indeed.

Mr. MORGAN. Mr. President, I have listened to this debate with the purpose of finding out whether this old church ought to be continued for a police court and that court kept there, and whether there was any authority for the action of the Committee on Appropriations in making this suggestion to the Senate of the United States. In the course of my listening to the debate that has gone on here I have become more satisfied than I was before of the necessity of having some local government for the District of Columbia, for the Senate has been engaged now for several hours, part of yesterday and part of to-day, in the discussion of a question that belongs appropriately only to the town council of the city of Washington. Here we are bickering about the question of the purchase of a piece of property. Affidavits come in, reports come in, recommendations come in, letters come in, *pro* and *con;* and Senators have to listen to the opinions respectively of various persons who are interested in various ways, in various degrees, upon this very important question of buying this piece of property. If this property was in the State of Ohio, or in the State of Virginia, and the Senate of the United States had been removed from contact with those persons who are concerned and interested particularly in its disposal, we should have been able to dispose of the question perhaps in half an hour at the most; but here it is in the city of Washington; and whenever a proposition comes up in reference to the disposition of the rights of property of any person whatever in this city the Senate of the United States is converted, as I have observed, into a mere town council, and the wrangles that go on here resemble very much the interesting debates that occur in such bodies.

Now, Mr. President, we have the nearest approximation that we have been able to devise to a city government for the city of Washington, and that is the Committee on the District of Columbia, a large, able committee, and to that we have heretofore intrusted the consideration of almost every question relating to the immediate interests of this locality, particularly interests of the kind that we have had under discussion yesterday and to-day. I understand that it is the duty and business of the Committee on the District of Columbia to inquire into the whole of this business that has been brought here by the Committee on Appropriations, and I think the Committee on Appropriations have transgressed the rights of the Committee on the District of Columbia, and have far exceeded their own powers when they have brought this question in this form before the Senate. What that committee seems to be trying now to do is that which they object to anybody else doing so seriously, in the way of an amendment, or in any other way by which we can reach questions in this body; that is to say, they are trying to make a fresh

law, and under that fresh law to get an opportunity to make a new appropriation.

Mr. THURMAN. Will my friend allow me to ask why he should fall into that error when this item comes in the bill from the House of Representatives, and for all the Senator knows on the recommendation of the District Committee of the House. I do not know how that was.

Mr. MORGAN. I dare say that if any recommendation had come from the District Committee of the House it would have been heretofore ventilated in the Senate.

Mr. THURMAN. I do not know that it would.

Mr. MORGAN. I am satisfied that it would. The Senator himself, in his anxiety to gratify some of his friends, never would have passed so important a point as that. Somebody in Washington City would have shown that the House Committee on the District of Columbia had considered this question, and had within the province and purview of its own jurisdiction determined that this house ought to be bought or that it ought not to be bought. But here come the Committee on Appropriations that have the whole world to deal with; there is no subject known to legislation I believe that that committee is not somewhat concerned in. The breadth of its jurisdiction is almost universal. Not content with disposing of all matters of appropriation in reference to all existing laws, that committee comes here and creates a new law and demands a new appropriation for the fulfillment of that statute.

Now, I ask some Senator upon the Committee on Appropriations or elsewhere to point out to me the statute existing in the United States laws under which there is any provision made for the building or purchase of a court-house for a police court. When has the Committee on the District of Columbia ever recommended a law here to the Senate of the United States under which it becomes the duty of the Committee on Appropriations to make such an appropriation?

Mr. THURMAN. I understand, if the Senator will allow me, that the law officer of this District, who was in office at the time this contract of lease was made, gave his written opinion that the District commissioners had ample power to make the contract both for the renting and for the eventual purchase.

Mr. BUTLER. If my friend will allow me, I call his attention to the fact that in the course of the discussion of this amendment yesterday every member of the District Committee except one voted for the appropriation of $20,000.

Mr. MORGAN. That may be so; and yet this subject has never been discussed in that committee. That committee have not assumed the responsibility of its discussion or its decision. They have been, in other words, cut off from an opportunity of doing so. The town council of the city of Washington has not considered this question, and that is the council that ought to consider it, and ought to consider it before any Committee on Appropriations undertakes to apply money for the purpose which this town council may settle on; and by the town council I mean most respectfully the District of Columbia Committee. That is all the council they have got.

Now, Mr. President, let us look a little at the frame of this law and let us see whether or not the law accomplishes the purpose that it is designed to accomplish. In the first section it is provided—

That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, for the purposes following, being the estimated expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, namely.

"The estimated expenses of the District of Columbia" are to be appropriated for, half out of the United States Treasury and half out of the treasury of the District of Columbia. Half of this money, therefore, is collected by taxation from the people of the District. As our committee have reported this increase, in lines 429 and 430, they say:

For purchase of police-court building, $14,000.

Who is to buy that building? Who is to judge of the title? Who is to determine whether the building should be bought or should not be bought? The committee force Congress to determine that it shall be bought, and leave no discretion on the part of any person whatsoever. Is the Secretary of the Treasury to make this purchase, or are the board of commissioners of the District of Columbia to make it? Not only is this statute silent on that subject, but all statutes are silent on that subject.

I have inquired of the chairman of the Committee on the District of Columbia and other Senators whether there was any existing provision of law authorizing the purchase of property by the commissioners or by any other person. I have been answered that there was no such general provision. If there be not such a general provision, then that power is not given in this statute, for there is nobody named in the statute who is to make the purchase. Congress buys; Congress makes the contract. It does not condescend even to employ an intermediate agent to make it. But we are required here to pay $20,000 for a piece of property straight out, by an act of Congress making Congress a party to the contract on the one part and the church trustees the party of the second part, and there it ends. The title will be vested of course by the act of Congress; there is no necessity for any further investigation about it. There is nobody that can refuse to take it after this law has passed. There is no *locus pœnitentiæ* granted in this law. There is no time for revocation or right of revocation, but the law becomes an absolute and irrevocable purchase of property. The title passes by the law itself from the trustees of the church into the Government of the United States; that is what it amounts to; and yet we make the people of Washington City pay one-half that money; we tax out of them one-half the money and take the title to the United States Government.

Mr. THURMAN. The Senator from Kentucky was complaining that we took it to the District and that the United States had to pay one-half.

Mr. MORGAN. I am speaking of the force and effect of this statute.

Mr. EDMUNDS. May I ask my friend from Alabama a question, and I do it really for information, because I have been listening to him with great interest? I understand him to say that this is a coercive appropriation which obliges the authorities, whoever they are, United States or District, to do this thing. I would like him to explain to me how he reasons that out from the language of this bill which to my mind merely provides either $20,000 or $14,000 for a certain purpose, leaving it to the proper executive department to decide whether it will use that money or will not.

Mr. MORGAN. Well, now, Mr. President, "the following sums named, respectively, are hereby appropriated for the purposes following, being the estimated expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881." There are two reasons why I characterize this as a coercive purchase. The first is that a particular piece of property is mentioned which shall be bought. The second is that no person is named who shall have any option as to the completion of the purchase.

Mr. EDMUNDS. But where, I ask my friend, does he get the provision that it shall be bought. The bill only says "for hay-scales $200;" that is under the head of "miscellaneous expenses." I take that as an illustration, because I want to get at the Senator's idea. Does he mean that the commissioners of the District or whoever the authorities may be are obliged to buy two hundred dollars' worth of hay-scales?

Mr. MORGAN. The difficulty was in the alternative proposition stated by the Senator from Vermont, the words "or whoever the authorities may be." Who are they? Where is the statute?

Mr. EDMUNDS. That is another point. The question is whether the appropriation of this money compels anybody, either District or national authority, to buy this property, or whether it only supplies so much money to be expended if the executive department of the District or of the United States on their responsibility think it fit to buy it. That is the question that I want light upon.

Mr. MORGAN. My impression is that it is a compulsory purchase.

Mr. ALLISON. May I ask the Senator——

Mr. MORGAN. Let me answer this question first. It is a compulsory purchase, because of the fact that there is no statute which empowers the commissioners of the District of Columbia to buy property.

Mr. THURMAN. There I beg leave to say my friend is mistaken.

Mr. MORGAN. Then I have been misinformed by gentlemen who ought to know better than I do about it. I should be glad if the Senator from Ohio would point it out.

Mr. EDMUNDS. Suppose there is none; this statute then empowers them to buy it, and the question is whether a grant of the power is an authoritative command that they shall do what this act, it is true if you provide the money, enables them to do. That is the point.

Mr. MORGAN. My point about that is that inasmuch as there is no functionary named in this or any other statute to make the purchase of ground, the power operates *eo instanti* on the passage of the law and does not need any other agency to carry it into effect, because we legislate on what we know to be the state of the law, and legislating for the purchase of a piece of property, there being no authority named having the discretionary right to purchase or not purchase, that act of Congress the moment it operates transfers title as soon as the other parties give their consent.

Mr. ALLISON. Now, I want to call the attention of the Senator from Alabama to section 2 of this bill, which provides a method by which all this money can be drawn from the Treasury of the United States, where it must all go under existing laws, and of course section 2 will apply to this appropriation as it will to all others in the bill. If the commissioners of the District of Columbia still think, after looking this whole matter over, that it is unwise to buy this property, they of course will not draw the money appropriated for this purpose, and the money will not be used.

Mr. MORGAN. What part of the section does the Senator refer to?

Mr. ALLISON. The whole section. The money is to be deposited in the Treasury.

And shall be drawn therefrom only on requisition of the commissioners of the District of Columbia, * * * such requisition specifying the appropriation upon which the same is drawn.

Of course, if the commissioners of the District of Columbia do not make requisition for this specific purpose, for the reason that they think it is not a judicious purchase, the money will not be used.

Mr. MORGAN. The second section of this act refers merely to the method of drawing money and making payments, and that is the whole purview of that section—the drawing of the money and making payments of it.

Mr. ALLISON. But there is an appropriation here for hay-scales. Suppose the commissioners of the District of Columbia do not choose to make a requisition for the purchase of hay-scales, believing that

hay-scales are not needed, is there not a discretion in their hands in reference to it?

Mr. MORGAN. If the hay-scales belonged to a particular individual and they were specified as that particular pair of scales that should be bought, then I should say the title would pass as soon as the owner of the hay-scales consented after the passage of the act.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. MORGAN. Certainly.

Mr. CONKLING. Understanding it exactly as the Senator from Alabama does, that this is a peremptory vote that this money and no less sum shall be paid for this property, and having been a little while compelled to be out of the Senate, I beg to make this inquiry: I heard the honorable Senator from Ohio express his belief that this building would be good for fifty years, and rising somewhat in his credulity he eventually stated that he thought it would for five hundred years. I understand that this afternoon some proof has been given in that regard, and as I have no other means of getting at it, if the Senator from Alabama knows what has been shown about the nature and character of the building, I should like to know. I understand something has been said on the subject; but what it is I am not aware.

Mr. MORGAN. I think that as well as I understand from the evidence this building is something pretty much in the form of an old brick-yard with walls bulging out and about, and therefore buttresses were put against the walls for the purpose of uniting them, and in addition to that some six or seven iron rods were run through the building from side to side with the view of tying it together. That has been shown; and then on the other hand it has been shown that the judge of the police court and his bailiffs and perhaps several other persons are not at all afraid of it. Then it has been shown by a member of the church, one of the same congregation, that he thought the building was quite insecure. The Senator from West Virginia laid great stress on his credibility. That, so far as I know, is about the drift of the evidence in this regard.

Mr. BUTLER. The Senator will pardon me for suggesting that the inspector of buildings of this city also pronounced in favor of the building, which is a very important item.

Mr. MORGAN. Yes, I believe that testimony was produced. There is a good deal of important testimony in this case on both sides, showing that the case is one very narrowly balanced between plaintiff and defendant, and in the language of the Maine judge, I think the Senate in this case ought not to lean too much in favor of the plaintiff for fear they would lean too much against the defendant, and on the other hand they should not lean too much in favor of the defendant lest they might lean too much against the plaintiff, but by all means to observe a middle extreme. [Laughter.] And so I propose, in the event that the amendment of the Senator from Kentucky is voted down, to offer an amendment which will make this bill a little less personal in its character, a little less peculiar in its object, a little less specific, which will read about this way, after striking out the words which have been so long the subject of controversy:

For the purchase or erection of a building for a police court, $14,000;

So as to leave these people who have by taxes to pay one-half of this money, and who are supposed to be represented by the commissioners of the District, some opportunity of going before those gentlemen and presenting their arguments *pro* and *con* to see whether or not the commissioners would feel warranted under a sense of duty to the people of the District of Columbia to buy this building after all. If we tax one-half the money out of these people, the very men who have to pay a portion of it, and whose property is likely to be largely damaged by keeping the police court in this building as we are told, if we are going to take the money out of their pockets to buy it, and then vest the title in the United States Government, it seems to me we ought to leave to the commissioners of the District some little discretion in reference to what building they will purchase, or whether they will take the $14,000 to erect one. I think a mighty good police-court building could be erected for this town, the ground paid for and everything needed put up, for $14,000. It would not be a very handsome structure perhaps, but it would look quite as well as that old brick-yard does now and would be more secure. We could take the money and build a better house for $14,000, a very much better house for the purpose than that which is already upon the ground. Whether we shall build upon a public lot or whether we shall buy some lot for the purpose would not make very much difference.

But, Mr. President, I do object to making a specific personal appropriation of money in this Senate and in the Congress of the United States to buy a particular man's property at a particular price. That is the point in this case. A particular man's property named in the bill must be bought at a certain sum of money; and so anxious are Senators to get hold of it that they will not stop and consider and provide by law who has got to have the title after it is bought, or what conveyances are to be made to convey the title, what investigation is to be made of the title, or whether there is to be any person who shall have the option to say that we will buy after all or that we will not buy after all. That is this bill, and I dislike that sort of personal, specific, and peculiar legislation. I do not want any American to say as to another American, "You had power in the Senate of the United States to coerce that body to buy your property at a price that you named." Let us have fair play. If you want to purchase property, go into the market and buy it; vote the money and build a house on it; or else buy one that is suited to the purpose. Then we can settle the question, and then will be the time to do it, because I understand there is a year yet before we are bound to pass on this question.

Mr. WITHERS. Would not an appropriation have to be made eventually for the purchase of property belonging to an individual?

Mr. MORGAN. After it was bought, not before.

Mr. WITHERS. We have the privilege of purchase now.

Mr. MORGAN. I notice about that privilege of purchase that it rises year by year—$18,000 one year, $19,000 the next, and $20,000 the next. I do not know where it will go. Why did you not buy two years ago, when you could have got it for $18,000, instead of waiting until now and having to pay $20,000? Why did you not do that?

Mr. President, I have never seen, it seems to me, a shallower pretense of a right on the part of any vendor of property to claim the purchase-money than that which is set up here, that because the Government of the United States or of the District of Columbia retained an option to buy this property at $18,000, $19,000, or $20,000, therefore we are bound to take it.

Mr. MORRILL. Mr. President, this case would never have been here but for the contract of the commissioners of the District of Columbia, and I regard it as a matter of simple justice that the sum named in the bill as it came from the House should be appropriated.

This contract was made by authority by the commissioners of the District; and the owners of the property, as I understand, on two different occasions were very desirous to have the contract abrogated, but it was refused, they having an offer of an equal amount provided they could have got a release from the District commissioners.

Now, Mr. President, let me say in regard to economy that the idea of abandoning this contract in order to save any money is utterly out of the question. If this shall not be retained we shall be called upon or the District will be called upon to erect a building that will cost two or three times as much as this.

Then in relation to the security of the present building, it is true that the interior of the building was many years ago re-enforced. I doubt to-day whether there is a building in the city more secure than it is so far as there is any danger or apprehension of danger on account of any part of it tumbling down. It is fastened with the strongest kind of buttresses and with irons running through the center, so that unquestionably the roof would sustain a much greater weight than it ever will be required to sustain.

This building is located at the corner of Sixth street and D street, at the intersection of Louisiana avenue. So far as I know, I do not think that there is a more fit or proper place in the entire city of Washington for a police court. There is a large, open space in front of it. The police court must be located somewhere where it can be convenient, and this place I take it is as convenient as any spot that can be obtained.

The idea of making accommodations in the City Hall, I am told is exceedingly repugnant to the judges of the supreme court, and they would even rather be turned out of their building themselves than to have in the same building the police court, with the assemblage that usually occurs every morning bringing up all the stragglers, the drunkards, and street-walkers to the corridors of the court every morning; and I do not blame them. I think we ought to keep the supreme court separate and distinct from the police court. All the officers of the police court of the District concur in regarding this as the most suitable place we have, and certainly I regard it as economical, and perhaps more economical than anything else that could be provided.

Now, one word in relation to the value of the property. There are six thousand one hundred and twenty feet of land. It was appraised in the assessor's office by men under oath at $2 a square foot in 1877. Property since that time has increased somewhat, and I suppose that perhaps a fair valuation would be from two dollars to two dollars and a half a square foot for the land alone. I therefore regard the purchase as a very reasonable one. I understand that some of the foremost men in the District, who deal in real estate, appraised this at $18,000 to $24,000, and one of the very men who came before some committee and reported that it was not worth over $14,000, himself made an offer in writing—Hanna—of $18,000 for the property, I understand.

Mr. THURMAN, (Mr. COCKRELL in the chair.) Mr. President, I promise the Senate not to occupy ten minutes of its time. A question has been made as to the power of the commissioners to make this contract with the trustees of the church. That question was submitted before the contract was entered into by the commissioners to the then attorney of the District, General Birney. He, after full examination of the question, gave them his legal written opinion that they had authority to make the contract, that they had the authority and right to acquire the property by lease, which carried with it the right to acquire it by a better title. That question was brought before the supreme court of this District on the bill to which allusion has been made, and four of the five judges of the court decided that the commissioners had the authority.

That ought to settle that question, if it were at all material; but it is not of the least materiality in the world, because if this is a proper contract to be ratified by Congress, or if this is a proper place for the police court, Congress has ample authority to give all the

power that is necessary to complete the contract, or to make the purchase independent of the contract. So it is not a question at all of whether the commissioners transcended their power or not, although, in point of fact, they did not transcend their power.

Now, one word in respect to what was said by the Senator from Kentucky this morning as to the cells, which seemed to make quite an impression on some members of the Senate and quite shocked them as if they were hearing of the Black Hole of Calcutta. Why, Mr. President, what is it? The Senator looked into some cells and there were no outside windows. Why, sir, there are no outside windows to this cell in which I am speaking now. The Senator probably has looked in his philanthropic researches into penitentiaries. Did he ever see a penitentiary in which there were not hundreds of cells that had no outside windows, the very best of penitentiaries, with hundreds and hundreds of cells where the prisoners stay all night long without a single outside window? All the window, if you may call it such, which they have is not a window at all, but a grated door opening upon the corridors that run along in front of the cells. This is not a prison; it is a mere temporary cell where men stay until their case is heard; and we know how rapidly cases are disposed of in the police courts.

A good deal has been said about this building, and it has been described by a Senator this morning as an old brick-kiln. Well, it is a historic brick-kiln, if it is one. It is a brick-kiln in which forty years ago I saw men whose names are venerated and ever will be venerated in American history at their devotions, where they went Sabbath after Sabbath as long as they had a residence in this city. It is not a contemptible brick-kiln by any manner of means, nor is it a dilapidated brick-kiln; nothing of the kind.

My friend from New York, with that disposition for humor which is so strong in him, has ridiculed it upon the idea that I expressed that the thing might last for fifty or even for five hundred years. Why, sir, right out there in front of us is what is called the old Washington House, nearly one hundred years old, and on which, within the last two years, one if not two stories have been placed, and there it stands as firm as the fame of George Washington himself. The oldest structures in this world now standing are built of brick, and the oldest that ever will stand will be built of brick.

Mr. President, any structure, if no care is taken of it, will go to pieces, I do not care of what you build it. You may build it of iron and it will go to pieces if no care is taken of it. But almost any well-built structure, if care be taken of it, will last, if there be no great conflagration or earthquake to destroy it, quite long enough for the uses to which it is to be put. Here on this subject you have had the testimony of the judge who sits there. Does he want the house to fall down on him? You have heard the testimony of the district attorney and the two assistant district attorneys, whose business calls them there. Do they want the house to fall down on them? You have heard the certificate of the inspector of buildings, who has made a special examination of this house and reports it to be safe and sound. Is he going to violate his oath of office and his duty and impose upon Congress a false certificate on this subject?

But let me call your attention to what was said by the former attorney of the District who examined this property before the purchase was made. After speaking of the unsuitableness of the old police-court building, he said:

> The urgent necessity of removing the police court—

That is, from the old place on C street—

> was very often brought to the attention of the commissioners. Some, if not all, of the members of your board visited the premises complained of, and verified the complaints made against them. There was no doubt, so far as I know, as to the power and duty of the commissioners to provide a suitable place. There was a great deal of difficulty in finding one which could be had at a reasonable rent. In several cases exorbitant rents were demanded. The only fair and reasonable offer of suitable premises was the one you accepted.

That is, this old church.

> I knew nothing of the offer until the question of title was referred to me for examination; but the location appeared to me the best, the building suitable, and the rent moderate. The building is on a broad street, in a neighborhood abounding in law offices. It is near the City Hall and opposite police headquarters. It would be difficult to find any neighborhood in the central part of the city where the location of the police court would be objectionable to fewer persons. The effect upon the value of dwelling-houses in the immediate vicinity may be unfavorable, but the property itself is probably made more valuable for offices.
>
> My opinion as to the legality of your action has been sustained in the most decided manner, by four out of five judges of the District court; the expediency of your action has been generally approved, I think, by persons familiar with the facts, and not sympathizing with the personal grievances of the complainants in the equity suit; and that you were not governed by considerations of duty to the public is a charge opposed to all the facts known to me.
>
> With the highest regard, I remain, yours, &c.,
>
> WILLIAM BIRNEY.
>
> Hon. WM. DENNISON,
> *United States Commissioner, District of Columbia.*

Mr. President, one word more. I think I have never known gentlemen to draw on their imaginations more than my friends who have been describing the horrible nuisance of a police court. I referred yesterday to the police court in Cincinnati, on Ninth street, a narrow street. To-day I asked my friend and colleague whose seat is before me, [Mr. PENDLETON,] knowing that his knowledge of the locality was much better than mine, what are the buildings opposite that police court, across that narrow Ninth street in Cincinnati; and what did he say? "Two churches and a female seminary." The police court does not interfere with the churches; it does not interfere with the female seminary. I spoke of my own town. I want to say that I may possibly have been mistaken in my recollection as to the police court there having been held in the building in which the post-office was held. I am in some doubt as to whether I was correct in that statement or not, although I will not assert that I was wrong; but I know where it is held now, and I know that it is held in a neighborhood where nearly all the buildings are private dwellings and nice private dwellings too, and I have passed by that city prison and police court again and again and again to admire it, for it is a nice building, and I never saw ten men on the outside of that building. And if there was anything like a crowd there to disturb the public, just as is the case here as I am assured by the late chief of police of this District, there is always a sufficient police force at the police court to see that the streets are not obstructed by those people whom the Senator from Kentucky called the scum of Washington. That is provided against. I passed this morning in sight of this police court, and I did not see one single human being in Sixth street on that block.

Mr. President, this is a matter of fancy. The Senator from West Virginia with great emphasis asked of me "if this police court were now proposed to be established next to your dwelling would you like it?" No, I would not; I grant I would not; but I should have no right to say to the public authorities "you shall, because I do not like it, put it next to somebody else who would dislike it just as much as I." There are many things that I would not like next to my dwelling. I would not like a public tavern next to my dwelling. I would not like a public restaurant next to my dwelling. I would not like diverse business houses that might be very useful and excellent next to my dwelling. I would not like a Joss temple next to my dwelling. There are a great many things I would not like next to my dwelling; but it does not follow that I can say "I will not have them, they shall not be established there because they offend my esthetic tastes, and they shall be put down by somebody else to offend his tastes and his feelings."

But it is said we have plenty of ground and we can put it where it will offend nobody; and my friend from Alabama really does indulge the idea that you can build a police court with the necessary cells and so on for $14,000. I tell him that if we undertake to build a structure upon the public grounds belonging to the Government in the city of Washington $50,000 will not pay for it. It is much more likely to cost $75,000. I say in an economical point of view the Government never had so good a proposition offered to it as that for the purchase of this property.

One word more about the title. The title was examined by General Birney, the attorney for the District, and found to be good. It does not require any certificate that it is good to me, for it is more than forty years since I was first in that church and it was then in possession of this same Unitarian society, and it has been occupied by them or the lessees under them ever since that time, a period of forty-one years. I think that is a good enough title of itself. Nobody questions the title. Then where is the title to go? It has been very well said by the Senator from Vermont [Mr. EDMUNDS] that this is simply an authority to buy; it is an appropriation, and if there is nobody to make the purchase and take the title then there is no harm done. That is very certain; but I have no doubt in the world that there is ample authority to take the title. There is ample authority on the part of the District commissioners, as was decided by four out of the five judges of the supreme court, to make the purchase; and when you give them the means to make it, I presume they will do it. If there were not, if you made the appropriation for the purchase of it, the executive department of the Government would have a right if there were no District commissioners to take the title.

Several SENATORS. Vote! Vote!

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question is on the motion of the Senator from Kentucky, [Mr. BECK,] to strike out in lines 429 and 430 the words:

> For purchase of police-court building, $20,000.

Mr. CONKLING and Mr. BECK called for the yeas and nays, and they were ordered, and the Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] If he were present, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 22, nays 33; as follows:

YEAS—22.

Bayard,	Conkling,	McDonald,	Teller,
Beck,	Davis of Illinois,	Morgan,	Vance,
Booth,	Harris,	Pendleton,	Voorhees,
Call,	Hereford,	Pryor,	Williams.
Cockrell,	Hill of Georgia,	Saulsbury,	
Coke,	Kernan,	Saunders,	

NAYS—33.

Allison,	Eaton,	Kellogg,	Rollins,
Anthony,	Edmunds,	Kirkwood,	Slater,
Blaine,	Farley,	McMillan,	Thurman,
Blair,	Ferry,	McPherson,	Wallace,
Bruce,	Garland,	Maxey,	Windom,
Burnside,	Hampton,	Morrill,	Withers.
Butler,	Hoar,	Paddock,	
Davis of W. Va.,	Ingalls,	Platt,	
Dawes,	Jonas,	Plumb,	

ABSENT—21.

Bailey,	Groome,	Jones of Nevada,	Vest,
Baldwin,	Grover,	Lamar,	Walker,
Cameron of Pa.,	Hamlin,	Logan,	Whyte.
Cameron of Wis.,	Hill of Colorado,	Randolph,	
Carpenter,	Johnston,	Ransom,	
Gordon,	Jones of Florida,	Sharon,	

So the amendment was rejected.

Mr. BECK. I move to add after the word "dollars," in line 430, these words:

But no part of the money hereby appropriated shall be paid until a deed shall be tendered by the vendors which shall be satisfactory to the Attorney-General of the United States.

Mr. WITHERS. I understand that to be the existing law, and I think it is entirely unnecessary to add it here.

Mr. BECK. I assert that there is no such existing law. This is a deed to be made to the District of Columbia, not to the United States. There are provisions of law where deeds are made to the United States, but when the United States is putting in its money, $10,000, to buy property for other people, and is to have no control over it, and it is to be conveyed to other parties, surely it is as little as Congress can ask, when they know nothing about the title, to propose that a satisfactory title shall be shown. Here is simply a lease which gives the commissioners the option to take the property at a given price; and now before $20,000 is paid for it, one-half of which comes out of the Treasury of the United States, I ask only that a deed shall be tendered by the vendors satisfactory to the Attorney-General of the United States.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky.

Mr. THURMAN. I call the attention of the Senate to the fact that this title had been examined by the former attorney of the District, and to the fact that it is known, not simply to myself but to other Senators here, that this property has been in the undisturbed possession of the Unitarian society for at least forty-one years, and no doubt much longer. This amendment is, in my judgment, wholly unnecessary. It is not to be presumed that the commissioners are going to take a deed which is defective in form. A simple deed, such as almost any attorney in the District can prepare, for property well defined, is not what requires any examination on the part of the Attorney-General. I should not object to the provision but that I really do not see the necessity of amending the bill for any such purpose.

Mr. BECK. The lease on its face shows that it was made by a meeting of the seat and pew holders of that church reciting some conveyance they had made before, after due notice, that authority was given to certain persons. This was done on the 31st day of May, and the lease was executed on the 1st day of June, 1877. The papers do not show that any binding obligation was made on them to make the sale at all, nor that the persons who made the lease were duly authorized by anybody to do it; and no matter who examined the title then, surely it is a very simple matter if there is an honest intention in the case to provide that the title shall be examined and a good title made before the money is paid.

Mr. CONKLING. Mr. President, it seems to me this is a very extraordinary case as it stands so far before the Senate. My sympathies are entirely with this church, not with the old church of which the knowledge of the Senator from Ohio goes backward forty years and forward from fifty to five hundred, but with the new church which has been erected, as I understand, next door to the mansion of the honorable Senator. I cannot commend too warmly the Christian and progressive spirit of that congregation. In leaving this old site they sought not a fashionable quarter of the city, but they hunted missionary ground [laughter] and most discreetly I think. Before long now two great congregations are to assemble known sometimes as national conventions. Their purpose is to nominate each a candidate for the Presidency; and most unfortunately I think, they will be unable to nominate but one each. Growing out of this circumstance I fear the consolations of religion will be greatly in demand in that quarter of the town in which this congregation is directing its missionary labors. [Laughter.]

And for these reasons, if for no others, my heart and sympathy go out toward this congregation, and I would in almost any way that I can think of now except by giving a vote which I believe to be wrong, bid them God-speed and aid them in their efforts to disseminate the Gospel, especially in that particular locality.

But, Mr. President, ardent as I am, fiery as is my zeal for this congregation and the work it is carrying on, I really think the honorable Senator from Ohio asks us now to go too far. I believe—but I am not going to argue that—that the purchase of this ancient church site for this purpose, and by legislation so peremptory as this, is improvident and unjustifiable; but the Senate has voted upon that, and I well know how right the Senate must be and how wrong inevitably I am when a majority records itself in favor of a proposition which does not commend itself to me. I am not going, therefore, to retrace the argument on that branch of the case.

But now the Senator from Kentucky proposes that when this act comes to be executed the law officer of the United States, the only officer who holds that place, chosen and appointed for just such purposes, shall do what my honorable friend from Illinois [Mr. DAVIS] as an individual would do if he were going to purchase this church himself, namely sit down as a lawyer and look not to see whether the blank which can be found in the "Clerk's Assistant" or in a "Justice's Court Manual" has been properly filled up—because the honorable Senator from Ohio said none too strongly that almost anybody could do that—but review the facts, look at the chain of title, see its source and origin, before this money is paid. The honorable Senator from Ohio objects to that. What is the objection? Why he says it is wholly unnecessary; he says the presumption is that somebody will look at this title and see that it is all right. Is it not a sufficient answer to that to ask then what harm in saying it? We are trustees here; we are dealing for somebody else; and would it be unusual for a trustee paying over trust money, if he was going to depute an agent to do it, to direct him to see in the ordinary customary way that the title and the muniments of title were good?

If the honorable Senator from Ohio will bear with me I can make a suggestion to him which will commend itself to him. This property was occupied by a congregation, by the members of a church, and a church without a bishop I believe, which I think is commendable, as I would also commend a State without a king. It was occupied by a congregation, and they or somebody for them originally took title from whom I do not know. Now, does not every lawyer know, does not my distinguished friend from Illinois before me who knows something about the history of the country and its customs in the transfers of real estate know that nothing is more usual than a clause of reversion in a deed which originally carried real estate to a church corporation, and much more to a church congregation merely? What do we know in this case as to that? Something may have been said which has escaped me; but I have not heard anybody state the origin of this title. I have not heard any Senator state for himself or for anybody whose testimony he has before him, that he knows that there are not or were not in some of the conveyances, original or mesne, of this property, reservations, clauses preventing its being diverted to other purposes, covenants under which it would revert or go in some other direction or become subject to some condition.

Mr. THURMAN. Did the Senator hear what I read from General Birney?

Mr. CONKLING. Now, within a few moments?

Mr. THURMAN. Yes.

Mr. CONKLING. Yes, sir, I did. I heard the honorable Senator read from General Birney that he had examined the title and found it good. Was not that the effect of it?

Mr. THURMAN. Yes, sir.

Mr. CONKLING. I assume that, and I assume that the words were written in the best of faith and by an intelligent man who believed what he said; but I think I should answer the question of the honorable Senator from Ohio quite sufficiently if I were to ask him whether he as attorney or counsel for minor children or even for an individual able to take care of himself if he were on the spot, would pay over $20,000 for a paper title of that property and justify himself in doing it because he reads from a printed pamphlet that General Birney said he had looked at the title and found it good?

No, Mr. President, as the honorable Senator from Ohio very rarely but sometimes does say, "that won't do;" and the honorable Senator from Ohio would never have attained the distinguished position which he occupies in the profession not only for intelligence but for character if he had at any stage of his professional life done business in that slipshod and regardless way. He knows that if he were going to pay his own money for this title he would either have somebody examine it or he would examine it himself, and if he had my money in my absence to pay for it he would be a great deal more certain to do it than if he was going to pay money of his own.

But, Mr. President, that is foreign to the purpose. The more correct this title shall be as a paper title, and in consequence of long user, of adverse possession, I suppose the Senator meant when he said that forty years ago he had seen great men enter that tabernacle and depart from it—the better this title may be I say, either on paper or by adverse possession, the easier it be to make profert of it and to manifest to the Attorney-General that the title is complete.

Now, what objection is there to it? Is it a slur upon anybody? Does it carry an implication with it upon anybody? If it did I would not like to vote for it, because as far as I know the persons interested in the church (and I know several of them because they have taken occasion to speak to me very earnestly on this subject; one has not been allowed to go under the misfortune of not knowing some of these gentlemen) everything that was said of them yesterday by the Senator from Ohio I am willing to adopt and repeat. If it was a slur upon them or either of them, I should dislike very much to vote for this amendment. But is it offensive to anybody when the Congress of the United States is directing money to be paid for real estate, to require that the regular deputed agent for that purpose of the United States shall look at the title and see that it is all right before the money is paid over? If we have come to do business in an atmosphere so redolent with etiquette and exalted observance as that, I think we shall find ourselves on what Leslie Coombs of Kentucky used to call the "high pints." I do not understand that there is any criticism of that sort properly to be made.

Mr. President, a memorandum handed me by another Senator suggests to me that I have been deficient at least in statement because he says that it strikes his mind that usually property held by a church

would be so held that it could not be alienated by that church absolutely and indiscriminately. So it seemed to me, and I supposed I had made that suggestion some moments ago, that it usually passes not as an absolute title in fee-simple broad and naked and like a sale from one man to another, but granted for church purposes; it is commonly restrained and burdened—that is the word the law uses—burdened with certain restrictions. The suggestion made to me is the very one which I intended to make some moments ago.

Another Senator has been kind enough to furnish me with a statute, which I judge is relied upon to show that this amendment in a word is unnecessary, and as I have not had an opportunity to read the statute I will read it, by permission of the Senate, aloud.

Mr. EDMUNDS. What is the section?

Mr. CONKLING. Section 355:

> No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, * * * or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, nor until the consent of the Legislature of the State in which the land or site may be, to such purchase, has been given.

I have not read the whole of this section, although I judge I have read the part of it which touches this point. If it were handed to me to read in opposition to this amendment, I read it most emphatically in support of the amendment, because it shows that Congress has deemed it proper to enact as a standing statute applicable to all cases whatsoever which it covers the equivalent and counterpart of this very amendment; and yet it does not cover the case now before the Senate. Let me see if it does:

> No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, * * * or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title.

Here is a case of land not purchased as a site on which to erect a building, but a site on which already stands, and as the Senator from Ohio says will stand for five hundred years at least, that he knows of, or seems to think, the building which is to be used. Therefore this statute as I understand it, and for another reason as well, does not cover the case which we have before us.

Mr. BECK. The title is to pass to the District of Columbia and not to the United States in this case.

Mr. CONKLING. The Senator from Kentucky in his seat suggests an additional reason why it does not apply to this case. But the reason of it applies to this case; the good sense of it applies to this case, and that is a good sense which I think will commend itself to the Senate, unless there be some reason why this particular proposition in the bill should be agreed to here without the dot of an *i* or the cross of a *t*. If there is a fear in this body that the co-ordinate branch of Congress, should it get an opportunity again to act on this proposition, may act adversely to it, I can understand the opposition to this amendment; but I venture to say that the wit of man can suggest no other solid reason against it. If the Senate amends this provision of the bill at all, it will become matter of disagreement between the two Houses, and if the House of Representatives then choose to amend it further they may do it; whereas if it is preserved just as it is, voting down every amendment however meritorious, then any sharp parliamentarian can say to a committee of conference, "You cannot touch that, because the two Houses have agreed upon it, and you have nothing to do with it." If that be the pea in this shoe, I understand exactly why it is that Senators are so very tender-footed about adopting any sort of amendment.

Mr. EATON. Possibly that is the reason why Senators want the amendment adopted.

Mr. CONKLING. My honorable friend from Connecticut, who comes from a sharp place and is a sharp man, suggests to me that possibly that may be the reason why the amendment is offered. An amendment is a good one that has for it two sufficient reasons; that must be a very good amendment. This amendment has a reason for it good enough to have been carried into the general statutes, to apply to every case which the statute reaches, and it is a reason which commends itself to any honest man and every honest man. That is enough for it to stand on. If in addition to that it has the reason suggested by the honorable Senator from Connecticut, although I know nothing of it, I only say that it is an amendment which rests upon two foundations, one of which is quite enough to sustain it.

I submit with great deference that, meritorious as this thing may be, it is not wise or wholesome to have it understood that because a number of persons, however meritorious, are interested in a particular thing, and because they unite and assent in urging it upon members of the Senate, that sort of persuasion has the power not only to induce the Senate to do what I think is an improvident and extraordinary thing, (I say that under favor, as the Senate has adopted it,) but then to go further and say it shall be done in such a way as to exempt it from ordinary business-like scrutiny, and to take it out from under the operation of an amendment, which proposes to place it just where that general statute places the great body of purchases of real estate for public buildings.

Mr. THURMAN. I dislike exceedingly to vex the ear of the Senate with further remarks on this bill, and I shall endeavor to be as brief as possible. I expressed my disapprobation of the amendment offered by the Senator from Kentucky, because I considered it wholly unnecessary, and I strongly suspected that the effect of it would be that which now the Senator from New York is openly advocating, and that is that this provision which passed the House of Representatives, I do not know by what vote, and I would not be authorized to state if I did, which has passed the Senate twice now in effect and by a vote of nearly two to one at each time, shall go to some conference committee to be tinkered there, so that the opinion and judgment of nearly two-thirds of the Senate shall in some way in the end be defeated. I do not say that is the reason of the Senator from Kentucky, for I am not accustomed to impute motives at all.

Mr. BECK. I will answer that.

Mr. THURMAN. I do not impute any such motive to him; but if that had been his motive he could not have taken a much happier way to effectuate it than to propose this amendment, for it is true as stated by the Senator from New York, that if this provision in the bill goes back to the House as it came from the House, there is then no matter of dissent between the House and the Senate upon this subject, there is not a question which can come before a conference committee upon the dissenting votes of the two Houses. We know very well that, very erroneously in my judgment, House conference committees have again and again insisted that if you amend a clause in a bill in the least particular whatever that opens the whole clause to the consideration of the conference committee.

Mr. HOAR. Will the Senator from Ohio allow me to make a suggestion to him at that point?

Mr. THURMAN. Certainly.

Mr. HOAR. The law which authorizes the purchase of land for school uses in this District, under which very costly structures, amounting to more than $100,000 in some instances, are built, simply authorizes the school board of the District to buy land, or if they do not buy it to condemn it themselves, and they take, without any expression of the statute, the entire responsibility of seeing that there is a good title, and we leave it to them under our general law. Now, can we not leave the same discretion to the commissioners of the District in buying this little police-court lot?

Mr. THURMAN. I am coming to that presently. I was speaking about the effect of amending this clause. We know very well that there has been a difference of opinion between conference committees of the Senate and conference committees of the House on the subject of what are the disagreeing votes of the two Houses for many years, the conferees on the part of the Senate generally maintaining that the conference is limited to the specific matter upon which the two Houses disagreed, but on the part of the House it being contended that if you amend anything, if you cross a *t* or dot an *i*, that opens the whole section or paragraph of the bill to a consideration and that it may be absolutely stricken out, although it may have been agreed to by both Houses. Now, I do not want that.

Then I cannot see the necessity for the amendment. Is it possible, does any Senator fear now really, that the District commissioners will ever agree to purchase this property without having the title, if it needs any further examination, thoroughly and completely examined? Does any man believe they will do any such thing as that? Has any Senator any fear that the District commissioners are in a conspiracy to defraud the United States or defraud the people of the United States, and that they will not honestly expend this money? Even if the statute which the Senator from New York has read, and upon which I shall have a word to say in a moment, had no application here at all, does anybody believe that these gentlemen who are appointed by the President and confirmed by the Senate, who are men of standing and character, are going to expend $20,000 of the people's money without seeing that they get a good title? In the face of that and in the face of the fact that for nearly or quite fifty years that property has been in the possession, the undisturbed, unchallenged, unquestioned possession of this religious association and its lessees since they leased it three years ago, where is the necessity, who can believe there is any necessity to amend this provision in the bill so as to open it to the manipulations of a conference committee, for that is the whole effect of it. Mr. President, I cannot believe it.

Besides that, I quite disagree with my friend from New York upon his interpretation of this statute. I am inclined to think that the statute applies to this very case. Certainly the reason that he gives why it does not apply is one that he will not stand to when he wakes up to-morrow morning if he sleeps over it at all. The idea that this statute only applies to the purchase of some piece of vacant land upon which the United States intends to erect some kind of a structure is altogether too narrow an interpretation of the statute; it is altogether too much sticking in the bark for the broad intellect of my friend from New York. If we were to pass a bill to purchase the building which was erected for the Freedman's Bank, or Freedmen's Bureau, or whatever it was, and which is now occupied by the Attorney-General of the United States and by the Court of Claims, and which we would not want to change by one iota, does the Senator from New York think that this statute would not apply to it, and that no certificate of the goodness of the title by the Attorney-General would be required, because the building had been already erected? Oh, no, Mr. President, he never would give such an opinion as that in the world. He would not interpret the statutes in any such narrow way in the world. He would know that that would be rendering it too literally, and that would not do at all.

My friend from Kentucky on the left did suggest a matter, however, that is worthy of consideration. Says the statute:

No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever.

Says my friend on the left, this is not a purchase by the United States, and therefore this statute does not apply. That is worthy of consideration. I say that whether the title is given to the United States, whether the property is conveyed directly to the United States, or whether it is conveyed to the District of Columbia as a municipal corporation, in either case a broad, fair, and just interpretation of the statute requires this examination of title to be made and to be certified by the Attorney-General.

I might make a verbal criticism of this statute that would be better founded than that of the Senator from New York. The statute does not say that the title shall not be taken until the Attorney-General has given this opinion, but no money shall be expended on the property that is purchased until the title is found to be good; but in my judgment that would be too narrow also. The true meaning of it is that no real estate shall be purchased for the United States until the title has been examined and certified to be good by the Attorney-General. It does not matter one particle in my humble judgment whether the property when purchased be conveyed to the United States or whether it is to be conveyed to the District of Columbia, which is under the sole and exclusive jurisdiction of the United States, or whether it is to be conveyed to some trustee that the United States may name to receive the title; the substance of the thing is all that need be looked to, and that requires this examination without amending this provision at all. But I am taking up too much time, and I leave the subject.

Mr. BECK. Intimations, that have been disavowed of course *pro forma*, that this amendment of mine was not offered in good faith need a passing answer.

Mr. THURMAN. I made no intimations nor disavowal *pro forma*. When I speak, I speak plainly, fairly, and squarely.

Mr. BECK. The RECORD shows that I prepare amendments and offer them plainly, fairly, squarely, and honestly, and although the Senator from Ohio may speak *ex cathedra*, I have a right here to offer an amendment that I think ought to be passed, and to give the reasons for it, without any intimations, direct or indirect, as to the purpose for which I moved the amendment.

The Senate of the United States have in a few words said that they will pay $20,000 for a police court. Why? Because a congregation had entered into a lease with the commissioners of the District of Columbia for four years with the privilege to the commissioners to buy the property during or at the end of the term at a given price. The lease I hold in my hand, and it recites that:

At a meeting of the seat and pew holders of the First Unitarian Society of Washington, District of Columbia, convened at the church on the 31st day of May, A. D. 1877, in pursuance of due notice by the pastor, at the request of the committee of management, on motion of Henry A. Willard, the Rev. Clay McCauley was called to the chair and W. P. Dunwoody was appointed secretary.

The following preamble and resolutions were offered, and passed unanimously, namely.

Whereas negotiations were going on between the church and these commissioners, and whereas the pew-holders then present thought it would be a good lease to make, therefore in pursuance of that they did so. If I may be allowed to hand it to the Reporter, I should like the lease to go into the RECORD to show what they did do.*

This purchase is being made because that lease was made. That church may have had a title for forty years or for four hundred years; the question is when this deed is made, has anything been done under this lease which divests that church of the title? The Attorney-General of the United States is not required by the statute which has been read to look into any purchase made by the District of Columbia, and the commissioners are not by the terms of the act we have passed required to submit to him any question touching it. I offer an amendment which provides that before the money of the United States is taken these commissioners shall not accept that deed or pay that money until it is ascertained not only whether the original title was good in the church, but whether the conveyance that the pew-holders or seat-holders or whoever have title in it offer to the property shall also be approved by the law officer of the United States.

Mr. BUTLER. Will the honorable Senator yield to me for a question?

Mr. BECK. Yes, sir.

Mr. BUTLER. Is there any reason to suppose that the commissioners of the District of Columbia will not do everything that is right and proper and honorable in order to protect the Government in reference to the title of this property?

Mr. BECK. I will answer that in this way: Is there any reason to believe when one man makes a trade with another or as trustee for another that the person he is dealing with is a scoundrel? Yet that requirement is made in all cases whenever a trustee makes such a transaction; and as we are trustees dealing with the people's money it is our duty to see that our law officer properly appointed shall ascertain whether or not this thing is well done and properly done.

Mr. BUTLER. Mr. President——

Mr. BECK. Wait a moment; let me answer the question and then I will yield.

It is not reflecting upon anybody to require him to do it or to require the persons who are offering to make the sale to show whether they themselves have the right to dispose of the property. It is not reflecting upon the commissioners of the District to say that they are not lawyers, for there is not a lawyer among them. One is an engineer; the other two are not lawyers. One was at the head of the police here for a long time, and is a highly respectable gentleman. When we furnish them $10,000 and put that to $10,000 that they furnish from the tax-payers of the District, and the proposition is made that before they obtain this title the Attorney-General of the United States shall see that the title is good, that the persons offering to convey the property have the right to convey it, and that the conveyance is made in a form to secure the people of the United States, then the suggestion is made that the effort is to get the matter into conference. There is no such idea in my mind; I disavow it. The House passed an appropriation for $20,000. Does anybody charge that the House passed the bill in bad faith? Does anybody say that they were imposed upon in the passage of the bill? If so, it is the men who are so zealous to keep the House from having a chance to look at it again who are to be suspected. If the bill was passed in good faith by the House, the House without going to a conference will say: "When we voted for $20,000 to buy that property, we intended the United States to have a good title," and the moment that amendment goes to them they will say: "Certainly, that is what we mean;" and there will be no conference about it.

If the Senator from Ohio or anybody else states that I or any one here is seeking to get this provision over to the House and into a committee of conference and that there, by some juggling or other, we

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*The lease referred to is as follows:

Whereas negotiations are now pending between the First Unitarian Society of Washington City and the District of Columbia for the leasing by said District of Columbia, with the privilege of purchase from said society, of the church property and premises situated at the corner of Sixth and D streets, northwest, in Washington City, District of Columbia; and

Whereas it appears from investigation of the title to said property that for the purposes of said letting or sale the trustees in whom the legal title to said property is now vested, to wit, James Adams and John Purdy, should be authorized and directed to make such conveyance of the said church property to George E. Baker, John Purdy, and Frederick B. Lilly, the present trustees, to enable them fully to complete and carry out the said negotiations by the pew-holders at a meeting of the society: Now, therefore,

Be it resolved, At a meeting of the pew-holders of the First Unitarian Society of Washington, after due notice, that the present surviving trustees of the said real estate, to wit, James Adams and John Purdy, be, and they are hereby, authorized, empowered, and directed to make and execute to the said trustees, George E. Baker, John Purdy, and Frederick B. Lilly, at present trustees of this society, the title to the church property; and the said trustees, George E. Baker, John Purdy, and Frederick B. Lilly, be, and they are hereby, authorized, empowered, and directed to make and execute to the District of Columbia a lease of the church property on the corner of Sixth and D streets, northwest, in Washington, District of Columbia, and known as parts of lots three (3) and four, (4,) in square 489, for a term of four years from the 1st day of June, A. D. 1877, at an annual rental of $1,400 for the first year and $1,500 for each year thereafter, with the privilege to said District of purchasing the said real estate at any time during the term of said lease upon the following terms and conditions, to wit: If purchased in one year, at the price of $18,000; within the second year, at the price of $19,000; and at any time after that, at the price of $20,000. But said trustees shall in said lease and agreement of sale reserve to the church the organ, bell, and church furniture; and if within the said period of four years the said District of Columbia shall desire to purchase said real estate, then the said trustees, George E. Baker, John Purdy, and Frederick B. Lilly, their survivors or successors or grantees, are hereby authorized and directed to convey to said District of Columbia in fee-simple absolute, upon the payment of the purchase-money as above mentioned, the said real estate by such deeds as may be necessary to give said District of Columbia a clear title thereto.

We, the undersigned, president and secretary of a meeting held by the pew and seat holders of the First Unitarian Society of Washington, on the 31st of May, 1877, hereby certify that the foregoing is a true and correct copy of a preamble and resolutions regularly introduced and passed unanimously by the pew and seat holders present and voting at said meeting on the said 31st day of May, A. D. 1877.

(Signed) CLAY MACCAULEY, *President.*
(Signed) W. P. DUNWOODY, *Secretary.*

Sworn to and subscribed before me this 1st day of June, A. D. 1877, by W. P. Dunwoody, secretary.

[SEAL.] (Signed) THOMAS R. JONES,
Notary Public.

This indenture, made this 1st day of June, A. D. 1877, by and between George E. Baker, John Purdy, and Frederick B. Lilly, trustees of the "First Unitarian Society of Washington, District of Columbia," all of the District of Columbia, of the first part, and "The District of Columbia," of the second part, witnesseth:

Whereas at a meeting of the seat and pew holders of the said First Unitarian Society of Washington, District of Columbia, convened at the church on the 31st day of May, A. D. 1877, John Purdy and James Adams, surviving trustees, in whom the legal title to the real estate hereinafter described was at that time vested in trust for said society, were authorized and directed to convey to the parties of the first part herein the said real estate in trust for said church society, which conveyance has since been made and duly recorded in the land records of the District of Columbia; and

Whereas at the same meeting of the said First Unitarian Society of Washington, District of Columbia, the said George E. Baker, John Purdy, and Frederick B. Lilly were authorized and directed, after receiving the title to said real estate, to make and execute to the District of Columbia a lease of the church property known as parts of lots three (3) and four, (4,) in square four hundred and eighty-nine, (489,) being the same property hereinafter described, with right in said District of Columbia to purchase the same at any time during the period of said lease; all of which will more fully and at large appear by a certified and sworn copy of the proceedings of the said meeting hereto attached.

Now, therefore, this indenture witnesseth: that the said parties of the first part, trustees as aforesaid, acting under and by authority of the said resolution, have let, and by these presents do demise and grant unto the said District of Columbia, its successor or successors, all that certain piece or parcel of ground situate in the city of Washington, and District of Columbia, known as parts of lots

may still seek to get it out, all he has to do is to go to the House and say, "the Senator from Kentucky and a few others thinking as he does have put an amendment on the bill which I ask you to agree to; it is a proper thing to do;" and that closes it; that secures the title; that takes it away from committees of conference; that puts it beyond the power of any conference committee, of which the Senator from Ohio seems to have so much apprehension. To relieve his mind and the mind of all other Senators, if the provision does go into a conference committee, I should refuse, if appointed, to serve on the conference committee, and would put it into the hands of the Senator from Ohio, as a conferee, to see that no juggling was done.

I want the House, if the provision was passed in fair, honest, earnest, to perfect what they did by securing a title for the money they gave. I should like to know what Senator, assuming that the House acted in good faith, will refuse the House the privilege of securing the title to property that may be doubtful. When laws are made in the spirit of this amendment covering all property of a certain character, (for it is limited to property of a certain character conveyed to the United States,) why property conveyed to the District commissioners, none of whom are lawyers, by a congregation who may be ignorant of their own rights, should not also have the supervision of the Attorney-General of the United States, I cannot understand. Therefore it was that I said that any intimation of bad faith, suggestions direct or indirect in asking this to be done, can be easily removed by the House accepting it, as they will, if they did vote the appropriation fairly, as it is assumed they did, with a full knowledge of all the facts, and if anything should happen to make the House want to look further into it, so far as I am concerned the bill shall be in the hands of the friends of this provision who desire to give this money without any safeguard whatever.

Mr. HOAR. The three hundred and thirty-seventh line of the bill is a provision "for the purchase of sites and the erection and completion of three school buildings, $100,000." No member of the Senate has suggested to put upon that expenditure of $100,000 provided for in this very bill an amendment which shall compel the Attorney-General of the United States to examine the title. How does it happen that the honorable Senator from Kentucky does not ask to have that expenditure of five times this sum examined, but trusts the school board to see that when they spend the $100,000 the title is good, in the same bill and at the same time a church which has been in the possession of one owner since the year 1818 demands that an amendment shall be introduced and the matter shall go back to the House to have an amendment put on?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky.

Mr. BECK and Mr. CONKLING called for the yeas and nays, and they were ordered.

Mr. DAVIS, of West Virginia. I can see no harm that this amendment will do, and it may do a great deal of good. Although I favored the proposition and voted for it, yet if it has not merit enough to sustain itself in the House or elsewhere I would not want it, and I think the amendment ought to be added. I do not know whether the House wishes it or not, but if the House wishes to examine this question again it ought to have an opportunity to do so.

Mr. WITHERS. I have only to say that if I believed there was any necessity whatever for the amendment I should not oppose it; but I have not heard anything as yet to indicate that there was the slightest necessity for it. If the property is deeded to the United States, it is the duty of the Attorney-General of the United States to see that the title is good. If it is deeded to the commissioners of the District, it is the duty of the attorney of the District to see that the title is good.

Mr. CONKLING. Therefore the amendment can do no harm.

Mr. WITHERS. In response to my friend from Kentucky here, whose feelings seem to have been a little touched by imputations of motives in this matter, I would say that the first suggestion came from the opposite side of this Chamber, when a Senator suggested that if there be a suspicion that the co-ordinate branch of the Legislature may reverse its action, then he could understand the opposition. I think it was a perfectly legitimate response to that suggestion to say that if there be a suspicion that all the opposition to this bill should prove ineffective in the Senate it may be possible for this body to exercise its powers upon the House and render unsettled what will be settled by our action, or has been up to the present moment, that might present a motive for offering the amendment.

Mr. CONKLING. Does the Senator from Virginia refer to me as the author of this suggestion?

Mr. WITHERS. I merely stated what was true, that the first intimation of any purpose on the part of those who opposed or those who suggested this amendment came from the Senator from New York in the remark which I have quoted, that he found himself unable to account for the opposition to this proposed amendment. If, said he—and I have his words—there be a suspicion that the co-ordinate branch of the Legislature may reverse its former action on this subject in case the bill is sent back, then I can understand it.

Mr. CONKLING. I have no doubt the Senator from Virginia means, I know he means, to quote me correctly, and I presume he does; but that there need be no possible mistake about that, I beg to repeat what I said. It was in substance this, that in regard to an amendment so manifestly right as this, to which no objection had been assigned except that it was unnecessary, that the act would have the same effect any way. I could conceive of no reason for objecting to it, and especially why such heat as had been manifested should be displayed, unless there was a fear that the co-ordinate branch of Congress might in some way or other change or modify its action. The Senator from Virginia does not need me to tell him that as far as the east is from the west, so far is that from suggesting that the purpose of the amendment was to bring about any such thing as that; but in looking over the field of imagination for an objection to this, I said that I could think of none grounded in substance unless the advocates of this purchase were afraid that if the House of Representatives ever had an opportunity to examine it again they might change their action. That is all I said, and that I presume is all that the Senator ascribes to me. If so I make no complaint of what he says.

Mr. WITHERS. I have quoted the language of the Senator as I took it down at the time.

The PRESIDING OFFICER. The question is on the amendment

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three (3) and four, (4,) in square four hundred and eighty-nine, (489,) beginning for the same at the southwest corner of said square 489 at the intersection of D and Sixth streets, and running thence east with the line of D street sixty-two (62) feet two (2) inches, thence north with the line of lot numbered two (2) in said square, ninety-five (95) feet six and one-half (6½) inches, thence west in a direct line to said Sixth street west sixty-two (62) feet two (2) inches, and thence south with the line of said Sixth street ninety-five (95) feet six and a half (6½) inches, to the place of beginning, together with all the improvements on said parts of lots and appurtenances thereto in any way belonging, excepting only the bell, organ, and other church furniture in the building upon said parts of lots.

To have and to hold the said premises with the appurtenances, unto the said District of Columbia, its successor or successors, for the full term of four years from and after the 1st day of June, A. D. 1877, at the yearly rental of fourteen hundred dollars ($1,400) for the first year and fifteen hundred dollars ($1,500) for each year thereafter, to be paid to the said parties of the —— part, or any one of them, in equal monthly installments during the said term of four years.

And the said party of the second part agrees to keep the said premises in good repair for its own purposes, to pay the taxes which may be imposed thereon, except taxes for street improvements, and to keep the premises insured during its occupancy thereof for not less than the sum of five thousand dollars, ($5,000,) for the benefit of the parties of the first part, after the expiration of the existing policy of insurance; and to give and deliver up to the said party of the first part, or their successors or assigns, peaceable possession of the said premises in such condition as they shall then be at the expiration of the term hereby granted.

And the party of the second part doth further covenant and agree to pay the said annual rent, subject to the provisions hereinafter named in the case of fire; and the failure to pay said rent in the manner above set forth shall operate to determine this lease; but in case the buildings upon said premises shall at any time during the said term be destroyed or injured by fire, the said parties of the first part, or their assigns, shall forthwith proceed to rebuild and repair the said premises, and to put them in as good condition as they were before the fire, and until such repairs are made and completed said rent shall cease. And for any loss or injury to said premises by fire or other casualty the said second party shall not, in any event, be liable. And it is further understood and agreed between the parties hereto, that at any time during the said term of four years, for which said premises are let, the said party of the second part shall have the right and privilege of purchasing the said premises hereinbefore described upon the following terms, to wit: If purchased within one year from the date of these presents, the price shall be eighteen thousand dollars, ($18,000;) if purchased within the second year the price shall be nineteen thousand dollars, ($19,000;) and if purchased at any time after the second year, and during the continuance of the above-written lease, the price shall be twenty thousand dollars, ($20,000;) said purchase-money to be payable in cash or within such time not exceeding one year as may be hereafter agreed upon.

And the said parties of the first part do hereby covenant and agree that they will immediately, upon the payment of the purchase-money as above provided, make and execute to the said second party such conveyances as may be necessary to invest said second party with full title to said premises.

In witness whereof the parties of the first part have hereto set their hands and seals, and the commissioners of the District of Columbia, appointed under an act of Congress entitled "An act for the government of the District of Columbia, and for other purposes," approved June 20, 1874, have signed the same and affixed the common seal of said District to these presents the day and year first above written.

(Signed) GEO. E. BAKER, [L. S.]
(Signed) JOHN PURDY, [L. S.]
(Signed) F. B. LILLY, [L. S.]
(Signed) W. DENNISON, [L. S.]
(Signed) J. H. KETCHAM, [L. S.]
(Signed) S. L. PHELPS, [L. S.]
Commissioners of the District of Columbia.

Signed and sealed in the presence of—
(Signed) WILLIAM BIRNEY,
As to Messrs. Ketcham & Phelps.
(Signed) L. B. CHANDLER,
As to F. B. Lilly.
(Signed) H. A. WILLARD,
As to George E. Baker.
(Signed) W. F. WALLACE,
As to John Purdy.
(Signed) JAMES CAMPBELL,
As to William Dennison.

Official copy furnished attorney District of Columbia.
By order:
(Signed) W. TINDALL, *Secretary.*
AUGUST 16, 1877.

CLERK'S OFFICE, SUPREME COURT, D. C.

In testimony that the foregoing paper writing is a true and compared copy of the original, now on file and of record in the said office, marked "Exhibit—Copy of Lease," in cause No. 5589, equity docket 17, and entitled "J. B. Wilson *et al. vs.* District of Columbia *et al.*," I hereto subscribe my name and affix the seal of said court, May 6, 1880.

[SEAL.]

R. J. MEIGS, *Clerk, &c.*,
By R. J. MEIGS, JR.,
Assistant Clerk.

of the Senator from Kentucky, [Mr. BECK,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from Michigan, [Mr. FERRY.] If he were here, I should vote "yea" and he would vote "nay."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. PADDOCK.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. BUTLER, (after having voted in the negative.) I voted under a misapprehension. I am paired with the Senator from Indiana, [Mr. VOORHEES,] and therefore withdraw my vote.

Mr. HOAR. My colleague [Mr. DAWES] is paired with the Senator from Missouri [Mr. COCKRELL] upon the questions that grow out of this bill.

The result was announced—yeas 19, nays 28; as follows:

YEAS—19.

Bayard,	Conkling,	Kernan,	Pendleton,
Beck,	Davis of Illinois,	McDonald,	Saulsbury,
Booth,	Davis of W. Va.,	McPherson,	Vance,
Call,	Harris,	Maxey,	Williams.
Coke,	Hereford,	Morgan,	

NAYS—28.

Allison,	Eaton,	Ingalls,	Pryor,
Anthony,	Edmunds,	Jonas,	Randolph,
Blaine,	Farley,	Kellogg,	Rollins,
Blair,	Garland,	Kirkwood,	Slater,
Bruce,	Groome,	McMillan,	Thurman,
Burnside,	Hampton,	Morrill,	Windom,
Cameron of Pa.,	Hoar,	Platt,	Withers.

ABSENT—29.

Bailey,	Gordon,	Lamar,	Vest,
Baldwin,	Grover,	Logan,	Voorhees,
Butler,	Hamlin,	Paddock,	Walker,
Cameron of Wis.,	Hill of Colorado,	Plumb,	Wallace,
Carpenter,	Hill of Georgia,	Ransom,	Whyte.
Cockrell,	Johnston,	Saunders,	
Dawes,	Jones of Florida,	Sharon,	
Ferry,	Jones of Nevada,	Teller,	

So the amendment was rejected.

Mr. McMILLAN. I move to insert after line 348:

Provided, That in the sixth school division (county) the sum appropriated may be used for one or more school buildings and sites when necessary.

Mr. WITHERS. I have no objection to that amendment.

The amendment was agreed to.

Mr. McMILLAN. I offer the amendments which I send to the desk. Let the first one in its order be reported.

The CHIEF CLERK. In line 339, before the word "thousand," it is proposed to insert "and five;" so as to read:

For the purchase of sites and the erection and completion of three school buildings, one hundred and five thousand dollars.

Mr. McMILLAN. Let the Clerk read the other amendments I offer and they will explain the reason for the first.

The CHIEF CLERK. In line 344 it is proposed to strike out "ten" and insert "fifteen;" so as to read:

For the sixth school division, (county,) fifteen thousand dollars.

In line 347, to strike out "five" and insert "ten;" so as to make the total $510,634.80, instead of $505,634.80.

Mr. WITHERS. I feel constrained to interpose an objection, and to raise the point of order upon those amendments, as they all increase the appropriation beyond the estimates, and they are not reported from any committee.

Mr. McMILLAN. I ask leave to send to the Clerk's desk to have read a communication, and I beg leave to state to the Senator having the bill in charge the reason why these amendments are offered.

The Chief Clerk read as follows:

BENNINGS, D. C., *May 4, 1880.*

DEAR SIR: I beg to call your attention to House bill No. 5896, making appropriations for the District of Columbia.

On page 14 it provides: "For the purchase of sites (when necessary) and the erection and completion of three school buildings, $100,000, to be appropriated as follows, namely: For the second division, $45,000; for the sixth division, (county,) $10,000; for the seventh division, $45,000."

The bill contemplates, as I understand it, the erection of three school buildings, one in each of the divisions named.

The sixth division (county) has no center of population requiring the erection of a building at a cost of $10,000.

The county trustees have asked, as you are aware, for an appropriation of $15,000 for the erection of four school buildings in the county, of which amount they estimated $6,000 for the erection of a four-room brick building in Anacostia village, which sum was deemed sufficient, as the site is owned by the Government.

Under these circumstances will you please have the bill amended to suit the wants of the county, and oblige, most respectfully,

Your obedient servant,

ALEXANDER FAIRLEY,
School Trustee, Sixth Division.

Hon. S. J. R. McMILLAN,
United States Senate.

Mr. WITHERS. All I have to say is that the most important part of the amendment has been agreed to by the committee, and is incorporated in the bill, that is authorizing the erection of simply one or more school-houses. On the subsequent portion I am compelled to raise the point of order.

Mr. McMILLAN. The amendment adopted does provide for the erection of one or more school buildings in this District, so that the $10,000 can be used in the erection of as many school buildings as the sum will meet the demands of the District; but with the $5,000 added the District can erect all the school-houses they need, that is four. It is not supposed that they can erect a sufficient number with $10,000, so that the change from the appropriation by adding $5,000 to the sixth district will really be a matter of economy, and would not in fact be an increase of the appropriation.

Mr. WITHERS. I do not like to interrupt the Senator, but I should like a ruling upon the point of order, because if that be sustained no debate is in order.

The PRESIDING OFFICER. The Senator is speaking by unanimous consent. Under Rule 29 the question of order is not debatable. Rule 27 provides that—

No amendment shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law or treaty stipulation or act or resolution previously passed by the Senate during that session—

The Chair is not aware of any existing law, treaty stipulation, act or resolution passed by the Senate during the present session on this question—

Or unless the same be moved by direction of a standing or select committee of the Senate—

No such movement has been made—

Or proposed in pursuance of an estimate of the head of some one of the Departments.

Has this been proposed by the head of any of the Departments?

Mr. McMILLAN. No, sir.

The PRESIDING OFFICER. The Chair will then sustain the point of order.

Mr. McMILLAN. I concede that the point of order is well taken, and my appeal was to the Senator from Virginia to waive the point of order.

Mr. MORGAN. I wish to offer an amendment. In lines 429 and 430 I move to strike out the words "for purchase of police-court building" and insert "for purchase of a building for police court."

Mr. HOAR. I raise the point of order on that amendment.

The PRESIDING OFFICER. What is the point of order which the Senator from Massachusetts makes?

Mr. HOAR. That a motion has been made to strike out the whole line from "for" down to "dollars," and the Senate has voted to retain it, and that it is not now in order to move to strike out any portion of the language.

Mr. MORGAN. I do not understand that the point of order is well taken, because the proposition I advance is a distinctive proposition, including but a part of the phrase the Senate has passed upon. My proposition is a distinctive one, changing the item so as to allow the District commissioners to have some discretion in the purchase of this property. I also desire to ascertain whether the vote of the Senate is in favor of particular individuals with a piece of property to sell, or whether it is in favor of the general interests and welfare of the public for the purchase of a piece of property for this purpose for the service of the community.

Mr. HOAR. Is this debatable?

The PRESIDING OFFICER. The question on the point of order is not debatable. The Chair under his view, without having the rule directly before him, will decide that the point of order is not well taken, as this is a motion to strike out certain words and to insert others almost equivalent to them. The words to be stricken out are "for purchase of police-court building" and the insertion being "for the purchase of a building for police court." It would only be really a striking out of the words "police-court building" and an insertion of the words "building for police court."

Mr. HOAR. There is this difference, one is a description of a particular building, and the other is the purchase of any building they have a mind to procure.

Mr. MORGAN. I wish to say a very few words on this proposition.

The PRESIDING OFFICER. Under Rule 31 the Chair has no doubt the amendment is in order, and so rules.

Mr. MORGAN. I do not desire to provoke a discussion again on this subject, nor do I desire to delay the passage of the bill at all; but I do feel interested to know whether this bill is for the purpose of allowing the property of a certain set of individuals to be purchased at a certain price, which a good many Senators think is a very large one, because they have favorites in this body, or whether the bill is for the purchase of property for the general use of this community. The proposition which I now advance tests that question. I desire to leave it in the hands of the commissioners of this District to purchase any piece of property for $20,000 that they think best adapted to the uses of a police court.

Mr. WITHERS. Is there other property in view?

Mr. MORGAN. I do not know whether anybody else has got property to sell or not.

Mr. WITHERS. For this purpose?

Mr. MORGAN. For this or any other purpose. I have not inquired into the subject. I am not sufficiently well acquainted, unfortunately for me, in the District of Columbia to be influenced in favor

of a particular location, so that I think I am free in my judgment on this measure, as I trust upon all others.

Mr. WITHERS. I suppose the Senator did not understand me to intimate anything to the contrary because I thought probably he was aware of other property that would be more desirable.

Mr. MORGAN. The Senate of the United States has priced this property at $20,000 after its committee had priced it down to $14,000, quite a remarkable change of opinion between the majority of the committee and the Senate.

Mr. WITHERS. A majority of the committee voted in favor of restoring it to $20,000.

Mr. MORGAN. I understand that a majority of the committee reported it at $14,000.

Mr. WITHERS. That is true, but if the Senator had been present he would have known the reason why the change occurred. Subsequently they were satisfied upon information and the correct statement of the fact that the amount fixed by the House was the proper sum to be appropriated for this purpose.

Mr. MORGAN. Six thousand dollars is a great mistake for such an intelligent committee to make about one piece of property. There is a good deal of difference in price between $14,000 and $20,000, and it is a very large mistake for them to have made. I am sorry for the committee that they had not been able in pricing this property to arrive at a better conclusion in reference to its value. I should not like to place too much confidence in a committee who had made the difference between $14,000 and $20,000 in the purchase of a lot in this town.

Mr. WITHERS. As the Senator has voted against the committee on every division, I think it likely we shall last a good deal longer without suffering from his condemnation.

Mr. MORGAN. I am voting with some of the committee and against others of them, and I think I am justified in every vote I have given; at all events, I have not heard the propositions answered upon which I have cast my votes as I have done. But I do not think this committee is entitled to very eminent credit for its judgment in regard to the value of a piece of property when it deliberately put it at $14,000, and then, because one member of the committee discovered new testimony, asked that we should put it up to $20,000. I would rather not rely on a judgment of that sort. It seems to me the committee are not occupying very high ground in reference to their judgment about the value of this property.

There is another point about this. The committee of course must have agreed to $20,000 instead of $14,000 under the impulse of very powerful arguments or very powerful evidence, and it must have been evidence that this church was able to get $20,000 for the property in the market. If the church is able to get $20,000 for it in the market, why not let the church sell it to somebody who wants it, and if the church cannot get $20,000 in the market, why are we buying it at $20,000? That is a proposition in arithmetic that I should like to have elucidated. Now, on the question before us, Senators have not been able to demonstrate, certainly have not been able to convince many people, that that is after all the best location for the police court, and that the building that is offered is the best for that purpose; on the contrary, there is very strong evidence to show that that building is expected to be torn down in the course of a few years and rebuilt, and it will not be two years from the time we pass this bill until they are here for the purpose of inviting us to tear down the building and use the materials in the construction of a suitable building for a police court.

Mr. WITHERS. Will the Senator state the authority on which he makes that allegation?

Mr. BECK. As there is now a discussion between the member of the committee who is managing the bill and the Senator from Alabama on the floor as to the eligibility of the site, and as I made a suggestion this morning in regard to the cells and in regard to Judiciary Square, I move that the Senate do now adjourn, so that the Senators between now and to-morrow morning may look for themselves and see whether what I say is true or not.

Several SENATORS. Let us have an executive session.

Mr. BECK. I want that examination made to-night; and I do not care whether it is secured by an executive session or by an adjournment. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Does the Senator from Alabama yield to that motion.

Mr. MORGAN. I did not intend to yield for a motion of that kind. I thought the Senator wanted to ask a question. I have the floor, I believe, and will proceed.

After what has been said to-day by the Senator from West Virginia [Mr. HEREFORD] and the Senator from Kentucky, [Mr. BECK,] I have no idea that there are any Senators on this floor who will be sufficiently venturesome to venture into that hole. It is said to be a very dark and loathsome place for anybody to go, and I have no idea it can ever be made any better. It is a pest-house, I have no doubt, or if not, it will become so very soon. I dislike very much to see a piece of ground, consecrated to the cause of religion, devoted to the purpose for which that is to be used now.

Mr. President, to come down to the entire point in this case, it is really this, and my amendment tests it, that the purpose of this bill is to give to certain people in the city of Washington, who, no doubt, are very worthy and very good persons, $20,000 for a piece of property that will not sell for $14,000 in the market, and in doing that to take the money out of those who reside in the very vicinity; who allege, and no doubt allege truly, that their property is virtually destroyed by the imposition of this levy upon them. We tax those people and make them pay the money out of their pockets, and we take it to pay it to our favorites in order that they may have the benefit of our friendship for them on this floor. If that be not so, my amendment tests it. Leave it to the commissioners to decide whether or not that is the proper building, and throw the responsibility upon them and not upon ourselves. I do not want to figure in this matter to bargain for a piece of property. Here are the agents of the public, appointed by the President and confirmed by the Senate, to do this work. Leave them free to do it; let them say whether they will take the property or not; take it according to their judgment of its usefulness for this purpose, and also in respect of its value. That is my proposition, and I desire now to test that question; and if no other Senator desires to debate it I will content myself with asking for the yeas and nays.

Mr. BECK. I move that the Senate proceed to the consideration of executive business for the purpose of having, I was about to say, the truth of the statements that I and other men have made relative to the unfitness of this building verified by the personal inspection of Senators before they vote in the morning.

Mr. BUTLER. Upon that I ask for the yeas and nays.

Mr. EATON. The language of the Senator from Kentucky was that he wanted to go into executive session for the purpose of examining into the truth of what he has said. [Laughter.] I do not propose to go into executive session for any such purpose.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

Mr. BUTLER. I ask for the yeas and nays.

Mr. BECK. May I be allowed one word, as the Senator from Connecticut has said that I desired to go into executive session for a purpose?

Mr. EATON. I understood you to say so.

Mr. BECK. I said I desired to go into executive session for the purpose of giving Senators to-morrow morning, before a vote was taken on this, the opportunity to examine for themselves.

Mr. EATON. It is not necessary to go into executive session in order to go down there to-morrow morning. [Laughter.]

Mr. BECK. I supposed it was necessary not to vote on this bill now in order to examine the building while there was yet a chance.

Mr. BUTLER. The question before the Senate is not debatable.

The PRESIDING OFFICER. The Chair decided that it was not debatable, and the Senator from Kentucky was proceeding by the unanimous consent of the Senate, including the Senator from South Carolina, and was not out of order.

Mr. DAVIS, of West Virginia. I hope the Senator from Kentucky will withdraw the motion, and I will renew it if he wishes.

Mr. BECK. I withdraw the motion on the assurance that it will be renewed by the Senator.

The PRESIDING OFFICER. The motion to proceed to the consideration of executive business is withdrawn.

Mr. DAVIS, of West Virginia. Mr. President, I think we may as well finish the bill to-night. It will take only a few moments. I appeal to my friend and colleague on the committee that we had better finish it. If it goes over until to-morrow it may take the whole day. It is for the Senator having charge of the bill usually to make such a motion. I leave the question to the magnanimity of my friend from Kentucky, and I will renew the motion for an executive session if he insists on it.

The PRESIDING OFFICER. The Senator from West Virginia moves that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. Certainly I renew the motion as I promised to do, though I shall vote against it.

Mr. BUTLER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HOAR, (when the name of Mr. DAWES was called.) My colleague [Mr. DAWES] is paired on this vote, which I regard as a motion to affect the other matter pending, with the Senator from Missouri, [Mr. COCKRELL.]

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. TELLER, (when his name was called.) As I am paired on this bill, I will refrain from voting on this motion.

The result was announced—yeas 13, nays 33; as follows:

YEAS—13.

Beck,	Harris,	Pendleton,	Williams.
Call,	Kernan,	Randolph,	
Coke,	McDonald,	Saulsbury,	
Davis of Illinois,	McPherson,	Vance,	

NAYS—33.

Allison,	Eaton,	Jonas,	Pryor,
Anthony,	Edmunds,	Kellogg,	Rollins,
Blaine,	Farley,	Kirkwood,	Thurman,
Blair,	Garland,	McMillan,	Wallace,
Bruce,	Groome,	Maxey,	Windom,
Burnside,	Hampton,	Morgan,	Withers.
Butler,	Hereford,	Morrill,	
Cameron of Pa.,	Hoar,	Platt,	
Davis of W. Va.,	Ingalls,	Plumb,	

ABSENT—30.

Bailey,	Dawes,	Jones of Florida,	Slater,
Baldwin,	Ferry,	Jones of Nevada,	Teller,
Bayard,	Gordon,	Lamar,	Vest,
Booth,	Grover,	Logan,	Voorhees,
Cameron of Wis.,	Hamlin,	Paddock,	Walker,
Carpenter,	Hill of Colorado,	Ransom,	Whyte.
Cockrell,	Hill of Georgia,	Saunders,	
Conkling,	Johnston,	Sharon,	

So the motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, [Mr. MORGAN.]

Mr. MORGAN. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

The roll-call was concluded.

Mr. BUTLER, (after having voted in the negative.) I withdraw my vote. I am paired with the Senator from Indiana, [Mr. VOORHEES.]

The result was announced—yeas 12, nays 30; as follows:

YEAS—12.

Beck,	Harris,	Morgan,	Saulsbury,
Call,	Hereford,	Pendleton,	Vance,
Coke,	McDonald,	Pryor,	Williams.

NAYS—30.

Allison,	Davis of W. Va.,	Ingalls,	Plumb,
Anthony,	Eaton,	Jonas,	Rollins,
Bayard,	Edmunds,	Kellogg,	Thurman,
Blaine,	Farley,	Kirkwood,	Wallace,
Blair,	Garland,	McMillan,	Windom,
Bruce,	Groome,	Maxey,	Withers.
Burnside,	Hampton,	Morrill,	
Cameron of Pa.,	Hoar,	Platt,	

ABSENT—34.

Bailey,	Dawes,	Jones of Nevada,	Sharon,
Baldwin,	Ferry,	Kernan,	Slater,
Booth,	Gordon,	Lamar,	Teller,
Butler,	Grover,	Logan,	Vest,
Cameron of Wis.,	Hamlin,	McPherson,	Voorhees,
Carpenter,	Hill of Colorado,	Paddock,	Walker,
Cockrell,	Hill of Georgia,	Randolph,	Whyte.
Conkling,	Johnston,	Ransom,	
Davis of Illinois,	Jones of Florida,	Saunders,	

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS.

Mr. BECK. I submit the report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1881, and for other purposes.

The PRESIDING OFFICER. The report will be read.

Mr. ANTHONY. I move that the Senate do now adjourn.

Mr. PENDLETON. I appeal to the Senator to withdraw that motion.

Mr. MORRILL. It is necessary to have an executive session.

Mr. PENDLETON. I appeal to the Senator from Rhode Island to withdraw his motion.

Mr. ANTHONY. Very well.

Mr. EDMUNDS. What is the pending question?

The PRESIDENT *pro tempore*. The Senator from Ohio [Mr. PENDLETON] has the floor.

Mr. PENDLETON. I move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. Mr. President——

Mr. BECK. It is understood that the conference report on the Indian appropriation bill shall be before the Senate to-morrow.

Mr. EDMUNDS. I believe the Chair has recognized nobody since the Senator from Ohio sat down, and I have been shouting several times "Mr. President."

The PRESIDENT *pro tempore*. The Senator from Ohio moved that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. I know that, and then I addressed the Chair, as I believe I had a right to.

The PRESIDENT *pro tempore*. Yes, sir.

Mr. EDMUNDS. I wish to ask the Chair what is the pending order before the motion of the Senator from Ohio, if I may ask it?

Mr. BECK. I had made a motion to take up the conference report on the Indian appropriation bill, which I understood had been agreed to.

Mr. EDMUNDS. I have not heard it put and agreed to. I merely inquire to know what is the pending question before the motion for an executive session.

Mr. BECK. I merely desire to have the conference report before the Senate so as to be the unfinished business for to-morrow morning.

The PRESIDENT *pro tempore*. The Chair understood from the Senator who occupied the chair that the conference committee report has been made and is the pending order. Pending that the Senator from Ohio moves that the Senate proceed to the consideration of executive business.

Mr. HOAR. I desire to ask what has become of the Kellogg case, which is the pending order? The Senator from Kentucky has the same right to-morrow morning without this displacement that he has with it for his conference report.

Mr. BECK. There are several gentlemen who desire to be here when the conference report is considered, and I think it better to give notice now. I hope in the morning hour to-morrow we may dispose of it in ten minutes.

Mr. HOAR. The notice is all right; but my suggestion is that if the Senate take that report up now that puts it over until to-morrow, and it displaces the Kellogg case.

Mr. BECK. Nobody desires that.

Mr. SAULSBURY. I desire to say to the Senator from Massachusetts that the ruling of the Chair the other day, the last time the Kellogg case went over, was that it was temporarily laid aside, to be called up at any time.

Mr. EDMUNDS. From day to day?

Mr. SAULSBURY. That was the understanding at the time it was up last.

Mr. EDMUNDS. From day to day after an adjournment?

Mr. SAULSBURY. The inquiry was made by the Senator from New York as to whether that was the order; whether it would continue subject to call during that day or the next day, or any other time.

Mr. EDMUNDS. Then if I understand it——

Mr. SAULSBURY. I should be very glad to have it taken up and to have discussion proceed on it if gentlemen desire now to take the floor on that question; but I am told that it has not been usual to antagonize appropriation bills reported from the Committee on Appropriations. I should be glad personally, and I know gentlemen are here prepared, ready, and anxious to debate the question, but we cannot afford to antagonize appropriation bills.

Mr. EDMUNDS. It is so important to carry on this Government that we must never stop about an appropriation bill; that is clear enough, as we have seen to-day. But my inquiry merely was to know what was the present condition of the business of the Senate. The Senator from Kentucky has a right under the rules to present a conference report at any time, I think certainly in the morning hour, and then it is a question for the Senate without debate to determine whether they will consider it then or not. So there is no difficulty on the subject of this conference report, and I should like to know whether the Kellogg case so called is the pending order for to-morrow as our general business, subject of course to the morning hour, or not. That is what I want to know.

The PRESIDENT *pro tempore*. The Chair will state how the matter appears to him. The forty-ninth rule provides that—

> The presentation of reports of committees of conference shall always be in order, except while the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and, when received, the question of proceeding to the consideration of the report shall immediately be put, and shall be determined without debate.

The Senator from Kentucky presented a report of a conference committee, which he had a right to do. It would then have been the duty of the Chair to immediately put the question whether the Senate would proceed to the consideration of that report; but a motion to proceed to the consideration of executive business was made, and the Chair supposed that that was a motion which might be made notwithstanding this rule. If the Chair is in error about that, he will be glad to be corrected.

Mr. EDMUNDS. That does not fall within the words of the rule evidently; but I think the Chair has overlooked a preceding consideration, and that is the rule says "when received," which does not imply that the committee has a right to compel it to be received; and therefore, if anybody objects, the first question is will the Senate receive this report now, or will it wait until a later moment?

The PRESIDENT *pro tempore*. The Chair understood that the report had been received. He so understands from the Senator from Missouri, who was presiding at the time.

Mr. EDMUNDS. If that is so, then of course my point does not arise.

The PRESIDENT *pro tempore*. That being the case, the Chair should then have put the question immediately, "Will the Senate proceed to the consideration of this report?" But under the interpretation which the Chair gives to this rule, a motion to proceed to executive session or to adjourn would be in order.

Mr. HOAR. I understood that the Senator from Kentucky said that his purpose was simply to give notice to the Senate that to-morrow morning he would call up the report. That was all he desired, not to displace the Kellogg case or the executive business. He has then every right which he will have if he takes a vote now and spends time in reading the report.

Mr. BECK. I am not sure that I know the rules very well, and I do not know that I made myself very clearly understood. My idea was to have the report received now and be before the Senate for the purpose of calling it up to-morrow morning at the close of the morning business, not to interfere with an executive session now. I

desired to present it now rather than to-morrow morning, so that several Senators who might object to some portion of the action of the conference committee might be advised of the facts. That was the object I had in view.

Mr. EDMUNDS. That is very fair. I wish to say that I think under the ruling of the Chair which is right, the report having been received as he understands, which I think would be a question for the Senate, it is quite obvious under this rule that whenever a conference report is received it does not displace the pending order at all. It is a mere temporary incident that comes in, as it may be received at any time; and although it suspends the existing order it does not displace it, and the moment the conference report is over the previous order will again lie before the Senate of its own force.

The PRESIDENT *pro tempore*. That has been so decided; and in the opinion of the Chair at any time, to-morrow in the morning hour or at any other time after the Journal has been read, the Senator from Kentucky can demand the question provided for by the rule; that is, "Will the Senate proceed to the consideration of this report?" That question will be in order, and must be put, in the morning hour or at any time that he sees fit.

Upon this other question as to what the unfinished business is, the Chair feels bound to submit that to the Senate, because the agreement referred to by the Senator from Delaware is a little obscure. The present occupant of the chair was not in the Senate when that agreement was arrived at, but finds it in the RECORD, as follows. It is in the proceedings of May 5:

The PRESIDING OFFICER. The regular order is before the Senate, being the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana. The Senator from Wisconsin [Mr. CAMERON] is entitled to the floor.

Mr. WITHERS. I ask the Senator from Wisconsin to yield to me in order that I may present the bill making appropriations for the government of the District of Columbia, asking that the special order be laid aside temporarily.

Mr. CAMERON, of Wisconsin. In accordance with what was agreed to last evening, I yield.

Mr. CAMERON had the floor on the Kellogg case.

The PRESIDING OFFICER. If there be no objection the regular order will be laid aside for that purpose.

Mr. CONKLING. The unanimous consent is that the regular order be laid aside.

The PRESIDING OFFICER. Temporarily.

Mr. CONKLING. Subject to call whether an adjournment intervenes or not. It is subject to call not influenced by the adjournment of the Senate to-day.

Those latter words are what make the trouble in the mind of the Chair whether that agreement extended beyond that day or whether it extended from day to day.

The PRESIDING OFFICER. That is correct.

And nothing further appears. Not having been here at the time, the Chair can only take what appears in the RECORD.

Mr. EDMUNDS. I think in point of order, under the rules, then, that the Kellogg case is out of its place, for that only extended to the next day, because it has been always held that where a matter was laid aside temporarily and not taken up again that day an adjournment displaced it entirely.

Mr. DAVIS, of Illinois. The agreement was that it should go on from day to day.

Mr. EDMUNDS. But the President of the Senate has read to us exactly what was said, which shows that it was only for that day. In order to save all difficulty, I ask unanimous consent that the Kellogg case, on which the Senator from Wisconsin I believe desires to address the Senate, may be considered as before the Senate as the regular order.

Mr. SAULSBURY. My understanding from that reading is that it was the distinct agreement that it was laid aside subject to call, whether an adjournment intervened or not.

Mr. EDMUNDS. There is no difficulty now; I presume nobody will object.

The PRESIDENT *pro tempore*. Is there objection to proceeding to the consideration of the report of the Committee on Privileges and Elections in the case of Kellogg and Spofford? The Chair hears none, and those resolutions are before the Senate. Now the Senator from Ohio [Mr. PENDLETON] moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at six o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 6, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

DÉBRIS QUESTION, CALIFORNIA.

Mr. BERRY. Mr. Speaker, I ask unanimous consent to carry over the bill (H. R. No. 5636) which is made a special order for to-day, not to interfere with revenue or appropriation bills. I ask that it be made the special order for next Monday, under the same conditions as at present.

The SPEAKER. What is the title of the bill?

Mr. BERRY. It is a bill for the appointment of a commission to investigate the *débris* question in California.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 5636) for the appointment of a commission to investigate the *débris* question in the State of California.

April 29.—Made a special order for Thursday next after the morning hour, not to interfere with revenue and general appropriation bills.

The SPEAKER. Is there objection to that bill going over as the special order for next Monday, under the same conditions under which it is at present?

There was no objection, and it was ordered accordingly.

PUBLIC BUILDINGS.

Mr. McKENZIE. I ask, Mr. Speaker, that next Saturday be set apart for the consideration of reports from the Committee on Public Buildings and Grounds relating to the construction of public buildings, and that they shall be taken up in their regular seriatim order upon the Calendar.

Mr. BLACKBURN. Say Saturday week.

Mr. McKENZIE. Very well; I will say Saturday week, and I hope there will be no objection, as there are many meritorious bills to be considered.

Mr. FERNANDO WOOD. I hope the gentleman will except the refunding bill.

Mr. McKENZIE. Certainly.

The SPEAKER. Saturday week has already been assigned for reports from the Committee on Education and Labor.

Mr. McKENZIE. I will say, then, Saturday two weeks, not to interfere with existing orders of the House, the refunding bill, or reports from the Committee on Appropriations.

The SPEAKER. After the reading of the Journal or the morning hour?

Mr. McKENZIE. After the reading of the Journal.

The SPEAKER. The whole matter is to be done by unanimous consent.

Mr. McKENZIE. I will say after the reading of the Journal Saturday two weeks for reports from the Committee on Public Buildings and Grounds, to be considered in the order in which they are upon the Calendar.

Mr. ALDRICH, of Rhode Island. Does that include reports from the Senate as well as in the House?

Mr. McKENZIE. All reports.

Mr. ALDRICH, of Rhode Island. I wish to understand whether it includes reports from the Senate.

The SPEAKER. The bills on the Calendar would come up first.

Mr. BLOUNT. It does not include those in the Senate.

Mr. ALDRICH, of Rhode Island. Then I object.

The SPEAKER. The bills on the Calendar would come up first.

Mr. ALDRICH, of Rhode Island. I object.

Mr. McKENZIE. I serve notice now that I shall object hereafter to going to the Speaker's table to take up for consideration any bill for the construction of a public building.

Mr. ALDRICH, of Rhode Island. That is all right.

ORDER OF BUSINESS.

Mr. BLACKBURN. Mr. Speaker, it is evident if this Post-Office appropriation bill now pending before the Committee of the Whole House on the state of the Union is to be completed at all before next week, it must be finished to-day. I therefore move to dispense with the morning hour in order that we may go into Committee of the Whole House on the state of the Union.

Mr. HAYES. I have one or two privileged reports from the Committee on Printing, which will take but a moment.

Mr. BLACKBURN. I will yield for those privileged reports.

ADDITIONAL COPIES OF DOCUMENTS.

Mr. HAYES, from the Committee on Printing, reported back Senate amendments to House joint resolution No. 179 authorizing the Public Printer to print additional copies of bills and other public documents, with the recommendation that they be concurred in.

The amendments of the Senate were read, as follows:

In line 2, after the word "documents," insert "hereafter;" in line 3, after the word "distributed," strike out the word "heretofore;" in line 5, after the word "added," insert "on giving the notice required by section 3809, Title 45, of the Revised Statutes;" so it will read:

"That the Public Printer be, and he is hereby, directed to furnish to all applicants copies of bills and reports and other public documents hereafter printed by order of Congress, and distributed from the document-rooms of the Senate and House, on said applicants paying the cost of such printing with 10 per cent. added, on giving the notice required by section 3809, Title 45, of the Revised Statutes."

The amendments of the Senate were concurred in.

Mr. HAYES moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISEASES OF DOMESTIC ANIMALS.

Mr. HAYES also, from the same committee, reported back the amendments of the Senate to House concurrent resolution providing

for the printing of 100,000 copies of the report of the Commissioner of Agriculture on diseases of swine, &c.

The amendments of the Senate were read, as follows:

In line 8 strike out "65" and insert "60;" and in line 9 strike out "20" and insert "25;" so the resolution will then read:

"*Resolved by the House of Representatives, (the Senate concurring therein,)* That there be printed 100,000 copies of Special Report No. 22, of the Commissioner of Agriculture, containing the reports of the veterinary surgeons appointed to investigate diseases of swine, and infectious and contagious diseases incident to other classes of domesticated animals; of which 60,000 copies shall be printed for the use of members of the House; 25,000 copies for the use of members of the Senate, and 15,000 copies for the use of the Commissioner of Agriculture."

Mr. BREWER. I would like to have the gentleman who makes this report state the necessity of printing so many of these reports.

Mr. HAYES. This report contains the detailed reports of all the several veterinary surgeons who have been sent out all over the country by the Commissioner of Agriculture to investigate the diseases of swine and cattle.

Mr. BREWER. Is this the report that has been published by the Department of Agriculture?

Mr. HAYES. No, sir.

Mr. BREWER. It is something in addition to it.

Mr. HAYES. Yes, sir; this is for the last year. The one the gentleman refers to was for the previous year. This has never been published.

Mr. BREWER. Will not this same report be published in the report of the Commissioner of Agriculture for 1880?

Mr. HAYES. No, sir; only portions of it, very small portions of it will be published there.

The amendments of the Senate were concurred in.

REPORT ON BEET-SUGAR.

Mr. HAYES also, from the Committee on Printing, reported back, with amendments of the Senate, the following concurrent resolution:

Resolved by the House of Representatives of the United States, (the Senate concurring,) That there be printed 20,000 copies of the report upon beet-sugar and the manufacture of sugar from beets, prepared by Hon. William G. Le Duc, Commissioner of Agriculture, and transmitted by the President from the Department of Agriculture February —, in pursuance of a resolution of the House of Representatives. Of this number 15,200 copies shall be for the use of the House of Representatives, 3,800 for the Senate, and 1,000 for the Department of Agriculture.

The amendments of the Senate were read as follows:

In line 9 strike out "15" and insert "14;" in line 10 strike out "3" and insert "4," so that it will read: "14,200 for the use of the House of Representatives, and 4,800 for the Senate."

The amendments of the Senate were concurred in.

UNITED STATES LIFE-SAVING SERVICE.

Mr. HAYES also, from the Committee on Printing, reported back, with a favorable recommendation, the following resolution:

Resolved by the House of Representatives, (the Senate concurring therein,) That there be printed 10,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1879, without the accompanying tables, for distribution among the officers of our merchant marine, through the collectors of customs, under the direction of the Secretary of the Treasury.

Mr. HAYES. It is not necessary to read the report of the committee on that resolution. The committee simply recommend that the 10,000 be cut down to 6,000.

The amendment was agreed to.

The resolution, as amended, was agreed to.

OFFICIAL RECORDS OF WAR OF THE REBELLION.

Mr. HAYES. I am instructed by the Committee on Printing to report back the following resolution, with an amendment, and ask that it be put upon its passage.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Joint resolution (H. R. No. 286) to print 8,000 copies of the Official Records of the War of the Rebellion, compiled for the years 1861 and 1862, from Union and confederate sources.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed and bound 8,000 copies of the Official Records of the War of the Rebellion, compiled for the years 1861 and 1862, from Union and confederate sources, under the direction of the War Department; of which 6,020 copies shall be for the use of the House of Representatives, 1,520 copies for the use of the Senate, and 540 copies for the use of the Executive Departments.

The proposed amendments were read, as follows:

In lines 7 and 8 strike out "6,020" and insert "5,500."
In line 9 strike out "1,520" and insert "2,000."
In line 10 strike out "40."

The SPEAKER. The gentleman asks consent to introduce this resolution for present consideration.

Mr. HAYES. No, sir; this is a privileged resolution.

The SPEAKER. It is not a report on printing for Congress, but it refers to a matter of printing for the Departments. The rule will be read.

The Clerk read as follows:

The following named committees shall have leave to report at any time on the matters herein stated, viz: * * * The Committee on Printing, on all matters referred to them of printing for the use of the House or two Houses.

The SPEAKER. This provides for printing for the War Department, or under its direction, and is not a concurrent resolution.

Mr. BLACKBURN. I must object to its consideration now.

Mr. HAYES. I hope there will be no objection. It will take but a very few moments to consider it.

Mr. BLACKBURN. I cannot agree to anything that will consume any time of the House. I want to get on with the appropriation bill in order to conclude it.

Mr. CONGER. This is to be printed for the use of the House.

Mr. GARFIELD. I hope the gentleman from Kentucky will not object to this.

Mr. McCOOK. It will take but a very few moments, and I trust the gentleman will not raise an objection now.

Mr. BLACKBURN. I cannot consent to the consumption of any time with any matters that will delay the consideration of this pending appropriation bill. I am anxious to get through with it.

Mr. HAYES. If the gentleman from Kentucky will just wait a moment we will get through with this.

Mr. BLACKBURN. I have waited as long as I can. I think I have waited sufficiently long.

Mr. HAYES. I have some rights on this floor as well as the gentleman from Kentucky.

Mr. BLACKBURN. I have no desire to abridge any of the gentleman's rights.

Mr. GARFIELD. If the gentleman from Kentucky will allow me, I wish to say that the Committee on Appropriations of the House, about eight years ago, by general concurrence of both parties in the House, agreed to have the war records of the rebellion compiled from confederate and Union sources. They have been compiled, and are now, to the extent of about seven or eight or perhaps ten volumes, ready for printing at a very considerable cost, appropriated by the Congress of the United States. This is a resolution simply to print for distribution.

Mr. BLACKBURN. I understand that, and have no objection to the resolution, but I do not want it to take up time now which should be devoted to passing the appropriation bill.

Mr. GARFIELD. The gentleman from Illinois asks unanimous consent, and if unanimous consent be granted it will not occupy time.

Mr. BLACKBURN. It cannot get unanimous consent as long as one member stands here objecting; and I mean to object to everything that takes one minute of time from the consideration of the Post-Office appropriation bill.

Mr. HAYES. If the gentleman would object to some of the superfluous talk that we listen to day after day, we might perhaps get through with business.

Mr. CONGER. This is a resolution to print these volumes for the use of Congress, and I think comes within the rule. It is to print them for the members of the House, for their use and for the Senate.

Mr. HAYES. Certainly that is what the resolution proposes, and it is reported unanimously from the Committee on Printing.

The SPEAKER. It has always been held that printing for the two Houses is ordered by a concurrent resolution, which does not require the signature of the President. This is a bill requiring the signature of the President. The Chair therefore states it does not come within the scope of the privilege granted to the Committee on Printing to report at any time. The Chair will recognize the gentleman at some other time.

Mr. McCOOK. I drew the resolution and intended it for a concurrent resolution.

The SPEAKER. But it is a joint resolution.

Mr. McCOOK. I had the co-operation of the journal clerk, and I thought he was competent authority on all such matters.

The SPEAKER. The journal clerk does not rule on points of order. The Chair does that.

Mr. McCOOK. I am aware of that, and I hope the Chair will not misunderstand me. But it appears to me as this printing is for the use of Congress this should be considered a privileged report.

The SPEAKER. It is in reality a bill, and the Chair thinks it does not come within the range of the rule that provides for the printing of the two Houses.

CONFERENCE REPORT—INDIAN APPROPRIATION BILL.

Mr. WELLS. I rise to present a report of a committee of conference.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 25, and 29.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, 20, 21, 22, 23, 30, and 34, and agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same with an amendment, as follows: Strike out therefrom the words "and 25;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 28, and agree to the same with an amendment, as follows: In lieu of the paragraph stricken out by said amendment insert the following: "No part of the money appropriated by this act shall be paid, or in any way used, for the payment of the salaries or expenses of the Indian commissioners provided for by section 2039 of the Revised Statutes of the United States;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$70,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 32,

and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$45,000;" and the Senate agree to the same.

ERASTUS WELLS,
O. R. SINGLETON,
JAY A. HUBBELL,
Managers on the part of the House.
JAMES B. BECK,
R. E. WITHERS,
W. B. ALLISON,
Managers on the part of the Senate.

The SPEAKER. The statement accompanying the report of the committee will now be read.

The Clerk read as follows:

The effect of the foregoing report, if adopted, will be as follows:

The important points of this agreement before the conferees were:

First. Amendments Nos. 3, 4, 5, and 6, which increased the number of Indian inspectors from three to five; also their pay and traveling expenses accordingly. This amounts to $7,000, which the House recommended to be granted.

Second. Amendment No. 7 calls for $5,000 for purchase of seeds and implements for the Cheyennes and Arapahoes. From this the Senate recede.

Third. Amendments Nos. 20, 21, 22, increase of $7,000 for subsistence and civilization of Flatheads and other confederated tribes in Montana, the House is recommended to recede from their disagreement to, as it was concluded that these Indians were entitled to the increase under treaty stipulations.

Fourth. Amendment 23, increase of $10,000 for support of industrial schools. The House is recommended to recede from their disagreement, thus increasing the appropriation for this purpose to $75,000, on the ground of the recent large increase of the necessity for said schools.

Fifth. Amendment 24, increase of $40,000 asked for Indians at Fort Peck agency on the ground that the Indians are coming into this agency in large numbers. The House is recommended to yield in part, to the extent of $15,000, thus making this appropriation $100,000.

Sixth. Amendment 25, increase of $25,000 for transportation, the Senate to agree to recede from, thus leaving $225,000 as the amount.

Seventh. Amendments 28 and 29, difference between the Houses in respect to the discontinuance of the board of Indian commissioners, as recommended by the House. Upon this matter the conferees have agreed that the commissioners may be continued, but that no money shall be paid either for salaries or expenses of said board.

Eighth. Amendment 32, adding an appropriation of $60,000 for clothing for various Indian tribes in accordance with treaty stipulations. The conferees have recommended that the House yield to the extent of $45,000.

Ninth. Amendments 30 and 31, increase for Indian police for rations, $20,000. The conferees have recommended that $70,000 be granted in lieu of $60,000, the sum originally recommended.

Tenth. Amendment 34, allowing certain appropriations to be conditionally diverted from their original purpose. The conferees thought proper to recommend the House to agree to it, being in consonance with existing usage.

The SPEAKER. The question is on agreeing to the report of the committee of conference.

Mr. CONGER. Is the report to be voted upon as an entirety?

The SPEAKER. It is.

Mr. CONGER. It is not in order to ask for a separate vote on a particular proposition?

The SPEAKER. It is not.

The report of the committee of conference was agreed to.

Mr. WELLS moved to reconsider the vote by which the conference report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MORNING HOUR DISPENSED WITH.

Mr. BLACKBURN. I move that the morning hour be dispensed with.

The motion was agreed to, two-thirds voting in favor thereof.

POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the Post-Office appropriation bill; and pending that motion I move that all debate upon the paragraph under consideration and amendments thereto be limited to one hour, to be equally divided between the opponents and friends of the proviso offered by the committee.

Mr. PAGE. I move to amend by making the time for debate two hours.

Mr. BLACKBURN. I desire to say, if my motion shall prevail, I trust no objection will be made to the practice which prevailed in the Committee of the Whole, on yesterday, of allowing a gentleman's time to be extended by another gentleman yielding his five minutes to him until that hour shall be exhausted, having been equally divided between the opponents and friends of the bill. If that is not agreed to, then I shall feel impelled to object to any extension of time or withdrawal of *pro forma* amendments; because it is apparent that, to-morrow being Friday, this bill must be completed to-day or go over till next week.

Mr. PAGE. Allow me to call the attention of the gentleman from Kentucky [Mr. BLACKBURN] to one fact: that after we have passed the portion of the bill we are now considering, in all probability there will be little trouble with the remainder of the bill.

Mr. BLACKBURN. I am not so sure about that.

The SPEAKER. The Chair would suggest that the best way to settle the matter is to vote upon the proposition to limit debate.

Mr. PAGE. I understand that; but we are trying to make some arrangement about the time to be allowed for debate. There are gentlemen on this side of the House who desire to speak as well as gentlemen on the other side, and I propose that there be allowed an hour on each side for debate.

Mr. BLACKBURN. I have no doubt that there are gentlemen on both sides who desire to speak, and if the House wants to extend this debate without limit I have no objection.

The question was then taken upon the motion of Mr. PAGE to allow two hours for debate; and upon a division, ayes 51, noes 108, it was not agreed to.

The question was then taken upon the motion of Mr. BLACKBURN to limit debate to one hour; and it was agreed to.

Mr. BLACKBURN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question was then taken upon the motion of Mr. BLACKBURN that the House resolve itself into Committee of the Whole; and it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of proceeding with the consideration of the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes. The Clerk will read the pending paragraph.

The Clerk read as follows:

For inland transportation by star routes, $7,375,000: *Provided*, That on all star mail routes upon which increased compensation for increased expedition beyond fifty per cent. over original contract price has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of original contract price.

The CHAIRMAN. The first question is upon the amendments proposed by the gentleman from Kentucky [Mr. BLACKBURN] by instruction of the Committee on Appropriations; next upon the amendment proposed by the gentleman from Ohio [Mr. EWING] to strike out the proviso. By order of the House all debate upon the pending paragraph and amendments thereto is limited to one hour. The gentleman from Connecticut [Mr. HAWLEY] is entitled to the floor.

Mr. HAWLEY. I have no desire to speak at length upon this subject, but there were one or two suggestions made by gentlemen who have preceded me in the debate which tempt me to take the floor again. The whole subject has already been thoroughly discussed, when a previous bill was before the House.

I would like to say a word or two, however, before touching upon the subject of star routes, concerning special railroad facilities and the references which have been made to that subject. The gentleman from California [Mr. PAGE] informed us in advance that my associate on the Committee on Appropriations, the gentleman from Illinois, [Mr. CANNON,] and myself would be certain to vote all the additional money required for special facilities on railroads, but we would be opposed to what he considers the West on the star-route question. I desire to say that I was very strongly opposed to raising the appropriation for special railroad facilities to $350,000.

Mr. PAGE. Did you not vote for it?

Mr. HAWLEY. I voted against the amendment increasing it to that amount.

Mr. PAGE. Did you not go between the tellers and vote for that proposition?

Mr. HAWLEY. I voted for it finally, for I felt that I must take something, and I had to take it in the shape it was amended or not take it at all. I did not feel that it was important enough to justify me in endeavoring to defeat the whole railroad appropriation. I voted against making it $350,000, and I say now that that amount was unnecessarily high. In my opinion the committee recommended enough when they proposed to give $150,000. Perhaps they might have made it $200,000, giving a little leeway; and that, in my opinion, would have been not only just but generous.

Mr. CHALMERS. May I ask the gentleman a question?

Mr. HAWLEY. I prefer not to be interrupted. This constant interruption prevents the proper presentation of any argument and makes a mere dialogue of it.

Here is the trouble: the law provides a sufficient allowance already for carrying the mails on railroads; it provides an established rate and a proper compensation. The railroads in all cases do not like it, and it is possible that sometimes it is not quite enough. But it is true that in other cases it is ample.

To do justice to both sides I will say that it is true there are occasional omissions and deficiencies that can only be supplied by the use of a special fund in the hands of a Department. An illustration I gave to the Speaker *pro tempore* the other day in a supposed case of a railroad between this city and New York: suppose that in order to make a rapid through mail between this city and New York it should be necessary for the Department to give a special sum to secure communication between Washington and Baltimore, there being a swift train from Baltimore to New York, but the railroad company having no motive to run a train from here to Baltimore to connect with that. I can suppose a case like that, when a special contract paying practically the entire expense of a train from here to Baltimore might be justified because of the greatly increased facilities it would give.

This is what you will find the great railroad corporations trying for, and this is what I warned the House as well as the Department against; the corporations being dissatisfied with the statute rate of $350,000 this year, will try next year to make it a million or a million and a half of dollars.

The Department would no doubt prefer that the whole $10,000,000

should be given in that way, and would make it eleven or twelve million dollars, if it could, so that it might make these special contracts.

Now, $150,000 to supply little deficiencies and omissions is well enough; but I think $350,000 is rather larger than necessary. I warn the House that this may be, if we do not look out, the breaking down of that wise general law which establishes a universal rate on railroads.

At the suggestion of a member of the committee I will take the liberty to incorporate in my remarks a little statement from the Post-Office Department, showing precisely how the money was expended last year for special railroad service. I think the amount is not far from $150,000, though I have not added up the items. Perhaps my friend on the Committee on Appropriations, the gentleman from Georgia, [Mr. BLOUNT,] can tell me just how much was expended last year for special service on railroads.

Mr. BLOUNT. I cannot remember the exact figures.

Mr. HAWLEY. One hundred and fifty thousand dollars was the expenditure last year, as my friend from Illinois tells me. Now you propose to allow $350,000. The amount is unnecessarily large; but no great injury will arise if the administration of the Post-Office Department be prudent and economical. The statement is as follows:

Obligations for 1880 on account of "special funds."

No. of route.	Termini.	Title of company.	Miles.	Amount allowable.	For what incurred.
5005	New York, New Haven; New Haven, Springfield.	New York, New Haven and Hartford	135.59	$17,647 06	For special train and improved railway post-office cars.
5004	New Haven, New London	do	51.71	453 76	For railway post-office cars, &c.
4002	Providence, Groton	New York, Providence and Boston	62.57	509 63	Do.
3035	Boston, Providence	Boston and Providence	44.19	347 99	Do.
6011	New York, Buffalo	New York Central and Hudson River	442	15,427 72	For railway post-office cars, &c., and on best trains.
6052	Buffalo, Chicago	Lake Shore and Michigan Southern	542	22,875 76	Do.
21045	Toledo, Elkhart	do	133.6	2,627 25	Do.
7004	New York, West Philadelphia	Pennsylvania	90	4,171 50	Do.
8001	Philadelphia, Pittsburgh	do	353.6	12,331 80	Do.
10001	Philadelphia, Baltimore	Philadelphia, Wilmington and Baltimore	96	1,931 65	Do.
10013	Baltimore, Washington	Baltimore and Potomac	46.1	688 73	Do.
21032	Columbus, Pittsburgh	Pittsburgh, Cincinnati and Saint Louis	193	4,456 03	Do.
21015	Columbus, Indianapolis	Columbus, Cincinnati and Indiana Central	188	2,986 38	Do.
21014	Columbus, Cincinnati	Pittsburgh, Cincinnati and Saint Louis	120.48	1,604 79	Do.
22002	Indianapolis, Terre Haute	Terre Haute and Indianapolis	73	1,192 46	Do.
23031	East Saint Louis, Terre Haute	do	165.4	2,605 05	Do.
21002	Pittsburgh, Chicago	Pittsburgh, Fort Wayne and Chicago	468.85	6,308 37	Do.
10003	Baltimore, Wheeling	Baltimore and Ohio	393.92	5,122 93	Do.
24023	Allegan, Muskegon	Grand Haven		750 00	For special train.
11001	Washington, Richmond	Richmond, Fredericksburgh and Potomac	116	1,503 36	For railway post-office cars and connections.
11008	Richmond, Petersburgh	Richmond and Petersburgh	24.07	241 54	Do.
11009	Petersburgh, Weldon	Petersburgh	65.31	587 79	Do.
11002	Alexandria, Lynchburgh	Washington City, Virginia Midland and Great Southern	171.35	19,067 00	For special train.
13002	Weldon, Wilmington	Wilmington and Weldon	163.07	1,350 72	For railway post-office cars and connections.
14002	Columbia, Wilmington	Wilmington, Columbia and Augusta	191.78	1,146 95	Do.
14005	Charleston, Florence	Northeastern	103	695 25	Do.
14004	Charleston, Savannah	Savannah and Charleston	116.33	4,680 50	For special train.
11006	Richmond, Greensborough	Richmond and Danville	189.67?	1,604 61	For railway post-office cars and connections.
Part 13004	Greensborough, Charlotte	do	93?	552 42	Do.
15001	Atlanta, Charlotte	Atlanta and Charlotte	266.5	1,762 00	Do.
15003	Atlanta, West Point	Atlanta and West Point	86.68	608 50	Do.
17001	West Point, Montgomery	Western of Alabama	88.2	609 32	Do.
17012	Mobile, Montgomery	Mobile and Montgomery	178.27	1,099 40	Do.
17013	Mobile, New Orleans	New Orleans, Mobile and Texas	141.88	1,033 59	Do.
20004	Cincinnati, Louisville	Louisville, Cincinnati and Lexington	108.45	1,135 91	Do.
20005	Louisville, Nashville	Louisville and Nashville	112.44	2,020 53	Do.
19006	Nashville, Decatur	do	75.33	654 63	Improvement in schedule.
17004	Montgomery, Decatur	South and North Alabama	183.66	813 25	Do.
Part 14003	Columbia, Charleston	South Carolina		2,529 29	Special train Camden Junction to Augusta.
15002	Atlanta, Chattanooga	Western and Atlantic		1,128 53	For railway post-office cars.
Part 15009	Savannah, Live Oak	Savannah, Florida and Western	179.20	950 41	Do.
22003	Cincinnati, Indianapolis	Indianapolis, Cincinnati and La Fayette	111.50	2,478 64	Special train.
17010	Dalton, Selma	Selma, Rome and Dalton	236.50	696 27	Improvement in schedule.
13007	Charlotte, Augusta	Charlotte, Columbia and Augusta	195.75	1,013 00	Do.

But I pass on. This matter concerning the star routes is not a matter of prejudice with the East against the West. There is no such prejudice, as I have had occasion to say again and again. But the alleged prejudice has been referred to and used as an argument here. I repeat that it is within the knowledge of almost every man in the House that the East is just as ready to be liberal in the matter of post-office appropriations as the West is, and that no prejudice exists.

One gentleman intimated that the western members—the members from beyond the Mississippi—twenty in number, would remember their friends. But I hope there is no man in this House, a candidate for office of any description, East or West, who would turn one hair's breadth to the right or the left in regard to the proper administration of the Post-Office Department because of suggestions of that kind. We are willing to give all that is necessary; but when money is given in accordance with the most generous spirit we do then demand that the administration shall proceed in strict accordance with law. And here is the trouble. We demand that the administrators of the Department shall obey the law literally, wisely, honestly. It is no answer to our proposition to say that the committee does not understand the West; that members of it have not been there; that we do not know how the West is growing.

[Here the hammer fell.]

Mr. DAVIS, of North Carolina, obtained the floor and yielded his time to Mr. HAWLEY.

Mr. HAWLEY. I thank the gentleman for his kindness. It will not deceive anybody to say that we know nothing of the West. My friend from California [Mr. PAGE] went from New York and lives in California. I think I have been in as many States of this Union as he has. I have lived in four—two in the South and two in the North. I have traversed the country from Maine to the Golden Gates, and from Chicago to New Orleans. I have walked and ridden and camped and slept upon the ground in the open air in ten or a dozen States, in peace or war. I have been across and up and down his own State; I have been in nearly all these States. From my boyhood I have wandered about from time to time. It will not do to tell me that I know nothing about the subject I am talking of, nor to tell us that we have any prejudices against the western people.

During the last fiscal year the Department expended $5,537,000—about $150,000 above the amount appropriated. As the current fiscal year approached and was about to begin, we were in session; we sat here sixteen weeks, during which the Post-Office Department might have complained of the smallness of the previous estimates and the insufficiency of the appropriations. No such complaint was made to us. We were gone from here only five months, and when we came back, on the first Monday of December, we were met by a demand for $2,000,000 in addition to the appropriations already made for the current year; that is to say, the Post-Office Department told us that it must spend in this current fiscal year $2,363,000 more than had been spent in the previous year—swelling the amount of expenditure from $5,537,000 to $7,900,000. Now, I say, the very statement of the figures must convince this House that the demand is extravagant.

I can thrill with all these poetical descriptions and glorious imaginings in regard to the West. I am as proud of that portion of our country as those who represent it here. It is a part of our common country. But you need not tell me it is necessary to have the appropriations for the Post-Office Department increased in one year 43 per

cent. The very statement demands investigation; and the Committee on Appropriations would have been false to the House and to the country if it had not prosecuted that investigation.

Mr. PAGE. Are there not States and Territories that have increased in population in that proportion within the last fiscal year?

Mr. HAWLEY. No doubt there is a magnificent growth out there; but it is not a growth of 43 per cent.

Mr. PAGE. Nearly that in Colorado.

Mr. HAWLEY. There is no such general increase; it is an impossibility.

Nor can it be said that the Department a year and a half ago had no expectation of the growth which has taken place. The promise was in the western sky every day. You must not tell me that the Department could have started upon an expenditure of $600,000 on certain routes, and that this has necessarily swelled in twelve or fifteen months, contrary to expectation, to $2,200,000. The Post-Office Department could certainly make a better guess than to start a route at $6,000 and be compelled to spend upon that route $150,000 in the course of a few months. Was it necessary to make a pretense to the world that $6,000 would run a weekly mail on a certain route hundreds of miles in length, and then increase the trips first to three a week and then to seven a week, at the same time increasing the expenditure first to $80,000 and then to $150,000? That is not the way that a wise administrator would do. He would know enough to begin with a contract for two or three trips a week at an expense of perhaps twenty or thirty thousand dollars for the whole year. Any man capable of managing two mules and a fifty-acre farm could make a better guess as to what he would need for the next two years.

I tell you, when it is made habitual in these roads to begin with one, two, three, four, or five thousand dollars and then run up to hundreds of thousands of dollars there is something in the meal; there is a colored African in the fence. [Laughter.]

Mr. VALENTINE. If that is wrong why do you not bring in a bill to correct it?

Mr. HAWLEY. We have; the bill is before the House. And there is intimation made against the integrity of gentlemen because we insist we are right in asking this correction.

Now, sir, in all that has been said, there has been no justification of expediting certain routes $500,000 in one single year.

Mr. PAGE. New mail-routes——

Mr. HAWLEY. There is no justification for it when the total receipts of postage from those routes was only $64,000. Now I will not intimate fraud against any man; if I knew where it was I would strike him on the head. I do not know where it is. I do not know there is anything but maladministration and wastefulness, and the judgment of the House has said already what shall be done in the future. And I deny that the time of the committee is occupied unreasonably in referring to these past contracts and asking for some reduction of them.

I started in on this question in this hasty five minutes without malice toward any man, but in strict obedience to the law which forbids every officer going beyond appropriations. They have gone nearly $2,000,000 in advance of the law, beyond the law and the appropriations, and now they come in here asking $2,000,000, being an increase of 43 per cent. in one year, and then tell us it is necessary and honest.

[Here the hammer fell.]

Mr. MILLS. Mr. Chairman, I should not have desired to speak on this question at all, but it has been thought proper by gentlemen who advocate the retention of the provisions in the bill to stigmatize the measure which I advocate, and which those who act with me advocate, as an act of robbery, as an act of fraud. The gravest charges are made against this measure affecting the gentlemen who support it, because if the charges made by the gentlemen in opposition to this measure be true we ought not to be sustaining and supporting an officer who comes before the House by the arraignment of both sides, republican and democratic members, for the perpetration of the grossest frauds on the revenue of the Government.

Gentlemen, I do not believe in vicarious punishment, and it can only be just when it is voluntary. If an executive officer of this Government has been guilty of robbing the revenues over which he has been appointed, you are derelict in your duty if, having that information, you do not bring him before the House and, on articles of impeachment, send him to the Senate for trial.

I am not his defender. I will not defend him against the charges you bring against him, but in all humanity and common sense justice demands you should bring that culprit before the bar where he can have at least the Anglo-Saxon privilege of being heard. If the charges you make against him be true, your faces ought to be covered with shame unless you bring him before this House on articles of impeachment and send him before the court established by the Constitution for his trial.

But, if he is guilty, does it follow as a sequence that the people of the Western and Southern States have to be punished for his crime? And what punishment do you propose? In your love of economy and reform, what are you proposing to do? You propose to punish not the perpetrator but the people by depriving them of the benefits of that Government which was established for the common welfare. Because you say the Second Assistant Postmaster-General has been guilty of these great robberies, you ask that this mail service shall be denied to the people. I say that is a *non sequitur*. The Constitution says, if he is guilty of the charge you make against him, he shall go out of office and be disqualified from holding any office of honor or trust hereafter. But it does not say that the people of the South and West shall have the mails taken from their doors, their post-offices closed up, and the transportation of mails from one portion of the country to another shall stop.

But, as a matter of fact, is there any truth in the charge? What is the evidence? Ah, gentlemen, in 1857, 1858, and 1859 there was a democratic administration of this Government, over which presided James Buchanan, of Pennsylvania; Aaron V. Brown, of Tennessee, was Postmaster-General; and in the other end of this Capitol sat two Senators, the two most illustrious names ever recorded in the history of Texas, Sam Houston and Thomas J. Rusk. From the brain of Thomas J. Rusk, as chairman of the Committee on Post-Offices and Post-Roads, sprang this great idea of connecting the settlements of the Mississippi River with the Pacific Ocean. It was through his influence and the influence of the great democratic magnates then having control of the country that the great route from Saint Louis through Texas to San Francisco was organized. Listen to it, my democratic friends, if you please. For that service performed twice a week, occupying twenty-five days, they paid, from Saint Louis to San Francisco, $600,000.

[Here the hammer fell.]

Mr. HUTCHINS obtained the floor and yielded his time to Mr. MILLS.

Mr. MILLS. I thank the gentleman from New York for his courtesy. On the same route service is rendered to-day seven times a week in thirteen days, from Fort Worth to Yuma, at the rate of $299,000. That is just the difference between them. Now, then, if this Government is getting a service of seven times a week over a line fourteen hundred and seventy-six miles at $299,000, please, my democratic friends, tell me where was the economy when this service from Saint Louis to San Francisco was paid for at the rate of $600,000? And yet there is talk of "economy" in the service. Always this question of economy comes up when the poor people in the West, the people on the frontier, come here and ask some expenditure from the Government because they have not the political power to protect themselves in the distribution of legislative benefits. Is it right to deny them postal service when they come here and ask for it because in political power they are weak? Is it right to deny them that to which they are entitled? Why do you cut down their service when they have no power to prevent it? Why do you not make a struggle about cutting down some of the railroad service? Do you not know that the star-route mail service here complained of costs only an average of about $160 a mile, while you are paying some of these railroads $1,200 a mile and over? Why do you not make a war upon them? The road from Council Bluffs to San Francisco gets over $600,000, while this other line, fourteen hundred and seventy-six miles long, gets only $299,000. Why is there not some honest indignation expressed at that difference?

Ah, Mr. Chairman, it is because these payments are in interest of great railroad corporations. They are able to antagonize every attempt at reduction with some show of success; but the people on the western frontier have no protection except what you choose to give them and must accept the terms, and the hard terms, you are willing to dictate. The Territories have only a sort of what is called here "bobtail" representation, a power to speak but not to vote, and the Southwest and the West have but little political power as yet. Hence when you raise a cry and go before the country on a question of "economy" and make that the issue before the people, you strike at their interests and at the only benefits which they receive from the Government. There are these vast railroad corporations controlling mail lines running all through New Engand delivering the mail four and five times a day, running right by the door of the gentleman from Connecticut, [Mr. HAWLEY,] all over that thickly populated section of the country. But who says anything about economy in connection with them? Who purposes to cut down that service to one trip a week?

No, Mr. Chairman, we have had already this subject before us. We had it here for a long time before the House and we will have it again. The Committee on Appropriations when it was here before met with most disastrous defeat upon that question, a defeat which if it had occurred in the British Parliament would have caused every member of the ministry to send in his portfolio to the Queen and retire again to private life. But the Committee on Appropriations know no such thing as defeat in this House. Forgetting the disaster which overtook them in both bodies they come back again and make the same fight against the star-route service that they made before and on which they were so badly defeated. I heard a distinguished gentleman of this House, a Representative for many years upon this floor, state that it was the first time during the whole period of his service in this body that a unanimous report of the Committee on Appropriations had been beaten in the House. And yet that report was beaten in the House and badly beaten, but notwithstanding that defeat they come back now and ask us, contrary to the genius of our laws and institutions, to pass retrospective laws, going back and depriving the people of the benefits of the mail-service and cutting it down to what it was eighteen months ago.

And why, Mr. Chairman, is there any necessity for thus crippling

the service in the Territories and in the West and Southwest? Are the revenues of the Government falling off? Is the Treasury in straightened circumstances? Why, sir, the revenues of the Government are increasing at the rate of fifty or sixty millions of dollars this year over last year. So great is the plethora of money coming into our coffers that the bonded interests of the Government are crying out against the rapidity of the payment of the public debt, demanding that it shall be left to other times and other generations, to prevent its extinguishment at this early day. You will perpetuate that bonded debt of thousands of millions and enslave the country, while you deny to the people on these Western frontiers and to those vast and growing regions west of the Mississippi River their mail-route facilities at a cost of a few hundred thousands.

[Here the hammer fell.]

Mr. HISCOCK. Mr. Chairman, I should not have taken any of the time of this committee upon the pending bill, except for the charges that have been made so freely that the Committee on Appropriations by the legislation which it proposes would endanger in some way the existing mail facilities of the West. Gentlemen on this floor have painted in glowing colors the effect of the star routes upon the West in carrying into those wild regions emigrants and all the facilities for and necessities of improvement and civilization. I, sir, in behalf of the Committee on Appropriations, insist that it has had no purpose to strike down the mail service or curtail it in the least in the limits of needs of people of the far West.

I do not propose to strike down the necessary appropriation, and I do not believe there is any member of the Committee on Appropriations who desires to strike it down if the effect of it is to be in any sense to cripple the star service in the West. That is not our position. What we say in reference to it is that the money we propose to give here is ample to afford to these star routes all that is necessary for carrying the mail as it is carried to-day. And I ask those gentlemen that have been discussing this question upon the other side to point out a single route if this amendment is adopted, if the action of the Appropriations Committee is indorsed by this House—to point out a single route upon which, in their judgment, the service will be crippled.

Gentlemen have said that if Mr. Brady, the Second Assistant Postmaster-General, has illegally and unlawfully taken money from the Treasury he should be punished. I do not charge that he has done that. They, by implication at least, do make that charge. I assume if that is the case—I say if he has done that and if he cannot be punished—we will at least take from the pockets of the contractors the money which has been wrongfully placed there.

Mr. Chairman, what is claimed on the part of the Appropriations Committee is this, that where the schedules of the service have been expedited it has been without any justification in the facts of the case; that large sums of money have been paid, more than was necessary; and we insist that if the allowance is made to carry out those contracts which we propose, the service will be performed and the mail facilities will not be crippled in the least.

In this connection I will send to the Clerk's desk and have read the evidence upon which the service has been expedited in one of the cases. It is from the evidence of John R. Miner.

The Clerk read as follows:

Question. You say that the trips were not increased to six trips per week for some six months after that?
Answer. Nearly a year after that.
Q. So that this affidavit as to additional men and additional animals needed relates simply to the necessities imposed upon you as to an increase of men and of animals by reason of the reduction of schedule from one hundred and four to sixty-five hours without any increase of trips at all?
A. Yes.
Q. By what rule of arithmetic can you make it appear that where it only required twelve men and thirteen animals to carry a mail three times a week on a schedule of one hundred and four hours, it should require one hundred and fifty men and one hundred and fifty animals to carry the same mail the same number of trips per week on a schedule of sixty-five hours?
A. The rate of pay was not governed by that affidavit. I have not any rule of arithmetic for that figuring. It was simply an estimate.
Q. Is it possible that it could require one hundred and fifty men and one hundred and fifty animals to carry a mail three times a week on a sixty-five-hour schedule, where it only required twelve men and thirteen animals to carry the same mail the same number of times a week on a one-hundred-and-four-hour schedule?
A. It depends very much on the section of the country. It requires a large number of men to open the road, to build bridges, and all that sort of thing which, on a long schedule of time, would not be required.
Q. Did you, after that schedule was put at sixty-five hours, and when the mail was carried three times a week, put one hundred and fifty men and one hundred and fifty animals on that route?
A. I do not know.
Q. How many men have you on that route to-day?
A. I do not know.
Q. Did you ever have one hundred men on that route at any one time?
A. I do not know. I do not attend to the practical running of the route.
Q. Are you making money or losing money on that route?
A. I am losing money.
Q. How can you know whether you are losing money unless you know what you are expending on it?
A. I know what I am expending on it.
Q. How can you know what you are expending on it unless you know what force you have employed on it?
A. Because I do not pay the men.
Q. Have you no reports furnished of your business out there?
A. I have.
Q. But you have no reports as to the number of men and horses employed?
A. No.
Q. How are those reports made to you?
A. They are made by Mr. Williamson. He goes there every quarter and spends a good portion of his time there.
Q. And he has never let you know how many horses you have employed there?
A. I have not asked the question.
Q. What sort of a report does he make to you?
A. A report of his expenditure.
Q. But he does not say for what the expenditure was?
A. Certainly.
Q. You run that mail now on the basis of six trips per week?
A. Yes.
Q. Do you believe that you have got one hundred men employed on that route to-day?
A. No, sir.
Q. Do you believe that you have got seventy-five men employed?
A. It is a matter of belief. I know nothing about it.
Q. Do you believe that when you were running it on a tri-weekly basis you ever had fifty men employed on it at any one time?
A. My belief is that I had more than fifty men employed.

[Here the hammer fell.]

Mr. ROBINSON was recognized and yielded his time to Mr. HISCOCK.

Mr. HISCOCK. I have asked to have that testimony read that the committee might see the class of evidence upon which the Post-Office Department has expedited this service. I have asked to have it read, not claiming that in all the cases which have been investigated by the Committee on Appropriations it is as glaring as it is in this one case. But I say that in every instance this expedition of service has been upon the affidavit of the contractor alone, so far as I have been able to ascertain, unsupported by other evidence. He simply has gone into the Department and said, "I ask so much money for this expedited service," and without cavil or criticism it has been given to him. And the position I take is that you may give what the Committee on Appropriations propose, and I challenge any gentleman that is opposed to our action to point to a single star route that is to suffer by it; a single star route that he claims on account of our action will be surrendered, or on which the mails will not be carried in less time with less expedition.

Mr. PAGE. Will the gentleman allow me a moment to answer his question?

Mr. HISCOCK. Certainly.

Mr. PAGE. The gentleman from New York has asked somebody to state a single star route that will be interrupted. I say every star route upon which service has been expedited will be affected more or less by the amendment of the committee.

Mr. HISCOCK. I concede it will be affected more or less, and in this only, that less money will be paid for the service. The question is whether these routes will be affected to the injury of the service, the carrying of the mails. The question is, are the contractors being paid more for their service than is necessary? That is the question here. And if there are one or two of the star routes that will be suspended, I say that is preferable and that the penalty be paid under the law, and that they should be advertised and relet and thrown open to competition, that all bidders may come in and compete, than that we should perpetuate all of these routes during the next eighteen months or the next two years and a half.

Mr. VALENTINE. Will the gentleman allow me to ask him a question?

Mr. HISCOCK. Yes, sir.

Mr. VALENTINE. Why, then, did not your committee in reporting this proviso allow the Postmaster-General to contract with new parties where a contractor refuses to carry the mails, if this becomes law?

Mr. HISCOCK. Well, sir, I cannot tell why we did not do all that. We come in here with a scheme that we believe will afford money, afford all the mail facilities that are necessary and proper. We come in here with a scheme which, in my judgment, will pay to the contractors all that they ought to be paid for the doing of this service. There may be now and then a case possibly in which it will be necessary for the contractor to throw up his contract; but he will receive the penalty under the law, and it can be readvertised and relet. It may be that after a short time it will be necessary to put temporary service upon that route. Supposing it is, let the Government pay for it. But do not let this large amount of money, which it seems to be conceded by gentlemen on the other side of this question has been wrongly contracted for, be taken from the Treasury—do not let this money be paid to these contractors who will not earn it.

Mr. UPSON. I would like to point out some specific routes that will be affected by this bill, in answer to the question of the gentleman from New York.

Mr. HISCOCK. I have already stated that they will be affected; and how, in the sum paid and not in the service performed—do not misunderstand me—the mail contractors will receive a fair compensation for the service they render the Government, and the service will be performed under the measure we propose.

Mr. UPSON. No, sir; the time will be increased for which they will not be compensated.

Mr. HISCOCK. What I say is that the service will not be impaired; that is the claim I make on this floor. And I ask gentlemen to bear in mind, in voting on this question, that the only thing for them to investigate is whether the service will be impaired, and whether the Government will pay a fair compensation for the service rendered to it.

Mr. UPSON. If the gentleman will allow me I will instance some of the routes that will be affected by this provision. On the Fort

Yuma and Fort Worth route the time will be increased two days and fifteen hours. On the Las Vegas route the service will be reduced to one and a half trips per week. On the Santa Fé and Prescott route the time will be increased thirty-four hours, and on the Phœnix and Prescott route it will be increased sixty hours. I could name other routes where the time will be increased.

Mr. VALENTINE. On the Sidney and Deadwood route it will be increased forty hours.

Mr. HISCOCK. Does the gentleman claim that the effect of this bill will be to set back the present schedule to the old schedule?

Mr. UPSON. It will be worse than that; on one route where the trips were three a week this bill would reduce them to one and a half trips per week.

Mr. HISCOCK. What I say is the gentleman is entirely mistaken, he does not understand the facts; we have made ample allowance to pay for the present expedition. What I claim is that an ample allowance shall be made. These gentlemen ask that money shall be squandered on these contracts; I protest against it. I ask gentlemen of this committee to remember when they come to vote what the real issue is.

[Here the hammer fell.]

The CHAIRMAN. The Chair desires to state that debate upon this paragraph having been limited by order of the House to one hour, to be divided equally between the two sides, the time of the opponents of the amendment offered by the gentleman from Ohio [Mr. EWING] has been consumed except ten minutes; and there are twenty minutes remaining of the time allowed to gentlemen advocating that amendment. The Chair would be very glad indeed, inasmuch as there are so many members asking for recognition, that some understanding shall be had as to who shall speak.

Mr. HASKELL. I desire to say a few words.

Mr. HAZELTON. I believe the understanding is that I shall have the floor next. [Laughter.]

The CHAIRMAN. The Chair will recognize all he can in the twenty minutes remaining for the one side and ten minutes for the other, of those who claim the floor. The Chair suggests that some arrangement be made among the friends of the amendment as to who shall speak.

Mr. HASKELL. I will take the floor for a few minutes. I desire to state simply a few facts in this connection; I do not care to indulge in any general declarations.

It has been stated by the Committee on Appropriations, who reported this bill, that an exorbitant price is paid for the service which is provided on the star routes. That I deny. On the contrary, the members of the Committee on Appropriations have not named a single route where the compensation is too great for the service performed.

There has never been a day in the history of the Government when the star-route service of the West was performed more cheaply than it is to-day. The declaration that enormous expenditures have been made on those routes is not sustained by the facts. I refer to the report of the committee itself, containing the evidence of the men subpœnaed before the committee. That evidence shows that to-day, upon nearly all of these routes named, the price per mile is cheaper than it ever was before. The service on these routes does not cost too much, nor are the contractors making such large sums of money.

I desire to call the attention of the gentleman from Texas [Mr. REAGAN] to a few specified routes. I will take one route that he mentioned the other day as being the worst one of the kind, the route from Bismarck to Fort Keogh. That route was let at $2,300. Here is the evidence taken before the committee in regard to that route. It was let for a once-a-week service, because the Northern Pacific Railroad had been discontinued, and there was no use for mails oftener than that in that section of the country. After it was let the railroad came on, and the star service continuing out from the end of the road was increased. Besides that, the distance was originally misstated.

We have here the testimony of the contractor that at the present compensation he has to-day expended more money in the running of his route than he has ever received from the Government. He stated under oath that it has cost him more to keep up his route than the Government has paid him.

Then there is the great route from Sidney to Deadwood, which my friend from Illinois [Mr. CANNON] referred to. The statement of the contractor on that route is that he lost in running that route $86,000 up to six months ago. To-day it is paying a large return; but six months ago he was $86,000 behind. He lost at one time $20,000 in treasure, and had his stock run off and his stations burned by Indians. Yet to-day you only pay him for his service the sum of $29,000 a year, and he carries the mails seven times a week three hundred miles on a schedule of fifty hours for the whole trip. This bill would take $15,000 from the $29,000 which he now receives. He is carrying the mail there as cheaply as the little donkey narrow-gauge railroad company hauls it.

Mr. BUCKNER. But he gets his mail as often during the week, does he not?

Mr. HASKELL. I cannot yield for these interruptions. I want to call attention to the Fort Worth and Yuma route. Here is a declaration from this same agent quoted by the Appropriations Committee that the present compensation for that route is as cheap as the service can be done for to-day; and it is done cheaper to-day than it was ever done before since the route was established over twenty years ago. It is just so with the Santa Fé and Prescott route, the agent declaring that the compensation is just as low as the work can be done for. All through this star-route system which has been so fiercely attacked by the committee there is not a solitary route named by them where the amount paid for the service is exorbitant. They cannot name a time in the history of the Government when less was paid for the work; they cannot name a time when it was done cheaper; they cannot find a particle of testimony to show that any fraudulent contract was made. Yet after four or five attempts to perfect their bill they come here and acknowledge that their information was all wrong, that their premises were all without foundation; yet they propose that this compensation shall be cut in two in the middle.

[Here the hammer fell.]

Mr. CALKINS. Mr. Chairman, when you strip this question of all useless verbiage and look at the facts before the House, there is very little in controversy between the friends of this amendment and the Committee on Appropriations. I make no charge or insinuation against that committee, but I do say that if that or any other committee wants to make a fight against any contractor or any other person they ought to be compelled to choose some other time and place for making it than at this late day in the session and upon an appropriation bill designed to provide for the expenses of one of the Departments of the Government.

To state in a few words the question before this committee it is simply this: A law having been passed limiting hereafter the right of the Postmaster-General to allow more than 50 per cent. of the original contract price for accelerated speed, the Committee on Appropriations propose to make that rule apply to existing contracts. Now, there are two questions which have been much discussed. In the first place, they say that trips have been increased on certain routes—about seventy I believe—and all these are west of the Mississippi River. The question that naturally arises is, were those increased trips necessary? If not, I call upon the Appropriations Committee to say on which of the routes is this increase unnecessary? Let them treat this matter heroically, not indirectly. Wherever a trip is unnecessary, let the committee point it out and we will all help to strike it down.

Again, it is said that the Department has done wrong in accelerating speed. Then the question arises, was this accelerated speed necessary? If not, let the route be named, and let that acceleration of speed be cut down. We will all help to do that. Let the Committee on Appropriations meet the question directly and give us a chance to strike down any routes on which there has been an unnecessary increase of speed or of trips. But what do they propose? Do they propose to strike down any of these routes specifying them by name? No; we have listened for weeks to these charges of abuse of power, and now the committee come in and propose to strike down routes indiscriminately and without reference to their necessity or utility. I do not care so much about contractors; they will take care of themselves. What I care about is the people, the pioneers. The committee frankly admit, and it was admitted by the gentleman who last spoke in favor of this report, that their proposition will affect every one of these routes.

If it be the fact that a contractor cannot carry the mail for the 50 per cent. increase allowed by this bill, what is the effect? He must either go back to his old schedule or he must become a defaulting contractor, have his contract forfeited, and the route must be relet. Now, how many of these routes are to be affected in this way? That is what the Committee of the Whole want to know. How many routes are to be put back on the old schedules, and who are the people to suffer? We have listened to discussions hour after hour and not one member of the committee has come forward to give us this information, without which we cannot act intelligently. I doubt whether the Committee on Appropriations has the information. My judgment is, to use a common expression, "they have bitten off more than they can chew." We have been listening for hours wanting to know who are to be affected, and we have not been told. We have asked for explicit information, and have been answered by fumes of pretended indignation at what the committee have been pleased to call "abuse of discretion" on the part of somebody. This is all!

Now, if there has been such abuse, the remedy is perfectly simple. No person on this floor will go further than I will to correct abuses. Let the committee bring in a bill specifying the routes upon which too much is being paid and directing the Postmaster-General to abrogate those contracts and relet the routes. When they present such a proposition and inform us of the condition of affairs we will be prepared to vote, but until they do this let us not get lost in the dust which is being made.

Mr. CHITTENDEN. I understood my colleague, [Mr. HISCOCK,] a member of the Committee on Appropriations, to say distinctly for himself and the committee that their proposed amendment did not impair the service.

Mr. CALKINS. On the contrary, he said that it affected all these routes. He admitted frankly that all of the routes expedited would be affected, and while the number of trips could be kept up the speed would necessarily be reduced.

Mr. HISCOCK. I said it would not impair the service but would

impair the amount to be paid. I wish to say to the gentleman from Indiana the logic of the action of the Committee on Appropriations is that this service will not be reduced back to the old standard.

Mr. CALKINS. Of course.

Mr. HISCOCK. But it will be carried out——

Mr. CALKINS. Of course that is the logic they undertake to maintain; but the effect of it is just the reverse, as everybody can see. These contractors cannot carry the mails at the present speed at 50 per cent. rise on the contract price, and either the route has to go down or, under existing law, be relet. That is the true logic of it, and no one can successfully gainsay it.

[Here the hammer fell.]

Mr. HAZELTON. Mr. Chairman, we are dealing now with the question of the postal service—the carrying of the mails throughout the United States for the benefit of the American people. On the face of this bill every particle of territory east of the Mississippi River has all it asks for in the most ample manner. By the conditions of that provision of the bill they have daily mail service throughout nearly all the Eastern States by star service, and they have railway service far beyond what can possibly be given by the greatest expedition to the service west of the Mississippi.

We stand here to-day, then, Mr. Chairman, with the mighty States of this Union in the old civilization grasping $10,000,000 of appropriations for their benefit, (star and railway service everywhere convenient and complete;) but when we go west of the Mississippi River into that broad domain, embracing sixteen States and Territories, a large part of which is yet new and undeveloped, where your brothers are and mine—a people many of whom hail from the hills and valleys of New England, from the great central States, and from all parts of the Union—when we come to deal with them, and they ask $7,500,000 against $10,000,000 for the territory east of the Mississippi, then every man on this committee, as if fired with holy indignation, cries out, "What an outrage on the Treasury of the American Government!"

It is a question of proportion—of justice to one section as well as another, Mr. Chairman; and why should you deny the West $7,500,000 to maintain its present service when you take $10,000,000 for yourselves? The one is as necessary as the other. The territory covered by these star routes is greater, far greater, than all the territory east of the Mississippi, and an ever-increasing demand for mail service is shown to exist in those great outlying Territories where "the star of empire takes its way" and where civilization struggles to surmount the greatest obstacles in order securely to establish and successfully maintain itself.

Now, what have you got to meet? I am not one of those, Mr. Chairman, to charge fraud against any party or against any Department of the Government which charge I cannot prove by the record and maintain by the facts; and he is a consummate coward, I care not who he is, whether he belongs to the Appropriations Committee of this House or otherwise, who will impugn the motives of men high up in the Post-Office Department of the Government, holding positions of trust and honor, who will impugn the acts of a great Department like that of the Post-Office and charge it with open fraud in its official duty, unless he can make good his assertion by the record and by reliable evidence.

Here are fifty contractors. Here are from fifty to a hundred contracts entered into solemnly by this Government with these fifty contractors. Many of them are the peers of any of us who occupy seats upon this floor. Many of them are pioneers like those who built the Union and Central Pacific Railways—who by their sagacity and energy brought it to a successful completion. They are part of that great western country in its life and in its development. This Government has said to them by solemn contract, made pursuant to a great public necessity, "You shall carry these mails for four years unless you forfeit that right by some wrong on your part. If you fail to carry out the conditions of the contract, then the Government will take it away from you;" it will be forfeited, not by any act on the part of the Government, but alone by some wrong committed on the part of the contractor. And Congress has never changed the law, that I am aware of, whereby in rescinding a contract, without the fault of the contractor, the latter was to have the actual value of the contract *per se* and the actual loss of its non-performance. In addition to net profits he was to be paid for any losses sustained in disposing of his property, rendered necessary by non-performance of the contract. Any other rule is but a Department regulation. By the proviso under consideration we believe that the service on these routes must be seriously diminished, the contracts impaired, and for no good cause.

The men who oppose the amendment to strike out the proviso come in and say virtually that every one of those contracts should be abrogated. On what ground? The gentleman from Illinois [Mr. CANNON] says because the service was increased and expedited by the influence of Senators and members of Congress—by a pressure brought to bear on the Department, which he denominates "bulldozing."

The CHAIRMAN. The gentleman's time has expired.

Mr. HAZELTON. I want just one minute more.

Mr. BLACKBURN. Oh, no.

Mr. HAZELTON. Oh, yes. The gentleman from Illinois, without charging fraud against the Department, attempts to impeach its administrative ability and discretion, and to an extent which does not increase the honor of the Department, to say the least; but he cannot maintain his proposition at all. The gentleman from Connecticut, [Mr. HAWLEY,] by insinuation, repeats it. The gentleman from Texas, [Mr. REAGAN,] says fraud; these contracts should be set aside and this mail service struck down on the ground of fraud. Mr. Chairman, it seems to me that comes with ill grace from my friend from Texas. He remembers how he stood once in a position to invite the charity of this House, and obtained it; and it is the strangest thing to me that, standing amid the very shadows of his own mistakes, he should be the boldest to denounce others when no ground exists even for suspicion.

Mr. REAGAN. I hope I will be allowed to answer a remark made by the gentleman from Wisconsin. Does he mean to imply that I have ever asked the charity of this House for a fraud, or for any willful misconduct?

Mr. HAZELTON. I did not charge fraud. If the gentleman had listened to what I did say he would have found me within parliamentary usage.

Mr. REAGAN. Or that I had done anything in my representative capacity that was improper?

Mr. HAZELTON. I was careful in the statement of my proposition. I said in a position to invite the charity of this House when a bill had been offered here, to which he gave his assent, for the payment of $300,000 or more to some of the delinquent mail-routes in the South up to a certain time of the war; and he stated upon this floor upon his sacred honor that the confederate government had never paid any of them afterward. When the record came, as records sometimes do come with overwhelming power—the record discovered and presented to the House by my friend from Michigan [Mr. WILLITS]—the gentleman concluded that they had been paid.

Now, all I intended to say was if he made an error of that kind he was in a position to invite the charity of this House.

Mr. REAGAN. It is true I made a mistake of fact.

Mr. HAZELTON. And a very considerable one, it seems.

Mr. REAGAN. Very well; I say it is true I made a mistake of fact, but no man was more ready or prompt to correct it when I found it was a mistake. But I wish to say further that the gentleman is hardly warranted from the whole course of my public life to imply that I could be influenced in any way in my action before this House to shrink from the discharge of my duty and expose the wrongs and corruptions which may have found their way into this mail service.

Mr. HAZELTON. The question is whether he did expose it or not. It was a mere dictum, and not proof.

Mr. UPSON. During the remarks of my colleague [Judge REAGAN] on this bill I asked permission to ask him a question, which was declined on the ground of want of time. In answer to his remarks I desire to say that on the 1st of November, 1877, the Post-Office Department advertised the letting of the Fort Worth and Fort Yuma route by publishing the following advertisement:

TEXAS.

Advertisement of November 1, 1877, for service from July 1, 1878, to June 30, 1882.

Route No. 31454.

From Fort Worth, by Bear Creek, Thorp's Spring, Granbury, Paluxy, Rock Falls, Stephenville, Dublin, Proctor, Comanche, Blanket, Brownwood, Jim Ned, Camp Colorado, Coleman, Oakvale, Walthall, Fort Concho, Fort Stockton, Fort Davis, Fort Quitman, San Elizario, Ysleta, El Paso, (Texas,) Mesilla, Fort Cummings, Fort Bayard, Pinos Altos, Silver City, (New Mexico,) Apache Pass, Tucson, Florence, Maricopa Wells, and Gila Bend, to Yuma, Arizona, fifteen hundred and sixty miles and back, seven times a week.

Leave Fort Worth, daily, at six a. m.; arrive at Yuma in seventeen days.

Leave Yuma, daily, at six a. m.; arrive at Fort Worth in seventeen days.

Bond required with bid, $320,000; check, $16,000.

This service covers routes on which *pro rata* of the present pay aggregates about $321,000 per annum.

About the 14th of July, 1878, eight and a half months after the first publication of the advertisement which I have read, and after the route had been let for $139,000, my distinguished colleague joined in recommending increased speed on this route, as will appear from the following letter and indorsements:

AUSTIN, TEXAS, *July* 14, 1878.

SIR: We, the undersigned, citizens and members of the Texas delegation in Congress, most respectfully and urgently request that service on route No. 31454, from Fort Worth, Texas, to Yuma, Arizona, be improved by increasing the rate of speed thereon, so as to insure the through trip being made in thirteen days instead of seventeen days, the present schedule time, and, as some of our reasons therefor, we respectfully submit the following for your consideration, namely:

1. The unprecedented and marvelous rapidity with which that section of the country is settling up. 2. The commercial importance of the large and growing towns, particularly the county-seats, on the route, and the disadvantages they labor under by reason of the distance they are from the railroad and telegraph. 3. The fact that communities with less claims are favored with equal, if not superior, mail facilities than are herein asked for. 4. And finally, we submit that it is in furtherance of a wise and beneficent policy to lend encouragement and aid, as far as possible, especially with regard to mail facilities, to the brave and enterprising people who are settling in and building up our frontier country.

We have the honor to be, very respectfully,

J. W. THROCKMORTON.
D. C. GIDDINGS.

Hon. D. M. KEY,
Postmaster-General, Washington, D. C.

I join in the recommendation for increased speed in the service on this mail-route.

JOHN H. REAGAN.
R. B. HUBBARD, *Governor.*
H. H. BOONE, *Attorney-General.*
J. G. SEARCY, *Secretary of State.*
J. D. STEPHENS,
State Senator Twenty-Fourth District.

I hereby concur in the foregoing recommendation. My reasons are stated in a separate communication addressed to the Postmaster-General. Fort Worth, from which I write this, is the present western terminus of the Texas and Pacific Railway, and the eastern terminus of the stage line on route 31454. Within the last few years it has increased in population from a small town to a growing young city of several thousand. The number I do not know, but it does a large wholesale and retail business. The country between it and Concho is rapidly increasing in population and wealth. I do not believe there is a route of more importance in the United States, or one more deserving the fostering care of the Government. I urged its establishment, and results have proved the fitness of the claim.

S. B. MAXEY.

FORT WORTH, TEXAS, *July* 29, 1878.

It will be noticed that by the advertisement of this route, with the bid a bond of $320,000 and a check of $16,000 were required, and it was published to the world that the cost of the service upon the routes out of which this route was consolidated aggregated about $321,000 per annum.

With these facts and my colleague's experience as a postmaster-general and his long and distinguished services as a member of Congress, can his bitter and unmeasured denunciation of the letting of this route, including the cost of expedition, for $299,000, which is $22,000 less than the like service had cost the Government just previous to the letting of which he complains, be reconciled? With these facts staring him in the face he has not explained what has caused such sudden and so great a change in his views. What he virtually recommended in July, 1877, he denounces to-day as an "unconscionable outrage upon the people," as a scheme to "plunder the Treasury." Is it possible that that which my colleague recommended as a "wise and beneficent policy" less than three years ago is now an "unconscionable outrage, a fraudulent and outrageous robbery?"

When a member of this House unqualifiedly asserts that frauds exist and have been carried on in one of the Departments of this Government, it is to be presumed that he must have conclusive or strong evidence of such fraud. Yet my colleague has failed to point out and give the evidence of a single act of fraud. His charges of fraud are bold and unqualified, but he has utterly failed by facts to establish the truth of his assertions.

The honorable gentleman says the Fort Worth and Yuma route "is the least departure from honesty" in all the routes he proposes to call attention to. How, or why, we are not told. Is it because he recommended it? There are $49,000 more paid for carrying the mails on that route than on any of the others complained of. Yet my colleague says it "is the least departure from honesty" of all of the "unconscionable outrages and outrageous robberies" to which he calls our attention.

It seems to me the gentleman has fallen into a very grave error, when in giving his reasons for supporting the provisions of this bill relating to the star service he states:

MR. REAGAN. I wish to state briefly the reasons why I shall support the recommendation of the Committee on Appropriations. That recommendation does not affect the number of trips now existing or that may be hereafter established. If it is adopted it will not call for the reduction of a single trip in the service anywhere. It takes away no mail facilities from any part of the country. It only prevents an abuse in the postal service which is believed by many, and by myself among that number, to be an unconscionable outrage upon the people. It does this by limiting the power of the Post-Office Department to grant unlimited compensation on account of expedited service.

The recommendation of the committee allows the expediting of service to the amount of 50 per cent. on the original contract price. It allows the increase of trips to any number that the needs of the service call for.

If the service is to be reduced correspondingly to the reduction of the price now paid by this bill, its adoption will take away very important mail facilities, as I will illustrate by the following tabulated statement, which will show that on the route from San Antonio to Eagle Pass, 182 miles, increased from six to seven trips per week and expedited from 48 to 36 hours, the present contract price being $25,601, will be reduced $7,455; the time will be increased about 7 hours, and the speed decreased from 5 to about 4 miles per hour. On the route from Laredo to Rio Grande City, 121 miles, increased from two to six trips per week and expedited from 48 hours to 22 hours, the present contract price being $8,439, will be reduced $2,723; the time increased on each trip 15 hours, and the speed decreased from about 5½ to about 3¼ miles per hour. On the route from San Antonio to Corpus Christi, 148 miles, increased from two to six trips per week and expedited from 40 to 29¼ hours, the present contract price being $28,403, will be reduced $16,105; the time increased to about 8 hours on each trip, and the speed decreased from 5 to about 4 miles per hour.

On the route from Frio Town to Eagle Pass, distance 90 miles, increased from one to three trips per week, and expedited from 54 to 30 hours, the present contract price being $5,880, will be reduced $3,675, the time of each trip increased about 15 hours, and the speed decreased from 3 to 2 miles per hour.

On the route from Fort Worth to Fort Yuma, distance 1,426 miles, expedited from 17 to 13 days, the present contract price being $289,000, will be reduced to $201,000, and the time increased two days and fifteen hours on each trip.

On the route from Vinita to Las Vegas, distance 810 miles, increased from three to seven trips per week, the present contract price being $150,592.03, will be reduced to $36,314.34; the trips will be reduced to about one and one-half per week.

On the route from Santa Fé to Prescott, distance 460 miles, the time will be increased from 96 to 130 hours.

Route.	Miles.	Original trips per week.	Increased to trips per week.	Original time for each trip—hours.	Expedited time—hours.	Increase of time under bill—hours.	Miles traveled per hour under original contract.	Miles traveled per hour under expedition.	Decrease of miles per hour under bill.	Original contract price.	Cost of increase of trips.	Cost of expedition.	Total cost of present service.	Reduction under bill.	Cost of service under bill.
San Antonio to Eagle Pass	182	6	7	48	36	6½	3¾	5	5 to 4	$8,440 00	$3,657 33	$13,504 00	$25,601 33	$7,455 00	$18,145 00
Laredo to Rio Grande City	121	2	6	48	22	15	2½	5½	5½ to 3¾	1,270 50	2,541 09	4,628 00	8,439 00	2,723 00	5,716 00
San Antonio to Corpus Christi	148	2	6	40	29¼	8	3¾	5	5 to 4	2,733 00	5,466 00	20,204 00	28,403 00	16,104 50	12,298 50
Frio Town to Eagle Pass	90	1	3	54	30	18	1⅔	3	3 to 2	630 00	1,260 00	3,990 00	5,880 00	3,045 00	2,835 00
Fort Worth to Fort Yuma	1426	7	.....	.....	.....	63	.....	.....	.....	134,000 00	.....	165,000 00	299,000 00	98,000 00	201,000 00
Vinita to Las Vegas	810	3	7	.....	.....	.....	.....	*	.....	6,330 00	17,879 56	126,382 47	150,592 03	114,277 69	36,314 34

* Trips decreased from seven to about one and one-half per week.

I must believe that my colleague has not maturely considered the effect of this bill, or was not sufficiently guarded in his language when he said, "it takes away no mail facilities from any part of the country."

The proviso under consideration is quite indefinite and unintelligible, and will be found to be impracticable. If adopted, I hold it will be unconstitutional and void, and its enforcement will subject the Government to legitimate claims for damages. What is the meaning of this proviso? It provides that where there has been an increase of compensation for increased expedition within certain periods such service (what service?—does it refer to the expedition alone or to the entire service?—a reasonable construction would be the expedition or speed) shall be decreased, curtailed, or discontinued. How or to what extent discontinued or curtailed? The proviso states "to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of the sum of the original contract and the cost of service for additional trips." In the first part of the sentence the terms "decrease and curtail" seem to relate to the expedition or speed, and in the latter part of the sentence to the compensation. Is the expedition or the compensation, or both, to be reduced?

If the expedition or rate of speed at which the mails on star routes are at present being carried is to be reduced by this proviso to a rate corresponding with one-half of the compensation of the original contract and the cost of the service for additional trips, which on many routes would take away almost the entire increase of expedition, I most earnestly protest against its adoption as unwise policy and a great public wrong. If the cost of expedition is to be reduced to one-half of the original contract price and the cost of the additional trips, the result will be an abandonment of the entire service by the contractors on most if not all of the routes in question; a payment to them of one month's extra pay; a temporary letting of the service for probably six months or more at a cost far exceeding, no doubt, the present compensation, beside the cost of reletting, and a reletting at prices very likely equal to, if not greater, than the amounts now paid. Aside from the derangement of business and the impairing of the mail service, the chances are that the Government will sustain a considerable loss under the operations of this bill.

The contracts which it is proposed by this bill to materially change, to the injury of the contractors, were made under and in accordance with existing laws. They are good, valid, and binding contracts. We find no authority on the part of Congress by a law passed subsequent to the execution of those contracts to alter or change the same. Such a law would be clearly an *ex post facto* law, impairing the obligations of a contract, and therefore void.

From the following clause incorporated in these contracts, to wit:

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and termini of the route, and alter, increase, decrease, or extend the service, in accordance with law, he allowing a *pro rata* increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and, in case of decrease, cur-

tailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with and a *pro rata* compensation for the service retained: *Provided, however*, That, in case of increased expedition, the contractor may, upon timely notice, relinquish the contract,

Congress can derive no authority to alter, increase, decrease, or extend the service stipulated in the contracts. The Postmaster-General, as an officer and agent and on behalf of the Government, entered into the contracts, and they are binding upon the Government. The discretionary power retained by the Postmaster-General to discontinue, alter, &c., the contracts does not authorize Congress to use or exercise that discretion by a law passed subsequent to the execution of such contracts. Contracts for transporting the mails between the United States and a foreign country may be terminated by Congress under a statute authorizing it. (Revised Statutes, section 4011.) But we find no such statutory authority in regard to inland mail contracts. The contractors agree that the Postmaster-General may alter, &c., their contracts, but not that Congress may do so. It is not my purpose to enter into a full discussion of this question, but simply to present and urge it upon the attention of the committee.

There is a feature of this bill which seems to me very inconsistent with the assumed theory of the Appropriations Committee, namely: That great frauds have been committed in the Post-Office Department in regard to the star-service fund.

If the cry of fraud raised by that committee and so loudly echoed by my distinguished colleague, Judge REAGAN, is to be believed, it would not be safe to trust that Department with any money; yet this bill appropriates every dollar asked for by the Post-Office Department for the star service, and then withholds several hundred thousand dollars, to be left under the control of that Department for the purpose of cutting off a large portion of the star service.

Is it not a legitimate inference, to be drawn from the peculiar provisions of this bill, that its authors and advocates are willing to leave hundreds of thousands of dollars in the hands of a corrupt Department of the Government for the sake of punishing a few mail contractors and dealing the star service a serious blow? I can see no good, but much evil, to arise from the adoption of the proviso; and I trust it will be stricken out, and the mail service upon the entire star routes throughout the country preserved and extended under the wise, liberal, and just policy which has been inaugurated.

Mr. VALENTINE. If the House will give me its attention for five minutes, I desire to say a very few words upon some points of the bill under consideration, and in favor of the amendment offered by the gentleman from Ohio to strike out the entire proviso in this section. Though coming into the House at this time, this question is not a new one, for it was here before and the committee then brought in an imperfect bill; at least they so considered it. Now they bring in another bill confessedly imperfect because they offer an amendment to it themselves, an amendment which partially corrects the abuse in some of the routes, but not in all of them. Two at least of the committee who have spoken upon this question have said that the Post-Office Department in letting these contracts originally let them at a very slow schedule for the purpose of increasing them afterward and getting a largely increased compensation therefor.

Now if that be true, (and it is true that for many years the contracts were at first let at a very slow schedule,) that is the very reason why these contracts should not at this time be subjected to the law of April 7. There was no friend upon this floor of the star service that objected to the limit of 50 per cent. for increase in the future, because the Post-Office Department in letting the contracts in the future can govern themselves, as they will, by the provisions of this bill, and instead of placing contracts at two and a half or three miles an hour they will be let originally at five miles an hour. I therefore ask every member of the House to answer for himself, if it is just to the people who rely upon these great routes for their mail, the contracts having been let upon a slow schedule, to now be subjected to the provisions of the law of April 7. It is certainly not right, it is not proper, nor is it just.

Mr. HISCOCK. Will the gentleman answer me one question?

Mr. VALENTINE. Certainly, if I can.

Mr. HISCOCK. Will the gentleman mention any single contract on any of these routes on which, in his judgment, with the compensation we propose they would be put back again to the original rate?

Mr. VALENTINE. They will every one go back to the old schedule, increased 50 per cent. I will give an instance, and one in my own State, from Sidney, Nebraska, to Deadwood, Dakota—a route that is now carrying from one thousand to fifteen hundred pounds of mail-matter every day and is increasing rapidly. In the next few months it will no doubt be two thousand pounds. You put that back if you say they shall have to pay more under the old contract, increased 50 per cent., and reduce the expedition forty hours between Sidney and Deadwood. That is the effect in that case.

Now, sir, while this company is carrying the mails, fifteen hundred pounds a day, they also carry passengers and express, and this will increase the time forty hours between those points.

Mr. HISCOCK. But the Government does not propose to pay anything for carrying passengers and express matter.

Mr. VALENTINE. Not at all. I am aware of that, but I am only speaking of the objection to this decrease on other grounds besides that of increasing the length of time in the transmission of the mails. If you put on this route a slow schedule, of course they will put on a slow wagon to carry it.

Mr. HISCOCK. But the testimony of the contractors themselves shows that they are not willing to abandon the accelerated schedule.

Mr. VALENTINE. I have read the testimony of the contractors very carefully, and I presume the gentleman has that in his mind in what he says now.

Mr. HISCOCK. The question was put to these men whether they would abandon this accelerated schedule, and they said no.

Mr. VALENTINE. It would be very foolish for any man to carry fifteen hundred pounds of mail in a passenger coach when he could carry it otherwise.

Mr. HISCOCK. The point you make is——

Mr. VALENTINE. Does this come out of my time?

The CHAIRMAN. It does.

Mr. VALENTINE. How much time have I left?

The CHAIRMAN. One minute.

Mr. VALENTINE. Then I ask the House to look at this question fairly and squarely and to give to the people of the West—the great, growing West—liberal mail facilities. The committee on yesterday voted that $350,000 should be given to get two hours shorter time on three trains out of New York City, yet here is one route on which you propose to strike off only $15,000 and thereby you reduce the expedition forty hours of time; and another thirty-six hours; and another sixty hours. I ask you, on behalf of the great West I ask you, and each of you, who represent constituencies in the East and South for fair play. That is all I ask. It is all we want, justice and right at your hands. With that we will be satisfied.

Mr. STONE. I yield one minute to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I cannot answer the ringing, magnificent western speech of the gentleman from Wisconsin [Mr. HAZELTON] in one minute; but if he is an apt scholar I will teach him something. Five or ten minutes ago I mailed a letter at that desk to the far western frontier. I do not care the sixteen-thousandth part of a dollar whether it goes five miles an hour or thirty miles. [Laughter.] The committee whose business it is to report this bill is composed of able and conscientious men of both parties. If we cannot trust its judgment we cannot trust the judgment of any committee. In opposition to them we have had assertion, and nothing but assertion. They declare that their policy will not impair the service. If it did the people would not permit it. There are laws higher than the laws of Congress, and when this House does anything to impair the mail service of this country the people will reverse it.

Mr. VALENTINE. You are right in all your propositions.

Mr. STONE. I thank the gentleman from Kentucky [Mr. BLACKBURN] for yielding to me five minutes in closing this debate.

I think in the consideration of this question it is very important that the star service should not be divorced from the railroad mail service. I think it becomes us to look over the entire field and do what is right and proper with reference to the postal service of the whole country. I dislike very much to see anything like a war going on between what is called the star service and the railroad service. I voted yesterday in favor of the special fund, so called, to enable an additional amount to be furnished the Postmaster-General for special and additional service. I did this because I believe the money necessary to render more effective the service and to meet the demand of the country for increased mail facilities.

The gentleman from Connecticut [Mr. HAWLEY] will have published in the RECORD to-morrow a statement from the Post-Office Department showing what has been done by that Department in the last year in regard to that special service. In this connection, Mr. Chairman, I ask to have printed as part of my remarks the very able letter of the general superintendent of the railway mail service to the Postmaster-General with regard to the necessity for that service and showing what has been done with the money in detail. I will not ask to have it read now, but will have it printed as part of my remarks. It shows clearly that no particular section, but the entire country, has had the benefit of this money, so wisely expended, and it shows that a larger sum than was given last year is needed to extend and perfect the system.

In my own mind I had some difficulty in concluding what was proper and right in regard to the amendment reported by the Committee on Appropriations yesterday with reference to the star service. My first inclination was to vote for the amendment of the gentleman from Ohio, [Mr. EWING.] Upon considering the question during last night, and after consulting with the chairman of my own committee, the Committee on the Post-Office and Post-Roads, we proposed a substitute to the gentlemen who are opposing the bill, as perfected by the committee's amendment, a substitute providing that in case there had been expedition of schedule or increase of trips of over 50 per cent. upon any of the contracts made during the last fiscal year and this fiscal year, these should be readvertised on the 1st day of July next and relet to the highest bidder, thus opening this matter to a fair competition.

I submit to the Committee of the Whole that this would be a fair proposition. But on presenting it to the gentlemen representing the West this morning they have said it would not be satisfactory to them. It became necessary then to choose between the amendments now pending. I think the amendment proposed by the Committee

on Appropriations yesterday as it now stands is preferable to the other proposition. We cannot by any general provision avoid doing some injury, I grant you, in some special cases. But I believe it is a great improvement upon the bill as reported, and is more nearly just than to strike out entirely the provision as the amendment of the gentleman from Ohio [Mr. EWING] proposes.

I want to see a change made in the manner of increasing service upon these star routes, a change that will require the Post-Office Department to advertise the proposed increase and throw the whole matter open to competition, and thus put an end to this fruitful source of complaint and scandal.

We must not blind ourselves to the fact that there has been a large increase in the expense of this star service of nearly 400 per cent. since these contracts have been expedited. We must bear in mind, also, the statement of one of the largest of these contractors, when upon the witness stand, that the increased demand had not exceeded 25 per cent. Yet we have seen an increase here of expense of almost 400 per cent., from $600,000 to $2,200,000 and upward.

We have made provision for letting these contracts hereafter, and we have also provided "that the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let." Now, if such a provision is important for the future, it is proper for us to make some provision in reference to these existing contracts.

It has been stated here by one gentleman that these contractors took these contracts to carry the mails for four years, unless the contracts were sooner forfeited. Most certainly gentlemen of intelligence must know that that is not the provision of the contract. I call attention to the provision of the contract relating to that point—a provision contained in all contracts—namely:

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and termini of the route, and alter, increase, decrease, or extend the service, in accordance with law, he allowing a *pro rata* increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and, in case of decrease, curtailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with, and a *pro rata* compensation for the service retained: *Provided, however*, That in case of increased expedition the contractor may, upon timely notice, relinquish the contract.

From this it will be seen that it is expressly stipulated that the Postmaster-General may discontinue any contract, but it does not give the contractor an opportunity to discontinue, except that in case of increased expedition he may upon timely notice relinquish the contract.

It has been difficult to determine just what is right in regard to existing contracts. I am satisfied that with this provision of the bill now before us there will be some hardship in a very few instances. The gentleman from Nebraska [Mr. VALENTINE] has been able to point out but one or two contracts where there will be any serious difficulty on the part of the Government or on the part of the contractors in relation to the service.

Mr. VALENTINE. Give me time and I will point out many other cases.

[The following is the statement of the general superintendent of railway mail service referred to by Mr. STONE in the above remarks:

POST-OFFICE DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT OF RAILWAY MAIL SERVICE,
Washington, D. C., May 1, 1880.

SIR: Permit me to respectfully submit the following statement in regard to special service on railroads:

The compensation to railroad companies for carrying the mails is based in the main on the weight of mails carried. On the great trunk lines, as is shown by each successive weighing, the weights are constantly increasing, and as a consequence they are continually carrying more mails than they are paid for.

In 1876, the great reduction in the cost of materials used in the construction of railroads and cheapness of labor having been taken into consideration by Congress, the rate of pay fixed by the act of March 3, 1873, was reduced 10 per cent.; and again, on account of a further reduction in the cost of these items, another decrease of 5 per cent. was made from July 1, 1878. Because of the continued increase in the weight of mails and consequent demand upon the trunk lines for additional facilities they became dissatisfied, and declined to include postal cars in their fastest trains as well as to provide such additional facilities as were necessary to a proper and expeditious transportation and distribution of the mails. Under these circumstances, an appropriation of $150,000 was made to enable the Department to obtain proper facilities upon the great trunk lines.

This special fund was used this year on the lines carrying the heaviest mails, to secure special trains and railway post-office equipments on the great southern lines.

The price of all material used in the construction of railroads as well as the cost of labor to operate them now approximate the rates current prior to the reductions, while the rates allowable for the service remain the same. It follows, therefore, that there is now more reason for the use of the special fund next year to further improve the service, which can be done at slight cost as compared with the benefits to be derived.

It might also be well to state that on second and third grade trunk lines schedules have been abridged, connections brought about, and special trains provided on account of the mail service.

Permit me to detail the expenditure of $150,000 for the present fiscal year. There has been secured with the New York, New Haven and Hartford Railroad Company a special train leaving Grand Central Depot, New York, at five a. m., arriving at Bridgeport, Connecticut, at 6.26 a. m., connecting there with the Pittsfield and Bridgeport agent, which arrives at Pittsfield, Massachusetts, at 2.25 p. m., New Haven at 8.03 a. m., at which point connections are made with the agent from New Haven to New London, and all other connections out of New Haven, arriving at Hartford, Connecticut, at 9.44 a. m., in time to make all connections at that point, and pushing on, it arrives at Springfield, Massachusetts, at 10.40 a. m. This train has also a connection to Boston which arrives there in advance of all other trains, and is of important service to all of New England.

This train takes up the mail which arrives at New York at 10.10 p. m., together with the mail from New York City to the North and East, and makes its connections through New England. Were it not for this train the mail would remain in New York until 8.30 a. m. and then go by the New York and Boston express, which makes no important connections through New England, as that train is run in the interest of the cities of New York and Boston and would not supply the wants of the patrons of the Post-Office Department as well as the five a. m. train now does.

In my opinion this is an important, beneficial arrangement to the service, and should be continued. If, however, the appropriation for special facilities is not made, your Department will be unable to continue this train after the close of the present fiscal year.

The regular railway post-office train from the South leaves Washington for New York at 1.30 p. m. and arrives there too late to connect with the mails from Grand Central Depot; yet there is in connection with this a train for Boston, transported by the steamer Maryland, from Jersey City to Motthaven, New York, thence running on to Boston; which train, however, has no intermediate connection between New York and Boston and no postal car.

There has been secured with the New York Central, Hudson River, Lake Shore, and Michigan Southern Railroads, out of this special appropriation, a special train leaving Grand Central Depot at 7.30 p. m., arriving in Buffalo in time to overtake the regular fast passenger train for the West that left the Grand Central Depot at six p. m.

Postmaster James, of New York City, in his evidence before the Gardner G. Hubbard transportation committee, stated that seven-elevenths of the letter mail was deposited for mailing between the hours of four and nine p. m.

Now, if the mail should leave at six p. m. in the regular passenger train, only a small portion of the large amount of mail deposited between the hours of four and nine p. m. would be received and carried by this train, as it would be necessary to close the mail at the New York City post-office at 4.05 p. m. Under present arrangements, however, a close is made at six p. m., in time to connect with the train leaving at 7.30 p. m., thus enabling all mail accumulating in the New York post-office between 4.30 and six p. m. destined for Central and Northern New York, Northern Ohio, Indiana, Michigan, Illinois, and States north and west to go out on this train, and thereby advancing it one full day.

This mail, leaving the Grand Central Depot by the 7.30 p. m. train and overtaking the regular passenger train at Buffalo, is run west from the last-named point in the regular passenger train, and at Cleveland and Toledo makes all connections for the West and Southwest and arrives in Chicago the following morning at six a. m., in time to make all connections out of that city. The continuance of this train depends upon the appropriation for special facilities.

There has been secured with the Pennsylvania Railroad and its system of railroads a special train leaving New York at 1.30 p. m. Its benefits are similar and nearly the same as the special train heretofore described over the New York Central, Hudson River, &c., railroads, in this: that it advances all mail for Cincinnati, Louisville, Saint Louis, and other points southwest, which accumulates in the New York post-office between 4.30 and six p. m. In addition to this, a special train was secured leaving New York at 4.35 a. m., taking up all the late connections at New York the night previous as well as all the accumulations in that post-office, arriving at Philadelphia in time to make all mail-train connections out of that city, and finally reaching Washington at about 1 p. m.

On the Baltimore and Ohio Railroad we have secured additional and increased facilities in the way of cars and connections fully equal to the consideration paid said company.

With the Savannah and Charleston Railroad a special or night train has been secured between the cities of Charleston and Savannah, leaving the former city at night, and arriving in the latter at 6.25 a. m.; returning, leave Savannah at night, arriving in Charleston at 7.50 a. m., in time to make all connections out of that city. This is an important train in the interest of the two named cities and intermediate country. North and east from Charleston there are two regular trains, and were it not for this special train all mail arriving in Charleston by any one of these trains would be subject to a delay at that point of twelve hours. By this special train letters written either in Charleston or Savannah and posted at the close of business hours are in the other city the following morning in time to be of value and attended to by their recipients. I believe this special train is beneficial to the interests of the States of South Carolina and Georgia, and should be continued during the next fiscal year.

With the Washington City, Virginia Midland and Great Southern Railroad there has been secured a special train between Washington, District of Columbia, and Lynchburgh and Danville, Virginia, leaving Washington at 10.40 p. m., and arriving at Danville at 8.28 a. m.; returning, leaves Danville at 11.03 p. m., and reaches Washington at eight a. m. Before this special train was inaugurated it would take three days for a person in Washington writing to a party in Lynchburgh to obtain a reply. To obviate this delay parties in Lynchburgh very justly asked that this additional train might be given them. Under present arrangements parties in Baltimore who post their letters before the close of the mail at eight p. m. get them in Lynchburgh the following morning at 5.50 a. m., and the answers, if written and mailed that evening, are in Baltimore the next morning—an improvement which the people of Baltimore and Lynchburgh claim is greatly to their interest.

In addition to the benefits derived by Baltimore, Washington, Lynchburgh, and Danville, this special train exchanges mails at all important places between Washington and Danville. It also receives a connection from New York, which leaves that city at four p. m., Philadelphia at six p. m., Baltimore at nine p. m., and at Gordonsville, Virginia, connects with a train on the Chesapeake and Ohio Railroad, which arrives in Richmond at 7.16 a. m. It also connects with a train on this same road running west from Gordonsville, so that nearly the entire State of Virginia, as well as a great portion of West Virginia, are materially benefited thereby.

Mail for Richmond by the regular train leaves Baltimore at 2.30 p. m. and Washington at five p. m., so that by the operation of this special train all mail accumulating in the Baltimore post-office is in effect taken up and advanced one day. The withdrawal of this train would work injuriously to a large business interest, and it is the earnest desire of the Department that provision be made for its further continuance.

With the Grand Haven Railroad Company a special train has been secured between the cities of Allegon, Grand Haven, and Muskegon, by which nearly a day's difference is made with all mail from the East for the points above named.

During the present fiscal year this special fund has enabled the Department to establish double daily railway post-office cars between Richmond, Virginia, and Savannah, Georgia, and single daily service from Savannah to Jacksonville, Florida, as well as other double daily service from Richmond, via Charlotte, Atlanta, Montgomery, and Mobile, on to New Orleans, which is a decided improvement over former service on that line.

The service has been increased and improved out of this special fund between the cities of Cincinnati, Louisville, Nashville, Memphis, Decatur, Montgomery, Chattanooga, Atlanta, and to New Orleans, via the Louisville and Nashville system of railroads.

A special train has been secured on the South Carolina Railroad, leaving Camden Junction at 4.10 a. m. and arriving in Augusta, Georgia, at 9.24 a. m.; returning, leaves Augusta, Georgia, at six p. m., arriving at Camden Junction at 11.36 p. m. This special train receives at Camden Junction the regular connections leaving New York at ten p. m., and thereby establishes a direct and continuous connection from Boston, New York, Philadelphia, Baltimore, Washington, Richmond, Wilmington, (North Carolina,) to Augusta, arriving there at 9.24 a. m., and on its return departing at the close of business hours, or six p. m.

I believe this train to be of important interest to the patrons of the Post-Office Department, and should be continued during the next fiscal year.

There is a special train between Cincinnati, Ohio, and Indianapolis, Indiana, leaving Cincinnati at four a. m., arriving in Indianapolis in time to connect all mails from that city. Returning, this train leaves Indianapolis at 2.16 p. m., arriving at Cincinnati at 6.50 p. m. It is reported that the amount of additional postage received in consequence of the four a. m. train from Cincinnati fully equals the amount for which the Department is obligated out of the special fund for its running.

A change of schedule has also been effected with the Charlotte, Columbia, and Augusta Railroad of great importance to the service.

I believe that the expenditure of the special fund has been judicious and in the interest and for the benefit of the patrons of the Post-Office Department, and I further believe that all of the present special facilities for the present fiscal year should be continued during the next, and increased in accordance with the estimate in your annual report.

In addition to the special service already in operation I would recommend that the special train that now leaves New York at 4.35 a. m. should arrive in Washington at 10.30 a. m., or not later than 11 a. m.; at Richmond, Virginia, 2.30 p. m., and thence on to New Orleans, so that the time between New York and New Orleans may be decreased one day, or, in other words, have the mails that now arrive in New Orleans from New York at 9.30 p. m. reach there on the same day at 7.40 a. m., which would be equivalent to the saving of one day. By this arrangement not only New Orleans but all intermediate points between Washington and New Orleans will be benefited, as this line will perform local service.

Mail which arrives at Atlanta under the present arrangement at 10.30 p. m. will arrive there at 11.30 a. m., and all other cities and villages will receive corresponding benefits in the way of saving one business day. Not only will the towns on the line of this road receive such benefits but by its connections with lateral lines the entire service in the South will be greatly improved. This train would also continue by connections from Richmond south, via the Atlantic Coast Line, via Wilmington and Charleston to Jacksonville, Florida, decreasing the time to the extent of one business day to the people of Wilmington, Charleston, Savannah, Jacksonville, with their intermediate points, as well as Augusta, Georgia, as this train would make connections for that point via Florence.

The establishment of this service will give a continuous connection from Bangor, Portland, Boston, New York, Philadelphia, Baltimore, Washington, Richmond, Charlotte, Atlanta, Montgomery, and Mobile to New Orleans, and also insure connections from Richmond to Jacksonville. In addition to this there should be another connection from Lynchburgh west, via Bristol, Knoxville, and Chattanooga, to Memphis, Tennessee.

It is also desired to have the train that now leaves Grand Central Depot at 7.30 p. m. via the New York Central and Hudson River Railroad leave there at nine p. m., and also the special train on the Pennsylvania Railroad leave New York at the same hour. By this arrangement nearly the entire mail of a business day, and all that portion accumulating between 6 and 7.30 p. m., will be advanced one day.

There is a train leaving Poughkeepsie on the New York Central Railroad at 6.30 a. m., connecting at Albany with the train for Central and Western New York, and it is desired to arrange a connection between Grand Central Depot with this train.

In justification of fast mails and improved service, permit me to call your attention to the report of Hon. Gardner G. Hubbard, (chairman of the special postal commission, page 29,) in which he says: "The smaller cities and places west of the Mississippi and south of the Ohio where there was only one daily mail suffered much more from the withdrawal of the limited and fast mail (over the Pennsylvania and New York Central and Hudson River and Lake Shore and Michigan Southern Railroads) than did New York, Cleveland, or Chicago. All the westward-bound mails, which amounted to 80 per cent. of the whole mail arriving at Chicago, was transferred directly to the postal cars for places beyond. The merchants at Nashville, Tennessee, Austin and Galveston, Texas, Shreveport, Louisiana, Little Rock, Arkansas, Denver, Colorado, Los Angeles, California, Milwaukee, Wisconsin, Saint Paul and Minneapolis, Minnesota, bear testimony to the value of the fast mail. A merchant in Denver, Colorado, testified that he could afford to pay $1,000 a year for its restoration."

In further support of fast mails, I quote from the testimony of Mr. Bingham, of the Cleveland (Ohio) Board of Trade, (page 215,) before the special commission: "Since the withdrawal of the fast mails we are obliged to make our remittances thirty hours earlier. The interest of the money for the twenty-four hours thus lost, in this town alone, would pay for the fast mail." It can therefore be safely asserted that the interest on money remitted between cities and towns, in time saved, will be far greater than the additional expense necessary to establish the service required to avoid such delays and insure that certainty and celerity so much required by the business and social interest of the country. I might add many more facts in support of improved service, but deem that the explanation of the advantages to be derived by the public is sufficient.

In conclusion, permit me to call your attention to the fact that the last annual report shows that the amount appropriated out of the Treasury to meet the difference between the receipts and expenditures was less than for several years, and all the indications now are that such deficiency or excess of expenditures will be far less this than last year, notwithstanding the great improvements that have been made in the service.

I have the honor to be, very respectfully, &c.,

W. B. THOMPSON,
General Superintendent.

Hon. D. M. KEY,
Postmaster-General.]

Mr. BINGHAM. I ask consent to have printed in the RECORD as a portion of the debates some remarks which I desire to submit upon the subject now before the committee.

There was no objection, and leave was granted accordingly. [See Appendix.]

Mr. BLOUNT. I hold in my hand a telegram from the Second Assistant Postmaster General in which he states that this bill will touch no route east of the Mississippi River.

Mr. DUNNELL. Let the telegram be read now, if the gentleman is going to comment upon it.

Mr. BLOUNT. I am not going to comment upon it; but the dispatch is as follows:

WASHINGTON, D. C., *May* 1, 1880.

[From P. O. Dept.]

To Hon. J. C. S. BLACKBURN:

I find that no route east of the Mississippi had expedition of schedule during the fiscal year ended June 30, 1879, to the amount of 50 per cent. of original cost.

J. L. FRENCH,
Acting 2nd P. M. Gen.

It is a significant circumstance that, in considering a great question like this, the opponents of the recommendations of the Committee on Appropriations should see fit to descend from the merits of the issue to mere billingsgate.

Gentlemen arraign the Committee on Appropriations and announce its defeat, as if that was a wonderful thing which never before occurred. Sir, every gentleman knows that such things have occurred for years past in every Congress, whether democratic or republican. Again, a great cry is raised of an assault on the Territories, they being unrepresented. Another gentleman sees fit to designate the action of the Committee on Appropriations as a vicious and malicious attack on the star service.

Now, what is there in this issue? A vast sum of money has been used by executive order during the last year and the current fiscal year ($1,800,000) for the purpose of increasing the number of trips and expediting the service upon routes west of the Mississippi River. Your laws have been violated in the creation of deficiencies.

Now, why is it that this vast sum of money has been expended by executive orders; and why is it that those orders do not relate to any of the routes east of the Mississippi River? Gentlemen say that the country east of the Mississippi River has had all that it wanted. I deny it.

I have the sworn statement of the Second Assistant Postmaster-General that of this vast sum $434,000 only was given to about thirteen hundred routes west of the Mississippi River, while five hundred routes east of the Mississippi River did not have a single cent given them. The routes east of the Mississippi River have been without this for months and months, while the grand routes west of the Mississippi River have been drawing this vast fund from the Treasury.

Mr. BUCKNER. While the contractors were living here.

Mr. BLOUNT. And the contractors have been living here. The increase in one instance has been from $6,000 to $150,000, while all the routes east of the Mississippi River have gone neglected. Every dollar of the increase which has been given has gone, not to the East, but to these expedited routes of the West. What has been the method? I have but little time to state it. Contractors have gone over the country asking this member and that member of Congress to sign their petitions. Then they have themselves made affidavits, and without further question the order is made for an increase in one case, upon the Vinita route, I think, from $6,000 to $150,000.

The question was asked the contractor why he did not make the sum greater, as he had nothing to do except to swear to it himself. The answer was that he was new at the business; but if he had understood it then as he did when the question was asked him, the committee would have been investigating him for $250,000 instead of $150,000.

Yet, when the Committee on Appropriations complain of the violations of law through which the Department had to march in order to accomplish this ignominious thing, gentlemen see fit to rise on this floor and denounce the action of the committee in general terms as malice and cowardice. Sir, men who are so ready to arraign others for cowardice in such transactions as these had better beware lest from their surroundings somebody might suggest that there was a want of any moral sense in the position they take.

I have not time to go into a full consideration of this measure. The proposition is to reduce this enormous expenditure for expedited service. The cry is raised that it is an effort to destroy the star service of the country, and members of the House are sought to be alarmed by the statement that this is an effort to destroy the star service. The fact is that this bill gives every dollar that was asked for. We say to the friends of the star service that we propose to reduce these enormous expenditures for expedited service and allow some of the money to be used for putting service on five hundred routes where there is none.

[Here the hammer fell.]

The CHAIRMAN. By order of the House, all debate on the pending paragraph is exhausted.

Mr. HOOKER. Would it be in order now to offer an amendment?

The CHAIRMAN. There are two amendments pending.

Mr. HOOKER. I want to offer an amendment in the shape of a proviso; but if the Chair rules that I cannot offer it as an amendment to the amendment of the gentleman from Ohio, [Mr. EWING,] I will offer it as an independent proposition.

The CHAIRMAN. The Chair does not so rule; he simply rules that the amendment of the gentleman from Mississippi cannot be offered until the amendment offered under the instruction of the Committee on Appropriations is disposed of, which will leave the amendment of the gentleman from Ohio still to be voted upon.

Mr. HOOKER. Then the Chair does not rule that I cannot offer my amendment as an amendment to the amendment of the gentleman from Ohio?

The CHAIRMAN. The Chair does not; but he decides that before any further amendment can be offered there must be a vote upon some of the amendments pending. The question is first upon the amendment offered by the gentleman from Kentucky, [Mr. BLACKBURN,] under instructions of the Committee on Appropriations.

Mr. PAGE. If that amendment be voted down, will the amendment offered by the gentleman from Ohio be in order?

The CHAIRMAN. It is in order now; it is pending; but under the rule the vote must first be taken on amendments intended to perfect the text.

Mr. PAGE. Let the amendment of the committee be read.

The Clerk read as follows:

In line 78 before the word "original" insert "the sum of the" after the word "price," in lines 78 and 83 insert the words "and the cost of the service for additional trips;" in line 82 after the words "per centum" insert the words "of the sum of the;" so that the proviso will read as follows:

"*Provided*, That on all star mail routes upon which increased compensation for increased expedition beyond 50 per cent. over the sum of the original contract price and the cost of service for additional trips has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of the sum of the original contract price and the cost of service for additional trips."

Mr. EWING. There seems to be a little confusion about this question; and I desire to inquire of the Chair whether it is not the fact that the pending amendment is merely that of the Committee on Appropriations to perfect the proviso which I propose to strike out, and the vote on the amendment of the committee will have no direct effect one way or the other on the motion which I have made.

The CHAIRMAN. None whatever. Whether the Committee of the Whole House adopt or reject the amendment proposed by the gentleman from Kentucky [Mr. BLACKBURN] on behalf the Committee on Appropriations, there would still be a vote on the amendment of the gentleman from Ohio.

The question being taken on the amendment of Mr. BLACKBURN, it was agreed to.

The CHAIRMAN. The question is now on the amendment of the gentleman from Ohio, [Mr. EWING,] to strike out the proviso as amended.

Mr. HOOKER. I now offer the amendment of which I gave notice.

Mr. PAGE. I hope the gentleman will let us have a straight vote on the amendment of the gentleman from Ohio.

Mr. HOOKER. Will my amendment be in order as an independent proposition after the amendment of the gentleman from Ohio is voted on?

The CHAIRMAN. The Chair does not know what the amendment of the gentleman from Mississippi is, and of course cannot answer the inquiry.

Mr. HOOKER. Very well; then I will not risk anything. I offer the amendment now.

The Clerk read as follows:

Amend by inserting this proviso: "*Provided*, That when routes are expedited or increased they shall be readvertised."

The CHAIRMAN. The gentleman will see that if the vote of the Committee of the Whole should be in favor of striking out the proviso this amendment will not then be pertinent to anything contained in the bill; therefore the gentleman had better offer it now.

Mr. BLACKBURN. Let me call the attention of the gentleman from Mississippi to the fact that his amendment, as I think, would not be in order at any rate. The law as embodied in the act of April 6, 1880, makes absolute provision for all future lettings and future contracts. The proviso to which the gentleman proposes to offer this as an amendment relates only to existing contracts, not to contracts to be made.

Mr. PAGE. I hope the gentleman from Mississippi will withdraw his amendment and let us have a vote directly on the motion of the gentleman from Ohio.

Mr. HOOKER. I desire to say in regard to the point of order raised by the gentleman from Kentucky——

Mr. BLACKBURN. I do not raise any point of order.

Mr. CANNON, of Illinois. I reserve the point of order.

Mr. BLACKBURN. I intended to reserve it.

Mr. HOOKER. Mr. Chairman, in answer to what has fallen from the gentleman from Kentucky, I say the act of the 7th of April, 1880, passed by this Congress, has this provision in it: that the Postmaster-General shall not hereafter have the power to expedite the service under any contract now existing, or hereafter given, to a rate of pay exceeding 50 per cent. of the contract price as originally let. This proviso of mine applies as well to the contracts now in existence as to those hereafter to be made.

Mr. BLACKBURN. I did not so understand it.

Mr. HOOKER. I did not wish to embarrass the question; and if the Chair will rule it can be offered as an amendment to the section after the vote has been taken on the amendment of the gentleman from Ohio, [Mr. EWING,] then I am willing to withdraw it, and offer it hereafter as an indepeadent proposition.

Mr. BLACKBURN. I take it the gentleman from Mississippi would have the right to offer his as an amendment to what will be left in this paragraph of the bill, even should the amendment of the gentleman from Ohio [Mr. EWING] prevail.

The CHAIRMAN. The Chair thinks so without looking at it.

Mr. HOOKER. I will withdraw it for the present and offer it hereafter.

Mr. MONEY. Is it in order to offer a substitute for the proviso?

The CHAIRMAN. It is.

Mr. MONEY. I offer the following as a substitute for the proviso proposed to be struck out.

The Clerk read as follows:

That all star routes shall be relet after thirty days' advertisement, as now provided by law, on the 1st day of July, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, and June 30, 1880, shall exceed 50 per cent. of the contract price before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced.

Mr. CANNON, of Illinois. I reserve the point of order on that amendment.

Mr. MONEY. What is the point of order?

Mr. CANNON, of Illinois. My point is this——

Mr. MONEY. I offer this as a substitute because I believe it embraces the views of both sides on this question. It carries out the idea——

Mr. ROBINSON. Is discussion in order?

The CHAIRMAN. The Chair will call attention to the order of the House limiting debate. The Chair has not read it himself.

Mr. MONEY. I did not understand the debate was closed, for if I am not permitted to explain my amendment I shall withdraw it.

The CHAIRMAN. The order of the House closing debate will be read by the Clerk.

The Clerk read as follows:

On motion of Mr. BLACKBURN, ordered that all debate on the pending paragraph of the bill of the House No. 6036 be limited to one hour.

Mr. BLACKBURN moved to reconsider the vote last taken; and also moved the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. CHALMERS. That does not apply to the amendment.

Mr. HOOKER. I rise to the point of order, Mr. Chairman, that the amendment made by my colleague from Mississippi is an amendment to this paragraph, and the order of the House limiting debate by its terms only applies to the paragraph itself, and not to any amendment which we may move to it.

The CHAIRMAN. But the paragraph itself never can be debated, except when the amendment is offered to it.

Mr. HOOKER. That is true; but I submit that the language of the order of the House simply limits debate on the paragraph itself and to the amendments, if any, which were then pending, but it could not limit debate to amendments offered to the paragraph long afterward. It could not, by the very nature of things, have restricted the right of any member to offer an amendment. Hence I say there can be no construction of this order of the House so as to cut out the right of each member to offer an amendment to this paragraph and to be heard five minutes for or against it.

The CHAIRMAN. The Chair has no doubt on that point that any gentleman has a perfect right to offer an amendment; but the question the Chair desires the gentleman to address himself to is whether under that order of the House he can debate an amendment after the hour has expired?

Mr. CHALMERS. I renew the amendment of my colleague, [Mr. MONEY.] I say, sir, that no order of this House can limit debate except on the paragraph pending at the time the order was made.

Mr. BLACKBURN. I rise to a point of order; and it is that under the order of the House no debate is in order, whether it be on the amendment offered or the point of order raised; that the order of the House has absolutely cut off all debate on that paragraph and everything, of course, applying to it; and under that order, the time for debate having expired, we are now called upon to vote. Amendments are admissible, I know; but they are to be voted on in their order without debate.

Mr. CHALMERS. I rise to a parliamentary inquiry. In case the motion of the gentleman from Ohio shall prevail and this clause be stricken out, will it be in order to offer that amendment which I have submitted as a substitute?

The CHAIRMAN. Is it the same amendment moved by the gentleman's colleague?

Mr. CHALMERS. It is substantially the same amendment.

The CHAIRMAN. The Chair thinks it would, as it seems to be precisely the same amendment offered by the gentleman's colleague.

Mr. CHALMERS. It is.

The CHAIRMAN. It would be in order.

Mr. CHALMERS. I withdraw it, then, until after the vote has been taken on the other.

Mr. HOOKER. In reference to the remarks of the gentleman having charge of the bill in regard to the effect of the order of the House limiting debate, I desire to call the attention of the House to clause 5 of Rule XXIII. It is true, Mr. Chairman, by the order of the House general debate on the pending paragraph was closed. That debate was limited to one hour, which time has expired.

If I can have the attention of the Chair, I think it can be made manifest that any member in the Committee of the Whole has the right to offer an amendment and to be heard on that amendment, because, being offered subsequent to that time, it could not have been included in the order of the House and debate could not have been cut off upon what was not before the House at the time.

The fifth clause of Rule XXIII provides when general debate is closed by order of the House any member shall be allowed five minutes to explain any amendment he may offer, after which the member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and therefore it was I offered it as an amendment to the amendment of the gentleman from Ohio. But proceeding further, the rule provides "and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee."

I say that while the order of the House referred to by the gentle-

man from Kentucky limited debate on the paragraph and the then pending amendments, it could not exclude from the consideration of the committee any amendments that might subsequently be offered.

MESSAGE FROM THE SENATE.

The committee informally rose; and a message from the Senate, by Mr. BURCH, its Secretary, announced that that body, in the absence of the Vice-President, had chosen Hon. ALLEN G. THURMAN, a Senator from the State of Ohio, President of the Senate *pro tempore*.

It further announced that the Senate insisted on its disagreement to the amendments of the House to joint resolution (H. R. No. 100) to print extra copies of the Report of the Commissioner of Fish and Fisheries for the year 1879, and agreed to the conference asked on the disagreeing votes of the two Houses, and had appointed Mr. RANSOM, Mr. PENDLETON, and Mr. ANTHONY as managers of said conference on its part.

It further announced the passage of an act (H. R. No. 6066) appropriating money to provide for public printing.

It further announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 1090) to relieve John D. Defrees, Public Printer; and

An act (S. No. 1549) to authorize Iler & Co. to use a certain building in the city of Omaha, Nebraska, for rectification of distilled spirits.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. BLACKBURN. Mr. Chairman, in deference to the respect I have for the gentleman from Mississippi, I would not insist on the point of order I raise, but I recognize in my own person that under the order of the House no debate is in order, whether it be on an amendment or on a point of order raised. I ask for the ruling of the Chair.

Mr. HOOKER. I wish to call attention to the phraseology of the order of the House.

Mr. BLACKBURN. I object to any debate either on the amendment or on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. HOOKER. There is something I wish to call to the attention of the Chair. The language of the order of the House cannot by any possibility be made to apply to an amendment offered subsequently to the adoption of the order. That order applied only to what was then before the House, the paragraph and pending amendments.

The CHAIRMAN. Although the gentleman from Mississippi may be correct if the point had been made in the House that it was not competent under the rule which he has read to limit debate on propositions not then pending, yet the point was not made and the House did pass the order.

Mr. HOOKER. I say, with all deference to the Chair, that the order then made could not by any possibility include the closing of debate on amendments not then offered.

The CHAIRMAN. The universal construction in the Committee of the Whole House on the state of the Union on such an order as this limiting debate has been that it cuts off all debate on the paragraph and the amendments made thereto. As the Chair has just stated, there is no debate on the paragraph itself except that arising on an amendment offered to the paragraph. That has been the universal construction in the Committee of the Whole. And whatever the Chair may think upon the question as to whether it was in order to make such a motion in the House, still the Committee of the Whole is governed by the action of the House, whether made in order or out of order, and the Chair is bound, therefore, to rule, in accordance with that action, that there can be no debate beyond the hour fixed, although amendments may be offered.

Mr. HOOKER. Then, if I understand the ruling of the Chair, although debate is not in order, still if the amendment striking out this proviso is agreed to it will be in order to offer other amendments?

The CHAIRMAN. The Chair thinks it will be in order.

The question was taken on the motion to strike out the proviso.

The committee divided; and there were—ayes 64, noes 67.

Mr. PAGE. No quorum having voted, I ask for tellers.

Tellers were ordered, and Mr. BLACKBURN and Mr. EWING were appointed.

The committee again divided; and the tellers reported—ayes 94, noes 71.

So the motion to strike out the proviso was agreed to.

Mr. BLACKBURN. I reserve a vote by yeas and nays in the House on that question.

Mr. MONEY. I would like to know how that paragraph stands as amended.

The CHAIRMAN. The Chair will cause the paragraph to be read.

The Clerk read as follows:

For inland transportation by star routes, $7,375,000.

Mr. MONEY. I now offer the following amendment.

The Clerk read as follows:

That whenever it is found necessary to expedite the schedule, or to increase the frequency of service on any "star" mail-route, the proposals for bids for performing said service, increased or expedited, shall be advertised for one month in some newspaper published in the city of Washington, and in some newspaper published at or near a terminus of said route, and contracts shall be let upon the bids received as now provided by law: *Provided*, That this act shall not apply unless the aggregate pay for one or a number of such expeditions of schedule and increases of service shall be 20 per cent. of the pay under the contract in force at the time of the change: *And provided further*, That this law shall not apply except in cases where the sum of the pay as increased shall amount to $5,000 per annum.

Mr. BLACKBURN. I make the point of order on that amendment.

Mr. GARFIELD. It increases expenditures and changes the law.

Mr. BLACKBURN. It changes existing law as enacted on the 7th of April, 1880, and does not tend to retrench expenditures.

Mr. GARFIELD. It rather tends to increase expenditures by requiring more advertising.

The CHAIRMAN. The Chair thinks the point of order is well taken. This amendment is not offered by any committee, but by a member of the House.

Mr. MONEY. I am instructed by the Committee on the Post-Office and Post-Roads to offer it.

Mr. BLACKBURN. I hold that this is out of order, even if it comes with instructions from forty committees.

The CHAIRMAN. The Chair was going to state the rule in reference to this matter. In the first place, it is not offered by a committee, as the Chair understands, or it was not so stated when it was presented at the Clerk's desk.

Mr. MONEY. I intended to state that I was instructed by the Committee on the Post-Office and Post-Roads to offer it.

The CHAIRMAN. Of course the Chair accepts the statement of the gentleman.

It undoubtedly changes existing law, and the Chair is not able to say from the face of the resolution that it retrenches expenditures. It is possible, it may be probable in fact, that if enacted into a law it would retrench expenditures. But the Chair does not know that, and there is nothing appearing on the face of the amendment which would indicate it. The gentleman from Mississippi will remember that it has been ruled that the amendment offered must not only on its face be germane to the subject-matter but that it must also bear on its face evidences that it retrenches expenditures. Therefore the Chair holds that the amendment is not in order.

Mr. MONEY. Of course I am aware of that, but in my mind it would retrench expenditures if enacted into a law. I therefore withdraw the amendment in accordance with the ruling of the Chair, and ask to present another.

The Clerk read as follows:

That all star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of July, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, and June 30, 1880, shall exceed 50 per cent. of the contract prices before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced.

Mr. PAGE. I make the point of order on that myself.

Mr. CANNON, of Illinois. The gentleman from California raises the point of order.

Mr. PAGE. I was not aware that the gentleman from Illinois intended to make it.

Mr. CANNON, of Illinois. I have not said anything about it.

Mr. PAGE. I make the same point on this that was made on the other amendment, that it is new legislation. It provides for readvertising routes without any limitation as to cost.

Mr. BLACKBURN. In response to that, Mr. Chairman, I have simply to say that I do not see wherein this amendment is obnoxious to the point of order; and should the Chair overrule the point of order I hope the committee will see fit to adopt it.

Mr. PAGE. I would like to be heard on the point of order. The gentleman in charge of this bill changes ground so often, when an amendment suits him or does not suit him, that I hardly know how to take him.

Mr. BLACKBURN. It is not my fault, I submit, Mr. Chairman, if the gentleman from California does not understand these matters. I have been trying to educate the gentleman in parliamentary law for a long time, without success.

Now, I will say to the gentleman that the amendment offered before did not apply to existing routes at all, but to future contracts. This amendment applies to existing routes, and provides for their re-letting, with a view to reduction. It is therefore in the interest of economy, it is germane to the subject, and in my judgment the point of order does not apply. It looks simply to retrenchment.

Mr. PAGE. I made the point of order and claim the right to state the ground upon which it is based.

The CHAIRMAN. The Chair will hear the gentleman from California.

Mr. PAGE. In the first place the amendment, if I understand it properly, provides for the abrogation of all existing contracts where the parties themselves will consent to it and the readvertisement of all the mail-routes so abandoned on the 1st day of July of this year; and it provides that they shall be readvertised under existing law, which enables the Postmaster-General to make temporary service for one year without limitation as to price.

Mr. MONEY. I call for order. I want to hear the gentleman from California. I have not heard what he has said.

The CHAIRMAN. The committee will come to order.

Mr. PAGE. I was saying the amendment offered by the gentleman from Mississippi provides that the Postmaster-General on the 1st day of July of this year shall readvertise these routes under existing law; while it would take in all probability six months to readvertise and get proper bids to Washington from distant portions of the country.

In the mean time the Postmaster-General under existing law is authorized to make temporary service for twelve months without any limitation as to price. Therefore this House cannot, in my judgment, pass a bill that would be more dangerous to the people or involve the Government in more expense, unless they had the utmost confidence in the Post-Office Department.

Mr. CANNON, of Illinois. Will the gentleman allow me right there a single question?

Mr. PAGE. Yes, sir.

Mr. CANNON, of Illinois. Is it not true that under the general law where the Postmaster-General would have to put on temporary service in no case could he put it on at more than the last contract price or the original contract price?

Mr. PAGE. No, sir. There is nothing in the world about the original contract price.

Mr. ROBINSON. I rise to a question of order. Is this debate in order?

The CHAIRMAN. The Chair thinks that the order of the House limiting debate upon the paragraph does not prevent the Chair from hearing suggestions of gentlemen upon points of order. These are not debate upon the paragraph. The Chair, therefore, is perfectly willing and desirous to hear what gentlemen have to suggest upon points of order, but he hopes gentlemen will confine their remarks strictly to the points of order.

Mr. PAGE. I was not at all discussing the merits.

Mr. REAGAN. The law now permits the annulling of these contracts in order to reduce the service, and therefore this does not change the law.

Mr. PAGE. I say that under existing law the Postmaster-General himself can annul the service for certain reasons to which I called attention yesterday. But this compels him to readvertise certain routes, and after the 1st day of July of this year these contracts are to be annulled. Now, it is very well understood that the Postmaster-General cannot readvertise and have the new contracts go into effect by the 1st of July of this year. This bill may not pass until the middle of June; and even if it passed earlier it would not give him sufficient time. It requires from four to six months—that is always the case—to readvertise in order that the most remote sections of the country may be advised as to what the Postmaster-General proposes to do. Under existing law the Postmaster-General would be authorized to make temporary contracts for temporary service not to exceed one year. That is the main objection made to the existing law. I think the Chair cannot look upon this as a retrenchment of expenditures, because there is no limit stated. The law says that upon readvertisement bids shall be submitted and the Postmaster-General shall give the contract to the lowest bidder, whatever his bid may be. If it is 100 per cent. in excess of existing contract prices the Postmaster-General has no discretion, except that in case it is excessive he might reject the bid and readvertise the contract over again. When annulled, one month's salary has got to be paid; and if the amendment should be adopted, one month's extra pay would have to be appropriated for the contract.

Mr. MONEY rose.

The CHAIRMAN. The Chair would be glad to have the gentleman from Mississippi state the exact effect of the amendment as he understands it, because upon that depends the decision of the point of order.

Mr. MONEY. The gentleman from California [Mr. PAGE] is mistaken in the idea that the amendment would have the effect of annulling contracts. It provides for their being readvertised and relet upon the 1st day of July. Meanwhile the service is continued exactly as it is to-day. After the contract is relet the service is continued. I am willing to obviate the objection of the gentleman from California, that the time is insufficient, by modifying the amendment so as to make the date the 1st of October instead of the 1st of July.

A MEMBER. Say the 1st of August.

Mr. MONEY. It is better to say the 1st of October. There are two regular lettings, in July and October.

The CHAIRMAN. The gentleman from Mississippi has the right to modify his amendment as he now indicates.

Mr. MONEY. I submit to the Chair it is apparent on the face of the amendment that it does reduce expenditures; because it states when the price paid for expedited service shall exceed 50 per cent. of the original contract price the contract shall be relet, obviously for the purpose of getting it at a reduced price, I submit the point of order is not well taken.

Mr. EWING. I desire to say one word upon the point of order.

That this amendment changes existing law is obvious from the fact that under the existing law the Postmaster-General has a discretion to terminate contracts and relet them according to his judgment. This provision compels him to relet them. Now as to whether the amendment decreases expenditures, who can say whether it increases or decreases expenditures? That depends upon the bids the Postmaster-General receives; and it must appear from the amendment itself that it will result in decreasing expenditures, for it is obvious that it changes existing law.

Mr. VALENTINE. While I have no special objection to this amendment or its adoption, yet I think it is clearly subject to a point of order, that it does change existing law and is not in the line of retrenchment. If these contracts are to be relet, it is optional with the Post-Office Department to relet them at the same schedule rate of time they are now running on. And in order to annul these contracts it is necessary to give to the contractors one month's extra pay. That certainly is not in the line of retrenchment. And the advertising must be paid for, which is not in the line of retrenchment. I think it is very clear that this amendment does increase expenditure, although I have no special objection to it.

Mr. BLACKBURN. Then let us all vote for it.

Mr. VALENTINE. If it is subject to a point of order, it must be ruled out. The month's extra pay to the contractors and the cost of advertising are increased expenditures. And the fact that it will be optional with the Postmaster-General to relet these contracts on the same schedule of running time now called for, shows that there will be an increase instead of a decrease of expenditures.

Mr. CANNON, of Illinois. I desire to submit one or two points as to what will be the effect of this amendment if adopted.

Mr. PAGE. That is not in order.

The CHAIRMAN. That is exactly what the Chair wants to know. Unless the Chair can understand the effect of this amendment, if adopted, he cannot know whether it changes existing law or not. If it changes existing law, then the question is: will it increase or decrease expenditures?

Mr. PAGE. If it does not change existing law, then there is no use in it.

Mr. CANNON, of Illinois. As I understand the law now existing the Postmaster-General has the discretion to abridge, curtail, or annul these contracts by virtue of the law regulating the contracts themselves, upon the payment of one month's extra pay.

Mr. PAGE. That is not the law; that is a regulation of the Department.

Mr. CANNON, of Illinois. It is embodied in the contract.

Mr. PAGE. It is a regulation of the Department, and not a part of the law.

Mr. CANNON, of Illinois. It is a regulation made in pursuance of law, and the contract itself so provides. I understand further that if this amendment is adopted it will have the effect of reducing the pay on any contracts which have been increased more than 50 per cent., provided the contractors so elect. Of course I cannot argue whether they would so elect or not; but I have no doubt in my own mind that a great majority of them would so elect. But suppose that they refuse to carry on the contracts under the new arrangement, and the contracts are drawn up. Then under the law the Postmaster-General could put temporary service upon those routes, not at any price he chose, as I understood the gentleman from California [Mr. PAGE] to say.

Mr. PAGE. I say there is no limitation. Do you say there is?

Mr. CANNON, of Illinois. Certainly there is.

Mr. PAGE. What is it?

Mr. CANNON, of Illinois. The limitation is that the temporary service shall not be at a price exceeding the prior contract price.

Mr. PAGE. Where is that law?

Mr. CANNON, of Illinois. That is the law. Everybody who understands the subject knows that that is the law.

Mr. PAGE. I know something about the law on this subject. Where is that law?

Mr. CANNON, of Illinois. I say that I know what the law is, and I could turn to it if I had time. The law provides a limitation for temporary service, that the compensation paid for it shall not exceed the prior contract price. Therefore if this amendment is adopted I understand it will have that effect. That is all I want to say about it.

Mr. PAGE. The gentleman has admitted that if this amendment is adopted one month's extra compensation must be paid to these contractors if there is any readvertising and reletting of these routes. To that extent, then, this amendment would require an increase of expenditures, because if there is no readvertising and reletting there would not be allowed any extra pay. The gentleman's own admission shows that the point of order which I have made is a good one.

The present law is unquestioned that if by any means the contracts are annulled one month's extra pay must be given these contractors out of the Treasury of the United States.

Mr. HASKELL. I desire to say a word on the law which has been referred to. The law regulating temporary service on these routes is as the gentleman from Illinois [Mr. CANNON] states it. Temporary service cannot be put on any of these routes at a greater rate of compensation than is paid under the preceding contract. That is the law. But a readvertisement opens the whole question; and if the amount were twice that of the original contract the Postmaster-General might still allow it under the law as it stands now. This is a change of the present law, of the present status. To be in order the amendment must retrench expenditures, and the retrenchment must be apparent upon the face of the proposition. Now, the Chairman cannot see on the face of this amendment that a readvertisement saves money to the Government; no man can say that. There is nothing on the face of the amendment which assures the Chairman that, if it is adopted, money will be saved to the Government.

The CHAIRMAN. But if it does not change existing law, then it is not important whether it curtails expenditures. Hence, the first and important question is whether it does change existing law.

Mr. HASKELL. It does change existing law, because at present the Postmaster-General can readvertise or put on special service, as he pleases.

The CHAIRMAN. Is there any existing law which prevents Congress from directing the Postmaster-General to readvertise when it sees proper? This is a proposition for action by Congress, not by the Postmaster-General.

Mr. HASKELL. Very true; but the law to-day lodges with the Postmaster-General a discretion; he may advertise or he may put on temporary service. This is the law, as admitted on all hands. If this amendment be adopted he cannot put on temporary service, but must readvertise. This is a change of the law. It takes away from the Postmaster-General a discretion he now possesses.

Mr. MONEY. It is within the power of Congress to abolish every post-office in the United States and to stop all contracts.

Mr. HASKELL. But it is not within the power of Congress to do that without changing existing law.

The CHAIRMAN. But if it changes existing law and retrenches expenditures——

Mr. HASKELL. A retrenchment of expenditures must appear on the face of the amendment.

The CHAIRMAN. The Chair agrees with the gentleman about that; the first and only question which has given the Chair any trouble is whether this amendment does change existing law.

Mr. HASKELL. All members admit that the Postmaster-General has now this discretion; and when you adopt this amendment you take that discretion away from him.

Mr. BLACKBURN. It changes no existing law.

Mr. MONEY. I modify my amendment by striking out "July" and inserting "October."

Mr. PAGE. Allow me to read the law in reference to a change of contracts.

Mr. BLACKBURN. I rise to a parliamentary inquiry. After the House has ordered that all debate upon the pending paragraph shall close in one hour, which hour has expired, I desire to know whether there is any method by which we can put a limit upon what seems to be an interminable debate upon this paragraph.

The CHAIRMAN. The Chair has requested gentlemen to confine themselves strictly, in the suggestions they may make, to the point of order; that is, as to the question whether the amendment changes existing law.

Mr. BLACKBURN. I do not want to embarrass the Chair.

The CHAIRMAN. The gentleman from California [Mr. PAGE] said he would read the law.

Mr. PAGE. Was it not the order of the House that debate upon the paragraph and pending amendments be closed? Are further amendments now in order?

The CHAIRMAN. The order of the House prevents debate, but not amendment. Now, the Chair would like to hear the statute which the gentleman from California was about to read.

Mr. PAGE, (reading:)

The Postmaster-General may annul a contract for repeated failures to run agreeably to contract, for assigning the contract, for violating the Post-Office laws, or disobeying the instructions of the Department; for refusing to discharge a carrier when required by the Department to do so, or for transporting persons or packages conveying mailable matter out of the mail.

The CHAIRMAN. This amendment certainly does not change that law. The Postmaster-General, if the amendment be adopted, can still do all that the law just read provides.

Mr. PAGE. This provision abrogates contracts that have been made according to law.

The CHAIRMAN. The effect of the law which the gentleman has read is to give the Postmaster-General power——

Mr. PAGE. The law authorizes the Postmaster-General to make contracts for four years, which he has done.

Mr. HASKELL. To-day nobody denies that the Postmaster-General can expedite a contract at his own discretion under the law.

The CHAIRMAN. And he can still do so if this amendment be adopted.

Mr. HASKELL. No, sir; after this is adopted, he is obliged to readvertise.

The CHAIRMAN. This amendment applies only to contracts now made and to service which has now been expedited. It leaves the Postmaster-General just as free to expedite service in the future as he is to-day. It does not affect his power in that respect.

Mr. PAGE. Section 3956 of the Revised Statutes provides that contracts shall not be made for a longer term than four years.

Under that section the Postmaster-General is authorized to make contracts for carrying the mails for four years. Does not this change that law, and does it not increase expenditures by providing a month's extra pay?

The CHAIRMAN. The Chair does not think this amendment, under the construction he has put upon it, with the best thought he can give it—of course there has been confusion—changes existing law at all. It leaves the Postmaster-General with the power he had before. The only effect is that Congress says in reference to certain contracts he shall now readvertise. The Chair, therefore, overrules the point of order, and the question is on the amendment.

Mr. MONEY. I rise to explain the amendment.

The CHAIRMAN. Debate is not in order.

Mr. MONEY. Then I will withdraw the amendment.

Mr. REAGAN. I renew the amendment.

Mr. PAGE. Let the amendment be again read.

The amendment was again read.

Mr. CONGER. Is that an amendment which can be offered by an individual without instruction of the committee?

The CHAIRMAN. It is. As the Chair understands, it does not change existing law, and therefore does not come under either prohibition of the rule.

Mr. PAGE. He will find, if the Chair will only wait, where the law says the Postmaster-General shall advertise for six weeks.

Mr. SPARKS. I insist on going on with the bill. We cannot afford to wait for the gentleman from California, who has already occupied so much time.

The CHAIRMAN. The Chair thinks this does not prevent his advertising for six weeks.

Mr. SPARKS. I do not think the House can wait on the gentleman from California any longer.

The committee divided; and there were—ayes 83, noes 29.

Mr. PAGE. No quorum has voted.

The CHAIRMAN. The gentleman from California having raised the point of order, the Chair will appoint tellers.

Mr. PAGE. Can we have a yea-and-nay vote on this in the House?

The CHAIRMAN. It necessarily comes up in the House for a vote, and the gentleman can have the yeas and nays provided the necessary number shall make the demand.

Mr. BLACKBURN. The gentleman withdraws his point of order on the ground there was no quorum.

Mr. PAGE. I do.

The CHAIRMAN. The amendment is adopted.

Mr. SPARKS. There is no unanimous consent to a yea-and-nay vote on this amendment in the House.

The CHAIRMAN. Of course, as the Chair has stated to the gentleman, the yeas and nays can only be demanded by one-fifth of those present at the time the demand is made.

Mr. WHITE. I offer the following amendment:

That when increased service, either in expedition of speed or number of trips on any mail-route hereafter contracted for, shall amount to more than 50 per cent. of the original cost of the service the Postmaster-General shall advertise for new proposals for such increased service, and the contract therefor shall be awarded to the lowest responsible bidder, as provided by law, and that so much of sections 3960 and 3961 of the Revised Statutes as conflicts herewith be, and the same is hereby, repealed.

Mr. CANNON, of Illinois. I make a point of order on that amendment.

Mr. WHITE. I ask for the privilege of explaining the purpose of the amendment.

The CHAIRMAN. The point of order is made.

Mr. WHITE. I ask my friend to reserve the point of order for the present.

Mr. CANNON, of Illinois. I reserve the point of order.

Mr. WHITE. A word of explanation. That amendment comes in at the end of the clause just inserted on motion of the gentleman from Mississippi. The House will observe this bill follows the recommendation of the Postmaster-General, and I trust gentlemen who are at all sensitive on this subject will realize the necessity of enacting it into law.

The law on this subject is found epitomized in sections 3960 and 3961——

Mr. CANNON, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. CANNON, of Illinois. I object to the gentleman discussing the merits of his proposition unless others can be heard in reply.

The CHAIRMAN. The gentleman from Pennsylvania must confine himself to the point of order.

Mr. WHITE. Very well, the point of order is that it changes existing law and is not in the interest of economy. I insist that point is not well taken, because it changes no existing law, but prevents some abuses which now exist by reason of a change which so enormously increases the expenditures of the Post-Office Department.

This is relieved from the objection offered to the amendment of the committee as reported in the bill that injustice was done to existing contracts in that it changed them without proper notice. This bill provides on contracts hereafter let it shall be in the power of the Postmaster-General to readvertise or relet them when the expense of increased service from trips shall exceed 50 per cent. of the original cost. And in offering this amendment I am but following the recommendation of the Postmaster-General in this respect. The bill changes the law in obedience to that recommendation.

Mr. BLACKBURN. It is perfectly plain the amendment offered by my friend from Pennsylvania not only changes existing law, but absolutely repeals the act of April 7, 1880.

Mr. WHITE. In what respect?

Mr. BLACKBURN. It does not tend to reduce expenditures anywhere, but on the contrary, failing to provide for readvertisement for the service, it simply provides for readvertising increased compensation.

Mr. WHITE. Only on contracts hereafter.

Mr. BLACKBURN. I am willing to leave the decision of the question to the Chair, satisfied that it is not in order.

The CHAIRMAN. The Chair has just ruled on an amendment introduced by the gentleman from Mississippi, [Mr. MONEY,] involving precisely the same principle as this, that it was out of order, although

that was offered by instruction of a committee. This being offered by an individual member on the floor comes under a rule which is more prohibitory and exacting. The gentleman will recognize the fact that individual members can only offer amendments which retrench expenditures in one of three ways: First, by diminishing the number and salary of the officers of the United States; secondly, by diminishing the compensation of any person paid out of the Treasury of the United States; or thirdly, by reducing the amount covered by the bill. The Chair therefore rules that the amendment is not in order.

The Clerk read as follows:

For transportation by postal cars, $1,350,000.

Mr. WADDILL. I move, Mr. Chairman, in line 85, to strike out "50" and insert "66;" so as to make it read:

For transportation by postal cars, $1,366,000.

In this connection I ask that a letter from Hon. W. B. Thompson, general superintendent railway mail service, be read for the information of the committee.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT OF RAILWAY MAIL SERVICE,
Washington, D. C., April 20, 1880.

SIR: In reply to yours of the 15th instant, respecting the running of postal cars on the Saint Louis and San Francisco Railway, and soliciting my views in regard to the same, I have the honor herewith to inclose a copy of a letter to you from this office under date of January 26, 1880, relating to this same subject.

Unless the appropriation for postal cars for the next fiscal year is increased to the extent of $25,000 it will be impossible to do it.

Superintendent Hunt, of this service, stationed at Saint Louis, reports that these cars are a necessity, but the Department, in its estimate of $1,350,000 for railway post-office cars for the next fiscal year, did not include in that amount the sum of $25,000, necessary to equip the Saint Louis and San Francisco route with postal cars, so, therefore, if this provision is to be made, which I hope it will be, an appropriation sufficient to cover the expense will have to be added to that already asked.

Very respectfully,

W. B. THOMPSON,
General Superintendent.

Hon. F. M. COCKRELL,
United States Senate.

Mr. BLACKBURN. I reserve the point of order upon that amendment.

Mr. WADDILL. That letter was written when it was proposed to employ postal cars fifty feet in length. It is now proposed and estimated by the Department that forty-foot cars will do the service, and the estimate is $16,000 instead of $25,000 as mentioned in that letter. I wish to say to the committee in support of this amendment that the road upon which these cars are to be used, running six hundred and thirty miles, has recently been completed through the southern portion of Kansas from Saint Louis, going through the entire State of Missouri, penetrating far into Kansas, and by June 1 it will be completed to Wichita, in that State.

I have to say in addition to this that this railroad distributes mails to the greater portion of Northern Arkansas, South and Southwestern Missouri, and Southern Kansas, and that the mail carried by this railway has been increased within the last eight months, and since the last report from the Department, to a very large extent.

I have also an estimate from Superintendent Thompson, the head of this service, showing the number of letters and newspaper packages which have been transported over this road during the last year, which I will ask to have incorporated in my remarks. The statement is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT OF RAILWAY MAIL SERVICE,
Washington, D. C., April 27, 1880.

Respectfully referred to the honorable the Postmaster-General.

During the past fiscal year there were distributed on this line 8,325,950 letters, being a daily average of 22,811, while at the same time there were distributed 3,949,600 pieces of paper mail, being a daily average of 10,820.

W. L. Hunt, superintendent of the seventh division of the railway mail service at Saint Louis, Missouri, reports that postal cars are necessary.

I would therefore respectfully recommend that postal cars be placed on the Saint Louis and San Francisco Railroad, provided sufficient appropriation is made.

You will see by my letter to Senator COCKRELL, of Missouri, that this line was not included in the estimate for the next fiscal year.

W. B. THOMPSON,
General Superintendent.

I have in addition to this several other telegrams and letters bearing upon this subject, which I shall also ask to have incorporated in my remarks.

The telegrams are as follows:

[From P. O. Dep't.]

MAY 3*d*, 1880.

To Hon. J. R. WADDILL:

Your telegram received. I had an interview this morning with Mr. BLACKBURN respecting railway post-office cars on the St. Louis & San Francisco Railroad. I now estimate the cost at sixteen thousand dollars, & recommend it. The P. M. Gen'l has gone to Cabinet meeting. If he were here, I am confident he would sign this telegram.

W. B. THOMPSON,
Gen'l Sup. R. M. S.

[From P. O. Dep't.]

MAY 4, 1880.

To Hon. J. R. WADDILL:

I concur in the recommendation of the railway post-office cars on the St. Louis and San Francisco Railroad that Sup't Thompson telegraphed you yesterday.

D. M. KEY,
Postmaster-Gen'l.

[Here the hammer fell.]

Mr. HASKELL. I desire further to say in support of this amendment——

Mr. BLACKBURN. I must make the point of order that under the rules there can be but five minutes debate in support of and five against each amendment.

The CHAIRMAN. The gentleman from Kentucky is correct.

Mr. HASKELL. Then I move to strike out the last word.

Mr. BLACKBURN. If the gentleman from Kansas is going to speak against the amendment, of course I shall not object. I simply wish to enforce the rule so that we can get through with this bill.

Mr. HASKELL. I have the right to move an amendment.

The CHAIRMAN. If any gentleman desires to speak in opposition to this amendment, the Chair will recognize him first.

Mr. BLACKBURN. I yield to the gentleman from Illinois.

Mr. CANNON, of Illinois. Mr. Chairman, the committee reporting this bill have allowed for this service $1,350,000. Now, as I understand the gentleman from Missouri, he proposes to increase this by $16,000 over and above the estimates given. Upon inquiry he finds that the postal mail service upon the Saint Louis and San Francisco route will require that additional amount, and from this statement of the Department in making their estimate this route was not taken into consideration.

Now, last year we paid $1,250,000 for this item; there is consequently in this bill an increase of $100,000 over the estimates of last year. I am aware that there has been considerable increase in the amount of mail carried over the route. But I doubt very much the propriety of overrunning the estimates of the Department. If this increase is allowed now over and above the estimates there will be an additional increase required on the same ground when the road is completed to Wichita, and it is nearly completed there now. The wiser way, I think, would be to adhere to the estimates, where we give the full amount asked for, and not undertake to increase them without some substantial reason.

Mr. HASKELL. I move to strike out the last word of the amendment.

I understand perfectly well the Committee on Appropriations have given the Department all they asked for in their estimates. The committee have been liberal in almost every provision of this bill. I am not finding a particle of fault with their action. But the Postmaster-General and the superintendent of railway mail service say that if Congress will add $16,000 more to the amount in the bill, they can extend this postal car service to the Saint Louis and San Francisco route. And we who represent those districts through which that passes would be very much pleased to see it done. This great trunk line extends six hundred miles from Saint Louis out into Kansas. It is a new road and is already doing an immense business; and the people from one end of it to the other want to have this service on it as on other great trunk lines.

After the estimates of the Department had been sent in, when we presented this to the Post-Office Department showing the importance and necessity of this service, they said, "Very good, we ought to put the service on there, but the estimates have been sent in, and unless Congress gives us $16,000 more we cannot do it." Relying upon their statement that they would help us, we come here, not criticising the action of the committee, but asking this House to give this $16,000 to put the postal car service on this line of road. That is all there is of it. I would be very much gratified if the Committee of the Whole shall agree to this amendment, as would every gentleman from Missouri. The road runs through a valuable country. It carries an immense amount of freight, a large number of passengers, and a heavy mail, through some of the larger towns of Southern Missouri and Kansas, and it is destined to be one of the great transcontinental routes. I would like to have the service put on it now, instead of waiting a year. That is the proposition of the gentleman from Missouri, [Mr. WADDILL.]

Mr. BLAND. This being only a matter of $16,000 it is a very small addition to the appropriation bill. Especially is it small in consideration of the benefit it would be to a large number of people. The Department say that a forty-foot car, costing $16,000, will do the service. Other roads that do no more business than this road get $25,000. Within the last eight months this road has been completed from Carthage, in Missouri, and will be running to Wichita, Kansas, in three or four weeks. I know of my own personal knowledge, living on the line of this road, that its business has almost doubled within the last six months; and I know the little hole they have now in the car to carry the mail is so crowded the agents are not able to do their work, and they allege this as one excuse why a mail that should be put off at Lebanon (my town) is carried beyond and brought back, thereby losing at least twenty-four hours in mail delivery.

The question being taken on Mr. WADDILL's amendment, it was agreed to.

The Clerk read lines 86 and 87, as follows:

For compensation to railway post-office clerks, $1,450,000.

Mr. BLAND. I rise to a parliamentary inquiry. By an oversight of mine I allowed the previous paragraph to be passed over without offering, as I had intended in the absence of the gentleman from Ohio, [Mr. WARNER,] an amendment authorized by the Committee on Coinage, Weights, and Measures.

The CHAIRMAN. The gentleman can only return to a preceding paragraph by unanimous consent.

Mr. HAYES. I object.

Mr. BLAND. This amendment comes from the Committee on Coinage, Weights, and Measures, and has relation to the distribution of minor coins through the country. It is demanded everywhere for change, and I hope the gentleman from Illinois will not insist on his objection.

Mr. HAYES. I do insist on my objection. We want to finish this bill to-day.

Mr. MONEY. I desire to offer as an amendment a substitute for the four clauses of the bill from line 86 to line 93, inclusive. I inquire of the Chair if this is the proper time, lines 86 and 87 having now been read?

The CHAIRMAN. The gentleman from Mississippi can give notice of his intention to offer a substitute. The whole of that matter has not yet been read. The gentleman had better wait till then.

Mr. CANNON, of Illinois. I desire to offer an amendment to perfect the text of the bill.

The CHAIRMAN. The Chair has recognized the gentleman from Missouri [Mr. BLAND] to offer an amendment.

Mr. BLAND. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 87 insert as follows:

"And it shall be lawful for the Secretary of the Treasury to cause to be sent from the Treasury, or any sub-treasury of the United States, through the mails, at the risk of the applicant, free of charge, in registered packages, not exceeding in weight the maximum now allowed by law for fourth-class mail-matter, subsidiary silver coin, in exchange for lawful money."

Mr. PAGE. I make the point of order on that amendment.

The CHAIRMAN. The gentleman from California makes the point of order.

Mr. CANNON, of Illinois. What is the point of order?

The CHAIRMAN. The Chair supposes it to be that the amendment changes existing law and does not retrench expenditures.

Mr. CANNON, of Illinois. Let the gentleman from California himself explain what is his point of order.

Mr. BLAND. I think when the gentleman from California understands the amendment he will raise no point of order on it. I want to state to him and to other gentlemen before the point of order is made that the Secretary of the Treasury and the Treasurer also were before our committee, and are very anxious to have this amendment go into this bill or in some other way to become a law. There are now $15,000,000 of subsidiary coin in the Treasury that have been redeemed under the law passed last session; and there is no way of getting it out among the people where it is needed except in this manner of sending it through the mails. From all quarters there is a demand for small change. Why keep it locked up in the Treasury? Why not let it go out and circulate as money among the people? And why not use the mails for that purpose?

Mr. HAZELTON. It has to be kept in the Treasury to redeem the certificates that are already out.

Mr. BLAND. Oh, no. The gentleman will remember that last session we passed a bill by which this subsidiary silver coin can be exchanged for lawful money.

Mr. PAGE. Let the amendment be again read.

The amendment was again read.

Mr. PAGE. When the amendment was read before I did not understand the last provision of it, or I would not have made the point of order. I now withdraw it.

Mr. WEAVER. I renew the point of order; the amendment proposes to change existing law, and does not decrease expenditures.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For route agents, $1,175,000.

Mr. CANNON, of Illinois. I move to amend the clause just read by striking out "$1,175,000" and inserting "$1,225,000."

Mr. BLACKBURN. The gentleman proposes to add $50,000 to the sum contained in the bill?

Mr. CANNON, of Illinois. I do; the estimate of the Department was for the amount named in my amendment. The Committee on Appropriations struck out $50,000 of the estimate; I think the full amount estimated for should be given. Last year we gave $50,000 less than is now recommended by the committee, and the estimate for the next year is $100,000 more than the amount appropriated last year; that is an increase of 7.41 per cent. for this class of employés.

The increase of the mail matter to be distributed by these employés will be over 20 per cent. It has not been fifteen minutes since this committee increased by $16,000 the original estimate of the Department in order to put railway postal service on the Saint Louis and Pacific Railroad. We are planning all the time for an increase of the labor to be performed by the route agents and Post-Office employés everywhere.

I may state to this committee that these men act as distributing clerks upon the trains while they are in motion. Now, it will be useless for Congress to give $12,000,000 for railway postal service, $1,350,000 for postal cars, and $350,000 for increased postal facilities on railroads, unless you give the number of men to handle the mails in transit.

Let me call the attention of the committee to the increase in this class of matter. In 1877 the total number of pieces distributed on postal-cars for that year was over 864,000,000. In 1878 the number of pieces so distributed was 2,215,000,000, an increase of 150 per cent. And last year the number of pieces was 2,648,000,000; another large increase. And this year there will be another increase, probably more than 20 per cent. If we give the full amount estimated for for these route agents to handle these mails, we will only make about 10 per cent. increase.

Mr. BLACKBURN. Mr. Chairman——

Mr. HAZELTON. Do not oppose this amendment.

Mr. BLACKBURN. I cannot bring myself to the point of severely criticising my colleague on the committee, the gentleman from Illinois, [Mr. CANNON,] for what he now proposes. He is always too frank in his dealings to warrant anybody in criticising him severely.

But he will bear me out in the statement I make, that when we came to consider the three items for postal-car clerks, route agents, and mail-route messengers we gave all that the Department estimated for for two of those items. It was only after elaborate investigation and careful calculation that we concluded we would cut down the estimate for route agents $50,000.

We endeavored to satisfy my colleague from Illinois that in so cutting down the estimate we still made ample provision not only for route agents as the service is now being conducted but also allowing for a fair estimate of the increase in the mail service for the next fiscal year. I thought we had succeeded in convincing him of that.

This bill was reported to the full Committee on Appropriations by the sub-committee, of which the gentleman from Illinois was a member, without a dissenting voice; and it was adopted by the full committee without a dissenting voice. I really thought the gentleman from Illinois was satisfied with the appropriation recommended by the committee. I admit the accuracy of his figures.

Mr. HAZELTON. Then take his estimate.

Mr. BLACKBURN. I admit the accuracy of his figures, and call in question simply, not his statement of facts, but his conclusions. I do not believe, the Committee on Appropriations do not believe, and I think the gentleman from Illinois himself does not believe, that the increase of $50,000 which he now proposes is necessary for the compensation of route agents to meet any probable increase of the mail service.

Mr. CANNON, of Illinois. Oh, yes; the gentleman misapprehends me. I do believe it.

Mr. BLACKBURN. The gentleman has stated the case on one side; I have undertaken to state the facts upon the other side as we allege them to be. I do not believe the Post-Office Department will be at all hampered or that there will be any deficiency in the appropriation for route agents if the bill is passed as it came from the Committee on Appropriations. I now ask the committee to vote on the proposed amendment.

Mr. DUNNELL. I move to strike out the last word for the purpose of saying that I hope the amendment of the gentleman from Illinois [Mr. CANNON] will be adopted, and I believe this Committee of the Whole will so vote.

I represent in part a State where there were built many miles of railroad last year, and under the appropriations of last year there is to-day no route agent upon six or seven routes in the State of Minnesota, three of them in my own district, because there is not money enough to pay route agents for those routes. The mail to-day is carried in that State five hundred or six hundred miles in locked pouches, without the care of a postal clerk or a route agent.

As I said the other day, there is to be a large increase next year in railroad construction. According to the remarks of the gentleman from Kentucky, [Mr. BLACKBURN,] the sum named in this bill for the coming year is based upon the rate of increase of last year.

Now, last year's appropriation was inadequate to the necessities of the service by an amount larger than the increase which the gentleman from Illinois proposes. Therefore, it is very clear that this amendment will not be sufficient to meet the demands of the service during the coming year. The deficiency bill which was vetoed the other day was an admission that the amount appropriated last year was insufficient. That bill contained an item of $11,000 to sustain this branch of the service till the end of the present fiscal year. The Committee on Appropriations itself has admitted that the amount appropriated last year was insufficient.

Mr. BLACKBURN. That was $1,125,000.

Mr. DUNNELL. The same data are taken as a basis to get at the amount this year, and the appropriation now proposed will fall short of the amount needed as much as did the appropriation of last year.

Mr. MONEY. Do I understand the Chair to hold that after these paragraphs are voted on I can offer my substitute to come in at line 89?

The CHAIRMAN. The Committee of the Whole does not vote upon clauses otherwise than by voting on amendments to them. When the gentleman from Mississippi [Mr. MONEY] rose and stated his desire to offer a substitute for these clauses, the Chair suggested that he should wait until the clauses had been read and the text perfected.

Mr. BLACKBURN. Does the Chair indicate his purpose to allow the Committee of the Whole to go back to any paragraph or clause that has been passed?

The CHAIRMAN. Not to go back for the purpose of amending any paragraph or clause; but the gentleman from Mississippi desired to offer a substitute, and the Chair stated the usual rule, that the text should be first perfected, and then the gentleman might offer his substitute.

Mr. BLACKBURN. I must protest against any amendment to clauses which have already been passed.

The CHAIRMAN. The gentleman does not propose, as the Chair understands, to amend them except by offering a substitute for them.

Mr. BLACKBURN. I must protest, Mr. Chairman, that it is not in order. If it is not in order under the rule to offer an amendment for a paragraph after it has been passed it certainly is not in order to offer a substitute for that paragraph.

The CHAIRMAN. Strictly speaking it is not. The gentleman from Mississippi, however, arose when the first clause on page 5 was read and said that he desired to offer a substitute for that clause and the three following clauses. The Chair stated to the gentleman that he had better wait until the text was perfected and then offer his substitute.

Mr. BLACKBURN. I do not desire to embarrass the Chair, but I certainly want to finish this bill.

The CHAIRMAN. If the Chair has misled the gentleman from Mississippi of course he ought not to be deprived of his right to offer the substitute.

Mr. BLACKBURN. I certainly desire to finish this bill, and insist on my right to object to anything in the shape of an amendment or substitute for any clause or paragraph which may have been passed.

Mr. CANNON, of Illinois. I do not think the gentleman from Kentucky will object to the amendment.

Mr. BLACKBURN. I do not know what it is.

The CHAIRMAN. Nor does the Chair.

Mr. MONEY. I think the gentleman from Kentucky will not object when he hears the substitute read.

Several MEMBERS. Let it be read.

Mr. BLACKBURN. I want to finish this bill to-day.

Mr. CANNON, of Illinois. I suggest that my amendment be voted on, and then this can come in.

Mr. BLACKBURN. Let it be understood that no consent is given to the proposition of the gentleman from Mississippi.

Mr. MONEY. There was a difficulty in offering my amendment when line 86 was read, because the amendment aggregated the figures in that and the three following paragraphs, reducing them a little. My amendment would simplify the bill.

The CHAIRMAN. The amendment will be read for information.

Mr. CANNON, of Illinois. Before that is done I would like to have a vote on my amendment.

The question being taken on the amendment of Mr. CANNON, of Illinois, it was agreed to, there being—ayes 81, noes 61.

Mr. BLACKBURN. I will not call for tellers. I simply reserve the right to a vote by yeas and nays on this amendment in the House.

The CHAIRMAN. Some gentleman asked for the reading of the amendment of the gentleman from Mississippi. It will be read.

The Clerk read as follows:

For compensation of railway mail-service clerks, $3,009,950.

Mr. BLACKBURN. I make a point of order right here. The gentleman may offer that as a substitute for lines now pending, but I insist that it shall not be offered as a substitute for lines 86 and 87, which we have passed. I will add that the amendment increases the amount of the bill one or two million dollars.

Mr. MONEY. Not at all.

Mr. BLACKBURN. I must insist that lines 86 and 87, which have been passed, cannot be amended.

Mr. MONEY. I have not offered the amendment yet. Some gentleman asked to have it read. I offer that amendment.

Mr. BLACKBURN. I make the point of order it is not in order to offer it to any paragraph or clause of the bill which has been already passed and agreed to.

Mr. MONEY. On that matter I place myself on the understanding given to me by the Chair.

The CHAIRMAN. The point of order and amendment present a singular and unusual question. The gentleman could not have offered his amendment as a substitute for the first clause alone, or for the second, or the third, or the fourth clause alone.

Mr. MONEY. It comprehends all four.

Mr. BLACKBURN. The gentleman proposes to offer it as a substitute for all of these clauses.

The CHAIRMAN. Might he not have offered it as a substitute for this whole bill?

Mr. BLACKBURN. Is not my point of order good?

The CHAIRMAN. He might have offered it as a substitute for the entire bill after the committee had gone through with it.

Mr. BLACKBURN. That I do not object to; but I insist when a clause or paragraph of a general appropriation bill has been passed and agreed to, and we have proceeded to the consideration and reading by the Clerk of another paragraph or clause, it is not in order to go back.

The CHAIRMAN. Yet the gentleman concedes when we have passed through the whole bill and adopted amendments the gentleman from Mississippi could offer a substitute for the whole bill.

Mr. BLACKBURN. I do not object if he offers that as a substitute for the general Post-Office appropriation bill, but I do object to the gentleman offering it for any paragraph or clause passed and agreed to.

Mr. MONEY. I have a right to rise in my place and offer for the consideration of this House an amendment to this bill or any portion of it. It was impossible for me to offer it to the first, the second, the third, or to the fourth clause. If I cannot offer it as a substitute for the four, then when could I put this thing in? I would be debarred of my privilege as a member of this House of offering an amendment to the bill at all.

Mr. SPARKS. The gentleman has an amendment or a substitute simply that is improper. He might have offered an amendment to lines 86 and 87, which make a paragraph; he might have offered it to lines 88 and 89, another paragraph; but those paragraphs having been passed, he cannot offer it as a substitute covering paragraphs of the bill not before the committee, but which have been passed and have been agreed to. He cannot offer it as an amendment covering four paragraphs of this bill.

Mr. BLACKBURN. Which have been agreed to by the committee.

Mr. SPARKS. Yes, sir; which have been agreed to by the committee.

Mr. GARFIELD. Mr. Chairman, I do not take any particular interest in this amendment, but I think it would be a hardship, and perhaps a little sharp practice, to say to a member offering an amendment, "You cannot strike out what we have not yet reached," and he waits until it is read and then to say, "You cannot strike out what we have passed over." In that way he would be ruled out at both ends in his attempt to move an amendment. The gentleman from Mississippi offered this, as I understand, when the first clause was read, and he was answered he could not offer it until the whole four were read.

The CHAIRMAN. The Chair responded the matter for which he offered a substitute had not yet been read, and thereupon he said he would wait.

Mr. GARFIELD. The Chair having told him the time had not yet come the member waited until the time indicated by the Chair came. At that time the sharp ruling is made on him by the gentleman on the other side that we have passed three lines which now cannot be affected by the amendment without going back. I do not think the Chair ought to allow a gentleman to be ruled out between himself and the point of order from getting a fair chance to offer his amendment.

Mr. BLACKBURN. I do not believe it is necessary to meet the acute view my friend from Ohio takes, because I know by experience and service with him on the Committee on Rules how good a parliamentarian he is. But in order to cover the whole ground I will broaden this point of order, without yielding anything of my right to object to going back to any clause or paragraph of this bill which has been agreed to, because I reserve all my rights on that point; I will widen and broaden the point of order so I am sure I will satisfy the Chair and the gentleman from Ohio and the gentleman from Mississippi. This amendment is not in order because it changes existing law, and the gentleman offering it will admit it; and it does not on its face retrench expenditures.

Mr. MONEY. It does.

Mr. BLACKBURN. I beg the gentleman's pardon; it does not in my judgment. It may result——

Mr. MONEY. It is not a matter of judgment; it is a matter of fact.

Mr. BLACKBURN. That is the point I am now making—that it does not. It may result in retrenchment of expenditures.

But it is not sufficient to say that it tends to reduce expenditures. The rule requires it shall upon its face reduce expenditures. This amendment does not. It changes existing law, and for this reason it is not in order; but if these points raised against it are not considered by the Chair as sufficient to rule it out of order, I then come back to the original point of order I made and resist it upon the ground that if you allow any member of the House or any committee to offer an amendment of aggregations of substitutes you may wait until you reach the last paragraph in this bill to offer a substitute that covers one-half of the bill embracing perhaps twenty paragraphs or clauses of it which have been amended, debated, discussed, and agreed to, and strike them all out or completely change them by the substitute, thus overriding and upsetting the action of the Committee of the Whole.

Mr. MONEY. When the gentleman from Kentucky admits that I could offer a substitute for the whole he gives away the whole case. If I can offer a substitute for the whole bill, as he admits, I certainly can for a part. I do not pretend to be a parliamentarian. I do not pretend to understand parliamentary law as practiced in this House. I do not care to understand it, but I stand here as a matter of right and offer this amendment to the section.

Mr. SPARKS. The point really relied upon, as I understand it, is that the Chair has misled the gentleman from Mississippi. Now, for myself I cannot even see that much in it. He proposed, as it appears, to offer a substitute for four clauses of this bill, and at the time he made that proposition but one of the clauses had been read. The Chair said to him he had better wait until we got through with all the clauses and then offer the substitute. But mark it, his proposition was untenable under the rules; for he proposed to offer the substitute for four clauses which he could not then do, for three of them had not then been read. Now, although he could have amended the respective clauses as their reading progressed, every and each one of them, when standing separate and distinct, yet he did not do this, nor propose to do it, but having proposed to amend all when only one had been read, he then afterward chose to bring in this amendment

or substitute covering all four of them in gross, after three of them had been read and disposed of.

As I understand the rule, it requires that he should have offered his amendment or substitute for the first clause after it was read; then to the next when it was read, and then to the next, and so on as they were respectively read. But after the reading of all four of the clauses of the bill he cannot come in at the end and insist upon an amendment, or a substitute in the way of an amendment for all of them together.

Mr. GARFIELD. Will the gentleman from Illinois permit me to ask him a question?

Mr. SPARKS. Certainly.

Mr. GARFIELD. Suppose every man in this House except one is in favor of consolidating four paragraphs of the bill into one as a mode of bettering or amending the law. I get up and offer that amendment, and every man in the House wants it and sees the propriety of it, but the one man makes the point of order against it. Now, I ask the gentleman from Illinois does he think under our rules there is no method by which such a consolidation can be effected?

Mr. SPARKS. It is a sufficient answer to that to reply that the rules provide that after three paragraphs of a bill have been adopted it is not in order, if objection is made, to go back and amend the first or any one of the three already passed, and that you cannot do so by incorporating all three of them with a fourth in one general amendment. When a whole bill has been gone through with, a substitute for the whole bill is in order; but that is a different thing to this.

Mr. GARFIELD. Then I have reduced the proposition to an absurdity.

Mr. BLACKBURN. Let me answer the question of the gentleman from Ohio.

Mr. GARFIELD. Very well, if you can.

Mr. BLACKBURN. There are two methods under the rule by which it can be done.

Mr. GARFIELD. What are they?

Mr. BLACKBURN. The first is to offer a substitute for the whole bill. The second method is to take them up seriatim as they are read and offer an amendment or substitute for each before it is passed upon. And I do contend, and the gentleman from Ohio will not dissent, that there is no way, while you have the right to offer a substitute for the whole bill, to amend it in the way proposed here; and why? Simply because when the last paragraph of the bill has been agreed to by the committee you have simply agreed to the different paragraphs, but the bill as a whole has not been agreed to, and consequently a substitute for the whole bill may be offered. But the gentleman will readily perceive that this is a very different case from an attempt made to amend a paragraph of the bill after it has been agreed to and passed, because each individual paragraph as it is passed has been read, debated, discussed, or amended and agreed to, and you cannot go back and disturb the order or rescind the action that the Committee of the Whole House has taken when it has accepted the various paragraphs separately. The gentleman from Ohio knows that he can get a substitute for the four clauses by offering, if he chooses, a substitute for the whole bill, which shall be a verbatim copy of the bill except the four clauses for which he desires to offer the substitute.

There is no other method known to the rules of arriving at the solution of that difficulty; and when you once establish the right of a member here to rise and offer an amendment or a substitute, which is to cancel, to overthrow, to disrupt, to set at defiance the action of the Committee of the Whole House, you have simply resolved the Committee of the Whole into a chaos, and you can have no system to govern in this method of legislation here. You wipe out all rules.

Mr. GARFIELD. I do not wish to delay the committee. I am anxious to get through with this bill. But if we are to be compelled to take one of the two methods the gentleman from Kentucky has indicated, and if it be necessary in the first place to offer a substitute for the whole bill in order to rectify a matter of four lines, it is like declaring we must tear down a whole house and build a new one on its ruins in order to stop one rat-hole. That is surely quite too cumbersome a way of doing it.

Mr. SPARKS. Will the gentleman allow me to ask him one question?

Mr. GARFIELD. Wait till I get through. I make this point, which I think ought to settle this question: Under some misapprehension or other, led by something the Chairman said, the gentleman from Mississippi [Mr. MONEY] was induced to wait instead of offering his amendment when lines 86 and 87 were read. Under those circumstances I think the chairman ought to recognize him now to offer his substitute as an amendment to the proposition in lines 86 and 87. He can move to strike out that clause and can offer his whole substitute in the place of those lines and give notice that if his substitute is adopted he will then move consecutively to strike out the three clauses which follow.

Mr. BLACKBURN. Will the gentleman from Ohio answer me one question?

Mr. GARFIELD. Yes, sir.

Mr. BLACKBURN. If it be not a matter of right for which the gentleman contends but a matter of grace he asks for, that shifts the argument. But if it be a matter of right for which he contends, and if after we have agreed to all these four clauses it be in the power of any member of this committee to go back and move to rescind that action, why is it not as much in the power of that member to go back and move to rescind the action of the committee when it adopted the very first clause of the bill?

Mr. GARFIELD. I know very well one rule that never has been varied from. Whenever the presiding officer of this House or of the Committee of the Whole puts a question to a gentleman if he intended to make a motion or did make a motion at a certain time, and the gentleman replies that he did, his word is immediately taken for it.

Mr. BLACKBURN. I concede that.

Mr. GARFIELD. And no chairman will ever break a member's right down on account of a misunderstanding between himself and that member. And in this case the Chairman himself indicated to the gentleman from Mississippi that the motion he rose to make would not be in order till the fourth of these clauses was read. Now the Chairman will not take advantage of the gentleman from Mississippi, following the indication he thus gave, to that gentleman's disappointment. That is the point.

Mr. BLACKBURN. Just one word in reply to the gentleman from Ohio. The gentleman set out to claim a right. He abandoned that and then claimed this as a matter of grace. He now abandons that and appeals to the sense of honor that he says actuates the Chairman. I meet him now on that ground and say this: I do not want to embarrass the Chairman, but I do insist in nothing the Chair has said or done could it possibly have been the purpose of the Chair to rob me or any member on this floor of our right under the rule to protest against the establishment of chaos in this Committee of the Whole House.

Mr. GARFIELD. It could not possibly have been the purpose of the Chair to rob the gentleman from Mississippi of the right to move to strike out these lines and offer a substitute.

Mr. SPARKS. Well, now, if the Chair had said nothing to the gentleman from Mississippi, would it be insisted that this would be in order?

Mr. GARFIELD. If the Chair stated that when the committee reached a particular line the gentleman would have the right to move to strike out those lines, then I think it would be the gentleman's right to offer that amendment.

The CHAIRMAN. The question as to whether or not the gentleman from Mississippi independently of anything that might have occurred between him and the Chair in the presence of the Committee of the Whole could have offered a substitute for these four clauses after they had been read and amended in the committee is one which the Chair has very great doubt about; one upon which he prefers not to express an opinion. But the gentleman from Mississippi undoubtedly had the right, when lines 86 and 87 were read, to move his amendment as a substitute for those lines, giving notice he would thereafter move to strike out the other lines. Or he could have moved, as these clauses were successively reached, to strike out each one of them, giving notice that after they were stricken out he would offer a provision to take the place of the whole of them.

Now, the gentleman from Mississippi stated when the first clause was read that he had an amendment which he desired to offer as a substitute for the four clauses. The Chair said perhaps the gentleman from Mississippi had better wait till the four clauses were read. Then he took his seat. No gentleman on the floor objected. The Chair thinks under those circumstances he ought not to be deprived of the privilege of having a vote on his amendment.

Mr. BLACKBURN. I do not complain of the decision of the Chair. I simply desire to know whether then it would be in the power of any member of the committee to allow all of the other twenty clauses in the bill to be agreed to one by one and then to offer a substitute for nineteen of them?

Mr. GARFIELD. In this case the gentleman gives notice in advance.

Mr. BLACKBURN. Notice does not rob me of my right.

The CHAIRMAN. The Chair replies to the question of the gentleman from Kentucky [Mr. BLACKBURN] by saying that the Chair does not decide that. All that can be inferred from the statement of the Chair is that inasmuch as the gentleman from Mississippi made that statement in presence of the Committee of the Whole and the Chair responded in the way he did, in the absence of any objection at that time, the gentleman should now be permitted to offer his amendment.

Mr. BLACKBURN. If I had thought silence would have robbed me of my right I would have objected. I bow, however, to the decision of the Chair.

Mr. MONEY. I desire to have read a passage from the last report of the Postmaster-General which I send to the desk.

The Clerk read as follows:

I most earnestly renew my recommendation of last year for the reclassification of the employés of the railway mail service as advised by the general superintendent of that service. No additional expense will be incurred, but the business of the Department will be greatly facilitated and much annoyance will be spared to the appointment office which is now caused by the necessity of transferring employés from one class to another in order to avoid exceeding the appropriation. The railway mail service is the most important branch of the postal system. Under a judicious system of appointments and a tenure of office dependent upon merit alone, its efficiency has developed so that the enormous amount of 2,648,661,550 pieces of mail-matter were distributed by it during the past year with only one mistake in the disposition of each 3,469 pieces. The work performed by all the employés is the same, varying only in amount, and yet under the present mode of appropriating for postal clerks, route agents, mail-route messengers, and local

agents, two men working in the same car and performing the same service frequently receive a different salary simply because one is paid out of the appropriation for route agents and the other out of that for postal clerks. This is the greatest evil now existing in the service, and it can be completely remedied by the classification of the employés as recommended.

Mr. BLACKBURN. I desire to know of the Chair whether the point of order which I have made against this amendment, that it changes existing law and does not reduce expenditures, has been disposed of?

The CHAIRMAN. The Chair has not decided that point of order at all.

Mr. BLACKBURN. I am waiting for the Chair to decide it.

The CHAIRMAN. The Chair understood the gentleman from Mississippi [Mr. MONEY] to state that this amendment showed on its face a retrenchment of expenditures.

Mr. BLACKBURN. Then when that point of order is decided I have another point of order.

The CHAIRMAN. The Chair has decided simply that he thought he ought not to exclude the gentleman from Mississippi [Mr. MONEY] from offering his amendment, because of the fact that he wanted to include in its operation paragraphs immediately preceding the one now pending.

Mr. MONEY. Am I to be interrupted in my remarks by points of order?

The CHAIRMAN. The gentleman from Kentucky [Mr. BLACKBURN] reserved all points of order.

Mr. BLACKBURN. I want it distinctly understood that I reserved not only one point of order, but all points of order.

Mr. MONEY. My amendment proposes to aggregate in one item what is now comprised in this bill in four separate items; to put four classes of mail officials into one class. They perform exactly the same duty without a shade of difference, and there is no reason why they should be put into four separate and distinct classes. As the Postmaster-General well remarks, this is one of the great evils of the railway mail service. When you simplify any branch of the service you improve it. My amendment does not increase the expenditure, but rather decreases it, because now four separate sets of books must be kept for the pay of these officials.

The CHAIRMAN. The point is this: If the proposed amendment changes existing law, it is not in order, simply for the reason that it does not increase expenditures; it must actually retrench expenditures. Being offered by an individual member on the floor, it must retrench expenditures in one of the three ways named in the rule.

Mr. MONEY. The amendment retrenches salaries to the extent of $50.

Mr. BLACKBURN. Has the Chair decided that point of order?

The CHAIRMAN. The Chair has not. The gentleman from Mississippi states that the amount named in his amendment is $50 less than the aggregate sum contained in the four clauses.

Mr. BLACKBURN. Yielding, then, to the technical compliance with the rule, I make another point of order. I think the gentleman from Mississippi will admit that his amendment is not in order, because it embodies the substance of a bill now pending before the House, (House bill No. 4048.) And under the rule no amendment is in order to any appropriation bill——

The CHAIRMAN. Or any other bill.

Mr. BLACKBURN. No amendment is in order to any appropriation or other bill that is substantially the same as a bill pending before the House. The rule uses the words "in substance."

Mr. STONE. It changes the names of the officers.

Mr. BLACKBURN. So does the bill I have referred to.

The CHAIRMAN. It seems to the Chair that the purpose of the amendment is the same as the purpose of the bill referred to by the gentleman from Kentucky, [Mr. BLACKBURN,] although it is not in identically the same language. The purpose is to consolidate the various classes of officers into one and call them postal clerks. The Chair thinks the amendment is not in order.

The Clerk read as follows:

For mail-locks and keys, $25,000.

Mr. HAWLEY. I move to amend by striking out "$25,000" and inserting "$150,000," that being the recommendation of the Post-Office Department. I find by reference to the report of the Postmaster-General that the term of the contracts for mail-locks and keys expired July 1, 1878. Since then supplies have been kept up by repair of old locks and small purchases of new locks from the late contractors. The Postmaster-General says:

> The total expense of mail-locks and keys during the year was $12,780.55; the average annual cost for the last three preceding years having been $12,021.66. The term of all contracts for mail-locks and keys expired during the preceding year, and supplies have been kept up during the past year by repairs and small purchases from the late contractors. The greater portion of the mail-locks now in use are nearly worn out and are becoming insecure from their long subjection to the peculiary hard usage of the mail service. They were procured under contracts made in 1870, and as experience has shown that ten years is the limit of duration for mail-locks, their further use is not compatible with the requisite security. The locks used for through-registered pouches are also no longer adapted to the service. I would therefore earnestly recommend that provision be now made for superseding at the earliest possible date the locks now in use by those of new and improved patterns.

The Second Assistant Postmaster-General in his report explains more in detail the urgent necessity for this appropriation. He says:

> The term of all contracts for mail-locks and keys expired during the preceding year. Supplies of such have since been kept up temporarily by repairs and small purchases, made provisionally from the late contractors, as shown in detail by the table (G) before referred to.
>
> The greater portion of the mail-locks now in use are nearly worn out, and are becoming insecure from their long subjection to the peculiarly hard usage of the mail service. They were procured under contracts made in 1870, and will have soon fulfilled their allotted term of usefulness; ten years' service, as experience has hitherto shown, being the limit of duration for mail-locks, beyond which their further use is not reliable for requisite security. In the present state of the art it is probable locks of a new kind and different construction from the present mail-locks may be made to last longer, but it is not a property of the locks constructed and made up to the date when these were contracted for. Besides, the mail-locks and keys used on the general and the through mails, and above referred to as having been long in use, the particular kind of locks and keys now used to secure, in transit, the through-registered mails, (now the chief medium of transmitting valuable mail matter between large cities,) though not so long in service as the other mail-locks, are now no longer adapted to the present enlarged and growing system of through-registered mails, which demands a new, different, and peculiar kind of locks, affording better security and greater facilities for dispatching mails of that highly important character.
>
> It would be neither expedient nor practicable to replace the old locks now in service, to the extent which will soon be requisite, with new locks of the same kind or pattern; nor would it be practicable, without detriment to the service, to displace the old kinds of mail-locks and keys by small supplies of new kinds, introduced gradually. Consequently, it is expedient that a precedent supply of new kinds of locks and keys, equal in quantity to those in use, be contracted for, manufactured, and be in readiness for distribution, in order to substitute properly one kind for another.
>
> The substitution for the present mail-locks and keys of new locks and keys of entirely different construction, and unlike any others hitherto used or known in any way to impair their utility as mail-locks and keys, is, in my judgment, a necessity of the service, to be provided for without any delay beyond the ensuing session of Congress. For, if during that session authority of law be given by the requisite appropriations for new kinds of mail-locks and keys, probably no contract for them could be made to take effect until July 1, 1880, and one year or perhaps eighteen months therefrom would be required to manufacture, deliver, inspect, and have ready for distribution to all the postmasters in the United States; and adding thereto the time which must necessarily be consumed in distribution and substitution, the old locks and keys could not be superseded until some time in 1882 or 1883. And it is believed the old locks will not be reliable for the safety of the mails beyond that time.

I made inquiry of the Post-Office Department in regard to this matter and received a letter which I will have read by the Clerk for the consideration of this committee. The amendment I have offered proposes to add a considerable sum; but if anything is to be done, it should be done at once. I ask the Clerk to read the communication I send up.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., May 4, 1880.

SIR: I have the honor to acknowledge the receipt of your communication of the 3d instant, and take pleasure in endeavoring to explain some facts more fully than it seemed to be proper for the interests of the public service to have published in my last annual report (page 15) and the accompanying report of the Second Assistant Postmaster-General, (pages 56 and 57,) to show the necessity of procuring, as soon as may be, new kinds of mail-locks and keys entirely different from those now in use, in quantities sufficient to take the place of the old, and of the requisite appropriation ($150,000) asked for that purpose.

The object of mail-locks is not to protect the mails from highway robbery, but to secure correspondence, valuables, &c., committed to the United States mails from being secretly abstracted and purloined from the mail-bags while in transit by drivers, carriers, messengers, porters, baggagemen, &c., employed by mail contractors and their sub-contractors throughout the United States. Without good and secure locks, peculiarly devised and made specially for that purpose, and that only, letters and valuables may be stolen from the mails (as they have heretofore been) without leaving any trace of violence or any evidence, even when losses are reported, whether they were stolen in transit or in the post-offices. It is therefore necessary that the bags for the transmission of first-class mail matter be so constructed that when fastened with a suitable lock nothing can be abstracted therefrom by the carrier without obvious violence, for which the carrier is to be held accountable.

The locks now generally used in the service are of a construction which depend entirely for safety on the vigor and durability of their springs. These are weakened and broken in the course of a few years by the peculiarly hard usage to which they are unavoidably exposed, and very many of these locks from that cause have lost their security without manifesting the fact by their external appearances or ordinary handling. It is only when some of these locks are obviously broken and damaged that they are returned as defective for new ones by postmasters generally. As many as twenty thousand mail-locks of one kind, which have become defective and insecure from the causes stated, are now on hand here; and yet only about one-tenth of them were returned here as defective by postmasters, calling for new locks in place of them. The eighteen thousand were culled in the Department out of lots gathered from accumulating points and returned as in good order, to be put into service elsewhere, according to regulations, their defects not being known to postmasters. The principal defect is that they become liable to be jarred open and locked again without a key after some of the springs are worn out—a defect more likely to exhibit itself while on the bags in transit, and to be disclosed rather to the carriers, against whom they are provided, than to the postmasters.

The quantities of mail-locks insecure from this latent defect are not to be ascertained except by withdrawing all the old locks from the service and subjecting each to examinations and tests in this Department, for it has already been shown that postmasters generally are not to be relied on to detect such defect. It is impracticable to so withdraw all the old locks from the service without a supply of new ones equal in quantity to the old ones.

There is every reason to believe that the greater portion of the mail-locks now in the service have become deficient in requisite security, as they were put into use about the same time, and are so constructed as not to last with safety in the mail service longer than eight or ten years, and that very nearly all will become insecure if continued in use for two or three years longer, as they must be continued if early provision by requisite appropriation be not made by Congress for new locks and new contracts for the same. It is therefore necessary for the security of the mails to get a supply of new locks to take the place of those now in use. New locks of the same kind could not be so readily distinguishable from the old as to enable postmasters to substitute thoroughly one for another; and the quantities requisite would be nearly the same as of new, greatly improved, and entirely different kinds, which, it has been ascertained, can now be got at lower prices. The substitution of new kinds of locks and keys instead of the same kind would give the service the benefit of later improvements and afford vastly greater security, since many of the present kind of mail-keys have been lost, and probably some of them have fallen in improper hands, greatly impairing the safety of the mails. With the introduction of new kinds of mail-keys it is designed to connect improved methods for their safekeeping, which, it is believed, will effectually pre-

vent their loss by postmasters, attaining thereby a degree of security for the new keys which cannot be conferred upon the old kinds of keys. The prices of the present mail-locks and keys will be found on page 162 of my last annual report. The contracts made in 1870 for eight years expired July 1, 1878; and there is now no source of supply for small purchases of the present locks except from the late contractors, and they may choose to furnish them or not, since their bonds have expired. Competition for furnishing the old kinds of locks cannot be invited by public advertisement without impairing or totally destroying the usefulness they may yet possess for the mails, since it would then be necessary to open them to the examination and scrutiny of all professing the intention of bidding. For that reason this Department in advertising for proposals for mail-locks has abstained from prescribing any samples, but has relied for a selection on the mechanical skill and ingenuity of bidders or displayed by their own samples submitted under fair competition, in which only the merits and prices of each are considered.

Very respectfully,

D. M. KEY,
Postmaster-General.

To Hon. JOSEPH R. HAWLEY,
House of Representatives.

During the reading of the foregoing communication the five minutes allowed under the rule expired.

Mr. BLACKBURN. I do not want to be discourteous to the gentlemen from Connecticut, but I do not want debate to be extended beyond five minutes.

The CHAIRMAN. The five minutes of the gentleman from Connecticut [Mr. HAWLEY] have expired.

Mr. STONE. I will take the floor and yield my time to the gentleman from Connecticut.

Mr. BLACKBURN. Very well; I will not object to that, although I do not want the time for debate extended.

The Clerk resumed and concluded the reading of the communication, as given above.

Mr. HAWLEY. As I have said, the old contract expired July 1, 1878, nearly two years ago. Since that time the Department has been living from hand to mouth by contracting with the old contractor for new locks at the old price. Under a new contract very much better locks, more durable, more ingenious, and at a lower price, can be obtained. Hence, it would be a piece of extravagance to compel the Postmaster-General to go on under the old contract. If he does anything he ought to throw away the whole lot of old locks, in nine-tenths of which the springs are worn out; they cannot be repaired piece by piece, for that leads to confusion; beside, the old keys are distributed in very much greater number than they ought to be, and nobody knows into whose hands.

When the old contract was made in July, 1871, Congress appropriated $40,000 by one item in the regular appropriation bill for the renewal of locks, with the understanding that the Department was to use unexpended balances. But subsequently the law was enacted requiring unexpended balances to be covered into the Treasury. Then Congress added $55,000 in a deficiency bill, as will be found by reference to page 518 of the Statutes at Large, volume 16. So that the appropriation in 1871 was $95,000 for the renewal of locks—the putting in of new locks. This in proportion is something like what the Department asks now. Then there were twenty-seven thousand post-offices; now there are forty-two thousand. One hundred and fifty thousand dollars ought to be granted for this purpose. I hope that the amendment will be adopted.

Mr. BLACKBURN. Mr. Chairman, I am sure the gentleman from Connecticut [Mr. HAWLEY] and myself will not disagree as to the facts of this case. In 1868 the sum of $30,000 was appropriated, not for mail-locks and keys, but for mail-locks, keys, and stamps. In later years this item was divided; but the appropriation used to be in that form. For 1868 it was $30,000; for 1869, $35,000; for 1870, $40,000; for 1871, $40,000; for 1872, $40,000; for 1873, $40,000; for 1874, $40,000; for 1875, $50,000; for 1876, $21,100; for 1877, $20,000; for 1878, (now we come to the separation,) it was $16,000; for 1879, $15,000; for 1880, $15,000. To-day we are asked to appropriate $150,000. Now, I speak by the records of the Post-Office Department when I say that during the years 1877, 1878, and 1879, when the appropriation was $20,000, $16,000, and $15,000, that appropriation was never exhausted. Last year there was spent for this purpose something more than $14,000, which was the largest expenditure for this purpose during three years past.

Now, we are asked to jump from $15,000 to $150,000; and we are told that the Department wishes to substitute a new system of locks throughout the whole American mail system, because, forsooth, the old locks are wearing, and twenty thousand injured locks have been returned to the Department as unfit for service. If this be true (and I do not question it) twenty thousand new locks have been put in their places. If you grant this sum of $150,000, you simply destroy every dollar of value represented by every lock used in your mail system to-day.

Mr. HISCOCK. Is there any evidence tending to prove that for the security of the mails there is a necessity for a change in the locks?

Mr. HAWLEY. Yes.

Mr. BLACKBURN. None whatever. Upon the contrary, I call upon members of the sub-committee who prepared this bill to bear me out in the statement that when Mr. Johnson, who has been in charge of the locks at the Post-Office Department for forty years past, was before us and we asked him to give us the data upon which he claimed that the locks now in service were unfit for use, he said he had no data except the length of time that they had been in use. The appropriations as made for the last twelve years, the list of which I have read, as they run along one year with another, give no warrant for such a conclusion. On the contrary, I hold it to be a self-evident proposition that the Department cannot know whether a lock is fit for use or not until it is condemned by one of the postmasters, and returned to be substituted by a new one. Twenty thousand old locks have been thus returned and twenty thousand new ones thus substituted. The proposition now is to retire from service those twenty thousand new locks and also to retire from service every other lock, whether good or bad, in order to introduce a new system altogether.

I do not understand that the Department has suffered anything by reason of the contract which was made for four years having expired. That contract expired in 1878. They have gone on from then until now, having new locks furnished at the contract price whenever they saw fit to demand them without any increase or charge of any inconvenience, without any delay, and without any detriment to the service so far as their statements are concerned by reason of this wearing of the locks. I hope we may now have a vote. [Cries of "Vote!" "Vote!"]

Mr. HAWLEY. I renew the amendment, as I desire to make a remark or two in reply to the gentleman from Kentucky. [Cries of "Vote!" "Vote!"] I believe I have the floor, Mr. Chairman, and I will continue. The gentleman from Kentucky says they cannot know the locks are bad until they have been sent in here condemned, and that twenty thousand have been so condemned by postmasters. He is mistaken. Of the twenty thousand condemned locks only two thousand have been sent in by postmasters. The other eighteen thousand have been picked up by the Department itself in chance bags and locks coming in.

When they say there is no evidence from the Department that the Government is suffering, the gentleman is also mistaken. Here are the letters of the Postmaster-General and the Second Assistant Postmaster-General. Here is the long and careful letter read to-day in the hearing of the House. There are thousands of those locks everywhere which fall unlocked by jarring and the throwing of the bags about. The bags are at the mercy of messengers going to and coming from the post-office; and it is there where the loss occurs. It is by that class of persons the losses occur. The cutting open of mail bags by mail robbers is not where the losses occur, but the falling unlocked while the bags are in the hands of messengers and chance comers is when the Government loses by it.

Mr. HISCOCK. I ask the gentleman from Connecticut a single question. I understand the Post-Office Department heretofore has fully investigated this question and have advertised for new proposals; that they have examined the locks which are proposed to be furnished to the Department, and that they have substantially reached a conclusion as to the contractors to whom the contract is to be awarded.

Mr. HAWLEY. Yes, sir; and cheaper than under the old one.

Mr. HISCOCK. I ask the gentleman whether, in his judgment, they propose to furnish the Government these locks at a price substantially lower than the price at which they are now furnished so as to warrant this expenditure of $150,000 for making a new contract?

Mr. HAWLEY. I will answer the question of the gentleman from New York by stating that I am informed by the Department the new locks are better and more durable than the old ones and are offered at a much lower price.

Mr. HAWLEY's amendment was rejected.

The Clerk read as follows:

For manufacture of postal cards, $237,000. And the Postmaster-General is hereafter authorized to furnish and issue to the public postal cards with postage-stamps impressed upon them, for circulation in the mails exchanged with foreign countries under the provisions of the universal postal union convention of June 1, 1878, at a postage charge of two cents each, including the cost of their manufacture.

Mr. SINGLETON, of Illinois. I am instructed by the Committee on the Post-Office and Post-Roads to present the following amendment.

Mr. BLACKBURN. I should like to ask the gentleman, before the amendment is read, whether a point of order which I now reserve will not exclude the amendment, on the ground that a bill covering substantially the same proposition is now pending before the House.

Mr. SINGLETON, of Illinois. I think not.

The Clerk read as follows:

Amend by inserting after line 118 the following section:

"That the Postmaster-General is hereby authorized to furnish for public use double postal cards, so arranged and lined and ruled for the address, or otherwise arranged, that they may be forwarded and returned; the said cards to be sold for two cents apiece. And also to furnish for public use stamped double letter envelopes of the denominations now in use, with arrangement for the addresses similar to the said double postal cards, that may be forwarded and returned; the said double envelopes to be sold at double the price of the denominations respectively of the single stamped envelopes now in use. And he shall cause instructions in the use of the said double postal cards and double envelopes, if any be deemed necessary, to be printed thereon, together with such directions as shall best tend to accomplish the purposes of this act. And he shall also prescribe rules and regulations for the use by the public of unstamped double envelopes, directing postmasters as to the proper mode of cancellation of the two stamps that may be attached thereto—to forward and return—in order that the two stamps attached by the people may perform the double service intended. And, furthermore, in order to reduce the present cost to the Government of postal cards and envelopes, he is authorized to purchase such double postal cards and double and single sheet envelopes as will, in his judgment, best secure the purposes of this act and supply any public demand for the same, provided he can purchase them upon such terms that the cost of one thousand of the said double postal cards and envelopes respectively shall not exceed by more than 33½ per cent. of the cost, at the time the contract is made, of one thousand of the single postal cards and envelopes, respectively, now in use. And the Postmaster-General is further directed to furnish for the public use such stamped letter-sheet envelopes as

he may approve, to be stamped with a three-cent postage-stamp, and to cost the Government not more than the cost of stamped letter envelopes, now in use, at the time the contract is made: *Provided, further*, That the appropriation for postal cards and stamped envelopes for the years ending June 30, 1879 and 1880, and thereafter, shall be available for the purchase of the double postal cards, double envelopes, and stamped letter-sheet envelopes provided for in this act."

Mr. SINGLETON, of Illinois, rose.

The CHAIRMAN. There is a point of order pending.

Mr. BLACKBURN. I yield the point of order on an agreement with the gentleman from Illinois.

Mr. SINGLETON, of Illinois. I desire to say only a few words on the subject of the pending amendment. It is not in the interest of any device whatever. There were many and numerous devices before the committee. They have examined the subject for the last twelve months and have come to the conclusion that by adopting the amendment and authorizing the Post-Office Department to issue a double letter envelope and double postal card the revenues of the Post-Office Department will be largely increased.

I will simply show according to the estimates of the committee what I understand to be the average cost. The average cost of a single envelope is $2.70 per thousand. The Government sells them for $32.25 per thousand. The double envelope will cost at an average $3.40 per thousand, and the Government will sell them for $65.70 per thousand. Now, it is only necessary to say, for it will be observed upon examination, that the amendment proposed is a proposition in favor of economy or an equivalent proposition. While it does not absolutely retrench expenditures it increases the means of paying the necessary expenditures of the Department, and therefore it is in the line of economy. If you buy one thing for a given price and two things of the same kind for 33⅓ per cent. more than one would cost, you will be able to show a saving of 66 per cent. to the Government. That is the proposition this amendment looks to, that none of these double envelopes or cards shall cost the Government more than 33⅓ per cent. above the cost of a single envelope or a single postal card at the time the contract is made.

Mr. DAVIS, of North Carolina. Has not the Postmaster-General heretofore had the power to issue double postal cards?

Mr. SINGLETON, of Illinois. He has under the law of 1879, but that law prohibited the Postmaster-General from adopting envelopes which had any additional marks upon them.

Mr. BLACKBURN. I agreed with the gentleman from Illinois that I would withdraw the point of order upon his amendment if he agreed that we should take two minutes each to discuss it. My friend allowed himself to be led away in a five-minute speech, but I shall endeavor to keep inside of the contract. I desire simply to say this: that amendment is too voluminous; it is too long to come in here. Listened to as we may best hear such amendments read by the Clerk, I do not think the House would feel warranted in incorporating it into this bill if indeed it be a good amendment at all, and I do not undertake by any means to say that it is not, for I have not had the opportunity of reading it, much less the opportunity of examining it. The Committee on Appropriations reporting this bill never saw it. The House knows nothing about it except what has been gathered from the reading of the Clerk, which in the confusion generally prevailing is but meager information. If it be a good amendment, I undertake to say, and I think the gentleman from Illinois will indorse it, that we are not likely to lose the beneficial effects of it by withholding it from this present bill, because when the bill comes before the House——

Mr. SINGLETON, of Illinois. That bill was referred to a committee, and this is a substitute for the bill.

Mr. BLACKBURN. Very well; then I submit to the committee whether caution in legislation would not dictate to us the propriety of rejecting the amendment, or the substitute, and let it come in when it is entirely in harmony with the bill now pending before a committee of the House, and not attempt to put it in here.

Mr. SINGLETON, of Illinois. I simply want to inform the gentleman from Kentucky and the House that there is no bill pending before the House.

Mr. BLACKBURN. Well, before a committee of the House.

Mr. SINGLETON, of Illinois. It is pending before a committee, and the committee directed me to report this amendment as a substitute.

Mr. BLACKBURN. I understand that as a substitute for the bill before the committee. Therefore I say that it is better not to put it in here, but to allow it to come in when the committee which reported it are prepared to present a bill on the subject.

Mr. SINGLETON, of Illinois. This would seem to be the appropriate place for it under the circumstances.

The amendment was not agreed to.

The Clerk read as follows:

Office of Superintendent of Foreign Mails:
For transportation of foreign mails, $225,000.

Mr. DAVIS, of California. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

After line 131 add the following:
"*Provided*, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of overland transportation of the Australian closed mails as he may deem just."

Mr. DAVIS, of California. I offer this amendment simply as an act of justice to the Australian colonies. It is but right and proper that it should be passed. These colonies have had a line of steamships composed of American vessels sailing under the American flag at an annual expense of $500,000, and they carry all our mails on the Pacific except the China mail and charge us nothing therefor. They carry all our mails to Australia, Samoa, Fejee, New Caledonia, and all our correspondence with the Hawaiian Islands free of cost to us, and in return for that service this Government charges them full expense for the transportation of their closed mails across this country both ways.

It seems to me that it is neither consistent with the dignity of this country, nor with justice, nor with generosity to allow these two small colonies, with a total population of only about one million of inhabitants, to pay this enormous subsidy of $490,000, to speak accurately, and carry all our mails for us for nothing, while we charge them in return for the transit of their mails across our continent not merely the ordinary amount for overland transit, but an extra amount in return for their generosity to us.

The British government is anxious to put an end to this mail They have found that these people are desirous to travel across our continent. It is a favorite route for passengers. They come here and are induced to trade with us. They have bought from us last year $7,000,000 of American products, and in return we purchase from them less than $1,000,000 worth. And these are not California products. They have bought locomotives from Boston. They have bought street cars from New York. They have bought steam-engines from Philadelphia. They have bought reapers and mowers and all kinds of agricultural implements from Ohio, Illinois, and other States. They have thus produced a benefit that accrues to the entire United States. The British government seeing this is anxious to break up this system, and with that intention they have doubled and trebled the facilities which these colonies have with England on the other side. They have made the mail by way of the Red Sea a fortnightly mail instead of a monthly mail and have at the same time expedited the route, and put on another line by way of the Cape of Good Hope and expedited that. They have been endeavoring by every means to detach these colonies from the American line they have established.

I ask this House as a matter of generosity, of justice, of business prudence, that they shall concede to those colonies this small favor which they ask, that the Postmaster-General should be permitted to make such an allowance in favor of these colonies on the transit of these closed mails as he may deem just.

Mr. BLACKBURN. I have no doubt the statement of facts made by the gentleman from California is altogether accurate; and assuming that to be so, I see no reason why the amendment should not be agreed to.

The amendment was agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. BLACKBURN. I now ask unanimous consent to go back to line 48 in order to offer an amendment which practically results in a simple transfer of an appropriation of $5,000 between the appropriations for wrapping-paper and wrapping-twine. An appropriation has hitherto been made of the two items together. In the last bill they were separated. There is an excess of about $5,000 in the one case and a deficit of about an equal amount in the other. The appropriation for wrapping-twine will be exhausted about the 15th day of this month. I therefore offer the following amendment:

In line 48, strike out "for wrapping-twine, $50,000;" and insert in lieu thereof: "For wrapping-twine, $55,000, of which sum $5,000 shall be available on the passage of this act."

The amendment was agreed to.

Mr. BLACKBURN. In order to make the totals of the bill correspond with the amendments that have been adopted by the Committee of the Whole, I offer the following amendment:

In lines 3 and 4 of section 2, strike out "$3,466,420" and insert "$3,552,420."

The amendment was agreed to.

Mr. BLACKBURN. In order to correct a mistake of the printer I ask that the word "one" be added to the bill at the end of line 9, page 7, the appropriation being for the fiscal year 1881, instead of 1880; so that it will read:

To supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1881.

The amendment was agreed to.

Mr. BLACKBURN. I move that the committee rise and report the bill as amended to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. BLACKBURN. In consideration of the length of this day's session, I now ask the previous question on the bill and amendments, with the understanding that if the previous question shall be ordered, as there are several yea-and-nay votes to be had and as the hour now is late, I will move that the House take a recess until half past ten o'clock to-morrow. The Private Calendar has been set aside for sev-

eral Fridays, and I do not believe that a majority of the House want to rob those gentlemen who have bills upon it of their chance to be heard upon those bills. If the House will agree to order the previous question and then take a recess until half past ten o'clock to-morrow, I am sure before the hour of twelve o'clock arrives this bill will have been disposed of and the day will remain for the consideration of private business.

Mr. HAWLEY. Otherwise the bill will go over till Monday.

Mr. BLACKBURN. I now move the previous question on the amendments and the engrossment and third reading of the bill.

The previous question was seconded and the main question ordered.

Mr. BLACKBURN moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BLACKBURN. I move that the House take a recess until half past ten o'clock to-morrow.

ENROLLED BILLS SIGNED.

Pending the motion for a recess,

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier;

Joint resolution (H. R. No. 179) authorizing the Public Printer to print additional copies of bills and other public documents.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 6066) appropriating money to provide for the public printing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WILSON, for three days; and

To Mr. KELLEY, until Monday next.

WITHDRAWAL OF PAPERS.

On motion of Mr. JOHNSTON, by unanimous consent, leave was given to withdraw papers in the case of Arthur T. Lee, now before the Committee on Invalid Pensions.

On motion of Mr. ACKLEN, by unanimous consent, leave was given to withdraw papers in the case of Robert Alexander, now before the Committee on War Claims, there being no adverse report thereon.

ORDER OF BUSINESS.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is the motion of the gentleman from Kentucky, [Mr. BLACKBURN,] that the House now take a recess until to-morrow morning at half past ten o'clock.

Mr. SCALES. I ask the gentleman to yield to me to make a report.

Mr. BLACKBURN. I have no objection.

CESSION OF THE UTE RESERVATION IN COLORADO.

Mr. SCALES. I am instructed by the Committee on Indian Affairs to report back, with amendments, the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out the same. I am also instructed by the committee to ask that this bill be made the special order for Thursday next after the morning hour. It is a matter of very great importance, urged by the Department of the Interior, and I hope the House will accede to the request of the committee.

Mr. BLOUNT. I must object, unless appropriation bills are excepted.

Mr. SCALES. Well, if I must, I will except appropriation bills.

Mr. REAGAN. And I ask the gentleman to except what is known as the interstate-commerce bill.

Mr. SCALES. I cannot do that.

The SPEAKER. The Chair will ask the gentleman to state distinctly his proposition.

Mr. SCALES. It is that the bill that I have just reported from the Committee on Indian Affairs be made a special order for Thursday next immediately after the morning hour, not to interfere with the consideration of appropriation bills.

The SPEAKER. Is there objection to the proposition of the gentleman from North Carolina, [Mr. SCALES?]

There was no objection, and it was so ordered.

The question was then taken upon the motion of Mr. BLACKBURN; and it was agreed to.

The House accordingly (at four o'clock and fifty minutes p. m.) took a recess until half past ten o'clock a. m. to-morrow.

MORNING SESSION.

The recess having expired, the House (at half past ten o'clock a. m., Friday, May 7) resumed its session.

WITHDRAWAL OF PAPERS.

Mr. BRAGG. I notice by the RECORD of this morning that leave was given just before the taking of the recess yesterday to withdraw papers in the hands of a sub-committee of the Committee on War Claims. I was on the floor listening for any such request, if it should be made, but in the confusion I was unable to hear it.

The SPEAKER. There was confusion at the close of the session last evening. The request to which the Chair understands the gentleman to refer was presented by the Chair at the instance of the gentleman from Louisiana, [Mr. ACKLEN.]

Mr. BRAGG. I was listening on purpose to hear such a request, if it should be made, but in the confusion which prevailed immediately before taking the recess I was unable to hear it.

The SPEAKER. As the gentleman states that he was present to object, the Chair will recognize his objection. The Chair never takes advantage of a member's failure to object under such circumstances.

Mr. BRAGG. It was my purpose to object.

The SPEAKER. In which case does the gentleman object to the withdrawal of papers?

Mr. BRAGG. In the case of Robert Alexander.

The SPEAKER. The Chair recognizes the gentleman's right. The order will be rescinded.

POST-OFFICE APPROPRIATION BILL.

The SPEAKER. The business upon which the House was engaged when the recess was taken last evening, and which is now resumed, is the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes. The Chair desires to know whether separate votes are required by any member on any of the amendments. If so, the amendments on which separate votes are asked had better be indicated; so that the others may be acted on in gross.

Mr. BLACKBURN. I will ask a separate vote on two amendments.

Mr. PAGE. Which two?

Mr. HASKELL. I desire a separate vote on the amendment in regard to the star service.

Mr. BLACKBURN. Then I ask for a separate vote on all the amendments. Now, Mr. Speaker, I do not desire——

Mr. ATKINS, (to Mr. BLACKBURN.) You are not going to have a vote without a quorum?

Mr. BLACKBURN. We will see whether there is a quorum.

Mr. ATKINS. You know there is no quorum.

Mr. BLACKBURN. That fact will be developed.

Mr. ATKINS. I move a call of the House.

Mr. BLACKBURN. I trust the gentleman will not ask for a call of the House now. I was about to say that I do not propose to claim the right to which I would be entitled under the rules, to occupy an hour in debate; but I yield five minutes to the gentleman from Illinois [Mr. CANNON] who, as he tells me, wants to occupy that time upon a certain amendment agreed to in Committee of the Whole. After that, I do not know and do not believe there will be any debate at all.

Mr. PAGE. If the other side should want to occupy a few moments, I suppose it would not be objected to.

Mr. BLACKBURN. The amendment on which the gentleman from Illinois [Mr. CANNON] desires to speak does not affect the question of which the gentleman from California is probably thinking.

Mr. PAGE. I would like to speak on something else.

Mr. BLACKBURN. I do not propose to use my whole hour; but if it is to be used I will use it myself.

Mr. PAGE. Then I will ask for five minutes on an amendment offered yesterday in reference to the star service.

Mr. BLACKBURN. That I will not agree to; for if that question is to be discussed I want fifty-five minutes on it myself.

Mr. PAGE. Is the gentleman entitled to the whole hour?

The SPEAKER. The gentleman from Kentucky [Mr. BLACKBURN] having reported the bill has control of the closing hour.

Mr. BLACKBURN. And I do not propose that one minute should be used on that amendment at all.

Mr. PAGE. I want that understood.

Mr. BLACKBURN. That is understood; I yield to the gentleman from Illinois for five minutes.

Mr. CANNON, of Illinois. Mr. Speaker, I would not ask the attention of the House were it not that in Committee of the Whole an amendment offered by the gentleman from California [Mr. DAVIS] was put on this bill upon a five minutes' explanation without any reply being made. At the time I had no knowledge about the matter, and I presume the case was the same with other members. I am not here now to antagonize that amendment particularly; but it is due to myself and to the House that I should make an explanation which will enable members to vote understandingly upon the amendment in the House. This morning I had a conversation touching this amendment with the superintendent of foreign mail service. The amendment is as follows:

Provided, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mails as he may deem just.

I need not say to the House that these closed mails pass back and forth upon our railroads from the Atlantic to the Pacific. When the postal union treaty was made this route from the Atlantic to the Pacific was excepted, the Government of the United States reserving the right to charge the actual cost of transportation, instead of the postal union rates.

On inquiry, I find once a month these closed mails amount to about twelve tons going from New York to San Francisco and once a month to about six tons from San Francisco to New York. I find the amount paid by the British government to the United States per annum is $83,000. It is claimed that the home government of Great Britain charges this amount to the colonial governments of New South Wales and New Zealand.

It is true there is a line of American steamers carrying the American flag which does service from San Francisco to New South Wales and New Zealand, and that that line is subsidized by the colonial government of New South Wales, and, beside that, it does mail service for the United States, as I learn, on sea postage alone, which is not a very large amount. So this power given by Congress will enable the Postmaster-General to exercise a discretion in letting these closed mails go in part or in whole free through the United States without any charge against the English government or against the colonial governments.

Mr. Blackfan tells me that if they went at the regular postal union rates it would be about $10,000, but under the exception in the clause of the treaty and going as they do it costs about $83,000.

This is the English mail alone. It will be noticed, however, that this amendment is broad enough to cover any other mails going to these colonies through our territory, whether from Germany, France, or elsewhere. Practically, I understand, the only mail which goes now is the English mail back and forth.

It is claimed this would discriminate in favor of our own line of steamers and in favor of this route, and that the English government is seeking to establish a line through the canal across the Isthmus of Suez. I apprehend the object of this amendment is to enable the Postmaster-General to use his discretion so as indirectly to give aid to this line of steamers which runs from San Francisco to these colonies. Whether the amendment is too broad or not, gentlemen can form their opinion as well as myself; whether it ought to pass or not, gentlemen can form their opinion as well as I can form mine; but I thought it was only proper and due to the House it should have this information substantially as I got it from the superintendent of foreign mails this morning. And, sir, having made this statement, I desire to add nothing more.

Mr. HASKELL. If the gentleman from Illinois will allow me I would like to have him state to the House what effect, if any, this concession on the part of our Government would have on our business relations with those colonies.

Mr. CANNON, of Illinois. It proceeds on the theory it will have a good effect. So far as I am individually concerned, if we are to pay anything to this line of steamers or to pay anything for this trade, I would rather have it known what the amount is and let Congress act with its eyes open. Whether it is politic or not to do so can be discussed on another occasion. So far as I am concerned my record is made, and I shall vote against the amendment.

The question first recurred on the following amendment of the Committee of the Whole House on the state of the Union:

In lines 15 and 23 strike out "inspectors of mails" and in lieu thereof insert "post-office inspectors;" so it will read:

"And not exceeding $5,000 of this amount may be expended for fees to United States attorneys, marshals, clerks of courts, and counsel necessarily employed by post-office inspectors of the Post-Office Department subject to approval by the Attorney-General; and the superintendent of railway mail service and chief of inspectors of mails shall be paid their actual expenses while traveling on the business of the Department; and section 4017 of the Revised Statutes is hereby so amended as to insert in lieu of the words 'special agents' and the word 'agent,' wherever they occur in said section, the words, 'post-office inspectors.'"

The amendment was concurred in.

The second amendment was read, as follows:

In line 48 increase the appropriation $5,000 and add, "of which sum $5,000 shall be available on the passage of this act;" so it will read:

"For wrapping-twine, $55,000; of which sum $5,000 shall be available on the passage of this act."

The amendment was concurred in.

The third amendment was read, as follows:

After line 50 insert: "For the purchase of card-canceling and post-marking machines, $6,000; and the proper officers of the Post-Office Department may purchase such machines as in their judgment may best answer the purpose."

The amendment was concurred in.

The fourth amendment was read, as follows:

Strike out "for transportation on railroad routes $9,500,000" and insert in lieu thereof "For transportation on railroad routes $9,490,000; of which sum $350,000 may be used by the Postmaster-General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881."

Mr. PAGE. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 111, nays 66, not voting 115; as follows:

YEAS—111.

Acklen,	Burrows,	Deering,	Frost,
Aiken,	Butterworth,	Dunnell,	Frye,
Aldrich, N. W.	Cannon,	Dwight,	Garfield,
Aldrich, William	Carpenter,	Einstein,	Gibson,
Anderson,	Caswell,	Elam,	Godshalk,
Ballou,	Chalmers,	Ellis,	Goode,
Bayne,	Cook,	Errett,	Gunter,
Blake,	Cravens,	Evins,	Hall,
Briggs,	Culberson,	Farr,	Harris, John T.
Brigham,	Davidson,	Felton,	Haskell,
Browne,	Davis, Horace	Fisher,	Hawk,
Hawley,	Mason,	Price,	Thomas,
Hayes,	McCoid,	Reed,	Thompson, W. G.
Hazelton,	McGowan,	Richardson, J. S.	Townsend, Amos
Heilman,	McKinley,	Richmond,	Tyler,
Hiscock,	Miles,	Robinson,	Updegraff, J. T.
Horr,	Money,	Russell, W. A.	Updegraff, Thomas
Hubbell,	Monroe,	Ryan, Thomas	Upson,
Hull,	Murch,	Ryon, John W.	Valentine,
Jones,	Neal,	Shelley,	Waddill,
Jorgensen,	O'Connor,	Sherwin,	Wait,
Joyce,	O'Neill,	Slemons,	Ward,
Keifer,	Orth,	Smith, Hezekiah B.	Washburn,
Ketcham,	Osmer,	Smith, William E.	Wellborn,
King,	Overton,	Speer,	Williams, C. G.
Lapham,	Pacheco,	Steele,	Willits,
Lindsey,	Page,	Stephens,	Yocum.
Loring,	Persons,	Stone,	

NAYS—66.

Armfield,	Coffroth,	Knott,	Simonton,
Atkins,	Davis, Joseph J.	Lounsbery,	Singleton, J. W.
Bachman,	Deuster,	Lowe,	Sparks,
Beale,	Dibrell,	Manning,	Stevenson,
Beltzhoover,	Forney,	Martin, Benj. F.	Taylor,
Berry,	Forsythe,	McKenzie,	Thompson, P. B.
Bicknell,	Geddes,	McMillin,	Townshend, R. W.
Blackburn,	Hatch,	Muldrow,	Turner, Oscar
Bland,	Henry,	New,	Turner, Thomas
Blount,	Herbert,	O'Reilly,	Weaver,
Bouck,	Hostetler,	Philips,	Wells,
Boyd,	House,	Poehler,	Whitthorne,
Bragg,	Hutchins,	Reagan,	Williams, Thomas
Caldwell,	Kenna,	Ross,	Willis,
Carlisle,	Kimmel,	Rothwell,	Wise.
Clark, John B.	Kitchin,	Sawyer,	
Clymer,	Klotz,	Scales,	

NOT VOTING—115.

Atherton,	Davis, George R.	Killinger,	Robertson,
Bailey,	Davis, Lowndes H.	Ladd,	Robeson,
Baker,	De La Matyr,	Le Fevre,	Russell, Daniel L.
Barber,	Dick,	Lewis,	Samford,
Barlow,	Dickey,	Marsh,	Sapp,
Belford,	Dunn,	Martin, Edward L.	Shallenberger,
Bingham,	Ewing,	Martin, Joseph J.	Singleton, O. R.
Bliss,	Ferdon,	McCook,	Smith, A. Herr
Bowman,	Field,	McLane,	Springer,
Brewer,	Finley,	McMahon,	Starin,
Bright,	Ford,	Miller,	Talbott,
Buckner,	Fort,	Mills,	Tillman,
Cabell,	Gillette,	Mitchell,	Tucker,
Calkins,	Hammond, John	Morrison,	Urner,
Camp,	Hammond, N. J.	Morse,	Van Aernam,
Chittenden,	Harmer,	Morton,	Vance,
Claflin,	Harris, Benj. W.	Muller,	Van Voorhis,
Clardy,	Henderson,	Myers,	Voorhis,
Clark, Alvah A.	Henkle,	Newberry,	Warner,
Cobb,	Herndon,	Nicholls,	White,
Colerick,	Hill,	Norcross,	Whiteaker,
Conger,	Hooker,	O'Brien,	Wilber,
Converse,	Houk,	Phelps,	Wilson,
Covert,	Humphrey,	Phister,	Wood, Fernando
Cowgill,	Hunton,	Pierce,	Wood, Walter A.
Cox,	Hurd,	Pound,	Wright,
Crapo,	James,	Prescott,	Young, Casey
Crowley,	Johnston,	Rice,	Young, Thomas L.
Daggett,	Kelley,	Richardson, D. P.	

So the amendment was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. HARMER with Mr. MCLANE.
Mr. JOHNSTON with Mr. MARSH.
Mr. LEWIS with Mr. CONVERSE.
Mr. RICE with Mr. NICHOLLS.
Mr. MYERS with Mr. FORT.
Mr. FINLEY with Mr. HAMMOND, of New York.
Mr. VANCE with Mr. WALTER A. WOOD.
Mr. DAVIS, of Missouri, with Mr. HOUK.
Mr. PHISTER with Mr. CALKINS.
Mr. VAN VOORHIS with Mr. CHALMERS.
Mr. MCCOOK with Mr. LE FEVRE.
Mr. JAMES with Mr. O'BRIEN.
Mr. HAMMOND, of Georgia, with Mr. VAN AERNAM.
Mr. LADD with Mr. PIERCE.
Mr. DUNN with Mr. HARRIS, of Massachusetts.
Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.
Mr. HUNTON with Mr. HAZELTON.
Mr. POUND with Mr. WHITEAKER.
Mr. CRAPO with Mr. ATHERTON.
Mr. GIBSON with Mr. HUMPHREY.
Mr. PRESCOTT with Mr. ROBERTSON.
Mr. SHALLENBERGER with Mr. CABELL.
Mr. EWING with Mr. CHITTENDEN.
Mr. WILSON with Mr. BAILEY.
Mr. MURCH with Mr. PAGE.
Mr. MULLER with Mr. RICHARDSON, of New York.
Mr. NORCROSS with Mr. COX.
Mr. MORRISON with Mr. HENDERSON.
Mr. BARBER with Mr. FORD.
Mr. STARIN with Mr. HERNDON.
Mr. FIELD with Mr. SAMFORD.
Mr. COBB with Mr. COWGILL, for this day.
Mr. MILLS with Mr. KELLEY, on all political questions.
Mr. COVERT with Mr. DAVIS, of Illinois.

Mr. WARNER with Mr. ROBESON, for the balance of the day.

Mr. BREWER with Mr. CONGER, on this question; otherwise, Mr. BREWER would vote "no" and Mr. CONGER "ay."

Mr. MCMAHON with Mr. URNER, on all political questions from Monday, May 3, for two weeks, with the understanding that if either does not return at the end of that time the pair will be continued for one week longer.

On motion of Mr. RICHMOND, by unanimous consent, the reading of the names was dispensed with.

The result of the vote was then announced as above recorded.

Mr. ROBINSON moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Clerk read the fifth amendment, as follows:

Insert after the word "statutes, in line 60, page 4, the following:

"As amended by the act of July 12, 1876, entitled 'An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1877, and for other purposes;' and as further amended by the act of June 17, 1878, entitled, 'An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes.'"

The amendment was agreed to.

The Clerk read the sixth amendment, as follows:

In line 73 strike out "25" and insert "50," making it read:

"For inland transportation by steamboat routes, $850,000."

The amendment was agreed to.

The Clerk read the seventh amendment, as follows:

Strike out the following proviso, as amended:

"*Provided*, That on all star mail-routes upon which increased compensation for increased expedition beyond 50 per cent. over the sum of the original contract price and the cost of service for additional trips has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of the sum of the original contract price and the cost of service for additional trips;"

And insert:

"*Provided*, That all star routes shall be relet"—

Mr. BLACKBURN. It is proposed to strike out the proviso in the original bill without reference to any additions. The Clerk is in error in the reading.

Mr. CARLISLE. The action of the Committee of the Whole on the state of the Union was first on the vote to strike out the proviso as reported by the Committee on Appropriations; and that being carried, the Committee of the Whole inserted another proviso in lieu of that which was stricken out and in lieu of the first proviso offered by the gentleman from Mississippi, [Mr. MONEY.]

The SPEAKER. The Chair has caused the Clerk to read what was stricken out by the Committee of the Whole, after which he will cause to be read what was reported from the Committee of the Whole on the state of the Union in lieu.

Mr. CARLISLE. But that portion of it which the Clerk has read is not the text of the original bill which was to be stricken out according to the action of the committee. The Clerk read the proviso as it would be if the amendments had been incorporated in it.

The SPEAKER. The effect of an affirmative vote will be to agree to the amendment of the Committee of the Whole on the state of the Union. The Chair will now cause to be read that amendment.

Mr. BLACKBURN. As I understand the ruling of the Chair, the question is upon striking out the proviso contained in the bill and inserting that which was agreed to in Committee of the Whole in lieu of it.

The SPEAKER. The Chair caused the proviso which was stricken out in the committee to be read for the information of the House. The vote is on the amendment as it comes from the Committee of the Whole, and an affirmative vote keeps that amendment in the bill.

Mr. BLACKBURN. By way of a substitute, and not as an addition to the section.

The SPEAKER. It comes into the House as an amendment.

Mr. GARFIELD. As I understand there are two votes—one on striking out the proviso and the other on agreeing to the amendment.

The SPEAKER. No, sir.

Mr. HASKELL. The Committee of the Whole House struck out the original proviso by a separate and independent vote, removing from the clause everything except the appropriation of money. After that vote was taken and that proviso was stricken out, then this amendment was put in.

The SPEAKER. The bill comes back to the House with the amendment incorporated in it by the Committee of the Whole House on the state of the Union, and the vote is on that amendment.

Mr. BLACKBURN. That is right.

The SPEAKER. And if that amendment is rejected what is left will be a subject of future review.

Mr. GARFIELD. But here were two independent propositions voted on in the Committee of the Whole half an hour apart. One was to strike out the printed text known as the proviso of the Committee on Appropriations. That prevailed, leaving the appropriation without a proviso. Half an hour later, after several propositions had been submitted and points of order had been made and overruled, an amendment was offered in the nature of a proviso to be added to the appropriation as it stood after the old proviso had been stricken out.

The SPEAKER. That may be a correct history of what took place in the Committee of the Whole——

Mr. GARFIELD. It is.

The SPEAKER. But an amendment comes into the House in its entirety as an amendment and has only to be agreed to or rejected.

Mr. GARFIELD. Certainly.

Mr. CALKINS. I ask the gentleman who is in charge of this bill whether he demands a separate vote on the first amendment, which was to strike out.

The SPEAKER. The Chair does not recognize anything except the amendment reported to the House by the Committee of the Whole on the state of the Union.

Mr. CALKINS. I desire to ask the gentleman from Kentucky in charge of the bill whether he insists upon a separate vote on the amendment striking out the proviso in this clause. That was the first amendment voted on in the Committee of the Whole.

The SPEAKER. That question the Chair will answer.

Mr. BLACKBURN. I ask the Chair to permit me to answer, because I want to address myself to the Chair. I want to call the attention of the Chair to clause 7 of Rule XVI, which provides that—

A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert.

Now, Mr. Speaker, answering the gentleman from Indiana in the affirmative, that I certainly do insist on a vote on the action of the Committee of the Whole in striking out the proviso to this clause of the bill, I want to call the attention of the Chair to what actually occurred in the Committee of the Whole. The Committee on Appropriations in reporting this bill reported this clause of it with a proviso attached. A motion was made to strike out that proviso. That motion was carried. I notified the Chairman of the Committee of the Whole, who will bear me out in the statement, that upon that question, the striking out of the committee's proviso, I reserved the right to call for the yeas and nays in the House.

Mr. CALKINS. Now——

Mr. BLACKBURN. One moment. After that was done the gentleman from Mississippi [Mr. MONEY] moved an amendment which was to take the place of the committee's proviso that had been stricken out. There had been intervening business and debate when, some time after, the gentleman from Mississippi moved an amendment that was to take the place of the proviso stricken out of the bill. He withdrew that amendment. It was renewed and was adopted by the Committee of the Whole. A separate vote was reserved upon that action of the Committee of the Whole.

Now I take it, Mr. Speaker, that it is as much my right to demand a vote by yeas and nays upon that action of the Committee of the Whole which struck from this bill the proviso the Committee on Appropriations had attached to this clause as it is my right to demand a vote by yeas and nays upon the adoption of the amendment which the gentleman from Mississippi offered.

Mr. GARFIELD. That is clearly right.

Mr. CALKINS. That is what I understand. The vote should first come on striking out the proviso reported by the Committee on Appropriations. If that is adopted, then the other falls.

Mr. BLACKBURN. Yes. It is for this House to determine, as I contend, whether it will confirm the action taken by the Committee of the Whole in striking out the proviso which the Committee on Appropriations incorporated in the bill. That being determined, if the action of the committee shall be indorsed by the House and that proviso shall be stricken out, then the vote comes on the amendment offered by the gentleman from Mississippi in lieu of the proviso of the Committee on Appropriations.

Mr. CALKINS. What then becomes of the amendment of the gentleman from Mississippi, [Mr. MONEY,] if the proviso in the bill is retained by the House?

Mr. BLACKBURN. Then the amendment of the gentleman from Mississippi [Mr. MONEY] would fall.

Mr. CALKINS. How is that? It is not inconsistent with the proviso of the bill.

Mr. GARFIELD. If the Chair will allow me a moment——

The SPEAKER. If the Chair can be allowed to make a statement, he thinks he can make it plain.

Mr. GARFIELD. I want the Chair to make a statement, but before he does so I desire to call attention to a fact which may not have occurred to the Chair. It is this: the proviso which was adopted upon motion of the gentleman from Mississippi is entirely consistent with the printed proviso in the original bill. That amendment might be adopted and still the old proviso not be stricken out.

Mr. BLACKBURN. I make no objection to that.

Mr. GARFIELD. I say, therefore, that the question whether we shall adopt the proviso moved by the gentleman from Mississippi [Mr. MONEY] is one question, and whether we shall strike out the printed proviso in the bill is another question. There must be two votes on those two questions, for they were separately adopted by the Committee of the Whole.

The SPEAKER. The Chair dislikes to disagree with the gentleman from Ohio, [Mr. GARFIELD.] But the Chair thinks that clause 7 of Rule XVI—"A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert"—does not apply to the case now before the House. That clause applies to the current proceedings of the

House or of the Committee of the Whole in considering a bill. This case is entirely different. The bill has been reported to the House from the Committee of the Whole on the state of the Union amended in sundry particulars, and the main question has been ordered upon the bill and the amendments so reported. The Chair thinks that the proposition now before the House is a single amendment coming to the House upon a report from the Committee of the Whole. And the Chair is sustained in that position by the Manual, which says "An amendment reported from the Committee of the Whole as an entire amendment is not divisible." And this opinion is strengthened by paragraphs 554 and 555 of Wilson's Treatise on Parliamentary Law, as follows:

If the committee shall amend a paragraph by striking out the proviso, and afterward strike out the paragraph as amended, the first amendment thereby falls, and cannot be reported to the House.

So, too, if the committee shall amend a bill ever so much and subsequently adopt a substitute thereof, the bill is to be reported to the House with but a single amendment, namely, the substitute; and the House has only to choose between the original bill and the substitute.

In the opinion of the Chair, this comes from the Committee of the Whole as an entire amendment. It will be time enough after the vote shall have been taken on agreeing to the amendment of the Committee of the Whole for the Chair to determine what will be its effect. The Chair therefore rules that the pending question before the House is upon agreeing to the amendment reported from the Committee of the Whole.

Mr. MILLS. I call for a division of the question, and ask that the vote be first taken on the striking out of the proviso in the printed bill, and next upon inserting what has been reported from the Committee of the Whole.

The SPEAKER. It is reported from the Committee of the Whole as one amendment and cannot be divided.

Mr. MILLS. There were two separate votes taken in Committee of the Whole.

The SPEAKER. That is a matter relating to the manner of doing business in Committee of the Whole. The report of the committee to the House is of a single amendment.

Mr. BLACKBURN. I regret the decision which the Chair has reached, but I must bear the Chair out in this regard in answer to the gentleman from Texas, [Mr. MILLS.] There was no motion made in Committee of the Whole to strike out and insert.

Mr. MILLS. I did not say there was. I said that there was a motion made and adopted first to strike out the proviso in the bill, and then to add what was moved by the gentleman from Mississippi [Mr. MONEY] to what was left of the paragraph of the bill.

The SPEAKER. In corroboration of the decision of the Chair, he is advised that the motion in Committee of the Whole was first to strike out the proviso in the printed bill, which was agreed to; and then after intervening business and debate there was a motion to insert what was moved by the gentleman from Mississippi. Therefore even in Committee of the Whole there was no connection between the striking out and the inserting.

Mr. GARFIELD. That is right.

Mr. MONEY. Is the House now to be called upon to vote upon the amendment reported from the Committee of the Whole?

The SPEAKER. It is.

Mr. MONEY. The amendment as offered by myself was amended by the addition of a proviso moved by the gentleman from Nebraska, [Mr. VALENTINE.]

The SPEAKER. It does not matter what occurred in Committee of the Whole in considering and acting upon the amendment which has been reported to the House. That amendment comes to the House as a separate amendment. Any other view would make every amendment acted upon in Committee of the Whole subject to a separate vote in the House.

Mr. MONEY. I desire to correct the phraseology of the proviso which was added to my amendment, so as to make it a congruous amendment.

The SPEAKER. It is for the House to determine what the amendment means, not for the Chair. It can be amended or modified now only by unanimous consent.

Mr. BLACKBURN. I object to any modification of the amendment.

Mr. MILLS. Then it would be better to move to lay the bill and amendments on the table.

Mr. BLACKBURN. Do that; I will be obliged to you if you will.

The SPEAKER. The amendment reported from the Committee of the Whole is to incorporate into the bill what will now be read by the Clerk.

The Clerk read as follows:

Provided, That all star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of July, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, and June 30, 1880, shall exceed 50 per cent. of the contract prices before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced.

The SPEAKER. The question now is on agreeing to the amendment of the Committee of the Whole House on the state of the Union.

Mr. ROBINSON. Can I make a parliamentary inquiry?

The SPEAKER. Certainly.

Mr. ROBINSON. I am sorry to trouble the Chair, but I wish to know whether we are voting on the motion to strike out the committee's proviso.

The SPEAKER. The House is voting on agreeing to the amendment of the committee.

Mr. ROBINSON. So I understand.

The SPEAKER. The practical effect of which is to insert the words just read.

Mr. ROBINSON. Leaving the other in also?

Mr. BLACKBURN. No.

The SPEAKER. The part stricken out does not come from the committee at all. Neither the Chair nor the House has parliamentary knowledge of what was stricken out in Committee of the Whole on the state of the Union.

The House divided; and there were—ayes 118, noes 51.

So the amendment was concurred in.

Mr. BLACKBURN moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PAGE. I wish to inquire now whether the amendment just adopted is a part of the committee's amendment. Is the committee's amendment in there?

The SPEAKER. The Chair has stated that the part stricken out in Committee of the Whole on the state of the Union, to which the gentleman alludes, has not been brought into the House from the committee.

Mr. PAGE. It is stricken out and not a part of the bill at all.

The sixth amendment of the Committee of the Whole House on the state of the Union was read, as follows:

Line 85, strike out "50" and insert "66;" so it will read:
"For transportation by postal cars, $1,366,000."

The amendment was concurred in.

The seventh amendment was read, as follows:

In line 88, strike out "175" and insert "225;" so it will read:
"For route agents, $1,225,000."

The amendment was concurred in.

Mr. CLYMER moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Eighth amendment of the committee:

Line 131, add the following:
"*Provided*, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mail as he may deem just."

The House divided; and there were—ayes 84, noes 31.

So the amendment was concurred in.

Ninth amendment:

In lines 3 and 4 of section 2 strike out "466" and insert "552;" so it will read:
"SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $3,552,420, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1880."

The amendment was concurred in.

Tenth amendment:

In line 9, strike out "1880" and insert "1881."

The SPEAKER. That is a correction of a clerical error.

The amendment was concurred in.

Mr. BLACKBURN moved to reconsider the several votes which were not reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BLACKBURN demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The SPEAKER. The yeas and nays under the rule will have to be called on the passage of the bill, and more time will be consumed therein than remains between now and twelve o'clock.

Mr. BLACKBURN. I move, then, that the House do now adjourn.

The SPEAKER. The effect of which will be to carry this bill over to the next legislative day at twelve o'clock, when, after the reading of the Journal, the question will immediately recur on the passage of the bill.

The motion was agreed to; and accordingly (at eleven o'clock and fifty-eight minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. AINSLIE: The petition of E. G. Hall, J. Stedman, and others, citizens of Alturas County, Idaho Territory, against any change in the mining laws—to the Committee on Mines and Mining.

By Mr. BAKER: The petition of William Gallagher, for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. BALLOU: The petition of Henry A. Brown and others, that the duty on sugar be made an *ad valorem* duty—to the Committee on Ways and Means.

Also, the petition of manufacturers of New England, representing a capital of $200,000,000, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. BARLOW: The petitions of Camp & Stewart, of Newport, and of Hiram Atkins, publisher of the Montpelier (Vermont) Argus and Patriot, for the removal of the duty on paper—to the same committee.

Also, the petition of Henry Babcock and others, of Glover, Vermont, for the adoption of the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

Also, the petition of citizens of North Troy, Vermont, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. BOUCK: The petition of the Appleton (Wisconsin) Furnace Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. COFFROTH: The petitions of 25 Union soldiers of Bedford County and of 56 other Union soldiers of Pennsylvania, for the passage of the bill creating a court of pensions—to the Committee on Invalid Pensions.

Also, petitions from the Cambria Iron Company, employing five thousand hands; the Gautier Steel Company, employing one thousand hands; J. King McLanahan, of the Hollidaysburgh Iron Mills, employing four hundred hands; Hon. A. McAlister, of Springfield Furnace, employing one hundred and thirty hands; the Hollidaysburgh Iron and Nail Company, employing one hundred and eighty hands; the Blair Iron and Coal Company, employing one thousand and twenty-seven hands; Whitehead & Bacon, of Elizabeth Furnace, employing seventy-five hands; and Wood, Morrell & Co., woolen manufacturers, employing two hundred hands, in favor of the passage of the Eaton bill which provides for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. COVERT: The petition of John H. Gamage, of Moriches, New York, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. HORACE DAVIS: The petition of citizens of San Francisco, for the removal of the duty on magazines, periodicals, &c.—to the Committee on Ways and Means.

By Mr. DEUSTER: Resolutions of the Chamber of Commerce of Milwaukee, Wisconsin, against the passage of the bill (H. R. No. 5760) relating to the regulation of imported goods in bond—to the same committee.

By Mr. GARFIELD: The petitions of the Burgess Steel and Iron Works Company, and of Norton, Campbell & Co., of Portsmouth, Ohio; and of Campbell, McGugin & Co., of Olive and Buckhorn Furnaces, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. GIBSON: The petition of Mrs. Emily B. Amony, widow of Charles B. Amony, deceased, late captain in the United States Army, for pay for supplies furnished United States forces during the late war—to the Committee on War Claims.

By Mr. GILLETTE: The petitions of James R. Best and 65 others, citizens of Lucas County, and of Robert Stanley and 35 others, citizens of Chariton, Iowa, against the passage of the Wood refunding bill, and for the passage of the bill (H. R. No. 4910) for the payment of the public debt—to the Committee on Ways and Means.

By Mr. KEIFER: The petitions of John Harlan and 65 others, citizens of Logan County, Ohio, and of Lewis Crouse and 26 others, citizens of the same county, for the passage of a law to protect innocent infringers of patents—to the Committee on Patents.

Also, the petitions of J. Y. Foust and 25 others, and of William Johnson and 60 others, citizens of Logan County, Ohio, that Congress enact such laws as will alleviate the oppressions imposed upon the people by the transportation monopolies that now control the interstate commerce of the country—to the Committee on Commerce.

Also, the petition of B. F. Frank & Co. and 100 others, citizens of Springfield, Ohio, for the removal of the duty on salt—to the Committee on Ways and Means.

By Mr. KLOTZ: The petition of citizens of Columbia County, Pennsylvania, urging the enactment of such laws as will prevent fluctuations in freights and unjust discriminations in transportation charges—to the Committee on Commerce.

Also, the petition of citizens of Greenwood Township, Columbia County, Pennsylvania, for a law making the Commissioner of Agriculture equal in rank with Cabinet officers—to the Committee on Agriculture.

By Mr. MILLER: The petition of the Northern New York conference of the Methodist Episcopal Church, against the admission of Utah as a State—to the Committee on the Territories.

By Mr. MONROE: The petition of President James H. Fairchild, the members of the faculty, and several hundred students of Oberlin College, Ohio, that Congress provide for a commission to inquire and report upon the subject of reform in spelling—to the Committee on Education and Labor.

By Mr. NEAL: The petitions of Norton Campbell & Co., and of the Steel and Iron Company of Portsmouth, and of Campbell, McGugin & Co., of Olive and Buckhorn Furnaces, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

Also, the petition of Elias Webb, a soldier of the war of 1812, for a pension—to the Committee on Pensions.

By Mr. WILLIAM A. RUSSELL: The petition of A. Maynard, agent Assabet Manufacturing Company, and of D. W. O. Farrington, agent for the United States Bunting Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WAIT: The petition of the selectmen of Groton, Connecticut, for the passage of a law authorizing the Secretary of War to release a right of way in lands on Groton Heights—to the Committee on Military Affairs.

By Mr. WELLS: The petition of the German Emigrant Aid Society, of Saint Louis, Missouri, for the passage of the bill providing for the protection of immigrants arriving in the United States—to the Committee on Foreign Affairs.

Also, the petition of the Vulcan Steel Company, of Saint Louis, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WHITEAKER: The petition of the Chamber of Commerce, of Astoria, Oregon, for an appropriation for a light-house on Tillamook Rock, Oregon—to the Committee on Commerce.

By Mr. THOMAS L. YOUNG: The petition of the Riverside Rolling Mills Company, of Cincinnati, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

IN SENATE.

FRIDAY, *May 7*, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of JAMES A. GARFIELD, chosen by the Legislature of Ohio a Senator from that State for the term beginning March 4, 1881; which were read and ordered to be filed.

ADJOURNMENT TO MONDAY.

Mr. MORGAN. I wish to offer a resolution.

The PRESIDENT *pro tempore*. Resolutions are not now in order.

Mr. MORGAN. Then I make the motion that when the Senate adjourns to-day it be to meet on Monday next at twelve o'clock.

The question being put, it was declared that the ayes appeared to prevail.

Mr. COCKRELL. I should like to have the yeas and nays on that question.

Mr. MORGAN. If the Senate will allow me I will state that it is the wish of the select committee on the subject of the count of the votes for President and Vice-President to have a meeting to-morrow to consider a number of bills and resolutions which are now before that committee, which have as yet received no consideration in committee. It will be impossible for that committee to do justice to that subject unless it may have at least one day for the purpose. Being a subject of such universal importance, I hope the Senate will consent to this adjournment for our accommodation.

The PRESIDENT *pro tempore*. The Senator from Missouri has called for the yeas and nays. Will the Senate second the call?

The question being put, less than one-fifth of the Senators present rose to second the call.

Mr. COCKRELL. I simply desire to record my vote against the motion. The committee of which the Senator from Alabama speaks is a very important committee, it is true; but the members of that committee have time to meet and devote to the consideration of business before them just as well as the other committees of the Senate. We have hundreds of cases on the Calendar, and every morning every Senator is trying to get the floor to call up some special bill to have it passed. We ought to meet to-morrow and attend to the cases on the Calendar.

Mr. ANTHONY. The Senator from Missouri has accomplished his object in recording his vote against the motion. I think we do not want the yeas and nays.

The PRESIDENT *pro tempore*. There not having been a second for the yeas and nays and no division called for, the motion of the Senator from Alabama [Mr. MORGAN] stands agreed to. Petitions and memorials are now in order.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the petition of Goodum & Co. and 165 others, manufacturers of tobacco in New York, Jersey City, Brooklyn, and other places, praying for the amendment of section 3385 of the Revised Statutes so as to authorize such manufacturers to cancel bonds given for export at the port of clearance after the tobacco has been inspected by the custom officers and has been placed on the manifest of the outward-bound vessel, rather than as at present that these export bonds be canceled after a landing certificate is obtained from the port of delivery; which was referred to the Committee on Finance.

Mr. BAILEY presented the petition of the Napier Iron Company, of Tennessee, manufacturers of pig-iron, employing one hundred and twenty-five hands, praying for the passage of the Eaton bill provid-

ing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. BALDWIN presented the memorial of the common council of the city of Detroit, Michigan, remonstrating against the passage of the so-called Hurd bill; which was ordered to lie on the table.

Mr. BAYARD presented the petition of the Philadelphia and Reading Coal and Iron Company and 32 other corporations and firms of Philadelphia, creditors of the firm of P. and T. Collins, railway contractors, praying relief in relation to a certain contract with the government of Bolivia; and the petition of P. and T. Collins, praying for the passage of a joint resolution authorizing the President to call the attention of Great Britain to the petitioners' prayer; and also directing the Secretary of the Treasury to give public notice that certain bonds therein specified will not be paid until the relief prayed for be granted by the government of Great Britain; which were referred to the Committee on Foreign Relations.

Mr. CALL presented additional papers to accompany the bill (S. No. 1617) for the relief of Jules Baratier; which were referred to the Committee on Claims.

BARK ANNIE JOHNSON.

Mr. JONES, of Nevada. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson, to report it back without amendment. I ask the indulgence of the Senate that the bill may be placed immediately upon its passage. I think there will be no objection to it whatever, and as long as it is delayed serious loss is occasioned to the parties interested.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SETTLEMENT OF PRIVATE LAND CLAIMS.

Mr. EDMUNDS. Mr. President, I see the Senate is in favor of passing bills this morning, and I want to ask it to take up for consideration Senate bill No. 818, that I spoke of a day or two ago, and have on former occasions indeed, to provide for the adjustment and settlement of private land claims in Arizona and New Mexico, and so on.

Mr. DAWES. Is the morning business over?

Mr. EDMUNDS. We have just passed a bill; I suppose it must be.

Mr. DAWES. I ask leave to introduce a bill.

The PRESIDENT *pro tempore*. Will the Senator from Vermont permit the Senator from Massachusetts to introduce a bill?

Mr. EDMUNDS. I had supposed that we had got through with the morning business. I saw that we were passing bills.

Mr. DAVIS, of Illinois. That was a report from a committee.

Mr. EDMUNDS. I supposed the morning business was over.

The PRESIDENT *pro tempore*. Reports of committees are in order.

REPORTS OF COMMITTEES.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of Mrs. Lelia E. McCauley, widow of Commodore Charles Stewart McCauley, praying for an increase of pension, submitted a report thereon accompanied by a bill (S. No. 1728) granting a pension to Mrs. Lelia E. McCauley.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (S. No. 3) granting a pension to Elizabeth Wirt Goldsborough, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3260) granting a pension to Eliza McConnel, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1620) granting an increase of pension to Sallie A. Palmer, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1652) granting a pension to the minor children of Lawrence Burgess, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Stockwell, of Manchester, Iowa, asking that he be placed on the pension-roll as a soldier of the war of 1812, submitted a report thereon accompanied by a bill (S. No. 1729) granting a pension to William Stockwell.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 1716) granting a pension to Thomas J. Mackey, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. KELLOGG, from the Committee on Pensions, to whom was referred the bill (H. R. No. 229) granting a pension to Thomas Lowry, submitted an adverse thereon; which was ordered to be printed, and the bill was postponed indefinitely.

DECISIONS UNDER SENATE RULES.

Mr. MORGAN. I am instructed by the Committee on Rules to report back the compilation of the questions of order and the decisions thereon under the new rules of the Senate since their adoption January 17, 1877, and to move that it be printed for the use of the Senate.

The motion was agreed to.

BILLS INTRODUCED.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1730) donating condemned cannon, carriages, and appurtenances to the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1731) granting a pension to Joseph McIntosh; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS, of West Virginia, (by request,) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1732) to procure and publish certain information relative to the demand and price of American agricultural and other products in foreign countries; which was read twice by its title, and referred to the Committee on Agriculture.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1733) to change the name of the sloop-yacht Alice to Princess; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GROOME asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1734) for the relief of S. Rosenfeld & Co.; which was read twice by its title, and referred to the Committee on Finance.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1735) for the relief of Benjamin Babb and others; which was read twice by its title, and referred to the Committee on Claims.

Mr. PLATT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1736) for the relief of Perry P. Wilson, postmaster at Putnam, Connecticut; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 109) relating to the unloading of vessels with cargoes of guano from foreign ports and places; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 110) relating to the unlading of foreign vessels; which was read twice by its title, and referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

On motion of Mr. COKE, it was

Ordered, That Henry Warren have leave to withdraw his petition and papers from the files of the Senate.

COAST SURVEY REPORT.

Mr. ANTHONY submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 3,000 extra copies of the report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1879, for distribution by the said Superintendent.

LAPSED RAILROAD LANDS.

Mr. VOORHEES submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the Committee on Public Lands be, and it is hereby, instructed to inquire into the expediency, propriety, and public policy of declaring all lands heretofore granted in aid of the construction of railroads, and which have not been earned by a compliance with the terms of the grants, open to public entry and settlement the same as other Government lands; and said committee shall have the right to report by bill or otherwise.

CONSULAR AND DIPLOMATIC APPROPRIATIONS.

Mr. WINDOM. I ask to be excused from service upon the conference committee appointed on the bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes. I expect to be absent this afternoon and that committee desires to meet.

The PRESIDENT *pro tempore*. The Senator from Minnesota asks to be excused from service upon the conference committee on the consular and diplomatic appropriation bill. Is there objection? The Chair hears none.

The vacancy was, by unanimous consent, authorized to be filled by the President *pro tempore*, and he appointed Mr. ALLISON.

ORDER OF BUSINESS.

Mr. BECK. Mr. President——

The PRESIDENT *pro tempore*. The morning business being through the Senator from Vermont asks unanimous consent of the Senate to proceed to the consideration of the bill (S. No. 818) to provide for ascertaining and settling private land claims in certain States and Territories. Is there objection?

Mr. HOAR. I shall object until morning business is over. I do not understand that the Senator from Vermont desires to displace the morning business.

Mr. BECK. I rose for the purpose of asking the Senate to consider the conference report upon the Indian appropriation bill.

The PRESIDENT *pro tempore*. The Senator has a right to bring that up at any time. The question is, Will the Senate proceed to the consideration of that report?

The motion was agreed to.

MAILS AT SAINT LOUIS.

Mr. KIRKWOOD. Yesterday morning I reported by instruction of the Committee on Post-Offices and Post-Roads the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri, with amendments. This was done through a misunderstanding on the part of the Committee on Post-Offices and Post-Roads. That bill had been reported before to the Senate and was therefore not in the possession of the committee. In order to avoid trouble upon the record, I ask leave to withdraw the report made yesterday morning on this subject, if that can be done.

The PRESIDENT *pro tempore*. That can be done by unanimous consent.

Mr. KIRKWOOD. I ask, then, that it be done.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the report is withdrawn.

Mr. KIRKWOOD. I now ask that the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri, which is on the Calendar, having been reported on the 15th of April, be taken up for the purpose of moving that it be recommitted to the Committee on Post-Offices and Post-Roads.

The PRESIDENT *pro tempore*. The Chair hears no objection, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the amendments of the Senate to the following concurrent resolutions of the House:

A resolution for the printing of 100,000 copies of special report No. 22 of the Commissioner of Agriculture, containing the reports of the veterinary surgeons appointed to investigate disease of swine and infectious and contagious diseases incident to other classes of domesticated animals; and

A resolution for the printing of 30,000 copies of the report upon beet-sugar and the manufacture of sugar from beets, prepared by Hon. William G. Le Duc, Commissioner of Agriculture.

The message also announced that the House had passed a concurrent resolution for the printing of 6,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1879, without the accompanying tables, for distribution among the officers of our merchant marine, through the collectors of customs, under the direction of the Secretary of the Treasury; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier;

A bill (H. R. No. 6066) appropriating money to provide for the public printing; and

A joint resolution (H. R. No. 179) authorizing the Public Printer to print additional copies of bills and other public documents.

ASSESSMENTS FOR POLITICAL PURPOSES.

Mr. TELLER. I present the views of the minority of the select committee to inquire into alleged frauds in the late elections on the subject of assessments for political purposes.

The PRESIDENT *pro tempore*. The Senator from Colorado submits the views of the minority of the committee in relation to the subject of frauds in recent elections; which will be received and printed.

GENEVA AWARD FUND.

Mr. HOAR. I desired this morning, when resolutions were reached in the course of the morning business, to call up a resolution which I offered yesterday, directing the Committee on the Judiciary to report forthwith a bill providing compensation for all persons whose ships were destroyed by confederate cruisers during the late rebellion; but I do not think it would be proper to ask the Senate to take that up when the Appropriations Committee desires to present a conference report. I give notice, therefore, that I shall ask the Senate to consider that resolution next Tuesday at the same time of the day.

LIFE-SAVING SERVICE REPORT.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring therein,) That there be printed 6,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1879, without the accompanying tables, for distribution among the officers of our merchant marine, through the collectors of customs, under the direction of the Secretary of the Treasury.

INDIAN APPROPRIATION BILL.

Mr. BECK. I ask the Secretary now to read the report of the conference committee which I called up a few minutes ago.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 25, and 29.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, 20, 21, 22, 23, 30, and 34, and agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment as follows: Strike out therefrom the words "and twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 28, and agree to the same, with an amendment as follows: In lieu of the paragraph stricken out by said amendment insert the following: "No part of the money appropriated by this act shall be paid or in any way used for the payment of the salaries or expenses of the Indian commissioners provided for by section 2039 of the Revised Statutes of the United States;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 31, and agree to the same, with an amendment as follows: In lieu of the sum proposed insert "$70,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 32, and agree to the same, with an amendment as follows: In lieu of the sum proposed insert "$45,000;" and the Senate agree to the same.

JAS. B. BECK,
R. E. WITHERS,
W. B. ALLISON,
Managers on the part of the Senate.
ERASTUS WELLS,
O. R. SINGLETON,
JAY A. HUBBELL,
Managers on the part of the House.

Mr. BECK. Mr. President, I have only a few words to say in explanation of the report. The House had agreed to a number of the amendments of the Senate by its own action before the conference committee was appointed. When we met in conference we found there was quite a serious disagreement between the House and Senate in regard to two or three items, others differing merely in amount, but not in the principle of the appropriation. The result of the conference I can state in a few words.

The provision inserted by the Senate for the purchase of seeds and implements for the Cheyennes and Arapahoes, $5,000, is stricken out. Each of the conferees on the part of the Senate urged that that should be retained because by a yea-and-nay vote of the Senate it had been inserted, and inserted perhaps against the opposition of the committee. Therefore we were more earnest to have it retained because of that fact and insisted so long as there was any hope of having it retained, but could not succeed.

There was a reduction made in the amendment of the Senate making an appropriation for the Indian agency at Fort Peck, $25,000, which, however, was an increase of what the House had originally given by $15,000. There was also a reduction made in the transportation of supplies of $25,000, the argument being that as railroads were progressing into that country more rapidly transportation ought to be cheapened and perhaps would be, and while there was a deficiency of $25,000 for the current year for supplies it was supposed that the sum given would be sufficient. I think we all rather agreed that that might be so.

The Indian police item, which all agreed was a very good amendment of the Senate, is reduced, however, $10,000, though increased $10,000 from what the House first allowed.

Fifteen thousand dollars was stricken out from the discretionary sum of $60,000 allowed by the Senate for the purchase of clothing in consequence of the increased price, and the appropriation is made $45,000 instead of $60,000, being a reduction of $15,000.

The amendment appropriating $10,000 for the expenses of the Indian commissioners we have had to surrender. The House insisted upon the repeal absolutely of the section authorizing the commissioners, but the conferees did not believe it was proper to do that; but rather than lose the bill or cause delay when it was extremely important to have immediate action in advertising for supplies we determined to agree that none of the money appropriated by the bill should be applied to those expenses, believing that if the law was not repealed, as the House thought it would be, provision could be made in the sundry civil bill just as well as here; and we thought it was too small a matter to lose the bill upon.

That is the substance of the whole report.

Mr. EDMUNDS. If I correctly understand the Senator from Kentucky, the Senate conferees have given up on the question about the board of Indian commissioners.

Mr. BECK. We did, sir, so far as providing in this bill for the payment of their expenses is concerned. If the Senator from Vermont will allow me, I will say that we found that otherwise the conference would fail to agree. There was beyond all question such a disagreement that we could not get together. We called attention to the yea-and-nay vote of the Senate. Attention was also called by the House conferees to the equally strong yea-and-nay votes of the House. We would not agree to repeal the law. We said, so far as this bill is concerned, rather than let the bill fail upon this disagreement, as the Department was urgent to have the right to advertise to get supplies, it being a bill of four million and a half dollars, we can afford to postpone making provision for those expenses here;

and if the House fail to repeal the law with regard to those peace commissioners (which they seemed very confident they were about to do, and have the Senate agree with them) when the sundry civil bill came up, in that bill we could provide for them as well as in this bill, and not lose this bill or cause great delay by reporting a disagreement upon that single item. We preferred that course to having the bill suspended for a long time, when the urgency was so great for immediate action. We were very reluctant to do it, but were compelled, and that was the only reason we had for the course we adopted.

Mr. EDMUNDS. Mr. President, this presents, not a singular state of things within the last Congress or two; but here is a standing statute of the United States which provides for the existence of a certain board of public officers appointed by the President of the United States, to whom are assigned certain duties of important public consideration. The House of Representatives think—on a conference it is perfectly correct for me to refer to their views as I understand; otherwise I would not do so—the House of Representatives think that the law providing that particular branch of the public service ought to be repealed, and these public officers abolished. Accordingly in an appropriation bill providing the means of carrying on the Government, of which this particular board is part, they introduce a clause repealing the statute under which this board of officers exists. The Senate disagrees, and declines to agree to the repeal of that statute upon the ground, as I understood it in the Senate—making no reference to its being a rider at this moment—that the Senate thinks the law is wise and right, and therefore the Senate would not vote for its repeal if it were in an independent bill, waiving as I say now for the moment entirely the question of its being thrust into an appropriation bill. The Senate accordingly being unwilling to repeal the law, makes the usual and necessary appropriation in order that the functions of these public officers may be exerted for the public good.

Now if I understand we are told by the conferees that the representatives of the House of Representatives in the conference, speaking professedly, and as I must assume authoritatively and really, for that House, say that while they give up any attempt to repeal the law without the consent of the Senate, and give up the hope of getting the Senate to consent to repeal the law, they will get the Senate, as the price of passing this appropriation bill at all, at present at any rate, to give up the idea of providing any means to execute the law as it is.

I do not like that attitude of the management of public affairs. I think in old times—and I am now referring to political old times—in old times, when we used to have conference between the two Houses upon appropriation bills, if the House of Representatives failed to persuade the Senate that a particular office ought to be abolished, and therefore no appropriation needed to carry on its functions, if the Senate was unable to see that it ought to be abolished, the House of Representatives always agreed, then "if you cannot consent to having this law abolished, of course we must provide the means for carrying it on because it is part of the Government." I think that this is among the first, and perhaps the very first instance—though I am not very sure about the Harvey matter, though that was not an office created by law, and that may be a precedent for this—this is about the first time until within a year or two, when we are met by one branch of the Government or the other with a declaration, "if we cannot get laws repealed relating to the administration of the Government that we think ought to be repealed, we will then nullify them by refusing to provide the means to carry them into execution."

Take that principle and apply it to ever so many other parts of this bill, and what would be the result. This bill provides for the salary of a Commissioner of Indian Affairs——

Mr. BECK. No, sir.

Mr. EDMUNDS. Very well. It might with entire propriety—it illustrates my principle just as well—be introduced in this bill. In order to have the whole expenses of the Indian service in one group, I am not sure but that it would be a good thing to have them all in this bill, and part of them would be the salary of the Commissioner of Indian Affairs. It does not happen to be in this bill, but it illustrates the principle which I am trying to state just as well. Suppose it were here. The House of Representatives thinks that the office of Commissioner of Indian Affairs ought to be abolished; it proceeds to put in a clause abolishing that office and transferring its duties if you please to the Secretary of War. The Senate does not think so. Then the House, on this principle which it now applies to the board of Indian commissioners, says "we will nullify the provisions about the exertion of any power by the Commissioner of Indian Affairs by refusing to provide any money for his salary or for the expense of his office."

Suppose you apply this principle all around to everything that one House or the other thinks ought to be changed in the existing establishment, and that each House settles down upon the principle that it will vote no money to carry on any part of the existing establishment of the Government of the United States, that it thinks ought to be changed or administered in some other way, and that while it cannot get its co-ordinate branch of the Government to agree to repeal or change the laws, or while it cannot get another co-ordinate branch of the Government to agree to repeal or change the laws it will accomplish the same purpose by an act of negative nullification in saying, "we provide no money then; that answers our purpose just as well, because the Government cannot be carried on without money." I believe the principle is an unsound one; I believe it is a dangerous one; I believe it is a revolutionary one; and I hope that the Senate on this occasion, where there is no politics in it and nothing to bias our minds and no extreme public emergency which may sometimes justify us in doing acts of negative nullification possibly, will refuse to agree to this conference report. I am not making any criticism upon the action of my friend from Kentucky, and his associates; but I trust that the Senate will say to the House, "we do not think this is right and we appeal to you again to consider whether inasmuch as we cannot both agree that this board ought to be abolished, it is not the wise and proper and constitutional thing to provide the necessary small sum of money to carry it on."

Therefore, Mr. President, I ask for the yeas and nays on the adoption of this report.

Mr. BECK. I have only one word to say, Mr. President. The conferees on the part of the Senate were as anxious as the Senator from Vermont could be to have this provision for the payment of the expenses of these commissioners inserted. My own attitude on that question originally is well known on this floor and elsewhere. But this condition of things existed: The bill would have to be returned with a disagreement because the House insisted upon the absolute repeal of the law creating the board of commissioners, and it was obvious to us that we could not get them to consent to anything until that was done. As I have said, here was a very important bill pending involving millions under which steps were necessary to be taken immediately, and we thought that the easiest way to bridge over this difficulty, at least in this bill, was to pass a bill otherwise satisfactory to both Houses and to the Department in the main, leaving this clause out altogether, by saying to the House, "we will not interfere with the question, nor shall any of the money that is appropriated be applied to that purpose."

Mr. EDMUNDS. But I ask whether this report does not go a little further than being entirely silent? Does it not provide explicitly that no payments shall be made for the expenses of this commission?

Mr. BECK. No, sir.

Mr. ALLISON. Out of any money appropriated by this act.

Mr. EDMUNDS. Out of this money—a positive prohibition to use this fund for that purpose.

Mr. BECK. The prohibition applies only to the money appropriated by this act. The legislative, executive, and judicial appropriation bill is still to come up, in which the expenses of the Indian commissioners may be provided for. The sundry civil bill is still to come in which this item can be legitimately placed, and rather than lose this bill if the House and the Senate fail to repeal that law, I should be in favor in one or the other, the law remaining unrepealed, when they come before us, of providing for the necessary expenses. I did not feel disposed to lose this bill for that while there were other means left.

Mr. MORGAN. It seems to me, Mr. President, that what the Senator from Vermont states in reference to the revolutionary character of this legislation is not justified either by existing statute or by the Constitution of the United States.

I understand the history of this commission to be that it originated in an appropriation bill, by which an appropriation was made of a certain sum of money, perhaps two or more million dollars, to enable the President to provide for the introduction of something like a new system of administration in Indian affairs, and in order to furnish him with sufficient facilities to carry that particular project into operation this board of commissioners was organized under that appropriation law.

Since that time that provision has been extracted from that appropriation bill and put into the body of the Revised Statutes; but it never has been the subject of separate legislative action, as I am informed, on the part of the House and Senate, otherwise than by the adoption of this code. But taking it for granted now that it is a permanent statute of the United States, let us see whether it falls within the category of statutes to which the Senator refers, the failure of the Houses of Congress to supply means to carry out which would be a sort of nullification of the law stopping the operation of the Government of the United States. The language of the statute is:

SEC. 2039. There shall be a board of Indian commissioners, composed of not more than ten persons, appointed by the President solely from men eminent for intelligence and philanthropy, and who shall serve without pecuniary compensation.

On turning to the second article of the Constitution, clause 2, treating of the powers of the President, we find:

And he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law.

This appointment has never been made by the President by and with the advice and consent of the Senate. Therefore these men are precisely what they purport in the body of this statute to be, mere commissioners and not officers. They are not officers of the Government of the United States; they are not a part of the machinery of Government necessary to carry on any of its functions. They are the mere servants, assistants, or advisers of the President and of the Department of the Interior in the execution of a certain law. They serve without salary; they go into office without the sanction of an oath; they are not impeachable; neither do I know that they are removable by the President of the United States. I do not know how

otherwise we should ever get rid of these gentlemen than either by repealing the statute entirely or by withholding the supplies which it was supposed at the time would be necessary for the discharge of their functions. If you look at section 2040 I think you will see that the commentary I make on this statute makes the action proposed entirely legitimate:

The board of commissioners mentioned in the preceding section shall have power to appoint one of their own number as secretary, who shall be entitled to such reasonable compensation as the board may designate, payable from any moneys appropriated for the expenses of the board.

Not payable out of moneys appropriated for the support of the Government; not to be included really in the estimates which the Department is required to furnish to the House of Representatives or the two Houses of Congress as a part of the necessary means of carrying on the functions and operations of the Government. "Payable from any moneys appropriated for the expenses of the board." That means out of any money hereafter to be appropriated; any money that Congress, in its wisdom, may see proper to appropriate for this board.

My honorable friend from Connecticut [Mr. EATON] has a bill pending in the Senate for the purpose of raising a commission to investigate the subject of the tariff. It is a regular bill, to become a law by regular process of enactment. Suppose that that bill should be adopted and become a law, and that at the next session of Congress we should see proper to withhold any support from that commission; we do not care to repeal it absolutely, but we think that the time is inexpedient for its further action and we suspend it; we do not care about repealing the law for the raising of this commission because it might be something very available and very useful and very necessary at some future period of time, but we prefer to suspend it; and then instead of passing a law for the suspension of that commission we merely say, "We shall not execute that which the statute requires of us for the continuous and prospective support of this commission for the present, but without repealing it we will allow it to stand and try it awhile in that way and see whether we do not get along better without the assistance of this board." In that I can see nothing revolutionary; and I can see nothing that transgresses the law in its letter or spirit in our agreeing to suspend or withhold a further appropriation for the support of this board of Indian commissioners.

I do not care to go into the merits of this question and to debate again whether or not this commission is of any value to the country at the present time; but I do think that the Houses of Congress have the right constitutionally and in full compliance with their duty to say that they will not appropriate money for the further carrying on of this commission. I do not consider that Congress is under any obligation at all to make this appropriation annually; it is not a duty resting and incumbent on us that we cannot discard at pleasure. It is a discretionary exercise on our part of the power of appropriation. We say that it is not necessary to tax the people of the United States at this juncture for this purpose, and we prefer not to do it to see whether the omission of this system for a while, to say the least, would not operate very advantageously for the country.

Mr. EDMUNDS. Exactly. I think that states the question fairly. It is in the power of one House of Congress or of the two, without repealing a law which establishes an office or a board as a part of the executive government of the United States, to say, "We will not provide the means for carrying it," and that is the true way of suspending the execution of the law until it is our pleasure to provide means for carrying it on, and then it becomes the duty of the Executive to carry it on again. That is the position.

If that is not revolutionary in the light of the Constitution I am quite unable to understand what case could be, because I think the Senator is certainly mistaken in saying that this is an extra-constitutional board, for the same Constitution he will find in another place says that the President of the United States may be vested by law with the power to appoint inferior officers, and the law has vested in the President the power to appoint these. Consequently it is a constitutional appointment of a constitutional officer, and therefore in point of law and in point of constitutional reason and in point of the general character of the Government, whether it is important or unimportant, it falls exactly within the principle of any other part of the civil or military establishment of the United States created by law under the Constitution.

I did not go into any discussion when I rose before as to the merit or demerit of preserving this law. I only take it as a law upon the statute-book which creates for a public purpose a board of public officers whose appointment is by law vested in the President of the United States pursuant to the Constitution. Now it happens that one House, or both Houses if this report is agreed to under the reservation stated by the Senator from Kentucky, do not wish to have the law carried out; they wish to suspend, to stop that branch of the public statutes and the public service of the United States; and where the Constitution requires three co-ordinate powers to agree to make a law or to agree to unmake one, this theory leaves it in the power of any one of the three co-ordinate branches to make and unmake it in practice and effect, according to its free will and pleasure. If that is not revolutionary, I repeat then I do not understand what can be.

Mr. MORGAN. I beg leave to ask the Senator from Vermont if he regards these commissioners as officers of the United States?

Mr. EDMUNDS. I certainly do.

Mr. MORGAN. Will the Senator, then, be kind enough to state what is the tenure of the office? Is it a life tenure?

Mr. EDMUNDS. I do not think it is.

Mr. MORGAN. Then, what is the tenure?

Mr. EDMUNDS. The tenure is exactly the tenure of the officers of the internal revenue, of the clerks of the courts, of all those officers to whose duration in office the law has not affixed a particular period of time. Before the tenure-of-office law and according to the opinions of the Attorneys-General, &c., officers appointed by the President, at least, and by the courts, could be removed at the will of the President or the courts. Those appointed by the President by and with the advice and consent of the Senate were a subject of difference of opinion as to the capacity of removal, but never as to the constitutional duration of their term, because everybody agreed that where there was no period fixed for their employment the appointing power, be it the President alone or be it the President and the Senate, might terminate the office at any time it liked by turning out the man who was in; and so the Supreme Court of the United States has decided.

Mr. MORGAN. Now, if the Senator will allow me, I ask him whether he believes the President of the United States has the right to remove these commissioners at any time he pleases?

Mr. EDMUNDS. I believe that he has unless the tenure-of-office law might require him to get the advice and consent of the Senate.

Mr. MORGAN. If that be so, the President can at any time he chooses suspend this law and Congress cannot. The President may suspend and abrogate the law and nullify it by removing the commissioners, and Congress cannot repeal it or suspend it by refusing appropriations.

Mr. EDMUNDS. So he can. That is a constitutional power that the Constitution has given to the President, or the President and the Senate if they choose to take that revolutionary responsibility of refusing to appoint a judge of a court, a secretary of a Department, a postmaster, or anybody else and the office is vacant. That is true enough. The President has the same power to violate his duties and obligations that either House of Congress has. I hope he will never do it and I hope neither House of Congress will ever do it. Each one of these co-ordinate departments of our Government, like every other government that is based on constitution and laws, may fail in its duty because it must be intrusted with powers that you cannot compel the execution of *in specie*. You can punish an unfaithful want of execution as it respects the President, because when he violates his constitutional duty when not liking a law he therefore refuses to appoint officers to execute it the House of Representatives and the Senate by another clause in the Constitution have the means of disposing of him and getting a President who will carry out the law and the Constitution by providing appointments to fill up vacancies in the courts or in the Departments, or wherever it may be. That is all easy enough. So that does not help my friend at all.

We face this question; and although happily for our keeping cool about it, it is one of no intense practical importance at this moment, the principle is there, and there is no getting rid of it. The only way to get rid of it is the one suggested by my friend from Kentucky, and that is that we do not mean by adopting this report to give up the propriety of executing this law and to give up the duty of making a suitable and necessary appropriation to do it and we hope to do it on some other bill; but everybody agrees that this is just as appropriate a bill as any, and therefore the principle arises upon this as well as the other.

But there is no use in my wasting the time of the Senate in talking about it more. I have stated the matter as it appears to me, and I will not even take up the time of the Senate, as I suppose it is useless, in calling for the yeas and nays. My view about it now appears on the record.

Mr. MORGAN. I should like to say just a word. I do not find any statute which prescribes the tenure or term of office of these officers of the United States Government. If an officer is appointed by an act of Congress, and no limitation is put in to act upon the tenure of his office, I have not been able to find any general statute which provides that he shall hold office for only so long. Now, in reference to all the officers of the United States Government, I believe the term of office is usually prescribed. There is no tenure of office here at all. These commissioners, under the construction that the Senator from Vermont places on the statute, hold for life or at the pleasure of the President, so that it seems by the enactment of a law by which an Indian commission was provided for a special emergency then existing we have saddled the Government of the United States with officers who hold for life or during the will of the President.

It seems to me that that construction drives the Senator from Vermont into a position which is very much more revolutionary, and has very much more of the stamp of nullification upon it than the position taken by those who favor concurrence in the conference report, for it will not do, I think, to uphold in this country that an officer once appointed by an act of Congress must hold his office until the President of the United States chooses to abrogate the office by his removal. That will not do. We had better have the rule the other way. It is less revolutionary; has a less tendency to nullification, if we hold that when Congress thinks the commission is no longer needed for the public service it has a right to withhold the appropriation of public money and let it go. That is a construction certainly much

more in accordance with our notions of the right of the people of this country to govern.

Mr. INGALLS. Mr. President, the report of the committee of conference is not satisfactory to me. It is an evasion; it is a compromise, and, as it seems to me, not a very courageous one. The House is in favor of the abolition of the board of Indian commissioners; the Senate desires that they should be retained; and in order to bring the two Houses together the committee of conference agree that none of the money appropriated by the pending bill shall be devoted to defraying the expenses of the board. I do not think the attitude that is occupied by the conference committee or the position of the Senate if it agrees to the report of that committee, will be a very bold or a very defensible one. But at the same time I feel that the friends of the board of Indian commissioners have no cause for apprehension or concern. I venture to predict that they will not abdicate. I have no doubt that they will continue to exercise their functions as they have done before, in spite of the fact that the money has not been appropriated by Congress for paying their expenses. In view of recent occurrences there is no doubt in my mind that favored contractors and bidders in the Indian ring will be very glad to see that their necessary expenses are met. The Senate need have no apprehension on that score.

In support of this observation I will state that during the recent letting of contracts for Indian supplies this spring proposals were invited for furnishing wagons to be delivered at points in Illinois and at other places upon the Missouri River. The Kansas Manufacturing Company, located at Leavenworth, was invited by special letter of the Secretary of the Interior to put in bids for furnishing wagons. That is a corporation of great wealth; it is a corporation that has long been engaged in the manufacture of wagons. They have supplied the Interior Department and the War Department heretofore. They manufacture on an average a complete wagon every twenty-five minutes of every working day during the year. The agent of that corporation supplied a certified check in accordance with the proposition of the Interior Department, and that company bid for the furnishing of wagons at four or five different points. Without any notification they were advised that their proposal was not satisfactory and was rejected, and their check was returned to them; without any notification I mean of the objection to the terms that had been offered by the company. It appears upon an examination of the various bids that the Kansas Manufacturing Company agreed to furnish those wagons for the Interior Department at figures which would have resulted in a saving of nearly $2,000 in cash over the amount for which they were finally let; and upon investigation it appears that the board of Indian commissioners, one of whom resides in a State that was favored by the acceptance of a bid from a manufacturing company, assembled and invited secret testimony from volunteer witnesses in order to bring some testimony to bear against the value of the product of the Kansas Manufacturing Company. They were not notified that this effort was to be made; they were not notified that witnesses were to be called; and in violation of every principle that ought to govern business transactions their bids were rejected by the board of Indian commissioners, and the contracts were awarded to corporations that will receive more than $2,000 in excess of what the Kansas Manufacturing Company agreed to supply the vehicles for. When application was made for redress to the Secretary of the Interior, he responds very properly that he had a board of ten assistant secretaries of the Interior who had been created by act of Congress, and who had been endowed with joint control with him over this branch of the public service.

Mr. BUTLER. Will the Senator allow me to ask him one question in that connection?

Mr. INGALLS. Yes, sir.

Mr. BUTLER. Had the work of the Kansas Agricultural Company been acceptable before?

Mr. INGALLS. It had been accepted by the Interior Department, it had been accepted by the War Department, and their products are to-day more largely used in the agricultural and manufacturing and mining regions of the West than those of any other similar manufacturing company in the world.

Now, sir, I regard this as a gross wrong both upon the Government and upon that company. Why? Because it is a public official declaration to the world that their product is not entitled to consideration by the Government. They have been stigmatized. Their rivals will say "these gentlemen have offered this bid for a product that is not entitled to recognition," and they are disbarred from the markets of this country hereafter in so far as an official stigma can do that.

This is one of many similar illustrations that have been brought to my attention, and I therefore base upon that my statement that gentlemen who are favored as those have been who received those contracts will be very glad to pay the expenses of the board of Indian commissioners hereafter, in case Congress refuses to make the necessary appropriations.

Mr. EATON. Mr. President, one good may result from that, and that is that we shall know who pays these Indian commissioners. It may or may not be entirely right that the product of this Kansas company—for I know nothing about it whatever—should have been refused. From what my friend from Kansas says, that ought not to have been done, for it has been heretofore accepted. It does not, however, by any means follow because another company receives $2,000 more for the manufacture of a thousand wagons or five hundred wagons than the company to which the Senator referred offered to furnish them, that there was improper action on the part of the officers who have this matter in charge. I do not undertake to say that it is so, but it may be so. It may be right, it may be proper that $2,000 more should be paid to some other company than to the Kansas company for the reason that the article is a better one; and therefore on the whole it may have been proper that the Government should be served by that rather than by the Kansas company. All this is matter of speculation that I know nothing about; but upon what my friend from Kansas says I am inclined to the opinion that there is a gross wrong here, because he said of his own knowledge that the article manufactured by that company is equal to any in the world. If so, there is something wrong; but we have not now the means of forming a judgment on that point.

Mr. WINDOM. Mr. President, I shall be compelled to vote against the report of the conference committee, and I do it upon a different ground from that which has been discussed this morning. I believe that this board of Indian commissioners are of very great value to the country. We are so informed by the Secretary of the Interior, who urges very strongly upon Congress that they be retained upon the ground that they are a very valuable assistance to him in the administration of his office.

We are in the habit of spending a great deal of time in Congress talking about Indian frauds, and I think a standard statement upon that subject is, that not more than about 25 per cent. of the money appropriated goes to the Indians. I do not believe that statement; but I am aware of the fact that there is much complaint in the country, and some ground for that complaint, that our Indian transactions need careful supervision.

I cannot understand why it is that under circumstances such as I have mentioned we are willing to remove any of the safeguards against fraud in the Indian service. The Secretary of the Interior informs us that this is one of his most valuable safeguards against it. A board of intelligent and honorable gentlemen appointed for this purpose, selected on account of their standing and character, who supervise these contracts and all of this service, it seems to me, must necessarily be of great value. We pay our Indian agents, as we are often told on the floor of the Senate, $1,500 a year to go out beyond civilization, undergo all the hardships of the service, all the temptations incident to it, and we complain that they sometimes steal; and yet when a question is presented to Congress, will you throw around this service all possible safeguards to protect it, you answer, "No; we will remove those that we have already provided for that purpose." I am not willing to consent to that. I still hope that if the conference committee shall meet again we can obtain from the House better terms upon this question than we have, and therefore I shall vote against this report.

Mr. ALLISON. Mr. President, I signed this conference report and agreed to the provision proposed to be inserted in this bill; and when I agreed to it I did not regard it as the Senator from Kansas seems to regard it, as a cowardly performance.

Mr. INGALLS. I did not say it was cowardly; I said it was not courageous.

Mr. ALLISON. The distinction between want of courage and cowardice is so slight that I shall not undertake to refine upon that question.

We found ourselves in this condition with reference to this bill: Here is an Indian bill covering several millions of dollars, the importance of its immediate passage being recognized by all, first, because it is important that the supplies shall be purchased and furnished before the beginning of the next fiscal year, in order that large sums may be saved in the purchase and in the transportation. When the bill came to us it contained a provision repealing the existing law providing for these commissioners. I believe it is the uniform practice of the Senate now not to originate legislation upon appropriation bills. Of course when we find legislation upon appropriation bills coming from the House, we are obliged to deal with those provisions. Instead of agreeing to that repeal we inserted a provision appropriating for these Indian commissioners. When we met the House in conference they said: "We insist upon this repeal, and unless this provision is agreed to, the House will not consent that this appropriation bill shall pass." We, of course, insisted that no repealing clause should be attached to the bill. They finally agreed that if we would consent that none of the money appropriated in this bill should be thus applied they would trust to chance and luck for another month to secure an independent statute repealing this law providing for the Indian commission. We say to them, "Very well; for the present we will waive this question of appropriating for these commissioners if you think the House will pass a bill and the Senate will concur in that bill, dispensing with the services of these commissioners, so be it." If not, when the legislative bill comes up—which is a perfectly appropriate bill for the insertion of this provision—or when the sundry civil bill comes, as it will come toward the last days of the session, if this law is not repealed in the ordinary course of legislation, we can again insert the provision in either of those bills. That is all there is of this case. It is really an effort to facilitate the passage of an important bill by leaving out a small item of $10,000 of appropriation.

I do not think there is any difficulty here at all. The mere inser-

tion of this prohibition amounts to nothing. Not one dollar of this money could be used to pay these commissioners if the provision inserted here was not put in. This bill containing appropriations of three or four million dollars is specific in its character; all the appropriations in it are specific; and therefore, even if this provision proposed to be inserted should be left out, not a dollar of this money could be appropriated to pay these Indian commissioners. Therefore the insertion of this provision amounts to nothing, and it is just as though we had reported this bill without the repealing provision and without the item appropriating this money to the Indian commissioners. That is all there is of it.

I shall vote for this report. I believe the Senate ought to agree to it in order that this bill may go to the President, be signed, and become a law at an early day in order that the Interior Department may execute the duties imposed upon it in the purchase and transportation of important supplies.

Mr. DAWES. Mr. President, I shall vote for this report, not because I think it just right for the Government to accept the services of public officials without providing for a fair compensation, but because a conference report cannot be amended; it must be taken as a whole or rejected. It must result from a free conference between the two Houses upon disagreeing votes, and if neither House yields at all the position that it originally takes there can be no result but a failure of legislation. The fact that a conference report does not come up to just precisely what I desire is not a reason for my voting against it. I vote for appointing a conference committee with the belief and the assurance that I for one am willing to confer with the House upon the differences and to yield as far as I can. I have yielded now only so far as to say that the services of this commission are valuable enough to be retained, that we will avail ourselves of them hereafter, that as safeguards thrown around the Indian service they are of more good than evil; and I do not think that it is any fair method of opposition to a conference committee's report to say here in the last stages of this legislation deliberately that this board can be bribed, as the Senator from Kansas stated a few moments since.

Mr. INGALLS. I ask the Senator from Massachusetts to allow me to say right there that the statement he has attributed to me was never made by me and has no foundation in fact.

Mr. DAWES. Mr. President, the Senator jumps before he gets to the stile.

Mr. INGALLS. A very bad style.

Mr. DAWES. It is, I agree, a very bad style for a Senator to get up on this floor and state that he has no doubt but what favored contractors will pay these commissioners for their services in favoring them; and to make, or endeavor to make, a distinction between that and an allegation that these commissioners will be bribed by those favored contractors is only sticking in the bark, if it is not jumping before one gets to the stile. All the evidence that my friend from Kansas has to justify such an allegation as that against ten as respectable men as there are in the country is that a constituent of his failed to get a contract to make some wagons. What the grounds of that failure were the Senator has not favored the Senate with. Whether the commissioners, in awarding somebody else besides the constituent of my friend from Kansas that contract, which involved an increase of expenditure to the enormous sum of $2,000, acted wisely or not, may be a very serious question; but of course the Senator from Kansas has no doubt upon it that they did not act wisely.

The Senator from Kansas thinks, or seems to think, by the mode in which he attacks the commissioners by saying that they get their pay for their services from these favorite contractors, that although they acted differently from what he would treat his constituents, they must therefore have acted corruptly. They may have had reasons that justified prudent men, as they seem to be and as they are in the judgment of the Indian Department, acting as they did. They seem to have acted according to their own judgment, whether wisely or not I do not know, because I have not any evidence beyond the awful conclusion that a contractor in Kansas who had heretofore been successful in getting contracts for wagons failed this time. Whether there was anything else about it that would justify the Senator from Kansas or myself in coming to precisely the same conclusions or precisely opposite conclusions I do not know; but I would not myself on that evidence, and that alone, charge them with being corrupt and relying upon favors that they were to receive from favored contractors. I do not think they have always acted in a manner beyond criticism. I do not expect that from any official. Perfection is not the lot of officials; and officials in the Indian Department are no exception to that statement. Indeed, sir, we never can look for perfection in the administration of Indian affairs. It is only the doctrine of *cy pres*—coming as near it as you can; and if the only accusation against this board that can be brought up at the last moment here is that the right person did not get the contract for once on wagons, let them exist; let the Secretary still have the aid of ten discreet, wise, honest men in hedging around these contracts as well as he may against that general army of contractors that as a rule take care of themselves, although this unfortunate and weak corporation in Kansas happened to fail and had great injustice done it. It has my sympathy. If I were in a proper condition to do so, I would make good that $2,000 rather than lose this board. But, sir, this committee of conference have on the whole concluded to keep the board and keep it at work. I hope they will not make any such mistake again about the wagon contract, and then will trust to the justice of Congress for their compensation.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the conference report now under consideration?

The report was concurred in.

ORDER OF BUSINESS.

Mr. EDMUNDS. Mr. President——

The PRESIDENT *pro tempore*. The regular order is before the Senate, being the resolutions reported from the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana.

Mr. EDMUNDS. I understand that the Senator from Wisconsin [Mr. CAMERON] who has the floor on the Kellogg case, as it is called, is not well this morning and is not in his seat, and I therefore move——

Mr. HILL, of Georgia. I will say to the Senator from Vermont that it is arranged for the Senator from Alabama [Mr. PRYOR] to go on in lieu of the Senator from Wisconsin.

Mr. EDMUNDS. Then I will not make the motion I had intended to make, to proceed with the private land claims bill, for I think that the other matter is entitled to precedence.

The PRESIDENT *pro tempore*. The regular order is before the Senate.

Mr. BAILEY. Before the Senator from Alabama takes the floor, I beg leave to give notice that on Tuesday next I shall ask the Senate to take up for consideration the bill (S. No. 133) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education.

Mr. EDMUNDS. I wish to remind the Chair and everybody that I have had a pending notice about this private land claims bill that I want to continue to repeat so as to keep within locking distance, as they say on the canal.

Mr. DAVIS, of West Virginia. When the Senator from Alabama has concluded his speech, if no other Senator is ready to take the floor, I shall ask the Senate to take up the bill to repeal the permanent annual appropriations. It has been standing now on the Calendar nearly two months, and it is a bill that ought to be acted on, so as to go to the House in time to be passed at this session.

ACCOMMODATIONS FOR THE LIBRARY.

Mr. HOAR. I have here a very short letter which is addressed to me; it is not in the form of a petition to the Senate, but it contains the statement of a very ingenious architect in regard to a plan for the extension of the Capitol with a view of affording accommodations for the Congressional Library, and I will be responsible that it is proper and has a good deal of sense, and I ask that it be printed in the RECORD without being read, for the information of the Senate, and referred to the Committee on the Library, with the plan which accompanies it.

Mr. CONKLING. I have no wish to interfere with a contribution on a subject in which I feel interested, but I wish the Senator from Massachusetts would not do this in the form which he proposes, because it is as I understand it a violation of the rules of the Senate and it subjects the rest of us who refuse to attempt to do the same thing to the charge of seeming to be ungracious in withholding proper respect from similar communications. If the Senator will have the letter printed in the RECORD, I suggest to him he will accomplish the whole object. If it is not addressed to the Senate, as I have frequently been told myself, it cannot be presented as a petition; and as I am continually obliged to excuse myself from doing the same thing, it is rather awkward to sit by and allow it to be done leaving one in the predicament in which I should thus be left.

Mr. HOAR. What I wanted was to have it printed in the RECORD. I suppose the regular way would be to ask the Senate to take up the bill reported some time since from the Committee on the Library, and on which the Senator from Indiana [Mr. VOORHEES] addressed the Senate on Wednesday last, and permit me to make some remarks upon it, and then to present this letter as a part of my remarks.

Mr. CONKLING. But the Senator need not do that. Without taking up the bill at all, nobody will object to his presenting the letter as a part of his remarks and having it printed in the RECORD.

Mr. HOAR. That is all I wish.

Mr. CONKLING. The particular thing I ask is that he do not move to refer it to a committee because that can be done only with petitions. If that is to be done with this letter, then I shall think it proper to ask to have it done with various letters I have received.

The PRESIDENT *pro tempore*. The Senator from Massachusetts can read the letter as part of his remarks.

Mr. HOAR. The Senate, then, will give me unanimous consent to have the letter considered as read as part of my remarks and printed in the RECORD. That is all I desire.

The PRESIDENT *pro tempore*. The Chair hears no objection, and that order will be made.

The letter is as follows:

WASHINGTON, D. C., *May 7, 1880.*

DEAR SIR: Having been informed that the matter relating to the Library was to be resumed to-day, I venture to intrude on your kindness once more and send to you for distribution some copies of my plan. Having been sick the greater part of the year I have not been able to finish new plans, but think to have some ready in about six to eight weeks. The main features of my plan are as follows, namely: That

on the west front of the Capitol, in the Capitol grounds, a building about sixty feet high, consisting of two wings and a central connection, may be erected without hiding from view any part of the Capitol. On the large drawing is shown a view and a ground plan. The new building is connected to the Capitol in the center. The present terraces (represented by hachures in the drawing) may be left standing, or the terraces may be removed, in which case the new building would come close to the old building. The plan will allow entering the new building on a level with the street and give access to the Capitol by means of *inside* stairs or elevators, thus dispensing with the *outside* stairs, which are at present in winter time very difficult of access. I have heard it stated that this plan would destroy the beauty of the Capitol buildings as they are at present. But I have the opinion of a very experienced architect, Mr. Didden, who has traveled in a great many countries and has had a chance to compare the architecture of all nations; he states that, while the plan is perfectly feasible, it would add to the beauty of the structure. Mr. Didden has been kind enough to express his views in a small sketch, ground plan and elevation, which I had photographed and submit together with the large one. I have also heard it stated that it would be better to locate the Library on Capitol Hill, as the ground was high and dry(?). It will be found on examination that, although high, a heavy stratum of clay holds the surface-water and makes the ground very damp. In following my plan the city water-power may be utilized for extinguishing fire in the Library without the aid of fire-engines; and in providing elevators, an absolute necessity for a library, those of the hydraulic type may be used, as they are the only safe and reliable, and are very simple to operate. It is further possible to make the buildings large enough to store away the libraries of London and Paris, and still preserve perfect ventilation and illumination.

I am yours, very respectfully,

R. H. E. SIEBERT,
124 *Maryland avenue, southwest, Washington, D. C.*

Hon. G. F. HOAR.

SENATOR FROM LOUISIANA.

Mr. PLUMB. I move to proceed to the consideration of Senate bill No. 194.

The PRESIDENT *pro tempore*. That can only be done by postponing the unfinished business, the regular order, on which the Senator from Alabama [Mr. PRYOR] is entitled to the floor.

Mr. PLUMB. I desire simply to say in regard to this bill that it relates to the sale of a military reservation which for many years has been occupied. The bill passed the Senate at the last Congress and will not be the subject, I think, of any controversy, and it is very essential that it should be passed at this session. I have not heretofore antagonized the regular order of business. On the contrary, I have abided by it as far as I could.

Mr. CONKLING. If the Senator will excuse me for meddling with his affairs for a moment, let me suggest that if the Senator from Alabama will consent to it and there be no opposition to this bill, by unanimous consent the regular order can lie aside informally for a moment, and the Senator from Kansas can have an opportunity to consider the bill.

Mr. PRYOR. I make no objection.

The PRESIDENT *pro tempore*. Is there objection to laying aside the regular order temporarily, subject to call at any time, in order to consider the bill mentioned by the Senator from Kansas?

Mr. EDMUNDS. I have been trying and struggling to get up one or two little bills from the Committee on Private Land Claims and some other things, without any success. I think the Senator from Kansas ought to allow the Senator from Alabama to go on. I do not know anything about his bill. I do not make the suggestion on account of my supposed opposition to what he proposes, but only in the interest of equal rights, if we may use that term without offense to anybody on the other side of the Chamber.

Mr. PLUMB. I was not aware at the moment that the Senator from Alabama desired to speak. I withdraw my request, and will renew it at the expiration of his remarks.

The PRESIDENT *pro tempore*. The resolutions in regard to the seat of the Senator from Louisiana are before the Senate.

Mr. PRYOR. Mr. President, I request quiet in the Senate Chamber while I am giving expression to the thoughts which I am about to attempt to publish, for if they are worth anything their value consists in following them through, however tedious in statement they may prove to be. And further, I implore that I may be permitted to go through without interruption, as interruptions such as sometimes occur here would not only confuse but confound me.

Mr. President, one of the grounds taken and urged in the disposition of the resolutions now under discussion is, the legal doctrine of what is known in the profession of law and judicial tribunals as the pleas of *res adjudicata* and estoppel and the effect they should have as a bar on the questions involved in the resolutions; and, second, if they have any effect, is the case under consideration such a one, either by record or *in pais*, as is covered by either or both of said pleas?

In approaching this branch of the debate I shall announce the conclusion at which I have arrived, and that conclusion is that neither of said pleas, either in form or substance, in legal effect has any application to the matters under consideration. And to support this conclusion I beg leave to submit the following views:

The Government of the United States being the creature of the States, "or the people," and having been established for their mutual benefit and protection, has no other powers than such as were conferred upon it by those creating it; and the powers so conferred are limited and confined to the powers expressly given and such as necessarily grow out of the express powers bestowed; and these powers, whether they be express or arise from implication, are limited and confined to the Constitution, and are only to be found in the Constitution.

When a power is expressed but does not plainly and fully define itself in whole or in part, or when a power is claimed to arise from implication, then the rules of interpretation and construction applicable to such instruments have to be invoked.

These rules, as declared by all writers upon constitutional law, are substantially the same as those which apply to all legal compacts and agreements of a high and solemn character; and such of these rules as are material to consult on these questions are:

That if the league or compact, let it be the one or the other, be expressed in terms that defines itself fully, then it is its own best expositor, and these rules of construction or interpretation have no place to operate or apply, and must be suffered to govern and control the same.

But if the powers in whole or in part expressed are not defined or clear, then we are, under the Constitution, required to resort to the established rules for a rightful interpretation and construction of the part so undefined, clouded, or implied; and the most general and admitted of these rules are:

First. That effect is to be given to the intention of the people in adopting it; the thoughts of the people who made it or for whose benefit it was made must be sought.

Second. The whole instrument, if need be, should be examined, so as to give effect if possible to every part of it.

Third. The whole to be examined and considered, with the view of arriving at the intention of a particular part. Lord Coke regarded that the most natural and genuine method of obtaining the meaning was by comparing the several parts or sections and finding out the sense of one clause by the words or obvious intent of another.

Fourth. "In interpreting clauses we must presume," said Chief-Justice Marshall, "that words have been employed in their natural and ordinary meaning;" and he forcibly remarked in the case of Gibbons *vs.* Ogden, 9 Wheaton, 188, that the framers of the Constitution and the people who adopted it must be understood to have employed the words in their natural sense and to have understood what they meant. That is to say, as Mr. Cooley remarks, "no forced or unnatural construction is to be put upon their language," but "the attempt is so often made by interested, subtle, and ingenious refinements, to induce tribunals (or bodies) to force from the Constitution a meaning which its framers never held; that the fundamental maxim is, that narrow and technical reasoning is misplaced when it is brought to bear upon an instrument formed by the people themselves and designed as a chart upon which every man, learned and unlearned, may be enabled to trace the leading principles of the Government. A reasonable construction is what such an instrument demands and should receive, for the real question is what the people meant and not how meaningless their words can be made by the application of arbitrary rules, and to apply by force of such rules the meaning beyond what was meant and to things not meant."

If the clause is in furtherance of natural right and justice, it should be liberally construed to effect the beneficial purpose had in view. The correct rule is to look to the real intent and the end desired, rather than for the purpose of arbitrarily restraining it.

Mr. Story, in speaking of constructions given to words in the Constitution, takes occasion to say:

> Men of ingenious and subtle minds, who seek for symmetry and harmony in language, having found in the Constitution a word (judge) used in some sense which falls in with their favorite mode of interpreting it, have made that the standard by which to measure its use in every other part of the instrument. * * * They have thus stretched it as it were * * * by lopping off its meaning when it seemed too large for their purpose and extending it when it seemed too short. They have distorted to the most unnatural shapes and crippled when they have sought only to adjust its proportions according to their own opinions; and nothing is more common than to subject the Constitution to such narrow and mischievous criticisms.

Mr. Cooley, in speaking of the rules of construction applicable to a just and proper interpretation of the Constitution, lays it down that one of the controlling rules to be resorted to is, What did the people intend? What beneficial purpose had they in view? What did they mean by the use of word or words, and what meaning did they, the people, give to the word, and in what sense did they, the people, use the word or words, clause or clauses? For, said he,

> As the Constitution does not derive its force from the convention which framed it, but from the people who ratified it, the intent to be arrived at is that of the people; and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but that they have accepted them in the sense most obvious to the common understanding and ratified it in the belief that that was the sense designed to be conveyed;

and so meaning and understanding they used the word or words, clause or clauses; and such being the case, those charged with the duty of construing them are bound to view, construe, use, and apply it, for they (the people) thereby have ascertained and settled for themselves the proper and only rule of construing their Constitution, made by them and for them, and it is binding on those whose duty it is to act as their representatives.

Whatever may be the predilections and professional tendency of the representative to give them a technical or arbitrary interpretation and application, they must yield to this rule.

With these acknowledged principles for the construction and interpretation of the Constitution, its words and clauses, I beg to direct the mind of Senators to the form of government, its governmental history and organization, and the distribution and apportionment of its powers. To interpret and construe the Constitution properly it is necessary to commence at least with the Declaration of Independence, for there this Republic had its birth and there it proclaimed by

its then infant lips among the truths that were and are self-evident that to secure the inalienable rights therein enunciated "governments are instituted among men, deriving their just powers from the consent of the governed," and that they, the then United Colonies, "were, and of right ought to be, free and independent States."

Then to better maintain their independence as States into which they resolved themselves, and to secure the mutual benefits therein designated, articles of confederation were entered into. And having then thrown off the swaddling garments of colonies and clothed themselves in the habiliments of the rights, and having taken the position of independent States in their respective characters as such, they, by the articles of confederation, among other things, provided for a congress of the then confederated States, to be composed of delegates from the several States as their duly selected and authorized representatives in the congress of the confederated States, to be styled the United States of America.

This national government of confederated States, in article 3, declared that it was "a league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare." Article 4 declared:

> For the more convenient management of the general interest of the United States delegates should be annually appointed in such manner as the Legislature of each State shall direct, to meet in congress on the first Monday in November, in each year, with a power to each State to recall its delegates or any of them at any time within the year, and to send others in their stead for the remainder of the year.

It plainly appears by the Declaration of Independence that the several colonies resolved and declared themselves absolutely into free and sovereign States, and, while they acted conjointly, yet with separate and distinct State rights in severalty. For the purposes set forth in the articles of confederation, they created a national government—the United States—and to carry on and conduct which, for their mutual defense and welfare, they, the States and people, (which means the same,) in the fifth article of confederation, created a congress composed of delegates from each State, with the right to recall any delegate at any time. It not only provided for a representative of each State, but the reserved right to recall, showing that the State was not only entitled to be represented by and through its delegates, but have the power to recall them at pleasure; holding the representative in its own hands from the time of his appointment by the Legislature, with a continuing and abiding power to the end of the term for which he was appointed, and to be exercised whenever occasion should require.

Now, need I inquire why this power over the delegate was so reserved? Need I say this power reached every case where a delegate assumed, intruded, interloped, or usurped the seat of that State in the national council, where there was unfitness from want of capacity at or subsequent to the time of his appointment, or unfitness from any cause, in the estimation of the appointing and supplying power, whether arising from his being corrupted or from any disqualifying cause? It was, in short, to guard against, in any event, a misrepresentation of the States respectively, and at all times to secure representation, and such a representation only as was consonant to the rights, interest, and welfare of the State represented, so that each State might be felt, heard, and protected in their national council, having control of such part of its State rights as it had yielded to the General Government for the benefit and security of those retained, and especially to have its best, ablest, and most trustworthy representative to guard against encroachments upon the rights reserved to the States or people, which could only be done by one of their own choosing and fully identified with the State and the people thereof. The declaration of the independence of these States occurred, as we know, on the 4th day of July, 1776. The articles of confederation were entered into on the 9th July, 1778, and afterward, on the 17th day of September, 1787, in the progress of perfecting this great work of republican government, and to render more permanent the Union of the States, establish justice, insure domestic tranquillity, promote the general welfare, and secure liberty, the Constitution under which the Senate now sits, except certain amendments, was ordained and established by the people of the United States.

And under this Constitution we are here to-day acting as Senators, bound by every obligation of law, morals, and honor known to honest, truthful, conscientious men, to determine the question submitted for our and each of our consideration and determination as worthy Senators. To the determination of this question it is necessary to consider the system of government and the distribution and apportionment of powers under the Constitution. It is agreed that the National Government is one of limited powers, having such only as were ceded to it by the States, having no inherent powers as such Government except such as are inherent in the powers given by the States. The powers given by the States to the National Government necessarily and properly carry with them the inherent powers incident to and existing in the powers so conferred, but none other. It is further agreed that under and by virtue of this Constitution the Federal Government is divided into three co-ordinate departments, neither more nor less. As stated, under this Constitution the Government is composed of three departments—legislative, executive, and judicial—one to make, one to execute, and one to adjudge.

These several departments have each certain specific and well-defined functions to perform and orbits assigned for each, and in which they are respectively required to revolve. And the forces, centripetal and centrifugal, of the Constitution are as much required to prevent rupture, discord, colliding, and destruction to the body-politic and to secure harmony in the performance of these functions of well-balanced and equipoised departments, as natural laws operating on natural bodies, and was so made and intended by the framers, and hence every construction to that end is the proper and rightful construction, and every construction which tends, leads, or results in a different direction is antagonistic to their intent, and leads to disruption and dismemberment of the Government. In this view the Constitution was framed and now exists, or should exist, and, being so construed and administered, there can be no case which shall come up in the course of its proper working that cannot be fully solved.

And approaching near the question presented in the resolutions under consideration, in article 1, section 1, the Constitution declares that all legislative power granted therein shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. Section 2 declares that the members of the House shall be chosen by the people of the several States, &c., and that the electors so chosen shall have certain qualifications, consisting of such as the States may require in part, and in part such as are specifically enumerated in the second subdivision of said section 1. In the third subdivision, that the representation of each State and direct taxes shall be apportioned among the several States composing the Union according to their respective numbers, &c. Reference is made to these articles and sections for the purpose of directing and fixing the minds of Senators on the material question that underlies all rightful constructions of the Constitution or any of the powers conferred or duties enjoined: that it is the people and the rights of the States or people that are at stake; that their good and welfare is to be considered, and not that of individual preferment or personal aggrandizement; that the office of Senator or Representative is not an office in the sense of the law and the Constitution as property or a vested right, but consists in the right of being a representative only of the people, and to that end their (people's) mouth-piece in the councils of the nation, speaking for their equal rights in the sisterhood of assembled States.

In the further progress of this view, and as we near the main question, the third section of the Constitution declares in its first subdivision that the Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six years, and each Senator shall have one vote. The second subdivision of the said third section provides and arranges for the constant and continuing presence of the two Senators, securing and intending to make certain and continuous the representation of the State or people in the whole number of its representative voices and votes in Congress.

Here it may be remarked that Judges Story, Kent, and others who have considered the Constitution in this as well as other particulars, fully approve of these provisions both as to number and term of office of Senators as the one best calculated for the protection of the rights of the people and States; and writers on constitutional law agree that although Senators are chosen by the Legislatures of the several States by and through the representatives of the people proximately, yet it is but the people who choose and are represented, and that they are none the less the representatives of the people and amenable to them as such.

It will be observed that under the Articles of Confederation the Congress therein provided was composed of delegates, with the reserved power to the States, respectively, to recall at any time its Representative in Congress. Nine years afterward, when the States then composing the Union adopted the present Federal Constitution, they transferred the power of determining and passing upon the elections, returns, and qualifications of those who claimed or sought to be members of either House to each House in Congress. The words are as follows:

> Each House shall be the judge of the election, returns, and qualifications of its own members, &c.

Now, the ascertainment of the scope and meaning of this section is necessary to a determination of the matter involved in the resolutions. I have deemed it not unprofitable to refer to the facts and circumstances under which the Constitution of the United States originated, for the purpose of better understanding the feelings and sentiments which led to its adoption; and in the light of these facts and circumstances to get at the intentions and thoughts of the framers, and a knowledge of the meaning of the words and sentences used by them, and thereby better carry out their thoughts, intentions, and feelings. And now, keeping in mind the rules of construction mentioned heretofore, and the principles upon which the Constitution is based, we can get back to the days of the fathers and familiarize our thoughts with their thoughts, and, using the words they used, come down the current of time from the 4th July, 1776, 9th July, 1778, 17th September, 1787, and thence to the present, and being so instructed sit in the sunlight of their meaning and thoughts now as then.

The Constitution in the fifth section of article 1 uses the expression "each House shall be the judge of the elections, returns, and qualifications of its own members." The first section of the first article says "all legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Then section 2 of the same article goes on to

declare of whom the House of Representatives shall be composed, &c. Then the first subdivision of section 3 declares that the Senate of the United States shall be composed of two Senators from *each* State, chosen by the Legislatures thereof, &c.

In subdvision 5 of section 2, article 1, it declares that the House of Representatives shall have the sole power of impeachment.

In subdivision 4 of section 3, the Vice-President of the United States shall be President of the Senate.

In subdivision 5, the Senate shall choose their other officers, &c.

In the sixth subdivision of section 3, article 1, it is declared that the Senate shall have the sole power to *try* all impeachments, &c. Then, as before remarked, comes the fifth section of article 1, which uses the expression "each *House* shall be the judge of the elections," &c.

Now what meaning shall we give to the words "each House" in this section, (5?) All the sections preceding, together with the sense of the other sections, forbid that we should limit its meaning in this connection to the technical rule of construction which would convert the Senate into the House of Representatives and *vice versa*, and give no field of operation to the words "each House." When construed under the rule laid down and approved and recognized by all the writers there is no trouble, and, in the language of Mr. Story, we are relieved of ingenious criticisms. It means the Senate as well as the House of Representatives. The question is, what did the framers of the Constitution mean by the word "judge?" In what sense did they use it (being a word having more meanings than one, and depending upon its connection with different subjects and branches of government) when they said each House shall be the judge of the elections, &c., of its own members? By reference to the admitted rule of construction, when the people or States are concerned the words in the Constitution are used in their popular significations and not in a technical or professional sense.

In the language of Justice Marshall, we must presume that the framers of the Constitution employed the words therein used "in their natural and ordinary meaning." The word "judge" means to decide, to determine. And this word is used as meaning "to decide" or "determine" in the varied avocations of life. It depends upon its relationship to the things, subject-matter, or occasion for its meaning or the sense in which it is used or to which it is applied. We judge, we decide, we determine a horse-race, a cock-fight, a pugilistic encounter, a walking or sculling contest. In all departments of business we exercise judgment, decision, determination. In the position of representatives we are called upon to judge, to decide, to determine. And those duties involving judgment, decision, determination, are of quite a different character, with essentially different effects and consequences, from the judgment of a court. They are altogether and radically different things—different not only in essence as a science and department, being *sui generis et juris*, but especially and particularly made so by the Constitution itself, and often so declared by the judicial tribunals proper of this country. The same Constitution that in the fifth section, article 1, uses the word "judge" expressly separated the legislative from the executive and judicial departments, with but one exception, (impeachment,) and that expressly provided for.

In article 3, section 1, it is declared that the judicial power of the United States should be vested in one Supreme Court and that the judges shall hold their offices during good behavior, &c. These are the only courts or judges, except the limited court of impeachment before referred to, known to the Constitution, capable or having the power to render a judgment in a judicial sense.

Other departments may determine, decide, and judge of several matters, but wholly without judicial force or effect or as embracing, springing from, or followed by judicial consequences. It must be furthermore kept in mind that under the Constitution, in section 2, article 3, the judicial like the legislative department, but greatly more restricted, has its limits of jurisdiction and sphere of action defined—beyond which, like the legislative, it cannot constitutionally go.

The theory of the American system of government is very different from that of Great Britain. There Parliament is recognized as possessing the sovereign power of the country; in this country, under the Constitution the Federal Government has only such powers as the States or people have expressly granted to it. In this country the sovereignty is in and with the people by express reservation, and by twofold announcement in the Constitution to the world that it is so reserved, save such as was granted by the Constitution to the General Government. In the language of Mr. Cooley—

> Upon this difference it is to be observed that Parliament, to any extent it may choose, may exercise judicial authority. One of the most noticeable features in American constitutional law is the care taken to separate the legislative, executive, and judicial functions.

And the only seeming qualifications placed upon this repeatedly announced feature of this Government are to be found in the expression by Mr. Cooley, when he says:

> But the apportionment to this department of legislative power does not sanction the exercise of executive or judicial functions, except in those cases warranted by parliamentary usage, when they are incidental, necessary, or proper to the exercise of legislative, not judicial authority, or when the Constitution itself, in specified cases, may expressly permit it.

Those views when analyzed in no wise impair or confound the views heretofore expressed, but to be considered in connection with such as will be hereafter announced as to the meaning and effect of the word "judge," used in the sections we are considering. In this connection Mr. Cooley, quoting from Judge Comstock, says:

> I entertain no doubt that aside from the special limitations of the Constitution—for instance, impeachment—the Legislature cannot exercise powers which are in their nature essentially judicial or executive. These are by the Constitution distributed to other departments of the Government.

And to give a place for the exception referred to by Judge Comstock we have but to refer to the sixth subdivision of section 3, article 1, where it says the Senate shall have the sole power to try, not judge of, but try, all impeachments; and when sitting for that purpose—that is to say, sitting as a court—to not only hear, judge, but try; and not only try, but, in the language of the section, shall be upon a special oath to try the case. Their finding, when so sitting and sworn and trying, shall be followed by a judgment of conviction or acquittal expressly provided for with other and special oaths than the oath as Senator: and in the case of the impeachment of the President that the Chief-Justice shall preside, and that the verdict, judgment, or finding of conviction shall be by a two-thirds concurrence of the members present.

This is when the action is in its nature judicial, but not such a finding or judgment as a court strictly judicial could enforce, as is shown in the following subdivision, where it defines the extent of the conviction and declares that that senatorial finding shall not exempt the party from liability to indictment, trial, judgment, and punishment according to law. And this jurisdiction is not confined to members of its own body, but all persons holding offices of honor or profit under the Government. Yet the party could have been indicted and tried at law; and could it be said, if so indicted, the party could have pleaded autrefois acquit or convict? Certainly not. The clause found in the fifth section follows closely the one of impeachment. Why did they seem all at once to stray from that state of mind and thought and content themselves with the mere expression, "shall be the judges of the elections," &c.? If it had been their purpose or intention to make it such an investigation, such a trial, such a judgment as of the force and effect of a strictly judicial tribunal, is it not fair to suppose, is it not true, that by men who drafted and people who understood the plain meaning and force of the language used, more appropriate terms would have been employed to have converted the Senate into the peculiarly qualified conditions and attributes of a judicial tribunal, instead of a tribunal to judge in the ordinary meaning of that term, in contradistinction to its technical and judicial signification?

In the third section, in article 2, in speaking of the power, authority, or duty, as you may please to call it, this expression is used when speaking of the Executive:

> He shall from time to time give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient, &c.

Now, could it be contended with any degree of plausibility that the words "shall judge" are different in signification from the expression "shall be the judge," as found in section 5, article 1? And could it be successfully maintained that if the President should on one day or at one session recommend a measure which he should then judge expedient or necessary, that his judgment was judicial in its character, and that he could not on a subsequent day or session reconsider, review, and revoke if need be the measure he had on some prior occasion judged expedient, and that however erroneous, wrong, or injurious, yet he was estopped and could be held finally and forever bound under a plea of *res adjudicata*, *estoppel*, or *stare decisis*, and that the country must suffer the ills consequent upon his want of the proper information, mistakes, oversight, or even corruption; and that one President could thus bind his successor and by force of these pleas keep the country at bay or subject it to continued errors, mistakes, or injuries and mischiefs? I should say not, but that he would judge to the best of his then judgment, according to the then light before him, and when other light broke upon the measure that he not only could, but in the line of his high duties should promptly review and revoke it.

So we are bound to see and admit that the word judge does not convert the Senate into a judicial tribunal. All action regarding the exercise of judgment, decision, or determination may be considered somewhat analogous to and partake somewhat of judicial character, yet not judicial or entitled to the result or consequences of judicial adjudication. The Government under the Constitution being formed in well-defined departments, each department has its own peculiar and fit machinery to enable it to execute, conduct, and control itself, but each as separate and distinct in its machinery as the departments themselves. That is to say, the rules and regulations for the government of the legislative department are political and parliamentary in their character, and those of the judiciary are such only as are known and recognized by judicial tribunal in a judicial sense proper, and to apply the one to the other would be to do a thing wholly inconsistent and unsuited. Who can apply the pleading and process of a court to the government of a legislative body, or who can walk into the Supreme Court (in the adjoining room) and ask to have his case conducted and controlled by the rules of this Senate either before or after judgment? The very fact that the Constitution not only withholds machinery for the conducting of a judicial investigation from the legislative department, save in the case of impeachment, shows that it was withheld from it purposely, especially when it is expressly conferred upon another and a co-ordinate department.

The President of the United States, in the discharge of any duties devolved upon him by the Constitution, has somewhat a judicial character, such as appointment of officers, &c., all of which involve fitness and qualifications of which he is required to judge, decide upon, and determine. It may be like unto it, yet not judicial, or to which the complaints, pleas, and findings of courts and mesne or final process would apply. Courts of judicature in many respects perform acts somewhat of a legislative nature or character, but far from being legislative in the legislative sense, and as to which no rule or parliamentary usage would apply. The Federal Government, when taken in the aggregate, is a unit, yet made up of co-ordinate parts, wholly distinct and separate in their essence and character, and, when confined in their operations within their constitutionally prescribed limits, work harmoniously as a whole.

It may not be out of place to refer to, and by so doing refresh our recollections of, the causes and reasons which led the framers of the Constitution to insert the fifth section of article 1. Conceding that it is true, and which in substance is true as a fact, that the American people, being just before the making and adoption of the Constitution subject to and colonies of Great Britain, were governed substantially by British ideas of government and ingrafted the same as far as applicable to the general desire and purposes of the American people, adopting such as were applicable and rejecting and excluding such as were inconsistent and repugnant to the spirit of their own; and with this understanding we approach the investigation of the history of the power of the Senate and House of Representatives to judge of the elections, returns, and qualifications of their respective members; for be it remembered that the Senate under the Constitution and in a constitutional sense is as much a representative of the people as the House, although occupying somewhat of the parliamentary relationship as a body to Congress as the House of Lords did to the Parliament of England. And we are led to remark in this connection that at an early day in the governmental history of Great Britain the governing and controlling elements resided with the Crown, and still later in the Crown and Council, and still later in the House of Lords and Lord Chancellor, and lastly with the Lord Chancellor and, about the year 1200, the House of Commons, which together with the House of Lords constituted the Parliament of England, the Lords and the Lord Chancellor deriving their place and power from the Crown, and composed of the royal and hereditary blood, and composed of Lords spiritual and temporal, the House of Commons of the people, and elected by the people and representatives of the people.

From the year 1200 to the year 1624 the question was a mooted one whether the Crown, the House of Lords, or the Lord Chancellor should determine the elections, returns, and qualifications of the members of the House of Commons. First, the grip of the Crown was loosed, then the House of Lords, and lastly, in the year 1624, it was settled that the House of Commons should determine and be the sole judges of the elections, returns, and qualifications of its members, and so it remained to the formation of the Constitution of the United States, since, and now; and hence the idea that each House of Congress shall be the judge of the elections, &c., of its own members, both being, as before stated, the Representatives of the people, in this, a republican Government, of which the Constitution is its fundamental law. This history, both in England and America, shows that this power and right resides solely with representative bodies of England and America, and has since 1624 uninterruptedly in England been practiced, and from the adoption of the Constitution enforced in this country, and without objection or denial. Then we may inquire what is the extent of this power? And secondly, when is this power exhausted or when does it end in a given case? It requires no argument to show that it extends to each and both of the Senators from every State in this Union, and for the term that each State is entitled to be heard under the Constitution in the councils of the nation to the entire and full number and quota of her representatives; no more and no less. Not only this, but that the Senate, being a whole made up of constitutional, and alone constitutional, parts, has an equal right to examine into and see who are the true and rightful members of that body, and to purge and purify itself of all foreign and corrupt members or elements, whether they be intruders, interlopers, usurpers, or not entitled to seats from frauds or corrupt practices. This same principle was recognized and enforced in Great Britain from 1624 to the present. So thus far the two governments have traveled together.

This is shown in Male, in Douglass, in Rogers, Granville, and others, in their several works on elections, returns, and qualifications in England, and by Cushing with his references in this country. But our attention is now specially called to the case under consideration. When and under what circumstances does or shall this right cease and end?

Before expressing my opinion on this it may be proper to say that in England from the first to the present no case has been found that runs in principle contrary to the one we have on hand on the point, but in full accord with the views here expressed, that it is an abiding and controlling right in the body possessing the power to investigate, inquire into, and judge thereon and thereof for the entire term for which the member is elected, appointed, or chosen. In the case of Haverfordwest, as far back as 1624, in the House of Commons, which raised the question whether a contest of the seat of one of the members at one session could be inquired into at another session, the session in which the contest was made having expired, it was ruled, in the language of Mr. Granville, in his work on Commons, as follows:

> And as the same returns, if it be grounded upon a good election, is sufficient to enable Mr. Powell to serve in another session, so if his election be undue he may as well be put out then as now, if there be cause.

So it will be perceived that the hinge of this ruling, on this view of the case, turned upon the point that the party had to rely upon and stand upon his election, and the returns as of and for each session or his continuance in office; and as it was his authority for each session of his term, then it remained with the session making up the term, and consequently was open to inquiry if sufficient cause appeared to make it proper or necessary to do so.

Mr. Granville goes on further and says:

> Besides, it tendeth more to the indifferent service of the house and kingdom to have an undue election avoided at any time than to suffer time to run against the house and conclude them to be served with a person that was never chosen only because he could not be removed the first session, interjecting the established maxim then and now, there and here: "*Ut nullum tempus occurrit regi ita nec reipublicæ.*" That election which was not good at first cannot be made good by the track of time. And if an unjust election complained of in the first may not be examined and ordered in the next session, it will so far encourage the delinquencies by delays to protract the hearing of their cause that by this means many undue elections may pass unredressed.

And it may with equal force and reason be said an investigation hastily passed without full inquiry as to all and every element necessary to constitute a good election would be equally fatal to the welfare of the country.

Now, Mr. President, the reason upon which the ruling in the above case is based is the true reason and will control all conceivable cases, although there had been no vote nor judgment passed upon this question at a previous session. That, however, would not avoid or impair the reason of the rule as shown in the case cited, for it is the reason of the rule that should determine; for, as Mr. Blackstone says, it is a maxim that *ratione cessante, lex ipsa cessat.*

Mr. Cushing, in his book on the Practices of Legislative Assemblies, an American work as we know, of date 1874, in speaking of this doctrine and referring to the case given by Granville above, says the validity of a return or election, unless there is some order of the assembly or law to the contrary, may be inquired into at any time during the term for which the member is chosen, citing the maxim *ut nullum tempus occurrit reipublicæ;* but says it must usually be brought forward seasonably so as to admit of a full and fair investigation.

In this connection it may be well enough to state that it is settled in England and this country that the election must in its inception be right and lawful, and if void from any cause in the beginning nothing afterward occurring or being done can make that right which was in the beginning wrong, nor that a legal something which in fact or in law did not exist, and a nothing in the beginning.

Mr. Granville cites the case of Sir Walter Seward in the year 1623, whom it was ascertained was ineligible at the time of his election, and the House of Commons held that his election was void. Mr. Seward being acceptable in all other respects, it was moved that an act of Parliament should be obtained removing his ineligibility at the time of his election that he might take his seat, whereupon it was held that it could not be done for the reason that being ineligible at the time of his election rendered his election void, and even Parliament could not qualify him; and it may be added that the same is true here as well as in the House of Commons. If the election is void from any cause nothing can cure or save it whenever the invalidity can be shown.

Before announcing my views as to the character in which the Senate acts when judging of the election, returns, and qualifications of its members, I wish to refer to Mr. Cushing's view of the word "judge" used in the fifth section of article 1, conferring upon the Senators the sole right to so judge. He says:

> In the Constitution of the United States and in the greater number of the State constitutions it is merely provided that each House shall be the judge of the elections, &c., of its own members;

then remarks that the constitutions of Massachusetts, Kentucky, Ohio, Louisiana, Florida, Mississippi, Alabama, Iowa, and Texas add that a contested election shall be determined in such manner as shall be directed by law. So it will be seen these States did not accord to the word "judge" the effect that some contend for here.

The next question I wish to notice is, what is the character in which the Senate acts when it passes upon or judges of the election, &c, of one of its members. The result of my examinations and reflections upon this branch of the subject is quite satisfactory to myself, and based upon grounds, as I believe, incontrovertibly correct: that it is not a court in a judicial sense, nor is it judicial in its character to such an extent as to carry with it either the rights or entitle it to the defenses which attend and result from judicial tribunals as such; but, on the contrary, that it is political in its character, and what is properly known and called among the higher order of statesmen and jurists a council or court of state and discretion, having for its control, management, and direction parliamentary law based upon usages, customs, precedents, and rules, all parliamentary in character; and all this in contradistinction to the law rules regulating the practices of judicial courts or tribunals or judicatures as such. This conclusion will be found to be the true rule, and I know of no exception, and upon which the English and American authorities are agreed.

Granville, in the case of the election of the knights for the shire in the county of Norfolk, in the year 1600, uses these expressions:

> And if report shall not be made to them—
>
> Speaking of the House of Commons—
>
> of the proof, they cannot judge upon the same what the true case is, wherein the different proceeding of this court and counsel of discretion and state from the course of ordinary courts of justice at the common law, between party and party, are very remarkable, for there the verdict of the jury concludeth the court for a matter of fact, &c.; but that of the committee did not, &c., albeit it be somewhat in the nature of a verdict.

In the celebrated case of Chippenham in 1623-'24 which was a case in which three several parties by their three several petitions, namely, John Maynard, John Pyns, esq., and Francis Popham, each claimed to be the representative of the town of Chippenham—these several parties in their several petitions were heard six several times by the Committee on Privileges and Elections under several special orders of the House by themselves, attorneys, and witnesses on all sides. Among other things the House of Commons said and held as follows:

> And albeit that in other inferior courts of the common law the court and the party in that suit are concluded by the false return of the sheriff in a cause between man and man, and the party thereby aggrieved left to his action upon the case, for his remedy against the sheriff to recover his damage for the wrong thereby done him, yet in Parliament because the commonwealth hath an interest in the services of every particular member of the Common house of Parliament, and this court and council of state and justice is guided by peculiar, more high and politic rules of law and state than the ordinary courts of justice are in matters between party and party, and if in the case of a false return to the Parliament, the House of Commons should thereby be concluded, then should it be in the power of the sheriff to fill the Parliament with persons never duly chosen, who, by presumption, will not be indifferent, and so may be a great means to overthrow or much prejudice the commonwealth, for which no fine or punishment to be imposed upon the sheriff or other parties for such undue returns could ever make sufficient satisfaction, and the statutes which in the affirmation do inflict any particular forfeiture or penalty against the sheriff or any officer for making a false return to the Parliament, are but further punishments and terror, and do not abridge or take away the ancient and natural undoubted privilege and power of the said Commons in Parliament to examine the validity of election and returns concerning their house and assembly, and to cause all undue returns in that behalf to be reformed and to punish the offenders concerning the same according to justice.

This authority should settle this case.

The next view that suggests itself is the inquiry, what should control this council of state and discretion. The answer of all would be the honestly, fairly, and clearly established facts. Secondly, the exercise of a sound, discreet, and well-matured discretion, in contradistinction of an undigested, reckless, or willful exercise of mere power. Lastly, upon precedents, if any, which accord with the rights and the welfare of the nation. To this last our attention is invited. It has been asserted by Mr. Cushing, I think, certainly some American writer on this subject, and I know of no authority to the contrary, that at most this power of the Senate to judge of the elections, returns, and qualifications of its members is judicial in its character, resting upon and to be exercised by parliamentary precedents. While I have not fallen upon any case exactly presenting the points of *res adjudicata* and kindred pleas in the seven hundred years of parliamentary proceedings in England, yet the cases acted upon and the reason that underlies the action of the House of Commons utterly excludes the idea of such pleas and repels the idea of such defenses.

It may be said, in lawyer-like tactics, that no such case appears, because the application of the doctrine of *res adjudicata* was so well recognized that no case was attempted. But it can be replied, first, that no such case as this has ever forced itself on the House of Commons, and no English lawyer even thought of the extraordinary plan of connecting the pleadings, judgments, and process of courts of justice to parliamentary proceedings. One of the troubles, and the very last one that the House of Commons had to contend with, was to relieve the question of a judicial character by taking the question in all and every respect from the lord chancellor, where judgments judicial in nature and character were applied, and where the Crown and the House of Lords labored to keep it, but had in the year 1624 to yield the sole determination of the power to judge of the qualifications of members to the House of Commons; and, according to the rule of that house and ever since, that question has resided with the Commons and been governed by parliamentary rules instead of that of law or chancery.

In this country we have precedents of the power and practice of the American Congress in reviewing and reinvestigating the right of a Senator or Representative to retain his seat after a contest and seating at one session, adjournment without day, and then at a subsequent session the seated member's right thereto considered anew and over, and he unseated, and that, too, in the face of what is interposed in this case, that the seat having been awarded by the Senate or House at one session was *res adjudicata* and could not be reconsidered or reviewed at a subsequent session. Now, let us test this assertion and see if I am sustained by the history of the Congress of the United States in this respect. I will remark that the fifth section of article I of the Constitution places both Houses on an equal footing as to this power, and I shall place them on equal footing as to their capabilities to determine questions either of a judicial or parliamentary character; and on this character of question at least it would smack of presumption for the Senate to arrogate to itself a superiority over those who were members of the House at the time of the discussion and determination of the question we are immediately considering. I will commence with the cases, as far as my researches have gone, as they occurred in the Congress of the United States. The first was in the cases of Messrs. Gholson and Claiborne, Prentiss and Ward, from the State of Mississipi, in 1837, Twenty-fifth Congress. I will give substantially the results, as that is all that is necessary to establish the question in hand. Upon the presentation of the credentials of Messrs. Ghoulson and Claiborne for seats in the House of Representatives objections were made, whereupon the same were referred to a committee. Mr. Buchanan, on the part of a majority of the committee, on the 25th September, 1837, reported a resolution, as follows:

> *Resolved*, That Samuel J. Gholson and John F. H. Claiborne are duly elected members of the Twenty-fifth Congress, and as such are entitled to their seats.

On the 3d day of October, 1837, the House voted (118 yeas to 101 nays) that Messrs. Gholson and Claiborne were duly elected members of the Twenty-fifth Congress, and entitled to their seats; and they were seated actually and acted as Representatives aforesaid from September 4, 1837, and during the entire session of that Congress. Afterward Messrs. Prentiss and Ward were returned to the House, at a succeeding session, claiming the seats then occupied by Gholson and Claiborne. Their credentials were referred to a committee. On the 12th January, 1838, Mr. Buchanan reported the facts to the House, and the House after much debate passed the following resolution—yeas 119, nays 112:

> *Resolved*, That the resolution of this House of the 3d October last, declaring that Samuel J. Gholson and John F. H. Claiborne were duly elected members of the Twenty-fifth Congress, be rescinded, and that Messrs. Gholson and Claiborne are not duly elected members of the Twenty-fifth Congress.

Here is a plain, unequivocal, and well-defined precedent of a branch of Congress acting under precisely the same constitutional provisions and parliamentary usage and authority, and in every way covering the point of *res adjudicata* set up in the debate in this case. This case occurred forty-two years ago, and forty-two years nearer the spirit of the Constitution and those who founded it, and when it is but truth to say they felt it and understood it, esteemed it and executed it the more in consequence thereof.

The next case occurred in 1856, in the Thirty-fourth Congress, first session, between Reeder and Whitfield, of Kansas, likewise in the House, as to the seat as Delegate from the then Territory of Kansas. This case and its involvements attracted much attention in and out of Congress. The credentials of the parties claiming this seat were referred to the Committee on Privileges and Elections; majority and minority reports were submitted; the majority report in the following words, namely:

> *Resolved*, That John W. Whitfield is not entitled to a seat in the House as a Delegate from the Territory of Kansas.

Which resolution, on the 4th August, 1856, passed the House—yeas 110, nays 92.

At the third session of the Thirty-fourth Congress the said John W. Whitfield was returned by the Legislature of the Territory of Kansas. The said Reeder likewise contested the seat of the said Whitfield at this third session. The syllabus of this case recites: Mr. Whitfield was returned to Congress by the Legislature of Kansas, and after considerable debate was permitted to be sworn in and take his seat during the contest. The same questions were raised in this contest that were settled in the previous Congress, together with the new ones, that the governor of Kansas Territory had no legal authority to order a special election. The matter was referred to the Committee on Privileges and Elections, and there was a majority and minority report. The majority reported the following resolution, to wit:

> *Resolved*, That John W. Whitfield is not entitled to a seat in this House as a Delegate from the Territory of Kansas.

On the 27th February, 1857, the House tabled the resolution—yeas 96, nays 85. This left Whitfield in his seat. Here was another case of overhauling, reviewing, and investigating a second time, and at a different session, the judgment of the House which had been made at a previous session, with some additional fact or facts which resulted not decided in a change.

In the first decision Whitfield was ousted of the seat; in the second by parliamentary proceedings had in his case by operation of parliamentary usage, retained the seat, not by a decision or judgment of the House upon the case as made, but by a rule of the House which left him in the possession of the seat without determination of the rights and title to the seat in question. But for a full understanding of this case and its weight as a precedent, it becomes necessary for us to consider the effect of a motion to lay on the table. I am advised that the only effect of such motion is to cut off debate and for the time being suspend action on the subject-matter then before the body, but subject at any moment of time to be called up, and such action taken thereon as the pleasure of the body having charge of it think proper to take. So, in fact, and under parliamentary law, no decision, no judgment was made in and upon the title of Whitfield at the third session to the seat in question.

There may be many reasons or causes for a motion to lay on the table which would control the then approbation and vote *pro* or *con*, and, as I am advised, does not commit a member on the merits or demerits of the matter involved.

So it must be admitted that the Reeder-Whitfield contest is another precedent for acting the second time and at different sessions, and this, too, independent of the motion to lay on the table or the effect of the vote in that case. The point in that case was a review, a rehearing, another investigation over the same seat, with the same parties; and no question of estoppel or *res adjudicata* in the reports of

that or Gholson and Claiborne cases were raised or considered in the way of the second action of the House.

If the laying on the table had the effect of a vote, then it was as completely a review and renewal and change of seats as could be.

The next case that presented itself in the Congress of the United States, and the first in the Senate that involved the point we are considering, was that of Bright and Fitch, of Indiana, in the Thirty-fourth and Thirty-fifth Congresses. The seats of Bright and Fitch being contested upon a pure question of law, no fraud or corrupt practices, the same were referred to the Judiciary Committee, who reported back the following resolution:

Resolved, That Graham N. Fitch and Jesse D. Bright, Senators returned and admitted from the State of Indiana, are entitled to their seats, which they now hold in the Senate as such Senators aforesaid.

The Senate agreed to this resolution—yeas 30, nays 23. At the second session of the Thirty-fifth Congress, a subsequent session to the one in which the Senate had seated Fitch and Bright, Messrs. Lane and McCarty appeared claiming the seats as Senators from Indiana, their memorial to that end being referred to the Judiciary Committee, when on the 3d of February, 1859, Mr. Bayard, of a majority from that committee, reported back to the Senate a resolution the same as the one seating Fitch and Bright, and in assigning reasons for the resolution, among other things, said there was no vacancy in the representation of that State (Indiana) in the Senate, and the decision of the Senate made on the 12th of June, 1858, establishing finally and (in the absence of a motion to reconsider) irreversibly the right of Hon. Graham N. Fitch as a Senator of the State of Indiana, and the right of Hon. Jesse D. Bright as a Senator from the same State, &c. Continuing, he said:

The decision was made by an authority having exclusive jurisdiction of the subject, was judicial in its nature, and being made in a contest in which all the facts and law involving the validity of the election of Messrs. Fitch and Bright and their respective rights to their seats were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana. The judgment of the Senate then rendered it final, and precludes further inquiry into the subject to which it relates.

There was a minority report submitted by Trumbull and Collamer. The subject being called up for action of the Senate upon a motion to lay the same upon the table, the Senate voted—yeas 31, nays 20. So it appears that the Senate never did by a vote determine the question of the merits of the case presented, nor did they decide upon or express any opinion as to the *res adjudicata* views of Mr. Bayard on the part of the majority opinion, nor are his views on that point binding or expressive of the views of the Senate; all that the motion did was to lay the subject on the table, but why or for what reason is not determined or settled except all and every of the reasons that may move a Senator in voting upon such a motion; and I here refer to my views on that subject expressed as to the case of Reeder and Whitfield in the House.

But I am not indifferent to the views of that eminent lawyer who made the majority report in that case. Yet I may respectfully and tenderly refer to the view of that estimable fellow-citizen, and it is this: that if that learned lawyer based the opinion of the finality of the first act of the Senate in the seating of Fitch and Bright upon authority, then I must be permitted to say that his legal exploration has escaped all the research I have been able to make in parliamentary investigation in England and America, and that the opinion he expresses as to its finality and irreversibility has been more the finding of a highly-cultivated and well-stored mind of legal lore than of parliamentary law, and, with all proper respect, I think that was the friction and hitch of his great mind; his legal learning got the upper hand of him on this subject, as might easily happen with a lawyer devoted to his profession. But even then he only induced the Senate to table the question, but not a vote to adopt his views.

It is but justice to Mr. Bayard, who made the report in the case of Messrs. Fitch and Bright, to say, although he recognized as applicable to such cases *res adjudicata* he declared, in connection with his opinions on that plea, that it only applied when all the facts and law involving the validity of the election were as fully known and presented to the Senate in the first trial as the second. So, if this be the true doctrine, then the views of Mr. Bayard as to estoppel are rendered not only harmless to this case, but in that view conclusive of it, as though the plea of *res adjudicata* was out of the case.

These are all the cases I have been able to discover that bear directly upon the point of *res adjudicata*, and I am of opinion they are quite all; and, all considered, should leave no rational doubt in the mind of any unprejudiced Senator. But suppose it did apply to the Senate as well as courts when they sit as judges of the qualifications of a member; then it only does and can do so in such instances and under such a state of facts as would be allowable in a judicial court. The source of the title, the validity of the title, is ever in question during the term for which a member is chosen, and we have seen that if void or a nullity in its inception nothing can make it good. To be or not to be, to exist or not exist, is the question.

The plea of *res adjudicata*, to be properly pleaded or applicable, must go the full length and breadth of the case to which it is pleaded, and this is its test—that is to say, if applicable to the case of the parties we have in hand, it must cover all the qualifying rights of the sitting member in all, every essential view to enable him to retain the seat. Pleas of this character have no exceptions. They are either applicable to the whole case or not at all. Now, suppose it should turn out that the sitting member was wanting in the constitutional qualification of age, residence, or held an office under the Government as provided in the Constitution, and whether that fact was in issue or not upon the faint inquiry in the first seating, and the fact was sought to be developed or was developed after the first contest, I propound the question, could it be inquired into? Who would not say yes, and who has not admitted that in such a case it could be inquired into? Therefore if that is so, then who would say the plea of *res adjudicata* could apply? And if not, in that and all other respects it fails for want of sufficiency to protect the party in the judgment he obtained.

In such a case, namely, residence and age, it might be equally as well and truly said that it was within the issue and could have been proved that the parties had an opportunity, and if they failed from any cause to avail themselves of it they are estopped; that there must be an end of litigation and strife, &c. Why is it not true that one disqualifying cause is not as good as others? Why is not the fact of a want of a choosing power, a rightful State, or bribery, as good as a moment's want of the required age, or being within one inch of the territory in residence? To me it seems upon principle there can be none, and if the plea of *res adjudicata* does not extend to age and residence, why not apply it likewise to the test of the rightful Legislature, or bribery if such exist and is the fact. The general doctrine applicable to pleas of *res adjudicata* is that it is only a bar in reference to the subject-matter and the points there put in issue and determined, and a particular question not shown by the record to have been passed upon cannot be presumed as passed upon. It cannot be pleaded that it was incidentally involved in the former judgment, or that it can be argumentatively inferred. Therefore, even as a question for a court proper and under this plea the question arising in the case we are debating would not fall within it.

Mr. President, I specially invite the attention of Senators to what I shall now say, and it is this: if there is or can be possibly from any stand-point in this case which can pretend to even plausibility for avoiding a review of this case, the vote seating at a former session the sitting member, it is not in or under the doctrine of *res adjudicata* nor that of estoppel. But at most I earnestly urge upon you that it is, and can only be, upon the doctrine of *stare decisis*. And who does not know that that doctrine neither in courts judicial or in their nature judicial, or bodies parliamentary, are not concluded nor bound by it; for that doctrine alone addresses itself to the discretion of the court or body upon whom the duty of action is devolved, and which they can disregard if not believed to be consonant with a sense of right and correct principles. Mr. Cooley declares that the doctrine of *stare decisis*, as applicable to individuals, where important constitutional law is involved, does not apply; for, says he, "here it will be discovered that quite a different rule prevails where the public at large are affected by the decision." And this, too, in and by the same court in which the case was adjudicated; and, in speaking further, he says, "it will of course sometimes happen that a court will find a decision so unfounded in law, so unreasonable in its deductions, or so mischievous in its consequences, as to feel compelled to disregard it."

But such a doctrine, it seems to me, cannot successfully be maintained. Why is it that neither the doctrine of limitations nor estoppel apply to governments? Where is to be found any machinery for new trials, rehearings, and reviews, except inherent in the body as a council of state? Where can be found as applicable to this body the rules and limitations as to writs of error, appeal, new trials, or bills of review, except such as properly and necessarily reside in this body to do so? Who will suffer a surprise by this reinvestigation, and who has not known all the time it was going on and would be renewed? Who has lost any evidence by the delay, or been placed at any disadvantage or loss by the conduct of the contestant that impresses us that means and opportunity have been impaired?

I have heard it said, and I may say urged, that the views here and elsewhere announced by myself and others lead to mischievous results, in this: that it subjects the seats of Senators to the changes and upheavals of party and partisan politics and made to depend upon the presence of a mere party majority, and thereby become a party question alone. In this assertion I do not concur, nor do I believe it. There is nothing new in this assertion, however. It is but a repetition in this day as to this question that was much better said and vastly more ably argued by Mr. Hatsell in the House of Commons in the British Parliament in 1770, when Sir Robert Walpole cut up so, and in which Mr. Grenville took occasion to enlarge on the same subject, which culminated in his famous act of 7th March, 1770, which met then with the opposition of such men as Lord North, Charles James Fox, and others. They tried legislation to correct this alleged evil, but it gradually gave way, and as an improvement on the Grenville act, (2 and 3 Victoria,) called Sir Robert Peel's act, in 1839, which was largely based upon the honor, the honesty, and integrity of the members, and which proved to be much the better mode and means of avoiding and ridding itself of partisan conduct.

The only reliable rule in law or practice, in my judgment, is to place it upon the proper principle—the place and parties—where the Constitution places it; and that is, upon a presumed soundness of judgment, pure and elevated motives, and a well-matured and prudent

discretion of each House, and then, when the occasion or duty requires, meet it like Senators. Let each dust his feet and shake from his garments before he enters this Chamber, partisan feelings, purposes, party advantages, benefits, and preferments, and do his duty, and all will be and end well sooner or later and sooner than later. Let no party advantage enter into it from any source or from any member. There is not, and should not be in the determination of this question, partisanship. We are here to inquire of the facts, and to decide upon them, without knowing the political opinions of the contestant or the effect it may have upon the parties of the country. The party or the aspirant who would act or cause me to act in this matter from such consideration is an enemy to me, my country, and my party; and a party that would require me to vote from party diplomacy and tactics in the discharge of my sworn duty is not worthy of my support and should not succeed. If illegality or corruption has entered and sits in this body, it is a duty we owe to the country, to honest party, to this body, to ourselves, to the State whose seat he unjustly holds, to eject him, and let the State fill it with a rightful representative.

It is said that to reinvestigate the sitting member's seat in this case is revolutionary, rebellious, firing on Fort Sumpter, &c. Such was not so thought, much less said, in England for seven hundred years; such was not said when the House, in 1838, unseated Gholson and Claiborne, of Mississippi; such was not said in the case of Reeder and Whitfield, from Kansas; such was not said in the case of Fitch and Bright, from Indiana. It is true that within the last fifteen years monstrous and alarming legislation has been enacted, and such as benumbed the sovereignty of the States and impaired the liberties of the people. It is true that the judicial department seemed to have lost its robes and green bags that once graced the judiciary, for the buckram coat of a political decider. It is true that decisions in late days makes paper gold, and State judges in the honest discharge of their duties have been made inmates of prisons. It is true that the grip of States have been broken and criminals turned loose, out and upon the country, if perchance he has a certificate of a revenue appointment in his pocket. Hence the necessity, hence the propriety to confine the judicial to its own defined sphere, and purge the legislative department of foreign or undue elements, if such it has.

We are in the line of our duty when in search of truth and the defeat of fraud and corruption. Let it be known and felt that wherever found and its associate crimes are discovered they will be visited on those that have produced it, and that they should not profit by it. Others will thereby be deterred from like conduct; otherwise it is an inducement held out as a premium to repeat such practices. This is admitted, but it is said there must be an end to strife; that is true as to individuals, but never so as to the public. Would it be better to rid ourselves of fraud and usurpation by repeated efforts than to submit to undue membership and have inflicted upon the country such wrongs? It may so happen that this Senate may vacate the seat of a member, and if so, it will be done while the democrats are in the majority; and it may be so that it will have to be done, if done at all, by the votes of democrats, and if so, it will be shown that it is not the only time or occasion they have had to discharge high and important duties or to run counter to the republicans. It is most generally the case with both parties that a line of policy and rules of action become in their judgment necessary to be changed, and changes have often been wrought and should be wrought; that such changes are not only expected but needed. Such is the remedy furnished by the ballot-box to correct wrongs.

It is just as much the duty for the democrats to turn out, when opportunity presents itself by a majority of ten or more, if the case is made out, as it was by a strict party vote (of two) to seat the member.

Mr. President, in conclusion I am free to say that if any Senator believes the Packard legislature the lawful and rightful one, then I can see some grounds for his support of the claims of the sitting member. But I do not see how any Senator who says he does not believe the Packard legislature had any lawful existence, and that he fully believes that fraud and bribery were used to procure the seat of the sitting member, can explain himself to the country or satisfy himself in his support of the wrong; "to know the right and yet the wrong pursue." And I do not believe that any Senator will so say and then act so inconsistently.

Mr. BAYARD. I have paid so much respectful attention to the elaborate argument of our honored friend from Alabama [Mr. PRYOR] that I am sure he will be glad if I complete the legislative history of the report made in 1859 in the case of Fitch and Bright. He has referred to the fact that a report was made on the 3d of February, 1859, from the Committee on the Judiciary by Mr. Bayard, of Delaware. The Journal says:

Mr. Bayard, from the Committee on the Judiciary, to whom was referred a memorial of the State of Indiana, by her senators and representatives in general convention assembled, requesting that Hon. Henry S. Lane and Hon. William Monroe McCarty be admitted to seats in the Senate of the United States as the only legally elected and constitutionally chosen Senators of that State; also certified copies of the proceedings of the senate and house of representatives of the State of India...a of the 22d of December, 1858, relative to the election of United States Senators, submitted a report asking that the committee be discharged from the further consideration of the memorial of the Legislature of Indiana.

The honorable Senator from Alabama has read extracts from that report, with such comments as seem to him meet and proper, but I draw his attention to the fact that the only resolution accompanying the report was a resolution that the Committee on the Judiciary be discharged from the further consideration of the subject for the reasons stated in the report.

On the 14th of February, 1859, the question came up finally in the Senate for consideration, an amendment having been proposed by Mr. Seward, of New York, to amend the resolution which was to discharge the Committee on the Judiciary, by striking out after the word "resolved" and inserting—

That Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on the Judiciary on the memorial of the Legislature of Indiana declaring them her duly elected Senators, and that they have leave to speak to the merits of their rights to seats, and on the report of the committee.

On motion by Mr. Pugh to amend the amendment proposed by Mr. Seward by striking out all after "that" and inserting:

"The resolution of the Senate, adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision of all the premises then in controversy, and conclusive as well upon the Legislature of Indiana and all persons"—

Mr. HOAR. The Senator from Delaware reads with his back toward a portion of the Senate. I think it is quite interesting to all of us to hear what he reads.

Mr. BAYARD. I beg pardon, my object being merely to correct the record as stated inadvertently by the honorable Senator from Alabama, I was directing my remarks unconsciously to him.

Mr. HOAR. We would all like to hear what the Senator reads.

Mr. BAYARD. I have read the amendment to the resolution offered by Mr. Seward, of New York. Then comes an amendment by Mr. Pugh, to strike out the amendment proposed by Mr. Seward and insert:

The resolution of the Senate, adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright, as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision of all the premises then in controversy, and conclusive as well upon the Legislature of Indiana, and all persons claiming under its authority, as upon the Senators named in the resolution.

Then:

On motion by Mr. Harlan,

That all the papers in this case be recommitted to the Committee on the Judiciary, with instructions to inquire whether Graham N. Fitch and Jesse D. Bright or Henry S. Lane and W. M. McCarthy, or any one of them, has been elected to the office of Senator of the United States from the State of Indiana as provided by the Constitution of the United States, and in accordance with the laws and usages of the State of Indiana, and report the facts connected with and bearing on the supposed election of each to the Senate, and that the contestants be allowed to appear at the bar of the Senate when such report shall be made and argue their right to seats.

After debate,

A division of the motion made by Mr. Harlan was called for by Mr. Stuart; and the question being taken on the first division, namely: "That all the papers in this case be recommitted to the Committee on the Judiciary,"

It was determined in the negative—yeas 14, nays 32.

* * * * * * *

Those who voted in the affirmative are:

Messrs. Cameron, Chandler, Clark, Collamer, Doolittle, Douglas, Fessenden, Foot, Hamlin, Harlan, King, Seward, Trumbull, and Wilson.

Those who voted in the negative are:

Messrs. Bayard, Benjamin, Bigler, Broderick, Brown, Chestnut, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson, of Tennessee, Jones, Kennedy, Lane, Mallory, Mason, Polk, Pugh, Reid, Rice, Shields, Slidell, Smith, Stuart, Toombs, and Ward.

Then a vote was taken upon the amendment proposed by Mr. Pugh to the amendment of Mr. Seward, upon which the yeas were 30 and the nays were 16.

On the question to agree to the resolution from the Committee on the Judiciary, amended, as follows:

Resolved, That the committee be discharged from the further consideration of the memorial of the State of Indiana.

Those are the words of the recommendation of the report, and the only recommendation of the report which the honorable Senator read. He read it as having been made from the Committee on the Judiciary, by the majority of that committee on the 3d of February, 1859. Further:

And that the resolution of the Senate adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright, as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision of all the premises then in controversy, and conclusive, as well upon the Legislature of Indiana, and all persons claiming under its authority, as upon the Senators named in the resolution.

It was determined in the affirmative—yeas 30, nays 15; the same persons voting relatively as I have described, and that I read before. I will say that I find one name absent, for what cause I know not, whether being paired or not. The name of Mr. Bayard does not appear in the affirmative or in the vote at all. I suppose he was paired.

Mr. HOAR. He was paired.

Mr. BAILEY. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Delaware yield to the Senator from Tennessee?

Mr. BAYARD. Certainly, with pleasure.

Mr. BAILEY. I simply wish to aid the Senator from Delaware in getting at the legislative history of that transaction. I believe the resolution finally adopted declares that the judgment, or the decision, or the resolution (I do not remember the language) adopted at a former session of Congress was conclusive upon the Legislature of the State of Indiana as well as upon the parties.

I wish to call attention just in that connection to the fact that there was but a single Legislature in the State of Indiana. All were agreed that Bright and Fitch had been elected by the only Legislature in that State. It was not like the case that is now before the Senate, where two bodies were contending for legislative power, but all parties admitted that the body that elected Fitch and Bright was the Legislature of the State of Indiana. The only question presented was whether it had proceeded in form and in manner proper to a legislative body to elect those gentlemen to the Senate. Indeed, as it will appear from the report in the case, it had proceeded in the precise manner that was afterward adopted by the Congress of the United States and is to-day the law of the land. Bright and Fitch were elected exactly in the mode that is prescribed to-day by the law of the United States enacted under the authority of the Constitution.

I wish that to appear as part of this legislative history, that there was no contest between two Legislatures; it was no question as to whether this or that was the Legislature; and when the Senate declared that the Legislature of the State of Indiana was concluded by its own action and certainly by the judgment of the Senate, it seems to me that it presented a very different case from the one that is now before the Senate.

Mr. BAYARD. Mr. President, it is always a pleasant thing for me to hear the statements and arguments of my friend from Tennessee, [Mr. BAILEY,] but I think he misapprehends my object in not reading the Journal of 1859 as I did.

Mr. BAILEY. Will the Senator permit me to say that I supposed he wished to present the legislative history, and it seemed to me that it was a necessary part of that history to explain the origin, nature, and character of the case.

Mr. BAYARD. It was not at all my purpose to enter upon the legal or other merits of this case. My purpose was simply to give the truth of history. The honorable Senator from Alabama had fallen into an error, which other Senators had fallen into in regard to the history of the proceedings in the case of Fitch and Bright. There was some reason perhaps for that. In a compilation of the contested-election cases in this body, known as Bartlett's compilation, the case of Fitch and Bright is there stated concluding with the remark that the report was laid upon the table by a vote of 31 to 20, and there the compilation of Bartlett stops. It does not pursue the history of the case further, and I remember directing the attention of my honorable friend from Tennessee to an error into which he had been led as to the fact owing to the incompleteness of Bartlett's report of the case.

At page 305 of the Journal of the Senate for the Thirty-fifth Congress, second session, on the 11th of February, 1859, it appears that:

The Senate resumed the consideration of the report of the Committee on the Judiciary on the memorial of the State of Indiana, relating to the Senators of that State, namely: That the committee be discharged from the further consideration of the memorial.

That was the only resolution reported from the committee.

An amendment being submitted by Mr. Seward, and an amendment to that amendment by Mr. Pugh—

While the debate was going on Mr. Pugh moved—

That the report of the committee, with the pending amendments, lie on the table.

And on Mr. Pugh's motion to terminate the discussion at that day and for that time, the report of the committee with the amendment and the amendment to that amendment was laid upon the table by a vote of 31 to 20. Therein I think my honorable friend from Alabama has been misled in supposing that apparently by the vote to lay upon the table there was an expression of dissent from the positions reported by the committee as from the resolution which they asked the Senate to adopt; because immediately after, on the 14th of February, the question was taken up from the table, it was brought again before the Senate, and the resolution passed by a vote of two to one, as I have read to the Senate.

So much for the complete history of the action of the Senate in declaring that the report made in 1858 in that case was a final and conclusive report upon the State of Indiana as well as upon all others claiming the seats.

But let me go back a little further, sir. I do not propose to state all the facts connected with the claim of Fitch and Bright to their seats or of Lane and McCarty to the same seats. It is not with the peculiar facts of those cases that we have to-day to deal, although they may be interesting for the purpose of illustration; but it is to define what was the senatorial history of the action at that period, how did they treat at that time the question of dealing with the application for admission of members to this body? Messrs. Bright and Fitch had been admitted upon their *prima facie* title, and had taken their seats. On the 17th December, 1857—

Mr. Trumbull submitted the following resolution; which was considered by unanimous consent, and agreed to:

"*Resolved*, That the credentials of the sitting members of this body from the State of Indiana, together with all the papers on file protesting against their right to seats, or relating to their election as Senators in Congress by the Legislature of Indiana, be referred to the Committee on the Judiciary."

And they were so referred.

On the 21st of January, 1858:

Mr. Bayard, from the Committee on the Judiciary, to whom were referred, by a resolution of the Senate of the 17th December, the credentials of the sitting members of this body from the State of Indiana, with all the papers on file protesting against their rights to seats or relating to their election as Senators in Congress by the Legislature of Indiana, submitted a report, (No. 19,) accompanied by the following resolution:

"*Resolved*, That in the case of the contested election of Hon. Graham N. Fitch and Hon. Jesse D. Bright, Senators returned and admitted to their seats from the State of Indiana, that the sitting members and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members, touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceeding in some public gazette printed at Indianapolis.

On motion, that report was ordered to be printed. On the 4th of February, 1858:

The Senate proceeded to consider the resolution reported by the Committee on the Judiciary, to whom was referred the protest against the election of Hon. Jesse D. Bright and Hon. Graham N. Fitch as Senators in Congress from the State of Indiana; and

An amendment being proposed by Mr. Trumbull,

After debate,

On motion by Mr. Bayard, that the resolution lie on the table,

It was determined in the affirmative—yeas 29, nays 18.

On the 15th of February, 1858:

The Senate resumed the consideration of the resolution reported by the Committee on the Judiciary, to whom were referred the credentials of Hon. Graham N. Fitch and Hon. Jesse D. Bright, and the protest against their election as Senators in Congress from the State of Indiana; and

The amendment proposed by Mr. Trumbull being under consideration,

After debate,

On motion by Mr. Hunter,

Ordered, That the further consideration of the resolution be postponed until to-morrow at one o'clock.

On the 16th the Senate proceeded to consider the resolution.

On the question to agree to the following amendment proposed by Mr. Trumbull:

Strike out all after the word "resolved," and insert:

"That the Senate will now proceed to a final determination of the right to seats in this body of Graham N. Fitch and Jesse D. Bright, claiming to have been elected Senators by the Legislature of Indiana."

It was determined in the negative—yeas 16, nays 28.

An amendment was then offered by Mr. Seward:

Provided, That the proofs to be taken shall be limited to the swearing-in of the members of the Legislature of Indiana, the organization of the said Legislature, and the proceedings thereof, connected with the election of the sitting members for said State in the Senate of the United States, and shall be returned to the Senate of the United States within sixty days from the passage of this resolution.

A division was called for by Mr. Hale; and, the question being taken on the first clause, relating to the proofs to be taken,

It was determined in the negative—yeas 19, nays 25.

A motion was made by Mr. Pugh to extend the time from sixty days for taking testimony to ninety, which was carried—27 to 18.

Mr. Toombs moved the following amendment:

And provided, That no testimony shall be taken under this resolution in relation to the qualification, election, or return of any member of the Indiana Legislature.

That was agreed to without dissent. Then Mr. Wilson moved that the testimony be taken by—

Hon. Oliver H. Smith, Hon. John Pettit, and Hon. John D. Defrees, who are hereby appointed commissioners for that purpose.

Mr. HILL, of Georgia. What page is the Senator reading from?

Mr. BAYARD. I am reading now from page 194 of the Journal of 1857–'58.

The resolution, as amended, was then agreed to. Perhaps as it is interesting I had better re-read it:

Resolved, That in the case of the contested election of Hon. Graham N. Fitch and Hon. Jesse D. Bright, Senators returned and admitted to their seats from the State of Indiana, the sitting members, and all persons protesting against their election, or any of them, by themselves or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members, touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceeding in some public gazette printed at Indianapolis: *Provided*, That the proofs to be taken shall be returned to the Senate of the United States within ninety days from the passage of this resolution: *And provided*, That no testimony shall be taken under this resolution in relation to the qualification, election, or return of any member of the Indiana Legislature.

That was the resolution adopted on that day—the 16th day of February, 1858. On the 24th day of May following:

Mr. Pugh, from the Committee on the Judiciary, to whom were referred the credentials of Graham N. Fitch and Jesse D. Bright, Senators from the State of Indiana, together with the documents and testimony relative to that subject, submitted a report, (No. 275,) accompanied by the following resolution:

"*Resolved*, That Graham N. Fitch and Jesse D. Bright, Senators returned and admitted from the State of Indiana, are entitled to the seats which they now hold in the Senate, as such Senators aforesaid, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863, according to the tenor of their respective credentials."

On motion of Mr. Benjamin,

"*Ordered*, That the report, with the accompanying documents, be printed."

On the 10th of June, 1858:

The Senate proceeded to consider the resolution reported by the Committee on the Judiciary, declaring Hon. Jesse D. Bright and Hon. Graham N. Fitch, Senators from the State of Indiana, entitled to their seats in the Senate; and

On motion of Mr. Bright:

"*Ordered*, That the further consideration thereof be postponed to, and made the special order of the day for, to-morrow at twelve o'clock."

On the 12th of June, 1858:

The Senate resumed the consideration of the resolution reported from the Com-

mittee on the Judiciary, declaring Hon. Jesse D. Bright and Hon. Graham N. Fitch, Senators in Congress from the State of Indiana, entitled to their seats in the Senate.

A motion was made by Mr. Hamlin to amend the resolution by striking out all after the word "*Resolved*" and inserting: "That the case of Jesse D. Bright and Graham N. Fitch be recommitted to the Committee on the Judiciary, with instructions to report specially the grounds on which the resolution is based declaring said Bright and Fitch elected."

On motion by Mr. Trumbull to amend the proposed amendment by striking out all after the word "that" and inserting: "In the opinion of the Senate no election of a member of this body made by the Legislature of a State consisting of two branches is valid, when made in a meeting of individual members of both, unless such meeting for that purpose was prescribed by law or had been previously agreed to by each house acting separately in its organized capacity, or is participated in by a majority of the members of each house, or is subsequently ratified in some form by each house in its organized capacity," it was determined in the negative—yeas 17, nays 26.

Then a motion was made by Mr. Trumbull to amend the resolution by inserting after the word "are" and before the word "entitled" the word "not." That was decided in the negative—yeas 23, nays 20.

No further amendment being proposed, the resolution reported by the Committee on the Judiciary was then agreed to, as follows.

Then follows the resolution which I have read that Fitch and Bright are entitled to their seats according to the tenor of their respective credentials. So it stood from June 12, 1858, which was the last resolution of the Senate upon the subject affirming the title, after contest, of these two Senators to their places, until the Legislature of Indiana sent in two other Senators in regard to whom the resolutions I read in the first place were passed by the Senate at the dates and times I have stated.

I have merely referred to this record for the purpose of correcting an error of historical fact into which the honorable Senator from Alabama was inadvertently led in supposing that the report made in 1859 in the month of February from the Committee on the Judiciary had not met the approval of the then Senate of the United States. I have read the notes; and what I have read has not been with the purpose of expressing any opinion in relation to the pending question, but simply that the truth of history in regard to a case that has passed by might be accurately understood by the Senate and the country.

Mr. HOAR. Mr. President, I move the following amendment as a substitute for the pending resolutions:

Resolved, That in the judgment of the Senate the matters reported by the Committee on Privileges and Elections at the present session respecting the right to the seat in this body now held by WILLIAM PITT KELLOGG and claimed by Henry M. Spofford are not sufficient to justify the reopening of the decision of the Senate, pronounced in its resolution adopted on the 30th day of November, A. D. 1877; that said KELLOGG was, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, A. D. 1877, and that said Spofford was not entitled to a seat in the Senate of the United States.

Mr. President, the Senator from Wisconsin, [Mr. CAMERON,] who is the senior member of the minority of the Committee on Privileges and Elections, and who was also the republican member of the subcommittee to take the testimony in this case, had the floor yesterday to address the Senate. He is prevented from being in his seat by illness, and last night or this morning he has suddenly been called by the report of the dangerous and probably fatal sickness of a near relative. He expects to return early in the next week, perhaps by Monday. I had arranged privately with the honorable Senator from Georgia, [Mr. HILL,] who thought it possible that he might desire to be absent pretty soon, that he should follow the Senator from Wisconsin and that I should follow the Senator from Georgia; but it does not seem quite fair to ask all the members of the majority of the committee to proceed to make their speeches on the subject without expressing more fully the views of the minority. Therefore I will take the floor now and will be prepared to address the Senate when the case comes up again myself, unless the Senator from Wisconsin should return or unless the Senator from Georgia should then desire to go forward for any reason growing out of his own convenience.

Mr. HILL, of Georgia. I will say that the arrangement spoken of by the Senator from Massachusetts is entirely satisfactory to me. I would prefer that he should speak on Monday, for I think he is entirely correct in saying that it is fair that the other side should be heard from, and I hope, therefore, it will be understood that the Senator from Massachusetts—or if the Senator from Wisconsin shall return and prefer it the Senator from Wisconsin—shall go on upon Monday, and that I shall have the floor for Tuesday.

I desire now to move that the amendment offered by the Senator from Massachusetts be printed.

Mr. HOAR. That is my desire. It will be printed of course.

The PRESIDENT *pro tempore*. The amendment will be ordered to be printed, unless objection be made.

Mr. McMILLAN. As the Senator from Massachusetts does not desire to proceed at this late hour of the day, I move that the Senate proceed to the consideration of Senate bill No. 849.

Mr. HILL, of Georgia. If the Senator from Minnesota will allow me, I will state that there was an understanding with the Senator from West Virginia [Mr. DAVIS] that he should have the floor to call up a measure if the pending resolutions were informally laid aside after the Senator from Massachusetts got the floor.

Mr. HOAR. My friend from Minnesota I believe only expects to take a minute with his measure.

Mr. DAVIS, of West Virginia. It will be recollected that this morning I gave notice that if no one addressed the Senate after the Senator from Alabama on the special order I should ask the Senate to take up the bill to repeal the permanent, indefinite, and annual appropriations, and I supposed that the Senate generally understood that.

Mr. HOAR. I yielded to the Senator from Minnesota without knowing the desire of the Senator from West Virginia; but there need be no conflict, for I understand the bill of the Senator from Minnesota will take but a minute.

Mr. McMILLAN. The bill to which I refer is a bill that will call for no dispute or discussion. It is Senate bill No. 849, which has been reported from the Committee on Commerce, in regard to the construction of a bridge across the Saint Croix Lake, the boundary-line between Minnesota and Wisconsin. I ask that the pending order be laid aside temporarily for the purpose of proceeding to the consideration of that bill.

The PRESIDENT *pro tempore*. That requires unanimous consent.

Mr. McMILLAN. I ask unanimous consent for that purpose.

The PRESIDENT *pro tempore*. Does the Senator ask that the pending order be laid aside informally without being prejudiced by an adjournment to-day?

Mr. McMILLAN. Yes, sir, that is the understanding.

Mr. DAVIS, of West Virginia. I understood that the understanding was general that I should call up a bill. I gave notice, and I saw the Senator in charge of the pending resolutions. The only change in the understanding was that the Senator from Georgia gave way to the Senator from Massachusetts.

Mr. HILL, of Georgia. The understanding was that the Senator from Massachusetts should take the floor, and I supposed he would give way to the Senator from West Virginia.

Mr. HOAR. I took the floor in my own right.

Mr. HILL, of Georgia. That is true.

Mr. HOAR. And I yielded to my friend from Minnesota; but there is no practical difficulty; the Senator from Minnesota could have got his bill through before this time.

Mr. DAVIS, of West Virginia. Perhaps so. It is a bill; and I only have a bill.

Mr. HOAR. The Senator from West Virginia does not lose his right to test the question; he does not lose any right by giving way to the Senator from Minnesota.

The PRESIDENT *pro tempore*. The Senator from Minnesota asks unanimous consent that the pending order be laid aside informally without being prejudiced by an adjournment to-day, in order that he may move to proceed to the consideration of the bill which he has named.

Mr. CONKLING. I wish to ask the Senator from Minnesota, as I observe that both the Senators from Wisconsin are absent, whether there is any reason known to him for which they would like, either of them, to be present when this bridge bill is considered?

Mr. McMILLAN. None whatever that I know of. I do not think there is any objection to the bill whatever.

The PRESIDENT *pro tempore*. Is there objection to the proposition of the Senator from Minnesota. If there is none the pending order is laid aside informally without being prejudiced by an adjournment to-day. The question is, Will the Senate proceed to the consideration of the bill indicated by the Senator from Minnesota? The Chair hears no objection.

BRIDGE ACROSS LAKE SAINT CROIX.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix and to establish it as a post-road.

Mr. DAVIS, of West Virginia. I wish to state that as it was understood as I thought that the bill I hold in my hand should succeed the speech of the Senator from Alabama I hope that when this bill is passed I shall be permitted to take the floor.

Mr. PLUMB. Let me say to the Senator——

The PRESIDENT *pro tempore*. The bill before the Senate will be read.

The bill was read.

The bill was reported from the Committee on Commerce with an amendment, in section 2, line 17, before "feet," to strike out "forty" and insert "sixty," and, after "clear," to insert "at low-water surface;" and in line 20, before "feet," to strike out "thirty" and insert "forty;" so as to make the proviso read:

That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the lake at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in the clear at low-water surface on each side of the central or pivot pier of the draw; and the next adjoining spans to the draw shall be not less than one hundred and forty feet, and said spans shall not be less than ten feet above extreme high-water mark, and not less than thirty feet above low-water mark, measuring to the bottom chord of the bridge; and the piers of said bridge shall be parallel with the current of the lake.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. EDMUNDS. I should like to hear that clause in the bill read,

if there be one, which reserves to Congress the power to regulate and repeal all the rights granted by this act.

Mr. McMILLAN. It is the last section of the bill.

The Chief Clerk read as follows:

SEC. 6. That the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of said lake by the construction of bridges is hereby reserved.

Mr. EDMUNDS. That does not come up to what the musicians would call the concert-pitch that we have had in these bills, by a long deal. As the bill had been read a third time before I came in, I suppose I cannot move to amend it now, but I merely call the attention of the Senate to the fact that it is far short.

The PRESIDENT *pro tempore*. The Senator can move to reconsider.

Mr. HOAR. I move to reconsider the vote just taken.

Mr. EDMUNDS. I should like to find one of these last bridge acts.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

The motion to reconsider was agreed to.

Mr. HOAR. If the Senator from Vermont will listen a moment, to save him trouble I suggest simply that the limitation of the right to alter or amend the act be stricken out and that the general authority be reserved. There cannot possibly be any objection to that. I move to strike out so much of the sixth section as limits the right to alter or amend, so that the last section will read:

That the right to alter, amend, or repeal this act is hereby reserved.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to strike out the words "so as to prevent or remove all material obstructions to the navigation of said lake by the construction of bridges," and to insert after the word "amend" the words "or repeal;" so that if his amendment be adopted the section will read:

That the right to alter, amend, or repeal this act is hereby reserved.

That is as the Chair understands it.

Mr. McMILLAN. That is satisfactory.

Mr. EDMUNDS. I should be glad to put this section on the same footing as some sections have been put where attention has been drawn to the matter in respect of these bridges, so as to secure not only the right to withdraw the authority but also to secure the right to require the corporation or grantee itself at its own expense to remove any obstruction to navigation that it may have placed there.

Mr. McMILLAN. If the Senator will suggest any amendment at all of that character it will be acceptable to me. I do not wish any delay in the passage of the bill.

Mr. EDMUNDS. I move to amend the amendment of my friend from Massachusetts by striking out all after the word "act," in line 1, of section 6, and inserting after the word "amend," in line 1, the words:

Or repeal, as in the judgment of Congress the public good may require, and to compel the removal of any obstructions to navigation produced by said bridge.

That is about the substance of what the Senate has heretofore done in such cases.

Mr. HOAR. How can an amendment to insert something be moved as a substitute for a simple amendment to strike out?

Mr. EDMUNDS. My friend's amendment is not an amendment to strike out.

Mr. HOAR. It is.

Mr. EDMUNDS. It was an amendment as I thought to strike out and insert.

Mr. HOAR. Not at all.

Mr. EDMUNDS. Then if it is an amendment to strike out merely, I can move to perfect the text. I think I can get at it in that way.

Mr. HOAR. The Senator proposes to insert something in the room of an amendment which is purely to strike out. The Senator's amendment is not perfecting the text, because he proposes to strike out what I do. He will get liberty after the amendment to strike out is carried, if it is carried, then to move to insert that which he proposes. If he should make a motion to strike out and insert, under the rule that can be divided and the motion to strike out be put first.

The PRESIDENT *pro tempore*. It seems to the Chair that a motion being made to strike out, the text may be perfected before that motion is put.

Mr. EDMUNDS. There is no doubt of that, but to save trouble if the motion of the Senator from Massachusetts is merely to strike out, (I thought it was to strike out and insert,) then we can take the question on that and strike out the words suggested by him, and I will move my amendment afterward.

The PRESIDENT *pro tempore*. The Chair did state that the motion of the Senator from Massachusetts was to strike out a part and also to add the words "or repeal" after the word "amend." Perhaps the Chair did not understand the Senator correctly; but such a motion is subject to a division. The question will be put first on the motion to strike out. The Senator from Massachusetts moves to strike out the words:

So as to prevent or remove all material obstructions to the navigation of said lake by the construction of bridges.

The amendment was agreed to.

The PRESIDENT *pro tempore*. Now the Senator from Massachusetts moves to insert, after the word "amend," the words "or repeal."

Mr. EDMUNDS. I have no objection to that.

The amendment was agreed to.

Mr. EDMUNDS. Now I move the following amendment——

The PRESIDENT *pro tempore*. The Senator from Vermont will please send his amendment to the Clerk.

Mr. EDMUNDS. I think probably I shall have to read it and let the Secretary take it down, as I have written it very hastily, and I am afraid my short-hand writing can hardly be read by him. I believe the words "is hereby reserved" are still in the section.

The PRESIDENT *pro tempore*. They are.

Mr. EDMUNDS. I move now to insert after the word "act," which I think still stands, these words:

As in the judgment of Congress the public good may require, and to compel the removal of any obstructions to navigation caused by said bridge at the expense of the persons or corporations taking the benefit of this act.

Then come the words "is hereby reserved."

Mr. ALLISON. I should like to ask the Senator from Vermont whether that might not be considered a limitation of the power to alter, amend, or repeal? In other words, does not the power to alter, amend, or repeal carry with it all the power suggested in the amendment and such other powers as may be found expedient from time to time?

Mr. EDMUNDS. I should have said so at one time; but there was a bridge built across the Ohio River, which I believe lies out West somewhere in one of the States that shall be nameless. Authority was given, and the bridge was built, and it turned out to be a grievous injury to navigation. Then, in the time of the predecessor of our present honored President, the company itself, with this right to alter, amend, and repeal, reserved, as we had retained it so as to cut up the thing, insisted upon it that it was the business of the people of the United States to remove that obstruction at their own expense and not that of the company, and I believe that the present Secretary of the Treasury came very near making a majority of the Senate believe it. I did not; and now I want to have this superadded so as to leave no possible question.

Mr. HOAR. Why is it necessary to put in "as in the judgment of Congress the public good may require?" We reserve the general power to alter and amend an act. It is presumed that Congress will do it if the public good requires it.

Mr. EDMUNDS. I should have said that is so myself; but, Mr. President, I have heard it very stoutly argued in the Pacific railroad bills before the committee of which you are chairman, and before the Supreme Court, by some people who if they were close might hear me now——

Mr. DAVIS, of Illinois. And before the Senate here too.

Mr. EDMUNDS. And I have heard it argued before the Senate here too, that that clause did not carry the right to exercise an independent judgment, but was still limited by some private right; and I propose to cut that off.

Mr. HOAR. It seems to me that as we have got a bill which the Committee on Commerce unanimously reported, and an amendment has been adopted unanimously by the Senate, and the Senator from Vermont thinks it is right as it is, it is hardly worth while to put in another amendment, because contrary to the very high authority of the Senator from Vermont some Secretary of the Treasury nearly persuaded the Senate to some absurdity which he maintained, and of which he did not succeed in persuading either the Senate or the Senator from Vermont.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMPLETION OF WASHINGTON MONUMENT.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. MORRILL. I ask the Senator from West Virginia to allow me to have a concurrent resolution printed.

Mr. DAVIS, of West Virginia. Certainly I yield if it is only for the printing of a resolution.

Mr. MORRILL. I move that the resolution reported by the chairman of the Committee on Public Buildings and Grounds, [Mr. JONES, of Florida,] March 29, instructing the Committees on Public Buildings and Grounds of the Senate and House of Representatives, acting jointly, to examine what further legislation is required and what additional appropriations will be necessary for the completion of the Washington Monument, &c., and report thereon by bill or otherwise, be printed.

The motion was agreed to.

SENATE CONTINGENT FUND.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. PLUMB. I should like to ask the Senator from West Virginia to permit me to call up a bill of which I gave notice this morning, and which it is urgent should be passed now. It is a bill which passed the Senate once before, and about which there can be no possible controversy. It will take but a moment.

Mr. EATON. If the Senator will wait one moment until a little appropriation bill can be passed about which there will be no controversy, I presume, I shall have no objection.

Mr. PLUMB. I was speaking to the Senator from West Virginia.

Mr. EATON. The Senator from West Virginia has given way to me. I represent the same committee, and there will be no objection to my bill, I take it.

Mr. DAVIS, of West Virginia. The Senator from Connecticut, as is known, has in charge a little deficiency bill, one for the employés of the Senate, or a portion of them. Of course I shall have to give way to him on that. It will only take a moment, I think.

Mr. EATON. I presume there will be no opposition to it.

The PRESIDENT *pro tempore*. The Senator from West Virginia rose and was recognized, but did not state what he wanted.

Mr. DAVIS, of West Virginia. I said I wanted to take up Senate bill No. 1424.

The PRESIDENT *pro tempore*. Does the Senator make a motion?

Mr. DAVIS, of West Virginia. But the Senator from Connecticut has an appropriation bill which, I think, is rather more important just now, and it will only take a moment. I gave way for that purpose.

Mr. EATON. I now move that the Senate proceed to the consideration of the House joint resolution, reported from the Committee on Appropriations, appropriating $15,000 to the Senate contingent fund.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 296) making appropriations for the contingent fund of the Senate.

Mr. EDMUNDS. I should like to hear the report of the Secretary of the Senate read on the subject of the state of this deficiency, which the Senate ordered, and which I believe has been made in connection with this bill.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read as follows:

OFFICE OF SECRETARY OF THE UNITED STATES SENATE,
Washington, May 3, 1880.

SIR: In compliance with a resolution of the Senate, passed April 30, I submit the following statement, showing:

First. The balance standing to the credit of the account of the contingent and miscellaneous expenses of the Senate on the 30th day of June, 1879.

Second. The amount that has been appropriated for that account since the 30th day of June, 1879.

Third. The purposes and objects for which said sums have been expended, arranged under the different and appropriate heads, showing separately the expenses of the respective inquiries ordered or authorized by the Senate.

Respectfully,

JOHN C. BURCH,
Secretary United States Senate.

Hon. W. A. WHEELER,
Vice-President of the United States and President of the Senate.

Mr. EDMUNDS. Go on.

The PRESIDENT *pro tempore*. Does the Senator wish the items read?

Mr. EDMUNDS. Yes, I want to hear the statement. That is the thing I want.

The Chief Clerk read as follows:

Purposes and objects.	Balances standing to the credit of the contingent fund, June 30, 1879.	Appropriated for contingent fund, legislative bill of June 21, 1879, and deficiency bill of February 11, 1880, for fiscal year 1880.	Amount expended from contingent fund from July 1, 1879, to May 1, 1880.
For clerks to committees and pages		$44,952 50	$30,309 00
For stationery and newspapers	$62 97	14 500 00	7,509 62
For horses and mail-wagons	520 62	3,500 00	3,500 00
For furniture and repairs		7,000 00	4,237 14
For furniture and repairs for fiscal year 1879, provided for in deficiency bill, February 11, 1880			12 00
For fuel and oil for heating apparatus	9 92	7,800 00	4,629 57
For materials for folding		4,000 00	2,406 15
For pay of folders		4,000 00	3,547 50
For packing-boxes		606 00	463 01
For Capitol police	24 16	17,750 00	11,801 90
For Capitol police, (contingent)		50 00	49 40
For cartage		600 00	46 90
For compiling and preparing Congressional Directory		1,200 00	1,200 00
For expenses of select committee to inquire into alleged frauds in late and presidential elections	13,546 51		10,415 83
For miscellaneous items, fiscal year 1878			3 00
For miscellaneous items, fiscal year 1879	4,573 22		51 25
For miscellaneous items, fiscal year 1880		45,000 00	
For miscellaneous items, fiscal year 1880, deficiency bill, February 11, 1880		20,000 00	64,995 11
For postage		200 00	200 00
Total		170,352 50	145,437 38

Expenditures from "Miscellaneous Items," for regular, special, and extraordinary expenses.

Committee on Privileges and Elections, Ingalls investigation	$6,468 26
Kellogg investigation	7,297 47
Committee on Civil Service and Retrenchment, investigation in Rhode Island	3,475 98
Committee on District of Columbia	1,113 75
Committee on Territories	76 50
Committee to Audit and Control the Contingent Expenses of the Senate	947 20
Committee on Pensions	203 00
Committee on Appropriations	90 93
Committee on Finance	112 50
Select Committee on the Massacre and Removal of the Northern Cheyenne Indians and the Removal of the Ponca Indians	5,287 65
Select Committee to take into consideration the Election of President and Vice-President	690 00
Select Committee to investigate the cause of the Emigration of the Negroes from the Southern to the Northern States	16,525 30
Select Committee to investigate the Freedman's Savings and Trust Company	9,079 50
Select Committee to make provision for taking the Tenth Census	714 00
Select Committee to inquire into Claims of Citizens of the United States against the Nicaraguan government	11 25
Select Committee to investigate the introduction and spread of Epidemic Diseases	546 00
Select Committee to investigate the Reports, Books, and Accounts of the Treasury Department	3,547 50
Total for committees	56,126 79
Books for library and committee-rooms	667 00
Ice	778 50
Hack hire, &c	28 75
Washing towels	560 28
Winding clocks	225 00
Telegrams and express charges	180 58
Newspapers for files	198 52
Map-racks and locks for committee-rooms	354 64
Safe for financial clerk's room	1,270 60
One month's pay to discharged employés	1,512 50
Funeral expenses of Senator Houston	1,064 32
Funeral expenses of Senator Chandler	81 80
Soap, brooms, brushes, towels, flags, cologne, car-tickets, &c	1,946 43
Total	64,995 11

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FORT HARKER RESERVATION.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. PLUMB. I ask the Senator from West Virginia to give way a moment for the purpose indicated by me a short time ago.

Mr. DAVIS, of West Virginia. I gave way to the Senator from Minnesota for a minute, and his bill I think occupied half an hour. What is the Senator's bill?

Mr. PLUMB. Senate bill No. 194, to provide for the disposal of the Fort Harker military reservation. It is a bill that has once passed the Senate. The reservation is now occupied and has been for many years by actual settlers. There can be no possible controversy whatever about it. If it gives rise to any debate whatever, I shall withdraw it.

Mr. DAVIS, of West Virginia. With that understanding, I give way to the Senator from Kansas.

Mr. PLUMB. I move that the Senate proceed to the consideration of Senate bill No. 194.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation.

Mr. EDMUNDS. I should like to hear the report read.

The Secretary read the following report, submitted by Mr. PLUMB January 21, 1880:

The Committee on Military Affairs, to whom was referred the bill (S. No. 194) for the disposal of Fort Harker military reservation, have considered the same, and make the following report:

That this subject was under consideration in the last Congress, and this committee reported to the Senate a substitute for the then pending measure, which was in the precise language of the bill now being considered. In reporting their favorable action on the pending bill the committee do not deem it necessary to add anything to the views heretofore expressed, and they therefore recommend the passage of the bill, and invite the attention of the Senate to the views embodied in the following report, above referred to:

"The Fort Harker reservation is situated on the line of the Kansas Pacific Railroad, at the ninety-eighth degree of longitude, in the State of Kansas, and comprises about ten thousand acres. It was abandoned for military purposes several years since, and the War Department has repeatedly recommended that it be turned over to the Interior Department for disposal as other public lands. One-half of the reservation is claimed by the Kansas Pacific Railroad Company under its original land grant. The committee do not assume, however, to pass on that claim.

"The reservation is situated about four miles from Ellsworth, the county seat of Ellsworth County, in a section of country settled within the last eight years; it is surrounded by other lands owned by the Government which are subject to entry under the homestead and pre-emption laws of the United States; and the evidence before your committee shows that the lands comprised in the reservation under consideration have no value except for agricultural purposes, and none for such purposes even which is exceptional. They are, also, it is believed, mainly occupied by settlers who have gone on to and improved them since the abandonment by the military authorities.

"It has become the settled policy of the Government to dispose of agricultural lands to actual settlers only. This policy has been applied to military reservations on the frontier where they have been abandoned as not longer needed for military purposes, as shown by the recent action of Congress concerning the reservations of Fort Kearney, Fort Laramie, Fort Fetterman, old Fort Wayne, and others. The Fort Dalles military reservation in Oregon constitutes an apparent exception, but that reservation comprised only about four hundred acres, and was surrounded on two sides by a large and thriving town, which gave to the lands an exceptional value, and for other than agricultural purposes.

"In this case the committee, while applying the policy of the Government to the Fort Harker military reservation, by providing that it shall be sold to actual settlers only, and for the protection of those who have already settled upon it, on the other hand fully protect the interests of the Government by providing for its appraisement under the direction of the Secretary of the Interior, and that it shall be sold at the appraised price, so that whatever increased value it may have by reason of its segregation from the public domain during and since its military occupation may be fully realized by the Government."

Certain amendments, intended to make the text more specific, are recommended; and with their addition, the bill is recommended for passage.

Mr. PLUMB. I ask the Secretary to report the amendments.

The CHIEF CLERK. In section 2, line 11, after the word "acres," the Committee on Military Affairs report to insert "except in case of a fractional quarter section;" so as to read:

SEC. 2. The Secretary of the Interior shall cause said reservation to be appraised as early as practicable, in tracts not exceeding one hundred and sixty acres each, by three competent, disinterested persons; and upon the approval of such appraisement by the Secretary, he shall offer said reservation for sale by giving such notice as is now required for the sale of public lands. The persons who may have, at the date of the passage of this act, settled upon and improved said lands, shall have the prior right to purchase the lands so settled upon at the appraised value thereof, not to exceed one hundred and sixty acres, except in the case of a fractional quarter section, to each person, and shall have such reasonable time in which to make payment therefor as the Secretary of the Interior may prescribe. Such portion of said reservation as shall not have been settled upon and improved at the date of the passage of this act shall be sold by the Secretary of the Interior to actual settlers, under such regulations as he may prescribe.

The amendment was agreed to.

The CHIEF CLERK. In section 2, line 20, after the word "acres," it is proposed to insert "nor at a less price than the appraisal thereof;" so as to make the proviso read:

Provided, That no land shall be sold under the provisions of this act for less than one dollar and a quarter per acre, nor at a less price than the appraisal thereof. All sales of land herein provided for shall be made as nearly as practicable under the rules and regulations now existing for disposing of the public lands of the United States.

The amendment was agreed to.

The CHIEF CLERK. It is proposed to add at the end of the bill:

Provided, That the provisions of this act shall not be construed to impair in any way any rights which may heretofore have been granted to the Kansas Pacific Railway Company.

Mr. PLUMB. I move to add to that amendment, as suggested by the Senator from Vermont, [Mr. EDMUNDS,] these words:

Nor have the effect to confer any right to any part of said reservation.

So that it will leave them just where they are left by the former act.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LIGHT-HOUSE ON LAKE MICHIGAN.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. BALDWIN. I ask the Senator from West Virginia to give way a moment that the Senate may consider at the present time a bill of a very few lines, which certainly will not take more than two minutes. It is Senate bill No. 1610, to which there can be no objection.

Mr. DAVIS, of West Virginia. I can hardly resist the appeal of my friend from Michigan. The bill that I wish to have taken up is a bill of considerable importance to the public. I have no more interest in it than other Senators. It has been before the Senate two or three times, but each time for one cause or another it had to be laid aside. I am going to give way to my friend from Michigan, and will say to the Senate that when the bill to which I refer is called up I think almost every Senator ought to vote for it, for I believe I have given way to nearly all the Senate. I hope there will be no trouble hereafter when I want to get the bill up.

Mr. BALDWIN. This bill will not occupy the time of the Senate more than three minutes.

The PRESIDENT *pro tempore*. The Senator from West Virginia gives way to the Senator from Michigan, who moves to proceed to the consideration of the bill indicated by him. The bill will be reported.

The CHIEF CLERK. A bill (S. No. 1610) making an appropriation for the purchase of a site and the erection of a light-house and fog-signal at or near the entrance of Little Traverse Harbor, on Lake Michigan.

Mr. EDMUNDS rose.

Mr. BALDWIN. It is a bill of only eight lines.

Mr. EDMUNDS. I wish to appeal to the Senator from Michigan to let me get up the little private land claims bill that I am so assiduous about.

Mr. BALDWIN. This will take but a moment, and it is for a harbor of refuge.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan. Is there objection?

Mr. EDMUNDS. Yes, Mr. President, I wish to make a little speech on this motion.

Mr. BALDWIN. If the Senator from Vermont will allow me to say a word or two, I will state that this bill is to provide for a light-house at a harbor of refuge. Some time or other my friend himself may want to put in this harbor of refuge.

The PRESIDENT *pro tempore*. Is there objection to the consideration of the bill?

Mr. EDMUNDS. Let it be voted on; we cannot take it up by unanimous consent.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. EDMUNDS. Let us hear the report.

The Chief Clerk read the following report, submitted by Mr. BALDWIN April 15, 1880:

The Committee on Commerce, to whom was referred the bill (S. No. 1610) asking for the erection of a light-house at the entrance of Little Traverse Harbor, on Lake Michigan, beg leave to report as follows:

The harbor at Little Traverse is an excellent one, but being land-locked it presents at night the appearance of a continuous shore. It is the nearest perfectly safe harbor to the Straits of Mackinaw, and is near the route pursued by vessels going to the lower lakes. It is so situated that vessels can make it in the roughest weather, and frequently it is the only harbor they can make, but being without a light it is exceedingly hazardous to attempt to enter it on a dark night. The nearest light-house to this point is located on Beaver Island, about thirty miles distant. The Light-House Board has recommended the establishment of this light and is of the opinion that it would be very desirable as a harbor of refuge, and of great benefit to commerce. The Secretary of the Treasury estimates the cost of a light-house with fog-signal at this point at $15,000.

The committee therefore recommend the passage of the accompanying bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PERMANENT ANNUAL APPROPRIATIONS.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. MORRILL. I desire to appeal to the Senator from West Virginia. I do not think that there will be any opposition to his bill when it is properly before the Senate, especially if he shall be willing to consent to exclude trust funds of the Indians; but it is now a quarter to five o'clock; it is necessary that we should have a short executive session, and with his permission I will move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. In one minute I shall give way.

Mr. MORRILL. I withdraw my motion to hear the Senator.

Mr. DAVIS, of West Virginia. I stated a moment ago that this bill which I propose to call up is one of very considerable importance. It is known that there are in all about $120,000,000 each year paid from the Treasury over which Congress has no control and on which it does not pass annually. That includes interest on the public debt; but excluding the interest on the public debt there are probably ten or fifteen million dollars annually paid from the Treasury without the supervision of Congress; and it is very important that we should pass this bill and send it to the House for their action, so that the heads of Departments in making their next estimates, if the bill passes, may estimate for what is now paid from the permanent annual appropriations. I believe the Treasury Department agrees that the bill, with very slight exceptions, ought to pass; and it will improve the service, as is stated by the Secretary of the Treasury. The bill was, I believe, unanimously reported from the Committee on Appropriations, and I hope that at some very early day the Senate will permit it to pass. It has already been up three or four times.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

Mr. CONKLING. I wish to ask a question of the Senator from West Virginia before he lets go of this subject.

Mr. MORRILL. I withdraw my motion.

Mr. CONKLING. Is the bill, which the Senator from West Virginia tells us is important, the bill which repeals the appropriation to pay interest on the District bonds?

Mr. DAVIS, of West Virginia. Yes, sir.

Mr. CONKLING. Does the Senator mean to hold on to that provision?

Mr. DAVIS, of West Virginia. That is a question which it will be for the Senate to decide when the bill comes up. I will say, however, that is one of the items that were recommended by the Department. There are one hundred and fifty or one hundred and sixty different items paid from the permanent annual appropriations. The item that the Senator from New York now asks about is one of those items. I have no feeling about that item as to the District debt one way or the other.

Mr. CONKLING. I have this feeling: I feel like saying to the Senator from West Virginia that if he can find a Secretary of the Treasury, or anybody else, to lay that recommendation to except himself, I think it will be good for him. If I was in his place I would rather have it attributed to anybody than to me, the effect of it having been to knock down the price of these bonds, to injure, I might say rob a great many innocent people by casting doubt on the interest on a portion of the public debt which is just as inviolate and just as well-founded as any other portion. I want to say for one that whenever I get the chance I will vote against that provision especially of a bill almost all parts of which I think of very doubtful wisdom, but I have not any doubt about that. I will vote against that wherever it appears, in the bill indicated or any other.

Mr. DAVIS, of West Virginia. I wish to say to the Senator from New York——

The PRESIDENT *pro tempore*. Senators understand that this debate is going on by unanimous consent.

Mr. EDMUNDS. Let us have an executive session, Mr. President.

Mr. DAVIS, of West Virginia. Just one moment and I will give way. I believe I have the floor.

Mr. EDMUNDS. Yes, but the Senator has not the floor to debate the merits of this proposition now.

Mr. DAVIS, of West Virginia. Then I will move to take up the bill.

Mr. EDMUNDS. Then the Senator cannot debate the merits of the question.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves to proceed to the consideration of Senate bill No. 1424.

Mr. DAVIS, of West Virginia. Mr. President——

The PRESIDENT *pro tempore*. The Senator will suspend until the bill is reported by its title to the Senate.

The Chief Clerk read the title of the bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations.

Mr. DAVIS, of West Virginia. Now, Mr. President——

Mr. EDMUNDS. I wish to move an executive session and call attention to the rule that prevents the discussion of the great merits this bill has until it is taken up.

Mr. DAVIS, of Illinois. Did not the Senator from Vermont [Mr. MORRILL] move to go into executive session before the Senator from West Virginia got the floor?

The PRESIDENT *pro tempore*. He withdrew the motion, and never renewed it.

Mr. DAVIS, of West Virginia. I have the floor, and I say to my friend from Illinois that the Senator from Vermont farthest from me [Mr. MORRILL] rose and asked me to give way for that purpose. I said I would give way in a moment, and whatever debate has taken place has gone on since.

Now, I wish to say to the Senator from New York, upon the question of interest on District bonds, that the bonds of the District of Columbia have not been considered as a part, properly speaking, of the public debt of the United States. The Government in no way that I know of was connected with the making of the debt they represent, and no officer of the Government has signed them in any form or manner. It is true——

Mr. CONKLING. Did not the Government of the United States guarantee them?

Mr. DAVIS, of West Virginia. I was going to say that it is true these bonds have been step by step worked in until they have come to be considered by some people a part of the public debt of the United States. They are not on the books in any form; they do not belong to any class of public debt of the United States in any form or manner. I do not want to argue this question now; but I think it unfair to make an impression that there is any wrong done to these bonds by the bill until the matter is looked into.

Mr. ALLISON. So do I, and that is the reason I asked a moment of the Senator from West Virginia.

Mr. DAVIS, of West Virginia. Certainly.

Mr. ALLISON. The President now in the chair is perfectly aware——

Mr. EDMUNDS. What is the motion?

The PRESIDENT *pro tempore*. To proceed to the consideration of this bill.

Mr. EDMUNDS. What is the regular order preceding that which this motion is to displace? Is it the Kellogg case?

The PRESIDENT *pro tempore*. The resolutions on the Kellogg case.

Mr. EDMUNDS. Then I ask for the yeas and nays on the motion to displace that and take up this.

Mr. DAVIS, of West Virginia. We can have the yeas and nays.

The PRESIDENT *pro tempore*. The Chair will state that when the resolutions were laid aside the Chair distinctly put the question whether or not they were laid aside informally with the understanding that they were not to be displaced by an adjournment to-day, and unanimous consent was given to that. They were laid aside with the understanding that they would not be displaced by being laid aside informally.

Mr. EDMUNDS. Exactly; but now comes the motion of the Senator from West Virginia to postpone all present and prior orders and take up this bill.

The PRESIDENT *pro tempore*. Half a dozen bills have been considered since, and their consideration was proceeded with, the Chair supposed, under the understanding that no business transacted to-day should interfere with the regular business coming up on Monday. The Chair understood that to be the unanimous consent of the Senate.

Several SENATORS. So it was.

The PRESIDENT *pro tempore*. And on that impression the Senate has been acting for the past hour.

Mr. EDMUNDS. Very well. If the postponement of the present and all prior orders does not displace that case by this unanimous understanding, that is one thing, and I am glad to have the Chair state it.

The PRESIDENT *pro tempore*. It has not been considered necessary to move to postpone anything, but merely to proceed to the consideration of a bill, it being understood that the Kellogg resolutions were laid aside informally that the Senate might go on to-day with any business it saw fit.

Mr. EDMUNDS. That being the state of the case, I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. I hold the floor and the Senator cannot get it from me unless I give it up.

Mr. EDMUNDS. Very well, then let the Senator go on with his observations within the rule. I thought I was addressing the Chair.

Mr. ALLISON. The Senator from West Virginia having yielded to me, I wish to call his attention to the fact that the original act providing for these bonds led the public——

Mr. EDMUNDS. I rise to a question of order.

The PRESIDENT *pro tempore*. It is out of order to discuss the merits of the bills on this motion.

Mr. CONKLING. Will the Senator from West Virginia yield to me a moment? I demand the regular order and on that I claim the floor. The regular order is the case of KELLOGG as I understand, which was laid aside informally subject to call. I demand the regular order, and on that I claim the floor.

The PRESIDENT *pro tempore*. The Chair understood the unanimous consent of the Senate to be given that the resolutions in that case were to go over to Monday.

Mr. CONKLING. Never, sir; I watched it very closely.

The PRESIDENT *pro tempore*. If that was not it, and the Senator demands the regular order, the regular order is before the Senate.

Mr. CONKLING. I do demand the regular order and claim the floor.

Mr. HILL, of Georgia. I think the RECORD will show that the understanding was that the regular order was laid aside informally without prejudice by to-day's adjournment.

Mr. CONKLING. That is true, but subject all the time to call. Now I make that call.

The PRESIDENT *pro tempore*. The Senator from New York demands the regular order, and it is before the Senate.

Mr. CONKLING. Mr. President, have I the floor?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. CONKLING. Now I wish to yield the floor to the Senator from West Virginia. I feel a little interest in this question——

Mr. HOAR. I thought the floor was awarded to me.

Mr. CONKLING. On the contrary, the Senator from Massachusetts, if I may be allowed, obtained the floor for Monday.

Mr. HOAR. I will yield any claim of mine.

Mr. CONKLING. The Senator's right is for Monday, not for to-day.

The PRESIDENT *pro tempore*. The Chair does not so understand it. The Chair understands that if the regular order is called, the Senator from Massachusetts has the floor, and whether he speaks now or speaks on Monday is for him to decide.

Mr. HOAR. I will yield any possible claim I have to the floor this afternoon. I simply wanted to claim my right for Monday.

Mr. CONKLING. That gives me the floor I believe.

Now I wish to have a little colloquy with the Senator from West Virginia about these bonds and about this interest, in respect of which some of my constituents have been severely injured. If there is any excuse for this proposed legislation, I and they would like to know it. I do not think we can do anything more profitable for a moment than to find out——

Mr. BUTLER. Mr. President, is it in order to discuss the merits of the bill now?

The PRESIDENT *pro tempore*. The Kellogg resolutions are before the Senate.

Mr. CONKLING. Anything is in order now.

Mr. DAVIS, of West Virginia. I take it on the Kellogg resolutions or on this bill the Senator from New York can state what he thinks proper.

The PRESIDENT *pro tempore*. He can speak about anything in the world.

Mr. DAVIS, of West Virginia. So I thought; and I propose now to answer my friend from New York as to the 3.65 bonds.

Mr. ALLISON. Now, will the Senator allow me to say what I was about to say before, that the original act authorizing the issue of these bonds pledged the faith of the United States to provide for the payment of the interest and the principal by appropriations and by means of taxation on the property of the District of Columbia. So this process has not been a process step by step, but there was an original pledge of the United States in the act creating the bonds. That is all I desire to say.

Mr. DAVIS, of West Virginia. I think my friend from Iowa is mistaken about its being in the original act, but perhaps he is not. It has been, however, a process going on step by step. There have been two or three different acts relating to these bonds, and they are not now considered or treated by the Treasury Department as part of the public debt. If they were, interest would by the provisions of this bill be regularly paid by the Government, because this bill is broad and states that interest on the public debt generally is to be paid without an appropriation annually. But I do not understand this item to be in that way.

In the list that came to the Committee on Appropriations, giving perhaps one hundred and forty or one hundred and fifty different items, was one as to the payment of interest on the District of Columbia bonds, included in the items proposed to be repealed. The committee made no special point about it. My friend from Iowa is a member of the committee, and perhaps the attention of the Committee on Appropriations was not called to that particular item until after

we had reported the bill. There was no disposition on the part of the Appropriations Committee to add any item, especially this if it had been called to their attention; but it was not discussed in committee. I say that now so that the Senate may understand that the point will be open for discussion and for the Senate to deal with as it may think proper when the bill shall be taken up. It may be that an exception ought to be made in that case, and there may be a few other items which should be made exceptions; but there are one hundred and forty or one hundred and fifty permanent appropriations that all agree ought to be repealed. For instance, my friend from New York and my friend from Iowa perhaps will be very glad to repeal that one which appropriates certain moneys for the supervisors of elections. That is in the list, and I have no doubt my friends all around me will be glad to get a chance to have a regular appropriation for that purpose. It may be that some of them will want to have it made larger than it is now. Last year I believe it was only about $140,000 or $150,000. The country probably does not know that.

Mr. CONKLING. If the Senator and his party do not succeed in stealing the whole country at this election, I think afterward they will give it up substantially, and, therefore, I do not believe that larger appropriations will be necessary hereafter to have a fair election than are now required.

Mr. DAVIS, of West Virginia. If the next party that comes in can go in advance of the one that is about to go out pretty soon it will have to be pretty sharp and be up pretty early, for I tell you they have had their share. But I shall not detain the Senate, for it is only a question of order that my friend from New York and myself wish to have a word about, the interest on the bonds of the District of Columbia. I believe we are both satisfied, and I now give way.

Mr. CONKLING. Satisfied as to what? The Senator very kindly gives way to me, I before having yielded the floor to him, and I want to say a word about this. Some time ago it was considered gravely here what form should be given to certain indebtedness in this District. It was agreed that it should be put in bonds bearing 3.65 per cent. interest, and in order to float those bonds—I have not looked at the statute and I do not want it for I recollect that evening's work perfectly—it was said that the United States should guarantee the bonds, make them just as firm and inviolate as they could be made——

Mr. MORRILL. Pledged its good faith.

Mr. CONKLING. Yes, that very likely was the form, but whatever the form the substance was this: the United States stood behind these bonds, offered them, and, in so far as it could, negotiated them to *bona fide* holders who paid value in good faith for them. Trust funds and other funds were invested in them. Some time ago there broke upon the gaze of the Committee on Appropriations a recommendation, curiously enough from the financial officer of the Government, to the effect that the standing appropriation of money for the payment of the interest on these bonds should be swept away and that whether the interest was paid or not should be committed to the hazard and occasion of the future from time to time. The result of it was—I have a Senator in my eye who can state more exactly than I can, but perhaps I have not his attention—the result of it was that in consequence of that recommendation, and in consequence of this report of this committee, the price of the bonds was knocked down, not a little or some, but very largely, and speculating upon the apprehension and the terror of the people holding them, unaccustomed as most of them were to securities of this sort, those sharper and with more nerve went into the market and swept into their lap a great total of these bonds, and the people who had paid their money in good faith and relied upon the good faith of the United States have lost exactly as much as these speculators have gained.

Now, I think that is rather unwholesome; I think it rather unfortunate; and I say again to the first lord of the Treasury here on my right that if he has a minister of finance or anybody else on whose shoulders he can put a part of this responsibility, good for the Senator from West Virginia, but not so good for the man, whoever he may be, who is to be called upon to bear the blame of this very extraordinary piece of legerdemain by which a large sum of money has been taken away from women and children and trust estates and other things, and put into the hands of sharper people than they are.

Having said this, I venture another word to the honorable Senator from West Virginia who I think is a little preternaturally excited, I would not like to say morbid, on the subject of book-keeping in the Treasury and a variety of such things. I do not believe there is any one thing in this bill of any value, and I believe that every minute after to-day that is devoted to it this session is wasted; and if the honorable Senator will point out one thing in it in respect of which the permanency of appropriations ought for any real reason to be repealed, he will point something that I never have seen. He has alluded to supervisors. He knows very well that that appropriation ought not to be repealed; that is he knows so far as his politics will allow him to know it; except as far as he is party-crazy he knows it; and so with every other thing, so far as I know, contained in the bill.

Now, Mr. President, having enjoyed the inestimable privilege of talking a few moments and hearing another Senator talk about what he wanted, and in spite of the point of order, I am quite willing that any Senator shall have an executive session or any other session that he wants.

Mr. EDMUNDS. Mr. President, if this important question bearing on the Kellogg case has been satisfactorily settled, I move that the Senate proceed to the consideration of executive business.

Mr. CONKLING. Pending that, I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The Senator from New York moves that the Senate adjourn.

Mr. MORRILL. There are some nominations reported favorably that ought to be disposed of in executive session.

Mr. CONKLING. Well, Mr. President, let the Senate say whether it will adjourn at five minutes after five o'clock, or not.

The PRESIDENT *pro tempore*. The motion to adjourn takes precedence. The question is on that motion.

The question being put, there were on a division—ayes 10, noes 16; no quorum voting.

Mr. EDMUNDS. The noes have it, I believe, though there is no quorum.

The PRESIDENT *pro tempore*. The Senate refuses to adjourn, but there is not a quorum voting.

Mr. CONKLING. Is there anything before the Senate, Mr. President?

The PRESIDENT *pro tempore*. It is the duty of the Chair now to order a call of the Senate.

Mr. MORRILL. I merely desire to state that it is important for certain reasons that there should be a short executive session, not occupying more than three minutes. I hope the Senate will proceed to have one.

Mr. CONKLING. That is entirely out of order now.

Mr. EDMUNDS. Call the roll.

The PRESIDENT *pro tempore*. The Senate will be called.

The Secretary called the roll, and thirty-four Senators answered to their names.

The PRESIDENT *pro tempore*. Thirty-four Senators answer to their names; no quorum is present.

Mr. CONKLING. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from New York moves that the Senate adjourn.

The motion was agreed to; and (at five o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 7, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

EXPLANATION.

Mr. ELAM. It has been suggested to me, Mr. Speaker, there is an error in the Journal which ought to be corrected. Mr. MONEY's amendment, which was written "first of July," was afterward corrected to the "first of October." I understand it appears in the RECORD as the "first of July."

Mr. BLACKBURN. The RECORD is "first of July."

The SPEAKER. The Journal is "first of October."

Mr. BLACKBURN. The CONGRESSIONAL RECORD of this morning says, "first of July."

The SPEAKER. The amendment itself reads, "first of October." The Chair understands the proceedings in the RECORD will show that subsequently the modification was made from the first of July to the first of October.

Mr. BLACKBURN. Before it was voted on?

The SPEAKER. Yes; before the amendment was voted on. It is "October" in the manuscript, and that is the important fact.

Mr. BLACKBURN. I won't stand on the RECORD and want to know what the House adopted.

The SPEAKER. The Clerk will read from the fifty-third page of the CONGRESSIONAL RECORD.

The Clerk read as follows:

Mr. MONEY. I modify my amendment by striking out "July" and inserting "October."

Mr. PAGE. Allow me to read the law in reference to a change of contracts.

Mr. BLACKBURN. I rise to a parliamentary inquiry. After the House has ordered that all debate upon the pending paragraph shall close in one hour——

The SPEAKER. It would seem from that that Mr. MONEY did, in the presence of the House, offer his modification.

Mr. ELAM. That is my recollection.

Mr. BLACKBURN. I have no objection, if that is so.

The SPEAKER. The manuscript of the amendment itself shows the striking out in lead-pencil of the word "July" and inserting in lead-pencil the word "October."

Mr. BLACKBURN. I will not object if the Chair thinks it was clearly understood that "October" was the amendment instead of "July."

The SPEAKER. The Chair believes so, from what he sees in the Journal and in the RECORD, and the reading clerk authorized the Chair also to state that he read "October" to the House this morning, so that the House was fully advised as to the change when it voted upon the amendment.

Mr. BLACKBURN. I do not object.

Mr. BLAND. It was also the understanding of the gentleman from Mississippi that that had been accepted and was so recognized by him.

The SPEAKER. The RECORD shows it was October.

Mr. BLACKBURN. Then I call for the regular order.

POST-OFFICE APPROPRIATION BILL.

The SPEAKER. The regular order is the unfinished business coming over from yesterday, which is the Post-Office appropriation bill. The Clerk will now call the roll under the rule on the passage of the bill.

The question was taken; and there were—yeas 199, nays 2, not voting 91; as follows:

YEAS—199.

Aiken,	Davis, George R.	Kimmel,	Ryan, Thomas
Aldrich, N. W.	Davis, Horace	King,	Ryon, John W.
Aldrich, William	Davis, Joseph J.	Kitchin,	Sawyer,
Anderson,	Deering,	Klotz,	Scales,
Armfield,	Deuster,	Knott,	Shelley,
Atkins,	Dibrell,	Lapham,	Sherwin,
Bachman,	Dick,	Lewis,	Simonton,
Baker,	Dickey,	Lindsey,	Singleton, J. W.
Ballou,	Dunnell,	Loring,	Singleton, O. R.
Barber,	Dwight,	Lounsbery,	Slemons,
Bayne,	Einstein,	Lowe,	Smith, A. Herr
Beale,	Elam,	Manning,	Smith, Hezekiah B.
Belford,	Errett,	Martin, Joseph J.	Smith, William E.
Beltzhoover,	Evins,	Mason,	Sparks,
Bicknell,	Farr,	McGowan,	Speer,
Blackburn,	Felton,	McKenzie,	Steele,
Blake,	Ferdon,	McKinley,	Stephens,
Bland,	Fisher,	McMillin,	Stevenson,
Blount,	Ford,	Miles,	Stone,
Bonck,	Forney,	Miller,	Talbott,
Bowman,	Forsythe,	Mills,	Taylor,
Boyd,	Frye,	Money,	Thomas,
Bragg,	Geddes,	Monroe,	Thompson, P. B.
Brewer,	Gibson,	Morse,	Thompson, W. G.
Briggs,	Gillette,	Morton,	Tillman,
Brigham,	Goode,	Muldrow,	Townsend, Amos
Bright,	Gunter,	Murch,	Townshend, R. W.
Browne,	Hall,	Neal,	Tucker,
Buckner,	Harris, John T.	New,	Turner, Oscar
Burrows,	Haskell,	Newberry,	Tyler,
Butterworth,	Hatch,	O'Connor,	Updegraff, J. T.
Cabell,	Hawk,	O'Neill,	Updegraff, Thomas
Caldwell,	Hawley,	O'Reilly,	Valentine,
Cannon,	Hayes,	Orth,	Waddill,
Carlisle,	Hazelton,	Osmer,	Wait,
Carpenter,	Heilman,	Overton,	Ward,
Caswell,	Henkle,	Pacheco,	Washburn,
Chalmers,	Henry,	Persons,	Weaver,
Claflin,	Herbert,	Philips,	Wellborn,
Clark, John B.	Hiscock,	Pochler,	Wells,
Clymer,	Horr,	Price,	Whitthorne,
Cobb,	Hostetler,	Reagan,	Wilber,
Coffroth,	House,	Reed,	Williams, C. G.
Conger,	Hubbell,	Richardson, J. S.	Williams, Thomas
Cook,	Hull,	Richmond,	Willis,
Covert,	Hutchins,	Robinson,	Willits,
Cowgill,	Joyce,	Ross,	Wood, Fernando
Culberson,	Keifer,	Rothwell,	Wright,
Daggett,	Kenna,	Russell, Daniel L.	Yocum.
Davidson,	Ketcham,	Russell, W. A.	

NAYS—2.

Ellis, Upson.

NOT VOTING—91.

Acklen,	Finley,	Ladd,	Richardson, D. P.
Atherton,	Fort,	Le Fevre,	Robertson,
Bailey,	Frost,	Marsh,	Robeson,
Barlow,	Garfield,	Martin, Benj. F.	Samford,
Berry,	Godshalk,	Martin, Edward L.	Sapp,
Bingham,	Hammond, John	McCoid,	Shallenberger,
Bliss,	Hammond, N. J.	McCook,	Springer,
Calkins,	Harmer,	McLane,	Starin,
Camp,	Harris, Benj. W.	McMahon,	Turner, Thomas
Chittenden,	Henderson,	Mitchell,	Urner,
Clardy,	Herndon,	Morrison,	Van Aernam,
Clark, Alvah A.	Hill,	Muller,	Vance,
Colerick,	Hooker,	Myers,	Van Voorhis,
Converse,	Houk,	Nicholls,	Voorhis,
Cox,	Humphrey,	Norcross,	Warner,
Crapo,	Hunton,	O'Brien,	White,
Cravens,	Hurd,	Page,	Whiteaker,
Crowley,	James,	Phelps,	Wilson,
Davis, Lowndes H.	Johnston,	Phister,	Wise,
De La Matyr,	Jones,	Pierce,	Wood, Walter A.
Dunn,	Jorgensen,	Pound,	Young, Casey
Ewing,	Kelley,	Prescott,	Young, Thomas L.
Field,	Killinger,	Rice,	

So the bill was passed.

On motion of Mr. BLACKBURN, by unanimous consent, the reading of the names was dispensed with.

The following additional pairs were announced from the Clerk's desk.

Mr. SINGLETON, of Illinois, with Mr. MILES, from to-day until Monday morning, May 10.

Mr. COLERICK with Mr. HILL, on this bill.

Mr. COX with Mr. NORCROSS.

Mr. HISCOCK, with Mr. BLOUNT, for the remainder of this week.

The result of the vote was then announced as above recorded.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS L. HARRISON.

Mr. KNOTT. I ask unanimous consent to take from the Private Calendar House bill No. 5396, with the accompanying report No. 612, for the removal of the political disabilities of Thomas L. Harrison, of Mobile, Alabama, for present consideration.

The SPEAKER *pro tempore*, (Mr. NEAL in the chair.) The bill will be read, after which the Chair will ask for objections to its present consideration.

The Clerk read as follows:

Be it enacted, &c., That all political disabilities imposed upon Thomas L. Harrison, of Mobile, Alabama, by the fourteenth amendment to the Constitution of the United States, be, and the same are hereby, removed.

Mr. BURROWS. I ask for the reading of the petition accompanying that bill.

The SPEAKER *pro tempore*. The petition will be read.

The Clerk read as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, a graduate of the United States Naval Academy at Annapolis, represents unto your honorable bodies that he resigned the position of midshipman in the United States Navy in the year 1861, and became an officer in the Confederate States navy, and as such participated in the late rebellion. He asks leave to file this his petition for the removal of his political disabilities; and as in duty bound will ever pray, &c.

Very respectfully, your obedient servant,

THOS. L. HARRISON.

MOBILE, ALABAMA, *February* 14, 1880.

The SPEAKER *pro tempore*. There being no objection to the present consideration of the bill, the question will be upon the engrossment and third reading.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed—two-thirds voting in favor thereof.

JAMES W. SCHAUMBURG.

Mr. STEPHENS, by unanimous consent, introduced a bill (H. R. No. 6072) to reinstate the name of James W. Schaumburg on the Army register and for his relief; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ENTRIES OF PUBLIC LANDS.

On motion of Mr. VALENTINE, by unanimous consent, the bill (H. R. No. 4227) for the relief of settlers on the public lands, with Senate amendment, was taken from the Speaker's table.

The Senate amendment was read, as follows:

SEC. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application, and perfect his original entry in the United States land office as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws.

Mr. VALENTINE. I move to concur in the Senate amendment.

The amendment was concurred in.

Mr. VALENTINE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLERK IN CLERK'S OFFICE.

Mr. BLACKBURN, by unanimous consent, submitted a resolution providing for the employment of an additional clerk in the Clerk's office for the remainder of the session; which was read, as follows, and referred to the Committee on Accounts:

Resolved, That the Clerk be authorized to employ one additional clerk for the remainder of the session, who shall be paid out of the contingent fund of the House the same compensation now paid to clerks of committees.

WYOMING, MONTANA AND PACIFIC RAILROAD COMPANY.

Mr. DOWNEY. I ask unanimous consent to have taken from the Speaker's table, for immediate action, the bill (S. No. 1670) to authorize the Wyoming, Montana and Pacific Railroad Company to build its road across the Fort Russell and Fort Laramie military reservations. This bill provides simply for a right of way of five or six miles through these reservations. This railroad has been chartered under the United States law in our Territory, and the people in one of our counties have subscribed $400,000 to its construction. There is a letter from the Secretary of War——

Several MEMBERS. All right!

Mr. MAGINNIS. Mr. Speaker, there can be no possible objection to this bill. I hold in my hand a letter from the Secretary of War read in the Senate, which quotes from General Sherman as follows in regard to this bill:

There is not the least possible objection, but on the contrary a railroad to Laramie will be very advantageous.

I have submitted it to members of the Military Committee, who concur in this opinion. I hope there will be no objection to its passage by unanimous consent.

The bill was read. It provides that the Wyoming, Montana and Pacific Railroad Company, a corporation organized under the laws of the Territory of Wyoming, be authorized to build its road across the Fort Russell and Fort Laramie military reservations upon such line

as may be approved by the Secretary of War; provided that such right of way shall not exceed one hundred feet in width.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

INTERNATIONAL EXHIBITION, 1883.

Mr. COVERT, by unanimous consent, introduced a bill (H. R. No. 6073) to provide for the selection of a site for an international exhibition of arts, manufactures, and the products of the soil and mine, in the year 1883; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

ISRAEL M. ROSE.

Mr. COVERT also, by unanimous consent, introduced a bill (H. R. No. 6074) authorizing Israel M. Rose to make application to the Commissioner of Patents for an extension for the term of seven years of the patent for an improved tucker for sewing-machines; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

LAND CLAIM IN NEW MEXICO.

Mr. HUTCHINS, by unanimous consent, introduced a bill (H. R. No. 6075) to confirm a certain land claim in the Territory of New Mexico; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

IMPROVEMENT OF NAVIGATION OF MISSISSIPPI.

Mr. WASHBURN, by unanimous consent, introduced a bill (H. R. No. 6076) making an appropriation for the construction and operation of reservoirs for the improvement of the navigation of the Mississippi River above Saint Louis and the navigable waters flowing into the same; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PUBLIC BUILDING, POTTSVILLE, PENNSYLVANIA.

Mr. RYON, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 6077) to provide for the purchase of a suitable site and the erection of a public building in Pottsville, Schuylkill County, Pennsylvania; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ELIAS CLEVELAND.

Mr. TOWNSHEND, of Illinois, by unanimous consent, introduced a bill (H. R. No. 6078) granting a pension to Elias Cleveland, Company K, Eighty-seventh Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLAIM OF JOSEPH SMOLINSKI.

Mr. TOWNSHEND, of Illinois, by unanimous consent, submitted the following resolution; which was referred to the Committee on Foreign Affairs:

Resolved, That the Secretary of State be requested to inform the House if the amount awarded by the Ottoman Empire, in 1860, to Joseph Smolinski, a citizen of the United States, for the destruction of his property in that year by order of the Ottoman government, has been paid to the representatives of the United States at that government, and if not incompatible with public safety, to furnish copies of all official correspondence with the Ottoman Empire on the subject, and to state in his opinion what, if any, additional action on the part of the State Department is necessary to adjust the claim, if not already finally adjusted.

CLAIM OF STATE OF KANSAS.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 6079) making an appropriation to pay to the State of Kansas 5 per cent. on the net proceeds of the sale of public lands; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

JOHN FRANTZ.

Mr. FISHER, by unanimous consent, introduced a bill (H. R. No. 6080) granting a pension to John Frantz; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

W. K. HAMMOND.

Mr. MARTIN, of North Carolina, by unanimous consent, introduced a bill (H. R. No. 6081) for the relief of W. K. Hammond; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

KATE L. TYNER.

Mr. UPDEGRAFF, of Ohio, by unanimous consent, introduced a bill (H. R. No. 6082) granting a pension to Kate L. Tyner; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMELIA ANN WILSON.

Mr. KLOTZ, by unanimous consent, introduced a bill (H. R. No. 6083) granting a pension to Amelia Ann Wilson and her minor children; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOAN OF TENTS, ETC., TO NEW HAMPSHIRE.

On motion of Mr. BRIGGS, by unanimous consent, the joint resolution (S. No. 104) authorizing the Secretary of War to loan certain flags, tents, &c., to the governor of the State of New Hampshire for the use of the militia of that State at their general muster to be held the present year, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

A. P. JACKSON AND OTHERS.

Mr. BERRY, by unanimous consent, introduced a bill (H. R. No. 6084) for the relief of A. P. Jackson and others; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

RETIRED LIST OF THE ARMY.

Mr. SPARKS. I am instructed by the Committee on Military Affairs to ask unanimous consent that the communication from the Secretary of War in answer to a resolution of the House of January 16, calling for a report of the number, rank, names, and annual pay of each officer of the Army of the United States on the retired list, be printed in the RECORD, and also as a miscellaneous document.

There was no objection, and it was ordered accordingly.

The communication is as follows:

WAR DEPARTMENT,
Washington City, March 18, 1880.

The Secretary of War has the honor to transmit to the House of Representatives, in answer to the resolution of that body of the 16th of January last, calling for report of "the number, rank, names, and annual pay of each officer of the Army of the United States on the retired list of said Army; the total amount which has been paid to each retired officer as aforesaid, and the aggregate amount paid to retired officers since said retired Army list was created," a report from the Adjutant-General, dated the 17th instant, and accompanying list, which furnish the information required.

ALEX. RAMSEY,
Secretary of War.

The SPEAKER *of the House of Representatives.*

ADJUTANT-GENERAL'S OFFICE,
March 17, 1880.

SIR: I have the honor to return herewith the resolution of the House of Representatives of the 16th instant and to transmit the information called for therein.

A list showing "the number, rank, names, and annual pay of each officer of the Army of the United States on the retired list of said Army and the total amount which has been paid to each retired officer as aforesaid" is inclosed herewith. The statement of the amounts paid to retired officers is furnished by the Paymaster-General, who reports that, in addition to the aggregate amount paid the officers borne upon the retired list on December 31, 1879, as shown on the accompanying list, there has been paid to retired officers whose names have been borne upon the retired list, but have disappeared therefrom prior to December 31, 1879, the aggregate sum of $1,639,322.98, thus making the "aggregate amount paid to retired officers since said retired Army list was created" foot up as follows:

Aggregate amount paid to retired officers in service December 31, 1879	$5,910,378 16
Aggregate amount paid to officers formerly on the retired list, but not in service, December 31, 1879	1,639,322 98
Aggregate paid to retired officers for service, as such, from the creation of the list up to December 31, 1879	7,549,701 14

Up to the passage of the act of January 21, 1870, (volume 16 Statutes, page 62,) retired officers could be placed on duty with full pay. The Paymaster-General reports that the sums given embrace only the *retired* pay of officers, exclusive of the periods they may have been on active duty with full pay.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The honorable SECRETARY OF WAR.

List of officers on the retired list, United States Army, December 31, 1879, showing the annual pay of each and the total amount paid each from date of retirement to December 31, 1879.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Major-generals:			
Heintzelman, Samuel P	Feb. 22, 1869	$5,625 00	$48,582 38
Robinson, John C	May 6, 1869	5,625 00	57,517 31
Sickles, Daniel E	Apr. 14, 1869	5,625 00	33,894 07
Carroll, Samuel S	June 9, 1869	5,625 00	41,194 35
Ricketts, James B	Jan. 3, 1867	5,625 00	60,383 50
			241,571 61
Brigadier-generals:			
Harney, William S	Aug. 1, 1863	4,125 00	48,069 00
Cooke, Philip St. George	Oct. 29, 1873	4,125 00	25,460 42
Hammond, William A	Aug. 27, 1879		
Ramsey, George D	Sept. 12, 1864	4,125 00	39,840 61
Holt, Joseph	Dec. 1, 1875	4,125 00	16,843 75
Brice, Benjamin W	Jan. 1, 1872	4,125 00	33,000 00
Humphreys, Andrew A	June 30, 1879	4,125 00	2,062 50
Wood, Thomas J	June 9, 1868	4,125 00	47,027 79
Emory, William H	July 1, 1876	4,125 00	14,436 66
Paul, Gabriel R	Feb. 16, 1865	4,125 00	61,767 01
Crawford, Samuel W	Feb. 19, 1873	4,125 00	26,777 08
McIntosh, John B	July 30, 1879	4,125 00	38,511 46
Kiddoo, Joseph B	Dec. 15, 1870	4,125 00	37,353 16
Johnson, Richard W	Oct. 12, 1867	4,125 00	53,356 37
Sweeney, Thomas W	May 11, 1870	4,125 00	40,613 73
Hardin, Martin D	Dec. 15, 1870	4,125 00	34,546 87
Fessenden, Francis	Nov. 1, 1866	4,125 00	47,224 92
Long, Eli	Aug. 16, 1867	4,125 00	37,007 58
			604,098 91

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Colonels:			
Alexander, Edmund B	Feb. 22, 1869	$3,375 00	$35,674 92
Seawell, Washington	Feb. 20, 1862	3,375 00	36,784 97
Simonson, John S	Sept. 28, 1861	3,375 00	36,991 84
Hunter, David	July 31, 1866	3,375 00	37,
Carrington, Henry B	Dec. 15, 1870	2,887 50	25,
Morrison, Pitcairn	Oct. 20, 1863	3,375 00	36,
Swords, Thomas	Feb. 22, 1869	3,375 00	35,
Casey, Silas	July 8, 1868	3,375 00	35,
Blake, George A. H	Dec. 15, 1870	3,375 00	29,
Hoffman, William	May 1, 1870	3,375 00	32,
Day, Hannibal	Aug. 1, 1863	3,375 00	35,
Burbank, Sidney	May 1, 1870	3,375 00	31,
Shepherd, Oliver L	Dec. 15, 1870	3,375 00	30,
Crossman, George H	July 29, 1866	3,375 00	33,
Brooks, Horace	Jan. 10, 1877	3,375 00	10,
Cady, Albemarle	May 18, 1864	3,375 00	39,
Graham, Lawrence P	Dec. 15, 1870	3,375 00	30,
Bomford, James V	June 8, 1874	3,375 00	18,
Reeve, Isaac V. D	Jan. 1, 1871	3,375 00	30,
Cram, Thomas J	Feb. 22, 1869	3,375 00	32,
Whiteley, Robert H. K	Apr. 14, 1875	3,375 00	15,
Dawson, Samuel K	May 11, 1870	3,375 00	32,
Stoneman, George	Aug. 16, 1871	3,375 00	28,
Allen, Robert	Mar. 21, 1878	3,375 00	5,
Pitcher, Thomas G	June 28, 1878	3,375 00	10,
Reynolds, Joseph J	June 25, 1877	3,375 00	8,
Gregg, John I	Apr. 2, 1879	3,375 00	2,
Swayne, Wager	July 1, 1870	2,887 50	27,
De Trobriand, Philip R	Mar. 20, 1879	3,375 00	2,
Babbitt, Edwin B	July 29, 1866	3,375 00	23,
Clary, Robert E	Feb. 22, 1869	3,375 00	34,
Oakes, James	Apr. 29, 1879	3,375 00	2,
Grier, William N	Dec. 15, 1870	3,375 00	30,
Cullum, George W	Jan. 13, 1874	3,375 00	20,
Floyd-Jones, De Lancey	Mar. 20, 1879	3,375 00	2,
Doubleday, Abner	Dec. 11, 1873	3,375 00	20,
Palmer, Innis N	Mar. 20, 1879	3,375 00	2,
Granger, Robert S	Dec. 10, 1873	3,375 00	20,
Wallen, Henry D	Feb. 18, 1874	3,375 00	19,
Woods, Charles R	Dec. 15, 1874	3,375 00	17,
Callender, Franklin D	May 29, 1879	3,375 00	1,
Woodward, George A	Mar. 20, 1879	3,375 00	2,
Roberts, Joseph	July 2, 1877	3,375 00	8,
Elliott, Washington L	Mar. 20, 1879	3,375 00	2,
Hinks, Edward W	Dec. 15, 1870	2,887 50	26,
Starr, Samuel H	Dec. 15, 1870	3,375 00	30,
Marshall, Elisha G	Sept. 11, 1867	3,375 00	36,
Rodenbough, Theophilus F	Dec. 15, 1870	2,887 50	26,
Lewis, John R	Apr. 28, 1870	2,887 50	27,
Ross, Samuel	Jan. 1, 1871	3,375 00	23,
Yates, Theodore	Nov. 1, 1867	2,887 50	32,
Walker, Moses B	Feb. 19, 1866	2,887 50	36,
Kilpatrick, Robert L	Dec. 15, 1870	2,887 50	26,
McNett, Andrew J	Dec. 15, 1870	2,887 50	26,
Catlin, Isaac S	May 6, 1870	2,887 50	27,
Pulford, John	Dec. 15, 1870	2,887 50	24,
Preston, Albert W	Dec. 15, 1870	2,887 50	24,
			1,344,
Professors, (colonels:)			
Bartlett, William H. C	Feb. 14, 1871	3,375 00	29,
Weir, Robert W	July 25, 1876	3,375 00	11,
			41,
Lieutenant-colonels:			
Ruff, Charles F	Mar. 30, 1864	3,060 00	35,
Alexander, Thomas L	Oct. 16, 1863	3,060 00	31,
Burke, Martin	Aug. 1, 1863	3,060 00	21,
Steen, Enoch	Sept. 23, 1863	3,060 00	31,
Whiting, Daniel P	Nov. 4, 1863	3,060 00	33,
Chapman, William	Aug. 26, 1863	3,060 00	40,507 43
Patten, George W	Feb. 17, 1864	3,060 00	32,014 65
Leonard, Hiram	Jan. 1, 1872	3,060 00	23,875 00
Hill, Bennett H	Dec. 15, 1870	3,060 00	26,883 33
Sitgreaves, Lorenzo	July 10, 1866	3,060 00	37,525 19
Wessells, Henry W	Jan. 1, 1871	3,060 00	27,250 00
Wallace, George W	Dec. 15, 1870	3,060 00	27,448 83
Satterlee, Richard S	Feb. 22, 1869	3,060 00	29,632 47
McDougall, Charles	Feb. 22, 1869	3,060 00	29,308 36
Duncan, Thomas	Jan. 15, 1873	3,060 00	20,875 00
Hayman, Samuel B	July 1, 1872	3,060 00	22,500 00
Nelson, Anderson D	June 7, 1879	3,060 00	1,691 67
Woodruff, Dickinson	Dec. 15, 1870	2,925 00	27,454 98
Gibson, Augustus A	Dec. 15, 1870	3,060 00	27,133 33
Bootes, Levi C	Oct. 7, 1874	3,060 00	15,691 67
Montgomery, Alexander	Jan. 15, 1874	3,060 00	17,875 00
McNutt, John	May 27, 1878	3,060 00	4,783 33
McLean, Nathaniel H	Mar. 3, 1875	2,925 00	14,121 25
Hunt, Franklin E	June 7, 1879	3,060 00	1,191 67
Prince, Henry	Dec. 31, 1879	3,060 00	
Allen, Harvey A	Apr. 10, 1879	3,060 00	2,166 66
Wyse, Francis O	Feb. 28, 1879	3,060 00	2,508 33
Stewart, Joseph	Aug. 25, 1879	3,060 00	1,041 63
Maley, Thomas E	Dec. 15, 1870	2,475 00	20,831 25
Freudenberg, Charles G	Dec. 15, 1870	2,475 00	16,229 47
Shea, Thomas	Dec. 15, 1870	2,475 00	21,862 50
Gile, George W	Dec. 15, 1870	2,475 00	24,116 10
Avery, Robert	Dec. 31, 1870	2,475 00	22,275 00
Perry, Robert C	Dec. 31, 1870	2,475 00	22,068 75
			713,729 09

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Majors:			
Randall, Burton	Oct. 17, 1868	$2,625 00	$28,889 50
Lynde, Isaac	July 28, 1866	2,625 00	26,635 57
Edgar, William F	Aug. 27, 1862	2,625 00	26,933 10
Murry, Alexander	Mar. 30, 1864	1,485 00	16,633 91
Smedburg, William R	Dec. 15, 1870	1,650 00	14,406 33
Catlin, Lynde	June 28, 1878	1,755 00	2,647 12
Holmes, Charles	Nov. 28, 1863	1,485 00	20,037 16
Sturgeon, Sheldon	May 17, 1876	1,950 00	7,063 37
Kellogg, Josiah H	Feb. 6, 1865	1,650 00	18,777 93
Bristol, Henry B	Mar. 20, 1879	1,890 00	1,470 00
Hascall, Herbert A	Nov. 10, 1874	1,755 00	8,979 75
Prime, Nathaniel	Mar. 20, 1879	1,755 00	1,365 00
Bailey, Thomas C. J	Aug. 18, 1865	1,350 00	16,559 58
Devin, John D	Mar. 27, 1879	1,755 00	1,330 87
Morgan, Henry C	Feb. 17, 1868	1,485 00	17,164 43
Brand, Thomas T	Dec. 31, 1864	1,485 00	16,090 45
Burrowes, Thomas B	Mar. 20, 1879	1,755 00	1,365 00
McLoughlin, George H	Dec. 31, 1870	1,890 00	13,987 12
Parker, Richard C	Mar. 20, 1879	1,755 00	1,365 00
Holcomb, Pythagoras E	Jan. 30, 1869	1,485 00	15,879 21
Walcott, William H	Jan. 7, 1865	1,485 00	16,122 70
Rives, Wright	Dec. 31, 1870	1,485 00	13,365 00
Krautinger, Adolph W	June 7, 1879	1,890 00	966 00
Powell, James	Jan. 8, 1868	1,485 00	13,983 75
McGown, George	Mar. 14, 1865	1,485 00	14,553 80
Walker, John H	Mar. 27, 1869	1,485 00	15,701 28
Brown, Andrew M	Aug. 31, 1871	1,620 00	13,504 50
Noble, Henry B	Feb. 18, 1869	1,485 00	15,794 31
Watson, Malbone F	Sept. 18, 1868	1,650 00	16,177 20
Van Derslice, Joseph H	Apr. 23, 1879	1,890 00	1,302 00
Hearn, James A	Dec. 31, 1870	1,890 00	13,987 12
Barstow, Simon F	June 7, 1879	1,950 00	1,099 66
Silliman, Henry R	May 9, 1867	1,650 00	20,345 06
Culbertson, Howard	Jan. 8, 1869	1,650 00	17,680 79

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List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Miller, John	Mar. 20, 1879	$1,890 00	$1,475 25
Kerin, Joseph	June 28, 1878	2,100 00	3,161 67
Mallery, Garrick	July 1, 1879	1,755 00	877 50
[illegible] Charles M	Dec. 15, 1870	1,485 00	13,431 00
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Colonels:			
Alexander, Edmund B	Feb. 22, 1869	$3,375 00	$35,674 92
Seawell, Washington	Feb. 20, 1862	3,375 00	36,784 97
Simonson, John S	Sept. 28, 1861	3,375 00	36,991 84
Hunter, David	July 31, 1866	3,375 00	37,197 57
Carrington, Henry B	Dec. 15, 1870	2,887 50	25,986 96
Morrison, Pitcairn	Oct. 20, 1863	3,375 00	36,029 88
Swords, Thomas	Feb. 22, 1869	3,375 00	35,013 49
Casey, Silas	July 8, 1868	3,375 00	35,855 01
Blake, George A. H	Dec. 15, 1870	3,375 00	29,953 12
Hoffman, William	May 1, 1870	3,375 00	32,478 56
Day, Hannibal	Aug. 1, 1863	3,375 00	35,094 14
Burbank, Sidney	May 1, 1870	3,375 00	31,781 25
Shepherd, Oliver L	Dec. 15, 1870	3,375 00	30,525 00
Crossman, George H	July 29, 1866	3,375 00	33,012 48
Brooks, Horace	Jan. 10, 1877	3,375 00	10,041 35
Cady, Albemarle	May 18, 1864	3,375 00	39,151 82
Graham, Lawrence P	Dec. 15, 1870	3,375 00	30,515 62
Bomford, James V	June 8, 1874	3,375 00	18,769 12
Reeve, Isaac V. D	Jan. 1, 1871	3,375 00	30,375 00
Cram, Thomas J	Feb. 22, 1869	3,375 00	32,960 86
Whiteley, Robert H. K	Apr. 14, 1875	3,375 00	15,900 00
Dawson, Samuel K	May 11, 1870	3,375 00	32,372 52
Stoneman, George	Aug. 16, 1871	3,375 00	28,295 62
Allen, Robert	Mar. 21, 1878	3,375 00	5,906 25
Pitcher, Thomas G	June 28, 1878	3,375 00	10,062 50
Reynolds, Joseph J	June 25, 1877	3,375 00	8,493 75
Gregg, John I	Apr. 2, 1879	3,375 00	2,512 50
Swayne, Wager	July 1, 1870	2,887 50	27,180 06
De Trobriand, Philip R	Mar. 20, 1879	3,375 00	2,568 65
Babbitt, Edwin B	July 29, 1866	3,375 00	23,225 21
Clary, Robert E	Feb. 22, 1869	3,375 00	34,773 22
Oakes, James	Apr. 29, 1879	3,375 00	2,259 37
Grier, William N	Dec. 15, 1870	3,375 00	30,234 37
Cullum, George W	Jan. 13, 1874	3,375 00	20,137 50
Floyd-Jones, De Lancey	Mar. 20, 1879	3,375 00	2,343 75
Doubleday, Abner	Dec. 11, 1873	3,375 00	20,437 50
Palmer, Innis N	Mar. 20, 1879	3,375 00	2,614 90
Granger, Robert S	Dec. 10, 1873	3,375 00	20,437 50
Wallen, Henry D	Feb. 18, 1874	3,375 00	19,799 00
Woods, Charles R	Dec. 15, 1874	3,375 00	17,306 25
Callender, Franklin D	May 29, 1879	3,375 00	1,978 12
Woodward, George A	Mar. 20, 1879	3,375 00	2,625 00
Roberts, Joseph	July 2, 1877	3,375 00	8,418 75
Elliott, Washington L	Mar. 20, 1879	3,375 00	2,343 75
Hinks, Edward W	Dec. 15, 1870	2,887 50	26,115 29
Starr, Samuel H	Dec. 15, 1870	3,375 00	30,525 00
Marshall, Elisha G	Sept. 11, 1867	3,375 00	36,763 43
Rodenbough, Theophilus F	Dec. 15, 1870	2,887 50	26,115 29
Lewis, John R	Apr. 28, 1870	2,887 50	27,664 89
Ross, Samuel	Jan. 1, 1871	3,375 00	23,482 52
Yates, Theodore	Nov. 1, 1867	2,887 50	32,566 39
Walker, Moses B	Feb. 19, 1866	2,887 50	36,240 75
Kilpatrick, Robert L	Dec. 15, 1870	2,887 50	26,107 27
McNett, Andrew J	Dec. 15, 1870	2,887 50	26,107 27
Catlin, Isaac S	May 6, 1870	2,887 50	27,551 32
Pulford, John	Dec. 15, 1870	2,887 50	24,859 63
Preston, Albert W	Dec. 15, 1870	2,887 50	24,392 26
			1,344,880 31
Professors, (colonels:)			
Bartlett, William H. C	Feb. 14, 1871	3,375 00	29,743 75
Weir, Robert W	July 25, 1876	3,375 00	11,587 50
			41,331 25
Lieutenant-colonels:			
Ruff, Charles F	Mar. 30, 1864	3,060 00	35,292 42
Alexander, Thomas L	Oct. 16, 1863	3,060 00	31,935 43
Burke, Martin	Aug. 1, 1863	3,060 00	21,047 66
Steen, Enoch	Sept. 23, 1863	3,060 00	31,476 99
Whiting, Daniel P	Nov. 4, 1863	3,060 00	33,113 74
Chapman, William	Aug. 26, 1863	3,060 00	40,507 43
Patten, George W	Feb. 17, 1864	3,060 00	32,014 65
Leonard, Hiram	Jan. 1, 1872	3,060 00	23,875 00
Hill, Bennett H	Dec. 15, 1870	3,060 00	26,883 33
Sitgreaves, Lorenzo	July 10, 1866	3,060 00	37,525 19
Wessells, Henry W	Jan. 1, 1871	3,060 00	27,250 00
Wallace, George W	Dec. 15, 1870	3,060 00	27,448 83
Satterlee, Richard S	Feb. 22, 1869	3,060 00	29,632 47
McDougall, Charles	Feb. 22, 1869	3,060 00	29,308 36
Duncan, Thomas	Jan. 15, 1873	3,060 00	20,875 00
Hayman, Samuel B	July 1, 1872	3,060 00	22,500 00
Nelson, Anderson D	June 7, 1879	3,060 00	1,691 67
Woodruff, Dickinson	Dec. 15, 1870	2,925 00	27,454 98
Gibson, Augustus A	Dec. 15, 1870	3,060 00	27,133 33
Bootes, Levi C	Oct. 7, 1874	3,060 00	15,691 67
Montgomery, Alexander	Jan. 15, 1874	3,060 00	17,875 00
McNutt, John	May 27, 1878	3,060 00	4,783 33
McLean, Nathaniel H	Mar. 3, 1875	2,925 00	14,121 25
Hunt, Franklin E	June 7, 1879	3,060 00	1,191 67
Prince, Henry	Dec. 31, 1879	3,060 00	.....
Allen, Harvey A	Apr. 10, 1879	3,060 00	2,166 66
Wyse, Francis O	Feb. 28, 1879	3,060 00	2,508 33
Stewart, Joseph	Aug. 25, 1879	3,060 00	1,041 63
Maley, Thomas E	Dec. 15, 1870	2,475 00	20,831 25
Freudenberg, Charles G	Dec. 15, 1870	2,475 00	16,229 47
Shea, Thomas	Dec. 15, 1870	2,475 00	21,862 50
Gile, George W	Dec. 15, 1870	2,475 00	24,116 10
Avery, Robert	Dec. 31, 1870	2,475 00	22,275 00
Perry, Robert C	Dec. 31, 1870	2,475 00	22,068 75
			713,729 09

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Majors:			
Randall, Burton	Oct. 17, 1868	$2,625 00	$28,889 50
Lynde, Isaac	July 28, 1866	2,625 00	26,635 57
Edgar, William F	Aug. 27, 1862	2,625 00	26,933 10
Pratt, Henry C	June 19, 1879	2,625 00	1,351 39
Austine, William	Feb. 20, 1862	2,625 00	33,369 70
Smith, Simeon	June 10, 1879	2,437 50	1,327 04
Judd, Henry B	Nov. 21, 1861	2,625 00	30,454 45
Whittlesey, Joseph H	Nov. 30, 1863	2,625 00	27,317 88
Prince, William E	Mar. 30, 1864	2,625 00	28,754 71
Caldwell, James N	Dec. 29, 1863	2,625 00	31,038 33
Morris, Robert M	Feb. 21, 1873	2,625 00	18,010 40
Tracy, Albert	Nov. 4, 1865	2,437 50	28,194 58
Prime, Frederick E	Sept. 5, 1871	2,625 00	18,165 93
Hastings, David H	Dec. 7, 1863	2,625 00	35,267 34
McArthur, Joseph H	Nov. 2, 1863	2,625 00	30,929 68
Beckwith, Edward G	Mar. 20, 1879	2,625 00	2,041 68
Brua, John P	Feb. 8, 1875	2,250 00	11,018 75
Bissell, Lyman	Dec. 31, 1870	2,437 50	21,944 12
Ludington, Elisha H	Mar. 27, 1879	2,437 50	1,848 39
Cogswell, Milton	Sep. 5, 1871	2,625 00	21,884 68
Collins, Joseph B	{Jan. 1, 1871 / Mar. 8, 1879}	2,625 00	2,136 45
Hudson, Edward McK	Dec. 15, 1870	2,625 00	23,304 16
Williams, George A	Dec. 15, 1870	2,437 50	22,045 67
Fleming, Hugh B	Dec. 15, 1870	2,437 50	22,045 67
Gray, Charles C	Jan. 10, 1879	2,437 50	2,369 70
Runkle, Benjamin P	Dec. 15, 1870	2,062 50	18,648 10
Seymour, Truman	Nov. 1, 1876	2,625 00	8,312 50
Lane, William B	Dec. 15, 1870	2,625 00	23,741 66
Larned, Frank H	Feb. 5, 1867	2,625 00	28,646 79
Judd, Edwin D	June 4, 1879	2,437 50	1,594 73
Hanna, Valentine C	Jan. 11, 1877	2,250 00	6,687 50
Burbank, Jacob E	Mar. 3, 1875	2,437 50	11,425 00
Potter, Joseph A	Apr. 21, 1879	2,437 50	1,685 89
Latimer, Alfred E	Mar. 20, 1879	2,625 00	2,041 68
McKibbin, David B	May 31, 1875	2,625 00	12,031 25
Freedley, Henry W	Sept. 25, 1868	2,437 50	29,594 38
Hambright, Henry A	May 6, 1879	2,437 50	1,591 00
Belger, James	June 19, 1879	2,625 00	1,392 69
Enos, Herbert M	May 29, 1876	2,437 50	8,747 70
Bankhead, Henry C	Nov. 12, 1879	2,625 00	349 97
Dunn, Thomas S	June 29, 1878	2,437 50	3,656 16
Stanhope, Philip W	May 27, 1879	2,437 50	1,435 38
Robertson, James M	Mar. 20, 1879	2,625 00	2,048 96
Nugent, Robert	Mar. 20, 1879	2,437 50	1,895 78
Walker, Robert C	June 22, 1878	2,250 00	3,400 00
Hawley, William	June 14, 1879	2,437 50	1,327 07
Janes, Henry W	July 2, 1879	2,437 50	1,205 16
Clark, Joseph C., jr	May 11, 1864	2,625 00	25,574 51
Lee, Samuel P	Dec. 15, 1870	2,062 50	18,654 01
			712,766 74
Captains:			
King, Benjamin	Nov. 2, 1863	2,100 00	30,254 52
Bailey, Joseph H	Aug. 27, 1862	2,100 00	24,708 46
Tidball, Joseph L	Nov. 1, 1861	1,890 00	20,412 25
Garland, John S	Nov. 29, 1861	1,890 00	30,404 47
Hendershott, Henry B	Mar. 30, 1864	1,890 00	19,409 41
Churchill, Charles C	Feb. 28, 1862	1,890 00	28,272 74
Bates, Francis H	Oct. 19, 1863	1,890 00	19,506 26
Lowe, William B	Feb. 19, 1866	1,485 00	18,653 41
Walker, Thomas W	Sept. 11, 1863	1,620 00	24,075 97
Pease, William R	Aug. 28, 1863	1,755 00	18,461 26
Thompson, James	May 6, 1869	1,755 00	17,939 18
Symmes, John C	Nov. 1, 1861	2,100 00	33,327 04
Dickinson, William	Oct. 3, 1863	1,620 00	21,530 95
Thompson, Ai B	May 6, 1864	1,485 00	14,711 60
Norton, Thomas H	Dec. 15, 1870	1,485 00	13,431 00
Rossell, William H	Nov. 28, 1863	1,755 00	17,258 96
Stivers, Charles B	Dec. 30, 1864	1,620 00	22,825 73
McNally, Christopher H	Dec. 24, 1866	2,100 00	22,433 32
Drake, Alexander E	Aug. 27, 1862	1,620 00	21,372 45
Murry, Alexander	Mar. 30, 1864	1,485 00	16,633 91
Smedburg, William R	Dec. 15, 1870	1,650 00	14,406 33
Catlin, Lynde	June 28, 1878	1,755 00	2,647 12
Holmes, Charles	Nov. 28, 1863	1,485 00	20,037 16
Sturgeon, Sheldon	May 17, 1876	1,950 00	7,063 37
Kellogg, Josiah H	Feb. 6, 1865	1,650 00	18,777 93
Bristol, Henry B	Mar. 20, 1879	1,890 00	1,470 00
Hascall, Herbert A	Nov. 10, 1874	1,755 00	8,979 75
Prime, Nathaniel	Mar. 20, 1879	1,755 00	1,365 00
Bailey, Thomas C. J	Aug. 18, 1865	1,350 00	16,559 58
Devin, John D	Mar. 27, 1879	1,755 00	1,330 87
Morgan, Henry C	Feb. 17, 1868	1,485 00	17,164 43
Brand, Thomas T	Dec. 31, 1864	1,485 00	16,090 45
Burrowes, Thomas B	Mar. 20, 1879	1,755 00	1,365 00
McLoughlin, George H	Dec. 31, 1870	1,890 00	13,987 12
Parker, Richard C	Mar. 20, 1879	1,755 00	1,365 00
Holcomb, Pythagoras E	Jan. 30, 1869	1,485 00	15,879 21
Walcott, William H	Jan. 7, 1865	1,485 00	16,122 70
Rives, Wright	Dec. 31, 1870	1,485 00	13,365 00
Kroutinger, Adolph W	June 7, 1879	1,890 00	966 00
Powell, James	Jan. 8, 1868	1,485 00	13,983 75
McGown, George	Mar. 14, 1865	1,485 00	14,555 89
Walker, John H	Mar. 27, 1869	1,485 00	15,701 28
Brown, Andrew M	Aug. 31, 1871	1,620 00	13,504 50
Noble, Henry B	Feb. 18, 1869	1,485 00	15,794 31
Watson, Malbone F	Sept. 18, 1868	1,650 00	16,177 20
Van Derslice, Joseph H	Apr. 23, 1879	1,890 00	1,302 00
Hearn, James A	Dec. 31, 1870	1,890 00	13,987 12
Barstow, Simon F	June 7, 1879	1,950 00	1,099 66
Silliman, Henry R	May 9, 1867	1,650 00	20,345 06
Culbertson, Howard	Jan. 8, 1869	1,650 00	17,680 79

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Miller, John	Mar. 20, 1879	$1,890 00	$1,475 25
Kerin, Joseph	June 28, 1878	2,100 00	3,161 67
Mallery, Garrick	July 1, 1879	1,755 00	877 50
Pyne, Charles M	Dec. 15, 1870	1,485 00	13,431 00
Stewart, James	Mar. 20, 1879	1,890 00	1,475 25
Thompson, William	Dec. 15, 1875	1,800 00	7,367 33
Bates, James A	Dec. 15, 1870	1,485 00	13,431 00
Dodge, Theodore A	Apr. 28, 1870	1,485 00	14,326 61
Donovan, John H	June 28, 1878	1,755 00	2,647 12
Meyer, Edward S	Aug. 24, 1872	1,800 00	13,235 00
Clarke, Charles E	June 28, 1878	1,755 00	2,647 12
Greene, Charles T	Dec. 15, 1870	1,650 00	14,923 33
Gallupe, George S	Mar. 1, 1878	1,620 00	2,970 00
Gardner, Hezekiah	Dec. 15, 1870	1,485 00	13,431 00
Crone, Louis E	Dec. 15, 1870	1,485 00	13,431 00
Kilgour, William M	June 20, 1873	1,350 00	9,780 82
Catlin, Robert	Dec. 15, 1870	1,485 00	13,431 00
Barnitz, Albert	Dec. 15, 1870	1,650 00	14,923 34
Huxford, William P	Sept. 10, 1868	1,485 00	16,341 54
Reeves, Thomas H	June 5, 1868	1,485 00	14,355 45
Gelray, Joseph W	Dec. 15, 1870	1,485 00	13,431 00
O'Connell, William	Apr. 2, 1879	2,100 00	1,578 94
Butler, John H	May 14, 1870	1,650 00	15,687 44
Vande Wiele, John B	Mar. 20, 1879	1,950 00	1,516 68
Wells, Elijah R	Apr. 23, 1879	2,100 00	1,446 67
Carse, George B	Dec. 15, 1870	1,485 00	13,431 00
White, George Q	Dec. 15, 1870	1,485 00	13,431 00
Nelson, William	May 29, 1874	1,620 00	9,054 00
De Gress, Jacob C	Dec. 31, 1870	1,650 00	14,854 58
Rendlebrock, Joseph	July 23, 1879	2,100 00	875 00
Conway, Edwin J	Dec. 31, 1870	1,950 00	14,940 41
Schwenk, Samuel K	May 17, 1876	1,800 00	6,520 00
Hagan, Oscar	Apr. 4, 1879	2,100 00	1,557 50
Egan, James	May 9, 1879	1,950 00	1,137 50
McDonald, John	July 1, 1868	1,800 00	17,939 76
Brent, Thomas L	May 17, 1876	1,800 00	6,520 00
Tomkins, James S	Mar. 20, 1879	1,620 00	1,260 00
Merrell, William H	Dec. 31, 1870	1,485 00	13,365 00
Hotsenpiller, Charles W	June 19, 1879	1,755 00	935 50
Trimble, Joel G	Aug. 21, 1879	2,100 00	915 83
Reynolds, Frank	June 28, 1878	1,800 00	2,710 00
Bowen, Edgar C	June 7, 1879	1,620 00	918 00
Minor, William C	Dec. 15, 1870	1,500 00	13,644 44
Taylor, Alfred B	May 1, 1879	1,950 00	1,300 00
McCleave, William	Mar. 20, 1879	2,100 00	1,639 16
Rittenhouse, Benjamin F	Oct. 7, 1874	1,620 00	8,478 00
Armstrong, Samuel E	June 28, 1878	1,755 00	892 12
McGinniss, James T	Mar. 26, 1879	1,755 00	1,335 75
Schreiner, Herman	Mar. 20, 1879	1,950 00	1,516 70
Boehm, Peter M	Mar. 1, 1878	1,800 00	3,300 00
Fitz-Gerald, Michael J	May 1, 1879	1,125 00	1,134 00
Hyer, Joseph K	Mar. 20, 1879	1,620 00	1,264 50
Johnston, John L	June 28, 1878	1,755 00	2,647 12
Andrews, William H	Nov. 30, 1879	1,950 00	162 50
Lafferty, John	June 28, 1878	1,800 00	2,710 00
Ford, George E	Mar. 20, 1879	1,950 00	1,516 67
Irwin, David A	Apr. 2, 1879	1,950 00	1,451 67
Merritt, Thomas E	Mar. 20, 1879	1,755 00	1,365 00
Ward, Edward W	May 1, 1879	1,950 00	1,294 58
King, Charles	June 14, 1879	1,800 00	980 00
Townsend, Alfred	Feb. 1, 1865	1,485 00	17,146 95
Quirk, Paul	Jan. 5, 1865	1,950 00	18,754 57
Badeau, Adam	May 18, 1869	.....	263 21
Cleghorn, John F	Dec. 15, 1870	1,485 00	13,426 87
Von Schirach, Frederick C	Dec. 15, 1870	1,485 00	13,431 00
Hoag, John M	Dec. 15, 1870	1,485 00	13,431 00
Kelliher, John	Dec. 15, 1870	1,485 00	13,431 00
Tyler, Richard W	Dec. 15, 1870	1,485 00	13,431 00
Hill, George D	Dec. 31, 1870	1,650 00	13,730 42
Niles, Alanson E	Dec. 15, 1870	1,485 00	13,431 00
Hay, Thomas H	Dec. 31, 1870	1,485 00	13,365 00
Keller, Jacob W	Dec. 15, 1870	1,485 00	13,431 00
Porter, Samuel A	Dec. 15, 1870	1,485 00	13,426 87
Gaskill, Edwin C	Dec. 15, 1870	1,485 00	13,431 00
Dawes, William J	Dec. 15, 1870	1,485 00	13,431 00
Bourne, William R	Dec. 15, 1870	1,485 00	13,431 00
Sprague, Wellington G	May 21, 1870	1,485 00	14,250 71
Risley, Douglas G	Dec. 31, 1870	1,485 00	13,365 00
Atwell, William P	Dec. 31, 1870	1,350 00	12,150 00
Judd, George E	May 28, 1870	1,485 00	14,221 20
Sinclair, James B	July 1, 1871	1,485 00	12,300 68
Johnson, William S	May 20, 1871	1,650 00	14,208 33
			1,448,505 44
First Lieutenants:			
McBlair, John H	Oct. 3, 1863	1,237 50	12,783 65
Brownell, Francis E	Nov. 4, 1863	1,237 50	15,891 77
Bates, Dorus E	Jan. 25, 1865	1,125 00	16,909 32
Vincent, Albert O	Dec. 15, 1870	1,237 50	11,192 49
Fitch, William G	Nov. 16, 1863	1,237 50	15,272 63
Hutchinson, Merrill N	Jan. 6, 1864	1,237 50	19,444 39
Williams, George	Nov. 11, 1863	1,236 50	12,064 40
Pennock, William T	July 1, 1865	1,320 00	20,873 87
Davis, Robert	July 18, 1866	1,237 50	18,476 11
Curtis, Charles A	Dec. 15, 1870	1,237 50	11,192 49
Douglass, William O	Dec. 31, 1864	1,125 00	16,218 58
Smith, John H	Dec. 31, 1870	1,462 50	11,359 36
Miller, Charles P	Oct. 12, 1867	1,125 00	13,747 57
Knox, Edward B	May 7, 1870	1,237 50	12,316 87
Du Bois, Richard C	Dec. 15, 1870	1,237 50	11,192 50
Campbell, George J	July 29, 1868	1,320 00	13,359 30
Dolan, Michael	Dec. 15, 1870	1,350 00	11,310 30
Kennicott, Ransom	Nov. 5, 1868	1,237 50	13,640 98
Converse, Oscar I	Oct. 19, 1868	1,237 50	13,546 17
Mullikin, James R	Dec. 15, 1870	1,237 50	11,187 47
Edwards, Charles M	Jan. 28, 1871	1,237 50	11,034 69

List of officers on the retired list, United States Army, &c.—Continued.

Name and rank.	Date of retirement.	Annual pay.	Total amount paid to Dec. 31, 1879.
Williams, Ephraim	Apr. 3, 1869	$1,237 50	$12,981 29
Hays, Joseph H	Dec. 31, 1870	1,237 50	11,621 87
Olmstead, Freeman E	June 28, 1878	1,350 00	2,036 25
Perkins, Rollin	June 10, 1868	1,237 50	12,106 45
Leonard, John	Dec. 15, 1870	1,350 00	11,365 30
Tyler, John	May 29, 1874	1,350 00	7,537 50
Jones, Henry R	June 28, 1878	1,462 50	2,205 93
Ezekiel, David I	June 28, 1878	1,462 50	2,205 93
Hogarty, Michael J	Dec. 15, 1870	1,237 50	10,223 15
Smith, James M	Dec. 31, 1870	1,237 50	11,137 50
Coffman, Joseph C	July 21, 1868	1,237 50	11,432 61
Mellen, Henry B	Oct. 4, 1872	1,440 00	10,428 00
Halleck, Walter F	Sept. 29, 1868	1,237 50	13,137 06
Crawford, Alex. McL	Dec. 31, 1870	1,237 50	11,137 50
Bowker, Hugh D	Dec. 15, 1870	1,237 50	10,347 75
Badger, Nicholas D	June 28, 1878	1,462 50	2,205 93
Rice, Frank R	Dec. 15, 1870	1,237 50	11,192 50
Marcotte, Henry	June 28, 1878	1,462 50	2,205 93
Leavy, James T	July 31, 1868	1,320 00	12,230 28
Cortelyon, David H	Dec. 15, 1870	1,320 00	12,298 50
Cresson, Charles C	Apr. 4, 1879	1,560 00	957 67
Albee, George E	June 28, 1878	1,350 00	2,036 25
Walter, Isaac N	Dec. 31, 1870	1,320 00	11,880 00
Shurley, Edmund R. P	Dec. 2, 1868	1,237 50	13,529 37
Stephenson, William	Apr. 23, 1879	1,440 00	988 00
Williams, Henry R	Dec. 15, 1870	1,237 50	11,192 49
Whitman, Royal E	Mar. 20, 1879	1,440 00	1,120 00
Sands, James H	Nov. 30, 1879	1,440 00	120 00
Gross, Frank P	June 28, 1878	1,560 00	2,353 00
Von Luettwitz, Adolphus H	May 5, 1879	1,440 00	940 00
Walton, John M	June 28, 1878	1,440 00	2,172 00
Nelson, William H	Mar. 20, 1879	1,350 00	1,048 75
Hoppy, Edward	Nov. 8, 1871	1,462 50	10,427 72
Allsworth, Edward	June 28, 1878	1,575 00	2,375 62
Fitzpatrick, Patrick	June 29, 1872	1,125 00	8,443 75
Budd, George W	June 28, 1878	1,440 00	2,172 00
Rice, James H	Dec. 23, 1873	1,350 00	8,130 00
Dunton, Warren R	June 28, 1878	1,462 50	2,205 93
Yeckley, Jonathan A	June 28, 1878	1,350 00	2,036 25
Duff, George	June 28, 1878	1,462 50	2,205 93
Nesmith, Louis A	June 28, 1878	1,350 00	2,036 25
Jennings, Gilbert S	June 28, 1878	1,462 50	2,205 93
Rutherford, Robert G	June 28, 1878	1,462 50	2,205 93
Bannister, John	Nov. 30, 1879	1,462 50	121 87
Bronson, Nelson	Nov. 30, 1879	1,462 50	121 87
Orleman, Louis H	Nov. 20, 1879	1,560 00	143 00
Carter, Robert G	June 28, 1876	1,320 00	4,631 00
Cottell, Hampden S	Feb. 29, 1876	1,350 00	5,182 50
Craycroft, William T	June 28, 1878	1,320 00	1,991 00
Braden, Charles	June 28, 1878	1,320 00	1,991 00
Abbott, Asa T	Apr. 23, 1879	1,462 50	1,003 40
Boswell, Benjamin D	June 28, 1878	1,350 00	2,036 25
Miller, William H	June 28, 1878	1,350 00	2,036 25
Keyes, Charles W	Dec. 31, 1870	1,237 50	11,136 96
Kuhn, Henry H	Dec. 31, 1870	1,237 50	12,168 46
Lewis, Granville	Nov. 30, 1879	1,575 00	131 25
			608,529 79
Second lieutenants:			
McQuiston, Henry	Sept. 26, 1863	1,125 00	14,637 60
Davison, James	Jan. 13, 1864	1,365 00	15,423 38
Clarke, Luke	Feb. 28, 1865	1,155 00	17,119 67
Bayne, Andrew C	Mar. 25, 1871	1,155 00	10,125 50
Hogarty, William P	Dec. 31, 1870	1,155 00	10,395 00
Madden, Frank	Dec. 31, 1870	1,155 00	10,611 29
Mangam, Michael	Dec. 31, 1870	1,155 00	9,817 50
Magnitzky, Gustave	Nov. 14, 1871	1,155 00	9,390 78
Williams, William N	June 28, 1878	1,260 00	1,900 50
Piatt, Benjamin M	Dec. 31, 1870	1,155 00	10,395 00
Reed, Thomas B	Nov. 14, 1871	1,155 00	9,390 78
Johnson, Henry C	Oct. 4, 1872	1,050 00	7,548 20
Walker, Samuel	Dec. 31, 1870	1,155 00	10,395 00
Moore, Michael	Dec. 15, 1870	1,470 00	10,141 81
Benjamin, Edward A	June 28, 1878	1,155 00	1,742 13
			149,034 14
Chaplains:			
McCarty, John	Sept. 16, 1867	1,890 00	17,818 84
Elliott, Jared L	Nov. 24, 1868	1,485 00	9,596 24
Wright, Alpha	Oct. 3, 1879	1,755 00	424 13
Van Wyck, George P	Aug. 1, 1879	1,620 00	670 50
Palen, Vincent	Dec. 1, 1868	1,485 00	15,685 66
Collins, Gamaliel	Oct. 3, 1879	1,755 00	424 13
Gilmore, Alexander	May 17, 1879	1,485 00	919 88
Kelley, Moses J	Oct. 3, 1879	1,620 00	391 50
			45,930 88

RECAPITULATION.

Amount paid to major-generals	$241,571 61
Amount paid to brigadier-generals	604,098 91
Amount paid to colonels	1,344,880 31
Amount paid to professors, (colonels)	41,331 25
Amount paid to lieutenant-colonels	713,729 09
Amount paid to majors	712,766 74
Amount paid to captains	1,448,505 44
Amount paid to first lieutenants	608,529 79
Amount paid to second lieutenants	149,034 14
Amount paid to chaplains	45,930 88
Total	5,910,378 16

BENJ. ALVORD,
Paymaster-General, United States Army.

PAYMASTER-GENERAL'S OFFICE, *March* 12, 1880.

STEPHEN A. M'CARTY.

On motion of Mr. MORSE, by unanimous consent, the joint resolution (S. No. 96) authorizing the President of the United States to appoint Stephen A. McCarty lieutenant-commander in the Navy was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

JOSEPH HOOVER.

Mr. ERRETT, by unanimous consent, introduced a bill (H. R. No. 6085) to correct the military record of Joseph Hoover; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JENNETT SEAMANT.

Mr. CALKINS, by unanimous consent, introduced a bill (H. R. No. 6086) for the relief of Jennett Seamant; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. LONGBOTTOM.

Mr. McKINLEY, by unanimous consent, introduced a bill (H. R. No. 6087) granting a pension to John H. Longbottom, late of Company D, One hundred and twenty-sixth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SWAMP LANDS IN MICHIGAN.

Mr. McGOWAN, by unanimous consent, introduced a bill (H. R. No. 6088) granting certain swamp lands in Branch County, Michigan, to the Quincy Chain Lake Channel Company for navigation purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SAMUEL LANDIS.

Mr. DUNNELL, by unanimous consent, introduced a bill (H. R. No. 6089) granting a pension to Samuel Landis; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COLLEGES FOR AGRICULTURE, ETC.

On motion of Mr. PAGE, by unanimous consent, the bill (S. No. 940) to amend an act approved July 2, 1862, entitled "An act donating lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanical arts," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Education and Labor.

MICHAEL L. KIGGINS.

Mr. HOUSE, by unanimous consent, introduced a bill (H. R. No. 6090) for the relief of Michael L. Kiggins, administrator of James Walsh, Company C, Tenth Regiment Tennessee Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

KLAMATH INDIAN RESERVATION.

Mr. WHITEAKER, by unanimous consent, from the Committee on Indian Affairs, reported back the bill (H. R. No. 3454) for the restoration of the Klamath River Indian reservation in the State of California to the public domain, accompanied by a report in writing; and moved that the bill and report be printed and recommitted to the Committee on Indian Affairs, not to come back on a motion to reconsider.

The motion was agreed to.

THOMAS F. JOHNSON.

Mr. TAYLOR, by unanimous consent, introduced a bill (H. R. No. 6091) granting a pension to Thomas F. Johnson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. N. PRANGLE.

Mr. TAYLOR also, by unanimous consent, introduced a bill (H. R. No. 6092) granting a pension to J. N. Prangle; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLAIMS OF EX-OFFICERS OF THE ARMY.

Mr. TAYLOR also, by unanimous consent, introduced a bill (H. R. No. 6093) to establish a board of officers of the Army for the purpose of examining the claims of ex-officers for restoration to the Army, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES E. GARLAND.

Mr. TAYLOR also, by unanimous consent, introduced a bill (H. R. No. 6094) granting a pension to James E. Garland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOWER RED RIVER, LOUISIANA.

Mr. ELLIS introduced a bill (H. R. No. 6095) extending the operations of the Light-House Board over Lower Red River, in Louisiana; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FLORIDA CLAIMS.

Mr. DAVIDSON. I ask that by unanimous consent the Committee of the Whole on the state of the Union be discharged from the consideration of the joint resolution (H. R. No. 292) and that it be brought before the House for consideration at this time.

The SPEAKER. The title of the joint resolution will be read, after which objections, if any, to its present consideration will be in order.

The Clerk read as follows:

A joint resolution (H. R. No. 292) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida.

Mr. DAVIDSON. There is a mistake in the title of the joint resolution. In the title are the words, "directing the Secretary of the Treasury;" but the body of the resolution directs the Secretary of War, in whose Department the papers will be found. I ask unanimous consent to move that the title may be changed.

The SPEAKER. That can be done if the House sees fit after the joint resolution is passed.

Mr. DAVIDSON. This resolution directs the Secretary of War to investigate, ascertain, and report to Congress what money, if any, is due by the General Government to the State of Florida for expenditures made by that State in suppressing Indian hostilities between the year 1855 and the year 1860, and report to Congress. No appropriation is asked for.

The SPEAKER. The joint resolution will be read.

The joint resolution was read.

The SPEAKER. Is there objection?

Mr. CALKINS. Is final action sought at this time on the joint resolution?

The SPEAKER. The motion is to discharge the Committee of the Whole from its consideration and bring it before the House to be put upon its passage.

Mr. CALKINS. I would like to have some explanation.

The SPEAKER. The report will be read.

Mr. DAVIDSON. Perhaps the gentleman will be satisfied by hearing the joint resolution again read. The report is somewhat lengthy.

Mr. BRAGG. I object to the consideration of the joint resolution at this time.

SAMUEL BAKER.

Mr. NEAL. I ask unanimous consent to take from the Private Calendar for consideration at this time the bill (H. R. No. 5542) to increase the pension of Samuel Baker. Before the Chair asks for objections I want to state that this is an old gentleman, eighty-eight years of age, who was with Scott in the battles of Lundy's Lane and Chippewa.

The SPEAKER. The bill will be read for information, after which objections, if any, will be in order.

The bill was read, as follows:

Be it enacted, &c., That the pension heretofore granted Samuel Baker, a volunteer soldier of the war of 1812, in the company commanded by Captain Dunn, of the regiment commanded by Colonel James Fenton, enlisted in Franklin County, Pennsylvania, be, and the same is, increased to the rate of $20 per month, dating from the 1st day of January, 1880.

Mr. NEAL. Let the report be read.

The report of the Committee on Pensions was read, as follows:

That Mr. Baker is now of the age of eighty-eight years. He was a soldier of the war of 1812, engaged in several hard-fought battles which shed a brilliant luster upon American arms and prowess, and was wounded, from the effects of which he suffers to this day, although the wound was not of that character as to prevent him from engaging in the ordinary avocations of life. A brief statement of military services is as follows:

He was mustered into the military service of the United States as second sergeant of a company of volunteers commanded by Captain Dunn, in February, 1814, at London, Franklin County, Pennsylvania. From there he marched to Erie, Pennsylvania; from that point to Put-in Bay to guard some vessels which had been captured from the British. These vessels were taken to Erie by the detachment of which Mr. Baker was a member. From thence he went with a detachment under the command of Colonel Campbell to destroy a quantity of military stores and provisions which the British were reported to have accumulated at Long Point. There they destroyed a large distillery and burned the town of Dover and returned to Erie. His regiment then joined the Federal Army under the command of General Brown, at Buffalo; they crossed over into Canada, captured Fort Erie, participated in the battle of Chippewa, and the military operations which preceded and succeeded that famous and important battle, and was injured during those operations by having his horse fall upon him, it being struck and instantly killed by a cannon-ball. He also participated in the battle of Lundy's Lane. In short, he actively engaged in all the military operations of the Federal Army under the commands of Generals Jesup, Ripley, and Scott, until August, 1814, when he returned to Erie, Pennsylvania, and was mustered out of the service.

In view of the great age of the petitioner, the important and valuable services he rendered his country in the hour of need and peril, and his present indigent circumstances, your committee are of opinion Congress should regard favorably his petition, and therefore report the accompanying bill, recommending its passage.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NEAL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLLECTION DISTRICT IN NORTH CAROLINA.

Mr. RUSSELL, of North Carolina. I ask unanimous consent that House bill No. 2470, reported from the Committee on Commerce, with amendments, be now taken from the Calendar of the Committee of the Whole and considered in the House at this time. It is a bill to create a new collection district in North Carolina, and to make Fayetteville a port of entry.

The bill was read.

Mr. SIMONTON. I object.

ORDER OF BUSINESS.

Mr. COFFROTH. I call for the regular order.

Mr. HARRIS, of Virginia. I hope the gentleman will withdraw that demand for a short time.

Mr. SMITH, of New Jersey. I desire to have passed a short bill, which will take but a moment.

Mr. COFFROTH. I will withdraw the demand for the present.

SCHOONER J. H. DUSENBERRY.

Mr. SMITH, of New Jersey. I ask consent to take from the Private Calendar for consideration at this time the bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry. It is a bill reported from the Committee on Commerce.

The bill was read. It authorizes the Secretary of the Treasury to change the name of the schooner J. H. Dusenberry to Cordorus.

There being no objection, the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

FRANCIS L. GALT.

Mr. HARRIS, of Virginia, by unanimous consent, reported from the Committee on the Judiciary a bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt, of Virginia.

Mr. GARFIELD. Let the petition be read.

The petition was read, as follows:

UPPERVILLE, FAUQUIER COUNTY, VIRGINIA,
March 15, 1880.

The honorable the Senate and House of Representatives:

In March, 1861, I resigned my position of passed assistant surgeon in the Navy of the United States, which resignation was accepted by the Government thereof, and afterward received the appointment of surgeon in the navy of the Confederate States, which position I held until the close of the recent war.

I now ask for a release from whatever disabilities may attach to the above record in accordance with the amendment to the Constitution providing for such cases.

I have the honor to be, very respectfully,

FRANCIS L. GALT.

The bill was read three several times, and passed; two-thirds voting in favor thereof.

MINES.

Mr. BELFORD, by unanimous consent, introduced a bill (H. R. No. 6097) to amend section 2322 of chapter 6 of the Revised Statutes of the United States, relating to mines; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

REPEAL OF BANK-CHECK STAMPS.

Mr. PRICE. I ask consent to have taken from the House Calendar for consideration at this time the bill (H. R. No. 5897) repealing section 3418 of the Revised Statutes, in reference to stamps on bank checks.

Mr. TOWNSHEND, of Illinois. That bill ought to be considered in Committee of the Whole.

Mr. PRICE. It is on the House Calendar now. It is a bill which affects about eight hundred thousand people; and if gentlemen will hear the report read they will not object to it.

Mr. TOWNSHEND, of Illinois. I object.

R. W. BARKLEY.

Mr. ROTHWELL. I ask consent that House bill No. 4842 be taken from the Private Calendar for consideration at this time, it having been reported from the Committee on Naval Affairs with an amendment. It is a bill to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Navy be, and he is hereby, authorized to reinstate as cadet-midshipman in the United States Naval Academy at Annapolis, Maryland, R. W. Barkley, of Chillicothe, county of Livingston, and State of Missouri, if in his judgment such reinstatement is proper, to fill the vacancy now existing in said institution from the tenth congressional district of the said State of Missouri.

The amendment reported from the Committee on Naval Affairs was to add to the bill the following:

And provided, That said Barkley is designated and appointed for such purpose by the Representative in Congress from said district.

There being no objection, the amendment was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

WILLIAM H. WHITING.

Mr. LAPHAM, by unanimous consent, introduced a bill (H. R. No. 6098) for the relief of William H. Whiting, by paying him damages out of the Geneva award fund for injuries suffered by him during his capture and confinement in the rebel cruiser Alabama while in irons in the hold of said steamer; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GROTON, CONNECTICUT.

Mr. WAIT, by unanimous consent, introduced a bill (H. R. No. 6099) to authorize the Secretary of War to release the right of way in lands in Groton, Connecticut; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REMOVAL OF TOBACCO IN PROCESS OF MANUFACTURE.

Mr. BRIGHAM. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of House bill No. 196, authorizing the removal of tobacco in process of manufacture, and that the bill be now considered in the House.

The bill was read, as follows:

Be it enacted, &c., That Jacob Charles Appleby and George W. Helme, composing the commercial firm of Appleby & Helme, of New York, be, and are hereby, authorized to remove, in bulk, packages, from their factory at or near Spotswood, in the third district of New Jersey, cut tobacco and snuff, in process of preparation for sale, to their factory in the second district of New York, to be there packed into the form of packages and stamped as is prescribed by law: *Provided*, That such removal shall be made under permit and supervision of the Commissioner of Internal Revenue, as is provided for the removal of snuff and tobacco in process of manufacture.

Mr. NEWBERRY. Is there a report accompanying that bill?

The SPEAKER. There is.

Mr. NEWBERRY. I ask that the report be read.

The report was read, as follows:

The Committee on Ways and Means, to whom was referred the bill (H. R. No. 196) authorizing the removal of tobacco in process of manufacture, have had the same under consideration, and report:

That Jacob C. Appleby and George W. Helme, composing the firm of Appleby & Helme, are wholesale dealers in manufactured tobacco in the city of New York.

That their factory for the treatment and preparation of tobacco for market is located at Spotswood, Middlesex County, third district of New Jersey.

That the packing and stamping of the manufactured article in proper form for sale requires a large force of employés, which said firm find it impossible to procure in the vicinity of their factory.

That in the city of New York the firm can readily obtain all the help needed to prepare their goods for sale.

The committee recommend the passage of the bill authorizing said firm of Appleby & Helme to remove in bulk packages of cut tobacco and snuff in process of manufacture for sale from their factory in Spotswood, New Jersey, to their factory in the city of New York, under the permit and supervision of the Commissioner of Internal Revenue, as provided in the bill.

Mr. NEWBERRY. I would inquire if that is a unanimous report of the Committee on Ways and Means.

Mr. DUNNELL. It is.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRIGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE HEARD.

Mr. PHILIPS. I ask unanimous consent to have taken from the Private Calendar for present consideration the bill (S. No. 309) for the relief of George Heard.

The bill was read, as follows:

Whereas George Heard, of Pettis County, Missouri, did, on June 8, 1852, at the then Clinton (Missouri) land office, attempt to locate bounty-land warrant No. 61,178, for one hundred and sixty acres of land, act of 1847, issued to Chester Hebner, upon the west half of lot 2 of northeast quarter and east half of lot 2 of northwest quarter, section 2, township 45, and west half of southeast quarter, section 35, township 46, range 21, the transfer of said bounty-land warrant being in blank, and the said land warrant and the application of said George Heard to locate the same upon said lands were duly forwarded to the General Land Office in Washington, District of Columbia, and were returned by said General Land Office to the Clinton (Missouri) land office for correction, and were burned and destroyed in said land office, November 26, 1861, at Warsaw, Missouri, to which said Clinton land office had been removed, and said Heard was not notified of the said return of said warrant for correction, and could not therefore make the correction, and did not know of the said defective assignment of said warrant or its return for correction or its destruction until very recently, and until said Chester Hebner, in whose name such warrant was issued, had died or disappeared, and it was impossible for him to correct said error; and said George Heard did, in July, 1878, pay the purchase-money for said lands, $200 in cash, and make a cash entry of the same, and receive a patent therefor, and was at the time of the attempted location of said land warrant the actual and real owner thereof, and no other person has ever claimed or attempted to locate the same, and said warrant is now lost and destroyed; and said George Heard is in justice entitled to have issued to him another land warrant in lieu of said warrant so burned: Therefore,

Be it enacted, &c., That the proper officers of the Interior Department be, and hereby are, authorized and directed to prepare and cause to be issued and delivered to the said George Heard, assignee of Chester Hebner, a bounty-land warrant for one hundred and sixty acres of land, in lieu of said bounty-land warrant No. 61,178, issued under said act of Congress of 1847, and so burned and destroyed, in such form that the same can be located by said George Heard, or assigned and transferred by him, and located by his assignee.

Mr. PHILIPS. This bill, which has been passed by the Senate, has been favorably reported by the Committee on the Public Lands of this House, the report being unanimous.

There being no objection, the Committee of the Whole on the Private Calendar was discharged from the further consideration of the bill; which was thereupon ordered to a third reading, read the third time, and passed.

BYRON ROSECRANS.

Mr. BREWER. I ask unanimous consent to have taken from the Private Calendar for immediate consideration the bill (H. R. No. 4753) to correct the military record of Byron Rosecrans. The bill is very short, and will not take two minutes.

The bill was read, as follows:

Be it enacted, &c., That the military record of Byron Rosecrans, late of Company H, Twenty-ninth Michigan Volunteer Infantry, be corrected by removing the charge of desertion against him, and that he be granted an honorable discharge as of the date of muster-out of said regiment.

The SPEAKER. Is there a report accompanying this bill?

Mr. BREWER. Yes, sir; a unanimous report.

There being no objection, the Committee of the Whole on the Private Calendar was discharged from the further consideration of the

bill; which was thereupon ordered to be engrossed for a third reading, read the third time, and passed.

LIFE-SAVING STATION, LOUISVILLE, KENTUCKY.

Mr. WILLIS. I move that the Committee of the Whole House be discharged from the consideration of the bill (H. R. No. 5532) establishing a life-saving station at Louisville, Kentucky, and that the bill be now considered.

I have never before, Mr. Speaker, asked a favor of this kind of the House; and my only reason for doing so now is, that human life and the safety of property are involved in the speedy passage of this bill. Only day before yesterday the steamer Alice, bound from the port of Pittsburgh for the port of Saint Louis, a stout, stanch, and strong vessel, with a cargo of over four hundred tons, in attempting to leave the wharf at Louisville, was swept into the river and floated helplessly down over the falls and was wrecked upon the rocks, her crew barely escaping with their lives. This very hour a dispatch comes to me, announcing the rescue from drowning of two persons at the same point. If we are to act upon this bill, why not do so at once and thus save human lives and valuable property which will be jeopardized or lost before the bill is reached in its order upon the Calendar. The facts which render the falls of the Ohio so dangerous and which call for the establishment of a life-saving station have been set forth in the report of the committee. There is an obstruction in the Ohio, at Louisville, caused by a fall of twenty-five or twenty-six feet in one mile and three-quarters.

The currents and counter currents thus produced, twisting and turning among hidden rocks, have always made the navigation at that point exceedingly fatal to both water craft and human lives. Within the last three years the Government, for the purpose of increasing the depth of water in the main channel, has erected two wing-dams, which have greatly augmented the dangers of the place. Through these the surface of the stream has been made smooth, and is apparently so safe that even experienced boatmen in the vicinity have been so deceived as to attempt to cross, and in several instances narrowly escaped drowning. There is a very strong and swift undercurrent, which extends for a mile or more above the falls, and when once in this a boat is borne rapidly toward the Government dams. These dams, except in very high stages of water, cannot be passed at all by the larger boats, and even the lightest skiff, in order to pass, is compelled to perform what boatmen there call "jumping the dam," a feat which is very difficult, and when attempted by those unfamiliar with the locality is always disastrous.

Some idea may be formed of the perilous nature of these falls and the frequency of accidents, from the fact that within the past two years, three men, William Devan, John Tully, and John Gillooly, have saved over fifty lives. The affidavits of our leading citizens, establishing these facts, were presented to the Treasury Department over a year ago, and last summer, acting upon this sworn testimony, the Secretary of the Treasury awarded to them the gold medals, as provided by law. Since then, the State of Kentucky, in further recognition of the skill, bravery, and unselfish devotion of these men, has also bestowed upon them suitable medals commemorative of their services. Among those who have been rescued by these men and whose attention has been called to the necessity of a life-station at the Falls, is the world-renowned Paul Boyton. I read the following letter from him:

CAIRO, ILLINOIS, *April* 6, 1879.

DEAR SIR: Understanding that a movement is on foot to establish a life-saving station at Louisville, I venture to give my warm approval of the measure. I have now been three times over "the falls," and know them to be treacherous and dangerous to human life to an extraordinary degree. Recently I witnessed the rescue of a seemingly doomed party of seven men by the bravery and skill of the men Tully, Devan, and Gillooly, who have the noble record of thirty-nine lives saved, all of them, as I have every reason to believe, at the risk of their own. A life-station, suitably equipped, at Louisville, would soon make that point a noted one in life-saving annals, and I know of no men so fitted to man it as the real heroes I have named.

Trusting that the matter will attract your very earliest attention, I am, very respectfully,

PAUL BOYTON.

Hon. A. S. WILLIS,
House of Representatives, Washington, D. C.

The Louisville board of common council, upon motion of Hon. Charles Godshaw, passed resolutions to the same effect, as follows:

Whereas the falls of the Ohio River at Louisville, Kentucky, have been the scene of numerous accidents, resulting in the loss of many valuable lives, and are in the highest degree dangerous and difficult of navigation; and

Whereas a life-saving station is greatly needed, and would be of incalculable benefit in decreasing the frequent accidents which annually occur, and would result in reclaiming from death those who are exposed to the treacherous swiftness of the current of the Ohio River at said place; and

Whereas William Devan, John Tully, and John Gillooly have, by their heroic efforts and unselfish exposure to danger, rescued thirty persons from death at the risk of their own lives, thereby entitling them not only to the thanks of the people of the city of Louisville, but of the whole country: Therefore,

Be it resolved by the general council of the city of Louisville, That our Representative in Congress, Hon. A. S. WILLIS, and all the members from Kentucky, be requested to use their earnest endeavors to secure the establishing of a permanent life-saving station at the falls of the Ohio, and to secure Messrs. Devan, Tully, and Gillooly appointments in the same, and that a copy of this resolution be forwarded to Hon. A. S. WILLIS and other Kentucky Representatives at Washington.

In view of these strong indorsements and of the evidence as to its necessity, General Kimball, Superintendent of the Life-Saving Service, after recounting the heroism of these gallant boatmen, recommends to Congress the establishment of a station at Louisville as highly desirable. This recommendation comes with stronger force when we remember that during last year three thousand boats and barges passed this point in the descending and ascending navigation of the Ohio River. With these facts before us and with a unanimous report of the Committee on Commerce in its favor, I trust that this bill will be taken up and passed; and when this is done I feel sure that these brave men, whose unselfish devotion has been recognized by their city and State as well as by the General Government, will be placed in charge of the station.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby directed to establish a life-saving station at Louisville, Kentucky, with such equipments and organization as he may think proper; and whatever amount is necessary for said purpose is hereby appropriated, out of any money not otherwise appropriated: *Provided*, That said amount shall not exceed the sum heretofore appropriated for such station.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill; which was thereupon ordered to be engrossed for a third reading, read the third time, and passed.

HARBOR OF REFUGE, LAKE HURON, MICHIGAN.

Mr. CONGER. I ask unanimous consent that the bill (H. R. No. 2695) for the government and control of the harbor of refuge at Sand Beach, Lake Huron, Michigan, be taken up now for immediate action. This bill, which has been unanimously reported by the Committee on Commerce, provides for the appointment of a harbor-master at a harbor of refuge on Lake Huron, a work under the control of the Government. The report shows it is very necessary that a harbor-master be appointed to prevent disasters such as occurred during the storm of last fall. The report can be read if necessary.

The bill was read.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. THOMPSON, of Kentucky. I object.

M'CRARY'S LAW OF ELECTIONS.

Mr. McCOID. I ask unanimous consent to submit for immediate consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That 500 copies of the second edition of McCrary's American Law of Elections be purchased by the Clerk, of which number one copy shall be for each member and Delegate, and the remaining copies shall be placed in the library of the House for the use of committees and members, to be paid for out of the contingent fund of the House.

The SPEAKER. The gentleman from Iowa [Mr. McCOID] asks unanimous consent to have this resolution considered now.

Mr. HENRY. I move the reference of the resolution to the Committee on Accounts.

The motion was agreed to, and the resolution referred accordingly.

WRITS OF ERROR IN CAPITAL CASES.

Mr. NEW. I ask unanimous consent that Senate bill No. 905 may be taken up and passed now. It is a bill allowing writs of error to be issued from the Supreme Court of the United States to supreme courts of the Territories in capital cases. The bill was reported unanimously by the Judiciary Committee of the Senate, and was passed unanimously in that body. It has been reported unanimously by the Judiciary Committee of the House. I hope there will be no objection to its immediate passage.

Mr. CONGER. For some reason or other—perhaps because of my official position on this side of the House—I find it impossible to obtain the consent of the House to take up a bill with which I am in any way connected. This I attribute to personal reasons.

The SPEAKER. Does the gentleman make a point of order?

Mr. CONGER. I desire to give the reason for what I am about to say, and I have the right to do so. It would appear that the only way in which I can serve my constituents is to reach the regular business in the regular order, and perhaps not then. I have introduced a bill for the saving of property and life, which interests every shipper on the lakes. Yet every time the effort is made to bring that bill up here—a bill unanimously reported by the Committee on Commerce, and the passage of which is urged by the Engineer Department as well as by all the chambers of commerce in all the cities on the lakes—gentlemen (for personal reasons as I believe) object.

The SPEAKER. Does the gentleman object to the request of the gentleman from Indiana, [Mr. NEW?]

Mr. CONGER. I desire to have some understanding whether a particular class of business is to be taken out of its regular order here and other public business to be defeated.

The SPEAKER. That is a matter for members of the House. The Chair recognized the gentleman.

Mr. CONGER. Yes, sir; the Chair recognized me; and I acknowledge his kindness. He has recognized me twice on this same proposition.

The SPEAKER. The Chair has nothing to do with the disposition of members on the floor. Does the gentleman object to the bill indicated by the gentleman from Indiana?

Mr. THOMPSON, of Kentucky. I made objection to the bill of the gentleman from Michigan. He chooses to charge in his remarks I did it on personal grounds against him.

Mr. CONGER. There can be nothing in the bill which should give reason to the gentleman to object.

The SPEAKER. There is nothing before the House.

Mr. THOMPSON, of Kentucky. I have nothing personal against the gentleman from Michigan; but I do not withdraw the objection, because the bill ought not to be considered at this time, but should be considered in its regular order.

The SPEAKER. Does the gentleman from Michigan object to this bill?

Mr. CONGER. I do not.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (S. No. 905) in relation to writs of error from the supreme courts of the Territories in capital cases.

Mr. MAGINNIS. I object to that bill.

Mr. NEW. Can the Delegate object?

Mr. MAGINNIS. I can call for the regular order.

Mr. NEW. I rise to a parliamentary inquiry. I am not informed or advised whether the gentleman as a Delegate has the right to object.

The SPEAKER. The Delegate of a Territory has all the rights which a member has excepting the right to vote. He has the right to make all motions except one, the motion to reconsider, and the reason for that is that as he has not the right to vote he therefore has no right to move to reconsider a vote which has been taken.

Mr. HOOKER rose.

The SPEAKER. The regular order is demanded.

Mr. HOOKER. Not now.

The SPEAKER. If the regular order is not demanded the Chair is under obligation to the gentleman from Tennessee, after which he will recognize the gentleman from Mississippi.

DISTRICT AND CIRCUIT COURT AT CHATTANOOGA.

Mr. DIBRELL. I ask unanimous consent to discharge the House Calendar from the further consideration of the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, and that the same be put on its passage at this time. It is a unanimous report from the Committee on the Judiciary.

Mr. FARR. I demand the regular order.

Mr. HOOKER. I hope the gentleman will withdraw it for a moment.

Mr. CONGER. I hope the gentleman will make his request for the withdrawal of the demand for the regular order to his friends on that side and to ask them not to object to bills offered on this side.

Mr. HOOKER. I have not objected.

Mr. FARR. I demand the regular order, and insist upon the demand.

ORDER OF BUSINESS.

Mr. BRIGHT. I understand there is some unfinished business coming over from Friday last which will take precedence.

The SPEAKER. That comes up after the morning hour.

Mr. BRIGHT. I move, then, to dispense with the morning hour for the purpose of going into the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Chair has ruled that when the morning hour is dispensed with that would not carry with it the unfinished business.

Mr. HOOKER. I rise for the purpose of asking unanimous consent——

The SPEAKER. The gentleman from New Hampshire [Mr. FARR] in a distinct and emphatic manner has demanded the regular order.

Mr. HOOKER. I do not understand he objects to my bill.

Mr. CONGER. There was no great delay when objection was made to a bill I offered, and objection being made and demand now being made for the regular order, let it go on.

The SPEAKER. The Chair has recognized the objection.

Mr. BRIGHT. I will modify my motion, and that is to move that the morning hour be dispensed with, so as to take up for action the unfinished business of Friday last.

The SPEAKER. The unfinished business of Friday last comes over after the morning hour. The Chair has ruled that where the morning hour is dispensed with, that was the act of the House as to that morning hour and did not dispense with the unfinished business which came next in order. So, if the morning hour is dispensed with, the unfinished business of Friday last will be taken up.

Mr. BRIGHT's motion was agreed to, and the morning hour was dispensed with.

L. MADISON DAY.

The SPEAKER. The unfinished business coming over from last Friday is a bill (H. R. No. 2798) for the relief of L. Madison Day, which was not disposed of because a quorum did not appear.

Mr. O'CONNOR. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 84, not voting 128; as follows:

YEAS—80.

Acklen,	Bowman,	Coffroth,	Dunnell,
Aldrich, N. W.	Boyd,	Conger,	Elam,
Aldrich, William	Bright,	Cowgill,	Ellis,
Anderson,	Browne,	Daggett,	Farr,
Ballou,	Burrows,	Davis, George R.	Ferdon,
Barber,	Camp,	Davis, Horace	Fisher,
Bayne,	Carpenter,	Deering,	Forsythe,
Belford,	Caswell,	Dibrell,	Gillette,
Godshalk,	Loring,	Poehler,	Tillman,
Hall,	Mason,	Price,	Townsend, Amos
Harris, John T.	McCold,	Richardson, J. S.	Tucker,
Hawk,	McGowan,	Richmond,	Tyler,
Heilman,	Monroe,	Robertson,	Upson,
Henry,	Morse,	Russell, Daniel L.	Valentine,
Horr,	Murch,	Russell, W. A.	Wait,
Hubbell,	O'Connor,	Sherwin,	Washburn,
Hull,	Orth,	Smith, A. Herr	Wilber,
Hutchins,	Osmer,	Smith, Hezekiah B.	Wood, Fernando
Jones,	Overton,	Thomas,	Wright,
Lindsey,	Page,	Thompson, W. G.	Young, Thomas L.

NAYS—84.

Aiken,	Deuster,	Martin, Benj. F.	Sparks,
Armfield,	Dick,	McKenzie,	Speer,
Atkins,	Dwight,	McKinley,	Springer,
Bachman,	Evins,	McMillin,	Steele,
Beale,	Felton,	Mills,	Stevenson,
Beltzhoover,	Forney,	Money,	Stone,
Berry,	Frost,	Morrison,	Talbott,
Bicknell,	Geddes,	Muldrow,	Taylor,
Blackburn,	Gibson,	New,	Thompson, P. B.
Bouck,	Hatch,	Persons,	Turner, Oscar
Bragg,	Henkle,	Philips,	Turner, Thomas
Caldwell,	Herbert,	Reed,	Updegraff, J. T.
Carlisle,	Hooker,	Robinson,	Updegraff, Thomas
Claflin,	Hostetler,	Rothwell,	Waddill,
Clark, John B.	House,	Ryon, John W.	Ward,
Cobb,	Joyce,	Sawyer,	Wellborn,
Colerick,	Keifer,	Shelley,	Wells,
Cook,	Kenna,	Simonton,	White,
Covert,	Knott,	Singleton, O. R.	Willits,
Cravens,	Lewis,	Slemons,	Yocum,
Culberson,	Lounsbery,	Smith, William E.	Young, Casey.

NOT VOTING—128.

Atherton,	Einstein,	Killinger,	Pierce,
Bailey,	Errett,	Kimmel,	Pound,
Baker,	Ewing,	King,	Prescott,
Barlow,	Field,	Kitchin,	Reagan,
Bingham,	Finley,	Klotz,	Rice,
Blake,	Ford,	Ladd,	Richardson, D. P.
Bland,	Fort,	Lapham,	Robeson,
Bliss,	Frye,	Le Fevre,	Ross,
Blount,	Garfield,	Lowe,	Ryan, Thomas
Brewer,	Goode,	Manning,	Samford,
Briggs,	Gunter,	Marsh,	Sapp,
Brigham,	Hammond, John	Martin, Edward L.	Scales,
Buckner,	Hammond, N. J.	Martin, Joseph J.	Shallenberger,
Butterworth,	Harmer,	McCook,	Singleton, J. W.
Cabell,	Harris, Benj. W.	McLane,	Starin,
Calkins,	Haskell,	McMahon,	Stephens,
Cannon,	Hawley,	Miles,	Townshend, E. W.
Chalmers,	Hayes,	Miller,	Urner,
Chittenden,	Hazelton,	Mitchell,	Van Aernam,
Clardy,	Henderson,	Morton,	Vance,
Clark, Alvah A.	Herndon,	Muller,	Van Voorhis,
Clymer,	Hill,	Myers,	Voorhis,
Converse,	Hiscock,	Neal,	Warner,
Cox,	Houk,	Newberry,	Weaver,
Crapo,	Humphrey,	Nicholls,	Whiteaker,
Crowley,	Hunton,	Norcross,	Whitthorne,
Davidson,	Hurd,	O'Brien,	Williams, C. G.
Davis, Joseph J.	James,	O'Neill,	Williams, Thomas
Davis, Lowndes H.	Johnston,	O'Reilly,	Willis,
De La Matyr,	Jorgensen,	Pacheco,	Wilson,
Dickey,	Kelley,	Phelps,	Wise,
Dunn,	Ketcham,	Phister,	Wood, Walter A.

So the House refused to pass the bill.

On motion of Mr. DIBRELL, by unanimous consent, the reading of the names was dispensed with.

The following additional pairs were announced from the Clerk's desk:

Mr. DICKEY with Mr. BUTTERWORTH.

Mr. MANNING with Mr. DICK.

Mr. EINSTEIN with Mr. KING, for the remainder of the day.

Mr. ROSS with Mr. BLAKE, on all subjects except matters relating to the tariff, until Tuesday next.

Mr. CABELL with Mr. SHALLENBERGER, for to-day and to-morrow.

Mr. WILLIAMS, of Alabama, with Mr. RYAN, of Kansas.

Mr. FRYE with Mr. HAMMOND, of Georgia, on this bill.

Mr. DEUSTER with Mr. HEILMAN, on all political questions for the balance of the day and to-morrow's session.

Mr. DAVIDSON with Mr. BREWER, for the balance of the day and to-morrow.

Mr. CHALMERS with Mr. VAN VOORHIS, on all political questions until the return of the latter, but not to interfere with a quorum.

Mr. O'NEILL with Mr. BUCKNER, until Monday, May 10, instant, at one o'clock.

Mr. CANNON, of Illinois, with Mr. BLACKBURN, until Monday next.

Mr. GUNTER with Mr. HASKELL, on all political questions until Monday.

Mr. ERRETT with Mr. SCALES, until Monday next.

Mr. MORSE with Mr. RUSSELL, of Massachusetts, on all political questions.

Mr. CHITTENDEN with Mr. EWING, until Wednesday next.

Mr. WHITTHORNE with Mr. BRIGGS, until Monday next.

Mr. REAGAN with Mr. HAWLEY, until Monday next.

Mr. MARTIN, of North Carolina, with Mr. KITCHIN, for the balance of the day.

Mr. KLOTZ with Mr. MULLER, on all political questions until Monday morning.

Mr. YOUNG, of Tennessee, with Mr. RYAN, of Kansas, until further notice.

Mr. YOUNG, of Tennessee. I was only paired with Mr. RYAN on all political questions, and I thought I saw him in the House this morning. I think that pair has expired.

Mr. ANDERSON. He was in the House this morning.

Mr. YOUNG, of Tennessee. Of course I do not know how he would vote on this question.

Mr. SPARKS. This is not a political question.

Mr. YOUNG, of Tennessee. As my understanding is that the pair related only to political questions I will vote on this bill.

Mr. BLACKBURN. I am announced as being paired with Mr. CANNON, of Illinois, but I am assured by gentlemen on the other side that Mr. CANNON voted on this bill, when it was up before, as I shall vote now. Therefore I will vote on this question as I believe he would vote if he were present.

The result of the vote was then announced as above recorded.

Mr. HERBERT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the President *pro tempore* had appointed Mr. ALLISON a member of the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes, in place of Mr. WINDOM, excused.

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1881, and for other purposes.

The message also announced that the Senate had passed, with amendments, the bill (H. R. No. 5896) making appropriations for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

The message also announced that the Senate had passed a bill (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the brig Annie Johnson, in which bill and amendments concurrence was requested.

ORDER OF BUSINESS.

Mr. BRIGHT. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the Private Calendar.

Mr. COFFROTH. There are several other bills coming over from last Friday, which ought to be disposed of now.

The SPEAKER. They are not in the nature of unfinished business, and will come up after the House goes out of Committee of the Whole. The motion of the gentleman from Tennessee is in order, notwithstanding that these bills are still unacted upon by the House. They will come first in order after the House shall have resumed its session.

Mr. WHITE. How did the House get to the consideration of this bill for the relief of L. Madison Day?

The SPEAKER. That bill came first in order before the House at this time. It was the unfinished business on which the House was engaged at its last adjournment on private bill day. It was before the House at that time for consideration, and a vote was taken upon it when the point was made that no quorum had voted.

Mr. WHITE. Would not the same rule obtain against that as against these other bills?

The SPEAKER. It would not; because the House was actually considering that bill, and it came to a vote on its final passage, but discovered that no quorum was present. The gentleman from Pennsylvania was absent from the House at that time.

The motion of the gentleman from Tennessee, that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the Private Calendar, is the first question before the House.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. BURROWS in the chair.

The CHAIRMAN. The Clerk will report the first bill upon the Private Calendar.

MARY A. SEABORN.

The Clerk read as follows:

A bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Mrs. Mary A. Seaborn, of Laurel County, Kentucky, mother of Thomas Seaborn, late a private of Company B, Fourth Regiment of Kentucky Infantry, who was killed in action on or about the 28th day of July, 1864, at the rate of $8 per month from the death of her son.

The report was read, as follows:

It appears from the proof in this case, that Mary Ann Seaborn is a widow, the mother of Thomas Seaborn, who enlisted as a private at Harrodsburgh, Kentucky, on the —— day of ——, in Company B, of the Fourth Kentucky Mounted Infantry, in the war of 1861; said company was commanded by Captain Blank Lancaster, and said T. Seaborn was engaged in a fight at Shake-Rag, Georgia, and was there killed in the line of his duty. That Mary A. Seaborn was a widow at the time he entered the service, to wit, in 1864; that she was poor, and had no property when he entered the service or since. At the time of her said son's death and entry into the service she was a widow, dependent on him for support, and that while he was in the service he contributed from his pay for her support. Said Thomas Seaborn at his death was a single man, leaving neither widow nor children, never having been married. The claimant, Mary A. Seaborn, is now about seventy-three years of age, and in indigent circumstances. James Hoffman proves that Thomas Seaborn was in the skirmish at Shake-Rag, Georgia, and that he saw him during the fight; that they belonged to the same company, and that they were compelled to retreat and leave their dead on the field, and that he has never seen said Thomas Seaborn since. J. A. McNeal proved the indigent circumstances of Mrs. Seaborn, and Mary G. Trimble proved that while in the service the said Thomas Seaborn contributed to his mother's support. John J. Rose proves that prior to the enlistment of Thomas Seaborn he applied his wages to the support of his mother and little sister, and that the soldier had never been heard of since about the date of the fight at Shake-Rag.

The records of the War Department do not show that Thomas Seaborn was either killed or taken prisoner, and hence the claim of Mary A. Seaborn was rejected; but the proof fully discloses that he was in the service of the United States, and was in the battle of Shake-Rag, and has never been heard of since. We recommend that the bill pass.

Mr. BROWNE. I move to amend by striking out all after "sixty-four," in the ninth line, the words "at the rate of $8 per month from the death of her son."

Mr. CALDWELL. I accept that amendment.

The amendment was agreed to.

The bill, as amended, was laid aside to be reported favorably to the House.

WILLIAM H. WALKER.

The next bill on the Private Calendar was the bill (H. R. No. 1569) granting a pension to William H. Walker.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William H. Walker, late private in Company C, First Regiment Kentucky Volunteer Cavalry.

The report was read, as follows:

That the claimant enlisted as a private in Company K, First Regiment Kentucky Volunteers, July 27, 1861, and was mustered in October 19, 1861, and was honorably discharged December 31, 1864. He states in his affidavit that during the summer of 1863, while in pursuit of Morgan through Kentucky, Indiana, and Ohio, his hearing became seriously injured and impaired from exposure to dust, heat, and otherwise, and that he was nearly deaf when said campaign ended.

It is fully established that he was a sound, healthy man and had good hearing when he entered the service. Several of his officers and comrades testify that while serving with his command in the line of his duty in the summer of 1863, he contracted deafness in said campaign which seriously impaired his hearing. The surgeon of his regiment testifies that he lost all his papers and records, and that it is impossible for him to recollect each particular case. A physician testifies that he has known him for fifteen years, and has examined him since his discharge, and finds him laboring under inflammation of the internal waters, producing partial deafness, at times nearly complete, and that he has given him medical treatment with little effect on his hearing. It is proved that his hearing is still no better. There are no hospital records of the regiment in the Adjutant-General's Office. Your committee are satisfied the disease was contracted in the service and in the line of duty, and that claimant's habits are good and do not tend to aggravate the disease. The proof does not show the precise manner, time, and place of contracting the disease. The claim was rejected, because not prosecuted to a successful issue within five years from date of filing, May 10, 1869, and there was no record evidence of the disability, and the Adjutant-General refused to make a record under section 4717 Revised Statutes. The committee believe, on the whole testimony, that the claimant is entitled to a pension according to the rate of his disability, and recommend the passage of the bill.

Mr. WHITE. Does this bill fix the rate of pension?

The CHAIRMAN. It does not. That is left out.

The bill was laid aside to be reported favorably to the House.

JAMES KITCHEN.

The next business on the Private Calendar was the bill (H. R. No. 2301) granting a pension to James Kitchen; reported by Mr. CALDWELL from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That a pension of $8 per month, from September, 1865, be, and hereby is, allowed and ordered to be paid to James Kitchen, late of Company B, Fourteenth Regiment Kentucky Infantry Volunteers, for continued disability caused by disease incurred in the service of the United States in the late war for the Union; and the same shall be paid to him at that rate per month, from September, 1865, to the present time; and in the future as long as said disability may continue.

The report of the committee was read, as follows:

That they have carefully examined the papers in said case, and find that said James Kitchen was sound and healthy when he entered the service of the United States in said Company B, Fourteenth Regiment Kentucky Infantry Volunteers, on the 9th day of March, 1863, and that by reason of exposure in said service, and diseases contracted thereby while in said service, he has been permanently disabled from the time of his discharge, which disability has continued to the present time and still exists, so that he has been and still is on said account unable to work or earn a livelihood; and the proof justifies us in believing that said disability will continue. His disability arises from disease of the breast, and rheumatism, and of kidney, attended with loss of the use of his right leg and arm, so as to make him helpless, all caused by exposure and disease contracted in and by said service early in 1864, followed by subsequent attacks in said service resulting as aforesaid.

Wherefore they consider and report that he is entitled to a pension of $8 per month from his discharge from said service in September, 1865, to the present time, and in the future as long as said disability continues; and they recommend the passage of said bill.

Mr. WHITE. I offer the following amendment:

Strike out the words "of $8 per month."

Mr. CALDWELL. I accept that amendment.

The amendment was agreed to.

Mr. WHITE. I also move to amend by striking out the words "from September, 1865, to the present time; and in the future."

Mr. CALDWELL. I accept that amendment.

The amendment was agreed to.

Mr. WHITE. I would like to know if any application was ever made to the Pension Department for the allowance of this pension? It does not appear in the report.

Mr. CALDWELL. There was an application made, and this was one of the rejected cases.

Mr. WHITE. It does not so appear in the report.

The CHAIRMAN. The gentleman from Kentucky states that to be the fact.

Mr. BROWNE. I offer the following substitute:

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to put the name of James Kitchen, Fourteenth Kentucky Volunteers, on the pension-roll, subject to the limitations and provisions of the pension laws."

Mr. CALDWELL. I accept that.

The question being taken on the substitute, it was agreed to.

There being no objection, the bill as amended by the adoption of the substitute was laid aside to be reported favorably to the House.

JOHN H. M'BRAYER.

The next business on the Private Calendar was the bill (H. R. No. 1938) granting a pension to John H. McBrayer; reported by Mr. CALDWELL from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John H. McBrayer, late captain of Company K of the Second Kentucky Cavalry in the war with Mexico.

Mr. WHITE. Let the report be read.

The report was read, as follows:

That said John H. McBrayer was enlisted at Lawrenceburgh, Anderson County, Kentucky, on the —— day of ——, 1846, and was mustered into service as first lieutenant June 9, 1846, and took command as captain November 1, 1846, upon the resignation of George W. Kavanaugh. That he was honorably discharged at New Orleans, Louisiana, upon the expiration of his term of enlistment, June 8, 1847; his discharge is filed herein. That there is no record evidence of his injury or disability, but the proof is clear and conclusive on this point, and the reason given why the records are silent. John H. McBrayer, the applicant, made three affidavits, as follows: January 4, 1878, January 12, 1878, and February 13, 1878, in which, as well as his original application, he gives a short statement of the facts on which the applications are based. He says he was sound and well when he entered the service; that he so continued until February 26, 1847, when, in an engagement at Buena Vista with the enemy, he received a gunshot wound in the left leg near the ankle, and also on the toe a bayonet wound. That he was young and inexperienced, being only twenty years of age, and did not know the necessity of reporting wounds, considering them slight; from this and other causes he failed to report them for himself and others in his company. That although painful, and with difficulty he continued at the post of duty, his leg became much swollen; and from this injury and the duties he performed while it was on him the veins in his leg became varicose and have continued so until this day, disabling him from labor. His leg was bandaged for some time. He says that he had plenty to live on is why he never applied for a pension earlier, but is now in straitened circumstances. He has the usual certificates from the clerk of the county court of good character for himself and his other witnesses, besides a certificate from Hon. JAMES B. BECK, United States Senator from Kentucky, and Hon. M. J. Durham, former Representative in Congress from his district, of his good character.

To support his statement that he was sound and well when he enlisted are the affidavits of J. A. McBrayer and Monroe Walker. He proves the injury by the assistant surgeon of the regiment, A. B. Castle, who says that shortly after the battle McBrayer came to him with a gunshot wound on his left leg, which was swollen and the veins inflamed, caused by either a poisoned wound or exposure and fatigue and neglect, and his opinion then was he would have trouble with it in after years.

George Scarcy, a comrade, makes the same statement about the wound as McBrayer, and the continuance of the injury until now, and was present at the time.

A. C. Threldkill, his lieutenant, who was also present, proves the same facts, saw the wound, its character and nature, and suffering of McBrayer in consequence.

There is also filed a certificate of James M. Fiddler, provost marshal and president of the board of enrollment, and John C. Maxwell, the examining surgeon when he was drafted, on 8th October, 1864, that he was disabled from service by wound on left leg, received in service. This was years before he applied for a pension.

The affidavits of Drs. Crossfield and Witherspoon prove he is now disabled in this limb.

We therefore report Captain John H. McBrayer, of Company K, Second Regiment Volunteer Infantry, Kentucky, as entitled to a pension on account of disability from varicose veins, resulting from injuries received in service in the war with Mexico, and report back the bill H. R. No. 1938 with a recommendation that it pass.

Mr. WHITE. I would like to know if this gentleman was in the late war, the war of 1861 against the rebellion.

Mr. CALDWELL. No, sir; he was not in the late civil war.

Mr. WHITE. On neither side?

Mr. CALDWELL. No, sir; on neither side.

Mr. Chairman, the applicant for pension under this bill was the captain of Company K, Second Regiment of Kentucky Cavalry, enlisted for service in the Mexican war. During the engagement at Buena Vista he received a gunshot wound in the left leg, and from youth and inexperience and a feeling of martial pride refused or neglected to report himself as wounded but remained in command of his company, and either from the poisoned nature of the wound or subsequent exposure the veins in his leg became varicosed and resulted in his partial disability. He was exempt from military duty during the late civil war by reason of disability by wound received in the service.

For many years after the Mexican war he was in good condition financially and declined to apply to the Government for assistance, but, finding himself in straitened circumstances and his infirmity increasing, he made application to be placed upon the pension-roll as an invalid soldier, which application was rejected by the Pension Bureau because there was no record evidence of his being wounded, and from that judgment he appealed to Congress for relief. The Committee on Invalid Pensions regard his case as clearly established as an invalid soldier, but, taking broader grounds on the subject, have reported to the House that not only this applicant but all other survivors of the Mexican war are entitled, under the general pension policy of the Government, to be placed upon the pension-roll. As I concur in that opinion and report of the committee, it is but right and proper that I should lay before the Committee of the Whole the reasons, in part, that induced me to give to the measure to which I refer my active and earnest support. I wish to remark in this connection that I am not an advocate of the idea now so prevalent in American politics—that of enacting legislation simply for the purpose of securing the plaudits and winning the support and influence of the military element of the country regardless of the best interests of the great body of the people.

While I believe in justice to the military classes of our population, and will go as far as he who goes furthest in pursuit of it, I sometimes seriously fear, when I contemplate a part of the legislation proposed in their interest and look over the legislative field in other respects, that this entire country is about to be surrendered to the influence of demagogism, class legislation, and the centralizing and despotic power of organized capital as seen in railway, banking, and manufacturing corporations. I have therefore made up my mind that while I hold a seat in this honorable body I will not vote for any bill which appropriates one dollar out of the public Treasury simply to further the ends of any political organization or to secure the approbation of any particular class of our citizens, unless I am thoroughly persuaded that the measure is of itself and independent of such considerations not only just and meritorious, but in perfect harmony with established precedents in similar cases. Believing that this measure comes within this rule, and that its passage is demanded by the honor, good faith, and justice of the nation, I shall give to it my cordial support, and sincerely hope that it will receive the emphatic sanction of this House and the patriotic approval of the country. I shall not attempt a full or an elaborate discussion of the provisions of this bill. Even if I possessed the historical and statistical information necessary for such an argument, the field it offers for debate is too broad and comprehensive to be covered in the space to which I am limited. I shall therefore direct the remarks which I propose to submit in its advocacy to the three propositions upon which its opponents predicate their objections to its passage.

First. That as this bill pensions other than invalid soldiers it is without precedent in our legislation, is contrary to the established pension system of the country, it not being the policy of this Government to pension purely for military services.

Second. That the aggregate number of persons who will be pensioned by this bill should it become a law will exceed seventy thousand, and hence that its cost for the first year will be $7,000,000 and for future years at least one hundred millions of the public money.

Third. That it obliterates all distinction between loyalty and disloyalty in the fact that some of those who were hostile to the Government during the late civil war are beneficiaries under the act.

These propositions combined form, I believe, the basis for all the argument made in antagonism to this measure. Now, sir, without essaying rhetoric, dealing in glittering generalities, or giving utterance to a sentiment that can justly wound the sensibilities of any Representative or any citizen in any quarter of our common country, I shall address myself as best I may to the refutation of these propositions in the order in which I have stated them. If the first proposition relied upon by the opponents of the bill, and which, reduced to a few words, simply means that it is not the policy of this Government to pension purely for military services is correct, then this bill ought not to pass, and should not receive the sanction of gentlemen either upon the one or the other side of this Chamber. So far as I am personally concerned I here declare that I am utterly opposed to any new departure upon the subject of pension legislation, and, in fact, to any departure from the established landmarks of the past upon any subject of Federal legislation of any kind or character whatever.

I prefer to follow the beaten paths marked out by the purest and ablest men our country has ever produced, subject, however, to such change as may be necessary by virtue of the adoption of the recent amendments to the Federal Constitution. But, sir, is this proposition correct, and in the light of our history and in view of the legislative precedents on the subject of pensions, can it be successfully maintained? I think not, and from the investigation I have made of the matter I affirm that, so far from the proposition being correct, the reverse of it is absolutely true and that it has been the policy of this Government, ratified and indorsed by the people from its very foundation down to the present time, to pension its soldiers purely for military services. I think the correctness of this position can be demonstrated from the nature of our military policy, from the character of the military establishment which we have maintained throughout our national existence, by an appeal to the political history of the country which exhibits both the will and the action of the people on the subject of rewarding public men purely for military services, by an examination of executive and senatorial action on kindred questions, and by a review of the special and general legislation of Congress upon the subject of pensions, which form a long line of precedents for the policy objected to, as announced in this bill.

When our forefathers ventured upon the experiment of free government on this continent and laid the broad foundation for the pro-

gressive civilization and development of this Western World; while they made the great principles underlying the British constitution the bed-rock upon which to rest the free institutions of this Republic; while they adopted almost entire the system of laws that prevailed in the mother country, and while they pursued in the administration of our public affairs much of the policy that had been characteristic of that government, they determined that in one respect the policy of this Government should be a wide departure not only from that of Great Britain, but from that of every other government which had preceded ours in the history of the world. It has been the recognized policy of every government known to history anterior to the formation of our own to keep up and maintain in a time of peace a standing army that would comport with the dignity and national consequence of the nation to which it attached and which would be almost, if not entirely, sufficient to defend its rights and secure inviolate the integrity of its territorial possessions in a time of war.

But such was not the policy adopted by the fathers of this Republic, and which their descendants have wisely pursued thus far in their history. It was their purpose to dispense as far as possible with the burdens incident to a great military establishment, and support an army simply sufficient to guard the public property; to defend the frontiers from the nomadic tribes on our borders; to secure domestic tranquillity within the States upon the application of the Legislatures or governors thereof, and to form a nucleus around which to organize an army of citizens in any great and pressing danger. It was their policy to rely for the chief defense of this country on the courage and patriotism of the people, and not upon a ponderous military establishment which would crush the free spirit and impoverish the people with the burden of taxation necessary to its support. The peculiar military policy of this Government was adopted for a twofold reason—prudential on the one hand and economical on the other.

The experience of mankind, speaking through the history of the nations of the earth, had warned the wise men who founded our system of government that wherever a free people had been reduced to bondage, wherever the shrine of liberty had been desecrated, it had always been the result of military interference; that the act of spoliation had always been wrought by the mailed hand of military power. They therefore entered upon this policy primarily for the purpose of protecting the free institutions which they had established and guarding the liberties of the people from military domination. But, sir, this was not the sole reason which induced its formation. Economic ideas, no doubt, operated largely in its adoption. At any rate, it will not require any argument to satisfy the intelligence of the country that the result has been in the line of economy and has saved us from the heavy military burdens which have cursed all other nations save our own. We sometimes look with grave apprehensions upon the vast proportions which our pension-roll has already assumed and to which it is likely to extend in the future; but even if we include our pension system as a part and parcel of our military policy—and to my mind it is a just and necessary incident of it and cannot, consistently with the honor and welfare of the country, be separated from it—still, from the stand-point of economy alone, it will contrast most favorably with that of any other nation of equal rank and dignity with ours in the world.

Germany, with a population scarcely equaling our own, with a territorial area vastly inferior and but little larger than the domain of some of our greater States, maintains a standing army of nearly four hundred thousand men at an annual cost of over a hundred millions of money. Similar military establishments with a like cost to their people are supported by England, France, Russia, and all the great powers of Europe. If we had followed in their wake in the creation and maintenance of a standing army for the defense and protection of this Government, its military budget for the last half century would have called annually for an expenditure of from a hundred to a hundred and fifty millions of dollars, besides the incalculable loss in developing the country by reason of the necessary drain on our population for military purposes. On the contrary, under the wise policy we have pursued, our military burdens, considering our vast coast line, our extensive territorial possessions, our rapid development and unprecedented increase of population, have been comparatively light, and the vigor and muscle which would have been idle in camp has added to the aggregate wealth of the nation by clearing its forests, tilling its soil, furnishing labor to its manufactories, and expanding in every conceivable way its commercial power and influence. It will not, I apprehend, take any absolute verification by facts and figures to satisfy the public mind that this policy has been vastly more economical than that pursued by any contemporary nation, and has saved the people of this country from untold millions of taxation.

Now, sir, it occurs to me that in the adoption of this policy, which is a recognized departure from that of all the great powers of the world, the founders of this Government must have contemplated a pension system similar in many respects to the one adopted and pursued in this country, that of an invalid and gratuitous character, to use the distinction drawn in common parlance. I cannot conceive of any obligations existing between a government and its citizens that are not reciprocal in their character. If it is the duty of the citizen to bear true faith and allegiance it is the duty of the Government to protect him in all his legal and constitutional rights. If it is the duty of the citizen to render military service it is the duty of the Government to make good as far as possible the loss he sustains in the line of duty imposed upon him by the Government. In determining to dispense as a matter of safety and economy with the burdens of a great military establishment and to rely upon the courage, patriotism, public spirit, and soldierly qualities of the people for its main support and defense in a time of war, the Government necessarily took upon itself by all reasonable and fair implication two obligations toward the men whom it called into its military and naval service: first, immediate provision for the wants of such as were disabled by wound or disease in the line of duty; second, provision in old age for such as escaped the dangers of the field in compensation for the patriotic sacrifices made by them in youth for the benefit of the entire country. It has been said that the right of an invalid pensioner to provision by the Government for his support is a right of contract growing out of some act of Congress passed prior to his enlistment. It is a right of contract, but does not grow exclusively out of any act of Congress on the subject, but necessarily arises by implication from the character of services performed and the fact of being physically disabled from earning a support by wound or disease while in the line of duty imposed upon him by the Government. These acts of Congress are merely declaratory of the purpose of the law-making power of the Government to carry out in good faith an obligation necessarily growing out of our military policy.

But does the duty of the Government cease when it has provided simply for its invalid soldiers? I think not, sir. Almost as strong, in my judgment, is the obligation of the Government to provide in old age for the veteran soldiers who served it in their youth. What more reasonable and just than that the few, comparatively of the entire population, who have braved the dangers of the field, endured the toils of the march, defended the honor of the flag, and sacrificed the pleasures and comforts of home in defense of the common Government property and liberties of all, should be rewarded at some period of their lives out of the common Treasury of all for the sacrifices made in obedience to a patriotic sense of duty to their country?

It should be remembered in this connection that other citizens have been left to follow the avocations of civil life, to gather gains upon the commercial mart, to pursue the ambition and profit of professional employment, to reap the rich fruits of agriculture, and make the necessary accumulations for old age by engaging in all the occupations of labor, trade, and manufacture known to civilized man, while the soldier has abandoned all these pursuits and given his time, his labor, his manhood, and his courage to the defense of his country. It is a well-known fact that in all the wars in which this Republic has been engaged as a rule it has been the young men who have gone to the front, endured the hardships of the campaign, and fought the battles of the country. It is in the season of youth that nature and nature's God designed and intended that man should lay aside the stores and supplies that would provide for the wants of old age. If, therefore, this period of life or any part of it has been devoted to the defense of the country, it seems to me that justice, equity, and reciprocity demands that in old age, when the hair is whitened by the frosts of time, when the vigor of the muscles is relaxed, and when no longer reasonably able to earn a support by physical labor, some compensation should be given out of the general treasury of the entire people in discharge of this public debt.

But, sir, we are fortunately not left to speculate and theorize alone from our military policy as to what our pension system is or should be. But if we turn to the political history of the country, remembering as we ought to do that "this is a Government of the people, by the people, and for the people," and that when we are in doubt as to what its policy is or should be, we ought to consult the great sovereign power of this country for instructions, the people of the various States of this Union, we will find that there is no sentiment known to the American heart, no feeling more deeply seated in the public mind, than a disposition on the part of the people to reward public men purely for military services. "The world has always held the arbitrament and game of war in especial honor," and has endeavored to perpetuate the achievements of its genius, the splendor of its conquests, and the record of its heroic sacrifices in storied urns, monumental shafts, and triumphal arches, as well as by song, romance, and authentic history. We are not an exception to the universal rule, but have made hero-worship and the gratitude and substantial rewards of the nation for military services the very foundation upon which to rest our military system.

On the walls of this magnificent Chamber, adorned with so much beauty and art, there hangs the portrait of the Father of his Country, the noblest, purest, and most patriotic citizen, living or dead, that this Republic has ever produced. No matter how highly we may regard the public and private virtues of Washington; no matter how highly we may appreciate the wise administration which he gave to the public affairs of the country in its earlier years—what, I ask, was the chief inducement on the part of the people to elevate him to the distinguished position which he held for eight years, that of Chief Magistrate of the Republic? We all know that it was simply to reward him for his services as a soldier during the revolutionary war. Let me ask why the grand old hero of the Hermitage, whose administration marked the political history of this country as that of but few of our Executives ever did, which created political divisions in the minds of the people which will last as long as there is a Consti-

tution to be interpreted or a Government left to be administered, was elevated to the Presidency of this country? No one can doubt that it was his conquest of the Indian tribes in the South and Southwest, and his great victory over the grand army of Great Britain in front of New Orleans, that opened to his ambition the doors of the White House. Why was Harrison selected for presidential honors? Who does not know that it was his victories at the Thames and Tippecanoe and other military services in the Northwest that crowned him with Executive power?

Pursuing this line of thought and coming down to the very war which is the subject of discussion in part under this bill, we find that it gave two Presidents to this Republic and nominated a third military hero for that high honor. Who dreamed of Taylor or Pierce as probable Presidents of this country until the splendid series of victories won by the one from Palo Alto to Buena Vista and the distinguished service of the other as a volunteer on the line of invasion from Vera Cruz to the city of Mexico?

But, sir, in order to ascertain the action of the people as to rewarding purely for military services we need not go back to the election of Washington, Jackson, Harrison, Taylor, or Pierce; but coming down to our own day and time, to scenes in which we were ourselves the actors, we find this feeling of gratitude on the part of the people, this determination to reward public men purely for military service, as strongly manifested now as it was in the earlier years of our history.

But recently a distinguished military leader and an ex-President of this Republic made the circuit of the globe and returned to this country to meet with a warm welcome and a grand ovation on the part of the American people which I regret to say in many instances indicated a puerility of sentiment and a servility of thought and action that did not comport with the dignity and pride of a great and a free people, who are jealous of their liberties and anxious for the preservation of the form of government bequeathed them by a noble and patriotic ancestry. Why was the distinguished man to whom I refer, General Grant, elevated by the people of this country to the Presidency for eight years, during a part of that period drawing the magnificent salary of $50,000 per annum and wielding its vast patronage and power to build up the fortunes of his family and his friends? Was it for the virtues of his private or public life? Was it on account of his breadth and depth and experience as a statesman, or his prominence and sagacity as a politician? If so, in what sphere of action and under what circumstances were these virtues, statesmanship, and political qualities exhibited and displayed?

Sir, the most servile sycophant that ever fawned before the source of executive patronage and power, the most insatiate political cormorant that ever fattened upon the corruption of government, the strongest and most stalwart supporter of a military and moneyed oligarchy with which to crush and destroy the liberties of the American people, will not aver that there was any other reason for his elevation to the high office I have named than to reward him for his services as a soldier during the late civil war. And what shall we say of the present occupant of the White House? It is true that we cannot say he was elected to the exalted position he holds to reward him for military services, for we could not admit his election at all without falsifying history and crucifying the truth, but we will say that every civil office he ever held is traceable in some degree to his service as a soldier during the civil war. It sent him to Congress; it contributed largely to his elevation to the governorship of his own State, and that fact, combined with his military record, enabled him as a dark horse in the Cincinnati convention to charge ruthlessly over the crushed and mangled ambition of the great rhetorician of Maine; that convention, representing a considerable part of the wealth, intelligence, and bone and sinew of the country, clearly drawing the distinction in its nomination between one who immolated himself upon his country's altar in person and another who did it by proxy. I have made these allusions to the political history of the country for the purpose of showing the clearly marked public sentiment on the subject of rewarding public men purely for military services, as evidenced by the action of the people in bestowing the highest civil honors and offices within their gift upon soldiers who have been conspicuous in our country's history.

But, sir, there is an idea in some quarters of this country that all the glory, honors, and rewards won by the thousands of brave men who have served the country as soldiers should be bestowed upon the epauletted few. Such an idea is utterly repugnant to justice and does not merit and in my judgment will not receive the approval of the American people. What is military ability and leadership worth to the people of this or any other country on the globe without the aid of the brave hearts and strong arms with which battles are fought and won? The warlike genius of Hannibal, though he conquered the fastnesses of the Alps, would have been fruitless to Carthage without the aid of the brave auxiliaries and the Numidian horse who fought her battles upon the plains of Italy. The military talents of Cæsar would have brought neither captives nor tribute to Rome but for the hardy and disciplined legions who carried her eagles in triumph from the Caledonian hills to the far-off waters of the Euphrates. The mathematical brain of Napoleon would never have bequeathed to France a heritage of military glory save for the dash of the chasseur and the *esprit du corps* of the Old Guard.

And so I might say, sir, of the great military leaders of our own country. Their capacity to marshal and maneuver armies and plan campaigns would have been worthless to this country without the courage, endurance, and discipline of American soldiers. Taylor mapped out the battle of Buena Vista, but it required the deadly riflemen of Illinois, Indiana, Kentucky, Tennessee, Mississippi, Arkansas, Louisiana, Texas, and the other States of this Union, with the memorable battery of Bragg, to drive back in rout and confusion the charging columns of Mexican lancers who threatened, with all the insolence of Castilian pride, to trample in the dust the colors of the Republic. Scott planned the grand march of the American Army from San Juan to the halls of the Montezumas, but it was the dash and the heroism of the field and staff, the rank and file, that scaled the summit of Cerro Gordo, won Contreras, Churubusco, and Molino del Rey, and planted the flag that floats above this Capitol on the castellated heights of Chapultepec.

Grant pointed out the road to Richmond, but it took the long, serried lines of the brave soldiers of the Republic, constantly replenished, to overthrow the wasted and decimated legions of Lee arrayed for the defense of the confederate capital. Is it the policy of this Government to reward only a few of the more prominent officers, and leave the bone and sinew of the Army, who really did all the fighting, bore all the hardships, and endured all the suffering, to want and beggary? Is this the will of the American people? I think, sir, too well of the justice and generosity of my countrymen to believe it. It has been said by the opponents of this measure that we should remember "that the soldiers of the Mexican war fought a foe inferior to themselves in courage and physique." This is unquestionably true, for the soldiers of this country North and South are superior to those of all other nations, uniting as they all do to the stolid indifference of the German to danger "the dash and impetuosity of the French and the bull-dog grip and steady courage of the English." But because our troops were superior in endurance and soldierly qualities to those of Mexico is no reason why they are not entitled to the reward of valor and patriotic devotion to their country, or that the splendid achievements of their courage and discipline should not be properly appreciated by the nation.

Although they did meet a foe their inferior in martial spirit and endurance, I stand here to declare that at no period of our history, in no war in which our country has ever been engaged, were braver or better troops ever marshaled under our flag than those who carried it in triumph over so many well-fought fields in Mexico. I challenge modern history to produce a series of victories, won under similar circumstances, with the same inferior numbers and military appliances, and with the same hostile surroundings, comparable to those won in their respective campaigns in Mexico by Taylor and Scott. They stand without a parallel in the annals of modern warfare, either upon the shores of this or those of the Old World.

An English poet has sung in golden numbers of the gallantry and heroism of "The Light Brigade," who charged "into the valley of death" and "into the mouth of hell" during the Crimean war, until the glory of that proud English command, like the electric messenger of Oberon, has girdled the earth. With the pride of American citizens, jealous of the military prowess and glory of our country, we can point to acts of individual, company, and regimental and brigade daring, military episodes in the Mexican war, as worthy of the immortality with which poetry sometimes crowns its heroes as the Six Hundred for their memorable charge on the Russian batteries at Balaklava. Witness the storming of Monterey, the charge at Molino del Rey, the scaling of Chapultepec, and last, but not least in heroic devotion to duty, the soldierly death of Walker and the decimation of his command on the plaza of Huamantla. I remember in my boyhood to have looked upon a pictorial paper descriptive of this last scene. It stands out now in my imagination. I see that bold and intrepid Texas rider, with steed and sword dyed with the blood of his country's foes, environed by overwhelming numbers, and his gallant troop literally hacked to pieces by Mexican lances. But, sir, they accomplished their purpose; they captured and held the guns of the enemy, and contributed largely by their valor to the preservation of Scott's communication with his base of supplies on the coast. I little thought then that it would ever be my lot in life to stand before the representatives of the American people and appeal to them for justice to the memory of the dead and a suitable reward to the surviving heroes of the Mexican war. But if I perform no other duty here, it will always be a pleasant reflection to me in after life to feel that on this bill I spoke and voted as the honor, the justice, and the good faith of my country demanded.

Mr. Chairman, the doctrine of rewarding men purely for military services is a part of the warp and woof of our political and legislative history, and will always while adhered to as the policy of the Government enable it most successfully to appeal to the patriotism and courage of the people on every occasion of public peril and danger. This doctrine underlies our system for the public defense and constantly crops out in all our Army and naval legislation. We have in this country a system of brevets, and to such an extent has the practice been carried that a large number of our regular Army officers have been brevetted. This rank is bestowed by the Executive, with the advice and consent of the Senate. It is not purely an honorary distinction, but not infrequently gives an increase of command and an increase of pay, and both continue for life or during good behavior. If it is not the policy of the Government to reward purely for

military services, why confer this rank on our Army officers? These brevets are always bestowed for meritorious services in the line of duty.

Again, sir, if it is not the policy of the Government to reward purely for military services, why place our aged Army and Navy officers on the retired list upon half pay, and why has Congress passed special acts raising the rank of officers to higher grades in the military and naval service? These promotions could not have taken place under the general laws, and the inducement for the passage of special acts was to reward those officers for meritorious services in the field or on the sea while in the line of military or naval duty. While all these matters are, I admit, but pointers to indicate the pension policy of the Government, the general legislation on the subject so clearly marks and defines it that "the wayfaring man, though a fool," cannot misunderstand it. The Continental Congress in 1780 passed an act promising half pay for seven years after hostilities ceased to such officers of the Continental line as remained in the service until the close of the war. Here is a plain and unmistakable declaration on the part of the wise men who founded our system of government that it was right to reward with money for military services even where the soldiers were not disabled by wound or disease. In 1818 the Congress of the United States passed a pension bill placing all the surviving soldiers of the revolutionary war upon the pension-roll who were in indigent circumstances, and in 1832 by another act this distinction was removed, and all of them were pensioned without regard to their pecuniary condition.

The opponents of this measure attempt to break the force of the acts of 1818 and 1832 as precedents for this bill by charging that the object and purpose of Congress in passing those laws was not to pension the surviving heroes of the revolutionary war for military services, but was simply intended to compensate those old soldiers for the inferior character of money in which they were paid for their services and in discharge of some back pay due them for actual services during that war. In support of this position they quote from the arguments of Senator Foote in his discussion of the act of 1832, and Senator Sherman and others in their discussion of the act of 1871.

Mr. Chairman, I had supposed that when the intent, scope, and purpose of any act of Congress, and whether it constituted a precedent for any given line of legislation, was to be determined, that these conclusions were drawn from the language of the law, the face of the act, and the purpose disclosed by the legislation itself. It seems, however, that I was in error upon this subject, and that the true method of arriving at the purpose of a statute, and whether it establishes a precedent, is to interpret it in the light of the argument made by Senators and Representatives when the measure was being discussed, and ignore entirely the contents and declarations of the law itself. This, I apprehend, is a new method of interpretation, and heretofore has been wholly unknown in the range of legal authority.

Now, sir, there is not in my judgment a word, a sentence, or a line from the enacting clauses to their ends in the acts of 1818 and 1832 to justify the conclusion that the purpose of those acts was either to pay the soldiers of the revolutionary war back pay due them for services during the war or to make good the loss they had sustained by being paid for such services in a depreciated paper currency. The pay alluded to in the act of 1832 was the half-pay promised to the officers of the Continental line by the act of 1780 and a gratuity promised the privates of the same line by the act of 1778, both of which were outside of the monthly pay to which they were entitled by law, and were in the nature of pensions or rewards purely for military services. I submit, therefore, that it is clear that the object and purpose of Congress in passing those acts was the establishment of a pension system for military services, which, I affirm, is a necessary deduction from and an indispensable part of the military policy and system of this Government. In trying to escape from those acts as precedents the objectors to this bill have in attempting to steer clear of what they believed to be Scylla plunged headlong into the devouring jaws of Charybdis.

Their argument and construction of those acts establishes a precedent for the Weaver bill and opens wide the doors of the Treasury to make good the losses of soldiers and sailors on account of the depreciation of greenbacks paid them for services during the civil war. If there is any doubt as to whether the acts of 1818 and 1832 are precedents for this bill, there can be none as to the act of 1871, pensioning soldiers of the war of 1812. It cannot be said of that act that it was passed for the purpose of compensating those old veterans for the depreciated money in which they were paid for their services or in discharge of back pay due to them. Here the opponents of this measure shift their ground, and while virtually admitting that that bill is a precedent as to the principle involved raise a bar to the application of the precedent in this case, because a sufficient time, fifty-six years, has not elapsed since the close of the Mexican war, that being the period which intervened between the war of 1812 and the passage of the act pensioning the soldiers of that war. Sir, we have simply contended that it is the policy of this Government to pension its soldiers purely for military services, and upon this question of principle the adversaries of this measure have been driven from their intrenchment.

Now, sir, the principle being established the question as to when it shall be applied for the relief of the soldiers of any war in which the Republic has been engaged is a question to be dealt with in the discretion of Congress in the light of the resources of the country, its development, population, and their capacity to bear the burden it imposes, as well as in view of the age and want of the soldiers whose support is to be provided for. If the rule which I have laid down is correct no general time can be fixed for the application of the principle; each case must stand upon its own merits and independently of all others. The first act pensioning a part of the soldiers of the Revolution was passed thirty-four years after the close of the war, and the second act forty-eight years afterward, and the act for soldiers of 1812 fifty-six years after the treaty of Ghent. It will be seen, therefore, that in the past legislation on this subject there has been no attempt by Congress to fix a uniform time for the application of this principle. The delay of forty-eight years in passing a general pension act for the soldiers of the revolutionary war is attributable no doubt to the sparsity of population, the undeveloped condition of the country, the meagerness of its resources, the poverty of its treasury, and because the nation was in its swaddling clothes and compelled to use its limited means of support to inaugurate its government, secure an extension of its commerce, and provide for its safety from the jealousy of its hostile contemporaries.

While the delay in providing for the soldiers of 1812 for fifty-six years cannot be traced to similar causes, it can be reasonably accounted for by the heated political condition of the country, the sectional agitation, the impending dissolution of the Union which disturbed and engrossed public attention to the exclusion of everything else for twenty years at least before these evils culminated in the most gigantic civil war of modern times. I apprehend that but for these reasons the meritorious claim of those old veterans to the benefaction of the Government would have been pressed upon and would have received the favorable consideration of Congress many years before the date of that act.

This brings me, Mr. Chairman, to the consideration of the second objection urged against this bill—the cost of the measure, the amount of money necessary to discharge this obligation of the Government. It is insisted by those who antagonize this measure that it will add seventy thousand names to the pension-roll, and as they are each to receive $8 per month during life, that its cost for the first year will be $7,000,000, and while this amount will be gradually diminished each succeeding year by death, that the aggregate expenditure will be fully $100,000,000. This objection does not controvert the principle for which we have been contending, but is altogether economical in its character. In other words, it admits the justice of the demand of those old veterans, but asserts that it is the duty of Congress to refuse it because it will require too much money to discharge the obligation.

Now, sir, if it is right to pension those soldiers at all, the spirit of economy should not be invoked to defeat it unless it will impose an unreasonable and grievous burden upon the country. The opponents of this bill are almost as much in error as to the number of persons that it will add to the pension-roll as they are in regard to the pension policy of the Government; and I apprehend that their method of calculation as to the number will be found as unreasonable as it is unreliable. I admit, sir, that we are without any certain and reliable data upon which to base a correct calculation as to the number of survivors of the several wars enumerated in the bill, and can only make an approximate estimate, which experience may demonstrate to be erroneous by several thousand. I am, however, firmly persuaded that seventy thousand is greatly in excess of the actual number. In discussing this feature of the bill, I shall confine myself exclusively to the survivors of the Mexican war. The bill provides that such of the surviving soldiers and sailors as were engaged in this war for sixty days, and were honorably discharged from the service, shall be placed upon the pension-roll.

It is agreed that in round numbers there were in the regular Army, Navy, and volunteer service one hundred and five thousand men who served and were enlisted for service in the war with Mexico. In order to arrive at the number who will be entitled to the benefits of this measure we must deduct the number who did not serve for sixty days, those who deserted or were not honorably discharged, those who re-enlisted and whose names are therefore duplicated upon the muster-rolls, those who were killed in action or died of disease, and those who have already been placed upon the pension-roll on account of wounds or disease received or contracted in the service and apply some rule of life expectancy to the residue to ascertain what proportion of them have survived the lapse of thirty-three years, as that period will have passed from their discharge before any money appropriated by reason of this bill will be drawn from the Treasury.

It is stated that there were about 5,000 men enlisted who did not serve sixty days. I am satisfied that there were double or triple that number. The re-enlistments have been estimated by those who have carefully considered that question at 14,000. The official records show that the deaths from disease and loss in battle were 12,896. I am strongly persuaded that the actual number was considerably in excess of this. All who have had any experience in making up company, regimental, and brigade reports know how inaccurate and unreliable they are in many respects. The desertions are shown by the records to have been 6,725. The invalid soldiers and sailors already pensioned are assumed to be 11,000. Taking these estimates as approximately correct, and the number of all arms of the service who would have been entitled to pension at the close of the war would

not have exceeded 55,000. This calculation assumes that of the 105,000 men in the military and naval service of the Government 73,000 were volunteers, and that of this number 68,000 went to the seat of war or actually served for sixty days. The American Statistical Almanac for the year 1849, issued in Boston by Little & Brown, is my authority for stating that there were not over 50,000 volunteers put *en route* for Mexico. If this statement is entitled to credit, and I know of no reason why it should not be, for it was based on information, official documents and statements, and made at a time when all the facts and occurrences were fresh and could be easily authenticated, then 18,000 should be deducted from the 55,000, and the calculation as to expectancy should be made on a basis of 37,000.

It has been argued that it was fair to apply the rules of the Carlisle tables to the surviving soldiers of the Mexican war in order to determine how many of them are now living. It occurs to me that this conclusion is manifestly erroneous and misleading. The rules of the Carlisle tables, as I understand them, are applicable alone to a fixed population of men, women, and children engaged in the ordinary and useful pursuits of life, and fixing an average age for a given number that such a per cent. of them will die in a stated time. In all ordinary cases I do not question that the application of these rules will produce an approximately correct result. But I apprehend that no one will seriously contend that these rules could be applied with any degree of accuracy to fifty thousand men who were removed from the comforts of home to a climate to which they were wholly unaccustomed and for two years were marched and countermarched in sunshine and in storm, badly fed, clothed, and sheltered, exposed to the insidious diseases of camp life, and living always with that excitement of brain and heart which is felt when life is in one hand and honor in the other. Yet such was the identical state of fact surrounding the men to whom it is proposed to apply the Carlisle tables. I have had some little experience as to the dangers, diseases, toils, exposure, starvation, and excitement incident to army life, and believe that but few men have ever been subjected to them for any considerable length of time who did not have in one form or another the seed of premature decay and dissolution sown in their constitutions.

Why, sir, we sometimes talk here about the foul air of the Capitol, the confining labors and the responsibilities of public station, the ambition of the hour and the excitement of debate, undermining the health of Representatives and Senators and adding to the death-roll of both Houses of Congress. What do all these causes for wrecking and sapping the strength of manhood amount to as compared with the hardships, half rations, exposure, suffering, camp diseases, and physical and mental excitement which are attendant upon a soldier life? The malarial and climatic influences of Mexico are especially dangerous and destructive to those who are unaccustomed to them, and unquestionably plant diseases which are frequently not developed for years afterward. Rapid variations in temperature are productive of diseases that undermine permanently the health and culminate in physical wreck and decay. It is, I believe, a well-established fact that in a portion of Mexico, even in midsummer, the fierce "norther" sweeps down from the snow-clad mountains on its northern boundary, as cold as if it had been freshly born in the Arctic regions, chilling the blood to the bone and driving even the wild beasts from their pasture on the plains to the shelter of the forests. Yet, sir, it is seriously argued that those soldiers could be taken from New York, Ohio, Indiana, Illinois, Kentucky, Tennessee, and other States in an average latitude of thirty-six degrees, and be carried to Mexico, and for two years exposed to all these malarial and climatic causes for disease, in addition to others incident to active army life, and that the same rule of mortality can be correctly applied to them for a period of thirty-three years that would be applicable to a similar number of persons of the same average age who remained in those States in the enjoyment of the comforts of home and the pursuits of civil life. It strikes me that the argument is absurd and preposterous, and will not bear the analysis of reason and common sense.

In addition to all this, the Carlisle tables cannot be applied in this case with any degree of accuracy for the reason that since the close of hostilities with Mexico we have been engaged in a great civil war which was attended by an unparalleled loss of life in battle and by disease. It will not be controverted that most of the officers of the Mexican war who were living when hostilities commenced in our unhappy internecine strife took part in one way or the other, and this is also presumably true as to the private soldiers. Who can tell how many of them were killed or how many of them died from disease, while others are probably already on the pension-roll as invalids of the civil war? Averaging those soldiers at twenty-six years of age in 1848, they would before this bill will take effect be fifty-nine years old, and even if we applied the Carlisle tables to them on a basis of 55,000 survivors, we would have 35,475 pensioners; but if we make the basis of calculation 37,000 survivors, we would have only 23,865 pensioners, and in the first instance for the first year $3,405,600 as the appropriation necessary for them instead of $4,320,000, as claimed by the opponents of the measure, and in the second instance only $2,291,440.

For the reasons I have given I am firmly persuaded, Mr. Chairman, that the Carlisle tables cannot be applied to this case and that its death rate should be increased fully 25 per cent., which would reduce the number of survivors of the Mexican war to not more than fourteen thousand six hundred and twenty, and the cost of the bill for them and their widows for the first year $1,498,520. The argument I have made as to the soldiers of the Mexican war is applicable in many respects to the survivors of the Florida, Creek, and Black Hawk Indian wars, and warrants me in assuming that while the estimate of the committee of this House may be incorrect as to the entire number of pensioners who will be added to the roll by this bill, that it is not far wrong.

Mr. Chairman, the last objection urged to the measure is that some of its beneficiaries were disloyal to the Government during the late civil war. Upon this question I have but little to say, but will meet it in the spirit of frankness, candor, and reconciliation. I have no patience with and but little respect for the feelings of mock heroism, whether in the North or the South, that seeks to make this Chamber the scene upon which to relight the bad passions and prejudices of the darkest period in American history.

A wise statesmanship, it occurs to me, would suggest that, being again united under a common flag and to share jointly in the progress, development, and responsibility of a common destiny, we should teach by our legislative acts as well as by our utterances here the people of both sections to feel that in all matters save those directly involved in the war they are equally entitled to the protection and benefaction of the Government, and owe it for the future equal allegiance and support. Is the policy wise or the statesmanship sound that says in effect to those veteran defenders of the honor and rights of the nation, "We have accorded to all men in the South a perfect equality in the legislative, executive, and judicial departments of the Government; we have removed the disloyal taint which affected their political status; they may make and administer the laws for the government of all, may represent the country at foreign courts, may take seats in the Cabinet of a republican President, but to you, whose chivalry, discipline, and privations won imperishable honor for the flag and formed the brightest chapter in the military annals of the nation we will deny the pittance necessary to relieve the want, destitution, and infirmity of old age?" This may be good sectional reasoning, but it is manifestly bad national statesmanship and a perfect mockery of reconciliation. Gentlemen who foment sectional strife by engaging in sectional abuse, dealing in sectional epithets, and legislating from a sectional stand-point, when they see the evil fruits resulting from such a course in the way of diminished trade, ill feeling, and a retarded growth and development of the country, can with unpatriotic pride boast, in the language of the evil spirit in Manfred—

> We are the riders of the wind,
> The stirrers of the storm;
> The hurricane we left behind
> Is yet with lightning warm.

I claim to be a national democrat, stand upon a national platform, and shall legislate from a national stand-point. So far as I am concerned, the war is over, and I shall have no part or lot, either here or elsewhere, in reopening its wounds, unearthing its charnel-houses, or keeping alive its sad memories, prejudices, and resentments. Let us hope that the reconciliation between the sections is not only broad and catholic, but genuine and permanent. While I have no plea in extenuation or defense to offer for my own action during the civil war, but will in dignified silence, in common with my brothers of the lost cause, await the judgment of posterity, from which there can be no appeal; while I have no palinodial apology to offer for the people of the South or any part of the brave old veterans of the Mexican war who may have sympathized with them and know full well that the liberal and generous classes of the North do not require such action at their hands, to such, however, as may feel disposed to hold over those aged and infirm men their record during the civil war I will, in the interest of justice, the union and prosperity of the country, commend for their thoughtful, dispassionate, and humane consideration the immortal lines of the great dramatist, who said:

> The quality of mercy is not strain'd;
> It droppeth, as the gentle rain from heaven,
> Upon the place beneath: it is twice bless'd;
> It blesses him that gives, and him that takes;
> 'Tis mightiest in the mightiest: it becomes
> The throned monarch better than his crown.

Sir, let it not be said of the representatives of a free and generous people that they will give five and a half millions out of the public treasury to pay for fish for New England, but not a doit to the old heroes of Buena Vista; that they will generously bestow ten millions out of trust fund on the war-premium men, or, what is infinitely worse, the insurance companies of the country, but not a stiver on the stormers of Chapultepec; that they will vote a hundred millions of bonds and enormous subsidies of land to a gigantic railway system, but not a shilling to the brave men who carried our flag in triumph over twenty battle-fields in Mexico; that they will, by a partial, unjust, and oppressive system of tariff and internal-revenue taxation, give tribute to the manufacturing classes richer by far than the golden sands of Pactolus, but will not bestow a dollar on the veteran soldiers whose courage and discipline, patriotic sacrifices and soldierly conduct added a million square miles to our domain and $2,500,000,000 to the money metals of the world.

Unless I horoscope the future of this country improperly, the time will come in its history, even in the life of the present generation, when it will take all of our statesmanship, all of our martial resources, all the devotion and patriotism of our people, North and

South, to uphold and maintain the grand old doctrine announced by the head of a democratic administration, that of a protectorate over this western world in the interest of free institutions and a progressive civilization. Let us, therefore, deal justly with all sections of the country and by our legislative action build up a feeling of fraternity between the people and a unity of sentiment as to devotion to the flag which shall pervade all classes of our population, taking as our guide in the future the noble sentiment stamped upon the seal of my own loved Commonwealth, "United we stand, divided we fall."

There being no objection, the bill was laid aside to be reported favorably to the House.

P. S. RUSH.

The next business on the Private Calendar was the bill (H. R. No. 3556) to place upon the pension-roll the name of P. S. Rush.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll the name of P. S. Rush, captain of Company K, Thirteenth Regiment Infantry, Kentucky Volunteers, on account of wounds and disabilities received in the late war, while in the military service of the United States; pension to commence from the acceptance of his resignation June 19, 1862.

Mr. BROWNE. I move to amend by striking out all of the bill after the words "United States," namely, the words "pension to commence from the acceptance of his resignation, June 19, 1862."

Mr. BAYNE. If the bill should be amended in that way how would it then read?

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll the name of P. S. Rush, captain of Company K, Thirteenth Regiment Infantry, Kentucky Volunteers, on account of wounds and disabilities received in the late war, while in the military service of the United States.

Mr. BAYNE. I suggest that if the amendment be adopted, and no more be left than what has been just read, the bill will be thoroughly emasculated and have no sense at all. If the amendment be adopted there must be inserted the words "subject to the provisions and limitations of the pension laws," in order that provision may be made for paying and rating the pension. Unless those words be inserted the bill will have no force whatever. I move to amend by inserting the words "subject to the provisions and limitations of the pension laws."

Mr. BROWNE. I have no objection to the amendment suggested by the gentleman from Pennsylvania; but he is mistaken as to what would be the effect if those words were not in the bill. This man would be, by the bill as it is, put upon the pension-roll subject to the limitations and provisions of the pension laws. I know whereof I speak.

Mr. BAYNE. I know the Commissioner of Pensions himself hesitated for a time about putting the names of certain men on the pension-rolls even where those words were actually in the bill. Upon subsequent consideration he put them on the rolls.

Mr. BROWNE. I can show the gentleman more than a hundred bills, upon which the Commissioner of Pensions has acted, which do not contain the words "subject to the provisions and limitations of the pension laws."

The amendment of Mr. BAYNE to the amendment of Mr. BROWNE was adopted.

The amendment of Mr. BROWNE, as amended, was adopted.

Mr. WHITE. Let the report be read.

The report was read, as follows:

That the claimant, P. S. Rush, was enrolled and mustered into the service of the United States on December 31, 1861, as captain of Company K, Thirteenth Regiment Infantry Kentucky Volunteers, and was honorably discharged from said service by resignation based on ill health June 19, 1862; that prior to his said service he was engaged in the occupation of farming, and which occupation he has followed since, so far as he was able to do.

The evidence establishes clearly and conclusively that he was in a sound physical condition when he was mustered into the service of the Government, and that while in the line of duty in command of his company during the battle of Shiloh, on the 7th day of April, 1862, he received two gunshot wounds, "one passing through the posterior part of the neck and the other entering a little back of the shoulder and head of the humerus, the ball lodging beneath the clavicle and afterward sloughed out," from which partial paralysis has ensued. He was not treated for said wounds in hospital, on account of the crowded condition of same, but was waited on in his quarters and moved with his command in an ambulance until he became so much enfeebled that he was advised by his brother officers to resign.

These facts are proven by William E. Hobson, colonel, C. D. Moore, surgeon, and E. S. Cooper, assistant surgeon, of same regiment, who waited on him while wounded.

This claim was rejected because there was no record on file of his being wounded.

The committee are of opinion that this is a meritorious case, and report the accompanying bill and recommend its passage.

There being no objection, the bill, as amended, was laid aside to be reported favorably to the House.

PETER JULIUS.

The next business on the Private Calendar was the bill (H. R. No. 3557) granting a pension to Peter Julius; reported by Mr. TAYLOR from the Committee on Invalid Pensions.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Peter Julius, late a private of Company A, unattached, United States Colored Troops, at the rate of $8 per month, beginning from the date of his honorable discharge.

Mr. BROWNE. I move to strike out all after the word "troops," namely, the words "at the rate of $8 per month, beginning from the date of his honorable discharge," and insert in lieu thereof the words "subject to the provisions and limitations of the pension laws."

The amendment was agreed to.

The bill, as amended, was laid aside to be reported favorably to the House.

BERNARD BRADY.

The next business on the Private Calendar was the bill (H. R. No. 2120) granting a pension to Bernard Brady; introduced by Mr. BICKNELL and reported from the Committee on Invalid Pensions by Mr. HOSTETLER.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Bernard Brady, late a private in Company I, Sixty-sixth Regiment of Indiana Volunteers.

Mr. WHITE. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2120) granting a pension to Bernard Brady, have had the same under consideration, and respectfully report:

That the evidence in this case shows that the claimant was a private in Company I of the Sixty-sixth Regiment of Indiana Volunteers from the 29th of August, 1862, until his discharge on the 3d of June, 1865, and that he was a sound and healthy man at the time of his enlistment; that while he was in action in the rifle-pits before Atlanta, Georgia, on the 11th of August, 1864, a shell thrown by the enemy struck one of the rails at the top of the rifle-pit and threw it against his leg, severely wounding and disabling him; that he was taken from the field to the hospital, and was under medical treatment there, and was not able to rejoin his regiment until November, 1864; that owing to hard marching and exposure the wound broke out again, and finally left him with varicose veins in both his legs, rendering him three-fourths incapable of obtaining his subsistence by manual labor, in which condition he has remained, growing gradually worse ever since his discharge. The claim was rejected by the Pension Office because there was no "record of the injury alleged, and no affidavit of any officer as to the origin of the injury or of a regimental surgeon as to the treatment." But the record does show that claimant was in the hospital at Atlanta at the time above mentioned, and the origin of the injury is clearly proved by two of claimant's comrades who were with him in the action and saw him receive the injury, and saw him taken off the field in the ambulance. Two other credible witnesses prove the existence of the disability at the time claimant left the Army, and the subsequent continuance of the disability and its permanent character, and its origin in the line of duty is shown, not only by the affidavit of the claimant, but by the certificate of Dr. Clapp, the examining surgeon of the Pension Office. Dr. John Sloan, the surgeon who examined claimant when he was offered for enlistment, also certifies to the character of the disability, and that he was sound at the time of enlistment.

Your committee are satisfied by the evidence that this is a meritorious case, and they therefore report back House bill No. 2120, with the recommendation that it do pass.

There being no objection, the bill was laid aside to be reported favorably to the House.

COLBY HORNADAY.

The next business on the Private Calendar was the bill (H. R. No. 745) granting a pension to Colby Hornaday; introduced by Mr. BICKNELL and reported from the Committee on Invalid Pensions by Mr. HOSTETLER.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place the name of Colby Hornaday, late a private in the Fifteenth Battery, Indiana Volunteers, on the pension-roll, and pay him a pension, subject to the provisions and limitations of the pension laws.

Mr. WHITE. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 745) granting a pension to Colby Hornaday, have had the same under consideration, and respectfully report:

That the evidence shows conclusively that Colby Hornaday was a private in the Fifteenth Battery, Indiana Volunteers, from his enlistment, on the 1st of June, 1862, until he was mustered out and discharged, on the 30th of June, 1865; that at the time of his enlistment, and for many years before, he was a sound and healthy man, without any affection of the eyes or other ailment, and that he has always been a man of good habits and sound morals.

That he, with his battery, was surrendered at Harper's Ferry, in 1862, and that he was paroled and sent to Camp Douglas, near Chicago; that while there measles broke out in the camp, and he was sick therewith in December, 1862, and after medical treatment recovered sufficiently to return to duty, but took a cold by exposure in the camp which caused retrocession of measles, ending in disease of the eyes, which grew worse and worse, until, when he was discharged from the Army, he was nearly blind, and has since become and now is and has been since 1869 entirely blind.

The foregoing facts are proved by the Army records, by the testimony of the captain and lieutenant of his battery, and by several of his comrades in the Army, who saw him in the hospital and knew him in the Army, and before and since, and by competent physicians who knew him before he entered the Army and since, among them Dr. Morrison, of Scott County, Indiana, one of the medical examiners of the Pension Office, who certifies that the disability from blindness is total, and is shown by the evidence before him to have been incurred in the line of duty.

The only reason ever assigned by the Pension Office for rejecting the claim of this soldier is that it was barred under section 4717 of the Revised Statutes, which has since been repealed.

Your committee are satisfied that this is a meritorious case, and they therefore recommend that the accompanying bill (H. R. No. 745) be passed.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHANNA MEEHAN AND MINOR CHILDREN.

The next business on the Private Calendar was the bill (H. R. No. 2637) granting a pension and arrears of pension to Johanna Meehan and minor children; introduced by Mr. COLERICK, and reported from the Committee on Invalid Pensions by Mr. HOSTETLER.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Johanna Meehan, widow of Patrick Meehan, private of Company I, Eighty-ninth Regiment of Indiana Volunteers, and Johanna Meehan, Annie Meehan, and Catharine Meehan, minor children of said Patrick and Johanna Meehan, and pay them a pension, to commence from the 14th day of July, 1872, when said Patrick Meehan died, until said children reach the age of sixteen years, and so long as the said Johanna Meehan remains the widow of said Patrick Meehan.

There being no objection, the bill was laid aside, to be reported favorably to the House.

JOHN R. SMITH.

The next business on the Private Calendar was the bill (H. R. No. 2636) granting arrears of pension to John R. Smith; introduced by Mr. COLERICK, and reported from the Committee on Invalid Pensions by Mr. HOSTETLER.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John R. Smith, late first lieutenant of Company B, Twelfth Regiment of Indiana Cavalry Volunteers, and pay to him a pension at the rate of $18 per month from the 11th day of November, 1865, less the pension heretofore paid him.

The question was upon laying the bill aside to be reported to the House.

Mr. BROWNE. I would inquire if this is the case of an increase of pension?

Mr. COLERICK. The claimant in this case has been a pensioner for a number of years, and is now receiving a pension at the rate of $18 per month. The facts before the committee show that at the time he made his original application for pension he was incapacitated to the same degree that he now is. This bill proposes to pay him from the time of his application for a pension the same rate of pension that he is now receiving. The testimony shows conclusively that at the time his pension was rated at $18 per month his condition was in all respects the same as when he first applied for a pension.

Mr. BROWNE. Was the law the same then as now?

Mr. COLERICK. That is my understanding.

Mr. WHITE. This appears to be a bill to pay this man the difference between $10 per month and $18 per month, from the time when his pension was originally allowed to the time when he was allowed $18 per month; in other words, to grant him arrearages of pension. This is an individual bill for this purpose. I am opposed to it for the reason that if passed it will establish a precedent which will confront us in all similar cases. Every gentleman on this floor has in his district numberless cases identical with this one. If we are to establish such a policy as this bill involves, then let us do it by the passage of a general law.

The Department has construed the arrearage-of-pensions law as not authorizing the payment of arrearages at the increased rate, but only at the rate of pension originally granted to the pensioner. I see no reason why this case should be taken out of the general rule, and therefore I am opposed to the passage of the bill. I move to strike out the enacting clause of the bill.

Mr. COLERICK. I rise to oppose the amendment. The report in this case recites the testimony given by the surgeons, four of whom were designated from time to time by the Commissioner of Pensions to make the examination in this case. Their testimony is uniform as to the degree of the disability of this applicant. They all united in saying that his disability is equal to the loss of a hand or of a foot, and that it has existed to that extent from the time that he first applied for a pension.

Let me submit to members of this House that if it is right under the law for the Commissioner of Pensions to rate the pension of this man now at $18 per month, has not manifest injustice been done to the man by allowing him heretofore a pension at a less rate than $18 per month?

All that is asked by this bill is that the man shall receive that pension which the law gives to him, and which he was entitled to from the time his application was originally made. This bill proposes that he shall receive a pension at the rate he is now receiving, $18 per month, from the time he was placed on the pension-roll, less the amount of pension he has heretofore received.

Mr. BROWNE. Will my colleague allow me to ask what length of time will be covered by this increase?

Mr. COLERICK. If I remember correctly, it will be about six years.

Mr. BROWNE. I would also ask if arrearages of pension were given to this applicant under the general arrearage-of-pensions act?

Mr. COLERICK. It would embrace all of that.

Mr. BROWNE. Has he received arrears of pension under that act except so far as this proposed increase is concerned?

Mr. COLERICK. That is my impression; I am not certain as to that.

Mr. WHITE. The gentleman from Indiana [Mr. COLERICK] has failed to make this case clear to my mind. Divested of all subterfuge it amounts to this: This man was discharged in 1865, and he received a pension commencing soon after that time—the date does not appear in the report—at the rate of $10 per month. Subsequently, in 1873 or thereabout——

Mr. RYON, of Pennsylvania. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. RYON, of Pennsylvania. Is this debate in order?

Mr. WHITE. I think it is.

Mr. RYON, of Pennsylvania. The gentleman has already spoken once upon this bill, and under the rule he has no right to speak twice on the same proposition, while there may be others who desire to be heard.

Mr. WHITE. Very well; if my colleague is tenacious, I will remove all difficulty by moving to strike out the last word of the amendment. Let me tell my colleague to keep his soul in patience.

Mr. RYON, of Pennsylvania. I rise to another question of order. My friend wants me to be patient, but I cannot be patient while I see time wasted. I want to know whether my colleague's amendment is in order as an amendment to the amendment.

Mr. WHITE. If my friend from the Schuylkill district will be patient and listen a little while, he will see that time is not wasted. His judgment will be instructed.

Mr. RYON, of Pennsylvania. I want the judgment of the Chair upon the question whether the amendment to the amendment is in order.

The CHAIRMAN. The point of order being made, the Chair must determine it. The first amendment of the gentleman from Pennsylvania [Mr. WHITE] was to strike out the enacting clause; he cannot amend that by a motion to strike out the last word.

Mr. WHITE. Then I withdraw the motion to strike out the enacting clause; and I move to strike out the last word of the bill. I hope my friend is satisfied.

Divested of all verbiage, the proposition in this case is to allow this man $8 per month between 1865 and 1873. Now, is this just to a meritorious class of my fellow-soldiers, some of whom sit around me in this Chamber? When we originally authorized pensions for the loss of an arm or a leg, the pension I believe was but $8 a month. There are men around me who received only that amount. If we are to inaugurate this policy and allow this increase of pension to persons who did not lose a limb, we must certainly go back and allow it to all these meritorious soldiers who received a less rate of pension for the loss of their limbs than this soldier has received.

I withdraw my motion to strike out the last word, and move to strike out the enacting clause of the bill.

The CHAIRMAN. The question is on the motion of the gentleman from Pennsylvania, that this bill be reported to the House with the recommendation that the enacting clause be stricken out.

The question being taken on the motion, there were—ayes 19, noes 23.

Mr. WHITE. No quorum.

Tellers were ordered; and Mr. WHITE and Mr. RYON, of Pennsylvania, were appointed.

Mr. COFFROTH. I hope my colleague [Mr. WHITE] will withdraw his point.

Mr. NEW. I would like to suggest to the gentleman from Pennsylvania whether it would not be well to follow in this case a precedent which was set a few days since—to let this bill be passed by informally, so that we may proceed with other cases on the Calendar.

Mr. BUCKNER. I call for the regular order.

Mr. NEW. Then I withdraw the suggestion.

Mr. WHITE. I would have acceded to that suggestion.

Mr. McKENZIE. As we met at half past ten o'clock this morning, and as there is now no quorum in the House, I move that the committee rise and report such bills as have been acted on.

Mr. BELTZHOOVER. I raise the point of order that the committee is now dividing.

Mr. WHITE. The tellers had not commenced their count.

Mr. FARR. I hope the motion that the committee rise will not prevail. This is the only day in the week when the Private Calendar can be taken up.

The CHAIRMAN. If the point is insisted on, that the committee was dividing, the tellers will take their places.

Mr. McKENZIE. It is quite evident that there is no quorum here.

The committee divided, on the motion of Mr. WHITE; and the tellers reported—ayes 33, noes 42.

Mr. WHITE. No quorum.

Mr. BROWNE. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CARLISLE having taken the chair as Speaker *pro tempore*, Mr. BURROWS reported from the Committee of the Whole on the Private Calendar sundry bills, with various recommendations.

The SPEAKER *pro tempore*. The private bills heretofore reported from the Committee of the Whole will be first taken up.

MRS. FRANCES M. WILKINSON.

The bill (H. R. No. 864) granting an increase of pension to Mrs. Frances M. Wilkinson was read by its title.

The SPEAKER *pro tempore*. This bill has been reported from the Committee of the Whole adversely.

Mr. DAVIS, of Illinois. I move that the bill be recommitted to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

PRIVATE BILLS PASSED.

Bills of the following titles, reported favorably from the Commit-

tee of the Whole on the Private Calendar on the 30th of April last, were severally ordered to be engrossed for a third reading, read the third time, and passed:

The bill (H. R. No. 91) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy;

The bill (H. R. No. 748) granting a pension to Rebecca S. Allen; and

The bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin.

Bills of the following titles, reported with amendments from the Committee of the Whole on the Private Calendar, were severally taken up, the amendments concurred in, and the bills, as amended, ordered to be engrossed for a third reading, read the third time, and passed:

The bill (H. R. No. 751) granting a pension to Harvey Burk;

The bill (H. R. No. 753) granting a pension to Thomas J. Jackson;

The bill (H. R. No. 1463) granting a pension to Edward H. Leib;

The bill (H. R. No. 3017) granting a pension to William Bryant;

The bill (H. R. No. 2548) granting a pension to Martha Neil;

The bill (H. R. No. 3487) granting a pension to James Forsyth Harrison;

The bill (H. R. No. 1470) granting a pension to Francis H. Bird;

The bill (H. R. No. 2608) granting a pension to Anna M. Wehe; and

The bill (H. R. No. 624) granting a pension to Robert S. Goodall.

Mr. COFFROTH moved to reconsider the several votes by which bills reported from the Committee of the Whole on the Private Calendar were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The following bills reported from the Committee of the Whole House on the Private Calendar to-day without amendment, and with the recommendation that they do pass, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

The bill (H. R. No. 1569) granting a pension to William H. Walker;

The bill (H. R. No. 1938) granting a pension to John H. McBrayer;

The bill (H. R. No. 2120) granting a pension to Bernard Brady;

The bill (H. R. No. 745) granting a pension to Colby Hornady; and

The bill (H. R. No. 2637) granting a pension and arrears of pension to Johanna Meehan and minor children.

The following bills reported from the Committee of the Whole House on the Private Calendar to-day, with amendments, were severally taken up, the amendments concurred in, and the bills, as amended, ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

The bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn;

The bill (H. R. No. 2301) granting a pension to James Kitchen;

The bill (H. R. No. 3556) to place on the pension-roll the name of P. S. Rush; and

The bill (H. R. No. 3557) granting a pension to Peter Julius.

Mr. CALDWELL moved to reconsider the votes by which the several bills were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN HOHSTADT.

Mr. HATCH. I move, Mr. Speaker, by unanimous consent that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 3656) for the relief of John Hohstadt. The bill is to remove the charge of desertion against an old Vermont soldier of the war of 1812, now eighty years of age, and who will not, in all probability, survive to the end of this session. I desire to put the bill on its passage, and I hope there will be no objection to it. It is the unanimous report of the Committee on Pensions.

The SPEAKER *pro tempore*. The bill has been sent for.

EVENING SESSION FOR PENSION BILLS.

Mr. COFFROTH. While they are hunting for that bill, I ask by unanimous consent, Mr. Speaker, that Tuesday night next, at half past seven, a session be held for the consideration of pension bills.

Mr. OSCAR TURNER. I object.

JOHN HOHSTADT.

Mr. HATCH. I ask that the bill to which I have referred be read.

The bill was read. It authorizes and directs the Third Auditor of the Treasury to issue to John Hohstadt, sergeant in Captain Elijah W. Wood's company of Vermont militia in the war of 1812, an honorable discharge from that service, and to so amend the records and rolls in the War Department as to relieve him from the charge of desertion; the said John Hohstadt to be entitled to the same bounty and pension as other soldiers of his rank and arm of service.

Mr. WHITE. Is there a report accompanying that bill?

Mr. BLAND. There is a unanimous report.

Mr. MILLS. It is all right, for any man who served in the war of 1812 from Vermont is entitled to a pension and ought to have it. [Laughter.]

There was no objection, and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill; and it was taken up, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HATCH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. SPARKS. I move that the House do now adjourn.

The SPEAKER *pro tempore*. Before putting the question on the motion of the gentleman from Illinois that the House adjourn, the Chair desires to lay before the House requests for leave of absence.

By unanimous consent, leave of absence was granted in the following cases:

Mr. WELLS, for ten days from this date;

Mr. HAYES, for two weeks from to-morrow, on account of important business;

Mr. TALBOTT, until the 18th instant, on account of important business;

Mr. MITCHELL, indefinitely, on account of urgent business;

Mr. CHITTENDEN, for three days; and

Mr. THOMAS, for to-morrow.

Mr. TUCKER. I hope the House will not adjourn.

Mr. NEAL. I ask the gentleman from Illinois to withdraw his motion so I may move that the House do now take a recess until 7.30 this evening, as the session then has been set apart for the consideration of the municipal code of the District of Columbia.

Mr. SPARKS. I will yield to the gentleman from Ohio for that motion.

Mr. NEAL. I move that the House take a recess until half past seven o'clock for the purpose of proceeding to the consideration of the municipal code of the District of Columbia.

The House divided; and there were—ayes 38, noes 51.

So the motion was disagreed to.

Mr. SPARKS. I move the House do now adjourn.

Mr. BAYNE. Let me call the gentleman's attention to a bill which I desire to have passed at this time.

Mr. SPARKS. I insist on my motion.

The House divided; and there were—ayes 62, noes 37.

So the motion was agreed to; and accordingly (at three o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of P. & T. Collins and their creditors, for the passage of a joint resolution requesting the President to bring the matters alleged in their memorial to the attention of the government of Great Britain—to the Committee on Foreign Affairs.

By Mr. ANDERSON: The petition of ex-soldiers of the United States residing in Graham County, Kansas, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. CASWELL: The petition of Jacob Seiler and others, citizens of Madison, Wisconsin, that newspapers and periodicals be placed on the free list—to the Committee on Ways and Means.

By Mr. DICK: The petition of Perkins & Co., of Sharpsville, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. DUNNELL: The petition of citizens of Hartland, Minnesota, against the passage of the Withers pension bill—to the Committee on Invalid Pensions.

By Mr. GARFIELD: The petition of the Paulding Iron Company, of Cecil, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. JOHN HAMMOND: The petition of the Crown Point (New York) Iron Company, of similar import—to the same committee.

By Mr. LAPHAM: The petition of William H. Whiting, for relief on account of personal injuries sustained, resulting from his treatment while a prisoner of war on board the confederate cruiser Alabama—to the Committee on War Claims.

Also, the petitions of John Blansett and others and of George Beebe and others, ex-Union soldiers of New York, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. McCOID: The petition of J. S. Bridges and 25 others, of Iowa, of similar import—to the same committee.

By Mr. MONROE: The petition of Sergeant George W. Rhodes, Company K, Twenty-fifth Ohio Infantry, for a pension—to the Committee on Invalid Pensions.

By Mr. REED: The petition of Archibold Leitch, of Kennebunk, Maine, for an appropriation to extirpate dog-fish—to the Committee on Commerce.

By Mr. SHERWIN: The petition of citizens of Richmond, Illinois, for the removal of the duty on salt—to the Committee on Ways and Means.

By Mr. THOMAS: The petition of John S. Garrett and 38 others, citizens of Knox County, Illinois, for the passage of a bill paying him for a horse lost in the Black Hawk war—to the Committee on War Claims.

By Mr. PHILIP B. THOMPSON: The petition of William D. Wolford, late second lieutenant Company K, Thirteenth Regiment Ken-

tucky Cavalry, relating to the bill for his relief—to the same committee.

By Mr. TUCKER: The petition of citizens of Lynchburgh, Virginia, for a change of the duty on liquorice-paste—to the Committee on Ways and Means.

By Mr. WASHBURN: The petition of Zenia Banker and 22 others, Union soldiers, of Janesville, Minnesota, for the passage of an act for the payment to the soldiers and sailors of the Union Army of the difference between the value of greenbacks and gold during their term of service—to the Committee on Military Affairs.

By Mr. WEAVER: The petition of Henry Archer, of Ottawa Lake, Michigan, and 57 others, for the equalization of bounties—to the same committee.

Also, the petitions of A. G. Beatty and 42 others, of Rowley; of A. L. Bailey and others, of Independence, Iowa; of Henry Archer and 60 others, of Ottawa Lake, Michigan; of D. McNamara and 5 others, of Troy, New York; and of George E. Phillips and 16 others, of Duck Lake, Michigan, for the passage of the Weaver soldier bill—to the same committee.

By Mr. WHITTHORNE: The petition of the Napier Iron Company, of Tennessee, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WRIGHT: The petition of G. I. Landman and 323 others, citizens of Keokuk, Iowa, for the passage of the bill (H. R. No. 269) known as the Wright supplement to the homestead bill—to the Committee on the Public Lands.

By Mr. THOMAS L. YOUNG: The petition of honorably discharged soldiers and sailors, of Hamilton County, Ohio, who served in the Army and Navy during the war of the rebellion, that Congress grant land warrants of 160 acres to such soldiers and sailors—to the Committee on Military Affairs.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 8, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON, of Mississippi. I rise, Mr. Speaker, for the purpose of presenting a privileged conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to Senate amendment numbered 1, and agree to the same, amended as follows: In lieu of said House amendment insert the following: "For one secretary to the commission, $4,000; for one interpreter, $3,000; and for additional contingent expenses, $6,000; in all, $13,000; to be immediately available;" and the House agree to the same.

O. R. SINGLETON,
ERASTUS WELLS,
JAMES MONROE,
Managers on the part of the House.
WM. W. EATON,
H. G. DAVIS,
W. B. ALLISON,
Managers on the part of the Senate.

Statement in explanation of report.

The effect of the foregoing report, if adopted, will be as follows:

There were but three points of disagreement between the two Houses. They were:

First, (amendment 1,) as to the expenses of the commissioners appointed to act with the envoy extraordinary and minister plenipotentiary of the United States to China. In this matter the report gives the commissioners $10,000 each, the secretary $4,000, the interpreter $3,000 per annum, and for necessary and contingent expenses $10,000.

Second, (amendment 2,) for clerk hire to the legation at the United States of Colombia, $900, the report refuses.

Third, (amendment 3,) for a consul-general and diplomatic agent at Bucharest, $4,000, the report grants.

The total money result of the agreement adds $7,000 to the bill.

The report of the committee of conference was adopted.

Mr. SINGLETON, of Mississippi, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its secretaries, announced the passage of joint resolution (H. R. No. 296) making appropriation for the contingent fund of the Senate.

RACHAEL MARTIN.

Mr. RICHMOND. I ask by unanimous consent that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of a bill (H. R. No. 2793) for the relief of Rachael Martin, and the same be put on its passage at this time. While the Clerk is looking for the bill, I will simply state that it is for the relief of a widow woman, postmaster at New Castle, Craig County, Virginia. She registered a package containing $34.25 which was addressed to the Third Assistant Postmaster-General at Washington, District of Columbia, instead of to the Treasurer of the United States. The mail-carrier stole it, and the only reason reported by Mr. Shallcross, the special agent of the Government, which prevents the Treasurer entering the amount to her credit is that it was so addressed to the Third Assistant Postmaster-General instead of to the Treasurer of the United States. This mail-carrier was arrested, indicted, pleaded guilty, and is now in the Albany penitentiary. It is reported unanimously by the Committee on Claims.

The bill, which was read, authorizes and directs the Secretary of the Treasury to credit Rachael Martin, postmaster at New Castle, Craig County, Virginia, with the sum of $34.25, being the amount forwarded by her, on her account as such postmaster, by registered letter on the 31st day of May, 1879, addressed to the Third Assistant Postmaster-General, which said sum was stolen from the United States mail-bags by one William E. Cundiff, who was subsequently indicted for the larceny thereof in the United States district court, at Lynchburgh, Virginia, and, upon his arraignment therefor, pleaded guilty thereto; and if, at the date of the passage of this act, the said Rachael Martin shall have paid the said sum of money to the proper officer of the United States, then the Secretary of the Treasury is hereby authorized and directed to refund to her the said sum of $34.25 out of any money in the Treasury not otherwise appropriated.

The second section provides that this act shall be in force from its passage.

There was no objection, and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill, and it was taken up, read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICHMOND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENOCH DAVIS.

Mr. BROWNE. I move by unanimous consent the Committee of the Whole House on the Private Calendar be discharged from the further consideration of a bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis. It is to remove the charge of desertion from the record of a worthy soldier.

The bill, which was read, provides that the charge of desertion now standing against Enoch Davis, late a private of Company G, Sixth Iowa Volunteer Infantry, on the rolls filed in the office of the Adjutant-General be removed, and that the Adjutant-General aforesaid be, and he is hereby, directed to grant said Davis an honorable discharge.

There was no objection, and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill, and it was taken up and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BROWNE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SETTLERS OF PALATKA MILITARY RESERVATION, FLORIDA.

Mr. HULL. I move, Mr. Speaker, by unanimous consent to take up for action at this time a bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation in Florida.

The bill, which was read, provides in the first section that in all cases in which lands lying within the limits of the former Palatka military reservation in Florida have been entered by settlers under the homestead laws, and their entries are found to conflict with selections by the State of Florida under the grant of swamp lands by act of Congress of September 28, 1850, which are confirmed by the act of March 3, 1857, and in which said settlers have in good faith complied with the requirements of the homestead laws, their entries be, and the same are hereby, confirmed, on the State filing with the Commissioner of the General Land Office its relinquishment of all claim thereto; and the State shall thereupon be entitled to select in lieu thereof an equal quantity of land from any of the vacant and unappropriated public lands of the United States in Florida, and patents shall be issued to the State for the lands so selected in lieu of the tracts taken by the settlers.

The second section provides that in all cases in which lands lying within said reservation have been entered at private entry or located by military land warrants, and which conflict with said selections, the same are also hereby confirmed on the State relinquishing all claim thereto, and the State shall thereupon be entitled to indemnity in the same manner as indicated in the first section of the act.

Mr. ROBINSON. Is there a report accompanying that bill?

The SPEAKER *pro tempore*, (Mr. HARRIS, of Virginia, in the chair.) The Chair is not advised.

Mr. HULL. I will state, Mr. Speaker, that this is a unanimous report from the Committee on the Public Lands. It only relates to a few settlers in one county of my district who located on the Palatka military reservation.

There was no objection, and the bill was taken up and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HULL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRE-EMPTION SETTLERS IN DAKOTA TERRITORY.

Mr. BENNETT. I ask unanimous consent to take from the House Calendar the bill (H. R. No. 3948) for the relief of certain pre-emption settlers in Dakota Territory for present consideration.

The SPEAKER *pro tempore*. The Chair will cause the bill to be read, after which he will ask for objections.

The bill was read at length.

Mr. SMITH, of Pennsylvania. I object.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

On motion of Mr. COBB, by unanimous consent, the bill (H. R. No. 5896) making appropriations for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, with Senate amendments thereto, was taken from the Speaker's table, and, with said amendments, ordered to be printed and recommitted to the Committee on Appropriations.

BARK ANNIE JOHNSON.

Mr. DAVIS, of California. I ask unanimous consent that Senate bill No. 1723, which I am informed is identical with House bill No. 4162, authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson, and which has been reported unanimously from the Committee on Commerce, be taken from the Speaker's table for present consideration.

Mr. HUTCHINS. I object and demand the regular order.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The regular order being demanded, the morning hour begins at twenty-three minutes before one o'clock. The call rests with the Committee on Military Affairs.

EDWARD BRADIN AND J. W. ANGUS.

Mr. UPSON. I am instructed by the Committee on Military Affairs, in lieu of House bill No. 4353, to ask that Senate bill No. 56 be taken from the Speaker's table and put upon its passage. It is simply a bill to refer a claim to the Court of Claims.

Mr. ATKINS. I reserve all points of order upon the bill.

Mr. FERNANDO WOOD. Is not the morning hour now operating?

The SPEAKER *pro tempore*. The gentleman from Texas asks unanimous consent.

Mr. ALDRICH, of Rhode Island. Can that be done in the morning hour?

The SPEAKER *pro tempore*. Only by unanimous consent.

Mr. CONGER. If the morning hour has commenced, then let it go on.

Mr. UPSON. I am reporting from the Committee on Military Affairs in the morning hour.

Mr. RANDALL, (the Speaker.) The report from committees in the morning hour are only for reference to the different calendars under the rules.

Mr. COFFROTH. I move to dispense with the morning hour to take up the Mexican soldier bill.

The SPEAKER *pro tempore*. That motion will not be in order at this time. The morning hour has already begun.

AMENDMENT OF PATENT LAWS.

Mr. SMITH, of Georgia, from the Committee on Patents, reported back adversely the bill (H. R. No. 3041) to amend the patent laws of the United States; which was referred to the House Calendar, and the accompanying report ordered to be printed.

PUBLIC BUILDING AT BROWNSVILLE, TEXAS.

Mr. MURCH, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 2479, a bill (H. R. No. 6100) to provide for the erection of a public building at Brownsville, Texas, for United States courts, post-office, custom-house, &c.; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

JOHN B. STONE.

Mr. FARR, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 5368) granting a pension to John B. Stone; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

HUGH R. M'GOWAN.

Mr. UPDEGRAFF, of Ohio, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 4498) granting a pension to Hugh R. McGowan; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

THOMAS ALLCOCK.

Mr. MASON, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 190) granting a pension to Thomas Allcock; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ELIZABETH T. DUBOIS.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 132) granting a pension to Elizabeth T. Dubois; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MARTHA WESTERVELT.

Mr. MASON also, from the same committee, reported back favorably a bill (H. R. No. 117) granting a pension to Martha Westervelt; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. ANN SHEFFIELD.

Mr. CALDWELL, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 1580) granting a pension to Mrs. Ann Sheffield; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

TIBITHA BALL.

Mr. CALDWELL also, from the same committee, reported a bill (H. R. No. 6101) granting a pension to Tibitha Ball; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MOORE JOHNSON.

Mr. BLAND, from the Committee on Pensions, reported, as a substitute for House bill No. 646, a bill (H. R. No. 6102) granting a pension to Moore Johnson; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DR. GUSTAVUS WERNER.

Mr. BLAND also, from the same committee, reported a bill (H. R. No. 6103) for the relief of the heirs and devisees of Dr. Gustavus Werner; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HENRY HERMAN.

Mr. BOWMAN. I am instructed by the Committee on Claims to report back the bill (H. R. No. 3761) for the relief of Henry Herman, and to move that the committee be discharged from the further consideration of the same and that it be laid on the table. The Secretary of the Treasury refuses to consider the case while it is pending before Congress, and we ask that the committee be discharged from its further consideration.

The Committee on Claims was discharged from the further consideration of the bill, and the same was laid on the table, and the accompanying report ordered to be printed.

HENRY ERNI.

Mr. BOWMAN also, from the Committee on Claims, reported a bill (H. R. No. 6104) for the relief of Henry Erni, formerly consul at Basle, Switzerland; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES M. MASON.

Mr. BOWMAN also, from the same committee, reported a bill (H. R. No. 6105) for the relief of James M. Mason, of West Virginia; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOSHUA M. COPE.

Mr. SAWYER, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 4514) for the relief of Joshua M. Cope; and the same was laid on the table, and the accompanying report ordered to be printed.

H. R. CROSBIE.

Mr. SAWYER also, from the same committee, reported a bill (H. R. No. 6106) for the relief of H. R. Crosbie; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM G. FORD.

Mr. SAWYER also, from the same committee, reported a bill (H. R. No. 6107) for the relief of William G. Ford, administrator of John G. Robinson, deceased; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. BRAGG, from the Committee on War Claims, reported back, with adverse recommendations, the following petitions, and the same

were laid upon the table, and the accompanying reports ordered to be printed:

The petition of Mrs. Hester Neely, executrix and legatee of W. W. Neeley, deceased, of Warren County, Mississippi;

The petition of Mount Olivet Cemetery, at Nashville, Tennessee, asking compensation for damages caused by United States troops during the war;

The petition of Mrs. Anna P. James, of Tennessee, asking compensation for destruction and occupation of property;

The petition of Fannie Priscilla Murfree, of Rutherford County, Tennessee; and

The petition of Martha A. Stevens, of Nashville, Tennessee.

Mr. BRAGG moved to reconsider the votes by which the above petitions were severally laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROTHWELL, from the Committee on War Claims, reported back, with adverse recommendations, the following petitions; and the same were laid on the table, and the accompanying reports ordered to be printed.

The petition of Mary A. Coffey, of Wayne County, Kentucky;

The petition of J. P. Carroll, of Taylor County, Kentucky; and

The petition of Belford H. Kirtley, of Taylor County, Kentucky.

Mr. BRAGG moved to reconsider the votes by which the above petitions were severally laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. TYLER, from the Committee on War Claims, reported back, with adverse recommendations, the following bills and petitions; and the same were severally laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 2322) for the relief of Daniel Edwards;

The bill (H. R. No. 2323) for the relief of William F. Walsh;

The bill (H. R. No. 2258) for the relief of Elizabeth J. Simpson;

The bill (H. R. No. 5480) for the relief of Anna Hurley;

The bill (H. R. No. 1093) for the relief of C. M. Quackenbush;

The petition of trustees of Mossy Creek Baptist church, Jefferson County, Tennessee; and

The petition of the trustees of Mossy Creek College, Jefferson County, Tennessee.

Mr. TYLER moved to reconsider the votes by which the above bills and petitions were severally laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. P. BURDITT AND JAMES FISK.

Mr. TYLER also, from the Committee on War Claims, reported back, with amendments, the bill (H. R. No. 2205) for the relief of A. P. Burditt and James Fisk; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SANTIAGO DE LEON.

Mr. TYLER also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2307) for the relief of Santiago De Leon; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING AT POUGHKEEPSIE, NEW YORK.

Mr. JORGENSEN, from the Committee on Public Buildings and Grounds, reported back, with a favorable recommendation, the bill (H. R. No. 5752) to provide for the erection of a public building at Poughkeepsie, New York; which was referred to the Committee of the Whole on the State of the Union, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING AT WILMINGTON, NORTH CAROLINA.

Mr. JORGENSEN also, from the same committee, reported, as a substitute for House bill No. 4258, a bill (H. R. No. 6108) providing for the erection of a public building at Wilmington, North Carolina; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

WILLIAM P. MORAN.

Mr. HULL, from the Committee on Expenditures in the Navy Department, reported back adversely the bill (H. R. No. 3133) for the relief of William P. Moran; which was laid on the table, and the accompanying report ordered to be printed.

DEALERS IN LEAF-TOBACCO.

Mr. FELTON, from the Committee on Ways and Means, reported, as a substitute for House bill No. 3620, a bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States; which was read a first and second time.

Mr. THOMAS TURNER. That bill meets with the unanimous approval of the Committee on Ways and Means, and I ask that it be now considered.

The SPEAKER *pro tempore*. That is not in order during the morning hour.

Mr. THOMAS TURNER. Then I will ask to have it considered immediately after the morning hour.

The SPEAKER *pro tempore*. It must now be referred to the Calendar.

The bill was accordingly referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

CONDEMNED CANNON FOR MONUMENTAL AND OTHER PURPOSES.

Mr. SPARKS, from the Committee on Military Affairs, reported back the following bills and joint resolutions, with a substitute therefor:

The bill (H. R. No. 58) authorizing the Secretary of War to deliver certain condemned ordnance to the town of Brimfield, Massachusetts, for monumental purposes;

The bill (H. R. No. 72) granting condemned cannon to Grand Army Post, No. 3, of Taunton, Massachusetts, for monumental purposes;

The bill (H. R. No. 85) donating condemned cannon to the town of Paxton;

The bill (H. R. No. 170) to authorize the Secretary of War to deliver to the authorities of East Bloomfield, New York, four condemned cannon for the soldiers' monument in said town;

The bill (H. R. No. 807) donating condemned cannon to the Danville Light Battery A, Illinois National Guard;

The bill (H. R. No. 1400) donating four condemned cannon to each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts;

The bill (H. R. No. 1417) donating cannon and cannon-balls for the construction of a suitable fence around the soldiers' monument at Killingly, Connecticut;

The bill (H. R. No. 1447) donating condemned cannon and cannon-balls or field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial;

The bill (H. R. No. 1932) donating condemned cannon to the Williams Monument Association of Detroit, Michigan, to be used for monumental purposes;

The bill (H. R. No. 1956) donating condemned cannon to the city of Aurora, Illinois;

The bill (H. R. No. 2090) to authorize the Secretary of War to furnish condemned cannon for the soldiers' cemetery at Gallipolis, Ohio;

The bill (H. R. No. 2198) donating condemned cannon to John Ennis Post, Grand Army of the Republic;

The bill (H. R. No. 2284) donating condemned cannon and balls to the Wayne Monumental Association;

The bill (H. R. No. 3128) to donate condemned ordnance to the Union Township Association at Milford Centre, Ohio;

The bill (H. R. No. 3302) granting condemned ordnance for monumental purposes to Posts Nos. 73 and 78, Grand Army of the Republic, in the district of Massachusetts;

The bill (H. R. No. 4008) donating condemned cannon to the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts;

The bill (H. R. No. 5157) donating condemned cannon for corner-posts to a soldiers' plat in cemetery at Poughkeepsie, New York;

The bill (H. R. No. 5250) donating condemned cannon to the Fort Stephenson Park, Fremont, Ohio;

The joint resolution (H. R. No. 56) authorizing the Secretary of War to deliver to the town of Avon, Livingston County, New York, four cannon for the soldiers' monument in said town;

The joint resolution (H. R. No. 111) granting condemned cannon to the Monumental Association of Franklin Pennsylvania; and

The joint resolution (H. R. No. 258) authorizing the Secretary of War to deliver to the authorities of the city of McGregor, Clayton County, Iowa, four abandoned cannon and carriages for the soldiers' monument in said city.

The substitute, being a bill (H. R. No. 6110) donating condemned cannon, &c., for monumental and other purposes, was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The call of committees for reports is now concluded.

Mr. SPRINGER. I desire to call up a contested-election case.

Mr. HOOKER. I ask the gentleman to yield to me to make a report from my committee. I was not present when it was called.

Mr. SPRINGER. I will yield for that purpose.

TRANSFER OF INDIAN BUREAU TO WAR DEPARTMENT.

Mr. HOOKER, from the Committee on Indian Affairs, reported back, with amendments, the bill (H. R. No. 3439) to transfer the office of Indian Affairs from the Interior to the War Department; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. HOOKER. I ask consent that the report, which is a short one, be printed in the RECORD.

Mr. CONGER. I object.

NOTARIES PUBLIC.

Mr. LAPHAM, from the Committee on the Judiciary, reported, as a substitute for House bill No. 4454, a bill (H. R. No. 6111) explaining section 5498 of the Revised Statutes; which was read a first and second time, referred to the House Calendar, and ordered to be printed.

GREAT AND LITTLE OSAGE INDIANS.

Mr. DEERING, from the Committee on Indian Affairs, reported a bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867; which was read a first and second time.

Mr. DEERING. I ask unanimous consent that the bill I have just reported be made a special order for the evening of Friday of next week, and that the House take a recess at 4.30 o'clock p. m. on Friday next until 7.30 p. m. for the purpose of considering this bill.

Mr. HUNTON. I would suggest to the gentleman from Iowa [Mr. DEERING] that Friday night of next week is already appropriated.

Mr. DEERING. Then I will make it Thursday of next week.

There was no objection, and the bill with the accompanying report was ordered to be printed, and made a special order for Thursday evening next, the House to take a recess on that day from 4.30 o'clock p. m. to 7.30 p. m.

UNITED STATES COURTS AT CHATTANOOGA, TENNESSEE.

Mr. DIBRELL. I ask consent that House bill No. 698 be taken from the Calendar of the Committee of the Whole and considered in the House at this time. It is a bill to establish a district and circuit court at Chattanooga, Tennessee, reported unanimously from the Committee on the Judiciary.

There was no objection, and the bill was taken up and read, as follows:

Be it enacted, &c., That there shall be two terms of the United States district and circuit courts for the eastern district of Tennessee held at Chattanooga, in the county of Hamilton, in said district, in each year, on the first Mondays of April and October, after the passage of this act.

SEC. 2. That the clerks of the district and circuit courts for the eastern district of Tennessee, and the marshal and district attorney for said district, shall perform the duties appertaining to their offices respectively for said courts. And the said clerks and marshal shall each appoint a deputy to reside and keep their offices in the city of Chattanooga, and who shall, in the absence of their principals, do and perform all the duties appertaining to their offices respectively.

SEC. 3. That all process issued to or against parties residing in the counties of Hamilton, James, Polk, McMinn, Bradley, Meigs, Rhea, Marion, Sequatchie, Bledsoe, Grundy, Cumberland, Overton, Fentress, Scott, Morgan, and Roane shall be issued from and be returnable to said district and circuit courts at Chattanooga; and all issues of fact in such cases triable by a jury shall be tried at Chattanooga, unless otherwise ordered by the court for cause shown.

SEC. 4. That each of said courts shall be held in a building to be provided for that purpose by the State or municipal authorities, and without expense to the United States.

The amendment reported from the Committee on the Judiciary was, to strike out of section 3 the words "Overton, Fentress, Scott, Morgan, and Roane."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DIBRELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—CURTIN VS. YOCUM.

Mr. SPRINGER. I now call up the contested-election case of Curtin *vs.* Yocum, and will yield the first hour to the gentleman from Pennsylvania, [Mr. BELTZHOOVER.]

The SPEAKER *pro tempore*. The resolution reported from the Committee on Elections will be read.

The resolution was read, as follows:

Resolved, That the election held in the twentieth congressional district of Pennsylvania in November, 1878, for a member of this House, be, and the same is hereby, declared null and void, and the seat now occupied by SETH H. YOCUM declared vacant until filled by the people of said district in conformity with law.

Mr. GILLETTE. I make the motion that the House resolve itself into Committee of the Whole for the consideration of the Private Calendar.

The SPEAKER *pro tempore*. That motion is not in order. A question of privilege is now under consideration.

Mr. GILLETTE. I raise the question of consideration upon this election case.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. BELTZHOOVER] has been recognized, and declines to yield.

Mr. PAGE. Has not the gentleman from Iowa [Mr. GILLETTE] the right to contest the consideration of the election case by a motion to go into Committee of the Whole?

The SPEAKER *pro tempore*. There was a proper opportunity to raise the question of consideration; but it was not raised. The gentleman from Pennsylvania was recognized and now holds the floor.

Mr. TOWNSHEND, of Illinois. Before the gentleman from Pennsylvania begins his remarks, I desire to know whether a vote will be taken on this case to-day?

Mr. BELTZHOOVER. I cannot answer.

Mr. TOWNSHEND, of Illinois. I would like to have an understanding about that.

The SPEAKER *pro tempore*. The Chair knows nothing about it.

Mr. CALKINS. I would like to have some understanding about the order of debate. As I understand, the gentleman from Pennsylvania will open the case, and after he has occupied his hour the debate will alternate.

Mr. BELTZHOOVER. That is my understanding.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania will proceed.

Mr. BELTZHOOVER. Mr. Speaker, this election contest is one which will require the greatest care and attention on the part of the members of this House if they desire to decide it fairly and intelligently on its merits. The testimony covers over forty-two hundred pages, and the questions of law involve the interpretation and construction of that portion of the new constitution and all the statutes of Pennsylvania which pertain to the subject of suffrage and elections. These legal questions are more important and difficult for the reason that they have never received the determination of the highest legal tribunal in the State. They must therefore be considered as if we were discussing them before an appellate court. The able counsel of the parties, the sub-committee to which the case was primarily referred, and the whole Committee on Elections gave it very unusual and very elaborate consideration and examination. During the various stages of the contention, the facts which are shown from the testimony, and many of the legal authorities which apply to the case, were digested and briefed so as to present them in a reasonably plain and compendious form.

From these briefs, with the addition of a large number of cases derived from my own researches, I desire to present as succinctly and plainly as possible the view of the law and the facts on which the majority report of the Committee on Elections is based. On the 5th day of November, 1878, there was a general election held in Pennsylvania for the selection of a full congressional delegation and State and county officers, from the governor of the State down to the lowest local official. There were three candidates in the field for governor, a democratic, a republican, and a greenback candidate. There are twenty-seven congressional districts in the State. This contest comes from the twentieth district, which comprises six counties, Centre, Clinton, Clearfield, Elk, Union, and Mifflin. There were two candidates for Congress in this district; Governor Curtin was the nominee of the democratic party and Mr. Yocum was the candidate of the greenback party, the republican party not having made any nomination. In the previous political contests in this district, from the time of its formation, the democrats always had decided majorities. In 1874, at the first congressional election in the district, in a contest between a democrat and a republican, the democratic candidate had over 3,000 majority. In 1876, in the contest for Congress between a democrat and a republican, the democrat had over 5,000 majority. In the governor's election of 1878 the democratic candidate had over 3,000 plurality over each of his competitors and a majority of nearly 1,500 over both of them combined. With this previous political condition of the district it was to have been expected that in the contest between Governor Curtin and Mr. Yocum for Congress in 1878 Governor Curtin would have received a majority. The result of the election, however, shows an apparent majority of 73 for Mr. Yocum. Within a competent time after the election Governor Curtin, believing that there had been an undue and illegal election, and a large number of his friends concurring in this belief, served a notice of contest on Mr. Yocum. Of the six return judges who made up the district returns five signed a written request to Governor Curtin urging him most earnestly and strongly to contest the election on the ground that it was illegal and fraudulent. In this notice of contest he alleged that the friends of Mr. Yocum had committed a great many frauds, illegalities, and irregularities, but chiefly charged that they had utterly disregarded and ignored the registry law of the State. Mr. Yocum, in his answer, alleged that the friends of Governor Curtin had committed similar frauds and illegalities, and also charged that they, too, had disregarded the registry law. The notice of contest covered thirty pages, and contained ninety-one specifications. The answer covered seventy-eight pages, and comprised one hundred and seventy specifications. On this notice and answer the pleadings were made up and the voluminous testimony to which we have referred was taken. This testimony, while it covers all the various charges stated in the specifications, is composed chiefly of that which relates to the violations of the registry law.

The law in Pennsylvania, which we shall subsequently examine carefully, provides that all voters must be registered prior to an election. If they are not so registered, each man offering to vote on election day who is not registered must make an affidavit and furnish the affidavit of another legal elector of the district proving his qualifications to vote. These affidavits made by non-registered voters and citizens of the district must be preserved by the officers of election and filed with the prothonotary. All persons who are not registered and who do not make these affidavits are illegal voters. While the testimony, as we have stated, relates to all the charges of irregularity and fraud, the greater portion of it was taken in reference to this subject of unregistered votes. The majority report and both the minority reports deal only with those questions of fact which pertain to unregistered votes. This is the dominating question in the case, and to this one point we will confine ourselves in the discussion of the facts. To facilitate the comprehension of the testimony on this subject we have arranged the facts into three propositions. We will state these propositions separately and follow each with a reference to the testimony on which it is based and by which it is sustained.

FIRST PROPOSITION.

There were between one and two thousand persons who voted at said election who were not registered, and whose affidavits were not

found in the prothonotary's office, and who were therefore, *prima facie*, illegal voters. In support of this proposition we refer to the summary of illegal votes and the appendix in the brief of the contestant. This summary and appendix give the names of twelve hundred and sixty persons who voted in the district and who were not registered. The appendix gives the pages in the testimony at which will be found the proof that the names were not on the registry list, but were found on the poll-list, and that no affidavits were found in the prothonotary's office. We next refer to Appendix B, in the contestee's brief. In this appendix, which the contestee entitles "a list of unregistered voters claimed by contestant in his brief as corrected by contestee," the contestee takes the list as stated in the appendix of contestant and examines it, and strikes out all voters who he alleges voted without being registered, but were otherwise qualified, and admits that three hundred and twenty-five of these were not registered and not qualified.

Mr. WEAVER. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. BELTZHOOVER. Certainly.

Mr. WEAVER. Do I understand the gentleman to say that the contestee admits no affidavits were filed in the case which he has just referred to?

Mr. BELTZHOOVER. I say that the contestee, speaking through his counsel, by taking the list of twelve hundred and sixty names placed in his brief by the contestant and by eliminating from that list every name that he could show or pretend to show was legal, and by leaving three hundred and twenty-five names in reference to whom he could show nothing whatever, admits thereby that they were illegal votes.

Mr. WEAVER. The gentleman, as I understand him, simply draws an inference. He does not mean to say that that was admitted.

Mr. BELTZHOOVER. I draw the inference from the facts I have stated, and I leave every other gentleman to draw his own inference from the acts of the contestee and his counsel. By a most casual examination of this corrected list of the contestee, it will be found that at least two hundred more should be added on contestee's own showing, allowing him for all possible deductions. A still more careful examination will show that he has eliminated from this list a large number, not less than five hundred, on testimony which, under the law, is utterly insufficient to bring them within the qualification of registered voters. For instance, we find names stricken out on the ground that they are qualified and a page in the testimony given at which it is alleged proof to qualify them will be found, when by referring to that page we find no such testimony.

We find, again, names stricken out of this list on the ground that the testimony shows they were qualified, when by examining the testimony referred to it shows simply that on the poll-list the words "on the papers" are written as the testimony which is supposed to have justified the contestee in saying that the voter was qualified. At other places we find that the qualification of a large number of these voters who are alleged to have been qualified is based on the affidavit of one person, who swears to the residence and qualification of such persons, without having called the voters themselves. Again, in a large number of instances where voters are marked as qualified by reason of having made affidavits, upon examination it will be found that the affidavits were not signed according to law. Without going into details as to the manner in which the contestee corrects this list, it is sufficient to say that an examination discloses in a large number of instances, as we have stated, an insufficient qualification, and we hold that by having cited the best evidence which he had of the qualification of these voters, and that evidence being utterly insufficient, it is an admission that they were not qualified, and were therefore illegal. We next refer to the answer of the contestee on page 55 and page 93. On page 55, placitum 5, the contestee says:

> Ten or more other persons whose names were not on the registered list of said election voted for you (the contestant) at said election for said office without making any proof or offering any legal evidence of their right to vote in the said election district, as required by law, which said illegal votes were received and counted for you for said office.

On page 93 the same allegation is repeated, and the number is fixed at one hundred who are alleged to have voted without being registered and without furnishing the requisite affidavits. The same allegation is repeated one hundred and seven times from paragraph 5 to paragraph 120, in all embracing a charge that twelve hundred persons voted who were not registered and who did not furnish the affidavits required by law. We next refer to page 11 of contestee's brief, where he also plainly admits that about two hundred persons voted at this election who were not registered and who did not furnish the affidavits required by law. In Appendix C of contestee's brief he gives us the names and the pages at which the testimony will be found to show that eighteen hundred persons voted at this election who were not registered and who did not make the affidavits required by law. In contestee's brief, at page 26, he says in reference to these lists made by himself and the contestant:

> In addition to the correction of contestant's brief which is contained in Appendices A and B, we have presented in duplicate form the illegal votes for contestant as shown in the testimony and designated as the general summary of contestee. We have also prepared a list of unregistered voters in districts giving contestant majorities, and we submit to the committee that a careful comparison of this list with a similar list of contestant printed in his brief will show more unregistered voters in districts giving contestant majorities.

The whole testimony on both sides goes fully to sustain the first proposition. The contestant appears to have spent his whole time for taking testimony in chief in showing the unregistered votes in districts giving contestee majorities, and the contestee responded during his time in doing precisely the same thing in districts giving contestant majorities. Both parties emulated each other in piling up the proof of as many unregistered votes as possible.

SECOND PROPOSITION.

There were three hundred and eighty-two persons voted at said election who were not registered and who were shown by affirmative proof not to have made the affidavits required by law, and were therefore absolutely illegal voters.

Mr. CAMP. For whom did they vote?

Mr. BELTZHOOVER. The testimony does not show, except as to the last ninety, who voted for contestee.

In support of this proposition we refer first to Woodward Township, Clearfield County. It is shown by the testimony on pages 507, 509, 510, 512, and 1375 that no affidavits were required or furnished by unregistered voters in this township.

In Appendix B of contestee's brief, pages 15 and 16, will be found the names of fifty-one persons who voted at said election who were not registered. In White Deer Township, Union County, it is shown by the testimony at pages 1196, 2996, and 2997 that no affidavits were taken from unregistered voters. In Appendix B, contestee's brief, at page 11, will be found the names of eighteen persons who voted at said election who were not registered and did not make and furnish affidavits, and were therefore illegal voters. In Chest Township, Clearfield County, it is shown by the testimony, at pages 2144 and 2146, that no affidavits were taken from unregistered voters. In Appendix C of contestee's brief, at page 7, will be found the names of twenty-seven persons who were unregistered and who voted at this election without furnishing the affidavits. In Jordan Township, Clearfield County, it is shown by the testimony, at pages 2167 and 3633, that no affidavits were taken from unregistered voters. In Appendix C of contestee's brief, at page 7, will be found the names of twenty-two persons who were not registered and who voted at said election without furnishing the affidavits. In Morris Township, Clearfield County, it is shown by the testimony, at page 2174, that no affidavits were taken from unregistered voters. In Appendix C of contestee's brief, at page 8, will be found the names of fourteen persons who voted at said election who were not registered, and who did not furnish the affidavits. In Burnside Township, Centre County, it is shown by the testimony, at pages 1588, 231, and 266, that no affidavits were taken, and that three persons voted at said election who were not registered. In Bratton Township, Mifflin County, it is shown from the testimony, at page 4111, that no affidavits were taken from unregistered voters. In Appendix C of contestee's brief, at page 16, will be found the names of seventeen persons who voted at said election who were not registered and who did not furnish the affidavits. In Wayne Township, Mifflin County, it is shown by the testimony, on page 4185, that no affidavits were taken from unregistered voters. In Appendix C of contestee's brief, at page 18, will be found the names of twenty-seven persons who voted at said election who were not registered and did not furnish the affidavits. In Granville Township, Mifflin County, it is shown by the testimony, at page 4171, that no affidavits were taken from unregistered voters at that election. In Appendix C of contestee's brief, at page 17, will be found the names of seventy-four persons who were not registered and who voted at said election without furnishing the affidavits. The official vote, as returned, in the above nine districts in which no affidavits were required of unregistered voters was, Yocum 1059, Curtin 999, giving Yocum a majority of 55. In a careful examination of the testimony from page 3235 to page 4167 there will be found the names of thirty-nine persons who were unregistered in the various districts, outside of those we have named, and who testify that they voted without furnishing affidavits. In Woodward Township, Clearfield County, by the testimony to which we have already referred, it is shown that no affidavits were taken from unregistered voters. In Appendix B of contestee's brief, at pages 15 and 16, will be found the names of twenty-seven persons who were unregistered and who were admitted to have voted for contestee. In a careful examination of the testimony in other precincts outside of those we have named we find the names of fifty-eight persons who testify that they were not registered, and made no affidavits, and voted for the contestee. We also find, at pages 1241, 1225, and 1211, the names of five persons who testify that they voted for the contestee without being registered and without making the affidavits required by law. In the testimony which we have thus adduced and briefly referred to there are shown the names of three hundred and eighty-two persons who voted at this election who were not registered and who did not furnish the affidavits required by law. A full and compendious statement containing all the details of the evidence above referred to is printed as an appendix to this argument.

Mr. WEAVER. Will the gentleman from Pennsylvania be kind enough to furnish me with that table?

Mr. BELTZHOOVER. It will be printed with my remarks.

THIRD PROPOSITION.

This proposition is, that ninety persons voted for contestee at said election who were not registered and who are shown by affirmative proof not to have made the affidavits required by law.

This third proposition is clearly and fully sustained by the evidence contained in the testimony above given in reference to the last ninety persons named, all of whom voted for contestee, and none of whom were registered or made the affidavits required by law.

Having thus summarized the facts on which the majority of the committee rely in this case, we will next turn our attention to the law of the case. The questions of law, as we have already said, have never received the determination of the supreme court of the State, and for that reason must be considered as original questions. We will first examine the provisions of the constitution on the subject of suffrage and elections. The State of Pennsylvania has had four constitutions, those of 1776, 1789, 1838, and 1873. The provisions of the constitution of 1838 were very meager in reference to the subject of elections, and the restrictions and qualifications which it provided were found to be insufficient. Article 3 of the constitution of 1838, which was the only one on suffrage and election, provided that a legal voter was required to have the qualifications of the age of twenty-one years, a State residence of one year, a district residence of ten days, and the payment of a tax which had been assessed not less than ten days before the election.

It is an indisputable fact that one of the chief causes which led to the revision of the fundamental law and the formation of the new constitution of 1873 was the inefficiency of the old constitution and the laws enacted under it to secure fair elections. The constitution of 1873 by article 8, section 1, provides that—

Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections: First. He shall have been a citizen of the United States at least one month. Second. He shall have resided in the State one year, or if, having previously been a qualified elector or a native-born citizen of the State who shall have removed therefrom and returned, then six months immediately preceding the election. Third. He shall have resided in the election district where he shall offer to vote at least two months preceding the election. Fourth. If twenty-two years of age or upward, he shall have paid within two years a State or county tax, which shall have been assessed two months and paid at least one month before the election.

Section 4 provides that—

All elections by the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters opposite the name of the elector who presents the ballot.

Section 7 provides that—

All laws regulating the holding of elections by the citizens or for the registration of electors shall be enforced throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

Section 8 provides that—

Any person who shall give or promise or offer to give to an elector any money, reward, or other valuable consideration for his vote at an election or for withholding the same, or who shall give or promise to give the said consideration to any other person or party for such elector's vote or the withholding thereof, and any elector who shall receive or agree to receive for himself or another any money, reward, or valuable consideration for his vote at an election or for withholding the same, shall thereby forfeit the right to vote at said election, and any elector whose right to vote shall be challenged for such cause before the election officers shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

It will be seen by a comparison of the qualifications required by the constitution of 1838 with those required by the constitution of 1873 that the framers of the latter constitution have provided more plain and fixed qualifications and securities of the right of suffrage, and this is a persuasive circumstance to be adverted to in the construction of this new constitution. The convention which framed this constitution was called into existence by an almost unanimous vote of the people, and the constitution itself was adopted and approved by an overwhelming majority. The members of the convention began at the very threshold of the citizen's right to vote, and followed it by close and indubitable lines up to the result of his ballot, in the election of all officers in the State, exacting from them all, from the highest to the lowest, solemn oaths that they have not even winked at fraud or corruption in securing their nominations or elections to office. No device, or precaution, or guard, or bulwark that human legislation can enact into law has been omitted to make the ballot pure and certain and efficient. The discussions in the convention show that all the causes of complaint against the inefficiency and unfairness and corruption of elections prior to that time were considered deliberately, with a view to affording remedies. Whether the authors of the constitution took the wisest course to reach the ends we have specified, or whether they failed, there is one thing beyond all doubt, and that is their intention. Judging their work by its provisions, by its historical antecedents, by its contemporary criticisms, and by the discussion in the convention, they clearly intended to secure inflexibly and plainly the rights of voters, and to fix the manner in which those rights are to be exercised.

In conformity to the requirements of this constitution the first Legislature which convened after its adoption passed the present registry law, which was approved on the 30th of January, 1874.

We will now examine the provisions of this law and contrast them with the provisions of the prior laws to which it was enacted as a supplement. Immediately after the adoption of the constitution of 1838 the election law of July 2, 1839, was passed, and remained substantially the law of elections in the State until the registry law of April 17, 1869, was passed as a supplement. These laws were in existence then as the election laws of the State. When the Legislature of 1874 met, and the subject of a registry law was discussed, and after several bills had been introduced and debated, a distinguished gentleman, who was then a member of the State senate and who is now a member of this House, introduced the registry law of 1869 bodily as a substitute for the pending measures. After being considerably modified and amended and improved, just as the new constitution had been, by avoiding those provisions of the old one which had been proved obnoxious by the experience of the past, the registry law of 1869, thus substituted, was adopted and became the registry law of 1874. The act of 1839 and its supplement of 1869 are still in force in every respect, except where repealed by the act of 1874, which is a supplement to both. All these laws are now parts of a system of legislation which has been improved and amended and perfected by the experience of nearly half a century. They are all to be construed together, and the decisions of the courts of the Commonwealth made under either one of them are fairly applicable in the construction of the present act wherever it remains, as it does in a large degree, the same as the former law. The constant, undeviating purpose of the people of the State and their legislators has been to secure greater stringency in the safeguards and limitations of the ballot, and it is the duty of all tribunals to look to this as a persuasive argument in the construction and administration of the laws on this subject.

This is the spirit in which they were intended to be construed, and it is the direction in which all patriotic men who want pure elections and an honest ballot should see that all election laws are turned.

Referring, then, to sections 1, 2, 3, and 10 of this act of 1874, we will examine each of them minutely and carefully. Section 1 provides:

That it shall be the duty of each of the assessors who are required to perform any duties incident to the holding of elections and the registration of voters in the different counties or cities of this Commonwealth, on the first Monday of June of each year, to take up the transcript of the next preceding assessment, as transmitted to them by the city or county commissioners, and proceed to the revision of the same; and for this purpose he shall visit every dwelling-house in his district and make careful inquiry if any person whose name is on his list has died or removed from the district, and, if so, to erase the same therefrom; or if any qualified voter resides therein whose name is not on his list, and, if so, to add the same thereto; and in all cases where a name is added to the list the person shall forthwith be assessed, and the assessor shall, in all cases, ascertain by inquiry upon what ground the person so assessed claims to be a voter. Upon the completion of this work, it shall be the duty of each assessor, as aforesaid, to proceed to make out a list, in alphabetical order, of the male citizens, twenty-one years of age and upward, claiming to be qualified voters in the election district of which he is the assessor, and opposite each of said names state whether said citizen is or is not a housekeeper; and if he is, the number of his residence, in towns where the same are numbered, with the street, alley, or court in which situated; and if in a town where there are no numbers, the name of the street, alley, or court on which said house fronts; also, the occupation of the person, and, where he is not a housekeeper, the occupation, place of boarding, and with whom; and, if working for another, the name of the employer, and write opposite each of said names the word "voter." * * * It shall be the further duty of each assessor as aforesaid, upon the completion of the duties herein imposed, to make out a separate list of all new assessments made by him. On the lists being completed, and the assessments made as aforesaid, the same shall forthwith be returned to the county commissioners.

Section 2 provides:

The county commissioners shall immediately add the names on the list of new assessments to the tax duplicate of the ward, borough, township, or district in which they have been assessed, and cause duplicate copies of the other list, with the observations and explanations required to be noted as aforesaid, to be made out as soon as practicable, and placed in the hands of the assessor, who shall, prior to the first Monday of August in each year, put one copy thereof on the door of or on the house where the election of the respective district is required to be held, and retain the other in his possession for the inspection, free of charge, of any person resident in the said election district who shall desire to see the same; and it shall be the duty of the said assessor to add, from time to time, on the personal application of any one claiming the right to vote, the name of such claimant, and immediately assess him, noting as in all other cases his occupation, residence, whether a boarder or housekeeper.

If boarding, with whom he boards, and whether naturalized, &c. It shall be the duty of the said assessor to be present at the election-house of the said election districts during the two secular days next preceding the day fixed by the third section of this act for returning the lists to the county commissioners from ten a. m. to three p. m., and from six p. m. to nine p. m., of each of said days, for the purpose of hearing and acting upon applications, to be made under the provisions of this section, or relating to names upon said lists, or that are sought to be placed thereon, or struck therefrom; and it shall be his duty to correct said lists by adding thereto the names of persons entitled to vote not already thereon, and by striking therefrom fictitious names, or names of persons who may have died or removed from said district; and the said lists shall be open for inspection by any qualified elector of the county or ward in which the election district is situated, as well as by the person claiming to be registered; and the court of common pleas of the proper county, or any law judge thereof, at chambers, on the application of any qualified elector of the ward or county, under oath, setting forth a breach of any of the duties imposed on said assessor by this act, which oath may be made at any time before the day of election, shall call the assessor and the complainant before it or him, by citation or rule, to show cause, and shall hear the parties and dispose of the subject in a summary manner, as to law and justice shall belong, and shall, if need be, order the assessor to correct the registry accordingly, and the said court or judge may enforce such order by attachment as in proceedings for contempt.

Section 3 provides:

After the assessments have been completed on the sixty-first day before the Tuesday next following the first Monday of November in each year, the assessor shall on the following day make a return to the county commissioners of the names of all persons assessed by him since the return required to be made by him by the first section of this act, noting opposite each name the observations and explanations required to be noted as aforesaid; and the county commissioners shall thereupon cause the same to be added to the return required by the first section of this act, and a full and correct copy thereof to be made containing the names of all persons so returned as resident taxables in said election district, and furnish the same, together with the necessary election blanks, to the officers of the election in such election district on or before seven o'clock on the morning of the election; *and no man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.*

Section 10 provides:

On the day of election any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election, shall produce at least

one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter, for a period of at least two months immediately preceding said election, which witness shall be sworn or affirmed and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter; and the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit, stating, to the best of his knowledge and belief, when and where he was born; that he has been a citizen of the United States for one month, and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a native-born citizen thereof, and has removed therefrom and returned, that he has resided therein six months next preceding said election; that he has resided in the district in which he claims to be a voter for the period of at least two months immediately preceding said election; that he has not moved into the district for the purpose of voting therein; that he has, if twenty-two years of age or upward, paid a State or county tax within two years, which was assessed at least two months and paid at least one month before the election. The said affidavit shall also state when and where the tax claimed to be paid by the affiant was assessed, and when and where and to whom paid; and the tax receipt therefor shall be produced for examination, unless the affiant shall state in his affidavit that it has been lost or destroyed, or that he never received any. * * * The said affidavits of all persons making such claims, and the affidavits of the witnesses to their residence, shall be preserved by the election board, and at the close of the election they shall be inclosed with the list of voters, tally-list, and other papers required by law to be filed by the return judge with the prothonotary, and shall remain on file therewith in the prothonotary's office, subject to examination as other election papers are. If the election officers shall find that the applicant posesses all the legal qualifications of a voter, he shall be permitted to vote, and his name shall be added to the list of taxables by the election officers.

The first section of this act, as will be perceived, provides that on the 1st of June of each year the assessor of the precinct shall take the list of voters or taxables of the preceding year and go around from house to house in the precinct and strike out the name of every person who has removed from the precinct, and wherever he finds one who has moved in he is to add his name. This list thus made from personal examination and personal canvassing of the district becomes a list of voters, which upon being completed he sends to the office of the commissioners. The second section provides that the commissioners shall make two copies of that list and return them to the assessor. One he retains himself, which is to be subject to the examination of every elector of the district, free of charge. The other he posts up at the place where the election is held in the precinct for the examination publicly of all citizens. It is provided further in this second section that this assessor shall attend at the place in the precinct where the election is held on the last two days for registration, from ten a. m. to three p. m. and from six p. m. to nine p. m.; and it is his duty to register every legal voter who then offers himself; and it is his duty to strike out every one registered who is proven to him to be a non-resident or not a legal voter.

This section also provides, and this provision was added in the senate on the motion of the present democratic Senator from Pennsylvania, [Mr. WALLACE,] for giving the citizen the strong arm of the law to compel registration or to strike out names which fraudulently appeared on the registry. It provides that any voter who applies for registration and is refused can go before any judge at chambers or in court and get a summary order from the court compelling the register to register him, or he can compel the striking out of any name that is improperly registered.

The third section provides that after the list has been again revised and completed it shall be returned to the office of the commissioners, and they shall make an exact duplicate copy thereof, the return to remain as a record in their office perpetually, and this copy to be furnished to all of the election boards of the different precincts on or before seven o'clock of the morning of election day; and the section also provides that on that day no man shall be permitted to vote at the election whose name is not on that list unless he shall make proof of his right to vote, as required by the following section.

The law in these three sections having provided as nearly as legislative skill and ingenuity can provide for a complete and perfect registration, also provides that where a man is not registered on the day of election he shall be able to qualify and vote on that day, if legally entitled so to do.

Mr. OSMER. Will the gentleman allow me to ask him a question?

Mr. BELTZHOOVER. I do not like to be interrupted, but I will yield for a question.

Mr. OSMER. Do you take note of the fact that the constitution of Pennsylvania provides that no man shall be deprived of his vote by reason of non-registration?

Mr. BELTZHOOVER. I take notice of that fact and propose to show that this act provides, as the constitution requires, that no man shall be prevented from voting by reason of non-registration. After authorizing registration and affording all the facilities for such registration, the act provides that if a voter fails to register he may on the day of election, upon making affidavit himself of his right to vote and furnishing the affidavit of one elector of that precinct setting forth his qualifications as a legal voter, be allowed to vote.

Mr. CALKINS. Will the gentleman state on that point what provision the law makes, if any, to compel a person who is a voter to furnish such affidavit at the request of the non-registered voter? How can a non-registered voter enforce that right? Suppose that a legal voter may know that the non-registered man is entitled to vote, but refuses to make the necessary affidavit.

Mr. RYON, of Pennsylvania. Allow me to ask a question parallel to that of the gentleman from Indiana, [Mr. CALKINS.]

Mr. BELTZHOOVER. Certainly.

Mr. RYON, of Pennsylvania. What law is there in Pennsylvania that compels the public to hire a wagon to carry voters to the polls?

Mr. BELTZHOOVER. The question of the gentleman from Indiana [Mr. CALKINS] has been to some extent answered by the interrogatory of my colleague, [Mr. RYON.] The law in this case meets the requirements of the constitution of the State, which only provides that no man shall be prevented from voting by reason of non-registration. The law provides for the registration. If the voter does not register, the constitutional provision is complied with by the law requiring that in lieu of registration the voter shall do certain acts, which acts are the making of his own affidavit and procuring the affidavit of another elector of the district. The law does not further provide for the case suggested by the gentleman from Indiana. No such case has ever arisen. "Sufficient unto the day is the evil thereof."

These affidavits are required to be preserved by the election board and to be inclosed with the election papers, tally-lists, lists of voters, &c., and sent by the return judge of the election to the prothonotary's office, and there filed for examination as other election papers.

Mr. BAYNE. Will the gentleman allow me to ask him a question right there?

Mr. BELTZHOOVER. I would prefer not to be interrupted any more. I shall be ready to answer any question I can after I have concluded my argument.

It will be found on examination that section 10 above referred to is based on and embraces the substance of section 4 of the act of 1869, and that section 4 of that act was based on and embraces the substance of section 66 of the act of 1839. This act of 1874 has been appropriately called a statute of frauds in reference to elections, it being intended to prevent perjury and fraud in reference to the right and title to vote, just as the statute of frauds and perjuries was intended to prevent fraud and perjury in reference to title to property. It was an evident object of the law-making power of Pennsylvania in the passage of this statute, and particularly of section 10, that whereas there had been such looseness theretofore in receiving parol evidence as to the right of persons to vote on the day of election, and such was the difficulty of convicting persons of perjury on such parol evidence, that it was deemed necessary to provide by law that the right of an elector to vote should be no longer allowed to rest on parol evidence; but that the voter, in order to establish by competent evidence his right to vote, shall file a written or printed affidavit of himself and of another qualified elector, of the same election district, as to his residence in the precinct for two months preceding the election.

Under the old law where affidavits were not required to be in writing the non-registered voter, when he came up to vote, was subjected to an examination, often by an illiterate election officer, who possibly would not ask him any considerable portion of the questions required, and who possibly would not understand the form of affidavit required. After the vote was cast, even although the questions had been properly asked and the affidavits properly made, the proof of perjury, if the affidavits were falsely sworn to, was almost impossible to be obtained. This act by providing that there should be written or printed and signed affidavits made by the voter and by the witness furnished indubitable testimony under which false swearing at an election would be punished by indictment for perjury.

The act of 1874 is a mandatory and imperative statute; first, because the words are negative; second, because public duty requires it to be so construed and its commands so observed.

Taking, then, the language of this act as clearly mandatory, it is our duty to inquire what was the intention of the framers of this act in using this language in reference to the registration of voters and in reference to requiring affidavits from those who were not registered.

Mr. BAYNE. Mandatory as to whom—the election officers? Or as to the election officers and the voter also?

Mr. BELTZHOOVER. Both.

Dwarris, in his work on the construction of statutes, under the head of American rules, declares that it is the duty of courts to construe statutes so as to meet the mischief and advance the remedy; also that the intention of the Legislature is always to be sought, and that this is to be ascertained, first, from the act itself; second, from other acts *in pari materia*; and, third, from the cause or necessity on account of which the statute was passed. Basing our construction of this statute upon the plain words of the statute and the statute which preceded it and to which it is supplemental, upon the intention of the Legislature, and upon the duty which we have to perform in enforcing rigid restrictions of the right of suffrage, we hold that taken in connection with the new constitution of 1873 there are provided, first, certain definite and fixed qualifications of the right to vote; second, certain plain and inflexible ways in which a voter can evidence those qualifications. These methods of evidencing are, first, by registration before election day; second, by furnishing affidavits on the day of election. Both these evidences of the qualifications of voters are required to be open for inspection and examination, free of charge, by all citizens and residents of the district who desire to see the same. Both are to be of record. The registry remains in the commissioner's office. The affidavits must be found in the prothonotary's office. When a voter's name is not on the registry and his affidavits are not found in the prothonotary's office his vote is *prima facie* illegal, and every citizen whose duty it is to watch that illegal votes are kept out of the ballot-box when he finds both these evidences wanting has a right to presume that the vote is

illegal. The law says that the affidavits shall be inclosed with the poll-list of voters and other papers, and shall remain on file in the prothonotary's office subject to examination as other election papers are.

The law intends that every citizen shall be allowed to know who votes and who has the right to vote, and if he finds any one voting on false affidavits it is in his power to punish such voter.

Upon this construction of the election law there is a substantial qualification of the right of suffrage, and a certainty of this qualification being exacted and secured in all cases. The reasoning of Mr. CALKINS in his report would make the registration of voters utterly useless and futile. He says:

> If a voter who is not registered is allowed to vote without being required to file the affidavits, and is otherwise qualified, his vote is not an illegal one.

How can a voter be otherwise qualified if he is not registered and does not furnish the affidavits? The law says:

> No man shall be permitted to vote whose name is not on the list unless he furnishes the affidavits.

Mr. CALKINS, continuing, says in the same strain:

> The Legislature cannot pass a registry law whereby a voter shall be deprived of suffrage, if otherwise qualified, by reason of non-registration.

The Legislature does not pass a law preventing a man from voting because he is not registered. On the contrary, it passes a law expressly pointing out how a man can vote who has neglected to register. The constitution fixes the qualification of electors and the manner of voting, and expressly contemplates and provides that the Legislature shall pass laws regulating the holding of elections by the citizens and for the registration of electors.

This law is liberal and broad and careful to give every man a double and triple chance to qualify by registration. It gives him notice in every possible way to register. It gives him the strong arm of the court to enforce his registration or to resist and punish any interference with it. If he fails after all these facilities and opportunities to register and thereby give him a title to vote, it then provides that he may qualify on election day.

Mr. SPRINGER. By furnishing the proof.

Mr. BELTZHOOVER. By furnishing the proof, as the gentleman from Illinois suggests. If he furnishes this proof he cannot be prevented from voting by reason of non-registration, if otherwise qualified. The Legislature does not pretend to prevent a man from voting for non-registration; on the contrary, it says "you need not register if you will not; but on the day of election, if you want to vote, you must prove that you are a legal voter;" and the law clearly provides the method by which that proof shall be made.

Mr. SPRINGER. That it shall not rest on parol, but shall be in writing.

Mr. BELTZHOOVER. That it shall not, as my colleague on the committee suggests, rest on parol, but shall be in writing, in order that if the evidence is untrue the parties making the affadavits may be indicted and punished for perjury.

It does all in the power of legislation to do to protect and enforce the right of its citizens in the exercise of the great franchise of freemen. Having done this, it must put down its foot and stop and erect impassable barriers in the way of fraudulent and illegal voters who have crowded and polluted the ballot-boxes of the Commonwealth for years. The citizens who are lawful voters and avail themselves of the provisions of the law and attend to their duty as patriotic men have a right to expect and demand that obstinate and indolent persons shall not by their indolence and folly afford a pretext and opportunity to repeaters and tramps and ballot-box stuffers. Judge Allison, an eminent author in such cases, says:

> The elector's privilege is not a mere constitutional abstraction, but it is to be exercised in subordination to law, and on proof of title of the person claiming its exercise. That right, however well founded in fact, may be lost for want *of such evidence of title as the law demands*, just as the possession and enjoyment of property, secured by the declaration of rights to the citizen, may be taken away or withheld from him *for the want of the necessary evidence of ownership*.
>
> It is to enable the honest voter to secure to himself his constitutional privilege, to protect him against its loss by fraud, mistake, or negligence on the part of others, that laws have been passed providing for an examination into the result of an election at the instance of qualified voters who have reason to believe that an undue election had been held.
>
> This legislation is therefore not to be regarded as hostile to the exercise of a right conferred upon the citizen by the supreme law of the land; but, on the contrary, as an aid of and a protection to it. The design is to prevent its being nullified by illegal or fraudulent votes.
>
> The vote of an elector may be as certainly lost to him by an illegal ballot going in with it as though he had been prevented by force from voting, or his right unlawfully denied to him at the polls.

In this view of the constitution and the law we lay down the following legal proposition, which we believe they sustain:

First. The provisions of the constitution and statutes of Pennsylvania in reference to the qualifications of electors and the conduct of elections are mandatory, and no person can be a legal voter unless he is registered, or, if not registered, files with the election officers his own affidavit and that of another citizen, and these affidavits must be preserved and filed in the prothonotary's office; and where a person votes who is not registered and whose affidavits are not found in the prothonotary's office the presumption of law arises that the affidavits were not taken, and the vote is *prima facie* illegal. Where a paper evidencing title of any kind is required to be taken and filed in a certain place in conformity to the requirements of a mandatory statute, and the paper is not found at that place, there is a presumption of law that it was not taken, and the party claiming under it must account for its absence by showing that it was lost or mislaid or destroyed.

In support of this proposition we refer to the authorities in Pennsylvania, and first we cite the learned and elaborate opinion of Judge Harding in the case of Duffy, (4 Brewster, 531.) This case was argued on behalf of the contestant, who sustained his case, by the present governor of Pennsylvania, Mr. Hoyt, and by the present attorney-general of Pennsylvania, Mr. Palmer. The learned judge, after reviewing the various acts of the Legislature in reference to elections from 1839 down to the date of his opinion in 1874, says:

> The object of the election laws is to provide a means whereby the elective franchise may be enjoyed by the honest and qualified electors of the Commonwealth. In pursuance of this, power has been given to the courts to cleanse the ballot-box from all impurities, whether resulting from the machinations of trained villains or from incompetency, inefficiency, or neglect on the part of the officers conducting an election. A great danger of election frauds arises from votes polled by persons whose names are not on the list of resident taxables. The sixty-fifth section of the act of July 2 1839, was designed to remedy this, but failing in its purpose the Legislature put forth the act of April 17, 1869, commonly known as the "registry law," the manifest object of which was to shield the ballot-box from all dangers, come whence they might, and thus secure honest and fair elections. The sixty-fifth, sixty-sixth, and sixty-seventh sections of the former act, (1839,) so far as relates to allowing persons to vote whose names are not on the list of resident taxables, are virtually repealed by the third, fourth, and fifth sections of the latter act, (1869,) so that now "no man shall be permitted to vote whose name is not on the registry list" unless he shall make proof of his right to vote as provided by law. That proof is to be made, not as the officers of an election board may decide, but as the statute commands. The convenient presence, therefore, of an officer of the board, who may know or assume to know every non-registered applicant, will not warrant the omission to take the affidavits required by law, namely, that of a witness and that of the claimant. These affidavits must be subscribed by the witness and the claimant, respectively; they must "be preserved by the election board," and, together with the other election papers, they must "be filed by the return judge with the prothonotary." When a statute directs how a duty shall be performed by any officer, followed by a penalty if not obeyed, it can never be considered as merely directory; on the contrary, it is mandatory and imperative. Not only is it a highly penal offense for officers conducting an election to receive votes from persons whose names are not on the "registry list" without requiring proof in each instance of the right to vote as directed by the statute, but every vote so received is *per se* an illegal vote, and on investigation will be thrown from the general count, unless legitimatized by a subsequent showing that the person possessed not a part but every qualification of a voter. A comparison of the registry list with the list of voters affords a certain and convenient means of ascertaining who voted in any particular election district without having been registered, and an examination of the affidavits required to be taken, subscribed, and filed with the other election papers in the prothonotary's office will readily show whether the right of such person to vote has been vouched according to law. *It is the right of the petitioner contesting an election and also the right of the respondent to examine the election papers on file in the proper office; and if it be apparent from them that persons have voted in any district whose names were not on the registry list without being vouched according to law, then prima facie all such votes are illegal.* When a contest has been inaugurated and complaint made, and notice given that such votes have been received, the burden of proof falls upon the candidate advantaged by the general count in such district to show either that the person so voting possessed severally every qualification, or, if this be not so, that they voted for his opponent; he must lift the curse which the law imposes upon such ballots; otherwise it will be presumed that they were polled and counted for him, and thereupon the poll will be purged by striking the whole number of such votes from his count.

The SPEAKER *pro tempore*. The time of the gentleman from Pennsylvania has expired.

Mr. SPRINGER. I desire to suggest to the gentleman from Indiana having control of the time on the other side to agree that the gentleman may proceed to conclude his remarks, and that the same amount of time shall be allowed on either side.

Mr. KEIFER. By unanimous consent the time of the gentleman from Pennsylvania can be extended.

The SPEAKER *pro tempore*. For what length of time?

Mr. KEIFER. Whatever time he needs of the next hour.

Mr. SPRINGER. Whatever time the gentleman from Pennsylvania occupies we will regard as a portion of an hour belonging to this side.

Mr. WEAVER. Let him go on by unanimous consent.

There was no objection, and the time was extended.

Mr. BELTZHOOVER. I am much obliged to gentlemen for their courtesy, and I will not consume more time than is absolutely necessary to cite and comment on the authorities which I have in my brief and which have not been referred to heretofore in the argument.

Now, to this language of Judge Harding I desire to call particular attention:

> It is the right of the petitioner contesting an election and also the right of the respondent to examine the election papers on file in the proper office, and if it be apparent from them that persons have voted in any district whose names were not on the registry list without being vouched according to law, then, *prima facie*, all such votes are illegal.

This is just precisely the position which the majority of the Election Committee in this case maintain in reference to all voters whose names are not on the registry list and whose affidavits are not to be found in the prothonotary's office.

Mr. FIELD. I would like to ask the gentleman from Pennsylvania a question if it will not interrupt him. I wish to know if there is any penalty fixed in case the return judge does not return the affidavits, or the prothonotary, if he does not file and keep the affidavits safely when they are deposited in his office?

Mr. BELTZHOOVER. I believe there is, sir.

Mr. FIELD. I would be glad if you would point it out to me.

Mr. BELTZHOOVER. I cannot from memory, but I think he would be indictable under the statute. He would be guilty of a violation of his duty under the common law, if nothing higher.

Mr. RYON, of Pennsylvania. He is indictable under the original act to which the act of 1874 is supplementary.

Mr. BELTZHOOVER. This case of Duffy was followed by the decision in the case of Barber, reported in 10 Philadelphia Reports, 579, wherein the same learned judge says:

The election laws were enacted to be observed, not to be set at naught. They are mandatory, not directory. When the terms of a statute are absolute, explicit, and peremptory, no discretion is given, and when penalties, sharp and severe, are imposed against the violation of its respective terms, they have the effect of negative words, and render its observance imperative.

The necessity for further safeguards around the elective franchise was the parent of the act of April 17, 1869, as well as the later and more perfect act of January 30, 1874. It is with the provisions of the former, however, that we have now to deal. They contemplate that nothing less than a record should be kept of the manner in which the right of the elective franchise has been exercised. Their crowning purpose is that the honest citizens of the Commonwealth possessing the qualifications of electors and conforming to the reasonable and necessary requisites whereby those qualifications may be surely indicated shall vote, and that persons possessing neither citizenship nor shadow of qualification shall not vote at all, nor shall inattentive, careless, even innocent citizens, laggards, at least until their right shall have been duly vouched. The record of every election is to be filed in the proper public offices of the respective counties and be "subject to examination." Under the act of July 2, 1839, this record must consist of a list of voters, tally papers, certificates of the oaths taken and subscribed by the inspectors, judges, and clerks, and in addition to these, under the act of April 17, 1869, it must consist of the affidavit of a witness, together with the affidavit of every person to whom the right to vote has been accorded, and whose name appears on the list of voters, but not in the registry, but already on file in the commissioner's office:

No man shall be permitted to vote at the election on that day whose name is not on said list unless he shall make proof of his right to vote as hereinafter required. * * * The doctrine promulgated in Duffy's case we still adhere to. The complainants and respondents had a right to examine the acts of the election officers in these districts, as they were shown by the returns on file in the proper office. They had the further right to compare the list of voters in each district with the registry list, and if the names on the former were not on the latter, and there were no affidavits vouching the right of such persons to vote, the fact was established beyond all question that those persons had voted illegally, that their votes were illegal by positive mandate of law.

We next cite the opinion of Judge Walker in the case of Fowler *vs.* Felthoff, a contested-election case in the third legislative district of the county of Schuylkill, Pennsylvania. This case arose under the act of 1874, and was decided by a court containing three law judges, Judge Pershing, Judge Walker, and Judge Bechtel. Judge Pershing was the democratic candidate for governor in 1875, and the democratic candidate for the supreme bench a few years prior to that time. He is one of the ablest and most learned common pleas judges in the State. Judge Bechtel served with distinction in the State senate for a number of years and as district attorney of his county, and is also a learned judge. Both these judges sat with Judge Walker in the argument of this case, and both concurred in the opinion, Judge Pershing delivering a separate opinion, which we shall subsequently cite. In this case Judge Walker says:

The most important reasons urged against the legality of the returns and in favor of the contestant is that many persons were allowed to vote at the several polls whose names did not appear upon the registry and who made no proof of their residence as required by law. From the testimony taken by the commission, it is evident that a large number of persons voted in some of the districts whose names were not upon the registry, as required by the tenth section of the act of 30th of January, 1874, and who failed to make proof of their residence in the district according to law, though some of them had paid a State and county tax within the time required by the act. These votes, of course, are illegal, and should be stricken out. (Taylor *vs.* Reading, 4 Brewster, 439; Covode *vs.* Foster, 4 Brewster, 430.)

This opinion was cited and approved in the contested-election case of Nutting *vs.* Reilly, in the Forty-fifth Congress. Judge Pershing, in his opinion in the same case, says:

An honest compliance with the provisions of the constitution of 1873 and the act of assembly of 1874 defining the qualifications of voters, the duty of officers, and the manner and mode of taking elections will secure fair elections. Any unlawful omission or disregard of the duties enjoined by law, any attempt to introduce fraud into the ballot-box, should lead to the prompt arrest of the party implicated, and, if convicted, the limit allowed by law should be the measure of his punishment. The several judges composing the court have each for himself given the evidence in this case a most deliberate and careful examination. We are unanimous in the conclusion that the facts disclosed would not justify the exercise of the power invoked to throw out the returns of certain townships. We have held, in deciding on the legality of contested ballots, that where an unregistered voter voted without making the proof required by the act of 1874 his vote was illegal when received and could not afterward be made legal by evidence of qualification before the examiner.

We next cite the case of James *vs.* McKibben, a contested-election case from the second legislative district of Schuylkill County and decided by the same judges at the same term. In the opinion of Judge Walker, which was concurred in by the other two judges, he says:

From the evidence of the commissioner it is evident that many persons were allowed to vote at the several election polls whose names did not appear on the registry, who made no proof of their residence as required by law and paid no State or county tax one month before the election and within two years which had been assessed at least two months before the election. The last votes, being clearly illegal, were rejected or thrown out. A strict compliance with all the provisions in the election law is the only security the people have for the perpetuity of their free institutions. The court cannot be expected in a brief opinion to give the grounds of their adjudication of every illegal vote rejected from the count. It is sufficient to announce the principles by which we have been guided and to say that the testimony taken in this case has been carefully weighed and separately examined by all the law judges of the court, and afterward compared in each other's presence, and we have reached a unanimous conclusion as to the person elected.

Both these cases of Fowler *vs.* Felthoff and James *vs.* McKibben, above cited, were tried in the Legislature of the State and reviewed by the election committee, consisting of some twenty members, all of whom were lawyers. The law in reference to unregistered votes, as laid down by the court below, was elaborately and carefully considered and affirmed. We cite from the Legislative Record of Pennsylvania of 1878, page 2011, the following extracts from the reports of the majority and minority of the committee and from the argument made by the chairman of the committee on elections:

Fowler *vs.* Felthoff, Pennsylvania. See Legislative Record of Pennsylvania, 1878, page 2011 *et seq.*, Majority Reports, (extracts:)

In the matter of the contested election for members of the house of representatives from the third legislative district of Schuylkill County, your committee beg leave to report as follows:

They have given the evidence submitted by the contestant and sitting member the most careful and earnest consideration, actuated solely by the desire to ascertain the truth and to report their determination upon the facts presented, believing that the purity of the elections, the strict compliance with law and observance of statutory forms and provisions necessary for the exercise of the rights of an elector and preservative of that right should rise superior to all other considerations in determining *who was actually elected* by a majority of the legal voters of the district.

* * * * * * *

The alleged illegal voters were placed by the counsel in three classes, known as follows:

I. Not registered, and made no proofs.
II. Fraudulent naturalization.
III. Non-payment of taxes.

Of the first class nearly three hundred persons were alleged to have voted illegally in the various election districts in the legislative district in question. The questions of fact involved in this class were first considered by the committee, and the evidence, consisting of the testimony of the voters, taken by the court of Schuylkill County, of the registries, of the official lists of voters, returns of election officers, and affidavits of voters, were carefully examined by the committee.

Your committee now report as a fact found by them that of the persons so claimed by contestant two hundred and eleven persons voted at the various election districts in the said legislative district who were not registered as required by law, and did not make the proofs which the law has fixed for such persons.

* * * * * * *

The act of 1874 (P. L. 31) creating the registry law provides for the making annually for each election district of a list of persons claiming to be qualified voters, makes it the duty of the assessor to record the name, residence, occupation, employer, if one, of each such person; enables each citizen claiming to be a voter to examine such list, and, if omitted, to have his name placed thereon, and gives him a summary remedy, upon application to court, to have his name placed upon the list should the assessor neglect or refuse to so register him. The county commissioners are required to furnish a correct copy of such list or registry, as finally corrected, to the election officers on the morning of the election.

Section 3 of the act then provides that "no man shall be permitted to vote at the election whose name is not on said list unless he has proof of his right to vote, as is hereinafter required." Now, the purpose of a registry law is to provide the "means of distinguishing the qualified from the unqualified voter, to designate the evidence which shall identify and prove the persons and qualifications of electors," as was said by the Supreme Court in deciding the constitutionality of the registry law, in Patterson *vs.* Barlow, 10 P. F. Smith, 75. In other words, it provides the elector with the *prima facie* proof of his possession of the legal qualifications of a voter; but if his name is not upon the registry, then of course such *prima facie* evidence does not exist and cannot be presumed.

The tenth section of the act, however, provides that "on the day of election any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election shall produce at least one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter, for the period of at least two months immediately preceding said election, which witness shall be sworn or affirmed and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter; and the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit, stating to the best of his knowledge and belief when and where he was born, that he has been a citizen of the United States for one month, and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a native-born citizen thereof and has removed therefrom and returned, that he has resided therein six months next preceding said election; that he has resided in the district in which he claims to be a voter for the period of at least two months immediately preceding said election; that he has not moved into the district for the purpose of voting therein; that he has, if twenty-two years of age or upward, paid a State or county tax within two years, which was assessed at least two months and paid at least one month before the election. The said affidavit shall also state when and where the tax claimed to be paid by the affiant was assessed, and when and where, and to whom paid; and the tax receipt therefor be produced for examination, &c. The said affidavits of all persons making such claims and the affidavits of the witnesses to their residence shall be preserved by the election officers, and at the close of the election they shall be inclosed with the list of voters, tally-list, and other papers required by law, to be filed by the return judge with the prothonotary, and shall remain on file therewith in the prothonotary's office, subject to examination as other election papers are.

Such are some of the provisions of the act of 1874. Could language be plainer or more positive in its character? It commands what shall be done by any claimant to entitle him to exercise the elective franchise, and in the most positive manner forbids his voting, unless he is registered or makes the proof required by law. The burden of proof is upon him; he cannot evade it. The statute challenges the man whose name is not on the list. It matters not that he is known to every man at the poll; the people of the whole Commonwealth challenge his vote. The State steps in and says: "*You shall comply with my law before that ballot passes into the box;*" and hence it follows that if his vote be so received, he votes without possessing the *prima facie* evidence of his right, and without presenting the *per se* evidence required by the act upon the lack of such *prima facies*, and therefore votes without proving the right to do so, which is absolutely prohibited as before seen—and that which is prohibited by law, when done, is illegally done, and void.

The authorities unquestionably sustain this view which your committee has taken.

In Batturs *vs.* Megary, 1 Brewster, 147, the court say: "These requirements" (registration or proof) "are in no proper sense directory merely, they are in all particulars absolutely essential to a due election." And in Myers *vs.* Moffatt, 1 Brewster, 230: "If votes are received from non-registered persons without the proof required by law, they must be rejected."

Judge King, in Kneass's case, 2 Parsons, said:

"The language of the law is so clear, and the policy of it so obvious, that it admits of no construction qualifying its letter as respects persons not found on the official list. It is from votes offered by this class of persons that the great danger

of election frauds arises. A rigid and faithful execution of this (requiring proof) part of the election law is indispensable to a fair election. Neglect or evasion of this duty is one of the grossest irregularities, if nothing worse, that election officers could commit."

Judge Harding, of Luzerne County, in deciding Duffy's case, 4 Brewster, 532, said: "The proof is to be made not as the officers of an election board may decide, but as the statute commands. The convenient presence of an officer of the board who may know or assume to know every non-registered applicant will not warrant the omissions to take the affidavits required by law, namely, that of a witness and that of the claimant. Not only is it a highly penal offense for officers conducting an election to receive votes from persons whose names are not on the registry list without requiring proof in each instance of the right to vote as directed by the statute, but every vote so received is *per se* an illegal vote."

To the same effect are the cases of Taylor *vs.* Reading and Covode *vs.* Foster, in 4 Brewster.

Happily your committee are further fortified in their view by the opinion of Judge Walker in the case now under consideration, when it was before the Schuylkill County court. He says: "From the testimony taken by the commissioner it is evident that a large number of persons voted in some of the districts whose names were not on the registry as required by the tenth section of the act of 30th of January, 1874, and who failed to make proof of the residence in the district according to law, though some of them had paid a State and county tax within the time required by the act. These votes of course are illegal, and should be stricken out."

"Nor can this proof be made afterward; under the act it must be made before the ballot goes into the box. If the act is illegal when done, after its commission nothing can make that legal which was itself fraudulent and illegal, and therefore void, *ab initio*. Hence, *ex post facto* proof of the possession by the voter of the proper qualifications cannot be given in evidence.

"If not given at or before the time of voting, his vote being illegal, should not have been received, and must be rejected, although he now might show that he possessed the legal qualifications."

* * * * * * *

In the case of Sheppard *vs.* Gibbons, "credits were refused in every instance in which the testimony as to voters who were *prima facie* illegal did not show that *at the time at which they offered to deposit their ballots* the offer was supported by the proof which the law commands. The vouching by election officers without making the requisite proof in each case we have rejected."

Judge Trunkey, now of the supreme bench, in McCreary *vs.* Parks, held to the same effect, and Judge Pershing, president judge of the courts of Schuylkill County, in this very case of Fowler *vs.* Felthoff, said: "We have also held, in deciding upon the legality of contested ballots, that where a non-registered voter voted without making the proof required by the act of 1874, his vote was illegal when received, and could not afterward be made legal by evidence of qualification before the examiner."

Mr. Hugn, page 2031:

* * * * * * *

Now, Mr. Speaker, I shall proceed to consider first the registry law of 1874; then I desire, for a few moments, to engage the attention of both lawyers and laymen upon this floor as to the provisions of this act in certain respects. Section 3 of the act of 1874, after providing for a registry of voters—I will here refer, before I proceed with my argument, to the very best authority we could have upon this subject—the democratic members of the election committee of the house of representatives.

In the Daily Legislative Record of the session of 1877, page 1496, the rights of a voter are most clearly laid down in the report of the gentlemen composing the democratic side of the election committee, and I desire to refresh their recollection, as well the recollection of the gentlemen on this side of the House, as to what they then thought one year ago constituted the right to vote—as to what constituted the proper exercises of the elective franchise, and as to how they regarded the registry law. "The right to vote is not a natural right; it is not a purely artificial right created by positive law, and conferred only upon a small portion of the population. It is withheld from or rather not granted to women, minors, and persons of foreign birth not naturalized, and until the recent amendment to the Federal Constitution, in many of the States could not be exercised by persons of color, whether of Indian or African descent, though native born."

The right of franchise is created and conferred by written law, and it is to be exercised in accordance with the law of its creation. The law under which the voter claims to exercise the elective franchise requires the inspector and judges to do thus and so. Everybody understands that the principal object of the registry laws is to preserve the purity of the ballot-box. Then it goes on to state the object of the law, requiring a fixed place to hold elections, &c. Therefore this act of 1874 is for the purpose (it is good democratic as well as republican doctrine) of preserving the purity of the ballot; it was enacted not to prevent legal voters from exercising the right to vote, but to prevent illegal voters from foisting their ballots upon honest people, and thereby placing men in power by fraudulent practices and illegal votes.

The registry law of 1874, after providing the manner or means by which a person shall exercise the right to vote, says in section 3: "And no man shall be permitted to vote at the election on that day whose name is not on said list unless he shall make a proof of his right to vote, as hereinafter required." No man, no matter who he is, shall be permitted to vote upon that day unless he shall make the proof required by the act.

When is he to make this proof? Is he to make it subsequent to the election? Is he to make it one day or one year or two years afterward? No; the act of Assembly, in letters of living light, in mandatory terms, says to every man in the Commonwealth, "You shall not be permitted to vote if your name is not on the list unless you make the proof required by the act." The proof must be made before that ballot goes into the ballot-box; it cannot be made afterward. If it goes into the ballot-box without the proof required by law, the vote is illegal, as has been held by Judge Pershing in this very case in delivering the opinion of the court. The vote is illegal under such circumstances and must be rejected.

Further on the act goes on to state that when an election officer permits a man to vote without requiring proper proof, without requiring him to comply with the requirements of the law, the burden of proof is upon the voter.

The statute—as was well read by the gentleman from Lancaster this morning—the statute challenges the man in the name of the Commonwealth to make proof of the legality of his vote, and says to him, "You shall comply with the law before that ballot goes into the box." It was well read by the gentleman from Lancaster, and was a convincing argument to every gentleman upon this floor.

The statute challenges the voter, the burden of proof rests upon him, and the statute says, "Comply with the law," and having failed compliance with the law, the vote is illegal. That was held in the case of Shepherd *vs.* Gibbons and other equally important cases, and has been reiterated and reaffirmed by Judge Trunkey, at present on the supreme bench, by Judge Ludlow, one of our most eminent jurists in the city of Philadelphia, and Judge Pershing, in this very case of Fowler *vs.* Felthoff.

Need we have any more authority on this subject? Need we have any more incontrovertible proof that this is the law of the State? In general, referring to this law, I shall pass as hastily over this matter as the gravity of the occasion will permit.

Minority report, (extract,) page 2019:

Article 8, section 7, of the constitution provides as follows: "All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered."

Now, admitting for the sake of the argument that an unregistered vote is *prima facie* illegal and cannot be legitimized by *ex post facto* testimony, if there has been no affidavit made at the time the vote was cast, as required by the act of 1874, is it not obviously unreasonable and unfair to hear no testimony except the bare circumstance that the affidavits are missing?

Suppose, for example, that the respondent could prove by the voter himself, as well as the election officers, that the affidavit was duly and lawfully executed, and was either stolen, destroyed, or through ignorance or mistake of the election officers filed in the ballot-box with tickets that were left in the election district with some magistrate, and afterward destroyed, and the committee refused to hear any evidence whatever, what would such a state of affairs lead to?

Not only under all general and well-adjudicated legal principles, but according to the strict requirements of the act of 1874, which says that the "committee shall proceed to hear the claims of the contestant and respondent, and report the facts," is the committee bound to hear all the material facts.

If a missing affidavit is sufficient to raise a legal presumption that an unregistered vote is illegal, such a presumption can clearly not stand after a denial to prove the cause of such missing affidavit, or that the vote was legal.

No law should disfranchise a legal voter, but secure the purity of the ballot.

You will observe this majority report holds that where a voter is not registered and does not make the affidavit his vote is illegal and cannot be legalized; that the proof must be made before the ballot goes into the box and cannot be made subsequently. That is the most reasonable, the most proper, and the most just construction of the law, and the one which will secure the intention of the framers of the constitution and the framers of the act of the Legislature to prevent fraudulent voting and prevent the pollution of the ballot-box by the votes of unqualified and illegal voters.

The minority report holds that the vote is illegal but may be validated if it be afterward shown that the person who voted had all the legal qualifications which would have justified him in making the affidavits on the day of election. But there is not a scintilla of doubt raised in any of these opinions that the vote is *prima facie* illegal at least.

Mr. SPRINGER. Will the gentleman from Pennsylvania call attention to the fact that there are here two minority reports taking somewhat different positions.

Mr. BELTZHOOVER. Yes, sir. In this case the nine gentlemen constituting the majority of the Committee on Elections concur in the majority report. The minority, consisting of six gentlemen, divide into two equal parties; three taking one view of the law and three, as I understand it, another view.

So that while there is a unanimity with the nine gentlemen constituting the majority of this committee, the six of the minority split right square in the middle in their view of the law.

Mr. CALKINS. It is just and right to say in this connection that the conclusion of the six members of the minority is the same, and they disagree simply on one proposition.

Mr. BELTZHOOVER. Yes; while they differ as widely as do the poles as to the law, it is remarkable that they unite in their conclusion as to the result.

Mr. CAMP. In other words, the proposition of law which you are now making does not determine this case at all.

Mr. BELTZHOOVER. In view of the position taken by the majority of the Committee on Elections on the facts, this proposition of law does determine this question.

While we have, therefore, no decision of the supreme court directly fixing the proper construction of the act of 1874 and of the constitution of 1873 on the subject of the registration of voters, we have the decisions of that court and of the subordinate courts on the act of 1869, which is the same as the act of 1874, and the decision of a very learned court on the act of 1874, which were carried to the Legislature of the State which passed the act of 1874, and which construed this act in conformity with these decisions of the court and in conformity with the view which we have indicated above. We cite further the case of McCann against Shonk, Legal Intelligencer of the 19th of March, 1875; McCleary against Parks, 7 Philadelphia Legal Gazette, 246.

There is one case in Pennsylvania decided by the supreme court, and which will be cited by those who contend for the position held by the minority of the Committee on Elections, and which it will be argued construes this act of 1874; it is called Wheelock's case. The opinion in that case was delivered by Judge Wetmore, who presides in a part of the district from which this election case comes. The question there was whether, where there was a correct registry of the voters made in conformity with law, and in the commissioners' office, but where the commissioners had neglected to furnish a list to the election board and the election board took the votes of those who were on the list in the commissioners' office—the election thereby was void, and those votes should be thrown out.

Mr. CALKINS. Allow me. Is the gentleman quoting now from Wheelock's case?

Mr. BELTZHOOVER. I am not quoting but stating the substance of the case.

Mr. CALKINS. Then I would call the attention of the gentleman to the fact that I cannot find in the case at all the statement he has made in regard to it. I take it that the statement in the case is that there was no registration at all, and the men voted and the supreme court held that their votes were not illegal.

Mr. BELTZHOOVER. The statement which I make of the purport and substance of Wheelock's case can be verified by a reference to

the case itself. If I am not correct in stating that the question was whether the mere absence of the registry list from the polls rendered the votes illegal, then the gentleman can correct me when he comes to make his argument. I maintain that that was exactly the question and the only question decided by the court below, and affirmed by the supreme court in a *per curiam* opinion, which, as is clearly understood by the profession in Pennsylvania, only means the affirmation of the conclusion arrived at by the court below on the points in issue.

Everything else in that opinion of Judge Wetmore except that which was necessary to decide the point whether the absence from the polls of the registry list invalidated the votes was not passed upon by the supreme court. They decided nothing except that the absence of a copy of the registry list, which had been properly made and was on file in the office of the commissioners, did not invalidate the votes.

Mr. STEELE. Did not disfranchise the voters.

Mr. BELTZHOOVER. Did not disfranchise the voters. We have another opinion of this same Judge Wetmore in this very case of Curtin *vs.* Yocum. Mr. Yocum alleged in his answer that in Elk County there had been a great number of unregistered voters who voted in that district and who had not made the necessary affidavits of their right to vote, and he desiring, as he says, to have it found and ascertained for whom they voted, went into the court in Elk County before Judge Wetmore and stated that in the election-box of that county there were these votes of these unregistered voters which were illegal.

Mr. CAMP. And stated that the affidavits of the unregistered voters were there, too.

Mr. BELTZHOOVER. Oh, no; his petition stated that there was a large number of illegal votes in the boxes. I have the petition here. The paper which I am citing gentlemen will not find in their briefs nor anywhere else except in the original record of the court in Elk County, a copy of which I have from the office in Elk County. In this petition Mr. Yocum asks that the court shall give him an order on the election officers commanding them to retain these boxes beyond the February election, for the reason that they contain illegal votes. Why are they illegal? Because, as he says, the persons voted without being registered and without filing the necessary affidavits.

This is his language in this petition:

> That your petitioner is informed and believes, and therefore alleges, that in the election district composed of the township of Benezet, &c., there were cast for the said Andrew G. Curtin four or more ballots which were illegal by reason of the persons there voting not being registered as required by law, or making the proof of their right to vote required by the election laws of the State of Pennsylvania.

Mr. FIELD. What is the gentleman reading from?

Mr. BELTZHOOVER. From Mr. Yocum's petition to the court in Elk County, asking Judge Wetmore for an order to retain the boxes.

Mr. FIELD. Is this paper part of the evidence in the case? It is not, as I understand.

Mr. BELTZHOOVER. I am not reading it as evidence, but as an authority in the case.

Mr. FIELD. As the gentleman has quoted a part of it, why not put in the whole of it?

Mr. BELTZHOOVER. I will put in the whole. I am willing the whole shall go in, for it strongly sustains the point I make, which is that Mr. Yocum goes into the very court which decided Wheelock's case, and says that these very ballots which gentlemen now say are legal were not legal, and asks that the boxes be retained in order that it may be ascertained for whom these persons voted; and on the ground of the illegality of the votes Judge Wetmore granted this order directing the election officers to retain these boxes.

Mr. FIELD. I do not know what is in the paper, but what the gentleman read did not say any such thing. It said the petitioner believed there were four illegal votes cast for Mr. Curtin and stated two grounds for their illegality.

Mr. BELTZHOOVER. Oh, no; it only alleges one ground of illegality, and that was because of non-registry and no affidavits. But I cannot yield further. I am perfectly willing the gentleman shall examine this record and decree which are under the seal of the court, verifying substantially in every particular what I have stated. In addition to the authorities I have already cited we have a decision in this case which, on the statement of the sitting member, shows that these votes which gentlemen now hold to be legal are illegal. As a matter of course I do not cite this to show any fact in the case, but I cite it as an authority just as we cite other cases.

Mr. CALKINS. If the gentleman will allow me to interrupt him, I assure him I will yield to him a corresponding portion of my time.

Mr. BELTZHOOVER. I will yield for a question.

Mr. CALKINS. At this point I think it only fair for the eminent gentleman to state the further fact that this case was proceeding on the theory that non-registered voters might be held by this House to be illegal voters, and for that reason this petition was filed, so that the ballots which had been cast by non-registered voters might be examined, and that it might be ascertained for whom those non-registered voters cast their ballots. This was upon the theory presented by the gentleman for whom my distinguished friend is arguing now. As we all know, statements in papers filed by clients are made upon certain theories. I think it only fair that this statement should be made in connection with the statement just made by the gentleman. The purpose was that if those votes should be held illegal by this House it might be known for whom the voters had cast their ballots.

Mr. BELTZHOOVER. I do not believe the gentleman can seriously maintain that a court in the determination of a question of law would allow itself to rule upon the presumption that a certain thing might occur in Congress subsequently. It is an absurdity to suppose that Judge Wetmore in ruling on the law in this case did so with the idea that thereby, although it was not the law, the question might arise here. It is an assumption of the most violent kind to suppose for a moment that Judge Wetmore ruled as he did in this case upon any such presumption as that which is now suggested. He ruled the law on the facts presented, as every court is bound to do.

Mr. RYON, of Pennsylvania. As I understand, the gentleman has read from the sworn affidavit of Mr. Yocum, in which he swore that those votes were illegal.

Mr. CAMP. Swore to a question of law.

Mr. BELTZHOOVER. No; swore to a question of fact. The court fixed the law. But I must insist on not being interrupted. I hold that in this case, on a sworn petition by Mr. Yocum raising the facts which I have stated, the court below decided that these were illegal votes, and on that decision issued the order compelling the return judges to hold the boxes for examination—without any presumption, without any suppositious case, but on this very case presented before the court by the sitting member himself.

As against these authorities there is but one case which we can find. This is the opinion of Judge Briggs in the case of Gillin against Armstrong, (Legal Intelligencer, July 19, 1878,) wherein it is held—

> That unregistered voters having voted without making the affidavits, the law presumes that they are legal, and it cannot be permitted to show that they were not so legal.

This ruling would, in effect, render the registry law nugatory and futile. With the knowledge of the conduct of election officers generally as disclosed in this and all the contested-election cases of late years there cannot be any strong presumption of law that they do their duty. On the contrary, it is shown that they are careless, illiterate, and frequently dishonest and corrupt, and if the ballots of the legal voters of the Commonwealth are to be left to the discretion of such election officers without any remedy against illegal votes there will be an end of fair elections. No man, in view of all the facts, can hold that there should be any strong presumption of law in favor of the action of election officers. On the contrary, their action should be scrutinized with the utmost rigor, and every omission of duty or disregard of law should be visited with exemplary punishment. In the language of Judge Walker, *supra*—

> A strict compliance with all the provisions in the election law is the best security the people have for the perpetuity of their free institutions.

We next refer to the rulings of the courts in other States on statutes which are similar to the act of 1874.

In the case of The State against Hilmantel, (21 Wisconsin, 566,) the court in construing a similar statute say:

> By this act, however, every voter is made or may become an agent in the execution of the law. Copies of the register, as made by the board, are filed in the office of the town, village, or city clerk, and posted in some conspicuous place in the room in which the meeting is held, so as to be accessible to any elector who may desire to examine the same or make copies thereof. On Tuesday preceding the general election a meeting of the board of registry is held at the place designated for holding the polls of election for the purpose of revising, correcting, and completing the lists. Any elector of the district whose name has been omitted may appear at such meeting and cause the same to be entered upon the register. If he does not so appear, and still desires to vote, he must furnish the inspectors at the polls his affidavit, giving his reasons for not appearing on the day for the correction of the register, and likewise prove, by the oath of a householder of the district, that he knows him to be an inhabitant of the district, and, if in an incorporated village or city, give his residence within the district. In this matter of a voter whose name has been omitted, and who has not appeared on the day for the correction of the register, the burden of answering the requirements of the law, by furnishing the affidavit and proof, is thrown upon the voter himself. He is presumed to know the law, and must go to the polls prepared to comply with its conditions; and if he does not, and his vote is lost, it may, so far as it is the fault of any one, with justice be said to be his own fault. It is in the nature of a penalty imposed by the law for his neglect to do what is required of him. The inspectors cannot receive his vote, and, if they cannot, it cannot afterward be received and counted by the courts.
>
> And next it is to be observed that it is a negative statute. It has been said on very high authority that negative words will make a statute imperative. (Dwarris on Statutes, 715; 7 Law Lib., 55, and cases cited.) The words of the act are: "No vote shall be received at any annual election in this State unless," &c. It is difficult to conceive any language more strongly imperative than this. (21 Wisconsin, pp. 568-9-70-71.)

This case is squarely to the point. It is followed and cited in another case, (The State *vs.* Stumpf, 23 Wisconsin, 630,) where the court say:

> Where there was no registry of the voters of a town, and none of the persons who voted therein at an election furnished the affidavits required by law to entitle the vote of an unregistered elector to be received, the whole vote of the town must be rejected in *quo warranto*.

This, says Mr. Brightly, a good Pennsylvania authority—

Referring to both the above cases—

> in his Election Cases, (page 64,) is a just and equitable doctrine, inasmuch as it leaves it in the power of the voter himself to supply the defect of a previous registry. This we deem the only just view to be taken of the election law, and the only one which will remedy the evil of constantly recurring contested elections.

In the case of Wood *vs.* Baker, (38 Wisconsin, 85,) Chief-Justice Ryan, after citing and fully affirming the cases of State *vs.* Hilmantel and State *vs.* Stumpf, goes on to discriminate between the doctrine of those cases which declares all votes illegal where there was no registry and no affidavits, and the case in hand where there was an informal

and defective registry but one which contained the names of the voters and where the voters had no notice of the informality:

Statutes regulating the right of suffrage may require proof of the right consistent with the right itself. It was undoubtedly competent for the Legislature to provide for a previous registry of voters as one mode of proof of the right, so that it should not be a condition-precedent to the right itself at the election, but, failing the proof of registry, left other proof open to the voter at the election consistent with his present right. So the Legislature could provide for challenges of voters at the election and for the oath or proof necessary to them to assert their right against challenge. And this we take to be the exact effect of the registry law as already construed by this court. If a voter's name be not on the register at an election he is in effect challenged by the statute and required to furnish prescribed proof of his right. The statute imposes no condition-precedent to the right; it only requires proof that the right exists. The voter may assert his right, if he will, by proof that he has it; may vote, if he will, by reasonable compliance with the law. His right is unimpaired, and if he be disfranchised, it is not by force of the statute, but by his own voluntary refusal of proof that he is enfranchised by the constitution.

This case, it will be observed, is in very many particulars like the case of Wheelock, above referred to.

In Finley *vs.* Walls, (Smith's Election Cases, 373,) Mr. Thompson, for the whole majority of the Committee on Elections, says:

It also appears by the evidence that although the names of these sixty voters were not on the certified copy of the registration list furnished for this poll, still a large number of the names were on the registration list in the clerk's office of the circuit court. Your committee, in view of this fact, although the inspectors were in fault in allowing the persons to vote whose names were not on the list furnished them by the clerk of the circuit court, still as their names should have been on that list and they were deprived of the legal right to vote without taking the oath in section 9, by the neglect of the clerk of said court in not providing a correct list of the voters of said precinct, have arrived at the conclusion that they having voted their votes should be counted when their names are found on the registry list in the clerk's office. (See also Hogan *vs.* Pile, 2 Bartlett, 285; Delano *vs.* Morgan, 2 Bartlett, 170; Bell *vs.* Snyder, Smith's Election Cases, 250.)

In The People *vs.* Wilson, (62 New York, 193,) the court say:

It is of paramount importance under our system of government that unqualified persons shall be excluded from the suffrage, and that elections shall be conducted in a way which shall secure public confidence that the results are truly and honestly declared. It is eminently proper that inspectors and boards of registry should comply with the forms prescribed by statute in conducting elections. The act affords to every elector an opportunity to have his name placed on the register. One of the preliminary lists is to be filed in the clerk's office of the city or town, and one is to be posted in a conspicuous place in the room where the election is to be held. If the name of any elector has been omitted from the preliminary list he can appear at the second meeting of the board of registry and have it inserted. In construing a statute the intention of the lawgiver, when ascertained from a consideration of the whole act, is to prevail over the literal sense of particular words or clauses, and an intention is not to be imputed to the Legislature which is unreasonable and contrary to justice and equity.

The 43 votes cast by persons not registered were plainly illegal.

Mr. CAMP. The sixth section of the registration act of New York declares that it shall be held to be mandatory by all election and all other officers.

Mr. BELTZHOOVER. I am arguing on the assumption that our statute is mandatory also. I know the New York statute declares by express words that it shall be held to be mandatory; but I hold that the case I have cited applies for the reason that the statute of Pennsylvania is plainly mandatory by force of its words and the inflexible rules of construction. The statutes are both mandatory. It matters not why they are so.

In the case of Nefzger *vs.* Railway, (36 Iowa, 644,) Judge Day, after citing and approving People *vs.* Kopplekom, (16 Michigan, 342,) State *vs.* Hilmantel, (21 Wisconsin, 566,) and Dwarris on Statutes, 715, in construing a registry law very similar to the one under consideration, holds that the provisions of said registry law are mandatory and imperative, and an election without registration of voters is invalid.

In Byler *vs.* Asher, (47 Illinois, 101,) the court in construing the registry law of that State of 1865, which is like the act of Pennsylvania, held that a voter must not only produce his own affidavit, but also that of a householder of the district.

In the case of Du Page County *vs.* People, (65 Illinois, 364,) Chief-Justice Lawrence delivering the opinion of the court, after citing and approving Byler *vs.* Asher, (47 Illinois, 101,) and State *vs.* Hilmantel, (21 Wisconsin, 566,) says, in construing a registry law exactly like the Pennsylvania statute:

The oath of a householder and registered voter required to prove the qualifications of a non-registered voter is required to be in writing, or in other words the proof to be made by such witness must be an affidavit, so that the same may be preserved. Where a non-registered voter simply files his own affidavit as required by the statute, but does not produce with it the affidavit of a householder and registered voter, the statute is plain that his vote shall not be received.

In the case of The People *vs.* Kopplekom, (16 Michigan, 342,) it is held that the statute requiring registration is imperative and an election cannot be supported when there is no registration even if the voters are legal voters.

In The State *vs.* Albin, (44 Missouri, 346,) an election was held utterly invalid and void and set aside because it was not preceded by registration. (See also Pike *vs.* Penn, 51 Missouri, 63; State *vs.* Bressfield, 67 Missouri, 331.)

In the case of Gass *vs.* The State, (34 Indiana, 425,) it was held under the registry law of 1867 that statutes regulating the mode of conducting an election are only directory where they do not deprive a legal voter of his vote or do not admit an unqualified voter to vote or cast uncertainty on the result. We next state a second proposition of law, which we hold is clearly sustainable on all the authorities:

Second. When a person votes who is not registered, and who is shown by affirmative proof not to have furnished the affidavits required by law, the vote is absolutely illegal and invalid and cannot be legalized or validated by any subsequent proof. This is clearly maintained in the case of Gibbons *vs.* Shepherd, (2 Brewster, 129,) a case very ably and elaborately discussed and which was carried to the Supreme Court and there reviewed. In that case it was held that where a voter is not registered and files no affidavits his vote is absolutely illegal and cannot be legalized by subsequent proof.

In the case of Myers *vs.* Moffat, (2 Bartlett, 566 and 567,) it is held:

Under the act of 1839, where a person is not assessed, in order to entitle him to vote, he must answer certain questions under oath as to tax, age, residence, &c., and in addition prove his residence by the oath of a qualified voter of the division, and in all such cases it is the duty of the inspectors to require such proof whether the vote be challenged or not.

We next lay down a third proposition of law:

Third. Where a person votes who is not registered, and who is shown by affirmative proof not to have furnished the affidavits required by law, the vote is *prima facie* illegal and invalid, and cannot be legalized or validated except by the same kind and the same amount of proof as is required to be given by an unregistered voter who desires to vote.

In Taylor *vs.* Reading, (2 Bartlett, 669,) the majority report of the committee on elections quotes with emphatic approval the following language of Judge Brewster:

It has been urged that if the person whose vote was legally received is now called and he swears that on the election day he lived in that division, the fraud is instantly purified. We do not so understand the law. The statute challenges the man whose name is not on the list. It matters not that he is known to every man at the poll, the people of the Commonwealth challenges his vote. The State steps in and says, "You shall comply with my law before that ballot passes into the box." His own oath of residence then would not be enough. Shall it avail afterward? At the poll he should produce a tax receipt; produce a voucher and two oaths should be administered. This is all disregarded, and it is supposed that the defect is remedied if one of the four requirements is complied with when the case comes before the court. It is answer to all this sophistry to say that while the law stands it is a part of our oath to enforce it; that an *ex post facto* obedience to one mandate cannot absolve the disregard of three other commands, and that frauds like these can only be purged by distinct and full proof as to every vote claimed in these divisions.

The force of the position assumed in this opinion is peculiarly applicable in the construction of the act of 1874 when we compare it with the act of 1869, under which the opinion was given. The different items to be sworn to in evidencing the qualifications of a voter under the act of 1874 are very numerous, as an examination of the tenth section of that act will plainly show. The law having therefore provided additional safeguards, which were not contained in the prior acts, the reason for exacting proof of each one of them and of all of them is much stronger than it was under the former act. The same doctrine is held in the carefully considered case of Mann *vs.* Cassidy, (1 Brewster, 2,) where it is said that the vote of an unregistered voter who does not furnish the affidavits is *prima facie* illegal, but that it can be legalized by subsequent proof that the person voting had all the legal qualifications of a voter.

See, also, the case of Weaver *vs.* Given, (1 Brewster, 121,) and the case of Thayer *vs.* Greenbank, (1 Brewster, 207.) Both these cases hold exactly the same view as the case of Mann *vs.* Cassidy.

All the views which we have thus far advanced in reference to the law which should govern in the determination of this case were advanced and persistently maintained by the counsel for the contestee before the notaries when the testimony was being taken by the contestant in rebuttal. On page 4113 of the testimony on the examination of a witness called by the contestant the following question was asked and the following objection made by contestee's counsel:

Question. State whether or not non-registered voters were sworn at said election as to their residence and right to vote.

(Counsel for contestee objects, first, that the law provides the mode and manner in which non-registered voters may be qualified and entitled to vote, and the administering of an oath in any other way or manner is unwarranted and illegal, and will not give said non-registered voters a right to vote; second, that the law does not authorize the administering of an oath in any other way and manner to non-registered voters than by written or printed, or partly written or partly printed, affidavits, and any oath so administered cannot affect the rights of contestee in this case; third, that the affidavits on file in the prothonotary's office are the best evidence of the fact stated in the question, and must be produced or their loss or destruction accounted for, and the witness is not competent to contradict the record or testify anything in relation thereto.)

The same objection was interposed again and again by contestee's counsel. (See pages 4176, 4177, 4117, 4116, 4118, 3792, 3790, 2979, &c.) The contestee takes the same view in reference to all such votes in his brief at page 31, where he calls unregistered votes illegal.

On the facts and the law which we have thus laid down we are convinced that the report of the majority of the Committee on Elections and the resolutions which they recommend can be clearly and invincibly maintained. It is plain that there were 90 unregistered and therefore illegal votes cast and counted for the contestee at said election. This number might doubtless be largely increased by a still more rigid examination of the testimony, but it is sufficient to overcome the returned majority of the contestee and destroy his *prima facie* right to the seat. This being done, he stands on an equality with the contestant.

We then consider those unregistered and illegal votes in reference to which there is no testimony to show for whom they were cast. These may be stated to be in number from 1,000 to 2,000. It is not shown and cannot be shown for whom these votes were cast. The contestant's counsel, in the view of the law which they honestly took and adhered to, expended their time for taking testimony in chief in showing

the unregistered and other illegal votes in the districts giving contestee majorities. The contestee during the time allowed to him to take testimony, instead of showing, as he might have done or tried to do, that these votes thus attacked by the contestant were legal or had been thrown for the contestant himself, took precisely his same view of the case as the contestant had done, and exhausted his time in showing unregistered and illegal votes in districts giving contestant majorities. The result of this was that in the time allotted to both sides for taking testimony in chief they concurred in proving this vast aggregate of unregistered votes without showing for whom they had been cast. If either party is in default, both are, and their negligence or misapprehension of the law should not be visited on the people who are entitled to have a legal election and be represented by the candidate who received a majority of the legal votes in the district. The contestant, during the brief time allowed him to take testimony in rebuttal, proved for whom as many of these unregistered votes were cast as was in his power. The whole testimony shows great zeal and energy on both sides, and particularly that the contestant did everything which the ingenuity and industry and multiplicity of counsel and clerks and notaries and large expenditure of means and labor could do to sustain the allegations contained in his notice of contest that there had been great irregularity and fraud and an utter disregard of law in obtaining the slight apparent majority against him.

It is not supported by the evidence and not true that the contestant or his counsel resisted the preservation of the ballots, and if in the progress of a contest contestant's counsel had done so, and their action had been sustained by the judgment and decree of a competent court as being in conformity to law, there is no tribunal or body or person in a civilized country that would visit their action either with punishment or even criticism. It is the right and duty of counsel in any contention to take all legal steps to maintain their side of the case.

But while it is not true that the contestant or his counsel interfered to prevent the preservation of the ballot-boxes in any county, it is true that in Elk County, where the contestee made an application before Judge Wetmore to preserve the ballot-boxes on the ground that they contained ballots of unregistered voters where it was not shown for whom those unregistered voters had voted, and Judge Wetmore granted the application, the moment the relief which the contestee claimed was granted he lost all interest in the matter and made no further effort and took no further steps to preserve the ballots or open the ballot-boxes in that county. In Union County, in White Deer Township, where the most flagrant and defiant disregard of the registry law occurred, where the election officers, within a few minutes after the time they had all sworn to take no vote from an unregistered voter without requiring the affidavits, passed a resolution to utterly disregard the taking of affidavits, and where a large majority was found for contestee, he took no steps whatever to preserve the ballot-boxes and ascertain for whom these unregistered voters voted. In Mifflin County, where he had the same judge who presided in Union, and before whom he made no application, he could have obtained the same relief if he had been sincere in the pursuit and search to ascertain how the unregistered voters had cast their ballots.

There is, therefore, no presumption to be drawn from the fact that in Centre and Clearfield Counties the application to the court to preserve the ballot-boxes was not successful. Having determined on the law and the facts that a large number of persons voted at the election who did not comply with the statute as to the proof of their right to vote, and the number of such ballots being largely in excess of the returned majority of the sitting member, and the evidence not showing for whom such votes were cast, the committee very justly say they had to determine upon what rule the polls should be purged of such illegal unregistered votes.

McCrary, in his "Treatise on Elections," section 300, lays down the following rule:

> It would seem, therefore, that in a case where the number of votes proven is such as to affect the result, and in the absence of any evidence to enable the court to determine for whom they were cast, the court must decide upon one of the two following alternatives, namely, first, declare the election void; second, divide the illegal votes between the candidates. It is clear also that where in such a case no great public inconvenience would result from declaring the election void and seeking a decision by an appeal to the electors, that course should be adopted.

The Committee on Elections, therefore, had but two things to do, either to declare the election void and remit the contest back to the people, or to determine by an arbitrary division of the illegal votes who was elected. The authority we have just quoted emphatically declares and clearly recommends that a new election should be ordered where no great public inconvenience would result. There was in anticipation a general election in the State of Pennsylvania for township officers, to be held about the middle of February following, at the time of the consideration of this case by the Committee on Elections, and this was a strong and persuasive circumstance in inducing the committee to recommend the election to be referred back to the people. The committee believed that the case could be considered and disposed of by the House in time to have an election by the people in February. There could be no great public inconvenience in having a vote for Congressman at an election when the citizens came together to choose their local officers, in the season when they were all at leisure in the rural districts. That would have afforded a certain, plain, cheap, and easy opportunity of determining the matter. This was the great controlling motive which induced the committee to refer the election back to the people.

The majority of the committee, while they had an abundance of precedent for seating the contestant on the preponderance of the evidence, believed that there was some uncertainty as to who was the real choice of a majority of the people of the district for Congress and that it would be fair and just to refer the contention back to the tribunal from which, when it plainly and legally decides, there is and can be no appeal, and to which no man who has confidence in his own case should hesitate to go. Not only have all the books on election law and the decisions of the courts favored this method of determining such a case as this, but the House of Representatives has resorted to it in a large number of instances. In the case of Easton *vs.* Scott, reported in Contested Election Cases, 1789–1834, page 273, where the election was close and the result doubtful, the report of the committee which seated the contestant, after being fully debated by Randolph and Webster and Calhoun and others, was recommitted, and after further consideration another report was made and unanimously adopted declaring the seat vacant and ordering a new election by the people. In the case of Sergeant *vs.* Horn, a Pennsylvania case, in the same book, page 516, the election appeared to be a tie on the face of the returns, and the parties agreed to have a new election. After the new election was held, in which Mr. Sergeant was elected, it was discovered that Mr. Horn had been chosen at the former election, and he contested. The House unanimously gave the seat to Mr. Sergeant.

In the case of Letcher *vs.* Moore, a Kentucky case, in the same book, pages 715–850, it was "resolved that there be a new election, *it being impracticable for the House to determine with any certainty who is the rightful representative.*" In this case the law of Kentucky required the certificate of election of a member to be made out and signed by the sheriffs of all the counties composing the district. It was signed by *three* sheriffs out of five, and the returns of one county were omitted. Both candidates claimed the seat—Moore by virtue of a certificate of election made by three sheriffs out of five on returns embracing four counties out of five; Letcher claimed it on the ground of an election by a majority of the votes of the district as shown by the poll-books. A majority reported in favor of Moore, the sitting member; a minority dissented. The House rejected both reports, and after many days' debate, extending over one hundred and fifty pages in the record, and participated in by John Quincy Adams, Mr. Binney, of Pennsylvania, and other distinguished men, adopted the resolutions we have quoted above.

In Monroe *vs.* Jackson (1 Bartlett, 98–102) the majority of the committee, by its chairman, Hon. Richard W. Thompson, reported in favor of the contestant, the minority in favor of the contestee. The case turned upon 143 votes, who were alleged to be paupers; and the House, after considerable debate, rejected both reports and sent the case back to the people.

In the case of Miller *vs.* Thompson (1 Bartlett, 118–137) the sitting member had a majority of 386, and the contest was based on a close question of residence. Mr. Strong, the present judge, the chairman of the committee for the majority, reported in favor of the sitting member. The minority reported in favor of the contestant. The House rejected the majority report by a majority of 8 and rejected the minority report by the casting vote of the Speaker. The seat was then declared vacant and a new election ordered.

These cases all belong to an era that is past and were debated by men whom neither side of this House will be prompted to judge unkindly. There are very many precedents of a similar character. These are sufficient. The conclusion reached by the majority of the committee in this case was in consonance with all these authorities, and would have been the fairest to the parties, the most satisfactory to the people, and the most consistent and patriotic and honorable course for the House of Representatives to pursue under all the circumstances surrounding this contest.

[Here the hammer fell.]

Mr. SPRINGER. I understood the gentleman from Pennsylvania was to be permitted to occupy as much time as he desired, and that the same amount of time would be allowed to the other side.

Mr. BELTZHOOVER. I will finish what I desire to say in fifteen minutes.

The SPEAKER *pro tempore*. If there be no objection, the gentleman will be permitted to proceed without limit, which will entitle him to another hour.

There was no objection.

Mr. BELTZHOOVER. But the great dominating condition upon which the majority report was based has failed. The expectation that the case would be considered and disposed of by the House, so as to refer the contest to the people at the February election, was utterly disappointed. The case was delayed until that election passed, and has since then been postponed again and again until now a season has been reached when it would likely be a great public inconvenience and would be attended with great public expense to have a new election. Before it could be brought about the most important work of the people in the rural districts would have been begun. The people would not willingly leave their most imperative pursuits to attend an election, and there might not be a fair and full vote.

In addition to this, under the custom of the people in Pennsylvania, a large number of changes of residence are made about the 1st of April, so that possibly a thousand persons would be disfranchised at any election within two months from that time—two months' district

residence being required to make a legal voter. This would make it impossible to have any election before June 1, and that would be in the midst of the busiest season.

For this reason, speaking only for myself, I believe it is the duty of the House to examine the alternative method laid down by McCrary of disposing of the case by ascertaining who received the largest number of legal votes and who is elected. Both the minority reports, while differing widely as the poles as to the law and dealing very sparingly in the facts, agree in the conclusion that the sitting member is elected. The majority of the committee agree fully as to the law and the facts. They were anxious, and the contestant and his counsel were anxious, to refer the case back to the people from whose decision there could not and should not be an appeal. But the majority of the committee do not hesitate to say that on the preponderance and by the weight of the testimony and in conformity to all the presumptions of law the contestant, if either, is entitled to the seat. There are four statements of the facts which fairly and clearly, we believe, show that the contestant is so entitled to be seated in this contest.

Mr. FIELD. This is something outside of the report.

Mr. BELTZHOOVER. It is something outside of the report.

Mr. FIELD. And never considered by the committee.

Mr. BELTZHOOVER. It has not been considered by the committee, but I intend to move, if nobody else does, an amendment to this effect to the resolution reported by the majority.

First. It is shown clearly by the testimony cited above in support of the third and fourth propositions of fact that there were 382 unregistered and illegal votes cast in this election. It is shown by the testimony that in Knox Township, Clearfield County, where no affidavits were required or taken, there were 9 illegal and unregistered votes polled. (See testimony, page 3632; also, contestee's brief, Appendix C, page 8.) It is admitted by contestee in his brief, at page 29, that there were 364 illegal votes polled, which were illegal for other reasons than non-registry. Adding these to those we have just referred to, and the total number of illegal votes is 755. The total vote in the district returned was 26,835. Taking the illegal vote of 755 from the total vote, and it leaves the total legal vote remaining 26,080. It is conceded by the contestee in his brief, at page 29, that the contestant received 13,046 legal votes. This is a legal majority of 12 votes for contestant.

Second. Taking the 382 unregistered and illegal votes which we have heretofore shown, and adding thereto the 364 votes which are admitted by contestee to have been illegal, as above stated, and we have the total number of illegal votes 746. But in the 364 votes which the contestee admits to be illegal there were 53 votes returned as illegal on account of non-registry which must be taken from this number for the reason that the testimony on which they are placed in the list by the contestee does not sustain the fact of their illegality. Deducting these 53 votes from the 746, and we have the total illegal vote remaining 693. The total official vote in the district, as before stated, is 26,835, deducting the illegal vote, 693, leaves the total legal vote 26,142. It is conceded, as before stated, by the contestee in his brief, at page 29, that the legal vote of the contestant is 13,046. Add to this the 53 votes above referred to, which were improperly taken from contestant, and contestant's legal vote is 13,099. This is a majority of 56 of the legal vote cast in the district.

Third. It is stated in contestee's answer, at page 93, that the officers of election illegally, fraudulently, and corruptly received at the election-box in Renovo Borough, Clinton County, the votes of 100 and more persons whose names were not on the registered list of voters in said borough, without demanding or requiring any proof or legal evidence of their right to vote in said borough. In support of this allegation the contestee, in Appendix C of his brief, at page 10, gives a list of 118 persons who so voted illegally at said election. Adding these 118 votes, and the 9 votes which were illegally received in Knox Township, and the 382 votes which we have before referred to as illegal, and we have 509 illegal votes shown by the proof. Add to this 364 votes admitted by the contestee to have been cast at this election, in his brief, on page 29, and we have the total illegal vote 873. Deducting this number from the total vote in the district, 26,835, and we have the total legal vote 25,962. It is conceded by the contestee in his brief, as before stated, that the contestant received 13,046 legal votes. This is a majority of 130 of the legal votes cast in the district on this estimate.

Fourth. By adding to the 509 illegal votes, as shown in the last preceding statement, the 364 illegal votes admitted by the contestant less the 53 legal votes which he improperly deducted from the contestant, we have the total illegal vote 820. Deducting this from 26,835, the total vote in the district, we have the total legal vote 26,015. Taking the conceded legal vote of the contestant, 13,046, and adding to it the 53 votes improperly deducted as illegal, we have the total legal vote of the contestant, 13,099, leaving Yocum 12,916, which makes the legal majority of the contestant 183.

These four statements are plain and reasonable. They are more consistent with justice and fairness than any calculation or estimate can possibly be which is based on a distribution of the illegal votes by any purely arbitrary rule. These statements are consistent with the law and the facts, and, what is strongly persuasive with all fair persons, they are corroborated by all the presumptions of every conceivable kind in the case. There is not a circumstance in the political history of the twentieth congressional district, in the records of the case, in the incidents and surroundings of the contest, and in the antecedents and status of the parties which does not lead conclusively to the belief that on the due and legal vote in the district the contestant was elected. In this district in 1874, as we have already stated, in a contest between a democrat and a republican for Congress, the democratic candidate was elected by some 3,000 majority. In 1876, in a similar contest, the democratic candidate was chosen by over 5,000 majority. In 1878, the republican candidate for governor, who was one of the ablest and best men in his party, and wholly in harmony with its platform and policy, polled the full vote of the party. The greenback candidate in that contest was one of the ablest and most popular leaders of the party, who lived in an adjoining county, and by his ability as a lawyer and character as a citizen was certainly able to get the greenback vote of the district. The democratic candidate for governor was a popular and able representative of his party, and over these two opposing candidates combined, each polling the full strength of his party, received a majority of nearly 1,500.

Mr. Yocum, the contestee, was the candidate of the greenback party. He had resided but a few years in the district. His antecedents had been republican. He could not, therefore, have been expected to receive the democratic vote. His platform and his policy were in direct antagonism to the republican platform and policy. He could not, therefore, be reasonably expected to get any support from that party. Governor Curtin was the regular democratic nominee. He was supported earnestly by all the best men of the democratic party in the district, and had the cordial encouragement, indorsement, and support of the great leaders of the party outside of the district. In 1872, with a large number of the founders and fathers of the republican party, he cast his fortunes with the democracy, and remained with it from that day forth. He had consistently labored and spoken and contributed in every way in his power to aid and assist the party of his adoption. We have therefore Governor Curtin, the regular democratic nominee, in a strong democratic district, fully in accord with the platform and policy of the party, having served it with great zeal and ability for years, supported by all the democrats of prominence inside and outside of the district, with the conceded friendship of a large number of the republican party, who looked upon him as the great war governor of the old Keystone State, with a State and national reputation which is linked with the proudest period of the country's history—all these things tending to the firm and unerring belief that of the fair, legal vote of the district he must have received a large majority.

If, therefore, this House shall concur in the original conclusion of the committee, and refer the contest back again to the people, it will be clearly right. If, on the other hand, the great public inconvenience and the expense and trouble of a new election should be sufficient to induce the members of the House not to refer the contest back, but to determine that it should end here and now, let them seat the contestant. This conclusion is supported by the law and by the facts and by a clear preponderance of all the presumptions and circumstances surrounding the case.

APPENDIX.

Districts in which it is shown by the testimony of the election officers themselves that affidavits were not required or received from non-registered voters.

White Deer Township, Union County.—No affidavits taken. (See contestant's testimony, page 1196, and contestee's testimony, pages 2996-7.) Unregistered vote. (See Appendix B, contestee's brief, page 11.)

District.	Name.	Number on poll-list.	District.	Name.	Number on poll-list.
1	Martin Broward	69	10	Jacob F. Eardley	360
	Richard Bennage	78	11	John S. Miller	104
	George Batin	142	12	James W. Noll‡	214
2	John Biting	164	13	J. M. Rawling	292
3	John L. Biting*	372	14	James Bressler	317
	Sim Biddle	400		*Samuel J. Ranck*	317
4	E. Cramer	371		*W. P. Ritter*	15
5	Alfred Dennis	293		*John Stadden*	265
	John Erb	373		*Jacob J. Katherman*	407
	William R. Tollman	288		*J. A. Sanders*	24
6	R. M. Griffy	252	15	John J. Smith	92
	J. N. Guyer	278		*George W. Schenery*	136
	George W. Hertz	110	16	Samuel P. Smith	183
7	William T. Huff†	215	17	John Trait§	221
	H. R. Hutchison	228		*H. A. Weless*	75
8	Daniel Kolp	34		*James Zeigler*	79
	David Kauk	73	18	J. R. Runk	403
9	Phans Koser	135		Total unregistered	18

* Contestee claims him to be registered as Lewis Bitting, but Lewis Bitting voted No. 6, page 1230.

† Contestee claims him to be registered as William Huff, but William Huff voted No. 226, page 1232.

‡ Contestee claims him to be registered as James Noll, but James Noll voted No. 103, page 1231.

§ Contestee claims him to be registered as John Trait, but John Trait voted No. 129, page 1232.

Contestee made no application for the preservation of this ballot-box.

NOTE.—The above eighteen names not in italic are those who voted without either registry or affidavits, and the candidate voted for unascertained by the evidence on either side.

Jordan Township, Clearfield County.—No affidavits taken. (See testimony, pages 2167-3633.) Unregistered vote. (See Appendix C, contestee's brief, page 7.)

Name.	Number on poll-list.	Name.	Number on poll-list.
Robert Biddle	3	John T. Wiley	45
A. E. Creswell	4	David Z. Curry	49
J. W. Straw	10	Robert Johnson	68
Harvey A. Swan	12	Reuben Straw	69
J. W. Leonard	15	William Straw	84
George Straw	20	Harvey Swan	87
J. C. Thurston	23	Samuel E. Mays	95
Philip McNulty	32	William G. Williams	103
James P. Curry	34	Newil Davis	106
Miles S. Bloom	107	Taylor McNeal	114
James G. Williams	111	Daniel Bailor	122
		Total unregistered 22	

NOTE.—No evidence in the case as to how these persons voted.

Woodward Township, Clearfield County.—No affidavits required or furnished. (See testimony, pages 507, 509, 510, 512, and 1875—Quinn.) Unregistered, and for whom they voted unknown. (See Appendix B, contestee's brief, pages 15 and 16.)

District.	Name.	Number on poll-list.	District.	Name.	Number on poll-list.
	Jackson Albot	146	23	D. M. McHenry	9
1	D. H. Brewer	7	24	S. W. Miles	16
	A. D. Boyer	15	25	A. P. Maxton	109
	Richard Bowen	243		*John McGuire, sr*	125
	P. M. Canty	75	26	Jeremiah Miller	142
2	Jeff Croyle	164	27	Thomas Mullaney	179
3	Michael Casey	190	28	David McMonigal	183
4	William Carl	218	29	Hugh Morris	186
	T. P. (T.) Davis	303		*John Mobart*	197
	Joseph Denny	41		*A. J. McHugh*	202
	John Delander	124	30	E. M. McHugh	232
5	Daniel Donovan	134	31	John Magee	258
	W. Edy	193	32	Edward Maher	261
6	Burton Elridge	227		*Joseph Martin*	277
7	John Freeman	39		*Richard Morgan*	279
	Peter Fanney	187		*Edward McFilony*	280
	A. J. Goss	43	33	Frank McGowan	281
8	Edward Gyles	58	34	Daniel McArchy	298
9	Cartwright Greaves	79		*James E. McGrath*	311
	John Gould	173	35	Joseph D. Maher	312
	Joseph Garrity	209	36	A. G. Neff	14
	J. W. Gill	266	37	C. L. Norton	169
10	Joseph Garrett	230	38	John Nollern	180
11	James Hamil	28	39	John O'Connell	229
12	Joseph Higgins	34	40	Roger Owens	275
13	Joseph Harrison	253		*John Palmer*	143
	Edward Haines	264		*J. M. Rowles*	31
14	S. G. Higgins	267	41	Ferm Ross	88
15	John Hoffman	293		*Joseph Reese*	150
	Anthony Hull	119	42	William Rosevere	296
	Levi C. Hill	217		*H. C. Rowley*	301
*16	William Hill	172	43	John D. Reese	295
†17	William John	162		*G. W. Smith*	55
	William T. John	201		*Bigler Shoff*	56
18	George Jenkins	220		*M. W. (H.) Stone*	59
19	Joseph Jandary	154	44	Walter Stabband	83
	Thomas James	225	45	James Sullivan	153
	Oscar Kline	21		*Thomas Steele*	188
	Joseph Kephart	156	46	Joseph Strout	274
	Allen Kline	213	47	John Tate	107
20	D. J. Kelley	263	48	Richard Tobin	211
	Hiram Kneppenburger	18		*William Vlance*	255
21	John S. Kanlen	26	49	Joseph Waterson	226
	James Lacey	24		*Aaron Westover*	94
22	Abraham Luzier	120		*F. C. Weeble*	196
	Thomas Larrigan	166	50	James Watkins	278
	Edward Lloyd, jr.	282	51	Robert Whitehead	297
	Joseph Loffard	284		*T. S. Williams*	307
				Total unregistered 51	

* No. 16 contestee claims to be registered William Hill, but another William Hill voted No. 174, page 642.

† No. 17 contestee claims to be registered John Williams, but John Williams voted No. 151, page 642.

NOTE.—The names in italic are either registered or the evidence shows for whom their ballots were cast. (See contestee's brief, Appendix B, pages 15 and 16.) The 51 not *erased* are those who voted without either registry or affidavits, and the candidate voted for unascertained by the evidence on either side.

Burnside Township, Centre County.—No affidavits taken. (See testimony, page 1588, J. B. Newcomer; see poll-list, page 231; see registry list, page 266.)

Name.	Number on poll-list.
Mont. Askey	48
D. H. Michael	18
Sitz Zimmerman	45
Total unregistered 3	

NOTE.—No evidence in the case as to how these persons voted.

Granville Township, Mifflin County.—No affidavits taken. (See testimony, page 4171.) Unregistered vote. (See Appendix C, contestee's brief, page 17.)

Name.	Number on poll-list.	Name.	Number on poll-list.
Brought, S. C	5	Armstrong, Henry T	168
Keigle, Wm	6	Potter, George K	177
Steely, Sam'l	7	Steeley, Jacob S	178
McGirk, Francis C	8	Neff, Solomon	180
Hayes, Joseph	9	Brought, Harry	182
Messerman, Mich'l	10	Plummer, A. M	184
Keigle, Wm. S	14	Strunk, Albert R	185
McKinney, Charlie	17	Crum, Simpson A	186
Burns, Albert	18	Guist, Samuel	188
Stelser, George	19	More, John	190
Brunon, John H	22	Lilley, Wm. R	191
Ulst, Frank P	25	Mumper, Noah	199
Snook, Thomas	36	Snyder, John	208
McCormack, James	40	Armon, Frank	218
Cossel, Wm	54	Dandis, Dan'l M	219
Kinnison, Sam'l P	58	Brower, John	223
Leopold, Albert	59	Myers, Samuel	229
Wilson, Sam'l	65	McColm, Samuel	230
McKee, Andrew	72	Minehart, W. G. C	232
Miller, S. J	74	Foy, Andy	236
McKee, Strove	83	Price, Martin	238
Owens, Joseph	85	Brackkill, T. D	239
Keiss, J. J	95	Notestine, J. K	245
Penepacker, S. E	96	Crunell, Thomas	246
Cargill, Wm. J	97	Skimp, Thomas	247
Caldwell, William	101	Sheffer, Joseph	248
Caldwell, George	102	Bowman, James	249
Shoemaker, Jno. A	107	Heck, James D	250
Comfort, David Y	109	Shaw, K. S	251
McCoy, Sam'l	118	Barclay, J. C	252
Steltzer, Joseph	125	Brown, M. D	253
Rittenhouse, Jos. H	137	Ort, Jacob A	261
Engle, Henry	141	Swain, Charles	263
Bingaman, W. H	149	Crawford, John	269
Smith, Percifer F	160	Kreps, George	270
Smith Joseph	161	Brown, S. S	273
Engel, Aaron	162	Enslow, M. F	274
		Total unregistered 74	

NOTE —No evidence in the case as to how these persons voted.
Contestee made no application for the preservation of this ballot-box.

Wayne Township, Mifflin County.—No affidavits taken. (See testimony, page 4185.) Unregistered vote. (See Appendix C, contestee's brief, page 18.)

Name.	Number on poll-list.	Name.	Number on poll-list.
William Pacht	8	Jacob Guerry	102
William Lukens	9	M. P. Withrow	117
Joseph Harshbarger	24	Jonathan McDowell	123
T. F. Rusler	28	M. B. Powell	130
John M. McLaughlin	30	A. Elwood Goodman	133
Henry Fleming	51	Jacob S. Miller	138
William Aurand	54	Rufus McCarthy	142
Cornelius Cristo	55	George Postlethwait	163
James Price	60	George Clemens	173
John M. Rhodes	65	Gustus McCallion	177
John W. Hinds	69	B. F. Miller	178
William Davidson	84	T. B. Smelker	204
Samuel T. Rhodes	86	John Cornelius, jr	209
Samuel W. Biarly	92	Total unregistered 27	

NOTE.—No evidence in the case as to how these persons voted.
Contestee made no application for the preservation of this ballot-box.

Chest Township, Clearfield County.—No affidavits taken. (See testimony, pages 2144-2146.) Unregistered vote. (See Appendix C, contestee's brief, page 7.)

Name.	Number on poll-list.	Name.	Number on poll-list.
S. L. Somerville	3	Edward W. Parker	64
J. A. Gallagher	4	Edward Westover	81
J. T. Fry	6	W. A. Barnet	82
Joseph Michaels	18	John S. McGarvey	84
Alexander McCarl	21	A. B. Barrett	92
G. W. Lose	65	Leonard Niles	108
James W. Montgomery	72	Peter Bishop	129
Charles Rogers	150	Robert McMasters	174
Alexander Dunbar	165	David Wood	177
Charles Moore	168	William Lingy	70
Ira Tute	131	Algiers Ary	120
Charles Rogers	150	Odis Gown	121
E. A. Dewitt	153	Jacob Schrall	175
David Woods	177	Total unregistered 27	

NOTE.—No evidence in the case as to how these men voted.

Morris Township, Clearfield County.—No affidavits taken. (See testimony, page 2174.) Unregistered vote. (See Appendix C, contestee's brief, page 8.)

Name.	Number on poll-list.	Name.	Number on poll-list.
J. A. Raymond	6	Sebastian Snyder	143
John Clouse	36	H. A. Jones	163
David Richards	52	B. F. Wilhelm	164
Joseph Klinger	60	W. T. Irvin	207
George Rader	105	Richard Humpter	263
Abraham Stenebrurlee	25	I. Lenhart	250
J. E. Hughenberger	8	C. A. Bramer	173
		Total unregistered 14	

NOTE.—No evidence in the case as to how these persons voted.

Bratton Township, Mifflin County.—No affidavits taken. (See testimony, page 4111.) Unregistered vote. (See Appendix C, contestee's brief, page 16.)

Name.	Number on poll-list.	Name.	Number on poll-list.
C. C. Clayton	6	William Atkinson	60
F. A. Landis	18	James Wooping	88
Henry Klippert	25	B. J. Miller	130
John French	30	Joseph W. Botticher	135
J. J. Butler	34	Philip Ronk	142
John M. Kauffman	45	J. A. Kauffman	150
William Glenruz	48	W. H. Fike	166
James L. Settle	49	John H. Whitebeard	167
Knoch Kastine	53	Total unregistered 17	

NOTE.—No evidence in the case as to how these persons voted.

Contestee made no application for the preservation of this ballot-box.

The official vote as returned in the above nine districts, in which no affidavits were required of unregistered voters, was—Yocum, 1,059; Curtin, 999; Yocum's majority, 55.

It will be seen that, excepting Burnside Township with 3 unregistered votes, the foregoing includes no precinct in Centre County, where an unimportant irregularity occurs in the registration, to which one of the minority reports refers. (See Messrs. FIELD'S, OVERTON'S, and CAMP'S views.)

List of unregistered voters in other districts who testify that they voted without furnishing affidavits.

District.	Name.	Registry.	Testimony.
		Page.	*Page.*
1	Wm. Erhard	1442	3235
3	Charles Arney	1442	3236
4	James W. Caldren	1442	3239
5	Michael Rosaman	1442	3243
6	Wm Klinefelter	1442	3245
7	John Mitterling	1442	3245
8	William Lucas	1442	3246
9	Ward Rishel	1442	3246
10	Alfred Osman	1442	3247
11	James B. Neff	1442	3248
12	John Bitner, sr	1442	3251
13	John Fravel	1449	3260
14	Sam'l Dunkel	1449	3268
15	W. M. Callahan	1449	3279
16	Jacob A. Deitrick	1438	3342
17	Jacob Klein	2942	4092
18	James Wiley	2942	4103
19	Wm. O'Brien	2945	4167
20	C. D. Runkle	1444	3229
21	Peter Smith	1444	3229
22	J. D. Lingle	1444	3230
23	David Sowers	1444	3231
24	C. H. Mayer	1444	3231
25	John B. Strong	1444	3234
26	J. W. Bare	1444	3236
27	Geo. Sunday	1444	3242
28	Edwin Rupp	1440	3240
29	Jno. Fortney voted	1440	3248
31	Jos. Baumer	2852	3825
32	John Beimel	2852	3828
33	George Wittman	2852	3842
34	Lazarus Lehner	2852	3954
35	Felix Reisman	2857	3833
37	John H. Weber	1440	3250
38	Jno. D. Miller	1449	3261
39	A. J. Garbrick	1449	3266

NOTE.—No evidence in the case as to how these persons voted. The last three, 37, 38, 39, furnished their own affidavits, but no additional ones, as required by law.

List of unregistered persons who voted in Woodward Township, Clearfield County, at which precinct no affidavits were taken, (see testimony, pages 507, 509, 510, 512, and 1875,) and who are admitted to have voted for contestee. (See his brief, Appendix B, pages 15 and 16.)

District.	Name.	Registry.	Testimony.
		Page.	*Page.*
1	Jackson Albot	657	2222
2	John Delander	.....	2234
3	W. Edy	.....	1785
4	A. J. Goss	.....	1787
5	John Gould	.....	1842
6	Edward Haines	.....	2239
7	Anthony Hull	.....	2231
8	John Williams	.....	1876
9	Thomas James	.....	1867
10	Oscar Kline	.....	1799
11	Allen Kline	.....	1853
12	Hiram Kneppenberger	.....	2279
13	James Lacey	.....	2273
14	Edw. Lloyd, jr	.....	2286
15	Joseph Loppard	.....	2236
16	John McGuire, sr	.....	2219
17	Joseph Martin	.....	1857
18	Richard Morgan	.....	2224
19	Edw. McFilony	.....	1801
20	John Palmer	.....	1864
21	H. C. Rowley	.....	1860
22	Thomas Steele	.....	2271
23	William Vlance	.....	2264
24	T. S. Williams	.....	1851
25	J. W. Gill	.....	489–494
26	Joseph Reese	.....	511
27	Aaron Westover	.....	589–525

List of non-registered voters who testify that they made no affidavits, and voted for contestee in other precincts.

District.	Name.	Registry.	Testimony.
		Page.	*Page.*
28	F. H. Dietrick	3005	1168
29	Allen E. Messenger	3005	1169
30	Charles Boyer	3022	1202
31	Laird Renner	3022	1203
32	George W. Tressler	1377	1512
33	Martin Dale	1377	1517
34	William Collins	1377	1480
35	Thomas Kline	254	1572
36	Miles Heaton	254	1574
37	Thomas P. Womer	254	1575
38	W. S. Stewart	266	1587–1588
39	George Rosencrans	266	1346–1588
40	J. Hale Ross	274	1595
41	A. R. Markle	274	1596
42	E. H. Holopeter	650	1891
43	Henry Rodgers	653	1889
44	Isaiah Coplin	666	1919
45	Christian Shontz	666	1924
46	Oscar Graham	666	1933
47	Clark Cone	669	2176–436
48	James A. Cooney	1444	3227
49	Peter Garis	1444	3227–3228
50	Josiah Johnson	1449	3269
51	Edwin Gephart	1449	3271
52	Jonathan G. Royer	1449	3273
53	James Dullen	1446	3296
54	Henry G. Lucas	1437	3307
55	Samuel Bailey	662	3508
56	David Sunderlin	1961	3513
57	E. E. Sulfridge	1961	3653
58	M. P. McDonald	1957	3656
59	John Edward Johnson	2597	3790
60	Jacob Miller	2852	3830
61	William Youtzey	2948	4116
62	John Youtzey	2948	4117
63	James Watt	2948	4117
64	Henry Miller	2948	4118
65	Jacob Miller	2948	4119
66	Robert Caley	2945	4156
67	George W. Caldwell	952	4127–4171
68	D. M. Cargill	952	4133–4171
69	Henry Stahl	952	4171–4192
70	John W. Kyle	2950	4123–4185
71	Emory Pennypacker	2950	4189
72	Sterrett Wharton	2950	4190–1
73	Carrol Wharton	2950	4191–2
74	William M. McCoy	2950	4193
75	Charles Shugert	2952	4194
76	Samuel Wilson	2952	4201
77	John Miller	2952	4205
78	Nicholas Watt	2854	2326
79	Henry Yale	2963	2692
80	George W. Kortebine	2601	2320
81	John Tuttle	954	1108
82	Lewis Hassinger	1377	1584
83	A. E. Litzinger	1961	3656
84	L. E. Rodgers	1447	3277
85	Scott Chapman	1437	3302

NOTE—The last four, Nos. 82, 83, 84, and 85, furnished their own affidavits, but *no additional* ones, as required by law.

The following persons testify that they voted for Yocum without subscribing an affidavit, although affidavits purport to be returned for them, but without their signatures:

District.	Name.	Testimony.	Registry list.	Affidavit.
		Page.	*Page.*	*Page.*
1	J. P. Beil	1198	1241	1244
2	J. B. Zeigler	1200	1241	1245
3	J. C. Renner	1192	1225	1229
	W. P. Baker*	1190	.....	1229
4	George F. Fruit	1188	1225	1228
	William Pross*	1175	.....	1228
5	Edward F. Marsh	1172	1211	1213
	C. F. Shaffer*	1170	.....	1213
	A. J. Womer*	1176	.....	1227

* Registered.

Mr. WRIGHT. I move that the House adjourn. [Cries of "Oh, no!"] It is Saturday afternoon.

Mr. SPRINGER. If gentlemen who are to follow on the other side prefer not to go on this afternoon, I make no objection to the motion to adjourn.

Mr. CALKINS. Mr. Speaker, it was the purpose of gentlemen on the other side of this question to take the control of the floor; but the House is now very thin and this is Saturday afternoon. My distinguished friend from Illinois, [Mr. STEVENSON,] who will follow in answer to the gentleman who has just taken his seat, prefers not to go on till Monday. Therefore I hope the motion of the gentleman from Pennsylvania [Mr. WRIGHT] will be agreed to.

Mr. FIELD. It is understood that I am to be next recognized in this case; and upon that understanding I have agreed to yield forty minutes of my time to the gentleman from Illinois, [Mr. STEVENSON.]

The SPEAKER *pro tempore*. The gentleman from Massachusetts [Mr. FIELD] is recognized as entitled to the floor when this subject is resumed.

Mr. SPRINGER. Gentlemen of the minority have been so kind in extending the time of the gentleman from Pennsylvania [Mr. BELTZHOOVER] that I make no opposition to the motion to adjourn. The gentleman from Indiana [Mr. CALKINS] will control the time of the other side.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 2004) to confirm the title of Charles Olivier Duclozel to certain lands in the State of Louisiana;

An act (H. R. No. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier;

An act (H. R. No. 6066) appropriating money to provide for the public printing;

A joint resolution (H. R. No. 179) authorizing the Public Printer to print additional copies of bills and other public documents; and

A joint resolution (H. R. No. 297) authorizing the Secretary of War to send rations to the sufferers from the recent cyclone at Macon, Mississippi.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILBER, for five days from Monday next, on account of important business.

The motion of Mr. WRIGHT was agreed to; and accordingly (at three o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and others papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CHALMERS: The petition of Professor T. A. Cook, for an appropriation to test an invention for propelling vessels for marine navigation—to the Committee on Naval Affairs.

By Mr. DWIGHT: The petition of William Smyth & Son, J. T. Kingsley, and 40 others, of Owego, New York, for a reduction of license fees on small vessels and yachts—to the Committee on Commerce.

By Mr. HERBERT: The petition of J. L. Hall & Co., J. W. Hardie & Co., and others, citizens of Montgomery, Alabama, that salt be placed on the free list—to the Committee on Ways and Means.

By Mr. HORR: The petition of the Board of Trade of East Saginaw, Michigan, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. KEIFER: The petition of John C. Friend, that he be granted an honorable discharge from the Army—to the Committee on Military Affairs.

By Mr. LINDSEY: The petition of Mrs. Catharine Martin, for compensation for damages sustained by the action of United States Army officers during the late war—to the Committee on War Claims.

By Mr. PRESCOTT: A paper relating to the claim of Robert Travilla, private Company K, First United States Cavalry, for reimbursement for a carbine lost while on a scouting expedition—to the Committee on Claims.

By Mr. ROBINSON: The petition of the North Adams, Massachusetts, Manufacturing Company, for a commission on the tariff—to the Committee on Ways and Means.

By Mr. SAPP: Two petitions of citizens of Iowa, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

Also, the petition of citizens of Iowa, for the removal of the duty on salt—to the Committee on Ways and Means.

By Mr. PHILIP B. THOMPSON: The petition of Edmond Penn, of Taylor County, Kentucky, for the payment of a claim for military service—to the Committee on War Claims.

By Mr. RICHARD W. TOWNSHEND: The petition of 10 citizens of Flint, Michigan, that salt be placed on the free list—to the Committee on Ways and Means.

Also, the petition of J. O. D. Lilly & Co., of Illinois Furnace, Elizabethtown, Illinois, for the passage of the Eaton bill providing for a tariff commission—to the same committee.

By Mr. YOCUM: The petition of Mrs. M. J. Hull, Lizzie Caulfield, and others, citizens of Titusville, Pennsylvania, for an amendment to the Constitution of the United States securing woman suffrage—to the Committee on the Judiciary.

IN SENATE.

MONDAY, *May* 10, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Pensions submitting a revised estimate of deficiencies for arrears and for Army and Navy pensions for the present fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 5th instant, the majority and minority reports of the board of engineers on the proposed harbor of refuge for the Pacific coast, with a letter of Chief of Engineers submitting the same.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee on Commerce and printed. What is the pleasure of the Senate in regard to printing the very large exhibit accompanying the communication?

Mr. DAVIS, of West Virginia. Would it not be well to refer the question of printing it to the Committee on Printing?

The PRESIDENT *pro tempore*. It will lie on the table until the Senator from California [Mr. FARLEY] comes in.

Mr. FARLEY subsequently said: I move that the paper be referred to the Committee on Printing. It relates to an important question on our coast, and the exhibit ought to be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 91) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy;

A bill (H. R. No. 196) authorizing the removal of tobacco in process of manufacture;

A bill (H. R. No. 624) granting a pension to Robert S. Goodall;

A bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn;

A bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee;

A bill (H. R. No. 745) granting a pension to Colby Hornaday;

A bill (H. R. No. 748) granting a pension to Rebecca S. Allen;

A bill (H. R. No. 751) granting a pension to Harvey Burk;

A bill (H. R. No. 753) granting a pension to Thomas J. Jackson;

A bill (H. R. No. 1463) granting a pension to Edward H. Leib;

A bill (H. R. No. 1470) granting a pension to Francis H. Bird;

A bill (H. R. No. 1569) granting a pension to William H. Walker;

A bill (H. R. No. 1938) granting a pension to John H. McBrayer;

A bill (H. R. No. 2120) granting a pension to Bernard Brady;

A bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry;

A bill (H. R. No. 2301) granting a pension to James Kitchen;

A bill (H. R. No. 2548) granting a pension to Martha Neil;

A bill (H. R. No. 2608) granting a pension to Anna M. Wehe;

A bill (H. R. No. 2637) granting a pension and arrears of pension to Johanna Meehan and minor children;

A bill (H. R. No. 2793) for the relief of Rachael Martin;

A bill (H. R. No. 3017) granting a pension to William Bryant;

A bill (H. R. No. 3487) granting a pension to James Forsyth Harrison;

A bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased;

A bill (H. R. No. 3556) to place upon the pension-roll the name of P. S. Rush;

A bill (H. R. No. 3557) granting a pension to Peter Julius;

A bill (H. R. No. 3656) for the relief of John Hohstadt;

A bill (H. R. No. 4753) to correct the military record of Byron Rosecrans;

A bill (H. R. No. 4842) to reinstate R. W. Barkley as cadet midshipman in the United States Naval Academy at Annapolis;

A bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Pilatka military reservation in Florida;

A bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis;

A bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama;

A bill (H. R. No. 5532) establishing a life-saving station at Louisville, Kentucky;

A bill (H. R. No. 5542) to increase the pension of Samuel Baker;

A bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; and

A bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 4227) for the relief of settlers on the public lands.

The message further announced that the House had passed the following bills:

A bill (S. No. 309) for the relief of George Heard; and

A bill (S. No. 1670) to authorize the Wyoming, Montana and Pacific Railroad Company to build its road across the Fort Russell and Fort Laramie military reservations.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1881, and for other purposes; and

A bill (H. R. No. 4227) for the relief of settlers on public lands.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of Benjamin Beall and 88 others, citizens of the District of Columbia, praying for the suspension of sale at public auction of private property in the District of Columbia for non-payment of special assessments until it be ascertained whether such special taxes amount to confiscation; which was referred to the Committee on the District of Columbia.

He also presented the petition of James McKenzie, on behalf of certain citizens of the District of Columbia, praying relief in certain cases of alleged confiscation of property by means of special taxation in the District; which was referred to the Committee on the District of Columbia.

Mr. HILL, of Colorado, presented the petition of 178 citizens of Deadwood, Dakota Territory, praying for the passage of the bill (H. R. No. 5034) providing for the reservation and sale of town sites on the public lands; which was referred to the Committee on Public Lands.

Mr. BLAIR presented the petition of T. E. A. Morrill and others, citizens of Grafton, New Hampshire, praying for such an amendment of the patent laws as will protect innocent users of patented articles against prosecution as infringers; which was referred to the Committee on Patents.

Mr. BUTLER presented a memorial of the Medical Society of South Carolina, remonstrating against the passage of the quarantine bills now before Congress; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. JONAS presented the petition of the New Orleans Cotton Exchange and others, in relation to the control of the channel and currents of the Mississippi River; which was referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

Mr. GORDON presented a petition of citizens of Philadelphia, Pennsylvania, praying for the acceptance of a plan of improvement of the Ohio River and its tributaries, proposed by General Herman Haupt, and authorizing the Secretary of War to be directed to contract with General Haupt to apply said improvement to the navigation of the Ohio River between Davis's Island and Beaver, for the purpose of exhibiting its adaptation to such service; which was referred to the Committee on Commerce.

TARIFF COMMISSION.

Mr. DAWES. I present the petition of a large number of business firms and individuals transacting almost every variety of business in Massachusetts, in Maine, in New Hampshire, and in Vermont, representing a very large capital in this great variety of business, and also representing in what they ask 24,700 laborers. They pray favorable action upon what is called the Eaton bill.

I desire for a moment to call the attention of the Senate to that bill. The Senate cannot have failed to observe that very many petitions of this character are now upon the table. They have come here since the Committee on Finance has reported that the bill ought to pass. The bill is upon the Calendar. It cannot be brought before the Senate in the short time remaining of this session in the order in which it stands upon the Calendar. I desire the attention of the distinguished chairman of the Committee on Finance [Mr. BAYARD] to the importance of asking the Senate to act upon this bill out of its order. The petitioners whom I represent, it is true, are mostly persons engaged in the manufacturing industries and those whom they furnish with employment. Probably fifty thousand men who are furnished with employment are petitioners, whose petitions are upon the table of the Senate at this moment, praying for favorable action upon this bill. They do not ask for any special legislation. They recognize every industry of this country as constituting a part of one whole, in which there should be no antagonisms, and no one of which should ask at the hands of Congress legislation at the expense of any other; that all must stand or fall together; that what shall contribute to the permanent prosperity of any one industry must contribute in like manner, if not in equal degree, to the permanent prosperity of every industry in the land.

They ask, in view of the evident desire and manifest justice of a revision of the tariff that affects all industries in this land, that it shall be done in a manner which shall most contribute to do justice to all industries, and therefore to permanency.

The distinguished chairman and other members of the Finance Committee need not be reminded by me of the great difficulty, if not utter impossibility, of a general revision of the tariff laws in Committees of the Whole, where all interests strive with each other to gain some special advantage. Those of that committee and others of this body who have had any experience in efforts to construct tariff bills will bear me out in the assertion that no general revision of a tariff can come out of any such proceeding that will be entitled to that permanency which comes only from a feeling in all classes of industry that justice has been done to each.

It is in that hope and that desire that the manufacturing interests of the country (now spreading all over it and not confined, as in former times, more largely to one section than another) are solicitous that that revision, which changes constantly going on in the industries of the land make necessary in the tariff, shall be by such legislation as would be more likely to come from a commission, wisely appointed, to review the whole matter in all its bearings to the interests of the United States and to the interests of each and every industry in the land. I wish the chairman of the Committee on Finance may see fit to indicate that at some early day in this session he will respond to this anxiety on the part of all industries by calling up for action the bill which these petitioners ask may be favorably considered.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) The petition will lie upon the table.

Mr. BAYARD. I will merely say that the Committee on Finance have made the best response possible to the desire of the Senator and his constituents for an early hearing of this question, by reporting back the bill introduced by the honorable Senator from Connecticut [Mr. EATON] favorably, and having it placed on the Calendar.

The history of the Senate's business is of course well known. Here is the Calendar. The number in the order of business last reached was No. 304. The bill for a tariff commission, known as the Eaton bill, is No. 510. The Senator and the Senate well know, when any attempt has been made to take up a bill out of its order which seems likely to lead to any debate, how promptly objection has been made.

I can only say, as far as I am concerned, that I shall be very glad to have this important question taken up and discussed at the earliest possible moment. Of course it touches the revenue. We all know the sensitiveness of the other House of Congress on this subject, and that any attempt upon the part of the Senate to diminish a duty or to add a tax is at once looked upon by them as an invasion of their prerogative, and they find occasion to disagree with us. Here is a bill which proposes to submit the whole of this question to a commission, which is certainly indicative of the desire of the Senate to see a systematic revision of the tariff in preference to considering it piecemeal. I have no doubt in my own mind that that is the proper way that it should be considered, and have signified that view by giving my assent individually and reporting, as the organ of the committee, the bill favorably to the Senate. I shall be very glad whenever the business of the Senate shall permit, that the question can come before it for consideration and I hope final action and favorable action.

Mr. DAWES rose.

Mr. BAYARD. It is in the power, I may say, of any Senator to bring up a bill of this kind from the Calendar. I should defer to the wishes of the honorable Senator who introduced it and who I am sure is anxious for its consideration. Indeed he has personally and

privately applied to me to know when it can be done, and I have simply said that I am ready at any time it is the pleasure of the Senate to proceed to its consideration.

Mr. DAWES. The Senator will understand me as not criticising the disposition either of the Committee on Finance or of its distinguished chairman.

Mr. BAYARD. Of course not.

Mr. DAWES. I was simply expressing a desire that we should address ourselves to those important measures upon the Calendar which he understands as well as any of us it is utterly impossible to get action upon unless they are drawn from their position upon the Calendar.

Mr. PLATT. Mr. President, I trust I may be excused for saying one word upon this subject. I cannot but believe that the Senate will vote by a very large majority, if not almost unanimously, to take up this bill at any time that may be indicated by the chairman of the Committee on Finance. As it seems to me, every section of this country, every industry, every citizen of the country is interested that we shall have a wise revision of the tariff; and I do not think that can be done in any way so well as by the appointment of a commission to find the facts upon which it is necessary for us to base our action.

I do not wish to speak at any length upon this subject, but I think that there will be a very general disposition to take up the bill and discuss it at the earliest moment that the committee deem it practicable to bring it before the Senate.

Mr. BAYARD. It is possible that to-morrow during the morning hour I shall move to take up the bill.

Mr. GARLAND. Two years ago yesterday, I believe, I introduced a bill into the Senate for the purpose of organizing a commission on the subject of the tariff, which received, I believe, the favorable indorsement of the Committee on Finance. I introduced another also at this session, the same bill in fact. That bill was before the committee and also the bill reported from the committee introduced by the Senator from Connecticut. I have been anxious, in fact extremely so, to have this subject brought up and considered on account of the very great want of information we have upon it, deeming it necessary that the subject should go to a commission in order to furnish the Congress of the United States the proper information in detail upon which to legislate permanently. The Committee on Finance reported favorably upon the bill introduced by the Senator from Connecticut and adversely upon the bill that I introduced. The distinctive difference between the two bills is that the bill of the Senator from Connecticut provides for a commission outside of Congress, and the bill that I had the honor to introduce provides for a mixed commission, composed of members of each branch of Congress and three members outside of Congress. I am of the opinion that that feature is better than the one introduced by the Senator from Connecticut. When the reported bill comes up, which I hope will be at a very early day, I shall offer the bill that I introduced as a substitute for the bill of the Senator from Connecticut, which was reported favorably by the committee. I join with the Senator from Massachusetts and others in urging an early consideration of the subject.

Mr. EATON. I know that all this discussion is out of order.

The PRESIDING OFFICER. It is proceeding by unanimous consent.

Mr. EATON. I ought to say, however, that the chairman of the Committee on Finance, the Senator from Delaware, has always said to me that whenever in my judgment I thought the bill ought to be taken up, he would make the necessary motion to bring it before the Senate. The Chair and all Senators can well understand why I have not before this requested my friend to make the motion. I this morning solicited him to do it to-day, but he prefers, and perhaps under the circumstances it is better, that it should not be done to-day. I shall be very glad to be heard then, not at length but for a few minutes, with regard to the absolute necessity for a bill of such a character; and when my friend from Arkansas shall move his substitute I shall hope to convince the Senate that the substitute is not a proper one, but that the bill itself is a proper one.

Mr. BECK. Mr. President, I desire only to say that while the report of the Committee on Finance presents the bill of the Senator from Connecticut, it is not a unanimous report. I shall oppose that bill to the best of my ability, and shall insist upon the passage of the bill which will be moved as a substitute by the Senator from Arkansas. I am one of those who believe that the two Houses of Congress ought not to put themselves into the hands of any body of experts outside who may make reports favorable or unfavorable as they may happen to be selected by the President, but that the men who make the report should be members of the respective Houses, who can be able to tell the reasons why they acted so as to give all the information they can before the respective Houses and state the reasons why. Outside commissions I think are generally managed (and I think it is very apparent from the number of petitions presented before us all containing a single letter from a single man) for the purpose of advancing some special interest. However, I merely desire to say that the bill was not a unanimous report from the Finance Committee.

Mr. EATON. The Senator from Kentucky is very much mistaken when he says that the petitioners here are represented by the same class of petitions. There has been one petition offered by gentlemen of every shade of opinion upon the question of the tariff; a petition that represents more than five hundred thousand people; a petition that represents an industry that consumes one million five hundred thousand bales of cotton; a petition that is represented by $200,000,000 of capital, and these men are of every class and shade of opinion with regard to the tariff. Therefore the Senator from Kentucky, however much he may antagonize the bill which I had the honor to introduce, ought not to say that they are machine petitions, for when the petitions that are upon the table of the Senate come to be examined they will be found not to be machine petitions at all. I ought to say to my friend from Kentucky that in the bill which he proposes to introduce there are three of these very outside men, as it proposes a commission to be composed of three members of the Senate, three members of the House, and three gentlemen not members of either branch of the National Legislature.

Mr. FERRY presented the petition of Charles Merrill & Co. and others, manufacturers of lumber, salt, and shingles on the Saginaw River, Michigan, praying for the passage of the bill (known as the Eaton bill) providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. ANTHONY presented the petition of George F. Wilson, Townsend, Wilson & Co., and the Diamond Hill Granite Company, of Providence, Rhode Island, manufacturers of chemicals, iron, steel, &c., employing many hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. WINDOM presented the petition of the North Star Woolen Mill and of the Minneapolis Mill Company, of Minneapolis, Minnesota, manufacturers of woolen goods, employing one hundred and sixty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. PRYOR presented the petition of Hillman & De Bardeleben, of Birmingham, Alabama, manufacturers of pig-iron, employing one hundred and twenty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. COCKRELL. I present the petition of the Nova Scotia Iron Works, manufacturers of charcoal pig-iron in the State of Missouri, addressed "to the honorable the Senate and House of Representatives of the United States of America in Congress assembled," and reading:

> The undersigned, manufacturers of charcoal pig-iron, at Nova Scotia Iron Works, in the State of Missouri, and employing —— hands, respectfully represent that they favor the speedy passage by Congress of the bill introduced into the Senate by Senator EATON, of Connecticut, and recently reported back to the Senate by Senator BAYARD, of Delaware, and which is generally known as the Eaton bill, which provides for the appointment of a tariff commission to prepare and submit to Congress a bill revising the duties on imports of foreign products. We favor the passage of the Eaton bill for the reasons set forth in a letter from Hon. Daniel J. Morrell, president of the American Iron and Steel Association, to Hon. JAMES A. GARFIELD, of the House of Representatives, which letter is as follows.

The letter is then copied, and then come the signatures to the petition. I move that it lie on the table.

The motion was agreed to.

Mr. BECK presented the petition of S. B. Patterson, of Portland, West Virginia, manufacturer of pig-iron, employing one hundred hands, and the petition of Frank Powers, of Charlotte Furnace, Carter County, Kentucky, manufacturers of pig-iron, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. WALLACE. I present a like petition of the Hope Iron Company, (limited,) of Rose Point, Lawrence County, Pennsylvania, in favor of the passage of the Eation bill, which represents very widely not only the sentiment of the employers, but of the operatives in our State. I move that it lie on the table.

The motion was agreed to.

Mr. PENDLETON presented the petition of the Riverside Rolling Mill Company, of Cincinnati, manufacturers of iron, employing one hundred and fifty hands; the petition of the Buckeye Furnace Company, of Berlin Cross Roads, Jackson County, Ohio, manufacturers of pig-iron, employing one hundred and twenty hands, and the petition of the Etna Iron Works, of Ironton, Ohio, manufacturers of pig-iron, employing four hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom were referred the bill (S. No. 585) for the relief of J. H. Merrill, and the bill (S. No. 806) for the relief of John H. Merrill, reported adversely thereon, and the bills were postponed indefinitely.

Mr. CALL. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 1471) granting a pension to Mrs. Rose M. Wood, to report it adversely. I am requested to ask that it be placed on the Calendar.

The PRESIDING OFFICER. The bill will be placed on the Calendar, with the adverse report of the committee.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1737) for the relief of Magnus S. Thompson; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HEREFORD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1738) to confirm four square leagues of land to Frederick Maish, Thomas Driscoll, and others; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1739) for the relief of John Silsby and others, purchasers of the "Weaver tract" lot of land in the city of Selma, State of Alabama; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1740) for the relief of Robert W. Smith and his assigns, purchasers of the "naval foundery lot" in the city of Selma, State of Alabama; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1741) for the relief of the United States Regulation Fire-Arms Company; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1742) in relation to the Fort Sedgwick military reservation; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO BILLS.

Mr. GARLAND submitted two amendments, intended to be proposed by him to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. GARLAND also presented a letter from the Second Assistant Postmaster-General, addressed to him, (to accompany one of the above amendments,) in relation to the establishment of a second daily mail to Little Rock and Northeastern Texas; which was referred to the Committee on Appropriations.

Mr. TELLER submitted an amendment, intended to be proposed by him to the bill (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado; which was ordered to be printed.

GENEVA AWARD FUND.

Mr. HOAR. I gave notice Thursday that I should call up the resolution instructing the Judiciary Committee to report a bill in regard to the Geneva award on Tuesday, but the Senator from Indiana, [Mr. MCDONALD,] who is a member of that committee, is obliged to be absent this week. He called upon me last night and informed me that he wished I would delay the resolution until his return, which will not be before Friday. So I shall not call it up to-morrow.

ACCOMMODATIONS FOR THE LIBRARY.

Mr. VOORHEES. I desire to give notice that to-morrow morning, after the morning business is finished, I shall ask the Senate to take up the bill (S. No. 1117) to provide additional accommodations for the Library of Congress, and I shall insist upon the Senate proceeding to its consideration and finishing it to-morrow morning after the completion of the morning business.

LOUISVILLE AND PORTLAND CANAL.

Mr. BECK. I desire to give notice that on Thursday morning, after the routine business of the morning hour is over, I shall ask the Senate to take up and consider the bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal, reported from the Committee on Commerce.

GEOLOGICAL SURVEY.

Mr. BURNSIDE. I should like to ask the Senator from West Virginia [Mr. DAVIS] with reference to House joint resolution No. 116. I do not know what his views are on the subject. I think it very important that it should be taken up. I do not think it will occupy any great time of the Senate, and I sincerely hope the Senator from West Virginia will ask the Senate to take it up this morning, it being a matter of great importance.

Mr. DAVIS, of West Virginia. I wish to say to the Senator from Rhode Island, who has called my attention to House joint resolution No. 116, relating to the geological surveys within the States, that I had given notice several times that at the first opportunity I should call it up. I agree with the Senator that it is very important, and I hope as soon as the morning business is over the Senator from Rhode Island or myself will be recognized so as to call it up. I assure him that I agree with him in reference to the matter.

Mr. EDMUNDS. I should think we had better take up the appropriation matter first. We shall know better what to do with surveying of States after that.

Mr. ROLLINS. I wish to ask the Senate to take up and consider Senate bill No. 1493.

Mr. EDMUNDS. Regular order.

Mr. BURNSIDE. I hope the Senator from New Hampshire——

Mr. EDMUNDS. I call for the regular order, whatever it is.

Mr. BURNSIDE. I move to postpone the regular order temporarily.

The PRESIDING OFFICER. The regular order being called for, it is moved that the regular order be postponed.

Mr. EDMUNDS. Let us know what it is.

The PRESIDING OFFICER. The regular order is the consideration of the Calendar under the Anthony rule. The question before the Senate is on the motion of the Senator from Rhode Island.

Mr. EDMUNDS. What is the first case on the Calendar? Let us know what bill it is that is to be postponed.

The PRESIDING OFFICER. The first bill on the Calendar is the bill (S. No. 1331) to authorize a retired list of non-commissioned officers of the United States Army who have served therein continuously, honorably, and faithfully for a period of thirty years or upward.

Mr. COCKRELL. I call for the regular order.

The PRESIDING OFFICER. The regular order has been called for, and a motion has been made to postpone it for the purpose of considering the joint resolution indicated.

Mr. COCKRELL. What is the joint resolution?

Mr. BURNSIDE. It is the joint resolution (H. R. No. 116) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes."

Mr. DAVIS, of West Virginia. I hope the joint resolution will be taken up. As is well known to the Senate and as the joint resolution itself shows, it was passed by the House in June last and has been pending ever since. It was reported to the Senate early in March. It is an important resolution, and I hope it will be taken up for several reasons. First, I think it an important resolution. Again, the bill to which it has reference is now being prepared in the House, as I understand, and the joint resolution ought to be either passed or disposed of in some way previous to that bill being acted upon by the House, so that the House may know just what to depend upon. I hope it will be taken up.

Mr. COCKRELL. I hope it will not be taken up, but that we shall give some little attention to the Calendar. The Senator from Delaware and the Senator from Massachusetts have this morning talked of another bill which is later on the Calendar than this. Now let us determine one of two things, either to proceed to the business on the Calendar according to the order or let us lay it aside and every man grab for the floor of the Senate to get his bill up first. Let it be understood which it is to be, whether there is to be a regular, orderly proceeding, or whether every man is to scramble for the floor to get his bill before the Senate first. If we proceed regularly to the consideration of the cases on the Calendar we can reach them and dispose of them. In this way we never shall dispose of anything.

The PRESIDING OFFICER. The question is on the motion to postpone the Calendar for the purpose of taking up House joint resolution No. 116.

The question being put, there were on a division—ayes 16, noes 12; no quorum voting.

Mr. EDMUNDS and Mr. HEREFORD called for the yeas and nays, and they were ordered, and the Secretary proceeded to call the roll.

Mr. BECK, (after having voted in the negative.) I desire to withdraw my vote. I forgot that I had paired with the Senator from Illinois, [Mr. DAVIS,] who is absent, on this question.

The PRESIDING OFFICER. The Senator's vote will be withdrawn.

The result was announced—yeas 24, nays 20; as follows:

YEAS—24.

Blair,	Gordon,	Morrill,	Vance,
Bruce,	Hereford,	Platt,	Voorhees,
Burnside,	Hill of Colorado,	Ransom,	Wallace,
Coke,	Hill of Georgia,	Rollins,	Williams,
Conkling,	Kellogg,	Slater,	Windom,
Davis of W. Va.,	McMillan,	Teller,	Withers.

NAYS—20.

Allison,	Dawes,	Hampton,	McPherson,
Bailey,	Eaton,	Harris,	Maxey,
Booth,	Edmunds,	Ingalls,	Morgan,
Butler,	Farley,	Kernan,	Pendleton,
Cockrell,	Garland,	Kirkwood.	Pryor.

ABSENT—32.

Anthony,	Carpenter,	Jonas,	Randolph,
Baldwin,	Davis of Ill.,	Jones of Florida,	Saulsbury,
Bayard,	Ferry,	Jones of Nevada,	Saunders,
Beck,	Groome,	Lamar,	Sharon,
Blaine,	Grover,	Logan,	Thurman,
Call,	Hamlin,	McDonald,	Vest,
Cameron of Pa.,	Hoar,	Paddock,	Walker,
Cameron of Wis.,	Johnston,	Plumb,	Whyte.

So the motion was agreed to.

The PRESIDING OFFICER. It is now moved to take up joint resolution No. 116.

The motion was agreed to; and the joint resolution (H. R. No. 116) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," was considered as in Committee of the Whole.

Mr. COCKRELL. Is there any report with that joint resolution?

The PRESIDING OFFICER. There is no written report accompanying the joint resolution.

Mr. DAVIS, of West Virginia. I will state to the Senator from Missouri that it is a joint resolution from the House, a very short and simple one, and there is no report from the Committee on Appropriations.

The joint resolution was reported from the Committee on Appropriations with amendments. The first amendment was, in line 10, after the word "examination," to strike out "into the States," and insert "of the geological structure, mineral resources, and products, into the respective States when requested by the authorities thereof."

Mr. DAWES. I should like to inquire whether that will authorize the authorities of any State to organize a United States force in any State of the Union at the expense of the United States for the purpose of carrying on and operating its own geological survey? If so it is of considerable breadth and magnitude, and possibly might involve some expense. If the authorities of any State in this Union may invoke this geological survey to go into that State, if, for instance, the governor of Massachusetts may invite this geological survey to come into Massachusetts and organize a new survey there that shall develop whatever there may be of geological knowledge worth knowing to her citizens, and carry it on within his own discretion at the expense of the United States, it at once puts the entire United States and all the industries and products of the several States (not the United States domain) under the operations of a United States organization in this city.

I can well understand that in the investigation of geological formations in the public domain in the Territories it may be necessary to follow them into the States in order to give a true knowledge of the character of those formations, and I should see no objection to such an authority as that; but in the phraseology proposed, as I understand—perhaps I am mistaken—the authorities of any State may, independent of the operations of this bureau on the public domain, and independent of their pursuit of the geological survey of the public domain in the Territories which may lead into the States, have their geological formations surveyed at the expense of the United States. In order to do that, any State has only to invite the bureau into that State to inaugurate and carry on this work.

I only call the attention of the Senate to the comprehensiveness of these few words that are proposed to be adopted in this way, if I put the proper construction on them. That may be wise, perhaps. I do not see any objection that any particular State would have to it. I think it would be a great relief to the current expenses of some of the States. So far as my own State is concerned, I should only regret that it had not been inaugurated a good deal earlier, for my State has expended a large amount of money in doing this work for itself; and so have other States. I think the State of California has expended a very large sum in the development of the wonderful resources of that State. There is a large public domain there that belongs to the United States to develop and explore; and if the public domain in that State shall be explored, it is proper enough that it should be done at the expense of the United States; but those States who do not have any public domain in their borders and who have geological surveys in process or who are desirous of instituting them will, of course, avail themselves of this privilege.

Mr. EATON. Mr. President, it was not the object of the Committee on Appropriations in making this amendment to give any such authority as my friend from Massachusetts seems to imagine.

Mr. DAWES. I did not think it was, and therefore I called attention to it.

Mr. EATON. Perhaps, if it should be examined critically, it would be seen that it does not give any such authority. I will state the object of this amendment. There were certain members of the Committee on Appropriations who thought it advisable in case it should be necessary to go into a State in order to complete a geological survey which the Government had in hand in the Territories, that the authorities of the State should intimate its willingness to allow it to be done.

Now let this be read. It is "that this officer shall have the direction of the geological survey and the classification of the public lands, and examination of the geological structure, mineral resources, and products of the national domain; and he may extend his examination of geological structure, mineral resources, and products into the respective States, when requested by the authorities thereof." That is to say—if I am wrong about it let it be made right, but such was the understanding of the committee—when this public officer is engaged in this examination, if in his judgment it becomes necessary that he should go out of the public domain and follow the course of his examination into a State in order to perfect it, the State authorities are to give the necessary permission to do so.

Mr. DAWES. Just that ought to be done—precisely that; but it does seem to me that the language used will authorize a much broader operation.

Mr. ALLISON. If the Senator from Massachusetts will allow me, I think the object of the two amendments proposed by the committee is to enable the superintendent of this survey to extend his examinations into the States, not only so far as respects the public domain, but as respects all the mineral resources and productions of the several States.

Mr. DAWES. So I feared the language of this bill would be construed.

Mr. ALLISON. And as I understood the language of the joint resolution as it came from the House, it was intended to have the same effect inasmuch as that was the object. As I understand these amendments, the object is clearly set forth, namely, that the superintendent of this survey can organize after this resolution is passed a corps of surveyors, in the State of West Virginia, for example, and can examine into the mineral resources of that State, or the State of Virginia, or the State of Georgia, or the State of Alabama, and into every part of the State where he goes. That I understand to be the object of the promoters of this measure; and therefore those who vote for it will vote for such extended examination.

Mr. DAWES. Mr. President, why is it not better to make the language so plain that it will carry out the object suggested by the Senator from Connecticut? That object is very proper. I do not know but that it is proper, if there be a notion in Massachusetts that a corporation has possession of a vast ore-bed there, to call in the assistance of the United States survey to develop it, and get the advantage in the market of the indorsement of a report of this United States survey. I do not know but that that is proper, though it does not occur to me that it is proper. It occurs to me that the language of this resolution as amended can be used in any State of the Union just as the Senator from Iowa suggests.

Mr. DAVIS, of West Virginia. Will my friend allow me to suggest that the act creating the office of Director of the Geological Survey prevents private surveys in any kind of manner or private reports in any way.

Mr. DAWES. I know it does, and I am afraid that is the reason it is desired to amend it. Does not the Senator from West Virginia know that if we amend it one does not go back to the original act to see what the powers are, but looks at the amendment?

Mr. DAVIS, of West Virginia. But my friend will remember that this resolution does not touch that part of the original act which created the commission which prevents a report or survey of any private enterprise whatever.

Mr. DAWES. I am not hostile to what is avowed by the Senator from Connecticut to be the purpose of this resolution. I have no hostility to the enlarged process. It will not do any harm in any section that I represent. I only call attention to the fact that there is no limit to the expenditure that may be involved in the construction which the Senator from Iowa says he understands is the object of the promoters of the measure. If the Senator from Iowa will read for my benefit the original bill, I should like to call the attention of the Senate to its provisions.

Mr. ALLISON. Line 10 of the original joint resolution proposes that the director of the survey "may extend his examination into the States."

Mr. DAWES. Exactly.

Mr. ALLISON. That seems to be a limitation upon his power. That is, if he were on the border of a State he might run into that State; but that I understand not to be the purpose of the director of this survey, and therefore we thought the language ought to be made plain, so that he may extend his examination into the several States of the Union.

Mr. DAWES. Does the Senator from Iowa approve of the idea of organizing a corps of geological survey in any State of this Union at the request of its authorities to develop and make known to the world the existence of any deposit of value in that State, whether it belongs to the public domain or not? If that is the purpose, it is very easy to organize in Wall street or in State street a corporation that shall set about developing among the granite hills of my own State some notion that there is a geological formation there worth being developed, and the United States will be used to do it. If that is the purpose, it is a new feature; it is an advance. Although it has the saving clause that all this must require the consent of the State, I do not think any State will object to having it done for it at the expense of the United States; and it is that paternal care of private interests in all the States by the General Government which it astonishes me that some members of the Committee on Appropriations find reason for supporting.

Mr. BOOTH. Mr. President, I desire to say a single word in order to give my understanding of the meaning of this resolution. As it came from the House it meant that the director of the geological survey, at his own sovereign will and pleasure, should extend his researches all over the United States. It was anticipated that such a measure as that might conflict with the ideas that certain Senators are supposed to entertain, old fashioned they may be, that there are such things as State boundaries and State rights, and that it was not competent for the United States to institute a geological survey which should take in the whole United States and cross State boundaries at its own pleasure. In order to obviate this objection this provision was inserted that, before the survey should be extended within a State, the consent of the State authorities must be given. And, now, what is the fair meaning of the resolution as amended? It means this: that the head of the geological survey can make his survey in any and every State as he desires to do, as it is his great and perhaps laudable ambition; but before doing that he must obtain the consent of the State authorities. Does any one imagine that that would be difficult to obtain? After one or two States, beginning with the State of West Virginia, shall have given consent that this survey may be continued in their limits, will there not rather be a competition to get this gratuitous and very valuable service? And then what shall

we have? We shall have a department attempting to do a thing that never has been attempted before, and which, in my judgment, never can be done. The thorough geological survey of this country under one administrative head is as nearly impossible to be done accurately and impartially as anything we can conceive of. You are entering upon a scheme the cost of which no man can compute. To do this thoroughly and effectually, the head of such a bureau or department ought to combine the genius of Newton, the knowledge of Agassiz, and the administrative ability of Napoleon, and there is but one man living who unites those qualities, and he proposes, I suppose, to carry out the provisions of this resolution. What if he should die?

The Senator from West Virginia has said that in the original bill surveys are prohibited for private, individual use. Well, what an ineffectual provision that is! Suppose this survey should be commenced in West Virginia; of course the report would not be as to the mines owned by the Senator from West Virginia, or any particular man; the surveys would be of a district, and within that district everybody would know who owned the mines and the result would be that this survey must be partial, and that a certificate from the United States would be used to place certain mines upon the market.

Mr. BECK. Will the Senator from California allow me to make a suggestion?

Mr. BOOTH. Certainly.

Mr. BECK. He is forgetting one of the important elements of this resolution that the maps, plats, and result of all these examinations in order to give them very full use must be published in every language known to the civilized world, so as to induce immigration, which is no inconsiderable part of the performance if we go into it.

Mr. BOOTH. I thank my friend for the suggestion. The fact is that the imagination is lost in the contemplation of the stupendous features of this scheme. But to suppose that the scheme can be carried out effectually over the whole United States, and impartially, is preposterous. It may be done in a perfunctory manner here and there, partially, to the advantage of certain districts, for the advertisement of certain claims, for the interest of certain individuals; but compared to a thorough geological survey of the whole United States, everything that can be done under this plan would be like a bird scratching on Mount Davidson to develop the mineral wealth of the Comstock lode three thousand feet below.

Mr. HEREFORD. Mr. President, I must express my surprise at the speech made by the Senator from California to-day, and the one made by him some days ago when the same proposition was up before the Senate. It is true that this will be, and it is admitted that this will be, if carried into effect, a very great benefit to all the States of the Union. It is said that it is going to cost a good deal of money. I do not know how much it is going to cost; but what State has been dealt by so tenderly, what State has been dealt by so liberally, so generously by the General Government as the State of California? In the first place, the Government has said to all her citizens, "Go upon the gold and silver fields of California, which are now public land, and extract from them gold and silver, and it is all yours." The Government of the United States has virtually made a gift of all the mineral lands in that State to the citizens thereof, and from them they have extracted in years gone by, and are now extracting, untold millions, by which men there have become and are to-day the wealthiest men on this continent. And yet, forsooth, because this may be of advantage to some States that have not been thus liberally dealt with by the General Government, the Senator from California is opposed to it.

To say nothing about the mineral lands of his State which have been thrown open to the citizens thereof to extract from them the gold and silver *ad libitum*, what else has that State had? The other day I requested the Commissioner of the General Land Office to give me a statement of the amount of lands donated to the various States, including the swamp lands, lands granted for railroads, for schools and universities, up to March 31, 1880; and what do we find? That the Senator's State of California has received from the General Government, young as she is, the enormous sum of over nine million acres. My own and other old States have never received an acre; and yet thus liberally has his State been dealt by, so that she has received more, as this report shows which I hold before me, for those purposes than any State of the Union. But because it is proposed to extend a benefit to other States not thus generously dealt by he is opposed to it.

I shall ask in connection with my remarks that this table furnished me by the Commissioner of the General Land Office may be published, so that it may be seen what the various States have received.

Mr. COCKRELL. I object to its publication unless it is read. Under the rules of the Senate nothing can be published that is not read.

Mr. HEREFORD. The Senator from Missouri is very kind. I will read it. I thank him for his kindness.

Mr. COCKRELL. I want to hear what it is.

Mr. BOOTH. Allow me to interrupt the Senator from West Virginia, with his permission?

Mr. HEREFORD. Certainly.

Mr. BOOTH. Did I understand the Senator to say that the State of California had ever received anything from the General Government for a geological survey?

Mr. HEREFORD. No, sir; I said no such thing. The Senator from Missouri is so kind that he forces me to read this table.

Mr. COCKRELL. Let the Clerk read it if you wish.

Mr. HEREFORD. Very well. I will send it to the desk to be read.

The paper was handed to the Chief Clerk.

Mr. HEREFORD. Inasmuch as my colleague says he wants to have a vote at half past one and desires that I shall say nothing more, I will take my seat.

Mr. ALLISON. I should like to hear that document read.

Mr. DAVIS, of West Virginia. I said to my colleague that I should like to have a vote if the paper was not read.

Mr. HEREFORD. I do not want by any remarks on my part to defeat the joint resolution.

The PRESIDING OFFICER. Does the Senator desire to have the paper read which he has sent to the desk?

Mr. HEREFORD. No, sir; not under the circumstances.

Mr. KERNAN. Mr. President, I am opposed to this resolution, believing as I do that it will authorize this officer to go into any State. I am entirely willing to have the resolution amended so that we may extend a survey of the United States on the public domain into any State to complete that survey; but I do not think it would be wise or right to have the United States making a survey in New York or West Virginia.

Mr. CONKLING. Mr. President, I should like to ask some Senator—perhaps the Senator from Connecticut will answer me—is there any doubt in the minds of the committee that the resolution as it came from the House executes the purpose which the House had; namely, to remove, as a barrier to the survey, a State line, if one should be encountered?

Mr. EATON. I think not.

Mr. CONKLING. I infer that the Senator concurred in reporting this amendment; and I ask, then, what is the object of this amendment so far as the Senator from Connecticut is concerned?

Mr. EATON. So far as I am concerned I will say to my friend from New York that the only object I had in view was this: whenever the director of the survey, in proceeding to take into calculation all the manifold resources of the public domain, should encounter a State line, I intended that he should not even cross that State line to continue his examination until the authorities of the State indicated that they would be glad to receive him.

Mr. CONKLING. This amendment, then, is to appease the offended shade of State rights.

Mr. EATON. No shade about it. It is a living reality.

Mr. CONKLING. If it is all for that, I think we run too much risk in consulting the faded sentimentality of the democratic party. I shall vote against this amendment if that is all it means.

Mr. EATON. That is all I mean.

Mr. CONKLING. I think the Senator had better take some of the ancient and rejected addresses of the democratic party, and read the doctrine of that party as it used to be fifty or a hundred years ago, than to attempt this little reminiscence for that purpose.

Mr. EATON. Mr. President, as one of the democratic party I feel it absolutely necessary, as my friend is the main engineer of another great imperial policy, that we should begin now to let the people of the United States understand that the principle of State rights is a living principle yet, and not a shadow of a shade; that it is not one of the old things the democracy talked and dreamed about fifty years ago, but it has life now, and that we stand upon it even here that a geological survey of the public domain shall not go into a State without the permission of the State. Such is my view of it; and I do not vote for this proposition under any other circumstances——

The PRESIDING OFFICER. The morning hour has expired.

Mr. WALLACE. I desire to submit an amendment to the resolution for the purpose of having it printed, so as to perfect the resolution to carry out the idea of the Senator from West Virginia.

Mr. MORGAN. I also desire to offer an amendment to this resolution.

Mr. WALLACE. Let my amendment be read.

The PRESIDING OFFICER. The morning hour has expired, and only by unanimous consent can the reading take place.

Mr. MORGAN. I wish to move an amendment to the pending amendment.

The PRESIDING OFFICER. Ample time will be allowed for these amendments afterward. The question now is on the amendment reported by the Committee on Appropriations.

Mr. WALLACE. But I propose to amend the amendment of the committee.

The PRESIDING OFFICER. That will be in order.

Mr. MORGAN. I give notice that I will offer an amendment.

The PRESIDING OFFICER. The Secretary will report the amendment of the Senator from Pennsylvania first, for information.

The Chief Clerk read as follows:

And he may extend any examination of the geological structure and mineral resources, commenced in the public domain, into any State, when necessary to complete the same, when requested by the authorities thereof.

The PRESIDING OFFICER. Now the amendment of the Senator from Alabama will be read.

The Chief Clerk read as follows:

Provided, That when said officer shall extend his examination into any State, he shall make a complete and an impartial examination of the geological and mineral resources of said State, and shall report the same to Congress.

Mr. EDMUNDS. Let us have the regular order.

The PRESIDING OFFICER. The regular order is the consideration of the resolutions reported from the Committee on Privileges and Elections.

Mr. DAVIS, of West Virginia. I will try to-morrow morning to have the consideration of this resolution completed.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana.

Mr. HOAR. I ask that the pending resolutions and amendment be read.

The Chief Clerk read the resolutions reported by the Committee on Privileges and Elections, March 22, 1880, as follows:

1. *Resolved*, That, according to the evidence now known to the Senate, WILLIAM P. KELLOGG was not chosen by the Legislature of Louisiana to the seat in the Senate for the term beginning on the 4th day of March, 1877, and is not entitled to sit in the same.

2. *Resolved*, That Henry M. Spofford was chosen by the Legislature of Louisiana to the seat in the Senate for the term beginning on the 4th of March, 1877, and that he be admitted to the same on taking the oath prescribed by law.

He next read the amendment submitted by Mr. HOAR to strike out all after the word "resolved" and insert:

That in the judgment of the Senate the matters reported by the Committee on Privileges and Elections at the present session respecting the right to the seat in this body now held by WILLIAM PITT KELLOGG and claimed by Henry M. Spofford are not sufficient to justify the reopening of the decision of the Senate, pronounced in its resolution adopted on the 30th day of November, A. D. 1877; that said KELLOGG was, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, A. D. 1877, and that said Spofford was not entitled to a seat in the Senate of the United States.

The PRESIDING OFFICER. The question is on the amendment just reported.

Mr. HOAR. Mr. President, I propose to address the Senate very briefly in the absence of my friend from Wisconsin, [Mr. CAMERON,] who expected to take the floor at this time, upon the legal question involved in this amendment.

We are not likely to overrate the importance of this debate. It concerns a seat in the Senate of the United States. The personal interest at stake is not insignificant. It is the title to an office of very great and ever-increasing dignity and importance. While the number of Senators has increased threefold in ninety years, the numbers of the American people, the magnitude of the interests affected by national legislation, the subjects over which the jurisdiction of the United States has in fact extended, have increased in far greater proportion.

But there are some things peculiar to this seat. The voice which is to be stifled is the last voice from the States lately in rebellion which represents their loyalty. Senators inscribe in our official directory the record of public service which preceded their entrance here, and which justifies the confidence of their States. Every other Senator from the seceding States tells of the blows he struck at his country's life and of the commissions he has held from powers which were at war with her. This man shows the civil commission of Abraham Lincoln and the register of brave and honorable military service in the cause of the Union.

Mr. President, I propose to discuss legal and constitutional principles general and permanent in their application. But the personal attacks made on Mr. KELLOGG by the other side constrain me to say that some years ago, in performance of a duty assigned me by the House of Representatives, I carefully investigated the complaints against his administration. I declare my belief that for wisdom, energy, and integrity it is a conspicuous and honorable exception among the recent administrations of Louisiana. He found her credit degraded; he left it strong. He found her bonds selling at less than twenty-five cents on the dollar; he left them selling at more than seventy-five cents. He found her treasury empty and bankrupt; he left it with a surplus. He found the tax for State purposes alone at 21½ mills on the dollar; he left a constitutional restriction limiting the tax for all State purposes, including schools, at 14½ mills on the dollar. Not a dollar was added to her public debt by any act passed in his time. His democratic successors expended the surplus he left in the treasury to the credit of the interest fund toward payment of one installment of interest, and then repudiated the debt.

But the Senate itself is upon trial. The doctrine is that every seat in the Senate is held only at the will of a party majority during its entire term.

The time has been when it was deemed a breach of decorum even to allude to party distinctions in this Chamber. Mr. Madison, when with exultant anticipation he commended the Constitution to the favor of his countrymen, thus described this great constitutional tribunal:

In cases where it may be doubtful on which side justice lies, what better umpires could be desired by two violent factions, flying to arms and tearing a State to pieces, than the representatives of confederate States, not heated by the local flame? To the impartiality of judges they would unite the affection of friends. Happy would it be if such a remedy for its infirmities could be enjoyed by all free governments, if a project equally effectual could be established for the universal peace of mankind!

The doctrine which we have to encounter is that it is not in the power of the Senate *to bind itself* or to determine the title to a seat by any conclusive judgment.

That the extent of this claim may not be left in doubt, hear the Senator from Tennessee, [Mr. BAILEY:]

The Senate is not and from its very constitution cannot be a judicial tribunal.

* * * * * * * *

The Senate, however, is a legislative body. Its office and functions are political. It is true that in the ordinary course of its procedure each Senator, and the Senate as a body, may find it necessary to construe laws and pass upon legal questions of the most abstruse kind, but this is only for the purpose of instructing the mind and conscience. The act is a step in the performance of a political function.

So, where the Senate is called upon to judge as to the election of one of its own members, it may have to settle doubtful questions arising under the Constitution and laws of the United States or of the State that seeks representation. In such case the Senate is the judge of the election. That is, it must determine and decide upon every fact presented and every question of constitutional and statutory law that may arise. In discharging this duty the Senate is a court, as every jurisdiction, civil, criminal, or ecclesiastical, is a court. It is a court in the sense that the Legislature of Massachusetts is "the general court," or that the general assembly of the Presbyterian church is a court.

Although it judges or decides, and in the sense described is a court, its proceedings are not judicial, nor is it or can be a judicial body. It is a legislative body with inherent as well as constitutional authority to judge or decide who shall be admitted to take part in its deliberations and share its responsibilities.

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The duty to be performed, in the broadest as in the strictest sense, is political.

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No, Mr. President, the claim cannot be maintained. It has no warrant in the Constitution. This is a legislative body, not a judicial tribunal; its functions are political, and only political.

You may then, according to the Senator, reverse the determination of the Senate upon the merits of the qualifications and elections of its members *just as you may repeal a law* and just as you may rescind an order or a rule. But this doctrine, monstrous as it is despite the temperate phrase in which it is expressed by the Senator from Tennessee, by no means forms the limit of this revolutionary demand. The claim is not only that the former judgment of the Senate is without binding force, but that the real practical decision of this question belongs to another body and not to the Senate at all. The question is of the validity of an election held in January, 1877.

Now, Mr. President, to whom do the Senators advocating these resolutions in fact practically relegate the determination of this question? At the meeting of the committee the two contesting theories were stated by Senators on different sides in the resolutions which they presented for the consideration and adoption of the committee, and this is the resolve offered by the honorable Senator from Georgia, [Mr. HILL:]

The controversies heretofore existing in the State of Louisiana as to which of two rival bodies was the Legislature of that State and as to which of two rival claimants was the governor of said State having been settled by the State itself since the last adjournment of the Senate,

Resolved, That the Senate do recognize and accept said settlement as final.

On the other hand, the majority of the committee opposed to that affirmation of constitutional doctrine this:

Resolved, That it becomes necessary in determining the validity of an election of Senator, held in January, 1877, to inquire who were the lawful Legislature at that time, and that no other authority is competent to determine that question for the Senate.

So that, according to the logic of the Senator from Georgia and those who think with him, the people of any State have but to accomplish by violence or fraud a revolution in their State government; and this accomplished, revolution has the retroactive effect to unseat the Senators from that State and undo the deliberate judgment of the Senate.

Let me again quote the language of the Senator who has this case in charge. It will be borne in mind that Mr. KELLOGG claimed title under an election held on the 4th of January, 1877. He presented credentials on the 4th of March of that year to a seat whose constitutional term began on that day. The Senate sent the question of his title to one of its committees, and adjourned later in the same month. During the summer another body met. This question of title being then pending in the Senate of the United States, they undertook there to determine the question and to elect a Senator. Now the Senator from Tennessee says, dealing with this question:

Who can, then, question the acts of the Nicholls legislature? The President cannot; Congress cannot——

Mr. BAILEY. The Senator will permit me to suggest that he had better get the facts correctly. He says that some time during the summer another body met.

Mr. HOAR. Yes, sir.

Mr. BAILEY. Those two bodies met at identically the same time, on the same day, in the city of New Orleans. The election of Mr. KELLOGG took place in January; the election of Mr. Spofford took place in the month of March, but both bodies met at the same time in the same city.

Mr. HOAR. At any rate, it was after the presentation of Mr. KELLOGG's credentials; Spofford's election was in June.

Mr. BAILEY. The Nicholls legislature met at the same time as the Packard legislature.

Mr. HOAR. That is entirely immaterial to the point of the argument. Mr. KELLOGG presented himself on an election held the first or second week of January. His title began when the life of the Congress began, on the 4th of March, if it began at all; he presented his credentials on that day; the Senate took the case into consideration on that day. It adjourned in the course of two or three weeks—I do not remember how long the session was; and a subsequent election, an act by the Nicholls legislature under which Mr. Spofford presented

his credentials to the Senate in the following October, is the act of which the Senator from Tennessee is speaking. He goes on:

> Who can, then, question the acts of the Nicholls legislature? The President cannot; Congress cannot. Who can question the lawfulness of the Nicholls government?
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> * * * * * * *
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> The State having thus settled the question, everybody else is concluded.
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> The people of that organization have the right to representation in the House of Representatives; and the Legislature which is part of it, and no other body, can choose two persons to serve the State in the Senate. The decision of the State, to use the words of Mr. Morton, may have been "wrongful," but if the State has made the decision, that decision must be accepted as final, and "*the Government of the United States has no right to reverse*" it as long as the State possesses a government republican in form.

The same claim is plainly implied in the speech of the junior Senator from Louisiana, [Mr. JONAS.] The ground, therefore, taken by the advocates of Spofford is the denial of the supremacy of the United States in a case where it is expressly asserted in the Constitution. It puts the judgment of the Legislature of Louisiana against the judgment of the Senate of the United States and demands superior authority for the former. It is the most obnoxious and extreme statement ever made of the claim, to borrow the language of the Senator from Georgia, that Senators are but embassadors of States. These, then, are the two propositions: First, that the seats in this body are held at the will of its changing majorities; second, that when the question of the rightfulness of a Legislature enters into the decision, a subsequent revolution in the State, brought about by what crime or fraud soever, is to govern the Senate. If the first of these propositions be sound, I shall at least be glad to learn my own duty. If there be any members of this body who owe their seats to what is sometimes called the Mississippi plan, it will be the duty of those Senators now or hereafter who deny the lawfulness of the title of the Legislature which chose them to expel them from their seats. If the judgment of the Senate on the merits on full deliberation be not final, surely the mere permission to take the oath without remonstrance or question can have no binding force whatever.

Let me deal with these propositions in their order. The Senator from Tennessee says "the Senate is not, and from its very constitution cannot be, a *judicial* tribunal." On the contrary, the Constitution says "each House shall be the judge." It is to judge, according to the Senator from Tennessee, in some mode which is not judicial. It is a judge who cannot render judgment; the decision of a judge which is not judicial. It is difficult to overstate the strength of the argument derived from the language of the Constitution itself. The authors of that instrument used language in its legal and legislative signification. They were creating legislative bodies after models every one of which had judicial as well as legislative functions.

The House of Lords is the highest court of judicature in England. The title to its seats presents the most important and gravest questions ever determined in England by a court of justice. So of the House of Commons. Every one of the early constitutions, with scarcely an exception, uses the same phrase; not even that the Senators shall be judges, but the singular number, a judge is created; not even that the Senate shall judge, but it shall be "*the* judge." The Senator alludes to the general court of Massachusetts, which, when it gained that name, was the highest court for all purposes of judicature known to that Commonwealth.

Mr. President, the Constitution is a brief instrument. Its framers intended that from the known and accepted legal definition of single words great powers, great obligations, great restraints should be derived. The whole Constitution occupies in our manual only about fourteen pages, while the rules which govern this body occupy about fifty. When the framers of the Constitution affirmed that the Senate is *the judge* they placed in that instrument a word the meaning of which is as clearly defined as that of the words which denote number or measure. Let me oppose to the opinion of the Senator from Tennessee that of the great jurist and magistrate, Chancellor Kent. He says, in speaking on this subject:

> Each House is made the sole judge of the election, return, and qualifications of its members. The same power is vested in the British House of Commons and in the Legislatures of the several States, and there is no other body known to the Constitution to which such a power might safely be trusted; and as each House acts in these cases in a judicial character, its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law and strictly adhered to for the sake of uniformity and certainty.—*Kent's Com.*, vol. 1, part 2, page 248.

The Senate in its collective capacity is a "judge." That is the express enactment of the Constitution. Is its judgment when rendered final and binding, or are Senators at liberty to act on the matters involved in it as if it had never been rendered? If any question can be held to be settled in the Senate this must be so considered. The Senator from Tennessee himself uses this language:

> The general question as to the force and effect to be given to the judgment of a legislative body in deciding upon the election of one of its members has once been *settled by the Senate.*

The Senator adds that it has been settled in but one case and has been settled otherwise in the House. In this I think he errs. It is not, as he thinks, settled in the Senate by a single precedent only. Every case where a Senator has been seated upon a contest, and after that contest has served out his term undisturbed, affords a precedent. The cases have been numerous where in times of high excitement the judgment of the Senate has been rendered against the indignant remonstrance of the minority. But the Senator has sat through his six years, whether majorities changed or not. Twice only has it been even proposed to reopen the judgment. In both those cases, as in this, the desire of the State was alleged as the excuse. In one, that of Spencer in 1874, the committee reported that the prior judgment was conclusive and the matter was never called up again. In the other, the Indiana case in 1859, there was a full debate, and it was by a two-thirds vote on the 14th February, 1859—

> *Resolved*, That the resolution of the Senate adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright as Senators elected from the State of Indiana, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863, was a final decision of all the premises then in controversy, and conclusive, as well upon the Legislature of Indiana and all persons claiming under its authority as upon the Senators named in the resolution.

Mr. President, if the Senate can settle anything it settled by that vote this question of constitutional law. It was thoroughly debated by the ablest lawyers. Mr. Seward led the opposition. I shall say nothing disrespectful to that great memory. But Mr. Seward fully and fairly conceded the logical consequence of his position. He said at the close of the debate:

> I take leave to say that it is of the very nature of the Senate as a legislative body, as it is of all legislative bodies, that they decide questions of relative power between parties generally by partisan votes; and that the decree of this Senate, which is supposed to be infallible here because it is final, is nothing more than the accidental majority of democratic members overruling the accidental minority of republican members.

This doctrine of Mr. Seward Mr. Bayard, the predecessor of the present Senator from Delaware who bears that name, encountered with the affirmation:

> A judicial decision having been rendered, further inquiry cannot be made into it. The honorable Senator endeavors by a sophism to tell me I am violating the Constitution if I considered this decision erroneous when made and support it now as final. Because I held that opinion then, he seems to suppose that I am bound to vote now for a reconsideration of it. I think the answer to that is very obvious. I might as well pretend to disobey the law of the land because in my private judgment, though the courts had affirmed its constitutionality, I considered it was an unconstitutional law.

I should like to ask gentlemen on the other side if they do not think on the whole it was well that the democratic doctrine prevailed, and that it should stand as one of the great landmarks in our constitutional history. Is it not as well for the country? Is it not, on the whole, as well for the interest of that portion of the country to which they belong that the question of title to seats here should be a judicial and not a political question; that it should be determined by the decision of the judge created by the Constitution, and not by the question so naively asked by the honorable Senator from Alabama, "if the democratic party cannot undo with ten majority what the republican party did with two majority?"

Gentlemen sneer at the doctrine that the judgment of the Senate creates any constitutional restraint upon the will of the majority. I leave them to settle the question of the good taste of the style of discussion with their own States and their own party. Whether the doctrine be entitled to respect or not, it was the doctrine of Missouri when she spoke through Green and Polk; it was the doctrine of Georgia when she spoke through Toombs; it was the doctrine of North Carolina when she spoke through Clingman; it was the doctrine of Virginia when she spoke through Mason and Hunter; it was the doctrine of Mississippi when she spoke through Davis and Brown; it was the doctrine of Delaware when she spoke through Bayard; it was the doctrine of Louisiana herself when she spoke through Benjamin and Slidell.

The Senator from Alabama [Mr. PRYOR] has studied with elaborate research the English precedents. He has been unable to find a single case where the power to review a judgment on the title to a seat in either house of Parliament has been exercised or even claimed. All he can discover is the statement that the right to go behind the returns of elections is not lost by the expiration of the session at which the return is made. We add, therefore, to the unbroken usage of the Senate, a usage without an exception for ninety years, the usage unbroken for at least six centuries of those parliamentary bodies on which our own are so largely modeled.

But it is said that whatever may have been the ruling or the usage of the Senate, the authority of the House of Representatives, a body of equal dignity, governed by the same law, is to the contrary. One case, the Mississippi case of 1837–'38, is cited in support of this assertion. Without undertaking to justify the action of the House in that case, an examination of it will make it clear that it does not violate, and was not intended by the House to violate, the principle of the finality of a judgment upon the merits.

The law of Mississippi concerning elections of members of Congress provided for an election in November. But in 1837 a session of Congress was called by the President for the 4th of September. The President's proclamation was dated the 15th of May. The governor of Mississippi thereupon issued his writ for an election to be held in July of members of Congress "to serve," as he expressed it, "until superseded by the members to be elected at the next regular election on the first Monday and day following of November next." He claimed authority to do this from the second section of the first article of the Constitution of the United States:

> When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Under these writs Gholson and Claiborne were elected and pre-

sented themselves at the September special session. Two questions arose out of these facts:

First. Was the case presented that of the happening of a vacancy within the constitutional provision, so that the governor had authority to issue his writ?

Second. Did the power to fill the vacancy authorize the electors to choose for the entire term, or only, as the governor said in his writ, to serve till the seats were filled by the regular election?

Both these questions were fully argued. Thus Mr. Howard said:

Are they members for the entire Twenty-fifth Congress, or for a part of it, or is the whole election void?

John Quincy Adams said:

The question was not as to whether or not the vacancy had been filled, but whether it had been filled for the whole term of the present Congress. The law of the State of Mississippi made it clear that, although the governor had a right to issue his writ to fill the vacancy, it was only until superseded by the general election in November. He had no right to issue his writ for an election for the whole term, as was evident from the words "until superseded," &c., which were added to the writ. These words had been inserted in conformity with the laws of that State; and had they been omitted, the governor would virtually have repealed the State law. But it might be taken for granted that a large portion of the people at the polls believed they were electing members for the whole term. Mr. Adams went on to show that the present members could not retain their seats unless re-elected the 1st of November, in conformity with the law of their State; but as they were here, he wished them to remain until the expiration of the present session and then return home, when there would be no doubt of their being again chosen by the people.

Mr. Whittlesey, of Ohio, said:

There was a doubt whether the gentlemen had been elected for the present session only or for the whole Congress.

The House thereupon adopted this resolution by a vote of 118 to 101:

Resolved, That Samuel J. Gholson and John F. H. Claiborne are duly elected members of the Twenty-fifth Congress, and as such are entitled to take their seats.

It appears also, from a statement of Mr. Prentiss, that their credentials were for the special session alone. The resolution, therefore, failed to determine the question discussed by Mr. Atkins and others in the debate, whether the election was valid for the entire term, or whether, like appointments made by the executive under like circumstances to fill vacancies in the Senate, it was only good till a regular election. In November Prentiss and Word were elected. At the next session the House rescinded the first vote, declared the seats vacant, and a third election was had, at which Prentiss and Word were again chosen and afterward admitted to their seats without question.

It would be difficult to extract from this remarkable case any principle whatever. In the debate on the Indiana case Mr. Mason, of Virginia, who had been one of the majority in the House in 1837, repudiated the opinion that a prior judgment could be reopened, and declared if he had ever voted to that effect he voted wrong.

Jefferson Davis, a Senator from Mississippi, declared that he was present at the decision of the Gholson and Claiborne case as a spectator, and stated the effect of the decision as follows. Let me quote his words from the Globe, Thirty-fifth Congress, second session, page 601:

The question presented was whether these members had been elected to the Congress. There being no contestants, there being no testimony save upon the one side, it was decided by the Committee of Elections that they were elected to the Congress; and they were admitted to their seats as members of the Congress. In the succeeding fall, at the regular time for the election, two others were chosen as members to the Congress instead of the two who had been chosen for the called or extraordinary election. When the question then came before the House, it was hardly a question which had been adjudicated, because before there had been no contestants; there had been no case presented save and except the certificate of the Secretary of State as to the number of votes cast, and for whom, at the called election. The House then decided that the members elected for the extraordinary session, though they had been decided at the previous session to be members of the Congress, could not retain their seats under the facts presented by the contesting members, while it was argued that the election in the fall had been affected by the decision of the House, that the sitting members were members for the Congress, and, therefore, was not a fair expression of popular opinion. The House in this state of affairs, I think very wisely and very justly in relation to what was due to the opinions of the people to be represented, remanded the whole question back to the people, in order that an election might be held without the influence of the decision of the House, or the effect which belonged to an extraordinary election; and then the people elected their Representatives, who took their seats without further question.

Such, I think, is the history of the transaction, and such alone the question which was decided by the House of Representatives.

Never before or since has the House of Representatives claimed the right to disregard its own judgment. The Mississippi case neither affirms such a right, nor was understood by the *majority* who determined it to affirm such a right, nor has ever been followed as a precedent for such affirmation.

But it is earnestly asked, shall a wrong be permitted to stand? Shall a man sit here for Louisiana who was not in our opinion lawfully and constitutionally chosen? Mr. President, these questions are put whenever men seek to throw off the restraints of duty. The question between the present indulgence of the will persuading itself that what it passionately desires is right, and obedience to fixed and permanent law, is the question whose answer alike settles the place of men in the scale of moral beings and determines the fate of self-governing States.

The arguments of the other side are for mobs, and not for Senators.

But it is said the former judgment of the Senate was upon another state of facts. The judgment of the Senate determined the title to the seat. The "premises then in controversy," to use the language of Mr. BAYARD's report, was the office of Senator for six years from the 4th of March, 1877. The issue then joined and adjudged contained within it every question now raised. The judgment settled for this case the validity of the election of Mr. KELLOGG, the authority of the returning board, the right of the Packard legislature to elect, the propriety of taking further evidence than that already before the Senate, and every other question essential to the decision.

But the doctrine which denies the binding force of the decision of the Senate, unconstitutional and revolutionary as it is, is less startling than the other claim made by the advocates of Mr. Spofford. They say that a revolution in a State government, by what violence or fraud soever accomplished, has a retroactive power which can overthrow the solemn constitutional judgment of the Senate and drive its members from their seats.

Mr. HILL, of Georgia. Will the Senator allow me to ask him one question? The Senator has said that somebody on this side holds the doctrine that he has announced, that a revolution in a State may have a retroactive effect, so as to destroy the constitutional judgment of the State or of the Senate. Will the Senator please say who has held that doctrine?

Mr. HOAR. The resolution which the Senator from Georgia announced in the committee, and which I have read, means that and can mean nothing else, in my opinion.

Mr. HILL, of Georgia. The Senator may allege that as his meaning; but I say it means nothing of the kind and can mean nothing of the kind.

Mr. HOAR. That is the question we are debating.

Mr. HILL, of Georgia. The resolution certainly does not say so. The whole question in that case over the controversy in Louisiana was what was the true Legislature in January? There was no admission that the Packard legislature was constitutional in January, and that it had been subverted by a revolution, and because it had been subverted by a revolution that subversion by revolution should have a retroactive effect to make that unconstitutional which was before constitutional. The controversy in Louisiana was as to whether it was constitutional at all, at any time, ever.

Mr. HOAR. I understand the Senator.

Mr. HILL, of Georgia. And we said that the State itself had settled the controversy over that question by settling that the Packard legislature never was the legal Legislature.

Mr. HOAR. Exactly. The two Legislatures assembled in January and the Packard legislature acted in January, and the question of the validity and effect of its action was essential to the support of Mr. KELLOGG's title to his seat. Another Legislature met in May or March—never mind when—but after the Senate met, and it undertook to elect Mr. Spofford; and one portion of the committee said the Senate must determine, as of the 4th of March, 1877, which Legislature on that day had the lawful title to proceed to do it. The Senator from Georgia said, no; the State by its subsequent action admitting and placing the Nicholls legislature in power settled that question, and the effect of that subsequent action reacts for the government of the Senate. There is no escape from the logic of that proposition, and there is no escape, however it may be attempted, from its revolutionary and destructive consequences.

The first demand made by the Senator from Georgia when the committee began their sessions upon the case—a demand for the purpose of furnishing the guiding rule to the committee—was the resolution I have already read, and I ask the Senate to listen to it carefully:

The controversies heretofore existing in the State of Louisiana as to which of two rival bodies was the Legislature of that State, and as to which of two rival claimants was the governor of said State, having been settled by the State itself *since the last adjournment of the* Senate—

Since the end of March—

Resolved, That the Senate do recognize and accept said settlement as final.

Can there be misunderstanding or mistaking that doctrine? Mr. KELLOGG claimed his seat by an election in the previous January. His credentials were presented to the Senate on the 4th of March. His title was complete, if he had any, before his credentials were presented. The Senate adjourned in the month of March; yet the Senator from Georgia demanded that the title, which was good, if ever good, on the 4th of March, should be finally settled by the action of the State which followed the adjournment of the Senate.

But it is sought to put this case on a special ground and distinguish it from the Indiana case by the suggestion that here was a contest between two rival Legislatures. Be it so. But what distinguishes a case where the contest is between two rival Legislatures from any other contest in regard to the binding force of the judgment of the Senate? If the true Legislature did not choose the Senator, his title to the seat must fail, whether the power of that Legislature be or be not disputed. The questions of the character of the body and the lawfulness of its action enter alike into every judgment of the Senate which determines the case on its merits, and are alike concluded by such judgment.

But it is said that Mr. Spofford asked leave to take certain evidence, and that leave was refused by the committee; and that courts of law reopen their own judgments in proper cases where newly-discovered evidence or evidence which the party could not have at the first trial is offered.

To this argument there are several conclusive answers:

First. The Senate itself passed upon the question. Mr. Spofford's

desire to take further testimony was reported to the Senate. The Senator from Delaware, now chairman of the committee, [Mr. SAULSBURY,] moved that the case be recommitted, with directions to take evidence on the five points which he enumerated; and the Senate itself, on full explanation and debate, rejected the application. Who ever heard that a court of last resort granted a service on the ground that itself had acted unjustly in rejecting an offer of testimony?

Second. The evidence offered, so far as the points to which it related were not covered by the admissions or by abundant testimony already in the case, was totally immaterial. The committee rested their decision of the cause upon a very simple principle. It was that the persons who had the certificates of the officers appointed by law to give them were entitled to take their seats in the Legislature of Louisiana and to hold them until the legislative bodies respectively acting on each case by itself adjudged otherwise, and that the Senate could not go behind the legislative action of such persons so holding seats to inquire into the facts connected with the election of each individual member. The Clerk of the House of Representatives makes at the beginning of each Congress a list of the persons who have credentials from the State authorities. The persons whose names are on that roll organize the House, take part in legislation, may even elect a President of the United States, notwithstanding they may afterward be unseated on a trial of the merits. A Legislature organized by a quorum of persons holding such credentials is the lawful Legislature, and its constituent bodies alone can determine titles to the seats of their members. Such a Legislature we found elected Mr. KELLOGG. Neither of Mr. Spofford's five points affected in the least the title so established.

This is no new doctrine. It is stated in the report made to the House of Representatives, which has been so often quoted, signed by myself, Vice-President Wheeler, and Mr. FRYE. It is still more emphatically asserted by the Senator from Delaware, [Mr. SAULSBURY,] then a member and now chairman of the Committee on Privileges and Elections.

I wish to read to the Senate the clear and decisive statement of this doctrine which that honorable Senator made in the debate May 28, 1874, on the Spencer and Sykes case. He said:

> The honorable Senator from Indiana says that the title of a member to a seat in the organization of the Legislature does not depend upon the certificate of election, but upon the election itself. I differ with the honorable Senator in this respect. I hold that the party holding a certificate from the proper officer is entitled to be seated in the Legislature upon that certificate, though he may not in fact have been elected; because that is the only test of his right to the seat required by the constitution and laws of Alabama. It is the *prima facie* evidence of title, and having, therefore, the evidence which the law required, even if the member has not been actually elected by the votes cast at the election, if he has in his possession the legal evidence of title to the possession of the office he is legally entitled to be seated as a member until by a contest his right shall be disproved, the laws of Alabama providing for a contest whereby the party who has been improperly seated in the Legislature may be ousted by the party rightfully claiming the seat by virtue of an election.
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> It is an admitted principle of law—and no one knows it better than the honorable Senator from Indiana—that in reference to property one man may have the right of property, another man have the right of possession to that property, and still a third man may have the possession of the property, and each of them is entitled to be protected in his just rights. The man in possession, though he may have no legal title to the property, and though he may not have the right of possession, is yet entitled to be protected in his possession until a better right is set up, until the party entitled to the possession shall come in and oust him. So with the party entitled to the possession of property, where he may have no legal right to the property itself; yet, having the legal right to the possession of it, he is entitled to be protected under the law until the person holding the title to the property, the right of property, shall become also entitled to the right of possession of the property, when he may be ousted from his possession. So, too, a man may have the evidence which entitles him to a seat in the Legislature just as these men in the capitol Legislature had. They have by that the right to the possession of the seat until some person who has been actually elected comes forward in the manner prescribed by the statutes of Alabama and sets up a better title by showing in a contest that he was not elected to the Legislature. While, therefore, it may be true that some of the gentlemen at the capitol Legislature who held certificates of election were not in fact elected by the votes cast at the election, still, having in their possession the only evidence which entitles members to be seated in the Legislature, they were entitled to take their seats; and every act of a member thus seated was as valid and binding as though every man in his county or district had voted for him, until, as I before remarked, a contest was made, and upon such contest his right to the seat was disproved. There is no plainer principle of law than that.

Mr. MORGAN. Will the Senator from Massachusetts yield to me?

Mr. HOAR. Certainly.

Mr. MORGAN. Inasmuch as the Senator from Delaware [Mr. SAULSBURY] is not here, I think it is my duty to say that that argument, as it appears upon its face, was made upon the peculiar nature of the constitution and laws of the State of Alabama, that constitution providing that in reference to seats in the Legislature the decision of them should be made according to laws to be enacted by the Legislature. As I understand, the Constitution of the United States makes no such provision for the contest of an election in reference to a Senator of the United States.

Mr. HOAR. The Senator from Delaware was not asserting principles peculiar, as I understand it, to the State of Alabama. He was asserting principles of the general parliamentary law of the land, as anybody who examines what he said will see. He speaks of them as principles everywhere known, and adds that there is no plainer principle of parliamentary law than that. The constitution of Alabama in that particular did not differ from the constitution of nearly every State, certainly not from the constitution of Louisiana.

Mr. President, it is true that the committee refused to delay the case to permit the contestant to send to Louisiana for evidence in addition to the ten thousand pages which not only with his consent but by his express desire were already in the case. The Senate must always exercise a sound discretion in the extent to which it will go in permitting time to be spent in taking evidence in contested-election cases. These cases differ in one essential particular from other trials. While the contest is delayed the thing in controversy itself perishes. Mr. KELLOGG had already been kept out of his seat by the reference of the case at the March session. The effect of the postponement asked by Spofford would have been to send the case over again, and deprive him of his vote. The committee and the Senate were therefore fully justified in looking to see whether the evidence he wished to take was such as, in their judgment, would affect the result.

Why, Mr. President, the evidence as to the election, composition, and conduct of the two rival legislatures had been gone over repeatedly and thoroughly in the investigations connected with the presidential question taken by order of the two Houses. In one of them Mr. Spofford, I believe, had been counsel. They were not, as the Senator from North Carolina seems to think, roving commissions, whose evidence was forced in by the committee, but they were most thorough and exhaustive inquiries as to the very matters to be ascertained here, and they were reserved as evidence by the agreement, upon the request, and by the cheerful and eager desire of Mr. Spofford himself. I read his offer on the seventy-fifth page of the proceedings of the committee. Mr. Spofford came before the committee and said:

> I propose, however, in order to save time, expense, and trouble to this committee, to consent that the evidence *pro* and *con* taken in connection with those two reports—

That is, the Howe and Sherman reports—

> may be appealed to in argument by either side, provided that the evidence taken by what is called the "Morrison House committee" and its sub-committees touching the election in Louisiana in 1876 (Forty-fourth Congress, second session) and the testimony taken before the select committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States, commonly called the "Field committee," be likewise permitted to be quoted in argument by either party.

Upon that proffer, that suggestion of Mr. Spofford, the committee acted. But, Mr. President, look for a moment at these five points in which it is said the committee and the Senate so unjustly refused to the contestant the power to take testimony and see how, with perhaps a single exception, they were totally immaterial to the determination of the cause. The first proposition is:

> That the facts relative to the election of Tremoulet, Cressy, and Rolle from the seventh representative district of New Orleans were substantially as set forth in the statement read by H. M. Spofford in his argument before this committee on the 24th October, 1877.

It was not denied that these men had the credentials, and if the doctrines on which the committee and the Senate went be sound the offer of Mr. Spofford to go into the validity of their election was totally immaterial. The next proposition was—

> That the composition, votes for Senator, and political proclivities of the Legislature on the 24th of April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the aforesaid argument.

Nobody questioned that at that time. I do not mean that it was admitted, but it was of no consequence to the determination of the case on the principle upon which the Senate acted. A prior Legislature in January had elected Mr. KELLOGG. If they had not, his claim fell to the ground; and if they had, the composition or political proclivities of the Legislature that elected Spofford became immaterial. The next one was—

> That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees, the commissioners of election, and sent, one set to the clerk of the district court of each parish in the county and to the secretary of state in the city, and the other set to the returning board, so called, showed a majority of votes actually cast throughout the State of about 8,000 votes for Nicholls and Wiltz over Packard and Antoine for the offices of governor and lieutenant-governor in the election that took place in Louisiana November 7, 1876.

Of what earthly materiality to the election of a Senator of the United States was what the vote was for governor? Spofford goes on to say:

> Besides these specific violations of the constitution and of the law under which they pretended to act, I charge that the conduct of the returning officers in suppressing polls and changing the result of the constitutional returns was clandestine, collusive, tyrannical, and unjust; that the real work of conducting an election under pretext of compiling votes was proceeded with in a secret chamber by a corps of partisan clerks, while the occasional open sessions of the board were side-shows, devised to screen what was going on within; that arbitrary rules of evidence were established for pretended contests, and changed so often and abruptly that no fair trial could be had or was had before the board; that illegal complaints were constantly received and illegal evidence admitted for the purpose of setting aside polls that were in the way of such candidates as the board desired to elect; and that Mr. KELLOGG himself, then governor, joined in making illegal complaints and inducing the board to consider them.

There is no offer of any specific fact. There is no offer to prove that the members who acted did not have the credentials. According to the view of our constitutional powers and duties taken by the Senate this offer, an offer of nothing but a parcel of adjectives without any specific or distinct form set forth, became wholly immaterial.

The question as to the legality of these complaints is a question which has been often debated in the Senate. The returning board of Louisiana when democratic and the returning board of Louisiana when republican, authorized by the statute to try the validity and

fairness of an election when certain complaints are made, were met with the question, "What are you to do when by murder or violence the person whose duty it is to make these complaints is prevented from making them?" The returning board said with great force and show of argument that where it appears that the legal complaint cannot be made by reason of violations committed on the officer whose duty it is to make it we will act without its being made. I think they were wrong, and I discussed that question at great length in the report which has been so often cited; but I think they were honestly wrong. I think they were wrong in a case where very powerful argument can be made in favor of the position which they took. Whether right or wrong, it was their legal duty to decide that question, and when they had decided and given the legal certificate no power but a legislative body of the State of Louisiana can unseat the member who gets his certificate in that way. The allegation that KELLOGG joined in making illegal complaints is also immaterial. It was not set forth that he believed them illegal, or that he acted dishonestly in making them, or that he had not a fair and full right to make his claim as to the law before the board, whether right or wrong in his opinion.

Then the fifth claim of Spofford is:

I am informed and so charge that the returns from Vernon Parish, after they came into possession of the returning officers, and while they were under their control, were fraudulently altered by a change of figures, tantamount to a forgery of a public record; that the board knew what the figures upon those returns were before their alteration, and yet after the alteration promulgated the results of said forgery as the true returns; that by such fraudulent alteration E. E. Smart, candidate for representative in the State assembly, who had in fact and according to the returns as they first came to the board defeated his competitor, Brown, was left behind, and Brown, the defeated candidate, falsely declared elected, and that said Brown took his seat in the Packard house, and figures on the journal as present on the 2d of January, 1877, when there was a pretended count of votes for governor and lieutenant-governor in joint assembly, and perhaps on one or two other occasions, but that he afterward abandoned that body and went home, acknowledging that he never had been elected.

It was not claimed that Brown voted or was in the Legislature at the time of the election of Mr. KELLOGG; so that the offer on which the Senate of the United States was asked to keep this seat vacant and to delay action was a simple offer that by a fraud at one time, having no connection with this senatorial election, a certain man got into the Legislature who was afterward put out.

But a remarkable commentary on this attack on the proceedings of the committee is found in the fact that Mr. Spofford in his evidence under the last order of the Senate has taken no evidence on four of these five points, and on the other the evidence is merely cumulative, adding no weight whatever to what was already in the case.

But let us look a little further at this claim that the Senate acted tyrannically and harshly in dealing with the question of the evidence then before it.

I ask the members of the Senate to go back with me for a moment to the history of the special session of 1877. The credentials of Mr. KELLOGG were presented at the spring session and they were referred to the committee. It was known through the entire summer that there was to be a contest. At the special session in the fall Spofford presented his claim to the seat, and the credentials of Mr. BUTLER, the Senator from South Carolina, were also presented and referred to the committee. Then the honorable Senator from Ohio, [Mr. THURMAN,] then as now an honored leader of his party, moved to swear in Mr. Spofford on the facts known to the Senate without any further examination of the case whatever. A motion was made, which prevailed, to discharge the committee from the South Carolina case and to admit Mr. BUTLER to the oath on the ground also that the facts were known. It is true that in the case of Mr. BUTLER it was said that briefs had been presented by the parties and that in these briefs no issue of fact was made up; but the point I am making is that it was desired on the part of the honorable Senator from Ohio [Mr. THURMAN] to dispose of the case of KELLOGG and Spofford, they insisting that the facts of the Louisiana case were so well known by reason of the late investigations to all mankind that it was not necessary to have any further inquiry.

The Senator from Illinois [Mr. DAVIS] also made some remarks which I had proposed to read, but I do not find them at this moment. I will read the remarks of the honorable Senator from Delaware, [Mr. BAYARD.] I should like to ask the attention of my honorable friends on the other side of the Chamber who listened to that remarkable piece of tragic acting to which the Senator from Georgia [Mr. HILL] treated us a few days ago, tragic to those not behind the scenes and irresistibly comic to those who had been there. Let me read a few moments from the honorable Senator from Delaware [Mr. BAYARD] in favor of the duty of the Senate to settle this question without taking further evidence whatever:

Why is not Mr. Spofford now sworn in? He has his credentials regular in form. * * * What, then, stands in the way? Another case is alleged which was before the Senate last March, and which we are told is still before the Senate or one of its committees—

I wish the honorable Senator from Delaware were now in his seat. I should like to call attention to his statements of an opinion of constitutional law which has come to him at least by lawful inheritance:

Mr. President, in considering questions of this kind how do we act? This body is a court. The action of the Senate is judicial—

Speaking of this very case, you understand, and what they were about to do—

It is its prerogative and sole prerogative to determine the elections, qualifications, and returns of its members, and in so doing we act as judges bound by law. Such is the formal requirement, such should be the substantial and actual spirit. Such I propose to be the spirit to which my vote and conduct shall conform.

Does anything to-day appear to the contrary which shall by its own force and our duty impress itself upon the judicial knowledge, which means the conscience of every man in this body? Are there no public facts which must be accepted? Is there nothing which of its own force can fix and bind us? Sir, the list of those things of which courts of justice take judicial knowledge is long and well known and easily applied. Public facts, war or peace, the death or life of the party whom they have before them, are facts of which they will take notice. Here I say that, if there ever was at any time political life in any other government or pretended government existing in the State of Louisiana since the inauguration of what is known as the government of Nicholls, it is to-day as dead as though it never had had birth. There is no statute law, there is no decree, there is no breath of authority that stands recorded upon the records of that State to-day other than that of the single government whose credentials are presented to you to-day by Mr. Spofford.

* * * * * * *

Mr. President, it would be, in my judgment, as unreasonable a waste of time, as unnecessary and as uncalled for, to try here the fact of the death of Queen Elizabeth as the death of the government or the administration under whom credentials were created and presented here in favor of Mr. KELLOGG last March.

* * * * * * *

A State has her rights from which she has long been excluded. The individual elected has his rights; the country has its rights, and I do submit that the affairs of Louisiana, enlarged by all that is connected with them by the occurrences of the late election, have reached in the minds, the belief, the acceptance of the American people an absolute and final conclusion. If we cannot notice judicially and if we are not bound judicially by the occurrence of facts so closely scrutinized, so anxiously waited for, so acceptedly decided in regard to the government of that State by the irresistible force of events, I ask what can satisfy us and what can constitute a fact of which we are bound to take judicial knowledge?

Let us go a little further. I have had printed—that is, the Senate had printed at my request—the proceedings of this committee, and now I should like to ask my friends on the other side of the Chamber if they will refer to the speech of the honorable Senator from Georgia made one afternoon about ten days ago, and then take that pamphlet, which purports to contain the history of every word, syllable, and act uttered or done in that committee, and see if they can recognize that the two narratives refer to the same transactions? What happened in the first place? The Senator from Georgia began by his affirmation, to which I have referred, that the subsequent action of the State bound the Senate. While that resolution was pending the two parties were heard on the general questions of law and fact in the case, Mr. Spofford on his own behalf and Mr. KELLOGG by his counsel, Mr. Shellabarger. Then the resolution of the Senator from Georgia was voted down, and the committee adopted the doctrine stated by the Senator from Delaware, which I have already read. Then it is said by, I think, one of the Senators on the other side that I made a statement that I thought Mr. Spofford's position was entirely sound. I think the Senator from Georgia referred to that.

Mr. HILL, of Georgia. No.

Mr. HOAR. One of the Senators referred to it and said that very soon I changed my mind.

Mr. HILL, of Georgia. It was not the Senator from Georgia; it was either the Senator from Louisiana [Mr. JONAS] or the Senator from Tennessee, [Mr. BAILEY,] I do not remember which.

Mr. HOAR. I do not remember which Senator said it. It would have been a little remarkable if in the midst of that investigation any member of the committee had proceeded to inform one of the parties that he thought his position, speaking of course of his claim to the seat, was entirely sound. I think the Senate would have heard of it with a good deal of emphasis when that Senator's vote came to be recorded. What Mr. Spofford was speaking of was this: He claimed that the returning-board law was entirely unconstitutional which authorized and required them to give certificates to the members elected to the Legislature. Thereupon a democratic Senator, Mr. Merrimon, said in substance to Mr. Spofford: "How do you get any credentials for your legislature then? That is the only law in Louisiana upon the subject as yet. If that is unconstitutional, how does anybody get any credentials?" Senator Merrimon said:

Taking your construction of the constitution to be correct, and the act creating the returning board to be void, * * * how does the Nicholls legislature put itself in relation with the returning officers?

To which Mr. Spofford replied:

They have disappeared.

Not apprehending the force of Mr. Merrimon's question. Mr. Merrimon said:

I do not think you understand me. How did they get certificates from persons holding the election that they had been elected? How was that ascertained?

Mr. SPOFFORD. That became necessary, as I have already explained, because these things had not been done according to the constitution, and we had to do the next nearest thing.

Then he says they got the roll of the certificates which were sent to the office of the secretary of state.

Senator MERRIMON. But from whom did they get these certificates?

Mr. SPOFFORD. From the parish clerks, who are the depositaries of these certificates.

Senator HOAR. As I understand, unless it be true that the returning-board system of declaring the election was constitutional—

It is printed "unconstitutional," but it will be seen that "constitutional" is the word I used—

and the Packard legislature a constitutional Legislature, you rest your claim on the fact that when you were elected there was a Legislature which had been in fact organized by a large majority of the conceded choice of the people?

Mr. SPOFFORD. Yes, sir.

Senator HOAR. And that whether you obtained a strictly legal certificate in the beginning, or whether you were prevented from getting a strictly legal certificate of the transaction, from the fact that the Legislature had not made proper provision for one under the constitution, is entirely immaterial, it being conceded that the Legislature that acted was composed of a majority really chosen?

Mr. SPOFFORD. Yes, sir. I was not elected until the Packard government had entirely disappeared and had given up all pretensions to power.

Senator HOAR. I do not see myself how there can be any doubt of the soundness of your position.

That is, suppose that a State Legislature has not provided any law for the certificate of the election of its members, but a majority of men admitted to be actually elected meet and choose a Senator, I held that that Senator's title to the office was not void because of the absence of any legal provision for ascertaining that fact. That is all I said on that subject, and nobody has denied that proposition on either side from that time to the present.

A resolution was passed next on the 25th of October authorizing the chairman to furnish to the contestants a copy of the resolutions, and indicating what course the committee would take in the hearing, and requesting them to state in writing what evidence, if any, they desired to present and when they desired to be heard. Then Mr. Spofford appeared before the committee, and on the 26th of October stated what his view was about the testimony, and to that I ask the attention of my friends on the other side of the Chamber:

STATEMENT OF HENRY M. SPOFFORD.

Protesting that no evidence beyond his credentials and the historical facts of which the Senate will take judicial notice is required or should be demanded, Henry M. Spofford, in obedience to the orders and resolutions of the committee, respectfully proposes to prove.

So that this investigation started not only with the admission from the leader of the democratic minority in the Senate that we should do in the Kellogg case as we had done in the Butler case, act upon the matter so thoroughly and judicially known, but the contestant himself planted himself on that ground before the committee and protested that nothing was needed except his credentials and the historical facts of which the Senate would take judicial notice. What I have read is the language of Mr. Spofford. Then the committee took a recess for an hour, and Mr. Spofford filed another paper, in which he still protested against going into the general question. He says:

If it be deemed proper or material to go into the general investigation, whose horizon is boundless, indicated by Governor KELLOGG, (the only effect of which will be indefinite delay and profitless wrangling,) the undersigned suggests that it would not be proper to limit quotations to the testimony taken by the Howe committee, but that the testimony taken by the Morrison committee of the House should, in common fairness to the other side, be allowed consideration.

Then, on the 12th November, the committee passed a resolution appointing a sub-committee of two members, one republican and one democrat, to meet these parties and see exactly what matters of fact they had agreed on. Then, on the 13th November, Mr. KELLOGG sent a communication to the committee alleging numerous details of murder, outrage, and fraud on the part of the adherents of Mr. Spofford. On the 16th November Mr. Spofford rejoined, alleging misconduct of the returning board, and proposing to agree to take as the evidence in the case the four reports—the two democratic reports made by the House and the two republican reports made by the Senate.

I propose, however, in order to save time, expense, and trouble to this committee, to consent that the evidence *pro* and *con* taken in connection with those two reports may be appealed to in argument by either side; provided that the evidence taken by * * * the Morrison House committee, * * * and the * * * Field committee be likewise permitted to be quoted in argument by either party.

Then the committee met and the agreement of KELLOGG to Spofford's proposition was reported, and then the committee reported that the case be closed. The Senator from Georgia said, "I agree to that except that I understand there are some matters of evidence to which Mr. Spofford desires to call the attention of the committee," reserving his right to call attention to those points. We agreed to close the case. Who supposed then, or who supposes now, that it was expected that any serious question of testimony likely to be important and a great issue in the case remained open?

At the same time the Senator from North Carolina, one of the democratic members of the committee, moved to fix the time for the closing argument. Who ever supposed if the case had not been understood by him to be substantially closed and ended he would at that time fix the time for closing the argument in the case? He moved to allow the parties fifteen minutes on each side. It was amended on my motion by extending it to thirty minutes. Then Mr. Spofford came in. They had got the case so far ended that they were ready to fix the time for the final argument, and they only wanted fifteen minutes for that. Then the discovery was made by some one that the vote in the Senate was likely to be so close that the vote of Mr. BUTLER and Mr. Eustis, the other claimant from Louisiana, would be pretty likely to be decisive in determining the final action of the Senate, and then it occurred to somebody that it would be a good thing to get this case open and send somebody down to Louisiana to take testimony on these five points.

This was a postponement asked for. Will any Senator who thinks he is a judge and not a partisan, when he votes on this question, be good enough to examine those five points and ask himself if at that stage of the trial of a cause any court in Christendom would have taken that vague mass of adjectives and adverbs and acted on it in a specific and important offer of testimony to postpone and delay the doing so even where the thing in controversy was not perishing as a seat in the Senate of the United States is perishing by the lapse of time every day that the claimant is kept out of his right to the place?

It will be seen, therefore, Mr. President, that Mr. KELLOGG has the same title to a seat in the Senate that the Speaker of the House of Representatives to-day has to his seat in the Speaker's chair, that the President of the United States has to his, and that the Senate rightfully and properly so held. The Senators who now demand that the present Legislature of Louisiana shall be permitted to usurp the constitutional functions of the Senate and overrule its solemn judgment then demanded that the Senate on its part should usurp the constitutional powers of the Legislature of Louisiana and retry its members' titles to their seats. Gentlemen who first demanded that the case should be decided on judicial knowledge and without taking evidence now raise loud outcry that ten thousand pages of testimony was not enough. The party whose leaders affirmed the great principle of the finality of the judgments of the Senate is now asked by the successors of those leaders to make the title to its seats dependent on the ever-changing character of political majorities. The committee now ask you to deny the title of men with lawful credentials to sit and vote in a State Legislature until that Legislature itself has determined against their title under the lead of the chairman who, as a member of the same committee, declared such title impregnable.

I have confined myself in this discussion to the legal and constitutional questions raised by the amendment which I have offered. It may be proper hereafter to follow the Senators from Missouri and North Carolina through the plots of those marvelous romances which they call statements of the evidence.

The junior Senator from Louisiana seems to challenge a discussion of the methods by which his political associates have gained possession of the forces of that State. It may be that the proper time will come for his challenge to be accepted. He can hardly charge us with waving the bloody shirt if we point out to the people that the garment which he so triumphantly flaunts is both bloody and stolen. But I trust that the respect of the Senate for its own precedents and its constitutional duty will render it unnecessary in the present case to enter upon that debate.

Mr. HILL, of Georgia. I expected, not being notified to the contrary, that the Senator from Massachusetts would occupy the floor for a longer time to-day, and I am not quite prepared to go on now, though I take the floor on this question.

Mr. ROLLINS. Will the Senator from Georgia yield to me for a moment? I desire to call up a bill in regard to the water supply in the District of Columbia, which will occupy but a few moments. I have no doubt every Senator on the floor feels an interest in the matter, and will be glad to have the bill passed.

Mr. HILL, of Georgia. I will say to the Senator that if there is any other gentleman who desires to address the Senate this afternoon on the regular order, of course I should prefer to give way to him. If not, I will take the floor with the understanding that I shall have it to-morrow, and then I will give way to the Senator from New Hampshire with pleasure.

Mr. ROLLINS. I move that the Senate now proceed to the consideration of Senate bill No. 1493.

Mr. HILL, of Georgia. I simply want a distinct understanding that the regular order is laid aside informally without prejudice by to-day's adjournment.

The PRESIDING OFFICER, (Mr. DAWES in the chair.) If there be no objection, that will be the order of the Senate. The Chair hears no objection.

Mr. CONKLING. What is the proposition of the Senator from Georgia?

Mr. HILL, of Georgia. It is simply that as I am not prepared to go on with my remarks on the regular order to-day, as I have not my books here, not expecting to be called on this early in the day, I propose to let the pending order rest until to-morrow morning. My proposition is that the regular order be laid aside informally without prejudice by to-day's adjournment, with the understanding that it be taken up to-morrow.

Mr. CONKLING. And subject to a call if anybody wishes to go on with it in the mean time.

Mr. HILL, of Georgia. Of course, if anybody wishes to take the floor.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. BRUCE. I give notice that to-morrow I shall ask the Senate to consider the bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes.

Mr. MORRILL. I merely desire to say to the Senator from Mississippi that the Senator from Indiana [Mr. VOORHEES] has already given notice that he will call up the Library question, so called, to-morrow.

CONSULAR AND DIPLOMATIC APPROPRIATIONS.

Mr. EATON. I should like to submit a report from a conference committee at this time. ["Agreed."]

The PRESIDING OFFICER. The Chair will receive the report.

Mr. EATON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 3035) making appropriations for the consu ar and diplomatic service of the Government for the year ending June

30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to Senate amendment numbered 1, and agree to the same, amended as follows: In lieu of said House amendment insert the following: "For one secretary to the commission, $4,000; for one interpreter, $3,000; and for additional contingent expenses, $6,000; in all, $13,000; to be immediately available;" and the House agree to the same.

WM. W. EATON,
H. G. DAVIS,
W. B. ALLISON,
Managers on the part of the Senate.
O. R. SINGLETON,
ERASTUS WELLS,
JAMES MONROE,
Managers on the part of the House.

The PRESIDING OFFICER. Is the Senate ready for the question on agreeing to the report?

Mr. EDMUNDS. I think it ought to be explained.

Mr. EATON. I was about to say a word in regard to it. The report explains itself really. The first amendment of the Senate is amended to allow $4,000 for a secretary to the commissioners to China and $6,000 for contingent expenses. Then the Senate recedes from its action in giving a clerk to the legation at the United States of Colombia, $900. The House recedes from its objection to the action of the Senate in appointing a consul-general and diplomatic agent at Bucharest, Roumania. That is the substance of the report.

Mr. EDMUNDS. That is satisfactory to me entirely.

The report was agreed to.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee:

A bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama; and

A bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 91) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy; and

A bill (H. R. No. 4842) to reinstate R. W. Barkley as cadet midshipman in the United States Naval Academy at Annapolis.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 4753) to correct the military record of Byron Rosecrans;

A bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis; and

A bill (H. R. No. 3656) for the relief of John Hohstadt.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry; and

A bill (H. R. No. 5532) establishing a life-saving station at Louisville, Kentucky.

The bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 196) authorizing the removal of tobacco in process of manufacture was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Pilatka military reservation in Florida was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 2793) for the relief of Rachael Martin was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 624) granting a pension to Robert S. Goodall;
A bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn;
A bill (H. R. No. 745) granting a pension to Colby Hornaday;
A bill (H. R. No. 748) granting a pension to Rebecca S. Allen;
A bill (H. R. No. 751) granting a pension to Harvey Burk;
A bill (H. R. No. 753) granting a pension to Thomas J. Jackson;
A bill (H. R. No. 1463) granting a pension to Edward H. Lieb;
A bill (H. R. No. 1470) granting a pension to Francis H. Bird;
A bill (H. R. No. 1569) granting a pension to William H. Walker;
A bill (H. R. No. 1938) granting a pension to John H. McBrayer;
A bill (H. R. No. 2120) granting a pension to Bernard Brady;
A bill (H. R. No. 5542) to increase the pension of Samuel Baker;
A bill (H. R. No. 2301) granting a pension to James Kitchen;
A bill (H. R. No. 2548) granting a pension to Martha Neil;
A bill (H. R. No. 2608) granting a pension to Anna M. Wehe;
A bill (H. R. No. 2637) granting a pension and arrears of pensions to Johanna Meehan and minor children;
A bill (H. R. No. 3017) granting a pension to William Bryant;
A bill (H. R. No. 3487) granting a pension to James Forsyth Harrison;
A bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased;
A bill (H. R. No. 3556) to place upon the pension-roll the name of P. S. Rush; and
A bill (H. R. No. 3557) granting a pension to Peter Julius.

DISTRICT WATER SUPPLY.

Mr. ROLLINS. I ask the Senate to proceed to the consideration of the bill (S. No. 1493) to regulate the use and prevent the waste of Potomac water in the District of Columbia.

Mr. DAVIS, of West Virginia. I have no wish to interfere with the Senator from New Hampshire, but I wish to ask the Senate as soon as his bill is concluded to take up the joint resolution we were considering this morning when the morning hour expired.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire, that the Senate proceed to the consideration of the bill named by him?

Mr. INGALLS. Let the bill be read, subject to objection.

Mr. ALLISON. I should like to hear the bill read.

The Secretary read the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ALLISON. It is a very important bill.

The PRESIDING OFFICER. Does the Senator from Iowa object?

Mr. ALLISON. I do.

The PRESIDING OFFICER. Objection is made.

Mr. ROLLINS. I move that the Senate proceed to the consideration of the bill. If the Senator will allow me I will say that I think, too, it is a very important bill. The Committee on the District of Columbia propose an amendment as a substitute for the bill which has been read.

Mr. HARRIS. I was just going to ask the Senator from New Hampshire to allow the bill as reported by the committee to be read.

Mr. ROLLINS. I was just going to ask that that be done.

Mr. HARRIS. Then the Senate can understand what the committee propose, and I do not think the Senator from Iowa will object to it.

The PRESIDING OFFICER. Is there objection to the reading of the substitute proposed by the committee? The Chair hears no objection, and it will be reported.

The Chief Clerk read the substitute.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill; which was reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert:

That the Metropolitan police of the District of Columbia are hereby declared to be, and made, water inspectors, and it shall be their duty, and they are hereby required, from time to time, under direction of the commissioners, to examine and inspect, without previous notice to the occupants, all premises where Potomac water is taken or used, and if at any time they shall find water running to waste on any premises, they shall forthwith report the number and locality of the premises, the name of the owner or occupant, and the character of the waste, to the commissioners of the District of Columbia.

SEC. 2. That upon the receipt of such report or of any other satisfactory evidence that water is running to waste on any premises, it shall be the duty of the commissioners to cause the water registrar forthwith to notify the owner or occupant of said premises, and if such waste is not stopped within forty-eight hours after such notice, the water supply shall be cut off.

SEC. 3. That whenever the water supply shall be cut off under the provisions of the foregoing section, it shall not be turned on again until the owner or occupant of such premises has paid to the water registrar the sum of $2.

Mr. ROLLINS. Mr. President, I desire to submit a brief statement in regard to the water supply in this District before I ask for a vote upon the bill.

The question of the water supply for this District is one which has for a long time occupied the attention of the District Committee, and one which sooner or later must demand the serious consideration of Congress. In bringing the Potomac water into the District and distributing it there have already been expended in round numbers by the United States $3,800,000, and by Washington and Georgetown $1,350,000, making a total of $5,150,000.

The consumption of water has increased from 17,554,848 gallons daily in 1874 to 25,947,642 gallons daily in 1879. Of this amount recent measurements show that 2,626,188 gallons are consumed in the public buildings, parks, fountains, &c., leaving 23,321,454 gallons for the daily consumption of the citizens of Washington and Georgetown; and yet with this supply it is a fact, and one well known to many members of this body, that a portion, and that no small portion, of this city is without any adequate supply of water. This want of water upon the upper levels is no new thing. The want was as great and the complaints as numerous ten years ago as to-day. To supply this defect Congress, July 14, 1870, authorized the laying of a new thirty-six-inch main from the reservoir above Georgetown. The daily *per capita* before this main was laid was about eighty gallons per

day. The new main when laid added at least twelve million gallons to the daily supply, and there is now an average to each person within the water limits of not less than one hundred and fifty-five and a half gallons per day, and this exclusive of the amount consumed in the Government buildings, parks, fountains, &c., and yet with this supply a large proportion of the people are without an adequate supply of water. As to the inadequacy of the supply in certain portions of the water district there is no dispute, and the question is, what is the remedy?

Two proposals have been made: one to lay another thirty-six-inch main from the reservoir to Capitol Hill solely for the use of the high grounds; and the other to extend the conduit to the north side of the city; either involves the extension of the dam at Great Falls across the river, and with this the first will cost with the present price of iron some $700,000, and the other from a million to a million and a half dollars. In either case the cost must be paid by the United States, for with a District debt which now amounts to about 25 per cent. of the taxable valuation of the District there is no available balance of credit which could be pledged for this additional amount unless the credit of the United States is pledged for it. We may assume, therefore, that if this expense is to be incurred it must be incurred by the United States. But in the investigation of this question certain facts have been developed to which I desire to call the attention of the Senate.

I find by reference to the reports of the water registrars for many years back that it has been fashionable in accounting for the inadequate supply of water upon the high ground, to charge that it was due to the enormous waste of water in the Government buildings. These wise gentlemen seem to have been laboring under the impression that this costly aqueduct was the sole property of the District, and the United States were mere tenants at sufferance. They seem to have entirely forgotten that the aqueduct was built by the United States, and the people of the District have no rights except to the surplus water, and that the right was reserved to cut off this supply whenever the needs of the Government should require it. Again, there are some further facts which do not seem to have attracted the attention of these exceedingly competent persons who have been kept in charge of the water department of the District.

The reports of the engineers in charge of the water supply of different cities in the United States and Canada show the average daily *per capita* consumption of water in twenty cities to be as follows:

	Gallons.
Providence	25
Fall River	26
Lowell	33
Lynn	34
Rochester	35
Columbus	43
Lawrence	44
Milwaukee	53
Cambridge	55
Saint Louis	56
Cleveland	56
Cincinnati	57
Philadelphia	58
Brooklyn	63
Montreal	69
Boston	75
Toronto	77
Buffalo	87
Detroit	105
Chicago	119

This table shows an average daily consumption, in the above-named cities, of 58½ gallons to each person. It thus appears that the daily *per capita* consumption of water in the cities of Washington and Georgetown (155½ gallons) exceeds the greatest *per capita* consumption in either of the cities named by 36½ gallons; while the average daily consumption to each person in the twenty cities above named is but little more than one-third of the consumption by each person in Washington and Georgetown.

In the water registrar's report for 1875 there is a similar table of twenty-eight cities, of which the following are not included in the above:

	Gallons.
New York	100
Albany	80
Jersey City	99
London (England)	29
Liverpool (England)	23
Glasgow (Scotland)	50
Edinburgh (Scotland)	38
Dublin (Ireland)	25
Paris (France)	28
Tours (France)	22
Toulouse (France)	26
Lyons (France)	20
Leghorn (Italy)	30
Berlin (Prussia)	20
Hamburgh (Prussia)	33

The only deduction made, however, is contained in the following statement:

These figures illustrate the more than abundant supply of water in American cities and the very meager supply to European cities and capitals.

Adding these to the former and the average daily *per capita* supply in the thirty-five cities is fifty-one gallons, or less than one-third of the *per capita* supply in Washington. Taking these figures as a basis the present daily supply in this District ought to be sufficient for a population of at least half a million, exclusive of the quantity consumed by the Government, and yet it is a fact that it is not sufficient for a population of not over one hundred and fifty thousand, because not an inconsiderable portion of this one hundred and fifty thousand are practically without water supply.

There are according to the reports about eighteen thousand places in the District where water is taken. Of these, according to the letter of the commissioners to the water-takers, 14,970 are classed as houses, meaning, I suppose, dwelling-houses. The average daily consumption of each place where water is taken is 1,460 gallons. It also appears that in the two cities there are 25,656 houses, of which 10,696 do not take water. Assuming that the population is upon the average evenly distributed among the twenty-five thousand houses, two-fifths of them do not take water, and if we distribute the average daily consumption among the three-fifths who do take water, the daily *per capita* supply is 260 gallons instead of 155½. But in these fifteen thousand houses, can any one tell me what possible practical use can be made of an average of 1,460 gallons of water per day? Taking the population at one hundred and fifty thousand, there is an average of six persons to each house. What possible practical use can each one of these persons make of over 240 gallons of water daily; 6 barrels *per capita*? It is absurd to suppose that this amount of water can be used for any legitimate purpose, but it is an absurdity which never seems to have struck these astute officers who have been kept in charge of the water department. The conclusion is inevitable that there is and has been for years an unparalleled and enormous waste of water, and from all that I have been able to learn there does not seem to have been any serious attempt made to check or restrain it.

The thirty-six-inch main was completed in 1872. It added, as I have said, over 12,000,000 gallons daily to the water supply, and was intended to relieve the wants of the high grounds. There was then an ample supply on all the low grounds, and yet when this additional supply was brought in it entirely failed of its object; it was all swallowed up before it reached the people on the higher levels. The supply then was no better than before, and no better than it is to-day. The additional supply was brought here, it has been daily consumed ever since; but it has not been consumed by the people who were then and are now in need. The people on the low grounds simply opened their spigots and let it run to waste.

Another fact may be noticed here. In the summer of 1879, while engaged in superintending the cleaning or repair of the Tiber sewer, the attention of the inspector was called to the large quantity of water flowing out of the Indiana avenue sewer, which drains the territory lying substantially between Indiana avenue and N street north, and from First to Seventh and Eighth streets west. The result of his investigations was summed up in a report made July 9, 1879, to the engineer of the District:

ENGINEER DEPARTMENT, D. C.,
Washington, July 9, 1879.

SIR: I have the honor to call attention to the great flow of water through the Indiana avenue sewer as indicating the locality of great waste of Potomac water. Measurements made yesterday, July 8, at 4.30 p. m., show a stream 11 feet wide 2½ inches deep flowing 5 feet per second = 11.455 cubic feet per second = 989,712 cubic feet or 7,400,000 gallons per diem.

It should be remembered that this flow is during a drought of thirty days' duration.

Very respectfully,

JOHN J. BURROWS,
Inspector Engineer Department.

Lieutenant R. L. HOXIE,
United States Engineers.

On April 21, 1880, the engineer sends this report to the commissioners with the statement that his attention has just been called to it, and he transmits it as pertinent to the question of the waste of water:

ENGINEER DEPARTMENT, D. C.,
Washington, April 21, 1880.

MAJOR: The report of J. J. Burrows, inspector, relative to the waste of water, is transmitted herewith.

My attention has just been called to this report made about a year ago, upon the occasion of repairing this sewer, and I transmit it as pertinent to the question of waste of water.

It is probable that the computation is excessive. The surface velocity observed in so shallow a stream would be greatly in excess of the mean velocity and give a greatly exaggerated flow.

The area of drainage of this sewer is marked in color upon the inclosed map. It is not a locality where great waste would be anticipated. The City Hall is the only public building in this area and Judiciary Square occupies a large part of it.

The sewer is in the bed of an old water-course, and living springs are flowing through it. I am of the opinion that the principal waste of Potomac water is not in this section of the city.

Very respectfully,

R. L. HOXIE,
Lieutenant Engineers, U. S. A.

Major WM. J. TWINING,
Corps of Engineers, U. S. A., Engineer Commissioner, D. C.

Now, I am told that there was formerly a run where this sewer was put down, and from what I can learn of the original nature of the ground there may very likely be springs there, but in the extension of the sewer system it is undoubtedly true that many of the sources of this old stream have been cut off and carried in other directions, and therefore, in order to make due allowance for these things, I will deduct one-half from this estimate and reduce the 7,400,000 to 3,700,000 gallons. This latter amount would give a supply of twenty-five gallons *per capita* to each and every inhabitant of Washington and Georgetown, equal to the *per capita* supply of the city of Providence. I find

Rhode Island is getting to be a State which is cited as an authority upon questions of practical ethics and morals. Nay, I will do better than that. I will throw off the odd 700,000 gallons, or a *per capita* supply of fifty gallons per day for 14,000 inhabitants, which must be an ample estimate for the population of this section, leaving a daily waste of 3,000,000 gallons.

Looking at the map of the city I should say that the territory drained by this sewer is not more than one-fifth of the territory which is at or below this level, and if so we have a wastage of some 15,000,000 gallons per day upon this average rate, while the engineer suggests that this is not a locality where great waste would be anticipated, the City Hall being the only public building in it and Judiciary Square comprising a large part of it.

If this report has only just been called to the attention of the officer to whom it was made, it is a fact which is somewhat remarkable. If the statements were true it certainly should have excited the attention of those who had charge of the matter, and if the calculations were exaggerated it need not have taken all this time to have suggested the doubt, and if there was doubt to have determined it by further tests.

Any one who investigates this matter cannot fail to be convinced that the absolute actual waste of water here is enormous, and they will concur in the statement made by one of the commissioners that if one-third of this waste can be stopped there will be an ample supply for all.

This is not the only city which has been troubled by this question of waste. I doubt, however, if there is another where the waste is so outrageous, and where so little has been done to check it. The District authorities have claimed that it was impossible, but the impossibility seems to consist in the fact that the people who commit this waste object to any measures which will tend to prevent it. They seem to think that it is the duty of Congress to bring in such a quantity of water that they can have a constant stream flowing from every spigot. They object to any increase of water rents. They denounce water-meters, which would make them pay for what they use and waste, and they are horrified at a proposal to authorize the police to investigate the waste and denounce it as an infringement of the most sacred rights of an American citizen. They do not break into their neighbor's houses and steal the stores he has purchased for his family, but they do him as great a wrong when they take from him his water supply for which he has paid.

> The rogue ne'er feels the halter draw
> With good opinion of the law.

And perhaps naturally enough these wrong-doers object to any law which would have a tendency to restrain their water thieving.

It has never been the practice of the law-making power, when it undertakes to pass laws to suppress wrongs, to pay any great attention to the objections of the wrong-doers or to refrain from legislation lest their finer feelings should be injured. If the citizens want their constitutional rights tenderly cared for, let them cease to infringe upon the rights of others.

Here is a great and crying evil which we ought to undertake to correct. We have once undertaken to correct it, but the wasting capacity of these water cormorants rendered the attempt a failure, and we never can correct it in that way unless we bring to this city a supply of water which is beyond the capacity of their pipes to discharge. The only other mode is to adopt some means to prevent waste. The figures show that we now have a supply of water amply sufficient for all practical uses to accommodate a population twice as large as the District now has if this waste can be stopped. There are several ways of effecting this. We may reduce the size of the service pipes so that they will not discharge over a given quantity in the twenty-four hours—a course which is said to be open to various objections—or we may adopt the device which is gaining ground in other cities: compel the attachment of water meters and make every water-taker pay according to the quantity used. The first mode will stop waste for the reason that they cannot get it to waste; and the other will have the same effect; for while these respectable citizens pay no regard to the rights of others they will pay some attention when the invasion affects their own pockets. They may be perfectly willing to waste water when some one else pays for it, but they will be careful of the waste which is to be paid for by themselves.

I have no doubt the question before long will narrow itself down to this: whether we shall spend a million and a half of dollars to bring more water into the city for these people to waste or spend $150,000 for water-meters to prevent the present waste, and furnish a full supply to everybody unless the bill which is now pending and under consideration shall become a law and the citizens of the District will heartily co-operate with the proper authorities in securing its enforcement and thus prevent this undue waste?

The measure proposed by the committee stops far short of what in my judgment ought to be done. The facts developed show that it is time we should adopt stringent measures to prevent the outrageous waste which now exists, and if we do not do it now the time will soon come when we shall be compelled to take that course. But the measure proposed is a step in the right direction. If there is any right of search, it is confined to a set of men who are known and can be identified and made answerable for any excess of power exercised, and not to an irresponsible set of water inspectors. It appears to me very remarkable that this question of waste has never seemed to attract serious attention from the officers in charge of the water department. They would seem to have found it difficult to reasonably account for the water consumed, but they never seem to have admitted for a moment that any citizen of the District could have been capable of committing waste, but have charged it all to the General Government. I do not pretend to say that it was either ignorance or inefficiency; but there has evidently been a want of familiarity with the subject. The size of the supply-pipe of every public building is known, and with the other data accessible it is a mere arithmetical calculation to determine the quantity of water which can be drawn in a given time; and the result of the examination under the direction of Colonel Casey, which varies but a comparatively small amount from other independent calculations, shows that this stereotyped charge is without foundation.

Of the thirty-five cities included in the statement I have given but five exceed 80 gallons *per capita*, and the average of these five is 102 gallons *per capita*, or 53½ gallons less than the consumption in this District; and let me again remind you that the 155½ gallons *per capita* in this District is exclusive of the quantity used in the Government buildings, and this excess is greater than the *per capita* consumption of twenty of the remaining thirty cities. The average daily *per capita* consumption in these thirty cities is a little less than 43 gallons, or 112 gallons less than the *per capita* consumption here.

In all my investigation of this subject I confess that I have not been able to find any sound or unsound reason why a citizen of this District should require to use per day one hundred and thirty and a half gallons of water more than a citizen of Providence and a majority of the European cities, or about one hundred more than Saint Louis, Cincinnati, or Philadelphia, or thirty-six and a half more than Chicago, which is the highest of the thirty-five.

Again, I cannot help coming to the conclusion that the mode in which the water-rents are assessed is unequal and unjust. As at present arranged the tax is upon the size of the house, and any two houses of the same width and of the same number of stories is charged the same, although the one may have but one spigot and the other may have the water carried to every room, and as a natural consequence will use much more water.

Of the 25,656 houses in the two cities, 14,970 pay a water-rent, while 10,696 do not. Knowing that there are but few facilities in either city for procuring water outside the Potomac pipes, we may safely assume that the great majority of these 10,696 are supplied from that source in some way and escape payment. What reason is there that the three-fifths who do pay should also bear the burden of the other two-fifths who do not pay? If those only pay who have the water introduced into their premises, those who live by sponging upon their neighbors or drawing upon street hydrants escape their share of the burden, and in order to correct this inequality it may be necessary to charge all the water expenses to the general fund, so that all shall pay in proportion. But this would not relieve us from the necessity of making some provision to regulate the use and repress the waste of water.

The committee estimate that the mains at present have a capacity to deliver 26,000,000 gallons daily. Deduct from this 3,000,000 for Government buildings and it leaves 23,000,000 gallons for the citizens. At the rate of fifty gallons per day for each and every man, woman, and child in the water district they would require 7,500,000 gallons daily, leaving a surplus of 15,500,000 gallons; deduct from this 5,500,000 gallons per day for fires and other public purposes and charge the balance at one cent per 100 gallons and we have a neat little revenue of $1,000 per day or $365,000 per year, which would be amply sufficient to make the water department what it is now claimed it is not—self-supporting.

If my figures are correct, the Government may take its three millions, the District five and one-half millions, and each person his fifty gallons per day without cost, and the balance actually consumed will pay the interest and sinking fund and leave a balance on hand of some $320,000, and all this from what is now actually wasted, and by this very waste no small proportion of the citizens are deprived of their fair water supply.

On this question there is no need to resort to suppositions or discussions of theoretical questions. The facts are plain and undisputable, and the conclusions to which they lead are apparent and unanswerable. There is but one course to take, and that is to adopt some means to stop this waste, and the question is whether this Congress will hesitate to take any step which will tend to accomplish that object.

In this connection I wish to call attention to the condition in which Liverpool found itself a few years ago with sixty gallons of water for each individual in the city. It was supposed that owing to the increase of population they would not have water enough, so they took means to diminish the waste, and they did it effectually, and now the supply of Liverpool is twenty-three gallons a day and all have enough, while here we have one hundred and fifty-five and one-half gallons a day with a very inadequate supply. In regard to the experience at Liverpool, I present a statement of the case as made in a New York paper recently:

> In this connection the course pursued by the city of Liverpool affords an example worthy of being followed. New York now consumes nearly one hundred gallons per head per day, and Liverpool used to consume sixty gallons until the new system was reduced to practice, since which time the daily consumption is only twenty-one gallons per head. In other words, Liverpool, by cutting off waste,

has practically trebled its water supply. The city has about six hundred and seventy thousand population. The water engineer, Mr. Deacon, divided the city into two hundred and thirty districts, so arranged that each district could be shut off from all the others and supplied by a single pipe. Each district has a large water-meter placed under ground near the line of the pipe and connected so that all the water for the district can be made to pass through it. These meters record the rate of flow for every minute of the day, and by means of them it was ascertained that in some districts using sixty gallons per head a day the flow of water between midnight and five a. m., when industries are at rest and the population asleep, was at the rate of forty-six gallons per head. That meant that nearly five-sixths of the total consumption of water was simply waste. The district in which the waste was greatest having been ascertained, the inspectors were set to work to find out at what houses the after-midnight flow occurred. These houses were then visited by day inspectors, and in nearly all leaking pipes or defective faucets were found. This thorough and effective plan of remedying waste only requires seventeen inspectors to do all the work and make all the repairs, and the system works so well that the water supply in Liverpool—once very deficient—is now equal to all demands upon it for many years. The Liverpool method, so simple and admirable, is being adopted in other places, and should be imitated in this country.

Mr. INGALLS. I move to amend the amendment of the committee by striking out, after the word "inspect," in line 7 of section 1, the words "without previous notice to the occupants," so as to read: "to examine and inspect all premises where Potomac water is taken or used."

Mr. ROLLINS. If this amendment is agreed to it will effectually prevent any practical benefit from this bill. If we are going to notify the parties who allow water to run to waste that at a given moment a police officer will come to see whether the water is running to waste on the premises or not, it will very likely be discovered when the police officer arrives there that there is no water running to waste. There is a very easy and effectual way for the people of this District to prevent a visitation from police officers: all they have to do is simply to stop this waste of water, and then no one will trouble them with a visitation, then no police officer will have occasion to go on their premises. Unless the Congress of the United States are prepared to appropriate $150,000 or more for meters or to expend from a million to a million and a half dollars more for the purpose of extending the aqueduct, there is no other way in which the supply can be made adequate.

Mr. HOAR. I understood the answer of the Senator from New Hampshire to this amendment to be that if people did not want their places visited arbitrarily by the officers of the law all they had to do was to stop wasting the water; but I understand that this paragraph requires the police to enter without notice to the occupant the premises where water is wasted, so that they have got to enter without notice every water-taker's house in the city whether he allows the water to run to waste or not.

Mr. McMILLAN. If the Senator from Massachusetts will observe there is a qualification there that this visitation is under the direction of the commissioner.

Mr. INGALLS. How does that improve it?

Mr. HOAR. The point ought to be met. The point is that as the section stands these police officers have got without notice, whether they do it under the direction of the commissioner or under any other direction, to go to every water-taker's house. It is an absolute direction to visit everybody. Therefore the Senator from New Hampshire does not answer the point when he says that if there is no waste of water there will be no visitation.

Mr. ROLLINS. I do not see any great harm that is going to happen to the people of the District of Columbia if an officer is allowed to enter the premises of a user of Potomac water. The gas-meter inspector goes into houses without notice under the law to ascertain the condition of the gas-meters. The number of places where water runs to waste is not so very large, and it will grow smaller whenever steps are taken to repress the waste. When people understand that if they let water run to waste their places may be visited by a police officer, a responsible party, a party well known, they will be more careful, and it seems to me no great harm can come to the District.

Mr. HOAR. That does not answer the point. Are they not to be visited equally if they do not let their water run to waste as if they do?

Mr. ROLLINS. I do not understand that that is so at all.

Mr. TELLER. How are they to know whether the water is running to waste? Must they not go into every house?

Mr. ROLLINS. Common rumor will inform them of many places, and they can visit those places.

Mr. TELLER. Common rumor is an unsafe guide.

Mr. INGALLS. Mr. President, there is an old saying that an Englishman's house is his castle, and I think some orator commenting upon that fact said that though the winds of heaven might whistle around an Englishman's cottage the king of England could not. There have been a great many battles fought and a great many conflicts to secure the right of every man to the peaceful occupation of his own premises, and we have inherited from our English forefathers those ideas which have been embodied in the Bill of Rights to our own Constitution, which declares that every man's premises shall be secured from unwarrantable searches and his property from seizure, and that no warrants shall issue unless there is a positive oath or affirmation showing the premises that are to be searched or the person or thing that is to be seized. While it may be true that this is not what might technically be called a search, yet this bill, if the clause to which I have called attention is allowed to remain, would be a most unwarrantable and burdensome invasion of the private rights of every citizen of this District. It would be the grossest tyranny, the most abominable and unendurable despotism, to say that the police of this District at any hour of the day or night, without the oath or affirmation of any citizen that any act in violation of law had been committed, should be allowed to enter the premises of the citizen and, if entry were refused, to break down the doors, because that is the complement of the right to enter.

Mr. BUTLER. Will the Senator permit me to ask him a question?

Mr. INGALLS. Yes, sir.

Mr. BUTLER. Would the act of a police officer under this bill be more oppressive and a greater invasion of the privacy of the premises of an individual than the entrance of an inspector to ascertain whether a nuisance existed or any kindred subject of that kind?

Mr. INGALLS. I do not propose to discuss the whole field of law upon this subject nor to institute comparisons between invasions of private right. If the Senator from South Carolina is right in supposing that under the laws of this District it is within the power of any one of these officers to enter private premises upon suspicion merely, then I say in that respect the law ought to be amended; and as the Senator from Massachusetts has well said under this bill as it now stands it is the right and the duty of the police, and the fact that it is under the direction of the commissioners does not in any way modify or mitigate or in any way detract from the offensiveness of the act, to enter without notice all premises where water is used for the purpose of ascertaining whether waste is committed or not. Unless you lay the preliminary foundation by the oath or affirmation of some citizen that waste does exist, then the police officer in carrying out the provisions of this law must enter all premises where water is taken in order to ascertain if waste occurs or not.

Mr. ALLISON. Will the Senator allow me to suggest another difficulty that I see here?

Mr. INGALLS. Certainly.

Mr. ALLISON. The first section of the amendment reads "and if at any time they shall find water running to waste on any premises." That places in the power of each of these policemen the exercise of a judgment as to what is running to waste. I should like to have it defined by some member of the committee reporting this bill what constitutes a running to waste within the meaning of this statute.

Mr. INGALLS. That is left wholly at the discretion of these officers. Of course, the Senate will perceive that the views of different policemen would vary as to what was waste. A very cleanly man might think that one hundred and fifty gallons a day was not more than sufficient, whereas a gentleman more abstemious in the use of water, who did not take quite as many baths or did not use as much about his premises, might say that twenty-five gallons was excessive. Therefore, it allows these persons to establish a varying and arbitrary system as to what shall constitute waste.

Mr. BUTLER. But the Senator from Kansas forgets and the Senator from Iowa forgets that there is a provision in the bill which puts this whole matter under the supervision of the commissioners of the District. Now, I think it fair to assume that the police officer who is made by this bill an inspector will do his duty.

Mr. INGALLS. What right has a commissioner to go into a man's house? How do you affect it, how do you change the odiousness of this provision by saying that the police officer shall do this under the control of the commissioners? What right have they to enter my premises?

Mr. BUTLER. I do not say they have any right to enter any more than anybody else unless they are authorized by law to do it.

Mr. INGALLS. The law cannot authorize it under the Constitution.

Mr. DAWES. I should like to ask the Senator from Kansas a question.

Mr. BUTLER. If the Senator will not permit me to get through, of course I shall sit down.

Mr. DAWES. The water is introduced by the United States. The United States lets each citizen have it on condition that it can enter his house and see how he uses it.

Mr. INGALLS. The water does not belong to the United States any more than the air does. I deny the title of the United States to the water in the Potomac River. The United States has constructed an aqueduct through which the water runs and they charge for the use of that aqueduct; but as to there being property in water, you might as well say there is property in sunlight or in air.

Mr. DAWES. The Senator from Kansas knows very well what I meant by that remark.

Mr. INGALLS. Why did you not say what you meant?

Mr. DAWES. Well, Mr. President, I supposed that I addressed myself to a Senator who would understand the ordinary use of language. That was my supposition. I fell into an error.

Mr. INGALLS. I think that was an extraordinary use of language, not an ordinary use.

Mr. DAWES. If the Senator will indulge me a moment more, I should like to say to him that the case is this, to be technically accurate: The United States builds an aqueduct at its own expense and carries that aqueduct to the house of each individual in this District, through which the United States permits the water, which belongs to everybody, to run. Now, the United States can prescribe just what terms it pleases upon the use of its aqueduct for the use in each man's house conducting that water which the Senator says truly belongs

to everybody. Now, one of its conditions may be that we shall have the right to enter and see how each man uses it. I agree with the Senator from Kansas that these words had better be stricken out, but not for any such fanciful notion as that the owner of a house has got a castle into which he has permitted the United States to put its aqueduct, saying at the same time, "I will keep your aqueduct here, but you shall not come and see how I use it." Not for any such reason do I vote to strike out these words; but because if you strike out these words, then it is left discretionary with the authorities whether to give notice or not, and that is the proper administration of this law. In almost every case no one would be called upon to invade a house without notice; but there might be cases prompt action would be necessary where people had got to be standing upon such fanciful notions as that the water belonged to them, no matter whom the aqueduct belonged to.

Mr. INGALLS. If the Senator from Massachusetts agrees with me in my view that the clause should be stricken out, I shall not have any controversy with him about the steps by which he reaches his conclusion. But I desire to call the attention of the Senate to the law as it now exists in this District in regard to the power of officers to search the premises of citizens. Section 398 reads:

> The major of police and the lieutenants of police, having just cause to suspect that any felony has been, or is being, or is about to be, committed within any building, or on board of any ship, boat, or vessel within the said District, may enter upon the same at all hours of day or night, to take all necessary measures for the effectual prevention or detection of all felonies, and may take then and there into custody all persons suspected of being concerned in such felonies, and also may take charge of all property which he or they shall have then and there just cause to suspect has been stolen.

The right is limited to the case of felonies such as are defined by statute.

Mr. BUTLER. Will the Senator permit me to interrupt him just there?

Mr. INGALLS. Yes, sir.

Mr. BUTLER. I should like to ask the Senator whether in his judgment a city that has expended perhaps a million or two million dollars for the purpose of developing the water-power of that city by putting down pipes and various expenditures of money has any right by ordinance to regulate the distribution of that water? That is practically what this bill is. There is no government here except the government which Congress gives the city, and this is practically a city ordinance. Now, I should like to ask the Senator if any city in the United States has not a right to regulate the distribution of the water within its jurisdiction?

Mr. INGALLS. I do not sympathize at all with the view that Senators entertain who speak about the waste of water. A community or an individual cannot use too much water unless they are drowned in it, and I do not think it is at all commendable for a city to confine itself to twenty-five gallons of water per day to every citizen. It seems to me that that is not a commendable exhibition, and that those who bring these statistics here for the purpose of governing the people of the city of Washington about what they shall use do not do well. Twenty-five gallons of water is not enough for an ordinary bath; and when you come to take into account the vast amounts of water that are necessary, especially in a semi-tropical climate like this, in the refrigeration of the atmosphere, the cleansing of the streets, the washing of carriages and houses and horses and streets and for domestic purposes and bathing, the idea of saying that it is a thing to be desired that the people should be limited and restrained to a frugal and abstemious and parsimonious use of twenty-five gallons a day to each inhabitant seems to me to be not entirely commendable.

Mr. ROLLINS. That suggestion has not been made by the committee or anybody else.

Mr. INGALLS. The Senator from New Hampshire quoted with approbation the water statistics of thirty-five cities, the lowest of which was about twenty-five gallons and the highest of which was about one hundred and nineteen gallons, and he said it was a reproach to this community that they allowed so much water to go to waste—that they used so much more water than other cities which he had named. If the Senator did not quote those statistics with approbation, what did he introduce them for?

Mr. ROLLINS. If the Senator will yield to me, I will inform him what I introduced them for. The District Committee found that in this city of Washington there is a larger supply of water than in any city in this country or any other so far as I can learn, namely, one hundred and fifty-five and one-half gallons a day. Those statistics were introduced merely to show the people of this District and of this country that we had an abundant supply here, and that there was no necessity for expending a million and a half more to extend the aqueduct so as to supply the high ground, or a million more to lay down another main.

I introduced those statistics to show that if you put down another pipe at an expense of a half million or seven hundred and fifty thousand dollars, from the present aqueduct, in all human probability when that additional supply comes we shall be no better off than we are to-day, simply because the people of this District would open their spigots and let the water run, as they have done in time past. Only a few years ago twelve million gallons were added to the daily supply of this city, but it amounted to nothing. Why? Because the daily waste increased as you increased the supply; and when the commissioners of the District of Columbia were before the committee of this branch of Congress and I asked them the question: "Suppose you increase the water supply; suppose you make it seventy-five million gallons per day instead of twenty million gallons, what reason have you to suppose that your supply will be one particle better than it is to-day?" They admitted in the presence of the committee that they had no reason to suppose that even this large addition would give the people on the high grounds of this city any additional supply. I state here now, after a careful investigation of this matter for over a year, that you may double to-day the supply of water in this District and you will not have given the people a better supply than they have to-day. The spigots will be opened and water will run to waste.

Now, I should like to say a word to my friend from Iowa in regard to the question whether water is running to waste or not. I think that is pretty easily determined. If you go into his premises or mine and find the water flowing from every spigot without let or hinderance, I think it a safe inference that the water is running to waste. I remember I said a few days ago to a citizen of this city in the neighborhood of the honorable Senator from Iowa, "We want to stop the waste of water; if we can stop this waste we have got abundance." "That is just what we do not mean you shall do," said the citizen, "we mean that the water shall run to waste."

Several SENATORS. Why?

Mr. ROLLINS. Why? Because they think it more conducive to health and happiness to have it flowing all the time, day and night, week in and week out; and that is just what these people are doing to-day. They ask the citizens of this Republic to appropriate a million and a half dollars in order that they can continue this, and then they turn around and say to us, "You have no right to enter our premises; you have no right to inquire about what we are doing; it is our right to let the water run to waste, and we will let it run to waste, no matter what you may do." That is what these gentlemen have told me over and over again.

I say that it is for the Congress of the United States to consider whether this thing shall be allowed. What do we say to them? "Gentlemen, we built you an aqueduct at an expense of four or five million dollars; we have brought the water within reach of your city, and now we are willing that you should have one hundred and fifty gallons, each man, woman, and child of you, every day of your lives, but we do insist that you shall not let the water run to waste so that the man who lives upon a little higher level than you do shall have none, or that he shall have to pump every drop that he uses," for that is the penalty you impose on the people here. This is within my own personal knowledge; I have suffered the inconvenience of it for some two or three years, and I know what it is. Here on the higher ground no water can be had unless it is pumped up, while the people upon the lower levels allow it to run to waste day and night.

Mr. KIRKWOOD. Mr. President, I am so unfortunate as to live while here in one of the higher localities in this city, and know perfectly well the inconvenience to which the Senator from New Hampshire has just alluded. While in some portions of this city the people there resident have all the water they need and a great deal more than they need, in other portions the people do not have what they need, do not have so much as they need; and just because, as the Senator from New Hampshire says, those who live on the lower level, without any regard for the rights or the interests or the feelings or the wishes of those who live upon the higher level of land, take away from them what they ought to have, this trouble exists. Now, I am astonished that this idea has not been suggested. I understand that it is as easy to measure water as gas; you can measure it as easily and as certainly. Why not require that the owner of every house into which water enters here shall place at his own expense upon the pipe leading from the main into his house a meter by which it can be ascertained how much he uses every day?

Mr. BUTLER. If the Senator will permit me just there, I wish to suggest that that question was fully considered by the committee, and it was concluded that it would be requiring the people of the District to undergo too great an expense.

Mr. KIRKWOOD. That is the point I want to come at precisely.

Mr. BUTLER. That was really the reason.

Mr. KIRKWOOD. I am told these meters can be bought for an average price of about $10 each. Is that so?

Mr. HARRIS. The information of the committee was that from $10 to $12 was the price at which the best water meter could probably be purchased.

Mr. KIRKWOOD. What burden is it to a man owning a house to put a meter at a cost of $10 on the supply-pipe leading from the main to the house?

Mr. HARRIS. Although it might not be a great burden to the waker-takers to purchase the meter, it would be to attend to its repair and keep it in order; but even if that were not true, I would not be willing to measure out gallon by gallon or drop by drop to the citizen the water that he was to consume, especially in view of the known and well-established fact that the aqueduct brings to your doors more than an amply sufficient quantity to supply every legitimate want and necessity of every man, woman, and child within the limits of the cities of Washington and Georgetown. It is not to restrain the use of water as argued by my friend from Kansas that this bill is reported, but it is to restrain the unnecessary and wanton waste of water.

Mr. KIRKWOOD. That is just precisely what I am trying to prevent.

Mr. HARRIS. We do not desire to restrain any citizen in the legitimate use of any quantity of water that may be deemed necessary for his domestic purposes and convenience.

Mr. KIRKWOOD. I do not propose to do so at all.

Mr. HARRIS. But it is a fact that there are perhaps a thousand spigots in this city that are running every hour of every day and night, not using but wasting, and so running in the lower levels you destroy the head, so that the higher levels cannot be supplied.

Mr. KIRKWOOD. I must insist upon it that the Senator from Tennessee shall not belabor me over the shoulders of the Senator from Kansas.

Mr. HARRIS. I beg the Senator's pardon.

Mr. KIRKWOOD. I am not arguing in that direction at all; I am arguing in precisely the same direction as the Senator from Tennessee.

Mr. HARRIS. And doing it so much better that I again beg the Senator's pardon for having said a word.

Mr. KIRKWOOD. What I am arguing against and what the Senator from Tennessee is arguing against is that some men in the city of Washington, following out that disposition which seems in this latter day to have become so prevalent of grasping all that they are entitled to and more than they are entitled to at the expense of others, are using more of this water than they should use. That is the trouble. A man living where he can have a full supply of water and letting every spigot in his house run free all day and night, does it. He cares not at all what becomes of the man who lives where this cannot be done. That is the trouble. Now, what is the remedy? This bill proposes one; that is that a police officer shall have a right to go into every house in the city when he desires to do so without notice and examine the spigots in the house to see whether or not water is running from them unnecessarily. Well, it seems to me that that would be a very unpleasant thing to have. To make it effective the officer must have the right to go into every part of the house at whatever hour of the day he chooses to go there to examine all the spigots and see whether or not all or any of them are running. To go to any of our large hotels he must be authorized to go into every room that is in it whenever he pleases, and it might be at times very inconvenient to have that done; very unpleasant to have that done. That is the difficulty in the way of the mode proposed by the Senator from Tennessee to do what he and I both want to have done.

I suggest, upon the other hand, that you require every householder to place between the main in the street and his house, upon his supply-pipe, a meter that shall show how much water he uses, and make him pay in proportion to what he uses. If he wants to use abundantly, let him pay abundantly; if he wants to use it in moderation, let him pay in moderation. The effect then will be this at least, that the men who live in parts of the city which cannot now be supplied as they should be supplied will not have to pay for that which is wasted by their neighbors. That is the difference.

Mr. BUTLER. Let me ask my friend if he would apply that meter to the Government spigots?

Mr. KIRKWOOD. Yes, I would. I would apply it to every one. It is the only fair way to do. The only fair way is to make men pay for what they use. And when men show a disposition to grasp that which ought to be divided among themselves and others, and to deprive those others of their equal use of it, I do not think their claim is entitled to much favorable consideration. That is my judgment.

I am told that for ten or twelve dollars a meter can be placed in each house. There is no hardship to the owner of the house in that. There is no man who owns a house that cannot well apply ten or twelve dollars to buy a meter to determine how much water he uses in it. The burden is not much, and the objection to it arises, I repeat, from the simple fact that the persons who occupy the portions of the city where water can be had abundantly are willing to use it in abundance and deprive their neighbors of the use of it. That is all there is about it, and they are not willing to pay in proportion to what they use.

Mr. HARRIS. Mr. President, the Government of the United States has, at an expense of $3,784,546.72, constructed an aqueduct by which an ample supply of water is brought to this city. It authorizes the use of this water by the citizens of Georgetown and Washington; and in distributing it throughout these cities the city of Washington and the District of Columbia have expended $1,313,351.17 and the city of Georgetown $40,000, making an aggregate of $5,137,897.89. This is the sum total of the cost of bringing the water from the Great Falls of the Potomac to Washington City and distributing it, so far as it has been distributed.

I beg to suggest to my friend from Iowa who has just taken his seat that I do not think it would be proper to undertake to measure the water that the Government of the United States shall use here, in view of the fact that the Government has brought it all here and gratuitously gives the convenience and facility of bringing it here to the people of the District of Columbia. But as a matter of fact it is ascertained from actual measurement that the amount of water consumed by the various Departments and the fountains in this city reaches only the aggregate of about three million gallons in the twenty-four hours.

Mr. EDMUNDS. How is that measurement made? By the meters?

Mr. HARRIS. Yes, sir. It was made by the engineer in charge of the aqueduct, at the suggestion of the sub-committee, last summer.

Mr. EDMUNDS. Are the meters now on?

Mr. HARRIS. No, sir. It was just a special measurement made during one period of twenty-four hours to ascertain the extent of the water used in these various Departments. That leaves twenty-three million gallons of water among the water-takers, the consumers, the people of the two cities. Dividing that twenty-three million gallons *per capita*, and assuming the District cities to have a population of one hundred and fifty thousand people, (not all of whom, by the way, are water takers; there is a pretty lage percentage of them who are not, but without deducting those who do not take the water,) assuming that every citizen of the two cities takes the water, and it is divided equally between them, we find that it amounts to one hundred and fifty-five and a half gallons per head to every soul within these cities.

Now, in answer to the argument of my friend from Kansas, I beg to state that the Government of the United States and the District of Columbia have a perfect right to say to the water-taker, "We will bring this water into your house; we will give you the privilege of using it on condition that our agent"—whether you call him a policeman, a bailiff, or by whatever name your please to call him—"shall have the right to see to it at all hours of all days and all nights that you are not allowing this water to run to waste; you to the fullest extent of your necessities have a right to use it; you have no right to waste it, and the Government has the right to demand the privilege of seeing to it that it is not wasted."

It is a matter of perfect indifference to me whether this measure of staying waste reported by the committee shall be adopted or another method that will remedy the evil. The trouble now is that, in view of the thousands of spigots that are running to waste every hour of every day, you have not sufficient head to supply the higher levels with the quantity of water that they need and are entitled to. You can remedy that evil in either of two ways: stop the waste and you have twice as much water as the legitimate uses of the people of this city can ever demand while the population remains at what it is; or extend the aqueduct. You can do that at an expenditure of a million more of money. It gives a greater head, a greater quantity. Make your main connections from the aqueduct right north of the city upon the high grounds, and then you may let these spigots that are now running to waste run on to waste, and the evil will be remedied; you will have a head sufficient to supply the highest levels or almost all the high levels of the city. There are some of them so high that any amount of head would not entirely supply them with water from the present aqueduct.

But I see no objection to allowing a policeman to enter for the purpose of ascertaining whether the water is running to waste or not. The committee, I thought, was unanimous in reporting this substitute for the bill that the Senator from New Hampshire originally introduced. It amounts simply to this, that when any place is suspected of allowing water to run to waste the policeman is at liberty to enter there for the purpose of ascertaining the fact, under the orders of the commissioners of the District of Columbia; and if he reports to the commissioners that water is running to waste around the premises, then it is the duty of the commissioners to have the water registrar give the occupant notice of the fact that it is running to waste, and if the waste is not arrested within forty-eight hours the whole penalty is that the water is cut off, and remains cut off until the occupant pays the immense penalty of $2 to have it turned on again!

Mr. KIRKWOOD. How can the question be determined whether or not the waste has been staid? What means is there to determine it?

Mr. HARRIS. By the very same means that it was determined that the waste was going on, by inspection; and when you suspect again, or have reason to suspect, look again and determine again whether the water is running to waste or being legitimately used in the premises, and if you find it running to waste all you have to do is to go through exactly the same process again, and shut the water off again.

I have regarded this as a very harmless little bill, that could by possibility injure no one, and from which I believed when it was reported and believe now that you will stay the waste, so that all the higher levels which can be supplied by the mains at their present elevation will be fully and abundantly supplied with all the water they need.

Mr. KIRKWOOD. That is just where my fear is, that it will have no effect.

Mr. ROLLINS. One word, Mr. President. Under the present regulations of the water department the police officers are water inspectors, and it is their duty to do just what this bill requires that they should do.

Mr. VOORHEES. Why do they not do it?

Mr. ROLLINS. Because there is not quite enough efficiency somewhere to make them do it.

Mr. VOORHEES. Then, in my judgment, the sooner that law is repealed the better.

Mr. ROLLINS. It is not a law.

Mr. VOORHEES. This bill, as I have just read it, fills me with amazement. It ought to be entitled "A bill to authorize a policeman to go into a lady's bed-chamber or anywhere else at any hour he

pleases." It absolutely authorizes him, on suspicion that water is running to waste, to go to any place in any house in this city. I do not know how others would do, but I should not want a policeman to come to my room, and I think he would not care to come the second time, on the suspicion that water was running to waste, and invade the privacy of my home on his mere volition and will; but that is just what this bill authorizes.

This is a bill peremptorily opening every door in this city—not the front door merely, nor the parlor door, nor the bed-room door, but every door in the house—without notice, upon the suspicion of a policeman, and he can go perambulating from cellar to garret, under the pretext of suspecting that water is running to waste, and insult and outrage the sense of propriety, decency, and security of every family in the city.

I never have encountered just such a piece of legislation as this. It is not worth while to talk about it. It does just what I have said. I believe I would rather do without water, except as I could go down to the Potomac River and get it for bathing purposes and culinary purposes, than to have to use it accompanied by the shadow of a policeman with his locust club at all times and under all circumstances. I have some old-fashioned ideas about the Constitution protecting a man's house. This bill does not seem to contemplate that a constitutional provision of the kind ever existed or was thought of. There is no security for a man in his own house under this bill. Not only does it destroy the panoply that surrounds the citizen's home, not only does it let in the wind and the storm that the Senator from Kansas so eloquently spoke of, but it tears down all the walls and doors and lays it right open, allows no privacy whatever. "A bill to abolish the privacy of homes" would be a proper title, it seems to me, to this bill. I would not vote for such a bill as this under any consideration whatever. It is an utter impossibility for me to do so.

You may tell me that the police would not abuse this privilege. I would not give such a privilege to any human being born of woman. I know policemen are generally a high and refined set of people, and would not take advantage of the fact that every door is to fly open before them that they may go into the privacy of domestic circles; but at the same time I would rather not trust them.

I was educated in an old-fashioned school not to trust men with too much power in government if I could help it. I have been taught to believe that the abuse of power feeds on the opportunity. Give a man the opportunity to abuse power over his fellow-men and fellow-women, and although he may have been before a pretty good fellow, conservative, and behaved himself well, the very temptation to tyrannize and use power is apt to lead to abuse. This is breaking down every barrier that has hitherto surrounded the homes of the citizens in the District of Columbia; and when Senators vote for it let them take into consideration that they are not merely voting for the right of the police to invade on the high and awful question of a little waste of water everybody else's home, but their own too; and if perchance a stalwart policeman with his club should come tramping up the stairs to the bed-room of a Senator and without previous notice (as we are called upon here to get leave to introduce a bill without previous notice) introduce himself into his bed-room, that Senator would have nobody to complain of but himself if he votes for this bill.

The Senator from Iowa advanced the view that I take of this subject, and the one that ought to be adopted. There are splendid water-works in the city where I live, and I am satisfied there would have been an armed rebellion, as much so as ever Virginia or Tennessee was in, if anybody had proposed there that the police should regulate the spigots, go in and see whether a drop or two was wasting at the point of one. Our regulation there was such as was spoken of by the Senator from Iowa, a meter system, by which a flow of water into a house could be measured and the value put upon it. No one there ever thought of such a thing as this. To my mind it is a matter of amazement; I am astounded that it is seriously proposed to place the homes and houses of everybody on such a subject as this at the mercy of the police. There is no room so private but what water is needed, and no room where the suspicion of a policeman may not carry him under this bill.

Mr. BUTLER. Mr. President, inasmuch as I voted for the bill in committee, I think perhaps it would be as well to notice some of the remarks which have fallen from my friend from Indiana. I think he will not go further than I do in any attempt to restrict the abuse of power. But when the Senator says he is amazed and astounded and overwhelmed with surprise at this bill, and that it may be very well designated a bill to invade the privacy of the private houses of the city, I confess to some amazement on my part. He proceeds upon the hypothesis that every policeman in the city of Washington is a vagabond and a ruffian, and that the governors of this city are vagabonds and ruffians. Why, Mr. President, I do not think that a fair presumption. While it may be true that if this bill should become a law it may work hardship in some cases, I do not believe with the Senator that any policeman acting under the authority of the commissioners, the governors of this District, will invade the privacy of any family in an improper manner.

Unless I am very much misinformed there is not a city in this country which has not in some form or other, either in its ordinances for the preservation of health or for the distribution of water or in some other respect, ordinances equally oppressive upon the face of them as this is.

My friend from Indiana talks about being opposed to oppression under the law. Why, Mr. President, there is not a cross-roads in this country that cannot be invaded this very day under the laws for the collection of the revenues of this country; and in his own State and in my State I venture to say that any revenue officer under the power for the collection of revenue has a perfect right to go into any store and almost to enter any private house to ascertain whether or not the revenue laws have been violated.

Your committee were placed in this dilemma, after the most elaborate, patient, full, complete investigation of this water question; to decide whether the United States Government was prepared to expend a million or a million and a half of dollars for the purpose of enabling the citizens of this District to have all the water they wanted, or whether they would attempt to impose some restriction upon the waste of water. We discussed the propriety of putting in water meters; but there are a great many poor people in this city and in the city of Georgetown to whom the expense of putting in a water meter would really be a hardship and a burden; and as the chairman of the committee very properly said, we have no desire whatever to put any improper inhibition upon the use of water; it is the abuse of it that we seek to stay. After canvassing, after considering the expense of extending the conduit and putting in additional pipes upon the estimates of competent engineers, we concluded that it would be better to make the effort, at least, by this mode of inspection, rather than incur the expense of extending the conduit.

The mere fact of giving a policeman power to have an inspection is not such an evil as is represented. In the very health ordinances we passed the other day inspectors are provided for in numbers of instances with the very fullest powers; and it seems to me that we must do one of two things: make up our minds to expend a million and a half of dollars, or put this power somewhere. If the Senator from Indiana can suggest any better way or any better place, I have no doubt the committee will adopt his suggestion; but we must put the power somewhere to check this abuse. It seemed to me and it occurred to the committee that this was as mild a form as any in which we could place it. It may be, possibly will be, as the Senator from Indiana anticipates that abuses may occur; but I cannot believe it to the extent indicated by the Senator from Indiana. I think it would be an unfair presumption to suppose that the honorable gentlemen who are the commissioners and governors of this District would permit any policeman or any inspector to violate the privacy of the homes of the good people of this city in the manner indicated by the Senator from Indiana.

Mr. VOORHEES. A single word; I shall not detain the Senate. In what I have said with regard to this bill I wish to assure the Senator from South Carolina and all the rest of the committee that I did not impeach the committee itself at all. But I wish to correct a statement made by the Senator from South Carolina. He said that I assumed that the policemen in this city were blackguards and ruffians. I have assumed nothing of the kind. I would not legislate to allow the most cultivated and refined human being that walks this earth to enter the privacy of my home, without notice, on any pretext. The Senator from South Carolina says he does not think the police of this city would abuse this power. I do not know whether they would or not. They never will get the chance to abuse it by my vote.

There is but one way on these questions of abuse of power, and that is to never permit the opportunity. Whenever you do, the opportunity will be embraced. The Senator from South Carolina seems to like the arbitrary rigor of the revenue laws of the United States. I think about one-half of them are unconstitutional. Our whole revenue system proceeds on the supposition that men are thieves without being proven so, and can be arrested without warrant.

Mr. CONKLING. Will the Senator from Indiana hear me a minute?

Mr. VOORHEES. Yes, sir.

Mr. CONKLING. As I understand these statutes—and I agree with very much that the Senator has been saying—an officer has a right now to go into any house and turn off the water at his will and pleasure, and it is done continually and oppressively as I think, and I will not vote any more than the Senator from Indiana says he will, for any more tyrannism and martinetism over the people of this District.

Now, if the Senator will pardon me, I will tell him one thing which happened here which has been brought to my notice several times. Here comes a man, a member of Congress or somebody else, and leases a house on the 1st of December until the 1st of June, and it is owned by somebody who does not live here, or some real-estate agent manages it. He takes his lease, he pays his rent. The first thing he knows some officer of the water-works appears, turns off arbitrarily the water, charges $2 for doing that, and when he comes to inquire why this is he is told that a previous occupant of that house had not paid the water-rent for a previous time, and if he will pay the rent from the June before and pay $2 for having this water turned off then, they will come and turn it on again with those iron tongs that they carry for the purpose.

I want to say to the Senator from Indiana that no such thing as that happens in the place where I live, although there is a water-works company there, nor does it happen I undertake to say in any city of which I have any knowledge except this city, and we are going on by degrees until we shall establish such a net-work of arbitrary petty tyranny over the people in this District that a householder here will need to be drilled in the manual of the soldier before he will be

able to go through and escape conviction or something else under all these statutes.

I am sorry to have interrupted the Senator so long, but I wanted to call his attention to the present condition of things and I will join with him in voting against anything to make it any worse.

Mr. VOORHEES. The Senator from New York has made so much better a speech than I could, that I will surrender the floor to anybody who wishes it now.

Mr. HOAR. I move to amend the section by adding:

Provided, That no such entrance shall be made into any dwelling-house without the consent of the occupant.

I think that will meet probably the views of the committee; I know it will those of some of the committee.

The PRESIDING OFFICER, (Mr. PLATT in the chair.) The Chair will state that there is an amendment pending now to an amendment.

Mr. HOAR. Then I give notice of this. The point is this: A very large proportion of this waste takes place in livery stables and in manufactories and shops and stores, places which are established for the purpose of constant access of the public, and therefore there is no objection to subjecting them to the general provision of the bill. Ninety-nine per cent. of the occupants of dwelling-houses, if a police officer went and said "I think your water is running to waste," would let him come in and see, would say "yes." So that will be all provided for you.

Mr. VANCE. Will the Senator from Massachusetts allow his amendment to be reported at the Clerk's desk, so that it can be heard?

Mr. HOAR. In a moment. I will repeat it again myself. So that the only thing the committee would have left unprovided for would be the case where a policeman had gone in a reasonable, dignified, and respectful manner, and the owner or occupant of the house should refuse, and that of itself would be enough to put the commissioners on their guard and lead them to take proper steps, whatever those steps are; so that it seems to me this amendment, if adopted, will obviate all the objections which have been made against invading the security of dwelling-houses, and the substance of the committee's desire will be accomplished.

The PRESIDING OFFICER. The Senator from Massachusetts gives notice of an amendment which he proposes to offer when it shall be in order. It will be reported at the Clerk's desk for information.

The CHIEF CLERK. The proposed amendment is to insert:

Provided, That no such entrance shall be made into any dwelling-house without the consent of the occupant thereof.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at five o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 10, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read.

CORRECTION.

Mr. MASON. Mr. Speaker, on Saturday last I made several reports from the Committee on Invalid Pensions, and among others was the favorable report of a bill (H. R. No. 117) granting a pension to Martha Westervelt, which was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed. The Journal omits any statement of that report. I move to amend the Journal in that regard.

The SPEAKER. The correction will be made accordingly.

The Journal of Saturday last was then approved.

LEAVE TO PRINT.

Mr. BAYNE. I ask to make a correction of the RECORD. It is the RECORD of May 8. I did not discover the subject-matter I desire to have corrected until yesterday. It is a speech which was allowed to be printed in the RECORD, but not delivered in the House, by Mr. WILLIS, of Kentucky, and relates to statements as to the value of public buildings at various points.

The SPEAKER. That is not a correction of the RECORD.

Mr. BAYNE. I ask leave of the House to print some remarks in reply to the statements made by the gentleman from Kentucky, [Mr. WILLIS.]

There was no objection, and leave was granted accordingly. [See Appendix.]

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1881, and for other purposes; and

An act (H. R. No. 4227) for the relief of settlers on public lands.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for the introduction of bills and joint resolutions, for reference to their appropriate committees. Under this call memorials and joint resolutions from State and territorial Legislatures, and also resolutions calling upon the Executive Departments for information, are in order for reference.

UNIFORM SYSTEM OF BANKRUPTCY.

A MEMBER. There was unfinished business.

The SPEAKER. At the adjournment Monday last a bill then introduced by the gentleman from Nevada [Mr. DAGGETT] was being read. The Chair supposes that the gentleman does not desire to have the bill read any further.

Mr. DAGGETT. I do not.

Mr. DAGGETT introduced a bill (H. R. No. 6113) to establish a uniform system of bankruptcy; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SURVEY OF THE RAILROAD SUBSIDY LANDS.

Mr. DAGGETT also introduced a bill (H. R. No. 6114) to provide for the survey of lands within railroad subsidy limits; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

NAVAL CONSTRUCTORS.

Mr. BRIGGS introduced a bill (H. R. No. 6115) to amend sections 1522, 1402, and 1403 of the Revised Statutes, relative to the appointment of naval constructors and assistant naval constructors; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MARGARET DOODY.

Mr. HALL introduced a bill (H. R. No. 6116) granting a pension to Margaret Doody; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL-BANK NOTES.

Mr. LOUNSBERY introduced a bill (H. R. No. 6117) to amend section 5171 and repeal section 5176 of the Revised Statutes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WILLIAM H. M'MAHON.

Mr. CROWLEY introduced a bill (H. R. No. 6118) granting an increase of pension to William H. McMahon, at $36 per month; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ESTATE OF RENSSELAER REYNOLDS, DECEASED.

Mr. KETCHAM introduced a bill (H. R. No. 6119) for the relief of Henry S. Van de Carr and Elsie M. Reynolds, administrators of the estate of Rensselaer Reynolds, deceased, and Gordon B. Reynolds; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

JOHN E. WUNDERLIN.

Mr. CAMP introduced a bill (H. R. No. 6120) granting an increase of pension to John E. Wunderlin, late a private in the Thirty-third Regiment of New York Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN W. GUMMO.

Mr. COFFROTH introduced a bill (H. R. No. 6121) to remove the charge of desertion from the military record of John W. Gummo, late a private in Company F, Twelfth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES COX.

Mr. COFFROTH also introduced a bill (H. R. No. 6122) for the relief of James Cox; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JACOB D. FRIES.

Mr. COFFROTH also introduced a bill (H. R. No. 6123) granting an increase of pension to Jacob D. Fries; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH SMITH.

Mr. COFFROTH also introduced a bill (H. R. No. 6124) granting a pension to Elizabeth Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES N. GARRETT.

Mr. RYON, of Pennsylvania, introduced a bill (H. R. No. 6125) for the relief of James N. Garrett, postmaster of the borough of Tremont, county of Schuylkill, State of Pennsylvania; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

MALINDA HENRY.

Mr. HOUK introduced a bill (H. R. No. 6126) granting a pension to Malinda Henry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AVEY M. BALES.

Mr. HOUK also introduced a bill (H. R. No. 6127) granting a pension to Avey M. Bales; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ST. LEGER KING.

Mr. HOUK also introduced a bill (H. R. No. 6128) granting a pension to St. Leger King; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID G. BURNETT.

Mr. JONES introduced a bill (H. R. No. 6129) for the relief of the heirs of David G. Burnett; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ALEXANDER S. HUGHES.

Mr. BRENTS introduced a bill (H. R. No. 6130) for the relief of Alexander S. Hughes, of Washington Territory; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

FEES OF OFFICERS, WYOMING TERRITORY.

Mr. DOWNEY introduced a bill (H. R. No. 6131) relating to an act of the Legislative Assembly of the Territory of Wyoming; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

LEASES, YELLOWSTONE NATIONAL PARK.

Mr. DOWNEY also introduced a bill (H. R. No. 6132) to amend section 2475 of the Revised Statutes of the United States, relating to the Yellowstone National Park, and the granting leases of ground therein for building purposes for the accommodation of visitors; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

BOUNDARIES, YELLOWSTONE NATIONAL PARK.

Mr. DOWNEY also introduced a bill (H. R. No. 6133) to amend the boundary lines of the Yellowstone National Park; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

PROMOTIONS OF UNITED STATES ARMY OFFICERS.

Mr. DOWNEY also introduced a bill (H. R. No. 6134) relating to promotions of officers of the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FREE ASSAYS FOR MINERS.

Mr. DOWNEY also introduced a bill (H. R. No. 6135) providing for free assays for miners; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

OFFICERS MEDICAL DEPARTMENT UNITED STATES ARMY.

Mr. SHELLEY introduced a bill (H. R. No. 6136) for the relief of certain officers in the Medical Department of the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ANNA C. HURLEY.

Mr. BERRY (by request) introduced a bill (H. R. No. 6137) for the relief of Anna C. Hurley, widow of Maurice Hurley, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALEXANDER M'KAY.

Mr. BERRY also introduced a bill (H. R. No. 6138) for the relief of Alexander McKay; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

JOSEPH W. HILL.

Mr. PHELPS introduced a bill (H. R. No. 6139) granting a pension to Joseph W. Hill, a private in Company G, Fourteenth Regiment of Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

QUARANTINE AT SAN FRANCISCO.

Mr. DAVIS, of California, introduced a bill (H. R. No. 6140) to authorize the Secretary of War to allow the city of San Francisco to use a part of one of the islands in that harbor for quarantine purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

BOUNTY LANDS TO SOLDIERS IN FLORIDA INDIAN WARS.

Mr. DAVIDSON introduced a bill (H. R. No. 6141) granting bounty lands to all persons who rendered military services in the suppression of Indian hostilities in the State of Florida between the years of 1855 and 1860; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

CHARLES E. CREAGER.

Mr. HOSTETLER introduced a bill (H. R. No. 6142) granting a pension to Charles E. Creager; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALMINA HERRICK.

Mr. PRICE introduced a bill (H. R. No. 6143) granting a pension to Almina Herrick, widow of James D. Herrick; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALFRED E. WHEELOCK.

Mr. CARPENTER introduced a bill (H. R. No. 6144) granting a pension to Alfred E. Wheelock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK H. BURKE.

Mr. THOMPSON, of Iowa, introduced a bill (H. R. No. 6145) to remove charge of desertion from Patrick H. Burke, private Company M, First Iowa Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MORRISON T. M'CORMICK.

Mr. THOMAS TURNER introduced a bill (H. R. No. 6146) for the relief of Morrison T. McCormick; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PUBLIC BUILDING AT MOUNT STERLING, KENTUCKY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 6147) appropriating money for the purpose of erecting a post-office and other public buildings in the city of Mount Sterling, Kentucky; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

BAUGHMAN & WYATT.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 6148) for the relief of Baughman & Wyatt; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ALEXANDER THOMAS.

Mr. CARLISLE introduced a bill (H. R. No. 6149) granting a pension to Alexander Thomas, formerly a private in the Second Kentucky Regiment in the war with Mexico; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

MARY ANN WEBSTER.

Mr. CARLISLE also introduced a bill (H. R. No. 6150) granting a pension to Mary Ann Webster, widow of Vardiman Webster, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RECLAMATION OF ARID AND WASTE LANDS.

Mr. CARLISLE (by request) also introduced a bill (H. R. No. 6151) to reclaim waste and arid lands; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

LEVEES ON MISSISSIPPI RIVER.

Mr. GIBSON introduced a bill (H. R. No. 6152) appropriating $3,000 to build and repair the levees on the Mississippi River that protect Fort Jackson and Fort Saint Philip and the United States reservations adjacent thereto; which was read a first and second time, referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

JOHN G. YOUNG.

Mr. LINDSEY introduced a bill (H. R. No. 6153) granting a pension to John G. Young, late private Company E, Eighth Regiment Marine Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH J. ELLIS.

Mr. McLANE introduced a bill (H. R. No. 6154) granting a pension to Elizabeth J. Ellis; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN HALPIN.

Mr. McLANE introduced a bill (H. R. No. 6155) granting a pension to John Halpin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN SCHONART.

Mr. McLANE also introduced a bill (H. R. No. 6156) granting a pension to John Schonart; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELMIRA M'INTIRE.

Mr. McLANE also introduced a bill (H. R. No. 6157) granting a pension to Elmira McIntire, of Baltimore, Maryland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT HARDIE.

Mr. McLANE also introduced a bill (H. R. No. 6158) granting a pension to Robert Hardie, of Baltimore City, the last survivor of the Dartmoor prisoners in the war of 1812; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

WALTER SORRELL.

Mr. McLANE also introduced a bill (H. R. No. 6159) for the relief of Walter Sorrell, of Baltimore, Maryland; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

Mr. NEWBERRY (by request) introduced a bill (H. R. No. 6160) extending time for completion of the Northern Pacific Railroad; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

FREDERICK BARBER.

Mr. HUBBELL introduced a bill (H. R. No. 6161) granting a pension to Frederick Barber; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. STRATTON.

Mr. McGOWAN introduced a bill (H. R. No. 6162) granting a pension to George W. Stratton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. MATHEWS.

Mr. BURROWS introduced a bill (H. R. No. 6163) for the relief of George W. Mathews, postmaster at Paw Paw, Van Buren County, Michigan; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

DAVID GOODRICH.

Mr. BURROWS (at the request of Mr. BAKER) also introduced a bill (H. R. No. 6164) granting a pension to David Goodrich, Company A, Eighty-eighth Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HOMESTEADS AND PRE-EMPTIONS.

Mr. DUNNELL introduced a bill (H. R. No. 6165) for an act to provide additional regulations for homestead and pre-emption entries of public lands; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

LEVI B. ALDRICH.

Mr. POEHLER introduced a bill (H. R. No. 6166) for the relief of Levi B. Aldrich; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN A. STEPHENS.

Mr. WADDILL introduced a bill (H. R. No. 6167) for the relief of the widow and heirs of John A. Stephens, deceased, of Springfield, Missouri; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENDERSON C. LEACH.

Mr. BUCKNER introduced a bill (H. R. No. 6168) for the relief of Henderson C. Leach, of Ralls County, Missouri; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ELIJAH MUSGROVE.

Mr. SAWYER (by request) introduced a bill (H. R. No. 6169) for the relief of Elijah Musgrove; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LINEAL PROMOTION IN THE ARMY.

Mr. FROST introduced a bill (H. R. No. 6170) to secure lineal promotion in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FOREIGN TRAVELS OF GENERAL U. S. GRANT.

Mr. FROST also submitted the following resolution; which was read, and under the rule referred to the Committee on Foreign Affairs:

Resolved, That the Secretary of State be requested to communicate to the House of Representatives, at as early a day as practicable, whether any official notification or circular letter was addressed by the Department of State to foreign powers, or to ministers, consuls, or consular agents of the United States for presentation to foreign governments, upon the occasion of the recent visit to foreign lands by General U. S. Grant, or immediately prior thereto, in relation to said visit; and if so, the nature and character of said communication or circular letter and the correspondence connected therewith.

G. T. A. NIXON.

Mr. VALENTINE introduced a bill (H. R. No. 6171) to place G. T. A. Nixon, an ordnance sergeant of the United States Army, on the retired list; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories has now been concluded. The Chair will now recognize gentlemen who were not present when their States were called, to present bills and resolutions for reference.

SARAH JANE OWEN.

Mr. THOMAS introduced a bill (H. R. No. 6172) for the relief of Sarah Jane Owen, widow of Commodore Elias K. Owen, deceased, late United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLDIERS' HOME, DAYTON, OHIO.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 6173) to appropriate $40,000 to rebuild Memorial Hall at National Soldiers' Home, Dayton, Ohio, destroyed by fire May 2, 1880; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CHRISTINA WALKER.

Mr. JOYCE introduced a bill (H. R. No. 6174) granting a pension to Christina Walker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELLEN MULCAHY.

Mr. JOYCE also introduced a bill (H. R. No. 6175) granting a pension to Ellen Mulcahy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES SCANLIN.

Mr. JOYCE introduced a bill (H. R. No. 6176) granting a pension to James Scanlin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SPEDIE B. EGGLESTON.

Mr. FARR introduced a bill (H. R. No. 6177) granting a pension to Spedie B. Eggleston; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALLIE A. PALMER.

Mr. DICKEY (by request) introduced a bill (H. R. No. 6178) granting a pension to Sallie A. Palmer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TOBACCO FOR ARMY USE.

Mr. MAGINNIS introduced a bill (H. R. No. 6179) to authorize the Subsistence Department to furnish tobacco at cost price to enlisted men of the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MULLAN WAGON-ROAD.

Mr. MAGINNIS also introduced a bill (H. R. No. 6180) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Coeur d'Alene; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SAGINAW AND MOUNT PLEASANT RAILROAD COMPANY.

Mr. HORR introduced a bill (H. R. No. 6181) granting right of way to the Saginaw and Mount Pleasant Railroad Company, in the State of Michigan; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The morning hour will now begin; the call rests with the Committee on Military Affairs.

Mr. SPRINGER. I desire to call up the contested-election case of Curtin *vs.* Yocum.

The SPEAKER. As unfinished business that would come up after the morning hour; but if the morning hour be dispensed with it can be called up at once as a question of privilege.

Mr. SPRINGER. I desire to ask the House to consider this election case as against the morning hour.

The SPEAKER. The rule states that the morning hour cannot be dispensed with except by a two-thirds vote. Under the old rule unfinished business came up immediately after the reading of the Journal; but the new rule provides that it shall come up immediately after the morning hour. The gentleman can move to dispense with the morning hour.

Mr. SPRINGER. I will not do that. I think the business of the morning hour can be disposed of in less than half an hour.

COURT OF PENSIONS.

Mr. GEDDES. I ask unanimous consent that Thursday night of this week at half past seven o'clock be assigned for the consideration of the bill establishing a court of pensions, the House to take a recess at half past four o'clock on that day.

The SPEAKER. Thursday night of this week is assigned for the consideration of the bill to carry out certain stipulations with the Osage Indians.

Mr. GEDDES. Then I name Tuesday night of next week.

The SPEAKER. If there be no objection, the order will be made as requested for Tuesday night of next week.

There was no objection, and it was ordered accordingly.

MINING DÉBRIS COMMISSION.

The SPEAKER. On motion of the gentleman from California [Mr. BERRY] the bill for the appointment of a commission to examine into the subject of mining *débris* was made a special order for to-day. He asks that it may be allowed to lie over until next Monday with the same rights and privileges. The Chair hears no objection.

EXPORTATION OF TOBACCO.

Mr. HOUSE. I ask unanimous consent to have taken from the House Calendar and put upon its passage now the joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions. This bill has been reported unanimously from the Committee on Foreign Affairs; and I think there will be no objection to it from any quarter.

The bill was read, as follows:

Whereas the laws and regulations of France, Spain, Austria, and Italy, prohibiting the introduction of tobacco into their respective dominions except through the channel of a government monopoly, have the effect of destroying all competition in the sale of this great staple in those countries, and of inflicting great damage upon the producers of and dealers in said article in this country; and

Whereas the Government of the United States derives a large annual revenue from said staple, and should, as far as may be, protect our citizens engaged in the production of said article and in dealing in the same: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be respectfully requested to open such negotiations with the countries named as he may deem advisable, with a view to removing the restrictions on the importation of tobacco into the countries named and securing to our citizens an open market therein for the same.

The amendments reported by the Committee on Foreign Affairs were read, as follows:

Strike out the first paragraph of the preamble, as follows:

"Whereas the laws and regulations of France, Spain, Austria, and Italy, prohibiting the introduction of tobacco into their respective dominions except through the channel of a government monopoly, have the effect of destroying all competition in the sale of this great staple in those countries, and of inflicting great damage upon the producers of and dealers in said article in this country; and."

In the fourth line of the bill strike out the word "named" and insert "France, Spain, Austria, and Italy."

There being no objection, the House proceeded to the consideration of the bill.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

SHIP-CANAL, WASHINGTON TERRITORY.

Mr. BRENTS. I ask unanimous consent to submit for present consideration a resolution calling for departmental information.

The Clerk read as follows:

Resolved, That the Secretary of War be, and he hereby is, requested to furnish to this House the report made by Lieutenant-Colonel Alexander, of the Corps of Engineers, of Lakes Union and Washington for a ship-canal from the latter lake to Elliott Bay, in Washington Territory.

The SPEAKER. Under the rules this resolution must be referred to a committee, to be reported back within one week. The resolution will be referred to the Committee on Military Affairs.

HOUR OF DAILY MEETING.

Mr. WRIGHT. As a privileged question, I ask for the reading of the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That from and after the 15th instant this House will meet at eleven o'clock a. m. until otherwise ordered.

The SPEAKER. Is there objection to the resolution? The Chair hears none.

The resolution was accordingly adopted.

NATIONAL BOARD OF HEALTH.

Mr. YOUNG, of Tennessee. I ask unanimous consent that Tuesday, the 18th instant, after the morning hour, be fixed for the consideration of the bill to increase the efficiency of the National Board of Health, and for other purposes.

The SPEAKER. Not to interfere with appropriation bills?

Mr. YOUNG, of Tennessee. Of course.

The SPEAKER. The Chair hears no objection; and the order is made.

PETER MEAGHER.

Mr. WHITTHORNE. I ask unanimous consent to have taken up for immediate action the bill (S. No. 401) for the relief of Peter Meagher.

Mr. ALDRICH, of Rhode Island. I do not object to the consideration of the bill, but reserve all points of order.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Peter Meagher, out of any money in the Treasury not otherwise appropriated, the sum of $170 for labor performed in unloading coal from the schooners My Rover, Althea, and Jonathan May, and the bark David G. Wilson, at Long Key, Tortugas, Florida, in full compensation for the services of himself and of Louis Helt, Victor Helmkamph, William M. Kinsman, James Riley, Edward F. Riley, F. Richards, and Charles Wilber.

Mr. WHITTHORNE. I move to put the bill on its passage. It has been recommended unanimously in several Congresses.

There was no objection; and the bill was taken up and ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. WHITTHORNE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDICIAL DISTRICTS, LOUISIANA.

Mr. ROBINSON. I am directed by the Committee on the Judiciary to take from the House Calendar a bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts for the purpose of putting it on its passage. This has been unanimously agreed to by the House Judiciary Committee, and is entirely acceptable to the whole delegation of the State.

The bill was read, as follows:

Be it enacted, &c., That the State of Louisiana be, and the same hereby is, divided into two judicial districts as follows, to wit: the territory included in the parishes of Caddo, Bossier, Webster, Claiborne, Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Bienville, Red River, Iberia, De Soto, Sabine, Natchitoches, Winn, Jackson, Caldwell, Franklin, Tensas, Concordia, Catahoula, Grant, Vernon, Rapides, Avoyelles, Saint Landry, La Fayette, Saint Martin, Saint Mary's, Vermillion, Cameron, and Calcasieu shall compose one district, to be called the western district of Louisiana, and the remainder of said State shall compose another district, to be called the eastern district of Louisiana.

SEC. 2. That the present judge, district attorney, marshal, and clerk of the district of Louisiana shall hereafter be respectively the judge, district attorney, marshal, and clerk of said eastern district; and there shall be appointed by the President, by and with the advice and consent of the Senate, a district judge for said western district, who, at the time of his appointment, shall be a resident thereof, and who shall continue to reside therein while holding such office, and who shall receive a like salary to that now paid the district judge of Louisiana. A district attorney and a marshal for said western district shall in like manner be appointed. A clerk shall also be appointed for said district in the manner provided by law.

SEC. 3. The regular terms of the courts in said eastern district shall be held at New Orleans as provided by law, and special terms in said district may be appointed and held as now authorized by law.

SEC. 4. There shall be held annually in said western district two terms of the circuit court and two terms of the district court at Monroe, in the parish of Ouachita, for the parishes of Ouachita, Jackson, Vernon, Morehouse, Caldwell, Franklin, Catahoula, Claiborne, East Carroll, West Carroll, Richland, Madison, Tensas, Concordia, and Lincoln, to wit, one term of each of said courts commencing on the first Tuesday of April, and the other term of each of said courts commencing on the first Tuesday of October. And there shall also be held annually in said district two terms of the circuit court and two terms of the district court at Opelousas, in the parish of Saint Landry, for the parishes of Saint Landry, Cameron, Calcasieu, Saint Martin, Saint Mary's, La Fayette, Vermillion, Iberia, Avoyelles, Rapides, and Vernon, to wit, one term of each of said court commencing on the first Tuesday of January, and the other term of each of said courts commencing on the first Tuesday of June, and special terms may be held as now authorized by law; and there shall also be held annually in said district two terms of the circuit court and two terms of the district court at Shreveport, in the parish of Caddo, for the parishes of Caddo, Sabine, De Soto, Red River, Natchitoches, Winn, Grant, Bossier, Bienville, and Webster, to wit, one term of each of said courts commencing on the first Tuesday of February, and the other term of each of said courts commencing on the first Tuesday of July: *Provided*, That all cases, civil and criminal, which shall be instituted in said district shall be made returnable in the manner following: where the defendant is domiciled within the parishes of Saint Landry, Cameron, Calcasieu, Saint Martin, Saint Mary's, Vermillion, La Fayette, Iberia, Avoyelles, Rapides, and Vernon, the process shall be returnable at Opelousas; where the defendant is domiciled within the parishes of Ouachita, Jackson, Union, Morehouse, Franklin, Richland, Catahoula, Claiborne, West Carroll, East Carroll, Madison, Tensas, Caldwell, Concordia, and Lincoln, the process shall be returnable at Monroe; where the defendant is domiciled within the parishes of Natchitoches, Winn, Grant, Caddo, Sabine, Red River, Webster, Bossier, and Bienville, the process shall be returnable at Shreveport.

SEC. 5. All causes, civil or criminal, now pending in the circuit or district court of Louisiana shall be tried and disposed of in said eastern district, as if this act had not been passed, except as is hereinafter provided, to wit:

First. All indictments and actions *qui tam* for crimes, misdemeanors, or offenses committed in said western district shall be transferred to the proper court in the last named district, unless the accused shall elect in open court to be tried in said eastern district.

Second. In civil causes in which the cause of action arose in said western district, in which the property in controversy is situated therein, or in which the defendant or defendants thereto are domiciled therein, it shall be the duty of the court in the eastern district, upon the application of the defendant in the cause, to transfer the same to the proper court in said western district.

And said courts in the eastern district are respectively hereby authorized to make all necessary orders for the transmission of papers and certified transcripts of records to said courts in the western district, and also for the removal of prisoners in custody to such district; and they are also respectively authorized to require and take recognizances, with or without sureties, of all persons now under recognizance in a criminal cause, and whose causes may be transferred as aforesaid to said western district, to appear and answer the charge against them in the proper court of said western district; and any person thus required to give such recognizance, and failing to do so, may be arrested, wherever found in said State, by the marshal of either of said districts, and held in custody by the marshal of said western district until discharged by due course of law.

There was no objection; and the House Calendar was discharged from the further consideration of the bill, and it was brought before the House for action.

The SPEAKER. This bill has been reported from the Committee on the Judiciary with an amendment, which the Clerk will read.

The Clerk read as follows:

SEC. 2. Strike out the following words:

"At the time of his appointment shall be a resident thereof, and who shall continue to reside therein while holding such office, and who."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROBINSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILWAY COMMERCE AMONG THE STATES.

Mr. McCOID, by unanimous consent, introduced a bill (H. R. No. 6182) to provide for the regulation of commerce by railways among the

States, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REDFIELD DURYEE.

Mr. WAIT, by unanimous consent, introduced a bill (H. R. No. 6183) for the relief of Redfield Duryee, late colonel of the Sixth Regiment Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EVENING SESSION.

Mr. SIMONTON, by unanimous consent, submitted the following resolution; which was agreed to:

Resolved, That at four and one-half o'clock this evening the House shall take a recess until eight o'clock p. m., for the purpose of having a night session for general debate when no other business shall be transacted.

INTERNATIONAL SANITARY CONFERENCE.

Mr. McGOWAN. I am directed by the Select Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States to call up for action at this time joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference to meet at Washington, District of Columbia.

The joint resolution, which was read, authorizes the President of the United States to call an international sanitary conference to meet at Washington, District of Columbia, to which the several powers having jurisdiction of ports likely to be infected with yellow fever shall be invited to send delegates properly authorized, for the purpose of securing an international system of notification as to the actual sanitary condition of ports and places under the jurisdiction of such powers and of vessels sailing therefrom.

The SPEAKER. The Chair hears no objection, and the joint resolution is before the House for consideration at this time.

Mr. McGOWAN. The committee have had this resolution under consideration and have directed me to report it back unanimously, with an amendment, to insert the words "or cholera" after the words "yellow fever."

The amendment was agreed to, and, as amended, the joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. McGOWAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PETER K. MORGAN.

On motion of Mr. JOHNSTON, by unanimous consent, the bill (S. No. 1113) granting a pension to Peter K. Morgan, private in the war of 1812, was brought before the House for action at this time.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Peter K. Morgan, a private in Captain Andrew Stevenson's Company of Virginia Infantry in the war of 1812.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. JOHNSTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECLAMATION OF ARID AND WASTE LANDS.

Mr. CONVERSE. I move by unanimous consent to take up for present consideration a bill (S. No. 768) for the reclamation of arid and waste lands. It is a matter of public importance and will take but a few minutes.

The bill was read, as follows:

Be it enacted, &c., That with a view to the reclamation of the arid and waste lands lying in certain western States and Territories, the Secretary of the Interior is hereby authorized to contract for the sinking of two artesian wells on the plains east of the Rocky Mountains. The said wells are to be sunk at such places as the Secretary of the Interior may designate; and whenever the site of either of such wells shall be designated, the Secretary of the Interior is hereby authorized and required to declare a reservation of four square miles, with the said site as nearly as possible in the center thereof; and the land so reserved shall not be subject to sale or disposal under any law of the United States until said reservation has been released. Any party making a contract to sink an artesian well under this act shall, at the end of each week after the work shall have been begun, file with the Secretary of the Interior a report containing a statement of the character of the ground or rock through which the well is sunk, giving the thickness of the strata of each formation, and he shall furnish samples of all the different materials through which the well is sunk, and conform with all regulations made by the Secretary of the Interior. The sum of $20,000 is hereby appropriated to carry out the objects of this bill, the same to be disbursed under such rules and regulations as the Secretary of the Interior shall prescribe.

Mr. ALDRICH, of Rhode Island. I make the point of order against that that it originated in the Senate and that it makes an appropriation of money.

The SPEAKER. Whether it originated in the Senate or not it must have its first consideration in the Committee of the Whole on the state of the Union if it contains a provision making an appropriation.

Mr. CONVERSE. That point of order is not made against this.

Mr. ALDRICH, of Rhode Island. The point I make is that it originated in the Senate and makes an appropriation.

The SPEAKER. Even a Senate amendment to a House bill would under the rule be subject to the point of order that it shall be first considered in Committee of the Whole on the state of the Union; if originating in the House, it would be subject to the point of order originally.

Mr. ALDRICH. That is not the point I make.

The SPEAKER. Notwithstanding that, it should have its first consideration in the Committee of the Whole on the state of the Union. The Chair is not called upon to rule upon visionary points.

Mr. CONVERSE. Then I ask a ruling of the Chair on the point that is made.

Mr. ALDRICH, of Rhode Island. I suggest that it is not a visionary point that I have made; but that this bill, being a Senate bill, originating in the Senate, makes an appropriation of money.

Mr. CONVERSE. I ask a ruling on the point.

The SPEAKER. The question does not necessarily arise on the point of order made. The point of order is that it is a Senate bill and makes an appropriation, and that it must have its first consideration in Committee of the Whole.

Mr. ALDRICH, of Rhode Island. With all due respect I submit that is not the point I make, but the Speaker's. My point is, that this bill originated in the Senate and makes an appropriation of money.

Mr. TOWNSHEND, of Illinois. Is not this matter pending before a committee of this House to determine that point?

The SPEAKER. It is, and the Chair does not desire to anticipate that decision.

Mr. ALDRICH, of Rhode Island. I suggest that this go to the Committee on the Judiciary with the other bill now before that committee on this point.

Mr. CONVERSE. I ask unanimous consent that the bill be considered and passed now.

Mr. ALDRICH, of Rhode Island. I make the point of order that it is a new bill, that it makes an appropriation, and I ask a decision of the Chair upon it.

The SPEAKER. That the Chair will treat as an objection to the consideration of the bill.

FREE LEAF-TOBACCO.

Mr. HATCH. I ask unanimous consent that Wednesday of next week after the morning hour be set apart for the consideration of House bill No. 933, reported by the Committee on Agriculture, not to interfere with appropriation bills or the river and harbor bill. This is the bill known as the free leaf-tobacco bill.

There was no objection, and it was ordered accordingly.

PUBLIC BUILDINGS.

Mr. STEPHENS. I request that, by unanimous consent, next Saturday week be set apart for the consideration of bills relating to public buildings.

Mr. BOUCK. I object.

SPECIMEN METRIC COINS.

Mr. STEPHENS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Director of the Mint of the United States be, and is hereby, requested to cause to be struck, for the use of members of the Senate and of the House of Representatives, an additional three hundred each of the specimen metric gold stella, goloid dollar, and metric silver dollar, as described in bill H. R. No. 411, the same to be furnished only upon the payment of the value of the metal contained.

Mr. STEPHENS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE V. HEBB.

Mr. BRIGHT. I ask unanimous consent to take from the Speaker's table Senate bill No. 180, for the relief of George V. Hebb. I will state that this only asks for a settlement of the balance of an account which has been long standing.

The SPEAKER. The Chair will cause the bill to be read, after which objections will be asked for.

The Clerk read as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury are hereby authorized and directed to audit the claim of George V. Hebb, late captain and assistant quartermaster in Mexico, for any balance of pay that may be found due him as an officer, and to pay the amount due in full settlement of the same; and a sufficient sum is hereby appropriated, out of any money not otherwise appropriated by law, to pay the same, not to exceed the sum of $136.50.

Mr. BREWER. Has that been considered by any committee of this House?

Mr. BRIGHT. I understand that it was reported by the Committee on Claims of the Senate, that it passed through the committee, and has been passed by the Committee on Claims of the House. It is a small amount. It limits the amount to about $130, and simply asks a settlement of the balance which may be found due.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BRIGHT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LICORICE AND LICORICE-PASTE.

Mr. CABELL, by unanimous consent, introduced a bill (H. R. No. 6184) to permit manufacturers of tobacco to import licorice and licorice-paste in bond, and to exempt the same from duty; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

GERMAIN H. MASON.

Mr. WILLITS. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 2499) for the relief of Germain H. Mason, and that the same, with amendments thereto, be taken up for consideration at this time.

The SPEAKER. The Chair will cause the bill to be read, after which objections will be asked for.

Mr. THOMPSON, of Kentucky. I object.

D. S. M'DOUGALL AND C. S. WILDER.

Mr. HASKELL. I ask that by unanimous consent the bill (H. R. No. 5632) for the relief of Daniel S. McDougall and Charles S. Wilder, reported favorably by the Committee on Indian Affairs, be taken from the Private Calendar for present consideration.

Mr. WARNER. I do not think we should go to the Private Calendar when there are so many bills on the Speaker's table to be disposed of.

The SPEAKER. The gentleman from Ohio objects.

JOHN D. DEFREES.

Mr. McLANE. I ask unanimous consent to take from the Speaker's table for reference to the Committee on Ways and Means the bill (S. No. 1090) for the relief of John D. Defrees.

Mr. SPRINGER. I desire to state I will make no objection for a limited time to these requests for unanimous consent; but after such requests have been made I shall move to dispense with the morning hour.

There being no objection, the bill (S. No. 1090) was taken from the Speaker's table, read a first and second time, and referred to the Committee on Ways and Means.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois. I ask unanimous consent that the bill (H. R. No. 3788) granting an increase of pension to William Hamill be taken from the Private Calendar and put upon its passage.

Mr. WARNER. I do not think we should go to the Private Calendar now. I object.

LICENSE FOR DEALERS IN LEAF-TOBACCO.

Mr. THOMAS TURNER. I ask that by unanimous consent the bill (H. R. No. 6109) to amend the sixth subsection of the Revised Statutes of the United States be taken from the Calendar for present consideration.

This is a little bill recommended by the Internal Revenue Department and unanimously reported by the Committee on Ways and Means. Its object is to require from those who desire to deal in leaf-tobacco to the extent of twenty-five thousand pounds a license tax of $5, under the same restrictions as in the case of other dealers.

Mr. WILLITS. I object.

Mr. THOMAS TURNER. Then I will object to any further requests for unanimous consent.

ORDER OF BUSINESS.

Mr. BOUCK. I call for the regular order.

The SPEAKER. The regular order is the morning hour; and the business of the morning hour is the call of committees for reports.

Mr. SPRINGER. I move that the morning hour be dispensed with.

The motion was agreed to, two-thirds voting in favor thereof.

CONTESTED ELECTION—CURTIN VS. YOCUM.

The SPEAKER. The House resumes the consideration of the unfinished business, being the consideration of the contested-election case of Curtin *vs.* Yocum. The gentleman from Massachusetts [Mr. FIELD] is entitled to the floor.

Mr. FIELD. I yield forty minutes to the gentleman from Illinois, [Mr. STEVENSON.]

Mr. STEVENSON. Mr. Speaker, the Constitution of the United States provides that this House shall be the judge of the qualifications of its members. From such arbitrament there can be no appeal. Involving, then, as such decision does, not only the rights of the respective claimants, but of a constituency to representation upon this floor by its chosen Representative, it is all-important that the decision should be just.

It should in no sense be a partisan determination. In the consideration of a question involving the right of a member to his seat upon this floor our functions are rather those of the judge than of the legislator. It is to be regretted, sir, that too often such contests assume a partisan character. The records of this House will show that in more instances than one the contestant has been admitted, or the contestee retained in his seat, for the sole reason that he was the adherent of the political party then in the ascendency in this body. A determination of so important a question upon partisan considerations strikes at the very foundation of representative government. The right to a seat in this House is made to rest rather upon the voice of the majority as expressed here than upon that of the constituency at the polls.

Mr. Speaker, the acts of this body, to command popular respect, must be those of the lawfully chosen representatives of the people. I repeat, then, that our determination of this and kindred cases should be of a purely judicial character. I shall, sir, in the discussion of the resolution now pending before this House, endeavor to divest myself of all partisan bias. I shall endeavor fairly to state the reasons which influence me in casting my vote against the resolution to eject the contestee and declare the election in his district a nullity.

A state of facts which would justify the adoption of the resolution proposed by the majority of the Committee on Elections would be remarkable. Either the contestant, Mr. Curtin, or the contestee, Mr. Yocum, is entitled to a seat upon this floor as the Representative of the twentieth district of Pennsylvania. However much we may differ as to the merits of their respective claims, the conclusion is almost irresistible that either the one or the other of the gentlemen named is the lawfully elected Representative from that district. It is true, sir, a condition of affairs might exist rendering it difficult or even impossible to determine who had been chosen, or whether in fact a legal election had been held; but the record in this case discloses no such condition of affairs in the twentieth district of Pennsylvania on the 5th day of November, 1878. It is proposed by the majority of the committee that this House shall by solemn resolution declare that the election held in that district for a Representative to this Congress was a nullity, and that as a consequence the sitting member be ejected from his seat. Before adopting so extraordinary a resolution I beg of gentlemen to examine the grounds upon which it is based.

It is not pretended that Mr. Curtin, the contestant, was elected, but simply that Mr. Yocum was not. As shown by the official count, the contestant received 13,381 and contestee 13,454 votes, and for Representative in Congress there were no other candidates. Was there then, sir, either as disclosed by this record or known to us as a part of current history, such a condition of affairs in that district in November, 1878, as to justify this House in declaring that election null and void and subjecting that constituency to the annoyance and expense of a new election? It is not insisted that the people of that district were in a state of insurrection, that terrorism or lawlessness prevailed, that the pathway to the polls was in any manner obstructed, or that by bribery, corruption, or intimidation a fair election was prevented. But, sir, the resolution presumes a condition of affairs which rendered it impossible, even by the processes known to courts and parliamentary bodies, to ascertain the result of the popular verdict.

The district from which this contest arises is composed of the counties of Centre, Clearfield, Clinton, Elk, Mifflin, and Union. It contains no large cities, but the population is principally an agricultural one. There is but little if any floating vote within its limits. It contains a quiet, staid population. The voters in the different precincts generally know each other, and of necessity illegal voting is to a great extent an impossibility.

The question again recurs, Mr. Speaker, Why should this election be declared null and void? I maintain that this record fails to disclose a state of facts justifying so extraordinary a procedure. An application of the well-established principles of law to this testimony will demonstrate which of these parties is entitled to this seat.

The Committee on Elections unanimously report against the claims of the contestant, but are divided as to the rights of contestee. This in some measure narrows the investigation, and to the right of the latter to retain his seat I will address my argument. The official majority of Mr. Yocum is seventy-three, and it is conceded that by the correction of a clerical error in the returns from the west ward of Mifflinburg, in the county of Union, he should have seven additional votes, giving him an official majority of eighty votes. Now, let us examine the grounds upon which the committee seek to overthrow this apparent majority and declare the election void. This involves of necessity an examination of the provisions of the constitution of Pennsylvania touching the rights of an elector. His qualifications are found in section 1, article 8, of the constitution of 1873, as follows:

> Every male citizen twenty-one years of age, possessing the following qualifications, shall vote at all elections:
> 1. He shall be a citizen of the United States at least one month.
> 2. He shall have resided in the State one year (or if having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned thereto six months) immediately preceding the election.
> 3. He shall have resided in the election district, where he shall offer to vote, at least two months immediately preceding the election.
> 4. If twenty-two years of age or upward he shall have paid, within two years, a State or county tax, which shall have been assessed at least two months, and paid at least one month before the election.

The qualifications, then, of electors in Pennsylvania are five in number: First, age; second, United States citizenship; third, State residence; fourth, precinct residence; fifth, payment of taxes. Between those who favor and those who oppose the report of the majority of the committee there is no controversy as to these provisions. The elector must combine in himself all of these qualifications. The constitutional provision touching these qualifications is imperative.

The real point of difference, Mr. Speaker, and the one upon which this case must turn, relates to the question of registration under the constitution and statutes of that State. The other grounds of contest have been virtually abandoned. As I think, sir, a proper construction of these provisions will be decisive of this contest, inasmuch as the larger portion of the great mass of testimony taken bears upon the question of registration.

In the last clause of the first section of article 8 of the constitution is this provision:

> But no elector shall be deprived of the privilege of voting by reason of his name not being registered.

It will be seen that the elector who combines the five personal qualities above mentioned cannot be deprived of his right to vote by reason of his name not being registered. This right is a constitutional one, and cannot be forfeited by the misconduct or neglect of the officers who conduct the election. Possessing the five qualifications I have mentioned, the right of the elector rests upon a sure foundation. No act of the Legislature, no misfeasance of election officials, can deprive him of this right. The provision is too plain, the meaning of its words too obvious to leave room for doubt.

I indorse the view taken by the minority of the committee:

> That the foregoing clause is a limitation upon the power of the State, and it cannot pass a registry law whereby a voter shall be deprived of suffrage by reason of non-registration if otherwise qualified.

Sir, the only possible object in incorporating the above provision into the organic law of Pennsylvania was to prevent the Legislature from requiring additional qualifications of the elector. Hence it follows of necessity that any legislative enactment, however imperative in terms, which seeks to add to the five qualifications I have mentioned is in conflict with the constitutional provision above quoted. The cases cited by the majority of the committee are inapplicable, for the reason that they arose in States whose constitutions contained no similar provision to the one I have read.

Referring to the right of the voter, Judge Cooley, on page 616 of his able work on Constitutional Limitations, says:

> That one entitled to vote shall not be deprived of the privilege by the action of the authorities is a fundamental principle.

Apply this rule to the case at bar, and it means that no citizen of the State of Pennsylvania, who on the 5th day of November, 1878, possessed the five personal qualifications I have enumerated could be deprived of his right as an elector by the failure of the election officials to place his name upon the registry.

Mr. Speaker, I cheerfully indorse all that has been said upon this floor in favor of wise and properly guarded registration laws. All the safeguards possible should be thrown around the ballot-box. It is indeed the chief corner-stone of our republican structure. But, sir, it is equally important that the rights of the legally qualified elector shall not be imperiled.

I am not here to controvert the statement that it is the province of the Legislature to indicate the manner in which the voter is to exercise his privilege. The time, manner, and place fall within the legislative prerogative. But, sir, as I have endeavored to show, the Legislature cannot, in the face of the constitution, require additional tests of the elector.

This, now, is the turning-point in the case before us. It is impossible in the time limited to this discussion to review the vast mass of testimony taken in this case; nor is this necessary; for I am confident that an intelligent and just conclusion can be reached without a critical examination of even a considerable portion of the testimony. As I have intimated, all other grounds of contest have been abandoned, and the pivotal point in the case is the construction to be given to the registration laws of Pennsylvania. Conceding, as claimed by the majority of the committee, that the contestee received more than sufficient unregistered votes to turn the scale against him, what, then, is his status as tested by the constitution and laws of Pennsylvania, as well as by former decisions of this House?

The statute upon which the majority of the committee rely was passed in 1874, and is as follows:

> No man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.

Section 10 of the same act provides that a person whose name does not appear upon the registry and who claims the right to vote shall produce at least one qualified voter of the election district as a witness to the residence of the claimant in the district in which he claims to be a voter, which witness shall make affidavit of his residence, &c.

It will be remembered that the decisions of the courts of Pennsylvania relied upon by the majority of the committee were under prior statutes, and before the adoption of the present constitution of that State. The minority of the committee have well said in their able report that the present constitution of Pennsylvania was made while all the adjudicated cases, respecting the old constitution, and the laws passed thereunder were in full force and well known to the members composing the constitutional convention, and that it must be presumed to have been in the light of these decisions that the provision was inserted protecting the rights of the elector from being trenched upon by the Legislature.

I maintain, Mr. Speaker, that even in the absence from the organic law of Pennsylvania of the provision I have quoted these statutes should be regarded as directory only and not as mandatory. The conclusion is inevitable, that if construed as mandatory they are repugnant to that clause of the State constitution which declares:

> No elector shall be deprived of the privilege of voting by reason of his name not being registered.

Unless I wholly misapprehend the import of words, an imperative registration law is prohibited by the clause of the constitution just quoted. In the light of that provision, the decisions cited by the committee can have no bearing upon the pending case.

Regarding, then, these statutes as merely directory, how stands the case between the contestant and contestee as to the unregistered vote? McCrary, in American Law of Elections, says:

> We think the safer rule would be for the contestant to show not only that a certain number of illegal votes were polled, but also to show, if he can, that they were cast for his opponent.
>
> To reject an illegal vote it must appear for whom it was polled.

The same rule is recognized in Brightley's Leading Cases on Elections, page 238, and by the Supreme Court of Pennsylvania, in Pennsylvania Law Journal, page 310.

In the light of these authorities, it can hardly be questioned that it was incumbent upon contestant to show for whom these unregistered votes were cast before he can have them rejected. This he could easily have done by calling the voters themselves to testify. They are competent witnesses, and their attendance can be compelled under the laws of that State. Until there is proof to the contrary, the presumption is in favor of the legality of the votes cast. The law presumes the officers conducting the election to have discharged their duty; presumes they have received the votes of none other than legally qualified voters. This presumption can be rebutted only by evidence.

I agree, sir, with the Committee on Elections of the Forty-fifth Congress in their report to the House in the contested case of Finley against Bisbee, wherein they say:

> If a person votes at an election, his vote is presumed under the law to be legal until the contrary be proven in a legal way for the reasons:
>
> First. That the acts of an officer or officers of an election within the scope of their authority are presumed to be correct and honest until the contrary is made to appear, and therefore that they as such officers would not receive an illegal vote.
>
> Second. That the presumption is always against the commission of a fraudulent or illegal act, and therefore that a man would not cast an illegal vote.

The above view was sustained by reference to McCrary on Elections, section 87, and Little *vs.* Robbins, (1 Bartlet, 138.)

This House sustained the report of the committee, and upon the strength of the above authorities Mr. FINLEY, the contestant, was admitted to his seat. The report to which I have just referred was signed by four gentlemen now members of this House, among them the present distinguished chairman of the Committee on Elections.

I wish especially to call the attention of gentlemen to the conclusion reached by this House in the case of Finley against Bisbee, to which I have just referred. In its main features it is similar to the one under discussion. The statutes of Florida as well as of Pennsylvania contain stringent registration provisions. The contestee, Bisbee, sought to exclude from the count votes sufficient to elect his competitor on the ground that they were cast by non-registered voters. That attempt, however, failed to receive the indorsement of the Committee on Elections. Their report, as I have said, was in accordance with the principles above laid down and sustained by the authorities quoted. On page 20 of their report they say:

> Take the case of a voter. His name is on the poll-list of a certain precinct, showing that he voted at said precinct; his name, however, is not found on the registration list. These facts are not sufficient to prove that his vote is illegal; they do not overcome the presumption of law arising in favor of the legality of his vote under the above rules.

On page 18 of same report they say:

> It is the settled law of elections that where persons vote without challenge it will be presumed that they were entitled to vote, and that the sworn officers of the election who received their votes performed their duty properly and honestly, and the burden of proof to show the contrary devolves on the party denying their right to vote. * * * It is therefore seen that a person who has voted is presumed to have been qualified until the contrary is shown.

After holding that the votes of non-registered voters should not be excluded without proof that they were fraudulent, and that the burden of such proof rested upon the party assailing their legality, the proof offered for that purpose was considered, and the report concludes:

> Your committee is of the opinion that this proof is insufficient to prove that these persons voted illegally whose names are not found on the registration list, &c.

Now, Mr. Speaker, if precedents are to be considered of value in the American Congress, I appeal to gentlemen of the majority upon this floor to adhere firmly to the salutary doctrine established by their political friends in the last Congress. The gain of a member by a new election, if such should even be the result, would illy recompense them for the disregard of law and the destruction of the wise precedent they have themselves established.

In the view I have taken of this case I am not only sustained by the decision of this House in the Forty-fifth Congress, but by the well-considered report upon which that decision was founded. That report was signed by the gentleman from Indiana, [Mr. COBB,] the gentleman from Virginia, [Mr. HARRIS,] the gentleman from Louisiana, [Mr. ELLIS,] and my colleague, [Mr. SPRINGER,] all of whom were then, as now, able members of the majority in this House. I trust, sir, that my distinguished colleague will, after mature deliberation, hesitate to imperil his well-earned reputation for fairness by voting to eject contestee from his seat.

Mr. Speaker, if the report presented by the majority of the Committee on Elections shall be adopted by the House the result will be the overthrow of the popular will as expressed at the polls; and this, too, not only in the teeth of the decision of this House in the Florida case to which I have referred, but in defiance of the clearly

expressed opinion of the supreme court of Pennsylvania. In the Wheelock case, reported in 1 Norris, 297, the court say:

The State constitution, article 8, section 1, gives to every citizen possessing the qualifications prescribed the right to vote; and section 7 of the same article provides that no elector shall be deprived of the privilege of voting by reason of his name not being registered. To disfranchise all the voters of a township, as we are asked to do in this petition, the facts on which we are required to act should show a case free from legal doubt. If we, by our decision, should permit the carelessness, or even the fraud, of officers whose duty it is to furnish a list of voters at the elections to defeat the election and deprive the people of the county of the officer who was elected by a majority of their votes, we would thus make the people suffer for an act in which they did not participate and which they did not sanction. In so doing, instead of punishing an officer for the violation of the election law, we practically punish the voters of the county by defeating their choice of a county officer as declared at the election. A decision of this kind would be fraught with danger by inviting unscrupulous or unprincipled persons on the eve of an important election to secrete or destroy the list of voters or other important papers in a township in which the majority may determine the result in the county. Rules applicable to contested elections, like other legal rules, must be uniform, and the results and consequences of decisions therefore determine their correctness.

In this connection I desire to call the attention of the House to the case of Gillin against Armstrong, decided in 1878 by the court of common pleas in Philadelphia. After quoting the constitutional provision I have just read, the learned judge says:

The right of these non-registered voters to have their votes counted, judged by these constitutional provisions apart from the act of 1874, is clear and conclusive. Hence, let us inquire whether there is anything in that act which requires us to reject these votes. The act of 1874 was passed pursuant to the power given by the seventh section of the eighth article of the Constitution to regulate the holding of elections.

Observe, the power conferred is to "regulate." The act does not pretend to enlarge or diminish the right of the voter as fixed by the Constitution; it merely establishes a uniform regulation according to which the right must be exercised. Recognizing the right, it requires the officers of the election under severe punishment to see that the proof of the right to vote be made according to the act; but it contains no provision to punish the elector or for rejecting the vote if cast without compliance with the directions of the act. Nor does the act impose the duty upon the citizen to see that his name is placed upon the registry. The assessors specially charged to execute the provisions of the law are enjoined to register all voters. But the law reasonably supposes that notwithstanding the utmost vigilance the names of many may be omitted, and wisely provides that such shall not be deprived of their privilege because of the neglect or failure of the officers to register the voters' names. Such voters may present their votes. If received by the election officers, who are the agents of the law charged to enforce it, they waive, as concerns the qualified voter, the special proof required by the act. By accepting the vote without demanding the proof they deprive the voter of the opportunity of furnishing it. To expunge the vote under these circumstances would be to deprive the elector of his privilege assured to him in direct terms by the seventh section of the eighth article of the Constitution.

It must be remembered that the above decision is by one of the oldest and ablest judges of Pennsylvania. It is decisive of the main question involved in this case.

Mr. Speaker, I have already shown by reference to McCrary's Law of Elections that the presumption is in favor of the legality of the votes cast, and that the burden of proof is upon the party attacking them. Hence the *onus* is upon contestant to show that a sufficient number of illegal votes were cast for the sitting member to overcome his official majority. Bear with me for a moment while I call attention to some important facts disclosed by this record.

In his notice to Yocum Mr. Curtin alleged as his ground of contest the casting of non-registered votes in nine out of the one hundred and forty-one precincts in the congressional district. The nine precincts embraced in the notice of contest are Union, Burnside, Decatur, Girard, Graham, Gulich, Huston, and Woodward, in the county of Clearfield, and Union, in the county of Centre. Of these nine, proof was offered showing the casting of non-registered votes in but five, to wit: Burnside, Girard, Graham, Gulich, and Woodward. In the last named precinct one of the officers of the election testifies that affidavits were made as required by statute by each non-registered voter who voted at that precinct, but that said affidavits were placed in the ballot-box instead of being returned to the proper officer. The last fact, which is uncontroverted, excludes Woodward from further consideration, and narrows the investigation to the four remaining precincts. In these the non-registered votes were as follows: Burnside 12, Girard 5, Graham 5, and Gulich 7; total 29.

I think I have shown, Mr. Speaker, by recognized authorities: first, that the elector cannot be deprived of the right of suffrage by the ignorance or misfeasance of the election officials; second, that under the constitution of Pennsylvania he cannot be debarred from voting by reason of non-registration; third, that the officers conducting the election are presumed to have done their duty and received only legal votes; fourth, the burden of proof is upon the party assailing their legality. Hence the conclusion that the candidate who received the 29 non-registered votes in the four precincts I have mentioned cannot be deprived of them until it is shown by competent proof that they were fraudulent. From this conclusion I think there can be no escape. But conceding these 29 votes to be illegal and that they were cast for contestee, and he is still elected by 51 majority.

Now, sir, touching the good faith of the parties to this contest, I will call the attention of the House to one pertinent fact. In the precinct I have just mentioned, as well as others in the counties of Clearfield and Centre, the election officers placed the statutory affidavits of the non-registered voters in the ballot-box instead of returning them to the prothonotary as required by law. By the statute of that State the contents of the ballot-boxes are required to be destroyed prior to the ensuing spring election, unless in case of contest they are preserved by order of court. Mr. Yocum having received notice of this contest, filed the usual petition for the preservation of these affidavits in the proper court in the county of Clearfield. The contestant appeared by his counsel and successfully resisted the application for the preservation of these affidavits. Sir, the legal inference from this act is too obvious for argument. Under the circumstances it is hardly to be presumed that an inspection of these affidavits would have furthered the interests of contestant.

Can it be possible that contestant can be heard to assert that these non-registered votes were illegal when he has by his own act prevented the perpetuation of the evidence which would conclusively have established their character? Does not the same presumption arise here against contestant that would arise in a court of justice against the suitor who had destroyed material evidence touching the matter in litigation?

The majority of the committee is certainly guilty of no extravagance of language wherein they say in their report that in all this "the contestant has shown a want of due diligence."

It would be passing strange, Mr. Speaker, if under the facts disclosed by the record this election is to be declared null and void. Is the entire poll to be rejected and the honest elector deprived of his rights because illegal votes may have been cast? The adoption of the pending resolution is warranted neither by law nor legislative precedent. The entire poll may not be rejected, but it may be purged of votes shown to have been illegal. But it must be shown for whom they were cast. Upon the party assailing the poll rests the burden of proof both as to the illegality of the votes and as to who received them. To this end the voters are competent witnesses and their attendance is compulsory.

Now, sir, let me call the attention of the House to another important fact in this case. Of the alleged non-registered voters, including those of precincts not embraced in the notice of contest, over twelve hundred were called as witnesses, and of this number only thirteen failed to show that they possessed all of the qualifications as voters required by the constitution of the State of Pennsylvania.

Mr. Speaker, I listened with great interest to the able and elaborate argument of the gentleman from Pennsylvania [Mr. BELTZHOOVER] on Saturday. His argument, which I regret has not yet appeared in the RECORD, while abounding in references to decisions of the *nisi prius* courts of his State sustaining many features of the registry law, singularly enough fails to touch the constitutional question involved in this case. I think the distinguished gentleman failed to meet that question. The provision is imperative that no elector possessing the other qualifications shall be deprived of the right to vote by reason of his name not being registered. I have already referred to the construction given this clause by the eminent judge of the common pleas court in Philadelphia. The language of the constitution is too explicit to need judicial interpretation. The elector cannot be deprived of his right to vote by legislative enactment. Thus saith the constitution of Pennsylvania, and thus saith the only court in that State which has since the adoption of the present constitution given a construction to the statute now under discussion.

Let me call attention to another striking feature in the gentleman's position. For the first two hours of his able argument he insisted that no valid election had been held in the twentieth district of Pennsylvania on the 5th day of November, 1878, and therefore this House should declare the seat vacant and send the question back to the people. However successful the gentleman may have been in convincing the House of the correctness of his position, he signally failed to convince himself. In the closing sentences of his speech he solemnly declares that a valid election was held in the twentieth district of Pennsylvania on the 5th day of November, 1878, and that Governor Curtin, the contestant, was fairly and honestly elected. The position of the gentleman has the merit of boldness and novelty, if not of consistency. He presents to this House a resolution declaring the seat vacant for non-observance of the registry law, while insisting that the election was valid and that contestant should be seated. When the gentleman succeeds in reconciling the position taken in the opening with that assumed in the close of his argument it will be time to attack the members of the minority for disagreeing upon a single question of law involved in the case. In the position he last assumed he antagonizes not only the entire committee but himself.

My time is exhausted, Mr. Speaker, and further comment upon this record is useless. I trust that this contest will be decided upon its merits. Bearing in mind the constitutional provision of Pennsylvania to which I have called attention and applying the law to uncontroverted facts, there can be no doubt as to the right of contestee to retain his seat upon this floor. The issue presented in this contest is one in which every Representative, every constituency, has an abiding interest. It involves a principle upon which rests the entire structure of representative government.

It is not claimed that contestee holds his seat by fraud. I think I have shown by reference to the organic law and decisions of the highest court of Pennsylvania that the ground upon which it is sought to eject him is utterly without foundation.

I appeal, then, to the majority of this House not to consummate this great wrong, not to do this act of injustice; an act which nullifies the constitution of a sovereign State and strikes down the rights of a peer upon this floor.

The precedent sought to be established by the pending resolution is fraught with danger. In the mutations of party supremacy here it may be invoked to the undoing of those who now favor it. By it—

We but teach bloody instructions, which, being taught, return to plague the inventor.

[Applause.]

During the delivery of the remarks of Mr. STEVENSON the hammer fell.

The SPEAKER *pro tempore*. The time allotted to the gentleman from Illinois [Mr. STEVENSON] has expired.

Mr. KEIFER. I would inquire of the gentleman how much more time he desires?

Mr. STEVENSON. About ten minutes longer. The gentleman from Massachusetts [Mr. FIELD] kindly yielded me the greater portion of his time, and I do not like to take more of it.

Mr. KEIFER. I understand that the gentleman from Massachusetts desires to reserve twenty minutes of his hour. I would therefore ask that the time of the gentleman from Illinois [Mr. STEVENSON] be extended ten minutes.

There was no objection.

Mr. ATKINS. Will the gentleman from Illinois yield to me to report a bill from the Committee on Appropriations? It will take but a moment.

Mr. STEVENSON. I will do so.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I thank the gentleman from Illinois for his courtesy. By instructions of the Committee on Appropriations I report the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and I move that it be printed and recommitted.

The bill (H. R. No. 6185) was received, read a first and second time, ordered to be printed, and recommitted to the Committee on Appropriations.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation;

A bill (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railroad Company to construct a bridge across Lake Saint Croix and to establish it as a post-road; and

A bill (S. No. 1610) making an appropriation for the purchase of a site and the erection of a fog-signal at or near the entrance of Little Traverse Harbor, Lake Michigan.

ELECTION CONTEST—CURTIN VS. YOCUM.

Mr. STEVENSON resumed and concluded his remarks, as printed above.

Mr. FIELD. I desire to reserve the remainder of my time, twenty minutes, until later in this debate.

Mr. CALKINS. Mr. Speaker, the contest in this case is from the twentieth congressional district of Pennsylvania. The sitting member [Mr. YOCUM] was returned by the returning officers of that district as elected by a majority of 73 votes. It was subsequently discovered that a mistake had been made, conceded by all, so that his real majority should have been returned as 80, and it is so found by the committee.

I was curious to ascertain how many members there were upon the floor of this House who were elected by majorities ranging from 500 down; not for the purpose of injecting it as an argument into this case, but simply to caution the House that where laws are not strictly applied to election cases you can very easily overturn a majority of 500 or less upon one excuse or another and thus change the political complexion of the body. Therefore all of the rigid rules of the law and of the practice should be applied in the examination of election cases so that injustice may not be done to any one.

We are all supposed to represent constituencies about equal in number. It is true this is not absolutely the case, because in the West the congressional districts have rapidly increased in population since the last census was taken and the apportionment of Representatives made. But as a general rule I may state that we all represent constituencies about equal in number. From 26,000 up to 35,000 votes are usually polled in contested districts. This does not hold good, of course, in some districts, either in the East or in the South, where there are no contests and nothing to bring out a full vote.

Coming back to the point to which I desire to call the attention of the House, I will say that there are twenty-five members upon the floor of this House who hold their seats by a majority of less than 500. There is almost one-fifth of the members on the floor of the House who hold seats by no majority at all, but by a plurality. There are twelve members upon the floor of the House who hold their seats by returned majorities of 200 and less, and there are five members who hold their seats by a returned majority of less than 100.

You might, therefore, overturn the political complexion of any House, where the majority of the controlling party was less than fifty, by active contests and by the application of loose rules in the trial of contests. I doubt not that this could have been done in the case of that number of members in any House that has heretofore sat, or it might be done in any House that may come in the future.

In the pending case the sitting member was returned by a majority of less than one hundred. A contest was instituted and testimony was taken covering more than four thousand printed pages. The notice of the contest, which under the law is the declaration of the contestant, contained very many specific charges directed against specific election precincts in the district.

And here I may stop to say that there are six counties in this district and one hundred and forty-one election precincts. If my recollection serves me right there are but nine precincts out of the one hundred and forty-one where there is any proof of any irregularity, except in instances where there are a few scattering illegal votes such as are polled and creep into all elections. There are but nine precincts out of the one hundred and forty-one where there is any serious contest between these parties. The others remain substantially unchallenged.

Now, before I get through, I shall announce and try to maintain this proposition: that where there is no active fraud proven, seeming to permeate all or a great majority of all the polls of a congressional district, where it is simply proven that some of them have been cursed by illegal votes, so that the majority cannot be ascertained, those polls only where the fraud exists must be rejected, and not all the other polls as well where there was an honest election.

Coming back now to this contest, it is proper for me to state that this district lies in one of the oldest-settled portions of Pennsylvania, where many of its citizens have owned their farms ever since they were boys, and have lived upon them until they are now gray-headed. The people all know each other. There is no floating vote through the district except possibly in one part of one county, and that is not seriously attacked.

In the notice of contest the contestant did not claim, nor did I understand that his counsel claimed, that you could throw out the whole one hundred and forty-one election precincts upon proof that there were illegal votes cast in one. There may be and there have been cases where fraud perpetrated in a district has so permeated all the polls, or a large majority of them, that it would be outrageous to allow any person to hold his seat under such a state of facts. Those cases may be found; but this is not such a case; for I here assert that there is not a single instance in the whole district where active fraud was perpetrated except one, and this was clearly shown to have been in the interest of the contestant in this case, so that his counsel abandoned that part of the case after the evidence was in.

A MEMBER. Tell us what that was.

Mr. CALKINS. I refer to Bethel Township, in Centre County, in which there were found in the ballot-box certain votes upon which there was no number. The law of Pennsylvania requires that each ballot shall be numbered so as to correspond with the name upon the poll-list at the time the vote is deposited. Upon taking testimony it was ascertained that each of these illegal votes found in the ballot-box of that township contained the name of Andrew G. Curtin; and this part of the case was abandoned by the counsel of the contestant in the argument, as I understood it.

I will state here that if I misstate anything I ask my brethren upon the sub-committee who heard this testimony canvassed and heard the argument of counsel in the case, to set me right; for I do not want to misstate a single fact.

Now, I admit that when the case was opened it was claimed that there was ballot-box stuffing; it was claimed that at one township there was such fraud upon the part of the officers of the election as to justify the setting aside that poll entirely. But when we came to examine the testimony we found that at the poll complained of a majority of election officers were friends of Mr. YOCUM; some friend of Mr. Curtin came and objected, and in the interest of a fair election one legally appointed officer of the township was set aside and some friend of Mr. Curtin was appointed upon the board, at the suggestion of his friends. Mr. Curtin in the first place came in and complained of this but afterward abandoned it, as I understand.

The counsel who finally closed this case for the contestant, as I understood him, abandoned every ground except the single proposition contained in the majority report, that the constitution of Pennsylvania requires a registry law, and that such a law having been passed in pursuance of the constitution, its provisions are mandatory, not to be departed from, and any person voting whose name does not appear on the registry list is an illegal voter. All other grounds were abandoned; the majority report is bottomed upon that single proposition of law.

The provisions of the constitution of Pennsylvania on this subject are as follows:

ARTICLE VIII.—SUFFRAGE AND ELECTIONS.

SECTION 1. Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections:

First. He shall have been a citizen of the United States at least one month.

Second. He shall have resided in the State one year (or if, having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned, then six months) immediately preceding the election.

Third. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

Fourth. If twenty-two years of age, or upward, he shall have paid within two years a State or county tax, which shall have been assessed at least two months and paid at least one month before the election.

SEC. 2. The general election shall be held annually on the Tuesday next follow-

ing the first Monday of November, but the General Assembly may, by law, fix a different day, two-thirds of all the members of each house consenting thereto.

SEC. 3. All elections for city, ward, borough, and township officers, for regular terms of service, shall be held on the third Tuesday of February.

SEC. 4. All elections by the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the elector who presents the ballot. Any elector may write his name upon his ticket, or cause the same to be written thereon and attested by a citizen of the district. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted unless required to do so as witnesses in a judicial proceeding.

SEC. 7. [of the above article 8.] All laws regulating the holding of elections by the citizens, or for the registration of electors, shall be uniform, throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

I desire to call the particular attention of every person who will be called upon to vote on this question to the last section which I have just read. It would seem that this language is so plain as hardly to admit of any extended argument. I concede in the fullest and frankest way that where there is a mandatory provision, either in a constitution or in a registry law, (provided such registry law is not obnoxious to the constitution,) that provision of the constitution or the statute law cannot be departed from. But I maintain that the language of this seventh section just quoted is a limitation upon the power of the Legislature to deprive any elector of the right of suffrage by reason of non-registration. Hence any law by which the Legislature attempts to deprive an elector of the right of suffrage on such ground is obnoxious to this provision of the constitution, and cannot stand.

It was said by the distinguished gentleman from Pennsylvania [Mr. BELTZHOOVER] who opened this case that the law passed in pursuance of this clause of the constitution was mandatory. What is that law? The two important sections are the following:

SEC. 3. After the assessments have been completed on the sixty-first day before the Tuesday next following the first Monday of November in each year, the assessor shall on the following day make a return to the county commissioners of the names of all persons assessed by him since the return required to be made by him by the first section of this act, noting opposite each name the observations and explanations required to be noted as aforesaid; and the county commissioners shall thereupon cause the same to be added to the return required by the first section of this act, and a full and correct copy thereof to be made containing the names of all persons so returned as resident taxables in said election district, and furnish the same, together with the necessary election blanks, to the officers of the election in such election district on or before seven o'clock on the morning of the election; and no man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.

SEC. 10. On the day of election any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election, shall produce at least one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter, for a period of at least two months immediately preceding said election, which witness shall be sworn or affirmed and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter; and the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit, stating, to the best of his knowledge and belief, when and where he was born; that he has been a citizen of the United States for one month, and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a native-born citizen thereof, and has removed therefrom and returned, that he has resided therein six months next preceding said election; that he has resided in the district in which he claims to be a voter for the period of at least two months immediately preceding said election; that he has not moved into the district for the purpose of voting therein; that he has, if twenty-two years of age or upward, paid a State or county tax within two years, which was assessed at least two months and paid at least one month before the election. The said affidavit shall also state when and where the tax claimed to be paid by the affiant was assessed, and when and where and to whom paid; and the tax receipt therefor shall be produced for examination, unless the affiant shall state in his affidavit that it has been lost or destroyed, or that he never received any; and if a naturalized citizen, shall also state when, where, and by what court he was naturalized, and shall also produce his certificate of naturalization for examination. But if the person so claiming the right to vote shall take and subscribe an affidavit that he is a native-born citizen of the United States, or, if born elsewere, shall state the fact in his affidavit, and shall produce evidence that he has been naturalized or that he is entitled to citizenship by reason of his father's naturalization, and shall further state in his affidavit that he is, at the time of making the affidavit, of the age of twenty-one, and under twenty-two years; that he has been a citizen of the United States one month, and has resided in the State one year; or, if a native-born citizen of the State and removed therefrom and returned, that he has resided therein six months next preceding said election, and in the election district two months immediately preceding such election, he shall be entitled to vote, although he shall not have paid taxes. The said affidavits of all persons making such claims and the affidavits of the witnesses to their residence shall be preserved by the election board, and at the close of the election they shall be inclosed with the list of voters, tally lists, and other papers required by law to be filed by the return judge with the prothonotary, and shall remain on file therewith in the prothonotary's office, subject to examination as other election papers are. If the election officers shall find that the applicant possesses all the legal qualifications of a voter he shall be permitted to vote, and his name shall be added to the list of taxables by the election officers, the word "tax" being added where the claimant claims to vote on tax, and the word "age" where he claims to vote on age; the same words being added by the clerks in each case, respectively, on the lists of persons voting at such election.

The clause of the law upon which the contestant relies is the latter part of section 3. After providing for the registry, how they shall be registered, the law then goes on to say:

And no man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.

It is strenuously claimed by the eminent gentleman from Pennsylvania that is not inconsistent with the clause of the constitution which I have just read. Let us see for a moment. The constitution says that no elector shall be deprived of the privilege of voting by reason of not being registered. The law says, after defining what the registration shall be, that no man shall be permitted to vote unless he is registered, &c. How can you construe those two provisions together so they can both stand as mandatory provisions?—because courts will always attempt to construe every legislative act, if possible, so it may stand rather than declare it unconstitutional. It can stand only in one way, and that is by holding it to be mandatory on the officer and a direction to the voter. It can stand in no other way. Why? Immediately it is followed up by different clauses in the succeeding sections declaring a penalty against every officer who shall violate the law and receive a vote not in conformity to the laws. But there is no penalty against the voter if he votes in violation of this particular law. None whatever; but the penalty is directed against the officer.

Now apply the rule which the gentleman has so diligently searched down through the authorities as to what is the proper construction of a mandatory law. As he said, where you find penalties attached you may generally regard it as an indication of the intention to make it mandatory; especially as to those against whom it declared any penalties. Here the penalty is declared against the officer, and not the voter.

It is now claimed, Mr. Speaker, that although the law is settled as to one phase of this case—although my learned friend undertook, as I think, to comment on the case known as Wheelock's case in 1 Norris, the only case decided by the supreme court of Pennsylvania under the new constitution—although he undertook to comment on it and construe it favorably to the position which he had assumed, I assert that a glance at the case, to any man who will undertake to build a theory founded and bottomed on logic, cannot maintain the position he assumes a moment. Why?

Before I read it, I will ask this question: What is the purpose of a registry law? What is it for? It is the *prima facie* evidence of the right of the elector to vote; a guide to the election officers. Sometimes it is made mandatory, and then it is the conclusive evidence of his right to vote. That is all it is. Now, if that is the case and your construction is right, if a man votes and he is not registered, he is an illegal voter, and you cannot escape it. But the supreme court of Pennsylvania, having this under consideration, said that in a township where there was no registry at all the voters who voted were legal voters, notwithstanding the registry list was not used by the election officers in determining their right to vote. They could not use it; they had none to use. The evidence, then, which was primary, was dispensed with, and under the clause of the constitution just cited the supreme court of Pennsylvania held them all legal voters, notwithstanding they were unregistered. I quote from Wheelock's case:

2. Because "at the said election, held in the district of Freehold, there was no copy of the corrected assessment as furnished by the assessor of said district to the commissioners of said county containing the names of all persons returned by the said assessor as resident taxables in said election district present at said election, nor was there any registry of voters present at the same whereby the names of the resident taxables and voters of said district could be ascertained."

* * * * * * *

The State constitution, article 8, section 1, gives to every citizen possessing the qualifications prescribed the right to vote, and section 7 of the same article provides that no elector shall be deprived of the privilege of voting by reason of his name not being registered. To disfranchise all the voters of a township, as we are asked to do in this petition, the facts on which we are required to act should show a case free from legal doubt. *If we* by our decision should permit the *carelessness or even the fraud* of officers whose duty it is to furnish a list of voters at the election to defeat the election and deprive the people of the country of the officer who was elected by a majority of their votes, we would thus make the people suffer for an act in which they did not participate, and which they did not sanction. In so doing instead of *punishing an officer* for the violation of the election law we practically punish the voters of the county by defeating their choice of a county officer as declared at the election. A decision of this kind would be fraught with danger by inviting unscrupulous or unprincipled persons, on the eve of an important election, to secrete or destroy the list of voters or other important papers in a township in which the majority may determine the result in the county. Rules applicable to contested elections, like other legal rules, must be uniform, and the results and consequences of decisions, therefore, determine their correctness.

The gentleman says the registry list was in the hands of the commissioners and not in the hands of the election officers.

This case was decided on motion to show cause, and the declaration filed by the declarant expressly stated that there was no registry at the poll at all. That is the language of his petition, that these election officers received the votes of these voters in this township and there was no registry at all. The court say you cannot deprive a qualified elector of the right of suffrage by reason of the acts or omissions of the officers if he is otherwise qualified.

Judge Cooley, in his Constitutional Limitations, lays down the same general doctrine, that it is the right of all persons who are constitutionally qualified to vote under such reasonable regulations as the Legislature may prescribe; but whenever you go beyond a reasonable regulation and trench on the constitutional right of a voter, that moment the law must fall.

I now proceed to the next point in the case. Section 10 of the election law says, if any qualified voter whose name is left off the registry list presents himself on the day of election and offers to vote, he shall file his own affidavit, swearing to his qualifications, and also the affidavit of a registered elector of the precinct as to his residence. Then what? Then they put his name on the registry list. That is all; they correct the registry list; they put his name on then and there. Yet, in Wheelock's case, the court say that if these voters were legal voters in this township, though there was no

registry at all and none made so far as the facts show, yet if they were otherwise legal voters they could not be disqualified under this clause of the constitution. Here was a mere incident to the registry law, allowing the officers to correct it on the day of election and add names to it, and yet the majority of the committee say this incident is greater than the principle declared in the law itself, that unless these affidavits are filed in writing with these officers, and returned by the officers to the prothonotary's office as the law directs, then these votes are illegal and must be thrown out. To give an illustration of it, regard just for a moment the facts on the record. This is an old settled district. The people of the different precincts are known to each other. The counsel who so ably presented the case of the contestee was a resident for forty years in the very precinct in which he now lives and was not a registered voter, and yet everybody knew him to be a resident, and his vote was taken as a matter of course. He was known to be entitled to vote, and yet the majority of the committee insist that this is an illegal vote. I say that the very purpose of this constitutional provision put into the new constitution of Pennsylvania was to prevent the Legislature, or limit its power, in making a registry law that would be an additional test to the qualifications of the voter. Registration laws are maintained upon the ground that it is a reasonable regulation as to the manner of conducting elections. That is the only ground on which such laws have been maintained, and that seems to be a reasonable view of the question unless constitutions have made them mandatory.

It has always been held by the courts that wherever a constitution declares the qualifications of electors, and a registry law added additional tests to those qualifications, the registry law was null and void and of no effect. It was so held in my own State, and it was so held in Pennsylvania in a case reported in 58 Pennsylvania Reports, but was afterward overruled in the sixtieth, where it was held that there was nothing in the registry law requiring additional tests, and therefore it was within the constitution. This is all I desire to say in reference to Wheelock's case.

I will now call attention in this connection to the case that was cited by the gentleman from Illinois, who preceded me, [Mr. STEVENSON,] the case of Gillin *et al.* against Armstrong, reported in the Legal Intelligencer of July 12, 1878. The decision in this case is as follows:

> Section 7 of the same article provides that "all laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered."
>
> The right of these non-registered voters to have their votes counted, judged by these constitutional provisions, apart from the act of 1874, is clear and conclusive.
>
> Hence, let us inquire whether there is anything in that act which requires us to reject those votes. The act of 1874 was passed pursuant to the power given by the seventh section of the eighth article of the constitution to regulate the holding of elections. Observe, the power conferred is to "regulate." The act does not pretend to enlarge or diminish the right of the voter as fixed by the constitution; it merely establishes a uniform regulation, according to which the right must be exercised. Recognizing the right, it requires the officer of the election, under severe punishment, by fine or imprisonment, or both, at the discretion of the court, to see that the proof of the right to vote be made according to the act; but it contains no provision to punish the elector, or for rejecting the vote if cast without compliance with the directions of the act. Nor does the act impose the duty upon the citizen to see that his name is placed upon the registry. The assessors, specially charged to execute the provisions of the law, are enjoined to register all voters. But the law reasonably supposes that notwithstanding the utmost vigilance the names of many may be omitted, and wisely provides that such shall not be deprived of their failure of the officers to register the voters' names. Such voters may present their votes; if received by the election officers, who are the agents of the law charged to enforce it, they waive, as concerns the qualified voter, the special proof required by the act. By accepting the vote without demanding the proof they deprive the voter of the opportunity of furnishing it. To expunge the vote under those circumstances would be to deprive the elector of his privilege assured to him in direct terms by the seventh section of the eighth article of the constitution.

It will be evident, Mr. Speaker, from the reading of this case that it covers the very point I refer to in the pending contest. This case was decided by the common pleas bench of Philadelphia, consisting of three judges, and is said to be one of the ablest courts in that State. In reviewing this question Judge Briggs, who delivered the opinion of the court, takes the same view of the law that I have announced, and which is held by the minority report of the committee, and for fear that this case might have been overruled, and that there might have been some different rulings since the announcement of that opinion, the contestee in the case wrote to Judge Briggs asking him in reference to the matter, and I will now ask the Clerk to read the reply of Judge Briggs to that application.

The Clerk read as follows:

> PHILADELPHIA, *March* 11, 1880.
>
> DEAR SIR: The case of Gillan *et al. vs.* Armstrong was argued before the full bench, consisting of Judges Thayer, Elcock, and myself. The opinion was assigned to me to write. The opinion expresses the judgment of all the members of the court, and is now settled law of our court as applicable to points adjudicated as expressed in the opinion, and has since been followed.
>
> I know of no opinion anywhere dissenting from the decision you refer to, or as reaching a different conclusion.
>
> Very truly, yours,
>
> AMOS BRIGGS.
>
> Hon. S. H. YOCUM.

Mr. CALKINS. It will be observed that Judge Briggs simply pronounces the opinion of the three judges, all of whom concurred in the opinion of the court, and which has since been and still is the ruling of that court.

Mr. SPEER. From whom was that letter that was read by the Clerk?

Mr. CALKINS. It is from Judge Briggs, who pronounced the opinion of the court in the case which I have just read. I call the attention of the members of the House specially to the conclusion reached by Judge Briggs in construing this law. He says:

> By accepting the vote—
>
> Referring to the non-registered voter who presents himself at the polls without an affidavit either of his own or from a voter of the precinct—
>
> By accepting the vote without demanding the proof they deprive the voter of the opportunity of furnishing it.

To construe the law as contended by my friend from Pennsylvania [Mr. BELTZHOOVER] makes it a mere trap, for the reason that the voter presumes, as he has a right to presume, that he is registered. He has lived in the precinct the time required by the law; he has paid his tax; the assessor has been to his house; he knows his name ought to be on the registry list, and he goes up to the ballot-box with the ballot in his hand. They take his ballot and deposit it in the ballot-box, and afterward, when he cannot furnish the proof, it is contended his vote is an illegal one; while if the election officers had called his attention to it at the moment he could have supplied the evidence required and established his right to vote in the mode prescribed. But that evidence was not demanded. He voted knowing that he had a legal right to vote, but the legal evidence of his right was not required of him by the election officers. And applying the same doctrine as in Wheelock's case, "you cannot deprive the legal voter of the right to vote by reason of the failure of the officer to do his duty," and it seems to me that the position is unassailable.

It will be observed that if this position upon which the majority report is based be wrong the report falls to the ground. But there are other controlling questions, according to the views of the minority, which tend to establish the right of the sitting member to his seat.

The next position I assume is, that a vote having been deposited in the ballot-box unchallenged is presumed to be a legal vote until the contrary is shown. I do not know what regard the chairman of my committee has for the reports of his own State. I regard mine very highly, and should be inclined to be guided by them in preference to other judicial opinions, for with me it is a matter of State pride.

I call attention to the case of Perry *vs.* Ryan, reported in 68 Illinois Reports, at page 172. I read only a small extract from the opinion. I will read the syllabus and not take the time to read from the opinion at large:

> Where a person votes at an election without having been registered and without any proof of right, if it does not appear he was challenged, or any objection made to his vote, the presumption must be that he was a legal voter and was known to the judges of elections.

Again, in the eighty-eighth Illinois, at page 498, in the case of Clark *vs.* Robinson, where a registry law very similar to the law under consideration was construed by that court, it was held:

> The presumption of the legalty of a vote in no way depends upon the omission to challenge or object to it, or any presumed knowledge of the judges of election; but it arises from the fact of its having been deposited in the ballot-box. When once deposited, it will be presumed to be a legal vote until there is evidence to the contrary.

The same doctrine is found in a case reported in twenty-ninth Illinois, which I will not stop to read from.

The same doctrine was held in the case of Finley *vs.* Bisbee in this House in the last Congress. The report in that case was signed by four members of the present House and two gentlemen who are not now members of this House. I ask particular attention, Mr. Speaker, to the fact that the present chairman of the Committee on Elections, Mr. SPRINGER, my colleague, Mr. COBB, Mr. JOHN T. HARRIS of Virginia, and Mr. ELLIS of Louisiana, concurred in this report. And the House, acting upon it, decided by a majority vote that the law as reported by them was the law of election cases.

It is said by the chairman of my committee that the provisions of the law of Florida and the law of Pennsylvania are different, and therefore a different rule prevails. If they are materially different, Mr. Speaker, I admit it; but they are not materially different, because in the Bisbee-Finley case the committee held one provision of the Constitution which was mandatory in its language to be directory merely. The language was that certain persons offering to vote should—"shall" was the language used—present to the officers certain naturalization papers at the time they offered to vote. That was a part of the constitution of Florida, and yet the Committee on Elections in construing it said the clause was not mandatory, although it was a part of the organic law of the land of Florida, but was directory merely. Here they undertake to hold that so far as a mandatory law passed by the Legislature of Pennsylvania is in conflict with the constitution both of them must stand, both of them must be held to be mandatory, although they squarely conflict.

Let me quote a sentence from that report, which I believe was written by Judge Cobb, of my State. He says:

> It is the settled law of election cases that where persons vote without challenge it will be presumed they were entited to vote, and that the sworn officers of the election who received their votes performed their duty properly and honestly; and the burden of proof to show the contrary devolves upon the party denying their right.

Mark, Mr. Speaker, not the law of Florida, but "the settled law of all election cases," is the language; and this House, solemnly sitting

as a court, adjudged that to be the law. And yet in this case the majority of the committee say that every vote that went into the ballot-boxes unchallenged in Pennsylvania which were unregistered are presumed to be illegal. Now I ask the gentleman from Illinois [Mr. SPRINGER] to point out to this House the distinction which he undertook to make between the two cases. Both of these provisions are in the constitution of Florida; both of them are mandatory in terms. In the case at bar you have a constitutional provision which says no person shall be deprived of his privilege of voting by reason of his name not being registered; then a legislative provision which says no man shall be permitted to vote unless he complies with the registry law. The committee undertake to hold both of them mandatory and not in conflict when the test is that of non-registration and no refusal on the part of the voter to comply with the law.

I admit that the courts of Wisconsin in two cases have held their law mandatory in construing a similar provision. I also take occasion to state that Judge Dixon, one of the ablest judges that ever sat on the supreme court of that or any other State, apologizes for having to so hold. He admits it is not the law generally, and apologizes for having so to construe the law, as you will find by examining the decision in the first case cited by the majority of the committee. Afterward in a later case the decision in the first was considerably modified.

These are the only opinions from any respectable authority that have come under my notice which could be held to have even persuasive influence over the question before the House.

Now, look at the ridiculousness of the view contended for by the majority. I have found similar provisions of law with reference to other subjects. Not long ago, in examining a question as to toll-bridges, I found it was the law that no man should be *permitted* to pass over a bridge until he paid his toll. But suppose a man did pass over and had not paid his toll, according to the logic of my friend from Pennsylvania he would not be over the bridge at all, because he was illegally across. This, according to my friend, would be conclusively presumed.

Mr. BELTZHOOVER. My reply is this: The gentleman from Indiana contends that if his man got over the bridge without paying toll he would not be bound in law to pay it. In other words, his argument would justify the man in cheating the bridge out of the toll. The gentleman is welcome to whatever force there is in this logic.

Mr. CALKINS. The one relates to the incident, the other to the act. There was a constitutional provision in the constitution of my State declaring that no negro or mulatto should ever come into the State after a certain day. During the war a negro came over from Kentucky and stole a suit of clothes and was prosecuted for larceny. A democratic lawyer who defended him took the position (it having come out in evidence that the negro had come into the State after the passage of that disqualifying clause) that he was not constitutionally in the State, and that therefore he was not in the State at all, and could not have stolen the clothes in the State; and, strange to say, he got the jury to believe him and they acquitted him. [Laughter.] And that is very much like the logic of my friends who are undertaking to maintain the majority report in this case.

But conceding now that the majority are right, conceding that the construction of the law which they contend for is correct, still I claim that the contestee is entitled to his seat. I refer now hurriedly, because I have been occupying more time than I intended to do—[Cries of "Go on!" "Go on!"]—I refer now to the trial of this case below. The attorneys in the trial below through some mistaken notion supposed that when they came into the House of Representatives, or rather before the Committee on Elections, the case would be strictly tried upon the law and the facts as cases are tried in courts. I say through some mistaken notion, and I say so for this reason: under the notice of contest, it being still somewhat of an open question in the minds of the attorneys as to how Congress would decide the question of the legality of the votes of the non-registered voters, both the contestant and the contestee put in issue the question of non-registered voters.

The contestee simply replied to that part of the notice of the contestant which referred to illegal non-registered voters by saying, "Very well; if that is determined to be the law, then you, Andrew G. Curtin, received more of that class of votes than I did, and I will proceed to prove it." So they adopted all the way through two rules, as will be seen by looking over the testimony and the able briefs of counsel on each side. One is known as the Duffy rule, announced by Judge Harding, and the other as the McCrary rule. The rule in Duffy's case was that the illegal votes received should be deducted from the candidate receiving the majority. The McCrary rule was that when illegal votes were shown to have been thrown, the *fraud* should be apportioned between the two parties according to the total number of votes received by each in the precinct where the illegal votes were cast.

The attorneys proceeded to try this case upon these two grounds, and each side printed elaborate tables in their arguments. In the opening of the case before the sub-committee on elections it was strenuously argued that more illegal votes had been proven in the precinct where Yocum received a majority than Yocum had proved in the precincts where Curtin had received a majority.

Now, when we came to look over the evidence on that point, it was found that if the Duffy rule was applied, then Mr. Curtin lacked 2,000 votes of having received a majority; and if the McCrary rule was applied, that still left Curtin behind about 600 votes. Neither of these rules would do. There must be a change of base again, and Mr. Curtin fell back upon the question of confusion, and took the ground that the polls had been confused and it could not be easily ascertained who was elected. So the majority of the committee, not being able to cipher out that Curtin had been elected by either of those rules, decided to put the case on the high, broad ground of referring it back to the people and letting them try it over again.

Now, I assert that if you apply the Duffy rule to this case Mr. Curtin, according to the proof, lacks nearly 2,000 votes of having been elected; and if you apply the McCrary rule of apportioning the fraud, as they call it, between the two candidates in the precincts where the illegal votes were cast, still Curtin is left nearly 600 votes behind.

So Mr. Curtin changed his base, and the learned counsel who finally summed up the case for him put it solely on the ground that the poll was confused; that Mr. Yocum had admitted that these votes were illegal, because he had put in evidence tending to show that fact. Now no judge would stand a moment on such an absurd proposition. Yocum said: "Apply the McCrary rule and Curtin is behind; apply the Duffy rule and still Mr. Curtin is behind." And here Mr. Curtin changes base under fire, and says: "Because you proved these non-registered votes you shall suffer for it." If Mr. Yocum had just folded his hands and allowed Mr. Curtin to prove the illegal votes and said nothing he would have been held to have been beaten under either of the rules cited. But when Mr. Yocum proved the same thing to a greater extent on Mr. Curtin, then they say that Mr. Yocum is still beaten. It is like that old saying we have heard so much, "heads I win, tails you lose." [Laughter.]

I assert that if you are to decide this case according to the Duffy rule, then Mr. Yocum was elected by nearly 2,000 majority. If you are to decide this case according to the McCrary rule, and apportion the fraud, as it is called, according to the vote each candidate received in the precinct where the illegal votes were cast, then Mr. Yocum was elected by about 600 majority.

I come now to the next question to be considered. I assert that you can find no case either in this House or in any court that is entitled to any credence where the votes of a whole congressional district was ever thrown out in a case where there was no active fraud and where mere irregularities existed. I admit the polls must be purged of illegal votes. This can be done in Pennsylvania easily, as we shall hereafter see.

No man will assert here that there was any active fraud perpetrated in any precinct of the twentieth district of Pennsylvania except in the one where Mr. Curtin received 17 illegal votes, if I remember rightly. In all the cases cited by the gentleman from Pennsylvania active fraud had been proven. In many of those cases (for I went over them carefully) these active frauds were traced directly to the parties themselves or their near friends. Here is a case of passive illegality or fraud, if you can call it so at all. These men who voted supposed they had the right to vote. They had a right to believe and did believe their names were upon the registry list. They marched up with their ballots in their hands, voted unchallenged, and their votes were counted. It is affirmed now that these persons must all be declared by this House illegal voters and this case must go back to the people for a new election. I assert that I have found no case sustaining such a position.

For the benefit of those who may come after me I will cite as an authority in support of these positions McCrary's Law of Elections, pages 227 to 231 inclusive, where the doctrine which I have announced is declared by Mr. McCrary to be the law of election cases, and many authorities are cited in support of it.

I pass to the next question, which is to my mind the controlling question in this case. Nobody on this floor or elsewhere has a greater admiration for Andrew G. Curtin than I have; for I remember well when he was the great war governor of one of the great Commonwealths of these United States; he made many speeches during the war in which he mercilessly scalped some of my political adversaries. I have a great admiration for him on account of the great and patriotic services he rendered his country in its hour of peril. But he must try his case as he presents it, and you must decide it as he presents it. You cannot escape doing so. You are the sworn judges and jurors to try the issues he presents according to the law and the fact, irrespective of all other considerations.

My friend from Pennsylvania [Mr. BELTZHOOVER] has broadly asserted there is no evidence that when Mr. Yocum undertook to preserve the contents of these ballot-boxes Mr. Curtin resisted by his counsel and prevented it. The gentleman from Pennsylvania asserted, as I understood, in the broadest manner that there was not a particle of evidence on that subject. Now, Mr. Speaker, I am willing this case shall fail if I do not convince the mind of every honest, unbiased, unprejudiced man that there is plenty of testimony to show that Mr. Curtin did not only fail to produce this evidence as it was his duty to do, but his counsel resisted Mr. Yocum's application to have it preserved, and thereby caused its destruction.

First, the law of Pennsylvania provides that these affidavits of unregistered voters, which are supplements to the registry list, shall be deposited by the election officers in the office of the prothonotary of the county and there preserved. It provides that the ballot-boxes, after the election is over, shall be sealed up with the ballots inside

of them, taken to the justice of the peace nearest to the polling place in country districts like this, and there kept until the morning of the next election, when the officers shall take the ballots from the boxes and publicly burn them.

It happened in this case that the last day for taking testimony on the part of the contestant, Andrew G. Curtin, on his notice, was the 18th day of February of last year, on which day there was a general election for township purposes throughout Pennsylvania; so that before the contestee could subpœna one of these men to produce the contents of these ballot-boxes the ballots were in imminent danger of being destroyed in pursuance of the law. What did Mr. Yocum do? In each of the two counties, Clearfield and Centre, in regard to which these allegations of fraud were made, he filed a petition in open court reciting briefly the facts recited in Mr. Curtin's notice of contest, and then asked that there be issued an order restraining these election officers from burning those ballots till he could have a subpœna *duces tecum* served upon them to produce those ballot-boxes, that an inspection of their contents might be had. Was not that fair and right? Was it not just what a man in search of the truth would do? What did Mr. Curtin do? Did he come forward promptly and say: "Yes; we both want these ballots preserved; by all means let these boxes be presented, and let us examine the ballots together?" Oh, no! What did he do? This is shown by testimony which I will have read in a moment. First, I will briefly state the condition of facts upon which the testimony is based. In Clearfield County a petition was presented to the judge in open court, and he was asked to grant the restraining order. Whereupon Mr. Wallace, of the firm of Wallace & Krebs, appeared, according to the testimony, and an argument was had *pro* and *con*, as stated by the witness, whether the judge should grant this order or not. After this argument, as appears by the testimony, the judge took the petition off with him some sixty miles to his home, and it never was returned; no order was ever made. I now ask the gentleman from Iowa [Mr. WEAVER] to read the testimony upon that point.

Mr. WEAVER read as follows:

This from the testimony of Mr. Bloom, the clerk of the court:

Question. State whether you recollect the day upon which the court adjourned at January term, 1879.

Answer. It was on Saturday; I don't remember the date.

Q. Do you remember whether it was the last Saturday of the month?

A. It was about the 25th or 26th of January, 1879.

Q. Do you remember that Thomas H. Murray, of counsel for contestee, on the day preceding the adjournment of that court *sine die*, presented to the court a petition in behalf of the contestee, Hon. S. H. Yocum, asking an order to be made by the court for the preservation of the ballots cast at the general election of November 5, 1878, in the disputed districts to which this contest relates, in Clearfield County, on the ground that at the approaching district election for township and borough officers then to be held, and which was held on February 18, 1879; and were you not requested by Mr. Murray, at the time of presenting the petition, to mark it "Filed," and did you not mark it "Filed" before it was presented to the court?

(Objected to as leading, irrelevant, incompetent, immaterial, and contestant will ask the committee to strike out the testimony.)

A. I answer "Yes" to all of that.

Q. Do you recollect what attorney opposed that petition and the making of the order asked for?

A. I believe Mr. WALLACE made some opposition to it.

Q. Do you or not mean Mr. WALLACE of the United States Senate, who is the partner of D. L. Krebs, esq., who conducts the cross-examination for the contestant, and is of counsel for contestant?

A. Yes, sir.

Q. Do you remember any of the reasons urged by Mr. WALLACE against this application?

A. There were several reasons. I believe one of them was it would be too expensive to furnish new ballot-boxes.

Q. Do you remember whether the court then made that or any other order relative to the preservation of the ballots?

A. I believe they did not, as I have no knowledge of his ever making any.

Q. Who was the presiding judge?

A. Hon. C. A. Mayer.

Q. Do you recollect what, if anything, Judge Mayer said in reference to taking the petition home with him and considering it before making any order?

A. I remember that he said he would take the petition home and look up the law on the subject; that he was not sure that he had the power to make such an order, or something to that effect.

Q. Do you remember when the petition was first presented to him, and before any opposition was made to it, he stated that he had no question or doubt as to his power to make the order?

A. No, sir; I don't remember that.

Q. Was it not after the opposition was made that he said he would take the petition home with him?

A. I believe it was after the attorneys had a say on both sides.

Q. Were you not sitting immediately in front of the judge's bench at your desk when the petition was presented and the arguments made?

A. Yes, sir.

Q. Where does Judge Mayer reside, and how far is it from this place?

A. He resides in Lock Haven. I don't know the distance.

Q. About how far is it, as near as you can tell?

A. I suppose it is about one hundred miles, as near as I can tell.

Q. Has Judge Mayer ever been here since then, that you know of?

A. He has not, that I know of.

Q. Has that petition ever been returned, or any order made, that you know of?

A. It has not.

Mr. CALKINS. It appears that no order was made; and that when the 18th of February came the contents of the ballot-boxes were burned in conformity with law. Now, do I understand the gentleman from Pennsylvania to insist that this is no evidence of resistance upon the part of Mr. Curtin to the granting of this order?

Mr. BELTZHOOVER. Will the gentleman permit me a single remark?

Mr. CALKINS. Certainly.

Mr. BELTZHOOVER. I insist that the accidental presence of Senator WALLACE in court and the purely voluntary objection by him, even if it is proved, cannot in any way conclude or affect Governor Curtin, for whom he was not counsel, for whom he did not appear, and for whom he was not authorized to appear.

Mr. CALKINS. I see the point the gentleman makes very plainly, although it does not appear in testimony——

The SPEAKER *pro tempore*, (Mr. BUCKNER in the chair.) The gentleman's time has expired.

Mr. BELTZHOOVER. I move that by unanimous consent the gentleman be allowed to proceed until he concludes his argument.

There was no objection, and it was ordered accordingly.

Mr. CALKINS. I am obliged to the gentleman and the House for this courtesy.

Now, Mr. Speaker, although it appears in testimony in this case that Wallace & Krebs are the attorneys of record for this contestant——

Mr. BELTZHOOVER. Excuse me; they are not. There is where the gentleman is mistaken. Mr. WALLACE's name does not occur in this record anywhere. Mr. WALLACE is not concerned in the case in any way.

Mr. CALKINS. Very well; I will prove it by the gentleman himself. I will read from the report of the majority of the committee in this case, the gentleman having signed it:

It is contended by contestee's counsel that the contestant failed to use due diligence in this: that he did not cause the ballots to be produced, and thus show for whom the non-registered electors voted, and that contestant's resistance, through his counsel, to the legal proceedings instituted by contestee for the production of the ballots was evidence of his well-grounded fears that the facts when disclosed might show that he was not elected.

These objections to contestant's right to the seat would have been well taken were it not for the fact that the four thousand printed pages of evidence in this case show most extraordinary diligence on the contestant's part to account for and explain every alleged illegal voter, and eleven hundred pages in part 4 are almost exclusively devoted to evidence taken to explain for whom the non-registered persons cast their ballots.

That is in the first report and in the report of the majority.

Mr. BELTZHOOVER. Let me interrupt the gentleman to say that there is not one scintilla of proof in that report to show that Senator WALLACE had anything to do with this case.

Mr. CALKINS. Besides that, it is a fact not denied and amply proven in this case that Wallace & Krebs were and are partners in the practice of the law, and that Mr. Krebs does appear as an attorney of record in this case. Now, will the gentleman answer what is Mr. WALLACE there for if he were not an attorney and if he had no interest in this case as an attorney? What was he there for objecting to this petition if he was not an attorney in the case? After it was argued the petition was taken off and no order ever made. The contents of the ballot-box were destroyed, and yet he says because Mr. WALLACE does not appear *pro forma* on the record in this case it was a voluntary appearance, and he was simply intruding himself on the court.

Mr. Speaker, I am not going to argue that question. If gentlemen want to take that view of it, let them take it. If you believe now from the facts in this case Mr. WALLACE was not there as the attorney of Mr. Curtin, take that position if you can stand on it. I say that no man trying a case where five cents were involved under a similar state of facts would hesitate a moment on a verdict.

What is evidence? It is that which convinces the mind. What are rules of evidence for? To aid laying open and making manifest the truth; not to conceal or cover it up. What is the case here? Mr. Yocum, by his counsel, asking the intervention of a court of equity to preserve the evidence in this case. What is the next fact? The partner of a man whose name appears of record appears in open court to resist it, yet now it is contended he was there as an intruder. Very well, take that ground if you choose, gentlemen, stand on it if you can; but every impartial man will say at once, "that man is there as the lawyer of Mr. Curtin." That is what the universal judgment of all impartial men must say.

What does this petition recite? It recites the fact that Mr. Andrew G. Curtin had charged that Mr. Yocum had received certain illegal votes, that he had received illegal votes cast in that county, that no affidavits were filed, that they had inquired at the prothonotary's office and could not find them. Here an interesting question of law arises, and that is, having proved one fact at the wrong end of the line it is claimed the presumption goes all the way back, that, because they did not find them at the prothonotary's office, therefore they were not taken at all. My answer is that the proof shows in from nineteen to twenty-four cases throughout that district instead of these officers understanding their duty and returning them as they ought to the clerk's office they put them in the ballot-boxes, sealing them up, and deposited the boxes with the nearest justice of the peace.

Mr. Curtin was contending these votes were illegal because he could not find the affidavits in the prothonotary's office. The proof shows the officers mistook their duty and put them in the ballot-boxes. It was asked that this evidence should be preserved. Then comes Andrew G. Curtin by his attorney saying they should not be preserved. They were not preserved. It is all of record. I say when that fact appears there is another rule of law which must control this case, although I may be mistaken all the way along to this point. McCrary sums it up on page 225:

If, in any given case, it be shown that the proof was within the reach of the party whose duty it was to produce it—

Here it was Mr. Curtin's duty to produce it, because he made the charge and on him rested the *onus probandi*. He had thirty-nine days in which to do it. What is the rule?

If, in any given case, it be shown that the proof was within the reach of the party whose duty it was to produce it, and he neglected to produce it, then he may well be held answerable for his own neglect.

Is not this rule applied in every court of justice in the country? Is it not a principle that governs in every court?

Mr. LAPHAM. Even in criminal cases.

Mr. CALKINS. Yes, as my friend from New York suggests, even in criminal cases. First, it was his duty to produce the boxes and their contents, because he made his charge against them. Now, he did not produce the ballot-boxes and their contents, and when he had failed to produce them and the contestee undertook to do so, he resisted and caused them to be destroyed. That is exactly the case that he makes, and that is where he stands, and upon that ground you are asked to seat him. I call the attention of the House to just a few of the allegations contained in these petitions filed by Mr. Yocum. It is admitted the petitions are the same in both counties. Here is an extract from one:

That in many instances the affidavits required in case of non-registered voters and those voting on age, instead of being returned to the clerk of the court, as required by law, were placed in the ballot-boxes and there left with the other papers.

That in the township of College, it is alleged by the contestant that the votes cast and the return made show the same to have been cast and returned for S. A. Yocum, instead of Seth H. Yocum; while your petitioner alleges that the votes were cast for, and should have been returned for, Seth H. Yocum for Congress.

That it is impossible to ascertain, in the cases of the above election districts, whether or not said illegal votes were cast, and, if cast, for whom cast, without an inspection and examination of the ballot-boxes and the contents thereof.

That an election for township officers will be held on the 18th day of February next throughout the county of Centre, at which time the ballot-boxes containing the ballots cast at such election, and the papers pertaining thereto, will be opened, and said ballots and other papers destroyed.

That in order to determine for whom said alleged illegal votes were counted in the said several districts, it is necessary that the said ballot-boxes and their contents should be preserved under seal, as they now are, until the said ballots can be inspected and examined as evidence in the contest so pending as hereinbefore stated.

My attention has also been called to the fact that the contestee asserts under oath that in many of these precincts it has been shown that the affidavits required by the law were put into the ballot-boxes, and that this evidence appears affirmatively. These affidavits, then, as shown by direct proof, were sealed up in the ballot-boxes with the ballots. Now, the 18th of February came, and the election officers destroyed the contents of the ballot-boxes as required by law.

The election law of Pennsylvania provides that the number of each man's ballot shall be put upon the ballot corresponding with the number on the poll-list. So all that would be necessary to do in order to trace the vote would be to find the number corresponding with it upon the poll-list; in other words, to produce the poll-list, and compare the ballot with it. Now, this poll-list would have given the full list of voters, and the ballots contained in the boxes could have been compared with each one separately. This was a fact that must have been known to the contestant; it was known to everybody else. He had forty days in which to produce the evidence required; he did not produce the evidence, the very best evidence that could have been furnished—the evidence of the ballots and of the affidavits themselves.

Mr. MILLS. Did he ever make any effort to do it?

Mr. CALKINS. None whatever. He did not make any attempt, because I presume he did not want the evidence.

Now, it is contended that because the law provides that these affidavits, which are the mere supplements of the registry lists, shall be taken and preserved in the prothonotary's office and preserved as evidence to show that the vote was a proper one, that because these are not found in the prothonotary's office it is evidence that they have not been taken at all. In two or three instances, I believe, in three or four of the counties, it is in evidence that they were not sent to the prothonotary's office. Now the majority of the committee ask you to presume on proof of that single fact that no affidavits were in fact taken. I maintain that no such presumption can be indulged.

Let me illustrate: The law of my State requires that the clerk shall issue a venire after the grand jury is drawn, and that he shall place it in the hands of the sheriff; that the sheriff shall serve the same and return it to the clerk's office. Now, if I have occasion to look for this venire and search in the clerk's office and do not find it, am I to presume thereby that all of the preceding steps have not taken place? I say not.

What is the doctrine of presumption? Best lays down the rule, stated in my own way, that when you prove an independent fact, which makes all required acts thereafter inconsistent with the fact proven, the presumption which otherwise would obtain is overcome. That is not the language he uses, but the meaning. But here is a law which requires a certain act to be done, the last of a series of acts, namely, to place these affidavits in the prothonotary's office.

Because they are not found there you are asked to presume that none of the preceding acts required by the law to be done have been performed; in other words, you make the presumption take the back track, as my friend suggests. That is not the law, and cannot be maintained. I will admit if Mr. Curtin had shown any independent fact which was inconsistent with the acts required by law that it would tend strongly to overcome the presumption which now follows the acts of all public officers, but until that fact is proven, or until the contrary appears, it is to be presumed that sworn officers have done their duty. Moreover, it is shown in many instances by affirmative evidence that the affidavits had been taken and deposited in the wrong place. Now there is the presumption of a fact in one case and the affirmative evidence in the other going to establish the same fact.

Again, it is contended, after it is proven that there was a sufficient number of non-registered electors voting to overcome the returned majority of the contestee, that the burden of proof shifted from the contestant to the contestee; that he is the man benefited by the illegal vote, and therefore to maintain his seat he must prove a negative.

This may be the law where a different state of facts exists from what appears in this case. For instance, if you connect contestee with an active fraud, and then prove that the fraudulent voters with whom he is connected voted in such numbers that it probably affected the result of the election, then the burden may shift upon him. But that is the case of an active fraud. Here there is no pretense that Mr. Curtin or Mr. Yocum had any connection whatever with any of this non-registered vote, or that they procured it to be cast, or had any connection with it at all. It was the independent act of the voters themselves.

Now, I say in a case of that kind there never was an instance where the burden shifted from the man on whom the onus rested to the other party. McCrary lays down the law, I think commencing on page 226. I have not the strength to read it and will simply refer to it. He there substantially lays down this rule, that in all cases where there is fraud proven in elections and the proof connects a party with it, the party vantaged by the fraudulent vote—mark you, the party vantaged by that vote—must prove its legality; but it must first be shown that the person claiming his seat was benefited by it before the burden shifts. Here there is no such pretense so far as it relates to the contestee.

How can you say that Mr. Yocum was vantaged by this vote without any proof at all? He has not been connected with any participation in it. He stands just as free from it as Mr. Curtin. How is he vantaged by the vote? And how is it that the rule changes and that the burden shifts upon him? Mr. Curtin has not proved, nor does he pretend to have proved, that Mr. Yocum has received as many of these non-registered votes as Mr. Curtin did. The facts as they appear in the record show just the contrary. But they put it on the ground that the election is "confused;" so they cannot determine.

I will now, Mr. Speaker, proceed to sum up. The summary of this case, then, is this:

First. They made allegations of various sorts in their notice and abandoned all except the bare single proposition that the election was uncertain and confused. Everything else was swept away. The majority presented their report upon that ground, and that alone.

Mr. Yocum insists, first, that if you apply the Duffy rule he is elected by near two thousand. Second, if you apply the McCrary rule, that he is elected by over six hundred.

Next, if you throw out all the precincts which they claim are confused, and at which you cannot determine the result of the vote, still he is elected by near six hundred.

But, going on a step further, if you throw out the precincts at which they claim the vote was confused, still Mr. Yocum is entitled to the seat.

I come now to the last question—a point which I did not think would have been insisted upon. I was as much surprised as anybody upon the floor that after one of the great law committees of this House had sat in solemn adjudication upon a case, had made up its verdict, had returned it to the House, had solemnly declared that it was impossible for them to say under the evidence who was elected, and asked the House to return the contest back to the people, that now one of the members who signed that report should come in and say that after he was out of that court, away from his brethren, not willing to receive their help, or advice, or discussion, but by himself had come to a conclusion utterly opposed to the report which he made to the House as a member of that committee, and declared he should introduce here a resolution in place of the report to seat the man he declared was not elected. This, I say, must have startled the House.

Referring to that proposition I have simply to say that it would be better that the Committee on Elections should be entirely abolished than the House should ever countenance any such act as that.

Mr. Speaker, I will not detain the House longer upon this case. I will only say that if members of the House desire to inform themselves about the facts in the case, and will take the reports of the committee and the very able arguments presented by the counsel, they can come but to one conclusion, that Mr. Yocum having received a majority as returned by the officers charged by law in that district to ascertain the result is entitled to the seat and the contestant, although he assaulted it by four thousand pages of testimony, has utterly failed to show in a single instance any good ground for setting aside the return of those officers. That is the inevitable conclusion, and with these remarks I submit the case. [Applause.]

Mr. SPRINGER. I would inquire of the Chair how much time has now been occupied by gentlemen on the other side.

The SPEAKER *pro tempore*, (Mr. BUCKNER.) The gentleman from Indiana [Mr. CALKINS] has occupied about an hour and twenty minutes.

Mr. SPRINGER. And the gentleman from Illinois, [Mr. STEVENSON,] my colleague?

The SPEAKER *pro tempore*. About fifty minutes.

Mr. WEAVER. What is the object of the inquiry?

Mr. SPRINGER. All that I want is that the time shall be divided equally between the two sides.

Mr. WEAVER. The time given to the gentleman from Illinois [Mr. STEVENSON] by unanimous consent should not be taken out of the time.

Mr. KEIFER. I do not understand that any time has been fixed when this debate shall close.

Mr. SPRINGER. It is only desired that the time should be equally divided.

Mr. STEVENSON. I proceeded beyond the forty minutes yielded me by the gentleman from Massachusetts [Mr. FIELD] with the understanding that it should not come out of his time.

Mr. SPRINGER. The only point is that the time shall be equally divided. I understand the gentleman from Indiana [Mr. COLERICK] is now entitled to the floor.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Indiana [Mr. COLERICK] as entitled to the floor, and he will now proceed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3035) making appropriations for the consular and diplomatic services of the Government for the year ending June 30, 1881, and for other purposes.

ELECTION CONTEST—CURTIN VS. YOCUM.

The House resumed the consideration of the report of the Committee on Elections in the contested-election case of Curtin *vs.* Yocum.

Mr. COLERICK addressed the House, but did not conclude his remarks. [His speech will appear complete in the Appendix.]

ENROLLED BILLS SIGNED.

Mr. COFFROTH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 309) for the relief of George Heard; and

An act (S. No. 1670) to authorize the Wyoming, Montana and Pacific Railroad Company to build its road across the Fort Russell and Fort Laramie military reservations.

Mr. KENNA, from the same committee, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 296) making appropriations for the contingent fund of the Senate.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. LAPHAM, for eight days from the 11th instant, on account of important business;

To Mr. HUBBELL, indefinitely, by reason of illness in his family;

To Mr. MORTON, until Friday next, on account of important business; and

To Mr. PHELPS, from night sessions for the remainder of this session, on account of ill-health.

GENERAL DEFICIENCIES.

The SPEAKER *pro tempore* (Mr. BUCKNER) laid before the House a letter from the Secretary of the Treasury, in regard to deficiencies in the appropriations for the current fiscal year; which was referred to the Committee on Appropriations.

PENSION DEFICIENCY.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Interior, transmitting a revised estimate of deficiencies for arrears of pensions and for Army and Navy pensions for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations.

FUNERAL EXPENSES OF SURFMEN.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Treasury, recommending the appropriation of $150 to pay the funeral expenses of six surfmen belonging to life-saving station No. 2, tenth district, who perished in the performance of their duty on the 23d ultimo; which was referred to the Committee on Appropriations.

DEFICIENCY FOR FUEL, LIGHT, ETC.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Treasury, relative to a deficiency for fuel, light, and water for public buildings; which was referred to the Committee on Appropriations.

The SPEAKER *pro tempore*. By order of the House a recess will now be taken until eight o'clock this evening, the session to-night being for general debate only.

Accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until eight o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at eight o'clock p. m., Mr. SPEER in the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order under which the session of this evening is held.

The Clerk read as follows:

On motion of Mr. SIMONTON, by unanimous consent,

"*Ordered*, That at four and a half o'clock this evening the House will take a recess until eight o'clock p. m. for the purpose of having a session for general debate, when no other business shall be transacted."

STATE EXPENDITURES IN WAR OF 1812.

Mr. GOODE. Mr. Speaker, I avail myself of this opportunity to address the House on the bill now pending (H. R. No. 2272) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812. The bill provides that the proper accounting officers of the Treasury are authorized and instructed to examine the accounts between the United States and the States of New York, Pennsylvania, Delaware, Virginia, South Carolina, and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes in the war of 1812 with Great Britain, and apply in such examination, computation of interest, and settlement the provisions and principles of the twelfth section of the act of March 3, 1857, entitled "An act to make an appropriation for certain civil expenses of the Government for the year ending June 30, 1858," and that there be paid to such States and to the city of Baltimore any sums that shall so be found to be due them at the time of payment out of any money in the Treasury not otherwise appropriated.

During the war with Great Britain, in 1812, several of the States came to the rescue of the Government by advancing money to assist it in its then embarrassed condition. Among those States were New York, Pennsylvania, Delaware, Virginia, South Carolina, and the city of Baltimore. After the successful termination of the war the Government undertook to settle with those States for the advances thus made, but in the calculation of interest an unjust rule was adopted, which has long since been abandoned by the Treasury Department, which was never practiced in any State of the Union, and has been repudiated by every civilized government in the world. That rule was, instead of applying the payment made first to the interest which had accumulated, to apply it to the principal until that was extinguished and afterward to the payment of the interest.

I apprehend that it will not now be denied by any one that such a rule of computing interest is erroneous and unjust. Let me illustrate by an example. Suppose that Virginia should borrow a million of dollars at 6 per cent. to loan to the General Government in the hour of need. Sixteen years afterward a payment of one million is made, and the Government claims that it must be applied not to that amount of interest which has accumulated but to the principal. Sixteen years afterward another payment of a million is made, and the interest is then paid. In the mean time, during the thirty-two years which have elapsed, the State has paid two millions of interest and owes a million of principal. The result is, she has to pay her creditor three millions while she receives but two millions from the Government—a loss of one million to which she is subjected by her generosity and patriotism. The States interested, at the time of the settlement made with them, objected and remonstrated against this unjust method of computing interest, and for fifty years, ever since 1830, they have been making their appeal to Congress for relief. Some of them have been so fortunate as to obtain the relief sought, but the application of the States named in the bill has hitherto been unsuccessful.

In the year 1857 the State of Maryland, being more persistent than the others, and because of her greater importunity, perhaps, secured the passage of the following act to correct the wrong and injustice done to her:

And be it further enacted, That the proper accounting officers at the Treasury be, and they are hereby, authorized and directed to re-examine the account between the United States and the State of Maryland, as the same was from time to time adjusted under the act of 13th May, 1826, entitled "An act authorizing the payment of the interest due to the State of Maryland;" and on such re-examination to assume the sums expended by the State of Maryland for the use and benefit of the United States and the sums refunded and repaid by the United States to the said State and the times of such payments as being correctly stated in the account, as the same has heretofore been passed at the Treasury Department; but in the calculation of interest due under the act aforesaid the following rule shall be observed, to wit: Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceeds the interest due the balance shall be applied to diminish the principal. If the payment falls short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund.

SEC. 13. *And be it further enacted*, That if upon such re-examination of the account and application of the above rules any money shall be found due to the State of Maryland, the same shall be paid out of any money in the Treasury not otherwise appropriated.

In the settlement made under this act Maryland received the sum of $275,770.23. After this settlement was thus made with Maryland the States interested again urged the subject upon the attention of Congress, and insisted that they should be placed upon the same footing and that the same measure of justice should be extended to them. The Senate responded favorably to this appeal, and in the

session of 1857–'58 passed, by a large majority, a bill providing for a settlement with the other States upon the same terms as had obtained in the case of Maryland. This bill failed to pass the House of Representatives, but on the 12th of June, 1858, a provision was inserted in the sundry civil appropriation bill requiring the Secretary of the Treasury to make a statement of the claims of the several States and the amount of money necessary to pay them. In obedience to that requirement the Secretary of the Treasury, on the 8th of January, 1859, transmitted a report to the House of Representatives showing in detail the claims of the different States and the amount of money required to satisfy them on the 1st of January, 1859, to which time the interest claimed was calculated.

According to that report, the Government owed at that time to the State of New York, $48,896.21; to the State of Pennsylvania, $218,507.71; to the State of Delaware, $18,540.97; to the State of Virginia, $1,076,683.35; to the State of South Carolina, $202,230.90; and to the city of Baltimore, $23,662.55. Soon after that report was submitted, and before any final action was had, the country was involved in civil war, and thus the relief contemplated by both Houses of Congress when the report of the Secretary of the Treasury was called for was not extended to the States named in the bill. The subject was not again renewed until the session of 1869–'70, when Massachusetts made the next successful appeal and secured the passage of an act through Congress under which a settlement was made with her by the accounting officers of the Treasury and interest on her advances allowed to the amount of $678,362.42. One-third of this amount was paid to the State of Maine, inasmuch as she formed a part of Massachusetts when the advances were made.

I have thus given a brief historical review of this question, and I submit that this bill should now receive the favorable consideration of Congress; first, because the rule of computing interest which it recognizes is just and right and equitable in itself; secondly, because that rule has already been applied in the case of some of the States, and if it is applied to one, it should be applied to all; thirdly, because, as is shown by the committee in their report, it has been repeatedly approved by the Supreme Court of the United States, sanctioned by the practice of every State in the Union, and for many years past followed in similar cases by the Treasury Department of the Government.

In the case of Lightfoot *vs.* Price, (4 Henning and Munford, 431,) Chancellor Taylor laid down the rule as follows:

> So much of any payment as is equal to or exceeds the interest is to be applied to the discharge thereof, and the residue toward discharging the principal, unless the debtor at the time of the payment or before directed otherwise; that is to say, from the sum of principal and interest, computing the latter to the time of payment, the payment is to be deducted and the balance forms a new capital; on that interest is to be computed from that time, but with this caution, that the new capital be not more than the former, so that if the payment be less than the interest due at the time the surplus of interest must not augment the remaining capital, because that would give interest upon interest, which would be unlawful.

The rule thus laid down has been observed in Virginia from the earliest days of the Commonwealth, and so far as I know has been universally followed by the other States of the Union. In the case of Story *vs.* Livingston (13 Pet., 359) the Supreme Court of the United States held as follows:

> In case of partial payments interest is to be calculated to the time when the payment is made; to the extinguishment of this interest the payment is first to be applied and the balance to diminish the principal.

When this subject was pending in the Senate in May, 1858, Mr. Iverson, of Georgia, said:

> I desire to apply the same rule to all the States. It is just, equitable, and proper. If you apply it to two States, you should give it to all.

Mr. Benjamin, Senator from Louisiana, said, in speaking of the rule referred to:

> It is a general rule by which the Treasury is to be guided in its settlements with the States; and we having already sanctioned the payment in some of the States on this basis, this section provides that even in cases which have already been closed by the Comptroller of the Treasury the account shall be reopened and examined and settled according to principles which we have declared to be just. The idea of applying a payment made at any time by the Government of the United States to the extinction of a part of the capital of the debt due to a State while there remains interest unsatisfied is contrary to all principle and to every rule by which computation of payments is made. My State has no interest in this question, but I do think that justice requires that the adjustment of these accounts with the States should be made all upon the same footing; and as it has already been made on this footing with the States of Alabama and Maryland, I cannot conceive why South Carolina should be made an exception, or any other State which has had accounts to adjust with the General Government. It is a general rule now provided by Congress for the settlement of accounts with States, and the mode of adjusting the interest that arises in accounts with States.

Mr. HAMLIN, a Senator from the State of Maine, said:

> I think the matter has been so clearly and so well stated by the Senator from Louisiana that really there can be no doubt about it. Certainly there is none in my mind; and I have only risen for the purpose of inviting the attention of the Senate to its action on other cases which I think are very similar if not entirely parallel to this.

Mr. Fessenden, Senator from Maine, said:

> The whole amount of it is simply this: The Treasury, as I understand, has adopted the rule that when a certain amount of debt is owing to a State and a certain amount of interest has accumulated on that debt, and when the principal thus owing bears interest and the interest thus owing does not, if the claim is paid in part, they apply that part payment to the principal which bears interest instead of to the interest which does not, thus reversing the rule which exists in every State in the Union, and operating most unjustly toward the States themselves; for instance, suppose a debt was due to a State, which debt bears interest, and by the law at the same time there is an amount of interest accumulated upon it which does not bear interest—let us call one $50,000 and the other $30,000, the $50,000 bearing interest and the $30,000 not bearing interest. The Government, in these circumstances, instead of paying the whole pays up $30,000. Then, instead of applying it to the amount which does not bear interest against the Government and which the State has paid, they apply it to the principal, reducing the claim which bears interest to $20,000, and leaving the State to lose its interest on $30,000. The provision is, in regard to all these claims which the States have, when the United States will not pay an accumulated interest as they ought to do, that the partial payment shall first go to sink the interest that is due. If a man owes me money and interest has been accumulating year after year, which he has failed to pay, and especially if I am in debt for it, as is very often the case with the States, he ought to indemnify me; but the rule adopted by the Treasury is worse than that. They say that they will not only not indemnify me, and leave me to pay my interest, but where they do make a payment it shall not go to sink the interest, but to sink the principal, leaving the interest to stand. That is unjust; it does not apply in the case of any private claim anywhere, but has been arbitrarily adopted by the accounting officers of the Treasury.

In 1870, when the claim of Massachusetts was pending in the Senate, Mr. Davis, of Kentucky, said:

> Now, my principle is that a debt due from the United States does not commence to bear interest until payment is claimed for it; that whenever the creditor of the United States presents evidence of his claim to the Treasury Department, or to an officer thereof that is authorized to pay the debts of the United States, with proof that the debt is due, from that time such debt ought to bear interest. Whenever a debt comes up in that form against the United States Government I will not only vote to pay the amount of debt, but I will vote to pay the amount of the interest upon the debt from the time when it is made out reasonably to the Government, or to the agents of the Government of the United States, that the debt is due.

Mr Vickers, of Maryland said:

> I understand that the State of Maryland had a claim similar in its character to that of Massachusetts; that the principal of that claim was paid under the direction of Congress, and that subsequently, when application was made for an appropriation to pay the interest, a rule was established for the calculation of that interest, by which the claim of my State was paid and settled. I understand that this rule which was applied to Maryland is now sought to be applied to the State of Massachusetts, and that the Senator from Kentucky has recently made a thorough examination of the subject, and from that examination he is satisfied that the claim is just. Inasmuch as my State has received an amount from the General Government upon the same principle on which Massachusetts now claims an amount, I shall of course feel constrained to vote in the affirmative.

But I will not weary the House further by additional quotations. It appears from the report of the Secretary of the Treasury already referred to that the advances made by New York amounted to $123,561.36. On the 22d May, 1826, an act was passed authorizing the payment of interest under the erroneous rule which had been prescribed, and the sum of $40,624.86 was allowed and paid. According to the correct rule of calculating interest, a balance would have been due to the State of New York of $27,361.81, with interest thereon from the 26th October, 1826. Pennsylvania advanced the sum of $292,112.48, and on the 3d March, 1827, an act was passed authorizing the payment of interest to the State according to the same rule, and the sum of $40,264.86 was allowed and paid. Applying the correct rule which Congress adopted in 1857 in the case of Maryland, a balance would be due to this State, according to the report from the Treasury Department, of principal amounting to $71,411.19, as of the 20th August, 1824, and $28,560.15 interest. Delaware advanced the sum of $34,545.72; on the 20th May, 1826, an act was passed authorizing the payment of interest according to the arbitrary rule referred to, and $6,530 was paid, but the report shows that, applying the correct rule, a balance of principal would be due this State of $6,341.99, with interest thereon from the 26th December, 1826. Virginia advanced the sum of $1,782,330.20; on the 3d March, 1825, an act was passed authorizing the payment of interest according to the same rule, and the sum of $178,480.11 was allowed and paid, but applying the correct rule there would be due to Virginia the sum of $734,069.60, with interest from 14th July, 1829.

In making the settlement, however, the Government would be entitled by the act of 25th March, 1870, to deduct the amount of Virginia bonds issued in 1860 and held in trust by the Government for certain Indian tribes.

South Carolina advanced the sum of $232,722.20. Under an act of March 22, 1832, there has been paid to that State as interest the sum of $125,475.04, but by the correct rule there will be due the State the sum of $78,996.41, with interest from 31st October, 1831, subject to a considerable credit for Indian trust funds now due the Government. The city of Baltimore advanced the sum of $38,630.94. By act of 20th May, 1826, the sum of $21,710.25 was paid on account of interest, but according to the correct rule of calculation a balance of principal would be due the city of $8,027.55, with interest from 15th August, 1826.

Now, Mr. Speaker, can any good and sufficient reason be assigned why these sums of money should not be refunded by the Government to the States which made the advancements? Can it be said that these States are estopped now from making their claim because they have accepted certain sums from the Government in payment? Certainly no such plea will be entertained unless it can be shown that the amounts paid were tendered and accepted in full payment and satisfaction of the claims. So far from this being true, it is a conceded fact that some of the States made formal protest at the time of payment against the unjust method of computing interest which was adopted. Can payment be refused upon the ground that the demand is a *stale* one? Certainly not, when it is remembered that these States have been persistently and continuously appealing to Congress for the last fifty years to correct the wrong and injustice done to them in the settlements that were made. The Government cannot honestly reject a demand as *stale* simply because for fifty years it has refused whenever called upon to pay.

If gentlemen are compelled to admit the justice of these claims, will they vote against them because it may be considered inconvenient to make payment at this time? Sir, a great Government like this cannot afford to assume such a position as that. If the claims are just they should be paid, whether it is convenient or inconvenient. There is a solemn obligation resting upon nations as well as individuals to pay their honest debts.

When the advances were made to the Government it was comparatively poor and had to contend with one of the foremost powers of the world. Two of the States named in the bill, South Carolina and Virginia, then rich and prosperous, have been reduced by the fortunes of war to a crippled and impoverished condition. So far as Virginia is concerned, there never has been a period in her history when she stood more in need of the money which we claim to be justly due to her from the Government of the United States. During the late civil war great armies marched and countermarched on her soil; nearly all her fields were made battle-fields; her territory was rent in twain; her actual losses in property amounted to $500,000,000; her assessed values were reduced from seven hundred and twenty-three millions to three hundred and thirty-six millions; her annual revenue was reduced from over four millions to two and a half millions; she is now staggering under a load of public debt which taxes all her energies and all her resources. Her people are making a brave and manly struggle to retrieve her broken fortunes and to preserve her credit untarnished; they are determined to meet all her just obligations and to pay all her honest debts. Under these circumstances her Representatives on this floor appeal to the Congress of the United States to pay what the Government justly owes to her, and thereby aid to that extent in extricating her from the morass in which she is struggling. Let justice be done to her in order that she may be enabled to do justice to others.

FUNDING BILL.

Mr. WEAVER and Mr. GILLETTE addressed the House upon the funding bill. [Their remarks will appear in the Appendix.]

Mr. BUCKNER. Mr. Speaker, if the effect of the passage of the bill before the committee was simply to reduce the interest account of the Government on the debt redeemable in 1880 and 1881 from 5 and 6 per cent. to 3½ per cent., I doubt whether any opposition would be made to it from any quarter. To diminish the burden of interest and necessarily of taxation, to discharge that interest, is a consummation devoutly to be wished. But I greatly misconceive the scope of the provisions of this bill if it is not far more sweeping in its effects, if not in its objects. I fail to comprehend its ultimate ends if it does not involve far more than the present saving of a few millions of dollars in the way of interest. It has a far wider and broader range. True, it saves to the people twelve and a half millions in the difference of interest, but it postpones the possibility of paying the principal from twenty to forty years, and fastens the burden of a largely accumulated sum of interest, together with the principal, upon this and succeeding generations. It seems to me, sir, that this bill accomplishes results foreign to the debt-paying policy of our fathers and hostile to the spirit of our institutions; that it looks to making the public debt a fixed and permanent institution; that it practically repeals the act creating the fund to sink that debt; that in advance of the expiration of the charters of the national banks it aims to give them a perpetual lease of life, and saddles upon the producers of grain and tobacco as a perpetual heritage the odious internal-revenue system, with its regiments of collectors, inspectors, gaugers, informers, and detectives. Such being the ends to be accomplished by this bill, it will encounter my active and persistent opposition.

Before I proceed to the discussion of this most important measure I beg to inquire of the Committee on Ways and Means why such hot haste has been exhibited to press it to a passage? Why should so much anxiety be manifested to place five hundred millions of the national debt beyond our control, and beyond the reach of payment, so long before the debt is redeemable by the Government? Why should refunding a debt, the greater part of which has been twice refunded heretofore, take such prominent precedence over all other measures within the jurisdiction of the leading financial committee of the House? What valid reason can be urged why this proposition should be pressed upon the attention of Congress to the exclusion of all attempts to reform the most oppressive, unjust, and prohibitory tariff that ever disgraced the statute-book of a civilized and commercial people? The debt proposed to be refunded and put beyond the possibility of payment during the lifetime of the present generation, with the exception of sixteen or eighteen millions, is not even due and payable until after the adjournment of the next session of this Congress, except at the option of the United States.

It depends upon the action of Congress whether we pay it then, refund it, or continue to pay the same interest upon it we have been paying. The credit of the Government cannot be affected injuriously if we neither pay it when it is redeemable nor refund it, provided we pay the interest as it falls due. In the interim between now and the 1st of next December we shall have an opportunity to consult the tax-payers and producers, from the earnings of whose labor this debt must be extracted, as well as the comparatively insignificant class of capitalists, bankers, brokers, and stock-jobbers who have heretofore moulded and fashioned our financial legislation, and who contribute so little comparatively to the discharge of the public burdens. A postponement of the action of Congress on this bill until the next session will furnish us with a knowledge of the wishes of the people as to whether they will prepare to pay this debt within the ensuing decade or transmit to their children and their children's children that choicest of blessings, a perpetual national debt.

In addition to this information, so needful to direct our action on so momentous a question, we shall know, with some degree of accuracy, what portion of it can be paid by the increasing revenues of the Treasury; what contributions will be made in the mean time from the surplus revenues to the sinking fund; and, what is still more needful, it will be demonstrated whether the unexpected and unexampled tide of prosperity that has set in upon this country within the last nine months is a permanent reality or a temporary and evanescent delusion. In no probable contingency that can arise can the credit of the Government be injured or its financial resources be diminished to any appreciable extent by delaying action upon this refunding scheme until the next session of this Congress; but we shall then be in a position to act more intelligently and more in accord with the demands of those who have a right to exact obedience to their will from their representatives. I trust there will be a free and full discussion of the provisions of this bill at this session, and that final action on it will be postponed until next December.

On this point I trust I shall be pardoned for suggesting to the Committee on Ways and Means and its honorable chairman that this House ought not to be asked to refund a dollar more of this debt maturing during the current and succeeding fiscal year that we are unable to pay, after applying all available resources to its extinction. By the Treasury statement of April ultimo this debt amounted to $742,850,000, having been reduced $39,121,000 since the 1st of January. With our present increasing revenues it is not unlikely that the Secretary will be able to apply not less than six millions per month until the 1st December to the extinction of the debt, which would leave that proposed to be refunded at the sum of $700,000,000. If in addition to this reduction the committee will report to this House a bill I had the honor to introduce in December last and referred to that committee, "to amend the resumption act, and for other purposes," (H. R. No. 2664,) fixing the amount of the fund to be held for resumption purposes, and directing any surplus of coin above the sum so designated to be applied to the purchase of the 5 and 6 per cent. bonds, I doubt not that it would receive most favorable consideration. Such legislation is recommended by the Secretary of the Treasury in his last annual report; and I am gratified to find that the honorable gentleman from New York [Mr. FERNANDO WOOD] has expressed himself in favor of this application of a portion of the idle and useless hoards of coin in the vaults of the Treasury.

Out of superabundant caution the redemption fund is fixed by the bill referred to at one hundred millions, which would leave a surplus of coin of about $50,000,000, to be applied to the purchase of outstanding bonds. Twenty-five per cent. is the rate fixed by law to be held as a reserve on the circulation of the national gold banks on the Pacific coast, and this proportion is more than ample to provide for the redemption of the outstanding greenbacks subject to redemption, under any probable contingency of the future. Especially is this percentage sufficient, when under the construction of the resumption act by the Secretary of the Treasury he has authority to sell any of the bonds authorized by the refunding act of 1870 to replenish his stock of coin in order to maintain resumption. It is a matter of grave doubt whether the legal-tenders that can be presented for redemption exceed three hundred and fifteen or three hundred and twenty million; nor is there any reason that there should be held in the Treasury vaults a percentage for redemption equal to that which has usually been required of banks of issue. A run upon the Treasury for redemption of the Treasury note will never occur, except in a very unfavorable condition of our foreign exchanges, and this the head of the Treasury, under his construction of existing law, has the power to prevent, or at least in a great degree control.

The confidence of the people in these obligations of the Government, their sense of their security, and their superior convenience, forbid that the holders of them should ever demand their redemption for the sake of hoarding the coin, or from apprehension of depreciation, as long as their issue is reasonably restricted in amount. In any aspect in which the large coin reserves held by the Treasury are viewed, it is a matter of surprise that the Secretary does not on his own responsibility utilize a large portion in the purchase of the bonds soon to mature. If he is waiting upon the action of Congress he should wait no longer, and the legislation he has recommended can not be enacted too promptly.

Mr. Speaker, what is the financial problem we are called upon to solve? I have before stated that the debt maturing this year and the next aggregated on the 1st day of May $742,850,000, as follows:

	Amount.	Rate of interest.
Payable December 31, 1880	$16,713,000 00	6 per cent.
Payable July 1, 1881	753,950 00	6 per cent.
Redeemable June 30, 1881	166,388,200 00	6 per cent.
Redeemable June 30, 1881	66,106,150 00	6 per cent.
Redeemable May 1, 1881	492,889,300 00	5 per cent.
Total	742,850,600 00	

If the revenues continue to increase for the remainder of the calendar year as they have during the months of January to May, and the appropriations are made in the same spirit of economy as has characterized the last few years, and if the surplus of coin now lying idle and useless in the Treasury, over and above a just and safe fund for the redemption of the legal-tenders, be applied to the extinction of this debt, it is safe to estimate the aggregate debt will be reduced by the sum of one hundred millions by the 1st of December, making it at that date not exceeding $650,000,000, of which it may be estimated that two-thirds will be five percents and the remainder will bear 6 per cent. interest, no part of this aggregate being then payable except at the option of the United States.

The distinguished gentleman [Mr. FERNANDO WOOD] who has charge of this bill seems to assume that we have no alternative than to borrow the money by the issue of bonds bearing a lower rate of interest to pay this debt. He seems to think it can be reduced to seven hundred millions, and he provides for the issue of two hundred millions in short bonds, redeemable in two years and payable in ten, and other bonds for five hundred millions, running for forty years, and redeemable at the pleasure of the United States after twenty years, and both classes of bonds bearing 3½ per cent. interest, payable quarterly. According to this programme, the payment of the two hundred millions of short bonds or notes will be spread over ten years, and twenty millions of principal per annum is the sum total we shall be called upon to contribute to the sinking fund from 1881 to 1891, wholly ignoring the fact that more than that amount of bonds has been purchased for that fund within two and one-half months—since the 1st of January last.

In his remarks made to the committee on this bill he does not attempt to discuss the question of payment except to this extent, and seems to regard it as not within the range of possibility that we can pay any larger sum than two hundred millions in ten years, and in fact he thinks we ought not to pay any more, if we could. To borrow more money at a less rate of interest is the only solution of our financial problem that this bill presents to us. He says "he does not believe that this generation can or should be made to liquidate the total public debt." Past legislation has already thrown the burden of paying more than one-fourth (seven hundred and forty millions) of the original debt upon the generations of the next century, which, with simple interest for thirty years, will amount to within less than two hundred millions of the whole present interest-bearing debt of the Government.

No one proposes that this generation shall pay the whole public debt. We cannot pay it, if we would, except at enormous cost to the people, in premiums to the holders of it already refunded, aggregating near a thousand millions. But I believe we can pay and we ought to pay the whole of the debt now proposed to be refunded within the next ten years, at which time we shall have the right to redeem the two hundred and fifty million of four-and-a-half percents. Will my distinguished friend assert that we have not the means and ability to contribute as much to the discharge of the debt as we had twelve years ago, immediately after the ravages and exhaustion of a devastating war? Is he forgetful of the fact that from 1869 to 1873 inclusive we paid in interest $476,920,590 and $327,309,811 in the reduction of the principal of the public debt, making an aggregate of $804,230,401 in four years? In the ten years from 1870 to 1879 inclusive we paid in interest the sum of $1,092,330,558, and in principal $436,356,968,06, total principal and interest $1,528,687,526.54, much the larger portion of this period being a time of exceptional pecuniary distress and general business depression.

With resources vastly augmented, with productive wealth of every form and description duplicated, with an addition to our population of not far from ten millions since 1870, and with a reasonable prospect of having entered upon an era of unparalleled prosperity in all departments of business enterprise, ought we to hesitate to pay these six hundred and fifty or seven hundred millions within the ten years preceding the time of redemption of the four-and-a-half percents? Are we so barren of financial expedients and so destitute of resources that we cannot with the large reduction of our interest account and the increase of our revenues invent some plan by which we can liquidate this debt other than by the issue of bonds for the special accommodation of retired capitalists, stock-jobbers, and national bankers? American statesmanship, and especially democratic statesmanship, has some other mission than to torture its ingenuity to invent an unnecessary financial system that will alone be acceptable to the owners of idle capital, the drones in the hive of industry, or the vast army of tax-consumers.

Mr. Speaker, I beg to ask the attention of the House to some additional facts and figures, in order to convince the most skeptical that there is absolutely no reason, much less necessity, for refunding this six hundred and fifty or seven hundred millions of indebtedness or any part of it in long bonds, precluding us from payment of any portion of the principal for twenty years, but that by spreading its liquidation over the period intervening between 1881, when these bonds are redeemable, and 1891, when the four-and-a-half percents become redeemable, every dollar of this seven hundred millions may be satisfied without any necessary increase of taxation or detriment to any public interest. And if I can demonstrate that this can be done and that the amount of principal and interest which would be required to be paid annually will not exceed the interest charge we have paid during several years since 1868, there can be no excuse or justification for the passage of the bill before the committee unless we are here simply to register the demands of stock-jobbers and the owners of idle capital and to disregard the interests of the taxpayers and the producers of our wealth. During the four years succeeding July, 1869, our average annual interest payments were $119,213,147, and were as follows:

1870	$129,235,498
1871	125,576,565
1872	117,357,839
1873	104,750,688
1874	107,109,815
1875	103,653,544
1876	100,243,271
1877	97,124,571
1878	102,500,874

In 1881 it is estimated by the Secretary of the Treasury at $88,877,410. But this estimate was based upon the opinion that there would be no material increase in the revenues of the Department, and consequent inability to increase our payments on the public debt, (Treasury report, page 7,) but that the increase in the fall of 1879 was "abnormal," and would not continue. Nor is there any deduction for any purchase of bonds by the surplus coin-redemption fund, to which I have referred. The Secretary did not believe that he would be able to reduce the debt as he has done, at the rate of near forty millions since the 1st of January. Allowance being made for these deductions in the principal of the debt, one to be effected by increased revenues, and the other by enforcing the recommendation of the Secretary as to the coin in the Treasury held for resumption purposes, the interest charge for 1881 will approximate the following figures, namely:

Interest on $250,000,000 at 4½ per cent.	$11,250,000
Interest on $740,000,000 at 4 per cent.	29,640,000
Interest on $200,000,000 at 6 per cent	12,000,000
Interest on $500,000,000 at 5 per cent.	25,000,000
Annual interest on $1,690,000,000	77,890,000

The Secretary also estimates the receipts for the fiscal year 1880 at two hundred and eighty-eight millions, and makes no allowance for any increase in 1881, when by the latest returns from the Treasury (see letter of Secretary Sherman of March 23) the customs dues and internal taxes for eight and one-half months of this fiscal year have realized two hundred and twelve millions; and at the same rate of increase they will aggregate two hundred and ninety-nine millions by the 1st of July, and this sum, added to the admitted receipts from all other sources, will make the total revenue for 1881 three hundred and twenty millions. With an average production this year, it may be stated with almost absolute certainty that there will be no diminution of revenues during the next fiscal year ending June 30. There are causes in operation that render this almost as certain as any event in the future. The late unprecedented and rapid advancement in the price of almost all articles of consumption must continue unabated. Our monetary circulation has been greatly increased both by gold, silver, and paper. The privilege extended to the national banks by law to issue their promises and investing them with the functions of money without limitation is giving this rise in prices additional impetus, which in turn creates an increased and increasing demand for more money. Higher prices and increased and increasing speculation will be the result; and as prices of commodities advance here the duties on foreign merchandise are practically reduced, foreign importations increase, and the doors of the custom-house are thrown open to the foreign manufacturer, notwithstanding the prohibitory character of our tariff.

This country has passed through similar periods of expansion in the past, and great increase of customs duties has always accompanied paper-money expansion. Without considering other effects of an unrestricted paper circulation this one result is as inevitable as fate, and is demonstrable both from reason and experience, and we shall be blind to the interests of the people and the Government if we fail to take advantage of this probable, if not certain, increase of revenues in extinguishing a good portion of the public debt. The estimate of an annual interest charge of seventy-eight millions is based upon the idea that we continue to pay 5 and 6 per cent. on the seven hundred millions for ten years. But this will not be necessary after the ensuing fiscal year. While the payment of this debt, principal and interest, should be spread over the period from 1881 to 1891, resort should be had to the issue of Treasury notes bearing an interest of 3, 3½, or 3½ per cent. interest, and payable within ten years. The latter rate of interest may be preferable as being more certain to be taken at par.

Let it become the fixed purpose of Congress not to go into any new refunding scheme for the sake of refunding, and not to issue any more long bonds, at any rate of interest, and that it repudiates the doctrine held by no small number of the wealthy classes of this country, that a "public debt is a public blessing," and the four-and-a-half and four percents will advance to such a premium as will make room and create a demand for a bond of a lower rate of interest and with a shorter period to run, and there will be no difficulty in floating these Treasury notes at par. There will be thus created by the action of Congress a demand for such a security, not only in the financial centers, but in the sections where there is less accumulated capital. Insurance companies, trustees, executors, and all classes of persons and corporations liable to sudden and immediate calls for money would

become purchasers of them, while depositors in banks, and savings-banks themselves, and all persons seeking a safe and reliable investment for short periods, would take them if placed within convenient reach. The demand for the 4 per cent. certificates justifies this conclusion, notwithstanding the different condition of the country then from what it is now, and probably will be in 1881.

To whatever extent these Treasury notes or certificates can be negotiated they will to that proportional extent reduce our annual interest account, and, assuming that the whole will be taken within a year, that charge will be reduced approximately to sixty millions, being one-half less than it was in 1868 and 1869. And, what is a consideration that should never be lost sight of, these temporary certificates or Treasury notes will be held almost exclusively by our own people, and the interest be paid to them and not to foreigners. A contribution of fifty millions annually to the discharge of the principal of this six hundred and fifty or seven hundred million debt, for the ten years succeeding 1881, would discharge the whole debt before the time the four-and-a half percents become redeemable. If from any cause not now foreseen the whole debt should not be extinguished within the period indicated it will soon be apparent, and we may well trust the ways and means to provide for its final extinction to the future action of Congress. A most important point will have been secured in the interest of the tax-payers of present and future generations and in favor of the distinctive debt-paying policy of our fathers when this Congress shall have pronounced against any further refunding of the national debt and against making it a fixed and permanent institution of this grand and growing Republic.

I shall publish as part of my remarks tables showing the net receipts of the Treasury, the net ordinary expenditures exclusive of interest and payments on the public debt, the annual interest payments and the annual sinking of the principal of the public debt for each of the ten years from 1870 to 1879 inclusive, from which it will appear that—

The annual average receipts for the ten years was....	$313,188,000
The net annual expenditure was	155,382,000
The average annual payment of principal of debt was..	43,635,000
The average annual interest payment	109,233,000
Annual average payments of principal and interest....	152,868,000

Conceding that there was a small reduction in the revenue receipts during the first ten years of the decade, owing to a reduction in taxation, can there be a reasonable doubt that these receipts for the ensuing ten years will average three hundred and thirteen millions per annum? I do not doubt that, without any change whatever in the present rates or subjects of taxation, our annual receipts will exceed three hundred and twenty millions, and I offer the statement of the receipts of this fiscal year heretofore referred to as confirmation of this opinion. Our interest account for 1881 need not exceed seventy-eight millions, and by 1891 may be reduced to sixty millions, and by applying the difference between our then annual interest (say seventy-eight millions) and the average of annual payments of principal and interest for the last ten years, we shall have seventy-four millions to apply to the principal of the debt proposed to be refunded, when, in fact, fifty millions applied to the principal each year will discharge the whole within less than ten years.

Mr. Speaker, I desire it to be understood that I am discussing this question upon the assumption that there will be no material change in the present rates of taxation, and on the hypothesis that the increasing production, population, and taxable resources of the country will, even under the present rates of taxation and existing subjects of taxation, enable us to discharge as much of the principal and interest of the public debt as we have under nearly similar rates of taxation in former years discharged of interest alone. This is the mode I would adopt of solving our present financial problem; and I submit to this committee whether we ought not to give it a trial at least before we place ourselves in the condition which I propose to show this bill must inevitably place us.

I also assume that the ordinary expenditures of the Government will not be materially augmented by extravagant and unnecessary appropriations. The whole country is in a far better condition to bear the exactions of the tax-gatherer than at an any time since the close of the war, and with our experience for the last six or eight years it is extremely difficult for us to conceive of the large increase of productive wealth and of population, and consequent consumption and ability of the people to bear taxation, that seems to await us in the not distant future. But the proposition I have submitted involves no increased taxation. It is based upon the belief that increased revenues arising from increased production and increased consumption will make it comparatively easy to discharge this debt within the terms of our contract.

For one, I would not hesitate to increase taxation rather than give my consent to the passage of the bill before the committee, or to any measure that looks toward setting aside the traditional policy of the American people—even far less objectionable than the measure I am discussing. A revision of the present vicious tariff that looked more to revenue and less to protection and prohibition of all foreign competition would add largely to the revenues of the Treasury and facilitate the payment of the debt proposed to be refunded. By imposing a small tax on the sales of the millions of stocks, bonds, and moneyed securities that are disposed of day by day on the stock markets of the great cities of the Union, a large addition to the internal taxes might be made without detriment to any interest whatever.

Such a measure passed this House in the Forty-third Congress by a two-thirds majority, and I have a bill of a similar character pending before the Ways and Means Committee to make this immense interest contribute to the support of the Government and the liquidation of its debt. Unlike the tax now indirectly levied on the productions of southern and western corn and tobacco, it would create no overgrown monopolies, interfere with no agricultural or manufacturing industry, nor burden labor with annoying and irritating restriction. Whether such a tax be necessary or not to liquidate this debt of six hundred and fifty or seven hundred millions, it ought to be imposed if for no other reason than that the tax now levied on the manufacture of fermented and alcoholic liquors might then be placed on their consumption instead of their production, and thus rid the statute-book of many of its most tyrannical and despotic provisions as well as increase production, develop our resources, and add to the profits of the producers of grain and tobacco.

Mr. Speaker, we have a law pledging the faith of the Government to apply 1 per cent. of the entire national debt to the purchase and cancellation of that debt every year. It has not always been enforced according to its strict requirements, owing to the overruling necessities of the Government. This sinking fund, as it is called, amounts for the next fiscal year to $39,828,225, as ascertained and reported by the head of the Treasury in his last annual report. It increases in amount each successive year and, under the Secretary's construction of his duties, it cannot be executed unless there is a surplus of receipts over the yearly expenditures appropriated by law. There is hardly room for doubt that this surplus will largely exceed the percentage required for the sinking fund during the next fiscal year, and thereafter during the ensuing decade.

If the bill of the committee be adopted, may I ask the honorable chairman [Mr. FERNANDO WOOD] how is the Secretary to comply with the sinking-fund act, especially during the period between 1881 and 1891, in which last year we have the option to pay the 4½ per cent. debt of two hundred and fifty millions? He can use a portion of his surplus in the purchase of the two hundred millions of short bonds provided for by the bill, but they will be exhausted by the payment of twenty millions per annum for ten years. But that fills but one-half of the requirements of the sinking-fund act. He will have twenty millions more for 1881, as the Secretary tells us, to invest in the bonds of the United States—not allowing for any surplus revenues coming into the Treasury over and above the requirements of the sinking-fund act. What will he do with this excess or with the twenty millions beyond the investment in the purchase of the 3½ per cent. short bonds provided for in this refunding scheme? When the portion (five hundred millions) proposed to be refunded into three-and-a-half percents is sold, they become irredeemable until the beginning of the next century; the four-and-a-half percents are not redeemable until 1891, and the four percents not until 1907. Does he intend that the Secretary shall make his purchases of the 3½ per cent. bonds just refunded, or will he go into the market and buy either the four or four-and-a-half percents, paying the market premium in addition to their nominal value?

These three classes of bonds will then constitute the entire interest-bearing debt of the Government, and the Secretary will have no alternative than to make his purchases from one or all these classes *if he purchases the interest-bearing debt.* If he purchase the 3½ per cent. long bonds, I am at a loss to comprehend the wisdom of such a financial feat, even if they could be had at par; and if he has to pay a premium on his purchases, it seems to be the "madness of the moon" to compel him to go upon the market and repurchase the newly-issued bonds at a premium, however small. If he uses his surplus in the purchase either of the four percents or four-and-a half percents, he will be forced to pay a premium of from 5 to 10 per cent. up to the year 1891, at which time the latter are redeemable at par. After these four-and-a-half percents are redeemed the Secretary will be forced to apply the proceeds of the sinking fund, by that time largely increased, to the purchase of the three-and-a-half percents until 1907, when the four percents are subject to redemption, if this bill should unfortunately ripen into law.

Mr. Speaker, I can hardly conceive that the Committee on Ways and Means contemplate any such financial operations by the Treasury Department as seem to me to be inevitable from the provisions of this bill if the sinking-fund act is to be observed and the purchases made on its account are confined to the interest-bearing debt. If it be the intention of the committee that the sinking-fund act shall not be enforced, then I should like to be informed what is to become of the surplus revenues which under existing law will surely be realized during the ensuing ten years. Does the committee, in presenting this bill for our consideration, design to extend an invitation to Congress to ignore all economy in the administration of the Government and to enter upon a system of reckless and extravagant expenditures in order to consume the surplus revenues? Or do they purpose to follow this bill with one reducing taxation, internal and external, so as to bring the revenues down to the standard of an economical administration of the Government? If the latter be the programme of the committee, I respectfully suggest that in my judgment the House would prefer to pass upon these reductions in taxation before we are called upon to vote upon this bill.

It seems to me, therefore, Mr. Speaker, that the effect of this bill is practically to repeal the sinking-fund act; to leave no other alternative to the Secretary of the Treasury than to use that fund and any surplus revenues coming into the Treasury, either to take up bonds at 3½ per cent. newly refunded, or to purchase bonds of a higher rate of interest, at high premiums and at great loss to the Treasury and to the people, or to open the doors of the Treasury to the most extravagant and wasteful expenditures and these Halls to wholesale jobbery and corruption.

There is another application of the sinking fund, Mr. Speaker, which may be in contemplation by the champions of this unnecessary refunding scheme I am loath to credit, which is more creditable to its friends than the practical abrogation of this fund. It may be their purpose to seize the opportunity which an overflowing Treasury will offer to accomplish the ends of the enemies of the greenback and to apply the surplus revenues during the next ten years to pay off the non-interest-bearing debt now represented by three hundred and forty-six millions of outstanding Treasury notes. Unquestionably they constitute a part of the public debt, and under the sinking-fund act, that fund as well as any other surplus revenue of the Government may be legally applied to the extinguishment of this non-interest-bearing debt.

But is this the financial policy underlying this scheme of refunding? Is this the feast to which we are invited by the honorable gentleman [Mr. FERNANDO WOOD] from New York, who has pressed this measure upon the House and country with so much zeal and ability? Is this the cat in the meal-tub of refunding? Has my distinguished friend introduced into this House a Trojan horse filled with the armed enemies of the United States note, under the guise of a low rate of interest and an indefinite postponement of payment of the principal of the debt?

Mr. Speaker, it is difficult for me to believe that this purpose is concealed under the provisions of this bill, and yet it is so much in harmony with the many insidious and covert attacks that have heretofore been made on the credit circulation of the Government by its sleepless and untiring enemy—the national banks—and harmonizes so well with one of the provisions of this bill and the remarks of the gentleman from New York [Mr. FERNANDO WOOD] made in its support, that I can not divest myself of the suspicion at least that it is not so much to refund a portion of the debt not yet due at a lower rate of interest as it is to perpetuate the national debt, and with it the national-banking system, and thus destroy the note circulation of the Government, that the passage of this bill is urged so prematurely and so persistently.

Why, sir, the resumption act was the cover for an attack upon the Treasury note as a permanent circulation, and the late unsuccessful effort to deprive it of its legal-tender function was prompted by the resolutions of the Saratoga convention of bankers in the interest of the national-bank issue. This bill provides that the 20-40 bonds authorized by it, amounting to five hundred millions, shall be alone held by the banks as security for their circulating notes after its passage, and the honorable gentleman from New York [Mr. FERNANDO WOOD] tells us, speaking of this provision of his bill, that—

> Thus by a long-needed provision of law we shall have a national-bank bond, and the Government will be spared the trouble and expense of constant changes in the class of securities held for that purpose.

Thus it will be seen that refunding presents a double aspect—the perpetuation of the national debt and the perpetuation of the national banks. They are in fact the Siamese twins of our financial system, the existence of the one being dependent on the existence of the other, and the death of one the death of the other; and if you add to these two a third, with common purposes and common ends, extravagant appropriations and wasteful expenditure of the people's money, you have an organized alliance, offensive and defensive, dangerous to republican government, prolific of peculation and legislative jobbery, ruinous to the productive sections of the country, and antagonistic to the distinctive policies of the fathers of the Republic. Instead of waiting until the arrival of the period when the charters of the national banks begin to expire, thus giving the country the benefit of the experience of the next three years as to whether the power to expand or contract the paper circulation, at the will of individuals and corporations, shall continue in the hands of a favored few, or whether the Government shall assume direct control of the issue of the paper as well as the metallic circulation, this bill proposes to forestall the growing popular sentiment of the country against banks of issue, and prematurely offers a bid for the support of this vast and unexampled organization of credit, and says in effect to the owners of national banks, if you will exchange the bonds authorized by it as security for your circulating notes, instead of the higher-interest-bearing bonds now held by your corporations, you will have a guarantee of your circulation as long as "grass grows and water runs."

To refund the debt as proposed by this bill is to transmit to unborn generations the burden of paying the principal and its quarterly interest, and the natural instincts of bank owners will of necessity throw every possible impediment in the way of extinguishing the principal. Mr. Chairman, I have an abiding conviction that reflection and the experience of the near future will teach the people of the United States what is now universally conceded by all men of all parties in England, that the right to issue paper for circulation as money belongs exclusively to the sovereignty that fabricates its coinage and regulates its mints; that the credit circulation of this country should be restricted in amount and placed under like control with metallic money; that the exercise of the power of issuing paper promises to pay money without limit tends to nullify the express grants of the Constitution as to coinage and to expel gold and silver coins from the channels of circulation and from the country, and is necessarily productive of wild speculation, commercial revulsion, and monetary disaster; that, beyond a fixed amount of Treasury notes with an ample fund of coin for their prompt and certain redemption, no other representative or substitute for coin should be permitted to circulate, except certificates representing so much coin or bullion deposited in the Treasury or issue department of the Government for their redemption, and that competition in the issue of paper money, or free banking, is condemned by reason as well as by its history in this country, and by the experience and existing legislation of that people from whom we have copied this worst feature of banking.

If there were no other ground of opposition to this refunding scheme than its indirect and insidious attempt to fasten the vicious system of bank issues upon us for generations yet to come, I should feel it my duty to use all lawful and legitimate means to prevent its enactment into law. It would become the lion in our path to a just, economical, and judicious system of credit circulation, issued and controlled by the Government, safe to the holder, useful to the Treasury, a help instead of an obstruction to the payment of the national debt, and a relief to the tax-payers of millions of its principal and interest. For let it never be forgotten that there is a natural and inevitable antagonism between issues of banks and of the Government. We must realize that our paper circulation must in time be all bank notes or all Treasury notes. The conflict between the two kinds of circulation is as irrepressible as that between slavery and freedom in years past and gone. It cannot continue one-half Treasury note and the other half bank note any more than this Union of States could continue one-half free and the other half slave—a philosophic truth uttered by Mr. Seward, which many of us were very slow to accept, but which we must recognize now as an absolute verity. If the banks are permitted to retain their note circulation we may as well prepare to redeem the three hundred and forty-six millions of greenbacks and to witness a duplication of the present number of national banks, with the implied pledge of Congress that we will never pay the debt necessary to keep the bank circulation in existence. To this complexion it must come sooner or later.

Mr. Speaker, there is another view of this subject to which I desire very briefly to allude, and that is the effect of refunding this debt, or the major portion of it, into long bonds on the abolition or modification of present internal taxation. I have stated that the interest on the four and four-and-a-half percents (the principal of which is about nine hundred and ninety millions) is in round numbers $40,000,000, payable quarterly. If the five and six percents of 1881 are refunded instead of being paid during the succeeding ten years, our annual interest charge will approximate sixty millions in 1891. We might indulge the hope, with an annual interest charge of forty millions, that the proceeds of the customs duties, wisely adjusted to the interests of all sections of the country, would discharge the ordinary expenses of the Government, pay this interest, and make the contributions required by law to the sinking fund. Certainly this hope would be well grounded if when the charters of the banks begin to expire Congress shall determine to substitute the notes of the Government for those of the banks, and with these notes purchase the bonds held as security for bank circulation.

This operation would reduce the interest-bearing debt ten years hence to the sum of about six hundred millions, bearing 4 and 4½ per cent. interest, with an annual interest charge of twenty-four or twenty-five millions. It can hardly be deemed extravagant for us to hope that with the reduction of the principal of the debt to six or seven hundred millions in 1891 we may then begin to look for the entire abolition of internal taxation, or such a modification as would at least transfer the present tax on the productions of the South and West from them to the consumption of tobacco, alcoholic, and fermented liquors. And can we not reasonably flatter ourselves that when, under the census of this year and the apportionment under it, the seat of the political power of this Government has been transferred to the teeming valley of the Father of Waters, with the payment of the debt proposed to be refunded, that we shall be able to abolish all internal taxation that imposes restrictions upon labor or shackles productive industry, and make the wealth and invested capital of the country contribute its proper share of taxation? But refunding holds out no such flattering hope even in the distant future. It gives assurance, on the contrary, not only that we are doomed to the indefinite continuance of the present internal-revenue taxation, with its regiments of tax-consuming officials and its oppressive and irritating exactions, but it sheds no gleam of hope of any essential modification or amelioration of the system.

Mr. Speaker, the national debt is the question above and beyond all others that fills the thoughts and excites the apprehensions of all reflecting minds in this country, and its honest and speedy payment, consistent with the admitted rights of the tax-payer, should command the highest efforts of patriotic statesmanship. The connection between

a public debt and the daily labors of the people, its influence upon their contentment, their happiness, and their prosperity, no less than upon the future of the Republic and the spirit of its institutions, cannot be overestimated or overlooked. The necessity of a yearly exaction from the earnings of labor of hundreds of millions gives law to industry, imposes restrictions upon production, and has in times past created a spirit of discontent, turbulence, and dissatisfaction among the laboring classes that ought not to be lost upon the representatives of the people. War has been classed in the trinity of calamities to nations, but it is less of a calamity than grinding, excessive, and perpetual taxation. The one exhausts itself within a few years, while the other transmits through successive generations its baleful consequences, and condemns the great mass of the people to a continuous conflict with pinching parsimony, want, starvation, and beggary.

In this, as in all other countries, the large proportion of the human family earn their bread by the sweat of their brow, and no government is wisely conducted, and certainly no government can long maintain a republican character, that does not treat labor as its primary and paramount interest, and the withdrawal from its shoulders of all needless burdens of taxation as an imperative duty. Our public debt and the mode and manner of its manipulation brings us face to face with many of the gravest perils that can affect the purity and existence of republican government and the welfare and happiness of the great majority of its citizens. Excessive and continuous taxation to meet quarterly and yearly exactions of interest, however low the rate, oppresses labor in all its departments, consumes the first fruits of industry and enterprise, accumulates capital in the hands of the few, and creates a favored if not a privileged class in the State, ever vigilant and active in making laws to perpetuate its influence and power.

The comparatively low rate of interest on the bonds authorized by the bill before the committee offers no inducement to the agriculturist to postpone indefinitely their payment, with yearly accruing interest, inasmuch as the annual profits on his labor and capital do not average that per cent. Postponement of the day of payment affords him little or no relief, and only adds to the burdens of the generation upon whom the payment of the principal and interest is imposed. If we were forced to pay this entire debt, principal and interest, ten years hence, it would amount to one thousand and seventy millions at 5 and 6 per cent.; if paid in full in thirty years, (the mean time of redemption and the time of payment,) with interest at 3½ per cent., the generation then living would pay in principal and interest exceeding fourteen hundred millions. I repeat that for the ten years preceding the 30th June, 1879, we paid of principal and interest of the public debt fifteen hundred and twenty-eight millions, much the largest portion of which was paid in a time of great business stagnation, of shrinkage of values, of contracted circulation, of unexampled bankruptcy, and of almost universal financial distress. Shall it be said that now, with duplicated resources, with increasing revenues, with large accessions to our population, with every indication in all branches of business and in all parts of the country of restored prosperity and of hopefulness and confidence in the future, that we cannot discharge a less sum of principal and interest in the ensuing ten years? The proposition is belittling to our national character, insulting to our national pride, and disparaging to the present and prospective wealth, resources, and grandeur of this magnificent Republic, and I cannot believe it will ever receive the support of a majority of this House.

To sum up the views I have thus imperfectly presented to the committee, I repeat that this bill has come into the world before its time, and that its final consideration should be postponed until the next session of Congress.

That we can pay the whole debt, including principal and all accruing interest, by applying no more of the surplus revenue to both principal and interest, from 1881 to 1891, than has been applied for several years since 1870 to the payment of interest alone; and it ought to be paid, even if increased taxation be required, rather than refund it in 20-40 bonds.

That the bill looks to making the debt a fixed and permanent institution, and so far antagonizes the policy of our fathers and is hostile to the genius and spirit of republican government. That it will either practically repeal the act establishing the sinking fund, compel the Treasury to purchase bonds for that fund at a great loss to the Treasury and the people, open the door to wasteful and extravagant expenditures by Congress, or it will divert the surplus revenues and the proceeds of the sinking fund from the purchase of the interest-bearing debt to that of the non-interest-bearing debt.

That it gives a new lease of life to the national banks, and a continuation of the banking system is equivalent to the payment and cancellation of the Treasury note or greenback circulation; and finally, that refunding means a continuance of the present internal-revenue system for the life-time of the present generation, without hope of material modification or amelioration.

APPENDIX.

TREASURY DEPARTMENT, *March* 23, 1880.

SIR: I have the honor to acknowledge the receipt of your letter, without date, requesting that you be furnished with a statement of the receipts into the Treasury on account of duties on imports and internal-revenue taxes collected for each month from the beginning of the fiscal year to the 15th instant, and to inform you that the following statement shows the aggregate amounts deposited for each month on those accounts, as appears from original certificates of deposit received at this office:

Period.	Duties on imports.	Internal revenue.
July, 1879	$13,213,934 02	$9,837,103 72
August, 1879	14,521,441 15	9,722,894 37
September, 1879	16,080,524 48	9,842,887 36
October, 1879	15,767,501 63	10,794,167 34
November, 1879	12,714,045 35	9,828,047 31
December, 1879	12,539,931 65	10,954,144 75
January, 1880	16,017,100 08	10,202,859 09
February, 1880	16,809,845 87	8,786,720 93
March 15, inclusive	10,048,892 40	4,612,261 74
Total	127,713,216 63	84,581,086 61

Very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. A. H. BUCKNER,
House of Representatives.

Table showing net revenue receipts and payments on principal of public debt from 1870 *to* 1879, *inclusive.*

Year.	Receipts of revenue.	Payments of public debt.
1870	$395,959,838 87	$101,601,916 88
1871	374,431,104 94	84,175,887 54
1872	364,694,229 91	97,213,538 32
1873	322,177,673 78	44,318,469 60
1874	299,941,090 84	1,312,907 06
1875	284,020,771 41	14,107,983 56
1876	290,066,584 70	29,115,829 88
1877	269,000,586 62	41,649,908 88
1878	257,763,878 70	19,893,150 92
1879	273,827,184 46	2,967,375 42
Total	3,131,882,939 23	436,356,968 06

Table showing the annual interest paid and the net ordinary expenditures of the Government from 1870 *to* 1879, *inclusive.*

Year.	Interest payments on the public debt.	Net ordinary expenses of the Government.
1870	$129,235,498 00	$164,421,507 15
1871	125,576,565 93	157,583,827 58
1872	117,357,839 72	153,201,856 19
1873	104,750,688 44	180,488,636 90
1874	107,119,815 21	194,118,985 00
1875	103,093,544 57	171,529,848 27
1876	100,243,271 23	164,857,813 36
1877	97,124,511 58	141,535,497 35
1878	102,500,874 65	134,463,452 15
1879	105,327,949 00	161,619,934 53
Total	1,092,330,558 33	1,553,821,358 48

WEAVER SOLDIER BILL—ELECTORAL COUNT OF 1877.

Mr. WEAVER obtained leave to have printed in the RECORD remarks on the bill to pay the soldiers of the late war the difference between the greenbacks in which they were paid and the gold in which they should have been paid; also remarks concerning the rewards bestowed upon the gentlemen connected with the electoral count of the last presidential election, together with some criticisms upon their official career. [See Appendix.]

COUNT OF ELECTORAL VOTES FOR PRESIDENT AND VICE-PRESIDENT.

Mr. BROWNE. Mr. Speaker, during the Forty-fifth Congress I had the honor to serve on the select committee on the state of the law respecting the ascertainment and declaration of the result of the election of President, and then gave my assent to a measure not essentially unlike the one now under consideration. Since then I have given the subject a more thorough and a more critical examination, and I confess my views have undergone a radical change. It is for this reason and because of the importance of the questions involved that I obtrude myself into this debate.

The nation had then just passed through a crisis that seriously imperiled its existence. The result of a presidential election had been in dispute, and by compromise that extraordinary controversy had been submitted for arbitrament to a tribunal unknown to the Constitution. To say the least, by the act creating the electoral commission a novel precedent was established in our legislation, one the constitutionality of which was then and has ever since then been doubted by wise and patriotic men of all parties. In discussing the constitutional method for electing the national Executive during the eventful days of the Forty-fourth Congress there seemed to be a most lamentable confusion of opinion arising either from lack of knowledge, the difficulties of the question, or because our statesmen had become blind by partisan zeal or passion to the true interpreta-

tion of the organic law. In the confusion and intrigue of that exciting hour free government in these States came near being stranded.

The people had looked on the struggle with alarm, and good men, of all parties and every section, were oppressed by the gravity of the situation. When a President was chosen and peaceably inaugurated there was a universal feeling of relief, but still reflecting men—men who had given the subject intelligent thought—knew that perplexing problems springing out of the electoral system would confront us at each recurring election unless some remedy was provided. The people were anxious that the difficulties and uncertainties that embarrassed Congress in connection with the election of 1876 should be removed either by statute or constitutional amendment. We all felt that the uncertainties of the question, the doubts as to constitutional methods and powers, were serious dangers to the Government and the people.

Believing that a certain system for counting the vote, one that could be easily understood and as easily executed, would be better than to leave the subject in the fearful confusion then existing, I was ready to assent to any law that would give this certainty that did not impinge the Constitution or the liberties of the citizen. I did not then believe the exercise by Congress of the right to supervise the electoral vote would do either, but a more careful examination has satisfied me it would do both. There were questions in regard to electors I thought Congress might try, and a bill conferring the power on it to do so, and expressly limiting its inquiries to those questions, would not have been, in my opinion, seriously dangerous.

For instance, when a certificate was opened Congress might see that it was from a State; that the votes did not exceed the number of its Senators and Representatives in Congress; that the electors were eligible; that the votes were cast at the proper time and place, and were given for one eligible to an election to the office of President. If this bill limited the congressional inquiry to these questions I would not now care to combat it, for it is certain the nation gave the States the right to appoint electors limited by these conditions. As to these questions the action of the State is not and ought not to be conclusive. But this bill reaches far beyond the questions I have named, as I hope to show before I conclude. It organizes the two Houses, acting separately and concurrently, into an electoral commission to decide not simply whether a State has exercised its right within the limitations imposed by the Constitution, but also to determine questions belonging to the State and upon which its decision is rightfully final.

What officer or tribunal may pass upon and count the electoral votes of the States? I believe the Constitution has imposed that high duty upon the President of the Senate, and that any interference on the part of the two Houses would be a usurpation. I know that Congress has passed on many questions growing out of the electoral count and by its twenty-second joint rule and its electoral bill has assumed plenary power over them all. I shall not discuss all the features of this measure, but will content myself by calling the attention of the House to so much of section 8 as reads:

> Congress shall be in session on the second Monday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at one o'clock, post meridian, on that day; the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives. The President of the Senate shall then open all the certificates and papers purporting to be certificates of the electoral votes; the votes shall then be counted by the two Houses of Congress in the alphabetical order of the States, as certified by the electors, unless rejected by both Houses; but if in any State there be a controversy as to the appointment or eligibility of electors, the decision thereof by its highest judicial tribunal shall be conclusive, and the vote shall be counted in accordance therewith, unless reversed by both Houses; and if there be more than one judicial decision, each purporting to be by the highest court of the same State, the decision held by both Houses to be that of the lawful tribunal shall be conclusive, unless reversed by both Houses.
>
> Where there has been a controversy in any State as aforesaid, and no such certified decision has been transmitted, or when two or more such certified decisions have been transmitted, the contested votes from such State shall not be counted unless both Houses concur therein. And if there be several electoral certificates from any State, and no such judicial decision, the certificate held by both Houses to be executed by the proper authority shall be conclusive unless rejected by both Houses.

It will be observed, first, that this section provides that the electoral votes shall be counted by the two Houses of Congress; second, that the two Houses shall be clothed with full power to determine all questions touching the appointment or eligibility of electors, even to the reversal of the decisions of the highest judicial tribunals of the States. Analyzed, the section is this: the appointment of an elector by a State is in no case final, nor is the certificate of the State of its action in any case conclusive, but the whole question is subject to revision and reversal by Congress.

If there be but one certificate containing the votes of but one college of electors, and there has been no contest of the matter in the State, the certified vote may be rejected by both Houses.

If there has been a controversy as to the eligibility or appointment of an elector in a State, and that question has been decided by the highest judicial tribunal of that State, yet that determination may be reversed by the two Houses of Congress.

If there be several electoral certificates from a State and no judicial determination of the question in the State by its highest judicial tribunal, the votes in neither shall be counted unless by the assent of the two Houses.

Again, an electoral vote duly certified by the proper authority, and held by both the Senate and the House to be properly executed, is not conclusive. A vote thus legalized and guaranteed by the very letter and spirit of the Constitution may be excluded for any cause a partisan Congress may deem sufficient. It is noticeable that the bill does not undertake, even in a general way, to set out the causes for which a vote may be rejected or a judicial decision reversed. If objection to a vote is made in writing, and is signed by a Senator and a Representative, it must be acted upon, and if sustained the vote is excluded. All that is required is that the ground of the objection shall be given briefly and without argument.

I ask why in a matter so vital as that of electing a President for the Republic the causes for which an objection would be entertained are not given? If they were particularly set forth the bill would be less objectionable; but as it stands, it puts it in the power of one Senator and one Representative to interrupt the count and alarm the country on any pretext however frivolous. It does more, it opens up every imaginable question, every question that human wit can invent, and puts the counting of the presidential vote under the absolute control of a party caucus. If Congress must pass upon the eligibility and appointment of electors, if it must exercise disputed and doubtful powers, we should clearly define by law the questions over which it has jurisdiction.

Now, disregarding modern precedents, for they are confused and inconsistent, let us inquire what power Congress may rightfully exercise over the electoral count. The first section of the second article of the Constitution provides:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

The questions presented by this section have been discussed exhaustively, and I shall examine them only so far as may be necessary to make clear my objections to this bill. Does this section confer on Congress plenary power over the electoral count to pass upon all questions touching the appointment of electors and to admit or reject votes for any cause it may deem sufficient? This bill asserts this power without limit or restriction. Who shall count the vote? Certainly by no reasonable construction of the language quoted is it the right of Congress.

The Constitution is clearly a grant of limited powers to Congress; that is, such powers as are vested in it by express terms or by necessary implication. Here there is no express power in Congress to count the vote, nor are they necessarily implied. The framers of the Constitution carefully enumerated the powers of Congress in the eighth section, and yet they did not include its right to sit as a grand inquest on a presidential election and to admit or reject electoral votes, according to its pleasure. The meaning of this omission is emphasized by the fact that the plan for electing a President was the subject of gravest concern, of protracted discussion, and was pending before the convention from its beginning to its close. With remarkable precision are stated all the powers of the National Legislature, but there is a conspicuous failure to cast upon it a single duty in connection with the electoral count except to be present when it is made. A tribunal is provided for the impeachment of the President, but none for the trial of the vote. This failure is significant. Why are the two Houses to be present? The President of the Senate is to open the certificates, the votes are to be counted, and the Senate and House of Representatives are to witness the fact. But if Congress may not, who shall count the vote? To whom are the votes sent? By whom are the certificates to be opened? Who determines what certificates are to be opened and what votes are to be delivered? Undoubtedly the President of the Senate. As the votes are to be counted, and he is the exclusive custodian of the certificates and opens in the presence of the Houses only such as he chooses, and control of the count is committed to no other person or officer or body, it follows that he must canvass and count the vote. Neither the Senate nor the House has any duty to perform under the Constitution until the vote is counted. If, then, there be no choice the Houses begin to act, not concurrently but independently, the Senate electing the Vice-President and the House of Representatives the President. How these duties are to be performed are clearly stated in the Constitution.

Does not the fact that no reference is made to the Houses taking part in the count, no authority is given them to contest a vote, and no method provided for determining a contest exclude the idea that they were to be present at the count to pass upon any question touching either the eligibility or the appointment of electors? The Constitution commands the two Houses to be at the count, and the only duty it does impose upon them is to be present, for they do not vote or debate, nor can they perform at this meeting a single legislative or judicial act. If the electors have not chosen a President and a Vice-President, the Houses take notice of the fact, and the House of Representatives proceeds to elect a President and the Senate a Vice-President. They are present to see the count and to know whether an election has resulted. Beyond this the Constitution is silent.

But to pass on; that the vote was to be counted by the President of the Senate was scarcely questioned in the earlier days of the Republic, in the life-time of the wise and patriotic men who fashioned the electoral system. Almost unchallenged, this high duty was discharged by him from the day when the Government was formed, from the assembling of the first Congress, in 1789, until 1821, a period of thirty-two years. I do not pretend that differences of opinion did not arise during this time, but I affirm that all the precedents made by Congress were

unmistakably in favor of the exercise of this power by the President of the Senate.

During this time some of the most able and active members of the convention sat in Congress, and were witnesses of the manner in which the Constitution—their work—was executed. Among these were Madison, Pinckney, Ellsworth, King, and Sherman. But the constitutional convention itself, the very men who framed the Constitution, gave a construction to this provision that seems to conclusively settle its spirit and intent. When the Constitution was adopted it was necessary to provide for setting the new government in motion. There was then no constitutionally elected President of the Senate, no one authorized to preside over that body, to open the electoral certificates, count the vote, and declare who had been chosen President.

On the 17th day of September, 1787, and immediately after signing the Constitution, the convention passed the following:

Resolved, That the Senate and House of Representatives should convene at the time and place assigned; that the Senate should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the vote for President.

This resolution was submitted, with the Constitution, to the States, was debated with it, and adopted at the same time. It is evident that the convention and the States regarded this resolution as conferring on the first and temporary President of the Senate the same powers over the electoral count given by the Constitution to that officer when chosen under it. From this conclusion there seems no escape. The language of the resolution is unambiguous—under it the vote was to be received, opened, and counted by the President of the Senate, and under the Constitution the certificates are sent to that officer, he receives them, and in the presence of the two Houses opens and counts the vote.

Senator Morton, in discussing this question, with his characteristic clearness, said:

No one doubts that the President of the Senate is to break the seals of the certificates from the electoral colleges as to the votes for President and Vice-President. No one doubts that this duty is to be done in the presence of the Senate and House of Representatives. And the votes shall then be counted. That is, the tellers are to put down the whole number of votes cast by the electors for President and Vice-President, as shown by these certificates opened by the President of the Senate, and the result is then announced by him. This opening and counting by the President of the Senate is to be done without interference and without restriction, as I think, from any quarter. This is what I think is the true language and intendment of the Constitution.

The President of the Senate shall, in the presence of the two Houses, open all the certificates and the votes shall then be counted. By whom? Clearly by him to whom they were directed, by whom they were opened; counted in the presence of the two Houses of Congress as chosen witnesses selected by the Constitution to see that the certificates of the electors were all counted, and the results of such certificates to be recorded by the tellers; and the result was then to be announced by the President of the Senate whether any one had received a majority of the whole number of electors appointed for President and for Vice-President. If so, then the persons receiving such majority for President and such majority for Vice-President were to be declared by the President of the Senate duly elected President and Vice-President of the United States.

This statement of the question is terse and exact. I cannot add to its force nor strengthen its logic. I believe it gives a true interpretation of the intent of the artisans of the Constitution. If they intended to confer any power upon the Houses in this connection they would have said so in terms. They have not said so, nor have they used words from which such an intention can be implied.

It is said that to give the President of the Senate power to accept or reject votes, to canvass them, count them, and declare the result, is most dangerous; that it would make him dictator; that in defiance of Congress, in defiance of the Constitution, of law, or right, he might count in or count out whomsoever he chose; might arbitrarily designate his own successor, or make himself the President, and from his decree there could be no appeal. If this danger exists it cannot be held to change the meaning of language nor to interpret the Constitution. When passing upon partisan issues Congress is not safe. The exercise of power by human beings is always more or less dangerous, but governments are administered by men, not gods, and in them we must not expect perfection. If the Constitution is wrong it may be changed, but not violated.

But to this cry of danger the answer is at hand. Presidents of the Senate have presided and opened the certificates at twenty-three Presidential elections, and in a large majority of them counted the vote and announced the result, and in no instance has one of them abused his powers, been suspected of corruption, or been guilty of any act that brought reproach or dishonor on the American name. The Constitution, the law, the right have been secure in their hands. Six times at least a President of the Senate has counted the electoral vote when he was personally interested in the result, and in no instance has the honesty of the count been questioned. John Adams and Martin Van Buren each declared himself President; Thomas Jefferson announced a tie between himself and Aaron Burr, and Tompkins and Breckinridge proclaimed their own defeat. At the election of 1797 Jefferson was defeated by only three votes. The Legislature of Vermont had appointed electors without having first regulated the manner of their appointment by statute. Many of the citizens of Vermont protested against the counting of the vote. Petition followed petition to Congress asking that the vote be rejected. Had it been excluded Thomas Jefferson would have been elected President by one majority, but John Adams, then Vice-President, counted the vote, announced Jefferson's defeat and his own election, and no one questioned the propriety of the act.

If it be conceded that the President of the Senate may not, does it follow that Congress may count the vote and exercise the extraordinary powers given it by this bill? Here we have the opinion of one of the able men of the convention, one of the strongest and most active men of that memorable body, delivered in the Senate of the United States in the days of Adams and Jefferson and Madison. In 1800, in discussing this question, Charles Pinckney said:

To give Congress, even when assembled in convention, a right to reject or admit the votes of States would have been so gross and dangerous an absurdity as the framers of the Constitution never could have been guilty of. * * * How could they expect that in deciding on the election of a President, particularly where such an election was strongly contested, party spirit would not prevail and govern every decision? Did they not know how easy it was to raise objections against the votes of particular electors, and that in determining upon those it was more than probable members would recollect their sides, their favorite candidates, and sometimes their own interests, or must they not have supposed that in putting the ultimate and final decision of the electors in Congress, who are to decide irrevocably and without appeal, they would render the President their creature and prevent his assuming and exercising that independence in the performance of his duties upon which the safety and honor of the Government must forever rest?

This was said when many of the members of the convention still survived. The language is explicit and the gross and dangerous absurdity of congressional interference in the electoral count is strongly and truly put. Eighty years have passed since Pinckney spoke these words, and a now long record of congressional intervention proves the dangers the framers apprehended and sought to prevent were both real and serious. How true it is that to raise objections to electoral votes in a body of partisans is easy, and that in passing upon these each sees only his own candidate and his own party. Any question touching party interests submitted to such a tribunal in the rage for party ascendency is always likely to be made to subserve partisan ends. The American Congress, elected by party and committed to its men and interests, is not the arena in which grave issues are to be combated and safely settled.

In our heated contests here over elections, in the struggle for spoils, for party ascendency, the most absurd interpretations of statutes and constitution are "boldly assumed and plausibly maintained." When the election is close and the admission or rejection of a few votes determines the result, our interests and our prejudices tempt us to invent some method by which to assure the triumph of our party. One hundred thousand places and millions of money is the spoil to be won in the scramble, and how that stimulates the inventive genius of the politician! We formulate objections, sometimes frivolous, and in our zeal we supply ourselves with plausible arguments to maintain doubtful and even absurd propositions.

Congressional action on this question furnishes a most instructive lesson. Electoral votes have been attacked in this body because the seal to the certificate was defective; because of the most insignificant irregularities in filling vacancies in electoral colleges; because the elector was a shipping commissioner or centennial commissioner or village postmaster at the time when voted for by the people, although the disability had been removed before the appointment was complete or the elector assumed to act. These votes have been challenged because the elector held, at the time he voted, an office under the State, although the constitution only prohibits the appointment of one holding an office of trust or profit under the United States. And Congress has debated gravely and with much learning the question whether a vote cast by one never appointed an elector by a State should be counted. When, on an occasion now historic, the two Houses distrusted the propriety of assuming the right to count the vote, or were unable to agree upon the extent of their powers, they committed the controversy to a tribunal of their own creation, and when a conclusion was reached, the inventors of this scheme professed the most profound astonishment that seven democrats of the commission steadily voted with their party and eight republicans as persistently voted with theirs.

Why this surprise? Had the question remained in Congress how many democrats would have voted on the republican and how many republicans on the democratic side of the issue? A body like this is not the safe repository of the power to make Presidents. The fathers saw these dangers and refused to give the Houses the right to reject the votes of electors appointed by the States.

This bill, Mr. Speaker, subverts the whole theory of the Constitution as to the election of President. It invades and utterly destroys the electoral system in both its letter and intent. No Senator or Representative can, under that system, be an elector and take part in the election. To exercise this power he is wholly ineligible. Was it intended to deny to Senators and Representatives the right to participate in the presidential election as electors and at the same time authorize them to elect a President in their representative capacity as members of Congress? Are they unfit to cast the electoral vote but at the same time competent to admit or reject it? They cannot vote for a President, but under this bill they are given a higher and infinitely more dangerous power—that of trying the election when made and overturning it. The whole Congress combined cannot constitutionally cast one electoral vote, but under this bill it may reject every vote, reverse the decisions of all the courts, and disfranchise every State.

So careful was the convention to keep the presidential election out of the control of the National Legislature that it not only made Senators and Representatives incapable of being appointed electors, but refused by a decisive vote to allow Congress to appoint electors and

conferred that right expressly upon the States. "The appointment of electors by the Legislature was not allowed," says Gouverneur Morris, "because of the danger of intrigue and faction." If the dangers of intrigue and faction, of rings and combinations, makes Congress unfit to appoint electors, they certainly render it unfit to pronounce absolute and final judgment on their appointment.

But it is said the statesmen who framed the Constitution could not have believed it dangerous for Congress to elect a President, for on the happening of a contingency the Constitution imposes upon one of its Houses the performance of that very duty. True, when upon counting the votes no person is found to have received a majority of the whole number of the electors appointed, the House of Representatives—not the Congress—is enjoined to immediately choose a President. But, sir, in the House the election is by the States, not by the votes of individual Representatives. Each State has one vote, and only one. Here Nevada is the equal of New York, but in acting upon and overturning the votes and judicial decisions of the States in regard to the presidential election, under the powers of this bill, New York is nearly twelve times larger than Nevada. To elect by the House requires the concurrence of twenty States, but this bill puts it in the power of the Representatives of ten States, sitting in judgment on a presidential election, to exclude from the count the votes of twenty-eight States. When New York votes for President in the House it casts one vote, but when it exercises the power to reject votes and thus elect a President, as it may under this bill, it gives thirty-three votes. That there is no analogy whatever between the constitutional plan for electing Presidents and this method for deciding presidential elections needs no further demonstration.

In the House of Representatives resides the sole power of impeachment. It is the public prosecutor. It prefers the charges, prepares the evidence, and conducts the trial. The Senate is the only tribunal that can try the President of the Republic on these charges. It is the high court before which only the most exalted officer of the nation can be arraigned and tried for crimes affecting the integrity and fidelity of his official conduct. Congress is put between the people and the executive power of the nation as the guardian of constitutional liberty, as the vigilant sentinel over our free institutions, and is charged to defend them from encroachment. This liability to impeachment is one of the important safeguards against executive usurpation. It is essential to a fearless and faithful execution of this great trust that Congress should be independent of the President. As the President is given the veto power to protect the people from the unconstitutional and ill-advised legislation of Congress, he should be alike independent of it. Neither should be the creature of the other. If Congress may make the President, either by direct vote or by controlling the count, as it may by this bill, will there be an untrammeled exercise of the right of the veto or of impeachment? The fathers thought not.

It is the intent of the electoral system that the election shall be confided to men who are wholly uncommitted and unpledged. They were to choose freely. To prevent restraint through intrigues and combinations the Constitution requires the electors to vote in the State making the appointment, and that all the votes throughout the United States shall be cast on the same day. That the elector may be free from extraneous influence or party pressure the vote is to be secret; that is, by ballot. If the election were to be thus free, to be so scrupulously guarded from cabal and intrigue, should not the validity of the vote upon which that election depends be tried by a tribunal equally free from party influence and the pressure of the party caucus?

Again, sir, this bill usurps, clearly usurps powers that belong to the States. It is a long and fearful stride toward centralization. I am amazed that State-rights Representatives and strict constructionists in this House are giving this measure their support. Why, sir, this bill puts the votes of the States and the right of appointment by the States at the mercy of the Government. Do I assert the truth? Where is the right of appointment lodged? Let the Constitution answer:

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

The State appoints. No one disputes this. How does it exercise this right? In any manner, I answer, its Legislature may prescribe. It may appoint by its governor, its Legislature, by the popular vote, or in any way it sees fit. The Constitution puts no limit on the legislative power of the State as to the manner of the appointment. It goes further, and confers the whole right to appoint on the State. To appoint an elector is more than simply to designate him, point him out by a vote; it includes not only the choice, but every step essential to the complete investiture of the elector with the power to take part in the election. If the power to regulate the appointment is wholly with the State, its tribunals may rightfully say when that power has been legally exercised, and this declaration should be final as to the United States. The Legislature prescribes how the appointment shall be made, and it must have the right to say what shall be the evidence that its directions have been followed.

The State, all agree, may appoint electors by a popular election. How can it hold an election without the right of directing its details, canvassing its returns, passing upon them, and declaring the result? These are necessarily included in the right to appoint, and until they all happen and the result is certified and sealed no appointment has been made. If the Government interferes with this process, attempts to regulate the manner of appointment, to interrupt the canvass or the count, or refuse to recognize the result as embodied and declared in the certificate, it usurps the power of appointment and invades the rights of the State. The State may or may not appoint. If it fails, the Government is powerless. If some of the States fail or refuse to exercise their right it does not prevent an election. A majority of the electors appointed, whether appointed by one State or many, choose the President. A single State may make that choice. Is it not clear, therefore, that the power of the State to appoint electors, and of the Legislature of the State to direct the method of appointment, is absolute?

The State judges whether its law has been complied with, and if Congress goes behind this judgment and inquires whether the State law has been obeyed, and acts upon that conclusion in admitting or rejecting votes, it usurps the appointing power. Suppose, for instance, the Legislature of a State provides for choosing electors by a popular vote, and the State, in pursuance of its law, certifies as the result of this election the appointment of certain persons as electors, may Congress go behind this and find that other persons were in fact elected at that election and confer on them the right to cast the electoral votes? To say that Congress may do this is to say it may challenge every voter, election board, and election return of the State. If this can be done, the United States and not the State appoints the electors.

But, Mr. Speaker, this bill not only allows this sweeping challenge of vote, return, and election board, but it allows as well the challenge and overthrow of the decisions of the courts. For generations it has been settled rule in the Supreme Court of the United States, in construing State statutes and constitutions, to regard the interpretation given them by the highest judicial tribunal of the State. Experience has shown this rule of construction to be a most judicious one. In this bill, however, we assert the right of Congress in the frenzy and acrimony of a party struggle, when the worst passions are aroused, and when coolness, deliberation, and fairness are impossible, to reverse the decision of the highest court of the State pronounced upon its own local laws or in regard to the action of its own agents. The assumption of this power is monstrous.

To put this question clearly: The State may appoint electors at its option. If it appoints, its Legislature has the exclusive right to direct the manner in which it shall be done. Here are two things the State may and the Government may not do: first, direct the manner in which electors shall be appointed, and, secondly, to appoint them. Suppose it directs that the electors shall be designated by the ballots of certain of its citizens and that the governor, or the governor and his counsel, or a returning board, shall, under the seal of the State, appoint as electors the persons receiving a majority of the ballots. Suppose these proceedings are contested because of alleged fraud in the balloting, or because in making the appointment it is said the directions of the State were not pursued, and these questions are reviewed and settled by the highest court of the State, can Congress go behind this judgment? If so, what becomes of the State's right to appoint in the manner its Legislature may direct? It is gone, absolutely gone. It has now only the right to appoint as the two Houses may direct. The State may follow the directions of its Legislature as interpreted by its highest judicial tribunal, but under this bill that is not sufficient, for Congress retains the power to construe all legislation and reverse and annul every judgment or decision of the courts.

Sir, I will pursue this discussion no further to-day. I have attempted to show that the Constitution does not expressly nor by necessary implication confer on Congress jurisdiction to try the legality of the appointment of electors; that the exercise of such power is at war with the spirit and genius of our system of elections. But, sir, if Congress shall assume to determine any question arising out of a controversy concerning this count, then I insist it may only inquire whether a State has exercised its right of appointment in pursuance of the conditions and limitations imposed upon it by the Constitution.

Again, it has been my object to show that the right given the States by the Constitution to appoint electors carries with it necessarily the right to declare who has been appointed. If the State only may appoint—and this is admitted—can it be said it has exercised that right unless Congress allows it to say whom it has chosen? If it is charged that there has been a fraudulent election or appointment, or that the laws of the State have been disregarded, what tribunal so competent to try the issue as that provided by the State itself? These outrages concern the State and its citizens, and the remedy for redress should be devised by them. Let the State not only appoint, but declare by its own statutes what shall be the evidence of that appointment. Let it organize courts and try its own laws and the conduct of its own people in relation thereto, and when it has decided let the nation accept its decision as conclusive. In this way, sir, we may escape the dangers of congressional interference. Congress is no fit place to settle contested presidential elections. These controversies ought never to be allowed to obtrude into these halls, for here, in the struggle for patronage and power, right, justice, liberty, and constitutional government may be stricken down by a mere partisan majority.

POLITICAL ASSESSMENTS.

Mr. GEDDES. Mr. Speaker, this bill now under consideration to prohibit Federal officers, claimants, and contractors from making con-

tributions for political purposes strikes at the root of a great evil It seeks to remove a canker from the vitals of our fair tree of liberty—a virulent enemy to purity in politics and free government—which, if not removed, must cause it sooner or later to wither and fall. It has already made dangerous and alarming inroads upon the health and life of our body-politic. Diversity of judgment may exist as to the details of the proper remedy, but thoughtful and considerate men with one accord recognize the existence of the evil, concede that it is imminent and perilous, and now should unite their hopes and efforts for its immediate destruction.

The evil complained of in some of its phases is of modern origin in the practical working of our Government. It insidiously gained a foothold in the name and under the garb of "freedom of political action," and being once admitted within the citadel of liberty the mask will no longer serve its purpose; and now we find to our amazement men boldly and defiantly springing up as champions of these modern vicious and destructive practices. The result is the floodgates of vicious, immoral, and corrupt influences have been thrown open and the very fountains of political purity poisoned.

We have been forced to witness the principles and policy sacred in the infancy of our Republic, cherished and guarded with a sleepless vigilance by the fathers and transmitted to us, now ruthlessly thrown aside as a garment out of style and unfit for use.

In the discussion of this measure I am not unmindful of the variety and important character of the various measures pending before us demanding early and careful consideration. But the danger is not that we will leave the other undone so much as that this will not be well done. We seriously err in our legislative work if we act on the principle of "paying tithe of mint, anise, and cummin and leave omitted the weightier matters of the law."

This question affects the very corner-stone of our political edifice. It certainly would have been a serious and criminal oversight simply to make appropriations for the completion of the Washington Monument and leave insecure and unguarded the foundation walls. Precisely so in reference to the delicate, all-important, and responsible duties assigned us. We are admonished that our skill, energy, and immediate attention should be devoted to this foundation work. Surely all will agree that a pure ballot, free and untrammeled elections, the unbought and unintimidated exercise of the right of suffrage, are absolutely essential to the preservation and perpetuity of our form of government. Our liberty, our Constitution and laws, and all the machinery of our Government calculated to shower upon us unbounded blessings, are barricaded by the ballot-box. Therefore, to protect the ballot every safeguard that a wise and patriotic skill and ingenuity can devise should be used and then enforced with a vigilance and vigor without variableness or shadow of turning. These objects so immeasurably important may be attained in some degree at least by this measure. This bill, if not prompted by, at least follows, the theory and recommendations of the President of the United States in his annual message to Congress at the present session. It does not cover the entire ground so prominently presented by the President. An evil glaring, flagrant, and alarming is referred to in the message that rises above, overshadows, and in a great measure is productive of the wrongs sought to be inhibited by this bill. In regard to this overshadowing evil, the President says:

> There are other administrative abuses to which the attention of Congress should be asked in this connection. Mere partisan appointments and the constant peril of removal without cause very naturally lead to an absorbing and mischievous political activity on the part of those thus appointed, which not only interferes with the due discharge of official duty but is incompatible with the freedom of elections. Not without warrant in the views of several of my predecessors in the presidential office, and directly within the law of 1871, I endeavored by regulation made on the 23d day of June, 1877, to put some reasonable limits to such abuses. It may not be easy and may never, perhaps, be necessary to define with precision the proper limit of political action on the part of Federal officers. But while their right to hold and freely express their opinions cannot be questioned, it is very plain that they should neither be allowed to devote to other subjects the time needed for the proper discharge of their official duties, nor to use the authority of their office to enforce their own opinions, or to coerce the political action of those who hold different opinions.

Mr. Speaker, this theory, so boldly, forcibly, and impressively presented to the country, should command the admiration of all political parties, and when the sentiment and policy is read, known, and observed by all men holding the official positions referred to it will be a fitting occasion for a jubilee among the friends of reform—of all who desire a return to the plain, pure, and patriotic ways of the fathers—throughout our broad country.

The abuses to which our attention has been called should not be underestimated. They are far-reaching and overpowering in their influence. Federal officers holding the reins of government in their hands, with purse and sword at their command, exert upon the public mind everywhere an irresistible influence for good or evil. The influence of their example is felt in all the walks of society. The stream will not rise above the fountain, and if from the fountain head flows impure water it will taint and corrupt all below; but if pure, its healthful, salutary, and invigorating influence will be felt everywhere. We should therefore feel grateful to our Chief Magistrate for placing on record in form so durable a theory so wholesome. The repeated announcement of the principle from this high source should command the *solemn consideration* of all temperate and thoughtful men. It may get aid in promoting the prosperity of the whole country, result in tranquilizing it, and restoring that political purity and devotion to the public interests that characterized the times of the fathers.

To become an officer, clerk, or employé of the Government of the United States certainly should not disfranchise any man or exclude him from the enjoyment of the rights and immunities of citizenship; but for such officer and public servant studiously and persistently to devote a large portion of his time in efforts to influence and control public sentiment and advance the interests of himself or party is demoralizing in the highest degree and destructive of pure government.

THE VIEWS OF THE FATHERS.

It will enhance our appreciation of this subject and invigorate our gratitude to the President for pressing it upon our consideration when we consider the light in which it was regarded in the earlier days of the Republic by the men who have the strongest possible claim upon the affectionate veneration of the present generation. The views and practices of the fathers on this subject point out with unerring certainty and clearness the path of wisdom, purity, and patriotism.

Kennedy, in his Life of Wirt, in giving us the controlling principles and sentiments that actuated and guided the statesmen at one of the purest periods in our national history—a time remarkably free from undue partisan spirit—sets forth the policy of that age.

In 1824, at the close of Mr. Monroe's administration, there were no less than five candidates before the people for the Chief Magistracy: Mr. Adams, the Secretary of State; Mr. Crawford, the Secretary of the Treasury; Mr. Calhoun, the Secretary of War; Mr. Clay, the Speaker of this House, and General Jackson.

During the pendency of that contest Mr. Monroe firmly and scrupulously observed—not only theorized and preached, but practiced—and by the force of his own noble example sought to enforce the most rigid non-interference with the free and unbiased expression of public sentiment in regard to the various candidates. We find his entire Cabinet joined in the same policy and practice, including the members then candidates for public favor. In referring to that golden age of our nation and the firmly rooted and universally prevailing sentiment of the times Kennedy, in his Life of Wirt, says:

> At the time it was not considered decorous in the Executive to make itself a partisan in a presidential or any other election. Indeed there was a most wholesome fastidiousness exhibited on this point which would have interpreted the attempt of a Cabinet officer, or any other functionary of the Government, to influence the popular vote by speech, by writing, by favor, fear or affection, as a great political misdemeanor, worthy of sharpest rebuke. *These were opinions of that day derived from an older age.*

Mr. Wirt, then Attorney-General of the United States, in a letter of that year to Judge Carr, expresses himself on this subject in language and spirit showing not only how faithfully and unfalteringly the public men of that day adhered to this principle, but exhibits an earnestness that forces down to us through the intervening period such a cheering, purifying, and invigorating influence that it may yet serve to lift us out of the political fog and malaria that is so rapidly undermining the health and very life of our body-politic. Hear what he says:

> With regard to the presidential contest, I am of the opinion that I have nothing to do with it, and I will tell you why. In the first place, I think that, according to the genius of our Government, the President owes it to his country to abstain from the exercise of the slightest influence in the choice of his successor. Even the intimation of his opinion upon the subject, considering the factitious weight which he derives from his office, would, in my opinion, be a departure from principle as having a tendency to lead to a result subversive of the whole fabric of our republican institutions, the enabling a President to appoint his successor. And in my opinion it is not enough that the President observe the most sacred silence upon the subject, but all who hold the relation to him which I do, and who might therefore be suspected of merely echoing his sentiments, are equally bound to observe it.
>
> This consideration would alone be sufficient to induce me to observe the most guarded silence.
>
> In the next place, those who are called members of the administration (the heads of Departments and the Attorney-General) are, in truth, limbs of the executive branch of the Government; and the principle of the most impartial neutrality in such an election presses with equal force upon the whole executive.
>
> In the third place, any man who holds the office which I do derives from it an artificial weight—a length of lever and fulcrum—that would be very unequally exerted against the individual influence, man for man, on which such an election ought to depend; and as I have cautiously forborne to make the Attorney-General a partisan in this election by any personal appearance in the canvass, either on the one side or on the other, so I am determined that nobody else shall entrap me into a partisan feast, or any other situation which might be considered as taking a side, either with the one candidate or the other.

THE PRESIDENT'S APPEAL FOR HELP.

Mr. Speaker, these fundamental truths thus taught and enforced by precept and example by the wise and good men of the past are no less important now, and the inestimable value of their example will not, I trust, be lost upon us. The profound wisdom and trustful fortitude of these sages and patriots of the past have inspired the President in the midst of the most disheartening surroundings to appeal to Congress for help. This heartfelt appeal should not be disregarded, for it is worthy not only of our highest respect and immediate action, but it should elicit the gratitude of posterity and the most enduring admiration of enlightened and conservative statesmen everywhere. One of the administrative abuses evidently pressing upon the mind and heart of our Chief Magistrate concerns Federal officers of his own appointment. In speaking of them he says they should not be allowed "to use the authority of their office to enforce their own opinions or to coerce the political action of those who hold different opinions."

Now, Mr. Speaker, the experience of the most skillful political workers has shown that the most effective method of political action for men high in office to enforce their own opinions is to travel over the country during a political campaign and by their presence and the

prestige of their names and official standing aid in swelling the tide of political excitement and by speech and example arousing all the subordinates in office under the General Government, numbering one hundred thousand, and with their immediate dependents five hundred thousand men, and thus unitedly coerce the political action of those who hold different opinions. This practice has become common. The President has not been the first to severely criticise and denounce the evil. It has not failed to excite the deep anxiety and profound regret of the most hopeful friends of popular government.

The bill before us does not propose, and it may not be practicable, to meet this phase of undue, illegitimate, and dangerous partisan influence by direct legislation. It may, however, be corrected by a wholesome public sentiment.

Whatever may have been the practice in this regard of officers in the executive department of the Government, the President in his message gives us and the country the benefit of an official indorsement of the true and only theory on which we can hope to maintain our institutions in their original purity.

Now, it is true, Mr. Speaker, that plain practical people have accepted and for ages acted upon the idea that actions speak louder than words, and therefore require preaching and practice to go hand in hand. But to every general rule there may be exceptions, and I have sought in a spirit of charity to reconcile the precept and practice in this regard consistently with sincerity, and, to my partial relief, I have found an incident. The illustration may not be perfectly pertinent, but it is the best that occurs to me. General Grant found in force a law that he was required to execute which to him personally was very odious and he attempted to secure its repeal. Failing in that, he executed it with redoubled vigor. When his friends of his own views of the law complained of his manner of enforcing it, he replied that the more vigorously it was executed the sooner and plainer its odious and iniquitous character would be made manifest. May we not hope that this is the spirit and purpose of the Federal officers who have so diligently and persistently "used the authority of their office to enforce their opinions and to coerce the political action of those who hold different opinions?" Certain it is that they have demonstrated that this indelicate and obnoxious practice is at war with a pure, faithful, and patriotic administration of this Government.

That portion of the message more directly pertinent to the provisions of this bill should be carefully considered. The President says:

> Reasons of justice and public policy quite analogous to those which forbid the use of official power for the oppression of the private citizen impose upon the Government the duty of protecting its officers and agents from arbitrary exactions. In whatever aspect considered, the practice of making levies for party purposes upon the salaries of officers is highly demoralizing to the public service and discreditable to the country. Though an officer should be as free as any other citizen to give his own money in aid of his opinions or his party, he should also be as free as any other citizen to refuse to make such gifts. If salaries are but a fair compensation for the time and labor of the officer, it is gross injustice to levy a tax upon them. If they are made excessive in order that they may bear the tax, the excess is an indirect robbery of the public funds.
>
> I recommend, therefore, such a revision and extension of present statutes as shall secure to those in every grade of official life or public employment the protection with which a great and enlightened nation should guard those who are faithful in its service.

These are not idle words. It is not an appeal for relief against an imaginary evil. No ordinary abuse in the public service could arouse such an earnest indignation in the breast of the Executive and induce such a pathetic appeal in behalf of the sufferers. How painful it must be to the author of this message to find his professed friends hurling back with reproachful bitterness and contempt his words of sympathy for the oppressed.

To this argument of the President I desire in this connection to add another authority. The civil-service commission in their report, April 15, 1874, present us, in a clear and unanswerable light, the evils to be remedied, and among other things say:

> There has been developed mainly within a single generation, and is existing with fearful powers of expansion and reproduction, an aggressive and unscrupulous spirit of mercenary partisanship which, promoting and dominating the pursuit of politics as a trade and seeking public office and party and caucus leadership principally for the spoils of money and patronage they could command, was degrading all party action in popular estimation and impairing alike official integrity, political honor, and private morality. The chief object of such bad men has always been to force their favorites and leaders into office and their enemies out of office, and to levy exactions upon every public officer, and to make gain out of every public function. They said, on the one hand, to the mass of honest intelligent citizens, "You allow us to take care of politics and give us the charge of nominations, elections, and the collection of assessments, and we will see that you are governed without other expense or trouble;" and to those in public places, on the other hand, "You pay our assessments, accept our conditions, and conform to our suggestions generally, and we will keep you in office and stand between you and all danger from the people, whom we can manage."
>
> The direct support and power of this dangerous conspiracy against the public safety everywhere have been mainly derived from coercion of the appointing power and from exactions levied upon those in the public service, whereby a few able, bad men, skilled in the trade of politics and highly organized for plunder and power, have defied the mass of the people and overawed those engaged in the administration.

Now, Mr. Speaker, the bill before us seeks to remedy these evils and carry out these recommendations. The argument may be elaborated, but these statements quoted should convince all who are not absolutely incorrigible on the subject of reform in the civil service. But the object and legal scope of this particular measure should be understood. It does not undertake to deal with the private citizen as such, but strikes directly at the Federal office-holder, and aims to prohibit the use of public money by them for the purpose of carrying an election. It can only have the effect to check and prevent the public money from being unjustly and corruptly obtained and used for political purposes. The private citizen, the individual, independent voter is left free to contribute, without limit or restraint, money and influence, time and talents to advance the interests of the party to which he belongs. Instead of limiting freedom of political action this measure strikes off the chains of bondage, suppresses terrorizing appliances, and protects those in and out of office in the full and peaceful enjoyment of the rights of freemen.

EVIL INFLUENCES OF MONEY.

One of the plain, manifest, and commendable objects of this bill is to protect the private citizen and the Government against the infamous and ruinous influence of money in our political struggles. No more dangerous attack upon our free institutions has ever been made than this dangerous and shameful use of public money and Federal patronage to place men in power and keep them there. The workings of this spirit of evil are in the highest degree alarming. How to meet it is the greatest and gravest problem before the American people. In all our political contests this monstrous evil seeks to hold the balance of power. The people are never secure in their rights in the presence of this dangerous enemy. At the very threshold of liberty, at the ballot-box, it is felt in the efforts to corrupt and bribe the voter. When the election is over and the people have triumphed, then this evil spirit, this devil incarnate, seeking to devour our liberty, sits at every corner with open hands filled with gold to seduce and bribe men to betray their country and sacrifice the highest and dearest earthly interests of men. The use of money as a political instrument is degrading our elections, destroying confidence in the ballot-box, and rapidly paving the way to an imperial form of government.

Through the mighty power of our boundless physical resources, the vast extent of our country, the unconquerable spirit and vigor of manhood of our people, and especially with a unity of interests and hopes in a common heritage, we could resist the world and maintain our freedom. No physical power on earth could conquer us as a united people, and yet we may fall an easy prey to the corrupting power of money. Our free institutions are a sad and humiliating failure if men who can influence and control the public sentiment of the country will permit large sums of money to be raised for partisan purposes, and then consent to see it used with brazen effrontery to defy the people, carry nominations, secure elections, organize Legislatures, and control the destiny of fifty millions of people.

We should take warning by ancient Rome, the once proud mistress of the world, whose iron foot trod down the nations, triumphing over all opposition, until absolutely invincible as against any physical power; and yet, through the influence of the luxuries let in upon her by her own conquests and the degrading, corrupting, and debasing power of money and great wealth, was utterly destroyed; her greatness and glory departed forever. Here, then, lies our greatest danger. To meet and overcome it must be the desire of every lover of our country. There is, then, no higher or more responsible duty incumbent upon us as the guardians of the people's rights than to disarm and drive from place and power the men to whom we may pertinently apply the figure of speech employed by the immortal Jefferson, in referring to another subject, and call them "the political sappers and miners constantly at work under-ground to undermine the foundations of our political fabric."

Active participation in political affairs by office-holders and the assumption that all our public servants holding office by appointment of the party in power are mere instruments of that party to give freely time and money for its success, or they are victims to be assessed and compelled to contribute to the same end, constitute one of the most corroding elements of modern politics. The opportunity of organized political bodies, rings, and combinations to use such a power has enabled them to overcome and thwart the will of the great mass of the people and to prevent a free, fair, and unrestrained expression of their judgment and choice for public officers.

And, Mr. Speaker, it is sheer mockery and should prove idle and fruitless to say that these are not forced assessments, but merely voluntary contributions. The duress is as plain as when the unarmed and defenseless citizen hands over his property to the highwayman. The criminal might preach like an angel on the enormity of coercion, his abhorrence of threats, and detestation of violence, but it would be lost upon his victim.

The manner of making and collecting these demands thus made by partisans, demonstrates that all parties concerned regard it as a forced contribution. The amount is fixed, showing that the work is systematic and that none are exempt. Literally they do not present the cocked revolver or threaten immediate death, but the political standing of the applicant, and his air, tone, and manner, are as expressive as the reading of a judicial writ by an officer of the court that deprives the head of a family of his home and turns his children into the street. The victim of these assessments knows that a failure or refusal to meet the demand upon him as his share of the political burden will, with absolute certainty, result in losing his position.

EXAMPLE OF GREAT BRITAIN.

Mr. Speaker, for two and a half centuries legal prohibitions have existed in Great Britain against this system of extortion for partisan ends. Political assessments and even bribery had existed prior to

that period in that country to such an extent that all official life to the very throne was known to be openly corrupt. The King and his ministers accepted bribes so openly and greedily as to indicate utter moral insensibility. Lord Chancellor Bacon, holding the highest official position under the King, being the keeper of his conscience, caught the spirit and deliberately took bribes. But the moral courage, uprightness, and influence of the masses, even in that age of festering corruption, proved sufficient to resist and materially check the evil.

The people demanded reform, and on the wave of a purer political morality John Pym, John Eliot, and their associates drifted into Parliament. The great "Petition of Right," one of the immortal instruments of the world, resulted from their work, constituting one of the ancient political landmarks establishing some of the inalienable rights of mankind. The leading object of that law we are at this late day, by the provisions of this bill, seeking to secure in the interest of popular government. That law of that day provided "that no man hereafter be compelled to make or yield any gift, loan, benevolence, or tax, or such like charge, without common consent by act of Parliament."

Now the people of this government, of this free country, are confronted face to face by the same vile, debasing, and destructive evil in politics that will ultimately lead to corruption and bribery, and in justification of its deadly influence we are told that it is one of the inevitable evils which a republican form of government must accept and embrace. Such views should not prevail. We must not despair of the Republic. Our forebodings of evil, not without cause arising from a spirit spread broadcast over the country from a well-known political quarter, must be subdued.

The first uprising of doubt as to man's capacity for self-government should be dispelled by a review of the hardships and sacrifices endured to obtain and maintain free institutions.

"THE MAN ON HORSEBACK."

It is true the demand for a stronger government is seriously made, discussed, and listened to without the alarm and horror it would have excited in our better days. The "man on horseback" is the battle-cry and a stronger government the shibboleth of the most dangerous element of the republican party. For it is evident to all not willingly blind to the midday scenes in political life that a cunningly devised scheme has been in operation to restore to permanent power in this country—in the name and under the false pretense of a necessity for a stronger government—the military pomp, the imperial ceremony, and the degrading, shocking, scandalizing carnival of corruption of the Grant administration.

This cry for a stronger government betrays the purpose of its authors, evinces a want of confidence in our present institutions, and tends strongly to their overthrow. Against this delusion and snare ceaseless efforts must be made to warn and forearm the people. We now have the strongest government on the face of this earth—in all the elements constituting real, substantial, and enduring strength—being based on the granite foundation of the greatest good to the greatest number as the end of government, and all vesting in the hearts of the people by whom and for whom it was made.

IMPERIALISM THREATENED.

What means, then, this stalwart cry for a stronger government? It plainly means a subversion of the simplicity, economy, and purity of government always to be found when the people rule. It threatens the destruction of the most precious traditions of the past. It is open war upon the representative branch of our Government by means of an encroachment of the executive in utter defiance of the letter and spirit of the Constitution. It is a bold revolt against the rule of the people, and a settled purpose to erect upon these ruins of our sacred rights a great centralized power and despotism here at Washington, where brute force, corruption, and fraud will be substituted for argument and reason and the economy and purity of our earlier days, and in place of the greatest good to the greatest number, as the true end of government, we will have "all good for the few" as the controlling principle of the new monarchy styled a stronger government. But, in the name of the people, I warn gentlemen on the other side that the movement is not well timed. All the kings, emperors, and tyrants of Europe stand trembling before the voice of the burdened, down-trodden, and oppressed people, as Belshazzar trembled at the sight of the handwriting on the wall. They have been weighed in the balance and found wanting. With decay, dissolution, and death as the history and destiny of kingly and despotic government in Europe, we are not so craven and degenerate, so lost to shame, so deserving the execration of all mankind and posterity as to accept their discarded systems of government. The only well-grounded hope, then, of safety for our institutions is in the intelligence, sturdy integrity, and unmovable patriotism of the masses whose interests are involved, and we should therefore, with unwavering fidelity, hold up to the people of the country the bright and ennobling lessons and example of the incorruptible men of our early history.

The democratic party, true to its time-honored faith and firmly bent upon the preservation of our present institutions, will not turn aside from the broad, plain, and solid highway of constitutional liberty thrown up by our fathers to give any attention to a choice between the factions of the republican party. Between these destructive evils lovers of constitutional liberty are not bound to choose.

DEMOCRATIC PARTY FOR FREEDOM AND EDUCATION.

I do not overlook the extravagant claim of my colleague from Ohio, [Mr. BUTTERWORTH,] which enabled him to administer to his good soul the pleasing, soothing, and flattering unction that the republican party embodies all the love of freedom and intelligence, all the love of education, order, and decency, and that the democratic party always has been and is opposed to these elements of prosperity and happiness. He says:

I say that through all the southern part of our territory, where live the controlling men of the democratic party and from whence they issue their mandates to the northern wing of that party—through all that territory Freedom never had an altar where her votaries could worship in peace and safety. There never was a time when I could read in that portion of our country the Sermon on the Mount in the spirit in which it was delivered without taking my life in my hand. There is not a free school in the United States to-day which does not exist in spite of the desires and opposition of one wing of the democratic party, and without that wing the democratic party could not control the local government in a single county north of the Ohio or the Potomac.

Mr. Speaker, this is a bold and startling statement. It required great courage to assail history in that way. But it has a redeeming feature. As a fancy sketch it is fascinating. It lacks one thing usually found in republican fiction to make the hair stand on end. It should have referred to the Pope of Rome. But it reminds the country of the trials and sacrifices endured to build up and firmly establish the glorious free-school system of Ohio. What is claimed to have been the pestiferous opposition and wicked desires of the democratic party that had to be overcome and the pious and self-sacrificing devotion with which it was achieved are graphically and pathetically described. We are first invited to a view of the horrid dangers encountered and conquered. The head-center of the evil power is located by him in the South, "where live," he says, "the controlling men of the democratic party, and from whence they issue their mandates to the northern wing of the party." Northern democrats are described as implicitly following the orders from the South. Then follows a description of the battle and the victory. Our attention is invited to the order of battle and our admiration challenged by the means employed. Oh, think of it! The republican leaders, he says, go forth, taking their lives in their hands, determined to read the Sermon on the Mount on every hill-top and in every valley where a free school is to be established. Oh, what a love of education and unexampled self-sacrificing devotion to morality and religion! But the hour of triumph comes. The free-school system is established, he says, "in spite of the desires and opposition of one wing of the democratic party and the controlling men of the party."

Now, in all this my colleague [Mr. BUTTERWORTH] gives full play to his imagination and makes a heavy draught upon the credulity of his followers. Every school child in Ohio knows that the free common-school system of Ohio is a beloved and honored child of the democratic party, created, reared, and cherished by democratic legislation. The school buildings erected in all our cities and towns and country places stand out as grand and enduring monuments to the glory and honor of the democratic party. In the pure democratic atmosphere of my district, embracing Holmes and Richland Counties, we have townships without a republican vote, with school-houses superior to the colleges of fifty years ago. Our history from the days of Jefferson, the great apostle of human freedom and education and the father of the democratic party, to the present day triumphantly rebukes this charge. We follow unfalteringly the teachings of that sage philosopher, statesman, and friend of the people, who devoted his life to enlighten the nation which he had done so much to make free. He left directions for an inscription upon his monument manifesting his love of education and faith in its influence upon free institutions. It is this:

Here lies buried
Thomas Jefferson,
Author of the Declaration of Independence,
Of the statute of Virginia for religious freedom,
And father of the University of Virginia;
Because by these as testimonials that I have lived
I wish most to be remembered.

Mr. Speaker, I have lived long enough and mingled with the people of all political parties enough to learn that the republican party cannot claim by birthright and much less by use and possession a monopoly of the virtues and blessings of decency, education, religion, and patriotism. In claiming it my colleague [Mr. BUTTERWORTH] reminds me of a good, pious old lady whose zeal and enthusiasm misled her judgment, and she conceived the idea that she was too good for this wicked world and was ready to go up to the better world. She stood upon the seat before a public audience and jumped upward, and, of course, fell and hurt herself. Her friends said: "Auntie, you did not go up as you expected." She said, "No; I hain't got the right flop yet."

The crushing array of facts, the scathing review of the history, and the plain, striking picture of the republican party given us by the gentleman at my side from Tennessee [Mr. HOUSE] will satisfy all that the gentlemen on the other side have not the "right flop" yet.

CLAIMANTS' DANGEROUS INFLUENCE.

Now, Mr. Speaker, there is another provision of this bill worthy of our attention. It meets the case of claimants. This class is omnipresent in the city and Capitol. In person and by lobbyist they throng the Capitol. The payment of hundreds of millions of dollars is demanded. Many of these claims were conceived in the basest fraud,

and, being without merit, all the infamous practices and vile, iniquitous appliances that rings and combinations of unscrupulous men can devise have been and will be used to carry them through. What more effective method could be adopted to command friends and secure undue influence for such claims than a free and liberal contribution of money to a partisan corruption fund? There is no source of income and supply to which those seeking a corruption fund will not apply. The corruptionist seeking a fund and the fawning owner of a vile, rotten, and nefarious claim will instinctively gravitate together and join their interests. This dangerous source of evil, this overwhelming temptation to wrong, this broad, plain, and open avenue to the Treasury of the United States should be cut off and closed forever.

Parties having honest claims do not desire and will not seek such support. They do not need to resort to the arts, the dexterous manipulations and political legerdemain of the plunderer, nor will they submit to the exactions of corruptionists.

DANGERS FROM CONTRACTS.

Another limb of our political system is exposed to attack by this destroying pestilence, for which this bill provides a remedy. It meets the case of Government contractors. Millions of dollars are annually expended by the Government in the erection and improvement of public buildings and in maintaining and carrying forward the various departments of the Government. This is executed through contracts in various forms. These contracts should not be tainted with any indirect, improper, or illegitimate motive. No evil design should enter into or influence them in their origin, or affect them at any time. No dishonest contractor should be allowed to pave the way to a contract by contributing money or property for political purposes, nor should an honest contractor be coerced thus to contribute either before or after contract. Sturdy, immovable integrity united to eternal vigilance are needed, to guard the Treasury against the grossest losses at this point of entrance.

Our history within the memory of us all furnishes warnings that should not be disregarded. Mercenary bad men have found this an easy means of robbing the Government, and a source of great gain. Contracts have been made that could be relet and farmed out at immense profits. This source of wealth produces combinations and rings, and as a necessary means of success they become identified with political influences and unite their destiny with partisan schemes.

EXAMPLE OF OHIO.

Mr. Speaker, the provisions of this bill in spirit and in purpose are in keeping with the laws of many of the States of this Union, furnishing safeguards to a free ballot and warding off the evil influences that threaten to subvert that sacred right. In my own State a stringent law already exists striking down some of the vicious influences that were a reproach to American politics. That law is now a standing terror to evil-doers. To what extent the private citizen should be restrained and controlled in the use of money and property to influence the elector and carry elections it would be irrelevant to discuss now, for we cannot by national legislation provide restraints for any but Federal officers, claimants, and contractors, but our example, so worthy of imitation, will be felt throughout the country.

OUR DUTY AND HOPES.

May we not hope, then, that this glorious policy here contended for will again prevail in the administration of our Government. We should certainly cling to the teachings of our early history, recall with pride and unfaltering faith the lessons transmitted to us by those illustrious men whose life-work makes up our most glorious annals—a pure heritage of renown sacredly committed to us.

If integrity, patriotism, and public virtue are worth preserving, if we prove faithful to the beneficent mission confided to us of preserving liberty in its purest form here, and by our example and influence leading other nations on to real freedom and happiness, and if the glorious heritage bequeathed to us is to remain an incentive to virtuous conduct and upright political action, then we must for ourselves accept and firmly establish as unalterable the ideas of civil government handed down to us by our fathers.

Milton, in speaking of the Hebrew prophets, said what we may truthfully and appropriately apply to the pioneers in our nation and say that they appear to us—

> As men divinely taught and better teaching
> The solid rules of civil government
> In their majestic, unaffected style,
> Than all the oratory of Greece and Rome.
> In them is plainest taught and easiest learnt
> What makes a nation happy, and keeps it so.

ALCOHOLIC LIQUOR COMMISSION.

Mr. UPDEGRAFF, of Ohio, addressed the House in reference to the alcoholic liquor commission. [His remarks will appear in the Appendix.]

FINANCE.

Mr. CARPENTER. Mr. Speaker, it is my purpose while advocating this measure to consider somewhat generally the financial question. We came out of the rebellion with a debt reaching a maximum, August 31, 1865, of $2,845,007,626. According to the monthly statement of of the Secretary of the Treasury, May 1, 1880, our total debt was $1,968,314,753.72, showing that $876,692,872.28 had been paid off in fourteen and a half years. The largest sum paid in interest for any one year since the rebellion was $143,781,591.91 for the year 1867. The interest on the public debt for the fiscal year 1878–79 was $105,327,949, and the estimated interest for the present fiscal year is $93,877,410. In August, 1865, $100 of the currency of the United States was worth in gold, or the world's currency, $69.70; to-day paper money and gold are equivalents. In 1865 the average rate of interest on the securities of the United States was 6.22 per cent.; to-day our securities bearing 4 per cent. interest are readily sold at par; and we are told by those not in sympathy with the policy of the present administration of the Government that our bonds soon to fall due may be refunded at 3½ per cent.

It is true these acknowledgments are coupled with ill-natured criticisms upon the Secretary of the Treasury, but these criticisms cannot invalidate history, and in view of his three years of successful, and I may say brilliant, experience in the management of the Treasury, the reputation of the Secretary needs no re-enforcement in the CONGRESSIONAL RECORD. The inspirations of partisanship have attempted to disclose here and there a flaw in the administration of the finances by the republicans, but impartial men, in looking over the history of the last nineteen years, which includes a period and comprises events for which the world furnished no precedents, will ask themselves this question: "Has the course pursued, taken as a whole, proved an advantage to the country and produced the results sought to be attained?" Those who criticise the conduct of the Treasury Department during the fiery ordeal of our return to a specie basis are like a by-stander who could have chaffed Blondin after he had safely walked the rope spanning Niagara for his awkward gait, emphasizing the opinion that when over the whirlpool he leaned too much up the stream, and that as he neared the hither shore he did not carry his balancing-pole at quite the proper level. The reply from the crowd would have been, that he walked the rope in the face of ten thousand prophecies that the feat could not be performed. That early adherent of Christianity closed the argument as to the ground of his belief, when he said: "One thing I know: that, whereas I was blind, now I see."

Reviewing the history of the past, partisan prejudices or disappointed ambition will not question the statement that in all material growth and prosperity our country to-day is far in advance of what was anticipated fifteen years ago by the most hopeful of her citizens. The proposition may seem chimerical, but I put history in evidence to prove that we came out of the war—and when I say we I mean both North and South—and have made greater progress in rebuilding the waste it caused since its close than either belligerent believed possible when the two giant sections were grappling in the death throes of the rebellion. The truth of this could be illustrated and enforced by all the volumes of war literature. I desire to read two or three extracts to recall the apprehensive judgment of the most thoughtful and far-seeing on both sides of the contest. The first is an extract from a message of the governor of my own State; and to any one who knows the sturdy qualities of Governor KIRKWOOD it is unnecessary to say he would be the last man to exaggerate any situation. He said:

> But we will have to pay heavy taxes. True, we will; and it is equally true we can. We have to do but one thing, and that thing we must do. We must give up the idea of money-making to a great extent until this war is over. We must be content to devote to the preservation of the country a portion or all of the surplus we have been accustomed to lay up in years gone by. We may be required to return to customs and expedients for many years abandoned. We may be compelled to do as our fathers and mothers did—clothe ourselves, as they did, with the products of their own farms and their own hands. What then? Our men will be none the less brave, loyal, and loving; our women none the less true-hearted, lovely, and beloved. We may be required to do and may do all these things, and yet suffering and want still be far from us. We may be required to do and may do all these things, and yet will not have done nearly so much as our fathers did to hand down to us the rich inheritance we are now striving to transmit unimpaired to our children. And if required, will we not do it promptly and cheerfully?

In this connection it is instructive to recall a few of the prophetic words of one of the most distinguished civil officers of the confederate government. Hon. ALEXANDER H. STEPHENS, writing to his brother but a day before the secession convention in Georgia, in the very abandon of confidence and with almost the pathos of a breaking heart, says:

> But I am grieved at almost everything I see and hear every day. The times are fearfully distempered. I am fully persuaded of one thing, and that is, there is no power on earth that can bring any good out of the present state of things. The progress of events cannot be arrested. I tell you now, as you cannot get this until after your election, and it cannot, therefore, influence your action in the matter, if you were not a candidate I should not allow my name to be used to-morrow for the convention. I have no desire to be in that body. I have a repugnance to the idea. I believe the convention will go for secession, and have believed it ever since I left Milledgeville. I have no wish to be in a body of men that will give that vote. My judgment does not approve it. But when the State acts I shall abide by her decision with the fidelity of one who imagines he feels the dictates of patriotism as sensibly and as strongly as any one who ever breathed the breath of life.

Again he says:

> We are on the high road to ruin I verily believe. How far a man can consistently, with a proper sense of duty to his country, abandon it to its fate when he sees its fate inevitable, I will not undertake to say. But this country, as it was and has been, is entirely demoralized if not ruined. It is beyond the power of salvation. If I am elected, and you are, I shall go to the convention simply to share your fate, and link my destiny with yours and that of our State, just as I would, if I could, in the blow-up of a steamer at sea, get on the same fragment of the wreck with you and other dear ones, that we might in the last hour have the consolation of going down together.

And again, in 1866, in an address to the general assembly of Georgia, he said:

Indeed, during the whole lamentable conflict, it was my opinion that, however the pending strife might terminate, so far as the appeal to the sword was concerned, yet after a while, when the passions and excitements of the day should pass away, an adjustment would be made upon continental principles, upon the general basis of "reciprocal advantage and mutual convenience" on which the Union was first established.

Mr. Speaker, in my judgment sound reasoning can reach no other conclusion than that the Southern States themselves, as much as they have suffered from the effects of the war and as deeply as they were humiliated by the overthrow and defeat of their cherished plans, are more prosperous to-day and have far brighter prospects for the future than would have been possible if we may suppose them to have been successful in their attempted revolution. Mr. STEPHENS seemed to have foreseen the difficulties which could not but suggest themselves to every thoughtful mind, and he states them so clearly I will be pardoned for giving his words. In a private letter to his brother while the cause of the rebellion was at the most hopeful crisis he says:

I do not see any prospect of immediate peace, nor can I see how it will ever be attained—I mean fixed and permanent peace between the sections. We may have suspension of hostilities, truces, temporary stipulations, &c. But how or on what principles a treaty of permanent peace is ever to be effected I cannot now see. For instance, will the Confederate States ever make a treaty that will not provide for and secure the rendition of fugitive slaves? Certainly not. Will any administration of the United States ever agree to such a treaty? Or, if it should, will the people of those States ever agree to such a treaty? Or, if it should, will the people of those States ever sustain such an administration, unless utterly exhausted by war?

Mr. Speaker, I have tried to picture in my imagination an independent confederacy upon the North American continent in the last quarter of the nineteenth century founded solely for the perpetuation of an institution which the civilization of the age abhors and upon which a just God angrily frowns. As in the light of history such an event seems too abhorrent to be reckoned even among possibilities, it can hardly assume even imaginary existence in the mind. Let any southern man to-day take his pencil and sit down in the shadow of his cooler judgment and upon his conscience calculate the value of the Union to himself. What questions would present themselves for solution? He would ask, "Am I not, though a disarmed rebel, really a more dignified citizen, and in the eyes of the civilized world a more interesting character as a man in a great nation, composed of great States, in which all men are free, and in which all are invited to a free competition in the endeavor to make the most of the race of life, than could have been possible to a citizen of a slave confederacy?" An independent confederacy with slavery for its corner-stone would be the anomaly of the age.

Surrounded by unsympathizing powers established to preserve the freedom of man, the defense of her peculiar institution would dominate every interest and ambition. Her diplomacy would be absorbed in contending for the rights and standing among free powers of a slave nation. Her theology would be devoted to teaching that it was the design of Providence that one man should eat his bread in the sweat of another man's face. The genius of her statesmen, instead of solving the problems of her commercial and material enterprises, would be narrowed to the consideration of the resuscitation of worn-out tobacco lands and of finding a market for surplus slaves overflowing the confines of a nation which in the nature of things could never expand her limits. Her literature would be engrossed in proving the power of "King Cotton," the beauties of slavery, and the value of bloodhounds as a substitute for the ordinary police. Her marshals and their deputies, instead of being occupied in preserving order at the polls, would be employed in guarding southern institutions from an invasion of foreign school-teachers, abolition preachers, and incendiary literature. Her Congressmen, instead of being interested as now in Mississippi River jetties, interoceanic canals, the completion of Southern Pacific and other great railways, the regulation by legislation of internal commerce, the vast system of levees to hold in check the waters of the Mississippi, the improvement of her rivers and harbors, and the establishment of national health boards to discover the causes and banish the scourge which lurks in the lagoons and plagues the rivers of the South, would be maturing plans for wrecking imaginary trains on underground railways crossing every unpicketed highway upon her borders. Instead of complaining of her present moderate taxes and seeking to break down the revenues of the Government by cutting off in detail tariff duties and internal taxes she would lie howling under her own vast national debt, crippled, isolated, cut off from commercial alliances and political friendships by the prejudices and jealousies of a nation out of line with the spirit of the age.

In the light of the facts and philosophy of our situation what sane man in America would change the results of the war or reverse the verdict of history? We are to-day in the midst of a new dispensation of national achievement. During the last twenty years the more vital questions of angry dispute have been settled beyond argument, and we may hope beyond reversal. It is now everywhere admitted that this nation is a perpetual Union, possessing the power to preserve its own life; that it is a nation of free States and free men, and the people have not only demonstrated that they can do and dare where superhuman efforts are necessary to self-preservation, but that they will make the sacrifices to restore and defend the national credit whenever threatened and wherever assailed. All this has been attained at untold cost and unrecorded sacrifice. The tenants of half a million graves filled by the war will never return to homes of which they were the light and life. The tears and the heart-breakings caused by the war are the contributions to freedom which this world can never remunerate; but to human industry is given the power to repair the material waste of the war. Its obligations of honor and gratitude may be fulfilled, our expenditure in money may be reproduced, and the debts which grew out of it may be paid.

With this end in view, the republican party has constantly fought for a return to a specie basis. Resumption of specie payments and its attendant blessings to the country was not the result of accident, nor was it secured by any legislative legerdemain through which value was created by the enactment of a statute. It came because the party in power has resolutely stood by the promises and pledges made in the stress of the war; because through evil and through good report it has gone forward in the predetermined and foreordained purpose to place the finances of the Government upon a solid basis; because in spite of the misrepresentations of partisan malignity it accepted the responsibility of the laws to strengthen the public credit; because, taught by the experience of all the past, the people knew that credit currency was bad currency, and determined it should neither be increased or unduly perpetuated; because the Government, resolved upon time, place, and method of resumption, carried that resolution into law, and stood by the law until its object was attained.

The question now remaining, the answer to which the future will unfold, is whether we will have the wisdom and courage to go forward in the way of well-doing. When we stood with a Red Sea before us and with a mountain and wilderness on either hand, pressed by numerous and relentless enemies, our line of march was unbroken and our footsteps unhalting; and now that we have reached the border of the promised land it would be a strange freak of cowardice if we should falter and fail. It is good policy as well as national duty to honestly pay, and as nearly as possible pay as we go. There is but one way for a nation to pay, just as there is but one way for an individual to pay, and that is to earn and save. A nation no more than an individual can eat a cake and have it. It is then the duty of the nation to pay the national debt as fast as may be without oppressing the individual citizen; and while earning and saving the money with which to pay, it is but common duty and homely business sense to borrow upon the best possible terms. During the debate upon this measure gentlemen upon the other side have rung all the changes upon the burdens of a public debt, and have uniformly advised the payment of our outstanding bonds. They have failed, however, to tell us how; and it would be a reflection upon their good sense to suggest that they believed there was any other method of paying debts but that of earning and saving money, or in other words accumulating, then paying.

It is a singular feature of this controversy that the ruling majority of the democratic party resist every proposition having in view an honest payment of the public debt and full preservation of the national honor. That party seems impressed that there is some scheme of necromancy by which public obligations can be met without the labor and self-denial which the experience of the world has heretofore recognized as the law of debt-paying. All these greenback propositions, these schemes of inflation and of debasing the currency, are contrary to the traditions of the Republic and of the better days of the democratic party. That they are inconsistent with the first principles of national honor, and with a spirit of wisdom in any party, is to me a truth too plain for argument. To my mind the democratic party is the last party in the country that should attempt to evade the necessary taxation to preserve the national faith and meet the public obligations. Its power—accepting its representation here as the index of its power—is in the Southern States. And it will not be regarded as an invidious comparison for me to show that they share whatever of benefit there is in an unqualified national credit and bear comparatively little of the burden necessary to its preservation. The internal revenue collected in the United States for the fiscal year ending June 30, 1879, was $113,170,906, and the portion collected in the eleven States which formed the southern confederacy was $11,499,761. If the same proportion obtains in the indirect taxes paid through customs, these eleven States, at the outside, will not pay over $25,000,000 out of the $273,827,184.46, which were the total receipts of the Government for the last fiscal year.

When we take into consideration the advantages of the Government to these States, the expenditures upon public works of which they are the beneficiaries, it will hardly be thought sectional prejudice to say, that if the States whose industries, accumulations, and thrifty populations pay the larger share of these burdens meet them without complaint, the Southern States may at least accept the situation with a good degree of philosophy and resignation. I admired many things in the eloquent speech of the gentleman from Georgia, [Mr. FELTON,] but I must confess my inability to comprehend some of his statements. As an instance, he said: "But, sir, I am opposed to every description of an interest-bearing debt in this Government," declaring it to be a "mortgage upon the wealth and industry of the country." In this connection he said:

It may be asked what would the Government do in times of war, or when sudden and unexpected emergencies demanded large and unprovided for expenditures? I answer, I would meet those expenditures by using the *credit* of the Government without interest. I would do as the Government did during the late civil war—meet the necessities of the Government by issuing legal-tender United States notes.

You sent your agents to Europe to sell your interest-bearing bonds, and you received in payment therefor your own paper currency. You sold your bonds to the citizens of this country, and received in payment your legal-tender notes. You met every demand upon the resources of the country with these notes. You paid your soldiers with these notes.

Mr. Speaker, now let us see the bearing of these views. The gentleman has an honest face and manly eye, and I venture the observation that if a fire should level his home in ashes and a cyclone sweep away his fences, so that it would be necessary for him to make extraordinary outlays to re-establish his broken fortunes, he would not go to his neighbor and say, "Sir, I am opposed to every description of an interest-bearing debt. You may ask what I will do now that sudden and unexpected emergencies demand large and unprovided-for expenditures? I answer I will meet these expenditures by using my credit without interest." I think it will trouble him to tell why he should pay interest when he borrows money and the Government should not. But I desire still further to illustrate the utter impracticability of these views.

My colleague from Iowa [Mr. WEAVER] introduced a bill into this House some months since providing for the payment of all Union soldiers in the late war the difference between the value of the greenbacks, in which they were paid, and gold; and as preliminary to carrying this proposition into effect, he proposes to issue $500,000,000 additional legal-tender notes. Saying nothing of the unconstitutionality of this proposition, I shall consider it from the stand-point of policy, as I hold it to be the natural outgrowth of the doctrine taught by the gentleman from Georgia. It is true that the depreciation of paper currency during the war did produce inequalities, which, if practicable, would present a cause for remedial legislation. The Government sought to remedy it to the extent of its power, at the time, by limiting the issue to $400,000,000, and pledging its faith it should never exceed that amount, and also providing that the holders of greenbacks could sink them in interest-bearing bonds if they were disposed to do so. What the difference between the value of gold and greenbacks would have been had the limit of the greenback currency been the entire demands of the Government during the four years of war, with no provision for sinking any portion of them in interest-bearing bonds by persons able to carry permanent investments, is a conundrum which cannot be answered, as happily the wild experiment was not tried.

The facts are, and it is the philosophy of it, that in the stress and needs of the supreme hour that led the people to accept the greenback experiment they were not so blind as not to see the dangers and inequalities which must ensue from a forced loan from the people by the Government. But they knew the country could not supply the immediate demands upon the Treasury either by taxation or by borrowing, as the retiring administration of President Buchanan had failed, even in time of peace, to borrow at 12 per cent. interest. The people therefore accepted the hard conditions of a forced loan from themselves upon the theory that the losses and inequalities it would produce was simply a bad and unequal method of paying exorbitant taxes for the salvation of the Union. The doctrine that the grant of power in the Constitution to *coin money* included the right of the Government in time of peace to force its creditors to take its notes without interest is a proposition which never occurred to them, and to my mind is simply amazing. It is the more so when it is honestly made by men with pure and patriotic impulses, who have the history of our revolutionary war wide open before them, and also the recorded fate of every nation that ever tried such an experiment accessible upon the shelves of every library in the country. The Continental currency of the Revolution, though sought to be limited in order to preserve its value, and notwithstanding it was based upon the patriotism of a people struggling for liberty, and the sanctions of laws denouncing against those who refused to accept it at par the pains and penalties of crime, sunk in value until it became worthless in the hands of the holder. An attempt was then made to do a semblance of justice to the creditors of the Government by funding it at the rate of forty dollars for one in specie, or in new certificates of indebtedness. The effect of this forty-for-one act is well illustrated by the remarks of an old German at a public meeting called in Philadelphia to support the Congress in its action upon this measure. He said:

I am now seventy years of age; I have a large family of children to provide for; a great part of my property has been sold long since for Continental money, which I have kept by me in confidence it would have been redeemed at the value I received it. But I am disappointed and ruined; my loss is very heavy, and it greatly afflicts me. Yet the insolent triumph of disappointed neighbors wounds me still more deeply; but I will never forsake the cause of liberty and turn tory. If I die of a broken heart, I will die a friend of my country.

My colleague from Iowa may draw a useful lesson from this transaction. This new currency, which was issued in place of the old at the ratio of one dollar for forty, in spite of all the sanctions and guarantees thrown around it to give it a fiat character, soon depreciated in value until refused in the business transactions of the people. And though the creditors of the Government, soldiers and others, parted with their certificates at greatly reduced rates, still years afterward, when our fathers resolved to "strengthen the public credit" by paying these certificates at their face, though then held by speculators, the original holders in whose hands they had depreciated, many of whom had then become thrifty men, paid their share of the taxes required to make up the difference. I believe the proposition of my colleague, even throwing out of view the constitutional objection, would in no sense prove a remedy to those who were aggrieved by a bad currency during the late war; on the contrary, I believe it would be ruinous to the credit, good name, and business interests of the country. And while the soldier it was intended to benefit might revel for a brief day in an unexpected shower of greenbacks, in the end he would share the common fate of his country and be plunged into hardships which his experience from 1873 to 1878 would but faintly foreshadow.

Let the soldier who has been misled by the specious promises of this proposition consider how far-reaching would be its consequences. There is a class of persons who perhaps suffered more from legal-tender laws than any other, and who would find no remedy in this measure. I refer to creditors, those to whom debts were due. No statistics will ever show the losses and suffering of widows, orphans, and others, incapable of productive labor, who, perhaps, had inherited credits barely sufficient to afford them an economical living, or the hardships of aged people who had lived lives of frugality and toil and had placed their scanty savings in interest-bearing securities with the fond hope that they would carry them through a helpless old age, but found that when either principal or interest came to be paid in the depreciated currency of the period, at the abnormal prices caused by the use of such currency, their income had suddenly become inadequate to their support. How will my colleague equalize and remedy these hardships? How will he remedy the hardships of debtors, the burden of whose obligations increased with the gradual appreciation of the currency caused by approaching resumption? The civil officers of the Government also suffered from the depreciated currency in which they were paid and the inflated prices of commodities they necessarily consumed. And the men who, though not soldiers and exposed to the diseases of the camp and dangers of the field, yet, toiling as laborers on farms and in shops, were no mean factors of the forces which saved free government in America, should be among the beneficiaries of the remedy, and especially so, as their toil and drudgery were rendered heroic by the well-known hardships which a cheap and fluctuating currency always brings to labor.

Another thought is vital in this connection: it would seem if the Government attempts to cure these evils of inconvertible paper, it should not act upon the theory that "the hair of the dog will cure the bite." It was an overissue of irredeemable paper money that caused these inequalities and hardships, and it seems to me most illogical and insane to suppose that a renewed and unprecedented issue of the same money will right the wrongs it caused in the past. Nothing ever so deranged business methods and degraded business morals as an inconvertible paper currency. If this country should ever return to it voluntarily and of choice, it would prove her people unfit in morals and intelligence to be the custodians of the ark of the covenant of liberty.

Mr. Speaker, we are told that the democracy, since coming here, have banished the professional lobbyist from the corridors of the Capitol. To the extent that the influence of the party has been exerted in that direction I would not disparage its service to the country. But no man who has studied the philosophy of the times believes that the democratic party is entitled to large credit for this achievement. The party and the people who determined that the business of the country should be brought to the specie standard banished the lobbyist by taking away the basis of his occupation. When we were floating upon the waves of credit and inflation, the doctrine took possession of the public mind everywhere that Congress could create wealth by legislation. And this false and demoralizing belief invited the speculator and the soldier of fortune from every quarter of the continent to besiege the doors of this Capitol with subsidy projects, land-grant enterprises, and inflation schemes. But as we have step by step trod the thorny road over which we have had to pass in our return from the by and forbidden paths into which we were led by inflation, business enterprises and business ambitions have gradually regained their normal methods. To-day the old-fashioned, plain philosophy of the fathers once more pervades our business customs and habits. It has been hard for the American people to relearn the old lesson after the frenzied speculations of a dozen years stimulated by the fictitious prices of an ideal currency. But we have finally come back to the wholesome knowledge, which, in all periods of inflation, is among the lost arts, that he who acquires must have a will to toil and self-denial to save.

But we are told that national banks should be abolished and the currency which they supply should be issued directly by the Government. It is made an objection to this bill that the provision requiring national-bank associations, after July 1, 1880, to purchase 3½ per cent. bonds as a security for the redemption of their circulation contemplates a perpetuation of the national-banking system. In my judgment this is one of the excellencies of the proposed measure. I have no interest in or with banks. If I did not believe our present national-banking system to be a public blessing I have neither a personal interest or sympathy to make me its defender. One thing will be acknowledged even by the wildest greenback advocate, and that is the fact that if we ever dispense with national banks some other system will take their place. The experience of the older people—though to this generation it is a tradition—will hardly commend as a substitute the discarded system of State banks. The universal confidence in the conservatism and safety of national banks, the knowledge that their issues are par everywhere in the United States, and

that the burdensome cost of exchanges arising from local differences in the value of currency in the several States no longer taxes and paralyzes business, establish the superiority of the present system and not only prove it the best we have ever had, but equal to any in the world.

I will be told, however, that issuing currency should not be the prerogative of banks, but that Government should issue all the paper money needed by the people. This is neither philosophy, nor does it accord with the views of the wisest men in this or any other age or country. All history and experience testify that there is nothing more unphilosophical, more dangerous, and more demoralizing to a people than an attempt by arbitrary legislation, through inconvertible paper, to regulate the volume of currency for a commercial country. One of the severest gauntlets that business prosperity has to run every year is the fear of intermeddling and ill-advised legislation. This has come to be so well understood that business men say that when trade has adjusted itself to bad laws, unless absolutely paralyzing, it is better that they should remain than to attempt new experiments in Congress. Suppose for a moment that the commercial and financial interests of the country, in their most vital relations, are committed each year to the crude theories and unpracticed judgment of two hundred and ninety-three members of Congress. The volume of currency required by the wants of trade cannot be determined by a high-sounding resolution passed in a partisan convention assembled to nominate a candidate for Congress. Imagine two congressional conventions in some unfortunate district having two professional political economists and students of finance as opposing candidates in their respective parties. Perhaps they would be competing in promises to their followers as to the increased amount of paper money they would vote to issue if nominated and elected. If the conventions were called in a busy season, while the sturdy common sense of the district was in the harvest field, so that they could be controlled by idlers as addle-brained as the candidates, every man who ever expected to do an honest day's work and earn and save an honest dollar would fare badly so far as that district was concerned.

Mr. Speaker, I now come to consider what seems to me the proper limit of congressional interference with the volume of paper circulation. Let us assume that our present volume of greenback currency, which constitutes that portion of our national debt not bearing interest, is suffered to remain in circulation until all that portion of the debt bearing interest is paid. It is safe to conclude that if this policy is adopted there will be no immediate necessity for calculating what will finally take its place. The residue, up to the full requirements of the needs of business in the way of paper currency, would then remain for the banks to issue. In what particular will the interests of the people fail to be subserved by this policy? In other words, can any one tell me wherein, taking into view the history of the past and our own experience in the practical workings of the currency problem, can a better policy be inaugurated?

There is no doubt that the discussions of the past few years upon the money question have removed much of the confusion which had obscured and misled well-meaning men upon the issues involved in it. In 1810, during the bank restriction in Great Britain, the issue was made up between inflationists and so-called contractionists, and for nine years disturbed British politics and endangered British credit and integrity. But British common sense finally came out of the financial dilemma so nearly upon the same line adopted by America seventy years later that it may fairly be set down as an evidence that "history repeats itself." In 1810 the famous bullion committee was appointed by the Parliament to consider and report upon the financial situation. This committee found existing there the same confusion of thought upon money questions that has blighted the politics, the morals, and in some sense the good name of America in these later and it is believed better days. It found that from 1797 up to the time of its appointment exchanges had been against England, ranging from 15 to 25 per cent. In other words, when it was necessary for an Englishman to have gold to meet obligations abroad, it cost a premium of from 15 to 25 per cent. in the paper currency then in sole use by the British people. The first and almost the chief object of the committee was to discover and disclose the cause of this paper depreciation or gold appreciation in Great Britain.

It is a strange thing that the fears of the best minds in Great Britain and the most successful business men, including the governor and deputy governor of the Bank of England, were so timid and conservative in the presence of forces which they did not comprehend that they were ready to ascribe every cause for the depreciation except the true one. They testified before the committee that the demand for specie caused by the continental war, then flagrant, had enhanced the price of gold. The committee with a truer sagacity traced the difficulty to its real source. They discovered in the course of their inquiry that gold in Amsterdam and Hamburg, where there was no redundancy of paper to drive it out, had not changed in value, notwithstanding the demand in France, Austria, and Italy. The committee, therefore, arrived at the conclusion, which stands to-day unchallenged and unchallengeable, that the price of gold had not risen, but that the value of the inconvertible currency then in use had fallen, and that consequently gold, obeying the unchangeable law of its character, had fled from the Island to the Continent, where it could find employment at its full value. They concluded, therefore, the way to invite gold back was by restricting the abnormal circulation of paper until its value was brought up to the standard of gold. In short, the proposition was to resume specie payments. This met fierce opposition and was defeated in the British Parliament by an overwhelming vote. But in 1819, after an additional nine years of experience with a depreciated and fluctuating currency, Sir Robert Peel, who had been the strenuous opposer of resumption in 1810, frankly acknowledged his error and became the champion of an immediate return to the specie standard. The hour this was determined upon in Parliament confidence began to revive. The balance of trade which, exactly as with us during our wrestle with cheap money, had been against England, was now restored to the British Islands, and the British people were convinced that what the bullion committee had formulated in resolves nine years before and attempted to persuade Parliament to adopt was the true and only solution of the whole question. These resolutions state truth so aptly and stoutly I desire to read those most pertinent to this discussion. They say:

Fifth. That the Bank of England notes are depreciated—are not worth what they stipulate to pay.

Sixth. That the reason of this is excessive issue.

Seventh. That the exchanges have been greatly depressed (or, as we should say, very high) for a long time, partly owing to heavy payments abroad, but chiefly to the depreciation of the notes.

Eighth. That the bank ought to regulate its issues by the price of bullion and the exchanges.

Ninth. That the remedy is to return to convertibility.

Another logical deduction from the facts found was that a country with a fluctuating and cheap currency, stimulating prices unequally and abnormally, is a poor country to buy from but a good country before the inevitable crash to sell to. We hear much about the balance of trade. "Ah!" men say, "it was the balance of trade turning in our favor that produced the conditions which enabled the Government to resume specie payments." This, in my judgment, is an unaccountable confusion of ideas. The fact that the balance of trade did turn in our favor was itself a consequence and not a cause. It is true that the failure of crops in Europe has stimulated our foreign market; but if our prices had been graded upon an inflated scale caused by a cheap and fluctuating currency the wants of those European nations which are to-day our steady and profitable customers would have been supplied from other sources. *And this brings me to the point of my argument* on the bank question. Whatever legislation may have to do with regulating the movements of currency the chief end of law should be to establish a self-adjusting, automatic principle, so that redundancy of circulation may find through the gateway of convertibility an outlet before prices are abnormally increased or foreign exchanges and foreign markets disturbed.

Can any one tell me how this could be effected by giving Congress, as the inflationists say, the immediate control of the currency? Imagine for a moment—the constitutional objection, which of itself is fatal to the paper-money inflationist, being out of the way—that Congress is proceeding to adjust the volume of currency to the wants of trade. Some Representative of the "party of the center" introduces a bill to increase the issue of paper money, and declares it to be the demand of his constituents. But an old fogy, who believes, with Abraham and the Prophets, with Hamilton and Gallatin and Madison and Jefferson and Jackson and Lincoln and Chase and the republican party and John Sherman, that sound currency is a coin of value, or is based on such coin, rises and says the difficulty with your constituency is that the bad currency you have has driven abroad the only money that gives confidence and stability to business. Remove your redundancy of cheap money, and gold and silver will flow in to fill the vacuum.

The supporter of our present national banking system believes it to be the best agency our Government has yet devised for this self-regulating process by which the volume of currency is adjusted to the demands of trade—demands which are as variable as the seasons, and which are affected by political events, by changes of the weather, by drouths or floods, by long or short crops, and by a thousand circumstances which no Congress could foresee and provide against in advance. We have $346,742,106 in paper currency, constituted of the non-interest-bearing portion of our national debt. The residue of the paper currency required by the business of the country is supplied by the issues of the national banks. These two sources of supply may be compared to two reservoirs, one always full to a certain level, the other, the bank issues, rising and falling with every pulse-throb of trade. And this characteristic of a convertible bank paper is a protection from redundancy and fictitious inflation. It has been well said in relation to the office of a bank:

It is one of the plainest maxims of finance that if a currency be issued in a continuous stream, without any measure being taken to establish a counter-current of the same circulation back into the source from which it issued, depreciation is inevitable. When a circulation is put forth through the agency of a bank it is done in process of discounting the negotiable paper of punctual men of business, and the reflux is created by the return of the same amount of circulation into the bank in payment of the discounted paper when it falls due.

This warfare of certain party leaders upon national banks seems to me to be a singular mania. Banks of some kind are a necessity, and they are patronized and perform an important function in the business relations of a people just in proportion as that people are advanced in civilization and progressive in enterprise. Through the office of checks, drafts, and credits they add many millions in effect to the circulation of the country.

It is their office to collect the capital of the country from the hands in which it lies idle and transfer it to those who lack capital but could use it to advantage.

Over-speculation is speculation which outstrips the capital of the country. It is the pitfall which stands always open in a new country. The banks being thus the transfer agents through whose hands the capital passes are in a situation to know and give warning when it is used up.

Banks are sensitive to changes in the price of exchange showing an excessive issue, and it is happy for a people if they "red-flag" the riot of speculation in time to prevent a collapse. These were understood to be the offices and the powers of a bank corporation when, in 1781, Robert Morris, who had been selected by the Continental Congress to restore the finances of the imperiled States, brought into use as an agent and factor in the work "The United States Bank." It was these facts and this philosophy which induced Hamilton in the early days of the Republic to recommend a national-banking system. These considerations have led to the establishment of banks under the control of the governments in England, France, and Germany, and all the civilized and commercial powers whose credit, solvency, wealth, and character are universally recognized and trusted. And it was these considerations which induced our Government, when our extremity required expenditures never dreamed of in the day of peace, to call into being our present national-banking system.

In Pollard's Lost Cause is given a most interesting and graphic account of the confederate financial management, in connection with which he refers to the credit systems of the great European nations under strain of war expenditures. After relating that the revolutionary authorities of France used a credit currency which became worthless, he contrasts this with the wiser policy of Great Britain, and says:

The British debt was contracted almost altogether in the form of bonds at long dates, upon the faith of which the Bank of England put forth a proportionate amount of its own notes of circulation.

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In England the circulation was not identical with the debentures of government, but was issued through the agency of a banking company, which made of the government bonds a basis for the security of the circulation. In France the government itself put forth its obligations in the form of a currency, declared it to be the medium of exchange by law, and denounced heavy penalties against the refusal to accept it as money. The comparative merits of the two systems were strikingly exemplified by the results. The French issues, as we have seen, went on augmenting in volume until they reached forty-two thousand millions of francs, (in the aggregate of *assignats* and *mandats*,) and continued to decline in value until the whole mass of circulation became utterly valueless. The volume of currency in England, on the other hand, never reached an unmanageable aggregate.

And then, after drawing a most picturesque and interesting comparison between the depreciation of confederate treasury notes and the old Continental money of the Revolution, he comes back to a statement of what he regarded as defective in the management of the finances of the confederacy; and in this connection says:

The ability with which the Federal finances were conducted, especially in avoiding this depreciation, is one of the most remarkable incidents of the war. If early and proper measures had been adopted, the confederate currency would doubtless, likewise, have proved as manageable as any other branch of the confederate finances. These measures should have looked to the provision of adequate demand for the circulation that was issued in such profusion. This demand could have been abundantly established by means of taxation, of the sale of government bonds of long dates, and by the intervention of a system of discounts through the instrumentality of a bank of exchequer. *The circulation should not have been issued directly from the treasury.* It should have been placed under the absolute control of an issuing agency, which would have served as a regulator and balance sheet in the movement, and preserved an equilibrium between the efflux and influx of the circulation.

Mr. Speaker, that there may be defects in the national-banking system is possible and probable. It is the duty of wise legislation to remedy these defects as time discloses them. But what I protest against is an unreasoning and unreasonable hostility to the best, safest, and most universally trusted and useful banking system we have ever had. As every one knows who has given a moment's thought to the philosophy and the requirements of modern business, if our present system of banking should be destroyed something in the nature of banks would take its place. It is difficult to comprehend the purpose of men who do not favor wild-cat banking schemes but still seek to overthrow the national banks. Men who are ready to take the chances of going back to the old State-banking system, and to brave all its inconveniences, the losses to the people in exchanges which would necessarily result from the use of currencies controlled by forty States, the danger to our credit and the baleful influence upon business morals, hoping that the few will be able to take advantage of an inflation period to reap a personal harvest, and then "stand from under," while the dead-fall comes down on everybody else, are logical and consistent in their warfare upon the national banks. With statesmanship of that order argument is wasted; it is only with those who look to the interest of all men for all time it is profitable to reason.

I had intended to speak briefly upon the silver question, but time will not permit. I must, however, say a few words upon bimetalism; and as I can do so more clearly and concisely by borrowing from one whose name is itself an argument upon economic questions than by any statement of my own, I will ask you to hear the conclusions upon this question of General Francis A. Walker. He says:

It is not a nice question to decide what the United States ought to do in this situation. To re-establish bimetalism, to restore silver to its rank as money of full debt-paying power throughout Europe and America, is not the work of any one nation, least of all of a nation which uses, and ever has used, so little specie as the United States.

For us to commence the free coinage of silver at 16 to 1, while the market ratio is 18 to 1, would be to hazard the success of resumption and make it certain that we should lose our gold, so painfully gathered for the purpose of enabling us again to look the world in the face. In two, three, or four years at the latest we should be reduced to a solid silver basis, having a par-of-exchange indeed with India and China, with which we trade little, but having no par-of-exchange with Europe, with which we trade much and increasingly.

For us to throw ourselves alone into the breach, simply because we think silver ought not to have been demonetized, and ought now to be restored, would be a piece of Quixotism unworthy the sound practical sense of our people. The remedy of the wrong must be sought in the concerted action of the civilized States, under an increasing conviction of the impolicy of basing the world's trade on a single money metal. The demonetization of silver was a work of ill advice; let its restoration be a work of good advice. The subject is not likely to lose its hold on the public attention so long as gold continues to rise in value. Let us await the time to act with effect, and not forfeit our present remarkable commercial success, and imperil resumption, by measures which can do no lasting good to the cause of silver and may do much harm to ourselves.

Mr. Speaker, I favor this bill for many reasons, some of which I have stated at length. I like it because in it there is no attempt to shuffle and dodge the public obligations, but the square acceptance of the situation, with the purpose, according to ordinary business principles and business sagacity, to secure credit at the best possible rates. In these particulars I agree with the author of the bill and accord him unqualified praise. I do not, however, agree with some portions of the speech with which he supported it, because I regard some of his statements, to say the least, as disingenuous, not to say uncandid. I read a single extract. He says:

There has been $6,000,000 of legal tenders redeemed, which has cost $13,408,744 to redeem. This was an expensive operation. There are those who give the Secretary much credit for having, as they say, succeeded in accomplishing resumption. The President had no hesitation in his annual message to refer to it as an event of extraordinary national benefit. I concur with him as to the great advantage to the country of having secured it, but doubt whether the little that he and his Secretary had to do with it has not cost the country a hundred times more than their agencies in its accomplishment were worth. They could not have prevented it with all their power over the Treasury; it was the result of influences which undoubtedly compelled and forced it. I am not to be understood as objecting to resumption, but as objecting to the unnecessary expense in obtaining it. Why should preparations for resumption have begun so long before it was needed?

The chairman of the Committee on Ways and Means evidently did not learn his philosophy in regard to resumption from the "sage of Gramercy Park." Mr. Tilden never dreamed that resumption would come unbidden and uninvited. Hear what he says in his letter accepting the nomination for the Presidency in 1876. Speaking of the time and preparations necessary to secure and maintain resumption, he uses these words:

They belong to the domain of practical administrative statesmanship. The captain of a steamer about starting from New York to Liverpool does not assemble a council over his ocean chart and fix an angle by which to lash the rudder for the whole voyage. A human intelligence must be at the helm to discern the shifting forces of the waters and the winds. A human hand must be on the helm to feel the elements day by day, and guide to a mastery over them.

Such preparations are everything; without them legislative command fixing a day, an official proviso fixing a day, are shams; they are worse—they are a snare and a delusion to all who trust them. They destroy all confidence among thoughtful men, whose judgment will at last sway public opinion. An attempt to act on such command or such a promise, without preparation, would end in a new suspension. It would be a fresh calamity, prolific of confusion, distrust, and distress.

Again, speaking of the demand in the Saint Louis platform for the repeal of the resumption law, he says:

It cannot be doubted that the substitution of a system of preparation without the promise of a day, for the worthless promise of a day without a system of preparation would be the gain of the substance of resumption in exchange for the shadow.

Mr. Speaker, the author of this measure also criticises the Secretary as overcautious in keeping on hand so large a volume of coin, and declares that resumption cannot be endangered. This, too, is not the philosophy of Gramercy Park. That letter says:

How shall the Government make these notes at all times as good as specie? It has to provide, in reference to the mass which would be kept in use by the wants of business, a central reservoir of coin adequate to the adjustment of temporary fluctuations of international balances, and as a guaranty against transient drains artificially created by panic or by speculation.

The author of this bill criticises the Secretary of the Treasury because the cost in interest on the national debt has not been reduced to a lower average. The atmosphere at Gramercy Park could never have produced the impression of a possible diminution of the average interest upon the entire debt below 4.58 per cent. Hear Mr. Tilden once more. Speaking of what he termed wise economies, he says:

The Government ought not to speculate on its own dishonor in order to save interest on its broken promises, which it still compels private dealers to accept at a fictitious par. The highest national honor is not only right, but would prove profitable. Of the public debt nine hundred and eighty-five millions bear interest at 6 per cent. in gold and $712,000,000 at 5 per cent. in gold. The average interest is 5.58 per cent. A financial policy which should secure the highest credit, wisely availed of, ought gradually to obtain a reduction of 1 *per cent.* in the interest on *most* of our loans. A saving of 1 per cent. on the average would be seventeen millions a year in gold. That saving regularly invested at 4½ per cent. would in less than thirty-eight years extinguish the principal. The whole seventeen hundred millions of funded debt might be paid by this saving alone without cost to the people.

As the financial condition of the Government is far more favorable and the people more prosperous than Mr. Tilden dared to promise as the result of democratic rule, even when he and his party were exploring the realms of fiction and falsehood for a partisan key-note, these criticisms upon the administration of the finances by the present Secretary of the Treasury come with a poor grace from those who hold the late democratic candidate for the Presidency as the embodied representative of statesmanship and reform.

These remarks, however, are already too extended, but before closing I desire now and here to say a few words upon the speeches made

by my greenback colleagues from Iowa. If these gentlemen are not in error in regard to the financial condition of Iowa and her people I know nothing of the State or of its citizens. My own home is in the newer portion of the State, where there is less accumulated wealth than in the older sections, yet I venture the assertion that any man who will emigrate to my district, unless he and his family are in some way stricken providentially, with ordinary diligence, economy, and good management can make a comfortable living and slowly accumulate for old age. The State of Iowa invites settlers to come and buy and cultivate her rich lands; and every honest, economical, sober, and industrious man will find that the bloated bondholder, or the financial policy of Mr. Secretary Sherman, or the syndicate, will not interfere with his power to make a good living, educate his children, and lay by a few dollars every year for the rainy day.

The logic and consistency of the lugubrious speeches of my colleagues were well illustrated not long since in the columns of a greenback newspaper published near my home, and which I sometimes read. A short time ago every article upon its editorial pages fairly groaned under the prophecies of evil, the recitals of the oppressions of capital, and reiterations of the impossibility for honest industry to thrive in this degenerate age. But on turning over the page, with the wail of its unhappiness still vexing the ear, I read an account of a boy fifteen years old, in a neighboring town, whose widowed and hard-working mother had bought a little home, and paying a part of the purchase-money had mortgaged it for a balance of over $300. This young boy resolved to help his mother cancel this mortgage. He began to do odd jobs about the town, and soon became the owner of a horse and dray. Finally, one day he was missing, and the next day returned from Dubuque, the home of the holder of the mortgage, and put the canceled paper into his astonished mother's hands. I was glad that the editor of the newspaper had the grace to contradict his politics with the laudable purpose of illustrating to the young men of Iowa that opportunity always waits upon honesty, industry, and manly courage. But I will venture the prediction that if that boy should live twenty years, and his manhood should fulfill the promise of his boyhood, and if this newspaper shall live so long, and if my greenback colleagues should then be in Congress and should retain their present politics, they would be denouncing the man into whom such a boy will surely develop as a bloated bondholder and moneyed oppressor.

I have been surprised in the few months that I have occupied a seat here to find how this spirit of the croaker is utilized for political capital even by men who in many respects are able and conservative. But a few weeks ago a member of the Judiciary Committee, famous for having enlivened the pages of the CONGRESSIONAL RECORD with wit, in talking upon the common-place subject of the jurisdiction of the circuit court, could not deliver an argument without turning the batteries of his wit upon corporate capital. That corporations should be subject to wholesome legal control there is no question, but that corporate wealth should be lashed until it flees from the country and until money will not organize for the achievement of enterprises to which individual effort is unequal is the insane and suicidal policy of nations on the road to savagery. The American people may be led at intervals to believe false doctrines and do foolish things, but time, discussion, and thought are the conservators through which they are finally set right. Men may ring the changes upon national-bank oppressions, upon untaxed bondholders, upon the tariff, upon the whisky tax, and upon all the economies of society and politics, always attacking the established order of things and praising and commending untried experiments; but the intelligent manhood of the country will sift their logic, verify their facts, and in the end determine rightly that the experience of the world in all ages and the teachings of our own history are safer guides than the theories of men who seek to organize parties and secure political power by playing upon the passions and prejudices of any class, and advocating with a blind longing for change the overthrow of the policies that have produced a prosperity which blesses and tranquilizes every American home.

PENSIONS TO SOLDIERS OF MEXICAN WAR, ETC.

Mr. SIMONTON addressed the House upon the bill granting pensions to the survivors of the Mexican and certain Indian wars. [His speech will appear in the Appendix.]

TAX ON TOBACCO.

Mr. DIBRELL. Mr. Speaker, I propose to address the House upon House bill No. 933, which is made the special order for Wednesday of next week, and do so now, fearing that said bill may be then crowded out with appropriation bills and prior orders.

The bill is as follows:

A bill to repeal so much of the sixth clause of section 3244 of the Revised Statutes of the United as prohibits farmers and planters from selling leaf-tobacco at retail directly to consumers without the payment of a special tax, and to allow farmers and planters to sell leaf-tobacco of their own production to other persons than manufacturers of tobacco without special tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of that portion of the sixth clause of section 3244 of the Revised Statutes of the United States embraced in the following words: "*Provided*, That nothing in this section shall be construed to exempt from a special tax any farmer or planter who, by peddling or otherwise, sells leaf-tobacco at retail directly to consumers, or who sells or assigns, consigns, transfers, or disposes of, to persons other than those who have paid a special tax as leaf-dealers or manufacturers of tobacco, snuff, or cigars, or to persons purchasing leaf-tobacco for export," be, and the same is hereby repealed.

SEC. 2. That no farmer or planter shall be required to pay a special tax as a dealer in leaf-tobacco for selling tobacco of his own production or tobacco received by him as rent from tenants who have produced the same on his land; and they may sell the same to persons other than those who have paid a special tax as leaf-dealers or manufacturers of tobacco, snuff, or cigars, or to persons purchasing leaf-tobacco for export.

SEC. 3. That all laws and parts of laws inconsistent herewith are hereby repealed.

The object to be attained by the passage of this bill, and now under consideration, is to relieve the farmers and laboring-men of the country who raise tobacco, and more especially those who raise small crops, from the burdens imposed by the sections of the Revised Statutes proposed to be repealed, and to encourage and stimulate the product of this article, which adds so much to the revenue of the country.

The following is the present rate of taxation upon tobacco and tobacco dealers, to wit:

The tax upon manufactured tobacco is sixteen cents per pound; the tax upon merchants dealing in tobacco is $5 per annum; the tax upon manufacturers of tobacco is $10 per year; the tax upon wholesale dealers in leaf-tobacco is $25 per year; and the tax upon retail dealers in leaf-tobacco is $500 per year, with 50 per cent. added for all sales he may make over one thousand dollars' worth.

Now, the hardship sought to be removed is in the last-mentioned privilege tax upon retail dealers in leaf-tobacco, which this bill repeals.

The farmers and laboring-men of the country who toil and work hard through the hot summer seasons to raise crops of tobacco are denied the privilege of selling to any one but a regularly licensed wholesale dealer in leaf-tobacco unless he can pay an annual tax of $500, and if he violates the law the penalty is $1,000 fine and one year in prison, a very heavy penalty for selling the product of his own labor.

If there is no licensed dealer in the vicinity of the farmer producing the tobacco he is compelled either to give his crop of tobacco with his year's labor away or box it up and consign it to some commission merchant, who adds transportation, storage, and commissions, and then finds a licensed dealer, who fixes his own price upon the tobacco and takes it, many times not realizing enough to pay all the charges, when, if he were a freeman and allowed to trade for himself, he might find purchasers that would have given him some compensation for his labor. Upon the other hand, if the wholesale dealers go into a tobacco-growing section to buy up the tobacco, they paying only $25 per year privilege tax, can combine and fix their own price upon every farmer's tobacco crop and compel him to sell at their price, and by thus combining can buy and sell millions of dollars' worth of tobacco and make thousands upon thousands of dollars profit at the expense of the farmers who worked and raised the tobacco and who are handicapped by the revenue laws and forced to submit to the dictation of the licensed speculator. The manufacturer of tobacco pays annually $10 for the privilege of manufacturing tobacco. He may have millions of dollars as capital invested in this enterprise and manufacture millions of dollars' worth of tobacco, netting hundreds and thousands of dollars profit, all upon his license tax of $10, while the producer is required to pay a privilege tax of $500 if he sells only one pound to a consumer.

It is true the manufacturer, in addition, pays a tax of sixteen cents per pound upon all the manufactured tobacco he sells, in the first instance, but he gets it all back with good interest, for he adds this, with all cost of manufacture, to the original cost, together with a larger profit, and sells to the merchant, who again sells to the consumer; and a very large share of the manufactured tobacco consumed, after passing through the hands of several speculators, goes back into the hands of the producer, who pays each a handsome profit on it.

There was a great effort made at the last Congress to accommodate the manufacturer of tobacco and the consumer by reducing the tax on the manufactured article to sixteen cents per pound, to which I gave my support, and I and others tried then to get this relief for the producer, but we were met by the argument that we would defeat the whole thing, which was not our intention, for we believed the twenty-four-cent tax was too much.

But how do the manufacturers stand to-day? Do they come up now and help to protect the producer? No, sir; upon the contrary, they are using their influence to prevent the passage of this bill in order that they may still keep the farmers and producers under their immediate control and their crops subject to their own wishes as regards price. The revenue law, as regards tobacco, builds up and protects monopolies at the expense of the many; and for that reason they bring their combined influence in opposition to this measure of relief, aided by the Commissioner of Revenue, who believes they will be ruined financially if this tax is removed.

The manufacturers, knowing they have a grand monopoly protected by the laws of the country against the producer, who is denied sales of his products except to them or their agents, have refused to reduce the price of the manufactured article in proportion to the reduction of the tax. If Congress in its magnanimity could reduce the tax upon the manufactured article 33 per cent. to accommodate capitalists and those who use it as a luxury, surely they can afford to remove these hard restrictions that bear so heavily upon the producers, and allow them to sell their tobacco, just as they do their corn, their wheat, and their stock, to whom they please.

Again, the merchant who deals in tobacco pays an annual privilege tax of $5. He, like the other licensed dealers, may sell many thousand dollars' worth, making large profits, all for the pitiful privilege

tax of $5, while the producer is bound to pay $500 for the same privilege if he sells his own leaf-tobacco, raised by his own labor, to a consumer, or upon failure to do so, and a violation of the sections proposed to be repealed, is subject to a fine of $1,000 and one year's imprisonment.

It is argued that tobacco is a luxury and ought to be taxed. I grant that, and do not complain of any tax upon tobacco except that taxing the producer to such an extent that it places him completely at the mercy of the speculators. The use of tobacco is said to be a luxury to those who use it. That is doubtless true, but the production of it is not a luxury.

It is certainly not a very great luxury to the farmer and laborer in the country to work hard, harvest and house his crop of tobacco, and then be denied the privilege of selling to whom he pleases; in other words, to sell to none except those our Government selects—men of capital and means, who pay a small tax of $25 per annum, who combine, for the purpose of speculating, protected by this infamous law—a Shylock, seeking his pound of flesh, by taking the laboring man's crop at his own price because our laws deny him the privilege of selling to any but one of his (the Shylock's) class.

The farmer may have a sick or a hungry family, with nothing to give for medicine or food for his sick or famishing children but a few pounds of tobacco. Yet if he sells one pound of tobacco for that purpose, except to one of these Shylocks, the revenue officials, with their spies and hungry officers, are after him as if he was a great criminal, for having violated a law of these United States in thus exchanging a pound of tobacco for a bushel of meal or vial of medicine and arrest him, drag him off, and his doom is fixed with a thousand-dollar fine and a year in the pentitentiary, while his family at home may be in a destitute or starving condition, and all this to protect the manufacturer, who claims the privilege of selling all the tobacco consumed. The cost of such arrests are never counted, because it is fun for the revenue officials, but is a disgrace to this great Government.

Such a law is equality before the law with a vengeance and is class legislation, as will be shown before I conclude. The total number of persons dealing in tobacco under a license in the United States during the year ending June 30, 1878, was 357,592, paying into the Treasury the sum of $40,091,754.67, and of that number of dealers only twelve were retailers of leaf-tobacco, one of whom was from California, one from Arkansas, one in Maryland, one in Missouri, two in New York, three in Pennsylvania, one in Tennessee, and two in Texas, and paid into the Treasury all told the sum of $4,931.52. For the fiscal year ending June 30, 1879, there were 361,332 licensed tobacco dealers in the United States, paying into the Treasury the sum of $40,135,002.65. Of this number of licensed dealers only twelve were licensed to retail leaf-tobacco, two of whom are in Arkansas, two in California, one in Kansas, one in Maryland, one in New York, one in Pennsylvania, two in Texas, and two in Wisconsin. And for the first four months of the present fiscal year the total amount of tax collected from retail dealers in leaf-tobacco was only $520.83, as shown by the report of Commissioner Raum, and still I am informed that he opposes the removal of this tax for fear of reducing the revenue to such an extent that the Government cannot stand it. At the above rate the tax from this source the present fiscal year will reach about the sum of $1,600, and yet we cannot spare that to relieve the tillers of the soil.

The first revenue collected by this tax upon retail dealers in leaf-tobacco was in 1873, and from that time to the 30th of June, 1878, we have collected from that source only $34,913.85, while upon all other classes of tobacco we have collected up to the beginning of the present fiscal year the sum of $466,275,121 in revenue.

In collecting the above sum of $34,913.85 from retail dealers in leaf-tobacco since 1873 the Government has no doubt spent more than five times the amount in hunting up and prosecuting the poor men in the country, who may have chanced to have violated the law by selling a pound or two of tobacco to a consumer or exchanging the same for bread for his children. As an evidence of this the Commissioner of Revenue reports that he spent last year $98,890 in hunting frauds and violations of the revenue laws of the country. The suits brought for violations of the internal-revenue laws for the fiscal year ending 30th June, 1878, was 6,294, and for the year ending 30th June, 1879, 7,379. It is reasonable to suppose that five hundred of each year were for selling leaf-tobacco without license, and that each suit would cost the Government $20 to $30, which shows that to compel twelve persons annually to obey this law we have collected $4,931.52, and have spent $10,000 to $15,000 per year, besides the hardships imposed upon the citizens.

Then to repeal these sections and pass this bill will be economy; it will save large sums that are annually paid to deputy collectors, marshals, witnesses, spies, informers, and others, and would make the farmer and producer feel that his Government was at last disposed to treat him as an honest subject rather than hunt him down with spies and paid officers as a criminal and an outlaw, as is now done. It would stimulate and encourage the production of tobacco. Hundreds and thousands of farmers would engage in its production that will not now plant a seed or a plant because of this rigid and infamous law that yields comparatively little revenue and costs the Government and the citizen so much trouble and money.

It is the duty of the Government to afford ample protection to every industry, and to encourage and stimulate the production of everything that brings money into the country rather than tyrannize over honest subjects. The argument that the repeal of those sections of the Revised Statutes will lessen the revenue in my opinion is erroneous. I believe that it will increase and stimulate the production of tobacco. The more there is produced the more there is to be manufactured and exported abroad.

It cannot affect the revenue upon manufactured tobacco, because now we are receiving scarcely anything from that source, (retail dealers in leaf,) and every producer is now allowed to use of his own production what he chooses.

You may as well say that every consumer will raise his own tobacco and that he will not buy the manufactured article to avoid the tax, which he now has the right to do; but we all know that is not the case, for thousands of producers buy and use the manufactured article. It cannot affect the export trade in tobacco; upon the contrary, it will increase the amount raised for the export trade. In the fiscal year 1878 we exported, as shown by the commissioner of statistics, tobacco to the amount of $28,503,165, and the last fiscal year $28,215,240; and in the last twelve years we have exported more than three hundred and twenty-one million dollars' worth of tobacco and added that sum to our foreign commerce and the wealth of our country. Then, why should we by legislation hamper and burden this arm of our agricultural interests that brings us from foreign purchasers alone nearly $30,000,000 annually? Of our entire tobacco crop last year we exported about 52 per cent. of it to foreign markets; the year previous about 51 per cent. Of wheat we exported last year about 40 per cent. to foreign markets; the year previous only about 25 per cent. Of corn we exported last year about 10 per cent., against 7 the year previous.

Now, how would our western farmers like to have a tax of $10 placed upon wholesale dealers in wheat, and they prohibited from selling a bushel to any one but a regular licensed speculator under a penalty of a fine of $1,000 and one year in the penitentiary? Would they submit to it? I think not. Yet that is precisely the law as regards farmers producing tobacco, and for nearly seven long years they have been forced to submit to it, notwithstanding efforts have been made at every session of Congress to repeal the law.

In my own State of Tennessee the fiscal year ending 1878 there were 6,083 licensed tobacco dealers, paying into the Treasury over $150,000 revenue. Only one of that number was a retail dealer in leaf-tobacco, and that for the last month of the year, paying only $41.67 tax, while for the last fiscal year there were in Tennessee 5,934 licensed tobacco dealers, but not a single licensed retail dealer in leaf-tobacco.

Now, Mr. Speaker, I insist, and think I have shown to the satisfaction of every fair-minded man, that this prohibitory law upon the statutes, bearing as it does upon the producers of tobacco, is a great hardship, is wrong in principle, is unjust, is partial legislation, and should be repealed, and to prove that it is partial, unjust, and class legislation I submit some further facts, taken from the reports of the Secretary of the Treasury, Commissioner of Internal Revenue, report upon finance, Comptroller of the Currency, and other official papers, to prove that my assertions are true and that it is the duty of Congress to pass this bill.

In the twelve years preceding the last fiscal year we have collected—

As revenue upon tobacco	$426,140,119
In the same time we have collected on distilled and fermented liquors	763,798,153
Total on-product of labor in tobacco and spirits	1,189,938,272

So much for luxuries.

On the 1st of October, 1878, we had in existence in the United States 2,053 national banks, with—

Capital	$466,147,436
Circulation	323,147,719
Surplus fund and profits	157,833,993
Loans and discounts	830,521,542
	1,777,650,690

To which should be added the following banks, other than national banks then in existence taxable, to wit:

Capital of savings banks	$5,007,458	
Capital of banks and bankers	170,407,124	
Deposits of savings banks having capital	16,143,972	
Deposits of savings banks having no capital	65,950,852	
Deposits of banks and bankers	483,426,532	
		740,935,938
Total banking facilities then		2,518,586,628

And this may be considered as an average or about an average of the amount invested in banks and banking during the same twelve years, when our receipts from the products of labor, as shown above, was $1,189,938,272.

For the same time upon national banks, including all taxes assessed and collected by the United States, it was	$86,033,554
And upon savings and other banks it was	51,228,394
Total collected from banks and bankers	137,261,948

Nearly nine times more upon the product of labor than upon banks and bankers.

The receipts for the fiscal year 1878 upon all banks and bankers was only	$10,273,586
While for the same year there was collected on tobacco	40,091,554
Collected on spirits	60,357,866
Total on labor	100,449,420

Being just ten times greater collected upon labor than upon banks and bankers.

For the first four months of the present fiscal year the Commissioner of Revenue reports collections for taxes on tobacco	$13,230,003 82
And upon banks (see page 8)	812,289 83

Which is nearly eighteen times more collected upon labor than upon banks, a pretty fair beginning for this year.

The Secretary of the Treasury says in his last report that we then had two thousand and forty-eight national banks doing business, with assets as follows, to wit:

Capital	$454,067,365
Surplus	114,786,528
Deposits	719,737,568
Specie	42,173,731
Legal-tender notes	95,973,446
Loans	875,013,107
Circulation	337,181,418
Total national-bank assets	2,638,933,163

And that these banks paid into the Treasury in the shape of taxes the sum of $6,747,500, as against over $40,000,000 collected on tobacco, the product of labor. Thus with their $2,600,000,000 assets they pay nearly seven times less into the Treasury than does the article of tobacco alone. Another interesting item to tax-payers is shown in the report of the Comptroller of the Currency, which is that the national banks receive annually from the United States interest upon their bonds, deposited to secure their circulation, amounting to $17,152,396; in other words, the Government is paying the national banks the above sum to run their shaving machines and make all they can. He further estimates the interest charged by the banks upon their loans to average 8 per cent., (I think it will average 10 per cent.,) which yields the national banks the sum of $29,722,686. Add this to the interest paid by the United States, and we have the sum of $46,875,082 interest annually received by the national banks, when they only pay into the Treasury $6,747,500, as against over $40,000,000 paid on tobacco.

We exported last year, as shown by the commissioner of statistics, 322,279,540 pounds of tobacco, while the entire crop the present year is estimated by many at over six hundred million pounds.

As stated before, I admit that tobacco and spirits are luxuries, but I deny that the production of either is a luxury. And I insist that this discrimination against the producers of tobacco is a great national crime that should be abated. We have given ample protection to every branch of business in this country save that of agriculture. The banks and bankers have ample protection, and pay but a trifle to aid in defraying the expenses of the country. The manufacture of every grade and of all classes of goods is amply protected by our high protective tariff. We a few days ago reduced the costs of the reports of the Supreme Court to protect the lawyers and give them cheap literature. But who pays for all this protection? Who pays more than the farmers of the country? Rich bankers and capitalists, wealthy manufacturers, and lawyers can come to Congress and lobby bills through for their protection. But you have never seen a lobby of farmers here lobbying for protection; they cannot spare the time nor the money; hence their interests are overlooked and neglected and many unjust laws are forced upon them. Let the farmers cease to labor or to raise farm products, and how long could our country subsist? Every branch of business depends upon the agricultural interests of the country, and every other branch of business combines against them and is fleecing them upon every side. Even the Government steps in and hands those raising tobacco over to the tender mercies of the Shylocks, licensed as tobacco manufacturers, and then to the revenue raiders, who are like a set of hungry wolves after a wounded lamb. Then is it any wonder that the farmers and laboring men of the country complain of the unjust laws that so discriminate against them and in favor of capital and are so restless upon the subject?

When the tax upon the producers of tobacco was first imposed Congress then relieved what I conceive to be the real luxuries that were then taxable and put the tax upon labor instead of upon luxuries. These luxuries then taxed were in the main on income, which I consider one of the greatest luxuries any man can enjoy. For eleven years while that law was in force we collected as revenue from incomes nearly $347,000,000. This was taken off of the luxury of an income and placed upon the luxury of labor. That we may see how that income tax yielded I quote from the reports, to wit:

The income tax received on incomes over $600 and under $10,000	$17,814,170
Incomes over $10,000	16,494,961
Property of citizens residing abroad	230,470
Interest on United States securities	212,414
Incomes over $600 and under $5,000	58,078,597
Incomes over $5,000	60,851,011
Incomes over $1,000	94,848,692
Incomes over $2,000	16,097,921
Incomes from bank dividends	27,854,024
Incomes from bank profits not divided	1,279,690
Incomes from canal companies	1,785,812
Incomes from insurance companies	5,689,070
Incomes from railway companies	21,416,732
Incomes from railway companies, interest on bonds	9,987,844
Incomes from turnpike companies	237,324
Incomes from salaries United States officers	14,029,994
Total income tax collected	346,908,738

I have recently seen a statement showing that the railroads in the United States from 1871 to 1878, a period of eight years, made in net earnings the sum of $1,411,389,000, and that for the same time the dividends paid the stockholders was the sum of $509,554,000 cash. These roads are protected by all of our laws in all of their rights and franchises, but do not contribute one dollar toward defraying the expenses of this protection; while the farmer producing a small crop of tobacco must pay $500 for the privilege of selling that to a consumer in order to raise money to guard and protect the railroads, bankers, manufacturers, and capitalists of the country, when, if the railroads had been required to pay a reasonable income tax, this would have been entirely unnecessary.

Now, when this income tax was remitted it was that much clear gain and profit given to the parties paying it, and to make up the deficit this enormous tax was put upon labor in the shape of the tax on tobacco and spirits; and all that we now ask is to let the person who produces the tobacco sell without let or hinderance, and surely that is as little as could be asked in justice by that class of citizens.

Before closing I desire to notice a remark made by the distinguished gentleman from Ohio, [Mr. GARFIELD,] who, speaking at the extra session of Congress in regard to a proposed rule of this House in regard to the alcoholic traffic, took occasion to go out of his way to make a fling at the proposition to restore the income tax. That gentleman said:

> Theoretically speaking, the income tax was the fairest in the world, but practically it was the most immoral tax ever levied, for the reason that it caused perjury, fraud, &c.

If that be so, and for that reason we should reject the bill to restore the income tax, then we should wipe out the whole internal-revenue system, for no law or system ever enacted by this Government has caused so much fraud, perjury, and swindling as has been done to evade the internal-revenue laws of the country, and the Government has lost ten thousand times more by the whisky thieves in the country than she ever did by the evasion of the tax on retailers in leaf-tobacco.

I have shown you that the suits brought last year for violations of this law were seventy-three hundred and seventy-nine, and this may be near an average for ten years past. We might in like manner wipe out our courts, because perjury is committed there every day in the week. We might wipe out our election laws, because at every election more or less fraud is charged. Instead of wiping out laws because they are violated, or opposing them for fear they will be violated, we should amend them so as to give the best protection to our citizens and so as to do the most good possible. No part of our vast population receive so little of the care and protection of Congress as do the agricultural interests of the country.

Now, let this unjust law be repealed, let it be forever wiped from the statute-book, and the farmers of the country can then say of a truth that the Forty-sixth Congress has done one great and needed act of justice to them; that they are now free from the licensed Shylocks and spies; that they can sell the product of their farms as free men, to whom they please, without having an army of spies and worthless scamps following in their trail, seeking to degrade them by unjust prosecutions.

Why should we keep such an oppressive law upon our statute-books? The necessities of the Government do not demand it. Upon the contrary, the law is a dead expense to the country, because the amount collected from that source will not pay the salaries of the officers engaged in its collection.

Then, Mr. Speaker, with our Treasury loaded down with money, two or three hundred millions of dollars lying around loose in the Treasury, retiring our public debt much faster than the law requires, and our 4 per cent. bonds at a fair premium, with the balance of trade one hundred and fifty millions in our favor, why should we keep a law in force that is crippling one of our great branches of industry? We do not need the small sum collected from this source. In fact, it is niggardly in this great Government to enforce such a law, and I trust this Congress will wipe it out.

JAPANESE INDEMNITY FUND.

Mr. BICKNELL. Mr. Speaker, our first treaties with Japan were

made with the Tycoon, who was supposed to be the monarch of that country, but he was only the commander-in-chief of the armies. The real ruler of Japan was the Mikado. The government was a confederacy of powerful princes under the imperial sovereignty of the Mikado, but disclaiming the usurped authority of the Tycoon, who, without resistance from the Mikado, was exercising most of the imperial powers with the aid of an advisory council of "governors." Our treaties with the Tycoon were really invalid until they were finally ratified by the Mikado in 1856. The existence of these treaties, and the privileges granted by the Tycoon to foreigners, were made the pretext of a rebellion by the chief princes of the empire against the authority of the Tycoon, and the result was that in 1868 the Tycoon lost all his power and was committed to prison. During the conflict one of the rebellious princes fortified the straits leading from the Chinese Sea to the inland sea of Japan, and with three armed vessels undertook to stop all navigation there.

In 1863 the American merchant steamer Pembroke was fired upon by the forces of this prince and was compelled to abandon that route, but she sustained no injury except delay in her voyage. The Tycoon was unable to prevent such violence, but he admitted his obligation to do so, and on the demand of our minister he paid the owners of the Pembroke the sum of $10,000 for the delay in the voyage and paid the United States $2,000 more for the expenses of the negotiation, disclaimed the insult to the flag, and promised to punish the prince. Notwithstanding this, the American minister sent the United States war steamer Wyoming to avenge the insult, and that vessel attacked the three vessels of the prince, destroyed one of them, sunk another, and disabled the third. The same prince had committed like outrages upon the flags of other nations, and the representative of these nations agreed to unite and make such an example of the rebellious prince as would satisfy the Japanese of their inability to make any resistance to the combined powers.

Accordingly, in September, 1864, nine British vessels with 164 guns, three French vessels with 64 guns, four Dutch vessels with 56 guns, and a small steamer called the Ta Kiang, chartered by the United States, with 1 gun and 17 men detailed from the Jamestown, attacked and destroyed the batteries and magazines of the prince, defeated his forces, and brought him to terms. The presence of the American vessel with her small force, under the command of an ensign, was merely to indicate the unity of the foreign powers, and neither vessel nor crew sustained any injury, although they took some part in the action. The combined powers then compelled the Tycoon to pay the expenses of the expedition, and they fixed the expenses at $3,000,000. They demanded this extravagant sum in the hope that the Tycoon would not be able to pay it and would offer to open a port or two in lieu thereof; but the Tycoon could not open a port without exciting a popular tumult, and was obliged to agree to pay the money.

The combined powers, in dividing the spoil, agreed that the moral weight of unity of action demanded an equal division, and that each of the four powers should have $750,000, one-fourth of the whole. Then the French minister claimed $140,000 for damage inflicted by the prince on a French vessel; the Dutch minister claimed the same amount for an attack on a Dutch vessel, and our minister coolly demanded the same amount for the delay of the Pembroke, although that claim had already been overpaid to the owners by the Tycoon, and although he had apologized to our Government for the insult to our flag, and the apology had been accepted. The entire sum paid to the United States in this transaction, including the $140,000, was $785,000 in gold. Mr. Secretary Seward perceived at once that the money thus obtained must sooner or later be returned to Japan. He therefore caused it to be set apart as a special fund in the State Department. He declared in a letter to the chairman of the Committee on Foreign Affairs in 1868 that this money had been received "without substantial equivalent," and had therefore been invested in United States bonds, to be disposed of as Congress might direct.

By good management the sum of $785,000 has been more than doubled. We can return to Japan the whole amount originally received and have about $500,000 left. That this ought to be done is sufficiently shown by the facts already stated; but we cannot forget that when we joined the other powers in extorting this money, and it certainly was extortion as to our share of it, we were the ally of Japan, and had agreed in the treaty of 1858 "to act as a friendly mediator in all matters of difference between Japan and any foreign power." Instead of acting as a mediator we divided the spoil, having no cause of complaint ourselves. House bill No. 1353, which has been favorably reported by the Committee on Foreign Affairs at the present session of Congress, provides that $785,000 be returned to Japan, with 5 per cent. interest thereon. When this act of justice is done, there will remain to be covered into the Treasury about $500,000.

The bill provides that $125,000 of this residue shall be paid to the officers and crew of the Wyoming, who avenged the insult to the Pembroke and destroyed the vessels of the prince, as already stated, and to the officer and men of the hired steamer who took part in the action of the combined fleet which brought the rebel prince to terms. These officers and men were not entitled to prize-money, because they captured no vessels; but destruction, in its results, is often equivalent to capture, and Congress has repeatedly recognized and honored the bravery of American sailors by awarding sums of money to be distributed as prize-money for the destruction of hostile vessels.

The bill further provides that all claims against this fund which may now be pending before the Department of State shall be determined within six months, and that such of them as shall be found just and equitable shall be first paid from said residue of the fund. The provisions of this bill have been favorably reported heretofore by the Committee on Foreign Affairs repeatedly. In 1876 the Senate passed a bill providing for the return of this money. No reason can be assigned for any further delay.

MANNER OF COUNTING THE ELECTORAL VOTE.

Mr. STEVENSON. Mr. Speaker, I can conceive of no measure of greater importance to the American people than the one now under discussion. The framers of our Federal Constitution, as will be seen by reference to the debates in the convention of 1787, were deeply impressed with the dangers which might attend the periodical election of a chief magistrate. It was thought that upon an unbiased expression of the popular voice at the polls and a faithful obedience to its mandates would in a large measure depend the success of the experiment of self-government. To guard by proper enactment against the dangers which might result from a disregard of the popular will was considered of the first importance by the members of that convention.

We hesitate, Mr. Speaker, upon the very threshold of a discussion which even by implication would impugn the wisdom of the framers of our Federal Constitution. I yield to no gentleman upon this floor in veneration for the memory of Madison, Franklin, Hamilton, and their compeers. Their names belong to history; their fame is the heritage of all people. This instrument, with its wonderful distribution of powers, its system of checks and balances, its happy adaptation to the wants of a free people, was the crowning act of their illustrious lives.

It is not disputed, Mr. Speaker, that the Constitution should remain as it came from the hands of its framers unless time has demonstrated an imperative necessity for a change. Knowing the impossibility of forecasting exigencies which might arise in our history, the framers of the Constitution wisely provided in its text for such changes as experience might demonstrate the necessity of. The provision to which I have just referred has been declared by a distinguished writer "to have been a marvelous prudence which foresaw and regulated by anticipation the alterations in the Constitution which time and experience might render necessary."

Mr. Speaker, this discussion of the provision relating to the mode of electing the President and Vice-President is in the light of history. The crucial test we apply is that of experience.

It should be remembered that twelve amendments were proposed by the first Congress which assembled under the present Constitution, ten of which were subsequently ratified by the Legislatures of three-fourths of the States. Some of the original framers of this instrument were the earnest advocates of the amendments to which I have referred. Five amendments have since been added, changing important features in the original text.

It is passing strange, Mr. Speaker, that the provision relating to the election of the President and Vice-President should have found favor with the convention of 1787. But it must be remembered that self-government was then an experiment. The members of that convention, many of whom had been active participants in the struggle against monarchical power, nevertheless distrusted the uncurbed power of the people. Alexander Hamilton, one of the most eminent members of that body, struck the key-note to their fears when he said:

> It is equally desirable that the immediate election should be made by men most capable of analyzing the qualities adapted to the station and acting under circumstances favorable to deliberation and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigation.

Hence, after protracted discussion, the adoption of the article providing for the appointment by the States—in such manner as their respective Legislatures should indicate—of electors, to whom was intrusted the power of choosing the President. It was insisted by the advocates of this plan that a wiser choice would be made by a body of men chosen for the sole purpose of selecting a Chief Magistrate than could in any event be made by the people themselves. It was thought to be a prudent restraint upon the power of the people to interpose a body of electors between them and the chief executive officer of the Government. This is the essence of the quotation I have read from the speech of Mr. Hamilton in the convention.

Mr. Speaker, how sadly the electoral system has failed to secure the ends intended, has failed to meet the anticipations of its authors, is a part of our history.

The fierce struggle in 1801 between the adherents of Burr and of Jefferson came near wrecking the Republic on the threshold of its existence, and necessitated the adoption by the Eighth Congress of the twelfth amendment to the Constitution.

Twenty-four years later the defects of the system became still more apparent in the election by the House of Representatives of Mr. Adams, notwithstanding his competitor, General Jackson, had received a large plurality of the popular vote. It will be seen by reference to the official returns that the popular vote of General Jackson was near 50,000 in excess of that of Mr. Adams.

There are those yet living who remember how deeply this country

was agitated by the election by this House of Mr. Adams, in 1825, notwithstanding the popular verdict in favor of his principal competitor. That feeling, as is well known, abated not a tithe until it culminated four years later in the election of General Jackson to the Presidency. It was, Mr. Speaker, because of the fact that the popular will had been thwarted by the action of this House in 1825, and because of the excitement resulting from that action, that some of the wisest statesmen of that day urged a change in our organic law abolishing the electoral colleges and providing for an election of the President and Vice-President by the direct vote of the people. In his first annual message President Jackson, referring to this subject, said:

Evils which can be clearly traced to an organic defect in the Constitution ought not to be overlooked through a too scrupulous veneration of the work of our ancestors.

In each of his eight annual messages he urged upon Congress the necessity of providing a constitutional amendment looking to the abolition of the electoral colleges. In his first message he said:

I consider it one of the most urgent of my duties to bring to your attention the propriety of amending that part of our Constitution which relates to the election of a President and Vice-President. Our system of government was by its framers deemed an experiment, and they therefore consistently provided a mode of remedying its defects. To the people belongs the right of electing their Chief Magistrate; it was never designed that their choice should in any case be defeated either by the intervention of electoral colleges or by the agency confided under certain contingencies to the House of Representatives. Experience proves that in proportion as agents to execute the will of the people are multiplied there is danger of their wishes being frustrated.

Some may be unfaithful; all are liable to err. So far, therefore, as the people can with convenience speak, it is safer for them to express their own will.

But even without corruption—supposing the probity of the Representative to be proof against the powerful motives by which he may be assailed—the will of the people is still constantly liable to be misrepresented. One may err from ignorance of the wishes of his constituents; another from a conviction that it is his duty to be governed by his own judgment of the fitness of the candidates; finally, although all were inflexibly honest, all accurately informed of the wishes of their constituents, yet, under the present mode of election, a minority may often elect a President.

In this, as in all other matters of public concern, policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system that the office of Chief Magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority. I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of a President and Vice-President.

One of the earliest advocates of the necessity of committing directly to the people the election of their Chief Magistrate was Mr. McDuffie, of South Carolina, one of the most gifted statesmen of the last generation. In urging his proposed amendment upon Congress he said:

In bringing forward a proposition so fundamental in its character and calculated in my opinion to exert a lasting influence upon the happiness of future generations it is a source of sincere gratification to reflect that the measure does not rest upon the recommendation of an individual so humble and inexperienced as myself, but that its leading provisions (subject to some subordinate modifications which I hope will be adopted) are approved and sanctioned by many of the most profound and experienced statesmen of the country.

This proposition has been for more than eight years before the nation; it was recommended by a majority of the States, and a change has been anxiously desired by a large majority of the American people. When to the imposing weight of these circumstances we add the consideration that the great body of the people are at this moment deeply and justly excited upon the subject it must be apparent to every member of the committee that this proposition comes before us with a weight of authority which imperatively demands and will undoubtedly secure for it the most solemn and dispassionate consideration.

Mr. Speaker, this country has been blessed with few men of greater sagacity, far-seeing statesmanship, or of loftier patriotism than the late Senator Thomas H. Benton. He was among the first to detect the defects in the method of electing the President and Vice-President and to anticipate the evils which might result from its continuation. In a speech in the Senate in 1824 Mr. Benton, in discussing this subject, said:

Every reason for instituting electors has failed, and every consideration of prudence requires them to be discontinued. They are nothing but agents, in a case which requires no agent; and no prudent man would, or ought, to employ an agent to take care of his money, his property, or his liberty when he is equally capable to take care of them himself.

But if the plan of the Constitution had not failed; if we were now deriving from electors all the advantages expected from their institution, I, for one, would still be in favor of getting rid of them. I should esteem the incorruptibility of the people, their disinterested desire to get the best man for President, to be more than a counterpoise to all the advantages which might be derived from the superior intelligence of a more enlightened but smaller, and therefore more corruptible, body. I should be opposed to the intervention of electors, because the double process of electing a man to elect a man would paralyze the spirit of the people and destroy the life of the election itself.

It interposes a body of men between the people and the object of their choice, and gives a false direction to the gratitude of the President elected. He feels himself indebted to the electors, who collected the votes of the people, and not to the people, who gave their votes to the electors. It enables a few men to govern many, and, in time, it will transfer the whole power of the election into the hands of a few, leaving to the people the humble occupation of confirming what has been done by superior authority.

Mr. Speaker, I might refer to other statesmen scarcely less illustrious than those I have mentioned, who earnestly condemned the method of choosing our Executive through the interposition of electoral colleges. But, sir, this is unnecessary. We have but just emerged from the shadow of a peril which tested as never before the patriotism, nay the forbearance, of the American people. The dread contest of 1877, between the partisans of Mr. Hayes and those of Mr. Tilden, was the legacy bequeathed us by those who crystallized this anomalous anti-republican feature into our Federal Constitution. It would answer no wise purpose now to recall the events of that struggle; a struggle which marks so important an epoch in our history. But, sir, if it but serve the purpose, as I trust it may, of directing the earnest attention of the American people to the defects and dangers of this system, then it will not have been wholly in vain. Because of this system of electoral colleges twice in our history has the candidate been inducted into the high office of President of the United States who had failed to receive a majority of the votes of the people. This, as I have said, was true in 1825, and again in 1877. In the latter contest the popular vote of the present Executive was near two hundred and fifty thousand less than that of his competitor.

To the end, Mr. Speaker, that the popular voice in the election of Chief Magistrate may be obeyed hereafter, that he who takes this great office may do so with an unquestioned title; to the end that the storms of political passion may be succeeded by a peaceable acquiescence in the result; to the end, sir, that this country may never know the horrors resulting from a disputed succession to the Chief Magistracy, I conjure this House to anticipate by appropriate legislation the danger from which we once so happily escaped.

What complications may arise at the approaching election cannot be fully foretold; what dangers may threaten us cannot be fully foreshadowed; but, sir, in the light of experience, it is safe to predict that whatever complications may arise, whatever perils may environ us, will be attributable to this anti-republican system of electing our Chief Magistrate. It was so in 1801, again in 1825, and again in 1877. History would but repeat itself. Is it not the part of wisdom now, while our political horizon is unclouded, before the evil days are again upon us, to anticipate, so far as it is within human power to anticipate by appropriate legislation, the exigency to which I have referred?

I trust, sir, that the day is not far distant when this one anti-republican feature in our Federal Constitution, productive as it has been of such hazard to the Republic, shall be succeeded by one more in consonance with the spirit as well as the letter of that instrument. Had the warning voices of Jackson, Benton, and other statesmen of a past generation been heeded, we would have been saved the perils through which we have so recently passed.

Sir, if we have the wisdom now to provide by appropriate amendment to our organic law for the election of the Chief Magistrate by the direct vote of the people, it may save us, or it may save those who come after us, from still greater evils hereafter.

Mr. Speaker, should the constitutional amendment to which I have referred be adopted by Congress even at the present session, and submitted for ratification by the several State Legislatures, it would be impossible to have favorable action by the requisite number before the next presidential election. Immediate legislation, then, by Congress is indispensable to avert a recurrence at the approaching election of similar complications to those which grew out of the last presidential contest. Looking, then, to the future for an amendment to the Federal Constitution such as I have advocated, I shall address myself briefly to a discussion of the bill reported by the honorable gentleman from Indiana, [Mr. BICKNELL.]

While this bill falls far short of accomplishing all that many of us desire, yet its salient points are of such value as to commend it to the favorable consideration of this House. It will be remembered that at the last presidential election the main points in dispute were, first, "which are the correct electoral votes of certain States?" second, "by whom shall the votes be counted?" As is said by the gentleman to whom I have just referred in his able report:

Neither the Constitution nor the statutes declare expressly by whom the electoral votes shall be counted, nor do they declare in any manner what are proper electoral votes.

The purpose of the pending bill, Mr. Speaker, is to put at rest the questions above suggested. Waiving the discussion of the less important features of the bill, I will direct my argument to the seventh and eighth sections.

These sections are as follows:

SEC. 7. If there shall be a controversy in any State as to the appointment or eligibility of electors, the same may be passed upon by its highest judicial tribunal in accordance with its laws; the decision thereof shall be certified by such tribunal, and shall be by it transmitted sealed to the seat of Government of the United States, directed to the President of the Senate.

SEC. 8. Congress shall be in session on the second Monday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at one o'clock p. m. on that day; the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives. The President of the Senate shall then open all the certificates and papers purporting to be certificates of the electoral votes; the votes shall then be counted by the two Houses of Congress in the alphabetical order of the States, as certified by the electors, unless rejected by both Houses; but if in any State there be a controversy as to the appointment or eligibility of electors, the decision thereof by its highest judicial tribunal shall be conclusive, and the vote shall be counted in accordance therewith, unless reversed by both Houses; and if there be more than one judicial decision, each purporting to be by the highest court of the same State, the decision held by both Houses to be that of the lawful tribunal shall be conclusive, unless reversed by both Houses.

Where there has been a controversy in any State as aforesaid, and no such certified decision has been transmitted, or when two or more such certified decisions have been transmitted, the contested votes from such State shall not be counted unless both Houses concur therein. And if there be several electoral certificates from any State, and no such judicial decision, the certificate held by both Houses to be executed by the proper authority shall be conclusive unless rejected by both Houses.

The tellers shall make a list of the votes as counted, and the same shall be read in the presence and hearing of the two Houses, and delivered to the President of the

Senate, who shall announce the state of the votes and the names of the persons elected; which announcement shall be sufficient declaration of the persons elected as President and Vice-President of the United States, and shall be entered, together with a list of the votes, on the Journal of each House.

It will be seen from these sections, Mr. Speaker, that provision is made for the determination in the first instance by the highest judicial tribunal of the respective States of disputed questions pertaining to electoral certificates. This abrogates the powers of returning boards, against which such well-founded objections have been urged, and appropriately lodges the power of determining the validity of election certificates in a tribunal which is in some measure above the plane of partisan politics. The great advantage of this change is too manifest for argument.

The interposition of the highest State court is invoked only in case of a contested election; in case of a dispute as to which set of claimants shall be the duly accredited electors. Such questions arising, they are to be settled in the manner I have indicated. This arbitrament is to be final unless dissented from by each House of Congress voting separately for that purpose.

In the event of a contested election, and no judicial decision having been rendered and certified to Congress as provided by this section, then such disputed votes shall not be counted, unless so decided by each House voting separately as before.

It will be seen, Mr. Speaker, that by the provisions of this bill the two Houses of Congress are to determine what votes shall be counted. It is indispensable that this power shall be vested in some competent tribunal. As was said by the gentleman from Indiana, the Constitution declares that each State shall appoint its electors, in such manner as its Legislature shall direct; but the questions, who are the electors appointed? are they duly qualified? have they acted according to law? are not answered in the Constitution, and in the absence of any statute the determination of such questions belongs of necessity to the tribunal appointed by the Constitution to ascertain and declare the result of the election, to wit, the Congress.

Congress may make all laws necessary and proper to carry into execution its constitutional powers, and may therefore provide by law for a judicial determination by a State, to enable the Congress more readily to discharge its own duties; but such judicial determination need not be conclusive. It is not true that to make such determination less than conclusive would impair the constitutional rights of States. The Constitution gives the States no such right of judicial determination; when such right shall be given by act of Congress its exercise will be conclusive upon Congress or not, as Congress shall enact; there is no conflict between the right of a State to appoint electors and the right of Congress to determine whether such an appointment has been made.

The chief merit of the pending bill, Mr. Speaker, consists in the fact that it simplifies the methods of ascertaining and declaring the vote. While the highest court of the respective States is the primary arbiter between conflicting claimants, yet the ultimate power of counting the electoral votes, and—as a consequence of this power—of determining what votes shall be counted, rests in Congress.

We reach now the real point at issue between the advocates and opponents of this bill. Who shall count the electoral votes? Who shall determine what votes shall be counted? Shall this determination be by one man—having possibly a personal interest in the decision—or shall it be by the Representatives of the people?

Mr. Speaker, it will be seen, by reference to our political history, that until our last presidential election it was never seriously questioned that the duty of ascertaining what electoral votes were valid, and of counting such votes, devolved upon the Senate and House of Representatives. Leading statesmen of all the political parties known to this country have denied the right of the president of the Senate to assume the prerogatives of the Representatives of the people. In the year 1817, upon the occasion of the second election of Mr. Monroe, the question as to counting the electoral votes of Indiana being under discussion, in the joint conference of the Senate and House, Mr. Clay said:

The Constitution required the two Houses to assemble and perform the highest duty that could devolve upon a public body—to ascertain who had been elected by the people to administer their national concerns. In the case of votes coming forward which could not be counted the Constitution was silent, but fortunately the end in that case carried with it the means; the two Houses were called upon to enumerate the votes for President and Vice-President. Of course they were called upon to decide what are votes.

In 1857, the question as to an informality in the returns from the State of Wisconsin having been raised, Senator Crittenden said:

I shall not presume before Congress to occupy a moment's time with argument. I wish merely to say that the sense of duty, an honorable sense of duty I have no doubt, upon which the presiding officer has acted in assuming to declare the number of votes, involves the privilege of determining a presidential election, and saying who shall be President. I protest against any such power.

The PRESIDING OFFICER. The presiding officer is utterly unaware that he has assumed the exercise of any such power.

Senator Douglas, of Illinois:

I rise to state that, in my opinion, the tellers have no right to authenticate that certificate until the two Houses have passed upon it as to its being a true count. I rise to protest against this joint convention being dissolved until the question which has been raised shall have been decided.

Mr. Mason, President of the Senate:

The presiding officer would again state that the duty of the tellers has not yet been discharged. The tellers, it would appear, made their report before they had signed the certificate. The vote will be again read to the two Houses, and they can determine what shall be done.

It will be remembered that in neither of the cases cited was there a contest as to who had been elected. But so important did Mr. Clay and Senators Crittenden and Douglas regard the principle involved, and the dangerous precedent which might creep in from its violation, that they earnestly protested against any assumption upon the part of the President of the Senate to count the electoral votes. The right to do so, as will be seen, was promptly disclaimed by the presiding officer.

In March, 1876, there being no presidential election pending to bias his judgment, the distinguished republican Senator from Indiana, Mr. Morton, in urging the passage of a bill similar in some of its important provisions to the one now under discussion, said:

Then the question arises which is the more reasonable, which is the better, which is the safer of the two; to adopt the construction which gives this great power to one man, the President of the Senate, who may be counting for himself, or would it be safer to leave it to the determination of the two Houses of Congress, representing the States and people? If we can agree to adopt either one of these constructions, I say the latter is the safer; it is the more reasonable, it is in conformity with the spirit of our Government and of popular institutions. I then adopt the latter construction.

It will be remembered, Mr. Speaker, that during the great discussion in the Senate, in January, 1877, immediately preceding the passage by that body of the bill establishing the electoral commission, the distinguished Senator from New York [Mr. CONKLING] denied the right of the President of the Senate to count the electoral votes, and declared the right to count—and the right of determining what votes should be counted—to be the sole prerogative of the two Houses of Congress. He said:

A study of the question years ago convinced me of the right and therefore the duty of the two Houses to ascertain and verify electoral votes and declare the true result of presidential elections, or else by an exertion of the law-making power to declare how these acts shall be done. My present judgment does not rest, however, wholly on preconceived opinions. Some weeks ago, when the inquiry came to be invested with unprecedented importance, I reviewed carefully every act and proceeding in our history bearing upon it, and, without the aid then of compilations made since, every utterance in regard to it to be found in books.

But, Mr. President, I wander from the purpose. I had alluded to the proportions of questions lying within the power to decide whether electoral votes or alleged electoral votes shall or shall not be counted and made efficacious. I now maintain that the scope and vastness of this power, and of the questions and possibilities it may involve, are the measure of the certainty and clearness with which it must be conferred. Loose intendments will not do. Loose intendments may suffice for paltry uses; but in the last quarter of the nineteenth century loose intendments will not satisfy forty-five million free people that such supremacy resides in one functionary who may be made to-day by one majority of the votes in this single Chamber, and unmade to-morrow by the change of a single vote.

Do reason and the fitness of things suggest that our fathers meant the President of the Senate should be the one man, even if there were to be one man, to decide whether alleged irregularity or fraud should vitiate the vote of a State and turn the scale in the choice of Chief Magistrate of the Republic? Is such power so suited to one man, rather than to the American people in Congress assembled, that wisdom will extract it from words which drop him and turn away from him? The Constitution, speaking to you, Mr. President, commands you in the presence of the States and of the people to produce and open all the certificates, and at that moment it turns its back on you. Will reason from such words, even if they be doubtful words, extract such transcendent prerogative, and repose it with him who is likely to sit as the sole judge in his own case?

Six times already has the President of the Senate been one of the presidential candidates for or against whom the count was to be made. Was this not foreseen by the framers of the Constitution? The very men who drafted it proceeded in seven years to make the President of the Senate their own successful presidential candidate. And so, we are asked to believe that our fathers intended to make one individual the sole judge in his own case, though divine law and civilized jurisprudence had declared since the morning of time that no man should ever be judge in his own case, not even if other judges sat with him.

It will be seen, Mr. Speaker, that the leading statesmen of all the political parties which have controlled this Government for ninety years of its history have declared that the high duty of counting the electoral vote—in other words, of determining who had been elected Chief Magistrate of this Republic—devolved upon the two Houses of Congress.

The bill under discussion proposes no departure from the wise usages established by our predecessors in these halls of legislation. It proposes rather to crystallize their opinions and usages into a statute so clear and explicit as to leave no room for cavil. The necessity for this legislation arises from the fact that the right of the President of the Senate to count the electoral votes, arbitrarily and without appeal from his decision, is now strenuously insisted upon. This bill proposes, in advance of dangerous issues which may arise, to establish a legal and just mode for their settlement.

It is impossible, sir, to unduly estimate the importance of this measure. Already the forces are being marshaled for a struggle which shall determine under what party auspices this Government shall be administered for the next four years. That it will be an unrelenting, a bitter contest, can hardly be doubted. That there will be little margin for the successful presidential candidate is equally probable. The result may turn upon one State; possibly again upon a single electoral vote.

Important as are the issues involved, it is far more important that the determination be peaceable and in accordance with the forms of law. Soon the storms of party passion will burst upon the country, and we will find ourselves unconsciously drifting toward the same danger from which we have so recently escaped. Is it the part of wisdom to allow this session of Congress to close without some legislation by which the result of the approaching presidential election can be correctly ascertained and declared? Shall we again trust to good fortune to avert the peril when it is upon us? Have we so soon forgotten the lessons of the late struggle? Do we not fully realize how difficult, if not impossible, it would be to again organize a tri-

bunal by which the dangerous complications springing from a disputed succession to the Presidency might be settled?

Mr. Speaker, not as a partisan, but in the interest of a just, peaceable, and lawful solution of all questions which may grow out of the coming presidential contest, I entreat this House not to terminate its present session until the pending bill, or one similar in terms and looking to the same results, shall have found its place upon our statute-book.

UNLIMITED COINAGE OF SILVER.

Mr. BLAND. Mr. Speaker, in discussing the silver question it may be necessary to review somewhat the various money theories now extant in this country. This will be necessary in order to show the necessity for the free and unlimited coinage of silver. A class known as the monometallic gold party, who deem it essential to our prosperity that our currency system should conform to that of England, constitutes a very influential part of our citizens, and embraces nearly all of the creditor classes. This may be taken as one extreme. On the other hand, a part of the debtor class known as greenbackers declare in favor of fiat money.

This party may be subdivided as follows: First, those who desire the banishment of metals from the currency of the world and the substitution of paper, and secondly those who recognize the necessity in this country of the use of metals and yet desire to supplement their uses with that of fiat money or irredeemable paper. The third party in the order here mentioned may be classed as the bimetallic party or those who believe in the use of both gold and silver with unlimited coinage as is contemplated in the Constitution of the United States. This party may be subdivided into two classes: first, those who advocate the unlimited coinage of both gold and silver; and, secondly, those who favor unlimited coinage of gold supplemented by a limited coinage of silver on Government account.

Laying aside for the present the discussion of the general principles of the question as to the necessity of paper money, I shall first devote my remarks to what I conceive to be the true principles or theory of metallic money. I do this in order to show that the unlimited coinage of both metals in this country is not only a necessity but that under our system of government and the provisions of our Constitution unlimited coinage of both gold and silver is commanded by a correct construction of our monetary system. In presenting this question I shall discuss somewhat a few of the underlying principles of money, and especially the advantages claimed in the use of the metals as against that of paper. I shall admit that money is the creature of law and that the law gives to these metals their value, and thus far what may be called the absolute paper-money party and myself agree. But as to the material out of which money may be made and the necessity of having a material that is used for money throughout the world, and other considerations hereafter to be named, I take issue with at least one subdivision of the absolute money party.

I take the following from the Pandects of Justinian:

> The origin of buying and selling began with exchange. Formerly money was unknown, and there existed no terms to differentiate merchandise and price, but every one, according to the wants of time and circumstances, exchanged things useless to him against things that were useful, for it happens frequently that one is in need of what another has in excess. But as it seldom coincided that what one possessed another needed, and conversely, a material was elected whose legal and perpetual value remedied by its homogeneity the difficulties of barter. This material being officially coined, circulates and holds its power, not so much from its substance as from its quantity. Since then each of the two things exchanged is no longer called merchandise, but only one; the other is called price.

The Constitution provides that:

> No State shall * * * make anything but gold and silver a tender in payment of debts.

Albert Gallatin, in 1831, after quoting this restriction upon the States, says:

> As Congress has no authority to make anything whatever a tender in payment of private debts, it necessarily follows that nothing but gold and silver coin can be made a legal-tender for that purpose.

Mr. Webster, in his speech in the United States Senate, December 21, 1836, said:

> Most unquestionably there is no legal tender and there can be no legal tender in this country but gold and silver, either the coinage of our own mints or foreign coins, at rates regulated by Congress. This is a constitutional principle, perfectly plain, and of the very highest importance. The States are expressly prohibited from making anything but gold and silver a tender in payment of debts; and although no such prohibition is applied to Congress in express terms, *yet Congress has no power granted to it in this respect but to coin money and regulate the value of foreign coins.* The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. I am certainly of opinion that gold *and silver*, at rates fixed by Congress, constitute the legal standard of value in this country, and that neither Congress nor any State has authority to establish any other standard, or *to displace this.*

No one seems to doubt that now in times of peace our Supreme Court will hold to this doctrine. The metals gold and silver, one or the other, or both, have been money as far back as the history of man records. Silver has been money by common consent of the world during this period. The fact that so long a use of the metals as money has been the practice of the world and as a sequence the habits of trade, the existence of contracts at whatever date they may have been entered into constituting the many billions of public debt, and the private debts, based upon this system of money contracted to be paid on the basis of both gold and silver as money, constitutes one of the strongest arguments against any change, either in favor of the gold party or the fiat money party. But inasmuch as in Europe, and especially in Germany and Great Britain, there has been and is a persistent attempt to revolutionize the monetary system of the world, and to make these vast debts soluble in gold alone, notwithstanding they were contracted upon a basis of gold and silver, we can but expect that this proposition will be met by the other extreme which looks to the wiping out of these debts with absolute paper money.

In this crisis it becomes the duty of all conservatives, and especially the duty of every citizen of this Republic, to cling to the constitutional system of money contemplated by our fathers. It is claimed by the metallic school, so called, as against the paper school, that the advantages derived from the use of metallic money are found in the fact that in all times past nature has supplied a sufficient quantity of the metals for this purpose; and again, the supply of the metals being regulated by natural laws, that is to say, nature supplies and regulates the quantity of money, hence it is that the volume is more uniform than it would be were it left in the discretion of the legislative will. Nature supplies to all alike, and this Government, and in fact all the governments combined, could not affect by any legislative act the supply of money, unless it be to restrict the coinage of one or both the metals. And inasmuch as this supply when coinage is unlimited is uniform and is not subject to the discretion of legislatures or governments, it is therefore claimed that all contracts, that all commercial intercourse, and the business affairs of life are better conserved, more justly regulated between debtor and creditor by metallic money than it would be possible to do with absolute paper money.

I have stated, however, that the benefit of this system in this regard depends wholly upon the unrestricted coinage of the metals. For if Legislatures assume the right to interfere with nature and to interdict natural laws by inhibiting the coinage of silver metal I cannot see the advantage claimed for metallic money. Indeed it will be an inferior system, subject to all the objections of fiat money without any of the attendant facilities and conveniences attaching to the use of paper money. Therefore if it is insisted upon in this country and others, and this threatened revolution in the monetary affairs of the world prevails by which one-half of the money supply of the world, silver, is to be eliminated, to rob the debtor in favor of the creditor, I should certainly favor the abandonment in this country of both metals and the substitution of paper money.

Another reason assigned in favor of metallic money is that it is an international money; but we should remember that it is an international money because, as before stated, nature supplies all nations alike; that the only power the legislatures should exercise is that of fixing the ratio of the coinage; that is to say, the amount of silver, speaking with reference to our coinage system, which should constitute a dollar, and the amount of gold which should constitute a dollar, and declare both to be alike legal tender for all debts public and private, and open the mints to the unlimited coinage of the same to all comers. Having done this, the functions of legislation cease. The miners and the mints by natural laws supply the demand or quantity of money. Should this system prevail, which is to carry out the theory of bimetallic money, it would not be in the power of Congress to regulate the volume of money. We would hear no more of inflation or contraction by legislative enactment.

The currency question would be remanded to the laws of supply and demand, and, like all other questions of trade and commerce, would regulate itself as it has done in the past. Thus the financial question would be adjusted in conformity with the constitutional provisions of our country and in harmony with all our contracts, both public and private. No one could claim, whether he be debtor or creditor, that his country had unjustly changed its currency system against his interests or in conflict with the obligations of its contracts. The difficulty at the time of the passage of the silver bill in settling the currency question in this manner arose from two opposing forces. The first was that the gold party opposed the monetizing of silver in any form or to any extent. The second was that others, not understanding the true theory or principles on which our monetary system should be based, believed that the silver miner and silver bullionist would derive some great benefit from the free coinage of silver without due compensation to the people.

The gold party and the limited coinage party, constituting a majority in the Senate, prevented the adjustment of our currency system according to our Constitution, our traditions, our legislation, (prior to 1873,) and the natural laws of metallic money. Granting for the sake of argument that some, in fact a very great benefit would accrue to the silver miner were silver coined free, yet that is no argument. It is not a sufficient argument for the injustice done the people and the infraction of a sound system of currency caused by a limited coinage of silver. Our statistics will show, and no one will deny the fact, that since the discovery of gold in California in 1849 to the present time the production of gold has exceeded in this country, and in fact in the world, that of silver. But silver being demonetized, it may as well be said that, since the gold miner and gold bullionist now have a monopoly of the supply of the monetary metals, our coinage laws have tended to make the gold miner and gold bullionist rich at the expense of the silver miner and silver bullionist, as well as that of the great mass of the people.

The profit the Government derives from the purchase of bullion at eighty-five or ninety cents on the dollar and coining it and paying it

out for a hundred cents will not compensate the losses the people sustain on account of the insufficiency of circulation. Leaving out of question the violence it does to every principle on which the advantages of metallic money are based, the people of this country have suffered much greater losses on account of the restricted coinage of silver. The gold miner has prospered. The class of people holding fixed incomes, or the creditor class, have prospered for the same reason. Open the mints to the unlimited coinage of both gold and silver, and this will give a fair race and do even-handed justice to the gold and silver miner, the debtor and creditor, and, as before stated, be in harmony with the equity of all contracts, and conform to the principles of metallic money, and place our coinage system where it stood under the Constitution from the formation of our Government down to 1873, when silver was demonetized.

Mr. Speaker, it seems to me strange, and I cannot understand why it is, that gentlemen pretending to favor silver should so far forget the first principles of finance and the true policy to be adopted in this country as to permit such an insignificant question as the benefit to be derived by the Government by the limited coinage of silver to influence their action upon so great a principle in a matter affecting as it does the prosperity of their country; nor can I understand the advantage that the gold party expect to obtain by any compromise on this question such as was had under this law. The law authorizes the Secretary of the Treasury to purchase not less than two million dollars' worth of silver bullion per month, and not more than $4,000,000, and to coin it into silver dollars of full legal tender for all debts, public and private. Under this law the minimum coinage annually, at the present price of silver bullion, is about $27,000,000; that is to say, $24,000,000 will purchase sufficient bullion to coin $27,000,000. Coining at the rate of $27,000,000 annually, it can easily be foreseen that in a few years our silver coinage, or silver dollars, will exceed in amount our gold coinage, and even the gold party now are alarmed because they see in the near future, even under this limited coinage of silver, if other nations restrict the coinage of this metal we will practically be upon a silver basis, and gold will leave the country. Hence they begin to clamor for the repeal of this law.

Doubtless that was their object, knowing that such a system was not in harmony with the principles of metallic money and that instead of our action at that time enhancing the value of silver bullion and placing it alongside of gold it would tend to depreciate silver ultimately, for the reason that other countries, especially France and the Latin union, would not open their mints to the coinage of silver in view of the fact that we had entered upon an expectant policy, or a policy that simply meant that we should wait until other governments took the lead. If under this law we finally reach the silver basis, as we certainly will unless it be repealed, we will have arrived at that basis when silver shall have been depreciated below what it is now and when probably France and the Latin union shall have demonetized it totally. In that event the creditor class will demand the repeal of the silver law. If they should not succeed in this they will see their error in opposing in the first instance the full remonetizing of silver. For had we given unlimited coinage to silver and adopted a bold and aggressive policy, and guaranteed to France and the Latin union by this act that we intended to adhere to our bimetallic system, doubtless France would have opened her mints to the unlimited coinage of silver as she was then so anxious to do, the effect of which would have been to restore silver to its former parity with gold, thereby settling this question satisfactorily to all parties concerned. But the mistake was made; it was made by the stubborn resistance of the gold party aided by a fraction of the silver party who seem to have never investigated the subject, or at least showed a lamentable ignorance of it. I mean that portion of the silver party that favored the limited coinage of silver.

Mr. Speaker, in view of the fact that we have an Executive whose veto is ready at all times to be given to any law looking to the coinage of silver, whether limited or unlimited, and of the further fact that a large element of what is called silver men have gone off on the idea of limited coinage, there has been no encouragement for the action of those who favor opening the mints to the free coinage of both metals, and the people sharing this idea have not expected any change to be made until they shall have had an opportunity of making a change of rulers. This question cannot be settled satisfactorily to the American people until silver is placed back where it was before the fraudulent act of 1873 demonetized it.

I will give here the amount of gold and silver used as money in the world, taken from Ernst Seyd, in his work on the decline of prosperity, showing the amount of gold and silver used as money in the year 1878 to be as follows: Gold, £850,000,000, or roughly, $4,450,000,000. Silver, £720,000,000, or $3,600,000,000. This estimate does not vary materially from that of Cernuschi and other writers upon this question. This shows the rejection of silver as money contemplates demonetizing about one-half of the metallic currency of the world, and, as I have before stated, this stock of silver money was in existence and formed the basis, together with gold, of the monetary system of the world from time immemorial, and that all debts, public and private, were contracted with reference to this supply of money, and consequently the elimination of one-half this money supply means a monetary revolution by which the creditor class expects to hold in slavery the debtor class for all time to come; because to demonetize one-half of this money will reduce prices of all commodities, and the products of all labor and the value of a day's wages in the proportion of the amount of money thus demonetized. So that the debtor who, when his debt was contracted, could pay that debt with one bushel of wheat, would be required to pay two, and for one day's labor to return double in exchange; and the creditor to whom the money is due, instead of his dollar purchasing one day's labor, it will be so enhanced in value as to purchase two, and so on through all the ramifications of business and trade.

This simply means the last feather on the camel's back; it means that those who hold fixed incomes, mortgages, or Government securities expect by this legerdemain of monetary legislation to constitute themselves a government aristocracy, and to call to their support a strong government with a strong man at its head and the military power at its back. This may succeed for a time, and it may succeed for a great time, in autocratic and aristocratic governments, but in this free country it will burst of its own rottenness. Once the people come to understand the true situation and unite upon the solid basis given to us by our fathers, the Constitution of our country, and plant themselves upon the laws of the land and the rights of the debtor and creditor class as existing under those laws, the gold party and the strong government party must go to the wall before the great conservative party. As for European countries we see the effect now. We see that Germany that demonetized silver—we see that England, where silver is not money, are not prosperous. Discontent and revolution threaten Germany. Famine and political revolution and surprises occur in England by which an unexpected change of administration is effected, overwhelming what was considered not only the gold party, but the strong government party of that country, and although we have but in a partial manner remonetized silver here the effect already has been seen. To that extent there has been a revival of business and there is a prospect of some relief at least, whereas Germany, which demonetized silver, is paying the penalty of her short-sightedness.

Her people seeing no hope there are emigrating by thousands, yes tens of thousands, to this country, and the same may be said of the Empire of Great Britain. So that it may be claimed that in the proportion that Germany and England banish their silver they are banishing their people; and of this country that in so far as it remonetizes silver, thereby looking to justice and to right with reference to the oppressed everywhere, so do we invite, and have thus invited, and will receive, these banished people from Germany and England. Consequently it would certainly be to our interest to fully restore silver here, and invite the silver and the people of Europe to our shores. For if our laws are just, and our currency system in harmony with the impressions and the ideas of that people, they will leave a country of oppression and seek this country, because our financial system is in harmony with their traditions and their sense of justice and of right.

It is true that to remonetize silver fully will invite a flow of that metal into this country, and we will naturally receive the rejected stock of Europe; and to that extent prices may be inflated, but our currency will not be redundant, because, as may be inferred, our population will be vastly increased by this immigration, so as to give employment to all this money that will come with them. Our newspapers are now commenting and speculating upon the very large increase of immigration arriving daily from Europe. May I not claim that the demonetizing of silver there and as a consequence the depression of business and hard times are driving them here, where silver is money? And may it not also be said that a full restoration of silver here will tend largely to increase this immigration and so add to our population a sufficient number of people to absorb the discarded stock of silver now in Europe, so that a bold policy on our part will do not only justice to our own people in this matter, but will be an assurance to other nations, and especially those who are oppressed, that here we propose to plant ourselves upon the old monetary system and combat the despotic action of European governments by which the rulers of those peoples design to perpetuate their autocratic power, which enriches the few and enslaves the many.

Returning to the question of the unlimited coinage of both metals I desire to combat one error that a portion of our greenback friends have fallen into. It seems they claim that to open the mints to the unlimited coinage of the metals is to give to the bullion holder the power to regulate the volume of money and the control of its quantity. A moment's reflection will show this to be a glaring error. They all admit, as I stated in the beginning, that it is law that gives value to these metals. If all nations demonetize both gold and silver it is questionable whether either of those metals would have a market value much greater than that of zinc or lead. They are valuable for ornaments and are precious metals because of their intrinsic value as money. A piece of gold or of silver never has been and never can be of greater value than that value given it at the mint. No one will pretend to say that the amount of gold or silver contained in a dollar is of greater value than a dollar. Indeed it is absurd to suppose that the silver miner or the gold miner would have any control over the volume of money or the value of the metals.

But our greenback friends say that the bullionists in order to contract the currency would withdraw the metals from coinage. If this be so, and if there were any advantages in withdrawing the bullion from coinage, the same reasons would apply to the hoarding of the coins and also to the locking up of paper money. Their theory seems

to be that the Government should purchase the bullion and coin the money. I have before tried to illustrate the unscientific and unnatural coinage system or monetary system that leaves it in the power of the government to absolutely regulate the volume of money. Our experience in the past, and it is from experience and history we must learn, teaches us that when Congress or the Government has control over the volume of money that volume will be supplied and regulated not so much in accordance with the demands of trade and the wishes of the people as it will be at the dictation of the moneyed classes. Our history teaches us that during the time Congress assumed the power to issue paper money, to demonetize silver and in all respects control the volume of money, such legislation has been dictated by and controlled in the interest of the creditor class against the interest of the debtor class. We all know the power of money in this Government and all others in the control of legislation. The poor man is seldom seen in the lobbies of Congress.

It is the bondholder, the banker, and the man of wealth whose presence we see. Their power is continually felt, and is a dangerous power in this Government as well as in all others. To relieve the people from the control of this power, it is necessary to have some automatic supply of the volume of money. Hence the importance of unlimited coinage of the metals; for in that case the miner who extracts gold and silver takes from his mine not a commodity, but dollars and cents. His silver and gold, whether coined or uncoined, are so much money in his hand. He pays it to his merchant. It may and does circulate without being coined. This is so because any one can go to the mint and have his metal coined into money without limitation.

Mr. Speaker, if you or I had ten trade-dollars to-day, or any citizen of this Government had ten or more trade-dollars, we would not pay them out for ninety or ninety-five cents when we could go to the United States mints and have them coined into one hundred cents. We would go to the mint and have them coined into legal-tender dollars and have two cents' worth of bullion remaining. Consequently a trade-dollar, under the system of free coinage, would be worth a dollar and two cents. This shows the effect of law in giving value to money. The standard dollar contains 412½ grains of standard silver, and passes everywhere for a dollar because the law so declares. The trade-dollar contains 420 grains of standard silver, 7½ grains more than the standard dollar, yet because the law fails to make it a legal tender or to permit free coinage it is worth less than the standard dollar of 412½ grains.

In speaking of our greenback friends I alluded to their Representatives on this floor, for as a party I am not assured that they hold to the position advocated by their Representatives here. With unlimited coinage of the metals a miner knows beforehand precisely what his product is worth; so that to-day if the value of a day's labor is worth $1, or in other words, if the wages of a day's labor is $1, a mine that pays $1 per day will pay wages, or a mine that yields out for a day's work 412½ grains of silver, or more properly speaking, the amount contained in our dollar, will pay wages. That mine will pay a laborer to work it, and so the gold mine that produces the amount of gold contained in a dollar will pay to be worked, because it will pay wages; and so all the mines of the world, gold or silver, that pay $1 a day, where that is the rate of wages, will pay for working. All such mines will be worked, other mines will be opened, a supply of metal will be had until by the increase of the supply of the metal there has been an increase in the volume of money, so that a day's wages will be worth $1.25. Now, all these mines that pay but a dollar a day will necessarily be closed because they will not pay wages, for wages have become $1.25 a day. They will remain closed until the volume of money in circulation will not supply the increased population.

In other words money will be so diminished in circulation that wages will go back to $1 a day. These old, abandoned mines will again be opened to work because they pay wages, and it may be that wages have been reduced to seventy-five cents a day, in which case mines that have lain idle for years and years will be opened to work. So that as the volume of money decreases and wages decrease mines everywhere that failed to pay before will now pay for working. In consequence of this we shall soon see an increased supply of metals. This increased supply of metals will increase the volume of money; this increased volume of money will increase the prices of everything and increase the value of a day's wages; wages will go back to $1 or $1.25 a day. In this we see a natural automatic supply of the volume of money. We will also realize that which our greenback friends so strenuously advocate and all of us should desire—that a day's labor will be the measure of all values. *Under this system a day's labor will measure all values*, but it cannot under any other system; for if Congress is to supply the volume of money and to regulate the coinage of metals or the issuing of paper, it may say this year that $500,000,000 shall be coined of silver and $500,000,000 of gold, and this money going into circulation will stimulate trade and business.

Prosperity will inspire the people with confidence. The farmer who has a hundred acres of land, seeing this vast volume of money in circulation, his business reviving, prices of crops and produce increasing, will find that he is prospering and making money. He will purchase another hundred acres joining him, paying a round sum for it, say $20 an acre, which would be $2,000. He gives a mortgage on his home farm, paying 10 per cent. interest. He feels confident that the prosperity surrounding him is solid and that he will have the ability to pay off this debt in five or six years. But next session of Congress declares that the five hundred millions of silver money in circulation shall no longer be money at all. It is demonetized. Consequently the farmer in a short time finds the prices of all his commodities suddenly falling; his wheat, corn, oats, hogs, horses, and everything he has to sell a drug in the market, and that it is impossible to get money for them at any price. He has no means whatever of raising this $2,000, because with the small amount of money in circulation there is no market for his produce. When his mortgage becomes due, his lands, his horses, and everything he has are sold, and yet his debt is unpaid; for all his property with this diminished circulation will not pay his mortgage. He finds that an act of Congress has made him a bankrupt.

The mortgagee purchases in all his property. The next session of Congress enacts a law for the issue of a thousand millions of greenbacks. This money goes into circulation; at once prosperity comes again, business is restored, real estate and all other property take a start, and prices of commodities are largely increased, so that the mortgagor who purchased the farmer's land for $2,000 may now sell it for five or ten thousand. This money-lender has become rich by an act of Congress, whereas the farmer was made a bankrupt. This is no fancy sketch, for we all know that formerly we had in circulation in this country at least $1,500,000,000 in paper money. We know further that apparently prosperity prevailed everywhere at that time, and that farmers and men of business all went in debt, purchased lands and other property, and mortgaged their homes. We know further that Congress contracted this volume of money so that now our legal tender and other issues amount to not over seven hundred millions, which is not more than half the former amount.

The utter ruin, bankruptcy, suffering, and poverty of our people in the past, from which they have not recovered, and will not in years to come, are a consequence of this inflation and contraction of the currency on the part of Congress. So I am justified in saying that no system of money is safe for the poor man whose volume depends upon the whims and wishes of Congress. In this view of the case it is quite clear to my mind, and must be to others who will for a moment consider the question, that the monetary system of our Constitution, based upon both metals and the free coinage of both, is the safest system for our people. I want it understood, however, that this means the unlimited coinage of both gold and silver and the free use of both metals as money. If an issue must come between the extreme gold party, or the gold monometallists, and the extreme paper party, or fiat-money party, both of which mean the control of the volume of money by Congress, I shall be in favor of abandoning gold and of declaring unhesitatingly for paper. For paper will be cheaper for the people, more convenient for their uses, and will be no more subject to inflation and contraction than would the power contended for by the gold party that Congress should regulate the volume of money and its use by demonetizing one-half of the metals.

Mr. Speaker, may I, in conclusion, exhort all who favor financial reform to unite, for the present at least, upon the following propositions:

First. The unlimited coinage of silver.

Second. The repeal of the law authorizing national banks.

Third. The issuing of Treasury notes to replace the bank notes, giving such Treasury notes the same monetary functions as the bank notes now possess.

This policy could be made the means of saving to the people the interest paid annually upon the bonds of the Government equal to the amount of the same deposited by the banks as the basis for their issues. This is the conservative policy, one that is grounded upon law, and could be enforced should all currency reformers unite upon it. To contend for less would not be fair to the people. To contend for more at this time would be hazarding all, and result in divisions, dissensions, and defeat.

LEGAL-TENDER CURRENCY.

Mr. ROTHWELL addressed the House upon the bill (H. R. No. 3029) to restore the legal-tender currency of the United States to the constitutional requirements. [His remarks will be published in the Appendix.]

POLITICAL CONTRIBUTIONS.

Mr. TYLER. Mr. Speaker, time will not permit me to enter upon a general discussion of this bill, which, if we may judge by the spirit that animated the House when it was last under consideration, is destined to become a law of this land, and to take its place upon the statute-book as a measure adopted by Congress "to promote the general welfare."

I suppose our friends on the other side of the House in their rendering of the preamble to the Constitution after the word "welfare" supply the words "of the democratic party." Indeed, the honorable gentleman from Indiana, [Mr. HOSTETLER,] who introduced the bill in behalf of the majority of the Committee on Reform in the Civil Service, must have understood, and a majority of the committee must have understood, that the "general welfare" and the welfare of the democratic party were synonymous terms.

It may be useful to call attention to the main features of the bill. I shall attempt but little more. It says:

Be it enacted, &c., That it shall not be lawful for any officer, clerk, or employé of the Government of the United States to contribute or pay to any committee or person, or into any fund, any money, property, or other valuable thing for any political purpose whatsoever.

The words quoted do not complete the sentence as the section is punctuated, but they are unqualified by anything that follows them, and they form an express prohibition upon the President and upon each and every other officer of the Government, and upon each and every employé thereof, against the payment or contribution by them of any money or anything else of value for any political purpose whatever.

It will be observed that the clause recited has no relation to the levying of political assessments upon salaries, for that is carefully attended to in the next clause. This forbids the persons named giving anything for the purpose specified—no matter how they came by the property out of which they may wish to make contributions—no matter if it was acquired by them in their profession, or business, or by inheritance years before they came into the service of the Government, and though it is held by them absolutely and as independently of the Government as the farmer holds the title to his farm.

Further on in the section it is made unlawful for these persons to give any money, property, or other valuable thing, with the knowledge or understanding that the same may be applied to the purpose aforesaid.

And what is the penalty for the violation of this statute? It is that "such officers, clerks, or employés shall be immediately dismissed from the office, clerkship, or employment which they may hold;" and if the heads of their Departments shall neglect to dismiss them, they shall be deemed guilty of a misdemeanor, and shall be fined and imprisoned.

How the President as an officer of the Government could be dismissed from his office should he transgress this statute is not very plain; but that is a mere trifling difficulty, and must not stand in the way of the general scope of the measure.

There are other incidental provisions in the bill, such as making it the duty of heads of Departments to keep posted up in their Departments standing orders to warn their clerks and employés against the violation of this act; making it unlawful for such heads of Departments to collect or permit others to collect or receive from the clerks and employés under them any assessment, contribution, or gift for political purposes, and making them guilty of a misdemeanor, for which they shall be punished by fine and imprisonment if they shall fail to post such orders or permit such assessments or contributions to be made.

So much for the bill as it relates to persons in the service of the Government; but it goes further, and the fourth section places its high interdiction upon another class. "Any person having a contract with the United States, or any officer thereof, or who shall have had such contract within three months previous, or who shall have such contract within three months thereafter, who shall pay or contribute, either directly or indirectly, any money, property, or other valuable thing for any political purpose, shall be deemed to have forfeited all rights, and the same shall thereby be rendered null and void," &c. And furthermore this section provides that "any person having any pending claim against the United States, or before any Department or officer of the Government," who shall contribute anything for such purpose, shall forfeit such claim and all right to receive anything on the same.

These features of the bill, except possibly the last one, will be readily understood upon the mere statement of them. The last one has been fully discussed by gentlemen who have preceded me, and I shall only emphasize their assertion that this clause includes the two hundred thousand men who are claimants for pensions and places them under the ban of this law.

Now, Mr. Speaker, what is the purpose of this bill? What is the end and object sought to be attained by it? The object of laws in general is the protection of rights and the prevention of wrongs. But whose rights are by this law to be protected? Certainly not those of these officers, clerks, and employés. Their rights have not been infringed or endangered. What wrongs to these republican office-holders and clerks, whose guardianship the democratic party has so suddenly assumed, and for whose interests it has lately manifested such tender solicitude, is hereby sought to be prevented? They have suffered no wrongs, and are exposed to none in the direction indicated by this bill. Whence comes this anxiety of the majority of this House for the persons who have contracts with the Government and for those who have claims pending against it? Have their rights been invaded, and have they called on you for protection? No; not at all.

If any system of forced political assessments were in existence it ought to receive the condemnation of all men, and any proper bill that should be brought forward to suppress it ought to be supported by every member of this House; but there is no such system. If republican committees were in the practice of assessing office-holders and clerks a percentage of their salaries and extorting payment through fear of being dismissed from their places, proof of the fact would be presented here; but no such proof has been offered; the fact does not exist.

The bill under consideration evidently is not aimed at assessments, but at voluntary contributions. It is not designed to protect the rights of these persons, but to violate them; not to prevent wrongs, but to perpetrate them. I deem it a high-handed wrong for Congress to interfere or attempt to interfere with this right of citizens. The money or other property that a citizen has and which he acquired, whether as a salary from the Federal Treasury under a contract with the Government for services or in any other legitimate manner, is his to do with as he pleases, and its use cannot be controlled by legislation.

An eminent writer upon the common law says, "The right of private property consists in every man's free use and disposal of his own lawful acquisitions. So great," he says, "is the regard of the law for private property that it will not authorize the least violation of it; no, not even for the general good of the whole community." Again he says, in substance, that when the acquiescence of the citizen to the taking of his property for public use is compelled by the authority of the Legislature it is only upon the condition that a full equivalent in value shall be paid him therefor.

The Constitution provides "that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." The constitution of Vermont enumerates among "the natural, inherent, and inalienable rights" of citizens "that of acquiring, possessing, and protecting property," and a similar recognition of private rights may be found in the bill of rights or constitution of every State of the Union. The preamble to the Federal Constitution declares that:

> We, the people of the United States, in order to form a more perfect union, * * * promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution," &c.

Certainly the right to acquire, possess, and dispose of property is one of the blessings of liberty which the Federal Constitution was ordained and established to secure.

CONTRIBUTIONS A DUTY.

Having thus briefly referred to the common law and to our own Constitution to show how carefully the rights of citizens in the use and disposal of private property is protected, and that the voluntary giving of money for political purposes is a right far above the reach of legislation, I now assert that it is the plain duty, as it should be considered the high privilege of all citizens, whether they are in office or out of office, who love their party and believe in its principles, to give of their time and means for their party's support and for the promulgation of its principles.

Politics is the science of government, and each of the great parties of this country claims that its platform is a fair exposition of that science. The great majority of men always have been, are now, and always will be found in the ranks of one or the other of these two leading parties, the adherents of each maintaining that the principles of their party are the foundation upon which rests the whole fabric of the Republic. The doctrines that have characterized the two parties have been different at different periods in the nation's history, but the great doctrine that has distinguished the one during the last twenty years has been that of State sovereignty, while that of the other has been national supremacy. It is not for me to discuss these subjects here, but only to say that the former is the merest quicksand upon which a government was ever attempted to be constructed, while the other is the sure rock upon which this Republic has stood through all the shock of battles and upon which it will stand forever.

No fault should be found with a man because he is a democrat if he is a sincere one, and the more earnest and enthusiastic he is the more he is to be respected. I have heard men from the South assert, and there may be such upon this floor, that they were never citizens of the Federal Government until the adoption of the fourteenth amendment to the Constitution made them such; that until then they were citizens only of their States, to which alone they owed allegiance. I respect the sincerity of these gentlemen, though I believe them to be in radical error. I only hope that now, having acknowledged that they have become citizens, they will be as true in their loyalty to the Union as they were before to their sovereign States.

But, gentlemen from the South, I ask you, when you gave everything and risked everything you possessed in the attempt to establish your peculiar doctrines, by what right do you refuse to allow us to contribute of our means to spread our doctrines abroad through the land? And when by the grace of this Government your people were restored to all their former rights and privileges, and that, too, when the Government was controlled by the republican party, and you are now permitted to represent your people in these Halls, by what right do you refuse to allow the Union soldiers who are now claimants for pensions of the Government to contribute of their means to aid in publishing everywhere, by speeches and documents and speakers, the doctrines in which they believe and for which they fought? It is unjust and ungenerous to deny them this right.

But the democratic majority in Congress will attempt to prevent it by passing this bill, as would have been done long ago, as would have been done at the extra session but for the persistent efforts of this side of the House to keep it from coming to a vote. It will be passed and raised to the dignity of law, if it obtains the presidential sanction, notwithstanding the fact that during all the years and all the administrations that the democratic party has had control of the Government it has permitted, and, to use a mild term, invited its office-holders to make contributions for party purposes. And it is right for any party to obtain means by solicitation, but to obtain it by compulsion is a reproach to any party.

Then why is this bill, unjust in its prohibitions, freighted as it is with absurdities, brought in here at this time? There is but one answer, one explanation. We are on the eve of a presidential election,

one of the most momentous if not *the* most momentous that this nation ever approached. The democracy has possession of both Houses of Congress, and it is determined to keep it and to carry the next presidential election. Therefore it legislates all Federal authority, both military and civil, away from the polls on Federal election days. Then it enacts this law because a small sum contributed by each of the officers, clerks, employés, contractors, and claimants mentioned in this bill would amount to a large fund for a political campaign.

If it be asserted that money ought not to be used for political purposes, I reply that no party ever used it more freely than has the party that originated this bill. That it can be used legitimately, as can be done by all other organizations of men, is a proposition too plain for argument. But to illustrate what is already plain, it has been stated that one hundred thousand copies of the very able speech recently delivered upon this floor by the distinguished gentleman from Ohio [Mr. EWING] were subscribed for, which was perfectly right. It is safe to assert that during the coming campaign a million of copies of that one speech will be printed and sent through the mails to the remotest parts of the country. They will cost the democratic party hundreds of dollars, and will be paid for out of a campaign fund; and this is but one of numerous speeches and documents that will be placed in the hands of democratic voters. This fund will be obtained in some manner, though it will not be contributed to by clerks and office-holders, as they are mainly republicans, and those who are not will of course respect this law while it remained on the statute-book. Should the democracy elect its President next fall this law would have served its purpose, and would be repealed so as not to be in the way of the incoming democratic office-holders and clerks making political contributions as formerly.

But the republicans will carry forward this campaign, and, with union in their ranks and if fair elections can be held throughout the country, they are sure to carry it to a successful issue. This bill is itself a volume of instruction, as it apprises us of the determined purpose of our adversary, and to be forewarned is to be forearmed.

But, Mr. Speaker, whatever may be the result of the next election, I sincerely hope that thereafter we may be a more united people. In the early times there was nothing to bind the people of the Colonies together but their common cause against a common enemy and their determination to establish an independent government for themselves. By their united struggles that Government was established, and under it has grown up a nation vast in its domains and resources, with an immense population, and with possibilities for greatness and grandeur infinitely beyond what it has yet attained. As the fathers were united in their efforts to establish this Government, would that we might lay aside all sectional controversies and be united in our allegiance to it and in our determination to promote its welfare.

RAVAGES OF THE COTTON-WORM, ETC.

Mr. PERSONS. Mr. Speaker, some months since the National Cotton Exchange memorialized Congress to appropriate $50,000 to employ a corps of entomologists to assist the cotton-planters of the South in lessening the ravages of cotton pests. This memorial was referred to the Agricultural Committee. It appears that the memorial was much of a surprise to this House, and its reference to the Agricultural Committee, if with any thought of ever hearing from it again, was quite as much enterprise upon the part of the House. The surprise was not justified, the enterprise was. It easily appeared strange to a great majority of our members that if the producers of cotton were greatly suffering from the ravages of boll-worms and caterpillars, that complaint and petition should not come from them, but, instead, from those who are supposed to be cotton speculators. To one who was reared as was myself in the cotton belt, and for many years engaged exclusively in cotton culture, the surprise was surprisingly less. Planters and farmers generally and southern farmers and planters particularly are without any aptitude for such organization as would secure to them such assistance as is by this memorial sought. To their own unflagging energy, to their own unceasing toil, which outmeasures the sun in length of hours of labor, to the generosity of their soils, and to the propitious seasons of their Creator, they look for support and succor, and to nothing beyond these do they look. The Government has protected manufacturers, has protected merchants, has protected miners, has protected sugar-planters and rice-growers, but the cotton-grower has not been protected against the foreign producer nor the domestic destroyer. Receiving no aid, expecting no aid, he turns his sod in hope and fights the pests in despair, and his complaining is all the more silent as his ruin is the more complete. He is to be congratulated that his misfortunes have at last come to his relief, in that the commission merchants from whom he obtains his supplies have made it a business to study his needs and have asked a pittance to protect their advances by protecting his crop. Hence this cotton exchange is a true exponent of the cotton-planting fraternity, and the memorial of the one typifies the need of the other.

But it was, indeed, enterprise in its highest adventure when this House intrusted to the Agricultural Committee a memorial of so much concern not only to a great section of the country but to the whole country. Feeling a most anxious solicitude for the welfare of this memorial, I wished to know the possibilities of this committee, and naturally sought an investigation of what it had done heretofore. I asked the clerk of that committee for the Journals of the Forty-fifth and Forty-fourth and Forty-third Congresses, and, to my surprise and to my alarm, he said there were no such Journals in his possession, and that the tradition was handed down to him that this committee had hitherto held no sessions nor made any reports. Encouraged with no committee prestige, guided by no precedent, and unsustained unanimously by the committee itself, we with diffidence not unbecoming our surroundings have offered the following report which I send to the Clerk's desk to be read, and wish to be included as a part of my remarks.

The Clerk read as follows:

The Committee on Agriculture, to whom was referred a memorial from the National Cotton Exchange, setting forth the great loss of wealth to the people of the South through the ravages of the cotton-worm and other insects injurious to the cotton-plant, and calling upon Congress to appropriate $50,000 to enable a commission of entomologists to make thorough investigation of the subject, respectfully report by offering the following:

We have given the subject much attention, and fully recognize the force of the argument and facts set forth in the memorial and the great importance of the investigation to the people of the South. We find already in existence a commission of three entomologists, whose eminence, ability, and competency are on every hand acknowledged.

The United States entomological commission, working under the Interior Department, was originally created to investigate the locust or grasshopper scourge of the West, and their first report, judging from the opinions of the western members and others most competent to speak, is a marvel of practical and scientific investigation, and one of the most useful and creditable works ever issued by the Government. A second report by the commission on this and other insect pests, of national importance, has just been ordered by Congress, and is ready for the press.

This commission was charged by Congress a year ago with the investigation of the cotton-worm and other insects injurious to the cotton-plant, and Professor Riley, chief of the commission, who has more particularly had charge of the southern part of the commission's work, has recently issued a preliminary report, Bulletin No. 3, on the cotton-worm, which, considering the meager appropriation of $5,000 placed at its command by Congress, is remarkable for its thoroughness and practical value; and a fitting part of the work has been done during the past fifteen years in economic entomology, and which has earned for him honors both at home and abroad. We find that the investigation by the Government is largely due to his efforts and intelligent appreciation of its importance, that it has been under his direction from the beginning, and that the people of the South have faith in his management of the inquiry, as shown alike by the expressions of the press and the commendation of his work by the memorialists. We find that a large amount of important and yet unpublished material and data has already been accumulated by the commission, that an appropriation for the purpose has been duly asked for by the Secretary of the Interior, and that plans have been perfected for the coming year's work.

It has been urged that work such as this commission is called upon to perform should be done by the Department of Agriculture, which has a regular entomologist. We do not deem it necessary to review the action of Congress in creating a special commission and placing it under the Department of the Interior.

Having the interests of the Department of Agriculture at heart, and desiring to see its scope enlarged and its usefulness increased, and having the utmost confidence in the ability of the entomologist in that Department, we should, were it a question of creating a new commission, unhesitatingly recommend that it be placed under the direction of the Commissioner of Agriculture; but the practical and scientific value of the results to flow from any such investigation greatly depends on the special fitness and ability of those charged with the work, and as these qualities on the part of the United States entomological commission are nowhere questioned, and having carefully weighed all the facts, we are convinced that there is nothing to gain, and possibly much to lose, by any present change, and that by giving the commission the means to complete this special work results will be reached, in the language of the memorialists, "profitable to the cotton interests, creditable to science and the Government, and, by adding substantially to the exportable values of the country, conducing to the general good, as any increase in the volume and value of exports necessarily strengthens the national credit:" Therefore,

Be it resolved, That the Committee on Agriculture do hereby recommend to the Committee on Appropriations that an appropriation of $25,000 be made to the United States entomological commission, according to the estimates already submitted by the Secretary of the Interior, for the purpose of enabling said commission to continue and complete the special investigation with which it has been charged in relation to the Rocky Mountain locust or western grasshopper and the cotton-worm and other insects injurious to the cotton-plant; and that the said commission be not authorized to extend its investigations to any other insects, and that they be required to complete their investigations and make their report to the Commissioner of Agriculture on or before the 30th of June, 1881.

Mr. PERSONS. That report, Mr. Speaker, shows what a majority, yes, fully two-thirds, of the Agriculture Committee deemed most advisable. The reasons are therein given why we thought it best to continue the United States entomological commission, it being composed of three of the most distinguished scientists of their profession. As is said in the report, we could not do better; we might do worse; and I believe we would do infinitely worse. But the minority, who have also seen fit to make a report, allege that they are chiefly moved to this course because they consider the entomological commission as antagonistic to the Agricultural Department. They surely do not mean that those making and sustaining the majority report are unfriendly to that Department. If so, I here in my place speak for myself, and the others can as well protect themselves, as against any such allegation. Then I say here in the presence of this body that I challenge any man on that committee to name one before myself who at any time when in considering the interests of that Department counseled the committee to demand more that would prosper and dignify that Department. I was, I submit, oftener cautioned than encouraged. But I will have the minority report read also, that we may examine the objections to a continuance of the United States entomological commission and the condemnation of the majority report.

The Clerk read as follows:

The undersigned, members of the Committee on Agriculture, beg leave to report that they feel compelled to dissent from the views of a majority of the Committee on Agriculture upon the memorial of the United States Cotton Exchange, praying for the appointment of a committee of entomologists to investigate the history, habits, and ravages of the cotton-worm.

The majority report recommends that an appropriation be made for the continu

ance of the United States entomological commission, who shall be intrusted with the investigation prayed for in the memorial.

The protest of the minority is based upon the following facts:

First. In 1877 the United States entomological commission was organized for a specific work, to wit, to investigate the history, habits, and ravages of the Rocky Mountain locust or grasshopper; and, at the date of its organization $18,000 were appropriated for said investigation, $9,000 of which were to pay the annual salaries of three entomologists, and $9,000 for the contingent and incidental expenses of the commission. Within twelve months from the date of its organization the United States entomological commission published a report of over seven hundred and fifty pages of closely printed matter upon the Rocky Mountain locust, which, from the subsequent conduct of the commission, induces the belief that it is practically exhaustive.

In 1878 the commission asked for and received $10,000 "to continue and complete" the aforesaid investigation. (See sundry civil act of 1878.)

Following this appropriation no subsequent report was made by the commission.

In 1879 an additional appropriation of $10,000 was asked for and received "to continue and complete" the investigation of the Rocky Mountain locust, to which appropriation were added by the House the words "and cotton-worm." (See sundry civil act of 1879.)

During 1879 no report was made by the commission upon either the grasshopper or the cotton-worm, but in lieu thereof a small compiled pamphlet was published descriptive of the "chinch-bug" and its ravages, not a page of which was original with this commission as a commission, nor was one dollar of this appropriation expended in investigating the ravages of the cotton-worm.

Second. In 1878 $5,000 were appropriated for the investigation of the ravages of the cotton-worm through the Agricultural Department, which has resulted in the publication of a report practically exhaustive, now in the hands of the printer, and but for delay in the Public Printing Office would have been distributed months ago.

Third. During the first (the extra) session of the Forty-sixth Congress the Committee on Appropriations recommended that $5,000 be appropriated to continue the investigation of the ravages of the cotton-worm, which amount was, in the House, transferred to the United States entomological commission. From the expenditure of this amount by the commission has resulted the publication of a pamphlet of one hundred and forty-four pages, containing nothing practically valuable that is not contained in the report previously issued by the entomological division of the Agricultural Department.

Fourth. The United States entomological commission for the third time asks for $10,000 "to complete" the investigation of the history, habits, and ravages of the Rocky Mountain locust, and accompanies it with a requisition for $15,000 "to continue and complete" the investigation of the ravages of the cotton-worm. To grant this appropriation would, in the judgment of the undersigned, be continuing, through three entomologists with high salaries, a work that can be as expeditiously and efficiently performed through the Agricultural Department for one-half the money.

Fifth. The United States entomological commission is under the supervision of the Interior Department, and it is the expressed opinion of the Secretary of the Interior that the duties assigned them should be performed by the entomological division of the Agricultural Department; and, furthermore, it is his expressed wish that, should another appropriation be made for these investigations, they be transferred to the supervision of the Agricultural Department.

Sixth. The United States entomological commission, which was created for a specific purpose, has crept beyond its legitimate province, and, without having completed anything, has expended $43,000 in three years, $25,000 of which were consumed in salaries. Nor is there the least tangible evidence that the assigned work will be completed during the next fiscal year, for the requisition states specifically that the appropriation is asked for "to continue and complete the investigation of the Rocky Mountain locust, the cotton-worm, and other insects injurious to agriculture," a field greatly enlarged beyond that for which any appropriation has heretofore been asked for. Moreover, a member of this commission, styling himself "secretary of the United States entomological commission," has recently published a letter in which are these words: "Should we get another appropriation we shall, besides the locust and cotton-worm, pay especial attention to the wheat and corn insects."

Seventh. Another appropriation to the United States entomological commission establishes a permanent entomological bureau outside the Agricultural Department to the injury and disintegration of the entomological division of that Department.

The undersigned, therefore, respectfully submit the following:

Resolved, That $10,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be immediately available, out of any money in the Treasury not otherwise appropriated, for the purpose of investigating, through the entomological division of the Agricultural Department, the history, habits, and ravages of insects injurious to agriculture.

D. WYATT AIKEN.
WALTER L. STEELE.
G. G. DIBRELL.
WM. GODSHALK.

Mr. PERSONS. Now, be it remembered we were no more responsible for the creation of this commission nor the expense which it has entailed than for the memorial which was referred to us. A former Congress saw fit to create it and to affix the salaries, and this was in no way a subject of consideration for the committee. It was already existent; its ability was undisputed, its work commended; it had given a year's time to the investigation of the cotton pests; it has on hand a large amount of material, digested and undigested, formulated and unformulated, and for half the money asked for in the memorial it promised to show results not attainable elsewhere, we believed, at any cost.

But as to the objections to our so doing. It is a matter of complaint that within twelve months from the organization of this commission that it published a report of over seven hundred and fifty pages of closely printed matter upon the Rocky Mountain locust. Pray tell us, was this too many pages, or was the report too closely printed? If neither of these, do they assume only to condemn the work in that it was practically exhaustive? But in 1878 $10,000 was appropriated without any report, it is alleged.

Perhaps complaints of having done too much the year before had already arisen, and taking a considerate view of things it deemed it best not to report further until the number of pages and the print had been correctly adjusted. But in the year 1879 Congress directed it to investigate likewise the cotton-worm, and in addition to a bulletin issued by Professor Riley upon this insect, which is more in demand than any other, indeed, I believe I would be within the limits of propriety did I say all other books published by the Government last year, this commission maliciously, feloniously, and without warrant of law laid bloody and murderous hands upon the "chinch-bug." If I comprehend the situation as matters now stand, I think the minority do not mean to defend chinch-bugs. As reckless as they have shown themselves in this report, they surely have not gone to that extreme. Then it was not that chinch-bugs were killed, but illegally, it may be unlawfully, killed; but I, not sitting as a court, did not take cognizance of that crime in my investigations. But I am amazed when told that of the appropriation of 1879 not one dollar was expended in investigating the cotton-worm, for right before my eyes is the bulletin of Riley, purporting to give his investigations, and if gotten up without the cost of a dollar it must have been because the southern cotton-growers were quite too glad to see him to charge him hack hire or board.

But we are told that the Agricultural Department in 1878 practically exhausted the cotton-worm investigation. Did they mean theoretically or did they use practically in a Pickwickian sense? I have no fears that entomologists will make no progress in these investigations after the commission and the Department shall each have given another year's work to it. But this commission has already cost $43,000, we are told. Well, our Army costs that much per week to protect property from the ravages of Indians, and grasshoppers and cotton-worms have destroyed crops in one year far exceeding in amount the whole property destroyed by the Indians during the last hundred years. But the gravest charge yet made is to be met. This commission means, we are told, not only to continue and complete the investigations of locusts and cotton-worms, but likewise other insects injurious to agriculture. Now this other insect injurious to agriculture is italicized, and I trust it will go in the RECORD italicized in justice to the minority, who at much pains and with great energy and relentless resolve italicized it. I cannot believe the commission means to do anything of the kind, but if they do, be it known to them it is at their own peril. They must not expect me to defend them. In passing I will remark that I do not see anywhere in their report where they recommend that the commission punish, instead, insects beneficial to agriculture.

But they quicken our grief to the very verge of despair when they tell us that one styling himself secretary of the United States entomological commission says if another appropriation be secured, besides the locust and worms it means to pay special attention to wheat and corn insects. Think of that, my countrymen, in all of its length and breadth and depth and height. A declaration so shocking to the soul, so revolting to reason, I would gladly be relieved from any repetition of; but it is due to the harmonies of that report that I should again remind you that, locusts and worms disposed of, this secretary means to pay special attention to wheat and corn insects. Now, I have no apology to offer for this infuriated secretary; on the contrary, I say to him I am sure this minority do not intend to stand that, and if he is in earnest in this threat he had better pool issues with the Indians, and assist in escaping from the control of the Secretary of the Interior and seek protection under the Secretary of War.

Lastly, we are told that the perpetuation for one year more of the entomological commission will disintegrate the entomological division of the Agricultural Department. Now, be it known that division consists of one solitary, lone young man, who less than ten years ago was not reasonably expected to know a June-bug from a July-fly. But dowered with a good measure of talent and with more than usual aptitude for entomology he devoted himself studiously to that science, and having already won much distinction for one of his years and raising expectation to the highest tension as to his future attainments, woe is me, my measure of grief is full to the very brim as I contemplate him threatened with imminent and remorseless disintegration. It may be somewhat consolatory to him, however, that it is disintegration and not cremation with which he is imperiled. Yet I most solemnly declare that I will stand abreast with the most valiant of this minority in voting all the supplies necessary and in invoking the whole power of this Government, with its Army, Navy, and deputy marshals, (if any,) in protecting this single-horse division, this lone professor, against a dire and brutal disintegration.

Soberly, Mr. Speaker, this minority deserves to be excused but not supported in this untenable protest. They are most loyal to the Agricultural Department, and for this they are to be commended; they are the unfailing apologists for all of its short-comings and misdoings, and for this they are to be pitied; and I verily believe they reckon that the success of the commission would shame rather than assist the Agricultural Department. They seem to recognize an antagonism between the commission and the Department, and as in duty bound take sides with the latter. I see no such antagonism. With the personal aspirations of the men engaged I have nothing to do, I have no concern. I have never paused to consider whether our action would benefit most the commission or the Department, but another thing entirely, namely, the pecuniary interest of the agricultural classes of our country. Little boots it to the farmers to whom shall be given the glory of extirpating the pests that have visited upon them such appalling calamities. I was confronted with a much more serious inquiry and was concerned, as the whole country is concerned, in making no mistake in the answer. The question was: Should the Agricultural Department be dignified or should the worm be destroyed? My answer is embodied in the majority report.

POLITICAL ASSESSMENTS.

Mr. KITCHIN. Mr. Speaker, I trust I may be pardoned for trespassing upon the time of the House, as I have consumed but a few minutes during this session; nor would I now presume to exercise this prerogative, if I did not feel it was due myself and the good people whom I represent, to make known their sentiments and feelings on this question and others of like nature, now agitating this House and the country to which we all belong. And nothing but the great interest I have in the prosperity and future glory of our common country, and the deep and abiding love which I hold in common with my people for the Union of the States could induce me to commit so bold an act, novice as I am in politics, as attempting to deliver a speech to this body, in my rough, candid, and, I trust, honest style. In the outset allow me to declare, that I speak for myself only and not for the democratic side of this Chamber; though I believe I shall express the sentiments and principles of the great democratic heart of the country, whose throbbings and pulsations will sooner or later bring to light the now buried principles of republicanism, and cause them to so flourish and prosper, that they will overshadow the American continent with their increasing glory.

As to the bill under consideration, I have not been able, after the closest scrutiny and severest investigation, to come to an intelligent and safe conclusion. The principles embodied in this bill, and the wrongs sought to be remedied, constitute the corner-stone of all pure republics, and the seeds of their downfall, or the channel through which they run into monarchies or despotisms. The facts admitted and established beyond controversy, show to the country the damaging and corrupting influences of money in election campaigns. Another prominent fact appears to be settled beyond dispute; that is, the total corruption and depravity of the managers of the republican party, and their wicked determination to hold and keep in power that party, at all hazards, and at any cost, even should it require the annihilation of every honest principle of the civil service, or the destruction and overthrow of the Constitution and the Republic itself. And to my mind this has almost ceased to be a republic, except in name.

No government can be republican in spirit when the majority does not rule by a free and untrammeled expression of its choice at the ballot-box; and this choice cannot be free where money is used to overreach and sway the judgments and opinions of the electors. If the elector could vote as moved by his sober judgment, apart from the demoralizing and corrupting influences of money and partisan prejudice, his liberties and general rights would be secure from the death-grasp of the usurper. But a large majority of mankind is so constituted that the love of money and power are the ruling passions of their lives. This passion for money and power is so strong in the human heart, unless some check can be devised to curb and bridle it in its proper and legitimate sphere, the most sanguine believers in, and ardent supporters of this Government cannot longer reasonably hope for its perpetuity, in its original robes of republican grandeur.

We are no better, if so good, than the millions who have lived and died before us; and back near two thousand years ago, when our Lord and Master lived and had His lot among us, God-man as He was, He could not, or at least did not, from among all the millions who then lived, select twelve honest men to be the heralds of His glorious salvation to fallen man. Even among this small and select number there was a Judas, who for thirty pieces of silver betrayed, and surrendered his King into the hands of His enemies, to be scourged and then crucified.

From that period to this, history is replete with examples of man's infidelity to principle, when interest and profit were on the side of infidelity; and I confess I entertain no hopes of seeing this evil principle of our fallen nature eradicated in this age and generation of sin and iniquity; but we ought to unite our efforts in some scheme to prevent, as far as possible, the corruption of the channels of public service, and to punish the violators of the rules of civil-service reform.

The number of Government officials, agents, and employés amount to near a half million souls. With this mighty army, fed and clothed, and paid large salaries out of the public coffers, and under command of the Government, or rather of the republican party, as that party and the Government seem to be synonymous terms, the dominant party enters every political contest. Each one subscribing only $1 would raise a corruption fund sufficient to destroy the honest public sentiment of the country. This is a great evil and wrong, and is to be deplored. But where is the remedy, and how can it be successfully applied? This is the momentous question, and who can give the solution? Can you constitutionally forbid the beneficiary to give back to his benefactor a part of his donation, that he may receive, in his turn, tenfold more? Is there any constitional power in this body to limit the use of my money, or say to what purpose I shall or shall not apply it? I trust, sir, this bill may be so amended as to not only meet the approbation of this side of the House, but the whole country.

But we have no grounds upon which to hope, nor is it expected, that any measure that tends to retrenching expenditures and reforming the civil service, will receive the effective support of the other side of this Chamber. They have been so long in the rut of extravagance and corruption, that it is too great a strain upon their mental and moral natures, to make a somersault in the direction of retrenchment and reform. They have become so accustomed to have themselves and friends fed out of the public crib, that they cannot even measure their capacity for want. It has come to pass, that any legislation restraining expenditures in the Departments is mere child's play. One Department demands $5,900,000; every dollar is granted. In less than eight months $2,000,000 more is demanded, with a threat if not granted your mail service shall stop; and before you can open the door of the Federal Treasury and invite your Postmaster-General to walk in, the Public Printer is thundering at your heels; but this republican official, not having a maw so large as the other, and being a little more modest, demands a little less than half a million dollars. In order not to be guilty of self-stultification and to save time, it might be best to give to the head of each Department free access to the Treasury; and I do not know that it would cost the people any more than now, as each Department gets about all it demands in the end.

You have attempted to prohibit the giving of money for political purposes; do you expect obedience to this prohibition, should it be made? You declared by statute that the Postmaster-General should have and expend $5,900,000 for the fiscal year ending June 30, 1880, and he squandered more than four-fifths of that amount in less than two-thirds of the time, and you have made good all these deficiencies, and that too after charging fraud and corruption. Should the bill referred to, or any other of like nature, become a law it would be a dead letter upon your statute-book. You do not even attempt to punish, when millions of dollars are used in contravention of law by the chief captains of the Departments, and the apostles of civil-service reform; and how could you muster up courage to punish an insignificant employé or appointee of the Government, for aiding with his mite in keeping his party in power?

The most remarkable feature that I have noticed in this House, in public debate, on questions of reform, is the readiness and certainty of the other side of the Chamber, to meet all issues of fraud and corruption, charged by this side on their leaders and chief men, simply by shaking that crimsoned, tattered garment known as the bloody shirt, the political tiger to convince the ignorant and timid, that the South is still firing on Fort Sumter. In every campaign treason is the watchword and rebel the scare-crow, by which honest, unsophisticated, patriotic people, are deterred from voting the democratic ticket.

Attempt reform, or to bring the old ship of state back to its constitutional moorings, from which it has drifted under republican pilotage, and we are at once taunted by the other side of the Chamber, that we are but pardoned criminals, that we are still traitors at heart, seeking to do by legislation what we failed to do in arms. How long will this false charge, this ignoble, unmanly appeal, be resorted to by the other side of this Chamber, to stir the blood and arouse the bitter feelings and passions of our northern countrymen against us? How long, in the name of justice, before the intelligence and wisdom of the North will penetrate the veil and fathom the depths of these malicious, false, and slanderous charges? Will they continue to sleep until the birthright of every American citizen shall have been surrendered into the hands of a dictator; until the flag of the fathers, the flag of the Union, shall become the emblem of the tyrant's will? I hope not. The hopeful seem to see the silver lining behind the overshadowing clouds, as they lower in darkness, around them. Whether their dream is to become a reality, is for time to demonstrate; it is yet in the clouded future, and may there forever remain.

Could this rock of offense, this corruption in official station, be removed, this deadly poison to popular suffrage be eradicated, this withering, blighting curse of all republican forms of government be eliminated from politics, we would indeed and in truth possess the noblest, the purest, and the best government on God's footstool; and any measure calculated and intended to bring about this grand and glorious result, ought to receive the cheerful support of every member of this House, and the cheering plaudits of all the people of the States. It would be a new departure upon the road of prosperity, the ushering in of a bright and happy period, in the history of these United States. Yes, Mr. Speaker, these United States, the grand combination title by which they were called into existence by Washington, Jefferson, Madison, and the host of patriots who lived and acted in the days of their country's glory. But how to reach and remove these evils, and how to eliminate them from the politics of this age and generation, I confess my inability to devise a scheme. But there ought not to be any evil or wrong in our system of government, for which there is no remedy, and there is not; but that remedy is to me, a sealed book; and we may be like the doctor, whose patient dies before he discovers the antidote to the poison.

But, however obscured the remedy, we ought not to falter until it has been discovered, and applied to the evil. Yet when any effort is made by this side of the House, to ascertain the defects and wrongs, and bring about a reformation in the civil service, bad and wicked motives are at once imputed, and we are not only charged with high crimes and misdemeanors, but with treason. This all honest, intelligent people must know, is done for the purpose, and no other, of weakening the influence of the democratic side of the Chamber, and retaining in power the republican party. Were we to bow as inferiors, in abject submission, begging pardon, and seeking mercy for our alleged crimes, or, in other words, if we would only affiliate with the republican party, we would be received with open arms in full fellowship, as coequals in the administration of the Government. Such criminations and antagonistic demonstrations on this floor, are proofs conclusive that prejudice and partisan feelings have stronger hold on the

affections of gentlemen, than patriotism and the love of justice. It is admitted by all, that the corrupt use of money in political campaigns is in contravention of the great fundamental principles upon which the citadel of our liberties is reared; but how to use the pruning-knife, and upon whom shall it be used, are pregnant questions, that must be answered, or our Government must be a failure as a republic. We cannot expect pure water from a corrupt fountain, nor the stream to run pure where its sources are continually furnishing fresh supplies, impregnated with poison. The only hope to purify the channel, is to go to the fountain-head and extract the poison before it runs with the otherwise unadulterated waters in the streams below.

Politically speaking, and politically applied, the shortest route and the speediest way to accomplish so grand and so desirable result, to my mind, would be a return to the great principles upon which the superstructure of our political edifice was originally based—that is, that the Government was created for the people, and not the people for the Government; that its officers are the servants of the people, and not the people the servants of the officers; that each officer is responsible to the people for his conduct, both public and private, and that the emoluments and perquisites of no office or position shall be so large as to offer inducements and premiums to unscrupulous and ambitious office-seekers, to obtain it; but let the position seek the man of merit, ability, integrity, and sterling worth. Go back to the ways of the fathers when such men as Adams, Jefferson, Madison, and other shining lights in the political heavens, in their day, were willing to serve the people for a reasonable salary. Webster, Clay, Calhoun, and Benton thought it not a burden, nor below their dignity, nor unworthy their talent to become the people's servants for $1,000 per annum. But now, in the days of aggression and degeneracy, a superannuated statesman, or a windy grog-shop orator, or an unsuccessful and rejected attorney, a newspaper editor who never had an idea to rise above self, or a bankrupt merchant who has been a success in his own financial ruin, and not unlike all the above-named gentry, is fully equipped and prepared to serve the dear people, with the same kind of success that marked his own downward career, must have from one to fifty thousand dollars per annum.

Put in the pruning-knife at the head, and lop off from 25 to 50 per cent. of all salaries down to the lowest official; then you will have reached the fountain-head of corruption, the source from which flows the putrid stench that gives offense to honest people, and from which the streams of corruption issue, and are conveyed all over the country, in the various meanderings and windings of the civil service. Take away the means and sources of corruption, remove the temptation, reduce salaries, and let the people have a visible, tangible proof of our sincerity in our professions of retrenchment and reform.

Mr. Speaker, it is very common to hear officials and even members of Congress, complaining, that the Government does not half pay its agents, and that they could do better at home. This may be true in some few cases; but, sir, in ninety-three out of every hundred it is untrue, and most of them are doing better than ever before, and are enabled, if so disposed, to save a corruption fund, to aid in getting themselves back in office at the expiration of their term. But if this declaration was true, these unfortunate victims of public starvation are under neither legal nor moral obligation to serve the country, at so great a loss to themselves, in contradistinction to others, who are eager and anxious to become victims to such starvation; and to quietly submit to such losses and deprivations for the sake of serving their country. Let all such at once disrobe, shuffle off the official mantle, and return to private life, where comfort, luxury, ease, and wealth and the sources of wealth so abundantly abound.

But while I am on this branch of the subject I may as well point out what to me appears to be another great hinderance and drawback to civil-service reform. The laws upon your statute-books offer a premium for negligence, irregularities, and malfeasance in the various Departments. You fix the amount of money to be expended in each Department, by its head for each fiscal year, and then declare that he shall not use any more for that specified time, without creating any penalty for its violation. The result is the heads of the Departments, overstep the limits fixed by law, by thousands and millions of dollars, violating the statutes, with a boldness and defiance unparalleled in any modern times. And yet the Congress of the United States, whose generosity is limited only by its capacity, recklessly votes the deficiencies by millions out of the people's exchequer, as though money grew on trees or flowed in streams. This, I believe, is wrong; I believe it encourages extravagance. I believe that progress would be made rapidly in the direction of retrenchment and civil-service reform, if the amounts were fixed for each Department, and at the same time forbidding the expenditure of any larger sums for the time specified, under any circumstances, under a severe penalty, and hold each individual to a strict accountability for any violation of the law, and inflict the severest penalties for its violations.

Teach the office-holders, that they are the servants of the people instead of their masters, and that they must expend the money under their control for the purposes named and no other, and expend no more than is granted. Should some such plan as this be adopted and followed, we would have no more deficiency bills, except in cases of extreme and great emergencies. The discretion allowed the heads of different branches of the Government has begotten, and engendered a spirit of looseness and extravagance, among high officials, wonderful and appalling to contemplate.

And this is the natural and inevitable result, and outgrowth of the spirit of the times and general surroundings. The severe and tempting ordeal through which the country has passed, during the last fifteen years, has of necessity begotten and nurtured a spirit of extravagance and irresponsibility, not only among the masses of the people generally, but it has crept into the various branches and ramifications of the Government. This spirit of dangerous and reckless laxity, irresponsibility and extravagance, has thoroughly permeated every branch of business, both public and private. The very air we breathe, social and political, seems to be impregnated and dangerously contaminated with the same spirit; and any remedy that will drive this spirit from the business circle and body-politic, or deaden its corrupting and blasting influences, will render most efficient service, in bringing the ship of state back into constitutional waters, and its legitimate channel. To the discretion granted to our rulers by common consent, and to the law-making power, we may trace nearly all the evils which have sprung up in the Departments, and especially in the civil-service arm of the Government.

Man must err so long as he is human, or the laws of nature must be suspended or reversed; thus the necessity for checks and balances to all his acts; and what is true of man as an individual is true of him as a body corporate or politic. Thus it was that the framers of this noble system of government, in their wisdom and far-seeing vision, saw the necessity of keeping separate and distinct the three main branches of the Government, not allowing the one to encroach or trench upon the other. Then we were in our infancy as a confederacy, just emerging from political bondage, with insignificant motives and incentives to ambitious schemers for power and wealth. But now we have grown and expanded in wealth, and power, and territory, as the natural results of the powers of intelligence over ignorance and bondage, until our commerce with its wealth and civilizing influences covers the seas as the stars gem the heavens, seen and recognized to the ends of the earth. The flag of the Union, the emblem of liberty and power, is not only respected and honored by all the nations and kingdoms of the world, but by many loved and by all feared. To be in a position to claim and receive its protection, is to be an American citizen, the proudest title and noblest heritage bequeathed to man by the fathers of the Republic. With such a Republic full of blessings to this generation and to the generations yet in the future, if rescued and saved from the tread of the tyrant and his iron grasp, what a weighty responsibility is devolved upon those who it may be are now shaping the future and final destiny of the American Union.

Step by step has the Federal Government, in all its branches, and with all its machinery and appliances, invaded the sovereign rights of the people, and the States, until the Federal judiciary has recently overreached itself, and reversed its decisions made for the last ninety years, and decided that the Federal authority can supervise the State elections, a fallacy and an infidelity to constitutional principles which never entered the brain, profound and deep as it was, of Alexander Hamilton, the father, so to speak, of federalism. This may be constitutional. I may not possess the legal ability, and learning, to determine a question of such stupendous magnitude and vast importance to the American people; but I will say, it was reserved for this age, and the present Supreme Court of the United States, under a republican administration, with a so-called President in the White House who never received a majority of the votes of the American people, or a majority of the electoral vote, or a majority of the States, to so decide.

Sir, it belongs to the domain of history, though fresh in the memory of us all, when the political goddess of liberty refused her light, emitting not one ray, nor kindling one spark of hope in the great though agonized American heart, and when the ominous clouds, charged with the thunders of revolution and destruction, shadowed like a pall of death our common country, another tribunal was created outside of and above, and unknown to the Constitution, to history, or the American people. This bastard court, this mongrel deformity, conceived in fear and delivered in iniquity, entirely ignored and cowardly rejected every rule of evidence and law, every principle of justice and fair-dealing, and overruled the expressed will of the American people, and placed at the head of the Government a fraud, not in accordance with the Constitution, but by the authority and sanction of Congress. It will live in the archives of time, and on the pages of history, as a black spot on American patriotism and manhood, and a lesson for the future.

Mr. Speaker, it is with no prophetic vision, that I assert there is not far in the future a day of righteous retribution in store for those who concocted and perpetrated these outrages and crimes against the Constitution. From the great storehouse of Jehovah's eternal justice, will be hurled the thunderbolts of His wrath against the plotters of this political rape of the laws, customs, and Constitution; and the American people, inflamed with fiery indignation, at the extra-constitutional legislation of the Federal Government, and the recent decisions of the Federal judiciary, made over and above the Constitution, will drive from power and place the party who has committed these wrongs upon their reserved rights. The magnetic and galvanic battery, charged with rebel blood, may be put to work to electrify and shock the northern heart, as in the past, but this stupendous fraud will no longer serve as a subterfuge, to fire the hearts of the intellectual and patriotic North, against the southern section of this Union. But, Mr. Speaker, this may look like a digression from the subject

under discussion. I think not. I think the advent to power of the democratic party, and the final defeat and overthrow of the republican party, will do more to unite all sections of this Union, and restore confidence in the northern mind, in the sincerity of the southern people, in their fidelity to the Union and the flag, than any other one thing that could come to pass. It would forever put an end to sectional issues as to past acts. It would be a new departure and a new era in politics, and new issues would spring up, upon which all men could honestly differ in opinion, without being charged with infidelity to principle or treason to our form of government.

But suppose this happy result should not come to pass, the road is still open, the way is still clear to bring back the old chariot of state into the old beaten ways of honesty and economy. There is too much money collected indirectly from the hard earnings of the toiling millions, under the heads of tariff and revenue, half of which at least ought to remain in the pockets of the poor, to feed their helpless and hungry offspring. Let the wealth of the Union remain in the hands of its producers, and cease to extort it from them, under the pretext of necessity, to keep in pomp and splendor an army of fifty thousand officials, whose services could easily be dispensed with, without detriment to the Government. A ship cannot float without water, nor a balloon without air, nor will corruption and dishonesty exist in the various branches of this Government, and float around this Capitol, as they do, if it were not for the millions upon millions of money, gathered from the people, and issued out of the Federal exchequer, at the other end of the Avenue, to those who never labored for its creation or earned its value.

I undertake to assert that this Government can be run successfully, if wisely and judiciously managed, with $20,000,000 less than was appropriated the last fiscal year. To do this we must, it is true, abolish a great many offices, employ a great many less servants and agents, and reduce fees and salaries as before suggested; and stop the extravagance of the officials, by limiting and hedging in their discretion, and by inflicting the severest penalties for the violation of any statutory limitation, even at the suggestion and "earnest solicitation of one or forty Congressmen." It was once said by one wiser than man, that the love of money was the root of all evil. That one is good authority down in my country, I believe, to-day. How he is here I am not prepared to say. I do not intend to make any fight against money or its legitimate use by its legal owners; but I do mean to say that as long as the people, through their representatives here, allow themselves to be taxed out of their daily labor, to the enormous and fabulous sum of near $300,000,000, just so long will they be hewers of wood and drawers of water for the office-holders, bankers, bondholders, and the wealthy corporations of the country; and they may, or we may, preach reformation from every valley, hill-top, house-top, and mountain-top in this land, with a repleted treasure furnished by the people, and it will fall as harmless upon those in power, as the dews of heaven upon the rock of Gibraltar.

The odious and oppressive laws, by which the people are burdened, found their way upon the statute-books through partisan, sectional, and partial legislation, under republican domination, when the people were sovereign only in theory, and were ruled as with a rod of iron by their masters, and had no more to do with shaping public policy and directing public affairs, than in directing the course and giving motion and light to the heavenly bodies. Now, if they desire these obnoxious laws modified, they must by the exercise of their inherent rights, elect men to this body, who are not only pledged to their modification, but who are bound by principle and interest to their repeal or modification. When this happy period shall arrive, Congress will cease to protect, with its elastic shield, Pennsylvania's steel and iron baby mongers, yet strong enough to control legislation, and New England's infant manufacturers, hoary with age, yet pleading minority and demanding protection.

Now, Mr. Speaker, if I have rambled, in the remarks I have attempted to make, in behalf of order No. 1 issued by Fraud No. 1, I hope I may be pardoned, at least for any error I may have committed in not sticking closer to my text, as I have for my pattern the example set by the "summit" of the human family, who said, "Let us have peace," and thereafter dispersed legislative bodies at the point of the bayonet; and who said, "Let no guilty man escape," but thereafter brought all the power and official influence of his station to bear, that the most guilty might go unwhipped of justice.

Disguise and cover as we may the patronage of the Executive, there is no potentate or king in modern times, who wields such influence and power in the administration of which he is head. As now practiced, the Executive is to the confederated Union, what the heart is to the body, sending out its life-blood through every member, to be brought back to itself. The mind is staggered to comprehend the evil results, growing out of this enormous concentration of power, in the hands of the President of the United States. It may in truth be said, that he, either directly or indirectly, makes every executive appointment over this broad territory, reaching from the lakes to the Gulf, from the ocean on the eastern confines to the limit of civilization beyond the Rocky Mountains of the West. Instead of being the agent or channel through which the million of springs and tributaries flow to the great political ocean, to be given back as the waters of the seas are returned to the earth, he has become the great and illimitable reservoir for the reception of power, influence, patronage, and revenues, never to be surrendered or distributed for the general good of the people, but to be utilized for himself, and the moneyed combinations of the country, and to retain in power the political organization to which he belongs. This is all contrary to the spirit and genius of our institutions, to the future welfare of the people as a confederated Union, and to the perpetuation of that Union.

If the avowed purpose of the consolidationists is to change this so-called Republic to a kingdom or monarchy, they could not have adopted and pursued methods more suited to bring about that result, without a bloody revolution. Any other plan than the one adopted, would have cost the leaders their heads; and now if the purpose was declared openly and boldly to set up a kingdom, its authors and advocates would be compelled even in the pine lands of Maine, to call on the rocks and mountains to shelter them from the deep damnation of the Maineites. But under cover of republicanism and liberty, hiding the great object in view, they have triumphantly and systematically advanced step by step on the citadel of human freedom, and burrowed with their sappers and miners beneath its foundations, until the old temple is shaking on its granite pillars, almost ready to topple to the ground. Ambitious fanatics, unscrupulous demagogues, and unprincipled men have from time immemorial, seized the standard of liberty and inscribed on it their shibboleth, and made it their covert under which they have marshaled their millions of blinded followers, to pull down and build up governments, baptized in the blood of their deluded and misguided victims.

The tyrant's will and decrees are proclaimed and executed through his courts, in the name of law and justice, while neither ever had a lodgment in the head or heart of his suppliant tool, or his own bosom. History and sad experience prove beyond dispute, that in the forms of law and in the robes of justice, through the courts, with willingly corrupt judges presiding, nine-tenths of the crimes against liberty have been committed. And through these instrumentalities, the Executive and the courts combined, have come and will come all the dangers to the perpetuity of the Union of the States. The time has been within the memory of most of us on this floor, when the Federal judiciary was considered a safe expounder and interpreter of the Constitution and the laws; when each State and every citizen of each State felt that right would rule and justice prevail on an appeal to the highest tribunal recognized by the Constitution. In those good old days of the Republic, it was never deemed wise or thought expedient to reorganize or pack this tribunal, in order to draw from it a decision in accord with the ideas and prevailing opinion of the dominant party. But such has been the pressure, and the straits to which the dominant party has been driven, by its usurpations of the reserved right of the people, and its outrageous encroachments and infractions upon the Constitution, that to give color to the infringements of the one, and the violation of the other, it was compelled in self-defense, to reconstruct the court, with such material as could be shaped into images like unto its own gods. It was never anticipated by the framers of the Constitution that Congress would trample that instrument under foot, and at the same time that the Supreme Court would give its authority and sanction to such revolutionary measures. It was deemed a sufficient guarantee to the States, that its members were elected by the people of the States, and from among its citizens as citizens of the particular State from which elected, and not as citizens of the United States as a whole; that each member would have manhood, patriotism, and State pride enough to at least not trample upon her unsurrendered rights and betray his trust; that her interest and her rights would at least be protected in the hands of her own children. And that this is not true, is the eighth wonder of the world.

The framers of the Constitution feared the usurpations and patronage of the Executive, but relied implicitly on Congress and the Supreme Court keeping him within the limits and bounds of that instrument; but lapse of time and experience have demonstrated to a mathematical certainty, that not only the Executive must be watched and feared, but also the Supreme Court, and I might not be far from the truth should I say Congress as well.

From the beginning two prominent fundamental antagonistic ideas were entertained by the American people. One idea was to consolidate all the States and make the General Government supreme in all matters of every kind over the thirteen colonies, afterward States; the other was to keep the line of demarkation strictly drawn between the States and the Federal Government. This latter idea prevailed, and the Constitution was the result. These two ideas or principles, or these two contending parties, have been warring against each other from that day until this, with victory proudly perching on the banner of the strict constructionists, until the last two decades, when the tide turned, and has since flowed rapidly in favor of the consolidationists.

But this tidal wave of federalism and centralization had not its origin, and gathered not its strength from the people, but from office-holders and money controllers, those who levy and collect the revenues, and handle and use the people's funds; and for this reason I have not wholly despaired of the Republic, trusting in the honesty, integrity, patriotism, and intelligence of the people, believing, as I do, that when made to see the surrounding dangers that threaten the overthrow of their duplex system of government; that when once aroused from that lethargic state, into which they have been led by their overweening confidence in their leaders and in the Federal judiciary, they will rise up in their power and authority and demand a speedy return to first principles, within the limits of the Constitu-

tion. If there should be no change in the administration, and the executive, legislative, and judicial departments should advance as rapidly on the road to centralization for the next sixteen years as they have in the last sixteen, I believe State lines, State courts, and State governments will cease to be, and the American continent, from lakes to gulf, and from ocean to ocean, will become one consolidated government, ruled by some Cæsar, Cromwell, or Bonaparte. Then oppression may become intolerable and the American people may again assert and maintain their manhood, patriotism, and love of liberty. As before suggested, until the people, the source of all power, authority, and sovereignty, shall cease to slumber on their rights, and shall begin to move in a cause which strikes home to the heart of every patriot, no reformation in any of the departments can confidently be expected.

As the sun is the natural source of heat and light, so are the people the natural source of authority and power; and the influence of the sun can be dispensed with as well in the organic kingdom, as can the inherent sovereignty of the people in a *bona fide* republic. The former would develop and bloom as well without the one, as the latter could exist without the other. To refuse to recognize and act upon this foundation-idea of all republican governments, would be to discard and reject the laws of nature, and act in defiance of a universally admitted truth, that all things, as to us, have a beginning; and what method of reasoning the mind can pursue to reach any other logical conclusion is a mystery to me. And if it be true, that the people formed the colonies, and the colonies the States, and the States the Federal Union, the argument is irresistible that the right and power exist in the people of the States to correct all evils in, and redress all wrongs committed by, their agents, those in authority. When this is accepted as a maxim and acted upon in good faith, we may hope for a speedy return to the principles of justice, honesty, economy, and patriotism.

Should they continue to sleep on their rights, while the political volcano is seething and boiling, ready to emit its eruptions at any time, they may lose their chance to assert and maintain their inalienable rights under the Constitution; for already has the Supreme Court held that the agents of the Federal Government have a constitutional right to be tried by the Federal courts for the violation of State laws. It requires one step more, which can easily be taken by the present court, namely, to declare each citizen of each State a citizen of the Federal Government proper, in contradistinction to the States, and then assume full, complete, and original jurisdiction over his person, property, and life. There is no insuperable obstacle to such a procedure, at least none that the present court could not with ease and alacrity surmount without any sort of an effort on its part. It is sometimes asserted with much plausibility and apparent force, that all religious denominations can prove and establish their theology, doctrines, creeds, and theories of life and death by the Bible. As to its truth or absurdity I shall not stop to inquire, but will simply say, that if the Bible be true, there are but two roads marked out in that book, the one to the right, the other to the left; the one leading to God's kingdom above, the other to the devil's kingdom below; and under the covenant in this book, we inherit eternal life or eternal death. But that document, commonly styled the Constitution, is more pliant and yielding to the opinions of men and parties than the Bible to religious creeds.

It seems to be the most accommodating instrument ever devised by the skill, intellect, and genius of man, or by the wisdom and inspiration of Jehovah himself. Yesterday it claimed no right to interfere with the local and domestic affairs of a State; to-day it disperses a State Legislature with a strong hand at the point of the bayonet. Yesterday it claimed to have no voters to control or suppress; to-day it claims as its own all the voters of the States and the right to inspect and overlook their ballots with its Army, armed with sword, bayonet, and cannon. Yesterday it claimed no right to rescue the delinquent law-breaker and criminal from the legal talons of the State courts; to-day it demands and enforces its right to take from the jurisdiction of the State courts the right to arraign, try, and convict the violators of its laws or to acquit the innocently accused. In fact, there is no reach of power, constitutional stretch, or height of legal or constitutional bounding, to which our Supreme Court cannot with wonderful facility stretch the judicial ermine sufficient to cover. But I mean not to cast any reflection upon or impugn the motives which moved that august tribunal in the course it has taken, nor do I mean to detract from the luminous splendor of its imperial diadem, worn so magnificently and triumphantly, as in its chariot of fire it rolls through the preamble and the body of the Constitution of the United States.

Nor am I surprised at the Administration, educated as it was in the old school of federalism and consolidation, for so organizing that body as to bring it in harmony with its own ideas of nationality, and in unison with its own opinions and notions of the Constitution. To have done otherwise, would have been contrary to human nature, would have done violence to all its antecedents and teachings, and been in opposition to the experience taught by history for the last two thousand years.

As water flows down stream in obedience to the laws of gravitation, so will this Government and its courts, or I might, speaking more accurately, say, so will the republican party continue its encroachments upon the Constitution—the sheet-anchor of all our hopes—and the unlawful and violent invasion of the reserved rights of the people, until met squarely and fairly, and defeated by the free and untrammeled will of the people, expressed through the ballot, in such a manner, and by such a majority, as to convince even the *head* of the human family that this Government was not created solely that he might possess and rule it.

Sir, it would be expecting and demanding too much of human nature, unaided by the abundant grace of God, to even hope for a return to the old landmarks, to the old constitutional channel in which the ship of state gallantly and triumphantly floated, with her pennant kissing the heaven-inspired breeze, with Jefferson as her captain and Jackson as her pilot, so long as the present leaders and rulers remain in power at the head of the Government, in all the Departments, and in all the official stations of honor and trust within the gift of the people.

So long as the people are contented and satisfied to bear the burdens, and to be hewers of wood and drawers of water for their lords and masters, just so long will the yoke of oppression, robbery, and corruption remain locked and bolted upon our helpless necks. As water must either come from the hills, mountains, or clouds above, its natural and legitimate source and origin, so must the spirit of reformation and retrenchment come from the people, the origin, the fountain from which all power is derived and all authority drawn. As long as men are honored and elected to the highest positions in the gift of the people, because of their capacity to talk much, to grab much for their sections, to reward their personal friends, to punish their enemies, to manipulate party organizations, to pack conventions, to manufacture candidates for the highest offices in the land, to pass laws to burden the people, to grant bounties and annuities to rich and powerful corporations, to grant extravagant appropriations out of their principal's funds, to make up deficiencies at the dictation of subordinate officials, to indorse corruption, dishonesty, and extravagance, and to draw and receipt for their salaries, just so long will corruption and extravagance prevail in all the departments and branches of the Government.

In conclusion, allow me to declare most earnestly, that my only hope in the stability and perpetuation of the Union, is in the dormant patriotism, intelligence, common sense, common honesty, and virtuous ambition of the masses of the people, who as yet have not time to administer upon the estate of their forefathers, to take in possession the inheritance to them bequeathed, by the founders of this Government, and to shield, defend, and preserve it, as a glorious and precious inheritance for their progeny. I still believe and hope that before our Republic merges into a monarchy or despotism, these sleeping energies and the rugged virtues of this people, will be aroused to assert their manhood, strength, and dignity, throw off the yoke of bondage and oppression, and put to rout the legions and cohorts of Federal consolidation. He who expects or hopes for relief from those who were born, brought up, and educated in the political school of centralization, will as soon see the leopard change his spots or the Ethiopian change his skin. It would be as natural to see the water in the Nile or the Mississippi flow up stream as to expect or hope for reformation under the present or any possible republican administration. It would be almost as natural, judging from antecedents, to expect and hope for the suspension of the laws of gravitation, as to expect and hope for a return to time-honored principles, and to constitutional limitations, under the lead of the republican politicians and office-holders.

May the day of universal peace, freedom, prosperity, and happiness soon dawn, and the sun of light and full reconciliation rise in his glory from his eastern home, and culminate to his meridian splendor, and shed a flood of light, love, and harmony over a people united in the golden bonds of interest and brotherly love, and bound together by the common memories of the past and the glorious anticipations and hopes of a bright future.

KENTUCKY INTERNAL IMPROVEMENTS—TAX ON LEAF-TOBACCO.

Mr. THOMAS TURNER spoke upon the bill (H. R. No. 626) appropriating money for the improvement of the Kentucky, Licking, and Big Sandy Rivers, and for the improvement of the falls of the Cumberland River in Kentucky; also upon the bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes in relation to licensing dealers in leaf-tobacco. [His remarks will appear in the Appendix.]

FUNDING BILL.

Mr. MURCH. Mr. Speaker, the funding bill, now before this House to be considered in Committee of the Whole, deserves the careful attention of every member of this body and of every voter in the United States.

It is to fund nearly $800,000,000 of indebtedness now outstanding into forty-year 3½ per cent. bonds, free from taxation. The advantages claimed for it are that it greatly reduces the annual interest to be paid, and fixes the time of payment at a period so remote as to leave no apprehension as to our ability to meet the indebtedness when it shall become due. This is all that can be said in its favor. The distinguished chairman of the Committee on Ways and Means, who has reported this bill from that committee, has spent much time and an elaborate amount of calculation to demonstrate how advantageous it will be to investors, and I am frank to say that he has shown that it will be a most desirable investment for moneyed men, and I have no doubt it will be taken with avidity if the bill becomes a law.

It is my purpose, sir, to oppose the bill, and I shall ask the indul-

gence of the House while I state the reasons which will lead me to vote against it. These reasons I shall discuss under the following heads:

First. Because it perpetuates the national debt.

Second. Because a national debt is a national curse.

Third. Because its aim and object is to lay the foundation for an indefinite extension of the national-bank swindle.

Fourth. Because there is no necessity for extending the time for the payment of our outstanding bonds.

Fifth. Because by paying the bonds we can relieve the people of an onerous and unnecessary burden, provide them with a currency essential to the general welfare, essential to adequate wages, equalized values, and a republican form of government.

And, finally, because to fund the debt into forty-year bonds creates innumerable patents of nobility, releases the rich from taxation, which it imposes on the non-exempt producing classes, not able to own bonds, and because it is a legislative recognition of a principle opposed to the very foundation principles on which our Government is based.

First, that it perpetuates the national debt. It is always easy to postpone, and so long as the money power can derive such advantages as the bill presents for perpetuating the national debt it will be perpetuated. I say this bill; I mean, sir, this bill and the legislative enactments which go with it. Three and a half per cent. is under some circumstances a low rate of interest, but it is more as a premium for the use of money than the producer realizes for the use of his soil and the reward of his labor; it is more than the average income derived from the general industries of the country; and no man or country can afford to pay more for the use of money than can be realized out of the ordinary occupations of life as a profit over and above the expenses of production. The experience of mankind and everyday observations establish the fact. But this bill not only gives 3½ per cent., payable semi-annually, but exempts the loan from all taxes, which makes the premium equal to 5½ per cent.

England, France, Turkey, Italy, and Austria have demonstrated that the moment you commence the funding system you lay the certain foundation for perpetuity. It arrays the whole money power in favor of continued loans. It is the life and hope of the national-bank swindle. It has made the Bank of England arbiter of English finances. It has made the Bank of France the autocratic power over money in France. The debt of England in 1800 was a trifle. The consolidating of its bonds from 5 per cent. into 4 per cent., then into 3½, and finally into 3 per cent. bonds has made the way so apparently easy to raise money that England has gone on consolidating and building up the debt, on one hand with its never-failing landed and money aristocracy, on the other with the bondholders of England, until the debt has reached the monstrous proportions of more than $4,000,000,000. It is by funding that nearly all European governments have become mere slaves to the half a dozen usurers who control their financial policy.

Second, a national debt is a national curse. It is a quarterly drain upon the vital energies of national life, an eternally sucking vampire which is never satiated. It makes slaves of tax-payers to pamper idleness into luxury and privilege into power. The history of its inexorable tyrannies, hardships, and demands is a never-ending protest against any and every policy which looks to its existence or to its continuance. It was a national debt which led to all the bloody tragedies of the French revolution of 1789. It was the taxes imposed without limit and collected without mercy which led to the outrages and inhumanities of that eventful period. Taxes so varied, so searching, and so overwhelming as to have robbed the laboring people of their substance and have starved and decimated whole provinces before the avenging hand of God stayed the tide of corruption and privilege which year by year was loading the people with burdens they could not bear and with a slavery they could not endure.

Look, sir, over the causes which excited the people from every department of France, as they were borne by the representatives of the people to the National Assembly in resolutions expressive of the grievances under which they were suffering and against which they would provide. The national debt, as a never-ending source, was the basis of every tax, of every outrage, and of every tyranny imposed upon the people. The privileged few were exempt from all the burdens. The clergy and the nobility lived in sumptuous elegance, free from taxes. Each year there was a new deficiency to add to the sum total. As the sum total increased the taxes increased; as the taxes increased the number who could not pay them grew into startling proportions.

Reading now, sir, at the end of a century, these resolutions of the French people of 1789, we can directly trace every cause which aristocrats in power imposed upon an ignorant and dependent people to the national debt, which dominated over the whole policy of the king and the nobility. It was an eternal night-mare to every one who labored and who produced. It was the life and support of the untaxed and the privileged. Twenty-five millions of people rose in defiant revolt and discussed with heroic courage the duties they owed to themselves and to the government. These discussions awakened the world; they broke the chains of feudalic power; they cut the cable which had so long anchored France to priestcraft and kingcraft, and illuminated the French people into the religion of their rights, made the 4th of August, 1789, an era of disenthrallment and the French revolution a world-protest against the insolence of aristocratic power.

It is the national debt of England which to-day makes England the most aristocratic and the most beggarly government on the face of the globe. With mountains of riches, in her whole thirty-six millions of people there are less than thirty thousand land-owners, less than seventy thousand men of independence; but you can count her paupers by the millions. Her day-wage slaves, whose lives are one prolonged struggle against starvation, number more than sixteen millions. The few live in unequaled splendor on the interest of the national debt; the millions live in unequaled squalor, slaves to taxes, royalty, and the national debt. Ireland presents a picture of the inevitable results of England's infamous funding system.

Turkey is handcuffed and chained down to the monstrous taxes her national debt imposes until she is known as the public dependent of the Rothschilds, her power dissipated, her territory invaded, her rulers insulted, and her people disgraced to the lowest depths of national humiliation.

Franklin never uttered a more truthful maxim than that the "debtor was the slave of the creditor." It is as true of a nation as it is of an individual. Andrew Jackson took the broad ground that the funding system was a direct road to a perpetual national debt, and that a national debt was the most dangerous enemy of the Republic. He contended "that it would bring upon us that ruin which it has never failed to bring or is inevitably bringing upon all the nations of the earth who have had the temerity to make the experiment, enormous taxes and its inevitable results. It will," said the old veteran, "be charging the active and the industrious citizen who pays taxes to pay the idle, who receive and spend them."

Jefferson took the broad ground that "the laws of nature forbid the creating of a perpetual debt; *that the earth belongs to the living, not to the dead*, and that the will and power of man expired with his life by natural law; that these same laws of nature impose no obligations on the unknown races to pay the debts of the dead; that although, like some other natural rights, this has not yet entered into any political constitution, it is no less a law sought to be acted upon by honest governments. It is," he says, "a salutary curb on the spirit of war and indebtment, which, since the modern theory of the perpetuation of debt, has drenched the earth with blood and crushed its inhabitants under ever-accumulating burdens."

An able English economist designates it as "casting a mortgage upon the *labor* of universal posterity; for it is out of the funds of the national labor alone that the interest has to be paid." He says: "To mortgage the future labor of a child to pay the interest of a debt that was contracted before it was born is in fact to enslave that child. An infant so mortgaged is born a helot and a serf."

It is conceded by the ablest economists of England that the extreme concentration of her wealth and the intense degradation of her dependent classes is to a large extent due to her enormous national debt and the funding system which has produced it and made it immortal. A national debt is a national incubus, demanding in perpetuity the larger part of the earnings of labor for interest and other charges. It crushes the spirit of the people.

The whole funding system is a cunning device to make the rich richer and the poor poorer. It is taking the strength of the weak to make the strong stronger. Up to the time when it was inaugurated by the ministers of William of Orange the laborers of England were the owners of their own cottages, the middle classes were comparatively independent, and every industrious man could hope. Then there were but few colossal fortunes. Then there was no such thing as stock-jobbing. Then taxation was light. But since then the funding system has been gradually weaving around us a net from which it is almost impossible to escape; it claims with all the unbridled power of national taxation a right of property in all we have, in all we do, in all our earnings, in our industries even to generations unborn. It creates mountains of wealth for the few. It creates mires of misery, poverty, and degradation for the many. It creates such fortunes as those of the Rothschilds, one of whom died a few years since leaving $400,000,000, all gathered in less than half a century. How did he get it? Did he earn it? No. Did he give an equivalent for it? No. He got it by funding national debts. It came from the downtrodden. The laboring masses earned it.

The distinguished member from New York, [Mr. FERNANDO WOOD,] in advocating the bill (H. R. No. 4592) to facilitate the refunding of the national debt, gave us the figures of the leading national debts:

France	$3, 972, 407, 312
England	3, 888, 907, 980
United States	2, 188, 199, 391
Russia	1, 875, 000, 000
Italy	1, 804, 037, 625
Austria-Hungary	1, 734, 634, 830

Our debt is but third in magnitude. Twenty years back only and we were practically free from debt. I venture to say that no debt was ever so grossly made up of usury, robberies, frauds, and panderings to the money power as this monstrous debt, which this money power is now through this bill attempting to fasten in perpetuity upon the American people. A national debt is a national curse at best. Our national debt is an infamy. It is an infamy because it was created in the form it exists to favor usurers, knaves, and financial Hessians of the money market. The same power would perpetuate it to make privilege immortal, taxes an endless curse, and national banks an endless monopoly.

The aim and object of the funding bill is to lay the foundation for an indefinite extension of the

NATIONAL-BANK SWINDLE.

The object is not even disguised; and the distinguished member from New York, [Mr. FERNANDO WOOD,] while he shows the enormity of the funding outrage on the one hand in displaying the operations and profits of the First National Bank of New York in carrying on the famous process of funding, yet says:

The national banks require now as security for circulation about $370,000,000, and this source of investments for Government bonds is constantly increasing as business is increasing. The rate of the increase in the banking circulation is about $2,000,000 a month, so that it may be fairly estimated that the total on deposit will be for that purpose alone about $400,000,000 by the commencement of 1881, which, with those held as security for deposits and investments, will need, from present indications, about $100,000,000. The reasonable probability is that they will avail themselves of the opportunity to sell all the United States bonds on hand at the premium offered and replace them with the new three and one-half percents to be obtained at par. *This will sink full three-fifths of the whole amount of the three and one-half bonds to be issued, leaving but a comparatively small amount for investment.*

Now this is a distinct admission that the national banks would absorb $500,000,000 of the $800,000,000; and with the coin now heaped up in the Treasury as a dead weight, eating itself up and taxing the people to keep up a show of readiness to be able to sustain that most treacherous and infamous of all pretenses, specie payment, we have the direct means of meeting nearly all the bonds to mature in 1880 and 1881.

Now, sir, I am utterly and totally opposed to funding a dollar into any bonds at any rate of interest, or under any possible state of facts, to prolong, sustain, favor the basis of, or in any way to keep in existence that cut-throat monopoly which for sixteen years has plundered the tax-payers of the United States out of more than $40,000,000 annually, or more in the aggregate than the whole sum now proposed to be funded; a system born in usury, fostered by plunder, and which started its unpatriotic donation to the Government by imposing upon Congress a repudiation of the greenback, the sale of bonds at what they would fetch; a system, sir, which made its way into power by prostrating public credit, and by forcing it to be measured by a commodity which did not exist. It was nothing more nor less than a villainously concocted scheme to rob the Government, establish an endless monopoly of privilege, plunder, and power; a system, sir, which deliberately robbed the tax-payers of $212,250,000—a plain out-and-out shave at its very start. I desire to be distinctly understood. The national banks took $410,000,000 of United States bonds to start and put in motion the national banks. For these bonds they paid into the Treasury of the United States but $197,750,000; thus taking for usury, and making before they had issued a bill, $212,250,000.

This was but the commencement of the swindle. They got in bonds bearing 6 per cent. interest in gold $410,000,000; they got in national-bank currency $350,000,000. This currency was guaranteed by the Government and placed in their hands to loan on compound interest, with the right to *receive deposits, sell bills of exchange, and enjoy all the prerogatives of bankers.* Their deposits have averaged $600,000,000, and it is conceded that they have realized 6 per cent. interest on these deposits.

The national banks, then, on an investment of $197,750,000, which at 6 per cent. would earn them $11,897,000, have realized as follows: $410,000,000 bonds at 6 per cent., which in gold averaged in currency 9 per cent., $36,900,000; $350,000,000 national-bank currency, which the Comptroller of the Currency admits has earned 9 per cent., $31,500,000; $600,000,000 deposits, which have earned for the banks 6 per cent., $36,000,000; total, $104,400,000; making an annual profit of more than 50 per cent., or, in sixteen years, without compounding, the enormous sum of $1,670,400,000, every dollar of which has been taken out of the tax-paying laborer and producer to be given to the exempt idler.

The national banks have ruled the finances of the nation. They have dictated the policy of the Treasury. They have organized themselves into a moneyed political oligarchy. They have defied Congress. They have created syndicates. They propose to fund the national debt into an endless engine of financial power to rule the legislation of the country. They have combined more than $2,000,000,000 under their control and are, as they believe, the masters of the situation. To show how one of these pet banks has absorbed the heart's blood of the people, robbed the Treasury, and grown into enormous wealth by favoritism on the part of the Secretary of the Treasury, we have only to look at its official report to the Comptroller of the Currency. The gentleman from New York [Mr. FERNANDO WOOD] gives us the figures.

It is the statement of the First National Bank of New York, made June 14, 1879:

RESOURCES.

Discount and time loans		$2,081,956 06
Overdrafts		964 52
United States bonds		129,152,740 00
Other stock and bonds		1,034,749 09
Premiums		535,738 71
Specie		1,382,434 31
Legal-tender and bank notes		2,066,165 00
Due from Treasurer of the United States		7,256 00
Exchanges		1,334,880 71
Due from banks		404,165 31
Demand loans		4,187,620 38
		142,188,635 09

LIABILITIES.

Capital		$500,000 00
Surplus		1,000,000 00
Profits		579,018 88
Circulation		45,000 00
Bank deposits	$8,423,084 92	
Individual deposits	3,532,460 25	
		11,955,355 17
Due Treasurer of the United States		128,109,071 04
		142,188,635 09

Here is a bank with but half a million of capital, with an undivided surplus and profits more than three times its capital, $1,573,018.88, a small bank which holds $128,109,071.04 of money belonging to the people of the United States, *on which its stockholders are speculating, while the tax-payers are paying interest on the public debt.* Yes, one pet bank, sir, is allowed to have, hold, and handle, for its own profit, more than three times the whole capital stock and deposits of the Bank of the United States at a time when it controlled the policy of the nation, and was so omnipotent in its power that it required all the iron nerve and indomitable will of Andrew Jackson to curb its insolence and put an end to its monstrous assumptions.

The national-bank policy through this one bank has had the use of $128,109,071.04; if it had been appropriated to paying our bonds it would have saved us $6,405,453.55 the last year, and if it had been subject to taxation it would have lessened our taxes $2,562,181.42, making the actual cost to the tax-payers of $8,967,634.97 in a single year through the operations of this single bank. Three hundred per cent. for its money and no taxes to pay; that is the experience of one national bank. Let us look at the statement of another of these vampires, located in the West and removed from the great stock-gambling center.

The First National Bank of Indianapolis, Indiana, started with a cash capital of $500,000 in paper, or $250,000 in gold. It was one of the first to organize under the laws. Mr. English, the president, on retiring, after fourteen years' service, congratulated its stockholders that it had in that time *paid them in semi-annual dividends* $1,496,250, or $3 for every dollar invested on a paper standard and $6 for one for every dollar in gold. This was only for *what had been paid back to the stockholders.* The bank still had its capital stock entire, with $327,000 surplus and $50,000 undivided profits. The bank, it is thus seen, had out of an investment of $250,000 in gold actually realized in fourteen years $1,873,250 of absolute profit, or more than 50 per cent. annually for the whole time.

This same bank had received from the United States as interest on the bonds it held to secure circulation $500,000, and $100,000 to secure deposits:

Year.	Receipts.	
	Gold.	Currency.
1865	$36,000	$46,800
1866	36,000	48,240
1867	36,000	47,160
1868	36,000	45,720
1869	36,000	42,500
1870	36,000	41,560
1871	36,000	40,320
1872	36,000	40,680
1873	36,000	41,400
1874	36,000	39,600
1875	36,000	40,320
1876	36,000	39,960
1877	36,000	39,960
1878	36,000	36,360
1879	36,000	36,000
Total	540,000	624,380

As the table shows, $540,000 in gold and $624,000 in currency. That is, the Government has paid it back in gold more than double the amount the Government received from it for its $600,000 of bonds, and the bank has still got all the bonds and the Government still owes the bank the full $600,000. It has not only received from the Government $624,000 in currency interest, but it has had all the time $450,000 of the money of the United States to lend at compound interest, for which it paid not one cent.

The whole history of the world can be ransacked without finding so huge a swindle. How the people have submitted to it, how they do submit to it, and go on from year to year paying these enormous bounties to keep alive this bond swindle, bank privileges, and exemption from taxation, is comprehensible on one assumption and one only: the people do not understand it. But, sir, you may be certain they are going to understand the robbery in all its phases and in all its infamous assumptions.

Thus far, sir, I have given the outlines of the system this funding bill is to perpetuate as it is presented by its actual working at the great money-center, New York City, and the capital of one of the Western States, Indianapolis. With the workings as developed by a country bank I shall leave this branch of the funding bill. In 1864 a wealthy family, which lives on its money, started a national bank in one of the Middle States. With $40,000 in gold it purchased

$100,000 in United States bonds. It deposited its bonds with the Treasurer of the United States and got $90,000 of national currency. The bank opened. The father was president, a son-in-law was cashier, a son was teller, and a grandson was the messenger-boy. In six months their deposits exceeded $150,000. Using these deposits, they purchased $100,000 more of bonds, started a second bank, and got $90,000 more of currency. The second bank was officered entirely by members of the family and their near relatives. The success of the second bank was equal to that of the first. Their deposits have been about double the nominal capital. The average loans have been for fifteen years $370,000. Each bank has paid its president and cashier $2,500 annually, $1,800 to each teller, and $500 to each of the messenger-boys. This amounts to $9,600 yearly, and was charged to expense account. The two banks have paid 5 per cent. semi-annually as a dividend. They have now a surplus of $84,000 and $13,000 of undivided profits. The condensed statement of the investment and its results are as follows:

Statement.

Gold invested in 1864	$40,000
This constitutes the entire liabilities.	
Resources:	
Two hundred bonds of the United States, $1,000 each	200,000
Surplus money after all expenses and loans invested	84,000
Undivided profits	13,000
Total resources	297,000
Profits realized:	
Five per cent. semi-annally on $200,000, $20,000, fifteen years	300,000
Salaries received, at $9,600 annually for fifteen years	144,000
Total profits	444 000

Thus an investment under the funding system in national-bank business, as established by Congress, has in fifteen years paid to the bankers in dividends and services for the use of $40,000, $444,000, *or more than tenfold*, and has stored up for them $297,000, making $741,000 as the result of the investment. *In all of this time* neither the $40,000 invested, the $444,000 earned and received, or the $297,000 accumulation has paid a single dollar of taxation.

The Government has paid this family for the use of their $40,000 $180,000 in gold and more than $225,000 in United States currency, every dollar of which the laborers and producers of the United States have had to earn and pay by way of tribute to the funding Hessians who have lived in untaxed idleness the bond and bank aristocrats of the United States.

It is this system this funding bill is to keep up. It is the national banks, through the Bank Association, which will dictate this bill through Congress if it ever passes. It is for their benefit, and they have had the audacity to declare through the New York Tribune "*that their machinery*"—*that is, their vast accumulated, undivided profits, to be used as a bribery fund*—"*was so arranged that in any emergency all the banks can act together at a single day's notice with such power that no act of Congress can overcome or resist their commands.*"

I declare to you, sir, that to pass this funding bill for the benefit of the "banks and syndicates," which the gentleman from New York [Mr. FERNANDO WOOD] declares are now anxiously waiting Congress to fund through the Secretary of the Treasury, will be just occasion for open and defiant repudiation of the whole interest-bond swindle. The people will no longer consent to be taxed to bestow enormous profits on that class of greedy vampires known as national bankers; they will no longer tolerate the idea of the Government of the United States issuing a bond to any one exempt from taxation. Revolution were better.

I pass, therefore, from the consideration of this bill as connected with the continuance of the national-bank fraud to inquire for a moment if there is any necessity for an extension *of the time of paying the bonds to become due in* 1881.

And here, sir, I do not hesitate to say that there is not only no necessity for an extension, but that there is absolute and unqualified necessity for paying the bonds at once. The amount to be paid is as follows:

December 31, 1880, 6 per cent. bonds	$18,415,000
June 30, 1881, 6 per cent. bonds	182,605,550
June 30, 1881, 6 per cent. bonds	71,787,000
July 1, 1881, 6 per cent. bonds	823,000
May 5, 1881, 5 per cent. bonds	508,440,350
Total	782,070,900
By substituting greenbacks for national-bank notes we can pay about	350,000,000
	432,070,900

This at once relieves the Government of an interest-bearing obligation which is an absolute burden, and puts in its place a currency superior in every respect to the currency it retires; a currency universally demanded, universally commended, and beneficial to the whole people. By this process we save $12,225,000 annual interest, even if the debt should be funded at 3½ per cent., and at the same time subject $350,000,000 to the payment of taxes, which would be exempt under this funding bill, which at 2 per cent. is $7,000,000 annually, making an actual saving of $19,225,000.

The surplus money now in the Treasury piled up in useless heaps of glittering treasure amounts to $157,382,951.23. It is all in a condition to be made available for the payment of our maturing debt. It requires only an act of Congress directing its appropriation for this purpose. The daily receipts are more than adequate to meet all current expenses, but if $17,382,951 be left to meet any possible emergency we shall yet have $140,000,000. There is no use which can be made of money better than to pay debts with it; it stops interest, it ends obligations, it lessens taxes. It is equivalent to saving in taxes and interest $7,700,000 annually. Sound policy says pay when you can. So, paying with the money now idle, we reduce the amount to be provided for to $292,000,000. To pay this sum I am in favor of issuing full legal-tender greenbacks as absolute money, to be authorized by Congress. I am in favor of this course because it is demanded by the highest considerations of political economy, by the best interests of the whole people, and because it is essential to the producer, the mechanic, and the laborer, as one step toward establishing a national policy of finance which shall make us independent of European bankers and home usurers.

That we require this additional currency is apparent to every man who is capable of comprehending the influences of an adequate circulating medium. It has been well said that money is to the body-politic what blood is to the human system. A normal amount is essential to regular, healthful, and equalized action. If you deplete the body of the requisite amount of blood you weaken it, and just in proportion as you take away the living and life-giving current you exhaust, overpower, and render the victim helpless. Now, it is precisely so with the circulating medium called money. At least $40 *per capita* is as essential to equalize values, to place money on a par with labor, to regulate the price of commodities, and to make honest industry independent of dishonest usury, as the normal and ordinary amount of blood is essential to the health, strength, and vigor of the body. All experience has proved the fact. While Rome had $40 *per capita* in circulation she enjoyed her largest liberties and greatest prosperity. As contraction commenced, aristocratic domination commenced. This led to the slavery of dependence, and slavery of dependence led to barbarism. The steps which led from the glories of her great renown to the decrepitude of her fallen state may be traced with unerring certainty by the decrease of her money *per capita* until it reached $5 in the year, when a few nobles and a host of slaves were all there was left to tell of the city of the Cæsars.

There has never been a period in English history when English progress, growth, and prosperity did not depend on the amount of money in circulation. From 1794 to 1819 England had all the money her industries required. Every trade was supplied; every laborer was demanded; her ships were on every sea and in every port; her manufactures dominated in all Europe, found their customers in Asia, in Africa, and in America, until she ruled the commerce of the seas. In 1819 she commenced contraction, and it was loss, ruin, and bankruptcy. Indeed, the funding of her enormous debt, and the attempt from time to time, as in 1825, 1841, 1847, 1857, and 1867, to square her moneyed requirements to a gold standard, has eventuated in the most widespread disaster, measured in its extent by the exact extent of her contraction. The whole history of finances from the time of the Norman conquest to the bank act in 1844, and from that suicidal restriction to this day, has demonstrated this one fact: that all public and general prosperity is measured by the amount of money there is in circulation. England requires much less circulation than we do. She has six millions of paupers, sixteen millions of laborers working for wages, less than thirty thousand landholders, and not more than seventy thousand men and women of independent means. Her number of employers is very limited; her proprietors are few in number, and her whole territory does not embrace in square miles one-third in extent the amount given by congressional grant to a corporation of congressional knaves, speculating gamblers, and public robbers. Yet England has more than double in amount the circulation *per capita* that we have.

France, a land of industry, economy, and progress, has $50 *per capita*, and prosperity is universal. Everybody is employed. Everybody is contented, and she is producing more value in proportion to her territory and population than any government on the face of the earth, unless it be Belgium, where the people are supplied, as they are in France, with all the money in any wise needed for business and industrial enterprises. I might give detailed figures in every department of statistical bearing to show that prosperity, growth, and happiness are measured by the amount of money in circulation; but common sense and the common observation of men are universal witnesses of the fact.

A brief review of our own history proves that the more limited the currency the harder the times. Washington was near the point of giving up the battle for the Colonies when the currency of the country was withdrawn. *Continental currency followed*, and it saved our patriots, our Revolution, and our country, poor as it was and despised as it came to be, until France sent us her aid and supplied us with her money and credit.

From 1812 to 1816, which became a period of comparative expansion, we did more to develop our resources, more to start and encourage manufactures, more to build up our commerce, than in the whole period from 1782 to 1811. From 1862 to 1873, and before that from 1848 to 1857, were periods of expansion—the first period followed the discovery of gold in California and gave a grand impetus to all kinds of labor, trades, shipping, and agriculture, and the second period followed the direct issue of United States legal-tender paper money. In this last period we made greater progress, had more universal prosperity, and did more to lay deep and solid the foundations of governmental strength than was ever before accomplished within a like period. Wages were good. There was a market for everything. Labor was employed and paid in money rather than store orders. Manufactures sprang into existence and prospered. The mechanic could own his home and be independent; but after the war capital, political knaves, and the funding mania combined to produce contraction, and our currency was reduced from about $50 *per capita* to less than $15. The losses, the failures, the bankruptcies, the suicides, and the utter wretchedness which this cold-blooded infamy produced is written as with a pen of fire on the hearts and homes and fortunes of the American people.

We absolutely require $40 *per capita* as an established, uniform, and unvarying medium of exchange. We cannot be independent without that sum. Labor cannot be as independent of capital as capital can be independent of labor without that sum. The farmer, the mechanic, the merchant, cannot be as independent of the money-lenders as the money-lender can be of the farmer, the mechanic, and the merchant, without that sum. Money should have no advantage over the labor which produces it, nor over the wheat-grower who feeds the laborer, or the mechanic who clothes him. The late Henry C. Cary, the acutist observer, the best statistician, and the ablest political economist of the age, gave it as his opinion that equality of rights could not exist on a circulation less than $40 *per capita*. The most careful and trustworthy students of social and political economy agree that this sum is essential to equalized valuations. The venerable and experienced Peter Cooper, whose whole life has been one long study, through the most varied and the most extended experience of commercial life, insists that $50 *per capita* is not too much.

Turning, sir, from these facts and opinions, let us see how much money we have in circulation. The amount is easily computed:

Greenbacks in circulation	$350,000,000
National-bank notes in circulation	350,000,000
Gold and silver	150,000,000
	850,000,000

This, supposing all the $50, $100, $1,000, $5,000, and $10,000 notes included in the whole volume of the circulation were in actual circulation, would be equivalent to $17 *per capita;* but it is well known that there is not exceeding $10 *per capita* in circulation, or less than one-fourth the amount required to put the laborer and producer on a par with the money-lending capitalist.

The necessity, then, is immediate, absolute, and unqualified for more currency. If, then, we adopt this funding bill, we have got to accept one of two contingencies: we have to confine ourselves to a strictly metallic currency, which is the unqualified slavery of the people to the Rothschilds and other usurers of the world, or we have to give up our finances to a privileged class of monopolists, called national bankers, who would subject every interest to their greed and every kind of labor and property to their valuation.

To issue $292,000,000 of greenbacks in excess of those required to take the place of the national-bank currency which should be retired would make an issue of $642,000,000 of new legal-tender greenbacks, but it would only increase the amount in circulation $292,000,000. Add this to the $140,000,000 of specie to be paid out of the Treasury, and our actual increase would then be $432,000,000; and our aggregate circulation would then be about $1,282,000,000, or $25 *per capita*. It is therefore plain to the commonest comprehension that there is no occasion for extending the time for the payment of the bonds to mature in the year 1881, and therefore no possible necessity for creating these forty-year patents of nobility and exempting the rich, who live in idleness upon their money, from taxes, to impose them upon the producer and laborer.

To pay the bonds instead of funding the bonds, relieve the people of an onerous and unnecessary burden, and provide them with a currency essential to prosperity, essential to adequate wages, equalized values, and a fair rate of interest.

I have, sir, in part gone over the grounds covered by this proposition in discussing the connection of the national-bank system with our bond system, and the necessity which exists for a fixed and liberal amount of currency; but there are other reasons I desire to present, that my position may be clearly defined and fully understood. The amount of bonds to be funded is about $800,000,000; the time for funding, forty years; the rate of interest, 3½ per cent., the bonds to be free from taxation. The annual interest upon this sum would be $28,000,000. The annual taxes at 2 per cent. (and the bill under consideration provides that the "funding bonds shall be free from taxes, national, State, municipal, and local") would be $16,000,000, and 2 per cent. which is an exceedingly low rate for all taxes, national, State, municipal, and local. The two items, then, of interest and taxes would amount to $44,000,000 annually, which, without compounding, would amount in forty years to the nice little sum of $1,760,000,000.

In addition to this enormous annual drain on the tax-payers—a sum more than double the whole expenses of the Government in 1822 and 1823, (as for any year from 1781 to 1830, excepting the war years of 1812, 1813, 1814, and 1815.)

The whole expense of the Government in 1822 was $17,696,592.63. The whole expense of the Government in 1823 was $15,314,171. The payments on account of the public debt and for pensions in 1822 were $7,848,919.12; and in 1823, for the same objects, $5,530,016.41. This forty-four millions is a larger sum than the whole capital stock of the Bank of the United States when it ruled politics, finances, and the people. But that sum, enormous as it is, and I have given the foregoing figures and facts merely to illustrate its magnitude, is not all; for funding is an expensive luxury.

Our national debt in 1871, *the period when the funding commenced*, was $1,888,133,750. Our debt at the close of the fiscal year ending November 1, 1879, was $1,887,716,110. So that it was not half a million less on the 1st of November, 1879, than it was in 1871.

The interest and commissions paid to *syndicate speculators* amount to $13,408,744, according to the tables furnished by the gentleman from New York, [Mr. FERNANDO WOOD.] Much of what we have saved in interest by funding under the act of July 14, 1870, and the amendment thereto of January 20, 1871, has been absorbed by syndicate commissions, and lost by hoarding up useless millions of specie in the Treasury, which might, and should have been appropriated to the payment of bonds.

If the funding bill now under consideration becomes a law, we may expect a repetition of the same line of action and of the same policy which characterized the funding operations under the acts of 1870 and 1871. The $157,000,000 of coin will be kept hoarded and idle in the Treasury and new syndicate expenses will go on; so that to pay our bonds, instead of funding them to benefit a few national bankers, would save us—first, the interest annually on $800,000,000, at 3½ per cent., $28,000,000; the loss of taxes on $800,000,000 by the bonds being exempt from taxation, $16,000,000; and by interest and commission to syndicate, $13,000,000; a total of $2,573,000,000 at simple interest in forty years. Two billion five hundred and seventy-three millions dead loss to the people of the United States.

Paying, sir, as we can pay, paying as we should pay, and paying as every public interest demands that we should pay, not only removes an actual burden of $44,000,000 annually which the Wood bill will impose upon us, but it practically disposes of the national debt, and as practically lays the foundation for a national currency alike demanded by public policy, public convenience, national security, the demands of labor and its independence throughout the land.

Finally, sir, I am opposed to the funding bill now being considered, and to the whole principle and policy on which funding is based, because it creates endless patents of nobility for the rich few, releases the privileged from taxation, which it imposes on the laboring and producing poor, and because it is a glaring and monstrous outrage upon every principle of equality and every idea of right upon which our liberties are founded.

The power of taxation is the most essential, the most insidious, and the most dangerous power conferred upon sovereign governments. It has been made the instrument of oppression in all ages and at all times. It was never more oppressive, if we look to the principle upon which it was adjusted, than it has been since 1861. It is conceded by the ablest of our statistical writers and by nearly every statesman who has investigated the subject that more than one-half of the personal property in the United States escapes taxation.

Let us look at what is exempt from taxation by the laws of the United States.

First. United States bonds	$1,800,000,000
Second. Treasury notes	350,000,000
Third. National bank currency	350,000,000
Fourth. Gold and silver certificates	100,000,000
Individual bonds and mortgages and municipal notes and bonds	3,000,000,000
	5,600,000,000
Add to this jewelry, plate, horses, carriages, expensive furniture, carpets, and articles of luxury	400,000,000
	6,000,000,000

These estimates are all low. One lady at a recent reception wore eight hundred thousand dollars' worth of diamonds, (she had to be guarded like a treasure-box,) not a dollar of which was taxed. A lady in New York gave a lunch a few days since to twenty of her lady friends. The plate used on the occasion cost $100,000, and the furniture, paintings, and articles of luxury in the rooms cost $500,000. Not a dollar of it was taxed.

William H. Vanderbilt has deposited for registry in the Treasury of the United States $51,000,000 in United States bonds, not a dollar of the whole sum subject to taxation. The annual interest on this sum at the lowest rate is $2,040,000. His total income is said to be

$10,000,000, and yet he is one of the number whose personal property is taxed at a sum below the value of the jewelry his wife daily parades.

Every dollar of the poor man's property is always taxed; it is always in sight. So, too, with the farmer and the mechanic and the merchant; but the rich have so much that it is easy to conceal. Six billion dollars is a moderate estimate of the untaxed personal property of the rich in the United States, and it is the spirit of exemption that encourages the spirit of concealment. Pay off the bonds and subject the bills, which are mostly held by the bondholders, to taxes, and we save the taxes on $2,500,000,000, which at 2 per cent. would make $50,000,000 annually. It would take this sum from the overburdened shoulders of men not able to hold United States bonds, and it would place it on the shoulders of the rich and idle who live on the industries of the people. Have a rigid system of taxes which would forfeit every dollar not reported, and we should at once have $3,500,000,000 more of wealth which now escapes taxation made to pay its proportion of the expenses of Government. This at 2 per cent. would be $70,000,000 annually. The whole system has grown out of the class legislation which has done so much to disgrace our country. The rebellion stimulated the fraud. The bond exemption made it practicable and easy. The funding system is designed to perpetuate the opportunities for fraud and entail a national debt as immortal as that which to-day enslaves the people of England.

The funding bill of 1870 and the funding bill now under discussion are legislative authority for creating a privileged class. Privilege is aristocracy; it is granting rights to the rich denied to the poor; it is making industry the slave of idleness; each bond is a patent of nobility; each funding bond is a new link in the chain of privileged legislation to bind the people in servitude. To pass this bill is a defiant bid for revolution; it is as defiant as the ship-money Hampden resisted; it is as well calculated to awaken resistance as the stamp act which the heroes of the Colonies defied; it is infinitely more oppressive than the tax on tea, molasses, and other necessities imposed by Parliament which led to the battles of Lexington, Trenton, Saratoga, and Yorktown. It leads to the same kind of servitude to the tax-collector which made twenty-five million of Frenchmen hewers of wood and drawers of water to a privileged nobility of one hundred and fifty thousand. The blood of the French revolution washed the taxes, the nobility, and the results of eight hundred years of oppression from the soil of France, liberated her people, and laid the foundation for her republic of to-day.

The national banks, the railroad rings, and all kinds of corporate wealth are bringing to bear every appliance of the power of capital to insure the passage of this law; but, sir, the people will resist it. They will resist it because it establishes privilege as a law and servitude as a statutory obligation. The whole principle is opposed to the equality and equal rights which our Government was established to secure to all our people. I shall therefore vote for the following substitute, which will be offered by my friend, the gentleman from Iowa, [Mr. GILLETTE,] at the proper time, namely:

That all bonds of the United States which shall become redeemable in the year 1881, or prior thereto, shall not be refunded or exchanged for other bonds of the United States, but shall be paid as hereinafter provided.

SEC. 2. That it shall be the duty of the Secretary of the Treasury to set apart all surplus coin and paper money which may be in the Treasury from time to time as a fund for the payment of the said maturing bonds, and for the purchase of silver bullion for minting purposes. The said Secretary of the Treasury shall cause to be coined at the mints of the United States standard silver coins to the full extent of the capacity of the mints, and he is hereby authorized to purchase the silver bullion for said purpose as provided in the act approved February 28, 1878, entitled "An act to authorize the coinage of the standard silver dollar, and to restore its legal-tender character."

SEC. 3. That it shall be the duty of the Secretary of the Treasury to prepare Treasury notes to the amount of $340,000,000, with such additional amount as may be necessary to equal but not to exceed the amount of national-bank notes in the United States as shown by the books of the Treasury on May 1, 1881. These notes shall be in denominations of one, two, five, ten, twenty, fifty, and one hundred dollars, as most adapted to the convenience of business, and shall be receivable for all dues and debts and taxes of every kind due or that shall become due to the United States, and shall be receivable for all dues and debts of every kind due from or that shall become due from the United States where not otherwise provided by law, and shall be a legal tender for all debts where not otherwise expressly stipulated by contract. These notes shall be paid for an equal amount of United States bonds, unless coin is demanded, in which case at least one-half the coin paid shall be silver coin; and to the extent of the demand for coin, in excess of the supply in the Treasury, these notes shall be used in the purchase of silver bullion for coinage to meet that demand.

SEC. 4. That on and after May 1, 1881, the Treasurer of the United States shall neither have prepared nor issue any national-bank notes to any bank, nor shall he pay out any that shall be received, nor shall any national bank issue or pay out any national-bank notes on any pretext, but the Treasurer of the United States shall return to the respective banks of issue for redemption all such notes received by him.

SEC. 5. That as a further means for raising the necessary funds for the payment of all outstanding Government bonds it is hereby enacted that from and after May 1, 1880, there shall be imposed upon all net incomes exceeding $1,500 per annum of each and every citizen of the United States taxes as follows, to wit: A tax of 3 per cent. upon all excess over $1,500, an additional tax of 2 per cent. upon all excess over $3,000; these taxes to be collected under the provisions of "An act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July 1, 1862, as modified and in force after the act of March 2, 1867, so far as they may be applicable, with such provisions and penalties as therein prescribed.

SEC. 6. That in case there should not be sufficient accumulations in the Treasury to fully meet all the said bonds of the United States, only so many of them shall be called in as can be paid under the provisions of this act, but as fast as possible the Secretary of the Treasury shall call in, redeem, and cancel them.

I shall vote for this substitute, and against the original bill, because the substitute recognizes and tends to establish a *uniform national paper-money currency* as a full legal tender for debts, dues, and obligations, while the original bill tends to destroy, overthrow, and forever annihilate the principle of paper-money ascendency.

That government, sir, is alone sovereign which creates, issues, and distributes its own money, based on its own resources, power of taxation, property, people, and honor. No government can be independent which is forced to place its bonds on the money market for what they will bring. This suicidal policy has already robbed the people of more than $3,000,000,000 since 1862, and left hanging around the necks of the tax-payers a further debt of more than $1,800,000,000, when it has been repeatedly proved by the statistics of the Treasury Department that if we had issued nothing but full legal-tender greenbacks and appropriated the taxes collected, the internal revenue received, the duties on foreign importation, and the other receipts of the Government, amounting to more than $3,000,000,000, to the redemption of the greenbacks as fast as they were collected, we should now be entirely free from debt, and have more than $1,000,000,000 in the Treasury. And I, sir, for one, say we have had enough of it.

This policy of pandering to the money power has reduced the laborer in the United States from a state of prosperous and comparative independence to a state of grinding dependence. It has arrayed every element of dead capital against every element of living capital, which is labor. It has led this body, sir, to disregard every legislative act for the protection of labor. It has made the eight-hour law a dead letter. It has sneered with all the arrogant effrontery of the Roman patricians at every proposition to aid the laboring poor men, heads of families, to move on to homesteads under that most just of all enactments, the homestead act, while it has voted hundreds of millions of acres of our public domain to gambling Hessians and congressional thieves, and advanced $65,000,000 of public money to aid these gambling Hessians and congressional thieves to get on to and improve their princely grants; and now, sir, this funding bill, should it become a law, would bestow as a gratuity and as a privilege money enough to national bankers and bondholders to settle sixty thousand families, or a population of more than three hundred thousand inhabitants, as independent settlers, to become independent producers on our grand and God-given public domain.

But such an appropriation would elevate labor into independence, poverty into comfort, and our country into that kind of equality it is the highest purpose of civilization to achieve. The land grant is demanded by the industrious and hopeful laborers of the United States, and this House, sir, sneers at the proposition and votes it down with contemptuous insolence, while it gloats over the benefit the funding bill will confer on capital.

So long, sir, as money is confined to the barbaric limit of gold and silver and corporate money, capital can control and enslave labor. With the Government as the sole power to create, issue, and distribute the greenback as a universal legal tender, and with a circulation demanded by the common welfare of the people sufficient for the full and profitable prosecution of every industry, the amount to be fixed by constitutional limit, say $40 *per capita*, labor can be as independent of capital as capital is now independent of labor. It will be to place the laborer who creates on a par or level of rights with the idler who enjoys.

The greenback, it has been well said, is the nation; it is the united whole, and not an isolated and fractional part. It knows no superior; it therefore needs no redemption but that which keeps the wheels of government in motion. It is not limited by individual wealth, or corporate wealth, by State loans or State liabilities. It is the grand realization of financial strength. It is *E Pluribus Unum*. Gold and silver are of its constituents. The fullest circulation demanded will not exceed the yearly increase of our national wealth. Our annual product is more than $8,000,000,000. It costs $6,000,000,000 to pay the expenses of production. This leaves our yearly income $2,000,000,000. So that if we should have $50 *per capita* in circulation the whole volume could be redeemed and paid off by one year's profits of production. These, sir, are my reasons for opposing the funding bill reported to this House from the Committee on Ways and Means by its distinguished chairman, the gentleman from New York, [Mr. FERNANDO WOOD;] they are my reasons for advocating and voting for the substitute of the gentleman from Iowa, [Mr. GILLETTE.]

Mr. DIBRELL. I move that the House adjourn.

The motion was agreed to; and accordingly (at nine o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BRENTS: The petition of Alexander S. Hughes, for compensation for services rendered the United States during the late war—to the Committee on War Claims.

By Mr. CABELL: The petition of citizens of Danville, Virginia, manufacturers of tobacco, that manufacturers of tobacco be allowed to import licorice and licorice-paste in bond free of duty—to the Committee on Ways and Means.

By Mr. CARPENTER: The petition of citizens of Iowa, that the

name of Alfred E. Wheelock be placed on the pension-rolls—to the Committee on Invalid Pensions.

By Mr. CLAFLIN: The petition of E. and A. H. Batcheller & Co. and a large number of the leading shoe and leather manufacturers of Massachusetts, for a commission on the tariff—to the same committee.

By Mr. CLYMER: The petition of the Monocacy (Pennsylvania) Furnace Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. EVINS: The petition of the Grand Lodge of Good Templars of South Carolina, for the appointment of a commission of inquiry in reference to the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

Also, the petition of Baum Brothers and 104 others, citizens of South Carolina, for the removal of the duty on salt—to the Committee on Ways and Means.

By Mr. FIELD: The petition of the Washington Mills, the Pacific Mills, the Manchester Mills, and 28 other corporations in New England engaged in woolen manufacture, and employing 24,309 hands, for the appointment of a tariff commission—to the same committee.

By Mr. GARFIELD: Memorial of Rear-Admiral Henry Walke, asking Congress for a recognition of his services—to the Committee on Naval Affairs.

By Mr. GODSHALK: The petition of Joshua Johnson, for pay for amount expended by him for medical attendance, clothing, &c., during the late war—to the Committee on War Claims.

By Mr. HOUK: Memorial of the citizens of Loudon County, Tennessee, for an appropriation for the improvement of the Little Tennessee River—to the Committee on Commerce.

By Mr. JOYCE: The petition of Ellen Mulcahy, for restoration to the pension-rolls—to the Committee on Invalid Pensions.

Also, the petition of James Scanlin, of similar import—to the same committee.

By Mr. LORING: The petition of Mary Jane Marston and others, of Newburyport, Massachusetts, heirs of Nicholas Fouquet, for compensation for services rendered in the revolutionary war—to the Committee on Claims.

By Mr. BENJAMIN F. MARTIN: The petition of Robert F. Tapp, of Monongalia County, West Virginia, for compensation for damages done his mills and lands by the erection of dam No. 7 on the Monongahela River—to the Committee on Commerce.

Also, the petition of Robert McConkey and 48 others, soldiers in the late war, from Taylor County, West Virginia, against the passage of Senate bill No. 496, and for the passage of the bill introduced in the House by Mr. GEDDES relating to pension claims—to the Committee on Invalid Pensions.

Also, the petitions of the Gladesville Iron Company and of S. R. Patterson, of Portland, West Virginia, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. McLANE: The petition of the Baltimore Board of Trade, for the construction of two steam tenders for light-houses in the Maryland light-house district—to the Committee on Appropriations.

By Mr. NEAL: The petition of the Etna Iron Works Company, of Ironton, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. PHELPS: The petition of Sperry and Barnes and 44 other business firms of New Haven, Connecticut, for the repeal of the duty on salt—to the same committee.

By Mr. REED: The petition of George S. West, for pay for extra work done as customs inspector—to the Committee on Claims.

By Mr. THOMAS RYAN: Two petitions of citizens of Kansas, for the removal of the duty on salt—to the Committee on Ways and Means.

Also, the petition of Kansas soldiers against the passage of the Withers pension bill—to the Committee on Invalid Pensions.

By Mr. SHALLENBERGER: The petition of Hope Iron Company, of Rose Point, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. URNER: The petition of Thaddeus Glotfeltz and 17 others, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petitions of Negley & Co., publishers of the Herald and Torchlight, Hagerstown; of Oscar S. Shawm, publisher of the Pilot, Williamsport; and of Ira W. Hays, publisher of the Evening Globe, Hagerstown, Maryland, for the abolition of the duty on type—to the Committee on Ways and Means.

Also, the petition of Oscar S. Shawm, publisher of the Williamsport (Maryland) Pilot, that wood pulp and printing-paper be placed on the free list—to the same committee.

By Mr. WEAVER: The petitions of Justin Hollishee and 25 others, of Ashland, Nebraska, and of C. B. Scott, of Saugatuck, Michigan, and 36 others, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. WHITTHORNE: A bill to establish a post-route from Columbia, via Lowell's Mill, Lasea, and Kedron, to Spring Hill, Tennessee—to the Committee on the Post-Office and Post-Roads.

IN SENATE.

TUESDAY, *May* 11, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, recommending appropriate legislation to continue in service the seventy clerks engaged exclusively under the act of March 16, 1880, in preparing and making reports to expedite the settlement of pension applications; which was referred to the Committee on Appropriations, and ordered to be printed.

MEMORIAL.

Mr. DAWES presented the memorial of Thomas Taylor, of Washington City, praying compensation for the use by the Government of his improved projectile; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1367) to authorize the commissioners of the District of Columbia to dispose of the ground in square 446, in the city of Washington, belonging to said District, for market and school purposes, reported it with an amendment.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2474) to increase the pension of Thomas Riley, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WITHERS. I am also instructed by the same committee to report back adversely the bill (H. R. No. 3262) granting a pension to Harry E. Williams, the ground being that the case is still pending before the Department. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. FARLEY, from the Committee on Pensions, to whom was referred the bill (S. No. 1133) granting a pension to Michael Hayne, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Lizzie Wright Owen, of Washington, District of Columbia, praying that she be granted a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Mary J. West, praying for an increase of her pension, submitted a report thereon, accompanied by a bill (S. No. 1743) granting an increase of pension to Mary J. West.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 1178) for the relief of Jason C. Bradeen, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2039) granting a pension to Jacob J. Smith, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of H. P. Robinson, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

BILLS INTRODUCED.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1744) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York; which was read twice by its title.

The PRESIDENT *pro tempore*. To what committee shall the bill be referred?

Mr. KERNAN. I suppose it should go to the Committee on Commerce, as the bill is to grant a right of way through some land used in connection with a light-house. I think that is the appropriate committee.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Commerce.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1745) for the relief of John Pattee; which was read twice by its title, and, with the accompanying letter from the Secretary of War, referred to the Committee on Claims.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1746) to provide for the erection of a monument at Schuylerville, New York, commemorative of the battle of Saratoga, and for other purposes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. ROLLINS (by request) asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 111) permitting citizens of the District of Columbia to file their claims with the clerks of the Committees on the District of Columbia of the Senate and

House of Representatives during the recess of Congress, prescribing the duties of such clerks with respect thereto, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts; and

A joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions.

The message also announced that the House had passed the following bills:

A bill (S. No. 180) for the relief of George V. Hebb;

A bill (S. No. 401) for the relief of Peter Meagher; and

A bill (S. No. 1113) granting a pension to Peter K. Morgan, private in the war of 1812.

The message further announced that the House had passed the joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference to meet at Washington, District of Columbia, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 309) for the relief of George Heard;

A bill (S. No. 1670) to authorize the Wyoming, Montana and Pacific Railroad Company to build its road across the Fort Russell and Fort Laramie military reservations; and

A joint resolution (H. R. No. 296) making appropriation for the contingent fund of the Senate.

SETTLEMENT OF PRIVATE LAND CLAIMS.

Mr. EDMUNDS. I wish to move that the Senate proceed to the consideration of Senate bill No. 818. It is the bill to settle private land claims in Arizona, and so on.

The PRESIDENT *pro tempore.* The Senator from Vermont moves to postpone the pending order, which is the Calendar of General Orders under the Anthony rule, in order to proceed to the consideration of the bill he has indicated. Is there objection?

Mr. COCKRELL. Yes, sir; I object. I call for the regular order.

The PRESIDENT *pro tempore.* Then the question is on the motion of the Senator from Vermont to postpone the Calendar of General Orders and proceed to the consideration of Senate bill No. 818.

The question being put, it was declared that the ayes appeared to prevail.

Mr. COCKRELL. Let us have a division.

Mr. EDMUNDS. I shall occupy but a moment. Of course I cannot speak of the merits of this bill which has once passed the Senate, but only of the necessity that something should be done in respect of settling the land claims in those Territories to the west and southwest of Texas, where the railways are now going and bringing in population, &c. I have tried to stand with my friend from Missouri by the Calendar all the time, but the Senate has adopted a different judgment, and I am simply doing a duty to ask the Senate to vote whether they will take up this bill or not. Then my duty will be done.

The question being again put, there were on a division—ayes 21, noes 7; no quorum voting.

Mr. COCKRELL. I do not call for any further division. That settles it.

Mr. EDMUNDS. There is no quorum.

The PRESIDENT *pro tempore.* There is no quorum. The roll will be called.

Mr. HARRIS. I ask for the yeas and nays on the motion of the Senator from Vermont in lieu of the calling of the roll. That will develop the presence of a quorum.

Mr. DAVIS, of Illinois. There is evidently a quorum present.

The PRESIDENT *pro tempore.* The Senator from Tennessee asks for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. Let the title of the bill be read. Several Senators do not know what it is.

The CHIEF CLERK. "A bill (S. No. 818) to provide for ascertaining and settling private land claims in certain States and Territories."

Mr. DAVIS, of Illinois. It is a general bill.

The question being taken by yeas and nays, resulted—yeas 33, nays 9; as follows:

YEAS—33.

Allison,	Eaton,	Jones of Nevada,	Pryor,
Baldwin,	Edmunds,	Kernan,	Ransom,
Blair,	Ferry,	Kirkwood,	Rollins,
Booth,	Garland,	McMillan,	Saulsbury,
Burnside,	Groome,	McPherson,	Thurman,
Coke,	Hampton,	Morgan,	Windom.
Davis of Illinois,	Hill of Colorado,	Morrill,	
Davis of W. Va.,	Hoar,	Platt,	
Dawes,	Jonas,	Plumb,	

NAYS—9.

Call,	Harris,	Slater,	Voorhees,
Cockrell,	Maxey,	Teller,	Wallace.
Farley,			

ABSENT—34.

Anthony,	Carpenter,	Jones of Florida,	Sharon,
Bailey,	Conkling,	Kellogg,	Vance,
Bayard,	Gordon,	Lamar,	Vest,
Beck,	Grover,	Logan,	Walker,
Blaine,	Hamlin,	McDonald,	Whyte,
Bruce,	Hereford,	Paddock,	Williams,
Butler,	Hill of Georgia,	Pendleton,	Withers.
Cameron of Pa.,	Ingalls,	Randolph,	
Cameron of Wis.,	Johnston,	Saunders,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. EDMUNDS. There are sundry amendments from the committee, and in order to go along through the bill in an orderly way, I will ask to recommend from the committee one amendment that is not in print. In line 8 of section 1, after the word "lawful," the committee instruct me to move to insert the word "incomplete." The object of this amendment is to limit the jurisdiction of this inquiry to cases of incomplete titles, and not extend it to those who through perfect grants and long possession have perfect titles already, but to leave them standing by themselves without the necessity of coming before this commission, inasmuch as it would be a good deal of expense to many people. For the protection of the United States, the bill contains a limitation in another part against confirming any claim to an extent exceeding eleven square leagues. Some of the people who have been before the committee since the bill was reported, insist upon it that they have perfect grants from the King of Spain, and some I believe from the government of Mexico, amounting to perhaps ten times as much as that, and that therefore the bill limiting it to eleven square leagues would be unjust to them inasmuch as they would be obliged to go before this tribunal. The committee on consideration thought it better to limit this proceeding to incomplete titles, and leave those who claim that they have perfect titles for these enormous grants to fight their own battles when the question shall arise. That is the motive for the amendment.

The PRESIDENT *pro tempore.* The amendment will be reported.

The CHIEF CLERK. In line 8, after the word "lawful," it is proposed to insert the word "incomplete;" so as to read: "by virtue of such lawful, incomplete Spanish or Mexican grant," &c.

The amendment was agreed to.

Mr. EDMUNDS. In line 10 of section 1, to carry out the same idea, after the word "recognize," the committee instruct me to move to insert the words "and confirm." That is precisely the same thing.

The amendment was agreed to.

Mr. EDMUNDS. To carry out the same idea, in line 13, after the word "otherwise," I move to insert the word "finally," so as to read "confirmed by act of Congress, or otherwise finally decided upon by lawful authority," &c.

The amendment was agreed to.

Mr. EDMUNDS. In line 14, to carry out the same idea, after the word "authority," I move to insert the words "and which have not become complete and perfect," referring to the title.

The amendment was agreed to.

Mr. EDMUNDS. In section 2, line 4, there should be a comma after the word "Territory." The Clerk can put that in I suppose.

The PRESIDENT *pro tempore.* That will be inserted.

Mr. EDMUNDS. The next amendment is in print on page 5, line 29.

The PRESIDENT *pro tempore.* The amendments of the Committee on Private Land Claims will be reported in their order.

The CHIEF CLERK. The Committee on Private Land Claims report to insert, in section 2, line 29, after the word "shall," the words "within six months;" in line 31, after the word "Territory," to strike out the word "or" and insert "and from the supreme court of a Territory; and;" in line 32, after the word "State," to insert "from that court;" and in line 34, after the word "allowed," to insert "within one year, and;" so as to read:

And in all cases the party against whom the judgment or decree of said district court may be finally rendered shall within six months be entitled to an appeal to the supreme court of the proper Territory, and from the supreme court of a Territory; and if the case be in a United States court in a State, from that court to the Supreme Court of the United States, which shall be taken and allowed within one year, and in the manner now prescribed by law for taking appeals from said courts.

The amendment was agreed to.

Mr. GARLAND. I wish to call the attention of the Senator from Vermont who has charge of the bill to lines 36, 37, and 38 of section 2:

Which Supreme Court shall retry the cause, as well the issues or questions of fact as of law, and may hear testimony in addition to that given in the court below.

The general, in fact the universal, practice in the Supreme Court is not to try the issues of fact or to hear any testimony. As a matter of course, that jurisdiction can be given by statute, but I should like to hear the reason assigned for it in this particular bill.

Mr. EDMUNDS. The reason for adapting this bill to admiralty practice in the Supreme Court, so to speak, where they can hear additional evidence, grew out of the experience that was had in the case of the California land commission and the proceedings in the courts on that. It would happen sometimes—too often indeed—that in the

court below there would be a fictitious claim supported by fictitious testimony which would not be discovered in season, and which the Supreme Court, although there was good ground for suspicion and all that sort of thing, had no means of correcting. It turned out in a great many instances (perhaps not a great many literally, but still too many for the comfort of the public and for private rights) that if there had been a means in the Supreme Court for taking additional new-discovered testimony to get at the real ends of justice, if either side discovered anything new, so that without the expense of a remand the testimony could be taken and supplied, either to support or to overthrow the claim, the ends of justice and the public convenience would have been greatly advanced.

Mr. GARLAND. The explanation is satisfactory. It is the first time I had seen the bill, that portion of it at least, and it seeming such remarkable practice for the Supreme Court, I wished to call the attention of the Senator to it. These grants we know are very frequently without any record, and it is very difficult to trace them. We know in many California cases that came to the Supreme Court of the United States there were false claims presented. I was not aware of the fact upon which this feature of the bill was inserted; but the explanation is perfectly satisfactory.

Mr. MAXEY. I will ask the Senator from Vermont in that connection, as the Supreme Court is an appellate court, if we provide that it shall rehear and take additional testimony, will not that be something in the nature of original jurisdiction? It is so unusual a thing that I should like to understand how that is.

Mr. EDMUNDS. I think not, because an appellate court, I think, does not lose its appellate and take original power by hearing additional testimony. It may be the very ground of an appeal that the court below refused to receive testimony that it ought to have received; and the court above will receive it and finish the case. That is perfectly true, as the Senator knows, in admiralty practice where the Supreme Court has not original jurisdiction.

Mr. DAVIS, of Illinois. It has been done repeatedly.

The PRESIDENT *pro tempore*. The next amendment of the committee will be reported.

The next amendment reported by the Committee on Private Land Claims was in section 2, line 38, after the word "below," to insert "and may amend the record of the proceedings below, as truth and justice may require."

The amendment was agreed to.

The next amendment was, after the word "require," in line 40 of section 2, to strike out "and either party shall be allowed one year in which to appeal from the decision of the supreme court of such Territory or the district court in a State to the Supreme Court of the United States."

The amendment was agreed to.

The next amendment was, in section 2, line 43, after the word "which," to strike out "court" and insert "Supreme Court of the United States."

The amendment was agreed to.

The next amendment was, in section 2, line 44, before the word "decision," to strike out "whose" and insert "its;" so as to read, "and its decision shall be final and conclusive."

The amendment was agreed to.

The next amendment was, in section 2, line 47, after the word "as," to insert the words "shall be."

The amendment was agreed to.

The next amendment was, in section 6, line 1, after the word "decision," to insert "in accordance with this act;" so as to read:

That upon the final decision in accordance with this act of any claim prosecuted, &c.

The amendment was agreed to.

The next amendment was, in section 6, line 2, after the word "under," to strike out "this act" and insert "it;" so as to read:

That upon the final decision in accordance with this act of any claim prosecuted under it, &c.

The amendment was agreed to.

The next amendment was, in section 6, line 14, after the word "Commissioner," to insert "and the Secretary of the Interior;" so as to read:

On receipt and approval of which survey and plat by said Commissioner and the Secretary of the Interior the President of the United States shall issue a patent to said claimant, &c.

The amendment was agreed to.

The next amendment was, in section 8, line 6, after the word "the," to insert "record and;" in line 7, after the word "be," to insert "forthwith;" in line 9, after the word "the," to insert "record and;" and in line 10, after the word "case," to insert "decided against the United States;" so as to make the section read:

SEC. 8. That it shall be the duty of the attorney of the United States for the proper Territory, in every case when the decision or decree of the district court is against the United States, to appeal the cause to the supreme court of the Territory; and if the decision of the latter court be against the United States, a copy of the record and decree, with a statement of the legal questions involved, shall be forthwith transmitted by the district attorney to the Attorney-General; and in like manner he shall transmit a copy of the record and decree in any case decided against the United States in the district court in a State; and unless the Attorney-General shall otherwise direct, the district attorney shall appeal the cause to the Supreme Court of the United States.

The amendment was agreed to.

The next amendment was, in section 9, line 16, after the word "receivable," to insert "acre for acre;" so as to read:

Which scrip shall be assignable in such form as may be prescribed by said Secretary, and shall be receivable, acre for acre, in payment for any public lands in either of said Territories or States respectively that may be subject to private entry.

The amendment was agreed to.

Mr. EDMUNDS. At the end of the 9th section I wish to move to add after the word "entry," in line 18, "at the minimum price," so as to guard against the possibility of this scrip being located upon double minimum lands, as they are called.

The amendment was agreed to.

The next amendment of the Committee on Private Land Claims was, at the end of section 10, to add the words "or his legal representatives;" so as to read:

The claim shall be presented by, or in the name of, said individual or his legal representatives.

The amendment was agreed to.

Mr. EDMUNDS. In section 11, as we go along, there is another amendment recommended by the committee, to merely change the phraseology with the same effect. I move to strike out the words, in the first and second lines of section 11, "capable of being prosecuted under," and insert the word "by," and then after the word "act," in the second line, to insert the words "authorized to be prosecuted;" so as to read:

That all claims which are, by the provisions of this act, authorized to be prosecuted shall, after three years, &c.

The amendment was agreed to.

Mr. EDMUNDS. To carry out the amendment recommended by the committee that I first moved, in section 12, line 6, the words "or, if incomplete" should be stricken out, and the word "and" inserted; so as to read:

No claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the government of Spain or Mexico, and one that at the date of the acquisition of the territory by the United States the claimant would have had a lawful right to make perfect, &c.

The amendment was agreed to.

The next amendment of the Committee on Private Land Claims was, in section 12, line 44, after the word "claimant," to insert "or in the right of any one original grant to two or more persons jointly;" so as to read:

Seventh. No confirmation shall in any case be made or patent issued for a greater quantity than eleven square leagues of land, to or in the right of any one original grantee or claimant, or in the right of any one original grant to two or more persons jointly, nor for a greater quantity than was authorized by the respective laws of Spain or Mexico applicable to the claim.

The amendment was agreed to.

Mr. EDMUNDS. I believe that completes the amendments of the committee.

Mr. PLUMB. I move to amend the bill in section 9, line 14, by striking out the words "six hundred and forty," before "acres," and inserting "one hundred and sixty." I do that for the purpose of following it with an amendment in line 18 of the same section striking out the words "that may be subject to private entry" and inserting the words "by actual settlers only under the pre-emption laws."

I will state the reason for moving the amendment. Very much of the land covered by these grants is grazing land only; in fact, much the larger portion of it. In other words, a large portion of the land is not selected land; and in the case of the diminution of any of these reservations to give to persons who may have been thereby damaged the right to take scrip that may be located upon the public lands in any of these States or Territories is I think to give them an undue advantage. I do not think there is any question that the land covered by these grants is not more valuable than the ordinary agricultural lands of the United States; that is to say, as a matter of average; but lands which they might select in lieu of lands of which they might have been deprived in some way might, as in many cases they would, be worth $10, or $15, or perhaps $20 an acre more—worth a great deal more than the average of the land which they had surrendered. I therefore move, for the purpose that I have stated, to strike out the words "six hundred and forty," in line 14 of section 9, and to insert "one hundred and sixty," with a view of moving the further amendment that I have indicated.

Mr. EDMUNDS. The committee in preparing this bill and the one that passed at the last Congress followed I believe the previous legislation upon similar subjects. It is to be borne in mind that this substituted scrip is to take the place and represent a tract of land of which the United States has been found to have unjustly deprived its real owner. We say first, "You must prove that you have got a just claim to a particular piece of land which shall not exceed eleven square leagues." Having proved that, if it turns out that the United States had sold it, and not in any other case, if the United States Government has disposed of it for a valuable consideration, then in order to let the person who has got it from us keep it and deprive the owner of it, as the easiest thing altogether we provide that the owner may have scrip and that he may locate that scrip on land in tracts not exceeding six hundred and forty acres for each piece of scrip, and that he must locate it on lands subject to private entry at the minimum price of a dollar and a quarter per acre. When you keep in

mind the fact that this scrip business only applies to the man who has been found to have been deprived by the United States of a still larger tract, it would not seem to be very unjust to let him locate six hundred and forty acres in one place.

Mr. BOOTH. I look upon this provision with a good deal of apprehension. If there has been any evil in the administration of the land laws that is greater than another it has arisen out of the issue of scrip which is locatable on any public lands of the United States. Under this provision, scrip for an equal amount of acres in quantities not exceeding six hundred and forty acres, a grantee can take the scrip in blocks of forty acres, or over or under, and he can locate it upon any public lands of the United States anywhere. Such provisions in former laws have given rise to more litigation and to more injustice than any which have ever been ingrafted in that connection on the statute-book. I believe, I think I know, that scrip issued under the provisions of this section to-day would be worth on the market $10 an acre. I think the amendment suggested by the Senator from Kansas, that it shall only be used by actual settlers under the pre-emption laws, is one that is eminently correct and proper. If in any individual case it should work an injustice, it would be in the power of Congress to remedy that injustice; but the general hardship and the general injustice that would be worked, in my opinion, by the enactment of this clause as it stands cannot be compensated.

We have had a good deal of experience in that line in the public-land States by the issue of scrip that can be located on any land, and it has very often been used to deprive men of equitable titles. I think the laws in relation to the entry of our public lands ought to harmonize, and that we ought not to allow a title to be acquired to any lands except under the existing laws, the pre-emption, homestead, timber-culture, or mineral laws; and all the laws passed for special purposes ought to be made to harmonize with them. As I said before, if in any individual case it should work injustice, Congress would have ample power to remedy that specifically.

Mr. EDMUNDS. All that the Senator says is perfectly true about the inconvenience of issuing scrip for public lands to anybody or allowing anybody, even a corporation, to have any public lands at all unless he is going to settle upon them and raise wheat and corn and so forth; but the Senator from California ought to bear in mind and so ought my friend from Kansas who proposes this amendment, that this applies to the instance where the United States itself has taken away a larger body of land that belonged to the private citizen. That is the only justification for it. We must be just.

Mr. BOOTH. We can be absolutely just and pay him what is right by a money consideration.

Mr. EDMUNDS. Very well; propose that, then.

Mr. BOOTH. I was endeavoring to assist my friend from Kansas, whose amendment is in the line of the committee, but I suppose such a claim should come here and stand on its own merits. I am not prepared to say to-day, neither is the Senator from Vermont, just what should be claimed in specific cases that have not arisen. One tract of land may be worth vastly more than another on account of its fertility and its location, and I do not think that any general law could be made that would act justly in all these cases; but I think the amendment offered by the Senator from Kansas is in the line of justice, and that if any injustice should be worked by it it can be remedied when the case arises. I know that such a provision as this will embarrass the proper administration of the land laws.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

Mr. PLUMB. I do not design to do any injustice to persons who may have rights to land under these grants; but it is a well-known fact that the average value of these grants does not exceed in New Mexico, to which this bill will chiefly apply, seventy-five cents an acre at the outside. Now, the privilege of selecting lands in lieu of lands which the Government may otherwise have disposed of, enabling the party who receives the scrip to select out of all the lands in the Territory of New Mexico an equivalent amount in tracts not exceeding six hundred and forty acres, will be a very valuable privilege indeed, and one which would much more than compensate the party. More than that, it would do that which, as the Senator from California has well said, the law of late years has sought to prevent; it would put lands which would otherwise go into the hands of actual settlers, in the hands of speculators. When we give to these parties a right to take scrip which they can sell to the settlers for the purpose of locating on these lands, we give to them an average price for the lands we have taken at least double the value of that which has been taken from them. I think that will do them ample justice without violating beside the principle of the public-land law, which is that the land shall go only to the man by whose labor it is to be made productive, the man who settles upon it, and takes his chances in that settlement. As I said, it is with the design of moving a subsequent amendment which will give effect to this that I move this now.

Mr. MCMILLAN. I should like to ask the Senator from Vermont, not having had an opportunity to read this bill and understand it in all its provisions, within what limits may this scrip, which may be issued, be locatable? What States and Territories are embraced within this bill, for the purpose of placing this scrip?

Mr. EDMUNDS. The Territories embraced in the bill are New Mexico, Wyoming, Arizona, and Utah, and the States Nevada and Colorado, and the right to enter is in each respective State or Territory of the land that the United States has sold that turns out to belong to the man in that State or in that Territory, as the Senator will see at the top of page 10:

> Any public lands in either of said Territories or States respectively that may be subject to private entry.

Each entry is confined to the substituted land; where the United States has got the land that the man turns out to have been entitled to he can take up other land in that State or that Territory where his lay, and he can only take it then, according to this bill, when it is subject to private entry at a dollar and a quarter an acre, not subject to pre-emption, not subject to homestead, but only land that is subject to private entry at a dollar and a quarter an acre, and what is that? Land that has been offered at auction and that nobody will give anything for.

Mr. MCMILLAN. I concur with the views expressed by the Senator from California upon this question. I agree with him that more difficulties have arisen out of scrip issued for various purposes by the Congress of the United States than from any other one source affecting the public lands, and if I could refuse the issuance of scrip in any case and under any circumstances, I would do it and let the General Government, if land has been taken, provide a pecuniary compensation to the person whose land they have taken. Then you can get at the actual value of the land; then you can give him what he has lost. This scrip goes into the hands of speculators and its price is variable. It can be used for the purposes designated in these acts. Then we are besought by the holders of this scrip getting into various hands and channels to enlarge the purposes for which the scrip can be used to increase the purposes and the objects for which it can be sold, and in this way speculation is encouraged and injury is done to the public lands and to the settlers upon the public lands.

I want upon the public lands actual settlers, men who will cultivate the lands in small quantities, one hundred and sixty acres or thereabout. Instead of that large bodies of these lands go into the hands of speculators, and they are held at prices too high for emigrants or settlers, and the country is kept unsettled at a great disadvantage to the States and communities in which the land lies.

I shall support the amendment of the Senator from Kansas.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

The question being put, there were on a division—ayes 17, noes 18; no quorum voting.

Mr. BOOTH called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 25; as follows:

YEAS—19.

Bailey,	Farley,	Jones of Nevada,	Saulsbury,
Booth,	Ferry,	McMillan,	Teller,
Butler,	Hampton,	Pendleton,	Williams,
Call,	Hill of Colorado,	Plumb,	Windom.
Conkling,	Ingalls,	Rollins,	

NAYS—25.

Allison,	Davis of W. Va.,	Jonas,	Ransom,
Baldwin,	Edmunds,	Kernan,	Thurman,
Bayard,	Garland,	Maxey,	Voorhees,
Beck,	Groome,	Morgan,	Withers.
Cockrell,	Harris,	Morrill,	
Coke,	Hill of Georgia,	Platt,	
Davis of Illinois,	Johnston,	Pryor,	

ABSENT—32.

Anthony,	Dawes,	Kellogg,	Saunders,
Blaine,	Eaton,	Kirkwood,	Sharon,
Blair,	Gordon,	Lamar,	Slater,
Bruce,	Grover,	Logan,	Vance,
Burnside,	Hamlin,	McDonald,	Vest,
Cameron of Pa.,	Hereford,	McPherson,	Walker,
Cameron of Wis.,	Hoar,	Paddock,	Wallace,
Carpenter,	Jones of Florida,	Randolph,	Whyte.

So the amendment was rejected.

Mr. BOOTH. I ask the Senator who reported the bill if in line 6 of section 6, page 7, there should not be an amendment? I move to insert after the word "proper" the words "State or;" so as to read, "proper State or Territory."

Mr. EDMUNDS. That is right; it is a clerical omission, speaking of the surveyor-general.

The amendment was agreed to.

Mr. TELLER. I desire to offer an amendment. In section 3, line 6, I move to strike out the words "when the person testifying is dead." In the Territory of New Mexico a good many years ago we established a tribunal to determine the rights of parties with reference to the confirmation of their grants by Congress. A great many of those persons have taken testimony from time to time, and have virtually closed the testimony. Some of the testimony taken very many years ago has been taken in accordance with the statute, filed and preserved in accordance with the statute, and those parties have been from time to time appealing to Congress to confirm their grants. Through no fault of theirs a long period of time has elapsed since the testimony was taken; and now we come in here, their grants not being confirmed, and provide an entirely different system, as I understand.

It seems to me that this testimony having been taken in pursuance of a law enacted by Congress and in force up to the present time, it is safe to allow the court to consider this testimony without reference

to whether the persons are living or dead, because the committee have added—

So far as the subject-matter thereof is competent evidence; and the court shall give it such weight as, in its judgment, under all the circumstances, it ought to have.

Now, to require these parties before they can use this testimony to show that the persons who testified are dead, is to prevent very much of the evidence that is truthful, probably, and worthy of confidence, being received at all. This does not materially and especially affect any interest in Colorado, though there may be one or two grants that are not confirmed; but I know in some cases in New Mexico parties have gone to great expense in getting their testimony, and they assure me that if they are not allowed to use that which has been on file for many years it may be difficult for them to procure it at all. It is only proposed the court shall take it, with such other testimony as may be produced, for what it is worth. I should not myself be willing perhaps to make it obligatory on the court. The committee have qualified that and have said it shall have such weight as in the judgment of the court it is deserving of. I think the words I have mentioned ought to be stricken out.

Mr. EDMUNDS. I am sorry to disagree with my friend from Colorado; and now, speaking for the committee, I wish to oppose this amendment. This point was pressed upon the committee when it considered the bill, and on a former committee when the present presiding officer was chairman of the same committee in the same connection.

The present state of the law to which my friend refers—and I must be very short, as I desire to finish this bill now—is simply a bill authorizing private land claimants to present their claims through certain channels to Congress for its consideration. There is no law that authorizes proof to be taken for a final decision by any tribunal, but only just as in the case of other claims except that it is regulated by more form probably. It is merely a means of getting the thing together, and sending it with a survey, &c., to Congress for a hearing there. It being sent to Congress Congress is not bound, as a court is, to proceed and try the case. If it suspects that there is anything dishonest about it, Congress turns its back upon it and away it goes. We are not bound under such rules as a court is. Therefore the committee were satisfied from our experience in this business and from claims that have so often come before us upon testimony taken in that way, that where the witness is still living and his testimony has been taken with a view to consummation before a surveyor-general, it is the greatest possible danger to allow that testimony to be filed in a court that proceeds upon fixed principles as we do not. Therefore I hope the Senate will not strike out these words.

Mr. TELLER. The Senator does not state the law differently from what I did, though he seemed to do so.

Mr. EDMUNDS. Not at all. I stated it for the information of other Senators.

Mr. TELLER. I did not state that the statute was imperative upon Congress to receive this testimony, but I do say you may find cases where twenty years ago testimony was taken and in the mean time the witnesses have gone; they may not be dead, but they may be in Mexico, they may be in British Columbia, they may be in New England for aught I know or for aught the parties know. It does not seem to me to be any hardship on the Government to allow that testimony to be received inasmuch as the court gives it just such weight as it is entitled to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Colorado, [Mr. TELLER.]

The amendment was rejected.

Mr. TELLER. I desire to offer another amendment. I move to strike out commencing with the first word of line 16 of section 12 down to and including the last word of line 23, or what is entitled "third"—the third paragraph of the section.

The PRESIDENT *pro tempore*. The amendment of the Senator from Colorado is to strike out a paragraph of the bill which will be read.

The Chief Clerk read the words proposed to be stricken out, as follows:

Third. No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed effected the donation or sale of such mines or minerals to the grantee; but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act.

Mr. TELLER. For more than thirty years we have been in the habit of confirming these Mexican grants. This is not a confirmation, but it is a provision for a confirmation; and it is the first instance in which the Government has reserved to itself the minerals in the land. I know the committee base this provision upon the Mexican law that reserved to the Mexican government the minerals, following the old Spanish law that reserved to the Crown the precious metals in the land. This introduces an entirely new system in this country, one for which there is no provision in our laws, and it is entirely dissimilar to the provision in the Mexican law, which was simply the old Spanish law that prevailed in all Spanish regions. The committee have provided in this third paragraph of this section that not only shall the minerals be reserved to the Government as the minerals were reserved to the Spanish Crown and subsequently to the Mexican government, but that the surface-ground, or at least some portion of it, shall be reserved, and that, too, without any provision for compensation to the owners. That was not the Spanish law; that was not the Mexican law.

While a citizen of Spain, or a citizen of Mexico subsequently, could denounce mineral lands and make a sort of title to them which was an absolute title so long as he remained in possession recognizing the right of the Crown to a certain portion of the mineral, yet he could not do that on common or private lands except by paying the damage that those parties sustained. In this case the Government reserves to itself not simply the property in the minerals but it reserves to itself the right to donate or to sell, whichever it may be, to the miner a portion of this ground. When we acquired this territory we acquired it with a distinct guarantee that we would protect those people in their titles to this land in just exactly the same rights that the government of Mexico had recognized that they had. That is all I suppose that strictly they can claim, and that they are entitled to claim to the very letter.

It will be discovered by looking at the old mining laws of Spain, which were transmitted to Mexico, that the provision was—

SECTION I. The mines are the property of my royal crown, as well by their nature and origin as by their reunion, declared by the fourth law of the thirteenth title of the sixth book of the new compilation, (of laws and statutes.)

SEC. II. Without separating them from my royal patrimony, I grant them to my subjects in property and possession, in such manner that they may sell, exchange, (pass by will, either in the way of inheritance or legacy,) or in any other manner dispose of all their property in them, upon the terms on which they themselves possess it, and to persons legally capable of acquiring it.

SEC. III. Be it understood that this grant is made upon two conditions: First, that they (my subjects) shall pay to my royal treasury the proportion of metal reserved thereto; and, secondly, that they shall carry on their operations in the mine subject to the provisions of these ordinances, on failure of which, at any time, the mines of persons so making default shall be considered as forfeited, and may be granted to any person who shall denounce them accordingly.

Section 14 of these ordinances provides:

SEC. XIV. Any one may discover and denounce a vein, not only on common land, but also on the property of any individual, provided he pays for the extent of surface above the same, and the damage which immediately ensues therefrom, according to the valuation of surveyors on both sides, and arbitration in case of disagreement; the same is to be understood with regard to denouncing convenient places for erecting establishments, and also waters for moving the machines employed for the reduction of ores, commonly called reducing establishments, (*haciendas*,) provided in each case, that no more of the water be used than is necessary for such purposes.

If this land was held by these people under the laws of Mexico, the right to the mineral or to a percentage of the mineral would have remained in the Crown; but the right to occupy the land by any citizen would have been subject to the provision I have read. I think the committee should have provided some method by which, as there is none by law now, the parties having the title to this land shall allow those who choose to denounce the mine, in the language of the old Mexican law, to go on and work the mine. As it is now the "minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act." How much land is to be reserved under this act?

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the regular order is before the Senate

Mr. EDMUNDS. If it would be entirely agreeable to the Senator from Georgia (as I hope we can finish this bill in perhaps ten minutes) to let us go on, I should be glad; but if it is not perfectly agreeable to him, I will not ask it.

Mr. HILL, of Georgia. If the Senator can certainly get his bill through in ten minutes I shall not object to yielding that long.

Mr. EDMUNDS. I do not wish to occupy more than a single moment in replying to this amendment.

Mr. HILL, of Georgia. I am willing to give ten minutes.

Mr. EDMUNDS. I will try it at that.

Mr. HILL, of Georgia. I will give way for ten minutes.

Mr. EDMUNDS. I do not wish to occupy any time in opposing this amendment. The argument of my friend is that we have not provided for compensation.

Mr. TELLER. I will say that I propose to be heard a little further. I had not got through. I call for the regular order, and let this bill go over to another day.

The PRESIDENT *pro tempore*. The regular order is the resolutions in reference to the seat of the sitting member from Louisiana; but with the permission of the Senate the Chair will lay before the Senate some bills from the House of Representatives for reference.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts, was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions was read twice by its title, and referred to the Committee on Finance.

INTERNATIONAL SANITARY CONFERENCE.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference to meet at Washington, District of Columbia.

The amendment of the House of Representatives was, after the words "yellow fever," in line 5, to insert "or cholera."

Mr. HARRIS. I ask the Senate to concur at this time in the House

amendment. It only adds the two words "or cholera," simply including in the invitation to this international conference countries subject to the cholera as well as those subject to the yellow fever.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

C. R. FAULKNER AND SENATE FOLDING-ROOM.

Mr. WALLACE. I am directed by the Committee on Appropriations, to which was referred the joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, to report it back with an amendment, and I ask for its immediate consideration. The Senator from Georgia yields to me for this purpose.

The Chief Clerk read the amendment reported from the Committee on Appropriations, which was to add as an additional section the following:

SEC. 2. That the sum of $1,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to pay folders in the Senate folding-room for folding pamphlets and speeches, for the fiscal year ending June 30, 1880, at the rates now established by law.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent that the pending order be informally laid aside and that this joint resolution be considered.

Mr. EDMUNDS. Before I consent I should like to have the Senator explain what this means. Take the first claim, for instance, to pay somebody a certain sum. Why has it not been paid out of the House contingent fund, or was it somebody who did not take the oath prescribed by law, or what was the matter about it?

Mr. WALLACE. As I understand the law you cannot pay a House employé out of the House contingent fund. It is a House resolution which came to the Committee on Appropriations. The amendment is to provide the fund necessary to continue work in the Senate folding-room. The amount appropriated by the bill of last year has been expended, and the work in the folding-room cannot go on unless a fund is furnished.

Mr. EDMUNDS. That part of it I understand; I understood that before; but what I want to know is about this private claim that is contained in the House resolution.

Mr. WALLACE. It is the case of an employé of the House. The resolution was passed by the House, who sent it over, and it was referred to the Committee on Appropriations. Such matters are always considered by the Committee on Appropriations.

Mr. EDMUNDS. I am not on the question of what committee should have charge of it; I am on the question of the merit of the claim, or what its history is.

Mr. WALLACE. The merit of the claim is that this man was an employé of the House, and the House passed a joint resolution for his payment at this session, and we think he ought to be paid.

Mr. EDMUNDS. Why was he not paid out of the money provided by the liberality and generosity of a democratic Congress long before? I presume he is a democrat, is he not?

Mr. WALLACE. I suppose the republican Senate would not consent to the passage of the bill passed by the House to pay him.

The PRESIDENT *pro tempore*. Is there unanimous consent for the present consideration of the joint resolution?

Mr. EDMUNDS. Not yet. I do not intend to consent until I can have some information—if the Senator from Pennsylvania does not choose to give it, I will try to get it in some other way—of what the nature of this claim is. If it is to pay somebody who cannot take the oath of office, and would not, then I want to be told so. If it is to pay somebody that there was not money enough to pay I want to know that.

Mr. WALLACE. I think that is the fact.

Mr. EDMUNDS. Which is the fact?

Mr. WALLACE. That there was not money enough to pay him.

Mr. EDMUNDS. Then it is a deficiency in the House contingent fund. Is that it?

Mr. WALLACE. There was not money enough to pay him. Whether there was a deficiency or not, I am not able to answer.

Mr. DAVIS, of West Virginia. The Senator from Pennsylvania will allow me a word. I have not examined this claim myself, for the Senator from Pennsylvania had charge of it; but I understand the fact to be that at the extra session of this Congress this man was employed for a part of the session at least, and as the Senator knows, unless there is a special resolution that employés shall be paid out of the contingent fund they cannot be paid out of that fund, and I understand this man was employed over there in some capacity, and was not paid for some cause, I know not what, and this resolution has passed the House, and is sent over here for the payment of this employé.

Mr. EDMUNDS. This cannot have been the only employé that the House of Representatives had at the extra session. They must have had more help than this one man.

Mr. DAVIS, of West Virginia. Certainly they had.

Mr. EDMUNDS. How did the other fellows get their pay and this man not get his? That is the thing that puzzles me.

Mr. DAVIS, of West Virginia. I will say to the Senator from Vermont that the fact of the employment is certain, but the cause of his not having been paid, I cannot state positively; but I understand that this man was employed over and above, in some manner or other, the regular employés, and has performed service and has not been paid. As the Senator well knows, we sometimes do that here. We did it in the early part of the session. We provided for three messengers, and they were employed here for two months without pay. We finally passed a bill through the Senate to pay them, and it went to the House and they were paid. I refer to the messengers allowed to the other side of the Chamber by the democrats at this session. They were probably two months without pay, but finally the Senate passed a bill or added it to some House bill, under which they were paid, and properly so. This man may be in a similar position.

Mr. EDMUNDS. So he may be; but what I want to know is whether he is. He may be in a hundred positions. Of course the matter is perfectly trivial in and of itself; but still as a matter of principle I know the Senate is so desirous of being perfectly correct about employés that I think it better to let the resolution lie aside for a little while and——

Mr. WALLACE. I will send for information.

Mr. EDMUNDS. I object now, but will withdraw my objection by and by probably.

The PRESIDENT *pro tempore*. The consideration of the joint resolution is objected to.

Mr. EDMUNDS subsequently said: I withdraw my objection to the joint resolution that the Senator from Pennsylvania reported. I ask to have the report and papers read, so that the facts may be understood.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress is before the Senate as in Committee of the Whole. The papers referred to by the Senator from Vermont will be read.

The Chief Clerk read as follows:

The Committee on Claims, to whom was referred the claim of C. R. Faulkner for services as a messenger of the House of Representatives during the Forty-fifth Congress, respectfully report:

That said committee have had the same under consideration, and find that the petitioner served from February 1 to February 13, 1878, as an employé of the House, and is entitled to the sum of $32.50 therefor in full payment of the balance due him.

Wherefore your committee recommend the passage of the accompanying resolution.

To whom it may concern:

I, John W. Polk, late Doorkeeper of the House of Representatives, United States Congress, do hereby certify that C. R. Faulkner, of Ripley County, Indiana, who was in my employ while Doorkeeper—a part of the time he was, for the purpose of drawing pay for his services, on the laborers' roll and part of the time on the Union soldiers' roll. His being placed upon the Union soldiers' roll was not from any representations made by him or his friends that he was a crippled Union soldier, but in the reorganization of the Union soldiers' roll; Mr. Faulkner was put upon that roll temporarily for the purpose of drawing pay for his services at my own instance, uninfluenced by any person whatever, his duties being that of messenger. I would further say that Mr. Faulkner in his duties was attentive, faithful, and efficient; that his being dropped from the roll originated under circumstances beyond his or my control, without the least shadow of reflection upon his integrity as a true and honorable man as well as a faithful and efficient employé.

June 12, 1878.

JOHN W. POLK.

Attest:

D. DALE.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Appropriations to insert an additional section to the joint resolution.

The Chief Clerk read the proposed amendment, as follows:

SEC. 2. That the sum of $1,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay folders in the Senate folding-room for folding pamphlets and speeches for the fiscal year ending June 30, 1880, at the rates now established by law.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, and for other purposes."

ELIZABETH D. THOMAS.

Mr. BAYARD. The Senator from Michigan desires a House bill directing the issue of a duplicate check to a pensioner which was lost in the mails, to receive the action of the Senate, and the honorable Senator from Georgia is willing that the regular order be laid aside informally for the purpose of taking up this bill as it will lead to no debate, I am sure, and will receive the sanction of the Senate.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5089) directing the issue of a duplicate check to Elizabeth D. Thomas, a pensioner of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat

held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. HILL, of Georgia. Mr. President, during the delivery of my remarks to-day I request that I be not interrupted. Interruptions will only break the thread of the argument and perhaps unnecessarily prolong it; and I feel satisfied that the view I shall take of the case will be such that when I am discussing one proposition Senators will find that the questions which may occur to them on another proposition will be reached before I am through. At the conclusion of my remarks I will answer any questions which any Senator may desire answered. I propose to-day to discuss chiefly the legal views involved in this case, going into the facts only to such an extent as I shall deem them necessary to elucidate those legal views. And now, sir, without further delay, explanation, or apology, I proceed directly to the questions on which we are asked to vote.

The first resolution reported from the committee is in these words:

Resolved, That, according to the evidence now known to the Senate, WILLIAM P. KELLOGG was not chosen by the Legislature of Louisiana to the seat in the Senate for the term beginning the 4th day of March, 1877, and is not entitled to sit in the same.

The second resolution declares:

That Henry M. Spofford was chosen by the Legislature of Louisiana to the seat in the Senate for the term beginning on the 4th of March, 1877, and that he be admitted to the same on taking the oath prescribed by law.

If the first resolution be correct, a little reflection will satisfy Senators that the second follows as a corollary, because it is conceded on all hands that there was a Legislature chosen for the State of Louisiana by the election of 1876. I shall therefore direct my inquiries to the correctness of the first resolution. That resolution analyzed contains one affirmation, and from that affirmation announces a conclusion. The affirmation is that WILLIAM P. KELLOGG was not chosen by the Legislature of Louisiana. The conclusion is that, therefore, he is not entitled to sit in this body. Is the affirmation true? Was he chosen by the Legislature of Louisiana to the seat which he occupies? That is the question upon which we are to vote. Senators will notice that this resolution deals in no vague generalities. It does not spread a drag-net of phraseology by saying that the Senator is lawfully entitled on the merits, without saying what those merits are, or without making a distinct issue upon which the Senate is called to vote. It alleges a constitutional fact and in constitutional language. It affirms that WILLIAM P. KELLOGG was not chosen by the Legislature of Louisiana to the seat.

The report of the committee alleges two reasons why that proposition is true. First the report declares that the body of persons which it has been alleged elected KELLOGG was not in fact the Legislature of Louisiana, and therefore had no power, no authority, to choose him as Senator. The second reason is that conceding for the argument that this body of persons was the Legislature of Louisiana, yet that under the evidence there was no quorum present at the time of the alleged election; and secondly that the members were controlled in their votes by bribery and other corrupt practices, and therefore did not choose the sitting member to the seat he occupies.

I beg the Senate to keep these propositions distinct and separate. The first proposition is that the body of persons was not the Legislature and could not elect, and is a question of power and authority. The second proposition is that because of the want of a quorum and because of corrupt practices the Legislature, conceding it to be such, *did not* choose him to be Senator, and makes a question of will and compliance with the statutes regulating elections. They are very distinct, and each must be considered separately from the other, for they rest upon very different grounds.

The first proposition, then, is, was the body of persons which it is alleged elected KELLOGG to the Senate the Legislature of Louisiana at the time of the so-called election?

Mr. President, first of all let us settle the fundamental question, What is the Legislature of a State? The Legislature of a State is that body of persons who are invested with authority to make laws for the government of that State; and it is that body of persons whose enactments the courts are compelled to administer, the governor is compelled to execute, and the people are compelled to obey. That is the Legislature of a State. Who invests this body of persons with this legislative power, with this power to make laws—laws which demand the obedience of courts, of governors, and of people? Clearly, that investment of power is conferred solely by the State, by the people of the State according to the constitution and laws of that State. No other power can invest any body of persons in a State with authority to make laws for that State and for its internal government. You perceive at once that such a claim in another, if admitted, would strike at the very foundation of popular government. Whatever authority a Legislature of a State has to make laws it derives only from the people of that State.

This being true, the next question is this: who is to determine what body of persons it is in a State that is invested with this authority to make laws for the government of that people? Why, sir, necessarily that determination can come only from those who have the authority to make the investment. It would be absurd to say that the people of the State alone could invest a body of persons with authority to make laws and then say that some other body could determine whether that body of persons had been in fact invested with that authority. It is impossible, in the nature of things, that one power should alone be able to invest this body of persons with authority to make laws, and that another distinct, separate, or different power should have authority to determine whether that investment had been made, whether that authority had been given. Other powers may recognize what the State has done, but the State alone gives the authority, and declares to whom she has given it.

I am thus particular in making this enunciation because the notion has got abroad of late years that in some contingency or other there are other powers or authorities which can enter a State and determine what is and what shall be the Legislature of that State, and the report of the committee concedes, in deference to this general loose idea, that where there are two rival bodies in a State, each claiming to be the Legislature of the State, the Senate in admitting a Senator may determine which of those rival bodies is the Legislature of the State.

I simply wish here to say for myself that in my opinion there is no possible contingency under our form of government when this Senate can have authority to determine as an original proposition for itself or for the State or for anybody else what is the Legislature of a State. I can conceive of a contingency under that article of the Constitution which says that the United States shall guarantee a republican form of government to each State, in which for a certain purpose Congress itself may have authority to determine what is the legal government of a State *pro hâc vice*, and I can conceive of a contingency in which the Executive, in executing the laws of Congress carrying out that provision of the Constitution, may find it necessary to determine what is the Legislature of a State or the governor of a State; but the President and Congress in the case mentioned determine it for themselves to enable them to execute a specific power in the Constitution, and do not determine it for the State.

In other words, the power conferred by the Constitution on the United States, and incidentally upon the President in carrying out the laws of the United States, to determine for a certain purpose what is the Legislature of a State, is only conferred for the purpose of invoking the physical power of the General Government to put the State in a condition to enable her to decide for herself what is her Legislature and what is her true government. So that in truth, even in the cases mentioned, the final and authoritative determination as to what is the Legislature of a State must be by the State herself. It would be at war with every principle on which our system of government rests to say that under any circumstances any outside power can enter a State and determine for that State the body of persons who shall make laws for the internal government of the people of that State.

But this question as to what may be the power of the Senate in the contingency mentioned where the State has not determined the question is not material for discussion in this case. I simply announce my view on this subject, because I wish to go on the record as holding that opinion, and I have not the slightest doubt of its correctness.

If a State has not determined what is her Legislature, then she is not in a condition to elect a Senator, for the Legislature is the constituency of the Senator, and until there be a Legislature there can be no Senator chosen. The State must determine what is her Legislature. The Legislature is not created for the purpose of electing a Senator—mark that. The Legislature is created to make laws for the State, and the Constitution of the United States simply deposits with that Legislature thus called into existence by the State the power, the authority, to choose a Senator; and until the Legislature is called into existence there can be no authority to choose a Senator. If domestic violence should occur in a State by which the State is rendered physically unable to determine that question, then she may call on the General Government for assistance to enable her to determine that question by the suppression of the domestic violence, and the President and the Congress can determine what is the government of the State for the purpose of answering the call, so as to remove the obstruction, and then leave the State when the obstruction is removed to determine for herself what is her Legislature, what is her government.

But, Mr. President, as I said, I shall not stop to dwell upon that question, because the next proposition I presume will receive the unquestioning assent of every gentleman present. That proposition is that whether this Senate can claim the right to determine which of two rival bodies in a State is the Legislature of that State or not when the State herself has not determined that question, yet when the State has determined that question, when the State has said, "this is the body of persons that I have invested with authority to make laws for the government of my people;" when the courts of the State say, "this is the body whose laws we will administer under our oaths;" when the executive officers say, "this is the body whose laws we will execute;" when the people say, "this is the body whose laws we will obey," it would be usurpation of the most reckless character for any third power to go into that State and reverse that decision of the State and compel the people of the State, the courts of the State, and the governor of the State, or anybody else, to say that another body is the Legislature of that State. That would make such third power a tyrant and the State a mere subject province.

Now, then, the question is, has Louisiana settled this question for herself? Unquestionably she has. In March, 1877, when the credentials of KELLOGG were first presented in this body and referred to a committee, there were two bodies in the State of Louisiana each claim-

ing to be the Legislature, one supported by the people, the other supported by the Army of the United States and the metropolitan police. If the Senate had authority because there were two bodies to determine which of them was the Legislature it did not determine it while the controversy lasted; it took no step for the purpose of determining it, no action whatever, and before the Senate had taken any action in the matter of determining that question the State settled it for herself, and that settlement has remained from that day to this. There is not a power on earth that questions the settlement.

The honorable Senator from Massachusetts [Mr. HOAR] made the singular statement yesterday that the majority of this committee or somebody on this side of the House held to the doctrine that a revolution in the spring of 1877 had a retroactive effect to make that unconstitutional which was constitutional in January, 1877. That idea, like a great many others expressed by the Senator, has no foundation but the unsubstantial basis of his own vivid imagination. Nobody on this side has said any such foolish thing. But what we say on this side is: that the question decided by Louisiana was what was the body of persons chosen as her Legislature by the election of 1876, and which therefore was the legal Legislature in January, 1877, and from the beginning of its term, for the Legislature which was chosen in 1876 was not chosen for the month of January nor for the month of February nor for the month of March; it was chosen for a term, and that term was fixed by the constitution of Louisiana then to be two years. So that whichever body was chosen by the people in the election of 1876 as the Legislature was chosen as the Legislature for the two years beginning on the 1st day of January, 1877. That is the question the people of Louisiana decided.

Perhaps I ought to apologize to the Senate for stopping to notice this statement of the Senator from Massachusetts. He speaks of the revolution in April, 1877, by which the legal government of Louisiana was overthrown. A revolution! What was the revolution? The simple withdrawal of force, the simple withdrawal of troops.

The governor of the State in 1877 had called upon the metropolitan police force and the Army of the United States to protect what he called the Packard legislature in the State-house. That Army was withdrawn; that physical force was withdrawn in April, 1877, and the result was that that which had no existence except by force simply dissolved; it fell. Now, I have heard of revolutions being accomplished by force, but I never heard of a violent revolution being accomplished by the withdrawal of force. The Senator says that the Packard government was overthrown by the revolution of April, 1877. Did any man ever hear of a government being overthrown by the withdrawal of force? A government may be overthrown by the application of force, usurpatory or otherwise, but it remained for the Senator from Massachusetts, who made the brilliant discovery that the sun rose on Mont Blanc, to discover that the withdrawal of force overthrew a legal government!

The very fact that that concern dissolved when the force was withdrawn ought to be the highest evidence to a man accustomed to popular government that the thing had no basis whatever. How can that be the Legislature of a State which has no foundation and no support in the will of the State herself, nor in the will of the people of the State? How can that be the Legislature invested with power to make laws for the government of the people of a State which has nothing to keep it in existence but a military power, and the moment that military power is withdrawn the thing dissolves into thin air? Could the Army, by whose presence alone this concern existed, invest this body of persons with authority to make laws for the people of Louisiana?

The State of Louisiana then has peaceably, quietly, unanimously, legally, forever, for all men and for all powers, settled which of these two bodies was her Legislature. She has settled that the body of persons who pretend to have elected KELLOGG had no authority upon earth to make a legal enactment, and they made no legal enactment. She tells you that no portion of the judiciary, not even a justice of the peace, would dare administer an enactment adopted by this mob; that no governor would enforce a law of this body; and there is no man, woman, or child, black or white, in the boundaries of Louisiana that would obey one of its enactments or that could be compelled to obey one of its enactments, and any person seeking to enforce obedience to an enactment of this body of conspirators would be a trespasser.

But the State has not only decided that this body of persons was not her Legislature, she has further decided that another body chosen by the election of 1876 was and is her Legislature. Her Legislature from what date? From that election, and from the date of the term as fixed by the constitution. It seems to have crept into the minds of some men that there was one body which was a legal Legislature for one month and another body which was a legal Legislature for another month; an idea which could only spring from a mind which has come to the conclusion that the power in this country to make Legislatures is not the will of the people but a fraudulent returning board defeating the will of the people. They chose, as I say, that Legislature for the term, and when all the authorities and all the people of the State, and including the very men who had composed the so-called Packard legislature, agreed that the Nichols legislature was the true Legislature of the State of Louisiana, chosen in 1876, they determined that it was the Legislature from the beginning of the term and that this other body never was the Legislature.

As the State has settled this question, can any other power annul it? Has the State of Louisiana by her courts, by her government, by all her people, by one united voice, determined that this was her Legislature that elected Spofford and that it was not her Legislature that elected KELLOGG? Pray tell me whence you derive the authority to review that judgment? To say that you differ with the authorities and the people, and to place in some other body the authority to reverse that decision of the State, is simply to give that other power an authority over the State in making a Legislature for that State, and would simply destroy the State and her frame of government by creating a power superior to that of the State over the State's own affairs.

Mr. President, we hear of precedents, and it is said we must beware of making bad precedents. I wish to say one thing to-day, and if I say nothing else I shall feel that I have discharged a duty to the country at this time. There can be no greater danger to this country, no greater danger to the institutions of this country possible, than to recognize the idea or to establish the theory of government that the Senate or any other power can determine for the State what is her Legislature. Where is the end of it? Do you hold that some other power can reverse the decision of the State; can disregard the decision of the State; can decide against her courts, her governor, and her people as to what is their Legislature, and that such other power can go into a State and say that a mob, a town meeting, a company of militia, or a party convention shall be the Legislature of a State? What will protect them? Gentlemen say if we establish the doctrine here that one Senate can reverse the action of another Senate on this question there is no stability to the Senate. Do you not see that the only safety for the stability of the Senate, the only safety for the right of the State, is to insist upon it that the State herself shall determine what is her Legislature and that the Senate has no right to reverse the action and the decision of the State on that question?

The moment you say that the Senate can differ with the State and determine for her as to what is her Legislature, and that a Senator elected by what the State calls her Legislature may be rejected by the Senate and another who is elected by a mob or a party convention may be admitted here, and, being once admitted, can never be removed, you place the State in the power of the Senate. I warn my friends to take care. When you say that the Senate can enter a State and determine against the will of the State what is her own Legislature, then you have established a doctrine by which the Senate can be composed of Senators who do not represent the States but who represent only party majorities in this Senate. The only safety for your State is to hold to the rights, the inalienable rights, the constitutional rights, of each State to determine for herself what is her Legislature, and that the Senator elected by that Legislature is the only Senator that can be admitted on this floor. Then you are safe. Then power and passion and sectional feeling will strike against you in vain. I tremble at the very thought that any one on this floor would tolerate the idea that the Senate or any other power may reverse the decision of a State as to what is her Legislature and make the partisan will and judgment of the Senate paramount authority to determine what is the Legislature of a State, and, therefore, who shall be admitted into the Senate.

On the first proposition, was this body of persons the Legislature of the State, I think every man's mouth ought to be closed. It does seem to me that we should heed the grand words uttered by Mr. Webster in his argument in Luther *vs.* Bordin, when he said the State has the right to decide this question, and when the State has decided it for herself she decides it for all the world, and the mouth of every other person is closed, and closed forever. We have progressed so far in some directions—I do not know that I ought to stop to say in what direction—but in modern times we have progressed so far in some direction that to quote the constitutional views of Mr. Webster on this floor is to incite the distinguished gentlemen on the other side to a charge of rebellious disposition.

Mr. Webster said that when the State decides this question for herself she decides it for all the world. The successor of Mr. Webster [Mr. HOAR] has put it in writing that no other power can decide this question for the Senate but the Senate. There is a vast difference. Mr. Webster says that the State decides it for all the world. This modern Senator from Massachusetts repudiates the decision of the State and insists that the Senate decides it for itself, and no other power can decide it for the Senate. There is a vast progress from Mr. Webster to the honorable Senator, whether up or down or laterally the world must determine for itself. I choose to bow at the shrine of that grand man, Daniel Webster. But suppose the Senate should say, "We want to look into the facts and decide for ourselves whether the decision of the State was right, whether the State ought to have made that decision." That is the new doctrine, that we must inquire not whether the State has made the decision, but whether the State ought to have made it.

I say, then, that under the facts of this case the State decided it correctly. The State could not have made any other decision, and no man in this body who intends to be governed by the facts of the case can decide it differently even as an original question. Can any man say that this body of persons, barricaded in their halls in January, 1877, was a Legislature? You must abrogate the definition of a Legislature. Did it have authority to make laws? It had no authority outside of its barricaded pen; it did not pretend to have any authority

outside. It could not compel a man to pay a dollar of taxes, and it did not. It did nothing; it could do nothing. The evidence shows that it was nothing in the world but a body of conspirators gotten together by this fraudulent action of the returning board expressly to defeat the will of the State, and not to carry out the will of the State.

A portion of the members elected by the people, less than a quorum of each house, being at the very furthest, on the very best view of the case for the other side, only sixteen senators, lacking three of a quorum, and only fifty-two members of the house, lacking nine of a quorum, were there; and they excluded by force the democratic members who were elected and certified to be elected. They seized the State-house and surrounded it with troops by order of KELLOGG himself, closed up the doors, and would let nobody come in there without a ticket from them. It was a body of conspirators, ignorant, reckless, covered with every crime by their own confession in this evidence, caring nothing for the State, governing nobody in the State, having the respect of nobody in the State, held together by force, controlled by bribery and corruption, and having no purpose in view but to elect the chief of their own band of conspirators to a seat in the Senate; and you say that that body had authority to make laws for Louisiana. As an original proposition you cannot come to any conclusion except that the people of Louisiana decided right, and it is a most shameful mockery for this Senate to pretend to believe that this self-barricaded den of self-confessed villains was invested with authority to make laws for the people of Louisiana. No man in this Senate does believe it.

Mr. President, I have established two propositions: first, that by the decision of Louisiana, and by the decision of everybody in Louisiana, including the conspirators themselves, the body of persons that elected KELLOGG was not the Legislature of Louisiana in January, 1877; but the body which elected Spofford was the Legislature chosen by the people in the election of 1876. Then I have shown, secondly, that under the facts of this case the State could not have decided otherwise, and you cannot decide otherwise. The decision is right and just under the facts. Therefore the proposition is established as a proposition of fact that the body which elected KELLOGG was not the Legislature of the State at the time of the election. So the affirmation in the first resolution is true; true by authority and true in law, true by evidence and true in fact.

We advance, then, to the conclusion of the resolution, which is that KELLOGG not being chosen by the Legislature of Louisiana to the seat he occupies, he is "not entitled to sit in the same." Is this conclusion correct? My friend from Connecticut [Mr. EATON] reminds me that this Packard legislature, as it is called, never in fact made a law. Certainly not. How could they? How could they do that which they could not do? Make a law, indeed! Make a law that the very rats that burrowed with them would not obey! Make a law that not a child in New Orleans or Louisiana would respect or could be made to obey! They made no law.

Now, then, is the conclusion correct that he [KELLOGG] is not entitled to a seat in this body? I advance to the discussion of this question with absolute pain. I know the extent to which absurdity can go, but I confess that I never expected to hear it said anywhere in this broad land, and above all other things I never expected to hear it said in the Senate of the United States, that a man who was not chosen by the Legislature of a State could acquire a title to a seat in this body. The Constitution says:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof.

When you say that this man was not chosen by the Legislature of the State, have I to reason with you to convince you that, not being chosen by the Legislature of the State, he cannot possibly acquire a title to a seat in this body? But that is the whole question. Certainly no one on this side of this Chamber will say the body of men who it is said elected KELLOGG was the Legislature of Louisiana, and yet it is whispered that some hesitate to say he has no title to the seat. I do not believe that there is a man on the other side who will get up and say that in point of fact this body was the Legislature of Louisiana. There may be some who may persuade themselves to the fanciful idea that it ought to have been; they wish it had been; if they could have had their way it would have been; but I cannot believe that there is a Senator on that side of the Chamber who will get up and outrage common sense and the facts of the case to such an extent as to say that in point of fact the body which elected KELLOGG was the Legislature of Louisiana. Yet it is contended by all on that side that notwithstanding it was not the Legislature he is yet entitled to the seat.

This makes it necessary to discuss as a question, "Can a man acquire a rightful title to a seat in this Senate who was not chosen thereto by the Legislature of his State?" I discuss it protesting that nothing can make it plainer than the Constitution makes it.

There is no feature of our Government which was framed with more care, I may almost say with so much care, as the Senate of the United States. Under the confederation we had but one body for our Legislature. The Senate was created by the Constitution. It was founded in a great principle. Its necessity arose not only from the experience of the past, but from the character of our institutions. When our fathers met in convention in 1787 they were troubled with a new and a grand idea, and that was how to make a *federal nation*—a thing that no people had ever done. The question was how to make a federal government which would have national power to enforce its own laws upon its citizens, and at the same time retain its federal features so as to preserve intact the independent and separate character of the States. It was a grand and new thought in government. The House of Representatives was organized upon the national idea; it represents population. The Senate was organized upon the federal idea; it represents States. We have what no country or people ever had before. Nothing can become a law without having the assent of the people through their Representatives, and the assent of the States through their representatives or Senators.

You see the reason why the choice of Senators was vested in the Legislatures of the States. These Legislatures represented the sovereign power of the States, and as the Senators were to represent the States the power to choose Senators was lodged in that branch of State government which represented the sovereignty of the State. There were many discussions in the convention as to where this power of choosing Senators should be lodged. There was at one time a proposition to lodge it in the House of Representatives. There was another proposition to lodge it in districts. There were several other propositions suggested; but after all the propositions had been fully considered, it was finally determined by a unanimous vote of all the States present to vest the authority to elect Senators in the Legislatures of the States.

The next idea that followed was natural, was a mere corollary to the first—that the States should be equal in the Senate. This proposition created a heated discussion, but finally it was agreed to, and thus in this branch of the Government Delaware was to be equal to New York and Rhode Island equal to Pennsylvania. These modern schoolmen, who cast out Webster and Madison and all the great framers of our system, mock the idea that this is a body which represents States when there is not a more distinct feature in our system than this equality of the States in this Senate.

But that was not all. Having lodged the power of choosing Senators in the Legislature, having determined that the representation of the States should be equal, that each State should have two Senators, they next determined that the method of choosing Senators should never be changed. Therefore we have the clause:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, *except as to the places of choosing Senators.*

It was therefore put beyond the power of Congress itself to change the manner of choosing Senators. You may regulate the time and manner of choosing Senators, but you cannot change the place; it was fixed forever in the Constitution. That is not all. There is a grander provision yet, and it shows how this idea now cast out by these modern statesmen absolutely dominated the convention; for having provided that Senators should be chosen by the Legislature in the organic government of the State, that the States should be equal in representation, and that Congress itself should never have power to make any regulation changing the place of choosing Senators, they did not rest the question there, but they added the most remarkable feature of our Constitution. It is one that every statesman ought to study, and one that he cannot study too much. They absolutely provided that no State without her consent should ever be deprived of her equal representation in this body even by amendment to the Constitution. They vested in the States the right to have an equal number of Senators here, they put it beyond the power of Congress to change that right, and then they did for this sacred right what they did for nothing else, for it is the only provision of the kind in the Constitution. The people, the sovereign people, the fountain of all power, solemnly pledged themselves that they never would, even by an amendment to the Constitution, deprive a State of her equal representation on this floor without her consent.

If there be any power in this land, any device or any scheme, which can give a man a title to a seat on this floor who was not chosen by the Legislature of a State, that power, device, or scheme is greater than the State, because it substitutes its own judgment as paramount to that of the State. That power is greater than Congress, for Congress cannot by law authorize any other body than a Legislature to choose a Senator. That power is greater than the people, because the people have covenanted that they will never deprive a State of her equal representation in this body even by the exercise of the sovereign power itself. The sovereignty of the people, the sovereignty of all the people, shackled itself in deference to the preservation of the equality of the States. Sovereignty bound itself forever to respect that feature of our Constitution which it seems to me it is the chief pleasure of some of the modern statesmen to deride and cast out.

Where, then, does this marvelous power which is invoked to disfranchise a State in this Senate live or lurk? I have shown you it is not in Congress; it is not in the States themselves; it is not in the people of all the States. Thirty-seven States with a unanimous vote cannot deprive the little State of Delaware of her equal representation in this body. In the face of that grand tribute to the equality and sovereignty of the States who cares for the taunts of these modern Lilliputians in the science of government? Their argument springs from the cheek and not from the brain, and is made for partisan and not for patriotic purposes. The man who can go before the American people and mock at this constitutional sovereignty of the States mocks at what our fathers made the grandest feature of the system,

and the only one which the sovereign people bound themselves always to respect and never to change.

But where, I repeat, does this extraordinary power lie—this power that can give a man a title to a seat in this body who was not chosen thereto by the Legislature of his State? We are told that it lies in the Senate. What a paradox is this! It lies in the Senate! Think of it! The Senate, which is the very body organized for the purpose of preserving this right of the States, organized to represent the equality of the States, has power to destroy that right and equality! But to disfranchise the States is to destroy the Senate itself. It is claimed, too, that a disfranchisement of the State once inflicted by an order of the Senate, however false or mistaken, can never be changed even by the Senate itself; that if the Senate once seat a man who was not chosen by the Legislature of his State that the Senate itself can never review or change it. Thus the Senate is made all-powerful in disfranchising a State, all-powerful to annul the Constitution, all-powerful to do what the people of the State themselves cannot do; but the Senate is powerless to undo its own wrong! It is omnipotent over the people, omnipotent over the Constitution, omnipotent over the States, but is utterly impotent to correct its own outrage and wrong!

By what sort of chemical logic is it that such a gigantic absurdity is resolved into such self-destructive infallibility? We are told that it is because the Senate is a court. Ah! there it is again! In order to give to the Senate the power to destroy the States that created it and the Constitution that organized it you begin with a reason for that power which changes the character of the Senate itself. You convert it from a political body into a judicial one. An absurd conclusion can only be sustained by absurd reasons.

A great deal has been said on the question as to whether the Senate was a court in dealing with the admission of its own members. Pardon me if I say that any discussion in my judgment on that point is fruitless. If you mean to say that the Senate is a court, you mean to say a very absurd thing. It is not a court in the technical meaning of that word. It is the Senate, and the Constitution makes the Senate a legislative body—a political body. You cannot convert it into a court except in the case provided by the Constitution itself. That is a very clear proposition. But on the other hand, when we say the Senate is not a court, we do not mean to say it is bound by no rules, bound by no considerations of right, bound by no sense of propriety.

Of course the Senate, though not a court, though a legislative body, must respect common sense, is bound by reason, is bound by propriety, is bound by wise political policy, and above all is *bound by the Constitution*, though it is now claimed that the Senate is not bound by the Constitution, and that the Senate can seat a man here who the Constitution says shall not sit here. A decision by the Senate, though it is not a court, I say has all the dignity, all the character, and all the solemnity of a decision by a court. Because the rule of *res adjudicata* as known to courts does not apply to the Senate it does not follow that the Senate is at loose ends. The Senate is not a body without discretion; it is expected to be a judicious body whether judicial or not, though I confess the expectation is often disappointed.

This judicial character is sought to be given to the Senate by the language of the Constitution, which says that—

> Each House shall be the judge of the elections, returns, and qualifications of its own members.

It is said the Senate is the judge; so it is. One gentleman, the other day, in his perfect simplicity, with an expression of face which amused me, said, "The Senate is a judge, and is it not therefore a court?" That does not follow. The argument made by gentlemen who have preceded me on this subject relieves me of the necessity of pursuing it further.

But what is the extent of this power? Mark you, I am discussing now the first branch of the argument, whether a man can get a title to a seat in this body who was not chosen by the Legislature of the State. That is the proposition.

The point I make is, that the power to judge of the elections, returns, and qualifications of members of this body does not include the power to say what is the Legislature of a State. That is the point.

Every question propounded on the other side, every argument made heretofore, has been upon the assumption that the power in the Senate to judge of the elections, returns, and qualifications of its own members includes the power to judge of what is the Legislature of a State. Some loose phraseology which is not necessary to the point, a mere dictum, a mere passing remark of Chief-Justice Taney in Luther *vs.* Borden, has been quoted as authority for that statement. That is not true. This is true: the Senate in admitting a Senator determines which is the Legislature that is *recognized by the State*. We do not enter the State and judge what is the Legislature of the State, but we do judge whether the State has a Legislature. We recognize the body that the State determines, and we, of course, adopt the necessary evidence to ascertain what body the State has determined to be her Legislature, and when we ascertain that fact we go no further. We have no right to inquire whether the State decided wisely or unwisely. That is none of our business. We ascertain the fact. We ascertain what body the State has made her Legislature, but we have no right to make the Legislature for the State.

Then what is the extent of the power of the Senate to judge of the elections, returns, and qualifications of its members? Consider a moment and you will see exactly what its extent is. It is to judge of the elections, not of the members of the Legislature, but of *its own members*. Now look at the Constitution:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The manner of electing a Senator by the Legislature, the times of election, are regulated by the law of the State or by the law of Congress. When, therefore, Congress judges of the elections of its own members, what is that power? To judge whether the Legislature has complied with the law regulating the time and manner of electing a Senator; that is all.

Mr. CARPENTER. Does not that make the State the judge?

Mr. HILL, of Georgia. No, sir; the Senate can judge this: the Senate can say whether the State—that is, the Legislature—has observed the regulations in the election. I have answered that proposition.

Mr. CARPENTER. Does not that make the State the judge of who is entitled to sit in this body, and not the Senate itself?

Mr. HILL, of Georgia. I thought a State was entitled to choose her own Senators, having the constitutional qualifications.

Mr. CARPENTER. But suppose we differ with a State as to what is the legislative body in a State, we cannot decide it you say.

Mr. HILL, of Georgia. I have argued that extensively; I am only sorry the Senator was not here. When my friend gets quiet and away from the excitements of the Senate Chamber and this argument shall be printed I commend it to his most considerate attention, for I respectfully think it is unanswerable. I have said what we may judge in that direction. We may judge as to what body the State had determined is her Legislature, and we have a right to judge whether that body which is the Legislature of the State has complied with the law in electing the Senator. The law now prescribes that a Senator shall be voted for on the second Tuesday after the assembling of the body, that he shall be chosen *viva voce*, that he shall be voted for in the separate houses on Tuesday and in joint session the next day, and that there shall be at least one ballot each day until there is an election. These are the regulations fixing the manner and the time of choosing Senators. Whether that manner, whether that time has been complied with in the election of a man, whether those members voted honestly or whether they were bribed, whether there was a quorum or whether there was not a quorum, all these are questions that the Senate may determine under the power to judge of the election of its own members. You cannot go further and say that the Senate may inquire into the election of the *members of the Legislature*, because the Senate has power to judge of the election of its *own members*. A proposition was made in the convention framing the Constitution to invest the election of Senators in the House of Representatives of the United States. That was a proposition once that had considerable favor. Suppose it had been adopted, and then there had been rules prescribed by law as to the manner of electing a Senator by the House of Representatives, would that have given the Senate the right to judge whether the House of Representatives had been elected by the people? That would have been putting the very existence of the House of Representatives in the power of the Senate—in the power of the body which the House was electing. And when you give the Senate the power to annul the decision of a State as to what is her Legislature, you give the Senate the power ultimately to destroy the very power that elects the Senate, and thus enable the Senate to elect its own members! I cannot argue that any further. Centralism never took a more horrid, a more dangerous, or a more unreasonable shape than this claim of a power in the Senate to disfranchise a State.

Then of the returns. What does the Constitution mean when it says that the Senate shall "judge of the returns of its own members;" that is, the evidence which is to satisfy the Senate that the Senator was elected? The law now prescribes that to be the certificate of the governor, under the great seal of the State. That makes a *prima facie* case. That is what the law says is the return. The Senate judges whether that is the great seal, whether the certificate is by the governor. I say you judge whether that is the great seal; but does that give you a right to make a seal for the State? You judge whether that is the seal adopted by the State. The Senate judges whether that is the certificate of the governor, but does that give the Senate the right to say who is or shall be the governor of a State? No. The Senate only judges who the State has made her governor. The claim now set up that this Senate has power to determine what is the Legislature of a State, because the Senate can judge whether the Legislature has complied with the law in electing a Senator, would place the whole State government in the power of this Senate.

Mr. CARPENTER. Will the honorable Senator allow me to interrupt him for a moment?

Mr. HILL, of Georgia. Perhaps I am responsible for the Senator's interrupting; I will listen to him.

Mr. CARPENTER. I am just informed that the Senator has closed the door against interruption; so I will not interrupt him.

Mr. HILL, of Georgia. I did not wish to break the thread of my argument.

Mr. CARPENTER. I wish simply to suggest to his sense of propriety that a member of the committee who comes in here with a report charging criminality upon a sitting member, and speaks in sup-

port of the report, ought not, even if he had the right, to shut the door against such interruptions as might call up particular points or correct mistakes of fact, or anything of that kind.

Mr. HILL, of Georgia. I said, or intended to say, that I did not wish to be interrupted during the delivery of my remarks, because it broke the thread of the argument; but I did also say, or intended to say—perhaps I omitted it—that when I conclude my argument I would take pleasure in answering any question that Senators may propound. The impropriety of these interruptions is manifest by the Senator's own interruption to-day, for he has taken occasion, under pretense of an interruption, to throw in some statement that some committee has made charges of criminality against a sitting member. We do not charge him with anything. The witnesses charge him; the facts charge him, and we report the facts as the witnesses testify. That is all.

Mr. CARPENTER. I will not interrupt you.

Mr. HILL, of Georgia. That shows the impropriety of it. Why should I stop my argument now to answer a statement which has no foundation, or a question which has no relevancy?

The third proposition relates to the power of the Senate to judge of *qualifications* of its own members. What do you mean by the qualifications? The Constitution prescribes the qualifications of a Senator. He shall be thirty years old; he shall have been nine years a citizen of the United States, and he shall be an inhabitant of the State for which he is chosen. You are a judge of whether he is thirty years old; you judge whether he has been nine years a citizen, and you judge whether he is an inhabitant of the State for which he is chosen; that is your jurisdiction. These judgments were necessary, and no authority, and I challenge the production of one, who has treated of this clause in the Constitution, has ever said that the power to judge of elections, returns, and qualifications of its own members included the power to go behind and judge of the legality of a Legislature of a State *over the State itself* and to annul the decision of the State on that question, because that would vest in the Senate the power to make a Legislature for a State. But suppose that is true. Suppose I concede for the argument that this power to judge of the elections, returns, and qualifications of its own members includes the power to judge as to what is the Legislature of a State, then it is a limited power. That cannot give you the right to seat a member on this floor contrary to other terms of the Constitution. If you have the power under that clause to judge of the constituency that elected him and of the legality of that constituency, and of the righteousness of the judgment of the State declaring what is her Legislature, you must exercise that power within the Constitution. The Constitution itself puts a qualification and a limitation upon that power even if it exists, for the Constitution which gives you that power says that the Senator you admit must be chosen by the Legislature of the State. If you have the right to judge of a Legislature, that does not give you the right to seat a man who under the facts was not chosen by the Legislature; it does not give you the right to say that is the Legislature which is not the Legislature. The cases on this principle are abundant.

I lay down this proposition for the lawyers of the Senate: A decision by a court, by Congress, or by the Senate, without jurisdiction or against jurisdiction or beyond jurisdiction, is void, not voidable. I wish to make this distinction because much has been said in this debate and heretofore about motions for new trials, writs of error, bills of review, &c., in the courts. There is no necessity for a motion for a new trial, no necessity for a writ of error, and no necessity for a bill of review to set aside a void judgment. A judgment which is void as against jurisdiction or without jurisdiction or beyond jurisdiction can be attacked collaterally anywhere and everywhere and is treated as a void judgment; indeed, as a nullity. It certainly ought not to be necessary to read law upon that subject, but I will read some. I want to establish that proposition. In the first place I read a decision which shows that a judgment of a court rendered without jurisdiction is void. It is the case of Elliott and others *vs.* Piersol and others, in 1 Peters. I read from the decision of the court, on page 340:

> Where a court has jurisdiction it has a right to decide every question which occurs in the cause; and whether its decision be correct or otherwise, its judgment until reversed is regarded as binding in every other court.

That is, where its decision is within its jurisdiction that is conceded.

> But if it act without authority, its judgments and orders are regarded as nullities.

Again, I read from 2 Peters:

> The general and well-settled rule of law in such cases is that when the proceedings are collaterally drawn in question and it appears upon the face of them that the subject-matter was within the jurisdiction of the court they are voidable only. The errors and irregularities, if any exist, are to be corrected by some direct proceeding, either before the same court, to set them aside, or in an appellate court. If there is a total want of jurisdiction, the proceedings are void and a mere nullity, and confer no right and afford no justification, and may be rejected when collaterally drawn in question.

I now read from 13 Peters, which goes further; I read from page 511:

> Before we proceed to inquire whether the land in question falls within the scope of any one of these prohibitions, it is necessary to examine a preliminary objection which was urged at the bar, which, if sustainable, would render that inquiry wholly unavailing. It is this: that the acts of Congress have given to the registers and receivers of the land-offices the power of deciding upon claims to the right of pre-emption; that upon these questions they act judicially; that no appeal having been given from their decision, it follows as a consequence that it is conclusive and irreversible.

Now, I want the Senate to notice this position, because it advances a step on the other, and does not treat it as a case where the court was without jurisdiction of the subject-matter, because here the court did have jurisdiction of the subject-matter by express provision of Congress; but the act of Congress which gave it jurisdiction qualified that jurisdiction, and they went beyond the jurisdiction.

> This proposition is true in relation to every tribunal acting judicially, while acting within the sphere of their jurisdiction, where no appellate tribunal is created; and even when there is such an appellate power the judgment is conclusive when it only comes collaterally into question, so long as it is unreversed. But directly the reverse of this is true in relation to the judgment of any court acting *beyond* the pale of its authority. The principle upon this subject is concisely and accurately stated by this court in the case of Elliott *et al. vs.* Piersol *et. al.*, 1 Peters, 340, in these words: "Where a court has jurisdiction it has a right to decide every question which occurs in the cause; and whether its decision be correct or otherwise, its judgment until reversed is regarded as binding in every other court. But if it act without authority its judgments and orders are regarded as nullities. They are not voidable, but simply void." Now, to apply this. Even assuming that the decision of the register and receiver, in the absence of frauds, would be conclusive as to the facts of the applicant then being in possession and his cultivation during the preceding year, because these questions are directly submitted to them; yet if they undertake to grant pre-emptions in land in which the law declares they shall not be granted, then they are acting upon a subject-matter clearly not within their jurisdiction; as much so as if a court, whose jurisdiction was declared not to extend beyond a given sum, should attempt to take cognizance of a case *beyond* that sum.

So, Mr. President, a decision against jurisdiction is void. Now, I propose to read from 9 Howard, pages 348 and 350. I will only read a few remarks of the court to show that it is always admissible to inquire whether a judgment was rendered without jurisdiction, beyond jurisdiction, or against jurisdiction. It does not follow that a court which has jurisdiction of the subject-matter can yet render a voidable judgment only; it may render a judgment beyond its jurisdiction, and the judgment is as much void if rendered beyond and against its jurisdiction as if rendered without jurisdiction. Therefore the general principle is laid down:

> When the record of a judgment is brought before the court, collaterally or otherwise, it is always proper to inquire whether the court rendering the judgment had jurisdiction.

Then it goes on to describe the different kinds of jurisdiction, and it says:

> It may be difficult in some cases to draw the line of jurisdiction so as to determine whether the proceedings of a court are void or only erroneous. * * * Jurisdiction is not to be assumed and exercised in such cases upon the general ground that the subject-matter of the suit is within the power of the court. This would dispense with the forms of the law prescribed by the Legislature for the security of absent parties.

So it goes on to say that it does not follow because a court may have jurisdiction of the general subject-matter therefore any decision rendered by that court is voidable only and can only be set aside by a proceeding in court, but if it be exercised contrary to a qualification of its powers, contrary to a limitation upon its powers, then the decision is void.

Now apply that to this case. Suppose you concede that this Senate has jurisdiction of the general subject of admitting members to this body—not only jurisdiction to determine the regularity of the election, and the regularity of the return, and the qualifications of the Senator, the express jurisdiction of the body; but suppose you enlarge that jurisdiction and say it shall include the right to judge as to the Legislature of a State, still it cannot, in the exercise of that judgment, seat a man in this body who in fact was not elected by the Legislature. Why? Because that would be against jurisdiction, for the Constitution says that the Senate shall be composed only of members chosen by the Legislature. That is very clear.

But, Mr. President, at the risk of detaining the Senate too long on this branch of the question, I do want to read some remarks made by the great Mansfield of American jurisprudence, Chief-Justice Marshall. The language of such men cannot be read too often, though I apprehend that if I had used this language as my own somebody would have jumped up on the other side and said, "You are preaching the doctrines of the rebellion again." I have no doubt if Marshall lived in this day these new lights would pronounce him a rebel. I read from 1 Cranch, the case of Marbury *vs.* Madison.

Mr. DAVIS, of Illinois. Marshall was a greater judge than Mansfield.

Mr. HILL, of Georgia. I think so; and America is a greater country than England, and therefore the American Mansfield is greater than the British Mansfield:

> The powers of the Legislature are defined and limited; and that those limits may not be mistaken or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested that the constitution controls any legislative act repugnant to it, or that the Legislature may alter the constitution by an ordinary act.
>
> Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the Legislature shall please to alter it.
>
> If the former part of the alternative be true, then a legislative act contrary to the constitution is not law; if the latter part be true, then written constitutions are absurd attempts on the part of the people to limit a power in its own nature illimitable.

Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be that an act of the Legislature repugnant to the constitution is void.

He goes on to enlarge upon that. It is of some importance that these elementary principles should be reviewed; it is important that the people should learn anew the very fundamental idea of our Government, and that is that the people of this country have affixed limitations upon the powers of the Government, and that any act of any department of Government in conflict with those limitations is not voidable, but void. Therefore an act of Congress, though passed by both Houses and approved by the President, contrary to the Constitution or beyond the Constitution or without the limits of the Constitution, is void. Whence comes it that we are told that a decision of this Senate seating a man in this body who was not chosen by the Legislature of a State is not void, but as valid as the Constitution itself? Sir, I ask Senators to think, which in this case is the paramount law. Here is the Constitution, which says that a Senator shall be chosen by the Legislature of a State. Here is the fact; here is the decision of the State of Louisiana declaring that KELLOGG was not chosen by the Legislature. Then why do you hesitate? You hesitate because you say a former decision of the Senate said he was entitled on the merits. Then you set up that former decision as above the Constitution. Which will you obey? Senators, I put the question to you: Do you believe that the body which elected KELLOGG was the Legislature of Louisiana? Settle that first. Suppose you admit that the State is not the final judge of that fact; suppose you retain the right to judge yourself what is the fact, do you believe that the body which elected him was the Legislature of Louisiana? Will the Senate believe, what no other power on earth believes, that that body was a Legislature? If it was not a Legislature, why do you hesitate to turn him out? Why do you hesitate to declare the seat vacant? Because you say the Senate admitted him. Then, gentlemen, you take the position that the decision of the Senate is above the Constitution. If the decision of the Senate admitting a man who was not chosen by the Legislature of a State comes in conflict with the Constitution, which says he must be chosen by the Legislature, which will you obey? Choose ye this day whom ye will serve. If you will serve the Constitution, vacate that seat. If you will serve the Senate over and above the Constitution, let the intruder stay. That is the issue; that is the question for you to decide.

Gentlemen allege that it is very painful to say that a former Senate acted corruptly. I do not ask you to say that, though if they did I do not see why you should not say it. I do not know anything that has made the Senate a divine institution. I am afraid it is a very fallible concern, but it is not necessary to say that. In the first place the former decision of the Senate does not say that he was entitled to the seat because he was elected by the Legislature of Louisiana. It avoids that. It indulges in vague generalities. It says he is entitled on the merits without saying what the merits are. It is spread out without regard to facts in order to cover every possible contingency.

The proper thing to do is this, not to charge the former Senate with corruption, but simply to assume that the former Senate did not have the facts before it that we have, and that if it had had those facts it would not have acted as it did. The truth is it did not have the facts before it. That is the proper ground to take. But are you going to hold that the Senate may be deceived, may make a mistake, may act without facts, and then when the facts come to light is bound by its wrong action, bound to violate the Constitution, bound to supersede the Constitution, bound to set its erroneous judgment up against the Constitution, bound to say it will adhere to its own erroneous judgment, though that erroneous judgment it now appears was against the Constitution?

If, therefore, the resolution of 1877 intended to adjudicate the question as to what was the Legislature of Louisiana, its judgment is void and beyond its jurisdiction, and without its jurisdiction, and also against its jurisdiction. If the resolution of 1877 did not intend to adjudicate that question, then the question has never been passed upon; and therefore in neither case is it *res adjudicata*.

It results, Mr. President, from these propositions that no decision has given KELLOGG a title to a seat in the Senate, and its occupancy is only actual and not rightful, and he must vacate it by an order which it is the duty of the Senate to pass.

Now, I want to put one proposition to the Senate before I leave this branch of the question. Suppose this resolution had been a simple affirmation of the proposition that KELLOGG was not chosen by the Legislature of Louisiana; suppose it had just said, "*Resolved*, That WILLIAM PITT KELLOGG was not chosen by the Legislature of Louisiana to a seat in this body," could he occupy it? Suppose you put that resolution on your minutes, could he sit there an hour?

Mr. CARPENTER. It would be a mere conclusion of law.

Mr. HILL, of Georgia. That is true. I knew the elegant legal mind of the Senator from Wisconsin would admit that. Then, if it be true that he was not elected by the Legislature of Louisiana, the conclusion that he cannot sit is one of law, and must follow. That is right. And yet, sir, the whole case rests upon the proposition on your side that he must still sit, notwithstanding he was not chosen by the Legislature, because a former decision of the Senate allowed him to sit.

Mr. CARPENTER. The Senator must certainly allow an interruption there.

Mr. HILL, of Georgia. Yes, I think I ought to.

Mr. CARPENTER. On that point my position is this: Of course the Senate may declare now that he was not elected by the Legislature, and it would be a conclusion of law that he could not hold his seat. But I say that he was elected by the Legislature, because the Senate, which was the only body under the Constitution that could try and determine that question, settled it, and it is *res adjudicata*.

Mr. HILL, of Georgia. And you say if the Senate settled it wrong it stays settled?

Mr. CARPENTER. Just exactly. A wrong decision is as much *res adjudicata* as a right one.

Mr. HILL, of Georgia. Then if the Senate put a man in this Chamber who was not elected by the Legislature of a State he is entitled to the seat?

Mr. CARPENTER. Certainly.

Mr. HILL, of Georgia. That is your proposition, that he is entitled to a seat?

Mr. CARPENTER. By the decision of the Senate.

Mr. HILL, of Georgia. Then it is the decision of the Senate which gives him title, and not the Legislature of the State. That is your proposition?

Mr. CARPENTER. Let me state it.

Mr. HILL, of Georgia. I think it needs another statement.

Mr. CARPENTER. Take this case, which I put the other day to some other Senator: The Constitution forbids the taking of any house for anything but a public use. Now, suppose it is taken by act of Congress for some use that Congress think public. I say it is not a public use; I litigate it. The Supreme Court decides that it is a public use; everybody, we will say, knows that it is not a public use; the Supreme Court decided it wrong.

The question is whether the decision is conclusive upon the minds of men who think it was wrong. In other words, the Senator puts the matter of *res adjudicata* upon what he chooses to judge afterward was the correctness of the decision. That is not the point at all. Even the Supreme Court of the United States have decided that they cannot reverse one of their own judgments which passed by a divided court affirming jurisdiction when it was admitted that it was by mistake, jurisdiction not being possessed.

Mr. HILL, of Georgia. Perhaps I ought not to read this decision of Chief-Justice Marshall, which I hold in my hand, against the judgment of the distinguished Senator from Wisconsin. Here is Chief-Justice Marshall——

Mr. CARPENTER. You cannot read him against me.

Mr. HILL, of Georgia. I cannot?

Mr. CARPENTER. No, you cannot.

Mr. HILL, of Georgia. These are his words:

It is declared that "no tax or duty shall be laid on articles exported from any State." Suppose a duty on the export of cotton, of tobacco, or of flour, and a suit instituted to recover it. Ought judgment to be rendered in such a case? Ought the judges to close their eyes on the Constitution and only see the law?

The Constitution declares "that no bill of attainder or *ex post facto* law shall be passed."

If, however, such a bill should be passed, and a person should be prosecuted under it, must the court condemn to death those victims whom the Constitution endeavors to preserve?

The Constitution says that a Senator shall be chosen by the Legislature of a State. Suppose the Senate admits a man not chosen by the Legislature of his State, is that void, or voidable?

Mr. CARPENTER. The Senator will pardon me for a moment.

The PRESIDING OFFICER, (Mr. VANCE in the chair.) Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. HILL, of Georgia. Yes, sir.

Mr. CARPENTER. The very decision the Senator first read from first Peters settles that question, that where a court has jurisdiction at all it has jurisdiction to decide every question necessary to the decision of the question that it must settle.

Mr. HILL, of Georgia. Certainly.

Mr. CARPENTER. The Senator concedes, because no good lawyer can deny that the Senate cannot seat a man until he is elected by the Legislature of his State. If they had jurisdiction, therefore, to determine which of these two men should be seated, they had the jurisdiction to determine which was elected by the Legislature of that State, and when they decided which was entitled to the seat, they decided and settled forever that KELLOGG was elected by the Legislature of Louisiana.

Mr. HILL, of Georgia. But the Supreme Court say that where the legislature of a country says that shall be law which the constitution says is not law and shall not be done the law is void, and yet I suppose if the powers of this country, with the Army and Navy at their back, choose to enforce that unconstitutional law and the people submit to it, in such case there might be no remedy. Chief-Justice Marshall says it is void and the Constitution says that a man shall not sit in this body if he is not elected by the Legislature.

Mr. CARPENTER. The Senate in seating him decided that he was so elected.

Mr. HILL, of Georgia. Then the decision contrary to the fact makes the lie a fact.

Mr. CARPENTER. Makes the judgment conclusive.

Mr. HILL, of Georgia. Ah, a wrong judgment conclusive! Then

if a man is elected by a mob, and the Senate for partisan purposes seats him, that makes the mob a Legislature, does it? If a man is sent to the Senate by a bar-room meeting in a saloon, can the Senate admit him? If it do admit him he is entitled, is he, rightfully? Nay, more, if the Senate were to admit to-morrow the Emperor of Brazil into this body as a member, no other Senate could turn him out? The Constitution says that he shall have been nine years a citizen of the United States; but my friend says that when the Senate admits him he becomes a citizen of the United States. The Constitution says that a man to be a member of this body shall be thirty years old, and that he shall not be a member at less than thirty years old. The Senate admits a member who is not thirty years old, not knowing that he was under age; that makes him thirty years old, does it? We do not have to go to Rome to find infallibility in the Pope; we have got infallibility in the Senate! The Senate by simply saying the Emperor of Brazil may have a seat in this body makes him a citizen of the United States for nine years! The Senate by simply saying that a boy twenty years old shall have a seat in this body makes him that moment thirty years old! And I suppose the magnificent argument of my friend from Wisconsin will be now used by the woman's rights people, who will say that if the Senate should seat a woman here she immediately becomes a man. [Laughter.]

Mr. CARPENTER. In point of law.

Mr. HILL, of Georgia. Ah! in point of law, a man, and entitled to hold a seat in this Senate rightfully? [Laughter.] What an absurdity! When a giant like the Senator from Wisconsin has to be driven into such an absurdity to sustain his position, how contemptible the position itself becomes! That the Constitution can be reversed, that a State can be disfranchised, that a law of nature can be changed because the Senate says so! Infallibility! Congress cannot do it. If Congress makes a law contrary to the Constitution it is a nullity; if the courts make a decision contrary to the Constitution it is void; but the Senator from Wisconsin comes here and says that a decision once rendered by the Senate contrary to the Constitution, to the facts, and to nature cannot be corrected; the body is infallible; the decision cannot be reversed or avoided or denied. It must be true! Suppose a Senator came here with fabricated papers; suppose nobody elected him; suppose he had no votes from anywhere; suppose that there was a forged certificate of a governor, certifying that he was elected by a Legislature and he brought it here and delivered it to the Senate, and it was referred to a committee and the committee reported that he was lawfully entitled on the merits to the seat, and it should turn out afterward that he never got a vote in his life; that he sat down in the back room of a beer-saloon and wrote out the certificate. The Senator says that the order of the Senate seating him makes the Legislature; that makes the governor; that makes a return, and that makes him a Senator! If the honorable Senator should say that it gave him an *actual* seat I could understand it. If the honorable Senator should say that the decision rendered by the Senate in 1877 gave the sitting member a seat *de facto*, an actual seat, in this body, I could understand it. But an actual seat is always open to investigation and to be set aside for a rightful claimant. But when the Senator goes further and says it not only gave him an actual seat, but gave him a rightful title, he utters what no man in this country ever before uttered except for the purposes of this case, and what I hope no man will ever utter again.

Mr. CARPENTER. To-morrow I shall have the pleasure of doing it, I hope.

Mr. HILL, of Georgia. Well, whenever the Senator can satisfy me that the Constitution is not the supreme law of the land I will give it up. Whenever the Senator satisfies me that a man can be made thirty years old simply by the decision of the Senate it will be time to quit.

Mr. CARPENTER. I believe the Senator thought some years ago the Constitution was not the supreme law.

Mr. HILL, of Georgia. That is a fanciful idea again. I suspect that my friend has been reading novels lately or has been losing sleep and he is not in a normal condition. His mind is romancing. I never held that the Constitution was not the supreme law of the land. The Senator's memory is as bad as his logic. He can have it as he pleases.

I put it to you, Senators, I put it to you on this side of the House, do you believe KELLOGG was elected by the Legislature of the State of Louisiana? If he was not elected by the Legislature of the State, can he have a rightful title to a seat in this body? He has an actual seat, a *de facto* seat, but has he a rightful title? If so, as Chief-Justice Marshall says, the Constitution becomes a nullity.

But I am stopping too long on this point. I want to proceed now to the second ground of the report. It is that if that certain body of men called the Packard legislature was the Legislature KELLOGG was not chosen by it to the seat he occupies; first, because there was no quorum when he was alleged to have been elected; second, because the election was the result of force, bribery, and other corrupt practices. The Senate clearly has jurisdiction to determine these questions. I admit it.

Now, let us get the facts. Is it true that there was no quorum? If the members not elected and fraudulently certified are not admitted, the failure to have a quorum at any time is absolutely shown and is conceded by all parties. It is conceded by the other side that there never was a quorum of elected members; but even counting as members those who were fraudulently certified, admitting now the infallibility of the returning-board certificates, admitting that the returning-board certificate was as infallible as the Senator from Wisconsin would make a decision of this Senate, that it could change facts—admitting all that, still there was no quorum of even certified members at the time this man was elected.

By examining the journal, which is in the evidence, we find that on Tuesday, the 9th, the day fixed by law, there was no quorum whatever of either the senate or the house, and therefore no voting was had on that day in either house. There were only forty-four members of the house, when a quorum was sixty-one under the constitution and laws of Louisiana. On the next day, Wednesday, the 10th, when they went into joint session, it is conceded there were but seventeen members of the senate present, when nineteen were necessary to make a quorum. Two of these senators, Kelso and Baker, were seated without certificates. They were not elected, and they did not have the certificates even of the returning board. Even the returning board could not say they were entitled to seats, and yet these were two senators in that body just brought in and sworn without right, without election, without certificates, without anything; and there was no quorum when they were admitted. When Kelso and Baker were admitted there was no quorum, as you will see by looking at the journal. In the case of one of them, the last one, even Stevens did not make a quorum. They brought in a man by force from the Nicholls legislature by the name of Stevens, and held him there without voting, he protesting; held him by force for the purpose of making a quorum until they could seat one of these men. That body called itself a senate, but no quorum voted.

Now, as to the house: the house lacked five of a quorum on Wednesday. It is true the journal says there were sixty-six present, but the sergeant-at-arms came before this committee and swore that when the house met on Wednesday it lacked ten of a quorum; that he was sent out to bring in the members; that he could only get five. He testified that members were represented as present and put on the journals as present who were not present; that a man by the name of Thomas, that he saw in his bed that morning sick with small-pox, and knows he was not there, is put on the journal as present and was personated by a man named Watson. Seveignes swears himself that he was not there though put on the journal. The house lacked five of a quorum; the senate lacked four of a quorum, even counting all the certified members, even giving authenticity to all the false certificates; and they made up a pretended quorum by personation, and by putting members' names on the journal who were not in their seats. I will not stop to read this testimony. You will find it in the record. The sergeant-at-arms swore what I have said to you, a man by the name of Murray, and he is borne out by all the circumstances of corroboration, for the journals show that there were only forty-four members of the house present on the day before. So it is established by the journals and by the evidence explanatory of the journals that there was no quorum in either house on the day of the joint convention, that the journals were falsely made up; and the clerks and others who swore there was a quorum are proven to have told falsehoods.

Then, again, was bribery practiced? The truth is that the evidence of bribery in this record is simply overwhelming. I am not going fully into it. What do you call this? Here is a question propounded to one witness named Baugnon:

> Question. Do you know of your own knowledge of any member of the Legislature receiving money in consideration for his vote for Senator KELLOGG?
> Answer. Yes, sir.
> * * * * * * *
> Q. Did you see any one paid?
> A. Yes, sir.
> Q. Now, who did you see pay it or who did you see it paid to?
> A. To Senator Twitchell.
> Q. Who paid him?
> A. Governor KELLOGG.

They tell you that witness is not to be believed, and yet I say to you, Senators, that testimony was not brought out by the memorialist. As the record shows, it was brought out by the sitting member himself. He was told to his own face, in answer to the question of Senator CAMERON and then in answer to the question of himself, that the witness did see the sitting member himself pay money to Twitchell to vote for him for Senator. He was a witness introduced by the memorialist, but the memorialist did not know what he would testify to, and simply proved by him general rumor and turned him over. The sitting member then regarded him as a competent witness, and put the question to him and he answered as I have read.

Here is the testimony of Garrett:

> Question. Did you see KELLOGG give Milton Jones money?

He had testified that this man KELLOGG had given Milton Jones money just before the vote was taken to vote for him for Senator.

> Question. Did you see KELLOGG give Milton Jones money?
> Answer. I saw him take an envelope out of his pocket and cipher something on the back of the envelope and say to him not to leave until he had voted for him; that unless he got the entire vote his seat would be worthless. Then, as he started to move, I saw Jones make a movement like putting something in his pocket. They were both there with their backs to me standing by the washstand. Then we came in, and I spoke to him as he went into the hall, and I said how much did he get out of Senator KELLOGG? He had the money in his vest pocket, and he said he got some; that he made him come down.

Here is affidavit upon affidavit, piled up by the members themselves, that they received money for their votes. Here is the testimony of Murray testifying to the bribery of three men at one time. Here is

the testimony of Murray testifying to a great number that he saw coming out of Souer's room, who was the fiscal agent, and it was understood that they got $200 apiece for voting for KELLOGG. Sir, the question, when you look at all this evidence, is not who was bribed, but who was not bribed. One witness testifies that it was stated by one of the prominent men that he did not believe KELLOGG got 20 votes that were not bought.

Now you have the direct and positive evidence of the bribery of over a score of members. They swore to it positively, they swore to it directly, they swore to it without an inducement. It is not disputed by even the minority report that this proof exists. No man can deny that; it is in the record.

If, therefore, you believe the witnesses, if you believe the testimony brought out by the sitting member himself, the question is settled, the facts are established, there is no doubt of bribery; there can be no cavil whatever. You are compelled to believe these witnesses. It is not necessary to go into that. I can prove by every rule of evidence that you must believe this testimony. No honest jury could escape it. True, these witnesses were the officers and members of that Packard legislature, and the minority of the committee say you can find just such people in the slums of any city. I will not allow the slums of any city to be slandered in such style. I do not believe the slums of any city in the world ever had such material as composed that Legislature. They could not furnish it. No man can read this record of infamy and perjury and conspiracy, this record of every crime openly and exultingly committed in the city of New Orleans, without feeling ashamed of his kind. Think of it, that a man is to hold a seat in this body by proving that the members who voted for him are not entitled to be believed on their oath! Who that is worthy to be believed would have such a constituency! Think of it! We bring you witness after witness of the very men that are claimed to have sent him here, who tell you they received bribes; we bring the officers who had them in charge, who tell you they saw bribes paid, and he tells you that you must not believe it because the members that gave him his commission, the members who, he says, composed the Legislature of Louisiana, are such men as can be picked up in the slums of any city and are unworthy of belief!

Mr. MCMILLAN. Will the Senator allow me to ask him a single question?

Mr. HILL, of Georgia. Yes, sir.

Mr. MCMILLAN. Were not these persons received into the Nicholls legislature, and did they not compose part of the Legislature that elected Mr. Spofford?

Mr. HILL, of Georgia. A portion of them were, but Judge Spofford never claimed a seat here by virtue of an election by their votes in that Legislature. There was a quorum of good men without them. The Nicholls legislature had a great many excellent men, worthy men, who would be an ornament to any society in the Union. They were too decent to be members of the Packard legislature. They were not admitted because they were too decent and honorable. And when this gang of infamous usurpers and conspirators against the dignity, the sovereignty, the decency of Louisiana were deprived of their Army support and disbanded, the men who were sent there under false certificates went home or into the custom-house; and those who were elected went into the legal Legislature, and now the honorable Senator from Minnesota wants to destroy the character and the decency of the Nicholls legislature because a portion of the Packard legislature went into it.

This is the gravest charge I have ever heard against the Nicholls legislature, that a portion of these people went into it; and yet the Packard legislature, composed almost exclusively of those indecent people, of those confessed perjurers, the gentleman holds up as an infallible Legislature, one clothed with power to make laws for the people of Louisiana which this Senate is bound to respect! Sir, water never rises above its level nor yet above its fountain; and the Senate when it recognizes that body will be no better than that body itself.

That is not all. These people that swore these things, where are they to-day, where are they now? Go up here to the Treasury building and you will find some of them there occupying positions of trust. Go to the New Orleans custom-house—and I have got the list containing thirty-nine of them in office there under the Government. The man who swore as the Senator from Missouri [Mr. VEST] quoted to you that it was according to the Scriptures to lie, and said that it was the privilege of a free American citizen to lie when he pleased, has got an office in the custom-house. This very man Seveignes, who testified before the committee that he went voluntarily and of his own accord, without suggestion, without inducement, without request, and wrote out his own affidavit, in which he swore that he was not present on the day of election—he was a member of the Packard legislature—that man who came before the committee and confessed his perjury and said it was right to lie for the benefit of his party, that man was promoted in the custom-house from a six-hundred-dollar office to a thousand-dollar office, and there he remains.

These men were worthy to be legislators for that State, we are told, worthy men to be the office-holders of this Government, but unworthy to be believed when they testified against their chief conspirator. What will the Senate believe? What will the country believe? Now, while I speak, the very men that this minority report denounces as being composed of material which may be found in the slums of cities can be found in your Treasury building, can be found in your custom-house, can be found filling the offices of the Government, put there, as I shall show before I am done, as direct rewards for perjury.

But, Mr. President, I am not going to rest this case upon this. There is evidence here that if no other man on earth believes the sitting member has to believe, for it comes from himself. It is perfectly astounding what a flood of light the cipher telegrams throw on this transaction. During the testimony of one Barney Williams in New Orleans, he said that while here in Washington acting as a spy and detective for the sitting member, being in the sitting member's room, the sitting member read to him a lot of telegrams which he was receiving from New Orleans in relation to these witnesses that were then coming on, the witnesses for Spofford. The committee subpœnaed the manager of the telegraph company to bring in all the telegrams to and from these parties during the months of May and June. The result was that after hard struggling we obtained possession, in all, of seventy-one telegrams—all but one or two in cipher. With the aid of an expert I am able to decipher almost every telegram, and I am going to call the attention of the Senate to some of them, in connection with the charges of bribery and corruption in this case. The telegrams furnish the strongest corroborations of the witnesses on this subject of bribery, and when read in the light of the evidence given by the witnesses establish the charge beyond doubt.

Mr. EATON. Will the Senator from Georgia yield?

Mr. HILL, of Georgia. I could go through this evening, but as the Senate is weary and I have been speaking nearly three hours, I shall give way if the Senate prefers that I should.

Mr. EATON. I move that the Senate proceed to the consideration of executive business.

Mr. HOAR. I wish to make a suggestion, not to interfere with the desire which has been manifested.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) Does the Senator from Connecticut withdraw his motion for the present?

Mr. EATON. I withdraw the motion.

Mr. HOAR. I rise simply to say that this case has gone on, one argument a day having been addressed to the Senate and then the Senate taking up other business; and now, after the Senator from Georgia shall have completed his speech and perhaps after one other speech has been made, I shall suggest for the consideration of the majority of the committee who have this case in charge to take some day when we shall complete it, the discussion going on without regard to any other business until it is completed. I will not make that request now, but I shall make it at an early day.

Mr. SAULSBURY. I will say to the Senator from Massachusetts that we shall gladly listen to any suggestion the Senator from Massachusetts may think proper to make; but he will recognize the fact that the organ of the committee who reported these resolutions has charge of the resolutions and will terminate the discussion at the proper time. He does not desire to press any Senator into the discussion of this matter, but we are anxious to hear from our friends on the other side of the Chamber.

Mr. HOAR. In stating that I should make the suggestion to the minority I recognized the fact that the chairman of the committee had charge of the matter in the sense that he had reported it. I do not recognize that any one Senator has charge of the business so that he is entitled to get up and say he will terminate it at the proper time. It is not for him, but for the Senate, to do that.

Mr. KELLOGG. I desire to say, Mr. President, that I hope to-morrow when the Senator from Georgia proceeds with his remarks upon this question of a quorum and the question of bribery he will do me justice and accommodate the Senate by reading the evidence bearing upon those questions. He has read from the evidence of two witnesses. I shall claim at some future time that those are the only two witnesses, though he speaks of them as illustrations of the matter of bribery, neither of whom was a member of the Legislature——

Mr. HILL, of Georgia. I have not given way, Mr. President, for a speech.

Mr. EATON. I did not give way for a speech. I move that the Senate proceed to the consideration of executive business.

Mr. HILL, of Georgia. I only give way for some such motion as that, and I give way in deference to the Senate. I can go on.

Mr. EATON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and twenty-six minutes spent in executive session the doors were reopened, and (at five o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 11, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

GEORGE W. BROWER.

Mr. BRAGG. I ask unanimous consent that the Committee of the Whole House on the Private Calendar be discharged from the further

consideration of a bill (H. R. No. 3451) for the relief of George W. Brower, and the same be put on its passage at this time.

The bill and accompanying report were read.

The SPEAKER. Is there objection?

Mr. COOK. Yes; I object.

HOOP, BAND, AND SCROLL IRON.

Mr. TUCKER, from the Committee on Ways and Means, reported a bill (H. R. No. 6186) to regulate the duties on hoop, band, and scroll iron, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. GARFIELD. I ask to submit the views of the minority of the Committee on Ways and Means on that bill, to be printed in connection with the report of the majority.

There was no objection; and it was ordered accordingly.

SUGAR.

Mr. TUCKER also, from the same committee, reported a bill (H. R. No. 6187) to regulate the customs duties on sugar; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

CUSTOMS DUTIES.

Mr. TUCKER also, from the same committee, reported a bill (H. R. No. 6188) to regulate the customs duties on certain articles named therein; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. TUCKER. It has been suggested, Mr. Speaker, that double the usual number of copies be printed of these bills to meet the demand for them.

A MEMBER. That number will not be sufficient. Say three times the usual number.

Mr. TUCKER. It has been suggested that double the number of copies will not supply the demand for these bills, and, therefore, at the suggestion of gentlemen near me, I move that three times the usual number be printed for the use of the House.

Mr. GARFIELD. I ask, in reference to the views of the minority, which are to be printed in connection with the majority report on the bill regulating duties on hoop, band, and scroll iron, that the same number of extra copies be printed.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

Mr. THOMAS TURNER. I demand the regular order of business.

The SPEAKER. This is the regular order of business. Clause 47 of Rule XI provides that the Committee on Ways and Means on bills raising revenue shall have leave to report at any time.

Mr. TOWNSHEND, of Illinois. I do not understand there was any order entered for the printing of extra numbers of copies of reports accompanying the bills first reported, but that the order in reference to extra copies related only to the bills themselves.

DÉBRIS QUESTION.

On motion of Mr. BERRY, by unanimous consent, the bill (H. R. No. 5636) for the appointment of a commission to investigate the *débris* question in the State of California was ordered to be reprinted.

ORDER OF BUSINESS.

Mr. KNOTT. I ask my colleague to withdraw his demand for the regular order of business in order that I may ask unanimous consent to ask for the passage of a resolution coming from the Committee on the Judiciary.

Mr. THOMAS TURNER. I do not withdraw my demand for the regular order of business.

PERSONAL EXPLANATION.

Mr. WILLIS. Mr. Speaker, I rise to a personal explanation, and will take but a minute.

Mr. Speaker, upon yesterday my friend from Pennsylvania [Mr. BAYNE] alluded to some remarks I made upon the subject of public buildings as a "speech which was allowed to be printed in the RECORD, but not delivered in the House," and thereupon was granted permission to reply. I make no objection to the proposed reply of the gentleman, but from inquiries of several members I find that an inference has arisen in their minds that I had in some way violated the proprieties of debate, or violated my privileges as a member to the detriment of some one. I desire therefore to say that the speech referred to by the gentleman [Mr. BAYNE] was delivered upon the floor of the House and is printed in the RECORD, so far as complained of by the gentleman, precisely as spoken. Whatever has been said was not, therefore, under cover of consent by the House, but openly and above board.

One word more. I find that I have made a statement which is incorrect, and which does injustice to the city of Pittsburgh. In the tabular statement of cities having public buildings, I find that by a transfer of the figures in two columns I have stated the value of public buildings now at Pittsburgh at $1,194,494, instead of $444,000, which is the correct amount. I voted with pleasure for the bill establishing a new public building at Pittsburgh, and, if necessary, will cheerfully do so again. As the amount as given is erroneous and may prejudice the interests of Pittsburgh, I promptly make this correction, desirous as I am of doing full justice to a city between whose people and my own the closest social and commercial relations exist, and of which I have personally the most pleasant memories.

Mr. BAYNE. I desire to say that I in no way intended to intimate that the gentleman had violated or attempted to violate any rule of this House. I know him too well for that.

The SPEAKER. It seems the remarks the gentleman from Kentucky made were delivered in open House.

Mr. BAYNE. I did not have the pleasure of hearing the remarks of the gentleman, and therefore made the statement which I did on the assumption that it was a printed speech. Otherwise, of course, I should not have done so, knowing him as I do.

ORDER OF BUSINESS.

Mr. SPRINGER. I move to dispense with the morning hour to proceed with the contested-election case of Curtin against Yocum.

Mr. ATKINS. I desire to ask the gentleman from Illinois how long he proposes to continue this case?

Mr. SPRINGER. I desire, if it be possible, to come to a vote upon it to-day. That, however, will depend entirely upon the action that the House may choose to take in reference to it.

Mr. ATKINS. If I did not believe that a vote could be reached to-day on that question I should antagonize it by raising a question of consideration on the legislative, executive, and judicial appropriation bill.

Mr. GARFIELD. I hope the gentleman from Illinois will fix an early hour for a vote upon this question.

Mr. ATKINS. I give the gentleman from Illinois notice now that if we do not reach a vote to-day upon this question, I shall on to-morrow morning call up the appropriation bill and raise the question of consideration before the House.

Mr. KING. Mr. Speaker, as I gave notice I should do, I now call up for consideration the resolutions of the Committee on the Interoceanic Ship-Canal and for the repeal of treaties affecting the force of the Monroe doctrine. This will embrace also the consideration of the report of the Committee on Foreign Affairs recommending the repeal of the Clayton-Bulwer treaty. Both the resolutions and report come with the unanimous recommendation of these two committees—the Committee on the Interoceanic Ship-Canal and the Committee on Foreign Affairs.

The SPEAKER. The motion of the gentleman from Illinois has precedence. He moves to dispense with the morning hour to proceed with the consideration of the contested-election case. It will require a two-thirds vote to dispense with the morning hour.

Mr. KING. I will state, then, that I shall not oppose the motion, but I do give notice that I will bring up this measure at the close of the election case or as soon as practicable thereafter.

The motion to dispense with the morning hour was agreed to.

CONTESTED-ELECTION CASE—CURTIN VS. YOCUM.

Mr. ATKINS. I hope the gentleman from Illinois will now fix an hour to vote upon this question.

The SPEAKER. The gentleman from Illinois has stated that he desired, if possible, to come to a vote during the day upon it.

Mr. GARFIELD. Let us have the hour fixed.

Mr. HARRIS, of Virginia. I hope the gentleman from Illinois will indicate the hour.

Mr. SPRINGER. I desire to state that I will move the previous question at four and a half o'clock to-day upon it.

Mr. O'NEILL. Oh, no! make it earlier.

Mr. ATKINS. Why not say three and a half o'clock?

Mr. GARFIELD. If the gentleman from Illinois will fix three o'clock it will be better.

Mr. ATKINS. The House has fixed for a recess, I understand, at four and a half o'clock; and I hope the gentleman will fix an hour sufficiently early to take a vote upon this question to-day.

Mr. REAGAN. The evening session of to-night is fixed for the consideration of the steamboat bill, a very important matter; and nothing should interfere with that.

Mr. SPRINGER. For my own part I would readily assent to fixing an earlier hour; but I think it would be unjust to the committee and to gentlemen on the floor who desire to discuss this matter that an earlier hour should be fixed than I have indicated. I shall endeavor to get the previous question to-night, so that there shall not be exceeding one hour consumed in the morning.

Mr. ATKINS. Unless this case is disposed of to-night I shall make the motion in the morning to go to the consideration of the appropriation bill. Fix the time now. I have a serious notion of making a question of consideration now.

The SPEAKER. The gentleman from Indiana [Mr. COLERICK] is recognized.

Mr. WEAVER. If this House is ready and willing now, we will take a vote right off upon this question without any further discussion.

Mr. GARFIELD. That is better. Demand the previous question and come to a vote at once upon it. [Cries of "Vote!" "Vote!"]

The SPEAKER. The gentleman from Indiana is entitled to the floor and is recognized, and has not yielded for any motion.

Mr. SPRINGER. The question as to the time debate shall close is one for the House to settle and not for me. I have stated to several gentlemen on the floor, who desire to speak, that so far as I was con-

cerned I would endeavor to give them an opportunity. I cannot, without violating that promise, demand the previous question at an earlier hour than I have fixed, and it would certainly be an act of impropriety on my part after having given this promise to endeavor to close the debate now. If it be the sense of the House, however, on the motion of any other gentleman, I shall submit. But, as I have indicated, I will at the very earliest practicable moment demand the previous question.

Mr. GARFIELD. That had just as well be done now.

Mr. WEAVER. I move that all debate upon this question be closed in one minute, and on that I demand the previous question. [Cries of "Good!" "Good!"]

The SPEAKER. The gentleman from Indiana is on the floor.

Mr. ATKINS. I move that all debate close at half past three o'clock.

The SPEAKER. Does the gentleman from Indiana yield for either of these motions?

Mr. FRYE. We might just as well close general debate now and let the gentlemen get their speeches in as a large number were put in last night.

The SPEAKER. The gentleman from Indiana, the Chair understands, declines to yield for either motion. The gentleman from Tennessee indicates a purpose, when he can get the floor, to move that all debate shall close at half past three o'clock.

Mr. WEAVER. And I give notice that when I shall get the floor I shall move an amendment to close debate in one minute.

The SPEAKER. The gentleman from Indiana now has the floor for twenty minutes.

Mr. ATKINS. I desire to amend my motion by fixing the hour at three o'clock.

The SPEAKER. The gentleman indicates that he will move to close debate at three o'clock.

Mr. WEAVER. I again give notice that I shall move to close all debate in one minute.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. My point is that the gentleman from Indiana is entitled to be heard, being on the floor.

The SPEAKER. The point is well taken. The Sergeant-at-Arms will see that order is restored upon the floor.

Mr. COLERICK resumed and concluded his remarks. [See Appendix.]

Mr. OVERTON. Mr. Speaker, in the short time I shall occupy in considering this case I do not propose to examine minutely the evidence that has been produced before us, but to confine myself to a few general propositions which seem to me to be controlling. In the outset let me say that I certainly have no prejudice in favor of the sitting member or of the party to which he belongs, nor do I desire to do anything which would add to the strength of that party. If we do an act of gross injustice to the contestee, as we certainly would if we deprive him of the seat to which he has been fairly elected, instead of weakening the power of the organization to which he belongs we would in the end augment it. The American people are lovers of fair play. A sure way to build up a weak and unrighteous cause is to persecute its advocates.

In the disposition of election cases, as a rule, we should be governed by the decisions and precedents. I believe in the principle of *stare decisis et non quieta movere*. But what would apply to a given state of facts in a case coming from one State of the Union may be totally inapplicable to one coming from another State whose election laws are entirely different. Under one system of conducting an election, if so large a number of disqualified persons have voted that their ballots probably changed the result, perhaps there may be no better or safer course to adopt than to send the case back to the people. Three things are essential in order to make a case where this is proper:

1. It must be clearly established that illegal votes have been cast.

2. The number of these votes must be such that they probably changed the result.

3. There must be no way of ascertaining to a certainty for which candidate these illegal ballots were given.

If the poll can be purged then no necessity exists for ordering a new election.

In the case before us every one of these essential ingredients is lacking. The evidence that disqualified persons participated in the election is very indefinite and unsatisfactory; but were it otherwise, under the peculiar election laws of the State of Pennsylvania it was in the power of the contestant to show clearly and distinctly not only that such votes had been cast but also to show for whom they had been given and counted. We therefore say that this case comes within the exception that McCrary has laid down to govern in contests of this kind, and that the ordinary rule does not apply.

In 1874 the organic law of Pennsylvania was radically changed. A constitutional convention had been held of which many of the ablest men in that State were members and in which both of the great political parties were nearly equally represented. A very large proportion of its members belonged to the legal profession. Many of them had had large legislative experience not only in the halls of the State Legislature but also in this body, and some of them in the Senate of the United States. They sought to provide such machinery and rules and regulations under which elections were to be held as would prevent frauds at the polls, and if frauds were committed to make it an easy and simple matter to detect them and to purge from the polls all fraudulent or illegal votes. They provided a method under which there was no difficulty not only in showing who had exercised the elective franchise who were not entitled to do so, but also in showing for which candidate these persons had given their ballots.

By subsequent legislation the canvassing of the votes was taken out of the hands of partisans and lodged in the courts. They were to be counted in open court in each county of the State and it was made the duty of the judges at the time they computed the returns to investigate and determine if any fraud had been committed. The law required that the ballots with the papers that accompanied them, and which identified each vote cast by an elector of the district, should be securely sealed in the election boxes and placed in the keeping of sworn officers of the law, to be by them held till such time as they might be required in any judicial contest between the candidates who had been voted for; the ballots and other papers were to be so kept for that purpose until the boxes containing them were needed for another election. If the ballots and papers required to be placed with them were preserved in the manner designated there could no case arise in which the will of the people as expressed at the polls could not be ascertained.

The necessity of ever sending a case back to the people to be again arbitrated was done away with. The means were placed in the power of every contestant to show beyond a shadow of doubt just what the will of the people was, except when bribery and intimidation had been resorted to. In this case no such charge has been made, or at least claimed to have been sustained by the evidence. The allegation is that persons who were not qualified under the constitution and laws of Pennsylvania participated in the election. On the first and second days after the election was held the returns were brought into the several courts of the counties composing the twentieth Pennsylvania congressional district, and were then and there publicly opened and counted. An opportunity was at that time given to any candidate who thought he had been defrauded to compel an investigation into the correctness of the returns and if necessity was shown therefor the courts were authorized to go behind them and make them as they should be. The papers were all there and the evidence upon which the returns were based.

Any citizen by making allegations of fraud or mistake could have compelled an investigation. It was not only in his power to do this but it was his duty if he believed unfair practices had been resorted to. No allegations touching the validity of the returns were made. The votes were openly computed without objection, and in pursuance thereof a certificate issued that Seth H. Yocum had received the highest number of votes and was duly elected a member of the Forty-sixth Congress. Thus the contestant allowed his first opportunity to pass when he could have shown, had such been the fact, that illegal votes had been cast and counted for the returned member. Had he or any of his friends desired it they could then and there have had the numbered ballots, with the registry and voting lists, brought into open court for inspection.

He alleges and claims to have proven that persons participated in the election who were not qualified voters by reason of their not being registered or not having produced the affidavits required of non-registered voters. Under the election laws of the State no man is permitted to vote whose name does not appear on the registry list without filing with the election board his own affidavit and that of a qualified elector of the district that he was entitled to be registered. It is made a criminal offense for the election officers to receive the vote of any person who does not come within these requirements. The affidavits to be produced by the non-registered voters the statute directs the judge of the election to file with the prothonotary of the county. Bear in mind, it is not the election board that is required to do this, but only one of their number. The original registry list is to be kept in the office of the commissioners of the county, and a copy thereof is to be furnished by them to the election board.

In the county of Centre, instead of furnishing to the assessors of the several townships or election districts duplicate copies of the registry, one of which the statute makes it his duty to fasten on the door of the election-house, and the other to keep for correction by striking therefrom such names as do not properly belong thereon and adding thereto the names of all persons in his district who are entitled to registry, the county commissioners gave him the original and one copy. One of them, either the original or the copy, with such alterations as he had made thereon, he furnished to the election board, and this was used by them at the polls instead of a copy from the commissioners' office. All persons whose names were on this list were entitled to vote. It is claimed, because there were names on the voting list which did not appear on the registry in the commissioners' office, and affidavits of these persons not being found in the prothonotary's office, that this is sufficient evidence to establish the fact that illegal votes were received. It is by no means certain that all the names that were on the registry list furnished the election board were on the registry list at the commissioners' office. There was no certificate that they were duplicates or that one was a copy of the other, nor is there any proof tending to show this; but, on the contrary, it was shown that they were not alike, and that the copy of the registry given in evidence by the contestant was only a partial one

and did not have on it the names of all the persons who had been registered by the assessors pursuant to the statutory requirement.

I believe this statute in regard to no person being permitted to vote who does not produce the required affidavits is mandatory upon the elector, although there is high authority for holding it merely directory. But the requirement in regard to the returning of the affidavits to the prothonotary's office is only formal. It is the duty of the judge of the election, not the election board, to so return them. By the same section and by the use of the same words he is also required to return with them to the same place the tally list and list of voters. In the case of Mann *vs.* Cassady, (1 Brewster, 31,) the district court of Philadelphia say:

The omission to file the tally papers within the time required by law can have no effect upon the vote cast, and is not material.

And in the same case, page 40, a return made in pursuance of the statute was offered in evidence, and was rejected by the court as not being the best evidence. You might as well say that because these lists had not been filed in the prothonotary's office that no votes had been received and none counted, that in fact no election had been held, as to say because the affidavits were not there disqualified persons had voted. Such technical objections have always been disregarded. In Thompson *vs.* Ewing (1 Brewster, 107) it is said:

The mere neglect to perform the directory requirements of the election laws or the performance of their duties in a mistaken manner, when there is no reason to believe the officers acted with bad faith and no harm has accrued from the negligence or mistake, ought not to be allowed to defeat the expression of the will of the people of an entire election district against whose votes no objection can be made. * * * If it were the duty of the court to set aside the return from every polls in which an irregular or even an illegal act had been done, no election would be likely to stand the test.

And in Weaver *vs.* Given (1 Brewster, 144) it is said:

If one rule has been established more firmly than any other by repeated and a consistent course of decision by this court in relation to an investigation of an undue election or a false return, it is that the careless or ignorant, or even willful, neglect of the directory requirements of the election law cannot operate to nullify the election. Boileau's case, Carpenter's case, Skerrett's case, Kneass's case, and the opinion of the court in the motion to quash in Mann's case, and in the later case of Thompson *vs.* Ewing the course of decision is uniform and consistent that the court are required to look into the good faith and integrity of an election rather than to the manner in which it has been conducted, and the expression of the popular will is not to be defeated because of an omission to comply with the formal though doubtless important requirements of the law.

It has been said that the investigation in this case has developed so much irregularity in the conduct of the election and on the part of the county officials in this district that no election held there since 1874 could be sustained. This is doubtless true not only of this but of every other district in the State if we apply to them the same technical rules that the majority of the committee lay down in the case at bar. In the language of the court which we have just quoted, "no election would be likely to stand the test." But are we to disregard the popular will because there have been informalities and irregularities on the part of those chosen to register that will? It must be shown by the best evidence that those who exercised the elective franchise did so wrongfully. We have no right to infer this because through a misapprehension of his duty an election officer has omitted to file papers in the place the statute directs them to be filed. And surely we cannot do this in the face of the evidence that the voter has done all that was required of him, and the record of it was in the control of the contestant, who not only refused to produce it himself, but would not allow the respondent to bring it before us.

Why did not the contestant produce the list used at the polls? This list and the ballots and other papers used at the election were sealed up in the boxes, and they were deposited with the officer designated by the court to keep them secure. When the contestant took his testimony he could have compelled the production of these boxes and their contents. They contained not only the best but the only evidence it was competent to give on this subject of the registry. The statute in one part directs all the papers used at the election to be sealed up in the boxes, and unless the provisions of the whole statute are carefully examined the officers might easily suppose the affidavits of non-registered voters were to be placed in these boxes. It was alleged by the contestee, and in a large number of instances it was proven, that the affidavits were there placed. Had the boxes been produced the truth of this allegation would have been determined. And not only this, their contents would have disclosed whether or not illegal votes had been cast, but also, if there were, for whom they had been cast. By the production of these all matters now in dispute would have been settled beyond all peradventure. The contestant was bound to make out his case. He was bound to produce the best evidence attainable to establish the truth of his allegations. He failed to put in evidence the contents of these boxes. This is sufficient to close his month from saying that Seth H. Yocum was not elected. Every presumption is in favor of the person who has been declared elected by the properly constituted authorities. He who disputes his right must establish the fact that the seat does not belong to him.

The returns of elections made by the officers of the law charged with conducting them are to be received as true till the contrary is shown. Every presumption is to be in their favor. These are fundamental principles applicable to all sworn officers. (2 Parsons, 572, Kneass's case.)

The leaning ever should be to sustain popular elections when this can be done consistent with a faithful and independent maintenance of their purity. (2 Parsons, 508, Boileau's case.)

What has been done by the sworn agents of the law is always to be presumed rightly done. (2 Parsons, 520, Skerrett's case.)

But not only did Andrew G. Curtin fail to produce the contents of these election-boxes, but he refused to produce them, and resisted and prevented their production by the returned member. They were required to be kept until the morning of the next subsequent election in the district; these ballots and other papers were to be then burned by the election officers. The town election was held on the third Tuesday of February. In 1879 this occurred on the 18th day of that month, the very day the time of taking testimony in chief by the contestant expired and the day before Mr. Yocum was allowed under the Federal statute to begin taking his testimony. Thus the contestee was deprived of the power to produce these ballots and papers unless he could prevent their destruction on the 18th day of February. This he endeavored to do.

In January, 1879, he filed his petition in the proper courts of the counties of Centre and Clearfield, praying for an order to preserve the contents of these ballot-boxes. In that petition he alleged under oath that they contained the missing affidavits. The evidence is that this order would have been granted had it not been resisted by the counsel of the contestant. Thus not only did Andrew G. Curtin neglect and refuse to produce that which would have settled all the disputes in this case, but he prevented its production by the contestee.

McCrary, in his American Law of Elections, says, (page 300:)

If in any given case it be shown that the proof was within the reach of the party whose duty it was to produce it, and that he neglected to produce it, then he may well be held answerable for his own neglect; and because it was his duty to show for whom the alleged votes were cast, and because he might by the use of reasonable diligence have made this showing, it may very properly be said that he should himself suffer the loss occasioned by deducting them from his own vote.

This is from the very section relied upon by the majority of the committee in the report to sustain their recommendation in this case.

The evidence given by the contestant showed that there was a discrepancy in the township of Benner between the tally-list and the number of votes cast for the candidates for Congress. He desired to have the advantage of this error. It so happened that the election officers, when they destroyed the contents of the boxes, examined the papers and found this discrepancy was caused by there being eight unnumbered ballots in the boxes, and every one of them had on it the name of Andrew G. Curtin and had been counted for him. This was established by clear and indisputable testimony.

Thus we find in the only instance when the contents of the boxes are shown, all the illegal and fraudulent votes in them were for the contestant. Is it any wonder, then, that he who now seeks to oust the returned member resisted the production of the only proper evidence and that which would have ended the contest? Did he desire the truth? Did he desire to vindicate the officers of the several election districts in his own and neighboring counties? The officials in these counties all belonged to his own party. On every election board there were representatives from both the majority and minority party. In a majority of the towns where the disqualified persons are alleged to have voted the party to which he belongs was in the ascendency, and had two out of three of the members of the board. By receiving the ballots of a person not registered, without requiring the affidavits, the election officers made themselves liable to a fine of $500 and to an imprisonment for one year. The contestant asks us to stigmatize them by our action here. He asks us to say they have willfully disobeyed this mandate of the statute and committed a crime against their country; he asks us to do this for no other reason than that certain papers were not found where the statute *directs* one of their number to place them. We say these officers did their duty, and shall continue so to say till some better evidence is given of their criminality than is to be found in the evidence which has been produced by the contestant, who caused the destruction of the only testimony proper to be given on the subject and which we believe would have established their innocence. Crimes are not proven in this way. Something more is required than a mere suspicion before we can impute to them a wrongdoing, and much less can we on such a slight suspicion convict them of a crime which carries with it so severe a penalty.

Smarting under a defeat in a district which at the same election gave more than 4,700 majority for the democratic candidate for governor over his republican competitor and more than 1,100 votes beyond that received by the combined opposition—I say smarting under a defeat of this kind, did not the contestant become desperate and has he not resorted to desperate means to find some balm to heal his wounded spirits? Five of the six counties which compose this congressional district are largely democratic. At the gubernatorial election held at the same time the democratic candidate received in Centre County 1,768 more votes than his republican competitor; in Clearfield 1,605, and in Clinton 885.

These are the counties where the bulk if not all of the illegal votes are alleged to have been cast. Each of them gave a large majority for the nominee of the democrats for governor over both of his competitors. Every one of these alleged illegal votes was counted in making up that majority. In each of the several counties of the district there were more votes polled for the State officers voted for at that election than for the congressional candidates. The votes were all returned and counted for the State and county officials. The county officials chosen at the same time all belonged to the contest-

ant's party, and their majority would indicate that they received the benefit of a large proportion of the votes which are now said to have been illegal.

Is there any difficulty in accounting for the defeat of Andrew G. Curtin in this Gibraltar of democracy? My colleague who addressed the House on Saturday last said it was conceded he had the friendship of a large number of the republican party. It is no doubt true that he received the support of some of the republicans of the district. Equally true is it that in 1872 Horace Greeley had the friendship and received the votes in Pennsylvania of a large number of republicans, and yet the majority against him in that State was more than one hundred and thirty-five thousand, and the great falling off of his vote was in the democratic strongholds. For precisely the same reason did Governor Curtin fail to receive the support of the organization which had placed him in nomination. He had been one of the foremost among the stalwarts of the republican party. His name had been upon the lips of every lover of his country during the trying hours of the rebellion. He was the war governor of the great Commonwealth of Pennsylvania, and as such had been idolized by the boys in blue. Their mothers and sisters, on account of his patriotism and sacrifices for the comfort of their sons and brothers, had risen up and called him blessed. His denunciations a few years before of the very men whose suffrages he sought in 1878 had been terrible. The anathemas he had hurled against them for not standing by their country when its life was trembling in the balance had not been forgotten. Did the fact that he had erected a monument to himself which would last till time should be no more, by being the father of the soldiers' orphan-school system of their Commonwealth, give him strength with the party dominant in that district? Or rather, was not this election another evidence that while the leaders may, for the sake of spoils and preferment, place in nomination and support at the polls one who has been their bitter and outspoken opponent the rank and file of the democratic party, some of whom profess to be governed by principle, cannot be whipped into the support of one who has denounced their tenets, though he may not have said the principal one was to love whisky and hate the nigger?

He turned his back upon his friends. He turned his back upon the principles he had contended for in the strength of his intellectual and physical manhood. The result was what it ever has been and ever ought to be when a man allows his personal pique to carry him over into the embrace of his former enemies. He failed of success. This House may say differently, but the people of his own district know, and every man ought to know who examines the evidence in this case that a fair election was held and the popular will as expressed at the polls was that Andrew G. Curtin should not represent the twentieth district of Pennsylvania in this body.

Mr. WEAVER. Before the gentleman from Pennsylvania yields the floor I ask him to make the motion to limit debate.

Mr. OVERTON. I shall do so. As there seems to be a desire that the debate should close, I move that all debate upon the pending resolution and amendment thereto be closed in one minute, and upon that I call the previous question.

Mr. SPRINGER. The gentleman from Pennsylvania has undertaken to take the case out of the control of the chairman of the Committee on Elections, and I will not resist. But, the previous question having been ordered, I will claim the hour to close debate. With that understanding I will second the gentleman's motion for the previous question.

Mr. WEAVER. I understood the gentleman from Illinois [Mr. SPRINGER] to say when we were last talking about this matter that he would not make the motion himself to close debate immediately, but would yield to some one else to make that motion.

The SPEAKER *pro tempore*, (Mr. COX.) The question is on seconding the demand for the previous question on the motion of the gentleman from Pennsylvania [Mr. OVERTON] to close debate on the pending resolution and amendment thereto in one minute.

The question being taken, the previous question was seconded.

Mr. SPRINGER. I understand the only way to close debate in the House is by moving the previous question.

The SPEAKER *pro tempore*. The gentleman can move the previous question on the final disposition of the resolution.

Mr. SPRINGER. This is a resolution pending in the House, and is open to discussion till the discussion is closed by the previous question being ordered. We are not in Committee of the Whole; we are not regulating debate in Committee of the Whole; we are in the House, and I know of no way to close debate on the pending resolution except by ordering the previous question.

Mr. WEAVER. I ask the Chair whether the House has not power to close debate by a motion to that effect? The motion was recognized by the Speaker in that shape, and the gentleman from Illinois himself said while he would not make the motion he would yield to any one making it.

The SPEAKER *pro tempore*. The Chair supposes the gentleman from Pennsylvania [Mr. OVERTON] has the right to make the motion to limit debate; but after the debate is limited the question is in charge of the gentleman from Illinois [Mr. SPRINGER] who reported the resolution, and it is competent for him to move the previous question on the adoption of the resolution.

Mr. SPRINGER. As I stated a moment ago, this is a proposition that is now in the House, and not in Committee of the Whole; and debate on a proposition pending in the House can only be closed by the previous question being moved and seconded. I call attention to clause 4 of Rule XVI, which says:

When a question is under debate no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question, (which motions shall be decided without debate,) to postpone to a day certain, to refer or amend, or to postpone indefinitely, which several motions shall have precedence in the foregoing order.

The SPEAKER *pro tempore*. The Chair is of opinion that the House can order debate to be limited or closed on a proposition pending in the House the same as on a proposition pending in Committee of the Whole. But that does not take the matter out of the control of the gentleman from Illinois. The proposition is simply to limit the debate, and the House has control of that by a majority vote.

Mr. PAGE. The gentleman from Pennsylvania [Mr. OVERTON] has the right to call the previous question on the resolution, has he not?

The SPEAKER *pro tempore*. The Chair would not recognize that right, because the vote to limit debate is not an adverse vote.

Mr. RYON, of Pennsylvania. I desire to make a parliamentary inquiry. What is the question before the House?

The SPEAKER *pro tempore*. There has been a second on the demand for the previous question on the motion to close debate in one minute. The question now is, Shall the main question be ordered?

Mr. RYON, of Pennsylvania. Is that subject to amendment?

The SPEAKER *pro tempore*. It is not.

Mr. SPRINGER. Did the Chair state that the question was on ordering the main question?

The SPEAKER *pro tempore*. That is the pending question.

Mr. SPRINGER. Who has moved the previous question?

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. OVERTON] moved the previous question on his motion.

Mr. SPRINGER. On what motion?

The SPEAKER *pro tempore*. On the motion to close debate in one minute.

Mr. SPRINGER. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SPRINGER. If the motion to close debate in one minute shall be agreed to, will that prevent the member reporting this resolution from having an hour to close debate?

The SPEAKER *pro tempore*. Under Rule XIV, clause 3, the gentleman from Illinois reporting the resolution is entitled to his hour.

Mr. SPRINGER. If I have an hour to close debate I have no objection to the motion of the gentleman from Pennsylvania.

Mr. GARFIELD. But if the House makes an order to close all debate on this subject in one minute, does not that override the right of the gentleman from Illinois to have an hour to close debate?

The SPEAKER *pro tempore*. The Chair would not recognize the gentleman from Pennsylvania [Mr. OVERTON] to take the matter from the charge of the gentleman from Illinois.

Mr. CAMP. As I understand, the Chair did recognize the gentleman from Pennsylvania to make the motion to close debate, and the previous question has been seconded on that motion.

The SPEAKER *pro tempore*. The Clerk will read the third clause of Rule XIV:

The Clerk read as follows:

3. The member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening.

The SPEAKER *pro tempore*. The Clerk will also read the paragraph in the Digest relating to this subject.

The Clerk read as follows:

A member reporting the measure under consideration from a committee may open and close the debate; and, under the invariable practice, he is entitled to be recognized, notwithstanding another member may have risen first and addressed the Chair, and his right to close the debate is never denied him, even after the previous question is ordered or debate has been closed.

Mr. McLANE. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. McLANE. I desire to ask the Chair whether the theory of the gentleman from Ohio [Mr. GARFIELD] is correct that the House can order debate to be closed at a particular moment. I want to ask the Chair whether that does not change the rule of the House; whether it does not deprive the member reporting a proposition of his right to close debate.

The SPEAKER *pro tempore*. The Chair has decided that the member reporting the proposition cannot be deprived of his right under the rule.

Mr. McLANE. It cannot be taken from him except by a two-thirds vote.

The SPEAKER *pro tempore*. The Chair has not ruled that the gentleman from Illinois is not entitled to his hour. The Chair has ruled the contrary. The question is on ordering the main question on the motion of the gentleman from Pennsylvania to close debate in one minute.

The main question was ordered; and under the operation thereof the motion was agreed to.

Mr. OVERTON moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPRINGER. I desire that the pending resolution be now read.

The SPEAKER *pro tempore*. The Clerk will read the resolution reported by the majority of the committee, and also the substitute therefor reported by the minority of the Committee on Elections.

The majority resolution was read, as follows:

Resolved, That the election held in the twentieth congressional district of Pennsylvania in November, 1878, for a member of this House, be, and the same is hereby, declared null and void, and the seat now occupied by Seth H. Yocum declared vacant until filled by the people of said district in conformity with law.

The substitute proposed by the minority was read, as follows:

Resolved, That Seth H. Yocum is entitled to retain his seat in the Forty-sixth Congress as a member from the twentieth congressional district of the State of Pennsylvania, and that Andrew G. Curtin is not entitled thereto.

Mr. SPRINGER. I move to amend the substitute of the minority by inserting before the words "entitled to retain his seat" the word "not;" so that if amended it will read "that Seth H. Yocum is not entitled to retain his seat," &c.

The SPEAKER *pro tempore*. That is in the nature of an amendment to an amendment and is in order.

Mr. SPRINGER. I now call the previous question on the pending resolution and amendments thereto.

The previous question was seconded and the main question ordered.

Mr. SPRINGER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPRINGER. Having now one hour for closing the debate upon this subject, I yield thirty minutes of that time to the gentleman from Pennsylvania, [Mr. RYON.]

Mr. CAMP. Allow me to suggest that that side has already occupied forty minutes more than this side has. I understood that it was agreed by the chairman of the Committee on Elections that the time should be equally divided.

The SPEAKER *pro tempore*. The Chair has no control over any arrangement; all he can do is to administer the rules.

Mr. GARFIELD. But the Chair can present for the consideration of the House the fact of the arrangement.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Illinois [Mr. SPRINGER] as entitled to the floor for one hour under the rule; he can make what arrangement as to the dividing up of that time he may desire.

Mr. SPRINGER. Before I moved the previous question I made the announcement that I would claim the closing hour for this side of the House. I now yield thirty minutes to the gentleman from Pennsylvania, [Mr. RYON,] and I have promised the other thirty minutes to the gentleman from Georgia, [Mr. SPEER.] It therefore will be useless for gentlemen to ask me to give them any portion of this time, because it is mine no longer.

Mr. FISHER. I ask consent to have printed in the RECORD some remarks upon the subject now before the House.

There was no objection, and leave was accordingly granted. [See Appendix.]

Mr. SPRINGER. I have no objection to any gentleman printing his remarks on this subject.

Mr. WEAVER. I desire to make a remark for the benefit of my colleague on the Committee on Elections, the gentleman from Illinois, [Mr. SPRINGER,] and for the benefit of the House. It was the understanding, of course, when we moved to limit debate to one minute that there should be no more debate on this case. I understood the gentleman from Illinois, [Mr. SPRINGER,] the chairman of the committee, to say that while he would not himself make the motion to limit debate he would yield to have it made, and we made the motion in good faith. If he desires to occupy the time of the House for an hour on this subject, we do not complain. We only desire that the House shall understand that we did not have that object in view in making the motion.

Mr. SPRINGER. I stated distinctly to the House that if the motion was carried I would claim the hour for this side of the House. I would have resisted the motion otherwise.

Mr. WEAVER. I am not disputing the gentleman's word at all. It is all right; but there was so much confusion that I did not hear it.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. RYON] is entitled to the floor for thirty minutes.

Mr. RYON, of Pennsylvania. Mr. Speaker, the half hour to which I am limited by the recent action of the House for the discussion of this question will hardly allow me sufficient time to lay down those preliminary propositions which are necessary in order that I may make my views upon the law of this case properly understood by the House. I shall, however, endeavor, by limiting myself to the consideration of only one or two of the propositions involved in this case, to bring before this House that construction of the law of this case which in my judgment is founded upon well-settled principles and authorities in the State of Pennsylvania.

It is conceded in all the reports submitted to this House by the Committee on Elections that there was a large non-registered vote cast in the twentieth congressional district of Pennsylvania for one or the other of these candidates. The proper legal status of that vote seems to be the difficulty in the way of a proper solution of the questions involved in this contest. I say that it is conceded that that vote, non-registered as it was, was polled at this election for one or the other of these candidates.

We were told here by the gentleman from Indiana [Mr. CALKINS] that this is one of the oldest settled districts in the Commonwealth of Pennsylvania. We were told that the people of this district were stationary in their residences and were well known to each other, and that there could be no such thing as a fraudulent vote polled at this election. I had supposed, until thus informed, that I knew something of the character of that district and of the people that inhabited it. His statement is true of only a part of that district.

In the counties of Clinton, Elk, and Clearfield there is a very large transient population of people largely engaged in the lumbering business. They commence that employment early in the fall and terminate it in the spring of the year. These people come from all sections of the country. When they come down from the lumbering regions to the polls in squads of fifteen and twenty and fifty I venture the assertion that their faces are not entirely familiar to the election officers. And I venture the further assertion that in all probability that may account for the fact that there was so large a list of non-registered votes polled at this election in 1878.

We learn, too, from the evidence that there were three parties in that district and two candidates. Curiosity stimulated me to ascertain something about the relative voting strength of these several parties. I find by a reference to the official vote in that district that the greenback party polled seven hundred and eighty-six votes in the entire district; the republican party polled something over nine thousand. We learn the fact here that the greenback party, respectable in numbers, met in solemn convention and placed in nomination the distinguished gentleman who now occupies a seat from that district in this House. The republican party, seeing its entire inferiority, not only in numbers, but in all respects, met in convention and refused to place in nomination a candidate of their own. They acquiesced in the nomination of the greenback party; and it is claimed here that they entered into some sort of an arrangement, either express or implied, by which they were to give their votes to the sitting member.

It is true enough, as we learn from the proceedings of the greenback organization when they placed in nomination their candidate, that they put him upon a characteristic platform of that party—in favor of the unlimited issue of irredeemable paper money with which to pay off and redeem the national obligations, the remonetization of silver and the free coinage of the same. The republican party stood upon a platform in favor of the redemption of the outstanding circulation known as Treasury notes, the retirement of all that kind of money, and the redemption and payment of the national obligations in gold or its equivalent. Of course it was quite natural that a fusion between parties standing upon these respective platforms should be made in that district. But by the making of that fusion in that district it is quite evident that when one party stood upon a contraction platform and the other upon an expansion platform somebody had to be cheated, and I do not believe it was the nine thousand republicans in that district who were cheated by such a fusion as that.

It looks to me as if this fusion were very similar to what we call a Jersey match—a bay horse and a gray one; and the candidate was placed upon this pair to perform an equestrian feat that was, to say the least of it, perilous in the extreme. If he contracted, he collapsed; if he expanded, he burst.

But it seems that the gentleman possessed in his very nature a counterpoise that saved him the extreme peril of his dangerous equestrian feat in this campaign. He had about three gills of greenbackism and about ten bushels of republicanism. The Army regulations teach us that a man can take three gills of almost anything in any day of twenty-four hours without extreme danger to his safety.

Mr. Speaker, with these preliminary considerations which teach us the nature of this controversy in that district, I will proceed for a few moments to discuss the question as to where we shall place the conceded non-registered vote to give to it its proper legal status.

The constitution of Pennsylvania, as has been well said by gentlemen on the floor of this House, defines the qualifications which an elector must possess to entitle him to exercise the elective franchise. However the right to vote may be elsewhere considered, in Pennsylvania it is a political right conferred by the sovereigns of that State upon those to whom they choose to give it; and they have determined in specific language the qualifications necessary to be possessed by every man who may exercise the sovereign right of voting at the ballot-box and shaping the character of the institutions under which we live.

Gentlemen here in the discussion of this question have referred to the registration act of 1874, an explanation of which may be necessary to a proper understanding of this case. They have also, in the report made by the minority of the committee, drawn a parallel between the constitution of 1838 and the constitution of 1874, and they find marks of difference which enable them to construe the law of 1874 as of a particular and special character. I stand here to assert that the constitution of 1838 provided the qualifications of electors, and the difference between the two constitutions, so far as respects those qualifications, is minor and immaterial. But in the constitution of 1874 there is the superadded provision that elections shall be uniform throughout the Commonwealth, and that no man shall be deprived of the right to vote by reason of non-registration. Upon this clause of

the constitution gentlemen arguing in favor of the sitting member draw two conclusions: first, that the act of 1874 must be unconstitutional if mandatory; second, that it is not mandatory, but directory.

Now, Mr. Speaker, it is remarkable that in a State where that law has been in force for six years, at least twelve elections having been held under it, no lawyer has ever been found to question its constitutionality. The language of the constitution is that no man shall be deprived of his right to vote by reason of non-registration, if otherwise qualified. I will admit here and now that any law passed since the adoption of that constitution which would deprive a man of his right to vote would be clearly unconstitutional, because it is a constitutional right which cannot be taken away by any contrivance of the legislative power. But my friend from Illinois [Mr. STEVENSON] says that other tests shall not be added to the constitutional test of the qualification to vote, and springing from that assertion he says that this registration act is directory and not mandatory.

But, Mr. Speaker, he overlooks one proposition; he jumps to a conclusion that is unjustified by his premises. The question is not whether this is a mandatory law, or merely directory when taken in conjunction with that constitutional provision; but the question is, does that law impair the right of the elector to vote? Does it prohibit him from voting because he is not registered? I deny any such proposition as that. I assert, Mr. Speaker, that he has as free a right to vote under the registration act of 1874 as he would have without it. The registration act defines the character of the evidence which shall prove his constitutional qualifications in order to enable him to exercise the elective franchise. It provides the character of the evidence which he shall submit to the tribunal competent to decide his constitutional qualifications, but in no way impairs his right. Inconvenience is not a test of the constitutionality of a law. Otherwise the elector might object to going one mile or three miles from his door to vote because it would be inconvenient for him to do it. If we had no registration law in Pennsylvania, tell me, if you can, what a man would be bound to prove before an election board before he could vote? Would he not be obliged to prove his qualification under the constitution? Otherwise it would be the duty of the board to reject his vote.

If, then, in the absence of registration law, he would be bound to make this proof, tell me if it is not competent for the Legislature to determine how and the kind of proof that shall be made in order to give him a right to vote under the Constitution? Can anything be more clear? The registration law says that he shall not vote if unregistered unless he make proof as required by the tenth section of the registration act. What is that proof? The proof that he possesses the constitutional qualifications that are defined in that instrument. Then tell me if any living, sensible man can sustain for a single moment the absurd and ridiculous proposition that the registration act of Pennsylvania is unconstitutional, since it is agreed in the courts and everywhere else in the Commonwealth, among lawyers as well as judges, to be the proper interpretation of the law in reference to the exercise of the elective franchise.

Now, Mr. Chairman, I state here that there is nothing in the Constitution of 1874 which limits the legislative power that was not in the Constitution of 1838. Under the latter we had a registration law passed in 1839, and amended from time to time, which ripened into the act of 1874. The constitutionality of one of those legislative acts went directly before the supreme court of Pennsylvania and was adjudicated by that tribunal to be constitutional. Although more stringent than the act of 1874 is, I will refer to the case and ask the Clerk to read a portion of the decision of the supreme court of Pennsylvania, delivered by Chief-Justice Agnew.

The Clerk read as follows:

We come now to the important question whether the act of April last, called the registry law, is constitutional. It is admitted that the constitution cannot execute itself, and that the power to regulate elections is a legislative one, which has always been exercised by the General Assembly since the foundation of the Government. The constitution appoints the time of the general election, prescribes the qualifications of voters, and enjoins the ballot; and for all the rest the law must provide. The precincts and places, the boards of election, the lists of the electors, whether called a list of taxables or a register of voters, and the evidence of persons and qualifications, must all be prescribed by law. This undoubted legislative power is left by the constitution to a discretion unfettered by rule or proviso, save the single injunction "that elections shall be free and equal."

But to whom are elections free? They are free only to the *qualified* electors of the Commonwealth; clearly they are *not* free to the unqualified. There must be a means of distinguishing the qualified from the unqualified, and this can be done only by a tribunal to decide and by evidence upon which a decision can be made. The constitution does not provide these, and therefore the Legislature must establish the tribunal and the means of ascertaining who are and who are not the qualified electors, and must designate the evidence which shall identify and prove to this tribunal the persons and the qualifications of the electors. How shall elections be made equal? Clearly, by laws which shall arrange all the qualified electors into suitable districts, and make their votes equally potent in the election; so that some shall not have more votes than others, and that all shall have an equal share in filling the offices of the Commonwealth. But how shall this freedom and equality be secured? The constitution has given no rule and furnished no guide. It has not said that the regulations to effect this shall be uniform; it has simply enjoined the duty, and left the means of accomplishment to the Legislature. The discretion, therefore, belongs to the General Assembly, is a sound one, and cannot be reviewed by any other department of the government, except in the case of plain, palpable, and clear abuse of the power which actually infringes the rights of the electors.

Mr. RYON, of Pennsylvania. Now, Mr. Speaker, I was simply observing that there was no essential difference between the constitution of 1838 and the constitution of 1874 as respects the legislative power under those constitutions touching elections. A law under the constitution of 1838 which deprived a man of the right to vote would be as clearly unconstitutional as the same law under the constitution of 1874. The only limitation on the legislative power is that they shall not deprive a man of his right to vote because he was non-registered. I contend a law under either constitution which deprives a man of that right would be unconstitutional, but no more so under the constitution of 1874 than under the constitution of 1838. Therefore for practical purposes the limitation that has been spoken of here in the constitution of 1874 is of no practical force in the discussion of this question.

Now, is the act of registration mandatory? The provision of that law is that no man shall vote without proving his qualifications by written testimony.

Mr. MITCHELL rose.

Mr. RYON, of Pennsylvania. I do not wish to be interrupted. The words are as I have stated them: no man shall be permitted to vote without making the proof required by the act of 1874. Is that act directory or mandatory? If there is anything to be gathered from the language of the law, it could not be made more stringent or more positive than the declaration that he shall not be permitted to vote unless he shall make the proof required by the act.

Mr. MITCHELL. Mandatory on him or on the election officers?

Mr. RYON, of Pennsylvania. I will not yield any of my time when I am speaking under a limitation. I will answer that question, sir. Who is to furnish the proof required by the law? It is the voter, who is required under the very terms of the law to furnish it.

Mr. MITCHELL. Without any notice?

Mr. RYON, of Pennsylvania. He has notice, sir, such as the law gives him—the registration or non-registration of his name in a list placed in a public office and the registration or non-registration of his name in a list posted up on the door of the election polls. He has access to this list; can ascertain whether his name is registered or not. He has therefore all the notice that the law has provided; and if the Legislature may legislate at all, who will say that they may not fix the character of the notice which he shall receive, which notice he cannot disregard?

Mr. MITCHELL. How can he have access to a list which is in the hands of the election officers?

Mr. RYON, of Pennsylvania. The list is in the possession of the commissioners, and the election officers have another. The list is posted at the place of election and accessible to the voter at all times. It is his duty to see that he is registered. Neglecting this duty, he must prove his right to vote by the evidence prescribed by law. I have seen the registration list posted at the voting places a hundred times.

Mr. MITCHELL. So have I, and never looked at it once to see what names were on it.

Mr. RYON, of Pennsylvania. Then that is your own fault. The duty is exclusively upon the voter under the mandates of the statute. "Thou shalt not kill," is the language of Holy Writ. Who ever interpreted it to be simply directory? And yet it is no more positive and emphatic in its terms, it is no stronger in its expression and use of language, than the act of 1874 is in the use of those terms which require the elector to furnish the proof of his own qualifications.

Mr. WEAVER. The election law does not say, "Thou shalt not vote." It implies the right to vote.

Mr. RYON, of Pennsylvania. It is an injunction upon him as well as upon the officers of elections. It is more expressive than if it had said simply, "Thou shalt not vote."

If I am right in the conclusion that the provisions of the registration law are mandatory and jurisdictional, then it follows that the vote of a non-registered person who votes without making the affidavit and proofs required by the tenth section of the act is an illegal vote and must be so treated in any contest growing out of such election. The law having designated that the proof shall be in writing, the election board cannot accept oral proof or any other proof in lieu of the statutory requirements, and give color of legality to the act.

The law furthermore having fixed the time, place, and tribunal, when, how, and where the proof of the right to vote shall be made and decided, it follows as a fair, logical, and legal sequence that if the elector fails to file with the board the required proofs of his constitutional qualifications the vote will be illegally received, and the presumption of law will be conclusive of the illegality of all votes given under such circumstances. The reason of such presumption is for the obvious fact that the tribunal—the election board—authorized to hear, judge, and determine the qualification of the non-registered voter, upon evidence, the kind and quality of which the law has determined, exists for such purpose only for a single day, after which it is *functus*. No other tribunal in the Commonwealth has been invested with any such authority, and the legal status of such vote under the law of the State having been fixed at the time and place of voting, no evidence is competent in any future contest of such election to show that the elector voting in disregard of the requirements of the law was in point of fact duly qualified under the constitution and could have made the legal proofs required by the tenth section of the registration act. There were from one to two thousand non-registered votes given at this congressional election, the greater portion of which were given without the required proofs, and fall within the principle here stated. It is not ascertained for which candidate the greater portion of these illegal votes were cast, and this conceded fact

renders the inquiry as to which candidate received a majority of the legal votes a very doubtful one. If upon the other hand the view of the minority of the Election Committee should prevail, that the provisions of the registration law are directory merely and not mandatory, it is well to inquire into the legal status of such votes as were received at this election in disregard of the registration act. It is undoubtedly true that he who has disregarded all the requirements of the laws which define, with specific and minute directions, the several steps to be taken by him in the exercise of the most important and vital of all his civil rights cannot stand upon the same *prima facie* plane of right with the one who has exercised his rights in subordination to the requirements of law and in conformity with its provisions. The object of registration is to classify and designate the duly qualified electors of a district and to separate them from the disqualified. The registered elector is *prima facie* a qualified voter. The registration list is a legal challenge of every vote offered by every person whose name is not found on it. The registered voter has the presumption in favor of the legality of his vote, and the onus is upon him who denies its legality to show it by proof. Can it be said that the non-registered voter who has voted without making the affidavit which by law supplies the place of registration stands upon the same high plane, surrounded by the presumption of a legally qualified voter, with the registered voter or the non-registered voter who has proved his qualifications and cast his vote in compliance with the law of the State? Such a position would repeal and nullify the statute and make the law-breaker worthy of the same credit that is given to the law-observer. Such moral and political obliquity is unworthy of the intelligence of the age in which we live, and is too absurd for deliberate consideration.

The legal result of receiving the vote of a non-registered person without the proofs required by the registration act would give to such vote the character of illegality. This presumption, however, might be overcome in any future contest of such election by proof that the voter was in point of fact a qualified elector. To this extent only is there a legal difference in the result, if the registration act be held to be directory merely. The contestant proved by the registration list and the polling lists that between one and two thousand non-registered persons voted at the election, and also furnished proof that no affidavits to answer to these non-registered names had been returned and filed in the prothonotary's office according to the requirements of the registration law. Upon this state of facts he claimed that he had established by competent evidence the illegality of all such votes. As a legal proposition, can there be a doubt about it? Where the law designates a place for the filing or recording of a written paper no search for such paper is required by law beyond the designated place of deposit. The absence of such paper from the place of deposit raises the presumption of its non-existence. The presumption that a public officer has done his duty is clearly rebutted by the absence from the designated legal depository of the affidavits which the law required should be taken by the election board and filed with the prothonotary. A clear *prima facie* case of the illegality of this large non-registered vote has been made by the contestant, and if the contestee wished to claim any benefit from such vote the onus was upon him to show that the affidavits were duly taken by the election board, and if not filed with the prothonotary were either lost or destroyed. Such evidence was within the reach of the contestee, and his failure to produce it raises the presumption that if produced the evidence would have shown that the affidavits were not taken.

It follows, then, that at that election there was a large illegal and fraudulent vote cast. But as to a large part of this vote the evidence does not show to which candidate it was given, or what portion of it was given to each. This fraudulent vote is greatly in excess of the official majority returned for the sitting member. Where, therefore, fraudulent votes have been cast at an election sufficient in numbers to control the result of the election, and so mingled and mixed with the legal votes cast as to render it impossible to purge the ballot-boxes and ascertain which candidate received a majority of the legal votes cast at such election, there is but one honest way of disposing of the case, and that is to declare the election void and refer the parties back to the people that a new election may be held. At the election in the fall of 1878 there were three candidates voted for in the twentieth congressional district for governor, and the entire vote given for the three was 24,511 votes, while the congressional vote in the same district was 26,835. The actual increased vote given for the two candidates for Congress over the vote given for governor was 2,324. In this state of facts is developed one of the most remarkable circumstances in this case, almost unprecedented in the history of elections in this country since the foundation of the Government. That the congressional vote should exceed the total vote for State officers is a most unusual circumstance, and that 2,324 legal voters in that district should go to the polls and vote alone for the congressional candidates and refrain from voting for the candidates for governor almost surpasses human belief. This excessive vote corresponds to a certain extent with the number of non-registered votes ascertained to have been given by the investigation in this case. When considered in connection with the fact that the assessors are supposed to have done their duty in making a registration of all the qualified electors in the district, where the people are comparatively stationary and generally well known, a strong suspicion is raised that the extraordinarily large list of non-registered names represented ballots and not men.

In this recital of facts, which are incapable of successful refutation, are all the indications of a most stupendous and widespread fraud upon the ballot-boxes of that district.

It is in evidence in this case that 121 persons voted for the sitting member without registration and without making the affidavits and proof required by the registration act. These voters were examined, testified to the facts, and the House has been referred to their names and the pages of the testimony in the case where the proof may be found. These votes were clearly illegal and fraudulent, and as the number exceeds the official majority by which the sitting member claims the seat they disprove his right to retain it, and would fully justify the House in seating the contestant.

In conclusion, I fully agree with the honorable gentleman from Indiana in all that he has said of the patriotism, statesmanship, and great intellectual ability of Andrew G. Curtin. He would honor a seat in this House much more than he would be honored by it. I repeat the gentleman's language to give it greater emphasis. He was the friend of the Union and gave to restore the Union and maintain its integrity the best efforts of his magnificent intellectual abilities. He honestly earned the title of the great war governor of Pennsylvania during the war of the rebellion. Pennsylvania will ever feel a just and exalted pride in the legions of Union soldiers which her great war governor organized and put in the field to defend the Constitution and Union. That love of the Union which inspired him to deeds of grandeur during the rebellion drove him from the ranks of the republican party after peace came and rebellion ceased. War had had its victories, and he demanded that peace should have hers. His nature was too noble, his heart too large, and his sympathies too broad to allow him to strike a fallen and prostrate foe. He was in full accord with the wise and moderate conservatism of the North, and stood where the lamented Lincoln would have stood if furious and misguided fanaticism had spared his life. Alarmed at the centralizing tendencies of radicalism in the North and a military despotism at the South, in the presidential contest of 1872 he took his place in the ranks of the conservative element of the country, and his warning voice was heard everywhere among the sturdy sons of the North against this new peril that menaced free government. In 1874 the lessons so impressively taught had ripened into convictions, and the elections of that year swept from power in the popular branch of our National Legislature those who had abused the trust of the people and threatened the destruction of the Union and Constitution. This emphatic warning of the impending wrath of a free and confiding people was the first check given to the rapid march to centralized power. To Andrew G. Curtin and the men who co-operated with him in the noble work the American people owe the accomplished fact of a restored Union, in which each State occupies its proper place, represented in the National Legislature by citizens chosen by the free and unobstructed will of the citizens of the States they represent. To the efforts and influence of Andrew G. Curtin and those who acted with him the American people are indebted for the fact that eleven States are represented in the Congress of the United States by citizens of their own, chosen by the popular voice, and not by scalawags and carpet-bag plunderers, the representatives of military despotism, the most odious and hateful to the Anglo-Saxon race of all the forms of bad government which the world has produced.

Mr. SPRINGER. I now yield the remaining thirty minutes to the gentleman from Georgia, [Mr. SPEER.]

Mr. SPEER. Mr. Speaker, in rising to conclude the argument for the contestant, I am sensible of the great disadvantage under which I labor in attempting to engage the attention of the House under the circumstances which now surround me. Perhaps there is no other deliberative body on the face of the earth the attention of which it is so difficult to gain and to hold as the House of Representatives of the United States. Especially is that true at the close of a protracted and tedious trial like that through which we have been passing. Sir, it would require "eloquence like unto that which shook the arsenal and fulmined over Greece from Macedon to Artaxerxes' throne" to awaken and hold the attention of this House, judging from what has taken place here during the past twenty-four hours in the consideration of this contested-election case. And yet, what is more important to its fair and proper determination? Can gentlemen at the first glance and with the little attention they are enabled to give to this subject on the floor decide a question of this character for themselves? Must they not in great measure depend upon the deliberations, upon the judgment of the members of the Committee on Elections? Sir, in this case there were 5,100 pages of closely printed testimony. There have been elaborate arguments before the committee by some of the most distinguished counsel of the great Commonwealth of Pennsylvania; and the ability of the counselors of that Commonwealth has passed into a proverb. "As sharp as a Philadelphia lawyer" is an adage with every member of the profession and almost everybody else. And yet it has been extremely difficult to hold the attention of members of the House to this important issue, which depends upon their deliberations and their judgment. If I can arrest and hold that attention which has been found so difficult to command but for a few moments, I think I can perhaps present the law and the facts of this case so that he who runs may read, and gentlemen cannot hesitate as to what should be their true finding of the issue.

We started out with three propositions of fact, which are most clearly and succinctly stated by the able argument of the gentleman from Pennsylvania, [Mr. BELTZHOOVER:] first, that there were between one and two thousand persons who voted at the election who were not registered and whose affidavits were not filed in the prothonotary's office; second, that there were three hundred and eighty-two persons who voted at said election who were not registered and who were shown by affirmative evidence not to have made the affidavits required by law; and, third, that there were ninety persons who voted for the contestee in said election who were not registered and are shown by affirmative proof not to have made the affidavits required by law.

Mr. CAMP. Will the gentleman allow me to interrupt him?

Mr. SPEER. No, sir; I have but a very few minutes.

Mr. CAMP. I only wanted to state that I have a list of forty-one of that class of voters who voted for Governor Curtin.

Mr. SPEER. These facts must be taken as conceded, because there has been no serious attempt made to deny or refute them in the arguments which have been made on the other side in the discussion of this case. The entire argument was based upon the assumption that these facts are true as stated, and if they be true, applying to them the law of Pennsylvania and the law of elections, it is impossible for the House to come to any other conclusion save that this seat is vacant and the people of the twentieth district of Pennsylvania are entitled to have an opportunity of electing a Representative to Congress.

Mr. WEAVER rose.

Mr. SPEER. I decline to yield. I am aware of the anxiety which actuates the gentleman from Iowa, [Mr. WEAVER.] He feels, I imagine, something like the alarm Leonidas would have felt in the pass of Thermopylæ if a proposition had been made to decimate the three hundred. He trembles at the prospect of losing a member of the national party. Nevertheless, I will not be interrupted by him.

Mr. WEAVER. Was Leonidas a greenbacker?

Mr. SPEER. Is this election law mandatory—this law which has been discussed here? If it is, there can remain no doubt as to what should be the finding of the House. We start out with the proposition that nine of the fifteen members of the Election Committee hold that this is a mandatory law, after hearing all the arguments of the counsel and after a careful consideration of the provisions of the election law of Pennsylvania. Is their opinion to be disregarded? They do not embrace in their number any member of the national party, but they do embrace republicans as well as democrats. I have only to refer to the minority report signed by Messrs. FIELD, OVERTON, and CAMP. I find there this language:

> We think also that the requirements in that law of affidavits from persons not on the registered lists in order to enable them to vote are mandatory.

So to that extent they agree with the majority of the committee. And in all of the decisions which have been brought here from the State of Pennsylvania, gentlemen have been unable to produce any authority entitled to respect, going to show that that provision is other than a mandatory provision.

Why, sir, what is it, what does it amount to if it is not mandatory? Gentlemen say, my friend from Indiana [Mr. CALKINS] said, that the Legislature of Pennsylvania could not abridge the right of the citizen to vote because of this registry law. If that is true, and if this does abridge the right of the citizen to vote, the citizen of Pennsylvania can disregard any registry law made by the Legislature. Here is a law requiring a registration. Here is the manner pointed out by that law in which the citizen can vote if he is not registered. You say he need not register and he need not file his affidavit and yet he may vote. Well, then, you say he can disregard entirely the election law of his State. He can nullify it. The law itself is a nullity.

Mr. CALKINS. We all agree the law is mandatory as to the officers; but we say it is only directory as to the voters.

Mr. SPEER. The authority, the famous case of Wheelock which the gentleman cited here in support of his position, is directly in the teeth of the proposition he now enunciates.

Mr. RYON, of Pennsylvania. It was decided there that the law was directory upon the officer and that the voter should not be disfranchised for the neglect of the officer to perform his duty.

Mr. WEAVER. I thought the gentleman from Georgia declined to be interrupted.

Mr. SPEER. Yes; though I thank the gentleman from Pennsylvania for his suggestion, I decline to be interrupted by any one; by democrat, republican, or national.

On that point let me briefly read from the language of Judge Allison, a Pennsylvania judge:

> The elector's privilege is not a mere constitutional abstraction, but it is to be exercised in subordination to law, and on proof of title of the person claiming its exercise. The right, however well founded in fact, may be lost for want of such evidence of title as the law demands, just as the possession and enjoyment of property, secured by the declaration of rights to the citizen, may be taken away or withheld from him for the want of the necessary evidence of ownership.
>
> It is to enable the honest voter to secure to himself his constitutional privilege, to protect him against its loss by fraud, mistake, or negligence on the part of others that laws have been passed providing for an examination into the result of an election at the instance of qualified voters who have reason to believe that an undue election had been held.
>
> This legislation is therefore not to be regarded as hostile to the exercise of a right conferred upon the citizen by the supreme law of the land; but, on the contrary, as an aid of and protection to it. The design is to prevent its being nullified by illegal or fraudulent votes.
>
> The vote of an elector may be as certainly lost to him by an illegal ballot going in with it as though he had been prevented by force from voting, or his right unlawfully denied to him at the polls.

That is a clear and able and conclusive statement of the law upon which the majority of the committee rely in this case. And the authorities are abundant; they are cumulative; they are clear; they are powerful in the maintenance of that position. I do not see how there can be a doubt upon that subject. That being true; that being the law of Pennsylvania, there being 2,000, speaking in round numbers, of these ballots placed in the boxes by people who are not registered as that law requires; there being 382 of those ballots placed there without registration and without the affidavit which the law requires, it is clear that there was no legal election, and it is just as clear from principle and authority that the House is obliged to declare the seat vacant.

But the gentlemen on the other side have brought here an authority from a Judge Briggs, of the city of Philadelphia, a common judge of the court of common pleas of the Commonwealth of Pennsylvania. They have brought his decision here—printed how? Not in a bound volume of judicial reports.

A MEMBER. He is a Philadelphia lawyer.

Mr. SPEER. He is a Philadelphia lawyer, but a partisan judge, a bitter republican elected by the partisan voters of Philadelphia. They brought his opinion here in a publication called the National Intelligencer or the National Legal Intelligencer, a paper about the size of the interesting paper which is peddled by the small newsboys on the streets here in the afternoons called the Daily Critic. The gentleman from Indiana [Mr. CALKINS] flourished this extraordinary vehicle of legal lore before the eyes of this House and read from it. But he did not seem to think that was sufficient authority. And what did he do in addition thereto? He did the most unprecedented thing ever done in a judicial investigation; he produced a private letter from the judge to his friend here sustaining the soundness of his law, the correctness of his decision, and indirectly the dignity of the court. This testimony is from that witness, verily, who had the best opportunity to know the fact. But is it entirely disinterested? Who ever heard of such a proceeding before? Did Mansfield ever write such a letter? Was Kenyon ever seduced to contribute epistolary evidence of this sort; of his own ability and acumen as a judge? No. It has remained for the famous Judge Briggs, of the court of common pleas, to write a private letter to a friend on the floor of this House to bolster up a decision of his own on which that friend expected to rely to sustain his view of a case to be decided by the House.

Sir, I say it is most amusing, most ridiculous. Its self-assertion reminds me of the language used by Mr. Constable Grummer in that famous inimitable production of genius, the Pickwick Papers, who when he thrust his brass-mounted truncheon under the nose of Samuel Pickwick said in sententious utterance: "My name is law, civil power and executive. Them's my titles." And I dare say that this distinguished judicial functionary, like Mayor Nupkins, whose executive officer the constable was, commits himself as often as he commits anybody else. [Laughter.]

This dictum of Judge Briggs is the sole authority in all the current of the decisions of the courts of Pennsylvania, contrary to the position which is taken by the majority of the Committee on Elections. We find, sir, on this committee republican members, and from the State of Pennsylvania, who on that point indorse the report of the majority. I do not think that the House can afford to disregard it. If it does, it may as well abolish the Committee on Elections and take cases of this kind for investigation without the assistance which the deliberations of that committee would give its members.

My friend from Indiana [Mr. CALKINS]—he is my friend, and I am proud to claim him as such—laid great stress upon the case of Finley against Bisbee; and he seemed to think that he had the distinguished chairman of the Committee on Elections [Mr. SPRINGER] in a very disadvantageous position when he read from his report in that case. But the gentleman failed or refused to see the distinction between that case and the one now before the House. In this case the law requires that the proof of qualification of the voter shall be made in a certain specified way. In that case there was no such requirement. There it was simply a case of challenge; and if the voter when challenged would take a certain oath, then he was permitted to vote. In the absence of the challenge in that case, the challenge being a requirement of the law, the Committee on Elections held that the voter was not disqualified and that his vote ought to have been counted. In this case there is a different, positive requirement. No challenge is required, but the voter must prove his qualification in a certain specified way, whether challenged or not; and if he fails to do it, then his vote is an illegal vote.

Then in regard to the case of Wheelock, decided by Judge Wetmore, the gentleman assumed the position that that judge had decided contrary to the conclusion we have here arrived at. Let me read, without going to the authority, from the brief of the contestee, Mr. Yocum, to see whether the case of Wheelock, first Norris, controverts the opinion we have formed of what the law is:

> If we, by our decision, shall permit the carelessness or even the fraud of officers, whose duty it is to furnish a list of voters at the election, to defeat the election and deprive the people of the county of the officer who was elected by the majority of their votes, we would thus make the people suffer for an act in which they did not participate, or which they did not sanction.

But suppose the people themselves did the act; suppose the registry

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list is there, and the citizen himself did not come forward to register. That presents another and an entirely different case. By his own act he has waived his right to vote. In that case cited there was a registry, but it was not at the polls. The law of Pennsylvania requires that there shall be a registry list, one copy of it deposited in the office of the commissioners and another copy posted up at the polls.

In that case the judge decided that because the election officers failed to publish the registry list at the polls it did not vitiate the election. Now, how does that case demonstrate the law to be that in the entire absence, in the non-existence of a registry list, the non-registered voter who fails to file the affidavit that he is qualified would be permitted to vote as a legal voter would have the right to do? It is not at all parallel to this case.

These are all the authorities cited by the gentlemen which even squint at the issue presented by the majority report of the Committee on Elections in this case. I have not the time to discuss this case as elaborately as I had intended to do. Necessarily my time is limited by the action of the House this morning. I cannot present all the authorities in that clear and methodical order in which I had hoped to present them, so that if possible I might carry conviction to every impartial mind in this House.

In conclusion, I desire to deduce from the argument which I have made that this mandatory law having been distinctly violated by at least 382 voters, and presumptively by between 1,200 and 2,000 voters, it leaves the result in this district in such confusion that it is impossible to determine who was elected.

The law in a case like this—I need not elaborate it, for it is clear from all the authorities—is that it is the duty of this House to send the case back for a new election and to give the people an opportunity of legally electing a Representative. This case should be decided without any regard to the political parties to which these gentlemen belong. I am quite sure that my own action and the action of the committee in this case are not influenced by the political standing of either of the gentlemen claiming the seat in this House. It is impossible not to admire the manner in which the sitting member has conducted himself throughout this entire investigation. As to the distinguished gentleman who is the contestant, for myself I need only say that I do not know him; I have never seen him. His reputation, however, is co-extensive with the limits of this country. He is known by reputation to every gentleman upon the floor of this House. I can but deprecate the very artful and rather insidious suggestion made yesterday by my distinguished friend from Indiana [Mr. CALKINS] when he reminded the democrats on this side of the House how Governor Curtin used to take their scalps. It has even been whispered around that Governor Curtin once said, while he was a republican, that the moon held its nose when it sailed over a democratic district. [Laughter.]

Gentlemen have doubtless heard that suggestion made here. It will influence nobody. There were at that time in the democratic party some members who do not belong to it now. Where they are I will not say; but if the moon held its nose at that time in democratic vicinities, that luminary has no right to be guilty of an action of that sort at this time.

I am sure that gentlemen here will not be influenced by the fact that Governor Curtin was once a distinguished republican and the great "war governor" of Pennsylvania. I am very sure that such a thing will have no weight in the decision of this question adversely to him. It is seven years since Governor Curtin was a republican. Physiologists tell us that a man changes his entire nature in seven years; his thews, his sinews, his membranes, his tissues, his muscles, all parts of his system are changed, and he is a new man. Governor Curtin was a republican seven years ago; but if this argument is to be addressed to democrats, he is a democrat now. But the truth is, I think, that Governor Curtin occupies the proper, honorable, and patriotic position of an independent man who knows his rights and knowing dares maintain them; who has the intellectual courage to see the truth and the moral courage to announce it and defend it when he does see it.

Mr. Speaker, it is one of the first duties of patriotism to decide these questions without regard to any motive of partisanship. We are too apt in these days of cold cynicism and party selfishness to forget the beautiful virtue of patriotism, to forget what it has done for our country and what it will do for her in the future. It is a priceless virtue.

> We talk of patriots; and their deeds, as they deserve, receive
> Proud recompense. We give in charge their names
> To the sweet lyre. The historic muse,
> Proud of the sacred treasure, marches with it down
> To latest times, and Sculpture, in her turn,
> Gives bond in stone and ever-during brass
> To guard and to immortalize the trust.

What, sir, in comparison are the paltry perquisites of partisanship? Sir, let others, if they please, covet the rewards of partisanship; be mine the meed of patriotism. [Applause.]

Mr. SPRINGER. Mr. Speaker, I did not expect to address the House at all on this case; but as seven minutes of the time allowed me remain, I propose to state briefly what I think ought to be the decision of the House in this case.

It has been stated here by my distinguished friend from Indiana, [Mr. CALKINS,] I believe, that as to the voter the law of Pennsylvania is directory. Now, this is the first time that I have ever heard the principle announced that any law is directory upon the individual citizen. Wherever a law has been held directory by the courts, it has been where a duty was imposed upon a ministerial officer. Where such an officer was required by statute to do a particular thing in a particular way, and did it in some other way, but nevertheless did it, the courts have held in some instances that the act was legal, although done in a different manner from that pointed out by the statute. For instance, in a case arising at one time in California the statute required the return from the precinct to be sent to the county clerk by mail. It appeared in evidence that in this case the return was sent by express. The Committee on Elections properly held that the sending of this return by express, when the statute said it should be sent by mail, did not invalidate the vote at that poll or justify throwing it out. That was a directory statute imposing a duty upon a ministerial officer. But no court, so far as I know, has held that a citizen may violate the law at pleasure, unless he is willing to take the responsibility of the penalty imposed for disobedience.

Mr. CALKINS. Nobody claims that a citizen may violate the law with impunity. What we do claim in this case is, that where the citizen is not put in fault by being required by the election officer to furnish the affidavit, and where he votes, supposing, as he has the right to suppose, that he is registered, his vote is not invalidated.

Mr. SPRINGER. The law imposes certain duties upon the citizen, which duties have been clearly defined in the statute of Pennsylvania. That statute, not only mandatory but prohibitory in its terms, says that no man shall be permitted to vote whose name is not on the registry list, unless he shall furnish to the election officers not only his own affidavit as to his qualifications to vote, but the affidavit of another elector at the poll that he has resided in the precinct sixty days next preceding the election. Here is a duty imposed upon the citizen, and he must take due notice of his responsibilities and duties under the law. The law says to the citizen: "You may have your name registered within certain days; failing in that the law presumes you to be an illegal voter, and throws upon you the burden of establishing your right to vote." It goes further, and says: "As there have been so many frauds committed you must furnish proof in addition to that which you would have been required to furnish the registration officers; the evidence of your right to vote shall no longer rest in parol, but you shall furnish a written or printed affidavit signed by yourself and also the affidavit of an elector showing that you have resided sixty days in the election district and are entitled to vote." In the absence of this affidavit the election officers have no right to receive a vote; and without such affidavit a man, if unregistered, is not entitled to demand the right to vote. Not being registered and such affidavit not being furnished, his vote, if cast, is illegally cast, because cast in the very face of a prohibitory statute.

Mr. CALKINS. Right on that point let me ask a question. Suppose a man who is qualified does, in fact, vote without being challenged and without being required to file that affidavit, do you say his vote is illegal?

Mr. SPRINGER. I say it is.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. SPRINGER. I should like to answer that question, but still, let it go. [Cries of "Vote!"]

Mr. RYON, of Pennsylvania. I ask leave to print the balance of my remarks.

Mr. WEAVER. I suggest that general permission be given to print remarks on this contested-election case.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is ordered accordingly.

Mr. SPRINGER. Will the Chair state the first question before the House?

The SPEAKER *pro tempore*. The first question before the House is on the amendment of the gentleman from Illinois [Mr. SPRINGER] to the amendment, which the Clerk will read.

The Clerk read as follows:

After the word "is," in the first line, insert the word "not;" so that if amended the proposed resolution will read as follows:

"*Resolved*, That Seth H. Yocum is not entitled to retain his seat in the Forty-sixth Congress as a member from the twentieth congressional district of the State of Pennsylvania, and that Andrew G. Curtin is not entitled thereto."

Mr. SPRINGER. I call for a division of the two branches of the resolution.

The SPEAKER *pro tempore*. The first question, then, will be on inserting the word "not."

Mr. CALKINS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENSON. State the amendment again.

The SPEAKER *pro tempore*. The amendment now pending is on inserting the word "not."

Mr. BRIGHT. There are two "nots" in the resolution.

Mr. SPRINGER. This is in the first branch of the resolution.

The resolution was again read.

Mr. STEVENSON. This is virtually a resolution to expel the sitting member.

The question was taken; and it was decided in the negative—yeas 75, nays 114, not voting 103; as follows:

YEAS—75.

Armfield,	Blackburn,	Carlisle,	Converse,
Atkins,	Bland,	Clark, John B.	Cook,
Bachman,	Blount,	Cobb,	Cravens,
Beltzhoover,	Bragg,	Coffroth,	Davidson,
Bicknell,	Cabell,	Colerick,	Dibrell,

Dickey,	Kenna,	Phister,	Springer,
Elam,	Kimmel,	Poehler,	Steele,
Ellis,	King,	Reagan,	Thompson, P. B.
Ewins,	Klotz,	Ross,	Townshend, R. W.
Forney,	Manning,	Ryon, John W.	Turner, Oscar
Frost,	Martin, Benj. F.	Samford,	Turner, Thomas
Geddes,	McLane,	Sawyer,	Upson,
Goode,	McMillin,	Scales,	Vance,
Gunter,	Money,	Shelley,	Waddill,
Hatch,	Morrison,	Simonton,	Wellborn,
Henry,	O'Connor,	Slemons,	Whitthorne,
Herbert,	Persons,	Smith, Hezekiah B.	Williams, Thomas
Hull,	Phelps,	Smith, William E.	Wise.
Johnston,	Philips,	Sparks,	

NAYS—114.

Aiken,	Claflin,	Joyce,	Russell, Daniel L.
Aldrich, N. W.	Conger,	Keifer,	Ryan, Thomas
Aldrich, William	Cowgill,	Kelley,	Sapp,
Anderson,	Daggett,	Lindsey,	Shallenberger,
Bailey,	Davis, George R.	Lowe,	Sherwin,
Baker,	Davis, Horace	Marsh,	Singleton, J. W.
Ballou,	Deering,	McCoid,	Singleton, O. R.
Barber,	Dunnell,	McCook,	Starin,
Barlow,	Einstein,	McKinley,	Stephens,
Bayne,	Errett,	Miles,	Stevenson,
Belford,	Farr,	Miller,	Stone,
Berry,	Felton,	Mills,	Thomas,
Blake,	Ferdon,	Monroe,	Thompson, W. G.
Bouck,	Field,	Murch,	Tillman,
Boyd,	Fisher,	Neal,	Townsend, Amos
Brewer,	Ford,	New,	Tyler,
Briggs,	Gillette,	Newberry,	Updegraff, J. T.
Brigham,	Godshalk,	Norcross,	Updegraff, Thomas
Bright,	Hall,	O'Neill,	Valentine,
Browne,	Haskell,	O'Reilly,	Van Aernam,
Burrows,	Hawk,	Orth,	Voorhis,
Butterworth,	Hawley,	Osmer,	Wait,
Caldwell,	Heilman,	Overton,	Ward,
Calkins,	Henderson,	Pacheco,	Washburn,
Camp,	Henkle,	Price,	Weaver,
Cannon,	Hiscock,	Richardson, J. S.	Williams, C. G.
Carpenter,	Horr,	Richmond,	Wright.
Caswell,	Hostetler,	Robinson,	
Chalmers,	Jones,	Rothwell,	

NOT VOTING—103.

Acklen,	Fort,	Knott,	Rice,
Atherton,	Frye,	Ladd,	Richardson, D. P.
Beale,	Garfield,	Lapham,	Robertson,
Bingham,	Gibson,	Le Fevre,	Robeson,
Bliss,	Hammond, John	Lewis,	Russell, W. A.
Bowman,	Hammond, N. J.	Loring,	Smith, A. Herr
Buckner,	Harmer,	Lounsbery,	Speer,
Chittenden,	Harris, Benj. W.	Martin, Edward L.	Talbott,
Clardy,	Harris, John T.	Martin, Joseph J.	Taylor,
Clark, Alvah A.	Hayes,	Mason,	Tucker,
Clymer,	Hazelton,	McGowan,	Urner,
Covert,	Herndon,	McKenzie,	Van Voorhis,
Cox,	Hill,	McMahon,	Warner,
Crapo,	Hooker,	Mitchell,	Wells,
Crowley,	Houk,	Morse,	White,
Culberson,	House,	Morton,	Whiteaker,
Davis, Joseph J.	Hubbell,	Muldrow,	Wilber,
Davis, Lowndes H.	Humphrey,	Muller,	Willis,
De La Matyr,	Hunton,	Myers,	Willits,
Deuster,	Hurd,	Nicholls,	Wilson,
Dick,	Hutchins,	O'Brien,	Wood, Fernando
Dunn,	James,	Page,	Wood, Walter A.
Dwight,	Jorgensen,	Pierce,	Yocum,
Ewing,	Ketcham,	Pound,	Young, Casey
Finley,	Killinger,	Prescott,	Young, Thomas L.
Forsythe,	Kitchin,	Reed,	

So the amendment to the amendment was disagreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced the passage of the joint resolution (H. R. No. 103) to pay C. A. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, with amendments in which concurrence was requested.

It further announced concurrence in the amendments of the House to joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference to meet at Washington, District of Columbia.

It further announced the passage of a bill (H. R. No. 5089) directing the issue of a duplicate check to Elizabeth D. Thomas, a pensioner of the United States.

PENNSYLVANIA CONTESTED-ELECTION CASE—CURTIN VS. YOCUM.

The following pairs on the last vote were announced from the Clerk's desk:

Mr. RICE with Mr. NICHOLLS, until Tuesday, May 11; after that date and until Mr. NICHOLLS's return, Mr. MORTON and Mr. NICHOLLS will be paired.

Mr. WILLIS with Mr. DE LA MATYR.
Mr. SPEER with Mr. LADD.
Mr. ACKLEN with Mr. KILLINGER.
Mr. FORSYTHE with Mr. CULBERSON.
Mr. ROBESON with Mr. BLACKBURN.
Mr. HUBBELL with Mr. CLYMER.
Mr. DAVIS, of Missouri, with Mr. HOUK.
Mr. MCMAHON with Mr. URNER.
Mr. JAMES with Mr. O'BRIEN.
Mr. DUNN with Mr. HARRIS, of Massachusetts.
Mr. POUND with Mr. WHITEAKER.
Mr. CRAPO with Mr. ATHERTON.
Mr. PRESCOTT with Mr. ROBERTSON.
Mr. HUMPHREY with Mr. GIBSON.
Mr. HAYES with Mr. WELLS.
Mr. WILBER with Mr. AIKEN.
Mr. STEPHENS with Mr. DWIGHT.

Mr. STEPHENS. I am paired with Mr. DWIGHT on political questions; but on this question, as we would both vote the same way, I have voted.

Mr. LAPHAM with Mr. FERNANDO WOOD.
Mr. FINLEY with Mr. HAMMOND, of New York.
Mr. MYERS with Mr. FORT.
Mr. WHITE with Mr. BUCKNER.
Mr. CHALMERS with Mr. VAN VOORHIS.
Mr. PAGE with Mr. HOUSE.
Mr. HUNTON with Mr. HAWK.
Mr. CHITTENDEN with Mr. EWING.
Mr. HAMMOND, of Georgia, with Mr. KETCHAM.
Mr. CLARDY with Mr. FRYE.
Mr. MCKENZIE with Mr. REED.
Mr. KITCHIN with Mr. MARTIN, of North Carolina.
Mr. MCGOWAN with Mr. YOUNG, of Tennessee.
Mr. COX with Mr. MORTON.
Mr. TALBOTT with Mr. HALL.
Mr. COVERT with Mr. YOUNG, of Ohio.
Mr. HARMER with Mr. CLARK, of New Jersey.
Mr. BINGHAM with Mr. HERNDON.
Mr. MULLER with Mr. RICHARDSON, of New York.
Mr. TUCKER with Mr. GARFIELD.
Mr. HUNTON with Mr. HAZELTON.
Mr. ROBESON with Mr. WARNER.
Mr. TALBOTT with Mr. MITCHELL.
Mr. DICK with Mr. MULDROW, until Monday next.
Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.
Mr. CROWLEY with Mr. BLISS.
Mr. BEALE with Mr. JORGENSEN.

Mr. CHALMERS. I desire to state that although I am announced as being paired with Mr. VAN VOORHIS, of New York, yet I am assured by his friends that he and I would vote on the same side of this question.

Mr. HAWK. Mr. Speaker, I desire to withdraw my vote, as I understand I am paired with Mr. HUNTON.

Mr. SPRINGER. I wish to say in reference to the pair which has been announced between my colleague, Mr. HAWK, and Mr. HUNTON, of Virginia, I understood General HUNTON to state when he went away that he was paired with Mr. HAWK. I see from the announcement at the Clerk's desk, however, that he was also paired with Mr. HAZELTON. As the gentleman has evidently been paired by mistake with one of these gentlemen, I think that Mr. HAWK should have the privilege of voting on this question.

The SPEAKER *pro tempore*. Does the gentleman from Illinois desire to?

Mr. HAWK. Mr. Speaker, I learn that Mr. HUNTON is paired with Mr. HAZELTON. I do not wish, therefore, to withdraw my vote.

Mr. BLACKBURN. I desire to say, Mr. Speaker, that I was here when both rolls were called, but I did not vote because I had paired myself with the gentleman from New Jersey [Mr. ROBESON] on all questions at his request made in the shape of a letter addressed to me. Of course I had no idea that he was paired with any one else upon any question. I now learn, however, from Mr. WARNER that some weeks ago he was paired with Mr. ROBESON on all questions. If that be true, as of course it is, then Mr. ROBESON cannot stand paired with both, and I hope, therefore, that I shall be allowed to vote on this question.

There was no objection.

Mr. MITCHELL. I understand that I was announced as paired with Mr. TALBOTT, of Maryland. I am informed, however, that Mr. TALBOTT is announced as paired with another gentleman. If that is the case I desire to vote.

Mr. FRYE. I am announced as paired. If so I am not aware of it.

Mr. HARMER. There was a pair arranged for the gentleman this morning.

Mr. FRYE. Well, it is rather a cool way of doing business. I do not care anything about it, however.

Mr. HARMER. Some gentleman came to my seat this morning and made the announcement of this pair in the presence of the gentleman from Maine, [Mr. FRYE,] who made no objection to it.

Mr. AIKEN. I am announced as paired with Mr. WILBER, of New York. I am paired with him on all questions except this, on which we would vote alike.

The result of the vote was then announced as above recorded.

Mr. CALKINS moved to reconsider the vote by which the amendment to the amendment was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The Clerk will now read the next resolution before the House, the minority resolution.

The Clerk read as follows:

Resolved, That Seth H. Yocum is entitled to retain his seat in the Forty-sixth Congress as a member from the twentieth congressional district of the State of Pennsylvania, and that Andrew G. Curtin is not entitled thereto.

Mr. SPRINGER. On that I call for the yeas and nays.

The SPEAKER *pro tempore*. Twenty-nine members have voted for the yeas and nays—a sufficient number.

Mr. GARFIELD. Not a sufficient number; not being one-fifth of the last vote.

Mr. STEVENSON. I ask for tellers on the yeas and nays.

The SPEAKER *pro tempore*. The Chair will correct himself. There was not a sufficient number to call the yeas and nays.

Mr. STEVENSON. Then I withdraw the demand for tellers.

Mr. SPRINGER. I ask for tellers on the yeas and nays.

Tellers were ordered.

Mr. GARFIELD. In order to save the time of the House let us by unanimous consent take the yeas and nays on this question.

There was no objection, and the yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 75, not voting 104; as follows:

YEAS—113.

Aiken,	Cowgill,	Joyce,	Russell, W. A.
Aldrich, N. W.	Daggett,	Keifer,	Ryan, Thomas
Aldrich, William	Davis, George R.	Kelley,	Sapp,
Anderson,	Davis, Horace	Lindsey,	Shallenberger,
Bailey,	Deering,	Lowe,	Sherwin,
Baker,	Deuster,	Marsh,	Singleton, O. R.
Ballou,	Dunnell,	McCoid,	Starin,
Barber,	Einstein,	McCook,	Stephens,
Barlow,	Errett,	McKinley,	Stevenson,
Bayne,	Farr,	Miles,	Stone,
Belford,	Felton,	Miller,	Thomas,
Blake,	Ferdon,	Mills,	Thompson, W. G.
Buck,	Field,	Murch,	Tillman,
Boyd,	Fisher,	Neal,	Townsend, Amos
Brewer,	Ford,	New,	Tyler,
Briggs,	Frye,	Newberry,	Updegraff, J. T.
Brigham,	Garfield,	Norcross,	Updegraff, Thomas
Bright,	Gillette,	O'Neill,	Valentine,
Browne,	Godshalk,	O'Reilly,	Van Aernam,
Burrows,	Hall,	Orth,	Voorhis,
Butterworth,	Haskell,	Osmer,	Wait,
Caldwell,	Hawley,	Overton,	Ward,
Calkins,	Heilman,	Pacheco,	Washburn,
Camp,	Henderson,	Price,	Weaver,
Carpenter,	Henkle,	Richardson, J. S.	Williams, C. G.
Caswell,	Hiscock,	Richmond,	Wright.
Chalmers,	Horr,	Robinson,	
Claflin,	Hostetler,	Rothwell,	
Conger,	Jones,	Russell, Daniel L.	

NAYS—75.

Armfield,	Dickey,	Manning,	Singleton, J. W.
Atkins,	Elam,	Martin, Benj. F.	Slemons,
Bachman,	Ellis,	McMillin,	Smith, Hezekiah B.
Beltzhoover,	Evins,	Money,	Smith, William E.
Bicknell,	Forney,	Morrison,	Sparks,
Blackburn,	Frost,	O'Connor,	Springer,
Bland,	Goode,	Persons,	Steele,
Bragg,	Gunter,	Phelps,	Thompson, P. B.
Cabell,	Hatch,	Philips,	Townshend, R. W.
Carlisle,	Henry,	Phister,	Turner, Oscar
Clark, John B.	Herbert,	Poehler,	Turner, Thomas
Cobb,	Hull,	Reagan,	Upson,
Coffroth,	Johnston,	Ross,	Vance,
Colerick,	Kenna,	Ryon, John W.	Waddill,
Converse,	Kimmel,	Samford,	Wellborn,
Cook,	King,	Sawyer,	Whitthorne,
Cravens,	Klotz,	Scales,	Williams, Thomas
Davidson,	Le Fevre,	Shelley,	Wilson.
Dibrell,	Lounsbery,	Simonton,	

NOT VOTING—104

Acklen,	Finley,	Killinger,	Prescott,
Atherton,	Forsythe,	Kitchin,	Reed,
Beale,	Fort,	Knott,	Rice,
Berry,	Geddes,	Ladd,	Richardson, D. P.
Bingham,	Gibson,	Lapham,	Robertson,
Bliss,	Hammond, John	Lewis,	Robeson,
Blount,	Hammond, N. J.	Loring,	Smith, A. Herr
Bowman,	Harmer,	Martin, Edward L.	Speer,
Buckner,	Harris, Benj. W.	Martin, Joseph J.	Talbott,
Cannon,	Harris, John T.	Mason,	Taylor,
Chittenden,	Hawk,	McGowan,	Tucker,
Clardy,	Hayes,	McKenzie,	Urner,
Clark, Alvah A.	Hazelton,	McLane,	Van Voorhis,
Clymer,	Herndon,	McMahon,	Warner,
Covert,	Hill,	Mitchell,	Wells,
Cox,	Hooker,	Monroe,	White,
Crapo,	Houk,	Morse,	Whiteaker,
Crowley,	House,	Morton,	Wilber,
Culberson,	Hubbell,	Muldrow,	Willis,
Davis, Joseph J.	Humphrey,	Muller,	Willits,
Davis, Lowndes H.	Hunton,	Myers,	Wise,
De La Matyr,	Hurd,	Nicholls,	Wood, Fernando
Dick,	Hutchins,	O'Brien,	Wood, Walter A.
Dunn,	James,	Page,	Yocum,
Dwight,	Jorgensen,	Pierce,	Young, Casey
Ewing,	Ketcham,	Pound,	Young, Thomas L.

So the amendment reported by the minority of the Committee on Elections was agreed to.

The following additional pairs were announced:

Mr. HUNTON with Mr. HAWK, on all questions for Monday, Tuesday, and Wednesday, the right to vote to make a quorum being reserved.

Mr. MONROE with Mr. BLOUNT, on this vote.

Mr. HALL. It was announced on the last vote that I was paired with Mr. TALBOTT, of Maryland. That was a mistake. Our pair is for to-morrow and next day.

Mr. MITCHELL. There has been a misunderstanding in relation to the pair of Mr. TALBOTT. I supposed I was not paired with him, but it seems his pair with the gentleman from New Hampshire [Mr. HALL] does not take effect till to-morrow. I therefore withdraw my vote both on this and the previous roll-call.

The result of the vote was then announced as above recorded.

Mr. CALKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The question now recurs on the resolution of the majority as amended.

The resolution, as amended, was agreed to.

Mr. CALKINS moved to reconsider the vote by which the resolution, as amended, was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

C. R. FAULKNER, ETC.

Mr. ATKINS. I ask unanimous consent to take from the Speaker's table the joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress. The joint resolution has been returned with an amendment by the Senate. The object of the amendment is to provide $1,000 to pay the expenses of additional folding in the Senate. I ask that the joint resolution may be taken from the Speaker's table in order that I may move concurrence.

There being no objection, the joint resolution was taken from the Speaker's table, and the amendments of the Senate were read, as follows:

Add the following section:

"SEC. 2. That the sum of $1,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay folders in the Senate folding-room, for folding pamphlets and speeches for the fiscal year ending June 30, 1880, at the rate now established by law."

Amend the title so as to read:

"A joint resolution to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, and for other purposes."

The amendments of the Senate were concurred in.

Mr. ATKINS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MINORITY REPORT ON TARIFF BILL.

Mr. GARFIELD. I ask the privilege of filing on the part of the minority of the Committee on Ways and Means a minority report on the general tariff bill. It is not ready as yet, and I ask the privilege of filing it hereafter.

The SPEAKER. The Chair understood that the gentleman from Ohio obtained that privilege this morning.

Mr. GARFIELD. We did file a minority report with one of the bills; but with the main one we did not.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes. I move that the bill be referred to the Committee of the Whole on the state of the Union.

I desire to give notice to the House that I wish to make a few remarks in Committee of the Whole in explanation of the bill; and perhaps one of my colleagues on the committee on the other side of the House may desire to submit some remarks.

The motion was agreed to; and the bill was referred to the Committee of the Whole on the state of the Union.

Mr. ATKINS. I now move that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. COX in the chair.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union, for the purpose of considering the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. ATKINS. I ask that the first reading of the bill be dispensed with.

There was no objection.

Mr. ATKINS. Mr. Chairman, I shall not occupy ten minutes in the explanation which I shall offer the House of the provisions of this bill. I will premise by saying that the Committee on Appropriations have given the bill a very careful and I may say a very exhaustive examination. We have approached the subject in a business-like manner. We have endeavored upon the best lights that have been furnished the committee to provide for such service as we believed to be absolutely necessary. It may be that in preparing this bill we have done some of the employés or officers of the Government injustice. I am inclined to think that possibly there may be a few to whom we have not done full justice. I have, however,

the impression that as a general thing we have come as near doing what is really right in the premises as our information would allow.

I shall endeavor to give in a very few words a general explanation of this bill by referring to the salient points in it. It recommends appropriations aggregating $16,120,931.91, which is in excess of the present law by $592,992.33. It is $570,988.68 less than the estimates.

There has been a contest in the past between the House of Representatives and the Senate, to some extent, upon the question of equalizing the salaries of the officers and employés of the two Houses of Congress. On two, if not three, occasions the effort has been made in the House of Representatives, and, so far as the action of the House is concerned, has succeeded in bringing about something like an equalization of those salaries. But, in the Senate, in every instance the salaries of the employés of the Senate have been put back where they have been for many years. The effort of the House toward equalization has in every instance been defeated. The Committee on Appropriations, in this instance, have endeavored to equalize these salaries, and I believe they may say they have fairly done so in the bill before us. We have reduced the salaries of the employés of the Senate down to the level of the salaries of the officers and employés of the House. In a few instances we have increased the salaries of some of the officers and employés of the House. The general aggregate of reduction in the salaries of the Senate officers and employés amounts to $24,216.

Just one word upon this point. I cannot see why the salaries of the officers and employés of the two Houses should not be equal, as the salaries of the Senators and Representatives are equal. I do not see how the mere comity between the two Houses can justify the Senate in placing the salaries of its own officers and employés at a higher rate than the salaries of the officers and employés of the House of Representatives, while at the same time they do not pretend to touch the salaries of the Senators and Representatives. If the argument of comity is worth anything in the one case, it should certainly avail in the other. But it is not necessary for me to discuss this question. The laws of the country are made by the two Houses of Congress, with the approval of the Executive. It is essential for the House to concur in any salary as it is essential for the Senate to concur in any salary that may be fixed by law. If, then, it is proper that the House should yield any participation in fixing the salaries of the officers and employés of the Senate upon the mere ground of comity between the two Houses, we ought to yield upon the subject of the salaries of Representatives and Senators, in the event the Senate should choose to put up their salaries. There is no difference in principle. As it requires both Houses to make a law, it seems to me that the voice of the House as well as of the Senate should be heard in fixing the salaries of the officers and employés of both bodies. It is not a question of comity but a question of law, a question of the constitutional rights of the two Houses. With this statement I leave the question to the House.

Mr. DUNNELL. If I understand the gentleman correctly, this bill does undertake to make the salaries of the employés of the two Houses equal.

Mr. ATKINS. We have endeavored to do so in this bill; we have made efforts heretofore but have failed.

Mr. RYON, of Pennsylvania. Have you reduced the salaries of any of the employés in the other Departments?

Mr. ATKINS. We have not. We have in instances endeavored to regulate the salaries of our own officers, as I have undertaken to explain.

Mr. HOOKER. I would inquire of the gentleman from Tennessee [Mr. ATKINS] whether they have equalized the salaries of the officers of the two Houses by elevating the salaries of the officers of the House to the standard of those of the Senate, or by bringing down the salaries of the officers of the Senate to the standard of the House?

Mr. ATKINS. By the latter mode. If it be deemed essential for me to call the attention of the House—and perhaps it is, because I believe that we may gain time by a full explanation of the details of this bill so far as it may be practicable—to the increase made in the salaries of the employés of the House, I will proceed to do so now.

We have given to the Committee on the District of Columbia a clerk with an annual salary. At present that committee has a clerk drawing a per diem salary of $6 during the session. The Senate Committee on the District of Columbia has a clerk with an annual salary.

We have also given to the Committee on Commerce an annual clerk. This we have done at the unanimous request of the members of that committee. They complain that their labors are very great, and that it is but just and right that their clerk should be an annual clerk, for his services are necessary here for a considerable portion of the time during the vacation.

We have also, at the request of the Committee on the Judiciary, given that committee an annual clerk. The clerk of that committee now gets a per diem salary. At the suggestion of the Committee on War Claims we have given to that committee an assistant clerk, at $1,600 a year. That is deemed to be essential and necessary, on account of the vast labor imposed upon that committee and the amount of work to be done by the committee.

We have given a messenger at an annual salary of $1,000 to each of two committees. One was provided for the Committee on Ways and Means by a resolution of the House, to be paid out of the contingent fund of the House; and all this session the Committee on Appropriations has had a man detailed from the force of watchmen to act as their messenger. In our judgment it is absolutely necessary that we should have one; and we have therefore made provision for a messenger for the Committee on Ways and Means and one for the Committee on Appropriations.

We have increased the salary of the assistant clerk of the Committee on Appropriations from $1,200 a year to $1,600. The labors of that committee are very great; and this House is very well acquainted with the nature of the work before that committee. We have also given the same amount to the assistant clerk of the Committee on Appropriations of the Senate. The aggregate of these increases of compensation is $8,310.

Mr. BUCKNER. Will the gentleman yield to me for an inquiry?

Mr. ATKINS. I will.

Mr. BUCKNER. Can the gentleman give any reason why the committees he has named, the Judiciary, War Claims, Public Lands, or any other committees, should have annual clerks, when the Committee on Indian Affairs and other committees I could name do not have them?

Mr. ATKINS. I can answer the gentleman that no application has been made to the Committee on Appropriations to give an annual clerk to the Committee on Indian Affairs. We have given annual clerks to the Committee on the Judiciary, the Committee on Commerce, and other committees, because it was the unanimous request of those committees. The gentleman ought to be as well acquainted with the labors of those two committees as I am myself.

Mr. BUCKNER. I understand that. But will the gentleman inform this House whether there is any business which those committees are required to have done during the vacation more than other committees?

Mr. ATKINS. I suppose that for the life-time of this Government there have been annual clerks of committees drawing annual salaries. How far back in the past I am not prepared to say, but a very great way back no doubt. How the practice originated is not for me to say; I cannot tell. I suppose there is no one of these clerks who is not under the control of the chairman and of the committee, and very frequently the clerk is required to be in Washington during the vacation of Congress. I am not prepared to say that that is true in regard to all of these clerks; but I know it is true in regard to some. I know it is true in regard to the clerk of the Committee on Appropriations, and I understand it is true in regard to the clerk of the Committee on Ways and Means.

Mr. GARFIELD. There are six or seven clerks of committees who are by law paid annual salaries.

Mr. ATKINS. But the gentleman from Missouri asks why it is done.

Mr. BUCKNER. In several of these cases I can see no reason for the employment of clerks at annual salaries.

Mr. GARFIELD. Most of these committees have duties which require constant correspondence during the recess between the members and the clerk as to facts and statistics connected with their business. Especially is this true of the Committee on Appropriations and the Committee on Ways and Means. It is true also of the Committee on Public Lands, members of which are during the recess pursued with inquiries about the business of the committee which can only be answered by a clerk on duty here at Washington.

Mr. ATKINS. Now, to proceed. We have increased the clerical force in the Departments by the addition of two hundred and seventy-six employés—clerks, messengers, charwomen, and laborers. Fifty-eight of these clerks, employed in the Secretary of the Treasury's office, in the First Comptroller's office, the First Auditor's and the Register's offices, however, are now provided for out of the expense fund under the refunding act. In that act an appropriation was made to employ such force as might be deemed necessary by the Secretary of the Treasury, and fifty-eight clerks here retained were employed for this particular business. There were nearly as many others employed for a time and paid in the same way, but as the refunding is about completed many have been discharged. But the fifty-eight mentioned are retained because of the increased labor imposed on the bureaus mentioned on account of the change from semi-annual to quarterly payments of interest on bonds. They are engaged in the Secretary's office, the First Auditor's office, the First Comptroller's office, and the Register's office.

Mr. PAGE. Have the Committee on Appropriations allowed any additional clerks for the Land Office?

Mr. ATKINS. Yes, sir; we have provided for a few additional clerks in the surveyor-generals' offices of Louisiana and Florida to bring up the work long neglected in those offices; also a few have been granted additional for the surveyor-general's office in California. In these and in all other respects as to the Land Office we have met the views and demands of the Commissioner of the Land Office.

Mr. Chairman, as to these clerks now paid out of the expense fund under the refunding act, it was deemed proper by the Secretary of the Treasury to estimate for them in the regular appropriation bill; and we have provided for them in this way. Although the general aggregate of the bill is thus increased, yet we think it best that these clerks should be provided for in this way in order that the country may know what force is being employed in the several Departments.

We have also provided in this bill for eighty-two clerks and employés in the Pension Office, the Surgeon-General's Office, the Adjutant-General's Office, and the Second Auditor's Office. These clerks

and employés were authorized in the act of March 16, 1880. They were designed for these different bureaus on account of the arrears of pension act. The business of the Pension Bureau was so far behind that we provided by that act for this force, and we now continue these employés in this bill.

It also became necessary to increase the force in the Second Comptroller's and the Third Auditor's Offices, as the work of the Pension Office, the Adjutant-General's, the Surgeon-General's, and the Second Auditor's having been advanced by the increased force under the act of the 16th of March last, had such intimate relations with the two first-named bureaus as to be impossible of completion without their aid. The result is, that the business coming over from the Pension Bureau, the Adjutant-General, the Surgeon-General, and the Second Auditor to the Second Comptroller and the Third Auditor, it is compelled to remain unattended to without a corresponding additional force in the two last bureaus. We have therefore increased the force in these bureaus so as to correspond with the additional force granted by the act of March last to facilitate the settlement of pension claims. There was therefore no alternative left the committee (as was the case under the refunding act, as I have explained) but to increase the clerical force in these particular bureaus.

We have also provided other clerks, who have been estimated for in supplemental estimates since the Book of Estimates was submitted to Congress. These clerks are distributed through different Departments of the Government. The whole number of additional employés amounts, as I have said, to two hundred and seventy-six; and the whole amount of their salaries is $370,230.

The committee did not feel authorized to withhold this force. Some part of it is employed, as I have already said, in the Treasury Department; some in the Patent Office; some in the Post-Office Department; some in various other Departments; and all the employés are deemed necessary to the smooth working of these Departments. Considerable additional force has been given to the Patent Office, quite equal to the growth of that bureau, in the judgment of the committee. In the Post-Office Department a large addition of clerical force has been added—notably in the Sixth Auditor's office, as the business of that bureau has grown in consequence of the change in the postal laws in reference to the payments of sub-contractors and of fourth-class postmasters from stamps canceled to stamps sold. Also, on account of the large growth in the money-order business.

The Committee on Appropriations also propose in this bill an increase of the salaries of the territorial judges. The law provides that they shall be paid $3,000 per annum. Four years ago their salaries were reduced to $2,600. After investigating the expenses of living and traveling in the Territories, as compared with such expenses in most of the States of the Union, and considering also the amount of labor performed by these judges, the Committee on Appropriations thought it right to put their salaries back to $3,000 each, as originally fixed by statute; and they have done so. These judges are required to attend to the common law, the chancery and criminal business of the Territories; also to the business of the circuit and district courts of the United States, besides constituting an appellate court for the Territories. Their duties, therefore, are multifarious; and some of them are employed from six to eight months in the year.

A few other salaries have been increased. The Commissioner of Pensions we have raised from $3,600 to $4,500. Last year $63,000,000 passed through his hands. The place is a responsible one. The salary of Indian Commissioner has been raised to $3,500.

I believe I have given the main points of difference between this bill and the bill of last year. If any gentleman desires to ask me any question, I shall be pleased to answer. I feel that this bill ought not to be amended. I have known the legislative, executive, and judicial appropriation bill to linger in the House of Representatives at least six weeks. I have known it but once to go through in less than six days; once it went through in four days. I do not see any reason why this bill should not go straight through in two days, unless the House desires to reduce the appropriations. I hope they will not be increased.

Mr. STEVENSON. I desire to inquire whether the Committee on Appropriations has any amendments to offer, or whether this is a unanimous report.

Mr. ATKINS. This is the unanimous report of the committee, though one or two amendments may be offered from the committee.

Mr. BAKER. Mr. Chairman, I shall not occupy more than two or three minutes. This bill has received very careful and exhaustive consideration. It meets the approval, I believe, of every member of the Committee on Appropriations, and after having investigated it as a member of the sub-committee, item by item, from first to last, my conviction is that the bill is now in the shape in which it ought to be passed by the House. During the five years I have served in Congress no bill making appropriations for these purposes has come anywhere near meeting my entire approbation, as this one does. The increases which have been made do not in every instance come up to the requests of the different Departments. In many instances, however, these increases have been made to the very man and the very dollar asked for. But wherever there has been a failure to appropriate for as many clerks and for the amount of money which was asked for, the diminution has been so small that it was the judgment of every member of the committee a larger sum than was recommended need not be appropriated.

The increase in the clerical force in the several Departments is in the neighborhood of three hundred, and the increase for increased compensation for clerks and other officers, and for the pay of employés amounts in round numbers to about $375,000.

I desire to say, Mr. Chairman, it is only due to the gentleman from Tennessee, [Mr. ATKINS,] who has charge of this bill, that in the consideration of it there has been a spirit of fairness, a spirit of liberality in meeting all the just wants of the Government that is rarely to be found where the majority on the floor of the House is opposed to those having control of the Executive Departments of the Government. I feel that much is due to the gentleman having this bill in charge.

I hope this bill may pass through the Committee of the Whole and be reported to the House in the precise shape in which it has been introduced by our committee, and having said that I have said all I desire to say.

Mr. GARFIELD. Mr. Chairman, after this testimony on both sides of the House to the character of this bill, and the satisfaction which both parties on the committee have expressed in regard to it, I desire to express the hope that general debate may be closed, and the first reading of the bill for information be dispensed with, if that has not already been done, and we shall proceed immediately to consider it by paragraph and pass it. I shall be glad to see it pass to-night.

Mr. YOUNG, of Tennessee. It is too late.

Mr. GARFIELD. I ask by unanimous consent all general debate be considered closed, and the bill be read by paragraph for amendment.

Mr. HOOKER and Mr. WHITTHORNE objected.

Mr. GARFIELD. Then I hope the committee will rise and close debate.

Mr. ATKINS. I move the committee rise for the purpose of closing general debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that the House resolve itself into the Committee of the Whole House on the state of the Union, and pending that motion I move that all general debate on the legislative, executive, and judicial bill be closed in one minute.

Mr. HOOKER. Do I understand the motion of the gentleman from Tennessee to be to exclude all amendments and all debate under the five-minute rule?

Mr. ATKINS. Certainly not.

Mr. HOOKER. I should suppose not. I have several amendments to offer.

Mr. ATKINS. My motion does not cut off amendment and debate under the five-minute rule.

The SPEAKER. The pending question is on the motion of the gentleman from Tennessee to close general debate on the pending bill in the Committee of the Whole House on the state of the Union in one minute.

Mr. YOUNG, of Tennessee. Pending that, I move the House take a recess.

Mr. ATKINS. My colleague is too late in submitting his motion as the House is dividing on my motion to close debate.

Mr. YOUNG, of Tennessee. I was on my feet at the time.

Mr. GARFIELD. The motion is not in order during a division of the House.

Mr. SPEAKER. The gentleman's motion is a privileged one, but cannot be received when the House is dividing.

Mr. ATKINS's motion was agreed to.

The SPEAKER *pro tempore*. The question now recurs on the motion that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Mr. WARNER. I renew the motion that the House take a recess. Now, I have no serious objection to the passage of the pending executive, legislative, and judicial appropriation bill. I am anxious to have it forwarded as fast as possible; but I do not think it should be rushed through at lightning speed. I should like to read it through just once before being called to vote upon it by paragraphs.

The SPEAKER. The motion to go into committee has been agreed to.

Mr. GARFIELD moved to reconsider the vote by which all general debate in the Committee of the Whole House on the state of the Union was closed in one minute; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. COX in the chair.

The CHAIRMAN. By order of the House, all general debate on the pending bill has been closed in one minute.

Mr. GARFIELD. I rise to debate the bill in that one minute. I am in favor of it and hope it will be passed without amendment.

The Clerk read as follows:

That the following sums be and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in full compensation for the

service of the fiscal year ending June 30, 1881, and for the objects hereinafter expressed, namely:

LEGISLATIVE.

Senate:
For compensation of Senators, $380,000.

Mr. WHITTHORNE. At the end of line 11, I move to insert the words "and that from and after the passage of this act the salary of Senators shall be at the rate of $350 per month." [Cries of "Vote!" "Vote!"] Mr. Chairman, I intend to follow that, whether adopted or not, with another amendment, which shall propose that the salary shall be only paid to members during the months of service and not during the months of vacation. I heard just now the cry of "Vote!" "Vote!" Are we here, Mr. Chairman, simply to vote and be determined in our action by the clamor in behalf of salaried officers? Are we to vote to the salaried and pensioned classes of the country their money and leave the great interests of the country neglected? Have the great masses of the people no interests here? Are we, sir, to turn our backs upon their demands? [Cries of "Vote!" "Vote!"] Ay, gentlemen on that side of the House may cry "vote," and I know it is a part of the policy to control this subject and this side by the men who are in favor of the existing condition of affairs, men who are determined that nothing shall be done by this Congress but pass the appropriation bills. But are the interests of the people and the interests of the tax-payers of this country who support the Government to be overlooked? For one, Mr. Chairman, I enter my protest, and in doing so I wish to say that if we must content ourselves with voting salaries, let us vote them somewhat in proportion to the service rendered to the Government and to the people. It is therefore with this view that I propose this amendment; and with that understanding and in that interest I hope it will be adopted by the House.

The amendment was not agreed to.

Mr. WHITTHORNE. I offer the following amendment:

Provided, That the salary of Senators and members of the House of Representatives from and after the passage of this act shall be at the rate now paid by law per month, but only for those months and parts of months that Congress may be in session and the month preceding the assembling of Congress in regular sessions.

The amendment was not agreed to.

The Clerk read as follows:

For twenty messengers, at $1,200 each; messenger to the Committee on Appropriations, to be appointed by the committee, at $1,000; messenger in charge of store-room, $1,200.

Mr. HOOKER. I would like to inquire of the gentleman from Tennessee having this bill in charge whether this is one of the modes of equalizing the salaries of the employés of the Senate and House to which he alluded in his opening remarks, or whether it is contemplated to place the employés performing similar duty on the House side on the same level and pay them the same salary as those which are mentioned in lines 71 to 75 of this bill? This section provides for twenty messengers to the Senate at $1,200 each; a messenger in charge of the store-room at $1,200, making twenty-one, and also a messenger to the Committee on Appropriation at $1,000. Now what I wish to inquire is whether this corresponds with the number of messengers and the salary of messengers to be allowed under the House for corresponding service. That, as I understand it, proposes (as will be seen by reference to page 10) to provide for eight messengers at $1,200 each and others at a lower rate. The number of messengers is different in the Senate and in the House, and not only is the number different, (allowing a large excess in the Senate,) but the Senate messengers, or the majority of them, are paid at the rate of $1,200, while those employed on the House side as a general thing are placed at a much lower rate.

Mr. ATKINS. I suggest to the gentleman from Mississippi that we have endeavored in the salaries of the messengers of the Senate to pay them on the same basis and at the same compensation as those of the House. We have given just the same number that has been found necessary heretofore, and we have not reduced the number in the Senate at all.

Mr. HOOKER. Or in the House?

Mr. ATKINS. No, sir.

Mr. HOOKER. But you pay the Senate different from the House.

Mr. ATKINS. No, sir. We pay some of the messengers $1,200 and some of the House employés $1,200.

Mr. KEIFER. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. KEIFER. I would like to know what is pending before the committee. I would like also to know what the colloquy is between the two gentlemen now on the floor, as it seems impossible to understand what is going on.

The CHAIRMAN. Gentlemen will address themselves to the Chair.

Mr. HOOKER. I merely wanted to inquire as to the apparent discrepancy between the payments of this class of employés in the two Houses. I will not move an amendment at this time, but I shall at the proper time move to make the salaries of these employées in both Houses correspond with the announcement made by the gentleman from Tennessee in his opening speech.

Mr. ATKINS. Perhaps I should apologize to the House for not addressing myself to the House; but I was answering some questions which the gentleman from Mississippi had asked me. I wish now to call his attention and the attention of the committee to the following facts: We have fourteen messengers on the soldiers' roll of the House who receive $1,200 compensation, and we have eight messengers at the same rate, making twenty messengers at $1,200 each. We give to the Senate twenty messengers at $1,200 each. I believe we call some of these messengers in this bill for the Senate "assistant doorkeepers" or acting doorkeepers. We have retained the term assistant doorkeeper which answers to the House messenger. The first assistant doorkeeper of the Senate answers to the House doorkeeper. The Sergeant-at-Arms of the Senate is doorkeeper of the Senate.

Now, in general terms, I will say to the committee that it has been the object and attempt of the Committee on Appropriations to bring all of these salaries to an equality in amount between the corresponding employés of the two Houses.

Mr. HOOKER. I move to strike out the last word.

I desire to say that I do not think my friend from Tennessee in charge of this bill has yet answered the objection which I have made to that portion of the clause now under consideration as relates to the difference of compensation between officers of the House and the Senate. It will be observed by this clause, from line 71 to 75 inclusive, that it is proposed to pay for twenty messengers for the Senate, at $1,200 each; for a messenger to the Committee on Appropriations, to be appointed by the committee, at $1,000; and a messenger in charge of the store-room, at $1,200; making in all twenty-two that are provided for in the Senate, twenty-one of whom receive $1,200, and one at $1,000. But when you come to look at the corresponding employés in the service of the House, on page 10, between lines 226 and 233, it will be found that there is a provision for only eight messengers, at $1,200 each; for ten messengers, at $1,000 each; and for sundry laborers at various rates; so that it will be found that there are twenty-one messengers in the Senate with an annual salary of $1,200 and one at $1,000, making twenty-two in all, while there are but eight messengers in the House at $1,200, and ten at $1,000 each, making eighteen in all.

Now, Mr. Chairman, I cannot understand why this condition of things should exist. I am not aware that the labors or the duties that the Senate employés perform are greater than those performed by the corresponding class of employés in the House. In fact, if I am correctly informed, the labors of these officers getting $1,200 are no more onerous than those receiving $1,000, and if you give twenty-two to the Senate and only eighteen to the House for performing the same services, especially when it is remembered that the membership of the House is largely in excess of that of the Senate, and the natural presumption is that the duties of the messengers are greater, then I do not understand how the gentleman from Tennessee can reconcile that with his statement that the Committee on Appropriations have endeavored to equalize the numbers and compensation of these various employés of the two Houses.

It is true, Mr. Chairman, there are fourteen messengers on the soldiers' roll at $1,200 in addition to those I have already adverted to. But I say that neither with reference to the number you give nor with reference to the amount does the bill in its details comply with the remarks of the distinguished chairman of the Committee on Appropriations on that subject in his opening speech. [Cries of "Vote!" "Vote!" "Read!" "Read!"]

Mr. ATKINS. I desire to say just a word. This is a matter of business, and the committee had better understand it.

Mr. HOOKER. Allow me one moment further. I do not think it very wise on the part of the members of the Committee on Appropriations on this side or the other to attempt to pass the bill without giving the members of the House an opportunity to understand it. The Committee of the Whole very properly dispensed with the first reading of the bill, because that was merely the *pro forma* reading. But certainly the members who are to pass on the various provisions of the bill ought to become possessed in some way of the principles which should govern these appropriations.

Mr. ATKINS. I am sure I have not indicated any disposition to cut off any debate. I am very willing to answer questions or to make any explanation I can about the bill, and I think I am somewhat well informed as to its details.

The gentleman from Mississippi has made this point: that we have not given to the House as many messengers as we have given to the Senate in proportion to the numbers of the two bodies. We do not pretend to do so. We have not pretended to say to the Senate how many messengers they shall have or shall not have. The only question we have raised with the Senate is as to the simple matter of salaries.

Another point the gentleman from Mississippi makes is that we have given to the House some messengers at $1,000, while we give to others $1,200. That is true. That has been so for years, and there has been no application made to the Committee on Appropriations by the Committee on Accounts, or by anybody else in authority, to make any change in that respect.

As to the duties of the messengers, whether they are all precisely equal or not, I am not prepared to say; but I would say, at a venture, they are not. Some of the duties that are performed by messengers are more responsible and more onerous, no doubt, than the duties of some other messengers; and this discrimination has been made for many years. We have but twenty-two messengers at $1,200 and ten at $1,000. The Senate has twenty messengers at $1,200. That is the difference.

The *pro forma* amendment was withdrawn.

The Clerk read as follows:

For folding documents, $5,000: *Provided, however,* That any portion of said sum may be used, at the discretion of the superintendent, for piece-work.

And the following prices may be paid for folding books, pamphlets, speeches, and the daily RECORD, namely: For quarto volumes, not exceeding one cent per volume; for octavo volumes, not exceeding one-half cent each per volume; for the daily RECORD, not exceeding $2 per thousand; and for speeches, not exceeding $1 per thousand.

Mr. YOUNG, of Tennessee. This is a very important bill, and not a dozen members have read it.

The CHAIRMAN. Does the gentleman from Tennessee propose to make a motion?

Mr. YOUNG, of Tennessee. I do. I move that the committee do now rise.

Mr. ATKINS. I hope the committee will rise, so as to give my friend, who is so anxious to read the bill, an opportunity to do so. And I hope he will read the bill.

Mr. YOUNG, of Tennessee. I will.

Mr. WILSON. The committee might as well rise now, as there is to be an evening session.

The question being taken on the motion that the committee rise, the Chairman stated that in the opinion of the Chair the "noes" had it.

Mr. YOUNG, of Tennessee. I call for tellers.

Tellers were not ordered, only fifteen members voting therefor; not one-fifth of a quorum.

So the motion was not agreed to.

The Clerk read as follows:

Capitol police:

For one captain, $1,600; three lieutenants, at $1,200 each; twenty-one privates, at $1,100 each; and eight watchmen, at $900 each; in all, $35,500, one-half to be paid into the contingent fund of the Senate, and the other half to be paid into the contingent fund of the House of Representatives.

Mr. HOOKER. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the word "Representatives," in line 137, add "and said police force shall be increased one hundred in number and paid proportionately."

Mr. ATKINS. I will state to my friend from Mississippi that I suppose his amendment has reference to the police of the District. This is an appropriation for the Capitol police.

Mr. McMILLIN. I reserve the point of order.

The amendment was not agreed to.

The Clerk read as follows:

For compensation of Members of the House of Representatives and Delegates from Territories, $1,530,000.

Mr. McMILLIN. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 142 add the following:

"*Provided,* That the salary of members of Congress shall hereafter be $4,000 per annum instead of $5,000 as now provided by law."

Mr. YOUNG, of Tennessee. I want to hear from my colleague on his amendment.

The CHAIRMAN. The gentleman can speak to it.

Mr. YOUNG, of Tennessee. I desire to hear my colleague speak in advocacy of his amendment and I may want to reply to him.

The CHAIRMAN. The gentleman who offers the amendment did not indicate his desire to speak.

A MEMBER. Let him print.

Mr. McMILLIN. I can state, if my colleague desires it, I have offered this amendment not expecting either to be ridiculed or laughed out of it by my distinguished colleague or others. I would state furthermore that if I had regard to what may be the real deserts of some members, I might fix the amount even lower than I have done. But the spirit of tenderness in my heart for my colleagues has caused me to fix it as I have done. I think the amendment ought to be adopted.

Mr. YOUNG, of Tennessee, rose.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. YOUNG] desire to be heard?

Mr. YOUNG, of Tennessee. I do, in support of the amendment, with a little addition to it. I have been waiting for order that I may reply to my colleague.

The CHAIRMAN. The Chair thinks the House is very quiet. The gentleman will proceed.

Mr. YOUNG, of Tennessee. I desire to say this: I sympathize very heartily with my colleauge in his desire to cut down public expenditures, and if I had an opportunity I would prepare an amendment that might probably pass. I think every member of this House has a right to fix the true value of his services. I have no doubt my colleague is better qualified than I am to say how much his are worth. If we had time I would prepare an amendment that would have some chance to pass. My colleague knows very well no such amendment as his will ever pass this House. If I had the time I would prepare an amendment confining the reduction of salaries to the House of Representatives alone, and excepting the Senators, and then there would be some probability of its becoming a law.

Mr. McMILLIN. Will you vote for this amendment?

Mr. YOUNG, of Tennessee. Wait till I get through, and I will tell you. I will do this: I believe my services are worth all that I receive. If my colleauge is of a different opinion in regard to his services, I would like to have him introduce a resolution that will permit him to pay into the conscience fund of the Treasury all of his salary which he now receives more than he thinks his services are worth. [Laughter.] It is too late for me to offer such a proposition now, but I think that to-morrow morning I will introduce it and see if my colleague will vote for it.

Mr. RYON, of Pennsylvania. I desire to suggest an amendment to the amendment, which is that the Representative from Tennessee [Mr. McMILLIN] shall be authorized to receive hereafter $4,000 a year in full for his salary. [Laughter.]

Mr. McMILLIN. In response to that suggestion I hope I may be permitted to say that I would dislike to take less than others take who are not more diligent in the discharge of their duties here than I am; one of whom occupies a seat so near me that I think I would be discriminating if I should agree to such a proposition.

The question was taken upon the amendment of Mr. McMILLIN; and it was not agreed to.

The Clerk read the following:

For compensation of the officers, clerks, messengers, and others receiving an annual salary, in the service of the House of Representatives, $204,198, namely: For Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, $4,500 dollars, and for hire of horses and wagons for the use of the Clerk's office, $600; for chief clerk, journal clerk, two reading clerks, printing and bill clerk, and tally clerk, six in all, at $2,500 each; for disbursing clerk, file clerk, and enrolling clerk, three in all, at $2,250 each; for assistant disbursing clerk, assistant enrolling clerk, resolution and petition clerk, newspaper clerk, superintendent of document-room, index clerk, and librarian, seven in all, at $2,000 each; for distributing clerk and stationery clerk, $1,800 each; document clerk, upholsterer, and locksmith, and two assistant librarians, four in all, at $1,440 each; and one page, at $60 per month.

Mr. BURROWS. As this paragraph now reads, there is a clause to this effect:

For chief clerk, journal clerk, two reading clerks, printing and bill clerk, and tally clerk, six in all, at $2,500 each.

I move to amend that clause so that it will read as follows:

For journal clerk, $3,000, and for chief clerk, two reading clerks, printing and bill clerk, and tally clerk, five in all, at $2,500 each.

In the Forty-first Congress there was a journal clerk of the House of Representatives who received an annual salary of $3,600, and an assistant journal clerk at a salary of $3,000, making $6,600 for journal-clerk services. The assistant journal clerk has now been dispensed with. We have only a journal clerk, and he does the entire work which was formerly done by a journal clerk and his assistant, and his salary is reduced from $3,600 to $2,500 a year. I think he should receive a salary of $3,000 a year, as he does the work for which we paid in a former Congress $6,600 a year.

Mr. KNOTT. I desire to amend the amendment by inserting after the words "journal clerk" the words "and two reading clerks."

Mr. BURROWS. That is right.

Mr. KNOTT. They do more work than any man in this House.

Mr. BURROWS. That is right; they ought to have it.

Mr. SPARKS. I would remind the gentleman from Michigan [Mr. BURROWS] that the journal clerk receives $1,000 additional for digesting the rules.

Mr. BURROWS. That is so much additional service.

Mr. SPARKS. It is service, nevertheless, for which he is paid.

Mr. BURROWS. In a former Congress we paid $6,600 for journal-clerk service alone. We now propose to pay the journal clerk with no assistant only $2,500. I think he certainly should receive $3,000 a year, and I think the amendment suggested by the gentleman from Kentucky [Mr. KNOTT] should also be adopted.

Mr. ATKINS. I expected when the gentleman from Michigan [Mr. BURROWS] offered his amendment that some other gentleman would offer just such an amendment as the gentleman from Kentucky [Mr. KNOTT] has offered. Now, if we adopt the one amendment, we may understand that we will have to adopt them all along the line. I am frank to say that I believe the journal clerk of the House of Representatives is a very hard-worked man; I am very frank to say that. I am not much acquainted with the gentleman, and he is no particular favorite of mine. I make that remark simply because I believe it to be true.

We propose in this bill to put the salary of the Chief Clerk of the Senate at $2,500 a year, and we have passed that portion of the bill already. Now, if we put the salary of our journal clerk, who corresponds to some extent with the Chief Clerk of the Senate, up to $3,000 a year, I think we should bring upon ourselves some comment at least.

Mr. BURROWS. The Senate will take care of that.

Mr. ATKINS. I hope this amendment will not be adopted without due consideration. I therefore move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3035) making appropriations for the consular and

diplomatic service of the Government for the year ending June 30, 1881, and for other purposes.

Mr. KENNA, from the same committee, also reported that the committee had examined and found truly enrolled bills and a joint resolution of the Senate of the following titles; when the Speaker signed the same:

An act (S. No. 180) for the relief of George V. Hebb;

An act (S. No. 401) for the relief of Peter Meagher;

An act (S. No. 1113) granting a pension to Peter K. Morgan, private in the war of 1812; and

A joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference, to meet at Washington, District of Columbia.

PRINTING OF TESTIMONY.

Mr. KNOTT, by unanimous consent, from the Committee on the Judiciary, reported the following resolution; which was read, considered, and adopted:

Resolved, That the testimony taken by the Committee on the Judiciary in the matter of Hon. J. H. ACKLEN be printed for the use of said committee.

WAR DEPARTMENT CLERKS ON PENSION CASES.

The SPEAKER laid before the House a letter from the Secretary of War, relative to War Department clerks engaged in pension cases; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, the leave of absence heretofore granted to Mr. HAMMOND, of Georgia, was extended until Monday next.

BUSINESS FROM COMMITTEE ON PUBLIC LANDS.

Mr. CONVERSE. I ask unanimous consent that the evenings of Monday and Thursday of next week be set apart for the consideration of business from the Committee on Public Lands, the House to take a recess at half past four o'clock p. m. on each of those days. I will say that that committee has a large amount of important business that cannot be transacted during this session unless we can get a couple of evenings for the purpose.

The SPEAKER. The Chair would suggest to the gentleman that he had better get some day session assigned for that purpose.

Mr. CONVERSE. I understand that those evenings are not assigned.

The SPEAKER. The Chair is aware, as the gentleman must be, that many land bills are apt to excite opposition, and there should be a quorum present when they are considered. The Chair only makes the suggestion to the gentleman.

Mr. CONVERSE. Very well. Then I will ask that Thursday of next week, after the morning hour, be assigned for the consideration of business from the Committee on the Public Lands.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

The SPEAKER. By order of the House heretofore made, (the hour of half past four having arrived,) a recess will now be taken until half past seven o'clock this evening. The session of this evening is for the consideration of the bill (H. R. No. 1029) reported from the Committee on Commerce to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels; no other business to be transacted at the session this evening.

Accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

REGULATION OF STEAM-VESSELS.

The SPEAKER. The session of this evening is assigned by order of the House for the consideration of a bill, the title of which will be read.

The Clerk read as follows:

A bill (H. R. No. 1029) to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels.

The Clerk was proceeding to read the bill, when

Mr. NEWBERRY said: May I ask whether the bill is being read now for amendments?

The SPEAKER. It is being read for the information of the House. The Chair directed the reading in the hope that there would be a fuller attendance later in the evening.

Mr. NEWBERRY. If the bill is now being read for amendment, I do not want to lose the opportunity to offer amendments.

Mr. KENNA. I had intended to move to dispense with the first reading of the bill, and to propose its consideration by paragraphs under the five-minute rule. I was, however, allowing the Clerk to go on because of the fact that there are so few members on the floor. I am satisfied the impression prevails among members that the hour fixed for this evening's session is eight o'clock.

The SPEAKER. The Chair suggests a recess.

Mr. KENNA. I was going to make that motion. I move that the House take a recess till eight o'clock.

The motion was agreed to.

The recess having expired, the House resumed its session.

Mr. KENNA. I have no desire to submit to the House any general observations upon the bill under consideration to-night. I hardly think it necessary that the bill itself or the report be read, as they are both elaborate; and unless some gentleman desires to occupy more extended time than he will have under the five-minute rule, I will move to close general debate and proceed to the consideration of the bill by sections under the five-minute rule, in the House as in Committee of the Whole.

The SPEAKER. The question will be first taken on the motion of the gentleman to dispense with the first reading of the bill that it may be read by sections for amendment.

The motion was agreed to.

The SPEAKER. The gentleman now moves that all general debate on this bill be closed, and that it be considered in the House as in Committee of the Whole under the five-minute rule.

The motion was agreed to.

The Clerk read as follows:

Be it enacted, &c., That section 4233 of the Revised Statutes of the United States shall be amended by inserting, after the third line in said section, the words "and by all foreign vessels within the jurisdiction of the United States."

That rule 3 of said section shall be so amended as to read:

"All ocean-going steamers, and steamers carrying sail, or rigged for carrying sail, shall, when under way, carry the lights for vessels, rafts, or other water-craft when in tow of any steam-vessel, and for ferry-boats, shall be regulated by such rules as the board of supervising inspectors of steam-vessels shall prescribe."

Mr. NEWBERRY. If the language just read is the form in which the Committee on Commerce wish this section to stand, I have very serious objection to it. I think, however, that the committee proposes some amendment.

Mr. KENNA. I stated to the gentleman in conversation a few moments ago that this section as it stands in the bill omits two or three lines in such a way as to leave no sense in the clause as printed. It should read in this way: "All ocean-going steamers and steamers carrying sail or rigged for carrying sail shall, when under way, carry." That is the first proposition.

Then should follow this language:

That the last clause of rule 7 be amended so as to read.

Then the language of the bill goes on as printed.

Mr. NEWBERRY. Does the gentleman propose to insert that amendment now?

Mr. KENNA. I presume it may be done by consent, as it is a misprint.

Mr. NEWBERRY. I have no doubt of its being a misprint. It attracted my attention at once.

The SPEAKER. The Chair is advised that there is a misprint in the bill; but the correction of the gentleman from West Virginia will be treated as an amendment; and if there be no objection the words stated by him will be inserted.

There was no objection, and the bill was amended accordingly.

Mr. NEWBERRY. If that is the end of the paragraph I wish to move an amendment. I suppose I must offer it now under the rule.

The SPEAKER. The Chair would rule that after the whole section has been read, any part of it would be open to amendment unless the House should prefer to have the bill open to amendment by paragraphs rather than by sections.

Mr. NEWBERRY. Each paragraph is a separate and distinct matter.

The SPEAKER. The Chair would suggest that to amend the bill by paragraphs would be the most intelligible method.

Mr. KENNA. I see no objection to that; for, as the Chair suggests, it is the most intelligible method of proceeding. A single section does sometimes embrace different subjects.

The SPEAKER. The Chair will, then, entertain any amendments presented as the paragraphs are proceeded with.

Mr. NEWBERRY. I move to amend by inserting in the eleventh line, after the words "shall, when under way," the words "under steam, in whole or in part." I will state why that is so. The report, the House will notice, provides for this amendment to avoid confusion and to make that plain in the rule of the road at sea which is not plain now. The amendment connected with the rest of that paragraph, in my judgment, makes a worse confusion than there ever has been in that rule. There always has been a slight confusion in the rule.

I will now seek to make that plain, and I will say, while I address myself to this portion of the bill, that for fifteen years I devoted myself almost entirely to admiralty practice and suits relating to collisions at sea, so that the rule of the road at sea is as familiar to me as A, B, C.

Under that rule as it stands with the amendment I propose this state of facts will exist. A steamer under steam carries three lights: a green light on the starboard side or a green light on the right side, a red light on the larboard or port side, and a white light at the masthead. Those are the three distinguishing lights of a steamer proceeding under steam. The lights of a vessel proceeding under sail only propelled by the force of the wind are a green light on the starboard side and a red light on the port side, but no white light; the white light, connected with the red and green lights, being the distinguishing light of a steamer under way under steam.

Now, if the rule should stand as the committee have reported it, this state of facts will exist. Of the sea-going steamers, of the lake

steamers, two-thirds of them are rigged for carrying sails, and they often proceed under sail alone, under steam alone, and under sail and steam combined. A steamer under sail alone is nothing but a sail-vessel. She has her engine in her, but her engine is inert. In a great many steamers the wheel, if it is a propeller, is lifted out of the water. She is nothing but a sail-vessel proceeding under sail by force of the wind. If the rule as reported by the committee shall stand, then that vessel under such circumstances, proceeding under sail, must carry a steamer's lights; that is, the red, white, and green lights.

To go one step further. In the law relating to the rule of the road at sea, which provides how vessels under sail at sea meeting shall pass, how vessels meeting a steamer shall pass, the rules are different. Two sail-vessels meeting in a certain way, each must port its helm and go to the right; but if a sail-vessel is meeting a steamer the sail-vessel keeps her course, while the steamer may go to the right or left. Therefore it is very important that when two vessels are meeting the sailor, the pilot, the navigator shall know whether the vessel he is approaching is proceeding under sail alone, under steam alone, or under steam and sail combined, because the rule by which those two vessels are to pass depends on a determination of that fact.

The amendment of the committee is right, but it needs the qualification which I add to it, which is that all ocean-going steamers and steamers carrying sail, or rigged for carrying sail, shall, when under way in whole or in part by steam, carry certain lights. That will provide, then, whenever the steamboat is proceeding by the power of her engine at all she shall be subject to the rules of a steamer. If the steamboat is proceeding under the power of sail alone, without the use of her engine at all, she should be under the law entitled to carry nothing but the lights of a sail-vessel.

The SPEAKER. The gentleman's time has expired.

Mr. WHITTHORNE. I will take the floor and yield my time to the gentleman from Michigan.

Mr. NEWBERRY. I thank the gentleman for his courtesy, but it is about all I wished to say on that point. If I have not made it plain as a matter of navigation to those not entirely familiar with the rule of the road at sea, I will do so by answering any question gentlemen may choose to ask me.

Mr. WHITTHORNE. I should like to hear the gentleman on this point. He says he is familiar with the rule of the road at sea, and I should like to put to him this question, whether there is any conflict between the existing rules of our Revised Statutes and the rules as prescribed by the commercial and maritime nations.

Mr. NEWBERRY. Whether they are the same all over the world?

Mr. WHITTHORNE. Yes, sir.

Mr. NEWBERRY. They are to all intents and purposes. All the civilized nations have adopted the one rule of the road.

Mr. REAGAN. I will state, if the gentleman from Michigan will allow me to interrupt him, that while I have not recently looked over this matter, nevertheless I think we have adopted in these rules the international code which has been adopted by the other powers of the world.

Mr. WHITTHORNE. I was about saying, Mr. Speaker, that my information is otherwise, and it is in the shape of an official communication from the Secretary of the Navy, and in part from the officers of the State Department. It is in a report made from my committee, which I have sent for, and there was a bill or joint resolution drawn up, as I understand, I know by direction of the Navy Department and in harmony with the views of the State Department, in which, if I do not misapprehend it, there is alleged to be a conflict in the commercial, if I may use the term, regulations, particularly as applied to our coastwise trade, and the rule of the sea as adopted by the sixteen principal maritime powers of the globe. And it is with a view to bringing this into harmony that the Secretary of the Navy and the Secretary of State have recommended that a commission be appointed upon the part of the United States, international in character, and with special power to bring these rules of the sea into perfect and complete harmony. I have sent for the report, and if I can receive it in time I shall ask my worthy friends on the Commerce Committee whether they would permit an amendment that would not interfere with this proposed legislation and which would authorize that international commission.

Mr. NEWBERRY. If the gentleman from Tennessee will permit me, the suggestion I made is in entire harmony with the code of rules and regulations of all civilized nations and it is substantially this, that a vessel under sail shall carry a red and white light, and that a vessel under steam shall carry a red, white, and green light, that is three lights; and my suggestion of an amendment here is exactly in conformity to that rule of the civilized world.

Mr. WHITTHORNE. The gentleman from Michigan is aware, and such is my information, that these rules of the sea, adopted a number of years ago and at that time agreed to by all the great maritime powers of the world, have undergone some modifications and changes, and that they have been approved of by sixteen of the nations of the world, though not altogether by the United States.

Mr. NEWBERRY. This is not in violation of that code.

Mr. REAGAN. Mr. Speaker, in the formation of this bill the committee have had before them the labors of preceding Congresses in this direction. It will be remembered that the bill passed the Forty-fourth Congress, or rather passed through the House, and again passed through the Forty-fifth Congress. Especially during the Forty-fourth Congress it received very elaborate consideration from the Committee on Commerce, which committee had before it the board of supervising inspectors, the members of the National Board of Trade, the New York Chamber of Commerce, and a number of representatives of other commercial bodies throughout the United States, as well as a number of gentlemen of large information on this subject. In reference to the present bill my friend from West Virginia, who has had special charge of the matter, is perhaps better informed than myself, as my time was largely taken up with other matters; but the consideration given to the matter by the committee has been with a view to bring these regulations into harmony with the international code.

I think the statement that there have been changes in the international regulations on this subject should be taken in a somewhat limited sense, because the English rules on this subject have existed for a long time, so long that legislation has been had upon them, and diplomatic correspondence and understandings have been entered into between Great Britain and the commercial and maritime powers for the purpose of adopting a uniform code or system, the object being to bring these rules in harmony between all the maritime powers; and while, as I have said, I have not myself been able to give this bill as much attention as the gentleman from West Virginia, owing to other engagements, still I think we have adopted substantially the international system of signals as it prevails in Great Britain and other maritime powers, and as it has existed for a long time in Great Britain. I am not now speaking of the amendment offered by the gentleman from Michigan, but of the general scope of the bill and the regulations introduced by it. A great deal of care has been given to the preparation of this bill.

Mr. NEWBERRY. If the chairman of the Committee on Commerce will permit me, I desire to say that I have no doubt of that; that is all true; and the chairman might go further and say that these rules emanated originally from the old board of Trinity masters in England, the most renowned body of masters the world has ever seen, and the most experienced; and I assure the gentleman that I would not have offered that amendment at all except that I desire that we may avoid any appearance of confusion or want of harmony with the rules as now governing in other maritime powers. I know the amendment will not be objectionable to any member of the Trinity masters, or to seamen, or any board of underwriters, because it is simply right and just that the amendment should be adopted.

Mr. FIELD. Mr. Speaker, as I came in late I desire to ask the gentleman in charge of this bill whether it is proposed that rule 3, as it now exists in the Revised Statutes, shall be stricken out, and the words in the bill, from line 10 to line 15, be inserted in place thereof?

Mr. KENNA. That part of the bill was corrected a moment ago. The gentleman from Massachusetts was not present at the time. What is contained in the printed bill, of which the gentleman from Massachusetts has a copy, is a misprint. Three or four lines are omitted.

Mr. FIELD. I asked the Clerk a moment ago and he could not inform me it had been corrected.

Mr. KENNA. The section to which the gentleman refers is a part of the bill in which there was an omission to which I called the attention of the House a moment ago.

The SPEAKER. The gentleman from West Virginia will be kind enough to forward to the desk his correction.

Mr. KENNA. I left it with the Clerk. I have only one copy of the bill, and I will read the paragraph as it should have been printed:

> That rule 3 of said section shall be amended so as to read:
> "All ocean-going steamers, and steamers carrying sail, or rigged for carrying sail, shall, when under way, carry."

That ends the amendment to rule 3.

Mr. WARNER. Carry what?

Mr. KENNA. The Revised Statutes supply that. Then the clause goes on, and reads as follows:

> That the last clause of rule 7 be amended so as to read:
> "The lights for vessels, rafts, or other water craft," &c.,

As in the bill.

Mr. FIELD. The language in the bill is not adapted to accomplish the object stated by the gentleman. It is:

> That rule 3 of said section shall be so amended as to read:

Then follow two lines ending, as the gentleman says, with the word "carry." The legal construction of that would be that the rule, when amended, should include only those two lines. If the bill had said "rule 3 shall be amended by inserting certain words," then the effect of it would have been clear. But to say that the rule shall be amended so as to read as follows strikes out the whole rule and inserts only those two lines.

Mr. KENNA. There is no rule on earth for construing a statute which could make this rule read as if it consisted of those two lines and nothing else. No court could so construe it as to make it mean an absurdity.

Mr. WARNER. As it stands in the bill it has no meaning.

Mr. KENNA. What is proposed is the addition of the five words "or rigged for carrying sail." If it is thought that any formal change in the language of the bill will better accomplish that object, I am quite willing to agree to it.

Mr. SPARKS. Let the bill read, that the section be amended by inserting those words.

Mr. REED. I think it would be much safer to change the form in which the amendment is made.

Mr. REAGAN. To explain this matter I will read from the Revised Statutes. The difficulty, I apprehend, is with the members not having studied the subject, and is not with the bill before the House. Rule 3, which it is proposed to amend, reads as follows:

Rule 3. All ocean-going steamers, and steamers carrying sail, shall, when under way, carry——

Mr. WARNER. Carry what?

Mr. REAGAN. If gentlemen will let me alone I will explain it.

(A) At the foremast head, a bright white light, of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles, and so constructed as to show a uniform and unbroken light over an arc of the horizon of twenty points of the compass, and so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side.

Now, it is intended to amend this rule 3, and I will explain what was intended to be done. I call the attention of the gentleman from Michigan, [Mr. NEWBERRY,] so that he will see this section did not need his amendment to accomplish his purpose. I desire to call attention to the language of the section as it exists in the statute and to show the gentleman his purpose is accomplished by the section as it stands in the bill and that his amendment is unnecessary. His amendment in any case is one that should be added to the original section and not to the bill before the House.

The amendment in the bill amends the rule so that it shall read:

All ocean-going steamers, and steamers carrying sail or rigged for carrying sail, shall, when under way, carry, &c.

The section of the Revised Statutes, as it now stands, reads in this way:

RULE 3. All ocean-going steamers and steamers carrying sail shall, when under way, carry, &c.

That is where the difficulty of the gentleman from Michigan comes in. The object of this amendment was to change that language so as to make the rule apply to all ocean-going steamers and steamers carrying sail or steamers rigged for carrying sail, so that when under way they should carry the lights specified in the remainder of the rule. The purpose was to amend the existing law, and the section as it now stands amends the existing law to cover the precise purpose the gentleman from Michigan has in view by his amendment.

Mr. FIELD. What the gentleman from Texas proposes to accomplish is this: that rule 3, after the word "sail," in the first line, shall be amended by inserting the words "or rigged for carrying sail." The rest of the clause standing as it is. But by the bill as printed he would repeal all the clauses of the rule in the old section and have a meaningless section. I offer the following amendment:

That rule 3 of said section shall be amended by inserting after the word "sail," in the first line, the words "or rigged for carrying sail."

Mr. REAGAN. That is what we have got in the bill; and I will state to the gentleman from Massachusetts that the gentleman who framed that section was for ten years supervising inspector-general of the United States, with more knowledge of the subject than perhaps any gentleman I ever met with. It was framed precisely according to his suggestions and according to the suggestions of his associates on the board.

Mr. FRYE. There can be no question, I think, as to the propriety of the amendment offered by the gentleman from Massachusetts.

Mr. KENNA. I can see no reason why we should discuss a merely formal amendment at greater length. I am willing to accept the amendment.

Mr. FRYE. I think that is entirely right.

Mr. WARNER. So far very good. But I ask the gentleman who has charge of this bill where line 12 of the bill shall come in? In the Revised Statutes this rule as it now stands has the words "at the foremasthead" after the word "carry."

Mr. KENNA. This is the third time I have made this explanation.

Mr. WARNER. The third time the gentleman has attempted it.

Mr. KENNA. Yes, and I have succeeded so far as gentlemen were here to hear me; but I have not succeeded and the effort has amounted only to an attempt so far as gentlemen were not present. This amendment of rule 3 ends with the word "carry" at the end of the eleventh line of the printed bill. Then a number of words were omitted from the printed bill by mistake.

Mr. FRYE. That has been mentioned already four times.

Mr. WARNER. I understand that; but that does not meet this case. Where do the words "the lights for vessels, rafts, or other water-craft," &c., come in? Are they the object of something or are they subject to the words "shall be regulated," which follow?

Mr. KENNA. I think that by diligent attention to a consideration of the bill the gentleman will find some light on the subject.

Mr. WARNER. I have failed to get any light on it thus far. I find that in the Revised Statutes, following the word "carry," are clauses A, B, and C.

Mr. NEWBERRY. If the gentleman from Ohio [Mr. WARNER] will allow me I will say to him that if he will look at the last clause of rule 7—he has the Revised Statutes before him—he will find where the lines 12, 13, &c., of the bill come in.

Mr. KENNA. If the gentleman is really serious in his inquiry I will answer it with pleasure. The word "carry," in line 11 of the bill, ends the amendment to rule 3, which we are now discussing. Then follows the proposition that the last clause of rule 7, which is contained in the Revised Statutes, shall be amended so as to read—and then come in the lines 12, 13, 14, and 15 of the printed bill.

Mr. WARNER. Then line 12 is a part of rule 7 of the Revised Statutes?

Mr. KENNA. Intended to be.

Mr. WARNER. That is quite a different thing.

Mr. FRYE. This is a misprint in the bill, that is all.

Mr. KENNA. That is precisely what I have explained a half dozen times.

Mr. BRAGG. It seems to me that the confusion we are getting into——

Mr. NEWBERRY. I understood that the gentleman in charge of the bill admitted the amendment which I suggested.

The SPEAKER. The gentleman cannot admit an amendment, cannot accept it; the House must adopt it.

Mr. BRAGG. I desire to make this suggestion: this confusion grows out of what I may be permitted to say is the improper form of the draught of the bill which has been presented to the House for its consideration.

In order to properly consider the bill now before us, every member must have a copy of the Revised Statutes under his arm, and turn to it for the purpose of ascertaining what the law now is, and what the law is to be that he is called to vote upon.

As I understand it, although the rules of this House do not provide that it must be so, in order to understand properly what the law is to be in case this bill should pass, the bill should give the sections of the Revised Statutes as they will read when amended, so that we may have in the bill before the House, when we vote upon it, the whole of the sections of the Statutes upon which we are voting. We can then discover the effect of the amendment which we may put in or of any clause which we may see fit to strike out. It seems to me that is the only proper way in which we can come to an intelligent understanding of this bill.

This is a very important bill. It proposes to strike out a little here and to insert a little there, to strike out a line here and insert another line there, and then to repeal everything else. That may be doing something which we know nothing about, if we do not have the whole law before us. It seems to me that in order to act understandingly on this bill it should be recommitted to the committee, and they should be instructed to present it to this House for consideration with the sections of the Revised Statutes in full as the committee propose to have them inaugurated into law.

Mr. KENNA. In response to the gentleman I will say that except in the first part of this bill, where the changes in the Revised Statutes embrace only a word or two, or at most a line or two—all the rest of the bill, four-fifths of it, pursues precisely the line he has suggested. After getting over two or three pages of the bill the sections of the Revised Statutes as they will be amended by this bill are given in full.

Mr. REAGAN. The first section of this bill indicates the changes proposed to be made in the existing rules for signals. After that, and from the second section of the bill to the close, each section of the Revised Statutes is given as it will stand when amended. In the first section of the bill, where simply a word or a few words are changed, only the change is indicated. That applies only to the first section of the bill. After that each section of the Revised Statutes is given in the bill as it will be if amended.

Mr. FRYE. I desire to make merely this suggestion; this whole trouble comes from the misprint on the first page of the bill.

Mr. KENNA. That is all.

Mr. FRYE. There will be no trouble the moment we get over that. There is a misunderstanding on account of the misprint on the first page of the bill.

Mr. FIELD. I ask the Clerk to report my amendment as I have reduced it to form, so that we can see if it will be acceptable or not.

The Clerk read as follows:

Strike out lines 8, 9, 10, and 11 of the bill, and insert the following:

"That rule 3 of said section shall be amended by inserting after the word 'sail,' at the end of the first line in the Revised Statutes, the following words, namely: 'or rigged for carrying sail.'"

Mr. FRYE. That is all right.

The SPEAKER. The first question is on the amendment of the gentleman from Michigan, [Mr. NEWBERRY.]

The amendment was agreed to.

The SPEAKER. The next question is on the amendment of the gentleman from Massachusetts, [Mr. FIELD.]

The amendment was agreed to.

Mr. KENNA. I do not know whether the Clerk has correctly the amendment I suggested some time ago. Before the words "lights for vessels" should be inserted "that the last clause of rule 7 be amended so as to read." The bill will then read:

That the last clause of rule 7 be amended so as to read:

"The lights for vessels, rafts, or other water-craft, when in tow of any steam-vessel, and for ferry-boats, shall be regulated by such rules as the board of supervising inspectors of steam-vessels shall prescribe."

I understood that this amendment was inserted by consent.

The SPEAKER. It could not be done except by a vote of the House. The Chair submitted the question and supposed it to be carried. Then came the amendment of the gentleman from Michigan, [Mr. NEWBERRY,] on which the difficulty was raised, and then the

amendment of the gentleman from Massachusetts, [Mr. FIELD.] The Chair thinks that by the adoption of the latter amendment some of the suggestions made by the gentleman from Michigan by way of amendment were stricken out.

Mr. FRYE. The whole suggestion of the gentleman from Michigan was stricken out. All that is necessary now is to amend the amendment of the gentleman from Massachusetts and insert three other words in the second line.

Mr. REED. Under rule 1 it is not necessary to put in the amendment suggested by the gentleman from Michigan, because rule 1 distinctly provides that every steam-vessel which is under sail, and not under steam, shall be considered a sailing-vessel. That rule applies in the construction of all the other rules.

Mr. NEWBERRY. That is all very well; but when you are establishing a set of rules to be followed by seamen, if you make the rules contradictory in any way you lead to confusion, and your vessels are thereby sunk at sea. It is in consequence of this very difficulty in our rules that collisions occur. A man may point to a rule and say, "Here is a rule which says that when I am under sail, not using the steam-engine which is in my vessel, I must still carry the lights of a steam-vessel." I am seeking to avoid all trouble and confusion of this kind.

The SPEAKER. What is the gentleman's amendment?

Mr. NEWBERRY. To insert after the word "way" the words "under steam in whole or in part."

The amendment of Mr. NEWBERRY was agreed to.

Mr. KENNA. Has the question been put upon my amendment to correct the misprint?

The SPEAKER. That was the first amendment which the Chair submitted to the House, and it was agreed to. As action has since been taken on other amendments, the Clerk had better read the paragraph in the form in which it stands as amended by the various propositions.

The Clerk read as follows:

That rule 3 of said section shall be amended by inserting after the word "sail," at the end of the first line in the Revised Statutes, the following words, to wit: "or rigged for carrying sail when under way under steam, in whole or in part, shall carry."

Mr. KENNA. That ends that. Now, the other amendment adopted inserts after what the Clerk has just read the words "that the last clause of rule 7 be amended so as to read." Now, if the Clerk will resume the reading at line 16 we shall be out of this difficulty.

Mr. WARNER. I do not think it is quite right yet. I think the same amendment suggested by the gentleman from Massachusetts is required in that clause. To say that the section shall be amended to read thus, and then include only a part of the language, cannot be right.

Mr. ROBINSON. I think we can straighten this matter in a moment. If the Clerk may be allowed to pass over this paragraph for the time, the gentleman from West Virginia [Mr. KENNA] can put it in shape. I think it is not right now.

Mr. WARNER. It is manifestly not right.

Mr. ROBINSON. But if not right it can easily be corrected. Let it be understood that we may go back to this paragraph.

Mr. WARNER. The only difficulty is about the language.

Mr. KENNA. If the Clerk may be allowed to proceed with the reading of the bill, we can return to this paragraph to make any corrections that may be necessary.

The SPEAKER. The Chair will conform to the suggestion of the gentleman from Massachusetts [Mr. ROBINSON] and direct the Clerk to read, beginning with line 16, and in the mean time it will be understood that gentlemen interested in these amendments shall put the paragraph in proper shape so that before the adjournment it can be read and properly understood by the House.

Mr. BICKNELL. Would it be in order to suggest a substitute for these amendments?

The SPEAKER. It would.

Mr. BICKNELL. Then I offer the following as a substitute:

Strike out lines 8, 9, 10, and 11 of the bill and insert:

"That rule 3 of said section shall be amended by inserting after the word 'sail,' in the first line, the words 'or rigged for carrying sails.'"

And insert after the word "way," in the second line, the words "in whole or in part by steam."

Mr. NEWBERRY. "Under steam, in whole or in part;" that is the proper language.

Mr. BICKNELL. I will accept that as a modification of my amendment.

Mr. KENNA. That will be satisfactory.

Mr. FIELD. That is all right.

The SPEAKER. The gentleman from Indiana proposes this as a substitute for the various amendments heretofore adopted.

Mr. BICKNELL's amendment was agreed to.

The Clerk read as follows:

That in rule 15, titles B and C, the word "five" shall be stricken out and the word "two" inserted.

That after the word "fog-horn," in title B, shall be inserted the words "which may be heard at a distance of one mile and a half in still weather."

That in title D, after the word "which," in the next to the last line, strike out the words "shall make a sound equal to a steam-whistle" and insert the words "may be heard at the distance of one mile and a half in still weather."

That rule 17 of section 4233 of the Revised Statutes of the United States shall be stricken out and the following inserted in lieu thereof:

"Rule 17. When two sail-vessels are crossing, so as to involve risk of collision, then, if they have the wind on different sides, the vessel with the wind on the port side shall keep out of the course of the vessel with the wind on the starboard side, except in the case in which the vessel with the wind on the port side is close-hauled and the other vessel free, in which case the latter vessel shall keep out of the course of the vessel close-hauled; but if they have the wind on the same side, or if one of them has the wind aft, the vessel which is to the windward shall keep out of the course of the vessel which is to the leeward."

That rule 19 of the same section shall be amended by striking out the word "way" and inserting in its stead the word "course."

That in rule 20 of said section the word "way," in the last line of said rule, shall be stricken out and the word "course" inserted.

That rule 22 of the same section shall be amended by striking out the word "way" and inserting in its stead the word "course."

That rule 23 of the same section be stricken out and the following be inserted in lieu thereof:

"Rule 23. Where, by rules 17, 19, 20, and 22, one vessel is required to keep out of the course of another, the other vessel shall keep her course, subject to the qualification of rule 24."

Mr. WHITTHORNE. I move to strike out the last word, with the view of hereafter withdrawing that formal amendment and offering a substantial amendment, which I trust will receive the approval of the Committee on Commerce. Now, Mr. Speaker, I referred but a moment ago to what I had been informed was a conflict between the existing rules as they are in the Revised Statutes and the international code. My authority for making that statement I find in the preamble to House bill No. 4430, which I will state was prepared at the Navy Department. That preamble gives a historical review of the international rules as they at present exist and the conflict with them on the part of our Revised Statutes. It is a bill to provide a commission for the examination of existing and propcsed rules for preventing collisions on the water, and for framing such rules as shall be in consonance with and in furtherance of the interests of international law. The preamble is as follows:

Whereas in the year 1863 the governments of Great Britain and France submitted certain "rules for preventing collisions at sea" to the principal maritime nations of the world for their approval, in order that vessels of all nations might be guided by one universal law on the high seas; and

Whereas before the close of the year 1865 thirty-four of the maritime nations of the world, the United States being among the number, had made these rules a part of their municipal laws; and

Whereas by this common action of nearly all the maritime nations of the world, these rules became an integral part of international law, and, as such, subject to change or modification only by the consent of the maritime world; and

Whereas in 1874 the Revised Statutes of the United States were compiled, in which these rules appeared under the caption of section 4233, modified and altered in intent; and

Whereas the modifications and alterations, not being submitted or having received the approval of foreign maritime nations, were made in violation of one of the most important principles of international law; and

Whereas, it having become necessary to modify the international rules in order to accommodate the increasing necessities of commerce, the Parliament of Great Britain created a commission in 1878, composed of representatives of every branch of the British marine, to examine the rules and frame such amendments to them as might seem necessary; and

Whereas this commission, in obedience to its instructions, did frame a code of modified rules, which the British government submitted to all the maritime nations of the world for their approval; and

Whereas the majority of the maritime nations of the world have approved of these new rules, the United States being of the number; and

Whereas the approval of the United States Government was given without a proper examination of these rules by competent representatives of the different branches of the marine service; and

Whereas, after the date of this formal approval, a bill proposing certain changes in section 4233 of the Revised Statutes of the United States was submitted to the Senate and House of Representatives of Congress; and

Whereas, if the part of this bill which refers to section 4233 of the Revised Statutes be made statutory, it will not only be in violation of the principles of international law, but it will also be a violation of the formal approval of the United States given to the British government; and

Whereas not only American commercial interests, but the maritime interests of the whole world imperatively demand that the principles of international law should be properly guarded and advanced.

Then follow the words of enactment.

I beg to call the attention of gentlemen of the House, and gentlemen of the Committee on Commerce especially, to Executive Document No. 55, being the report of the Secretary of the Navy in response to a resolution of the House regarding the rules for guidance of naval vessels at sea. In that document it is shown, Mr. Speaker, that the United States gave its assent to these international regulations, not only for sea-going ships, but for vessels navigating inland waters. It is alleged among other things that these rules proposed here by the Committee on Commerce in this bill are in conflict with the maritime laws of the world; and while it is true, sir, they have not the validity of a treaty, and as such are not binding upon the Government of the United States or upon this body, yet inasmuch as the consent of the United States has been given to the maritime rules and regulations adopted by the sixteen principal maritime powers of the world, the good faith of the Government is pledged that no change or alteration of them shall be made.

I have not time here to point out wherein the Secretary of the Navy in his report shows this conflict to exist. I trust I will be excused for occupying the time of the House further in presenting to the gentlemen composing the Committee on Commerce and this House an amendment which will not conflict with their proposed legislation or compel them to pause a single step in what they are doing. I shall propose, instead of the formal amendment which I now withdraw, that there shall be inserted here as additional sections this recommendation of the Secretary of the Navy.

Mark you, Mr. Speaker, as we go along the assent of the United States was given by the commercial department of the Government,

by the Secretary of the Treasury, and not by the President or by the Secretary of the Navy. I propose as follows:

That the Secretary of the Navy is hereby authorized to name three naval officers as commissioners on the part of the Navy, and the Secretary of the Treasury is authorized to name two members of the board of supervising inspectors as commissioners on the part of the merchant service, and one officer of the Revenue Marine as a commissioner on the part of the Revenue-Marine Service, and the governor of the State of New York be authorized to name a pilot commissioner as a commissioner on the part of the pilot service.

That said commissioners shall meet at the earliest convenient period after they shall have been respectively named, and carefully examine all existing or proposed rules for preventing collision on the water.

That the commissioners shall then proceed to frame a code of rules for preventing collision, for the government of United States vessels on the high seas, which shall be in accord with the present maritime usages, and in furtherance of the interests of international law.

That this code of rules shall be submitted for the formal approval of the Navy and Treasury Departments, and, after receiving said approvals, it shall be submitted to Congress for legislation.

That the commissioners shall be empowered to consider such other matters of international maritime importance as may be submitted to them by the Secretary of the Navy or the Secretary of the Treasury, and to make such recommendations as may seem right and proper with regard to them.

That the authority given to the commissioners to frame rules shall not extend to any interference with the authority of the Secretary of the Navy or the board of supervising inspectors to make regulations for preventing collisions in rivers or harbors or inland waters at present authorized by law.

That in the event of a disagreement upon any point in framing the new code, the commissioners shall name as an arbiter a judge of one of the district courts of the United States, whose decision thereon shall be final.

I move that be incorporated as an amendment to come in immediately after the first section of the bill.

This will not prevent, I repeat, the gentlemen going through with their bill, but if perchance in your work there is any conflict with maritime regulations as now existing authority may be given that there shall be a revision, or if any conflict shall arise, that it shall be duly reported to the Congress of the United States, and become a matter for future legislation or future remedy. I trust there will be no objection.

Mr. REAGAN. It may be that there is a necessity for the amendment suggested by the gentleman from Tennessee, but that is a noisy preamble over the subject. I do not like now to undertake to restate it, but in the adoption of this bill I compared it very closely and carefully with the code of international rules on the subject, and my remembrance is that it is substantially the same as that; and then there seems to be some misunderstanding on the subject of these regulations and the statement made by the Secretary of the Navy to which the gentleman from Tennessee has referred. He may have power to prescribe regulations as to naval vessels. As to that I do not know; nor do I know—not anticipating taking any part in this discussion—whether there is a conflict between the rules for governing the Navy and those which govern merchant-vessels. But I do feel very certain that if there is any difference at all between the rules as fixed in our statutes and the rules known as international rules, they are so slight as hardly to amount to anything. But if it is desirable in the adoption of the rules here proposed to create this commission, if a Department of the Government thinks it desirable, I shall make no objection, although I see no present necessity for it. But I do not want it to come in right here.

Mr. WHITTHORNE. Mr. Speaker, the House and my friend from Texas will indulge me for a moment while I call his attention to the two points of difference mentioned in the report of the Secretary of the Navy in this Executive Document 55. He shows that the international rules prescribe that every steamship which is under steam, whether under sail or not, is to be considered a *ship under steam*. It is a fine piont that is made here, for the statute rule provides that every steam-vessel which is under steam, whether under sail or not, shall be considered a *steam-vessel*.

Mr. REAGAN. If the gentleman from Tennessee is comparing the bill with the statute as it now exists, there is a difference. If he compares it with the amendments proposed in this bill, that is to cure the very difficulty that he alleges.

Mr. WHITTHORNE. That is the very thing that I wish to remedy, and the discussion was to fix that. I do not pretend to say that this bill will not cure the difficulty, but you will provide the means of remedying conflicts that may arise by adopting this suggestion of the Secretary. Under the construction as to a ship under steam and a steam-vessel, to which I have alluded, it is claimed in the report to which I have called attention that the sense of the law is mutilated, if not perverted. Article 20 of the international rules reads as follows:

Nothing in these rules shall exonerate any ship, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Now this is a matter of importance, and I think the Committee on Commerce will not differ with me on that point. I therefore move the adoption of the amendment.

Mr. REAGAN. The statute itself provides in rule 20 that—

If two vessels, one of which is a sail-vessel and the other a steam-vessel, are proceeding in such directions as to involve risk of collision, the steam-vessel shall keep out of the way of the sail-vessel.

Now, the amendment proposed to this bill is to insert the word "course" instead of "way" in that rule.

The SPEAKER. The question is on the amendment of the gentleman from Tennessee.

Several members called for the reading of the amendment.

The amendment was again read.

Mr. REAGAN. I have no objection to the amendment; but there is a clause there which refers to regulations of the Secretary of the Navy or regulations of supervising inspectors. I know of no power conferred on the supervising inspectors to adopt anything——

Mr. WHITTHORNE. All of this is to be reported to Congress for its approval.

Mr. FRYE. It will not do any harm.

Mr. REAGAN. We had better renumber the section and let it appear as section 2 of the bill.

Mr. ROBINSON. As a distinct section?

Mr. REAGAN. Yes, sir. There is some question, however, about this. I suggest that it can come in as an independent section, and inasmuch as this action was on the recommendation of one of the Departments of the Government, and as any action to be taken under it is to be submitted to Congress, I think we should adopt the amendment, as it will not hurt the balance of the bill and as it executes the view set forth by two of the Departments of the Government on that subject.

Mr. CONGER. Mr. Speaker, the great contest for years in this House has been between a body of pilot commissioners in the State of New York, whose privileges and duties and prerogatives are opposed to the entire system embraced in this law. The pilot commissioners of New York, as the gentleman from Texas very well knows, in another branch of this Legislature have for seven or eight years been able to thwart the will of this House and prevent any salutary amendment to this law for the security of life. In two successive Congresses substantially this bill as I understand it has been considered for weeks at a time, and passed the House with great unanimity and went to the Senate; and in the first session of Congress, but five or six years ago, it was laid upon the table by the influence of the pilot commissioners of New York; and it had no resurrection, because it was supposed to interfere with the close corporation of pilots of New York.

I desire to say here to every man who represents any other part of the country than New York Harbor, that the pilot laws of New York and their exactions on the commerce of this country are more injurious to all coasting and foreign commerce that passes by the harbor of New York, or into it, from Long Island Sound or Sandy Hook, than would be the case if there were so many men authorized to levy contributions as the Moors of old did in the Mediterranean. It is enough for me to know that every attempted improvement of law which has been on our statute-books since 1871, though carefully considered in this House, has been thwarted in the Senate and has been attempted to be thwarted here, as every man knows who ever has had charge of these bills, as the gentleman from Texas [Mr. REAGAN] and the gentleman from West Virginia [Mr. KENNA] have had, and as I had the honor to have for a number of years while on the Committee on Commerce. Any gentleman who has been in that position has known that every attempt to pass these bills has been thwarted and that their consideration in the Senate has been prevented because they interfered with the pilotage laws in the State of New York.

A vessel of the United States approaching Sandy Hook or coming in through Long Island Sound is compelled to pay such an enormous pilotage charge, whether a pilot comes on board of her or not, that it is almost ruinous to our coasting trade. The vessels of Maine, of Connecticut, of Rhode Island, of Massachusetts, of Maryland, of Virginia, of North and South Carolina, and of Georgia, all around our coast, that take a load of produce in the harbor of New York, and all foreign vessels coming into that harbor, are compelled to pay pilotage whether a pilot comes and boards them or not; and the captain of sixty-five years, who has spent fifty years of his life on that very route, entering the harbor and going out of it, and commanding his vessel and knowing every track, every sound, and every depth, cannot take a vessel into the harbor of New York when one of these pilot-boats comes along to put a pilot on board without paying half pilotage. It is the universal complaint of all the States along the seaboard. If they have been preserved I could produce memorials and petitions enough to load your desks, praying for the abolishment of compulsory pilotage. Yet we have never been able to succeed.

In this law now on your statute-book there was a provision that had to be inserted in it before it could pass this House and before it could pass the Senate, that nothing in this law contained shall interfere with the pilotage provisions of the State. There it stands. [Here the hammer fell.] Just one word more, if the Chair will allow me. That has stood in the way of amendments to this law for these nine long years. It meets us here to-day. But I did not believe the time would come when there would be the effrontery on the part of any pilot commission to demand that one of their own number should make laws and regulations and rules for the government of all the vessels that sail upon all the waters of the United States. How it came in, who has been inveigled by it, through what insidious process that board of pilot commissioners that stands mocking the efforts of Congress to improve our laws has secured the offering of this proposition I do not know. But, with my knowledge of its former action, I, in common with many who have met it heretofore, oppose it to the teeth.

I would like to hear from the gentleman from Texas and the gen-

tleman from West Virginia, who have studied this question, whether they have not met—whether they have not in the Senate at least, and here so far as there could be any efficient action against these bills—whether they have not met that pilot commission, in one form or another, interfering with the laws which Congress makes for its commercial marine.

Mr. REAGAN. It is true that in the Forty-third Congress a bill passed this House which failed to pass in the Senate. It is also true that substantially this bill passed the House in the Forty-fourth Congress and again in the Forty-fifth Congress and failed to pass in the Senate. The two last bills which passed this House failed simply from non-action in the Senate. What reason there was for that non-action of course I cannot state. I did go back to the record to see the reasons for the failure of the act which passed this House in the Forty-third Congress, of which I was not a member. I found the difficulty in that case was that it was passed in the form of a code; and gentlemen who favored legislation on the subject were disinclined to vote for the bill on account of the difficulty of understanding precisely the extent to which the provisions of the law were changed by the bill. In order to obviate that difficulty, in preparing the bill in the Forty-fourth Congress I took the law up section by section for amendment, instead of putting it in the form of a code. My object was to show precisely the effect of the change in each section of the law in the Revised Statutes.

Now, whether the influence of the pilots has ever been invoked in opposition to this bill I of course do not know, and I have never understood anything on that subject.

There is nothing in the original bill which has relation to the subject of pilotage. And if my friend from Michigan [Mr. CONGER] will observe, the amendment offered by the gentleman from Tennessee [Mr. WHITTHORNE]——

Mr. CONGER. The section in relation to pilotage is a very brief section.

Mr. REAGAN. I am debating now this bill.

Mr. CONGER. I desire to read the section from the law which this bill proposes to amend. It is only five lines:

SEC. 4235. Until further provision is made by Congress all pilots in the bays, inlets, rivers, harbors, and ports of the United States, shall continue to be regulated in conformity with the existing laws of the States respectively wherein such pilots may be, or with such laws as the States may respectively enact for the purpose.

Mr. REAGAN. That section is not touched by this bill. That is a section of one of the titles of another subject entirely, and is not touched by this bill. I was going to observe that the only reference made to pilots in the amendment offered by the gentleman from Tennessee is the provision authorizing the governor of New York to select a pilot to constitute one of the commissioners, to be appointed under that amendment, to determine the signal and sailing directions for vessels; not to determine any question of pilotage whatever. Therefore I do not think the amendment is obnoxious to objection on that ground.

It is true that the pilots of New York have an interest which the merchants and shippers think is in conflict with their interests. That question has frequently come up, but never in connection with this bill. It is in another bill in relation to compulsory pilotage. I hope this bill will not be embarrassed by the discussion of a question totally and entirely disconnected with it.

Mr. FRYE. Will the gentleman allow me to ask him a question?

Mr. REAGAN. Certainly.

Mr. FRYE. Has not the question of compulsory pilotage and its repeal been before the Committee on Commerce two or three months since?

Mr. REAGAN. Yes, sir; and considered very fully.

Mr. FRYE. Well, down in the part of the world where I live we regard compulsory pilotage as piracy and nothing more. And I would like to inquire in behalf of my constituents if the Committee on Commerce ever propose to report upon that subject?

Mr. REAGAN. I can only say that the subject is now before a sub-committee, and I am inclined to think the sub-committee is ready to report on the subject. But for three months past the Committee on Commerce has been meeting daily and often twice a day for the consideration of another subject, or rather other subjects, which have so taken up its attention that it could not act upon this subject of pilotage. I know there is a feeling in the committee very strongly akin to the feeling suggested by the gentleman from Maine, [Mr. FRYE,] that compulsory pilotage, at least north of Norfolk, is hardly desirable, and perhaps is a hinderance to the commerce of the country. Precisely what the sub-committee is ready to agree upon I do not understand; but I have a general belief that that sub-committee strongly concurs with the expression made by the gentleman from Maine.

Mr. FRYE. A favorable report from that committee will be very gratifying to the ship-owners of our country.

Mr. REAGAN. All I want to say is that I hope this bill will not be embarrassed by a discussion of the question of compulsory pilotage, as it does not relate to it at all.

Mr. KENNA. There is nothing whatever either in the bill itself as reported from the committee, or in the amendment proposed by the gentleman from Tennessee, [Mr. WHITTHORNE,] that relates to compulsory pilotage.

Mr. FRYE. That is so; nothing but the speech of the gentleman from Michigan, [Mr. CONGER,] which is in now. [Laughter.]

The question was taken upon the amendment of Mr. WHITTHORNE; and upon a division, it was not agreed to—ayes 14, noes 23.

Mr. KENNA. I desire to move an amendment to come in at the close of the first section of the bill. It is a precise copy of the section of law which is in force both in Canada and Great Britain, and it is desirable to have it in force in this country.

The Clerk read as follows:

That the same section of the Revised Statutes be amended by the addition of rule 25, as follows:

"Nothing in these rules shall exonerate any steam or sailing vessel, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or make signals, or of any neglect to keep a proper lookout forward, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case."

The amendment was agreed to.

The Clerk read as follows:

SEC. 2. That section 4234 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4234. Collectors, or other chief officers of the customs, shall require all sail-vessels to be furnished with proper signal-lights and fog-horns; and every such vessel shall, on the approach of any steam-vessel during the night-time, show a lighted torch upon that point or quarter to which such steam-vessel shall be approaching. Every such vessel that shall be navigated without complying with the provisions of this and the preceding section shall be liable to a penalty of $200; and the vessel so navigated may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense; and the officer or officers in charge of the deck of any such vessel who shall willfully or negligently fail or refuse to exhibit such light shall be liable to a penalty of $100, and may be imprisoned for any time not exceeding one year."

Mr. FRYE. I move to amend line 8 of this section by striking out the words "lighted torch" and inserting in lieu thereof the words "signal-light." This section now requires a sailing-vessel to show a lighted torch when any steamer is approaching in the night-time. There is not one-half the time when a sailing-vessel, as a steamer is approaching in the night-time, can by any possibility show a lighted torch. I do not believe there is a gentleman here familiar with sailing-vessels and steamers who ever in his life saw a sailing-vessel showing a lighted torch on the quarter on which a steamer is approaching. Take it in a gale of wind, in the darkness of night, in a storm, or anything of that kind, and you cannot carry a lighted torch on a sailing-vessel; you cannot show it; it would disappear at once. This section requires all these vessels to do that which more than half the time would be an utter impossibility.

Now, I know it is in the Revised Statutes, because my attention was called to it to-night; still it has not been carried out; and here is something in this bill which is not in the Revised Statutes—a penalty of $200 against any vessel which does not show this torch and also a penalty against the officer. I believe a signal-light is all that is necessary. Any vessel can show that in the night-time; and, as I have said, vessels cannot show a torch in the night-time during a storm.

Mr. ROBINSON. I take the liberty of correcting the gentleman. The $200 penalty is now in the law.

Mr. FRYE. The penalty against the vessel is; but the penalty against the officer, imprisonment for one year, is not in the existing law.

Mr. ROBINSON. No; that is an addition.

Mr. KENNA. I understand that the provision of the Revised Statutes has not, in the memory of gentlemen having large experience in that line, been enforced. If the substitution of the words proposed by the gentleman from Maine [Mr. FRYE] will have any effect, I shall be glad to see his amendment adopted.

Mr. CONGER. One of the most common sights on the lakes in the night-time, to a passenger on a steamboat, is the waving of a torch on a sailing-vessel, lighting up the side of the vessel and her sails, and showing to those on the steamboat her course. No man who has ever been upon the lakes in the night, unless there was light enough to enable vessels to be seen without any artificial light, has failed to see on an approaching sailing-vessel the light of a waving torch. This torch will burn in any storm; it cannot be put out without being put into the water. It exhibits the side of the vessel and the situation of the sails at a flash to those on board the steamboat, who are thus enabled to decide the course they will take. I consider it a most important and valuable requirement for a sailing-vessel to show this torch, so as to prevent collisions. And I am glad it is proposed to strengthen the existing requirement by the addition of a penalty.

Mr. WARNER. The insertion of the words "signal-light" would not prevent the use of a torch.

Mr. CONGER. A signal-light is a continuous signal, carried all the while. This torch flashes out like a flash of lightening. When those on board a sailing-vessel on a dark night see a steamboat rushing down upon them, the vessel being unobserved, one of these torches is lighted and waved, the same kind of a torch that is set upon the dock when a vessel comes to the dock in the night-time.

Mr. FRYE. Can this torch be waved in a storm? Did the gentleman ever see such a torch waved in a storm?

Mr. CONGER. I have seen them in darkness and in storm; that is the time when they are useful.

Mr. FRYE. I never saw them; and I do not believe—I beg the gentleman's pardon, such a torch may be waved on the lakes—but I do not believe that upon the ocean during a dangerous storm this torch-signal can by any possibility be used.

Mr. CONGER. The torch can be used in a storm. The fiercer the wind the more quickly it burns out; but while it lasts it burns.

Every sailing-vessel carries these torches. They are made of pitch-pine in the shape of a broom. They can be lighted in a moment and waved until the vessel is seen by the steamboat, which takes its course away from the vessel.

Mr. WARNER. To accommodate both Maine and Michigan, I move to amend the amendment so as to make the language read "signal-light or lighted torch."

Mr. CONGER. A signal-light is a lamp carried continuously in a particular place. If there is any doubt upon this question, I will ask my friend from New York, [Mr. STARIN,] who runs vessels up and down our rivers and harbors, to say whether my statements are not correct.

Mr. FRYE. I am prepared also to leave the question to the gentleman from New York. I ask him whether vessels on Long Island Sound in the night-time wave torches?

Mr. STARIN. There is no difficulty in their waving torches; and it is the only safe way of enabling persons on a steamer to know which course the vessel is taking.

Mr. FRYE. As I agreed to leave this matter to the gentleman from New York, I back down and withdraw my amendment. [Laughter.] I forgot, when I consented to accept the gentleman as a referee, that he is the largest steamboat man in the United States; but at the same time I hold to the agreement I made.

The Clerk read as follows:

SEC. 3. That section 4236 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4236. The master of any vessel coming into or going out of any port situate upon waters which are the boundary between two States, may employ any pilot duly licensed or authorized by the laws of either of the States bounded on such waters to pilot the vessel to or from such port, except as provided in title 52, chapter 1, sections 4401 and 4444, and except where the port is situated upon a river wholly within the boundaries of any one State."

Mr. ROBINSON. I would ask the attention of the Committee on Commerce specially to lines 11 and 12 of this section. The first part of the section reads:

The master of any vessel coming into or going out of any port situate upon waters which are the boundary between two States, &c.

Then there is an exception in the last two lines: "except where the port is situated upon a river wholly within the boundaries of any one State." I should like to ask whether there is not an evident contradiction there. In the first place "the waters which are the boundary between two States;" and in the next place except on a river which is wholly within the boundaries of any one State. I should like to know what the meaning of that last clause is. It seems to me it is troublesome as a matter of construction. I do not want to do violence to the section, and only wish to ask for information before moving to strike it out. It is suggested to me I had better move to strike it out, and therefore I move in lines 11 and 12 of section 4 to strike out the words "and except where the port is situated upon a river wholly within the boundaries of any one State."

Mr. KENNA. Before that is acted on, I will make this statement in reference to the Ohio River. I do not know whether that illustrates the force of this amendment because I am not familiar with the object to be accomplished by it. The Ohio River, so far as it runs from where it first strikes the border of West Virginia and where it strikes the border of Kentucky, is situated wholly within the boundaries of West Virginia, and yet it runs between the States of Ohio and West Virginia, the jurisdiction of West Virginia extending to low-water mark on the Ohio side. That is a case which illustrates the fact that this exception might be proper. I am not prepared, however, to say it is.

Mr. ROBINSON. My inquiry was merely to bring out the idea. I think there is difficulty in the language. It may be desirable to have something of that kind. If agreeable it might be passed over and let the committee examine it carefully and return to it hereafter.

Mr. KENNA. I prefer, although I am not disposed to oppose striking it out, it should be passed over, so if there is any good reason for retaining it, it should be retained.

The SPEAKER *pro tempore*, (Mr. COVERT in the chair.) There being no objection, it will be passed over for the time being.

The Clerk read as follows:

SEC. 4. That section 4288 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4288. Any person shipping oil of vitriol, unslaked lime, inflammable matches, or gunpowder, in a vessel taking cargo for divers persons on freight, without delivering, at the time of shipment, a note in writing, expressing the nature and character of such merchandise, to the master, mate, officer, or person in charge of the lading of the vessel, shall be liable to the United States in a penalty of $1,000."

SEC. 5. That section 4289 of the Revised Statutes of the United States shall be so amended as to read as follows:

"Sec. 4289. The provisions of this title relating to the limitations of the liability of the owners of vessels shall not apply to the owners of any canal-boat, barge, or lighter."

Mr. ROBINSON. I ask the attention of the committee again. The words "this title" should be stricken out and the words "the seven preceding sections" substituted therefor. If gentlemen will examine the section of the Revised Statutes they will find that in the Forty-third Congress, 1875, that section was amended by striking out the words "this title" and inserting the words "the seven preceding sections;" and that is shown by the brackets. Therefore the words "this title" should go out, as they are copied from the original law and not from the laws as they now stand.

Mr. KENNA. I see no objection to that amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 6. That section 4400 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4400. All steam-vessels navigating any waters of the United States, excepting public vessels of the United States and of other countries, shall be subject to the provisions of this title. Steam-vessels of other countries other than public vessels shall be subject to the provisions of this title so far as relates to equipment, outfits, and navigating, and the transportation of dangerous articles as freight or stores."

Mr. KENNA. Under instructions of the committee, I move to insert in line 7, after the word "title," the word "but;" and in line 8, after the word "title," the word "only," and after the words "freight or stores," in line 10, to add the following:

And this provision shall not apply to steam-vessels of other countries other than public vessels, so far as relates to equipment and outfit when such vessels are furnished with certificates from the proper authorities of their respective countries that they are equipped and fitted out in all respects as regards safety of life and property, as the laws of those countries require: *Provided*, Similar certificates of American steam-vessels shall be received with the same force and effect in the ports of the respective countries to which such foreign steam-vessels belong.

I wish to say the object of that amendment is to make the provision precisely reciprocal.

Mr. FIELD. A single point in the section I do not quite understand. It reads:

All steam-vessels navigating any waters of the United States, excepting public vessels of the United States, and of other countries, shall be subject to the provisions of this title.

I suppose that means excepting public vessels of the United States and excepting public vessels of other countries. Then it reads:

Steam-vessels of other countries other than public vessels shall be subject to the provisions of this title.

Now, the reading of the section, "all steam-vessels," would seem to include steam-vessels of other countries other than public vessels as well as steam-vessels in the United States other than public vessels.

Mr. KENNA. It was intended as a limitation on the liability imposed by the first clause, and that is why the motion was made to insert the words "but" and "only," so that the first clause of the section should provide that steam-vessels of other countries other than public vessels shall be subject to the provisions of this title only so far as relates to equipment, &c.

Mr. WARD. Mr. Speaker, it seems to me that there is some objection to the proposed amendment by the committee which has just been sent up in manuscript. I do not know whether I comprehend it entirely from having heard it read for the first time, but as I understand it it is to permit vessels of other countries under certain and different restrictions from those which apply to our own vessels to trade in our ports both as regards freight and passenger traffic. It seems to me that that is objectionable. The United States in this bill and in other bills makes proper precautions and provides wise and prudent regulations for the preservation of human life. The laws make ample provision that require vessels to provide all suitable life-saving appliances, and all vessels for carrying passengers are absolutely compelled to observe these regulations for the protection of their passengers by preventing the shipment under certain conditions of inflammable or other dangerous materials or from being stored in vessels which carry passengers, thereby endangering human life. These and other wise restrictions are imposed by our laws upon American vessels.

That being the case, and these requirements being demanded of American vessels, I wish to inquire why it is that foreign vessels should be allowed to bring passengers from all foreign countries as well as to carry passengers from our own country to other countries without being compelled to provide themselves with precisely the same appliances that we compel our own vessel-owners to have. Why is it that difference should exist? I would like to have an explanation from some gentleman on the Committee on Commerce.

Mr. KENNA. The only explanation, as I understand the question of the gentleman from Pennsylvania, is this: that the clause under consideration does not enlarge the rights of foreign vessels to any extent whatever. As a matter of fact, I have no doubt that in regard to foreign vessels carrying passengers or merchandise in our waters, more severe restrictions are imposed than upon our own.

In the next place, this proposed amendment concedes to foreign vessels in our waters precisely what we claim for American vessels in foreign waters; that is, that there should be reciprocity in the regulations governing them. I do not see any objection whatever that can be raised against a reciprocity in this respect.

Mr. WARD. But my question is, why should we allow foreign vessels to come in here and bring their citizens to our shores or take our citizens to other countries without having just the same degree of protection for the preservation of life and property that we impose upon our own vessels engaged in the same business?

Mr. KENNA. The simple reason is that it is not the purpose of this country to impose restrictions or burdens upon foreign vessels in our waters that do not impose burdens or restrictions upon our vessels in their waters. It is, as I have stated, a reciprocal obligation. Not only that, but I am not aware of any maritime laws of foreign countries that authorize their vessels to run any risks or to sail without requiring the same appliances for the preservation of life and property that we require.

Mr. WARD. Then, of course, that answers my question. If we require nothing more of our own vessels than is required of foreign vessels, there can be no objection to this.

The amendment was agreed to.

Mr. KENNA. I understand that the amendment as adopted includes the other two words; that it is submitted as a whole.

The SPEAKER. The Chair is informed that the other two words were agreed to.

The Clerk read as follows:

SEC. 7. That section 4405 of the Revised Statutes of the United States be amended by striking out of the second and third lines of the section the words "at the city of Washington, in the District of Columbia, on the third Wednesday in January" and inserting in lieu thereof the words "at such place as the Secretary of the Treasury shall designate, on the third Wednesday in September;" and by inserting, after the word "times," in line 4 of the section, the words "and places."

SEC. 8. That section 4413 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4413. Every pilot, engineer, mate, or master of any steam-vessel who neglects or willfully refuses to observe the regulations established in pursuance of the preceding section shall be liable to a suspension or revocation of his license, and to a penalty of $50, and for all damages sustained by such neglect or refusal, and may be imprisoned not exceeding two years."

Mr. REED. I desire to offer a new section, to come in here.

The Clerk read as follows:

SEC. 9. That section 4414 of the Revised Statutes shall be so amended as to read as follows:

"SEC. 4414. There shall be in each of the following collection districts one inspector of hulls and one inspector of boilers, who shall be entitled to the following salaries, to be paid annually, under the direction of the Secretary of the Treasury:

"In the district of New York, to a salary of $2,500 a year.

"In the districts of Philadelphia and New Orleans, to a salary of $2,200 a year each.

"In the districts of Baltimore, Saint Louis, San Francisco, Boston, and Galena, to a salary of $2,000 a year each.

"In the districts of New London, Albany, Pittsburgh, Buffalo, Cleveland, Chicago, Milwaukee, Cincinnati, Wheeling, Grand Haven, Detroit, Portland, (Maine,) Norfolk, and Portland, (Oregon,) to a salary of $1,500 a year each.

"In the districts of Port Huron, Memphis, Oswego, Mobile, Louisville, Evansville, Savannah, Charleston, Marquette, and Seattle, to a salary of $1,200 a year each.

"In the districts of Galveston, Nashville, and Burlington, (Vermont,) to a salary of $1,000 a year each.

"In the district of Apalachicola, to a salary of $800 a year; and in addition the Secretary of the Treasury may appoint in such districts, where their services are actually required, assistant inspectors at a salary for the district of New York of $2,000 a year each; and for all other districts at a salary not exceeding $1,600 a year each; and he may appoint a clerk to any such board at a compensation not exceeding $1,200 a year to each person so appointed. Every inspector shall be paid for his actual and reasonable traveling expenses at the rate of ten cents per mile incurred in the performance of his duty, together with his actual and reasonable expenses for transportation of instruments, which shall be certified and sworn to under such instructions as shall be given by the Secretary of the Treasury.'

Mr. REED. I desire, Mr. Speaker——

Mr. WILLIS. I wish to reserve all points of order on that amendment.

Mr. REED. I hope the gentleman, if he has a point of order to make, will state it now before I proceed.

Mr. WILLIS. I do not wish to prevent the gentleman from making a speech; I only desire to say that as this proposed amendment affects the district which I have the honor in part to represent, I wish to hear what he has to say in reference to the amendment before I make the point of order.

Mr. REED. I desire to state to the House in explanation of the amendment I offer that it proposes simply a readjustment of salaries, and that the rest of the amendment is but a repetition of what is already in the statute. When these salaries were fixed in 1871 I have no doubt they were fixed in the light of all the facts then within the knowledge of the committee and of the House. But actual practice has shown that there are very great inequalities in these salaries, and that gross injustice is done by the present rate of payment; and this proposes to readjust all of them. I should have had some hesitation in undertaking to propose this readjustment if I did it upon my own knowledge; but every change there is recommended by the chief supervisor in charge in his report, and seems to be amply justified by the facts contained in that report. His view of the case is to be found on pages 12 and 13 of the report, where there are tabulated the changes that are made.

To show the House why these changes ought to be made I will just cite an instance or two as indicating an inequality. Evansville, which inspects sixty-eight vessels, receives a salary at the rate of $1,200; Charleston, which inspects fifty-eight vessels, receives the same salary; Galveston, thirty-seven vessels and the same salary; Nashville, twenty-seven vessels and the same salary. New London, which inspects one hundred and fifty-six vessels, receives the same salary; and Buffalo, which inspects one hundred and forty-one, less, as the House will see, than New London, receives a salary of $2,000.

These are but samples of the inequalities which now prevail; inequalities, perhaps, that were entirely excusable, owing to the want of light and of practical experience in these matters. But practical experience has shown that if the pay is to be adjusted to the work, it must be on the basis of the amendment which I have offered. This amendment, as a whole, reduces the expenditure to the amount of $3,400. I trust that that small measure of economy may commend itself to the House among other advantages connected with this amendment.

Mr. CONGER. The report which the gentleman from Maine has read, and which the supervising inspector-general made last fall, came up for criticism this last winter, when the inspectors of each of the districts of the United States were present. It was shown to be false and wrong in almost all its statements. It was the subject of criticism in the board. I have here in my desk or in my room—and I shall take occasion to present it to the House at the proper time—the sworn statement of each of the inspectors of the ten districts of the United States, with the sworn statement of each of the local inspectors, and their returns—and they can be found at the Treasury Department—of every inspection which they made. The charge of carelessness on the part of the supervising inspector, to say the least of it, was so overwhelming that in his recommendations not one word was said about these changes. He did not dare to recommend them. At the proper time, when any such proposition comes up for action, I will be prepared to produce that statement and right alongside of it, in parallel lines, the correction of it. For instance, in my own district this supervising inspector-general has reported the number of vessels inspected as sixty-four, while the number of vessels, I think, is three hundred and eighty-six. I am not certain about the number, but I have it in the positive official statement made by the custom-house officer to whom these reports are made; and it is in a statement accessible at call in the Bureau of Navigation or in the office of the inspection service. I think there was not one of the inspectors who did not bring with him the positive sworn statement and the report of each of the local inspectors or local inspection boards of their service.

What induced this false, or I will rather say, not false, but careless statement, I do not know. But it was retracted, and retracted publicly. It had to be retracted or the man who made it would have been shown to this House and to the appointing power unfit for the place.

Now, sir, here are his recommendations. I shall show to the House at the proper time his recommendations are based on entirely wrong statements. I will not charge them with being falsely made up, but they are based on statements entirely contrary to those on record. I have never seen such indignation as was manifested by the ten inspectors or heads of the chief inspection districts and by the inspectors of the local boards, who when that was printed came at their own expense to Washington, bringing their own statements.

Mr. REED. When was that?

Mr. CONGER. This last year.

Mr. REED. At what time?

Mr. CONGER. At the time the board met.

Mr. REED. Can you give me the time more precisely?

Mr. CONGER. The law fixes it.

Mr. ROBINSON. It was in January.

Mr. CONGER. Now, I repeat, I have got somewhere this statement, a corrected statement, based on the official returns written out by myself. I cannot without referring to it give the exact figures from memory. But I desire to say to the gentleman from Maine, and I think there are many other members who agree with me, that any man who could make such a statement so contrary to the official returns of the office should have an inquiry. I drew up a resolution of inquiry to submit to the House as to the knowledge, honesty, efficiency, and ability of a man who would print such statements as that, but I was persuaded to withhold it. As the matter has come up now I invite investigation.

Mr. REED. I anticipated the gentleman from Michigan would make some observations on this subject when I noticed the following paragraph in the report in reference to the gentleman's own district:

A particularly marked case of inequality in salaries, in comparison to the work performed, may be found in comparing Grand Haven, Michigan, which inspects one hundred and two vessels, salary $900, with Port Huron—

In the gentleman's district—

which inspects only sixty-four vessels on salaries of $2,000 per annum.

Now, I submit to the House, of course subject to correction from official documents, whether the statement of the gentleman from Michigan, who does not make it on his personal knowledge, but upon representations from other gentlemen, is in itself in the slightest degree probable that the supervising inspector, whose business it is to know about these things, should deliberately tabulate a statement of this kind and have it all false. So far from its having met the universal indignation of the inspectors in January, the report itself was sent to me by one of the inspectors under cover of a letter dated in February; so that if that indignation existed it seems to have been like the indignation of the gentleman who has just spoken, strictly local.

Now, I appeal to this House to do justice in this matter, and not be deterred by statements which are not official and which are not brought before the House with the full facts. Here is the statement of the supervising inspector-general, made in print, made over his signature, and which is backed up by the statements of other inspectors, as my friend from Michigan [Mr. STONE] will show.

Mr. WILLIS. I do not suppose there is any gentleman on this floor who is more anxious to have this bill promptly acted upon than myself, and therefore I shall occupy but a minute or two to make a suggestion to the House.

Mr. REED. Will the gentleman from Kentucky [Mr. WILLIS] permit to be read in this connection a letter which is in the possession of the gentleman from Michigan, [Mr. STONE?]

Mr. WILLIS. I will yield for that.

Mr. STONE. I wish to call the attention of the House to a letter which I have from the local inspectors at Grand Haven, Michigan, as the gentleman from Maine [Mr. REED] has referred to the report of

the inspector-general, bearing upon the port of Grand Haven. I ask the Clerk to read the letter.

The Clerk read as follows:

OFFICE OF UNITED STATES LOCAL INSPECTORS OF STEAM-VESSELS,
Grand Haven, Michigan, December 3, 1879.

SIR: We herewith submit a few facts in the interest of our move for an increase of salary as inspectors of steam-vessels for the district of Michigan, hoping that the present Congress, with new committees, will afford a favorable opportunity for presenting and urging the same.

First. Since the organization of this board in 1873 the business of the same has more than doubled. During that year we inspected fifty-four vessels and issued one hundred and thirty-seven licenses. During the current year we have inspected one hundred and ten steam-vessels and issued two hundred and eighty-five licenses; and our revenue has increased from $2,700 to nearly $5,000 per annum.

Second. Comparing the average work of the four largest boards in the district, namely, Detroit, Chicago, Milwaukee, and Port Huron, as per report of 1878, the last report, with the work of this office for the current year, we find the following results, namely: Their average inspection of vessels in 1878 was one hundred and two and one-fourth; during the present year we have inspected one hundred and ten steam-vessels. Their average of licenses issued was three hundred and ten; we have issued to date this year two hundred and eighty-five licenses. One dollar of their revenue for 1878 cost sixty-eight cents of salary, while for the current year one dollar of our revenue has cost but thirty-eight cents of salary.

Third. While our office-work, as appears from the above facts, is fully equal to that of the several boards referred to, our traveling is much more, for the reason that geographically it is the largest board in the district; and yet our salary is but forty-five one-hundredths of theirs, theirs being $2,000, ours $900.

It has been urged against the raising of our salary that our vessels are small, and therefore yield but little revenue. It is true that our tonnage is somewhat lighter than that of the other boards, but it must be remembered that every small steamer inspected counts one hundred tons in the revenue; so that, notwithstanding the small measurement of some of our vessels, our gross revenue will be found between eighty one-hundredths and ninety one-hundredths of the average of that of the four boards above referred to.

We respectfully submit that it is but a matter of justice that our salary be brought up to correspond more nearly with what is deemed a reasonable compensation to others for the same service, and respectfully ask that you will take such action as will result in the attainment of that end.

Very respectfully,
PEARSONS and STARK,
United States Local Inspectors of Steam-Vessels for the District of Michigan.

Hon. J. W. STONE, M. C.,
Washington, D. C.

Mr. STONE. One word.

Mr. WILLIS. I beg the gentleman's pardon. I believe I have but a minute or two left of my five minutes.

Mr. STONE. I will yield my entire five minutes to the gentleman after a word or two.

Mr. WILLIS. Very well, go ahead.

Mr. STONE. The inequality of the salaries of the inspectors at Grand Haven was so apparent and striking that early this session I introduced a bill to increase the salaries of the inspectors of that port, and that bill is now pending before the Committee of Commerce. Learning that the gentleman from Maine [Mr. REED] proposed to offer an amendment here to readjust all the salaries in accordance with the recommendation of the inspector-general, I have sent up and had read the letter of the inspectors at Grand Haven. And in this connection I desire to call attention to a tabular statement on page 6 of the annual report of the supervising inspector-general:

Table showing the number of vessels inspected, their tonnage, and the number of officers licensed during the year.

Supervising districts.	Local districts.	Steamers.	Tonnage.	Masters.	Mates.	Pilots.	Engineers.
First district..	San Francisco, Cal..	166	75,832.45	201	79	25	310
	Portland, Oreg.....	82	25,384.48	114	13	14	126
	Seattle, Wash.....	40	4,633.92	47	10	6	66
Second district	New York, N. Y...	665	228,054 77	586	65	228	1,095
	Albany, N. Y.....	145	24,700.85	60	6	143	182
	Philadelphia, Pa...	284	80,817.26	241	29	163	420
	Boston, Mass	170	51,897.96	152	35	75	227
	New London, Ct...	156	48,893.22	144	22	65	177
	Portland, Me.....	102	18,075.18	107	7	19	138
Third district.	Baltimore, Md.....	178	43,889.75	129	3	218	306
	Norfolk, Va	89	8,689.35	45	8	106	147
	Charleston, S. C ..	58	7,555.97	77	15	27	82
	Savannah, Ga	70	5,546.75	93	14	76	122
Fourth district	Saint Louis, Mo ...	169	49,310.32	330	118	108	334
Fifth district ..	Galena, Ill.....	158	18,620.79	215	29	60	232
Sixth district ..	Louisville, Ky	50	17,073.36	85	29	32	89
	Nashville, Tenn ...	27	3,398.80	69	27	18	58
	Memphis, Tenn	70	15,609.75	140	30	38	131
	Evansville, Ind....	68	7,432.90	98	23	34	84
Seventh district	Pittsburgh, Pa	138	32,291.96	208	92	34	246
	Wheeling, W. Va ..	106	12,657.27	175	47	42	173
	Cincinnati, Ohio ..	107	35,606.30	205	85	48	198
Eighth district.	Detroit, Mich.....	96	29,138.27	90	.....	77	166
	Chicago, Ill.....	113	18,083.73	77	1	138	195
	Milwaukee, Wis..	112	19,375.54	103	.....	52	152
	Port Huron, Mich..	64	12,987.54	96	.....	49	148
	Grand Haven, Mich.	102	6,524.57	36	.....	87	142
	Marquette, Mich..	52	3,807.34	26	1	46	66
Ninth district	Buffalo, N. Y.....	141	21,566.00	66	.....	185	232
	Cleveland, Ohio....	118	10,152.58	57	.....	101	175
	Oswego, N. Y.....	55	2,157.26	23	.....	46	68
	Burlington, Vt.....	22	2,307.60	11	.....	16	24
Tenth district..	New Orleans, La ..	218	59,824.97	425	147	149	438
	Mobile, Ala	45	6,594.43	66	17	41	85
	Galveston, Tex....	37	7,144.99	73	16	10	81
	Apalachicola, Fla..	16	2,470.90	32	8	13	32
Total.....	.....	4,289	1,018,109.08	4,700	976	2,589	6,947

Mr. WILLIS. I wish only to call the attention of the House to the fact that we are here with only a dozen or so members present. The amendment of the gentleman from Maine [Mr. REED] proposes to change the salaries of some twenty or more different officers in the United States, none of whom have received any notice of it. I make the point of order that the amendment has not received the indorsement of any committee. I would say to the gentleman that this is not the way to secure the object he has in view. I hope that in order that we may go on with the bill he will withdraw the amendment and let us have a vote on sections to which there can be no objection.

As to my own district, I know that I can reiterate the statement made by the gentleman from Michigan, [Mr. CONGER,] that the statement of the supervising inspector-general does gross injustice to the district which I have the honor to represent.

Mr. REED. I should be glad to oblige the gentleman who has just taken his seat, [Mr. WILLIS.] But two or three years ago I offered an amendment to a bill similar to this when it was before the House for consideration, in which amendment I referred to but a single case. I was met then with the objection that a proposition to readjust all the salaries should be made. Now that I have submitted a proposition to readjust salaries I am met with the objection that I am interfering with the bill. Under the circumstances I cannot withdraw my amendment.

Mr. ALDRICH, of Illinois. I move that the House now adjourn.

Mr. REED. I have no objection to that. I do not desire to present this matter to a thin House.

Mr. WILLIS. I will withdraw my point of order if we can have a vote on the amendment.

Mr. ALDRICH, of Illinois. If the point of order is not pressed, I will withdraw the motion to adjourn.

The question was then taken upon the amendment offered by Mr. REED; and upon a division there were—ayes 6, noes 7.

Mr. KENNA. Before the announcement of the result of the vote I would suggest that by common consent this amendment be considered as pending, and allowed to go over till such time as it may be voted on in a full House, before the final disposition of the bill.

Mr. REED. I have no objection to that.

Mr. ALDRICH, of Illinois. I object to the amendment being considered pending at all.

Mr. REED. Then I raise the point that there was no quorum voting.

Mr. BRIGGS. I move that the House adjourn.

Mr. KENNA. I had hoped that my proposition would be accepted, in order that the amendment might not embarrass the further consideration of this bill to-night. If the amendment is insisted upon I will move that the House adjourn.

Mr. STONE. I suggest that the amendment be withdrawn, with the understanding that it may be offered at a future time as an additional section to the bill.

Mr. KENNA. With that understanding I will withdraw the motion to adjourn.

Mr. BRAGG. I renew the motion.

The motion was agreed to; and accordingly (at ten o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. AINSLIE: The petition of W. A. Conghanour, R. G. Allen, and others, citizens of Quartzburgh, Idaho Territory, against any change in the mineral-land laws—to the Committee on Mines and Mining.

By Mr. ANDERSON: The petition of Henry C. Adams, of Seneca, Kansas, for the abolition of the duty on type—to the Committee on Ways and Means.

Also, the petition of citizens of Troy, Kansas, that salt be placed on the free list—to the same committee.

By Mr. BOUCK: The petition of the Fox River Iron Company and West Depere Agricultural Works, West Depere, Wisconsin, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. CONGER: The petition of Catharine A. F. Stebbins, George F. Fish, and 3 others, citizens of Detroit, Michigan, and Rochester, New York, against any measures being taken by Congress for the erection of a monument to General Custer, on account of his alleged departure from the rules of civilized warfare in his treatment of Moketavata and his band of Piegans, in Colorado, in 1867 or 1868—to the Committee on the Library.

By Mr. ELLIS: The petition of Brooke Mackall, jr., for pay for services rendered as assistant sergeant-at-arms in the Forty-fourth Congress—to the Committee on Appropriations.

By Mr. FIELD: The petition of Naylor & Co., proprietors of the Norway Iron and Steel Works, Boston, Massachusetts, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. GEDDES: The petition of Thomas Hard and 112 others, citizens of Pennsylvania, late soldiers in the Union Army, against the passage of the Withers pension bill and for the passage of the Geddes bill providing for the creation of a court of pensions—to the Committee on Invalid Pensions.

By Mr. GOODE: The petition of Letitia Tyler Semple, for pay for property destroyed during the late war by the United States officials—to the Committee on War Claims.

By Mr. MARSH: The petition of citizens of Illinois, for such legislation not inconsistent with the utmost freedom of legitimate trade as will prevent the accumulation of immense quantities of the cereal products of the soil in the hands of a few capitalists, combining for objects of speculation—to the Committee on Agriculture.

By Mr. McKINLEY: The petition of C. T. Bicknell, of Massillon, Ohio, and 90 others, against reducing or modifying the duty on paper—to the Committee on Ways and Means.

By Mr. MORSE: The petition of Boston merchants, for the removal of the duty on salt—to the same committee.

Also, the petition of Jane L. Richmond, for a pension—to the Committee on Pensions.

By Mr. NEAL: The petition of Aaron H. Gregory and 24 other soldiers, of Ross County, Ohio, against the passage of the sixty-surgeon bill and for the establishment of a pension court—to the Committee on Invalid Pensions.

By Mr. PHISTER: The petition of the Lexington and Big Sandy Railroad Company, eastern division, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. ROBERTSON: Papers relating to the land claims of Thomas Green Davidson and Charles E. Cate—to the Committee on Private Land Claims.

Also, papers relating to the bill to relinquish the title of the United States to certain lands in the parish of Livingston, Louisiana, in favor of Lewis Allen—to the same committee.

By Mr. ROSS: The petition of citizens of New Jersey, for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. SAMFORD: The petition of citizens of Alabama, that salt be placed on the free list—to the same committee.

By Mr. PHILIP B. THOMPSON: The petition of Eliza Mason for a pension—to the Committee on Invalid Pensions.

By Mr. WILLIS: The petition of Owsley & Co. and others, of Louisville, Kentucky, for the removal of the duty on salt—to the Committee on Ways and Means.

Also, the petition of McFerran, Shallcross & Co. and 40 other firms, of Louisville, Kentucky, of similar import—to the same committee.

IN SENATE.

WEDNESDAY, *May* 12, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a letter of General Pope, commanding the Department of the Missouri, reporting the necessity, in view of the projected establishment of a military post near the junction of the Gunnison and Grand Rivers, for a good wagon-road to be opened between the post on White River and that at or near the mouth of the Gunnison and between the latter and the post on the lower Animas or San Juan; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. JOHNSTON presented the petition of the Speedwell Iron Company, of Wythe County, Virginia, manufacturers of pig-iron, employing fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. SLATER presented a petition of citizens of Baker County, Oregon, praying payment for horses stolen by the Bannock Indians; which was referred to the Committee on Military Affairs.

Mr. McPHERSON presented the petition of James V. Gibson, late of Ninth New Jersey Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Thomas Oakes & Co., of Bloomfield, New Jersey, manufacturers of woolen goods, employing one hundred and twenty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. BECK presented the petition of the Lexington and Big Sandy Railroad Company, eastern division, manufacturers of pig-iron, at Ashland, Kentucky, employing over one hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. PLATT presented the petition of August Schmelze, of West Meriden, Connecticut, and 4 others, dealers in and importers of foreign newspapers and periodical matter, praying for the removal of the duty of 25 per cent. *ad valorem* on newspapers, magazines, and periodicals now levied under section 2504 of the Revised Statutes of the United States, schedule M, and that the same be placed on the free list; which was referred to the Committee on Finance.

Mr. PENDLETON presented additional papers to accompany the bill (S. No. 1168) for the relief of James H. Hamilton; which were referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. INGALLS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1021) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 467) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, asked to be discharged from its further consideration; which was agreed to, and the bill was postponed indefinitely.

Mr. PRYOR, from the Committee on Claims, to whom was referred the petition of Carl Epping, vice-consul from the Netherlands, and others, praying to be compensated for property appropriated by the Union Army and Navy during the war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 4842) to reinstate R. W. Barkley as cadet midshipman in the United States Naval Academy at Annapolis, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the petition of Eliza West, of Maryland, praying for an increase of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. ALLISON. I am directed by the Committee on Indian Affairs, to whom was referred the bill (S. No. 1164) to graduate the price and dispose of the residue of the Cherokee-strip lands in Kansas, to report it with an amendment. I have placed with the bill a letter from the Secretary of the Interior recommending its passage.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the petition of Jeannette S. Johnson, praying for compensation for property taken and used by the United States military authorities in Oregon in the year 1856, submitted an adverse report thereon; which was agreed to and ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. WALLACE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 6036) making appropriations for the support of the Post-Office Department for the fiscal year ending June 30, 1881, to report it with amendments. I give notice that to-morrow I shall move to take up the bill and put it on its passage.

BILLS INTRODUCED.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1747) to reclaim waste and arid lands of the United States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1748) to compensate the trustees of the Louise Home for certain improvements and for damages to real estate; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FARLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1750) for the relief of John Lafferty; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON. I desire to introduce a bill drawn by a very valued and intelligent constituent of mine, and I should like to have it referred to the Committee on the Judiciary. It is for the publication and registration of trade-marks, a subject which I understand that committee have now in hand.

By unanimous consent, leave was granted to introduce a bill (S. No. 1751) to provide for the publication and registration of the title and claims to the property called trade-marks; which was read twice by its title, and referred to the Committee on the Judiciary.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 12th instant approved and signed the act (S. No. 1143) granting a pension to Mrs. Mary Allison and the act (S. No. 1100) for the relief of Solomon Morris.

SETTLEMENT OF PRIVATE LAND CLAIMS.

Mr. EDMUNDS and Mr. VOORHEES addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Vermont.

Mr. EDMUNDS. The Senate yesterday almost finished the consideration of the bill in relation to private land claims in the Territories,

which is quite important and which I believe can very soon be finished as I do not wish to occupy five minutes in the whole; perhaps less. It is so near its completion that I think it better, although I know what my friend from Indiana [Mr. VOORHEES] wants and I want it just as much as he does, to go on with this bill. I move, therefore, that the Senate postpone the prior orders and take up Senate bill No. 818.

Mr. VOORHEES. Day before yesterday I gave special notice that at the conclusion of the morning business yesterday morning I should insist on the Senate taking up and considering the bill providing accommodations for the Library. It happened that I was called out by some one of that "innumerable caravan" that swarms around these doors in order to make a Senator transact his business outside instead of inside the Senate Chamber. After being out for a few moments I returned, and to my infinite dismay I found that I had lost my opportunity, and that the Senator from Vermont had embraced his.

Mr. EDMUNDS. But my friend from Indiana will remember that I had given notice several prior times of my purpose to call this matter up.

Mr. VOORHEES. I do not complain at all of the Senator taking the time that was not occupied by my presence; but the Senator's colleague [Mr. MORRILL] desires to address the Senate upon the bill in regard to the Library. I do not wish to interpose any captious obstacle to the consideration of the land bill which the Senator from Vermont [Mr. EDMUNDS] is pressing, but if it is going to take the morning hour I feel it due to his colleague and the importance of the measure to ask the sense of the Senate as to which measure shall be considered. I do not think there is as much danger in delaying the measure pressed by the Senator from Vermont [Mr. EDMUNDS] as there is in delaying the bill on the subject of the Library.

Mr. DAVIS, of Illinois. Senate bill No. 818 is very important. It embraces a general system; it is not a particular matter. The bill was nearly finished yesterday. I do not know how long it will occupy to-day, but it was nearly finished yesterday, and it seems to me the orderly dispatch of business would require that we should go on with that measure while it is in the minds of Senators and finish it, rather than to take the other matter up, which I have no objection to doing after this bill is disposed of.

Mr. MORRILL. I would suggest to the Senator from Indiana whether he could not obtain unanimous consent, after this land bill is disposed of, to take up the Library bill and consider it until it is finished.

Mr. VOORHEES. If it is agreeable to the Senator from Vermont I will adopt that suggestion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, [Mr. EDMUNDS,] to postpone the pending order, which is the Calendar of General Orders under the Anthony rule, and to proceed to the consideration of the bill indicated by him.

Mr. MAXEY. Before that motion is put I desire to say that I am in charge of Senate bill No. 1331, to authorize a retired list of non-commissioned officers of the United States Army who have served therein continuously, honorably, and faithfully for a period of thirty years or upward, which has been at the head of the Calendar for a good long while, and was partially considered on three or four occasions. I have given way time and again upon the statements of Senators that their bills were very pressing. I made no objection to taking up the bill of the Senator from Vermont [Mr. EDMUNDS] because he represented that the bill in respect to private land claims was very important, and demanded immediate action.

The effect of these postponements of the Calendar, on me at least, is simply this: that whatever may be my business elsewhere, however pressing it may be, I am compelled to be here during the morning hour every day, in order that if Senate bill No. 1331 is taken up I may be here to take charge of the case. I should like to have it disposed of at some time. I do not say this with a view of interposing any objection so far as the propriety of the consideration of the Library bill is concerned, because that is very important, and I understand the Senator from Vermont [Mr. MORRILL] desires to speak upon it; but I beg to say that in justice to myself and in justice to the Military Committee, of which I am the spokesman in this case, after that bill is disposed of I shall ask that the bill at the head of the Calendar be taken up and disposed of, as I think justice demands.

Mr. BECK. Before the question is taken I desire to ask what is the effect of the motion made by the senior Senator from Vermont [Mr. MORRILL] in reference to the Library bill?

The PRESIDENT *pro tempore*. No motion was made. He suggested that the object of the Senator from Indiana could be obtained by unanimous consent. It can be obtained without unanimous consent by a majority of the Senate if the bill reported from the Committee on Private Land Claims is disposed of before half past one o'clock to-day.

Mr. VOORHEES. I suppose the unanimous consent would apply after the disposal of the bill reported by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. BECK. I have no objection to that. I was a little afraid that the consent might be to take it up in the morning hour and keep it there to the exclusion of all other business until it be finished. I am not quite prepared for that, because I have given notice of a bill in regard to the Louisville and Portland Canal, which I desire to have considered.

The PRESIDENT *pro tempore*. There is no unfinished business of the morning hour. The rule in relation to unfinished business does not apply to the morning hour. The question is on the motion of the Senator from Vermont, [Mr. EDMUNDS.]

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 818) to provide for ascertaining and settling private land claims in certain States and Territories, the pending question being on the amendment proposed by Mr. TELLER, to strike out the following clause of section 12:

Third. No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed effected the donation or sale of such mines or minerals to the grantee; but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act.

Mr. TELLER. I was saying when this bill was under consideration before that the parties who had received these grants from the Mexican government were entitled to the recognition at our hands of whatever would have been their rights under the Mexican government. While perhaps technically they cannot claim the right to have the minerals go with the land, yet that has been the custom in all the confirmations, and that has been the ruling of the courts even where confirmations have not been had. The courts in California have held, where there had been no legislative confirmation, no act of Congress, that the minerals went with the land; that the United States had never adopted the rule in vogue in Spain and other portions of the world, that the crown or the government reserved to itself all minerals. Whenever the United States parts with its title to land, it parts with the title to everything in it.

The people who have purchased these claims (and there are very few of them in the hands of the original grantees, of course, because a long time has elapsed since these grants were made) have all bought them with the understanding that such was the law and the rule that Congress had recognized in all its confirmations, and that the courts had recognized where confirmations had not been had. Now, the present bill not only proposes to reserve to the Government the right to the minerals which was reserved by the Spanish government and by the Mexican government, but it proposes in addition to reserve a portion of the surface, which is a violation of the terms of the treaty in which we stipulated that we would recognize the rights of property as they were recognized by the government of Mexico.

The United States law upon this question gives the party who shall discover and open a mine, not only the mine itself but a portion of the surface ground which is disconnected from the mine. It gives to each discoverer of a mine, or each second relocator of a mine if it shall be abandoned by the first discoverer, on each side of the vein three hundred feet and on the vein fifteen hundred feet; so there is an area taken out of this grant for every mine equal to fifteen hundred feet in length by six hundred feet in width. If a party is allowed to go on under this bill in very many sections of the country miners could take an entire grant, every acre of it could be appropriated under this proposed act, and the parties would be left with nothing at all; while under the Mexican law those who went on and appropriated the mine would be compelled to pay an equitable sum, a reasonable amount, for the use of the surface and for the damage sustained by the owner of the land by reason of its occupation.

It seems to me, then, that the third paragraph of the twelfth section of the bill is in direct contravention of the provisions of the treaty that we made with respect to this class of property. It is not the interest of the United States to enact this third paragraph into a law. It is to the interest of the Government to have these mines opened. They will be more readily opened in many sections of the country, I am satisfied, by the parties who have purchased them being allowed to open them themselves than it will be to open them to others. There is no sufficient provision in the bill for carrying out the idea that the Government shall reserve to itself this mineral; there is no provision how it shall be done. As I say, if we are to apply the general laws, then it is in violation plainly and clearly of the terms of the treaty.

Mr. EDMUNDS. Mr. President, a single sentence will say all I wish to say on this point. This is not a bill to provide for working mines or minerals that belong to the United States; it is a bill to confirm and separate the incomplete titles of grantees under the Spanish or Mexican government to their grants of land, and whenever they had a grant of minerals and mines to confirm that. Therefore this provision of the third clause to which reference is made is simply a provision which gives to the grantee exactly what he is entitled to, and reserves to the United States all that the grantee is not entitled to, with the rights that belong to it. It merely separates the two titles. When it comes to a proposition on the part of anybody that the United States shall grant mining rights then the ordinary legislation will be resorted to undoubtedly of protecting the owners of land above any mine on account of any injury that they may receive by the use of the property of the United States that lies under their land; but it has no appropriate place in this bill, which is merely a separation of the two interests.

Mr. CONKLING. Mr. President, before voting on this I should like to know better than I do know the effect of the language as it stands unamended. If the purpose is to declare that the minerals shall remain the property of the Government except in the case of grants which have heretofore been held to carry to the grantee a right to the minerals, that is, comparatively at least, unobjectionable; but if the

words "unless the grant claimed effected the donation or sale of such mines" are to be held to mean that nothing is excepted save the instance of a grant which in terms specified and covered the minerals, then it seems to me it would work a great hardship and a very large sacrifice of equity. I think before the question is taken on the motion of the Senator from Colorado to strike out this paragraph, I shall venture to offer an amendment, possibly not very perfect in diction because I have drawn it on the spur of the moment, to ascertain, if I can, the sense of the Senate on the point I have endeavored to state.

I move to strike out, after the word "claimed" in line 18, the words "effected the donation or sale of such mines or minerals to the grantee," and to insert in lieu "such as has been held by the courts and in the practice of the Government to carry such mines or minerals to the grantee."

If I may restate my amendment, I can save a word of writing. I move to strike out the words "effected the donation or sale of" and to insert in lieu "be such as has been held by the courts and in the practice of the Government to carry;" so that it will read:

Unless the grant claimed be such as has been held by the courts and in the practice of the Government to carry such mines or minerals to the grantee.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York.

Mr. EDMUNDS. Mr. President, I am not able to concur in the view of the Senator from New York in this change that he proposes. As the clause now stands, each individual case of a claim so far as it affects the right of the grantee to minerals will be decided according to his own right and title and not according to any other man's right or title or practice. His case, like every other man's case ought to, will stand on its own merit. If the grant effected the conveyance of the minerals he gets them; if it did not, he does not; and they are left to be disposed of by Congress to citizens of the United States or others, as it may please.

Then, what the Senator proposes to say in the place of it is a provision not applied to each particular grant, which has to be proved up under this bill, but applied to the decisions of the courts, which are one thing in one case and another thing in another depending on the nature of the grant, sometimes contradictory of themselves, and also the practice of the Government distributively. By that it will be contended (and I do not know but it is intended) to include confirmations that Congress has made of titles in these Territories of lands that included mines and confirmed the title to the mine as well as everything else, as the Senator from Colorado urged yesterday.

You all know how confirmations are got through Congress; and I do not think in endeavoring to protect the public interest, even if Congress has in particular cases confirmed mining claims as well as land claims, that when we establish this general system we are bound to extend it to such cases because we have given more than somebody was entitled to in a particular case. The upshot of the real business is, as it appears to me, that what this bill and this sort of legislation requires is to give every man his due and nothing more; and that that is to be determined in each case by itself upon the principles of law just as the bill provides. If the grant gave him the mineral, he gets it; if it did not, he does not. But if you put in the somewhat vague—very vague I will say with great respect to the Senator from New York—statement that if in cases the practice of the United States can be found to have warranted the giving to some other man of a mine this man shall have it, you might just as well, as the Senator from Colorado has moved to do, strike out the whole thing.

Mr. CONKLING. Mr. President, in offering my amendment I did not fail to admit that it might not be apt in the very words, and I stated that I prepared it on the instant without the opportunity of reflection; and any criticism which any Senator will pass upon it in that regard, I am willing to believe in advance may be a very just criticism. But I cannot doubt that the language as it now stands is open to two objections. It is in the first place, as I think, very vague, adopting the words of the Senator from Vermont. Let me read:

No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed effected the donation or sale of such mines or minerals to the grantee.

Can the Presiding Officer tell me with certainty what that language means? Can any member of the Senate state with certainty what that language means? Does it mean *ex vi termini;* does it mean expressly, or literally, or does it mean as construed by the courts heretofore, as interpreted, as read in the light of surrounding circumstances, according to such canons of construction as have been applied to these grants? I do not know. I do not think any Senator can affirm with certainty.

But now suppose it means and will be held to mean what I understand the Senator from Vermont now to indicate, namely, that unless the grant in so many words applies to minerals no allowance or confirmation shall ever confer any right to those minerals; is that just? I ask the question with diffidence and with deference, because it is a subject on which I have no such particular information as the Senator from California [Mr. BOOTH] I presume has, as the Senator from Colorado [Mr. TELLER] in front of me has, and as other Senators have whose States and regions are prolific of these questions. I understand the practice of the Government to have been, not capriciously in a case here and a case there or in all cases from favoritism or from the push with which they have been prosecuted, but I understand the decisions of the court to have been as a rule of law and interpretation applicable to all, in view of which all have fallen, all have settled, that where a grant was made of land saying nothing about minerals, and it turned out afterward that on that land or in that land minerals were found, the grantee, the purchaser of it became entitled to those minerals, and his grant was confirmed accordingly. The Senator from Colorado, who is not only an intelligent lawyer but familiar with this subject, will know whether I state incorrectly the general effect of these decisions.

Mr. TELLER. I believe that is the universal decision; in fact, there is no exception to it, commencing with the Mariposa claim early in the history of California. The Senators from California I think will support me in that.

Mr. CONKLING. If I may assume that as one of the elements of the case, can I be wrong in supposing that a very great injustice, not to characterize it as strongly as I might, would be the sudden interposition of the Government without notice, and applying its action to all pending cases, that is to all instances of inchoate titles where a grant not yet confirmed has been taken by grantees, purchasers, settlers in good faith, relying upon the law as it stood, the chance and opportunity and fortune of discovering minerals being one of the increments of value, one of the inducements, one of the elements of the contract which they made, of the act which they did? Can I be wrong in supposing that for the Government to interfere suddenly by one fell swoop, applicable to all alike, without distinction or discrimination, having the effect which I have stated, is an act of injustice toward those who, with the decisions of the courts before them, uniform and unexceptional, with the practice of the Government before them, uniform and unexceptional, have gone on and, as they supposed, and had a right to suppose, acquired vested and valuable rights which are thus to be suddenly and utterly taken away?

This may strike me very perversely; my understanding of it may be very superficial; I have admitted already that I should have great diffidence in my own impression about this if it were to differ with that of Senators from the States in which these questions abound, and who must have given their attention to them. But considering the question at large as we should ordinarily a familiar question of vested rights and pending claims, it seems to me that this provision, if it shall have the effect which I have ascribed to it and which I understand the Senator from Vermont to ascribe to it, namely, of being leveled at every grant which does not in so many words include minerals, would be very indefensible and very hard.

Mr. EDMUNDS. To my friend from New York, before he sits down, I would suggest that I do not see where he got his impression of my construction of this clause that he states, for I do not remember to have said that; or certainly if I did say it, I was not thinking very accurately of what the committee had done, because on the former occasion when the present presiding officer was chairman of the committee, as well as on this occasion under the present organization of the committee, the object of adopting the language "unless the grant claimed effected the donation or sale" was to make a rule which would apply to the legal effect of each grant, not how it read in terms as distinguishing the letter from the spirit.

Mr. CONKLING. What is that rule, the Senator will permit me to ask?

Mr. EDMUNDS. The rule is to construe every instrument according to the intentions of the maker; and if in a deed the word "appurtenances" does not exist and yet in point of law of the country where the appurtenances were that word was unnecessary in a deed and there was a spring of water on the land, the man would have it. In other words, take the legal rights of each man under his grant, (and these grants are always of record or in writing,) according to the law of the country from which he derived his grant. That is the effect of his particular grant.

Mr. CONKLING. May I ask the Senator does he mean by this language that it is to be applied to every case, considering it now as *res nova*, without reference to what has been the practice of the courts or of the Government, unless the grant itself by its terms covers the minerals? Does it mean that?

Mr. EDMUNDS. Mr. President, I am sure I am not able to state it any more clearly. I am sorry I cannot state it more so, but I cannot state it any more clearly than I did before. My statement was that if by the principles and rules of law of the country making the grant the effect to the grantee getting a grant was to give him the minerals, then he gets them. Whether it was put in one particular phrase of words or another particular phrase of words, or no phrase at all, if when he went to the intendant and got his proper papers and took all the steps to entitle him to the particular number of leagues, if the result of that performance was to give him the mine, he gets the mine; if it was not, then we leave him exactly where he was before. It is not a question of phrases, as we think, but a question of the legal effect of the transaction between himself and his Government. That is as near as I can state it.

Mr. CONKLING. I have no doubt the Senator has stated it clearly. It was said of Burke that with all his greatness he sometimes failed to adapt his style to the capacity of his hearers; and I have no doubt if there be a fault in the Senator's style this morning, that fault is in the capacity of his hearers; and as a great judge once said the court cannot measure the size of people's understandings but has to deal with them as they are, so Senators must vote according to the imperfect lights before them.

Now, I do not understand, after hearing the Senator from Vermont, whether he means at last that this bill shall say what I have tried to make it say in my amendment, namely, that a grant (even if considered as an original question it would not be so interpreted) if of that form and species which the courts and the Government have held does cover and convey the minerals shall be excepted from this operation, or whether he means to establish a new rule of construction, a new effect of interpretation. I cannot understand that after listening to him. But if he means that these grants, no matter whether they have been artificial and industrious in their terms or not, no matter whether they have said that the appurtenances and the hereditaments, corporeal and incorporeal, and so on, should pass; no matter whether they have employed all the terms of art known to a skillful conveyancer or not, nevertheless shall be held as they have been held, to carry with them the minerals, then my amendment verifies that meaning. If, on the contrary, it is not intended to change the construction and change the effect of these grants, then I submit that the objection which I make and which the Senator from Colorado made is well taken.

At all events, Mr. President, I think I shall insist upon a vote on my amendment, although it might be improved in phraseology, for I cannot think any harm will come of saying that the grants, whatever they may be, which have been decided by the courts and accepted by the Government as covering minerals shall not be struck at by this provision. The amendment will have that effect, and I think that is a saving effect.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. MCMILLAN. Mr. President, I desire to understand the effect of the bill and of the amendment suggested by the Senator from New York before I vote. I therefore venture to say that as I understand the text of this bill it provides that where by the laws of the country from which the grant is held mines or minerals on the lands granted passed to the person holding the grant, they shall so pass under this law. The effect of the amendment of the Senator from New York as I understand it is this: our courts have been called upon in various cases to pass upon the legal effect of grants made by the countries under which the grantees claim; and the amendment is to incorporate as a part of the legislative provision the effect of those decisions and to say that the grants as construed by our courts heretofore shall have the same effect under this provision of this act.

Then the only question is, as I understand, whether we shall leave the question as to the effect of these grants open for the courts to decide now governed as they may be by the former decisions or not; they may follow former decisions or they may change those decisions. That, as I understand, is the effect of this bill. I do not see why we should incorporate into an act of Congress the decisions of courts and make them law. Let them stand on their own merits.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. CONKLING. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. PLUMB. I have not heard the discussion on this amendment and do not know that I understand entirely its purpose, but I desire before the vote is taken to ask the Senator from Vermont, the chairman of the Committee on Private Land Claims, who reported this bill, a question. I ask whether in his judgment the confirmation provided for by this act is other and different, and if so in what particulars, from the confirmations that have heretofore been made by special acts of Congress? I understand the courts have decided that the confirmations heretofore made by special acts of Congress have taken everything within their limits. If that be true, then we are creating a rule now for a class of people who have not been diligent enough to appear here and get a special act of Congress in their behalf, which is much more limited in its application than the rule we have heretofore applied to the diligent people whom I have mentioned.

What is "mineral land" has received a good many different constructions. It has recently, by the action of the Interior Department, received an entirely new one, that is to say new to the rulings and construction of that Department. Recently it has been held that any land that contained minerals was mineral land within the meaning of the statute, no matter whether the amount of mineral was great or little. I think I may safely say that what is not mineral now for practical purposes may be mineral for practical purposes in the next ten years, perhaps within the next five years. The process of the extraction of mineral from the baser metals, from different characters of rocks, and from gravel is constantly being cheapened by the inventive genius of our people until it is confidently expected by persons well posted on this subject that within the next few years large bodies of land which are now regarded as entirely worthless for mineral purposes will be for practical purposes mineral; that is to say, lands may be profitably worked for mineral when now they cannot be at all.

I presume that there is not a single grant within the limits of New Mexico or Arizona that does not contain more or less mineral on much the larger portion of it. It would therefore be mineral land to-day under the construction of the Interior Department, to the extent that it cannot be entered for town-site purposes, for the law says that town sites cannot be taken on mineral lands. It would therefore come within one definition at least of mineral as contained in this subdivision of the section. It would be, as I think, a constantly shifting rule of construction. That which is not mineral to-day would be mineral to-morrow, because it would be simply a question of how much or how little mineral would tempt the cupidity of a man who sought for mineral. But under our statute all mineral lands are open for exploration. The presence of mineral in infinitesimal quantities in any piece of land covered by these grants would authorize any person who sought to mine or should even pretend that he wanted to mine to enter the limits of these grants and explore for minerals. And so what we intend to be here the quieting of the title of a person holding a grant to a particular piece of land would be practically disquieting his title. There would be no acre of all the areas we confirm that would not be sooner or later made the subject of this exploration which all mineral land is subject to. That, of course, would practically destroy what we assume to give.

It is better that in some way we should distinctly define the limit of this exclusion, of this exception which we make in favor of the General Government. I think myself that so far as the profit to the General Government is concerned, we had much better give it all to the man who has a grant and let him take everything within its limits. As I understand, the practical effect of the Spanish law in the case of an agricultural grant was that the person having the grant had a right to the possession of all mineral lands within his limits, but he was required to respond in a royalty to the Spanish government. He was entitled to possession; he was not subject to be ousted; no person had a right to enter on his land and mine it without his will or consent, but he himself alone was entitled to mine it; and as the Senator from Colorado suggests, if any one did enter upon his premises for the purpose of mining he was required to respond in damages on account of such trespass.

Now, we simply open up to this energetic, pushing, crowding class of people who flock to the western frontier for the purpose of mining the possession of every single acre of those persons who hold grants under the Spanish Crown or under the Mexican government. Instead, therefore, of giving them what by treaty we said we would give them, as good a showing, as good a title, as complete a possession as they would have had if they had remained subjects of Mexico, we are simply opening their lands to trespasses which will continue every year to grow in extent, because every year the circumstances which make these trespasses profitable will constantly be changing, and you may say the inducement will be constantly increasing for these trespasses. It seems to me, then, that by the passage of this act we are doing the very thing which we ought not to do. Instead of giving these people a title we are opening up, we are inviting by the terms of this act everybody who seeks for mineral to enter on these lands and dispossess the people who are now quietly in their possession.

Mr. GARLAND. Mr. President, the theory of the bill, if I comprehend it, is that these parties have inchoate claims which, by the process provided by the bill, are to be perfected for all time; that is to say, what they get under this confirmation shall merge into a patent from the United States that will give them the title to this piece of property and all the title that this proceeding contemplates they shall have at all. It provides various steps. When a person makes his application for confirmation and obtains his decree, it is to be transmitted to the Interior Department after the land is surveyed, and the decree is to be specific as to all the rights of the claimant, whether his title be to minerals, to mines, or to anything else. I suppose the intention of this provision was that unless the Mexican or Spanish grant intended to convey the mines or the minerals the party is not to have them.

Mr. DAVIS, of Illinois. That is the meaning of it.

Mr. GARLAND. That is the meaning of it. That is my version of it. I wish to put an end to the controversy for all time. When you submit it to the decision of the courts from time to time you should remember that courts change their opinions frequently; the judicial pendulum, so to speak, oscillates, and a man may find sometimes that he thinks he is obtaining mines and minerals when the course of the decisions of the courts may suddenly change and leave him high and dry on his mineral rights. So I would have it in this bill specific, if the language is not already specific enough, that this particular allowance or confirmation shall find the fact directly whether the grant did convey the mines or the minerals. So I would put in after the word "unless"—and I suggest it to the Senator from Vermont, for I dislike very much to tamper with his work, he having had the bill in his committee for two years—the words "in the opinion of the court," that is the court trying the case and passing upon the rights of the party. Let it be shown there, by the record, if there be any record of these titles, or outside the record *aliunde*, that the mining right or the right to the mines was conveyed or intended to be conveyed by the grant, whatever it may have been. That determines the question; and when a patent is issued upon that decree it carries with it all the rights that the decree of the court intended the party should have, and it is there a muniment forever, and no changing of the court's decisions afterward, (which I am not familiar with except from the statement made by the Senator from Colorado,) will change this party's right. That is the object of course, if there is an object at all, about such a proceeding as this, to make the title complete and perfect for all time. With due deference I shall offer an amendment at the proper time to insert after the word "unless," in line 18, the words "in the opinion of the court."

Mr. EDMUNDS. That amendment may be an entirely proper one; I think that is what the clause means now, and I do not know that I shall object to it; but it is not before us now. I shall occupy but a moment in reply to my friend from Kansas [Mr. PLUMB] who has stated a new point, that this is going to injure the claimants by mining fellows overrunning them in hunting for mines if this is reserved. The committee thought it would have exactly the opposite effect in respect of securing all honest people and excluding those who were not. We thought that if we took away from everybody the temptation to prove up a false claim where he suspected there was a mine in it so that he would get the mine by force of getting the grant confirmed, we should be much more apt to get a true report on these ancient titles than we should be if we put in the temptation of a venturesome person hunting out and finding a piece of land with a good mine in it and then, as has happened more than once, fabricate a grant and put it through the courts on false testimony in order to get that mine. If we leave the bill as it stands, all that temptation is at once avoided, and having thus avoided that temptation we shall have taken one step toward getting a proper settlement of this question. We know how liberal the United States is about mines; and afterward when we have found where these titles lie, we can then dispose, without any great danger, of what mining rights there are.

Mr. DAVIS, of Illinois. I simply wish to say one word. I hope the amendment of the Senator from New York will not be adopted. We certainly ought not to confirm to any grantee of the Mexican government the minerals, unless it was intended by the Mexican government that the minerals should pass with the land. If it was so intended, the United States cannot properly get out of the obligation they have assumed, that whatever the Mexican government granted to private individuals should be respected by us. But there are very few claims in New Mexico in which the mineral was intended to be granted by the government. Every intelligent man knows that. Most of these were colonization grants, immense quantities of land, ten or eleven leagues, hardly less than that amount in any case.

We cannot put in a provision that what a court has decided heretofore, or what may have been the practice of the Government heretofore in relation to these things, shall be the law; but each claim should stand on its own bottom. What the Senator from Arkansas [Mr. GARLAND] has proposed probably improves the language of the section, but I insist upon it that it is plain enough without it, but with it it probably is still plainer, that this court, which is created by the United States Government years after the acquisition of this territory to carry out the provisions of the treaty by which we acquired New Mexico, shall decide as to each particular piece of land upon the laws of the government from which the grant came and the principles of equity which we here incorporate.

Mr. CONKLING. The Senator understands there are very few individual claimants, if I catch his meaning.

Mr. DAVIS, of Illinois. There are very few grants of land in New Mexico in which it was intended by the government making the grant that the mines should pass with the land. They are nearly all colonization grants.

Mr. CONKLING. I offset what the Senator says, speaking upon hearsay although the hearsay of another Senator, by the statement that there is a large number of these claims held by meritorious people, exceptionally those who ought not to be visited by this hardship. I am told, as the Senator from Kansas has said, that those who have already overpassed the danger and the barrier have been those diligent enough, pushing enough to come and take time by the forelock and secure the legislation and the confirmation which has taken them beyond the reach of this statute, and those who remain are people of a little less bouncing nature, a little more sedate and trusting, who have supposed that they might rely upon the faith of the Government and upon the decisions of the courts. If it was one single instance the Senator might say that a general rule sometimes must disregard an exception. He might excuse it in that way; but I understand there are a great many of these people, the case of either of whom would be one of flagrant hardship if stated here. Therefore I do not see why we should not adopt language which will steer clear of doing wrongs of that sort.

Mr. DAVIS, of Illinois. I do not believe there is an honest claim in New Mexico originally but what has been purchased up by speculators on this subject. I do not believe that a single grant which is now supposed to cover mineral land is in the hands of the original grantee.

Mr. CONKLING. What does the Senator mean by "speculators?"

Mr. DAVIS, of Illinois. Those who have purchased up the grants in view of the mineral in the land.

Mr. CONKLING. Very well, we will take such a man as that. Here goes a man from the State of New York, and he goes believing or hoping that there are minerals. He is a speculator. He travels out with the restless foot of adventure, and there he pays his money and there he casts in his lot. I do not believe that my honest friend from Illinois will rise here to taunt him with being a speculator, meaning by that to fasten upon him a phrase of ignominy.

Mr. DAVIS, of Illinois. I will say this, that the man who buys that land must be governed by the laws of the country from which we obtained the territory—that is all. He is not to be governed by the decisions courts may have made in other cases.

Mr. CONKLING. My friend will pardon me a moment. He must be governed as four-fifths of the sires of Illinois were governed, when as has been said they crossed the prairies as our fathers crossed the sea; undoubtedly he must be governed by good faith, by law; but he is not to be taunted, I submit, by me or my honorable friend from Illinois, especially if he will pardon me for saying so, representing as he does a constituency all of which went West originally as speculators, as adventurers, as men who went out to subdue the prairie and the forest, as these men have gone into these mines to make their fortune. They are not to be taunted because of their adventure.

Mr. DAVIS, of Illinois. Does the Senator from New York compare the settlers of Illinois with the people who have gone from the cities to buy up the mineral lands in New Mexico?

Mr. CONKLING. Oh, Mr. President, I dare not put into competition with the constituents of my honorable friend the men from New York, whether they went from cities or from hamlets, who have gone out, not to Illinois as many of them did, but somewhere else to cast in their lot, to redeem waste places. I will not enter into any such competitive exercise with the Senator as that. I have the greatest respect for his constituents, as he has; and it is not diminished by the fact that from New England, from New York, from other Eastern States they and their fathers went on exactly such errands as those on which these claimants have gone, to better their condition.

Mr. DAVIS, of Illinois. I deny it utterly that they went on any such errand.

Mr. CONKLING. Mr. President, whenever my honorable friend is in the denying mood, when he sits down leisurely and calmly to deny a thing chronically, I always like to give way to him because I know that he is laying it with a *continuando* on such occasions, and I do not object——

Mr. DAVIS, of Illinois. They were poor people, and went there to better their condition, and purchased land from the General Government, one hundred and sixty acres each, if they had money——

Mr. CONKLING. Who did?

Mr. DAVIS, of Illinois. The people who went to Illinois with no mineral in the State, and they did not go there for the purpose of buying up old titles. They were people of very limited means.

Mr. CONKLING. I do not see what the Senator's constituents have done to him that he should get up and call their fathers poor people.

Mr. DAVIS, of Illinois. They were poor people.

Mr. CONKLING. The Senator is entirely mistaken about that. Some of them were poor people, some of them were not. I know who they were just as well as the Senator does. They were members of some of the most honored families of the State of New York. They were not poor. They were very meritorious people. They went with money in their hands able to pay and they did pay twenty shillings in the pound for what they bought, and they settled there, they and their children. Many of them were poor, no doubt; and if it makes anything against those in whose behalf I am saying a feeble word to charge them with being poor, or to admit it, I will stipulate with the honorable Senator that they are poor. I notice that a great many of them—speaking of Illinois and other States—were not near so poor a few years after they went as they were when they did go; but if, when they had bought their one hundred and sixty acres or whatever they bought in any State, the Government had come in with an enactment performing, a process so quick that you could not see it done, by which they had been cut out of their rights, perhaps the honorable Senator would be able to say with more sweeping truth than he can say now that they were poor and that they are still poor.

But, Mr. President, this is all beside the purpose. These men are speculators; so the Senator from Illinois says. I accept it. They are speculators, as he is and was a speculator. He went to the State of Illinois at an early day. He helped to build up that State, and has honored it by his character. But philosophically speaking he was a speculator. Why? Because if he thought he could have bettered his fortune by going the same distance east or north he certainly would not have made a bee-line for the State of Illinois. In that sense these men are speculators.

Mr. TELLER. Mr. President, no one has given any reason why we should change the rule that has been in force in this country since the Government was organized.

Mr. EDMUNDS. I should like to see the rule.

Mr. TELLER. The Senator from Vermont says he would like to see the rule. I do not suppose he or anybody else will deny that whenever the Government has parted with its title to land or recognized title to land in the individual it has acknowledged his right to the minerals in that land.

Mr. EDMUNDS. I deny it.

Mr. TELLER. The courts have so held.

Mr. EDMUNDS. I should like to see the decision.

Mr. TELLER. The honorable Senator denies that which everybody understands. The Government has never retained a royalty in mines. If the Senator can state even a single case where any court has ever so held I will agree that I have overlooked the subject, for I have examined it very frequently, and I think the courts never have held that after the Government had parted with its title to the land it still retained the minerals. In 1824—I speak from recollection; it may not have been that year, but I think it was—the Government provided a law for settling——

Mr. EDMUNDS. Here is the syllabus of one decision:

The United States have not conveyed or dedicated the minerals in the public land to individuals or to the public.

That was a case that arose under a claim of a private person that his grant from the Government had given him the minerals. It is from McAllister's Reports, I think California Reports.

Mr. TELLER. That case does not decide, and I say here now that there is no case which decides, that when the Government has parted with its title to the land it owns the mineral. It decided simply that when the Government allowed a man to go on the public domain it had not parted with the title to the minerals by virtue of that grant or permit; but long before the case to which the Senator alludes, it had been decided in reference to the lead mines at Galena. There has been a universal rule that when the Government made its patent it made its patent to everything that was under the surface.

As I was saying, in 1824, to settle the land titles in the Louisiana purchase, Congress passed an act something like this, providing for a commission; I do not remember the particulars of it; but no reservation was made in that of the minerals that existed in Arkansas and Southwestern Missouri.

In 1851 when Congress passed a law with reference to the settlement of land claims in California, most of that State being then covered substantially by private Mexican grants, the Government did not reserve to itself any right to the minerals; and those titles were adjudicated first by the land commissioners, and if no contest was made then the Government gave a patent as a matter of form simply. If there was a contest it went into the courts and on the decree of the court the patent issued. No reservation was made in any of these patents, and the Senator will not claim here on this floor that the Government in any of that land for which it has issued its patent has any right to the minerals.

Mr. BLAIR. Will the Senator allow me to ask a question? In cases where the Government makes a patent to land it is either as agricultural or as mineral land, is it not—either in one form or the other?

Mr. TELLER. No.

Mr. BLAIR. But in case it has been patented as agricultural land, it not being then known that there is mineral in the land, does not the mineral pass under the agricultural patent?

Mr. TELLER. I will answer the Senator from New Hampshire that when the Mexican grants are confirmed there is no indication whether the land is mineral or agricultural, but it has been held with reference to agricultural land, land that was returned as agricultural and was yet in fact mineral, that if the Government parted with its title, whether it was in ignorance or with knowledge that there was mineral in it, the mineral has passed with the grant. That has always been the rule.

As I was about to say when interrupted, we passed a law with reference to the settlement of claims in New Mexico; we provided that the United States surveyor-general should have jurisdiction of simply the question of evidence; that he should take the evidence and report it to Congress, and upon that Congress might or might not, as the Senator from Vermont said yesterday, issue a patent. Under that system a large number of patents have been issued, and in none of those patents has the Government reserved the mineral.

Now, why, after a hundred years, adopt a different rule, a rule that never was founded in wisdom, but founded simply upon the old notion that everything that was good in a country must necessarily belong to the sovereign? Why should the United States hold any part of the mineral in the land where they do not own the surface, too? There is not any reason which can be given why it should be done, and this provision is in utter and entire violation of the stipulations of the treaty.

The Senator from Vermont is in the habit of lecturing the Senate sometimes, if I may use the term, upon their disregard of the obligations of the Government. No more solemn obligation exists against the Government than exists in this treaty made with a neighboring country. We stipulated that we would recognize the rights of these people to be exactly what their rights were in Mexico; and yet the Senator comes here and introduces a bill that I say and other men who are familiar with the country say may sweep every acre, every inch of the ground which a man has, though he may have held his title since the year 1540. The Senator says it is only for incomplete titles. What are incomplete titles? All titles that have not been confirmed by grant of Congress.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the regular order is before the Senate.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. HILL, of Georgia. Mr. President, I shall now read a portion of the telegrams alluded to on yesterday. I am going into the evidence only so far as is necessary to make clear the legal questions which I propose to discuss before the Senate.

These telegrams show beyond all controversy that the sitting member himself regarded that his title to his seat in this body depended upon the successful suppression of the evidence of bribery. From the time the Senate proposed to order an investigation of this case until the examination was closed in this city in June, 1879, the sitting member and several of his friends in this city were in constant communication by telegraph with Badger, the collector of customs, and with Souer and others in New Orleans, upon the express business of seeing to it that the members of the Packard legislature were not allowed to confess that they were bribed. The necessity for this arose from the fact that the members had commenced making confessions under oath. They had learned that indictments for receiving bribes, while they were members of that Legislature, would not lie, because prosecutions were barred by the statute of limitation, and they would therefore be safe, and having no moral shame they were perfectly willing to confess and did, many of them, begin to confess that they received bribes for their votes for the sitting member. They had to be stopped.

I will call the attention of the Senate first to the frequent declarations on the part of the sitting member in the cipher telegrams, that his safety in his seat depended upon the fidelity of those members of the Legislature to him.

The first telegram we have was sent from Washington City directed to General Badger, collector of customs, New Orleans, and dated May 2, in which he says:

Tell Violet send all good bales improper approaches. Can star here if grape sound. Confident. Terrier ditto.

The translation of this is:

Tell Souer to send all good affidavits of improper approaches. Can succeed here if members of the Legislature are faithful or sound. Confident. KELLOGG ditto.

In these telegrams the sitting member has two names. He passes by the name of Terrier and also by the name of Amity. He frequently speaks of himself in the third person. See that expression, "Can succeed here if members of the Legislature are sound. Confident. KELLOGG ditto." The very next day, May 3, another telegram is sent to Souer, the appraiser of customs. In this telegram of May 3 occur these words:

If grapes are kept moon, Terrier be moon.

The translation is, "If members of the Legislature are kept safe, KELLOGG will be safe." That is a literal translation. On May 8 he telegraphs Badger again, in which occur these words:

If grapes Pin Amity Moon.

That is, "if the members of the Legislature are *fixed*, KELLOGG is safe." "Pin" means "fixed," "moon" means "safe." Then, again, he telegraphs to Badger on May 10:

Friends here expect Rose to bend every energy making grapes. Pin and moon.

The translation is, "Friends here expect Marks to bend every energy to make the members of the Legislature fixed and safe." Marks was the internal-revenue officer.

I will remark here that these telegrams are very badly printed. This telegram was not printed correctly, because there is a period after "grapes," which should not be there. I have compared them with the originals and state them correctly. May 12 he telegraphs:

If Grapes are pin moon Terrier.

"If the members are fixed KELLOGG is safe." On the 20th he says, in a telegram to Souer:

Rainbow here if Moon grapes.

That is, "All safe here, or all right here, if the members of the Legislature are safe." So again, May 27, he telegraphs Badger, collector of customs:

Moon here if rainbow there.

That is, "I am safe here if all is right there." I say to the Senate that in these telegrams occur the same idea under different expressions time after time: "My seat here is safe if you keep the members of the Legislature right. Everything depends on them."

He gives you the reasons for that, but before going to the reasons for it I want to call your attention to one remarkable fact. There was one witness that he was especially anxious to have fixed. That was Murray, who was the sergeant-at-arms of the house. Murray was a very important witness in this case, and it is shown here that before he was summoned he was regarded by the sitting member as a most important witness. There seemed to be more trouble about Murray than the others because he was more difficult to *pin*, to fix. Murray is the witness who rejected all efforts at corruption, as the record shows. He was offered a large sum to sustain KELLOGG by his testimony. Refusing to accept any sum to testify falsely, as testified to both by himself and Williams, he was then offered money to leave the country and go to Canada and remain there until the investigation closed and he should receive a telegram, "the Union forever," which would mean that he could safely return. You will see it all in the testimony of Murray and Williams.

Now, let us see from these telegrams how anxious the sitting member was to fix Murray even before the investigation was ordered and through the investigation. In the telegram of May 3, directed to L. J. Souer, the appraiser of customs, he says:

Hope Rose Violet keep boat Pin.

Here is the translation:

Hope Marks and Souer will keep Murray satisfied, fixed.

"Boat" means Murray and "Pin" means "fixed" or "satisfied."

Then he adds what I read awhile ago:

If the members of the Legislature are kept safe KELLOGG will be safe.

On May 7 again he telegraphs this earnest telegram, directed to Badger, the collector of customs:

Think it is important that boat be moon. See to this. Confer with Violet and Oak immediately.

The translation is:

Think it is important that Murray be kept safe. See to this. Confer with Souer and Lewis immediately.

Lewis was naval officer and the celebrated witness in this case who came on here in charge of Spofford's witnesses, in the same train with them, and said he only came to see the brigadiers in session. Again he telegraphs on May 22 to General Souer:

Hope boat Bottle rainbow.

That is, "I hope Murray has been bottled all right—shut up." He adds, on the 29th, to another telegram to General Souer:

Hope boat rainbow.

"Hope Murray is all right." He ends the telegram on June 3 to General Badger in this way:

How boat is look.

"How is Murray looking?" Will any sane man tell me why it is that the sitting member and his immediate friends here were telegraphing to the collector of customs, to Souer and his friends in New Orleans, no less than a dozen times, that the safety of his seat depended upon the members of the Legislature keeping silent or being fixed? He telegraphed no less than half a dozen times to see to it that Murray especially was kept all right, that Murray was safe, that Murray was fixed. Fixed for what? The other telegrams disclose. It is explained by the telegram I read a moment ago:

Friends here expect Marks to bend every energy to make the members of the Legislature fixed and safe, satisfied and right.

How is Marks to do that? By appointments. Appointments for what? It is not left to conjecture. Read the testimony of H. T. Brown, testimony that is uncontradicted and unimpeached. Brown says that Marks told him that while this fight for KELLOGG'S seat was going on he, Marks, could do nothing for his own friends, that "he was compelled to appoint a lot of curs and hounds in order to keep them *from squealing on* KELLOGG."

How were these members to be kept from squealing? Let me read you some on that point. I have read you the telegram already in relation to Marks bending every energy to make the members fixed and safe. Here is another on May 12, showing you how these members were to be fixed, in what way they were to be kept satisfied. This is to General Badger:

Murrell approved. Tell Souer to send list of good safe members. Go ahead with nominations; that is necessary. Good plan to make Smith examiner.

I will not read the ciphers further, but will read only the translation: "Go ahead with the nominations; that is necessary." Necessary for what? The very telegram before explains for what. To keep the members safe, shut their mouths, bottle up Murray. "If the members are kept safe, KELLOGG is safe." Here it is again:

Washington, May 13—

The very next day—

Appoint Chapron. Answer Sherman's letter of the 29th. Telegraph Kellogg that fact. Give Waldon also some place.

One fellow who was a little unruly by the name of Camelia—he goes by that name here—was considered not much any way and was dismissed. One of the telegrams said that he could not do any hurt, and they dismissed him.

Here is a remarkable telegram, and it confirms everything you can suspect as to the object of these appointments. It is dated May 19, and directed to General Badger, collector of customs:

Wakefield, Brown, Fobb, Springer, Walden, Joubert, Fish, Chapron, Carville, Adolph, Seveignes, approved.

What is that? Eleven nominations sent by Badger. He telegraphed "Go ahead with nominations," and here come eleven in one batch that were approved, and he says:

Last lot goes to-day, all nominations received approved.

He does not even leave us in doubt as to the important question in the case between him and Spofford upon which he wants to suppress this testimony. Here is a telegram, of May 28, showing that he understands the issue perfectly, and what it is he wants suppressed, because he shows what Spofford is seeking to prove:

Spofford or Merrick—

Spofford's attorney—

is hunting for evidence to show that five members of the Legislature were bribed, leaving less than a quorum of those not bribed. Watch.

You see it took seventy-nine members of the joint session to make a quorum. The journal pretends that eighty-three were present. Now, here is a telegram to General Souer, the United States appraiser at the custom-house, New Orleans, directed to him in his official capacity, notifying him that the memorialist has been hunting for evidence to show that five members of the Legislature were bribed, leaving less than a quorum of those not bribed. "Watch." Do not let those five be found. Here it is again. May 31 he telegraphs General Souer:

If Spofford fail to show bribery bad mess for him.

"If Spofford fails to show bribery, bad mess for him," and of course that bribery must not be shown, and that it may not be shown, "keep the members of the Legislature fixed." Then the same telegram says:

Matters going in favor of KELLOGG. SAULSBURY, or chairman, gives KELLOGG'S officer summons for eight witnesses. Spofford also limited to eight. Press all favoring KELLOGG.

Very complimentary to the press.

SAULSBURY disgusted with Spofford. *If Spofford fail on bribery he is beat.*

(The word "or" there is "on." I have compared it with the original telegram. It is a mystery how these telegrams are so badly printed. I have had to go to the originals to get the correct words.) Here is telegram after telegram urging Badger, Souer, Marks, and others to "keep the members of the Legislature fixed." They had committed perjury; many of them confessed their perjury; nevertheless they must be appointed to offices. "All nominations received will be approved." "Hurry up nominations," or, "go ahead with nominations; that is necessary." It is necessary to keep them fixed, to keep them "from squealing on KELLOGG."

I will now show the Senate how this man kept watch on Spofford's witnesses. On the 7th of May the Senate ordered the Committee on Privileges and Elections to take testimony. KELLOGG, in the telegram of the 7th, notifies Badger of that fact:

Resolution to take testimony passed, every republican voting or paired against it. KELLOGG made a speech. Delighted all friends.

Then on May 8 he telegraphs:

If members of the Legislature are fixed, KELLOGG is safe. Perhaps Spofford will try and get the members immediately. Watch. If so, send Swazie or Lewis.

Just as soon as the resolution to take testimony passes the order goes to New Orleans to watch. To watch what? To watch Spofford's witnesses; to watch the members who may squeal; and if you find that Spofford is going to summon these witnesses immediately, send Swazie or Lewis with them; and yet Lewis and Swazie both came before the committee and swore they had no purpose in coming with these witnesses to help KELLOGG. May 12, four days afterward, he telegraphs:

It is reported that members of the Legislature are coming. If true, send Lewis or Swazie or some others immediately.

Then he adds that same expression I have read:

If the members of the Legislature are fixed, KELLOGG is safe.

"Where is Phillips?" he adds. Phillips was the man who confessed afterward, under the fire of cross-examination, that he was engaged in a conspiracy to put up a job on Spofford, which miscarried. Now look at telegram No. 32. You see that the first telegram is that Spofford may send for the members immediately. The next telegram is that it is reported that he has sent for the members immediately. Now, what is the third telegram, May 29?

Spofford's officer left with blank summons issued by the chairman, an unprecedented thing. We will make a big point on this. Summons returnable Thursday. Watch.

How often that word "watch" comes in. Jubiter is the cipher. He knows when Spofford's officer goes. He knows he goes with blank summonses. I suppose it is an open secret that Mr. Spofford wanted summonses issued blank, to keep KELLOGG from finding out who his witnesses were, because he knew these very efforts would be made to get control of them and "fix" them. The next telegram, which is the very same day—he issues two telegrams on that subject the same day—is as follows:

Spofford's man left this morning accompanying Cato. Watch every movement. Watch closely Swamp and Wheelwright and others. Hope Murray is all right.

You see how his anxiety about Murray grew. Now look at telegram No. 36:

When you know Spofford's witnesses sure wire Jack what witnesses to summon for KELLOGG. Tell Marks to have Spofford's witnesses fixed right before they leave.

What can be more significant than that? Turn to telegram No. 48, which is dated June 10. The examination had been progressing several days then. It commenced on the 5th. After examining several witnesses Mr. Merrick made a statement to the committee that he had no further witnesses except two that he was expecting with a messenger. KELLOGG being there, hears this, and goes out and telegraphs to Badger:

Merrick stated to chairman that he had no more witnesses until the arrival of two who were coming in charge of a messenger. Who are they?

You see how alert the man was. From the time he suspected that Spofford was going to summon witnesses and commence the investigation of the case he telegraphed his friends in New Orleans "to watch. Keep the members straight." "Keep them fixed." "Give them appointments;" and he keeps it up to the end of the chapter. Then he had Lewis, Swazie, Williams, Walsh, Randall, and Molere and others to meet the witnesses at the depot here ready to take charge of them until after they gave their testimony. He wanted to know by telegram who were coming, so that he could meet them and have them in charge and keep them fixed.

Mr. President, I now want to call the attention of the Senate to some telegrams that I would rather not have read. Of course the telegrams I have read show you that the sitting member and the whole custom-house were in accord and they were using all their power to keep members fixed by appointing them to office, but of course the officers down there could not do much without the approval of the

head of the Treasury Department, because if the nominations when sent here from the custom-house were not approved the whole scheme would fall. I call your attention, then, to telegram 3, which was read by my friend, the Senator from North Carolina, [Mr. VANCE:]

Please appoint Ash and Zebra to places permanently. Important. Make all the appointments you can while Sherman is absent. Hawley is a little easier. Sherman is away a week.

"Make all the appointments you can while Sherman is absent. Hawley is a little easier;" that is, Hawley serves him better than Sherman. Sherman struggled with his virtue and his virtue fell in a very few days. He says in this telegram, "Sherman is away a week." Now turn to telegram 16, ten days later, and you will see things are getting better:

Appoint Chapron. Answer Sherman's letter of the 29th. Telegraph KELLOGG the fact.

That is the 13th of May. Then on the 14th he telegraphs Badger:

Please appoint tiger for Sherman.

Why Sherman wanted that particular appointment down at New Orleans I do not know. On the 17th this telegram was sent to Souer, appraiser, custom-house, New Orleans:

I go to New York to-day. Back Monday. Tell Marks he is all safe at the Department; not to worry, he is all right here.

Here was a great change in Sherman. He was now quite as easy as Hawley, and Marks was encouraged not to be afraid of him in appointing "curs and hounds to keep them from squealing on KELLOGG."

Now I read telegram No. 47, by which you will see Sherman had become perfectly agreeable. It is dated June 9, to Badger:

Have no fear about Sherman. He is all right in everything Marks does.

A complete submission. At first he hesitated, then he seemed to grow indifferent, then finally "he is all right in everything Marks does." "Have no fear of Sherman!"

Sir, what is to be said when, if these telegrams are true, the head of the Treasury Department of the Government is allowing the patronage of his office to be used for the purpose of controlling a contest for a seat in the Senate, allowing the public offices of the country to be given to witnesses expressly to prevent them from telling the truth, in order that he might keep a man from getting a seat in the Senate who was entitled to it and give it to a man who was not entitled; for, mark you, as I have already shown, the sitting member shows that he considered his whole case depended on suppressing this evidence about bribery. That is where he thought his case rested.

This telegram concludes with the following significant words:

Seveignes has just testified all right.

Well, what does the sitting member mean by testimony that is "all right?" This man Seveignes is the witness alluded to by the Senator from Missouri [Mr. VEST] who had made an affidavit and swore that though he was a member of the Legislature and recorded on the journal as present, yet he was not present when the alleged election was had; and he came before this committee and swore that he made that affidavit deliberately; that he wrote it out himself without inducement, without suggestion, without help, and solely for the purpose of swearing to a lie; that he believed it was right and legitimate to swear a lie for the benefit of his party; and that is what the sitting member telegraphed at once to Badger was testimony that was all right, that was good testimony, safe for him! This man Seveignes was promptly promoted to a higher office in the custom-house.

I will read only one more of these telegrams. Here is a remarkable one. I am not going to stop to discuss the testimony of Barney Williams, but I can take these telegrams and convince any honest man on earth that Williams told the truth. Williams testified that he came here under authority of Lewis as a detective for KELLOGG to watch the movements of the memorialist; that he met witnesses on their arrival at the depot; that after midnight on the morning of the 5th of June he took five of these witnesses to KELLOGG's office in Willard's Hotel through the rear way. These witnesses had made affidavits in New Orleans that KELLOGG had paid them for their votes in the senatorial election.

The objection they had to "going back" on these affidavits was that they would be indicted for perjury. Some law was read to them in KELLOGG's office to convince them that they could not be indicted here. Then, when they got over that difficulty, the fear of indictment, they entered upon a trade. It was agreed that they should have $500 apiece and should be put and kept in the custom-house while KELLOGG was in the Senate. Then they all agreed to go back on Spofford and "give it to the rebel." He wanted corroborating witnesses, and on that very day the following telegram was sent to Badger, and which was received by Badger on the next day, 6th:

KELLOGG says if you can fix Foundry, Leopard, Templar, Screw, and Eagle, let Souer send them on as corroborating witnesses and the money will be ready at the hotel.

Mr. President, there are a great many other telegrams here, but I have read enough to accomplish my purpose. No intelligent man, no honest man, can read the testimony given by these witnesses and then read these telegrams and not be thoroughly convinced that the whole power of the Government in the Treasury Department was used to enable this man to suppress testimony of bribery and corruption in order that he might hold a seat in this body. It is impossible by any rule of evidence to weigh this testimony and arrive at any other conclusion. It is perfectly irrefutable and overwhelming. I am not going into it further, for I have already taken up more time with these telegrams than I intended.

What is my purpose? I have shown you by the testimony that, even counting all the persons certified by the returning board as members, yet there was no quorum present at this pretended election of KELLOGG.

They lacked seven of a quorum on the very day this man pretended to be elected, although they make the journals say that there were five more than a quorum, showing that they made up false journals.

Then the evidence places the charge of bribery of a large number of the members beyond all doubt. I am not going to stop to read the affidavits of the members themselves. Here is affidavit after affidavit of various members swearing that they received bribes for their votes. If there was no quorum of that body, conceding it to be a Legislature, and if the members were bribed, do you still say that this man is entitled to the seat? If you do, you are defeating the Constitution and keeping a man here who was not in fact chosen by the Legislature. If the body was not a Legislature, it had no power to elect. If it was a Legislature and had no quorum or was controlled by bribery, it did not elect. In either case to keep this man is to seat a man here who was not chosen by the Legislature of a State.

But again it is pleaded that the Senate has passed upon these questions. Mr. President, I am going to meet that question on a legal proposition that I challenge any lawyer to controvert. I say in point of fact, as the records will show when the case was before the Senate before, there was no such evidence of the want of a quorum, and there was no evidence of bribery; there was not even a charge of bribery, for the bribery has been discovered since and was brought to the attention of the Senate first by the memorial of Spofford when he asked that the case be reopened and reviewed. Now, I lay down the proposition that the judgment of the Senate before rendered, while presumptively it covers all the questions that could have been made, yet conclusively it covers only the questions that were made, and that the questions now before us were not made, were not passed upon, and are not determined by the former judgment. That is a very important legal proposition, and I shall proceed to establish it. I will read first some good old English law, for I confess I never feel otherwise than a sense of pleasure when I can get back to the old English authorities in the days of Mansfield, Kenyon, and Holt. This question was made before Lord Mansfield in the case of Ravee *vs.* Farmer. Lord Mansfield decided it without rendering a written opinion. It is reported in 4 Term Reports. It came up again and was decided in the case of Seddon *vs.* Tutop, (6 Term Reports, 607,) Lord Kenyon being the chief-justice:

Assumpsit for goods sold and delivered. Plea a former recovery of £71 10*s.* for the damages the plaintiffs had sustained as well by means of not performing the same identical promises, &c., as for their costs, &c. Replication that the promises and undertakings in this action were not the same identical promises for the non-performance whereof the said sum of money was so recovered by the said judgment; on which issue was taken. At the trial at *Guildhall* before Lord *Kenyon* it appeared that in the former action, in which the defendant suffered judgment to go by default, there was a count on a promissory note for £51 and counts for goods sold and delivered, there being at that time £25 7*s.* due for goods; but on executing the writ of inquiry the plaintiffs only being prepared with proof of the note, they took a verdict for that, which with the costs amounted to £71 10*s.* Afterward, on an application to the defendant for the £25 7*s.*, he refused to pay, on which the present action was brought. It was objected on behalf of the defendant that as the plaintiffs might have recovered this sum in the former action they ought not to be permitted to bring this, a second action, for the same demand. But a verdict was taken for the plaintiffs, with liberty to the defendant to move to enter a nonsuit in case this court should be of opinion that the plaintiffs were not entitled to recover. A rule for that purpose having been accordingly obtained.

The case came on before the full court. Erskine argued it. In pronouncing the decision Lord Kenyon said:

In this case it is clearly shown that this demand was not inquired into in the former action.

That is, there was no evidence introduced upon it, though it was in the pleadings and could have been proven and could have been recovered on, and he holds that the second action was right and that the former recovery was no bar. He adds:

And I am glad that we are borne out by the form of the issue to decide with the justice of the case.

Justice Grose says:

The recovery in the former action is only *prima facie* evidence that this demand has been inquired into, but it is not conclusive. In the case of Hitchin *vs.* Campbell, where the defendants pleaded a former recovery upon the same identical promises for which that action was brought, though it was argued by very eminent counsel, it was not contended that because the same sum demanded in that action might have been recovered in the former one therefore the plaintiff could not recover it in that action; the only inquiry there was, whether the same cause of action had been litigated and considered in the former action.

That case of Seddon *vs.* Tutop has been a leading authority on that question from that day to this. The same decision was made by Chief-Justice Shaw, of Massachusetts. I could give you a hundred English opinions on the subject as well as American. In the case of John D. Bridge *et al. vs.* William Gray *et al.*, found in 14 Pickering's Massachusetts Reports, Chief-Justice Shaw said:

On the issue joined upon the plea in bar of a former recovery, the defendant relied upon a judgment in a former suit, upon a writ containing, among others, counts for goods sold and delivered, and which might have embraced the goods sued for in the present action; but there was no specific enumeration or description of goods contained in these counts, nor any account annexed to the writ or other

specification filed by which it could be shown that the goods in question in this suit were embraced in that. The defendant relied upon that judgment as a bar, and as conclusive evidence that the claim for goods sold now made in this suit must have been considered in the former. But the plaintiff offered evidence *aliunde* to show, in point of fact, that no claim was made in that action for the goods now sued for. We think that this evidence was rightly admitted. The modern mode of declaring in most general use is to insert several general counts; and when, in such case, the general issue is pleaded, a vast variety of different claims may be put in issue and tried; so various, indeed, that in most cases it is found necessary to call in the assistance of the court previously to the trial to require the plaintiff to give in a bill of particulars, or specification, of the claims which he means to give in evidence, in order to apprise the defendant of the actual claims relied on which the declaration does not do to enable him to go to trial with any safety. When such a judgment is pleaded in bar it seems to be liberal enough, and going as far in support of a judgment as experience will warrant, to consider it as *prima facie* evidence of a prior adjudication of every demand which might have been drawn into controversy under it, leaving it, like other *prima facie* evidence, to be encountered and controlled by any other competent evidence tending to show that any particular demand was not offered or considered. And so we think the rule is now settled by authorities.

You will find a similar decision in 5 Massachusetts, 339. You will find that Mr. Greenleaf has laid down the same principle in his work on evidence, section 532. The Supreme Court of the United States has made the most striking decision on this subject that I have been able to find. It is found in 24 Howard, page 344. I will state briefly the facts without reading it, so that you can see the point, for it is a very striking case and covers this case completely. Sickles & Co. had a patent for what they called a cut-off; that is, a contrivance for saving fuel on steamboats. The Washington, Alexandria, and Georgetown Steam Packet Company made a contract with Sickles & Co. for the use of this cut-off. The agreement was that this packet company was to take the invention and apply it to its steamboats, and if it turned out that it was efficient and made a saving in fuel they were to pay Sickles three-fourths of the net amount saved by the invention. Sickles & Co. brought suit against the packet company for the recovery of their proportion of alleged savings after a certain lapse of time. After considerable litigation they recovered a large sum, $16,000. The packet company continued to use the cut-off. Subsequently Sickles & Co. brought another suit for their proportion of further savings. Now, mark how the point comes up.

The steam-packet company came in and pleaded that the contract was void from the first and the machine inefficient, and that they were not bound to pay anything under it. Sickles & Co. replied: "That question has been adjudicated; we sued you on the same contract once before; you litigated it, and the judgment was in favor of the plaintiff, and we recovered a sum of money which you paid. Now, that former suit adjudicated the validity of this contract, because if this contract had been void for any cause from the beginning, you had the opportunity of pleading it in the former action; you did not do it, and therefore you are concluded. It is the identical contract once sued on, once passed on, and a judgment recovered under it." The packet company rejoined that on the former hearing this point was not made, and was therefore not passed upon, and was not covered by the former judgment, and offered parol evidence to support this rejoinder. The court below sustained the reply in bar, and held that the point was *res adjudicata*. The case came to the Supreme Court and the decision was unanimous, and was pronounced by that great lawyer, Judge Campbell. In the opinion he says:

In the case before the court the verdict was rendered upon two special counts, and the general count in assumpsit, but the verdict in the subsequent stage of the proceedings was applied by the court only to the first count. The record produced by the plaintiffs showed that the first suit was brought apparently upon the same contract as the second, and that the existence and validity of that contract might have been litigated. But the verdict might have been rendered upon the entire declaration, and without special reference to the first count. It was competent to the defendants to show the state of facts that existed at the trial, with a view to ascertain what was the matter decided upon by the verdict of the jury. It may have been that there was no contest in reference to the fairness of the experiment, or to its sufficiency to ascertain the premium to be paid for the use of the machine at the first trial, or it may have been that the plaintiffs abandoned their special counts and recovered their verdict upon the general counts. The judgment rendered in that suit, while it remains in force, and for the purpose of maintaining its validity, is conclusive of all the facts properly pleaded by the plaintiffs. But when it is presented as testimony in another suit, the inquiry is competent whether the same issue has been tried and settled by it.

That is, that though the record as produced shows on its face *prima facie* that this issue was covered by the former suit, yet it is only *prima facie*, and it is entirely competent to show by parol evidence that in point of fact that issue or question was not considered, was not passed upon, and therefore not covered by the judgment. This case went back to the circuit court and was heard again on the merits and came a second time to the Supreme Court, and is reported in 5 Wallace, page 580, and the decision before pronounced was reaffirmed.

Now, apply this doctrine to this case, and the questions are then: Suppose you admit for the sake of the argument that on the former hearing of this case the Senate might have considered not only the regularity of the election, but also it might have considered the question of bribery; it might have considered the question of the want of a quorum; it might have considered the question of no Legislature. Say the court, That is the *prima facie* state of the case, that is the presumption, but it is open to show that in point of fact that was not done; and if it was not done, and no evidence was submitted on the questions now made, then the questions now made are not covered by the former judgment and cannot be *res adjudicata;* and this is the language of the highest courts both in England and America.

In this case I challenge any gentleman in the Senate to show me that in the trial of 1877 there was any evidence of bribery. This evidence that I have been reading you was none of it here. The truth is the fact of bribery was discovered afterward; it never was brought to the attention of the Senate until Judge Spofford, as I have said, filed his memorial to reopen and review the case. Now, how can you say, Senators, that the questions and issues now presented were covered by the former adjudication when the evidence is conclusive that they were not even made? They were not in the record and no evidence was submitted upon them. Then the former judgment should have no force with the Senate, even allowing the Senate to be a court.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. HILL, of Georgia. Certainly.

Mr. CARPENTER. Do I understand the Senator to claim that if it can be shown that Mr. KELLOGG was elected by bribery, that would authorize the Senate to say he was not elected? It would undoubtedly authorize his expulsion; but could the Senate say he was not elected because he was elected by bribery?

Mr. HILL, of Georgia. I certainly would say so, because bribery would make the election void. That has been decided over and over again.

Mr. CARPENTER. I do not understand whether the Senator says so or not.

Mr. HILL, of Georgia. I say so; yes. I say bribery avoids the election; that is, provided the bribery controlled the result. There is a controversy as to whether the bribery of one member or two members or a less number of members than a sufficiency to control the result would avoid the election; but a bribery that does control the result avoids the election certainly. But the Senator's question will do him no good, for not only is bribery in this new issue, but no quorum is in this new issue, and the no quorum is clearly shown, and the Senator will not pretend that when there was no quorum present a man can be expelled for that.

But I put the case and I challenge any lawyer to answer it: Suppose on the first trial a man's credentials are presented and a contestant comes in and says that man ought not to be seated because he was not elected by a quorum, because he was elected by bribery, because he was not elected *viva voce*, or for any reason he was not elected in the manner prescribed by law. Well, upon that issue the credentials are referred to a committee. The committee investigate the question, the whole question relating to the regularity of the election, and the committee find that there was no bribery, there was a quorum, there was a regular election, and report a resolution that the contestee is entitled to his seat on the merits. Now, what did the word "merits" cover? You find he is entitled to the seat on the merits. What merits? The merits of the issue made.

You could not say he was entitled to the seat on the merits of an issue not made. You find that he is entitled to the seat on the merits of the issue made and all the issues made; but suppose after that it should turn out that the man was but twenty years old; suppose while the election was without bribery and by a quorum, and in all respects regular, still he was disqualified, and that fact was not known at the first hearing; suppose that he was not a citizen of the United States; do you not perceive that the new issue is not covered by the old trial? Do you not perceive that it is therefore not included in the judgment, and do you not see that therefore it is not *res adjudicata?* Even before a court it would be absurd to say it was.

Now, coming to the question, what was decided before; let us get that before the Senate. What was the question decided in 1877? I am not going to leave it doubtful. That is one of the most important points in this case; and if gentlemen vote to keep this man here they shall do it with their eyes open.

Mr. HOAR. Mr. President——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Does the Senator from Georgia yield?

Mr. HILL, of Georgia. Yes, sir.

Mr. HOAR. Before the Senator from Georgia passes to his new point, will he allow me to interrupt him and ask whether I understood him to state that the question of there being a quorum present of the Legislature that elected KELLOGG was not raised in the old case?

Mr. HILL, of Georgia. Yes, sir.

Mr. HOAR. Mr. Wadleigh's report in the old case occupies a page or two in detailing all those facts which have been gone over again and finding the facts about the quorum; Mr. Spofford's brief discussed it; the question of the absence of the man who was brought in against his will, Steven—all those things were gone into on the old trial.

Mr. HILL, of Georgia. That was gone into on a different view altogether, and for a different purpose. The present issue was not then made, and the present evidence was not even known. It was not known then that the journal was false. It was not known that absent members were personated. The proceedings alluded to by the Senator do not even refer to the issue or the evidence now before us. When was it shown before that Thomas was sick in bed with smallpox? When was it shown on the former trial that Sevcignes was not there? When was it shown on the former trial that Murray, the sergeant-at-arms, was sent out to get ten members to make a quorum and only got five? None of that was in the old case; that is all of it new testimony, and the Senator cannot deny it; it is a new feature altogether.

It is very important to get before the Senate and the country the real question in issue and what was decided before. I ask every man in the Senate who has any doubt on his mind to listen to me now a few moments.

On the 22d day of October, 1877, the committee met, when, after informal discussion, Mr. HILL offered the following resolution:

The controversies heretofore existing in the State of Louisiana as to which of two rival bodies was the Legislature of that State, and as to which of two rival claimants was the governor of said State, having been settled by the State itself since the last adjournment of the Senate,

Resolved, That the Senate do recognize and accept said settlement as final.

That was our position before the committee and that was the position of this side of the Chamber before the Senate. The Senator from Massachusetts read the motion made by the Senator from Ohio [Mr. THURMAN] when he moved to seat Spofford without taking testimony, and that motion was supported by the Senator from Delaware, [Mr. BAYARD.] Why? On the very ground here stated, that the people of Louisiana had settled this question; it was no longer in doubt as to what was the Legislature of Louisiana. The Packard legislature had dissolved, gone into thin air, and all this had occurred before this Senate or its committee had ever considered the question. That being the case, we all on this side said there was no necessity to take evidence. That was voted down by the Senate. The question was referred to the committee, and before the committee I offered that resolution which made exactly the same question that the Senator from Ohio made here in this body. So there was no inconsistency there. That was the position of the democrats on the committee.

On the 25th of October Mr. HOAR, of Massachusetts, offered the following as a substitute for my resolution. You will see the issue now being made clearly:

Mr. HOAR offered the following as a substitute:

"*Resolved*, That it becomes necessary in determining the validity of an election of Senator, held in January, 1877, to inquire who were the lawful Legislature at that time, and that no other authority is competent to determine that question for the Senate."

Mark you, now, there was no dispute that the State had determined which was her Legislature, but this resolution of the Senator from Massachusetts declares that the State cannot determine that question; that no authority can determine it for the Senate, and therefore we will inquire what was the true Legislature of Louisiana. You see how the two parties stood. We insisted on taking the State's decision. It had been settled without the interference of the military; it had been settled by removing the military; it had been settled peaceably; all the people had agreed to it; all the parties had agreed to it; even the members of the Packard legislature had agreed to it; even Packard had agreed to it. He came here and got a position and went to Liverpool as consul. Everybody had agreed to it. We proposed, therefore, to take that settlement. No, said the republicans of the committee, we will not do that, but we will inquire what was the lawful Legislature of that State, and no other authority is competent to determine that question for the Senate. Very well, what then? We were voted down.

And here I want to make a remark on this subject of *res adjudicata*. In what a ridiculous position the gentlemen on the other side place themselves! Here it is conceded by this substitute, and not denied but known as a fact, that the State of Louisiana had passed upon this question as to which was the lawful Legislature. That decision was made in April and long before the Senate acted. Now, I submit to every lawyer, if you deny that Louisiana was the only authority that can determine that question, you are bound to admit that Louisiana was competent to determine it; you are bound to admit that Louisiana had jurisdiction of the question as to what was her own Legislature. Louisiana did take jurisdiction of that question; Louisiana did settle it before the Senate touched it. Why was not the judgment of Louisiana *res adjudicata*? In my opinion, Louisiana alone had jurisdiction to determine, as an original question, what was her Legislature; but whether she alone had it or not, everybody admits that she certainly had concurrent jurisdiction. She took possession of the question, therefore, legally, and she did decide it, and who on that side of the House has ever proposed to recognize Louisiana's judgment as *res adjudicata*? She decided that the Packard government was not her government; that the Nicholls legislature was her true Legislature; but the Senate would not respect it. The Senate set it aside. The Senate of November, 1877, seated KELLOGG. Now tell me, if you have no right to reverse your own judgment upon the ground of *res adjudicata*, what right had the Senate of 1877 to reverse the judgment of Louisiana, which was a decision by a competent jurisdiction? Do you not see the absurdity? If the doctrine of *res adjudicata* applies in this case at all, this decision made by a competent authority is the first permanent judgment. Louisiana made that judgment; she made it long before the Senate made any; and I challenge anybody to answer the argument; for if there is no right in Louisiana to bind the Senate by her judgment, how is Louisiana to be bound by the Senate's judgment?

But I am going on. This substitute offered by the Senator from Massachusetts on the 25th of October in committee was adopted by a party vote; five voting for it, three against it, and one absent. The democrats on that committee were then brought to this point: We had pleaded the judgment of Louisiana as final in this case; we had been overruled in that; the Senate and the committee had both decided that they would not be bound by the judgment of Louisiana, but would investigate for themselves the competency of the Legislature. Then Mr. Merrimon offered this resolution:

Resolved, That the committee proceed to examine and ascertain the substantial merits of the respective claims of Hon. W. P. KELLOGG and Hon. H. M. Spofford to a seat in the Senate as a Senator from the State of Louisiana, and to this end to inquire particularly which, or whether either, of the two rival bodies claiming to be the Legislature of said State, in January and April last, was the true and lawful Legislature of said State.

That resolution was adopted. Then Mr. SAULSBURY, now our honored chairman, made the point distinctly. He brought the gentlemen square up to the question. We think, said he, you ought to take the judgment of Louisiana. You will not do it; you say you have a right to inquire for yourselves whether that was the lawful Legislature, and no other authority can determine that. Then, says Mr. SAULSBURY, we will go into the merits; and here was his resolution:

Resolved, That, in order to ascertain which of the two bodies claiming to be the Legislature of Louisiana, respectively represented by WILLIAM P. KELLOGG and Henry M. Spofford, claiming seats in the Senate of the United States, it is necessary and proper to ascertain who of the members of said respective legislatures were elected as such members by the votes actually cast at the election in November, 1876, and that the respective claimants be requested to cause the original returns of the commissioners of election and the tabulated statements of the registrars of election, or certified copies of the same, to be furnished as speedily as possible to this committee.

That was voted down. Where did we stand then? They had declared that they would not be bound by the judgment of Louisiana, but would inquire for themselves as to the legality of her Legislature. Then said Mr. SAULSBURY, "We will go into the question and determine whether the men seated by the returning board were lawfully seated, whether they were really elected." No; they would not do that. What do you mean, then? I will not charge gentlemen with a trick, but they were perpetrating one of the shrewdest and boldest pieces of management ever perpetrated in this country. They were determined to go into the inquiry of what was the Legislature for the purpose of getting rid of the decision of the State in order to fall back upon the infallibility of the returning board. That was the whole of it. I shall not make this charge without proving it.

Now, here is what Mr. Mitchell, the acting chairman, said. I want you to see what they meant by saying they would inquire which was the legal Legislature:

The ACTING CHAIRMAN. Suppose we were compelled to decide as to whether or not this was a legal Legislature at that time. In determining that question, can we do more or go further than to ascertain from the record that the forms of law have been complied with? For instance, take it for granted that the returning board is a valid board, if it appears to us from the records of that board that a majority of this Legislature was made up of men returned by that board, that they met and organized, and declared the result of the election as to governor and lieutenant-governor, elected a speaker, &c., and then proceeded to elect a Senator, does that determination determine the question as to whether that was the Legislature or not, or do we go back of that?

And they decided that the returning board settled the question. Was such a thing ever heard of? Here were these gentlemen repudiating the decision of the State, repudiating what all the authorities of the State said, and repudiating all that the people of the State said, insisting that, over the will of the State and over the authority of the State, they should go themselves into the question of determining what was the legal Legislature, and then let that be determined absolutely by the returning board! Do you not see the adroit effort to get the Senate back into the condition of the electoral commission? Nothing would the republicans of this body agree to except the returning board. The State decision is to be disregarded, the facts are to be disregarded, the law is to be trampled under foot, constitutions are to be disregarded and violated, but the decision of the returning board must be infallible! The Senator from Massachusetts announced that much yesterday in his speech in giving the reasons why they declined to allow Spofford to take testimony in 1877. It is remarkable reasoning. Hear this, gentlemen:

Second. The evidence offered, so far as the points to which it related were not covered by the admissions or by the abundant testimony already in the case, was totally immaterial.

Immaterial for what?

The committee rested their decision of the cause upon a very simple principle. It was that the persons who had the certificates of the officers appointed by law to give them were entitled to take their seats in the Legislature of Louisiana and to hold them until the legislative bodies respectively acting on each case by itself adjudged otherwise, and that the Senate could not go behind the legislative action of such persons so holding seats to inquire into the facts connected with the election of each individual member.

Mark you, they were going to inquire, but they would take no evidence but the certificates of the returning board. So all this evidence of fraud and all this evidence of corruption and all this evidence of bribery and all this evidence that there was no Legislature was ruled out as *immaterial!*

Mr. President, I feel it my duty to impress this fact upon the democratic side of the House. We all know—it is history, sad history—that a distinguished commission succeeded in 1877 in making a President of the United States who was not chosen by the people. How? By insisting that you could not go behind the certificates of the returning board and introduce evidence *aliunde* to prove that those certificates were given in fraud, to prove that they were forged, to prove that they were procured by perjury; and they succeeded. They succeeded upon the familiar principle that the two Houses of Congress had not jurisdiction of the elections, returns, and qualifications of electors.

This committee in 1877 determined if they could to bring the Senate to exactly that position on the senatorial question, and therefore they disregarded the decision of the State; they refused to examine into the frauds charged on the returning boards; they said they would inquire as to what was the valid Legislature, but they would only take the certificates of the returning board as the sole evidence of the fact. They had made the returning board supreme to make a President, and now they are seeking to make the returning board supreme to make a Senator.

They got that vote through the committee. They ruled out all evidence upon the idea and the theory as announced correctly by the Senator from Massachusetts, that if a man held the returning board certificate it was conclusive. You could not go behind those certificates; you must take them, right or wrong. Though it was proved that the returning board was covered with perjury, and that bribery and corruption were oozing from every pore, you must take their judgment, you must take their action; it is conclusive; you cannot go behind it; you may not contradict it; you may trample on the rights of the people, but you cannot question the infallibility of a Louisiana returning board. That is the decision.

Now, having procured one decision by the Senate upon that theory that this man was lawfully entitled on the merits to the seat, they come in and say the power of the Senate to judge is exhausted. Though the issue itself was not made; though it is proved now that there was no Legislature in fact; though you prove the bribery of members; though you prove there was no quorum present, it can all do no good, because the Senate has said he was lawfully entitled to the seat, and the Senate said so because the returning board said it. There was not a particle of evidence before the Senate in 1877 except what they took from the returning board. They refused to allow any evidence to show fraud in the returning board. That was the very proposition we wanted to go into, but the committee refused it.

They then came into the Senate on that theory and got a decision of the Senate in 1877, and now they come and plead *res adjudicata*. And we are told that democrats are to help them. This iniquity of forcing upon this country, of forcing upon Louisiana, a Senator returned by the frauds of a returning board, never elected by the Legislature, is to be accomplished through the same theory that the returning board alone of all bodies in Louisiana is infallible, and that you must take its decision as final.

Well, we shall see how much help they get. I warn you gentlemen; I do it from the sincerity of my heart; I am familiar with the facts of this case; I have watched every step of its progress. The whole argument is the argument of the electoral commission applied to the Senate. I affirm here to-day that in 1877 there was no evidence before the committee except that which was before the electoral commission, and if you hold that this man is irreversibly entitled to the seat you hold it because by the management of a partisan majority you are brought to the conclusion that governed the electoral commission. If you do, you give up the issue of fraud in Louisiana in 1876. You decide that the electoral commission was right. You decide that the democratic party for three years has been wrong in charging fraud on the returning board of Louisiana. You say that after all they committed no fraud. You make the returning board respectable, and you bring the electoral commission into credit and yourselves into shame. There is no escape from it—none whatever. It may succeed; I cannot tell; but not because it is right; not because it is law; not because it is constitutional, but for some unknown reason that dare not be avowed. You cannot foist upon the Senate a Senator from Louisiana on the principle of the electoral commission. Every man who so votes gives up the whole question of fraud. If the rule of the democratic Senate is now to be that there was no fraud in Louisiana, that the iniquities of the returning board were all right, that the electoral commission was all right, I pray you as honest men go upon your knees to Madison Wells, and Anderson, and Casanave, and Kenner, and plead for forgiveness at their hands.

It is for this reason I have taken an interest in this case. I have seen with what persistence and adroitness, with what shrewdness, with what skill, I will say with what avidity, they have been laboring to get the Senate on the senatorial question in precisely the condition of the electoral commission on the electors of President and Vice-President and commit the democratic Senate to holding that the decision of the electoral commission was right. You may live till you are as old as Methuselah, you may have pretexts and excuses, you may rise a thousand times and deny it and protest your honesty and good motives, but I tell you that is the point. That is the condition of the case precisely. That is the reason the committee refused to take testimony in 1877. They said it was immaterial, because the certificates of the returning board had settled the question. They would not inquire into the fraud. No testimony *aliunde* was the word. "No testimony *aliunde*" is now to be made respectable, and by a democratic Senate!

Now, there is a very singular argument made here which I will only notice briefly. It is contended by the Senator from Massachusetts in the speech which he made the other day that we ought not to complain that we were cut off from taking testimony in 1877. Why? Because he says of those five points we did not take testimony on more than one of them.

Now I will explain to you how that is. In 1877 Mr. Spofford charged that the sitting member participated personally in the frauds of the returning board, that he was a personal party to those frauds, and that he managed it in this way: that he had a side door to the room of the returning board by which he entered and held secret consultations with the returning board, making false charges and false protests, and thereby getting men sent to the Legislature who were not elected. It is said that this evidence does not prove that; that we have not proven any side door. I admit that we have not. We have not proven any side door, but what have we proven? A much worse state of things. We have not proven that when the returning board was in session KELLOGG had communication with them through a side door, but we have proven that before the returning board met he had clandestine night meetings at his own house with none but his clerks and members of the returning board, and at his own house at night this whole scheme of defrauding the State of Louisiana by false affidavits was hatched and concocted. Gentlemen say, "Oh, you proved the frauds, but you did not prove it was by a side door!" It was worse than a side door; it was the whole house, in which he fixed up the plan for the returning board in advance. The Senator from Massachusetts on that argument would hold, I dare say, that if you charged a man with stealing one horse and proved he stole a hundred you would not thereby sustain the charge of stealing one.

The testimony, I admit, is tenfold worse than even Spofford thought it was in 1877 or thought that he could prove. All believed it was there, but the trouble was to prove it. In 1877 he said nothing about bribery, because he did not know about it. As I have said, the evidence was discovered since. If we had been permitted to take testimony in 1877 under the charges then made would not all the testimony now in be admissible? Unquestionably. So the question is not what we thought could be proven in 1877, but what the memorialist has proven in point of fact now.

Gentlemen are trying to alarm somebody over here by saying, "Oh, what a precedent you would establish, a dangerous precedent, and if you can reverse the decision of the Senate nobody is safe in his seat." Is it possible that any man sitting in the Senate of the United States can be entrapped by that sort of an argument? To vacate the seat of a man not elected by his Legislature, would that be a precedent to vacate the seat of a man who was elected by the Legislature? To vacate the seat of a man whose mob has been dispersed by the State and declared not a Legislature, is that to be a precedent to vacate the seat of a man whose Legislature is recognized by the State? Is there a man sitting here to-day, other than the sitting member from Louisiana, who holds his title by a mob? Is there a man sitting here to-day who holds his title by a body that the State has declared was not the Legislature? If so, let that man beware. I tell that man not to seek to secure his own seat by voting in KELLOGG, because if I could ascertain that such was the fact I would vote to exclude a democrat from his seat as readily as I would a republican.

I am not making a partisan fight; I am making no personal fight. I do not give the persons in this case the slightest consideration; I do not give the political parties the slightest consideration. I say that the State of Louisiana shall not be disfranchised if I can help it. I say that I will not take an oath to support the Constitution and sit here and allow a man to have a seat who was not chosen by his Legislature if I can help it. Precedent! Do you not know that men who are going to do wrong do not want precedents for it? I declare the idea of being afraid to give the republicans a precedent is amusing. The children on the street ought to laugh at it. When a party has done everything without precedent do you talk about their wanting a democratic precedent? No. Do your own duty in the case before you. If this man was chosen by the Legislature, chosen fairly, chosen legally, chosen by a quorum, chosen without bribery, let him stay. If he was not chosen by his Legislature, I charge you by that oath which you have taken to support the Constitution to vacate the seat and let a man chosen by the Legislature take it.

But it is said the remedy is by expulsion. What a mistake is that! Whatever might be the remedy in a case where the decision seating a member was only erroneous and voidable, such rule could not apply to the case before us, where the objection to the member goes to the constitutional right to hold his seat, where he is not qualified by the Constitution, where, for instance, he is not a citizen of the United States, where, for instance, he is not thirty years old, where, for instance, he is not chosen by the Legislature—those are acts that do not make his seat voidable; they make it void. For this reason he sits in the seat just precisely in law as if he never had been seated. Talk about the expulsion of a man who holds his seat by a void decision, by a decision which is a nullity! Talk about putting a man's constitutional right to sit in this body in the hands of two-thirds instead of a majority! The whole doctrine of expulsion applies to the idea that when the man has acquired a seat, either good or voidable, and forfeits it for any cause, he may be expelled by a vote of two-thirds; but was it ever said that it should take two-thirds of this body to enforce the Constitution? Was it ever said or intended to be said that it should take two-thirds of this body to determine whether a man should sit here who was not elected by the Legislature?

No, gentlemen, the whole question in the case is this: was KELLOGG chosen by the Legislature of Louisiana? First, was the body a Legislature? If not, then he was not chosen. Second, if it was, there was no quorum. If there was a quorum and he got the election by bribery, would he be entitled? The Constitution says not, and

you have got to find in this country a power superior to the Constitution before you can preserve your oath and say yes.

I have established the following propositions: first, that KELLOGG was not chosen by the Legislature of Louisiana, first, because the body was not in fact the Legislature. That is established, first, by the decision of the State, including all the authority of the State and all the source of authority, the people. A gentleman said to me yesterday, showing a strange misapprehension of my argument, "You argued that the Nicholls legislature was the Legislature because it was recognized by the courts and the governor, whereas the Legislature itself is the source of power of the State and of higher authority than either." I argued no such thing. I argued that the Nicholls legislature was the Legislature because it was recognized by the courts, by the governor, and by the people who made courts, governor, and Legislature, and that decision is rendered by the people without the interference of the military. It is said that some democrats have held that the Packard government was not the government even when the people submitted to it. That is because it was put upon them by military force. It is said a court does not pass upon the title of a Legislature. I grant that. One department of government cannot say whether another department of government has a title, because they are co-ordinate, and if you say that one should pass upon the title of the other you put one co-ordinate department of the government in the power of the other. That is not the question.

The question is this: what department of the government do the other departments of the government recognize, and do the people recognize and freely obey?

So, if you say you will not take the judgment of the State, the judgment of the people, as well as the judgment of the authorities of the State, then the facts also establish that the Packard body was not the Legislature of the State, because the facts prove that it was nothing on earth but a mob of conspirators gotten up for the express purpose of preventing the will of the State from having force. The members of one body met and seized the State-house under authority of the governor. They barricaded themselves in it and excluded members of the other party, and then by false certificates of a returning board claimed to have a quorum, and made themselves the Legislature, and you are asked to say whether that was the Legislature of the State in point of fact. So that, if you take the judgment of the State, the question is settled that the Packard government was not the government; if you reject the decision of the State and take the facts in the case as apparent on the record, still it was not the Legislature.

Then I hold it is established, in the second place, that if it was a Legislature it did not elect the sitting member, because there was no quorum present at his election, and because a number of members there were controlled by bribery in their votes. I have shown you that the Senate is bound now to determine this question, because the facts have never before been passed upon by the Senate, and therefore are not included in any judgment rendered by the Senate.

Mr. President, I have now concluded the argument. Before leaving the case I feel it my duty to make a few remarks upon the general subject. There is one feature of this testimony which I trust the American people will note. When the war closed the Southern States and people were in a prostrate, helpless, and unresisting condition. Their governments were gone, their pride was wounded, their property was destroyed, and they were confronted with the most startling fact that ever was brought to the face of any people. Nearly half of their population had been suddenly released from slavery, without education and without experience in government, and was made to assume new relations both to society and government. It was enough to appall the stoutest heart in the most prosperous times, and yet the southern people had to meet that state of things at a time when of all others they were most humiliated and prostrate.

They went to work to meet it bravely; but soon they were told that they had no power to reorganize their own government, and that the central power should do that. They never resisted it. They never stopped to inquire whether that was constitutional or not, for they were not in a condition to question the power of the Federal Government, and they did not question it.

I want to state here, and I hope the republicans will hear me, that the troubles in the South since the war have never had the slightest foundation in any disposition on the part of the southern people to question or resist the authority of the Federal Government. I affirm, on the contrary, what I said as far back as 1868, and I have repeated it often, that I do verily believe that if this Congress had taken upon itself to frame constitutions here for each of the Southern States the southern people would have accepted them and organized their governments under them, trusting to time, experience, and wisdom to cure whatever defects they might possess. There was no disposition to question the authority of the Federal Government. There was every purpose to recognize that authority.

Secondly, I want to say that the troubles in the South since the war have not grown out of natural antagonism between the two races; it has not sprung from any disposition on the part of the southern whites to do injustice to the blacks. I say there could be no such disposition, because the colored race is essential to the prosperity of the southern people. Left to themselves in their new condition both races would have desired to organize governments best calculated to secure their common prosperity. They might have made mistakes, but they soon would have corrected these mistakes.

The people of the South recognized absolutely and without question the abandonment of secession and the abolition of slavery, and forever. None of the troubles, I repeat, which have existed in the South since the war have sprung from any disposition to question the authority of the Federal Government or to do injustice to the black race. Where, then, have our troubles come from? They have come from but one source. I affirm it here to-day, and the whole history of the whole South will prove it. The reconstruction acts, unwisely and unfortunately, disfranchised over two hundred and fifty thousand of the very best people of the South from taking part in the work of reconstruction. They included in that disfranchisement over two hundred and fifty thousand white voters. The very best men in the country, all of those who had been trusted with office before the war, the educated, the experienced, the men of property, were included in that two hundred and fifty thousand. At that most critical juncture, when a condition of things had to be met that no people in the world had ever had to face before, the central power disfranchised from participation in government the intelligence and experience and the property of the South. That alone would not have disturbed us much, for I believe if the work had gone into the hands of even the colored people with the remnant of white people left enfranchised, although the colored people were enfranchised indiscriminately without regard to their qualification, we would have got along in comparative peace and quiet, and would have settled all our troubles; but the disfranchisement of so large a portion of our first-class citizens, and the indiscriminate enfranchisement of the colored people, opened up a temptation to a class of men in the North such as never before infested society and I pray God may never infest it again—a class of men who went down there to take advantage of the situation and seek to use the colored people to get the offices for their own benefit.

In order to succeed they had to create difficulties and dissensions among the races. They sought to segregate the black race from the white race, so as to get control of the black race, by convincing them that the white people of the South were their enemies. They were sustained in that by the Federal Army; they were sustained in that by the Federal Administration. In order to accomplish their purpose they went to work to dissatisfy the colored race; they went to work to get up divisions and strifes between the two races; they went to work to get up charges of outrages upon the colored race by the white people; and they went to work to fill the North with charges of disloyalty and a spirit of rebellion.

Sir, when the history of that terrible period shall be written the people of the North will have to blush in the face of the fact that a large majority of the very outrages of which they complained and which have so excited them were incited by carpet-baggers for the express purpose of manufacturing charges against the white people of the South to inflame the people of the North and to keep the military power and Federal administration in their support. To accomplish this they had to get up falsehoods; and here is a feature developed by this testimony. The poor colored people were actually taught to believe that any crime was right if committed in support of the republican party. They were taught to believe, and this evidence reveals it, that perjury itself was a virtue and lying and deception in every form were right if by such means they would benefit the republican party. The Senator from Missouri [Mr. VEST] gave you some remarkable instances of that. Let me read but one sentence, which the Senator from Missouri did not read. This man Watson, who personated Thomas, and who is referred to frequently in these telegrams as one of the men who had to be fixed, on being examined confessed that he had lied; he confessed that he had made a false affidavit; he said he was a preacher, and that he believed it was according to the Scripture to lie. Then he was asked this question:

> Question. Why did you write that letter to Cavanac, and thus pile lie upon lie, if that was the fact?
> Answer. I was exercising one of the gifts of a free American citizen.
> Q. Which is to lie as much as he pleases?
> A. Yes, sir.

This poor creature without blushing sat before that committee and absolutely said that he piled lie upon lie in the exercise of the right of a free American citizen, which was to lie as he pleased and as often as he pleased. That is not the only instance. You will find that witness after witness came before the committee and testified that way, and they seemed to be perfectly surprised that we thought strange of it. Why was that? They had been taught it. Will the people of the North now wonder that affidavits were piled up in the custom-house to prove outrages that never took place, to prove assassinations that were never committed? Sometimes I hear able Senators, distinguished gentlemen, who I know would not do so if they knew the facts, stand up here and charge the best people of the South with all kinds of brutal assassination and outrage, upon the testimony of these witnesses, who have been taught that it was right to lie for their party. You can go into that country and get affidavits by the thousand, and the poor creatures who give them will not be at all loath to give them, and will not have any idea that they are doing wrong. They are taught so, and this evidence shows it.

Mr. President, what excuse shall we now give if we keep this man in a seat to which he never was elected by a Legislature, for the voice of Louisiana and the voice of all the world says it was not her Leg-

islature? You cannot say he was fairly elected, for the men who paid the bribes, the men who received the bribes, the men whose duty it was to procure a quorum, come before you and swear that there was bribery, overwhelming bribery, and there was no quorum on the day of the election. Will you say, as the Senator from Wisconsin says, that whatever the Senate shall resolve is true, however false.

Mr. CARPENTER. In point of law.

Mr. HILL, of Georgia. Will you declare that if we choose to say that any one is entitled to a seat here he shall be entitled to it? Though the Constitution says no man shall be a Senator unless he has attained the age of thirty years, the Senator from Wisconsin says he shall be a rightful Senator though not thirty years old. Though the Constitution says no man shall be a Senator who has not been nine years a citizen of the United States, the Senator from Wisconsin says he shall be a Senator and have a rightful title to a seat in this body if the Senate says so, right or wrong.

I need not be surprised at those gentlemen saying those absurd things, but I will be surprised if they find reinforcement among democrats. I ought not to be surprised at anything in this day, but really when a democratic Senate shall reaffirm deliberately the doctrine of 1877 and declare that we are bound to believe that is true which we know to be a perjury; that we are bound to believe that is genuine which we know to be a forgery; that we are bound to believe that is right which we know to be a fraud—if we are to reaffirm that doctrine, I will confess that even in this day of demoralization I shall be surprised.

If you say that you cannot eject an intruder from this body, the very child that ejects the worm that slimes its way into its play-house will mock you. No, gentlemen, if this wrong is to be continued, I repeat, it is not to be done upon law; it is not to be done upon evidence; it is not to be done according to the principles of the Constitution; it is to be done for some other reason. The people will know it is, not because of the law, the evidence, or the Constitution, but in plain disregard of all. It is being whispered all over the country that there is some secret, unavowed reason, and nothing illustrates the brazen effrontery of the parties interested in this case so palpably as the charge they have made against members on this side of the Chamber of bargains, honorable agreements, and understandings, and their effrontery does not stop until it seeks to soil the character of the most sensitive State in this Union on questions of honor in the days of the past. While I have never been a disciple of that peculiar school of politics known as the South Carolina school, I have always regarded that State as the proudest in the Union. The charge that anybody on this side is to be influenced by any other than proper motives is false, but when applied to that gallant State I deny it with scorn and indignation, for I tell you to-day that that sense of honor which distinguished that State in the days that are past and gone is still instinct with life above the ashes of so many other dead hopes and ambitions, and it will continue so. What! South Carolina purchase her redemption from carpet-bag infamies by agreeing to continue those infamies upon Louisiana?

If that were possible, no pelican bird could ever afterward fold its weary wings in the shade of the palmetto without finding it a death-exhaling upas. Away with all these charges; they are not true. Meet the question upon the law, upon the evidence, upon the Constitution, and upon the right. To do right can never be a precedent for wrong. To do right can never be a reason for thinking there is danger. There is always safety in right; there is always danger in wrong.

Mr. President, I have looked with longing anxiety for that reaction in the public sentiment which would restore a healthy constitutional administration of this Government, when the tendency to usurpation, to centralism, and to subversion should be arrested; and yet I confess that while sitting here during the present session of Congress I have heard very untoward sounds. I have heard one honorable Senator on the other side of this floor gravely argue in the most solemn manner that a military court had the same dignity and character with the highest court of this country. I have heard another honorable Senator, distinguished as one of the ablest constitutional lawyers of his party, the Senator from Wisconsin, solemnly argue that a military court had power not only to dismiss a soldier from the military service but actually to disfranchise a citizen and declare that the people should not have power to elect that citizen to office! Coming through that door from the adjoining Chamber I have heard it declared that a State officer, that a State judge, can be dragged before the Federal judiciary, and incarcerated as a criminal for administering the laws of his State according to his own conscience and judgment! But worse than all these, far worse than all these, is the proposition now made that the Senate can disfranchise a State! That the Senate can do what the people have solemnly pledged themselves never to do, deprive a State of her equal suffrage in the Senate. That the Senate can go into a State and tell her judges, tell her governor, tell her people, "this body of men whose laws you administer, whose laws you execute, whose laws you obey, is not your Legislature, but this other body, which is but a mob of conspirators, self-barricaded criminals, that no court respects, that no officer respects, that no citizen respects—this other body is your Legislature and shall send the man to represent you in the Senate of the United States."

Sir, do these things sound the retreat of constitutional government and herald the approach of imperial dynasty as the only refuge from anarchy? Is the trumpet that proclaims coming monarchy getting louder and louder and nearer and nearer? Have the people ears and hear not the groans of dying liberty? Have the people eyes and see not despotism stalking with brazen front at noonday in the highest places of the nation?

If these things be so, why shall we not be honest and tell the people at once to end this mockery of free government under written constitutions peaceably before fraud and force shall end it in blood? No, sir, the people have ears and they will hear; the people have eyes and they will see. The people still love liberty; the people still have faith in written constitutions; and the people will rise up I trust in this auspicious year and declare that a party which has seized and held power by fraud *against* the popular will shall never afterward be trusted with power *by* that popular will. They will cast out the thieves who divide the public offices as their own legitimate plunder. If we undertake to disfranchise a sovereign State of this Union, the people will, as they ought, drive us from these places that we so dishonor and send others here who will respect the popular will, who will preserve the equality of the States, and who will obey the Constitution as the supreme law over all.

Mr. HAMPTON. Mr. President, I desire to express some views upon this question, and as I am not prepared to go on this afternoon, I should like to take the floor for to-morrow.

Mr. CARPENTER. If the Senator will yield, I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Does the Senator from South Carolina yield for that motion?

Mr. HAMPTON. Yes, sir.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty minutes spent in executive session the doors were reopened, and (at five o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 12, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADDITIONAL CLERK IN CLERK'S OFFICE.

Mr. HENRY, from the Committee on Accounts, to which was referred a resolution providing for the employment of an additional clerk in the Clerk's office for the remainder of the session, reported a substitute, which was read as follows:

Resolved, That the Clerk of the House be, and he is hereby, authorized to employ an additional clerk during the remainder of this session, to act as an assistant to the journal clerk, because of his temporary disability by reason of pen paralysis in his right hand; and the said clerk shall be paid out of the contingent fund of the House the same compensation now paid to clerks of committees who are paid during the session only.

Mr. HENRY. This resolution explains itself.

The resolution was adopted.

Mr. HENRY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CLYMER. I call for the regular order.

The SPEAKER. The regular order is the morning hour, which now begins at fifteen minutes past twelve o'clock. Reports are in order from the Committee on Military Affairs.

Mr. DIBRELL obtained the floor.

Mr. HAWLEY. Is it too late, Mr. Speaker, to make a motion that the morning hour be dispensed with?

The SPEAKER. The Chair has recognized the gentleman from Tennessee, [Mr. DIBRELL.]

HENRY OSTERHELD.

Mr. DIBRELL, from the Committee on Military Affairs, reported, as a substitute for House bill No. 3031, a bill (H. R. No. 6189) for the relief of Henry Osterheld; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LOUIS J. SACRISTE.

Mr. DIBRELL also, from the same committee, reported back adversely the bill (H. R. No. 4937) to reinstate Louis J. Sacriste to the United States Army with the rank held by him when honorably discharged and to place him on the retired list; which was laid on the table, and the accompanying report ordered to be printed.

MORSE K. TAYLOR.

Mr. BRAGG, from the Committee on Military Affairs, reported back with amendments the bill (H. R. No. 5196) for the relief of Morse K.

Taylor; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES E. MOLEN.

Mr. BRAGG also, from the same committee, reported back with amendments the bill (H. R. No. 1147) for the relief of Charles E. Molen; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

EMANUEL KLAUSER.

Mr. SPARKS, from the Committee on Military Affairs, reported back favorably the bill (S. No. 368) for the relief of Emanuel Klauser; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

NAVY-YARD ON THE NORTHWEST COAST.

Mr. WHITTHORNE, from the Committee on Naval Affairs, reported back favorably the joint resolution (H. R. No. 277) for the appointment of a commission to select a site on the northwest coast for a navy-yard; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

MASTER-AT-ARMS, UNITED STATES NAVY.

Mr. WHITTHORNE also, from the same committee, reported back adversely the bill (H. R. No. 4884) in relation to master-at-arms, United States Navy; which was laid on the table, and the accompanying report ordered to be printed.

WILLIAM H. LATHAM.

Mr. WHITTHORNE also, from the same committee, reported back adversely the petition of William H. Latham for honorable discharge as an acting volunteer lieutenant in the Navy; which was laid on the table, and the accompanying report ordered to be printed.

BENJAMIN C. BAMPTON.

Mr. WHITTHORNE (for Mr. HARRIS, of Massachusetts) reported back favorably, from the same committee, the bill (H. R. No. 3942) for the relief of Benjamin C. Bampton; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

COALING STATIONS FOR NAVAL VESSELS.

Mr. GOODE, from the Committee on Naval Affairs, reported back favorably the joint resolution (H. R. No. 278) authorizing and instructing the Secretary of the Navy to take the necessary steps to secure adequate coaling stations and harbors for the use of the naval forces of the United States at proper points on the Atlantic and Pacific coasts of Central America and the American Isthmus; which was referred to the House Calendar, and the accompanying report ordered to be printed.

GRANVILLE T. PIERCE.

Mr. BREWER, from the Committee on Naval Affairs, reported back adversely the bill (H. R. No. 4769) for the relief of Granville T. Pierce; which was laid on the table, and the accompanying report ordered to be printed.

SAIL-MAKERS IN THE NAVY.

Mr. ELAM, from the Committee on Naval Affairs, reported a bill (H. R. No. 6190) to regulate the appointment of sail-makers in the United States Navy; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

CADET MIDSHIPMEN.

Mr. BRIGGS, from the Committee on Naval Affairs, reported back adversely the bill (H. R. No. 4052) to repeal part of an act regulating the appointment of cadet midshipmen, &c.; which was laid on the table, and the accompanying report ordered to be printed.

TRANSFER OF REAL ESTATE TO NAVY DEPARTMENT.

Mr. BRIGGS also, from the same committee, reported back favorably the bill (H. R. No. 3383) to authorize the transfer of certain real estate therein described to the Navy Department; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

JAMES CUNNINGHAM.

Mr. SHELLEY, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 6191) for the relief of James Cunningham, of Centralia, Illinois; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SALARY OF POSTMASTER, CITY OF WASHINGTON.

Mr. STONE, from the Committee on the Post-Office and Post-Roads, reported back favorably the bill (H. R. No. 6071) to fix the salary of the postmaster at the city of Washington; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ENCOURAGEMENT OF TIMBER GROWTH.

Mr. RYAN, of Kansas, from the Committee on the Public Lands, reported back favorably the bill (H. R. No. 2733) amending an act to amend the act entitled "An act to encourage the growth of timber on western prairies," approved March 13, 1874; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ALLOTMENT OF LANDS IN SEVERALTY TO INDIANS.

Mr. SCALES, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 5038) to authorize the Secretary of the Interior to allot lands in severalty to Indians; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. ERRETT, by unanimous consent, presented the views of the minority on the same bill; which were ordered to be printed in connection with the bill and report of the majority.

Mr. SCALES. I desire to give notice now, Mr. Speaker, that I shall ask at some future time that a day and night be set apart for the consideration of business coming from the Committee on Indian Affairs.

JOHN BLACK.

Mr. HASKELL, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 3156) for the relief of John Black; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SUPPLIES FURNISHED TO SIOUX INDIANS OF MINNESOTA.

Mr. POEHLER, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 1157) to authorize the Secretary of the Interior to ascertain the amounts due to citizens of the United States for supplies furnished to the Sioux or Dakota Indians of Minnesota subsequent to August, 1860, and prior to the massacre of August, 1862, and providing for the payment thereof; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

WATER ROUTE BETWEEN LAKE ERIE AND OHIO RIVER.

Mr. WISE, from the Committee on Railways and Canals, reported, as a substitute for House bill No. 4111, a bill (H. R. No. 6192) to provide a water route to facilitate transportation between Lake Erie and the navigable waters of the Wabash or the Ohio River; which was read a first and second time.

The SPEAKER. Does this involve any expenditure on the part of the Government?

Mr. WISE. It does.

Mr. CABELL. It should go the Committee of the Whole House on the state of the Union.

The bill was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

CHEROKEE AND ARKANSAS RIVER RAILROAD COMPANY.

Mr. SLEMONS, from the Committee on Railways and Canals, reported back the bill (H. R. No. 6061) to incorporate the Cherokee and Arkansas River Railroad Company, with an amendment.

The SPEAKER. Does this bill make an appropriation of money, land, or property?

Mr. SLEMONS. It does not; and I move that it be referred to the House Calendar.

The bill and amendment were referred to the House Calendar, and, with the accompanying report, ordered to be printed.

MINES.

Mr. BELFORD, from the Committee on Mines and Mining, reported back favorably the bill (H. R. No. 6097) to amend section 2322 of chapter 6 of the Revised Statutes of the United States, relating to mines; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

LIZZIE BAILEY.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 1148) granting a pension to Lizzie Bailey; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

AMELIA ANN WILSON.

Mr. COFFROTH also, from the same committee, reported back favorably the bill (H. R. No. 6083) granting a pension to Amelia Ann Wilson and her minor children; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

GEORGE W. BRINTNALL.

Mr. COFFROTH also, from the same committee, reported back favorably the bill (H. R. No. 259) granting a pension to George W. Brintnall; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JACOB LUSKEY.

Mr. COFFROTH also, from the same committee, reported, as a substitute for House bill No. 4650, a bill (H. R. No. 6193) granting an increase of pension to Jacob Luskey; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

RICHARD CARPENTER.

Mr. MASON, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 1440) granting a pension to Richard Carpenter; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SALLY C. MULLIGAN.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 3570) granting a pension to Sally C. Mulligan; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

GEORGE E. WARD.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. No. 4224) to increase the pension of George E. Ward; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY F. AIKEN.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 3312) for the relief of Mary F. Aiken; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MACON, GEORGIA.

Mr. SAMFORD, from the Committee on Claims, reported back favorably the bill (H. R. No. 1516) for the relief of Macon, Georgia; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN Q. LARMAN AND OTHERS.

Mr. BARBER, from the Committee on Claims, reported back with an amendment the bill (H. R. No. 307) for the relief of John Q. Larman, Joseph L. Harley, and Thomas P. Sparks; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES P. CHOTEAU.

Mr. BARBER also, from the same committee, reported back with an amendment the bill (H. R. No. 4132) for the relief of Charles P. Choteau, of Saint Louis, Missouri; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE OF BILL.

On motion of Mr. BRAGG, by unanimous consent, the Committee on War Claims was discharged from the further consideration of the bill (H. R. No. 5328) for the relief of Lieutenant John C. Geyer; and the same was referred to the Committee on Military Affairs.

ADVERSE REPORTS.

Mr. COWGILL, from the Committee on War Claims, reported back adversely bills and a petition of the following titles; which were severally laid upon the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 758) for the relief of the Bartholomew Agricultural Society of the State of Indiana;

The bill (H. R. No. 725) for the relief of Nancy Galbreath, of Knox County, Tennessee;

The bill (H. R. No. 760) for the relief of Catherine A. Talburtt;

The bill (H. R. No. 678) for the relief of R. G. P. White;

The bill (H. R. No. 742) for the relief of Edward P. Tully, of New Albany, Indiana;

The bill (H. R. No. 757) for the relief of Samuel H. Patterson, of Clark County, Indiana;

The bill (H. R. No. 756) for the relief of Susan P. Vance; and

The petition of Cogswell & Co., of Saint Louis Missouri.

Mr. COWGILL moved to reconsider the action of the House in reference to the several bills and petition reported adversely from the Committee on War Claims; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS WORTHINGTON.

Mr. FERDON, from the Committee on War Claims, reported a bill (H. R. No. 6194) for the relief of Thomas Worthington, of Ohio; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ALIMONY IN DIVORCE SUITS, DISTRICT OF COLUMBIA.

Mr. SAMFORD, from the Committee on the District of Columbia, reported back with amendments the bill (H. R. No. 4317) to regulate the payment of alimony in suits for divorce in the District of Columbia; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

PROTECTION OF CHILDREN, DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Rhode Island, from the Committee on the District of Columbia, reported back with a favorable recommendation the bill (H. R. No. 4005) to incorporate a society for the protection of children in the District of Columbia, with amendments; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

SCHOOL BUILDINGS, DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Rhode Island, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5484) to authorize the commissioners of the District of Columbia to apply the Washington City school fund for the purchase of sites and erection of school buildings; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

GLOVER REPORT.

Mr. WILSON. I am directed by the Committee on Printing to submit the following report and resolution, in reference to which I desire to make a brief explanation.

A long time ago the petition of J. M. Glover, ex-member of Congress and former chairman of the Committee to Investigate the Expenditures in the Treasury Department, submitted a report and evidence taken by that committee which it was alleged had passed out of the possession of the Clerk of the House. At that time the Committee on Printing of the House was directed to ascertain how it was that the evidence taken by the said committee had gone out of the Clerk's hands. The Committee on Printing, with a view to executing that order of the House, have directed me to report the following, and ask that the resolution accompanying it be adopted.

The SPEAKER. The resolution will be referred to the House Calendar.

Mr. WILSON. I suppose it is competent to have it acted upon now.

The SPEAKER. Not in the morning hour.

Mr. WILSON. Can it not be acted upon now by unanimous consent?

The SPEAKER. Not by unanimous consent in this hour. The gentleman had better present the resolution immediately after the morning hour has expired. The Chair will then recognize him for that purpose. But if the gentleman chooses, the resolution can go to the House Calendar now.

Mr. WILSON. I do not want it to go to the House Calendar, and withdraw the report for the present.

URIEL CROCKER.

Mr. PHELPS, from the Committee on Ways and Means, reported a bill (H. R. No. 6195) for the relief of Uriel Crocker, of Boston, Massachusetts; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

F. STITZEL & BROTHER.

Mr. PHELPS also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 1577) for the relief of F. Stitzel & Brother; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SECTION 2981 OF THE REVISED STATUTES.

Mr. KELLEY, from the Committee on Ways and Means, reported back, with an amendment, the bill (H. R. No. 2552) to amend section 2981 of the Revised Statutes of the United States, and moved that the bill be referred to the Committee of the Whole on the state of the Union and that, with the accompanying report, it be printed.

Mr. HOOKER. I ask that the title of the bill be again read. It does not seem to indicate to what the bill refers.

The Clerk read the title, as follows:

A bill (H. R. No. 2552) to amend section 2981 of the Revised Statutes of the United States.

Mr. HOOKER. I call for the reading of the bill. There is nothing in the title to indicate to what subject the bill relates.

The bill was read in full.

Mr. TOWNSHEND, of Illinois. I desire to know if that bill was introduced into this House with no more distinctive title than it now bears.

Mr. KELLEY. I would remark there is a relation between the title of the bill and its substance. The title does not conceal anything from the House.

Mr. TOWNSHEND, of Illinois. Let the title of the bill be read.

The title of the bill was again read.

Mr. TOWNSHEND, of Illinois. There is nothing there but Arabic numerals. How can a member on this floor from that title understand to what the bill relates?

Mr. KELLEY. If the bill related to the business that belongs to the Committee on the Revision of the Laws the gentleman's criticism would be pertinent, but it relates to business that belongs to the committee from which it is reported.

Mr. TOWNSHEND, of Illinois. How do I know that? The bill has nothing in its title to indicate to what committee it belongs. It names merely the section of the statutes which it is proposed to amend. I desire to know who introduced this bill.

The SPEAKER. The Chair is not advised as to who introduced the bill.

Mr. TOWNSHEND, of Illinois. Let the Clerk read what appears on the bill itself in regard to that.

The Clerk read as follows:

Mr. KELLEY, by unanimous consent, introduced the following bill.

Mr. TOWNSHEND, of Illinois. I wish to call attention to the fact that this bill was introduced without any indication in its title of the subject to which it relates except a mere reference to the section of the Revised Statutes which it proposes to amend.

Mr. KELLEY. That is not for the purpose of concealing the contents of the bill, as has been done.

The SPEAKER. Debate is not in order.

The bill was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, was ordered to be printed.

JOHN D. DEFREES.

Mr. GARFIELD. I am instructed by the Committee on Ways and Means to report back the bill (S. No. 1090) to relieve John D. Defrees, Public Printer, and I ask unanimous consent that it may be put upon its passage. If the House will listen to a simple statement I think there will be no objection.

The SPEAKER. The Chair thinks he should not recognize as in order a request for the passage of a bill under this call.

Mr. GARFIELD. It was ruled the other day after considerable debate that it was in order to ask unanimous consent in the morning hour to put a bill upon its passage.

The SPEAKER. If the present occupant of the chair has so decided he thinks he was in error, although it is perhaps by unanimous consent.

Mr. GARFIELD. I am glad of it, and I contended against that proposition the other day.

The SPEAKER. The present occupant of the chair has twice permitted under the new rules an interference with the right of committees of the House to make reports to go to the respective Calendars, but upon careful reflection he thinks he ought not to have done so.

Mr. GARFIELD. That was what I contended for the other day, and I referred to the decision of the present occupant of the chair. I was overruled at that time; and I am very glad to have the point settled.

The SPEAKER. The bill will go to the Private Calendar.

Mr. GARFIELD. Is there any objection to letting the bill go back to the Speaker's table?

The SPEAKER. If it should go to the Speaker's table it might not be reached there.

Mr. GARFIELD. It can be reached when we go to business on the Speaker's table.

The SPEAKER. To send the bill to the Speaker's table is not one of the usual motions provided for by the rule.

Mr. GARFIELD. This is a Senate bill that came from the Speaker's table and I do not see how it cannot go back there.

The SPEAKER. The bill is now in possession of the House. It would be a new practice to return it to the Speaker's table; and there is hardly any motion that would reach it when there.

Mr. GARFIELD. Very well, let it go to the Private Calendar. I think at the proper time the House will have no objection to pass it.

The bill, with the accompanying report, was referred to the Committee of the Whole on the Private Calendar.

MARINE HOSPITAL AT NEW ORLEANS.

Mr. McLANE, from the Committee on Commerce, reported a bill (H. R. No. 6196) to provide for the establishment of a marine hospital at New Orleans, Louisiana; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

MARINE HOSPITAL AT BALTIMORE.

Mr. McLANE also, from the same committee, reported a bill (H. R. No. 6197) to provide for the establishment of a marine hospital at Baltimore, Maryland; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

J. T. PICKETT.

Mr. McLANE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5829) for the relief of J. T. Pickett; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SLOOP-YACHT AMERICA.

Mr. McLANE also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5304) authorizing the change of name of the sloop-yacht America; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

NEGOTIATIONS OF BILLS OF LADING.

Mr. McLANE. I am instructed by the Committee on Commerce to report back the resolution of the Philadelphia Board of Trade unanimously recommending the passage of a bill for facilitating the negotiations of bills of lading, &c., and to ask to be discharged from its further consideration, and that the same be referred to the Committee on Ways and Means.

The SPEAKER. Under the new rule the petition will be referred, through the petition-box, as recommended by the Committee on Commerce.

CENTRAL AND SOUTH AMERICAN CABLE COMPANY.

Mr. McLANE, from the Committee on Commerce, reported adversely upon the petition of the Central and South American Cable Company, asking aid in the form of a contract for the dispatch of Government messages and for a survey; which was laid on the table, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of committees for reports has been gone through with. The Chair will now recognize gentlemen who were not present when their committees were called.

PUBLIC BUILDINGS.

Mr. JORGENSEN, from the Committee on Public Buildings and Grounds, reported the following; which were read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying reports, ordered to be printed:

A bill, (H. R. No. 6198,) as a substitute for House bill No. 1057, to provide for the construction of a public building at Council Bluffs, in the State of Iowa; and

A bill (H. R. No. 6199) to provide for the construction of a public building at Charlotte, in the State of North Carolina.

Mr. JORGENSEN also, from the same committee, reported back, with amendments, the bill (H. R. No. 1775) providing for the erection of a public building at Boisé City, Idaho Territory; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

Mr. MURCH, from the Committee on Public Buildings and Grounds, reported the following; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed:

A bill, (H. R. No. 6200,) as a substitute for House bill No. 4705, to provide for the construction of a public building at New Albany, Indiana.

THOMAS WORTHINGTON.

Mr. EWING, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6201) granting a pension to Thomas Worthington, late colonel Forty-sixth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

DOUBLE STAMPED ENVELOPES, ETC.

Mr. SINGLETON, of Illinois, from the Committee on the Post-Office and Post-Roads, reported, as a substitute for House bill No. 469, a bill (H. R. No. 6202) to provide for double stamped envelopes, double postal cards, &c.; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

BOARD OF INDIAN COMMISSIONERS.

Mr. HOOKER, by unanimous consent, introduced a bill (H. R. No. 6203) to repeal sections 2039, 2040, 2041, and 2042 of the Revised Statutes, creating and maintaining a board of Indian commissioners; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

POSTAL REGULATIONS.

Mr. MONEY, from the Committee on the Post-Office and Post-Roads, reported back the letter of the Postmaster-General in reply to a resolution of the House of January 9, 1880, relative to section 232 of the postal laws and regulations; which was ordered to be printed and recommitted.

VENEZUELAN CLAIMS.

Mr. SPRINGER. Last Tuesday week the House gave unanimous consent to me to make a personal explanation with regard to my connection with an investigation during the Forty-fourth Congress in relation to Venezuelan claims. I desire now to give notice that tomorrow after the reading of the Journal I will avail myself of the privilege then given me by the House.

PROPOSED EVENING SESSION.

Mr. SCALES. I ask unanimous consent that next Monday evening there be held a session of the House commencing at half past seven o'clock for the consideration of business from the Committee on Indian Affairs.

The SPEAKER. The Chair will suggest to the gentleman that the session of next Monday, after the call of States for the introduction of bills, &c., will be for the consideration of motions to suspend the rules by instructions of committees. Without some action the entire session of Monday would be open to such motions. The gentleman might ask unanimous consent that at the session of Monday evening, to be held for the purpose he has indicated, the rule relating to motions to suspend the rules be considered as vacated.

Mr. SCALES. I accept the suggestion of the Chair, and will modify my request accordingly.

There being no objection, it was so ordered.

GLOVER REPORT.

Mr. WILSON, from the Committee on Printing, asked unanimous consent to report for consideration at this time the following preamble and resolution:

Whereas the House of Representatives did on the 13th day of January, 1880, pass the following: "*Ordered*, That the report of the Committee on Printing, on

the petition of Hon. John M. Glover, be recommitted to said committee with instructions to inquire how the House and the Committee on Printing lost possession of the report of said Glover, and who now has possession of the same, and how such possession was obtained, and report the facts to the House;" and

Whereas, for the purpose of said inquiry, it is necessary for the committee to call and examine witnesses: Therefore,

Resolved by the House of Representatives, That the said Committee on Printing have power for said purposes to send for persons and papers, and that the cost of said investigation be paid out of the contingent fund of the House.

Mr. WILSON. It is proper for me to make an explanation of a minute or two. The Committee on Printing had previously reported——

Mr. FRYE. I desire to offer an amendment to the resolution in these words:

That the Committee on Printing be directed to ascertain if the said Committee on Expenditures in the Treasury Department did in fact authorize the reporting and printing of the paper now proposed to be printed as its report.

I desire that we shall ascertain whether the report which came back was really the report of the committee.

The SPEAKER. Does the gentleman from West Virginia [Mr. WILSON] accept the amendment?

Mr. WILSON. I suppose there is no objection to that. I feel very sure that this is the same report.

The SPEAKER. The question is on the resolution as modified.

Mr. WILSON. I omitted to insert a provision for a shorthand writer. We ought to have one for the time we may be engaged in this investigation.

The SPEAKER. The House has two shorthand writers for committee reporting at a salary of $5,000 each.

The resolution as modified was adopted.

PROCEEDINGS AGAINST POSTAL EMPLOYÉS.

Mr. MONEY, by unanimous consent, introduced a bill (H. R. No. 6204) to extend the provisions of section 969 to proceedings against persons in the postal service of the United States; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

BUSINESS OF WAR-CLAIMS COMMITTEE.

Mr. FERDON. I ask unanimous consent for the adoption of the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That on Tuesday, May 18, the House take a recess at four and one-half o'clock p. m. until seven and one-half o'clock p. m., and that an evening session be held to consider House bill No. 3291 and House bill No. 3854, reported by the Committee on War Claims.

Mr. ROBINSON. What are those bills?

The Clerk read the titles of the bills, as follows:

A bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

A bill (H. R. No. 3854) to declare the true intent and meaning of "An act to reimburse the State of Kentucky for moneys expended for the United States in enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting militia forces to aid in suppressing the rebellion," approved June 8, 1872.

The SPEAKER. Tuesday evening of next week is already disposed of.

Mr. FERDON. Then I desire to modify the resolution by inserting the first evening that is not engaged.

The SPEAKER. Is there objection to the resolution?

Objection was made.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. COX in the chair) and resumed the consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The CHAIRMAN. The Clerk will read the pending amendment.

The Clerk read as follows:

Strike out, in line 152, the words "journal clerk," and insert, after the words "$600," in line 151, the words "journal clerk, $3,000."

The CHAIRMAN. To this amendment an amendment was offered. The Clerk will read the amendment to the amendment.

The Clerk read as follows:

In line 152, strike out "two reading clerks" and insert, after the words which the amendment proposes to insert, the words "and two reading clerks, $3,000."

Mr. FRYE. Mr. Chairman, it is very seldom that I interfere in the slightest degree with an appropriation bill——

Mr. ATKINS. If the gentleman will allow me, before we proceed with the discussion of this amendment, I would ask whether it would not be proper to have the point of order decided, unless the gentleman intends to discuss the point of order?

Mr. FRYE. Was a point of order raised?

Mr. ATKINS. Yes, sir; and I desire to state, if the gentleman will allow me——

Mr. BURROWS. I will inquire of the gentleman from Tennessee [Mr. ATKINS] who made the point of order?

Mr. ATKINS. I made the point of order.

Mr. BURROWS. I did not so understand.

Mr. ATKINS. I reserved the point of order.

The CHAIRMAN. The Chair distinctly understood it so.

Mr. ATKINS. I reserved the point of order, and I desire now to make it. Mr. Chairman, I occupy a very ungracious position; but I have a duty to perform. I am charged by the Committee on Appropriations with the duty of making upon propositions of this kind which may be offered all points of order that the rules will allow me to make. I dislike very much to run counter to the wishes of my friend from Michigan, [Mr. BURROWS,] for there is no gentleman for whom I have greater regard. I dislike also to make a point of order upon an amendment which is in the interest of our worthy journal clerk. But, sir, the point of order, in my opinion, is good, for the reason that the amendment changes existing law and does not retrench expenditures. The law fixes the salary of this officer at $2,500. I grant that originally the statute fixed the salary at $3,000; but the appropriation act of 1877 (I believe it was) fixed this salary at $2,500 and repealed the former provision fixing the salary at $3,000.

Now, while I am up, if I may be allowed to say one word further outside of the point of order, I wish to add that if we raise this salary I know there will be an effort made all along the line to raise all these salaries. It may be that Mr. Smith's case is an exceptional one; I rather think it is; but if it be the fact that he is an overworked man, then, as he stands upon a level with a great many other clerks who, if his salary be raised, will naturally desire to have their salaries raised, the question is whether the House had not better assign another man to assist Mr. Smith in the duty of keeping the Journal rather than raise all these other salaries. Of what avail is it for us to attempt to bring down the salaries of employés in the Senate if we intend to raise the salaries of our own employés? If we intend to pursue that policy, then, in my judgment, there is an end of the whole question as to the equalization of these salaries.

Mr. FRYE. I am very much afraid, if the point of order is made and made in season, that it is good. At any rate I should not feel justified in arguing against it. But my recollection is the point of order was not made, if made at all, until after the discussion had commenced.

I desire to call attention to the fact that this Committee on Appropriations has raised salaries itself, and it ought not to make the point of order to prevent the House, if it desires to do so, from testing the question of the salaries of these officers. I have been here some time in Congress, and I desire to say I never saw that table so well represented, so faithfully represented as it is to-day by the journal clerk and the reading clerks, and the only regret I have in looking forward to a republican majority in the next House is that probably these gentlemen will unfortunately be obliged to leave, and I regret to see them go.

Mr. WILSON. Not the least danger; the gentleman's regret is premature.

Mr. RYON, of Pennsylvania. Not a bit of danger about it.

Mr. FRYE. I am afraid there is and that the gentlemen occupying those places, many of them, will know them no more forever. [Laughter.]

Mr. Chairman, something was said yesterday in reference to the journal clerk receiving $1,000 for preparing the Digest. To be sure he does, and that has nothing to do with his duties as journal clerk. I remember the journal clerk of the Forty-first, Forty-second, and Forty-third Congresses received $6,000 every Congress for the Digest, a royalty which paid him $6,000 with his salary, putting the two together; yet this journal clerk only receives $1,000 for doing precisely the same thing for which his predecessor received so much.

Mr. TOWNSHEND, of Illinois. That is democratic economy.

Mr. FRYE. I simply appeal to the gentleman from Tennessee to withdraw his point of order, because I believe it is well taken if he insists upon it.

Mr. BURROWS. I wish simply to say in relation to the point of order, by way of apology to the gentleman from Tennessee for asking him the question whether he made the point, that it was contrary to my recollection the point was made, and also that the Journal or the RECORD does not disclose that the point of order was made.

Mr. ATKINS. I reserved the point of order.

Mr. BURROWS. I did not so understand it.

Mr. ATKINS. But I cannot state——

Mr. BURROWS. If the point of order is made now it is too late.

Mr. ATKINS. I will not state at what particular point in the proceedings I did reserve the point of order; I will not state that; but I did reserve the point of order, and so stated to the Chair. I expect the Chair himself will bear me out.

Mr. SCALES. I have no doubt of that, as I heard the gentleman myself reserve the point of order.

Mr. BURROWS. Did the gentleman make it before or after debate on the amendment?

Mr. ATKINS. I was stating that I do not recollect at what precise point in the proceedings I did announce that I reserved the point of order, because I wish to be entirely fair and perfectly just.

The CHAIRMAN. The Chair will state that he distinctly remembers the gentleman from Tennessee did reserve the point of order, but it was after some discussion had taken place. How far it had run the Chair cannot remember.

Mr. ATKINS. It might have been; I do not say it was not.

The CHAIRMAN. The Chair remembers the point was distinctly made.

Mr. FRYE. Has the gentleman the right to do that after the discussion was running?

Mr. BURROWS. It was too late.

Mr. WILSON. It was too late.

Mr. ATKINS. That is for the Chair to decide.

Mr. FRYE. It seems to me the Chair's recollection determines the point conclusively against the gentleman from Tennessee.

The CHAIRMAN. The Chair has no difficulty in stating that some debate had occurred after the gentleman from Tennessee rose.

Mr. ATKINS. Was there any objection made at the time to my reserving the point of order?

The CHAIRMAN. No objection was made.

Mr. HORR. If the Chair will remember, it was after the amendment to the amendment was moved by the gentleman from Kentucky, [Mr. KNOTT.] I recollect that distinctly.

Mr. FRYE. Yes; after the amendment to the amendment.

Mr. McGOWAN. It was the amendment of the gentleman from Kentucky to the amendment which called out the objection of the chairman of the Committee on Appropriations.

Mr. ATKINS. I think the gentleman from Michigan is mistaken in that. I think I reserved the point of order before the amendment was offered by the gentleman from Kentucky, if I remember rightly. That is my recollection, but I am not positive about it.

The CHAIRMAN. It is very unfortunate that the RECORD does not show the particular point at which the gentleman made the point of order.

Mr. ATKINS. Does the RECORD show that there was any point of order made at all?

The CHAIRMAN. The RECORD shows nothing whatever in reference to it.

Mr. ATKINS. Then I am not responsible for that omission.

Mr. FRYE. Better let us have a vote on this amendment.

Mr. ATKINS. Then there will be an amendment no doubt in reference to the other clerk at the desk, the tally clerk.

Mr. FRYE. You can make the point of order then, if you want to, on that.

Mr. RYON, of Pennsylvania. Take a vote upon it.

Mr. ATKINS. I wish to say that I do not intend to stand here and make a point of order on any one of the other clerks who are serving at salaries of $2,500 if this point of order is not sustained, because I cannot place them in this category simply because somebody has not proposed to raise their salary.

Mr. BURROWS. We will have no difficulty in passing on that question when that point is reached.

Several MEMBERS. Let us have a ruling upon the point of order.

The CHAIRMAN. The Chair will have no difficulty in ruling on the point of order. There is no question if the point had been made in time it could have been sustained. The only question is whether the point of order was made at a time that would have entitled it to consideration. In that event the point would undoubtedly have been well taken.

Mr. ATKINS. The point I make now is that there was no objection at the time the point was made.

Mr. FRYE. Suppose the Chair submits the question of order to the House.

The CHAIRMAN. The Chair will submit the question to the House. The Chair will rule, and hopes some gentleman will take an appeal from the decision of the Chair, that the point of order was well taken and in time.

Mr. BURROWS. From that decision I appeal.

The CHAIRMAN. The Chair will submit the question to the House. Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and there were—ayes 56, noes 81.

Mr. ATKINS. I demand tellers.

Tellers were not ordered.

So the decision of the Chair was overruled.

The CHAIRMAN. The question now recurs on the amendment to the amendment.

The Clerk read as follows:

Add to the amendment "and two reading clerks, at $3,000 each."

The committee divided; and there were—ayes 112, noes 22.

Mr. ATKINS demanded tellers.

Tellers were not ordered.

So the amendment was agreed to.

Mr. MONROE. I desire to offer a further amendment to the amendment, as follows:

One tally clerk, at $3,000.

Mr. McMILLIN. I make the point of order that it changes existing law and does not retrench expenditures.

The CHAIRMAN. The Chair will sustain the point of order.

Mr. MONROE. Will the gentleman allow a word of explanation as to the reason why I offer the amendment?

The CHAIRMAN. The Chair will be glad to hear the gentleman.

Mr. McMILLIN. That is a question for the committee.

Mr. MARTIN, of Delaware. I wish to offer the following amendment.

Mr. MONROE. Before the vote is taken I wish an opportunity of making an explanation of the amendment which I propose. If there is no objection I will proceed; if there is, I will move to strike out the last word of the pending amendment.

There are four of the best clerks that could have been selected for the various duties assigned to them at the desk, to three of whom it is proposed to pay $3,000 a year. These are the three whose work is conspicuous to the whole House; that is to say, the journal clerk and the two reading clerks. I have felt the greatest respect for these gentlemen and have recognized their ability and exactness in the performance of their duties. But there is also another clerk at the desk whose labors are not so evident to the House but who is equally meritorious and whose duties are equally difficult. I refer to the tally clerk. He has to keep all the lists; he has to prepare, as I understand, the Private Calendar, and I have observed that this work that he does has been done during the session with very great accuracy and care. I have not a word to say in objection to what the committee propose as to the payment of the other clerks. I acquiesce cheerfully in giving to them the $3,000 which this amendment proposes, but I wish to include in the amendment the tally clerk also and give him $3,000. It was for that reason that I offered the amendment to give him the same salary that is proposed to be given to these other gentlemen.

I withdraw the *pro forma* amendment.

The CHAIRMAN. The Chair has already ruled that the amendment is not in order.

Mr. MARTIN, of Delaware. If now in order I wish to offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. Does the gentleman propose an amendment to the amendment, or is it proposed to insert his amendment at the end of the section?

Mr. MARTIN, of Delaware. My amendment is not to the amendment now pending.

The CHAIRMAN. The Clerk will then read the amendment, as amended, on which the committee is now to vote.

The Clerk read as follows:

In line 151, after the word "for," add the words "Journal clerk, $3,000; two reading clerks at $3,000 each." And strike out in line 152 the words "journal clerk, two reading clerks."

The amendment, as amended, was agreed to.

Mr. ATKINS. I call for a vote in the House on that amendment.

The CHAIRMAN. The Clerk will note it.

Mr. MARTIN, of Delaware. I wish to offer the following amendment:

In line 154, after the word "each," insert "one messenger in the office of the Clerk of the House of Representatives, $1,000."

Mr. ATKINS. I raise the point of order that it changes existing law and does not retrench expenditures.

Mr. MONEY. Let the amendment be again read.

The amendment was again read.

Mr. McMILLIN. I make the point of order on the amendment.

The CHAIRMAN. The point of order has already been made by the gentleman from Tennessee, [Mr. ATKINS.]

Mr. RYON, of Pennsylvania. Is there any law which fixes that salary?

The CHAIRMAN. The gentleman from Delaware [Mr. MARTIN] will state whether there is or not.

Mr. MARTIN, of Delaware. I wish to say a word in explanation of the amendment. I am not sure whether the point of order applies.

Mr. ATKINS. I suggest that we proceed in a regular way. The point of order has been raised. Let us go on regularly and have the question as to the point of order settled.

The CHAIRMAN. The Chair thinks he will add to the dispatch of business by allowing the gentleman from Delaware to speak to the point of order.

Mr. MARTIN, of Delaware. I said I am not sure that the point of order is well taken. I am not sure whether this officer is contemplated by the law as it now stands. He has served in the Clerk's office as a messenger to the Clerk; and I am informed he is a very efficient, intelligent, and trustworthy officer. And yet, serving in that capacity, having at various times duties of responsibility to perform, he is put on the laborers' roll; and a messenger to the second officer to the House of Representatives is put in the same category as the keeper of the bath-room and the keeper of another room at the other end of the hall. I do not think that it is right or that it comports with the dignity of the Clerk's office that this should remain as it now is.

The CHAIRMAN. Does the gentleman from Delaware state that his amendment increases the salary?

Mr. MARTIN, of Delaware. It is an increase of this man's compensation.

The CHAIRMAN. That is the same thing. The Chair sustains the point of order.

Mr. HENDERSON. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 155 and 156, strike out "$2,250" and insert in lieu thereof "$2,500;" so that it will read:

"For disbursing clerk, file clerk, and enrolling clerk, three in all, at $2,500 each."

Mr. ATKINS. I make the point of order on that amendment.

Mr. HENDERSON. I wish to say, if my friend from Tennessee [Mr. ATKINS] will allow me to do so, that these three officers, the

disbursing clerk, file clerk, and enrolling clerk, have always been classed with the printing clerk, and have always received, I believe, the same salary; until the Forty-fourth Congress their salary was $2,592. It has since that time been $2,250. The committee have now increased the salary of the printing clerk from $2,250 to $2,500, which I believe to be a just increase. But in justice to the others, who have always been in the same class and who have always received the same compensation, it does seem to me they ought to receive the same salary as the printing clerk; and that their salaries should also be increased to $2,500.

I notice that some of the corresponding officers of the Senate have had their salaries reduced to correspond with those of the House. I now venture to predict that it will be the old story over again; that when this bill comes into a conference committee between the two Houses, if it ever does, the officers of the Senate will retain their former salaries. And I wish to say now, as a matter of justice to the officers of the House, who are, I think, of equal dignity with those of the Senate, and who are required to perform, as every one conversant with the facts knows, as much, if not more, labor than do the corresponding officers of the Senate, that they should receive the same compensation. And this, I think, the House should insist upon. I think this amendment should be adopted and that these three officers should be placed where they were before—on an equality with the printing clerk. That that would be an act of justice, I think every one will admit who has given any thought to the subject.

Mr. ATKINS. The Chair has indulged the gentleman from Illinois to discuss the merits of the proposition he has offered. I will not myself discuss the merits of the proposition. If I were to do it I could give I think sufficient reasons for the action of the committee for raising the salary of the printing and bill clerk, but I will not do so. I raise the point of order on the amendment that it is an increase of expenditure and that it changes existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MILLS. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 162 and 163 strike out "$1,440" and insert "$1,800;" so that it will read: "Document clerk, upholsterer, and locksmith, and two assistant librarians, four in all, at $1,800 each."

Mr. ATKINS. I make the point of order on the amendment that it is contrary to existing law, and that it does not retrench expenditures.

Mr. MILLS. I desire first to speak on the question of order. I shall not say anything upon the merits of the question if the Chair sustains the point of order.

The point of order made by the gentleman from Tennessee is that this amendment changes existing law and does not retrench expenditures. The law as it stands in the Revised Statutes fixing the compensation of these officers is as follows:

Ten clerks, including a librarian and assistant librarian, at a salary of $2,500 a year each.

I desire to have the attention of the Chair to that law. The amendment does not go to the extent that the law now authorizes.

Where my friend from Tennessee [Mr. ATKINS] is mistaken is in his supposing the annual appropriation bills constitute the law that fixes the salary of the officers of this House. In that he is mistaken. The law on the statute-book provides for the organization of Congress. It provides for the pay of its members and the pay of certain of its employés. Congress has proceeded for a number of years in making reductions in the annual pay of these several officers; but the law still remains upon the statute-book and the parties are entitled to the pay there fixed although the Government does not make the appropriation for it.

In order that the point of order of my friend from Tennessee should be good, my amendment must change this existing law which fixes this compensation. The annual appropriation bills do not make the law that fixes the salaries. If the annual appropriation bill for the current year appropriates only a portion of the salary, it does not thereby change the law that authorized the payment of a certain fixed salary to an officer. That law dies with each year. When the fiscal year expires on the 30th of June, the current appropriation bill, making appropriations for that year, dies with it; but the existing law still remains on the statute-book where Congress fixes the amount of compensation due to all the officers of the Government. Therefore I hold that the point of order is not well taken, because the amendment does not change existing law.

Mr. ATKINS. Just a word. In my judgment the gentleman from Texas [Mr. MILLS] is mistaken in his construction of the force and effect of the appropriation act. I wish to call his attention to section 4 of the last appropriation act, which act fixed these salaries at $1,440 each. That section reads:

That all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

That is a separate and distinct section in the appropriation act. Mind you, the appropriation act itself gave only $1,440 each to these employés to whom the gentleman has alluded. But in addition to that, the act goes on and in a separate section provides for the repeal of all acts or parts of acts inconsistent with that appropriation act.

Now, I hold that that act is the law. There are hundreds of laws to-day upon the statute-book that have been passed upon appropriation bills, and are binding upon every man in this country, just as this is. If we had only intended that the law fixing the salaries should die with the appropriation act, then why was section 4 inserted in that act? To my mind that is conclusive.

Besides, I would say that the speech which the gentleman has made has been made time and time again upon this floor, perhaps not so well, and it has been held fifty times, I should think, during the last four or five years that the law fixing a salary in an appropriation act is the law.

Mr. MILLS. In reply to what my friend has said—and I will consume but a moment—allow me to say that if there was anything inconsistent with the object of the annual appropriation bill in the laws which had previously been passed, then that section of the bill would repeal those laws. But what is an annual appropriation bill? It does not call up a law of Congress upon the statute-book and repeal it. Of course it could have done so. It is a general sweeping law, which at the close says that if there is anything inconsistent with the appropriations made at that session of Congress then it is repealed. That is all it purports to do. Of course it would repeal a prior appropriation if inconsistent with that act.

Mr. ATKINS. Will the gentleman let me ask him a question?

Mr. MILLS. Certainly.

Mr. ATKINS. Does not the appropriation act of last year fix the salaries of these employés at $1,440 each?

Mr. MILLS. No, sir.

Mr. ATKINS. Of course it did.

Mr. MILLS. No; it simply appropriated $1,440 for that year; that is all that it professed to do. It did not profess to change the law fixing the compensation of officers of this House, any more than it professed to change the law fixing the compensation of judges of the Supreme Court or of the circuit court of the United States. It simply, in partial obedience to the law of the land, without changing the law of the land, cut down a certain *quantum* of the pay of certain officers for that year. There is therefore nothing at all inconsistent with this appropriation bill in any law that fixes the compensation of officers of the Government.

Mr. ATKINS. Just one word in reply. I desire to state that if I am not mistaken I think this case has been adjudicated by the Court of Claims in this city, when the salaries of the police were cut down, and they applied for back pay and it was decided against them.

Mr. MILLS. I do not see how a policeman or anybody else can sue the Government for pay when Congress refuses to make the appropriation for it.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. BRIGGS. I move to amend line 159 by striking out "$2,000" and inserting "$2,220;" so that it will read:

For assistant disbursing clerk, assistant enrolling clerk, resolution and petition clerk, newspaper clerk, superintendent of document-room, index clerk, and librarian, seven in all, at $2,220 each.

Mr. ATKINS. I raise the same point of order on this amendment.

Mr. BRIGGS. I hope the gentleman will withdraw that point of order and allow these officers to receive——

Mr. ATKINS. I insist upon not withdrawing the point of order, and I hope the gentleman will confine himself to the point of order.

The CHAIRMAN. The gentleman will confine himself to the point of order.

Mr. BRIGGS. I insist that it is in order for me to make a request of the gentleman.

Mr. ATKINS. I beg the gentleman's pardon. I only said that I could not withdraw the point of order.

Mr. BRIGGS. I do not often trouble this House or the Committee on Appropriations.

Mr. ATKINS. If the gentleman will allow me a moment. I do not desire to single out the gentleman from New Hampshire [Mr. BRIGGS] and make my opposition personal to him. I will, so far as he is concerned, withdraw my opposition to his speaking on the merits of the proposition, but not withdraw my point of order, and will insist upon it if I can when some other gentleman has the floor.

The CHAIRMAN. The Chair would say to the gentleman from New Hampshire that under the rule debate must be confined to the point of order.

Mr. BRIGGS. The Chair insists——

The CHAIRMAN. That the gentleman must discuss the point of order.

Mr. BRIGGS. I do not know that I want that poor privilege; and if the gentleman insists upon the point of order I have nothing further to say.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out of order.

Mr. CHALMERS. There should be a correction in line 153 of the bill, in consequence of the amendment heretofore adopted. It should read "three in all" instead of "six in all."

Mr. ATKINS. That is correct; that necessarily follows the action of the committee heretofore.

The amendment of Mr. CHALMERS was agreed to.

The Clerk read as follows:

For one laborer in the bath-room, $720; four laborers, at $720 each; one telegraph operator, $720.

Mr. BELTZHOOVER. I move to amend by inserting after the

word "dollars," in line 168, the words "for one messenger in Clerk's room, in lieu of one laborer, $1,000;" and by striking out in the same line the word "four" and inserting "three."

Mr. ATKINS. I raise a point of order on this amendment for the same reason that has been already stated.

The CHAIRMAN. All these points of order arise under Rule XXI.

Mr. BELTZHOOVER. I am aware that the point of order if insisted upon must prevail against the amendment. I am sorry the gentleman has raised it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONEY. I move to amend by inserting after the paragraph just read the following:

Clerk of Committee on the Post-Office and Post-Roads, $2,000 per annum.

Mr. ATKINS. I raise a point of order on this amendment. It is not germane to the paragraph to which it is offered.

Mr. MONEY. I do not offer it as an amendment to the paragraph.

Mr. ATKINS. Well, I raise the point of order that the amendment is new legislation and increases expenditures. Besides it is not germane to the paragraph.

Mr. MONEY. I desire to be heard a moment on the point of order. There is no existing law in force, so far as I am aware, on this subject; and for that reason the amendment cannot change the existing law. I insist that the point of order is not well taken.

The CHAIRMAN. The Chair sustains the point of order on the same principle that has been already stated. [Cries of "Read!" "Read!"]

The CHAIRMAN. The Clerk will proceed with the reading.

Mr. BRIGGS. I rise to a question of order. I inquire of the Chair whether it is in order for gentlemen continually to call out on the floor of the House, "Read, read?"

The CHAIRMAN. The Chair sustains the point of order. It is not in order to indulge in this vociferation in the House. It is contrary to the rules.

The Clerk read as follows:

For clerk to the Committee on Ways and Means, $2,500; assistant clerk, $1,200; messenger, $1,000.

Mr. MONEY. I desire to make a point of order on the last clause of this paragraph—the clause contained in the words "messenger $1,000." I make the point that this changes existing law and does not reduce expenditures. I read from Rule XXI:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

This amendment does nothing of the sort.

Mr. ATKINS. Mr. Chairman, I believe it is a fact that when this bill was introduced no points of order were reserved upon it. Am I correct in that statement?

The CHAIRMAN. The clerks state that such is the fact.

Mr. ATKINS. Very well. There were no points of order reserved upon this bill when it was introduced. Now if I am not very much mistaken (and if I am I will thank any gentleman to point out the instance which shows my mistake) whenever an appropriation bill as brought before the House by the Committee on Ways and Means before the Committee on Appropriations was organized, or by the Committee on Appropriations since it has been instituted, has contained a provision to create an office or raise a salary in any way, such proposition has been universally held to be in order unless the right to make points of order had been reserved.

Mr. MONEY. The reading of this bill in full was dispensed with. It was stated time and again to the chairman of the Committee on Appropriations that gentlemen of the House desired an opportunity to read the bill. It was impossible to reserve points of order under the circumstances. We did not know it was necessary.

Mr. ATKINS. I am not responsible for the gentleman's not knowing it was necessary.

Mr. MONEY. We had no time to read the bill.

Mr. ATKINS. Why, sir, points of order, if reserved at all, are always reserved when bills are introduced, before they have been read.

Mr. MONEY. Points of order are reserved when the bill comes up for consideration. There has been no reading of this bill in full.

Mr. ATKINS. I call the attention of the Chair to an extract from Barclay's Digest, which has been reproduced by our journal clerk, on page 158 of our present Digest. I read the paragraph, which contains our former rule 120, together with the commentary on it:

No appropriations shall be reported in a general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures.—Rule 120, page 130. [This rule, so far as relates to amendments offered, is usually enforced with much strictness, but an instance is not known where the Committee of the Whole has ever ruled out any portion of a bill as reported from the Committee of Ways and Means, although containing provisions in violation of said rule, where the bill was committed without any reservation of points of order.—*Barclay.*]

Mr. MONEY. That relates to the Ways and Means Committee.

Mr. ATKINS. Yes, sir; and the Committee on Appropriations succeeds to the Committee on Ways and Means so far as appropriation bills are concerned.

Mr. HOOKER. Mr. Chairman, it will be in the recollection of the gentleman that when this bill was introduced its first reading for information was dispensed with on motion of the gentleman from Tennessee himself. It was impossible, therefore, that members of the House generally could know the contents of that bill until it was read by paragraphs for amendment. As the reading of the bill for information was dispensed with it was impossible to know whether a point of order would lie against any paragraph. Until the separate paragraphs were reached in the consideration of the bill it was impossible for any member to know whether to raise a point of order or not.

I am not aware it ever has been customary to make points of order against appropriation bills at the moment when they are brought into the House. The House goes into Committee of the Whole for the purpose of considering those bills and offering amendments to the paragraphs as they are reached. It would have been impossible to offer an amendment to any paragraph until that paragraph had been reached. That point of order was made against my colleague that the amendment which he offered could not be received as the paragraph to which the amendment was proposed to be offered was not under consideration, and that amendment could not be offered to it until it had been reached in the regular course of reading. If it were necessary for every man here who might be disposed to amend this bill in any regard to get up and say "all points of order are reserved on this bill," then it would have been necessary to have the bill read in detail, so every member might be possessed of it. I therefore say the point of order made by my colleague is applicable and could only be made when the paragraph is reached in its regular order. This paragraph is before the House at this time for consideration, and my colleague has made the point of order against it.

Mr. ATKINS. I do not think it is necessary to add anything further to what I have already said.

The CHAIRMAN. Unless the rule in this respect has been changed by the new code, the Chair would not be authorized to change the customary practice. This practice has been uniform within the experience of the Chair for nearly a quarter of a century; and, although the practice as to amendments offered in Committee of the Whole has been strictly construed and enforced, it has not been ruled against the bill reported from the Committee on Appropriations except in one contingency. "All points must be reserved," as appears by the quotation sent to the Clerk's desk and read. It will be observed that when the bill was committed it was without any reservation of points of order. Every member is put upon his caution; gentlemen will remember the vigilance of members in times past to have these reservations made in advance. They have been often made at once and before the bills were printed, even before their contents were known. This caution grew out of the usual interpretation of the rule. Now, the Chair is authoritatively informed, and the RECORD shows, that no reservation was made in this case. Therefore the Chair overrules the point of order. If the committee would change its uniform practice let it be submitted to the committee.

Mr. MONEY. Then section 3 of Rule XXIII does not mean what it says, and does not apply to the Committee on Appropriations, but does apply to other gentlemen belonging to other committees of this House, for the language is the same relating to the Committee on Appropriations that relates to other committees.

The CHAIRMAN. The Chair has stated if the rule in this regard has not been changed, then the practice should continue in accordance with precedents established for many years. It is not for the Chair, unless the rules have been changed, to change the practice.

Mr. BAKER. It simply amounts to a waiver.

Mr. ROBINSON. Let me make a suggestion, as it may assist the Chair. My impression is, although I am unable to find it in the rules at this moment, there has been a slight change. I derive that from the language of the Speaker of the House; when the point of order has been reserved on the report of a committee, I have heard him remark "it was not necessary to make it at this time, but it could be made at any time before the House proceeded to the consideration of the bill."

The CHAIRMAN. It must be made before the bill is committed to the Committee of the Whole.

Mr. ROBINSON. I have an impression that is changed in the new rules, but that does not affect the decision at the present time.

The CHAIRMAN. The Chair overrules the point of order.

Mr. YOUNG, of Tennessee. I should like to have the attention of my colleague for a moment. I was instructed by my committee this morning to offer an amendment at this point, but on reflection I deem it best to change that amendment in some of its features. I ask my colleague, therefore, to let this paragraph be passed over informally until I can have an opportunity to confer with him, and possibly we may agree.

Mr. ATKINS. I do not object to passing over that single paragraph at present at the request of my colleague.

Mr. YOUNG, of Tennessee. Yes, sir; so I may have the right to move an amendment after I have conferred with my committee.

The CHAIRMAN. There being no objection, the paragraph will be passed over for the present.

Mr. BUCKNER. In the present condition of the bill before the House, no points of order having been reserved, then if the point of order is made against an amendment which reduces expenditures, it can be considered by this committee.

The CHAIRMAN. The Chair did not so state. No points of order having been reserved on the bill when committed, the ruling is that the point of order cannot be made on the report of the committee.

Mr. SPARKS. If the motion is to reduce expenditures germane to the subject-matter, that is in order.

The CHAIRMAN. That is another question.

Mr. SPARKS. But the point of order ruled against was made against the provision of the bill.

The CHAIRMAN. That is another question.

Mr. HUTCHINS. Then the former ruling is wrong.

The CHAIRMAN. There is no proposition to reduce.

Mr. HUTCHINS. Yes; it is proposed to strike out the messenger at $1,000, which has been inserted. The Chair will not concede the proposition as stated by the gentleman from Illinois.

Mr. ATKINS. That is the very point we have been considering. I do not concede it at all.

Mr. SPARKS. I apprehend that this is the rule now: suppose they put in $1,200 for a messenger and I propose to amend by cutting it down to $800, that is clearly in order.

The CHAIRMAN. There is no question about that.

Mr. SPARKS. I have no doubt that it would be in order. I can reduce expenditures, of course. But the gentleman from Mississippi makes the point against the whole clause. That he cannot do, because the points of order were not originally reserved. Therefore the ruling of the Chair is undoubtedly correct.

Mr. ROBINSON. I desire now, with the permission of the committee, to have read for the information of the Chair and of the committee the third clause of Rule XXIII, to which I referred a few moments ago.

The Clerk read as follows:

3. All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

Mr. ROBINSON. I wish to call attention to that feature in this case for the reason that it is a feature incorporated for the first time in the new rules. The Speaker has several times ruled that the point of order was good if made at any time prior to the consideration of the bill. Of course the point of order made after the consideration of the bill is too late, and the decision of the Chair, in my opinion, would be sustained by the rule just read as well as by former decisions. But the House will take notice that the point of order can be made at any time before the consideration of the bill, and that was the point to which I wished to call special attention.

The CHAIRMAN. The point of order before the consideration of the bill, however, was not made in this case.

Mr. ROBINSON. I am aware of that, but I merely caused that paragraph to be read to sustain the ruling which the Chair has made that the point of order should have been made before the consideration of the bill.

Mr. CHALMERS. I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CHALMERS. I wish to ask if it would now be in order to make a motion that the committee rise for the purpose of going into the House in order that points of order may be reserved upon the remainder of the bill?

The CHAIRMAN. The Chair cannot entertain that proposition.

Mr. CHALMERS. I make this inquiry for the reason that the House was evidently misled into waiving the reading of the bill under the impression that points of order could be made against it at any time pending its consideration; and I think that every portion of the bill which is an introduction of a new law is in itself a new part of the bill and would thereby be subject to the point of order. It does seem to me, therefore, that if we have passed over any portion of it we might go back now into the House and reserve the points of order as to the remainder of the bill.

Mr. ATKINS. I wish to say in response to the gentleman from Mississippi that when this bill was introduced it was ordered to be printed and recommitted to the Committee on Appropriations, and hours after that, the next day in fact, the bill was taken up and a motion made to dispense with the first reading of the bill, and no point of order was reserved upon it either at the time of the presentation of the bill or the day afterward when it was taken up to be considered in Committee of the Whole. The opportunities for reserving points of order upon the bill were ample but no gentleman chose to avail himself of them.

The CHAIRMAN. The Chair can take no notice of the laches of members in failing to raise the point of order in time under the rules. The gentleman from Mississippi, however, can move that the committee rise. What the House may do subsequently it is not for the Chair to say.

Mr. CHALMERS. I simply made the inquiry in a parliamentary sense. If the Chair decides against me I do not care to press it.

The CHAIRMAN. The Chair does not feel called upon to rule upon the point of order in advance.

Mr. BLACKBURN. I will ask, with a view to expediting the work upon this bill, that the Chair will now rule on the point the gentleman from Mississippi raised as to whether it is competent for any member to raise a point of order against any provision of this bill after it has been by order of the House committed to the Committee of the Whole House without a reservation of any points of order upon it?

The CHAIRMAN. The Chair has already ruled upon the point of order.

Mr. BLACKBURN. Then there is no necessity for wasting further time upon it.

The CHAIRMAN. The Clerk will read the next paragraph.

Mr. HOOKER. I desire to offer an amendment.

The Clerk read as follows:

Amend lines 171 and 172 by striking out "$2,500" and inserting "$1,500;" strike out "$1,200" and insert "$750;" and in line 173 strike out "$1,000" and insert "$750."

Mr. ATKINS. I raise the point of order on that amendment.

Mr. HOOKER. I should like to have the gentleman state the point he makes against this amendment.

Mr. ATKINS. I will state it in the language of the Chairman, who has already two or three times stated his opinion upon it. There being no points of order reserved upon the bill, it is not competent now for the gentleman from Mississippi to raise the point of order upon this section of it. And this I make in accordance with the ruling of the Chair and the decisions for years back.

Mr. HOOKER. If the position my friend from Tennessee [Mr. ATKINS] takes upon this subject is correct, that you cannot move to reduce the salaries established by the report of the Committee on Appropriations in this bill, then there was not much necessity of considering the bill by the Committee of the Whole. The Chair has just ruled upon the point of order made by the gentleman from Tennessee, that we cannot raise salaries if the point of order be made. I propose now to reduce salaries. I do so to test the sense of the committee. My proposition is to reduce the salary of the clerk to the Committee on Ways and Means from $2,500, as it is in the bill, to $1,500; the salary of the assistant clerk from $1,200 to $750, and the salary of the messenger from $1,000 to $750. If this is not in order, then there is no possibility of making any amendment whatever to any proposition in this bill. But my understanding of it is that the bill is referred to the Committee of the Whole to ascertain the sense of the House as to whether or not it will support the Committee on Appropriations on the details of the bill.

Mr. ATKINS. I withdraw the point of order.

The CHAIRMAN. The decision of the Chair did not go to the point the gentleman from Mississippi makes. The gentleman from Mississippi proposes to reduce salaries. That is in order.

Mr. HOOKER. Very well. Now I would like to know in the first place what is the necessity of making the clerkship of the Committee on Ways and Means an annual clerkship instead of what it has been in former times, a clerkship receiving a per diem; and next, if there is a necessity of making that salary a fixed salary, I wish to know where is the necessity of making it the amount fixed in the bill.

I suppose it was possibly thought the onerous duties of the Committee on Ways and Means, especially in considering the important bills for the reduction of the tariff, created a necessity for having an annual clerk at a salary of $2,500, and assistant clerk at a salary of $1,200, and a messenger at a salary of $1,000; but the results have not thus far been successful, for we have until very recently had no reports from that committee.

I do not see what necessity there is for selecting a number of these committee clerkships to make them annual clerkships while other standing committees have per diem clerks. There are two, or perhaps, three, I will concede, that possibly may need a clerk employed by the year and payable by the year. Those may be the Committee on Appropriations, the Ways and Means Committee, and the Judiciary Committee. But if you provide, as this bill does, in the first place for a permanent clerk for the Committee on Ways and Means at a salary of $2,500, an assistant clerk for that committee at $1,200, a messenger for that committee at $1,000; and then for a clerk to the Committee on Appropriations at $2,500, an assistant clerk at $1,600, a messenger at $1,000, and then for annual clerks for the Committee on the Judiciary, the Committee on Claims, the Committee on War Claims, &c., and an assistant clerk to the Committee on War Claims at $1,600—if you thus provide for those committees, the question arises, what necessity exists for an annual clerk for one of those committees which does not exist for all? And there is the further question, if the Committee on Ways and Means requires to have annual clerks, is its work of such a nature that it cannot be performed by a chief clerk at $1,500 and an assistant clerk at $750.

Mr. MILLS. I suggest to the gentleman from Mississippi whether it would not be well to restrict his amendment to striking out the appropriation for the assistant clerk. I think it would be well to strike out that part of the clause which provides for the salary of the assistant clerk and let the salary of the chief clerk remain as it is. Without any sort of hesitation I say there is no use for an assistant clerk to the Committee on Ways and Means. If he has any duties to perform, I have never found out what they are.

Mr. TOWNSHEND, of Illinois. What is the salary of the chief clerk of the Committee on Ways and Means at present?

Mr. MILLS. I think it is $2,500.

Mr. TOWNSHEND, of Illinois. I ask the chairman of the Committee on Appropriations whether the chief clerk of the Committee on Ways and Means gets that salary now.

Mr. ATKINS. He does.

Mr. HOOKER. I accept the suggestion of the gentleman from Texas, [Mr. MILLS,] and will modify my amendment accordingly.

The CHAIRMAN. The Clerk will read the amendment as now modified.

The Clerk read as follows:

In lines 172 and 173 strike out the words "Assistant clerk, $1,200."

The question being taken, there were—ayes 44, noes 57.

Mr. HUTCHINS, (in his seat.) No quorum.

The CHAIRMAN. The point is made that a quorum has not voted.

Mr. BLACKBURN. I make the point of order that no one has risen to make that point.

Mr. HUTCHINS, (rising.) I make the point that a quorum has not voted. I do it for this reason, that the Committee on Ways and Means say they do not want this assistant clerk.

Mr. KELLEY. The gentleman is mistaken. A single member of the committee made that suggestion, but there has been no such statement on the part of the committee.

Mr. HUTCHINS. The statement was made by one member of the committee, and no other member of the committee denied it.

The CHAIRMAN. The Chair will order tellers, and appoints the gentleman from Tennessee [Mr. ATKINS] and the gentleman from Mississippi, [Mr. HOOKER.]

The committee again divided; and the tellers reported—ayes 44, noes, 71.

So (further count not being called for) the amendment was not agreed to.

Mr. MONEY. I offer the following amendment:

In line 173 strike out "messenger, $1,000."

The question being taken there were—ayes 16, noes 75.

So (further count not being called for) the amendment was not agreed to.

The Clerk read as follows:

For clerk to the Committee on Appropriations, $2,500; assistant clerk, $1,600; messenger, $1,000.

Mr. MONEY. I offer the following amendment:

In line 175 strike out "$1,600" and insert "$1,200;" so that it will read "assistant clerk, $1,200."

I offer this amendment because the amount in the bill is too much. This clerk has been serving the Appropriations Committee at $1,200. As compared with the amount of compensation of clerks of other committees, I think this is sufficient, and that the amount should not be increased to $1,600, as recommended in this bill.

Mr. BAKER. I desire to say if there is an employé of the House that earns $1,600 I can bear testimony from my own personal knowledge that this assistant clerk of the Committee on Appropriations does so.

Mr. SPARKS. I desire to express my concurrence in what the gentleman from Indiana [Mr. BAKER] has just stated. I served for two years on that committee, and I have no hesitation in saying that if a clerk in this House earns his money the assistant clerk of the Committee on Appropriations earns $1,600.

The amendment was not agreed to.

Mr. MONEY. I offer the following amendment to the same paragraph:

Strike out the words "messenger, $1,000."

I do not see any sense in having an annual messenger for any committee of this House. In alternate years we will have a nine months' vacation, during which there is not a single thing done in the committee-rooms, and, of course, no use for these messengers. In the course of one term of two years this messenger would receive $2,000, and the best committee clerk in the House, except the annual clerks enumerated in this bill, will not receive that sum. If there is a word that can be said in favor of retaining an annual messenger for the Committee on Appropriations I will withdraw my amendment. The gentleman from Indiana [Mr. BAKER] said yesterday that this was a liberal bill. In some respects it is a liberal bill; the Committee on Appropriations are liberal to themselves, and that is about all.

Mr. ATKINS. If the gentleman from Mississippi [Mr. MONEY] intends by that last remark to impugn the integrity of the Committee on Appropriations, then I hurl it back as a foul slander. [Laughter and cries of "Vote!" "Vote!"]

I want to say that there are ten messengers of this House at $1,000 a year each who are no more required to remain here during the vacation than this messenger will be. This messenger is required to be here if it shall be the will of the committee that he be here. It is frequently the case that sub-committees of the Committee on Appropriations meet here during the vacation for the purpose of maturing appropriation bills. And it is just as essential to have this messenger during the vacation as it is during the session.

I believe that the Committee on Appropriations and the Committee on Ways and Means ought to have these messengers for the purpose of attending to the business of those committees. I will say more, so far as this messenger is concerned, that the work of the Committee on Appropriations has grown so much that it is almost impossible for two of the best and most competent men in the country to discharge the business required. The work of the Committee on Appropriations is to-day one-half greater than it was four years ago, and from 10 to 20 per cent. greater than it was two years ago. So far as I am concerned I do not care one cent whether this is voted up or voted down. I only wish to state the facts to the House and let members decide.

Mr. MONEY. The gentleman from Tennessee [Mr. ATKINS] need not be so sensitive. I did not allude to him, but to the remarks of the gentleman from Indiana, [Mr. BAKER.]

Mr. ATKINS. Well, the gentleman cannot beat me in being courteous.

Mr. MONEY. I do not wish to be interrupted.

Mr. ATKINS. I do not want to interrupt the gentleman; I only desired to say——

Mr. MONEY. Let me get through.

Mr. ATKINS. Go on.

Mr. MONEY. I desire to say I had no intention whatever to reflect on the Committee on Appropriations.

Mr. ATKINS. Then it is all right; and that is what I wanted to say.

Mr. WARNER. I desire to inquire [cries of "Vote!" "Vote!"] whether these messengers have had any existence heretofore?

Mr. ATKINS. They never can have any existence until authorized by law.

The question was taken upon the amendment of Mr. MONEY; and it was not agreed to.

The Clerk read as follows:

For clerk to Committee on the Judiciary, clerk to the Committee on Claims, clerk to the Committee on the Public Lands, clerk to the Committee on War Claims, clerk to the Committee on Invalid Pensions, clerk to Committee on the District of Columbia, and clerk to the Committee on Commerce, at $2,000 each.

Mr. BUCKNER. I move to strike out the paragraph just read, and the paragraph following, providing for an assistant clerk to the Committee on War Claims at $1,600.

Mr. ATKINS. You cannot move to strike out a paragraph until it is read.

Mr. BUCKNER. Then I will move to strike out the paragraph just read, and I give notice that if that motion be adopted I will move in a subsequent clause an amendment in relation to committee clerks.

In all human probability, this appropriation bill going into operation on the 1st day of next July, the clerks provided for in the pending paragraph will receive $2,000 a year each, instead of $600 or $700 a year if paid a *per diem* salary, at the rate of $6 per day. That will be a salary of $2,000 for about three months' services, unless there should be a necessity for an extra session of Congress.

It is probable that there will be during the next fiscal year only about ninety days' session of Congress. It is proposed here to appropriate money to pay these clerks not only for the services they perform here but for the time that they will be at home.

If the Committee on Appropriations have adopted this plan of giving an annual salary for six or seven clerks, it should also do the same for half a dozen or a dozen other clerks. It is an unjust discrimination against the other clerks who will receive a less salary. That is the point I make. It may be that all these gentlemen should be paid by the year; but if these are to be paid by the year then let the others also be paid in the same way, and not make a distinction between them.

Take the committee which you preside over, Mr. Chairman, [Mr. COX,] the Committee on Foreign Affairs; is not that as important a committee as any committee of this House? And why should not the clerk of that committee be paid an annual salary of $2,000? That will be at the rate of about $160 a month for nine months in the year, when there is no pretense that he will have anything to do here. If this salary should be given to one, it should also be given to another. And what I say in regard to the committee which you, Mr. Chairman, have the honor to preside over is equally true with regard to other committees.

I had the honor of presiding over the committee which the gentleman from Virginia [Mr. HUNTON] now presides over; and there was as much business then done in the committee, perhaps more than is done now. The clerk of the committee then received the same compensation that other clerks received.

Within the last three or four years we have been having more and more clerks, and increasing the compensation of some of them from year to year. That is an unjust and invidious distinction against other officers who are as worthy and who do as much work as these favored clerks of committees.

Mr. BLACKBURN. I do not intend to take issue with the gentleman from Missouri [Mr. BUCKNER] on one proposition at least which he asserts, that there may be other committees in this House whose clerks, by reason of the services rendered, should be put upon the annual roll. That I do not gainsay; I think it altogether probable. But there are just three clerks added to the annual roll by the clause of this bill which the gentleman seeks to strike out, and to those three clerks I propose to confine myself. One of them is the clerk of the Committee on the Judiciary, the leading law committee of this House.

Mr. YOUNG, of Tennessee. Is it not the only law committee?

Mr. BLACKBURN. The only law committee of absolute and measureless power in this House. I undertake to say there is not a committee of the House whose clerk has more work imposed upon him or more fairly earns recognition in the shape of an annual salary than does the clerk of the Committee on the Judiciary, if he fairly discharges his duties. The clerk of that committee to-day has been its clerk for two Congresses past; this is the third Congress in which he

has served. If there be aught of complaint to be lodged against him this House has never heard it.

The clerk of the Committee on Commerce, as I know from my own personal knowledge, has during the present Congress been kept at work time and time again until the hour of midnight in that committee-room, preparing, under the direction of the chairman of the committee, an appropriation bill amounting in the aggregate to $8,000,000—a bill which in its scope and ramifications reaches to every square inch of the territory of this Government. I do not believe any man here can candidly say that the service rendered by this clerk in the preparation of such a bill is not worth the sum of $2,000.

The clerk of the Committee on the District of Columbia is the only remaining clerk whom this bill adds to the roll of annual clerks. Now, it is claimed that no one of these clerks is required to be here during the vacation of Congress. I know that, having as a member of the Committee on Rules been summoned by the chairman of that committee to be here on the 10th of last November, (Congress not convening until the first Monday of December,) when I came here on the 10th of November I found the clerk of the Committee on the District of Columbia hard at work in the room of that committee, engaged under the supervision and direction of its chairman in preparing for submission to this House a codification of all the laws of the District of Columbia, embodying some three or four hundred pages. I found that clerk here about a month before Congress was to convene, working without pay, working night and day under the orders of the chairman of his committee, for the interests of the District of Columbia, with whose interests that committee stands charged.

The Committee on Appropriations, after careful examination, have come to the conclusion that the clerks of these three committees are entitled to be placed on the annual roll at a salary of $2,000 each. They have not undertaken to say that there are not other committees of the House whose clerks are fairly entitled to similar recognition. If the gentleman from Missouri will move to put other clerks upon the annual roll with equal pay, and will demonstrate the fairness of his amendment, as he doubtless can do in some instances, I will gladly join with him in supporting that amendment. But in the judgment of the Committee on Appropriations it is not fair, it would be less than equitable, to deny to the clerks of these three committees the recognition implied by placing them upon the roll with the annual salary of $2,000. In the judgment of the committee reporting this bill these clerks earn that amount of salary, and I for one am content to allow this House by vote to pass upon their claims.

Mr. BUCKNER. I have already indicated that if my present amendment be not adopted I will move, when we come to a subsequent part of the bill, to increase the number of committee clerks receiving annual salaries. I would like to know whether there will be any point of order made upon that proposition.

Mr. BLACKBURN. If the gentleman from Missouri offers that amendment I will not make a point of order; for I do believe as I have stated that besides these three clerks whom the bill proposes to place on the annual roll, there are others who in common fairness and justice should be added.

Mr. CHALMERS. When the proposition was made a few moments ago to give the clerk of the Committee on the Post-Office and Post-Roads an annual salary, the chairman of the Committee on Appropriations objected.

Mr. BLACKBURN. I would not object.

Mr. ATKINS. I felt bound under the instructions of the Committee on Appropriations to make the point of order. That is all there is of it; and I have made the point of order not only in regard to that, but upon all similar propositions.

Mr. HUNTON. The question now before the Committee of the Whole is not the proposition which my friend from Missouri [Mr. BUCKNER] says he will bring up if the pending motion should not prevail. The question is upon his present motion to strike out this clause. I take it for granted that the Committee on Appropriations have examined carefully into the duties and labors of these committee clerks whom the bill proposes to place upon an annual salary, and have found that in each and every case the clerk is entitled to the salary of $2,000 per annum. I desire to say but a word or two in respect to the clerk of the committee of which I am chairman.

In the first place, the Committee on the District of Columbia by unanimous vote recommended to the Appropriations Committee that the clerk of the District Committee should be placed upon the annual roll at a salary of $2,000. No man can be a member of our committee sixty days without knowing that the services of our clerk are of the most onerous kind—not second, I will say, to those of any other clerk in the House except the clerk of the Committee on Appropriations. Now, while the clerk of the Committee on Appropriations has $2,500 he has an assistant clerk at $1,600 and a messenger at $1,000, while the clerk of the Committee on the District of Columbia at $2,000 is the only expense of that committee to the House.

Well, now, sir, in regard to the duties of the clerk of that committee. He comes in contact with the people of the District of Columbia having business before Congress. That committee has been in session almost without intermission every day since the 10th of November, 1879, and every hour in the day almost the clerk of the committee is required in his committee-room to answer inquiries from the people of the District and the commissioners of the District in regard to the business before that committee.

More than that, in the vacation the service of the clerk was frequently required in order to carry on the business of this District by the commissioners; and if there be a clerk of any committee in this House entitled to an annual salary it is the clerk of the Committee on the District of Columbia, and I trust it will not be stricken out.

Mr. REAGAN. Mr. Chairman, I desire to say a word pending this amendment. Among the clerks proposed to be given an annual salary is the clerk of the Commiteee on Commerce. If the salaries of these clerks are to be measured by the amount of labor they perform, then certainly there is no one familiar with the duties of that clerk who will not conclude the Committee on Appropriations have rightly recommended the giving of an annual salary to the clerk of the Committee on Commerce.

I think it may be said without mistake that there are a greater variety of subjects and a larger number of bills put before that committee than any other in the House, unless it may be, so far as number is concerned, the Committee on Claims and the Committee on Pensions.

And one more thing may certainly be said. That committee has more frequent meetings, more constant service in the committee-room—at least it has had during this session and it generally has been the case—than any other committee of this House.

In view of the extent of the labors of that committee and of its clerk, the Committee on Commerce with entire unanimity asked by written statement the Committee on Appropriations to increase the compensation of that clerk. He has no assistant except such assistance as he gets from a worthy young man acting as messenger at our door, who is borne on the laborers' roll. We are not asking for an assistant; we are not asking that a messenger be appointed, the necessity for which we have often felt. When we consider the duties of the man who acts as messenger on the laborers' roll, if there is a piece of injustice in this House it is in his case.

The committee have during this session, which has now been protracted several months, met a greater portion of the session every day, and often twice a day. The keeping of bills in order, the docketing and preservation of information ready for the use of the committee, and the presence of the clerk for the purpose of enabling the committee to discharge its duties imposed upon him labors continually during the day; for there is hardly a half hour in the day there are not more or less members coming to him for information in relation to these bills. So that I repeat as I commenced, if the pay of the clerk of a committee is to be measured by the amount of services performed and the responsibilities of the position, there can be no injustice in placing that clerk on the list of clerks with an annual salary of $2,000.

Besides, the clerk of the Committee on Commerce of the Senate receives an annual salary and the clerk of the Judiciary Committee of the Senate receives an annual salary, and it is only fair to assume that the clerks of committees there do not have more work to perform than the clerks here. Indeed, from the greater number of members of this body and the greater number of bills introduced and acted on, it is to be presumed the labor is greater here. We felt it was unjust that a clerk of a committee in the other end of the Capitol should receive an annual salary and higher pay than a clerk of a corresponding committee in this House performing greater labor was receiving.

Mr. BUCKNER. Let me ask the gentleman a question. Now, no one doubts that the Committee on Commerce has a capable and laborious clerk and there are heavy duties imposed upon him, but what I wish to know is whether any of this work is done during the vacation of Congress.

Mr. REAGAN. So far we have not had sessions during the vacation. It was agreed last year we should have a session in the vacation if we could obtain the reports of the Engineer Bureau in time. It is the intention of the committee to meet during this recess if we can obtain the reports of the Engineer Department a month in advance of the meeting of Congress. While it has not been in the past customary for the committee to meet in vacation, it is their wish to hold a meeting in vacation in case they can secure in advance the reports of the engineers which it is necessary for them to have.

Mr. HOOKER. If what has fallen from my friend from Texas, [Mr. REAGAN,] chairman of the Committee on Commerce, is correct—and I do not doubt it, for I presume from what I know of the work of that committee its clerk is as much taxed as any other in the House—if that be true, then where is the equity of paying the clerk of the Appropriations Committee $2,500 and the clerk of the Committee on Ways and Means $2,500 while the salary of the clerk of the Committee on Commerce, and who according to the gentleman performs more labor than any other clerk, is $2,000 a year?

Mr. KENNA. Will the gentleman allow me to answer his question?

Mr. HOOKER. Yes, sir.

Mr. KENNA. There is no reason on God's earth. There is no clerk in this House who has more work during the session or in recess, in day-time or in night-time and all the time than the clerk to the Committee on Commerce.

Mr. HOOKER. I so understand, and therefore I say that instead of making an objection against the point of order the chairman of the Committee on Appropriations or any member of it ought to withdraw it and allow the salaries of these clerks to be equalized.

Now, sir, as to the law at present existing, I shall refer to the

Revised Statutes, section 53, which provides for certain permanent clerks or annual clerks of certain specified committees of the House. I will read:

One clerk to the Committee of Ways and Means, at a salary of $2,980.80 a year.
One clerk to the Committee on Appropriations, at a salary of $2,980.80 a year.
One clerk to the Committee on Claims, at a salary of $2,484 a year.
One clerk to the Committee on Public Lands, at a salary of $2,484 a year.

Thus you have, according to the existing law, four annual clerks of committees—I believe there are five now—who are receiving annual salaries. Now, the existing law fixes the salary of the clerk to the Committee on Ways and Means, as I have shown, at $2,980; the clerk to the Committee on Appropriations at $2,980; the clerk to the Committee on Claims $2,484, and the clerk to the Committee on the Public Lands at the same salary.

This bill reported by the Committee on Appropriations proposes to increase the number of clerks receiving annual salaries by providing that the following additional clerks shall be annual: The clerk to the Committee on the Judiciary, the Committee on War Claims, the Committee on Invalid Pensions, and the Committee on the District of Columbia, and to the Committee on Commerce, and it is provided that they shall receive an annual salary of $2,000 each.

Now, sir, if it is fair that the clerks of the standing committees of this House shall receive annual salaries—I say if that be a just way of providing for their services, it ought to be applied, not to one or two or three committees of the House, but to all those committees which have important services to perform; and therefore it should apply to one or two other committees. I shall move, when this measure has been passed upon and at close of the section, to incorporate in this section what I hope the other members of the Committee on Appropriations will be willing to accept, and that they will be animated by the same spirit that has been indicated by the gentleman from Kentucky, who says he will make no opposition to any amendment of this kind which shall be made to facilitate the business of the House. We ought to have a fair method of distributing the salaries of these clerks, and that method ought to be in all cases uniform. I have never been in favor of cutting it down. Applying the rule of annual salaries to the clerk of one committee and refusing it to another performing equal service does not seem to be in accordance with justice, and I shall move when a vote is taken here to apply that rule to the various standing-committee clerks of the House, and allow annual salaries, to be graded according to the character and amount of the duties to be performed.

[Here the hammer fell.]

Mr. ATKINS. Mr. Chairman——

Mr. HOOKER. I hope the gentleman will yield to me just a moment longer.

Mr. ATKINS. I yield to the gentleman.

Mr. HOOKER. If the necessity ever existed, in the language of the gentleman from Missouri, for making these salaried clerks, is it not less now, when we are upon the heels of the long session of the Forty-sixth Congress, and when there is no possible or probable necessity for it except for the ninety days at the beginning of the next short session?

Mr. ATKINS. I am not experimentally acquainted with the duties of any of the committees to whom annual clerks are provided in this bill except the Committee on Appropriations. I am perfectly satisfied that the Committee on Appropriations ought to have an annual clerk. I know in fact that it is absolutely necessary. I do not believe that the business of that committee can be intelligently and faithfully performed otherwise. Hence we have followed the standing rule of things, and continued the clerk of that committee at an annual salary. There are five other annual clerks to House committees that have been given from time to time, as the necessities or burdens of the duties involved upon the committees seemed to justify in the opinion of Congress. Here is a proposition to increase the salaries, or to make annual clerks, which is substantially the same thing as an increase of salary, of the clerks of the Committee on Commerce, the Committee on the Judiciary, the Committee on War Claims, the Committee on Invalid Pensions, and the Committee on the District of Columbia.

Now, the reason for this is that an application has been made in writing in every one of these cases to the Committee on Appropriations, which application was signed by all the members of each of these committees, asking that the clerk be promoted to an annual clerkship. It is also said that the work of the various committees of the House is rapidly augmenting; that it is increasing from session to session and cannot be well discharged in the manner in which the clerks are at present appointed. Now I take it for granted that the Committee on the Judiciary, with the distinguished gentleman from Kentucky at its head, could not afford to make to the Committee on Appropriations a written statement that is not absolutely exact and correct in every particular. I would say the same also with regard to the honorable gentleman from Texas and the honorable gentleman from Virginia, representing respectively the Committee on Commerce and the Committee on the District of Columbia. I take it for granted they would not make any representations which were not strictly and literally true. The reason I made the point of order on the gentleman from Mississippi, in reference to providing an annual clerk for the Committee on the Post-Office and Post-Roads, was because I was under instructions from the committee to make a point of order wherever it could be made on all amendments; and therefore I made it. Now it is for the House to say whether these committees, having come forward, with an intelligent knowledge of the work devolved upon them and making this request for an annual clerk, shall be refused. I may be frank to say for myself that I have not gone into the files of these various committees to see what the extent of their business was, or to see how many bills they had before them for consideration.

I am frank to say I presume there are many members on this floor who are more familiar with the work of those committees than I am myself. I took their statement, and the Committee on Appropriations took their statement and were unanimous in granting the requests of these various committees.

Mr. WARNER rose.

Mr. ATKINS. Just one word more. I believe my time has not expired.

I have no feeling in the world in regard to this matter. There has been no sort of unfair discrimination. I would scorn myself and consider myself unworthy of a seat in this Hall if I could use the little power that may be placed in my hands, if it were possible to do so, to do injury to any single member of this House, or any committee of this House, or any employé of this House, or any individual within the limits of this broad Union. I have no feeling on this subject; I have only followed the line of duty in this matter.

Mr. WARNER. I do not understand that it is expected that the clerks of these committees will remain here during the fiscal year for which appropriations are made in this bill, the year beginning the 1st of July next, or that they are expected to have work to do when the House is not in session. It is well understood that there will be but about ninety days' session during the course of that year. Therefore the proposition to pay clerks of committees a full year's salary is simply a proposition to pay for three hundred days' service when but one hundred days' service is to be performed.

It is all very well to talk of liberality here, but I think we are bound to consider who pays for the liberality. It is an easy matter to be generous with money that belongs to somebody else. Somebody must pay these salaries; somebody must pay this increased expenditure. And who will pay it? Why, sir, it will be paid in the end by men who will not receive, perhaps, as much as $300 for three hundred days' labor. The whole produce of the labor of the people of the United States does not average $500 to each laborer or producer; it does not average $150 *per capita* in the most prosperous years. These increased expenditures will have to be paid in the end, I say, by men who earn $1 a day. The proposition, therefore, to pay the price of three hundred days' labor when the labor of only one hundred days is to be performed should not have the favorable consideration of this House.

Mr. BRAGG. It seems to me if the argument of the gentleman from Ohio [Mr. WARNER] amounts to anything it is a direct reflection upon himself for drawing a salary during the vacation between the sessions of Congress. We certainly draw our salaries per annum; and I take it the gentleman from Ohio will be as loath to decline drawing his salary during the vacation as any gentleman on this floor. The people have no right to expect it; the people do not expect it, and nobody except those who think they can make cheap capital to talk about ever proposed that sort of thing, because they know nobody believes them when they talk about reducing the salary.

I represent one of these committees that have an annual clerk; and I say if that committee did not sit more than sixty days in a year $2,000 is not too much to pay him for the service; and $2,000 will not equal the amount of money saved to the Government by having a man who is worth $2,000, no matter whether he stays in the committee-room a little while or a long time.

That committee has before it from this House twelve hundred bills. It has had sent to it from the Quartermaster's Department of the United States Government between five hundred and six hundred more. It has had come to it from the commission of claims two thousand two hundred more records. It has awaiting it now over six thousand more, which have been sent to it for examination, including all the *débris* of the commission of claims. It has awaiting it from the Commissary and Subsistence Departments between twenty-four and twenty-five hundred more cases waiting for adjudication. The bill appropriating for awards by the commissioners of claims cannot be prepared within two months. And it requires two men to do that work. They have to examine the records and reports, and to see that no sums are put in that have not been properly audited and adjudicated by these courts whose judgments have to be revised by us.

The mere fact of having a man who can withstand temptation, who is fit to be intrusted with the examination of such cases and questions where such large amounts of money are involved, entitles him of itself to a salary at least of $2,000.

[Here the hammer fell.]

Mr. WARNER. I ask to be allowed a word in reply.

Ad captandum arguments are always very cheap and always easy. I make no opposition to the pay of clerks who perform services, who are employed through the year. What I object to is paying for service when no service is performed. But I think there is a broad distinction between paying for clerical labor performed for a given time and paying for the duties and the service which members of Congress have to perform. If it were true that the members of Congress per-

formed no service pertaining to their duties as representatives except during the hours they are in this House, or the time they spent at this Capitol, then the argument of my friend from Wisconsin might do very well. And if there are members here who perform no public service except when in their seats here, then my argument might be applicable to them. But if members of this House do their duty, their whole duty, all of their time is in requisition; it is all due to the Government. Whether members are here or elsewhere, they have to deal with questions that call for consideration at their hands and the exercise of mind quite beyond the duties of attending the sittings of the House here; their duties extend to all days in the year. I think, therefore, the compensation is no more than adequate, provided they perform their duties as Representatives faithfully. In short, the distinction between the duties of clerks having mere clerical work to perform for a given time and the duties of members of Congress is too clear to admit of argument, and no one knows this better than my friend from Wisconsin.

Mr. COX. Mr. Chairman, [Mr. HARRIS, of Virginia,] I will not detain the committee long. This bill seems to discriminate somewhat against certain committees of this House, and such discrimination always produces more or less debate. As chairman of the Committee on Foreign Affairs, I represent a committee which has a clerk, not an annual clerk, who is also charged with the duties of clerk to the Committee on the Census, receiving one salary, and that for the session only. I wish the point of order may not be made on the amendment which is to be proposed by my friend from Missouri, [Mr. BUCKNER.] I would like to see the clerks of some of the other committees that have arduous work to perform properly compensated; at least I would not like to see discriminations made against them. The business of the Committee on Foreign Affairs has largely increased within the last two or three years. Matters are sent to that committee involving millions of dollars; and the committee is required to make examinations into those matters which necessitate copying a large amount of papers; and the House has also ordered us to make investigations. The result has been that the clerk of that committee, who, as I have said, is also the clerk of the Committee on the Census, has had to employ an assistant and pay him out of his own pocket. The clerk has been obliged sometimes to write from sunset to sunrise in order to get up the business of the committee in a proper manner.

Mr. WILSON. Searching the library for authorities on treaties.

Mr. COX. I desire especially to call the attention of the House to the fact that by some peculiar management, I know not what, the clerical work of the Census Committee has been devolved upon the clerk of the Committee on Foreign Affairs. Now, the work of the Census Committee will increase during the vacation, and when Congress meets again it will involve a large amount of business. There will have to be a digest of an immense amount of material for the purpose of ascertaining the proper number of Congressmen in this country during the next decade, who will have to be apportioned among the States. And there must be examinations made before the next session of Congress meets in order to perfect the system of representation under the new census.

Therefore, if the Committee on Census is not entitled to an annual clerk, it will require the presence of a Congressman, who perhaps should be at home looking after his re-election, in order to do justice to the business of the Committee on Census.

I hope, therefore, there will be no opposition when my friend from Missouri brings in his amendment to place the clerk of the Committee on Foreign Affairs on a footing with other clerks, not merely because of its dignity as the leading committee of this House, but on account of the work it does; for the Calendar will show that we have cleared off all our work with a clerk who has received very poor pay, although he has assisted us so well. But I rose principally to say that there ought to be some provision made for a clerk of the Committee on the Census, in anticipation of the work necessary to be done in preparation for the next apportionment of Congressmen, and that clerk should be here on the ground preparing the data for the next apportionment of representation.

Mr. MILLS. I hope that when we are distributing these benefits to these several committees, we will not forget the Committee on Mines and Mining.

Mr. MONEY. I desire to say one word on the amendment.

Mr. KNOTT. Has not debate been exhausted on the pending amendment?

Mr. MONEY. I think the clerks named in the pending paragraph should receive an annual salary.

Mr. KNOTT. Has not debate been exhausted?

The CHAIRMAN, (Mr. COX.) Debate has been exhausted on the pending amendment. The gentleman from Mississippi [Mr. MONEY] can move an amendment.

Mr. MONEY. I move to strike out the last word. I very heartily approve the paragraph under consideration, reported from the Committee on Appropriations, with the exception that it does not go far enough. There are other committees of this House which do just as much work as some of the committees here named. I would not deprive a single clerk named in this paragraph of the compensation proposed to be given him, for I think they all deserve it. They must be men of a certain business capacity and of a certain social status; and it is not right to require them to come here for a few months at a poor salary and then refuse them any pay for the balance of the year.

Nobody expects the House to deal niggardly with its employés. I hope the paragraph reported by the Committee on Appropriations will be adopted, and I hope also that the amendment of the gentleman from Missouri may not be antagonized by a point of order.

Mr. ATKINS. If it is necessary, in order to limit debate on the pending paragraph, to move that the committee now rise, I will do so. [Cries of "Vote!" "Vote!"] Very well, let us have a vote.

The question was upon the amendment of Mr. BUCKNER to strike out the following:

For clerk to Committee on the Judiciary, clerk to the Committee on Claims, clerk to the Committee on the Public Lands, clerk to the Committee on War Claims, clerk to the Committee on Invalid Pensions, clerk to Committee on the District of Columbia, and clerk to the Committee on Commerce, at $2,000 each.

The amendment was not agreed to.

Mr. HOOKER. I move to amend the pending paragraph by inserting, after the words "clerk to the Committee on Commerce," the words "clerk to the Committee on the Post-Office and Post-Roads, and clerk to the Committee on Foreign Affairs." Also to add to the paragraph the following:

And all other clerks of standing committees of the House at $1,500 per annum; and said clerks shall be and remain in Washington, in discharge of the duties of their committees, whenever required by order of the chairmen of their committees.

Mr. ATKINS. I am compelled to raise the point of order upon that amendment that it changes existing law and does not retrench expenditures.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

The Clerk read as follows:

For one chief engineer, $1,700; three assistant engineers, $1,200 each; and two laborers, $820 each; five firemen at $900 each. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval.

Mr. YOUNG, of Tennessee. I send to the desk an important amendment, to which I ask the attention of the House and also the attention of my colleague, [Mr. ATKINS.] I think there will be no objection to it when it is understood.

The Clerk read as follows:

Strike out the word "three," after "dollars," in line 206, and insert the word "two;" strike out the word "two," in line 207, and insert the word "one;" and after the word "each," in line 208, insert "for one electrician, $1,150, and one laborer, $800; and the electrician and all laborers connected with the lighting, heating, and ventilating of the House shall be subject exclusively to the orders and in all respects under the direction of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval.

Mr. ATKINS. I do not know that I understand this amendment exactly. I reserve all points of order upon it.

Mr. YOUNG, of Tennessee. When I have explained the proposition I think my colleague will see that there is no point of order to be reserved.

Mr. ATKINS. Does it not increase expenditures?

Mr. YOUNG, of Tennessee. No, sir; it reduces expenditures. It leaves the existing law substantially as it is, as enacted by the appropriation bill of two years ago.

For four or five years past the electrician of the House has been borne upon the rolls as an engineer. Two years ago a clause substantially similar to that embraced in this bill was enacted, providing that the assistant engineer, (who has been the electrician,) and all others connected with heating, lighting, and ventilating the House, should be under the control of the Architect of the Capitol and the Speaker of the House. Previous to that time they had been under the direction and control of the Clerk. My amendment proposes to constitute the electrician a distinct officer, with a laborer as his assistant; and I propose to strike out in this paragraph one of the engineers, who is simply the present electrician, and also to strike out one laborer, who is really the assistant of the electrician.

This office of electrician is one of the most important subordinate offices connected with the House of Representatives. More important duties devolve upon him than upon any other subordinate officer of the House. While I was chairman of the committee on the ventilation and lighting of the Hall, I had occasion to examine this whole subject; and I can therefore speak advisedly. At present the electrician is under the control of three or four superior officers. One of these is located at the Senate end of the Capitol, where there is a part of the machinery of which the electrician has command. Another portion of this machinery is in this end of the Capitol, under the direction of the engineer of the House. The electrician is also subject to the orders of the Doorkeeper of the House, because a part of the machinery is situated in the committee-rooms. It is impossible for any officer to discharge promptly and efficiently his duties unless he is placed under the control of some single superior, and responsible to him for his conduct.

There is another thing to be considered. The least derangement of the electrical apparatus above our heads, through the negligence or ignorance of the electrician, might blow this Capitol into atoms, and it therefore requires the most careful and skillful management.

A MEMBER. And the members?

Mr. YOUNG, of Tennessee. Yes, sir; the members of the House and everybody else.

Mr. McMILLIN. By the escape of gas from the members?

Mr. YOUNG, of Tennessee. No, sir; if that were the danger, fatal results would have happened long ago. [Laughter.] I am referring to the danger from derangement of the electrical apparatus, and an explosion caused by the gas above the transom that lights the Hall, not that which members let off. [Laughter.]

In order to obviate any point of order which my colleague might feel it his duty to make, my amendment provides for a reduction of the salary of both these employés.

Mr. ATKINS. Does the amendment contemplate the reduction of the *quantum* of labor?

Mr. YOUNG, of Tennessee. No, sir; not at all.

Mr. ATKINS. It proposes the same number of employés?

Mr. YOUNG, of Tennessee. Yes, sir; and it reduces the amount of pay.

Mr. ATKINS. It changes the appointing power?

Mr. YOUNG, of Tennessee. No, sir; that remains exactly as it is now. The Speaker and the Architect appoint now, and without the consent of these two officers these employés cannot be removed. My amendment does not change the law in that respect at all.

Mr. ATKINS. Then, what is the point of the amendment?

Mr. YOUNG, of Tennessee. It provides that the electrician and his assistant shall in the discharge of their duties be under the direction of the Architect of the Capitol and the Speaker, instead of under the control of the engineer of the Senate, the engineer of the House, and the Doorkeeper of the House, as they are in a great measure at present.

Mr. ATKINS. I ask that the amendment be again read.

The amendment was again read.

Mr. ATKINS. I have no objection to that amendment. I see that it neither increases nor reduces the number of laborers, while it does reduce the amount of pay by a few dollars. I withdraw the point of order.

Mr. YOUNG, of Tennessee. Then I ask the adoption of the amendment.

The amendment was agreed to.

The Clerk read as follows:

For eight messengers, at $1,200 each; ten messengers, at $1,000 each; seven laborers, at $720 each; ten laborers, during the session, at the rate of $720 each per annum; two laborers, at $600 each; one laborer, at $840; eight laborers in charge of cleaning the Hall of the House, known as "cloak-room men," at $50 per month during the session; and for one female attendant in ladies' retiring-room, $600.

Mr. HOOKER. I move to amend by striking out "eight messengers," in line 226, and inserting "eighteen messengers;" also by striking out, in line 227, the words "ten messengers, at $1,900 each."

Mr. ATKINS. I raise a point of order on this amendment. It changes existing law and does not retrench expenditures.

Mr. HOOKER. I desire to say a word upon the point of order. I understood my friend from Tennessee, [Mr. ATKINS,] in his preliminary speech on this bill, to say that one object of the Committee on Appropriations had been to equalize the pay of the Senate employés and that of the corresponding House employés.

By recurring to lines 71 and 75, inclusive, it will be found the whole of the twenty-two messengers employed by the Senate are by this appropriation bill paid $1,200 per annum, whereas by the section under consideration unamended there will be eight messengers of the House paid at the rate of $1,200 and ten messengers of the House paid at the rate of $1,000 per annum each. In addition there are fourteen messengers on the soldiers' roll at $1,200. Of the eighteen messengers provided for in the paragraph under consideration it is proposed to pay eight of them $1,200 and ten of them $1,000 each. The paragraph under consideration, therefore, does not do what it was said it was the purpose of the Committee on Appropriations to do; that is, to equalize the compensation paid to the messengers in the Senate and in the House.

Mr. ATKINS. I have made the question of order against the amendment, and I hope the gentleman will confine himself to the discussion of that point of order.

Mr. HOOKER. I am proceeding to state the point of order; and the point is this: In reference to what the gentleman has said that this is not in the line of retrenchment but increases expenditure, I have only to say, the amendment is only doing what the gentleman from Tennessee, in his speech, proposed to do, that is, to equalize the pay of messengers in the House and in the Senate. It might have been $1,000 each, and that would be a reduction, or it might have been reduced in the Senate, and thus have enabled the House to advance the pay of the ten messengers in the House; but this was not done, and there has been no reduction in the Senate, and, therefore, there has been no equalization between the two Houses. There are ten messengers in the House whose duties are the same as those of the messengers of the Senate, and who are as much entitled to $1,200 as the twenty-two messengers in the Senate.

Mr. WILSON. They perform the same labor and ought to have the same pay.

The CHAIRMAN. The Chair decides that the point of order is well taken. It may be an equalization of amount, but the only question before the Chair is one of retrenchment.

The Clerk read as follows:

For Postmaster, $2,500; first assistant postmaster, $2,000; eight messengers, at $1,200 each; four messengers, during the session, at $800 each; and one laborer, at $720.

Mr. DIBRELL. Mr. Chairman, the House seems to be in a liberal mood to-day, and I therefore move, in line 239, to strike out the word "two" and insert "five;" so it will read "eight messengers, at $1,500 each."

Mr. ATKINS. I make the point of order that does not retrench expenditures and it is contrary to existing law.

The CHAIRMAN. Does the gentleman from Tennessee say it increases expenditure?

Mr. DIBRELL. It does.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

The Clerk read as follows:

For the journal clerk for preparing Digest of the Rules, $1,000.

Mr. SPARKS. I move, in line 258, to strike out "$1,000" and insert "$500;" so it will read:

For the journal clerk for preparing Digest of the Rules, $500.

I move that amendment for this reason: Yesterday, Mr. Chairman, an amendment was carried increasing the pay of the journal clerk to $3,000. This appropriation for the same service and to the same man makes his total pay $4,000. I do not think the committee could have meant really that officer's pay should be $4,000, but it is so. I propose to strike out $500, which will leave his total pay at $3,500, and I think it is good pay for that officer.

Mr. STONE. I hope this amendment will not prevail. It is true the journal clerk receives now a thousand dollars for preparing the Digest. This has been the case for a number of years. It involves an expenditure on his part of $500 and nets him only $500; so that, if the salary is increased as provided yesterday, he will only receive $3,500 net. That includes not only pay for his duties as journal clerk but his duties in preparing this Digest. There was no object in amending before if this is now to be stricken out.

The committee divided; and there were—ayes 2, noes 39.

So the amendment was rejected.

The Clerk read as follows:

For postage-stamps for the officers of the House of Representatives, namely: For the Sergeant-at-Arms, $300; the Clerk, $150; and the Postmaster, $150.

Mr. MONEY. I move to strike out the last word for the purpose of asking the gentleman in charge of this bill how this $150 to the postmaster for postage-stamps is expended?

Mr. BAKER. I am really unable to say what is done with it.

Mr. MONEY. I am informed by the postmaster of the House and also by the clerk of the Committee on Appropriations that, out of the $150 annually appropriated, $25 goes to the Committee on Appropriations for postage-stamps. I do not see why this House should pay for postage-stamps for the Appropriations Committee any more than for any other committee of this House.

Mr. BAKER. I can speak from personal knowledge, so far as I am concerned in reference to that charge, that it is not so, that there is not a dollar of postage-stamps which goes to that Committee on Appropriations—not a dollar of it.

Mr. CANNON, of Illinois. I never heard of it before.

Mr. MONEY. I do not know whether it goes in postage or not, but I say the clerk of this committee, Mr. Stevens, and the postmaster of this House both informed me this morning that out of the $150, $25 has gone since the Forty-second Congress to the Committee on Appropriations annually. I cannot see why under the appropriation of $150 for postage-stamps to the Postmaster of the House of Representatives and $150 for postage-stamps to the Clerk, there should be $25 appropriated for postage for the Committee on Appropriations. Now the clerk of the committee can be brought in here if necessary. If there is any reason why there should be a contingent fund for this committee, let it be considered under the proper heading, and I would not object to it that I am aware of.

Mr. SINGLETON, of Mississippi. Mr. Chairman, I wish to say in regard to this matter, as a member of the Committee on Appropriations ever since 1875, that never has a dollar of this fund gone to the Committee on Appropriations to my knowledge. Personally, I have never received a postage-stamp in my life from this fund.

Mr. MONEY. I only ask for information. I want to know what disposition is made of this money. I want to know why it is that the Committee on Appropriations have been for years receiving $25 of this specific fund if the allegation that such is the fact be true.

Mr. STONE. Perhaps the chairman of the Committee on Appropriations can supply the information.

Mr. BAKER. I am authorized to say now that the gentleman from Mississippi is entirely mistaken. The clerk of the Committee on Appropriations is here and authorizes me to deny that any of that fund is received for the purpose stated.

Mr. MONEY. I see that the clerk is here, but he cannot speak for himself.

Mr. BAKER. He furnishes me the information, which I now give to the gentleman from Mississippi.

Mr. MONEY. The information that I have I got this morning from the Postmaster of the House. He stated that since the Forty-second Congress that amount of this fund has been used by the Committee on Appropriations.

Mr. BAKER. That might have been the case in years gone by, before I had anything to do with this matter; but I can answer that it is not the case now, and there is no foundation for it.

Mr. MONEY. I withdraw the amendment.

The Clerk read as follows:

For twenty-nine pages, while actually employed, (including one riding-page and one telegraph-page,) at $2.50 per day each, and for hire of horses, ($400,) $9,100; and wherever the words "during the session" occur in the foregoing they shall be construed to mean four months.

Mr. ATKINS. I offer the following amendment:

In line 300 strike out the word "four" and insert "five," so that it will read, "and for hire of horses, $500."

That is done by the consent and instruction of the Committee on Appropriations and it only restores the amount to what it is now. It will also be necessary to correct the total to correspond with the amendment.

The amendment was agreed to.

Mr. ROBINSON. I wish to ask the chairman of the Committee on Appropriations what is the meaning of the last line of this section, namely, that the word "session," where it occurs in this bill, shall be construed to mean four months. I refer to the three hundred and second line.

Mr. ATKINS. We are now appropriating in this bill for the next fiscal year which embraces the short session of Congress. That session is usually construed to mean four months, although sometimes it only extends for a very few days over three months.

Mr. ROBINSON. That would be all right unless we had an extra session occupying more time.

Mr. ATKINS. An extra session would be another session. This relates only to the short session.

The Clerk read as follows:

Library of Congress:

For compensation of the Librarian, $4,000; and for twenty-four assistant librarians, two at $2,250 each, one at $2,000, four at $1,600 each, two at $1,440 each, two at $1,250 each, eight at $1,200 each, four at $1,000, and one at $960 per annum; in all, $36,840.

Mr. BURROWS. In line 313 I move to strike out "four" and insert "five;" so that it will read: "For compensation of the Librarian, $5,000;" and I hope the chairman of the Committee on Appropriations will not raise the point of order on it.

Mr. ATKINS. I am compelled to make the point of order on that.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ATKINS. I regret the necessity for being compelled to make it. I recognize the valuable services of that officer and the fact that his place cannot be supplied; but I am bound to make the point of order in accordance with the instructions of the committee. I think there should be a slight verbal amendment in line 320 of this section to add the word "each" after the word "dollars," where it occurs in this line, so it will read "four at $1,000 each."

The amendment was agreed to.

The Clerk read as follows:

Executive:

For compensation of the President of the United States, $50,000.

Mr. SAMFORD. I move to strike out "fifty," in line 349, and substitute "twenty-five" instead; making it read:

For compensation of the President of the United States, $25,000.

Mr. PAGE. I make the point of order on that amendment.

Mr. McKENZIE. What is the point of order?

Mr. PAGE. The point of order is that the Constitution of the United States provides that the salary of the President of the United States shall not be changed during his term of office.

Mr. ATKINS. I desire to have the amendment read again.

The amendment was again read.

Mr. ATKINS. The first section of article 2 of the Constitution of the United States provides:

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Mr. PAGE. That is the point of order I make.

Mr. SAMFORD. I concede that the amendment cannot apply to the present incumbent. I therefore propose to modify my amendment, to take effect after the 4th of March next.

The CHAIRMAN. The gentleman from Alabama will submit his amendment.

Mr. ATKINS. I submit, Mr. Chairman, to my friend from Alabama that I have just about committed myself to the doctrine of reducing this salary. I have already voted to reduce it when the proposition was presented in a form in which it was admissible to apply it to the present incumbent, and I am perfectly willing to vote for a reduction again, but in a separate bill. I think it should not be applied to this bill, because I believe it will subject the whole bill to a veto. If the gentleman from Alabama desires to reach his end let him bring in his amendment in a separate bill, and I am sure it will receive warm support.

Mr. SAMFORD. The difficulty is that separate bills can never be got through Congress. I modify my amendment so that it shall read as follows:

Amend by striking out "$50,000" and inserting "$25,000;" and add "*Provided*, This law shall not take effect until the 4th of March next."

Mr. ATKINS. Is not the effect of that amendment to apply to the whole bill?

The CHAIRMAN. The Chair has nothing to do with the effect of an amendment.

Mr. ATKINS. But it is well for the House to know something of the effect of it. It is proposed to insert a provision which affects the whole bill.

Mr. EWING. I suggest the gentleman from Alabama should be permitted to modify his amendment so as to make it provide that the salary of the President after the 4th of March next shall not exceed $25,000.

Mr. PAGE. Is not that the form of the amendment now?

Mr. ATKINS. Oh, no.

Mr. SAMFORD. That is the effect of it.

Mr. PAGE. Has the Chair ruled upon the point of order I made?

The CHAIRMAN. Since the point of order was made the gentleman from Alabama has modified his amendment.

Mr. SAMFORD. I offer my amendment in this form:

Add to the paragraph the following proviso:

"That the salary of the President after the 4th of March, 1881, shall not exceed $25,000."

Mr. PAGE. I make the point of order that that is new legislation; that it changes existing law and does not reduce the amount of money appropriated in this bill.

Mr. CONGER. Let us have a vote. I want a general recognition that the money is not going to that side of the House. [Laughter.]

The CHAIRMAN. Does the gentleman from California insist on the point of order?

Mr. PAGE. Yes, sir.

The CHAIRMAN. The Chair overrules the point of order.

Mr. GODSHALK. I desire to suggest that as the amendment now reads it would limit the President's salary to $25,000 for his whole term.

The CHAIRMAN. The words "per annum" have been inserted.

The question being taken on the amendment as modified, there were—ayes 25, noes 67.

So (further count not being called for) the amendment was not agreed to.

Mr. McKENZIE. Can we get the yeas and nays on this proposition in the House?

Mr. REED. Not very easily.

The CHAIRMAN. Amendments rejected in Committee of the Whole do not go to the House.

The Clerk read as follows:

For expenses of editing and distributing the laws enacted by the Forty-sixth Congress, and for the expenses of editing and distributing the Statutes at Large of the Forty-sixth Congress, $2,500.

The CHAIRMAN, (Mr. SCALES.) The gentleman from New York [Mr. COX] desires to offer an amendment.

Mr. COX. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 415 add the following:

"For printing and distributing more frequently the publications by the Department of State of the consular and other commercial reports, including circular letters to chambers of commerce, $7,000: *Provided*, That such publications may be sold at such rates as may be fixed by said Department, and the proceeds of all sales to be paid into the Treasury."

Mr. ATKINS. I desire to say to the gentleman from New York [Mr. COX] that that estimate was sent in to the Committee on Appropriations and a letter has been received from the Secretary of State on that subject urging its importance. The communication has been referred by the Committee on Appropriations to the sub-committee which has in charge the preparation of the sundry civil bill, and is now being considered by that committee.

Mr. COX. In consequence of the statement of the chairman of the Committee on Appropriations I withdraw the amendment.

The Clerk read as follows:

TREASURY DEPARTMENT.

Secretary's Office:

For compensation of the Secretary of the Treasury, $8,000; two Assistant Secretaries of the Treasury, at $4,500 each; chief clerk and *ex officio* superintendent of the Treasury building, $2,700; stenographer to the Secretary, $2,000; one chief of division of warrants, estimates, and appropriations, and one chief of division of customs, at $2,750 each; one assistant chief of division of warrants, estimates, and appropriations, $2,400; six chiefs of division, at $2,500 each; two assistant chiefs of division, at $2,100 each; six assistant chiefs of division, at $2,000 each; two disbursing clerks, at $2,500 each; forty clerks of class 4; additional to three fourth-class clerks, namely, receiving clerk of bonds, and two book-keepers, $100 each; twenty-five clerks of class 3; twenty-one clerks of class 2; fifteen clerks of class 1; eleven clerks, at $1,000 each; fifty female clerks, at $900 each; seven messengers, seven assistant messengers; and forty laborers; superintendent of the Treasury building, $300; one captain of the watch, $1,200; one engineer, $1,400; one assistant engineer, $1,000; one machinist and gas-fitter, $1,200; one storekeeper, $1,200; sixty watchmen, and additional to two of said watchmen acting as lieutenants of watchmen, $180 each; six firemen, at $720 each; seventy-five charwomen, at $180 each; two conductors at elevators, at $720 each; in all, $387,940.

Mr. WAIT. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 424, after the word "appropriations," insert "one chief of division of appointments;" so that it will read:

"One chief of division of warrants, estimates, and appropriations, one chief of division of appointments, and one chief of division of customs, at $2,750 each."

Mr. ATKINS. I raise the point of order on that amendment.

Mr. WAIT. I trust the gentleman will not insist on the point of order.

Mr. ATKINS. I do insist on it most emphatically.

Mr. WAIT. There is no head of a division who has more work to perform than this officer.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Commissioner of Customs:

For Commissioner of Customs, $4,000; deputy commissioner, $2,250; two chiefs of division, at $2,100 each; two clerks of class 4; four clerks of class 3; ten clerks of class 2; nine clerks of class 1; three clerks at $1,000 each; one assistant messenger; and one laborer; in all, $49,630.

Mr. WARNER. I move to strike out the last word. I offer this formal amendment for the purpose of calling the attention of the Appropriations Committee to a statement made at Steubenville, Ohio, last August by the Secretary of the Treasury. As this book [a large bound newspaper volume] is too large to send up to the Clerk's desk, I will read what the Secretary of the Treasury said at Steubenville on the 20th of August last. He said:

It is claimed that the reduction of appropriations was made in spite of the most vehement and determined resistance of the Administration. This is not true.

I ask the attention of the chairman of the Committee on Appropriations to what follows:

The amount estimated by the Treasury Department to Congress for the ordinary expenses of the fiscal year 1879 was $138,107,648.77, while the actual appropriations made by Congress for this Department were $146,304,291.21, or $8,196,642.44 in excess of the sum asked for. And so for the ordinary expenses of the Government the estimates presented to Congress for the fiscal year ending 30th June, 1880, were $129,197,812.68, while the appropriations made by Congress for the ordinary expenses of the Government for that year amount to $161,404,647.76; showing an excess of appropriations over estimates of $32,206,835.08.

He goes on to say:

I do not mention these large appropriations as a matter of complaint, for I recognize that it is the appropriate business of Congress to declare the purposes for which the public money is to be expended. But I do call the attention of the people of Ohio to the fact that while the democratic party started out very well four years ago on the side of economy—

I call the attention of gentlemen on the democratic side to what follows—

it did not hold out very well on this line. For this year it appropriated $32,000,000 more than was asked for by the Executive Department.

This was stated in a public speech in August last. Thirty-two million two hundred and six thousand eight hundred and thirty-five dollars and eight cents, we are here told, were appropriated more than the Executive Departments called for. That is the statement of the present Secretary of the Treasury. Now, I find scattered through this bill miscellaneous items in large part for the Treasury Department amounting in all to several millions of dollars. Now, I would like to ask the Committee on Appropriations whether these sums are called for by the Secretary of the Treasury. Here is one item of $1,700,000 for the internal revenue and $30,000 and $20,000 for furniture, &c. Is this called for, and is it needed? Money is easily sunk in costly furniture.

I presume that members of the House have noticed the kind of furniture that is provided in some of the rooms of the Departments for the clerks, especially in the new building just completed. There are single pieces of furniture in rooms occupied by fifteen-hundred-dollar clerks that have cost more than the homes, on the average, of at least twenty-five million of the fifty million of the people of the United States are worth. I say that is merely outrageous. The explanation of the Committee on Appropriations will be in order.

[Here the hammer fell.]

Mr. ATKINS. I hope the Committee of the Whole will be a little patient, and as I have been asked some questions allow me to give an answer. I have nothing whatever to do in the conduct of this bill with any political issues that may be raised upon this floor or elsewhere. It is entirely a matter of business with me. But when I am asked the question by the gentleman from Ohio [Mr. WARNER] whether or not the fact be true that the Forty-fifth Congress appropriated more money than was estimated for, I must give the figures. The estimates were $204,202,270.53, and the appropriations $192,860,237.17. I might content myself with the simple reading of these figures as an answer to the question of the gentleman. It may be well, however, for me to say that $26,000,000 of this $192,860,237.17 was appropriated on account of the arrears of pensions act. My friend on my right [Mr. SPARKS] says that it was $27,000,000 in round numbers. It was between $26,000,000 and $27,000,000, and I chose to say $26,000,000, because it was not quite $27,000,000.

Mr. SPARKS. It was $26,852,000.

Mr. ATKINS. That is included in the total appropriations of $192,000,000. Now another thing; this estimate for the $26,852,000 for arrears of pensions did not appear in the Book of Estimates; that is true. But a letter was sent to the Committee on Appropriations by the Secretary of the Treasury asking that that appropriation be made; it was a supplemental estimate.

Mr. SPARKS. And the estimate for that item was $42,000,000.

Mr. ATKINS. I do not recollect particularly about that. So far as the pending paragraph is concerned, making appropriations for the Commissioner of Customs and the employés under him, I desire to state to the gentleman from Ohio that we have appropriated in this bill precisely to a cent, and for the same object and purposes, the amount that was appropriated in the last Congress for the same purpose.

Mr. WARNER. Is there any appropriation in this bill not asked for by the Executive Departments?

Mr. ATKINS. There are a great many items——

Mr. WARNER. I mean relating to the Executive Departments.

Mr. ATKINS. If I understand the question of the gentleman, there are a great many items in this Book of Estimates which have not been appropriated for in this bill.

Mr. WARNER. Does this bill appropriate more than has been asked for?

Mr. ATKINS. No, sir; not by several hundred thousand dollars. This bill does not appropriate so much as is estimated for by between $500,000 or $600,000.

Mr. WARNER. I withdraw my amendment.

Mr. CANNON, of Illinois. I renew it, for the purpose of adding to the answer. I say there are appropriations recommended by this bill, some of which have already been passed by this Committee of the Whole, which are not included in any estimate sent in by the Secretary of the Treasury.

Mr. WARNER. Pertaining to the Treasury Department?

Mr. CANNON, of Illinois. You can examine and see. You asked a broad question and I have given you a broad answer.

Mr. WARNER. I asked specifically with reference to the Executive Departments.

Mr. ATKINS. I wish my remarks to be distinctly understood. I do not embrace all the appropriations in this bill, only those relating to the Departments. There is nothing in this bill for the benefit of the Departments which has not been estimated for by the Departments.

Mr. CANNON, of Illinois. I withdraw my amendment.

The Clerk read the following:

First Auditor:

For the First Auditor of the Treasury, $3,600; deputy auditor, $2,250; four chiefs of division, at $2,000 each; seven clerks of class 4; nine clerks of class 3; ten clerks of class 2; sixteen clerks of class 1; three clerks, at $1,000 each; three copyists and two counters, at $900 each; two assistant messengers; and two laborers; in all, $84,310.

Mr. DUNNELL. I move to amend the paragraph just read by striking out "$3,600" and inserting "$4,000," as the salary of the First Auditor.

Mr. ATKINS. I make the point of order on that amendment.

Mr. DUNNELL. Will the gentleman reserve his point of order for a moment? I will not occupy much of the time of the committee.

Mr. ATKINS. I dislike to raise a point of order and insist upon some gentlemen confining their remarks to that point of order, and then yield to my worthy friend from Minnesota [Mr. DUNNELL] to speak upon the merits of the amendment, although I like that gentleman very much. If I extend that courtesy to him I will have to extend it to others.

Mr. DUNNELL. Allow me a single remark.

The CHAIRMAN. On the point of order?

Mr. DUNNELL. I insist that my amendment is in order. The law says that there shall be connected with the Department of the Treasury six auditors of accounts who shall be appointed by the President, by and with the advice and consent of the Senate, each to be entitled to a salary of $4,000 a year. That is the law of the land.

When our new rules were under discussion, I made some remarks upon them. I referred to Rule XXI as denying to me the privilege of moving to increase an item in an appropriation bill so that the amount appropriated as the salary of an officer should be equal to the amount named in the law as such salary.

The Speaker of the House, who was then upon the floor, said that Rule XXI was not open to that construction; and my friend from Louisiana [Mr. ACKLEN] pitied me for my simplicity, and expressed great sorrow that I should have committed so grave a mistake as to suppose that Rule XXI would deny to me the privilege of making such a motion as I now make. The point I then made was that Rule XXI, the rule which the gentleman from Tennessee [Mr. ATKINS] now cites against me, would deny to a member the privilege of making an amendment to appropriate for an officer the salary named in the law if a less amount were named in the pending bill.

Here is a law giving to each Auditor the sum of $4,000. We are appropriating for this office. I insist that it is in order to increase the amount proposed in the bill, so that we may appropriate what the law calls for. These Auditors are the important officers of the Treasury Department. The many millions which are audited all pass through their hands. They ought to be as good men as can be found in the country—good lawyers, able men. Some of them are able men—all of them for aught I know. They ought to be paid the sum of $4,000. Here we have the Comptroller of the Treasury receiving $5,000; the Commissioner of Customs, $4,000; the Second Comptroller of the Treasury, $5,000; the Supervising Architect of the Treasury, $4,000——

Mr. HUTCHINS. I rise to a point of order. I dislike to interrupt the gentleman, but he certainly is arguing the merits of the question.

The CHAIRMAN. The gentleman has departed somewhat from his original proposition.

Mr. ACKLEN. Allow me to ask, is not the gentleman from Minnesota [Mr. DUNNELL] arguing this rule upon a wrong basis? Did not the last appropriation act change the law? I so understood. The gentleman's criticisms upon the rule, I submit to him, are incorrect.

Mr. DUNNELL. I insist, Mr. Chairman, that an appropriation for one year is in no sense a change of the law. The Revised Statutes say that these Auditors shall receive a salary of $4,000. If one year we appropriate $3,000, another year $2,000, another year $3,500, these

several acts of ours giving them specific sums for the particular year do not in any sense change the law.

[Here the hammer fell.]

Mr. ATKINS. I do not think it necessary to discuss this point of order. It has been discussed here several times to-day and the Chair has ruled on it repeatedly.

The CHAIRMAN. The Chair would like to hear the gentleman from Tennessee on this point.

Mr. ATKINS. I will simply say that this salary has been fixed at $3,600 by the former appropriation act, and at the close of the act there is a separate section declaring that all acts inconsistent with that act are repealed. Upon this I base the statement that the provision of law for a salary of $4,000 has been repealed.

Mr. ROBINSON. Stronger than that suggestion is this: that in the opening section of the law passed last year it is declared that the sums appropriated shall be in full compensation for the services of the officers named therein.

Mr. DUNNELL. I admit the change of law for that year; but that does not at all make a permanent change in the law.

The CHAIRMAN. Although in the Revised Statutes the salaries of these Auditors seem to be fixed at $4,000, yet subsequent appropriation acts, which are to be regarded as subsisting statutes, have fixed the salary at $3,600. The Chair sustains the point of order.

Mr. ATKINS. As there is to be a session to-night, and as we have now reached the hour of half past four, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. SCALES having taken the chair as Speaker *pro tempore*, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

EVENING SESSION FOR STEAMBOAT BILL.

Mr. KENNA, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the House take a recess at four and a half o'clock Tuesday, the 25th instant, until seven and a half o'clock; the session of the evening to be devoted exclusively to the consideration of House bill No. 1029, concerning commerce and navigation.

Mr. KENNA. I ask that the bill referred to in the resolution just adopted be reprinted.

There being no objection, it was ordered accordingly.

HOUR OF MEETING TO-MORROW.

Mr. HUNTON. I move the House take a recess till half past seven o'clock this evening.

Mr. ATKINS. I move that at the close of the session to-night the House take a recess till to-morrow morning at half past ten o'clock, to proceed with the consideration of the legislative, executive, and judicial appropriation bill.

The SPEAKER *pro tempore*. Is there objection to the proposition of the gentleman from Tennessee, [Mr. ATKINS?] The Chair hears none. The motion is agreed to.

Mr. HUNTON. I renew my motion that the House take a recess until half past seven o'clock to-night.

EVENING SESSION FOR BUSINESS OF THE WAR-CLAIMS COMMITTEE.

Mr. THOMPSON, of Kentucky. Mr. Speaker, the objection that was made to the resolution of the gentleman from New York, [Mr. FERDON,] providing for a night session for the consideration of two bills reported from the Committee on War Claims, has been withdrawn. I ask that the resolution be now adopted.

The SPEAKER. The resolution is not at the desk.

Several members called for the regular order.

The question being taken on the motion of Mr. HUNTON, that the House take a recess until half past seven o'clock, it was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. YOCUM, for one week from the 13th, on account of important business;

To Mr. MURCH, for two weeks from to-morrow, on account of important business; and

To Mr. SPEER, until Monday next.

CHANGE OF REFERENCE.

On motion of Mr. DUNNELL, the Committee on Military Affairs was discharged from the further consideration of the letter of the Secretary of War dated March 3, 1880, recommending an appropriation for the relief of Captain John C. Bates and Jonathan A. Trickly, with accompanying papers, and the same was referred to the Committee on Appropriations.

ORDER OF BUSINESS.

Mr. MCKENZIE. Mr. Speaker, there has been no objection to the request made by my colleague.

Mr. THOMPSON, of Kentucky. I have asked unanimous consent, and there has been no objection made to it.

The SPEAKER *pro tempore*. But the regular order was demanded.

Mr. MCKENZIE. I think the Chair is mistaken. Who demanded the regular order? I am quite sure there is no objection to the proposition of my colleague.

The SPEAKER *pro tempore*. If there is no objection, the resolution will be sent to the Clerk's desk and read.

Mr. MCKENZIE. It is in the form of a motion.

Mr. SPARKS. That cannot be done, as the question on the motion to take a recess has been put and agreed to.

Mr. BURROWS. And nothing is now in order, the House having taken a recess.

The House accordingly (at four o'clock and forty minutes p. m.) took a recess until 7.30 p. m.

EVENING SESSION.

The House at seven o'clock and thirty minutes p. m. resumed its session.

MUNICIPAL CODE FOR THE DISTRICT.

The SPEAKER. By order of the House the session for this evening is for the further consideration of the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia.

Mr. HUNTON. I move that the House resolve itself into the Committee of the Whole House on the state of the Union, and pending that motion I move that all debate on the pending paragraph and amendments thereto be limited to fifteen minutes.

The latter motion was agreed to.

The question then recurred on the motion to go into committee.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. BURROWS in the chair.

The CHAIRMAN. The Clerk will read the pending paragraph.

The Clerk read as follows:

QUALIFICATIONS AND REMOVALS.

SEC. 3. To appoint no one to office, or to hold office, in the police force, except additional privates, who cannot read and write the English language, or who is not a citizen of the United States, or who shall ever have been indicted and convicted of crime.

The CHAIRMAN. The Clerk will now read the pending amendment moved by the gentleman from Rhode Island, [Mr. ALDRICH.]

The Clerk read as follows:

And no person shall be appointed on the police force who has not served in the Army or Navy of the United States and received an honorable discharge.

Mr. HUNTON. Mr. Chairman, I feel embarrassed in regard to this pending amendment, as the gentleman from Rhode Island who offered it is not here; and if it is the unanimous consent, I move to pass over the paragraph for the present.

The CHAIRMAN. The Chair hears no objection, and it is ordered accordingly.

The Clerk proceeded with the reading of the bill.

Mr. HUNTON. There is nothing in the remaining portions of this chapter which will create objection or comment, and I therefore ask that the Clerk pass it over without reading until we get to page 245.

Mr. PRICE. Is the gentleman's motion that it shall be considered as read and agreed to?

Mr. HUNTON. Certainly.

Mr. PRICE. I have no objection.

The CHAIRMAN. The Chair hears no objection, and the Clerk will proceed with the reading at page 245.

Mr. HUNTON. I move to pass over the chapter about baggage, the storage of articles, public bathing, bill-posting, bridges, bricks and brick-molds, burial-grounds, storage of coal-oil petroleum, and other inflammable articles, drunkenness and profane swearing, excavation, exhibitions for gain, fires, fish wharves or docks, footways, gambling, game laws, and safe-keeping of gunpowder.

Mr. PRICE. Does that include game laws?

Mr. HUNTON. Those laws have been passed recently. There are no important changes at all in these separate sections. I ask, therefore, that they be passed over and be considered as agreed to and that the Clerk commence to read chapter 18, on page 267.

The CHAIRMAN. The Chair hears no objection.

Mr. PRICE. This chapter on gambling I should like to look at before giving my consent.

Mr. HUNTON. Very well, we will agree if you desire to offer any amendment you can do so hereafter.

Mr. FARR. It might be well to leave these sections open to amendment in case amendment should be found necessary. I will therefore suggest it be understood that they shall be open to amendment.

Mr. HUNTON. To any member of the committee?

Mr. FARR. Yes; and to any member of the House during this evening session.

There was no objection, and it was ordered accordingly.

The Clerk proceeded to read chapter 18 about hackney carriages, cabs, and other vehicles.

Mr. HUNTON. That is the law now down to page 272 about the rates charged.

The Clerk read as follows:

SEC. 627. The rates of fares or charges for the conveyance of passengers from one place to another in the District of Columbia shall not exceed the following: Any time between the hours of five o'clock ante meridian and twelve o'clock and thirty minutes ante meridian, for one or two passengers in a one-horse vehicle, excepting buggies and phaetons, seventy-five cents for the first hour and sixty cents for each

succeeding hour; and by the trip, that is to say, from one given point to another given point within the limits of the District of Columbia, for one mile or less, in a one-horse vehicle, for one or two passengers, forty cents for the trip; and for each additional mile twenty-five cents, and for each additional passenger twenty-five cents for the trip; for a two-horse vehicle, $1 for the first hour or fraction thereof, and seventy-five cents for each additional hour or fraction thereof; by the trip, one mile or less, sixty cents; each additional mile, forty cents; each additional passenger, twenty-five cents for the trip: *Provided*, That in all cases, whether by a one or two horse vehicle, the fare for a single passenger between any railroad depot in the District and any hotel in the city of Washington shall not exceed fifty cents; any hotel in the city of Georgetown, seventy-five cents; and between any steamboat wharf in Washington and any hotel in said city, seventy-five cents; and any hotel in Georgetown, $1. In all cases where a vehicle is not engaged by the hour it shall be considered as being engaged by the trip. Any time between the hours of twelve o'clock and thirty minutes ante meridian and five o'clock ante meridian, 50 per cent. over the rates before named may be charged and collected. The fare to any point outside the limits of Washington and Georgetown, and within the District of Columbia, shall in all cases, except where an agreement is otherwise made, be by the hour and any portion thereof, the same as provided for within said cities. Each passenger shall be entitled to have his baggage conveyed at a charge for each trunk or box of twenty-five cents. Each passenger shall also be entitled to have conveyed band-boxes, canes, umbrellas, or such other small packages as can be conveniently carried within the vehicle wherein the passenger is seated, without extra charge. The driver shall load and unload all luggage without any extra charge whatever.

Mr. CLAFLIN. I move, in lines 23 and 24, page 270, to strike out "seventy-five cents," and in lieu thereof to insert "fifty cents," the same that is charged from railroad depots to the hotels. I see no reason why it should be seventy-five cents from the steamboat to the hotels, when it is not more than a mile any way, when only fifty cents is charged from the railroad depots to the hotels.

The amendment was agreed to.

Mr. NEAL. The same alteration should be made also in page 272.

The CHAIRMAN. The Chair hears no objection, and it will be made accordingly.

The Clerk read as follows:

SEC. 644. No keeper of any hotel, tavern, ordinary, or restaurant, tippling-house, or bar-room, shall sell spirituous or fermented liquors, wines, cordials, or other intoxicating drinks to any minor, or to any person in a state of intoxication; and no keeper of any hotel, tavern, ordinary, or restaurant, shall sell any of the above-named liquors on Sunday, nor have their bars or other places where liquors are usually sold open on Sunday during any part of the day or night.

Mr. SAMFORD. I offer an amendment to line 4 of this section 644, after the word "minor" to insert "or to a person of known intemperate habits." These are the words generally used in all such statutes as this.

Mr. PRICE. That, I suppose, is as good as we can make it, but it will give rise to this inquiry, and I am not prepared to say here and now how it can be settled, that is, when is a person to be considered of intemperate habits? In the same line it is provided that liquor shall not be sold to any person in a state of intoxication, and the question will arise there also as to what constitutes a state of intoxication, and who is to determine that question.

Mr. HUNTON. That is very true, but I do not see how we can better it.

Mr. PRICE. I believe not; I think we had better let it go as it is.

The amendment was agreed to.

The Clerk read as follows:

SEC. 647. Any person violating any of the provisions of this chapter shall, on conviction, be liable to a fine of not less than $15 nor more than $50.

Mr. CLAFLIN. I move to strike out "fifteen," in the third line, and insert "twenty;" and also in the same line to strike out "fifty" and insert "one hundred."

Mr. HUNTON. I think we had better let it remain at $15, as it is now.

Mr. CLAFLIN. The object of my amendment is to prevent many of these places from violating the law who would make more money in one night than the fine amounts to. Many of those large places in the neighborhood of the theaters can keep open all night and all day, too, and it would be profitable to them even if the fine was imposed.

Mr. HUNTON. I will not oppose the amendment, but I think it had better remain at $15. I have no objection to the other amount.

Mr. NEAL. I want to suggest to the gentleman from Massachusetts that we had better let the amount remain at $15. We have provided in another section of these laws that there shall be no appeal when the fine is under $20. Now, if you make the fine in this instance $20 the party can appeal the case. All the witnesses run off and cannot be found, and you cannot enforce the penalty for want of the witnesses; therefore I think it would be better to let it remain as it is.

Mr. BROWNE. Let the maximum be fixed at $100 and the minimum remain at $15.

Mr. CLAFLIN. Very well; I accept that.

The CHAIRMAN. The Clerk will read the proposed amendment.

The Clerk read as follows:

In line 3 of section 647 strike out "fifty" and insert "one hundred dollars;" so that it will read:

"Who shall be liable to a fine of not less than fifteen or more than one hundred dollars."

The amendment was agreed to.

Mr. HUNTON. Chapter 20, which relates to lamps and lamp-posts, is precisely the old law. I suggest that we pass that and begin at chapter 22.

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

CHAPTER XXIII.

MARKETS.

Mr. NEAL. This chapter relating to markets is substantially the old law. We have simply changed the phraseology in some respects. I suggest, therefore, that this chapter be considered as read, and that we proceed to page 289.

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

SEC. 687. Upon all articles pawned, pledged, or deposited as collateral, the pawnbroker may advance such sum as may be agreed with his customer, and shall charge no more than at the rate of 2 per cent. per month.

Mr. HUNTON. I move to amend in the fourth line of this section by striking out "2" and inserting "5."

The CHAIRMAN. The Clerk will read the amendment proposed by the gentleman from Virginia.

The Clerk read as follows:

In line 4 of section 687 strike out "2" and insert "5;" so that, if amended, it will read: "Who shall charge no more than at the rate of 5 per cent. per month."

Mr. HUNTON. I desire to say a word or two upon that amendment. The committee were divided upon this question, and a majority reduced the per centum to 2. I believe the old per centum was 5, was it not?

Mr. NEAL. I do not recollect at this time.

Mr. HUNTON. We have, however, increased the license on pawnbrokers from, I think, $200 to $300, or perhaps not those exact figures, but at all events we have made a considerable increase. Upon examination of the question I thought that if the license was increased and the percentage allowed to be charged reduced from 5 to 2 it would drive the best men engaged in this business out altogether and throw it into the hands of irresponsible and lawless people. For that reason I think the five-per-cent. clause stricken out by the committee should be restored.

Mr. HENKLE. Mr. Chairman, I was one of the number that thought 2 per cent. was sufficient; that is, at the rate of 24 per cent. per annum.

Now, these pawnbrokers never advance money except upon ample security. Generally the property pledged for the loan is worth many times over the amount of money advanced, so that their security is ample, and they scarcely, if ever at all, lose a dollar. Representations were made to the committee that the charges hitherto made were extravagant, exorbitant; that the class of people who were forced to pawn valuable property were the most needy and frequently the most meritorious and worthy of our citizens. And it was thought proper that the law should impose a limit by which they could not be imposed upon, and this limit was inserted in behalf of a very worthy and deserving class of people.

I am told there is a very large amount of business of this character done in this city. There are a great many people here who are reduced to straits; circumstances making it necessary that they shall pledge valuable property in order to get the means for temporary support. Two per cent. per month is 24 per cent. per annum. This is certainly a very liberal interest, and I for one believe it sufficient.

Mr. HUNTON. One word in reply to my friend from Maryland. I agree with a great deal he has said on this subject, but I do not think he has touched the gist of this difficulty growing out of the reduction of the percentage. If an article was pawned for twelve months, in that case the gentleman might be right; but we know that the pawning of articles is generally for a week, a fortnight, or a month; very frequently for the residue of a month. Take the case of a piano worth $50, pawned for a fortnight. At the rate of 2 per cent. per month that would be fifty cents; which would not pay the pawnbroker for putting the article away; it would not pay him for storage.

All these things considered, I have come to the conclusion that it would be wrong, both for the people and for the pawnbroker, to put the percentage down as low as 2 per cent. If we put the percentage up to a living rate there will be others entering into the business, making competition; and where there is competition, there is not much danger of too large a charge being made.

Mr. CLAFLIN. I quite agree with my friend from Virginia [Mr. HUNTON] in regard to the percentage. In our State we started collateral loan institutions, doing substantially a pawnbroker's business and taking the place of pawnbrokers. They undertook to do business at a low rate of interest, as low as 2 per cent. per month; but they broke down entirely under the most skillful management; and they were obliged to raise their rate in order to be able to accommodate people with small sums. For instance, a person wants $5 on a gun for a month; ten cents would not pay to make the entry. Or he wants to pawn a piece of clothing for $5; 2 per cent. for a month would be ten cents, which would not pay for putting the article away. Five per cent. is very much less than the ordinary pawnbroker would charge if he had his own way. I do not think it is a large percentage.

Mr. HENKLE. I desire to add to what I have already said, that in a large majority of the cases cited by the gentleman from Massachusetts the property is forfeited and the pawnbroker gets the whole.

The amendment of Mr. HUNTON was agreed to.

The Clerk read as follows:

POOR.

SEC. 693. No person shall bring or cause to be brought into the limits of this District any persons destitute of the means of supporting themselves, or of laboring for their maintenance, or afflicted with disease, whereby they are likely to become a public charge; and any person violating this section shall upon conviction

thereof be liable to a fine of not more than $50: *Provided, always*, That the provisions of this section shall not be enforced against the commander of any merchant ship or vessel, or river or bay craft, entering the collection district embracing the District of Columbia, who may land one or more of his hands or crew who may have become disabled by sickness or otherwise.

Mr. CONGER. I desire to inquire of the gentlemen who have charge of the bill whether they have given full consideration to the clause imposing a penalty of $50 for bringing into the limits of the District "persons destitute of the means of supporting themselves or of laboring for their maintenance." That would include children. Small children have no means of supporting themselves.

Mr. HUNTON. If the gentleman from Michigan had read a few words further I think his difficulty would have been removed. The clause goes on, "whereby they are likely to become a public charge." That covers the whole of the gentleman's difficulty.

Mr. CONGER. That limitation applies to the words "or afflicted with disease." The other portion of the clause is absolute.

Mr. HUNTON. Oh, no. The words "whereby they are likely to become a public charge" qualify the whole of the foregoing part of the section.

Mr. CONGER. It seems to me rather hard on the small children.

Mr. HUNTON. I do not think the gentleman has read the clause with the same care as the committee did.

Mr. CONGER. It does not seem to me that the grammatical construction would make the limitation apply to the whole preceding part of the clause

Mr. HUNTON. I am satisfied that according to the grammatical construction the qualification applies to the whole clause.

The Clerk read sections 694 to 696 under the head "preservation of order and property," to which no amendment was offered.

Mr. HUNTON. The succeeding sections of that chapter up to section 701 are the old law, and I think we may pass them without reading.

The CHAIRMAN. If there be no objection the sections will be considered as adopted to section 700 inclusive.

There was no objection.

The Clerk read as follows:

SEC. 701. No prostitute or lewd woman shall invite, entice, persuade, or address for the purpose of inviting, enticing, or persuading, any person in or upon any avenue, street, open space, alley, public square, inclosure, or from any door, window, porch, or portico, to accompany, go with, or follow her to her residence, or to any other house, building, inclosure, or other place for the purpose of prostitution.

Mr. HUNTON. I offer the following amendment:

In line 1, strike out the words "prostitute or lewd woman" and insert in lieu thereof the word "person."

The amendment was agreed to.

Mr. HUNTON. I also offer the following amendment to the same section:

In line 6, strike out the words "her to her" and insert the word "the" before "residence," and the words "of such person" after the word "residence."

Mr. ROBINSON. I think there may be a little doubt as to the propriety of the language suggested in the amendment. In the preceding part of the section the word "person" is used in reference to two individuals, the person enticing and the person enticed. As there is a penalty attached the proper language should be used.

Mr. CLAFLIN. In lieu of the amendment just offered by the gentleman from Virginia I offer the following:

Strike out the words "her to her residence, or to any other" and insert in lieu thereof "him or her to any;" so that it will read: "Or follow him or her to any house, building, inclosure," &c.

Mr. HUNTON. I agree to that.

The amendment of Mr. CLAFLIN was agreed to.

Mr. ALDRICH, of Rhode Island. I move as a new section, to come in after section 715, that which I send to the Clerk's desk.

The Clerk read as follows:

No person shall beg or solicit alms on any public street, avenue, square, or other public place in the city of Washington or Georgetown.

Mr. DIBRELL. What is the penalty of that?

Mr. HUNTON. The penalty for the chapter is in the next section.

Mr. PRICE. I think we had better consider that a moment.

Mr. CLAFLIN. Put in "without permission of the commissioners."

Mr. ALDRICH, of Rhode Island. I do not object to that.

Mr. PRICE. That would not obviate the objection to it.

Mr. BRIGHT. I think the rule of the amendment proposed is too rigid. Perhaps an amendment would be proper which would prohibit the business or the office of begging.

Mr. NEAL. Professional begging.

Mr. BRIGHT. Yes, professional begging. But to provide that a single act of soliciting charity shall be punished is something which I think ought not to be done. Such an act as that is not ranked in any code of morals as a crime or a vice. The requirements of necessity must be made known sooner or later, and I think the rule of the proposed amendment is too rigid.

Mr. HUNTON, (to Mr. ALDRICH, of Rhode Island.) Accept the modification suggested.

Mr. BRIGHT. I have no objection to the prohibition of professional begging.

Mr. MILLS. I think the city government should provide means to take care of these people and support them and keep them out of the public highways. If there is a nuisance in Washington City that excels all others it is this nuisance of indiscriminate begging. There should be some tax upon the people or upon the general Treasury to take care of such people.

Mr. ALDRICH, of Rhode Island. I believe no city in this country allows the intolerable nuisance allowed here of the constant begging of small children.

Mr. NEAL. And large.

Mr. ALDRICH, of Rhode Island. And large children on the streets. If they have any claim upon the public it is not in that direction.

Mr. HUNTON. If my friend will allow me a moment, I would suggest that if he employs the words "professional begging" it will not be ten days before the police will know every such person in the District.

Mr. PRICE. Allow me to suggest this: As I go through the city I find at the corner of the street a man not able to stand upon his legs. He has been able only to crawl there and sit down with his hat before him. His business is begging.

Mr. HUNTON. Yes.

Mr. PRICE. Now, that can be obviated only in one way, in my judgment, and that way is for the city authorities to take care of that man. But so long as they do not take care of him, I do not believe there is a gentleman present here who wants to be deprived of the privilege of dropping a dime in that old man's hat.

Mr. HUNTON. There is ample provision made now for such persons. The reason why they do not go to the places provided for them is that they can make a great deal of money on the streets by begging.

Mr. KEIFER. What is the objection to that?

Mr. HUNTON. To what?

Mr. KEIFER. To making money on the streets.

Mr. HUNTON. By professional begging?

Mr. KEIFER. Yes.

Mr. HUNTON. None, if you want to pay the money.

Mr. KEIFER. I will pay my share with you.

Mr. PAGE. I hope the amendment of the gentleman from Rhode Island [Mr. ALDRICH] will be adopted. I have been in Washington for a great many years, and it has now become an almost every-day occurrence to meet on the streets a class of professional beggars, most always little children sent out by their parents or those who employ them for the purpose of collecting whatever money they can obtain from the charity of the people.

As suggested by the gentleman from Virginia, [Mr. HUNTON,] I believe that there is ample provision made for all those persons who are unable to support themselves; the District of Columbia is willing and able to take care of all such persons. I think it is a disgrace to the national capital, to the civilization of the nineteenth century, that there should exist here such a condition of things. You meet at every street corner a lot of professional beggars who are sent out by other people for the purpose of begging. Nobody knows where the money goes which they obtain, and, as suggested, they come from other cities here to beg. If there is anybody on the public streets who is maimed, who has lost one leg or one arm, who is incapable of taking care of himself, it is the duty of the people of this District to take care of him.

Mr. PRICE. Suppose they do not do it.

Mr. PAGE. They do do it. There is no city in this Union where they have made better provisions for taking care of those who are, through misfortune or otherwise, unable to take care of themselves. And there is no city that I have ever visited, other than the city of Washington, where there are so many children of every age, condition, color, and of both sexes, sent out for the purpose of begging. The money obtained by begging is used in many instances, I have no doubt, for improper purposes. I hope the amendment will be adopted.

Mr. DAVIS, of North Carolina. I would like to inquire if this amendment will apply to that class of individuals who go about the streets making music to amuse little children, generally carrying along a monkey?

Mr. PAGE. That is not begging.

Mr. DAVIS, of North Carolina. Does this amendment apply to them?

Mr. PAGE. Of course not; that is not begging.

Mr. DAVIS, of North Carolina. That is all right; I do not want it to apply to them.

The CHAIRMAN. Debate upon the amendment has been exhausted.

Mr. KEIFER. Mr. Chairman——

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. KEIFER. I move to amend the amendment by striking out the last word. I do not desire to make a speech in opposition to this amendment; but I think it very doubtful policy upon the part of Congress to pass such a provision. My friend upon my left [Mr. NEAL] says the law will never be enforced. One of the things that operates to weaken the force of law is the passage of just such provisions as this.

I desire the Clerk to read as a part of my argument the section which succeeds this, from which will be seen the penalty attached to the violation of this provision.

The Clerk read as follows:

SEC. 716. Any person violating any of the provisions of this chapter shall, on conviction thereof, be liable to a fine of not more than $100.

Mr. KEIFER. It will be seen, Mr. Chairman, that when the authorities arrest a person as a professional or habitual beggar upon the streets the penalty is a fine of $100.

Mr. NEAL and others. Oh, no!

Mr. KEIFER. Well, not more than $100; that is the maximum.

Mr. NEAL. It may be one cent.

Mr. KEIFER. We propose, then, to go through the form of fining these unfortunate, poverty-stricken people.

I am not myself specially in favor of beggars; I do not care to be annoyed by them. I claim no more virtue than belongs to other members here. But I do think that it is not altogether an evil to have beggars on the streets. Sometimes it does a man good to give a small contribution, or a large one if he is able, to these unfortunate people. Of all the capitals of the world, probably, this city is the freest from beggars. [Cries of "Oh! no!"] Gentlemen around me say "Oh! no!" They may have read history, and traveled and learned differently from myself. But there are not very many of these beggars, considering the character of the city.

If there should be some police regulation to prohibit impostors, I would not object to that; but these people are entitled to live in this world; and we may as well contribute to their support in the way we do, or the way we ought to do, as in any other manner.

Mr. MILLS. Why not provide a home for them?

Mr. KEIFER. Some people say, "Send these persons to an infirmary or a hospital or an asylum." That may be in many cases very cruel; it may amount sometimes to imprisonment; it may be a very hard method of punishment.

Mr. PAGE. I would like to ask the gentleman from Ohio whether he knows of any State or any city in the Union that has not a vagrant law?

Mr. KEIFER. Vagrancy is quite another thing, as understood in the criminal or municipal laws of this country.

Mr. PAGE. What is a vagrant?

Mr. KEIFER. Does the gentleman want a dissertation on the subject of vagrancy as a matter of law?

Mr. PAGE. I would like to hear the gentleman on that subject.

Mr. KEIFER. I would be glad to gratify the gentleman if my time would allow.

The CHAIRMAN. The gentleman has one half minute remaining. [Laughter.]

Mr. KEIFER. In so short a time I cannot undertake to enlighten the gentleman. Vagrants who go around the country preying upon society in various ways are a different class from ordinary beggars, and in every well-regulated city are punished. In what is left of my half minute I will say that I hope this provision will not be adopted as a part of this code.

Mr. DAVIS, of North Carolina. I wish to inquire of the chairman of the Committee on the District of Columbia whether, if the law be enforced, there is not ample protection against this evil under the vagrant act? That ought to be the remedy.

Mr. HUNTON. It does not reach the evil.

Mr. DAVIS, of North Carolina. Any person going about without visible means of support, without any lawful occupation, ought to be taken up under the vagrant act and sent to the workhouse. This, it seems to me, is the proper remedy.

Mr. CLAFLIN. Allow me to inform the gentleman that the commissioners state there is now no law by which begging in the streets can be stopped. Though a man begging upon the streets may be able to work, there is no law by which he can be taken from the streets.

Mr. NEAL. I want to call the attention of the Committee of the Whole to section 775, where it will be seen ample provision is made for the punishment of vagrants. That section provides for sending to the work-house "all vagrants, idle and disorderly persons, persons of evil life and fame, persons who have no visible means of support, persons who are likely to become chargeable to this District as paupers, persons found begging or drunk in or about the streets, or loitering in or about tippling-houses." We do not want anything more than that.

Mr. PAGE. Allow me to suggest that if this provision should be adopted there will be nothing to prevent the voluntary giving of alms anywhere by any person at any time.

Mr. ALDRICH, of Rhode Island. The section which the gentleman from Ohio [Mr. NEAL] has read provides for proceedings against vagrants, disorderly persons, &c., "upon the oath or affirmation of a credible citizen." There is no occasion why citizens should be obliged to go before a magistrate and make affidavit for the arrest of a beggar. The provision proposed by me can certainly do no harm.

Mr. SAMFORD. Do I understand that this amendment authorizes the commissioners to license begging?

Mr. ALDRICH, of Rhode Island. Not by any means—to license begging.

Mr. SAMFORD. But what amendment have you accepted?

Mr. ALDRICH, of Rhode Island. I have not accepted any.

Mr. COOK. This amendment to this bill proposes a penalty of $100 upon any beggar picked up around the city. Now, I should like to know how they are to collect that money from any beggar so picked up. Your committee proposes to collect this out of these beggars. I wish to state this, Mr. Chairman: that there is not a capital of any State in this Union which makes the same provision for paupers and beggars that is made by this Government to maintain them in this city, not one; and yet you will see more beggars about this capital any day and every day. You cannot walk out of this door but what you meet them. I see more of them every day of my life from here to my hotel, on the streets, than I have seen in the State of Georgia in traveling three hundred miles through it. That is true, sir. And I venture to say I will be sustained in the assertion by every man on this floor, that he meets more beggars day after day throughout the capital on these thoroughfares than he does in his State throughout the year. Instead of imposing a fine on them, which will never be collected, the police of the city ought to be required to take them up and put them in some of the various institutions in the city which are maintained at the public expense, and find a home for them.

Mr. HUNTON. Debate is exhausted; and I hope we will have a vote.

Mr. KEIFER. I withdraw my amendment.

The amendment of Mr. ALDRICH, of Rhode Island, was rejected.

Mr. NEAL. I move that chapters 27, 28, 29, and 30, which are the old laws just as they now stand, without amendment, with the exception of some verbal change, be passed over and considered as agreed to.

The CHAIRMAN. The Chair hears no objection, and the chapters will be passed over, the Clerk reading only the headings of the titles.

The Clerk read as follows:

CHAPTER XXVII.

ORDER IN PUBLIC BUILDINGS, GROUNDS, SQUARES, AND RESERVATIONS OF THE UNITED STATES.

CHAPTER XXVIII.

PUMPS, WELLS, AND AQUEDUCTS.

CHAPTER XXIX.

THE PREVENTION OF CRUELTY TO ANIMALS.

CHAPTER XXX.

REGULATION OF PLACES OF AMUSEMENT, RESTAURANTS, AND SALOONS.

The CHAIRMAN. There being no objection, those sections are passed over and considered as agreed to.

The Clerk read as follows:

REGULATIONS FOR LOCOMOTIVES.

SEC. 740. No locomotive-engines or railroad cars of any description shall be run, driven, or propelled over or upon any railroad track or tracks within the city of Washington or Georgetown at a greater speed than at the rate of eight miles an hour: *Provided*, That this section shall not apply to any car or engine while running through any tunnel under the cities of Washington and Georgetown, or any parts thereof.

Mr. PRICE. I suggest whether that should not be six miles an hour instead of eight miles.

Mr. HUNTON. That is the old law, and there is no complaint of it.

Mr. PRICE. I move to strike out "eight" and insert "six."

Mr. HENKLE. I hope that amendment will not prevail.

Mr. PAGE. Why not?

Mr. HENKLE. If the gentleman from California is on a train running six miles an hour he will be astonished at the slow progress he makes. There is really no greater danger in going at twelve miles an hour than at six; the train passes through more rapidly, the bell is rung as the locomotive proceeds, and there is a watchman or flagman at every crossing all the way along the streets. It will seriously impair the efficiency of the service of these railroads running into the District. This is and has always been the law, and there has been no complaint of it.

Mr. PRICE'S amendment was rejected.

The Clerk read as follows:

SEC. 744. All railroad companies operating or building street railways, propelled by horse-power, shall pave between the rails and tracks with cobblestone or Belgian pavement, and keep the same in good repair, under the directions of the commissioners; and all railroad companies, whose motive power is steam, shall pave the same in the same manner as the rest of the street or avenue on which their rails or tracks may be laid. And all railroad companies shall pave and keep in good repair two feet of the street or streets occupied by them, outside of the tracks, with a good and sufficient curb along the outside rails.

Mr. HUNTON. I wish to move an amendment, agreed to by the committee, in line 8. According to the reading of the law now it compels the railroad companies to pave the streets and keep them in repair always, no matter how often the grade of the streets should be changed. The object of the law was to pave once and keep in repair afterward. I move to amend by inserting after the word "pave" the word "once," and after the word "and" the word "afterward," so it will read "shall pave once and afterward keep in good repair."

Mr. SAMFORD. Was it not agreed in committee the railroads should pave once on established grades?

Mr. HUNTON. That is what it means when amended.

Mr. SAMFORD. You say "afterward."

Mr. HUNTON. "Afterward keep in good repair."

Mr. SAMFORD. I understand that, but it was agreed they should not go forward and grade until the grade had been established.

Mr. HUNTON. That will not be done now.

Mr. SAMFORD. There is nothing to prevent it.

Mr. ALDRICH, of Rhode Island. Put in the words "unless on a change of grade."

Mr. HUNTON. That was not the understanding.

Mr. ALDRICH, of Rhode Island. That, I think, was the understanding of the committee. The change of grade might be made for the railroad itself, and in that case the railroad should pave the street.

Mr. SAMFORD. I do not think that was the understanding. The understanding was that the railroad companies should not pass until the grade was established.

Mr. CLAFLIN. I think the railroad companies should run all the risks and conform to any new grades that may be necessary. They have abundant privileges accorded them already. They have the use of the streets for nothing. They pay no damages whatever, and I think they should run the risk of a change of grade. The law is good enough as it is.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 745. Rail or rails, track or tracks, of said companies shall be laid as shall least obstruct the free passage of vehicles over the same, and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grades thereof, as now established, or as they shall from time to time be re-established or altered, the same to be done at the expense of the said companies; and in all streets or parts of streets which are not paved the rail shall be laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and approved by the engineer. The railroad companies or their agents shall be required to keep the surface of the streets inside of the rail in good order and repair, and all snow, ice, dirt, and filth cleaned and removed from such portions of the streets at the expense of said companies, and in such manner as not to obstruct travel in any part of the street.

Mr. HUNTON. I am instructed by the committee to propose the following proviso:

Provided, That nothing in this act shall be construed to compel such railroads to sweep said portions of the streets.

The amendment was agreed to.

Mr. CONGER. I move to strike out the last word for the purpose of making an inquiry. I wish to inquire if there is any place in this bill which makes any provision or rule or regulation as to transfer tickets.

Mr. HUNTON. Yes, sir.

Mr. CONGER. What part of the bill is it in?

Mr. HUNTON. I am not sure but I misunderstood the gentleman. Do you mean transfer tickets from one street car to another?

Mr. CONGER. Yes, sir.

Mr. HUNTON. No, sir; there is not. I thought you meant the exchange of tickets from one line to another.

Mr. CONGER. No; I meant the transfer tickets at the crossing of lines.

Mr. HUNTON. No, sir; there is no such provision.

Mr. CONGER. Now, I do not know whether it should come into this section or not, but somewhere in this bill there ought to be made a provision that would correct the intolerable nuisance which every gentleman here has doubtless experienced of being compelled to stand at the intersection of streets where railroads cross in order to get transfer tickets, whether in the rain or in the sun or snow or mud or with ladies or children, and submit at such places to the insolence and impertinence of the agents stationed there for the purpose of giving these tickets. I have no doubt it has been experienced by almost every gentleman on this floor when he went to get a transfer ticket from one of the agents located at the street crossings that this official would in an insolent manner look up the street and see if the car was in sight with that impudence that a man fitted for such a place would be likely to show, and tell you to wait there until the car comes. This is the insolence that you must submit to before you can get the transfer.

Now, for myself I have frequently had to go away from this insolence and impertinence of these transfer officers into the car with those accompanying me and pay the fare rather than wait their pleasure to give me the ticket to which I was entitled, as any other gentleman would do, especially if accompanied with ladies and children, rather than wait in the rain or sun or in the middle of the street. This insolent and impertinent manner few men would tolerate for a moment if they were alone or in company with other gentlemen. There is no law, of course, that would authorize a man to inflict corporal chastisement upon these men for that kind of insolence, and if accompanied with ladies it would be ungraceful for him to inflict punishment. But a man who would not be inclined to resent that character of insolence and punish it with physical force has more charity and religion in his nature than I claim for ordinary daily use. [Laughter.] At the corner of Seventh street and Pennsylvania avenue, at the corner of New York avenue and where the Fourteenth-street line intersects with the Avenue, that impertinence and insolence and injury to the health and comfort of the people who have to stand on the sidewalk, in the middle of the street, in the dirt and filth, and wait to get the transfer is a serious nuisance, and if they go for shelter from the rain into a neighboring house they are compelled to prove to the official that they got out of the last car before they can get the ticket.

Everybody who has had occasion to use transfer tickets can testify to the truth of what I have said here: that they are compelled to wait in the middle of the street or on the corner, no matter who he is nor who may be with him, whether ladies, invalids, or children, until the car which he is to take is at hand before these parties will give him a ticket, or else, as I have said, he must pay another fare or prove that he got out of the last car. Now, I claim that this is a nuisance which ought to be remedied in some way. There is no reason why in such a city as this, with such privileges as are accorded to the street railways, these transfers should not be given as heretofore, on the cars, by the conductors to ladies, or gentlemen, or children. There is no reason in the world for compelling the public to go and stand in the filth of the street, or in snow, or mud, or in the rain without any shelter and wait until the person having charge of the tickets gives him a transfer so as to enable him to get on the next car.

[Here the hammer fell.]

Mr. ROBINSON. Mr. Chairman, my friend from Michigan I am sure does not assume that the officers managing these corporations have made these changes for the purpose of annoying the traveling public. That of course he does not mean to imply by his remarks. There must be some reason behind it. Now, I fancy the reason is to be found in a mere prudent business arrangement, for doubtless it was ascertained when these transfer tickets were given on the car before the passenger got out, by the officers managing the road, that some persons would get on the car and take the transfer ticket at the junction and then sell that ticket to some other person, thereby getting a percentage, at all events, of their money back out of the company.

Mr. CONGER. That may have been so, but I am only complaining of the inconvenience and annoyance that the traveling public are subjected to by the present arrangement.

Mr. CLAFLIN. As far as the objection of the gentleman from Massachusetts is concerned, that can be done now.

Mr. ROBINSON. I presume that it was in order to prevent that abuse that the companies have been compelled to change the system of giving transfers. I would suggest to my friend from Michigan that while there is undoubtedly great annoyance in this matter, still it seems to me that he goes too far when he condemns the purpose had in view under this arrangement, for I presume the purpose was only such as a prudent business man would have advocated; and therefore I suggest to the gentleman to make some amendment that will meet the difficulty of which he complains.

Mr. CONGER. My object was to inquire whether here or in some other part of the code there was anything regulating these transfers.

Mr. HUNTON. If the gentleman from Michigan will allow me to make a suggestion, I think the remedy is a plain one. My observation of the two main railways, and indeed of all the street railways in the city of Washington, is that they are well conducted and that the desire of the managers of those roads is to accommodate the public. It is natural that it should be so, because it is by the public they live. Now, if they should happen to have an agent who is insolent and unaccommodating to the public, the remedy is to report him to the company, and if that is done I guarantee he will be removed. And if any one insults the gentleman from Michigan, let him knock him down.

Mr. CONGER. These men do not know me.

Mr. HUNTON. After you have knocked down the first man that insults you they will all be civil. [Laughter] But the simple remedy is to report these men to the company.

Mr. CONGER. I have talked frequently with these gentlemen in the kindest way I could, and they told me these are their orders and they must obey. I have said "no doubt, if they are your orders, you must obey them."

Mr. HUNTON. How do you know that they are obeying orders?

Mr. CONGER. Only by their saying so. I have said to officers of the company that I would at the proper time bring this matter to the attention of the House. I have now done so. I venture to say other gentlemen have had occasion to go through the same trouble when they had wives or other lady friends accompanying them.

Mr. HUNTON. I have never had any such experience.

Mr. CONGER. I do not wish to offer any amendment at this point, because there may be a more fitting opportunity at some other place in the bill. But I reserve the right to offer the amendment to this section. I withdraw the formal amendment.

Mr. BARBER. I should like to address an interrogatory to the gentleman in charge of the bill, whether there is any provision in this code to punish these railroad companies for buying up the chariot line? [Laughter.]

Mr. NEAL. I understand there is no amendment pending.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 746. It shall be the duty of the commissioners to notify said railroad companies to lower or raise the rail or rails, or their track or tracks, as the case may require, and in case of a failure of said railroad companies to comply with the terms thereof within ten days after said notice, which shall be in writing, then it shall and may be lawful for the commissioners to take up and relay and repair said railroad track or tracks, and assess and collect the same from said neglecting company or companies.

Mr. NEAL. I offer the following amendment:

In line 8, strike out the words "the same" and insert in lieu thereof "the cost thereof."

Mr. HUNTON. That is right.

The amendment was agreed to.

The Clerk read as follows:

SEC. 747. No railroad company, nor any employé thereof, shall blow or cause the blowing of their steam-whistles inside the city of Washington.

Mr. ROBINSON. I move to strike out the last word for the purpose of making an inquiry. The object of section 747 is plain. It is to stop the disagreeable screeching of steam-whistles within the city. But I suggest whether it is desirable to prohibit that entirely; whether the blowing of a whistle as a danger-signal may not be permitted if a person is on the track?

Mr. HUNTON. A previous section provides that the railroad companies shall keep a man at every crossing with a red flag in the day

time and with a flag and red light at night. Provision is also made for the ringing of bells.

Mr. ROBINSON. That may be true; but the blowing of a whistle when a person is on the track may save human life. The company may be required to keep a flagman at the crossing, but the flagman may have dropped asleep or may not have been there. I may have started to drive across the track, and in a storm might not hear the bell, and shall not the engineer be permitted to save my life by blowing the whistle?

The formal amendment was withdrawn.

The Clerk read as follows:

SEC. 748. The Baltimore and Potomac Railroad Company, for the safety of the public, shall maintain in good repair on the Long Bridge, across the Potomac River, between its track and the public carriage-way of said bridge, a close fence, which shall be not less than fourteen feet in height above said carriage-way.

Mr. HENKLE. I offer the following amendment in line 4:

Strike out the word "close;" so that it will read:
"A fence which shall not be less than fourteen feet in height above said carriage-way."

I desire to strike out the word "close" for the simple reason that it is almost a physical impossibility to maintain a close fence fourteen feet high that will not be continually blown down by the wind. The fence that is there is practically a close fence, but not absolutely so. There are small interstices between the planks, allowing currents of air to pass through. The fence cannot be maintained for a week except in that way.

The amendment was agreed to.

Mr. KEIFER. I offer the following amendment to the same section:

In line 5, strike out the word "fourteen" and insert "ten;" so that it will read: "A fence that shall not be less than ten feet in height above said carriage-way."

Mr. HUNTON. I hope that amendment will not prevail. This is the present law, and was enacted after experience in running locomotives and carriages over the same bridge.

Mr. CONGER. The object of having a fence at all, I suppose, was to hide the locomotive and the steam from the sight of the horses passing on other parts of the bridge. If it be not a close fence, a rail fence, or an iron fence four feet high is high enough.

Mr. NEAL. The horses could jump over a fence four feet high.

Mr. CONGER. They will not jump over toward the engine. No horse has an attraction that way. I think we make a great mistake when we provide a fence that does not meet the object of shutting off from the view of horses passing the sight of the engine.

I understand that for all practical purposes the Long Bridge is useless to the people of the State of Virginia or of this District for driving across with a team. No person now dares drive across that bridge except with a horse perfectly familiar with locomotives and the passage of cars. Is not that so?

Mr. HUNTON. It is.

Mr. CONGER. And the proposition now is to leave an open fence and to make it so low that the top of the smoke-stack of a passing locomotive would be in sight.

Mr. HUNTON. I agree with the gentleman from Michigan, [Mr. CONGER;] the law should remain as it now is.

Mr. KEIFER. I withdraw my amendment.

Mr. ROBINSON. I move to further amend the section by adding after the word "carriage-way" the words "and which shall be approved by the commissioners." That will remedy all the difficulty about the character of the fence. It will then read:

The Baltimore and Potomac Railroad Company, for the safety of the public, shall maintain in good repair on the Long Bridge, across the Potomac River, between its track and the public carriage-way of said bridge, a fence, which shall be not less than fourteen feet in height above said carriage-way, and which shall be approved by the commissioners.

The amendment of Mr. ROBINSON was agreed to.

The Clerk read as follows:

SEC. 749. No railroad company running its tracks through any of the streets or avenues of the city of Washington shall obstruct any of the said streets or avenues, by depositing lumber, ties, or other materials used in the construction of railroads or to unload other freight or merchandise, of whatever nature or description, in any of such streets or avenues at any point in said city other than the regular stations established for such purposes.

Mr. STEELE. The section just read relates to the obstructing of streets or avenues by depositing lumber, ties, or other materials used in the construction of railroads, &c. I would like to inquire of the gentleman from Virginia [Mr. HUNTON] if that would prohibit these companies, when actually engaged in the construction or repair of their roads, from depositing the materials in the streets most convenient for the purpose?

Mr. HUNTON. There is another provision which authorizes the authorities to give permission to companies when actually building or constructing their road.

Mr. STEELE. That is all right.

The Clerk read as follows:

SEC. 750. Any person violating the provisions of this chapter shall, on conviction thereof, be liable to a fine of not more than $200.

Mr. NEAL. I move to amend section 750 by inserting the words "any of" after the word "violating;" so that it will read "any person violating any of the provisions," &c.

The amendment was agreed to.

Mr. CONGER. I desire to move a new section to come in after section 749.

The CHAIRMAN. The Clerk will read the proposed amendment.

The Clerk read as follows:

It shall be the duty of all conductors of street-cars in the city of Washington, at the place of all crossings or connecting car lines where continuous transfer passes are given to passengers, to give to any passenger requesting the same for transfer purposes a transfer pass before such passenger leaves the car to make such transfer.

Mr. CONGER. I desire to say that if the company should be imposed upon, as I admit it might be, by a person taking a transfer and perhaps giving it away or selling it, and thus wronging the company, it is perfectly easy for the company to have the transfer numbered, giving the number of the car from which the passenger comes, the date of the month, and the hour of the day, if need be. There can be upon all the transfers something for the purpose of protecting the company, such as is now put on the transfers, "forenoon" and "afternoon;" something which would prevent almost entirely any improper use of these transfers.

Mr. STONE. That is done in many cities, and I see no inconvenience connected with it. The companies will be sure to make all the regulations necessary to protect themselves; such as a requirement that the pass shall not be used except in the forenoon or the afternoon, or on this day, or at this hour, and as coming from such a numbered car, &c. Certainly the injury to the company will not be so great in any event as is the inconvenience now to the people of the city under the present arrangement.

The amendment of Mr. CONGER was agreed to.

Mr. HUNTON. The next two chapters, relating to "sewers" and to "steamboats," are the same as the present law. I suggest that they be passed, and that the Clerk next read the chapter relating to "Sunday;" chapter 34.

There was no objection.

The Clerk read as follows:

CHAPTER XXXIV.

SUNDAY.

SEC. 755. No person shall cry aloud any articles for sale on the Sabbath day.

Mr. COOK. I would like to inquire whether this is intended to prohibit the boys from selling newspapers on Sunday?

Mr. HUNTON. Yes, sir.

Mr. NEAL. That is the very thing.

Mr. COOK. Then I am opposed to it. I believe nearly every newspaper of this city is now published on Sunday.

Mr. HUNTON. This does not prohibit the sale of these newspapers, but the crying of them on the street. The religious people of this city complain that the crying of papers on Sunday is a great annoyance to them.

Mr. COOK. It seems to me that the section certainly does prohibit the sale of these papers. I am sure I appreciate the efforts of the Committee on the District of Columbia to preserve the sacredness of Sunday, but many of these little fellows who sell papers are entirely dependent for their support, and the support of others, upon the sale of their papers from day to day. They make an honest living by it. Besides, many of us do not want to go out on Sunday morning to the printing-office or the hotels to get the papers, and these little fellows going round with them are a great convenience to us. I am exceedingly sorry that the chairman of the Committee on the District of Columbia has been disturbed in his religious meditations by this practice.

The CHAIRMAN. Does the gentleman from Georgia offer any amendment?

Mr. COOK. Yes, sir; I move to amend by inserting after the word "articles" the words "except newspapers and periodicals."

Mr. HUNTON. My friend from Georgia [Mr. COOK] persists in arguing this question as if this section were a prohibition upon the sale of Sunday newspapers. He certainly cannot understand the section to mean that. The only object is to prevent the outcry by the newsboys in selling their papers upon the streets on the Sabbath. A great many persons came before the Committee on the District of Columbia in regard to this nuisance. If this section should prevail as reported by the committee, my friend from Georgia will not have to go to the printing-office to buy his Sunday papers; they will be brought to his door without the outcry.

Mr. NEAL. The law as it now stands prohibits the crying aloud of newspapers for sale after two o'clock on Sundays. At the instance of a very large number of good people of this city, we propose to change the law so as to make it read as it appears in this section. I do not believe there is any more intolerable nuisance that a man has to submit to than the crying aloud of newspapers on Sunday mornings. A man cannot go to church with his family without having half a dozen or more of these newsboys coming up and sticking their papers under his face, crying aloud some "murder" or "fire" or something of that sort. It is a disgrace to Christian civilization. I hope the section will stand as we have reported it. There is no practical difficulty in the way of any man getting a paper on Sunday, if he wants it, without this outcry.

The amendment of Mr. COOK was not agreed to.

The Clerk read as follows:

SEC. 756. No person shall keep open any place of business for the sale of any article or articles of profit during the Sabbath day, excepting apothecaries for the dispensing of medicines, and undertakers for the purpose of providing for the dead, or others for purposes of charity, and any person violating any of the provisions of this chapter shall, on conviction thereof, be liable to a fine of not more than $40.

Mr. HUNTON. I am instructed by the Committee on the District of Columbia to move an amendment striking out the words "or others for purposes of charity."

Mr. PRICE. I thought those words were not properly inserted.

Mr. HUNTON. The object of the amendment is to prevent the keeping open of places of business under the pretext of charity. It is apprehended that if these words be allowed to remain places of business may be kept open unnecessarily and improperly.

Mr. DAVIS, of North Carolina. Would not this section prohibit the sale of newspapers on Sundays—for instance, in the hotels, at the news stands?

Mr. HUNTON. Oh, no; not at all.

Mr. WARNER. I move to strike out the whole section. It seems to me this is altogether too rigid a provision to be incorporated into our laws in this age. We cannot undertake to legislate what the religion of the people shall be. I do not understand that any such day as the Sabbath day is known to our laws or Constitution. We have Sunday, but no such legal day as the Sabbath.

Mr. HUNTON'S amendment was agreed to.

The question then recurred on Mr. WARNER'S motion to strike out the section as amended.

Mr. ROBINSON. I imagine the committee will not strike it out. [Cries of "No!"] I will not, then, make any argument about it.

Mr. WARNER'S motion was disagreed to.

Mr. WARNER. I move to substitute "on Sunday" for "during the Sabbath day."

Mr. HUNTON. That is right.

The amendment was agreed to.

Mr. HUNTON. Chapter XXXV, "ten-pin alleys;" chapter XXXVI, "weapons, (dangerous;)" chapter XXXVII, "wharves, wharf-sites, and docks," I move be passed over and considered as agreed to.

Mr. STEELE. I do not consent to it until I have had an opportunity to ask for an explanation in reference to section 759, which I ask the Clerk to read.

The Clerk read as follows:

WEAPONS, (DANGEROUS.)

SEC. 759. No person shall carry or have concealed about his person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk-knives, or dirks, razors, razor-blades, sword-canes, slung-shots, or brass or other metal knuckles; and any person violating any of the provisions of this chapter shall, on conviction thereof, be liable to a fine of not more than $50: *Provided*, That this section shall not apply to the officers, non-commissioned officers, and privates of the United States Army, Navy, and Marine Corps, police officers, and members of any regularly organized militia company or regiment, when on duty.

Mr. STEELE. I understand that is the existing law, but I wish, nevertheless, to inquire whether or not it is made a penal offense by that section for a man to carry razors or razor-blades in his pocket?

Mr. ALDRICH, of Rhode Island. It ought to be.

Mr. STEELE. I can easily conceive myself why a gentleman whose razor needed sharpening would put it into his pocket and carry it to his barber to have an edge put upon it. Now, shall he be amenable to the penalty provided in this section for so doing?

Mr. HUNTON. Do you want to strike out "razors and razor-blades?"

Mr. STEELE. Yes; I should like to strike out "razors," for I do not think anybody but a stark fool would carry them for any offensive purpose.

Mr. NEAL. And yet razors and razor-blades are the principal weapons colored people carry in this District.

Mr. STEELE. I do not know that, for in my country where they are much more civilized they do not do anything of that sort. [Laughter.]

Mr. NEAL. But we are making these laws for this District, and not for North Carolina.

Mr. STEELE. That is a habit of the darkies here which I was not aware of.

Mr. HUNTON. Does the gentleman insist on his amendment?

Mr. STEELE. I do not.

The CHAIRMAN. The sections referred to by the gentleman from Virginia, there being no objection, are passed over and considered as agreed to.

The Clerk read as follows:

TITLE XI.

CHAPTER I.

FINES, PENALTIES, AND REMEDIES.

SEC. 783. For the violations of any of the provisions of this act, or of any of the rules and regulations of the commissioners, or other board or officer herein authorized to make and establish rules and regulations on any subject or matter, and affix penalties for violations of the same, so far as said commissioners or any such board or officer are authorized and empowered by law to make and establish such rules and regulations, in addition to the officers herein authorized to issue warrants, the police court and justices of the peace shall, upon complaint duly made before them for that purpose, issue their warrant against any person for the violations of any of the provisions of this act, or of the rules and regulations of the commissioners or of any board or officer authorized, as aforesaid, to make such rules and regulations; which warrant may be addressed to any constable or policeman, and made returnable before the police court. Such justice or other officer issuing such warrants shall keep a docket, stating the names of the persons issued against, the date, to whom directed, for what offense, and on whose information, and shall be entitled to such fees as are prescribed for like services in other criminal cases.

Mr. ROBINSON. This section provides the warrant shall be returnable before the police court. I was trying, while the Clerk was reading the section, to find a preceding section which allowed justices of the peace to take cognizance of certain offenses. I think there is a contradiction. It relates to truancy. Perhaps the committee can turn me to it. I remember in passing the provision that justices of the peace should try this offense.

Mr. NEAL. Justices of the peace in this District have no criminal jurisdiction except to issue warrants returnable before the police court.

Mr. ROBINSON. Have they no jurisdiction?

Mr. NEAL. Under the criminal code, but not under this.

Mr. ROBINSON. Let the Clerk read on, and I will return to this section after a while.

The CHAIRMAN. The Chair hears no objection.

The Clerk read as follows:

SEC. 784. The fines, penalties, and forfeitures provided for in this act shall be imposed by judgment or sentence in the police court upon information filed therein, on behalf of the District of Columbia, by the attorney of the District, or by his regular or special assistant, as nearly as possible in the mode prescribed in the act of Congress entitled "An act to establish a police court for the District of Columbia, and for other purposes," approved June 17, 1870, unless the particular chapter or section prescribes a different method of prosecution: *Provided, also*, That in informations for offenses against the laws of health the information shall state that it is filed at the instance of the health officer.

Mr. CONGER. I move to strike out the last word for the purpose of inquiring whether there are provisions under the present law in reference to the work-house for the reception of females and children.

Mr. NEAL. Yes, sir.

Mr. HUNTON. In separate apartments.

Mr. NEAL. Divided off.

Mr. HUNTON. Well arranged, I think.

Mr. CONGER. I was not aware of that. I withdraw my amendment.

The Clerk read as follows:

SEC. 788. All fines, penalties, and forfeitures imposed for any violation of any of the provisions of this act, upon information filed, as provided in the fourth section preceding, shall be collected and applied to the use of the District.

Mr. HUNTON. I think at the end of section 788 the words ought to be added "unless otherwise specially provided." I think there is a provision in a preceding chapter providing the informer shall have a part.

Mr. CLAFLIN. There is.

The amendment was agreed to.

The Clerk read as follows:

SEC. 790. The police court shall have exclusive jurisdiction of any offense, or of any violation of any of the provisions of this act, or of the rules and regulations of the commissioners, or of any board or other officer, made and established by virtue of authority conferred upon them by law, where the fine authorized to be assessed, or which may be assessed, shall not exceed $20, and where said fine shall exceed $20 the supreme court may have appellate jurisdiction, in such manner as is provided for appeals in criminal cases for the police court.

Mr. NEAL. I move, in line —, to strike out the word "for" and insert the word "from."

The amendment was agreed to.

The CHAIRMAN. The Clerk has now read the bill through.

Mr. ROBINSON. Section 784 provides "fines, penalties, and forfeitures provided for in this act shall be imposed by a judgment or sentence in the police court on information filed therein," &c. Now, if the committee will turn back to page 86, section 239, they will find in the eighth, ninth, and tenth lines "the party offending shall forfeit to the use of public schools a sum not exceeding $20, to be recovered before any justice of the peace of the District." That is very plainly a contradiction. I recollected it as it was read in the section, and I thought it something unusual that it should be here in this form also. There is a manifest discrepancy, and the remedy will be to strike out of section 239, on page 86, all after the word "dollars," in the ninth line.

Mr. HUNTON. I think that is right.

Mr. NEAL. I want to call the attention of the committee before the vote is taken on that amendment to the difference between the two kinds of action provided for in these sections. Now, this section 239, on page 86, provides for a civil action—providing that the sum of $20 penalty shall be recovered before any justice of the peace of the District. Now, these justices of the peace of the District have only civil jurisdiction. They have no criminal jurisdiction whatever. They simply issue the warrant which is made returnable to the police court. This section 784, however, provides for a criminal action on information before the police court. Now, in place of the remedy proposed by the gentleman from Massachusetts, I would suggest that this section be amended to read:

A sum not exceeding $20, to be recovered before any justice of the peace in a civil action.

Mr. STONE. How do you enforce the penalty if it is a civil action?

Mr. NEAL. As any civil action is enforced.

Mr. ROBINSON. Let me suggest to my friend from Ohio that the mere fact of providing a tribunal before which the forfeiture is to be determined does not determine the character of the offense. Either the police court or the justice of the peace may hear it, and it does not determine the character of the action to determine the court before which it shall go.

Now, this section 784 provides generally that the fines, penalties, and forfeitures in this act shall be imposed by judgment or sentence in the police court; but in section 239, on page 86, it is provided that the party offending shall forfeit a sum, to be recovered before a jus-

tice of the peace. That is a forfeiture for an offense founded on information, and the party who is guilty of the offense should go before the court which determines all the fines, forfeitures, and penalties imposed by this act. Let it go, then, in this case before the police court, as it ought to, manifestly, so that there shall be no discrepancy in the law. I merely make the suggestion. Of course I shall not insist upon it if the committee do not want it; but it seems to me it would harmonize what appears to be now a conflict.

Mr. HUNTON. I would suggest to my colleague on the committee to let this amendment prevail, because the preceding part of the section provides how the fine shall go and how it shall be recovered when recovered by the police court, namely, to the public schools.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Massachusetts.

The Clerk read as follows:

On page 86, section 239, in the ninth line, strike out after the word "dollars" the words "to be recovered by any justice of the peace of the District."

The amendment was agreed to.

Mr. CONGER. Then the next section, section 240, should be amended by striking out the word "justice," in the third line, and inserting the word "court;" so that it shall read:

SEC. 240. If, upon the hearing of any case provided for in the preceding section, it shall be made to appear to the court that the party so offending was not able for any cause, &c.

The amendment was agreed to.

Mr. ALDRICH, of Rhode Island. The understanding was that after getting through with this part of the code we should return to page 212 and take up the police matter.

Mr. HUNTON. Yes, sir; on page 212.

Mr. ALDRICH, of Rhode Island. I propose now to modify my amendment in manner as I now send it to the Clerk's desk.

The Clerk read as follows:

Insert after the word "crime," on page 212, in the sixty-ninth line, the following words:

"*Provided*, That at least 75 per cent. of all appointments hereafter made to the police force, and made prior to January 1, 1885, shall be made from persons who served in the Army or Navy of the United States in the late war and were honorably discharged; and such persons having the requisite physical and other qualifications may be appointed after a residence of three months in the District."

Mr. HUNTON. I thought my friend had put his amendment at 50 per cent.

Mr. ALDRICH, of Rhode Island. At the suggestion of gentlemen around me I have made it seventy-five.

Mr. HUNTON. Then you have gone back again.

Mr. ALDRICH, of Rhode Island. No, sir.

Mr. HUNTON. When you showed it to me it was 50 per cent.

Mr. ALDRICH, of Rhode Island. I had not offered it at that time.

Mr. HUNTON. I understood it was to be offered in that form.

Mr. ALDRICH, of Rhode Island. I am informed that the House limited debate on this amendment to fifteen minutes.

The CHAIRMAN. That was the order of the House to limit debate to fifteen minutes on the paragraph and pending amendments.

Mr. ALDRICH, of Rhode Island. There are several gentlemen who desire to discuss the matter.

Mr. HUNTON. Permit me to say to the Chair that I think he has not stated exactly the order of the House. Debate on the paragraph and on all amendments was to close in fifteen minutes and the committee was to come to a vote on it. The Clerk will state if I have not correctly stated the order of the House.

Mr. ALDRICH, of Rhode Island. What is the understanding?

The CHAIRMAN. The Chair understands that the order was to limit debate on the pending paragraph and amendments.

Mr. CONGER. General debate, or all debate?

Mr. HUNTON. All debate.

The CHAIRMAN. All debate was the understanding of the Chair.

Mr. ALDRICH, of Rhode Island. You could not cut off debate under the five-minute rule.

Mr. NEAL. Yes, sir; that was the understanding.

Mr. ALDRICH, of Rhode Island. I do not understand how that can be done. I do not know how the House can control the committee on that point. I want to find out how much time I have.

The CHAIRMAN. By order of the House debate upon this paragraph and the amendment was limited to fifteen minutes.

Mr. ALDRICH, of Rhode Island. Did the limitation of debate apply to all amendments that might be offered hereafter?

The CHAIRMAN. That was not the understanding of the Chair in regard to amendments yet to be offered.

Mr. HUNTON. As I understand, the debate proceeds under the five-minute rule, and when fifteen minutes have been exhausted the debate ceases under the five-minute rule.

The CHAIRMAN. The gentleman from Rhode Island [Mr. ALDRICH] will proceed.

Mr. ALDRICH, of Rhode Island. The law now in force, restricting the appointments on the police force in this District to discharged soldiers and sailors, was first enacted March 2, 1867, two years after the close of the war. It was re-enacted without any objection in 1874, in the enactment of the Revised Statutes. It will be seen from this statement that my colleague on the committee, the gentleman from Maryland, was entirely mistaken in supposing this law was originally passed to guard against open disloyalty on this or the other side of the Potomac. It was not passed till two years after the war. It was prompted undoubtedly by the sense of obligation on the part of the country and of Congress, a sense of obligation which I hope is not entirely forgotten, for services and sacrifices on the part of those men who saved the Union. It was the same sense of obligation which prompted Congress to pass section 1754 of the Revised Statutes, which was read so approvingly by the distinguished chairman of the Committee on Military Affairs at the time this matter was last before the House, which provides that for appointments in the civil service soldiers shall have the preference. It was the same sense of obligation which has induced this Congress at various times to pass pension laws for the benefit of Union soldiers.

It was urged before the committee as a reason why this provision should be repealed that it was impossible to get men of proper age and with proper physical qualifications to fill the positions. I was not then aware of what I have since found out, that the commissioners have required under this law a two years' residence, which was a practical prohibition of all Union soldiers throughout the country; because no man would come here and live for two years beforehand for the sake of an appointment on the police force.

Mr. BUTTERWORTH. What time does your amendment provide?

Mr. ALDRICH, of Rhode Island. Three months.

Mr. BUTTERWORTH. Why make it three months?

Mr. ALDRICH, of Rhode Island. Of course that is a matter for the committee to determine, or whether any residence should be required. I am quite satisfied in my own mind there is not a district in the North that furnished any Union soldiers to the Army but can furnish a sufficient number of able-bodied men below the age of forty years fully competent in every way to fill the police force up to the full standard we have provided in this act. Then why should this act be repealed? I hope some gentleman on the other side will give some reason why it should be repealed if there be any.

The gentleman from Maryland or some other gentleman said, the last time this question was before the House, that no other city had a provision of this kind. I answer there is no other city in this Union legislated for by Congress. We have no other national capital; and the reasons which apply to other cities do not apply to this.

Mr. SAMFORD. Why not?

Mr. ALDRICH, of Rhode Island. Because this is the capital of the United States and Congress legislates for it.

Mr. SLEMONS. Will the gentleman from Rhode Island allow me to ask him——

Mr. ALDRICH, of Rhode Island. As these interruptions come out of my time, I prefer not to yield to them.

Mr. SLEMONS. I merely wish to ask the gentleman whether the commissioners recommended the omission of that provision?

Mr. ALDRICH, of Rhode Island. The commissioners did recommend it. And that brings me to a point I would not have alluded to if it had not been already alluded to by the distinguished chairman of the Committee on the District of Columbia. I have no desire to lug politics into this discussion. But the gentleman stated at the last meeting when we had this matter under discussion that two of the commissioners were republicans. Now, so far as I know and so far as any of the commissioners have any politics which are discoverable, the only one who has any is a democrat. And I state, and I believe without any danger of contradiction, that a large proportion of the employés appointed by those commissioners are democrats.

Mr. HUNTON. That is a grand mistake. I will state to my friend from Rhode Island that from an investigation recently made it appears a very large portion of the employés are republicans.

Mr. ALDRICH, of Rhode Island. And I will state upon the information I have that from the investigation recently made it appears a very large proportion of them are democrats. I will state further that so far as the commissioners can exercise a discretionary power—and I say this not for the purpose of finding any fault—as to the appointment of confederate soldiers I am informed and have reason to believe that in the District offices there are at least twice as many confederate soldiers as Union soldiers.

Mr. HUNTON. I say again to the gentleman that is a grand mistake.

Mr. ALDRICH, of Rhode Island. I say I have reason to believe that is the fact.

Mr. HUNTON. And upon my responsibility I say it is a mistake.

Mr. ALDRICH, of Rhode Island. And I say on my responsibility it is not a mistake.

Mr. HUNTON. Oh yes, it is.

Mr. ALDRICH, of Rhode Island. I say this without any spirit of fault-finding. But I dislike to have the republican party take the responsibility of the appointments of those gentlemen who have been characterized by the gentleman from Virginia as republicans. I do not want any such republicans.

Mr. SAMFORD. I do not remember exactly, but did not the gentleman from Rhode Island agree to this on the committee?

Mr. ALDRICH, of Rhode Island. I did not.

Mr. SAMFORD. Were you present and did you disagree?

Mr. ALDRICH, of Rhode Island. I do not remember that I took any part in the discussion whatever. I was not fully advised as to the position of affairs. I had no knowledge at that time there was such a restrictive provision in the rules in relation to this matter as practically kept all Union soldiers off the force.

Mr. BUTTERWORTH. Will the gentleman allow me to ask him a question?

Mr. ALDRICH, of Rhode Island. Certainly.

Mr. BUTTERWORTH. Why do you insert the requirement of three months' residence? Why fix any time at all?

Mr. ALDRICH, of Rhode Island. The commissioners thought that some residence was necessary, in order to give the applicant some familiarity with the city.

Mr. McMILLIN. Will the gentleman allow me to ask him one question?

Mr. ALDRICH, of Rhode Island. Certainly.

Mr. McMILLIN. Is it not the fact that the engineer commissioner, Mr. Twining, who recommends the change proposed in this bill, is an ex-Union soldier?

Mr. HUNTON. And is now a Federal officer.

Mr. ALDRICH, of Rhode Island. I think that he is a Federal officer.

Mr. McMILLIN. And was formerly in the Union Army?

Mr. ALDRICH, of Rhode Island. I presume he was; he is in the Union Army now.

Mr. McMILLIN. And was during the late war? That is what I want to get at.

Mr. ALDRICH, of Rhode Island. I suppose so.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ALDRICH, of Rhode Island. I want to say just a word more.

Mr. SAMFORD. Was not Major Morgan also in the Federal Army?

Mr. ALDRICH, of Rhode Island. Not that I am aware of. I want to say that the democratic party, especially as represented in the other end of the Capitol, if I may be allowed to make the reference, has shown a commendable degree of zeal in endeavoring to enforce the section of the Revised Statutes in regard to the appointment of soldiers. They sent an investigating committee to my State last summer at an expense of several thousand dollars to investigate appointments which had been made in the custom-house in Providence. The appointees in question were three in number, subordinate officers, much less important than any policeman in the District of Columbia either in the matter of pay or in any other way. Now, because that committee found that the collector of customs had failed to appoint two or three subordinates from soldiers, although it was proved by testimony that there were no soldiers applying for the appointments, they came back to this city and brought my State and the officer in question under a degree of senatorial censure because that officer had not fully performed his duty.

Mr. SAMFORD. Is that the reason you are talking of this matter here to-night?

Mr. ALDRICH, of Rhode Island. That is one reason, so as to give my democratic friends in this House a chance to show the same commendable zeal in regard to this matter of appointment of soldiers.

Mr. SAMFORD. You are taking your revenge, then?

Mr. ALDRICH, of Rhode Island. Not taking any revenge, but trying to give democrats here an opportunity which they might not otherwise have.

Mr. McMILLIN. Charity begins at home.

Mr. BUTTERWORTH. I move to amend by striking out the clause providing for a three months' residence; and to that, as well as to the general provision, I want to address myself for a few moments. It has been deemed wise, expedient, and patriotic to give soldiers who were in every way found to be competent to discharge the duties pertaining to any particular place a preference over others who have not served in the Army or Navy. Nobody has questioned the wisdom of that course; nobody has questioned that it was a proper thing to do.

Mr. COOK. You did not do that in Ohio.

Mr. BUTTERWORTH. What does the gentleman say?

Mr. COOK. You did not do that in Ohio in your gubernatorial election, for you defeated General Ewing, who had been a Union soldier. [Laughter.]

Mr. BUTTERWORTH. Yes, we did; and in doing so we adhered to an idea, we stuck to a principle. The candidate you mention had abandoned the principles for which he had fought as a Union soldier; he was rebuked for it by being defeated by an overwhelming majority.

But the case put by my friend has no pertinency here. It has been deemed wise and expedient to give soldiers who served in the war for the Union and their sons the preference in appointments where the General Government had control of the appointments. And in the District of Columbia you have, in recognition of that principle, provided by statute for giving places on the police force to soldiers, for reasons which are obvious to us all and which I need not now discuss. Everybody recognizes the propriety of such a provision. It has not been questioned by any one, and is not now questioned even by the commissioners of the District of Columbia except for one reason, which is, as they say, that they are unable to get a sufficient number of ex-soldiers who are physically and otherwise qualified to serve as policemen. That is the only reason I have heard from either side of the House for repealing the section of the statute which provides for appointing the police force from among the ex-soldiers who served in the Army or Navy during the late war.

Now, I submit that if the commissioners of the District had made a studied effort to exclude all soldiers from appointment on the police force, if they had desired to prohibit their appointment, they could not have hit upon a happier expedient than to require two years' residence in the District of Columbia as a condition-precedent to appointment on the police force. Why do they do that? Is it necessary or proper? Not at all. Then, why require it? I believe and assert here in my place that that condition is required for the purpose of affording some excuse for doing away with that provision in our law which the code under consideration is intended to repeal.

Mr. ALDRICH, of Rhode Island. For violating the law.

Mr. BUTTERWORTH. For violating the law, if you please. It is practically a violation of the law to require such conditions-precedent as will insure the exclusion of soldiers from all such appointments, and that is precisely what the commissioners of the District have done.

Mr. NEAL. Let me say to my friend from Ohio [Mr. BUTTERWORTH] that while this law has been in operation no man who was not an ex-soldier or sailor has been appointed to the police force.

Mr. BUTTERWORTH. I am aware of that.

Mr. NEAL. Then there has been no violation of the law.

Mr. BUTTERWORTH. Yet it is said that the commissioners are unable to procure suitable material from among the men who served in the Army—a statement which is an utterly false pretense. Having put a practical prohibition upon the appointment of ex-soldiers, they complain that they are unable to get them.

Why, sir, this statute was not enacted for the purpose of providing positions for men of means. I appeal to the common sense of this House whether it was to be expected that a man who had been a soldier would come here and reside two years in order to be appointed at the end of that time to a position on the police force, or for the chance of being so appointed at the end of two years?

Mr. SAMFORD. How is there a practical prohibition, if every appointee of the commissioners to the police force has been an ex-Federal soldier?

Mr. BUTTERWORTH. It is not absolutely a prohibition; but it tends to a prohibition by preventing men from applying who would otherwise apply. The cry is that the commissioners are unable to find suitable men who have served as soldiers. Why? Because they require two years' residence in the District as a prerequisite to appointment. What man who served in the Army and who needs or would take such a position could come here and live two years in order to get one of these appointments? They would starve to death while waiting for the two years to expire, or, if they survived, would not be certain of an appointment.

I assert that there is not a district in the United States which cannot, in view of the liberal salary paid, furnish material for at least half the police force necessary in this city—material consisting of first-class, competent men. But this prohibition has been adopted, as I believe, for the express purpose of ruling these men out and enabling the commissioners to say "the practical working of this statute is such as to preclude the possibility of our getting such men as we need to guard the peace of this city." They first nullify the law and then ask its repeal.

[Here the hammer fell.]

Mr. HUNTON. The gentleman from Ohio [Mr. BUTTERWORTH] concluded his remarks by a declaration that the purpose of the committee in framing this bill was to exclude those who had been soldiers and sailors.

Mr. BUTTERWORTH. Oh, no! I simply said that such is the practical effect of the rule adopted by the commissioners requiring two years' residence.

Mr. HUNTON. Then I misunderstood the gentleman.

Mr. BUTTERWORTH. I did not intend to be understood in the manner the gentleman suggests.

Mr. HUNTON. I am glad the gentleman did not mean that.

Mr. BUTTERWORTH. I did not mean it, and I did not say it.

Mr. HUNTON. Mr. Chairman, there was no disposition on the part of any member of the committee to make a fling at any Union soldier or Union sailor. I have always believed it the duty of a government to take care of those who were wounded and maimed in defense of its flag. But I never believed it the duty of a government to sacrifice the efficiency of a police force or any other similar organization for the purpose of rewarding a Union soldier or a Union sailor.

Mr. BUTTERWORTH. Will my friend permit a question?

Mr. HUNTON. I have only five minutes of the fifteen.

Mr. BUTTERWORTH. My object is only to get light.

Mr. HUNTON. If it does not come out of my time I will answer the question, but only on that condition.

Mr. BUTTERWORTH. I suppose it will come out of the gentleman's time.

Mr. HUNTON. So far from being disposed to injure a Union soldier or sailor, or deprive him of the benefits derived from his fighting under the flag of the Union, this side of the House year by year votes from $30,000,000 to $40,000,000 to pay pensions to that very class of people. This is done without a single murmur from this side of the House or from the southern members of the House.

This code was not the result of any effort to exclude Union soldiers or sailors, but was the purest business transaction in the world. It was brought to our attention, not by any partisan politician on either side I trust, but by the commissioners themselves——

Mr. BUTTERWORTH. And you were misled in the way I have suggested.

Mr. HUNTON. Not misled.

Mr. ALDRICH, of Rhode Island. Did the commissioners make a statement to the committee——

Mr. HUNTON. Unquestionably they did.

Mr. ALDRICH, of Rhode Island. That two years' residence was required?

Mr. HUNTON. No, sir.

Mr. ALDRICH, of Rhode Island. Did any member of the committee know it?

Mr. HUNTON. My friend will recollect I have not touched upon that provision, but shall do so before I am through. I am now upon the proposition about Union soldiers and sailors. The provision of the bill did not emanate from partisan politicians of any description. It was a business proposition, if my memory serves me right, brought to the attention of the committee by a Union soldier, now one of the commissioners of this District, whose gallantry upon the field of battle or his devotion to the flag has never been questioned.

It was his statement under the provision of the law as it now stands the efficiency of the police department was year by year diminishing, and if it was retained in the law the time would soon come when the police force of this District would be utterly inefficient. And in accordance with his advice, his statement and appeal to us, the committee determined to strike out that provision and put Union soldiers and sailors on the same footing with other parties as to efficiency in the police department. If there is anything wrong in that, I cannot see it.

Mr. BUTTERWORTH. He did not explain to you why they were not able to get proper persons.

Mr. HUNTON. He did; he said when a Union soldier or sailor went into the police force his age was such he soon became incompetent by reason of personal infirmity and unable to discharge the duties of a policeman. You know the regulation is, they do not appoint them over forty years of age, and the youngest man in the Army would now be about thirty. Therefore the commissioners say if they are confined to this class of applicants they cannot get an efficient police. That was the reason.

The CHAIRMAN. The time to which debate on this paragraph was limited has expired.

Mr. HUNTON. Allow me to proceed a few minutes further. Only five minutes' restriction was allowed on this side of the House.

Mr. CONGER. The gentleman asked for the restriction himself.

Mr. HUNTON. I will submit to it if you say so.

Mr. CONGER. But you made the limitation yourself.

Mr. HUNTON. I will submit to it if you say so. Now, as to the period of residence being fixed to two years. I will say a word on that point and then sit down, for I do not desire to prolong this debate, but am anxious, on the contrary, to get through with the bill. The reason why the term of two years was adopted in the regulations, because it is not the law—is it, Mr. NEAL?

Mr. ALDRICH, of Rhode Island. It is a regulation.

Mr. HUNTON. It was because the commissioners said a man appointed on the police force must have a familiarity with the city of Washington and its inhabitants.

Mr. CONGER. And it takes two years to learn, I suppose.

Mr. HUNTON. They wanted them to know the streets, the houses, the alleys, and the people who inhabited them. If they have to learn all that after they are appointed, then the period during which they are learning would be lost to the efficiency of the police force.

Three months' residence, which is the provision introduced by the gentleman from Ohio, does not give that familiarity which is worth a cent for a police officer; and therefore the commissioners, in their experience and wisdom in enforcing the laws of the District, said a man must be here two years before he was fit for a policeman.

All these were business arrangements, and God knows politics had nothing to do with them. God knows no idea of striking a Union soldier or sailor was in my mind or in the mind of any of the commissioners; and therefore it was determined by the commissioners it was wise and proper for the government of the District that should be the provision of law.

Mr. FARR. I wish to say a word.

The CHAIRMAN. The time limited by the House for debate has expired.

Mr. ALDRICH, of Rhode Island. The gentleman can proceed by unanimous consent.

The CHAIRMAN. It will be impossible to extend the time even by unanimous consent.

Mr. ALDRICH, of Rhode Island. Let the gentleman move to strike out the last word.

The CHAIRMAN. The committee cannot by unanimous consent extend the time, because the debate was limited by order of the House.

Mr. ELAM. I move to amend by saying that they shall belong to the republican party. [Laughter.] That is the whole gist of this amendment.

The CHAIRMAN. There is an amendment to the amendment already pending.

Mr. FARR. Does the Chair rule no debate is in order on the amendment offered by the gentleman from Ohio?

The CHAIRMAN. The order of the House did not cut off amendment, but limited the time for debate.

Mr. CONGER. Let it be read.

The CHAIRMAN. The Chair is informed that the order of the House was to limit debate to fifteen minutes on the paragraph and amendments thereto.

Mr. BUTTERWORTH's amendment to the amendment was disagreed to.

Mr. HUNTON. I now submit this as a substitute for the amendment of the gentleman from Rhode Island:

Or who shall not have served in the volunteer forces of the Army or Navy and obtained therefrom an honorable discharge: *Provided*, The efficiency of the police force is not impaired by appointments from the Army or Navy.

Mr. ALDRICH, of Rhode Island. I suggest that there are objections to that, inasmuch as it fails to specify which army and navy it refers to, and also as to the mode of appointments by the commissioners.

Mr. HUNTON. Well, I suppose it will hardly be imagined that I could refer to any army but the Federal Army. To meet the gentleman's objections, however, if necessary, I will add the words "the Army or Navy of the United States."

Mr. BUTTERWORTH. The proviso as to the time of residence ought to be rectified. The two-year rule would continue to work exclusion.

Mr. HUNTON. It would not any more than it has done in the past. Every man appointed heretofore has belonged to the Army or Navy.

The substitute was not agreed to.

Mr. FARR. I move that the committee now rise for the purpose of extending the time for debate.

The motion was not agreed to.

The question recurred on the amendment of Mr. ALDRICH, of Rhode Island.

The committee divided; and there were—ayes 19, nays 35.

Mr. CONGER. No quorum has voted.

Mr. ALDRICH, of Rhode Island. It is very evident that we shall stop here with this bill to-night unless we can make some arrangement for a vote in the House upon this amendment. I would suggest that the amendment be considered as agreed to and that a yea-and-nay vote upon it be taken in the House.

Mr. HUNTON. No; I would suggest that by unanimous consent a vote in the House may be taken upon the amendment.

Mr. ALDRICH, of Rhode Island. I have no objection to that in case the committee can bind the House.

Mr. HUNTON. That is done frequently, by consent.

Mr. ALDRICH, of Rhode Island. But on one occasion our Chairman ruled that it could not be done.

Mr. CONGER. If there is objection in the House the agreement in committee would have no force.

The CHAIRMAN. The point of order being made that no quorum voted, the Chair will appoint tellers.

Mr. HURD. Pending that, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURROWS reported that the Committee of the Whole on the state of the Union having, in accordance with the orders of the House, had under consideration the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia, had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. MARTIN, of Delaware. I move that the House now adjourn.

Mr. BURROWS. By a preceding order of the House a further recess was to be taken until half past ten o'clock in the morning.

The SPEAKER. That was the order of the House.

Mr. MARTIN, of Delaware. Then I modify my motion to conform therewith.

The motion was agreed to; and accordingly (at ten o'clock and ten minutes p. m.) the House took a further recess until ten o'clock and thirty minutes a. m. on Thursday.

MORNING SESSION.

The recess having expired, the House (at half past ten o'clock a. m., Thursday, May 13) resumed its session.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 5089) directing the issue of a duplicate check to Elizabeth D. Thomas, a pensioner of the United States; and

Joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, and for other purposes.

ALLEGED CORRUPTION IN CONTESTED-ELECTION CASE.

The SPEAKER announced the appointment of Mr. CULBERSON, *vice* Mr. REAGAN, resigned, as a member of the select committee to investigate the alleged corruption in connection with the contested-election case of Donnelly *vs.* Washburn.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. COX in the chair.

The CHAIRMAN. The Clerk will report the pending proposition. The Chair sustained the point of order against the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

For twelve additional clerks of class 1, to be employed exclusively on matters relating to pensions, $14,400.

Mr. BAKER. In line 511, after the word "pensions," the words "and bounties" should be inserted. It is a mere verbal amendment to supply an omission.

Mr. ATKINS. There is no objection to the amendment; it only enlarges the scope of their duties. But the text as it is is from the law.

Mr. BAKER. It is necessary, I think, that these words should be inserted.

The amendment was agreed to.

The Clerk read as follows:

Bureau of Statistics:

For the officer in charge of the Bureau of Statistics, $2,400; chief clerk, $2,000; four clerks of class 4; five clerks of class 3; five clerks of class 2; six clerks of class 1; three clerks at $1,000 each; five copyists at $900 each; one assistant messenger, one laborer, and one female laborer at $480; in all $43,160.

For payment of the services of experts and for other necessary expenditures connected with the collection of facts relative to the internal and foreign commerce of the United States, $8,800.

Mr. WARNER. I shall offer an amendment to strike out, in line 630, the word "five" and insert "eight." I ask the chairman of the Committee on Appropriations whether there has been any increase in the clerical force of this bureau?

Mr. ATKINS. Yes, sir. There have been two clerks of class 1 added.

Mr. WARNER. Has there been any other addition?

Mr. ATKINS. No, sir.

Mr. WARNER. If there has been no increase of clerks in that Department I will move to increase it.

Mr. ATKINS. There has been an increase, as I have stated.

Mr. WARNER. I move to amend by inserting "eight," instead of "five," in line 630.

Mr. ATKINS. I shall make the point of order on that. We have passed that paragraph.

Mr. WARNER. The amendment is to the paragraph just read.

Mr. ATKINS. No, there are two paragraphs. The first has been passed.

Mr. WARNER. I hope the gentleman will not insist upon the point of order. This information is very important and a sufficient force should be provided to collect it.

Mr. BAKER. If the point of order is withdrawn I shall feel compelled to renew it.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For salaries and expenses of agents and surveyors, for fees and expenses of gaugers, for salaries of storekeepers, and for miscellaneous expenses, $1,700,000.

Mr. DIBRELL. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add the following at the end of line 677:

"That the salary of the storekeeper and gauger at all distilleries that mash less than sixty bushels of grain per day shall not exceed $50 per month while the distillery is in operation, and $35 per month while the distillery is not in operation; and at all other distilleries, storekeepers and gaugers shall not receive exceeding $50 per month while the distillery is not in operation."

Mr. KEIFER. I make the point of order on the amendment, but am willing to hear the gentleman from Tennessee explain it.

Mr. DIBRELL. My object in offering that amendment is to cut down a large amount of useless expenditure in the payment of gaugers and storekeepers. I know an instance of a small distillery, which mashes less than sixty bushels per day, where the pay is $4 a day, while the distillery is not in operation during more than five or six months in a year, the man's salary going on at $4 a day the year around. The intention of the amendment is to reduce the salary of the gauger and storekeeper to $50 a month while the distillery is in operation, and while it is not in operation to $35 a month, for the small distilleries, and in the larger distilleries to $50 a month when the distillery is not in operation. It will save a large amount of money. I do not think there is a department of the Government in which there is more money wasted than in the pay of these storekeepers and gaugers for distilleries. There is a large surplus of them, and they are employed in doing no work at all. They attend to their other business, as I know of my own knowledge, and go to the distillery once a day, and return to their business with the keys in their pockets. There is no necessity for paying more than $35 for the small distilleries and $50 for the larger ones when they are not in operation; and $50 for the small distilleries when they are in operation, is ample pay. You can get plenty of good men to take the positions at that pay. I hope the amendment will be adopted.

The CHAIRMAN. Does the gentleman from Ohio [Mr. KEIFER] insist on the point of order? If he does, he will please state what is the point of order.

Mr. BAKER. I will insist on the point of order. It changes existing law and it is not apparent on the face of the amendment that it would reduce expenditures.

Mr. DIBRELL. I think any one would know that it would reduce expenditures.

Mr. BAKER. It would require investigation to ascertain whether it would reduce expenditures or not.

Mr. ATKINS. I am bound to say that I think the amendment comes within the spirit of the rule. I think the fact that the amendment provides that during the months that the distilleries are not in operation the salaries of these employés or officers shall only be $35 in the case of the small distilleries when they are not in operation, while the law fixes them at $50, makes it apparent there would be a reduction of expenditure.

Mr. BAKER. But that demands the concession of a point of which the Chair cannot take judicial notice.

The CHAIRMAN. The Chair has a right to look at the existing law.

Mr. BAKER. Certainly; but the question as to whether or not the operations of any distillery are suspended during a greater or less portion of the year is a matter of fact that the Chair cannot take notice of. It is a matter of fact which does not appear on the face of the amendment. So far as the amendment is concerned it does not show any reduction unless there is an assumption that there is a cessation in the actual operation of these distilleries. That is a matter of fact that does not appear on the face of the amendment so as to bring it within the rule. It can only be brought within the rule by an assumption of a fact.

Mr. DIBRELL. I desire to ask the gentleman from Indiana one question about the point of order. Does he not know that the amendment will retrench expenditures?

Mr. BAKER. No, sir; not as a matter of fact. I have the assertion of the gentleman from Tennessee that it will. But so far from reducing expenditures, in my judgment—and whether my judgment is worth as much as that of the gentleman from Tennessee I am not going to assert—it would be a most dangerous experiment for this Government to undertake. It is an open and notorious invitation to frauds on the revenue whereby we would lose millions on the plea of saving the small pittance which the gentleman from Tennessee suggests.

Mr. MCMILLIN. Will the gentleman tell us how we will lose millions?

Mr. BAKER. When we come to discuss the merits of the amendment, if we should do so, I will tell the gentleman how, if he has not the ability himself to see how.

Mr. HOOKER. Let the amendment be read.

The amendment was again read.

Mr. ATKINS. I rise for the purpose of reading the existing law. It is as follows:

That hereafter storekeepers at distilleries that mash less than sixty bushels of grain per day shall be allowed not exceeding $50 per month; but when one person acts as storekeeper and gauger the salary shall not exceed $4 a day for the time he is actually employed.

Mr. DIBRELL. According to the construction the Commissioner of Internal Revenue puts upon the law he appoints one man as storekeeper and the same man as gauger and gives him $50 a month for each service.

A MEMBER. You cannot get a good man for less.

Mr. DIBRELL. I think we can get an efficient and honest man for less than that for this service.

Mr. HOOKER. I think the amendment offered by my friend from Tennessee [Mr. DIBRELL] upon its face would indicate its purpose and object was to make a reduction rather than an increase, and it would be a very violent construction of the language of the amendment to say that upon its face it did not look to a retrenchment of expenditure or a reduction of expenses. I think a decision was made by the late Speaker, Mr. Kerr, on this very point to which I called the attention of my friend from Tennessee [Mr. WHITTHORNE] in connection with another subject which happened to be under consideration; the effect of that decision being that where upon the face of the amendment itself it tended to reduce expenditures it came within the provisions of the rule which has been referred to by the gentleman who makes the point of order on this amendment.

The CHAIRMAN. The Chair has no difficulty in ruling upon the point of order. The decision of Speaker Kerr, which has been referred to, was upon an amendment providing for the transfer of the Indian Bureau from the Interior Department to the War Department. He held that the amendment, to be in order, must show on its face, or there must be shown from the public records, from something of a public documentary character, a tendency to retrench expenditures. The present occupant of the chair, having some knowledge of reports and documents relating to the internal revenue, would be inclined not to take this amendment from the action of the Committee of the Whole, and therefore will overrule the point of order and allow the committee to pass upon the amendment.

Mr. KEIFER. I suppose this amendment is offered in perfect good faith and in the interest of economy; and perhaps it will prove in a certain sense to be a matter of saving of a few dollars, and only a few dollars, in the way of salary. I apprehend, however, that the practical effect of the amendment will be to withdraw these officers of the Government from these small distilleries for a great portion of the time, leaving the distilleries in an unprotected and unwatched condition, thereby permitting all sorts of fraud to be perpetrated upon the Government.

Now, I do not mean to charge here that this class of men, these distillers, more than any other persons in this country who are subjected to great temptation, are inclined to commit frauds on the Government. But we happen to know that the most extraordinary means are resorted to for the purpose of defranding the Government of its lawful revenue, especially from distilled spirits. We happen to know that in certain parts of the country these persons resort to such means as result in acts of violence; murders have been committed, and acts of that kind, in order the better to defraud the Government.

I would rather see some effort made to protect the Government in this direction, rather than to weaken it. If you pay these men but a small salary for their services it is as much as to say that they need not attend to their duties during certain periods of time. Yet we know that when distilleries are not in actual operation the spirits subject to tax are there and should be guarded and watched and protected as much as at any other time.

I do not say that this amendment was offered in the interest of this class of people who desire to perpetrate frauds upon the Government; but I do say and believe that if adopted it will practically operate in the interest of that class of persons.

Mr. DIBRELL. In reply to the gentleman from Ohio, [Mr. KEIFER,] I desire to say that if I had been disposed to offer an amendment to encourage frauds on the Government, I would have offered one which would apply to the large distilleries in Ohio, Illinois, and Missouri, where the Government is swindled out of millions of dollars.

Mr. KEIFER. But you are not interested in them.

Mr. DIBRELL. I want to cut down expenses; I am in favor of reform and retrenchment. That was my object in offering this amendment. The whole amount of illicit distilling which is carried on in the country, to which the gentleman refers, meaning moonshiners, if the full tax was paid would not amount to one-quarter of that which is stolen by the large distilleries of the West.

Mr. KEIFER. I hope the gentleman does not mean to justify stealing in the West or in the North; because if he does I should be obliged to differ with him on that point also.

Mr. DIBRELL. The salaries of officers do not prevent stealing.

Mr. SINGLETON, of Mississippi. I do not believe the amendment offered by the gentleman from Tennessee [Mr. DIBRELL] will have the effect which he supposes. As the law now is, when you combine the two offices of gauger and storekeeper in one, that one gets but $100 a month. If you reduce the amount of compensation to $50 a month, the only consequence will be that one man will not perform the duties of both offices, and you will have to employ two officers, paying each $50 a month, so that you will pay the $100 a month any way.

Mr. DIBRELL. That is what this amendment prohibits.

Mr. SINGLETON, of Mississippi. It prohibits the payment of more than $50 a month where the two offices are combined in one. But there is nothing in the amendment to require the gauger to perform the duty of storekeeper. Therefore if you undertake to cut down the salary to $50 a month, you will have to employ two men, and the salaries of those two will amount to $100 a month as now. No man will undertake to perform the duties of storekeeper and gauger both for $50 a month, when he can get the same amount for one of them.

Mr. OSCAR TURNER. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. OSCAR TURNER. The vote was taken on this amendment by the Chair.

The CHAIRMAN. No vote was taken.

Mr. OSCAR TURNER. The ay vote was taken, and I desire to inquire of the Chair if after that was done it was in order to reopen the debate?

The CHAIRMAN. The vote was not completed and the Chair would not be strict in such a case.

Mr. BAKER. I am sorry to see this effort made to cut down the officers necessary to be employed at these small distilleries, and I am sorry to see it coming from the direction it does.

It is not necessary for me to allude to the current history of the country to show the necessity of having competent and efficient officers around the small distilleries of this country. It is a notorious fact that while the "steals" are perhaps not as large about the small distilleries as they are about the great establishments, yet the aggregate amounts to quite as much.

The adoption of this amendment would be an open bid and invitation to the officers whose compensation is thus cut down not to attend as closely to their duties in the future as they have done in the past. It would be so understood by every person interested in a violation of the law.

I desire to say that in my judgment it is utterly impossible to combine in the same individual sufficient honesty, efficiency, and intelligence for a fair administration of these laws for a less sum than $100 per month. While the suggestion may seem to be plausible that an officer ought not to be paid as much during the time that a distillery is not running as when it is in full operation, it is simply a seeming argument in that direction.

The truth is, it is just as important that there should be a daily and constant supervision over the distillery while it is not running as when it is running. This is necessary in order to prevent fraudulent and illicit distilling. I look upon the amendment as a proposition which will have the effect (I will not say it is so intended) to interfere with the faithful, the honest, the efficient administration of this service. I hope the bill will be allowed to remain as it is.

Mr. ARMFIELD. I ask that the amendment be again read.

The Clerk again read the amendment.

The question being taken on agreeing to the amendment, there were—ayes 44, noes 35.

Mr. BAKER, and others. No quorum.

Tellers were ordered; and Mr. DIBRELL and Mr. KEIFER were appointed.

The committee divided; and the tellers reported—ayes 51, noes 32.

Mr. BAKER. I make the point that no quorum has voted. [Cries of "Call the roll!"]

Mr. HAWLEY. In the interest of business I ask that by unanimous consent we return to this paragraph after twelve o'clock, when there will be a fuller attendance of members.

Mr. DIBRELL. Let us have a yea-and-nay vote on the amendment in the House. [Cries of "No!" "No!"]

Mr. BAKER. I am willing to withdraw the point of order if by unanimous consent this paragraph of the bill may be passed over until two o'clock this afternoon with the understanding that then the Committee of the Whole may go back to it.

The CHAIRMAN. That requires unanimous consent.

Mr. OSCAR TURNER. I object.

Mr. HAWLEY. I move that the committee rise.

The motion was not agreed to.

The CHAIRMAN. The Clerk will call the roll.

The roll was called; when the following-named members failed to answer:

Atherton,	Finley,	Loring,	Russell, Daniel L.
Bachman,	Fisher,	McCook,	Russell, W. A.
Barlow,	Forsythe,	McMahon,	Ryan, Thomas
Berry,	Fort,	Miles,	Simonton,
Bicknell,	Frost,	Miller,	Singleton, J. W.
Bingham.	Gibson,	Mitchell,	Smith, A. Herr
Blackburn,	Hall,	Morse,	Sparks,
Bland,	Hammond, John	Morton,	Speer,
Blount,	Hammond, N. J.	Muller,	Springer,
Brigham,	Harris, Benj. W.	Murch,	Starin,
Calkins,	Haskell,	Myers,	Taylor,
Cannon,	Hayes,	Nicholls,	Updegraff, Thomas
Clardy,	Hazelton,	O'Brien,	Urner,
Clark, Alvah A.	Hill,	O'Neill,	Van Voorhis,
Clymer,	Horr,	O'Reilly,	Voorhis,
Coffroth,	House,	Orth,	Ward,
Cowgill,	Hubbell,	Osmer,	Warner,
Crapo,	Humphrey,	Overton,	Weaver,
Crowley,	Hutchins,	Pacheco,	Wells,
Daggett,	James,	Pierce,	White,
Davis, George R.	Jorgensen,	Prescott,	Wilber,
De La Matyr,	Joyce,	Reagan,	Williams, C. G.
Dick,	Kenna,	Rice,	Wilson,
Dwight,	Killinger,	Richardson, J. S.	Wise,
Einstein,	King,	Robertson,	Wood, Fernando
Ewing,	Klotz,	Robeson,	Yocum,
Farr,	Lapham,	Ross,	Young, Casey
Ferdon,	Lewis,	Rothwell,	Young, Thomas L.

During the roll-call,

Mr. KEIFER said: I ask unanimous consent that the further call of the roll may be dispensed with. It is evident that there is a quorum here now.

Mr. OSCAR TURNER. I object.

Mr. REED. Is it not in order to move to dispense with this proceeding?

The CHAIRMAN. It can only be done by unanimous consent.

The Clerk resumed the call of the roll, when

Mr. STEVENSON said: I ask unanimous consent that the further call of the roll be dispensed with.

Mr. OSCAR TURNER. I object.

Mr. ATKINS. I trust my friend from Kentucky [Mr. OSCAR TURNER] will withdraw his demand for the calling of the names, because it will take twenty or thirty minutes.

Mr. OSCAR TURNER. This is the first amendment adopted to this bill in favor of "retrenchment and reform;" and the point of "no quorum" was made by the gentleman from Indiana [Mr. BAKER] on the other side after we had carried the amendment by a vote of nearly two to one.

The CHAIRMAN. Does the gentleman insist on the call?

Mr. OSCAR TURNER. I insist on the call, because gentlemen ought to be here during the consideration of an important bill involving a large appropriation.

Before the roll-call was concluded,

Mr. DIBRELL said: It is evident that a quorum is present now. I ask my friend from Kentucky to withdraw his objection.

Mr. ATKINS. As the call of the roll has proceeded so far, I hope it will now be concluded.

The call of the roll was resumed and concluded, with the result already recorded.

Mr. HARRIS, of Virginia. I call for the regular order. The presence of a quorum being developed, does not the Committee of the Whole resume its business?

The CHAIRMAN. The Chair will cause the rule to be read.

Mr. SPARKS. Have the absentees been called?

The CHAIRMAN. Yes, sir.

Mr. SPARKS. I am here, and desire to be recorded. [Cries of "Too late!"]

The CHAIRMAN. Under the rule the committee must rise and report the absentees to the House. The rule will be read.

The Clerk read as follows:

Whenever a Committee of the Whole House finds itself without a quorum, the Chairman shall cause the roll to be called, and thereupon the committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order of the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had found itself without a quorum; whereupon the Chairman had directed the roll to be called, and now reported the names of the absentees to the House for entry on the Journal.

Mr. ATKINS. I move that the House again resolve itself into Committee of the Whole for the consideration of the legislative, executive, and judicial bill.

Mr. BURROWS. I rise to a parliamentary inquiry. Did not the roll-call in Committee of the Whole disclose the presence of a quorum?

The SPEAKER. It did. One hundred and eighty members answered to their names.

Mr. BURROWS. Then I make the point that a motion is not necessary in order for the Committee of the Whole to resume its session.

The SPEAKER. That is true; but it does no harm. As the motion was made, the Chair recognized it.

The motion of Mr. ATKINS was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. COX in the chair,) and resumed the consideration of the legislative, executive, and judicial appropriation bill.

Mr. DIBRELL. I ask that the pending amendment be again read.

The Clerk again read the amendment.

Mr. GARFIELD. I desire to say, Mr. Chairman——

Mr. DIBRELL. Debate is not in order, Mr. Chairman, and I object.

Mr. GARFIELD. This is a moonshiner's resolution, and ought to be voted down.

The CHAIRMAN. Debate is not in order; when the committee found itself without a quorum it was dividing; and the tellers will resume their places.

The committee again divided; and the tellers reported—ayes 81, noes 60.

So Mr. DIBRELL'S amendment was agreed to.

Mr. BAKER. I give notice, Mr. Chairman, that I will call for the yeas and nays on this amendment when we go into the House.

The Clerk read as follows:

For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or accessory to the same, including payments for information and detection, $75,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum.

Mr. HOOKER. I move to strike out the words "including payments for information and detection," and to reduce the appropriation from $75,000 to $50,000.

I can see no necessity, Mr. Chairman, for that provision in this section which I propose to strike out. After providing for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or accessory to the same, it makes an appropriation for information and detection, and this will enable the Internal Revenue Commissioner to keep a corps of persons, irresponsible in their character, for the purpose of information and detection. I do not consider it necessary to appropriate any money for that purpose. The legitimate purpose of this Government is to prosecute these persons, to prosecute them according to the forms of law, and whenever it departs from those forms of law and clothes any officer of the Government with secret and irresponsible powers, and institutes tribunals unknown to the law, it is always an unsafe operation and a thing for which I do not believe the money of the people ought to be expended.

Mr. REED. Does the gentleman want to prosecute them before they are detected?

Mr. HOOKER. No, sir; not before they are detected, but according to the forms of law.

Mr. REED. And what are the forms of law?

Mr. HOOKER. I want them to be prosecuted under the forms of law by your regular officers, and not by an irresponsible army of spies and informers.

Mr. REED. What are the forms of law for detecting a crime?

Mr. HOOKER. I say this, that when your officer appointed for this purpose ascertains the fact that a man has violated the law he may then be indicted and prosecuted according to the forms of law, but certain spies and informers should not be set secretly upon a man. It is a thing unknown to any free government on the face of the earth. I say, therefore, this operation of the law is unwise.

I am aware gentlemen on the other side of the Chamber, as well as gentlemen on this side, are very reluctant to have amendments made to this bill. It is a bill, Mr. Chairman, making enormous appropriation for expending the money of the people. It is a bill coming from a committee the simple functions of which are the auditing of the claims of the Government and appropriating a sufficient amount for the expenses of the Government for the next fiscal year. Its report, therefore, should be open to the freest investigation, amendment, and discussion.

Now, sir, in the States you have no corps of detectives and spies at all. You execute your laws there without them. I say, therefore, while I know there is a disposition to hurry this bill through the House, yet that it deserves the closest inspection of the committee. I say that nearly the whole time of this session has been devoted to the consideration of bills of appropriation to the exclusion of other great questions of public interest, of overriding importance, which should have the consideration and attention of the immediate representatives of the people. There stand now one hundred and eleven cases upon the House Calendar; there stand on the Calendar of the Committee of the Whole House on the state of the Union two hundred and twelve cases; and on the Private Calendar, six hundred and twenty-five cases, making a total of nine hundred and forty-eight. Not a single case affecting questions of great public interest on the Calendar of the Committee of the Whole has been reached during this whole session of Congress. It is not proper, therefore, to hurry up this measure to the exclusion of those of greater public interest.

There are pending before you for consideration by your committees questions affecting the revision of the tariff, questions affecting the revision of the revenue laws, (the subject which we have now under consideration,) the law for counting the electoral vote, the law in regard to interstate commerce, the law in regard to immigration, the law in regard to the improvement of the Mississippi River, the law in regard to commerce with South America, the law in regard to the interoceanic canal, and therefore I say, sir, that these questions of overriding and national importance ought to have consideration rather than the mere question of appropriating money to pay the office-holders of the Government. Questions of great public significance ought not to be buried in obscurity and dwarfed into insignificance by the perpetual consideration of appropriation bills.

[Here the hammer fell.]

Mr. HAWLEY. Mr. Chairman, I do not profess to be more patriotic than the gentleman from Tennessee or the gentleman from Mississippi who have introduced amendments on this subject. I do not impugn their motives in the least. It is natural, having many constituents engaged in the manufacture of spirituous liquors that they desire to remove——

Mr. HOOKER. There is not a single distillery in the State of Mississippi; not one, sir.

Mr. HAWLEY. Then I am the more surprised at the gentleman's position; that is all.

Mr. HOOKER. No, sir; not a single one.

Mr. HAWLEY. I have a right to argue as to the effect of these amendments. If any gentleman chooses to add to that that a person is supposed to intend that which is the natural effect of his action, I leave the inference to be drawn by others. The effect of these amendments is, in the first place, to reduce the guards that the Government has seen proper to throw around the collections of this branch of our revenue.

Mr. DIBRELL. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DIBRELL. I make the point of order that the gentleman has no right to discuss the amendment already passed upon by the committee.

Mr. HAWLEY. I used the word "amendments," because in discussing the drift of this pending amendment it is impossible to disconnect it from the whole series of amendments which refer to this same subject.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HAWLEY. I say that the effect of the amendments is to relax the guards which the Government has found important to throw around the collection of this revenue; and in the second place it takes away from the Government the power to search out and detect criminals engaged in illicit traffic of this kind. The gentleman from Mississippi says that it is not the duty of the Government to search out criminals violating the revenue laws in this respect; that it is not the duty of the Government to send out detectives to ferret out those engaged in this illicit traffic, and consequently that no appropriation should be made for the payment of these detectives. Then if that be the case we are to wait the kind convenience of these criminals until they present themselves at the bar of justice and say, "Here, we have been engaged in illicit traffic in whisky; we have been engaged in illicit distilling, and now we have come around to give ourselves up for the punishment which the law imposes."

That is not their course of action, Mr. Chairman. Any gentleman who ever studied in the slightest degree the processes of the collection of the revenue from customs, or direct taxes of this Government, or of any other government, whether republican or monarchical, knows that in order to secure a full and fair collection of its revenues it is absolutely essential to engage men to ferret out frauds upon the revenue, to spend large sums of money in detecting violations of the law and guarding against fraud. The military officer who would put sentinels around his camp for three-quarters of the circle and leave one-fourth of it entirely open would simply be inviting the coming in of the enemy. The government that makes no provision for preventing a violation of its laws invites the criminal classes to vio-

late them. The argument of gentlemen that when the distillery is not in operation, though the store may be full of whisky, the storekeeper and the ganger shall therefore be paid less for their services in watching, simply tends to relax their labors and watchfulness. The pay being made less, the intimation is that they need not watch so closely, and you invite the running off of the whisky without the payment of the tax upon it. It is perhaps uncivil to say so, but it is the presumption of law to say that this is the motive of these amendments, for the movers must know the effect of their work.

I would not be guilty of a discourtesy, but every gentleman is presumed to know the effect of his own actions. How is the Government to proceed to the collection of the enormous revenues from this source if it is not intended to allow it to pay men to be sent throughout the regions where these distilleries are in operation? It ought not to be necessary to argue a question of this sort. Those who would reduce the pay of the men engaged in watching over the stores where spirits are accumulated and would take away from the Government the funds necessary to pay informers and detectives for detecting fraud would simply sanction additional frauds and by their action abundantly invite violations of the revenue laws.

Mr. HOOKER. In reply to the remarks of the gentleman from Connecticut [Mr. HAWLEY] and to the interpolations made by the gentleman from Maine, [Mr. REED,] I have but a few words additional to say. These gentlemen have evidently not read the paragraph under consideration with that care which it merits. So far as the remarks of the gentleman from Connecticut are concerned, that I was animated in moving this amendment by the consideration that I have constituents who were interested in this business, I can only reply that such is not the fact. I am animated by no such motive whatever. I have no constituents engaged in such business. I am animated simply by a disposition not to give any officer of this Government a dollar or to place money in the hands of any officer or any Department of this Government to be expended except for legitimate purposes. And if the gentleman from Connecticut and the gentleman from Maine will look at the first line of the paragraph I move to amend, they will discover that it already provides for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws. So that the very purpose they say I have an object in defeating is retained in the very first words of the paragraph, and therefore I see no necessity for including an appropriation for information and detection in addition to that. It seems to me to be entirely surplusage in the bill to retain the words I propose to strike out, the effect of which, in my judgment, is simply to supply the Commissioner of Internal Revenue with an additional fund and invest him with authority which is foreign to the spirit of our Government and not sanctioned by the genius of our institutions.

It was for this reason that I moved to strike out this clause of the paragraph and that I moved to reduce the appropriation in order to make it suitable for the purpose. For I took it for granted that if $75,000 was necessary as a total for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws and also for payment for information and detection, $50,000 of this amount was sufficient for the legitimate purposes of the Government for detecting and bringing to trial and punishment. I do not think it is necessary to collect around the Commissioner of Internal Revenue a class of men who have been known in Irish history by the name of "informers" and who have acquired on the pages of history an odium greater than that which attaches perhaps to any other people, simply because they were a class of men who ought not to be known to the law and whose duties and obligations ought not to be imposed by law.

It was for this reason I moved to strike out the clause. I do not propose to cripple the power of the Government in detecting and punishing criminals anywhere. But I do oppose a proposition to create a band of informers outside of the ordinary functions of the Internal-Revenue Department for the purpose of getting up prosecutions sometimes justifiable and many times unjustifiable. It is against the spirit and the genius of our institutions that we should have this class of officers, unknown to the law, functionaries without prescribed duties, men sent out without the forms of legal procedure, without any possibility of its being known whether they are responsible or not, or whether their information may be correct or not. I think, Mr. Chairman, that there is sufficient left in the bill if my amendment is adopted to enable the Commissioner to detect whatever offenses may be committed against the law, and to punish them also.

[Here the hammer fell.]

Mr. REED. I shall be unable to treat the House to such an uninterrupted flow of eloquence as has poured from the gentleman from Mississippi, [Mr. HOOKER.] I shall not be able to do it because I have not the power, and I shall not be able to do it because it is not necessary in a statement of facts.

Where it is proposed to cripple the Government of the United States in the collection of the revenue, where that is the object and purpose, of course the best thing one can do is to cover it up with eloquence and with allusions to history and to informers and everything of that sort. But the plain effect and purpose of the amendment of the gentleman from Mississippi, whether he intends it or not, is to prevent the enforcement of the revenue laws and the collection of the revenue. It is absolutely impossible to punish criminals without detecting them, and it is absolutely impossible to detect criminals unless it is somebody's business to detect them; and it is impossible for anybody to make it his business to detect them without being paid for it.

The gentleman from Mississippi proposes, under the guise of allusions to Irish history, under the guise of discourses about the people's money, to deprive the people of the money which belongs to them from the manufacture of whisky. Everybody knows that there is no such righteous tax in this world as the tax on whisky and tobacco. It is a tax which relieves the people every time it is imposed, and every dollar of it that escapes the Treasury has to be put upon the honest work and labor of the people.

Now, for this Congress to cut down and limit the powers of the officers of the Government for the detection of crime is to limit the revenue, is to encourage illicit distilling, is to work an injury to this country. And if gentlemen want in this way to limit the powers of the officers of the Government, in the face of what they must know will be the effect of such a procedure, they have to cover it up with something like eloquence.

Mr. HOOKER. I wish to say one word in reply to the gentleman from Maine.

The CHAIRMAN. The time of the gentleman is expired.

Mr. HOOKER. I would like to know what becomes of the United States courts and marshals and grand juries and the detectives provided for in the first line of this paragraph.

Mr. REED. They are entirely useless if you do not detect the criminal and do not appropriate money to detect him.

Mr. HOOKER. They have been very energetic in my section of the country.

Mr. DAVIS, of North Carolina. I move to strike out the last word.

Mr. Chairman, as has been very eloquently said by my friend from Mississippi, spies and detectives are institutions unknown to a free people. Where the laws are just and right they will commend themselves to the sentiment of the country and will be enforced by public opinion.

Our whole system of internal revenue for some years has been run largely not in the interest of economy, not in the interest of the people, but in the interest of party. I will give a little history; and I will show from that—and it could not have been an accident—that when our friends on the other side of the House controlled the revenue of the country the collection of the internal revenue cost far more during the years of presidential elections than before and after the presidential years; and the amount collected was greatly less during the presidential years than during the years before and after. I will state in round numbers what I have here in a table before me. During the year preceding the presidential year of 1868 the amount collected was $191,000,000.

Mr. ATKINS. I ask the gentleman from North Carolina to yield to me. It is now almost twelve o'clock, and I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that the House adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and fifty-nine minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Saint John Farriely and others, citizens of Philadelphia, Pennsylvania, for the repeal of that portion of section 2504 of the Revised Statutes which imposes a duty of 25 per cent. *ad valorem* on newspapers, magazines, and other periodicals—to the Committee on Ways and Means.

By Mr. NELSON W. ALDRICH: The petition of George T. Wilson, Townsend Wilson & Co., and the Diamond Hill Granite Company, of Providence, Rhode Island, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. BAILEY: The petition of Van Haven, Charles & Co. and others, for the reduction of the duty on earthenware—to the same committee.

By Mr. BICKNELL: The petition of John E. Crane, of New Albany, Indiana, of similar import—to the same committee.

By Mr. BLAKE: The petition of Thomas Oakes & Co., of Bloomfield, New Jersey, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. BURROWS: The petition of ex-soldiers of Michigan, against the passage of the Withers pension bill, and for the passage of the Geddes bill—to the Committee on Invalid Pensions.

By Mr. HORACE DAVIS: The petition of citizens of San Francisco, against the passage of the bill (H. R. No. 5130) for the relief of George W. Morse—to the Committee on Patents.

By Mr. ELLIS: Memorial of citizens of Louisiana and Mississippi, for the removal of the duty on salt—to the Committee on Ways and Means.

By Mr. GARFIELD: The petition of soldiers of Ohio, that soldiers and sailors who served three months during the late war be granted one hundred and sixty acres of land—to the Committee on the Public Lands.

By Mr. GILLETTE: The petition of L. B. Ingold and 13 others, soldiers of the late war, to be placed on the same footing as bondholders in the matter of their pay—to the Committee on Military Affairs.

By Mr. HARMER: The petition of McCallum, Crease & Sloan, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. HAWLEY: The petition of S. M. Bronson and 14 other citizens and firms of Hartford, Connecticut, for the abolition of the duty on salt—to the same committee.

By Mr. JOYCE: The petition of citizens of Washington County, Vermont, for legislation regulating interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Washington County, Vermont, for the amendment of the patent laws—to the Committee on Patents.

By Mr. KIMMEL: The petition of Frank Galli, John Mollar, John Bozazzagat, and 37 others, of the third and fourth congressional districts of Maryland, for the enforcement of the eight-hour law—to the Committee on Education and Labor.

By Mr. PERSONS: The petition of citizens of Georgia, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. PHISTER: The petition of Frank Powers, of Charlotte Furnace, Carter County, Kentucky, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. RICHMOND: The petition of Speedwell Iron Company, of Wythe County, Virginia, of similar import—to the same committee.

By Mr. GEORGE D. ROBINSON: The petition of Blackington Woolen Company and others, of similar import—to the same committee.

Also, the petition of Charles Hall and others, of Springfield, Massachusetts, for a reduction of the duty on earthenware—to the same committee.

By Mr. RICHARD W. TOWNSHEND: The petition of 90 soldiers of the late war, of Wayne County, Illinois, for the passage of a law granting military land warrants to soldiers of the late war, to be located without actual settlement—to the Committee on the Public Lands.

By Mr. THOMAS TURNER: The petition of 600 citizens of Mount Sterling, Kentucky, for the erection of a public building in that city—to the Committee on Public Buildings and Grounds.

By Mr. VANCE: A paper relating to the establishment of certain post-routes in North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WRIGHT: The petition of George F. Peacock and 22 others, citizens of Medford, New Jersey, for the passage of the bill (H. R. No. 269) known as the Wright supplement to the homestead act—to the Committee on the Public Lands.

IN SENATE.

THURSDAY, *May* 13, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report from Assistant Surgeon J. L. Powell, United States Army, in relation to the protest of Colonel Merritt and other officers of the Fifth Cavalry against the restoration to the Army of Robert P. Wilson, late a captain of that regiment; which was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office submitting an estimate in detail for $57,900 to cover deficiencies in the appropriation for salaries and commissions of registers and receivers of land offices for the present fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, covering a copy of report of Lieutenant-Colonel C. S. Stewart, Corps of Engineers, upon an examination of Trinidad Harbor, California, made in compliance with the requirements of the river and harbor act of March 3, 1879; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. BUTLER presented the petition of William A. Courtney, mayor of Charleston and chairman of the centennial committee on the celebration of the battle of Cowpens, and other citizens of Charleston and Spartanburgh, South Carolina, praying for an appropriation for a bronze statue of General Daniel Morgan, to surmount the memorial column of the States; which was referred to the Committee on Military Affairs.

Mr. JONES, of Florida, presented the petition of citizens of Florida residing on or near the Indian, Hillsborough, and Halifax Rivers, praying for an appropriation for the construction of a canal from the Indian to the Hillsborough River; which was referred to the Committee on Commerce.

Mr. McPHERSON. I hold in my hand a memorial signed by Mr. Albert Sichel, of New York, who presented through me a memorial some time ago in respect to frauds on tin-foil tobacco. Upon the strength of that and other memorials a special committee has been appointed to investigate the subject. This is a matter to which perhaps it would be well to call the attention of the committee. The memorialist says that since the presentation of his petition and the appointment of the committee "changes have been made in the *personnel* of the officials connected with this work, in the form of the contract, and in the location of the stamp-printing office." He also states that the chief of the stamp division of the United States Treasury, who fathered the system, has been changed; and also the Treasury agent who had been employed in this stamp-printing office for about nine years has been provided with another position, and still another agent who was employed, in fact all of those who were connected with this business, have been either removed or transferred to some other part of the country. I ask that the memorial be read, as it relates to a very important matter.

The Chief Clerk read as follows:

To the honorable the Senate of the United States of America:

The undersigned, Albert Sichel, a citizen of the United States, begs leave to submit to your honorable body the following facts:

On the 19th day of January, 1880, Hon. JOHN R. MCPHERSON, Senator from New Jersey, presented to your honorable body your memorialist's petition, in which he set forth the loose and illegal manner in which foil wrappers for tobacco, with United States internal-revenue stamps printed thereon, were printed and supplied. Since then changes have been made in the *personnel* of the officials connected with this work in the form of a contract and in the location of the stamp-printing office. The chief of the stamp division of the United States Treasury who fathered the system, against the abuses of which your memorialist's efforts were directed, resigned his position and went to California as an internal-revenue agent. The Treasury agent who had been employed in this stamp-printing office for about nine years has been provided with a similar position in another place. The stamp-printing office has been removed from the place where it had been located for a number of years to another building belonging to the same contractor.

Your memorialist deems it his duty to bring these facts to the notice of your honorable body, lest the allegations made in his aforesaid petition might seem inaccurate.

Your memorialist further respectfully submits that the very fact of these changes having been made since the presentation of his petition, when there was every reason to expect that your honorable body would order an investigation into this matter, together with the small amount which, according to the Government accounts, the sale of these stamps yields, (for the last fiscal year $380,902.45,) calls for a speedy and thorough investigation.

And your memorialist will ever pray.

ALBERT SICHEL.

493 TO 501 FIRST AVENUE, NEW YORK,
May 12, 1880.

Mr. McPHERSON. I move the reference of the memorial to the special joint committee on losses of revenue from the evasion of stamp tax on cigars.

The motion was agreed to.

Mr. McPHERSON presented a petition of citizens of New Brunswick, New Jersey, manufacturers of woolen goods, employing six hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. ANTHONY presented the petition of the Geneva Worsted Mills, of Providence, Rhode Island, manufacturers of woolen goods, employing one hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. CAMERON, of Pennsylvania, presented the petition of forty-five ship-owners and merchants of Philadelphia, Pennsylvania, praying for such an amendment of the laws of the United States relating to seamen that ship-owners shall not be compelled to pay three months' extra compensation to seamen discharged in foreign ports with their own consent; which was referred to the Committee on Commerce.

He also presented the petition of William Wood & Co., Philadelphia, Pennsylvania, manufacturers of woolen goods, employing seven hundred hands; the petition of C. A. Godcharles & Co., of Milton, Pennsylvania, manufacturers of cut nails, employing one hundred and eighty hands; the petition of Perkins & Co., (limited,) of Sharpsville, Pennsylvania, manufacturers of pig-iron, employing sixty hands, and the petition of the Monocacy Furnace Company, of Monocacy, Pennsylvania, manufacturers of pig-iron, employing fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. EATON. I desire to present the petition of Davis Hatch, a citizen of the State of Connecticut and of the United States, praying for relief. I ought to say that I am by no means certain that the allegations set forth in this petition are true, and I do not know but that the petition should be presented in another branch of the Federal Legislature; but as a representative from the State where this citizen resides, and as he requests that it be presented to the Senate, I present his petition and ask that it be read.

Mr. EDMUNDS. It is against the rule to read any petitions, and it is extremely expensive, because then they go into the RECORD *in*

extenso. On some former occasions I called attention to that, and for the time being the reading of petitions was suspended. The rule requires a Senator presenting a petition to state briefly the subject of it. I do not know what this is about at all; but I am merely on the point that it is extremely cumbrous to the RECORD and expensive to have petitions read, because they are then printed in the RECORD, cost a great deal, and make the RECORD vastly more bulky and inconvenient than it would otherwise be.

Mr. EATON. Does my friend object to its being read?

Mr. EDMUNDS. I do, for that reason.

Mr. EATON. I withdraw the petition, then, with the consent of the Senate, if it cannot be read here, and I will take occasion to read it myself and make it the subject of some remarks hereafter.

The PRESIDENT *pro tempore*. The petition is withdrawn.

Mr. GORDON presented the petition of Dr. J. S. Barnwell, of Georgia, praying that he be allowed the opportunity of testing a new method of strengthening iron for guns; which, with the accompanying papers, was referred to the Committee on Military Affairs.

He also presented resolutions of the Georgia press convention, in favor of the passage of a bill placing wood and straw pulp, soda-ash, and other chemicals used in the manufacture of paper on the free list, and reducing the duty on printing-paper, &c.; which were referred to the Committee on Finance.

He also presented the petition of James C. Warner & Co., of Rising Fawn, Georgia, manufacturers of pig-iron, employing four hundred hands, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. ALLISON. I present the petition of the American Ordnance Company, relating to the armament of the fortifications, suggesting to Congress an improved system of ordnance and proposing an economical, practical, and decisive series of experiments, to test its value by firing guns of most approved kinds in competition with the improved ones, to show the increase of power, endurance, range, precision and general utility over all others; showing also how a better armament for the fortifications may be procured, twice as powerful and so much cheaper that $54,000,000 may be saved to the Treasury. I ask its reference to the Committee on Military Affairs, and I shall be glad to have it printed, not in the RECORD, but in the usual form. I do not think anybody will read it unless it is printed.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on Military Affairs, and printed, if there is no objection. The Chair hears none, and it is so ordered.

Mr. HOAR presented the petition of Mary J. Miller, of West Brookfield, Massachusetts, praying that she be granted a pension; which was referred to the Committee on Pensions.

He also presented the petition of E. B. Lynde and others, citizens of West Brookfield, Massachusetts, praying for the passage of a bill granting a pension to Mary J. Miller; which was referred to the Committee on Pensions.

Mr. SAUNDERS presented the petition of the German Society of New York, praying such congressional action as will more fully protect immigrants arriving at that port; which was referred to the Committee on Commerce.

Mr. WALLACE presented the petition of McCallum, Crease & Sloan, of Philadelphia, Pennsylvania, manufacturers of woolen goods, employing four hundred hands, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. DAWES presented a petition of dealers in earthen and crockery ware, of Boston, Massachusetts, praying for a reduction of the duty on those articles to 20 per cent. *ad valorem;* which was referred to the Committee on Finance.

Mr. HARRIS presented the petition of A. M. Dougherty & Co., of Baker's Gap, Johnson County, Tennessee, manufacturers of pig-iron and castings, employing fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. PLATT presented the petition of the Hawthorne Woolen Mills and others, of Glennville, Connecticut, manufacturers of woolen goods, employing two hundred hands; the petition of the New Britain Knitting Company, of New Britain, Connecticut, manufacturers of woolen goods, employing four hundred hands; and the petition of the Faust Steel Company, of Bridgeport, Connecticut, manufacturers of steel, employing forty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. BURNSIDE presented the petition of Robert Rodman, of La Fayette, Rhode Island, manufacturer of woolen goods, employing four hundred and eighty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

MONUMENT OVER JEFFERSON'S GRAVE.

Mr. VOORHEES. As chairman of the Joint Committee on the Library of Congress some time ago I was instructed by the joint committee to address the Secretary of State in regard to certain obstacles in the way of the execution of the joint resolution of the 3d of May, 1878, providing for the erection of a monument over the grave of Thomas Jefferson. In response to that communication I have received a letter from the Secretary of State and also from the Attorney-General, which I ask may be printed for the use of the committee and of the Senate. It is an important paper, and I ask that it be printed.

The PRESIDENT *pro tempore*. Is there objection?

Mr. HOAR. Are the documents long?

Mr. VOORHEES. Yes, sir, they are tolerably long.

Mr. HOAR. I thought perhaps they might be printed in the RECORD if not too long.

Mr. VOORHEES. I do not ask to have them printed in the RECORD. I wish them printed for the use of the committee and the Senate.

The PRESIDENT *pro tempore*. The question is on the motion to print made by the Senator from Indiana.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BAYARD. The joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions was inadvertently referred to the Committee on Finance. I report it back and move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CALL. I am instructed by the Committee on Patents, to whom was referred the bill (S. No. 1575) to authorize the Commissioner of Patents to hear and determine the application of the legal heirs of Robert G. Hatfield, deceased, for the extension of his patent, to report adversely and recommend its indefinite postponement.

The report was agreed to and the bill was indefinitely postponed.

Mr. DAWES subsequently said: I ask that the bill reported adversely by the Senator from Florida [Mr. CALL] may go upon the Calendar rather than be indefinitely postponed.

The PRESIDENT *pro tempore*. By unanimous consent the order indefinitely postponing the bill will be rescinded and it will be placed upon the Calendar. The Chair hears no objection, and it is so ordered.

Mr. SLATER, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 451) to reimburse the Creek orphan fund, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (S. No. 576) for the relief of Phœbe Meech, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1584) granting a pension to Margaret Costello, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 293) granting a pension to Joseph Potts, submitted an adverse report thereon, with a recommendation that the bill be indefinitely postponed.

Mr. COCKRELL. I ask that the bill be placed on the Calendar until I can examine the report.

The PRESIDENT *pro tempore*. If there be no objection the bill will be placed on the Calendar with the adverse report of the committee. The Chair hears none.

Mr. KIRKWOOD, from the Committee on Post-Offices and Post-Roads, to whom was recommitted the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri, reported it with amendments.

ELECTIONS IN MASSACHUSETTS AND RHODE ISLAND.

Mr. BLAIR. I ask leave to present the views of the minority of the select committee to inquire into frauds in the late elections in regard to the States of Massachusetts and Rhode Island. I suppose they will be printed under the rules.

The PRESIDENT *pro tempore*. The views of the minority will be received, laid on the table, and ordered to be printed.

Mr. PLATT. Having been upon the committee at the time the investigation was had upon which the minority of the committee present their views, and not being at present upon the committee, and therefore it being improper for me to sign the report of the minority of the committee, I take this occasion to say that I concur with it fully.

ORDER OF BUSINESS.

Mr. BECK. If there is no further morning business, I desire to call up, as I gave notice I would this morning, the bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal.

Mr. INGALLS. I rise to morning business.

Mr. VOORHEES. I also rise to morning business.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The introduction of bills is next in order.

BILLS INTRODUCED.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1752) for the relief of the representatives of Gideon Walker, deceased, a soldier in the United States Army from 1792 to 1795; which was read twice by its title, and referred to the Committee on Claims.

Mr. CALL (by request) asked, and by unanimous consent obtained,

leave to introduce a bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes; which was read twice by its title, and referred to the Committee on Pensions.

DISTRICT 3.65 BONDS.

Mr. INGALLS submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform the Senate whether the bill for the proposed repeal of certain laws pertaining to permanent and indefinite appropriations would affect the appropriation for the sinking fund for the 3.65 bonds of the District of Columbia, provided by act of March 3, 1879.

Mr. DAVIS, of West Virginia. Does the Senator ask for the immediate consideration of the resolution?

Mr. INGALLS. I ask for its immediate consideration. It merely calls for information from the Secretary of the Treasury.

Mr. DAVIS, of West Virginia. I have no objection to it, but it is not in proper shape, I think.

The resolution was considered by unanimous consent, and agreed to.

WAGONS FOR INDIAN SERVICE.

Mr. PLUMB submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and is hereby, directed to furnish to the Senate the correspondence on the subject of the rejection of certain bids for wagons for the Indian service alleged to be lower than those upon which the award was made.

LAPSED RAILROAD LANDS.

Mr. EDMUNDS. Mr. President——

Mr. VOORHEES. I rise to morning business.

The PRESIDENT *pro tempore*. Does the Senator from Vermont rise to morning business?

Mr. EDMUNDS. No, sir; I wish to ask the Senate to finish the bill we had up yesterday.

Mr. VOORHEES. I offer the following resolution, and ask the Senate to consider it at this time:

Resolved, That the Secretary of the Interior be, and is hereby, requested to furnish to the Senate the names of all the railroad corporations in the United States to whom grants of land have been made by Congress and who have not earned such lands by a compliance with the terms of the grants within the time specified therein; also, the number of acres of unearned land claimed by each of said railroad corporations, and the period of time when their right to them expired under the limitations contained in said grants.

Mr. EDMUNDS. I have the impression that certainly the first part of that information, the list of corporations and companies and States, &c., and the objects for which the grants were made and those that have lapsed, has already been furnished and is under consideration in the Committee on the Judiciary upon a bill to provide for ending them out, so that the lands may be restored to the uses of settlers.

Mr. VOORHEES. I thought there were some points in the resolution I presented which had not been covered. In that I may be mistaken. I have not carefully examined the former resolution. It may lie over, then, until to-morrow.

Mr. EDMUNDS. I have no objection to it, but merely on the question of whether we have already got the information.

Mr. VOORHEES. Let the resolution lie over until to-morrow if the information has already been furnished.

Mr. CONKLING. I wish the Senator from Indiana would hear me a moment before he lets the resolution lie over.

Mr. VOORHEES. Yes, sir.

Mr. CONKLING. My impression is that as far as the resolution covers the information already given, that information is in some sense confidential; it is not open to the Senator or to me here, although it might be if we were members of a certain committee.

Mr. VOORHEES. I have never seen it.

Mr. CONKLING. I do not see why the Senator should not have this information; I should be glad to have it myself. I do not think anybody can object to it.

Mr. VOORHEES. There can be no harm done by having the information furnished. I have been under the impression that information of this sort had been obtained, but I have not seen it. I thought perhaps it was my fault; but upon the suggestion of the Senator from New York it may be as well to adopt the resolution, so that we can all take a look at the facts that are sought to be disclosed.

Mr. EDMUNDS. My impression is that the Senator from New York is mistaken in supposing that this communication or list of grants and lapses has merely been sent to the committee, where, of course, it is confidential. [A pause.] After conversation with the Senator from New York I shall not object to the resolution now. He thinks that I am mistaken. The word "requested" ought to be stricken out of the resolution and the word "directed" inserted, so as to direct the Secretary of the Interior.

Mr. VOORHEES. Very well; let that amendment be made.

The PRESIDING OFFICER. The resolution will be so amended. The question is on agreeing to the resolution.

The resolution, as amended, was agreed to.

ORDER OF BUSINESS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the private land claims bill, which I believe was nearly finished yesterday, and I hope will be finished now. I certainly do not mean to say anything more about it, if I can help doing so. I think it is an economy of time, as the matter is fresh, so that we shall not have to go over again the ground we went over yesterday, that we shall now finish it. As it is a matter affecting the settlers in that region, it is of considerable importance to get it on.

Mr. VOORHEES. I desire to say a word. It is with extreme reluctance that I ever obstruct the wishes of any Senator upon a favorite measure with him, and I do so now with regret, but I am authorized to say that the Senator from Vermont is mistaken in supposing that the consideration of the bill for the settlement of private land claims will consume but a short time. We were assured of that fact yesterday; we were mistaken yesterday; and I speak by authority when I say that we shall be mistaken again to-day.

I gave notice some days ago of a purpose to take up the bill to provide accommodations for the Library, and nothing more important or immediately pressing upon the attention of the Senate and of the country is now pending before Congress than that bill. The Senate is aware of how it came to be displaced. The Senator from Vermont [Mr. MORRILL] desires to address the Senate upon the subject, and I feel impelled by a sense of duty to ask the Senate to lay aside all pending orders and refuse the request of the Senator from Vermont, [Mr. EDMUNDS,] at least until his colleague can be heard upon the subject which I have indicated. I think it is due to him. If I was assured that the land bill under the control of the other Senator from Vermont [Mr. EDMUNDS] would take but a short time I would not interpose, but I am assured the contrary, and that the result would be as I have said.

Mr. BECK. I supposed that I was holding the floor, and giving way to morning business, (but perhaps I was mistaken in that,) for the purpose of making a motion of which I gave notice three or four days ago to take up House bill No. 4507, to abolish all tolls at the Louisville and Portland Canal. I believe it will take but a very short time. My colleague in the House [Mr. WILLIS] has furnished each member of the Senate to-day with the report of the House committee. The bill passed that committee unanimously, it passed the House unanimously, it has passed the Committee on Commerce of the Senate unanimously, and I believe it will pass the Senate unanimously. The report explains the whole subject.

The bill relieves the commerce of fourteen States and the whole Mississippi Valley from the only tolls paid anywhere. We have made everything free everywhere except in that great valley. It affects everbody from Pittsburgh to New Orleans, from Saint Louis or Sioux City, in every direction. It is not a Kentucky matter. Louisville perhaps was built up because of that obstacle. We desire it removed and the navigation made free, so that there can be cheap transportation to the sea-board for over a million tons of freight. I do not believe it will take five minutes longer than to read the report. I hope the bill will be taken up. I see the propriety of pressing the bill of the Senator from Vermont. If I thought this would lead to any debate, I would not antagonize it to his. I hope it will be tested at least; and after the report is read, if there is any debate, I shall then give way.

Mr. EDMUNDS. The bill that I have referred to was reported last year and passed the Senate, but passed it so late that it fell in the House without action. It is reported again in the same form. It is thought to be important to public and to private interests. It was my duty, having reported it, to ask the Senate to consider it, and it has gone as far as it has. It is now for the Senate to decide, as it is no favorite of mine and no favor to me to take it up. It is a question of public propriety for the Senate to decide. I think time is saved when you get up a subject by sticking to it until it is ended. I think the rules might be greatly improved in the arrangement of the morning hour; but that is apart from this question. It is now for the Senate to determine whether they will go on with the bill or not. If they will not, I do not know any other occasion when it will take any less time but a great deal more to consider it than now. My duty is done.

The PRESIDING OFFICER. The question is, will the Senate proceed to the consideration of the bill indicated by the Senator from Vermont, [Mr. EDMUNDS?]

The motion was not agreed to; there being on a division—ayes 20, noes 20.

Mr. BECK. Now I move to take up House bill No. 4507.

Mr. VOORHEES. I hope that will not be done, as the Senator from Vermont [Mr. MORRILL] wishes to address the Senate upon the Library bill.

Mr. BECK. I desire to have a test whether it will be done or not. I think it is more important than all the libraries in America.

Mr. VOORHEES. I think not.

Mr. MORRILL. I desire to say that I do not ask for any special courtesy on the part of the Senate. I shall only occupy perhaps twenty minutes of the time of the Senate whenever the question comes up; but I do think it is of more importance than the Louisville and Portland Canal bill, or any other bill that has been presented this morning. I think that we ought to take up the Library question and decide it, and decide it early enough for the matter to be considered by the House.

Mr. BECK. I shall not antagonize the speech of the Senator from Vermont provided I can have the floor to make the motion afterward, or if I get the Louisville and Portland Canal bill up I shall give way to him, whichever he prefers.

Mr. EDMUNDS. My colleague does not ask it as a courtesy. He

is asking to make a speech not for oratory, but for business, and when the measure is up I presume the Senator from Indiana, as well as my colleague, and the other members of the Committee on the Library and everybody else will desire to take it up for the purpose of action. If it were to be done merely for the sake of my colleague, I should not have spoken of the land bill, I think.

Mr. BECK. It is very apparent that the Library bill will take four or five days.

Mr. BUTLER. Without intending to antagonize the motion either of my friend from Kentucky or of my friend from Indiana, I feel it my duty to give notice that to-morrow or early the next week I shall call up the bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming. I am informed by the Delegates from those Territories that it is a matter of very vast consequence—in fact perhaps it is necessary, in view of the approaching elections, that the reapportionment should be made. The House has passed the bill, and it is reported unanimously from the Committee on Territories. I do not suppose it will require any length of time to dispose of it. I merely desire to give notice that I shall call it up at an early day.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky, [Mr. BECK,] to proceed to the consideration of House bill No. 4507.

Mr. VOORHEES. I desire to say that I am as much in favor of the bill pressed by the Senator from Kentucky as he is himself. We are neighbors and have a joint interest in that matter, and I intend to help to secure the passage of his bill; but I should be recreant to my sense of duty if when the Senate takes consideration of the Library bill I did not insist upon its going through. I happen to know thoroughly the wants of that institution, and I know the dangers and perils that surround it from hour to hour and from day to day, and I must insist that there is no public business of greater importance than it is. I hope the Senate will take it up and allow the Senator from Vermont to address the Senate and proceed at least as far as it can this morning in the consideration of it, and then take it up again whenever we can.

Mr. BECK. I think the bill I have moved will consume but little time if taken up. I ask for a vote on my motion.

The motion was agreed to—ayes 28, noes 17.

LOUISVILLE AND PORTLAND CANAL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal.

Mr. BECK. There is a report accompanying the bill. I have the report of the House committee, which is adopted by the Senate committee; and it had better be read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. CABELL, from the Committee on Railways and Canals, in the House of Representatives, February 27, 1880:

The Committee on Railways and Canals, to whom was referred the bill (H. R. No. 4507) to abolish all tolls on the Louisville and Portland Canal, having had the same under consideration, respectfully report:

The navigation of the Ohio River is obstructed at Louisville, Kentucky, during ten months of the year, by a natural impediment known as the "Rapids," or "Falls." In the year 1825, for the purpose of overcoming this impediment, the Louisville and Portland Canal Company, under a charter from the State of Kentucky, constructed a canal around the falls, at a cost of over $1,000,000. In this company the United States was an original stockholder to the amount of $233,500. Recognizing the national importance of the improvement and responding to the demands of public sentiment, the Federal Government gradually purchased with its accrued dividends the residue of the stock. In the year 1846 it had purchased the greater portion, and at the close of the year 1855 it owned the whole of the property, except five shares, valued at $500. Subsequently these five shares were bought, and on the 11th of June, 1874, the Government assumed, and has ever since retained, the sole management and control.

The Louisville and Portland Canal is the connecting-link in the great chain of commerce between the cities of New York, Philadelphia, Baltimore, and other places east of the Alleghany, and the cities of Pittsburgh, Wheeling, Cincinnati, Louisville, Saint Louis, and other important points west and northwest of the Appalachian Range. It is the lock and key to the whole system of river navigation from the headwaters of the Ohio to the Gulf of Mexico. Over three thousand boats and barges pass through its locks in the descending and ascending navigation of the Ohio River. The number of tons carried by these boats during the past year was 999,610. This immense tonnage will, it is believed, in the near future attain even more gigantic proportions.

Up to the 11th of June, 1874, the tollage paid by all vessels propelled by steam was fifty cents per ton. From the year 1831, when the canal was first opened for business, to 1872 the tolls received at this point amounted to $5,157,247. Since the Government assumed control the tolls have been reduced to one-fifth of the former amount. But even with this reduction over $300,000 has been collected, thus swelling the grand total which the producers and shippers of twelve or fourteen States of our country have paid to pass an obstruction of less than two miles on one of our national highways to over five and one-half millions of dollars.

The bill under consideration proposes that at the close of the present fiscal year the tolls now collected by the Government shall cease. Your committee report that such a result is in accord with the spirit, if not the letter, of former treaties; that it is in accord with the action of the State of Kentucky, through her Legislature, and of the board of trustees of the canal company, preliminary to the surrender of the property; and that it has been emphatically favored by numerous committees of this House in former Congresses. The treaty of Paris, negotiated in 1783; the treaty with Spain, negotiated in 1795; the ordinance of 1797, and many subsequent acts of Congress, provide for the absolute freedom of the Mississippi River and its tributaries, and dedicate them to the world as great national highways, to be kept forever free from any toll, tax, or duty of any kind whatever.

As far back as the 4th of March, 1834, a bill was reported to this House from the Committee on Roads and Canals to buy the stock of this canal, and make the navigation of the Ohio River "free to all." "The munificence of the Government," says the committee, "has been often extended to the Atlantic States, in expenditures on the seaboard and elsewhere, and now every sentiment of justice and impulse of patriotism plead for the exercise of the same liberality toward those who inhabit the valley of the Mississippi."

On the 31st of December, 1845, the Committee on Commerce in this House reported a resolution making the Louisville and Portland Canal "free from toll." On the 27th of February, 1851, the Committee on Roads and Canals in the Senate reported a bill to the same effect; and on the 2d day of August, 1852, the same committee in this House submitted a similar bill, with an elaborate report in its favor.

To the same end the State of Kentucky, by an act of its Legislature of February 21, 1842, authorized the canal company to sell the shares owned by individuals, or the State of Kentucky, or the city of Louisville, "for the purpose of eventually making the said canal free of tolls." So, also, on the 14th of December, 1867, Hon. James Guthrie, then president of the canal company, in reply to a note of General Weitzel, declared that the object of the trust which the company held was to "make the canal sufficient for the requirements of the Ohio River, and, finally, to make it a free canal."

These various treaties, reports, acts, and official declarations clearly indicate that for nearly half a century it has been the desire and intent of the Government to secure the free navigation of the Ohio at this point. But whatever be the meaning of former treaties and resolutions, your committee are of opinion that the time has now arrived when, as a matter of right as well as of policy, every restriction or tax should be removed, and this canal be declared free to the whole world.

The "right of way," once said a great statesman, "is the right of the million."

The sovereign holds it in trust, and can exercise it only for their benefit, and has no right to make a revenue or permit a revenue to be made out of it. Such a course must engender the worst oppression and the worst corruptions, and soon realize the view of the worst governments—taxation on all we consume—which will allow nothing to go to or from the markets without tribute to the State.

Your committee find that in every other instance except that of the Louisville and Portland Canal this great popular right has been recognized and respected. At the Eads jetties, at the harbor of New York, at the canal uniting the upper and lower rapids of the Mississippi River, and at various other points, vast sums of money, amounting to hundreds of millions, have been expended. From none of these works, of which the Government is the sole owner, has any toll or tax ever been demanded, and yet hardly one of them is of more importance or more national in its character than this canal.

Your committee see no reason why the people of the Ohio and Mississippi Valleys should be deprived of the benefits of that policy which has been so fully pursued, to the advantage of commerce, at every other point in the Union, and therefore report back the bill, and respectfully recommend that it be adopted.

Mr. EDMUNDS. I think it is a little strange that the committee does not make any reference to what was supposed to be the adjustment of this question by the act of May 11, 1874; at least I did not hear it in the report. At that time the United States assumed the management of the canal, undertook to pay its debts, there being a mortgage, I do not know how great, upon the property. That was to be paid; and that act provided:

That the said canal and property appertaining thereto shall be held for the common use and benefit of the people of the United States, free of all tolls and charges except such as are necessary to pay the current expenses of said canal, and to keep the same in repair.

And then it goes on to provide that the Secretary of War for that year should make the charge ten cents a ton and the next year five cents a ton, and so on, reducing it from time to time so as to bring it down after the debts were settled off, to just enough for keeping up the work. I should like to know before I vote for this bill how much remains of the mortgage debt which has got to be paid by the United States if we make the canal free or if we do not make it free; and how much is the annual expense of keeping it in repair, so that we shall know how much it is of the public treasure that is thus apparently devoted year by year, whether we make any appropriations for other rivers and harbors afterward or not, to keep up this canal.

The notion that the treaties with France and Spain have anything to do with this question, it appears to me, is one that is quite untenable. The provision that a river and its tributaries shall be perpetually free in their navigation could hardly be applied to a canal that was made alongside of a river and did not obstruct the original navigation at all. The people have the same right that they had before to go up and down over the falls if they can; and it would hardly be considered a breach of the treaty if the Government did not build a canal, or if Kentucky did not, for the Government probably would not have had a right to do it, it being on the soil of the State of Kentucky exclusively; that is, it would not have had until recently when the doctrine of State rights has disappeared, within a year or two. So the treaty part of the affair it appears to me has nothing to do with it. The simple question then is whether it is a part of the duty of all the tax-payers of the United States to keep up this canal without charging anything for persons going through it to the end that it may be kept up. That is just what the question is. It is exactly the same question that would exist if the United States should obtain from the State of New York the right to the Champlain Canal leading from the navigable head-waters of the Hudson River to Lake Champlain, and make a water communication from the head of Lake Superior to the Atlantic Ocean at the city of New York, and then it should be said that having bought this canal from the State of New York and having taken it off her hands, it was the duty of the tax-payers of the United States to make it free entirely and keep it up for the benefit of trade and commerce. I doubt that very much. It may be right; it is a question of political economy and expediency, it is true; but whatever the tax-payer has to pay he ought to receive an equivalent for, as far as is possible. Now I greatly doubt whether the producers of the Ohio Valley will get any more for their produce or will pay any less for the goods that come up by water to them with this expense—and that is all it is now—taken off than they do now, and I am inclined to think that the difference of the two cents a ton or whatever it may be for the passage of a vessel will go into the pocket of the steamboat and the canal-boat owner and nowhere else. It will enlarge his profits, but it will not diminish the burdens

of the people; indeed it will increase them to exactly that extent. That is what I am afraid of, and that is not right. That is all I have to say.

Mr. BECK. Only one word, Mr. President. The debt of the canal has all been paid; the tolls collected have been about $6,000,000, of which the Government has received practically all since 1854. The tonnage of fourteen States which goes through it is nearly a million tons a year. It is the only place in the United States where such a charge is made. At the Des Moines Rapids we have expended millions and make no charge; so with the Eads jetties; so with every other such improvement. The men of the West think it is but fair that this charge should be removed here.

Mr. COKE. The Senator from Kentucky has said all that is necessary to be said in behalf of this bill. I reported the bill from the Committee on Commerce. The Government of the United States has paid for and acquired the title in this canal with the profits derived from the tolls. The canal cost a million dollars originally, and there have been nearly $6,000,000 of tolls received, the greater portion of which has been received by the Government.

The object of the bill is, as the property is paid for, to make it free and remove an onerous incumbrance upon the commerce of the Ohio Valley. It is to give nothing, but simply as the Government has paid for this property out of its tolls to make it free without costing the people of the United States one cent. It will require a small annual appropriation to keep the canal in order. It requires an annual appropriation to keep the harbor of New York in order; it requires an annual appropriation to keep the mouth of the Mississippi navigable; it requires an annual appropriation to keep the harbor at Galveston in order; and annual appropriations are made for the greater portion of the harbors of the United States. It will require a small annual appropriation to keep this canal in condition to bear the commerce of some fifteen or twenty States that are interested in it. The Chamber of Commerce of the city of Cincinnati and the steamboat navigation companies of the city of Pittsburgh representing a capital of $200,000,000, the Louisville and Pittsburgh Chambers of Commerce have all petitioned that this bill be passed.

Since 1834 there have been three reports made from the Committee on Roads and Canals in the House and one from the Committee on Commerce of this body similar to the report now before the Senate in favor of the passage of just such a bill as this, and all of them under the pressure and demand from the people interested in the commerce upon this river and its tributaries. Since the Government can take this step now, after it has reimbursed itself from the profits of this work many times over, without any cost to anybody, with only a small annual appropriation to keep the canal in order, as it does in hundreds of other places in the interest of commerce, the Committee on Commerce believe that the bill should be passed, and have so reported. The canal is the exclusive property of the Government; and commerce on it, in the opinion of the committee, should no more be burdened with tolls than should the commerce of the Mississippi or any other of our rivers. We aid commerce by removing obstructions from the rivers and harbors of the country at a heavy annual expense; why should we obstruct the commerce of the great valley of the Ohio by the imposition of tolls?

Mr. EDMUNDS. I should like to ask the Senator from Kentucky how much is the outstanding mortgage that the act of 1874 recognized the existence of? The canal is not paid for; there is an outstanding mortgage debt due upon it. How much is that?

Mr. BECK. I do not know, but I suppose it is substantially paid off. Certainly there have been tolls enough collected to pay it. I have not examined that question; I am not on the Committee on Commerce, and the bill was reported by that committee. Whether it is all paid for or not, the question is, shall these people be taxed any more after all these tolls have been collected from the commerce of that country?

Mr. CONKLING. There have been no surplus tolls collected since the act passed some five or six years ago.

Mr. BECK. Perhaps not. The rate was then reduced from forty or fifty cents down to ten cents; but the Government of the United States has practically owned this property absolutely since 1854.

Mr. EDMUNDS. Eighteen hundred and seventy-four.

Mr. BECK. Since 1854, except five shares, which were held in trust so as to keep title in the company. The United States Government has received the profits, and the total amount of tolls collected has been nearly six millions, nearly all of which has gone to the United States.

Mr. EDMUNDS. It is a little strange that we cannot get at the exact history of this thing, however good the proposition may be. It seems to be implied from what the Senator from Kentucky has said that the United States has received money enough over and above what it has had to pay out, to pay off this debt and to reimburse itself for what it paid for the stock that it bought that it did not take originally to aid the State of Kentucky in building the canal. I do not understand that to be the fact, and it would be very important in respect of influencing my vote to know whether the Senator from Kentucky in his guess is right that the Treasury of the United States has now a surplus to the credit of this canal on the general account of all that has been paid out on account of it. I feel considerable confidence that the Senator from Kentucky is mistaken, and that there is no surplus at all or substantially no surplus in respect of this business, and that the tolls during all this long period of years, when it was a State corporation, that have been collected, have been expended in rebuilding and keeping up the work and in the incidental expenses that belong to it.

I do not know whether the State of Kentucky, when it took the land at the city of Louisville or near it for this canal, had to pay large damages for destroying water-power and occupying land; but I believe, if we only had time on a matter of this considerable importance, particularly as a precedent for a great many other cases that will very likely follow it, it would be worth while to know, as the committee ought to be able to inform us now if we are to act on it finally now, what is the state of the expense and receipt accounts of the United States in respect of this property. It might make a good deal of difference with the judgment of the Senate whether we have now received money enough to reimburse all the expenditures of the United States in all respects about it.

Mr. CONKLING. Does anybody claim that?

Mr. EDMUNDS. Yes. It has been suggested both by the Senator from Texas and the Senator from Kentucky that the United States has reimbursed itself, and therefore all that remains in the future to be paid out of the Treasury is a mere bagatelle as they look at it, a few dollars a year to keep the canal in order. That would present one set of considerations; but supposing the mortgage to be a million or two millions of dollars—I do not know what it is; the committee ought to be able to inform us—which by the act of 1874 Senators will see is recognized as outstanding; and provision is made for its being enforced as a lien upon the property at some time in the future; and supposing that mortgage to be still outstanding, if you stop taking in tolls, it is simply saying that that mortgage shall be paid out of the Treasury of the United States. That presents quite a different question.

We ought certainly to be able to know how much the annual expense is going to be, how much it has been for the last six years since the act of 1874 was passed since which time only the United States has had the direct control and management of the property. All these are elements and I think just elements which enter into the consideration of the question as to what ought to be done; and yet the committee does not give us any light. Of course if we had an hour or two the documents could be read, for the facts no doubt are in the reports of the Secretary of War and the Secretary of the Treasury inasmuch as the act of 1874 required those Secretaries to make a report of the statement of the operations the next year after the passage of the act, and I suppose the receipts and disbursements made since appear either in the report of the Secretary of War or in that of the Secretary of the Treasury. The misfortune is now, this bill being taken up without any previous notice that I ever heard of, that we have not the documents at hand.

Mr. WILLIAMS. Mr. President, my understanding is, and I think the report of the Secretary of War or the engineer in charge states, that there is not a dollar in the way of incumbrance on this canal; but if there were, what difference would that make? The very act to which the Senator from Vermont has alluded itself declares that no tolls shall be collected upon the canal except such as are necessary to keep it in repair. I have seen an estimate of the amount needed for that purpose, and it is $30,000 a year. That will be amply sufficient. The estimate is in the report either of the engineer in charge or of the Secretary of War. If the Government is to derive no profit from its tolls, why go into the inquiry whether there is any mortgage resting upon the work or not? My understanding for several years has been that there was not one dollar of incumbrance upon the canal, and that the Government took the debt at the time it acquired the title. There were but five shares of $100 each, $500 in all, belonging to individuals, and the Government, as I understand, has removed every incumbrance upon it, and it has been the sole possessor of the property without any incumbrance whatever upon it, and it has been limited by the law in the collection of tolls to the amount necessary to keep it in repair, which is $30,000 a year. That is my understanding of the case.

Mr. KIRKWOOD. Mr. President, I have a word to say in regard to this matter. I am not as familiar with the points inquired about by the Senator from Vermont as I should be glad to be, but my own opinion is well settled. The duty of the Government to improve the navigation of the Ohio River and the Mississippi River and other rivers of like magnitude is a matter about which I have no doubt at all. At Louisville there are falls in the Ohio River that require improvement in some way. The improvement might have been made by improving the channel of the river perhaps, but it was not made in that way, but by constructing a canal around the falls. I cannot see why a different rule should prevail as to the policy of the Government whether the improvement be made in one way or the other way. If it had been made by improving the channel of the river, no one would have claimed that we should levy tolls upon boats passing up and down it to reimburse the Government in any way; and the cheaper plan of building a canal around the obstruction having been adopted, I cannot see why tolls should be levied upon it.

I am precluded, however, if that were so, from voting against this proposition for another reason. When I had the honor of a seat in this body in 1867 I took some part in procuring an appropriation for the improvement of the Des Moines Rapids in the Mississippi River. That work was inaugurated during that time and has since

been successfully carried through, and those rapids have been canalled around, a work of very considerable importance to the section of country in which I live, and I think will be to the navigation of the whole river. When this bill was called up that matter occurred to my recollection, and I find on examination that I was correct in my recollection of the terms upon which that improvement was authorized. Upon page 420 of the United States Statutes at Large, volume 14, is found the first appropriation for that purpose, and it reads thus:

For improving navigation on the Mississippi River at Des Moines or Lower Rapids, according to such plan as the Secretary of War shall on the report of a board of engineers approve, $500,000: *Provided, however*, That any canal that may be constructed around said Des Moines or Lower Rapids of the Mississippi River shall be and forever remain free to the navigation and commerce of said river; and no tolls shall ever be collected thereon.

It was thought wise at that time in making that canal around the rapids of the Mississippi to provide that it should be free from tolls forever. I assented to that at the time, and perhaps did something to procure its passage, and the same reasoning that led me to favor that measure at that time leads me to favor this measure at this time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by T. F. KING, one of its clerks, announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress.

The message also announced that the House had passed the bill (S. No. 464) for the erection of a public building at Montgomery, Alabama.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 180) for the relief of George V. Hebb;

A bill (S. No. 401) for the relief of Peter Meagher;

A bill (S. No. 1113) granting a pension to Peter K. Morgan, private in the war of 1812;

A bill (H. R. No. 5089) directing the issue of a duplicate check to Elizabeth D. Thomas, a pensioner of the United States;

A bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes;

A joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference, to meet at Washington, District of Columbia; and

A joint resolution (H. R. No. 103) to pay C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, and for other purposes.

ACCOMMODATIONS FOR THE LIBRARY.

Mr. VOORHEES. I move now that we proceed to the consideration of Senate bill No. 1117.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1117) to provide additional accommodations for the Library of Congress.

Mr. MORRILL. Mr. President, as my colleague has said, I shall speak, not for the purpose of oratory, but for the purpose of business, and therefore I should not like to be taken off my feet when I get two-thirds through with what I have to say. I ask unanimous consent of the Senate to finish what I have to say on this subject.

The PRESIDING OFFICER. The Chair hears no objection to the request of the Senator from Vermont.

Mr. MORRILL. Mr. President, when this bill was last before the Senate I should have been contented to have had it voted upon, after the opening speech in its behalf, with only a few words on my part. That opening speech was too big for the bill; in fact, big enough for a whole library rather than a piece of one. I hope it will at least carry a site. Some days have passed, and it appears to me so important that we should squarely face the Library question, instead of reconnoitering around it, that I shall venture to state my views more at length than I had heretofore intended, but still they will be briefly stated. It is time, as I sincerely think, to talk about the selection of a site and to dismiss patchwork, for this bill, unless my amendment should be adopted, is nothing but patchwork. We cannot afford to daily another year and then be no better off than we are now. Nor should the Library be made the pack-horse to carry other measures destitute of any independent merit. I am for the Library out and out, and as much against remodeling and rebuilding the Capitol.

The very eloquent and thoroughly prepared speech of my friend, the Senator from Indiana, [Mr. VOORHEES,] on the subject of the Library cannot have failed to fix the attention of every Senator to the pressing importance of early action to secure proper accommodation not only for the books we now have, but for the multitude, of which there is to be no end, we are to have hereafter. The battle of the books, nearly one hundred thousand strong, which has been raging on the floor of the Library for some years, keeps them from all other employment, and is likely to result in the dismissal of a large number as unfit for peaceful service. The massive array of the facts by the chairman of the Committee on the Library conclusively shows that to further postpone direct and efficient measures by which the Library can be taken care of will be a reproach to Congress, and may prove to be a public calamity.

But I do not see how it can be possible for any one who listened to the chairman's discourse not to be convinced that a new and independent Library building is an inexorable necessity, and therefore that the true question now should be as to the site upon which to build it. He did not overstate the floor-space required when he said that within the next ten years it was absolutely certain to be not less than two acres and a half, and it ought not to be forgotten that we should build, not merely for ten years, but for centuries. To make such an addition, covering two acres and a half, to the Capitol, in front or rear, for the Library, or one covering even much less space, would be utterly destructive to the present grandeur and classic simplicity of the foremost government building in the world. In saying this I only give voice to the general opinion of our own people, including men and artistic journals entitled to the highest respect on account of their professional or eminent character. Visitors from abroad, however critical toward us personally, do not withhold just praise from the National Capitol. While I do not say that it is entirely faultless, nor that some discrepancies might not have been avoided had all parts been constructed at one and the same time and by the same architect, yet I venture to assert that it is a noble building, gaining in our respect the longer and more thoroughly it is studied, to which all good Americans either have made or hope to make a loving pilgrimage, and that as a magnificent whole it is worthy of their reverence.

Let me quote some words of Charles Sumner, certainly no mean judge of architectural beauty. "Surely," said he, "this edifice, so beautiful and interesting, should not be opened to the rude experiment of untried talent."

And yet the bill of the Committee on the Library, as the chief question for the Senate to consider, sets forth as the great and primary problem to be solved, "what practicable and beneficial changes can be made in and of the Capitol building in the District of Columbia for the better accommodation of the Houses of Congress," and then comes the Congressional Library, tagging behind like a stray after-thought, and begging for a little more "space."

From this it would be inferred that the most pressing necessity is some great and radical change in the Capitol. I do not believe it. Whenever it shall be attempted it must fail. The personal comfort here of members of Congress has not been overlooked. For the most part, those who are entitled to seats, whether in the Senate or the House, are supposed to be in good health politically and physically, and do not need for sanitary reasons any better accommodations. There are many outsiders not enjoying comparatively any better health, but possibly less fastidious, who would willingly take the risk of some seasons here, and that without taxing the country three or four million dollars for changes and different accommodations.

The bill particularizes "especially the need of better ventilation, light, and exposure to the open air of the legislative halls." For the past season I have heard no complaint as to the ventilation of either the Senate or the House of Representatives, and I have made frequent inquiries of the members of the House, who have said that there it is as good as it need be, or would be except for a novel habit of some novel members who indulge occasionally in smoking in spite of the majesty of the Speaker and the mace of the Sergeant-at-Arms. The ventilation of the House, I am persuaded, is now nearly as good as that of the Senate, and certainly affords no argument or excuse for this extraordinary bill.

It should be borne in mind that legislative halls in no part of the world have so large and generous accommodations for visitors as those offered here. In the Senate galleries we have seats for a thousand visitors, and for considerably more than that number in the House of Representatives. The watchful spirit of liberty would not be contented with less. Yet three thousand cubic feet of fresh air to the hour for each person in the Chamber and gallery, or fifty cubic feet per minute, is here supplied to each person, cooled in the summer and warmed in the winter. This is greater by from thirty to forty cubic feet than the quantity usually required, according to the highest authorities, and more than ten times as much as is required for dwelling-houses. I venture to doubt whether any legislative hall or chamber can be found, equal to this in size, which is better heated and ventilated. Unfortunately, I fear—

> The fault, dear Brutus, is not in our stars,
> But in ourselves.

The next so-called "beneficial change" suggested by the bill is "light and exposure to the open air." Ah, if we could attend to our duties here, listen to debate, consider and decide questions of state, and at the same time be on the wing, exposed "to the open air," it might be a "better accommodation" to most of us, but how the public business would thereby be much promoted it is not so easy to see.

I had occasion to examine this whole subject with considerable labor last year, and submitted the results of that examination in some remarks when this bill was referred to the committee, (March 31, 1879.) At five or more of the capitals of the leading nations in Europe it appears that their legislative halls, like our own, are completely enfolded in the interior, and surrounded upon all sides with corridors and offices similar to those we have here. Not one of them has any exposure to the open air. Some of these I have seen, and

plans of the elevations and ground plans of all of them I had before me, and most of them would compare unfavorably with the American Capitol, inside or out. The enlightened judgment of modern times, of the most renowned architects and of the most experienced civil engineers, with universal accord exclude open-air windows from parliamentary or congressional halls. The reasons are obvious. Halls thus constructed are less exposed to changes of the weather, to currents of air, to street noises from the exterior, and seats within are made of more equal value. Open windows present insuperable obstacles to speaking as well as to hearing, and are at perpetual war with any proper system of acoustics.

The probability would be that exposure to the open air upon one or more sides of the Senate Chamber, if ever permitted, would not be tolerated for a single session. One Senator, far removed, might want a window open, the wind from which, to those near, would be freighted with agues, neuralgia, and pneumonia, or with all the ills that flesh is heir to. I have always doubted whether "God tempers the wind to the shorn lamb," as I have known many such to die, and I have not heard of any such favors being extended to *shorn* Senators.

The cold current of air in the winter season from even a closed glass window cannot be safely encountered by those in robust health, much less by chronic invalids. One square foot of glass in a window will cool more than one and a quarter cubic feet of air per minute as many degrees as the internal temperature of the room exceeds the external temperature. But I will not weary the Senate by extended remarks upon ventilation. That is a complex and complicated subject. It is enough to say that the air of the Senate Chamber is received fresh every moment directly from the pure open air outside of the Capitol, and the ripened experience of the present age no longer permits, in national legislative halls, window exposure to the open air. If glass windows were to be introduced into the Senate Chamber, what would become of the confidential communications in executive sessions? Could our lions "roar you as gently as any sucking dove?" Undoubtedly a new brood of eavesdroppers would be hatched, and the Senate, when proceeding to executive business, would have to be relegated to the crypt, that subterranean room where, at the worst, sworn secrets would have no visible outlet. Surely a chamber with windows open to the air would hardly answer for legislative and executive purposes; they would, in fact, be unsuitable for either.

At last there appears in the bill now before us the bashful question of more space and better arrangements for the Library, as though it was a subject of minor importance, when it ought to have had the chief and only standing room here at the present moment. And how is this little matter of more space and better arrangement to be brought about? Why, possibly by patting some third-rate architects on the back and inducing them to report that a projection from the center of the Capitol, east or west, several hundred feet, would be esthetically and theologically just the thing. No Congress can be expected to accept any such report by whomsoever made.

But for the eminence and great ability of two or three Senators whose lead I am accustomed to follow on many subjects, I should not fail to denounce such a central projection as preposterous and hideously repugnant to the symmetry and fair proportions of the present Capitol. I cannot say less than this, that in my opinion, of as little value as it may be, the idea would be fearfully destructive of the beauty not only of the Capitol, but of both the Capitol and the Capitol grounds. I do not ask Senators to adopt my opinion, but may I not ask them to look at the matter independently and so judge each one for himself? How many are there here who want to tear up or tear down, much or little, and build over the Capitol? How many are there who are not convinced that a new library building must be had? No expedients, I feel sure, can long delay it.

We have a number of most respectable architects in this city, some of them quite equal to the task of furnishing plans for a separate library building, but I do not believe any one of these would risk tarnishing his reputation for all time by offering a plan for an incongruous projection from either front of the Capitol that would not fail to mark the decadence of American taste, by botching instead of preserving the best and most conspicuous architectural structure of our country.

The site of the Capitol is not only a proper one, but one of very great natural attractions. It was selected by Washington. Its extent, however, does not admit of expansion, and that extent has been adorned, occupied, and exhausted by the structure which sits enthroned upon its summit. If upon the western center a library addition should ever be obtruded, it would reach so far over and down the hill as to have its base planted not less than forty to fifty feet below the floor of the present Library. A building of this sort would be of the kangaroo character, with the hinder parts three times longer than the fore parts, and most unsightly and unlovable. The present imposing central approach, with all of its natural grandeur and with an admirable field for appropriate decoration, would have to be abandoned for separate side approaches, for stair-ways at the north and south wings of the Capitol, and thus the great beauty and dignity of the western front would be barbarously mutilated and frittered away.

If you turn your attention to the eastern front, Mr. President, I think you will find it to give even less encouragement for a library projection. It would not only spoil the grounds by a wholly inappropriate intrusion, but it would cut off the eastern entrance to the Rotunda and occupy the grounds, and the only appropriate grounds, where so many former Presidents of the Republic have been, and all of the future should be, inaugurated. It would be almost a crime to rob the American people of their right once in four years to occupy this plaza and see the Chief-Justice of the Supreme Court swear the President-elect to support the Constitution. It is the political Mecca of the Republic. If a projection on the western front would be awkward and *bizarre*, a projection on the eastern front, cutting its grand façade in twain and blotting out the plaza, would appear more like an impudent and unpardonable atrocity.

It is not now for the first time that there have been differences of opinion about the plans for the Capitol. In 1793 Washington and Jefferson urged the plan of Dr. Thornton, but others adhered to that of Stephen Hallet, which was in the main pursued. But on the 24th day of August, 1814, after the battle of Bladensburgh, the British troops entered the unfinished Capitol here to prepare it for destruction. Admiral Cockburn ascended to the Speaker's chair and with mock dignity put the question, "Shall this harbor of Yankee democracy be burned? All for it say 'Ay!'" It was carried unanimously, though no library extension was then mooted, and the building and Library were destroyed. After the fire, when the Capitol was rebuilt under the charge of Mr. Latrobe, of Maryland, the earlier plan of Mr. Hallet was revived. In 1850 Congress did not agree upon any plan of extension, but confided it at last wholly to the President, or to such plan as he should approve and to such architect as he should appoint. Mr. Walter was fortunately selected as the architect and General Meigs as fortunately as the engineer.

I confess to a feeling of some reverence for this Capitol, where I have spent so many years of my life, and I rather point to its conveniences and its attractions than to its supposed defects. I believe the people are proud of it as it stands, and do not want it hacked to pieces to give temporary accommodation to the Library and that at greater actual cost than would be required for a wholly new building, including even an expensive site. It is necessary to recognize the fact that we build now for many millions of people who know something of the value of the treasures already in the Library, who comprehend its prospective growth, and they expect us to build for all time. The wants of the Library have far outgrown the room which can be spared for it in the Capitol. We really need to withdraw both of its wings for the use of the House and the Senate. We need them for documentary library rooms to House and Senate. Were a new Library building to be constructed, the central portion of the present Congressional Library would be retained for the practical and ready use of Congress, and that portion held all the books we had up to 1850, or nearly fifty thousand volumes. Congress will practically gain rather than lose accommodations by having a new Library building.

The amendment I have proposed was intended to obviate the loss of another year of time by cutting the Gordian knot at once, and accordingly it provides for a commission to examine and report upon the question of the most appropriate site for a Library. I have my own fixed views as to an appropriate site, but I forego all that and seek to give fair play to all competing points, by the appointment of as fair a commission as can be proposed. My amendment provides for a commission of three members of the Senate, three members of the House, and three persons to be appointed by the President, and is as follows:

That a joint select committee, consisting of three Senators and three members of the House of Representatives, together with three persons to be appointed by the President of the United States, shall be, and hereby is, authorized and directed to carefully examine the question of a site for the Library of Congress, and report to Congress, as soon as practicable, what location would be most appropriate for the Library and afford the highest advantages for its future growth and permanent accommodation.

Mr. President, if this amendment shall be adopted, the House and Senate may be brought to some agreement upon this question, and the competing sites south, east, and north of the Capitol, with other sites, including Judiciary Square, may also be properly and fairly considered.

The PRESIDING OFFICER. The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. HAMPTON. Mr. President, as it is impossible for me to stand for any length of time, I must appeal to my brother Senators not to make me stand longer than is necessary by interruptions.

Mr. President, it is with the greatest reluctance that I approach this question, and I do so only from a sense of duty. Upon all questions involving legal points, I have been content to follow those here who are ornaments to the profession of the law and whose opinions are of recognized authority throughout the whole country. But on the matter under consideration such is the wide difference of opinion prevailing among some of the ablest jurists in this body that the unprofessional mind seeks in vain for light to guide it to a correct judgment. Amid this great and fundamental diversity of opinions among the eminent members of the legal profession a layman like myself may

well be excused for entertaining grave doubts as to the settled principles of law which should determine this important issue, and he surely cannot be blamed if, disregarding the mere technicalities of law, he strives earnestly to conform his action to the fixed and immutable principles of justice. I can find in this case no other guide for my action, and should it lead me astray I shall at least have the consolation of knowing that I have erred only by following my sincere and honest convictions of duty. I have not the ability to discuss the delicate and intricate points of law involved in this case. I can only cite such well known authorities as are accessible to all and to which my attention has been directed. But while, unfortunately for myself, I cannot speak as one having authority, I may perhaps on that very account be able to weigh more impartially all the evidence adduced and to form a judgment unbiased by professional pride or unprejudiced by partisan feeling. I recognize painfully in my own case how difficult it is to throw off the shackles forged by partisanship; to oppose the mandates of party, or to rise superior to that spirit of sectionalism which has so often exercised its malign influence on matters which have come before us.

I appreciate as fully as any one the necessity of party organizations, and I acknowledge to their fullest legitimate extent the obligations of party fealty. But there are sometimes questions upon which we are called to act which each man must determine for himself; when his only guide must be his conscience and his sense of right. Such a question is the present one; one as grave, as important, as far-reaching in its consequences as ever came before this body, and one which demands all the prudence, all the wisdom, all the patriotism which should belong to this the highest as well as the most conservative legislative tribunal in this country. We cannot afford, in a matter of such vital consequence, to draw party lines or to be governed by sectional prejudices. We are here as representatives of great coequal States, and in judging of the rights of any of these States we are bound to do equal and exact justice to all, while we protect inviolate the rights and privileges of our colleagues. Any proceeding in this Chamber that could be considered as at all revolutionary or even irregular would shock the sentiment of the whole country, and would shake the settled foundations of the Government itself. We cannot tamper rashly with the principles, the rules, the traditions even which have obtained in the organization of this august body. Some may treat these fears as groundless while they boldly seek to establish new precedents, but I seek safety and repose in clinging to the old, for I realize how dangerous innovations may become.

> I've seen an idiot clap his hands, and shout
> To see a tower, like yon, stoop to its base,
> In headlong ruin; while the wise looked round,
> And fearful sought a distant stand to watch,
> What fragment of the fabric next should follow;
> For when the turrets fall, the walls are tottering.

I do not wish to see a single one of the muniments of our grand system of government broken down, or even touched by a rash hand. It is needless for me to say, Mr. President, that I do not in the slightest degree impute to the distinguished gentlemen who presented this report, or to those who have so ably advocated its adoption, one selfish or unpatriotic motive. Not for one instant do I doubt the sincerity of their convictions or the honesty of their purpose. Most cheerfully do I accord to them what I claim for myself, and it is therefore a matter of profound regret to me, that I am impelled to differ with them in the conclusions at which they have arrived. It is peculiarly painful to me to express this difference of opinion, because it separates me on this question from so many of my party associates, in whose integrity, patriotism, and ability I have such confidence; but I trust that they will do me the justice to recognize that in the discharge of this painful duty I am actuated by the same sense of right that inspires them. It would, perhaps, be sufficient for me to announce my dissent from the resolutions offered by the majority of the committee, but a proper consideration for the opinions of my constituents and of my associates prompts me to give the reasons which control my action. These shall be stated in as brief a manner as possible, and more in the shape of conclusions than of argument.

The credentials of Mr. KELLOGG as Senator-elect from Louisiana were presented to the Senate on the 20th of January, 1877, and were referred to the Committee on Privileges and Elections in March of that year. Mr. Spofford's credentials were referred to the same committee in October. By consent of parties the committee considered as evidence in the cause all the testimony taken by what are known as the Howe committee, the Morrison committee, and the Field committee, as also Mr. Sherman's report on the acts of the returning board, together with the journals of the Nicholls and Packard legislatures. On the 25th October, 1877, the Senate passed the following resolution:

Resolved, That the Committee on Privileges and Elections on the contested cases of WILLIAM PITT KELLOGG and Henry M. Spofford claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to said committee, be authorized to send for persons and papers, and administer oaths with a view of enabling said committee to determine and report upon the title respectively on the merits of each of said contestants to a seat in the Senate.

There can be no doubt but that this committee has the inherent power to determine and report upon the merits of all cases referred to it. But the Senate itself made it mandatory upon the committee in this case to do so by a formal resolution as if to avoid all misapprehension and to make a final adjudication of the title in issue. Shortly before the committee had closed its investigation Mr. Spofford applied for further time to adduce additional testimony upon certain points in the case. The committee refused to grant that application and embodied their reasons for such refusal in the following resolution:

Resolved, That it is the sense of this committee that the matters proposed by Judge Spofford as far as material have been fully covered either by the admission of Mr. KELLOGG or the evidence already before the committee.

I make no comment on this action of the committee except to express the opinion that this ruling did injustice to Mr. Spofford. But it cannot be denied that it was competent for the committee to determine whether it should suspend its investigation of the case to enable a contestant to adduce cumulative testimony upon any given point. I apprehend that this power inheres in every tribunal authorized to hear and determine a cause. If it were otherwise a litigant so disposed might prevent a final adjudication of his cause by stretching out the line of his testimony indefinitely. Should a committee of this body abuse this power, an appeal can be taken to the Senate sitting as a court to judge of the qualifications of its members. The Senate in such case must judge of the sufficiency of the evidence as the court of last resort, and its decision thereon cannot, in my opinion, be reviewed without doing violence to well-settled legal principles and establishing the dangerous doctrine that the tenure of a member of this body is dependent upon the will of the majority whenever any party pleases to litigate his title.

The committee reported the case back to the Senate on the 26th November, with the following resolutions:

Resolved, That WILLIAM PITT KELLOGG is upon the merits of the case entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th March, 1877, and that he be admitted thereto upon taking the proper oath.

Resolved, That Henry M. Spofford is not entitled to a seat in the Senate of the United States.

The minority of the committee also made a report, declaring that in their judgment Mr. KELLOGG was not entitled to a seat in the Senate and that Mr. Spofford was.

The discussion that ensued on these resolutions was protracted and exhaustive. It may be asserted with confidence that every class of fact and every matter of law now urged to unseat Mr. KELLOGG was either embraced in the minority report or was pressed upon the attention of the Senate during that heated and long debate. On the 30th November the Senate by unanimous agreement came to a vote on the Spofford-Kellogg case. This was not an agreement to vote upon some mere interlocutory motion in the case, but to decide it upon its merits; to make a final adjudication upon the title to the seat in question. There was no reservation of a right of further contest; but, on the contrary, when a proposition to that effect was made on behalf of Mr. Spofford by the distinguished Senator from Georgia who dissented from the report of the committee, it was promptly voted down. The Senate adopted the resolutions just cited, announcing thereby as its deliberate judgment that Mr. KELLOGG was entitled to a seat as Senator from Louisiana.

Yet, in face of this action it is now contended that this judgment, so exact in form, and so clear in its expression of the intent of the tribunal which rendered it, does not conclude this case or stop litigation in regard to it. If this case is to be heard again on its merits, what is to prevent its being reheard at some future session, and as long as the unsuccessful contestant shall allege that he has discovered new evidence, or shall assail the recorded judgment of the Senate as unjust?

> For sixteen years the cause was spun,
> And then stood where it first begun.

In all questions of this character there must be some point at which a finality can be reached or we shall have permanent chaos in place of regulated and established order, and it seems to me that this is one of those doubtful and perplexing cases which should be determined by that reason which, as Coke has justly said, "is the spirit of the law." It has been denied here that on questions of this sort the Senate acts in a judicial capacity, but this assertion can scarcely be sustained in view of the high authorities to the contrary.

In Cooley's Constitutional Limitations the following language is found, (section 133:)

In determining questions concerning contested seats the House will exercise judicial power, but generally in accordance with a course of practice which has sprung from precedents in similar cases.

The great Chancellor Kent expresses the same views in distinct, emphatic language:

As each House acts in these cases in a judicial character, its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law, and strictly adhered to for the sake of uniformity and certainty.—*Commentaries*, volume 1, page 235.

It will thus be seen that the highest authorities on constitutional questions declare that the Senate does sit at times as a court. If they are correct in the views expressed it follows that when so sitting the Senate is bound by those legal principles and settled rules of practice that govern other judicial tribunals of last resort. It follows also as a logical sequence that the Senate does not possess the legal power to reopen any case which has been decided on its merits, on the petition of a contestant therein, unless it shall clearly appear that the party against whom its judgment was rendered was prevented by a fraud practiced upon him by the successful party from presenting his whole case for adjudication or exhibiting evidence which was mani-

festly material in support of his claim. This view is sustained by all the reported precedents in the British Parliament, and in the election cases decided by both Houses of Congress, and by the uniform decisions of the Supreme Court of the United States. In a memorable case upon a petition for a rehearing of a question decided by the House of Lords in 1823, Lord Chancellor Eldon said:

Looking at the general interest, it is infinitely better that the matter should be here finally decided upon one hearing even if the decision is wrong, than that there should be a new litigation unknown to our proceedings, as to this matter of rehearing, nor can any one say where it is to stop. In general it is to be hoped that the decisions of the House are right; but whether right or wrong, it has been taken for granted that considerations of infinitely greater moment than the considerations which arise out of the particular mischief in particular cases have led this House to determine that where a matter has been heard between the parties at the bar, and the House has given its decision upon the merits discussed by those parties, the House will not rehear the cause.—*Shaw's Scotch Appeal Cases*, pages 432, 435.

Wells, in his authoritative work on the doctrine of *res adjudicata*, lays down the following propositions, as supported by both the English and American authorities:

The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible. But when the same matter has been actually tried, or so in issue that it might have been tried, it is not again admissible; the party is estopped to set up such fraud, because the judgment is the highest evidence and cannot be contradicted.—*Section* 499.

Justice Cooley declares that—

A decision once made in a particular controversy by the highest court empowered to pass upon it is conclusive on the parties to the litigation and their privies, and they are not allowed afterwards to revive the controversy in a new proceeding for the purpose of raising the same or any other questions. A party is estopped from disputing the correctness of the judgment against him so far as the point directly involved in the case is concerned, whether the reasons on which it was based was sound or not, and even if no reasons were given therefor.—*Constitutional Limitations*, sections 47 and 48.

The doctrine for which I am contending was enforced by the Senate in the case of Fitch and Bright, Senators from Indiana, in 1859. The report adopted by the Senate in that case declares that—

The judgment of the Senate then rendered is final and precludes further inquiry into the subject-matter to which it relates. The decision was made by an authority having exclusive jurisdiction of the subject, and was judicial in its character.

On that occasion the Senate held that the matter was *res adjudicata*, although the parties who asked for a rehearing were not the former contestants but were new parties, whose application was supported by a joint memorial of the two houses of the Legislature of Indiana. Indeed, sir, this wholesome doctrine has never been departed from so far as I can learn, either by the British Parliament or by the American Congress. It rests upon the sound legal maxim that "It is to the interest of the Republic that an end should be put to litigation." The distinguished Senators from Louisiana and Missouri who have so ably and eloquently urged the adoption of the resolutions reported by the committee cite the case of Jumel *vs.* Johnson, decided by the supreme court of Louisiana, as supporting their views. With the utmost deference to their high ability I cannot concur in the construction placed by them on the decision of the court in this case. It appears to me that the court recognizes the Nicholls government as one *de facto*, and the officers of this Government as holding only by a *prima facie* title. In pronouncing the opinion of the court in this case that eminent jurist, Chief-Justice Manning, used the following words:

It is manifest, then, that the respondent cannot put at issue the title of the relator to the office of auditor in this proceeding. * * * The issue thus attempted to be raised in this petition for removal is identical with that presented by the answer, namely, the title to the office of auditor, and we have seen that under no circumstances can the title to an office be inquired into by mandamus. * * * But this does not prevent the respondent from inquiring into the rightfulness of the relator's title to his office in that form of procedure which the law has designated for that purpose.

In view of this language held by the chief-justice, I do not see how the opinion of the court decided the legality of the Nicholls government. That this government was the legal one I have never for a moment doubted; nor do I entertain a doubt that the court would have so decided had a proper issue been brought before it for its decision on this point; but as a matter of fact I submit that it did not so decide in the case cited. In a recent decision of the Supreme Court of the United States, Mr. Justice Miller, who delivered the opinion of the court, used the following language, (United States *vs.* Throckmorton, 8 Otto, page 64:)

There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments. There is also no question that many rights originally founded in fraud become, by lapse of time, by the difficulty of proving the fraud, and by the protection which the law throws around rights once established by formal judicial proceedings in tribunals established by law according to the methods of law, no longer open to inquiry in the usual and ordinary methods.

In the same decree he uses even stronger language when he says—

That the mischief of retrying every case in which the judgment or decree rendered on false testimony given by perjured witnesses, or on contracts or documents whose genuineness or validity was in issue and which are afterward ascertained to be forged or fraudulent, would be greater by reason of the endless nature of the strife than any compensation arising from doing justice in individual cases.

These authorities which I have cited are conclusive to my mind that in passing on election cases the Senate acts in a judicial capacity, and that when it decides such a case on its merits its action is final; it does not possess the lawful power to reverse or even review its action.

In discussing this important subject I have only considered the question whether the Senate has the right, by a vote of the majority, to unseat a member who has been admitted by a deliberate decision of this body, expressed in the most authoritative manner. I have studiously avoided touching upon the question of mere political expediency.

The issue involved is too grave, too solemn, too fraught with danger to the whole country to allow any such degrading consideration to exercise its influence. I dare not trust myself to discuss this matter with reference to the parties involved, for fear that my feelings would betray my reason and my sympathies would warp my judgment. All these feelings, all these sympathies are with the contestant in this case. I know how great, how cruel have been the wrongs inflicted on Louisiana. I have witnessed them in that unhappy State, and I have felt them in my own. But the storm which swept with such fury over those prostrate States has spent its force, and the dawn of a brighter day begins to light up their horizon. Let our people have but repose, and that blessed light, harbinger of peace and hope, will spread until it illumines with its glorious beams in noontide splendor our southern skies. It will as surely shine upon Louisiana as upon the rest of our southern land. I admit the great wrong that has been done to her people, and no one in this Chamber, or on her soil, would more willingly strive to rectify that wrong than myself, could I see the way to do so conscientiously. But I believe that we have not the power, the rightful power, to rectify that wrong. Time, the great vindicator, he who mercifully heals wounds and sets all things right, can alone do this in the proper manner. It is a painful reflection to me, sir, that many of the people of that great State, with whom I hold so much in common, on whose soil my father fought by the side of Jackson, may misconstrue my motives and misunderstand my action, but they are too brave, too generous, too true, to do willing injustice to an enemy, much less to a friend. I have an abiding faith in their sense of right.

The distinguished Senator from Alabama, who so ably advocated the adoption of the resolutions of the committee, hoped that no Senator who saw the right would "still the wrong pursue." He did not, I am sure, intend to cast any reflection upon those of us who are so unfortunate as to differ with the committee. His high character gives full assurance that he would be the last man to do so, but he can readily see how easily his meaning might be perverted. We who do not agree with the majority of our party associates cannot surely be open to the charge of acting in violation of our convictions, for we give the very highest proof of our sincerity by following these in direct opposition to all our wishes, all our feelings, and in spite of the strongest temptations that political considerations could possibly hold out to allure us from the path to which we conceive that our duty points us. We give by our action the highest assurance that we pursue the right as we see it, and we know that our associates with whom we do not agree do the same.

This, Mr. President, is, as I have said, no mere party question; it rises far higher than any such can ever reach; it involves issues which touch closely every State in this Union, issues which cannot be solved upon political considerations or upon sectional lines.

The flag that now floats from the dome above us is bright with its galaxy of stars, each radiant star representing a great State, while the banner upon whose azure folds they shine symbolizes not the power alone but the unity of the people of the great Republic. Each of us on this floor represents in part one State of this mighty Union, but we must never forget that we are Senators of the United States, representing all of these States in their highest legislative tribunal. We stand here, too, on common ground and upon terms of perfect equality. Upon this latter point some of our friends on the opposite side of the Chamber seem to entertain doubts, if we are to judge from the language they sometimes indulge in, for that would seem to imply that they regard us of the South as here only on probation. I beg them to disabuse their minds of this delusion, if they cherish it, for the sooner they do so the sooner shall we see here the courtesy and the propriety that should always mark our proceedings, and the better will it be for the whole country.

We are here holding our titles under the great seals of our respective States, and it does not become Senators to question our rights or to express doubts as to our motives or our fidelity to the laws and the Constitution. We do not think it at all necessary that we should make loud and constant professions of that fidelity; we prefer to be judged by our actions. These, whether wise or unwise, will, I am firmly convinced, be dictated by a sense of duty, and no higher motive can inspire human conduct. One of the ablest and most distinguished statesmen to whom South Carolina has given birth—and of these she has been prolific—gave utterance on one occasion to a sentiment worthy to be inscribed in letters of gold on the walls of this Chamber, which in former days he illustrated by his learning, his genius, and his eloquence. No nobler principle of action was ever enunciated, no grander exhortation to cling to the right was ever uttered than were expressed in his simple words, "Do your duty, and leave the consequences to God." I have tried, sir, to do mine, and it needed not the extraordinary exhortation nor the solemn admonition with which the distinguished Senator from Georgia [Mr. HILL] closed his address to induce me to do so. I thank him for denouncing as slanderous the whispering "which seeks to soil the character of the most highly honored State in this Union in the days of the past." I thank him for the deep solicitude he manifests for the honor of

South Carolina and that of her Senators, and I assure him that the honor of my State is as dear to me as my own. It has been the earnest effort of my life to maintain it unsullied in peace and in war. I have followed her palmetto flag on bloody fields that were "shot-sown and bladed thick with steel," when that standard floated far to the front side by side with the colors of Georgia, borne by the knightly colleague [Mr. GORDON] of the Senator from Georgia—that man who, tested on field and in forum, has never been found wanting. Those interlocked colors of the sister States led then where honor could be gained but personal safety could not be found.

If in those dark days when it was not my good fortune to enjoy what I now do, the benefit of the precepts and the example of the Senator from Georgia, [Mr. HILL,] I upheld as best I could the honor of my State, I trust that I shall not prove recreant to it now. The people of South Carolina can best judge how their honor is guarded here, and should it ever be my misfortune to misrepresent or disappoint them in any way by having the courage to follow my convictions, they will at least say:

> He braved the shafts of censure and of shame,
> And, dearer far than life, he pledged a soldier's fame.

Mr. CARPENTER. Mr. President, at a former session of the Senate I submitted my views at length upon the doctrine of *res adjudicata* as applicable to this case. It is not my purpose to go over the same ground or read the same authorities that I presented to the Senate at that time. It is my purpose, however, to reply to the Senator from Georgia, [Mr. HILL,] whose doctrines were as amazing to me as anything I recollect to have heard since I was admitted to the bar.

He commenced by imploring no one to interrupt him. He said it might break the thread of his argument; it might take him a great deal longer to maintain his positions; and he was wise in that, for a frailer thread and a thinner substance of argument never was heard before. The slightest unfriendly touch would have destroyed it at any moment; and he won security for his doctrine, while he was delivering it, by refusing to be interrupted.

Now, Mr. President, I have no purpose to make a set speech to-day. I have no fine-spun theory to develop; I am not going to announce a single proposition that is not as firmly settled on the law as the Gospel is on the Rock of Ages, and the Senator from Georgia can interrupt me at any point without the slightest fear of breaking the thread of an argument which has been repeated by the great luminaries of the law for hundreds of years, and is recorded in all books of legal authority. If I have misapprehended or shall by accident misrepresent any position assumed by the Senator from Georgia, I shall be obliged to him if he will instantly interrupt and correct me. I wish to do him no injustice, but I totally object to his overthrowing the law upon this subject.

The first position I understand the Senator to have assumed is this, that the Senate of the United States in determining upon the election of one of its members is bound to accept the determination of the State as to what body was its Legislature at the time a Senator was elected, and that that decision of the State may be made as well after we have seated a Senator as before, and that we must reverse our judgment to conform to the subsequent decision of the State. If I misrepresent the Senator, I should like to be corrected.

The Constitution of the United States provides, as we all know, that the Senate "shall be the judge of the elections, returns, and qualifications of its own members." Now, what are the "qualifications" of a person to a seat in this body? The Constitution has fixed them. He must be thirty years of age; he must be a citizen of the United States; he must have been a citizen for nine years; he must be an inhabitant of the State in which he is elected, at the time of his election. These are the qualifications, and then he must have been elected by the Legislature of that State which he comes here to represent. When the question is presented to this body whether A or B is entitled to a seat here as a member for the next six years, are not all these questions presented to the Senate for determination? If it can be shown that he was not elected by the Legislature of his State; that he is not thirty years of age; that he is not a citizen and has not been for nine years, is not his claim to a seat defeated? And would not the Senate if it acted honestly, as I assume the Senate will always do without regard to political majorities, would it not be the duty of the Senate to decide against his claim? No one can doubt it.

Then before the Senate could have decided that Mr. KELLOGG was entitled to this seat, it must have decided, whether that decision was expressed in words or not, that he not only possessed the requisite qualifications, but that he had been elected by the Legislature of Louisiana. Its judgment included the propositions: first, that he had been elected by the Legislature of the State of Louisiana; second, that he was thirty years of age; and so on through all the qualifications fixed by the Constitution.

If the Senator from Georgia be correct in saying that the Legislature which assembles in the State the next year or the second year or the third year may decide that the Legislature which elected the Senator was not the Legislature of the State at that time, and we are bound in blind obedience to adopt that decision and determine that the person who has been seated upon our determination has been seated erroneously, reverse our judgment, and exclude him from his seat—if that be sound doctrine, then I ask who determines the election of the Senator? Not the Senate of the United States, but every State determines for itself whether it has elected a Senator or not, and the Constitution to meet such a case should read "that the several States shall be the judges of the election of Senators of the United States from such States." A mere statement of the proposition is the best answer that can be made to it. An argument to refute such a proposition would only bury the error in words and partially protect it from contempt, and I do not propose to perform this friendly office toward a proposition so heretical. I prefer to leave it as naked as possible to the judgment of the Senate.

My friend from New York [Mr. CONKLING] suggests another case which should be suggested to the consideration of the Senate in this connection. The governor of Louisiana is elected for four years. Suppose they should get a Legislature next year or the year after which should decide that Packard was elected governor and that Mr. Nicholls was not; then Mr. KELLOGG could come here, after we have seated Spofford, and say Spofford is occupying a chair on this floor in virtue of a certificate of one who never was governor, and one whom the State of Louisiana has determined never was governor, and that the body that elected Spofford was not the Legislature; then upon both grounds we would be bound to unseat Spofford and readmit KELLOGG.

The Senator from Georgia says the State must determine what body was its Legislature at a given time; in other words, what body was the Legislature of the State when the Senator was elected. How is the State to settle this? There are some learned lawyers in my hearing who have been here many years and who know what has been conceded on all hands to be the true rule. The Senate cannot for the purpose of determining the election of a Senator go into an examination of the election of the members of the State Legislature, because the constitutions of the States provide that that question shall be determined by the houses of the Legislatures. If the Legislature says John Smith was elected and he be seated, and he give the tie vote which elects a Senator of different politics than would have been elected if he had been excluded, this Senate cannot interfere with it, because the question of the election of a member of the Legislature is expressly referred to the determination of the body itself. That has been the universal opinion. The Senator from Ohio [Mr. THURMAN] in a former discussion of this matter has announced it frequently, everybody has admitted it, and nobody has denied it.

But suppose the case to be that in a State there are two bodies each claiming to be the Legislature of the State, and each elects a Senator. That presents a different question. That compels the Senate to determine which of those bodies was the Legislature, because we cannot seat a person here who was not elected by the Legislature. We cannot say that John Smith shall be seated unless we determine that John Smith was elected by the Legislature of the State. So that to decide the question directly submitted to our determination, is John Smith a Senator? we are compelled to decide whether or not the body that elected him was the Legislature of the State, and when we decide that he is entitled to a seat we do thereby decide, whether we mention it in words or not, that the body by which he was elected was the Legislature of the State.

How could the State settle this question? What does the learned Senator mean when he says that the State must and we cannot settle that question? Here are two bodies claiming to be the law-making power of the State; how are they to settle it among themselves? Of course they cannot agree. Neither will concede that the other is the Legislature, each claiming to be such itself. What is the result? Nothing can settle it but force, if they persist in their pretensions; and when it comes to force, appeal will be made to the United States at once, and then the President under the existing laws must determine which is the true Legislature and sustain one and disperse the other body.

How can the Senator from Georgia say the State can settle this question? The State cannot settle it. The Senator, to sustain the doctrine which he announced, read from the argument of Mr. Webster in the Luther and Broden case. He asserted that it sustained his theory. In the first place, to show that he is utterly mistaken about that, what was the Luther and Borden case and what was the question it involved? It was not like the title to an office under an admitted government; it was not like the contest which took place in Wisconsin some years ago about the office of governor, everybody conceding that there was a government in existence, and that the people had voted for governor, and the only question being which candidate had received a majority of votes. That was not the question at all, but the question in the Rhode Island case involved the question of sovereignty. It was claimed that the people had established a new government which on a certain day superseded and supplanted the charter government, and although it was admitted that it lasted but two days yet the pretense in that case was that for those two days the people's government had been the only government of the State. That matter became the subject of litigation in the State when under a subsequent government, which was admitted by everybody to be a legal government, those who had attempted to put the so-called people's government into operation were indicted and tried for treason. And by the courts of this government, conceded by everybody to be legal, it was decided that the so-called people's government was a sham, and never had a legal existence.

To bring the same question for decision before the courts of the United States the case of Luther *vs.* Borden was commenced in the circuit court of the United States for the district of Rhode Island;

and the case shown by the pleadings was this: The plaintiff charged that the defendant had arrested and wrongfully imprisoned the plaintiff. The defendant pleaded that rebellion existed in the State, that martial law had been proclaimed, and the defendant, an officer of the militia of the State, in obedience to the orders of his military superior made the arrest complained of. This raised the question of the legality of such arrest. The circuit courts of the United States are by act of Congress compelled to follow the laws of the several States as rules of decision when the same are applicable; and following that rule of decision Chief-Justice Taney declared that the Federal courts must follow the decisions of the State courts upon that subject. He then goes on in this opinion to say—and his whole reasoning shows the fact—that the question of whether a government had been established or not was not a question which ever could be *judicially* determined. But there is a part of this opinion that I wish to read.

Mr. Webster was arguing the case I have stated, not the case supposed by the Senator from Georgia. The Senator says, however, our mouths are stopped by what Mr. Webster said. He said nothing applicable to this subject. If our mouths are stopped by what Mr. Webster said upon other matters, certainly the mouth of the Senator ought to be stopped by what Chief-Justice Taney, delivering the unanimous opinion of the court, did say upon the precise question now before the Senate; and I will read his language.

Passing over several pages here showing that this was not a judicial question, and could not be settled in the courts; that it was political in its character, and the judicial courts were bound to follow the determination made by the political department, the Chief-Justice then comes to another clause of the Constitution, which he states and reasons upon, as follows:

> Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind, and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that department.
>
> The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature or of the executive (when the Legislature cannot be convened) against domestic violence.
>
> *Under this article of the Constitution it rests with Congress to decide what government is the established one in a State.* For as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. *Yet the right to decide is placed there, and not in the courts.*

I am very sorry I cannot see the Senator from Georgia in his seat, because I should like to see what impression that language would make upon him after the speech he made the other day.

Mr. FARLEY. I am informed that the Senator from Georgia has been called away from the Chamber on pressing business. He is not in his seat at all, and perhaps will not be in the Chamber for the rest of the day. He is compelled to be absent.

Mr. CARPENTER. I do not mean to insinuate that the Senator from Georgia is unnecessarily absent. I was simply regretting the fact that he was not here. Nevertheless I am sorry that he is not here, for I should like to see the expression of his countenance while this language of Chief-Justice Taney was ringing in his ears.

That is the unanimous decision of the court, delivered by Chief-Justice Taney, than whom an abler judge never sat on the bench, taking all provinces of jurisprudence into account. He says that the power of determining what is the government of a State *rests with Congress* under that clause of the Constitution which compels us to guarantee a republican government to every State; and of course it follows by the same reasoning, as it is directly established by the other cases cited by the Senator from Georgia himself, that when the Senate is called upon to determine whether a person has been elected by the Legislature of a State to a seat in this Chamber, it must determine which is the Legislature before it can determine whether a claimant was elected by the Legislature or not.

As my friend from New York [Mr. CONKLING] suggests to me, there are two ingredients in the election of a Senator: First, the election by some body; the next is, that that body must have been the Legislature of the State. These two elements enter into the case. When the Senate said that Mr. KELLOGG was entitled to the seat for that term it thereby declared two things, as well as all the others I have mentioned, namely, that he had been elected by some body; and second, that that body was the Legislature of that State. It could not seat him without determining both those things.

Mr. EDMUNDS. Does anybody deny it?

Mr. CARPENTER. As I understood the Senator from Georgia, the first premise of his speech was that the Senate could not determine which of two rival bodies was the Legislature of a State; that the State had the power to determine it; and that as often as the State changed front on the question and reversed its own decision as to what body had been its Legislature before, we were bound to follow it and unseat a Senator we had seated according to their own first decision.

Mr. EATON. The Senator from Wisconsin in the absence of the Senator from Georgia, and in reply to the question of the Senator from Vermont, does not mean to state here that the Senator from Georgia said any such thing?

Mr. CARPENTER. I do state it.

Mr. EATON. I deny it.

Mr. CARPENTER. He said it distinctly, as I understood him.

Mr. EATON. I did not hear it. If the Senator from Wisconsin asserts that the position assumed by the Senator from Georgia leads to that point, so that he inferentially assumes that he so stated, very well.

Mr. CARPENTER. Not at all.

Mr. EATON. Otherwise I do not admit it. I heard no such thing.

Mr. EDMUNDS. We can tell by turning to the RECORD.

Mr. DAVIS, of Illinois. The speech is not published.

Mr. BAILEY. Does the Senator from Wisconsin assert that the Senator from Georgia said that as often as the State might decide this question the Senate would be bound to reverse its judgment and follow the State?

Mr. CARPENTER. The Senator calls my attention to a sentence that I uttered. Of course the Senator from Georgia did not say that as often as the State reversed its decision we were bound to follow. That was my commentary upon his proposition.

Mr. EATON. I said that it was an inference.

Mr. CARPENTER. The inference cannot be resisted.

Mr. EATON. I think it can; but I will not trouble you now.

Mr. CARPENTER. Then let me restate it, because I do not wish to do any injustice to a Senator, especially behind his back. I understand the Senator's argument to have rested upon the primary proposition that this body could not determine, and that the State must determine, which of two rival bodies was its Legislature.

Mr. BAILEY. Permit me to interrupt the Senator. I understand the Senator from Georgia to have asserted the theory that in the absence of any authoritative decision the State alone was bound to decide what was its Legislature; that the Senate of the United States having declined in March, 1877, to pass upon the credentials of Mr. KELLOGG, and having referred them to one of its committees, and the President of the United States having failed upon the application of Governor KELLOGG and the Packard legislature to interfere for the purpose of protecting the State against domestic violence, as authorized by the Constitution and the act of Congress, the question as to which was the Legislature was thus remitted to the State of Louisiana, and was authoritatively and definitely settled by that State; and this decision having thus been pronounced by the State of Louisiana, was binding upon the Senate and upon all the world.

Mr. CARPENTER. I am obliged to the Senators for stating their understanding of the speech of the Senator from Georgia. I still must say what the fact is, that I understood him to take the broad ground which I have stated.

Mr. BAILEY. But permit me to say, whatever may have been the Senator's understanding of the position of the Senator from Georgia, I have stated the fact, and the fact must determine this case.

Mr. CARPENTER. It is unfortunate that the Senator from Georgia is not here and that his speech is not published. It therefore rests in recollection, and I must answer it as I recollect it. I understand the position of the Senator to be distinct upon this point, and I understood him to turn and give a solemn warning to Senators that this Union would break up in fraud and blood if the Senate assumed that it could determine which of two rival bodies was the Legislature of a State. I think that was his proposition; I so understood it; I noted it down at the time for the purpose of replying. He went on as I understood him to elaborate. But pass that by; suppose that that was not his position, and I understand by the explanation made by his friends here if that was his position it is not theirs, and I have no disposition to follow phantoms, and if it be not the doctrine of that Senator's political associates I do not care to further discuss it. The anxiety manifested by his friends to rescue the Senator from Georgia from the charge of uttering such a proposition shows that they consider it unsound.

Let me go on to some other points he made. He read from 1 Peters, and I want to call attention to the same case. In 1 Peters, 340, in the very opinion from which he read, the court says:

> Where a court has jurisdiction it has a right to decide every question which occurs in the cause; and whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court. But if it act without authority its judgments and orders are regarded as nullities.

Nobody ever questioned that; but I refer to this opinion again to show that the doctrine which I contend for here is correct; that in determining whether Mr. KELLOGG was entitled to his seat we had to determine, and had the jurisdiction to determine, every fact upon which that supposed right rested, including the question whether he had been elected by the Legislature of that State.

He read again from 13 Peters, which I will not stop to read now, because it covers the same ground and declares the same principle as the other case.

Then, as I understood the Senator, he came to what was the great point upon which he proposed to put aside the objection that this matter was *res adjudicata* by the former decision of the Senate. He then lays down his proposition, which nobody ever denied that I have heard of, to wit, that the judgment of any court or tribunal acting without jurisdiction, or as he phrased it, against jurisdiction or beyond jurisdiction, was void.

That, as an abstract proposition, no one ever doubted. That brought the Senator from Georgia in the line of logical argument to the question, whether the Senate to decide whether KELLOGG or Spofford was entitled to the seat had the jurisdiction to decide whether the body which elected KELLOGG or the body which elected Spofford was the Legislature of the State, and without establishing the negatives of this proposition, the argument that a judgment rendered without jurisdiction is void, was utterly worthless to the Senator's argument. This question the Senator from Georgia passed in silence. He did not pay it even the respect of a passing glance; he did not waste a sentence on it; but continued to read case after case to show what everybody knows who knows anything, that a court having no jurisdiction cannot render a binding judgment, that its judgment is a mere nullity, and that it cannot make anything *res adjudicata*, has no effect whatever, is absolutely void within the technical distinction between void and voidable. And here the Senator waxed facetious, and tried to make the opposing view, entertained on this side of the Chamber, very ridiculous. "Why," he said, "if your doctrine can be maintained, it follows that if the Senate seats a boy here ten years old that makes him thirty years old." Again he said, "You may seat a woman in this Chamber." To quiet the fears of the Senator from Georgia, that the country would be destroyed should ever such a thing happen, let me suggest for his consideration. The Constitution provides:

> No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Suppose Louisiana had chosen a woman and she had appeared to take her seat with due evidence of having been elected by the Legislature. We would look at her with surprise and turn to the Constitution to see how she can be excluded:

> No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Sex is not one of these qualifications, unless it can be implied from the words "for which *he* shall be chosen." We all know that in construing a constitution or statute the word "he" will be read "she" if the case requires it. Look at other provisions. The President shall have certain qualifications, but it is not provided that he shall be a *male* citizen of the United States. The word persons includes females as well as males.

The Constitution provides that previous to 1808 the importation of such *persons* as a State should see fit to import should not be prohibited. Nobody would claim that that was confined to the importation of males. The term citizens applies to females as well as males. The judiciary article of the Constitution gives to the courts jurisdiction over controversies between citizens of different States, not male citizens, but any citizens. We all know that women have been regarded as citizens, and allowed to maintain suits in the Federal courts ever since the Government was established. The first time that any distinction of sex is found in the Constitution is in the fourteenth amendment, and that is where it is provided that if the State shall disfranchise any *male* citizen over twenty-one years, &c., then their representation shall be reduced accordingly. That is the only provision in the Constitution, I think—the only one I can find—where the distinction of sex is referred to at all, except in the use of the pronoun "he," which will be read "she" when the case requires it.

Article 4, section 2, of the Constitution provides:

> A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which *he* fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No one would contend that a female fugitive from justice could not be returned under this provision, notwithstanding the language is "the State from which *he* fled." In other words, *he* would be read *she*, if the person who had escaped was a female. Parity of reasoning applied to the clause fixing the qualification for Senators, which is as follows:

> No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which *he* shall be chosen,

would be read "an inhabitant of that State for which *she* shall be chosen."

Now mind, I do not assert that a female should be admitted as a Senator. We are in possession at present and nobody can get in without our consent. With the well-known disposition of men to remain "lords of creation," I do not assert that the Senate would not declare that the spirit of the Constitution was that when the word "person" is used it means male person, though I think it would be a little difficult for the chairman of the Committee on Privileges and Elections to write a report which would justify such a conclusion. Yet I do not assert it might not be done, but what I do assert is this, that if a "person" appears at the bar of the Senate, having the credentials of a State and every qualification conceded, except that it be charged that that person is a female, and therefore not entitled to a seat in the Senate, and the Senate enter upon an investigation and decide that she is entitled to a seat, I maintain that would be *res adjudicata*, and that that decision would not be subject to re-examination.

Claiming as I did by an unauthorized interruption of the Senator that in such a case the female Senator would be a male in point of law, which was thought and declared by the Senator to be driving a man to such depth and utter abandonment of absurdity that his whole argument must be rejected and everything he should say for the next ten years ought to be discredited, I turned last night to the twenty-second Howard, Jeter *vs.* Hewitt *et al.*, where the subject of *res adjudicata* is discussed, and I was pleased to see how nearly my words were sustained. They say, on page 363:

> The authority of *res adjudicata* as a medium of proof is acknowledged in the civil code of Louisiana; and its precise effect in the particular case under consideration is ascertained in the statute that allows the proceeding by monition. Under the system of that State, the maintenance of public order, the repose of society, and the quiet of families require that what has been definitely determined by competent tribunals shall be accepted as irrefragable legal truth. So deeply is this principle implanted in her jurisprudence that commentators upon it have said, the *res adjudicata renders white that which is black, and straight that which is crooked.* * * * No other evidence can afford strength to the presumption of truth it creates, and no argument can detract from its legal efficacy.

So I assert without fear of successful contradiction that if the Senate should seat a Senator although in fact a female that decision would settle the question, would estop all inquiry into the question hereafter, and that in regard of her right to be a Senator *she* would be a *man* to the end of her term.

But what use did the Senator from Georgia make of the proposition that the decision of any tribunal without jurisdiction is not *res adjudicata* because it has no effect whatever? He says that we have no jurisdiction to seat any man who has not been elected by the Legislature of the State. So I say; but he says that if we do seat a man who was not elected by the Legislature of the State, that whenever that fact can be shown then it is shown that we had no jurisdiction to admit that man at all, we were acting beyond our jurisdiction and the decision of the Senate is therefore not *res adjudicata*. If I am mistaken again as to what he meant, if any friend of his will correct me I will thank him. That I understand to be his point. He read all the old authorities upon the subject of jurisdiction in order to deny the element of *res adjudicata* to a judgment rendered without jurisdiction. And then to show we acted without jurisdiction in seating KELLOGG he asserted that the Senate had no jurisdiction to seat one not elected by the Legislature, because that would be unconstitutional; and that if he could now show that KELLOGG was not in fact so elected, then it would follow that the Senate acted beyond its *jurisdiction* when it seated KELLOGG, and therefore the decision of the Senate was not *res adjudicata*. In other words, the effect of a judgment is *res adjudicata* or not according as we think it was decided correctly or not. We who come after it, we who look back upon it and examine it, if we say it was wrong, then it follows that the court had no jurisdiction to decide it although that very fact necessary to jurisdiction was included in the judgment, because the court could not have rendered the judgment unless it first found the fact.

Now, take cases in the Federal courts, which rest upon the character of the parties. The question has arisen as to whether the plaintiff was a citizen of a different State from that of the defendant. That becomes a question which has to be tried and passed upon, and the case is dismissed if the fact be found against the plaintiff. Suppose the court enters into examination and trial of that question, and decides that the parties are citizens of different States, and passes judgment upon the merits of the case. Does any lawyer suppose that such judgment is any the less *res adjudicata* because it included the determination of the jurisdictional fact?

In many instances the question of jurisdiction is a disputed question of fact which must be determined by the court, and is so determined before it renders final judgment in the case. Now, the case under consideration was just in that condition. Whether this man had been elected by the Legislature of the State was undoubtedly a fact that must exist before we could seat him as a Senator. There is no question about that. We entered into an examination of that subject, and the Senate decided that Mr. KELLOGG was entitled to a seat here on the merits of the case. What is the meaning of "on the merits of the case?" The Senator from Georgia tried to make out that that did not amount to anything; that it was some technical thing; that "on the merits of the case" was loose and ambiguous. The Senate did not declare in its resolution in words that KELLOGG was elected by the Legislature of the State, but with the Constitution before them, on the well-known principles of law applicable to the subject distinctly understood and brought to their minds by debate, the Senate declared that on the merits, and that is apart from all technicality and all trifling objections—on the merits of the case, namely, the election by the Legislature of the State, his being thirty years of age, his having been nine years a citizen, on all the essential features and elements that enter into the case and make up its merits, he was entitled to the seat.

Now, the question is this: if it can be shown that the decision of the Senate was erroneous upon any one of these points, does it cease to be a final judgment? If KELLOGG was not thirty years of age, as the Senate decided he was; or was not a citizen, as the Senate decided he was; or was not elected by the Legislature of the State, as the Senate decided he was, then of course the decision was wrong. But it does not follow that we can reverse it. The final determination of any case by a court of last resort is *res adjudicata* incapable of impeachment for any cause whatever, except for fraud committed upon the court, or fraud committed upon the defeated party in the matter of the trial itself. The fraud that will set aside a judgment or decree

must be a fraud upon the court, not a fraud of or the corruption of the court itself.

The Senator from South Carolina, [Mr. HAMPTON,] who has just taken his seat, referred to a decision recently made in the Supreme Court of the United States, the case of Throckmorton, 98 U. S., page 61, where this matter is fully discussed. Before referring to that, however, let me refer to Stewart's case, in 3 Howard, 413, which is pertinent to the matter now before us. Here was a litigation pending in the circuit court. A certain order had been made. The case was brought up by appeal to the Supreme Court of the United States. The Supreme Court heard the case and decided all the points disputed and debated by the counsel at the bar, and issued their mandate directing the court below what to do in the case. Subsequently it was ascertained for the first time, it having escaped the notice of the counsel and of the court, that the order which had been appealed from was not a final order in the case, that it was a mere interlocutory order and the Supreme Court of the United States had no jurisdiction of the appeal for that reason, and would have dismissed it if the fact had been called to the attention of the court. It was a mere misapprehension of the court as to the fact. They decided the cause, and decided it by an equal division of the judges. Half the judges thought the decision was wrong, but by equal division they affirmed the judgment below and sent down their mandate. That mandate was executed, and then a second appeal was taken and the court was shown that they had had no jurisdiction when they first decided the case. And yet under the circumstances of that case, half the judges thinking the decision was wrong, all of them admitting that it was decided without jurisdiction, the court unanimously denied the application to rehear the case and dismissed the second appeal upon the ground that they had no right to open one of their own final decisions after the term at which it was rendered. The opinion was delivered by Mr. Justice Wayne. He states the case. He states that they had no jurisdiction on the first appeal, but that the fact was not noticed by them nor brought to their attention by counsel.

The court say:

> It might, however, have been dismissed, upon the authority of a case in this court, directly in point, Skillern's Executors *vs.* May's Executors, 6 Cranch, 267, and upon the footing that there is no mode pointed out by law in which an erroneous judgment by this court can be reviewed in this or any other court. In Skillern's case, the question certified by the court below to this court, for its decision, was, whether the cause could be dismissed from the circuit court, for want of jurisdiction, after the cause had been removed to the supreme court, and this court had acted upon and remanded the cause to the circuit court for further proceedings. This court said, "It appearing that the merits of the cause had been finally decided in this court, and that its mandate required only the execution of its decree, it is the opinion of this court that the circuit court is bound to carry that decree into execution, although the jurisdiction of that court is not alleged in the pleadings."

The court then proceed:

> The jurisdiction of this court in that case was as defective as it is said to have been in this. When that cause was before this court, though the judgment of the court below on it would have been reversed upon motion for the want of jurisdiction on the face of the record, the defect having escaped the notice of the court and of counsel, and the court having acted upon its merits, it determined that its decree should be executed. The reason for its judgment no doubt was that the motion to dismiss the case in the court below for the want of jurisdiction, after it had been before the Supreme Court by writ of error and had been acted upon, would have been equivalent, had it been allowed, to a decision that the judgment of this court might be reviewed, when the law points out no mode in which that can be done, either by this or any other court.

I will not read any more of the opinion; any Senator can examine it who pleases. It is very full and clear, and holds the doctrine that where any tribunal is authorized to decide a cause, and the law points out no method of appeal or review, the decision once made, right or wrong, must stand as the final decision of the cause; and as the court say in 22 Howard, it may make black white, it may make crooked straight, no matter what wrong it may do in a particular instance, it is for the interest of society that a thing solemnly decided by this final tribunal should be considered as finally settled.

Mr. EATON. The Senator will permit me. On this branch of the case I should like to know exactly how far his position goes. By the Constitution, which my friend has just read, a person must have been a citizen of the United States nine years to be a Senator and thirty years of age, and if I understood the Senator it was to be presumed that before the admission of that person to a seat in the Senate the Senate determined upon all those questions.

Mr. CARPENTER. My point is that by seating him they decided them all.

Mr. EATON. By seating him! In other words, they had considered all these constitutional provisions.

Mr. CARPENTER. It is supposed so.

Mr. EATON. Now, if it turns out the next year that the person whom the Senate thus determined had been a citizen of the United States nine years was not and never had been a citizen of the United States at all, had never been naturalized, and was in no sense a citizen of the United States, I want to know if my friend assumes the ground—I do not propose to argue it now—that it is impossible for the Senate to review their action upon that subject.

Mr. CARPENTER. Undoubtedly.

Mr. EDMUNDS. May I ask a question? Suppose on the suggestion of the Senator from Connecticut that having reviewed that and decided that they had made a mistake the year before, it turned out next year he had been a citizen all the time, what would the Senate do then?

Mr. EATON. That is begging the question.

Mr. EDMUNDS. Not at all.

Mr. EATON. That is begging the question and hardly worthy of the astute Senator from Vermont. The idea was this—my friend from Wisconsin understands it and he will answer it with his customary frankness—it turns out the next year beyond all question that this man has never been and was not a citizen of the United States. Still I understand my friend to say that it is incompetent for the Senate to go behind their former decision.

Mr. CARPENTER. Exactly.

Mr. EATON. I did not suppose it required the addendum of the Senator from Vermont.

Mr. EDMUNDS. I am sure the Senator from Connecticut did not want it.

Mr. CARPENTER. I say so for this reason: There is no doubt about it——

Mr. EATON. There is not to me.

Mr. CARPENTER. Not the slightest. The principle is this: There must be an end; the Senator from Connecticut does not want it ended until it is ended right; and the case put by the Senator from Vermont is a perfect answer to the Senator. The first year we decide that the man is a citizen and admit him; the next year proof comes which everybody in the United States then believes to show that that man had come over the month before, and had not even been naturalized. The Senator says if we are all satisfied, if it turns out beyond all question that this man had never been a citizen, why should we not reverse our action, and why should it not be the law that we may reverse our action? I can answer that easily, so easily, when you consider what the law is, that there cannot be a doubt about it.

Mr. EATON. I am not talking about the law; I am asking your opinion.

Mr. CARPENTER. My opinion is that the law ought to prevail.

Mr. EATON. The Senate is a law unto itself in all these matters.

Mr. CARPENTER. If the Senator means that the Senate is a law unto itself in the sense that there is no higher tribunal to review its decision, he is right. If he means that it is a law unto itself in the sense that it can do what it pleases, then he means that the Senate is the greatest outlaw in the world. The Supreme Court is a law unto itself. Suppose it decides that black is white, what is the remedy?

Mr. EATON. Change the court.

Mr. CARPENTER. Change the Senate too, if the Senate acts corruptly.

Mr. EATON. We have been trying to do that, certainly.

Mr. CARPENTER. Certainly, that is the remedy. I think the people will see through that.

Mr. EATON. I do not see what good it would do, by the way, if we should change the Senate if what my friend says is true, because the Senate cannot change its corrupt action.

Mr. VANCE. It would be *res adjudicata*.

Mr. CARPENTER. But under the jurisdiction now claimed for the Senate by the Senator from Connecticut, nothing could be *res adjudicata*. Upon his theory there is no obligation to respect truth. The Senate is not bound to do anything except to swell a particular party majority, if the Senator from Connecticut has laid down the true principle touching the jurisdiction of the Senate.

Mr. EATON. I have not advanced any opinion. I was simply asking the opinion of the Senator from Wisconsin. I have that, that however corrupt, however rotten, however wrong the action of the Senate the Senate can never review it. I understand that perfectly.

Mr. CARPENTER. Yes, and he understands it correctly. That is the law, and if this tribunal has any regard for law, if it will observe any of the rules that are laid down by all other tribunals which pass in a judicial character upon the rights of persons, it must sustain that doctrine; and why? It is very easy in an argument for a man who is not half as smart as the Senator from Connecticut to push a sound argument to seeming absurdity. It does seem very strange indeed that if I go to a judge, for instance, bribe him, give him a thousand dollars to decide a case in my favor, that if I go to the Supreme Court, having a case pending there, and give the judges a thousand dollars apiece to decide in my favor, and they do so decide and violate every legal principle in doing so, and the term passes, the record is made up, and the Senator from Connecticut finds out that the judgment was obtained by bribery and corruption, it seems remarkable to the untutored mind that there is no remedy in such a case; that that judgment cannot be reversed; and yet I assert without fear of contradiction by any lawyer who has ever examined the question, that it cannot be. Judges have been impeached for judicial corruption; but there is not an instance in the judicial history of the world of a judgment ever reversed on that ground; and why? I go before a judge on the bench to-day and say "Your predecessor last year was corrupt and rendered a judgment influenced by bribery; I want you to reverse it;" he is satisfied this is true, and reverses it. The other party comes back to his successor and says: "I got a judgment before an honest judge, but my opponent came next year to a dishonest judge and bribed him to reverse the honest judgment; I ask you to set it back again." He would be justified in setting it back. So a question could never be settled. When you say a fact is proved beyond a doubt, you mean beyond all doubt of those who now hear the proof; but it may happen that next year another state of things may

be established which will convince you that your conclusion was wrong. Take the case of a man seated here as a Senator against the allegation that he was not a citizen, the Senate seating him, however, on his allegation of nine years' citizenship; next year the testimony may be so overwhelming from a hundred witnesses, all swearing they came into this country with him not six months before, that nobody may doubt that such was the fact; and yet it might all turn on the question of the identity of the person, and in a year after you might be as thoroughly satisfied the other way.

Mr. EATON. Suppose he admits that at the bar of the Senate?

Mr. CARPENTER. That only differs from the case before supposed by the Senator in this, that the proof that the former decision of the Senate was erroneous would seem to be more conclusive. It would not change the principle. I want to lay down this doctrine, not as a protection to the Senator from Connecticut, for he does not need it, but as a well-settled rule of law, that if we act here corruptly, if we are bribed to act in a case like this, our action is as conclusive as though we had acted from the purest motives, because it is not provided in any constitution or law that our action can be reviewed or our errors corrected. We act, in these cases, like a court of last resort; and our action right or wrong, honest or corrupt, is final action and cannot be the subject of a rehearing or second trial.

Mr. EATON. You spoke of the witnesses, a hundred men. I then asked this question: To do away with your theory of testimony, suppose the sitting member thus admitted should say from his seat on the floor of the Senate that he had not been in the United States but three months when he was elected to the Senate, then there would be no question of evidence. What then? He does not resign. Have we not the power to turn him out?

Mr. CARPENTER. We have power to expel him.

Mr. EATON. I am not talking about expulsion. Can we not declare the seat vacant?

Mr. CARPENTER. The Senator seems to have obtained another great victory by following the theory into a case so extreme that it seems absurd: and yet the absurdity is only seeming.

Mr. EATON. The doctrine is so absurd that I can only use an absurd illustration.

Mr. CARPENTER. I think that is the way it strikes the Senator.

Mr. EATON. So it is.

Mr. CARPENTER. Well, now, let us carefully examine the case put by the Senator from Connecticut, [Mr. EATON.] He admits it to be an extreme, a very improbable case. Now, let me give him the answer; and if it supposes an extreme state of facts, he cannot object.

The case he supposes is this: A person appears at the bar of the Senate, presents the proper evidence of election by the Legislature of a State, and asserts his qualifications personally to hold the office. But his seat is contested upon the ground that he has not been a citizen nine years, or, if you please, that he is not a citizen at all. The Senate takes proof, considers the case, and decides that he has been a citizen nine years, and admits him to a seat. Now, I contend this determination is final and conclusive upon the subject, so far as regards his title to a seat. But, says the Senator from Connecticut, suppose the next year his title is again called in question, and on the question whether he had been a citizen nine years when he was elected he rises and admits he had not been. Of course this would justify the Senate in expelling him. But, says the Senator from Connecticut, "I am not speaking of expulsion, but could not the Senate reverse its former decision and exclude him from his seat by vote of a majority of the Senate?" I answer, no. The utmost that can be claimed for the case supposed is that the evidence that the Senate decided the case wrongly is apparently satisfactory. But a final judgment of a tribunal of last resort, having jurisdiction to decide the matter in controversy, cannot be set aside by such tribunal, no matter how clearly it may be established that the judgment was wrong. Otherwise there never could be a judgment of any tribunal that would be *res adjudicata*. As soon as you consent that any judgment is not *res adjudicata* if it was decided erroneously—that is, the wrong way—then of course any party who alleges that it was decided wrong must be heard to show that it was so decided, and thus the whole subject is reopened to proof and trial.

But again, suppose that a Senator who had been seated upon such a contest should make such admission, and thereupon the Senate should reverse its former decision and declare he had never been qualified; and then suppose it should subsequently be shown to the entire satisfaction of the Senate that he was compelled by duress to make such admission against himself, and therefore was not bound by it, and that the real fact was that he had been a citizen nine years before he was elected, and that the first decision of the Senate was right and the second wrong; could not the Senate, upon the principle contended for, on his application reverse its second decision and reseat him? It may be said this last is a state of facts not likely to happen. I admit it; but not more improbable than the case supposed by the Senator from Connecticut.

But these supposititious cases tend to illustrate the soundness of the principle that public tranquillity requires that the final judgment of a court of last resort should stand whether it be right or wrong; and that when this principle is lost sight of and a court gets to deciding backwards and forwards to reach the real right of a case, the first decision is as likely to be right as the second or third.

KELLOGG has occupied a seat here under the decision of the Senate all this session. Measures have been adopted by one majority, and his vote made the majority.

Mr. EATON. You cannot prevent his vote before he was expelled being counted.

Mr. CARPENTER. Of course not; and yet it would be as difficult to satisfy the untutored mind of a man in the wilderness that a law passed only by the vote of one not entitled to vote ought to be held valid to his prejudice as it would be to satisfy him that a wrong decision of the Senate ought to stand merely because it was made.

The fundamental error of the argument of the Senator from Georgia, and it is not changed although put by way of making an illustration by the Senator from Connecticut, is this: that nothing is final if it is erroneous. That is what it comes to. If you can show that there was error in it, then it is not *res adjudicata*. Then you never can have anything *res adjudicata* because there never would be a case about which a man might not say, I can show that there was error, and I demand a hearing; and he must be heard, because if you establish the doctrine that if error can be made out the judgment shall be reversed, you have always got to hear what can be said upon the subject.

The peace of society requires that some things should be presumed even against notorious facts. The case of Fletcher *vs.* Peck, decided by Chief-Justice Marshall, reported in 6 Cranch at page 130, presents a case exceedingly opposite to the point suggested by the Senator. That related to the Yazoo land grant. It was alleged that the Legislature of Georgia was bribed to pass that law. The Chief-Justice said, and I ask the attention of my friend from Connecticut to the language, because when Chief-Justice Marshall speaks we must all listen:

> It may well be doubted how far the validity of a law depends upon the motives of its framers, and how far the particular inducements operating on members of the supreme sovereign power of a State, to the formation of a contract by that power, are examinable in a court of justice. If the principle be conceded, that an act of the supreme sovereign power might be declared null by a court, in consequence of the means which procured it, still there would be much difficulty in saying to what extent those means must be applied to produce this effect. Must it be direct corruption, or would interest or undue influence of any kind be sufficient? Must the vitiating cause operate on a majority, or on what number of the members? Would the act be null, whatever might be the wish of the nation, or would its obligation or nullity depend upon the public sentiment?
>
> If the majority of the Legislature be corrupted, it may well be doubted whether it be within the province of the judiciary to control their conduct, and if less than a majority act from impure motives, the principle by which judicial interference would be regulated is not clearly discerned.

Again he says:

> This solemn question cannot be brought thus collaterally and incidentally before the court. It would be indecent, in the extreme, upon a private contract, between two individuals, to enter into an inquiry respecting the corruption of the sovereign power of a State. If the title be plainly deduced from a legislative act, which the Legislature might constitutionally pass, if the act be clothed with all the requisite forms of a law, a court sitting as a court of law, cannot sustain a suit brought by one individual against another founded on the allegation that the act is a nullity, in consequence of the impure motives which influenced certain members of the Legislature which passed the law.

I do not claim that that is precisely this question, but I do claim that the reasoning of that case applies to this. You cannot maintain civil society, you cannot preserve a government, without presuming that it is safe to lodge supreme power somewhere; and if you can follow that supreme power to its supremest head and there review it, then you have a supreme power above your supreme power, and such a thing is impossible. You must lodge ultimate power somewhere, and take the chances. God himself administers His providence through human instrumentalities. Men can do no better. The Government in its making of laws, in the administration of justice, and in all its grand operations, must employ human instrumentalities, men who are weak, frail, and subject to temptations, who may sometimes be overcome by one temptation or another, but you rest upon the general principle that your foundation is sound, your ultimate power is honest, and if some one aims to show that it is not you will not hear him. Why? Because your Government is blocked, your whole theory of civil society is lost, if you admit that your supreme ultimate power is lodged in hands that can be corrupted. You cannot even admit that it is lodged with those who can be mistaken for the same reason.

Here is the Supreme Court holding in a case where they had made a flagrant mistake that they could not review it. They admitted the mistake; they regretted it; but they were powerless to review it. Why? Just for the reason I have stated. You must lodge ultimate power somewhere, and then you must throw around it the charitable presumption, which the law does throw around it, that it is bestowed upon faithful and honest men. You can hear no one assert the contrary. I was surprised some years ago, on examining the question, to find that not a single case could be found in the books where a final decision at law or in equity had been reversed upon the ground that the court in rendering it had acted improperly, ignorantly, or corruptly. You cannot be heard to assert that of a court or of a government; it is your idol; you may be betrayed, but you must have a final judgment upon all controversies or surrender the tranquillity of society. And it is better that all final decisions, though now and then one will be erroneous, should stand than to establish a principle which makes it impossible to put an end to any controversy of litigants.

Mr. EATON. I simply wanted to get my friend's opinion in regard to that one great point.

Mr. CARPENTER. You are satisfied that you have my opinion.

Mr. EATON. I am, because if I shall participate in this debate as I probably shall not, I will not rely on any little legal points that have been made heretofore either in the State courts or in the Supreme Court with regard to the power of this Senate when you take into consideration what this Senate is, a body, as some one once said, of embassadors of independent sovereignties; in other words, the representatives of the equality of thirty-eight nations, so to speak. Therefore they are not to be governed by the same little principles that would govern in settling a controversy as to the price of a horse. There are other great principles which govern here and which are worthy of consideration in my judgment.

Mr. CARPENTER. There is no doubt we are a great set of fellows.

Mr. EATON. You cannot whistle it down the wind that way.

Mr. CARPENTER. If there is any one thing I do not wish to whistle down the wind, it is my own greatness and the greatness of the Senator from Connecticut. He assumes that the Senate in the aggregate are so distinguished either by their own qualities or by the office they hold that they are exempt from the rules which apply to judicial tribunals. That is the proposition, is it not?

Mr. EATON. Go on, sir. I will state my position when the proper time comes.

Mr. CARPENTER. That I understand to be the proposition of the Senator. Now, has not the Supreme Court got every title of eminence and distinction and lawlessness that we have? Does it not represent all the States, sit for the whole Republic, to decide questions between States and between citizens of different States; daily exercising the grandest jurisdiction ever possessed by any judicial tribunal on earth? Is not their jurisdiction as grand, as lofty, and as magnificent as ours? If we exercising our jurisdiction ought to be untrammeled by those rules which apply in the Supreme Court, why do we not abolish those rules for the Supreme Court? We can do that. We can say that there shall be no *res adjudicata* in that court. If it is a good thing to have such a rule, then will not some one point out why it should not be applied to this body as well as to the Supreme Court? It has often been asserted in this debate that the rule of *res adjudicata* belongs to the judicial courts and is not applicable here. But no one has given the reason why it should not be. This rule in the judicial courts has been adopted as necessary to end strife. It has grown up from the experience of the ablest jurists who for centuries in the most enlightened countries have devoted their lives to the ascertainment of the safest and best methods of settling disputes.

Now, it is conceded that the Senate in passing upon a contested-election case exercises a power judicial in its character. Facts must be ascertained to which general principles of law are to be applied, and the object in view is to do justice between contesting claimants. This is precisely what is being done in our judicial courts; and if the rule be a wise one in settling disputes in the courts, why is it not a wise one to be followed here? If it be necessary to the settlement of all other disputes between men, why is it not equally essential here? It has been said that a State is interested in this controversy; that it is a question between the State of Louisiana and the Senate; that it does not concern Spofford and KELLOGG, but the people of a State, who are suing for the right to be represented on this floor by two Senators elected by their Legislature and that KELLOGG was not so elected.

That the people have an interest in being represented by Senators elected by their Legislature I admit. But the inference drawn from it is a total fallacy. The people have the same interest in every office created by law. The office is created for the public benefit, but it is the theory of our Government that the officer when properly elected has a personal, individual, legal right to hold the office, exercise its functions, and enjoy its emoluments. The courts have held that *quo warranto* may be maintained on behalf of the person legally entitled to an office against an intruder or officer *de facto*, from governor to constable. The case of Senators and Representatives is exceptional only in this, that the power of determination, a power judicial in its character, is vested in the Houses themselves. Therefore I can see no reason why a principle which every one concedes is proper to be applied in all other instances should not be in this. And no one has attempted to give a reason, and I believe none can be given. If there be a reason it must rest upon the theory announced by the Senator from Connecticut, that the Senate is bound by no law—which I understand to be his meaning in saying "the Senate is a law unto itself"—and may do what it pleases; choose between contesting claimants to a seat, as the President may choose between rival candidates for executive appointments.

The Czar of Russia is a law unto himself; so is the Sultan of Turkey; so is every absolute despot. But it will be difficult to prove that the Senate of the United States possesses such character.

The Senator from Georgia with an air of triumph read the constitutional provision that the Senate should consist of two Senators from each State elected by the Legislature thereof. He then asserted his ability to show that KELLOGG was not so elected, and then, with an air almost of denunciation, called upon us to determine whether we would adhere to the decision of the Senate that KELLOGG had been so elected, or obey the Constitution we had sworn to support, and assuming the mien of the prophet, and quoting his language, he said: "Now choose this day whom ye will serve," the former Senate with a republican majority, or the Constitution itself. This was high tragedy and great nonsense.

The Constitution declares that the Senators shall be persons who have been elected by the Legislature of their respective States, and that the Senate *shall be the judge* of whether they have been so elected. And the Senate after full hearing has decided that KELLOGG was so elected. Therefore for the Senator from Georgia to assert, after such decision, that KELLOGG was not so elected, is to put himself against the final judgment of the tribunal to which the Constitution has confided the exclusive power to settle the question. As well might a defeated party to an action of ejectment, after the Supreme Court has decided against him, assert, This is my land; the Constitution secures to me my own; and therefore the marshal who executes the judgment of the court violates the Constitution.

I do not propose to pursue this matter much further. The Senator from Georgia referred to the case of Bridge *vs.* Gray, in 14 Pickering, pages 59 and 60, as sustaining the theory of the right of the Senate to rehear this case. What was that case? There a plaintiff sued a defendant by declaration containing the common counts for goods sold and delivered. The defendant pleaded former recovery on the same cause of action, and produced in evidence a record of another suit brought by the same plaintiff against the same defendant on the common counts for goods sold and delivered.

But the proposition that where a party has had an opportunity to make a particular defense, but has neglected to do so, he is as much estopped as though he had made the defense and been defeated, I refer to the following cases: Bridge Company *vs.* Wallace, 27 Ohio, 37; Beloit *vs.* Morgan, 7 Wall., 621. The last case was this action was brought by Morgan *vs.* Beloit on certain coupons of an issue of bonds. The amount claimed was small, and the town allowed judgment to go by default. Subsequently action was brought on a large amount of coupons from the same issue of bonds. The town appeared and made defense, but the Supreme Court held that inasmuch as the same defense, the invalidity of the bonds, might have been interposed in the former suit, the town was forever estopped to question their validity; that is, the question of the validity of the bonds was *res adjudicata*.

In Cromwell *vs.* County of Sac, 4 Otto, 358, in the opinion of the court, delivered by Mr. Justice Field, there is an elaborate examination of authorities, and the same doctrine is reaffirmed.

Now apply that doctrine to this case for a moment. Here was a claimant, claiming a seat from the State of Louisiana. No one will deny that the Senate had jurisdiction to pass upon the question; that it had power at that time to determine, and that it was the duty of the Senate to determine, whether Kellogg or Spofford was entitled to the seat.

The decision of that question involved various other questions, namely, the qualifications, the election, and so forth. The Senate decided the questions, seated KELLOGG as a Senator, and thereby precluded all the questions involved in that decision. And Spofford, who had an opportunity to make out his case, but failed to do so, is as much estopped as though he had presented every point in his favor and raised every question against KELLOGG.

Now, will any one deny that when the Senate was first considering this case it would have been relevant and proper for Mr. Spofford to show that the body which elected him was the true Legislature, and that the body which elected KELLOGG was not? And if he had shown this, would not the Senate—if it had acted honestly, as we must presume it did—have decided in favor of Mr. Spofford? If this be so, then upon the authorities I have read it is immaterial here and now whether he did or did not make such proof. He is estopped from the mere fact that he had the opportunity.

The decision of the Senate in favor of KELLOGG cannot be attacked upon the ground that the Senate acted badly, partially, or corruptly. The conclusive presumption of law is the reverse; and no one can be heard to dispute that conclusive presumption which applies to the proceedings of every tribunal of last resort acting judicially.

Now, unless you can find some decision to the effect that the judgment of even a justice of the peace can be impeached in equity or otherwise for his misconduct and corruption, then I say you cannot so assail the Senate of the United States; and I say that without some authority establishing a doctrine of that kind, in face of all the decisions applicable to all other tribunals, it would be monstrous for the democrats to assert, in the Senate of the United States, one or two years having passed and the political majority having changed from one side to the other, "You republicans were all corrupt last year;" and for republicans hereafter, when we get the Senate, to say, "You democrats were all corrupt when you set aside our honest judgment, and we will reverse yours," and so on. That would Mexicanize the Senate. We have heard a good deal about the danger of Mexicanizing our population by discordant elements. It has never been apprehended that the Senate was in such danger.

Now, I beg that the Senate shall not in this temporary eclipse of republicanism suffer a degradation never charged upon it before. I do not fear that it will. I do not mean to insinuate that any Senator that differs with me is dishonest in his conclusions. I only think he is mistaken, as he thinks I am. I mean nothing more, but I do hope and I do pray that the decision and termination of this question to-day, by a Senate of different political faith, will be such as to establish the confidence of all men, of all parties, in the Senate of the

United States. Let us have one place where law can be heard and be respected. Let us have one place where justice without compulsion, without being strained, as they say mercy is not, is administered, and where political majorities have nothing to do with such questions.

Senators, is this not a fact; is it not true as asserted by the minority of the committee in their report, that the only fact that is different to-day from the facts on the day when KELLOGG was seated is that the political majority has passed from one party to the other? It may be said some new witnesses have been called. That is true; but they are called to old facts; to facts which were before asserted; to facts which were claimed to be known by Mr. Spofford, and they were heard as far as the Senate would hear them. Not a fact has transpired since KELLOGG was seated except that the political majority has changed.

Let us decide this case so as to give to the whole country the assurance that the mere changing of political sentiments or numbers in this Chamber does not change the principles of action which govern the Senate when it acts in a judicial capacity.

Mr. PENDLETON. Mr. President——

Mr. RANSOM. I move that the Senate proceed to the consideration of executive business. It is late; and the Senator from Ohio will have the floor for to-morrow.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened, and (at four o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 13, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read.

Mr. HASKELL. I desire to have a correction of the Journal, or rather to ask its condition. As it was read I noticed that the order asked by the Committee on Indian Affairs through me, when I reported to the House the bill for the relief of John Black, does not appear in the Journal. The order was that the bill, with the accompanying report, should be referred to the Committee of the Whole on the Private Calendar and printed. The clause ordering the bill and report to be printed does not appear in the Journal as I heard it read.

The SPEAKER. The rule requires the printing in such cases.

Mr. HASKELL. I noticed in regard to other bills that the usual clause directing the printing was inserted in the Journal, but in the case to which I have referred it was omitted. I wanted to make sure that the order to print was made by the House.

The SPEAKER. The order to print is made under the rule.

The Journal, as read, was approved.

GIDEON WALKER.

Mr. HOSTETLER, by unanimous consent, introduced a bill (H. R. No. 6205) for the relief of the representatives of Gideon Walker, deceased, a soldier in the United States Army from 1792 to 1795; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HERBERT. I ask unanimous consent to have taken from the Speaker's table, for consideration at this time, Senate bill No. 464, for the erection of a public building at Montgomery, Alabama.

Mr. PAGE. I do not want to object to this particular bill, but I think there should be some day fixed for the consideration of such bills, so that we all may have a chance.

Mr. BRIGGS. I object.

Mr. COBB. I ask consent to report from the Committee on Appropriations for immediate consideration a bill making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

Mr. GARFIELD. I reserve all points of order on that bill.

Mr. HERBERT. The gentleman from New Hampshire [Mr. BRIGGS] withdraws his objection to my request that Senate bill No. 464 be taken from the Speaker's table at this time.

The SPEAKER. The Chair will recognize the gentleman from Alabama later.

Mr. COBB. This is an important bill. I will state to the gentleman from Ohio [Mr. GARFIELD] that this bill has been prepared right under the eye of the Department officials, and it is necessary that it should be considered at once.

Mr. TOWNSHEND, of Illinois. I ask the gentleman to yield to me to have a reference made.

Mr. WHITTHORNE. I desire to present a bill for reference.

Mr. COBB. I will not object.

MARY AND ANNIE PLUNKETT.

Mr. WHITTHORNE, by unanimous consent, introduced a bill (H. R. No. 6206) granting a pension to Mary and Annie Plunkett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. TOWNSHEND, of Illinois. I ask unanimous consent to present first eighty-seven petitions, containing sixteen hundred and fifty-seven signatures——

Mr. REED. Let the petitions go into the petition-box.

Mr. TOWNSHEND, of Illinois. They should be first read before the gentleman can object.

The SPEAKER. Objection is made.

Mr. TOWNSHEND, of Illinois. Who objects?

The SPEAKER. Several members have objected.

Mr. TOWNSHEND, of Illinois. Then I rise to a question of privilege, and as such upon the introduction of these petitions, embracing twenty-two hundred and seventeen names from twelve different States of this Union.

The SPEAKER. That is not a question of privilege. Under the rules all petitions go into the box.

Mr. TOWNSHEND, of Illinois. I rise to a question of privilege. Under the Constitution of the United States——

Mr. DAVIS, of North Carolina. I call for the regular order.

The SPEAKER. The gentleman will state his question of privilege.

Mr. TOWNSHEND, of Illinois. It is this: I have sent to the Clerk's desk one hundred and five petitions——

Mr. GARFIELD. That is not a question of privilege. [Cries of "Regular order!"]

Mr. TOWNSHEND, of Illinois. I do not propose to be howled down here.

The SPEAKER. The gentleman will state his question of privilege.

Mr. TOWNSHEND, of Illinois. I will again repeat——

The SPEAKER. The gentleman will state his question of privilege.

Mr. TOWNSHEND, of Illinois. I propose to do so. I have sent to the Clerk's desk one hundred and five petitions, containing twenty-two hundred and seventeen names, [cries of "Regular order!"] from different States of this Union, east, south, and west; and under the first amendment to the Constitution of the United States I insist that these petitioners have the right to be heard in this House. These petitioners pray for the abolition of the duty on salt. I contend that notwithstanding we have a rule here which requires these petitions to be put into a box, yet under the Constitution of the United States the people cannot be deprived of the right to petition the Government for a redress of their grievances.

The SPEAKER. In answer to the gentleman the Chair desires to state that the people are not deprived of their right to petition. On the contrary, there is a clause in the Constitution which provides that each House shall determine the rules of its proceedings, and one of the rules of this House is in regard to the manner of presenting petitions.

Mr. TOWNSHEND, of Illinois. Granting that the House has the privilege to make its own rules, still there is the first amendment to the Constitution in peremptory language declaring that the Congress of the United States shall not abridge the right of the people to petition for a redress of their grievances.

The SPEAKER. The House, in the opinion of the Chair, has not attempted to abridge that right. On the contrary, it has adopted a rule by which the presentation of petitions may be facilitated.

Mr. TOWNSHEND, of Illinois. Facilitated how? By being sent to a box?

The SPEAKER. By going promptly, indeed immediately, to committees.

Mr. WEAVER. Facilitated by hiding them.

Mr. TOWNSHEND, of Illinois. I desire further to say—— [Cries of "Regular order!"]

The SPEAKER. Gentleman will promote the "regular order" by being silent.

Mr. TOWNSHEND, of Illinois. I desire to say that the rule in question does not facilitate the presentation of these petitions. The Committee on Ways and Means, which under the rules is the only committee that considers them, has decided that the question of abolishing the duty on salt shall be ignored, thus suppressing all petitions of this character. I insist that under the provision of the Constitution it is not competent for this House to provide by a rule that the right of petition shall be abridged. Therefore I demand that these petitions be read.

The SPEAKER. The right of petition has not been abridged by any rule. On the contrary, there have been as many as sixteen thousand petitions presented during this Congress.

Mr. TOWNSHEND, of Illinois. And no one of them that has gone to the Committee on Ways and Means in regard to the tax on salt has been heard from.

Mr. CABELL. They should be put before the House for their information rather than before the committees to be smothered.

The SPEAKER. This is not a question of tax on salt; it is a mere question of the right of a gentleman to rise in his place and without consent, without conforming to the prescribed method of vacating the rule as to the presentation of petitions, to have these petitions read in open House.

Mr. TOWNSHEND, of Illinois. I send now to the Clerk's desk to be read the first amendment of the Constitution——

Mr. REED. As the gentleman from Illinois has now had his opportunity to become famous, I submit that we ought to go on with our business. I wish the Chair would rule on the subject.

The SPEAKER. The Chair will hear read the provision of the Constitution which the gentleman has sent up.

The Clerk read as follows:

AMENDMENTS.

ARTICLE I.

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

Mr. TOWNSHEND, of Illinois. Now, the point I submit is that the rule to which the Speaker has referred virtually nullifies that amendment of the Constitution of the United States.

The SPEAKER. That is a matter which the House decided when the rule was adopted.

Mr. TOWNSHEND, of Illinois. Then, I wish the Speaker to pass now upon the question I submit.

The SPEAKER. The Chair is ready to pass upon it.

Mr. TOWNSHEND, of Illinois. I wish the Speaker to decide whether under that provision of the Constitution I have not the right here to present these petitions as a representative of the people, speaking for over forty millions of people in this country, who are consumers of salt and who are suffering from the onerous burden which has been placed upon them by what I feel and believe is a species of thievery by monopoly or protective tariff.

The SPEAKER. The Chair would hold that the House has made a rule which binds the Chair, and which must be conformed to unless it be waived by unanimous consent or suspended when a motion to suspend the rules is in order. The Chair, however, expresses the opinion that the rule does not in any degree abridge the right of petition. He holds that the gentleman must conform to the rules and present his petition in the way which the rules prescribe.

Mr. TOWNSHEND, of Illinois. Allow me to ask the honorable Speaker this question. [Cries of "Regular order!"] If the rule should require these petitions to be sent to the crypt, would not that be an abridgment of the constitutional right of petition?

The SPEAKER. The House must judge whether its own rules are an abridgment of any constitutional right. The Chair merely expresses his individual opinion that the rule on this subject as framed by the House, and which the Chair is bound to obey, does not abridge the right of petition.

Mr. TOWNSHEND, of Illinois. But I insist that if the rules should require these petitions to be sent to the coal-scuttle or the crypt, that would be an abridgment of the right of petition.

The SPEAKER. But the petitions go to the appropriate committees.

Mr. TOWNSHEND, of Illinois. Bear with me one moment——

The SPEAKER. The Chair has borne with the gentleman very long.

Mr. TOWNSHEND, of Illinois. When a committee of the House has declared by its deliberate action that it will not consider these petitions, I insist that it is an abridgment of the right of petition to send the petitions to that committee. [Cries of "Regular order!"]

The SPEAKER. The Chair has decided that point.

DEFICIENCY APPROPRIATION FOR PENSIONS, ETC.

The SPEAKER. The gentleman from Indiana [Mr. COBB] asks unanimous consent to present a bill for immediate action. The title will be read.

The Clerk read as follows:

A bill making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

The SPEAKER. If there be no objection, the bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated for the payment of pensions for the fiscal year ending June 30, 1880, (being a deficiency appropriation for said year,) and for other purposes.

For pensions for Army invalids, widows, minors, and dependent relatives, survivors of the war of 1812, and widows of the war of 1812, $8,500,000.

For Navy pensions to invalids, widows, minors, and dependent relatives, $225,000.

For the arrears of pensions due on claims in which the pensions were allowed prior to January 25, 1879, $500,000; the amounts paid out respectively for Army and Navy pensions, to be accounted for separately by the proper accounting officers of the Treasury Department.

To pay and allowances for salary, fees for preparing vouchers, rent, fuel, light, and postage on official matter directed to the Departments and Bureaus at Washington, $15,000.

Patent-Office:

For payment for illustrations of the Patent-Office Official Gazette, $3,299.22.

Total sum recommended by this bill is, $9,243,299.22.

Mr. HOOKER. I reserve all points of order.

The SPEAKER. The gentleman from Indiana asks unanimous consent that this bill be read a first and second time and the question put on its engrossment and third reading. The Chair hears no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOOKER. Ought not that bill to go to the Committee of the Whole House on the state of the Union for its first consideration?

The SPEAKER. It would have gone there if unanimous consent had not been given otherwise.

Mr. HOOKER. I was not aware unanimous consent was given. I did not know any such thing was asked. I make the point of order it must go to the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman was on his feet, and if he states it was for the purpose of objecting to the consideration of the bill by unanimous consent other than the usual requirements of the rules, that is, that it should have its first consideration in the Committee——

Mr. HOOKER. It is too large a bill to pass without consideration.

Mr. COBB. If the gentleman will give me his attention I will explain this bill.

Mr. HOOKER. We have already an appropriation bill pending.

The SPEAKER. That is in the Committee of the Whole House on the state of the Union.

Mr. HOOKER. I understand that.

The SPEAKER. It was understood by unanimous consent the bill was allowed to be before the House; but the Chair never takes advantage.

Mr. HOOKER. I make the point of order it should go to the Committee of the Whole House on the state of the Union.

The SPEAKER. The Chair retraces the steps taken and holds the point to be a good one; and therefore the bill is referred to the Committee of the Whole House on the state of the Union.

Mr. HAWLEY. I hope unanimous consent will be given to the passage of this bill at this time. The money is due, the pensions and bounties are due, and the Committee on Appropriations is unanimous. There is no objection in the world to it.

Mr. COBB. The amounts are necessary, and there can be no doubt about it. It has been carefully prepared under the eye of the Commissioner of Pensions, and the money is necessary.

Mr. GARFIELD. I suggest that the gentleman move to go into Committee of the Whole House on the state of the Union.

Mr. COBB. I make that motion; and pending that I move that all general debate be limited to one minute.

Mr. HOOKER. Has this bill ever been printed?

The SPEAKER. It has not.

Mr. HOOKER. I object, then, to the consideration of it at this time. It is impossible for anybody in the committee to know anything about it.

Mr. GARFIELD. That objection does not lie.

The SPEAKER. The question is on closing debate in one minute.

The motion was agreed to.

The House then resolved itself into the Committee of the Whole House on the state of the Union, Mr. GOODE in the chair.

The CHAIRMAN. The Clerk will read the title of the bill.

The Clerk proceeded to read, as follows:

A bill making appropriations for a deficiency——

Mr. HOOKER. I rise to a point of order, that, in the Committee of the Whole House on the state of the Union, you must take up the bills as they stand upon the Calendar. This bill, by order of the House, has no precedence. There is one bill already pending. This bill can be taken up only by unanimous consent.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Mississippi.

Mr. ATKINS. The gentleman from Illinois claims the floor——

Mr. GARFIELD. Did we not go into the Committee of the Whole House on the state of the Union on the special order? Was not that the order of the gentleman from Indiana? I so understood it, and debate was limited to one minute.

Mr. PAGE. Yes, sir; limited to one minute.

Mr. GARFIELD. The special order of the House, made on his motion, was that we go into the Committee of the Whole on this pension deficiency bill. I think the Chair is bound by the order.

Mr. HOOKER. I desire to say in reference to what has fallen from the gentleman from Ohio, there was no order of the House to go into the Committee of the Whole House on the state of the Union.

Mr. COBB. That was my motion.

Mr. HOOKER. My point of order, Mr. Chairman, is——

Mr. GARFIELD. The Chair is bound by the order of the House.

Mr. HOOKER. I have the floor, sir. My point is this: that having gone into Committee of the Whole, where you have a bill now pending, I can see no reason for taking up another bill until that one pending is disposed of. Under the rule, explicitly, when you go into the Committee of the Whole you must take up the bills as they stand upon the Calendar for consideration.

Mr. COBB. The motion which I made was to go into the Committee of the Whole House on the state of the Union for the consideration of this particular bill. I take it, when we have gone into the Committee of the Whole for that purpose, we must consider that bill.

The CHAIRMAN. The Clerk will read the record of the proceedings.

Mr. GARFIELD. If the Chair will allow me before that is done—the Speaker stated from the chair to the gentleman from Indiana that he could move to go into the Committee of the Whole House on the state of the Union on this bill. I may not express the exact language, but that was the purport of it. That motion was made in accordance with the suggestion of the Speaker and agreed to.

Mr. RANDALL, (the Speaker.) The motion is, that the House resolve itself into the Committee of the Whole on the state of the Union. Then the committee, after being in Committee of the Whole

on the state of the Union, determines for itself what business and how it shall proceed.

Mr. ATKINS. I rise for the purpose of making a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. Would it be in order to move to lay aside the executive, legislative, and judicial appropriation bill in order to proceed to the consideration of the deficiency bill?

The CHAIRMAN. The Chair thinks it would be in order to make that motion.

Mr. ATKINS. Then I move to lay aside, temporarily, the legislative, executive, and judicial appropriation bill to proceed with the consideration of the bill reported by the gentleman from Indiana, [Mr. COBB.]

Mr. REAGAN. I wish to ask if it would be considered as proper to take up at this time and consider a bill involving an expenditure of millions of dollars which has never been printed, and has never, in conformity with the rules, been put upon the desk of any member of the House for his examination?

The CHAIRMAN. It is for the House to determine what business it will take up and consider. The question now is on the motion of the gentleman from Tennessee to lay aside, temporarily, the legislative appropriation bill.

The motion was agreed to.

Mr. HOOKER. I rise to a point of order. I do not know what the new rules provide in that respect, but obviously we ought not, and should not be compelled, to proceed to the consideration of this bill, of which we know nothing except from the reading at the desk, and I make the point of order that before the bill can be considered it ought to be printed and laid upon the desk of every member for consideration.

The CHAIRMAN. The Clerk will read the fourth clause of Rule XXIII in reference to this subject.

The Clerk read as follows:

4. In Committees of the Whole House, business on their calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

Mr. HOOKER. It will be observed, Mr. Chairman, from the reading of the rule that you cannot take up any other bill out of the regular order on the calendars of the Committee of the Whole House except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors. Now, there is a general appropriation bill pending before the committee which has been partly considered. That is the unfinished business pending before the committee, and the rule is applicable to that. Therefore I make the point that the legislative bill is the only one which the committee can now consider.

The CHAIRMAN. The Chair is of opinion that it is competent for the committee to lay aside the unfinished business and proceed to the consideration of another bill. The action of the committee on that subject has been in favor of laying aside the bill to which the gentleman from Mississippi refers, in order to proceed with the consideration of this deficiency bill. If there be objection, however, the House must settle it.

Mr. REAGAN. Does the Chair hold that it can be done in committee without going back into the House?

Mr. HOOKER. In addition to that point the Chair will note that this is not a general appropriation bill.

The CHAIRMAN. Objection being made to further proceedings in Committee of the Whole on the state of the Union the committee will now rise and report to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GOODE reported that in the Committee of the Whole on the state of the Union objection was made to the consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, which objection the committee had directed him to report to the House.

The SPEAKER. The chairman of the Committee of the Whole on the state of the Union having reported that objection was made in Committee of the Whole to the further consideration of the bill the title of which he has indicated, the question is now, will the House order the bill to be laid aside in the Committee of the Whole on the state of the Union.

Mr. HOOKER. I rise to a parliamentary inquiry. I understand the scope of this question is as to whether or not the House will permit the legislative and executive bill under consideration in the Committee of the Whole House to be temporarily laid aside and the bill reported by the gentleman from Indiana [Mr. COBB] to be taken up for consideration instead of it.

The SPEAKER. That is the practical condition of the question before the House.

Mr. HOOKER. Before that question is put to the House I desire to say a word upon it.

The SPEAKER. Under the rule this question must be decided without debate.

Mr. HOOKER. I understand that, but I raise now the point of order, and on that I desire to say a word. The point which I have made and which I now make is that in view of the provisions of the fourth clause of the twenty-third rule of this House you cannot by any action of the House give preference in the consideration by the Committee of the Whole House of one bill over another. In other words, you may lay aside any bill except an appropriation bill and give preference to any other bill, but when you come into Committee of the Whole House, by the terms of the rule, you must give precedence to those bills in the order in which they are on its Calendar or as specified in the rule. The rule is:

In Committees of the Whole House business on their calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors.

The SPEAKER. The gentleman from Mississippi will observe that this is an appropriation bill, and therefore has preference over any other bills upon the Calendar, except it be a bill for raising revenue and known as a revenue or tariff bill.

Mr. HOOKER. But this is not a general appropriation bill.

The SPEAKER. It may be considered a portion of an appropriation bill, since the Revised Statutes provide for an appropriation for the payment of pensions.

Mr. HOOKER. Still it is not a general appropriation bill.

The SPEAKER. If it is a part of a general appropriation bill, it would come within the scope of the rule.

Mr. HOOKER. But if it is not a general appropriation bill, it does not come within the rule. I understand this to be a deficiency bill. I ask the gentleman from Indiana if it is not?

Mr. COBB. It is a deficiency bill.

Mr. HOOKER. Then, being a deficiency bill, it is not a general appropriation bill.

The SPEAKER. A deficiency bill under the old rule is not a general appropriation bill; but this is a part of an appropriation bill authorized under the Revised Statutes to pay pensions.

Mr. CONVERSE. I rise to a parliamentary inquiry. I would like to inquire whether it is a good parliamentary practice to introduce a bill making an appropriation when there is already on the Speaker's table a bill making the same appropriation, and which is ready for action?

The SPEAKER. That is a matter for the House to determine.

Mr. CONVERSE. I understand this same bill has been acted upon by both Houses and vetoed by the President, [cries of "Oh, no!"] and is now on the Speaker's table.

Mr. COBB. A part of the bill is on the Speaker's table, but there is a much larger sum provided in this bill than the one to which the gentleman from Ohio refers, and which is now on the Speaker's table.

Mr. CONVERSE. Did not the gentleman from Indiana claim that these six millions were needed for the soldiers; that six millions out of the eight appropriated in the bill were for the soldiers?

Mr. COBB. There are $9,000,000 in this bill, nearly all of which is needed for the soldiers.

Mr. REAGAN. I move that the bill be laid aside and printed.

The SPEAKER. The question before the House is in reference to the laying aside, in Committee of the Whole, of the legislative, executive, and judicial bill. The motion of the gentleman from Texas has reference to another bill. The Chair entertains only the question as it came from the Committee of the Whole on the state of the Union of laying aside the bill to the consideration of which objection was made. The question is on laying aside in Committee of the Whole on the state of the Union the legislative, executive, and judicial appropriation bill.

The question being taken, there were—ayes 117, noes 40.

Mr. McKENZIE. I call for the yeas and nays.

Mr. BLACKBURN. I desire to ask the gentleman introducing this bill a question. I want to know whether it has ever been submitted to the Committee on Appropriations for consideration or approval?

Mr. COBB. No, sir; it has not.

Mr. BLACKBURN. Then I make the point of order that this bill is not reported from the Committee on Appropriations.

Mr. COBB. I did not pretend to report it from the Committee on Appropriations.

The SPEAKER. The Chair thinks the point of order made by the gentleman from Kentucky comes too late. The Chair, however, was not aware until now that this was not a report authorized by the Committee on Appropriations.

The question being taken on ordering the yeas and nays, there were ayes 40.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. ATKINS, (interrupting the roll-call.) I ask unanimous consent to make a statement.

The SPEAKER. Is there objection to the gentleman from Tennessee making a statement? [After a pause.] The Chair hears none.

Mr. HOOKER. I insist on the point of order that if this bill did not come from a committee it is not properly before the House.

The SPEAKER. The Chair did not know when this bill was introduced whether it came from a committee or not. The Chair supposed it did.

Mr. MANNING. If the remarks of the gentleman from Connecticut,

[Mr. HAWLEY,] as taken by the official reporters, be read, I think it will be seen that that gentleman stated the Committee on Appropriations were unanimous in reporting this bill.

Mr. HAWLEY. I wish to repeat the remarks I made and to explain them. I have just been to the committee-room of the Committee on Appropriations, and received from the clerk the confirmation of my statement with this difference: I find I was in a slight degree mistaken. The Committee on Appropriations voted to direct the gentleman from Indiana to prepare this bill and submit it.

Mr. WARNER. To the committee or to the House?

Mr. HAWLEY. To the House.

Mr. BLACKBURN. No, sir; I undertake to say the Committee on Appropriations never saw this bill. It is not to-day in print, and neither the committee nor the House has seen it.

Mr. HAWLEY. I know that the bill in this form has not been before the committee.

The SPEAKER. This proceeding is out of order. The roll-call was allowed to be interrupted to permit the gentleman from Tennessee to make a statement, by unanimous consent, looking to an adjustment of the difficulties.

Mr. ATKINS. If it be objected to I withdraw my request.

Mr. SPRINGER. I hope that order will be restored and that the gentleman from Tennessee will be permitted to make his statement.

The SPEAKER. The gentleman from Tennessee, the Chair understands, withdraws his request.

The Clerk resumed the call of the roll.

Mr. TOWNSHEND, of Illinois, (interrupting the roll-call.) I rise to a question of order. As I understood, the House granted the privilege to the gentleman from Tennessee to make a statement. [Cries of "Regular order!"] I insist that unanimous consent having been given to the gentleman to make a statement he be permitted to proceed.

The SPEAKER. The Chair supposed the gentleman from Tennessee desired to bring this controversy to a conclusion by making a proposition, and with that view had permitted, unanimous consent having been given, the gentleman from Tennessee to make a statement during the roll-call, which is unusual. But the Chair further understood that the gentleman from Tennessee did not press it.

Mr. ATKINS. I did press it. But I thought objection was made.

Mr. HISCOCK. I hope there will be no objection to the gentleman from Tennessee making a statement.

There was no objection.

Mr. ATKINS. If I can have the attention of the House for a few moments I will state that this matter was brought before the Committee on Appropriations and was referred to the sub-committee upon deficiencies of which the gentleman from Indiana [Mr. COBB] is at present a member. They were instructed to investigate the subject and bring it back before the Committee on Appropriations for its action. This morning was the regular morning for the meeting of the Committee on Appropriations. But the order of the House on yesterday evening that the House should meet this morning at half past ten o'clock, the hour at which the Committee on Appropriations usually meets, superseded the ability of that committee to meet this morning. Hence there was no meeting. And then, there having been no meeting, the gentleman from Indiana having in charge this bill, upon his own volition brought the matter before the House. I doubt not if the Committee on Appropriations had heard the report of the sub-committee on appropriations they would have indorsed the report and would have recommended the passage of the bill by the House. It is simply a matter of dollars and cents under the laws made by Congress, about which we are not legislating at all. Those laws are on the statute-book and the propriety or the impropriety of those laws is not at all involved in the question. It is simply to meet the exigencies and demands of a deficiency under the arrearage of pensions act.

Mr. REAGAN. I am unwilling to interpose an objection, but I think the gentleman is going beyond the limits of the permission accorded to him by the House.

Mr. ATKINS. Then I will say no more upon that point if I am trenching on the privilege accorded to me by the House.

The SPEAKER. What does the gentleman from Tennessee suggest as the remedy?

Mr. ATKINS. My object in rising was this: this matter has produced some controversy and excitement, and I doubt not the gentleman from Indiana, who I am certain has acted innocently in the matter, will himself see he perhaps has not been entirely regular. I therefore move this bill be recommitted to the Committee on Appropriations, with instructions to have it printed. It will only take a day or two longer, and then it can be disposed of.

Mr. HISCOCK. I desire to ask the chairman of the Committee on Appropriations if all the different items, or nearly all of them, which were sent to the sub-committee, had not been considered by the Committee on Appropriations in the immediate deficiency bill? And were they not sent to the sub-committee merely that they might be properly embodied in a bill or joint resolution to be reported to this House?

Mr. ATKINS. That is practically true, as I understand it.

Mr. HISCOCK. The fact is that every item in the bill reported this morning by the gentleman from Indiana [Mr. COBB] has been considered by the Committee on Appropriations. The reference to the sub-committee was purely a formal reference in order that the bill might be prepared in form.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] asks unanimous consent that the call of the yeas and nays be vacated and that this bill be withdrawn.

Mr. HAWLEY. I rise to a question of privilege, to make a brief statement of facts. When this question was brought up, whether this bill had been before the Committee on Appropriations and approved, I said that it had been. And I was justified in so saying by the answer of my colleague on the committee [Mr. BAKER] in reply to my inquiry. I went to the committee-room and made the inquiry of the clerk of the Committee on Appropriations, and his recollection comported with mine precisely. It was not that the matters had been referred to the sub-committee for incorporation in a bill, as the gentleman from Tennessee [Mr. ATKINS] states, to be reported back to the full committee, but that they were referred to the sub-committee with instructions to prepare a bill and report it to the House. I may have been mistaken, and the clerk of the committee may have been mistaken, and the chairman of the Committee on Appropriations may be correct. But that is the recollection of the gentleman from Indiana, [Mr. BAKER,] the clerk of the committee, and myself.

Mr. COBB. I desire to make a statement. I remember the facts in this case about as follows: The question with reference to this deficiency came up in the Committee on Appropriations, and was referred to the sub-committee on deficiencies, of which I am a member, for the purpose of getting up a bill. That sub-committee met and perfected the bill which has been presented by myself this morning. The Committee on Appropriations was to have held a meeting this morning, but failed to do so because of the early meeting of the House.

There was an urgent necessity for the passage of this bill. I consulted with some individual members of the Committee on Appropriations and they expressed themselves anxious, as I was, to have the bill presented at the very earliest moment, knowing as we did the necessity for its prompt passage. For that reason I overlooked the formality, which I conceive merely to be a formality, of waiting until a regular meeting of the Committee on Appropriations for the purpose of presenting the bill to them for their consideration and approval, believing, as I now believe, that they would unanimously consent to it and indorse it, and instruct me to report it to the House. Now, if I have been guilty of a discourtesy toward any of my fellow-members of the Committee on Appropriations, I regret it exceedingly. I did what I have done in the best of faith, believing that it was necessary this bill should be passed at once. I did not believe there would be any objection to it. But there seems to be objection, and all I have to say is that having performed my duty, whether this bill passes or not, I shall be content. I therefore consent to the proposition of the gentleman from Tennessee.

Mr. HISCOCK. What is that proposition?

The SPEAKER. It is that by unanimous consent the further call of the yeas and nays be dispensed with, and the bill be withdrawn.

Mr. ATKINS. And that the bill be printed.

The SPEAKER. The printing of a bill involves the introduction or the reporting of it. The Chair supposed that the idea was to have the bill withdrawn entirely, and thereby vacate all the proceedings here in regard to it.

Mr. ATKINS. Very well.

The SPEAKER. It will have to be brought into the House anew under the order of the committee.

Mr. HISCOCK. I suppose that by unanimous consent it may be printed?

The SPEAKER. It may be; but the Chair was not at liberty to put the proposition in that way.

Mr. HISCOCK. I ask unanimous consent for that purpose.

Mr. BLACKBURN. No; let us put things back just as they were.

Mr. HISCOCK. If we order it printed now it will save a day.

Mr. BLACKBURN. Let it be brought in under the order of the committee, if the committee shall order it, and it can be printed to-morrow.

The SPEAKER. Is there objection to printing the bill?

Mr. BLACKBURN. I object.

The SPEAKER. Is there objection to the proposition of the gentleman from Tennessee [Mr. ATKINS] that the further call of the yeas and nays be dispensed with, the order for the yeas and nays vacated, and the bill withdrawn?

There was no objection, and it was so ordered.

PUBLIC BUILDING AT MONTGOMERY, ALABAMA.

Mr. HERBERT. The gentleman from New Hampshire [Mr. BRIGGS] has withdrawn his objection to the consideration of Senate bill No. 464 at this time, and I now ask unanimous consent that it be taken from the Speaker's table.

Mr. PAGE. I want to ask unanimous consent that Saturday of next week be set apart for the consideration of all these bills relating to public buildings.

The SPEAKER. The Chair can submit but one request for unanimous consent at a time.

Mr. PAGE. There are a great many other bills.

The SPEAKER. Does the gentleman object?

Mr. PAGE. I do not object; but I think that in all fairness to other members of the House——

The SPEAKER. The gentleman does not object.

Mr. SPRINGER. What is the request of the gentleman from Alabama?

The SPEAKER. The gentleman from Alabama [Mr. HERBERT] asks consent to take from the Speaker's table for consideration at this time a Senate bill providing for the construction of a public building at Montgomery, Alabama.

Mr. HARRIS, of Virginia. It will take but a moment.

Mr. SPRINGER. If it will give rise to no debate I will not object. But the House has given me unanimous consent to make a personal explanation at this time and I will claim the floor after a reasonable time.

Mr. PAGE. I ask the Chair to recognize me to ask unanimous consent for setting apart Saturday of next week for the consideration of bills relating to public buildings.

The SPEAKER. The Chair will recognize the gentleman after this matter has been disposed of. The bill will be read, after which any member will have the right to object.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site for, and cause to be erected, a suitable building, with proper fire-proof vaults therein, for the accommodation of the courts of the United States, post-office, land office, internal-revenue offices, and other Government offices at the city of Montgomery, Alabama. The site and buildings thereon, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $125,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title to the site of said building shall be vested in the United States, and until the State of Alabama shall have ceded to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of any civil process therein: *And provided further*, That the lot of land so purchased for a site shall be such as to afford an open space between the building hereby authorized and any other building of not less than forty feet.

SEC. 2. That the sum of $40,000 be, and the same is hereby, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to be used and expended in the purchase of said site and toward the construction of said building.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

Mr. HERBERT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. PAGE. I now ask unanimous consent that Saturday the 22d instant, after the reading of the Journal, be set apart for the consideration of Senate and House bills reported from the Committee on Public Buildings and Grounds.

Mr. BOUCK. I object.

PERSONAL EXPLANATION—VENEZUELAN CLAIMS.

The SPEAKER. Under the order of the House the gentleman from Illinois [Mr. SPRINGER] is now recognized to make a statement in reply to the gentleman from Indiana, [Mr. ORTH.]

Mr. MONROE. As the gentleman from Illinois the other day made some use of my name, I ask him to yield to me five or six minutes for a brief statement.

Mr. SPRINGER. I do so with pleasure.

Mr. MONROE. Mr. Speaker, the honorable gentleman from Illinois, [Mr. SPRINGER,] in some remarks submitted to the House a few days since in reply to the honorable gentleman from Indiana, [Mr. ORTH,] used the following language in regard to a report upon the Venezuelan mixed commission made to the House of Representatives in the Forty-fourth Congress by the Committee on Foreign Affairs, of which I was then a member:

On the contrary, the discrepancy between the two reports to which he refers was caused by the request of the gentleman's friends, which I granted, to omit a portion of the first report so that it should not go to the public in the official report of the House.

Mr. ORTH. By whose request?

Mr. SPRINGER. The request came from the honorable gentleman from Ohio, [Mr. MONROE.]

Mr. ORTH. The request came from none of my friends, for that report was not substantiated by any testimony.

Mr. SPRINGER. The gentleman from Ohio was a republican member of the committee and was recognized at the time this substitution was made as a friend of the gentleman from Indiana, who had retired from the canvass. I was assured by his friends on this floor that it was not proper after he had retired to private life to connect him with the investigation; therefore I was requested as a favor to him to omit that part of the report which I had prepared and submitted to the general committee.

From these remarks of the gentleman from Illinois the inference has been made by some of my friends on this side of the House that that gentleman intended to convey the impression that the republican minority on the Committee on Foreign Affairs, and especially myself, had no other or better reason to offer for omitting from that report the portion relating to Mr. ORTH than the fact that he had withdrawn from the field as a candidate. I do not think this inference fairly warranted by the language used, as it is reported in the RECORD, nor do I believe that the gentleman from Illinois could have intended or did intend to make such an impression; but the result has been that I have been requested to give my recollection of the facts in connection with this report. Although I am not authorized to speak for any one but myself, I have good reason to believe that my own views were the views of my republican colleagues upon the committee.

When I ascertained that a passage would be introduced into the report upon which the gentleman from Illinois was engaged reflecting upon the character of the gentleman from Indiana I earnestly objected to it. My first and principal reason for thus objecting was that I thought the paragraph did Mr. ORTH injustice. I had been well acquainted with him in the Forty-third Congress, of which we were both members, and had formed a favorable opinion of him as an upright and honorable man. I thought that general good character should go for something in judging of a man's conduct, and I did not think the evidence in this case furnished proof of corrupt or dishonest motives. Under all the circumstances, the course pursued by Mr. ORTH appeared to me to be as reconcilable with the theory of an honest purpose as with the opposite. While I thought that it was an error of judgment in the gentleman from Indiana to have come to Washington in the capacity of attorney for the Venezuelan claimants, yet it was evident to me, especially in view of what I knew of the good repute in which he was held, that he might have regarded what he did as coming fairly within the scope of the legitimate practice of his profession.

Having formed this opinion I urged the gentleman from Illinois to omit that portion of his report which contained the reference to Mr. ORTH, and stated to him that unless this were done I could not join him in making the report to the House. I urged further the importance of unanimity on the part of the committee in order to secure the passage of the resolution which we were about to report, and I called his attention to the probability that this paragraph would produce exciting political debate in the House, and thus imperil the measure in which we were all interested. On the other hand the gentleman from Illinois contended that the paragraph in dispute was warranted by the evidence; that it did no injustice to Mr. ORTH; that it was a legitimate part of the inquiry in which we were engaged; and that it must be retained in the report. Thus the matter remained for some days. It appeared for a time as if there must be two reports—one by the majority retaining the reference to Mr. ORTH, the other by the minority omitting it. The gentleman from Illinois, however, for the sake of unanimity in the committee finally yielded the point in dispute. The passage in regard to Mr. ORTH was omitted, as were also some other paragraphs to which the minority objected. It was thus that the report took the form which was finally submitted to the House.

It will be seen from this statement that my objections to the passage referring to Mr. ORTH in the report had nothing to do with his withdrawal of his name as a candidate. They existed before he was a candidate; they continued while he was in that relation to the public; and they remained after his name was withdrawn. They resulted from an essential difference of opinion between the gentleman from Illinois and myself as to the justice of the passage in question. I do not remember ever to have mentioned to that gentleman the termination of Mr. ORTH's candidacy as a reason for omitting the reflections upon him from the report. Other republican members of the committee may have done so, but if they did it was out of accommodation to the stand-point of the gentleman from Illinois rather than as an expression of their own views.

It may be proper to add in conclusion that I have no knowledge of the manner in which the report which appeared in the Chicago Times was given to the press. I have never read that report, but have been told by those who have read it that it differs mainly from the report which was made to the House in containing the portions which were omitted at the request of the republican members of the Committee on Foreign Affairs.

Mr. SPRINGER. Mr. Speaker, I am glad to be able to state that I fully concur with the honorable gentleman who has just taken his seat [Mr. MONROE] in the statement of facts which he has submitted with regard to the position he took in reference to omitting any portion of the proposed report referred to.

In 1866 there was authorized an international tribunal to adjudicate the claims of American citizens against the Republic of Venezuela. This commission consisted of one person appointed by the United States, one person appointed by the government of Venezuela, and an umpire, who was finally appointed or authorized to have been appointed by the representative of Russia to this Government. That convention met in 1868, in Caracas, Venezuela, sat for several months, adjudicated claims to the amount of a million and a quarter of dollars, and issued certificates to the claimants, payable in ten years in equal annual installments. Soon after these awards were made the government of Venezuela brought to the attention of our Government the fact that many of the claims adjudicated were fraudulent, fictitious, and dishonest, and that the commission was illegally constituted; also that the commissioners on the part of both governments had acted dishonestly in making the award. From this allegation of the Venezuelan government grew an extended diplomatic correspondence, which has continued up to the present time.

I am not responsible, Mr. Speaker, for bringing this subject now to the attention of this House and the country. I should not have done so but for the fact that the gentleman from Indiana, [Mr. ORTH,] in his personal explanation in this House on the 4th of this month, saw fit to explain his connection with the matter and at the same time to impugn my motives on account of my course in the

investigation as a member of the Committee on Foreign Affairs in the Forty-fourth Congress. This makes it necessary for me to explain my connection and at the same time the connection of the gentleman himself with the matter; and when I have stated and explained, as I desire to do, all the facts, I will then submit to the country whether my course in conducting the investigation into the validity of the Venezuelan mixed commission and the awards made by it was prompted by partisan motives, as he alleges, or was in strict accordance with my official duty.

If I understood the honorable gentleman aright in his explanation he made the following points: First, that the investigation was without proper jurisdiction; that neither the committee nor the House had jurisdiction of the matter investigated; second, that the draught of my proposed report as published in the Chicago Times of August 7 differs materially from that which was made to the House in the following particulars: that the portion of the draught of the proposed report referring to the appointment of umpire differed from the report finally adopted and that the omitted portions were untrue in fact, especially with reference to the appointment of umpire; that I produced extracts from the record of the Committee on Foreign Affairs of the Forty-first Congress, of which he was a member, to show his connection with the joint resolution and acts in reference to these claims; that the draught of the proposed report contained references to his testimony before the investigating committee of which I was chairman which were omitted in the report adopted by the committee and reported to the House, and which references were intended to reflect upon him "for partisan motives in the campaign;" and, lastly, that the draught of the proposed report recommended the passage of a bill which was not agreed to by the full Committee on Foreign Affairs.

The third point or allegation made by the gentleman from Indiana in his explanation is that upon the action of three Secretaries of State and the unanimous report of the committee referred to, and its adoption by the House, (that is, the report of the committee of the Forty-first Congress, of which he was a member,) he had reason to believe, and did believe, that the Venezuelan awards were honest, valid, and subsisting claims, and that consequently any reflection on him, or even the statement of his official connection with passing the law to enforce the payment of these awards or in securing the distribution of money on deposit with the State Department, was in the nature of a political prosecution of himself. The gentleman from Indiana then explained the circumstances under which he withdrew from the canvass in 1876 as a candidate for governor, and concluded with the following statement of his case:

> While I have spoken freely and plainly, I have hardly dared to trust myself in view of the treatment I received to use language that would fitly characterize this transaction, for fear of trespassing upon the proprieties of parliamentary debate. I have made my explanation and placed it where I most desired it should be placed, on the permanent records of this House. There I leave it, and I leave the conduct of my "investigator" to receive, what it so justly merits, the condemnation of all honorable men.

I have thus carefully stated the points made in the gentleman's explanation, in order that the issue which he has forced on me may be clearly defined and this House and the country may know the points at issue between us. If I have not correctly stated his position and the points made by the gentleman, I call upon him now to state wherein I have misrepresented him, and in calling on him to make this statement I say to him that I will not be disturbed at any interruption he may make during the progress of my remarks. As I desire to state the truth, and only the truth, I shall ask to be corrected by any gentleman on any proposition if I should depart in the least from the record.

Mr. ORTH. Will the gentleman from Illinois at that point where he says he tries to divest himself of the partisan character of his action in this matter inform us why he published my testimony and omitted that of every other witness?

Mr. SPRINGER. I will come to that in due time.

Mr. ORTH. I wish, then, it is to be understood——

Mr. SPRINGER. I desire to submit my remarks in a connected manner, and I will reach it in proper time.

Mr. ORTH. If that is to be understood, he is to come to this thing now and after a while, I shall submit no questions to him until he is through, and then if I see proper I shall ask the indulgence of the House to reply to him.

Mr. SPRINGER. The gentleman misunderstood me. Now, I ask simply whether I have correctly stated his position in the points which I have laid down, as made by himself. That is all at this time. He has anticipated slightly. It is a fair question whether he has any proposition to submit on that point, and if he has I will hear him. I understand he has not.

As to the first point in the gentleman's explanation, he alleges that the Committee on Foreign Affairs in the Forty-fourth Congress, of which I was a member, did not have jurisdiction to investigate the Venezuelan mixed commission and the claims which it awarded. It is scarcely necessary to consider this point at any length from the fact that the House of Representatives is the sole judge of its own jurisdiction, and, having assumed jurisdiction of this subject and referred the subject-matter to one of its committees and afterward acted on the subject in pursuance of reports submitted by that committee, it would seem it is too late on the part of any person to question that jurisdiction.

But as this point has been made with some zeal and confidence, it is only necessary to state that on the 15th of May, 1876, the President of the United States transmitted to the House of Representatives a message, with accompanying papers, on the subject from the Secretary of State. These papers from the Secretary of State transmitted to this House of Representatives were referred to the Committee on Foreign Affairs on the same day and embraced the correspondence between the Government of the United States and our minister at Venezuela, beginning April 4, 1873, and concluding with a letter from Mr. Russell to Mr. Fish, of December 24, 1875.

This correspondence is published at length in the report of the Committee on Foreign Affairs, first session Forty-fourth Congress, No. 787, pages from 6 to 56 inclusive. The letters disclose the course to be pursued to enforce the provisions of the convention with Venezuela of April 25, 1866, and the payment of adjudicated claims under the act approved February 25, 1873. In this correspondence will be found a letter (page 35 of the report) from Dr. J. M. Blanco, then minister of foreign affairs of Venezuela, to Mr. Russell, our minister at Venezuela, dated at Caracas, June 11, 1875, in which Mr. Blanco states there was no valid judgment on which the payment of these awards could be enforced because no competent tribunal existed; that in the appointment of umpire the Russian minister who appointed him and the two governments that accepted him were deceived; that the awards were the fruit of fraud; that both governments were defrauded by the arbitration; that the commissioners themselves shared in the awards which they made; that proof of this fact appears in documents sent by the government of Venezuela to Washington, and this fact alone annulled the obligation of payment.

Mr. Blanco further states in this letter that the government of Venezuela did not repudiate the treaty, but, on the contrary, sustained and defended it, and desired to have justice under it, and concluded his appeal to the Government of the United States in the following words:

> The undersigned cannot but repeat that his government believes it impossible that the Government of the great republic of North America will refuse to hear, examine, and discuss this most just question which till now it goes on keeping out of discussion and out of examination. This would be in manifest contradiction to the universal and well-deserved conviction of the enlightenment and justice of the native country of Washington.

With such an appeal made to our Government by a weaker and sister republic, and with this communication before the House of Representatives and referred to the Committee on Foreign Affairs, of which I was a member, together with the memorial of American citizens asking for relief in the premises and the enforcement of the claims, and in view of the legislation then already on the statute-book upon the subject, secured by the gentleman from Indiana [Mr. ORTH] himself by his exertions as an attorney for the claimants, as he has stated in his explanation, namely, the act of February 25, 1873, declaring these awards valid and subsisting claims against the government of Venezuela, and after a limited investigation by the gentleman himself in the Forty-first Congress, there could be no possible doubt of the right of Congress to inquire into the subject. I spoke of the right of Congress. I go further and say that it was the duty of Congress to investigate this subject in view of the following additional fact:

I find in the correspondence which was transmitted to the House of Representatives and referred to the Committee on Foreign Affairs at that time a letter from Mr. Fish, Secretary of State, to Mr. Russell, our minister in Venezuela, dated July 23, 1875, in which occurs the following significant language:

> Should the payment (of the claims) be refused or offered only in connection with conditions restraining the right of disposal of the money by the United States, you will, at the expiration of the time which you may have named, close your legation, and notify your minister of foreign affairs thereof, and take the earliest convenient opportunity to leave the country.

This official letter of the Secretary of State was to all intents and purposes a declaration on the part of our Government that our minister in Venezuela should terminate all diplomatic relations with that government, and is understood to mean and did mean a threat of war or coercive measures to enforce payment of the claims. It is scarcely necessary, in view of these facts, to consider further the question of jurisdiction. Our Government might have been involved in a serious difficulty with another government. If the course indicated had been persisted in it would have resulted in a peremptory demand for payment, followed by coercive measures, or by a request to Congress for authority to use such military and naval forces against the government of Venezuela as would enforce payment of the claim, or for authority to issue letters of marque and reprisal to capture her vessels and drive her commerce from the seas.

Does the gentleman from Indiana, who has had experience in the diplomatic service of the Government, doubt the right of the House of Representatives to inquire into a matter which might so seriously affect the honor and interest of his Government? And this, based upon such an important consideration, is all the excuse and explanation that I offer to my country for engaging in the investigation which I conducted in the Forty-fourth Congress.

The second point made by the gentleman from Indiana was that the report adopted by the Committee on Foreign Affairs of the Forty-fourth Congress differed from the draught of my proposed report as published in the Chicago Times of August 7, 1876. It is true that paper did publish a draught of the report which was prepared by myself and submitted to the full committee. The circumstances under which that

report came to be published are as follows: the representative of that paper at that time requested permission to forward to his paper the printed slips of my proposed report, so as to have the full text in Chicago when the report should be adopted by the committee. I agreed to the request upon condition that it should not be published until it was finally adopted by the full committee, and that all changes made by the committee should be observed in the publication when made.

To my surprise the report was published prematurely and before the modifications by the full committee and before its adoption. Mr. Gaines, the correspondent of the paper in question, assured me that the publication resulted from a misunderstanding between himself and the managers of the paper in Chicago, and he will satisfy any gentleman who may think it worth while to inquire about the matter that I was not in any way responsible for the premature publication and that it was published without my knowledge or consent. Premature publication is not an unusual thing in this city. The President's messages, the proceedings in executive or secret sessions of the Senate, and the proceedings of committees of both Houses of Congress have found their way into the papers without anybody knowing exactly how it happened.

I am in no way responsible for the fact that what I had prepared as a draught of my report got into the newspapers before it was finally adopted by the committee. The matters published in the Chicago Times, which do not appear in the official report of the committee, were left out for the following reasons:

1. Some of the members of the committee did not have an opportunity to examine carefully the evidence in reference to the appointment of the umpire, and thought that the report was not strengthened by a detailed statement of the facts on that subject; and for the sake of having a unanimous report from the committee, all reference to the appointment of umpire, except the brief paragraph quoted by the gentleman, was omitted; but I here assert, and am now prepared to prove, that that portion of my draught of the report which related to the appointment of umpire, and which was omitted in the official report, is true in every respect. The omitted portions were set forth in the remarks of the gentleman from Indiana, [Mr. ORTH,] on page 19 of the CONGRESSIONAL RECORD of May 5, which are as follows:

Baron Stoeckl appointed an umpire February 27, 1868. Just how this appointment was brought about, and why there was a delay of over four months in making it, is involved in much mystery.

That Baron Stoeckl *was defrauded in making the appointment of umpire there can scarcely be a doubt*, when we consider all the facts and circumstances in relation thereto. Juan N. Machado, jr., was a manufacturer of cotton candle-wicks in Venezuela, and was also the agent of Commissioner Talmage for the transaction of his private business in Caracas, acting under special power of attorney given him by Mr. Talmage. He had no legal attainments and no local reputation such as would suggest him as a proper person for an international arbitrator. From all that can be learned of him, it appears that he was wholly unfit for the discharge of the important duties which were devolved upon him.

Of the claims passed upon by the commission and the umpire only about one-third in amount was allowed by the two commissioners and two-thirds in amount of the awards were allowed by the decision of the umpire.

The official paper, signed by Baron Stoeckl, by which Machado was appointed, states: "I have been trying to fulfill the confidence reposed in me by those two governments, and therefore I have appointed an impartial man as arbitrator, which man is *Senor Machado*, who, according to the best information I get about him, has these qualifications in a high degree."

It will be observed that *no Christian name is given to the umpire by Baron Stoeckl*, but *in the confirmation of the appointment of the umpire by the commissioners the name appears in full as Mr. Juan N. Machado, jr.* This is the *first appearance in the record of the name of Juan N. Machado, jr.*

It appears from the evidence of Mr. Munoz y Castro that there were resident in Caracas at that time three persons bearing the name of Machado. First, Dr. Filipe Machado, and Juan N. Machado, sr., who was the father of Juan N. Machado, jr. Had Baron Stoeckl known of the existence of three Machados in Caracas he would have designated in his appointment the one whom he had in his mind, and if he had intended to appoint either of the Juan N. Machados he would have designated whether he meant the "senior" or the "junior"—the only designation by which these two could be distinguished from each other.

It also appears in the evidence that Dr. Filipe Machado, while not possessing the qualifications of an eminent jurist, yet was a man of distinction in his profession, and occupied a high social position in Caracas. His title of "Doctor" *does not indicate that he was a physician* BUT *that he was a doctor of laws.*

In view of all these facts connected with the appointment of umpire, and especially in view of the fact that his appointee was an impartial and respectable man, and that he possessed in a high degree such qualifications as were required; and of the further fact that Juan N. Machado, jr., was devoid of such qualifications, being utterly unfit for the position, and could in no sense be said to be impartial, as he was the agent of Commissioner Talmage for the transaction of his private business in Caracas, the allegation of the minister for foreign affairs of Venezuela that Baron Stoeckl was deceived in the making of this appointment appears to be well founded, unless Baron Stoeckl intended to appoint Dr. Filipe Machado, *which is most probable.* But if the latter hypothesis be true, then the Russian embassador *did not appoint an umpire at all, and the awards made by him are void and of no effect.*

I call particular attention to the following statement in the official paper signed by Baron Stoeckl, by which Machado was appointed:

I have been trying to fulfill the confidence reposed in me by those two governments and therefore I have appointed an impartial man as arbitrator, which man is Senor Machado, who, according to the best information I get about him, has these qualifications in a high degree.

It will be observed that no Christian name is given to the umpire by Baron Stoeckl, but in the confirmation of the appointment of the umpire by the commissioners the name appears in full as Mr. Juan N. Machado, jr. The gentleman from Indiana [Mr. ORTH] produces and publishes in his explanation what purports to be a certified copy of Baron Stoeckl's letter of appointment, dated February 27, 1868, which gives the name of Juan N. Machado, jr., and asserts that I knew that such was the condition of the official report on file in the Department of State at the time.

Since the gentleman's remarks in the House I have visited the State Department and, by the courtesy of Mr. Evarts, Secretary of State, have been permitted to examine the records, and I assert now, after an examination, that the following facts will appear:

1. That Baron Stoeckl, under date of February 27, 1868, sent his official letter to the State Department appointing Mr. Machado as umpire, the letter being in the French language, a copy of which I will have printed in my remarks, in order to remove all doubts upon this subject. It will be interesting reading I am sure to many of my friends, especially to my learned friend from New York, [Mr. Cox,] the chairman of the Committee on Foreign Affairs, who can read it as readily in French as if it were in the English language. It is as follows:

WASHINGTON, *le 27 Février*, 1868.

Monsieur le Secrétaire D'État: Par votre office, en date 6 Février dr., vous avez bien voulu me communiquer copie d'une convention, conclue entre les govts. des États-Unis et Venezuela pour régler par arbitrage certaines réclamations.

Dans cette convention, il a été stipulé que, dans le cas où les deux commissionaires nommés respectivement par les deux govts. ne s'entendraient pas sur le choix du troisième arbitre, celui-ci serait désigné par moi, en qualité de représentant de Sa Majesté l'Empereur de toutes les Russies aux États-Unis.

J'ai cherché à justifier la confiance que les deux govts. ont bien voulu placer en moi, en nommant pour troisième arbitre un homme d'impartialité et de respectabilité, et j'ai désigné à M. Machado, qui d'aprés les informations que j'ai prisés, réunit ces qualités au plus haut degré.

J'ai informé de ce choix Mr. Rivas, chargé d'affaires des États-Unis de Venezuela, qui l'a accueillé favorablement.

Veuillez agréer, Monsieur le Secrétaire d'État, l'assurance de ma plus haute considération.

STOECKL.

It will be seen from this paper that Baron Stoeckl mentioned Mr. Machado, without any Christian name, or the suffix of "jr."

This letter of Baron Stoeckl was filed in the State Department February 28, 1868. On the 5th of March, six days thereafter, Secretary Seward (Instruction No. 13) wrote to Minister Stilwell at Venezuela, stating that Baron Stoeckl had appointed Juan N. Machado as umpire of the commission. No suffix of "jr." appears in this letter. On receipt of this letter Mr. Stilwell notified Juan N. Machado, *jr.*, that he had been appointed, and Commissioner Talmage notified Secretary Seward that Juan N. Machado, jr., had qualified and the business of the commission would now proceed, as will appear from the following letter of Mr. Talmage, the American commissioner, to Mr. Seward, dated Caracas, April 7, 1868, which I will have printed as a part of my remarks:

CARACAS, *April* 7, 1868.

SIR: I am notified by Thomas N. Stilwell, United States minister resident at this legation, that Mr. Edward de Stoeckl, the diplomatic representative of Russia in Washington City, on the previous invitation of the Governments of the United States and Venezuela, had been pleased to name Juan N. Machado as umpire under the convention between the United States and Venezuela, concluded at Caracas April 25, 1866.

Our minister resident, Thomas N. Stilwell, has notified Juan N. Machado, jr., of his appointment as umpire, he being undoubtedly the person intended, and not the father, Juan N. Machado, sr., who is disqualified, being aged and infirm.

I mention this circumstance so that the person intended be particularly designated.

The business of the commission will now proceed.

I have the honor to be, your obedient servant,

DAVID M. TALMAGE.

Hon. WILLIAM H. SEWARD,
Secretary of State of United States, &c., &c., &c.

From this it will be seen that Juan N. Machado, *jr.*, entered upon his duties as umpire April 7, 1868.

On April 22 thereafter Mr. Seward addressed a letter to Baron Stoeckl, saying to him that by his letter of appointment of umpire for Venezuelan commission he had accidentally omitted the Christian name of the umpire, indicated what the name should be, and requested him to substitute the correct name in his letter of appointment. The following is the letter referred to:

WASHINGTON, *April* 22, 1868.

DEAR SIR: Upon turning to your note appointing the arbiter under the convention between the United States and Venezuela it is noticed that you accidentally omitted his Christian name. As it is desirable that the omission should be supplied, you will oblige me either by withdrawing the original note and substituting another of the same date with the full name of the person intended to be appointed, Juan N. Machado, jr., or by addressing to me a supplementary note stating that it was your intention to appoint that gentleman.

I am, very truly, yours,

W. H. SEWARD.

Mr. EDWARD DE STOECKL,
&c., &c., &c.

On April 29 Baron Stoeckl's letter of appointment was filed, appointing Mr. Juan N. Machado, jr. It will be noted that the original letter of appointment, dated February 27, under which the appointment was made, was withdrawn from the files of the Department, and does not appear there now; and that the substituted letter bearing the same date, but filed April 29, is intended to be retroactive and cover an appointment made on the 7th of February preceding, which at the time of its making was illegal and void, the Secretary of State, Mr. Seward, having been confronted with the fact that Juan N. Machado, jr., had already been appointed, sworn in, and entered upon the duties of his office.

I claim that the foregoing facts completely sustain the truth of the omitted portions of the report of the Committee on Foreign Affairs in relation to the appointment of umpire, and show conclusively that Baron Stoeckl did not have in his mind Juan N. Machado, jr., when he appointed Mr. Machado to the office of umpire. And further, it appeared in the evidence before the committee of investigation that

Juan N. Machado, jr., was not learned in the law; that he had never been recognized as and was not a lawyer by profession; that he was merely a manufacturer of candle-wick, and had been in the employ of Mr. Talmage, the American commissioner, in some gas-works in the city of Caracas, and under a special power of attorney given him by Talmage.

That Baron Stoeckl could have knowingly appointed such a person to act as umpire in a great international tribunal passes all reasonable belief.

So much for the appointment of the arbitrator of this remarkable commission.

2. The gentleman from Indiana, [Mr. ORTH,] secondly, complains that the draught of my proposed report cited the record of the Committee on Foreign Affairs of the Forty-first Congress, showing his connection with the drafting of a joint resolution which that committee authorized him to report to the House, and also made citations from his evidence before the committee of investigation of the Forty-fourth Congress, showing his connection with the passage of the law of 25th of April, 1873, and the distribution of certain moneys which had been paid by Venezuela on account of their claims, and was then on deposit in the State Department, which citations were omitted from the report as finally agreed upon by the committee and submitted to the House. This difference between what the gentleman from Indiana [Mr. ORTH] is pleased to designate as "the campaign document" and the official report of the committee he thinks reflected upon him, and cites it as an evidence that I was pursuing him from partisan motives. On the day the gentleman from Indiana made his explanation I stated to the House and country the reason why this portion of the draught of my proposed report was omitted from the final report. To what I then said upon that point I may now add that I desired very much that this report should be unanimous. The gentleman from Ohio, [Mr. MONROE,] a member of the committee and of the sub-committee of investigation, indicated that if these portions of the report could be omitted there would be substantial unanimity in the report which would be made to the House. Other gentlemen, members of the House, and who I understood were political and personal friends of the gentleman from Indiana, urged me that inasmuch as the gentleman had retired from his place upon the ticket in Indiana and was then in private life all reference to his connection with the matter might properly be omitted. For these reasons, and as a matter of personal kindness to the gentleman from Indiana, I agreed to the omission of the part which his friends supposed reflected upon him. It will be noted that the gentleman nowhere in his explanation denies the truth of any of the material statements in these omitted parts concerning himself. I shall proceed to prove by his own testimony and by the record history of this case that they were true in fact then and now.

Now, as to the question raised by the gentleman a few minutes ago, namely, why I recited his evidence and not the evidence of other witnesses. I desired that there should be no room for doubt as to whether I stated his position truly, and hence I quoted his exact words. The other witnesses had not that distinction given them, because it was simply stated that it was proven so and so in the record. But I did not desire the friends of the gentleman to have any opportunity to say that he had been misrepresented, and hence every statement in regard to him was either a quotation from the records of the Committee on Foreign Affairs of the Forty-first Congress, of which he was a member, or was a quotation *in hæc verba* of his own statements before the investigating committee of the Forty-fourth Congress. Certainly the gentleman cannot complain of me for referring in an official manner in this House or in the committee to what he did when he was a member of the House and in the committee. Nobody can attribute partisanship to me on that account if I adhered to the truth. I do not understand that he has alleged that there is any statement regarding him that is not true in the omitted portions of the report.

In order that there may be no dispute hereafter as to whether the gentleman was correctly reported or not, I will incorporate in my speech a full copy of all the gentleman's testimony before the sub-committee of which I was chairman and let it be printed, in order that he may have the benefit of every statement which he made before that committee. Is not that fair?

I will not detain the House to read again the omitted portions of the draught of my proposed report, as cited by the gentleman, but will hand to the reporter to be printed in my remarks a full copy of them; and also, in order to avoid any possible accusation of garbling, the full text of the gentleman's own testimony as printed in House report No. 787, first session Forty-fourth Congress, pages 70 to 77½ inclusive.

The following are the omitted portions of the proposed report which referred to the gentleman from Indiana, [Mr. ORTH.]

On the 31st of March, 1870, the record of the committee states as follows:

> The subject of the claims of American citizens against the government of Venezuela was taken up, and Mr. ORTH made a statement with regard to the question. The members of the committee discussed the question at some length; after which Mr. ORTH was requested to prepare a resolution on this subject.

At the next meeting of the committee, on April 4, the record states:

> The consideration of claims of American citizens on the government of Venezuela was resumed, and Mr. ORTH submitted a resolution entitled "Joint resolution to enforce the stipulations of the convention of Venezuela of April 25, 1866."
>
> The joint resolution was ordered to be reported to the House, with the recommendation that it pass. Accordingly Mr. Wilkeson, from the Committee on Foreign Affairs, on the 1st day of June, 1870, submitted a report to the House, which states that the committee had carefully examined the testimony taken in Venezuela, transmitted to this country in charge of an accredited party, filed in the State Department, and laid before the House by the Secretary of State.
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> From the examination made by the committee at that time it was deemed surprising that the evidence was so feeble and inconclusive.
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> The report stated that the American commissioner and others implicated had been heard in defense by the committee; the committee were therefore of the opinion that the charges against the commissioner were not sustained, and that there was not sufficient in the testimony to affect or impair the validity of the awards. In view of the premises they recommended the passage of the joint resolution prepared by Mr. ORTH.
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> * * * * * * *
>
> It may be interesting in this connection to inquire into the circumstances which brought about the passage of this act in the face of the serious charges which have been made by the government of Venezuela against the conduct of the commission and the character of the claims awarded. Mr. ORTH appeared before your committee on the 23d of May last, and stated that he was a member of the Forty-first Congress, but was not a member of the Forty-second. In his testimony he said:
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> "I went out of Congress on the 4th day of March, 1874. Subsequently to that time, and when I never expected to be in Congress, I accepted an employment from Stilwell and Talmage to act as their attorney in procuring a payment of some money which had been forwarded here by the Venezuelan government, and which was in the State Department. That employment included my services down here in Washington to assist in procuring the passage of the joint resolution of the Forty-second Congress declaring the validity of the award.
>
> "My recollection is that the House passed a joint resolution, which went to the Senate, and that the Senate amended it by striking out what was supposed to have been the force part of it, as it was called, and when it came back to the House the House concurred in the Senate amendment."
>
> Mr. ORTH further said:
>
> "Q. What service did he desire you to perform in relation to the matter?
>
> "A. The first service he wanted me to perform was to come here and get Mr. Fish to make a distribution of the 7 per cent. that was paid. I came and saw the Secretary. Mr. Stilwell desired me subsequently to assist in getting a legislative recognition of the validity of these awards. As I understood, Mr. Stilwell cared nothing for what was called the force part of the joint resolution; he only wanted a legislative recognition of the validity of the awards. They were disputed, and the certificates were comparatively valueless in consequence."
>
> Mr. ORTH stated that on the 4th of March, 1873, when his term of office began, he terminated his employment as attorney for the parties; but in the summer of 1873, as a matter of friendship as much as anything else, he wrote some letters to the State Department in reference to those certificates.
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> He further stated that he received as compensation for his professional services seven of the one-thousand-dollar certificates issued by the mixed commission, and also money enough to pay his expenses and a reasonable fee; that these certificates were paid to him in nearly equal proportions, but that Talmage paid the greater part. He received some of these certificates in 1871, some in 1872, and some in 1873; most of them after the passage of the law in 1873.
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> The question was put to Mr. ORTH, "Did it not strike you that there was some truth in the statement about the action of the commissioners in the rendering of these awards?"
>
> To which he replied: "I would not like to swear to a surmise. I must confess that where there was so much said at some time I thought this, and at some time I thought the other; but after the examination, and after the testimony of Murray and Stilwell and Talmage before the Committee on Foreign Affairs, I concurred with Mr. Wilkeson in his report."
>
> Mr. ORTH further stated that the complaint of the Venezuelan government that the commissioners had acted fraudulently was referred to the Committee on Foreign Affairs when he was a member, and that he took the position that that government had failed to establish the charges of fraud, and that the Government of the United States had waited long enough for the Venezuelan government, and that the money on hand should be distributed. It was mainly through Mr. ORTH's efforts that the act of February 25, 1873, became a law. The passage of this act ended all congressional action up to the present time.

The following is a copy of Mr. ORTH's testimony in full:

WASHINGTON, D. C., *May* 23, 1876.

GODLOVE S. ORTH sworn and examined.

By Mr. SPRINGER:

Question. State your residence and position.

Answer. I reside in Indiana; I was a member of the Thirty-eighth, Thirty-ninth, Fortieth, Forty-first, and Forty-third Congresses. I have just returned from Europe.

Q. Are you still minister plenipotentiary to Austria.

A. Yes. I have not yet sent in my resignation, but I expect to resign in a day or two.

Q. You were a member of Congress in the summer of 1873?

A. Yes. I was elected in October, 1872, from the State of Indiana, at large, to the Congress which organized on the first Monday in December, 1873.

Q. Do you know anything about what is called the Venezuelan awards?

A. Yes. During the Forty-first Congress I was a member of the Committee on Foreign Affairs, when I first heard the trouble about the Venezuelan awards. That committee had an investigation of the matter, and took testimony which I presume is among the archives of the committee, and it made a unanimous report sustaining the awards. I think the report was made to the House by Mr. Wilkinson. That was at the second session of the Forty-first Congress. I went out of Congress on the 4th of March, 1871. Subsequently to that time, and when I never expected to be in Congress again, I accepted an employment from Stilwell and Talmage to act as their attorney in procuring a payment of some money which had been forwarded here by the Venezuelan government, and which was in the State Department. That employment included my service down here in Washington to assist in procuring the passage of the joint resolution of the Forty-second Congress declaring the validity of the award. My recollection is that the House passed a joint resolution which went to the Senate, and that the Senate amended it by striking out what was supposed to have been the force part of it, as it was called; and when it came back to the House, the House concurred in the Senate amendment. Mr. Packard, of Indiana, reported it from the Committee on Foreign Affairs.

Q. Was Mr. Packard a member from the same district which you had represented?

A. No, sir; he was a member from the La Porte district, and I lived in the La Fayette district. I was here in the latter part of January or the first of February of that year, 1873. I was here at the time that the House concurred in the Senate amendment.

Q. Were you favoring the passage of the bill reported by Mr. Packard, in which the President of the United States was authorized and directed to adopt such measures as he might deem expedient to enforce the claims of the citizens of the United States adjudicated by the mixed commission?

A. My impression is that the House bill had passed before I came here, and that the Senate struck out what was called the force clause of it.

Q. While you were here you were acting in behalf of Talmage and Stilwell?
A. Yes, sir.
Q. Who was Mr. Stilwell?
A. He was formerly a member of Congress from Indiana, and was appointed minister to Venezuela.
Q. Was he minister to Venezuela pending the sitting of the mixed commission in Caracas?
A. Yes, sir.
Q. Who was Mr. Talmage?
A. He was the commissioner on behalf of the United States.
Q. Where did you meet either or both of these gentlemen in relation to this employment to prosecute their claims or interests?
A. I met Mr. Stilwell at Indianapolis.
Q. Where did he tell you was his interest in those certificates that were awarded by the commission?
A. I cannot remember definitely. He told me that he owned in his own right and as collateral some sixty or seventy of these thousand-dollar certificates, partly in his own right and partly as collateral security for moneys advanced.
Q. Did he say to whom he had advanced these moneys?
A. I think to his brother-in-law, Murray.
Q. How much did he say he owned in his own right?
A. That I cannot tell.
Q. Did he exhibit any of the certificates to you?
A. I do not know that he did; I saw the certificates frequently.
Q. Did he tell you in what manner he had become entitled to them?
A. No, sir.
Q. Did it occur to you to inquire how he become possessor of certificates awarded for claims while he was minister of the United States?
A. No. I have a sort of impression that he left Caracas before the final award, but he was there during the organization of the commission, and during a part of its sittings. He had "Johnsonized" in his politics, and was not confirmed by the Senate. I think I opposed his confirmation, as well as other republicans from Indiana.
Q. What service did he desire you to perform in relation to the matter?
A. The first service he wanted me to perform was to come here and get Mr. Fish to make a distribution of the 7 per cent. that was paid. I came and saw the Secretary. Mr. Stilwell desired me subsequently to assist in getting a legislative recognition of the validity of those awards. As I understood, Mr. Stilwell cared nothing for what was called the force part of the joint resolution; he only desired a legislative recognition of the validity of the awards. They were disputed, and the certificates were comparatively valueless in consequence.
Q. Did you see Talmage in the matter?
A. Yes, sir; I saw him several times.
Q. What interest did Talmage desire you to represent?
A. Talmage told me that he held these certificates mainly in trust for others.
Q. How much did he have?
A. I cannot tell; it was a large sum, probably larger than Stilwell's. I had less talk with Talmage than with Stilwell.
Q. How did Talmage account for his being custodian for any portion of those certificates?
A. I heard him say on several occasions that he was furnished with powers of attorney to bring home certificates for persons in whose favor the awards might be made.
Q. Did he say that he still held certificates which he had been authorized by his powers of attorney to receive?
A. Yes; probably not all of them, but some of them.
Q. Did he say that he had any others than those which he had drawn by virtue of his powers of attorney?
A. I cannot be definite about that.
Q. Can you give the date of the conversation which you had with Mr. Talmage in this city?
A. Yes; that must have occurred about the time the bill was pending, and it was in January or February, 1873.
Q. What did Talmage desire you to do at the State Department?
A. There was some dispute in regard to some certificate which he held and on which the payment of the 7 per cent. had been withheld. I think it was a contest between him and Mr. Driggs on the subject. I wrote two or three letters to the State Department on the subject.
Q. Where were you when you wrote those letters?
A. In La Fayette, Indiana. That was in the summer of 1873.
Q. Were you still acting as attorney for Talmage and Stilwell when you wrote them?
A. I understood that my employment terminated on the passage of the bill. Of course, after I became a member of Congress, I would not take any employment in anything that might come before Congress for legislation.
Q. In January or February, 1873, you met Mr. Talmage here and went with him to the State Department?
A. No; I do not think I went to the State Department at all at that time. I went to the State Department in the summer of 1871, and that, I think, was the only time I ever did go there in that connection.
Q. You were employed jointly by Talmage and Stilwell to look after their interests?
A. Yes.
Q. I understand you to say that Stilwell said that he held the certificates partly in his own right and partly as collateral for money advanced to Murray, his brother-in-law?
A. Yes.
Q. And that Talmage owned them?
A. Mainly as a trustee.
Q. Did Talmage claim to own any in his own right?
A. Yes, I think he became a purchaser of some. That is my impression.
Q. When did your employment as attorney for these parties cease?
A. On the passage of that law.
Q. Have you been employed by them at any time since then?
A. No. In the summer of 1873, as a matter of friendship as much as anything else, I wrote some letters to the State Department.
Q. Whatever fees you were to receive you had settled up after the passage of the act?
A. Yes.
Q. And you had no further pecuniary interest in that matter?
A. None whatever.
Q. Have you been at the State Department in connection with the matter since you have been in the city last?
A. No, sir. I have had nothing to do with it since I came back.
Q. Do you know what became of Mr. Stilwell's certificates?
A. Mr. Stilwell was shot, and I think his estate is insolvent, and that the certificates have passed into the hands of his administrator.
Q. You think that he held some of them at the time of his death?
A. I have no doubt of it. I saw them mentioned in the newspapers as a part of his assets.
Q. I understand that in the summer of 1873 you had some correspondence with the State Department in relation to these receipts?
A. Yes.
Q. I have here what purports to be a copy of the correspondence. Look at this letter, dated July 9, 1873, and see whether you wrote it?
A. That is my letter. The "friend" mentioned in the letter means Mr. Talmage.
Q. Have you the letters written by Mr. Talmage to you?
A. No; I do not think I preserved them. If I can find them I will send them to the committee.
(The witness examined and identified the rest of the correspondence, of which the following is a copy:)

LA FAYETTE, INDIANA, *July* 9, 1873.

SIR: A friend of mine writes me that he is the holder of a number of certificates issued by the Venezuelan and United States mixed commission on which the 7 per cent. (heretofore distributed) has not yet been paid. These certificates were originally issued to Seth Driggs, and my friend writes that he understood Driggs had notified the Department not to pay the 7 per cent. to the present and then holder. I suggested that I did not think the Department would withhold the 7 per cent. from any holder of those certificates, and if there were any difficulty as to ownership the Department would remit the parties to the courts and in the mean time pay to the party presenting the certificates. Will you advise me what course the Department will take in such a case, as I learn that no demand has been made as yet by him for the 7 per cent. now on hand?

Respectfully,

GODLOVE S. ORTH.

Hon. HAMILTON FISH,
Secretary of State.

LA FAYETTE, INDIANA, *July* 22, 1873.

DEAR SIR: About the 10th instant I wrote to the Department in behalf of a friend, but as I am without any reply I presume the letter miscarried. A friend holds some certificates against the republic of Venezuela, issued to a Mr. Seth Driggs, under our late mixed commission with that government. An installment of 7 per cent. has been received by our Government on behalf of those claims, but Mr. Driggs requested your Department not to pay this amount on the certificates thus held. I suggested to him (the holder) that, in my judgment, your Department would pay to the holders of the certificates, and if there was any dispute as to ownership would remit the parties to the courts for an adjustment of their difficulties. Was I correct in this assumption? And what course will the Department probably take in the matter?

Awaiting your reply, I am, respectfully,

GODLOVE S. ORTH.

Hon. HAMILTON FISH,
Secretary of State.

JULY 30, 1873.

SIR: I have the honor to acknowledge the receipt of your two letters of the 9th and 22d instant, respectively, concerning certain certificates of Venezuela indemnity, the payment of which, you are informed, has been requested to be withheld by Seth Driggs, the person to whom the award was made by the mixed commission between the United States and Venezuela. In reply, I have the honor to inform you that Hon. J. F. Driggs, on behalf of Edmund Driggs, to whom Seth Driggs assigned certain certificates under that award, has made a request of the Department that payment of these certificates may be withheld unless presented by Edmund Driggs, the assignee. Your letter not stating the name of the holder of the certificates referred to nor their numbers, the Department is unable to determine whether there is any connection between the certificates in which the person you represent has an interest and the ones referred to by Mr. Driggs.

I have the honor to be, sir, your obedient servant,

J. C. B. DAVIS,
Acting Secretary.

Hon. GODLOVE S. ORTH,
La Fayette, Indiana.

LA FAYETTE, INDIANA, *August* 4, 1873.

DEAR SIR: Your letter of the 30th ultimo is just received. Referring to my letters of the 9th and 22d of last month, respectively, to the Department of State, permit me to suggest that the information I desired on behalf of a friend is not given as fully as I anticipated. You state that "Hon. J. F. Driggs, on behalf of Edmund Driggs, to whom Seth Driggs assigned certain certificates, had made a request of the Department that payment be withheld," &c. These certificates, if I recollect, are payable to bearer, requiring no assignment to transfer ownership, and hence the assignee acquired no greater right than a holder. Shall I understand from your letter that the Department will comply with the request of Hon. J. F. Driggs, and withhold payment from the holder of any certificate in the absence of legal proceedings preventing such payment? Or will the Department pay the first installment (now on hand) to the holder of a certificate, remitting the parties to the courts for an adjudication of their claims in case of disputed ownership?

Awaiting your reply, I am, respectfully,

GODLOVE S. ORTH.

Hon. J. C. B. DAVIS,
Assistant Secretary of State, &c.

AUGUST 7.

SIR: Your letter of the 4th of August is received. Let me repeat the facts in the case.

Mr. Driggs has filed in this Department a written notice that Mr. Talmage, the American commissioner in the mixed commission, withheld from Seth Driggs certificates to the amount of $121,000, and that these certificates, although in the hands of Talmage, are the property of Driggs.

I understand you to say that the certificates which your friend holds are a part of the series which Mr. Driggs claims as his property, and under these circumstances the Secretary of State, to whom the matter has been referred, thinks it not unreasonable to ask the name of the holder and the numbers of the certificates, on neither of which points do your letters give information.

I do not understand that the Secretary has made the decision which your last letter assumes, or, in fact, any decision except to call for this additional information, which he feels sure that your friend will be anxious to furnish.

I am, sir, your obedient servant,

J. C. B. DAVIS,
Assistant Secretary.

Hon. GODLOVE S. ORTH,
La Fayette, Indiana.

LA FAYETTE, INDIANA, *August* 18, 1873.

DEAR SIR: Absence from home has prevented an earlier reply to your letter of the 7th instant.

The certificates of the Venezuelan mixed commission to which I have called the attention of the State Department were issued to one Seth Driggs, as heretofore stated, but are now held and owned by a Mr. Thomas Brown.

I am not able at this time to give the number of these certificates, but can pro-

cure and furnish them hereafter, if deemed necessary. I am assured that none of these (Brown) certificates were ever owned by General Talmage, the American commissioner, and never withheld by him from Mr. Driggs, whatever the latter may have alleged to the contrary.

Awaiting further advices in this behalf, I am, respectfully,

GODLOVE S. ORTH.

Hon. J. C. B. DAVIS,
Assistant Secretary of State, Washington City.

Q. Who is Mr. Thomas Brown, whom you mention in your letter of August 18, 1873, as the holder and owner of the certificates?

A. I do not know who Thomas Brown is, except that Mr. Talmage wrote to me. I think that he acted as a trustee for Thomas Brown, or something of that sort. Thomas Brown I have understood to be a citizen of New York. Of course, what I say in that letter is hearsay from Mr. Talmage.

Q. He gave you the name of Brown as the owner of these certificates?

A. Yes.

Q. Of course you know nothing at all about Brown?

A. No; I do not know whether there is any such person living, or whether there ever was, but I think I received a letter signed Thomas Brown, giving the numbers of certificates. I will also search at home for that letter.

Q. What was the result of this correspondence?

A. It resulted in the payment of the 7 per cent. on these certificates.

Q. You stated that these were the certificates which had been claimed by Mr. Driggs?

A. Yes; that was my understanding.

Q. From whom did you get that information?

A. I guess I must have got it from Mr. Talmage. I do not know; but I presume I did.

Q. Did Talmage ever make any compensation to you for your services in procuring the payment of that 7 per cent.?

A. No, sir; it was a mere matter growing out of my former relations as counsel. I was then a member of Congress, and, of course, I would not have anything to do with the matter professionally.

Q. You considered yourself in some way under a friendly obligation, from the fact of your previous employment?

A. Undoubtedly; growing out of our relations as attorney and client.

Q. Did you receive compensation from Stilwell as well as from Talmage?

A. Yes; from both of them.

Q. Did it ever come to your knowledge, through Stilwell or Talmage, that a portion of the certificates which they had obtained were withheld from any of the rightful claimants against their wishes?

A. All that I know about that was a flying rumor which I heard at one time or other. I have heard it asserted and I have heard it denied. One party would state that the certificates were withheld from the rightful owner, and the other party would deny it.

Q. Did you hear so from either Stilwell or Talmage?

A. I have heard both of them talk about it.

Q. What did you hear Stilwell say in regard to whether he had come rightfully into the possession of these certificates?

A. Stilwell claimed that the sixty or seventy certificates belonged to him in his own right, or as collateral.

Q. Did either he or Talmage give you his chain of title to the certificates?

A. No; I think not.

Q. Were you in Washington when Mr. Stilwell was appointed minister?

A. I do not know; but I had nothing to do with Stilwell's appointment. On the contrary, he and I were politically antagonistic. He was appointed by Mr. Johnson's administration, and I was instrumental in getting him rejected by the Senate. He had been a republican and had Johnsonized.

Q. Did you know William P. Murray, his brother-in-law?

A. Yes. The first time I ever saw Murray was when we had this investigation in the Forty-first Congress.

Q. Did Murray ever tell you that he owned any of these certificates?

A. Yes; but I do not recollect the amount. He told me that he was at Caracas as attorney for claimants, and that he got certificates as part of his pay.

Q. Did he say how much he had got?

A. No, he did not.

Q. Did he say he went out there for the purpose of acting as attorney for these claimants?

A. I think I heard him testify in this committee-room that he went out for a firm in Minneapolis or Saint Paul by the name of Beal & Nobles, and that probably before he left New York he got some employments, and that at Caracas he got other employments.

Q. How often did you talk with the Secretary of State in regard to these certificates?

A. I think the only time I ever visited the Secretary of State in regard to them was in the spring of 1871, when I went to see him in regard to the payment of the 7 per cent. That was after Congress adjourned, and after I had gone home and become attorney for the parties.

Q. Did the Secretary inform you that their payment was protested on the ground that they had been fraudulently obtained and were the pay of bribery?

A. I know that, because the protest of the Venezuelan government was before our committee.

Q. Did the Secretary bring to your knowledge that the reason why payment was withheld was that it was charged against the commissioners that they had received certificates as bribes for the awarding of claims?

A. I do not know the specific charge. It was not necessary for the Secretary to inform me, (and I presume he did not,) because he referred the complaint of the Venezuelan government to our committee, and that complaint was that the commissioners had acted fraudulently; and hence, as I understood, the Secretary withheld payment of that 7 per cent. until the Venezuelan government could establish its charge of fraud.

Q. Which charge consisted in the commissioners being bribed or receiving a portion of the awards which they made themselves?

A. That was probably a portion of the complaint. It is all matter of record. Hence it was not necessary for the Secretary to speak to me about it. The question came up as to whether he should hold that money any longer. I took the position that the Government of the United States had waited long enough for the Venezuelan government, and that the latter had failed to establish its charges of fraud, and that therefore the money should be distributed. I know that Mr. John F. Driggs, who was a member of Congress, very warmly urged that view on the Department.

Q. During those interviews did Mr. Talmage mention the name of Mr. Brown as being the rightful owner of these certificates?

A. No, sir. The first time I ever heard of Mr. Brown being the owner of these certificates was in the summer of 1873.

Q. Why did you not state that the friend in whose interest you asked this information was Mr. Talmage?

A. I do not know that there was any special reason why I did or did not.

Q. Would not that have suggested to the Secretary of State that Mr. Talmage, being one of the commissioners, would be a very unlikely person to be in possession of the certificates for awards which he made himself?

A. Yes; it might be that Talmage disclosed Brown's name in his former letter to me.

Q. Did it not occur to you that if you stated that you were representing Mr. Talmage, who claimed a portion of the certificates which he himself had awarded as commissioner, that that would have suggested to the State Department that he was not a proper person to be in possession of them?

A. No; on the contrary, the State Department had paid Mr. Talmage on other certificates which he held in 1871.

Q. State whether or not both the Senate and House Committees on Foreign Affairs did not oppose at that time the distribution of the 7 per cent.?

A. Our committee did not oppose it, because the question was not before it. I cannot state what action was had in the Senate committee.

Q. Was any portion of the compensation that you received paid to you in these certificates?

A. Yes; I think I probably got seven of these thousand-dollar certificates. Then I got money enough to pay my expenses and a reasonable fee.

Q. Did those certificates come through Talmage or through Stilwell?

A. They came through both of them.

Q. Which furnished the greater part?

A. I think that Talmage furnished the greater part. I never received anything on these seven certificates, because 7 per cent. was paid on them before they came into my hands.

Q. At what time did you receive those certificates?

A. I received probably some of them in 1871, some in 1872, and some in 1873. I received most of them after the passage of the law in 1873. I have never received one cent on those certificates. There is one installment of 8 per cent. now due on them.

Q. Can you state the time of any of the receipts of these certificates by you?

A. Not from memory. I may have a memorandum of them at home.

Q. Did it not strike you that there was some truth in the statement about the action of the commissioners in the rendering of these awards?

A. I would not like to swear to a mere surmise. I must confess that where there was so much said at some time I thought this and at some time I thought the other; but after the examination, and after the testimony of Murray and Stilwell and Talmage before the Committee on Foreign Affairs, I concurred with Mr. Wilkeson in his report.

Q. I find here a statement of Mr. Seth Driggs, called forth by Mr. William P. Murray, on page 14 of this report of Mr. Wilkeson, to this effect: "I understand Mr. George P. Foster to say that I was forced to contract with you to pay you 50 per cent. of the awards. That is not true; I was not forced to do any such thing." I find a note in Mr. Driggs's handwriting: "This purports to be a letter written to Murray, which he sent to be copied and returned to him." Did you, being counsel for Talmage and Stilwell, know that Mr. Murray had written that letter in pencil for Mr. Driggs to transcribe and to send back to him?

A. Of course I did not know anything about it.

Mr. BELFORD. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BELFORD. Is there any limitation to a discussion of this sort? Is the public business to be delayed by the discussion of matters that occurred in the Forty-fourth Congress?

Mr. ORTH. I hope the gentleman from Colorado [Mr. BELFORD] will not interpose any objection.

The SPEAKER *pro tempore*. One hour was granted to the gentleman from Illinois [Mr. SPRINGER] for an explanation. That time will expire in twenty minutes.

Mr. SPRINGER. In thirty minutes; the time occupied by the gentleman from Ohio [Mr. MONROE] should not be taken out of my time.

This testimony, together with the record history, will prove, incontestably, the following facts:

First. That the gentleman from Indiana, [Mr. ORTH,] while a member of the Forty-first Congress and of the Committee on Foreign Affairs, drafted a joint resolution, which the committee authorized him to report to the House, or authorized another member of the committee, Mr. Packard, to report, and recommend its passage. This joint resolution was reported to the House on the 1st of June, 1870, and, after reciting in the preamble the organization and adjudication of the commission, provides as follows:

That the adjudication of claims by said commission, pursuant to the terms of said convention, is hereby recognized as final and conclusive and to be held as valid and subsisting against the republic of Venezuela; and for the purpose of enforcing the collection and payment of the sums of money so awarded the President is hereby authorized and directed to make demand upon the republic of Venezuela for immediate payment; and in case of neglect or refusal to make such payment that he employ such portion of the naval and military forces as may be necessary in his judgment to secure the faithful performance of the terms of said convention.

Second. That during the first and second sessions of the Forty-second Congress, of which the gentleman from Indiana was not a member, no reference to or action upon the subject of these awards against the government of Venezuela was had or taken, that the question remained precisely where it had been left by the Forty-first Congress, the Congressional Globe of those two sessions containing no reference whatever to the subject.

That at the third session of the Forty-second Congress, after the gentleman from Indiana had been employed as attorney by Mr. Stilwell, the American minister at Caracas at the time of the commission, and by Mr. Talmage, the American commissioner, and after he had been elected and held his commission as a member of the Forty-third Congress, the subject was taken up just where it was left and a bill was introduced by Mr. Packard, on the 16th of December, 1872, almost identical in words with the joint resolution which the gentleman from Indiana had drafted and been authorized to report to the Forty-first Congress, but which was not acted upon. This bill, which, after amendment in the Senate, became the law of the 25th of February, 1873, as introduced by Mr. Packard on the 16th of December, and reported to the House, is as follows:

SEC. 1. That the adjudication of claims by the convention with Venezuela of April 25, 1866, pursuant to the terms of said convention, is hereby recognized as final and conclusive, and to be held as valid and subsisting claims against the republic of Venezuela; and that the President of the United States be, and he is hereby, authorized and directed to adopt such measures as he may deem expedient to enforce the claims of citizens of the United States adjudicated by the American commis-

sion, organized under the treaty of the 25th of April, 1866, and made payable by the republic of Venezuela to the Government of the United States in accordance with the provisions of said treaty.

The latter part of this bill, embracing what was understood to be "the force clause," was striken out by the Senate. The Senate amendment was concurred in by the House, and the bill became a law on the 25th of February, 1873.

It will thus be seen that the whole of the gentleman's services to his clients, as attorney in this matter, were rendered after he had been elected a member of the Forty-third Congress, so far as the record shows any service.

4. That the gentleman's testimony and his statements in his personal explanation both show that he was employed to secure the passage of this bill and the distribution of certain moneys then retained in the State Department. But it is due to the gentleman to state that in his evidence he says that he did not accept any compensation for services rendered after March 4, 1873, when his term of office began.

By reference to the tabular statement found on page 6 of Senate Executive Document No. 121, present session, and Mr. Evarts's report, to which this is appended, it will be found that the total dividends paid on these certificates up to and including 1871 amounted to $61,275.65, and that there was paid in 1873 dividends amounting to $21,462.70.

The gentleman's letters to the State Department, urging the payment of these dividends in 1873, will be found on pages 72 to 74, inclusive, of report No. 787, first session Forty-fourth Congress, and are a part of his evidence printed above, and are dated respectively July 9, 1873, July 22, 1873, August 4, 1873, and August 18, 1873, all after he had been elected to the Forty-third Congress, and after the commencement of his actual term of office on the 4th of March preceding.

These letters and the gentleman's own testimony in relation thereto show that, when pressed by Assistant Secretary of State Davis for a statement of numbers of the certificates upon which this dividend was urged and to whom they belonged, the gentleman gave the name of Thomas Brown, whom it afterward appeared was unknown to him, although his letter stated that he had written in behalf of a friend. The evidence disclosed that there was no person of that name, the name Thomas Brown having doubtless been used to conceal somebody else. This, I think, is shown by the evidence, not of the gentleman from Indiana, [Mr. ORTH,] but of Mr. Talmage.

These letters and this evidence further show that the dividends, the payment of which the gentleman was urging, were retained in the State Department because of a protest of Hon. John F. Driggs, then a member of Congress, which protest alleged that the certificates in question had been fraudulently retained from his uncle, Mr. Seth Driggs, by Mr. Murray, and that they justly belonged to Edmond Driggs, the assignee of said Seth Driggs.

Mr. Seth Driggs had claims allowed to him amounting to $300,000, $150,000 of which he testified he was compelled to allow Mr. Murray, brother-in-law of the American minister, to retain, in order to have his claims presented to the commission and favorably acted upon. He was then protesting, through his nephew, that the dividends upon these certificates should not be paid to the parties then holding them. The gentleman from Indiana [ORTH] was urging their payment, making use of the name of a Thomas Brown to disguise the names of the parties who then held them.

By reference to tabular statements, pages 161 to 165, inclusive, it will be seen that only one hundred and ten certificates of the denomination of $1,000 were issued by the commission. Ten of these were issued to Lorenzo H. Flynn, and one hundred of them to Seth Driggs. None of the ten issued to Mr. Flynn were divided with Mr. Murray or Talmage, but of all the certificates issued to Mr. Driggs, Murray received one-half, and it is a reasonable and fair inference that this one-half included fifty of the certificates issued to Driggs.

What is proved beyond all question of doubt by these letters and the evidence cited is that the gentleman's services in the second branch of his employment continued up to and included a portion of his actual term of office as member of the Forty-third Congress, commencing March 4, 1873. It will be seen by reading the gentleman's own testimony that the whole of his services as attorney in the passage of the law of 25th of February, 1873, and most of his services in securing the distribution of the moneys on deposit in the State Department, were rendered after he had been elected a member of the Forty-third Congress; but, as he has stated, (and he is entitled to the benefit of that statement,) he did not draw pay except for services preceding March, 1873, when his term of office as a member began.

It also appears that most of his services in securing the distribution of these moneys were rendered after he had become a member of the Forty-third Congress.

In his testimony, page 76 of the cited report, No. 787, he says, in answer to a question, "I received probably some of them" (these certificates) "in 1871, some in 1872, and some in 1873. *I received most of them after the passage of the law in* 1873."

This law passed after he was a member-elect of the Forty-third Congress, namely, February 25, 1873.

I believe I am right in stating that the gentleman's service in procuring the passage of the law of February 25, 1873, were rendered in Washington between November, 1872, when he was elected from the State of Indiana to the Forty-third Congress, and the 4th of March, 1873, when his term of office under that election began. In this am I correct?

Mr. ORTH. You have my testimony.

Mr. SPRINGER. I know I am correct. It is a matter of history.

Mr. ORTH. I stand by my testimony.

Mr. SPRINGER. In this connection I beg to call attention to the provisions of sections 1781 and 1782 of the Revised Statutes. The first of these sections, after reciting various things that members of Congress are prohibited from doing, says:

> And every member of Congress who, directly or indirectly, takes, receives, or agrees to receive any money, property, or other valuable consideration whatever *after his election as such member* for his attention to, services, action, vote, or decision, on any question, matter, cause, or proceeding which may then be pending, or may by law or under the Constitution be brought before him in his official capacity or in his place as such member of Congress, shall be deemed guilty of a misdemeanor, and shall be imprisoned not more than two years, and fined not more than $10,000, * * * and, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

The second of these sections provides that—

> No Senator, Representative, or Delegate, *after his election* and during his continuance in office, and no head of a Department, or other officer or clerk in the employment of the Government, shall receive or agree to receive any compensation whatever, directly or indirectly, for any services rendered, or to be rendered, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter, or thing in which the United States is a party, or directly or indirectly interested, before any Department, court-martial, bureau, officer, or any civil, military, or naval commission whatever.

It then prescribes a penalty for so doing.

What I desire especially noted is that this prohibition commences from the time of election and not from the period of entry, officially, upon the duties of office; the spirit and the letter of the statute undoubtedly intending to prohibit the use or employment of the prestige, influence, and consideration growing out of election to office in procuring legislation by Congress, or action by any Department, in any matter wherein the United States is directly or remotely interested.

The third point made by the gentleman will be considered now, namely, that the awards of the Venezuelan mixed commission were honest, valid, and subsisting claims, and as such the Government of the United States ought to enforce their payment. In this connection, Mr. Speaker, I will send to the Clerk's desk and have incorporated in my remarks a portion of the report of the committee of the House of the Forty-fourth Congress relating to some of these claims and showing their fraudulent character, which report in that respect was agreed to by the honorable and distinguished gentleman from Ohio, [Mr. MONROE.] He has stated to the House that he fully concurred in the report of the fraudulent character of the claims cited by the committee at that time.

Mr. CONGER. Before the gentleman proceeds, I notice he has spoken of printing with his remarks in the RECORD an entire report of testimony and has referred in one place to the seventy-sixth page of it. Now, I do not know how long that entire report will be.

Mr. SPRINGER. It is the seventy-sixth page of the book. It is all there. Now, I hope I will not be interrupted.

Mr. CONGER. I give the gentleman notice, if he does not wish to be interrupted, I shall object to his printing these things in his remarks.

Mr. SPRINGER. Very well, proceed; I will hear you.

Mr. CONGER. I simply say that the gentleman proposes to print an entire report in the RECORD as a part of his speech. I think that is going beyond the usual course.

Mr. SPRINGER. I do not propose that. What I propose to do is to print that part of the report which contains the testimony of the gentleman from Indiana.

Mr. CONGER. Then I have no objection to that, but I understood the gentleman to say the entire report.

Mr. SPRINGER. No, sir; not at all; only in reference to one or two claims.

The claims which the report of the Forty-fourth Congress found to be fraudulent amounted to over $800,000 of the million and a quarter allowed by the commission. I cannot refer to all of the fraudulent claims, but will call attention to one or two as specimens—*ex uno judice omnes*. I quote from the report the following in reference to the claim of Mrs. Willet:

CLAIM OF MRS. WILLET.

Second. The claim of Clementia Ramirez de Willet deserves special mention. This claim was adjudicated by the authorities of the Venezuelan government in 1863 with the full assent of the claimants, and the whole amount of damages sustained by Willet was fixed at $6,698.66. Of this amount $1,231 were paid at the time and a warrant on the Treasury was issued for the balance. This Treasury warrant, remaining outstanding and unpaid at the time of the organization of the mixed commission, and Mrs. Willet, the widow of the deceased claimant, having applied to Minister Stilwell for his good offices in her behalf, his brother-in-law, Murray, appears on the scene as an attorney for the claimant. After taking a power of attorney from her, in which two-fifths of the amount to be awarded was to inure to him, Mr. Murray prepared the petition and *ex parte* affidavits upon which the claim was adjudicated, and laid the case before the commission. Increasing with age, and under the skillful manipulations of counsel, the claim of $5,467.66, the amount which remained due to Mrs. Willet, assumed the magnificent proportions of an international demand for $150,791.07.

Commissioner Talmage gravely considered this important case and held that sufficient proof was wanting as to $1,415.38 of this claim, and deducting that amount allowed to the claimant $149,375.60. The umpire, in the exercise of his judicial discretion, had further doubts as to sundry items in this bill, and hence reduced the award to $148,000, which amount he allowed. Among the items allowed in this case was one of $55,021.34 for profits that the deceased Willet would have made in

his mercantile pursuits had not the war interrupted his business and the troops occupied his store-house for a barracks. The basis for estimating these profits was 1½ per cent. per month on the visionary capital invested in the business. Another item in the case, amounting to $5,467.66, the only meritorious part of the whole claim, being the amount of the Treasury warrants, was allowed to the claimant without making any deduction on this account from the aggregate losses, which embraced it also; the effect of which was that the claimant, conceding the justice of her claim, was paid this amount twice.

Mr. Speaker, it will be seen that that claim was raised by this commission from $6,000 to $158,000—the amount finally awarded.

There was another claim adjudicated to which I desire to call particular attention, and that is the claim known as the Beales, Noble, and Garrison claim. I sent to the State Department and obtained from the Secretary of State a full transcript of the papers which were submitted to the Venezuelan mixed commission. Upon that claim there was awarded the sum of $250,000, and that was one of the claims which the government of Venezuela protests is fraudulent and dishonest.

And I will propose at the conclusion of my remarks to have this report printed and referred to the Committee on Foreign Affairs of this House and made one of the public documents, in order that every lawyer in this House, every member who desires and feels an interest in the truth, in honesty, and in fair dealing between States and governments, may have the opportunity to read all the papers which went before that commission in reference to this claim upon which a quarter of a million of dollars was adjudicated. And I here assert upon my responsibility as a Representative and upon my reputation as a lawyer that there is not an honest man in the United States who would allow a claim for one cent upon that evidence. I assert that it is the most fictitious, the most fraudulent, the most devoid of all elements of justice of any claim that ever received quasi-judicial sanction. I hold it up here to the country as proof conclusive that the commission was dishonest and the claims awarded by it fraudulent. This claim was based upon a pretended contract, made by a military dictator who styled himself "Supreme Chief of the Republic," who was in power but sixty days, and never recognized by our Government, and whose letter of authority is attested by his "secretary-general;" a contract to run for thirty years, ceding large and illimitable acres of public land and remitting the revenues of the government for thirty years to come. The contract was repudiated by the rightful government within four months after its date, before one dollar was expended in its execution or for carrying it out. The learned (?) American commissioner, when he gave his decision upon it, announced as the measure of damages that as the claimants were ready and willing to perform the contract they were entitled to all that was agreed to be paid, which was thirty to fifty thousand dollars a year for thirty years. Such a decision is a fraud on our Government, an outrage on the government of Venezuela, and a disgrace to the civilization of the age.

Now, Mr. Speaker, I will leave this claim and ask gentlemen of this House to examine it for themselves and they will find I have done it no injustice.

The gentleman's fourth point was in reference to his withdrawing from the canvass for governor of Indiana, a matter which he understands much better than I do. I only know this, that the investigation was concluded and my proposed report was pending before the full committee when his withdrawal as republican candidate for governor of Indiana was announced. His withdrawal had nothing to do with closing the investigation whatever.

He, in another place, stated that a different resolution was reported to the House from that which I proposed to the Committee on Foreign Affairs. That is true, and resulted from the fact that for want of time the committee thought best to stop the payments until a full investigation should be had.

The gentleman referred also to a dispatch from Ex-Minister Russell, in which he intimated that the government of Venezuela might pay the award if a portion of the money was paid to certain high officials of that government. As soon as the dispatch of Mr. Russell came to the knowledge of the government of Venezuela he was immediately dismissed and all diplomatic relations were terminated, and our Government was obliged to recall him. Whatever may be said against that government, this much is true and to its credit, that it indignantly and promptly resented this insult. It will be time for us to complain of Venezuela for failure to pay those awards when we have inquired whether they are such as ought to be paid.

Is it not more honorable for this weak nation to refuse to pay fraudulent claims in the face of threats than it is for our Government, great and powerful as it is, to insist upon payment in the face of protests and allegations of fraud, unheeded and uninvestigated?

In conclusion, Mr. Speaker, the gentleman from Indiana called upon all honorable men to condemn my course. I will not deal in adjectives, and the rules of the House furnish me all the scope that I desire in expressing and explaining my sense of duty in the premises. I submit to this House and to the country whether my course in endeavoring to expose fraud and prevent our Government from enforcing with the Army and Navy the payment of dishonest, fictitious, and fraudulent claims, or his in urging as a member of Congress coercive measures against a sister republic to collect such claims, and, after being elected to Congress, acting as attorney for the claimants in securing the passage of the act of Congress referred to, for which he received a large compensation, namely, the sum of $7,000 in the certificates of this commission, is deserving of the condemnation which he invites.

Mr. ORTH. Mr. Speaker, I ask the indulgence of the House for a very few minutes.

Mr. KITCHIN. I object.

[Cries of "Oh, no!"]

Mr. SPRINGER. I shall not object if I am permitted to answer any points which the gentleman may make and which I regard as misrepresenting my position.

The SPEAKER *pro tempore*, (Mr. TOWNSHEND, of Illinois, in the chair.) What time does the gentleman from Indiana ask?

Mr. ORTH. About twenty minutes.

Mr. McLANE. Mr. Speaker, I must object.

Mr. KITCHIN. I have already made objection to the gentleman proceeding.

Mr. McLANE. Before I am willing to give my consent to any further discussion of this matter——

The SPEAKER *pro tempore*. The objection made by the gentleman from North Carolina is sufficient.

Mr. McLANE. I rose to object with a view of asking the gentleman from Indiana a question.

The SPEAKER *pro tempore*. The gentleman from Maryland is not in order. The gentleman from North Carolina has objected, and no further discussion is in order.

Mr. ORTH. Do I understand objection is made to my proceeding?

Mr. ATKINS. I hope the gentleman from North Carolina will withdraw his objections.

Mr. SPRINGER. I have no objection to the gentleman from Indiana proceeding, if I have misrepresented him in any way, with the understanding that if he misrepresents the position I have taken I shall have the privilege of responding.

Mr. ORTH. I will state to the gentleman from Illinois that I shall take my own course in making my explanation.

Mr. McLANE. I have objected.

Mr. KEIFER. The objection was not made in time.

Mr. McLANE. I did object at the time. I rose to object to the continuance of this discussion.

The SPEAKER *pro tempore*. The gentleman from North Carolina has also objected.

Mr. KEIFER. But if it is a question of privilege the objection cannot prevail against it.

Mr. CONGER. The gentleman from Indiana, as I understand, rises to a question of privilege; if it be a question of privilege, then how can an objection be made against his proceeding? It is his right.

The SPEAKER *pro tempore*. Unanimous consent was asked in the first instance by the gentleman from Indiana.

Mr. CONGER. But I understand the gentleman now claims the right to the floor as a question of privilege.

The SPEAKER *pro tempore*. Does the Chair understand the gentleman from Indiana to rise to a question of privilege?

Mr. ORTH. If unanimous consent is not given to me, then I demand it as a question of privilege under the rules of the House.

The SPEAKER *pro tempore*. The gentleman will state his question of privilege.

Mr. McLANE. I have already objected——

Mr. ORTH. I understand I have the floor and not the gentleman from Maryland.

The SPEAKER *pro tempore*. The Chair desires to state to the gentleman from Maryland that the gentleman from Indiana has the floor, having risen to a question of privilege.

Mr. McLANE. I rose to object. I do not know whether the Chair has entertained the objection or not.

The SPEAKER *pro tempore*. The gentleman's objection would be unavailing if the gentleman from Indiana rises to a question of privilege.

Mr. McLANE. I desire to say, Mr. Speaker——

The SPEAKER *pro tempore*. The gentleman from Maryland is out of order.

Mr. McLANE. I desire to address a parliamentary inquiry to the Chair.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. McLANE. I desire to know in what respect I am out of order?

The SPEAKER *pro tempore*. In this: the Chair has stated that the gentleman from Indiana rises to a question of privilege, and the Chair desires to hear him state the question of privilege.

Mr. McLANE. Before the gentleman said he rose to a question of privilege he stated that he rose to reply to the gentleman from Illinois, [Mr. SPRINGER,] and I interposed my objection.

The SPEAKER *pro tempore*. When the gentleman from Indiana asked permission to reply to the gentleman from Illinois, objection was made, and the Chair entertained the objection, which came from the gentleman from North Carolina, [Mr. KITCHIN.] Now the gentleman from Indiana rises to a question of privilege. The Chair desires to hear the gentleman state his question of privilege, and the gentleman from Maryland cannot interpose.

Mr. AIKEN. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. AIKEN. How long does the Chair propose to give the gentleman from Indiana?

The SPEAKER *pro tempore*. The Chair has not yet heard the gen-

tleman from Indiana say what it is he claims to be a question of privilege. The Chair does not know whether it is a question of privilege until he hears it.

Mr. McLANE. I desire to hear it stated.

The SPEAKER *pro tempore*. When it is stated the Chair will determine.

Mr. ORTH. The question of privilege I claim is this: I have been attacked here upon the floor of the House. My motives and my conduct as a member of this House, or as a member-elect, have been impugned and assailed, and I demand it as a right to reply to my assailants; and I claim it as a privilege accorded to me by the rules of the House, and by common sense and common decency. If the House refuses to give me this opportunity, it may.

Mr. McLANE. I submit that the gentleman has not stated anything which involves a question of privilege.

Mr. ORTH. I ask the ruling of the Chair upon that.

Mr. STEVENSON. I hope there will be no objection to the gentleman proceeding.

Mr. THOMAS TURNER. I object.

Mr. McLANE. I am the last man in this House to do anything disagreeable to my friend from Indiana or any one else. But I will not give my consent to the continuation of this discussion unless the gentleman from Indiana in truth rises to a question of privilege and demands an inquiry.

The SPEAKER *pro tempore*. The Chair will have the rule read.

The Clerk read Rule IX, as follows:

QUESTIONS OF PRIVILEGE.

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members individually in their representative capacity only; and shall have precedence of all other questions, except motions to fix the day to which the House shall adjourn, to adjourn, and for a recess.

Mr. CONGER. On the question of privilege I desire to make a remark. The gentleman from Illinois has charged a member of this House——

Mr. HUTCHINS. I rise to a question of order. I desire to ask the Chair, is a question of privilege debatable?

The SPEAKER *pro tempore*. The gentleman from Michigan rises to a question of order.

Mr. CONGER. I rose to make a remark which I supposed the Chair would be willing to hear in regard to the question of privilege.

Mr. HUTCHINS. That is not a question of order.

Mr. CONGER. I was making this remark, that the gentleman from Illinois had on this floor——

Mr. HUTCHINS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HUTCHINS. I desire to know whether the gentleman from Michigan is in order?

The SPEAKER *pro tempore*. The Chair has already stated he would be willing to hear the gentleman from Michigan upon the question as to whether the gentleman from Indiana shall be permitted to go on with his statement as a question of privilege.

Mr. HUTCHINS. The Chair may be willing to hear the gentleman, but the question is one of order.

The SPEAKER *pro tempore*. The Chair thinks he ought to listen to a limited extent to gentlemen who desire to be heard upon the question whether this is a question of privilege.

Mr. HUTCHINS. I only want to know for my own guidance whether the gentleman from Michigan is in order. Some time ago I rose to a question of privilege which, as it seemed to me, affected the dignity of the House, and I was ruled out of order. The gentleman from Michigan helped to put me down. I want to know if that gentleman is now in order. If he is, it is all right.

The SPEAKER *pro tempore*. The Chair thinks the gentleman from Michigan is in order.

Mr. HUTCHINS. Does the Chair rule that the gentleman from Michigan is in order?

The SPEAKER *pro tempore*. The Chair thinks he is in order; but till he hears the statement of the gentleman from Michigan the Chair will reserve his decision as to whether he is in order or not.

Mr. CONGER. The gentleman from Indiana [Mr. ORTH] has stated what he claims to be a question of privilege, and the Chair has to decide whether it is a question of privilege or not. I have never known an occasion on which the Chair has not been willing to hear a remark or two on the question whether when a gentleman rose to what he claimed to be a question of privilege it was really such. That has been the custom of the Speaker, and I presume it will be allowed by the present occupant of the chair.

The gentleman from Illinois [Mr. SPRINGER] to-day in his place has charged a member of this House with having as a member of this House committed a misdemeanor punishable by law. If the charge is true it affects the character, the reputation, the integrity of the member assailed. It might and probably would go to the extent of raising the question whether this House might for that misdemeanor or for that crime expel. It must be a question of the highest privilege to answer that charge.

If this is not a question of privilege, if it is not a question of privilege to answer the remarks made to-day against a sitting member of this House, then we have no question of privilege for members.

Mr. BRAGG. It seems to me this is not a question of privilege; but if it be one, the question has run out and exhausted itself.

The gentleman from Indiana [Mr. ORTH] asked unanimous consent of this House a few days ago to speak to a question of privilege. What was it? Nothing that had any relation to anything that has taken place in the Forty-sixth Congress; but it was to defend himself against a report of a committee of the Forty-fourth Congress, which report it is alleged, by implication or in direct terms, contained matter that was personal to himself. In addressing the House upon that question of privilege, which it seems to me was no question of privilege at all, he devoted an hour or more of the time of the House to defending himself against the report of a committee of which the gentleman from Illinois [Mr. SPRINGER] was chairman. In doing so, it seems to me that it was an abuse of the indulgence of the House to occupy the time of the House, under pretense of a question of privilege, in the discussion of matters which took place in the Forty-fourth Congress.

Having done that, having replied to the report of the committee of which the gentleman from Illinois was chairman, and having reflected upon that report, the gentleman from Illinois had permission given by this House to reply to the remarks that had been made by the gentleman from Indiana. The gentleman from Indiana brought the question into the House improperly. He improperly assailed the committee of the Forty-fourth Congress. He improperly reflected upon the chairman of that committee of the Forty-fourth Congress, upon the report of the committee. This House gave that committee a right to be heard, and that committee has replied. Now, I submit that there is an end to the question of privilege which was raised in this House on a former occasion by the gentleman from Indiana. There must be an end to it some time. He was heard, and he has been replied to, and it seems to me that should close the discussion.

Mr. KEIFER. There has been introduced new matter, and the gentleman wants to rejoin.

Mr. WILSON. Mr. Speaker——

The SPEAKER *pro tempore*. For what purpose does the gentleman rise?

Mr. WILSON. To say a word or two on this subject. In my opinion, the House having permitted this explanation to be made, a sense of fairness and justice toward the gentleman from Indiana [Mr. ORTH] would now require that he have an opportunity to reply to what has been said by the gentleman from Illinois, [Mr. SPRINGER.] It was either right or wrong to allow him to make his explanation. I think it was right. The gentleman from Illinois has replied to him.

Now this House can very well see and the country will know that there are some matters which demand that the gentleman from Indiana have an opportunity to explain. If he fails in his explanation that is his misfortune. If, however, he has data within his possession which will enable him to defend and protect himself, he should now have the opportunity to state them. As a matter of courtesy and by common consent he was allowed to make an explanation, and that carried with it the implied right to defend himself from any assault that might be made upon him thereafter.

The gentleman from Illinois [Mr. SPRINGER] has properly availed himself of the privilege accorded to him. He has evoked new matter in his explanation; and every consideration of justice and propriety requires that the gentleman from Indiana should have an opportunity to reply.

Mr. McLANE. When I made my objection to the continuation of this discussion I had in my mind the fact that the gentleman from Indiana [Mr. ORTH] himself asked permission of this House to make a general explanation upon the matter in question, and he made it. When he had concluded the gentleman from Illinois, [Mr. SPRINGER,] upon whom he had reflected directly, asked permission to reply.

Now, the gentleman from Indiana knows very well that my objection then was as great as it is now to the introduction of such matters before this House. Yielding my objection to the gentleman from Indiana when he asked permission to make his explanation, and yielding it to the gentleman from Illinois when he asked permission to reply, I submit to the gentleman from Indiana that when he rises to a question of privilege and stands before this House now claiming the right to make an explanation of something which he did in 1870 or in 1871, by which act he may or may not have made himself liable to a criminal prosecution, it is not reasonable in him, it is not proper in him to ask this House to hear any further discussion of the subject. If he asks for a committee of inquiry there is no man in this House who would not resist it on account of want of jurisdiction. There is nothing in issue here but what he did in 1871. He asked permission to make an explanation of it. In making that explanation he attacked the gentleman from Illinois. The gentleman from Illinois asked permission of the House to reply, and he has now replied.

Now, so far it was strictly personal. So far it was right and proper to give the gentleman from Illinois permission to reply. But when that reply has been made, when the gentleman from Indiana by prior indulgence has made his general explanation, and the gentleman from Illinois has exercised his right to defend himself, being assailed, I submit that it is unreasonable for us to go forward with a discussion and an inquiry which inquiry should ultimate, if this be a question of privilege, in an investigation.

If the gentleman from Indiana did accept a retainer as counsel and did, after he was elected, make a professional engagement looking to

the enactment of a law by the Congress to which he was elected, who doubts that he violated the law? And if he rises and makes a question of privilege of that, and we think it is our province to investigate it, we should go on with the inquiry. But I for one deny that it is our province to go into any such inquiry. I think that the *prima facie* statement of the proposed subject of investigation as something which a member of this House did in 1871 concludes us by itself from further inquiry; and the gentleman from Indiana ought to feel that his own rights are being protected by me when I object to any further discussion. No harm can come to him by allowing the matter to drop where it is. He has had his say; the gentleman from Illinois has had his. I deny that this is a question of privilege; and I object to the gentleman proceeding.

Mr. ATKINS. I rise to a question of order. I desire to ask, Mr. Speaker, whether this debate upon the question of privilege is proceeding by unanimous consent.

The SPEAKER *pro tempore*. By consent of the Chair; but the Chair is now ready to dispose of it.

Mr. ATKINS. I trust the Chair will decide the question, and I hope the gentleman from Indiana and the gentleman from Illinois will each have a reasonable time to make their speeches.

Mr. SINGLETON, of Mississippi, rose.

The SPEAKER *pro tempore*. The Chair does not desire to hear further discussion on this question. He wishes to have the subject disposed of. For what purpose does the gentleman from Mississippi rise?

Mr. SINGLETON, of Mississippi. To say a word on this subject, with the consent of the House.

The SPEAKER *pro tempore*. The Chair desires now to have the question disposed of, and does not wish to hear further discussion upon it. Without expressing any opinion upon the question, the Chair will conform to what has been the practice of the presiding officer of this House for several Congresses. The Clerk will read from the Manual.

The Clerk read as follows:

Whenever the Speaker is of the opinion that a question of privilege is involved in a proposition, he must entertain it in preference to any other business. And when a proposition is submitted which relates to the privileges of the House, it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege.

The SPEAKER *pro tempore*. In conformity with this practice, the Chair submits to the House the question whether the gentleman from Indiana shall proceed as a question of privilege.

The question was decided in the affirmative.

Mr. ORTH. Mr. Speaker, with thanks to the majority of the House for entertaining this matter as a question of privilege, I shall proceed as briefly as possible—for I know the temper of the House in regard to public business—to allude to the most extraordinary diatribe of the gentleman from Illinois, [Mr. SPRINGER;] and I shall not be diverted from it by his attempts to drag this discussion beyond the legitimate question to which I confined it in my explanation to the House on the 4th day of the present month. I cannot be driven or enticed by him to go beyond the position which I took then; nor shall I consume the time of the House except in a few words to fitly characterize the malignity of the heart that would attempt to torture my conduct into a criminal act. If I speak with some feeling on this subject, Mr. Speaker, it is because that member has for a long time pursued me with the bitterness of a political and personal enemy. I have found his trails right along. I may upon some future occasion make further exposure of them.

Mr. SPRINGER. I call the gentleman to order. The gentleman can explain now anything that I have misrepresented, but for him to make an unprovoked assault and intimate that there is something latent in my course is violating the rules of the House and the privilege which has been accorded to him.

The SPEAKER *pro tempore*. The Chair thinks the gentleman should confine himself more strictly to the question of privilege.

Mr. SPRINGER. I defy the gentleman to make the exposures which he has threatened, and I call him to order now.

The SPEAKER *pro tempore*. The gentleman will confine himself strictly——

Mr. ORTH. Of course I will confine myself to the subject in hand.

Now this House and the country, so far as it has seen fit to read my remarks, will bear me witness that the first charge I made against the gentleman from Illinois in regard to this investigation was that it was made without authority from this House, without authority from his committee; that he himself took it up upon the petition of an old, simple-minded octogenarian. That was the whole foundation of this controversy. I say it here to-day (and the gentleman with all his ingenuity has not been able to cover up what I have stated) that he acted without authority from his committee, and the committee acted without authority from the House. This House can have no jurisdiction of international matters except through the executive branch of the Government. He says now he acted in this matter because he was fearful that there would be a great war between us and Venezuela, and therefore he desired to interpose his good offices.

The gentleman's history shows he is not much for war. He is a peace man, and it is on account of his excessive love of peace which induces him to violate the privileges of this House, to violate the privileges of the Committee on Foreign Affairs, and enter upon an investigation in reference to a matter never referred by this House to the committee or by it to him.

That charge he has not met, and that charge he cannot meet. It is the sandy foundation upon which he attempts to build this structure.

Now, then, the House will remember that Seth Driggs is a claimant against Venezuela; that Seth Driggs asked this House to intervene in a quarrel between him and his attorney, and upon that petition, coming from that old man tottering, in consequence of the bad faith of the Venezuelan government, to-day in poverty toward a near grave, yet perverting the object Seth Driggs had in view, the gentleman from Illinois seizes on the pretext of his petition to get up an investigation here against me, against American citizens who hold claims against the government of Venezuela, which have been recognized by our Government, passed upon by Secretary Seward, by Secretary Washburne, and by Secretary Fish, each of whom time and again informed the Venezuelan government that it had presented no evidence affecting their integrity and shown no sufficient reason why they should not be paid.

Yet, in view of these facts, the gentleman from Illinois, [Mr. SPRINGER,] for reasons best known to himself, sees fit to denounce them as fraudulent. The position of the distinguished gentleman now occupying the State Department [Mr. Evarts] has quite recently been enunciated by him in a communication to the Senate, and is as follows, namely:

Upon a careful consideration of the whole situation, and after giving due weight to all the representations which have been pressed upon me by the minister of Venezuela and the counsel for that government, I have come to the conclusion that no obligation of justice to Venezuela requires from this Government an abrogation of these awards and the institution of a new mixed commission for the re-examination of the claims upon which such awards have been made. On the other hand, a necessary attention to the rights of our own citizens, in whose behalf, only after long years of fruitless application to the justice of Venezuela were we able to conclude a convention for the adjudication of their claims, precludes a remission of their demands to the uncertain composition and the precarious administration of a new commission. The long period of twelve years has already passed since the commission concluded its labors, and it is impossible to foresee what longer delay might be interposed in the diplomatic negotiations and in the constitution of the commission, and in the conduct of its judicial examinations, which are expected to produce a new and more satisfactory set of awards. The claimants would suffer all the misfortune of death of witnesses and loss of evidence from this lapse of time, while the very existence of the new commission would seem to disparage the former awards and discourage the expectation that, however just, they would receive the sanction of the new commission which had been brought into existence by their denunciation.

If these claims were thus reeking with fraud and corruption, from which the gentleman from Illinois [Mr. SPRINGER] pretends to shrink with holy horror, would not these several Secretaries of State have discovered it? The gentleman's performance this morning is more theatrical than real.

I made another charge against him, that he had suffered a report which he intended to submit to the committee to get into the newspapers of the country before the committee had seen or acted on it. What is that gentleman's excuse? We all know the excited condition of the public mind in 1876, and how anxious a large portion of the press was to obtain sensational news. He says he intrusted the "proof-slips" of his campaign report to the pockets of a reporter during that exciting time, and had no idea the reporter would publish them. Does not the gentleman from Illinois know that ducks will swim? Does he not know when some newspaper reporters get a sensational article they will use it? Does not the gentleman know in his inward soul, and if he does not those who know him do know, that it was a sweet morsel to him to see it published, and that he had no other thought or wish than that it would be published.

What right had he to put those slip-proofs into the hands of a reporter? I do not wish to say the Chicago Times or any of its reporters would act dishonorably. It is, however, a matter for him and the Chicago Times and its reporters to settle between them. He makes the charge that the reporter of that paper acted dishonorably toward him. I make the charge that he placed the slip-proofs in the hands of a reporter of a paper when he had no right to do it, and that by so doing he abused the privileges of this House.

Again, Mr. Speaker, I asked him on the 4th of May why it was he selected my testimony and published it to the world and omitted that of all the others. He comes before the House this morning and sanctimoniously tells us he did it out of pure personal friendship to me! I have only to ejaculate the prayer, "from such friends, good Lord, deliver me!" That is the excuse he makes; but I reiterate my charge that he published it out of partisan motives, to connect the name of ORTH with what he tried to make a Venezuelan scandal.

I made another charge against him which he has also failed to meet, and that was that the committee had never seen the testimony upon which it is pretended the report was made, and that was the reason why the distinguished members of the committee, Banks and Packer, putting it in black and white, refused to sign the report, both saying "the testimony had never been submitted to that committee." I suppose that testimony was likewise probably in somebody's coat-pocket at the time it should have been presented to the committee. I know a portion of it was.

I also charged that in the Chicago Times's report he took the position that the appointment of the umpire, Juan N. Machado, jr., was a fraud, and he did that because by establishing one fraud he supposed he could build another one on it. To-day he comes and reiterates that and gives what he calls irrefragable evidence. Now, Mr. Speaker, I

shall in a few words show how he builds a theory which topples to the ground by a touch of the true history of that matter.

Even if that appointment had been fraudulent it does not affect me. I had nothing to do with that. I had no evidence of any fraud, nor have I been able after most diligent search to discover any such evidence. I take the position that Baron Stoeckl was not imposed upon or defrauded.

What is the evidence? In brief I will give it. In 1868 Florencio Ribas was chargé d'affaires of Venezuela to this Government, residing at Washington. Under the treaty of 1866 the Russian minister was to appoint the umpire. Ribas and Secretary Seward made application to Baron Stoeckl to appoint the umpire. Baron Stoeckl appointed Juan N. Machado, jr., but in his letter to Secretary Seward accidentally omitted his Christian name. Ribas received the appointment favorably, as Baron Stoeckl bears testimony. When notice of the appointment was sent to Caracas it was found there it meant Juan N. Machado, jr. It seems there was another Machado, the father, an old and infirm man, and to remove any doubt as to which one of the two was intended by Baron Stoeckl Secretary Seward sent him the following note:

DEPARTMENT OF STATE,
Washington, April 22, 1868.

DEAR SIR: Upon turning to your note appointing the arbiter under the convention between the United States and Venezuela, it is noticed that you accidentally omitted his Christian name. As it is desirable that this omission should be supplied, you will oblige me either by withdrawing the original note and substituting another of the same date, with the full Christian name of the person intended to be appointed, Juan N. Machado, *jr.*, or by addressing to me a supplementary note stating that it was your intention to appoint that gentleman.

I am, very truly, yours,
WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL.

That is Secretary Seward's letter, and is evidence of a straightforward business transaction. The country will hardly believe that Seward was engaged in perpetrating a fraud in the selection of this umpire.

What does Baron Stoeckl say in reply? I have it here in French, which of course the gentleman from Illinois understands. But I have it also here in English, simply re-affirming and reiterating the dispatch of February 27, 1868, putting in Juan "N." and "junior." That was a great fraud, a terrific fraud.

Secretary Fish, you may say, was also engaged in this fraud, and you may affect to believe it, but you cannot get the honest people of this country to believe it. Secretary Fish says:

Shortly afterward Mr. Francis Condè was appointed Venezuelan commissioner in the place of General Guzman Blanco, and it was then agreed to refer the appointment of the umpire to Washington, as stipulated in the treaty.

Mr. Florencio Ribas was then chargé d'affaires of Venezuela in Washington, but when Mr. Seward (my predecessor) applied to him on the 7th of November, 1867, Mr. Ribas stated that he had no instructions on the subject. Mr. Stilwell, the United States minister at Caracas, was then instructed to inform the Venezuelan government of Mr. Ribas's reply, and to urge that government to unite with this Department in requesting the diplomatic representative of Russia at Washington to make the appointment, in accordance with the treaty, as Switzerland had no diplomatic representative here. Mr. Stilwell was informed by Mr. Gutieres, the minister of foreign affairs, that on the 12th of October previously instructions to that effect had been forwarded to Mr. Ribas.

It was not, however, until the 6th of February, 1868, that Mr. Seward could obtain an interview with Mr. Ribas, on which day they united in a joint official note to Mr. Stoeckl, asking him to perform the function assigned him by the convention, of naming an arbiter.

In a note of the 27th of February Mr. Stoeckl informed Mr. Seward that he had endeavored to act in the matter in a way worthy of the confidence reposed in him, and that, after due inquiry, he had determined to appoint Mr. Juan Machado, jr., as the umpire, he being an impartial and respectable person in the highest degree.

In this selection the Russian minister appears to have acted upon his own information and judgment, and to have set aside the persons who had been named by the representatives of the respective governments, *both of which acquiesced in the appointment made by the Russian minister, and proceeded with the business before the commission now thus fully constituted.*

Venezuela acquiesced, the United States acquiesced in this appointment of umpire, everybody acquiesced, until four or five years ago, when an attorney of Venezuela thought it proper to raise a question of doubt as to the appointment of Juan N. Machado, jr., a man who was educated in your city, [addressing Mr. MCLANE, of Maryland,] married in your city a lady of high character and social position, and although he may be a "cotton-weaver" in Caracas, as the gentleman from Illinois states, he is a man of the very highest character and standing in his own country.

We have seen what Secretary Fish says about Juan N. Machado, jr. Now, what does Seth Driggs swear to—the person toward whom the gentleman from Illinois is so charitably disposed as to be willing to deprive him of the money justly due from Venezuela? He says:

Mr. Juan Machado was a native of Caracas and had a yarn-mill there. He was about thirty years old at that time.

The Venezuelan consul here made no objection to him until after these depositions were made, and then the Government complained and said that he was not a competent person for umpire.

What does Castro, a Venezuelan, swear before a committee of this House:

It has been stated that Mr. Ribas, the Venezuelan chargé d'affaires, agreed to the appointment. Mr. Ribas, when I was presenting this claim on the part of the Venezuelan government, expressed great regret for what he had done, because he was convinced that the appointment was not a good one; but he said that the circumstance of the man being a native of Venezuela appeared to him favorable for his government, and that, fearing that in case he was not accepted a different man might be appointed who would be adverse to the interests of the Government, he thought it best to accept the name of Machado.

Castro knew what he was about; Ribas knew what he was about. But the gentleman from Springfield, Illinois, thinks they did not understand their business.

And that is not all, Mr. Speaker. Juan N. Machado, jr., was recognized by Villafane, the Venezuelan commissioner. On all these matters on which there was a difference of opinion between the two commissioners such difference was referred to the umpire, Juan N. Machado, jr. And now, with all this testimony against him, he comes here this morning and pretends that the appointment of the umpire was a great fraud.

This is the manner in which he has met the several charges I made against him, and I leave it to the House and the country to judge whether his effort has not been in all respects a complete evasion and his answers a complete failure.

The gentleman from Illinois exhibits the true animus which has characterized his course throughout this entire transaction by going out of his way and quoting a section of the statute which he alleges I have violated. His conduct and his legal opinion are on a par with each other—conduct unworthy of any honorable man, and an opinion of which the merest tyro in the law would be ashamed. To show that I am justified in using this language, let me examine briefly the facts and the law he has quoted.

My testimony before the committee shows that after the 4th of March, 1871, when I was not a member of Congress, I accepted an employment from Stilwell & Talmage to act as their attorney in procuring a distribution by the Secretary of State of money which had been paid by Venezuela, and also the passage of an act by the Forty-second Congress declaring the validity of the awards of the mixed commission. I was not a member of that Congress. In October, 1872, I was elected to the Forty-third Congress, and my term of service commenced on the 4th of March, 1873. My engagement and my services as such attorney terminated on the 25th of February, 1873, before the commencement of the Forty-third Congress.

The gentleman from Maryland, [Mr. MCLANE,] whose ability as a lawyer is recognized by all of us, has remarked:

If the gentleman from Indiana did accept a retainer as counsel, and did, after he was elected, make a professional engagement looking to the enactment of a law *by the Congress to which he was elected*, who doubts that he violated the law?

That is undoubtedly a correct interpretation, but does not apply to the facts in this case, because I did not make a professional engagement looking to the enactment of a law by the Congress to which I was elected. On the contrary, my engagement had fully terminated before the commencement of the Congress to which I had then been elected, and that Congress never had this subject before it in any shape or form.

I now ask the attention especially of the lawyers of the House to this portion of my remarks. It is pretended that I violated the second part of said statute, (section 1781, U. S. R.,) which reads:

And every member of Congress who, directly or indirectly, takes, receives, or agrees to receive any money, property, or other valuable consideration whatever after his election as such member, for his attention to, services, action, vote, or decision on any question, matter, cause, or proceeding which may then be pending, or may by law or under the Constitution be brought before him in his official capacity, or in his place as such member of Congress, shall be deemed guilty of a misdemeanor, &c.

It is as evident as unmistakable words can make it that to bring an engagement within the prohibition of this act it must be an engagement about a matter either then pending before him in his capacity as a member of Congress or one which by law or the Constitution may be brought before him.

My engagement was not in reference to any matter pending before me during my service, but was terminated before such service commenced. On the other hand, was my engagement about a matter which by provision of some law or of the Constitution must or might come or be brought before me as such member of Congress? Most assuredly it was not such an engagement.

That clause of the act prohibits one elected to Congress from taking an employment touching a matter which by virtue of some existing law or the Constitution may be brought before him as such member. In illustration: it would prohibit a Senator-elect from taking an employment to secure the ratification or rejection of a treaty which was pending for confirmation in the Senate at the time of his election, because by virtue of his election he may be called to act upon it officially in his capacity as Senator. Again, it would prohibit a member-elect to the House from taking an engagement as attorney in a contested election to be determined by the Congress to which he was elected, because under the Constitution he as such member is one of the judges to decide the contest.

That section would not prohibit a member-elect from taking an employment to obtain an extension of a patent before the Commissioner of Patents, for although the question of such an extension might be brought before Congress, it would not be thus brought by virtue of any law or any provision of the Constitution. Again, it does not prohibit a member-elect from appearing before the Commissioner of Public Lands in reference to a title to some real estate, although legislation in reference to such title might afterward be brought before Congress, yet it would not thus be brought by virtue of any law or the Constitution.

So in reference to this act establishing the validity of these awards, if it had failed to pass in the Forty-second Congress, it might have been brought before the Forty-third Congress, of which I was a mem-

ber; but it could not have thus been brought by virtue of any law or the Constitution. It could only have been brought before that Congress as new and original legislation.

The section means, and it means nothing else, that a member-elect shall not be employed in any matter which a specific law or provision of the Constitution notifies him may or must come before him in his official capacity, and for that reason it is made unlawful for him to accept such employment. Any other construction is utterly untenable; any other construction would compel an attorney who is elected to Congress to abandon all his professional engagements within the vast domain of Federal legislation, such as questions connected with banking, with customs, with internal revenue, with patents, with public lands, with Indian affairs, because Congress may some time during his service be called upon to legislate upon these or kindred subjects. Was my engagement in this the case of a member of Congress attending to a matter pending before him in his official capacity?

Mr. SPRINGER. Take the other alternative.

Mr. ORTH. I will take all the alternatives; yes, sir, some probably, before we get through this matter, which the gentleman will not like very much.

Mr. SPRINGER. All right; bring them out.

Mr. ORTH. Such logic is too absurd for serious consideration. Its use to-day forms but another chapter in the partisan purposes and conduct of that gentleman. He has now learned, if he did not know it before, that when attacks are made they will be repelled. He has now learned, if he did not know it before, that there is as much truth as poetry in the lines of one of England's immortal bards:

> And if we do but watch the hour,
> There never yet was human power
> Which could evade, if unforgiven,
> The patient search and vigil long
> Of him who treasures up a wrong.

Mr. SPRINGER. There is nothing to which I desire to reply, and I will not ask the indulgence of the House for any remarks, but will leave the country to construe the speech as it should be construed.

In pursuance of the promise which I made to the House, I will move the reference of the document from the State Department, to which I referred, to the Committee on Foreign Affairs, and ask that it be printed.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. HARRIS, of Virginia. I move to dispense with the morning hour, with a view of going on with the consideration of the pending appropriation bill in the Committee of the Whole. I make this motion because the chairman of the Committee on Appropriations [Mr. ATKINS] is out of the Hall, but I understand that he will be here in a moment.

The motion was agreed to, two-thirds voting in favor thereof.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. ATKINS. I move that the House now resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. COX in the chair,) and resumed the consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The pending paragraph of the bill was the following:

> For detecting, and bringing to trial and punishment, persons guilty of violating the internal-revenue laws, or accessory to the same, including payments for information and detection, $75,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum.

The pending amendment was one offered by Mr. HOOKER, to strike out the words "including payments for information and detection," and also to strike out "$75,000" and insert "$50,000;" so that the paragraph would read:

> For detecting, and bringing to trial and punishment, persons guilty of violating the internal-revenue laws, or accessory to the same, $50,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum.

The CHAIRMAN. The gentleman from North Carolina [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS, of North Carolina. I do not know any branch of the public service that needs examination more than this of the internal revenue. Its administration in some sections of the country has been fraught with fraud and corruption. It has been used in a large degree for political purposes. During the period when gentlemen on the other side of the House controlled the appropriations of this country, I do not hesitate to say that the expenditures of collecting the internal revenue, and the amount collected, show that there must have been something more than the mere ordinary administration of that department of the Government, in the interest of the public. I have compiled from official sources since this debate began a statement which will show facts utterly inconsistent with a fair and impartial administration of this department of the Government.

The following is a comparison of the expenditures of public money on account of civil and miscellaneous appropriations during the presidential-election years of 1864–'65, 1868–'69, and 1872–'73, and the years next prior and next subsequent to each of said election years; showing invariably an increase of expenditures in each fiscal year of the presidential election over the years immediately prior thereto and over the years immediately subsequent thereto:

Fiscal year 1863–'64 (before election year)	$27,572,216
Fiscal year 1864–'65 (election year)	42,989,383
Fiscal year 1865–'66 (after election year)	40,613,114
Fiscal year 1867–'68 (before election year)	53,010,000
Fiscal year 1868–'69 (election year)	56,474,000
Fiscal year 1869–'70 (after election year)	53,237,000
Fiscal year 1871–'72 (before election year)	60,481,757
Fiscal year 1872–'73 (election year)	73,328,110
Fiscal year 1873–'74 (after election year)	69,641,593

Thus showing increased expenses in the election year of 1864–'65 over 1863–'64, of $15,417,167; in election year of 1868–'69 over 1867–'68, of $3,464,000; in election year of 1872–'73 over 1871–'72, of $12,343,358; in election year of 1864–'65 over 1866–'67, of $2,376,269; in election year of 1868–'69 over 1869–'70, of $3,273,000; in election year of 1872–'73 over 1873–'74, of $3,686,517.

A reference to the amounts of internal revenue collected during the presidential years as compared with the amounts collected in the fiscal years preceding and following will show that the amount collected during the presidential years was less by millions than the amount collected in the years preceding and following.

Internal revenue collected for fiscal year 1867–'68, (before election,) $191,087,589; year 1868–'69, (presidential year,) $158,356,460; year 1869–'70, (after election,) $184,899,756; thus showing that the amount collected during the presidential year was $32,731,129 less than the year before, and $26,543,296 less than the year following the election.

The amount collected during the fiscal year of 1871–'72, prior to the election, was $130,642,177, and the amount collected during the presidential year of 1872–'73, was $113,729,314, thus showing that the amount collected during the presidential year was $16,912,863 less than the year before.

Now, why was this? Was it the result of any accident? No, sir; it was because these officials in many States of the Union were engaged in using their positions for political purposes. I think the facts will show that this must have been the reason.

For instance, why should the civil and miscellaneous expenses of the Government, which includes the collection of internal revenue, cost millions more the year of a presidential election than for the year before or the year following? And why should the amount of revenue collected during the presidential years be less by millions than during the years before or the years after?

A great deal has been said about gentlemen on this side of the House being sensitive on this subject, and it is alleged that it is because their constituents had been engaged in violating the revenue laws. No one on this side approves violations of the law, but the remedy is not in spies and detectives. We have had some of these detectives in my State, and though they were employed nominally to detect crime, they were oftentimes the greatest, and sometimes the only, criminals connected with the matters which it was said they were employed to expose. And on their testimony men have been bound over to the Federal court on false or frivolous charges, and on the hearing, the judge has instructed the grand jury not to find bills of indictment on the testimony of those men.

Whenever the Government finds it necessary in the execution of its laws to employ men of bad character, to employ knaves as many of these men unquestionably are, it is time that we should try and see where the evil is. We shall find it in the bad administration of unjust and unequal laws, which do not command the approval of public sentiment. Whenever it becomes necessary to enforce the civil law through the medium of spies and detectives, then, I say, you may bid farewell to the freedom of this country, and this Republic will go down as other republics before it have gone, into despotism, through corruption.

[Here the hammer fell.]

Mr. BAKER. Mr. Chairman, the mournful view which the gentleman from North Carolina [Mr. DAVIS] takes of the future of this country would be calculated perhaps to create alarm if it came from some other direction than the old "tar-heel State." All I desire to say in reference to the charge made here that the money of this country during the years indicated by him has been diverted from the legitimate purposes for which it was appropriated to political purposes is simply this: the gentleman deserves a patent for discovering fifteen years after the fact what eighty-four democratic smelling committees of this House have hitherto failed to discover. With this statement I do not desire to say anything further on that point.

Mr. Chairman, whenever the question of the honest enforcement of the revenue laws in reference to whisky comes up a raid is always made by sympathizers with moonshiners and evaders of the revenue law upon that law for the purpose of striking down its honest and efficient administration. In reference to this item, Mr. Chairman, the sum of $75,000 is the amount appropriated last year. One hundred thousand dollars was recommended as the appropriation for the present year by the Commissioner of Internal Revenue, who assured our committee that it was important he should have this amount instead of $75,000 as named in the bill, or $50,000 as proposed in the amendment of the gentleman from Mississippi.

For one, I feel that if there is a desire on the part of this House to

have free whisky, not only here but everywhere, there ought to be an honest amendment offered for the purpose of making it free. I insist that so long as we undertake to collect the revenues of the country it is unfair, it is unjust, to undertake to undermine, little by little, the efficiency of this Department, and strike at that portion of it which is absolutely indispensable to the collection of the revenue.

Gentlemen talk as though there were something dishonest or disreputable in enforcing the law. Irish history is appealed to. Gentlemen wax eloquent and grow loud in denunciation of spies and informers. Yet in behalf of whom is this clamor raised? It is raised in behalf of men who are engaged in the dishonest effort to evade the revenue laws of the country. When honest men come forward and complain it will be time that we should give attention to the matter. When my friend shows that a dollar of this money has been expended for the purpose of detecting others than those who ought to be detected, it will be time for this House to halt. In my experience I never knew the time when a criminal could be found without searching for him; and I never knew a law that could be enforced unless there was provision made and money afforded for the purpose of searching out criminals and bringing them to justice. It is so in every Department; and it must be so in this. The only question as a business question is whether an appropriation of $75,000 for these purposes is too large. I know from investigation of this subject that this appropriation instead of being diminished ought to be increased; that $100,000 or $150,000 could be advantageously expended in this direction, and that as the result of such expenditure large additions could be made to the revenue of the country. Every dollar expended in putting down moonshiners, in bringing to justice the bloody-handed men who slaughter the revenue officers of the country, is a dollar wisely expended; and whoever would seek to cripple that band of men who take their lives in their hands for the purpose of repressing lawlessness, detecting crime, and bringing criminals to justice, offers, it seems to me, a temptation and an open bid to the violaters of the law.

[Here the hammer fell.]

Mr. MCKENZIE obtained the floor and yielded his time to Mr. DAVIS, of North Carolina.

Mr. DAVIS, of North Carolina. I am very much obliged to my friend from Kentucky.

Mr. BURROWS. I rise to a parliamentary inquiry. Is not debate exhausted on this amendment?

The CHAIRMAN. Debate is exhausted.

Mr. BURROWS. I object to further debate.

Mr. MCKENZIE. I move to amend the amendment by striking out the last word.

The CHAIRMAN. The gentleman from North Carolina will proceed.

Mr. DAVIS, of North Carolina. The gentleman from Indiana [Mr. BAKER] says that according to his observation the amount of this appropriation might be much larger. I have no doubt that a much larger sum might be spent; it might be run up to $100,000 or to $1,000,000, or to $10,000,000. But that is not the question. This is a proposition to pay detectives and informers. If the grand juries and the ordinary law-officers of the country are not sufficient to point out offenders and bring violators of the law to justice, I say for one, never by my vote shall one dollar be paid to a detective or an informer. It is only to the portion relating to detectives and informers that my remarks apply.

Mr. Chairman, there has been nothing more corrupting, nothing more demoralizing, nothing that has gone deeper in sapping and undermining the foundations of this Government, than this system of internal revenue. The great thieves go unwhipped of justice; but a little offender in some mountain gorge is seized and carried off to Albany or some other prison, while large thieves, not only in matters of revenue, but in other things, go free. Over here in the State of Pennsylvania some of the gentleman's political friends have been guilty—of what? They have been charged with corruptly soliciting the votes of legislators to procure the passage of a bill appropriating $4,000,000 for property destroyed by the Pittsburgh rioters; claims which, by the way, were settled afterward at one million and a half of dollars or thereabout. These men, after being convicted or pleading guilty, and after being sentenced to the penitentiary, were pardoned by the governor upon the recommendation of the board of pardons of that State; and it is said publicly in the papers that this was because they said to leading men of their party, "Unless you let us out, many of you must come in." All I have to say is, that if our friends on the other side desire to bring criminals to justice let them begin high. Let them begin with those who were pardoned out of the penitentiary after being convicted of frauds on the revenue at Saint Louis. One or two of these big thieves will defraud the Government out of more money in one month than all the blockaders in North Carolina together in one year; but these men can contribute to the party fund and that secures immunity.

Such eminent republican politicians as W. H. Kemble, lately a member of the national republican committee for the State of Pennsylvania, who has made memorable that motto of political thieves, "addition, division, and silence," with his associates, Petroff, Rumberger, Salter, and Crawford, can, when convicted of the greatest crimes—crimes which strike at the foundation of our Government—find no trouble in keeping out of the penitentiary, because they have money with which to help the party, and because, as it is publicly alleged in the press of the country, they know the secrets of their political associates, who dare not permit them to go to the penitentiary.

When our friends on the other side speak of the thousands of moonshiners and violators of the law in a few States of this Union, they should remember that the frauds in Saint Louis alone exceeded in amount in one year all those perpetrated by all the moonshiners together. Let them condemn these eminent violators of the law. I will vote all the money necessary for the courts, the juries, and all public officers in the administration of the laws, but I will never vote one dollar to pay spies and detectives, instruments unknown in the civil administration of our fathers, names in many instances synonyms for thieves and knaves.

[Here the hammer fell.]

Mr. ATKINS. Mr. Chairman, I regret that any partisan remarks have been made on this appropriation bill. I do not think that an appropriation bill is the proper place to arouse political prejudice. I think we should discuss this bill in regard to its business merits and in regard to what is absolutely necessary to enforce the laws which are on the statute-books.

Now, sir, if the Internal-Revenue Bureau has been guilty of malpractice—and I am not prepared to say it has not, nor am I its special defender; but if it has been guilty of malpractice there is a way of reaching it, and it should be reached. If the head of that bureau has used the public funds for the purpose of oppressing one portion of the people, or indeed any single individual, wrongfully, there is a way to reach that officer, and it should be done; but it should not be done at the sacrifice of the collection of the revenues of the country.

Whether wisely or unwisely, Mr. Chairman, laws have been enacted levying a tax on whisky, and on manufactured tobacco, and upon other articles. It is necessary to enforce those laws, and ever since their existence this very clause in this appropriation bill has been enacted.

A certain sum of money has been appropriated annually for the purpose of detecting violators of the internal-revenue laws. It has been applied to that particular purpose. The question is, will gentlemen who are opposed to this section or this paragraph in the bill take the ground that no appropriation at all should be made for that purpose? If I understand the purport of the argument of the gentleman from North Carolina it goes to the effect of wiping out the entire appropriation.

We appropriated last year the very self-same, identical amount we propose to appropriate this year, and for the same identical object. There is not the crossing of a *t* or the dotting of an *i*'s difference in the object or the amount of last year's appropriation and that proposed by this bill.

Then, if we intend to execute the laws, the means ought to be given to the officers of the country to do so. If the laws are wrong, repeal them. If the judgment of the House is prepared to say that the laws are wrong, they should provide for their repeal. I am not for one prepared to say that I advocate the present system of taxation, for I do not; but it is not proper on an appropriation bill to attempt to change those laws. [Applause on the republican side.] If you withhold the necessary means for the enforcement of those laws in the passing of your appropriation bills, you have effectually nullified those laws. That is the whole of it, so far as that is concerned, and gentlemen cannot escape the proposition.

But, Mr. Chairman, there has been in the last nine months over $10,684,000 of internal revenue collected more than for the nine corresponding months of the last fiscal year. I want to say that there have been in certain districts where illicit distilling has prevailed to the greatest extent during the last two years by the encouragement given by the Internal Revenue Bureau two hundred and seventy-two new registered distilleries. There are to-day three times as many registered distilleries in these same districts as there were two years ago. That has been brought about by suppressing illicit distilling.

I do not suppose there is a gentleman on this floor who is prepared to say he desires to promote by any act or word of his illicit distilling. I know that no member professes to do any such thing; but I want to say if insufficient appropriations are made to protect the internal-revenue laws, there is injustice done to the registered and legal distilleries of the country. Shall we by any action of ours so promote illicit distilling as to break down thereby the legal distilleries of the country and defraud the Government of its legitimate revenues? Those are the questions to which gentlemen of the House should address themselves. The Government was defrauded in 1876 of over $4,000,000 of revenue by illicit distillers.

I say that the gentleman from Mississippi himself, who, I believe, has made two or three speeches on this proposition, concedes the language he proposes to strike out is mere surplusage. If, then, it is mere surplusage, there is no principle involved in it. That is what the gentleman concedes; and I repeat and reiterate what he has said, that the language he proposes to strike out is mere surplusage. In the first part of the paragraph it provides for "detecting and bringing to trial." Afterward the language "including payment for detection and information" is a mere repetition.

[Here the hammer fell.]

Mr. CABELL took the floor.

Mr. BURROWS. Is not the debate exhausted?

The CHAIRMAN. Debate is exhausted on the formal amendment.

Mr. CABELL. The gentleman withdraws it, and I renew it.

Mr. BURROWS. I object to its withdrawal.

The CHAIRMAN. The question, then, will have to be taken on the amendment.

Mr. ATKINS. What has become of the amendment of the gentleman from Mississippi?

The CHAIRMAN. It is still pending. The question now is on the amendment to that amendment.

The amendment to the amendment was rejected.

Mr. CABELL. I move to strike out the last two words. I favor the amendment of the gentleman from Mississippi. It is not my purpose by anything that I may say or do to cripple the force and effect of the revenue laws or to retard their execution. I do wish, however, to see those laws executed in the proper manner and through the proper instrumentalities. It is a question of economy as well as of justice that we have here to consider; ought we to appropriate such a large sum of money as that here designated for the purpose and business for which it is asked? If my memory serves me some three years ago when the revenue laws and regulations had not arrived at that degree of perfection which is now claimed for them about $50,000 was voted for the purposes for which we are asked to appropriate $75,000. The first-named sum I doubt not was considered sufficient then to conduct this branch of the public business. It was only, if I am correct in my recollection, as far back as 1878 that we find the amount increased to $75,000.

The Commissioner of Internal Revenue claims that he has so perfected the law, that he has brought his regulations so well to bear upon revenue subjects and the business of his department, that everything goes along smoothly and well; that he loses less and collects more revenue than was ever collected before, and that almost everything moves on with reasonable accuracy and precision in his department. What need, therefore, for this large appropriation? I think that the appropriation of $75,000 for the support and encouragement of detectives and informers is unnecessary and improper. We are called upon to follow the bad precedent established two or three years ago. If we cannot omit the appropriation I would wish to see it reduced. It is contrary to the spirit and genius of our institutions to maintain a horde of spies and informers whose vocation it is to dog the footsteps and pry into the business of the citizen. It adds nothing to the dignity of our Government or the character of our institutions to maintain at the public expense a large number of detectives, many of whom experience has shown provoke, if they do not invite, violations of the law. The evil should be checked, if we cannot cure it.

But the gentleman from Tennessee [Mr. ATKINS] was correct when he said the great defect was in the revenue laws. The trouble was and is in the law. It lies deeper than anything we have presented here. The trouble, the great trouble, consists in the weight of the revenue tax upon liquors and other subjects.

If the rate of taxation was reduced we would have no need of an army of spies and informers. The people would pay the reduced tax more cheerfully, production would be encouraged, the incentive to fraud would be greatly lessened, and the result would be an increase of revenue to the Government. If you will look back a few months you will find that when we had under consideration the proposition to reduce the tobacco tax, it was claimed on the part of the Treasury Department that such action would decrease the revenue by nine or ten millions of dollars. Yet when we reduced the tax to the extent of eight cents per pound, one-third of the old rate, the result was, there was not only no loss of revenue to the Government, but, as I am informed, an actual gain. I have not the figures at my command just now, but I am informed, and gentlemen around remind me that so far from working a diminution of receipts the reduction of the tax has induced an increase of revenue to the extent of a million dollars or more in excess of that obtained under the old law.

Mr. HOOKER. If the gentleman will allow me to interrupt him, the increase has been largely in excess, as shown by the morning papers.

Mr. CABELL. I have no doubt of it; and if that is a fact, if it be true, as I believe it is, that an increase of revenue has followed the reduction of the tax upon tobacco, why should the same effects not follow in regard to spirits? The same results will follow, Mr. Chairman, if the tax upon distilled spirits should be wisely reduced. The tax bears so heavily upon poor men and men of moderate means that they cannot engage in the business, just as was the case with tobacco, and the whole field is left to men of wealth or fraudulent methods. Reduce the tax and give all persons a fair and equal chance; reduce the tax and lessen the efforts to avoid its payment. Do this and the Government will get what belongs to it without the aid of so many paid employés enforcing their doubtful system of coercion.

[Here the hammer fell.]

Mr. REED. Mr. Chairman, it seems to me that it is in vain for gentlemen to attempt to cover up the issue which is before us. This is a question whether we will enforce our laws and collect the revenues as heretofore, and nothing else. One gentleman on the other side of the House has declared that this can be done without officers, and that it can be done by public sentiment!

On the 10th day of February a member from Georgia introduced into this House a resolution calling for facts connected with this subject. Since that resolution has been answered I have heard no allusion to it by gentlemen on the other side. That statement of facts shows that during the last three and a half years, in a few Southern States of this country, three thousand and forty-three illicit stills have been discovered and sixty-one hundred and fifty-three criminals or persons accused of crimes against the revenue have been arrested. Now, if that is the state of public sentiment in that part of the country, and it allows such an enormous number of illicit stills and encourages such an enormous number of perpetrators of crime, I wonder how much we are going to be benefited by such a condition of "public sentiment."

But that exhibit is the least alarming feature. One would suppose that with such an exhibit as that staring them in the face the Representatives of such respectable communities on this floor would hang their heads in shame; but instead of that they come here and actually force the fighting! They actually come here and endeavor to force a reduction of appropriations to detect crime, these men who represent such districts! They undertake to assail the officers of the law and prevent them from getting their pay for enforcing the statutes of the United States in relation to the collection of the revenues!

For my own part I want the country and I want the House to understand who is doing it. I want the country to take note of the men who present this thing and press it for consideration in this House.

This rigorous enforcement of the law that gentlemen are so anxious to have mitigated has shown itself in the largely increased revenues of the country. Three years ago, for the first six months of the year the amount of revenue collected was only $442,562.64; for the first six months of the current fiscal year the amount collected is over $806,550.32. This report shows clearly what has been accomplished by a rigorous and exact enforcement of the law. But this has been achieved by no harsh and unrelenting treatment of men detected violating the law. On the contrary, on one page of the report you will find that twenty-five hundred and six of the individuals who have been arrested for that crime have been amnestied by the Government; and this notwithstanding twenty-five men have been killed and forty-nine men have been wounded—all officers in the performance of their duty; and notwithstanding one hundred and twenty-five of these officers have been arrested by the State authorities because they were doing their duty, while only one man has been prosecuted for these murders and woundings. If that is the kind of public sentiment that is to enforce this law, I think we ought to increase the appropriation instead of diminishing it.

Mr. HOOKER. It has been said by the gentleman from Tennessee, [Mr. ATKINS,] who has this bill in charge, that the motion I have made does not amount to anything; that the language which I propose to strike out is simply surplusage. I did say, Mr. Chairman, that the language in the bill which I propose to strike out, "including payments for information and detection," was surplusage, because in the first line of the paragraph there are the words "for detecting." But the surplusage is not only in the language of the bill reported by the gentleman from Tennessee, but it is in the appropriation which the gentleman proposes to make.

It was stated by my friend from Virginia that it was only in 1878 this amount had been increased. In a year or two more you will probably be applied to by the Commissioner of Internal Revenue, if we have the same experience in the future as we have had in the past, to appropriate $100,000 for this purpose; and so on and on it will increase.

I have said the language of the bill is surplusage in that particular since the paragraph already appropriates for detecting persons guilty of violating the internal-revenue laws. But the gentleman from Maine [Mr. REED] undertakes to say that there have been so many persons prosecuted under the law, that therefore it is necessary to make this appropriation. Why, sir, no one wants to prevent prosecutions for illicit distilling. Nobody proposes to strike out that feature of the bill. But we do propose to strike out the feature of the bill which provides for paying men who become informers and spies as well as detectives. We do propose to strike out that. It was with very great difficulty, if I remember correctly, that several Congresses ago the gentleman got into the bill that feature of it.

I say the ordinary law officers of the Government, the grand juries assembled in the various districts where these offenses are committed, and the marshals appointed and paid by the Government and whose duty it is to arrest all offenders—those are the officers whose business it is to detect these persons by the ordinary process of law. They are the paid officers of the Government. It is the duty of the marshal and the grand juries of the district to ferret out all men who are illicit distillers and who are violating the law. These are the officers of the law known to the law. But the gentleman who reported this bill and the gentleman from Maine propose that there shall be a corps of secret officers, spies, and informers who shall be the means of enforcing the laws, and who shall be paid for the secret service thus rendered by the money of the people, while there are already officers appointed by law and paid by law whose duty it is to make the necessary investigation.

Mr. ATKINS. I deny that the gentleman's construction of the clause under discussion is a legitimate one.

Mr. HOOKER. I was about proceeding to remark that in the first line of the paragraph we provide for detectives, and therefore it is unnecessary to add to that clause to provide for informers also. It is to that feature of the bill and to the repetition of the word "detec-

tion" that I object. The bill really bears that construction. And I say we ought to resort to the courts of the country, to the marshals, and to the grand juries empanneled in the courts who by the process of subpœna have a right to summon any and everybody as witnesses and pay them according to the law as it now exists.

[Here the hammer fell.]

Mr. KELLEY. I do not know if I caught the purpose of the gentleman from Mississippi, [Mr. HOOKER.] I listened attentively to him and if I understood him, he is perfectly willing people shall be paid for detecting illicit distillation, but not paid if they give information. He wants the whole fund put in for detecting; but he holds in contempt, all the contempt of an Irish distiller of bog whisky, the man who informs.

Now, I believe the way to enforce a law is to detect a crime and arraign the criminal; and if you cannot do it, to give information to those who have the power to do it.

I have no hostility to the South, and I say to the gentlemen from that section that the facts as to the number of illicit distilleries that have been suppressed, the number of Federal officers who have been murdered in attempts to suppress them, and the much larger number who have been crippled there, give to their political adversaries an amount of ammunition for the coming campaign that will infinitely more than counterbalance any local popularity that may be made among the moonshiners and their friends. Let the word "information" stand. Let us pay people not only for detecting but for informing the Government of violations of law which they have detected; and I think if we continue to enforce the law as well as we have done for the last few years we will be able to live through the Irish hostility to informers.

The gentleman who spoke upon the tobacco tax alleged that there had been a large increase of revenue from that tax since the reduction. There has been a large increase of internal revenue, but it does not come from the tax on tobacco. That has fallen off; and I think if it had increased it would not justify us in paying people for detecting crime on condition that they should not give information.

Mr. HOUK. I desire to say a few words on this subject, as I come from one of the districts which makes occasionally a little "moonshine," known in our country sometimes as "mountain dew."

What I desire to say is this: I am opposed to striking out the clause in the pending paragraph appropriating money for information and detection. We have had a great many indictments in my part of the country for illicit distilling and illicit commerce in distilled spirits. There was a time when a great many good citizens, not understanding the revenue laws, innocently engaged in that business. But under the policy of the Government saying to our people who had transgressed that if they would become law-abiding citizens, if they would cease to make illicit whisky, they should have officers there who would treat them properly, perhaps more than two hundred persons in East Tennessee, in the portion of the country that I have the honor to represent, have been amnestied with the understanding that their honor and law-abiding purposes were pledged to see that the laws of the Government should cease to be violated.

This has encouraged the honest people of the country to engage in the legal manufacture and distillation of whisky and brandy; and today distilleries according to law are springing up all over my district, [laughter,] instead of distilleries contrary to law as it formerly was. Within the last few months legal distilleries have increased, [renewed laughter,] and illicit distilleries decreased in my section. Gentlemen may laugh at this, but it is better to make whisky according to law than to make it contrary to law. We have encouraged these men to invest their capital in distilleries, and we owe it to the men who have thus engaged in legal commerce to protect them against the illegal manufacture of whisky.

Mr. UPDEGRAFF, of Ohio. Is there not danger that you will soon have a democratic district if you have so much distillation there? [Laughter.]

Mr. HOUK. There are not half as many persons making whisky according to law now as there used to be making it contrary to law; and there is, therefore, no danger of my district turning democratic. [Laughter.]

I submit to the House whether it is not a duty which we owe to those who have engaged in the legal manufacture and sale of spirits to protect them in that legal manufacture and sale. As I understand it, this appropriation now under consideration is for the purpose of protecting men who are engaged in distilling according to law, and exposing the men who are engaged in it contrary to law. As an East Tennesseean, as a Representative coming from a district where there has been considerable "moonshine" whisky manufactured, I desire to say here and now to this House that we do not want to be protected in any violation of law. We want to be protected in maintaining the law and the dignity of the Government in collecting its revenue according to law.

Mr. CHALMERS. I move that the committee now rise for the purpose of limiting debate on the pending paragraph. [Cries of "Vote!" "Vote!"]

Mr. ATKINS. I think there will be consent to take a vote now.

Mr. CHALMERS. If there can be a vote, I will withdraw the motion.

The question was upon the amendment of Mr. HOOKER to strike out the words "including payments for information and detection;" also to strike out "75,000" and insert "50,000," so that the paragraph will read:

For detecting, and bringing to trial and punishment, persons guilty of violating the internal-revenue laws, or accessory to the same, $50,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum.

The amendment was not agreed to, upon a division—ayes 50, noes 116.

Mr. WARNER. I desire to offer an amendment to which I think there will be no objection. It is to add to the pending paragraph as amended these words:

And also a detailed statement of all miscellaneous expenditures in the division of internal revenue for which appropriation is made in this bill.

On page 28 of this bill there are four lines which make an appropriation of nearly $2,000,000.

Mr. ATKINS. I would inquire where the amendment is to come in?

Mr. WARNER. At the end of the paragraph now under consideration.

Mr. ATKINS. I will state to the gentleman that I hold in my hand the report of the Commissioner of Internal Revenue, which gives a detailed statement of the expenditure of the $75,000 which has been under discussion this morning. I have no objection to the amendment.

Mr. BAKER. There is no miscellaneous fund to which this amendment will apply.

The amendment of Mr. WARNER was agreed to.

The Clerk read the following:

For contingent expenses of the Treasury Department, namely:
For stationery for the Treasury Department and its several bureaus, $40,000.
For postage required to prepay matter addressed to postal union countries, $2,000.

Mr. ATKINS. I move to strike out the last word. I was not in yesterday when the inquiry was made by the gentleman from Mississippi [Mr. MONEY] about the fund appropriated for the Postmaster and the Sergeant-at-Arms of the House, and the question was raised as to whether the Committee on Appropriations was in the habit of using any of that fund for postage. I will say that I do not know that the Committee on Appropriations ever used a dollar for postage. I never myself used a dollar or a cent. I have always paid my own postage, not only upon my private letters, but also upon all official correspondence that I have had as chairman of the Committee on Appropriations. I have paid every cent of postage on my correspondence, official or otherwise; and I can say the same thing for every member of the Committee on Appropriations. I now withdraw my formal amendment.

The Clerk read as follows:

Independent Treasury.

Office of the assistant treasurer at New York: For assistant treasurer, $8,000; cashier and chief clerk, $4,000; deputy assistant treasurer, $3,600; chief of coin division, $3,600; chief of note-paying division, $3,000; chief of note-receiving division, $2,800; chief of check-paying division, $2,800; chief of registered-interest division, $2,600; chief of coupon-interest division, $2,400; chief of minor-coin division, $2,400; chief of bond division, $2,250; chief of canceled-check and record division, $2,000; two clerks, at $2,250 each; six clerks, at $2,100 each; ten clerks, at $2,000 each; eleven clerks, at $1,800 each; four clerks, at $1,700 each; seven clerks, at $1,600 each; four clerks, at $1,500 each; twelve clerks, at $1,400 each; three clerks, at $1,200 each; five messengers, at $1,300 each; one messenger, $1,200; keeper of building, $1,800; chief detective, $1,800; two assistant detectives, at $1,400 each; three hallmen, at $1,000 each; six watchmen, $720 each; one engineer, $1,000; two porters, $900 each; in all, $164,670.

Mr. HOOKER. I move to amend by striking out "$8,000," in line 746, and inserting "$5,000;" so as to make the salary of the assistant treasurer at New York $5,000, instead of $8,000 as proposed in the bill. By turning to a portion of the bill already passed upon, it will be observed that the salary fixed for the treasurer of the United States is $6,000, and for his assistant treasurer in this city, $3,600. When the Treasurer of the United States is receiving $6,000, I do not see any reason why the assistant treasurer at New York should receive $2,000 more. Hence I offer this amendment.

I do not know whether the assistant treasurer at New York performs very much greater labors than the Treasurer himself; but I presume that $5,000 is about the proper salary for this assistant treasurer.

Mr. ATKINS. Mr. Chairman, [cries of "Vote!" "Vote!"]—I hope gentlemen will be patient. We must understand something of what we are doing. There is a reason for this salary being $8,000, and it ought to be stated. New York is the great money center of this country. The funds belonging to the United States are kept at New York in much larger amounts than at Washington City. The position of assistant treasurer at New York is a more responsible position today—a far more responsible position in its moneyed obligations—than that of Treasurer of the United States in Washington. For this reason this salary has been fixed at $8,000. It has been this amount for some time.

I must say to my friend from Mississippi that the Committee on Appropriations are guided in matters of this kind by information which comes to them from the Secretary of the Treasury and from other Treasury officers. I believe there is no desire on the part of the Secretary of the Treasury to increase the salary of the Treasurer above $6,000, while there would be a vigorous protest against reducing the salary of the assistant treasurer at New York below $8,000.

I will say right here that the Committee on Appropriations in the preparation of this bill neglected to pass upon the proposed increase of last year to the salary of the sub-treasurer in the city of Boston. I have no doubt that had we acted on it this time we would have increased that salary. But if a proposition of that sort should now be made upon this bill, I shall be compelled, in order to be consistent, to raise a point of order upon it.

I think the salary of the assistant treasurer at New York should remain at $8,000 for the reasons I have given.

Mr. HOOKER. I wish to say one word. If there is any necessity for keeping a larger amount of the funds of the Government at New York City than anywhere else, I am not aware of the fact. The Treasury of the United States as established by the laws of the land is the proper place for the custody of the funds of the Government. There has been, it is true, an assistant treasurer at New York, and also one at New Orleans. The same rule that applies to New York would probably apply to New Orleans; yet I am not aware that there is any such provision in reference to the latter place. I see no necessity for keeping more of the funds of the Government in New York than are kept at Washington. I presume the business in New York is pretty large, and if the funds of the Government are kept there its drafts must be paid there; but what is the necessity for keeping the funds of the Government there? How has it arisen? It is true that New York is a large center of business.

Mr. ATKINS. Probably four-fifths of the interest on the public debt is paid at New York City.

Mr. HOOKER. That may be probable; but why should it be? That is simply a regulation of the Treasury Department, not a law. I insist that my amendment is proper and reasonable, and ought to be adopted.

The amendment of Mr. HOOKER was not agreed to.

The Clerk read as follows:

Mint at Denver, Colorado:
For salaries of the assayer in charge, $2,500; for melter, $2,250; assistant assayer, $1,400; chief clerk, $1,800; one clerk at $1,600; and one clerk at $1,400; making, in all, $10,950.

Mr. PAGE. I move to amend by adding to the paragraph just read the following:

That all material and supplies for United States mints shall be obtained after advertisement and from the lowest bidder, as now provided by law.

I do not desire to discuss the amendment. I think the committee will readily see that it ought to be adopted.

Mr. ATKINS. I move that the committee now rise.

Mr. PAGE. Let this amendment be voted on.

Mr. ATKINS. I would rather understand more as to the effect of it.

The motion of Mr. ATKINS, that the committee rise, was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, without amendment, the bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal.

BUSINESS OF EVENING SESSION.

Mr. HOOKER. The gentleman from North Carolina, [Mr. SCALES,] chairman of the Committee on Indian Affairs, who was compelled to leave the Hall a few moments ago on account of sickness, desired me to ask that the former order of the House for the consideration to-night of a specific measure from the Committee on Indian Affairs be extended so as to allow the consideration of all reports from that committee.

Mr. REED. What does this proposition include?

The SPEAKER. All reports from the Committee on Indian Affairs.

Mr. REED. Does it include any bill in regard to the Territory of Oklahoma?

Mr. HOOKER. It has nothing to do with that at all.

Mr. BAKER. Does it include the transfer of the Indian Bureau to the War Department?

Mr. HOOKER. That report has not been made yet. The bill has simply been referred.

Mr. BAKER. I did not hear the gentleman's answer.

Mr. HOOKER. I mistake. The report on that subject has been made; but there is no intention to bring it up to-night. I ask that it be excepted from the order.

The SPEAKER. The gentleman asks that the order which was made assigning to-night's session for the consideration exclusively of the bill in reference to the Osage Indians be extended so as to include all reports from the Committee on Indian Affairs, except the transfer of the Indian Bureau from the Interior to the War Department.

Mr. VALENTINE. With that exception, I make no objection.

Mr. CONGER. Let it be the understanding that the subject is not to come up either as an amendment or in a bill.

Mr. HOOKER. Let that be expressed in the order.

Mr. BELFORD. I want to inquire whether it is the intention to bring up the Ute bill?

The SPEAKER. There is no time for debate, as the hour for the recess is at hand.

Mr. ATKINS. I move that at the close of to-night's session the House take a recess until half past ten o'clock to-morrow morning.

Several MEMBERS. Make it ten.

Mr. ATKINS. I am willing to make it ten o'clock.

The SPEAKER. Is there objection to ten o'clock?

Mr. HOOKER. I object.

Mr. ATKINS. Say, then, at half past ten o'clock in the morning.

The SPEAKER. Is there objection to that?

Mr. CONGER. If the gentleman objects, we should meet to-night to consider the appropriation bill.

The SPEAKER. The order of the House is contrary to that. Is there objection to extending the right of the Indian Committee this evening to making general reports, not to include the transfer of the Indian Bureau to the War Department?

Mr. KEIFER. Are the reports to be considered?

The SPEAKER. They are.

Mr. REED. What about the order to meet to-morrow?

Mr. VALENTINE. I object.

Mr. ATKINS. Will the gentleman from Mississippi [Mr. HOOKER] agree to eleven o'clock?

Mr. HOOKER. I will not object to that, provided the order is made extending to the Committee on Indian Affairs the right during this evening to make general reports exclusive of the transfer of the Indian Bureau.

The SPEAKER. Is there objection to that arrangement?

There was no objection.

The SPEAKER. The right, then, has been extended to the Indian Committee to make report on general subjects during this evening's session exclusive of the transfer of the Indian Bureau, and it is agreed that when the House takes a recess to-night it shall be till eleven o'clock to-morrow morning.

The Chair also desires to announce that the gentleman from Tennessee [Mr. SIMONTON] will preside during the evening session.

WAR CLAIMS.

Mr. THOMPSON, of Kentucky. I ask by unanimous consent, Mr. Speaker, that on Wednesday, May 26, 1880, the House take a recess at four and a half o'clock p. m. until seven and a half p. m., and that an evening session be held to consider House bill No. 3291 and House bill No. 3854, reported by the Committee on War Claims.

The SPEAKER. It is now past the time for taking a recess.

Mr. THOMPSON, of Kentucky. I ask unanimous consent.

Mr. BURROWS. I object.

And then (at four o'clock and thirty minutes p. m.) the House took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The House at 7.30 p. m. resumed its session, Mr. SIMONTON in the chair as Speaker *pro tempore*.

The SPEAKER *pro tempore*. The Clerk will read the order of the House providing for the session of this evening.

The Clerk read as follows:

On motion of Mr. DEERING, by unanimous consent,
Ordered, That on Thursday next, May 13, 1880, the House take a recess at 4.30 p. m. until 7.30 p. m., said evening session to be devoted exclusively to the bill of the House (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians proclaimed January 21, 1867.

The SPEAKER *pro tempore*. By unanimous consent that order was enlarged to include all bills from the Committee on Indian Affairs, excepting only the bill transferring the Indian Bureau from the Interior to the War Department.

ORDER OF BUSINESS.

Mr. DEERING. I move that the House resolve itself into Committee of the Whole.

Mr. BOUCK. I demand a division on that motion. I say that we cannot legislate without a quorum.

The House divided; and there were—ayes 9, noes 4.

Mr. BOUCK. No quorum has voted. If we cannot get a quorum, we might as well dry up. I am getting tired of coming here and legislating in these night sessions with only fifteen or twenty men present.

Mr. STEVENSON. The gentleman from Wisconsin I think will withdraw his demand for a quorum and allow the discussion to go on.

Mr. ATKINS. I sympathize most heartily with the gentleman from Wisconsin. I think if we are to have night sessions there ought to be a majority of the members present to attend to the business for which the night sessions have been called. If evening sessions are ordered and a majority of members is not present, that fact should appear of record. If a majority of members cannot be brought here to attend the evening sessions, then the evening sessions ought to be broken up.

Mr. BOUCK. If gentlemen wish to go on with the discussion I do not object and will withdraw my point of order; but I must say that I am getting tired of these evening sessions when legislation is attempted by only a dozen men or so.

Mr. STEVENSON. The gentleman from Wisconsin withdraws his point of order that there is no quorum present.

Mr. BOUCK. I do with the understanding that no vote shall be taken without a quorum appearing.

Mr. STEVENSON. Certainly, that is the understanding.

The SPEAKER *pro tempore*. The point of order is withdrawn that no quorum is present, and the motion, therefore, is agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. ROBINSON in the chair.

GREAT AND LITTLE OSAGE INDIANS.

The CHAIRMAN. The House is in the Committee of the Whole House for the purpose of considering business touching Indian affairs.

Mr. DEERING. I move the House proceed to the consideration of the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867.

The bill was read, as follows:

Whereas by the act for the admission of the State of Kansas into the Union, approved January 29, 1861, the United States granted to said State the sixteenth and thirty-sixth sections "of every township of public lands in said State," but especially provided that the lands embraced within the Indian reservations in said State should not be alienated for any purpose, except with the consent of the Indians of such reservations, and in accordance with the conditions of the treaty authorizing such alienation; and

Whereas by the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, a trust was created for the disposal of the lands of said Indians in the State of Kansas, the metes and bounds of which said lands are specifically set forth in said treaty, by which the United States bound itself to survey and sell any and all of such lands, "at a price not less than $1.25 per acre, as other lands are surveyed and sold," and to place "the proceeds of such lands as they accrue, after deducting all expenses incident to the proper execution of the trust, * * * in the Treasury of the United States to the credit of said tribe of Indians;" and

Whereas it is claimed that under the operation of the treaty herein referred to there are moneys due, both on account of grants and sales of lands, which have not been placed to the credit of said Indians, as provided for in said treaty: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to cause an account to be stated of the number of acres of the Osage lands in the State of Kansas that have in any way been alienated by the United States since the creation of the trust for the sale of these lands by the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, and of the money received by the United States on account of the sales of such lands, and to certify the difference between the sum so received and the sum that would be due said trust at the date of the account herein provided for had all of said lands so alienated been disposed of as provided for by said treaty.

SEC. 2. That a sum of money equal to the amount certified by the Secretary of the Interior, in pursuance of the foregoing section, to the Secretary of the Treasury, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, which the Secretary of the Treasury is directed to place to the credit of the Secretary of the Interior, as custodian of said trust funds, and, after defraying the cost of survey and sale of said lands and other expenses contracted by the United States or the Osage Nation in the execution of said trust, the balance of said funds shall be placed in the Treasury of the United States, to the credit of said Indians, to be invested and distributed in accordance with existing treaties: *Provided*, That a like settlement shall be made with the Indian-civilization fund for the sixteenth and thirty-sixth sections, given by the United States to the State of Kansas, within the limits of the Osage lands ceded by the first article of the treaty aforesaid.

Mr. DEERING. I now ask that the report be read.

The report was read, as follows:

The State of Kansas was admitted into the Union by an act of Congress approved January 29, 1861.

In 1867, January 21, a treaty, before that time negotiated between the United States and the Great and Little Osage Indians, was duly proclaimed by the President of the United States. By the second article of said treaty the said Osage Indians ceded to the United States "a tract of land twenty miles in width from north to south off the north side of the remainder of their" (then) "present reservation," to be held in trust for said Indians, and to be surveyed and sold for their benefit "under the direction of the Commissioner of the Land Office, at a price not less than $1.25 per acre." The proceeds of such sales were, after deducting the expenses in surveying and selling, to be "placed in the Treasury of the United States to the credit of said tribe of Indians."

But Congress, disregarding the provisions of this treaty, by a joint resolution, approved April 10, 1869, (Session Laws, volume 16, page 1569,) provided "that the sixteenth and thirty-sixth sections in each township of such lands shall be reserved for school purposes, in accordance with the act of admission of said State of Kansas."

Thus the Congress of the United States has withdrawn from sale to purchasers and donated to the State of Kansas two sections, *i. e.*, twelve hundred and eighty acres of these lands, in every township, in direct violation of the treaty. This is without a shadow of justification, and the Indians are entitled to be credited for the lands so given to the State of Kansas at such price as was realized for the lands adjacent to the sections so reserved, or at least to the minimum price of $1.25 per acre mentioned in the treaty, less the expense of surveying and selling.

In reply to a letter from this committee the Commissioner of Indian Affairs wrote, under date of January 7, 1880, as follows:

"I have carefully examined the said bill, and have to state that its provisions meet the views of this office, and that justice to the Indians demands its passage."

The Secretary of the Interior, in transmitting said letter on January 12, 1880, said:

"The Commissioner approves the measure proposed in the bill, as will be found by his letter; and his views, as expressed in his letter, have the approval of the Department."

In view of the foregoing facts, the committee believe that the bill which accompanied the petition will carry out the provisions of said treaty and preserve our faith plighted to the Indians. They therefore report back said bill to the House, with the recommendation that it pass.

Mr. DEERING. Mr. Chairman, I deem it proper to state in the outset that I have but very few words to submit in explanation of this bill, unless it should take some shape that I do not now anticipate. In 1867 a tract of land was ceded by these Indians to the United States in trust for a specific purpose. The lands were to be sold by the Government and the proceeds thereof placed to the credit of the Indians in the Treasury of the United States. The Government seems to have accepted this trust in good faith, as will be seen by reference to the treaty, and I will now ask the Clerk to read that portion of it embraced in article 2 which relates to this cession.

The Clerk read as follows:

ART. 2. The said tribe of Indians also hereby cede to the United States a tract of land twenty miles in width from north to south, off the north side of the remainder of their present reservation, and extending its entire length from east to west; which land is to be held in trust for said Indians, and to be surveyed and sold for their benefit under the direction of the Commissioner of the General Land Office, at a price not less than $1.25 per acre, as other lands are surveyed and sold, under such rules and regulations as the Secretary of the Interior shall from time to time prescribe. The proceeds of such sales as they accrue, after deducting all expenses incident to the proper execution of the trust, shall be placed in the Treasury of the United States to the credit of said tribe of Indians; and the interest thereon, at the rate of 5 per cent. per annum, shall be expended annually for building houses, purchasing agricultural implements and stock animals, and for the employment of a physician and mechanics, and for providing such other necessary aid as will enable said Indians to commence agricultural pursuits under favorable circumstances.

Mr. DEERING. Now, Mr. Chairman, about two years later, in direct violation of treaty stipulations, Congress by joint resolution, diverted a considerable portion of these lands to another purpose, reserving to the State of Kansas two sections in every township for school purposes, amounting in all to more than three hundred thousand acres of this land. These facts are not denied by any one, but, on the contrary, the Secretary of the Interior and the Commissioner of Indian Affairs admit these wrongs and favor the passage of this bill, as will be seen by letters from each accompanying the report submitted. This bill simply proposes to authorize and instruct the Secretary of the Interior to cause an account—an accurate and honest account—to be stated of the number of acres of land so diverted or alienated in contravention of treaty stipulations, showing the difference between the number of acres that they would have had provided the treaty stipulations had been carried out in good faith, and the amount actually realized after the diversion of these lands.

It further proposes an appropriation to meet the amount that may be found due after a statement of such account. That is all there is of it. I do not propose to detain the House, but simply to say this, that the Government in taking these lands did to these Indians a gross injustice and wrong, and that the injustice should be speedily repaired by the passage of this bill. I now yield to the gentleman from Indiana, [Mr. CALKINS.]

Mr. CALKINS. Mr. Chairman, I want to supplement what has been said by the gentleman from Iowa with a little more extended statement of the history of this bill, or rather the provisions of the treaties entering into this case, and why the passage of this bill is necessary.

The Little and Big Osage Indian tribes at one time occupied the greater portion of the State of Kansas and a large portion of the State of Missouri. In 1861 the Territory of Kansas was admitted as a State into this Union on the 29th of January of that year. The first section of the enabling act contained this proviso:

Provided, That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians.—*Statutes at Large*, volume 12, page 127.

The third section of the act contains the following provision:

That sections numbered 16 and 36 in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools.

In 1865 the United States concluded a treaty with these Indians by the first article of which the Osage Indians ceded a part of their lands to the United States for a fixed sum of money, and as the article of the treaty, I am informed, has already been read in the remarks of the gentleman who has just preceded me, I will not have it read again. The sixteenth article of the treaty also provides that the United States shall hold the lands in trust, such lands as were ceded by the Indians in fee simple, to dispose of them and account to the Indians for the proceeds of them, and such proceeds were to be placed to their credit in the Treasury Department, under the trusteeship of the Secretary of the Interior. By the first treaty with these Indians a tract of land twenty miles wide across the State of Kansas was ceded by the Indians in fee.

By this treaty, which has been referred to, the Osage Indians were required to give up a strip of twenty by fifty miles on the east end of this land to be sold and held in trust for the benefit of what was called the civilization fund; not for their tribes but for all the tribes of the United States. I am informed that at the time the treaty was made these Indians understood that this fund was to be kept for their benefit and not for the benefit of all civilized Indians. But, be that as it may, that is past.

When the land was sold, by the terms of the treaty they were to be credited for the amount received from it and it was to become a permanent fund, 5 per cent. of which was to be expended in erecting buildings and making other improvements such as might from time to time be necessary.

These are the general provisions of the treaty. Afterward, April 10, 1869, Congress passed a law in the form of a joint resolution giving

to the State of Kansas the sixteenth and thirty-sixth sections of land in this reservation which had been set apart and which the Government had agreed to sell and to account to the Indians for it. It contained, however, the proviso—

That nothing in this act shall be construed in any manner as affecting any legal rights heretofore vested in any other party or parties.

Now, Mr. Chairman, without making any further extended remarks upon this subject I will say that this bill simply seeks to carry out the treaty stipulations made with this tribe. It seeks to carry out the second and sixteenth articles especially, whereby the proceeds of these lands held in trust shall be placed to their credit, under the supervision of the Secretary of the Interior, in the Treasury Department. The number of acres of land that are in dispute I believe is in the neighborhood of four hundred and seventy thousand; if I remember aright it is somewhere in the neighborhood of that.

I may say also that the Secretary of the Interior has requested by letter and recommended that this bill should pass, I believe just as it is. I believe it was drawn in the Department of the Interior or suggested by the Department. Now, if there is anything else on which I can enlighten the committee, I shall be glad to answer any questions.

Mr. BOUCK. I wish to inform the House upon this subject, so that they can act understandingly. The object of this bill can be reached by a general bill. If you adopt it in the case of the Osage Indians in Kansas, you must adopt it as to all the Indians in all the States of the Union.

The Supreme Court of the United States have decided, in a case from the State of Wisconsin, that where the title of an Indian tribe becomes extinct in a tract of land the sixteenth section falls to the State. In reference to the reservation of the Stockbridge and Munsee Indians in the State of Wisconsin Congress passed a law authorizing the Government at their request to sell their lands and put the money in trust. They sold the sixteenth section; and the Supreme Court of the United States decided that the sale was void as to the sixteenth section; that it belonged to the State of Wisconsin. Now, if you are to adopt this rule for Kansas, adopt it for the other States.

Mr. DEERING. I would like to ask the gentleman from Wisconsin a question.

The CHAIRMAN. Does the gentleman from Wisconsin yield?

Mr. BOUCK. Yes, sir.

Mr. DEERING. Was the case decided similar to this?

Mr. BOUCK. It was precisely similar. The lands had been ceded to them.

Mr. DEERING. Had not an exception of the Indian reservations been made?

Mr. BOUCK. There was no exception. If the gentleman will examine the laws of the United States, he will find that this grant of the sixteenth section to the States for school purposes was made long, long before the admission of Kansas; a long time before it.

Mr. MARSH. I desire to ask the gentleman from Wisconsin a question. Did not the case to which he refers, in Wisconsin, hinge upon the fact of the provision that was in the act of cession of the Northwest Territory from Virginia, in which act is the provision that the sixteenth section shall be reserved for school purposes?

Mr. BOUCK. I think not.

Mr. MARSH. If it hinges upon that, the case would not apply to the State of Kansas.

Mr. BOUCK. I cannot say positively as to that without examination. I was in the case, and I think it hinged upon the nature of the title the Indians had to the land.

Mr. FIELD. What is the case?

Mr. BOUCK. It is the case in which a Boston friend of the gentleman from Massachusetts was interested; the case of Beecher *vs.* Wetherby, which was decided two or three years ago. As I have said, I was in the case and I took an opposite view, that the sixteenth section belonged to the United States. The Supreme Court held that it belonged to the State.

Mr. CALKINS. I am not now familiar with the case referred to by the gentleman from Wisconsin, but I have this to say that it is a very queer doctrine to announce that when the Government of the United States make a cession of lands to a tribe of Indians in fee, in consideration of their giving up a very much larger tract of land which they owned and claimed, and then promise to sell that land and account to them for the proceeds—it is a very singular doctrine that they can give to any State, or any corporation, or any person, any part of that land in the face of that stipulation.

Mr. BOUCK. Now let me ask a question of the gentleman as a lawyer. He talks about this specific bill. If the treaty with the Osage Indians is such that the United States grant to them the title in fee-simple, what right had the United States Congress to take the fee-simple and grant it to anybody else?

Mr. CALKINS. Simply by a subsequent treaty. A subsequent treaty was made by which these Indians took a reservation in the Indian Territory and gave up these lands to the United States to be held in trust for them, to be sold by the United States as provided in the treaty. If they had not made a subsequent treaty and gone to another reservation, then probably the question which the gentleman states would not arise. But having made a subsequent treaty and the United States having promised to take this land and hold it in trust for them, every bit of it, and sell it for them and to account to them for the proceeds of the sale, the Government could not thereafter cede to the State of Kansas or to any other person or corporation any part of the land without paying these Indians the minimum price for it.

Mr. BARBER. Did the Government cede it?

Mr. CALKINS. The Government did cede it and became responsible to the Indians for it. In the enabling act it is provided that every sixteenth and thirty-sixth section shall be reserved for school purposes. Up to that time these Osage Indians were in possession of these reserved lands. Subsequent to that time they made a treaty by which they took other lands in the Indian Territory, and the Government agreed to sell these lands and account to the Indians for the proceeds of the sale.

Mr. VALENTINE. Did not the sixteenth and thirty-sixth sections revert to the State of Kansas at the time this treaty was made?

Mr. CALKINS. They would have reverted to the State of Kansas unless otherwise especially provided by the treaty.

Mr. VALENTINE. But in the enabling act under which Kansas and Nebraska were admitted if any of the land was thus held by the Indians and under a treaty they afterward gave up these lands, then undoubtedly the sixteenth and thirty-sixth sections reverted to those States.

Mr. CALKINS. They would have done so if there had not been an express proviso. The proviso is that "nothing in this act shall be construed in any manner as affecting any legal rights heretofore vested in any party or parties."

Mr. HASKELL. What are you reading from?

Mr. CALKINS. From a joint resolution approved April 10, 1869, by which all the land in this reservation was turned over to the Osage Indians.

Mr. HASKELL. The land was really turned over by the organic act admitting the State of Kansas.

Mr. CALKINS. I admit that.

Mr. HASKELL. And the joint resolution of 1865 was primarily a resolution providing that settlers might go on these lands and acquire title. That was the primary consideration of the resolution of 1865, and in that was the reservation of the exception. The exception itself was in the organic act admitting the State.

There was but one Indian reservation or tract of land in the State wherein the United States had given to the Indians anything that could be termed a fee-simple title. That was what was known as the Cherokee neutral lands in the southeastern part of the State. The Attorney-General and the accounting officers of the Treasury had just awarded to the State of Kansas the sixteenth and thirty-sixth sections of land including all the Indian reservations except the Cherokee neutral strip.

Now, in regard to this matter, it seems to me that in justice to the Indians they ought to be reimbursed for their sixteenth and thirty-sixth sections, inasmuch as the Government had made a solemn treaty compact with them. But in this discussion and in the settlement of this question by the House I want to have it distinctly understood that the act granting the sixteenth and thirty-sixth sections of land to the State for school purposes was the organic act, not any subsequent act. This Osage ceded-land strip was not ceded in fee-simple.

This is a question entirely between the United States and the Indians under a treaty compact, and amounts to nothing more and nothing less. The bill which is brought in here is nothing more and nothing less than a bill to indemnify the Indians upon a treaty compact. Nothing has been taken from the Indians by act of Congress, except by the organic act admitting the State. This proposition to reimburse the Indians for the sixteenth and thirty-sixth sections of land I am not prepared to antagonize; I think they should be reimbursed. But I do not want anything done by Congress that would seem to antagonize the right of the State of Kansas to her sections of lands for school purposes. Neither would I by any argument or act on this floor lead any court or tribunal to infer that this body doubted the absolute legality and right of the State in her title to these sixteenth and thirty-sixth sections.

Mr. CALKINS. I do not question that myself.

Mr. HASKELL. I am entirely in favor of reimbursing the Indians. They ought to have the lands which was provided in the treaty they should have, for all that I can see; at least I am entirely willing they should have it.

Mr. RYAN, of Kansas. My attention has not been called, until within the last day or two, to this proposed legislation, and I have not had time to give the subject any particular attention. Without having given the subject any particular investigation, it strikes me—and I make the inquiry whether that is not the fact—that the principle upon which this bill is based would compel the Government of the United States to indemnify all the Indian tribes for the sixteenth and thirty-sixth sections of all Indian lands in the State of Kansas, the title to which has become extinguished.

Mr. CALKINS. It applies only to what is called the trust lands. The fifty-miles strip of land was divided into two strips; one was called the trust lands, and the other the diminished-reserve lands. The diminished reserve is the only land to which this legislation would apply.

Mr. RYAN, of Kansas. That is true; it is the only thing this bill applies to; but does not the principle apply to all Indian lands?

Mr. CALKINS. No; the principle grows out of the contract between the Government and these Indians.

Mr. RYAN, of Kansas. But is there not a similar contract between the Government and all the Indian tribes that have owned lands the title to which has been extinguished?

Mr. CALKINS. I understand not.

Mr. BROWNE. The Government ought to keep its contract.

Mr. RYAN, of Kansas. I am not discussing that; I am making inquiry as to the scope of the principle.

Mr. CALKINS. I do not think the principle will extend any further than the terms of this contract. The Government promised solemnly that it would sell every acre of this land and give the benefit of the proceeds to the Indians. Afterward the Government, first by the enabling act and then by resolution, turns the sixteenth and thirty-sixth sections over to the State of Kansas for school purposes. Now, under the treaty, the Government is bound in justice, in common right, to account to these Indians, because it agreed to do so. I do not know anything about other treaties; each treaty is to be construed for itself; but the Government agreed to do this and ought to do it.

Mr. RYAN, of Kansas. I think the fact is that the title to Indian lands has been extinguished in almost every instance by the Government undertaking to dispose of the lands for the benefit of the Indians at a given price. Supposing that to be so, then if it is right to pass this bill, it is right to indemnify the Indian in all such cases for the sixteenth and thirty-sixth sections.

In almost every instance, if not in every case where the title to Indian lands has been extinguished, the Government has undertaken by treaty to dispose of all lands at a certain price per acre, precisely as has been done in this case. If it is right that the Indians should be indemnified in this case, it is right they should be indemnified in all such cases.

Mr. FIELD. I have before me the act for the admission of Kansas into the Union, approved January 29, 1861. The first section, after defining the boundaries of the new State, contains this provision:

That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which by treaty with such Indian tribe is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory, but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

Then section 3 provides:

First, that sections numbered 16 and 36 in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

Now, in the treaty between the United States and these Indians proclaimed on the 21st of January, 1867, the Indians cede to the United States a tract of land twenty miles in width from north to south; and article 16 of the treaty contains this provision:

It is also agreed by said contracting parties, that if said Indians should agree to remove from the State of Kansas and settle on lands to be provided for them by the United States in the Indian Territory, on such terms as may be agreed on between the United States and the Indian tribes now residing in said Territory, or any of them, then the diminished reservation shall be disposed of by the United States in the same manner and for the same purposes as hereinbefore provided in relation to said trust lands.

Now, the point upon which I desire information is this: In 1861 not only this strip twenty miles in width, but also the reservation which has been yielded by the removal of the Indians to the Indian Territory, was in possession of these Indians as a tribe, and was not included within the jurisdiction of the State of Kansas. When the United States, in 1861, declared that section 16 and 36 of public lands in every township of the State of Kansas should be granted to that State for the use of schools, did the grant include lands within an Indian reservation?

Mr. HASKELL. That point has recently been decided by the First Comptroller in an opinion just published. After a careful review of the question, "What constitute public lands within the language of the organic law?" it has been decided that the phrase does include every Indian reservation except those reservations where an absolute fee-simple has been granted.

Mr. FIELD. Has that been decided by anybody besides the Comptroller? Has it ever been decided by the Supreme Court of the United States?

Mr. HASKELL. I cannot say that it has.

Mr. RYAN, of Kansas. It has been so decided, I understand, by the Attorney-General of the United States, after a very careful consideration of the whole subject.

Mr. DEERING. I desire to ask whether the novel doctrine has been asserted that after the Government has entered into treaty stipulations with a tribe of Indians and thereby given them a body of land, the sixteenth and thirty-sixth sections of such land can be granted to the school fund of the State in violation of such treaty?

Mr. HASKELL. The "novel doctrine" has been asserted and maintained (and under the decision the State of Kansas secures some hundreds of thousands of dollars of proceeds of the public lands) that under the language of the organic act of the State the expression "public lands" is to be construed as including the Indian reservations except in cases where the United States have actually parted with the fee.

Now, then, I do not raise the question of the equitable or perhaps the legal liability of the United States to indemnify the Indians for these school sections under a treaty compact between the United States and the Indians, but I do assert that the right of the State to these school sections is unimpaired absolutely, and has so been decided. Now, a private treaty stipulation between the United States and the Indians might convey any kind of right, and under that stipulation the United States would be bound to indemnify the Indians, because, notwithstanding the construction you may put upon the words, the United States might yet go on and make such compact with the Indians as would entitle them to indemnification.

Mr. CALKINS. As I understand the gentleman from Kansas he asserts that by the enabling act all of the sixteenth and thirty-sixth sections within the boundaries of the State of Kansas as marked or specified in the enabling act passed absolutely to the State. That I assent to. Then I assent further to the proposition that whenever the Indians made a subsequent treaty by which they gave up possession of the lands and went on to some other territory that moment the State of Kansas, under the enabling act, had the right to take possession of the whole of the lands.

Mr. HASKELL. That is right.

Mr. CALKINS. Now, I understand the gentleman also to say and to assert the further proposition that in making this treaty with the Indians when they come to the twenty-mile strip the Indians have a just claim for the value of the land ceded for school purposes. I will read the section. Article 16 of the treaty is as follows:

It is also agreed by said contracting parties that if said Indians should agree to remove from the State of Kansas and settle on lands to be provided for them by the United States in the Indian Territory on such terms as may be agreed on between the United States and the Indian tribes now residing in said Territory, or any of them, then the diminished reservation shall be disposed of by the United States in the same manner and for the same purposes as hereinbefore provided in relation to said trust lands, except that 50 per cent. of the proceeds of the sale of said diminished reserve may be used by the United States in the purchase of lands for a suitable home for said Indians in said Indian Territory.

Now, I understand the gentleman from Kansas to say that under this proviso these Indians have a just and valid claim against the Government for the value of the lands.

Mr. HASKELL. I am inclined to think that the words "public lands," as used in this organic act, must attach to all Indian reservations held in common where the legal title is in the United States; and, where the legal title is still in the Government, of course it can grant to the States any portions or sections of it for any purposes. It has the power, of course, to do so; but subsequently, after making the treaty with the Indians, it is now claimed that for these concessions the Indians have a right to come in and demand indemnity from the Government.

Mr. BENNETT. I would like to ask the gentleman from Kansas a question here, if it will not interrupt him. Was this reservation set apart after the passage of the organic act admitting Kansas as a State?

Mr. HASKELL. It was.

Mr. BENNETT. Under that organic act the Territory of Kansas was given the sixteenth and thirty-sixth sections of land?

Mr. HASKELL. Yes, sir.

Mr. BENNETT. Could a subsequent act of Congress setting apart an Indian reservation impair the rights of the State of Kansas in the school lands?

Mr. HASKELL. Of course, I think not. But, as I understand, that is not asserted by the friends of this bill. The words of the bill admit the absolute legality of the title of the State to the school-land sections, but they set up the ground here that after having granted to the State certain lands in this treaty with the Indians, under the organic act, the Indians have now a right to come in and demand indemnity from the Government. The title of the State to the land is not in question at all.

Mr. FIELD. I desire the attention of the gentleman in charge of this bill for a moment. I understand from what has been said here that one purpose of the bill was to pay into the trust fund the value of these sections of school lands which belong to the State of Kansas, but I doubt somewhat whether the bill will accomplish that object. The treaty which creates this trust was ratified in 1867. It seems to have been made under the act of 1861. The bill itself reads in the first five or six lines of the first section—

That the Secretary of the Interior is hereby authorized and directed to cause an account to be stated of the number of acres of the Osage lands in the State of Kansas that have in any way been alienated by the United States since the creation of the trust for the sale of these lands by the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867.

Now, the creation of the trust is in 1867 and the alienation in 1861; therefore it seems that the bill would not affect at all the school lands.

Mr. DEERING. That is provided in the organic act.

Mr. FIELD. I have the act for the admission of Kansas here before me, the act of 1861——

Mr. CALKINS. By the organic act of 1861 it is provided:

First, that sections numbered 16 and 36 in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools.

The purpose of this was to reserve the right of the Indians to whatever compensation was received from the sale of these lands.

Mr. FIELD. I have not seen the resolution. But is the gentleman certain the title comes from the resolution of 1869, and not from the act of 1861?

Mr. DEERING. I ask that the resolution approved April 10, 1869, to which I have referred, may be read by the Clerk.

The Clerk read as follows:

A resolution enabling *bona fide* settlers to purchase certain lands acquired from the Great and Little Osage Indians.

Resolved, &c., That any *bona fide* settler residing upon any portion of the land sold to the United States by virtue of the first and second articles of the treaty concluded between the United States and the Great and Little Osage tribe of Indians September 29, 1865, and proclaimed January 21, 1867, who is a citizen of the United States, or shall have declared his intention to become a citizen of the United States, shall be, and hereby is, entitled to purchase the same, in quantity not exceeding one hundred and sixty acres, at the price of $1.25 per acre, within two years from the passage of this act, under such rules and regulations as may be prescribed by the Secretary of the Interior: *Provided, however*, That both the odd and even numbered sections of said land shall be subject to settlement and sale as above provided. *And provided further*, That the sixteenth and thirty-sixth sections in each township of said lands shall be reserved for State school purposes in accordance with the provisions of the act for the admission of the State of Kansas: *Provided, however*, That nothing in this act shall be construed in any manner affecting any legal rights heretofore vested in any other party or parties.

Mr. FIELD. It is as I supposed. The title of the State of Kansas to these sections is derived from the act of January 29, 1861, which admits it as a State. It says:

The following propositions are hereby offered to the said people of Kansas for their free acceptance or rejection; which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit:

First, that sections numbered 16 and 36 in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

So that all the school lands, sections 16 and 36 in this reservation, which the State of Kansas holds, it derives by the act of 1861. This grant is antecedent to the creation of the trust, and therefore is not affected by the bill at all.

Mr. BELFORD. I wish to inquire of the gentleman from Iowa whether this bill has been unanimously recommended by the Committee on Indian Affairs to the House?

Mr. DEERING. It has.

Mr. BELFORD. Then I think we can safely pass it.

Mr. BARBER. I think my friend from Massachusetts [Mr. FIELD] overlooks the fact——

Mr. BELFORD. I thought I was entitled to the floor.

The CHAIRMAN. The gentleman from Colorado is on the floor and will proceed.

Mr. BELFORD. I was about to state, Mr. Chairman, that any bills that received the unanimous recommendation of the Committee on Indian Affairs ought to pass this House. I have had some experience in that matter growing out of my connection with the Ute question; but I am fully convinced, and I say it with a great deal of deference to that committee, that they would not recommend any bill that would in the slightest degree affect injuriously the rights of the Indians in the United States.

I think we have about sixty-five independent Indian nations in the United States with whom we have treaty obligations. We claim to be a great nation, and yet within the limits of this country we have sixty-five independent Indian nations with whom we are under treaty obligations and to whom we send agents at the rate of about $1,500 a year each to take care of these Indians, who are independent nations on the one hand and paupers on the other.

The Supreme Court of the United States has decided that notwithstanding the fact that we have entered into treaty obligations with the Indians, yet the Congress of the United States can by an act of Congress, without consulting these independent nations, abrogate those treaty obligations. Years ago the Wyandotte Indians in the State of Kansas made an agreement with the United States. That agreement was submitted to Congress. It went over to the Senate. The Senate incorporated into the body of that agreement certain conditions without ever consulting the Wyandotte Indians; and the courts held that the conditions incorporated by the Senate into the agreement made with the Wyandotte Indians were binding upon them, although they were not consulted at all with reference to the insertion of those conditions.

The Supreme Court subsequently decided that notwithstanding the existence of a treaty with an Indian nation Congress might pass an act abrogating their rights not only to a section of land, not only to sections 16 and 36 but to the entire reservation. In this case Congress passed an enabling act authorizing the people of the Territory of Kansas to form a State government. In that enabling act it vested in the State of Kansas, or it granted to the State of Kansas, sections 16 and 36 throughout the limits of that State. That was an absolute and indefeasible grant of those sections of land. Six years after that the Government of the United States made a treaty, as I understand, with these Osage Indians. Now, that treaty cannot affect the right of the State of Kansas to this land. And if the United States made a treaty with these Indians and gave them certain lands which they had no right to give them, then I say, in justice, in fair play, and in honesty the Government of the United States ought to compensate these Indians for the lands they failed to get and which the Government undertook to convey to them. I am in favor of dealing honestly and justly with the Indians, although I regard the policy which has obtained in this country in reference to them as the most stupendous humbug that has been witnessed in a hundred years of governmental progress.

Mr. BARBER. I think the gentleman from Massachusetts [Mr. FIELD] overlooks the fact that this Indian reservation was composed of unsurveyed lands. There could be no grant to the State of Kansas under the organic act of the sixteenth and thirty-sixth sections of land which had not been surveyed. I take it that this Indian reservation was unsurveyed lands; they were not surveyed and put on the market until the treaty stipulation had been entered into between the United States and the Osage Indians. It was therefore the subsequent act of the Government which completed the alienation which is contemplated in this bill. Am I not correct?

Mr. BURROWS. You are all wrong.

Mr. HASKELL. The question whether they were surveyed or not does not affect the grant to the State.

Mr. BARBER. I was inquiring as to the fact whether they were surveyed or not. When the Government made its final disposition of these lands, after the treaty was entered into between this tribe and the Government, it became responsible to the tribe for the proceeds of the land. It cannot make any difference whether they were set apart for school purposes in the State or sold to actual settlers. That is a question which does not arise as between the tribe and the General Government. The Government is responsible, to account for the lands when disposed of, whether they were set apart for school purposes in the State or sold to actual settlers.

Mr. DEERING. I think that view is entirely correct. I now move that the bill be laid aside to be reported favorably to the House.

Mr. RYAN, of Kansas. I would like to ask the gentleman who has charge of this bill whether there has been any tribal action in regard to this subject. In other words, whether this tribe of Indians in its tribal capacity has ever made any appeal to Congress for this legislation.

Mr. DEERING. I so understand; they made their appeal to the last Congress.

Mr. CONGER. It passed the committee of the last House.

Mr. RYAN, of Kansas. I am only asking for information.

Mr. DEERING. The application was before the last Congress.

Mr. BROWNE. I am concerned in knowing whether these Indians are going to get the advantage of Kansas.

Mr. DEERING. Not at all.

Mr. BROWNE. That is what is worrying me. [Laughter.]

Mr. FIELD. In the case of Beecher *vs.* Wetherby, in United States Supreme Court Report, is this head-note:

It was an unalterable condition of the admission of Wisconsin into the Union, that, of the public lands in the State, section 16 in every township, which had not been sold or otherwise disposed of, should be granted to her for the use of schools.

Whether the compact with the State constituted only a pledge of a grant *in futuro*, or operated to transfer to her the sections as soon as they could be identified by the public surveys, the lands embraced within them were set apart from the public domain, and could not be subsequently diverted from their appropriation to the State. If any further assurance of title was required, the United States was bound to provide for the execution of proper instruments transferring to the State the naked fee, or to adopt such legislation as would secure that result.

This decision answers the question raised by the gentleman from Illinois, [Mr. BARBER.] The whole title of Kansas to these lands rests upon the act of admission of 1861. When the land was surveyed and the sections identified by boundaries, the title passed then to the State, or the United States is bound to make the title good to the State by perfect conveyance.

Mr. BARBER. That is when the alienation becomes perfect.

Mr. CONGER. That may be true in regard to Wisconsin and not true in regard to Kansas. Wisconsin was a part of the Northwest Territory, to which the United States became entitled by cession from all the different States that claimed title to it—the States of Virginia, Maryland, Connecticut, New York, North Carolina—all of the States that specially ceded to the United States what was known as the Northwest Territory. The cession by these States and the reception by the then Continental Congress, the General Government at that time of these States, were upon the express condition contained in the act of acceptance, that section 16 of each township should be forever set apart for common-school purposes. That was the organic act of all of the Northwest Territory, whether any part of it became incorporated into one State or into another. The sixteenth section in each township was set apart for school purposes by the organic law of the Northwest Territory even before our present Constitution was adopted.

The territory of Kansas, I believe, came into possession of the United States through what is known as the Louisiana purchase. There never was exactly the same preliminary grant to and acceptance by the Government of the territory forming the State of Kansas. The decision read by the gentleman from Massachusetts [Mr. FIELD] applies to a State where the original organic act of the territory required that every sixteenth section of land, whenever the section came to be surveyed, should be set apart from the very beginning as lands for school purposes.

Mr. FIELD. A word or two more. I think the gentleman from Michigan, [Mr. CONGER,] upon examination of the case to which I have referred, will find that it does not depend at all upon the act of cession of the Northwest Territory, but upon general principles of law.

Now, if it is the intention of the United States to put into the

Indian trust fund the value of these Kansas school lands, we ought to say so; if that is not our intention, we ought to say so. In my judgment, with my very limited knowledge of the subject, the bill is not sufficiently explicit. To remove all doubt it should be amended by inserting after "United States," in the sixth line, the words "either by the act of January 29, 1861, entitled 'An act for the admission of Kansas into the Union,' or." Then there will be no doubt about the meaning. As it stands now the provision applies only to alienation since the creation of the trust, that is, since 1867.

Mr. DEERING. I am disposed to favor that amendment.

Mr. BELFORD. I want to call the attention of the gentleman from Massachusetts [Mr. FIELD] to a decision made by the Supreme Court of the United States within the last few years, in reference to the title of Indians to lands assigned them as a reservation. Some Indians—I think in Wisconsin, possibly in Michigan—undertook to cut certain timber on land within their reservation and to sell the timber to citizens of the State. In that case the Supreme Court of the United States decided that the Indians were mere occupants of that land which had been assigned to them as a reservation; that they had no fee-simple; that the title to the land was still in the Government of the United States; that the Indians were simply occupants and did not stand in the same relation to the Government that a citizen who has a fee-simple does.

Mr. FIELD. I move to amend the bill by inserting after the words "United States," in the sixth line, the words "either by the act of January 29, 1861, entitled 'An act for the admission of Kansas into the Union,' or."

Mr. DEERING. I hope this amendment will be adopted.

The amendment was adopted.

Mr. McMILLIN. I wish to ask the gentleman in charge of this bill how much it is estimated will be required to meet the demands of the bill if it should become a law?

Mr. DEERING. It is estimated that there are four hundred and twenty-four thousand acres at $1.25 an acre.

Mr. McMILLIN. Will that amount be required to meet the portion due to the Indians and also to the State of Kansas, or is it the sum required for each?

Mr. DEERING. I do not understand that anything is due to the State of Kansas. That State already has the land.

Mr. ANDERSON. The State of Kansas has nothing to do with this, as I understand.

Mr. RYAN, of Kansas, and Mr. HASKELL. Nothing at all.

Mr. ANDERSON. It simply happens that these Indians live in that State; that is all.

Mr. BERRY. I will ask the gentleman in charge of the bill to explain this last proviso:

Provided, That a like settlement shall be made with the Indian civilization fund for the sixteenth and thirty-sixth sections, given by the United States to the State of Kansas, within the limits of the Osage lands ceded by the first article of the treaty aforesaid.

Mr. CALKINS. When this treaty was made the Government required the Indians to give up a strip twenty miles wide, which was to be sold and the proceeds set aside to what is called the civilization fund, of which all the Indians in the United States, not this tribe alone, get the benefit.

Mr. McMILLIN. Who are the trustees of the fund?

Mr. CALKINS. The Secretary of the Interior. The State of Kansas has nothing to do with it.

Mr. DEERING. I move that the bill as amended be laid aside to be reported favorably to the House.

The motion was agreed to; there being—ayes 41, noes 12.

Mr. COOK. We will take a vote by yeas and nays on this bill in the House.

CLAIM OF CHOCTAW NATION.

Mr. HOOKER. I now ask the Clerk to read the first bill on the Calendar reported from the Committee on Indian Affairs.

The Clerk read as follows:

A bill (H. R. No. 440) for the ascertainment of the amount due the Choctaw Nation.

Whereas the Choctaw Nation, for itself and in behalf of individual members thereof, makes claim against the United States on account of various treaty provisions which it is alleged have not been complied with: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Court of Claims is hereby authorized to take jurisdiction of and try all questions of difference arising out of treaty stipulations with the Choctaw Nation, and to render judgment thereon; and the Attorney-General is hereby directed to appear in behalf of the Government, and if said court shall decide against the United States the Attorney-General shall, within thirty days from the rendition of judgment, appeal the cause to the Supreme Court of the United States; and from any judgment that may be rendered the said Choctaw Nation may also appeal to said Supreme Court: *Provided*, The appeal of said Choctaw Nation shall be taken within sixty days after the rendition of said judgment; and the said courts shall give such cause precedence.

SEC. 2. Said action shall be commenced by a petition stating the facts on which said nation claims to recover and the amount of its claim; and said petition may be verified by either of the authorized delegates of said nation as to the existence of such facts, and no other statements need be contained in said petition or verification.

The amendment reported by the Committee on Indian Affairs was to insert, after the words "judgment thereon," in the sixth line, the following:

Power is hereby granted the said court to review the entire question of differences *de novo*, and it shall not be estopped by any action had or award made by the Senate of the United States in pursuance of the treaty of 1855.

Mr. HOOKER. Is it the pleasure of the committee to have the report read? If not, I will state the object and purpose of the bill.

Mr. ATKINS. I call for the reading of the report.

The Clerk read as follows:

The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 440) for the ascertainment of the amount due the Choctaw Nation, having had the same under consideration, beg leave to report:

That the previous history of this claim and the reports made by respective committees of the House of Representatives and the Senate show the following to be the history of this case:

The Choctaw claim, as a legal obligation, rests on the treaty of 1855, which referred claims under a former treaty to the Senate for a decision, which was to be final. (Eleventh article treaty 1855, 11 Stat., 611.)

The decision was announced on the 9th of March, 1859, in a resolution allowing them the net proceeds of the lands they ceded in 1830, and requiring the Secretary of the Interior to report to Congress the amount due under its prescribed principles of settlement. (Sen. Jour., 2d sess. 35th Cong., 493.)

The Secretary reported that the amount was $2,981,247.30. (H. R. Ex. Doc. 82, 1st sess., 36th Cong., pages 2 and 25.)

Of this sum $500,000 was appropriated March 3, 1861. (12 Stat., 238.)

One-half the appropriation was paid in money; the other half was payable in bonds, which were not delivered. (Pres. Mess., Ex. Doc. 34, 3d sess. 35th Cong., page 9.)

The authority to deliver the bonds, first conferred March 2, 1861, was renewed by Congress March 3, 1871, and afterward suspended February 14, 1873. (Pp. 9 and 10.)

In the following year the indebtedness of the Government to the Choctaws was referred to in the third section of the sundry civil appropriation act of June 23, 1874, which directed the Secretary of the Treasury to report the liabilities of the Choctaws mentioned in the twelfth and thirteenth articles of the treaty of 1855, "with a view of ascertaining what amount should be deducted from the sum due from the United States to said Choctaw tribe" to enable the tribe to pay such liabilities. (18 Stat., 230.)

There has been no subsequent legislation on the subject. As the matter stands, the evidence in the statutes indicates that something is due the Choctaws.

The nature and extent of the liability incurred under the Senate resolution of March 9, 1859, has been discussed in both Houses of Congress from the 13th of June, 1860, when it was first proposed in the Senate to pay the amount found due under its decision, down to the enactment above referred to in June, 1874.

TREATY OF 1820.

The report (572, 2d sess. 35th Cong., p. 2) which accompanied the resolutions adopted by the Senate as its award, shows that the Choctaws rested their claim primarily on the treaty of 1820, when they owned half the area of the State of Mississippi. They then exchanged for their country west a tract estimated at six million acres (2 Ind. Affs., 241) and described in the treaty as a "small part of their land here." (7 Stat., 210.)

The residue retained was subsequently ascertained to be 10,423,139 acres. (Ex. Doc. 82, 1st sess. 36th Cong., p. 22.) Its boundaries were to remain "without alteration" until the Choctaws were sufficiently civilized to become citizens of the United States, when a "limited parcel of land was to be laid off for the benefit of each family or individual in the nation." (7 Stat., 211.)

The preceding negotiations and the subsequent treaty of 1825 show that this was understood on both sides to mean the apportionment of the tribal domain among the individual members of the tribe. (7th art. treaty 1825, 7 Stat., 236; 2d Ind. Affs., 240.)

THE TREATY OF 1830.

In 1829 Mississippi extended its jurisdiction over the Choctaw country, and in September, 1830, a treaty was made which in its preamble sets forth that extension, and the inability of the President to protect the Indian from its effects, as a reason for the cession of their country east of the Mississippi. (7 Stat., 333.)

The fourteenth article of the treaty partially renews the apportionment features of 1820, by providing for all without restriction who choose to remain and become citizens a quantity of land, including their improvements, equal to something over two-thirds of what an apportionment would have given them.

The aggregate ceded was 10,423,139 acres. The Indian Office estimated that 7,321,180 acres would have been absorbed if all the Choctaws had secured the land they might have claimed under the fourteenth article of their treaty. (H. R. Ex. Doc. 47, 2d sess. 43d Cong., page 9.)

Under any circumstances, therefore, the treaty of 1830 would have fallen short of the apportionment guarantees of 1820.

The Choctaws contended, however, that the language of the treaty of 1830, coupled with the assurance of the commissioners during the negotiations, shows that the treaty intended that they should have whatever was derived from the sale of their lands after paying all proper charges; that if they emigrated they were to have the proceeds of the land in place of the land itself, as provided by the treaty of 1820.

Commenting on this view and on the apportionment promised in 1820, the report of the Senate committee says that though in strict justice the treaty of 1830 *ought* to have given the net proceeds, in point of fact it did *not* give them, and therefore under that treaty the Choctaws are not "entitled" to them.

The report then proceeds to examine at length the losses caused by the failure to execute the treaty. Its conclusions have been assailed in a document emanating from the Treasury Department. (H. R. Ex. Doc. 69, 3d sess. 42d Cong.) But a subsequent document from the same Department shows that the information on which the report of the Senate committee rests was furnished officially by the Indian Bureau, (H. R. Ex. Doc. 47, 2d sess. 43d Cong., page 7 to 13,) and every material statement then made is confirmed by the same bureau in the message lately transmitted to Congress by the President. (H. R. Ex. Doc. 34, 3d sess. 45th Cong.)

The statements of the Indian Office show that several thousand Indians remained in the ceded territory relying on the stipulations of the treaty; that of more than fifteen hundred families who endeavored to secure their homes and improvements under the fourteenth article less than one hundred and fifty succeeded; that of those who failed some were afterward partially indemnified, but that a large number were deprived of their land and never received any equivalent whatever.

The report proceeds to examine various items in the Choctaw claim, and adds that it is evident from these facts that the Choctaws are entitled to receive from the United States a large sum in gross for non-performance of the stipulations of the treaty of 1830, but how much that sum shall be "it is now impossible to ascertain," (page 14,) and that the only practicable mode of adjustment is to give them the net proceeds of their lands, because it is the only course by which justice can now be done, (page 17,) and "because it would really amount to a little more than half of what might be recovered in a court of equity if the case were one between individuals." (Page 16.)

The report closes with the resolution that the Choctaws be allowed the net proceeds of the lands they ceded in 1830, being the same in substance that was adopted on the 9th of March, 1859.

It has been objected that this decision was made without debate, without sufficient knowledge of the subject, and under a misapprehension as to the amount involved.

But these objections were all urged during the next ensuing session of the Sen

ate in discussions which turned mainly on the question how much was due under the resolutions.

"We did agree," said Mr. Toombs, who voted against the first proposition to pay the claim, "to give the Indians the net proceeds; but the difficulty is as to what are the net proceeds." (Globe, June 13, 1860, page 2937.)

In the same debate it was contended by some Senators that the true amount was $2,332,560.85; by others, that it was $1,851,247.30. In the following February a provision was inserted by the Senate in an appropriation bill for the payment of $1,202,560.85, as the "undisputed balance" due the Choctaws under the "award" of March 9, 1859. (Globe, February 2, 1861, pages 704, 831, 832.)

The clause was rejected by the House; but it was contended by some members that the Choctaws were entitled to the full sum of $2,981,247.30 reported by the Secretary of the Interior.

The question between the two Houses was settled by an appropriation of $500,000 "on account of their claim under the eleventh and twelfth articles of their treaty" of 1855. (12 Statutes, 238.)

There seems to be no doubt that the half of this sum, payable in bonds which have never been issued, is still due. How much more the Choctaws are justly entitled to receive is a question not easily answered. The differences above referred to were not confined to the debates. Committees of both Houses have from time to time reported different amounts. Thirteen such reports have been made since 1861, which agree on one point alone, and that is that the Choctaws have a just claim which ought to be settled.

The halls of Congress are obviously not the place to adjust the items of an account. The Indians have asked for a reference to the courts. While on the one hand it would seem eminently proper to let a judicial tribunal ascertain how much is legally and equitably due, on the other there can be no serious objection to permitting the courts to examine and determine the questions at issue between the Government and the Choctaws.

Under this state of facts your committee report and recommend that the bill (H. R. No. 440) be reported back to the House with the recommendation that the same do pass.

Mr. HOOKER. I will ask whether there is any other report from the committee than this? I feel it proper to state that upon the consideration of this question in the Forty-fourth Congress the gentleman from North Carolina, [Mr. SCALES,] now the chairman of the committee, made a report the purport of which was that this case should be referred back to the Senate for final adjudication. My impression was that he submitted a report of that kind in this House.

Mr. STEVENSON. I will inquire of the gentleman whether this bill has not been reported favorably a number of times?

Mr. HOOKER. Twelve or thirteen times.

The CHAIRMAN. The Chair is informed that no other report than the one which has been read accompanies the bill.

Mr. HOOKER. I felt it due to the chairman of the Committee on Indian Affairs, [Mr. SCALES,] who is absent to-night on account of illness, to state the fact that he differed with some members of the committee in reference to what should be the mode of settlement.

Mr. BELFORD. I read in this report the following language:

The report (572, second session Thirty-fifth Congress, page 2) which accompanied the resolutions adopted by the Senate as its award, shows that the Choctaws rested their claim primarily on the treaty of 1820, when they owned half the area of the State of Mississippi.

A month or two ago, when a bill was up before this House looking to the removal of the Ute Indians from the State of Colorado to the Uintah reservation in the Territory of Utah, the gentleman from Mississippi made a most magnificent speech. I must do him the credit to say it was an eloquent speech, denouncing the frontier men who had gone out to build up an empire at the base of the Rocky Mountains, and who were standing on the border of the Ute reservation, wanting to go there and develop the rich mineral wealth of the country. He spoke of the beautiful rivers which had been named after the Indians and the like.

I should like to inquire of him how these Choctaws got out of the State of Mississippi or how the State of Mississippi acquired title to this land? I want to ascertain that fact, because this Ute bill is likely to come up in a day or two, and I have no doubt my friend from Mississippi will treat the House to another of those forensic efforts which always entertain and delight us; and I would like to be armed a little on this precise phase of the case in advance.

I have noticed, Mr. Chairman, a man who lives a thousand miles from an Indian has a great deal more respect for a savage than the man who lives up close to the borders where he is likely to have his scalp lifted at any time. I find there is a greater admiration for Fenimore Cooper's novels down in the East and east of the Mississippi River than is entertained for them west of the Mississippi River.

Now, sir, my people take a practical view of the Indian question, and therefore I want to get a little information, so when I come to cope in my feeble way with my distinguished friend from Mississippi I may be armed in advance upon the question as to how the Choctaws got out of the State of Mississippi. I would like to know how all those tribes which occupied the Southern States of Florida, Alabama, Louisiana, Mississippi, and Arkansas got dumped over into the Indian Territory and when this great spirit of solemn regard for the lives of the Indians had its origin—whether it did not occur after every State in the South and every State in the East had unloaded their infected goods over beyond the Mississippi River? Then turning to us they say, "Now, gentlemen, we want you to respect these Indians." That is all I want to say on that subject.

Mr. HOOKER. Mr. Chairman, my friend from Colorado will remember the good temper and patience I exhibited when I listened to his address on the Ute question, and I will do so again when it comes up. I will say in reply to his question the Choctaw and Chickasaw Indians got out of the State of Mississippi by virtue of the provisions of the treaty of Dancing Rabbit Creek of 1830, by which they voluntarily ceded all their lands on that side of the river to the Government of the United States in consideration of the cession of the then Government lands, now constituting the Indian Territory.

But I desire to explain this bill to the committee in one word, and just one word. This, Mr. Chairman, grows out of the treaty stipulations of 1855. There had been a difference between the Government of the United States and the Choctaw Nation for many years as to what was the amount due them. There was a difference of opinion between the Choctaws and the Government, and they agreed to leave it to the Senate of the United States as an arbitrator to determine what was the amount due the Choctaw Nation.

That they had ceded large and valuable tracts of land in Mississippi no one doubts. The record shows the return of the proceeds from the sale of those lands paid into the Treasury of the Government of the United States of over $5,000,000. They agreed—this weak nation dealing with a strong one—to leave it to the arbitrament of the Senate, one of the legislative branches of the Government of the United States, to determine whether there was anything due the Choctaws under the treaty of 1855. Under this treaty of 1855 the Choctaws agreed to leave it to the Senate of the United States to ascertain what amount of money was due them. The Senate of the United States sitting as an arbitrator between the two peoples made the following award. I shall not trouble the committee with reading anything but this; and the proposition of this bill is simply to refer to the Court of Claims of the United States the simple question to determine, first, whether anything is due to the Choctaw Nation; and secondly, if anything, how much.

Mr. STEVENSON. When was that arbitration made?

Mr. HOOKER. In 1859.

Mr. STEVENSON. What has been the reason, then, for this long delay?

Mr. HOOKER. The reason for this long delay has been because they have never been able to get the appropriation out of the Treasury of the United States to pay them.

But I desire simply to pay the amount on the principle fixed by the Senate—upon the finding of the Senate of the United States—upon the judgment of the arbitrator appointed by both parties, by the Government of the United States and the Choctaws. A principle was then fixed to ascertain what was the amount due. That principle was embraced in the following resolution of the 9th of March, 1859. The Senate of the United States then passed the following resolution:

Whereas the eleventh article of the treaty of June 2, 1855, with the Choctaw and Chickasaw Indians, provides that the following questions be submitted for decision to the Senate of the United States:

First. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the land ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the cost of their survey and sale and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the land remaining unsold, in order that a final settlement with them may be promptly effected; or,

Secondly. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much?

Those were the two questions submitted.

Mr. BRIGHT. Will the gentleman permit me to ask him a question in that connection?

Mr. HOOKER. Yes, sir.

Mr. BRIGHT. Are the Choctaws willing to submit to the jurisdiction of the United States Court of Claims and abide its judgment?

Mr. HOOKER. Undoubtedly; that is what they desire.

Mr. ATKINS. What authority has the gentleman for making that statement?

Mr. HOOKER. I have the authority of the chiefs representing the Choctaw Nation.

Mr. ATKINS. Who are they?

Mr. HOOKER. Colonel Pitchlyn and others.

Mr. ATKINS. Colonel Pitchlyn is the main man?

Mr. HOOKER. He has been here twenty years prosecuting it.

Mr. DAVIS, of North Carolina. Was this agreement that of the Senate?

Mr. HOOKER. Yes, sir; that is exactly what I am reading. I wish now to read the finding of the Senate on the case submitted to them. They found as follows. This is the resolution adopted by the Senate in adjudicating this question:

Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the 1st day of January last—

That is, on the 1st of January, 1859—

deducting therefrom the costs of their survey and sale, and all proper expenditures and payments under said treaty, excluding the reservations allowed and secured, and estimating the scrip issued, in lieu of reservations, at the rate of $1.25 per acre.

I hope the committee will give me their attention on this matter, if they desire to understand it.

Mr. COOK. I hope we will have order as I desire to hear the statement of the gentleman from Mississippi.

The CHAIRMAN. The House will come to order and the gentleman from Mississippi will proceed.

Mr. HOOKER. And also they allowed twelve and a half cents per acre for the residue of said lands.

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above-prescribed principles of settlement, and report the same to Congress.

Now, this was the arbitration of the Senate of the United States.

One of the branches of your own Government determined as an arbiter and as judge what was due to the Choctaw Nation. An estimate was submitted subsequently by the Secretary of the Interior showing there was a large amount of money still due the Choctaw Nation for this land.

I will state here it is conceded by my friend from North Carolina, [Mr. SCALES,] whom I have done the justice to say made a report in the Forty-fifth Congress, in which he took the position that, inasmuch as the Senate had not gone on to ascertain precisely what was the specific amount due the Choctaws, therefore the proper course was to refer it back to the Senate—it was conceded by him and by every report—thirteen in number—made upon this subject that at least one million eight hundred and ninety-one thousand and some odd dollars was due to the Choctaws. They claimed a much larger amount. I say his report conceded the fact that that amount at least was due according to the stipulations of the treaty of 1855 and the finding of the Senate of the United States sitting as arbiter between the Choctaws and the Government of the United States.

I have made this brief statement; and I say there have been thirteen different reports made on this subject, all of which have conceded a considerable amount of money is due. This proposes to refer the matter to the Court of Claims and open up every question for the adjudication of the court, the finding of the Senate acting as arbiter and everything else, and ascertain, first, whether anything is due the Choctaws; and, secondly, if anything, how much.

Mr. STEVENSON. Why should this report go back of the finding of the Senate?

Mr. HOOKER. I cannot see any good reason for it, but objection being made, the Choctaws said, "Very well; we are satisfied with the justice of our claim and are willing to submit it to the adjudication of your court as before we submitted it to the Senate."

Mr. ATKINS. Will the gentleman allow me to ask him how much he supposes is involved in this bill?

Mr. HOOKER. The committee will observe by the finding of the Senate they fixed these two principles: first, that the Choctaws were entitled to $1.25 per acre for the land sold prior to the 1st of January, 1859; and secondly, they were entitled to twelve and a half cents per acre for the land sold afterward in accordance with the provisions of the treaty.

Mr. ATKINS. How many acres were sold prior to that time and how many afterward?

Mr. HOOKER. I will state the figures. The committee will observe the second resolution of the Senate, fixing the principle upon which this was to be ascertained, proceeds as follows:

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws showing what amount is due them, according to the above-prescribed principles of settlement, and report the same to Congress.

In compliance with this resolution, the Secretary of the Interior, on the 8th of May, 1860, with the finding of the arbitration by the Senate of March, 1859, reported to Congress the balance due to the Choctaws was $2,981,247.30. This is shown in House Executive Document, first session Thirty-sixth Congress.

Mr. ATKINS. Will the gentleman allow me to ask him another question in that connection?

Mr. HOOKER. Yes, sir.

Mr. ATKINS. Is it proposed by this bill that the Court of Claims shall award interest to these parties in the event they shall make any award at all?

Mr. HOOKER. Nothing is said upon the subject of interest.

Mr. ATKINS. What does the gentleman suppose to be the rights of the case?

Mr. HOOKER. I should say that in equity they would be entitled to interest from the time the money was due.

Mr. ATKINS. Then, if the amount was $2,800,000 in 1859, and carried interest all the time, it would be more than double now.

Mr. HOOKER. I think according to the principle of equity and justice it would and it ought to bear interest. I can only say this: that you received for the sale of the Choctaw lands east of the Mississippi and paid into the Treasury over $5,000,000, a great many years ago, according to the report of your own officers, notwithstanding the fact that the Indians bore all of the expenses of the survey and sale. Of course I know that the principle of our Government is not to pay interest upon such claims, and the Indians only ask that the Court of Claims shall sit in judgment upon the arbitration made by the Senate, allowing each party the right of appeal within sixty days to the Supreme Court. Still the equities of the case would entitle them to interest.

I will not weary the committee further unless gentlemen wish to ask some question in reference to this matter.

Mr. MILLS. I wish to ask the gentleman from Mississippi if the Government of the United States did not make a payment on that award of some $320,000 in bonds?

Mr. HOOKER. There was a payment made; an agreement was made to deliver other bonds, which were never delivered.

Mr. MILLS. The reason I asked the question was in order to show that the Government of the United States had recognized this as a settlement of the obligation, and had actually commenced to make payment of it. I remember to have investigated this claim, in the Forty-fourth Congress I think, and examined it very thoroughly at that time.

Mr. ATKINS. Was not that payment in full of the whole claim?

Mr. HOOKER. By no means.

Mr. SPARKS. I wish to ask the gentleman from Mississippi whether or not there is not in existence a receipt in full for this whole award?

Mr. HOOKER. There is a receipt given for so much money paid, but that receipt was given prior to the settlement of this question in the Senate and prior to the arbitration, and the receipt was frequently referred to in the debate in the Senate, and it was conceded that it was only for the amount paid, and was not by any means final. It was not intended to be full and was not considered as such in any discussion or examination had into this question on the part of the Senate.

Mr. SPARKS. That is exactly the point I want to get at, if the gentleman from Mississippi will permit me to interrupt him; and I want the committee to understand it. My recollection is that somewhere in this proceeding a receipt had been given in full for all claims against the Government of the United States in relation to this matter. Now, I understand that this proceeding goes beyond that and looks to an investigation into this matter regardless of the settlement which is claimed to have been in full, and for which there is a receipt in full for all demands against the Government of the United States.

Mr. HOOKER. The Government, as a matter of course, never would have entered into an arbitration of the case if there had been a receipt in full for all demands on account of it; and while there is a receipt in existence for the payment of so much money on account of this claim, still, as I have already said, that receipt was repeatedly referred to during the progress of the debate in the Senate, and it was conceded on all sides not to be a receipt in full; and the Government of the United States, after the execution of that instrument, entered into an arbitration upon the question as to what amount was due to the Choctaws for these lands.

It is evident from this that it was not considered to have been a receipt in full and does not so express in terms. The Choctaws were not satisfied, and the Senate of the United States sat in arbitration, and, passing upon it after a full discussion and thorough examination of all the facts in the case, and with full knowledge of the existence of this receipt, decided that the Choctaws were entitled to $1.25 per acre for all lands sold prior to 1859, and twelve and a half cents an acre for all lands sold since that time, which you will see from what I have read in the report of the Secretary of the Interior, who was instructed to make an estimate upon the part of the Senate. His estimate amounted to two million eight hundred and some odd thousand dollars.

Mr. THOMPSON, of Iowa. What was the date of that receipt?

Mr. HOOKER. It was prior to the rendition of the award.

Mr. THOMPSON, of Iowa. I say about what time was it given: the date of it?

Mr. HOOKER. I will inform the gentleman in a few moments; I will ascertain the date.

Mr. SPARKS. The gentleman from Mississippi and all the members of the Forty-fourth Congress will remember that this question was then considered. It has passed out of my mind, but I think the gentleman from California will probably remember more clearly than anybody else in reference to it. He directed my attention to the receipt. I know we came to the conclusion after an investigation of the matter that the Government of the United States was not responsible for one dollar or one cent on this account, and I think the Committee on Indian Affairs unanimously reported against the claim. The Secretary of the Treasury and several others who examined the matter also reported adversely upon it.

Mr. HOOKER. Do I understand the gentleman from Illinois that the Secretary of the Treasury reported adversely upon the claim?

Mr. SPARKS. Yes, adversely. Mr. Boutwell reported adversely upon it, and the Committee on Indian Affairs, I think, unanimously reported against it.

Mr. HOOKER. Will the gentleman from Illinois allow me now to interrupt him to read the receipt which is in controversy here?

Mr. SPARKS. Yes, sir.

Mr. HOOKER. It is as follows:

Whereas by an act of Congress entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," it is provided that after the 30th of June, 1852, all payments of interest on the amounts awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit Creek, for lands on which they resided, but which it is impossible to give them, shall cease; and that the Secretary of the Interior be directed to pay said claimants the amount of principal awarded in each case respectively, and that amount necessary for this purpose be appropriated, not exceeding $872,000; and that the final payment and satisfaction of said award shall be first ratified and approved as a final release of all claims of such parties *under the fourteenth article of said treaty*—

I will show what that article is as soon as the volume is brought to me from the Library. I continue to read—

by the proper national authority of the Choctaws in such form as shall be prescribed by the Secretary of the Interior: Now, be it known that the said general council of the Choctaw Nation do hereby ratify and approve the final payment and satisfaction of said awards, agreeably to the provisions of the act aforesaid, as a final release of all claims of such parties under the fourteenth article of said treaty.

That is dated—

November, 1852: passed in the Senate—

seven years before the award. And that amount was paid to certain parties, individuals of the Choctaw Nation, under the stipulation

of the fourteenth article of the treaty of Dancing Rabbit Creek. It was not intended or designed as a settlement with the Choctaw Nation.

I hope the gentleman from Illinois [Mr. SPARKS] will give his attention to the terms of this receipt. It shows upon its face it was a settlement with certain Indians and not with the Choctaw Nation.

I will say further in reply to an inquiry of my friend that that receipt was executed in November, 1852, seven years before the rendition of the award of arbitration by the Senate of the United States. And that receipt was before the Senate and considered by the Senate and referred to in the Senate in the course of the debate upon that question.

Mr. BELFORD. I stated a moment ago that I was in favor of the passage of this bill. I made that statement a little unadvisedly. I was induced to make it on the ground that this claim had received the recommendation of the Committee on Indian Affairs; and I knew nothing could pass that committee, or at least I thought nothing could pass that committee, which would not commend itself to the judgment of the country. I have learned since that this is a grave and reverend claim reaching back as far as 1830—five years before I was born. It has been in this Congress for more than a quarter of a century. Some gentleman suggested that it is outlawed by limitation.

I merely mention these things incidentally because I want to impress upon the House the absolute importance of doing justice to the Indians notwithstanding this is an ancient claim. If you have made a solemn treaty with the Indians I insist that this House shall carry it out in every particular.

Suppose, to use the language employed by the gentleman from Mississippi [Mr. HOOKER] when the Ute bill was up here a month ago, suppose we had made a solemn treaty with a foreign nation possessed of an heroic army, of a magnificent navy, and a great many big and thunderous cannon, would you gentlemen stop for a moment to cavil with a great nation like that; would you doubt for a moment the necessity of carrying out a treaty obligation? Resting upon the language of the gentleman from Mississippi when speaking of the Utes, I affirm it to be the duty of this House and of this Congress to pass the bill if the claim is a hundred years old. I believe in abiding by the treaties we have made with the Indians.

I know, Mr. Chairman, that for years and years the property of citizens in Colorado has been burned and destroyed by the Indians. I know that our citizens have been despoiled of their property. I know that their houses have been burned; that their crops have been destroyed, and year after year they have come to Congress and presented their claims. But year after year this great Government, with its ample Treasury, has turned its back upon these honest citizens who have undergone these injuries at the hands of the Indians.

I say to my friend from Tennessee, the chairman of the Committee on Appropriations, that I am surprised he should make any inquiries in reference to the age or character of this claim. I do think that in view of the profound regard we all have, and especially my distinguished friend from Mississippi, for the rights of the Indians, this bill ought to pass notwithstanding the fact that the claim dates back more than a quarter of a century.

I have made these remarks, Mr. Chairman, because I have been fully convinced of the absolute importance of a strict and unvarying compliance with every term incorporated into every treaty made with every Indian tribe in this country. And if I have been able to do the gentleman from Mississippi any good by my remarks on this subject, I think I have simply reciprocated the kindness he extended to me on a former occasion.

Mr. BERRY. I would like to ask the gentleman from Colorado on which side he is going to vote?

Mr. STEVENSON. I understood my colleague from Illinois [Mr. SPARKS] to state that the Secretary of the Treasury had reported against this claim, and that the committee of which my colleague was a member in the Forty-fourth Congress had reported against it.

Mr. SPARKS. Yes, sir.

Mr. STEVENSON. I would like to know what the facts are with regard to that. I would like to know from the gentleman from Mississippi what reports, if any, have been made against this claim? And I would like him to explain to the House why this long delay has occurred? It seems twenty-five years ago this matter was submitted to the Senate for its arbitrament, and that they found favorably to the Indians. I ask why this long delay has occurred in carrying out or executing this award?

Mr. HOOKER. In answer to the gentleman from Illinois, I will say it will be remembered the arbitration was made in accordance with the terms of the treaty of 1855, in March, 1859. Shortly afterward the civil war came on, and that stopped all questions on the subject. When the report of the Secretary of the Interior, based on the principles settled by the Senate, came out we were on the verge of the war; and during four years that state of things continued.

Immediately after the war the Choctaws again commenced pressing their claims upon the Government, and have continued to do so up to the present time. The reason why they have not been paid is simply because the Government has never been willing to abide by the award of the Senate; that is, to the extent of making the appropriation. I am not aware that any report was made by a committee of the Forty-fourth Congress against this claim; if so I have never seen it. There have been thirteen reports made in favor of it and not one against it.

In response to what was said by the gentleman from Illinois [Mr. SPARKS] in regard to this receipt being in full, allow me to say that it was not so considered by the Senate for this reason: $872,000 was appropriated by the Senate for the purpose of funding the scrip which was issued to certain Indians who had left their lands east of the Mississippi. They conceded that that amount was due them, and they wanted to stop interest on it. They wanted to settle with those parties to whom this scrip had been issued. I will now read from the report of Mr. Shanks, made in the third session of the Forty-second Congress. I want to call the attention of the committee to it, for it explains precisely where the $872,000 went. In July, 1852, Congress enacted in a deficiency as follows—I call the attention of the committee to this in order to explain this receipt and to show that the Senate distinctly understood what that receipt meant when they made this arbitrament:

For interest on the lands awarded Choctaw claimants, under the fourteenth article of the treaty—

You will see that the receipt says it was under the fourteenth article of the treaty of Dancing Rabbit Creek, of September 27, 1830.

For interest on the amounts awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit Creek, of September 27, 1830, for lands on which they resided, but which it is impossible to give them, and in lieu of the scrip that has been awarded under the act of August 23, 1842, not deliverable east by the third section of said law, per act of March 3, 1845, for the half year ending June 30, 1852, $21,800: *Provided*, That after the 30th day of June, 1852, all payments of interest on said awards shall cease, and that the Secretary of the Interior be, and he is hereby, directed to pay *said claimants* the amount of principal awarded in *each case respectively*—

Putting the words "said claimants" in italics to show that the money was to be paid to certain individuals of the Choctaw Nation who were claimants, and that it was never understood by the Senate as arbitrators, or by the Choctaws, that the receipt was in full for all claims—

and that the amount necessary for this purpose be, and the same is hereby, appropriated, not exceeding $872,000: *Provided further*, That the final payment and satisfaction of *said awards* shall be first ratified and approved as a *final release of all claims of such parties*.

Not to the Choctaw Nation, but to the particular parties in whose favor the scrip had been issued, and for the taking up of which scrip this $872,000 was appropriated.

Mr. THOMPSON, of Iowa. Will the gentleman allow me to ask him a question?

Mr. HOOKER. Certainly.

Mr. THOMPSON, of Iowa. I want to inquire whether the receipt that the gentleman read a little while ago, and which was referred to in the action of the Senate, was a receipt under the treaty of 1855.

Mr. HOOKER. Yes; but 1852 is the date of the receipt.

Mr. THOMPSON, of Iowa. You referred to article 14 of a treaty between the United States and the Choctaw Nation. Was that the treaty of 1855?

Mr. HOOKER. That was the treaty of 1830; it could not, as a matter of course, be the treaty of 1855. The gentleman will observe that the date of the receipt was 1852, before the treaty of 1855 was made. Then when the treaty of 1855 was made, a full knowledge was had in that treaty of the existence of this receipt. The Senate had the matter referred to them as arbitrators, and in 1859, four years after the execution of the treaty, the Senate reached their final award and arbitration in this matter.

Provided further, That the final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties, under the fourteenth article of said treaty, by the proper national authorities of the Choctaws, in such form as shall be prescribed by the Secretary of the Interior.

Mr. SPARKS. I would inquire of the gentleman from Mississippi what he is reading from?

Mr. HOOKER. I am reading from the report of Mr. Shanks, made at the third session of the Forty-sixth Congress, from the Committee on Indian Affairs. I will read further:

By this act of July 21, 1852, the United States again peremptorily orders payment of a fund that it had as peremptorily funded on the 30th of March, 1845, at 5 per cent. interest forever. It is in connection with the receipting by the Choctaw Nation for these awards, due, as they were, to individuals, arises the error of supposing that the receipts of the Choctaw claims of November 6, 1852, covered the entire claims of the Choctaws under the fourteenth article of the treaty of 1830; when in truth and in fact the receipts only covered one-half of the scrip, namely, that which was not payable east (meaning while claimants remained east of the Mississippi River) under the law of August 23, 1842, and on which interest at 5 per cent. was allowed by the law of March 3, 1845, and which was ordered paid by the law of July 21, 1852, and had no wider significance than the individual claimants to whom the scrip had been awarded, leaving all claimants under the fourteenth article to whom no scrip or certificates of entry in lieu of the homesteads had been issued still entitled to satisfaction.

Now, I will ask the Clerk to read article 14 of the same treaty, which I think satisfactorily explains the force and effect of the receipt executed at the time referred to. This receipt, which was in the office of the Secretary of the Interior, was fully understood by the Government, fully understood by every Senator who entered into the debate, and the Senate in making the arbitrament comprehended thoroughly the nature and effect of that receipt and the extent to which it applied.

The Clerk read as follows:

ART. 14. Each Choctaw, head of a family, being desirous to remain and become a citizen of the States, shall be permitted to do so by signifying his intention to

the agent within six months from the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child who is living with him, over ten years of age, and a quarter section to such child as may be under ten years of age, to adjoin the section of the parent. If they reside upon said lands, intending to become citizens of the States, for five years after the ratification of this treaty, in that case a grant in fee-simple shall issue. Said reservation shall include the present improvement of a head of a family or a portion of it. Persons who claim under this article shall not lose the privileges of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

Mr. PAGE. Does the gentleman from Mississippi wish to proceed further?

Mr. HOOKER. I yield to the gentleman if he wishes to say anything.

Mr. PAGE. Mr. Chairman, for eight years, or nearly eight years, this Choctaw claim has been before Congress asking recognition and payment. I had the honor to serve as a member of the Committee on Indian Affairs in the Forty-fourth and Forty-fifth Congresses, before which this claim was pending. It was reported against by a very large majority in the Forty-fourth Congress, a statement in which I will be borne out by the gentleman from Illinois, [Mr. SPARKS,] who is now present.

Mr. HASKELL. I think the gentleman will find that in the Forty-fourth Congress a favorable report proposing an appropriation was made upon this claim by Mr. Wilshire.

Mr. PAGE. I very distinctly remember that the gentleman from Illinois [Mr. SPARKS] and the gentleman from North Carolina [Mr. SCALES] were fellow-members with me on that committee; and this claim was reported against. The bill which was submitted to the committee at that time proposed an appropriation out of the Treasury. In the Forty-fifth Congress the bill presented proposed that the claim be allowed to go before the Court of Claims.

Mr. ATKINS. Was not a proposition to make an appropriation for this claim voted down in the Forty-fourth Congress?

Mr. PAGE. I believe it was.

Mr. HOOKER. In committee?

Mr. ATKINS. I mean in the House.

Mr. HOOKER. Ah!

Mr. ATKINS. It received the condemnation of the House of Representatives.

Mr. HOOKER. Why did it receive the condemnation of the House of Representatives? Because you would not consider it. It never was considered; that is the reason.

Mr. ATKINS. That is a very remarkable expression, implying that the House would have taken action without consideration.

Mr. HOOKER. The House never did pass upon the merits of the question at all. The claim was always met with some objection about its age, as the gentleman well remembers. Does the gentleman from California [Mr. PAGE] mean to say that in the Forty-fourth Congress there was not a report made by Mr. Wilshire in favor of the measure?

Mr. PAGE. Mr. Wilshire may have made a minority report.

Mr. HOOKER. No, sir, a majority report.

Mr. PAGE. But I am satisfied, if my recollection serves me right, (and if I am wrong I appeal to my then colleague on the committee, the gentleman from Illinois, to correct me,) that the majority of the committee reported against this measure. Let me further state that in the Forty-third Congress Mr. Parker, then a member from Missouri, attempted to have an appropriation for this claim put upon the Indian appropriation bill, but it was rejected. I think that is the action to which the gentleman from Tennessee [Mr. ATKINS] refers.

Mr. HASKELL. I am certain, because I have taken a deep interest in this claim, that there is no printed report of any majority of any committee anywhere against the claim. I have asked for such a report in committee; I have looked over the reports almost by the score; I have looked over the Senate proceedings; and I have nowhere found a single adverse report by any body of men who have deliberated upon this question; that is to say, no body of men who have deliberated upon this Choctaw claim have failed to agree that something was due to the Choctaws.

Mr. PAGE. Why, Mr. Chairman, had I known that this bill was to come up to-night, I could have produced evidence before this committee which, in my judgment, would have caused the rejection of the bill without a word.

Mr. DAVIS, of North Carolina. Does this bill propose to pay anything at all?

Mr. PAGE. I understand not. I believe it proposes to send the claim to the Court of Claims.

Mr. DAVIS, of North Carolina. It simply allows the claimants to go before that court.

Mr. PAGE. So I understand.

Mr. DAVIS, of North Carolina. Did the bill of which the gentleman speaks as having been rejected propose to pay money on account of this claim, or propose simply to allow the parties to litigate?

Mr. PAGE. The bill which was rejected in the Forty-fourth Congress proposed to pay money out of the Treasury.

Mr. DAVIS, of North Carolina. That was rejected; and this is a proposition to allow the parties to litigate. Now, my friend speaks of this being an old claim. If these parties have been insisting on their rights since 1853, and we with power to grant the claim have withheld payment, should the fact that the parties have spent a vast deal of time in asserting their rights operate to prejudice this claim?

Mr. PAGE. I never said anything about this being an old claim. I said it had been before Congress for the last eight years. I did not speak disparagingly of it on account of its age, because it may be very old and yet a very good claim. I was simply saying that as a member of the Committee on Indian Affairs for four years it became my duty to examine this Choctaw claim carefully, and I am fully convinced that it is a claim wholly without merit and ought not to be considered by the House.

The Secretary of the Treasury, Mr. Boutwell, of Massachusetts, gave this claim a thorough and careful examination and his report was against it; so was the report of the Solicitor of the Treasury. It has been examined by different committees of this House. I do not know whether ever before any committee reported favorably on this bill; but from what I know of it I do not believe it has any merit.

I have no feeling in the matter at all; for I have generally been liberal in voting for claims which I think have merit. I never willingly vote that I know of against any honest claim. I am in favor of the Government paying its honest debts and paying every honest claim that can be shown to be honest before the House or any committee of the House.

But, as I have said, I had occasion to examine this claim for four years as the honorable gentleman from North Carolina, [Mr. SCALES,] the present chairman of the Committee on Indian Affairs, will attest. I know what is his opinion; and I know the opinion of other gentlemen of that committee, that this is a bill which ought not to pass. Believing that, Mr. Chairman, I should be derelict to my duty were I to sit here and see this bill pass unless it should pass by the constitutional majority of a quorum of this House.

Mr. CONGER obtained the floor.

Mr. HOOKER. Let me reply to one observation of the gentleman from California.

Mr. CONGER. I only wish to say one word.

Mr. HOOKER. I wish to correct the gentleman from California in one particular. I will read from Mr. Wilshire's report a single paragraph—the report of the majority of the Committee on Indian Affairs of the Forty-fourth Congress, when the gentleman from Illinois [Mr. SPARKS] and the gentleman from California [Mr. PAGE] were members of that committee. It was made May 15, 1876, first session Forty-fourth Congress, No. 499. Here is the conclusion of Mr. Wilshire's report. After going elaborately into detail, it concludes:

After a full and careful examination of all the matters presented by the memorial of the Choctaws and the several treaties between the United States and the Choctaw Indians relating to this claim, the committee are of opinion that in order to secure equal justice both to the United States and the Choctaws, and the claim be adjusted and discharged at an early day, the whole subject-matter relating to the claim should be by proper legislation referred to the courts of the country. The committee therefore report the accompanying bill, and recommend its passage.

Mr. PAGE. Who is that signed by?

Mr. REED. It is not signed; it is a majority report.

Mr. HOOKER. I do not know that any one signed it. It is a majority report. I do not know there was a minority report.

Mr. PAGE. If this majority report was adopted, I know nothing of it.

Mr. HASKELL. Here is the Journal of the House of Representatives.

Mr. PAGE. Well, what does it say?

Mr. HASKELL. I will read it:

Mr. Wilshire, from the same committee, reported a bill (H. R. No. 3798) for the relief of the Choctaw Nation of Indians, and demanded the previous question on the bill and report,

When Mr. FORT made a point of order that the said bill must receive its first consideration in the Committee of the Whole House on the state of the Union. And the SPEAKER *pro tempore* sustained the point of order.

Mr. DAVIS, of North Carolina. Was that a joint resolution?

Mr. HASKELL. No, sir; it was a bill, H. R. No. 3798. That is the record.

Mr. PAGE. May 5, 1876, Mr. Wilshire made this report in writing, and asked that it be printed and recommitted to the committee. There is no evidence it was ever adopted. I am certain from my recollection it never was adopted by the committee.

Mr. HASKELL. Here is the record of the Journal of the House of Representatives that it was adopted.

Mr. PAGE. What has that to do with the Committee on Indian Affairs, I should like to know? [Laughter.]

Mr. HASKELL. Would the gentleman from Arkansas report a bill from his committee to the House, and the House order it to the Committee of the Whole House on the state of the Union, without the consent of the Committee on Indian Affairs?

Mr. PAGE. It is a usual occurrence for a gentleman to make a report from a committee and ask for its printing and recommittal. That is no proof the report has been adopted by the committee.

Mr. HASKELL. But here is the record on the Journal that he reported it back from that committee. Let me read again.

Mr. PAGE. From where?

Mr. HASKELL. From the same committee, the Committee on Indian Affairs, and then it was sent to the Committee of the Whole House on the state of the Union on a point of order.

Mr. PAGE. What is the date?

Mr. HASKELL. June 27, 1876. The report to which the gentleman refers was in May. But let me read from the Journal again:

Mr. Wilshire, from the same committee, reported a bill (H. R. No. 3798) for the relief of the Choctaw Nation of Indians, and demanded the previous question on the bill and report.

When Mr. FORT made a point of order that the said bill must receive its first consideration in the Committee of the Whole House on the state of the Union.

And the SPEAKER *pro tempore* sustained the point of order.

That shows that the Wilshire report came back into the House with no minority report attached to it, as far as can be seen here, and upon the point of order was sent where this poor old bill has been sent for the last twenty years.

Mr. ATKINS. I rise to a point of order. I want to know if this comes out of the time of the gentleman from Michigan? [Laughter.]

Mr. CONGER. I guess not. My usual amiability, however, prevents me from stopping the gentleman.

Mr. HASKELL. I always presume upon the good nature of the gentleman from Michigan, and I never yet have been disappointed, and I hope he will yield me a little more time. [Laughter.]

The CHAIRMAN. The gentleman from Michigan is entitled to the floor.

Mr. HASKELL. I am sure he will give me a few minutes longer.

For twenty years the leading man of the Choctaw Nation, Peter Pitchlyn, known to every man here who has the honor of his acquaintance as one of the best men God ever made who led the advanced guard of civilization in that Choctaw Nation from his early manhood up to to-day, for twenty years this old man has stood here before the American Congress and asked for that small amount, or for an ascertainment of the sum which he believes to be due to his people, justly due, in his judgment. Day after day and year after year——

Mr. SPARKS. Has not the gentleman from Michigan the floor?

Mr. HASKELL. This old man has stood here knocking at the door——

Mr. SPARKS. I demand that there shall be some order in the committee.

Mr. HASKELL. The gentleman from Michigan yielded to me.

Mr. SPARKS. The gentleman from Michigan says he did not. [Laughter.]

Mr. CONGER. Well, I was only waiting until the rush was over. I intended to come in after a while. [Laughter.]

The CHAIRMAN. The Chair will recognize the gentleman from Michigan at any time.

Mr. CONGER. This is the time, then. I think it would not be well for us in disputing about what has been done in preceding Congresses or at any other time and in endeavoring to discover what reports have been made, to turn entirely from the proposition now before the committee.

I have not probably given as much attention to this matter as the gentleman from California and other gentlemen upon the floor; but having had several conversations with the agent representing the Choctaw Nation, and having read all the reports or a great many of them which he presented to me, and studied all I have been able to find in regard to this case, I have felt interested that the Government of the United States should in some way act upon a claim which has been presented by a poor people and urged by their delegates and agents here until old age has stricken their principal man down, and he lies now almost in sight of the Capitol, unable even to come before a committee of this House to press what he has been pressing for so many years in justice to his people. That is all sentimental.

The fact to which I wish especially to call the attention of the committee, and to which I would like to have the House address itself, is this: Was there ever a treaty, such as the Choctaw Nation claims, by which they were to have certain rights referred to in the report made here, and now under consideration? Under that treaty did they press their rights as far as they were able before this Government? Did this Government by law agree with the Choctaw Nation that one branch of this Legislature should be the arbitrator between the Choctaw Nation and this Government, who should settle the dispute and all questions raised by the claimants in reference to the claim? Now, I venture to say that no man will deny who examines the subject that this Government placed in one branch of its own Legislature the full power to determine whether there was any justice in the claim of the Choctaw Nation or not, and also that if it was found that a valid claim existed they should determine how to settle it as well as the amount of it, and no man will deny that the Choctaw Nation placed for the time being in the hands of its opponents, as it were, full power to settle the question at issue between them.

Now the Senate did determine this question. Under that agreement that body provided how the claim should be settled. It accepted the arbitration, and determined the rules and plan by which the settlement should be made. The report was made that a large amount was due the Choctaw Nation. I am trying to state what no man now will dispute here or anywhere else, which has not been and cannot be successfully disputed. Congress—the Government of the United States—accepted that finding, and having accepted it it is binding upon the United States. That is a proposition I venture that no man will dispute.

The Congress of the United States, in pursuance of that finding, made an appropriation of several thousand dollars—I do not know but several hundred thousand dollars.

A MEMBER. Three hundred and twenty thousand dollars.

Mr. CONGER. It made an appropriation of $320,000, if that be the amount, toward paying a part of the award; and it was paid over to the Choctaw Nation and accepted by them as a part of the just indebtedness found by the arbitrament of the Senate. Now, does anybody dispute that proposition?

Mr. CARLISLE. Will the gentleman allow me to see if I am correct in my recollection of the facts? My recollection is that the Congress of the United States passed a law to pay to this tribe of Indians the sum of $500,000 on account—using the words "on account;" $250,000 in money and $250,000 in bonds; that they received the $250,000 in money but the Secretary of the Treasury declined to issue the bonds and never has issued them to this day, although the law stands unrepealed upon the statute-book.

Mr. CONGER. I believe that is correct except that I did not remember the amounts, and I do not care for the amounts nor for the mode of payment. The point to which I call the attention of the committee, and which I ask any gentleman to dispute, is that these are the facts that occurred *seriatim:* first, the reference to the Senate for its arbitrament; second, the finding by the Senate of an amount, which the Senate determined to be the amount due the Choctaw Nation; third, the absolute recognition of that finding as a legal one by the Government of the United States in passing a law which appropriated on account of that finding—and I think that was the very language—which appropriated several hundred thousand dollars toward the payment of the claim and authorized the issue of a certain amount of bonds further toward the payment on account; that only meeting a portion of the amount awarded.

Now, that has stood so for years. Here is a poor Indian nation, the wards of this great nation, striving for years with this great Government for its rights, submitting its case to the Government itself or to the Senate to decide, the Government acknowledging it; the Government making an appropriation to pay a portion of it on account. And year after year, for the twelve years almost that I have been in this Congress, every year this case has come up, these people claiming justice from Congress in some form or another.

I have never heard any man deny these three propositions, and I have never heard any man on this floor deny that those conditions arising out of the state of facts to which I have referred still remain binding on this Government. I do not care about these questions of what one committee has done and another committee has done, what one Secretary of the Treasury has said and another Secretary may have said, or what some Attorney-General or some Solicitor of the Treasury may have said. I would like to have somebody show me, if the history I have recited is correct, some way in which this Government has been relieved from this obligation to continue the payment of the balance of that account. If that were done, then I might be prepared to vote against this bill. There is no pretense of that kind, but the argument all turns upon what individuals have thought about it.

This nation, as it seems to me, stands pledged before the world to the carrying out of this obligation by all the sanctions of law. But what is asked here is not the payment of a dollar of money; it is not the issuing of these bonds; it is not the advancing to the Choctaw Nation of a single cent. But this bill before the House submits the question anew—after all the arbitration that has been made it submits the question anew to a court in this nation—not of the Choctaw Nation, but to our own people, to our own court, to say whether anything is due, whether we do owe the Choctaw Nation under that treaty. Can we not trust our own court? Has it come to this, that this nation, under our own laws, with all the advantages of prosecuting this question by the best officers we have, dare not trust in one of our own courts a claim which has received the sanction of the Senate and of Congress and has been partly paid and entirely adjudicated? That is the condition of this question.

Now, let somebody show where the obligation fell off the shoulders of this Government. Let somebody tell me at what point, since Congress gave $300,000 or $250,000 on account, we settled the obligation that rests upon us; or else, if we cannot show that, let it at least go to a court and let them determine for us. We make no appropriation. If the finding of the court is wrong, we can correct it when it comes here. It will be in our power to carry it out or not. The Government risks nothing.

I believe these people have the right to be heard and to have their case adjudicated. I never have been on any of these committees which have dealt with this question, but I have endeavored to the best of my ability to get at its real merits; and in my judgment this case stands as a constant and continued reproach to the Congress of which I am a member, that it has not been acted upon before and determined one way or the other, against these people or for them. Determine it in some way and not leave them lingering on in the years to come as they have done in the years past in a hopeless effort to struggle against a great nation that refuses even to hear them.

Mr. SPARKS. I rise mainly to correct an error which I made myself a short time ago in relation to this matter. In the Forty-fourth Congress, when this matter was pending before the Committee on Indian Affairs—I am quite clear in my recollection about that—there was a conflict of opinion in the committee on this subject. Some of

the members favored this old Choctaw claim, as it was called, and some opposed it.

As Judge Wilshire, who was chairman of the sub-committee examining the matter, had drawn up quite an elaborate report, leave was granted to him (informally I think) to report to the House for printing a bill and the report, and for recommitment to the committee. As the report, now in my hand, itself shows, the only authority given was to report the bill to the House with a view to having it printed and recommitted. And I now see from the report that House bill No. 3463 was reported to the House, recommitted to the Committee on Indian Affairs, and ordered to be printed May 15, 1876.

Subsequently to this, Mr. Wilshire reported that bill back to the House, as it appears, by authority of the committee, with a substitute therefor. The gentleman from Kentucky [Mr. CARLISLE] has the RECORD before him containing that proceeding, and will please inform me the number of that substitute.

Mr. CARLISLE. It is House bill No. 3798.

Mr. SPARKS. That bill was, as is shown by the RECORD, a substitute for House bill No. 3463, which was the bill that accompanied the report. I stated that the committee reported adversely upon this matter in the Forty-fourth Congress, in which I was mistaken. The committee ordered the bill to be reported to the House with a substitute in lieu of the original bill.

The old bill was for a money consideration; appropriating, I think, something over a million of dollars; I do not remember the precise amount. Up to that time the claim had been presented Congress after Congress proposing to pay somebody a certain sum of money in satisfaction of this claim. In the Indian Committee of the Forty-fourth Congress, before which it was then pending, a proposition something like this was submitted to the committee: that some general law ought to be passed by which all the claims that were then before the committee or should thereafter arise should be submitted to the courts for adjudication. This proposition was discussed in committee and the substitute which was reported at that time proposed to submit this particular claim to the courts, but that substitute differed materially from the bill now under consideration. This bill submits this case to the Court of Claims with this provision:

> Power is hereby granted the said court to review the entire question of differences *de novo*, and it shall not be estopped by any action had or award made by the Senate of the United States in pursuance of the treaty of 1855.

You will find that that language is not in the substitute for the bill reported in the Forty-fourth Congress.

Mr. CARLISLE. If the gentleman will allow me, I will say to him that he will find some other language in the bill of the Forty-fourth Congress which is not in this bill. The bill of the Forty-fourth Congress appropriated absolutely the money to pay the judgment of the court, if that judgment should be in favor of these Indians.

Mr. SPARKS. Do you find that in the substitute before you?

Mr. CARLISLE. Yes; in the substitute.

Mr. SPARKS. It has been five years since my attention was called to this old claim, and there are many things in regard to the matter which I have forgotten. But I want to say this: that when we were then discussing this question in the committee it was satisfactorily shown in the argument and evidence before us, I think, by the gentleman from California, [Mr. PAGE,] who was then a member of the committee, that every dollar which the Government had ever bound itself to pay to the Choctaw Indians with respect to the subject-matter of this claim had not only been paid to them but that payment was receipted for by them, leaving no obligation at all on the part of the Government toward them in respect to it.

Now, as I have already said, I have forgotten much concerning this matter, and it is difficult now for me to call all the facts and circumstances to mind; I certainly cannot do so to-night. But I promise gentlemen that before this bill shall be voted upon in this House they will find that memories can be sufficiently refreshed so as to show that this old moss-backed Choctaw claim (certainly not benefited by its age of over a quarter of a century) will hardly warrant the favorable action of this Congress. I think we will be able to show to the satisfaction of members who will pay attention to the subject that this Government is not responsible to these Indians or anybody else for one cent on this claim; but that every obligation it has made to this Choctaw tribe of Indians has been fully and completely met; and that if there has been any dereliction or wrong in the matter it has been on the part of the Indians, and not the Government. I think we will be able to show that before the vote is taken, for I apprehend none will be attempted to be taken on this bill to-night; certainly none will be taken without a quorum.

Mr. BOUCK. I move that the committee now rise.

Mr. HOOKER. I hope the vote will be taken on this bill first.

The question was taken upon the motion of Mr. BOUCK; and it was agreed to.

The committee accordingly rose; and Mr. SIMONTON having resumed the chair as Speaker *pro tempore*, Mr. ROBINSON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, and had directed him to report the same back to the House with an amendment, and recommended that, as amended, it be passed.

ORDER OF BUSINESS.

Mr. BOUCK. I move that the House adjourn.

Mr. DEERING. I move the previous question upon the bill and amendment just reported from the Committee of the Whole.

Mr. BOUCK. I have moved that the House now adjourn.

Mr. DEERING. Let the previous question be ordered on this bill.

Mr. BOUCK. We will not agree to that. I will modify my motion so that the House shall now take a recess until eleven o'clock to-morrow.

Mr. CALKINS. Let the main question be ordered on this bill, and then a vote can be taken on it to-morrow.

Mr. BOUCK. I will inform the gentleman that we will not let the main question be ordered on this bill to-night. We will raise the question of a quorum first.

The SPEAKER *pro tempore*. The question is on the motion for a recess.

The motion was agreed to; and accordingly (at ten o'clock and twenty minutes p. m.) the House took a recess until eleven o'clock a. m. to-morrow.

MORNING SESSION.

The recess having expired, the House (at eleven o'clock a. m., Friday, May 14) resumed its session.

ENROLLED BILL SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 464) for the erection of a public building at Montgomery, Alabama; when the Speaker signed the same.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. OSMER, for one week, on account of important business; and

To Mr. SHALLENBERGER, for two weeks.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. COX in the chair.

The CHAIRMAN. The Clerk will report the pending amendment, offered by the gentleman from California, [Mr. PAGE.]

The Clerk read as follows:

> After line 986, on page 41, insert the following:
> "That all materials and supplies for United States mints shall be obtained after advertisement and from the lowest bidder, as now provided by law."

Mr. ATKINS. I reserve a point of order on this amendment until I hear it discussed.

The CHAIRMAN. The point of order is reserved.

Mr. PAGE. I want to explain my object in offering this amendment, and then the gentleman can make a point of order on it if he feels disposed to do so. Although section 3709 of the Revised Statutes provides that contracts for these supplies shall be made after advertisement, I am informed, and indeed I know of my own knowledge, that the law is not complied with. I have had letters from California complaining that the superintendent of the mint does not follow the law; that he gives out these contracts to his personal friends, in disregard of the requirements of the statute. The intention of the law was that the people of this country should have the right to bid for supplies furnished to the United States mints, and that the citizen offering to furnish the Government materials of any description at a lower price than any other bidder should have the contract awarded to him. There is no reason why the law should be violated in this instance any more than in any other.

The chairman of the Committee on Appropriations asked me yesterday whether the Director of the Mint was satisfied with this amendment. Mr. Chairman, I am not in the habit of ascertaining from any head of Department or any subordinate of this Government whether he consents that the law shall be enforced, or whether he is willing that materials shall be obtained in the manner provided by law.

Mr. ATKINS. I ask the gentleman to read the law so that the House may be informed on the subject.

Mr. PAGE. I understand that there is no dispute about the law. My object in calling attention to this matter now is that it shall be notice upon these parties who obtain supplies for the United States mints without conforming to the requirements of law that the law must be complied with. In this bill we appropriate a large amount of money for material and supplies—wood, coal, &c.; and I say that these articles should be obtained from the person submitting a written proposition to furnish them at the lowest possible rates, and that no favoritism should be shown by any officer of this Government in obtaining these supplies. I ask the Clerk to read section 3709 of the Revised Statutes.

The Clerk read as follows:

> SEC. 3709. All purchases and contracts for supplies or services, in any of the Departments of the Government, except for personal services, shall be made by

advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals.

Mr. PAGE. As will be seen, the section just read provides that the materials furnished for the United States mints and for all other purposes of the Government shall be obtained from the lowest bidder after advertisement. I say that this law is not enforced; and my object in offering this amendment to the pending bill is that we may declare the fact that Congress intends in the future that this law shall be strictly adhered to. In letters addressed to my colleague from the San Francisco district [Mr. DAVIS] and to myself, our constituents complain that these contracts are given out in San Francisco to a few favorites; that the law is not complied with at all.

Mr. ATKINS. Mr. Chairman, I have not been able to give this subject that attention I had hoped to give it, because I have been engaged all the morning in the session of the Committee on Appropriations. But with the knowledge I have of this matter I think I am opposed to the gentleman's amendment. I will still, however, reserve the point of order until the matter shall have been discussed a little further.

Section 3709 provides that—

All purchases and contracts for supplies or services, in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service.

I call attention particularly to the concluding language of this provision.

Mr. PAGE. I will say to the gentleman that my amendment does not interfere with that provision at all.

Mr. ATKINS. The gentleman's amendment is either designed as an addition to section 3709——

Mr. PAGE. No.

Mr. ATKINS. Or it is of no value. Of course, there is no necessity for re-enacting section 3709. I am informed by the Director of the Mint that it is the policy and the practice of the mints to advertise for all these articles when it is practicable to do so. Sometimes it is the case that they want an article costing not over $5 and want it at once, need it *instanter*, and they do not stop to advertise for it. Besides, the cost of advertising for separate articles absolutely required on the instant would amount to more than the worth of the articles.

Mr. PAGE. Will the gentleman allow me to interrupt him for a question?

Mr. ATKINS. Certainly.

Mr. PAGE. Does the gentleman say the materials for the supply of the mints—take it in San Francisco, for I do not know what the custom is in other cities—are advertised for at all?

Mr. ATKINS. That is my information.

Mr. PAGE. My information is that they are not advertised for at all.

Mr. ATKINS. I wish to say to the House and to the gentleman that I have the word of the Director of the Mint for it, and the gentleman is present on the floor. He is well known to this House, and I might pass a eulogy on him if he were not present.

Mr. PAGE. I have only to say that I have a favorable opinion of the Director of the Mint, who has been to San Francisco once and staid about ten days, while I have lived in that State about thirty years. I know what the practice has been about the mint there, and I know these materials are not obtained after advertising. I have received a letter, which is at my room, making complaint in reference to this matter. My colleague [Mr. DAVIS] also has received a letter complaining that in furnishing supplies to the mint they cannot have any show at all; that the purchases are made from a few of the favorites of the superintendent.

Mr. ATKINS. That is a grave charge my friend prefers against the administration of these mints, and if it be true it should be ferreted out. But I am not prepared to say that the amendment the gentleman has offered would at all facilitate the exposure of these frauds. I do not think it would.

Besides, the Committee on Appropriations in preparing this bill in regard to the subject under consideration, that is, the administration of the mints of the country, have been guided by the counsel of the Director of the Mint, and I am warranted in saying the committee do not feel at liberty to accept any amendment in reference to the administration of the mints which would not be acceptable to the Director of the Mint himself.

Mr. PAGE. With the consent of the committee I will withdraw the amendment, having accomplished all the purposes I intended. I leave the gentleman, the head of the Appropriations Committee, to be responsible in the future for the maladministration of affairs in the San Francisco mint.

Mr. ATKINS. Do not make me responsible for the republican party. [Laughter.]

Mr. PAGE. The responsibility hereafter shall not be on me nor on the party I represent. If the gentleman chooses to stand here as the head of the Appropriations Committee and say that favoritism shall be practiced in the obtaining of large quantities of material for the mints of the United States, that they shall be obtained from the favorites of the superintendent of the mint, then he can do so and he can defend it. I withdraw the amendment.

Mr. ATKINS. I renew it.

Mr. PAGE. I have a right to withdraw my amendment.

Mr. ATKINS. I renew the amendment because I do not intend the gentleman from California shall place me in a false attitude before this committee and the country.

Mr. PAGE. Excuse me; I did not intend to place the gentleman in a false position. I thought he placed himself there.

Mr. ATKINS. That is worse still; the apology is worse than the affront. [Laughter.] The gentleman cannot make me responsible at all for the malpractice of this or any other Administration. Since my political regeneration I have had no association with any Administration.

Mr. PAGE. When was your political regeneration?

Mr. ATKINS. About eight years ago. I am not responsible, I say, for anything that is done by the Administration that is wrong. But the gentleman from California has failed to show in his speech that the law already upon the statute-book, if executed, would not meet the very thing he desires to have met. It is impossible for the gentleman himself, knowing me as well as he does, to believe I would stand here and favor any proposition looking to the defrauding of the Government. In no single instance have I ever advocated any measure looking to the defrauding of the Government. If the gentleman will conceive in his fertile brain, and out of his great anxiety to protect the public interest, to present an amendment to better the section which has been read, then I am prepared to support it. But, sir, when he offers an amendment here which does not materially change the law already existing, but which may in its effects, so far as it has any effect at all, materially deteriorate the public service, I am bound to stand here and oppose it. I submit to the committee and to the country the question as to who is the better judge of the effect of such a clause on the administration of this branch of the public service than the Director of the Mint himself, who is here present; a gentleman whose integrity and intelligence are unquestioned, and who gives the information which I have already related to the committee? Now, sir, the gentleman from California cannot say—nor will I submit quietly without protest to the charge—that I am here in the interest of monopoly or in the interest of anybody. I am against all monopolies. My principles throughout life have been in opposition to monopolies, and I am for the largest liberty consistent with good order.

I want these advertisements to be made. I think it is right they should be made. The law provides that they shall be made, but there is no sense in demanding that there shall be an advertisement for a pound of salt, if you want it, that you can get for three cents, and which will cost you in this way ten or fifteen dollars, and take a month to get it, because you will be required to give thirty days' notice, as I understand the law, and besides that to send to the Treasury Department to get permission from the Secretary to do it. There is no practicability in such a proposition as that. But the law already requires that the bulk of the supplies needed for the mints shall be purchased by advertisement.

Mr. PAGE. These advertisements are not made; that is what I complain of.

Mr. ATKINS. Very well; I say the law so provides. It provides that the advertisements shall be made, and the gentleman has had the law read from the Clerk's desk, and I leave the matter for the committee to decide as to which is right. I withdraw the amendment.

Mr. PAGE. I desire simply to say a word.

Mr. BREWER. I make the point of order that there is nothing pending.

Mr. PAGE. Then I renew the amendment.

Mr. BREWER. I make the point of order that the gentleman has no right to proceed when there is nothing pending before the House.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PAGE. Then I will talk to the point of order. I wish to say that my object was not to change existing law at all.

Mr. BREWER. I insist that if the gentleman is to talk to the point of order he must confine himself to it.

Mr. REED. How can he speak after the point of order has been sustained by the Chair? I merely want to see if that can be done.

Mr. PAGE. To satisfy my amiable friend from Maine, then, I shall move to strike out the last word.

Mr. REED. That is right; let us have everything done decently and in order.

Mr. PAGE. My object was not to change existing law in the amendment which I offered at all. The law is already upon the statute-books, but I contend that it has not been enforced, and my object was to call attention to the fact that it has not been enforced. I have no doubt that after this discussion the Director of the Mint will see himself to the enforcement of the law on the part of his subordinate in San Francisco, and that both will see that it is necessary that they shall comply with the law in requiring bids for the supplies for the Mint. That was the object and the only object I had in view.

Mr. HAWLEY. Mr. Chairman, I desire to say a word. I do not understand that any reflection is made upon Mr. Burchard, the Director of the Mint, or that any defense of him would be necessary if any

ordinary attack should be made. Some criticism is made upon the conduct or alleged conduct of the superintendent of the mint at San Francisco, Mr. Dodge. I send to the Clerk's desk a communication from Mr. Dodge touching, I suppose, this same matter.

The Clerk read as follows:

MINT OF THE UNITED STATES SAN FRANCISCO, CALIFORNIA,
Superintendent's Office, May 1, 1880.

SIR: In answer to the complaint of J. A. Plummer & Co., referred to in yours of the 22d instant, I have to say that I have at various times purchased considerable salt of their agents in this city, Messrs. Heywood & Hendley, but that of late other parties have been furnishing a better article at a lower price. I also find that Heywood & Hendley have on hand at present no salt suitable for our use.

In pursuance of this subject, I wish to remark that during my term of office no one has ever been refused an opportunity to compete for our trade in any line whatever; that samples submitted, of whatever nature, have always been tested; that my purchases have been distributed among all reputable dealers in the various lines of goods covered by the wants of the service; and that the offer most favorable in point of price and quality has invariably been accepted.

Very respectfully,

H. L. DODGE,
Superintendent.

Hon. H. C. BURCHARD,
Director of the Mint, Washington, D. C.

Mr. PAGE. I have, as I stated, accomplished the object I had in view in offering the amendment. Had I known, however, that an attempt at a defense would have been made by the introduction of letters, I should have brought some bearing upon the same subject and had them read from the Clerk's desk also, as the gentleman has seen proper to have done. I withdraw the *pro forma* amendment.

The Clerk read as follows:

Assay office at Charlotte, North Carolina:

For salary of assayer and melter, $1,500; and of assistant assayer, $1,250; in all, $2,750.

For incidental and contingent expenses, including labor, $1,000.

Mr. WARNER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after line 1028 the following:

"And the Director of the Mint shall make a detailed statement to Congress showing how the several sums herein appropriated for incidental and contingent expenses have been expended."

Mr. WARNER. Mr. Chairman, I have the fullest confidence in the present Director of the Mint; but I find that there is appro priated in this bill specifically for every object for which specific appropriations could be made. Then there is appropriated in addition more than $260,000 in gross for incidental and contingent expenses. That is a very large sum to be appropriated for objects that cannot be named, and I think it should call for some explanation from the Appropriations Committee why so large a sum is needed for incidental and contingent expenses.

Mr. ATKINS. I can only say in answer to the gentleman from Ohio that the sums appropriated for incidental expenses are about the same that have been appropriated for several years past. When Dr. Linderman, who was Director of the Mint for a number of years, appeared before the Committee on Appropriations he was particularly questioned and examined as to the necessity for these appropriations, and the Appropriations Committees in former years fixed upon these sums as about the proper amounts necessary to defray the incidental expenses of the Mint. They are repeated in this bill under the examination and by the advice of the present Director of the Mint. That is all I can say to the gentleman from Ohio in the way of explanation.

Mr. WARNER. What are the incidental and contingent expenses? For what objects is the money paid out?

Mr. ATKINS. The gentleman might ask me as well what are the incidental expenses of any bureau in this Government.

Mr. WARNER. This is a very large sum.

Mr. ATKINS. If I had one of the finance reports here I could read to the gentleman by the page——

Mr. BAKER. The incidental expenses include everything except labor.

Mr. WARNER. The salaries of officers, pay of clerks, &c., are all appropriated for specifically.

Mr. BAKER. Certainly; but I have always understood that clerks perform labor.

Mr. ATKINS. I believe I have the floor. I was saying when interrupted that if I had the reports of these bureaus here I could read to the gentleman from Ohio by the page what these incidental expenses are, including payments for hundreds of articles. Every conceivable thing almost that a man can think of, connected with housekeeping, is included in these incidental expenses.

Mr. WARNER. That is what I am afraid of. I am afraid that articles for housekeeping and a good many things are provided for in this fund which ought not to be.

Mr. ATKINS. I will exclude feather beds. [Laughter.] And I might exclude some other few things connected with housekeeping. But these expenses include towels, ice, brooms, buckets, and hundreds of other things that are specified in these reports.

Mr. WARNER. It does not include anything in the nature of a campaign fund, does it?

Mr. ATKINS. The money is used to provide for the incidental expenses of these mints.

Mr. WARNER. I would like to have them stated more specifically.

Mr. MAGINNIS. I would suggest that there are chemicals and everything of that kind in addition to what has been stated by the chairman of the committee.

Mr. ATKINS. These incidental expenses include iron and copper and chemicals of all kinds, in addition to the ordinary expenses. I ask that the amendment be again read.

The amendment was again read.

Mr. ATKINS. I have no objection at all to the amendment.

The question being taken, there were—ayes 37, noes 62.

So (further count not being called for) the amendment was not agreed to.

The Clerk read as follows:

Territory of Dakota:

For salary of governor, $2,600; chief-justice and three associate judges, at $3,000 each, and secretary at $1,800, $16,400.

Mr. HAWLEY. For the purpose of calling for an explanation from the chairman of the committee, I move to amend by striking out "$2,600" and inserting in lieu thereof "$3,000." My impression is the law provides a salary of $3,500 for governors of the Territories. I had intended to offer this amendment when the paragraph appropriating for the Territory of Arizona was read; but that having been passed, I offer it at this point. I think the governors of the Territories are entitled to more than $2,600. I believe it is absolutely necessary to the proper performance of their duties that they have salary enough to live decently.

Mr. ATKINS. I raise the point of order on the amendment.

The CHAIRMAN. What was the last appropriation?

Mr. ATKINS. Twenty-six hundred dollars was the amount in the last appropriation act for salaries of the governors of all the Territories.

Mr. BAKER. And also in two preceding Congresses.

The CHAIRMAN. The Chair sustains the point of order for the reason stated yesterday.

Mr. HAWLEY. Does the Chair rule that an appropriation has changed the standing statute?

The CHAIRMAN. The Chair has so ruled on two former occasions in the consideration of this bill.

The Clerk read as follows:

Territory of Utah:

For salary of governor, $2,600; chief-justice and two associate judges, at $3,000 each; and secretary at $1,800, $13,400.

For legislative expenses, namely, for current and contingent expenses of the secretary's office, $2,000.

For contingent expenses of the Territory, to be expended by the governor, $500.

Mr. WARNER. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 1104 insert the following:

And the Secretary of the Treasury shall make to Congress each year a detailed statement showing how the several sums herein appropriated for contingent and miscellaneous purposes have been expended, and also a statement giving the amount received under section 3687 of the Revised Statutes; and also a statement showing in detail how the money appropriated under said section has been expended.

Mr. WARNER. In explanation of the amendment which I offer, and in order also to elicit explanation from the Committee on Appropriations, I will state that section 3687 of the Revised Statutes makes a permanent appropriation for the expenses of collecting customs of $2,750,000 absolutely, and from fees, fines, forfeitures, &c., an indefinite sum which affords a total of from $5,000,000 to $6,500,000; estimated this year, I see, by the Secretary to be $5,500,000, but may be much more. Here, then, is a gross sum of millions appropriated for collecting the customs duties of the United States, a permanent appropriation made by statute and not an annual appropriation made by Congress.

Now, where so large an appropriation is made for any purpose—which I think in itself is a bad principle in legislation—there certainly ought to be full and complete information given to Congress as to its expenditure.

I find on looking over the cost of collecting the revenues for the past twenty years that it has run from a little over 6 per cent. in 1860 down to 2.98 in 1869, and up again to 4.95 and 4½ in 1877 and 1878. I do not know what it was in 1879. I think we should at least have a full and explicit explanation of all expenditures made in pursuance of this section of the Revised Statutes, as well as of the large appropriations made in this bill for miscellaneous and contingent expenses.

Mr. ATKINS. The gentleman from Ohio [Mr. WARNER] has offered an amendment to which I have no objection whatever. I am very willing indeed that a detailed statement should be made of all the incidental and contingent expenses appropriated for by Congress for any of the bureaus of the various Departments of the Government; I think that is right in itself.

But in my opinion the gentleman has offered an amendment and then made a speech on a totally different proposition. We are not dealing with permanent appropriations in this bill. If I gather the scope of his speech I rather sympathize with him upon the subject of reform in the permanent appropriations of this Government. There are nearly fifty of those appropriations; that is true. And an effort was made by the Committee on Appropriations of the last Congress, and an effort is now being made at the other end of this Capitol, to bring about a reform on this subject. I have no doubt myself that the cost of collecting the revenue from customs duties is very great; I know the percentage is much larger than is the cost of collecting the internal revenue by the bureau which was so greatly abused and

denounced yesterday. The salaries of the officers collecting the customs duties and the salaries of the internal-revenue officers are very different indeed, the former being much greater than the latter; and the present cost of collecting the revenues from the customs is much greater than that of collecting the internal revenue.

I have here a table which I will have printed as a portion of my remarks for the information of the House and of the country upon this subject. It is a table drawn up by the Commissioner of Internal Revenue, and is doubtless a faithful report of the cost of the two systems of revenue:

Statement showing the total collections and the cost of collecting revenue from customs and internal-revenue taxes in sundry collection districts for the fiscal year ending June 30, 1879.

Customs or internal revenue.	Station and district.	Compensation to collector.	Compensation to chief deputy.	Total expenses, including pay to storekeepers and gaugers.	Total collections.	Percentage of cost of collections.	Average number of persons employed.
Internal revenue	Chicago, first Illinois	$4,500 00	*$1,900 2,000	$103,731 17	$8,970,947 97	1⅛	78
Customs	*Chicago, first Illinois*	4,500 00	1 at 2,800 2 at 2,000	80,075 42	1,521,390 02	5¼	49
Internal revenue	Saint Louis, first Missouri	4,500 00	*1,900 2,000	70,403 40	4,374,813 84	1⅔	47
Customs	*Saint Louis, first Missouri*	5,000 00	1 at 2,800 2 at 2,000	41,048 64	1,136,418 15	3⅔	24
Internal revenue	Cincinnati, first Ohio	4,500 00	*1,900 2,000	127,867 85	10,832,458 61	1 3/10	94
Customs	*Cincinnati, first Ohio*	5,000 00	1 at 2,000	27,839 83	427,621 57	6½	16
Internal revenue	New Orleans, Louisiana	3,750 00	*1,500 1,600	36,737 22	588,595 99	6¼	27
Customs	*New Orleans, Louisiana*	7,000 00	2 at 3,000	254,423 95	1,433,205 91	17	164
Internal revenue	Savannah, Georgia	3,000 00	1,500	26,730 00	108,056 25	24 7/10	23
Customs	*Savannah, Georgia*	3,851 50	1 at 2,200	23,447 02	77,592 53	30	20
Internal revenue	Baltimore, first Maryland	4,500 00	2,800	72,639 00	2,103,034 34	3½	60
Customs	*Baltimore, first Maryland*	7,000 00	2 at 3,000	273,699 71	2,095,086 48	13	204
Internal revenue	Portland and Bangor, Maine	1 at 2,500 00	*1,350 1,500	8,975 00	75,531 22	11⅞	6
Customs	*Portland and Bangor, Maine*	1 at 6,000 00 1 at 1,452 09	2 at 3,000 1 at 1,600	78,867 85	298,834 91	27	56
Internal revenue	Providence, Rhode Island	3,000 00	*1,350 1,400	9,550 94	230,583 17	4 1/10	7
Customs	*Providence, Rhode Island*	4,205 72	2 at 2,000	22,736 24	145,226 79	15	15
Internal revenue	Milwaukee, Wisconsin	4,500 00	*1,400 1,500	35,227 45	2,200,128 58	1⅔	26
Customs	*Milwaukee, Wisconsin*	2,597 10	1 at 1,800	9,442 50	93,916 70	10	8
Internal revenue	Detroit, Michigan	4,500 00	*1,800 1,900	19,077 91	1,219,698 67	1½	11
Customs	*Detroit, Michigan*	4,303 47	1 at 2,000	54,933 70	208,570 42	26	50
Internal revenue	Cleveland, eighteenth Ohio	4,000 00	*1,800 1,900	30,902 28	773,324 27	4	24
Customs	*Cleveland, eighteenth Ohio*	2,500 00	1 at 1,800	19,062 22	79,133 34	24	15
Internal revenue	Erie, nineteenth Pennsylvania	2,625 00	1,300	6,843 74	101,391 50	6 7/10	6
Customs	*Erie, nineteenth Pennsylvania*	1,813 97	1 at 1,600	4,393 07	9,039 23	48	3
Internal revenue	Louisville, fifth Kentucky	4,500 00	1,900	129,070 80	3,069,691 06	4⅛	121
Customs	*Louisville, fifth Kentucky*	2,646 85	1 at 1,600	9,643 68	41,888 04	23	7
Internal revenue	Mobile, first Alabama	2,500 00	*1,400 1,500	11,680 58	50,084 72	23 3/10	8
Customs	*Mobile, first Alabama*	3,731 46	1 at 1,600	20,645 60	40,819 10	50	18
Internal revenue	Galveston, first Texas	3,000 00	1,500	17,469 63	104,650 46	16 7/10	11
Customs	*Galveston, first Texas*	3,169 61	1 at 2,000 1 at 1,700	37,872 05	75,807 56	49	27
Internal revenue	San Francisco, first California	4,500 00	*1,900 2,000	61,479 47	1,911,383 48	3⅛	42
Customs	*San Francisco, first California*	7,000 00	2 at 3,625	341,893 17	6,354,729 11	5 3/10	204

* Compensation for the present fiscal year.

Mr. WARNER. And I have a table here showing the cost of collecting the customs revenue, which I will ask to have printed with my remarks:

Customs receipts and expenses, June 30, 1859, to June 30, 1878.

Fiscal year ending—	Receipts.	Expenses of collecting.	Per cent. of expenses to receipts.
June 30, 1860	$53,187,511 87	$3,335,814 38	6.27
June 30, 1861	39,582,125 64	2,849,424 42	7.20
June 30, 1862	49,056,397 62	3,295,202 93	6.72
June 30, 1863	69,059,642 40	3,247,592 03	4.70
June 30, 1864	102,316,152 99	4,151,955 32	4.06
June 30, 1865	84,928,260 60	5,689,373 47	6.70
June 30, 1866	179,046,651 58	5,374,626 74	3.00
June 30, 1867	176,417,810 88	5,744,012 93	3.25
June 30, 1868	164,464,599 56	7,620,211 62	4.63
June 30, 1869	180,048,426 63	5,379,738 13	2.98
June 30, 1870	194,538,374 44	6,240,221 49	3.21
June 30, 1871	206,270,408 05	6,560,672 61	3.18
June 30, 1872	216,370,286 77	6,950,189 81	3.21
June 30, 1873	188,089,592 70	7,079,743 42	3.77
June 30, 1874	164,496,540 68	7,637,899 67	4.64
June 30, 1875	158,509,093 11	7,095,655 98	4.50
June 30, 1876	149,282,128 55	6,765,306 47	4.53
June 30, 1877	132,001,205 91	6,533,429 70	4.93
June 30, 1878	131,217,544 56	5,847,694 53	4.45
Estimated June 30, 1879	134,000,000 00	5,800,000 00	4.36
Estimated June 30, 1880	134,000,000 00	5,800,000 00	4.33

Mr. BAKER. I rise to oppose the amendment. I am surprised that the attempt should be made to inject in that portion of this bill providing for the government of the Territories a provision of law relating to the collection of customs duties. That subject is embraced in a former part of this bill.

I am further surprised that there seems to be a disposition on the part of certain gentlemen to largely increase and unnecessarily increase the expenses of the service and the clerical force of the Government by getting up printed reports of details of expenditures that are absolutely valueless so far as this House is concerned. Of course the customs revenues and the expenditure for their collection all appear on the books of the Treasury Department, item by item, accompanied by proper vouchers. It is now proposed, without any necessity for it, to have the files of the House and of the Senate lumbered up by unnumbered thousands of useless printed pages containing the expenditures in detail of the various bureaus of the Government, including the cost of every tack, every bar of soap, every match, every towel, the pay of every employé, &c. Now, we in this House have sundry committees which I had supposed were organized for the very purpose of making an inspection of these matters and inquiring into them, and rendering unnecessary the large expenditure of the public money which the adoption of this amendment would require. I venture to say that if the principle embodied in this amendment is carried out—and if the thing is started at all it should be carried out in reference to all of the Departments of the Government—it would require the expenditure of more than $100,000 for additional clerical force, additional paper and printing, &c., in order to accomplish an object which when accomplished would be absolutely valueless; an object with the scrutiny of which we have charged seven different committees of this House.

Mr. REED. A function which they never perform.

Mr. BAKER. I do not know how that is.

Mr. PRICE. Will the gentleman allow me to make a suggestion?

Mr. BAKER. Certainly.

Mr. PRICE. If you get all these expenditures, all these tables giving a detailed account of every broom, every bar of soap, every box of matches, every pound of salt that may be purchased by any of the bureaus of the Government, you would have no vouchers before you, and the committees of the House who are charged with an examination of these expenditures must have these vouchers.

Mr. BAKER. In order to make these reports valuable it would be necessary, in addition to the naked figures which prove nothing, to have the vouchers reported to the House and printed in connection with the accounts.

I repeat again, we have a committee of this House that is charged with the business of examining annually all the books, accounts, and the vouchers that accompany them of each Department, in order to ascertain whether or not the money has been properly expended, and whether there can be any retrenchment in those Departments. And if it becomes necessary to send for persons and papers those committees can at any time get authority from the House for that purpose.

I submit that the adoption of this amendment would require a needless and extravagant and unprecedented expenditure. If you require it in regard to the Customs Bureau, it should be required in regard to every other bureau or Department, unless you would have one Department singled out for this examination and all the others passed over.

I hope that this matter will be left to the scrutiny of that committee of this House which is charged with the subject of expenditures relating to customs. They can examine the books and the figures in detail and the vouchers that accompany them. Without the vouchers the figures would be absolutely valueless.

Mr. WARNER. Mr. Chairman, I did not expect——

Mr. HATCH. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HATCH. My point is that debate has been exhausted on this amendment. [Cries of "Vote!" "Vote!"]

Mr. WARNER. Oh, you cannot press this through at any such break-neck speed.

The CHAIRMAN. Does the gentleman move an amendment?

Mr. WARNER. I move to strike out the last word of my amendment. I did not expect to set my friend from Indiana [Mr. BAKER] into a state of agony by the amendment I proposed.

Mr. BURROWS. Can the gentleman move to amend his own amendment?

Mr. WARNER. Then I move to strike out the last word of the paragraph.

The CHAIRMAN. The gentleman can move to amend his own amendment.

Mr. WARNER. The gentleman says if this amendment is adopted the same principle will have to be carried through all the other Departments. But here is an appropriation in gross of nearly $6,000,000, perhaps more; the appropriation itself is in fact an indefinite sum.

Mr. ATKINS. Will the gentleman allow me to say that this bill makes no such appropriation?

Mr. WARNER. I do not say that the appropriation is in this bill. It is in addition to the amount appropriated in this bill. My amendment, however, embraces certain of the appropriations contained in this bill. I say by law there is an appropriation in gross of some $6,000,000; the exact amount we do not know.

The gentleman says it will cost something to make the statement required by the amendment. Of course it costs something to render accounts; but when a business man makes expenditures he desires to know where the money goes, and holds his agents to account. That is all we ask here. It is not enough that a committee of this House may examine the accounts and vouchers in the Treasury Department. Nor are they in the habit of making such examination in detail. What we want is detailed information sent here as to how this money is expended. This the House ought to have. And for the benefit of gentlemen on the other side, I will add I have been informed, and I think credibly informed, that this fund is a fruitful source of supply of the campaign funds used by the republican party. [Derisive cries of "Oh!" "Oh!" on the republican side.] At any rate we want to know just how this money is expended, and I hope the amendment will be adopted.

Mr. HUTCHINS rose. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The committee will be in order. Gentlemen have the right to address the Chair. The gentleman from New York [Mr. HUTCHINS] is recognized.

Mr. HUTCHINS. I regard this amendment as having very much more importance than has been conceded to it in this debate; and the earnestness of the cries of "vote" coming from the other side leads me to think that the amendment should be adopted.

The objection raised by the gentleman from Indiana [Mr. BAKER] to furnishing in detail a statement of the items of this expenditure would apply equally to a specific statement of expenditures from any other Department of the Government. We should be as exact in small things as in large, because the history of all governments shows that the leaks are in small places.

Every member of this House is aware that charges have been made, and are constantly being made, that the contingent fund is improperly used by the officers of the Government. Charges are made by communications, charges are made in the press, charges are made verbally that this fund is misappropriated. Now, why should we not have a detailed statement of the expenditure? This need not be accompanied by the vouchers. If we have the statement we can go to the Department and examine the vouchers. This statement should be given to us. I insist in the interest of economy and good government that everything should be open to the inspection of the people. The amendment should be adopted.

Mr. WARNER. I withdraw the *pro forma* amendment.

The question being taken on the amendment of Mr. WARNER, it was agreed to, there being—ayes 73, noes 63.

Mr. HAWLEY. We shall have the yeas and nays in the House on this amendment.

The Clerk read as follows:

In the Office of the Quartermaster-General:

One chief clerk, at $2,000; seven clerks of class 4; one draughtsman, at $1,800; nine clerks of class 3; twenty-four clerks of class 2; forty-eight clerks of class 1; twenty copyists, at $900 each; one female messenger, at $40 per month; one messenger; two assistant messengers; six laborers; one engineer, at $1,200; one fireman; and five watchmen; in all, $152,240.

Mr. WHITTHORNE. I move to amend by inserting in line 1179, after the words "one chief clerk, at $2,000," the words "for one chief of claims division, $2,000."

Mr. ATKINS. I raise a point of order on that amendment.

Mr. WHITTHORNE. Will my friend indulge me in one word before insisting upon the point?

Mr. ATKINS. I will do so.

Mr. WHITTHORNE. I happen to know that in this instance there is an officer of the Government who is overworked and underpaid. I happen to know much of his courtesy, his strict attention and fidelity to business. I think he is worthy of the slight increase of salary proposed in this amendment, being about $200. I trust my colleague, [Mr. ATKINS,] knowing the facts as well as I do, (because this officer is brought directly in contact with more of our constituents than almost any other officer of the Government,) will not insist on the point of order.

Mr. ATKINS. Mr. Chairman, I do not know any such thing. I insist on my point of order.

The CHAIRMAN. The Chair is compelled to sustain the point of order.

The Clerk read as follows:

War Department building:

For compensation of one engineer in the War Department building, $1,200; one assistant engineer, $1,000; conductor of the elevator, $720; four watchmen; two laborers; one fireman; and twelve charwomen, at $180 each; in all, $10,000.

For labor, fuel, light, and miscellaneous items for the said building, $7,000.

Mr. WARNER. My amendment should come in after line 1125.

Mr. BAKER. I object. That will be going back.

Mr. WARNER. Not going back at all.

Mr. BAKER. Yes, sir.

Mr. WARNER. No, sir.

Mr. BAKER. The amendment was offered to come in at the close of the item relating to Utah Territory.

Mr. ATKINS. As it is almost twelve o'clock, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. ATKINS. I move that the House adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and fifty-nine minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Peter Wright & Sons and other dealers in crockery, for a reduction of the duty on earthenware—to the Committee on Ways and Means.

By Mr. WILLIAM ALDRICH: Memorial of Thomas Taylor, of Washington, District of Columbia, for compensation for the use by the United States of his inventions—to the Committee on Patents.

By Mr. BALLOU: The petitions of Robert Rodman, of La Fayette, Rhode Island, and of Horace A. Kimball and other woolen manufacturers, of Rhode Island, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. BEALE: The petition of citizens of Virginia, for an appropriation to improve the navigation of Nomoni Creek, Virginia—to the Committee on Commerce.

By Mr. BRIGHAM: Papers relating to the claim of Mary H. Noonan for pay for rent and injury to dwelling-house in New Orleans, Louisiana, by United States Army officials during the late war—to the Committee on War Claims.

By Mr. BROWNE: The petition of 61 citizens of Franklin County, Indiana, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. CARLISLE: The petition of certain soldiers of the last war, residing in Kentucky, for the passage of a law granting bounty land to such soldiers—to the Committee on the Public Lands.

By Mr. JOHN B. CLARK: The petition of citizens of Gasconade, Osage, and Maries Counties, Missouri, for an appropriation for the improvement of the Gasconade River—to the Committee on Commerce.

By Mr. CRAPO: The petition of J. Francis Hathaway, that the duties on imported sugar be assessed on the quantity delivered from the warehouse—to the Committee on Ways and Means.

Also, the petition of Goswold Mills Company, of New Bedford, Massachusetts, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. DUNNELL: The petition of William McGowan, for a pension—to the Committee on Invalid Pensions.

By Mr. GILLETTE: The petition of G. W. Britton and 71 others, citizens of Dallas County, Iowa, soldiers of the late war, to be placed on the same footing as bondholders in the matter of their pay—to the Committee on Military Affairs.

By Mr. HARMER: The petition of Scheppers Brothers and others, manufacturers, of Philadelphia, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

Also, the petition of Dornan Brothers & Co., of Philadelphia, Pennsylvania, of similar import—to the same committee.

By Mr. HASKELL: The petition of citizens of Olathe, Kansas, for the removal of the duty on salt—to the same committee.

By Mr. NEAL: The petition of E. E. Ewing, of Portsmouth, Ohio, for the reduction of the duty on earthenware—to the same committee.

By Mr. REED: The petition of Charles E. Jose & Co. and Hayes & Douglass, of Portland, Maine, of similar import—to the same committee.

Also, the petition of the North Berwick (Maine) Woolen Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. RICHARD W. TOWNSHEND: Eighty-seven petitions containing 1,657 signatures of dairymen, farmers, dealers, and manufacturers of butter and cheese, of New York, that the tolls on salt passing over canals of New York be abolished—to the same committee.

Also, eighteen petitions containing 560 names of citizens of the States of New York, Mississippi, Iowa, Ohio, Connecticut, South Carolina, North Carolina, Kentucky, Maine, Illinois, Minnesota and Georgia, that the duty on salt be abolished—to the same committee.

By Mr. VAN AERNAM: The petition of Benjamin Fairchild, late of Company C, Nineteenth New York Cavalry, for relief on account of erroneous rating of his pension by the Commissioner of Pensions, and for other relief—to the Committee on Invalid Pensions.

By Mr. WILSON: The petition of Andrew S. Core, for reimbursement of money overpaid by him to the Treasury while collector of internal revenue of the second district of West Virginia, and for salary as collector—to the Committee on Claims.

By Mr. WALTER A. WOOD: The petition of Starkweather & Allen and others, citizens of New York, for the reduction of the duty on earthenware—to the Committee on Ways and Means.

IN SENATE.

FRIDAY, *May* 14, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the petition of the Maritime Exchange, the American Shipmasters' Association, and 26 shipping firms of New York City, and the petition of 75 seamen of different vessels at the port of New York, praying for the passage of the joint resolution to transfer Bedloe's Island, New York Harbor, from the War to the Treasury Department for marine hospital purposes; which were referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented the petition of the Fox River Iron Company, and West Depere Agricultural Works, of West Depere, Wisconsin, manufacturers of charcoal pig-iron and agricultural implements, employing three hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. BURNSIDE. I present the petition of W. F. & F. C. Sales and other citizens of Rhode Island and other prominent manufacturers, in favor of the passage of the Eaton bill. I beg to say that these manufacturers represent that they consume fifteen hundred thousand bales of cotton annually, operate ten million spindles, and employ over two hundred million dollars of capital. I move that the petition lie on the table.

The motion was agreed to.

Mr. BALDWIN presented the petition of Pitts & Cranage and 32 others, manufacturers of lumber and salt on the Saginaw River, Michigan, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. CAMERON, of Pennsylvania, presented the petition of 28 firms, manufacturers of woolen goods, employing five thousand and sixty-five hands, and the petition of the Coleraine Iron Works, of Redington, Northampton County, Pennsylvania, manufacturers of pig-iron, employing two hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. ANTHONY presented the petition of the Riverside Worsted Mills, of Providence, Rhode Island, manufacturers of woolen goods, employing twelve hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. FARLEY presented the petition of the president and board of directors of the Odd-Fellows' Building Association of Los Angeles, California, praying that Congress will purchase a certain building, belonging to them, for a post-office and other Government offices; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. GORDON presented resolutions of the Chamber of Commerce of Rome, Georgia, in favor of an appropriation for removing obstructions to navigation and completing locks on the Coosa River, in that State; which was referred to the Committee on Commerce.

Mr. WITHERS presented a petition of citizens of Georgetown, District of Columbia, praying for the passage of a bill to incorporate the Washington and Georgetown Junction Steam Railway Company; which was referred to the Committee on the District of Columbia.

Mr. HARRIS presented the petition of P. T. Tuonley, late captain in the United States Army, praying to be restored to the retired list; which was referred to the Committee on Military Affairs.

Mr. DAWES presented the petition of the Goswold Mills, of New Bedford, Massachusetts, manufacturers of iron, employing one hundred hands, and the petition of Butler and Robinson, Thomas Clegg, and Clegg & Fisher, of Lawrence, Massachusetts, manufacturers of woolen goods, employing two hundred and eight hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. CONKLING presented the petition of the Clove Spring Iron Works, of Clove Valley, Dutchess County, New York, manufacturers of anthracite pig-iron and charcoal pig-iron, employing one hundred and twenty hands; the petition of the Crown Point Iron Company, of Crown Point, New York, manufacturers of iron, employing eight hundred hands; and the petition of the Jefferson Iron Company, of Antwerp, Jefferson County, New York, manufacturers of pig-iron, employing two hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. CONKLING. I present a petition signed by a large number of citizens of the State of New York, calling attention to an omission in the so-called river and harbor bill, and praying for a proper appropriation for the harbor of Fair Haven, sometimes called Little Sodus, in that State. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. ROLLINS presented the petition of the Sawyer Woolen Mills, of Dover, New Hampshire, manufacturers of woolen goods, employing three hundred and twenty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. DAVIS, of Illinois, presented the petition of distillers of Peoria and Pekin, Illinois, remonstrating against the passage of the bill (H. R. No. 4812) to amend the laws in relation to internal revenue; which was referred to the Committee on Finance.

Mr. CAMERON, of Pennsylvania, presented the petition of Captain Augustus Boyd, late assistant quartermaster United States Army, praying for the passage of a bill placing him on the retired list of the Army; which was referred to the Committee on Military Affairs.

He also presented the memorial of publishers, booksellers, printers, paper manufacturers, bookbinders, and type-founders of the city of Philadelphia, Pennsylvania, remonstrating against any change in the tariff upon books, paper, and printing type and materials; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. BECK. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 4812) to amend the laws in relation to internal revenue, to report it with amendments. I desire only to say that the chairman of the committee, the Senator from Delaware, [Mr. BAYARD,] is now absent, and he will on his return take charge of the bill. I know he will desire to call it up at some early day, of which he will give notice when he comes back.

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1587) to secure the safe-keeping of money paid into court, reported it with amendments.

Mr. KERNAN, from the Committee on Patents, to whom was referred the bill (H. R. No. 4412) to regulate practice in suits brought to recover damages for infringement of patents, reported it with amendments.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (S. No. 1654) granting an increase of pension to Thomas

S. Cogley, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McPHERSON, from the Committee on Pensions, to whom was referred the bill (S. No. 1706) for the relief of Samuel Pollock, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2643) granting a pension to Mary Meighan, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McPHERSON. I am also instructed by the Committee on Pensions, to whom was referred the petition of Mrs. Elizabeth S. M. Finley, widow of the late Clement A. Finley, late Surgeon-General United States Army, praying for the passage of an act granting her a pension of $50 per month, to report it adversely, with the request that the petition be placed on the Calendar.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The committee will be discharged from the further consideration of the petition.

Mr. McPHERSON subsequently said: During the morning hour I reported from the Committee on Pensions the petition of Mrs. Elizabeth S. M. Finley, widow of the late Clement A. Finley, late Surgeon-General United States Army. I move that the report be recommitted in order to enable her friends to introduce a bill.

The PRESIDENT *pro tempore*. There being no objection, it is so ordered.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4264) to authorize the payment of $69.09 to Judith Brown, one-seventh of the pension of Margaret Duncan, reported it with an amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3021) granting a pension to Eliza M. Frick, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. CAMERON, of Pennsylvania, subsequently said: This morning the Senator from Kansas [Mr. INGALLS] reported the bill (H. R. No. 3021) granting a pension to Eliza M. Frick adversely. I ask that it be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar, with the adverse report of the committee.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the petition of William J. Morris, of Delhi, Illinois, praying for an increase of pension, submitted a report thereon, accompanied by a bill (S. No. 1754) for the relief of W. J. Morris.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3557) granting a pension to Peter Julius, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2467) granting a pension to Daniel D. Long, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Stephen Durkee, praying that he be granted a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the petition of Lindsay M. Shumaker, a soldier of the Mexican war, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2468) granting a pension to Henry H. Fisher, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1531) granting a pension to Mary and Annie Plunkett, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MORGAN, from the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the Elections of President and Vice-President of the United States, to whom was referred the bill (S. No. 1485) to fix the day for the meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon, reported adversely thereon.

He also, from the same committee, to whom was referred the concurrent resolution submitted by him May 6, proposing to adopt a joint rule for counting the votes of electors of President and Vice-President, reported it with amendments.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (S. No. 635) granting a pension to Emery Bowen, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PENDLETON, from the Select Committee to make provision for taking the Tenth Census, reported an amendment intended to be proposed to the bill making appropriations for the sundry-civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

COAST-SURVEY REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred a concurrent resolution to print 3,000 extra copies of the report of the Superintendent of the Coast and Geodetic Survey, to report the same without amendment, to recommend its passage, and to ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 3,000 extra copies of the report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1879, for distribution by the said Superintendent.

BILLS INTRODUCED.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1755) granting an increase of pension to Horace Boughton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GROOME (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1756) for the relief of the legal representatives of Eben Eveleth, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1757) for the relief of Joseph H. Maddox and others; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1758) to provide for the erection of a public building at Poughkeepsie, New York; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Public Buildings and Grounds.

DAVIS HATCH'S TREATMENT IN SAN DOMINGO.

Mr. EATON. I send a resolution to the Chair, and before it is read I desire to give my reasons for offering it.

I have been informed that a citizen of the United States and a citizen of the State of Connecticut has suffered at the hands of a foreign government, and he alleges that the wrongs which he suffered were measurably caused by officers of the United States. I know nothing of the facts in the case, but if it be true there certainly ought to be some action taken by the Congress of the United States. I cannot give a better reason for offering the resolution than to read the petition which I hold in my hand. It is addressed to the Senate and House of Representatives, and is as follows:

To the honorable the Senate and the House of Representatives
of the United States of America in Congress assembled:

May it please your honorable bodies to know that your petitioner, Davis Hatch, a citizen of the United States, of the town of Norwalk, State of Connecticut, while temporarily residing in the town of Barahona, in the Republic of Dominica, he was arrested by order of President Baez August 28, 1869, tried by a mock court-martial, and sentenced to death October 2, 1869; and although the sentence was immediately (October 5) commuted to expulsion unconditionally, as your petitioner was assured the evening before the trial would be the case, by the friends of President Baez, he was nevertheless held a prisoner five and a half months afterward, namely, until the 17th day of March, 1870, and was only finally released on the peremptory demand of the United States commercial agent, Raymond H. Perry, and through the intervention of Admiral Poor of the United States ship Severn.

That the alleged cause of your petitioner's arrest, trial, and sentence to death was that he had taken part in an insurrection against the government of the said President Baez, and that his detention five and a half months after the commutation of the sentence to expulsion was officially announced by President Baez to Admiral Poor, and by his secretary of state, Mr. M. M. Gautier, to Commercial Agent Perry, to be the fear that if your petitioner should be released he would exert an influence upon public opinion against the treaty of annexation of the Dominican Republic to the United States, then pending, (of which your petitioner was ignorant at the time,) and which was as basely false as it was meanly ungrateful, your petitioner having taken no part in the said insurrection, but, on the contrary, had rendered important service to the government of the said President Baez.

That your petitioner learned after his release and return to the United States, from competent witnesses and official documents, that Orville E. Babcock, a brigadier-general by brevet in the United States Army, then private secretary of President Grant, who was sent by him to Santo Domingo as his secret and confidential agent, and also as the agent of the Government to negotiate a treaty of annexation of the Dominican Republic to the United States, and for other purposes, entered into a conspiracy immediately after his arrival there with the said President Baez and two citizens of the United States, the initiators and promoters of the said annexation scheme, namely, William L. Cazneau and Joseph W. Fabens, to have your petitioner arrested, tried, and sentenced to death, and though to be pardoned immediately, for fear of its effect upon the treaty in the United States if executed or the sentence remained pending, still to be held a prisoner in an out-of-the-way place, remote from the capital, where he could not communicate with his Government or friends until their wicked and mercenary object in the said annexation scheme should be secured by the confirmation of the treaty, then counted upon with certainty.

That the acts and doings of the said Babcock and his aforesaid confederates against your petitioner were for the sole and express purpose of depriving him of valuable concessions which he held in Santo Domingo, together with Hon. Augustus Schell and other citizens of the United States, which concessions were secretly and without cause annulled, and your petitioner arrested within a few days after the arrival of the said Orville E. Babcock in Santo Domingo, on his first visit to that country.

That the wicked and cruel acts of the Dominican executive in the outrages perpetrated upon your petitioner, and the complicity of Babcock therewith, were promptly communicated, September 4 and 9, 1869, by Commercial Agent G. Sowers Smith, to the State Department, but no reply was made to the said communications, neither any action taken by the State Department for the protection of your petitioner until the month of January, more than three months after being so notified,

and then only on the application of the late Senator O. S. Ferry, to whom your petitioner finally appealed, by stealth, for his intervention; and that it also appears by the official records that the Executive of our Government was knowing to all the circumstances of your petitioner's arrest, trial, sentence of death, commutation of sentence, and subsequent detention, and there is no evidence to show that any action was taken by him for the protection of your petitioner, but, on the contrary, there is evidence to show that he expressed his displeasure at the release of your petitioner, and also of the tardy order of the State Department being given for the release of your petitioner without his knowledge.

That your petitioner has in his possession documentary evidence, and can produce competent and responsible witnesses to prove that the said Orville E. Babcock is guilty of the charges herein made; and, further, that in addition to his encouraging and promoting the arrest, trial, and sentence to death of your petitioner, and his subsequent detention, that he also used his influence and the authority of the high position which he held in Santo Domingo to prevent the commercial agent of the United States and the commanders of our ships of war stationed there, all of whom were subject to his orders, from using their influence or authority for the release and protection of your petitioner.

That on the release of your petitioner, and on his arrival at the capital from his place of confinement in Azua, he was peremptorily ordered by Admiral Poor to embark immediately in the United States ship Yantic for Havana, without giving time to settle his affairs, to obtain the funds he had in the hands of his agent, or even to obtain his personal effects, from all of which he was separated when arrested more than six months previous, in consequence of which your petitioner was obliged to return to Santo Domingo from Havana, and thence to Saint Thomas, where he was detained two months waiting for his funds and in endeavoring to dispose of or secure a large amount of property he had on hand when arrested, but which resulted in a total loss; and in consequence of the order of Admiral Poor your petitioner did not reach home in time to be present at the investigation made by a committee of the Senate in June, 1870, and therefore the most important testimony was not laid before said committee.

Your petitioner therefore prays that an inquiry be made by the honorable Senate into the acts and doings of the officers and agents of our Government who were employed and connected with the attempt to annex the Dominican Republic to the United States in the years 1869 and 1870; and if it shall be found that they are guilty of the charges herein made of encouraging and promoting the arrest, trial, sentence of death, and of his incarceration in Santo Domingo from the 28th day of August, 1869, until the 17th day of March, 1870, and the consequent loss of a large amount of property, your petitioner feels that he is entitled to a complete vindication and full reparation from his Government for the injuries he has received and the losses he has sustained by reason of the criminal conduct of its said officers and agents, and that your honorable body will so declare and recommend. And your petitioner will ever pray.

DAVIS HATCH.

Dated in South Norwalk, May 10, 1880.

I would observe that I have no knowledge with regard to this matter other than the knowledge that all gentlemen have who read the newspapers of the country; but it comes from a citizen of my State and a citizen of the United States. As I said yesterday when offering the petition which on the objection of the Senator from Vermont [Mr. EDMUNDS] was refused a reading, if the charges therein alleged are true it may not be proper that the petition should be here; it should be in the other branch, and steps should be taken to vindicate the honor of the country by the House of Representatives; but as I have been requested to present the petition I ask that the Senate receive this petition and that it be referred to the Committee on Foreign Relations. I move that the resolution lie on the table.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The resolution will be reported.

The Chief Clerk read the resolution, as follows:

Resolved, That it is the duty of the Government of the United States and its civil and military officers to exert all proper and legitimate means to protect the rights of citizens of the United States temporarily being in foreign countries against the arbitrary acts of the authorities thereof.

The PRESIDING OFFICER. The resolution will lie on the table.

Mr. CONKLING. Mr. President——

Mr. PLATT. I do not know that a motion to lay on the table is debatable, but if it be not——

The PRESIDING OFFICER. Does the Senator from Connecticut withdraw the motion temporarily?

Mr. EATON. Yes, sir.

Mr. CONKLING. I ask the Senator from Connecticut to withhold his motion for a moment.

Mr. EATON. I have. I certainly will withhold it. I desire that the petition be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. It will be so referred.

Mr. PLATT. I desire to say a word in reference to the petition. I understand that my colleague neither yesterday nor to-day vouches for the truth of the allegations set forth in the petition. Indeed I find by a reference to the RECORD that he said yesterday:

I ought to say that I am by no means certain that the allegations set forth in this petition are true.

I have no objection whatever to an investigation of this matter, but I do not think that I ought to allow the presentation of the petition to pass without expressing my belief that it should be taken with many grains of allowance. It is a matter which has been quite extensively discussed in the papers of Connecticut, and, as I recollect, the allegations of the petition relating to a conspiracy have been very extensively and thoroughly denied. I do not wish to take up time in relation to the matter. I have no objection to the proposed investigation, but I do not think that a petition of this character ought to be received and be referred without at least a caution on my part.

Mr. EATON. I desire to say to my friend that I have asked for no investigation. I have had the petition referred to the Committee on Foreign Relations, and there will be no request for an investigation, nor do I propose to make any until I shall be thoroughly satisfied that one is proper.

Mr. PLATT. That, I believe, is the prayer of the petition.

Mr. CONKLING. I regret to hear the Senator from Connecticut [Mr. EATON] say that he does not propose an investigation, although he is no doubt right in saying that he withholds such a proposition until he is satisfied that it should be had. I should be very glad, for one, to have an investigation which should be a final investigation of this matter. We have heard some discussion of late in the Senate about the rule of *res adjudicata*. If that rule can ever be applied by any investigation to this case, for one I shall be glad of it.

I venture now to call attention to the fact that this petition is dated on the 10th of May, 1880, relating as it does to transactions some years of age. This is an old customer. If my recollection is right, the last time it came here was on an occasion very much like this. It was on an occasion which was well calculated to subject the movers of the proceeding—and I do not include the Senator from Connecticut in the term "movers"—to the suspicion of being governed by a wish to produce public and popular effect. At all events it so happened then, as it happens now, that the time was chosen so as to provoke such a suspicion. This matter was very thoroughly understood; it was formally investigated, if I mistake not; and it had been then, as the purpose seems to be to make it now, the occasion of uproar and sensation.

From my knowledge of it at the time, I wish to concur with the junior Senator from Connecticut [Mr. PLATT] in expressing the belief that it should be taken with a great many grains of allowance. Without undertaking to prejudge the case, I will venture the prediction that if a thorough and truthful investigation can be had, nobody will have occasion to regret that investigation unless those regret it who set it on foot.

As one member of the Committee on Foreign Relations, I will join the honorable chairman of that committee at any time in turning on the lights, and subjecting to a thorough scrutiny not only the original facts of the case but the motive and intendment by which periodically, since from time to time an effort has been made to explode and exploit this affair, as if there was some great mare's nest buried underneath it. I believe there is not, and I shall welcome the earliest movement that any Senator will make for a thorough inquisition into all the facts and circumstances of the case, meanwhile believing that that will result in a full exoneration of all those upon whom the effort is made to cast aspersion.

Mr. THURMAN. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. There is no motion before the Senate. The Senator from Connecticut moved to lay the resolution on the table, but withdrew the motion.

Mr. EDMUNDS. Is not the question on the reference of the petition?

The PRESIDING OFFICER. The petition has been referred to the Committee on Foreign Relations.

Mr. CONKLING. What is the resolution? May we hear it reported?

The PRESIDING OFFICER. The Secretary will report the resolution.

The Chief Clerk again read the resolution submitted by Mr. EATON.

The PRESIDING OFFICER. The question is on the motion of the Senator from Connecticut, that the resolution lie on the table, if he renews it.

Mr. EATON. Before I renew that motion I wish to say a word. I believe the Senator from New York did me the justice to say that he did not rank me among the class of "movers" of a proposition that was either wrong in principle or false in fact, because I said that I knew nothing except what I may have remembered from having read nearly a dozen years ago in regard to this subject. The petition came to me from a citizen of my State, asking that his petition should be presented, and therefore I was in duty bound to present it.

Mr. CONKLING. Will the Senator pardon me a moment?

Mr. EATON. Certainly.

Mr. CONKLING. Has he any objection to accepting as an amendment to his motion to refer an instruction to the Committee on Foreign Relations thoroughly to investigate this matter?

Mr. EATON. Not at all. I was about to observe in the first place to my friend, and perhaps he will be satisfied that my proposition is a better one, that when the petition goes to the Committee on Foreign Relations perhaps a consultation among the members of the committee will be quite as well as instructions here to-day.

Mr. EDMUNDS. Let us put the thing through.

Mr. EATON. I have no objection.

Mr. CONKLING. I understand the Senator to permit me to make the motion. Therefore if he will allow me at this moment——

Mr. EATON. One moment first, because I should stultify myself a little. I said in the first place that if the allegations in this petition were true, I should not press for any action before any committee of the Senate, because there are officers of the United States, if the petition is true, who ought to be taken in hand by the House of Representatives. That is what I mean. Therefore it is that I would say to my friend from New York I would a little rather not be harnessed with an order of the Senate to take this matter into consideration at once.

Mr. CONKLING. Still, if my honorable friend will bear with me, the very purpose in view is to find out whether there be truth, apparent or real, in these allegations. Nothing is more familiar to the Senate than this truth: If there come to the knowledge of the Sen-

ate facts requiring the action of the other House, it is the duty of the Senate to so inform the House, to transmit the facts to the House. That has been done very often between the two Houses. Therefore, in that view I think that my motion is more defensible.

But beyond that, I submit that it is an act of only common justice, after this statement has been made and reiterated and comes here now in this somewhat formal and solemn manner, that the Senate, if it is to receive the petition at all, should proceed to verify or to disprove accusations so injurious. Therefore I move to amend the motion to refer to the Committee on Foreign Relations with these words:

With instructions to said committee thoroughly to investigate and report upon——

Mr. THURMAN. Is not the pending question the motion to lay the resolution on the table?

Mr. CONKLING. Not at all. If the Chair will pardon me, I believe I have the floor and I have the assent of the honorable Senator from Connecticut to take the sense of the Senate upon an amendment which I am offering on the motion to refer. No vote was taken upon that motion. The Chair announced that the petition would take the reference proposed, and then I rose and claimed the floor, and succeeded in obtaining it, and now I want the sense of the Senate upon my amendment. I move, therefore, to add:

With instructions to said committee fully and thoroughly to investigate the allegations of said petition, and for that purpose the committee shall have power to send for persons and papers and to administer oaths.

Mr. EDMUNDS. And to make speedy report thereon.

Mr. THURMAN. I rise to a question of order.

The PRESIDING OFFICER. The Senator from Ohio rises to a question of order, which he will state.

Mr. THURMAN. My point of order is that the question of the reference of the petition was disposed of, and after that the Senator from Connecticut submitted a resolution generally——

Mr. CONKLING. If my friend will pardon me he is wrong in his facts, and he will not insist on his point. The Senator [Mr. EATON] had offered the resolution before he read the petition. He read the petition, and I rose immediately and claimed the floor. The Senator from Connecticut [Mr. PLATT] with a better right was recognized and made some observations. Then the Chair announced that the petition would take that reference and I said I wanted first to be heard. Unless the Senator from Ohio [Mr. THURMAN] means that although I exerted all the diligence I could I was not quick enough, his point of order is mistaken in point of fact; but if it were not so, I could move to reconsider the reference of the petition, and certainly the chairman of the committee would not exclude a member of the committee from making that motion, if he could; but he has already meanwhile given me his assurance that he will not. Therefore, I hope the Senator from Ohio will not interpose with the point of order which I am sure is not well taken in point of fact. I exerted all the diligence I could; I stood on my feet and addressed the Chair and wanted to be heard on the motion to refer, and no vote has been taken on that motion.

Mr. THURMAN. I did not know how the facts were. I only stated them as I understood them, for the Chair has distinctly propounded the question, Shall the resolution lie on the table?

Mr. CONKLING. And then the motion was withdrawn, and of course that went for nothing.

The PRESIDING OFFICER. If the Senator from Ohio insists on his point of order, the Chair will state the facts as he understands them.

Mr. THURMAN. Oh, I do not care anything about it.

Mr. CONKLING. Then my amendment is in order.

Mr. THURMAN. I have a word to say on that amendment.

Mr. CONKLING. Will the Senator pardon me a moment? I do not intend to detain the Senate. Will the Secretary be good enough to read the amendment?

The CHIEF CLERK. The amendment proposed is:

With instructions to said committee thoroughly to investigate the allegations of said petition, with power to send for persons and papers and to administer oaths; and said committee is further instructed to make report upon the same at the earliest convenient day.

Mr. CONKLING. Now I have nothing to add except that in 1870 I think—some other Senator will correct me if I am wrong—a report was made on this subject, which report of course will be at the service of the Committee on Foreign Relations, which report as I then understood it and now remember it covers this ground and treats of this entire allegation; but I allude to it merely to say that the Committee on Foreign Relations will have the advantage of that report and under my resolution without difficulty can very speedily answer the Senate whether there is anything here which ought either to be transmitted to the House or to be used with the public to slander or injure anybody concerned.

Mr. EATON. Mr. President, I do not desire to slander or injure anybody.

Mr. CONKLING. My friend knows I do not intend to charge any such thing.

Mr. EATON. I thought myself that if there were truth in these charges they should go to the House and not be considered here. That was my opinion at the time. I have very grave doubts of the propriety of the Committee on Foreign Relations making the examination suggested by my friend from New York. I said at the time that if the allegations of this petition were true, it does not belong here but somewhere else; it belongs in the House of Representatives. How far the Senate should go into an investigation of this matter is very questionable to my mind. Under other circumstances the Senate might have quite another line of duty to perform. It strikes me that the amendment of the Senator from New York ought not to be entertained by the Senate.

Mr. THURMAN. Mr. President, it seems to me that it is premature for the Senate to give any such instruction to this committee at this time, even if the suggestions of the Senator from Connecticut are not sufficient to prevent our investigating this matter at all by a committee. But one thing, I think, is quite certain that this peremptory instruction to the committee ought not to be given now. It is within my recollection and that of other Senators who were here that some years ago this same matter was presented to the Senate by a Senator then on this floor from the State of Connecticut; and if I am not mistaken a very forcible speech was made by him on the subject. I have the impression (though about that I am not certain) that there was some investigation into the subject at that time.

Now, let this petition go to the Committee on Foreign Relations; and if after considering it that committee should be of the opinion that it ought to be investigated, and that it ought to be investigated by the Senate, that there is nothing in the suggestion made by the Senator from Connecticut that the Senate ought not to investigate this matter—if that committee shall think it ought to be investigated more than it has already been and that that investigation may properly take place in the Senate by an inquiry such as is suggested, that committee can report to the Senate its opinion to that effect and can report a resolution for an investigation. There are not ten members here now who were in the Senate when this matter formerly underwent some scrutiny; and I hope the present Senate, without knowing whether these charges are correct or not correct, whether they have been fully investigated or not fully investigated, and without considering whether this investigation ought to take place in the Senate in this form, will not pass a peremptory order that the investigation by the committee shall take place. That is a matter the committee will consider; and if the committee should be of the opinion that the investigation ought to be had, beyond all doubt it will report a resolution to the Senate for that purpose.

Mr. CONKLING. Mr. President, one of the allegations of this paper, which I feel authorized to speak of as extraordinary, is that the man who signs it or purports to sign it had no fair opportunity before a committee appointed for that purpose to make out his case or his charges. That is specific, if I caught the reading of the petition aright. Is there any doubt that it behooves the Senate to investigate such an allegation as that? Is there any doubt when a man comes here charging that he was denied by a committee of this body an opportunity to vindicate his rights as an American citizen in an instance so grave as this, that the Senate should see whether that be true or not? Does my honorable friend from Ohio want the instruction of a committee to inform him whether the honor, the dignity, the conscience of the Senate should lead it to pay heed to such allegation as that, and to ascertain its truth or not. I submit that to the judgment of every Senator, be he lawyer or layman, republican or democrat.

Mr. THURMAN. I should like to hear that allegation read.

Mr. CONKLING. If my friend from Vermont [Mr. EDMUNDS] who I believe has the petition in his hand now, will hand it to me, I will read it. I heard it distinctly. [The petition was handed to Mr. CONKLING.] The Senate will pardon me for occupying its time a moment to find the particular allegation as I never saw this paper before.

Mr. EATON. I will suggest to my friend from New York that to save time he let this matter go to the committee of which he is a member. I have no knowledge of this matter except general recollection of what may have occurred eight or ten years ago; but if it be necessary for us to take the course that the Senator from New York indicates, I shall be very happy to join him, but under other circumstances I think it would be improper to take that course.

Mr. CONKLING. Mr. President, the frugality of time which the Senator from Connecticut now manifests cannot be too much commended. I have been impressed for weeks with the value of the Senate's time; and nothing could be more deplorable than to give now a fast half-hour to contradict what I believe to be a virulent attempt to slander several American citizens. I say again I do not suppose the Senator from Connecticut is connected with any such design. I say for myself that I am willing to do my part in devoting just as much time as is necessary to put this transaction under a microscope, and see what there is of it, and if I can, as I believe I can under the rules of the Senate, I shall insist upon a vote on this amendment in order that we may know whether this industrious man acting of his own motion, or as I believe prompted and pushed by others for political and mischievous effect, is to come here with such a tirade as that, charging among other things unfair action by a distinguished committee of this body, and then have it all go off for fear it may occupy the time of the Senate upon the idea that there might be some more convenient way of doing it.

Mr. President, if the late Secretary of State, one of the most honored citizens of the State which permits me in part to speak for her to-day, has been guilty of what that paper charges, the people of the State of New York want to know it, and I, one of her Senators, want to know it. If on the contrary that is an unworthy and truthless

fling at a great name and a pure man, I want to know that, although it may take half an hour, or an hour, or a day of the carefully-garnered and economically disposed time of this session of the Senate.

My friend from Iowa [Mr. ALLISON] has found for me what bears me out in an assertion that I made a moment ago. This petitioner sets forth here at the length of just about a page the fact that Commodore Poor, as I understand it—I do not want to read all this unless I am required to do it—by his interposition prevented his return in season to make manifest a part of his case, and that the committee nevertheless went on with the investigation, and that in consequence of it he had not a full hearing, he had not his day in court, but still the committee reported and concluded the whole matter; and that he comes here now, this remediless man, after waiting all these years. This report was made on the 25th of June, 1870; and I will call attention to it in a moment. This man comes here with a petition dated the 10th of May, 1880, in order that he may be set right and cured of this grievance which fell upon him from the hasty and the premature and unjust action of a committee of the Senate.

Now, Mr. President, I humbly submit that if there were no outlying considerations in the case the Senate would hardly need to split hairs before making up its mind whether such an allegation as that should be investigated or not. The honorable Senator from Ohio, who is not wanting in generosity any more than he is in large perceptions—perceptions of political effect among others—must see the use likely to be made, if not intended to be made of a paper of this kind, introduced at just this time—a coincidence no doubt, a coincidence like the tipping over of Mr. Weller's coach on a certain occasion; such a coincidence as another great statesman from Ohio once called "a fortuitous combination of unforeseen contingencies." By a sort of compound comminuted accident, it so happens that not at some other time, but just at this time, although ten years have rolled between that report and now, there comes this defamatory, libelous paper. It certainly is defamatory; and if it is untrue, it certainly is libelous. Perhaps the Senator from Ohio would correct my law and remind me that the doctrine once was "the greater the truth the greater the libel," and therefore he might say it was libelous in any event; but certainly if false it is libelous. When the Senator from Ohio remembers the purpose to which such a paper is adapted, I think that he will consider it hardly generous toward men, although opposed to him in politics, for whose character I take it he has high regard, to be very technical, astute, and particular in discovering, if he can, some way to avoid, or shun, or cover up an immediate investigation. The Senator from Ohio would not like that; he would scorn a motive like that.

Mr. President, I hold in my hand the Senate Committee Reports of 1869-'70 and I turn in the volume to pages numbering about 300; there they are as I hold them [exhibiting book] filled not only with an elaborate report from which I shall venture to read a few words; not only of a minority report so signed that the signature will leave no doubt upon the mind of any Senator that everything which could be truthfully said injurious to these gentlemen was said, but containing also testimony, a great mass of it, oral testimony, documentary testimony, the correspondence with the Department, the orders given by the officers, the original transactions and proceedings to which this paper purports to refer. And yet although this relates to the case before us, the Senator from Ohio is in doubt whether we ought not to make what lawyers call a preliminary objection, whether we ought not to stop on the threshold from motives of delicacy and constitutional prerogative and consider whether the grand inquest of the nation sitting at the other end of this building has not a monopoly of the right to look into this matter.

Mr. EDMUNDS. This man prays for indemnity.

Mr. THURMAN. The Senator from New York, I hope, does not intend to speak until half past one.

Mr. CONKLING. My friend is afraid the time will be necessarily improperly consumed unless he occupies part of it.

Mr. THURMAN. I do not want the remarks of the Senator to go entirely without correction. It was suggested by the Senator from Connecticut that these allegations might involve matter improper to be originally investigated in the Senate. I said whether that was so or not—and I expressed no opinion on it one way or the other and do not now—this petition had better go to the committee and let the committee report to the Senate whether an investigation ought to take place or not, instead of the Senate in the first place deciding. It was in view of the very fact which is now brought to our notice, that this matter had been once investigated and that an elaborate report had been made, that it seemed to me proper that the matter should go to the committee and let the committee determine and report to the Senate whether there ought to be an investigation or not.

Now suppose it goes to the committee; the committee looking into it and looking into the former report are able to report to the Senate that this whole matter was fully investigated ten years ago, and therefore there is no necessity for any further investigation; would not that satisfy the Senator, would the Senator then ask for a further investigation of a matter investigated ten years ago?

Mr. CONKLING. If my honorable friend would allow, I should be now in the act of telling him; but as he insists upon my hearing his speech a second time, I infer that his estimate of my capacity is so moderate that he supposes that, after listening to him, I do not know that that is what he said before. I know it, and I am trying, in a very imperfect way I admit, to answer him, and although I do not refuse to yield the floor to my honorable friend, I do not see why he should ask me to do so.

Mr. THURMAN. One word more and I will not interrupt the Senator further. I never heard of this until the Senator from Connecticut offered it yesterday, I never heard a word of it so as to comprehend it until the Senator from New York read a sentence of it just now. When the Senator from Connecticut read it this morning I was engaged elsewhere and did not hear a word that he read. I know nothing whatever of what is in the petition except the general statement which I gathered more from the Senator from New York than from anybody else in his remarks, that this man complained of bad treatment, and I recollect that he did so ten years ago.

Mr. CONKLING. Mr. President, that illustrates what I have been saying. I happened to be sitting on a sofa when the eloquent voice of the Senator from Connecticut was delivering this paper to the Senate. Another Senator came and called my attention to it; it was something astounding to him; and he asked if I had been listening. I said no, and I came over here and heard the concluding sentences of this paper. But when the honorable Senator from Ohio, who is a student of the public press, as I am not, shall take up the newspapers to-morrow morning and read the Associated Press dispatches, he will know all about this, and I hope he will know it with a version somewhat different from that which would have been given to it if it had passed *sub silentio*, attracting nobody's attention. A part of my purpose is, as far as I feel it my duty to do so and as far as I am able to do so, to allow all persons to whose knowledge this incident shall come to understand somewhat of its real nature and purpose, and therefore I am going to read a few words from the report before me. On the 8th of June, 1870, the Senate passed the following order:

Resolved, That the memorial of Davis Hatch and the accompanying papers be referred to a select committee of seven Senators to investigate and report thereon, with power to examine witnesses and to send for persons and papers.

In 1870 the Senate had not all the pangs and fears of constitutional consequences which visit the honorable Senator from Ohio this morning. This man demanding then as he demands now indemnity, among other things, it never entered into the mind of the Senate at that day that there was any reason in the wide world, as my friend sometimes says, why if they received a petition they could not act upon it, and I think it will trouble any Senator now to find a reason first for receiving this petition and referring it, and then refusing to find out whether it is true or not. If any man can maintain those two propositions together he will require more ingenuity than is possessed even by the honorable Senator from Ohio, I think.

From this report, I read two or three passages:

The committee have come to the conclusion, which they announce with pleasure, that although it has been openly asserted in the Senate that General Babcock was guilty of misconduct, they are satisfied that the charge is totally unfounded and that he conducted himself throughout with perfect honesty and sincerity. They look in vain for any evidence worthy of a moment's consideration of any sinister object on his part or any misstatement or prevarication. His whole conduct has been marked by honor, truth, and fidelity, and the evidence leaves him without a stain. And we should be untrue to our own convictions did we not apply to Generals Ingalls and Sackett, who accompanied him and aided in the negotiation, the like commendation.

There is a statement made by a select committee of the Senate appointed for and charged with this and with no other duty. Let me read a little further:

And it may be added further, according to testimony of Ex-Commercial Agent Smith, (printed testimony, page 155,) that Mr. Hatch had been engaged in other illicit traffic at Barahona. The Danish vessel Rotto was consigned from Saint Thomas to Mr. Hatch, at Barahona, and was undoubtedly engaged in illicit traffic, in which Hatch connived. She was seized, condemned, and sold by the Dominican government. (See printed testimony, page 155.)

That a person so situated should make reclamation against the government he was thus offending would seem to be singular; and from what is before us we cannot presume that Mr. Hatch had, or has now, any ground for a claim of indemnification. If he was indemnified at all—a fact which it is not necessary to deny—it was his misfortune, growing out of his own fault; and without assuming to say that he can establish no just claim against the government of the republic, we are constrained to say that we are not able to see its justice, and that at any rate his application to Congress in this behalf is premature and irregular. We cannot but regard this unusual course as an attempt by Mr. Hatch, in making his alleged grievances public, to prevent a fair consideration of the treaty of annexation; to arouse unfounded prejudices against it, and finally defeat it. His course evinces a want of that candor and circumspection which should characterize every American citizen abroad in matters in which his government and country are concerned. Loud and passionate clamors against individuals, blind surmises and personal pique that warp the judgment and induce a forgetfulness of matters of fact, are not the means proper to be exercised to influence our judgments in matters of such grave importance.

The committee therefore recommend that Mr. Hatch's petition be indefinitely postponed.

Mr. EATON. Who were the committee?

Mr. CONKLING. The committee who signed this report were Senators Jacob M. Howard, of Michigan; James W. Nye, of Nevada; George H. Williams, of Oregon; and Willard Warner, of Alabama.

As I said, the views of the minority are here at great length and they are signed by three Senators, Carl Schurz, O. S. Ferry, and George Vickers; and the minority reported a resolution with a preamble, which preamble contains no reflection upon either of the persons mentioned in this petition, and the resolution is in these words:

Be it resolved, That the President be requested to demand of the government of the Dominican Republic full reparation for the sufferings and losses of Davis Hatch as aforesaid.

That is all that the minority of the committee expressed or implied.

Now Mr. President I submit that after an inquiry of that sort resulting as I have stated, it is somewhat extraordinary after this lapse of time that a paper containing charges so virulent as these should be sent to the Senate.

I do not wish to consume time for the sake of consuming it; far from it; but I submit to the Senate, and more especially to a majority of the Senate opposed in political feeling as a majority is to these men so severely assaulted and once so thoroughly exonerated, that the least measure of fair play is to allow a committee diligently to say whether there be ground for the allegations of this petition or not.

Referring to a single remark made by the Senator from Ohio now in the chair, [Mr. THURMAN,] I venture to remind him that if this report from which I have read shall satisfy the committee of the facts, it is within the scope clearly of the amendment which I offer when I give them power to take testimony. This is a part of the testimony they may take, and if this report alone, with the evidence set out and the official documents, shall satisfy the committee of the facts upon it alone they may return their report, so that, so far from being an objection to these instructions, it is a very strong bit of persuasion I submit, showing that it will not be even irksome or laborious to the committee to comply with the instructions I propose.

The PRESIDENT *pro tempore*. The question is, Shall the motion to refer this petition be amended as proposed by the Senator from New York?

Mr. EATON. I hardly think this matter ought to be acted upon now. I am opposed to the amendment of the Senator from New York, and supposed that the reason which I gave in one moment would have been satisfactory to him, being as he is a member of the same committee to which I belong, knowing as he does that he could make no request to me as the chairman of that committee for early action without an immediate response. That I may venture to say he knows, and therefore it struck me that there was no necessity of giving instructions to the committee.

A good many harsh things were said by the Senator from New York, as though this petition had found its way here improperly and by improper means, with a purpose to do wrong. I never saw it or heard of it until yesterday. It came to me as a member of this Senate from a citizen of my State, and therefore it was my duty, as it was my pleasure, to present it. My friend from New York says—I do not give his exact words—that if a thorough examination of this very report should show that these charges were groundless——

Mr. CONKLING. Then could not the committee report back under the instructions?

Mr. EATON. No, sir.

Mr. CONKLING. I beg your pardon.

Mr. EATON. I am opposed to being instructed to do a thing that, as a fair-minded, honest member of a committee of this body, I am bound to do. I do not want any instructions; and my friend from New York, a member of the same committee, ought not to be required by instructions to do what it would be his pleasure to do if it was a member of another party instead of his own who was attacked by this petition.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the Chair must call up the regular order, which is the resolutions reported by the Committee on Privileges and Elections.

Mr. VOORHEES. Before that is taken up I wish to submit a motion.

The PRESIDENT *pro tempore*. The Chair will receive it.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. VOORHEES. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. HARRIS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. Before the yeas and nays are called I wish to make a statement about the appropriation bills, not, however, that I wish it to have any bearing on this question, but I think it best that the Senate should know the condition of the appropriation bills before it votes, and then it may vote as it may think best on this motion.

The legislative, executive, and judicial appropriation bill is now before the House and being discussed. The sundry civil bill has not yet been reported to the House. The Military Academy bill is in conference. The consular and diplomatic bill has gone to the President. The Post-Office bill is now before the Senate. The Army bill has become a law. The Navy bill has become a law. The Indian bill has been sent to the President. The pension bill has become a law. The fortification bill is a law. The District of Columbia appropriation bill is now in the House with Senate amendments. The deficiency bill is not yet reported. The river and harbor bill, I understand, is ready for report in the House. The agricultural bill is also ready.

Thus it appears that four of the bills have become laws; one is in conference; two are before the President; two are in the House; one is in the House with Senate amendments; one is before the Senate, and three have not yet been reported to the House.

In regard to the bill now pending in the Senate, the Post-Office bill, the Senator from Pennsylvania [Mr. WALLACE] has charge of it, he having been chairman of the sub-committee, and all the papers and information connected with it are in his charge. He is unwell and not in his seat to-day. Yesterday he was quite unwell, or that bill would have been called up. I fear that he will not be here until Monday. On Monday I wish to say that the Committee on Appropriations will feel it to be its duty to call the bill up even if the Senator from Pennsylvania should not be here, but he expects to be in his seat and ask the Senate to proceed to its consideration and continue it until it finishes it.

As to the other bills now pending, the Committee on Appropriations direct me to say that they expect to push them to become laws as fast as possible consistent with the proper consideration of the bills in the committee. It is known that the legislative bill is now being discussed in the House. Possibly they will get through with it to-day, or to-morrow at the furthest. The Committee on Appropriations are already at work on that part of the bill that the House has passed upon, and they hope at an early day next week to call that up and reach the others as rapidly as they come here and press them.

I wish to say one word further. There is no time lost in the opinion of the committee, although they would not have delayed the Post-Office bill on that account; but no time is lost from the fact that no other bill but the Post-Office bill is now ready for the Senate. If we had other bills here besides the Post-Office bill we could call them up.

Mr. VOORHEES. Then I understand from the Senator from West Virginia that there is no appropriation bill ready to be called up until Monday.

Mr. DAVIS, of West Virginia. That is the fact, as I understand it, and for that reason I wish the Senate to know the whole facts connected with the appropriation bills.

Mr. VOORHEES. I am very glad to hear it.

Mr. DAVIS, of West Virginia. A word further. I have heard it referred to, not in the Senate, but elsewhere, that there is some disposition to delay the passage of the appropriation bills. If there is, I know nothing of it, and so far as I am now informed no one on the Appropriations Committee has any disposition to delay them a moment. I hope we shall get through by the 1st of June. The committee will certainly do its duty if it gets the bills from the House in time.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, [Mr. VOORHEES,] that when the Senate adjourns to-day it be to meet on Monday next, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 19, nays 33; as follows:

YEAS—19.

Allison,	Burnside,	Hill of Colorado,	Pryor,
Anthony,	Cameron of Pa.,	McMillan,	Ransom,
Blair,	Cameron of Wis.,	McPherson,	Voorhees,
Booth,	Conkling,	Platt,	Windom.
Bruce,	Garland,	Plumb,	

NAYS—33.

Bailey,	Eaton,	Jones of Florida,	Saunders,
Baldwin,	Edmunds,	Kellogg,	Slater,
Beck,	Gordon,	Kernan,	Thurman,
Butler,	Groome,	Maxey,	Vance,
Call,	Hampton,	Morgan,	Williams,
Cockrell,	Harris,	Morrill,	Withers.
Coke,	Hoar,	Pendleton,	
Davis of W. Va.,	Ingalls,	Rollins,	
Dawes,	Jonas,	Saulsbury,	

ABSENT—24.

Bayard,	Grover,	Kirkwood,	Sharon,
Blaine,	Hamlin,	Lamar,	Teller,
Carpenter,	Hereford,	Logan,	Vest,
Davis of Illinois,	Hill of Georgia,	McDonald,	Walker,
Farley,	Johnston,	Paddock,	Wallace,
Ferry,	Jones of Nevada,	Randolph,	Whyte.

So the motion was not agreed to.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolution reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. PENDLETON. Mr. President, in the investigation of the questions involved in the report of the committee I have chosen to consider the Senate as a court and myself as a judge, so far as to endeavor most sincerely to rid myself of the influence of partisan prejudice, of political opinions, of personal relations, and to cultivate that judicial temper and impartial spirit which I would most certainly invoke if one of our loved and honored associates on this side the Chamber were called to answer for his seat. I desire to express my conclusions in the same fair and considerate spirit with which I sought to reach them.

I do not concur with the conclusions of law so persuasively urged by the honorable Senator from Wisconsin, [Mr. CARPENTER,] nor yet with those so ably and zealously asserted by the honorable Senator from Georgia, [Mr. HILL.] I cannot help thinking there is "a safer middle way." I have no disposition to make an argument to the Senate. I take no pleasure, on the contrary I feel pain, in differing with my friends. I shall be entirely content to express with exactness the deductions I have made, and the considerations which led to their adoption.

The Constitution declares that—

Each house shall be the judge of the elections, returns, and qualifications of its own members.—*Constitution*, article 1, section 5.

And that—

Each House may, * * * with the concurrence of two-thirds, expel a member.—*Constitution*, article 1, section 5.

Each House in the performance of these duties, as I think, exercises functions not the same, but analogous to those of a court of justice. It is the judge; it sits in judgment. It determines, decides (I make no point on the word judge) the validity of the elections, the returns, and the qualifications of its members, in order to award title to seats in the body. Its functions *quoad hoc* are judicial, not political. Its decision must be according to the findings of the facts and the law, and not according to the political opinions either of the "House" or the applicant for a seat. It is not a court exercising jurisdiction according to the ordinary methods of judicial tribunals; it is a legislative body exercising for the time judicial functions according to its own methods. It has absolute and plenary jurisdiction. It is the sole judge, the only judge, of what? mark the words—the elections, returns, and qualifications; of every element which enters into the title to membership. Not only has no mode of revision of the judgment by another tribunal been provided, but no such revision was intended. The House, in order to preserve its entire independence, was to be sole, absolute judge; and, being sole judge, its right to sit in judgment on the subject-matter—to wit: the elections, returns, and qualifications of its members—exists so long and whenever those elements of title to a seat are rightfully called in question. The right is co-extensive with the subject-matter, whether as to substance or time of existence.

Each House, therefore, having plenary and absolute power over the subject-matter as long as it exists, may, and on good cause must hear, grant a rehearing, review at any stage or at any time, and modify or reverse its judgment. It possesses within itself all the powers which under every enlightened system of jurisprudence are confided to inferior and higher courts, and are called into exercise by the various methods of new trials, writs of error, appeals, and impeachment of judgments for fraud. For this very reason the strict technical rule of *res adjudicata* will not apply. That rule applies only in case of another suit between the same parties or their privies in right or estate. It never applies in the same suit between the same parties in any stage of the litigation, or in any court whatever to which the litigation may be carried.

I will not undertake to define the exact limits of this power, or specify the cases in which it ought to be exercised. Suppose a man were upon hearing of the question of the length of time of his citizenship, he being of foreign birth, adjudged his seat, and it should afterward appear beyond all doubt that he was not yet a citizen, had not even yet made his application, would not the House be bound to reverse its judgment and declare that he has not and never had title?

Suppose by the skillful fraud of a notary in taking testimony on a contest the witnesses were made to appear to prove facts essential to the case of A, whereas in fact they swore exactly the contrary, and by reason of this fraud A were seated, would not the House be bound to unseat him on a discovery of the fraud? Doubtless if A were a party to the fraud the House might expel him; but could it not and ought it not also to reverse the judgment that he was entitled to a seat? Take the illustration put by the Senator from Georgia. Senators shall be chosen by the Legislature of the State. Suppose a man were admitted to his seat upon forged papers, and it should afterward be made perfectly apparent that the pretended Legislature consisted of only two men who had never been elected, but who had come together and affected to organize a senate and house of representatives, and had so concealed their true character and uttered false papers as to impose on this Senate, can it be claimed that the judgment is final, and the man must sit here for his six years? These illustrations, however, are only extreme cases. They assume an error of fact so plain and palpable, so unquestionably established, as that no honest difference of opinion can exist. The Senator from Wisconsin asserts that the judgment of the Senate, once made, is forever and in all cases irreversible. I do not believe it. Neither my judgment nor my reading of the authorities leads to that conclusion.

On the other hand, the Senate will not permit a party to split up his case and reopen a contest on every new issue he can make; nor will the Senate rehear much less reconsider and reverse its deliberate judgment merely because a new party appears to attack it on the same issues of law and fact. This is enough to show that the rigid rule of *res adjudicata* as administered in courts is not applicable here.

While thus the powers of each House are absolute and plenary, embracing within their scope every possibility of review, correction, amendment, and reversal, they must be exercised in the light and by the direction of right reason, in general accord with those rules and maxims which the enlightened experience of ages has shown to be conducive to the ascertainment of truth and its due administration.

"It is the interest of the Republic that there should be an end of litigation," is the idea which gave birth to the rule of *res adjudicata*. It is still more for the interest of the Republic that the seats of the members of its highest legislative body should be held by a firm tenure, and not in any sense be held at the option of varying political majorities. And therefore a judgment once rendered will not be lightly disturbed. It is of the essence of the constitutional life of the Senate that the Senators should be the chosen representatives of the States, elected by the Legislatures thereof, and having the qualifications defined by the Constitution; and therefore the Senate will give every facility for arriving at a true judgment on this point, and will not deny to itself the power of correcting an evidently erroneous judgment. The rule and the reason of the rule of *stare decisis*, with all the exceptions and limitations, apply absolutely and with all their force to cases of this character and in this tribunal. The honorable Senator from Alabama [Mr. PRYOR] has stated this point so ably, and argued it so exhaustively, with such a wealth of learning and elocution, that I will not dwell upon it.

Courts grant new trials or rehearings because of error of law, or because the verdict is against the weight of evidence, or because of newly-discovered evidence; but the application must always be made within a certain short time, and the newly-discovered testimony must be material, not merely cumulative, and must be such as not only was not known, but could not, after reasonable effort, be known before. Courts will impeach and reverse a judgment or decree for fraud, but the fraud must be newly discovered; it must appear to have been decisive, and it must have been of such a character and so practiced on either the court or the party as practically to have deprived him of his "day in court."

The enlightened judgment of the Senate will regard the spirit of these rules, founded in the highest considerations of public policy and taught by long experience, and will uphold any solemn, well-considered judgment of the Senate, unless gross error of fact can be made perfectly apparent by newly-discovered evidence, or a fraud which determined the character of the judgment has been practiced either upon the Senate or the contestant for the benefit of the contestee. For a differing opinion as to a disputed question of law or as to the weight of evidence the Senate will never reverse a judgment.

I do not read authorities to sustain these positions. They are so in accord with right reason that they commend themselves to my judgment. They are supported, however, by the very highest authorities—by Cooley on Constitutional Limitations, Cushing's Law and Practice of Parliamentary Assemblies, Farrar's Manual of the Constitution, Kent's Commentaries, and by the action of the Senate itself in the cases of Cameron, Bright and Fitch, Spencer and Sykes, and Bogy.

In this case it has been asserted in every form of phrase and expression that the State government of Louisiana was fraudulently in power, inaugurated and sustained by force and fraud, by false returns of illegal returning boards; that the Legislature which elected KELLOGG was never elected; that it never had a quorum; that its members were bribed; that it fell of its own inherent lifelessness, leaving no trace except KELLOGG's election. But all these allegations—every one of them—whether of the contestant or the committee, tending to impeach the validity of the State government as such, or to question the complete organization of the Legislature, or affecting its action, were made before the Senate in 1877.

Not only so, but every allegation of fraud, and complicity by KELLOGG in fraud, was then made and pressed on the Senate. I will not detain the Senate with more than one single citation, (RECORD for November 28, 1877, page 741.) Senator HILL, the spokesman of the committee and of Spofford, says:

I will state to the Senate, and I challenge contradiction, that there are material averments made by Judge Spofford of direct fraud, not only on the part of the returning board, but on the part of Governor KELLOGG personally.

I allege here, and the Senate must hear it, and the country shall hear it, that Judge Spofford appeared before the committee, and in the presence of Governor KELLOGG, and in the presence of his counsel, made distinct charges that the returning board counted in certain persons upon false testimony as members of what is known as the Packard legislature for the express purpose of electing Governor KELLOGG to the Senate, and that KELLOGG was not only present and cognizant of the frauds, but that KELLOGG himself was one of the promoters of those frauds and got private access to the board for the purpose of seeing that the frauds were carried out. That charge is distinctly made in this case. It is conceded on all hands that if certain members of that Senate were not elected, or were not members of it, the Packard senate was without a quorum, and always was, and KELLOGG's election necessarily falls to the ground. Senators, there is no escape from it, and I call your attention to it. The country well know it. Here is a charge that certain frauds committed by the returning board were committed at the instance of Governor KELLOGG; were committed by the aid of Governor KELLOGG; were committed for the benefit of Governor KELLOGG; were committed for the express purpose of getting up a false and fraudulent Legislature to elect KELLOGG to this very seat that he claims. You shall understand the question. I repeat it, this charge was made on KELLOGG.

I am tempted to read further. And again, (RECORD, November 28, 1877, page 742:)

Mr. HILL. I say in reply to the gentleman that the committee was distinctly informed that no testimony had been taken by any committee on this point.

* * * * * * *

Committees have been to New Orleans, committees have investigated the count of the returning board, committees have discovered, as I think, a great many frauds on other matters; but this charge which connects Governor KELLOGG as directly responsible for the frauds, as an active party in them, as aiding and abetting them for the express purpose of procuring his own election to the United States Senate, was not gone into, and there was not a particle of testimony on the subject.

And still again, page 742, *ub supra*, Mr. HILL said:

This is a case. The issue is made up. The issue is material. It is made before the world. Judge Spofford comes before the committee and charges personal fraud on KELLOGG, collusion between KELLOGG and the returning board, in order to give false certificates and suppress the votes of the people for the purpose of making KELLOGG a Senator. KELLOGG comes here to claim the price of his fraud. He comes here and asks that this Senate shall give effect to that fraud.

Mr. HILL said again, page 750:

Mr. President, I agree that a great deal of testimony was taken last winter upon the subject of the frauds of the Louisiana returning board. I agree that that testimony has already stenched the earth. I agree that enough has already been disclosed to make every lover of popular government blush with shame. But I affirm that the half has not yet been told. I affirm that the chief agent, the chief supporter, the chief actor in those frauds, is for the first time in issue before the country.

The parties agreed that the four reports of Sherman, Howe, MORRISON, and Field touching these matters should be read. The contestant asked more time to take other testimony, alleged to be necessary as we have seen. The Senate on full argument decided to grant no further time, to hear no other evidence, and then on full consideration of the law and the facts—of these allegations and these proofs—awarded the seat to KELLOGG.

It has been urged in this connection with much force that the rule is absolute, unvarying, of universal application; that the Senate must follow the decision of the political powers of the State as to which body is the Legislature of the State. Doubtless such decision is of persuasive authority, but I cannot agree that it is conclusive upon the Senate. That decision may be changed. A forcible or a peaceful revolution, or a mere change of public opinion in its fitful mood, might reverse a decision once made; and this latter decision might by the same means be again reversed. Can it be gravely contended that the Senate must follow all these changes and seat, unseat, reseat, and again unseat a man elected by one of these alleged legislatures? On the contrary, the Senate must decide, according to all the lights which it can command, in determining the question of membership, which is the true Legislature of a State. That decision is not in all conceivable cases and conditions irreversible; but it is of such dignity and high authority that it will be reversed only under such circumstances as that party spirit flies affrighted and the error appears plain even to eyes which will not see and judgments which will not understand.

The argument, addressed to Senators with so much persistency and stress, that to give force to a judgment of the Senate that a claimant is elected by the true Legislature, if their individual opinions dissent, is to substitute the judgment of the Senate for the Constitution, applies equally to every other constitutional qualification—to age, to citizenship, and to election—and seems to me not specially forcible. A Senator may well decline to revise the testimony on which the Senate decided that the sitting member is thirty years of age, or has been nine years a citizen, or is a citizen at all, and may rest satisfied with the judgment of the Senate. He may with equal propriety decline to revise the testimony and rest satisfied with the decision as to which is the true Legislature, and it cannot in either case be fairly said, in any sense, that he is substituting the decision of the Senate for the fact required by the Constitution. The decision of the Senate cannot make a falsehood a truth, but the decision of the Senate is very persuasive that its finding is the truth, and that the contrary opinion is false; and a Senator may with a clear conscience and a wise diffidence accept the conclusion as correct.

During this Congress, in May, 1879, the contestant filed a memorial of which the only allegation claimed to be new and material is that the memorialist "has discovered new and material evidence to prove that the election of said KELLOGG is null and void" by reason of his complicity in frauds to secure his election as governor for the purpose of securing his election as Senator, and in menaces and bribes to the members of the Legislature to induce them to vote for him. It was urged that this allegation was substantially made in the contest of 1877, but, partly because this was denied and partly because of the assertion that even if the allegation had been made no proof touching the specific point had been taken, the Senate passed a resolution directing the committee to investigate this charge and take such proofs as might be offered to sustain it. I do not pause to quote; I refer Senators to the memorial and the debate at the extra session.

I think this charge was clearly and fairly embraced in the charges made in 1877. The Senate, however, not deciding that question, permitted the testimony to be taken. This charge is of the gravest character. It touches the validity of the election; it touches the qualification of the member; it attacks the title to the seat. If fully sustained by the proof—assuming that it is, in the judgment of the Senate, a proper subject of investigation now—we would be bound, in my judgment, to unseat the sitting member. I have read closely, I have examined carefully every line of the testimony, twelve hundred pages, taken under the authority given in 1879.

Whatever is material is, as I think, wholly unworthy of credit; it is in all respects inconclusive; it is in no legal sense newly discovered. It is a mass of lies and misrepresentations and perjuries which shock the moral sense, and should be cast out of the Senate as an "unclean thing." I do not know whether these facts as averred in the memorial can be sustained by proof. I do know this testimony proves nothing to me except the utter villainy of these witnesses. I will on such evidence disturb no finding of the Senate.

On the whole, therefore, I find that every charge of every kind now made, whether relating to the election or organization or action of the Legislature, was made to the Senate in 1877, and that proof was adduced, and proffers of further proof were made to the Senate, and that judgment was given in behalf of KELLOGG.

There are no material facts, no proofs, no sources of evidence now disclosed which were not or might not have been then known. There is no newly-discovered evidence, no newly-discovered fraud, touching any of the charges then made and adjudged. I cannot on this state of facts vote to reverse that judgment.

The averment—alleged to be new, but which is, I think, only a repetition—as to complicity of KELLOGG in certain frauds has failed of proof in this newly taken testimony. I cannot, on this ground, vote to unseat the sitting Senator.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the resolutions reported from the Committee on Privileges and Elections.

Mr. CAMERON, of Wisconsin. Mr. President, does the Senator from Alabama desire to address the Senate at this time?

Mr. MORGAN. I do not.

Mr. CAMERON, of Wisconsin. Mr. President, so far as the report of a committee can do so, the report made by the majority of the Committee on Privileges and Elections has reopened the Kellogg-Spofford case in all its length and breadth. As thus reopened, or attempted to be reopened, the case presents many questions of law and also many questions of fact.

I will not, in the remarks I am about to make, attempt to go over the whole case, but will confine myself within much narrower limits.

Mr. Spofford complains in his memorial to the Senate asking that the case be reopened and retried that injustice was done him by the Committee on Privileges and Elections when the case was reported by that committee in 1877.

The Senator from Georgia [Mr. HILL] in his speech made a week or two since declared with much emphasis that the committee had done Mr. Spofford injustice because, to use the language of that Senator, not "a witness was sworn before the committee."

The junior Senator from Louisiana, [Mr. JONAS,] in an elaborate and carefully prepared speech, made by him on the 26th of April last, uses this language:

This case was originally decided, in my opinion, without proper investigation and hearing, and contrary to all precedent. It was acted upon in committee and reported prematurely.

The Senator from North Carolina [Mr. VANCE] who addressed the Senate some weeks ago in support of these resolutions also complained of the action of the committee.

To show how unfounded these and all similar complaints are I will make, as my contribution to this debate, a statement of the history of the case from the time of its inception up to the time when Mr. KELLOGG took the oath of office and was admitted to his seat.

In March, 1877, the credentials of Mr. KELLOGG were presented to the Senate, and subsequently referred to the Committee on Privileges and Elections. On the 17th of October following Mr. Spofford's credentials were also presented to the Senate. The following day the Senate agreed to a resolution referring the credentials of Mr. Spofford to the Committee on Privileges and Elections, and directing the committee to also consider and report upon the credentials of Mr. KELLOGG.

On October 19 the committee met, and the following resolution was adopted. On motion of Mr. HOAR, it was

Resolved, That the chairman be requested to notify WILLIAM PITT KELLOGG and Henry M. Spofford to appear before the committee, if they see fit, and state to the committee whether they desire to lay any, and what, evidence before the committee, and to be further heard in regard to their title to the seat by them claimed.

In conformity with this resolution both Mr. Spofford and Mr. KELLOGG made certain written statements in regard to their respective claims.

On the 25th of October Mr. Mitchell, acting chairman of the Committee on Privileges and Elections, submitted to the Senate the following resolution; which was unanimously agreed to:

Resolved, That the Committee on Privileges and Elections in the contested cases of WILLIAM PITT KELLOGG and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers and administer oaths, with a view of enabling said committee to determine and report upon the title respectively on the *merits* of each of said contestants to a seat in the Senate.

The committee, proceeding under this resolution of the Senate, adopted the following resolution:

Resolved, That it becomes necessary in determining the validity of an election of Senator, held in January, 1877, to inquire who were the lawful Legislature at that time, and that no other authority is competent to determine that question for the Senate.

The following resolution, offered by Senator Merrimon, then a distinguished democratic Senator from North Carolina, was agreed to unanimously:

Resolved, That the committee proceed to examine and ascertain the substantial merits of the respective claims of Hon. W. P. KELLOGG and Hon. H. M. Spofford to a seat in the Senate as a Senator from the State of Louisiana, and to this end to inquire particularly which or whether either of the two rival bodies claiming to be the Legislature of said State in January and April last was the true and lawful Legislature of said State.

Another resolution was agreed to, notifying the contestants to appear before the committee and state in writing what evidence they desired to present.

In conformity with this last resolution, on October 26 Mr. KELLOGG addressed a communication to the committee, as did also Mr. Spofford. It was agreed on all sides that, if possible, the range of inquiry should be narrowed, and that all facts possible should be agreed upon by the two contestants, to avoid the delay and expense of taking evidence. It was understood that the whole question regarding the election in Louisiana in 1876 had been gone over thoroughly by sev-

eral committees of each House of Congress. It seemed to be the desire of Mr. Spofford *at that time* that the investigation should be brought to an end as speedily as possible. In a communication addressed to the committee in the latter part of October he said:

I assume that it is the desire of Governor KELLOGG and of the committee, as it *certainly is mine*, that this matter should be determined speedily, certainly in a few weeks.

There were several statements and counter-statements made in regard to certain points, and the following resolution was agreed to:

Resolved, That a committee of two, consisting of Mr. Wadleigh and Mr. Merrimon, be appointed to consult with Mr. KELLOGG and Mr. Spofford, and ascertain from them and report to the full committee to what extent they may agree upon the facts involved in this case.

An interview was had by the contestants with this sub-committee, and finally the statement of points agreed upon was submitted to the sub-committee in a communication from Mr. KELLOGG dated November 13, and from Mr. Spofford dated November 16. On November 21 the committee met and received the report of the sub-committee. The following are the proceedings as shown by the committee journal of that day:

WEDNESDAY, *November* 21, 1877.

The committee met pursuant to adjournment. Present, Mr. Wadleigh, chairman; and Messrs. Mitchell, CAMERON, MCMILLAN, HOAR, INGALLS, Merrimon, and HILL.

Mr. Wadleigh, the chairman of the sub-committee, reported that he had seen Governor KELLOGG's agent, and that Governor KELLOGG agreed to the proposition contained in Judge Spofford's statement as to the Field and Morrison reports. It was therefore agreed that the reports known as the Howe, Sherman, Field, and Morrison reports, also the journals of the Packard and of the Nicholls legislatures, should be considered by the committee as evidence.

Mr. HOAR moved that the evidence in the case be now closed. Upon this motion Mr. HILL said that he *assented* to it with the understanding that Mr. Spofford should be *permitted* to bring to the attention of the committee in the morning some further points upon which he desired to take testimony; to which suggestion the committee assented, and the motion was then agreed to.

Mr. Merrimon moved that the contestants herein (Messrs. KELLOGG and Spofford) be given fifteen minutes each to close arguments; which motion, on the suggestion of Mr. HOAR, was so amended as to give each of the contestants thirty minutes; and as thus amended the motion was agreed to.

In the mean time, and on November 20, a motion was made in the Senate that the Committee on Privileges and Elections be discharged from the further consideration of the credentials of M. C. BUTLER, of South Carolina. This motion was considered November 21 and November 22.

It will be observed in the proceedings of the committee, November 21, that Mr. HILL refers to certain points that Mr. Spofford may desire to bring to the attention of the committee in the morning. I think I may say that this was a surprise to Mr. KELLOGG and the republican members of the committee, as it was believed that the agreement for the admission as evidence of the Howe, Sherman, Field, and Morrison reports and the statement of facts that Mr. Spofford and Mr. KELLOGG had respectively agreed upon covered all the points involved in the case. I, as one of the committee, supposed that it was understood that the agreement entered into in regard to the evidence and the facts admitted would cover all points involved and close the evidence in the case. The motion made by Mr. Merrimon, that the contestants be given fifteen minutes each to close the debate, clearly indicates that he was then of the same opinion with me. I think the record will show to any fair and impartial mind that this action of Mr. Spofford in desiring to come before the committee and present evidence on additional points was a sudden resolution on his part to procrastinate the case while the motion in regard to the Butler case was pending. On the following day, November 22, Mr. Spofford appeared before the committee and submitted the following five points upon which he desired to take evidence:

1. That the facts relative to the election of Tremoulet, Cressy, and Rollé, from the seventh representative district of New Orleans, were substantially as set forth in the statement read by H. M. Spofford in his argument before this committee on the 24th of October, 1877.

2. That the composition, votes for Senator, and political proclivities of the Legislature on the 24th of April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the aforesaid argument.

3. That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees, the commissioners of elections, and sent, one set to the clerk of the district court of each parish in the country, and to the secretary of state in the city, and the other sent to the returning board, (so called,) showed a majority of votes actually cast throughout the State of about 8,000 votes for Nicholls and Wiltz over Packard and Antoine for the offices of governor and lieutenant-governor in the election that took place in Louisiana November 7, 1876.

4. Besides these specific violations of the constitution and of the law under which they pretended to act, I charge that the conduct of the returning officers in suppressing polls and changing the result of the constitutional returns was clandestine, collusive, tyrannical, and unjust; that the real work of conducting an election, under pretext of compiling votes, was proceeded with in a secret chamber, by a corps of partisan clerks, while the occasional open sessions of the board were side-shows, devised to screen what was going on within; that arbitrary rules of evidence were established for pretended contests, and changed so often and abruptly that no fair trial could be had or was had before the board; that illegal complaints were constantly received and illegal evidence admitted for the purpose of setting aside polls that were in the way of such candidates as the board desired to elect; and that Mr. KELLOGG himself, then governor, joined in making illegal complaints and inducing the board to consider them.

5. I am informed, and so charge, that the returns from Vernon Parish, after they came into possession of the returning officers, and while they were under their control, were fraudulently altered by a change of figures, tantamount to a forgery of a public record; that the board knew what the figures upon those returns were before their alteration, and yet after the alteration promulgated the results of said forgery as the true returns; that by such fraudulent alteration E. E. Smart, candidate for representative in the State Assembly, who had, in fact, and according to the returns as they first came to the board, defeated his competitor, Brown, was left behind, and Brown, the defeated candidate, falsely declared elected; and that said Brown took his seat in the Packard house, and figures on the journal as present on the 2d of January, 1877, when there was a pretended count of votes for governor and lieutenant-governor in joint assembly, and perhaps on one or two other occasions, but that he afterward abandoned that body and went home, acknowledging that he never had been elected.

It will be seen by examining the proceedings before the committee that so far as Mr. Spofford was concerned, and in conformity with the reservation made by Mr. HILL the day before, these were the only points suggested by him which he desired to be further considered by the committee. *These points presented the direct question to the committee whether, in their judgment, the points proposed by Mr. Spofford had been already considered by them in their previous action, or whether they were covered by the admissions made by Mr. Kellogg or by the evidence already before the committee under the agreement between Mr. Spofford and Mr. Kellogg.* After Mr. Spofford had presented these five points, and after an elaborate discussion by the committee, as will be seen by referring to the proceedings of the committee, the following resolution was adopted:

Resolved, That it is the sense of the committee that the matters proposed by Judge Spofford, so far as material, have already been fully considered by them in their previous action, and are fully covered either by the admissions of Mr. KELLOGG or the evidence already before the committee.

I now proceed to consider whether or not the committee was justified in adopting this resolution.

The first point of Mr. Spofford's five points is, that the facts relative to the election of Tremoulet, Cressy, and Rollé, democratic candidates from the seventh representative district of New Orleans, were substantially as set forth in the statement read by Mr. Spofford in his argument before the committee on the 24th of October, 1877. On page 52 of the proceedings before the committee Mr. Spofford expressly admitted that the face of the returns unexplained would show that the three republican representatives were elected, and then he added these fatal words: "I have not claimed in my striking off of a quorum to exclude these people," referring to the three republican members from the seventh representative district of New Orleans.

He thus admitted the *prima facie* right of "these people," as he called them, to be admitted to seats to help make a quorum, and hence vote for Senator. I ask the Senate what possible avail would the testimony have been to Mr. Spofford under this point when he admits that these three representatives were elected upon the face of the returns and *prima facie* entitled to seats? But the testimony taken by the Morrison committee, part 2, pages 178 to 181, inclusive, being the testimony of the supervisor of elections of that ward; and pages 184, 185, and 186, being the testimony of Christopher, one of the commissioners of election; also on page 187, being the testimony of Tournade, also a commissioner of election in that ward; and pages 188 and 189, being the testimony of Davenport, also a commissioner; page 190, of Monier, also a commissioner of election in that ward; page 31, being the testimony of Anderson; page 57, being the testimony of Cassanave; and pages 17 and 23, being the testimony of Burke, cover the entire matter of the election in that representative district. And, after all this last investigation, there is no testimony which alters the condition of the evidence in the case on the first trial, except that it strengthens Mr. KELLOGG's case. Upon that, with perfect confidence, I invoke the judgment of the Senate when it shall come to consider it.

Mr. Spofford's second point is:

2. That the composition, votes for Senator, and political proclivities of the Legislature on the 24th of April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the aforesaid argument.

This point was considered by the committee on page 84 of their published proceedings, and was entirely covered by the evidence before the committee under the agreement between Mr. Spofford and Mr. KELLOGG. The journals of the Nicholls legislature, and the journals of the Packard legislature, and the returns of the members declared to be elected by the returning board afforded all the necessary data to determine these questions. All this was in evidence, and I now assert that there is not one line of material additional evidence touching this point in the volume of evidence containing over *twelve hundred pages*, now on the desks of Senators.

As to Mr. Spofford's third point, namely:

3. That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees, the commissioners of election, and sent one set to the clerk of the district court of each parish in the country, and to the secretary of state in the city, and the other set to the returning board, (so called,) showed a majority of votes actually cast throughout the State of about 8,000 votes for Nicholls and Wiltz over Packard and Antoine for the offices of governor and lieutenant-governor in the election that took place in Louisiana November 7, 1876.

Evidence showing all the facts in relation to this point appeared in portions of the testimony taken by the Morrison, Howe, and Sherman committees, and tabulated statements contained therein, showing relatively the votes for the electors and for governor in 1876. The journals of the Packard legislature and of the Nicholls legislature show tabulated statements of the votes claimed respectively by the two parties as having been cast for Nicholls and Packard. The testimony taken by the Morrison and Howe committees shows the whole number of votes cast and the number of votes rejected by the returning board; and besides all this, it was admitted expressly (on pages 60 and 66, committee proceedings) that if all the illegal votes cast in the State as well as the legal were counted, then the Nicholls party

had a majority. This is all the third point amounts to; and I now assert that there has not been taken by the committee, nor is there in the volume of testimony now before the Senate, one line of additional evidence regarding this third point. Like the second point, it stands precisely where it did when the report was made upon which Mr. KELLOGG was seated. The fourth point presented by Mr. Spofford, as to which it is claimed evidence was excluded, is:

4. Besides these specific violations of the Constitution and law under which they pretended to act, I charge that the conduct of the returning officers in suppressing polls and changing the result of the constitutional returns was clandestine, collusive, tyrannical, and unjust; that the real work of conducting an election, under pretext of compiling votes, was proceeded with in a secret chamber by a corps of partisan clerks, while the occasional open sessions of the board were side-shows, devised to screen what was going on within; that arbitrary rules of evidence were established for pretended contests and changed so often and abruptly that no fair trial could be had or was had before the board; that illegal complaints were constantly received, and illegal evidence admitted for the purpose of setting aside polls that were in the way of such candidates as the board desired to elect; and that Mr. KELLOGG himself, then governor, joined in making illegal complaints and inducing the board to consider them.

As to this point, the Morrison, Howe, and Field reports contain the testimony of all the members of the returning board, their clerks and attachés; the evidence of Major Burke and of others who appeared for the democratic party. Every act of the returning board was passed in review, tabulated statements made of all the votes thrown out by them, with the polls rejected by them; tabulated statements showing the vote as returned by them and the vote as claimed by the democratic party.

Mr. SAULSBURY. Will the Senator allow me a moment?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. SAULSBURY. I do not desire to interrupt the Senator without his permission, but I wish to inquire of him whether the reports to which he now refers, the Field report, the Howe report, and the Morrison report, entered at all into the question of how the returning board affected the legislative ticket? I was a member of one of those committees, the Howe committee, and I assert that with the exception of Vernon Parish we made no inquiry in reference to how the action of the returning board affected the composition of the Legislature. We did inquire in reference to presidential electors.

Mr. CAMERON, of Wisconsin. The returning board passed upon the election of the members of the General Assembly, the members of the lower house and the members of the upper house.

Mr. SAULSBURY. That is true.

Mr. CAMERON, of Wisconsin. And entirely covers the whole action of the returning board in regard to that matter.

Mr. SAULSBURY. The action of the returning board throwing out polls, &c., was brought out in the investigation in reference to the presidential electors, but the point I make is that there was no especial inquiry as to how it affected the votes for members of the Legislature, except so far as I now remember in Vernon Parish.

Mr. CAMERON, of Wisconsin. As I have already stated, the returning board were the returning officers for the State, and they passed upon the question as to whether the members of the General Assembly who were voted for at that election were elected or not.

Mr. KELLOGG. The certificates of the returning board as to the members of the house and senate were in evidence, showing those who were elected of both parties.

Mr. CAMERON, of Wisconsin. I will proceed with what I was saying. The Sherman report contained the proceedings of the returning board, day by day, from the day it first convened. Every poll-list and statement of votes from each and every poll in the State was opened and considered. Counsel for both parties were present. The representatives of the democratic party had copies of the statement of votes in each parish filed with the clerk, which they were enabled to compare with each return, poll-list, and statement of votes as they were opened respectively. There was nothing that the utmost vigilance could detect which escaped their observation. Any material change or alteration made affecting the result of any poll in the State would have been instantly detected. It has never been claimed that there was any change or alteration of any poll-list or statement of votes except as to the parish of Vernon. The part that Mr. KELLOGG took in the matter of protesting, and the only protest made by him, was made in conjunction with other electors and only as an elector, and this is set forth in the Sherman report, page 74, which was in evidence before the committee. There is testimony in these reports covering the entire subject of any possible relations or connection that Mr. KELLOGG had with the returning board. To illustrate, one has only to refer to the testimony taken by the Morrison committee, part 1, pages 57, 58, and page 62; part 2, page 385, evidence taken by the Howe committee; page 2935, Morrison report, and elsewhere throughout the testimony taken by the Morrison, Howe, and Field committees, all by agreement in evidence in this case.

As to the conduct of the returning officers in compiling the results of the election, the Morrison, Field, Sherman, and Howe reports are full and complete. Every person connected with the returning board, either as member, clerk, or attaché, was examined *in extenso* before these committees as to the secret sessions of the board; every person participating in such secret sessions was fully examined by both political parties regarding the proceedings in the secret sessions and the manner of compiling votes; and this testimony is set forth in detail in the evidence taken by the Morrison, Field, and Howe committees. There is no event in the world's history as to which more exhaustive investigation and proof has been made and reported to the country than as to the action of the Louisiana returning board in 1876. By agreement between Mr. Spofford and Mr. KELLOGG, all this evidence was before the committee; and yet Mr. Spofford, *evidently for the purpose of procuring delay in his case*, at the last moment, after it was understood that the evidence was closed, demanded that more proof should be taken as to the acts of the returning board.

Yet, Mr. President, I assert that there is *not* in the volume of evidence taken by the committee one line in regard to the matter covered by this point. There is no evidence taken tending to show that Mr. KELLOGG even indirectly had any connection with the returning board, or with the returns, in all these twelve hundred pages of evidence, unless it be the testimony of Henry Houser, an illiterate night-watchman at Mr. KELLOGG's stable, which is so contradictory and improbable as to be utterly unworthy of belief.

I come now to consider Mr. Spofford's fifth point, regarding which he claimed that he was unjustly denied the right to take evidence. It is as follows:

5. I am informed, and so charge, that the returns from Vernon Parish, after they came into possession of the returning officers and while they were under their control, were fraudulently altered by a change of figures, tantamount to a forgery of a public record; that the board knew what the figures upon those returns were before their alteration, and yet after the alteration promulgated the results of said forgery as the true returns; that by such fraudulent alteration E. E. Smart, candidate for representative in the State assembly, who had, in fact, and according to the returns as they first came to the board, defeated his competitor, Brown, was left behind, and Brown, the defeated candidate, falsely declared elected; and that said Brown took his seat in the Packard house, and figures on the journal as present on the 2d of January, 1877, when there was a pretended count of votes for governor and lieutenant-governor in joint assembly, and perhaps on one or two other occasions, but that he afterward abandoned that body and went home, acknowledging that he never had been elected.

As to this point, the whole question of the election in Vernon Parish and the returns of votes from that parish appeared in detail in the testimony of the Field, Morrison, and Howe committees. As to the manner in which the election was conducted in Vernon Parish the testimony taken before the Morrison committee may be found in part 4, pages 1, 2, 3, 4, and 5. As to the original Vernon Parish return and the alleged forgery thereof, the original return itself was produced before the Field committee, and the testimony was full regarding it.

This may be found in Field's report, testimony of Kenner, pages 85 to 88; also in Morrison's report, testimony of Littlefield, pages 89, 106, and 414; also of Anderson, pages 49 and 162; also of Wells, pages 40, 191, 199, and 218; also of Gifford, pages 391 to 395; also of Spering, pages 409 and 420. It may be found in evidence taken before the Howe committee, testimony of Littlefield, page 2756; of Woodward, page 2938; of Davis, page 2988; of Abell, page 2880; of Eaton, page 2957; of Palmer, page 3060; of Gifford, page 3041; of McCormick, page 2980. There was no question really made as to Brown, of Vernon; he did not participate in the vote for Senator, and there were at least six returning-board members more than a quorum besides Brown when the Legislature was organized and the vote for governor was counted, as the journal shows; so that here again in this fifth and last point, on which it is sought to overthrow the judgment of the Senate, there is absolutely not a shadow of materiality in all it alleges. In regard to this fifth and last point as in regard to the others, except as to the first, I assert that there cannot be found in this volume of twelve hundred pages now before the Senate one line of material testimony. Such are the five points on which Mr. Spofford seeks to overthrow the judgment of the Senate, because as to them he was not suffered to pile more proofs on the top of the mountains already made by his own agreement and received in the case, but given the opportunity he has still been unable to procure any evidence save as I have stated.

Such are "the five points" about which we have heard so much since this debate began. To say, in view of them all, that the committee, and subsequently the Senate, so "*misbehaved*" in declining the indefinite postponement of its decision in the case, in order to hear further about these points, as to render the judgment a "mistrial" and void, is to say what is, I most respectfully submit, an offense against the settled principles of the law and of this Government, and is to assert a thing which finds neither an analogy, an approximate, or an apology in all of the history of this country or of parliaments.

Let it be borne in mind that it is the omission of the Senate to grant Mr. Spofford's request to take further evidence on these "five points," and on no other, which is made to constitute the "misbehavior" of the Senate; and *this* it is that is alleged to take its judgment out of the category of good judgments. It is not the other accusation against Mr. KELLOGG (such as that bribes were paid) which is alleged to deprive the judgment of its efficacy, but it is the closing of the case without hearing the evidence on these five points. So claims Mr. Spofford's memorial, and so asserts the majority report in his case.

Now, sir, observe that not only was the evidence covering these five points, and which the committee did take and consider, full, exhaustive, and complete; not only was the additional evidence demanded irrelevant and incompetent, but when this Senate gave the leave to take further evidence—opened the door wide to Mr. Spofford and told him to "go in," aided by the ability, zeal, and well wishes of a friendly committee, and take his evidence on his five points, then he proceeded to take—none, absolutely none, save as to point 1, the Seventh ward; and *that*, I assert, was absolutely worthless to him and favorable to Mr. KELLOGG.

Now, I am asserting that after the Senate has opened its ears to Mr. Spofford in regard to these five points he became dumb as a statue as to all of them save one; and as to that, the evidence is in Mr. KELLOGG's favor.

In view of this fact alone I repeat my proposition: To now declare void this judgment of the Senate under all the conditions of the present case, upon the ground that mere cumulative evidence was not taken, as demanded, upon these five points, and since Mr. Spofford has failed to make any proofs additional on these points, would be an offense against the very life of this and all other representative governments which has no likeness in the history of parliaments or of this country.

What I am endeavoring to show is that every ground for a new trial now advanced by Mr. Spofford, not excepting that corrupt influence in securing votes for Senator, were matters put in issue in the first trial, and in contemplation of law were settled by that trial conclusively, so as not to be now open for investigation. Everything which was or might under the issue have been produced in that trial is by a conclusive presumption of law held to be finally settled by such first trial. Among the things so put in issue and settled was the question whether Packard's legislature was the true one, and included in this whether it ever organized with a quorum in each house, whether the persons making that quorum were *prima facie* members, and, providing the Senate can try the title of members of the Legislature, then whether the returning board was a constitutional body competent to make returns; whether there were any frauds in the returning board's acts, and generally every other thing into which the Senate has jurisdiction to look, scrutinizing the evidence bearing on Mr. KELLOGG's election, and in determining the competency, weight, and integrity of that evidence. I submit, in view of all that I have said regarding these five points, that the Committee on Privileges and Elections determined rightly on the 22d of November, 1877, when it resolved that the five points proposed by Judge Spofford had been already fully considered by them, and were covered by Mr. KELLOGG's admissions, or by the Howe, Morrison, Field, and Sherman testimony, already before the committee.

On the 23d of November, 1877, the committee adopted the following resolution:

Resolved, That this committee report to the Senate that WILLIAM P. KELLOGG is, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, 1877; and that Henry M. Spofford is not entitled to a seat therein; and that the chairman of this committee be directed to prepare and present to the Senate a report accordingly.

Before the resolution was adopted Mr. HILL moved to strike out the words "on the merits" and insert the words "*prima facie;*" which was disagreed to. On the 26th of November Mr. Wadleigh made a report in conformity with the instructions of the committee. The resolution was discussed by the Senate for several days, and on the 30th of November, pending the discussion of the resolution reported by Mr. Wadleigh, Mr. SAULSBURY offered an amendment reciting the five points upon which Mr. Spofford had asked the committee to take additional testimony, and moved that the case be recommitted to the committee for that purpose. A vote was taken upon the amendment offered by Mr. SAULSBURY, and it was defeated. Mr. HILL renewed his amendment in the Senate which he had offered in the committee, namely: "That Henry M. Spofford be admitted as a Senator from the State of Louisiana on a *prima facie* title, and subject to the right of WILLIAM PITT KELLOGG to contest his seat;" which was defeated by a vote of 27 to 29. The question recurred upon the original resolution, namely:

Resolved, That WILLIAM PITT KELLOGG is, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, 1877, and that he be admitted thereto upon taking the proper oath.

Resolved, That Henry M. Spofford is not entitled to a seat in the Senate of the United States.

And it was agreed to by a vote of 30 to 28. Mr. THURMAN then renewed a motion which had previously been laid aside by the Senate, "that M. C. BUTLER be now sworn in as a Senator from the State of South Carolina;" which was agreed to by a vote of 29 to 28; whereupon the Senator from South Carolina and Mr. KELLOGG were sworn in together.

I will refer to one or two other facts in the history of this remarkable case. After the committee had reported the case to the Senate, and while the resolution for the admission of Mr. KELLOGG was pending, the Senator from Georgia stated upon the authority of Mr. Spofford that Mr. KELLOGG went into the room occupied by the returning board through a side door. Great emphasis was placed upon the fact that he not only went into the room, but that he went into the room through a side door, as though it made a particle of difference whether he went in through a side door or a front door.

Mr. INGALLS. Or through the cellar.

Mr. CAMERON, of Wisconsin. Or through the cellar, or through the roof. The Senator from Georgia said that Mr. KELLOGG went into the room occupied by the returning board through a side door and insisted that the board should receive certain illegal affidavits that were made up in New Orleans by his order. In this matter, as in many others relating to this case, the Senator from Georgia was imposed upon by Mr. Spofford. There is not a single word of evidence proving or tending to prove this charge.

On the 29th of November, 1877, the Senator from Georgia made a motion to recommit the case to the committee, and in support of that motion he sent to the Secretary's desk and had read the following telegram addressed to E. JOHN ELLIS, and dated New Orleans, November 29, 1877:

There is documentary evidence here in KELLOGG's office to show that he used influence on the returning board. Tell Spofford.

HENRY L. SMITH.

The Senator from Georgia added, in substance, after causing the telegram to be read, "Mr. Smith is now in the executive office. He has access to these records, and this is the first time we have had this information." Mr. KELLOGG, in an open letter, addressed to the then chairman of the committee, denied these charges. On the 30th of November the Senator from Georgia again referred to the matter of these supplemental charges, and to Mr. KELLOGG's denial of them, and asserted with great positiveness that they were true, and that Mr. Spofford would show that they were true if the Senate would give him an opportunity to produce testimony. Well, the Senate, subsequently, did give him an opportunity to produce testimony, but not one word of evidence was produced in substantiation of these supplemental charges, nor of any of them.

Mr. Spofford and his counsel were loud in their declarations before the committee of their ability to produce damning testimony in support of all the charges made by them against Mr. KELLOGG. A democratic Senate gave them an opportunity to produce it. Long weeks were devoted by a friendly, I may say a zealous committee to the investigation, but the charges are still unproved. A certain class of lawyers, sometimes called by way of distinction "pettifoggers," in the trial of causes make offers to introduce evidence which they know cannot be produced, and if the court overrules the offers thus made they insist upon such rulings to obtain a new trial. I will not call Mr. Spofford a pettifogger, because, as I am advised, he at one time sat on the bench of the supreme court of Louisiana; but I submit to the candid consideration of the Senate that these offers to produce evidence which subsequent events have shown he could not produce were not ingenuously made. I will not now pursue this discussion further. At some future time, with the consent of the Senate, I will perhaps review the evidence taken by the committee and endeavor to show that it does not sustain the conclusions arrived at by the majority of the committee.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. VOORHEES. Is it desired to take a vote on that now?

Mr. McMILLAN. I ask the Senate to lay aside the resolutions temporarily and without prejudice.

Mr. VOORHEES. Unless some Senator wishes to address the Senate on the question which is now before us, or unless a vote is to be taken; that is to say, if the Kellogg-Spofford case is to be laid aside, I desire to ask the Senate to take up and consider the bill providing accommodations for the Library.

Mr. CONKLING. Suppose we adopt the amendment of the Senator from Massachusetts without objection. Let that amendment be adopted and then let the question stand until Monday.

Mr. VOORHEES. The Senator from Delaware will answer to that.

Mr. SAULSBURY. I will say that several gentlemen desire to speak, but they are not ready to take the floor just now, I find on consultation with them.

Mr. McMILLAN. Then I ask the Senator from Delaware to permit me to have passed a bill which is upon the Calendar which will not occupy more than two or three minutes.

ADJOURNMENT TO MONDAY.

Mr. HOAR. Mr. President, I rise to make a privileged motion. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts, [Mr. HOAR.]

Mr. DAVIS, of West Virginia. Mr. President——

Mr. CONKLING. The motion is not debatable.

Mr. DAVIS, of West Virginia. I ask for the yeas and nays, and then I think it can be debated. We this morning took a yea-and-nay vote on this question. I care very little about it; but I think it unfair, when a full Senate was here and the question was voted down this morning, now to renew it in a thin Senate.

Mr. CONKLING. The Senate is full enough.

The PRESIDING OFFICER. The Senator from West Virginia asks for the yeas and nays on this motion.

Mr. CONKLING. Oh, no; the Senator will withdraw the demand.

Mr. DAVIS, of West Virginia. I withdraw it.

The PRESIDING OFFICER. The demand is withdrawn.

Mr. SLATER. I ask for the yeas and nays.

The question being put on seconding the demand for the yeas and nays, it was declared that the call was not seconded.

The PRESIDING OFFICER put the question on the motion, and declared that the noes appeared to prevail.

Mr. HOAR. I demanded a division.

Mr. CARPENTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second to the call for the

yeas and nays? [Putting the question.] There is not a sufficient number to second the call.

Mr. HOAR. I rose and demanded a division.

The PRESIDING OFFICER. But the Senator from Wisconsin [Mr. CARPENTER] called for the yeas and nays.

Mr. HOAR. He did.

Mr. CARPENTER. But that call being lost, it is now proper to call for a division.

Mr. HOAR. Before the Senator from Wisconsin called for anything, I demanded a division.

The PRESIDING OFFICER. The Chair so understood the Senator from Massachusetts, but the Senator from Wisconsin made a demand for the yeas and nays, and the Chair supposed it would be proper to entertain that demand.

Mr. HOAR. I rise to a question of order.

The PRESIDING OFFICER. The Chair will again state the question to the Senate. The question is on the motion of the Senator from Massachusetts, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. HARRIS. Has not the Senate voted upon the question and the result been announced by the Chair?

Mr. CONKLING. It is in order over again. That was two or three hours ago.

Mr. FARLEY. It is *res adjudicata*.

Mr. CONKLING. Is that *res adjudicata* too?

The PRESIDING OFFICER. A division being called for, those in favor of the motion of the Senator from Massachusetts will rise and stand until counted.

The question being taken by a division, resulted—ayes 25, noes 14.

The PRESIDING OFFICER. The motion is agreed to.

Mr. MCMILLAN. Mr. President——

Mr. SLATER. I ask for the yeas and nays.

Several SENATORS. Too late.

The PRESIDING OFFICER. In the opinion of the Chair the call is not too late. Upon this question the yeas and nays are demanded.

The yeas and nays were ordered; and the Secretary called the roll.

Mr. GARLAND. I wish to state that the Senator from Delaware [Mr. BAYARD] was called home this morning on account of the sickness of his father.

The result was announced—yeas 29, nays 18; as follows:

YEAS—29.

Baldwin,	Conkling,	Kellogg,	Saunders,
Blair,	Dawes,	Kirkwood,	Teller,
Burnside,	Edmunds,	McMillan,	Vance,
Butler,	Ferry,	McPherson,	Voorhees,
Call,	Garland,	Morgan,	Windom.
Cameron of Pa.,	Hoar,	Morrill,	
Cameron of Wis.,	Ingalls,	Platt,	
Carpenter,	Jones of Nevada,	Pryor,	

NAYS—18.

Bailey,	Eaton,	Johnston,	Rollins,
Beck,	Farley,	Jonas,	Saulsbury,
Cockrell,	Groome,	Kernan,	Slater.
Coke,	Hampton,	Maxey,	
Davis of W. Va.,	Harris,	Pendleton,	

ABSENT—29.

Allison,	Grover,	McDonald,	Walker,
Anthony,	Hamlin,	Paddock,	Wallace,
Bayard,	Hereford,	Plumb,	Whyte,
Blaine,	Hill of Colorado,	Randolph,	Williams,
Booth,	Hill of Georgia,	Ransom,	Withers.
Bruce,	Jones of Florida,	Sharon,	
Davis of Illinois,	Lamar,	Thurman,	
Gordon,	Logan,	Vest,	

So the motion was agreed to.

HEIRS OF D. C. SMITH.

Mr. VOORHEES and Mr. MCMILLAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Minnesota?

Mr. VOORHEES. I do, reserving to myself the right to move to take up the Library bill.

Mr. MCMILLAN. I ask the Senate to take up and consider Senate bill No. 1124, for the relief of the heirs of Major D. C. Smith.

Mr. SAULSBURY. It is understood that the pending order is laid aside temporarily.

The PRESIDING OFFICER. That is the understanding, that the Kellogg case is informally laid aside. The question is on the motion of the Senator from Minnesota.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1124) for the relief of the heirs of Major D. C. Smith. It relieves the heirs and bondsmen of Major D. C. Smith, late assistant paymaster of the United States Army, from the payment of $166.29, and the interest thereon, as appears due upon settlement of his accounts.

Mr. MCMILLAN. There are three favorable reports on this bill from the Committee on Military Affairs. Let the present report be read.

The Chief Clerk proceeded to read the report submitted by Mr. CAMERON, of Pennsylvania, April 13, 1880, as follows:

The Committee on Military Affairs, to whom was referred the bill (S. No. 1124) for the relief of the heirs of Major D. C. Smith, having had the same under consideration, beg leave to submit the following report:

The bill provides that "the heirs and bondsmen of Major D. C. Smith, late assistant paymaster of the United States Army, are hereby relieved from the payment of the sum of $166.29 and the interest thereon, as appears due upon settlement of his accounts." This bill has been favorably reported upon three times—once in the House and twice in the Senate—but failed to receive the final action of both Houses in one Congress. It is, in the opinion of your committee, a perfectly meritorious case, and ought to have become a law long ago. The facts are fully set forth in the following reports heretofore made, and which are hereby adopted:

"[Senate Report No. 134, Forty-fifth Congress, second session.]

"In the Senate of the United States, March 12, 1878.—Ordered to be printed.

"Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following report, to accompany bill S. No. 800:

"The passage of the accompanying bill for the relief of the heirs of Major D. C. Smith was recommended by this committee and the Military Committee of the House of the Forty-fourth Congress, in consonance with the favorable reports of General COCKRELL, and Mr. McDougall, of the House committee.

"Copies of these reports are attached and made part of this report. I concur, and recommend that a favorable report be again made by this committee."

"In the Senate of the United States, March 13, 1876.—Ordered to be printed.

"Mr. COCKRELL submitted the following report, to accompany bill S. No. 548:

"The Committee on Military Affairs, to whom was referred the bill (S. No. 548) for the relief of the heirs of Major D. C. Smith, have duly considered the same, and submit the following report:

"Major D. C. Smith was a paymaster in the United States Army; was a gallant, efficient, and meritorious officer. On October 27, 1864, Major D. C. Smith, in company with several other paymasters, left Memphis, Tennessee, on board the steamer Belle of Saint Louis, for Saint Louis. At Randolph, Tennessee, this steamer started to land and was boarded by some eight or ten guerrillas, while others from the shore began firing into the steamer. The guerrillas on board undertook to force the engineer and officers of the boat to land.

"Majors Buler and D. C. Smith took their revolvers and approached the guerrillas on board and began to fire and were fired upon, and Major Smith was mortally wounded and died; Major Buler was also mortally wounded. Their gallant conduct enabled the steamer to be saved, and thus the Government property on board the steamer was also saved. Paymaster-General Alvord reports the accounts of Major D. C. Smith as follows, to wit."

Mr. COCKRELL. This bill proposes to credit this balance of $166, which is made up of very small items. It was fully investigated repeatedly. I made a thorough investigation of it myself. I hope the bill will be passed without further reading of the report.

Mr. MCMILLAN. I thank the Senator; that is the fact.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHANGE OF NAME OF SCHOONER.

Mr. THURMAN. I rise, Mr. President——

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. VOORHEES. I yielded the floor to the Senator from Minnesota, and I cannot yield further.

Mr. KERNAN. I ask the Senator to make one exception that we may pass a bill reported unanimously simply to change the name of a schooner which is lying idle until the name can be changed. It is hard on the owner.

Mr. VOORHEES. I presume that will take no time, and I yield for that purpose.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1703) authorizing the changing of the name of the schooner Rebecca D.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLONEL THOMAS WORTHINGTON.

Mr. THURMAN. Mr. President——

Mr. VOORHEES. I now move to take up——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. VOORHEES. I do not know for what purpose.

Mr. THURMAN. I want to ask the Senate (I have not been asking any favors of this kind, I believe, for a long time) to take up a little bill that only involves about $900 for a most meritorious old soldier.

Mr. VOORHEES. If I give way to the Senator from Ohio I shall have to give way to others.

Mr. PENDLETON. I hope the Senator from Indiana will make an exception for five minutes in this case.

Mr. VOORHEES. I will make an exception simply because it is the Senator from Ohio who makes the request.

Mr. CONKLING. Then if the Senator will make an exception in one other case, because it is mine, I hope there will be no objection.

Mr. COCKRELL. And one because it is mine.

Mr. THURMAN. The Senator from Indiana gives way to me, and I ask the Senate to take up a measure that stands nearly at the head of the Calendar, the joint resolution (S. R. No. 15) requiring the assembling of a court of inquiry in the case of Thomas Worthington, which has been reported back from the Military Committee with an amendment which provides that instead of the assembling of a court of inquiry the sum of $962 shall be allowed to this old soldier, who is now seventy years of age and more, with one foot in the grave, and in a state of extreme poverty.

Mr. CONKLING. And at the head of the Calendar.

Mr. THURMAN. And at the head of the Calendar. I hope the Senate will proceed to the consideration of the joint resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which was read.

Mr. THURMAN. There is a substitute reported by the committee.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. The Committee on Military Affairs propose to amend by striking out all after the resolving clause and inserting:

That the Secretary of War be, and he hereby is, authorized and required to settle and adjust the account of Colonel Thomas Worthington, Forty-sixth Regiment Ohio Volunteer Infantry, engaged in the service of the United States during the late war, by crediting and paying him, in addition to what he has already received on account of said services, the sum of $962.49, being the amount of pay to which he would have been entitled as colonel of volunteers from November 21, 1862, the date of his last payment, to March 1, 1863: *Provided*, That this compensation shall be accepted and receipted for by said Worthington as a full satisfaction of all claims on his part against the United States on account of said military services.

Mr. EDMUNDS. Let us hear the report, Mr. President.

Mr. THURMAN. There is a report, but I can explain the case in a few words.

Mr. EDMUNDS. I should like to hear the report.

The PRESIDING OFFICER. The Senator from Vermont asks for the reading of the report, which will be read.

The Chief Clerk proceeded to read the report submitted by Mr. GROVER from the Committee on Military Affairs May 28, 1879, but before concluding was interrupted by

Mr. VOORHEES. I rise to a parliamentary inquiry, whether it be in order to order the rest of that report to be read next week. If so, I should like to move to postpone it. Can the reading be dispensed with?

Mr. THURMAN. Yes, by unanimous consent.

The PRESIDING OFFICER. The Senator from Vermont called for the reading of the report.

Mr. VOORHEES. I move that the further reading of the report be dispensed with.

Mr. EDMUNDS. That cannot be done. This is the report of the committee that belongs to the bill; the bill involves important principles; and therefore it was that I wished to see what this case is to be a precedent for.

Mr. VOORHEES. As this bill is to lead to discussion and I had the floor and yielded it supposing the bill would not consume more than five minutes' time, I move to postpone the bill.

Mr. EDMUNDS. I hope the Senator will not do that. There are only two more pages of this report; it will not take ten minutes to finish it; and if the case is as I understand it to be from the Senator from Ohio, it seems to be right, but I should like to hear the report read to be sure that it does not make a precedent for something we should not wish to stand by hereafter.

Mr. THURMAN. It does not. The report could have been finished before this time. I hope the Senate will allow the reading to go on if it is insisted on.

The PRESIDING OFFICER. The reading will be resumed.

The Chief Clerk resumed and continued the reading of the report, which is as follows:

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. No. 15) requiring the assembling of a court of inquiry in the case of Thomas Worthington, beg leave to submit the following report:

Colonel Thomas Worthington was, during the late war, colonel commanding the Forty-sixth Regiment Ohio Volunteer Infantry, from January 30, 1862, when he was promoted from the lieutenant-colonelcy of the organization to the colonelcy of the completed regiment, until his court-martial and dismissal from the service in the fall of 1862.

It appears that he distinguished himself at the battle of Shiloh. General Sherman, in his report of that engagement, under date of April 18, 1862, says: "His (McDowell's) subordinates, Colonels Hicks and Worthington, displayed great personal courage." There is other evidence tending to show that he behaved bravely and managed his men with skill in that action.

Subsequent to this, to wit, on August 12, 1862, General Sherman issued General Order 69, headquarters, Memphis, convening a general court-martial for the trial of Worthington and others upon the charges of drunkenness and conduct unbecoming an officer and a gentleman. Under these charges there were various specifications, on some of which he was found "guilty" and on some "not guilty." The court thereupon sentenced him to be cashiered.

The findings and sentence of the court were approved by General Sherman on September 16, 1862, and promulgated in General Order 83, headquarters Fifth Division Army Tennessee. By General Order 86, headquarters district of West Tennessee, dated October 1, 1862, the same were approved by General Grant.

Against the proceedings in the premises Colonel Worthington formally protested under date of September 17, 1862, upon the ground that under the provisions of section 65 of the Articles of War the same were irregular and void, inasmuch as General Sherman, who ordered the court-martial, was the "accuser or prosecutor." It does not appear that this protest was brought to the notice of General Grant before he approved the proceedings of the court-martial, but there is an official indorsement made thereon by him, seventeen days subsequent to his order of October 1, simply referring the same to the Secretary of War.

It further appears from the record in the case that the whole matter was reviewed by Judge-Advocate-General Holt, to whom the protest of Colonel Worthington was referred, who, under date of November 19, 1862, writes as follows:

"SIR: I beg to call your attention to the records of the proceedings of a general court-martial held at Fort Pickering, Memphis, Tennessee, under General Order No. 69, issued by Major-General Sherman on the 12th of August, 1862, and which resulted in the dismissal of Colonel Thomas Worthington from the service.

"This officer now complains of the proceedings as irregular, and insists that the findings and sentence are inoperative and should be disregarded because Major-General Sherman, by whom the court-martial was ordered specially for his trial, was also his accuser or prosecutor in the case.

"The objection seems to me well taken. The act of 29th May, section 1, 1830, declares that 'whenever a general officer commanding an army or a colonel commanding a separate department shall be the accuser or prosecutor of any officer in the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States.'

"During the progress of the trial Colonel Worthington formally objected in writing to 'proceeding further without knowing by whom the charges were drawn or advanced.' His objection was overruled. This was irregular. Every officer on trial before a general court-martial is entitled to this information, since without it he can never certainly know whether the tribunal before which he is arraigned has been legally constituted or not. Major-General Sherman now states in writing that the subject-matter of the charges were made by him and placed in the hands of the judge-advocate. This, it is believed, constituted him an 'accuser or prosecutor' in the sense of the act of 29th May, 1830, and from him, as such, the power to appoint the court-martial was expressly withheld and given to the President. His action, therefore, in ordering a court-martial specially for the trial of an officer against whom he had preferred charges to be investigated being without legal sanction, the court itself was without color of authority and its proceedings and findings are a nullity.

"The matter of defense now urged did not, as the commanding general supposes, constitute a plea in abatement, which should have been presented at an earlier stage of the proceedings. The irregularity suggested does not call in question merely the jurisdiction of the court to try Colonel Worthington, but its existence as a legally organized tribunal.

"It is never too late to insist on so radical and fatal a defect as this. It is of the highest importance that the administration of public justice, as well in the military as in the civil service, shall be not only pure but unsuspected.

"This, however, could not be the case where a commanding general, with all the moral power which belongs to his position, permitted at once to prefer charges against his officers and to organize courts-martial for their trial.

"While, however, the findings and sentence of the court as embodied in this record cannot, for lack of legal sanction, operate *ex proprio vigore* to remove Colonel Worthington from the service, may not the facts reported, and on which they are based, furnish ground for the action of the President under the eighteenth section of the act of the 17th July, 1862, chapter 200?"

In continuation of the opinion, of which the above extract forms the first part, the Judge-Advocate-General characterizes the evidence given before the court as amply sufficient to sustain the findings and to warrant the President in exercising his powers under the act cited of July 17, 1862. But, so far as your committee can learn, no action was ever taken by the Executive conformable to the suggestion of the Judge-Advocate-General; but the contrary would appear, from the following letter, to have been the case:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, March 28, 1878.*

"SIR: I have the honor to report on your reference of the letter of Hon. Mills Gardner, M. C., for information whether Colonel Thomas Worthington, Forty-sixth Ohio Volunteers, was dismissed by the late President Lincoln, that the official records of this office indicate that he was not. * * *

"SAMUEL BRECK,
"*Assistant Adjutant-General.*

"To the honorable the SECRETARY OF WAR."

[The balance of the above letter simply recites the court-martial of 1862 and the revocation of the sentence in 1867.]

On December 22, 1866, Colonel Worthington addressed the following letter to the Secretary of War:

"WASHINGTON, *December 22, 1866.*

"Hon. E. M. STANTON, *Secretary of War:*

"SIR: On the 10th day of August, 1862, at Memphis, Tennessee, I offered my resignation, to take effect at such date as the Government might determine.

"On that day I was put in arrest on charges the proceedings with regard to which have been declared null and void for various irregularities.

"If any order for my dismissal on recommendation of the Judge-Advocate-General was issued, I feel very sure it is not of record in the Adjutant-General's Office, and I have never received any notice of the same, nor has it been promulgated in general or special orders to the brigade or division of which my regiment formed a part.

"I therefore respectfully request that all proceedings, of whatever character, under the charges against me may be set aside and my resignation of August 10, 1862, may be accepted to take effect on the 1st day of March following.

"From July 29, 1861, when my regiment was accepted, to January 30, 1862, when I was commissioned as colonel of the Forty-sixth Ohio Volunteer Infantry, my expenditures were over $2,000 in recruiting the Forty-sixth Regiment Ohio Volunteers. None of this has yet been refunded, and half of it or over I cannot recover under the rules of the Department. I therefore trust that my request as to the date of my resignation may not be considered unreasonable. It will allow me three months and eight days' pay after the 21st day of November, 1862, up to which time I have been paid.

"Or if it is deemed most proper to give me an honorable discharge, with or without reference to my real or intended dismissal, I shall of course acquiesce, still requesting that the discharge may be dated on or after the 1st day of March, 1863.

"Very respectfully,

"T. WORTHINGTON,
"*Late Colonel Forty-sixth Regiment O. V. I.*"

On January 8, 1867, the Secretary of War directed the revocation of Colonel Worthington's dismissal, and the Adjutant-General on that date issued "Special Orders No. 11," of which the following is an extract:

"5. So much of General Orders No. 86, dated October 1, 1862, from headquarters district of West Tennessee, as cashiered Colonel Thomas Worthington, Forty-sixth Regiment Ohio Infantry Volunteers, is hereby revoked, and he is honorably discharged the service of the United States upon tender of resignation to date November 21, 1862, to which date he has been paid.

* * * * * * *

"By order of the Secretary of War.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*"

It does not appear, then, that Colonel Worthington ever complied with the condition of the order honorably discharging him by tendering his resignation to take effect on the specified date of November 21, 1862, and he asserts before your committee that he never did do so; but his resignation which was accepted and acted upon was dated to take effect March 1, 1863. Colonel Worthington further asserts that his tender of resignation to take effect on March 1, 1863, as presented in his letter of December 22, 1866, above quoted, was made under circumstances of special hardship forcing him to that course, inasmuch as his "claim for recruiting pay" connected with the Forty-sixth Regiment Ohio Volunteer Infantry could not be settled so long as he lay under the disability of the sentence of the court. In evidence of this he submits the following letter of the then governor of Ohio:

"STATE OF OHIO, EXECUTIVE DEPARTMENT,
"*Columbus, December 26, 1866.*

"MY DEAR SIR: I hand you herewith the certificate you desire in regard to the Forty-sixth Regiment and also in reference to A. S. Platt's.

"I shall be very glad to assist you in any way possible in regard to your claim for recruiting pay, and would suggest that if your disability by reason of the action of the court-martial is removed your claim *in that respect* could be audited and paid by the board of military claims here. The United States recruiting officer here will not act outside of the letter of his regulations, &c.

"In haste, very truly, yours,

"J. D. COX, *Governor.*

"Col. T. WORTHINGTON,
"*Washington, D. C.*"

As it fully appears by the records in the premises that the court-martial and all the proceedings connected therewith were void *ab initio*, and that its sentence dismissing Colonel Worthington was revoked by the Secretary of War and an honorable discharge ordered to be granted him, your committee do not think that these proceedings in any way impair the military character and personal honor of Colonel Worthington. His honorable discharge from the service of the United States by his Government, with a full knowledge of all the circumstances affecting his services in the late war and his character as an officer and a man, constitute a sufficient vindication of him personally.

His pay in the service was stopped on November 21, 1862, the date of the supposed dismissal by the President, of which there is no record and no proof that it was ever ordered. The date of his first letter of resignation, addressed to the Secretary of War, and which he asserts was written under aggravated stress of circumstances, is August 8, 1862. It was not accepted. His letter to the Secretary of War calling his attention to this one of August 8, 1862, is dated December 22, 1866, and requests an honorable discharge.

Colonel Thomas Worthington is now seventy-two years of age and in utter poverty. Your committee would deem it an act of justice on the part of the Government if he should be allowed a reasonable amount of pay subsequent to the date of closing his account upon the date of the said assumed dismissal hereinbefore referred to, and recommend that —— pay be allowed him.

Inasmuch as Colonel Worthington has been honorably discharged from the service of the United States, in which he was a volunteer officer only, a court of inquiry, or a court-martial, which is provided for in the pending joint resolution for his relief, would tend in no way to reinstate him in the military service; and inasmuch as his military character has not been impeached by the proceedings already had, the appointment of a court of inquiry or court-martial under a special law would not be pertinent to his relief in the opinion of your committee, who therefore recommend the accompanying amendment to the said joint resolution:

S. R. 15.—Forty-sixth Congress, first session.

March 31, 1879, Mr. PENDLETON (by request) asked, and by unanimous consent obtained, leave to bring in the following joint resolution; which was read twice, and referred to the Committee on Military Affairs:

Joint resolution requiring the assembling of a court of inquiry in the case of Thomas Worthington.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, [That the Secretary of War is hereby required to order a court-martial or court of inquiry to inquire into the matter of the charges and specifications set forth in the military record of Colonel T. Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry, submitted to Congress May 6, 1878.

Said court to confine its inquiries to the record of Colonel Worthington's trial at Memphis, Tennessee, in August, 1862, unless considered that further evidence should be required for a proper understanding of the case.

Said court to consist of three or five members, and to assemble at Cincinnati, Ohio, on or before the 1st day of July, 1879; and the findings to have the effect of requiring payment to said Worthington of his pay as colonel of volunteers from date of last payment, November 21, 1862, to the date of his honorable discharge, January 8, 1867, if it be found that he was wrongfully "cashiered," or to preclude such payment, if otherwise found.

Said Worthington shall notify the commanding officer of said military district of his readiness to appear before said court, and he shall have reasonable notice of the time of the assembling of the same.]

AMENDMENT PROPOSED BY THE COMMITTEE.

Strike out all in brackets and insert:

"That the Secretary of War be, and he hereby is, authorized and required to settle and adjust the account of Colonel Thomas Worthington, Forty-sixth Regiment Ohio Volunteer Infantry, engaged in the service of the United States during the late war, by crediting and paying him, in addition to what he has already received on account of said services, the sum of $962.49, being the amount of pay to which he would have been entitled as colonel of volunteers from November 21, 1862, the date of his last payment, to March 1, 1863: *Provided*, That this compensation shall be accepted and receipted for by said Worthington as a full satisfaction of all claims on his part against the United States on account of said military services."

According to tabular statement published in the back of Army Register for 1878 the pay of a colonel is set down at $3,500.

Under the order of Military Committee, taking $3,500 as the basis, is—

For three months	$875 00
For nine days	87 49
Total	962 49

Being from November 21, 1862, to March 1, 1863.

Before the reading was entirely concluded—

Mr. EDMUNDS. I have read through this report, and I wish to ask the Senator from Ohio if I correctly understand it that in the end it comes to the question of the date at which a resignation was to take effect and pay be allowed?

Mr. THURMAN. It is simply to pay this man the money he is entitled to in the rank that he then held from the time that a sentence of dismissal from the service was pronounced by a court-martial that was utterly unauthorized, and whose sentence was entirely null, until he was honorably discharged from the service. All that time he was ready to perform his service and was entitled to be in the Army and to receive his pay.

Mr. EDMUNDS. Then if I understand it this does not affect any other case pending before the Senate.

Mr. THURMAN. None whatever.

Mr. EDMUNDS. I do not ask that the report be read further.

Mr. COCKRELL. I am against this bill and voted against it in committee. I do not approve of the principle or of the object of this bill. Here is a man who performed not one particle of service for the Government during the time specified. There was a technical defect in the court-martial proceedings, but according to the review of the Judge-Advocate-General, and according to the finding of the committee, the evidence given before the court was "amply sufficient to sustain the findings and to warrant the President in exercising his powers under the act cited of 17th July, 1862." A mere technical defect in the proceedings is the ground upon which this man bases the claim for what? Not for any service rendered, but because by reason of this defect he had a mere technical, naked right to an office, and had he performed the duties of the office would have been entitled to pay; he comes in now and asks to be paid. He has done nothing and he is entitled to nothing.

This is not the only claim of this claimant pending in Congress. As a matter of course the others have nothing to do with this, and the merits of those have nothing to do with the merits of this claim. But the question is: Shall the tax-payers of this country be made to pay for constructive, nominal services, never performed, never benefiting them one particle, when the claimant had his time and his labor all at his own command, when the facts in the case would have justified the President in dismissing the officer from the Army, and are so certified by the Judge-Advocate-General, and adopted in the majority report of this committee? I simply desire to record my vote against the principle of the bill and the amount appropriated.

Mr. THURMAN. Mr. President, I confess to my surprise at the position taken by the Senator from Missouri. I do not want to occupy time about this bill, but I must say a word or two in respect to his position.

The Senator says that there was a mere technical objection to the court-martial. No, sir, it was not a technical objection; it was an objection so deeply founded and strongly imbedded in the law that the Judge-Advocate-General himself decided, and the Administration, too, that the proceedings of the court-martial were an utter nullity, and from the moment its decision was pronounced up to the time he ceased to be in the Army Colonel Worthington was seeking redress and always ready to serve his country. What kind of a man he was, what sort of a soldier he was, perhaps can be as briefly stated in a letter from the present Secretary of the Treasury in reference to him, which I beg leave to read:

WASHINGTON, *April* 21, 1862.

SIR: Colonel Thomas Worthington, of the Forty-sixth Ohio Regiment, was authorized by General Cameron on the 29th of August, 1861, to raise a regiment, but it was not completed and sworn into service until December. He is a graduate at West Point, showed great ability at the battle of Shiloh, and is believed to be far superior to several officers who, by filling their regiments sooner, outrank him. It is the desire, I am informed, of all his superior officers that he rank from the date of his appointment, August, 1861. Cannot that order be made? If so, it will, in my opinion, promote the public service. I inclose a copy of a note from General Sherman upon the subject.

Very respectfully, yours,

JOHN SHERMAN.

L. THOMAS, *Adjutant-General.*

Mr. President, this old man, who some people think helped as much as any other man by the stand he made with that Forty-sixth Regiment of Ohio Volunteers, that lost nearly half its numbers on that dreadful field of Shiloh, to save our Army that day as any man who was in the Army, be his rank what it may, at all events did his duty with great skill, with great courage, with great fidelity, and I do not think he should be turned into his grave at seventy-odd years of age without the Government paying him the few months' salary he is entitled to by reason of the facts that are laid before the Senate by the report of the committee.

Mr. MAXEY. Mr. President, inasmuch as my colleague on the Committee on Military Affairs, the Senator from Missouri, [Mr. COCKRELL,] has expressed his dissent from the report, and the member of the committee who made the report [Mr. GROVER] is not here, I beg to state in a very few words why the committee reported as it did.

The objection to that court-martial was not technical. It was an absolutely illegal collection of men for the reason that the law prohibited the officer who commanded the Army, and who preferred the charges, to call the court at all. The charges were preferred by the general who called the court, and that was in direct violation of the law; and therefore the order calling the court being an illegal order, no order emanating from that court against Colonel Worthington should be binding, and that was the report of the then Judge-Advocate-General, Holt, who was himself, whatever I may think of him generally, a very able lawyer. That is the fact.

Colonel Worthington offered his resignation on the 10th of August, 1862, to take effect on the 21st of November, but afterward proposed that the resignation should not take effect until March 1, 1863. The President did not drop him from the rolls, as under the law as it then existed he might have done, but he was continued in the service. The committee, looking at the whole case in justice and equity, agreed to allow him the pay between the 21st November, 1862, and the 1st of March, 1863, making his resignation to take effect from that date, and believed that he was fairly, honorably, and equitably entitled to that amount of pay, because he was not out of the service. This was the view that the committee took of it; and although the Senator from Missouri calls it a technical objection, to my mind it is the most substantial objection to the action of a court which could possibly be made.

Mr. COCKRELL. On the 10th of August, 1862, Colonel Worthington tendered his resignation to the Department as colonel. Immediately, on that very day, he was placed in arrest and charges were preferred against him, and the proceedings of this court were had and he was ordered to be dismissed. Nothing further is heard of the matter until 1866. In 1866 Colonel Worthington applies for a review, four years after these transactions occurred, and they are reviewed

in the War Department, and on the 8th day of January, 1867, the Secretary of War directs the revocation of Colonel Worthington's dismissal. Now, what does he ask in his letter of December 22, 1866?

I therefore respectfully request that all proceedings, of whatever character, under the charges against me may be set aside and my resignation of August 10, 1862, may be accepted, to take effect on the 1st day of March following.

From July 29, 1861, when my regiment was accepted, to January 30, 1862, when I was commissioned as colonel of the Forty-sixth Ohio Volunteer Infantry, my expenditures were over $2,000 in recruiting the Forty-sixth Regiment Ohio Volunteers. None of this has yet been refunded, and half of it or over I cannot recover under the rules of the Department. I therefore trust that my request as to the date of my resignation may not be considered unreasonable. It will allow me three months and eight days' pay after the 21st day of November, 1862, up to which time I have been paid.

The order made on that application was this:

5. So much of General Orders No. 86, dated October 1, 1862, from headquarters district of West Tennessee, as cashiered Colonel Thomas Worthington, Forty-sixth Regiment Ohio Infantry Volunteers, is hereby revoked, and he is honorably discharged the service of the United States upon tender of resignation to date November 21, 1862, to which date he has been paid.

* * * * * * *

By order of the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant-General.

Colonel Worthington did not, as it is now claimed, accept that order; that is, he did not make a formal tender of his resignation to take effect on the 21st of November, 1862, and therefore he claims upon that technical ground that he is entitled to this pay from the 21st of November, 1862, to the first day of March, 1863. The committee's report say:

It does not appear, then, that Colonel Worthington ever complied with the condition of the order honorably discharging him by tendering his resignation to take effect on the specified date of November 21, 1862, and he asserts before your committee that he never did do so; but his resignation which was accepted and acted upon was dated to take effect March 1, 1863.

He was permitted to resign, and did resign, but claims that he did not accept the time fixed in the order permitting him to resign and that he fixed a subsequent time, a mere technicality and for which no service was ever rendered and for which no pay was claimed until long after the war and until the parties to this transaction had passed away, some of them.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Military Affairs.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MAXEY. I move that the title be amended to correspond with the body of the joint resolution as amended.

The title was amended so as to read: "Joint resolution authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry."

ACCOMMODATIONS FOR THE LIBRARY.

Mr. VOORHEES. After assuring the Senator from Ohio that I shall not soon forget the circumstance under which I lost the floor, I now move to take up Senate bill No. 1117, being a bill to provide additional accommodations for the Library of Congress; and I desire to state the condition of the measure as it is now pending.

The bill presented by the committee through me provides for an inspection, if I may use that word, of this Capitol building by three experts in architecture, for the purpose of determining whether additional accommodations can be provided in connection with this Capitol without marring its symmetry and its proportions. For the purpose of employing these experts the bill provides that a committee, composed of three Senators and three members of the other House, shall be appointed, and they shall employ the architectural experts that I have mentioned. The bill contains an appropriation of $5,000 to carry it into effect.

The Senator from Vermont [Mr. MORRILL] offers an amendment which takes for granted that this building cannot be used further for the accommodation of the Library than it is now, takes for granted that the Library is to be detached from this building somewhere, and provides for a commission of three Senators, three members, and three persons not members of Congress appointed by the President, who shall proceed to select the site for a new library structure.

These are the propositions before the Senate. The vote will necessarily be taken upon the amendment first, and those who believe that the Library cannot be accommodated in connection with this building will naturally support his amendment. Those who desire if it can be done that the Library shall be accommodated in connection with this building, and wish further to be advised on that point by experts in architecture, will vote for the bill. That is the issue presented by the amendment and by the bill, as I understand.

I shall not say any more in regard to the pressing and immediate importance of taking action on this subject. I have, however, since I became chairman of the Joint Committee on the Library, determined in my mind that I shall not retire from that place without appropriate quarters being provided for our Library and its great increase from year to year, if I can bring it about. The responsibility shall not lie at my door. Consequently I may have seemed to be persistent since this subject came up. I want this branch of Congress at least to act before this session closes. We have had a great deal of talk. It is now nearly eight years since everybody knew that we had to provide for our increasing Library. Eight years we have talked about it and put it off, talked about it and put it off again and again. The thing has to be done; the first step is to be taken. I intend so far as I am concerned to discharge my entire duty in bringing about that first step at the present session of Congress, if possible.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate proceed to the consideration of the bill to which he has referred.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1117) to provide additional accommodations for the Library of Congress.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. MORRILL,] which will be read.

The CHIEF CLERK. The amendment is to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That a joint select committee, consisting of three Senators and three members of the House of Representatives, together with three persons to be appointed by the President of the United States, shall be, and hereby is, authorized and directed to carefully examine the question of a site for the Library of Congress and report to Congress, as soon as practicable, what location would be most appropriate for the Library and afford the highest advantages for its future growth and permanent accommodation.

Mr. HOAR. Mr. President, I wish to call the attention of the Senator from Vermont to a point which does not relate to the subject to which this bill relates, and that is the expediency of making members of the Senate and members of the House of Representatives parts of a committee, in which they stand as equals, with persons appointed by some other authority. It has been done occasionally; but it seems to me that it is a bad practice, and I doubt very much whether the Senate has the right to impose on any member of this body the duty of serving on a committee except a committee made up of Senators or a joint committee made up from the two Houses. If this committee, as it is called, be raised the Senate members of it may be bound to report to this body the doings of a committee all of which they entirely disapprove themselves. It seems to me the true and proper way is to authorize the appointment of a joint committee with authority to employ the services of three other persons or any number of persons, as may be thought proper.

Mr. INGALLS. Mr. President, there is something to be said in favor of each proposition that is now before the Senate. My own judgment is in favor of the plan for so changing the Capitol building as to secure accommodations for the Library, but I am not enough of an architect to know whether this is feasible and possible or not. I can therefore see the propriety of having a commission to inquire into the expediency of selecting a location outside the Capitol for the construction of the Library. I desire as far as possible to reconcile these two plans, and for the purpose of enabling this commission to report upon the entire subject I offer the following as a second section to the bill proposed by the Senator from Indiana:

SEC. 2. That said joint select committee is also authorized and directed at the same time to examine the question of a site outside the Capitol for the Library of Congress, and report to Congress what location would be most suitable for the Library and afford the highest advantages for its future growth and permanent accommodation.

The PRESIDING OFFICER. The Senator from Kansas proposes to amend the text of the bill by the addition of a new section, which will be reported.

The CHIEF CLERK. It is proposed at the end of the bill to add:

SEC. 2. That said joint select committee is also authorized and directed at the same time to examine the question of a site outside the Capitol for the Library of Congress, and report to Congress what location would be most suitable for the Library and afford the highest advantages for its future growth and permanent accommodation.

Mr. VOORHEES. Mr. President, personally I should have no objection at all to that amendment; it strikes me as fair; but acting as the organ of the committee and under its instructions, I cannot accept it. If I was not situated as I am, I might take a different course in regard to it.

Mr. HOAR. Will the Senator from Indiana allow me to ask him, before he sits down, a question? Perhaps these are trifling suggestions, but they seem to me to be important. Is it not rather new to raise a committee of the two Houses of Congress by act of Congress? Why should we ask the assent of the President of the United States to our raising a joint select committee, whose only duty is to report to the two Houses, except that they are to employ certain experts, which we may give them authority to do by vote of either branch alone, and may expend certain sums for plans, which our committees do half the time on the vote of one body?

Mr. VOORHEES. If I understand the difficulty of the Senator from Massachusetts, it relates to the amendment offered by the Senator from Vermont and not to the bill.

Mr. HOAR. It relates to the whole bill.

Mr. VOORHEES. The bill provides for a committee appointed by the two branches of Congress.

Mr. HOAR. The Senator will allow me to restate the point. This bill is—

That a joint select committee, consisting of three Senators and three members of the House of Representatives, shall have power to employ, as soon as may be, at the expense of the United States, three persons of suitable skill and attainments, who—

Shall do certain things, and thereupon the committee shall make a full report to Congress of what these three persons say, and—

The sum of $5,000, or so much thereof as shall be necessary, is hereby appropriated.

Is it not the commonest thing to send for persons and papers and to employ experts in the services of our committees by the resolution of either House? The committee raised by the resolution of the honorable Senator from West Virginia [Mr. DAVIS] to make inquiries as to the book-keeping in the Treasury was authorized by the Senate alone to employ all the experts they needed, and they did.

This is nothing more nor less than raising a committee by the two branches of Congress.

Mr. VOORHEES. The point is, as I understand the Senator from Massachusetts, that he objects to a committee being raised to report the findings of the experts.

Mr. HOAR. I do not object. I merely asked the Senator whether that was not unusual.

Mr. INGALLS. The Senator from Massachusetts thinks it ought to be in the form of a resolution rather than a bill.

Mr. HOAR. A simple resolution of the two Houses, it seems to me, would answer.

Mr. CONKLING. Mr. President, I see no objection to employing the form of a bill to raise a joint committee for this purpose, particularly as an appropriation of $5,000 is contained in the bill. That it seems to me makes it very proper that it should be a bill. Doubtless it might be done by a concurrent resolution—the difference would be one of form—provided it was followed by a resolution for paying the expense out of the contingent fund. But I do not see that that matter of form is one which calls very largely upon any Senator for discussion or is likely to govern his vote.

The amendment offered by the Senator from Kansas [Mr. INGALLS] is one which the Senator from Indiana [Mr. VOORHEES] says personally—I presume by that he means individually—he should have no objection to, but as chairman of the committee he either does not accept it or he opposes it. Were I in the place of the Senator from Indiana, I should have great objection to it both as chairman of the committee and individually as a Senator; and I wish to assign one or two of the reasons which would move me and do move me in that way.

If a committee is to be appointed with authority to employ experts to go out at large, for that is what this amendment means, and speculate or discourse upon all manner of propositions which anybody may suggest, not only upon the question whether the Capitol can be adapted to this use, but upon the question whether any or every other proposed site or plan is feasible, I think it will be very much like Shakspeare's circle in the water,

> Which never ceaseth to enlarge itself,
> Till by broad spreading, it disperse to naught.

And in addition to that it will be an entirely unguided commission, an unguided committee of the two Houses expressing no opinion whatever, even upon the hypothesis that this building can be adapted to it, whether it would be well so to utilize the building and so to improve it, if improvement it would be, or not. In other words, it is a mere vague, pointless inquiry turning like a swivel-gun in every direction, north, south, east, and west, embracing the Capitol and embracing everything else.

If I remember aright, the last time this subject was discussed here—and it was discussed with great thoroughness—it was the judgment of a large majority of the Senate——

Mr. EDMUNDS. Four to one.

Mr. CONKLING. The Senator from Vermont says four to one; the judgment was that assuming—I do not assume it as a matter of fact but merely as a supposition—that the Capitol can be so changed as, not to degrade the building, not to disfigure it, but to improve it and improve the accommodations of the two Houses and of the committees, then it would be wise, and most wise of all the alternatives, to take that course in providing accommodations for the Library. That was the judgment of the Senate; the Senator from Vermont [Mr. EDMUNDS] says by a vote of four to one. I presume he is right, although my own recollection would not enable me to state that. After hearing the senior Senator from Vermont [Mr. MORRILL] presenting fully and ably then, as he has done since, his objections, after hearing everything that could be said on the subject, the Senate by an overwhelming majority said that the thing to do was at least to ascertain whether this building without detriment could be so changed and economically so changed as to answer this purpose.

Now, what does the Senator from Kansas [Mr. INGALLS] propose? He proposes to go all the way back to the beginning and to start an inquiry without anything in the bill controlling it, in respect to be sure of the Capitol, but also in respect of any and all other plans, what other site there is on the east or on the north, or as some Senators argued it might properly be before, in the west part of the town although two miles away, for I remember that some Senator demanded of me to know how far I supposed it was from the new Parliament House on the Thames in London to the British Museum, and when I stated it to him he did not see any reason why this Library should not be carried just as far from this building as the British Museum is from the House of Commons and the House of Lords. And so there was an immense periphery and circumference of suggestion about this thing as being feasible and proper. This amendment now embraces all that, and these experts and others are to go at large and everything that we have done and arrived at heretofore is to pass for nothing.

Mr. President, it would be presumptuous for me in my own estimation, as I am sure in the estimation of others, to venture to express an opinion, even after conversing as I have done first and last with a good many persons of taste and skill in architecture, upon the question whether this building can be adapted to all the uses now contemplated or not. I therefore would be very careful in not even seeming to express a belief of my own in that regard as worthy the consideration of any Senator whatever, although perhaps I ought to add that I have been assured by a number of persons, in the judgment of either of whom I should repose much confidence, that this can easily be done and in either one of several ways, some of which have been shown to me projected on paper presenting elevations and façades, and the whole building as it would stand treated in one of these modes.

But assuming that such may be the fact, then I venture to remind the Senate, as perhaps I have sometimes done before when this subject has been under discussion, that no paltry part of this subject consists in furnishing, if we can furnish, not to ourselves, for few of us are likely to be here when the time arrives, but to those who are to come after us during, I trust, a far-stretching future, a better place in which to pass months of every year than this place which the Senator from Ohio [Mr. THURMAN] the other day found when he looked at it to resemble in one respect the cells or the dungeons, or whatever they are called, in that Unitarian church to which, although deserted, the Senator from Ohio still clings with such devotion, for he said that there were here as much as there no outside windows, and that in that sense we were in a cell. So we are, and in a very unwholesome chamber; and at the other end of the building a number of persons much greater than the Senate are as badly off, if not worse placed.

Now, if it be true that this building ennobled and improved and not degraded by the change, corrected in some of its manifest if not manifold architectural deficiencies, can be made not only to accommodate the Library here where it is most and oftenest needed, but to accommodate the committees now existing and those needed hereafter, and above all the two Houses of Congress with chambers adequate and blessed with a vision of the open air and with contact with it, that I submit is of vastly more importance and an achievement much more worthy of the Senator from Indiana than merely to find somewhere a room large enough to hold and light enough to read the volumes of the congressional Library. If the only purpose is to find a place water-proof and practically fire-proof, large enough to hold the present Library and for a long time its future accretions, and a place which can be reached on foot or on wheels by everybody who wants to go there, the proposition is so simple that there can be no individual in this Senate, the money being provided, who would fail to achieve that result.

But as I have said, perhaps unnecessarily, it seems to me that incident to this proceeding are other things hardly less grave, which when put together make the matter of much more interest, of much more lasting and of much more grave importance, than the mere place of deposit of so many volumes called a library.

I hope that the honorable Senator from Indiana, to whose speech I listened the other day with great pleasure and with whose efforts in this regard I sympathize, in place of allowing his bill to be embroidered with amendments, pinked out with here and there a suggestion derogatory and destructive of it, will stand by it and let us have from this committee and their experts once at last, (we have been trying for it a long time,) an answer to the question whether within the whole domain of architecture and skill in constructing and altering buildings, and at a cost, not a conjecture, there is to be found a plan for amplifying and improving this stately building so as to answer not only its present purposes but all the purposes belonging to it as well.

Let us have an answer to that question, and when the experts or the committee come and inform us that that cannot be done, then by all means let us proceed under some such amendment as my friend from Kansas proposes to inquire after the next best thing. But having determined that this is the best thing if it is feasible, let us find out whether it be feasible or not, and not go wandering around to find out whether all manner of other things would not be feasible also, if it is true that this is the thing that we want, provided it can be practically attained.

Mr. THURMAN. That is precisely what I do not want Congress to do.

Mr. CONKLING. I supposed the Senator would be against the right side, whatever that was.

Mr. THURMAN. I do not want Congress to decide that this is the best thing. This bill has but one idea in it, and that is to ascertain whether this building can be so enlarged as to afford sufficient room for the Library, and also whether the legislative halls may not be improved. That is all there is of it; but so far as the Library is concerned it has but one idea, and that is to ascertain whether this building can be so enlarged as to provide ample accommodation for the Library.

I have heard it said that we had better pass this bill, because if the report is adverse to an enlargement of this building then this building will be eliminated from the consideration of the subject. But suppose that the report of the experts and of the committee is that

this building can be enlarged, and can be enlarged even without any injury to the building but with benefit, without any injury to its appearance, without any injury to the purposes for which it was constructed—suppose all that to be reported, ought that to be decisive? Does not the question still remain, and will it not remain, whether it is better to do that or to build a separate building? To be sure it will.

You do not eliminate anything unless the report is adverse to enlarging this building. If it be adverse, then you have eliminated this building, provided Congress sees fit to agree to the report; but if it should be reported that it is practicable, then you have not eliminated this building at all; then you have still the question before you, is it better to adopt the report to enlarge this building in the manner proposed, or is it better to build elsewhere?

Therefore, this bill seems to me to be too much a one-sided bill. I think that the committee with its experts had better report upon the whole subject. Let them report whether it is practicable to enlarge this building without injury to its appearance or without injury in any other way. Let them report what advantages might be attained by an enlargement or alteration in the legislative halls or anywhere else in the building. Let them report on that; but at the same time let them tell us whether if that were done, that would be the best thing to be done, or whether it would not be better still, instead of doing that, to build a separate building elsewhere.

Mr. President, I must confess that I shrink from seeing this building tinkered with. Without having traveled over all this world, from all that I have ever seen in print, or engraving, or picture, and from all that I have ever heard from travelers, it is my firm belief that this is the most beautiful building in the world. I think further in respect to it, that if it were not for its magnificent site on this hill, its elevation, the building would already appear too low, owing to its great length. If we are to add an extension to it, making a sort of Greek cross of this building, it appears to me then it will appear altogether too low for architectural beauty. But I do not pretend to set my judgment against that of the traveled gentlemen, those who have rambled all over Europe and admired all the fine buildings there, and who are perfectly competent to decide on all questions of architecture and taste. I only state just what a simple man feels about such a subject, looking at the building as it is, and imagining what would be the effect of still further extending its area.

For that reason, I have never felt that the right thing to do was to enlarge this building for the purpose of accommodating the Library. There are other reasons, however, why I think it should not be done. So far as a working library is concerned we have five times as much room now as we want. I venture to assert that of the 375,000 volumes—I believe that is about the number, is it not?

Mr. VOORHEES. Yes, sir.

Mr. THURMAN. Of the 375,000 volumes now in the Library, the hand of man does not touch 10,000 in any year and never did, unless it was to put them in their shelves. Why, 5,000 volumes are a very large working library. We have already room for a far larger working library than Congress will need. What, then, do we want? To build some structure that will aid members of Congress with a working library? No, sir, not that; but we have a copyright law which sends to your Library two copies of every work published in America, of every print published in America, of almost everything published in America, and it fills up your Library from day to day. In addition to that, we have a national pride in having one of the grandest Libraries in the world; and I do not object to that at all. Then we want a large building to hold these things, not to make a working library for Congress, although it is called the Library of Congress, but to make a library that may be resorted to by men of science, by students, by authors, just as the British Museum is resorted to. That is what you want; but to have that you do not need that it shall be a part of this building. It is sufficient that it is here in Washington. It would do if it were elsewhere, but it certainly is sufficient that it is here in Washington.

I have always believed, and I shall continue to believe until I am convinced to the contrary by those who are better qualified than I am to judge, that what I have contended for from the first is correct, that this Library building, which is to resemble somewhat the British Museum in its capacity and in its contents, ought to be on Judiciary Square, which belongs to the Government already, and which is the largest square in the city and is destined to be one of the most beautiful. That is where I think it ought to be.

Mr. President, entertaining these views, I shall vote for the amendment of the Senator from Kansas, but I shall also offer the following amendment, to add at the close of section 1 these words:

And especially whether such mode of providing for the Library is preferable to the erection of a separate building for that purpose.

So as to read:

And said committee shall in any case make a full report on the subject.

That is, about the alteration of this building, and I propose to add:

And especially whether such mode of providing for the Library is preferable to the erection of a separate building for that purpose.

I suppose it would not be in order to move that now, as there is an amendment pending.

The PRESIDING OFFICER. There is an amendment pending, and the suggested amendment is not in order at present.

Mr. CONKLING. The honorable Senator from Ohio finds objection to this bill because he says it has one idea. If that was the "Ohio idea" he would not object to it for that reason, and I find no objection to it because it is not "the Ohio idea." The Senator says he prefers Judiciary Square. There is something touching in that. It shows that the Senator still clings to the Unitarian church which we heard about the other day; he evidently wants this Library to be taken down there or into that immediate vicinity; and as my friend behind me [Mr. CARPENTER] suggests, the law library would become a part of the police court I suppose. [Laughter.]

The Senator from Ohio some time ago, in a speech which I remember very well, which occurred on an occasion the Journal of which the Senator from Vermont [Mr. EDMUNDS] has handed me, said that he wanted this Library carted off somewhere else. He said some other things which I remember. One of them I will state. I will not undertake to give the mathematics, but he said then in addition that he did not believe one Senator out of so many went to the Library once in so often, from which I should infer that this Pierian spring which the Senator from Indiana talked about the other day, of which he cautioned us all to drink so deeply and so often, is one to which nobody except the Senator from Indiana has ever resorted, possibly also the Senator from Ohio; he must have been there to see that no other Senators go there. But his idea was then and is now that the Library is a sort of external ornament, and he wants it carried off somewhere else, and I believe he said then to Judiciary Square. In consequence of the eloquence of the Senator on that occasion a good many Senators were moved to know whether as a practical proposition even the Senator from Ohio could prevail with such an idea. Accordingly the Senator from Vermont moved to amend the motion, and I ask the attention of the Senator from Ohio to this, by striking out these words:

The different sites and provisions proposed for the Congressional Library, together with the recommendations of said commission, and especially touching—

That is, to strike out the very amendment in essence which is offered now by the Senator from Kansas, so as to bring the Senate to an expression of opinion upon the point, and the single point separated from all others, whether the Library should be retained in this building, and whether this building should be, if it could be economically and safely, adapted to its accommodation. How did the Senate vote on that?

It was determined in the affirmative—yeas 49, nays 11.

More than four to one.

The yeas and nays being asked for, they were taken. Here they are; and I will read only the names of the Senators who voted in the negative:

Messrs. BAYARD, CAMERON of Pennsylvania, FERRY, HOWE, KERNAN, MORRILL, PADDOCK, ROLLINS, SAULSBURY, VOORHEES, WINDOM.

Curiously enough, among those who then voted, notwithstanding the speech which he had made, to strike out these words, was the illustrious Senator from Ohio himself, for here he stands on the yeas and nays voting that this inquiry should in the first instance be confined to the Capitol, and should exclude all inquiry touching other sites. When the Senator came practically by his vote to express his opinion, what did he mean? He meant the answer to the argument which he has submitted here to-day, and perhaps it may all be put in this language: Here is a man who has a house; he likes the site and he likes the house; but it is not large enough for all his purposes; he wants a library, and he wants something else, and if he can get it there he wants it in that house. If he is compelled to be driven away to some other site, of course he must submit to his necessity. What does he do? Why, he employs an architect, to ascertain what? To ascertain, in the first place, whether he can have what he wants, namely, an enlargement of that house on that site. Why does he do that? Because if he can have it, he prefers that. Is not that this case? Here the Senate has voted by this overwhelming majority, more than four to one. It would be four to one without the Senator from Ohio. Some man said that Socrates was a majority in Athens all alone, and when I add the vote of the honorable Senator, seeing the consideration that he has given, then I might say that it is a great deal more than four to one. By that vote the Senate has said, "If we can keep in our present home we want to stay in it; if properly and economically this house can be enlarged to give us a library and give us what we want, that we prefer to anything else; that is our judgment; that is our preference; that is our conscience on this subject. Now, let us ascertain whether that can be done. If it cannot be done, then let us find out the next best thing; but if that can be done, that we want." Now comes the honorable Senator to us again: "Well, on the whole, I do not know, I am afraid of disfiguring this building." See where that argument leads you to. Will he be any wiser, when he comes to see a plan for changing the building, to be shown at the same time plans having nothing to do with that subject, but showing how Judiciary Square or the City Hall can be enlarged? Will that enlighten him in respect of his fears that this building may be blemished or disfigured? Not at all. When he comes to that question he must come to it as this bill proposes, by looking at the merits of that proposition, of that project, and that he must vote upon.

What is the sense of employing these men to go at large, and take all the time that will be required, and all the cost that will be involved, to make plans and projects for all other things, when we have

already determined that we do not want other things, whatever they may be, provided this one thing, which is our preference, is feasible and attainable? Why should we not stand by it? The Committee on the Library has said so, and has reported such a bill, and in reporting it has paid, as the chairman of the committee said, heed to the pronounced and emphatic judgment of the Senate? Why should we go back on that and plow it all up, and take up the question as if we never had heard of it before, to consider all the paths which have been traversed and which have been touched? I do not see it.

The Senator has said that he believes this building to be the most beautiful building in the world. I have my share, I hope, of Americanism. I like to hear about the great American dollar and the great American eagle; I like to see her fly and hear her scream. That is all very well; but I should doubt whether the Senator was quite warranted in talking about this building as being the most beautiful building in the world, even among the buildings which he is familiar with in his own country. Be that as it may, I hope I have my share of respect and reverence for this Capitol with its dome, the memories which cluster about it and the nationality which it typifies; but that reverence does not go so far as to lead me to sit down in this day and generation and say of a building which began by being a small building, which was added to by piecemeal, which has grown to its present dimensions, that I will not even consent to an inquiry, harmless as it may be, and an explanation, satisfactory or unsatisfactory as it may be, of the modes in which this building can be improved and made more grand, more stable, and more satisfactory than at present. I think that rather a sickly sentimentality. Be it the handsomest building in the world or be it otherwise, to inquire whether a building or a plan or anything else can be improved or not seems to me a very harmless and blameless proceeding. When the Senator from Ohio comes to see the plans and the report of this committee he will be able to judge, I doubt not much better than I shall, whether it is safe to venture upon this or not. If he and others determine that it is not, then it will be in order to look for the next best thing; but in the mean time let us proceed in such a way that we shall get an answer some time or other, and an answer upon this one point touching which the Senate has so emphatically recorded its judgment.

Mr. SAUNDERS. I see that this question is going to be debated for some length of time; and as it may go over until Monday and come up again as the unfinished business, I desire to make a motion——

Mr. VOORHEES. I see no reason why we cannot vote this evening.

Mr. SAUNDERS. I see no prospect of that.

Mr. VOORHEES. We have talked all over this subject before; everybody understands his own mind.

Mr. SAUNDERS. The little matter which I wish to call up will take no time and will not interfere.

Mr. VOORHEES. I cannot be betrayed off my feet twice in the same afternoon. I cannot stand it twice. I would not have the same feelings over again that I underwent an hour or two ago for half the Capitol building.

Mr. SAUNDERS. If there was any prospect of finishing the Library bill to-day, I would not insist upon the motion I rose to make.

Mr. VOORHEES. I think we can get a vote if the Senator from Nebraska will hear me a few moments. Mr. President, a single word, and not for the purpose of provoking debate——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Indiana?

Mr. SAUNDERS. If there was a prospect of a vote being taken and ending this matter I would yield, but I think it cannot be disposed of to-day. I have a little business that I should like to have attended to, and it will take but a few minutes.

Mr. VOORHEES. So have I, but I cannot give way. The Senator from Nebraska cannot intrude his business into this discussion now.

Mr. SAUNDERS. This is a matter that will take but a moment.

Mr. VOORHEES. I am much obliged to the Senator.

Mr. SAUNDERS. I am sure you cannot get the bill through to-day.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Indiana.

Mr. VOORHEES. I do not see how the Senator got the floor to yield to me.

Mr. SAUNDERS. I believe I had the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognized the Senator from Nebraska.

Mr. SAUNDERS. My motion is to postpone the pending and prior orders for the purpose of taking up another bill.

The PRESIDING OFFICER. The Chair was not aware that any motion was made.

Mr. SAUNDERS. That is the motion I propose to make. I think that the Senator had better yield to that.

Mr. VOORHEES. I certainly hope the Senate will not entertain that motion.

The PRESIDING OFFICER. Does the Senator from Nebraska submit a motion?

Mr. SAUNDERS. Yes, sir.

Mr. VOORHEES. I hope the Senator will withdraw it for a few minutes at least, or we can vote it down if he insists upon it.

The PRESIDING OFFICER. The Chair recognized the Senator from Nebraska, but did not understand him to submit any motion.

Mr. SAUNDERS. If I thought that the Library bill could be ended this evening I would let this matter go without a motion.

The PRESIDING OFFICER. The Senator from Nebraska moves to postpone the bill under consideration.

Mr. MCMILLAN. Before that is put let me say that as the Louisiana resolutions were laid aside without prejudice a motion of that kind might affect that case.

Mr. COCKRELL. If we vote down the motion, it will not affect it.

Mr. EDMUNDS and others. We will vote it down.

The PRESIDING OFFICER. The Senator from Nebraska moves to postpone the bill now under consideration.

Mr. SAUNDERS. I ask the Senator from Indiana to let me get up a little bill.

Mr. VOORHEES. I would not yield for any consideration that could be named. I would feel that I was betraying my committee and my trust.

The PRESIDING OFFICER. The question is on the motion of the Senator from Nebraska.

The motion was not agreed to.

Mr. VOORHEES. Mr. President, just a single word of practical explanation to the Senate, and I ask the attention of Senators. Something more than a year ago this question was very elaborately debated, and I presume men found out their own minds upon the subject. The Senator from New York has read the record, in which it appears that I was in a small minority. I at that time did not believe that a library building could be constructed in connection with the Capitol; I have no reason to change my mind now. We are in a state of inquiry, however, and this bill is to ascertain that fact. After the vote was taken which the Senator from New York has read, this instruction was given by the Senate to the committee:

That the bill be recommitted to the Committee on the Library on the part of the Senate, with instructions to report a bill providing for a commission of skilled persons to examine and report to Congress, at its next session, touching practicable changes which may be made in the Capitol building, adapted to the accommodation of the two Houses of Congress and the Library.

This is the next Congress, not technically the next session; but the Committee on the Library felt the force of this instruction, and the bill that is here is in accordance with the sense of the Senate then taken to inquire whether the Capitol building could be so remodeled, if I may use the word, as to accommodate the Library and bring with it such other accommodations as are desirable. Acting in the spirit of this instruction, this bill comes here. I said very frankly in the few remarks I submitted the other day that I attach but little value to my own opinion on architectural questions. I do not know or pretend to know whether the structure can be attached to the Capitol building with propriety or not; but after much and serious consideration I believe it is better to determine the question which is presented in the bill; that of itself is the first step of progress. Otherwise I doubt if we shall make any progress.

What I meant to observe in regard to the amendment offered by the Senator from Kansas was that individually I would be glad to accept light and information upon this subject from any source. I have very great respect for the amendment offered by the Senator from Vermont, because I sympathized with his views when this question was here before; but this bill coming here from the committee acting under the instructions of the Senate, I beg to assure the Senator from New York, while I know the admonition was in the spirit of kindness, I did not need any exhortation to adhere to my bill. I expected to do so, and meant no more than what I have said in regard to the proposition offered by the Senator from Kansas. I said, and I think now as I said the other day when I addressed the Senate more fully upon the subject, that we should eliminate the Capitol from the consideration of this question if the Library building cannot be attached to it. If it can be built here, and able and experienced architects tell us it can be, then, as I said, everybody would desire it to be here. I should, and so would everybody else, desire to have it under the same cover.

I have no hobbies on this subject. I am the one Senator now entirely free from hobbies or fixed ideas as to where the Library ought to be located. There are advantages in connection with Judiciary Square simply because we own the ground there. The building would look very handsome over yonder, [pointing eastward.] There are other places where it would adorn the city and be an ornament to the capital of the Government; but if experienced men, men of science and learning upon this subject, tell us it will not deface or mar the fair proportions of the Capitol to provide for the Library in it, so that without going from under the roof we can visit its halls and examine its books, there is not a man in the world, I should think, who would not want that done. I do not know whether it can be done or not. As I said, I thought when the question was up before that it could not be done. I have not changed my mind, except to say that I am willing to be instructed upon that question. I am willing to be instructed and desire to be instructed. As I said in my remarks the other day, I desire that men as ignorant as I am myself, and myself with them, should have instruction upon this question. Architects are not born architects; they have to learn, they have to be taught. I doubt, as I said then, whether there is an architect in this body, and we had better remit this question to men of science and skill and be governed largely by their judgment.

I sincerely believe that we shall make progress by adhering to the bill.

Mr. MORRILL. Mr. President, it is true that I have occupied perhaps as much time as I ought upon this subject, but when the bill was before us on a former occasion I only rose and made some off-hand remarks. After that I had time to thoroughly examine and investigate the matter, and made what might be called a formal and elaborate argument upon the subject. I think at the time that this question was voted upon a snap judgment was taken upon the Senate. I do not think that Senators were fully informed as to the great want of large space for the purposes of a library.

This bill comes to us now in a mandatory form. It says such and such things shall be done. The language is:

> That a joint select committee, consisting of three Senators and three members of the House of Representatives, shall have power to employ, as soon as may be, at the expense of the United States, three persons of suitable skill and attainments, who, or a majority of whom, shall, with the approval of said committee, carefully examine and consider what practicable and beneficial changes can be made, &c.

If this committee shall be selected by a vote of the Senate favoring these changes, they will undoubtedly select those persons with skilled information who will agree with them upon the subject and favor the project of enlarging the Capitol. I do not believe we ought to do that. Take the exterior of this Capitol, if it remains as it is, what changes can be made so as to give us more room for the legislative halls and for committee-rooms? It is well known that we are short of committee-rooms now, and any changes that would enlarge the Library within the present walls of this building or enlarge the legislative halls would, as a matter of course, trench upon the rooms that we now occupy for other purposes, and purposes that we cannot dispense with.

Then, again, I should like to know if the House of Representatives have made any sign for any changes of the Capitol. Not a single motion that I am aware of, or bill, has been presented, or any move made upon the part of the House to indicate that they want any change of that sort. I think it is arrogating a little too much upon our part for us to say that we want to improve the House of Representatives.

It is well known to us all here that when these doors are barely open to the corridors, as they are in the summer season frequently, in hot weather, it is often impossible for Senators with an ordinary voice to be heard across the Hall. If we were to open the Hall to the air with windows, no man unless he had a voice like the bull of Bashan could be heard here. Take the old Senate Chamber. In that there were three or four windows open to the exterior. Every time a military company passed by with music it stopped the proceedings of the Senate.

Mr. CONKLING. Does the court stop now?

Mr. MORRILL. Again in relation to executive sessions, I was here in 1848, and I remember to have heard it said at that time that while the treaty with Mexico was under consideration a Senator from Ohio blessed with a strong voice in discussing the question disclosed the entire secrets of the treaty.

Mr. CONKLING. Nothing ever slops over from this Chamber now, you know.

Mr. MORRILL. I know that it is impossible for me to contend with the Senator from New York.

Mr. CONKLING. I beg the Senator's pardon; I do not intend to interrupt him.

Mr. MORRILL. So far as that is concerned I think if the Senator could continue to talk Senators would be willing to go without the Library; but I think still that the wants of Congress and of the country are fixed upon having a Library that will be ample for the accommodation of the country at the present time and for all future time.

I desire to see something that is practical in relation to this enlargement of the Library. I was on a committee that examined this subject years and years ago, while Senator Howe was chairman of the Committee on the Library. We then had very large examinations of architects on this subject, and there was not one of them who did not hold the opinion that it would be detrimental and destructive to the character of this building to make any additions to it of anything like the dimensions that would be required for even a small enlargement of the Library. I remember that the architect of the extension of the Capitol was required to make a plan for the extension upon one side or the other, from the central part, of two hundred and seventy-five feet, not enough for our future wants, not beginning to be enough, and that he reported it would cost $4,000,000, because, as he said, the style of the Capitol and the quality of material of which it is built was the most expensive that there was in the world, and that an extension of two hundred and seventy-five feet could not be constructed for less than $4,000,000.

Mr. CARPENTER. What would a separate building cost?

Mr. MORRILL. A separate building can be built, as I understand, that will be much larger than that in dimensions for something like $2,000,000; that is, provided we furnish our own site. If we have to purchase a site and pay an extravagant price for it, paying even a million of money, (more than the parties ask on the east side of the Capitol for all those three or four squares there,) then we should save at least a million dollars by a separate building.

I know that there is a strong competition for the site of this Library. The House desire it very much on their side of the Capitol. Some members of the Senate desire it on our side upon the right. Other members desire it down on the public park. Others desire it, as the Senator from Ohio does, in Judiciary Square. My own opinion is that we ought to go directly east and place it in the center, and if Senators will examine they will see that all the streets and avenues then would concentrate at the right points for the Library, and it would then be equidistant from the House and from the Senate.

But I do not higgle at all about the place where it shall be. I ask that a commission shall be appointed that shall select the best place, and wherever that may be I will try to be contented with it. But, Mr. President, the idea that we can so expand this Capitol in any direction as to provide for the permanent accommodation of the Library is, in my opinion, utterly absurd.

Mr. EDMUNDS. Mr. President, we have tried the experiment of having an inquiry exterior to this building of a place to put the Library.

Mr. MORRILL. Never.

Mr. EDMUNDS. My colleague says "never." He is greatly mistaken.

Mr. MORRILL. You had the motion here in the Senate once I know.

Mr. EDMUNDS. We had a committee consisting of the chairmen of the Library Committees of the Senate and the House, and the chairmen of the Public Buildings and Grounds Committees of the two Houses, and the Librarian to do that very thing, according to the best of my knowledge, information, and belief, with great respect to my colleague.

Mr. MORRILL. I retract what I said. My colleague is correct.

Mr. EDMUNDS. I was quite sure that I was right and that my colleague was mistaken; but that was before the vote of the Senate to which the Senator from New York has referred. That committee with all these (if I may say so) contending interests, not only the landowners, who wanted to sell, but the different views of gentlemen of both Houses and the Executive Departments and everybody else, who had an interest in the question, came to a conclusion, I think, for Judiciary Square—but I do not care where it was; they came to some conclusion; they reported it to this body, and Senator Howe, then chairman of the Committee on the Library, reported the bill referred to in the Journal that the Senator from New York has read, to provide, I think, for Judiciary Square. Then there was a full discussion of the subject as there had been in the Library Committee of which Senator Howe was chairman, and of which I was a member, of this whole question, and after that full discussion the Senate by a vote of 49 to 11 put a point upon that discussion by striking out of the proposition then pending that part proposing to select a site exterior to the Capitol, which was in connection with the subject of enlarging the Capitol building itself on account of the difficulties which surrounded it, and in order to declare, as the debate shows, the emphatic disposition of four-fifths of this body to keep the Library, working and referential, in this Capitol or in connection with it, if it could be done, and the Senate would not consent to try any experiment or make inquiries elsewhere (which already had been made to a certain extent) until that question was first determined. This arose from the fact, evidently shown by the debate that a large majority of the Senate, and as I thought rightly and upon the soundest reason, were determined to have this great Library where it is substantially—I mean in connection with the Capitol building—if it could be done consistently with economy and good taste.

Mr. MORRILL. So far as the bill reported by Senator Howe was concerned, I had no part with it.

Mr. EDMUNDS. I know. I was speaking of the action of the body. I was not intending to call in question my colleague's own opinion or his action.

So much for that. Now I will come for a single moment to the question of this building, for that has not been gone into although that is the very subject we are to inquire about. I do not want gentlemen to be frightened by the superior examination and skill of my honored colleague. In these latter inquiries since I have been a member of the Committee on the Library there have been architects of high reputation, whose works show that they are men of skill, who think that the thing can be done; and even the original architect of the Capitol, according to my information, and I think according to drawings that are downstairs now, agrees that the eastern front of this Capitol ought to be extended a certain distance.

Mr. MORRILL. Everybody thinks that.

Mr. EDMUNDS. My colleague says everybody will say that. Then what becomes of the objection that this Capitol is perfect now? It is not perfect now.

Mr. MORRILL. He does not mean that it can be extended so as to accommodate the Library.

Mr. EDMUNDS. That is another question. I am now on the architectural question of whether the Capitol is the thing that it ought to be at this present moment.

Mr. MORRILL. Will my colleague allow me to say that the central part of the Capitol is made of sandstone, and it was always expected that that part would be rebuilt, and when rebuilt to a certain extent the front might be extended. But the architect my colleague speaks of, so far as he is concerned, says it cannot be properly extended over about thirty feet, as I remember.

Mr. EDMUNDS. It is a great deal more than that. I am not on the question whether it can be extended to accommodate the Library; I am replying to the architectural part of the argument of my honored colleague and friend that this Capitol is now bordering on perfection and is a thing which on inspection from an architectural point of view requires nothing further to be done. It is not as we all agree, architects, my friend and colleague, and everybody else.

You speak of the expense of this business; and one point is that if you attempt to extend the building so as to embrace the Library, if architectural beauty will admit of it, the material of which the Capitol is built is so expensive as to make it very expensive. That only induces me to refer to what my colleague has just stated and what I was about to state, that the whole middle is brown soft stone painted white and nobody who has been even to a common school (and that is the only place ever I went to be taught) will run his eye along this eastern front and not see, I will not say gross but a decided want of harmony in appearance and beauty of the thing even as it stands now. Therefore at some time the people of the United States have got to pay the expense of making the middle of this Capitol of the same material and of the same style of architecture the two wings are, as it is not now either in material or in style of architecture, either in substance or form or color.

Then I hope the Senate will not be frightened by the idea that it is going to cost something if it can be done with architectural propriety, to keep the Library here. If you build a Library building anywhere else and build it as a separate building, build it as it ought to be, to compare with this building, with the Treasury Department, with the new War and State Departments, and with, in my opinion, the noblest of them all, if it only had any space around it, the Interior Department, you have got to pay out money, and no two millions will do it.

Then, Mr. President, as I assume that the overwhelming sense of the Senate—I know my colleague does not think so but generally the overwhelming sense of the Senate—would be to keep this Library here altogether both as a working library and for reference in connection with the representatives of the people and the States, the great center of this continent to which everybody wishes to come and when he does come to this town comes here—why not ascertain whether it can be done consistently with architectural beauty and economy and good taste? Why go into a circumambulation of this whole town in connection with it in order to dissociate in the minds of the people the idea of the Library and the Capitol?

Mr. EATON. The expense is the great point, perhaps.

Mr. EDMUNDS. Expense will have to be incurred in either aspect; and it will cost very little more if it can be done with architectural propriety to make the extension of this building a few feet more or a few feet less. I have seen a plan and suggestion of the means of providing for the Library in connection even with an extension such as my colleague and the old architect of the Capitol would both agree is not by any means absurd. It is worth thinking of. Inasmuch as we have failed on trying exterior experiments and inquiries all around, and inasmuch as we decided only a year ago or a little more that we could go on with this inquiry just as the committee was directed to report it and has reported it, why not go on with it? Next December will enable the Senate to know whether or not it can be done. If the Senate then thinks it cannot we can make other provision. If it thinks it cannot then that question is ended, and there will be only a choice of places somewhere else. Why mix the thing up?

Mr. THURMAN. I do not rise to discuss the question further, but the Senator from Kansas is willing to withdraw his amendment temporarily, as I understand, in order that I may move the amendment which I read, and which I now send to the Chair to be added to the first section.

Mr. INGALLS. I have no objection to the amendment offered by the Senator from Ohio being first acted on.

The PRESIDING OFFICER. The Senator from Kansas withdraws his amendment temporarily, and the Senator from Ohio proposes to amend the bill.

The CHIEF CLERK. At the end of the first section, the amendment is to add:

And especially whether such mode of providing for the Library is preferable to the erection of a separate building for that purpose.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

The amendment was agreed to.

The PRESIDING OFFICER. Does the Senator from Kansas now renew his amendment?

Mr. INGALLS. I did not withdraw it.

The PRESIDING OFFICER. The Chair understood the Senator from Kansas to withdraw his amendment temporarily.

Mr. INGALLS. I said I had no objection to the amendment of the Senator from Ohio being first acted on. My amendment is now pending.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Kansas, [Mr. INGALLS,] to be inserted as an additional section, which will be read.

The Chief Clerk read as follows:

That said joint select committee is also authorized and directed at the same time to examine the question of a site outside the Capitol for the Library of Congress, and report to Congress what location would be most suitable for the Library and afford the highest advantages for its future growth and permanent accommodation.

Mr. SAUNDERS. I move to add to that "and what would be the probable cost."

Mr. INGALLS. That is not now in order, as I understand. This amendment of mine is in the second degree. The Senator from Vermont [Mr. MORRILL] has offered one amendment, and mine is an amendment to the amendment.

The PRESIDING OFFICER. The Chair does not understand that to be the case. The Senator from Vermont offered an amendment by way of substitute for the bill. This is an amendment to the original text.

Mr. INGALLS. An amendment cannot be offered by way of substitute for a bill. The motions that can be made when a question is pending are defined by the rules. A motion can be made to amend, but not to amend by way of a substitute. The motion of the Senator from Vermont is to amend the bill, which is an amendment in the first degree. I propose an amendment to the amendment by way of section 2, which is in the second degree; and no further amendment can now be entertained.

The PRESIDING OFFICER. The Chair is of opinion that the Senate can amend the text before the question is taken on the motion of the Senator from Vermont, which is to strike out the entire bill and insert an amendment in its place as a substitute for the bill. The Chair thinks that the text of the original bill can be amended before it is stricken out. The question is on the amendment to the amendment proposed by the Senator from Nebraska, [Mr. SAUNDERS,] to add:

And also in the case of each site the probable cost of the same and of the building.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment proposed by the Senator from Kansas, [Mr. INGALLS,] as amended.

Mr. VOORHEES. Let the amendment, as amended, be read.

The PRESIDING OFFICER. It will be read.

The CHIEF CLERK. It is proposed to add as section 2:

The said joint select committee is also authorized and directed at the same time to examine the question of a site outside the Capitol for the Library of Congress, and report to Congress what location would be most suitable for the Library and afford the highest advantages for its future growth and permanent accommodation, and also in the case of each site the probable cost of the same and of the building.

Mr. EDMUNDS. That is exactly the thing that the Senate on a report of the Library Committee last year and on an inquiry into these outside sites refused to do in connection with this inquiry about the Capitol. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 35, nays 10; as follows:

YEAS—35.

Allison,	Coke,	Jones of Florida,	Saulsbury,
Anthony,	Davis of Illinois,	Kernan,	Saunders,
Bailey,	Dawes,	McPherson,	Slater,
Baldwin,	Ferry,	Maxey	Teller,
Beck,	Hampton,	Morgan,	Thurman,
Blair,	Harris,	Morrill,	Vance,
Burnside,	Hill of Colorado,	Pendleton,	Williams,
Call,	Ingalls,	Platt,	Windom.
Cameron of Wis.,	Jonas,	Rollins,	

NAYS—10.

Cockrell,	Edmunds,	Groome,	Voorhees.
Conkling,	Farley,	McMillan,	
Eaton,	Garland,	Ransom,	

ABSENT—31.

Bayard,	Gordon,	Kellogg,	Randolph,
Blaine,	Grover,	Kirkwood,	Sharon,
Booth,	Hamlin,	Lamar,	Vest,
Bruce,	Hereford,	Logan,	Walker,
Butler,	Hill of Georgia,	McDonald,	Wallace,
Cameron of Pa.,	Hoar,	Paddock,	Whyte,
Carpenter,	Johnston,	Plumb,	Withers.
Davis of W. Va.,	Jones of Nevada,	Pryor,	

So the amendment was agreed to.

Mr. MORRILL. As this amendment now accomplishes the main purpose of my own amendment I withdraw my amendment and offer another on page 2.

The PRESIDING OFFICER. The Senator from Vermont withdraws his amendment and proposes an amendment which will be stated.

Mr. MORRILL. In section 1, line 8, after the word "beneficial," I move to insert "without injury to the architectural proportions of the Capitol."

Mr. INGALLS. Who is to decide that?

Mr. MORRILL. The commission. The section will then read:

They shall, if they find any mode or modes of accomplishing the ends aforesaid practicable and beneficial, without injury to the architectural proportions of the Capitol, cause proper plans, designs, &c.

Mr. HOAR. Why does the Senator from Vermont confine it to architectural proportions?

Mr. VOORHEES. I suggest to the Senator from Vermont that that is a needless amendment. The work could not be beneficial if it destroyed the grace and proportions of the Capitol.

Mr. DAVIS, of Illinois. They have to report on the subject.

Mr. MORRILL. If the Senator from Indiana objects to it, I withdraw even that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. ROLLINS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at five o'clock and twenty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 14, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. ATKINS. I call for the regular order.

The SPEAKER. The regular order is the morning hour.

Mr. ATKINS. I move to dispense with the morning hour, my object being that we proceed at once with the legislative, executive, and judicial appropriation bill. I desire also to ask unanimous consent that to-morrow private bills shall be considered as of to-day, provided the appropriation bill is disposed of.

Mr. DIBRELL. I ask to amend the proposition of my colleague, so as to include to-morrow and Tuesday. We ought to give two days to private bills. [Cries of "Oh, no!"]

ADJOURNMENT SINE DIE.

Mr. GIBSON. I rise to make a privileged report from the Committee on Ways and Means.

The SPEAKER. The committee has the right to report after the morning hour. The pending question is on the motion to dispense with the morning hour.

Mr. CONGER. This is a privileged report at any time. It relates, I understand, to the adjournment of Congress.

Mr. COX. Is it a report of a private nature?

The SPEAKER. Will the gentleman from Louisiana [Mr. GIBSON] state what his proposition is?

Mr. GIBSON. I desire to inquire whether this report is now in order from the Committee on Ways and Means.

The SPEAKER. The Chair does not know officially what it is.

Mr. GIBSON. I ask that the report be read.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] moves that the morning hour of to-day be dispensed with.

Mr. GIBSON. The question of final adjournment of the two Houses is a question of the highest privilege.

The SPEAKER. The Chair will first recognize the motion to dispense with the morning hour. The gentleman from Louisiana can then claim the right to submit what he is authorized to report from the Committee on Ways and Means touching the final adjournment of Congress, and it can then be decided whether it is a privileged question and entitled to be received at any time.

Mr. ATKINS. Will the gentleman from Louisiana retain his motion for the present until after we press to a completion the legislative, executive, and judicial appropriation bill now pending before the Committee of the Whole House on the state of the Union? I think we can get through with it in the course of the day.

Mr. GIBSON. I do not desire to press action on the resolution if the gentleman from Tennessee thinks he will get through with the legislative appropriation bill to-day.

Mr. MILLS. Then the gentleman from Louisiana does not offer his resolution?

The SPEAKER. The Chair supposes not.

Mr. GIBSON. I will offer it to-morrow if that be the wish of the House.

Mr. CONGER. If that is a privileged report, Mr. Speaker, I ask for its adoption at this time.

The SPEAKER. The gentleman from Louisiana does not press his report, and therefore the Chair is not bound to rule.

Mr. GIBSON. I will offer the resolution now, and give notice that I will call it up immediately after the disposition of the pending legislative appropriation bill in the Committee of the Whole House on the state of the Union.

Mr. MILLS. Then I give notice that I shall move to recommit that resolution with instructions to the Committee on Ways and Means to withhold all action on the final adjournment until they report a bill providing for free importation of salt and printing-paper.

Mr. ATKINS. I appeal to the gentleman from Louisiana to withhold his resolution for the present.

The SPEAKER. The gentleman from Louisiana answers the appeal of the gentleman from Tennessee and states he will not present it at this time for action, but will call it up after the legislative, executive, and judicial appropriation bill has been disposed of.

Mr CONGER. If the resolution is pending, then let it be read.

Mr. SAMFORD. I rise to make a parliamentary inquiry. When the resolution is before the House will it be open to amendment?

Mr. GIBSON. But I shall demand the previous question on the adoption of the resolution.

The SPEAKER. It does not differ in any respect from other resolutions.

Mr. MILLS. If the gentleman offers his resolution now, then I submit a motion to go with it, to be voted on in case the previous question shall be called.

The SPEAKER. The resolution of the gentleman from Louisiana will be read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the presiding officers of the Senate and House of Representatives shall, on Monday, the 31st instant, at twelve o'clock m., declare their respective Houses adjourned without day.

Mr. GIBSON. Now if it is in order I demand the previous question on the adoption of the resolution.

The SPEAKER. The Chair understood the gentleman from Louisiana to state that he did not mean to call up the resolution for action until after the disposition of the legislative, executive, and judicial appropriation bill. The Chair will then recognize the gentleman from Louisiana.

Mr. TOWNSHEND, of Illinois. I desire to move an amendment which I think my friend from Texas will accept.

The SPEAKER. The Chair will cause to be read for information the several propositions which gentlemen give notice they will offer when opportunity offers. This subject will be under control of a majority of the House.

Mr. MILLS. I ask that my proposition be read.

The Clerk read as follows:

Resolved, That the resolution be recommitted to the Committee on Ways and Means, with instructions to report a bill to this House providing for the free importation of salt and printing-paper before they report the resolution for final adjournment.

Mr. TOWNSHEND, of Illinois. I desire to have read a proposition which I move as a substitute for that of the gentleman from Texas.

The Clerk read as follows:

Provided, Final action by that date shall have been reached in the House of Representatives on House bills 6186, 6187, 6188, and 6255, relating to the tariff.

The SPEAKER. The gentleman from Tennessee moves that the morning hour be dispensed with.

Mr. CONGER. I understood the gentleman from Louisiana to call the previous question.

The SPEAKER. The Chair supposes that is in the nature of notice to the Chair that he desires to have the control of the report, and the Chair so recognizes it. The control of the matter when it is called up belongs to the gentleman reporting the resolution until there is an adverse vote by the House.

Mr. MILLS. Is it not in order to recommit the resolution?

Mr. CONGER. Is it not the privilege of any member to demand action on that resolution?

The SPEAKER. The Chair thinks all decisions run to the end that a joint resolution as to a final adjournment of the two Houses is a privileged question.

Mr. MILLS. Will it not be in order to recommit the resolution with instructions when it comes up?

The SPEAKER. It will be in order to amend if the gentleman in charge of the bill does not call the previous question and the House sustain that demand. The control of every subject is absolutely with the majority of the House.

Mr. GIBSON. I give notice that, when I am recognized to report the resolution again, I shall call the previous question upon its adoption to test the sense of the House.

Mr. TOWNSHEND, of Illinois. If that be so, I move the resolution be laid upon the table.

Mr. REAGAN. I hope the House will not adopt any resolution for final adjournment until the interstate commerce bill has been acted on.

ORDER OF BUSINESS.

Mr. COX. What is the motion before the House?

The SPEAKER. The motion of the gentleman from Tennessee, that the morning hour be dispensed with.

Mr. BRIGHT. I understand the gentleman from Tennessee to move that this day be appropriated to the consideration of the executive, legislative, and judicial appropriation bill. While that motion works a suspension of the rules in fact, I have a request to make which, I think, is a modest one and I think there is very great reason for it. I hope the House will consent to take up bills on the Calendar of claims reported under the act of 1864, which are quite voluminous and which have already been adjudged and reported from the Committee on War Claims.

I am informed that the number of these reports is such that it will take the clerks a considerable time to prepare them for transmission to the Senate. I therefore ask unanimous consent of the House to take them up for consideration at an early date.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] is demanding the regular order.

Mr. BRIGHT. I hope that demand will be withdrawn for the present.

Several members demanded the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Tennessee, [Mr. ATKINS,] that the morning hour be dispensed with.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. ATKINS. I now move that the private business of to-day be dispensed with.

The SPEAKER. That motion will also require a two-thirds vote.

Mr. TUCKER. I rise to a parliamentary inquiry. Does this mean that the private business of to-day is to be dispensed with after the appropriation bill is concluded, if it shall be finished to-day?

The SPEAKER. There seems to have been no conclusion or agreement reached in reference to the business of to-day being taken up on to-morrow as on Friday, and the Chair wants to call attention to that fact, as to-morrow has been set aside for other business.

Mr. BRIGHT. I hope the House will agree that this business shall be taken up to-morrow.

The SPEAKER. That can only be done by unanimous consent.

Mr. BRIGHT. Then I ask unanimous consent that the House set apart to-morrow for the consideration of private business.

The SPEAKER. The Chair will inform the gentleman from Tennessee that by a prior order of the House the session of to-morrow has already been set apart for the consideration of business reported from the Committee on Education and Labor.

Mr. HOSTETLER. Then I hope that the House will vote down the proposition to dispense with the morning hour to-day.

The SPEAKER. That has already been decided. The question now is on the motion of the gentleman from Tennessee, [Mr. ATKINS,] that private business of to-day be dispensed with.

The motion was agreed to.

Mr. BRIGHT. I now move that to-morrow's session be set apart for the consideration of the Private Calendar.

Mr. ATKINS. Provided we can get through with the appropriation bill.

The SPEAKER. The gentleman can ask that later in the day.

Mr. REAGAN. That is a question that ought to be decided to-morrow.

The SPEAKER. It requires unanimous consent to fix to-morrow for consideration of private business.

Mr. WARNER. Then I object.

The SPEAKER. The Chair will resubmit the motion as to dispensing with the private business to-day.

The House divided, and there were—ayes 121, noes 38.

So (two-thirds voting in favor thereof) the motion to dispense with private business was agreed to.

AGRICULTURAL DEPARTMENT.

Mr. COVERT, by unanimous consent, introduced a bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was read a first and second time.

Mr. COVERT. I ask that the bill be printed and recommitted to the Committee on Agriculture, and also that Tuesday next be assigned for the consideration of the bill, not to interfere with this or any other general appropriation bill.

Mr. BLACKBURN. I desire to reserve points of order on the bill.

Mr. REED. Why not consider it to-morrow?

The SPEAKER. The gentleman from New York, introducing this bill, asks that it be printed and recommitted to the Committee on Agriculture. If there be no objection it will be so ordered.

There was no objection, and it was ordered accordingly.

Mr. COVERT. I shall call this bill up for consideration on Tuesday next.

Mr. GARFIELD. I reserve all points of order upon the bill.

The SPEAKER. The Chair desires to state to the gentleman from Kentucky, who reserved the points of order upon the bill heretofore, that he will have to renew the notice when the bill comes back into the House.

Mr. GARFIELD. I give notice now that I shall reserve the points of order upon it.

Mr. REED. I desire to ask whether or not we cannot go on with the consideration of it to-morrow?

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House now resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. COX in the chair,) and resumed the consideration of the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The CHAIRMAN. The Clerk will read the pending proposition.

The Clerk read as follows:

For labor, fuel, light, and miscellaneous items for said building, $7,000.

Mr. SAMFORD. I move to strike out the word "seven," in line 1267, and insert "two."

I find by reference to the contingent expenses of the War Department that in every single subdivision of that Department there are very large amounts allowed for contingent expenses. For instance, under the head of the War Department proper, there is allowed for contingent expenses the sum of $8,000; then there is allowed in another place in the Adjutant-General's Department $10,000 for like expenses. In the Bureau of Military Justice $400 is allowed. In the Quartermaster-General's Office $8,000 additional is allowed, and so on all the way through the bill until you get to the 1259th line, when, under the head of War Department buildings, this further sum of $7,000 is allowed for miscellaneous items. There is also appropriated under the same heading, for fuel and miscellaneous items, $3,500, and in still another place for same Department another large amount is provided for expenses contingent.

The experience we have had here for the last day or two, and, indeed, during this session, satisfies me that this House will not reduce any expenditures that may be called for by the Committee on Appropriations. I am not one of those who think the Committee on Appropriations is not a wise, patriotic, and painstaking committee; but it seems to me, without any further knowledge than I have on this subject, that this allowance of $60,000 or $70,000, perhaps more, for the contingent expenses for this Department of the Government is more than is necessary, especially in a time of such profound peace as we now have. These figures are very large; and it does seem to me we should economize wherever we can. And while, as I have said, I have no confidence that this House, though coming in as it did upon the idea of reform and economy, will reduce any of these expenditures, yet I have done my duty, and individual members have done their duty, in attempting to reduce these appropriations, which appear to me to be extravagant. The responsibility will rest with those who favor them. I have moved to amend in this particular; and if the amendment should prevail I will offer a similar amendment in reference to the like items in the Departments which follow. If, however, the amendment is voted down, as it is likely it will be, I will not trouble the committee by offering unnecessary amendments in the same direction. Such a course would simply be an unnecessary consumption of time. I regret to say that amendments looking to reductions of items not only have very little chance of adoption but they fail to have a patient or respectful consideration.

Mr. ATKINS. The Committee on Appropriations have not been in the habit of submitting extravagant propositions to the House, and I am not aware that in very many instances reductions have been made upon the bills which have been presented by that committee. Indeed I can say with safety that since my connection with the Committee on Appropriations there never has passed an appropriation bill through this House that has not been increased. So much for an answer to the speech made by my friend from Alabama.

The gentleman talks about his efforts in favor of economy. Did he give a reason why this appropriation should be stricken down from $7,000 to $2,000? None whatever, except that there are several contingent funds for the War Department. And why, sir, should there not be? The War Department has various bureaus, and these bureaus must have contingent expenses.

But for the information of my friend from Alabama I desire to state to him that for the present year we gave the office of the Secretary of War, for these contingent expenses, $6,000; and there is an actual deficiency to-day of $2,000 in the contingent fund of the Secretary's office. That is brought about by the fact that they have moved within the present year from the old War Department building into the new building; and it requires a larger amount to take care of that much larger building than it did to take care of the old one. Therefore we have given this additional amount now. The estimate is $8,000, and we have only given $7,000. My judgment is they ought to get along with $7,000, but it is questionable whether they can or not.

Mr. SAMFORD. I desire to add just a word. In addressing the committee a few moments ago I distinctly disavowed any intention to cast any reflection upon the Appropriations Committee. Now I would like to call the attention of the gentleman from Tennessee to this fact, that on page 51, line 1243, for the office of the Paymaster General there is an appropriation for contingent expenses of $2,500.

Mr. ATKINS. That is in a separate building in a different street.

Mr. SAMFORD. Then on page 53 there is this item:

For fuel and miscellaneous items $3,500.

I imagine that is for the same office because that item follows immediately after an appropriation for rent of the building occupied by the Paymaster General. Now, what is the necessity for appropriating for these contingent expenses under two separate heads?

Mr. ATKINS. The appropriation for contingent expenses is for stationery and such articles; the other item is for fuel and articles of that kind.

Mr. SAMFORD. In one item there is an appropriation for contingent expenses and then further on there is an appropriation for the same office for miscellaneous items. These two expressions seem to me to cover expenditures of a similar character.

Mr. ATKINS. The expenses included under the head "contingent expenses" on the one hand and "miscellaneous items" on the other are of a different nature altogether.

Mr. GARFIELD. I desire to say a single word. I think the Committee on Appropriations deserves great praise for dividing up the contingent fund. Some years ago, when I had the honor to be chairman of the Committee on Appropriations, we found all the miscellaneous expenditures and contingent expenses of a Department lumped together in one gross sum, and any part of the appropriation might be used for any branch or bureau. We undertook to make a division of the items among the different bureaus, and the division has gone on so that all the different bureaus are restricted each to its specific contingent fund, and the Secretary of War cannot transfer an appropriation for contingencies for the Quartermaster's Department, for example, to the Commissary or the Pay Department, or any other. By having these funds separate we avoid the danger of having so large a fund under the control of any one man. I hope the report of the committee will be allowed to stand as it is. It is wise and proper.

The amendment of Mr. SAMFORD was not agreed to.

The Clerk read as follows:

General Land Office:

For the Commissioner of the General Land Office, $4,000; chief clerk, $2,000; law clerk, $2,000; recorder, $2,000; three principal clerks, at $1,800 each; six clerks of class 4; twenty-two clerks of class 3; forty clerks of class 2; eighty clerks of class 1; thirty clerks at $1,000 each; and nine copyists at $900 each; one draughtsman, $1,600; one assistant draughtsman $1,400; nine assistant messengers; twelve laborers; and six packers; in all $273,220: *Provided*, That the Secretary of the Interior, in his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of $900 per annum.

Mr. SINGLETON, of Mississippi. I offer the amendment which I send to the desk accompanied by a communication from the Secretary of the Interior, which I desire to have read.

The Clerk read as follows:

In line 1480, after the word "dollars," insert "one stenographer at $1,200."

Mr. ATKINS. I raise the point of order.

Mr. SINGLETON, of Mississippi. Let the communication of the Secretary of the Interior be read.

The Clerk read as follows:

[From Department of the Interior.]

WASHINGTON, D. C., *May* 11, 1880.

To Hon. O. R. SINGLETON:

The General Land Office has not a stenographer provided by law. The appointment of one would facilitate public business. I recommend provision therefor on legislative bill, at a salary of $1,200 per annum, in addition to former estimates.

C. SCHURZ, *Secretary.*

Mr. SINGLETON, of Mississippi. One word. I have no doubt it would facilitate business very greatly in that bureau to have a stenographer. I have talked with the Secretary of the Interior himself and with the chief of the bureau, and they desire it very much. I hope the gentleman from Tennessee will not press his point of order.

Mr. ATKINS. I cannot withdraw the point of order.

The CHAIRMAN. The Chair sustains the point of order for reasons heretofore given.

The Clerk read as follows:

For the employment of additional clerks in the Pension Office, $48,000, but the salaries of said clerks shall not exceed the sum of $100 per month.

Mr. ATKINS. I move to amend the paragraph just read by striking out "$48,000" and inserting "$90,000;" also to add to the paragraph the following:

Provided, That a detailed statement of the expenditure of this sum shall be made to Congress.

The amendment was agreed to.

The Clerk read the following:

For photolithographing, or otherwise reproducing copies of drawings destroyed or damaged by fire or otherwise exhausted, $30,000; the work of said photolithographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

Mr. ATKINS. I move to amend the paragraph just read by inserting the words "including pay of temporary draughtsmen" after the words "reproducing copies of drawings destroyed or damaged by fire or otherwise exhausted."

The amendment was agreed to.

The Clerk read the following:

For surveyor-general in Minnesota, $2,000; and for the clerks in his office, $5,000.

Mr. DUNNELL. I move to amend the clause just read by striking out "$5,000" and inserting "$5,500."

Mr. ATKINS. I make the point of order on that amendment.

Mr. DUNNELL. I do not understand that there can be any point of order raised on that amendment.

Mr. ATKINS. You propose to increase the amount appropriated.

Mr. DUNNELL. Only five hundred dollars.

Mr. ATKINS. That is an increase of expenditure.

Mr. DUNNELL. The amount mentioned in this clause is wholly insufficient. There is a very large increase of business in Minnesota, and the amount I have named is absolutely necessary. The chief clerk in that office now can be paid but $800 under the present appropriation, and there is need of more force in the office than can be obtained for the amount named in this paragraph. There has been a very great increase of immigration into that State, and a very large amount of public lands is being taken up. I hope the gentleman from Tennessee [Mr. ATKINS] will not object to this increase. It is the only motion I have made on this bill, and I make it in good faith, and because it is absolutely necessary for that office.

Mr. ATKINS. It is with regret that I am compelled to make the point of order. I respect the gentleman from Minnesota [Mr. DUNNELL] very much, but I cannot on account of my personal respect for him do that for him which I cannot do for any other member on this floor in an official capacity. I must insist upon the point of order that this amendment does not retrench expenditures, and I hope the point of order will be sustained.

Mr. DUNNELL. My amendment changes no existing law; it does not relate to the salary of any officer.

Mr. ATKINS. The law of this year gives $5,000.

Mr. DUNNELL. The law of this year?

Mr. ATKINS. Yes.

Mr. DUNNELL. You give here the law of this year?

Mr. ATKINS. We do.

Mr. DUNNELL. It is for the House to say what shall be given. The bill of last year gave $7,000 for the office of surveyor-general of Minnesota.

Mr. ATKINS. Even if there was no point of order in the way I will state that we have given here just exactly what was asked by the Commissioner of the Land Office.

Mr. DUNNELL. I have a communication from the surveyor-general's office that the recent increase of business in this office renders this amount necessary.

Mr. ATKINS. The surveyor-general is subordinate to the Commissioner of the Land Office. It is not possible for the Committee on Appropriations to have before them every surveyor-general of the country, although I am aware that a great many of them have been in the city. We had the Commissioner of the General Land Office before us, and he said this was enough.

The CHAIRMAN. The Chair would inquire of the gentleman from Minnesota [Mr. DUNNELL] what was the appropriation last year for this purpose?

Mr. DUNNELL. I am unable to say.

The CHAIRMAN. Can the gentleman from Tennessee [Mr. ATKINS] inform the Chair?

Mr. BAKER. The bill last year appropriated the same amount as this bill does—$2,000 for the surveyor-general and $5,000 for the clerical force of the office.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DUNNELL. I would like to know the reasons of the Chair.

The CHAIRMAN. The reason is this: the appropriation bill of last year fixed the amount for clerical hire at the sum named in this bill.

Mr. DUNNELL. Does the Chair undertake to say that a contingent item of last year, of $5,000, $6,000, or $8,000, occurring anywhere in an appropriation bill, renders it impossible for this House to increase that amount?

The CHAIRMAN. The Chair has so decided several times during the pendency of this bill.

Mr. BAKER. Will the Chair hear me a moment on that? I understand the Chair to have ruled that where a given sum has been fixed by one of the current appropriation bills as the salary of a clerk or an employé, it would not be in order to move to increase that sum in the present bill.

But there is this distinction between such a case as that which has been ruled upon by the Chair and the one now under consideration: This item of $5,000 is appropriated in a gross sum for the employment of clerical force. The salary of none of the clerks is fixed by law. That is a mere matter of contract between the surveyor-general and the persons he employs as to the compensation he will give them. And he has the sum of $5,000, for instance, fixed by the law for clerical force in his office; and for that sum he employs as many clerks as he may be able to employ.

That is the distinction between the case that has already been ruled upon by the Chair, where the salary of a clerk has been specifically fixed by law, and the case where a gross sum is appropriated for a given service.

The CHAIRMAN. The Chair has already ruled upon the point of order.

The Clerk read as follows:

For surveyor-general of the Territory of Dakota, $2,000; and for the clerks in his office, $4,500.

Mr. BENNETT. I move to amend so as to make the salary of the surveyor-general of Dakota $2,500 and the appropriation for clerks in his office $5,500.

Mr. ATKINS. I raise a point of order on the amendment.

Mr. BENNETT. Mr. Chairman——

Mr. ATKINS. I hope the Chair will rule whether the point of order shall be discussed on the merits of the proposition.

The CHAIRMAN. The Chair has again and again ruled that the merits of a proposition cannot be discussed upon a point of order. [Cries of "Regular order!"]

Mr. BENNETT. I am aware that this amendment is subject to a point of order, if the point is made.

The CHAIRMAN. The amendment increases expenditures. The Chair sustains the point of order.

Mr. BENNETT. I would have liked an opportunity to state why I have offered the amendment.

The CHAIRMAN. The Chair will allow discussion on the point of order, but not on the merits of the proposition.

Mr. BENNETT. I cannot discuss the point of order, because it has already been ruled upon; but I would have liked to state my reasons for offering the amendment.

The CHAIRMAN. The gentleman cannot discuss that which is not in order.

The Clerk read as follows:

For Second Assistant Postmaster-General, $3,500; chief clerk, $2,000; chief of division of inspection, $2,000; superintendent of railway adjustment, $2,000; eight clerks of class 4; twenty-eight clerks of class 3; fourteen clerks of class 2; thirteen clerks of class 1; five clerks at $1,000 each; two assistant messengers; in all, $110,340.

Mr. KNOTT. I move to amend by inserting after the words "two thousand," in line 1733, the words "five hundred," so as to make the salary of the chief clerk to the Second Assistant Postmaster-General $2,500.

Mr. ATKINS. I make the point of order that this amendment changes existing law and does not retrench expenditures.

Mr. KNOTT. I am aware that the point of order is well taken. I could explain the necessity for this amendment, but I know such discussion would be out of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For superintendent of the money-order system, $3,000; chief clerk, $2,000; four clerks of class 4; seven clerks of class 3; five clerks of class 2; nine clerks of class 1; one clerk at $1,000; five clerks at $900 each; three laborers; one assistant messenger; in all, $49,400.

Mr. DUNNELL. I wish to ask the gentleman from Tennessee a question. In the deficiency bill which was vetoed there was a provision for an increase of the clerical force in the money-order division. I ask whether this bill recognizes the increase which was made in the deficiency bill?

Mr. ATKINS. It does. This bill gives exactly what is asked for—the same number and same character of clerks as in the deficiency bill.

The Clerk resumed and concluded the reading of the bill.

Mr. ATKINS. I move that the committee rise and report the bill with the amendments to the House.

Mr. PAGE. Before that motion is passed upon I ask unanimous consent to go back to page 7 and make an amendment to raise the tally clerk to $3,000, as the other clerks at the desk have been raised.

The CHAIRMAN. Is there objection? The Chair hears none.

Mr. PAGE. I move to make the salary of the tally clerk $3,000.

Mr. ATKINS. It is proper I should say that when the amendment was made increasing the salaries of the journal clerk and reading clerks I called attention to the fact that the tally clerk was on the same plane with these other clerks, and that a movement would be made, I had no doubt, to put up his salary, and that if so, I for one, having charge of the bill, would not make a point of order upon it.

Now, I make one other remark. It is perfectly right and proper that the chief clerk should be put upon the same basis with the tally clerk and these other clerks, if we raise the tally clerk. I do not make a point of order on this proposition; if any other gentleman desires to do so, the matter is for himself.

The CHAIRMAN. If there be no objection the amendment will be agreed to. The Chair hears none.

Mr. WILLIS. I ask that the salary of the chief clerk, by unanimous consent, be also put at $3,000.

The CHAIRMAN. That was a part of the motion.

Mr. DIBRELL. I object to increasing the chief clerk's salary.

The CHAIRMAN. It has already been done.

Mr. HOOKER. Will not the gentleman from Tennessee [Mr. ATKINS] allow a motion to increase the salary of the Doorkeeper to $3,500? Although one of the most responsible officers of the House, he now receives only $2,500.

Mr. ATKINS. I hope the gentleman from Mississippi will not press me further. If I am to be pressed further, I will make the point of order. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had directed him to report the same back with sundry amendments, and with a recommendation that the bill be passed as amended.

Mr. ATKINS demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. BAKER. In accordance with notice already given, I demand a separate vote on the amendment of the gentleman from Tennessee [Mr. DIBRELL] at the end of line 677.

The SPEAKER. The Chair suggests that a separate vote be asked now on the amendments upon which such a vote is desired, and that the question on the rest of the amendments be taken in gross. The Chair hears no objection to this arrangement.

Mr. ATKINS. I desire a separate vote on the increase of salaries.

The SPEAKER. Upon each proposition or in the aggregate?

Mr. ATKINS. Upon the aggregate.

Mr. BAKER. These were separate amendments; can they be voted on in the aggregate? I hope the demand will not be pressed for a vote on these by yeas and nays.

Mr. ATKINS. I feel it my duty to insist upon it.

The SPEAKER. This is not a question for debate.

Mr. HOOKER. I will ask whether the amendments referred to include the amendment offered by my friend from Tennessee?

The SPEAKER. The Chair thinks that perhaps it would be the shortest way to read the amendments *seriatim*.

The Clerk read as follows:

After the word "for," in line 151, insert "journal clerk, $3,000; two reading clerks, $3,000; tally clerk, $3,000; chief clerk, $3,000;" and strike out in line 152 the words "chief clerk, journal clerk, two reading clerks;" and in line 153 strike out the words "and tally clerk."

Mr. DIBRELL. I wish to make a parliamentary inquiry. I made the point of order in regard to the chief clerk, and it is the only one in reference to which I did make the point of order. I did not know my point of order was overruled.

Mr. BAKER. The point of order was made too late.

Mr. COX. The gentleman made the point of order, but it had been passed on before the point was made.

Mr. DIBRELL. The tally clerk had been passed upon, but not the chief clerk.

Mr. MILLS. I never heard the question put to the House.

Mr. BAKER. It was by common consent.

Mr. DIBRELL. It was not by common consent, because I objected.

The SPEAKER. Is the gentleman from Tennessee satisfied?

Mr. DIBRELL. I am not satisfied, because I did not so understand it. I insisted on the point of order. If the gentleman who is Chairman when the vote was taken says it was passed upon, I am certain I insisted upon my objection all the time.

Mr. BAKER. My recollection agrees with that of the Chairman.

Mr. DIBRELL. The gentleman asked me to withdraw it, and I declined to withdraw it.

Mr. WILLIS. The mistake arose in this way: I was not aware the motion as made included the chief clerk, and therefore made a separate motion in his behalf. On inquiry, the Chairman stated the first motion included both, and I of course then withdrew my motion.

Mr. DIBRELL. But I objected all the time.

Mr. WILLIS. You objected to my motion, but you did not object to his motion.

Mr. DIBRELL. Whenever the chief clerk was mentioned I objected.

Mr. MILLS. I did not hear the question put to the committee to hear whether anything was objected to or not.

Mr. DIBRELL. We can have a separate vote on that. I am willing to do that.

Mr. COX. I hope there will be no objection to a separate vote.

Mr. ATKINS. A separate vote, then, on all.

The Clerk read as follows:

After the word "for," in line 151, insert "journal clerk, $3,000; two reading clerks, $3,000 each; tally clerk, $2,000."

The SPEAKER. That must be voted on separately, as the committee acted on it.

Mr. BURROWS. That was not in entirety.

The SPEAKER. It was not, and every amendment will be voted on separately.

Mr. BURROWS. I make the point that must be voted on separately.

The SPEAKER. The Clerk will again read the amendment to be voted on.

The Clerk read as follows:

After the word "for," in line 151, insert "journal clerk, $3,000; two reading clerks, $3,000 each;" and strike out, in line 152, the following: "journal clerk, two reading clerks."

Mr. BURROWS. How will the vote be taken?

The SPEAKER. It will be taken on the amendment as an entirety if the committee acted on it as an entirety.

Mr. ATKINS demanded a division.

The House divided; and there were—ayes 106, noes 8.

Mr. ATKINS demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The next amendment was read, as follows:

In line 153, strike out "tally clerk" and insert "tally clerk, $3,000."

The amendment was agreed to.

Third amendment:

In line 152, strike out the words "chief clerk" and insert "chief clerk, $3,000."

The amendment was agreed to.

Fourth amendment:

Page 9, strike out the word "three," after "dollars," in line 206, and insert the word "two;" strike out the word "two," in line 207, and insert the word "one;" and after the word "each," in line 208, insert the following:

"For one electrician, $1,150, and one laborer, $800; and the electrician, and all laborers, and others connected with the lighting, heating, and ventilating of the House shall be subject exclusively to the orders and in all respects under the direction of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval."

The amendment was agreed to.

Fifth amendment:

Page 13, line 300, strike out "4" and insert "5;" and in the same line, strike out "1" and insert "2;" so it will read: "for the hire of horses, $500;" and increase the aggregate to $9,200.

The amendment was agreed to.

Sixth amendment:

Page 40, line 320, after the words "one thousand dollars," insert "each."

The amendment was agreed to.

Seventh amendment:

Page 28, after the word "dollars," in line 677, add: "That the salary of the storekeeper and gauger at the distilleries that measure less than sixty bushels of grain per day shall not exceed $50 per month while the distillery is in operation, and $35 per month while the distillery is not in operation, and at all other distilleries storekeepers and gaugers shall not receive exceeding $50 per month while the distillery is not in operation."

Mr. BAKER. In order to save time I think we may as well have the yeas and nays on that at once.

The yeas and nays were ordered.

The question was taken; and there were—yeas 102, nays 100, not voting 90; as follows:

YEAS—102.

Acklen,	Davis, Lowndes H.	Ladd,	Simonton,
Armfield,	Dibrell,	Le Fevre,	Singleton, O. R.
Atherton,	Dickey,	Lewis,	Smith, Hezekiah B.
Atkins,	Elam,	Lounsbery,	Smith, William E.
Bachman,	Ellis,	Lowe,	Sparks,
Beltzhoover,	Felton,	Martin, Benj. F.	Steele,
Berry,	Forney,	Martin, Edward L.	Stevenson,
Bicknell,	Geddes,	McKenzie,	Thompson, P. B.
Bland,	Gibson,	McLane,	Townshend, R. W.
Bouck,	Gunter,	McMillin,	Tucker,
Bragg,	Harris, John T.	Mills,	Turner, Oscar
Bright,	Hatch,	Morrison,	Turner, Thomas
Buckner,	Henry,	Morse,	Upson,
Cabell,	Herbert,	O'Connor,	Vance,
Caldwell,	Hooker,	O'Reilly,	Waddill,
Clardy,	Hostetler,	Philips,	Warner,
Cobb,	House,	Phister,	Wellborn,
Colerick,	Hull,	Reagan,	White,
Converse,	Hurd,	Richardson, J. S.	Whitthorne,
Cook,	Hutchins,	Richmond,	Williams, Thomas
Covert,	Johnston,	Ross,	Willis,
Cox,	Jones,	Rothwell,	Wilson,
Cravens,	Kenna,	Ryon, John W.	Wise,
Culberson,	Kitchin,	Samford,	Wright.
Davidson,	Klotz,	Sawyer,	
Davis, Joseph J.	Knott,	Scales,	

NAYS—100.

Aiken,	Cowgill,	Hazelton,	Pierce,
Aldrich, N. W.	Crapo,	Heilman,	Pound,
Aldrich, William	Daggett,	Henderson,	Price,
Anderson,	Davis, George R.	Hiscock,	Reed,
Baker,	Davis, Horace	Horr,	Richardson, D. P.
Ballou,	Deering,	Houk,	Robinson,
Barber,	Deuster,	Jorgensen,	Russell, Daniel L.
Bayne,	Dunnell,	Joyce,	Ryan, Thomas
Belford,	Einstein,	Kelley,	Sherwin,
Blake,	Errett,	Ketcham,	Smith, A. Herr
Bowman,	Evins,	Lindsey,	Stone,
Boyd,	Farr,	Martin, Joseph J.	Thomas,
Brewer,	Ferdon,	Mason,	Thompson, W. G.
Briggs,	Field,	McGowan,	Tillman,
Browne,	Ford,	McKinley,	Townsend, Amos
Burrows,	Frost,	Miller,	Tyler,
Butterworth,	Frye,	Mitchell,	Updegraff, J. T.
Calkins,	Garfield,	Monroe,	Updegraff, Thomas
Camp,	Gillette,	Neal,	Van Aernam,
Cannon,	Godshalk,	Newberry	Ward,
Carpenter,	Hall,	Norcross,	Washburn,
Caswell,	Harmer,	O'Neill,	Wilber,
Chittenden,	Haskell,	Orth,	Williams, C. G.
Claflin,	Hawk,	Pacheco,	Willits,
Conger,	Hawley,	Phelps,	Wood, Walter A.

NOT VOTING—90.

Bailey,	Fort,	McMahon,	Shelley,
Barlow,	Goode,	Miles,	Singleton, J. W.
Beale,	Hammond, John	Money,	Slemons,
Bingham,	Hammond, N. J.	Morton,	Speer,
Blackburn,	Harris, Benj. W.	Muldrow,	Springer,
Bliss,	Hayes,	Muller,	Starin,
Blount,	Henkle,	Murch,	Stephens,
Brigham,	Herndon,	Myers,	Talbott,
Carlisle,	Hill,	New,	Taylor,
Chalmers,	Hubbell,	Nicholls,	Urner,
Clark, Alvah A.	Humphrey,	O'Brien,	Valentine,
Clark, John B.	Hunton,	Osmer,	Van Voorhis,
Clymer,	James,	Overton,	Voorhis,
Coffroth,	Keifer,	Page,	Wait,
Crowley,	Killinger,	Persons	Weaver,
De La Matyr,	Kimmel,	Poehler,	Wells,
Dick,	King,	Prescott,	Whiteaker,
Dunn,	Lapham,	Rice,	Wood, Fernando
Dwight,	Loring,	Robertson,	Yocum,
Ewing,	Manning,	Robeson,	Young, Casey
Finley,	Marsh,	Russell, W. A.	Young, Thomas L.
Fisher,	McCold,	Sapp,	
Forsythe,	McCook,	Shallenberger,	

So the amendment was agreed to.

On motion of Mr. DICKEY, by unanimous consent, the reading of the names was dispensed with.

Mr. MARSH. I did not hear my name called on this vote.

The SPEAKER. The gentleman's name was called twice. The Chair has no remedy under the rules.

Mr. WAIT. I am paired with Dr. HENKLE on all political questions, and as this seems to have become a political question I shall not vote upon it.

The following pairs were announced from the Clerk's desk:

Mr. MULDROW with Mr. DICK.

Mr. YOUNG, of Ohio, with Mr. TAYLOR.

Mr. PAGE with Mr. SLEMONS, on this vote.

Mr. BEALE with Mr. RUSSELL, of Massachusetts, for the week, upon all questions save of quorum and call of the House.

Mr. SHELLEY with Mr. STARIN, on this vote.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. BRIGHAM with Mr. KIMMEL.

Mr. SINGLETON, of Illinois, with Mr. MILES.

Mr. NICHOLLS with Mr. RICE.

Mr. SPEER with Mr. FISHER.

Mr. LADD with Mr. PIERCE.

Mr. GIBSON with Mr. HUMPHREY.

Mr. LAPHAM with Mr. FERNANDO WOOD.

Mr. HAYES with Mr. WELLS.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. JAMES with Mr. O'BRIEN.

Mr. ROBESON with Mr. BLACKBURN.

Mr. FINLEY with Mr. HAMMOND, of New York.

Mr. MYERS with Mr. FORT.

Mr. CHALMERS with Mr. VAN VOORHIS.

Mr. STEPHENS with Mr. DWIGHT.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. MCMAHON with Mr. URNER.

Mr. HUBBELL with Mr. CLYMER.

Mr. VALENTINE with Mr. PERSONS.

Mr. BLISS with Mr. BAILEY.

Mr. BINGHAM with Mr. HERNDON.

Mr. DWIGHT. I am paired with the gentleman from Georgia, Mr. STEPHENS, on all political questions. I should like to know whether this is considered a political question or not.

The SPEAKER. It is not the duty of the Chair to express an opinion upon that subject.

Mr. DWIGHT. I should like to know, because if this is considered a political question, of course I do not want to vote upon it. Otherwise, I desire to vote.

The SPEAKER. The Chair has nothing to do with the conditions under which the gentleman made his pair. He must decide that subject on his own responsibility.

Mr. DIBRELL. I raise the point of order that the gentleman cannot vote. The roll has been called twice.

The SPEAKER. The gentleman did vote. Subsequently, however, he withdrew his vote and stated that he was paired with the gentleman from Georgia on political questions.

Mr. GARFIELD. I think it is due to the gentleman raising this question that gentlemen on the other side of the House should say whether they think he might vote or not. He had already voted, but being paired with Mr. STEPHENS, of Georgia, on all political questions, he withdrew it as this question seems to have taken a political shape. If gentlemen on the other side hold this to be a political question, of course the gentleman from New York will withdraw his vote.

Mr. DWIGHT. Certainly; but as there seems to be nothing in this of a political character——

Mr. DIBRELL. I object to his voting.

Mr. GARFIELD. The objection cannot be made because the gentleman has already voted and withdrew his vote.

Mr. DIBRELL. He withdrew the vote, and I object to his renewing it.

Mr. BLACKBURN. The gentleman will have to decide as to the political complexion of the question for himself.

Mr. DWIGHT. Let me say that I understand there has been some rule about deciding such questions, and there ought to be some.

Mr. BINGHAM. I am paired with Mr. TALBOTT for Friday, Saturday, and Monday next.

Mr. FISHER. Mr. TALBOTT is paired with Mr. OVERTON from tomorrow until Wednesday morning of next week.

The SPEAKER. The Chair thinks, notwithstanding unanimous consent has been given to dispense with the reading of the names, that inasmuch as this is a very close vote the names had better be read by the Clerk, and the Chair requests gentlemen to observe carefully the reading in order to see that they are properly recorded.

The Clerk then read the names of those voting.

Mr. WHITE. I desire to change my vote. I voted "no," and I change my vote to "ay."

Mr. PERSONS, (who had voted "ay.") I voted inadvertently. Being paired with the gentleman from Nebraska, [Mr. VALENTINE,] I withdraw my vote.

The result of the vote was then announced as above recorded.

Mr. WHITE. I move to reconsider the vote just taken.

Mr. DIBRELL. And I move to lay the motion to reconsider on the table.

Mr. GARFIELD. I demand the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 98, not voting 86; as follows:

YEAS—108.

Acklen,	Beltzhoover,	Bright,	Cobb,
Aiken,	Berry,	Buckner,	Colerick,
Armfield,	Bicknell,	Cabell,	Converse,
Atherton,	Blount,	Caldwell,	Cook,
Atkins,	Bouck,	Clardy,	Covert,
Bachman,	Bragg,	Clark, John B.	Cox,

Cravens,	Hostetler,	Money,	Sparks,
Culberson,	Hull,	Morrison,	Springer,
Davidson,	Hunton,	Morse,	Steele,
Davis, Joseph J.	Hurd,	New,	Stevenson,
Davis, Lowndes H.	Hutchins,	O'Connor,	Thompson, P. B.
Dibrell,	Johnston,	O'Reilly,	Tillman,
Dickey,	Kenna,	Philips,	Townshend, R. W.
Elam,	King,	Phister,	Tucker,
Ellis,	Kitchin,	Reagan,	Turner, Oscar
Evins,	Klotz,	Richardson, J. S.	Turner, Thomas
Felton,	Knott,	Richmond,	Upson,
Forney,	Ladd,	Ross,	Vance,
Geddes,	Lewis,	Rothwell,	Waddill,
Gibson,	Lounsbery,	Ryon, John W.	Warner,
Goode,	Manning,	Samford,	Wellborn,
Gunter,	Martin, Benj. F.	Sawyer,	Whitthorne,
Harris, John T.	Martin, Edward L.	Scales,	Williams, Thomas
Hatch,	McKenzie,	Simonton,	Willis,
Henry,	McLane,	Singleton, O. R.	Wilson,
Herbert,	McMillin,	Smith, Hezekiah B.	Wise,
Hooker,	Mills,	Smith, William E.	Wright.

NAYS—98.

Aldrich, N. W.	Crapo,	Hiscock,	Price,
Aldrich, William	Daggett,	Horr,	Reed,
Anderson,	Davis, George R.	Joyce,	Richardson, D. P.
Bailey,	Davis, Horace	Kelley,	Robinson,
Baker,	Deering,	Ketcham,	Ryan, Thomas
Ballou,	Dunnell,	Lindsey,	Sapp,
Barber,	Einstein,	Loring,	Sherwin,
Bayne,	Errett,	Marsh,	Smith, A. Herr
Belford,	Farr,	Mason,	Stone,
Blake,	Ferdon,	McCold,	Thomas,
Bowman,	Field,	McCook,	Thompson, W. G.
Boyd,	Ford,	McGowan,	Townsend, Amos
Brewer,	Frost,	McKinley,	Tyler,
Briggs,	Frye,	Miller,	Updegraff, J. T.
Browne,	Garfield,	Mitchell,	Updegraff, Thomas
Burrows,	Gillette,	Monroe,	Van Aernam,
Butterworth,	Godshalk,	Morton,	Ward,
Calkins,	Hall,	Neal,	Washburn,
Cannon,	Harmer,	Newberry,	White,
Carpenter,	Haskell,	Norcross,	Wilber,
Caswell,	Hawk,	O'Neill,	Williams, C. G.
Chittenden,	Hawley,	Orth,	Willits,
Claflin,	Hazelton,	Pacheco,	Wood, Walter A.
Conger,	Heilman,	Pierce,	
Cowgill,	Henderson,	Pound,	

NOT VOTING—86.

Barlow,	Forsythe,	Martin, Joseph J.	Shelley,
Beale,	Fort,	McMahon,	Singleton, J. W.
Bingham,	Hammond, John	Miles,	Slemons,
Blackburn,	Hammond, N. J.	Muldrow,	Speer,
Bland,	Harris, Benj. W.	Muller,	Starin,
Bliss,	Hayes,	Murch,	Stephens,
Brigham,	Henkle,	Myers,	Talbott,
Camp,	Herndon,	Nicholls,	Taylor,
Carlisle,	Hill,	O'Brien,	Urner,
Chalmers,	Houk,	Osmer,	Valentine,
Clark, Alvah A.	House,	Overton,	Van Voorhis,
Clymer,	Hubbell,	Page,	Voorhis,
Coffroth,	Humphrey,	Persons,	Wait,
Crowley,	James,	Phelps,	Weaver,
De La Matyr,	Jones,	Poehler,	Wells,
Deuster,	Jorgensen,	Prescott,	Whiteaker,
Dick,	Keifer,	Rice,	Wood, Fernando
Dunn,	Killinger,	Robertson,	Yocum,
Dwight,	Kimmel,	Robeson,	Young, Casey
Ewing,	Lapham,	Russell, Daniel L.	Young, Thomas L.
Finley,	Le Fevre,	Russell, W. A.	
Fisher,	Lowe,	Shallenberger,	

So the motion to reconsider the vote agreeing to the amendment was laid on the table.

The following additional pairs were announced:

Mr. HOUSE with Mr. HOUK.

Mr. PAGE with Mr. SLEMONS.

The result of the vote was then announced as above recorded.

The next amendment was read, as follows:

Add after line 690 the following:

"And also a detailed statement of all miscellaneous expenditures in the division of internal revenue for which appropriation is made in this bill."

The amendment was agreed to.

The next amendment was read, as follows:

After line 1104 insert the following:

"And the Secretary of the Treasury shall make to Congress each year a detailed statement showing how the several sums herein appropriated for contingent and miscellaneous purposes have been expended; and also a statement giving the amount received under section 3687 of the Revised Statutes; and also a statement showing in detail how the money appropriated under said section has been expended."

Mr. CONGER. I ask for a vote on that amendment.

The question being taken, the amendment was agreed to.

The next amendment was read, as follows:

In line 1534, strike out "$48,000" and insert "$90,000;" and add at the end of line 1536 the following:

"*Provided*, That a detailed statement of the expenditure of this sum shall be made to Congress."

The amendment was agreed to.

The next amendment was read, as follows:

In line 1600, after the word "exhausted," insert the words "including pay of temporary draughtsmen."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ATKINS. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The SPEAKER. The yeas and nays will, under the rule, be called on the question of the passage of the bill.

The question was taken; and there were—yeas 189, nays 12, not voting 91; as follows:

YEAS—189.

Acklen,	Davis, Horace	Ladd,	Samford,
Aiken,	Davis, Joseph J.	Le Fevre,	Sapp,
Aldrich, N. W.	Davis, Lowndes H.	Lewis,	Sawyer,
Aldrich, William	Deering,	Lindsey,	Scales,
Anderson,	Deuster,	Loring,	Sherwin,
Armfield,	Dibrell,	Lounsbery,	Simonton,
Atherton,	Dickey,	Manning,	Singleton, O. R.
Atkins,	Dunnell,	Marsh,	Smith, A. Herr
Bachman,	Einstein,	Martin, Benj. F.	Smith, Hezekiah B.
Bailey,	Elam,	Martin, Edward L.	Smith, William E.
Baker,	Ellis,	Mason,	Sparks,
Ballou,	Evins,	McCold,	Springer,
Belford,	Farr,	McCook,	Steele,
Beltzhoover,	Felton,	McGowan,	Stevenson,
Bicknell,	Ferdon,	McKenzie,	Stone,
Blake,	Field,	McKinley,	Thomas,
Bliss,	Forney,	McLane,	Thompson, P. B.
Bowman,	Frost,	Miller,	Thompson, W. G.
Boyd,	Frye,	Mills,	Tillman,
Bragg,	Garfield,	Money,	Townsend, Amos
Brewer,	Gibson,	Monroe,	Townshend, R. W.
Bright,	Godshalk,	Morrison,	Tucker,
Browne,	Gunter,	Morse,	Turner, Thomas
Buckner,	Hall,	Morton,	Tyler,
Burrows,	Harmer,	New,	Updegraff, J. T.
Cabell,	Harris, John T.	Newberry,	Updegraff, Thomas
Caldwell,	Haskell,	Norcross,	Upson,
Calkins,	Hatch,	O'Connor,	Van Aernam,
Cannon,	Hawk,	O'Neill,	Vance,
Carlisle,	Hawley,	O'Reilly,	Waddill,
Carpenter,	Heilman,	Orth,	Wait,
Caswell,	Henry,	Page,	Ward,
Chalmers,	Herbert,	Phelps,	Warner,
Claflin,	Hiscock,	Philips,	Washburn,
Clark, John B.	Horr,	Phister,	Wellborn,
Cobb,	Hostetler,	Pierce,	Whitthorne,
Colerick,	House,	Pound,	Wilber,
Conger,	Hull,	Price,	Williams, C. G.
Converse,	Hunton,	Reagan,	Williams, Thomas
Cook,	Hutchins,	Reed,	Willis,
Cowgill,	Johnston,	Richardson, D. P.	Willits,
Cox,	Kelley,	Richardson, J. S.	Wilson,
Crapo,	Kenna,	Richmond,	Wise,
Cravens,	Ketcham,	Robinson,	Wood, Walter A.
Culberson,	King,	Ross,	Wright.
Daggett,	Kitchin,	Rothwell,	
Davidson,	Klotz,	Ryan, Thomas	
Davis, George R.	Knott,	Ryon, John W.	

NAYS—12.

Barber,	Briggs,	Hazelton,	Mitchell,
Bayne,	Errett,	Joyce,	Neal,
Bouck,	Ford,	McMillin,	Turner, Oscar.

NOT VOTING—91.

Barlow,	Fisher,	Killinger,	Russell, W. A.
Beale,	Forsythe,	Kimmel,	Shallenberger,
Berry,	Fort,	Lapham,	Shelley,
Bingham,	Geddes,	Lowe,	Singleton, J. W.
Blackburn,	Gillette,	Martin, Joseph J.	Slemons,
Bland,	Goode,	McMahon,	Speer,
Blount,	Hammond, John	Miles,	Starin,
Brigham,	Hammond, N. J.	Muldrow,	Stephens,
Butterworth,	Harris, Benj. W.	Muller,	Talbott,
Camp,	Hayes,	Murch,	Taylor,
Chittenden,	Henderson,	Myers,	Urner,
Clardy,	Henkle,	Nicholls,	Valentine,
Clark, Alvah A.	Herndon,	O'Brien,	Van Voorhis,
Clymer,	Hill,	Osmer,	Voorhis,
Coffroth,	Hooker,	Overton,	Weaver,
Covert,	Houk,	Pacheco,	Wells,
Crowley,	Hubbell,	Persons,	White,
De La Matyr,	Humphrey,	Poehler,	Whiteaker,
Dick,	Hurd,	Prescott,	Wood, Fernando
Dunn,	James,	Rice,	Yocum,
Dwight,	Jones,	Robertson,	Young, Casey
Ewing,	Jorgensen,	Robeson,	Young, Thomas L.
Finley,	Keifer,	Russell, Daniel L.	

So the bill was passed.

The following additional pair was announced:

Mr. BLOUNT with Mr. HENDERSON.

Mr. BELTZHOOVER. I am requested by my colleague, Mr. CLYMER, to state that he is necessarily detained from the House in attendance upon a sub-committee of Appropriations; that is the reason he is not present to vote for this bill.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed and requested the concurrence of the House in a resolution to print 3,000 extra copies of the report of the Superintendent of the Coast and Geodetic Survey, for the year ending June 30, 1879, for distribution by said Superintendent.

ORDER OF BUSINESS.

Mr. DEERING. I now call up the unfinished business, being the

bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians proclaimed January 21, 1867, reported to the House with an amendment last night from the Committee of the Whole on the state of the Union; and I demand the previous question upon the bill and amendment.

The SPEAKER. The gentleman from Iowa [Mr. DEERING] calls up the unfinished business coming over from last night.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. It is in relation to the demand of the gentleman from Iowa, [Mr. DEERING,] that the House now proceed to consider the unfinished business of last evening. I desire to state that an evening was assigned some time since by order of the House for the consideration of what is known as the immigration bill. The only reason I have not asked that another evening be assigned for its consideration is, that I supposed it would not come up the next day.

The SPEAKER. The bill to which the gentleman from New York [Mr. COX] refers has not come out of Committee of the Whole. The bill which the gentleman from Iowa [Mr. DEERING] calls up was reported to the House from the Committee of the Whole, and the previous question demanded thereon. That is the distinction between the two bills.

Mr. COX. Nevertheless I raise the point of order that that bill is unfinished——

The SPEAKER. The unfinished bill in the House was considered in Committee of the Whole, and by the Committee of the Whole reported back to the House. What would become of the bill if its consideration was not now proceeded with by the House? The bill of the gentleman from New York [Mr. COX] has not come out of the Committee of the Whole. It is still in Committee of the Whole.

Mr. COX. The only remedy I would have would be to ask unanimous consent to fix a day for the consideration of that bill. I want to say to the House now——

Mr. GIBSON. I rise to a privileged question and call up the resolution reported from the Committee on Ways and Means in relation to the adjournment.

The SPEAKER. The gentleman from Iowa [Mr. DEERING] demands the previous question on the unfinished business coming over from yesterday. If the House does not want to consider that business at this time, the question of consideration can be raised.

Mr. CONGER. The gentleman from Louisiana [Mr. GIBSON] claims the floor upon a privileged question.

The SPEAKER. It may be a privileged question, nevertheless the question of consideration can be raised against it. The bill reported from the Committee of the Whole last night is now in the House, and the gentleman from Iowa [Mr. DEERING] calls it up as unfinished business. The question of consideration can be raised against it. The Chair prefers to recognize the gentleman from Iowa because the business he calls up is unfinished business reported from the Committee of the Whole on the state of the Union. If the House declines to consider it now, it will continue over as unfinished business.

Mr. DEERING. I will not insist in case the bill will not lose its present position.

The SPEAKER. It will not lose its position; it remains as unfinished business.

Mr. DEERING. Then I will not press it now.

Mr. GIBSON. Then I call up the resolution in relation to final adjournment.

Mr. TUCKER. I move that the House resolve itself into Committee of the Whole on the state of the Union.

The SPEAKER. That is practically raising the question of consideration against the resolution of the gentleman from Louisiana, [Mr. GIBSON.]

Mr. TUCKER. And I announce to the House that I make my motion with a view of reaching the revenue bill now in Committee of the Whole.

Mr. COX. And I announce to the House that I have in view to reach the immigration bill, which is in Committee of the Whole.

Mr. BRIGHT. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. BRIGHT. I understand that the gentleman from Louisiana [Mr. GIBSON] makes his motion as coming from the Committee on Ways and Means.

The SPEAKER. That question is passed; the resolution has been reported to the House.

Mr. BRIGHT. I understand that he calls it up at this time upon the ground that it is from the Committee on Ways and Means.

Mr. GIBSON. Yes, and as a privileged question relating to final adjournment.

Mr. BRIGHT. I oppose that construction of the rule.

The SPEAKER. If the gentleman opposes that construction of the rule he should have done it when his opposition would have been pertinent.

Mr. BRIGHT. I do not understand that the resolution is now before the House.

The SPEAKER. The gentleman from Louisiana [Mr. GIBSON] rises to call up the report made from the Committee on Ways and Means.

Mr. BRIGHT. And I understand that he proposes it upon the ground that it is a privileged question, and I desire to show to the House that it is not a privileged question.

The SPEAKER. The Chair is not now called upon to decide that point. The point should have been made at the time of introduction of the resolution.

Mr. BRIGHT. I raise the question of consideration against that resolution upon the higher ground that this is Friday and has been set apart by the rules for the consideration of business on the Private Calendar.

The SPEAKER. The gentleman from Virginia [Mr. TUCKER] practically raises the question of consideration.

Mr. TUCKER. On the resolution which the gentleman from Louisiana [Mr. GIBSON] proposes to call up.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. Cannot I also raise the question of consideration——

Mr. GIBSON. The resolution which I propose to call up is one of the highest privilege, and I now ask for action upon it.

The SPEAKER. And a majority of the House have the right to say that they will or will not consider it. The Chair has always so decided, even on a contested-election case involving the right of a member to a seat on this floor. The question of consideration can always be raised.

Mr. GARFIELD. But the question to be put is, will the House now consider the adjournment resolution; not whether the House will consider the tariff bill.

The SPEAKER. The Chair recognized the gentleman from Virginia as raising what was equivalent to the question of consideration.

Mr. GARFIELD. But if the gentleman undertakes to raise the question of consideration by means of a motion to go into Committee of the Whole on the tariff bill, that is not in order.

The SPEAKER. The gentleman from Virginia antagonizes the proposition of the gentleman from Louisiana by a statement of that sort; but the real issue before the House——

Mr. MILLS. I raise the question of consideration.

Mr. GARFIELD. The real question to be put is, will the House now consider this adjournment resolution as a privileged question?

The SPEAKER. But the Chair will say to the gentleman from Ohio that if the pending proposition were a question of the highest privilege—a question as to the right of a member to a seat—the majority of the House would still have the right to determine whether the question should be considered.

Mr. GARFIELD. Certainly; but the question of consideration must be put in a direct form.

The SPEAKER. The gentleman from Texas [Mr. MILLS] now raises the question of consideration direct, which removes all doubt as to the issue.

Mr. MILLS. I raise the question of consideration.

Mr. COX. I rise to a question of order. [Cries of "Regular order!" "Vote!" "Vote!"] I have a right to order so that I may state my point.

The SPEAKER. Gentlemen will resume their seats and preserve order. The gentleman from New York rises to a question of order and desires that the point which he proposes to make shall be heard by the House.

Mr. COX. I desire to raise this question whether or not in making the motion to go into Committee of the Whole we are to designate any particular bill, and if we are——

The SPEAKER. The rule regulates the order in which business shall be disposed of in Committee of the Whole.

Mr. COX. I wish to know whether I cannot also raise the question of consideration in behalf of the immigration bill, which is now in Committee of the Whole?

The SPEAKER. The rules do not contain any specific injunction upon the House touching the immigration bill, as they do in regard to bills touching the revenue.

Mr. COX. This is almost the first bill on the Calendar in Committee of the Whole.

The SPEAKER. The Chair has nothing to do with that. The rules give revenue bills preference in Committee of the Whole on the state of the Union, even over appropriation bills.

Mr. COX. Can I not raise the question of consideration in behalf of the immigration bill?

The SPEAKER. The gentleman can raise the question of consideration in Committee of the Whole so as to reach that bill, but that is a question for the Committee of the Whole to determine, not the House.

Mr. COX. I would like to have the question of consideration pending on that bill.

The SPEAKER. The gentleman has declared very thoroughly his advocacy of the immigration bill. The Chair has not the power to facilitate the gentleman's wishes.

Mr. COX. Then I cannot get a vote on going into Committee of the Whole to consider the immigration bill?

The SPEAKER. The business to be considered in Committee of the Whole is a question for the committee, with which the Speaker has nothing to do.

Mr. COX. All right; that bill is what I want to get at.

Mr. BLACKBURN. I wish to make a parliamentary inquiry. I want to know whether the gentleman from Virginia, under the direction of the Committee on Ways and Means, moves that the House now resolve itself into Committee of the Whole on the state of the Union to consider the revenue bill pending upon the public Calendar——

The SPEAKER. That is a question the gentleman from Virginia will answer.

Mr. BLACKBURN. And if so, whether the Speaker rules that the resolution offered by the gentleman from Louisiana takes precedence of the motion made by the gentleman from Virginia?

The SPEAKER. The Chair will rule upon that question when it arises.

Mr. BLACKBURN. If that motion has been made, I raise the question right now.

The SPEAKER. The gentleman from Texas [Mr. MILLS] has raised the question of consideration on the resolution of the gentleman from Louisiana.

Mr. BLACKBURN. I want the Chair to rule upon the point raised by the two pending motions.

The SPEAKER. The Chair will rule that the proposition to fix a day of final adjournment is a privileged question; it has been so held by all his recent predecessors. He will take the liberty of inserting in the RECORD the decisions of previous presiding officers on this point:

April 18, 1860. Mr. Bonham having proposed to submit the following resolution, namely:

Resolved, That when this House adjourns on Friday next, it shall stand adjourned until Monday, the 30th of April instant, and that a message be sent to the Senate asking its consent thereto,

And objection being made to the reception of the same,

The Speaker *pro tempore* (Mr. Phelps in the chair) decided, in conformity with former decisions of the Chair, which have been acquiesced in by the House, that the said resolution being a privileged question was in order.

From this decision of the Chair Mr. Israel Washburn, jr., appealed.

Pending which,

Mr. Sherman moved, at five o'clock and ten minutes p. m., that the House adjourn.

April 19, 1860. The House having proceeded to the consideration of the appeal of Mr. Israel Washburn, jr., from the decision of the Chair as to the admissibility of the resolution proposed to be submitted by Mr. Bonham and pending when the House adjourned yesterday—

On motion of Mr. Winslow,

Ordered, That the said appeal be laid on the table.

The said resolution was then submitted and read, as follows, namely.

* * * * * * *

May 21, 1860. Mr. Montgomery (as a question of privilege) submitted the following resolution, namely:

Resolved, (*the Senate concurring*,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on Monday, the 11th June next, at twelve o'clock m.

Pending which,

Mr. Elihu B. Washburne moved the previous question.

Pending which,

Mr. Colfax moved that the said resolution be laid upon the table.

Pending which,

Mr. Maynard made the point of order that the resolution must lie over under the rule, a member having, as he alleged, signified his objection thereto before the demand for the previous question was made.

The Speaker overruled the said point of order.

From which decision of the Chair Mr. Maynard appealed.

Pending which,

On motion of Mr. Elihu B. Washburne,

Ordered, That the appeal be laid on the table.

May 20, 1862. Mr. Ancona having proposed to submit the following resolution, namely:

Resolved, That (the Senate concurring) the House of Representatives adjourn from Wednesday, 28th instant, to Monday, June 2,

The Speaker stated that inasmuch as he entertained doubts as to the propriety of holding such propositions to be privileged, notwithstanding the practice in the last Congress, he would submit the question, Will the House entertain the said resolution?

Pending which,

The yeas and nays having been ordered thereon,

On motion of Mr. Vallandigham, at four o'clock and thirty-five minutes p. m., the House adjourned.

May 21, 1862. The Speaker having announced as the business first in order the question of entertaining the following resolution, namely:

Resolved, That (the Senate concurring) the House of Representatives adjourn from Wednesday, 28th instant, to Monday, June 2,

Which was pending when the House adjourned yesterday—

The question was put, Will the House entertain the said resolution?

And it was decided in the affirmative.

Yeas and nays, &c., &c.

Mr. BLACKBURN. I do not object to that ruling, Mr. Speaker; but that does not cover the point I am raising. I want the Chair to rule on this point—whether the motion made by the gentleman from Louisiana to take up this resolution fixing a day of final adjournment takes precedence of the motion made by the gentleman from Virginia, that the House resolve itself into Committee of the Whole to consider the revenue bill.

The SPEAKER. The Chair will decide that point, although not called upon to do so now.

Mr. BLACKBURN. I call upon the Chair to decide it now.

The SPEAKER. The question has not yet arisen, because the pending question is that of consideration; but the Chair thinks that if the resolution of the gentleman from Louisiana was ever a question of privilege, its privilege attaches to it throughout. On this point also the Chair will take the liberty of inserting in the RECORD references to the past practice. A matter of privilege arising out of any question supersedes the consideration of the original question, and must first be disposed of, and retains its privileged character until so disposed of. (2 Hatsfield, Jefferson's Manual, 77, and Journals of House of Representatives *passim* on contested-election cases.)

Mr. BLACKBURN. Do I understand the Chair to rule the motion made by the gentleman from Virginia, to resolve this House into the Committee of the Whole House on the state of the Union to consider that revenue bill reported from the Committee on Ways and Means, is swept off the floor by the motion of the gentleman from Louisiana?

Mr. REED. It never was on the floor to be swept off.

The SPEAKER. If a majority of the House should rule not to consider the question——

Mr. BLACKBURN. Which comes first?

The SPEAKER. There is no occasion for confusion in reference to these matters, as the majority of the House all the time has the power to control the order of its proceeding.

Mr. GIBSON. There is no antagonism—none whatever—between the resolution I offered and the resolution of my friend from Virginia, and I hope gentlemen will not attempt to bring the two propositions into conflict.

Mr. TOWNSHEND, of Illinois. If there is not, I do not know where there is any antagonism.

Mr. GIBSON. I demand the previous question on the resolution.

The SPEAKER. The gentleman cannot call for the previous question until the House has determined to consider it.

Mr. CLARK, of Missouri. I ask the gentleman from Louisiana whether the report from the Committee on Ways and Means is the unanimous report or the report of a majority of that committee?

Mr. GIBSON. A majority report, I think, sir.

Mr. CLARK, of Missouri. It is not, then, unanimous.

The SPEAKER. The pending question is, Shall the House proceed to the consideration of the resolution fixing the day of final adjournment?

The House divided; and there were—ayes 118, noes 65.

Mr. BLACKBURN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 133, nays 75, not voting 84; as follows:

YEAS—133.

Acklen,	Crowley,	Ketcham,	Reed,
Aiken,	Davis, George R.	King,	Richardson, D. P.
Aldrich, N. W.	Davis, Horace	Klotz,	Richardson, J. S.
Aldrich, William	Deering,	Ladd,	Richmond,
Anderson,	Deuster,	Le Fevre,	Robinson,
Atherton,	Dickey,	Lindsey,	Ross,
Bachman,	Dunnell,	Loring,	Ryan, Thomas
Bailey,	Dwight,	Lounsbery,	Ryon, John W.
Baker,	Einstein,	Marsh,	Sapp,
Ballou,	Errett,	Martin, Benj. F.	Sherwin,
Barber,	Evins,	Martin, Edward L.	Smith, A. Herr
Bayne,	Farr,	Mason,	Smith, Hezekiah B.
Beltzhoover,	Felton,	McCoid,	Sparks,
Blake,	Ferdon,	McCook,	Thomas,
Bliss,	Field,	McGowan,	Thompson, W. G.
Bouck,	Frost,	McKinley,	Tillman,
Bowman,	Frye,	Miller,	Townsend, Amos
Boyd,	Garfield,	Mitchell,	Updegraff, J. T.
Bragg,	Geddes,	Monroe,	Van Aernam,
Brewer,	Gibson,	Morse,	Wait,
Briggs,	Godshalk,	Morton,	Ward,
Browne,	Hall,	Neal,	Warner,
Burrows,	Harmer,	Newberry,	Washburn,
Butterworth,	Haskell,	Norcross,	White,
Cannon,	Hawk,	O'Connor,	Wilber,
Carpenter,	Hawley,	O'Neill,	Williams, C. G.
Caswell,	Hazelton,	O'Reilly,	Willits,
Chittenden,	Heilman,	Orth,	Wilson,
Claflin,	Hiscock,	Pacheco,	Wise,
Clardy,	Horr,	Page,	Wood, Walter A.
Conger,	Hull,	Phelps,	Wright.
Cook,	Joyce,	Pierce,	
Cowgill,	Kelley,	Pound,	
Crapo,	Kenna,	Price,	

NAYS—75.

Armfield,	Davidson,	Knott,	Simonton,
Atkins,	Davis, Joseph J.	Lewis,	Singleton, O. R.
Berry,	Davis, Lowndes H.	Manning,	Slemons,
Bicknell,	Dibrell,	McKenzie,	Smith, William E.
Bland,	Elam,	McLane,	Springer,
Bright,	Ellis,	McMillin,	Steele,
Buckner,	Ford,	Mills,	Stevenson,
Cabell,	Gunter,	Money,	Townshend, R. W.
Caldwell,	Harris, John T.	Morrison	Tucker,
Carlisle,	Hatch,	New,	Turner, Oscar
Clark, John B.	Henry,	Philips,	Turner, Thomas
Cobb,	Herbert,	Phister,	Upson,
Colerick,	Hooker,	Reagan,	Vance,
Converse,	Hostetler,	Robertson,	Waddill,
Covert,	House,	Rothwell,	Wellborn,
Cox,	Hunton,	Samford,	Whitthorne,
Cravens,	Hutchins,	Sawyer,	Williams, Thomas
Culberson	Johnston,	Scales,	Willis.
Daggett,	Kitchin,	Shelley,	

NOT VOTING—84.

Barlow,	Camp,	Ewing,	Hammond, John
Beale,	Chalmers,	Finley,	Hammond, N. J.
Belford,	Clark, Alvah A.	Fisher,	Harris, Benj. W.
Bingham,	Clymer,	Forney,	Hayes,
Blackburn,	Coffroth,	Forsythe,	Henderson,
Blount,	De La Matyr,	Fort,	Henkle,
Brigham,	Dick,	Gillette,	Herndon,
Calkins,	Dunn,	Goode,	Hill,

Houk,	McMahon,	Rice,	Tyler,
Hubbell,	Miles,	Robeson,	Updegraff, Thomas
Humphrey,	Muldrow,	Russell, Daniel L.	Urner,
Hurd,	Muller,	Russell, W. A.	Valentine,
James,	Murch,	Shallenberger,	Van Voorhis,
Jones,	Myers,	Singleton, J. W.	Voorhis,
Jorgensen,	Nicholls,	Speer,	Weaver,
Keifer,	O'Brien,	Starin,	Wells,
Killinger,	Osmer,	Stephens,	Whiteaker,
Kimmel,	Overton,	Stone,	Wood, Fernando
Lapham,	Persons,	Talbott,	Yocum,
Lowe,	Poehler,	Taylor,	Young, Casey
Martin, Joseph J.	Prescott,	Thompson, P. B.	Young, Thomas L.

So the motion was agreed to.

The following additional pairs were announced from the Clerk's desk:

Mr. TYLER with Mr. THOMPSON, of Kentucky.

Mr. CALKINS with Mr. BELFORD.

The vote was then announced as above recorded.

Mr. GIBSON. I demand the previous question on the adoption of the resolution for final adjournment.

Mr. MILLS. I rise to a point of order. In order that it may be properly understood, I will state the present condition of the matter. The gentleman from Louisiana by authority of the Committee on Ways and Means has reported the resolution on your desk fixing the day of final adjournment of the two Houses of Congress, and the Chair has properly recognized him as having control of that resolution. Pending his demand for the previous question, I have——

Mr. GIBSON. I have the floor.

The SPEAKER. The Chair prefers to hear the statement of the gentleman from Texas.

Mr. MILLS. Pending the motion of the gentleman from Louisiana for the previous question on his resolution, I move to recommit the resolution to the Committee on Ways and Means with instructions.

The SPEAKER. The Chair entertains such a motion.

Mr. MILLS. I contend that is to be submitted to the House before the demand for the previous question.

The SPEAKER. It can be submitted before the vote on the demand for the previous question or afterward.

Mr. MILLS. Yes, sir; under the new rule which I ask to have read.

The SPEAKER. The Chair will cause it to be read so all the members of the House may hear it.

The Clerk read as follows:

RULE XVII.

PREVIOUS QUESTION.

1. There shall be a motion for the previous question, which, being ordered by a majority of members present, if a quorum, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection. It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

The SPEAKER. The gentleman from Louisiana demands the previous question, pending which the Chair recognizes the gentleman from Texas to make a motion to recommit with instructions.

Mr. MILLS. And I ask for a vote on that motion of mine to recommit with instructions.

Mr. BUCKNER. Is it in order to move to take a recess from May 31 till the 8th day of November next?

The SPEAKER. If the demand for the previous question is voted down, the resolution would then be open to amendment.

Mr. MILLS. I ask for the reading of my motion to recommit the resolution with instructions to the Committee on Ways and Means.

The SPEAKER. The Chair desires for a moment the attention of the House. Under the new rules the practice is different from what it was under the old rules. By the old rules a motion to commit was not allowed pending the sense of the House being taken on a motion for the previous question, and the Committee on Rules made an innovation and inserted this provision in order to make plain what was formerly in controversy as to the very point now raised, and the rules now authorize a motion such as the gentleman from Texas makes, to wit, to commit with instructions.

Mr. GARFIELD. I wish to inquire whether the Speaker's ruling includes a series of motions or a single motion?

The SPEAKER. The wording of the rule is "a motion."

Mr. GARFIELD. Because if the ruling includes other motions than one a variety of motions can be introduced, on each one of which a separate vote would have to be taken.

The SPEAKER. The Chair thinks the purpose of the committee was only to allow a single motion.

Mr. GARFIELD. And no more.

The SPEAKER. If gentlemen desire to delay this matter they could do it by other motions.

Mr. TUCKER. I hope the Chair will not decide that point yet in this connection.

Mr. MILLS. That is not yet before the House.

Mr. COX. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COX. If the recommittal with instructions to the Committee on Ways and Means be voted down is it in order to move to recommit?

The SPEAKER. The Chair will decide that question when it arises. The Clerk will now read the resolution of the gentleman from Texas, on which the House is called upon to act.

The Clerk read as follows:

Resolved, That the resolution be recommitted to the Committee on Ways and Means, with instructions to report the bill to this House providing for the free importation of salt and printing-paper before they report the resolution for final adjournment.

Mr. SPRINGER. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I desire to know whether it is not in order to move now to amend the instructions to the committee?

Mr. GARFIELD. I make the point of order that the instructions contained in the resolution just read from the Clerk's desk are not germane to the subject-matter.

The SPEAKER. That is more properly for the House to determine, rather than the Chair.

Mr. GARFIELD. Is it not for the Speaker to determine when the point is made?

The SPEAKER. The Chair thinks the House can instruct the committee.

Mr. GARFIELD. If a bill is pending before the committee instructions in reference to that bill would undoubtedly be in order; but here is an instruction proposed to be given to the committee about another matter entirely different. Suppose, for instance, we have an Indian appropriation bill pending and it is proposed to recommit it with instructions to the committee, not to come back into the House until the tariff bill is passed. That, I hold, is not germane to the Indian appropriation bill. Nor is the instruction here proposed germane to the matter under consideration by the committee.

The SPEAKER. This is a proposition to send back a resolution reported from the Ways and Means Committee as to final adjournment in connection with legislation in that committee about which the House chooses to instruct the committee. There is a logical connection, and it really embraces the issue between the two sides on this question, and therefore the resolution of instruction as offered the Chair thinks to be in order under such condition of controversy.

Mr. GARFIELD. It is very remote from the subject before the committee. How can salt be germane to the subject-matter pending before the committee?

Mr. WARNER. To keep it. [Laughter.]

Mr. GARFIELD. For my part I do not see any connection.

Mr. CONGER. In one sense it is germane, because it leads to Salt River. [Laughter.]

Mr. AIKEN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. AIKEN. If this resolution pass is it the understanding that this House does not adjourn until the Committee on Ways and Means report tariff legislation? If that be so we will be here until Christmas.

The SPEAKER. That is for the House to take into consideration in voting on the subject.

Mr. MILLS. I demand the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and there were—yeas 90, nays 116, not voting 86; as follows:

YEAS—90.

Anderson,	Davidson,	Hutchins,	Samford,
Atherton,	Davis, Joseph J.	Johnston,	Sawyer,
Atkins,	Davis, Lowndes H.	Jones,	Scales,
Berry,	Deuster,	Kitchin,	Sherwin,
Bicknell,	Dibrell,	Knott,	Simonton,
Bland,	Elam,	Lewis,	Singleton, O. R.
Bright,	Ellis,	Lowe,	Slemons,
Buckner,	Felton,	Manning,	Smith, William E.
Cabell,	Ford,	Martin, Joseph J.	Springer,
Caldwell,	Forney,	McKenzie,	Steele,
Calkins,	Frost,	McLane,	Stevenson,
Cannon,	Geddes,	McMillin,	Townshend, R. W.
Carlisle,	Gunter,	Mills,	Tucker,
Clardy,	Harris, John T.	Money,	Turner, Oscar
Clark, John B.	Haskell,	New,	Upson,
Cobb,	Hatch,	Philips,	Vance,
Colerick,	Henry,	Phister,	Waddill,
Converse,	Herbert,	Reagan,	Wellborn,
Cook,	Hooker,	Richardson, J. S.	Whitthorne,
Covert,	Hostetler,	Richmond,	Williams, Thomas
Cravens,	House,	Robertson,	Willis.
Culberson,	Hull,	Rothwell,	
Daggett,	Hunton,	Ryan, Thomas	

NAYS—116.

Acklen,	Briggs,	Dwight,	Hazelton,
Aiken,	Browne,	Einstein,	Heilman,
Aldrich, N. W.	Burrows,	Errett,	Hiscock,
Aldrich, William	Butterworth,	Evins,	Horr,
Bachman,	Carpenter,	Ewing,	Houk,
Bailey,	Caswell,	Farr,	Joyce,
Baker,	Chittenden,	Ferdon,	Kelley,
Ballou,	Claflin,	Field,	Kenna,
Barber,	Conger,	Frye,	Ketcham,
Belford,	Cowgill,	Garfield,	King,
Beltzhoover,	Crapo,	Gibson,	Klotz,
Blake,	Davis, George R.	Godshalk,	Ladd,
Bouck,	Davis, Horace	Hall,	Le Fevre,
Boyd,	Deering,	Harmer,	Lindsey,
Bragg,	Dickey,	Hawk,	Loring,
Brewer,	Dunnell,	Hawley,	Lounsbery,

Marsh,	Neal,	Richardson, D. P.	Van Aernam,
Martin, Benj. F.	Newberry,	Robinson,	Wait,
Martin, Edward L.	Norcross,	Ross,	Ward,
Mason,	O'Connor,	Ryon, John W.	Warner,
McCold,	O'Neill,	Sapp,	Washburn,
McCook,	Orth,	Smith, A. Herr	White,
McGowan,	Pacheco,	Smith, Hezekiah B.	Wilber,
McKinley,	Page,	Sparks,	Williams, C. G.
Miller,	Phelps,	Stone,	Willits,
Mitchell,	Pierce,	Thompson, W. G.	Wilson,
Monroe,	Pound,	Tillman,	Wise,
Morse,	Price,	Townsend, Amos	Wood, Walter A.
Morton,	Reed,	Updegraff, J. T.	Wright.

NOT VOTING—86.

Armfield,	Forsythe,	Miles,	Starin,
Barlow,	Fort,	Morrison,	Stephens,
Bayne,	Gillette,	Muldrow,	Talbott,
Beale,	Goode,	Muller,	Taylor,
Bingham,	Hammond, John	Murch,	Thomas,
Blackburn,	Hammond, N. J.	Myers,	Thompson, P. B.
Bliss,	Harris, Benj. W.	Nicholls,	Turner, Thomas
Blount,	Hayes,	O'Brien,	Tyler,
Bowman,	Henderson,	O'Reilly,	Updegraff, Thomas
Brigham,	Henkle,	Osmer,	Urner,
Camp,	Herndon,	Overton,	Valentine,
Chalmers,	Hill,	Persons,	Van Voorhis,
Clark, Alvah A.	Hubbell,	Poehler,	Voorhis,
Clymer,	Humphrey,	Prescott,	Weaver,
Coffroth,	Hurd,	Rice,	Wells,
Cox,	James,	Robeson,	Whiteaker,
Crowley,	Jorgensen,	Russell, Daniel L.	Wood, Fernando
De La Matyr,	Keifer,	Russell, W. A.	Yocum,
Dick,	Killinger,	Shallenberger,	Young, Casey
Dunn,	Kimmel,	Shelley,	Young, Thomas L.
Finley,	Lapham,	Singleton, J. W.	
Fisher,	McMahon,	Speer,	

So the motion to commit with instructions was not agreed to.

After the second roll-call,

Mr. McCOID (who had voted "ay") said: Although I am in favor of removing the tax from paper, yet in the present form of this resolution——

Mr. ROSS. I object.

Mr. PHILIPS. I object to the gentleman giving any explanation.

The SPEAKER *pro tempore*, (Mr. MCMILLIN.) The gentleman from Iowa is out of order.

Mr. McCOID. I change my vote from "ay" to "no."

The following additional pairs were announced:

Mr. MORRISON with Mr. THOMAS, on the question of adjournment.

Mr. BAYNE with Mr. THOMPSON, of Kentucky, until the 23d of May, on all political and tariff questions and resolution for adjournment on the 31st.

Mr. TYLER with Mr. KNOTT, for this evening.

Mr. COFFROTH with Mr. ARMFIELD, on all questions relating to the tariff.

Mr. HUBBELL with Mr. HENKLE, for one week, on all tariff and revenue questions.

Mr. COX. I was out of my seat temporarily, and when I returned the second roll-call was proceeding. I ask to have my vote recorded.

The SPEAKER. Did the gentleman answer when his name was called on either of the roll-calls?

Mr. COX. I did not. I ask to have my vote recorded.

The SPEAKER. The Chair has not the right to entertain that request.

The result of the vote was then announced as above recorded.

Mr. GIBSON. I demand the previous question on the resolution.

Mr. BLACKBURN. Pending that, I move that the House do now adjourn; and pending that motion, I move that when the House adjourns to-day it be to meet on Monday at twelve o'clock.

Mr. GARFIELD. Filibustering!

Mr. BLACKBURN. That is a term which you have often earned, but have never admitted its application to your own side.

Mr. HUNTON. I ask the gentleman from Kentucky to withdraw his motion that I may move a recess until half past seven o'clock, a session having been appointed for this evening for the consideration of the District code.

The SPEAKER. The Chair will cause to be read for the information of the House the order for a session this evening.

The Clerk read as follows:

Resolved, That there shall be a session of this House on Wednesday and Friday of each week, commencing April 21, 1880, which sessions shall be devoted exclusively to the consideration in the Committee of the Whole on the state of the Union of the bill (H. R. No. 3541) to establish a municipal code for the District of Columbia, and shall continue till the consideration of said bill is completed.

Mr. HUNTON. I move that the House take a recess until half past seven o'clock.

The SPEAKER. There are two motions pending of a higher order.

Mr. HUNTON. I understand the gentleman from Kentucky [Mr. BLACKBURN] has yielded to me to make my motion.

The SPEAKER. The Chair is bound to recognize the motions in the order prescribed by the rule.

Mr. BLACKBURN. I will withdraw the motion for the present, if the gentleman from Virginia moves a recess.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk read clause 4 of Rule XVI, as follows:

4. When a question is under debate, no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question, (which motions shall be decided without debate,) to postpone to a day certain, to refer or amend, or to postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

Mr. FRYE. Under the resolution which has been read would not the House at half past four take a recess?

The SPEAKER. There is nothing in the order saying the recess must be taken at half past four; and the Chair is advised that whenever there has been an evening session for the consideration of the business specified in that order, there has been a motion to take a recess to the time mentioned for the evening session to begin.

Mr. FRYE. I do not see how the gentleman from Kentucky [Mr. BLACKBURN] can possibly attend to this filibustering next week.

Mr. BLACKBURN. The gentleman from Maine claims a monopoly in that business, and I do not dispute his title.

Mr. GIBSON. I have demanded the previous question.

The SPEAKER. The Chair has entertained that demand; but the motion for a recess is in order nevertheless.

Mr. TOWNSHEND, of Illinois. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. I desire to know if another motion to recommit would be in order?

The SPEAKER. That motion has not been made, and the Chair does not rule on it.

Mr. TOWNSHEND, of Illinois. I make the motion now.

The SPEAKER. The Chair is now entertaining a motion of higher privilege.

Mr. HUNTON. I understand my motion is before the House.

The SPEAKER. The gentleman from Virginia [Mr. HUNTON] moves that the House take a recess until half past seven o'clock.

Mr. CONGER. Is that motion in order while this matter is pending?

The SPEAKER. It is. The rule has just been read under which the motion is in order.

Mr. COBB. I ask the gentleman from Virginia [Mr. HUNTON] to yield to me that I may get unanimous consent to report from the Committee on Appropriations the bill which was before the House yesterday.

Mr. HUNTON. I would be glad to oblige my friend. But if I did I might lose the session to-night.

Mr. TUCKER. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TUCKER. What would be the effect of the House now taking a recess? Would the resolution reported by the gentleman from Lousiana come up as unfinished business to-night?

The SPEAKER. The Chair thinks not, because there is an order of the House fixing the business for this evening's session. It would come up as unfinished business whenever it was not interrupted by motions of a higher order.

Mr. ATKINS. I hope the House will allow the gentleman from Indiana to report the bill which he indicates. It has been agreed to by the Committee on Appropriations and is unanimously recommended. I hope the gentleman will be allowed to report it.

The SPEAKER. The gentleman from Indiana asks unanimous consent at this time to report from the Committee on Appropriations, under instructions from that committee, an appropriation bill the title of which will be read, after which objections, if any, will be in order.

The Clerk read as follows:

A bill making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

The SPEAKER. Does the gentleman from Virginia yield to the gentleman from Indiana to report that bill?

Mr. HUNTON. I desire to know if the gentleman from Indiana asks unanimous consent for the consideration of the bill or for its passage?

Mr. ATKINS. For its consideration, of course.

Mr. HUNTON. I am afraid that the consideration of this bill at this time will cut me out of my night's session.

Mr. ATKINS. It will not take five minutes.

Mr. HOOKER. I object to the bill.

The SPEAKER. Objection being made the question recurs upon the motion for a recess.

Mr. ATKINS. Perhaps the gentleman from Mississippi [Mr. HOOKER] will not object, if the consideration of this bill does not take up any time.

Mr. HOOKER. I do object, because I want to vote for the motion for a recess.

EVENING SESSION, MAY 26.

Mr. THOMPSON, of Kentucky. I ask unanimous consent to submit a resolution for consideration at this time.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That on May 26 the House take a recess at 4.30 p. m. until 7.30 p. m., and that a night session be held for the consideration of H. R. No. 3291 and H. R. No. 3854, which are the quartermasters' bill and the Kentucky bill.

Mr. BURROWS. I will not object to that if the gentleman will modify his resolution so as not to oblige the House to take a recess at half past four.

Mr. THOMPSON, of Kentucky. I will modify it in that way.

Mr. CONGER. If the gentleman from Kentucky [Mr. THOMPSON] will withdraw his objection to the harbor of refuge bill, I will not object.

The SPEAKER. The Chair cannot entertain a qualified objection.

Mr. WHITE. What is the proposition?

The SPEAKER. The Clerk will read the resolution as modified.

The Clerk read as follows:

Resolved, That on May 26 the House take a recess until 7.30 p. m., and that a night session be held for the consideration of H. R. No. 3291 and H. R. No. 3854, which are the quartermasters' bill and the Kentucky bill.

Mr. SMITH, of Pennsylvania. I object; the "Kentucky bill" and the "quartermasters' bill" are terms entirely too indefinite.

DEPARTMENT OF AGRICULTURE.

Mr. AIKEN. I ask unanimous consent that next week, immediately after the passage of the appropriation bill reported from the Committee on Agriculture, House bill No. 4909 be taken from the Calendar of the Committee of the Whole for consideration.

The SPEAKER. What is that bill?

Mr. AIKEN. It is a bill proposing to elevate the Bureau of Agriculture to an Executive Department.

Mr. ERRETT and others objected.

Mr. AIKEN. Who objects?

The SPEAKER. Several gentlemen on the left of the Chair. The RECORD will show.

Mr. ERRETT and Mr. SMITH, of Pennsylvania, rose and objected.

The SPEAKER. Two gentlemen from Pennsylvania object. [Laughter.]

DOUBLE-TURRETED MONITORS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with the joint resolution of April 2, 1880, the reports of the boards organized to inquire into the present condition of the double-turreted monitors and the propriety and cost of completing said vessels.

Mr. WHITTHORNE. I move that that communication be referred to the Committee on Naval Affairs and printed.

The motion was agreed to.

ASSESSMENTS UPON THE STATES.

The SPEAKER also laid before the House a letter from the acting Secretary of the Treasury, in response to a resolution of the House of February 5, 1880, calling for information as to the amount assessed upon and collected from the States under the act of 1861 and its settlement; which was referred to the Committee on Ways and Means.

NATIONAL ACADEMY OF SCIENCES.

The SPEAKER also laid before the House a communication from the president of the National Academy of Sciences, transmitting a report of the operation of the National Academy of Sciences for the past year; which was referred to the Committee on the Library, and ordered to be printed.

ROOMS FOR COURT OF CLAIMS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to a deficiency for an appropriation for the rent of rooms for the Court of Claims; which was referred to the Committee on Appropriations.

PAY OF EMPLOYÉS IN INTERIOR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting the petition of messengers and laborers of the Interior Department, praying Congress to restore their compensation to the amount allowed prior to July 1, 1878; which was referred to the Committee on Appropriations.

MILITARY WAGON-ROAD.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the construction of a military wagon-road, and asking an appropriation of $100,000 therefor; which was referred to the Committee on Appropriations.

COMPULSORY RETIREMENT OF ARMY OFFICERS.

The SPEAKER also laid before the House a communication from the Secretary of War, relative to the compulsory retirement of Army officers; which was referred to the Committee on Military Affairs.

LABORERS IN STATE DEPARTMENT.

The SPEAKER also laid before the House a memorial of the laborers employed in the State Department, asking that their compensation may be restored to what it was prior to July 1, 1878; which was referred to the Committee on Appropriations.

ARMY OFFICERS ON DETACHED SERVICE.

The SPEAKER also laid before the House a communication from the Secretary of War, in response to a resolution of the House, transmitting a report relative to Army officers on detached service; which was referred to the Committee on Military Affairs.

FRAUDS IN INDIAN BUREAU.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in response to a resolution of the House, requesting information whether, since July 1, 1877, there have been any frauds or corrupt practices on the part of the respective agents and employés of the Indian Bureau; which was referred to the Committee on Indian Affairs.

BIENNIAL REGISTER.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, recommending a change in the date of compiling the Biennial Register; which was referred to the Committee on Printing.

ROBERT P. WILSON.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, relative to the restoration to the Army of Robert P. Wilson, late captain Fifth United States Cavalry; which was referred to the Committee on Military Affairs.

UTE DEPREDATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, relative to certain Indian depredation claims arising out of the Ute outbreak in Colorado; which was referred to the Committee on Indian Affairs.

REGISTERS AND RECEIVERS OF LAND OFFICES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting an estimate of appropriations required to supply deficiencies in the appropriation for salaries and commissions of registers and receivers of land offices; which was referred to the Committee on Appropriations.

WHITE RIVER UTE COMMISSION.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting copy of the evidence taken before the White River Ute commission; which was referred to the Committee on Indian Affairs.

PRINTING OF EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair desires to ask the House to give to the Committee on Indian Affairs discretion to print or not, as they deem the public interest will require, the executive communications which have been referred to that committee.

There was no objection, and leave was granted accordingly.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal.

HOUR OF DAILY MEETING.

The SPEAKER. The question recurs upon the motion for a recess.

Mr. O'NEILL. I would inquire of the Chair if to-morrow is the day fixed when the House will begin to meet at eleven o'clock?

The SPEAKER. The Chair thinks the order reads "from and after the 15th instant," not "on and after." The order of the House will be read.

The Clerk read as follows:

Resolved, That from and after the 15th instant this House will meet at eleven o'clock a. m. until otherwise ordered.

The SPEAKER. The Chair thinks the House intended that this resolution should take effect on Monday next.

Mr. WRIGHT. The resolution is explicit enough. "From the 15th" does not mean "on the 15th."

The SPEAKER. The Chair rules that the operation of the resolution begins on Monday next.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

An act (S. No. 1124) for the relief of the heirs of Major D. C. Smith:

An act (S. No. 1703) authorizing the change of the name of the schooner Rebecca D; and

Joint resolution (S. R. No. 15) authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. THOMAS, for to-morrow; and

To Mr. CAMP, indefinitely.

The question being taken on the motion of Mr. HUNTON for a recess, it was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

CODE FOR THE DISTRICT OF COLUMBIA.

The SPEAKER. The session of this evening is held in obedience to an order of the House for the consideration of the bill known as the District code.

Mr. HUNTON. I move that the House resolve itself into Committee of the Whole to resume the consideration of the bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BURROWS in the chair,) and resumed the consideration of the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia.

The pending question was, to add after line 69, on page 212, under the head of "members of the police force," the following:

Provided, That at least 75 per cent. of all appointments hereafter made to the police force, and made prior to January 1, 1885, shall be made from persons who served in the Army or Navy of the United States in the late war and were honorably discharged; and such persons having the requisite physical and other qualifications may be appointed after a residence of three months in the District.

The CHAIRMAN. Upon the adoption of this amendment tellers had been ordered when the committee rose. The gentleman from Virginia, Mr. HUNTON, and the gentleman from Rhode Island, Mr. ALDRICH, will resume their places as tellers.

The committee divided; and the tellers reported—ayes 21, noes 10.

Mr. SAMFORD. I raise the point that no quorum has voted. I wish to make a suggestion. At the opening of the session of last Wednesday evening——

The CHAIRMAN. The gentleman from Alabama raises the point that no quorum has voted.

Mr. ALDRICH, of Rhode Island. I suggest to the gentleman from Alabama that the amendment stand as adopted and that in the House——

Mr. SAMFORD. Allow me to make a suggestion to the gentleman from Rhode Island. At the opening of the session of last Wednesday evening there were very few members present, and the consideration of the amendment of the gentleman from Rhode Island was deferred until a later hour in the evening. Now, I suggest to the gentleman to defer this question for some little time until we can have more members in the House.

Mr. WILBER. I hope the gentleman will not urge that, for when the question is brought up again some other gentleman may make the point that there is no quorum; for we shall have no quorum.

Mr. ALDRICH, of Rhode Island. I suppose we must have a vote in the House before either side will be satisfied; but I see no objection to having the amendment stand now as adopted.

Mr. SAMFORD. Is that satisfactory to the gentleman from Virginia, [Mr. HUNTON?]

Mr. HUNTON. The gentleman from Rhode Island is very willing to assent to this arrangement now, but was very unwilling on Wednesday evening.

Mr. ALDRICH, of Rhode Island. Oh, no.

Mr. HUNTON. I beg the gentleman's pardon; I offered him a vote in the House, as I offer it to-night.

Mr. ALDRICH, of Rhode Island. And I accepted the offer, provided it could be done.

Mr. HUNTON. There was no question about its being done.

Mr. ALDRICH, of Rhode Island. Certainly there is no question about its being done now.

Mr. HUNTON. And there was not then.

Mr. ALDRICH, of Rhode Island. The result is the same.

Mr. SAMFORD. I desire to ascertain the desire of the chairman of the District Committee.

Mr. ALDRICH, of Rhode Island. I hope the gentleman from Alabama will withdraw his point of order.

Mr. BROWNE. I ask the attention of the gentleman from Virginia, [Mr. HUNTON.] As I understood the matter the other night, the gentleman from Virginia made the proposition that a vote be taken on this question in the House. It was said, however, at that time, either by the chairman or some member of the committee, that it could not be done under the circumstances without unanimous consent. Upon that statement some gentleman on the other side announced his objection. Now the matter is in such condition that we may unquestionably have a vote in the House.

I have attended these meetings at night very regularly. This seems to be an important bill. It is clear to me, as it must be to the committee, that if this bill is ever to get out of the Committee of the Whole at a night session it must be by an agreement that a vote be taken upon this proposition in the House. I think I can say for our side that we will never consent that this question shall be determined in Committee of the Whole in the absence of a quorum, unless it be put in such a position that we may have a vote upon it in the House. If we are beaten in the House of course we shall acquiesce.

Mr. OSCAR TURNER. I rise to a question of order.

Mr. BROWNE. I say in the interest of the bill——

Mr. OSCAR TURNER. I insist tellers had been appointed and it was ascertained there was no quorum, and that question was made by the gentleman from Alabama.

The CHAIRMAN. That is the status of the question.

Mr. OSCAR TURNER. Then under the rules the duty of the Chair is prescribed, and debate is out of order.

Mr. HUNTON. Let me respond to the inquiry of the gentleman from Alabama. I have never in my life, during the pendency of this bill certainly, desired to change an amendment or ingraft an amendment on the bill in such manner as to preclude a vote in the House on it. I was aware we were proceeding here night after night without a quorum, and it was from the courtesy of both sides we had been able to get along as far as we have without a quorum. Therefore I made it the point in so far as I was able that a vote in full House might be had on any question gentlemen might desire. When on Wednesday night this amendment was defeated by a vote of 34 to 19, and the question of a quorum was raised, I said to gentlemen on that side who advocated the amendment there should be a vote in the House on it. I did not think I spoke at random when I said a vote could be had, and I have consulted with the Speaker to-night and am informed I am correct.

Now, as I told the gentleman from Michigan before the session of to-night began, if the other side of the House desire a vote in the House on this proposition when the committee reports the bill to the House, before I move the previous question on the passage of the bill I will agree the gentleman from Rhode Island should offer the amendment and have a vote in the House.

Mr. BROWNE. Why, then, cannot we go on, as the matter is in such situation, so a vote may be had in the House?

Mr. HUNTON. Ah! I find a great change has come over the spirit of the dream of that side of the House. Wednesday night the amendment was defeated and then they would not agree this proposition should be made. Now by the accidental coming up of this question to-night, after the House resolved itself into committee, there appears to be more members on that side of the House than this and the amendment is adopted according to the vote.

Mr. BROWNE. I understood the proposition was made by the gentleman if a vote should be had in the House it would be satisfactory to the gentleman from Michigan. Just at that time the announcement was made by some gentleman on your side in which it was said no vote could be had except by unanimous consent.

Mr. HUNTON. That is true. That is, nothing not done or adopted by the committee can go into the House; but an independent amendment, identical in terms to the one offered here, may be offered in the House unless cut off by the previous question.

Mr. BROWNE. I understand that. Why has it happened——

Mr. HUNTON. Why not Wednesday night?

Mr. BROWNE. Let the past bury its dead.

Mr. FARR. The amendment could not be reached in the House.

Mr. ALDRICH, of Rhode Island. It is true the gentleman from Virginia offered Wednesday night we should have a vote in the House, but I said distinctly and plainly, as the RECORD will show, if that could be done I would consent to that amendment; but it was defeated on the part of several gentlemen on the other side, perhaps not publicly but privately. It could only be done by unanimous consent, and it was strongly intimated unanimous consent would not be given. That was the impression of everybody on this side of the House.

Mr. HUNTON. It did not require unanimous consent to offer an amendment in the House.

Mr. ALDRICH, of Rhode Island. But that was the impression made on this side.

Mr. STEVENSON. I should like the Chair to state what is now before the committee.

The CHAIRMAN. The Chair would state that there is no question pending except the demand for tellers. On a division the point was made there was no quorum voting, and if that point be insisted on the Clerk, under the rule, must proceed to call the roll.

Mr. STEVENSON. I suppose, in order to transact any business here, it is necessary to have a quorum. The number of members who are here to-night have attended these meetings almost constantly for the purpose of attending to the business of the House. We find it impossible to do so because of the lack of a quorum. If that point be made and insisted upon I move there be a call of the House.

Mr. HUNTON. I hope my friend will not press it until I make a proposition to the House.

Mr. CONGER. If this point be insisted on I move the committee rise so we may adjourn.

The CHAIRMAN. A call of the House is necessary if the point is insisted upon.

Mr. OSCAR TURNER. Under the rules of the House, Mr. Chairman, is it not the duty of the Chair to have the roll called?

The CHAIRMAN. The Chair has waited, at the request of the gentleman from Alabama, hoping an amicable arrangement might be made. Debate is proceeding by unanimous consent. If objection is made the Clerk will proceed to call the roll.

Mr. OSCAR TURNER. We have met here night after night with a view to get through with this bill, and for the last three nights successively I have come and other gentlemen have come to try to dispose of this question, but we have come to a dead-lock on this amendment each time. Now, there is no use in protracting this matter. We ought to proceed under the rules to dispose of it at once.

Mr. ALDRICH, of Rhode Island. I ask that the Clerk may read a portion of the RECORD, which I send to the desk, of Wednesday's proceedings to show what was done in reference to this matter at the last meeting of the committee.

The CHAIRMAN. If the gentleman from Kentucky insists upon the regular order nothing is in order except a call of the roll or a motion to adjourn.

Mr. ALDRICH, of Rhode Island. I hope the gentleman will allow the RECORD to be read.

Mr. HUNTON. You have made a statement in reference to the matter and we all accept that as correct.

Mr. ALDRICH, of Rhode Island. But there is something further which I desire to have read.

The CHAIRMAN. The Clerk will read as requested by the gentleman from Rhode Island, unless there be objection.

Mr. OSCAR TURNER. I object.

Mr. NEWBERRY. Then I move the committee rise.

Mr. STEVENSON. I desire to say that I am not making the point of order as to a quorum myself. I think we might proceed to consider the bill; but if the question is made that there is no quorum, then of course there is nothing to do but to call the roll; and it seems useless to remain here when no business can be transacted for want of a quorum.

The CHAIRMAN. Does the gentleman from Alabama insist upon the point of order.

Mr. SAMFORD. Upon consultation with the Chairman of the Committee, I shall withdraw the point of order that no quorum is present and we can have a vote on this amendment in the House.

Mr. ALDRICH, of Rhode Island. That is entirely satisfactory to this side.

Mr. NEWBERRY. Then I withdraw the motion to rise.

The CHAIRMAN. The point of order being withdrawn, the Chair will again announce the vote as reported by the tellers.

The result of the vote was then announced as above recorded.

So the amendment was agreed to.

Mr. HUNTON. I suppose it is not necessary to give notice, but if it is, I now give notice that I shall demand a separate vote on this amendment in the House.

The CHAIRMAN. The Chair will state that portions of this bill were informally passed over, beginning on page 67.

Mr. HUNTON. I understand the gentleman from Massachusetts [Mr. CLAFLIN] desires to offer an amendment to page 176.

Mr. CLAFLIN. I wish to offer an amendment to section 410 on page 176.

The Clerk read as follows:

Strike out all after the word "levied," in the first line, down to and including the word "area," in the second line, the words "on lots in proportion to their frontage or their area" and insert "by faucets or meter;" so that, if amended, the section will read: "The water tax may be levied by faucets or meter, and may be collected," &c.

Mr. CLAFLIN. Now, Mr. Chairman, unless this amendment prevails the water tax of this city will be collected according to the frontage of the property. It does not need, it seems to me, any explanation to show gentlemen how unjust that tax will be if it shall be levied according to the frontage of the lots or their area. For instance, one house may be worth $2,000 with twenty-five feet front, and alongside of that house may be another worth $50,000 with the same front. One of these houses will perhaps use two or three faucets, another twenty-five or thirty. Under the present arrangement both of these houses would pay the same tax. That is manifestly unjust. Now, it is plain that if this tax is collected by faucets according to the system that is in use in all other cities of the country, the amount will be collected proportionately and not arbitrarily. This manner of collecting taxes has been universally satisfactory, or as nearly satisfactory as it is possible to make the collection of the water taxes.

The water tax of Washington is perhaps one-third less than in any city in this country; and yet we cannot have water here on the Hill, and in some parts of the western portion of the city, for want of money to lay the mains in the streets, and the reason is that we do not collect water tax enough to pay the expenses, while at the same time about four times as much water is used here to the person than in any other city that I know of.

A MEMBER. Six times as much.

Mr. CLAFLIN. Yes, fully six times as much as in some other cities in this country. The great difficulty, as I have said, is in the collection of the tax by the system of frontage, and no attention being paid to the number of faucets used and the amount of water wasted; and in point of fact if this system continues, and no attention is paid to the matter, the whole Potomac River might be hardly sufficient for the use of this city. If it is collected by faucets every man who uses water will look to it to see that no more is wasted or that he has no more faucets than he needs; because he pays his tax upon the number of faucets used. It is a very simple way, and a method that is easily managed, and those persons who choose to use more water will have to pay for its use. In another part of this bill it is provided that water used by meter shall be paid for at the rate of three cents per hundred gallons, the same price as is ordinarily paid in other cities throughout the country.

If this amendment is adopted you will thereby provide an equitable system in reference to the collection of this tax, and there will be no difficulty as to the just amount. If a little tenement house with twenty feet front has one single faucet it will pay in proportion thereto, while a house with fifty feet front or more and supplied with many faucets, as is the case in many houses, will pay in proportion, and the tax will be thus levied according to the amount of water consumed and graded proportionately.

[Here the hammer fell.]

Mr. NEAL. The gentleman from Massachusetts confounds the water rates with the water tax. This section which he proposes to amend has reference to the cost and expenses of laying water-mains in our streets and the rates which will be charged for the water used by houses or individuals or manufacturing establishments. Of course, therefore, his amendment is not applicable to this tax, which must be collected substantially in the manner we are providing here, either by the front foot or the area of the lot.

Now, section 406 makes provision for the assessing and collection of water rates. It provides that—

The commissioners shall have authority to establish a scale of annual rates for the supply and use of the water to different classes of buildings and purposes, to modify, alter, amend, increase, or reduce such scale, from time to time; but the rates so established shall be sufficient to pay all the expenses of the water department; to provide for the collection of such rates, in advance or otherwise, from the owners or occupants of all buildings or establishments using the water.

Under that section the commissioners have full authority to collect water rates, either by faucet or by meter, or in any other manner that may seem to them to be most equitable and most likely to accomplish the object desired.

Mr. CLAFLIN. But I will inquire of the gentleman from Ohio why he puts in section 410. That reads in its original form plainly enough:

The water tax may be levied on lots in proportion to their frontage or area, and may be collected in not less than three nor more than five annual installments.

Mr. NEAL. Exactly. But if the gentleman will turn back to section 408 he will see what "water tax" means:

The cost and expenses of laying water-mains shall be assessed upon the real property which binds or touches on any avenue, street, or alley in which a main water-pipe may be laid.

That is called water tax. The payment for the supply of houses, &c., is called water rates. That is the distinction which we make.

Mr. HUNTON. A provision for the water rates is made in section 406.

Mr. CLAFLIN. Where do you provide for the rates for supplying water to houses?

Mr. NEAL. In section 406.

Mr. CLAFLIN. That does not say on what basis the water rates shall be assessed.

Mr. NEAL. That section gives the commissioners authority to adopt any plan which may seem to them most just and equitable to accomplish the purpose desired, which is to make the water department self-sustaining.

Mr. BROWNE. I desire to inquire of the Chair if this matter has not already been gone over, and if we have a right to go back to a portion of the bill which has been adopted?

The CHAIRMAN. There was an understanding that gentlemen would be permitted to offer amendments to these sections if they desired.

Mr. ROBINSON. There is a little ambiguity here, and I think my colleague from Massachusetts was misled by that; and I presume the committee, while having the distinction in their minds, overlooked this ambiguity. Section 408 and the following sections plainly apply to the cost of laying the water-mains, and that is provided for by what is called a water tax. But in section 408 it is not denominated a water tax; the expression "water tax" is not used. Nothing is said about water tax until we come to section 409.

I suggest that the amendment which is needed is to make section 408 provide that the cost and expenses of laying water-mains shall be a water tax, to be assessed upon real property. Then you define your water tax and have no trouble.

Mr. HUNTON. The heading for these sections is "water tax."

Mr. ROBINSON. The mere heading of a section is not enough to denominate it.

The question being taken on Mr. CLAFLIN'S amendment, it was not agreed to.

Mr. ROBINSON. Now, if the committee see no objection to returning to section 408, I offer the following amendment:

After the words "shall be," in the second line of the section, insert "a water tax to be;" so that it will read: "The cost and expenses of laying water-mains shall be a water tax to be assessed upon the real property, &c."

Mr. BRIGGS. I do not rise to discuss the amendment of the gentleman from Massachusetts, [Mr. ROBINSON;] but I desire to make an inquiry of the gentlemen who have this bill in charge. When this bill was taken up, almost the first thing that was stated when it was under consideration, when certain verbal amendments were suggested to it, was that the bill was a perfect bill. Now, I want to ask the gentlemen who have been engaged in preparing this code for the District of Columbia what has been done by them in this bill or in this code whereby the citizens of this District shall have a supply of water? You compel them to pay for it, and you absolutely deprive them of it.

I do not know who is responsible, but the parties who control the water-works in the city of Washington or the District of Columbia I think ought to receive the censure and condemnation of every man. There is not a city in the Union whose citizens are compelled as in this city to pay for something which they do not enjoy and cannot enjoy. There is culpable negligence somewhere. I do not know where it is. If there is anything in this bill by which this evil can be corrected, if there is any provision in it whereby the people living, for instance, on Capitol Hill can have a supply of water, I would like to have that provision pointed out.

Mr. ALDRICH, of Rhode Island. There is nothing in this bill in regard to the matter referred to by the gentleman from New Hampshire, and there should not be. This is a municipal code, and was not intended to legislate for the benefit of the people on Capitol Hill or anywhere else in regard to the supply of water. This House passed a bill and I think Congress enacted a law at the late extra session which appropriated $25,000 to supply Capitol Hill with water. I have not been able to find out that it has been supplied. But Congress performed its duty.

Mr. BRIGGS. Then it seems this code, which was a perfect code, provides for assessing the people for the construction or improvement of this aqueduct, provides a way by which the people may be assessed and compelled to pay for the water, but makes no provision compelling the District authorities to furnish it. That, as I understand, is the fact.

Mr. FIELD. I move to strike out the last word for the purpose of making an inquiry. I see by section 413 it is provided that—

> The water tax authorized to be levied and collected by the provisions of the four preceding sections shall constitute a fund to be used exclusively to defray the cost of distribution of the water, including all necessary fixtures and machines connected with such distribution.

That language is a little broader than the mere laying of the water-mains. It includes—

> The cost of distribution of the water, including all necessary fixtures and machines connected with such distribution.

Section 408 as now proposed to be amended provides that—

> The cost and expenses of laying water-mains shall be a water tax to be assessed upon the real property, &c.

Section 407 provides that—

> The water rates levied in the District shall never be a source of revenue other than as a means of keeping up to said District a supply of water; but shall be sufficient and shall constitute a fund exclusively for the maintenance, management, and repair of the system of water distribution.

There is a provision in the preceding section, section 406, that "the rates so established shall be sufficient to pay all the expenses of the water department." Now, looking at the scheme, I should suppose that if a main was to be laid in a street where no main is now laid, the cost of that was to be borne by the water tax. But if an old main is worn out and a new main is put in its place, I do not know whether that which is really a repair is to be paid for out of the water tax or out of the water rate. Whether it is the intention to put the water rate so high as to keep efficient the existing system, including the mains, I cannot say.

At the same time I am a little puzzled by the general language of section 413, which says that this fund shall be "used exclusively to defray the cost of distribution of the water, including all necessary fixtures"—which might include even the small pipes and the fixtures in the houses—"and machines connected with such distribution," which might include meters, if they are furnished by the city. I do not propose any amendment; I arose simply to make an inquiry.

Mr. NEAL. In section 413 the word "four" should be stricken out and the word "five" substituted; so that it would read "provisions of the five preceding sections."

The CHAIRMAN. The pending question is upon the amendment proposed by the gentleman from Massachusetts, [Mr. ROBINSON,] to insert in section 408, after the words "the cost and expenses of laying water-mains shall be," the words "a water tax to be;" so that it will read "shall be a water tax to be assessed upon the real property," &c.

The amendment was agreed to.

Mr. NEAL. I now move to amend section 413 by striking out "four" and inserting "five;" so that it will read "five preceding sections."

The amendment was agreed to.

The CHAIRMAN. The committee will now resume the consideration of that portion of the bill heretofore passed over on page 67, chapter 6, "forfeited lands."

Mr. NEAL. Before proceeding to consider that portion of the bill I move to amend by inserting a new section to come in after section 184.

The CHAIRMAN. The Clerk will read the proposed amendment.

The Clerk read as follows:

> SEC. —. Before the commissioners shall execute such deed, the holder of the certificate of sale shall present to said commissioners a notice, duly verified by the affidavit of the person who has served the same, that said notice was served at least sixty days prior to the presentation of the same to said commissioners upon the person in possession of the property for which a deed is sought, if said property be occupied, and also upon the person in whose name the same is taxed, if he be a resident of the District, or upon his agent or attorney if he be a non-resident, which notice shall state the date of sale, the name of the purchaser, the amount due for taxes, interest, and penalties, a description of the property and the date of the expiration of the time for redemption, when if not paid a deed will be applied for. If such property be unoccupied, and the owner thereof is a non-resident of the District, having no agent or attorney residing in the District upon whom such notice may be served, service may be made by the publication in some newspaper printed in the said District of said notice, by inserting the same once a week for three consecutive weeks, the last publication being at least sixty days prior to the application for such deed, proof of publication being made as in judicial sales. Any person swearing falsely shall be deemed guilty of perjury and punished accordingly. The cost of such notice, whether by publication or otherwise, with the cost of the necessary affidavit, shall be added to the redemption money.

Mr. HUNTON. I would suggest one modification to my friend from Ohio, [Mr. NEAL.] I think the object of the section is a very good one; but sixty days' notice before application for a deed is too long a period; it might just as well be twenty days or ten days. *Non constat* but the man may come and redeem the property long before the sixty days. I think it should be ten days.

Mr. NEAL. In a preceding section we provide that upon the expiration of two years after the land has been sold at delinquent sale the purchaser may apply for a deed, and the commissioners may execute such deed if the land has not been redeemed.

Objection has been made to that provision by some persons that in view of the summary proceedings which we have provided in this code in reference to obtaining possession of land sold at delinquent sale we should require reasonable notice to be given in order that the party may not be taken by surprise, and there should be reasonable time for redemption of the same. To meet those objections I have prepared this section, which provides that sixty days before the time when by provision of law a purchaser has the right to demand a deed for land he has bought at delinquent sale he shall serve a notice on the occupants of the property and the owners thereof, if he knows who they are, that he has bought in the property; that there is so much due upon it, and that if not redeemed at the expiration of sixty days he will demand a deed.

I do not agree with my honorable friend from Virginia [Mr. HUNTON] that sixty days is too long a time. It need not prevent the person who buys the property from promptly obtaining a deed at the expiration of two years, if he gives notice sixty days prior of his purpose to apply for the deed. It is just as easy for him to give sixty days' notice as thirty days' or twenty days' or even ten days' notice prior to the expiration of the time.

I desire by this amendment to provide ample facilities for every person whose property has been sold at delinquent sale to redeem the same; so that he cannot afterwards say he has been taken by surprise, and denounce the law as despotic in its character, or anything of that sort. It is necessary that we should afford the purchaser every possible facility for acquiring a deed. At the same time we should also provide against taking by surprise persons owning property, where they may suppose the tax had been paid, or where by some accident or in some other way they may have been prevented from paying the tax.

I do not believe a period of sixty days is too long, or that it will prevent persons from purchasing property and paying the taxes, which is the object of this legislation.

Mr. HUNTON. My only object in making my suggestion (for I am in full sympathy with the object of the amendment) was this: the party whose land has been sold may be preparing to redeem it; he knows that he has a given period in which to redeem, and in the midst of his preparations for redemption and sixty days before the time for redemption expires, an advertisement comes out in the newspapers, which adds to the cost of redemption. Of course the longer this advertisement is published before the time for redemption expires the greater the addition to the expenses of redemption. The party may be contemplating redemption, and he ought to have all the time he can without the additional cost of this advertisement. I would therefore suggest as a compromise to my friend from Ohio that he fix the time at thirty days.

Mr. SAPP. I would like to put a question to the gentleman from Virginia, [Mr. HUNTON.] Suppose a party is a non-resident and there is no opportunity for personal service upon him; there might be great hardship in a notice by publication, if it does not appear as long as sixty days before the time for redemption expires. In our State we have a law requiring three months' notice—ninety days; and that law operates very well. I think that in our State if the time were shorter than ninety days it would work great hardship to parties who might not have the opportunity of knowing that their property had been sold for taxes.

Mr. HUNTON. In reply to the gentleman from Iowa, [Mr. SAPP,] I will say that by the new section there must be advertisement for three weeks, that is, twenty-one days; then sixty days after that, that is, eighty-one days in all, the party can apply for a deed. Now under this arrangement there is no part of the United States or Canada where a man would not know of the sale of his property before the day of redemption, if he knew it at all.

Mr. SAPP. This notice can all be given prior to the expiration of the two years; so that it need not operate to the prejudice of the purchaser if we make the period sixty days.

The amendment of Mr. NEAL was agreed to.

Mr. BARBER. I desire to offer an amendment to section 185.

Mr. SAMFORD. An amendment to that section is already pending.

Mr. HUNTON. I believe now the question comes up on the pending amendment to section 185, offered by the gentleman from Alabama, [Mr. SAMFORD.]

The CHAIRMAN. The amendment offered several weeks ago by the gentleman from Alabama [Mr. SAMFORD] will now be read.

The Clerk read as follows:

> At the end of section 185 insert the following:
> "Nothing in this title contained shall be held to apply to special assessments heretofore made, or to change or affect existing law in relation to the same."

Mr. SAMFORD. I think, Mr. Chairman, it would take but a very cursory examination of section 185 to show this House that the legislation therein proposed is not only vicious and unjust, but that it is also unconstitutional. The proposition contained in this section is to make a tax title conclusive, and to authorize the purchasers of real

property at any tax sale to have the summary remedy for the possession of that property which is given to landlords against tenants whose tenancy has determined. I will not have the time in five minutes to explain how summary a remedy this is. Suffice it to say that there is simply a thirty-days' notice to quit; at the end of thirty days a justice of the peace issues a notice; at the end of seven days a trial is had, and the purchaser of the real estate at tax sale is let into the possession of the land, if he has a tax title. For though there is an assertion that the defendant may defeat it on certain conditions, yet the fact is the conditions can never happen.

Now one provision of this section is that no tax-payer shall be allowed to contest any irregularities in that sale, unless he first pays into court all the taxes, all the interest, all the fines, and all the costs which have accrued. It makes no difference how erroneous, how unjust, how oppressive, how iniquitous the tax may be, if the court gives a judgment in behalf of the defendant this section also provides that it shall give to the plaintiff the whole amount of this tax, with costs, fines, and interest.

Now, if the defendant has any rights at all, he ought not to be required to go into court and deposit an erroneous amount of tax, which he is required to do together with 10 per cent. interest before being allowed to try the question whether or not his property has been properly sold from under him.

This provision becomes peculiarly obnoxious and unjust in view of the fact which I stated when the subject was under consideration two or three weeks ago—that special assessments have been levied in large amount in this city. Property is now being advertised for sale under these assessments, and in many instances the tax, together with the accrued interest, amounts to more than the taxable value of the property itself. Some of the papers of this city are now filled with these advertisements of sales of property for special improvement taxes which were levied some six, eight, or ten years ago, which the citizens contended were erroneous and unjust; which they went into court by injunction and otherwise to defeat, and would have defeated but for a subsequent act passed in this Congress and a legislative act of the District of Columbia validating the assessments.

It has been held in the supreme court in one of these cases in reference to these assessments that "it may well be doubted whether a valid assessment was ever made." It was stated after that time by Mr. Bryan, who was one of the commissioners of the District of Columbia, that an "astounding amount of recklessness and fraud, such as double payment to contractors, false measurements, estimates, and allowances, as well as egregious miscalculations, entered into these assessments."

Mr. HUNTON. What decision are you reading from?

Mr. SAMFORD. I read first a decision reported in the Washington Law Reporter of March 6, 1877.

Mr. HUNTON. Of what court?

Mr. SAMFORD. The supreme court of the District of Columbia.

Mr. HUNTON. Ah! The Supreme Court of the United States uses no such language.

Mr. ALDRICH, of Rhode Island. The Supreme Court of the United States afterward reversed that decision.

Mr. SAMFORD. But they reversed it on a law point, and did not reverse it on the merits of the case at all. They reversed it on the point, as I said, that subsequent acts of this body and the legislative act of the District of Columbia had validated these erroneous assessments.

Mr. ALDRICH, of Rhode Island. I beg the gentleman's pardon.

Mr. SAMFORD. But that is in the record. Further than that, here is the commissioner of the District of Columbia, Mr. Bryan, himself saying these assessments are fraudulent in many instances; that there is double taxation in many instances; and, as I remarked a few moments ago, we have these advertisements now in the papers, and in some instances property, the real value of which is six or seven hundred dollars, has piled up upon it taxes to the amount of a thousand dollars. Yet by this act, which this Congress is asked to pass to-night, these sales are to go on and take place but a few days from now, perhaps next Monday or the Monday thereafter. And after the property is sold and the tax deed is made the tax-payer can never contest the question of error and excessiveness in the courts of this District. It may do to apply the section, in this view of the case to assessments hereafter made, but I say that it is a preposterous proposition when you propose to apply it to assessments heretofore made.

I have an Alabama decision here, quoting approvingly the decisions of various States on this proposition, from the supreme court decision of Illinois and of Iowa, and from Cooley on Constitutional Limitations, wherein the court lays down the doctrine which I have asserted, that the attempt to make a tax deed conclusive evidence of all these necessary prerequisites amounts practically to confiscation of property, and is unconstitutional.

We had a law, Mr. Chairman, passed in my State which went on to say the tax deed should be conclusive evidence of certain prerequisites necessary to be complied with before the tax deed could stand. On appeal to the supreme court of my State it was decided that act was unconstitutional; that it was not only contrary to the constitution of the State of Alabama, but contrary also to the Constitution of the United States, because it proposed to take away from a man his property without due process of law.

The supreme court of Alabama in that decision say:

This is perhaps by precedent and long practice sufficiently obtained in respect to sales of property for taxes by allowing to the owner the assertion of his rights after the sale has been made—

That is in reference to due process of law—

when the revenue law contains no such provision for such previous adjudication as is secured in some of the States of the Union.

Blackwell, on tax titles, says on just such a proposition as this, "We do not hesitate to say such a rule of evidence is contrary to the guarantee of the Constitution." And further, Cooley "characterizes it as not a law regulating evidence;" it was contended in the court below it was a law regulating evidence, making the tax title conclusive evidence, and therefore it was a law regulating evidence; but Cooley, in his "Constitutional Limitations," says "that it is not a law regulating evidence, but an unconstitutional confiscation of property."

Now, sir, I say that the attempt here in this section, and in the subsequent section, and in several subsequent sections to that, where it is attempted to make this tax deed an absolute, conclusive evidence of title, is contrary to the Constitution of the United States, and amounts practically to a confiscation of the property itself.

I am reading from a supreme court decision of the State of Alabama, and in that decision is quoted Cooley's Constitutional Limitations and the decision of the Illinois supreme court, as well as the decision of the supreme court of the State of Iowa.

The CHAIRMAN. The gentleman's time has expired.

Mr. MARTIN, of Delaware. I will take the floor, Mr. Chairman, and yield my time to the gentleman from Alabama.

Mr. SAMFORD. I thank the gentleman from Delaware for his courtesy. I have but a word or two more to say.

Mr. BARBER. I should like to ask my friend from Alabama a question.

Mr. SAMFORD. Certainly.

Mr. BARBER. Are you aware the Supreme Court of the United States in the case of De Treville *vs.* Small, 8 Otto, 517, in reference to tax titles, has repudiated all that doctrine?

Mr. SAMFORD. In what case?

Mr. BARBER. De Treville *vs.* Small, 8 Otto, 517.

Mr. SAMFORD. In Pillow *vs.* Roberts, 13 Howard, a Supreme Court decision, the court not only did not repudiate it, but expressly sanctioned it. While they say you may make a tax deed *prima facie* evidence of title, yet you cannot make it conclusive.

Mr. BARBER. They go much further in the case I mention, for they repudiate all that doctrine to which the gentleman refers.

Mr. SAMFORD. I have never seen the decision to which the gentleman refers, and I must be a little skeptical until I do see the authority. I would rather suppose that my friend from Illinois has misread the decision than to believe the Supreme Court of the United States ever made any such unjust ruling as that.

Mr. HUNTON. I would like to ask the gentleman from Alabama what portion of this section he regards as conclusive against the original owner of the property as he alleges.

Mr. SAMFORD. That is the purport of the whole section.

Mr. HUNTON. I cannot agree with the gentleman on that.

Mr. SAMFORD. It does make it conclusive, for it prevents the owner from defending it against a tax title.

But if any tax shall be defeated by reason of any irregularity whatever, then the court in entering judgment shall order the money so paid into the court to be paid over to the plaintiff in the action.

That is the language of this section. And yet, Mr. Chairman, the preceding provisions of this section do not allow the defendant to set up any defense whatever against the irregularities of the tax or of the sale.

Mr. HUNTON. But does the gentleman find in that section anything inconsistent with the rights of the owner of the property to recover if the proceeding is irregular or unjust?

Mr. SAMFORD. I say it makes it conclusive against the defendant, because before he can make any denfense against the claim for taxes which may have been excessive, unjust, and illegal, he must pay into the court all the assessment, together with interest, penalties, and costs which shall have accrued at the time the payment into the court was made, including the costs of the action, no matter what ground he may have for denying the legality of the tax or what irregularities there may have been in the levy and sale, and this money is to go into the pockets of the plaintiff, even though the defendant show gross irregularities in the levy and sale. And it is a hardship, because, no matter how illegal or odious or onerous the assessment for improvements may be, the party cannot come into court and defend without paying all of these costs in advance, and a subsequent section (190) uses the word "conclusive."

Mr. BARBER. Will the gentleman allow me another question?

Mr. SAMFORD. Yes, sir, with pleasure.

Mr. BARBER. What is to prevent the party whose property has been sold under the tax title to protect himself under a proceeding in a court of equity after the sale is made and before the deed to the property passes the title to the purchaser.

Mr. SAMFORD. Because this section absolutely prevents him from going into the court, except under circumstances which he may not be able to avail himself of.

Mr. BARBER. But if the sale is unjust, if the levy is incorrect, and if the party has legal ground to defend against the sale?

Mr. SAMFORD. No matter what ground he may have, this section would absolutely prohibit him, except after the payment of the costs and of the penalties incurred.

Mr. BARBER. But that, as I understand it, is after the deed is issued; but between the date of the issuing of the deed and the sale of the land, I say what is to prevent the party from obtaining redress in the equity court?

Mr. SAMFORD. By the provisions of this code it is required that the tax collector immediately on the sale of the property shall make the deed to the purchaser. And after the sale and before the deed there is no time to go into the equity court even if the party could go there. But the provisions of this code absolutely debar him even from that right by subsequent provisions of this act; and the gentleman from Ohio will assure my friend from Illinois that this was the object of the committee.

Mr. BARBER. What time is allowed for redemption after the sale?

Mr. SAMFORD. Of course he has two years' time after the property is sold for redemption.

Mr. BARBER. Then during that two years what is to prevent him from going into the equity court to protect himself from alleged injustice?

Mr. SAMFORD. Because, as I have stated, subsequent provisions of this code prevent him from going into any court. It puts it into the justice's court of the District, and from the justice's court you can only appeal to one of the judges of the courts of the District of Columbia, and there is no appeal beyond that.

Mr. BARBER. That is after the deed issues?

Mr. SAMFORD. Of course, after the deed is issued.

But my objection is mainly against the provision of this code which relates to the special assessments which have been made years ago, but for which the sales have not yet transpired, not against any taxation which may be hereafter assessed and collected where the sale takes place. So far as that is concerned, although I regard the law as rigorous, harsh, unjust, and inequitable in any case, the objection does not apply in the view I have been discussing. Yet notwithstanding that fact, I contend that this provision would be unconstitutional as to any taxes past or future under the authority which I have already read and from which I will read one or two more sentences.

Mr. ALDRICH, of Rhode Island. Will the gentleman permit me to ask him a question.

Mr. SAMFORD. Certainly.

Mr. ALDRICH, of Rhode Island. Does the gentleman from Alabama consider the authority of the State Legislature over assessments in the States as analogous to the authority of Congress over the District?

Mr. SAMFORD. Precisely the same. It has been so decided by the Supreme Court that it is precisely the same.

Mr. ALDRICH, of Rhode Island. What case does the gentleman refer to?

Mr. SAMFORD. I do not remember the case now, but no lawyer will contend otherwise than that Congress has the same jurisdiction to make laws for the District of Columbia that the State Legislature has to make laws for the government of the State. This matter is subject as a matter of course to the control of the Constitution of the United States and of the States respectively. As I was about reading again from the Alabama decision, allow me to say the Legislature of Alabama passed a law analogous to this and almost in the same terms. From that law I desire to quote a few extracts.

Mr. NEWBERRY. I rise to a question of order. There is so much disorder that we cannot hear the remarks of the gentleman.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. SAMFORD. I have not time to read the extracts, but let me call attention to one more fact which I shall not elaborate. It is this, that in view of these erroneous exactions with reference to these special assessments the Senate has already passed a bill, which is now before the District Committee of the House, extending the time for the revising of these special assessments. That has not yet been done. Nevertheless, the sinking-fund commissioners have ordered the commissioners to proceed to sell without these revisions, and they have proceeded to advertise for that purpose. And as soon as they carry out that order of the sinking-fund commissioners, and sell the property, and issue the deeds therefor, then the party cannot have any relief unless he comes and pays off all these erroneous assessments, with interest for a number of years at 10 per cent. per annum.

Mr. HUNTON. I move to strike out the last word. The amendment of my friend from Alabama only refers to sales for delinquent taxes for special improvements; and therefore I may argue that he considers the provisions of this section unobjectionable as to general taxes.

Mr. SAMFORD. Oh, no.

Mr. HUNTON. Well, the gentleman's amendment only meets the question of special assessments.

Mr. SAMFORD. Precisely.

Mr. HUNTON. And therefore as it means that class only, I have a right to presume from that fact that it is admitted the other class of delinquent taxes is well provided for in this section.

Now, sir, I cannot for the life of me see what distinction there ought to be between a tax-payer, delinquent for general taxes, and one who is delinquent for special-improvement taxes. The gentleman from Alabama argues that these special-improvement assessments were iniquitous and outrageous in many particulars, and in all that I agree with him. But the gentleman did not state that Congress passed a law by which all the iniquities of the special-improvement taxes could be and were corrected; and there is not a man in the District of Columbia who has now a right to complain of the special-improvement taxes.

Therefore, sir, I take it for granted that the special-improvement taxes are not only proper, but properly laid, and that they discriminate justly between the various owners of property that were so assessed.

Mr. SAMFORD. Now, will the gentleman allow me a moment?

Mr. HUNTON. I cannot yield the gentleman my time, because I have only five minutes while he had ten or twelve.

Mr. SAMFORD. I understood the gentleman to make a statement which I think he will not stand by on reflection, that there has been no complaint against these erroneous assessments.

Mr. HUNTON. I have heard of none.

Mr. SAMFORD. The papers are full of them. There are many complaints.

Mr. HUNTON. I am not aware of them; but if the owners of property so assessed do complain I must insist that the complaints must be in the main ill-founded, because I know the commissioners in revising the assessments have reduced them all.

Mr. SAMFORD. Oh, no; the gentleman is mistaken. The fact is, a large amount never has been revised, and the commissioners advise us that it cannot be done under six months. And meanwhile the sales go on.

Mr. HUNTON. There can be no sale where there has been no revision of the assessments. The sales are for revised improvement taxes which are delinquent.

Mr. SAMFORD. The gentleman is mistaken about that.

Mr. HUNTON. Another point the gentleman from Alabama makes is that the special assessments were not valid till validated by Congress. My friend will find on reading the decision of the Supreme Court of the United States that he is mistaken. When this question was up this same decision of the Supreme Court was read to my friend and I think ought to have corrected the statement he has made. The Supreme Court in that case said:

> It is difficult to understand what the legislative act meant if it did not recognize the validity of the assessments made by the board of public works, and consequently the authority by which the work was done and the improvements made.

Mr. SAMFORD. Precisely.

Mr. HUNTON. Now, the Supreme Court of the United States says it would be difficult to understand why these assessments were not valid under the legislative act.

Mr. SAMFORD. Well, now——

Mr. HUNTON. I cannot yield the gentleman more of my time.

Mr. SAMFORD. I do not want the gentleman to yield. I only want him to understand that the legislative act was passed afterward.

Mr. HUNTON. I beg the gentleman's pardon. It was passed before the act of Congress was passed, and the point was that the act of Congress validated an invalid lot of assessments.

Mr. SAMFORD. I did not make that point.

Mr. HUNTON. The Supreme Court said, long before the act of Congress was passed, that these assessments were validated by the legislative act; and if not, it was done by the act of Congress.

Now, Mr. Chairman, the committee in preparing this section were careful to draw around the owners of real property in the District of Columbia every safeguard to enable them to have due notice, and then when they failed to pay, to have the land advertised and sold as it is in every civilized community; and when the land was sold this section gave them two years to redeem.

If the property is not redeemed in that time—and by the amendment offered by my friend from Ohio [Mr. NEAL] the owner is again notified before the deed is given—when all that has been complied with, it seems to me that no human being ought to complain that his property has been unjustly sold for taxes.

We found this state of things existing in the District of Columbia: if a man owning real estate did not choose to pay the taxes upon it, he could set the authorities of the District at defiance. The land might be sold, a deed for it might be given, and when an effort was made to get possession of it the former owner would laugh defiance in the face of the purchaser, because the courts did not regard the title under the sale as valid.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ALDRICH, of Rhode Island. I will take the floor and yield my time to the gentleman from Virginia.

Mr. HUNTON. I am much obliged to my friend from Rhode Island, [Mr. ALDRICH.] We found that there were hundreds of thousands of dollars of taxes due from the owners of real estate in this District. One railroad company owed upward of $100,000, and another railroad company $50,000; and distinguished wealthy citizens of the city would not pay the tax on the real estate owned by them because they did not choose to pay it.

Mr. SAMFORD. I am told that the authorities knocked off the

tax from Senator EDMUNDS's property and Senator BAYARD's property, and left it on others.

Mr. HUNTON. I trust they did not make one rule for one and another rule for another. Not only that, but we found that unless some stringent provision was made by which the owners of real estate, with their pockets crammed full of money, could be made to pay their taxes, it was perfectly useless to levy taxes upon real estate in this District with any idea that the tax would be equitable.

The result has been that many people have paid their taxes and many have not. When you came to lay taxes to support the government, the money had to be raised somewhere, and you had to increase the taxes on those who choose to pay. My idea is that you should levy the lowest amount of tax that will run the government, and then make the parties pay what is levied upon them, pay in proportion to the property liable to taxation, and in that way the burden would be properly laid upon the people.

Mr. HERBERT. Will the gentleman allow me to ask him a question?

Mr. HUNTON. Yes, if it does not take up too much time.

Mr. HERBERT. Do you understand that under this law a party who has paid his tax regularly, and whose land has nevertheless been erroneously assessed and sold, would be compelled to pay all that money into court, together with the penalties, before he could sue for a return?

Mr. HUNTON. I would like my friend from Alabama [Mr. HERBERT] to tell me of a case that has ever occurred in this District where a man has paid his tax and had his land sold.

Mr. HERBERT. Such cases have occurred——

Mr. HUNTON. I cannot yield further.

Mr. HERBERT. Please answer my question, whether the law applies to a case of that kind?

Mr. HUNTON. I think it does. But I say that no human ingenuity can frame a law that may not work a hardship somewhere. You can only frame a law to meet the exigencies of the case, and there may be exceptions to the best law ever framed on earth. I say that I know of no such case as the gentleman suggests.

Now, shall a man be allowed to say that he will not pay his tax, that he will wait two years after his land has been sold for delinquent taxes, and at the end of that time, having possession of the property all the while, when the purchaser comes to him and says, "I have bought your land; you would not pay your tax on it, and I have bought it at a tax sale," and the purchaser asks for a deed of that land, should the man who refused to pay the taxes be able to laugh defiance in his face and say that his deed was not worth more than waste paper, and still not pay his taxes? Although the tax may have been levied erroneously he has had two years in which to correct the error, two years in which to redeem the land, and has neglected to do so.

Mr. PRICE. And before the purchaser can get a deed, he says to the delinquent tax-payer, "I have bought your land; you owe me what I have paid for it, and if you will pay it back you may get your property."

Mr. HUNTON. Yes; and if he goes into court to get possession of the land, and the party desires to avail himself of any error in the assessment or otherwise, let him pay into the court the tax due on the land, and then if he prevails in his suit resisting the tax his money will be returned to him.

[Here the hammer fell.]

Mr. HUNTON. I withdraw my *pro forma* amendment.

Mr. FIELD. I renew the amendment. I have looked over this section in chapter 5, and have inquired of the gentleman in charge of the bill, and he has been unable to answer the questions I have asked. In the first place, it will be noticed that by section 131, if the tax is not paid the whole property upon which the tax is levied is sold.

Mr. HUNTON. I will suggest to my friend that that question will come up in the consideration of another section.

Mr. FIELD. I want to state my difficulty in regard to this matter.

Mr. HUNTON. I shall be glad to hear the gentleman when we get through with this section.

Mr. FIELD. I do not regard myself as so fully possessed of this whole scheme as to be quite competent to offer an amendment; but I have suggested what seems to me a difficulty. There may be a house and lot worth $10,000, and this property is taxed for $100. It is all sold. Suppose it brings $10,000. After the tax due to the District, amounting to $100, has been paid, there is no provision that the remaining $9,900 shall be paid to the owner of the land. So far as I can ascertain by an examination of the bill or by an inquiry of the gentleman in charge of it, there is no provison whatever that the amount which the property brings in excess of the amount of tax, expenses, interest, and everything of that kind, shall be paid to the owner of the property. There is no remedy for him at all, or it is a remedy by a suit at law. There should be a distinct provision that the amount realized at the sale, after deducting the tax and expenses, should be paid over to the owner of the property.

In the second place, by looking at section 184, it will be found that while the owner of the property has two years in which to redeem it after a tax sale, he cannot redeem it by paying merely the amount of the tax; he must redeem by paying the whole amount for which the property was sold and 15 per cent. per annum. That is, if my property worth $10,000 is sold for a tax of $100, the District, so far as appears by this bill, retains the $9,900 as well as the amount of the tax; and if I within two years redeem the property, I must pay the purchaser $10,000 and 15 per cent. interest.

In the third place, there is no consistency in the bill, because when we come to the provision for a suit at law to enable a person to contest the regularity of the proceeding, he is compelled to pay into court only the tax, with interest, &c.

The main propositions to which I call attention are, first, that after the property is sold, though it brings ten times the amount of the tax, the whole amount thus realized may, after paying the tax, be kept in the treasury of the District, there being no provision for paying it over; secondly, that redemption cannot be made without paying the whole amount for which the property was sold and 15 per cent. on that amount. This, I say, is the most oppressive legislation I have ever known in regard to taxation.

Mr. NEAL. I think it would be well enough to discuss the amendments which are before the committee instead of looking over different sections of the bill and raising objections. If there is anything wrong about those sections which ought to be amended, let the gentleman from Massachusetts suggest simple amendments. Now the gentleman, if he will examine the provisions of this bill, will find that only the amount of the tax, with interest and penalties, must be paid into court, not the whole purchase-money.

Mr. FIELD. I so said; but in making redemption the owner must pay the whole amount which the property brought, and there is no provision that the District shall pay to the owner the amount realized by the sale in excess of the amount of tax.

Mr. NEAL. There is where the gentleman is mistaken. When a man redeems his property he is obliged to pay only the taxes, with interest and penalties; nothing more.

Mr. FIELD. If the gentleman will look at section 184 he will find this provision:

> And if the property shall not be redeemed by the owner thereof within two years from the day of sale by payment to the collector of said District, for the use of the legal holder of the certificate, of the amount for which it was sold at such sale, and 15 per cent. per annum thereon.

The owner pays, not the amount of the tax, but the whole amount which the property brought.

Mr. ALDRICH, of Rhode Island. When the gentleman from Massachusetts hears an amendment which the chairman of the committee has prepared, I think he will withdraw his objection.

Mr. FIELD. I will hear it with great pleasure.

Mr. NEAL. Let us take one amendment at a time; there is no propriety whatever in discussing the whole code upon a single amendment. The gentleman from Virginia, it seems to me, has said all that should be necessary to satisfy the Committee of the Whole that the provisions of this code providing for the enforcement of the collection of taxes are not too exacting in their character. Property must be delinquent one year before it is sold at a tax sale, and then two years must elapse before the purchaser can apply for a deed. He is compelled to give sixty days' notice to the owner of the property prior to his application for a deed that he is going to apply for a deed unless the property should be redeemed. Now, I would like to know what more liberal provision any man could ask? Is a delinquent tax-payer to walk about the streets with his pocket full of money and laugh at the tax-collector when he comes around to demand the taxes?

Mr. FIELD. If a man's property is taxed at $100, and is sold for $10,000, what do you propose that the District shall do with the $9,900?

Mr. NEAL. That question is not involved in this amendment. When the time comes, if the gentleman pleases, we will discuss that proposition. The question now before the committee is the amendment of the gentleman from Alabama, [Mr. SAMFORD.] In regard to this section, I will state that it is almost *verbatim* the law as it now exists.

[Here the hammer fell.]

Mr. FIELD. I withdraw the *pro forma* amendment.

Mr. SAMFORD. Mr. Chairman, it is very easy to set up an assertion which I never made and then demolish it, as the gentleman from Virginia did. I never asserted that the validity of these special-improvement assessments depended exclusively upon the act of Congress. I said that the rendering valid of these assessments depended upon an act of Congress, together with a legislative enactment of this District.

You will see here from the Supreme Court decision which the gentleman himself read from that I am correct in that assertion. I call his special attention to it. These are the words of the Supreme Court:

> There has been congressional legislation since 1872, the effect of which on the assessments is controlling.

I ask the attention of the gentleman from Virginia to this.

Mr. HUNTON. I am giving it to you.

Mr. SAMFORD.

> There were also acts of the legislative assembly of the District which very forcibly imply a confirmation of all acts and assessments of the board of which the bill complains.

Now, sir, I reassert that which I said a few moments ago when I said at the time these assessments were made so far as the intimation of the Supreme Court of the United States is concerned, they were

absolutely invalid, null and void, and that but for the subsequent act of Congress, together with the legislative act of the District of Columbia, they would be to-day absolutely null and void under those assessments.

Mr. ALDRICH, of Rhode Island. Will the gentleman allow me to ask him a question?

Mr. SAMFORD. Yes; for the third time on this same proposition.

Mr. ALDRICH, of Rhode Island. No, sir, not on this same proposition. What legislative act was passed subsequent to the laying of these assessments that had anything to do with validating them?

Mr. SAMFORD. Certainly.

Mr. ALDRICH, of Rhode Island. What one?

Mr. SAMFORD. The legislative act of May 29, 1873; "after the work had been done," says the Supreme Court.

Mr. ALDRICH, of Rhode Island. In this particular case?

Mr. SAMFORD. And there was no act passed before the assessment of these taxes which rendered them valid. And the Supreme Court refused to discuss the question whether or not they were valid because of the controlling effect of this subsequent legislation. That is the point I am making, that these assessments were made on laws which were no laws at all, and after they were made and these erroneous and iniquitous taxes were piled on this property, subsequent laws confirmed them, and you now propose to go and give a remedy more summary than ever was held constitutional or just in any State in this Union for the enforcement of tax deeds which may be given at these sales.

The gentleman from Virginia asked me a question, and I call his attention again, if he will give it to me.

Mr. HUNTON. I am giving it to you.

Mr. SAMFORD. The gentleman asked me where I could find these tax deeds were conclusive evidence. I find it in section 189.

Mr. HUNTON. But we are not on section 189.

Mr. SAMFORD. I understand that; but section 189 refers to section 185.

Mr. HUNTON. We are on section 185; and it was to that section I invited the attention of the gentleman from Alabama.

Mr. SAMFORD. Precisely; but section 185 is simply the initiatory step to all this machinery; and 189 goes on afterward and says these tax deeds shall be conclusive and convey an indefeasible title in law and in equity. I say it is entirely proper to discuss the subsequent sections of the bill saying these tax deeds shall be absolutely conclusive on these parties, no matter how erroneous and oppressive these assessments may be.

The gentleman from Ohio discussed an entirely different proposition, as to taxes hereafter assessed and for which property is sold. But here we have a large amount of taxes in this District which have been assessed for the past six or eight or ten years and for which the property is to be sold; and when the sale takes place hereafter it comes within the letter and spirit of this act.

The question was raised in the Committee on the District of Columbia, and I violate no confidence in saying it, where some member said it did not apply to these assessments and others said that it did. I said it did apply to them, and the chairman of the committee said it did apply to them, leaving no question as to that fact.

Now, in regard to one other point. The gentleman from Virginia says there has been no complaint about this thing. My desk in the committee-room is filled with petitions; the courts have been filled with them; Congress has been filled with petitions from these citizens, asking they might have some relief from this erroneous and excessive taxation. Yet the gentleman comes up and says there has been no complaint whatever!

Mr. HUNTON. My dear sir, my declaration was to the effect that at the present time, after Congress has passed two acts of relief and the relief has been given or is being given, I hear no complaint. After that relief given by the two acts of Congress I have heard of no complaint.

Mr. SAMFORD. Yes, but the relief has not been experienced and the Senate has subsequently passed an act which is now pending in this House and which has not been passed and the benefits of which the citizens of this District will not have if you go forward and pass this section to-night.

Mr. HUNTON. Yes, you will.

The CHAIRMAN. The gentlemen's time has expired.

Mr. WRIGHT. Mr. Chairman, it occurs to me that this section is very liberal in its provisions. If a man does not comply with the burdens that are imposed upon him by the law and his property has to be sold, if you give him two years' time for the redemption of it I do not see that it imposes any unusual hardship, and I do not think that it is otherwise than right and proper. I suppose that in the State of Pennsylvania over one-half of the lands of that State are held under what is called tax titles, where the sales have been made, and where the titles have become perfected in the purchaser, and we never have given under our system of laws more than two years' time for their redemption by the original owner.

Now, I take it if a man holds property against which taxes are assessed, that it is his duty to pay that tax, and if he does not pay it and if he does not comply with his requirements as a citizen his property ought to be exposed for public sale.

Mr. McMILLIN. Will the gentleman allow me to ask him a question?

Mr. WRIGHT. Yes, sir.

Mr. McMILLIN. Have you any law in Pennsylvania which makes the tax deed conclusive evidence of title?

Mr. WRIGHT. Yes, sir; and I will explain how. Under our system of the purchase of what was called wild or unseated lands previous to 1815 it was impossible for the purchaser to establish his title under the laws then existing, because he could not take the preliminary steps preceding the purchase.

In 1815 we passed an act of the General Assembly that the purchaser at a tax sale in order to establish his right had only to show a perfect title in this, that an assessment had been made, a levy and a sale of the property had taken place, and the deed executed.

Mr. SAMFORD. That is all the proof you have to make at any time. You talk about "preliminaries," but here you are binding property for debts which have been accumulating for years with interest.

Mr. WRIGHT. I am speaking now of the mode of establishing the title under the law of Pennsylvania. I say in connection with this proposed bill that you give a man who is delinquent in his taxes the right to redeem it within two years, and he only has to pay 15 per cent. in addition. Under our laws we pay 25 per cent.

Mr. SAMFORD. This runs back about seven or eight years and carries 10 per cent. per annum; and many a poor woman who owns a little property here finds it incumbered with debt absolutely in excess of the whole value of the property.

Mr. WRIGHT. If it runs back ten years in time and carries interest at that rate, then of course there is some force in that. But you adopt this as a general rule and allow two years for redemption of property, and I cannot see how it is objectionable.

Mr. SAMFORD. Very well; there is no objection to its applicability to the future. What I object to is that it refers to past assessments. I withdraw the *pro forma* amendment.

Mr. HERBERT. I offer the following as a substitute for the amendment of my colleague from Alabama, [Mr. SAMFORD:]

But the provisions of this section shall not apply to suits by owners to recover property which was not subject to taxation and upon which the tax for which it was sold had been paid before the sale.

It seems to me that this substitute which I propose ought to meet the views of gentlemen on both sides of this question. It leaves the bill as it now is and the tax deed to be *prima facie* evidence in all cases except where the property has been sold when the tax has been paid on it before the sale or when the property was not subject to taxation. The gentleman from Virginia says that that is a case which can never happen. I differ with the gentleman in that respect. It can happen and it often does happen that a tax collector fraudulently fails to make return of taxes collected by him, and when the taxpayer is not in default. It sometimes happens by mistake arising from the fact that property is not properly described when given in. Now if, as the gentleman from Virginia says, this bill proposes to make it the law, after the person who has paid his taxes and who finds his property nevertheless sold, shall, when he comes into court, be obliged to deposit the full amount of tax, penalties, and cost, we are simply selling a man the right to stand in court.

Mr. NEW. Will my friend from Alabama [Mr. HERBERT] allow me to make a suggestion? I do not quite see the practical value of his amendment. Whether these were taxes due and unpaid could only be shown by a trial of the cause, and if upon the trial it was made to appear that the taxes had been paid in full before sale, then, as a matter of course, the *prima facie* title would disappear and no longer exist. I fail to see any merit in the amendment. I did not hear the amendment distinctly, and may not understand its purpose.

Mr. HUNTON. I wish to inquire if the substitute offered by the gentleman from Alabama [Mr. HERBERT] is satisfactory to my other friend from Alabama, [Mr. SAMFORD?]

Mr. SAMFORD. It is not. I might agree to it as an amendment, but not as a substitute for mine. My colleague's amendment provides for the future; mine strikes at the assessments of the past.

Mr. HERBERT. I will withdraw my substitute at present. I did not hear the amendment of my colleague read. I withdraw mine temporarily and give notice that before this matter is finally disposed of I will renew it.

The question being taken on Mr. SAMFORD'S amendment, there were—ayes 18, noes 32.

Mr. SAMFORD. A quorum has not voted.

Mr. HUNTON. Oh! do not raise that point.

Mr. SAMFORD. Then let us have a vote on my amendment in the House.

Mr. HUNTON. I hope the gentleman will not insist upon that.

Mr. SAMFORD. I call for tellers.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Alabama, Mr. SAMFORD, and the gentleman from Virginia, Mr. HUNTON.

The committee again divided; and the tellers reported—ayes 20, noes 41.

Mr. SAMFORD. I will not raise the point that there is no quorum; but I ask the gentleman from Virginia to allow a vote on this in the House.

Mr. HUNTON. I will agree that the gentleman can offer his amendment in the House.

Mr. SAMFORD. Very well.

Mr. HUNTON. My attention has been called to an omission in section 184, and I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to section 184 the following:

"And out of the proceeds of such sale all taxes, penalties, interests, and expenses shall be paid to the Treasurer of the District and the remainder shall be paid over to the owner of the property."

Mr. FIELD. Should not that come in under section 181?

Mr. HUNTON. I think not. Section 184 is the one which provides for the sales.

Mr. NEAL. I suggest that it should be offered as an addition to section 183. I think the gentleman from Virginia is mistaken.

Mr. HUNTON. I am not mistaken.

Mr. PRICE. I offer as a substitute for the amendment of the gentleman from Virginia what I send to the desk.

The Clerk read as follows:

At the end of section 183 add the following:

"*Provided*, That in the sale of any real estate for taxes the person offering to pay the taxes, interest, and costs due on said real estate for the least part of said real estate, to be taken off the west side thereof, shall be the purchaser."

Mr. PRICE. That accomplishes the same object, and there is no paying back the money.

Mr. HUNTON. I trust the amendment of the gentleman from Iowa will not be adopted. It is impossible to divide up small lots in a city in that way.

Mr. PRICE. Let me say to the gentleman from Virginia it is not only not impossible, but this is something which is practiced constantly in a dozen States of this Union.

Mr. HUNTON. Which are they?

Mr. PRICE. My own State to start with, and Ohio, and others. Let me say to the gentleman it will save a great deal of trouble. A piece of real estate is offered for sale for taxes. The taxes amount to $100. The officer offering it for sale says, "The tax on this property is $100; what is bid?" One man says he will pay the tax and take the property, the whole of it; another says he will pay the tax and take half of it; another says he will pay the tax and take the quarter of it; another says he will pay the tax and take the eighth of it; and so on down. And the man who will take the least part of that property will be the purchaser. He pays the taxes, the interest, and the costs, and that is the end of it. There is no paying back of money, and the taxes are paid. That is the practice in many States and in many cities.

Mr. BARBER. Does the gentleman mean to say it is an "Ohio idee?"

Mr. BROWNE. The gentleman from Virginia suggests that many of the lots are so small you cannot get enough off the west side to pay the tax. In that event the purchaser takes the whole lot. It makes no manner of difference in that respect how much or how little is taken.

This has been the rule in Indiana I believe ever since we had a tax system, and we have no difficulty at all about it. In the case of a tax sale we take from the northwest corner, I believe, so many acres. If it requires the whole tract or the whole lot to pay the taxes the whole tract or the whole lot is taken. If anybody will pay the taxes, penalties, and costs for a portion of it, then only so much of it goes. This system saves all this trouble of paying back to the owner of the property so much.

Mr. CLAFLIN. How would it be in the case of a city lot of twenty feet frontage?

Mr. BROWNE. Precisely the same rule applies. If a man is willing to pay the tax and take a part of the lot then it can be cut in two. But if it requires the whole lot he takes it. If he is willing to take the undivided half, or I should say the divided half, then he pays the tax and takes that. It makes no difference, because if the lot is so small that nobody will pay the tax on it without the whole lot, then he buys the whole lot.

Mr. ROBINSON. Does the gentleman mean to say that in his State they sell an undivided part?

Mr. BROWNE. No, sir; I did not mean to say that. The proposition of the tax collector, as stated by the gentleman from Iowa, [Mr. PRICE,] is this: "Who will pay the tax for the lot or tract now on sale?" Somebody says, "I will." Somebody else says, "I will pay the tax for a half or a quarter of the lot."

Mr. CLAFLIN. Suppose it is a city lot.

Mr. BROWNE. Then it is for so many feet of the lot; whoever will pay the tax for the smallest part of the property gets that part of it, and there is then no money to be paid back to the owner of the property. I think that in almost all the Northwestern States they have that system, and there is no trouble whatever in putting it into practical operation, either in the towns or in the cities. And we have as small lots in western cities as there are in Washington.

Mr. HUNTON. The amendment proposed might do very well in the country.

Mr. BROWNE. It does quite well in the cities.

Mr. HUNTON. In my opinion it would not do so well in the cities. Most of the property in the District of Columbia consists of town lots with buildings on them, twenty feet front. The proposition is to sell so much of the lot as will pay the tax. A purchaser bids off the tax for one-quarter of the property, which will include one-quarter of the building on the lot. The result will be that after the sale one man will own one-quarter of the building and the lot and another man will own three-quarters of the building and the lot.

Mr. BROWNE. Divide the property.

Mr. HUNTON. You cannot have a partition of the property.

Mr. BROWNE. The whole property could be sold and the proceeds divided.

Mr. HUNTON. The result would be that you would have to sell the property for partition, and that would be the same in result as now. That would be the exact result that would be reached under the proposition of my friend from Iowa, [Mr. PRICE.] It is impossible to have two owners of a house in this way; one owning one part of it and the other the other part. I think the original proposition is best, to sell the whole of the property, and then if it brings more than enough to pay the tax the balance can be paid to the owner of the property.

Mr. HAWK. It seems to me that under the arrangement contained in this bill you will force a man to sell his property; that is, you take private property for public uses. Under the arrangement proposed in lieu of that you would merely cloud the title to a certain designated portion of the property. That cloud of title would be a cloud against a subsequent purchaser, and it would be necessary to remove it. It seems to me that the amendment of the gentleman from Iowa [Mr. PRICE] will save all the difficulty that has been suggested by the gentleman from Virginia, [Mr. HUNTON,] because the proposition of the gentleman from Virginia tends to force a sale of the whole property, while the other proposition only tends to a cloud of title on a portion of the property which may be cleared.

The CHAIRMAN. Debate upon the amendment has been exhausted.

Mr. BARBER. I move to strike out the last word, or so many words as may be necessary. I concur fully with the suggestion of the gentleman from Virginia, [Mr. HUNTON.] This rule was designed for the country, and it originated in the West. [Laughter.] Gentlemen may laugh, but it is so. It originated in the West when lands were cheap and of little value, and it was not designed to apply to cities.

Mr. SAPP. The same rule prevails in Ohio, and certainly Cincinnati is as large a city as Washington.

Mr. BARBER. I doubt very much whether you will find it east of Ohio. It is like some other ideas which originated in Ohio. I can say this from my own observation: this system leads to more imperfect descriptions in tax titles than any other system which you could possibly devise. If you desire to give any strength and validity to your tax titles, by all means preserve this feature of the code as it now stands. If you desire to reduce your tax titles to an infinitesimal value and certainty in every respect, then adopt this proposed system, by which you would take off a shaving from the front or the rear of a lot.

Mr. SAPP. A purchaser need not take the shaving; he can insist upon the whole lot and not take less.

Mr. FIELD. There are three systems which may be established with regard to the sale of property for taxes. One is to sell the property, pay the taxes out of the proceeds of the sale, and then pay the remainder of the proceeds, if any, to the owner of the property. Another is to put up the property at what is called a Dutch auction. "What undivided part of the property will any man take and pay the tax on it?" One man bids for the whole of the property, another for the half, another the quarter, another the sixth, and so on; and he who bids for the least of the property obtains the right to that portion of the property, and it is afterward assigned to him.

Another system is to bid for a certain number of feet, in the case of a city lot, to be taken off a certain side of the lot, say the west side, as is proposed by the gentleman from Iowa, [Mr. PRICE.] That last system might do where the lots were square and had a west side and where the land was agricultural. But in cities, unless you sell the whole lot, the true policy would be to sell an aliquot part and then have a partition in equity. A man may have a lot of twenty thousand square feet and a house on the west side of the lot occupying ten thousand square feet on it. If you sell that lot for taxes, under the proposition of the gentleman from Iowa, and a man agrees to take a portion of the lot and pay the taxes, he may take that portion where the house is situated. But if you sell an aliquot part of the whole lot, then the purchaser would have a partition in equity; and he may have assigned to him a valuable portion of the lot on which the house is not situated.

Now, gentlemen who have advocated this amendment fail to notice the provisions contained in sections 185 and 186. Provision is made that the purchaser at a tax sale, when he has received his deed, shall have landlord and tenant process to obtain possession of the property. But if he owns only a part and is a cotenant with others you ought not to give him landlord and tenant process to obtain possession, because he is no more entitled to possession than his cotenants. The system advocated by the gentleman from Iowa, if carried out, will involve necessarily a reconstruction of various other sections of the bill; and if it be adopted there ought to be provision for the purchase of an aliquot part, not a specific portion on a specific side by metes and bounds.

I desire to say to the gentleman from Virginia that his amendment should come in at the end of section 181, or section 183, not at the end of section 184. Section 181 in the concluding part provides for the sale of property "at public auction at office of said collector in

the city of Washington, on the first Tuesday of October following, and each day thereafter until all is sold, at a fixed hour, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of said days, to the highest bidder or bidders." Section 183 is a repetition of the same thing. Section 184 does not relate to the sale at all, but to the delivery of the deed two years afterward.

Mr. HUNTON. Oh, no!

Mr. BARBER. I withdraw my *pro forma* amendment.

Mr. BOYD. It strikes me that the amendment of the gentleman from Iowa [Mr. PRICE] is the only proper method for reaching this question of the collection of taxes. As has been stated, this system has been enforced in the Northwestern States for years. Gentlemen here seem to be particularly solicitous about the purchasers of town lots. But these purchasers buy at their own risk. If they are willing to take a portion of a town lot, they do so at their own option, subject to whatever inconveniences may attend the subsequent enforcement of their rights. But the fact is that in these cases the whole lot will invariably be sold for the taxes. As one gentleman has suggested, when a three-cornered lot is bid for, no sensible bidder will take one foot or two feet; he will purchase only the entire lot; and that lot will be redeemed by the payment of the taxes with the penalties.

This system has worked satisfactorily and efficiently in the Western States, as it has where quarter sections of land have been laid out under congressional legislation. It strikes me that the amendment of the gentleman from Iowa is the only correct and efficient plan for collecting these taxes. It does justice to the purchaser at a tax sale and it also does justice to the party against whom the tax is assessed. If a person sees fit to buy irregular portions of lots he does so at his own risk, and can enforce his remedy if he wishes.

[Here the hammer fell.]

Mr. HUNTON. I wish to say a word, and then I trust we shall have a vote on the amendment. This code provides that after a tax sale and the execution of a deed in pursuance of such sale, the purchaser shall obtain possession in the ordinary mode by which the owner of land obtains possession of his property. Now, I would like to know how a purchaser of one-eighth of a tract of land or one-eighth of a house and lot in the city of Washington could obtain possession of what he has purchased. The result of the amendment of the gentleman from Iowa would be that any man who might purchase under these circumstances would never get possession.

Mr. PRICE. Does not the gentleman know very well that a man who purchases at a tax sale does so at his own option and his own risk. If he has a mind to buy three inches of a piece of ground by paying the tax or penalty on that property, who suffers except himself?

Mr. HUNTON. But the result will be that nobody will buy, for anybody who buys wants to obtain possession.

Mr. PRICE. The whole object of the Government is to get the tax; and if less than the whole will not realize the tax, the whole property will be sold. If anybody chooses to buy a part, he suffers, if he suffers at all, by his own act.

Now let me say another thing. A good deal is said about this proposition being a western idea. Now, I agree that there is a piece of country out toward sundown that does not belong at the "hub;" but I want to say that in the State of Iowa there are some towns, and in those towns there are lots, and upon those lots there are houses, and fractions of those lots are sold for taxes. Yet there is not a State in the Union where the taxes are more completely and promptly assessed and collected than in the State of Iowa under a law of this kind. This proposition is not a mere theory, it is not a matter of opinion at all; it is a matter of actual experience and practice in the years of the past. It has worked like a charm, and will do so wherever it is tried.

Mr. REED. I would like to submit a small contribution to this discussion, as it seems to be rather a "free fight." I submit that, however wise it may be in Iowa or in other States to continue a system to which the people there are accustomed, it may be entirely unwise to introduce the same system in Washington, where the people are not accustomed to it. They get along very well under the present system. It has produced no complaint. Nobody presents any objection to it here, and it seems to me it might as well go on. We manage to collect taxes under it. We do it in more than half of this Union, and it seems to me we can manage it here.

Mr. PRICE. I wish to say just one word, and that is all. [Cries of "Vote!"] I promise not to occupy more than thirty seconds. Sometimes we have discussion here which seems to divide between the North and South, but I notice this evening discussion divides between the East and West. [Cries of "Vote!"]

The question recurred on Mr. PRICE's substitute.

The committee divided; and there were—ayes 19, noes 47.

So the amendment was disagreed to.

The question next recurred on Mr. HUNTON's amendment.

Mr. HUNTON. I suggest that my amendment come in after the word "sale," in the third line, and that the word "and," immediately following, shall commence a new sentence.

The amendment was agreed to.

Mr. HERBERT. I renew my offer of an amendment to section 85.

Mr. HUNTON. That is passed, but I will not object to it.

Mr. HERBERT. I wish to answer a question asked me by the gentleman from Indiana, and the question he puts is this: How will it be ascertained whether or not the taxes have been paid?

The CHAIRMAN. The gentleman will state his amendment before proceeding to argue it.

Mr. HERBERT. I move to add to section 85 the following:

But the provisions of this act shall not apply to suits by owners to recover property which was not subject to tax or upon which the tax for which it was sold had been paid before the sale.

Mr. Chairman, the gentleman from Indiana asked me a question: how it could be ascertained on trial whether the money had been so paid? I answer, by the pleadings in the court. The plaintiff sues to recover a tract of land; the defendant pleads he has a tax deed and the plaintiff must deposit his money before he can litigate for it; and then replication by the plaintiff that he has paid the tax upon that land before the sale. There the issue is made up, and that kind of replication gives him the right under this amendment to litigate for his own property after being compelled, in the first place, to make a deposit of money. To compel a party to make a deposit of money is demanding a price for justice contrary to Magna Charta, that justice shall be administered freely without price.

The decision of De Treville *vs.* Small, (8 Otto, 517,) that has been cited here, is not on that question at all. The Supreme Court of the United States would decide, I believe, that this law is unconstitutional in so far as it undertakes to make a party pay into court costs before trial where the land is his and was improperly sold, as he had paid the taxes.

Mr. HUNTON. I have no objection to that amendment.

Mr. NEW. I may not have exactly apprehended the terms and effect of the amendment which has been offered by the gentleman from Alabama. I remarked a few minutes since when the amendment was first submitted that I did not quite see the practical value of it, nor do I now.

The gentleman says that it will appear from the pleadings that the taxes were not due or unpaid. My answer is, that the facts pleaded will not be taken as true unless it be for the purpose of demurrer, and, therefore, the *prima facie* fee-simple character or quality of the tax deed would continue to the end of the trial. And if in the end it appears that there was no tax due or unpaid, then it will follow, of course, that the *prima facie* character of the deed no longer exists and in the mean time has done no actual harm. If the amendment of the gentleman from Alabama should be adopted the owner in his suit to recover the property, or in a suit defending his title and possession, will always plead that the property was not subject to the tax, or, if subject to it, that it was paid before sale. And in this way by a sham pleading, not even verified, avoid paying any money into court.

Mr. HERBERT's amendment was agreed to.

Mr. TOWNSHEND, of Illinois. I desire to offer an amendment.

Mr. ALDRICH, of Rhode Island. I reserve all points of order.

Mr. TOWNSHEND, of Illinois. I move a substitute for chapters 2, 3, 4, 5, 6, and 7, inclusive, embracing from pages 40 to 81.

Mr. NEAL. We have not gone over chapter 6 yet.

Mr. TOWNSHEND, of Illinois. I withdraw my amendment for the present, then.

The Clerk read section 186, as follows:

SEC. 186. That in no action of ejectment or trespass in which the title of any of the parties thereto to the property in suit shall depend upon a tax deed from the District of Columbia, shall the validity of such tax title be permitted to be questioned on the ground of any irregularity in any of the proceedings prior to said tax deed, unless the party denying the validity thereof shall first pay into court the full amount of the tax or taxes, penalties and costs described in such tax deed, together with interest accrued prior to said deed and interest upon said full amount at the rate of 10 per cent. per annum from the date of said deed; and if said tax title shall be held to be invalid, the amount so paid in shall be adjudged and paid over to the holder of said tax title.

Mr. HERBERT. I offer the following amendment, to come in at the end of that section. It is precisely the same in principle as the amendment to section 185, the wording only being changed to adapt it to section 186:

But the provisions of this section shall not apply to cases in which the party denying the validity of the tax deed shall rest such denial on the grounds either that the property was not subject to taxation or that the taxes were paid before the sale.

Mr. HUNTON. There is no objection to that amendment.

The amendment was agreed to.

Mr. SAMFORD. I wish to give notice that I shall not offer the amendment to this section, but shall offer it to section 186, if not adopted as an amendment to section 185.

Mr. NEAL. I offer this as an additional section:

SEC. —. Minors and other persons under legal disabilities shall be permitted to redeem any such tract or lot so sold at delinquent sale from the purchaser thereof or his assignee within one year after the minor may arrive at full age, or after the removal of such legal disability, on payment of the purchase money with 10 per cent. per annum thereon, all costs necessarily incurred, and all taxes and assessments that have been paid thereon by the purchaser or his assigns between the day of sale and the period of redemption, with 10 per cent. per annum interest upon such taxes and assessment.

Mr. SAPP. I wish to ask the gentleman from Ohio whether that would not include the property of married women?

Mr. NEAL. All persons laboring under disabilities such as are recognized by the law of the District will be permitted to come in within one year after the removal of such disabilities and redeem the property.

Mr. SAPP. That would include married women.

Mr. NEAL. I do not know whether it would or not.

Mr. SAPP. Undoubtedly it would. They are clearly included, according to the wording of that amendment.

Mr. NEAL. Then include them in it.

Mr. SAPP. I do not think they ought to be included.

The amendment was not agreed to.

Mr. NEAL. I ask a division.

The Clerk proceeded to read the next section.

Mr. NEAL. It is necessary that minors and persons laboring under legal disabilities should have the opportunity at some period after the removal of the disabilities to come in and redeem their property.

The CHAIRMAN. The question was put to the committee and the amendment was rejected.

Mr. NEAL. But I asked for a division.

Mr. HUNTON. I will suggest to my friend from Ohio to except married women, and then I think there will be no difficulty.

Mr. NEAL. I will except married women from the operation of it.

Mr. HUNTON. Then I move as an amendment to insert after the word "disabilities" the words "except married women;" so that if adopted the section will read:

Minors and other persons under legal disabilities, except married women, shall be permitted, &c.

The amendment to the amendment was agreed to.

The section, as amended, was agreed to.

Mr. TOWNSHEND, of Illinois. The amendment I desire to offer I think will properly come in at the point we are now discussing.

Mr. ALDRICH, of Rhode Island. I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ALDRICH, of Rhode Island. I wish to know whether it is in order for the gentleman to offer a substitute to a section which has already been passed upon and approved by the committee?

Mr. TOWNSHEND, of Illinois. I do not see anything in that point. I propose this as a substitute for the whole.

Mr. HUNTON. In regard to the point of order made by the gentleman from Rhode Island, I beg to state that the gentleman from Illinois [Mr. TOWNSHEND] was here on the floor some time ago during the consideration of this bill to offer the amendment which he now proposes, and it was then understood that we would go on until we got through with other portions of the bill and come back to this point, at which his amendment would be in order, and when he would be entitled to offer it. The amendment now proposed by the gentleman from Illinois provides a different mode of taxation than that which this bill provides. He proposes that the commissioners of the District of Columbia shall divide the District into twenty-one districts and appoint an assessor for each; and that by these twenty-one assessors all of the taxes shall be assessed and determine in what manner the tax shall be raised. It leaves the machinery of the remainder of the bill in reference to the collection of taxes as now provided in this code. It seems to me it would be proper that the amendment should be discussed and disposed of now, or at this point, as it will strike out many of the sections of this code if adopted.

Mr. ALDRICH, of Rhode Island. I suggest, in response to what the gentleman has said, that no understanding between the gentleman from Virginia and the gentleman from Illinois can bind this committee. We have spent I do not know how many hours here attempting to perfect this, and, after it is finished, I submit it is not in order to go back and strike it all out.

Mr. HUNTON. I do not want any understanding between myself and the gentleman from Illinois to bind the gentleman from Rhode Island or any other gentleman, and that was not my proposition. What I said was that in the early part of the discussion on this bill, when the gentleman from Illinois was ready to propose his amendment, a suggestion was made that he should defer the offering of it until after we had gotten through with these sections, and the right to offer it was distinctly reserved.

Mr. BARBER. That was the understanding.

Mr. TOWNSHEND, of Illinois. Allow me to have the amendment read.

Mr. ALDRICH, of Rhode Island. I would like to have the ruling of the Chair on the point of order.

Mr. BARBER. This understanding was by unanimous consent.

Mr. ALDRICH, of Rhode Island. It might have been by unanimous consent of the gentlemen present, but I should certainly have objected. If, however, it was understood to be by unanimous consent of those gentlemen who were present at that time, then of course I withdraw my objection.

Mr. TOWNSHEND, of Illinois. The substitute which I offer will come in after chapter 1, on page 40, and is a substitute for chapters 2, 3, 4, 5, 6, and 7, including pages 40 to 81, down to chapter 8. I desire now to have the Clerk read the amendment.

Mr. HUNTON. I suggest to the gentleman from Illinois that the substitute be not read at this time. I have several copies here on my desk which gentlemen can have and read at their leisure, and the subject can be considered as pending.

Mr. TOWNSHEND, of Illinois. Then let it be printed in the RECORD.

Mr. ALDRICH, of Rhode Island. Not printed in the RECORD.

Mr. TOWNSHEND, of Illinois. I think it would be better to allow the amendment to be printed in the RECORD for the information of the House.

Mr. HUNTON. I have no objection to that.

Mr. ALDRICH, of Rhode Island. I object to it.

Mr. TOWNSHEND, of Illinois. I have a right, then, to insist upon the reading of it, and in that way to have it printed in the RECORD.

The CHAIRMAN. The Chair would like to understand whether the substitute proposed by the gentleman from Illinois is to be inserted at page 40.

Mr. TOWNSHEND, of Illinois. Yes, sir; I desired it might not be read, simply to save time.

Mr. PRICE. I wish the gentleman from Illinois to answer a question. I want to know if his substitute includes the collection of taxes.

Mr. TOWNSHEND, of Illinois. Yes, sir.

Mr. PRICE. Does it include the system of license?

Mr. TOWNSHEND, of Illinois. It does.

Mr. PRICE. Then I wish my amendment to go with the gentleman's substitute and be printed with it.

Mr. BLACKBURN. Let them both be printed in the RECORD.

Mr. HUNTON. If it is agreed that the substitute and the amendment shall be printed in the RECORD without reading, I shall move that the committee rise.

The CHAIRMAN. Is there objection to the proposition as to the printing?

Mr. WILBER. I shall object unless I can have some clear understanding about this. I want to know whether this substitute will be considered by sections.

Mr. HUNTON. Certainly.

Mr. WILBER. Then I do not object.

The CHAIRMAN. No objection being made, both the substitute of the gentleman from Illinois and the amendment of the gentleman from Iowa to the substitute will be printed in the RECORD.

The proposed substitute of Mr. TOWNSHEND, of Illinois, is as follows:

Strike out all of chapters 2, 3, 4, 5, 6, and 7, inclusive, pages 40 to 81, down to chapter 8, and in lieu thereof insert the following:

SECTION 1. That all of that part of the territory of the United States included within the limits of the District of Columbia shall be divided into twenty-one districts upon the basis of assessed valuation of real estate.

SEC. 2. The commissioners of the District of Columbia shall have power, and are hereby directed, to make such division on or before the 1st day of November, 1880, and at the end of the period of every five years thereafter, and they shall have power, and are hereby directed, to appoint from each district so as aforesaid created, one citizen owning real estate in the same, who has resided in the District of Columbia five years, and has resided in the district from which he is appointed for the period of one year next preceding the date of his appointment.

SEC. 3. One-third of said board shall be appointed for one year, one-third for two years, one-third for three years, and their successors thereafter for three years. The president of the board of commissioners of the District of Columbia shall call the first session of said board of assessment and taxation and, preside over said meeting until the said board shall organize by the election of one of its members as chairman. The said board shall have power to elect a secretary, determine upon his compensation and duties, adopt rules to govern its proceedings. And said board when duly organized as herein provided, shall be the board of assessment and taxation of the District of Columbia, and have the powers and perform the duties as in this act provided.

SEC. 4. Each person so appointed shall, within ten days after receiving notice thereof, file with said commissioners his bond, payable to the District of Columbia, with sufficient surety to the acceptance of said commissioners, in the sum of $2,000, conditioned that he will faithfully, diligently, and impartially perform all and singular the duties enjoined upon him by law. And he shall, moreover, take and subscribe an oath of office. If any such appointee shall fail to qualify as aforesaid within the time prescribed, the appointment shall be considered void, and the commissioners shall forthwith appoint another suitable person, who shall qualify as above provided.

SEC. 5. The commissioners shall furnish each of said assessors a map of the respective subdistrict which he is appointed to assess and value, which shall contain an accurate list of each tract, together with a pertinent description of the real property situate therein, and, as far as may be known, the owner thereof, and also such blanks, forms, books, surveys, and plats as may be necessary for a systematic statement of the property to be assessed.

SEC. 6. All real property shall be assessed in the name of the owner, trustees, or guardian thereof. All undivided real property of a deceased person may be assessed in the name of such deceased person until the same is divided according to law or has otherwise passed into the possession of some other person. And real property the ownership of which is unknown shall be assessed "owner unknown."

SEC. 7. Each assessor shall in all cases, from actual view and from the best sources of information in his reach, determine as nearly as practicable the true cash value of each separate tract or lot of real property in his district in lawful money, and he shall separately estimate the value of all improvements on any tract or lot, and shall note the same in his plat-book, which shall be carried out as part of the value of such tract or lot, and he shall return the dimensions to each tract or lot.

SEC. 8. It shall be the duty of said board to make an assessment of the value of all the real estate, and the improvement thereon, liable to taxation within the District of Columbia, before the 1st day of June, 1881. They shall, before the 1st day of April, 1881, and before the 1st day of April of each year thereafter, determine in what manner property, other than real estate, shall be taxed, and may impose a tax on trades, occupations, and corporations by license or otherwise, and a tax on any personal property not exempted by law.

SEC. 9. Each member of the board shall make an assessment of property to be assessed in the district for which he is appointed, in a manner directed by the board, which assessment shall be submitted to the board for their approval. Such value for taxation shall be the true cash value in lawful money of the United States of the real estate and the improvements thereon at the time of making said assessment.

SEC. 10. They shall meet on the 1st day of April of each year thereafter, and continue in session until they have assessed the value of all buildings erected, improved, or enlarged, not heretofore taxed; and they shall meet on the 1st day of June of each year for the purpose of hearing and determining any and all appeals from the assessments made by any member, and may add to or take from the assessments made by any member, and shall continue in session until all appeals are heard and determined: *Provided*, Such session shall not exceed sixty days.

SEC. 11. After having completed the assessments annually, as is herein provided, of the real estate, and after the same shall have been revised, and the board of assessors and taxation shall have determined upon the manner of taxing trades,

occupations, corporations, and personal property, said board of assessment and taxation shall, annually, levy a tax as aforesaid, which shall produce a revenue equal to one-half of the estimates made by the commissioners of the District of Columbia for the support and maintenance of said District, and equal to the amount appropriated by the Congress of the United States for the fiscal year for which such estimates and appropriations are made.

SEC. 12. After they shall have completed annually the duties herein provided, they shall deposit with the commissioners of the District the result of their proceedings, signed by their chairman and attested by their secretary. All assessments made and taxes levied by them shall be the lawful assessment and levy for taxation for the fiscal year for which the same shall have been made. The commissioners shall direct the treasurer to deliver to the collector a duplicate of said assessments, and charge him with the grand aggregate of all taxes levied by the board of assessment and taxation, and shall credit him from time to time with such collections as may be made and paid over. Upon the final settlement of the said collector, he shall be credited only with such taxes uncollected as he may certify to in writing upon said duplicate, and verify by his oath he was unable to collect. The collections of such taxes as shall have been levied by said board shall be made at the time and in the manner as is hereinafter provided.

SEC. 13. The commissioners of the District of Columbia shall have the power to convene said board at such times and places as they may deem best for the interest of the tax-payers of the District, for the purpose of deciding questions that may arise during the interim of their adjournment: *Provided*, When they be so convened by the commissioners in extra session, the commissioners shall in writing specially state the object for which they are called together, and no other business shall be transacted except that specially named by the commissioners of the District.

SEC. 14. All expenses of the board of assessment and taxation shall be paid out of the moneys belonging to the District of Columbia.

SEC. 15. The compensation of each member shall be $3 per day for every day that he is actually employed in making or revising such assessments.

SEC. 16. Every assessor who shall refuse or knowingly neglect to perform any duty enjoined on him by law, or who shall consent to, or connive at, any evasion of the provisions of this chapter, whereby any property required to be assessed shall be unlawfully exempt, or the valuation thereof entered at less than its true cash value, shall, on conviction thereof, be liable to a fine not exceeding $200 for each offense, which may be collected from his bond aforesaid.

LICENSE.

SEC. 17. Every person engaged in, or who is about to engage in, any trade, business, profession, occupation, or calling, for which a license tax is imposed by the board of assessment and taxation, shall, at the time prescribed for procuring the same, make application to the collector of taxes for this District, and shall give, under oath or affirmation, if so required by said collector, such information as may be desired by him. The collector shall then, upon compliance with all the provisions required by the board of assessment and taxation, and upon the receipt of the amount of money required to be paid therefor, issue to said person a certificate of receipt therefor. Every license shall state the name of the person to whom granted, the number of the house and the street where it is desired to carry on such trade, business, profession, occupation, or calling, when the same has an established location, and the kind of business for which it is required, and shall be signed by the treasurer and impressed with the seal of his office. Licenses may be transferred to persons to continue the same business in the same house, or to remove the place of business under the same regulations as the original license. All transfers shall be certified by the treasurer for the District.

SEC. 18. In every case where more than one pursuit or occupation shall be pursued or carried on in the same place, by the same person, at the same time, the license shall be paid for each according to the rates severally prescribed by the board of assessments and taxation.

SEC. 19. It shall be the duty of every person who is required to have a license to keep the same at all times displayed in a conspicuous position in his place of business, and, if he has no place of business, to exhibit the same on demand of the proper officer; and it is hereby made the duty of the major of police to see that no person required to have a license shall be engaged in business without the proper license, and he is hereby authorized to close up any place of business which may be found open and doing business without a license.

SEC. 20. All licenses imposed by the board of assessments and taxation shall date from the 1st day of April, 1891: *Provided*, That existing licenses shall be valid until the expiration of the time for which they were granted, and from the expiration of such time a license may be issued for any part of a year that may intervene before the 1st of April, 1891, proportioned to the time so intervening: *And provided further*, That persons engaging in business requiring a license after the 1st of April of any year, shall be required to pay only for that part of the year intervening before the first of the ensuing April: *And provided further*, That no license shall be granted to a commercial agent for less than a year.

COLLECTION OF TAXES.

SEC. 21. The lien for taxes shall attach to all real property subject to such taxes on the first Monday of May annually, and shall continue until such taxes are paid. All personal property subject to taxation shall be liable to be seized and sold for taxes; and the personal property of any deceased person shall be liable, in the hands of any executor or administrator, for any tax due on the same by any testator or intestate.

SEC. 22. Any taxes assessed on any shares of stock, or the value thereof, of any national bank or other incorporated company, shall be and remain a lien upon such shares from the first Monday of May of each year until such taxes are paid, and the president, cashier, or other principal officer of all such corporations shall annually on the 1st day of November pay to the collector the tax imposed upon the shares of capital stock of such corporations for the previous year, without reference to the place of residence of the stockholders thereof.

SEC. 23. If the taxes assessed against any insurance company whose principal office is located beyond the District remain unpaid for a period of twenty days after the time provided by law for the payment thereof, it shall be unlawful for any such insurance company to do any business in the District until such taxes and penalties are fully paid, and any person who may pretend to act as agent for any such defaulting company shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding $500.

SEC. 24. The taxes assessed upon the capital of any unincorporated bank or banking association shall be and remain a lien thereon and the property thereof from the first Monday of May in each year, and in case of non-payment thereof, at the time required by law, by the owner or shareholder, and after notice thereof by the collector, it shall be unlawful for the manager or other officer of such bank or banking association to transfer, or permit to be transferred, the interest or any portion thereof owned by such defaulting owner or shareholder until all the taxes thereon, together with costs, penalties, and delinquencies, shall be paid in full, and no dividends shall be paid to such owner or shareholder until payment in full is made. Any such bank or banking association shall pay to the collector the taxes that may be assessed upon its capital, if the shareholders thereof fail to make such payment, and may deduct the same from dividends on any such shares, or charge the same to the account current of any such shareholder, without reference to the place of residence of any such shareholder.

TIME OF PAYMENT.

SEC. 25. One-half of the tax levied annually upon real and personal property shall become due and payable on the 1st day of November in each year, and the other one-half of such tax shall become due and payable on the 1st day of May next following: *Provided*, That if the whole of the tax levied shall be paid in November there shall be an abatement of 5 per cent.

SEC. 26. The collector of taxes, upon the receipt of the duplicate of assessment, shall give notice for one week, in one newspaper published in the city of Washington, that he is ready to receive taxes. If one-half of the tax annually levied upon the real and personal property taxed shall not be paid before the 1st day of December, in each year, said installment shall thereupon be in arrears and delinquent; and there shall be added, to be collected with such taxes, a penalty of 1 per cent. per month upon the amount thereof, and a like penalty on the 1st day of each succeeding month until payment of said installment and penalty. And if said installment shall not be paid before the 1st day of June, in the next succeeding year, together with the one-half of said original tax due before said 1st day of June, a like penalty shall then be added on said last one-half of such tax; and the whole together shall constitute the delinquent tax, to be dealt with and collected in the manner prescribed by this chapter.

SEC. 27. Upon the expiration of the time fixed in the preceding section for the payment of taxes, it shall be the duty of the collector to distrain and sell at public auction, upon five days' notice, in some newspaper printed in said District, so much of the personal property of any delinquent tax-payer as may be necessary to pay the taxes and penalties which may be assessed and are delinquent in respect to his personal property, with costs of distraint and sale, which costs shall be those allowed constables for sales upon executions.

SEC. 28. Every person shall be liable to pay tax for land of which he may stand seized for life, by courtesy in dower, or by a husband in right of his wife, or may have care of as guardian, executor, agent, or attorney, having funds of the principal in his hands. And each person so holding lands shall pay the tax which may be assessed thereon each and every year.

SEC. 29. Any person having a lien upon real property may pay the taxes thereon, in so far as they are a lien upon such real estate, and the taxes so paid shall operate as a lien upon such real estate, paramount to all other liens. Any person jointly interested with another in real property which may be assessed for taxation may pay the taxes which are a lien thereon, and shall thereby acquire a lien upon such real property, paramount to all other liens, and which he may enforce in any manner provided for the enforcement of liens upon real estate. Any person who shall pay the taxes of another upon any real estate with the intention of holding as a lien upon such real estate shall notify the collector in writing at the time of paying said taxes, and the collector shall enter the same in a book kept for that purpose, and when said taxes shall have been repaid to the person who shall have paid the same the collector shall, at the request of said person, enter the same satisfied on said book.

SEC. 30. When any real property is sold upon execution or other order of a court having jurisdiction thereof, or is in anywise disposed of on proceedings in partition, the court may order all taxes and penalties which are liens upon such real estate to be paid out of the proceeds of the sale by the sheriff, trustee, or other officer selling the same.

DELINQUENT SALES.

SEC. 31. It shall be the duty of the collector of taxes in said District to prepare a complete list of all taxes on real property upon which the same are levied, in arrears on the 1st day of July annually, including all taxes due to the late corporations of Washington City, Georgetown, levy court, and the District of Columbia; and he shall, within fifteen days thereafter, publish the same, with a notice of sale, in a pamphlet of which not less than 5,000 copies shall be printed for circulation; and it shall be the duty of said collector of taxes to give notice, by advertising in the regular issue of two daily newspapers published in said District twice a week for three successive weeks, that said pamphlet has been printed and that a copy thereof will be delivered to any tax-payer applying therefor at the office of said tax collector; and that if the taxes due, together with the penalties and costs that may have accrued thereon, shall not be paid prior to the day named for sale, the property will be sold by the said collector at public auction at office of said collector in the city of Washington, on the first Tuesday of October following, and each day thereafter until all is sold, at a fixed hour, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of said days, to the highest bidder or bidders.

SEC. 32. The said pamphlet shall be printed and bound at the Government Printing Office, and furnished to the commissioners at 5 per cent. above the actual cost thereof. A charge of twenty cents shall be made upon each lot and tract advertised to defray the expenses of printing said pamphlet and of advertising said sale.

SEC. 33. Upon the day specified aforesaid, the collector shall proceed to sell any and all property upon which such taxes remain unpaid, and continue to sell the same every secular day until all the real property as aforesaid shall have been brought to auction.

SEC. 34. Immediately after the close of the sale, upon payment of the purchase-money, he shall issue to the purchaser a certificate of sale, and if the property shall not be redeemed by the owner thereof within two years from the day of sale by payment to the collector of said District, for the use of the legal holder of the certificate, of the amount for which it was sold at such sale, and 10 per cent. per annum thereon, a deed thereof shall be given by the commissioners or their successors in office, to the purchaser at the tax sale or the assignee of such certificate, which deed shall be admitted and held to be *prima facie* evidence of a good and perfect title in fee-simple to any property bought at any sale herein authorized; and all proceedings prior to said deed shall be presumed to have been regular until the contrary be proved.

FORFEITED LANDS.

SEC. 35. No property advertised as provided in section 36 shall be sold upon any bids not sufficient to meet the amounts of tax, penalty, and costs; and in case the highest bid upon any property is not sufficient to meet the taxes, penalty, and costs thereon, said property shall thereupon be bid off by the said commissioners, or their successors in office, in the name of the District of Columbia; but the property so bid off shall not be exempted from assessment and taxation, but shall be assessed and taxed as other property; and if within two years thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and that may have accrued after that date, and 10 per cent. per annum thereon, or if any property, two years after having been so bid off at any sale whatever in the name of said District, under this or any other law, and whether heretofore or hereafter made, is not or has not been so redeemed as aforesaid, then the same shall be held forfeited to the District, and thenceforth all the right, title, claim, and interest of the former owner shall be considered as transferred to and vested in the District, to be disposed of as may be by law provided. And all such lands shall be kept upon the tax list and the taxes thereon regularly assessed until the same shall have been legally disposed of. But if the former owner shall at any time before the District may have disposed of the same pay to the collector all the taxes, penalties, and costs for which the same may have been sold and which have since accrued thereon, the District shall in such case relinquish to such former owner all claim to such land or lot, and said land or lot shall be re-entered upon the tax list in the name of the former owner.

SEC. 36. The collector of taxes shall annually, on or before the first Monday of November, prepare a list of all lands which may have been so as aforesaid forfeited and not redeemed, with all the taxes, penalties, costs, and interest due or assessed thereon, and cause the same to be printed in pamphlet with notice of sale, as is

provided for the publication of sale of delinquent lands. He shall also give notice by advertising in two newspapers printed and of general circulation in the District that so many of said tracts and lots as are not redeemed by the second Monday of December next ensuing will be offered for sale by him, at public auction, at his office in the city of Washington, in order to satisfy such taxes, penalties, costs, and interest, and each secular day thereafter, between the hours of ten o'clock a. m. and four o'clock p. m. And he shall upon said day and each secular day thereafter, between the hours aforesaid, proceed to sell all said tracts and lots to the highest bidder, selling them separately in the order in which they are arranged in said pamphlet, whether the amount so bid be sufficient to pay the taxes, penalties, costs, and interest or not. And upon the payment of the amount so bid the commissioners shall execute to the purchaser a deed for the same, which shall be held to convey a good and indefeasible title in law and equity: *Provided*, That minors and other persons under legal disability shall be permitted to redeem any such tracts or lots so forfeited and sold, from the purchaser thereof, within one year after the minor may arrive at full age, or after the removal of such legal disability, on payment of the purchase-money, with 10 per cent. per annum interest thereon, and all taxes and assessments that have been paid thereon by the purchaser or his assigns between the day of sale and the period of redemption, with 10 per cent. per annum interest upon such taxes and assessments.

SEC. 37. On or before the first Monday of November, 1880, the collector shall prepare a list of all lands which may have been bid off at any tax sale, under any law authorizing such sales, at a period more than two years prior to said first Monday of November, and shall proceed to advertise and dispose of the same as is provided in the preceding section for the sale of forfeited lands; and all the provisions of the preceding section as to the sale, execution of deed, character of the title acquired, and redemption upon the removal of disabilities shall be applicable to sales made hereunder.

SEC. 38. Any person who may purchase lands under the provisions of the last two preceding sections may recover possession in any of the modes provided by law for recovering the possession of real estate in the District, and the deed, executed by the commissioners, shall be conclusive evidence of his title and right of possession. He may also have the benefit of all the laws relating to the partition of real estate in the District.

SEC. 39. No court, nor any judge thereof, shall allow any injunction or restraining order whatever on behalf of any person, company, or corporation to restrain or prevent any officer from the proper discharge of any of the duties devolved upon him by any of the provisions of this title, nor from the collection of any taxes upon any property, real or personal, by the proper officer thereof, either by distress or in any mode provided by law. Any person who may feel himself aggrieved by reason of any of the acts or doings of any person under the provisions of this title shall, nevertheless, pay all taxes levied upon or assessed against his property, or that which he may control, as herein provided for, under protest, and thereupon may institute legal proceedings against the District to recover back the same. And in suits now pending in any court of the District on behalf of any person, company, or corporation, in which the collection of taxes is enjoined or restrained, or any officer is enjoined from the discharge of any duty devolved upon him by any laws of the District for the assessment and collection of taxes, it is hereby made the duty of the court, or the judge thereof, in which any of such suits may be pending, on motion of the District attorney, who shall appear in the case and conduct the same to final trial and judgment, to advance such suits upon their respective dockets ahead of all other cases, except criminal causes, and to cause the same to be finally disposed of without any unnecessary delay.

The following is the amendment to be offered by Mr. PRICE to the proposed substitute of Mr. TOWNSHEND, of Illinois:

Add as a new section, to be inserted between sections 19 and 20 of Mr. TOWNSHEND's substitute, the following:

"SEC. —. The proprietors of bar-rooms, sample-rooms, and tippling-houses shall pay $250 annually, and of beer-saloons $100 annually. Every place where malt liquors only are sold to be drunk on the premises shall be regarded as a beer-saloon. Every place where distilled or fermented liquors, wines, or cordials are sold to be drunk on the premises shall be regarded as a bar-room, sample-room, or tippling-house; and it shall be the duty of the proprietor of every such place to deposit with the treasurer the amount of his license fee with his application for license, and also present the written permission of two-thirds of the owners of real estate and two-thirds of the residents keeping house within six hundred feet of the place where it is desired to locate such business, which permission, with the signatures attached, shall be certified to by the superintendent of assessments and taxes and inserted three times in a newspaper, published in Washington, at the expense of the applicant; and such license shall not be issued until approved by the commissioners: *Provided, however*, That where during the year no complaint has been made against the proprietor of such place on the part of the property-holders or residents such proprietor shall not be required to file every year with his application for license such a written permission of owners of real estate or residents; but if such complaint has been made, the proprietor shall obtain anew the written consent of such owners of real estate and residents, as herein required of him."

Mr. HUNTON. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURROWS reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia, and had come to no resolution thereon.

Mr. HUNTON. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. NELSON W. ALDRICH: The petition of the Riverside Worsted Mills Company and of the Geneva Worsted Mills Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. BACHMAN: The petition of Coleraine Iron Works Company, of Redington, Pennsylvania, of similar import—to the same committee.

By Mr. BELFORD: The petition of citizens of Clear Creek County, Colorado, that no change be made in the mining laws, and against the passage of the bill reported from the public land commission—to the Committee on Mines and Mining.

Also, the petition of citizens of El Paso County, Colorado, for an appropriation of $10,000 to aid in the construction of a wagon-road from Colorado Springs to the summit of Pike's Peak—to the Committee on Appropriations.

By Mr. BLACKBURN: The petition of messengers of the House of Representatives on the one-thousand-dollar roll, for equalization of salary—to the same committee.

By Mr. BREWER: Papers relating to the pension claim of William P. Glover—to the Committee on Invalid Pensions.

By Mr. BRIGGS: The petition of the agents of cotton and other manufacturers of New Hampshire, for the passage of the bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. DEUSTER: The petition of Robert Chivas Post, No. 2, of the Grand Army of the Republic, of Milwaukee, Wisconsin, for the passage of either White's or Calkins's bounty bill—to the Committee on Military Affairs.

By Mr. FROST: The petition of officers of internal revenue at Saint Louis, Missouri, for the passage of the bill (H. R. No. 4802) relating to the granting of leave of absence to certain revenue officials—to the Committee on Ways and Means.

Also, the petition of Elizabeth A. McKinney, for a pension—to the Committee on Invalid Pensions.

By Mr. GEDDES: The petition of William Reed and 13 others, of Kentucky, soldiers of the Union Army, against the passage of the sixty-surgeon bill, and for the passage of the bill introduced by Mr. GEDDES, to organize the court of pensions—to the same committee.

By Mr. JOHNSTON: The petition of Mrs. Margaret S. Heintzelman, for a pension—to the same committee.

By Mr. LADD: The petitions of 60 citizens of Bangor, Maine, and of 150 citizens of Maine, for the removal of the duty on salt—to the Committee on Ways and Means.

Also, four petitions signed by 312 citizens of Aroostook County, Maine, for a change in revenue laws and regulations of the Treasury Department, allowing British teams to be admitted under bond to labor in Maine without payment of duty, and for the increase of the duty on cattle, sheep, and horses—to the same committee.

Also, the petition of S. B. Brown & Co., of Dover, Maine, for the passage of the bill providing for the appointment of a tariff commission—to the same committee.

By Mr. O'NEILL: The petition of publishers, booksellers, printers, paper-makers, bookbinders, and type-founders, of Philadelphia, Pennsylvania, against any change in the tariff upon books, paper, and printing type and materials—to the same committee.

By Mr. ROBERTSON: The petition of citizens of Louisiana, for the removal of the duty on salt—to the same committee.

By Mr. SAPP: The petition of L. W. Babbitt, to be relieved from the payment of a judgment rendered against him in favor of the United States—to the Committee on Claims.

By Mr. SPRINGER: The petition of James W. McCauley, James P. Stark, and 13 others, ex-soldiers of Morrisonville, Illinois, against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. P. B. THOMPSON: The petition of Jane Prewitt, for a pension—to the same committee.

By Mr. WARD: The petition of the Book-Trade Association of Philadelphia, Pennsylvania, against the passage of the Tucker tariff bill—to the Committee on Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 15, 1880.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

RIVER AND HARBOR BILL.

Mr. REAGAN. The Committee on Commerce has agreed to a substitute for the river and harbor bill as heretofore reported. I do not propose to introduce a substitute now, but I ask permission to have it printed.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] asks that leave be given to print the river and harbor appropriation bill in the manner in which the Committee on Commerce propose to report it to the House.

There was no objection.

CESSION OF LANDS TO OHIO.

Mr. DICKEY. I ask that by unanimous consent the bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, reported by the Committee on Public Lands with an amendment, be taken from the House Calendar for consideration at this time. It is purely a local bill pertaining to the title to some lands in the Virginia military district in the State of Ohio. The object is to enable the owners to perfect their title.

The bill was read, as follows:

Be it enacted, &c., That the act ceding to the State of Ohio the lands remaining "unsurveyed and unsold" in the Virginia military district, in the State of Ohio, had no reference to lands which were included in any survey or entry within said

district founded upon military warrant or warrants upon continental establishment; and the true intent and meaning of said act was to cede to the State of Ohio only such lands as were unappropriated, and not included in any survey or entry within said district, which survey or entry was founded upon military warrant or warrants upon continental establishment.

SEC. 2. That all surveys returned to the land office on or before March 3, 1857, on entries made on or before January 1, 1852, and founded on unsatisfied Virginia military continental warrants, are hereby declared valid.

SEC. 3. That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands, which have, on or before January 1, 1852, been entered within the tract reserved by Virginia, between the Little Miami and Scioto Rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed three years from and after the passage of this act to make and return their surveys for record to the office of the principal surveyor of said district, and may file their plats and certificates, warrants, or certified copies of warrants, at the General Land Office, and receive patents for the same.

SEC. 4. This act shall not in any way affect or interfere with the title to any lands sold for a valuable consideration by the Ohio Agricultural and Mechanical College, grantee, under the act of February 18, 1871.

The amendment reported by the Committee on the Public Lands was as follows:

In lines 9 and 10 of section 3 strike out the words "principal surveyor of said district" and insert "land commissioner."

Mr. GARFIELD. Is the bill reported unanimously?

Mr. DICKEY. It is a unanimous report of the Public Lands Committee.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The amendment reported by the Committee on the Public Lands was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DICKEY. I move to amend the title by adding the words "and for other purposes."

The motion was agreed to.

CLAIMS AUDITED AND ALLOWED.

Mr. BRIGHT. I ask unanimous consent to take a couple of bills from the Private Calendar and to have them put upon their passage. They are the bills for the payment of the claims audited in the Treasury Department under the act of 1864, and the claims that have been passed upon by the commissioners of claims under the act of Congress of March 3, 1871.

I would state that these are voluminous bills, and as we expect to be only a week or two in session, and as it would require some time for the clerks of the House to engross the bills, and they have then to go before the Committee on Claims of the Senate, as I suppose, it will take all the time we expect Congress to remain in session to get them through.

Mr. WILLITS. Do the bills contain anything except appropriations?

Mr. BRIGHT. Nothing in the world.

Mr. WILLITS. No general legislation?

Mr. BRIGHT. No general legislation at all.

Mr. WARNER. What is the amount involved?

Mr. BRIGHT. The amount involved in one is $114,000. The amount in the other is not stated in the report. The bills come from the Committee on War Claims, and have been passed by that committee, as I understand, unanimously.

Mr. RYAN, of Kansas. Are they all adjudicated claims?

Mr. BRIGHT. They are.

Mr. GARFIELD. That is all right.

Mr. BREWER. I will reserve my right to object until I can hear the bill read.

The SPEAKER. The first bill will be read.

The Clerk read the title of the bill, which was a bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

Mr. BREWER. As the bill seems to be a long one, if I can have the assurance that there is no legislation in it I will not object to it or insist upon its being read.

Mr. BRIGHT. It is my understanding that there is no legislation in it.

Mr. BRAGG. I will correct my friend from Tennessee [Mr. BRIGHT] in one respect. There is a section in one of these bills, the one called the quartermasters' bill, the title of which has just been read, which contains legislation in respect to notice to claimants. The section is as follows:

SEC. 2. That the agents appointed by the Quartermaster-General or his subordinates to investigate claims under the act of July 4, 1864, shall give notice to claimants whose claims it is proposed to investigate of the time and place of taking testimony, who shall have the right to cross-examine every witness who may testify in behalf of the Government; and said agents shall also take, at the same time, testimony of any and all witnesses who may be presented by the claimant. And all, both in behalf of claimants and the Government, shall be taken under the law and rules which usually govern the taking of testimony. And the reports of said agents shall be open to the inspection of the claimant or his attorney at all times, on application, subject to such regulations as the Quartermaster-General or Commissary-General may prescribe.

Mr. WILLITS. Then I will object to that bill. I desire that that bill shall be considered in Committee of the Whole where we can have a full opportunity to discuss it.

Mr. BRIGHT. I understand there is no objection to the other bill I have named.

Mr. GARFIELD. I think there will be no objection to the bill which has no legislation in it.

The SPEAKER. The title of the bill will be read.

CLAIMS ALLOWED BY COMMISSIONERS OF CLAIMS.

The Clerk read the title of the bill, which was a bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof.

Mr. GARFIELD. I understand there is no objection to that bill.

Mr. BREWER. Upon the assurance that there is no legislation in the bill I will not call for its reading. It seems to be quite a long bill.

Mr. BRAGG. There is no legislation in it.

Mr. BRIGHT. Except a few lines at the beginning of the bill it consists entirely of a recital of the names of the claimants and the amounts allowed those claimants by the commissioners of claims.

Mr. DUNNELL. Nobody will object to that.

The SPEAKER. The legislating portion of the bill must be read, that portion of it not embracing the names and amounts.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to the several persons in this act named, the several sums mentioned herein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims presented by such persons to the commissioners of claims under the act of March 3, 1871, and reported to the House of Representatives under the said act, namely.

Mr. CONGER. There can be no need to read the rest of the bill.

Mr. TOWNSHEND, of Illinois. Can a bill be passed without being read at least once?

The SPEAKER. The Chair thinks it should be read.

Mr. TOWNSHEND, of Illinois. I do not make any objection to the bill.

Mr. GARFIELD. We have never read the schedule of names and amounts in such bills as this. The legislating portion of the bill has been read, but I think we have never had read the whole schedule.

The SPEAKER. Yet it is the right of any member to demand the reading.

Mr. TOWNSHEND, of Illinois. I do not call for the reading. I only make the parliamentary inquiry whether the bill can be passed without being read?

The SPEAKER. Not if the question is raised by any member; and the Chair understood the gentleman from Illinois [Mr. TOWNSHEND] to raise the question.

Mr. TOWNSHEND, of Illinois. I did not object; I merely made the parliamentary inquiry.

The SPEAKER. The Chair does not express the opinion that the bill should be passed without being read.

Mr. TOWNSHEND, of Illinois. I do not call for it.

The SPEAKER. The question will be on agreeing to the amendments reported from the committee.

The amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. BRIGHT. I move to reconsider the vote by which this bill was passed; and also move that the motion to reconsider be laid on the table.

ORDER OF BUSINESS.

Mr. DIBRELL. I ask unanimous consent——

Mr. THOMPSON, of Kentucky. I would like to have the quartermasters' bill disposed of now.

The SPEAKER. The chair will endeavor to recognize all the gentlemen he can, making a fair division to each side of the House.

H. K. BELDING.

Mr. DUNNELL. I ask unanimous consent to discharge the Committee of the Whole on the Private Calendar from the further consideration of the bill (H. R. No. 1170) for the relief of H. K. Belding, and that it be considered in the House at this time.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That there be paid by the Secretary of the Treasury, out of any money not otherwise appropriated, the sum of $1,566, to H. K. Belding, of Minnesota, the amount due him for carrying the mails of the United States between the years 1858 and 1862.

Mr. DUNNELL. This bill passed the House unanimously in the last Congress, and it has been unanimously reported by the Committee on Claims of this Congress.

Mr. TOWNSHEND, of Illinois. I object.

FINAL ADJOURNMENT—ELECTORAL COUNT.

Mr. STEVENSON. I ask unanimous consent to submit for consideration at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That it is the sense of this House that no final adjournment of this session of Congress should occur until a law shall have been passed or a joint rule established providing the manner in which the electoral votes shall be counted at the approaching presidential election.

Mr. REED, Mr. BLAND, and others objected.

Mr. STEVENSON. Then I ask consent that the resolution be referred to the Committee on Ways and Means.

Mr. BOUCK, Mr. BLAND, and others objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its secretaries, announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1117) to provide additional accommodation for the Library of Congress.

ORDER OF BUSINESS.

Mr. GOODE. I call for the regular order.

The SPEAKER. The regular order being called for, the Chair will cause to be read the order of the House for to-day's session.

The Clerk read as follows:

On motion of Mr. GOODE, by unanimous consent,

Ordered, That Saturday, May 15, be assigned for the consideration of business reported or to be reported by the Committee on Education and Labor, not to interfere with revenue or appropriation bills.

Mr. GIBSON. I rise to a question of the highest privilege.

The SPEAKER. The gentleman will state it.

Mr. GIBSON. I call up as unfinished business the resolution presented yesterday for the adjournment of Congress. I therefore raise the question of consideration as against the business indicated in the order just read.

The SPEAKER. As unfinished business, the resolution of the gentleman from Louisiana [Mr. GIBSON] would not interfere with this order of the House; and if unfinished business were now in order, there is a prior unfinished bill.

Mr. GIBSON. The resolution for the adjournment of Congress is a question of the highest privilege. I ask for its present consideration.

Mr. TUCKER. Does it not require a suspension of the rules to supersede the order of the House as just read?

The SPEAKER. The gentleman from Louisiana now demands a hearing on the ground that the resolution presented by him yesterday is a question of the highest privilege.

Mr. GIBSON. I raise the question of consideration as against the business named in the order read by the Clerk.

The SPEAKER. The most intelligent way, the Chair thinks, to proceed in this matter is to raise the question of consideration upon the business indicated in the order of the House. The fact is that this order was made by unanimous consent, which is equivalent, as it were, to a suspension of the rules. It might be supposed that the same numerical strength which fixed to-day for this particular business would insist upon so using it; but it has always been held that the business of the House must be controlled by the will of the majority. If the House by a majority vote refuses to consider any matter of legislation, there is no remedy.

Mr. CONGER. I wish to inquire whether the order assigning particular business for to-day does not take effect after the morning hour?

The SPEAKER. After the reading of the Journal, in this instance.

Mr. GARFIELD. I submit that the proposition of the gentleman from Louisiana is of its own right a question of so high privilege that it overrules the ordinary order of business, even though fixed by unanimous consent. I can make one motion higher than that, which would overrule all orders of business—the motion that the House now adjourn.

The SPEAKER. The Chair ruled yesterday that the resolution of the gentleman from Louisiana was one of privilege.

Mr. GARFIELD. The gentleman from Louisiana now rises to a question of privilege higher than the motion to proceed with the consideration of the business of the day as fixed by a prior order. That higher question of privilege the Chair is bound to put.

The SPEAKER. The Chair is recognizing the gentleman from Louisiana, but simply suggested that the way to escape the consideration of the business assigned for to-day by the order of the House was to raise the question of consideration against it, and then, if a majority of the House should so decide, this question presented by the gentleman from Louisiana would come up.

Mr. REED. But, Mr. Speaker, this is not a question of "escaping" the business named in the order of the House; it is a question of taking up that which the Speaker has decided to be a question of privilege.

Mr. CONGER. I demand the regular order.

Mr. COX. Before the Chair rules, I would like to know whether there is any difference in the rank of questions of privilege. On which measure will the question of consideration be raised?

Mr. GIBSON. I call the previous question.

The SPEAKER. The gentleman from Louisiana demands the previous question on the adoption of his resolution.

Mr. GOODE. I understood the Chair to rule that the question of consideration could be raised.

The SPEAKER. The Chair suggested that as one manner of remedy; but the gentleman from Louisiana declined to accept the suggestion of the Chair. Consequently the Chair is compelled to rule directly that the resolution of the gentleman from Louisiana is one of privilege, and that he has the right to be recognized to call it up.

Mr. TOWNSHEND, of Illinois. I rise to a parliamentary inquiry. Would a motion be in order to recommit the resolution of the gentleman from Louisiana?

The SPEAKER. A motion to commit with instructions has already been voted down.

Mr. TOWNSHEND, of Illinois. But is not a similar motion in order——

The SPEAKER. The Chair thinks not.

Mr. TOWNSHEND, of Illinois. Is it not in order to move to recommit with different instructions?

The SPEAKER. The Chair thinks not, for the reason he gave yesterday.

Mr. TOWNSHEND, of Illinois. Then but one motion to recommit is admissible?

The SPEAKER. The rule speaks of "a motion to commit with or without instructions." Under the former rules no such motion was in order. The new rule being an innovation on the old practice the Chair thinks the rule is to be construed to allow but a single motion.

Mr. COX. I rise to a parliamentary question. Is it not possible and right for the gentleman from Virginia to raise the question of consideration against the adjournment resolution? I understood my friend from Virginia to raise that question.

Mr. GOODE. I did raise it; but I understood the Speaker to rule that it could not be done.

The SPEAKER. The Chair ruled yesterday that the question of consideration could be raised and again rules to same effect.

Mr. GOODE. Well, Mr. Speaker, if I am allowed to do so I raise the question of consideration now, and remind the House that two or three weeks ago this day was by unanimous vote set apart for the consideration of bills reported from the Committee on Education and Labor.

The SPEAKER. The Chair recognizes the right of the gentleman from Virginia to raise the question of consideration.

Mr. GIBSON. Can that be done when the House has already taken up the resolution for consideration?

Mr. BUCKNER. I wish to inquire of the gentleman from Virginia [Mr. GOODE] what measures he proposes to bring before the House?

Mr. GOODE. In answer to the gentleman from Missouri, [Mr. BUCKNER,] I will say that the measures are the bill to apply the proceeds of sales of public lands to popular education, the bill to restrict Chinese immigration, and the bill to enforce what is commonly called the "eight-hour law."

Mr. CONGER. That is in the nature of argument.

The SPEAKER. The Chair thinks that is not admissible.

Mr. GOODE. I move to go to the business upon the Speaker's table for the purpose of taking up and considering the bill (S. No. 1282) to incorporate the National Education Association.

The SPEAKER. That is not in order until after the morning hour and after the unfinished business.

Mr. GIBSON. I demand the regular order of business.

The SPEAKER. The Chair recognizes the right of the gentleman from Virginia, if he rises for that purpose, to raise the question of consideration at this time against the consideration of the adjournment resolution.

Mr. GARFIELD. May I ask the Chair a parliamentary question?

The SPEAKER. Certainly.

Mr. GARFIELD. Now, certainly, there is a limit somewhere to the right of raising the question of consideration.

The SPEAKER. It is by adjournment.

Mr. GARFIELD. If I move an adjournment no one can raise the question of consideration on that. Now, is not the motion to terminate the whole sessions of this House and Senate a question of so high privilege that it is not amenable to the question of consideration?

The SPEAKER. The question of the right of a member to a seat in this House having been taken up on one day and subjected to the issue of consideration, the question of consideration can, on the next day, be again raised.

Mr. GARFIELD. That is true.

The SPEAKER. The Chair repeats that the question of consideration can be raised each day as its consideration proceeds.

Mr. GARFIELD. But that is a private right.

The SPEAKER. So in this instance a member demands to test the judgment and disposition of the House.

Mr. GARFIELD. But this is a public right affecting all the two hundred and ninety-two members of this House.

The SPEAKER. The Chair has therefore ruled on the point and will cause that ruling to be read.

The Clerk read as follows:

The SPEAKER. The question of consideration is not precluded by an affirmative vote on a motion to adjourn. The unfinished business pending at the time of adjournment is still subject to the question of consideration, the motion to adjourn precluding it on the previous day.

The SPEAKER. The Chair still holds to that ruling.

Mr. CONGER. That does not raise the point as to a privileged question but it does as to unfinished business.

The SPEAKER. The Chair has ruled this is a privileged question.

Mr. CONGER. But this ruling does not affect the question of privilege at all.

The SPEAKER. It does not. The Chair has affirmed his decision of yesterday that this is a question of the highest privilege. But he also states that any member has the right to raise the question of

consideration against any question, even though it may be a motion of the highest character, and the majority must determine whether they will proceed with its consideration or not.

Mr. CONGER. I ask for information, and I think this might lead to some trouble hereafter; now, suppose on a motion to adjourn, as has been stated, the question of consideration should be raised?

The SPEAKER. A motion to adjourn is to be considered immediately without debate.

Mr. CONGER. Ah! but this is a motion to adjourn.

Mr. HOOKER. It is a motion to adjourn the two Houses, and not one of them.

The SPEAKER. The Chair thinks the resolution is as it were legislation by both Houses and not the same as an ordinary motion to adjourn the House.

Mr. HOOKER. This is a motion to adjourn the two Houses and not one of them.

Mr. CONGER. But it is higher than a motion to adjourn one House.

The SPEAKER. It might be as far as a recognition, but the House by a majority has the right to say whether it will consider it to-day or not and its progress could now be interrupted by a motion to adjourn the House.

Mr. CONGER. Have they not the right to consider the direct question instead of going around it?

The SPEAKER. The first question is whether the House will consider it.

Mr. BURROWS. It seems to me the question of consideration is not involved here. This point has been decided, and I read from a high authority:

> Privileged questions must give place to special orders and all these must yield to a question of privilege.

The SPEAKER. And everything else, that included, has to yield to the voice of a majority of the House, and that is the issue involved in the question of consideration.

Mr. O'NEILL. Mr. Speaker—— [Cries of "Vote!"]

The SPEAKER. The question is the one raised by the gentleman from Virginia.

Mr. WEAVER. I rise to a parliamentary inquiry. If the House shall decide to take up for consideration the resolution to adjourn both branches of Congress on a certain day, will there be any opportunity for debate on that resolution?

The SPEAKER. Under the rules there can be at least fifteen minutes on either side.

Mr. TOWNSHEND, of Illinois. That will not be a very liberal amount of debate.

The SPEAKER. If the gentleman in charge of the bill declines to take his hour, the debate will then be limited to fifteen minutes on either side. If the gentleman takes his hour it ought to be done before the main question is ordered.

Mr. WEAVER. I wish to make a few remarks on that resolution.

Mr. TOWNSHEND, of Illinois. Perhaps there are twenty of us who would like to make some remarks on it.

The SPEAKER. The words in the rule to which the Chair directs the attention of the gentleman from Iowa are as follows. It is the third clause of Rule XXVIII.

The Clerk read as follows:

> And the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

The SPEAKER. That is, fifteen minutes on each side.

Mr. TOWNSHEND, of Illinois. By agreement cannot we arrange for a longer time?

The SPEAKER. The gentleman from Louisiana can use an hour if he desires.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. I wish to know which motion will be first put to the House?

The SPEAKER. The question of consideration.

Mr. COX. The question of consideration submitted by the gentleman from Virginia, or that submitted by the gentleman from Louisiana?

The SPEAKER. The question of consideration on the resolution reported by the gentleman from Louisiana.

Mr. COX. I would like to know why?

The SPEAKER. Because the rules so provide.

Mr. COX. There is no such rule as I understand.

Mr. GARFIELD. Was not the question of privilege settled yesterday?

The SPEAKER. It was.

Mr. GARFIELD. Then how can it come up for consideration to-day?

The SPEAKER. Because this is a new day.

Mr. HOOKER. And a new subject.

The SPEAKER. It is the same subject, but the House may not want to consider the question at this time. For instance, the House may be willing to consider an election case to-day, and yet to-morrow the House may refuse to proceed with the further consideration of it, although it be unfinished business of a high order of privilege, desiring to take up some other question.

Mr. GARFIELD. I have a distinct remembrance that in the old Digest this question of consideration once disposed of cannot again be brought up.

The SPEAKER. The Chair would be glad if the gentleman would refer him to that point.

Mr. GARFIELD. I do not recollect now precisely, but the Chair will doubtless recall the fact.

The SPEAKER. The Chair does not recollect that point and would be glad if the gentleman from Ohio will furnish him the reference to it.

Mr. WHITE. The Speaker will observe that the language of the third clause of the sixteenth rule is:

> When any motion or proposition is made, the question, "Will the House now consider it," &c.

The language of that clause would indicate that the question was properly raised yesterday and decided yesterday, and therefore cannot be considered again.

Mr. O'NEILL. And I want to suggest here that although we must be governed by the rules in conducting the business of the House, there is one other thing to be considered. The favorable vote of the House yesterday upon the proposition looking to the final adjournment of Congress on the 31st day of this month of May gave more hope to the hearts of the people of the country, who have demanded very little general legislation of us, than anything we have done in the way of congressional action during the whole of the session excepting the necessary routine business and the passage of the appropriation bills. The people want us to finish the rest of those bills and leave by the end of the month. [Applause.]

The SPEAKER. The question is not open to debate.

Mr. HOOKER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. The Chair has stated that it is in the power of a majority of the House to determine what it will consider. If by a vote of the House on a prior day they set apart this day for the consideration of a measure proposed by the gentleman from Virginia, a report from the Committee on Education and Labor, that was an agreement on the part of the majority of the House, a majority having voted for it.

Now a new subject-matter is proposed to supersede that order of the House, and this subject-matter which is proposed to take precedence of that is a report from the Committee on Ways and Means regarding the question of adjournment. What I wish to know is, could that take precedence, being simply the report of a committee of the business which was set aside and sanctioned by the order of a majority of the House for consideration to-day?

The SPEAKER. The Chair has already ruled that it is within the power of a majority of the House to refuse to consider an order of business which may previously have been made, and take up for consideration any business the majority may see fit to consider by due stages under the rules whereby special business can be reached.

Mr. COX. Notwithstanding the fact that the order has been made by unanimous consent for the consideration of certain business?

The SPEAKER. That is merely a proof of the inconsistency or change of wish on the part of the House. Still it has the power to do it if it chooses.

Mr. HOOKER. But does not the order of the House take precedence of the report of the committee? Is it in the power of the committee to supersede that?

The SPEAKER. The issue now raised is one of consideration against a question of higher privilege than the House order made, and that is for the majority of the House to determine.

Mr. COX. I rise to a point of order. The point I make is that the question of consideration raised by the gentleman from Virginia must first be taken up because——

The SPEAKER. The Chair overrules the point of order.

Mr. COX. Allow me to state the reason for it; because one affects the order of the House and the other is merely brought in by a committee of the House.

The SPEAKER. The resolution the gentleman from Louisiana reports for consideration is one growing out of the Constitution of the United States providing for the day of final adjournment of the two Houses of Congress. The Chair recognizes that to be a question of high privilege; but recognizes the right of a majority of the House to say whether it shall now be considered.

Mr. COX. All our legislation grows out of the Constitution.

The SPEAKER. The question is upon considering the resolution fixing the day of final adjournment.

The House divided; and there were—ayes 113.

Before the negative vote was announced,

Mr. TOWNSHEND, of Illinois. We might as well have the yeas and nays and save time on this.

The question was taken; and there were—yeas 126, nays 85, not voting 81; as follows:

YEAS—126.

Aiken,	Beltzhoover,	Buckner,	Conger,
Aldrich, N. W.	Blake,	Burrows,	Cook,
Aldrich, William	Bland,	Cannon,	Cowgill,
Atherton,	Bliss,	Carpenter,	Crapo,
Bachman,	Bouck,	Caswell,	Davis, George R.
Bailey,	Bowman,	Chittenden,	Davis, Horace
Baker,	Boyd,	Claflin,	Deering,
Ballou,	Bragg,	Clardy,	Dickey,
Barber,	Briggs,	Clymer,	Dwight,

Einstein,	Joyce,	Newberry,	Stone,
Errett,	Keifer,	Norcross,	Thompson, W. G.
Evins,	Kelley,	O'Connor,	Tillman,
Farr,	Kenna,	O'Neill,	Townsend, Amos
Field,	Ketcham,	Orth,	Tyler,
Frost,	King,	Page,	Updegraff, J. T.
Frye,	Klotz,	Phelps,	Valentine,
Garfield,	Lindsey,	Pierce,	Van Aernam,
Gibson,	Lounsbery,	Poehler,	Van Voorhis,
Godshalk,	Marsh,	Pound,	Waddill,
Hall,	Martin, Benj. F.	Price,	Wait,
Harmer,	Martin, Edward L.	Reed,	Ward,
Haskell,	Martin, Joseph J.	Richardson, J. S.	Warner,
Hawk,	Mason,	Richmond,	Washburn,
Hawley,	McCoid,	Robinson,	White,
Hazelton,	McCook,	Ross,	Wilber,
Heilman,	McGowan,	Russell, Daniel L.	Williams, C. G.
Hiscock,	McKinley,	Ryan, Thomas	Willits,
Horr,	Miller,	Ryon, John W.	Wilson,
Houk,	Mitchell,	Sapp,	Wright,
Hubbell,	Monroe,	Sherwin,	Young, Thomas L.
Hull,	Morton,	Smith, Hezekiah B.	
Jorgensen,	Neal,	Sparks,	

NAYS—85.

Acklen,	Davis, Lowndes H.	Hutchins,	Slemons,
Anderson,	De La Matyr,	Jones,	Smith, William E.
Armfield,	Deuster,	Kitchin,	Springer,
Atkins,	Dibrell,	Knott,	Steele,
Belford,	Dunnell,	Lewis,	Stephens,
Berry,	Elam,	Lowe,	Stevenson,
Bicknell,	Ellis,	McKenzie,	Townshend, R. W.
Bright,	Felton,	McLane,	Tucker,
Butterworth,	Ford,	McMillin,	Turner, Oscar
Cabell,	Forney,	Mills,	Turner, Thomas
Caldwell,	Gillette,	Money,	Updegraff, Thomas
Calkins,	Goode,	New,	Upson,
Carlisle,	Gunter,	Persons,	Vance,
Chalmers,	Harris, John T.	Philips,	Weaver,
Clark, John B.	Hatch,	Phister,	Wellborn,
Colerick,	Henry,	Reagan,	Whiteaker,
Converse,	Herbert,	Rothwell,	Whitthorne,
Cox,	Hooker,	Samford,	Williams, Thomas
Cravens,	Hostetler,	Sawyer,	Willis.
Culberson,	House,	Scales,	
Daggett,	Hunton,	Simonton,	
Davis, Joseph J.	Hurd,	Singleton, O. R.	

NOT VOTING—81.

Barlow,	Fisher,	Manning,	Shallenberger,
Bayne,	Forsythe,	McMahon,	Shelley,
Beale,	Fort,	Miles,	Singleton, J. W.
Bingham,	Geddes,	Morrison,	Smith, A. Herr
Blackburn,	Hammond, John	Morse,	Speer,
Blount,	Hammond, N. J.	Muldrow,	Starin,
Brewer,	Harris, Benj. W.	Muller,	Talbott,
Brigham,	Hayes,	Murch,	Taylor,
Browne,	Henderson,	Myers,	Thomas,
Camp,	Henkle,	Nicholls,	Thompson, P. B.
Clark, Alvah A.	Herndon,	O'Brien,	Urner,
Cobb,	Hill,	O'Reilly,	Voorhis,
Coffroth,	Humphrey,	Osmer,	Wells,
Covert,	James,	Overton,	Wise,
Crowley,	Johnston,	Pacheco,	Wood, Fernando
Davidson,	Killinger,	Prescott,	Wood, Walter A.
Dick,	Kimmel,	Rice,	Yocum,
Dunn,	Ladd,	Richardson, D. P.	Young, Casey.
Ewing,	Lapham,	Robertson,	
Ferdon,	Le Fevre,	Robeson,	
Finley,	Loring,	Russell, W. A.	

So the House agreed to consider the resolution.

After the second roll-call the following pairs were announced:

Mr. McLANE with Mr. MORTON, for this day.

Mr. SHELLEY with Mr. CAMP, on all questions until further notice.

Mr. MANNING with Mr. LORING, for this day.

Mr. BREWER with Mr. DAVIDSON, for this day.

Mr. MULDROW with Mr. DICK.

Mr. COVERT with Mr. CROWLEY, on all questions for to-day.

Mr. SPEER with Mr. FISHER.

Mr. GIBSON with Mr. HUMPHREY.

Mr. BLACKBURN with Mr. ROBESON.

Mr. LAPHAM with Mr. FERNANDO WOOD.

Mr. HAYES with Mr. WELLS.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. JAMES with Mr. O'BRIEN.

Mr. BEALE with Mr. RUSSELL, of Massachusetts.

Mr. FINLEY with Mr. HAMMOND, of New York.

Mr. MYERS with Mr. FORT.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. NICHOLLS with Mr. RICE.

Mr. BINGHAM with Mr. KIMMEL.

Mr. STARIN with Mr. HERNDON.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER, until June 1, not to prevent a quorum nor on question of final adjournment.

Mr. MORRISON with Mr. THOMAS.

Mr. BRIGHAM with Mr. TALBOTT, for Friday, Saturday, and Monday.

Mr. BLOUNT with Mr. HENDERSON.

Mr. WAIT with Mr. HENKLE, on all political questions except tariff and internal revenue.

Mr. MILES with Mr. SINGLETON, of Illinois, on all political questions and on the tariff.

Mr. McMAHON with Mr. URNER, on all political questions from May 3, for two weeks, with the understanding that if either does not return at the end of that time the pair will be continued for one more week.

Mr. McMAHON with Mr. GEDDES, on the paper tariff.

Mr. HUBBELL with Mr. HENKLE, for one week on tariff and revenue questions.

Mr. BRAGG with Mr. FERDON, for to-day on all political questions.

Mr. WISE with Mr. JOHNSTON, on all questions pertaining to the tariff for to-day.

Mr. BAYNE with Mr. THOMPSON, of Kentucky, until 23d May, on all political and tariff questions, and resolution for final adjournment on 31st.

Mr. BRAGG. I am paired with Mr. FERDON on all political questions; but I voted for the consideration of the pending resolution, understanding from the friends of Mr. FERDON that we agreed upon that resolution.

The result of the vote was then announced as above recorded.

Mr. TUCKER. I move to lay the resolution on the table.

The SPEAKER. That motion is in order.

The question was taken; and upon a division there were—ayes 64, noes 109.

Before the result of the vote was announced,

Mr. TUCKER and Mr. COX called for the yeas and nays.

Mr. ATKINS. Let the yeas and nays be taken on the adoption of the resolution.

Mr. TUCKER. No; I want them now.

The yeas and nays were ordered, there being 40 in the affirmative; more than one-fifth of the last vote.

The question was taken; and there were—yeas 82, nays 123, not voting 87; as follows:

YEAS—82.

Acklen,	Deuster,	Jones,	Singleton, O. R.
Anderson,	Dibrell,	Kitchin,	Slemons,
Armfield,	Dunnell,	Knott,	Smith, William E.
Atkins,	Elam,	Lewis,	Springer,
Berry,	Ellis,	Lowe,	Steele,
Bicknell,	Felton,	McKenzie,	Stephens,
Bright,	Ford,	McMillin,	Stevenson,
Cabell,	Forney,	Mills,	Townshend, R. W.
Caldwell,	Gillette,	Money,	Tucker,
Cannon,	Goode,	New,	Turner, Oscar
Carlisle,	Harris, John T.	Persons,	Turner, Thomas
Chalmers,	Haskell,	Philips,	Upson,
Clark, John B.	Hatch,	Phister,	Vance,
Colerick,	Henry,	Reagan,	Weaver,
Cox,	Herbert,	Robertson,	Wellborn,
Cravens,	Hooker,	Rothwell,	Whiteaker,
Culberson,	Hostetler,	Ryan, Thomas	Whitthorne,
Daggett,	House,	Samford,	Williams, Thomas
Davis, Joseph J.	Hunton,	Sawyer,	Willis.
Davis, Lowndes H.	Hurd,	Scales,	
De La Matyr,	Hutchins,	Simonton,	

NAYS—123.

Aiken,	Cook,	Kenna,	Richardson, J. S.
Aldrich, N. W.	Cowgill,	Ketcham,	Richmond,
Aldrich, William	Crapo,	King,	Robinson,
Atherton,	Davis, George R.	Klotz,	Ross,
Bachman,	Davis, Horace	Ladd,	Russell, Daniel L.
Bailey,	Deering,	Le Fevre,	Ryon, John W.
Baker,	Dickey,	Lindsey,	Sapp,
Ballou,	Dwight,	Lounsbery,	Sherwin,
Barber,	Einstein,	Marsh,	Smith, Hezekiah B.
Belford,	Errett,	Martin, Benj. F.	Sparks,
Beltzhoover,	Evins,	Martin, Joseph J.	Stone,
Blake,	Field,	Mason,	Thompson, W. G.
Bland,	Frost,	McCook,	Tillman,
Bliss,	Frye,	McGowan,	Townsend, Amos
Bouck,	Garfield,	McKinley,	Tyler,
Bowman,	Geddes,	Miller,	Updegraff, J. T.
Boyd,	Gibson,	Mitchell,	Valentine,
Bragg,	Godshalk,	Monroe,	Van Aernam,
Briggs,	Hall,	Neal,	Van Voorhis,
Buckner,	Harmer,	Newberry,	Waddill,
Burrows,	Hawley,	Norcross,	Ward,
Butterworth,	Hazelton,	O'Connor,	Warner,
Calkins,	Heilman,	O'Neill,	Washburn,
Carpenter,	Horr,	Orth,	White,
Caswell,	Houk,	Page,	Wilber,
Chittenden,	Hubbell,	Phelps,	Williams, C. G.
Claflin,	Hull,	Pierce,	Willits,
Clardy,	Jorgensen,	Poehler,	Wilson,
Clymer,	Joyce,	Pound,	Wright,
Conger,	Keifer,	Price,	Young, Thomas L.
Converse,	Kelley,	Reed,	

NOT VOTING—87.

Barlow,	Fisher,	Martin, Edward L.	Russell, W. A.
Bayne,	Forsythe,	McCoid,	Shallenberger,
Beale,	Fort,	McLane,	Shelley,
Bingham,	Gunter,	McMahon,	Singleton, J. W.
Blackburn,	Hammond, John	Miles,	Smith, A. Herr
Blount,	Hammond, N. J.	Morrison,	Speer,
Brewer,	Harris, Benj. W.	Morse,	Starin,
Brigham,	Hawk,	Morton,	Talbott,
Browne,	Hayes,	Muldrow,	Taylor,
Camp,	Henderson,	Muller,	Thomas,
Clark, Alvah A.	Henkle,	Murch,	Thompson, P. B.
Cobb,	Herndon,	Myers,	Updegraff, Thomas
Coffroth,	Hill,	Nicholls,	Urner,
Covert,	Hiscock,	O'Brien,	Voorhis,
Crowley,	Humphrey,	O'Reilly,	Wait,
Davidson,	James,	Osmer,	Wells,
Dick,	Johnston,	Overton,	Wise,
Dunn,	Killinger,	Pacheco,	Wood, Fernando
Ewing,	Kimmel,	Prescott,	Wood, Walter A.
Farr,	Lapham,	Rice,	Yocum,
Ferdon,	Loring,	Richardson, D. P.	Young, Casey.
Finley,	Manning,	Robeson,	

So the motion to lay on the table was not agreed to.

The SPEAKER. The question recurs on the demand of the gentleman from Louisiana [Mr. GIBSON] for the previous question upon the adoption of the resolution.

Mr. WEAVER. Before the previous question is ordered I want to reserve the right to debate.

The SPEAKER. The Chair has already stated that under the rule there would be allowed fifteen minutes for debate on each side.

Mr. WEAVER. But it has to be claimed before the previous question is ordered; and that is what I want to do now.

The SPEAKER. The gentleman from Iowa [Mr. WEAVER] claims the right to debate this resolution under clause 3 of Rule XXVIII, which will be read by the Clerk.

The Clerk read as follows:

When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for thirty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition, and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

The SPEAKER. The latter clause applies to the present condition of this question, and the Chair recognizes the right of debate.

Mr. WILSON. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILSON. Will it be in order now to move to postpone the consideration of this resolution?

The SPEAKER. That motion would not be in order, pending the demand for the previous question, which is a motion that takes precedence of a motion to postpone.

Mr. TOWNSHEND, of Illinois. I desire to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. Would it be in order to move to give further time for debate than that allowed under the rule?

The SPEAKER. It would not, because the previous question is pending, and that is a motion that takes precedence of such motion. Should the previous question be voted down, then the resolution will be open to debate and amendment.

Mr. TOWNSHEND, of Illinois. I desire to ask the gentleman from Louisiana [Mr. GIBSON] if he would not allow two hours for debate.

Mr. GIBSON. I regret very much to be compelled to decline, but I think a half hour for debate will be sufficient.

Mr. TOWNSHEND, of Illinois. Will the gentleman allow an amendment extending the time for adjournment?

The SPEAKER. The gentleman from Louisiana himself, should he claim it, has the right to an hour for debate, having reported the resolution.

Mr. GIBSON. I do not think that the proper transaction of business would be promoted by extending the time for debate.

Mr. TOWNSHEND, of Illinois. Will the gentleman allow an amendment to extend the time to be fixed for adjournment?

Mr. GIBSON. I cannot yield for that.

Mr. KELLEY. The gentleman from Louisiana is acting as the organ of the committee, and has no right to admit an amendment.

The SPEAKER. The Chair recognizes the gentleman from Iowa [Mr. WEAVER] to debate the resolution.

Mr. TOWNSHEND, of Illinois. If there is to be no debate and no opportunity for amendment——

The SPEAKER. The Chair holds that under the rules there may be fifteen minutes' debate on each side.

Mr. TOWNSHEND, of Illinois. If there be no debate except fifteen minutes on each side, and if no amendment is to be allowed, I hope the House will vote down the proposition.

Mr. BURROWS. I rise to a parliamentary inquiry. Do I understand the Chair to hold that the mover of this resolution is entitled to one hour?

The SPEAKER. The Clerk will read the rule.

Mr. BURROWS. I understand the Chair has so held. I wish to inquire how the rule allowing one hour's debate is reconciled with the other rule allowing thirty minutes. May there be debate for an hour and a half in all?

The SPEAKER. The Chair thinks not. The debate must take place under one or the other rule. The rule allowing fifteen minutes' debate on each side applies where all other debate is cut off.

Mr. BURROWS. That is what I wanted to inquire.

The SPEAKER. If the gentleman from Louisiana does not avail himself of his right to occupy an hour, that cuts off all debate under the rule allowing the member reporting a measure an hour, and drives any member of the House desiring debate to resort to the rule as contained in the last paragraph of clause 3 of Rule XXVIII.

Mr. BURROWS. Now, I wish to inquire whether that paragraph does not relate entirely to suspensions of the rules, and not to the general rule allowing an hour's debate after the previous question is ordered.

The SPEAKER. The Chair thinks not. The Chair thinks this clause was offered understandingly by the gentleman from Virginia. It reads:

And the same right of debate—

That is, the right to fifteen minutes' debate on each side—

shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

Now, the Chair thinks that this has reference to the former clause of the paragraph in this particular only, as specifying the time to which debate shall extend.

Mr. GIBSON. I demand the previous question.

The SPEAKER. The Chair has recognized that demand; but the Chair holds that this is "a proposition on which there has been no debate," and that under the last clause of paragraph 3 of Rule XXVIII any member is entitled to demand that debate be allowed to the extent of fifteen minutes on each side.

Mr. BURROWS. I understood the Speaker was about to recognize the gentleman from Iowa, [Mr. WEAVER.]

Mr. CARLISLE. I understand that the practice of the House under the rule to which the Chair refers has been that when the previous question has been demanded and seconded by a majority of the House, but before the vote has been taken upon ordering the main question to be put, the debate of thirty minutes—fifteen minutes on each side—is allowed. In other words, I submit that in the present case the time for debate under the rule has not arrived, but will arrive if the House by a majority vote should second the demand for the previous question.

The SPEAKER. That view is possibly correct. The Chair has gone only to the extent of stating that when the previous question has been ordered on "a proposition upon which there has been no debate" any member has the right to demand that thirty minutes be allowed for debate, fifteen minutes on each side.

Mr. CARLISLE. I think the Chair is entirely correct in that.

The SPEAKER. The gentleman from Kentucky now raises the point that this time for debate must be occupied between the seconding of the previous question and the ordering of the main question.

Mr. CARLISLE. Because the House may not second the demand at all.

The SPEAKER. That is true. It is certainly correct under a proposition to suspend the rules.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. My inquiry is this: in case this resolution fixing the day for final adjournment on the 31st instant should be adopted, and if we should find hereafter that some of the important appropriation bills would fail to pass if we should adjourn on that day, could the House rescind this resolution by a majority vote?

The SPEAKER. That is in the nature of argument, and would come in appropriately as part of the thirty minutes' debate. The question does not arise.

Mr. BUCKNER. Will the gentleman from Louisiana permit me to offer an amendment to this resolution so as to take the sense of the House——

Mr. GIBSON. No, sir; I must decline.

The SPEAKER. As many as are in favor of seconding——

Mr. ROBINSON. I dislike to interrupt the Chair; but it seems to me that under the language of the rule the debate is to be allowed, not after the previous question has been demanded and seconded, but after the previous question is ordered.

Mr. BURROWS. There cannot be any question about that.

Mr. ROBINSON. I submit that there can be no debate until the previous question is ordered.

The SPEAKER. The desire and object of debating a question is not generally sought after the previous question is ordered.

Mr. ROBINSON. Because (if I may be allowed to state it) the House after hearing debate may decide to vote the resolution down. I refer the Chair to the exact language of the rule.

The SPEAKER. The gentleman from Kentucky has raised the point that the debate must come in after the seconding of the previous question and before the main question is ordered. He is certainly correct in cases of suspension.

Mr. CARLISLE. That has undoubtedly been the practice of the House with reference to the previous question and with reference to motions to suspend the rules, which also under the new rules require to be seconded.

The SPEAKER. The gentleman from Massachusetts, however, states the language of this clause of Rule XXVIII says the same right of debate shall be allowed whenever the previous question has been ordered. The Chair thinks that is correct. There has not heretofore been a decision on this point under the new rule.

Mr. CARLISLE. But there has been a practice under this clause of the new rule.

Mr. ROBINSON. It has been limited, then.

The SPEAKER. But the language, the gentleman from Kentucky will observe, is different in this paragraph of Rule XXVIII from the language employed in a prior paragraph.

Mr. CARLISLE. That is true.

The SPEAKER. And the Chair thinks a careful reading of the rule will show——

Mr. CARLISLE. Mr. Speaker, so far as I am concerned, I am wholly indifferent to the ruling made by the Chair except to have the practice settled one way or the other.

The SPEAKER. The practice ought to be under a suspension of the rules, where a two-thirds vote is necessary, that the debate should be after the previous question is seconded and before the main question is ordered, because thereafter the rules are suspended and the proposition is finally acted upon.

Mr. ROBINSON. The proposition I rose to make a moment ago was that the time for debate had not then arrived.

The SPEAKER. The Chair thinks the gentleman was correct that it had not then arrived, and on a re-reading of the rule the Chair thinks the gentleman from Massachusetts is right.

Mr. ROBINSON. I only raised it that we might have it authoritatively settled in reference to the future practice of the House, not on this alone but on all questions.

The SPEAKER. Debate under the prior paragraph of Rule XXVIII now in controversy should be after the second and before the main question is ordered. The debate under the latter clause of Rule XXVIII now in controversy should be after the main question is ordered. The Chair makes that ruling and it will stand until reversed.

Mr. BUCKNER. Let the resolution be again read.

The resolution was again read.

Mr. BUCKNER. I desire to have an amendment to that resolution read for information, striking out all after "adjourn." [Cries of "Regular order!"] Mr. Speaker, I presume if the House votes down the proposition to sustain the previous question it will then be in order to move an amendment.

The SPEAKER. If the House votes down the previous question the Chair will recognize the gentleman to move an amendment.

Mr. TOWNSHEND, of Illinois. I rise to a point of order. After the gentleman from Louisiana brought in his resolution for final adjournment, I sent to the Clerk's desk and had read an amendment declaring that resolution would not go into effect until disposition was made of the bills reported from the Committee on Ways and Means in regard to the tariff. Is not that amendment pending?

The SPEAKER. The proposition of the gentleman was read for information. The gentleman from Louisiana declined to allow it to come in and stated that he demanded the previous question.

Mr. TOWNSHEND, of Illinois. I offered the amendment before the demand for the previous question was made.

The SPEAKER. The Chair thinks not.

Mr. TOWNSHEND, of Illinois. I direct the attention of the Chair to the RECORD which contains my amendment.

Mr. CONGER. Why, Mr. Speaker, the gentleman from Louisiana was on the floor and demanded the previous question.

Mr. TOWNSHEND, of Illinois. Let the RECORD be read.

The SPEAKER. The Chair stated repeatedly that the control of the resolution was with the gentleman from Louisiana under the practice, and would remain so until an adverse vote was given by the House.

Mr. TOWNSHEND, of Illinois. But the gentleman had not demanded the previous question when I obtained the floor and had my amendment read at the Clerk's desk.

The SPEAKER. The gentleman could not obtain the floor in that way. The gentleman from Louisiana of necessity held the floor, otherwise every gentleman reporting a proposition by order of a committee would be at the mercy of a minority. The Journal will be read. [After a pause.] The Clerk informs the Chair the gentleman's amendment was read for information.

Mr. TOWNSHEND, of Illinois. Let the Journal be read.

The SPEAKER. The CONGRESSIONAL RECORD had better be read.

Mr. TOWNSHEND, of Illinois. I want the Journal read.

The SPEAKER. There is no reference in the Journal to it.

Mr. TOWNSHEND, of Illinois. It is in the CONGRESSIONAL RECORD.

The SPEAKER. It would only be in the Journal if it had been admitted. The motion of the gentleman from Texas [Mr. MILLS] to recommit with instructions is upon the Journal because that was admitted under the rule.

Mr. TOWNSHEND, of Illinois, It was moved at the same time I offered mine.

The SPEAKER. But one was admissible and the other was not.

Mr. TOWNSHEND, of Illinois. Does not that show the gentleman from Louisiana had not demanded the previous question?

Mr. GIBSON. I was careful, Mr. Speaker, immediately I offered the resolution, to demand the previous question.

Mr. TOWNSHEND, of Illinois. How, then, did the motion of the gentleman from Texas get in?

The SPEAKER. Because it was in order under the rule either before or after the previous question was called.

Mr. ROBINSON. That is under the new rule.

The SPEAKER. The motion of the gentleman from Texas to commit with instructions was ruled in under the new rule.

Mr. TOWNSHEND, of Illinois. I did not ask leave of the gentleman from Louisiana to introduce my amendment.

The SPEAKER. The gentleman's amendment was read only for information. [Cries of "Regular order!"]

Mr. TOWNSHEND, of Illinois. I think, if I am not mistaken, some one on the opposite side made the point that the amendment was not germane.

The SPEAKER. That was as to the character of the instruction embraced in the proposition of the gentleman from Texas, but the Chair overruled the point. The question now is on seconding the demand for the previous question.

The House divided; and there were—ayes 106, nays 62.

So the previous question was seconded.

Mr. SPRINGER. Does the discussion take place now?

The SPEAKER. The discussion will not take place until after the main question is ordered. The question is on ordering the main question.

The House divided; and there were—ayes 103, noes 55.

So the main question was ordered.

Mr. GIBSON moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPRINGER. I desire to ask now how this time, fifteen minutes on each side, will be divided?

The SPEAKER. Fifteen minutes of the time will be under the control of the gentleman from Louisiana [Mr. GIBSON] presenting this proposition; and fifteen minutes ought to be under the control of the gentleman from Virginia [Mr. TUCKER] representing the minority side of the question; and the gentleman from Iowa [Mr. WEAVER] claims that he ought to be recognized to have a portion of the time, and therefore the Chair would suggest that a part of it, say, five minutes, should be allowed to him.

Mr. HAZELTON. I hope the gentleman from Virginia will yield a portion of his time to the gentleman from Iowa.

Mr. TOWNSHEND, of Illinois. Are all others to be cut out of this debate?

The SPEAKER. The Chair has to recognize representative members.

Mr. TOWNSHEND, of Illinois. We are all representative men. [Laughter.]

The SPEAKER. The Chair speaks of representative members on the committee, as representing the respective sides in this controversy.

Mr. RYON, of Pennsylvania. I hope the gentleman from Illinois will be allowed to have leave to print.

Mr. TOWNSHEND, of Illinois. Does the Speaker decide that the two gentlemen from the Committee on Ways and Means and the gentleman from Iowa are the only representative members?

The SPEAKER. The Chair decides that the two members of the Committee on Ways and Means should control the floor, representing as they do the majority and minority sides, respectively, of the committee on this subject. The Chair thinks that is in accordance with the universal practice, and also with the equities of the case.

Mr. TUCKER. Mr. Speaker, I have opposed in the committee and opposed in this House the adoption of this resolution. I mean no disrespect to any gentleman upon this floor when I say that in the face of the appropriation bills which are now reported to this House and to be acted upon, in the face of the tariff bill reported to this House and to be acted upon, and in the face of our Calendars, loaded with from twelve to fifteen hundred cases demanding the action of this House and to be acted upon——

Mr. TOWNSHEND, of Illinois. And the electoral bill.

Mr. TUCKER. I say that this Congress will in my judgment be wanting in its true duty to the people of this country if it shall adjourn in twelve business days from the adoption of this resolution. [Applause.]

Now, I say not only in reference to this tariff question, in respect to which gentlemen know my convictions are very deep, but in reference to private claims and claims of pensioners against the Government, in reference to other public measures and in respect to the appropriation bills which are yet to be acted on, that there is no time in the twelve business days to attend intelligently to the duties thus devolved upon us and adjourn and go home. Why should we, sir? Why should we be afraid to perform the duties that the people sent us here to perform? If we are afraid to meet the issues before the country and meet them one way or the other, why should we hold on to our seats here, and why should we not abdicate them and return the trust which we have not had the courage to perform? [Applause.] That is all I have to say on this question. I mean to give a portion of my time to other gentlemen who wish to present their views upon this question. But I opposed the resolution in committee and in this House from the firm conviction that this House and this Congress would be derelict to their duty if they adjourn without performing the business which the urgent necessities of the people demand and which they were sent here to perform.

Mr. COOK. Why do you not act on the tariff, then?

Mr. TUCKER. A tariff bill has been presented to the House.

Mr. COOK. Yes; the people ask you "for bread and you have given them a stone."

Mr. TUCKER. If the gentleman will allow me to say, we have introduced a free tariff bill, and the question of the consideration of that bill is before the House, and yet since we introduced the bill for consideration you come in and move that the House shall adjourn, and prevent the consideration of it. [Applause.]

Mr. TOWNSHEND, of Illinois. That is it.

Mr. TUCKER. Now, sir, I yield the balance of my time to the gentleman from Iowa, [Mr. WEAVER.] But, in concluding, let me say, lest I be misunderstood, that it has been alleged that there are certain war claims pending before this House that I refer to in connection with the business before the House and for that reason I oppose the adjournment. I wish to say that I know of no war claims on the Calendar or anywhere else.

The people of the South do not desire the war claims that are

before this House to be paid by this Government. The claims I am speaking of are claims as just as the claims of the bondholder. They are for debts due by the Government. And the question is, when the Government owes a man $500 for a duty that man has performed, whether we will adjourn without paying it, and say we have sustained the credit of the Government because we have paid the bondholder.

Mr. CONGER. What about paying the marshals?

Mr. TUCKER. I yield five minutes to the gentleman from Iowa, [Mr. WEAVER.]

Mr. WEAVER. I yield two minutes out of my five to the gentleman from Illinois, [Mr. STEVENSON.]

Mr. STEVENSON. Mr. Speaker, I fully indorse all that the gentleman from Virginia [Mr. TUCKER] has said in opposition to the pending resolution. In addition to the reasons already so ably presented, let me urge this House not to terminate this session, not to even fix a day for adjournment, until a law shall have been placed upon our statute-book providing for the manner of counting the electoral votes at the coming presidential election. Many of the gentlemen now occupying these seats were members of the Forty-fourth Congress. We have not forgotten, and cannot forget, the dangers which menaced the peace of this country during the closing hours of that Congress. I have no hesitation, Mr. Speaker, in declaring that at no period since the organization of our Government has it known a darker hour. Each of the two great political organizations claimed the electoral votes of Louisiana and Florida. Conflicting certificates from those claiming to be clothed with official authority in those States had been forwarded to the President of the Senate. The result of the presidential election hinged upon these votes. Who was to determine which set of certificates were genuine? Who was to count the votes?

Scarcely at any period of our great war was there such excitement throughout the length and breadth of this land. The danger of a disputed succession to the presidency was imminent. We who sat in these halls of legislation, and upon whom was cast the responsibility of peaceably adjusting these dangerous questions, realized as never before the gravity of the situation. In every city, in every hamlet, public meetings were held and the people, forgetting party views and party preferences, implored Congress to avert the threatening danger by adopting some method which looked to a peaceable solution of the perilous complication. Wise counsels at length prevailed, the electoral tribunal was constituted, the controverted questions were submitted to its arbitrament, and the threatening danger averted. Does any gentleman upon this floor desire a recurrence of the events of which I have spoken? Does any gentleman upon this floor believe that the organization of another electoral tribunal would be possible? That human ingenuity could again devise a means of escape when the danger was upon us? It were worse than folly to trust to such blind chance.

Mr. Speaker, a bill is now upon the Calendar which provides for a fair and equitable settlement of all the dangerous questions which may grow out of the approaching presidential contest. It is so just in its provisions that I believe it will scarce meet with opposition. I have upon more occasions than one called the attention of the House to this bill and earnestly urged its consideration.

It is not meet, Mr. Speaker, that the resolution fixing so sudden a termination to this session should pass. Tariff reform is demanded; salt and printing-paper should be placed upon the free list; the bill now in committee providing for the equalization of bounties of Union soldiers should become a law; the many hundreds of private pension bills still undisposed of upon our Calendar should receive our earnest attention; the high tariff duties upon many of the necessary articles of life should at once be reduced to a revenue standard.

But, sir, far more important than all these is the bill to which I have referred providing for a fair and peaceable method of determining all disputed questions which may spring from our electoral system. In what I have said I am influenced by no partisan considerations. I neither know nor care to know what party may be benefited by this legislation. I only know that to adjourn this session of Congress without the passage of the pending bill, or one similar in terms, would be to invite the very perils from which we once so happily escaped.

[Here the hammer fell.]

Mr. WEAVER. Mr. Speaker, the reasons why this House should not adjourn at the day fixed are numerous and it is impossible to state them in three minutes. The introduction of this resolution is in unnecessary haste. We are all paid a yearly salary; why should we be in a hurry? There are over seventeen hundred bills pending before this House on the Calendar that should be passed upon before adjournment. There are a number of important election cases pending before the Election Committee that have not yet been reported, and that cannot be considered at all if we adjourn on the 31st. The will of the people will be entirely ignored and defeated if the House adjourns without their consideration. The reasons for forcing the consideration of this resolution upon the House at this time are well understood. The tariff bill is pressing for consideration. The removal of the duty on salt, the poor man's salt, is demanded.

A MEMBER. Does not the rich man need salt?

Mr. WEAVER. Yes, and he is willing his poor neighbor shall pay for his own salt and the rich man's too.

The removal of the duty on paper and printing material is demanded universally throughout this country. The adjournment is for the purpose of defeating these and other just measures.

Mr. AIKEN. Will the gentleman permit me to ask a question?

Mr. WEAVER. No, sir; I do not yield. I have but three minutes.

Mr. AIKEN. I hope to get an opportunity to address the question to the gentleman from Virginia, [Mr. TUCKER.]

Mr. WEAVER. I have no objection if it does not come out of my time.

The funding bill pending before the House is a menace to the labor and industry of this country, and threatens the whole country with a calamity more terrible than a plague, pestilence, or famine. The fate of that bill is extremely doubtful if the vote can be reached now. The vote in this House on the 5th of April on the currency and debt resolutions placed the funding bill in great peril. This is well understood. But it is just as well understood that if its friends can carry it over until after the presidential election, they will pass it and fasten that debt perpetually upon American industry. That is one of the main reasons for this hasty adjournment.

Again, the right of petition has been denied and abridged to the American people during this session. Petitions bearing the signatures of more than six hundred thousand soldiers have been stowed away in a committee-room in this House unheeded. These soldiers petition for justice and the equalization of their pay. They ask the Government to fulfill its solemn contract made when the country's life was in hazard. But there is no disposition on the part of a majority of this House to regard their petition. Fifteen years have now passed away since the close of the war, and yet the bounties and back pay due to soldiers and the pay of teamsters and others who served in our armies for the preservation of the Union are unsettled and utterly neglected. Hundreds of claims have been adjusted, even under existing law, but Congress has thus far failed to make the necessary appropriation to pay them.

During these fifteen years that have elapsed since the war closed the Government has been giving away to rich corporations vast empires of our public domain and throwing the wealth of the country into the laps of the opulent and powerful. But there is no disposition to be just, much less generous, to the soldier, his widow, and orphan.

I enter my solemn protest against the final adjournment until Congress does justice to the men who saved the flag that throws its protecting shadow over the Speaker as he occupies that chair to-day. [Applause.] I enter my protest and call upon all American soldiers throughout this Union to spurn indignantly the action of their representatives in adjourning this Congress without giving them their merited relief. You are in the habit of paying the soldier in "undying gratitude." The time has come when he demands justice at your hands. Disregard it if you dare!

Why not pass the interstate-commerce bill and relieve the whole country? Will you disregard this also? This body has not a vestige of its representative character left. Let the people understand it.

Then there is the anti-third-term resolutions. We can pass them in the House if we can have an opportunity, and thus give voice to the settled convictions of the American people that the unwritten law of the Republic, as binding as the Constitution itself, requires that the same person shall not occupy the Presidential chair more than twice. We can pass that resolution or put everybody on record with regard to it; and hence a vote upon it must be avoided.

[Here the hammer fell.]

Mr. AIKEN. Will the gentleman from Virginia [Mr. TUCKER] permit me to say one word?

Mr. TUCKER. Yes, sir.

Mr. AIKEN. The gentleman has asserted or has created the impression that those voting for this resolution for the final adjournment are opposed to his tariff bill. I say the entire delegation from the State I have the honor in part to represent would vote to-day solidly and would have voted yesterday for his bill.

Mr. TUCKER. I now yield to the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. TOWNSHEND, of Illinois. How much time have I?

The SPEAKER. The gentleman from Virginia [Mr. TUCKER] has seven minutes of his time remaining.

Mr. TUCKER. I yield five minutes to the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. TOWNSHEND, of Illinois. I have but a few if any words for the republican members of this House. In a party sense it is in their interest this resolution should pass. Therefore it is in vain that I should make any appeal to them. I shall not waste my time in an address to the members on the other side of this Chamber. What I may utter in the few moments allowed to me is intended for the ears of those who represent democratic constituencies, and I hope and trust it may reach the ears of those whom they represent on this floor.

If this resolution shall be adopted, what will it mean? It will mean that the labors of this entire session will have gone for naught. It will demonstrate to the country that notwithstanding we have been laboring in committees for months to mature wholesome legislation, yet as soon as the bills so matured have been reported and placed upon the Calendars we turn our backs upon the work before us, cowardly shrink from our duty to pass them, and go home to our constituents.

Let me call attention to the fact that I presented to this House the other day one hundred and five petitions, coming from a large number of States, demanding relief from the oppressive salt tax. [Laughter.] I was forced by the rules to put those petitions into a box, and was not allowed the constitutional privilege of presenting here the petitions of the people praying for a redress of their grievances.

What will be the effect of a vote in favor of this resolution? You cannot shun or avoid the issue. One effect will be this: those who vote in favor of it will vote to stifle the bill matured by the Committee on Commerce, and known as the interstate-commerce bill. That bill has been reported and is before us now for action. I assert that nine hundred and ninety-nine of every thousand of the people in the West are in favor of and interested in the passage of that bill. Gentlemen in voting for this resolution cannot shield themselves behind any pretext that they merely want adjournment. I tell them that their votes for adjournment will be votes to strike down that bill.

What further bills have we before this House? I will not speak of those which have been mentioned by others. We have a bill reported from the Committee on Agriculture known as the "leaf-tobacco bill." Is there a man on this floor, representing a constituency oppressed by the iniquitous law relating to the tax on leaf-tobacco, who will dare to go back to his people, look them in the face, and say that when such a bill was before the House, as it is now for action, he turned his back upon it and refused an opportunity for it to be considered. Then there is the bill granting pensions to the Mexican soldiers and the soldiers of the late war. Their bills are now ready for action. If you vote for this resolution you will have turned your backs upon these veterans.

In conclusion, I want to say that a vote in favor of this resolution means that there shall be no action in this Congress on any question save and except the appropriation bills, for the time left us by this resolution will be too short to consider anything but appropriation bills. I hope the resolution will be voted down; but any way I desire that the responsibility shall be left with gentlemen who vote in favor of this resolution.

I will now yield the remainder of my time to my friend from Mississippi, [Mr. HOOKER.]

The SPEAKER. The gentleman has one minute left.

Mr. HOOKER. I desire to say in the brief time allowed me that I think there is one subject which clearly ought to be settled by this Congress before we leave; that is, the question relative to the mode and method of counting the presidential vote.

Four years ago every business interest in this country was unsettled because of the fact that public confidence was destroyed in the mode and manner in which the electoral count was then made. Do you expect this to occur again, and to adjourn in face of the resolution which has been reported to the Senate for consideration, which is now being considered by that body and perhaps has already passed it, proposing a method of counting the electoral vote that will avoid such trouble in the future? If you adjourn without passing such a resolution or such a law you run the risk of unsettling all the great business interests of the country which were so paralyzed when that fearful excitement in 1876 agitated the country. Are we prepared to do that?

Not only that measure but a great many others of public interest are on your calendars undisposed of, and which should receive your attention. You have passed scarcely one measure of public interest at this session of Congress except appropriation bills. The whole time and attention of Congress has been devoted to the consideration of the one question of how much money shall be appropriated for the expenses of the Government. Nothing else has been considered and nothing else will be considered if this resolution for final adjournment shall be passed at this early day.

[Here the hammer fell.]

Mr. TUCKER. I yield the remainder of my time to the gentleman from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. The gentleman from Virginia [Mr. TUCKER] has kindly given to me the two minutes' time remaining to him.

As a member of the Committee on Ways and Means, for the first time during the session I was accidentally absent when the vote on this resolution was taken. Had I been present I should have voted against reporting it to the House at this time. I spoke a few days ago in the House upon a bill then pending, and also upon the political riders which were upon the appropriation bill then under consideration. I then charged upon the House inefficiency in the discharge of the duties devolved upon it. I alluded in my remarks then to a large number of pending measures waiting consideration.

As a member of this House I am unwilling to vote for a final adjournment thus early in the presence of the large amount of public business unattended to. I cannot go back to my constituents, if I vote for adjournment now, and justify my vote, when in my judgment, and, as I believe, in their judgment, we will thereby leave untouched and unpassed measures which ought to receive the sanction of the House and of Congress.

If this resolution shall be adopted the river and harbor bill must be defeated. I am in favor of the river and harbor bill.

Mr. O'NEILL. It can be passed next Monday.

A MEMBER. No, it cannot.

Mr. DUNNELL. I am in favor of the reservoir system, which will supply the Mississippi with the necessary quantity of water. I am in favor of the measures to which other gentlemen have already alluded, and am unwilling as a member by my vote to say that we have not the courage, the patriotism, the fidelity to duty which will lead us to meet any and every measure that is presented for our consideration.

These tariff bills are on the Calendar, and if we adjourn on the 31st of May they cannot be considered. The general bill contains items for the consideration of which many petitions and memorials have been sent to us. As a member of the Committee on Ways and Means, I have voted against some of these articles, because my committee was preparing a bill embracing them. The bill is now on our Calendar, and it is proposed to dodge it. I cannot and will not do it. The tariff on sugar should be reduced. We raise $40,000,000 on this article of common consumption. We should raise less, and so amend the law that frauds cannot be committed in the collection of the revenue which the law contemplates. This sugar-tariff bill is one of exceeding importance—important to the Government as well as the people.

[Here the hammer fell.]

Mr. GIBSON. I now yield five minutes of my fifteen to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. Mr. Speaker, one point has been made on the other side which strikes me with great force; and that is the importance of settling in some law and lawful manner the counting and declaring of the electoral vote for President. If gentlemen on the other side will set any day or any week or any month and give us any reasonable assurance that at the end of that day or week or month we can pass a law which will avoid controversy on that question, I will stay here far beyond the "dog days" to help, and will urge every other member to assist toward that end.

But, Mr. Speaker, the majority have had four years since the imminent dangers of that question last threatened this country and they have done nothing. They wait till the last session preceding another presidential election, and the end of the six months of that last session, when all at once, as an argument against an adjournment, this becomes an important topic. It is too late. "The summer is past and the harvest is ended," and the soul of that question is "not saved." There is no hope that it can be saved by this Congress. Nearly two years ago the Senate sent us a bill, but the last House let it die without a sign. Nobody this session has even asked to set a day for its consideration. So that in my opinion it is too late to make that point against the pending resolution.

Mr. STEVENSON. Let me state to the gentleman from Ohio that a bill on that subject has been reported and made a special order.

Mr. GARFIELD. I cannot yield to the gentleman in my time. I know, as the gentleman from Virginia [Mr. TUCKER] has said, that there are seventeen hundred bills pending before the House, many of which ought to become laws; but I am equally sure that if we stay here till September next, twenty-seven hundred bills, and a large portion of them such as ought to become laws, will be pending on our Calendar. Every argument used to-day against adjournment can be used next September with exactly the same propriety and force.

This Congress has now been here nearly six months. It met last December completely organized, its committees ready for work, and having the benefit of the previous preparation in the extra session. We are outstaying the welcome of the American people in sitting here to-day.

Mr. McMILLIN. You are speaking for yourself, I presume.

Mr. GARFIELD. I speak for myself and for everybody who thinks, a much larger number of people than the gentleman supposes.

Mr. HOOKER. I will ask——

Mr. GARFIELD. I cannot yield to the gentleman. Besides the seventeen hundred bills on our Calendar, which ought to be passed, there is a large number in regard to which it will be a great act of patriotism to prevent their passage by getting away. I am told that forty-five bills containing large appropriations, amounting to seven or eight million dollars, for public buildings and works not yet authorized, are pending on the Calendar, and are among the pressingly important measures which some gentlemen think must be forced through before we adjourn.

Now, I call the attention of gentlemen to the fact that on the 3d day of June next the presidential cyclone strikes this people, and in its whirl in the course of two weeks more it involves both political parties—forty-five millions of people. If we stay here till we are involved in the sweep of that cyclone, we convert this legislative body into a vast partisan debating club; and I would not give one day of the calm legislation of this House in other times for two months of such legislation as that period will bring upon the country. I ask gentlemen on either side of this House if they are willing to stay here until that cyclone strikes us and converts this body and the whole country into two vast political camps for issuing campaign speeches and political bulletins? This is what it means to extend the session of this House beyond the 3d day of June. We can, if we will, pass all needed measures before the 3d of June; and then we shall have had a session longer than many of our sessions have been. Let us pass this resolution now, and resolutely work up to it.

[Here the hammer fell.]

Mr. HOOKER. I wanted to ask the gentleman whether he was in favor of adopting a joint rule for counting the presidential vote.

Mr. GARFIELD. I am not; I prefer to obey the Constitution in reference to the count.

Mr. STEVENSON. I merely desire to state to the gentleman from Ohio and to the House that the committee on the subject of the presidential count has reported a bill, the bill of the gentleman from Indiana, [Mr. BICKNELL,] providing for the method of counting the electoral votes, which bill is now upon the Calendar and has been made a special order.

Mr. GIBSON. I yield five minutes to the gentleman from South Carolina, [Mr. O'CONNOR.]

Mr. O'CONNOR. Mr. Speaker, I voted for the resolution to adjourn, and voted for it deliberately, and I shall have the courage to adhere to my vote. But, sir, an unwarranted assault has been made upon members on this side of the Chamber—upon those gentlemen who had the courage to vote for the resolution, charging that such a vote involved a dereliction of duty, as implying opposition to tariff reform. Let me say in reply to this imputation that South Carolina was the first State in the Union that flung to the breeze the banner with the motto of "anti-tariff," and carried it aloft to the peril of the overthrow and extinction of her own sovereignty. South Carolina stands to-day pledged as bravely and as indomitably to the overthrow of the iniquitous tariff system as she did in 1832.

But, Mr. Speaker, let me ask the gentleman from Virginia [Mr. TUCKER] does he not know that when we came here last December it was the accepted conclusion of this side of the House that we were to have a short session? Did not the Committee on Rules bring in here a report which consumed three months of this session in a useless debate to engraft upon the House a new system of rules? Has not the Committee on Ways and Means been in session for six months and has it not waited until this late day to report a bill for tariff reform? And, sir, when they reported it they confessed to me and they confessed to the country that they could not pass it; that it would be vetoed if passed, but that they wanted to make a record. [Laughter and applause.]

Mr. Speaker, there should be a little more of statesmanship in this body and a little less of what is called policy and expediency. True statesmanship consists in effecting practical results, and when the democratic party admits and confesses they cannot pass a bill for the reform of the tariff at this late day of the session they should say so to their people. Let them go to their people and bring back to this Chamber in the next Congress a majority of Representatives who will at once, not at the eleventh hour, but at the first hour and at the second hour and at the third hour keep up the agitation until we have accomplished the great object which we desire of effectual tariff reform. But it is admitted it cannot be done now, and we should adjourn. Why, Mr. Speaker, the gentleman from Virginia [Mr. TUCKER] has spoken of the multiplicity of bills upon the various Calendars which have been reported. Does he not know that six months have passed and but one single report from the Committee on Claims on the Private Calendar has been touched, the report of L. Madison Day, and that only ended two weeks ago after five consecutive Fridays had been consumed in its consideration. In God's name, how is the gentleman to dispose of those twelve hundred cases which come after it? [Great laughter and applause.] In God's name, how is he to dispose of all the bills upon the Calendars at that rate of progress? [Renewed laughter and applause.] I have only to say that it cannot be accomplished at this late stage of the session, and that it is for the interest of my party and for the interest and welfare of my country that I believe we should pass the resolution to adjourn, and I shall continue to vote for it. [Applause.]

Mr. GIBSON. I yield now for five minutes to the gentleman from Illinois, [Mr. SPARKS.]

Mr. SPARKS. Mr. Speaker, I believe two members from Illinois have already spoken on this subject, and doubting the modesty of so much talk from that State I do not care a great deal to occupy even the five minutes so courteously allowed me by the gentleman from Louisiana, [Mr. GIBSON.] But I have voted steadily for the resolution to adjourn on the 31st of this month, and desire now to say that if there be no other man in this House to stand by it I shall do so. [Applause.] I believe cordially in that vote, and propose to adjourn the two Houses of Congress on that day if my vote will secure that result.

Gentlemen talk of tariff legislation and insinuate that those who vote for this resolution of final adjournment are not for what is known as a low tariff or revenue reform. Now, Mr. Speaker, I had always supposed that I was sound on the democratic platform of a "tariff for revenue only," and came as near being a free-trader on that subject as it was possible for a man to be who had reasonable sense. [Laughter and applause.] I am for my colleague's bill for the reduction of the duty on salt, in fact for free salt, and I am also heartily in favor of any other gentleman's proposition in the direction of revenue reform. I am for the reduction of the duty on printing-paper, and if you can tell me any other subject where we can reduce the tariff in the interest of the laboring classes and millions of consumers I will most gladly and cheerfully vote for it. I have always voted for those propositions, and will continue to vote and work for them now, henceforth, and forever. But what all of this has to do with this question of final adjournment some seventeen days hence I am unable to see.

I want some time in the near future to adjourn this concern. [Great laughter and applause.] I have tried my best by voice and vote to pass all these bills for the purpose of effecting what I believe to be proper and efficient revenue reform. In that I have so far failed, and so have the friends with whom I was acting.

Mr. HOUSE rose.

Mr. SPARKS. I cannot yield, sir. I have worked day in and day out, in season and out of season, to bring up and act upon that most vital and important question before this House, the proposition of the gentleman from Texas [Mr. REAGAN] known as the "interstate-commerce bill." I have made the only speech on the subject that has been made during this long session of Congress. I have urged the chairman of the Committee on Commerce [Mr. REAGAN] on this subject, talked to him and others about it day and night, and by every and all honorable means known to me done all in my power to secure favorable action upon it and the passage of the bill. That gentleman, [Mr. REAGAN,] on this subject (as nearly all others) right, has faithfully done his duty in regard to it. We have thus far failed, and the responsibility of failure must rest upon other shoulders than his or mine. But that is foreign to the present subject. I now want to fix upon a time when this session of Congress shall adjourn, and intend to vote to do it. [Applause.] That is all there is about it.

Now, as to some other things alluded to in this discussion, my colleague [Mr. STEVENSON] says that the electoral bill ought to be attended to. In that I also concur and will join him in passing a suitable bill on that subject. However, as I look at it, the other side is as much interested in that as we are. We have got the Senate and the House, both of them; and I do not know but that we are on safer ground on that question than the other side is, for, as I have said, we now have both branches of Congress. Unfortunately for us we did not have them both three years ago when they stole the Presidency from us. [Laughter.]

Now, sir, why have not these bills been brought in and pressed before this House in due season? When are we going to do all this work? We have been here nearly six months, and yet a part of this work has not even been attempted.

Mr. STEVENSON rose.

Mr. SPARKS. I cannot yield, and my colleague knows it.

Within the coming three weeks we may determine upon some line of action, and do much in the way of wholesome legislation if an honest, earnest effort is made to do so. I want to go on and fix this thing of final adjournment now and then honestly and faithfully work up to it. Having been here for nearly six months I *know* that the people anxiously want us as speedily as possible to wind up and go home; I further *know* that there are from perhaps one to two hundred million of dollars in old "moss-backed" claims and sly Government jobs lying about "loose" in this Congress, with a well-organized lobbying influence at work to deplete the Treasury and rob the people of the country. I would like to beat them, and am quite sure that the best way to do it is at some reasonable time to adjourn Congress and let it go home. [Applause.]

Mr. SPRINGER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 121, nays 90, not voting 81; as follows:

YEAS—121.

Aiken,	Davis, George R.	King,	Richardson, J. S.
Aldrich, N. W.	Davis, Horace	Klotz,	Richmond,
Aldrich, William	Deering,	Ladd,	Robinson,
Atherton,	Dickey,	Le Fevre,	Ross,
Bachman,	Einstein,	Lindsey,	Russell, Daniel L.
Bailey,	Errett,	Lounsbery,	Ryon, John W.
Baker,	Evins,	Marah,	Sapp,
Ballou,	Farr,	Martin, Edward L.	Sherwin,
Barber,	Field,	Martin, Joseph J.	Smith, Hezekiah B.
Beltzhoover,	Frost,	Mason,	Sparks,
Blake,	Frye,	McCold,	Stone,
Bland,	Garfield,	McCook,	Tillman,
Bouck,	Geddes,	McGowan,	Townsend, Amos
Bowman,	Gibson,	McKinley,	Tyler,
Boyd,	Godshalk,	Miller,	Updegraff, J. T.
Bragg,	Hall,	Mitchell,	Valentine,
Briggs,	Harmer,	Monroe,	Van Aernam,
Browne,	Hawk,	Neal,	Van Voorhis,
Buckner,	Hawley,	Newberry,	Voorhis,
Burrows,	Hazelton,	Norcross,	Ward,
Butterworth,	Heilman,	O'Connor,	Warner,
Carpenter,	Hiscock,	O'Neill,	Washburn,
Caswell,	Horr,	Orth,	White,
Chittenden,	Houk,	Pacheco,	Wilber,
Claflin,	Hull,	Page,	Williams, C. G.
Clardy,	Jorgensen,	Phelps,	Willits,
Clymer,	Joyce,	Pierce,	Wright,
Conger,	Keifer,	Poehler,	Young, Thomas L.
Cook,	Kelley,	Pound,	
Cowgill,	Kenna,	Price,	
Crapo,	Ketcham,	Reed,	

NAYS—90.

Acklen,	Colerick,	Ford,	Jones,
Anderson,	Converse,	Forney,	Kitchin,
Armfield,	Cox,	Gillette,	Knott,
Atkins,	Cravens,	Goode,	Lewis,
Belford,	Culberson,	Gunter,	Lowe,
Berry,	Daggett,	Harris, John T.	Martin, Benj. F.
Bicknell,	Davis, Joseph J.	Haskell,	McKenzie,
Bright,	Davis, Lowndes H.	Hatch,	McMillin,
Cabell,	De La Matyr,	Henry,	Mills,
Caldwell,	Deuster,	Herbert,	Money,
Calkins,	Dibrell,	Hooker,	New,
Cannon,	Dunnell,	Hostetler,	Persons,
Carlisle,	Elam,	House,	Philips,
Chalmers,	Ellis,	Hunton,	Phister,
Clark, John B.	Ewing,	Hurd,	Reagan,
Cobb,	Felton,	Hutchins,	Robertson,

Rothwell,	Slemons,	Turner, Oscar	Whiteaker,
Ryan, Thomas	Smith, William E.	Turner, Thomas	Whitthorne,
Samford,	Springer,	Upson,	Williams, Thomas
Sawyer,	Steele,	Vance,	Willis,
Scales,	Stevenson,	Waddill,	Wilson.
Simonton,	Townshend, R. W.	Weaver,	
Singleton, O. R.	Tucker,	Wellborn,	

NOT VOTING—81.

Barlow,	Forsythe,	Miles,	Smith, A. Herr
Bayne,	Fort,	Morrison,	Speer,
Beale,	Hammond, John	Morse,	Starin,
Bingham,	Hammond, N. J.	Morton,	Stephens,
Blackburn,	Harris, Benj. W.	Muldrow,	Talbott,
Bliss,	Hayes,	Muller,	Taylor,
Blount,	Henderson,	Murch,	Thomas,
Brewer,	Henkle,	Myers,	Thompson, P. B.
Brigham,	Herndon,	Nicholls,	Thompson, W. G.
Camp,	Hill,	O'Brien,	Updegraff, Thomas
Clark, Alvah A.	Hubbell,	O'Reilly,	Urner,
Coffroth,	Humphrey,	Osmer,	Wait,
Covert,	James,	Overton,	Wells,
Crowley,	Johnston,	Prescott,	Wise,
Davidson,	Killinger,	Rice,	Wood, Fernando
Dick,	Kimmel,	Richardson, D. P.	Wood, Walter A.
Dunn,	Lapham,	Robeson,	Yocum,
Dwight,	Loring,	Russell, W. A.	Young, Casey.
Ferdon,	Manning,	Shallenberger,	
Finley,	McLane,	Shelley,	
Fisher,	McMahon,	Singleton, J. W.	

So the resolution was agreed to.

The following additional pairs were announced:

Mr. DWIGHT with Mr. STEPHENS, on all political questions for the balance of this day. If Mr. STEPHENS had been present, Mr. DWIGHT would have voted in the affirmative on this proposition and Mr. STEPHENS in the negative.

Mr. MANNING with Mr. LORING. If Mr. LORING were present, Mr. MANNING would vote "no."

Mr. THOMPSON, of Kentucky, with Mr. BAYNE. If Mr. BAYNE were present, Mr. THOMPSON would vote "no."

The result of the vote was then announced as above recorded.

Mr. GIBSON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. GOODE. I move to take from the Speaker's table for consideration at this time Senate bill No. 1282, coming from the Committee on Education and Labor, that being the special order for to-day.

Mr. REAGAN. I raise the question of consideration, and ask to take up House bill No. 4748, a substitute for the bill to regulate interstate commerce.

Mr. GOODE. I hope the House will bear in mind that to-day was set aside by unanimous order of the House for consideration of business from the Committee on Education and Labor.

Mr. REAGAN. At the same time I trust the House will remember that this bill presents a question of paramount importance.

Mr. O'NEILL. I hope this bill will not be taken up for consideration in this the last hour of Saturday's session.

Mr. BICKNELL. Would it be in order to raise the question of consideration on a matter which has precedence of either of these propositions? I refer to the bill for regulating the counting of the electoral vote for President and Vice-President. That was set apart as the special order for the 22d of January last, and has been kept out by the discussion upon the rules and the appropriation bills.

The SPEAKER. The question is as to whether the House will proceed to consider the order made specially for to-day. If the House should refuse to consider the special order, then of course the other contending interests will struggle further.

The question was taken; and upon a division there were—ayes 66, noes 61.

Mr. BROWNE. I make the point that no quorum has voted.

The SPEAKER. The point being made that no quorum has voted, the Chair will order tellers, and appoints Mr. GOODE and Mr. REAGAN.

The House again divided; and the tellers reported—ayes 74, noes 73.

Mr. REAGAN. I shall ask for the yeas and nays on that.

Mr. NEWBERRY. Then I move that the House adjourn.

The SPEAKER. The question will be first on the motion of the gentleman from Michigan.

The House divided; and there were—ayes 85, noes 54.

Mr. HUTCHINS demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. COX demanded tellers on the yeas and nays.

The SPEAKER. Twenty-eight gentlemen have voted in favor of ordering the yeas and nays—not a sufficient number.

Mr. COX. Count the other side.

The SPEAKER. There is no other side. The Chair had to count himself to make the twenty-eight.

Mr. REAGAN. Then I ask tellers on the motion to adjourn.

Tellers were ordered; and Mr. GOODE and Mr. REAGAN were appointed.

The House divided; and the tellers reported—ayes 79, noes 54.

LEAVE OF ABSENCE.

Pending the announcement of the vote on the motion to adjourn, by unanimous consent, leave of absence was granted in the following cases:

To Mr. HOUSE, for ten days from Monday next, on account of important business;

To Mr. FORSYTHE, indefinitely, on account of sickness;

To Mr. JOHNSTON, from the 17th to the 27th instant, inclusive;

To Mr. MCLANE, for to-day;

To Mr. BAYNE, for ten days, on account of important business; and

To Mr. STONE, for one week from 25th instant, on account of important business.

SHIPPING BETWEEN THE ATLANTIC AND PACIFIC COASTS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Acting Secretary of the Treasury relative to the amount of shipping between the Atlantic and the Pacific coasts; which was referred to the Committee on the Interoceanic Canal, and ordered to be printed.

PIERRE KLAINE.

On motion of Mr. SLEMONS, by unanimous consent,

Ordered, That Pierre Klaine, a citizen of France, be permitted to take certified copies of his papers on file in the office of the House.

The result of the vote was then announced as above recorded.

And accordingly (at three o'clock and fifteen minutes p. m.) the House adjourned until Monday at eleven o'clock a. m.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of General Robert Thompson and others, officers of the Army during the late war, for non-partisan action on the bill to relieve General Fitz-John Porter—to the Committee on Military Affairs.

By Mr. WILLIAM ALDRICH: The petition of W. F. Story, for the Chicago Times; Andrew Shuman, of the Chicago Evening Journal; Joseph Medill, for the Chicago Tribune; C. F. Pittsch, for the Illinois Staats-Zeitung; Curt Thiorsch, for the Chicago Volksfreund; A. Knobel, for the Deusch Warte; William T. Collins, for the Chicago Daily Telegraph; and Richard Michaelas, for the Chicago Freie Press, for the reduction of the duty on printing-paper, paper materials, and type—to the Committee on Ways and Means.

Also, the petition of the Western News Company and 14 other firms, dealers in and importers of newspapers and periodicals in Chicago, Illinois, for the removal of the duty on newspapers and periodicals—to the same committee.

By Mr. ANDERSON: The petition of ex-soldiers of the United States, of Judson, Kansas, against the passage of the sixty-surgeon bill and for the passage of a bill creating a pension court—to the Committee on Invalid Pensions.

By Mr. BOUCK: The petition of soldiers of Wisconsin, of similar import—to the same committee.

By Mr. CALDWELL: The petition of the Bowling Green Manufacturing Company, of Kentucky, for a commission to revise the tariff—to the Committee on Ways and Means.

By Mr. COVERT: The petition of A. B. Gildersleeve and others, citizens of Suffolk County, New York, for the opening of a channel between Lloyd's Harbor and Cold Spring Bay, New York—to the Committee on Commerce.

By Mr. FARR: The petition of Coffin & Nourse, of Newport, New Hampshire, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. GARFIELD: The petition of the Crafts Iron Company, of Greendale, Ohio, of similar import—to the same committee.

By Mr. GOODE: Papers relating to the claim of E. H. Lively, postmaster at Williamsburgh, Virginia, to be relieved from accountability for funds of the Government stolen from him—to the Committee on Claims.

By Mr. HAWLEY: The petition of the New Britain (Connecticut) Knitting Company, for the passage of the tariff-commission bill—to the Committee on Ways and Means.

By Mr. NEAL: The petition of the Crafts Iron Company, of Greendale, Ohio, of similar import—to the same committee.

By Mr. RICE: The petition of Sales, Owen & Co., of Warren, Massachusetts, of similar import—to the same committee.

By Mr. O. R. SINGLETON: The petition of citizens of Lake County, Mississippi, for an appropriation to improve the navigation of Pearl River above Carthage—to the Committee on Commerce.

Also, the petition of citizens of Holmes County, Mississippi, for the passage of a bill regulating interstate commerce—to the same committee.

Also, the petition of citizens of Holmes County, Mississippi, for the amendment of the patent laws—to the Committee on Patents.

By Mr. STEPHENS: The petition of Agatha Bryan, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. THOMAS L. YOUNG: The petitions of A. B. Webster and others, of A. W. Freeman and others, and of J. B. Wallace and 57 other United States gaugers and storekeepers, for the passage of the bill (H. R. No. 4802) relating to leaves of absence for certain revenue officials—to the Committee on Ways and Means.

Also, the petition of the Mason City (West Virginia) Salt Company, to be refunded certain taxes improperly collected from them—to the same committee.

IN SENATE.

MONDAY, *May* 17, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 5th instant, copies of reports of Captain John W. White, of the United States revenue service, concerning matters connected with Alaska Territory, and also copies of all material papers relating to the transfer of the jurisdiction over the Territory from the War to the Treasury Department; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Engineers covering a copy of report from Major F. Harwood, of the Corps of Engineers, upon a resurvey of the bar at the mouth of Bell River, Michigan, made in compliance with the requirements of the river and harbor act of March 3, 1879; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 13th instant, information regarding the effect of the bill for the proposed repeal of certain laws pertaining to permanent and indefinite appropriations on the appropriation for the sinking fund for the 3.65 bonds of the District of Columbia provided by act of March 3, 1879; which was ordered to lie on the table, and be printed.

NATIONAL ACADEMY OF SCIENCES.

The PRESIDENT *pro tempore* laid before the Senate a communication from William B. Rogers, president of the National Academy of Sciences, transmitting, in conformity with the requirement of the act of incorporation, a report of the operations of the National Academy of Sciences during the past year; which was referred to the Committee on the Library, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

A bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes; and

A bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal; and

A bill (S. No. 464) for the erection of a public building at Montgomery, Alabama.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a communication from the Secretary of War, transmitting a petition of officers of the Army praying the enactment of such legislation as will entitle all lieutenants of the Army who have served fourteen years in the grade of lieutenant to the rank and pay of captain; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also presented the memorial of Andrew W. Roberts and others, of Mount Ayr, Osborn County, Kansas, and the memorial of James M. Bond and others, of Olive Hill, Kentucky, remonstrating against the passage of the bill (S. No. 496) for the examination and adjudication of pension claims; which were ordered to lie on the table.

Mr. BAILEY presented the petition of Warner Bros., of Worley Furnace, manufacturers of pig-iron, employing one hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. INGALLS presented the petition of the Buell Manufacturing Company, of Blue Rapids, Kansas, manufacturers of woolen goods, employing seventy hands, and the petition of Owen Duffy, of Leavenworth, Kansas, manufacturer of woolen goods, employing forty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. CAMERON, of Pennsylvania, presented the petition of Reynolds & Co., of Red Bank Furnace, Pennsylvania, manufacturers of pig metal, employing three hundred hands; the petition of the Lacy Furnace Company, of Pittsburgh, Pennsylvania, manufacturers of pig-iron, employing three hundred hands; the petition of Kirkpatrick & Co., of Pittsburgh, Pennsylvania, manufacturers of sheet-iron and tin-plate, employing one hundred and fifty hands; the petition of Carnegier & Co., of Pittsburgh, Pennsylvania, manufacturers of structural iron, employing seven hundred hands; the petition of Wood, Morrell & Co., of Johnstown, Pennsylvania, manufacturers of woolen goods, employing two hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. DAWES presented the petition of the Berkshire Woolen Company, of Great Barrington, Massachusetts, manufacturers of woolen goods, employing two hundred and seventy-five hands; the petition of the North Adams Manufacturing Company, of North Adams, Massachusetts, employing two hundred hands; the petition of the George H. Gillent Manufacturing Company, of Ware, Massachusetts, manufacturers of woolen goods, employing seven hundred hands; the petition of the Blackinton Woolen Company, of Blackinton, Massachusetts, manufacturers of woolen goods, employing three hundred and fifty hands; and the petition of the Renfrew Manufacturing Company, and seven other firms of Adams, Massachusetts, manufacturers of cotton goods, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. WALLACE presented the petition of Major Charles C. Cresson, First United States Cavalry, praying that he be placed on the retired list, with the rank of major; which was referred to the Committee on Military Affairs.

He also presented the petition of Robert H. Barber and 32 others, citizens of the first, second, and fourth congressional districts of Pennsylvania; the petition of Van R. Remmel and 72 others, citizens of the eighteenth congressional district of Ohio; the petition of E. T. Walker and 32 others, citizens of the eighth congressional district of Massachusetts; and the petition of P. C. Hester and 272 others, of the seventh congressional district of Illinois, praying for the enforcement of the eight-hour law; which were referred to the Committee on Education and Labor.

Mr. BALDWIN presented the memorial of Nathan Child and 200 other ex-soldiers, remonstrating against the passage of the bill providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. BECK presented the memorial of ex-soldiers, resident in Harden County, Kentucky, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. WINDOM submitted additional papers to accompany the bill (S. No. 1639) for the relief of Henry T. Johns; which were referred to the Committee on Claims.

Mr. BLAIR presented the petition of Coffin & Nourse, of Newport, New Hampshire, employing one hundred and twenty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. FERRY presented the petition of Thomas A. Lyon, agent, and 12 others, manufacturers of lumber, salt, and shingles, employing over twenty-five hundred hands on the Pere Marquette River, Michigan, and the petition of Rust, Eaton & Co. and 24 other firms on the Saginaw River, Michigan, manufacturers of lumber, salt, and shingles, employing nineteen hundred and five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. HOAR presented the petition of Ashworth & Jones, and four other firms, of Cherry Valley, Massachusetts, manufacturers of woolen goods, employing three hundred and twenty-nine hands, and the petition of Sayles, Owen & Co., of Warren, Massachusetts, manufacturers of woolen goods, employing one hundred and eighty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

INTEROCEANIC CANAL.

Mr. BOOTH. I rise to present the memorial of the Board of Trade of San Francisco, in favor of the construction of a ship-canal to connect the Atlantic and Pacific Oceans. I move that the memorial with the accompanying documents be referred to the Committee on Foreign Relations, and on that motion I ask to be heard very briefly.

The Board of Trade of San Francisco represents a capital of more than $50,000,000, invested in commercial pursuits, under the control of two hundred and twenty-four business firms.

While an interoceanic canal is of vast importance to the whole world, the construction of which will mark a new era in the world's commerce, there is no community more immediately interested in its early completion, and which will receive greater benefits therefrom, than that of San Francisco. It is natural that the accredited organ of the merchants of that city should ask a hearing on this subject by the Congress of the United States.

Accompanying the memorial is a report adopted by the board on the 7th of April last on the practicability of the various routes which have been surveyed. The report is one of rare intelligence, evincing close and impartial study. It is a model of diction; at once clear, concise, and comprehensive, it can be studied with profit even by those who are most familiar with the subject it discusses. The conclusion of the report is "that in point of economy of construction, availability for commercial purposes, and certainty of returns for the capital invested the Nicaragua route for an interoceanic canal, as surveyed by Commander Lull, of the United States Navy, in 1875, offers the greatest advantages, and should therefore receive the unqualified indorsement of our Government and the capitalists of the world."

One reason assigned for preferring the Nicaragua to the Panama route is that the latter would be an experiment in engineering, involving vast expense with doubtful results, while the former involves no problems which have not been already solved.

The report well says:

We see no reason why the philosophy that nature teaches should not be made use of to conquer the obstacles that nature places before us, and we claim that it is better and more reasonable to carry a ship over a summit by means of lift-locks than to build a sea-level cut at an incalculably increased cost, which must necessarily receive the drainage of a country, with an average precipitation of one hundred and twenty-four inches annually.

It is frequently assumed that because a low-tide level canal has been constructed and successfully operated at the Isthmus of Suez, it is also practicable at Panama. The conditions, however, are radically different. At Suez the annual rain-fall is less than four inches; at Panama it is over one hundred and twenty inches. In his report of 1875 on the United States survey of the Panama route, Commander Lull says:

One of the most vitally important questions to be considered in discussing the subject of the construction of a canal across the American Isthmus is that of *drainage*; and, singularly enough, among European writers on the subject scarcely any attention has been given to it. Taking the Suez Canal as a standard for comparison, they almost without exception cling to the idea of a canal without locks—in other words, a cut below the level of the sea. Such a channel would be burdened not only with the discharge of the springs developed in the cut, and whose number and force in a land so saturated with moisture would be beyond comparison with those of any hitherto constructed work, but must also become the ultimate drain of the surface of a very considerable portion of adjacent territory. It would, during the rainy season, if not indeed at all times, be a wild torrent unfit for the passage of ships, and must speedily become filled with bars and other obstructions from the detritus furnished by its own current.

When we remember that the bottom of this canal will be thirty feet below the level of the sea, the statement of Commander Lull will be regarded as far from exaggerated. Aside from the great if not insuperable difficulties in the construction of the Panama Canal the report adopted by the board of trade urges that—

The location of this great work is a factor of vital importance. The Nicaragua Canal would be entitled to the preference of Americans because it would save about eight hundred miles on both oceans between our northwest coast and our eastern seaboard and Europe. But we are considering a canal for the service of all the maritime world, and, discarding our own preferences as Americans, we still recognize the Nicaragua Canal as the *most advantageously situated* for the world's commerce. In the use of wind, nature has given us a motive power too *cheap* and too *efficient* to be discarded. Even in screw steamships of *latest construction* this fact is recognized; all using it as a valuable auxiliary motive-power, and even as aiding in the development of steam-power by furnishing efficient draught for furnaces. For hundreds of miles oceanward from Panama almost unremitting calms prevail. Maury has written that were an earthquake to sever the continent at the Panama isthmus sailing-ships would prefer going around the "Cape of Storms" to essaying a passage through the Gulf of Panama. It is a notable fact that notwithstanding the development of steam-power which has increased its economy fully one-third, sailing-ships have increased in still greater ratio. To them the Panama Canal would be practically useless, and no project unadapted to their use can be entertained by the commercial world, which requires a canal *as much for the ships already constructed* as for those of the future.

The Nicaragua Canal offers no such disadvantage. With its Pacific terminus almost out of the region of tropical calms, it is accessible to sailing-ships with comparatively limited delay, and would be extensively used by them. Iron sailing-ships in passing through it would be cleansed by the action of fresh water, thereby increasing their subsequent speed, and steamships would leave it with boilers filled with fresh water without cost or detention.

In the report a comparison of the two routes is epitomized as follows:

NICARAGUA.

1. Longer canal and lift-locks to attain lake level of 107¾ feet.
2. About half cost of Panama.
3. Passes through a country of great but only slightly developed resources.
4. Fresh water and splendid inland harbor.
5. Materials for construction and maintenance mostly in the country.
6. Accessible to sailing-ships with slight delay.
7. Free from financial claims against the parties constructing it.
8. Route through a country with 53 inches average annual rainfall and, by reason of the lake receiving the drainage, not liable to floods.
9. Lift-locks remotely liable to damage by earthquakes.
10. Two days to pass through.
11. Saving about 800 miles between east and west coast United States ports, and losing about 180 miles to and from South American west coast ports, for steamers. Loss to sailing-ships in latter case little or none.

PANAMA.

1. Short low-tide level cut, with tidal lock at Pacific terminus.
2. About double cost of Nicaragua comparatively.
3. Passes through a country of comparatively no resources.
4. Salt water and no harbors except at the termini.
5. Materials for construction and maintenance mostly to be imported.
6. Inaccessible to sailing-ships without great delay by reason of calms.
7. Required to pay Lieutenant Wyse 10,000,000 francs for concession, and Panama Railroad Company 100,000,000 francs for value of railroad.
8. Route through a country with 124 inches average annual rainfall and liable to very high floods, endangering the canal works thereby.
9. Chagres dam remotely liable to damage by earthquakes and to destruction by floods in rainy season.
10. One day to pass through.
11. Losing about 800 miles between east and west coast United States ports, and saving about 180 miles to steamers to and from South American west coast ports. Gain to sailing-ships in latter case little or none.

It is possible that there are no difficulties in either of these enterprises which will not yield to science, skill, and determination. The commerce of the world, the multiplying wants of advancing civilization demand the completion of this great work, and of all nations ours has the deepest interest in it and can least afford to obstruct it. Such a work, so grand in design, so universal in its benefits, should never be committed to a joint-stock company, with shares to be hawked on the market, the sport of bulls and bears, and subject to secret purchase by great premiers who may desire to obtain control for the countries they represent. The American people will abate no jot or tittle of the Monroe doctrine in its just and true meaning and interpretation.

When that policy was announced it was hoped in the glow of enthusiasm that the peoples on this continent who achieved political independence would at once enter upon a career of prosperity, liberty, and order. The hope has not been realized. Then we were a people of less than ten millions; our seaboard was more than thirty days removed from the nearest European port; our combined exports and imports less than $128,000,000 per year. Now we are in instant and constant communication with every portion of the civilized world; our combined annual imports and exports are $1,200,000,000, and we are fifty millions strong. Our fathers had visions of a great future, but not even the vision of prophecy could reveal the means by which it has been attained. We are strong enough to-day to maintain any policy on this continent which is right. I trust we are great enough not to desire any that is wrong.

There are two methods by which this canal could be constructed, and by one of which it ought to be. Let the great maritime powers of the world agree by international treaty to build it, guarantee its neutrality forever, and make it a free gift to the world's commerce. Why not? Why should not the nations which annually lavish hundreds of millions on armies and navies build one monument to peace, to commemorate the nineteenth century and perpetuate high-water mark in the advancing tide of civilization? If this be impracticable, or the mere vision of what ought to be, there is another way, in which the honor shall be all our own. Let this Government adopt the Nicaraguan route, which is pre-eminently the American, take the necessary preliminary steps to acquire the exclusive right to it, build the canal, own it, make it free to the world in time of peace; in time of war, if such should unfortunately come, we shall be strong enough to maintain the right to it, which we shall indisputably possess.

We ought to rise to the height of the occasion and do this, to repay the debt we owe to history and to the memory of the great admiral who, seeking the nearest passage to the Orient by sailing to the west, reached the New World, in which it is our happiness to live.

I move the reference of the memorial, with the accompanying report, to the Committee on Foreign Relations.

The motion was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

Mr. DAVIS, of West Virginia. I know there is a standing rule which requires the printing of all bills, but I ask that the legislative, executive, and judicial appropriation bill be sent to the printing office and printed at once.

The PRESIDENT *pro tempore*. It will be so ordered. The Clerk will see to that.

The bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof, was read twice by its title, and, on motion of Mr. COCKRELL, referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1681) to provide for funding the eight per cent. improvement certificates of the District of Columbia, reported it, with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane; and granting to said Territory one section of land, in lieu of said thirty-sixth section, for school purposes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. COKE, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 1759) to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheep-Eaters, of the Fort Hall and Lemhi reservations, in Idaho, for the sale of a portion of their lands in said Territory, and for other purposes, and to make the necessary appropriations for carrying out the same; which was read twice by its title.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 1760) to accept and ratify the agreement submitted by the Crow Indians of Montana for the sale of a portion of their reservation in said Territory, and for other purposes, and to make the necessary appropriations for carrying out the same; which was read twice by its title.

Mr. FARLEY. I am directed by the Committee on Post-Offices and

Post-Roads, to whom was referred the bill (S. No. 1020) for the relief of B. F. Rockefellow, to report adversely thereon; and I ask its indefinite postponement.

Mr. TELLER. I introduced a similar bill some time ago and had it referred to the Committee on Claims, with the consent of the chairman of the Committee on Post-Offices and Post-Roads. I thought it was then understood that this bill was to be reported back from that committee and referred to the Committee on Claims. It is not a case for the Post-Office Committee, but the bill went there because at that time I supposed Mr. Rockefellow was indebted to the Government and it was for the settlement of accounts.

The PRESIDENT *pro tempore*. Does the Senator wish the bill to go on the Calendar?

Mr. TELLER. I do not wish it to go on the Calendar. I desire to have it referred to the Committee on Claims.

Mr. FARLEY. If the Senator from Colorado will consent that the bill go on the Calendar he can then raise the point he suggests. This has been the third time that this bill and Senate bill No. 983 have been recommitted to the Committee on Post-Offices and Post-Roads. The committee, at their last meeting, instructed me to make the report which I now make. I understood that the Senator from Colorado had introduced a bill that did not pertain to the matters that are contained in this bill, and that it was referred to a different committee. The Committee on Post-Offices and Post-Roads directed me to report these two bills. The bills can go on the Calendar. I consented more than two months ago to permit the Senator from Colorado to recommit this bill to the Committee on Post-Offices and Post-Roads. A number of additional facts were presented to the committee, which did not convince the committee that it should change its former report. The Senator says he has introduced a bill for this same amount, or something like it, that was referred to the Committee on Claims. Consequently this bill can go to the Calendar and remain there, so far as we are concerned; the Committee on Post-Offices and Post-Roads simply desire to be discharged from the further consideration of the bill.

Mr. TELLER. I do not know that I have any other method of reaching what I desire except to allow the bill to go on the Calendar; but it was distinctly understood, at least I supposed it was, that these bills were to go to the Committee on Claims without an adverse report from the Committee on Post-Offices and Post-Roads. They have no more to do with it than the Committee on Railroads, and the bills went to that committee under a misapprehension from a statement made by the Department that these men were in default; that two of them had not settled their accounts, when in fact they had settled their accounts many months before. Otherwise the bills never would have gone to that committee. The Department reported long after these men had settled their accounts that they had not settled their accounts, and it was in order to settle their accounts that I had the bills referred to the Committee on Post-Offices and Post-Roads. It is for extra clerk hire that they claim they have paid out. There seems to have been an unusual anxiety on the part of one or two members of the Committee on Post-Offices and Post-Roads that this case should not get out of their hands. I have no objection to the bill going on the Calendar.

Mr. GARLAND. I wish to make a suggestion to the Senator with reference to this matter.

Mr. FARLEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 983) for the relief of Horace A. W. Tabor, submitted an adverse report thereon; which was ordered to be printed.

The PRESIDENT *pro tempore*. Does the Senator from Colorado wish this bill to be placed on the Calendar?

Mr. TELLER. Yes, sir. I should like to hear the suggestion the Senator from Arkansas rose to make.

Mr. GARLAND. In reference to the reports made by the Senator from California referred to by the Senator from Colorado, and which he has consented may go on the Calendar, the Senator from Colorado can move at once that they be taken from the Calendar and referred to the Committee on Claims.

Mr. TELLER subsequently said: I ask that Senate bill No. 983 and Senate bill No. 1020, reported from the Committee on Post-Offices and Post-Roads, be taken from the Calendar and referred to the Committee on Claims. I understand from the Senator from Arkansas that it is in order to do that.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none; and it will be so ordered.

Mr. KERNAN, from the Committee on Patents, to whom was referred the petition of the heirs of Daniel Hayward, praying for the extension of a patent for the manufacture of India rubber, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. JOHNSTON. The Committee on Agriculture have directed me to report back with an amendment, and without recommendation, the bill (S. No. 1514) to enable the Commissioner of Agriculture to test the practicability of manufacturing sugar on a large scale from the sorghum or Chinese sugar-cane. I ask that it be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, without recommendation.

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands, reported it with an amendment.

Mr. GARLAND. I am also directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 1541) for the relief of Stephen Powers, to report it without recommendation, and I ask that it be placed on the Calendar.

I wish to state that the committee have had a similar question before them several times at this session and have reported in every instance adversely; but they believe that the case of Mr. Powers has exceptional merits. At the same time they are not willing to report in favor of the bill reversing their action upon other cases during the session. The committee believes that he makes a better showing than others, and they simply report the bill back without any recommendation and ask that it be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. BRUCE. I desire to ask the Senate to consider at this time the bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes.

Mr. COCKRELL. I call for the regular business.

The PRESIDENT *pro tempore*. We are not through with the business of the morning hour.

Mr. BRUCE. I thought we had passed the morning business.

Mr. SAUNDERS. I am directed by the Committee on Indian Affairs, to whom was referred the bill (S. No. 1598) to provide for the allotment of lands in severalty to the United Peorias and the Miamies of the Indian Territory, and for other purposes, to report it with amendments and to ask that the bill and amendments be printed and recommitted to the committee before final action is taken upon the subject.

The PRESIDENT *pro tempore*. The bill will be reprinted with the amendments and recommitted to the Committee on Indian Affairs if there is no objection.

Mr. EATON. I desire that the petition I had the honor to read on Friday be taken up for the purpose of reference—the petition of Davis Hatch.

Mr. COCKRELL. We have not got through with the morning business, and I object until the regular order is gone through with.

Mr. SAUNDERS. I am directed by the Committee on Territories, to whom was recommitted the bill (S. No. 550) to extend the northern boundary of the State of Nebraska, to report it with an amendment, and to ask present action upon the bill.

The PRESIDENT *pro tempore*. Does the Senator report a new bill, or does he report the old bill?

Mr. SAUNDERS. I will state that it is written because of the mislaying by some one of the bill that was prepared with the amendments; but this is the same bill; only the amendment is made separate in a separate paper.

The PRESIDENT *pro tempore*. The Senator does not report it as a new bill?

Mr. SAUNDERS. Not at all.

The PRESIDENT *pro tempore*. It is the old bill?

Mr. SAUNDERS. The old bill with one amendment.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks for the present consideration of the bill.

Mr. COCKRELL. I must object to it. Let it be printed, and then I shall have no objection to its passage. We are not through with the morning business yet. I have some morning business that I wish to present.

Mr. HOAR, from the Committee on Patents, to whom was referred the petition of Martha J. Coston, praying for the passage of a bill permitting her to make application to the Commissioner of Patents for a further extension of a patent for the Coston night-signal, submitted a report thereon, accompanied by a bill (S. No. 1761) for the relief of Martha J. Coston.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis, reported it with amendments.

Mr. BAYARD. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals, to report it with amendments. I ask that it be printed and placed on the Calendar, and I shall endeavor to obtain the attention of the Senate to its favorable consideration to-morrow.

Mr. EATON. Can I call up now the petition to which I referred?

Mr. COCKRELL. I will object to it until we get through with the morning business.

Mr. EATON. This is morning business which was laid over on Friday, and it is a matter of reference to a committee simply. It is morning business.

Mr. VOORHEES. There is no objection, of course, to having the matter of the Senator from Connecticut taken up, but we all know that it will provoke discussion.

The PRESIDENT *pro tempore*. In the opinion of the Chair, until the routine business is through nothing can be taken up except by

unanimous consent. As resolutions (and the matter which the Senator from Connecticut presents is in the nature of a resolution) do not go over from day to day, at least as they are displaced by the Calendar, it requires unanimous consent. If there are no further reports from committees the introduction of bills is next in order.

PUBLIC BUILDING AT PEORIA, ILLINOIS.

Mr. JONES, of Florida. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1629) to provide for the erection of a public building in the city of Peoria, in the State of Illinois, to report it favorably, with an amendment.

Mr. DAVIS, of Illinois. Mr. President, I trouble the Senate but little; that is a unanimous report from the committee; and I should esteem it a favor if the bill could be taken up and acted on now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment reported from the Committee on Public Buildings and Grounds was, in line 2, section 2, after the word "money," to insert "in the Treasury;" so as to make the section read:

That the sum of $100,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be used and expended for the purposes provided in this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 14th instant, approved and signed the following acts and joint resolution:

An act (S. No. 180) for the relief of George V. Hebb;

An act (S. No. 401) for the relief of Peter Meagher;

An act (S. No. 1113) granting a pension to Peter K. Morgan, private in the war of 1812; and

A joint resolution (S. R. No. 73) authorizing the President of the United States to call an international sanitary conference, to meet at Washington, District of Columbia.

REMOVAL OF POLITICAL DISABILITIES.

Mr. McDONALD. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt, to report it without amendment. I ask for the present consideration of the bill. It is a House bill, and the inquiries have all been made and properly explained. The applicant is not indebted to the Government.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HOAR. Is there a petition?

Mr. McDONALD. Yes, sir; the petition accompanies the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

Mr. McDONALD. I am also directed by the Committee on the Judiciary to report back without amendment the bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama. This is also a House bill. This has received the same examination, and it is favorably reported. I ask that it be put on its passage.

Mr. HOAR. Is there a petition?

Mr. McDONALD. There is a petition.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

Mr. McDONALD. I am also directed by the Committee on the Judiciary to report back without amendment the bill (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia. I ask that the bill be put on its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed by a two-thirds vote.

Mr. McDONALD. I am also directed by the Committee on the Judiciary to report back the bill (S. No. 1225) to remove the political disabilities of Jonathan H. Carter, of South Carolina, without amendment, and with a favorable report containing his petition. I ask that this bill also be put on its passage now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SLATER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1762) granting aid to the Occidental and Oriental Railroad and Steamship Company; which was read twice by its title, and referred to the Committee on Railroads.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1763) granting a pension to Frank Kitzmiller; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1764) for the relief of Major Charles C. Cresson; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1765) granting a pension to John P. Platt; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1766) granting a pension to John C. Hargrave; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1767) granting a pension to Sophia Holmes; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 112) relating to the claim of Carlos Butterfield & Co. against the Kingdom of Denmark; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 113) appropriating $14,900 for collecting, preparing, and publishing more frequently the publication by the Department of State of consular and other commercial reports, and for clerical hire in the preparation of the same; which was read twice by its title, and referred to the Committee on Foreign Relations.

AMENDMENTS TO BILLS.

Mr. BAILEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

Mr. McDONALD submitted an amendment intended to be proposed by him to the bill (H. R. No. 6060) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. No. 1456) to amend section 2022 of the Revised Statutes of the United States; which was ordered to lie on the table and be printed.

Mr. MAXEY, Mr. VOORHEES, and Mr. THURMAN submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

HOUR OF MEETING.

Mr. BAILEY. I offer the following resolution:

Resolved, That hereafter the daily hour of meeting shall be eleven o'clock a. m. until otherwise ordered.

Mr. CONKLING. That will lie over, Mr. President.

The PRESIDENT *pro tempore*. The resolution will lie over.

TARE ON FOREIGN SUGARS.

Mr. VANCE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate full information as to the method used by the revenue service in subtracting the tare on foreign sugars imported in boxes and whether the said tare be greater or less than the actual weight of the box, together with the reasons therefor, if such be the case.

MARY AND ANNIE PLUNKETT.

Mr. PLATT. On Friday last, from the Committee on Pensions, I reported adversely upon the bill (S. No. 1531) granting a pension to Mary and Annie Plunkett, and the bill, on my motion, was indefinitely postponed. The parties desire to submit further evidence in relation to it, and I therefore move that the vote by which the bill was indefinitely postponed be reconsidered, and that the bill be recommitted to the Committee on Pensions.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. Shall the bill be recommitted to the Committee on Pensions? The Chair hears no objection, and it is so ordered.

COUNT OF ELECTORAL VOTE.

Mr. MORGAN. I desire to give notice that on Thursday of this

week, at the conclusion of the morning business, I shall ask the Senate to take up and proceed with the consideration of the concurrent resolution proposing to adopt a joint rule for counting the votes of electors of President and Vice-President which I reported on Friday from the Select Committee to take into consideration the state of the law respecting the ascertainment and declaration of the result of the elections of President and Vice-President of the United States.

SOLDIERS' REUNION AT COLUMBUS, OHIO.

Mr. PENDLETON. I desire to ask that the Senate take up House joint resolution No. 283 for present consideration. I think it will occupy the attention of the Senate but a moment. I move to proceed to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers' and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, muskets, and blank cartridges.

The joint resolution was reported from the Committee on Military Affairs with amendments, in line 7, after the word "tents," to insert "and;" in the same line, after the word "muskets," to strike out "and blank cartridges;" in line 8, after the word "spared," to insert "without loss, detriment, or expense to the public service;" and in line 10, after the word "muskets," to insert "to be receipted for by solvent and responsible persons, and;" so as to make the resolution read:

That the Secretary of War be, and is hereby, authorized to send, from some convenient Government arsenal, to be used at the soldiers' and sailors' reunion at Columbus, Ohio, to be held on August 10, 11, and 12, 1880, such artillery, tents, and muskets as can be conveniently spared without loss, detriment, or expense to the public service; said cannon, tents, and muskets to be receipted for by solvent and responsible persons, and to be returned after the holding of the reunion in as like good condition as when received.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution authorizing the Secretary of War to furnish for use at the soldiers' and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, and muskets."

DETAILS OF OFFICERS AS PROFESSORS.

Mr. CAMERON, of Pennsylvania. I move that we proceed to consider Senate joint resolution No. 70, with reference to the appointment of military men as professors at colleges.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 70) to increase the number of officers of the Army allowed to be detailed as professors of military science at colleges and universities, the pending question being on the amendment reported from the Committee on Military Affairs, to strike out all after the resolving clause of the joint resolution and insert:

That for the purpose of promoting knowledge of military science among the young men of the United States the President may, upon the application of any college, university, or other institution of learning incorporated under the laws of any State within the United States, having capacity to educate at the same time not less than one hundred and fifty male students, detail an officer of the Army on the retired list to act as president, superintendent, or professor thereof: *Provided, however*, Such college, university, or other institution of learning incorporated as aforesaid, to which such officer shall be so detailed, shall pay to him monthly during the time he is so detailed and serves as such president, superintendent, or professor thereof, a sum of money equal to the difference between the retired monthly pay of such officer and the monthly pay he would receive if upon the active list of the Army in the grade upon which he is retired: *Provided, also*, That officers of the Army so detailed shall be governed by general rules prescribed from time to time by the President of the United States.

SEC. 2. The Secretary of War is authorized to issue, at his discretion, and under proper regulations to be prescribed by him, out of any small-arms or pieces of field artillery belonging to the Government, and which can be spared for that purpose, such number of the same as may appear to be required for military instruction and practice by the students of any college, university, or other institution of learning aforesaid, to which any officer of the Army may be detailed under this act, for which the officer so detailed shall receipt and account in the manner prescribed by Army regulations when like property is issued for proper purposes. And the Secretary of War shall also require from the proper authorities of such institution in each case a bond in double the value of the property for the care and safe-keeping thereof, and for the return of the same when required.

SEC. 3. All acts or parts of acts authorizing or permitting the detail of officers of the Army on the active list to act as president, superintendent, or professor of any college or university or other institution of learning, and all acts inconsistent with any of the provisions of this act, are hereby repealed.

Mr. MORRILL. I trust this measure will not be pushed this morning. I desire to look at it. I am not sure whether it will not interfere with existing regulations in relation to various colleges, and not having had my attention drawn to it I ask the Senator from Pennsylvania to let it go over until to-morrow morning, to be taken up immediately after the conclusion of the morning business.

Mr. CAMERON, of Pennsylvania. It will lose its place. It has been up before, and I think I can explain it to the Senator.

The PRESIDENT *pro tempore*. The Senator from Vermont moves to postpone the further consideration of the resolution until to-morrow.

The motion was agreed to.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. I understand that the Committee on Appropriations desire to ask the Senate this morning to proceed to the consideration of the Post-Office appropriation bill. I wish, therefore, now to give notice that immediately upon the conclusion of the consideration of that bill I shall ask the Senate to proceed to the consideration of House bill No. 2328, being a bill to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes. There are a large number of persons in the District of Columbia deeply interested in this matter, and it is a measure of importance, not only to those people directly interested but it is of importance to the authorities of the District of Columbia that this bill or some bill on the subject should pass at an early period.

RAILWAY MAIL SERVICE.

Mr. MAXEY. I am instructed by the Committee on Post-Offices and Post-Roads to request the Senate to consider the bill (S. No. 1209) to designate, classify, and fix the salaries of persons in the railway mail service, and I do it now because if this bill passes it will require a modification of the Post-Office appropriation bill, which will immediately come up. It will take but a few minutes to consider it.

The PRESIDENT *pro tempore*. The Senator from Texas moves that the Senate proceed to the consideration of the bill named by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that persons in the railway mail service, known as railway post-office clerks, route agents, local agents, and mail-route messengers, shall, on and after the 1st of July, 1880, be designated as railway postal clerks, and divided into five classes, whose salaries shall not exceed the following rates per annum: first class, $800; second class, $900; third class, $1,000; fourth class, $1,200; and fifth class, $1,400.

The bill was reported from the Committee on Post-Offices and Post-Roads with amendments.

The first amendment was, in line 8, after the word "class," to insert "not exceeding;" so as to read "first class, not exceeding $800."

Mr. DAVIS, of West Virginia. I desire to ask the Senator from Texas whether or not this bill increases the salaries?

Mr. MAXEY. Not a dollar.

Mr. DAVIS, of West Virginia. What is the cause of the bill if it does not increase or change salaries?

Mr. MAXEY. The Senate will observe by looking at page 5 of the post-office appropriation bill that these employés are now called "railway post-office clerks," one class; another class "route agents;" another class "mail-route messengers;" another class "local agents," and another class "mail messengers." These perform like duties, and if the amount appropriated for each one of these classes happens to be exhausted no portion of the appropriation allowed to other employés of the same class can be used.

The purpose of this bill is to arrange them into five classes according to the present salaries and place them in the line of promotion; so that if a man proves himself valuable in the lower class he can be transferred to the next higher, and so on up, and to make that amount of money which is appropriated for that character of service applicable to the entire service. That is the whole of it.

Mr. DAVIS, of West Virginia. I know of nothing now against the promotion of these employés if the Postmaster-General thinks it proper.

Mr. MAXEY. But there is a great deal of trouble now. A railway post-office clerk gets a certain salary, a route agent gets a certain lower salary; if a route agent performs the duty of a railway post-office clerk, as he often does, he does not get the salary of the latter. This produces discontent. The bill has been carefully considered, and it is at the request of the Post-Office Committee that I request the consideration of the bill with a view to having the money which is appropriated for railway post-office clerks to be used for that service.

Mr. DAVIS, of West Virginia. There has been an effort on the part of the Committee on Appropriations, as well as on the part of the Senate and House, for several years to try as far as possible to report detailed appropriations, and not lump appropriations, not throw them into a bunch. On that motion, you might, if you thought it best to do so, just appropriate so many million dollars for the use of the Post-Office Department and let the Postmaster-General use it.

Mr. MAXEY. I do not want to detain the Senate by reading the report, but the report explains the whole matter; and by reference to the report of the Postmaster-General it will be seen that he has recommended this as the best course, and the Committee on Post-Offices and Post-Roads, who ought to know something about it, after the most mature consideration and amending the bill as they thought right, have recommended its passage.

Mr. DAVIS, of West Virginia. Nevertheless, as I understand from the chairman of the Committee on Post-Offices and Post-Roads, this makes a lump appropriation for all route agents and mail agents. It will be noticed in the appropriation bill that the items are separate, and that has worked well. I do not speak of this particular item; but that the practice of specific appropriations has worked well through all the Departments. There has been a studied effort and one that I think has been of advantage to the Departments of late, to separate as far as possible the different services and not lump them together.

Mr. MAXEY. I have stated what appears to be the reason; that is, that all this money is appropriated for a specific purpose; you may call it route agent, railway postal clerks, or what not; it is for railway mail service. That is all. If you put in too much for one of these five branches and not enough for another, you cannot now transfer from one to the other although it is all not for different services but for the same service. The object of the committee was to place it so that that work shall run smoothly. We may not understand it as well as the Committee on Appropriations, but this is our judgment.

Mr. DAVIS, of West Virginia. The Senator takes a wrong view of it. While the Post-Office Committee know a great deal, of course they do not know everything. I suppose a Senator has a right to make an inquiry and know what is being done, especially when it affects the appropriations of the Government, and largely as in this very instance. There are three or four million dollars, I believe, affected by this one bill. It lumps three or four millions instead of having the items separated, as has been the case in the House and in the Senate, appropriating what is necessary for each branch of the service. I think it had better remain so, notwithstanding the Committee on Post-Offices and Post-Roads think differently. Of course they have a right to know as much about what they are doing as any other committee; nevertheless this matter comes especially before the Appropriations Committee. The same argument would require that the whole of the legislative bill, the whole of the Post-Office bill, should be in a lump sum.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the Chair must call up the regular order, which is the resolutions relative to the seat of the sitting Senator from Louisiana, [Mr. KELLOGG.]

Mr. DAVIS, of West Virginia. Just one word by unanimous consent. The Senator from Texas says in his seat that my object is accomplished. I do not know what that object was except for the general good. If he has any other meaning by that, I think he is wrong.

Mr. FERRY. I hope the time will be extended in order to pass this bill.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. WALLACE. I move to postpone the pending and all other orders for the purpose of taking up the Post-Office appropriation bill.

The PRESIDENT *pro tempore*. That motion seems to be in the nature of an objection.

Mr. FERRY. Does the Senator from Pennsylvania object to the passage of this bill?

Mr. WALLACE. I want to go on with the Post-Office appropriation bill.

SENATOR FROM LOUISIANA.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. MORRILL. Does that include the Louisiana election case?

Mr. SAULSBURY. Mr. President——

Mr. WALLACE. I yield to the Senator from Delaware.

Mr. SAULSBURY. I desire to take the floor on the regular order so that I may be able to submit some remarks after the post-office appropriation bill is passed upon.

The PRESIDENT *pro tempore*. The Chair will recognize the Senator from Delaware.

Mr. WALLACE. I now insist on my motion.

Mr. CONKLING. The Senator from Pennsylvania moves, if I understand him aright, to postpone the present and all prior orders. Is that right?

Mr. WALLACE. Yes, sir; temporarily.

Mr. CONKLING. That is not what the Senator said at all, nor could he make such a motion.

Mr. WALLACE. Very well; to postpone the present consideration.

Mr. CONKLING. If the Senator from Pennsylvania will ask unanimous consent to lay aside informally, subject to call, the regular order, I do not think I shall object to it. That is not the subject of a motion; it cannot be done by a motion at all. The Senator's motion was to postpone the pending and all prior orders, and I rose to attract attention to that. Now if the Senator will ask unanimous consent to lay aside informally, subject to call, and not to be affected by any adjournment or adjournments, the regular order, I will not object for one.

Mr. WALLACE. I had no intention to postpone or to lay aside the regular order. I have no intention to obstruct the consideration of the regular order; I simply desire to get up the Post-Office appropriation bill and pass it, and then, I understand, the other order will have preference in the business of the Senate.

The PRESIDENT *pro tempore*. The Senator from New York has correctly stated that it cannot be done by a motion to lay aside informally; it can be done by unanimous consent.

Mr. WALLACE. I ask that.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent that the pending order be laid aside informally, not to be prejudiced by any adjournment or adjournments, in order that he may move that the Senate proceed to the consideration of the Post-Office appropriation bill. Is there objection? The Chair hears none, and the suggestion is agreed to.

The Senator from Pennsylvania now moves that the Senate proceed to the consideration of the Post-Office appropriation bill. Is there objection? The Chair hears none.

POST-OFFICE APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes.

The Secretary proceeded to read the bill. Having read lines 53 to 56 in the following words:

For the purchase of card-canceling and post-marking machines, $6,000; and the proper officers of the Post-Office Department may purchase such machines as in their judgment may best answer the purpose,

Mr. KIRKWOOD. I desire to offer an amendment at that point, but wish to consult the committee whether it is better to do it after the bill has been gone through with, or now.

Mr. WALLACE. We are reading the bill now without amendment. I trust the Senate will allow the reading to go through.

Mr. KIRKWOOD. Very well.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The amendment will be in order hereafter.

Mr. WALLACE. Mr. President, it is perhaps necessary that I should explain this bill. I shall do so as briefly and as concisely as possible.

The total amount appropriated by the bill before the Senate as amended by the Committee on Appropriations is $39,268,420. The amount of the bill as it passed the House was $38,768,420. The total amount of the appropriations for the fiscal year ending June 30, 1880, was $37,736,400. This included the additional appropriations for letter-carriers, which was in a separate act, $415,000, $1,100,000 appropriated by the star-route deficiency bill, and $100,000 appropriated by the same bill for new service therein, making the total, as I have already stated, $37,736,400. The amount of the regular estimates submitted by the Post-Office Department for the service for the coming fiscal year was $39,921,900, and additional estimates were submitted amounting to $53,020, making the total estimates for 1881, $39,974,920.

The bill as reported by the Committee on Appropriations of the Senate is, therefore, $706,500 less than the sum estimated for by the Post-Office Department, and it is $1,532,020 more than the appropriations made for postal service for the fiscal year 1880. The increase of the bill by the Senate Committee on Appropriations over the bill as it came from the House is $500,000. This amount is made up as follows: For inland mail transportation by railroads, $350,000; for inland mail transportation by steamboat routes, $50,000; for mail messengers, $25,000; for mail locks and keys, $75,000; making the total increase $500,000; all of which additional items were asked for and insisted upon by the Post-Office Department.

The differences between the bill as reported to the Senate from the Committee on Appropriations and the bill passed for 1880 are as follows:

From the appropriations for 1880.

Object.	Increase.	Reduction.
For advertising		$25,000
New edition of laws and regulations of Post-Office Department		20,000
Compensation of postmasters		50,000
Miscellaneous items, Office First Assistant Postmaster-General		5,000
New service as authorized by law, (deficiency)		100,000
Stamped envelopes and newspaper wrappers		45,980
Transportation of foreign mails		35,000
Post-route maps	$7,000	
Compensation for clerks in post-offices	50,000	
Compensation for letter-carriers	85,000	
Wrapping-twine	5,000	
Marking and rating stamps	1,500	
Purchase of card-canceling machines, (new item)	6,000	
Letter balances, scales, &c	4,500	
Transportation by postal cars	116,000	
Transportation by railroads	690,000	
Transportation by star routes	375,000	
Railway post-office clerks	100,000	
Route agents	100,000	
Mail-route messengers	25,000	
Local agents	15,000	
Mail messengers	50,000	
Mail-locks and keys	85,000	
Manufacture of postage-stamps, &c	5,000	
Manufacture of postal cards	37,000	
Registered-package envelopes, locks, seals, &c	55,000	
Ordinary postage-stamps under postal union convention	1,000	
Total	1,813,000	280,980
	280,980	
Net increase of bill as reported over appropriations for 1881	1,532,020	

The sources of revenue from which this money is to be paid are estimated by the Post-Office Department at $35,210,000 for the next fiscal year, and the deficiency in the postal revenues as per estimates is $4,764,920. The deficiency in the postal revenues appropriated for by this bill as reported to the Senate is $4,058,420. This is less than

has been appropriated out of other revenues in any year for several years back. The amount appropriated to supply deficiencies in the postal revenues last year was $5,457,376.10, and in the year previous $4,222,274.72. The revenues of the Post-Office Department are increasing *pari passu* with the increase of the expenditures of the Department. The revenues for the fiscal year 1877 were $27,531,585.26. The revenues for the fiscal year 1878 were $29,277,516.95. The revenues for the fiscal year 1879 were $30,041,982.86. The estimated revenues of the Post-Office Department for the current fiscal year, 1880, are $33,000,000. The estimated revenues of the Post-Office Department for the coming fiscal year, 1881, are $35,000,000. By this bill we have estimated them at $35,210,000.

The first amendment made by the committee to this bill is a mere verbal one in line 18, page 2, where we strike out the words "inspectors of mails," and insert the words "post-office inspectors," in order to make the correction correspond with the succeeding part of the section.

The PRESIDING OFFICER, (Mr. EATON in the chair.) Will the Senator have the amendments acted on now?

Mr. WALLACE. Not at present. I will go through with them in detail first. There is in this bill as it came from the House a provision on page 4 which is at first sight somewhat obscure. It repeals section 5 of the bill of last year. Section 5 of the bill of last year provided that—

> The Postmaster-General *shall* deduct from the pay of the railroad companies, for every failure to deliver a mail within its schedule time, not less than one-half of the price of the trip, &c.

There was a compulsory duty placed upon the Postmaster-General to fine the railway companies for non-delivery of mails. He already possessed the power to do it; he could do it, but this made it compulsory upon him. The House has repealed this compulsory provision and has left the law to stand as it was before. He may impose, but is not compelled to do so. The bill imposes a fine upon any railway company which refuses to provide railway post-office cars when required by the Post-Office Department. In case of such refusal or failure the company so refusing or failing is to have its pay reduced 10 per cent. All other cases of fine are left to stand as they were before section 5 of the bill of 1880 was passed.

The next provision in the bill that calls for attention is in the same section, by which the committee has increased the amount appropriated by the House from $9,490,000 to $9,840,000 for railroad transportation. The Post-Office Department claimed that there would be a deficiency made unless this amount was given, and the committee were unanimous in giving to the service this addition of $350,000. As the bill stands, it is still $160,000 less than the amount estimated for by the Post-Office Department.

In lines 93 and 94 of the bill, the committee propose an increase of $50,000 for transportation by steamboat routes. The amendment increases the amount from $850,000 to $900,000. This is the amount estimated for and earnestly asked for by the Department. The committee unanimously recommend granting the additional $50,000.

The next alteration of the bill is in striking out the proviso from line 96 down to and including line 105. This is the proviso in regard to the reletting of the star routes, namely:

> All star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of October, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, or June 30, 1880, shall exceed 50 per cent. of the contract price before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced.

The committee have struck out of the bill this proviso. Their reasons for doing so are as follows: In the first place the proviso itself on its face is unintelligible. It is difficult to understand what it means. The first clause in this double proviso, clearly implies that the service as it stands to-day by increased trips and increased speed upon the star routes shall continue and the routes shall be relet upon that basis; but the second proviso seems to imply that that shall not be the case, but that speed and increase of trips shall be reduced and thus there are two contradictory provisos hitched together. The Post-Office Department say in their construction of this proviso that they will hold it to mean that all the service is to be relet upon the basis upon which it is now conducted. If that be so, your committee think we will have great difficulty in adjusting matters. The effect of the second proviso, in the view of the committee, is to negative or contradict the plain meaning of the first proviso, and thus to make the two unintelligible.

The committee holds that the effect of this proviso would be to strike down this service west of the Mississippi upon at least seventy of the one hundred and seven routes, and they thought that was both improvident and unwise—for when service was once given it would be regarded by the people supplied as a great hardship to take it away. Upon this subject the committee heard the Postmaster-General and his officials, and obtained their views in writing, and the following letter was submitted to the committee, which I ask the Secretary to read.

The Secretary read as follows:

> POST-OFFICE DEPARTMENT,
> OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
> *Washington, D. C., May 12, 1880.*
>
> SIR: In compliance with your request of yesterday, I desire to say that the House provision requiring the reletting of the expedited routes is construed to be an indorsement of the service now in existence upon those routes both as regards number of trips and speed. If relet under that provision they would be relet as now existing. The question at issue seems to be the amount now paid for this service. It would seem that the House considered it extravagant. I affirm that it is not, and that the question of expense has not been investigated by the House committee having the matter in charge. And I believe that the result of this provision, if adopted, will increase rather than diminish expenses and be disastrous to the postal service in the Western States and Territories. It is not probable, for instance, that any reliable contractor will undertake to stock the long route from Fort Worth to Yuma and carry the mails thereon for the short term of one year and eight months for the same rate of pay given under existing contract. The same fact may safely be affirmed of each and every important route affected by this provision.
>
> I believe the reletting of this service in the manner indicated would be disastrous to the postal service. Almost all the routes affected by this provision are long and expensive ones to operate, and to relet them commencing at the beginning of winter would almost certainly insure irregular and inefficient service if not an absolute breakdown thereof. While at present upon all these routes the service is efficiently and promptly performed and is a great credit to the Government as well as thoroughly satisfactory to the people, the new service commenced under the extraordinary circumstances of the peremptory annulment of old contracts by act of Congress could not and would not be nearly so efficient as the present service; for who would enter upon the performance of this service, expending large sums of money thereon, with the dread of another annulment hanging over his head? The old contractor certainly would not, and new contractors to do it would certainly have the organ of faith miraculously developed.
>
> In addition to all this must be taken into consideration the rights of contractors. That the Department had the right to make these contracts and build up the service thereon there is no doubt. That the contractors have honestly sought to perform the service desired by the Department is shown by the records thereof; that they are extravagantly paid for the service performed is emphatically denied. The service is absolutely cheap as compared with prices hitherto paid for similar service. To summarily annul contracts thus lawfully entered into would be a gross injustice; and besides, if the contractor should refuse to accept the one month's extra pay to which he would undoubtedly be entitled, he would unquestionably have an equitable, and I believe a legal, claim against the Government for damages. The measure of damages in each case would be the actual loss entailed, and this would probably far exceed the amount that would be saved by a reletting under the most favorable conditions.
>
> Very respectfully, &c.,
>
> THOS. J. BRADY,
> *Second Assistant Postmaster-General.*
>
> Hon. W. A. WALLACE,
> *Chairman Sub-Committee on Appropriations, United States Senate.*

Mr. WALLACE. These contracts were let for four years. Nearly all of them have run from eighteen months to two years. By this proviso there will be but about eighteen months of each of them to run from the time at which they are provided to be relet. All of these contracts on which the service has been expedited to an amount exceeding 50 per cent. of the original contract are annulled by this proviso. Congress by this enactment assumes the power to annul seventy contracts made for the four years after nearly one-half of the term of each of them has expired, and after much work has been done and large sums of money expended by the contractors on the faith of their contracts thus entered into with the Government. The first question that presented itself to the committee was, Can we do this; have we a right to do it? The contract, of course, has to be consulted in settling this question. The contract provides as follows:

> And it is hereby further stipulated and agreed by the said contractor and his sureties that the Postmaster-General may annul the contract for repeated failures; for violating the postal laws; for disobeying the instructions of the Post-Office Department; for refusing to discharge a carrier when required by the Department; for transmitting commercial intelligence or matter which should go by mail, contrary to the stipulations herein; for transporting persons so engaged as aforesaid; whenever the contractor shall become a postmaster, assistant postmaster, or a member of Congress; and whenever, in the opinion of the Postmaster-General, the service cannot be safely continued, the revenues collected, or the laws maintained on the road or roads herein.

For any of these causes the right to annul the contract is vested in the Postmaster-General; but the contract contains no provision for forfeiture of the contract by act of Congress, and in the absence of positive proof of one of the causes found in section 3950 of the Revised Statutes it seemed to your committee that the power to annul these contracts could not exist without giving the contractor a claim for damages against the Government. Of course, if fraud, collusion, or bribery were shown, the right to annul the contract would exist at once, and Congress could well carry it out; but even in such case some proof of the fact should be found and produced before we should with strong hand annul the contract.

Then the question of damages presented itself to the committee as one of grave moment. In the contract there is a provision that the Postmaster-General may annul the contract for any of the causes named therein, and the damages resulting therefrom are fixed and ascertained at one month's pay under the contract. That sum would thus be ascertained, and if the contractor acquiesced and acceded to the forfeiture of the contract by the statute and accepted his one month's pay that would be an end of the question of damages. But if the contractor refused to accept one month's pay in lieu of damages, would there not be a right in the contractor to recover in the Court of Claims against the Government for the damages accruing to him from our action? Your committee came to the conclusion that such right to recover would exist, and this controlled our action.

But suppose they all accepted the one month's pay as liquidated damages, the total amount that this bill would give to these contractors for forfeiting their contracts would be as ascertained damages $267,000, add to which the advertising, $10,000 more, and we have a total of $277,000 damages to pay. If this was accepted, it would probably be all that we would hear of the matter; but suppose some of the largest of these contractors should decline to accept the month's pay, then there would be the right to recover against the Government or else

we have by force of our sovereignty wrested these men's rights from them without justification or hearing. It is either damages in large amounts, or a grievous wrong to a citizen who is not shown to have committed a fraud.

The opinion of Mr. Attorney-General Taft was produced to the committee as bearing on this subject, and I ask the Secretary to read it. I send it to the desk.

The Secretary read as follows:

DEPARTMENT OF JUSTICE,
Washington, D. C., December 21, 1876.

SIR: A reply to yours of October 25, 1876, has been delayed by the pressure of litigated cases requiring constant and instant attention. You inquire whether or not the act of July 12, 1876, which directed the Postmaster-General to make a 10 per cent. reduction of the compensation of all railroad companies for carrying the mails, applies to these corporations with which the Postmaster-General had made contracts for a term of years not yet elapsed.

In my opinion Congress did not intend it to have this effect. The contracts, of which that with the Chicago and Northwestern Railway Company submitted by you for inspection is a sample, were authorized by the law in force at the dates of their execution. They bound both parties. A breach of them by either would subject the delinquent to a claim for damages. The act of July 12, 1876, was apparently passed with a view to reduce the public expenses, but it would not have this effect if an equivalent to the reduction of pay, recoverable under the name of damages, with perhaps the expenses of litigation added. Therefore I conclude that the construction most consistent with justice and fair dealing is the true one, viz: that as to existing contracts the rate remains as stipulated in the agreement during the time mentioned, but that in those cases where no contract prevented the reduction should be made. The Postmaster-General was directed to so reduce the compensation in every instance where he was at liberty with previously existing laws and contracts and upon any renewals of written agreement as from time to time their terms expired. Every law is presumed to be prospective in its operation unless the contrary clearly appears; and thus only can the act of July 12, 1876, be made to operate prospectively in the legal meaning of that word.

Very respectfully, your obedient servant,

ALPHONSO TAFT,
Attorney-General.

Mr. WALLACE. This is the ground on which the committee acted in striking out this proviso. It is cheaper in the opinion of the committee to allow the contracts to be completed than to run the risk of payment of large damages or incur the disgrace of oppressing innocent contractors, to strike a possibly guilty official.

The next change in the bill is found on page 6. Twenty-five thousand dollars are added to the appropriation for mail-messengers. The House voted $700,000. The estimate was $725,000, and your committee gave the estimated amount by the Post-Office Department.

The next amendment is in line 118. The estimate by the Post-Office Department was $150,000 for mail locks and keys. The appropriation by the House is $25,000. Your committee have appropriated $100,000. This is to allow the Postmaster-General in his discretion to change the character of the locks that are now in use in the postal service. It is said by those who are experts on this subject that the life of a lock is about ten years, and that it is necessary to renew the locks that secure the mails once in about that time. That period has now nearly come in the use of the present lock, and this appropriation being urgently recommended by the Post-Office Department, your committee has increased the sum to $100,000.

There is a proviso, beginning in line 155, as follows:

Provided, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mails as he may deem just.

That is stricken out by the committee. I shall allow my colleague from California, [Mr. BOOTH,] when we come to that subject, to explain it.

The only remaining change in the bill is upon page 8, the amendment to section 2, which changes the total of the amount appropriated out of other revenues than those of the Post-Office Department, in order to pay what the revenues of the Post-Office Department will not meet. This was consequent, of course, upon the alterations made in the bill.

I can say, I think, to the Senate and to the country that the condition of the service is such that it is becoming daily more and more self-sustaining, and that the amount necessary to be appropriated out of other revenues than those of the Post-Office Department is decreasing; that for the present fiscal year and the coming fiscal year a large increase in the revenue is accruing, and we are entirely safe in making an appropriation to this Department such as will aid the business of every part of the country, and will carry on the Post-Office Department properly and freely without having either an extravagant or an unwise expenditure of the money of the people.

I ask now that the amendments of the committee be read, one by one.

The PRESIDING OFFICER. The amendments of the Committee on Appropriations will be read in their order.

The Secretary read the first amendment of the Committee on Appropriations, which was, in section 1, line 18, to strike out "inspectors of mails" and insert "post-office inspectors;" so as to make the clause read:

And the superintendent of railway mail service and the chief of post-office inspectors shall be paid their actual expenses while traveling on the business of the Department.

The amendment was agreed to.

The next amendment was, in line 67, to increase the appropriation "for transportation on railroad routes" from $9,490,000 to $9,840,000.

The amendment was agreed to.

The next amendment was, in line 93, to increase the appropriation "for inland transportation by steamboat routes" from $850,000 to $900,000.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 96, to strike out the following proviso:

Provided, That all star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of October, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, or June 30, 1880, shall exceed 50 per cent. of the contract price before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced.

Mr. BECK. Mr. President, before the vote is taken on striking out I desire to perfect the text by adding at the end of line 105 the following words:

And provided further, That there shall be no decrease in the present number of trips nor in the expedition now existing on any of the routes above referred to in the reletting herein provided for.

Mr. GARLAND. I submit that that amendment is not now in order.

Mr. BECK. It is in order to perfect the text before a motion to strike out is acted upon.

Mr. GARLAND. It seems to me the amendments of the committee must first be voted on.

Mr. BECK. I think it is in order to do this now.

The PRESIDING OFFICER. The Chair is of opinion that if the original text is to be amended the time to amend it is now, and not after it is stricken out.

Mr. GARLAND. But this does not amend the original text; for if that does not stay there is no place for the amendment of the Senator from Kentucky to rest. The question is whether this clause shall stay out or not; it is out now.

Mr. BECK. No; it is not out now. The committee have recommended that the proviso be stricken out, but the Senate have not yet agreed to the suggestion of the committee.

Mr. GARLAND. I have no objection to the amendment.

The PRESIDING OFFICER. The Chair thinks the amendment of the committee has not yet been made; the original text is still before the Senate; and therefore the amendment of the Senator from Kentucky is in order.

Mr. GARLAND. I have no objection to it.

Mr. BECK. Mr. President, I am not disposed to occupy the time of the Senate in discussing this matter. Perhaps I occupied too much time some weeks since, when the question was up in the star-route deficiency bill. In reading over the provision made by the House in these words—

Provided, That all star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of October, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, or June 30, 1880, shall exceed 50 per cent. of the contract price before such expedition—

I was not able to say whether it meant to retain the present number of trips and the expedition now existing or not. The language in the bill as it came from the House seemed to me so obscure that I was unable to ascertain the meaning of it; and being unwilling to punish the people of the country for any irregularity that may have been had between the Post-Office Department and the contractors, I desired to make it emphatic by saying that, right or wrong, the present number of trips and the expedition now existing should be maintained in any reletting that may be had. And yet it is well known that I differed with the majority of the committee in their conclusion that many of these star routes ought to be maintained or that the contracts given to these contractors ought to be sustained by Congress. Take the case that I gave the other day somewhat in detail of the route from Prescott to Santa Fé, where the route was let to a man by the name of McDonough for $13,313, and there were to be three trips a week. The length of the route was stated at four hundred and sixty miles. I believe I can make myself clearer by reading the statement I made before, rather than by a new statement, and I will read what I said before:

Mr. McDonough sublet the route to a man by the name of John A. Walsh, now a banker in the city of Washington. Mr. Walsh so managed that route as subcontractor, so failed to deliver his mail after there had been $74,000 added for additional trips, that the Post-Office Department declared McDonough a failing contractor. They said they could not deal with the sub-contractor, although the subcontractor was the man who caused the failure, was the man who failed to deliver the mail, the man who had the sole charge of the business. Walsh was the subcontractor; yet McDonough was declared to be a failing contractor. Walsh was not held responsible. What happened?

The Department struck down the pay from $74,000 to $13,313 and said to the sureties of McDonough, "If you want to take this route again at $13,313 you can have it." The Department had said the necessity of the service required it to be increased until they paid $74,000; but the moment McDonough was declared a failing contractor, although the necessities of the service required $74,000 to be paid, they struck it down to $13,313 and said to the sureties of McDonough, "You can take it at that." These men had no facilities; they had no horses, no stages, or other material on hand, and they could not take it. What, then, did the Department do? They let it at once to Mr. Walsh for $18,500, being just below the next lowest bidder to McDonough. Recollect Walsh was the man who caused the failure of the service. What did they do then? As soon as he got it they declared that the route had to be expedited, and they added $64,000 to the $74,000, and they paid him $136,975 a year for the route that McDonough undertook to run for $13,313, and that he, as a sub-contractor, broke down on in order to get it at a higher rate, and then he had it increased to $136,975 a year, which he now gets. How was that done? Mr. Brady is the witness.

Then I read what he said about Walsh; he knew he was in New Orleans charged with being a fraudulent distiller, and on his testi-

mony all these things were done. Walsh was called as a witness before the committee of the House and this question put to him, with the following answer:

Question. As it seems that your affidavit was all the basis the Department ever had upon which to predicate the increase to $136,000, why didn't you go on and make the sum $200,000? Didn't that seem just as easy as to make it $136,000?

Answer. The trouble with me all along has been that I have dealt on a per cent. all my life; if I had been in the mail service for some years I think the service on that route would have been at that figure. I think that you would be investigating me now with that route at $200,000.

He had not been there long enough; he had not learned the ropes. Now, while I believe that the men having these contracts generally would, perhaps, be entitled to carry the mails, while I believe there is perhaps no economy in the action taken by the House, that thing and others of that sort are of such a flagrant character that, while I would not deprive the people of the routes they now have and of the expedition now granted them, I would relet such service as that, even if I lost money by doing it. I would not let things of that sort pass without notice. That route runs mostly through the Indian country, where there is no increase of post-offices, as I showed before, and hardly any increase of business; and yet from $13,313 it is brought to $136,000, and the complaint of the contractor is that he is sorry he did not know more about it or he would have had it up to $200,000. Wherever a case of that sort occurs, the mere question of money does not enter into the calculation with me so much as a desire to show the Department and to show the men contracting with the Department that when flagrant outrages, such as this seems to be, are committed we will set them aside, we will pay whatever damages are necessary to set them aside, we will relet the service fairly, but we will not punish the people because of the dereliction of officials and contractors. The House evidently intended to accomplish some such result as that, and I am not prepared to strike out all that they have done.

I know I am apt to speak too long and to say more than I ought. I have gone over this whole subject before. I desire to perfect the text as I have proposed; and then if the proviso is not stricken out the people will not be punished.

Mr. KIRKWOOD. Mr. President, as I am compelled to leave the Chamber in a short time, before I go I desire to say a few words on this question. I have tried to understand it, and possibly do, but perhaps I do not.

There are two classes of increase of postal service on star routes. One is where you increase the number of trips. For instance, the present service is once a week between two points; and you increase that to twice a week, or thrice a week. The rule is now and always has been, as I understand, in such cases that if you double the number of trips you double the price for carrying the mail. If you pay $100 for a trip once a week and order a trip twice a week, you pay $200 for the new service; that is, where there is no increase in the speed at which the mail is to be carried.

But in addition to that mode of increasing the service there is another mode by which you increase the speed of carriage as well as the number of trips, and the rule by which it has been done has, I think, run back to that time to which the memory of man knoweth not to the contrary. What is that rule? It may not be a good rule, but it has been the rule for years. If you are carrying the mail from A to B, over a route one hundred miles long or five hundred miles long in one week, taking a week to make the trip, and you expedite it so as to carry it instead of in one week in one day, it follows necessarily that you must have a much larger number of horses and men and vehicles to carry it in one day than you would to carry it in one week. If you carry it in one week a single pair of horses, a single wagon, and a single driver may be able to do the whole work. If instead of doing it in one week you do it in one day you must multiply largely the number of men, you must multiply largely the number of horses, you must multiply largely the number of vehicles with which it is done.

The rule, whether a good one or a bad one I will not say, but the rule which has been brought to our attention heretofore and which we have not seen fit to change heretofore is this: The Department ascertains as well as it may be ascertained how many more men, how many more horses, how many more vehicles are required to make the expedited trip than to make the slow trip, and just in proportion as you increase the number of horses and men and vehicles you increase the compensation. That is the rule. If the compensation is $100 for a trip once a week and you increase it to a trip every day, and it takes ten times as many horses, ten times as many men, and ten times as many vehicles to do the work, then you pay ten times as much for it. That is the rule; not a rule originating during the present administration of the Post-Office Department, but existing long before, and under that rule this expedited carriage of our mails has been done for years. It is under that rule that these increases of which the Senator from Kentucky complains have been made.

Mr. President, the Post-Office Department has called this subject to the attention of Congress again and again and asked Congress to do something to change that condition of affairs, so that they might have some better opportunity of protecting the Government than they have had, and Congress has not done it.

Mr. WALLACE. I beg the Senator's pardon. We provided in the Post-Office deficiency bill a provision of law by which they cannot expedite more than 50 per cent.

Mr. KIRKWOOD. We passed that here during the present session.

Mr. WALLACE. The provision is as follows:

Provided, That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let.

Mr. KIRKWOOD. Passed when?

Mr. WALLACE. During this session.

Mr. KIRKWOOD. Exactly so.

Mr. WALLACE. It relates to the future.

Mr. KIRKWOOD. Exactly so; but the mischief which gentlemen complain of has been done; and we go to work and do what? We provide a condition of affairs under which the star service in the West cannot be done. That is the trouble.

Mr. DAVIS, of West Virginia. Will the Senator tell us why it cannot be done?

Mr. KIRKWOOD. Because there is so much of it that cannot be done under the limitation.

Mr. DAVIS, of West Virginia. Does the Senator think 50 per cent. increase after a contract is not enough?

Mr. KIRKWOOD. I do. Suppose I have a contract for carrying the mail, as I have been trying to state to the Senate some time; I have a contract for carrying the mail two hundred miles in forty-eight hours, or seventy-two hours, or a week, so that I can start at one end of the trip with my horse and wagon and go through with the same team all the way and come back with the same team all the way. I have that route at a certain price; and then the carriage of that mail is expedited, so that instead of going through with one team I have to take five teams or six teams or ten teams to get through, and take ten men to drive them and take ten carriages to carry the mail; can I do that for 50 per cent. more than I could the one trip a week?

Mr. DAVIS, of West Virginia. Then the Senator would not undertake it, and he would be careful how he bid originally if he knew that he could get but the 50 per cent., and probably there would not be bids made at a thousand dollars and after a while increased to $20,000 or $300,000 for doing what he bid to do at a thousand dollars. It may stop something of that kind.

Mr. KIRKWOOD. If the compensation I took for doing the single trip with the single team was sufficient I was right in taking it, but when you expedite it so that the contractor has to double or quadruple or quintuple or make ten times as great the means with which the work is to be done as compared with what was required when a single trip was made, then you must increase the pay more than 50 per cent. or you cannot get the work done on the expedited route. What has the Post-Office Department wanted us to do again and again, sent to us in its reports and appealed to us to do? It has said: "Give us the right to advertise for these contracts when expedited work is to be done; let us have the privilege of advertising, so that when the expedited work is to be done which the necessities of the West require to be done we can advertise to have it done anew; not go to work and make your expedited contracts, and when you have made them set them aside and readvertise, but before you expedite give us the privilege of advertising for having the expedited work done, and then we can get it done on fair terms." That is the condition in which the matter stands before the country to-day. You will find in the reports of the Post-Office Department again and again that they have asked you to do this thing; they have sent to you draughts of bills to be passed by you authorizing this thing to be done, but you have not done it, and that not being done, because the Department has given to the western country the facilities for carrying its mails which it ought to have, you come in now and blame, not yourselves, but the Post-Office Department for it.

Mr. BECK. Before the Senator sits down—I believe he is a member of the Post-Office Committee—let me ask if those communications of the Post-Office Department were addressed to the committee of which he is a member?

Mr. KIRKWOOD. I beg pardon. They were addressed to the Congress of the United States. They were in the regular report of the Postmaster-General to the Congress of the United States.

Mr. BECK. And referred, of course, to the committee of which the Senator from Iowa is a member, and whatever changes in legislation are to be had must be had upon laws framed by that committee, so as to avoid the abuses of which he says the Department complains, but the Senator from Iowa——

Mr. KIRKWOOD. One word there. If the responsibility rests on the Post-Office Committee, they ought to meet it, and ought not to endeavor to throw it on the Post-Office Department.

Mr. BECK. The difficulty is this: The Senator from Iowa will observe that section 3960 of the Revised Statutes providing for increase of trips declares:

SEC. 3960. Compensation for additional service in carrying the mail shall not be in excess of the exact proportion which the original compensation bears to the original service; and when any such additional service is ordered, the sum to be allowed therefor shall be expressed in the order and entered upon the books of the Department; and no compensation shall be paid for any additional regular service rendered before the issuing of such order.

And section 3961 provides:

No extra allowance shall be made for any increase of expedition in carrying the mail unless thereby the employment of additional stock and carriers is made necessary, and in such case the additional compensation shall bear no greater proportion to the additional stock and carriers necessarily employed than the compensation in the original contract bears to the stock and carriers necessarily employed in its execution.

Each of those sections provides, not that the Postmaster-General shall in all cases give compensation up to the point of the increase of stock and men, not that he shall pay for the increase of trips the last dollar that was paid for the first trip when let, because roads may have been constructed, bridges built, stations established, wells dug, all the cost of establishing a route made in the first instance, and yet in no solitary instance has this Department failed to double up, not only regardless of all these things, but it has taken it upon the simple affidavit of the contractor himself, without investigation or without ascertaining whether it was a fair allowance or not. And then the Department come here and say through the distinguished gentlemen of the Post-Office Committee, "It is the fault of Congress; you require us to pay this much." We do not. We said, "You shall not exceed that much; that is a maximum beyond which you shall not go;" and we have a right to expect from our officials that they will carefully investigate and see how much below that sum they ought to go. In no solitary instance have they ever gone below it that I am aware of; certainly not in cases of increase of service, and if at all, very little in cases of expedition. The route that I referred to, the McDonough route from Prescott to Santa Fé, seems to me such a plain, palpable case that I should be willing to lose something to break up that condition of things.

I have said all the time that I do not blame the contractors. There can be no fraudulent contractor without a fraudulent Government official. It is the business of the contractor to get all he can. It is the duty of the Government official to watch the interests of the Government and to see that he gets no more than is just. It seems to me, without being prepared to say where this fault is, that there has been gross negligence somewhere in the Post-Office Department which I would check if I could; and while I would not punish the people by taking off their routes, I would relet these contracts even if I lost money, just to show the Department and all subsequent contractors that such things will not hereafter be tolerated.

Mr. WALLACE. I wish to ask the Senator from Kentucky a question. Would the Senator strike down sixty-nine contracts against which nothing has been said in order to reach one dishonest contract?

Mr. BECK. No, I do not believe I would, nor would I strike down a majority of them. I desire to amend the House proviso, if I can, and I hope that when the Senator from Pennsylvania and others get together in conference they will come to some just conclusion. I am not satisfied even with the House provision after it is amended by my proposition, but I am desirous that the two Houses shall get together upon some basis whereby we can see what it is right to do in this emergency. That wrongs have been done, I believe. That many of these contracts ought to stand, I think is true. That I will not strike down the mail service, I admit. All I ask is that the two Houses shall not get at loggerheads and have this bill tied up by reason of this matter. If it is possible for the gentlemen managing the bill in the House and the Senator from Pennsylvania (and I hope the chairman of the Committee on Post-Offices and Post-Roads, the Senator from Texas, [Mr. MAXEY,] and the Senator from Iowa [Mr. KIRKWOOD] will be members of the committee of conference with him) to get together in some way and see how we can get out of this difficulty, I trust a satisfactory settlement will be reached.

I believe the law we passed in April, which is now before me, has guarded against it in future pretty well, and there will be no trouble of this sort hereafter. But I do not want to make the issue so sharp between the two Houses by striking out the entire proviso as to leave little chance for a settlement.

Mr. GARLAND. I have a proviso to offer as a substitute for that of the Senator from Kentucky. I do not think his proposition goes far enough in view of the theory of the proviso to the House bill, and I wish to offer this as a substitute for his provision:

Provided, The contractors herein referred to may at any time after the passage of this act abandon their contracts without damage to themselves or their sureties.

We are undertaking to do a very grave thing, a very serious thing in reference to the contracts referred to in the section that is now under consideration. When these contracts were awarded they were given out upon certain proceedings that had taken place before; that is, upon advertisements duly made and upon bids offered, and upon the opening of the bids and comparing them there was an adjudication that such and such bids should be entitled to particular contracts. The parties bidding were compelled to give a bond in the first instance to make their bids good. That was a matter of considerable trouble in many instances. After they were awarded the contracts, the successful bidders had to give another bond to carry out those contracts faithfully under the law. Then the contracts were signed and sealed. The parties proceeded to carry out those contracts by supplying themselves with the necessary coaches, horses, and feed for horses, and buildings, stations, &c. The particular contracts here referred to were for four years; and the House proviso affects seventy of them as stated by the Senator from Pennsylvania. Over two years of service have been accepted by the Government.

Now, the question occurs at once on this statement, what power has Congress to annul these contracts? What power has Congress to place a condition on these contracts that was not placed on them when the contracts were made? What power has Congress to increase or diminish these contracts?

Mr. COCKRELL. Will the Senator from Arkansas permit me to ask a question?

Mr. GARLAND. Certainly.

Mr. COCKRELL. Does not each contract expressly reserve the right to abrogate it?

Mr. GARLAND. It does not reserve the right to Congress to do it. "Congress" is not mentioned in the contract.

Mr. DAVIS, of West Virginia. The Department.

Mr. GARLAND. I beg pardon. We shall see about that.

Mr. DAVIS, of West Virginia. On giving a month's extra pay.

Mr. GARLAND. Not at all.

Mr. DAVIS, of West Virginia. That has been customary.

Mr. GARLAND. The terms and conditions of this contract are not in this law, and the law cannot touch it. Congress is now proceeding to make a new contract for these parties. When the contractor said in the stipulation with the Department that the Department might annul it or might modify it in a certain respect, that was one thing, and for a very good reason that power was reserved under the law, and for a very good purpose. But the Post-Office Department is one branch of a general department, and Congress is one department of itself. The contract did not say that Congress might come in at any time and deviate from it or cause a deflection in it, whether for the loss or for the gain of the contractor. There is where the Senator from Missouri is mistaken. He is confounding the power delegated under the law and in the contract to the Post-Office Department with an assumed power that Congress may undertake to exercise which does not exist, which cannot exist.

In the year 1816, in a patent case, reported in Peters's Circuit Court Reports, the case of Evans *vs.* Eaton, Judge Washington used the language that there was no inhibition on Congress in the Federal Constitution to pass a law impairing the obligation of contracts. That declaration went out and startled the community. Judge Roane, of Virginia, addressed a letter to Mr. Madison, who was then living, asking why the Constitution did not prohibit Congress from passing laws impairing the obligation of contracts. Mr. Madison, in his answer to Judge Roane, said there were two good reasons: the first was that Congress could not do what it was not delegated power to do under the Constitution; and second, nobody ever supposed that the Federal Congress would be mean enough to annul a contract. It was like the case in that famous commonwealth of ancient Greece which had no law against parricide for the reason that the lawgiver did not suppose anybody would be so infamous as to commit the crime of parricide. Those were Mr. Madison's exact words in response to the letter addressed to him by Judge Roane after the decision in Evans *vs.* Eaton in Peters's Circuit Court Reports.

Will the gentlemen who raise this question here tell me where Congress gets its power to lay its hands on these contracts, whether to raise them 50 per cent. or 20 per cent. or to cut them off? What can it do with them? It can do nothing. If the head of the Department may, under the contract, exercise a certain power, that is another question. That reservation is put there because he at the head, watching these matters as they progress, knowing the exigencies of the service, understands what is required. In case of these new routes, these off routes, these stage-routes, they may be superseded by railroads, for example, and he should have the discretion, under proper limitations, to modify the service just as the necessities of the case require, but it is not for Congress to do it.

Mr. WITHERS. I ask my friend if Congress would not have the power of directing the Department to do it?

Mr. GARLAND. Not at all. It is just as familiar a rule as the five fingers on a man's hand that what Congress cannot do directly it cannot do by indirection. Here is a power to be exercised by the Department, and if there is one principle plain in this Government it is that the powers delegated to the separate Departments are to be exercised regardless of the influence and interference of Congress.

Mr. COCKRELL. In other words, do I understand the Senator to assert that the Secretary of the Treasury, the Attorney-General, and the other heads of the Departments are not under the control, jurisdiction, and direction of Congress, and that when a right is reserved to them in a written contract Congress has no power to direct them as to the mode of executing that contract or amending or modifying it?

Mr. GARLAND. The Senator's question is too long and involved for a categorical answer, but to answer it as applicable to the particular case, and that is all that is necessary, I say that where the Secretary of the Treasury is vested with discretion Congress cannot delegate to him the power to annul a contract entered into, sealed, and signed for the performance of an act deemed proper by him under the discretion reposed in him by law.

Mr. KERNAN. Suppose the act of Congress reserves to the agent or the Government at any time the power to alter, amend, or change it, does my friend mean to say that Congress cannot pass a law directing its own agents to exercise that discretion?

Mr. GARLAND. That is, may Congress say that the exigency had now arisen? That is what this bill says.

Mr. KERNAN. Oh, no.

Mr. GARLAND. Then you are putting a question that is not applicable to the case in hand.

Mr. KERNAN. I understood the Senator to say that the power to annul the contract was reserved to the Department, not to the Government.

Mr. GARLAND. That is true.

Mr. KERNAN. Is it not true that the Department is the agent of the Government, and the Government can require it to exercise that discretion?

Mr. GARLAND. Not at all; I answer the question flatly and straightly. It cannot.

Mr. KERNAN. I think it can.

Mr. GARLAND. I say it cannot; and as between individuals such an act would be called robbery, not an annulment of a contract.

Now, let us understand the question here. A contract is made and entered into with the Department, under certain restrictions and limitations, and the Department is made the judge of these restrictions and limitations. Now what right has Congress to thrust itself in and tell the Department that these restrictions and limitations have been violated and now is the time to act?

Mr. KERNAN. In whose name would a suit be brought to execute the contract?

Mr. GARLAND. It might be brought in several names.

Mr. KERNAN. It might be brought by the Government of the United States?

Mr. GARLAND. It might; but it is nothing to the purpose in whose name the suit may be brought. The question is what is the contract. The President of the United States has power to pardon. Can Congress tell him that the time has arrived when he should exercise that power in a particular case?

Mr. HOAR. As the Senator from Arkansas is stating his position, will he allow me to inquire what he means by the term "the Department" when he is speaking of the exercise of an authority like this? Does he mean to say that the contract puts it in the power of a particular individual as a sort of umpire, to wit, the man who holds the office at a certain time, or does he mean that the agency employed under the direction of the law by the United States Government to do something is to have that power? The Senator says in his argument "the Department is to do this and that." Now in reference to the question he is dealing with, what does he mean by the phrase "the Department?"

Mr. GARLAND. I mean as we use the word ordinarily, as it is used in all proceedings of Congress—the Post-Office Department as headed by the Postmaster-General, under his direction and control. These conditions are submitted to the Postmaster-General as the head of that Department, and Congress can no more move his discretion, no more tell him when to act and when not to act, than it can an individual not connected with the Government at all, than it can tell the President when he shall exercise the power of pardon.

Mr. HOAR. Cannot Congress abolish that Department altogether without violating that contract?

Mr. GARLAND. Congress can abolish that Department, but it cannot abolish that contract. Congress can abolish all these Departments, but it cannot abolish these contracts. The Supreme Court has decided repeatedly that these contracts are all of them, not only these but the individual contracts of the Government, put under the reach of any power of Congress.

Mr. BAILEY. Will the Senator pardon me for asking a question?

Mr. GARLAND. I will.

Mr. BAILEY. Is the contract made with the Department or with the Government?

Mr. GARLAND. Made under the discretion invested in the Department.

Mr. BAILEY. Is the contract made with the Government or with the Department?

Mr. GARLAND. I may concede for the purpose of the argument that it is made with the Government in the name of the President of the United States for all the people.

Mr. BAILEY. Made with the Government by whom? By its agent?

Mr. GARLAND. By an agent of the Government.

Mr. BAILEY. And with power reserved to that agent as representing that Government to terminate the contract?

Mr. GARLAND. That is all well enough, but in the discretion of that agent, and not in the discretion of the other branches of the Government to move and compel him.

Mr. BAILEY. The power is reserved, however, I understand, to the head of the Department as agent acting for the Government.

Mr. GARLAND. It is.

Mr. BAILEY. In its behalf and for its benefit to terminate the contract.

Mr. GARLAND. It must be read according to its own terms and conditions as contained in the paper. All the Presidents and all the Congresses combined cannot add to it or subtract from it. That is all there is of that. If such an act as this were attempted between individuals it would be characterized as highway robbery. I hope I am understood. It is an enormity upon the law; it is not only an enormity, but it is an absolute destruction of the law to say that when a man enters into a contract with one of these Departments Congress can tell the Department when it shall act and what it shall do in the premises. Here is Ben Holladay now before the Senate, claiming $525,000 for a subversion of his contract by a Department; and when these contracts are violated, as was said by the Senator from Pennsylvania, you have these persons either bringing their suits in the Court of Claims or bringing their claims to Congress for pay for the residue of the contract term. So you effect nothing whatever; you go from one warm place into one that is still hotter.

I admit that there may be no practical way to force the Government to comply with its contracts; but there is no law as law and there is no principle of morals or conscience that exempts the Government from the performance of its contracts any more than there is for releasing an individual from his contracts.

But what is the amendment of the Senator from Kentucky? If Congress has the power asserted at all, it is an unlimited power. I propose in my amendment to let these contractors abandon their contracts whenever this provision is passed without detriment to themselves or their sureties. If you are going to do exact, equal, and even-handed justice you must go that length and breadth. What is seasoning for the male bird may be seasoning for the female bird also. You must not go in a half manner; you must not undertake to cut down these contracts 30 per cent. or 40 per cent. for the benefit of the Government, unless you give the contractors, whose service you have received for over two years under their solemn contracts, the option to retire. You propose to do this because, perhaps, in one contract out of seventy there has been wrong, damage, injury to the Government. The statutes are full of remedies against the Department, against the contractors, against all persons who do these wrongs; but there is no remedy to be found, nor can there be, for Congress to step in and lay its hand upon these contracts and tear them in two, or tear them from end to end. They must stand as an entirety, and you cannot parcel them as you would an apple or an orange.

We have undertaken to deal with a grave subject here. Outside of the question considered so well by the Senator from Iowa, I submit that this clause, which the Committee on Appropriations propose to strike out, is directly in the teeth of the Constitution, and we might as well pass an act stripping these contractors as naked as the day they were born of all that is upon their persons and appropriate it to the use of the Government as to pass this proviso in regard to these contracts that contemplated no such thing when it was entered into.

Mr. TELLER. It seems to me a very remarkable thing to hear discussed in the American Senate the question whether the Government of the United States can violate its solemn obligations. On a former occasion I expressed my sentiments on this subject. I said then that in my judgment the power denied to the States was never intended to be reserved to Congress; that when the Constitution said the States should not impair the obligation of contracts it never intended to say that while this power was denied to the States because of its immorality, yet Congress might do the very thing that public honesty, public morals, and public decency require that the States should refrain from doing. I opposed a bill that came before the Senate because it seemed to me that that was the logical sequence—it was the violation of a contract. That bill became a law, and went to the Supreme Court of the United States, and the Supreme Court passed upon it, and when they came to pronounce their decision and sustain the bill they said it did not violate a contract, and they supported the bill simply because it did not violate a contract. In every line of the opinion it can be seen that if the court had held to the opinion, which I thought was correct at the time, that it did violate a contract, the bill would not have been sustained. Now, here is a proposition that is not to be questioned or disputed, to retire from a contract, and to retire from that contract without the consent of the parties who contracted with the Government.

Mr. President, I have been a member of the Senate nearly four years, and on various and sundry occasions I have heard gentlemen address the Senate upon the solemn character of national obligations, and their remarks have always found a ready response in my breast, but they have always been with reference to the bonded debt of the nation. They have been with reference to the payment of the pledged obligations in the shape of bonds. Now, to an untutored mind in statesmanship like mine, it is difficult to see the distinction. It is difficult for me to understand why there is not the same binding obligation upon us here to respect the rights of these contractors who have contracts with reference to labor to be done for the Government, services to be rendered by themselves and their hired men and their teams, that there is with reference to the men who have lent the Government money and taken its certificates. If you establish the principle that this legislation is legal and is proper, I submit no man can stand on this floor and defend the demand made by a very respectable minority of the people that the Government obligations in the shape of bonds ought to be changed, because if it is to be a matter of judgment we may as well judge upon that subject as upon this. If we have the right at all, it becomes a simple question of discretion on our part, and I am astonished to hear the Senator from New York, [Mr. KERNAN,] who would be shocked at the proposition that any portion of the public debt should be repudiated or changed in its conditions in any shape, stand here now and say that after these contractors have entered into a contract in strict accordance with the law, in strict accordance with morality and honesty for a laudable service, for a laudable purpose, the Government of the United States may step in and say "the agent that we intrusted with this business did not exercise that wise discretion which we would have exercised in the Senate if it had been left to us, and therefore this contract must be at an end."

Mr. President, when Senators come to that, I can stand here and say that the national debt was not made with just such discretion and with such wisdom that it is a sacred thing if the matter is now to be left to the discretion of the men who hold seats in Congress.

When we made an obligation on the part of the Government, whether it was wisely made or unwisely, if it was honestly made, we must stand to that obligation. Now, one single case is singled out by the Senator from Kentucky, who says that is on its face a fraudulent claim. I do not know anything about it, but I know that there is a great number of other cases somewhat similar that I do believe and that I do know almost to be honest. But if that is not honest, there is a way to attack that contract; there is an opportunity for the Government to be heard. The Government can take such steps to annul that contract as it sees fit, and can annul it if it can be shown that there was a fraud practiced on the Government by the contractor. But must all these innocent contractors who have rendered and are rendering valuable service to the Government be injured and their rights be put in jeopardy and destroyed because there may be some contracts which have been made that may have been dishonest? Admit now that that one contract was a fraud on the Government; admit that there was a steal, as Senators are in the habit of saying, in that transaction; how does it affect other contracts in which there was no steal at all?

There has been expedited service in Colorado; there have been increased trips in Colorado. I have yet to hear the first man in Colorado or out of Colorado even suggest that there have been any improper practices in reference to those contracts, and I do not think it is right to strike down the service in Colorado because in the Indian Territory possibly there was some lack of discretion or even fraud. When I came into the Senate the mail was being carried from the capital of the State that I in part represent to the city of Leadville, then an obscure mining camp, once a week. I think it was carried by contract on horseback; certainly there was no vehicle running in there at that time, I am quite confident. A few months and there grew up in that mountain valley a large and thrifty population, requiring not simply one horse to carry the mail, but very many interests demanding immediate connection not only with the capital of the State but with all other parts of the country. Under an authority and discretion exercised since the foundation of the Government by the Post-Office Department they increased the trips and expedited the service. When the town grew a little they expedited it some, they increased the trips to tri-weekly. Now, suppose when the trips had been increased and the expedition had been increased somewhat they had attempted to increase them further under the present law allowing 50 per cent., they could have increased the service but partially; a daily mail could not have been furnished. The trip could not have been made from the capital in twelve hours as it is now.

This authority was a wise one vested in the Post-Office Department. It belongs there; it ought to be left there. And if there is any abuse we have a constitutional method of attacking the parties who are guilty of the abuse. If the Postmaster-General or any subordinate is guilty of misconduct there is a way to reach him; not by attacking the contractors who have made contracts in good faith according to law, but go after them by impeachment or by indictment or by some method and bring the matter properly before the courts. This is the most unsafe place in the world to determine whether these contracts have been fairly and honestly made or whether they have been dishonestly made.

I do not speak in the interest of any contractor. I speak simply in the interest of the public service in the West. I speak in the interest of the men who are going into the new sections of country and who demand this expedited service, and who have a right to demand it. I speak for the citizens of New York, Ohio, and Pennsylvania, and other States, that are pouring into the West, into Colorado, Utah, Montana, Arizona, and New Mexico. They are the people who demand this expedited service, and they have a right to it, and anything that cripples the service or cripples the contractors is an injury to them.

I think, therefore, that this provision inserted in the House for the reletting of these contracts should not be adopted by the Senate.

Mr. MAXEY. Mr. President, I shall not occupy the attention of the Senate in a discussion of the great importance of the star-route service to the people west of the Mississippi River, because that I did on a former occasion during this session; but I desire to answer a few of the positions taken by the Senator from Kentucky [Mr. BECK] in support of his amendment, and incidentally of much of the House proviso. He charges, as I understood him, that on two or three routes exorbitant contracts had been entered into to the injury of the Government. Therefore he supports a proviso that strikes down every contract where the service has been expedited. When one, two, three, or four isolated cases may be found against which he levels attack, for that reason, so far as we can judge by his remarks, he strikes at every one of the routes which have been expedited. He concedes in response to the Senator from Pennsylvania [Mr. WALLACE] that the larger portion of them (fifty-nine I believe was stated) were correctly expedited, that the service was necessary, and that the contract price was not too large, and that the contractors are faithfully doing their duty. If such be the case, and there can be no doubt of that, for it is conceded all round, except as to the isolated cases named, then the argument of the Senator from Kentucky is clearly a *non sequitur*. According to his theory, he strikes at the just along with those he charges to be unjust. He proposes to strike down by law men who are conceded to be doing their duty in order to reach others whose contracts he thinks are exorbitant; and in doing that he proposes to impair the obligation by an act of Congress of solemn contracts in full force, lawfully made, and that, too, where the overwhelming majority of contractors are not even charged with being overpaid or in any wise in default.

Mr. President, I never learned the Constitution of the United States that way, and I trust that I will never learn the theory that Congress can impair the obligation of a contract. Ours is a Constitution of delegated powers of grant, and grant only, delegating to the Federal Government the precise and exact powers set forth on the face of the instrument, and reserving to the States and to the people respectively the remaining powers. To show how emphatically the convention and the States felt in respect to contracts they incorporated into the Constitution a clause which prohibited any State from passing an *ex post facto* law or a law impairing the obligation of a contract, and did not grant such power to Congress. Hence it is impossible either for the State government or the Federal Government, and wisely, too, to constitutionally impair the obligation of a contract.

The State in which I live doubted whether these two expressions, "*ex post facto* law," "or law impairing the obligation of contracts," were sufficient to cover the whole ground, and incorporated in the constitution a clause which prohibits the passage of an *ex post facto* law, a retroactive law, or a law impairing the obligation of a contract.

Sir, if this proviso does not impair the obligation of contracts without cause, without *laches*, without fraud, without failure in any respect upon the part of these contractors, I have never known a contract impaired. It is no answer to say that in a few isolated cases the price paid is too much. In the vast majority of cases this is not pretended, yet all fall alike by this proviso. Is there justice, equity, fair dealing in saying because two or three contracts may possibly have been let out too high, and there is no proof even of that, and fraud is in no sense proven, therefore the entire establishment of the great star-route service west of the Mississippi River shall be stricken down? That would be strange reasoning. Because a few are charged with getting too much, therefore all alleged guilty as well as admitted innocent men must go down together by the same blow. But the whole of this proceeding goes upon the theory that somewhere and somehow between the Post-Office Department and the contractors there have been fraud, villainy, corruption. As was stated by the Senator from Colorado, I am not interested in the contractors. I am interested in upholding and maintaining the star service west of the Mississippi River, and especially so in my own State, and the proviso of the House strikes it down. Has fraud been established in any of the methods known to the law? If yea, I will join heartily in hunting it down. Have they proceeded by impeachment to impeach the officers of the Post-Office Department necessarily parties to this alleged fraud, if there be fraud, for high crimes and misdemeanors? Have they proceeded in courts of justice to set aside these contracts on the ground of fraud? Have they pursued any of the remedies known to the law in the event it be true, as is insinuated, that certain contracts were fraudulently obtained? It is the bounden duty of the House of Representatives, which under the Constitution has the sole power of impeachment of the President, Vice-President, and all civil officers of the United States, to impeach any civil officer, whether of the Post-Office Department or any other Department, guilty of bribery or other high crimes and misdemeanors connected with this service; and if this be done, the Senate, which under the Constitution has the sole power to try all impeachments, will surely discharge its high duty. The fact that the House, which must be presumed to have done its duty, has not sent articles of impeachment here, ought to stop charges until they come in the legal and orderly manner.

Mr. President, I never was in favor of Jedwood law, "hanging a man first and trying him at leisure." It doubtless suited the Douglas, but never did have and it never will have a place in the hearts of the American people. I remember that one of England's grand orators on a great occasion when he was prosecuting, and when it was to his interest if he could fairly do so to avoid the force and effect of the great doctrine of the English law, said that the party accused must have his guilt established by legal evidence. I remember that he in the House of Lords admitted and proclaimed the doctrine of the British constitution although it was against his case:

> It is the glory of the constitution under which we live that no man can be punished without guilt, and this guilt must be publicly demonstrated by a series of clear, legal, manifest evidence—

Strong words—

> so that nothing dark, nothing insidious, shall work to the detriment of the subject. It is not the peering suspicion of apprehended guilt. * * * No. In this good land, as high as it is happy, because as just as it is free, all is definite, equitable, and exact. The laws must be satisfied before they are incurred; and ere a hair of the head can be plucked to the ground, *legal guilt* must be established by *legal proof*.

Never was the British constitution on that grand subject more clearly stated than it was stated by Richard Brinsley Sheridan in that great case, the impeachment of Warren Hastings. The precise doctrine of the British constitution is incorporated in our Federal Constitution and in every State constitution, and yet what is proposed? The Congress of the United States, without color of legal authority, without color of constitutional authority, are called upon here to say that Congress has power to impair the obligation of a contract lawfully made, lawfully entered into, and where there has been no *laches* on the part of the contractor proven, and in the great

majority of cases not even insinuated, but on the contrary the admission clearly made that the contracts are reasonable, and that they are being faithfully executed.

Sir, for the five years which I have been in the Senate I have heard the Senate Chamber ring with the doctrine that he who would strike down the plighted faith of this Government was no true friend to his country. I fully accord with that sentiment. My section of the country, having no special interest in the payment of the great national debt, having no creditors of the Government among us, it being a debt contracted not for our special benefit, yet upon the floor of the Senate Chamber southern Senators, governed by that high sense of honor and of propriety and of right and of justice characteristic of them, and believing that it was our duty fairly and honorably to stand by the plighted faith of this Government, have done so upon every occasion. Yet is it not true that a great many men here, including many of us who thus voted, and a great many men beyond the walls of the Senate Chamber believe that this debt represents now untold millions of dollars for which the United States Government never received one farthing of consideration, that that debt was contracted to be paid in a depreciated paper, and by the operations of congressional enactments that debt originally payable in paper has been passed into a coin debt, both principal and interest? It being to-day law that these bonds are thus payable and these bonds being by law transferable by delivery and in the hands of parties holding them in good faith for value and being transferable by delivery, as stated, and standing behind them these solemn acts of Congress declaring that both principal and interest of the bonds shall be paid in coin, we have not felt that we could honorably repudiate the debt or withhold payment. Would the Senate violate the plighted faith of this Government and fail and refuse to pay those bonds according to their terms? Yet gentlemen come forward here and tell me that I have the constitutional power to strike down a solemn contract lawfully made, lawfully entered into, and which contract the party is faithfully carrying out, and which is in every sense as inviolable in honor, in constitutional law, and good morals as the bonds about which so many homilies have been preached.

But it is said that the Postmaster-General has by the terms of that contract the right to set aside and annul the contract in certain contingencies. It was well said by the Senator from Arkansas that as a man binds himself so shall he be bound. The very terms of that contract control it. In all the cases wherein the Postmaster-General has the right to set aside and annul a contract the reasons therefor are set forth on the face of the bond; but did the Government anywhere in that law or elsewhere reserve to itself the right, and does the contract say so, that the Congress of the United States will have the power without cause to strike down the contract before the time has expired?

The Postmaster-General is an officer of the Government, yet in making contracts with citizens it is his bounden duty to deal lawfully and honorably by both Government and citizen. The law has vested him with certain discretionary power, and so long as that law is in force it is not in the power of any department of the Government to annul a contract by him lawfully made, fairly and in good faith, and which is being fairly executed.

What will be the effect of this, Mr. President, as an economic measure, and that is the point chiefly relied on to abrogate the contracts? And, mark you, it is proposed to strike at all alike, the just as well as these insinuated but not charged as unfair. Whenever you have convinced contractors, moneyed men, that the Government of the United States will exercise toward its contractors Punic faith, then you will have the amount of every contract largely increased, to put on in the nature of an insurance a sum sufficient to pay for the doubtful character of the Government with which they are dealing, just as a banker shaves doubtful paper enough to cover the risk and insurance. So, whenever the people of this country believe that this Government does not recognize its plighted faith and would back out of a contract made by its own chosen agent upon a mere hue and cry, then those who have the money to invest in contracts will put a price on sufficient to pay them for all the trouble and risk they incur. Again, when you come to count, as was stated by the Senator from Pennsylvania, [Mr. WALLACE,] the one month's extra pay, where is your money saved? Mr. President, good faith is of the very essence of every contract. The Government of the United States cannot afford to have even the appearance of repudiating its solemn contracts, for as to the great majority of these contracts, admitted to be fair, what is it but repudiation?

But again, as I said before, and now repeat, because of all this number there may be one or two or three whose contracts may cover too much, is that a reason to strike down all alike? Shall the Congress of the United States act like blind Samson and gather the pillars of the temple to destroy itself, friend and foe alike? Is that reason? Is it wise—is it just? Is it not better, if there be any wrong, fraud, or complicity, to let the guilt of the conspirators be established by legal evidence and bring them to the bar of justice? If fraud has been perpetrated, ferret out that fraud in the mode and manner prescribed by the law. I will gladly help you; but do not let us, upon a mere assertion unsustained by proof, strike at a system that is aiding us greatly toward building up that magnificent country west of the Mississippi River.

The effect of the proviso is to materially injure the country in which I live and all the country in the extreme Western States and Territories. It is for that reason that I am so earnest. It hurts the people who sent me here, and who should not be made a vicarious offering for anybody. Upon the proposition as stated by the Senator from Arkansas, although my acquaintance with these contractors extends to a few only, and they with contracts in Texas, I believe in the eternal principles of justice and right; I believe in paying these men the sums to which they are entitled, as I would pay your bloated bondholder. I would pay them, because they hold the obligation of the Government, and the plighted faith of this Government is to pay that obligation. I hold that contract to be as much an obligation for this Government to stand to its very terms as I hold the bonds locked up in the safe of one of your great banks in the city of New York. It is common honesty and common justice to do it.

Mr. President, when you come down to test the argument of the honorable Senator from Kentucky, he himself is not willing to stand by it. He evidently made his statements with reluctance, because, when reminded, he said in answer to the Senator from Pennsylvania [Mr. WALLACE] there were but few comparatively of these contractors against whom any complaint had ever been made, and in the great body of them the contracts were fair and right, and the contractors were standing up to their duty.

In his general sweep the Senator from Kentucky strikes at the Post-Office Committee. By looking at the speech he made, and from which he was reading this morning, it appears that he had asked the same question: Why the Post-Office Committee had not taken this matter up? I replied to him then as I do to-day (because it was a mere repetition of what he said before) that on the 16th of December, 1879, during the present session of Congress, the Post-Office Committee of the House had reported a proper bill with respect to the expedition of service and the increase of the number of trips on routes, and there was no need for duplicating that measure in the Senate. I answer further that the law which we passed here on the 7th of April, 1880, to provide for a deficiency in the appropriations for the transportation of the mails on star routes, &c., distinctly makes a provision, for which I voted and which fully meets my approbation, with this proviso in it, namely:

> That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let.

At that time we advanced no further than our constitutional and legal rights. We made a law operating as the very word "law" means, as a rule of civil conduct *prescribed* by the supreme power in the State.

We had not then learned that Congress can pass a retroactive law and set aside a solemn contract, binding on both parties and made on behalf the Government by its agent thereunto lawfully authorized. I have not learned it yet, and I do not think the Senator has. But the world moves.

I ask you when you make a law which retroacts, if that is a law according to the spirit and definition of a law which requires that it should be *prescribed*, written beforehand, and not be printed either in such small type that the citizens cannot read it, as was done over two thousand years ago in Rome? Sir, the rule must be prescribed for all men, because the law in force at the time and place when and where a contract is made enters into and constitutes a part of that contract.

The Postmaster-General having a right to expedite this service, the contractors who made that contract made it in view of the law as it then existed. The law was then in force and the contract for expedition was in strict compliance with the law of the land. If the United States Government appointed a Postmaster-General who did not exercise that discretion wisely (which seems to be now at last the only point sought to be made) I ask if it was made in good faith and did not these contractors put their money in contracts, and I ask if they are to be bound by the mistake of the Government, if mistake was made, in selecting an officer whose discretion was not up to the mark which some gentlemen here seem to put for an officer having discretionary power? The power existed by law and the contracts were made by law. They are in full force. They have yet two years to run. I say that no man in my judgment who has clearly studied the question of the impairing of the obligation of a contract can say that this would not only be impairing the obligation of a contract but it would be breaking the plighted faith of this Government. It would be Punic faith toward a portion of the citizens of this country who have invested their money upon the faith of the Government's word.

When did you learn, and out of what book, that if you made an improvident contract, without fraud or deceit on the part of the other party, that you could go into court and get relieved of your bad bargain? Yet it is gravely proposed to beat that by making a retroactive law to fit the case.

I have said, Mr. President, all that I care to say upon this subject. The action of the committee, in my judgment, was eminently wise. It leaves, as it now stands, the clause in the usual form:

> For inland transportation by star routes, $7,375,000.

That is all there is of it, and that is all there ought to be of it. It leaves it stripped of all provisos based upon innuendoes. When gentlemen making these assertions have been called upon to make a strong and positive charge they have failed to do it. Sir, there is a

legal way of establishing a charge. The poorest man in this land, before he can be brought into a criminal court, has a right by the Constitution to have some man to swear that he is guilty before he can be brought in by presentment or indictment and put upon his plea. He must be brought in in one or the other form, and that not upon assertion but upon oath, and then his guilt must be established by legal evidence, and all the presumptions are in favor of him until his guilt is thus established. Yet here upon mere insinuation we are called upon to revolutionize the entire system of the star postal service to the hurt of the people upon vague, unproved charges, in violation not only of the splendid body of the common law which we inherited, but in direct violation of that glorious Constitution under which we live, and in violation of all the precedents and traditions of this matchless Union of free and independent States.

Mr. KERNAN. Mr. President, I am a good deal surprised at the fervor first of my friend from the West and then of my friend from the Southwest, as though I had attacked this amendment when I had not said anything about the amendment or the bill. I did dissent from a proposition of law laid down by my friend from Arkansas; that was all, and I still think I was right. Now what is this contract?

This article of contract made the —— day of March, 1880, between the United States of America, (acting in this behalf by the Postmaster-General,) &c.

In that contract—

It is hereby stipulated and agreed by the said contractor and his sureties—

That is the other side—

That the Postmaster-General may discontinue—

For so and so, in his discretion.

Mr. KIRKWOOD. Read it all.

Mr. KERNAN. I will read the whole clause.

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and termini of the route, and alter, increase, decrease, or extend the service, in accordance with law, he allowing a *pro rata* increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and, in case of decrease, curtailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with, and a *pro rata* compensation for the service retained.

I said and I still believe, after hearing what has been said, that this is a provision for the benefit of the United States, and that it does not make the Postmaster-General, who happens to put the seal to it, for he only attested to the seal, an umpire to discontinue the contract at his discretion and not at the discretion of his principal. That is my understanding of the contract. It would be very singular if the United States could not direct their agent to discontinue that contract if they thought it improvident, and if he could say "No, I set you at defiance; I do it; you must pay and I shall not discontinue." That cannot be the meaning of the contract. The United States may change their Postmaster-General every day, and they can readily put in a man who will discontinue such a contract, and they can in my judgment direct him to discontinue if the Government—the Congress of the United States and the President—deem that the contract is improper.

Mr. GARLAND. Will the Senator let me interrupt him?

Mr. KERNAN. Certainly.

Mr. GARLAND. If the Postmaster-General is really "the Government" there, how can they displace him and put him out? He has got all the power of the Government.

Mr. KERNAN. He is not the Government.

Mr. GARLAND. I understood the Senator to say he was.

Mr. KERNAN. I said it was the United States that were acting by him. That is the way the contract begins. They act by him. He does not attest it by his signature as a party, but it is:

In witness whereof, the said Postmaster-General has caused the seal of the Post-Office Department to be hereto affixed, and has attested the same by his signature.

That is the way the United States execute the contract, by that seal of its Department, and it is in no other way attested by the Postmaster-General.

Is it not true, then, that this discretion is to be exercised for the benefit of, on behalf of, and in the name of the United States? Is the Postmaster-General free from the controlling influence of the Government? It was that proposition which surprised me and from which I dissented. I do not claim accuracy beyond others on such a matter, but my opinion is very honest that the Postmaster-General is acting for the Government, and the Government may direct him by act of Congress, if you please, to exercise a discretion that is reserved.

What is the object of this policy? The object is to guard against improvident contracts and the object may be to guard against corrupt contracts. Where would the people of the United States and their Government be in the case of a contract for four years made or expedited corruptly (I am not saying this is now) if the Government cannot exercise a discretion to require it to be discontinued, and having a Postmaster-General if we cannot direct him to discontinue the contract?

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. KERNAN. Certainly.

Mr. CARPENTER. Is that any worse than the case of an individual who makes a contract and finds he got cheated?

Mr. KERNAN. I am going to come right to that matter, because I have views on that subject.

Mr. TELLER. I want to ask the Senator——

Mr. KERNAN. Let me answer one at a time. I had no idea there were so many gentlemen in defense of the position I am combating. If my agent has made a contract, without, I will say now, reserving a discretion to break it, and I should become honestly satisfied that he had colluded with the other contracting party to wrong me, I would say to the other contracting party, "Now, my friend, I think this contract was made by my agent corruptly and not acting for my benefit, and as you have a perfect remedy at law I will discontinue it, and I will pay damages such as the court may award."

Mr. CARPENTER. Does not the Senator see the distinction between that case and this? In that case there would be a remedy at law, but in this case there is none whatever. We just strangle the man without a hearing.

Mr. KERNAN. I will come to that. You asked me about it individually and I put the case of an individual, a perfectly honest man, having an agent who, as he believes, has been colluding with the other side. If in any way he had been colluding, and if I became suspicious of that, I would say, being an individual, "Mr. Contractor, I am of this opinion; I discontinue the contract; sue me; I will defend; if it was made honestly by my agent I will pay, and if it was not I will beat you."

Mr. TELLER. I should like to ask the Senator, if these contracts were made corruptly between the officials and the contractors, has not the Government a method by which that question can be decided and the contracts put an end to, by the judiciary?

Mr. KERNAN. There must be somewhere outside great suspicion that the contracts were fraudulent. I have not said a word about it, but I will answer the question. I have not said that it was fraudulent.

Mr. TELLER. Is not that the law?

Mr. KERNAN. I will tell you. I say the Government must give the contractor a remedy. If we break this contract, as an honest Government we should say to the contractor: "You may bring suit against us in court, and we will abide the decision." That is the way we ought to deal with citizens if we do not keep a contract.

Mr. TELLER. Would the contractor have no remedy against us if we have a right to discontinue the contract and do it by virtue of that right?

Mr. KERNAN. We have the power——

Mr. TELLER. I ask if we have the right.

Mr. KERNAN. We have the power to annul the contract. The Government has reserved the right to annul it.

Mr. TELLER. Then, I understand the Senator proposes to annul the contract, and if it turns out that we ought not to have annulled it he will let the man recover damages.

Mr. KERNAN. The Senator does not seem to state it fairly for my side. If we have got the power to annul the contract, I would advise the Government on the evidence of this one contract—the Walsh contract—to annul it and discontinue it at once; and I would say it was due to the people to annul it under the power, and I think we have the power.

Mr. MAXEY. I will ask the Senator, if he will permit me, because you want to annul that contract do you propose to strike down every one else against whom there are no charges? This proviso strikes down all the rest.

Mr. KERNAN. I was asked a question, whether if I had the power I would annul the contract? I say I would annul it when the facts appeared to be such as they are in the case of one contract here; I am not talking about the others. I do not belong to either of these committees; I have not examined the subject carefully. I did hear the discussion here before, and my notions were, from what was said, that there was something wrong about these contracts, but I would not give judgment upon it. But upon this one contract see what it is. Would you not annul that one? I am not talking about any other. Here was a contract made to McDonough for $13,313 a year. He sublet it to a banker of this city, Mr. Walsh, and Mr. Walsh got its pay increased, it would seem, up to $74,000. Then what happened?

Mr. Walsh so managed that route as sub-contractor, so failed to deliver his mail after there had been $74,000 added for additional trips, that the Post-Office Department declared McDonough a failing contractor.

I do not know much about it.

Mr. TELLER. What do you read from?

Mr. KERNAN. I am reading from the speech of the Senator from Kentucky [Mr. BECK] with the evidence quoted to show the truth of the statement, the evidence of Mr. Walsh and also of Mr. Brady, who said he had no information in what he did except Walsh's affidavit about the increase.

Mr. TELLER. I want to say——

Mr. KERNAN. Let me go on. I am not saying that it is true; I am not attacking anybody. I am simply saying that if I was a principal, and if a contract appeared to be as this was here from the statement with the evidence accompanying it, I would exercise my privilege of annulling the contract, and if I had not that privilege I would say to the man: "This looks as though my agent was faithless to me; I will break the contract and you will have your remedy in court, and if I break it wrongfully the court will protect you." I take that position.

Now, what did the Department do here? They said they could not deal with Mr. Walsh. I do not know why they could not have the sub-contractor obligated somehow or other. McDonough was declared to be a failing contractor; he was got out of the way. Why did they not offer him and his sureties the chance to carry out the contract at $74,000 increase? They would not allow him to do it.

Mr. TELLER. The sub-contractor had failed to carry the mail at that.

Mr. KERNAN. But they would not let him; at least they held it forfeited, and they did not let the men whose sureties were liable, they did not let the sureties have it at that price; but they forfeited it, and then they awarded it to whom? They awarded it then to Mr. Walsh for $18,500, the very sub-contractor.

Mr. TELLER. I should like——

Mr. KERNAN. Wait a moment. That looks strange to me.

Mr. TELLER. It does.

Mr. KERNAN. It does to anybody.

Mr. TELLER. That is one side of it.

Mr. KERNAN. It may be one side of it, and I am not saying any more. You observe that all I have said is if this was true, as one must judge from reading the evidence, I would think there was something wrong about the contract. I am not going to attack gentlemen who are not here about their contracts at all.

What happened next? The other letting was made at $5,500 more than McDonough had, he having been the original bidder and Walsh, it seems, the second bidder below. He was the man who caused the failure at $74,000 added to the $13,000. As soon as he got it they declared that the route had to be expedited and they added $64,000 to the $74,000, and he is running it at $136,975. This may be all explainable.

Mr. TELLER. I think the Senator ought to permit me a question there.

Mr. KERNAN. Now I will.

Mr. TELLER. Was not that contract let, was it not advertised? Does it not appear that Walsh was a lower bidder than the original?

Mr. KERNAN. As I understand it was let to him as being one who underbid McDonough, the original bidder. Is not that so?

Mr. TELLER. Perhaps so.

Mr. KERNAN. Perhaps it was a reletting; that does not appear.

Mr. TELLER. Would the Senator think when a man was a failing contractor, whether he had sublet it or otherwise, that he should be allowed to bid again and that the Department should increase his pay?

Mr. KERNAN. I will answer. They let it at $18,500 to Mr. Walsh, who had failed when they were giving him $74,000. They did not hesitate to do that. They had thrown it up. Then they increased it by $64,000 more. That looks suspicious.

Mr. KIRKWOOD. Will the Senator allow me to interrupt him?

Mr. KERNAN. Certainly.

Mr. KIRKWOOD. When the Senator has given the amounts in money to which this contract was increased, would it not be fair, I ask him, to state what increase there was in the service, if he knows?

Mr. KERNAN. I do not know.

Mr. KIRKWOOD. It seems to me that that is most extraordinary.

Mr. KERNAN. I have made no charge. I have simply said upon this evidence the Postmaster-General said the increase is put to $64,000. How did he do it:

> Question. Did you have anything on which to predicate your action in allowing that $78,700 additional pay except Mr. Walsh's own statement?
>
> Answer. His sworn statement.
>
> Q. Was that the only information that you had on which to predicate that action?
>
> A. That and the fact that we had sought to have the service performed at a less rate before and failed in it.

Understand me; I am not attacking these men; I do not know anything about them, but I am pressed here, and this speech happening to light before me which I had just heard read, with the one-sided statement, as it appeared to me, if you please, that we had no right under this contract to terminate it——

Mr. GARLAND. From what do you read that testimony?

Mr. KERNAN. From the speech made on the former occasion by the Senator from Kentucky, [Mr. BECK.]

Mr. GARLAND. Were the contractors present when that testimony was given?

Mr. KERNAN. I suppose so. They seem to have been represented there.

Mr. GARLAND. Were they present when Mr. Brady was interrogated?

Mr. KERNAN. Mr. Walsh was interrogated before the committee. They were commenting upon his evidence.

Mr. KIRKWOOD. Does the Senator from Kentucky in his speech, from which the Senator is reading, give the amount of increased service?

Mr. KERNAN. I have not read it through; I do not know, I am only saying it surprised me when a man takes a thing at $18,500 and it is immediately increased up to $74,000, and then they add to that $64,000 more. It seems to me very extraordinary.

Mr. KIRKWOOD. If it was all for the same service for which the $18,000 was paid originally it would be extraordinary.

Mr. KERNAN. I am not attacking these men. I am talking about the question of law.

Mr. KIRKWOOD. When a larger sum was paid they ought certainly to show an increase in the amount of the service.

Mr. KERNAN. Suppose there has been an increase; suppose it was once a week the first time and then once a day, this increase of pay would be a great deal more than seven to one.

Mr. KIRKWOOD. It may be.

Mr. KERNAN. Far over, $50,000 over, but I do not know how much they increased it.

Mr. KIRKWOOD. Will the Senator indulge me a little longer, as I am compelled to leave?

Mr. KERNAN. Yes, sir.

Mr. KIRKWOOD. I wish to have printed an amendment that I desire to offer to the bill to-morrow, if it shall be before the Senate to-morrow.

Mr. DAVIS, of West Virginia. We hope to have the bill passed to-day.

Mr. KIRKWOOD. I cannot remain; I must go away. I ask permission of the Senate, then, to offer the amendment.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The amendment is not in order at the present time, but the Senator can send it to the Chair and it will lie on the table until it is in order to be presented.

Mr. KERNAN. Gentlemen have asked, would you convict a contractor unheard? I would not; but if there was reason for Congress to think that there had been collusion and fraud, we might very well direct the contract to be discontinued.

Mr. MAXEY. I will say to the Senator from New York that it seems to me he loses sight all the time of the fact that if he sustains the proviso he does convict men unheard who were declared by the Appropriations Committee to be without offense.

Mr. KERNAN. Will my friend not wait until I get to the proviso?

Mr. MAXEY. I have not been able to find out exactly where the Senator stood.

Mr. KERNAN. I rose to discuss the question of law which was started, and I thought it was not clear.

Mr. MAXEY. I do not think the Senator has been clear about any part of it.

Mr. KERNAN. I guess my friend has a strong suspicion that I believe Congress can direct the Postmaster-General to terminate this contract under the clause——

Mr. MAXEY. Does the Senator believe that Congress has the constitutional power to set aside a contract?

Mr. KERNAN. No, sir, I do not, unless they have reserved the right to do it; but when it is not reserved you cannot say the Postmaster-General must do it; you merely must be sued and take the consequences. That is the position I take. That is plain enough and clear enough. I never said that I would have an act of Congress passed to break a contract where there was no fault.

Mr. MAXEY. But the contract the Senator refers to goes on and points out the kind and character of cases by virtue of which the contract may be set aside, and you are limited according to the construction of law to something coming within the cases specified.

Mr. KERNAN. I read that whole clause, and the Senator can speak for himself when he takes the floor.

Now, a little further. It is said here that you can impeach a man if the Government believes that this contractor and its officers have corruptly colluded. They should end the contract and give the parties a right to sue and defend themselves, and if there was any such fraud the contractor could not recover at all. The court would beat him as they would allow me to succeed in defending if I should show that my agent was unfaithful and colluding.

Mr. MAXEY. I will state to the Senator that under a government divided into legislative, executive, and judicial departments it seems to me when one department is specially invested with the power to investigate whether a contract was fraudulent or not we are trenching upon that department in assuming to make a legislative decree here upon the facts of the case.

Mr. KERNAN. It may be very much so; but when there is a contract made by the United States acting by its Postmaster-General, and nobody signs it but the United States by the seal of its Department, the Postmaster-General attesting it, I think the power is reserved to the United States, and you then can proceed through an act of Congress. This position is attacked very severely, and I am not going to defend it because I do not know enough about the facts; but I do mean to say that I see from the proceedings that the House inserted the proviso upon the ground that they thought there had been fraud in these contracts and that they would therefore have them declared null. I do not know that it is so.

Mr. GARLAND. Let me interrupt the Senator at this moment. They had to be, according to the finding in the House as interpreted by the Senator from New York, interfered with because of fraud. The forfeiture of a contract is generally understood in this country to be a judicial proceeding.

Mr. KERNAN. Put your question, and do not make an argument.

Mr. GARLAND. I am making a foundation for the question.

Mr. KERNAN. What is the question? I should be delighted to hear the argument, but I should have to sit down and thereby lose the floor.

Mr. GARLAND. The Senator can take his seat; I have no objection.

Mr. KERNAN. I do not want to yield the floor. What is the question?

Mr. GARLAND. Now, ought not the contractor, this one of seventy, Mr. Fritz or Mr. Dusenbury, whoever he is, be notified of the fraud alleged against him and have a day in court, and not be convicted on a speech made by the Senator from Kentucky two or three weeks ago?

Mr. MAXEY. And be confronted with the witnesses against him?

Mr. KERNAN. Before he is indicted and punished he ought to be heard; but I think where he is a witness on investigation, and the principal comes to the conclusion that there has been fraud between its agent and him, it may annul the contract without arguing the question with him.

Mr. GARLAND. What difference would it make if he had been guilty of fraud?

Mr. KERNAN. Let him have his remedy in court; but I did not rise to say how many of these contracts were fraudulent; I rose to say what I thought about this question of law, the right to annul under the contract, and the right under circumstances to annul a contract where there was no power reserved, saying that we do it because our agent has been fraudulent; "we give you a right to sue; and if we are wrong we shall have to pay, and if he acted fraudulently we shall beat you." The House of Representatives have put this provision in the bill, and while I am not their champion here I do not think it is proper to denounce them as acting as repudiators. I think they put it in because they think there is some reason for it, as there has been a great deal of talk about reason since I have been here, in which I took no part. That is all I wish to say; and therefore I yield the floor.

Mr. CARPENTER. Mr. President, there is no provision in the Constitution of the United States declaring in words that Congress may not pass a law impairing the obligation of a contract. There is such an inhibition placed upon the States. After what I have heard in the last few days about the Senate of the United States being a law unto itself, and especially since the decision of the Supreme Court holding valid and constitutional the bill which was called the Thurman bill, which dealt with an existing contract between the United States and a corporation so as to totally change its provisions, laying new burdens and hardships upon the corporation, I am not prepared to say as a lawyer that Congress may not pass a law impairing the obligation of a contract.

Mr. TELLER. Did not the Supreme Court say that the Thurman bill did not impair the obligation of a contract. Did not they escape it in that way?

Mr. CARPENTER. Everybody knows it did, and they held it to be valid and constitutional.

Mr. TELLER. I thought it did, but they thought it did not.

Mr. CARPENTER. I am talking about the fact.

Mr. HOAR. The Senator from Wisconsin, when he says "everybody knows it did," excludes the Supreme Court of the United States and the Senate of the United States?

Mr. CARPENTER. I am speaking entirely to the Senate. Of course if I was——

Mr. HOAR. If the Senator will pardon me, he said that everybody knew that the Thurman bill impaired the obligation of a contract, and I desired to say to him that his assertion "everybody knew that" did not include the Senate of the United States or the Supreme Court of the United States, both of whom think otherwise.

Mr. CARPENTER. The Senator may make that assertion; I could not honestly, but I am quite willing to yield the floor to him to make it.

However that may be, the question presented here, waiving the other question, conceding that we may impair the obligation of a contract, conceding that when anybody is indiscreet enough to enter into contract obligations with this Government he is in the power of Congress, which is a law unto itself, conceding all that, that we have got these men between the upper and the nether millstone and may grind them to death, there still remains the question whether we ought to do it.

Here are certain contracts entered into. I believe it is conceded that they were entered into in accordance with law. They reserved to the Postmaster-General, an executive officer, a certain discretion. Now, says the Senator from New York, that is a mere fiction; when an officer is selected by law to act as umpire in regard to the terms and conditions of a contract, that means Congress; and if the Postmaster-General in his judgment could terminate this service, Congress may terminate it, or, what is the same thing, may command him to terminate it. That I deny. I deny when an officer is chosen by a contract to exercise a discretion which is to bind both parties that Congress can come in and compel him to exercise that discretion in another way. Suppose the Postmaster-General still thinks these contracts ought not to be violated; that he still thinks they ought to be executed, can Congress compel him to exercise that discretion against his conscience and bind the other party by it?

Mr. President, the proposition is simply monstrous; but we are getting so accustomed to monstrous things in this Chamber that this does not seem to excite anybody at all. That Congress may authorize an officer to make a contract with a man and then turn around and repudiate the contract—for it means nothing else—does not create any surprise whatever, unless it happens to strike bonds, which strikes capital, which strikes the rich; then we squirm with commendable alacrity. Suppose there should come a state of things in this Chamber when a majority thought our public debt was contracted fraudulently, that the Secretary of the Treasury had been in collusion with the purchasers of bonds and corruptly had acted, why, says the Senator from New York, we may terminate the contract and leave the bondholders to such remedy as they can get in the courts, and when they get to that point they must consult us on that subject, and we will give them a remedy or not just as we please! Apart from the ethics of the thing, look at the fact.

Mr. MAXEY. Right there let me ask the Senator a question. It occurs to me that the argument he refers to is inconsequential. The Senator from New York says that Congress has power to annul the contract and then send the contractor to the courts to get damages if it was not annulled legally. Now, where do the damages come from?

Mr. CARPENTER. I am not discussing that question. I have not got as far as that yet. I was saying that we had no right to repudiate a contract and not give the party a remedy in the Court of Claims.

Mr. MAXEY. I will state to the Senator that the argument of the Senator from New York led to that inevitably.

Mr. KERNAN. I said I thought under this provision we could annul it without giving a remedy where we had reserved a right to annul. I said, secondly, when some one put the question, that when the Government became satisfied that there was fraud on the part of its agent it then might say to the contractor, "We annul this contract, and we give you an opportunity to sue us in the courts." Those were the two positions I took.

Mr. CARPENTER. Mr. President, I have for many years wondered that any man out of a lunatic asylum would make a contract with the United States upon any subject whatever. He certainly subjects himself, his fortunes, all he has and all he hopes to get in this world, to the will and pleasure of Congress, or to the arbitrary will and pleasure, or to the hatred and malice of an executive officer in one of these Departments. If the doctrine is to be carried still further, that he cannot make a contract by which he shall reserve and secure to himself the right to have an honest discretion of some particular officer exercised upon the subject, but that Congress may come in and exercise that discretion in place of the officer, and, if you please, against the judgment of the officer, then it will be still more remarkable if anybody will ever contract for carrying the mails hereafter. A. T. Stewart, of New York, once told a gentleman, who repeated it to me, that in consequence of the delays and nonsense that attended the collection of ordinary bills for dry goods for the White House, when sold to the United States of America, he made it a fixed practice, and had for years, to add 20 per cent. to the bill above what he charged to any private citizen, to cover the expense and delay and trouble of collecting the debt through the Departments, and pass the red tape that the Government has tied around it.

This thing must inevitably react upon us. Men will not enter into contracts unless they can protect their rights as well as we protect ours. If they are subject to our power and we will exercise that power without a hearing on their part, then they have no security whatever, they are at our mercy. I protest against it. I do not say as a matter of law, for I do not know but that we have the power to impair the obligation of a contract under the decision of the Supreme Court in the case to which I have referred, but I do protest against it on the ground of public morals; I do protest against it on the ground of policy, reposing that last protest upon the great maxim that applies as well to a government as to an individual, that honesty is the best policy.

Mr. BOOTH. Mr. President, I desire to say one word. This proviso as it comes from the House to my mind is involved in a maze of difficulties and absurdities, and every attempt which has been made to improve it here only increases the difficulty and demonstrates the absurdity. It is bad in itself, and every patch we put upon it makes it worse.

What are the facts? Here are one hundred and seven at least of these contracts which it is proposed by an act of Congress to annul. When the Senator from New York who last addressed the Senate makes an argument he usually places it upon the highest ground upon which it is capable of being put. In this particular instance I confess that I do not know what he is in favor of, what he is opposed to, or whether he is in favor of or opposed to anything. But take the illustration that he seemed to base the argument upon, that there is a vague, shadowy, unproved, unsustained allegation of fraud against two or three of these contractors; and because that exists we propose to do what? Not to investigate those contracts, not to annul them, not to impeach the officer who made them, but to strike down the whole one hundred and seven. In law, in equity, in morals, in common sense, can that position be sustained anywhere? If that is not the position, I ask any man to state it.

Mr. WALLACE. Mr. President, I hope neither of these provisos will prevail.

The PRESIDING OFFICER. The Chair would suggest to the Senator from Arkansas [Mr. GARLAND] that his amendment is not in order unless he moves it as an amendment to the amendment proposed by the Senator from Kentucky, [Mr. BECK,] by striking out all after the word "provided."

Mr. GARLAND. I did not suppose it was in order. I simply introduced it to show the absurdity of the proposition, and I withdraw it.

Mr. WALLACE. Mr. President, I desire to say now in reference to this discussion that the idea that the Government of the United States will for no cause or an imaginary cause absolutely annul a contract solemnly entered into, upon which a contractor has expended his money in good faith—borrowed money in many instances—and without proof of wrong on his part, subject him to large losses of money, is to me a monstrous proposition. I cannot conceive that the Congress of the United States, on the state of facts that are exhibited here, will dream of doing such a thing. What is it that we are asked to do? Here is a contract between the United States on the one side and A B on the other—an agreement upon sufficient consideration to do a specific thing, that thing being to carry the mails of the United States for four years, upon a fixed route, at a given speed, and for a specific number of trips per week, in consideration of a sum of money to be paid by the Government of the United States. Having fairly accepted his contract, A B proceeds to do the work under it. He expends enormous amounts of money. He digs roads, levels the forest, builds bridges, places ferry-boats, digs wells, spends large sums in the purchase of stock, employs carriers, and with his men, his coaches, and his wagons he helps to develop the western part of our country, and becomes a most important agent in its civilization and progress. He undertakes to do what the Government and the people of the United States want to have done, to open up the wilds to civilization; and having expended his money, having gone on and opened the country, and aided and encouraged emigration to a large extent, and having made the mail to be carried to settlements that have been created by the expenditure of his money, we turn around upon him when one-half of the time of his contract is expired, and he has reached a point at which he may earn some money, and say, by virtue of this ill-defined assertion of fraud, without any proof, that we will forfeit his contract, turn him out to bankruptcy, and thus do him a gross wrong, because we have the power to do it.

If we had the power it would be the grossest wrong upon these citizens of the United States who have entered into contracts with their Government to exercise it. But it does not exist. We have not the power. We are bound just as the contractor is bound. Our statutes bind us. Not that alone, but here in the contract itself the Government of the United States contracting on the one side and A B contracting on the other agree in express terms that the Postmaster-General, an agent, if you please, of the one party, and all the more binding upon us because he is an agent of ours—that the Postmaster-General may have the right to annul this contract for certain specific causes, just as a railroad company enters into a contract with its contractor to build its line of road, and provides therein that the contract may be annulled upon the report of the engineer of the company for specific and defined causes therein named.

Just so it is here. The Postmaster-General is made the arbiter to determine what shall be the ground upon which the contract may be annulled, and these causes are defined, pointed out, made distinct, so clear that any man may understand what they are; and yet, in the face of this provision of the contract, which is a vital part of the agreement that the Government on the one side and A B, the contractor, on the other enter into, we say we will forfeit and annul it, and assign no cause. Not that alone, the attempt to do what is sought to be done here is infinitely worse. It is to destroy the contract absolutely and without any compensation in damages. It is not only to do what the contract provides that the Postmaster-General may do and give to the party contracting his monthly pay, but it is to take away from him the right to go to the court, and to annul his contract utterly and absolutely and by our exercise of power destroy him. There is no such power existing in the United States. It does not exist, and it ought not to exist, in morals, in justice, in equity, or in law.

Mr. President, the power which is attempted to be exercised here will be fitly shown when the Senate listens to the letter of one of these contractors who styles himself the largest mail contractor with the Government of the United States, and who made this statement to the sub-committee of the Committee on Appropriations which had this subject in charge. I may be pardoned for saying right here that I have attempted to do in this case what I would do in all cases as between two contracting parties who submitted their case to me for adjudication: On the one side, justice and fair dealing and common sense and equity to the man who had his contract with the Federal Government; on the other side, protect the Government of the United States against large sums of unliquidated damages if that can be done, and aid as I can and ought in doing that which a great government should do—yield equal and exact justice to all of her citizens.

Will the Secretary please read the communication from Mr. Salisbury, one of the contractors, and then I shall have said all I wish to say on the subject?

The Chief Clerk read as follows:

WASHINGTON, D. C., *May* 8, 1880.

DEAR SIR: As the largest holder of star mail contracts and informally the representative of that large interest as affected by the terms of the postal appropriation bill lately passed in the House of Representatives, I respectfully address you, representing that a proviso incorporated in the said bill is calculated, first, to impair the validity of contracts between the United States and its citizens; second, to violate the principles of equity; third, to militate against both the efficiency of the postal service and the interests of true economy in the conduct of the Government.

These are propositions which I think neither the character of the Senate nor the reputation of your committee will permit to pass unheeded.

I therefore respectfully request that when the Post-Office appropriation bill shall reach your committee in the due course of legislative procedure you will afford me a hearing for the purpose of demonstrating the correctness of the propositions I have hereinbefore set forth.

I shall be at the service of your committee at any time, and will submit my statements either orally or in writing, as may best suit the convenience of your committee.

Confident that no citizen will be denied a hearing on a question of equity, justice, and fair-dealing by your honorable committee,

I remain, very respectfully,

M. SALISBURY.

Hon. WILLIAM A. WALLACE,
Chairman Sub-committee on Post-Office Appropriation Bill.

Mr. WALLACE. Then follows the statement of Mr. Salisbury, which can go into the RECORD without reading.

The paper referred to is as follows:

To the honorable Committee on Appropriations of the United States Senate:

GENTLEMEN: Referring to my letter of the 8th instant, addressed to Hon. WILLIAM A. WALLACE, chairman of the sub-committee on the Post-Office bill, I desire, after tendering my thanks to the committee for its favorable response to my request for a hearing, to amplify somewhat upon each of the three points set forth in the said letter.

My first complaint respecting the proviso in the postal appropriation bill now under consideration by your committee, with regard to certain star mail routes, is that it is calculated to impair the obligation of contracts on behalf of the Government. The laws and regulations under which we bid and the contracts which we make with the Postmaster-General do not contemplate curtailment or discontinuance of the service thereunder during the contract term of four years, except under certain circumstances and conditions, which are specified by law in sections 613, 621, and 656 of the postal code. It is obvious that no man would enter into a contract embracing conditions such as the Government exacts from mail contractors giving two bonds each for double the amount of the contract price, besides depositing certified checks to the amount of 5 per cent. of the bid as an insurance to the Government of good faith on the part of the bidder. I say it is obvious that no sane man would enter into such a contract unless he had reason to consider the Government bound on its part to observe like faith and pay for the service as stipulated in the contract for the full term, unless due cause for curtailing or discontinuing the same should be shown under the law prevailing at the time the contract was made. We bind ourselves to perform this service and to transport all the mails, be they one pound or ten tons per day. If we allow one pound of mail-matter to be detained, or for any cause, under the present rulings of the Post-Office Department, we run behind our schedule, there is a certain proportionate amount deducted from our pay. These are certainly strong and binding contracts, so far as the interests of the Government are concerned.

From their conditions the contractor has no escape. Now can or will Congress by its legislation declare that the Government as a party to these contracts sustains no reciprocal obligation? Can it be supposed that any business man would enter into such a contract without fair security for its observance by the party of the other part, to wit: the Government? The impression under which we made our bids and proceeded to execute our contracts was that we had the best security in the world, having contracts with the authorized agent of our Government for periods of four years, we stipulating to perform specified service and the Government to pay us quarterly specified amounts therefor, under rules and regulations strictly defined by law and by the practice of the Department. Your honorable committee, upon examination of the sections of the postal code hereinbefore cited, will observe that the causes for which the Postmaster-General may annul, curtail, or modify a mail contract are, first, when it appears in his judgment advisable to place on any given route superior service, such as transferring it from stage-coaches to railroads, or in case the contractor is not able or willing to increase the speed or the number of the trips on his route when such increase of speed or number of trips is deemed necessary to the public interests by the Department, or when the public can be better supplied with mails by curtailing or discontinuing one route and placing it on another reaching the same point. For example, the mining district of Deadwood was formerly supplied with mails by a route running from Cheyenne to that point, but on account of depredations committed by highwaymen and Indians, together with the mountainous character of the country through which the route ran and the frequent heavy snows, the Postmaster-General thought it for the public interest to curtail the service on that route, transferring the through mails to the route running from Sidney, Nebraska, to Deadwood, (see section 621, postal code.) These are the causes for which service on any mail-route may be curtailed or annulled, and they are not only named in the law but stipulated in our contracts. But there is no precedent either in the legislation of Congress or in the practice of the Post-Office Department for the arbitrary annulment or curtailment of service on a route for any other cause, whether that cause be newspaper charges unsustained by testimony or suspicions excited by the irresponsible slanders of disappointed bidders or failing contractors. When we complied with the stringent conditions which the regulations of the Department impose upon contractors we certainly did not, as a part of the essence or spirit of the contract, anticipate that Congress would arbitrarily abrogate them and repudiate the obligations of the Government to us under them in the middle of the contract term.

Referring now to the second point set forth in my letter of the 8th instant, to wit, that the proviso under consideration is calculated to violate the principles of equity, I have to say that we claim to be citizens of the United States, entitled to legal and equitable protection as such, not only as against foreign powers, but as against powers unduly or inequitably exercised by our own Government. We shall certainly claim in the courts the same protection from bankruptcy and ruin at the hands of the Government itself that we would claim under similar circumstances from individuals with whom we might have business transactions who might in a similar manner seek to avoid or evade the obligations of contracts. Among the hardships which this proviso is calculated to inflict upon the holders of contracts I will enumerate the following: It will throw us unexpectedly in competition with other parties after we have labored and expended capital for two years to establish the routes upon which we carry the mails, building roads, making stations, bridging streams, digging wells, &c. In fact, after we have partially civilized the section of country through which our routes run, capturing or driving off highwaymen, by which we not only protect ourselves, but at the same time the traveling public, and in that manner serve the general interests of the community with our own. The competing bidder will take all these things into consideration, and can and will take advantage of our expenditure and labor, knowing as he does that if he gets the contract the roads we have made, the stations we have built, and the wells we have dug, and the bridges we have constructed, together with all the equipment and paraphernalia of our routes, will be of little or no value to us, and of course he can buy them for a large discount of their actual cost, all of which are bound to enter into his calculations. I am not willing to believe that the Congress of the United States will enact a law which, in addition to impairing the obligation of contracts, as I have hereinbefore set forth, outrages the principles of equity as between man and man, in this manner repudiating a contract duly entered into with one of its citizens, and hitherto faithfully executed by him, in order to transfer any real or supposed proceeds of the same to the pocket of his neighbor.

My third point was that this proviso was calculated to militate against both the

efficiency of the postal service and the interest of true economy in the conduct of the Government. It should be known that among the conditions under which all the star mail service in the far West has to be performed is the necessity of providing forage and other stock supplies in the summer season to last through the winter. Now, if all these contracts are relet, to commence on October 1, neither the present contractor nor the party who might obtain the contracts under the letting would or could secure at that season of the year the forage requisite to feed the stock through the ensuing winter. June and July are the months in which this work must be done, and if forage is not secured during those two months then it will be impossible to get it at all during the season, and of course it will be impossible to maintain mail service during the winter without a supply of forage, which, owing to the difficulty of transportation, it would be utterly impossible to bring from a distance, but which must be cut and stored on the spot. The result would be that if new contractors should secure these mail-routes they would most certainly be obliged to do very inferior service, and in many cases to suspend service altogether in consequence of this lack of supplies. With the uncertainty of the reletting hanging over him it is not to be expected that the present contractor would go to the trouble and expense of putting up forage either in the hope of obtaining the contract under new letting or a fair price for it from his successor, because the action of Congress in arbitrarily annulling these contracts would give rise to doubt in his mind as to whether any subsequent contract he might make with the Department would be observed and respected or not if awarded to him, while the same consideration would operate to impair or destroy his faith in the ability of his successor to pay him for the said forage. It will be observed that this proposed action on the part of Congress, setting as it does a precedent, must annihilate all sense of security on the part of contractors, who could have no escape from the apprehension that their contracts would be curtailed or annulled, and the obligations of the Government under them repudiated at any future time under similar or other circumstances.

In addition to these things, I desire to state for the general information of the committee that mail contractors do not, as a rule, make money on the first two years of their terms, as it takes that time, with hard work and liberal expenditure, to equip and organize their routes, in order that the subsequent service may be placed upon a paying basis. So far as I know, the majority of contractors during the past two years have been compelled to anticipate their each quarter's pay to equip their roads running, and should their contracts be annulled at this time they would all sustain a heavy loss. I think my losses would be at least a quarter of a million of dollars, and this in stock, equipment, and improvement upon routes alone, without taking into account any part of the profit that I may legitimately expect to realize from my contracts during the next two years. For much of this large investment I still owe my bankers and friends, and while I might lose the hard earnings of the last fifteen years, that is of the best part of my life, I can hardly afford to lose my friends' money and the credit and business reputation which it has taken me a life-time to establish and to earn. If Congress should establish the precedent of annulling contracts regardless of the laws under which they are made or the equities which enter into them all responsible mail contractors who bid in the future would make their estimates on all contracts as they do now on special or temporary contracts let for six months or a year, which are invariably placed at a much higher rate than the general contracts running four years. That is to say, the contractor would be compelled to make his calculations enough broader than he makes them now to insure himself against the possible or probable bad faith of the Government precisely as a banker charges discount in proportion to the unreliability of the paper which he is asked to negotiate.

The House of Representatives has inferentially directed the Postmaster-General to readvertise and relet the service just as it now is with the full number of trips and with the expedited schedules, but giving the contractor no option but to accept an arbitrary reduction of his pay or surrender his contract, and in this the House asks the concurrence of the Senate, notwithstanding that the figures submitted in the report of the Department and in the testimony taken before the committee of the House show that the cost per mile as now conducted of the whole star service is less than ever before. We have been under investigation for five months, and all the report of that investigation that has been made is House Report No. 1353, accompanying Post-Office appropriation bill, and herewith appended, and casual references in the speeches made by members of the committee to the mass of printed testimony. The conclusion is simply that our contracts are to be annulled unless we will perform the same service both as to number of trips and schedule of time for an amount of pay greatly reduced from that specified in the contract. This is the entire innovation in the conduct of the postal service. No contract was ever changed by the Department unless the nature of the service was changed with it.

All of which is respectfully submitted.

M. SALISBURY.

Mr. BLACKBURN, from the Committee on Appropriations, submitted the following report, to accompany bill H. R. No. 6036:

In submitting the bill providing for the service of the Post-Office Department for the fiscal year ending June 30, 1881, the Committee on Appropriations herewith, for the fuller information and greater convenience of the House, present some of the papers and tables (for tables see Miscellaneous Document No. 31, Forty-sixth Congress, second session) that were before them in the consideration of the estimates for the postal service for the year ending June 30, 1881. Those estimates will be found on page 153 of the Book of Estimates; being part of the budget for the ensuing fiscal year, they are supplemented with explanation on pages 5 *et seq.* of the last annual report of the Postmaster-General, and are also materially revised by the special letter of the Postmaster General to the Committee on Appropriations, dated April 19, 1880, herewith presented:

"POST-OFFICE DEPARTMENT,
"*Washington, D. C., April* 19, 1880.

"SIR: In the estimates of appropriations for the fiscal year ending June 30, 1881, (see page 256, appendix to last annual report of the Postmaster-General,) the estimated postal revenues for said fiscal year were placed at $32,210,000, an increase of $2,168,017.14, or a little more than 7 per cent. for the two years. The average annual increase of revenue for the four years to June 30, 1879, was 2.69 per cent., and when the present estimates were prepared, in October last, an allowance was made for an increase somewhat beyond this rate because of the revival of business then becoming manifest. Since then the advance has exceeded the most sanguine expectations; and in the light of data recently obtained, the postal revenues for the coming year will undoubtedly be much greater than appears in the estimates.

"The amount of postage-stamps, stamped envelopes, and postal cards issued to postmasters upon requisition during the nine months ending on the 31st March last was $23,979,335.52, being an increase over the amount issued during the corresponding nine months of the previous fiscal year of $3,016,062.17, or a little more than 14 per cent. The returns from ninety-eight principal offices in the country—those in which the free-delivery service is in operation—show an increase of 13.3 per cent. in the amount of stamps, &c., sold for the nine months ending on the 31st March, as compared to the sales for the corresponding nine months of the previous fiscal year.

"While the increase shown in these figures is most gratifying, it would hardly be safe, in providing means to meet expenditures, to assume that it will continue in such large proportions. It would probably be safe, however, to put the rate of increase for the present over the past year at 10 per cent., and for the coming over the present year at 6 per cent., giving, in even figures, $33,000,000 as the revenue for the present year, and $35,000,000 as the revenue for the coming year.

"The increased issues of postage-stamps, stamped envelopes, and postal cards, from which the postal revenues are mainly derived, will necessitate larger appropriations for the manufacture of some of these articles. For postage-stamps, the amount appearing in the estimates will probably be sufficient; for stamped envelopes, the amount required for the present fiscal year, at the rate of expenditure for the nine months to the 31st of March, will be $400,109, or an annual increase of nearly 11 per cent. At this rate of increase, the amount required for the coming year would be $444,020. The estimate is for $437,000, and it may be that this will be sufficient.

"For postal cards, the increase of issues during the nine months above referred to has been at the rate of 23 per cent.; during the next fiscal year it will probably be 25 per cent. At these rates of increase, the number of cards issued during the coming fiscal year will be 341,012,887, which, at present contract prices, will amount in even figures to $237,000. This is just $26,000 more than the estimate. The item in the estimates for the manufacture of post-office envelopes should also be increased, on account of the large increase in the market prices of paper material, and the probable increase in the use of the envelopes. The contract for these envelopes is made annually, so that any estimate for their supply must be governed to some extent by the price of paper. It will not be safe to allow for less than an increase in cost of 20 per cent. over the estimate for these envelopes, which will bring the amount up to $120,000. The estimate before given was for $100,000.

"The aggregates in the table of estimates referred to, with the alterations suggested in the estimates for expenditures, would then stand as follows:

Total of estimated expenditures, as herein modified		$39,966,900
Ordinary revenues	$35,000,000	
Money-order receipts	210,000	
		35,210,000
Deficiency to be supplied out of the Treasury		4,756,900

"I have the honor to be, very respectfully, your obedient servant,
"D. M. KEY,
"*Postmaster-General.*

"Hon. J. D. C. ATKINS,
"*Chairman Committee on Appropriations,*
"*House of Representatives.*"

The original estimates, page 153 B. of E., require an appropriation of $39,920,900, and anticipate an amount of revenue (including money-order receipts $210,000) amounting to $32,210,000; leaving a deficiency to be provided for out of the general Treasury of $7,710,000; add to this the amount of $1,000 for ordinary postage-stamps to prepay postage on matter addressed to postal union countries, and we have the sum of $7,711,900, amount asked from the general Treasury.

By the letter of April 19, heretofore alluded to, the Postmaster-General has restated his estimated expenditures for the service of the fiscal year ending June 30, 1881, at $39,966,900, and his estimated revenues, including money-order receipts, $210,000, at $35,210,000, leaving deficiency to be supplied out of the Treasury of $4,756,900. He is enabled to make this better showing mainly by an expected increase in the sale of stamps, stamped envelopes, and postal-cards.

The recommendations embraced in this bill amount, for the Postmaster-General's office, $328,500, being expenses of inspectors of mails, advertising, post-route maps, and miscellaneous matters.

For the First Assistant Postmaster-General's office, $14,321,500, being mainly for compensation to postmasters, clerks in post-offices, and letter-carriers, and rent, fuel, and light.

In the office of the Second Assistant Postmaster-General $22,920,000, being for inland mail transportation; by railroad, steamboat, and star routes, and railway post-office car service; also railway post-office clerks, agents, messengers, mail locks and keys, and mail-bags and mail-bag catchers.

In the office of the Third Assistant Postmaster-General $935,420, being principally for postage-stamps, postal-cards, &c., and expenses of distributing the same.

In the office of the superintendent of foreign mails $270,000, being for transportation of mails to and balances due foreign countries.

The total amount recommended by this bill, $38,676,420, is an increase over the appropriation for similar service for the present fiscal year of $341,020, and a decrease under the estimates for the coming year of $1,294,500, but demanding, notwithstanding the liberal character of its recommendations, an appropriation out of the general Treasury of only $3,466,420, which is a smaller amount than has been required at any time since the restoration of proper postal facilities throughout the country. Most of the provisos attached to the bill of last year guarding and limiting the expenditure of the money appropriated are repeated. There are also some slight additional new provisos besides the especial feature in this bill attached to the clause appropriating for star-service routes, which is as follows: "*Provided*, That on all star mail-routes upon which increased compensation for increased expedition, beyond 50 per cent. over original contract price, has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of original contract price."

In his annual report for 1877, page 27, and for 1879, page 13, the Postmaster-General, in treating upon the subject of "compensation for increased speed and increased frequency of star service," claims that the operation of the present laws regulating the same results in great loss to the Government. He says: "These laws (sections 3960 and 3961, Revised Statutes) have been in force for many years, and are the source of nearly all the deficiencies in the appropriations for the star service which have ever been created." He adds:

"It frequently happens, especially in the mining regions of the West, that, at the time of advertising, service is not required upon new routes more frequently than once or twice a week; but after the contracts have been made and service begun, population increases along the line, and an increase of speed and more frequent service become necessary. Under such circumstances it is clear that the rate that was reasonable for service once or twice a week, through a sparsely settled region, becomes exorbitant when multiplied by three or six to cover daily service. I would therefore recommend that section 3960 be so amended as to permit the Postmaster-General to advertise for new proposals for the increased service, the contract to be awarded to the lowest responsible bidder, as usual. Section 3961 should be so amended that when the cost of increased speed would amount to more than 50 per cent. of the cost of the original service the Postmaster-General should readvertise for service at the increased speed."

On page 27 of report for 1877 he has also expressed his views fully, and partly to the same purpose.

The committee believe that the law as fixed by the act of April 7, 1880, leaves the Department, to a great extent, shorn of a hitherto unlimited and dangerous discretion, which in many instances has been abused in arbitrary allowances of vast sums of money without any commensurate advantage to the country; but the beneficial effects of the said act of April 7, 1880, apply only to future contracts, leaving intact all of the heavily expedited routes, with their arbitrary and enormous increases of compensation, with two or three years yet to run. The expedition for reduction of schedule only upon seventy-three of these routes amounts to $1,10,765 annually, and the attention of the House is directed to H. R. Mis. Doc. 31, entitled an inquiry into the postal star service, consisting of some three hundred pages of printed testimony upon this subject, and, in the opinion of the committee, clearly demonstrating the justice and absolute necessity for a reduction of pay as a reduction of service, not in the number of trips, but in the matter of schedule or rate of speed upon these seventy-three routes.

At the present rate of compensation allowed upon star routes over $3,000,000 appropriated each year for the star service of the country is expended in nine Territories and four States.

The committee, fully convinced, after a thorough investigation of the workings of this system, (under sections 3690 and 3691,) that opportunity is furnished thereby to large star contractors to effect combinations and extort from the Government compensation disproportioned to the value of the service rendered, making fraud upon the Government practicable and a wastage of public moneys inevitable, cannot refrain from recommending to the House the imposing of some conditions upon existing contracts that will subject the beneficiaries of that departmental discretion upon which the seal of Congress's disapproval has been placed by the said act of April 7, 1880, to the same terms and conditions prescribed for all future contracts. The committee is unable to see why the holders of these contracts, whose enormous allowances for expedited service have extorted from Congress not only a rebuke of a vicious practice but by the enactment of law a positive remedy for the future, should, for a period of years to come, (to be determined by the duration of their respective contracts,) be left undisturbed in the reception of public moneys for which no sufficient equivalent service is rendered. The law itself and the conditions of every star contract in express terms reserves to the Government the right to decrease, curtail, or discontinue all such service at pleasure by payment to the contractor of one month's extra pay at existing rates and *pro rata* compensation in future for such service as may be retained.

For these reasons the committee have incorporated the above-stated proviso upon the clause of the bill making appropriations for what is known as the star service, the enactment of which proviso will in great measure remedy the evil and place all these existing and continuing contracts for largely increased allowances upon exactly the same footing with what the law now prescribes for all future contracts. This seems but equitable and fair, a step needed to be taken to protect the wastage of public moneys. Against the adoption of this proviso no one can enter protest or complaint unless it be the fortunate holder of these recklessly expedited contracts, and he can only complain because of the Government availing itself of a provision of law and a condition expressly stated in every contract—the one enacted and the other incorporated for the sole purpose of protecting its Treasury from glaring abuses.

The proviso amending section 4017 is adopted in consonance with the wishes of the Department; it simply changes the title of "special agents" to inspectors of mails.

The proviso attached to the clause "for inland transportation on railroad routes," in repealing section 5 of last year's appropriation law, remits the matter to the operations of general law.

The committee, in conclusion, recommend the passage of the bill in its present shape, believing that every necessity of the service is fully met and provided for, and that the views of the Department have been fairly and carefully considered and substantially met.

Mr. DAVIS, of West Virginia. Mr. President, the act approved April 7, 1880, provides among other things the following:

Provided, That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let.

I consider that a very healthy proviso, and it will prevent I hope in future much that has heretofore happened. It will be recollected by the Senate, and some Senator has named it, that for many years the present law has existed which gave a discretion to the Postmaster-General to increase the service; but I believe in this Congress there has been the only deficiency bill in which great complaint came. It is a strange fact that the present officers of the Post-Office Department are the only ones perhaps that have abused the discretion given them to anything like the present instance.

Mr. TELLER. May I interrupt the Senator?

Mr. DAVIS, of West Virginia. Oh, yes.

Mr. TELLER. Does the Senator mean to say that the increase is greater in proportion to the service under this administration than under any other?

Mr. DAVIS, of West Virginia. I think so.

Mr. TELLER. If the Senator thinks so, he certainly is very ignorant of the history of the Post-Office Department.

Mr. DAVIS, of West Virginia. I believe I am correct in stating that there has been nothing compared to some of the increases provided for in the last deficiency bill. I think it has exceeded anything that the country has ever thought of.

Mr. BOOTH. Will the Senator allow me to interrupt him?

Mr. DAVIS, of West Virginia. In a moment. I believe that the provision which was added to the deficiency bill for the Post-Office Department will save this country millions of dollars. We well know that there never have been such enormous increases as the present officers of the Post-Office Department have given to certain individuals in certain quarters. They have been more or less in the aggregate going over a great number, but here we find some particular cases where starting at $6,000 the contracts now amount to $134,000 per annum. That is so enormous that it is almost wonderful. Now I will listen to the Senator from California.

Mr. BOOTH. I simply wanted to call the attention of the Senator from West Virginia to the fact which he will recollect, that the transportation on the star routes is per mile less to-day than it has been at any time since 1865 with the exception of one year, and the expedition and service is better.

Mr. DAVIS, of West Virginia. As to the latter part, better, I cannot speak. That is a pretty broad assertion; it may or may not be so. As to the less per mile, that may be so; but that does not meet the point that I make, and the Senator was very carful to avoid the point made. I repeat that I have not been able anywhere to find—and I have got others to look and I have looked myself—in the neighborhood perhaps by 100 or 200 per cent. such enormous increases as have taken place within the last year. I think the increase is without parallel, and I think the officers who authorized it deserve censure as I think they have had in the last deficiency bill.

Now, as to the remedy, I think the remedy has already been applied on the deficiency bill. I do not know that we can do better now than simply appropriate the money and let us finish this bill and get rid of this particular item that we are now complaining of.

Mr. MAXEY. I want to call the Senator's attention to the historical fact referred to by the Senator from California, [Mr. BOOTH.] It was stated in the last discussion—I had the honor of stating it myself—that the star-route service to-day is not only less per mile, but, even with the increased expedition, it costs the Government less to-day than it did twenty years ago.

Mr. DAVIS, of West Virginia. That is not the question. The question is whether or not there has not been in some manner a large amount of money got from the Government improperly, as I think, between certain contractors and the Post-Office Department. That is the question; not whether the whole system is not better. I am not saying that; but I say that there has been no parallel to what has taken place in the way of increase in certain directions in the last year.

Mr. MAXEY. I will agree with the Senator in any system whatever to ferret out, to search out fraud, combinations, conspiracy. In any mode known to the law I will go as far as any man on earth in that direction; but I am opposed by indirection—which is the substance of the proviso—to making broad charges without proof. I think that is unjust.

Mr. DAVIS, of West Virginia. The chairman of the Post-Office Committee I know understands that I am a member of the committee which reported in favor of striking ont the proviso and that I agreed with the committee in that respect. Probably there is no way now of reaching what has been done; but the Senator will also agree with me, and I presume the Senator from California will agree with me, that the provision in the last bill which prevents these things in future is a very proper one.

Mr. MAXEY. I stated distinctly that I voted for it and I was glad I did, because I regard it as wise. I am in favor of it to-day for the future.

Mr. TELLER. Any person who will examine the history of the Post-Office Department will find that the statement made by the Senator from West Virginia cannot be supported in fact.

Mr. DAVIS, of West Virginia. What part of it?

Mr. TELLER. The statement that there has been an increase latterly greater proportionately than at any other time. Any man who is familiar with the history of the country for a number of years knows differently.

Mr. DAVIS, of West Virginia. I said on certain routes.

Mr. TELLER. Well, on certain routes. I can show from the Post-Office files, and it was well brought out in the discussion in the House, that during the last presidency of the democratic party they increased the service on the southwestern routes at a greater expense proportionate to the number of trips and the expedition than any increase under this administration.

Mr. DAVIS, of West Virginia. Will the Senator be kind enough to give one route and state what was the increase.

Mr. TELLER. I cannot give the exact increase, but that is the fact which was presented to the House and not disputed. I refer to the line through Southern Arizona, New Mexico, and California. The amount of money raised on that line was larger than on the long line through Texas, with which so much fault is found. It is easy for a Senator to get up here and make a statement of something that he has no knowledge of. I say the service is better to-day in the West than it has ever been under any prior adminstration.

Mr. DAVIS, of West Virginia. That is not the question at all.

Mr. TELLER. And I will say further that it is shown by the records to be cheaper than it has ever been at any other time. The Senator rises here and says there never has been such an increase proportionate to the service, and therefore he infers that there is some fraud in it.

Mr. DAVIS, of West Virginia. On certain routes.

Mr. TELLER. Why does not the Senator, who is with the dominant party, move an investigation on this subject? He will find nobody defending the star routes interfering or objecting to it.

Mr. WALLACE. Mr. President——

Mr. CAMERON, of Pennsylvania. I ask my colleague to give way for a few moments.

Mr. WALLACE. What for? For routine business?

Mr. CAMERON, of Pennsylvania. I ask that the Senate take into consideration Senate bill No. 201. I do not think it will take time.

Mr. DAVIS, of West Virginia. I object to laying this bill aside.

Mr. CAMERON, of Pennsylvania. Just for a few minutes.

Mr. DAVIS, of West Virginia. I object to laying aside an appropriation bill to take up a private bill. The Senator ought not to ask it.

Mr. CAMERON, of Pennsylvania. I thought you were getting fatigued.

Mr. DAVIS, of West Virginia. I do not know what the Senator's bill is, but I object to it.

Mr. CAMERON, of Pennsylvania. I thought from your last remark you were getting fatigued, and a little rest would do you good.

The PRESIDING OFFICER. The question is on the proviso proposed by the Senator from Kentucky [Mr. BECK] as an amendment to the clause moved to be stricken out.

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Committee on Appropriations, to strike out the proviso.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 116, to increase the appropriation "for mail messengers" from $700,000 to $725,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 118, to increase the appropriation "for mail locks and keys" from $25,000 to $100,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was under the head of "office of superintendent of foreign mails," to strike out after the word "dollars," in line 152, the following proviso:

Provided, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mails as he may deem just.

Mr. BOOTH. I hope this amendment will not be agreed to. It is to strike out a provision that was inserted by the House, and if I can have the attention of the Senate, for it is somewhat important, at least important to my constituents, I will state the theory upon which the proviso was inserted.

The colonies of New Zealand and New South Wales are paying to an American line of steamships that make monthly trips from San Francisco an annual subsidy of $450,000. These steamships carry the American mail to the Hawaiian Islands, to the Samoan Islands, the Fejee Islands, and New Zealand, and New South Wales without any cost to us, they collecting simply the postage, which amounts to about $10,000. The trade between the United States and New South Wales and New Zealand now amounts to $7,000,000 of our exports. We sell to those colonies annually about $7,000,000, and buy from them about $1,000,000. The mails which are transported across the continent for these colonies are charged by us for the transportation the actual cost, which last year amounted to $83,000. That sum is paid by Great Britain. Now, in consideration of the fact that these colonies of New South Wales and New Zealand are to-day paying to American ships $450,000 per annum, which enables them to carry our mails on the Pacific for nothing, it seems to me to be nothing but an act of grace and favor which we can well afford to perform to remit to them—not to Great Britain—such portion as may be just of what we charge for transporting their mail across the continent.

That is all there is in it; and I should be very glad if the provision could be retained. I wish to place it upon the true ground and keep it there all the time. They are paying $450,000 annually to ships which carry our mail on the Pacific for nothing, and as an act of reciprocity to them I desire that the Postmaster-General may have the power to remit in their favor such amount as he deems just for transporting their mail across the continent.

The PRESIDING OFFICER. The question is on the amendment of the committee striking out the proviso.

A division was called for; and the ayes were 12, and the noes 18.

Mr. COCKRELL. There is no quorum voting.

Mr. BOOTH. Let it be reserved in the Senate.

The PRESIDING OFFICER. It can be reserved in the Senate, the amendment being considered as agreed to.

The next amendment will be read.

The next amendment of the Committee on Appropriations was, in section 2, line 3, to strike out "three million five hundred and fifty-two" and insert "four million and fifty-eight;" so as to make the section read:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $4,058,420, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1881.

The amendment was agreed to.

Mr. TELLER. I do not desire to detain the Senate, but I made a statement here, and I am not in the habit of making a statement without verifying it if it can be done.

From 1850 to 1854 the contract for carrying the mail from Independence, Missouri, to Salt Lake City was as follows: Original contract $19,500 at thirty days' time. The running time was reduced five days and the expedition increased in that way, and the compensation was raised at the rate of $1,170,000 for the kind of service on the route now complained of from the original sum of $19,500. That was a contract existing for four years under a democratic administration. That is only one of a great number that are here cited.

Mr. WITHERS. Who was the contractor that had that contract?

Mr. TELLER. I do not know who it was and it does not make any difference who it was.

Mr. EATON. When was that?

Mr. TELLER. Yes, I do know who it was. If Senators want to know I will tell them. The contractor then was a Mr. Russell, generally known in the city of New York as Uncle Billy Russell, who is long since dead, and a very good man. I had forgotten at the moment who was the contractor. That was from 1850 to 1854. That was before Mr. Holladay came in.

The bill was reported to the Senate as amended.

Mr. BOOTH. I ask a separate vote on the amendment as to New Zealand and New South Wales.

The PRESIDING OFFICER. The question will be put on the other amendments together.

The amendments made as in Committee of the Whole, with the exception indicated, were concurred in.

The PRESIDING OFFICER. The question now is on the amendment indicated by the Senator from California.

Mr. SAULSBURY. I did not vote on the amendment as to star routes, and the reason I did not vote was this: I am not in favor of abrogating a valid contract, an honest contract, entered into by any person with the Government; but from what I have heard I am satisfied in my own mind that some of the contracts with the Post-Office Department in regard to mail service are tainted with fraud. I did not want to vote against the provision of the House, because in doing so I should necessarily be voting to continue contracts which, according to the information I have received, are tainted to some extent with fraud. The reason, therefore, I did not vote was because I did not want to abrogate an honest contract, but at the same time I did not want to record myself against a provision which proposed to abrogate contracts which ought not to have been entered into. I shall be glad if some provision can be made whereby any contract in the least tainted with fraud may be abrogated while those free from suspicion shall not be affected by the provision, and I hope the committee of conference that may be appointed will have due regard to that particular matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment indicated by the Senator from California, striking out the proviso from line 155 to line 159.

Mr. BOOTH. I ask for the yeas and nays on that, and I trust the Senate will not agree with the committee.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. I ask the Clerk to read the amendment again and I hope Senators will listen to it.

The PRESIDING OFFICER. The amendment will be reported.

The SECRETARY. In line 155, after the word "dollars," it is proposed to strike out the words:

Provided, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mails as he may deem just.

Mr. DAVIS, of West Virginia. That is not only carrying the mail for nothing but paying for it. It is paying for the privilege of carrying it. Again, what right—I know of none—have we to remit in favor of New Zealand and New South Wales the cost of transporting the Australian mail? It is a very singular provision. It is the Australian mail, and yet we give it to those two provinces. Why? What for? We pay for carrying the mail across this continent, and why do we give it to New South Wales and to New Zealand? It is a singular provision and a singular manner of doing it, too. Senators of course will do as they please, but I believe there is sixty or seventy thousand dollars a year involved.

Mr. BOOTH. Eighty-three thousand dollars.

Mr. DAVIS, of West Virginia. My friend corrects me. It is eighty-odd thousand dollars a year given for what? For the privilege of giving it to those two colonies. Now, is it possible, can we legally or properly negotiate with these provinces when they have a mistress?

Mr. BOOTH. If I did not make the proposition clear to the mind of the Senator from West Virginia before, it was because I could not state it clearly, I presume. I shall have to restate substantially what I said before, for I simply stated the facts.

The colonies of New South Wales and New Zealand are to-day paying an annual subsidy of $450,000 to an American line of steamers, which line carries our American mail to the Hawaiian Islands, to the Samoan Islands, to the Feejees, to New Zealand, and to New South Wales for nothing. They pay $450,000 for their service; we pay nothing.

It occurred to me, as it did to the House of Representatives, that it would be nothing more than fair reciprocity that the Postmaster-General should be authorized, in consideration of this, to remit in their favor such portion as he may deem just of the amount that we pay for carrying their mails across our continent. The Senator from West Virginia is right in this proposition, that they only pay us what we pay for the transportation. But is it not a fair consideration, if they are willing to pay our ships $450,000 a year for carrying so important a mail for us, that we should remit some portion of this charge in their favor?

The only practical difficulty about it has been suggested by the Senator from West Virginia, and that is that we do not deal with them directly. That is a difficulty I think that is rather in imagination and diplomacy than otherwise. We settle this account with Great Britain; but it is perfectly competent for our Department in making this settlement with Great Britain to say, "We remit a certain portion of this to be credited to the colonies." I do not think there is any difficulty in it, and the Department does not think there is. If that cannot be done, then this proviso will simply be inoperative. It vests the discretion in the Department for that reason, in order that the manner of remitting this in favor of the colonies may be intelligently determined upon.

I said before this is a valuable trade to us with New Zealand and New South Wales. We sell them $7,000,000 annually, and only buy from them about one million.

In addition to that consideration, the government of Great Britain has recently been expediting and increasing the service by the other route, the route by Brundisi and the Suez Canal, in order to divert this correspondence from our route. This contract made by New

South Wales and New Zealand with the American line has about three years to run, and I have only to repeat what I have said before: they are weak; we are strong; we get all the advantage out of this trade that there is to be had; and I think it will be a graceful act of courtesy and well-deserved reciprocity if the Department should be authorized to remit such portions as is deemed just in favor of these colonies.

Mr. SAULSBURY. Can the Senator tell us what will be the amount remitted under this provision?

Mr. WALLACE. As I understand this provision, and we had before us the superintendent of the foreign mail service, it is simply this: We receive now from the British government $80,000 for transportation of the Australian closed mail across the continent. The governments of New Zealand and New South Wales subsidize one of our lines of steamers for transporting their mail from San Francisco to those islands, stopping at the intermediate islands, and pay them a much larger sum of money than $80,000. It is proposed by this provision to permit the Postmaster-General to take the $80,000 which the British government pays to us and give it as an additional subsidy to this mail line of steamers from San Francisco to New Zealand, or in lieu of that to be paid to the colonies, as I understand.

Mr. BOOTH. Not to the steamship company by any means, for they already have a subsisting contract which will not expire for about three years.

Mr. WALLACE. It is, in substance, to take that amount of money which comes to the Post-Office Department and give it to these colonies to aid them in paying the transportation from San Francisco to these islands. This is what I understand it to be.

In that light the Senate can dispose of the question as they see fit. It seems to me that the wiser course would be to vote directly $80,000 as a subsidy to this mail line. That would be the frank and direct way. We had better reach questions directly. Vote it directly, and understand it directly.

Mr. BOOTH. With great deference, I do not think that is the object to be reached. These young colonies are paying this amount per year to a company which has a contract that will not expire until two years from next November. That any portion of this $80,000 that we propose to remit in their favor will go to the steamship company there is not the remotest idea or shadow of a thought. The amount that they are to receive will not be increased one penny.

Mr. WITHERS. It will aid in paying them the $450,000 to the extent of the $80,000.

Mr. BOOTH. They already pay it. They already transport our correspondence. I have already placed it on that ground that we are to aid them, that we are to reciprocate what they are doing for us, but not that it increases the amount that is to be paid to the steamship company. There is no such thought.

Mr. WALLACE. As I understand it, however, it comes practically to that. It is that we take the $80,000 we receive from the British government and hand it over to the governments of New Zealand and New South Wales, because they are paying to a steamship company which transports the mail from San Francisco to those islands $450,000, and in consideration of that and the trade which we derive from their commerce with us. That is the way I understand the Senator from California to put it. It comes practically back to the question whether in consideration of this transportation of the mails and the benefit we derive from their commerce to our coast it is wise for us to give them this $80,000. That is the whole of the question.

Mr. WITHERS. I do not understand how it is that this is claimed as an act of reciprocity on our part. The Senator from California argues that we ought to release this amount to them because they pay us $450,000. I do not see exactly where that comes in. They pay a subsidy of $450,000, as I understand the Senator, not to benefit us, but to carry their own mail from San Francisco to these colonies. Now the Government of the United States is not benefited by that that I can see at all.

Mr. BOOTH. Very materially benefited, for the company are enabled to exist and carry the mails by reason of this subsidy, carry our mails to the Hawaiian Islands, to the Samoan Islands, to the Feejee Islands, to New Zealand, and to New South Wales for nothing.

Mr. WITHERS. They are paid for it by our Government.

Mr. BOOTH. No, sir; they only get the postage, which amounts to about $10,000 a year.

Mr. WITHERS. They are bound to do it.

Mr. BOOTH. Enough perhaps to furnish the coal for one voyage, and probably not enough for even that.

The PRESIDING OFFICER. The yeas and nays will be taken on concurring in the amendment.

The question being taken by yeas and nays, resulted—yeas 20, nays 23; as follows:

YEAS—20.

Bailey,	Eaton,	Hill of Georgia,	Vance,
Cockrell,	Garland,	Kernan,	Vest,
Coke,	Groome,	McDonald,	Walker,
Davis of Illinois,	Hampton,	Maxey,	Wallace,
Davis of W. Va.,	Harris,	Saulsbury,	Withers.

NAYS—23.

Anthony,	Cameron of Wis.,	Kellogg,	Saunders,
Blair,	Dawes,	Morrill,	Slater,
Booth,	Ferry,	Paddock,	Teller,
Burnside,	Hill of Colorado,	Platt,	Voorhees,
Call,	Hoar,	Plumb,	Windom.
Cameron of Pa.,	Jones of Nevada,	Rollins,	

ABSENT—33.

Allison,	Edmunds,	Jones of Florida,	Randolph,
Baldwin,	Farley,	Kirkwood,	Ransom,
Bayard,	Gordon,	Lamar,	Sharon,
Beck,	Grover,	Logan,	Thurman,
Blaine,	Hamlin,	McMillan,	Whyte,
Bruce,	Hereford,	McPherson,	Williams.
Butler,	Ingalls,	Morgan,	
Carpenter,	Johnston,	Pendleton,	
Conkling,	Jonas,	Pryor,	

So the amendment was not concurred in.

Mr. MAXEY. In line 56, after the word "purpose," I move to insert:

But no patented machine shall be so purchased until the proper officers shall have fully secured and protected the Government and its officers against the payment of royalty thereon otherwise than in the contract for its use, and against all suits for infringement of any alleged patent for similar machines.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

AMERICAN FISHERMEN AT FORTUNE BAY.

Mr. EATON. A message has been received from the President and a report from the Secretary of State. I ask that the message be laid before the Senate.

The PRESIDING OFFICER. There is a message on the table, which the Chair will lay before the Senate.

The Chief Clerk read the message, as follows:

To the Senate of the United States:

In compliance with the resolution of the Senate of the 28th ultimo, calling for copies of the correspondence with the government of Great Britain in regard to the alleged outrage upon American fishermen at Fortune Bay, in the Province of Newfoundland, I transmit herewith the correspondence called for and a report from the Secretary of State on the subject.

In transmitting this correspondence and report I respectfully ask the immediate and careful attention of Congress to the failure of accord between the two governments as to the interpretation and execution of the fishery articles of the treaty of Washington, as disclosed in this correspondence, and elucidated by the exposition of the subject by the Secretary of State.

I concur in the opinions of this report as to the measures proper to be taken by this Government in maintenance of the rights accorded to our fishermen by the British concession of the treaty, and in providing for suitable action toward securing an indemnity for the injury these interests have already suffered.

Accordingly I recommend to Congress the adoption of these measures, with such attendant details of legislation as in the wisdom of Congress shall seem expedient.

The correspondence referred to has been sent this day to the House of Representatives, in compliance with a similar resolution.

R. B. HAYES.

WASHINGTON, *May* 17, 1880.

Mr. EATON. I move that the message and the report of the Secretary of State be printed and referred to the Committee on Foreign Relations. I make that motion now, as there are very voluminous papers which may be printed hereafter; but I desire these few papers printed at once.

The PRESIDING OFFICER. Is there objection to printing the message sent by the President to-day? The Chair hears no objection, and that order will be made; and the message, with the accompanying documents, will be referred to the Committee on Foreign Relations.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. With the permission of the Senator from Delaware, [Mr. SAULSBURY,] I desire to ask the Senate to proceed now to the consideration of House bill No. 2328, of which I gave notice this morning. I will not ask the Senate to consider it this evening, but if the Senator from Delaware will consent, I should be glad to take it up, so that it may be the first business in order to-morrow after the morning hour.

Mr. SAULSBURY. I desire to-morrow to occupy the floor for perhaps an hour in the consideration of the regular order.

Mr. HARRIS. Then I renew the notice that after the Senator from Delaware shall have been heard to-morrow I will ask the Senate to take up and consider this bill.

REMOVAL OF DISABILITIES.

Mr. ROLLINS. I move that the Senate proceed to the consideration of executive business.

Mr. McDONALD. I ask the Senator from New Hampshire to withdraw his motion for a moment until I ask the Senate to take up and pass House bill No. 3989, removing disabilities.

Mr. ROLLINS. Will it lead to any debate?

Mr. McDONALD. No, sir.

Mr. ROLLINS. I yield for that purpose.

Mr. McDONALD. It is a bill reported by the Judiciary Committee without amendment, and is a unanimous report.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3989) to remove the political disabilities of William B. Taliaferro, of Virginia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds voting in favor thereof.

EXECUTIVE SESSION.

Mr. ROLLINS. I renew my motion for an executive session.

Mr. COCKRELL. I hope the Senator from New Hampshire will allow me to have a bill considered which cannot lead to any discussion.

Mr. ROLLINS. My friend from Maryland [Mr. GROOME] has just importuned me to yield to him. If I were to yield to anybody, I should yield to him.

The PRESIDING OFFICER. The Senator from New Hampshire moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

After three minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 17, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

EXPLANATION.

Mr. BRIGHT. On last Saturday I asked unanimous consent to take up two bills upon the Private Calendar for the purpose of putting them upon their passage in relation to the claims reported from the Quartermaster's Department and from the Commissioners of Claims.

An inquiry was made by the gentleman from Michigan [Mr. WILLITS] if the bills contained anything except appropriations. In response to that I replied that there was no legislation at all except that. That was my understanding at the time. The bills were called up by me as a matter of courtesy, and the request was to put them on their passage. I had no information on the subject except the reports which were filed accompanying the bills, and they made no allusion to the fact that there was a clause which required notice to be given to claimants on taking testimony on claims against the Government. I make this statement merely for the purpose of putting myself correctly before the House, with the assurance that I had no intention to deceive the House in the response which I gave.

ORDER OF BUSINESS.

Mr. COX. I desire to take up a Senate bill——

The SPEAKER. The gentleman from New York will have to make that request after the call of States. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Nevada, for the introduction on leave of bills and joint resolutions for reference to their appropriate committees not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials and resolutions of State and territorial Legislatures are in order, and also resolutions calling for executive information, for reference to appropriate committees.

There were no bills introduced from the State of Nevada, and the State of New Hampshire was called.

Mr. REAGAN. If no member particularly desires to introduce a bill to-day, I ask that by unanimous consent the call of States and Territories be dispensed with.

The SPEAKER. A bill has been sent to the desk. The call will be proceeded with as rapidly as possible.

BENJAMIN TUTT.

Mr. HALL introduced a bill (H. R. No. 6208) for the relief of Benjamin Tutt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PROSCRIPTION OF JEWS IN RUSSIA.

Mr. COX introduced the following resolution; which was read and referred to the Committee on Foreign Affairs:

Resolved, That the President be requested to communicate to this House all correspondence in reference to the proscription of Jews by the Russian Government.

GLUCOSE.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 6209) to tax and regulate the manufacture and sale of glucose or grape sugar; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

NICHOLAS KOLP.

Mr. McKINLEY introduced a bill (H. R. No. 6210) granting a pension to Nicholas Kolp, Company G, Forty-third Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY F. HOPKINS.

Mr. BALLOU introduced a bill (H. R. No. 6211) granting a renewal of pension to Mary F. Hopkins; which was read a first time by its title.

Mr. CHALMERS. I ask that that bill be read in full.

The bill was read the second time in full, and was referred to the Committee on Invalid Pensions, and ordered to be printed.

D. W. ROSSON.

Mr. YOUNG, of Tennessee, introduced a bill (H. R. No. 6212) for the relief of the heirs of D. W. Rosson, of Fayette County, Tennessee; which was read a first time by its title.

Mr. CHALMERS. I ask that the bill be read in full.

The bill was read the second time in full, and was referred to the Committee on War Claims, and ordered to be printed.

CHARGES AGAINST INDIAN BUREAU.

Mr. YOUNG, of Tennessee, also introduced a joint resolution (H. R. No. 300) requesting the Secretary of the Interior to furnish the two Houses of Congress with all the written and printed testimony taken by the commission organized for the purpose, upon charges preferred by J. B. Wolf and others on the 8th day of June, 1877, against the Indian Bureau; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

QUARANTINE STATION IN HAMPTON ROADS, VIRGINIA.

Mr. GOODE introduced a joint resolution (H. R. No. 301) in relation to a quarantine station in Hampton Roads, Virginia; which was read a first and second time, referred to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases, and ordered to be printed.

JOHN CONNALLY.

Mr. HUNTON introduced a bill (H. R. No. 6213) for the relief of John Connally; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

MRS. OLIVE PADGETT.

Mr. MARTIN, of West Virginia, introduced a bill (H. R. No. 6214) granting a pension to Mrs. Olive Padgett, widow of William Padgett, Company D, First Regiment P. H. B., Maryland Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OCCIDENTAL, ETC., RAILROAD AND STEAMSHIP COMPANY.

Mr. BRENTS introduced (by request) a bill (H. R. No. 6215) granting aid to the Occidental and Oriental Railroad and Steamship Company; which was read a first and second time, referred to the Committee on Pacific Railroads, and ordered to be printed.

WILLIAM R. MILLER.

Mr. GUNTER introduced a bill (H. R. No. 6216) for the relief of William R. Miller; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHEROKEE LANDS IN KANSAS.

Mr. GUNTER also introduced a bill (H. R. No. 6217) to graduate the price and dispose of the residue of the Cherokee strip lands in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SECTIONS 2401 AND 2403, REVISED STATUTES.

Mr. BERRY (by request) introduced a bill (H. R. No. 6218) to amend sections 2401 and 2403 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ADDITIONAL BOUNTY.

Mr. PHELPS introduced a bill (H. R. No. 6219) extending the time from June 30, 1880, to July 1, 1885, for filing claims for additional soldiers' bounty, under the act of July 28, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LIEUTENANT FRANK JORDAN.

Mr. HULL introduced a bill (H. R. No. 6220) authorizing the nomination and appointment to the retired list of the United States Navy with the rank of lieutenant of Frank Jordan, formerly acting ensign in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ARMS, ETC., FOR SCHOOLS AND COLLEGES.

Mr. SMITH, of Georgia, introduced a bill (H. R. No. 6221) to enable colleges and schools to obtain arms and accouterments; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES M. FRANKS.

Mr. THOMPSON, of Iowa, introduced a bill (H. R. No. 6222) granting a pension to James M. Franks, late private Company E, Sixth Iowa Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY B. CLARK.

Mr. THOMPSON, of Iowa, also introduced a bill (H. R. No. 6223) granting a pension to Henry B. Clark, private Company C, Twelfth Iowa Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

YEAS AND NAYS ON APPROPRIATION BILLS.

Mr. OSCAR TURNER introduced a joint resolution (H. R. No. 302) proposing an amendment to the Constitution of the United States requiring yeas and nays on all appropriations exceeding $10,000; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CONDEMNED CANNON FOR LAWRENCE, MASSACHUSETTS.

Mr. RUSSELL, of Massachusetts, introduced a bill (H. R. No. 6224) donating condemned cannon to the city of Lawrence, State of Massachusetts; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM CANNON.

Mr. WADDILL introduced a bill (H. R. No. 6225) for the relief of William Cannon; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. PECK.

Mr. SAWYER introduced a bill (H. R. No. 6226) for the relief of John H. Peck, for supplies furnished the United States troops in 1814; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The list of States and Territories having been called through, the Chair will now recognize gentlemen who were not in their seats when their States were called for the introduction of bills and resolutions for reference.

SHOSHONES, BANNOCKS, AND SHEEP-EATERS.

Mr. SCALES introduced a bill (H. R. No. 6227) to accept and ratify an agreement submitted by the Shoshones, Bannocks, and Sheep-eaters of the Fort Hall and Lemhi reservation in Idaho, for the sale of a portion of their lands in said Territory, and for other purposes, and to make the necessary appropriation for carrying out the same; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CROW INDIANS OF MONTANA.

Mr. SCALES also introduced a bill (H. R. No. 6228) to accept and ratify an agreement submitted by the Crow Indians of Montana, for the sale of a portion of their reservation in said Territory, and for other purposes, and to make the necessary appropriation for carrying out the same; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

RAILROAD IN RICHMOND COUNTY, NEW YORK.

Mr. COVERT introduced a bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COLONEL I. C. WOODRUFF.

Mr. COVERT also introduced a bill (H. R. No. 6230) to relieve the estate of Colonel Israel C. Woodruff, Corps of Engineers United States Army, late engineer of the third light-house district; which was read a first and second time, referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

LIEUTENANT-COLONEL JAMES C. DUANE.

Mr. COVERT also introduced a bill (H. R. No. 6231) to relieve Lieutenant-Colonel James C. Duane, Corps of Engineers, brevet brigadier-general United States Army, engineer of the second and third light-house districts; which was read a first and second time, referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

PAYMENT OF ACCRUED PENSIONS.

Mr. STONE introduced a bill (H. R. No. 6232) to amend section 4718 of the Revised Statutes in relation to the payment of accrued pension-money due at the time of the death of a pensioner or a person having a claim pending for a pension; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ABANDONED HOMESTEAD ENTRIES.

Mr. FORNEY introduced a bill (H. R. No. 6233) to provide for disposing of lands embraced in abandoned homestead entries in Alabama, Florida, Mississippi, Louisiana, and Arkansas at ordinary private sale; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

METER FOR DISTILLERIES.

Mr. WHITTHORNE introduced a joint resolution (H. R. No. 303) to adopt a suitable meter to accurately measure the quantity and test the gravity and temperature of distilled and malt liquors, and to make automatic register of the same, and appropriating $280,000 for placing them in use on distilleries; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

W. C. MARSH.

Mr. ATKINS introduced a bill (H. R. No. 6234) for the relief of W. C. Marsh; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES BUCHANAN.

Mr. STEVENSON introduced a bill (H. R. No. 6235) for the relief of James Buchanan, late a member of Company I, Thirty-first Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOUISE APGAR.

Mr. STEVENSON also introduced a bill (H. R. No. 6236) granting a pension to Louise Apgar, widow of Stewart Apgar, late a private in Company B, First Regiment New Jersey Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The unfinished business coming over from the third Monday of April is a motion to suspend the rules made by the gentleman from Virginia, [Mr. HUNTON]——

Mr. BERRY. There is a special order for to-day, the bill (H. R. No. 5636) for the appointment of a commission to investigate the *débris* question in California. I ask unanimous consent that this special order be transferred to Thursday night of this week, a recess to be taken on that day from half past four till half past seven o'clock. There seems to be nothing in the way of the assignment I propose. This is a very important matter to California.

Mr. DUNNELL. Is there not an assignment for next Thursday night?

The SPEAKER. On motion of the gentleman from Ohio, [Mr. CONVERSE,] chairman of the Committee on Public Lands, Thursday of this week has been set apart for the consideration of reports from that committee. The Chair is advised that the gentleman from Ohio designs, in case the business of the committee should not be completed during the morning session of that day, to move a recess.

Mr. BERRY. I understand that such has not been the order of the House. I do not propose to contest with my friend from Ohio——

The SPEAKER. But the gentleman had better agree with him, because if he objects, this proposition cannot be entertained.

Mr. BERRY. Then I ask for Monday night—a week from to-night.

Mr. ATKINS. Subject to the business of the Committee on Appropriations.

Mr. TOWNSHEND, of Illinois. And subject to the tariff bill.

Mr. HOSTETLER. I ask that Monday night be set apart for the consideration of bills on the Private Calendar.

Mr. BERRY I object.

The SPEAKER. The gentleman from California asks unanimous consent that Monday evening next, at seven and a half o'clock, be set apart for the consideration of House bill No. 5636, in reference to the *débris* question in California, subject to appropriation bills and the tariff bill. Is there objection?

Mr. HOSTETLER. I object.

Mr. BUCKNER. I ask unanimous consent that every evening not already assigned be set apart for the consideration of business on the House Calendar.

Objection was made.

DISTRICT OF COLUMBIA POLICE FORCE.

The SPEAKER. This being the third Monday of the month, on which, after the call of States, motions from committees for suspension of the rules are in order, the first question is on the unfinished business coming over from the third Monday of April, being the motion of the gentleman from Virginia, [Mr. HUNTON,] to suspend the rules and pass a bill which will be read.

The Clerk read as follows:

A bill (H. R. No. 4567) to provide for the increase of the Metropolitan police force of the District of Columbia.

Be it enacted, &c., That the Commissioners of the District of Columbia are hereby authorized and empowered to appoint one additional inspector of police at a salary not exceeding $150 per month, one clerk at a salary not exceeding $100 per month, and as many additional privates or patrolmen, not exceeding one hundred, at salaries not exceeding $60 per month each, as may be necessary from time to time to preserve the peace and good order of the District; and in the appointment of privates or patrolmen hereafter the said commissioners shall not be required to appoint only persons who have served in the Army and Navy of the United States and have received an honorable discharge therefrom.

SEC. 2. This act shall take effect from and after its passage.

Mr. ALDRICH, of Rhode Island. I suggest to the gentleman from Virginia that in order to remove all opposition to this bill he strike out the provision of the first section in relation to the appointment of soldiers on the police. If that be struck out I presume there will be no opposition to the bill.

Mr. HUNTON. In answer to the gentleman I will say that the motion is to suspend the rules and consider the bill. If that motion should prevail I will, before asking the previous question, give way to any gentleman on the other side to make the amendment suggested and have it voted on.

The SPEAKER. The Chair is advised by the journal clerk that the motion of the gentleman from Virginia, as shown by the journal, is to suspend the rules and pass the bill.

Mr. HUNTON. I did not so understand.

Mr. CONGER. I hope the gentleman from Virginia will consent to allow new appointments to the police force to be made under the law as it is, or as it may be changed in the code now under consideration.

Mr. REAGAN. I object to debate.

Mr. CONGER. If the provision already indicated be struck out, there will be no objection to the passage of the bill; otherwise we on this side of the House must oppose it.

The SPEAKER. Does the gentleman from Virginia modify his motion?

Mr. HUNTON. No, sir.

The SPEAKER. Then the motion is to suspend the rules and pass the bill.

Mr. CONGER. I hope this side of the House will vote against it.

Mr. COX. I ask that the bill be again read.

The bill was again read.

The question being put on seconding the motion to suspend the rules, the Speaker declared that the ayes appeared to prevail.

Mr. CONGER. I call for a division.

The SPEAKER. A division being called for, the Chair will appoint tellers.

Mr. CONGER. I withdraw the call for a division. Let the vote be taken on the question of suspension.

The motion to suspend the rules was seconded.

The SPEAKER. The question now is, shall the rules be suspended and the bill passed?

The question being put,

The SPEAKER said: In the opinion of the Chair two-thirds have not voted in the affirmative.

Mr. HUNTON. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 86, noes 121, not voting 85; as follows:

YEAS—86.

Acklen,	Dibrell,	Ketcham,	Sawyer,
Aiken,	Dickey,	Kimmel,	Scales,
Armfield,	Elam,	Kitchin,	Simonton,
Beale,	Ellis,	Klotz,	Singleton, O. R.
Berry,	Evins,	Le Fevre,	Slemons,
Bicknell,	Felton,	Manning,	Smith, Hezekiah B.
Blackburn,	Forney,	McKenzie,	Smith, William E.
Bliss,	Goode,	McLane,	Steele,
Cabell,	Gunter,	McMillin,	Stephens,
Caldwell,	Hammond, N. J.	Mills,	Thompson, P. B.
Carlisle,	Harris, John T.	Money,	Townshend, R. W.
Chalmers,	Hatch,	Mulcrow,	Tucker,
Clardy,	Henkle,	O'Connor,	Turner, Oscar
Clark, John B.	Henry,	Persons,	Upson,
Converse,	Herbert,	Philips,	Vance,
Cook,	Hooker,	Phister,	Weaver,
Covert,	Hull,	Poehler,	Wellborn,
Cox,	Hunton,	Reagan,	Whiteaker,
Cravens,	Hurd,	Richardson, J. S.	Whitthorne,
Davidson,	Hutchins,	Rothwell,	Williams, Thomas.
Davis, Joseph J.	Jones,	Ryon, John W.	
Davis, Lowndes H.	Kenna,	Samford,	

NAYS—121.

Aldrich, Nelson W.	Culberson,	Hubbell,	Russell, William A.
Aldrich, William	Daggett,	Joyce,	Ryan, Thomas
Anderson,	Davis, George R.	Kelley,	Sapp,
Atherton,	Davis, Horace	Killinger,	Sherwin,
Bailey,	Deering,	Ladd,	Sparks,
Baker,	Deuster,	Lewis,	Springer,
Ballou,	Dick,	Lindsey,	Stevenson,
Barber,	Dunnell,	Loring,	Stone,
Belford,	Dwight,	Lounsbery,	Taylor,
Bingham,	Einstein,	Marsh,	Thomas,
Blake,	Errett,	Martin, Benj. F.	Thompson, W. G.
Bland,	Farr,	Martin, Joseph J.	Townsend, Amos
Bouck,	Ferdon,	McCoid,	Tyler,
Boyd,	Field,	McCook,	Updegraff, Thomas
Brewer,	Ford,	McKinley,	Valentine,
Briggs,	Frye,	Mitchell,	Van Aernam,
Browne,	Geddes,	Monroe,	Voorhis,
Buckner,	Godshalk,	Neal,	Waddill,
Burrows,	Hall,	New,	Wait,
Butterworth,	Hammond, John	Newberry,	Ward,
Calkins,	Harmer,	Norcross,	Warner,
Cannon,	Haskell,	O'Neill,	Washburn,
Carpenter,	Hawk,	Orth,	White,
Caswell,	Hazelton,	Pacheco,	Willits,
Chittenden,	Heilman,	Page,	Wilson,
Claflin,	Henderson,	Phelps,	Wood, Walter A.
Cobb,	Hill,	Pound,	Wright,
Coffroth,	Hiscock,	Price,	Young, Thomas L.
Conger,	Horr,	Reed,	
Cowgill,	Hostetler,	Robinson,	
Crapo,	Houk,	Ross,	

NOT VOTING—85.

Atkins,	Frost,	Miles,	Shelley,
Bachman,	Garfield,	Miller,	Singleton, J. W.
Barlow,	Gibson,	Morrison,	Smith, A. Herr
Bayne,	Gillette,	Morse,	Speer,
Beltzhoover,	Harris, Benj. W.	Morton,	Starin,
Blount,	Hawley,	Muller,	Talbott,
Bowman,	Hayes,	Murch,	Tillman,
Bragg,	Herndon,	Myers,	Turner, Thomas
Brigham,	House,	Nicholls,	Updegraff, J. T.
Bright,	Humphrey,	O'Brien,	Urner,
Camp,	James,	O'Reilly,	Van Voorhis,
Clark, Alvah A.	Johnston,	Osmer,	Wells,
Clymer,	Jorgensen,	Overton,	Wilber,
Colerick,	Keifer,	Pierce,	Williams, C. G.
Crowley,	King,	Prescott,	Willis,
De La Matyr,	Knott,	Rice,	Wise,
Dunn,	Lapham,	Richardson, D. P.	Wood, Fernando
Ewing,	Lowe,	Richmond,	Yocum,
Finley,	Martin, Edward L.	Robertson,	Young, Casey.
Fisher,	Mason,	Robeson,	
Forsythe,	McGowan,	Russell, Daniel L.	
Fort,	McMahon,	Shallenberger,	

So (two-thirds not having voted in the affirmative) the rules were not suspended, and the bill was not passed.

The following pairs were announced from the Clerk's desk:

Mr. MARTIN, of Delaware, with Mr. SMITH, of Pennsylvania.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. JOHNSTON with Mr. ROBESON.

Mr. LAPHAM with Mr. NEW.

Mr. NEW. I am paired with Mr. LAPHAM, but being informed he would also vote in the negative I have voted.

Mr. SPEER with Mr. FISHER.

Mr. GIBSON with Mr. HUMPHREY.

Mr. JAMES with Mr. O'BRIEN.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. MYERS with Mr. FORT.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. BAYNE with Mr. THOMPSON, of Kentucky.

Mr. MCMAHON with Mr. URNER.

Mr. SINGLETON, of Illinois, with Mr. MILES.

Mr. TALBOTT with Mr. OVERTON.

Mr. TALBOTT. That is a mistake. I am paired with Mr. BRIGHAM, of New Jersey.

Mr. BELTZHOOVER with Mr. MASON.

Mr. SHELLEY with Mr. CAMP.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. STARIN with Mr. HERNDON.

Mr. MORTON with Mr. EWING.

SURPLUS OF MILITARY ASSESSMENT.

Mr. BRAGG. Mr. Speaker, under instructions of the Committee on War Claims I move to suspend the rules and discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. No. 6033) to pay Hiram Johnston and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected, and that the same be passed.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the respective sums of money, as hereinafter provided, to the respective persons named herein or to their heirs or legal representatives, to wit: To H. Johnson, $659.86; to Stephen M. Johnson, $659.86; to D. J. Franklin, $130.48; to Josiah Franklin, $156.60; to Nat Buckley, $261.20; to John Tull, $313.49; to Elias Bray, $391.92; to Dr. G. Johnson, $156.60; to Harrison Trice, $261.20; to Jeremiah Crook, sr., $522.41; to Willis Arnold, $5,213.89; to Arch McCorkle, $391.92; to G. L. Ross, $1,306.91; to S. L. Ross, $1,306.91; to John M. Hart, $522.41; to William A. Brummer, $891.69; to John D. Smith, $261.20; to A. B. Crook, $261.20; to Daniel McCollum, $261.20; to Jeff. Jones, $130.48; to Thomas McGill, $156.61; to James Ledbetter, $156.61; to William Ozier, $522.41; to Elijah Bond, $261.20; to John L. Cawthon, $522.41; to William Hall, $522.41; to Carroll Beaver, $522.41; to John West, $659.86; to James Clifford, $261.20; to O. F. Hendrix, $784.04; to Frank Cawthon, $313.49; to James Cawthon, $130.49; to S. E. Grider, $130.49; to Silas Grider, $130.49; to John Robinson, $240.34; to Hugh McKnight, $200.25; to John G. Smith, $79.96; to Caleb McKnight, $200.25; to James Thomas, $200.25; to William P. Walker, $120.06; to A. C. Rogers, $341.55; to Tison G. Maness, $561.02; to William H. Bond, $120.06; to F. M. Ballard, $240.34; to Stephen Massengill, $120.06; to William Shrink, $440.82; to Keton M. Jones, $361.15. In all, $22,271.25.

Mr. TOWNSHEND, of Illinois. Mr. Speaker, I desire to know something in regard to this bill. I should like the gentleman from Wisconsin to make a statement of the purposes of the bill.

Mr. BRAGG. If the gentleman from Illinois will read the report accompanying the bill from the Committee on War Claims he will find as full a statement of the facts involved as possibly could be made.

The SPEAKER. It is reported from the Committee on War Claims, and is a claim against money in the Treasury. The gentleman from Wisconsin, under instructions from that committee, moves to suspend the rules and pass the bill. The question is on seconding the motion for the suspension of the rules.

Mr. WHITE. I want to know from the chairman of the Committee on War Claims, who reported this bill, whether he has the evidence that General Grant, who was the general in command of the district in which this assessment was paid, disapproved of the order or the levying of this amount upon the persons named in this bill?

Mr. BRAGG. I answer the gentleman from Pennsylvania by saying that General Grant's provost-marshal general, who received the money, testified before the Military Committee of this House that that money was in excess of the amount authorized to be levied by General Grant.

Mr. WHITE. Mr. Speaker, at the last session I opposed this or a similar bill; I opposed the principle involved. I have examined the pending bill——

Mr. REAGAN. I object to debate on a motion to suspend the rules.

The SPEAKER. The gentleman has a right to debate between the seconding of the motion for the suspension of the rules and the vote on the motion to suspend the rules and pass the bill.

Mr. REAGAN. Very well, let the debate take place when it is in order. I do not want the gentleman to debate it now, and also debate it then.

Mr. WHITE. I merely desire to be consistent with my former position.

Mr. REAGAN. The gentleman can explain in the proper time, and not have two debates on it.

Mr. WHITE. Very well.

The SPEAKER. The Chair will submit the vote for a second upon

the demand for the previous question; after which he will recognize the gentleman from Pennsylvania to make the statement he desires.

The previous question was seconded.

The SPEAKER. The gentleman from Pennsylvania is now recognized under the rules.

Mr. WHITE. I will not enter upon extended debate. A bill similar to the one pending was before the House in the last Congress. It was essentially different from this one. I opposed that bill, and was, I may say, instrumental in its defeat. The former bill provided to refund to the parties named all the money which had been collected from them, as well that which had been levied to indemnify the Government for losses and injury to its property as that collected on the pretext of reimbursing private citizens for their losses. The pending measure is different. A word as to the facts will explain the difference between the pending and the former measure. It would seem a rebel raid was made into Henderson, Tennessee, a station on the Mobile and Ohio Railroad, where there were some United States troops. By this raid about $5,080 worth of cotton and arms and camp equipage belonging to the United States were burned and captured. At the same time it seems there was cotton belonging to private persons to the value of about $18,000 destroyed, and also about $3,500 worth of railway property destroyed. The commandant of the Union forces at the post of Bethel, Tennessee, ordered an assessment on the rebel sympathizers in the neighborhood of about $27,000. General Grant at the time was commanding the department. He had issued a general order for the department, authorizing the levy and contribution from rebel citizens of the locality to reimburse the Government for losses sustained to its property from rebel raids and depredations. This order was for the benefit of the Government and not of private citizens. He subsequently, as it appears, refused to recognize the right of private claimants to any portion of this fund. It would have been competent, it is conceived, to have levied contributions for the reimbursement of losses to private loyal citizens, but it was not, as the committee in their report say, done in this case.

The situation, then, is this: The Government got the $5,080 for losses to the public property and holds the residue, $22,271.36, having refused any private claims. Now, it is quite true Congress could refuse to return this money to the persons who paid it because they were rebels or rebel sympathizers. But, sir, under the circumstances of the case I do not think it would be wise or just to do so. It will be observed, however, the Government got or could have received every dollar of the losses to its property, and only that is to be paid out which was collected by the subordinate officers under a misapprehension of General Grant's general order. The bill of last session, which I took pleasure to oppose, did not propose to retain anything to the Government, but proposed to return all to the contributors. This I did and would oppose. I do not see what principle of public law, regulating the payment of losses by the casualties of war, this bill violates, nor what dangerous precedent it will establish. If I have learned the facts of this claim aright, or I have stated them, I shall not oppose this bill.

The question was taken and the bill was passed, two-thirds voting in favor thereof.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I send to the Clerk's desk a proposed substitute for the river and harbor bill, which I am directed by the Committee on Commerce to report and to move its passage at this time, under a suspension of the rules.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

Substitute for the bill H. R. No. 6060, a bill (H. R. No. 6237) making appropriation for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The bill was read a first and second time.

The SPEAKER. The gentleman from Texas rises under instructions from the Committee on Commerce to report this bill, and moves to suspend the rules and pass the same.

Mr. COX. The right to debate under the rules is reserved?

The SPEAKER. The right of course is reserved if any gentleman demands debate under the rule.

The Clerk proceeded to read the bill.

Mr. REAGAN. Mr. Speaker, this bill has already been printed and placed upon the desks of members, or substantially this bill; and as the reading of it will take nearly two hours, I suggest that unless some gentleman objects, the reading be dispensed with.

The SPEAKER. The Chair thinks as this is a bill of great magnitude that it should be read in full, members being called upon to vote upon it.

Mr. REAGAN. The only reason I made the motion is because this bill is merely a reprint, not materially changing the bill as formerly printed and laid upon the desks of members; but of course if it is desired to have it read I shall not object.

Mr. BROWNE. I object to dispensing with the reading of the bill.

The SPEAKER. Objection being made, the Clerk will read the bill.

The Clerk proceeded to read the bill.

Mr. BROWNE. I withdraw my objection to the motion to dispense with the reading of the bill.

Mr. GILLETTE and Mr. MITCHELL renewed the objection.

Some time subsequently, pending the reading of the bill,

Mr. MITCHELL said: I desire to ask, Mr. Speaker, if there is a report accompanying this bill?

The SPEAKER *pro tempore*, (Mr. SIMONTON in the chair.) It is not in order to interrupt the reading of the bill at this time.

Mr. MITCHELL. I wish to call the attention of the Chair to the fact that under the rules a report is required to accompany each bill.

Mr. REAGAN. This is a motion to suspend the rules and pass the bill, and one of the rules proposed to be suspended is the very rule to which the gentleman from Pennsylvania refers.

Mr. MITCHELL. I understand that. I inquire if there is a report accompanying the bill?

Mr. REAGAN. There is not.

Mr. MITCHELL. I ask the question because some gentlemen around me here desire me to withdraw the call for the reading of the bill, and I wished to make the inquiry if there is a report accompanying it before doing so.

Mr. KENNA. This is a very important bill, and should be read at length.

The SPEAKER *pro tempore*. It is not in order to interrupt the reading of the bill at this time.

Mr. MITCHELL. Very well; some other gentleman, then, is responsible for the demand for the reading.

The SPEAKER *pro tempore*. Demand has been made on the other side of the House for the reading.

The Clerk resumed and concluded the reading of the bill. It is as follows:

Be it enacted, &c., That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of War, for the construction, repair, completion, and preservation of the public works hereinafter named.

Improving the gut opposite Bath, Maine: Continuing improvement, $7,000.

Improving harbor at Belfast, Maine: Continuing operations, $3,000.

Improving Richmond Island Harbor, Maine: Continuing operations, $3,000.

Improving harbor at Portsmouth, New Hampshire: Continuing improvement, $25,000.

Improving harbor at Burlington, Vermont: Continuing improvement, $10,000.

Improving harbor at Swanton, Vermont: Continuing improvement, $2,500.

Improving harbor at Plymouth, Massachusetts: Continuing operations, $5,000.

Improving harbor at Provincetown, Massachusetts: Maintenance and annual repairs, $500.

Improving harbor at Bridgeport, Connecticut: Continuing improvement, $10,000.

Improving Nantucket Harbor, Massachusetts, $50,000.

Improving harbor at Milford, Connecticut: Continuing improvement, $5,000.

Improving harbor at New Haven, Connecticut: Continuing improvement, $15,000.

Improving harbor at Norwalk, Connecticut: Continuing improvement, $5,000.

Improving harbor at Southport, Connecticut: Continuing improvement, $2,500.

Improving harbor at Buffalo, New York: Continuing improvement, $90,000.

Improving harbor at Charlotte, New York: Repair of piers, $5,000.

Improving harbor at Dunkirk, New York: Continuing improvement, $10,000.

Improving Echo Harbor, New Rochelle, New York: Continuing improvement, $3,000.

Improving harbor at Great Sodus Bay, New York: Continuing operations, $3,000.

Improving harbor at Little Sodus Bay, New York: Continuing operations, $1,000.

Improving harbor at Oak Orchard, New York: Continuing operations, $500.

Improving Cathance River, Maine, $10,000.

Improving harbor at Oswego, New York: Continuing improvement, $90,000.

Improving harbor at Plattsburgh, New York: For dredging, $1,000.

Improving harbor at Port Jefferson, Long Island Sound, New York: Continuing operations, $3,000.

Improving harbor at Pultneyville, New York: Continuing operations, $3,000.

Improving harbor at Erie, Pennsylvania: Continuing improvement, $25,000.

Constructing pier in Delaware Bay, near Lewes, Delaware: Continuing operations, $10,000.

Piers of ice-harbor at New Castle, Delaware: Continuing operations, $3,000.

Improving harbor at Wilmington, Delaware: Continuing operations, $5,000.

Improving harbor at Baltimore, Maryland: Continuing operations, $100,000.

Improving Breton Bay, Leonardtown, Maryland: Continuing improvement, $3,000.

Improving the harbors and channels at Washington and Georgetown, District of Columbia: Continuing the improvement, including removal of rocks, $40,000.

Improving harbor at Norfolk, Virginia, and its approaches: Continuing improvement, $50,000.

Improving harbor at Onancock, Virginia: Continuing improvement, $5,000.

Improving harbor at Charleston, South Carolina: Continuing improvement, $125,000.

Improving harbor at Savannah and Savannah River, Georgia: Continuing improvement, $65,000.

Improving harbor at Brunswick, Georgia: Continuing improvement, $10,000.

Improving harbor at Cedar Keys, Florida: Continuing improvement, $15,000.

Improving harbor at Pensacola, Florida: Continuing improvement, $10,000.

Improving harbor at Mobile, Alabama: Continuing improvement, $125,000.

Improving Mississippi River at and near Vicksburgh, and protection of harbor at Vicksburgh, Mississippi: Continuing improvement, $20,000.

Improving harbor at New Orleans, Louisiana: Continuing improvement, $75,000.

Improving outer bar, Galveston Harbor, Texas: Continuing operations, $125,000.

Improving harbor at Ashtabula, Ohio: Continuing operations, $20,000.

Improving harbor at Black River, Ohio: Continuing operations, $1,000.

Improving harbor at Cleveland, Ohio: Continuing improvement, $125,000.

Improving harbor at Conneaut, Ohio: Continuing operations, $6,000.

Improving harbor at Fairport, Ohio: Continuing operations, $3,000.

Improving harbor at Huron, Ohio: Continuing operations, $3,000.

Ice-harbor at mouth of Muskingum, Ohio: Continuing operations, $40,000.

Improving harbor at Port Clinton, Ohio: Continuing operations, $5,000.

Improving and surveying harbor at Sandusky City, Ohio: Continuing operations, $12,500.

Improving harbor at Toledo, Ohio: Continuing operations, $20,000.

Improving harbor at Vermillion, Ohio: Continuing operations, $2,000.

Improving outside harbor at Michigan City, Indiana: Continuing operations, $40,000.

Improving harbor at Calumet, Illinois: Continuing improvement, $15,000.

Improving outside harbor at Chicago, Illinois: Continuing improvement including commencement of construction of exterior breakwater, $145,000.

Improving Galena River and Harbor, Illinois: Continuing improvement, $12,000.

Improving harbor and Mississippi River at Memphis, Tennessee: Continuing improvement, $15,000.

Improving harbor and river at Au Sable, Michigan: Continuing operations, $7,000.

Improving harbor at Black Lake, Michigan: Continuing operations, $6,000.
Improving harbor at Charlevoix, Michigan: Continuing improvement, $10,000.
Improving harbor at Boston, Massachusetts, $75,000: of which sum $30,000 shall be expended in the said harbor; $22,500 at the mouth of Charles River in said harbor and up to Watertown; $17,500 in said harbor at mouth of Mystic River, and $5,000 from said harbor to Nantasket Beach.
Improving harbor at Cheboygan, Michigan: Continuing operations, $6,000.
Improving harbor at Grand Haven, Michigan: Continuing operations, $10,000.
Harbor of refuge at Lake Huron: Continuing operations, $75,000.
Improving harbor at Ludington, Michigan: Continuing operations, $8,000.
Improving harbor at Manistee, Michigan: Continuing improvement, $10,000.
Improving harbor at Marquette, Michigan: For repairs of existing work, $1,000.
Improving harbor at Monroe, Michigan: Continuing operations, $2,000.
Improving Manistique Harbor, Michigan, $5,000.
Improving harbor at Muskegon, Michigan: Continuing operations, $5,000.
Improving harbor at Ontonagon, Michigan: Continuing improvement, $15,000; of which sum $2,000 shall be expended in dredging.
Improving harbor at Pent Water, Michigan: Continuing operations, $4,000.
Harbor of refuge at Portage Lake, Lake Michigan: Continuing operations, $10,000.
Improving river and harbor at Saint Joseph, Michigan, including channel leading up to Benton Harbor: Continuing operations, $6,000.
Improving harbor at Saugatuck, Michigan: Continuing improvement, $5,000.
Improving harbor at South Haven, Michigan: Continuing improvement, $5,000.
Improving harbor at White River, Michigan: Continuing operations, $5,000.
Improving harbor at Ahnapee, Wisconsin: Continuing improvement, $7,000.
Improving harbor at Green Bay, Wisconsin: Continuing improvement, $6,000.
Improving harbor at Kenosha, Wisconsin: Continuing improvement, $5,000.
Improving harbor at Manitowoc, Wisconsin: Continuing operations, $7,000.
Improving harbor at Menomonee, Wisconsin: Continuing improvement, $10,000.
Improving harbor at Milwaukee, Wisconsin: Continuing operations, $10,000.
Improving harbor at Port Washington, Wisconsin: Continuing improvement, $20,000.
Improving harbor at Racine, Wisconsin: Continuing operations, $6,000.
Improving harbor at Sheboygan, Wisconsin: Repairs and dredging, $7,000.
Improving Superior Bay, Wisconsin: Dredging for improvement of natural entrance, $4,000.
Harbor of refuge at entrance of Sturgeon Bay Canal, Wisconsin: Continuing improvement, $10,000: *Provided*, That said sum shall not be expended until any private or corporate right which may exist to impose charges for the use of said harbor shall have been relinquished in manner satisfactory to the Secretary of War.
Improving harbor at Two Rivers, Wisconsin: Continuing improvement, $20,000.
Improving Rush Chute and harbor of Burlington, Iowa: Continuing operations, $5,000.
Improving harbor at Muscatine, Iowa: Continuing the improvement, $7,500.
Improving harbor at Duluth, Minnesota: Continuing the improvement, $25,000.
Improving harbor at Grand Marais, Minnesota: Continuing the improvement, $10,000.
Improving Kennebunk River, Maine: Continuing operations, $2,000.
Improving Otter Creek, Vermont: Continuing improvement, $2,000.
Improving harbor at Newburyport, Massachusetts, $50,000.
Improving Merrimac River, Massachusetts: Continuing operations, $12,000.
Improving Providence River and Narragansett Bay, Rhode Island: Continuing improvement, $50,000.
Improving Connecticut River, below Hartford, Connecticut: Continuing improvement, $10,000.
Improving Housatonic River, Connecticut: Continuing improvement, $2,000.
Constructing breakwater at New Haven, Connecticut: Continuing operations, $30,000.
Improving Thames River, Connecticut: Continuing improvenent, $25,000; of which sum, $2,500 shall be expended in the removal of rocks and sand from New London Harbor.
Removing obstructions in East River and Hell Gate, New York: Continuing improvement, $200,000.
Improving East Chester Creek, New York: Continuing improvement, $3,500.
Improving Hudson River, New York: Continuing operations, $20,000.
Improving Cohansey Creek, New Jersey: Continuing improvement, $4,500.
Improving Elizabeth River, New Jersey: Continuing improvement, $7,500.
Improving Manasquan River, New Jersey: Continuing improvement, $20,000.
Improving Passaic River, above Newark, New Jersey: Continuing improvement, $2,000.
Improving Rahway River, New Jersey: Continuing improvement, $10,000.
Improving Salem River, New Jersey: Continuing improvement, $3,000.
Improving Shrewsbury River, New Jersey: Continuing improvement, $30,000.
Improving Woodbridge Creek, New Jersey: Continuing improvement, $5,000.
Improving South River, Middlesex County, New Jersey, $40,000.
Improving harbor at Frankfort, Michigan, $5,000, to be expended in extending piers or dredging, at discretion of Secretary of War.
Improving navigation of Allegheny River from mouth of French Creek to Pittsburgh, Pennsylvania: Continuing operations, $20,000.
Improving Schuylkill River, Pennsylvania: Continuing improvement, $40,000.
Improving Delaware River, below Bridesburgh, Pennsylvania: Continuing improvement, $85,000; of which sum $40,000 shall be expended at or near Petty's Island, between said island and Philadelphia, and $10,000 at or near Smith's Island, between Philadelphia and Camden, through the sand-spit.
Improving Delaware River, between Trenton, New Jersey, and Bridesburgh, Pennsylvania: Continuing operations, $10,000.
Improving Delaware River at Schooner Ledge: Continuing improvement, $40,000.
Improving Delaware River, near Cherry Island Flats: Continuing improvement, $100,000.
Improving Mispillion Creek, Delaware: Continuing improvement, $4,000.
Improving Wicomico River, Maryland, below Salisbury: Continuing operations, $5,000.
Dredging a channel in the Potomac River, through flats in front of Mount Vernon, Virginia: Continuing operations, $3,000.
Improving Appomattox River, Virginia: Continuing improvement, $20,000.
Improving Blackwater River, Virginia: Continuing operations, $3,500.
Improving Chickahominy River, Virginia: Continuing operations, $2,000.
Improving James River, Virginia: Continuing improvement, $75,000.
Improving New River, from mouth of Wilson, in Grayson County, Virginia, to mouth of Greenbrier River, $24,000: of which sum $12,000 shall be expended in the continuation of the work from the mouth of Greenbrier up; $7,000 in the continuation of the work formerly prosecuted on the river in Wythe County, and $5,000 between the lead mines in Wythe County and the mouth of Wilson, in Grayson County.
Improving Raritan River, New Jersey, $100,000; of which sum $70,000 shall be expended in the removal of rocks at Whitehead's sand-dock, and $30,000 for dredging the shoals at the Middle Ground.
Improving mouth of Nomoni Creek, Virginia: Continuing operations, $5,000.
Improving North Landing River, Virginia and North Carolina: Continuing improvement, $15,000.
Improving Rappahannock River, Virginia: Continuing improvement, $25,000.
Improving Staunton River, Virginia: Continuing improvement, $7,500.
Improving Urbana Creek, Virginia: Continuing improvement, $2,500.
Improving Great Kanawha River and operation of works, West Virginia: Continuing improvement, $200,000.
Improving Guyandotte River, West Virginia: Continuing improvement, $2,000.
Improving Cape Fear River, North Carolina: Continuing improvement, $40,000.
Continuing improvement of Currituck Sound, Coanjok Bay, and North River Bar, North Carolina: Continuing improvement, $25,000.
Improving French Broad River, North Carolina: Continuing improvement, $3,000.
Improving Neuse River, North Carolina: Continuing improvement, $15,000.
Improving Pamlico River, North Carolina: Continuing operations, $3,000.
Improving Roanoke River, North Carolina: Continuing improvement, $2,000.
Improving Scuppernong River, North Carolina: Continuing improvement, $1 000.
Improving Tar River, North Carolina: Continuing improvement, $2,000.
Improving Trent River, North Carolina: Continuing improvement, $5,000.
Improving Chattahoochee River, Georgia: Continuing improvement, $20,000.
Improving Coosa River, Georgia and Alabama: Continuing improvement, $75,000.
Improving Flint River, Georgia: Continuing improvement, $20,000; of which sum $10,000 shall be expended below Albany, and $10,000 between Albany and Montezuma.
Improving Ocmulgee River, Georgia: Continuing operations, $7,000.
Improving Oconee River, Georgia: Continuing operations, $1,500.
Improving Oostenaula and Coosawattee Rivers, Georgia: Continuing operations, $2,000.
Improving Apalachicola River, Florida: Continuing improvement, $2,000.
Improving Apalachicola Bay, Florida, $10,000.
Improving Choctawhatchee River, Florida and Alabama, up to Newton: Continuing operations, $7,000.
Improving Inside Passage between Fernandina and Saint John's, Florida: Continuing improvement, $7,000.
Improving Alabama River, Alabama: Continuing improvement, $25,000.
Improving Warrior and Tombigbee Rivers, Alabama and Mississippi, $47,000; of which sum $20,000 shall be expended on the Warrior, $12,000 on the Tombigbee between Columbus and Vienna, and $15,000 on the Tombigbee below Vienna.
Improving Tombigbee River above Columbus, Mississippi: Continuing improvement, $4,000.
Improving Big Sunflower River, Mississippi: Continuing improvement, $3,000.
Improving Coldwater River, Mississippi: Continuing improvement, $4,000.
Improving Pascagoula River, Mississippi: Continuing improvement, $20,000.
Improving Pearl River, Mississippi, from Jackson to Carthage: Continuing improvement, $7,500.
Improving Yazoo River, Mississippi: Continuing improvement, $12,000.
Improving Bayou La Fourche, Louisiana: Continuing improvement, $5,000.
Removing obstructions from Red River, Louisiana: Continuing operations, including construction of snag-boat, $60,000.
Removing raft in Red River and closing Tone's Bayou, Louisiana: Continuing operations, $25,000.
Improving Tallahatchee River, Mississippi: Continuing improvement $9,000; of which sum $4,000 shall be expended below Coldwater and $5,000 between mouth of Coldwater and Batesville.
Improving Aransas Pass and Bay, up to Rockport and Corpus Christi, Texas: Continuing improvement, $65,000.
Improving Neches River, Texas: Continuing operations, $5,000.
Improving Pass Cavallo Inlet into Matagorda Bay, Texas: Continuing improvement, $50,000.
Improving ship-channel, Galveston Bay: Continuing improvement, $50,000.
Improving Sheepshead Bay, New York, $3,000.
Improving Canarsie Bay, New York, $10,000.
Improving Nottoway River, Virginia, $5,000.
Improving Rockland Harbor, Maine, $20,000.
Improving Flushing Bay, New York, $15,000: *Provided*, That in the judgment of the engineer in charge this expenditure can be made without serious detriment to property interests on the Newtown side.
Improving Narrows of Sabine River, above Orange, Texas, and to deepen channel at its mouth: Continuing improvement, $5,000.
Improving Sabine Pass and Blue Buck Bar, Texas: Continuing improvement, $50,000.
Improving Trinity River, Texas: Continuing operations, $4,000.
Improving Arkansas River between Fort Smith, Arkansas, and Wichita, Kansas: Continuing the improvement, $15,000.
Improving Fourche Le Fevre River, Arkansas: Continuing improvement, $4,000.
Improving L'Anguille River, Arkansas: Continuing improvement, $2,000.
Improving Ouachita River, Arkansas and Louisiana: Continuing improvement, $8,000.
Improving White and Saint Francis Rivers, Arkansas: Continuing improvement, $12,000.
Improving Cumberland River, above Nashville, Tennessee, as follows: From Nashville to Kentucky line, $15,000; from Kentucky line to Smith's Shoals, $10,000; at Smith's Shoals, $20,000.
Improving Cumberland River, below Nashville, Tennessee: Continuing improvement, $20,000.
Improving Hiawassee River, Tennessee: Continuing operations, $3,000.
Improving Tennessee River, above Chattanooga: Continuing the improvement, $10,000.
Improving Tennessee River, below Chattanooga, including Muscle Shoals, Duck River Shoal, and shoal at Reynoldsburgh: Continuing operations, $300,000.
Improving Big Sandy River, from Catlettsburgh, Kentucky, to head of navigation, $55,000; of which sum $50,000 shall be expended in the construction of works at Louisa, according to the recommendation of William E. Merrill, major of engineers, in his annual report, dated August 12, 1879, and $5,000 in the further improvement of the upper river.
Improving Kentucky River from its mouth to Three Forks: Continuing operations, $200,000.
Improving Ohio River: Continuing the improvement, $250,000; of which sum $100,000 shall be expended on Davis Island Dam, and $150,000 on the river from its mouth to its head: *Provided*, That $10,000 of the last-named sum may, in the discretion of the engineers, be expended on Indiana Chute: *And provided further*, That $25,000 of the sum for the improvement of the Ohio River shall be applied to continuing the improvement at Grand Chain on said river.
Improving Wabash River, Indiana: Continuing improvement, $25,000.
Improving Sandusky River, Ohio: Continuing improvement, $10,000.
Improving White River, Indiana, from Wabash River to Portersville, and to the falls on West Fork: Continuing operations, $20,000.
Improving Illinois River: Continuing improvement, $110,000, of which sum $100,000 shall be expended on locks and dams and $10,000 for dredging.
Improving Mississippi, Missouri, and Arkansas Rivers: Removing snags, wrecks, and other obstructions, $200,000; of which sum $100,000 shall be expended on the Mississippi River, $65,000 on the Missouri, and $35,000 on the Arkansas.
Improving Mississippi River, between the mouths of the Illinois and Ohio Rivers: Continuing improvement, $250,000; of which sum $20,000 shall be expended at Kaskaskia Bend, and $15,000 may be expended on the harbor at Alton.
Improving Mississippi River, above the Falls of Saint Anthony: Continuing improvement, $15,000.

Improving Mississippi River, from Saint Paul to Des Moines Rapids: Continuing improvement, $150,000; *Provided*, That $3,500 of said sum may, in the discretion of the Chief of Engineers, be expended in closing the slough at the confluence of the Minnesota and Mississippi Rivers.

Improving Mississippi River, from Des Moines Rapids to mouth of Illinois River: Continuing improvement, $100,000.

Improving Mississippi River at Quincy, Illinois: Continuing improvement, $25,000.

Removing bar in the Mississippi River, opposite Dubuque, Iowa: Continuing operations, $3,500.

Improving Rock Island Rapids, Mississippi River: Continuing improvement, $8,000.

Improving Des Moines Rapids: Continuing improvement, $20,000.

Operating the canal at Des Moines Rapids: Continuing operations of the canal, $30,000.

Annual expense of gauging the waters of the Mississippi River and its tributaries: Continuing observations of the rise and fall of the river and its chief tributaries, as required by joint resolution of February 21, 1871, $5,000.

Improving Upper Mississippi River: Operating snag-boat, $8,000.

Improving the Osage River, Kansas and Missouri: Continuing the improvement, $30,000.

Improving Missouri River at Atchison, Kansas: Continuing operations, $20,000.

Improving Missouri River at Cedar City: Continuing improvement, $15,000.

Improving Missouri River at Council Bluffs, Iowa, and at Omaha, Nebraska: Continuing operations, $20,000.

Improving Missouri River at Eastport, Iowa, and at Nebraska City, Nebraska: Continuing operations, $14,000.

Improving Missouri River at or near Fort Leavenworth: Continuing improvement, $8,000.

Improving Missouri River at and near Glasgow: Continuing improvement, $20,000.

Improving Missouri River at and near Kansas City: Continuing improvement, $25,000; which sum may be expended on either side of the river, in the discretion of the engineer.

Improving Missouri River opposite Saint Joseph: Continuing operations, $20,000.

Improving Missouri River at Sioux City, Iowa: Continuing operations, $8,000.

Improving Missouri River at Vermillion, Dakota: Continuing the improvement, $10,000.

Improving Missouri River, above mouth of the Yellowstone River: Continuing the improvement, $25,000.

Improving Detroit River, Michigan: Continuing operations, $50,000.

Improving Saginaw River, Michigan: Continuing operations, $10,000; of which sum $5,000 shall be expended for removal of bar at mouth of Saginaw River.

Improving Saint Clair Flats, Michigan: Repairs of canal, $2,500.

Improving the Chippewa River, Wisconsin: Continuing the improvement, $10,000; but this sum is appropriated subject to the same conditions and limitations imposed by section 1 of the act approved March 3, 1879, for the improvement of rivers and harbors, relating to said Chippewa River.

Improving Fox and Wisconsin Rivers, Wisconsin: Continuing improvement, $125,000; of which sum $50,000 shall be expended in continuing the improvement of the Wisconsin, and $75,000 for continuing the improvement of the Fox River; of which last sum $3,000 may, in the discretion of the engineers, be expended at the mouth of the Fond du Lac.

Improving Red River of the North, Minnesota and Dakota: Continuing improvement, $20,000.

Repairs and contingencies of public works at Saint Anthony's Falls, Minnesota: To meet repairs necessary, present and prospective, $10,000.

Improving Upper Red River, from Fulton to the head of the raft: Continuing improvement, $4,000.

Improving Saint Croix River, below Taylor's Falls: Continuing improvement, $10,000; of which sum $200, or so much thereof as in the opinion of the engineers in charge may be necessary, shall be expended in the improvement of the slough on the east side of said river, known as the canal between Four-Mile Island and the foot of the Saint Croix Boom.

Improving Lower Clearwater River, Idaho: Continuing operations, $5,000.

Constructing canals around Cascades of Columbia River: Continuing operations, $100,000.

Improving Upper Columbia River, including Snake River: Continuing improvement, $15,000.

Improving Upper Willamette River: Continuing improvement, $12,000.

Improving Lower Willamette and Columbia Rivers, from Portland, Oregon, to the sea: Continuing improvement, $45,000.

Improving Sacramento River, California: Continuing improvement, $30,000.

Examinations and surveys of South Pass of Mississippi River: To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads at the South Pass of the Mississippi River, and to enable the Secretary of War to report during the maintenance of the work, $20,000.

Improving the channel of Susquehanna River, above and below Havre de Grace, and to complete the work at the Fishing Battery light-station, near Spesutia Island, $25,000.

Improving and operating Saint Mary's River and Saint Mary's Falls Canal, $250,000. And the Secretary of War is hereby authorized to accept on behalf of the United States from the State of Michigan the Saint Mary's Canal and the public works thereon: *Provided*, Such transfer shall be so made as to leave the United States free from any and all debts, claims, or liability of any character whatsoever, and said canal after such transfer shall be free for public use.

Improving Buttermilk Channel, New York, $60,000.

Improving Ashley River, South Carolina, $1,000.

Improvement of Elk River, Maryland, $5,500.

Improving Cheesequake's Creek, New Jersey, $20,000.

Improving Vermillion River, Louisiana, $5,000.

Improving Bayou Terre Bonne, Louisiana, $10,000.

Improving Bayou Teche, from Saint Martinsville to Port Barre, Louisiana, $6,000.

Improving Bayou Courtableau, from Port Barre to Atchafalaya, Louisiana, $7,500.

Improving Susquehanna River, Pennsylvania, from Richard's Island up, $25,000.

Construction of harbor of refuge at Grand Marais, Michigan, $10,000.

Improving Pearl River below Jackson, Mississippi, $30,000.

Improving White River above Buffalo Shoals, Arkansas, $5,000.

Improving Saint Francis River between Wilkesburgh and Lester Landing, Arkansas, $5,000.

Improving White River between Jacksonport and Buffalo Shoals, Arkansas, $5,000.

Improving Passaic River, New Jersey, from Pennsylvania Railroad bridge to its mouth, $30,000.

Improving Arkansas River at Pine Bluff, Arkansas, $25,000.

Improving Mississippi River at Natchez and Vidalia, $40,000.

Improving Skagit River, Washington Territory, $2,500.

Improving Amite River, Louisiana, $8,000.

Improving Newtown Creek, New York, $10,000.

Improving Pagan Creek, Virginia, $5,000.

Improving Scituate Harbor, Massachusetts, $7,500.

Improving Taunton River, Massachusetts, $17,500.

Improving Block Island Harbor, Rhode Island, $4,000.

Improving Stonington Harbor, Connecticut, $25,000.

Improving Broadkiln River, Delaware, $5,000.

Improving the mouth of Duck Creek, Delaware, $5,000.

Improving Broad Creek from its mouth to Laurel, Delaware, $5,000.

Improving Northeast River, Maryland, $5,500.

Improving Treadhaven Creek, Maryland, for three miles below Easton, $3,000.

Improving Choptank River between Denton and Greensborough, Maryland, $5,000.

Improving Secretary Creek, Maryland, $3,000.

Improving Dan River between Danville, Virginia, and Madison, North Carolina, $10,000.

Improving Elk River, West Virginia, $5,000.

Improving Escambia River, Florida and Alabama, $8,000.

Improving Suwannee River, Florida, $5,000.

Improving Tampa Bay, Florida, $10,000.

Improving Tangipahoa River, Louisiana, $5,000.

Improving channel over bar at mouth of Brazos River, Texas, including a report upon the capacity of the harbor at the mouth of the Brazos and its adaptability as a harbor of refuge and naval station, $40,000.

Improving Saline River, Arkansas, $7,500.

Survey of the Missouri River from its mouth to Sioux City, Iowa, $30,000.

Improving Missouri River, at Saint Charles, Missouri, $25,000.

Improving Mississippi River at and above the city of Alexandria, Missouri, $10,000.

Improving Caney Fork River, Tennessee, $6,000.

Improving Obed's River, Tennessee, $4,000.

Improving Monongahela River, West Virginia, at or near Laurel Run, according to plan recommended by engineer in charge, $25,000.

Improving Little Kanawha River, West Virginia, building additional lock and dam, $15,000.

Improving Wilson Harbor, New York, $10,000.

Improving Waddington Harbor, New York, $3,000.

Improving San Joaquin River, California, $15,000.

Improving Mattaponi River, Virginia, $2,500.

Improving Petalumas Creek, California, $8,000.

Improving Cowlitz River, Washington Territory, $2,000.

Improving Big Hatchie River, Tennessee, $10,000.

Improving Mississippi River at or near Cape Girardeau and Minton's Point, Missouri, $20,000.

Improving Gasconade River, Missouri, removing snags, $5,000.

Improving Black River, Arkansas, $5,000.

Improving Noxubee River, Mississippi, $12,000.

Improving Mississippi River at Hannibal, Missouri, $25,000.

Improving and surveying Winnipiseogee Lake, New Hampshire, $2,500.

Improving Duck River, Tennessee, $7,000.

Improving Waccemaw River, South Carolina, up to Conwayborough, $9,000.

Improving Great Pedee River, South Carolina, $7,000.

Improving Totusky River, Virginia, $2,500.

Improving York River at West Point, Virginia, $10,000.

Improving Pamunkey River, Virginia, $2,500.

Improving French Broad River, Tennessee, between Knoxville and Leadvale, $10,000.

Improving the falls of the Cumberland River, Kentucky, according to plan recommended by W. R. King, major of Engineers, $35,000.

For repair of pier in Rocky River, Ohio, $4,000.

For ice-harbor at Saint Louis, Missouri, $50,000: *Provided*, That no part of this sum shall be expended until a board of engineers shall have been convened and determined upon a plan for the construction of the work.

Improving harbor at Rock Island, Illinois, $6,000.

For ice-harbor at Marcus Hook, Pennsylvania, commencing enlargement of piers and dredging, $35,000.

Improving Shenandoah River, West Virginia, $5,000.

Improving Connecticut River, between Hartford and Holyoke, $15,000.

For protecting Rock Island bridge by means of sheer-booms, $1,000: *Provided*, Said sum shall not be expended until the Rock Island Railroad Company shall have contributed a like sum for said purpose.

For harbor at Waukegan, Illinois, $15,000: *Provided*, That this sum shall not be expended until a board of three engineers shall have been convened and selected the site, and until any local or private property interests to be affected by the improvement or the use thereof shall have been transferred or relinquished, free of cost to the United States: *And provided further*, That the total cost of such harbor shall not exceed the estimate of $110,000.

Improving Clinch River, Tennessee, $10,000; of which sum $6,000 shall be expended above Haynes, in Clayburn County, and $4,000 below said point.

Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement are hereby reappropriated, but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training-walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

Improving Sullivan's Island for protection of Charleston Harbor, South Carolina, $5,000.

Improving Chehalis River, Washington Territory, $5,000.

Improving channel between Staten Island and New Jersey, at Elizabethport, $29,000.

Improving Harlem River, New York, $40,000; but this sum is appropriated subject to the provisions and limitations contained in the act of June 18, 1878, relating to said Harlem River improvement and the right of way therefor.

Improving Missouri River at Lexington, Missouri, $15,000.

The Secretary of War is hereby authorized to assign an engineer from the Corps of Engineers of the United States to prepare a plan and advise with the local engineer in the expenditure of such sum as may be appropriated by the local authorities for the improvement of the harbor at Kewaunee, Wisconsin.

Improving Volusia Bar, Florida, $5,000; and the Secretary of War is hereby authorized to make such special contract for the prosecution of this work as may, in his judgment, best promote the interests of the Government.

The balance in hand, after payment of any existing liability, collected heretofore as tolls on the Louisville and Portland Canal, or which may hereafter be so collected prior to the passage of an act to make said canal free to the public, is hereby authorized to be expended for its improvement: *Provided*, Such expenditure shall not exceed $60,000: *Provided further*, That so much thereof as may be necessary shall be used in the operation of said canal: *And provided further*, That this enactment shall take effect only upon the passage of the act to make said canal free for public use.

Improving Yellowstone River, Montana and Dakota, $15,000.

Improving harbor at Brazos Santiago, Texas, $25,000.

For continuing the improvement of Sebewaing Harbor, Michigan, $7,000.

Of the sum of $150,000, appropriated by the act of March 3, 1879, for the construction of a breakwater on the Pacific Ocean, between the straits of Fuca and San Francisco, California, the sum of $50,000 is hereby reappropriated; of which amount $40,000 shall be expended in the improvement of Takina Harbor, Oregon, and $10,000 in the improvement of Coquille River, Oregon, under the direction of the Secretary of War.

Improving Savannah River, above Augusta, Georgia, $12,000.
Improving Saint John's River, Florida, by deepening the bar at the mouth thereof, $125,000.

Such parts of the money appropriated by this act for any particular improvement requiring locks and dams as may be necessary in the prosecution of such improvement may be expended in the purchase, voluntary or by condemnation, as the case may be, of necessary sites: *Provided*, That such expenditure shall be under the direction of the Secretary of War: *And provided further*, That if the owners of such lands shall refuse to sell them at reasonable prices, then the prices to be paid shall be determined and the title and jurisdiction procured in the manner prescribed by the laws of the State in which such lands or sites are situated.

The Secretary of War shall cause to be let by contract all public work authorized under this act, except for surveys and estimates. Such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material; but this clause shall not be so construed as to prevent the continuance of the prosecution of the improvement on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest requires such change.

SEC. 2. That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points, namely:

Tallapoosa River, from the junction of Coosa up to Tallassee, Alabama.
New Rochelle Harbor, Westchester County, New York, from City Island to the town of New Rochelle.
Bronx River, or West Farms tide-water creek, from its mouth in the city of New York.
Mattawan Creek, from Raritan Bay channel to Central Railroad bridge, head of navigation.
Malden River, Massachusetts.
For improving Richmond Harbor, on the Kennebec River, Maine.
Clinch River, Tennessee, in the counties of Hancock, Hawkins, and Claiborne.
Powell River, Tennessee, in the counties of Hancock and Claiborne.
Holston River, Tennessee, in the counties of Sullivan, Hawkins, Grainger, and Hamblen.
Ticonderoga River, New York.
Edistoe and Salkehatchie Rivers, in South Carolina.
Georgetown Harbor, South Carolina.
Lynch's River, South Carolina.
Wateree River, from Camden, South Carolina, to its mouth.
Black River, from Kingston, South Carolina, to its mouth.
Rancocas River, from the Delaware River to Pemberton, Burlington County, New Jersey.
Absecom Inlet, Atlantic County, New Jersey.
Bayou Bartholomew, Tensas River, and Bayou Macon, Louisiana.
Sandusky River, near Fremont, Ohio.
Chagrin River, Ohio.
Ice-harbor, Bellaire, Belmont County, Ohio.
Toledo Harbor, Ohio, for depth of sixteen feet.
Tallapoosa River, from the city of Montgomery to Tallassee.
Neabsco Creek, a tributary of the Potomac.
Maumee River, Ohio, from Perrysburgh to the city of Toledo.
Mississippi River, at Saint Genevieve, Missouri.
Missouri River, at Booneville, Missouri.
Saint Francis River, from Greenville.
Youghiogheny River, to begin at its mouth at McKeesport, Allegheny County, Pennsylvania, and end at Connellsville, Fayette County, Pennsylvania.
Cape Fear River, North Carolina, between Wilmington and Fayetteville, with the view of ascertaining cost and practicability of clearing away logs and overgrowing trees and of dredging out such shoals as now interfere with commerce, itemizing cost of each separately.
Town Creek, North Carolina: To ascertain cost of taking out such shoals as interfere with ordinary river steamboat traffic.
For the reopening of the Santee Canal.
For the improvement of Woppoo Cut, South Carolina.
Calcasieu River, Bayous Plaquemine, Black, Grand, Caillon, Little Caillon, Andre, Fusilier, Grand Lake, Little Lake, and Barataria Bay, from New Orleans to Grand Pass.
For Snake River in Minnesota.
The Savannah River, from Savannah to Augusta, Georgia.
The Altamaha River, Georgia.
The Canoochee River, Georgia.
Romney Marsh, near Doboy, and the mouth of Jekyl Creek.
Niagara River, at the mouth of the Tonawanda Creek, New York.
At Port Day, above the Falls of Niagara, New York.
Shark River, New Jersey.
Perth and South Amboy to main ship-channel off Great Kills, Raritan Bay.
Improving the bayou south of Milwaukee Harbor for additional purposes of a harbor of refuge at Milwaukee; also, Milwaukee Bay.
Finchollaway River, Florida.
Aucilla and Wacissa, Florida.
Chipola River, Florida.
Ocolockonnee River, Florida.
Holmes Creek, Florida.
Potomac River at the mouth of Pohick Creek.
The bars at the entrance of Annapolis Harbor, with a view to ascertain the character of jetties necessary to render the proposed improvement permanent.
For Hempstead Harbor in the State of New York.
Sawpawnes Inlet, Long Island, New York.
For water-way connecting Jamaica Bay with Cornell's Landing in the State of New York.
Saint Francis River, from Greenville, Missouri, to the Cairo, Arkansas and Texas Railroad.
Currant River, from Van Buren, Missouri, to its mouth in Arkansas.
Chicago River, from its mouth to the junction of the North and South Branches.
Grand River below Grand Rapids, Michigan.
Swan Creek, Lake Saint Clair, Michigan.
South Fork of the Cumberland River, Kentucky.
Red River, from Port Royal, Montgomery County, Tennessee, to its mouth.
Mouth of Narraguagus River at Milbridge, Maine.
Cahaba River, Alabama, from its mouth, in Dallas County, to the northern line of Bibb County.
Empire Bay, Lelanawau County, Michigan.
Mississippi River, at Andalusia, Illinois.
Missouri River, at Yankton, Dakota.
Upper Red River of the North, between Fargo, Dakota, and Breckinridge, Minnesota.
Atchafalaya River, Louisiana, from Berwick's Bay to mouth of Red River.
Ice-harbor at the head of Delaware Bay, near Morris Liston's, on Reedy's Island.
Delaware River, survey of.
Tradewater River, Kentucky.
Harbor at Grand Gulf, Mississippi.
Ogdensburgh Harbor, New York.
Maramec River, Missouri, from the mouth to the town of Union, Franklin County, Missouri.
Obion River, Tennessee.
South Forked Deer River, Tennessee.
North Forked Deer River, Tennessee.
That part of the north branch of the Chicago River lying in the town of Lake View.
Bogue Chitto River, Louisiana, from its mouth to Franklinton.
Bogue Falia, Louisiana, from its mouth to twenty-five miles above Covington.
West Pearl River.
Pass Manchac and Bayou Manchac, Louisiana, from its mouth to the Mississippi River.
Mississippi River, at Sauk Rapids, near the city of Saint Cloud, Minnesota.
Grand River, below Grand Rapids, Michigan.
Gowanus Bay, New York.
Grass River, at Massena, Saint Lawrence County, New York.
Missouri River, from Tugue Creek to one mile west of Charette Creek, Warren County, Missouri.
Cache River, Arkansas, a tributary of White River.
The Bay, a tributary of Saint Francis River, Arkansas.
Mouth of Grand River and Missouri River, at Brunswick, with reference to boat landing at Brunswick, Missouri.
Buffalo Bayou, Texas, from Simm's Bayou to the mouth of White Oak Bayou at Houston. Return estimates of the cost of a channel twelve feet deep and one hundred feet wide, also a channel twelve feet deep and one hundred and fifty feet wide.
Mouth of Currioman Bay, Virginia.
East Bay and Blackwater River, Florida.
The Ohio River, at the head of Hurricane Island and Elizabethtown, Illinois.
Chester and Ridley Creeks, near their outlets into the Delaware River, Pennsylvania.
Saint Mary's River, from the town of Saint Mary's to its mouth, Ohio.
Minnesota River, near the village of Belle Plain, with a view to prevent the breaking away of the banks of the narrow neck of land opposite said village and injury to the navigation of said river, in Minnesota.
The Nomoni River, from the ferry across the same to the head of tide-water.
The Appoquinimink Creek, Delaware.
Palchoque River, New York.
For opening channel between Lloyd Harbor and Cold Spring Bay, New York.
Stillaquamish River, Nooksack River, and Snohomish River, in Washington Territory.

Of the sum of $150,000 herein appropriated for surveys and examinations the sum of $15,000 may be expended in the completion of the survey of the reservoir system on the headwaters of the Mississippi River, including Rock River, in Wisconsin and Illinois.

SEC. 3. That for the examinations and surveys herein provided for, and for incidental repairs of harbors, for which there is no special appropriation, the sum of $150,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; and in every case where examinations or surveys are made the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure.

SEC. 4. Whenever hereafter the navigation of any river, lake, harbor, or bay, or other navigable water of the United States, shall be obstructed or endangered by any sunken vessel or water-craft, it shall be the duty of the Secretary of War, upon satisfactory information thereof, to cause reasonable notice, of not less than thirty days, to be given, personally or by publication, at least once a week in the newspaper published nearest the locality of such sunken vessel or craft, to all persons interested in such vessel or craft, or in the cargo thereof, of the purpose of said Secretary, unless such vessel or craft shall be removed as soon thereafter as practicable by the parties interested therein, to cause the same to be removed. If such sunken vessel or craft and cargo shall not be removed by the parties interested therein as soon as practicable after the date of the giving of such notice by publication, or after such personal service of notice, as the case may be, such sunken vessel or craft shall be treated as abandoned and derelict, and the Secretary of War shall proceed to remove the same. Such sunken vessel or craft and cargo and all property therein when so removed shall, after reasonable notice of the time and place of sale, be sold to the highest bidder or bidders for cash, and the proceeds of such sales shall be deposited in the Treasury of the United States to the credit of a fund for the removal of such obstructions to navigation, under the direction of the Secretary of War, and to be paid out for that purpose on his requisition therefor. The provisions of this act shall apply to all such wrecks whether removed under this act or under any other act of Congress. Such sum of money as may be necessary to execute this section of this act is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to be paid out on the requisition of the Secretary of War.

SEC. 5. That the joint resolution approved July 29, 1868, authorizing the construction of the bridge over the Mississippi River, "to connect the island of Rock Island with the cities of Davenport and Rock Island," is hereby so amended as to require the Chicago, Rock Island, and Pacific Railroad Company to charge for any cars laden with freight other than its own, and for its own cars when carrying freight for other roads, which it may carry across said bridge, the sum of $5 for every car, and for each empty car other than its own the sum of $2, one-half of which sums shall be paid by said railroad company into the Treasury of the United States each month, and the monthly returns thus made shall be in such form and with such authentication as the Secretary of War shall direct.

Amount recommended by this bill is $8,296,500.

Mr. MITCHELL. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. MITCHELL. I understand this to be the third Monday in the month, when it is in order to suspend the rules on motion of a committee, and I further understand, by a statement of the chairman of the Committee on Commerce, that there is no report accompanying the bill which has just been read and on the passage of which he moves to suspend the rules. I ask the Speaker now whether it is in order for the gentleman from Texas to rise here, representing or claiming to represent the Committee on Commerce, and move a suspension of the rules for the passage of this bill when there is no report from his committee as required by the rules of the House upon it?

The SPEAKER. The Chair is bound to take the word of a member of the House when he declares that he reports a proposition and is directed by his committee to move a suspension of the rules and pass the same. The Chair thinks that statement brings him within the exact spirit if not the letter of the rule.

Mr. MITCHELL. I respectfully call the attention of the Chair to the latter part of clause 2, of Rule XVIII:

And all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

The SPEAKER. This is a proposition to suspend the rules, that included.

Mr. MITCHELL. I understand that; but here is a proposition on the part of the gentleman representing the Committee on Commerce, that the House shall pass a bill without requiring the report which this rule demands shall accompany it to be presented to the House for the consideration of members.

The point I make is that this report must be made in writing or printed and submitted to the House for consideration.

The SPEAKER. The gentleman from Texas makes the motion, and submits the bill from the Committee on Commerce, and states that he submits it under instructions from the committee, with directions to move to suspend the rules and put the bill upon its passage.

Mr. MITCHELL. Now, what I want to know is, how can he be instructed except by the action of the committee, and how can we know what action the committee has taken in the matter except by the report which this rule requires? One of these rules requires that the report accompanying the bill shall be written or printed; and would it not be a wholesome method of proceeding here for the Speaker to require in every case that the committee reporting a measure shall be held to the language of that rule and give us some information or reason for the bill which has been presented, so that we may act intelligently upon it.

Mr. REAGAN. If I had made a written report I could only have said I was authorized by the committee to move a suspension of the rules. I make that statement verbally, that I am authorized by the committee to ask a suspension of the rules. We understood the motion was for a suspension of all rules, and that a report, therefore, was not necessary; and in fact I do not see what good a report could do in reference to a bill of this description unless made at very great length.

Mr. CHALMERS. I make this point, that the gentleman from Texas [Mr. REAGAN] is not in order to move to suspend the rules at all until he has first complied with the rule which requires him to come in with a written report; that he cannot move to suspend the rules because that is a condition-precedent to his making that motion, and he has not complied with that condition; that he has failed to come into this House properly, and must go out. I think the point is well taken by the gentleman from Pennsylvania, [Mr. MITCHELL,] that the gentleman from Texas cannot move to suspend the rules because he does not come with a written report.

Mr. MITCHELL. I have no disposition to interfere with the passage of this bill, but I desire to make a further suggestion. I think we should have some more light before we are called upon to act upon the bill. I understand this bill was reported to the House some time ago, and was ordered by the House to be printed. If so, the bill should then have been accompanied by a report in writing.

Mr. REAGAN. That objection is not made in time. It should have been made at the time the bill was reported, not now.

Mr. MITCHELL. I say that that bill having been reported and ordered to be printed it is not in order now for the chairman of the committee to move to suspend the rules and pass this bill without an accompanying report.

The SPEAKER. Even if the bill was reported to the House, referred to the Committee of the Whole on the state of the Union, and ordered to be printed, still there is nothing to prevent the gentleman from Texas from now moving to suspend the rules and discharge the Committee of the Whole from its further consideration, and to put the bill on its passage. The only effect of that would be to vary the motion. If this bill can receive a two-thirds vote of the House, the Chair is unable to see how its passage by a suspension of the rules can be prevented; because it is a proposition to suspend every rule that comes in conflict with that procedure.

Mr. MITCHELL. But the rule which authorized the gentleman from Texas to come in here this morning expressly requires that he should be authorized by a committee, and I submit that the authority given by the committee should be in writing.

The SPEAKER. That is one of the obstructions which are removed by the very motion to suspend the rules, which requires a two-thirds vote.

Mr. MITCHELL. I think it is a clear rule of parliamentary law that a committee cannot act except by report.

The SPEAKER. This is a motion the effect of which suspends that rule if it be carried by a two-thirds vote.

Mr. TOWNSEND, of Ohio. I desire to say a word on the point of order. A very large number of bills for the improvement of rivers and harbors were introduced in this House and were referred to the Committee on Commerce for consideration. That committee considered them and reported to the House a bill embodying those which had been referred to the committee, and on which they took favorable action. The House ordered the bill to be printed and recommitted to the committee. It comes back now in the form of a report, and I claim that that complies with the rule substantially.

The SPEAKER. The very rule which provides for a suspension of the rules by a two-thirds vote practically sweeps out of existence any rule which obstructs the power of two-thirds to pass a bill.

Mr. TOWNSEND, of Ohio. The bill is here under instructions of the committee to ask for a suspension of the rules.

The SPEAKER. This is a motion to suspend the rules; that is, any and all rules which interfere up to the question of passage. The Chair refers to the following ruling of Speaker Colfax, July 5, 1867, when a similar point was raised:

But the rules have been suspended—that rule along with the others—to allow the introduction of the resolution. That rule, like all other rules, may be suspended, as it has been in this case.

The question is on seconding the motion to suspend the rules and pass the bill.

Mr. MITCHELL. I call for tellers.

Tellers were ordered; and Mr. MITCHELL and Mr. REAGAN were appointed.

The House divided; and the tellers reported—ayes 148, noes 29.

So the motion to suspend the rules was seconded.

Mr. COX. I propose to occupy a short time in debating this bill under the rule. We certainly have made some improvement in our rules when we are permitted even a short time for debating such a bill as this.

Mr. LOUNSBERY. I ask my colleague to yield to me for a moment.

Mr. COX. I yield to my colleague one minute.

Mr. LOUNSBERY. I thank my colleague for one minute of time in which to oppose this bill. I shall trust to him to express my convictions against the method by which these vast appropriations are made. But I propose to say for myself that it is my conviction based upon the practical judgment of pilots and boat-owners, and the opinions of engineers as well, that the money which has been spent by the State of New York, and the money which has been spent by the United States Government in the improvement of the navigation of the Hudson River and on the East River will injure rather than improve the navigation of those rivers. For the natural difficulties which have been removed there have been substituted artificial ones which operate just as much to form an impediment to the navigation.

I believe that what I have stated is not applicable alone to the case I have mentioned but is applicable as a general remark to the money which has been spent for the improvement of water-courses of rivers. All water-courses, as I believe, are a law unto themselves, and if that law be violated by artificial construction it will be resented and a new obstruction will be formed by the water-courses in accordance with the law which governs it.

Mr. COX. I know very well that all opposition to this bill will be unavailing. The bill is made up, however, on a system which is not altogether new; but it is a system against which there should be a perpetual protest.

This bill is not intended to embrace rivers and harbors connected with Federal commerce. It relates to State commerce, county commerce, village traffic, individual interests, mill-dam and water power. Many of these appropriations are not for the general interest. They are for local interests. I gather this, not merely from my little knowledge of American geography, but from an examination of this bill. Rivers are put down and creeks are mentioned as being in "counties;" streams are named that are within a State. They do not pass beyond the borders of a State, and oftentimes of a county.

Now, I have no objection to any bill general in its character. Give us a bill that reaches to promote objects of Federal commerce. If you will, let the improvement be of rivers and harbors that are connected with the commerce of coast, lake, and inland seas. But a bill of this kind should be resisted. After much debate through many years I have learned temperately but firmly to resist its pernicious and composite quality. Let us, though in vain, resist it in the interest of the harbors and rivers that are really meritorious.

If bills like this, of $8,206,000 and over, are presented year after year they will in some eclipse of local greed fail, as they should. As somebody once said about something else, "they will fall by the weight of their own ponderosity." [Laughter.]

Can they stand examination? They should go to the Committee of the Whole. While we may commend the diligence, industry, and honesty of the Committee on Commerce, any one can see by a glance at the names of the rivers, creeks, and bayous—"arms of the sea," forsooth—in this bill, that it is obnoxious to the objection that it is not for Federal and general commerce.

Let me begin at home. Here is Buttermilk Channel, in New York. I may be content with that in a proper connection. Here is Big Sunflower, in Mississippi; Sawpawnes Inlet, Long Island; Muskingum, Ohio, too much pronounced by the Clerk, as I know it as my native stream; Manistee, in Michigan; Cohansey, New Jersey; Wicomico—the Lord knows where that is. [Laughter.] Then there is the Chickahominy, in Virginia, celebrated for fighting but not for navigation; Nomoni, Virginia; Stillaquamish, Nooksack, and Suohomish, Washington Territory; Appoquinimink, Delaware; Cowlitz, Washington Territory; Mattaponi, Virginia; Salkehatchee, South Carolina; Calcasieu, Louisiana; Shark River, New Jersey, (emphasis on the shark;) Woppoo Cut, South Carolina; and dozens and dozens of places that may be all right, but at least they are not known to our ordinary geography, or to our general Federal commercial interests.

I do not know what particular standard my friend from Texas [Mr. REAGAN] may have adopted in preparing these appropriation bills. They should be placed on a national basis, prepared according to some general standard, for unless you draw the line there is no reason why

eighty millions instead of eight, should not be given to such local combinations.

May I read from a speech made in May, 1846, by a southern statesman to show what is required to make such bills as these "national" in their character?

Mr. TOWNSHEND, of Illinois. From whose speech do you read?

Mr. COX. From the speech of the late Senator Houston, of Alabama, made in 1846 when he was a member of this House—a member of irreproachable honesty, courage, and sense. It was made in opposition to a bill for the improvement of his own Tennessee River—a river in his own State—a river not local, but running north and south, and needing, if any interior river ever needed, some national aid. Let members examine carefully the extracts from his speech:

I was then, and am now, (unless the distinguished member from Tennessee has superseded me,) the Representative of the district in which the work has been done. The obstructions, or nearly all of them, are in my district. Some of my constituents desire an appropriation to remove them. I could not vote for such appropriation; yet I felt bound, as an honorable man and a faithful Representative, to give truly the facts, as far as I might know them, in regard to the work. I would have done so with pleasure could I have obtained the floor when the proper bill was under consideration; it would afford me pleasure to do so now, if it were proper to do it upon this bill. I will not, however, press it *improperly* upon the notice of this committee, out of place and season, as the gentleman has done. I will content myself for the present by saying that if the rivers contained in the river and harbor bill are national or constitutional, so is the Tennessee. It runs *through States* and *between States;* is navigable, with the exception of these obstructions, for some eight hundred miles or near it; washes in its course seven of the leading agricultural and planting States; is the direct link of connection between the southern Atlantic cities and States and the cities and States of the great West and Northwest, as well as the Gulf of Mexico.

How worthy of his fame, is this true, logical, and courageous statement:

I cannot consent to aid or countenance a system which takes without his consent the money of one man and gives it to another. I have never knowingly done so, and I never will. While I would promptly defend my own people from the robbery of others, *I would as promptly refuse to plunder others for them.* I am sure they will never require such a thing of me; yet, if they did, I would at once decline it. We are less apt to see the extent or enormity of the injustice of a system which benefits ourselves. We are sometimes forgetful or careless of the rights of others when our own direct, local, personal interest is to be advanced. We do not properly consider how the money was raised, who paid it, and for what purpose. We know we will be benefited by its disbursement among us, and may fail to regard other interests involved. It requires a high degree of moral courage to resist these temptations, these *baits*, which are sometimes presented; or to stand up against the current of popular sectional feeling which is frequently met with on local questions. May I ask, Mr. Chairman, how many members on this floor would vote for a bill improving the Hudson River and leaving out everything else? Is there one who lives beyond the immediate precincts of that river? Further, sir, suppose every object of internal improvement in this Union was exclusively within one State or one particular division of the Union, would any member who lived out of the State or division to be benefited vote for the improvement of them by this Government? Will any man evince so little knowledge of men and things as to hesitate in giving a negative answer? I would like to know if there was one single item in the bill which we passed which could have passed this House upon its own merits, entirely disconnected with others? None, sir; not one.

* * * * * * *

I have said, or if I have not I intend now to say, that the system is not only unjust in all of its bearings upon the different sections of the country, but it is kept up by log-rolling and bargaining—that it is the child of corruption, and ever has been. I undertake to say that no such general bill has ever passed which was not to a greater or less extent indebted to such corrupt combinations for its success; and if the secret history and influences of such bills could be known they would disclose the fact.

* * * * * * *

I am sometimes told that the system of internal improvements is kept up, and in that way the public money is being distributed to other rivers; that the Tennessee River is as *national, as constitutional, and as deserving* as they are; and I am then asked why I do not get a part of the money while it is going. I admit all of these things; but then I do not understand the principle of morals or justice which teaches that because others do wrong I must do the same thing, or join them in their wrong in order to make it right. If wrong in others, it would be equally so in me. I admit that the immediate injury to my constituents might not be so great if *they could obtain a share of the spoils;* but in the proportion of its diminution to them it would to that extent at least be increased upon those who could get no part of the money, because of the want of an object upon which to expend it. I then ask my constituents if they would be willing to take the money of their fellow-citizens of other sections of the Union against their will, and apply it to their own *local purposes*, merely because *others were doing it?* I am sure they would not. Would they be willing for others to take their money under the same circumstances? If they would not, then let us remember and conform to the golden rule—*do as we would be done by.* Suppose the Tennessee River did not run where it does, and there was no navigable stream within hundreds of miles of my district; would my people not condemn me if I were to go into the support of the system of internal improvements, thereby appropriating their money to objects in New York or Massachusetts, when there was no chance under the system for them to get any portion of it? I believe such would be the course of any people. Then if unjust when they were excluded, of course the same injustice would exist if they were the recipients. Our Government is not for the protection of the *strong* against the *weak*, or the *many* against the *few*. No such protection is needed, but the reverse—that the weak shall not be plundered by the strong, or the few by the combinations of the many. The great principles of eternal and even-handed justice, which lie at the foundation of our Government and its institutions, must be observed, or the Government is a *curse* instead of a blessing.

God has blessed the man who thus spoke! Again to quote:

How much commerce is necessary to make it national? Will some gentleman give me the true point or standard of nationality in a commercial point of view? Congress has power to regulate commerce, &c., and if internal improvements are carried on under that clause, you have no right to require that the amount be over or under any specified sum. Such a rule or standard is entirely arbitrary and unknown to the Constitution. You must regulate commerce wherever it is found, whether it be $10,000,000 or $100,000,000. The Constitution knows nothing about amounts, and in a commercial sense there is no such thing as nationality. If you have power under that particular clause to clear out rivers, you have the same power to dig canals, make turnpike roads, build railroads, steamboats, warehouses, or do anything else which will promote and prosper the commerce of the country, both external and internal.

* * * * * * *

I do say that many, very many, of them are more or less under the influence of that system which obtains its triumphs by the favors it can dispense among its supporters, and that, imperceptibly or *otherwise*, it gains upon them until it gets such control as to induce them to vote appropriations to objects their better judgment will not sanction.

It will be thus seen from these pertinent and eloquent extracts that the lamented ex-Senator opposed similar bills to this upon the ground that it was taking from one individual and one locality to give to another individual and another locality. This was inequitable. He also opposed it on the ground of opposition to the heresy of "protection." A protectionist will vote for all these propositions to deplete the Treasury, so as to fill the vacuum by a bounty in the shape of a tariff of some kind, to help his pet industry.

A gentleman said to me a few minutes ago, when I expressed to him my surprise that he was going to vote for this bill, "Why, I have four harbors in it." One of the most distinguished members of this House just told me that he would have to vote for the bill because he had a river in it. Now, these are the local cries and crises which the ever-honored Ex-Senator Houston characterized so pungently and cogently in the speech from which I have read.

Mr. Speaker, I would inquire how much time I have left?

The SPEAKER. The gentleman has seven minutes.

Mr. COX. Then I will abbreviate my remarks.

The SPEAKER. The gentleman from Mississippi [Mr. CHALMERS] notified the Chair that he desired to be heard.

Mr. COX. I will yield to him in a moment. Let me sum up:

First. This system takes money from one man and one locality to give it to another person and another locality.

Second. It aggrandizes local interests and is a tempting bait, which the moral courage of our best members cannot resist.

Third. It is not right to take money paid into the Treasury by the people who have no navigation, for the use of those who have such advantages.

Fourth. A large part of these appropriations, as my colleague [Mr. LOUNSBERY] has shown as to the Hudson, are wasted. If useful they should be made by State or local subvention.

The opposition to this bill, for reasons often before given here by others and myself, is based not merely on constitutional grounds, not on the ground that the moneys appropriated are oftentimes corrupting, but on the idea ever to be held aloft, at least in a democratic House, that there is no power under the Constitution as to commerce, to make a system of county, State, town, and local appropriations for transportation, mill-sites, and what not.

Although there are appropriations in this bill worthy of our sanction, they are so commingled as to be bad for multifariousness. I would gladly vote for any reasonable sum to aid rivers and harbors of national scope as to commerce.

Let us not in these extensive eight-and-a-quarter-million bills forget our early, and I think better, practice.

I know we are collecting by an outrageous tax and tariff system more money for the Treasury than we should or than we need. But in such a plethora there is no health. The bigger the sums collected the more rapacious the greed.

I yield to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. CHALMERS. Mr. Speaker, how much time have I?

The SPEAKER. Six minutes.

Mr. CHALMERS. Mr. Speaker, I oppose this bill, not for the reasons assigned by the gentleman from New York, [Mr. COX,] but because I think great injustice has been done in the bill to the region of country which I in part represent. When the question of dividing the work of committees was before this House and when we were urging that you should commit the interests of the Mississippi River and its tributaries to a separate committee and not leave those interests to be guarded by the Committee on Commerce, many gentlemen living upon the banks of the Mississippi and its tributaries said to me, "The Committee on Commerce can always pass their bill under a suspension of rules; you had better trust your interest to the Committee on Commerce, because otherwise you will get nothing." Many gentlemen voted against my proposition for a separate committee and for giving this authority to the Committee on Commerce, believing it the best mode of getting appropriations for the Mississippi and its tributaries. I said then that if the question were left to the Committee on Commerce the money of the Government would be expended upon creeks and dry branches and not upon the great navigable streams of the country. The gentleman from Texas [Mr. REAGAN] took me to task in a somewhat bitter manner for my remarks, and said there were no appropriations in any of his bills for creeks. But I find that the word "creek" occurs twenty times in this bill now under consideration.

The gentleman said further at that time that the appropriations of this character were simply for surveys. I have examined, and find that in only seven out of these twenty creeks surveys are provided; for all the rest appropriations are made to clear out and improve the respective creeks by name. And while these creeks are to be cleaned out, locked, and dammed, great navigable streams like the Ohio, Missouri, and Mississippi, are comparatively neglected.

Why, sir, the people of Vicksburgh to-day see their harbor being rapidly destroyed by that great cut-off of the Mississippi River; delay is destructive, and every hour that devouring stream sweeps the harbor further from our doors. The engineers of the United States have estimated that $300,000 is necessary to save that harbor. But the Committee on Commerce come in here with a miserable, pitiful appropriation of $20,000 to save that great harbor, while at the same

time they give $20,000 to Cheesequake's Creek in New Jersey. I have asked gentlemen from New Jersey where this Cheesequake's Creek is to be found; and no man could tell me except to say that it was to be found perhaps somewhere in the district of the member from New Jersey who happened to be upon the Committee on Commerce.

I look in this bill for appropriations for the great Mississippi River, filled with snags and sand-bars from Cairo to its mouth; and I find a pitiful appropriation of $100,000 to remove these obstructions in twelve hundred miles of the greatest channel of internal commerce known in the world. I look further and I find that the same sum of $100,000 is given to the little Raritan in the State of New Jersey, which State has the honor of having a member of the Committee on Commerce.

I find, moreover, gentlemen boasting in communications to their constituents that since they have had the privilege of being members of the Committee on Commerce they have been able to get more appropriations for their districts than were estimated for by the engineers of the country. One member has said that he has been able to get $100,000 more than the engineers' estimates called for. Yet gentlemen talk to me about supporting a bill of this kind made for the purpose of cleaning out dry creeks and spring branches throughout their districts, when the great navigable waters of the Union, the waters of the Mississippi and its tributaries, upon which floats the proudest inland commerce in the world, are to be altogether neglected or set aside with these pitiful appropriations.

I am sorry to think, as I am compelled to think, that because I stood here in my place as a Representative and demanded that the Mississippi River and its tributaries should be separately considered and the interests of my people should be intrusted to a special committee which would protect them, and because in this I had the misfortune to fight against this great and powerful combination known as the Committee on Commerce, they seem to have determined to strike down my district and its demands. The sixth district of Mississippi, which I represent, has more navigable rivers in it and demands of necessity more aid from the river and harbor bill than any other district in the United States. It is washed upon its whole front by five hundred miles of the Mississippi River. The northern portion of it is a peninsula, formed by the Mississippi on the west and the Yazoo, Tallahatchee, and Coldwater—all navigable streams—on the east, with four hundred miles of river front upon the Yazoo, the Tallahatchee, and the Coldwater. The Big Sunflower, a stream of far more importance than Cheesequake's Creek or a number of other streams appropriated for in this bill, penetrates this peninsula. Yet, with all this river coast—five hundred miles upon the Mississippi and as much more upon these other great navigable waters, on which floated the Army and the Navy of the United States when the invasion of Mississippi was made—this district is not permitted to have as large an appropriation in this bill as is given to the Pearl River in my own State, though—as was well said by the Vicksburgh Herald, published in my own city—the commerce of Vicksburgh alone is worth more than the whole commerce of the Pearl River, from one end to the other. Yet, $37,000 is given to the Pearl River and only $20,000 to save the harbor of Vicksburgh.

The committee pretended, as I understand, to make their estimates *pro rata*—to give us appropriations in proportion to the estimates made by the engineers of this Government, who had been directed to survey and make estimates as to the cost of work necessary to be done. But they have overlooked the fact that there were two estimates made for Vicksburgh—one to stop the caving on the Louisiana shore, the other to clear out the harbor at Vicksburgh. They have appropriated for the revetment work in Louisiana alone, and ignored entirely the estimate for the harbor, and all this I called to the attention of the committee before the bill was reported.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. CHALMERS. Very well, I ask leave to publish with my remarks a statement as to this bill from the morning Post of this city.

Mr. KENNA. I object to the publishing of the article from the morning Post in the RECORD. That article is full of inaccuracies, and I give that as the reason for my objection.

Mr. CHALMERS. The gentleman is a member of the Committee on Commerce, and as his district in West Virginia is well provided for in this bill, he may well object.

Subsequently the objection was withdrawn. The statement is as follows:

The bill appropriates nearly $9,000,000. Fifteen States are represented in the committee, viz: Texas, New York, New Jersey, West Virginia, Maryland, Kentucky, Louisiana, Virginia, Wisconsin, Missouri, Pennsylvania, Connecticut, Illinois, Ohio, and Massachusetts, and these States get, in the aggregate, $4,464,000 of the whole amount appropriated. This amount does not include the sums appropriated for the general improvement of the Ohio, Mississippi, and other watercourses which run between States and which also benefit some of the above States to a greater or less extent, so that the States represented on the committee which reported the bill are benefited to the extent of more than one-half of the whole appropriation.

The Pacific coast is not represented on the committee, and that coast, together with the Territories, gets only about $400,000 of the whole amount appropriated. Massachusetts and Connecticut are represented on the committee. The former gets $222,000 and the latter $144,000, while the other four New England States get only $141,000, all told. Missouri gets $290,000, while the three States of Iowa, Kansas, and Minnesota, get only $180,000. Michigan, which is almost entirely surrounded by water, does not get as much as Kentucky and West Virginia. Virginia alone gets $260,000, while the States of North and South Carolina, Georgia, and Florida, with their long coast lines, get all together only about double as much.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] is entitled to the floor.

Mr. REAGAN. I yield for one minute to the gentleman from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. Mr. Speaker, a service of four years on the Committee on Commerce has prepared me to examine the measure now pending before the House with perhaps more care than I should have done if I had not had that service. I insist this bill deserves the support which it is evidently about to have. I ask the gentleman from New York [Mr. LOUNSBERY] who first spoke, to append to his remarks the report of the Government engineers which asserts, as he states, that the improvements of the Hudson and East Rivers made by the General Government have been hostile to the commerce of these rivers.

Now, Mr. Speaker, the gentleman from New York, [Mr. COX,] who next spoke, has only repeated his *rôle* of the previous year. Fortunately for the country, fortunately for the great city of New York, this Congress has risen from year to year to legislate for the great harbor of New York. The gentleman from New York does not well represent the great metropolis of America. Congress removes obstructions from Hell Gate year by year that American commerce may be protected. The gentleman from New York misrepresents that metropolis and misrepresents——

Mr. COX. Why do you not bring in an unmixed bill? That is what I want.

The SPEAKER. The gentleman's time has expired.

Mr. REAGAN. I will yield now for a moment to the gentleman from Kentucky, [Mr. WILLIS.]

Mr. WILLIS. Mr. Speaker, in line 835, page 35 of the proposed substitute as printed, I find the following:

Provided further, That so much thereof as may be necessary shall be used in the operation of said canal.

I wish to ask the chairman of the committee whether that proviso is now operative, and whether it was intended to conflict with bill H. R. No. 4507, which has since passed the Senate, or whether any part of the $60,000 therein appropriated is to be used in operating or repairing the canal after 1st July next.

Mr. REAGAN. I can only say the object of the proviso there mentioned was to enable those in charge of the canal to operate it until the passage of the act which has recently passed the Senate. We put it there because we did not know that act would be passed before this bill.

Mr. SCALES. Will the gentleman allow me for one moment to ask him a question?

Mr. REAGAN. I cannot yield further.

Mr. SCALES. It is due that the gentleman from Texas should explain to the House why he has not acted up to the assurances he gave when the rules were under discussion in this House.

Mr. REAGAN. The first thing I will do, Mr. Speaker, is to refer to a statement made by the gentleman from Mississippi [Mr. CHALMERS] that a number of small and unimportant creeks have been appropriated for which have not been surveyed. His information is totally inaccurate on that subject, as not a single appropriation has been made for any creek, or harbor, or river which was not supported by report from the Chief of Engineers and an estimate of expense which would be required. That is all I have to say in regard to that point.

The gentleman objects to the bill because it is unjust to the Mississippi River. All the argument I make on that subject is to invite the attention of members of the House to the bill itself. The committee fully recognize the great importance of the Mississippi River and its principal tributaries as arteries for conducting the great interior commerce of the country, and have made proportionately larger appropriations for the Mississippi River and its tributaries than for any other waters of the Union.

The gentleman made complaint in reference to the particular work at Vicksburgh of which he spoke. In reference to that I make no controversy, as he may have cause for complaint.

The gentleman from New York [Mr. COX] objects to the bill because it appropriates for Buttermilk Channel and for the Yazoo, and he mentions some other hard names. His objection seems to be to the hard names. Is the gentleman aware the Buttermilk Channel is in the center of the harbor in front of the city of New York, and that $60,000 is appropriated to remove the bar there which obstructs the commerce of America? But it is Buttermilk Channel; and the gentleman did not think it read well, that it was inelegant.

Then he speaks of the Yazoo. Why, sir, the Yazoo for some hundreds of miles runs through one of the richest and most productive countries on the continent, a river navigable as long as this country has been occupied, which pours the teeming wealth of the country through which it runs, an annual tribute to the general commerce of the country.

Mr. COX. I did not mention Yazoo at all.

Mr. REAGAN. I so understood you. I believe the gentleman did mention the Sun Flower, which runs through a rich belt of country, a navigable river which accommodates the commerce of a wealthy section of the country.

But, aside from that, I do not doubt objection may be raised to particular parts of this bill. I suppose, if the bill was to-day submitted to each of the fifteen members of the committee, there is not one who would not object to something in it; but there is no item in it that did not meet with the approval and the adoption of the committee as a committee. And so it comes here to-day, Mr. Speaker.

I suppose this would be true of any measure affecting as extensive interests of the country as this bill affects. I can only say with reference to it that for more than six weeks the sub-committee which had this bill in charge met once and often twice a day, devoting its entire time to an effort to get up a bill to accommodate the commerce of the country. For more than six weeks the whole committee met daily and often twice a day in order to mature this bill. If left to me I would say that there are perhaps items in the bill that I do not approve of. There are clauses, perhaps, in the bill that I do not approve of; but there is nothing in the bill that does not come before the House with the approval of the committee.

The gentleman from New York makes another observation which is deserving of some notice because it is a grave one. He refers to appropriations made in this bill for the improvement of rivers and creeks which are in counties and townships. I have previously said that no river had been provided for that was not estimated for and the plan of work submitted by the Engineer Department. I can now add that there is no item in this bill for the improvement of any stream that does not meet the full requirements of the most rigid demands in this respect, except perhaps two, one on the Upper Susquehanna River and one on a lake in Vermont, which are the only ones in the whole bill that do not connect themselves with the navigation and commerce of the entire country. The improvements of many of these creeks which are referred to in the bill are of importance to the general commerce of the country because they are arms of the seas and bays and capable of receiving large vessels and contributing largely to the general commerce by slight improvements, generally at their mouth.

The gentleman has also referred to a speech of a gentleman whose memory I hold in the highest estimation, who, like the gentleman from New York, always opposed this character of legislation.

The Supreme Court of the United States has made a uniform construction of the clause of the Constitution under which we acted in the preparation of this bill. That construction covers the ground that it is immaterial what the length of the river is, whether it be in one or more than one State, if its commerce passes into other States or into foreign countries by navigable waters and adds to the commerce of the whole country. There have been conflicting political and legal constructions of this question, and the legal construction covers every item in the bill except the two to which I have referred.

Mr. COX. May I ask the gentleman from Texas what decision he refers to?

Mr. REAGAN. I have read the decisions to the House on former occasions, but I am unable at present to give the gentleman the title. They are, however, contained in my former speeches.

Mr. COX. Will you allow another question?

Mr. REAGAN. Certainly.

Mr. COX. May I ask the gentleman if he actually approves of this bill himself?

Mr. REAGAN. I ought to state to the gentleman from New York that reporting this bill in this manner was in conflict with the views I took in reference to this subject when we were discussing the adoption of the new rules, and that I have not changed the opinion I then entertained.

My belief is that it ought to be reported to the Committee of the Whole and acted upon by that committee. But I come in here under instructions of the committee almost unanimously expressed directing me to take this course to secure the passage of the bill. It does not change my individual opinion of this or of any other appropriation. And I would say to my friend from North Carolina [Mr. SCALES] that I am simply acting in accordance with the wishes of the committee and as its organ. There are several other points in connection with this bill in reference to which I might give some expression if time would permit.

I now yield the remainder of my time to the gentleman from Ohio, [Mr. GARFIELD.]

The SPEAKER. The gentleman has two minutes' time remaining.

Mr. GARFIELD. Let it go.

Mr. CANNON, of Illinois. I would like to ask the gentleman from Texas a question in reference to this section 5. As I understand it this bill changes the law in reference to the right of the United States touching the Rock Island bridge. That bridge was built in co-partnership, the United States paying half and the railroad company the other half. I understand now, by the original act, the United States controls the ownership, with the railroad company having a perpetual easement with——

Mr. REAGAN. I cannot yield to the question of the gentleman. In framing this bill we have attempted to comply with the law in all respects.

Mr. CANNON, of Illinois. My objection is that you have not so done, according to my judgment, in this case.

Mr. KENNA. Mr. Speaker, I will not undertake to explain the provisions of this bill in the brief time allowed for this discussion. The items contained in it have been under investigation by the Committee on Commerce for three or four months. We made a patient, careful, and laborious investigation of every item. The committee put nothing in the bill except what upon examination they thought ought to go into it, and left nothing out except what, upon mature consideration, they believed ought to be left out. If some gentlemen think there has been unjust discrimination in reference to localities, and if others complain that they fail to receive as large appropriations as they desire, they must attribute the result to the difference in the merit of the various works for which the appropriations are asked, and not to a disposition on the part of the committee to do anything in the discharge of their duty that was not strictly in accordance with what they believed to be to the best interests of the country.

I desire to add one word further in response to the application made by the gentleman from Mississippi [Mr. CHALMERS] to print in his remarks an article copied from this morning's Post. The only objection I have to his request is from a hurried examination of it it strikes me as being somewhat inaccurate, and if it be inaccurate it ought not to go into the RECORD. With this statement, however, I withdraw my objection to his printing it.

Mr. WHITE. There being no time to debate this question I ask leave to print the reasons why I shall vote for the bill.

There was no objection. [See Appendix.]

Mr. BAILEY. I ask to be allowed to print some remarks in connection with this bill.

There was no objection. [See Appendix.]

The SPEAKER. The Clerk will now call the roll on the motion to suspend the rules and pass the bill.

The question was taken; and there were—ayes 179, noes 48, not voting 65; as follows:

YEAS—179.

Acklen,	Deering,	Lowe,	Shelley,
Aiken,	Deuster,	Manning,	Sherwin,
Aldrich, N. W.	Dibrell,	Marsh,	Simonton,
Aldrich, William	Dick,	Martin, Benj. F.	Singleton, Otho R.
Atkins,	Dunnell,	Martin, Joseph J.	Slemons,
Baker,	Elam,	McCoid,	Smith, Hezekiah B.
Ballou,	Ellis,	McKinley,	Smith, William E.
Barber,	Errett,	McLane,	Stephens,
Beale,	Evins,	McMillin,	Stone,
Belford,	Felton,	Miller,	Talbott,
Berry,	Field,	Mills,	Taylor,
Bicknell,	Ford,	Money,	Thomas,
Bingham,	Forney,	Monroe,	Thompson, P. B.
Blackburn,	Frost,	Morton,	Thompson, W. G.
Blake,	Garfield,	Muldrow,	Tillman,
Bland,	Geddes,	New,	Townsend, Amos
Bliss,	Godshalk,	Newberry,	Tucker,
Bouck,	Goode,	Norcross,	Turner, Thomas
Bowman,	Gunter,	O'Connor,	Tyler,
Boyd,	Hammond, John	O'Neill,	Updegraff, J. T.
Bragg,	Harmer,	O'Reilly,	Upson,
Brewer,	Harris, Benj. W.	Orth,	Valentine,
Buckner,	Haskell,	Pacheco,	Van Aernam,
Burrows,	Hatch,	Page,	Vance,
Butterworth,	Hawk,	Persons,	Voorhis,
Cabell,	Hawley,	Phelps,	Waddill,
Calkins,	Hazelton,	Philips,	Wait,
Carlisle,	Henderson,	Phister,	Ward,
Carpenter,	Henry,	Pierce,	Warner,
Caswell,	Herbert,	Pochler,	Washburn,
Claflin,	Hooker,	Pound,	Weaver,
Clardy,	Horr,	Price,	Wellborn,
Clark, John B.	Houk,	Reagan,	White,
Conger,	Hubbell,	Richardson, J. S.	Whiteaker,
Cook,	Hull,	Richmond,	Williams, C. G.
Covert,	Hurd,	Robertson,	Williams, Thomas
Cowgill,	Jones,	Robinson,	Willis,
Crapo,	Jorgensen,	Ross,	Willits,
Cravens,	Kelley,	Rothwell,	Wilson,
Culberson,	Kenna,	Russell, W. A.	Wise,
Daggett,	Kimmel,	Ryan, Thomas	Wood, Walter A.
Davidson,	King,	Ryon, John W.	Wright,
Davis, George R.	Le Fevre,	Samford,	Young, Casey
Davis, Lowndes H.	Lewis,	Sapp,	Young, Thomas L.
De La Matyr,	Loring,	Sawyer,	

NAYS—48.

Anderson,	Cox,	Henkle,	Morrison,
Armfield,	Davis, Horace,	Hostetler,	Neal,
Atherton,	Dickey,	Joyce,	Richardson, D. P.
Bachman,	Dwight,	Keifer,	Scales,
Bailey,	Einstein,	Killinger,	Sparks,
Briggs,	Farr,	Kitchin,	Steele,
Cannon,	Ferdon,	Klotz,	Stevenson,
Chalmers,	Frye,	Ladd,	Townshend, R. W.
Chittenden,	Gillette,	Lindsey,	Turner, Oscar
Clymer,	Hall,	Lounsbery,	Updegraff, Thomas
Coffroth,	Hammond, N. J.	McCook,	Whitthorne,
Converse,	Harris, John T.	Mitchell,	Wilber.

NOT VOTING—65.

Barlow,	Fisher,	Lapham,	Rice,
Bayne,	Forsythe,	Martin, Edward L.	Robeson,
Beltzhoover,	Fort,	Mason,	Russell, Daniel L.
Blount,	Gibson,	McGowan,	Shallenberger.
Brigham,	Hayes,	McKenzie,	Singleton, J. W.
Bright,	Heilman,	McMahon,	Smith, A. Herr
Browne,	Herndon,	Miles,	Speer,
Caldwell,	Hill,	Morse,	Springer,
Camp,	Hiscock,	Muller,	Starin,
Clark, Alvah A.	House,	Murch,	Urner,
Cobb,	Humphrey,	Myers,	Van Voorhis,
Colerick,	Hunton,	Nicholls,	Wells,
Crowley,	Hutchins,	O'Brien,	Wood, Fernando
Davis, Joseph J.	James,	Osmer,	Yocum.
Dunn,	Johnston,	Overton,	
Ewing,	Ketcham,	Prescott,	
Finley,	Knott,	Reed,	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The following additional pairs were announced:

Mr. KNOTT with Mr. HOUSE. If Mr. KNOTT were present, he would vote "no."

Mr. NICHOLLS with Mr. RICE.

Mr. BELTZHOOVER with Mr. MASON, for to-day. If Mr. BELTZHOOVER were present, Mr. MASON, on this bill, would vote "ay."

Mr. HUTCHINS with Mr. KETCHAM, on the river and harbor bill.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware, until the return of Mr. SMITH.

Mr. HISCOCK with Mr. COBB. Both gentlemen being absent considering the deficiency bill, are paired on the river and harbor bill.

Mr. BAYNE with Mr. BROWNE, on the river and harbor bill. If present, Mr. BAYNE would vote "ay" and Mr. BROWNE "no."

Mr. MCKENZIE with Mr. SHALLENBERGER, on this bill.

Mr. EWING with Mr. FORSYTHE.

Mr. COLERICK with Mr. MCGOWAN, on this bill.

Mr. HUNTON with Mr. WELLS, on this bill.

Mr. HAYES with Mr. LAPHAM, on this bill.

Mr. NEW. By an arrangement made by the two gentlemen who have the control and management of pairs the pair of the gentleman from New York [Mr. LAPHAM] with me has been transferred to Mr. HAYES, of Illinois, and I have therefore voted on this bill.

Mr. SINGLETON, of Illinois, with Mr. SPRINGER, on the river and harbor bill. Mr. SINGLETON would vote "ay" and Mr. SPRINGER "no."

Mr. THOMAS TURNER with Mr. MCGOWAN, on all political questions until further notice, the river and harbor bill excepted.

Mr. DAVIS, of North Carolina, with Mr. DUNN.

Mr. CALDWELL with Mr. HEILMAN, for this day.

Mr. REED with Mr. GIBSON, on the river and harbor bill.

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, muskets, and blank cartridges.

The message also announced that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama; and

A bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1629) to provide for the erection of a public building in the city of Peoria, in the State of Illinois;

A bill (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia; and

A bill (S. No. 1225) to remove the political disabilities of Johnathan H. Carter, of South Carolina.

ORDER OF BUSINESS.

Mr. DAVIS, of North Carolina. I am instructed by the Committee on Banking and Currency to move to suspend the rules and pass a substitute for the bill (H. R. No. 1909) to authorize national banks to make loans on real estate.

The SPEAKER. The gentleman from Georgia [Mr. COOK] desires, under instructions from the Committee on Public Buildings and Grounds, to offer a resolution under a suspension of the rules, which will occasion no debate. The Chair would prefer to recognize the gentleman from Georgia first, as the proposition of the gentleman from North Carolina may give rise to debate. Does the gentleman from North Carolina yield?

Mr. DAVIS, of North Carolina. Yes, sir.

PUBLIC BUILDINGS.

Mr. COOK. I submit the resolution which I send to the Clerk's desk by instructions of the Committee on Public Buildings and Grounds.

The Clerk read as follows:

Resolved, That the rules be suspended, and that Saturday next, after the morning hour, be set apart for the consideration of the bills reported from the Committee on Public Buildings and Grounds, in their order on the Calendar.

Mr. BOUCK. There is no exception there as to appropriation bills.

Mr. TOWNSHEND, of Illinois. Is debate permissible on this resolution?

The SPEAKER. Not until after the motion to suspend the rules has been seconded.

Mr. TOWNSHEND, of Illinois. I would like to ask some questions of the Committee on Public Buildings and Grounds.

The SPEAKER. The question is upon seconding the motion to suspend the rules, for which a majority vote is required.

The question was taken by a *viva voce* vote, and the Speaker announced that the ayes seemed to have it.

Mr. BOUCK. I call for a division.

The SPEAKER. A division being called for, the question will be taken by tellers, and the Chair will appoint the gentleman from Wisconsin, Mr. BOUCK, and the gentleman from Georgia, Mr. COOK, to act as tellers.

Mr. BOUCK. If we can have the yeas and nays on the adoption of the resolution, I will withdraw my call for a division on the seconding.

Mr. COOK. I have no objection to that.

Mr. BOUCK. Then I withdraw my call for a division.

So the motion to suspend the rules was seconded.

The SPEAKER. The Chair understands that by agreement the yeas and nays are to be taken on the motion to suspend the rules and adopt the resolution which has been read.

The question was taken; and there were—yeas 161, nays 30, not voting 101; as follows:

YEAS—161.

Acklen,	Errett,	Lowe,	Slemons,
Aiken,	Evins,	Manning,	Smith, Hezekiah B.
Aldrich, N. W.	Ferdon,	Martin, Benj. F.	Springer,
Anderson,	Field,	Martin, Joseph J.	Starin,
Armfield,	Ford,	McCoid,	Steele,
Atherton,	Forney,	McKenzie,	Stephens,
Bachman,	Gillette,	McKinley,	Stevenson,
Bailey,	Goode,	Mills,	Stone,
Baker,	Hammond, John	Monroe,	Taylor,
Ballou,	Hammond, N. J.	Morrison,	Thomas,
Barber,	Harmer,	Morton,	Thompson, P. B.
Belford,	Harris, John T.	Neal,	Thompson, W. G.
Bingham,	Haskell,	New,	Tillman,
Blake,	Hatch,	Norcross,	Townsend, Amos
Bliss,	Hawk,	O'Connor,	Townshend, R. W.
Boyd,	Hawley,	O'Neill,	Tucker,
Bright,	Henderson,	O'Reilly,	Turner, Oscar
Cabell,	Henkle,	Orth,	Tyler,
Calkins,	Henry,	Pacheco,	Updegraff, J. T.
Carlisle,	Herbert,	Page,	Updegraff, Thomas
Carpenter,	Hill,	Persons,	Upson,
Caswell,	Hiscock,	Phelps,	Valentine,
Clardy,	Hooker,	Philips,	Vance,
Coffroth,	Horr,	Phister,	Waddill,
Colerick,	Hostetler,	Poehler,	Wait,
Conger,	Houk,	Pound,	Ward,
Converse,	Hubbell,	Price,	Washburn,
Cook,	Hull,	Reagan,	Weaver,
Covert,	Hurd,	Richardson, J. S.	Wellborn,
Cravens,	Jones,	Richmond,	Whitthorne,
Culberson,	Jorgensen,	Robinson,	Wilber,
Davidson,	Kelley,	Rothwell,	Williams, Thomas
Davis, Horace	Kenna,	Russell, W. A.	Willis,
Davis, Joseph J.	Ketcham,	Ryan, Thomas	Wilson,
Davis, Lowndes H.	Kimmel,	Ryon, John W.	Wise,
De La Matyr,	Kitchin,	Samford,	Wood, Walter A.
Deering,	Klotz,	Sapp,	Young, Casey
Deuster,	Le Fevre,	Sawyer,	Young, Thomas L.
Dunnell,	Lewis,	Scales,	
Einstein,	Lindsey,	Sherwin,	
Elam,	Loring,	Singleton, O. R.	

NAYS—30.

Atkins,	Dibrell,	Killinger,	Simonton,
Beale,	Dickey,	Lounsbery,	Sparks,
Bouck,	Dwight,	Marsh,	Warner,
Brewer,	Farr,	McMillin,	White,
Briggs,	Felton,	Mitchell,	Whiteaker,
Buckner,	Hall,	Pierce,	Willits.
Butterworth,	Hazelton,	Reed,	
Cannon,	Joyce,	Richardson, D. P.	

NOT VOTING—101.

Aldrich, William	Crowley,	James,	Prescott,
Barlow,	Daggett,	Johnston,	Rice,
Bayne,	Davis, George R.	Keifer,	Robertson,
Beltzhoover,	Dick,	King,	Robeson,
Berry,	Dunn,	Knott,	Ross,
Bicknell,	Ellis,	Ladd,	Russell, Daniel L.
Blackburn,	Ewing,	Lapham,	Shallenberger,
Bland,	Finley,	Martin, Edward L.	Shelley,
Blount,	Fisher,	Mason,	Singleton, J. W.
Bowman,	Forsythe,	McCook,	Smith, A. Herr
Bragg,	Fort,	McGowan,	Smith, William E.
Brigham,	Frost,	McLane,	Speer,
Browne,	Frye,	McMahon,	Talbott,
Burrows,	Garfield,	Miles,	Turner, Thomas
Caldwell,	Geddes,	Miller,	Urner,
Camp,	Gibson,	Money,	Van Aernam,
Chalmers,	Godshalk,	Morse,	Van Voorhis,
Chittenden,	Gunter,	Muldrow,	Voorhis,
Claflin,	Harris, Benj. W.	Muller,	Wells,
Clark, Alvah A.	Hayes,	Murch,	Williams, C. G.
Clark, John B.	Heilman,	Myers,	Wood, Fernando
Clymer,	Herndon,	Newberry,	Wright,
Cobb,	House,	Nicholls,	Yocum.
Cowgill,	Humphrey,	O'Brien,	
Cox,	Hunton,	Osmer,	
Crapo,	Hutchins,	Overton,	

So (two-thirds voting in favor thereof) the rules were suspended and the resolution adopted.

The following additional pairs were announced:

Mr. GUNTER with Mr. BURROWS, for to-day.

Mr. BRAGG with Mr. DAVIS, of Illinois, for to-day.

Mr. BLACKBURN with Mr. FRYE, for the remainder of the day.

Mr. CHALMERS with Mr. VAN AERNAM.

Mr. HUNTON with Mr. BROWNE, for the remainder of the day.

The result of the vote was announced as above stated.

BANK LOANS ON REAL ESTATE.

Mr. DAVIS, of North Carolina. By instructions of the Committee on Banking and Currency, I move to suspend the rules so as to pass

the substitute for House bill No. 1909, to authorize national banks to make loans upon mortgage of real estate, which substitute I send to the Clerk's desk.

Mr. KELLEY. Pending that motion, I move that the House now adjourn. I am opposed to allowing banks to loan money on land.

Mr. DAVIS, of North Carolina. Let the substitute be read.

The proposed substitute was read, as follows:

Be it enacted, &c., That all national-banking associations chartered and doing business under the laws of the United States in any of the States be, and they are hereby, authorized and empowered to make loans to the amount of one-fourth of their capital and surplus upon the pledge and mortage of real estate as security therefor, subject to such conditions as may be required and imposed by the boards of directors of the respective banks, either specially made or expressed in the by-laws which may be adopted for the government of each particular national-banking association.

SEC. 2. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

Mr. WEAVER. I move that the House now adjourn.

The SPEAKER. Should the motion to adjourn be agreed to, this motion to suspend the rules and pass the bill which has been read would be the first in order on the next day for suspensions of the rules.

Mr. WEAVER. It would not come up until the third Monday of next month.

Mr. WHITE. This is a good bill.

Mr. WEAVER. It is not a good bill. I insist upon the motion that the House now adjourn.

Mr. DAVIS, of North Carolina. Would it be in order for me to explain the provisions of this bill?

The SPEAKER. After the motion to suspend the rules has been seconded debate will be in order for fifteen minutes on each side. On seconding the motion to suspend the rules the Chair will appoint the gentleman from North Carolina, Mr. DAVIS, and the gentleman from Wisconsin, Mr. BOUCK, to act as tellers. The Chair thinks the next day for suspension of the rules might be one of the last six days of the session.

The question was taken on the motion to adjourn; and it was not agreed to.

The SPEAKER. The question recurs on seconding the motion to suspend the rules and pass the substitute which has been read.

The House divided; and the tellers reported that there were ayes 39, noes not counted.

So the motion to suspend the rules was not seconded.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was presented by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 4212) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1881, and for other purposes;

An act (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1881, and for other purposes;

An act (H. R. No. 4227) for the relief of settlers on public lands;

An act (H. R. No. 5089) directing the issue of a duplicate check to Elizabeth D. Thomas, a pensioner of the United States;

Joint resolution (H. R. No. 103) to pay to C. R. Faulkner $32.50 in full for services as messenger in the Forty-fifth Congress, and for other purposes; and

Joint resolution (H. R. No. 296) making appropriation for the contingent fund of the Senate.

SESSION FOR DEBATE ONLY.

The SPEAKER. The gentleman from Virginia [Mr. BEALE] asks that there be an evening session next Saturday night for debate only, no business of any kind to be transacted.

Mr. CONGER. Let that proposition come up later in the week. I think we ought not now to tie up Saturday night.

The SPEAKER. Objection is made.

PUBLIC BUILDING, JACKSON, TENNESSEE.

Mr. ATKINS, by unanimous consent, introduced a bill (H. R. No. 6238) to provide for the erection of a public building in Jackson, Tennessee; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

CIRCUIT COURT IN IOWA.

The SPEAKER. The Chair recognizes the gentleman from Alabama [Mr. HERBERT] to move to suspend the rules.

Mr. GILLETTE. I move that the House adjourn.

The SPEAKER. The Chair will entertain that motion as soon as the motion of the gentleman from Alabama [Mr. HERBERT] is stated.

Mr. HERBERT. I move to suspend the rules for the purpose of considering a bill reported from the Committee on the Judiciary, being the bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes.

The Clerk proceeded to read the bill, when

Mr. WEAVER said: What is the motion?

The SPEAKER. The motion is to suspend the rules for the purpose of considering this bill, with the understanding, as the Chair is advised, that a motion to amend is to be allowed. After the bill is read the Chair will entertain the motion of the gentleman from Iowa [Mr. GILLETTE] to adjourn, or he will entertain it now if it be insisted upon.

Mr. SCALES. I hope we shall not adjourn, but take a recess. A session has been ordered for this evening.

The SPEAKER. A motion to adjourn would cut off the recess.

Mr. GILLETTE. I modify my motion and move that the House take a recess.

The SPEAKER. A motion for a recess is not privileged as against a motion to suspend the rules.

Mr. GILLETTE. Then I insist on my original motion.

Mr. SCALES. I ask the gentleman from Iowa [Mr. GILLETTE] to allow me to make a motion that the House take a recess. An order has been made for a session to-night for the consideration of the bill to carry out the agreement with the Ute Indians.

The SPEAKER. The Clerk will read the eighth paragraph of Rule XVI.

The Clerk read as follows:

Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other dilatory motion till the vote is taken on suspension.

Mr. SCALES. I hope that the motion for adjournment will be voted down.

The motion of Mr. GILLETTE was not agreed to.

The SPEAKER. The question is on the motion of the gentleman from Alabama [Mr. HERBERT] to suspend the rules, so as to bring before the House for consideration the bill which will be read.

The Clerk read as follows:

A bill providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit court of the United States in and for the district of Iowa shall hereafter be held at the times and places provided by law for holding the United States district court in and for said district. Causes removed from any court of the State of Iowa into said circuit court within said district shall be removed to the circuit court in the division in which such State court is held, unless the parties thereto shall otherwise agree, or the court, for good cause, shall otherwise order.

SEC. 2. That all civil suits not of a local nature which shall be hereafter brought in the circuit or district court of the United States in said district must be brought in the division of the district where the defendant or defendants reside; but if there are two or more defendants, residing in different divisions, the plaintiff may sue in either one of the divisions in which a defendant resides. All issues of fact triable in either of said courts shall be tried in the division where the defendant or one of the defendants resides, unless by consent of both parties the case shall be removed to some other division. Where the defendant is a non-resident of the district suit may be brought in any division where property of the defendant is found.

SEC. 3. That the northern division of said district shall contain the following counties: Alamakee, Winneshiek, Howard, Mitchell, Floyd, Chickasaw, Fayette, Clayton, Butler, Bremer, Grundy, Blackhawk, Buchanan, Delaware, Dubuque, Benton, Linn, Jones, Jackson, and Clinton. The southern division shall contain the counties of Cedar, Scott, Muscatine, Louisa, Washington, Keokuk, Mahaska, Monroe, Wapello, Jefferson, Henry, Des Moines, Lee, Van Buren, Davis, and Appanoose. The western division shall contain the counties of Monona, Crawford, Carroll, Guthrie, Audubon, Shelby, Harrison, Pottawattamie, Cass, Adair, Union, Adams, Montgomery, Mills, Fremont, Page, Taylor, and Ringgold. The central division shall contain the remaining counties of the State.

SEC. 4. That the clerk of the district court shall be the clerk of the circuit court at all the places where the same is held in said district except at Des Moines.

SEC. 5. That all acts and parts of acts inconsistent with this act are hereby repealed.

The question being taken on the motion to suspend the rules to consider the bill, there were ayes 133, noes not counted.

So (two-thirds voting in favor thereof) the motion was agreed to.

Mr. HERBERT. It has been agreed that the gentlemen opposing this bill are to have fifteen minutes to propose and discuss amendments, and that the advocates of the bill shall take fifteen minutes in reply. I will first yield the floor to gentlemen on the other side to offer their amendments, after which I will call the previous question.

Mr. PRICE. I move to amend by inserting as a new section, to come in after section 3, the provision which I send to the desk.

The Clerk read as follows:

SEC. —. That there shall be held two terms annually of the said United States circuit and district courts for the said district of Iowa at the city of Davenport, commencing on the first Tuesdays of June and December. A deputy clerk for each of said courts may be appointed at Davenport, with the same powers and duties as other deputy clerks within said district; and the marshal and district attorney for the district of Iowa shall perform the duties of their offices respectively for said courts: *Provided*, That said courts at Davenport shall be held in a building to be provided for that purpose by the State or municipal authorities without expense to the United States.

Mr. WEAVER. I offer the following, to come in as a new section after section 4:

The district and circuit court for the southern division shall be held at the city of Ottumwa, in Wapello County: *Provided*, That the county of Wapello and the city of Ottumwa shall, free of expense to the Government of the United States, provide suitable buildings in which to hold said courts.

Mr. HERBERT. I now ask the previous question. When that is seconded I will yield five minutes to the gentleman from Iowa, [Mr. PRICE.]

The previous question was seconded and the main question ordered.

Mr. WILSON. I desire to inquire of the gentleman from Iowa before he begins his remarks whether or not this bill or any of the amendments offered will affect the holding of courts at Keokuk, Iowa?

Mr. PRICE. Not in the least, except that a circuit court will be held there, where a district court is now held.

Mr. VALENTINE. The amendment of the gentleman from Iowa [Mr. WEAVER] does do that.

Mr. PRICE. My amendment does not; and I can only speak for my own amendment.

Mr. WEAVER. I ask gentlemen to wait until they can hear about that amendment.

Mr. PRICE. I have only this to say to the House, Mr. Speaker, that I am not antagonizing this bill, but only propose to add to it this one simple item, that the city of Davenport shall have a term of the court held there. The people I represent have now to go from one hundred and seventy-five to two hundred and twenty miles to reach a circuit court of the United States.

I leave the bill of my colleague exactly as it is, with the exception that I add to it this one feature, the holding of a court at Davenport; and the only argument I have heard used against it is this: that there is no time, with the present force of circuit and district judges, to hold a court there. If that be the case, then the establishment of a court there will harm nobody, and the court will not be held. I only ask the bill be so amended, in case there is time, that a court may be held to accommodate the people of that region of country. I state here upon authority that there are more people within a circuit of thirty miles of that point than any other spot in the State of Iowa. That will not be called in question by any gentleman acquainted with the facts. It is an act of simple justice, therefore, to the people living in that section of country, and can, by no possibility, injure anybody.

I do not seek to antagonize, as I have said before, this bill, and I repeat it because the gentleman in charge of the bill said he would give a certain number of minutes to those opposed to it. I am not opposed to the bill but in favor of it and think it should pass, but that it should pass with this amendment in justice to a large number of the people who are affected by it. It cannot, by possibility, as I said before, injure any one.

I wish to call the attention of gentlemen to this fact for one moment. There are within forty miles of this point thirty towns and villages, and that number does not include them all, who are directly affected by this bill, who have, as I said before, to go from one hundred and seventy-five to two hundred and twenty miles to a United States court.

I can see no earthly reason, therefore, why this amendment should not pass, and it will not antagonize the bill. It does not injure anybody. It authorizes, and the language of the amendment shows it, the allowing of a session of a court there at no expense to the Government whatever.

Let me say in addition that this same amendment was offered to a bill in the Forty-fourth Congress, drawn up by Judge McCrary himself, and passed this House without any opposition, so far as I can learn. In view of these facts, therefore, I can see no earthly reason why any gentleman on this floor should antagonize this amendment. It does not interfere with the court at Keokuk, it does not interfere with the court at Des Moines, it does not interfere with the court at Council Bluffs, or at Dubuque, but simply says a court may be held at Davenport, if the judge has time to hold one there. I am done.

Mr. SAPP. I should like to say one word in reference to this amendment and others which are proposed.

Mr. HERBERT. I will yield to the gentleman after a while; but I now yield for ten minutes to the gentleman from Iowa, [Mr. WEAVER.]

Mr. WEAVER. Mr. Speaker, I should like to have the amendment I offer read.

The Clerk read as follows:

Add the following as a new section:

"The district and circuit court for the southern division shall be held at the city of Ottumwa, Wapello County: *Provided*, The county of Wapello and city of Ottumwa shall, free of expense to the Government of the United States, provide suitable buildings in which to hold said courts."

Mr. BUCKNER. Will my friend from Iowa permit me to ask him the question whether the effect of his amendment is to take away the court at Keokuk?

Mr. WEAVER. It takes the court away from Keokuk. There are no public buildings at Keokuk. The amendment I have offered takes the court away from the city of Keokuk to a central point in the district, the city of Ottumwa, a city of some eight or ten thousand inhabitants. Ottumwa is supplied with three or four railroads and just as good buildings in which to hold this court as the city of Keokuk. Let me exhibit here the situation of this district. [The page held the map up in the presence of the House.] This map shows the extreme western line or boundary of the division as fixed by this bill. The city of Keokuk, where the court is now held and where it will be held if this bill becomes the law without amendment, is situated in the pocket in the extreme southeast corner of the State. The amendment proposes to take the court from Keokuk to the city of Ottumwa. Nothing could be more reasonable.

It is far more equitable to the people than the present bill. There is no reason in the world for keeping the court at the city of Keokuk. There is not a public building there belonging to the United States. There are none at the city of Ottumwa, it is true, but the people of that county and that city propose to build and furnish buildings for the United States free of charge. No such offer as that is made from the city of Keokuk.

Mr. FIELD. Will the gentleman allow me to ask him a question?

Mr. WEAVER. Yes, sir.

Mr. FIELD. This amendment does not take the court from Keokuk, but provides for its being held elsewhere. That would be construed to provide two places for holding the courts in the southern division, whereas you have four now in the State.

Mr. WEAVER. It certainly does not mean any such thing.

Mr. FIELD. The amendment provides that the court shall be held at Ottumwa, but it does not provide that it shall not be held at Keokuk, and as the Revised Statutes provide that the court shall be held at Keokuk, you simply provide two places for holding the court in that division of the State.

Mr. WEAVER. Not at all. If the law fixes Ottumwa and says the court shall be held there, it cannot be held anywhere else. The language of the amendment is that the district and circuit court for the southern division shall be held at the city of Ottumwa, in Wapello County.

Now it may be urged in opposition to the amendment that the admiralty business of the court can best be served at Keokuk. Not at all. Not 20 per cent. of the business of that court grows out of admiralty cases; and the proposition is to make the people of this division go for all time down into the extreme corner of the State unless this amendment is adopted. Now, the business relations of the people never carry them to Keokuk, but generally toward Des Moines, the capital of the State. It is a great hardship to require them to go to Keokuk. And I do not see why maritime cases cannot be tried at Ottumwa just as well as they can at Keokuk. The court does not have to drink river water to enable it to determine admiralty cases.

Mr. FROST. What is the population of the county in which Keokuk is located, including the city?

Mr. WEAVER. I think about forty thousand, perhaps more. I am not positive as to that, however. But what difference does that make? You are not legislating now for Lee County. The population of the western half of this division is largely in excess of Lee County.

Mr. CONGER. May I inquire if this new place is on a navigable river?

Mr. WEAVER. No, sir; it is on a navigable railroad, though, three of them.

Mr. FROST. Does not the center of population gravitate nearer to Keokuk than to Ottumwa?

Mr. WEAVER. Not at all.

Mr. FROST. I am informed that it does.

Mr. WEAVER. It is not so. The gentleman is mistaken.

Mr. FROST. I am informed that it tends nearer to Keokuk than it does to Ottumwa.

Mr. WEAVER. No, sir; it does not. That is a mistake. The center of population would be about Washington County, almost as far from the city of Keokuk as is the city of Ottumwa. I now yield the remainder of my time to my colleague, [Mr. GILLETTE.]

The SPEAKER. The gentleman has three minutes remaining.

Mr. GILLETTE. Mr. Speaker, I represent the district which perhaps has more interest in this bill than any other, and I regret very much that I have but three minutes to discuss a matter of such importance to my people. I understood that when this bill came up we were to have abundant time to argue all points.

I would like now to have the amendment read which I send to the Clerk's desk.

The Clerk read as follows:

In section 3, line 10, strike out "Guthrie;" in line 11, "Adair;" also, in line 7 of the same section, "Mahaska and Monroe."

Mr. GILLETTE. Mr. Speaker, the convenience of the people of Iowa has not been consulted in this bill. Des Moines, the capital, is a city of from twenty-five to thirty thousand inhabitants; it is located in the middle of the State. It is a great railroad center, having now eleven lines of road running in all conceivable directions from the city out to the extreme limits of the State.

So there is no difficulty in reaching the court under present circumstances, and as business centers at the capital, the present arrangement, I believe, is more convenient for the State as a whole, but certainly if lines are to be drawn and subdivisions made, those lines should be as far from the capital as from the proposed localities where the court is to be held; but instead this bill compels parties living only forty-five miles west from Des Moines, in the center of Guthrie and Adair Counties, to go eighty miles to Council Bluffs to court, directly away from business.

Again, the centers of Mahaska and Monroe counties are more than forty miles nearer Des Moines than Keokuk, where they are forced to go under this bill. These four counties desire to be in the Des Moines district, and their Representatives on this floor ask that they may be gratified.

My colleague, [Mr. WEAVER] has called attention to the fact that this bill locates the court in the northern, southern, and western divisions, on their extreme eastern and western boundaries. When we build a school-house, we place it in the center of a district, for the accommodation of all. Had the interests of the people been consulted in this bill, the court, if disturbed at all, would be placed as near the centers of these divisions as possible, instead of as far away as they could be pushed.

This bill has never been called for by the people of Iowa. Those who advocate it here cannot show a petition for it. I believe its provisions will be very unpopular. One single feature will be extremely annoying. The judgments of this court are liens upon real estate, and a man cannot hereafter buy land in Iowa without consulting records in these four towns, some of which are over three hundred miles apart, to learn if there is any incumbrance in the way. It is true I represent Des Moines, but my reasons apply to the people of the whole State. If there ever was a necessity for this radical change for carrying the United States courts to these extreme points of Iowa that necessity has passed away with the arrival of new railroads at Des Moines from all quarters. We have passed a bill reported by the same committee for limiting the jurisdiction of the United States courts, which, if the Senate concurs, will reduce their business one-half to three-fourths.

I object to this bill *in toto*. It will necessitate another judge, and originally provided for one, but that provision was dropped to help it through. It will lead to great expense in new buildings. It will inconvenience the majority of the people. It tends to localize United States courts and overshadow our State courts, but if it must pass I insist the lines should be drawn between the divisions with some reference to the convenience of litigants, and the four counties I have named in my amendment should be added to the central division.

Mr. HERBERT. I yield three minutes to the gentleman from Iowa, [Mr. SAPP.]

Mr. SAPP. I hope to have the attention of the House while I present my views very briefly in relation to this measure. I am for this bill, as it has been reported unanimously by the Judiciary Committee, and I want to say a word in relation to its necessity.

As the law now is, the United States circuit court is held at Des Moines, the capital of the State, and at Des Moines only, and the people of our State are obliged to travel two hundred and fifty and three hundred miles to the United States circuit court. By law the State of Iowa is divided into four divisions, called the northern division, the southern division, the central division, and the western division; and the United States district court is held in each of these divisions; in the northern division at Dubuque, in the southern division at Keokuk, in the central division at Des Moines, and in the western division at Council Bluffs. All this bill proposes is that the United States circuit court shall be held at the times and places where the district court is now held. It creates no new offices, creates no new places for holding court, creates no new leases for court buildings; it simply brings the United States district court nearer to the people and where it better suits their convenience.

One word in relation to the proposed amendment of my colleague, the gentleman from Des Moines, [Mr. GILLETTE.] There are, according to the division provided for in this bill, forty-six counties now in the central division—the Des Moines division—and still the gentleman is not satisfied; he wants four more. Almost one-half of the whole State is included in the central division, and still the gentleman insists on four counties more.

Mr. GILLETTE. Will the gentleman explain how that happens?

Mr. SAPP. I cannot be interrupted. I did not interrupt my colleague, and I have not time to yield to him.

One word further. The gentleman speaks of the necessity of having this court held at the capital, and of the fact that people go to the capital to transact their business. I wish to say a word in respect to that. Of the great trunk-lines of railroad running through our State from east to west there is but one that runs through the town of Des Moines. In the town in which I live (Council Bluffs) there are five great lines centering.

And now a word in relation to the proposed amendment of my colleague representing the sixth district of Iowa, [Mr. WEAVER.] He insists on striking out the word "Keokuk" and inserting "Ottumwa" in place of it. I suppose it is known to gentlemen on the floor that Keokuk is the head of deep-water navigation of the Mississippi River. The gentleman proposes to take the court away from the Mississippi River and to transport it inland. I submit that this House will not indorse any such amendment.

I dislike extremely to antagonize the amendment of my colleague, Mr. PRICE; but it does seem to me that to provide for a time and place of holding the United States circuit and district courts when there is no division provided for would be an anomaly this House would not like to indorse. For this reason, while I would support the gentleman's bill as an independent measure and have told him I would, I most earnestly hope that the report of the committee will be adopted by this House and that immediate relief will be granted to the people whom I have in part the honor to represent.

[Here the hammer fell.]

Mr. HERBERT. I now yield to the gentleman from Virginia, [Mr. HARRIS.]

Mr. HARRIS, of Virginia. I desire to say this question was before the Committee on the Judiciary, and we heard all the views presented by gentlemen on various sides. There was not a single gentleman on that committee from the State of Iowa. We were all impartial judges, heard all the various views carefully, and were only sorry we could not give a court-house wherever one was desired by each of the gentlemen who represented that State. But after a full examination and a hearing of all their complaints and demands and wishes, the committee unanimously came to the conclusion that this bill was the best for all parties. I hope no amendment will be adopted.

The SPEAKER. The Chair desires to ask the gentleman from Alabama [Mr. HERBERT] a question: whether he admitted a third amendment? That cannot be done under the rules. A third amendment can only be admitted by unanimous consent.

Mr. HERBERT. I agreed to admit it by consent.

Mr. WEAVER. There was an understanding that any amendment outside of those already in that would not provoke debate might be considered as being admitted.

Mr. HERBERT. Yes, sir.

Mr. SAPP. I do not understand that there was any agreement that there should be an amendment offered to this bill changing the divisions agreed upon by the committee.

Mr. HERBERT. Let the gentleman offer his amendment and have a vote upon it.

Mr. WEAVER. The gentleman from Alabama [Mr. HERBERT] understood that I desired to offer an amendment to strike out two counties from one of the divisions contained in this bill.

The SPEAKER. The Chair will then understand that all three amendments are pending and to be voted upon.

Mr. HERBERT. I have no personal interest in this matter, except the simple desire which I have to do an act of manifest justice to the people of Iowa.

The sub-committee of the Committee on the Judiciary of this House, in charge of this bill, gave these gentlemen a long and patient hearing. Gentlemen came all the way from Iowa to oppose this bill, because local interests were to be affected by its passage.

The first two amendments which have been offered here to-day were discussed and considered before the sub-committee on the judiciary. After mature deliberation they were unanimously rejected, and this bill was unanimously adopted not only by the sub-committee but by the full Commitee on the Judiciary, after having heard patiently all that these gentlemen had to say.

The principle of this bill will be found in the second section. That section simply provides that circuit courts shall be held in Iowa at all the places where by law district courts are now held. Those places are four in number. At present the circuit court is held only in Des Moines, the capital of the State.

From all over the State witnesses, parties, jurors, and lawyers are dragged to Des Moines for the trial of causes in the United States court, when right by them is a district court presided over by the same judge who presides over the circuit court at Des Moines and decides three-fourths of all the cases in the circuit court of Iowa. Yet notwithstanding this fact, by the present law, from the neighborhood of Keokuk, in the southeastern portion of the State; from the neighborhood of Dubuque, in the northeastern part of the State; from the neighborhood of Council Bluffs, in the western portion of the State, men are forced to go to Des Moines and pay tribute to the hotel-keepers and the shop-keepers and the lawyers of that city.

One of the gentlemen who opposed this bill represents the district in which Des Moines is situated; and reflecting faithfully the wishes of his constituents, he contends that this bill ought not to pass. The interest which he and his constituents have in this matter sufficiently accounts, it seems to me, for the zeal he displays in opposition to this bill.

This bill provides for no new officers. No additional expense whatever will attend the passage of this bill into law. The gentleman from Iowa [Mr. GILLETTE] says that a bill was introduced providing for the appointment of a new judge for the State of Iowa, and that it was withdrawn because the intention was first to pass through this bill and afterward to get passed a bill providing for the appointment of a new judge.

All I have to say in regard to that is that it is something which the Committee on the Judiciary were not called upon to consider. The bill for which this is a substitute did not provide for a new judge, nor does this substitute provide for a new judge. So far as that question is affected at all, this bill relegates the question of the appointment of a new judge to the future. This bill is just and right because under it witnesses, jurors, parties, and lawyers will have less distance to travel to attend court.

The amendments proposed by gentlemen on the other side, the one by the gentleman from Iowa, Mr. PRICE, and the other by the gentleman from Iowa, Mr. WEAVER, would create new places of holding the courts, and to some extent would create a necessity for the appointment of a new judge, a necessity which the Committee on the Judiciary were anxious to avoid.

Mr. PRICE. Will the gentleman allow me a word?

Mr. HERBERT. I have not the time.

Mr. PRICE. Just one minute.

Mr. HERBERT. I will yield for a question; nothing more.

Mr. PRICE. If it is right, and I admit it is, to establish a court at Council Bluffs, because the people there have now to travel one hundred and forty miles to Des Moines, is it not equally right and proper to give a court at Davenport, which is one hundred and seventy-five miles from Des Moines?

Mr. HERBERT. This bill establishes no new place to hold a court. It simply gives to the district judge, who has the power of a circuit judge in the absence of that judge, circuit-court jurisdiction at all the places where court is now held.

In regard to the amendment of the gentleman from Iowa [Mr. WEAVER] asking that a circuit court be also held at Ottumwa, it seems to me that that amendment properly construed would establish a new court; for it does not have the effect of taking away the court from Keokuk. And the proposition for a new court at Ottumwa, so far as I am advised, is a proposition first mooted before this Congress.

One word more in conclusion. The judge of the district court of Iowa, Judge Love; the judge of the circuit court of that district, Judge McCrary; and Judge Miller, of the Supreme Court of the United States, who rides in that circuit, all concur in the propriety of passing this bill as it is without any amendment. I hope, therefore, all the amendments will be voted down.

The SPEAKER. The half hour agreed upon for debate on this bill has now expired. The first question is on the amendment of the gentleman from Iowa, [Mr. PRICE,] which will be read.

The Clerk read as follows:

Insert the following as a new section to follow section 3:

"SEC. 4. That there shall be held two terms annually of the said United States circuit and district courts for the said district of Iowa, at the city of Davenport, commencing on the first Tuesdays of June and December. A deputy clerk for each of said courts may be appointed at Davenport, with the same powers and duties as other deputy clerks within said district and the marshal and district attorney for the district of Iowa shall perform the duties of their offices respectively for said courts: *Provided*, That said courts at Davenport shall be held in a building to be provided for that purpose by the State or municipal authorities without expense to the United States."

The question being taken, the amendment was declared not agreed to.

Mr. PRICE. I ask for the yeas and nays.

The yeas and nays were not ordered.

So the amendment was not agreed to.

The SPEAKER. The next question is on the amendment offered by the gentleman from Iowa, [Mr. WEAVER,] which will be read.

The Clerk read as follows:

Insert the following as a new section to follow section 4 of the bill:

"SEC. —. The district and circuit court for the southern division shall be held at the city of Ottumwa, in Wapello County: *Provided*, That the county of Wapello and city of Ottumwa shall, free of expense to the Government of the United States, provide suitable buildings in which to hold said courts."

The question being taken on agreeing to the amendment, there were—ayes 13, noes 113.

Mr. WEAVER. No quorum!

Tellers were ordered; and Mr. WEAVER and Mr. HERBERT were appointed.

Mr. McCOID. I hope my colleague [Mr. WEAVER] will not filibuster on a question which interests his own people so much as this does. He will not stand justified in doing so.

The House divided; and the tellers reported—ayes 15, noes 144.

So the amendment was not agreed to.

The SPEAKER. The next question is on the amendment offered by the gentleman from Iowa, [Mr. GILLETTE,] which will be read.

The Clerk read as follows:

Strike out in section 3, line 10, "Guthrie;" in line 11, "Adair;" also line 7, same section, "Mahaska" and "Monroe."

The amendment was not agreed to.

The bill was ordered to be engrossed and read the third time; and it was accordingly read the third time.

Mr. HERBERT called for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. HERBERT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC ADVERTISING IN DISTRICT OF COLUMBIA.

Mr. SINGLETON, of Mississippi. By direction of the Committee on Printing, I move to suspend the rules and pass the bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That all advertising required by existing laws to be done in the District of Columbia by any of the departments of the Government shall be given to the three daily newspapers having the largest regular circulation, to be ascertained by the sworn statements of the publishers thereof: *Provided*, That the rates of compensation for such service shall in no case exceed the regular commercial rate of the newspapers selected.

SEC. 2. All laws or parts of laws inconsistent herewith are hereby repealed.

The report of the Committee on Printing (signed by Mr. SINGLETON, of Mississippi, as chairman) was read, as follows:

The Committee on Printing, to whom was referred House bill No. 2658, to regulate the award of compensation for public advertising, have had the same under consideration and have instructed the chairman to report back the same with the recommendation that it do pass.

The bill proposes to give to three daily newspapers published in the District all advertising required by existing laws to be done in said District. This will give the printing to one democratic, one republican, and one independent paper; all of which your committee deem equitable.

Mr. SINGLETON, of Mississippi. If any explanation of this bill is needed I will give it to the House. [Cries of "All right!"]

The motion to suspend the rules and pass the bill was agreed to, two-thirds voting in favor thereof.

BUSINESS OF COMMITTEE ON COINAGE, WEIGHTS, AND MEASURES.

Mr. STEPHENS. I ask unanimous consent that Wednesday night, the 26th instant, be set apart for the consideration of bills reported from the Committee on Coinage, Weights, and Measures.

The SPEAKER. Wednesday and Friday nights of every week are occupied with the consideration of the District code.

Mr. STEPHENS. Then I suggest Thursday night of next week.

Mr. CONGER. I think this business had better go over until next session.

Mr. STEPHENS. Then I move to suspend the rules and make this order. I do so under instructions from the committee. I propose that the House take a recess at half past four o'clock until half past seven on the day I have indicated.

The SPEAKER. The gentleman from Georgia, [Mr. STEPHENS,] on behalf of the Committee on Coinage, Weights, and Measures, moves to suspend the rules so as to order that on Thursday of next week the House take a recess at half past four o'clock until half past seven, and that the night session be for the consideration of bills from the Committee on Coinage, Weights, and Measures.

The question being put, a division was called for.

The SPEAKER. The Chair will order tellers, and appoints the gentleman from Michigan, Mr. CONGER, and the gentleman from Ohio, Mr. WARNER.

The House divided; and the tellers reported ayes 46.

Mr. STEPHENS. I give it up.

The SPEAKER. The motion to suspend the rules is not agreed to.

ORDER OF BUSINESS.

Mr. O'CONNOR addressed the Chair.

Mr. GARFIELD. I ask unanimous consent to have taken from the Calendar and put on its passage now a bill unanimously reported from the Committee on Ways and Means.

The SPEAKER. The gentleman from South Carolina [Mr. O'CONNOR] rises to make a motion to suspend the rules, under instructions from a committee.

Mr. GARFIELD. I am unanimously instructed by the Committee on Ways and Means to ask the passage of this bill now on the Calendar (S. No. 1090) for the relief of the Public Printer. There was stolen from his safe by professional burglars about $8,000. The proof is complete that these professional burglars broke open the safe and took the money. The Senate has unanimously passed this bill to relieve the accounts of this officer.

The SPEAKER. Debate is not in order. The Chair only wants to know whether the Committee on Ways and Means have instructed the gentleman to move to suspend the rules.

Mr. GARFIELD. They did not instruct me to make that motion; but they unanimously directed me to ask unanimous consent for the passage of the bill.

The SPEAKER. The Chair cannot recognize the gentleman now, but will do so in the morning.

Mr. MILLS. I hope the Chair will recognize the gentleman from Ohio [Mr. GARFIELD] and myself. There are two cases of this kind. One is now pending in court, and time has been granted for Congress to act for the relief of the party.

The SPEAKER. The Chair will recognize both gentlemen, but cannot do so now. The Chair recognizes the gentleman from South Carolina [Mr. O'CONNOR] to move to suspend the rules.

Mr. SPARKS. I move that the House adjourn.

Mr. SCALES. I hope the gentleman will withdraw that motion. I want to move that the House take a recess.

Mr. SPARKS. I will yield for that.

The SPEAKER. The gentleman from California [Mr. BERRY] asks that the assignment of the bill in reference to the mining *débris* question in California be transferred. The Clerk will read the request.

The Clerk read as follows:

The Committee on Mines and Mining ask that next Monday evening at seven and a half o'clock be set apart for the consideration of House bill No. 5636.

Mr. SPARKS. I object.

Mr. MARTIN, of Delaware. I desire to make an inquiry of the Chair. If the House should now take a recess until half past seven o'clock, will motions to suspend the rules be in order at the evening session?

Mr. SCALES. That was expressly excepted.

The SPEAKER. It was agreed, when the order for to-night's session was made, that motions to suspend the rules should not be in order.

Mr. PAGE. What business of the Committee on Indian Affairs is set apart for to-night?

Mr. SCALES. We want to take up the Ute bill.

Mr. PAGE. Is there any other bill?

Mr. SCALES. There is another bill. There was a bill pending at the last meeting. It comes over as the unfinished business. If I can get the House to do so, I will move to take up the Ute bill.

Mr. O'CONNOR. The Chair recognized me about half an hour ago. [Laughter.]

The SPEAKER. The Chair will take care that the gentleman loses none of his rights.

Mr. SPARKS. If the gentleman will fix the night session for the consideration of the Ute bill there will be no objection to it.

The SPEAKER. The Chair is informed the Choctaw bill is the unfinished business.

Mr. SCALES. I will be glad to do so. I would prefer to have had the other bill, but I am obliged to take things as they are. This order has been already made by the House.

Mr. SPARKS. Then I insist on my motion to adjourn.

Mr. BERRY. I hope my proposition will be first disposed of.

Mr. SCALES. I hope the House will vote down the motion to adjourn. It is the only opportunity we shall have.

Mr. SPRINGER. I ask unanimous consent that the session this evening be set apart for the consideration of the Ute bill.

The SPEAKER. The Chair thinks it fair the Ute bill should have some determination in regard to it. The gentleman from Illinois asks that the evening session be devoted only to that bill.

Mr. SPARKS. I have no objection.

Mr. CARLISLE. The bill authorizing the Choctaw Nation to sue in the Court of Claims is the unfinished business, and it ought to be disposed of.

Mr. PAGE. Then we will have to adjourn.

Mr. SPARKS. I have no objection to the consideration of the Ute bill, but object to anything else being taken up in to-night's session.

The SPEAKER. The gentleman from Kentucky objects to that.

Mr. SCALES. I wish to be heard a minute. If gentlemen do not wish this Choctaw bill to pass it is the easiest matter in the world for them to come here to-night and vote against it. I hope we will have a session this evening for the purpose of taking up the Ute bill.

Mr. SPARKS. Confine it to that bill and there will be no objection.

Mr. COX. Let us adjourn.

JUDICIAL ASCERTAINMENT OF CLAIMS.

The SPEAKER. The gentleman from South Carolina, [Mr. O'CONNOR,] from the Committee on Reform in the Civil Service, moves that the rules be suspended for the purpose of taking up a bill (H. R. No. 5385) providing for the judicial ascertainment of claims against the United States.

Mr. O'CONNOR. I move to suspend the rules for the purpose of making that bill the special order for next Monday after the call of the roll of States and Territories. It is too important a bill to pass under a suspension of the rules.

Mr. BOUCK. I move the House adjourn.

The House divided; and there were—ayes 74, noes 71.

Mr. WILSON demanded tellers.

Tellers were ordered; and Mr. CONGER and Mr. O'CONNOR were appointed.

The House again divided; and the tellers reported—ayes 64, noes 58.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

Mr. PRICE, for two weeks after this day.

Mr. MCGOWAN, ten days, on account of serious illness in his family.

Mr. ORTH, for to-morrow.

Mr. SMITH, of Pennsylvania, for one week, on account of important business.

HERMAN MICHKY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting proceedings of a board of survey relative to loss by fire to Private Herman Michky, Company F, Sixth Infantry; which was referred to the Committee on Military Affairs.

OUTRAGE ON AMERICAN FISHERMEN.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States, together with the accompanying letter of the Secretary of State:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 27th ultimo, calling for copies of the correspondence with the government of Great Britain in regard to the alleged outrage upon American fishermen at Fortune Bay, in the Province of Newfoundland, I transmit herewith the correspondence called for and a report from the Secretary of State on the subject.

In transmitting this correspondence and the report, I respectfully ask the immediate and careful attention of Congress to the failure of accord between the two governments as to the interpretation and execution of the fishery articles of the treaty of Washington, as disclosed in this correspondence, and elucidated by the exposition of the subject by the Secretary of State.

I concur in the opinions of this report as to the measures proper to be taken by this Government in maintenance of the rights accorded to our fishermen by the British concession of the treaty and in providing for suitable action toward securing an indemnity for the injury these interests have already suffered.

Accordingly I recommend to Congress the adoption of these measures, with such attendant details of legislation as in the wisdom of Congress shall seem expedient.

R. B. HAYES.

WASHINGTON, *May* 17, 1880.

List of accompanying documents.

No. 1. Mr. Evarts to Mr. Welsh, No. 33, March 2, 1878.
No. 2. Mr. F. W. Seward to Mr. Welsh, No. 55, April 6, 1878, with two inclosures printed with document No. 31.
No. 3. Mr. Evarts to Mr. Welsh, No. 67, April 26, 1878, with the following inclosure: Mr. McLaughlin to Mr. Seward, No. 66, St. Pierre, Miquelon, April 2, 1878.
No. 4. Mr. Hoppin to Mr. Evarts, No. 5, May 4, 1878, with three inclosures.
No. 5. Mr. F. W. Seward to Mr. Welsh, No. 125, August 13, 1878.
No. 6. Mr. Welsh to Mr. Evarts, No. 132, August 24, 1878, with an inclosure.
No. 7. Mr. Evarts to Mr. Welsh, No. 150, September 28, 1878.
No. 8. Mr. Evarts to Mr. Welsh, No. 174, November 8, 1878.
No. 9. Mr. Welsh to Mr. Evarts, No. 159, November 9, 1878. One inclosure with eleven appendices annexed.

[NOTE.—The last seven of these appendices are printed with document No. 31.]

No. 10. Mr. Evarts to Mr. Welsh, No. 347, August 1, 1879, with two inclosures.
No. 11. Mr. Welsh to Mr. Evarts, No. 347, August 13, 1879, with one inclosure.
No. 12. Mr. F. W. Seward to Mr. Hoppin, No. 361, August 28, 1879.
No. 13. Mr. Evarts to Mr. Hoppin, telegram, November 20, 1879.
No. 14. Mr. Hoppin to Mr. Evarts, No. 111, November 22, 1879, with one inclosure.
No. 15. Mr. Hoppin to Mr. Evarts, No. 112, November 25, 1879, with one inclosure.
No. 16. Same to the same, No. 113, November 28, 1879, with one inclosure.
No. 17. Mr. Evarts to Mr. Hoppin, No. 412, January 15, 1880.
No. 18. Same to the same, telegram, February 5, 1880.
No. 19. Mr. Hoppin to Mr. Evarts, No. 143, February 7, 1880.
No. 20. Same to the same, No. 147, February 10, 1880.
No. 21. Same to the same, No. 150, February 14, 1880, with one inclosure.
No. 22. Same to the same, unofficial letter, February 14, 1880, with one inclosure.
No. 23. Mr. Evarts to Mr. Hoppin, telegram, February 26, 1880.
No. 24. Mr. Hoppin to Mr. Evarts, No. 156, February 27, 1880, with one inclosure.
No. 25. Same to the same, No. 163, March 9, 1880, with one inclosure.
No. 26. Same to the same, with two inclosures, namely: 1. Lord Salisbury to Mr. Hoppin, April 3, 1880, with printed appendices containing depositions, &c. 2. Mr. Hoppin to Lord Salisbury, April 6, 1880.
No. 27. Mr. Evarts to Collector Babson, August 5, 1879.
No. 28. Mr. Evarts to Sir Edward Thornton, August 5, 1879.
No. 29. Report of Messrs. Babson and Foster, Boston, September 29, 1879, with accompaniments.

DEPARTMENT OF STATE,
Washington, May 17, 1880.

To the President:

The Secretary of State, to whom were referred the resolution of the House of Representatives of the 27th of April ultimo, requesting the President, "if not inconsistent with the public interest, to transmit to this House copies of all correspondence not now communicated with the English government relating to the alleged interference with American fishermen in Fortune Bay on the 6th of January, 1878," and a resolution of the Senate of the 28th of the same month on the same subject, has the honor to lay before the President the correspondence as called for.

In connection with these papers and for the better understanding of the subject to which this correspondence relates, I submit for your consideration the valuable report of Collector F. J. Babson and Alfred D. Foster, esq., of their visit on board the naval steamship Kearsarge to the provincial inshore fisheries, under the instructions of the Department, during the summer of last year, as well as their instructions under which this cruise of the Kearsarge was planned. This correspondence with the British government and this intelligent exposition of the attempted exercise by our fishermen of the freedom of the inshore fisheries as secured to them by the treaty of Washington, whose violent interruption gave occasion to this discussion between the two governments of the true measure of this treaty right, will, it is believed, with the record of the proceedings of the Halifax commission and the correspondence and protest which preceded and attended our payment of the award, furnish complete materials upon which the judgment of Congress can be formed and its action determined in the juncture of this fishery contention now demanding its serious consideration.

The very grave occurrence at Fortune Bay in January, 1878, was brought by me to the attention of the British government in March of that year with the view of obtaining redress for our fishermen for the gross violence and serious loss they suffered in their expulsion from this inshore fishery which they were prosecuting under the treaty of Washington. The reply of the British government did not reach me until September 4th of that year. It disclosed possible grounds for the rejection of our claims which put upon our rights in the inshore fisheries such limitations of subserviency to British provincial or imperial legislation as seemed to me wholly inadmissible. These grounds were that our fishermen were pursuing their industry on Sunday contrary to a law of Newfoundland passed subsequent to the treaty of Washington; that they were using seines to take herring contrary to a law of Newfoundland proscribing that method of fishing for the six months of the year between October and April; that they were using such seines in a manner prohibited at any season of the year by a statute which precluded catching herrings by means of seines "except by way of shooting and forth with hauling the same."

In communicating the report of the evidence which was intended to show the time and manner at and in which our fishermen were pursuing their right, as a justification for their interruption in it, Lord Salisbury observed: "You will perceive that the report in question appears to demonstrate conclusively that the United States fishermen on this occasion had committed three distinct breaches of the law." To this intimation, even, that the freedom of the fishery, accorded by an imperial treaty, either had been subtracted by past, or could be curtailed by future, provincial legislation, I lost no time in opposing an explicit and unconditional rejection of such an interpretation of the treaty. In a dispatch to Mr. Welsh on the 28th of September, I communicated to the British government the views of this Government, as follows:

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"In this observation of Lord Salisbury this Government cannot fail to see a necessary implication that Her Majesty's government conceives that in the prosecution of the right of fishing accorded to the United States by article 18 of the treaty our fishermen are subject to the local regulations which govern the coast population of Newfoundland in their prosecution of their fishing industry, whatever those regulations may be, and whether enacted before or since the treaty of Washington.

"The three particulars in which our fisherman are supposed to be constrained by actual legislation of the province cover in principle every degree of regulation of our fishing industry within the three-mile line which can well be conceived. But they are, in themselves, so important and so serious a limitation of the rights secured by the treaty as practically to exclude our fishermen from any profitable pursuit of the right, which, I need not add, is equivalent to annulling or canceling by the provincial government the privilege accorded by the treaty with the British government.

"If our fishing fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing grounds for half the year, from October to April; if our 'seines and other contrivances' for catching fish are sub-

ject to the regulations of the legislature of Newfoundland, it is not easy to see what firm or valuable measure for the privilege of article 18, as conceded to the United States, this Government can promise to its citizens under the guarantee of the treaty.

"It would not, under any circumstances, be admissible for one government to subject the persons, the property, and the interests of its fishermen to the unregulated regulation of another government upon the suggestion that such authority will not be oppressively or capriciously exercised, nor would any government accept as an adequate guarantee of the proper exercise of such authority over its citizens by a foreign government, that, presumptively, regulations would be uniform in their operation upon the subjects of both governments in a similar case. If there are to be regulations of a common enjoyment they must be authenticated by a common or joint authority.

"But most manifestly the subject of the regulation of the enjoyment of the shore fishery by the resident provincial population, and of the inshore fishery by our fleet of fishing cruisers, does not tolerate the control of so divergent and competing interests by the domestic legislation of the provinces. Protecting and nursing the domestic interest at the expense of the foreign interest, on the ordinary motives of human conduct, necessarily shape and animate the local legislation. The evidence before the Halifax commission makes it obvious that to exclude our fishermen from catching bait, and thus compel them to go without bait, or buy bait at the will and price of the provincial fishermen, is the interest of the local fishermen, and will be the guide and motive of such domestic legislation as is now brought to the notice of this Government.

"You will therefore say to Lord Salisbury that this Government cannot but express its entire dissent from the view of the subject that his lordship's note seems to indicate. This Government conceives that the fishery rights of the United States, conceded by the treaty of Washington, are to be exercised wholly free from the restraints and regulations of the statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force or that may hereafter be enacted by that government.

"It may be said that a just participation in this common fishery by the two parties entitled thereto may, in the common interest of preserving the fishery and preventing conflicts between the fishermen, require regulation by some competent authority. This may be conceded. But should such occasion present itself to the common appreciation of the two governments, it need not be said that such competent authority can only be found in a joint convention that shall receive the approval of Her Majesty's government and our own. Until this arrangement shall be consummated, this Government must regard the pretension that the legislation of Newfoundland can regulate our fishermen's enjoyment of the treaty right as striking at the treaty itself.

"It asserts an authority on one side, and a submission on the other, which has not been proposed to us by Her Majesty's government, and has not been accepted by this Government. I cannot doubt that Lord Salisbury will agree that the insertion of any such element in the treaty of Washington would never have been accepted by this Government, if it could reasonably be thought possible that it could have been proposed by Her Majesty's government. The insertion of any such proposition by construction now is equally at variance with the views of this Government.

"The representations made to this Government by the interests of our citizens affected, leave no room to doubt that this assertion of authority is as serious and extensive in practical relations as it is in principle. The rude application made to the twenty vessels in Fortune Bay of this asserted authority, in January last, drove them from the profitable prosecution of their projected cruises. By the same reason the entire inshore fishery is held by us upon the same tenure of dependence upon the Parliament of the Dominion or the legislatures of the several provinces.

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"In the opinion of this Government, it is essential that we should at once invite the attention of Lord Salisbury to the question of provincial control over the fishermen of the United States in their prosecution of the privilege secured to them by the treaty. So grave a question in its bearing upon the obligations of this Government under the treaty, makes it necessary that the President should ask from Her Majesty's government a frank avowal or disavowal of the paramount authority of provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note.

"Before a receipt of a reply from Her Majesty's government, it would be premature to consider what should be the course of this Government should this limitation upon the treaty privileges of the United States be insisted upon by the British government as their construction of the treaty."

In answer to this unequivocal presentation both of the freedom of the fishery as this Government interpreted the concession of the treaty and of the absolute suppression of this treaty right as a matter of practical value to our fishermen by this actual provincial legislation, Lord Salisbury replied with less distinctness, no doubt, but yet in a sense which I could not but regard as disclaiming any right to qualify the treaty by municipal legislation previous or subsequent to its date. After intimating a dissent from the doctrine, if I had intended to assert it, "that no British authority has any right to pass any kind of law binding Americans who are fishing in British waters," Lord Salisbury says:

"On the other hand Her Majesty's government will readily admit, what is indeed self-evident, that British sovereignty as regards these matters is limited in its scope by the engagements of the treaty of Washington which cannot be modified or affected by any municipal legislation. I cannot anticipate that with regard to these principles any difference will be found to exist between the views of the two governments. If, however, it be admitted that the Newfoundland legislators have the right of binding Americans who fish within their waters, by any laws which do not contravene existing treaties, it must further be conceded that the duty of determining the existence of any such contravention must be undertaken by the governments, and cannot be remitted to the discretion of each individual fisherman, for such a discretion if exercised on one side can hardly be refused on the other.

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"Her Majesty's government prefer the view that the law enacted by the legislature of the country, whatever it may be, ought to be obeyed by natives and foreigners alike who are sojourning within the territorial limits of its jurisdiction, but that if a law has been inadvertently passed which is in any degree or respect at variance with rights conferred on a foreign power by treaty, the correction of the mistake as committed, at the earliest period after its existence shall have been ascertained and recognized, is a matter of international obligation."

This dispatch was received by me in November, and on the 23d of the same month the payment of the award of the Halifax commission was made at the date provided in the treaty. The further consideration of the Fortune Bay claims seemed to require only the verification of the facts on the part of our claimants, so far as they were drawn in question by or were at variance with the report made to the British government by its officers, and the communication to that government of the results as finally insisted upon by us as the basis and measure of our claims. The correspondence called for by Congress, and now submitted, shows the entire rejection of the claims on the grounds set forth in Lord Salisbury's dispatch of the 6th of April last.

Before considering the main proposition of the British government by which a direct and flat denial of the freedom of the inshore fisheries as claimed by this Government is interposed, I need to bring to attention two subordinate pretensions of Lord Salisbury's dispatch intended to fortify his main proposition.

It appeared that in the management of one, at least, of the seines at Fortune Bay, our fishermen had used the strand for a temporary service in the process of inclosing the school of herring within the seine. This incident in the operation, in the original correspondence as in the transaction itself, a mere subordinate feature of the process of seining complained of, is now made prominent in the dispatch of Lord Salisbury. There being no allegation that this use of the strand violates any provincial regulation of the fisheries, the point is made that the freedom of the fisheries accorded by the treaty itself, in terms, excludes our fishermen from this incidental use of the strand in the process of taking fish by seines. A true interpretation of the treaty concession gives no support to this pretension. The concession of fishing is "to take fish of every kind, except shell-fish, on the *sea-coasts and shores*, and in the bays, harbors, and creeks of the Provinces, &c., without being restricted to any distance from the shore." Besides this concession of *fishing*, which manifestly covers the use of the strand in the process of *taking* fish, a further permission to land upon the coasts and shores is conceded to our fishermen for the independent purpose of using the land for "drying their nets and curing their fish." The contention seems to be that, because specific permission to use the land for purposes not included in the process of "taking fish," is given in terms, therefore the use of the strand in the process of "taking fish" is excluded, though, in the nature of the process of taking fish, the temporary use of the strand in managing the seines is a part of inshore fishing. This faulty reasoning is not helped at all by the proviso of the treaty that our fishermen, in using their right on shore, shall "not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose." If this proviso does not include the use of the strand in taking fish, it does not qualify the fishing concession. If it does include that use of the strand, then it construes such use as within the fishing concession and qualifies it by the observance of private property on shore, and non-interference with British fishermen using the strand in their fishing.

Lord Salisbury's reference to the *argument* of Mr. Foster before the Halifax commission on the independent subject of the commercial privileges for which the British case demanded compensation in the awards, (and which were rejected by the commission as not within the purview of the treaty,) for the doctrines of this Government in regard to the use of the strand as an incident of the inshore fishery concession, needs no serious comment here. If the "case" of either government could fairly be referred to as maintaining propositions to which it should be held in this contention, the special arguments *pro* and *con* of counsel cannot usefully be resorted to for this purpose. In this interlocutory argument on the commercial question the British counsel, in answering Mr. Foster, maintained the opposite construction of the treaty. Neither view had any important relation to the subject then under discussion.

The second topic of Lord Salisbury's dispatch, from which aid is sought for his main proposition, is the presentation of Mr. Marcy's circular to the collectors of customs, while the reciprocity treaty was in force, for promulgation among our fishermen, the whole text of which Lord Salisbury incorporates in his note.

In the full copy of this circular, which is appended (No. 5) to the Babson and Foster report, the fishery regulations of the provinces to which it relates are recited, and a reference to these is sufficient to displace any inference that this Government has assented to any curtailment, past or previous, by provincial legislation of the freedom of the inshore fishery as conceded to our fishermen by the terms of the reciprocity treaty or the treaty of Washington. One of these regulations relates to the demarkation of "gurry grounds," and the other to the reservation of spawning grounds, during the spawning season, from invasion. "Gurry," or the offal of fish, was supposed to infect the waters, and the regulation was not of the right of taking fish, but of poisoning them. The care of the spawning beds in spawning season, in like manner, was a regulation of the breeding of fish, not a regulation of modes of American fishing. Both these regulations met the approval of this Government, and were required by Mr. Marcy to be respected by our fishermen, for this reason and in the sense of being within the reasonable province of local civil jurisdiction, and not encroaching upon the province of freedom of the fishery as imparted by the reciprocity treaty. But the right of this Government to inspect all such laws and pass upon them as falling one side or the other of the line thus firmly drawn is explicitly stated by Mr. Marcy. He says:

"Should they be so framed or executed as to make any discrimination in favor of British fishermen, or to impair the rights secured to American fishermen by that treaty, those injuriously affected by them will appeal to this Government for redress."

Accordingly, the fishermen are directed to make complaint, upon the case arising, either in respect to any law or its execution, "in order that the matter may be arranged by the two governments."

The position of this Government as laid down in my dispatch of September 28, 1878, is, therefore, unembarrassed by any attitude in this contention heretofore taken in any diplomatic discussion of parallel treaty engagements. Any particular interpretation of the treaty as to the right to use the strand in fishing with seines ceases to be of significance in the issue now joined with the British government, because the provincial laws in question prohibit the use of the seines at all, and the main proposition of the British government subjects our treaty rights to such legislation. So, too, the scope of this main proposition can be neither obscured nor confused by the irrelevant consideration of the local jurisdiction within three miles of the shore, over persons or property, of the running of civil or criminal process, of health or police regulations, of territorial sovereignty in the abstract. The issue between the two governments is as to what regulations of the freedom of the fishery, in the very matter of the time and manner of taking fish, remain a part of British sovereignty over the fishery under the color of sovereignty over the place, when exclusive sovereignty over the fishery has been parted with by Great Britain, and a participation in such fishery has been acquired by the United States, in the terms and on the considerations of the treaty of Washington.

Upon this issue the position of this Government was notified to the British government in September, 1878, as follows:

"This Government conceives that the fishery rights of the United States, conceded by the treaty of Washington, are to be exercised wholly free from the restraints and regulations of the statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force or that may hereafter be enacted by that government."

Upon this issue the position of the British government is now notified to us by the dispatch of Lord Salisbury of April 3, ultimo, as follows. Referring to these statutes of Newfoundland, Lord Salisbury says:

"These regulations, which were in force at the date of the treaty of Washington, were not abolished, but confirmed by the subsequent statutes, and are binding under the treaty upon the citizens of the United States in common with British subjects. The United States fishermen, in landing for the purpose of fishing at Tickle Beach, in using a seine at a prohibited time, and in barring herrings with seines from the shore, exceeded their treaty privileges and were engaged in unlawful acts."

Lord Salisbury further states that Her Majesty's government "have always admitted the incompetence of the colonial or the imperial legislature to limit by subsequent legislation, the advantages secured by treaty to the subjects of another power."

There are but two grounds upon which the subordination of the United States' freedom of the inshore fisheries to imperial or provincial legislation, curtailing or burdening that freedom ever has been, or in the nature of the case can be, placed.

The first is that of reserved general sovereignty within the three-mile limit, under cover of which it is pretended there lurked in the concession of the freedom of this fishery to the United States in common with Great Britain, the power of one party in the privilege of this common fishery to regulate the enjoyment of it by the other.

The statement of this proposition confutes it. The United States would have acquired nothing of right if the concession was constantly subject to the will of Great Britain for its exercise and enjoyment. Accordingly Lord Salisbury disclaims this pretension as ever having been held by the British government as a reserved power, capable of exercise by any regulations subsequent to the date of the treaty of Washington. But, manifestly, antecedent regulations, as having force subsequent to the treaty, cannot be sustained upon the ground of sovereignty over the treaty concession by any better reason than new legislation of that quality and effect. If the treaty predominates over subsequent provincial legislation, encroaching upon the treaty concession by stronger reason, it supplants previous provincial legislation, subversive or restrictive, of the treaty concession. If such previous legislation persists after the treaty comes into operation, it must be because the treaty, in terms or by just interpretation, accepts this previous legislation as a part of itself. But this is the predominance of the treaty and not of the legislation, which thenceforth owes its vigor to the stipulations of the treaty by which the United States adopts and confirms the provincial legislation in force at its date. This is in substance the British contention, and, in the failure of the doctrine of reserved sovereignty, is the only alternative basis of the present proposition of the British government.

The subject thus brought into dispute at this late date in the progress of the fishery negotiations between the two countries is simply what the fishery in provincial waters, which the British government had at its disposal and which we acquired at its hands as a matter of property and beneficial enjoyment, really was.

That the British proprietorship in, and dominion over, this inshore fishery was perfect, absolute, and without incumbrance or limitations, and that this was the subject concerning which the negotiations were occupied, and by and to which the treaty equivalents were to be measured and applied, was certainly never doubted by the negotiators of this treaty on the part of the United States or of Great Britain. Whatever this fishery was in its natural extent and value, in its geographical area and its multitude and variety of fish-products, that was the subject of which Great Britain possessed the *jus disponendi* and that the subject of which the United States proposed to acquire an undivided share. The proportion of this fishery which Great Britain was to part with, and the United States was to appropriate, does not affect the question of what the entire property was and was understood to be. Whatever the United States would have acquired had Great Britain parted with the whole fishery, the subject partitioned between them was this entirety, no matter what the shares in which it was to be enjoyed might be. It is equally clear that the negotiators on both sides assumed that Great Britain was dealing with this subject as sole owner, and that it had impaired neither its title nor its possession by any previous grant or incumbrance. Whatever right and enjoyment, then, by proprietorship and dominion Great Britain in its political sovereignty could impart to "the subjects of Her Britannic Majesty," that right and enjoyment Great Britain could impart "to the inhabitants of the United States."

This being the subject of the grant and this the title and possession of the grantor, what is the treaty description of the estate, right, and privilege granted to the United States for the enjoyment of its citizens? The text of the fishery articles of the treaty of Washington shows that there was no limitation whatever upon the grant, except that the estate, right, and privilege granted were to endure but for a term of years, and were to be enjoyed by the United States, not exclusively, but in common with Great Britain. There was, to be sure, a restriction imposed upon both countries which excluded both equally from extending the enjoyment of either's share of the common fishery beyond the "inhabitants of the United States" on the one side, and "Her Britannic Majesty's subjects" on the other, thus disabling either government from impairing the share of the other by introducing foreign fishermen into the common fishery. But this feature in the grant has no significance in the measure of the concession as now disputed by Great Britain and contended for by the United States.

The British contention imputes to the phrase of the treaty, "in common with the subjects of Her Britannic Majesty," not only its manifest effect of excluding any possible conclusion that the privilege conceded to the United States was exclusive, but the further effect of measuring the subject of the grant, that is the fishery itself, as it was then, at the very date of the treaty, regulated by the various laws of the maritime provinces.

For this interpolation there seems no justification either in reason or in the history of the negotiation. There is not the least evidence that it was present to the mind of either of the high contracting parties to the treaty that the subject of the fishery to be partitioned between them was any less than such as it was in its natural dimensions and quality, and such as it was, as a subject of human control, at the unlimited disposal of British sovereignty. What those provincial laws were, no one inquired and no one disclosed. That the fishery our sea-going fishermen were to share in was a fishery regulated by and for the local population, fishing from the shore, no one conceived. That the title of Great Britain should be examined, a warranty against adverse title and possession or against incumbrances exacted, would have seemed both foolish and offensive to the high joint commission which negotiated this treaty. To the apprehension of all, the map and the statistics of the catch showed what the fishery was in extent and value, and the dominion of Great Britain over the subject measured the security of the right which we were to acquire.

The proposition of Lord Salisbury reduces the grant of the fishery from the dimensions of the fishery as Great Britain had power to convey it, and by its more natural description would convey it, to the fishery as it had been trimmed and curtailed by local legislation and was to be regulated by local administration. He reduces our enjoyment from a freedom of the fishery such as the plenary political power of Great Britain could impart to its subjects, and could share with the United States to be enjoyed by their inhabitants, to the use of the fishing methods and seasons of the provincial coast population as their faculties and occasions had arranged them. And this interpretation of the subject of the grant by which one party parted with, and the other acquired, nothing of value, turns upon the phrase of the treaty which defines the estate conveyed as not exclusive, but to be held in common.

Fortunately the closing transaction between the two governments by which the fishery concession to the United States was to be measured and valued, and compensation on our part therefor to be adjusted according to the measure and value of the provincial fishery, not in the abstract, but as opened to our fishermen, furnished an opportunity to take the estimate both of the British and provincial governments of the extent and comprehension of the subject of the grant. This transaction antedates the present disputation, and brings the two governments together in a computation before the Halifax commission of the nature, extent, and benefit of the inshore provincial fishery.

The considerations for the British concession were threefold: First, an equivalent fishery concession on our own coasts; second, exemption of provincial fish products from duties, or the concession of our free market; third, such supplemental money payment as the nature, extent, and value of the British fishery concession, in the judgment of the Halifax commission, would warrant or require. It would be enough to say that the present pretensions of the British government in reduction of the grant were not presented in depreciation of the price we were to pay, nor was any subjection of the natural fishery to political or municipal disparagement advanced by us in reduction of the money value with which we were to be charged. But the British and provincial governments are precluded from the present pretensions, not by silence alone as to these latent limitations and incumbrances upon the grant when its price was being adjusted by the Halifax award. The "case" of the British government presents, in the most open and unequivocal terms, the measure of the grant in the sense both of benefit to the United States and of injury to the provincial fishermen. The conduct of the contention throughout maintained the freedom of the fishery to the methods and occasions of our fishing enterprise and skill, and insisted upon the *right accorded*, (which might exhaust and destroy the fisheries so as to depreciate their benefit to the coast population even beyond the treaty period,) and not its actual exercise by our fishermen as the standard of estimate by which our money payment was to be fixed.

In "the case of Her Majesty's Government," submitted to the Halifax commission, the following language is used to illustrate and enforce the advantage in the extent and method of fishing, secured by the treaty of 1871 over the restrictions of the convention of 1818:

"The convention of 1818 entitled United States citizens to fish on the shores of the Magdalen Islands, but denied them the privilege of landing there. *Without such permission the practical use of the inshore fisheries was impossible.* Although such permission has tacitly existed, as a matter of sufferance, it might at any moment have been withdrawn, and the operations of the United States fishermen in that locality would thus have been rendered ineffectual. The value of these inshore fisheries is great; mackerel, herring, halibut, capelin, and launce abound and are caught inside of the principal bays and harbors, where they resort to spawn. Between three hundred and four hundred United States fishing-vessels yearly frequent the waters of this group, and take large quantities of fish, both for curing and bait. A single seine has been known to take at one haul enough of herrings to fill three thousand barrels. Seining mackerel is similarly productive. During the spring and summer fishery of the year 1875, when the mackerel were closer inshore than usual, *the comparative failure of the American fishermen was owing to their being unprepared with suitable hauling-nets and small boats, their vessels being unable to approach close enough to the beaches.*

"In the case of the remaining portions of the seaboard of Canada, the terms of the convention of 1818 debarred United States citizens from landing at any part for the *pursuit of operations* connected with fishing. *This privilege is essential* to the successful prosecution of both the inshore and deep-sea fisheries. By it they would be enabled to prepare their fish in a superior manner, in a salubrious climate, as well as more expeditiously, and they would be relieved of a serious embarrassment as regards the disposition of fish offals, by curing on shore the fish which otherwise would have been dressed on board their vessels, and the refuse thrown overboard.

"*All the advantages above detailed have been secured for a period of twelve years to United States fishermen. Without them, fishing operations on many parts of the coast would be not only unremunerative but impossible; and they may therefore be fairly claimed as an important item in the valuation of the liberties granted to the United States under article 18 of the treaty of Washington.*"—*Halifax Com.*, volume 1, page 93.

And again:

"4. *Formation of fishing establishments.*

"*The privilege of establishing permanent fishing stations* on the shores of Canadian bays, creeks, and harbors, akin to that of landing to dry and cure fish, is of material advantage to United States citizens.

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"There are further advantages derivable from permanent establishments ashore, such as the accumulation of stock and *fresh fish preserved in snow or ice, and others kept in frozen and fresh state by artificial freezing.*"—*Ib.*, 94–95.

In that portion of the same "case" which specially regards the character of the Newfoundland fishery and points out with elaborate precision the rights of United States fishermen on the shores of that island and the compensation demanded therefor, the British government says:

"I. *The entire freedom of the inshore fisheries.*

"Newfoundland, from that part of its coast now thrown open to United States fishermen, yearly extracts, at the lowest estimate, five million dollars' worth of fish and fish-oil; and when the value of fish used for bait and local consumption for food and agricultural purposes, of which there are no returns, is taken into account, the total may be fairly stated at $6,000,000 annually.

"It may possibly be contended on the part of the United States that their fishermen have not in the past availed themselves of the Newfoundland inshore fisheries, with but few exceptions, and that they would and do resort to the coasts of that island only for the purpose of procuring bait for the bank fishery. This may up to the present time, to some extent, be true as regards codfish, but not as regards herring, turbot, and halibut. *It is not at all probable that, possessing as they now do the right to take herring and capelin for themselves on all parts of the Newfoundland coasts, they will continue to purchase as heretofore, and they will thus prevent the local fishermen, especially those of Fortune Bay, from engaging in a very lucrative employment which formerly occupied them during a portion of the winter season for the supply of the United States market.*

"The words of the treaty of Washington, in dealing with the question of compensation, makes no allusion *to what use* the United States may or do make of the privileges granted them, but simply state that, inasmuch as it is asserted by Her Majesty's government that the privileges accorded to the citizens of the United States under article 18 are of greater value than those accorded by articles 19 and 21 to the subjects of Her Britannic Majesty, and this is not admitted by the United States, it is further agreed that a commission shall be appointed, having regard to the privileges accorded by the United States to Her Britannic Majesty's subjects in articles Nos. 19 and 21, the amount of any compensation to be paid by the Government of the United States to that of Her Majesty in return for the privileges accorded to the United States under article 18.

"It is asserted, on the part of Her Majesty's government, that the actual use which may be made of this privilege at the present moment is not so much in question as the actual value of it to those who may, if they will, use it. It is possible, and even probable, that United States fishermen may at any moment avail themselves of the privilege of fishing in Newfoundland inshore waters to a much larger extent than they do at present; but even if they should not do so, it would not relieve them from the obligation of making the just payment for a right which they have acquired subject to the condition of making that payment. The case may be not inaptly illustrated by the somewhat analogous one of a tenancy of shooting or fishing privileges; it is not because the tenant fails to exercise the rights which he has acquired by virtue of his lease that the proprietor should be debarred from the recovery of his rent.

"There is a marked contrast, to the advantage of the United States citizens, between the privilege of access to fisheries the most valuable and productive in the world, and the barren right accorded to the inhabitants of Newfoundland of fishing in the exhausted and preoccupied waters of the United States north of the thirty-ninth parallel of north latitude, in which there is no field for lucrative operations even if British subjects desired to resort to them; and *there are strong grounds for believing that year by year, as United States fishermen resort in greater numbers to the coasts of Newfoundland for the purpose of procuring bait and supplies, they will become more intimately acquainted with the resources of the inshore fisheries and their unlimited capacity for extension and development.* As a matter of fact, United States vessels have, since the Washington treaty came into operation, been successfully engaged in these fisheries; and it is but reasonable to anticipate that, as the advantages to be derived from them become more widely known, larger numbers of United States fishermen will engage in them.

"A participation by fishermen of the United States in the freedom of these waters must, notwithstanding their wonderfully reproductive capacity, tell materially on the local catch, and, while affording to the United States fishermen a profitable employment, must seriously interfere with local success. The extra amount of bait also which is required for the supply of the United States demand for the

bank fishery must have the effect of diminishing the supply of cod for the inshores, as it is well known that the presence of that fish is caused by the attraction offered by a large quantity of bait fishes, and as this quantity diminishes the cod will resort in fewer numbers to the coast. The effect of this diminution may not in all probability be apparent for some years to come, and while United States fishermen will have the liberty of enjoying the fisheries for several years in their present teeming and remunerative state, the effects of overfishing may, after their right to participate in them has lapsed, become seriously prejudicial to the interests of the local fishermen."—*Ib.*, pp. 103, 104.

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"It is impossible to offer more convincing testimony as to the value to United States fishermen of securing the right to use the coast of Newfoundland as a basis of operations for the bank fisheries than is contained in the declaration of one who has been for six years so occupied, sailing from the ports of Salem and Gloucester, in Massachusetts, and who declares that it is of the greatest importance to United States fishermen to procure from Newfoundland the bait necessary for those fisheries, and that such benefits can hardly be overestimated; that there will be, during the season of 1876, upward of two hundred United States vessels in Fortune Bay for bait, and that there will be upward of three hundred vessels from the United States engaged in the Grand Bank fishery; that owing to the great advantage of being able to run into Newfoundland for bait of different kinds, they are enabled to make four trips during the season; that the capelin, which may be considered as a bait peculiar to Newfoundland, is the best which can be used for this fishery, and that a vessel would probably be enabled to make two trips during the capelin season, which extends over a period of about six weeks. The same experienced deponent is of opinion that the bank fisheries are capable of immense expansion and development, and that the privilege of getting bait on the coast of Newfoundland is indispensable for the accomplishment of this object.

"As an instance of the demand for bait supplies derived from the Newfoundland inshore fisheries, it may be useful to state that the average amount of this article consumed by the French fishermen, who only prosecute the bank fisheries during a period of about six months of the year, is from $120,000 to $160,000 annually. *The herring, capelin, and squid amply meet these requirements and are supplied by the people of Fortune and Placentia Bays*, the produce of the Islands of Saint Pierre and Miquelon being insufficient to meet the demand.

"It is evident from the above considerations that not only are the United States fishermen almost entirely dependent on the bait supply from Newfoundland, now open to them for the successful prosecution of the bank fisheries, but also that they are enabled, through the privileges conceded to them by the treaty of Washington, to largely increase the number of their trips, and thus considerably augment the profits of the enterprise. This substantial advantage is secured at the risk, as before mentioned, of hereafter depleting the bait supplies of the Newfoundland inshores, and it is but just that a substantial equivalent should be paid by those who profit thereby.

"We are therefore warranted in submitting to the commissioners that not only should the present actual advantages derived on this head by United States fishermen be taken into consideration, but also the probable effect of the concessions made in their favor. The inevitable consequence of these concessions will be to attract a larger amount of United States capital and enterprise following the profits already made in this direction, and the effect will be to inflict an injury on the local fishermen, both by the increased demand on their sources of supply and by competition with them in their trade with foreign markets."—*Ib.*, 105–6.

"CONCLUSION.

"It has thus been shown that under the treaty of Washington there has been conceded to the United States—

"First. The privilege of *an equal participation* in a fishery vast in area, teeming with fish, continuously increasing in productiveness, and now yielding to operatives, very limited in number when considered with reference to the field of labor, the large annual return of upward of $6,000,000, of which 20 per cent. may be estimated as net profit, or $1,200,000.

"It is believed that the claim on the part of Newfoundland in respect of this portion of the privileges acquired by United States citizens under the treaty of Washington will be confined to the most moderate dimensions when estimated at one-tenth of this amount, namely, $120,000 per annum, or, for the twelve years of the operation of the treaty, a total sum of $1,440,000."—*Ib.*, 107–8.

To this "case" the United States Government filed an answer, and the British government filed a reply to the answer in which it repeated its contention:

"The words *'for no other purposes whatever'* are studiously omitted by the framers of the last-named treaty, and *the privilege in common with the subjects of Her Britannic Majesty, to take fish and to land for fishing purposes, clearly includes the liberty to purchase bait and supplies, tranship cargoes, &c., for which Her Majesty's government contend it has a right to claim compensation.*

"It is clear that these privileges were not enjoyed under the convention of 1818, and it is equally evident that they are enjoyed under the treaty of Washington."—*Ib.*, 173.

* * * * * * *

"As regards the herring fishery on the coast of Newfoundland, it is availed of to a considerable extent by the United States fishermen, and evidence will be adduced of large exportations by them in American vessels, particularly from Fortune Bay and the neighborhood, both to European and their own markets.

"The presence of United States fishermen upon the coast of Newfoundland, so far from being an advantage, as is assumed in the answer, operates most prejudicially to Newfoundland fishermen. Bait is not thrown overboard to attract the fish, as asserted, but the United States bank-fishing vessels, visiting the coast in such large numbers as they do, for the purpose of obtaining bait, sweep the coves, creeks, and inlets, thereby diminishing the supply of bait for local catch, and scaring it from the grounds where it would otherwise be an attraction to the cod."—*Ib.*, 186.

"It forms no part of my purpose in this report to adduce in argument or proof the manifold supports to the view now presented which the record of the diplomatic history of the fishery negotiations between the two countries or the documents and proceedings of the Halifax commission contain. It is very apparent throughout them both that the obliteration of the sea-line of demarkation between the rights of our fishermen and those of British fishermen we regarded of principal value as removing the sources of irritation between them and possible occasions of controversy and estrangement between the two nations. In my dispatch to Mr. Welsh of September 27, 1878, I laid before the British government this disposition on our part as furnishing the leading purpose in the framing of the fishery articles of the treaty of Washington. I then said that, "politically and in the interest of good neighborhood this Government did regard, and at all times would regard, the restoration of the relations between the two countries in the common enjoyment of these fisheries to the ancient footing of the treaty of 1783 as most grateful in sentiment and as a most valuable guarantee against any renewal of strife." In the British "case" before the Halifax commission Her Majesty's government definitely insisted upon this assured position of our public relations in this regard as an element of consideration in the award they asked from the commission. Her Majesty's government drew the attention of the commissioners "to the great importance attaching to the beneficial consequences to the United States of honorably acquiring for their fishermen full freedom to pursue their adventurous calling without incurring constant risks and exposing themselves and their fellow-countrymen to the inevitable reproach of willfully trespassing on the rightful domain of friendly neighbors. Paramount, however, to this consideration is the avoidance of irritating disputes, calculated to disquiet the public mind of a spirited and enterprising people, and liable always to become a cause of mutual anxiety and embarrassment. It was repeatedly stated by the American members of the joint high commission at Washington, in discussing proposals regarding the Canadian fisheries, "that the United States desired to secure their enjoyment, not for their commercial or intrinsic value, but for the purpose of removing a source of irritation."

The experience of our Fortune Bay fishermen in their first attempt, in the sixth year of the running of the treaty, to exercise on the coast of Newfoundland the "full freedom to pursue their adventurous calling," which Her Majesty's government said had been honorably acquired for them by their own Government, is exhibited in the papers now submitted, as is also the treatment of their grievance and this Government's presentation of it accorded by Her Majesty's government.

The British government claimed before the Halifax commission the sum of $120,000 per annum during the twelve years of the treaty period, or the gross sum of $1,440,000, for the advantage to the United States of the fishing privilege proper on the Newfoundland coast alone, conceded by the treaty, over and above the counter concessions of our inshore fishery and the remission of duty on their fish products.

The Halifax award of $5,500,000 for the Dominion of Canada and Newfoundland together has been divided between them by the British government, and the sum of $1,000,000 has been received by Newfoundland as its share of the money payment made by the United States under the treaty. It will be observed that under the British view of the exposure of our fishermen at Fortune Bay to the penalties of infractions of the provincial laws, while they were enjoying in their own opinion and that of this Government the full freedom of the fishery accorded by the treaty, there is no pretense that the violence offered them, and the wanton destruction of their fishing property, and spoliation of their draught of fishes, find any warrant in the supremacy of violated law under color of which the British government has refused them any indemnity. In this attitude of the British government, as taken in the correspondence, the violent expulsion of our fishermen from their fishery on the 6th of January, 1878, by the coast fishermen of Newfoundland seems to be justified, if not espoused. This position, too, of that government necessarily carries a warning that any future attempt by our fishermen to exercise their treaty privileges, except in conformity to the local fishing regulations, will be resisted by the authority of the British government as well as exposed to the violence of the coast fishermen. Under this unhappy and unexpected failure of accord between the two governments as to the measure of the inshore fishing privilege secured to our fishermen by the treaty of Washington, as developed in this correspondence, it becomes the imperative duty of this Government to consider what measures should be taken to maintain the rights of our people under the treaty, as we understand them, and to obtain redress for their expulsion from the enjoyment of their rights.

So far as this diminution of these privileges calls for a reconsideration of the treaty equivalents already parted with by this Government and received by Great Britain, as suitable to the failure of the privileges thus purchased and paid for, by this denial of their exercise so as to be valuable or desirable to our people, that subject necessarily must be remitted to diplomatic correspondence.

The only continuing consideration the United States is paying for the treaty period, for the expected enjoyment of the treaty concession, is the remission of our customs duties upon the fish products of the provincial share in these fisheries. I respectfully advise that it be recommended to Congress to re-enforce the duties upon fish and fish oil, the products of the provincial fisheries, as they existed before the treaty of Washington came into operation, to so continue until the two governments shall be in accord as to the interpretation and execution of the fishery articles of the treaty of Washington, and in the adjustment of the grievance of our fishermen from the infraction of their rights under that treaty.

This measure will give to our fishermen, while excluded from the enjoyment of the inshore fisheries under the continued enforcement of the British interpretation of the treaty, a restoration of the domestic market for the products of their own fishing industry, as it stood before its freedom was thrown open to the provincial fishermen in exchange for the free fishery opened to our fishermen.

I respectfully advise, also, submitting to the consideration of Congress the propriety of authorizing the examination and auditing of the claims of our fishermen for injuries suffered by the infraction or denial of their treaty privileges, with the view of some ultimate provision by convention with Great Britain or by this Government for their indemnity.

W. M. EVARTS.

Mr. COX. I move the message and accompanying papers be referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. LORING. I move, Mr. Speaker, that the message of the President and the accompanying report of the Secretary of State be printed in the RECORD, and that, together with the accompanying papers, they be referred to the Committee on Foreign Affairs.

Mr. COX. Besides being printed in the RECORD, that, together with the message and accompanying letter of the Secretary of State, the correspondence also be printed in the usual form.

There was no objection, and it was ordered accordingly.

And then (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. WILLIAM ALDRICH: The petition of Thomas Taylor, of Washington, District of Columbia, for compensation for the use by the United States of his inventions—to the Committee on Claims.

By Mr. ANDERSON: The petitions of Owen Duffy, of Leavenworth, and of the Buel Manufacturing Company, of Blue Rapids, Kansas, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. ATHERTON: The petition of W. R. Wing and 120 others, citizens of Newark, Ohio, for the construction of a public building for a post-office at that place—to the Committee on Public Buildings and Grounds.

By Mr. BOYD: Papers relating to the pension claim of James S. Herbert—to the Committee on Invalid Pensions.

Also, the petition of Grier & Co. and other business men, of Peoria, Illinois, for the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. BUTTERWORTH: The petition of George Dean, John A. Mollenhoff, H. F. West & Brother, and 13 others, dealers in earthenware in Cincinnati, Ohio, for the reduction of the tariff on said ware—to the Committee on Ways and Means.

Also, the petition of L. M. Dayton, of Cincinnati, Ohio, for the pas-

sage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. CALKINS: The petition of William Crawford and others, of La Porte, Indiana, for the reduction of the duty on earthenware—to the same committee.

By Mr. CONGER: The petition of E. Hathaway and 15 others, soldiers of Michigan, against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. COX: The petition of Thomas J. Durant, Clark Mills, Professor Benton, Chase Roys, M. H. Doolittle, and 1,000 others, of the District of Columbia, that Congress give the laboring classes, who are employed six days in the week, an opportunity for mental improvement by opening the Congressional Library, Smithsonian Institution, and Medical Museum on Sundays and at night—to the Committee on the Library.

By Mr. DEUSTER: The petition of Blair & Persons, C. Eissfeldt & Bro., William Paschen and others, of Milwaukee, Wisconsin, for a reduction of the duty on earthenware—to the Committee on Ways and Means.

By Mr. DICK: The petition of William H. Wisner and 47 soldiers of Pennsylvania, for the passage of the bill equalizing bounties—to the Committee on Military Affairs.

By Mr. ERRETT: Papers relating to the petition of Joseph Hoover for the removal of the charge of desertion—to the same committee.

By Mr. GARFIELD: The petition of 26 druggists, of Columbus, Ohio, for the repeal of the stamp-tax on perfumery, cosmetics, and medicines—to the Committee on Ways and Means.

Also, the petition of George S. Redfield & Co., of Tiffin, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

Also, the petition of L. M. Dayton, of Cincinnati, Ohio, of similar import—to the same committee.

By Mr. GEDDES: The petition of A. D. Fosdick and 19 others, soldiers of Liberty, Indiana, against the passage of the sixty-surgeon pension bill, and for the passage of the bill providing for a court of pensions—to the Committee on Invalid Pensions.

By Mr. HALL: The petition of Sawyer Woolen Mills Company, for the passage of a bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. HARMER: The petition of Charles Spencer & Co. and other manufacturers of Philadelphia, Pennsylvania, employing twenty-seven hundred hands, of similar import—to the same committee.

By Mr. HAWK: The petition of the Hanover (Illinois) Manufacturing Company, of similar import—to the same committee.

By Mr. HAWLEY: The petition of William S. Bouton and 80 others, citizens of Connecticut, ex-soldiers of the war of the rebellion, for the Geddes bill to establish a pension court, and against the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. HAZELTON: The petition of ex-soldiers, for pensions on account of disability from imprisonment—to the same committee.

By Mr. KILLINGER: The petition of Charles Godshalk, of Milton, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. LOWE: The petition of David D. Shelby, Milton Humes, William M. Holding, L. P. Walker, and others, for the erection of a public building at Huntsville, Alabama—to the Committee on Public Buildings and Grounds.

By Mr. MANNING: The petition of Dock Woods, Levi Jack, and others, of Beloit and Olive Branch, Mississippi, for relief on account of having been paid for their services as soldiers in the late war in depreciated currency—to the Committee on Military Affairs.

By Mr. McKENZIE: A paper relating to the pension claim of William R. Mitchell—to the Committee on Invalid Pensions.

By Mr. McKINLEY: The petition of Cherry Valley Iron Company, of Leetonia, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. McLANE: The petition of John A. Dobson & Co., Leopold Brothers, and others, for a reduction of the tariff on earthenware—to the same committee.

By Mr. MULDROW: The petition of Theodric C. Lyon, for pay for professional services rendered the United States in certain cotton cases in the Court of Claims—to the Committee on Claims.

By Mr. NEW: The petition of Union soldiers of the late war, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. PAGE: The petition of the Board of Trade, of San Francisco, in favor of the Nicaragua Interoceanic Canal—to the Committee on Interoceanic Ship Canal.

By Mr. PIERCE: The petition of citizens of Buffalo, New York, for a reduction of the duty on earthenware—to the Committee on Ways and Means.

By Mr. POEHLER: The petition of F. A. Theopold and 114 others, citizens of Faribault, Minnesota, that salt be placed on the free list—to the same committee.

Also, the petition of Herman Freitag and 17 others, citizens of Nicollet, Minnesota, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. THOMAS RYAN: The petition of Kansas soldiers, of similar import—to the same committee.

Also, the petitions of Thomas L. Powers and of Frank Shelden, for the abolition of the duty on type—to the Committee on Ways and Means.

By Mr. RICHARD W. TOWNSHEND: The petition of A. Thresher, William H. Putnam, and others, citizens of Wabash County, Illinois, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. WILLITS: The petition of John O'Hara, of Ann Arbor, Michigan, for pay for goods, &c., destroyed by soldiers of the United States Army during the late war—to the Committee on War Claims.

IN SENATE.

TUESDAY, *May* 18, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present a memorial of the board of health of Alabama, remonstrating against any legislation which would impair the usefulness of the State boards of health in regard to quarantines by transferring their functions to the National Board of Health. I move its reference to the select committee on that subject.

Mr. HARRIS. I suggest to the Senator from Alabama that the memorial lie upon the table, as the bill upon the subject of which the memorial treats is already upon the Calendar.

Mr. MORGAN. Very well.

The PRESIDENT *pro tempore*. The memorial will lie on the table.

Mr. McPHERSON presented the petition of Charles W. Cronk, late chief engineer of the United States monitor Naubuc, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. CONKLING presented the petition of the Root Manufacturing Company, of Cohoes, Albany County, New York, manufacturers of woolen goods, employing six hundred hands, and the petition of several firms of Cohoes, New York, manufacturers of woolen goods, employing a large number of hands, in favor of the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. CARPENTER presented the petition of Hamilton Shidy, of Milwaukee, Wisconsin, praying remuneration for the use by the Government of his invention of a postal-registry card; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. TELLER presented a letter of the Secretary of War, relative to the Fort Sedgwick reservation in Colorado; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the petition of William Hansell & Sons, of Philadelphia, Pennsylvania, praying to be reimbursed for moneys paid for royalty on knapsacks manufactured for the United States, submitted a report thereon, accompanied by a bill (S. No. 1768) for the relief of William S. Hansell & Sons.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1645) for the relief of Lieutenant John A. Payne, Nineteenth Infantry, United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1660) for the relief of William P. Chambliss, late major Fourth Regiment United States Cavalry, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 366) for the relief of David W. Stockstill, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1300) for the relief of Lowell A. Chamberlain, first lieutenant First Artillery, United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1306) for the relief of Henry Starr, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (S. No. 640) to authorize the bonds of manufacturers of tobacco, snuff, and cigars, exporting the same, to be canceled at the port of clearance, reported it with amendments.

Mr. VOORHEES. The Committee on Finance has had under consideration the bill (S. No. 1062) amending section 3022 of the Revised Statutes, in order that the duties may be remitted on the salt with which western men cure pork and beef the same as is done in behalf

of men who cure fish in the East. I am instructed by the committee to report back the bill adversely on the ground that this branch of Congress has no right to initiate a movement of that kind. I do not myself concur in that view at all. I ask that the bill, reported adversely under the instruction of the committee, may be placed upon the Calendar, so that at some proper and appropriate time I may take the sense of the Senate upon this important question.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. FARLEY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2854) granting a pension to Noah Caton, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 733) granting an increase of pension to William Shelley, submitted an adverse report thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Julia M. Hudson, widow of the late Surgeon Edward Hudson, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of John Cox, sergeant of Company H, Twentieth Regiment Illinois Volunteers, praying for a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1150) for the relief of Carlile Boyd, submitted an adverse report thereon; which was ordered to be printed, and recommended that the bill be indefinitely postponed.

Mr. VOORHEES. I ask that the bill be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar with the adverse report of the committee.

Mr. BAYARD. I ask that the Senate proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

Mr. PADDOCK. Mr. President——

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Does the Senator from Nebraska rise to morning business?

Mr. PADDOCK. Yes, sir.

The PRESIDING OFFICER. That is in the nature of an objection.

Mr. PADDOCK, from the Committee on Public Lands, to whom was referred the bill (S. No. 1519) to amend an act entitled "An act to provide additional regulations for homestead and pre-emption entries of public lands," reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1291) creating Yakima land district, in Washington Territory, reported it without amendment.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1311) for the relief of Edward Byrne, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1412) regulating the compensation of paymasters' clerks in the United States Army, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 798) regulating the employment of civilian clerks for disbursing officers of the Army, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 763) to make an additional article of war, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB. I am also directed by the Committee on Public Lands, to whom was referred the bill (S. No. 97) to amend sections 2304, 2305, 2306, 2307, 2308, and 2309 of the Revised Statutes of the United States, to report it back with a recommendation that it pass. I ask the consent of the Senate to make a report in writing at a subsequent day. The bill may go upon the Calendar.

The PRESIDING OFFICER. Leave to file a written report will be reserved.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 1546) granting a pension to P. B. Perry, sr., reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1517) to authorize an increase of pension to Stephen Fairchild, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2862) granting an increase of pension to John H. Black, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1463) granting a pension to Edward H. Leib, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 5542) to increase the pension of Samuel Baker, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (S. No. 1162) confirming the title to block No. 14 in Baker City, Oregon, to Baker County, reported it without amendment.

UNITED STATES COURT AT CHATTANOOGA.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have had under consideration the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, and have instructed me to report it with an amendment in the nature of a substitute. It is a House bill, does not create any additional court, and is very much demanded in the State of Tennessee. I should like present action upon the bill very much indeed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. DAVIS, of Illinois. There is no use reading the original bill. Let the amendment be read.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment reported from the Committee on the Judiciary, which was to strike out all after the enacting clause of the bill and to insert:

SECTION 1. That the county of Grundy heretofore composing a part of the middle district of Tennessee be transferred to and henceforth form a part of the eastern district of Tennessee.

SEC. 2. A term of the circuit court and of the district court for the eastern district of Tennessee shall be held at Chattanooga, in said State, in each year on the first Mondays of April and October, after the passage of this act.

SEC. 3. Said eastern district shall be, and hereby is, divided into two divisions, to be known as the northern and southern divisions of the eastern district of Tennessee; the southern division shall consist of the following counties, to wit: Hamilton, James, Polk, McMinn, Bradley, Meigs, Rhea, Marion, Sequatchie, Bludsoe, Grundy, and Cumberland; and the northern division shall consist of the remaining counties in said district. But no additional clerk or marshal shall be appointed in said district.

SEC. 4. That the clerks of the district and circuit courts for the eastern district of Tennessee, and the marshal and district attorney for said district, shall perform the duties appertaining to their offices respectively for said courts. And the said clerks and marshal shall each appoint a deputy to reside and keep their offices in the city of Chattanooga, and who shall, in the absence of their principals, do and perform all the duties appertaining to their offices respectively.

SEC. 5. All suits not of a local nature in the circuit and district courts against a single defendant, inhabitant of said State, must be brought in the division of the district where he resides; but if there are two or more defendants residing in different divisions of the district such suits may be brought in either division. All issues of fact in said suits shall be tried at a term of the court held in the division where the suit is so brought.

SEC. 6. All prosecutions for crimes or offenses hereafter committed in either of the subdivisions shall be cognizable within such subdivision; and all prosecutions for crimes or offenses heretofore committed within said county, taken as aforesaid from the middle district, or committed in the eastern district as hitherto constituted, shall be commenced and proceeded with as if this act had not been passed.

SEC. 7. All grand and petit jurors summoned for service in each division shall be residents of such division. All mesne and final process subject to the provisions hereinbefore contained, issued in either of said divisions, may be served and executed in either or both of the divisions.

SEC. 8. In all cases of removal of suits from the courts of the State of Tennessee to the courts of the United States in the eastern district of Tennessee, such removal shall be to the United States courts in the division in which the county is situated from which the removal is made; and the time within which the removal shall be perfected in so far as it refers to or is regulated by the terms of the United States courts shall be deemed to refer to the terms of the United States courts in such division.

SEC. 9. This act shall be in force from and after the 1st day of July, A. D. 1880, and all acts and parts of acts inconsistent herewith are hereby repealed.

The PRESIDENT *pro tempore*. The question is on the amendment reported from the Committee on the Judiciary.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DAVIS, of Illinois. The committee also report to amend the title.

The title was amended so as to read: "A bill to establish a district and circuit court at Chattanooga, Tennessee, and to add the county of Grundy to the eastern district of Tennessee."

STATUE OF GENERAL DANIEL MORGAN.

Mr. HAMPTON. The Committee on Military Affairs have had under consideration the joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina, and have directed me to report it back without amendment and recommend the passage of the resolution; and I ask leave to call it up for immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. COCKRELL. I desire to state that the report of the Committee on Military Affairs was not a unanimous report. It was one in which I could not concur, and I do not now concur in it. I believe the principle of the joint resolution is wrong. It is wrong in principle and wrong in policy.

Mr. HAMPTON. I ask for the reading of the report accompanying the joint resolution.

The Chief Clerk read the following report, submitted this day by Mr. HAMPTON:

The Committee on Military Affairs, to whom was recommitted the joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina, have had the same under consideration, and beg leave to report:

That inasmuch as the battle of Cowpens resulted in one of the most decisive and brilliant victories of the Revolution, your committee deem it eminently proper that Congress should mark its appreciation of the heroic commander of the American troops on that occasion, General Daniel Morgan, of New Jersey. It is proposed by the Washington Light Infantry of Charleston, South Carolina, and the citizens of Spartanburgh County, to erect an imposing memorial column in honor of the victors, and all of the old thirteen States have been invited to contribute to this patriotic purpose and to participate in the ceremonies on the approaching centennial anniversary of the battle, and they ask Congress to furnish a statue of Morgan to crown the column. Your committee recommend the passage of the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT PITTSBURGH.

Mr. JONES, of Florida. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 2850) to provide a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania, to report it favorably.

Mr. WALLACE. I do not often trouble the Senate by asking it to take up bills out of their order. This is a bill for the erection of a custom-house and post-office building at Pittsburgh. Such bills are usually taken up when they are reported, and I ask the Senate to allow it to be taken up and put upon its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to cause to be constructed a suitable building at Pittsburgh, Pennsylvania, for the accommodation of the circuit and district courts of the United States, the customs officers, internal-revenue officers, the post-office, and any other officers of the General Government in said city, at a cost not exceeding $750,000.

Mr. KERNAN. I did not object to taking up this bill, but I feel it to be my duty to call the attention of the Senate to the fact that we are authorizing new buildings all over the Union that will cost not only an immense amount of money to erect them, but we are thereby entailing upon the United States forever very heavy expense for repairs and in taking care of them. I do not object in this instance, but day after day bills go through to begin the construction of new buildings. The amount is becoming alarmingly large, and in my judgment it will become a very great burden on the tax-payers by putting them up in towns that are really not ports and locating them all over a State. I think the attention of the country should be called to it, and I think we should commence to examine these bills before we provide for beginning new buildings, as we are doing every day.

Mr. WALLACE. I beg to say that the State of Pennsylvania has to-day in all of her great cities but three public buildings erected by the Federal Government.

Mr. MORRILL. Will the Senator from Pennsylvania allow me to say a single word?

Mr. WALLACE. I yield.

Mr. MORRILL. I desire to say that the site for this building was purchased at the expense of the United States three years ago, with the expectation of putting up a building at a much earlier period. I think those who have investigated the subject will find that there is as much necessity for a building there as at any other point in the United States.

Mr. WALLACE. That fact, of course, I intended to comment upon in what I have to say in asking the Senate to pass this bill. The city of Philadelphia, the city of Pittsburgh, the city of Harrisburgh, are the only three in our Commonwealth that have public buildings erected by the United States Government, except a small custom-house at the city of Erie. Our cities of Reading, Scranton, Allentown, Lancaster, Williamsport, Wilkesbarre, and Easton, all the large towns of our State, have no public buildings. We pay into the Treasury of the Government through the Post-Office Department a large surplus revenue. So also does the State of New York, but our population, second only to that of New York, receive vastly less from the Federal Treasury than she does. Our payments upon internal revenue are very large and our drafts upon the Treasury for public matters come but rarely and in moderate amounts.

Pittsburgh is the second city in our State. The public buildings there have become an eye-sore and unequal to the necessities of the service. The Government long since committed itself to the erection of this building. It bought and paid for the site. We ask now that the Government will proceed to erect it. I trust Senators will allow the bill to be put on its passage.

Mr. VOORHEES. I desire to ask whether this is a Senate or a House bill?

Mr. WALLACE. It is a House bill.

Mr. VOORHEES. The reason why I make the inquiry is because I have been informed that the House has taken a position that the Senate cannot even originate a bill to erect a public building. How is that, I ask the chairman of the Committee on Public Buildings and Grounds, the Senator from Florida?

Mr. JONES, of Florida. My information is, although I am not aware that it is parliamentary here to allude to what takes place in the House of Representatives, that the Committee on the Judiciary of that body has had the matter under consideration, but no final action has been arrived at in respect to the question. It is doubted by a great many members of that body. That is all I can say just now. The question never has been brought distinctly before the House. For my part I have no doubt in my mind that it is in the power of the Senate to originate a bill of this kind making an appropriation for the erection of a public building.

Mr. VOORHEES. I have not a doubt in my mind. I shall not object to the Senator from Pennsylvania getting his bill through, because I want to get one through myself pretty soon. I desire to get a bill through to build a fine building in Terre Haute, which is in a district where $2,000,000 revenue is paid yearly. I want to inquire, however, whether it is true as it is rumored around me that New York has no public buildings.

Mr. KERNAN. Allow me to answer. Until very recently there was not a United States building in the State of New York outside of the city of New York. You began a few years ago and built one at the port of Oswego, and also built one at Buffalo, and since then you have commenced one at Albany and one at Utica. These are all.

I say frankly, the sentiment of that State I think would be against building any of these buildings except where there was a port that required a custom-house, as at Oswego, New York, and Buffalo. I say frankly that I think the sentiment of the people of my State is that we had better rent buildings for post-offices in towns in the interior. As to courts, the State court-houses have always been furnished for the United States courts. As to post-offices and other buildings in the interior it has always been possible to rent good buildings.

I have no doubt this is a case where there is merit, if there is anywhere, but I wanted to say what I have suggested because it must be observed that we are beginning to erect buildings in the States so largely that it will become not merely very expensive to construct, but we are having buildings that we shall have to keep in repair and keep a great body of persons as attendants, when we could have, as we have had in Utica, I have no doubt, a building rented, as convenient as the one which is being built, which having been commenced before I came here I was willing to complete; but my own people said if it had not been commenced they would not have asked me to vote for it.

Mr. VOORHEES. I am very glad the State of New York does not want any more public buildings.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAND DISTRICT IN KANSAS.

Mr. PLUMB. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. No. 2481) to create an additional land district in the State of Kansas, to report it favorably, and also to ask for its present consideration. It will take but a moment.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to constitute all that portion of the northwestern land district in the State of Kansas lying and being situated west of the third guide meridian west of the sixth principal meridian a new land district, to be called the northern land district.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 978) to create an additional land district in the State of Kansas, reported adversely thereon, and the bill was postponed indefinitely.

VIRGINIA MILITARY DISTRICT IN OHIO.

Mr. McDONALD. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes, to report it with amendments, and as it is a very short bill I ask that it be put on its passage.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Is there objection to the present consideration of the bill?

Mr. DAVIS, of West Virginia. Let it be read for information.

The PRESIDING OFFICER. It will be read subject to objection.

The Chief Clerk read the bill.

Mr. CONKLING. I do not wish to object to the present consideration of the bill, but I should like to hear from the Senator, or from a letter which I know he has in his possession, something about it. I have no doubt it is all right, but I should like to know about it.

Mr. McDONALD. I send to the desk a letter from the Commissioner of the General Land Office in regard to this bill, and I ask that it be read. I will state that the letter is in answer to inquiries in reference to a Senate bill, which is a copy of the House bill.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 22, 1880.

SIR: I have the honor to acknowledge the receipt, by reference, from the Department on the 9th instant, "for report and an expression of views," &c., of Senate bill No. 1536, entitled "A bill to construe and define 'An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State,' approved February 18, 1871."

In response thereto I have to state that the act of 1871 referred to ceded to the

State of Ohio "the lands remaining unsurveyed and unsold in the Virginia military district in said State," and subsequently the State by proper legislation transferred said lands to the Ohio Agricultural and Mechanical College.

These surveys are all founded upon warrants issued by the State of Virginia, and in some instances one survey was made for several warrants and in other cases several surveys were founded on one warrant, and in no case were the surveys governed by township and range lines as in the present rectangular system, but were always described by metes and bounds from local objects.

In this way it often occurred that a survey intending to be made for, say, two hundred acres, which the warrant called for, would in fact include within the lines a large surplus amounting to from 25 to 500 per cent.

This surplus land was claimed by the Ohio Agricultural and Mechanical College under the act of 1871 and also by the party claiming under the old survey.

This office has uniformly declined to decide to whom such land did by right belong; but the bill now before me, should it become a law, settles that question in favor of the claimant under the survey, which, in my judgment, is correct.

I therefore approve of the bill as to sections 1, 2, and 4, which is all thereof indicated by the title; but if section 3, which relates to another matter, is to be included, the title should be amended by adding the words, "and for other purposes."

It appears to be intended in section 3 to revive the law authorizing the issue of patents on these surveys.

Patents were formerly issued in this class of cases under the act of August 10, 1790, followed by that of June 9, 1794; but as early as March 23, 1804, Congress saw fit to limit the time to five years from that date in which such surveys could be returned for the purpose of procuring patents.

Subsequently there were twelve more laws placed on record extending, and in each case limiting, the time for issuing the patents, the last one of which was that of March 3, 1855, (volume 10, page 701,) entitled "An act allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented."

It would seem that thirteen notices, running through a period of seventy-six years, were quite sufficient to bring in all these surveys where patents are desired; but, as a matter of fact, there are many still outstanding and unpatented, in view of which I also approve of the third section of this bill, as amended by interlining with red ink; provided, that provision be also made in the bill for publishing notice of this action in all the newspapers of general circulation in the Virginia military district of Ohio, for a period of three months, and that no further extension shall ever be granted in these cases; and provided further, that no patent shall issue except to the *bona fide* owner of the land by purchase or otherwise through a regular legal chain of conveyance or title from the party for whom the survey was made; and unless this amendment can be made I recommend that section 3 be stricken from the bill, which is herewith returned.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. McDONALD. The Committee on Public Lands did not think it would be necessary to provide for the publication by notice, as suggested by the Commissioner, nor that we should declare that this was the only extension that should ever be given to the people there who may be entitled to patents. In all other respects the bill conforms to the recommendation contained in the letter from the Commissioner of the General Land Office. It is a measure that simply tends to quiet the titles in the military land district in the State of Ohio, now somewhat in controversy between the grantee of the State, the agricultural college, and the citizens who have occupied the land, according to the surveys that have been made from time to time. That is all there is of the bill. It gives further time for obtaining their title upon legal surveys that have been made heretofore within the time specified by the act, and by proper testimony, record evidence.

Mr. CONKLING. Why were not the titles perfected before?

Mr. McDONALD. Because many of the settlers have been on those lands for years and years, and never thought of looking up the title unless perhaps they would want to sell the land, or something of that kind. It is a matter in which the United States has no interest whatever, except to see that these people get proper titles to their lands. This was a reservation made by the State of Virginia in the deed of cession, and has never passed to the United States in any way.

The bill was reported from the Committee on Public Lands with amendments. The first amendment was, in section 2, line 1, after the word "all," to insert "legal;" so as to make the section read:

SEC. 2. That all legal surveys returned to the Land Office on or before March 3, 1857, on entries made on or before January 1, 1852, and founded on unsatisfied Virginia military continental warrants, are hereby declared valid.

The amendment was agreed to.

The next amendment was, in section 3, line 9, after the word "the," to insert "principal surveyor of said district," and to strike out the words "Land Commissioner;" so as to make the section read:

SEC. 3. That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands, which have, on or before January 1, 1852, been entered within the tract reserved by Virginia, between the Little Miami and Scioto Rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed three years from and after the passage of this act to make and return their surveys for record to the office of the Land Commissioner, and may file their plats and certificates, warrants, or certified copies of warrants, at the General Land Office, and receive patents for the same.

Mr. McDONALD. In the original bill there was a mistake as to the title of the officer.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (S. No. 1536) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, reported adversely thereon, and the bill was postponed indefinitely.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 17th instant approved and signed the act (S. No. 1670) to authorize the Wyoming, Montana and Pacific Railroad Company to build its road across the Fort Russell and Fort Laramie military reservations.

BILLS INTRODUCED.

Mr. DAVIS, of West Virginia. I ask leave to introduce a bill granting a pension to J. D. Kalbaugh, and I ask the special attention of the Committee on Pensions to this bill. I believe it to be meritorious, and hope it will receive early action.

By unanimous consent, leave was granted to introduce a bill (S. No. 1769) granting a pension to J. D. Kalbaugh; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

KANSAS FIVE PER CENT. CLAIM.

Mr. INGALLS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the Senate what action has been taken by the Treasury Department in the matter of the claim of the State of Kansas for 5 per cent. of the net proceeds of sales of public lands in that State.

SPECIAL DEPUTY MARSHALS.

Mr. BAYARD. I move that the Senate proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

Mr. CONKLING. I hope that bill will not be taken up in the morning hour. That is an important bill, which will lead to a discussion that will occupy time and prevent the passage of other bills to which there may be no objection. I hope that will not be done.

Mr. VOORHEES. I think the Senator from Delaware had better let us have the morning hour.

Mr. BAYARD. I do not desire, of course, to interfere with morning business; but if there is no further morning business, I feel it my duty to ask the attention of the Senate to the consideration of this measure in accordance with the notice I gave yesterday. I make the motion that the Senate proceed to the consideration of the bill.

Mr. CONKLING. Has the Senator from Delaware any hope that a bill of this sort can be considered now and disposed of in the twenty-five minutes remaining of the morning hour?

Mr. BAYARD. I have thought we might do it even in less time.

Mr. CONKLING. The Senator is very hopeful about it. I am quite sure he will find himself mistaken. I do not think a bill is to pass taking away from the marshals the right to participate in the selection of subordinates for whom they are responsible to deposit it in a court or somewhere else, without some discussion, and it seems to me quite impossible that a bill of that nature and magnitude can be taken up and disposed of in the little fraction that now remains of the morning hour. I imagine whenever the Senator shall succeed in getting the bill before the Senate, he will find that a discussion of considerable length will ensue upon it.

Mr. BAYARD. My reason for supposing there would not be any time required for the discussion of this measure was that it had already met with the favorable consideration of both branches of Congress. The substance of it was contained in the immediate deficiency bill, as it is called, which had received the approval of a majority of both branches of Congress. That has been returned to the other House, in which the bill originated, by the President of the United States, stating his objections, which under the Constitution he was required to do, and which he said consisted in the fact that there had been in his opinion a defect in form, that there had been a misjoinder of general legislation with a bill specifically providing money for the execution of the laws; and for that reason, as stated by his veto message, and for no other reason or objection contained in his veto message, the bill was returned to Congress.

The feature which we are now proposing to consider as a separate bill was debated in this body at the pleasure of the honorable Senator from New York, and the opportunity for debate was full, ample, and undisturbed. Upon the suggestion of the honorable Senator from Vermont [Mr. EDMUNDS] not now in his seat, that it would be more convenient for him to express his views at length upon the subject, a day was assigned for the consideration of the measure, and it was postponed to that day so that he and all others should exercise their own discretion as to the time they should consume in debate. It is very well known to the Senate that that honorable Senator exhausted the subject upon his own side with his view of the case.

Therefore it was that the bill having come from the committee in the shape it was before the Senate with no alteration that affects its principle or the scope of its results, I did not suppose that it was desirable on any side that there should be at this stage of the public business any protracted discussion of the measure; nor do I think so now. Of course the honorable Senator from New York will exercise his own discretion as to the amount of debate which he will expend

upon this bill. I only can say that according to my belief of the sentiment of the majority on this floor—I mean the party majority—there is no occasion for further discussion on this bill than a simple, straightforward explanation of its provisions and the results sought to be reached.

It was for these reasons, which I esteem good and sound, that I supposed there would not be a long time occupied in considering this question. But if this bill be taken up now, as I hope it will by the vote of the Senate, and it should not be concluded when the morning hour shall have expired, I shall then move to postpone the regular order of business for the purpose of continuing this discussion until the vote shall be reached according to the pleasure and convenience of the Senate or of those who desire to discuss the bill. My object is simply to bring it to a prompt, fair, and reasonable conclusion as speedily as may be, and for that reason I do hope that the Senate will now proceed to the consideration of the measure.

Mr. CONKLING. Mr. President, the rules of the Senate do not permit a discussion of the merits of a measure on a motion to take it up. I will not say that the Senator from Delaware has forgotten this rule; and yet I think I may say that the line of remark in which he has indulged and the posture of this bill illustrate fully the unwisdom of taking it up this morning in the morning hour.

The Senator from Delaware observes upon a veto message of the President, which message is not before us I believe, and still the Senator speaks of it in its bearings upon a bill. The bill of which he speaks is not on our table; it is not printed that I can find at all. It could not have been reported before yesterday because it comes from a committee which never acted upon it until yesterday. May I inquire of the Senator from Arkansas whether I am wrong in that?

Mr. GARLAND. It was reported yesterday.

Mr. CONKLING. So I supposed. It was reported yesterday and the bill is not printed. I ask the Senator from Delaware if he has it on his table.

Mr. BAYARD. I have a copy of the printed bill. I found it on the Clerk's desk.

Mr. CONKLING. The Senator will find that the bill as reported from the committee has not been printed, I am quite sure.

Mr. BAYARD. I found it on the Clerk's files printed there, and I find it on the Calendar.

Mr. CONKLING. I resorted to my file and to the files of other Senators to ascertain what the report was.

Mr. THURMAN. Here it is, [exhibiting the printed bill.]

Mr. CONKLING. I repeat that the bill as reported from the committee has not been printed. If the Senator will take the trouble to look at his file, he will find that I am right.

Mr. THURMAN. No, the Senator will find here on this printed bill, "May 17, 1880, reported by Mr. BAYARD with amendments."

Mr. TELLER. It is not on our tables.

Mr. CONKLING. Now having been corrected by the honorable Senator from Ohio, I will repeat my statement just as I made it. I have inquired of Senators all around me, and not only is this bill not printed and on my table or file, but it is not on the file of any Senator to whom I have applied. It seems the bill is printed; it has reached here; it has reached here with the amendments reported yesterday by the committee, and the Senator from Ohio finds it on the Secretary's file. That is right. When bills reach here from the Printing Office, no doubt the very first copy should go on the Secretary's file; but my statement is that it is not on the tables or on the files of Senators and that statement is true. We are called upon to take up and act upon in the morning hour a bill which is the subject of a veto message that never has been before us, and which bill has never been before us, and which we cannot resort to now except that the Senator has found that a copy of it is here in print on the Secretary's file. That was my statement, and in that statement I am entirely correct.

Mr. BAYARD. The bill is printed as it was reported by the committee yesterday, and it is before the Senate, and it is on the file of the Senate because the copy that the honorable Senator now has in his hand comes from the file. It is printed, also because it is on the Calendar printed as being on the files of the Senate; it is on the Calendar representing the files. Therefore it is properly before the Senate. I suspect that the fact may be that there has not been by the pages a distribution of the copies around the desks by some misapprehension. I take that for granted; but that can be remedied in ten minutes I suppose. This being the case, I will say now that as the regular order will be called at half past one, and as I do not propose to antagonize the measure of the honorable Senator from Georgia, the contested-election case, I shall await the finishing of my colleague's remarks, as he has the floor on the Spofford-Kellogg matter, and then I shall move to lay aside that order for the purpose of taking up the bill which the honorable Senator from New York holds in his hand. By that time I have no doubt the distribution of the copies of the bill which is in print will have been made, and he will be furnished as every one else will be with a copy. I therefore for the present withdraw my motion to take up the bill.

Mr. CONKLING. I believe I have the floor.

Mr. BAYARD. I had no idea of depriving the honorable Senator of the floor.

Mr. CONKLING. I suppose not. I want to occupy the floor but a single moment.

I presume, Mr. President, that the Senator from Delaware is quite warranted in the particular statement he gives of the fact about the printing of the bill; but, more briefly stated, the truth is this, as I learn from one of the employés of the Senate: The first copy of a bill that comes here is the files copy from the Secretary's office. That copy in this case reached here some moments more or less ago. The residue of the copies have reached the document room, but had not until a moment ago, since this discussion arose, left the document room to come to the Senate Chamber. That is all that I ever undertook to state, namely, that the Senators had had no opportunity of understanding the details of this bill.

Having said that, Mr. President, I wish I could have the attention of every Senator to one additional remark. I observe from looking at this bill that not in form but in substance, and as I think in very grave substance, it is a change of any measure on the like subject which to my knowledge has ever been before the Senate. I trust that at some time before the Senator from Delaware makes his motion to take it up it will be convenient for Senators to look at it and see exactly how it stands now on this report from the Judiciary Committee. The Senator from Delaware signifying that he does not press the motion now, I do not wish to occupy unnecessarily a moment of the Senate's time, and therefore I yield the floor.

Mr. BAYARD. I shall move, upon the conclusion of my colleague's remarks which I understand he proposes to deliver at the expiration of the morning hour, to take up this measure, and trust the Senate will come to a conclusion upon it before long.

The PRESIDING OFFICER. The motion is withdrawn.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6033) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected;

A bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; and

A bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes.

The message also announced that the House had passed a resolution providing that the presiding officers of the Senate and House of Representatives shall on Monday, the 31st instant, at twelve o'clock m., declare their respective Houses adjourned without day.

The message further announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

PROPOSED NIGHT SESSIONS.

Mr. CAMERON, of Pennsylvania. I now ask the Senate to take up Senate joint resolution No. 70.

Mr. BAILEY. I rise to morning business. I offer the following resolution:

Resolved, That for the purpose of considering Senate bill No. 133, to establish an educational fund and apply a portion of the proceeds of the public lands to public education, the Senate will daily take a recess from five o'clock p. m. to seven and one-half o'clock p. m.; and this order shall continue in force until said bill shall be disposed of.

The PRESIDING OFFICER. Does the Senator from Tennessee ask for the present consideration of the resolution?

Mr. BAILEY. Yes, sir.

Mr. INGALLS. I object to its consideration to-day.

The PRESIDING OFFICER. Being objected to, the resolution lies over.

HOUR OF MEETING.

Mr. BAILEY. I ask the Senate, then, to take up the resolution I offered yesterday fixing eleven o'clock a. m. as the hour of the daily meeting of the Senate.

Mr. CONKLING. Regular order.

Mr. CAMERON, of Pennsylvania. I thought I had the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania had the floor.

Mr. CAMERON, of Pennsylvania. I thought so. Now I ask the Senate to take up the joint resolution (S. R. No. 70) to increase the number of officers of the Army allowed to be detailed as professors of military science at colleges and universities. It has been up two or three times before, and it will only take two or three minutes to pass it.

Mr. BAILEY. I hope the Senate will first consider, before proceeding with further business, the resolution I offered yesterday, and I ask that the resolution that the Senator from Pennsylvania calls up be voted down for that purpose, and for that alone. I have no objection to his resolution then being considered, but mine has reference to the business of the Senate. The resolution that I offered yesterday will occupy no time, and I imagine will give rise to no debate. It simply fixes the hour of daily meeting at eleven o'clock a. m. instead of twelve m., and I hope the Senate, in view of the possibility

of an early adjournment, will add one hour more, and that a morning hour, to its daily sessions.

Mr. CAMERON, of Pennsylvania. The resolution that I ask the Senate to take up this morning has been before the Senate several times and postponed on each occasion at the request of some member of the Senate. I now ask the Senate to take it into consideration. I do not think it will occupy ten minutes. It has been fully discussed heretofore.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania.

The motion was agreed to.

DETAILS OF OFFICERS AS PROFESSORS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 70) to increase the number of officers of the Army allowed to be detailed as professors of military science at colleges and universities, the pending question being on the amendment reported from the Committee on Military Affairs to strike out all after the resolving clause of the joint resolution and insert:

That for the purpose of promoting knowledge of military science among the young men of the United States the President may, upon the application of any college, university, or other institution of learning incorporated under the laws of any State within the United States, having capacity to educate at the same time not less than one hundred and fifty male students, detail an officer of the Army on the retired list to act as president, superintendent, or professor thereof: *Provided, however*, Such college, university, or other institution of learning incorporated as aforesaid, to which such officer shall be so detailed, shall pay to him monthly during the time he is so detailed and serves as such president, superintendent, or professor thereof, a sum of money equal to the difference between the retired monthly pay of such officer and the monthly pay he would receive if upon the active list of the Army in the grade upon which he is retired: *Provided, also*, That officers of the Army so detailed shall be governed by general rules prescribed from time to time by the President of the United States.

SEC. 2. The Secretary of War is authorized to issue, at his discretion, and under proper regulations to be prescribed by him, out of any small-arms or pieces of field artillery belonging to the Government, and which can be spared for that purpose, such number of the same as may appear to be required for military instruction and practice by the students of any college, university, or other institution of learning aforesaid, to which any officer of the Army may be detailed under this act, for which the officer so detailed shall receipt and account in the manner prescribed by Army regulations when like property is issued for proper purposes. And the Secretary of War shall also require from the proper authorities of such institution in each case a bond in double the value of the property for the care and safe-keeping thereof, and for the return of the same when required.

SEC. 3. All acts or parts of acts authorizing or permitting the detail of officers of the Army on the active list to act as president, superintendent, or professor of any college or university or other institution of learning, and all acts inconsistent with any of the provisions of this act, are hereby repealed.

Mr. MORRILL. I move to strike out the third section of the substitute. It will be seen that this provides merely for the employment of retired officers of the Army for service as instructors. Most of these men are retired in consequence of some disability received in service, or in consequence of having reached an advanced age. They are therefore, in a large measure, disqualified for rendering the service that is to be required of them. They are not competent, most of them being rusty in the classics acquired at a much earlier date, and they would be very unwilling to accept the duty of drilling "an awkward squad" for a college, university, or any other institution of learning. And besides this, it imposes upon thirty or forty of these institutions already established the additional burden of paying them one-quarter part of their salaries or they cannot employ them. Take the case of an officer with the rank of colonel; it will compel these institutions to pay almost as much as they ordinarily pay for a common professor. I do not think that would be right. While I am willing that the first part of this bill should pass, I do not desire that it should strike from the Secretary of War the power to detail such officers as can well be spared; for instance, lieutenants of the artillery where they have two to each company. I do not like to strike from the Secretary of War the power to detail these officers for the services that have been imposed upon them for the last ten years.

Therefore I move to strike out the third section of the committee's amendment.

Mr. CAMERON, of Pennsylvania. I hope that amendment will not prevail.

The Senator who has just taken his seat states that the officers on the retired list are unfit for this service. My impression is, without knowing the absolute facts, that about two hundred retired officers are under forty-five, certainly under fifty years of age, many of them having been retired as second and first lieutenants, and they are certainly just as fit for this duty as a man who is in the active service of the Army.

As to the point of the schools or colleges paying a proportion of the salary of the officer, that is the difference between the active pay and the retired pay. I say it is the only way you can induce these officers to take the places. They get their retired pay now without doing anything. To induce them to take these places you require them to be paid by the colleges the difference between the retired and the active pay.

I hope the Senator's motion will not prevail.

Mr. MORRILL. I will say in reply to the Senator from Pennsylvania that these younger officers have not been retired unless for some physical disability, and therefore they would be physically unable to discharge the duties that would be imposed upon them. I trust the Senate will not strike down the colleges that now have these officers in their faculties. It will be a very great hardship and inconvenience that I do not think they ought to be made subject to

Mr. CAMERON, of Pennsylvania. The object is not to strike down the colleges, but to put these men back into the active service of the Army, and put men who are not doing anything at all into this service at the colleges.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont to the amendment reported by the Committee on Military Affairs.

The question being put, a division was called for; and the ayes were 14——

Mr. MORRILL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WALLACE. Let the words proposed to be stricken out be read.

The Chief Clerk read as follows:

SEC. 3. All acts or parts of acts authorizing or permitting the detail of officers of the Army on the active list to act as president, superintendent, or professor of any college or university or other institution of learning, and all acts inconsistent with any of the provisions of this act, are hereby repealed.

Mr. DAVIS, of West Virginia. I should like to have the attention of the Senator from Pennsylvania. Do I understand that the striking out of that section will prevent the detailing of retired officers? I should like to know the effect of striking out.

Mr. HOAR. I desire to ask whether if that section is retained, literally construed, it would not prevent the sending of anybody from the active list to West Point, as that is an institution of learning?

Mr. CAMERON, of Pennsylvania. I do not think that it would have that effect.

Mr. HOAR. I have not considered the question, but it struck me so.

Mr. CAMERON, of Pennsylvania. West Point can be excepted if that is thought proper.

Mr. DAVIS, of West Virginia. I wish to hear from the Senator from Pennsylvania what the effect of striking out the section would be.

Mr. CAMERON, of Pennsylvania. It would leave the active list of officers to be detailed to these institutions, and would give in addition the retired officers. That is the way I understand the effect of striking out the section.

Mr. DAVIS, of West Virginia. And the Senator from Pennsylvania is opposed to it, I understand.

Mr. CAMERON, of Pennsylvania. I am opposed to it. I want these officers to be from the retired list.

Mr. DAVIS, of West Virginia. I am with the Senator. I believe he is correct, and I wish to vote with him on all questions connected with the bill.

Mr. MCMILLAN. As I understand the third section, which this motion seeks to strike out, it repeals all existing laws on this subject. There is a statute embodied in the general statutes of the United States authorizing the Secretary of War to detail thirty officers—I think thirty is the number—to serve at these institutions without cost to the institutions. There was also a provision incorporated in the military appropriation bill at the present session upon the same subject, which provided for the assignment of an additional number of retired officers to these institutions——

The PRESIDING OFFICER. The hour of half past one having arrived, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday, the resolutions declaring Mr. KELLOGG not entitled to his seat, upon which the Senator from Delaware [Mr. SAULSBURY] is entitled to the floor.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. SAULSBURY. Mr. President, I do not propose to occupy any great length of time in the discussion of the question before the Senate. It is not without some hesitation that I trespass on the attention of the Senate at all. I have, from my connection with the Committee on Privileges and Elections, so often discussed questions relating to affairs in Louisiana that I feel reluctant to engage in this debate. I can add nothing, I am sure, to the very able and exhaustive arguments which have been made by gentlemen who have spoken in support of the resolutions. My relations, however, to the committee that reported the resolutions perhaps require that I should at least express my full concurrence in its conclusions embodied in the resolutions now under consideration.

In the course of this debate the question presented to the Senate has been discussed on the other side as if it was one controlled by some principle of law, by judicial decisions or parliamentary precedents. To my mind it is simply a question of fact. The resolutions assert that Mr. KELLOGG was not elected by the Legislature of Louisiana. If the resolutions speak the truth, if Mr. KELLOGG was not elected to the Senate by the Legislature of the State which he claims to represent, then the Constitution settles the law applicable to the case, and he is not entitled to a seat in this body. If we ascertain to our satisfaction that Mr. KELLOGG is not here by virtue of an election by the legislative authority of the State of Louisiana, then we cannot continue him in this body without a plain disregard of the constitutional provision which requires that Senators shall be elected by

the Legislature. To my mind there is no escape from that position. He is not rightfully here, and cannot rightfully be retained in the place that he occupies, unless he is here by the consent and appointment of the Legislature of the State. That, I say, is a question of fact dependent, not upon judicial decisions or upon rules of court or upon anything which has taken place in the past history of the Senate.

Some members of the Senate entertain the idea and express the opinion that Mr. KELLOGG was chosen by the Legislature of Louisiana, and therefore maintain that he is entitled to the seat which he now occupies. Others who have participated in this debate concede that Mr. KELLOGG was not rightfully elected to this body, that he was not chosen by the Legislature of Louisiana, but assume that because of his having been admitted to a seat by the vote of the Senate he becomes thereby entitled to the seat and cannot now be disturbed.

Now I propose in the course of the remarks which I shall submit to the Senate to answer, in some respect at least, these classes of objectors to the resolutions of the committee, and first I propose to enter into an examination of the facts to ascertain whether it is true that Mr. KELLOGG was elected by the Legislature of Louisiana.

His claim is based upon an alleged election by a body of men whom he affirms constituted the Legislature of Louisiana in 1877, and it may be proper, therefore, to refer to the election of 1876 and to the manipulations of the returning board in the State of Louisiana to ascertain the fact whether the men from whom he claims his election constituted the Legislature of Louisiana at the time that he claims to have been elected by them.

We all remember something about the state of affairs connected with the election of 1876. We know something, too, of the affairs in that State prior to that time. We know that for several years prior to the election of 1876 the people of Louisiana had not been freemen, but had been living under the despotism that had been forced upon them by Federal power. We remember that in 1872 Mr. KELLOGG himself was a candidate for governor of that State, and a report of a committee of this body, signed by the Senator from Wisconsin, [Mr. CARPENTER,] the Senator from Rhode Island, [Mr. ANTHONY,] the Senator from Illinois, [Mr. LOGAN,] and other republican Senators, declared to the Senate that Mr. KELLOGG was not in fact elected at that time, but was defeated by a majority of near 10,000 votes; yet, through the order of a judge said to have been drunk at the time he issued the order, Mr. KELLOGG was made dictator over the people of Louisiana and persons alleged to have been elected with him were installed as the Legislature of the State, though they had been largely defeated at the polls.

I shall not go into a description of the sufferings of that people during that period. I simply refer to it to show the great anxiety which the people of Louisiana had by the election of 1876 to secure local self-government in that State and relieve themselves from the oppression that was upon them. It cannot be alleged that there was anything in the election of 1876 unfair to the republican party, because the whole machinery of the election was in the hands of Governor KELLOGG and those associated with him. He appointed the supervisors of registration, I believe, in all the parishes, and in the city of New Orleans. They were selected by the governor, many of them from New Orleans, and sent to the parishes to register the voters throughout the State; some, perhaps, were sent to parishes who had never been there before. The reports of the committees of the Senate reveal the fact that a large number of supervisors of registration were selected from the city of New Orleans, and sent out to the various parishes throughout the State to make the registration. Governor KELLOGG selected those men from his own party—men that he supposed would do their duty to the republican party. I shall not go into an examination of how they discharged their duty. It is in proof that some of these men when they ascertained that in certain parishes of the State the vote would be largely democratic fled the parishes, refused to continue the registration in order that there might be an excuse for throwing out the returns from those parishes and depriving the people of their votes. Such was the case in the parish of East Feliciana. The appointee of Governor KELLOGG for that parish was the notorious Jim Anderson, who pretended to assault himself and charge it on others as an excuse for the abandonment of the position in order that the vote of that parish might be thrown out and not counted by the returning board. So the proof recently taken by the committee discloses the same condition of affairs in Grant Parish. The supervisor of registration of that parish, a man by the name of Ward, abandoned the duty which he had assumed and returned to New Orleans and pretended that it was not safe to be there, when the truth is that the people were exceedingly kind to him, paying his expenses in order that he might make the enrollment of the voters so that they might have the privilege of voting at the election.

The supervisors of registration thus appointed by Governor KELLOGG appointed all the commissioners of elections, and appointed them wherever they could find men competent to perform the duty from their own party. A majority at every poll were republicans wherever they could find republicans competent to perform the duty of commissioners of elections. Absolute power over the appointment of the officers of election and over the polling places was conferred by the laws of Louisiana on the supervisors of registration, who, as I before remarked, were appointed by Governor KELLOGG himself; so that the entire machinery of the election was in the hands of the governor and of the men associated with him.

The election came off, and by common consent there never was a more peaceful election throughout the entire length and breadth of the State. There is not a single instance I believe in any parish in that State at that election of violence having been used by any person. Every republican had free access to the polls, no democrat interfering with him, because the democrats well knew that if there was any interference, any violence, any intimidation, anything that could possibly form an excuse for the interposition of the returning board, they would act arbitrarily and throw out their votes. Every republican had an opportunity to go to the polls and deposit his vote, and the result proves that they did so, because there was a larger number of votes cast at that election than had ever been cast in the State of Louisiana at any preceding election. There was nothing at that election which could by possibility operate to the prejudice of the republican party, and yet the democratic party carried the State, elected their governor, and elected their presidential electors by a majority of about 8,000 votes, and elected a decided majority in both houses of the Legislature of the State.

Disappointed in the result of the election, the party of which Governor KELLOGG was the head, through its agents, the returning board, went to work to defeat the will of the people and commenced their manipulations of the returns. The proof taken by the committee in its late investigation shows that the book of registration, instead of being sent to the proper place, to the office of supervisor of registration for the State, was sent by the express direction of a clerk in the governor's office to the custom-house, where it was manipulated at pleasure.

Mr. CAMERON, of Wisconsin. If it will not be disagreeable to the Senator from Delaware, I should like to say a word right there.

Mr. SAULSBURY. I do not propose to speak very long, because first it would tax my strength, and next because I do not desire to detain the Senate at any great length. If the Senator simply wants to propound a question, I will listen.

Mr. CAMERON, of Wisconsin. I understood the Senator to state that the returns were sent by the express direction of a clerk in the registration office to the custom-house.

Mr. SAULSBURY. That is my understanding of the testimony of Mr. Houser, I believe the name is.

Mr. CAMERON, of Wisconsin. Mr. Houser did not testify in regard to the matter at all.

Mr. SAULSBURY. No, Mr. Houser testified in regard to another point. It was Mr. Williams, who was the chief clerk in the office of the supervisor of registration for the State, who testifies to the fact that instead of being sent to that office the returns were sent to the custom-house.

Mr. CAMERON, of Wisconsin. That the books of registration were sent there, and not the returns.

Mr. KELLOGG. He expressly swears I had nothing to do with it.

Mr. CAMERON, of Wisconsin, And merely the books for the city of New Orleans.

Mr. SAULSBURY. I do not propose to hold a colloquy with Senators while I am on the floor. If I say anything that is not correct, I shall be very happy to be corrected after I resume my seat.

Mr. CAMERON, of Wisconsin. I am afraid you will keep me busy if I attempt that.

Mr. SAULSBURY. Mr. President, there is no disputing this fact, that there were manipulations of the returns of the commissioners of election. As soon as the election was over and it was ascertained that the result throughout the State had been in favor of the democratic party, that Governor Nicholls had been elected, that the electors of President and Vice-President on the democratic ticket had been elected, and that a majority of democrats in each house had been elected, immediately the manipulations began in order to defeat the result of the election. Protests were filed, witnesses were summoned from different parishes throughout the State to make affidavits in order to found an excuse for throwing out the returns of different parishes, and the governor himself joined in these protests, and secured protests to be made by others. The evidence disclosed in the Howe report shows that the witnesses, summoned before the returning board, in some instances were summoned by the marshal and paid by the marshal, and the expense I suppose was paid out of the Federal Treasury for manufacturing the proof to impeach the returns made by the commissioners of election.

There was a majority of from 8,000 to 9,000 votes for the democratic candidate for governor of the State and the same majority for the democratic electoral ticket in that State, and there was a large majority of democratic members of the Legislature elected. The task therefore devolved upon the returning board so to manipulate these returns as to achieve the result they desired was no light task. They applied themselves diligently to the work; they held open sessions, at which some persons of both parties were allowed to be present, and the proof shows that they held also other sessions in secret, at which these manipulations were made and the will of the people thwarted. Having manipulated the returns to suit themselves, they gave certificates of election to men who had been defeated at the polls and refused certificates of election to persons who had large majorities by the suffrages of the people. The result was that they gave certificates, as is admitted by Governor KELLOGG himself in his statement in 1877 before the Committee on Privileges and Elections, to thirteen members of the Packard legislature who were not in fact elected by the

votes of the people, and they refused certificates of election to thirteen democrats who were entitled to certificates and to be returned as members of the Legislature.

The persons holding these certificates met in 1877 in New Orleans and took possession of the State-house, usually known as the Saint Louis Hotel. The building was barricaded by direction of the governor himself and surrounded by the metropolitan police, protected not only by barricades but by the police force, used as a State militia under the immediate command of the governor. From that building they excluded the men who had been elected by the people on the democratic ticket. The statement was made the other day by the Senator from Louisiana [Mr. JONAS] that he went himself and demanded admission and that he was told he might enter, but other gentlemen who were elected by the people were refused and not permitted to enter.

There was no opportunity, therefore, for a contest, as is ordinarily the case when a man claims to have been elected. That body of men, thus congregated, elected Mr. KELLOGG as a Senator in this body.

Now, what is the history of that body of men? Did it ever exercise any legislative authority in the State of Louisiana? Did it ever perform any of the functions of a legislative body? We all know there is not a single trace of its existence left behind except the certificate which Governor KELLOGG brought here of his election to the Senate. You may search through the archives of Louisiana and you will not find a single trace of documentary evidence anywhere that the body of men from whom he claims election ever had an existence. The only documentary evidence that it ever did exist is found in the certificate of election upon which Mr. KELLOGG was seated in this body.

Then, I ask, was that the Legislature of the State? Take into consideration the fact that there was another legislative body, composed of men that had been elected by the votes of the people of the State, assembled in the same city and exercising legislative power, enacting laws and performing all the functions of a legislative body, and then answer me the question whether the Packard legislature was in fact the Legislature of Louisiana.

I want Senators to answer this question, because as I read the Constitution it declares that Senators of the United States shall be elected by the Legislatures of the States, and if that body of men from whom Mr. KELLOGG claims an election was not in fact the Legislature of Louisiana the Constitution inhibits his being in this Chamber as a Senator. Such was the opinion of every democrat in this Senate in 1877; there was no dissenting voice on that subject. Every Senator on this side of the Chamber who spoke at all protested earnestly against the admission of Mr. KELLOGG in 1877, upon the very ground that he had not been sent here by the legislative authority of the State, and I suppose there is no Senator on this side of the Chamber who entertains any other opinion to-day.

My argument, therefore, is that if this man is not here by any legislative authority he is not here rightfully and he cannot properly be retained in his seat. It was claimed by those who placed him in the position he now holds, in 1877, that he had thus been elected. They are consistent. They urged his admission to this Chamber on the ground that he was thus elected. The proceedings of the committee, as well as the debates which took place in the Senate, show that every republican on the other side of the Chamber based Mr. KELLOGG's right on the ground that he was elected by the Legislature of the State of Louisiana, and he was opposed by every democrat on this side of the Chamber upon the ground that he was not thus elected.

I suppose no one on this side of the Chamber will say now that Mr. KELLOGG was sent here by the Legislature of the State of Louisiana. Objection is made by democratic Senators to these resolutions on other grounds, which I shall notice hereafter; but I want Senators on the other side of this Chamber to rise in their places, and after two years of deliberation, after the cumulative evidence of two years and a half since the passage of the resolution which seated Mr. KELLOGG, to assert in this debate, as they asserted in 1877, that he was elected by the legislative authority of the State of Louisiana. I want the issues upon which this question is decided to be distinctly placed before the people of the country. I want the people of this land to know upon what ground this man, who, I say, was never elected to a seat in this body, shall sit here and exclude from the place a gentleman who was elected by the Legislature of his State.

It was boldly asserted by the Senator from Massachusetts, [Mr. HOAR,] in a resolution which he proposed in the Committee on Privileges and Elections, that the State had no right to determine who was her Legislature; that the Senate alone can determine that question for itself. Perhaps I had better read the Senator's resolution, for I do not wish to misrepresent him. On the 25th of October, 1877, the Senator from Massachusetts [Mr. HOAR] offered in the Committee on Privileges and Elections the following resolution:

Resolved, That it becomes necessary in determining the validity of an election of Senator, held in January, 1877, to inquire who were the lawful Legislature at that time, and that no other authority is competent to determine that question for the Senate.

The Senator from Georgia [Mr. HILL] had previously offered a resolution declaring that the State of Louisiana had settled that question. His resolution was voted down, and the Senator from Massachusetts subsequently offered the resolution which I have just read, and the committee adopted that resolution, and it was upon that theory that Mr. KELLOGG was admitted to a seat in the Senate.

Mr. Spofford, in the contest in 1877 before the committee, claimed that he was elected by the Legislature of the State. The committee would not accept the theory enunciated in the resolution offered by the Senator from Georgia, namely, that the matter in dispute between the two bodies of men claiming to be the Legislature of the State having been settled by the State herself the matter was closed. The committee having voted down Mr. HILL's resolution and adopted that offered by the Senator from Massachusetts, Mr. Spofford then wanted to enter into proof of certain facts, one of which was an allegation of fraud in the action of the returning board, and he was denied the privilege of making that proof. The democratic members of the committee insisted that he should have that privilege. I shall not now stop to read the appeals that were made either by Mr. Spofford or by the democratic members of that committee in behalf of Mr. Spofford in that regard. They are in the record. The door was closed in his face and he was denied the opportunity of proving the matter alleged, and no investigation into these charges was made by the committee or by the Senate, but Mr. KELLOGG was admitted without a full investigation of the facts of the case. The subsequent investigation throws light upon the question of the fraudulent action of the returning board, but the Senator from Ohio [Mr. PENDLETON] the other day would not credit the testimony in the late investigation because of the infamous character of the witnesses, many of whom were members of the body which sent Mr. KELLOGG here.

It is not my purpose to enter into an examination of that testimony, but I desire to say to the Senator from Ohio that when this case was opened by agreement of the counsel for the parties all the testimony which was in the original examination was accepted as evidence in this. If he will not believe the testimony taken in the recent investigation because of the infamous character of the witnesses, all of whom were connected in some way or other with the body of men that elected Governor KELLOGG, he should not exclude the testimony which was before us in 1877 on that ground, because that was the testimony upon which his associates on this side of the Chamber with perfect unanimity then came to the conclusion that Mr. KELLOGG was not elected by the Legislature. If the Senator from Ohio chooses to disregard entirely the testimony taken in the late investigation, the testimony that was before the Senate in 1877 ought to be sufficient to satisfy the Senator that Mr. KELLOGG was not sent here by the Legislature of the State of Louisiana. There can be no question on this point, that Mr. KELLOGG is not here by virtue of an appointment by the legislative authority of the State. If any additional evidence of that fact is needed I find it in the express declaration of the Legislature of the State of Louisiana sent here last February. I propose that the voice of Louisiana on that subject shall be again heard. I send to the desk the resolutions which were sent to the President of the Senate and laid before the Senate in February last, which declare in emphatic terms that Mr. KELLOGG is not here by virtue of an election by the Legislature of the State.

The Chief Clerk read as follows:

To Hon. W. A. WHEELER,
Vice-President of the United States
and presiding officer of the United States Senate:

CONCURRENT RESOLUTION.

Whereas the assembly by which WILLIAM PITT KELLOGG claims to have been elected to the Senate of the United States in the month of January, A. D. 1877, was not the Legislature of the State of Louisiana, but an unlawful and irregular assemblage which had assumed to call itself a Legislature in part execution of a conspiracy devised by the said WILLIAM PITT KELLOGG and others, together with certain of the persons constituting said assemblage, against the people, to secure for the said KELLOGG a seat in the United States Senate, and to obtain by fraud and perjury and other unlawful means the places of political trust and power in this State, in the hope of holding the same by force expected to be furnished by the Government of the United States; and

Whereas the pretended credentials of said WILLIAM PITT KELLOGG were signed by one S. B. Packard, representing himself to be the governor of this State, but who in fact was never such governor, but for a short time claimed the title to said office in further execution of said conspiracy against the people; and

Whereas said unlawful assemblage so claiming to be the legislature, after a brief period of hostility to the then existing lawfully constituted authorities of said State, finally disbanded and surrendered to said lawfully constituted authorities, leaving in force and existence no act of any kind whatever performed by them or either of them in their assumed political capacity, except the said pretended election of the said WILLIAM PITT KELLOGG as a Senator in the United States Senate from this State; and

Whereas at the time of the said pretended election of the said WILLIAM PITT KELLOGG by said combination there was in existence a lawful government of Louisiana, which continued in authority with a duly elected governor and duly elected and organized Legislature, performing the political functions conferred upon them respectively by the constitution of the said State; and

Whereas the said duly elected and duly organized Legislature of the State of Louisiana under said government, after having continued to ballot for a United States Senator on each successive day from the 9th day of January, 1877, until the 24th day of April, in said year, did, in pursuance of the requirements of law, and in accordance with all the forms thereby prescribed, on the said last-mentioned day, to wit, the 24th day of April, 1877, elect Henry M. Spofford to represent the said State in the United States Senate for the term of six years, commencing on the 4th of March, 1877; and

Whereas the credentials of the said Spofford were duly executed by Francis T. Nicholls, the then lawful governor of said State; and

Whereas it is manifest that the Constitution of the United States in providing that each State should be represented by two Senators, "to be chosen by the Legislature thereof," designed and intended that such choice should be made by that Legislature which might be recognized by the people of the State as a lawfully constituted and co-ordinate branch of the duly constituted and recognized government of the State: Therefore,

SEC. 1. *Be it resolved by the General Assembly of the State of Louisiana*, That the

State of Louisiana protests against the wrong and injustice done to the people and said State by the recognition of said WILLIAM PITT KELLOGG as a United States Senator from said State, and respectfully but most earnestly request the Senate of the United States, in the name of law and justice, to declare that the said KELLOGG never was duly elected as the representative of the State of Louisiana in the Senate of the United States.

SEC. 2. *Be it further resolved, &c.*, That the State of Louisiana protests against being deprived of the equal representation in the Senate of the United States guaranteed to each State by the Constitution of the United States, and respectfully but most earnestly requests that Henry M. Spofford, the duly elected Senator from said State for the term of six years from the 4th of March, 1877, may be admitted to a seat in that honorable body.

SEC. 3. *Be it further resolved, &c.*, That a copy of these preamble and resolutions be forwarded by the clerk of the house of representatives of the State of Louisiana to the honorable President of the Senate of the United States, and to Hon. B. F. JONAS, Senator from Louisiana.

Mr. SAULSBURY. Mr. President, whatever others may think of the validity of the Legislature that elected Mr. KELLOGG, that voice of Louisiana proclaims to the people of this country that Mr. KELLOGG was not in fact sent here by the legislative authority of that State, but by a conspiracy which sought longer to deprive the people of the State of the right to local self-government which they had been denied for several years.

But it is insisted that the State cannot determine that question. It was openly proclaimed in the resolutions I have read, introduced in the Committee on Privileges and Elections in 1877 by the Senator from Massachusetts, that Louisiana has no right or authority to determine that question herself, but that this Senate must determine who was her Legislature, and in my judgment Senators who vote to retain Mr. KELLOGG seated here on that assumption will indorse and sustain the doctrine enunciated in that resolution.

I am not here to question the motives which govern others in their votes. I am at liberty to deal, however, with the consistency of their action. We are told by gentlemen that the question was closed by the decision of 1877; that a rule of law which obtains in the courts in judging of the transactions between individuals must determine the question as to whether a State shall be represented here by the choice of her Legislature or not. I cannot see how gentlemen who entertain this view could consistently have voted for this investigation when the Committee on Privileges and Elections came here a year ago and asked for authority to investigate the question as to whether the allegations in Mr. Spofford's memorial were true. I cannot see with what consistency they could direct the Committee on Privileges and Elections to make the investigation if the case had been closed two years previous, and yet opposition to these resolutions is predicated on the ground that the case was closed by the judgment of the Senate upon the merits of the title of Mr. KELLOGG by the vote of 1877. Certainly, if that was the case, the committee of which I am a member ought not to have been subjected to the labor of this investigation, nor should the Government have been subjected to the expense of it.

But in my opinion gentlemen who take this view are entirely mistaken as to the operation of the very rule for which they contend. This is not a new trial between Mr. Spofford and Mr. KELLOGG. It is a proceeding to re-examine the case. It is the same case upon a rehearing. And now, if I chose to go into the evidence contained in the twelve hundred pages of testimony taken by the committee in the late investigation, I think I could demonstrate most conclusively not only that the body of men who elected Mr. KELLOGG were not in fact the Legislature of the State of Louisiana, but that, even if it had been, then the election of Mr. KELLOGG was so compromised by bribery and fraud that the Senate would not be justified in retaining him. I do not, however, choose to go into that question. Other gentlemen have done that at considerable length, and before this debate closes I have no doubt it will be further ventilated. I shall not, therefore, go into that subject.

And now what is the position of the gentlemen who take the ground that the case has been closed? It is this: that although the Constitution provides that the Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof, yet the conclusions of the Senate are more binding than the constitutional provision. I should like to know how, if, as they admit, Mr. KELLOGG was not rightfully elected, he has a right to retain a place in this body. They cannot escape the conclusion that they give to a decision of the Senate of the United States upon this question authority paramount to that of the Constitution. They assume that the previous action of the Senate in seating Mr. KELLOGG cannot be reviewed and reversed, that that action was final and conclusive and is a bar to all further proceeding in the matter. The attempt is made to apply to this Senate the technical rules adopted by courts of justice to facilitate the transaction of business in the courts and put an end to the disputations of litigants, and authorities have been cited in this debate to show—what no one has denied—that questions fully heard and determined in the courts will not usually be again opened and adjudged.

The observance of the rule sought to be applied to this case by the courts of law does not operate to the prejudice of litigants, because the law furnishes a remedy for any injustice which may have been done to either party. The remedy is pointed out by the Supreme Court of the United States in the case of The United States *vs.* Throckmorton. The court say:

> If the court has been mistaken in the law, there is a remedy by writ of error. If the jury has been mistaken in the facts, the remedy is by motion for new trial. If there has been evidence discovered since the trial, a motion for a new trial will give appropriate relief. But all these are parts of the same proceeding, relief is given in the same suit, and the party is not vexed by another suit for the same matter. So in a suit in chancery, on proper showing a rehearing is granted. If the injury complained of is an erroneous decision, an appeal to a higher court gives opportunity to correct the error. If new evidence is discovered after the decree has become final, a bill of review on that ground may be filed within the rules prescribed by law on that subject. Here, again, these proceedings are all part of the same suit, and the rule framed for the repose of society is not violated. (United States *vs.* Throckmorton, 98 U. S., 65.)

But the observance of such a rule by the Senate might and in this instance would result in irreparable injury, for which there could be no remedy; an injury not only to the contestant, Mr. Spofford, and to the State of Louisiana, but also to the Senate itself.

No one, so far as I know, denies either the existence or the propriety of the rule observed by the courts of the country referred to. What we deny is its application to this Senate as a rule to control absolutely the action of the body in a case involving the right of a State to her proper representation on this floor. We deny that the rule of *res adjudicata* can be invoked to limit the power of the Senate to judge at all times when a case requiring it shall arise of the "election, returns, and qualifications of its members." Such a limitation upon the power of the Senate would defeat the very purpose for which it was given. The power, I suppose, would have been inherent in the Senate if it had not been expressly given in the Constitution. Such a power must of necessity reside in every deliberative body, not only for the regularity but the authority of its proceedings. The Constitution, therefore, only affirms and sanctions an authority which would have existed inherently in the Senate if there had been no express declaration in the instrument on that subject. This power, resident in the Senate and affirmed in the Constitution, is a continuing power, of which the Senate can never be divested. Its exercise in a given case may, and indeed should in ordinary cases, induce hesitation in reopening a case already fully heard and passed upon.

But to affirm that its exercise in any case operates as an extinguishment of the power and deprives the Senate of the right to re-examine the question of title to a seat in this Chamber defeats the very purpose for which it was given and strips the Senate of the ability to protect itself from the presence of a person who, by imposition upon the Senate or from any cause whatever, has secured a seat here to which he was not entitled.

If the rule of *res adjudicata*, which it is insisted should control our action in this case, applies to the Senate as it does to courts of law, then it follows logically that the Senate cannot correct the most palpable wrong that may be done. And indeed the Senator from Wisconsin, [Mr. CARPENTER,] admitting the logical conclusions of his premises, affirms boldly in the presence of the Senate that if the Senate had seated the Emperor of Brazil he would become rightfully a Senator on this floor, and the Senate would have no right to displace him.

Upon this theory a man may be seated as a member who has neither the qualifications of age or residence required for a member of this body and there is no way by which he could be deprived of the seat. He could hold his place here in defiance of the Constitution and in defiance of the Senate.

He may have gained admission to this Chamber by the most palpable frauds, by bribery and corruption of the members of the Legislature of his State. He may have bought or forged the certificate of his election, and by the suppression of facts and imposition upon the Senate been admitted, and no power, if the doctrine of *res adjudicata* is applicable here, can disturb him. The absurdity of attempting to control the action of the Senate by such a rule could not be more clearly illustrated than in its application to this case. Here is a man sitting in this Chamber who by the judgment of the present majority of this Senate was not sent here by the Legislature of Louisiana, but by a body of men destitute of all legislative capacity, unable to exercise a single legislative function, without authority or respect outside of the barricaded rooms in which it was imprisoned, its members dependent upon the bribes that were paid to them for the means of subsistence, unable to draw a single dollar from the public treasury or to devise means for the collection of a dollar of revenue, and during its existence doing no act and performing no duty save the election of Mr. KELLOGG that has ever received the least recognition from anybody in or outside the State of Louisiana.

This man so elected, without the least shadow of title to the position he now occupies; seated by a partisan vote of this body, without investigation of the facts alleged at the time against his title; seated against the protests and recorded votes of every member on this side of the Chamber; seated on denial of justice to Mr. Spofford, who claimed the seat—in denial of the right of Louisiana to representation on this floor by a Senator of her choice, and in disregard of the Constitution which secures her that right—this man, thus seated, is to be retained in the place he holds in violation of all right upon the plea that the Senate has passed upon the question and the case is *res adjudicata*.

Could anything be more absurd than the attempt to fetter the action of this Senate by such a plea? It reduces the Senate to the necessity of declaring that to be right which the admitted facts in the case show to be wrong. It does more, it demands of the Senate the condonation of fraud, upon which alone the title of the sitting member rests. But for the frauds practiced by the returning board of Louisiana Mr. KELLOGG would never have claimed a seat in this Chamber. He would never have brought here the credentials upon which

he was admitted. Every Senator on this side the Chamber knows this to be true, and many, if not all of them, have declared this to be the case. Yet the plea of *res adjudicata* now relied upon, and the only plea admitted to be good by any one on this side the Chamber, demands that the frauds committed by the returning board by virtue of which he claims his seat shall be forgiven, and the action of that board recognized as legitimate and proper. I deny emphatically that this Senate is shackled by any such rule, or that its action in a case like this should be controlled or influenced by the vote which seated Mr. KELLOGG in 1877.

But, Mr. President, if it were true that the plea interposed in this case is a good plea in bar ordinarily, and an estoppel from further proceedings when the matter in dispute has been once passed upon, still I insist that in the case before the Senate it has no application and cannot be regarded without a direct and palpable disregard of the Constitution.

The Senate had no authority to decide that the Packard legislature was at any time the Legislature of Louisiana. Under what provision of the Constitution is such a power claimed for the Senate? The authority given to judge of the election, returns, and qualifications of its members does not authorize the Senate to make a Legislature for a State, but simply to judge or determine whether the election of a Senator has been in conformity to law, by the legislative authority recognized by the State. The State, and the State alone, can determine who is her Legislature, and the Senate is bound to respect her determination of that question and admit to this Chamber persons chosen as her Senators by the legislative authority which she recognizes. The claim set up for the Senate, and boldly enunciated by the Committee on Privileges and Elections in 1877, that the State had no power to determine for the Senate who constitute her Legislature is subversive of our system of government, destructive not only of all State rights but the liberties of the people. If the State of Louisiana had no power to declare who constituted her Legislature and was authorized to elect a Senator, then she has no right to determine who shall make her laws and perform the functions of a Legislature for any purpose. The majority of the Committee on Privileges and Elections in 1877, as I have before remarked, did declare that the Senate alone could determine that question.

There was no evasion of the question in this resolution, but a bold affirmation of the right of this Senate to decide who constituted the Legislature of the State, and a bold denial of the right of the State to determine it herself. Could any proposition be more startling, more destructive of our system of government, more subversive of the rights of the State or of local self-government? This denial of the right of the State to decide who constitutes her Legislature was affirmed by the Senate in seating Mr. KELLOGG, and it is claimed that its action is conclusive and cannot be called in question. A doctrine so at variance with the spirit of free institutions, so repugnant to every idea of self-government by the people and to the letter as well as the spirit of the Constitution, can never command my respect or support. If partisan action at any time shall override the Constitution and deny to any State of this Union the right to choose Senators to represent her on this floor, such partisan action will never be defended by me, and no plea of *res adjudicata* will avail, so far as I am concerned, to prevent the correction of the wrong. Sir, I maintain that this Senate had no power to decide for Louisiana who constituted her Legislature, and therefore that its action in seating Mr. KELLOGG upon such an assumption of power has no binding force or validity and may be reversed or declared a nullity, binding on no member of the Senate at the present time.

The interposition of such a defense of the title of the sitting member is, in my judgment, trifling with the question. It does not meet but evades the real question presented in the resolution reported from the committee. The resolution declares that Mr. KELLOGG was not chosen a Senator by the Legislature of Louisiana. That is the question which it propounds to the Senate at the present time. That is the question upon which it demands the judgment of the Senate; because if that is true Mr. KELLOGG has no right here unless there is some other way to constitute the Senate than in the mode pointed out in the Constitution. Instead of meeting that question squarely and voting on it directly, as in my opinion we are individually bound to do, a collateral issue is raised which evades the question and the plea interposed that some other persons at a previous time decided that question and we cannot go behind their decisions. The vote of the Senate in 1877 seating Mr. KELLOGG in this body did not decide for me that the body of men imprisoned in the Saint Louis Hotel in New Orleans and kept together by bribes and force, unable to perform a single legislative function, was the Legislature of the State of Louisiana and capable to elect a Senator for the State. Sir, I do not believe it; I cannot believe it; and when called upon to meet the question and say by my vote whether that band of men was the Legislature of the State and did in fact elect WILLIAM PITT KELLOGG a Senator I shall not be controlled by the previous action of the Senate nor fail to meet the responsibility, which I believe the Constitution imposes upon me, to decide that question for myself according to the convictions which I entertain upon the subject. I can find no escape from the performance of that duty on the plea of *res adjudicata*. There is not a Senator on this side of the Chamber that has said or will say that the mob from which Mr. KELLOGG claims his election was for a single moment possessed with the legislative power of the State or was capable to elect a Senator for the State of Louisiana. There is not a Senator on this side of the Chamber who will to-day rise in his place and say that WILLIAM PITT KELLOGG was in fact sent here by the Legislature of the State; and yet they will vote to retain him here on the ground that the Senate in 1877 declared him entitled to the seat. I cannot appreciate that reasoning which makes a decision of this Senate paramount in authority to the Constitution, which declares that Senators shall be chosen by the Legislature.

If I could look at this case as one to be controlled by the narrow rule invoked to determine it, I think it would not be difficult to show not only that the Senate had no authority to determine that a body of men was the Legislature which the State itself had never recognized as such, and that any decision or judgment of the Senate to that effect was void for want of jurisdiction, but even conceding to the Senate such authority, new matters not disclosed or known in 1877, and therefore not included in the former decision, have been brought to light in the testimony, to which the plea of *res adjudicata* is no bar, and that it cannot, therefore, operate to protect the title of the sitting member or prevent a reversal of the former decision. I shall not, however, go into that question further than to say that no one who examines the testimony taken by the committee can rationally doubt that the motley crowd which sent Mr. KELLOGG here were kept together and controlled in the votes they gave for Senator by direct bribery and other corrupt practices.

I may here remark that it is immaterial, if that is true, whether Mr. KELLOGG had any complicity in the bribery or not. If the bribery existed and controlled the action of that body, though it may have been unknown to Mr. KELLOGG, if it was of sufficient extent to determine the result of his election, then the election becomes *ipso facto* void, because it was not an election by the free, unbought votes of this Legislature. I shall not go further into the facts of this case. The Senator from North Carolina [Mr. VANCE] and the Senator from Georgia [Mr. HILL] in their unanswerable arguments have pointed out numerous instances where money was directly paid for the votes of members, and have demonstrated that the use of money and promises of employment in the custom-house and other positions under the General Government were the potent influences employed to keep the conspirators together and induce them to go through the farce of a senatorial election.

The proof upon this point was not before the Senate in 1877, and was unknown to any one except the parties connected with the crime. It has only been revealed since the statute of limitations operates to protect against the punishment which the law prescribes for such offenses. These matters were not included in the former decision, and therefore it finds no protection under the plea of *res adjudicata*.

It has been said in debate that the action proposed by the resolution would be a dangerous precedent and unsettle the title of every member of this body to his seat in the Senate.

Those who indulge such fears draw largely upon their imagination. The adoption of the resolution by the Senate could never become a precedent for unseating a member who had been sent here by the Legislature of his State. This resolution declares that Mr. KELLOGG was not chosen a Senator by the Legislature of Louisiana, and therefore is not entitled to the seat he holds. The action proposed could never be regarded as a precedent in any other than a parallel case. It could not be cited as authority unless a similar case should hereafter arise. It could not justify an attempt to unseat a member who came here by the legislative authority of the State he claimed to represent. Should a similar case hereafter arise where a man had been admitted to a seat in this Senate who was not chosen by the Legislature, but who came here representing an organized mob possessing no legislative authority and incapable of performing legislative functions, it would be a precedent which ought to guide those who come after us in ousting him from the seat and upholding the constitutional right of the State to be represented in this Chamber by persons chosen by her Legislature. No warrant could be found in the proposed proceedings to justify arbitrary or partisan action in depriving a member of his seat who had been properly chosen. Those who indulge such fears may dismiss them. They have no foundation but in their own imagination. Should partisan zeal at any time hereafter seek to deprive a State of her representation on this floor it will neither be inspired by precedent nor deterred by constitutional restraint. Its own unreasoning will would be the guide of its action and the measure of its authority.

Nor is there, Mr. President, any authority of precedent or parliamentary practice in restraint of the action proposed by the resolution. The cases of Bright and Fitch and Sykes and Spencer, relied on by those opposed to the resolution, differ widely in the facts in both those cases from that before the Senate.

The case of Bright and Fitch, I believe, was this: In 1857 there were two Senators to be elected from the State of Indiana, one to fill a vacancy and for a short term, and the other for a full term. At that time the democrats had a majority in the house of representatives of the State, and the opposing party, by whatever name it was called at that time in the State of Indiana, had a majority of one in the senate. There was no law of the State declaring how the Legislature should proceed in the election of a Senator, but it had been the custom for the two houses to meet in joint convention at a specified time fixed by a resolution and vote for a Senator. The act of Congress

relating to the election of Senators was not then in existence, and the whole matter was left under the control of the State. An attempt was made to get a resolution through the senate of the State to meet on a given day in joint convention for the purpose of electing Senators to Congress, but the democrats having a majority in joint convention the party opposed to them refused to pass the resolution fixing a day for a joint convention. But, by a law of the State, the two houses were required to meet on a given day for the purpose of counting the votes for governor of the State and witnessing his inauguration into office. When that convention met, the lieutenant-governor, who I believe was the presiding officer of the senate, after the gubernatorial count had been gone through with and the proceedings for which they met had been ended, adjourned the joint convention to another day. On that day the democratic members of the house, with some of the republican members and the democratic members of the senate, met in joint convention and elected Mr. Fitch and Mr. Bright. The governor having taken the opinion of the then attorney-general, now Senator McDONALD, that the election was a valid one, gave them the certificates of election, and they came here and were seated as Senators.

In 1859 both houses of the Legislature of Indiana were republican, and they proceeded to elect Senators to take the place of those who had been elected in 1857. They came here and the matter was referred to the Judiciary Committee. In that case every fact and every question was fully known, and the Senate refused to reverse its former decision, because they knew all the facts at the previous time and believed that the election of Bright and Fitch was valid. It was not disputed in that case that the men who elected Fitch and Bright were members of the Legislature. It was not disputed that they were elected by the majority of the Legislature of the State at that time, nor was there any question made that the election was not fair, that it was influenced by fraud or by bribery. So that the facts of that case are distinct from the case of Kellogg and Spofford. In this case there are allegations and proof of fraud and bribery, but in the Indiana case there was no such intimation. The case at that time was decided upon its own facts.

I have no doubt that if the Senate at that very time had had the case of Kellogg and Spofford before it, with the facts that exist in this case, they would have made the decision for which the committee is contending, that the election was procured by fraud and by bribery, and is therefore void, and that the sitting member does not hold his seat here by reason of a valid election by the legislative authority of the State.

The case of Spencer and Sykes we all remember. It was only some six or seven years ago. There was no allegation of fraud in that case; there was no allegation of bribery in that case. The proceeding was a revolutionary proceeding undoubtedly. The democratic members who elected Mr. Sykes had the certificates of election regularly given to them by the secretary of state. Under the law and constitution of that State he was required to certify the election of the man who had been returned as elected to him by the commissioners of election, and he simply performed the duty. It so happened that in two of the counties, I believe, the full returns from the counties had not reached him when he was required by law to issue the certificates, and perhaps the full returns would have given to the republican members from that county the majority of the votes. The republican members of the Legislature did not go into the State-house, but went into the United States court-room and formed a separate body and elected Mr. Spencer; but it will be borne in mind that even that revolutionary body was recognized by the executive authority of the State. The executive authority of the State did not recognize the body of men who held the certificates and which elected Mr. Sykes, because it was alleged by the Committee on Privileges and Elections at that time they were not rightly entitled to certificates, because others who had not received certificates had been in fact elected by the votes of the people. In that case the rule was applied by the Committee on Privileges and Elections and by the Senate that the votes cast at the election were the controlling influences to determine who was elected by the Legislature; but the same party which insisted at that time that the votes of the people must control now insists that the votes of the people of Louisiana are impotent to confer authority upon men to act in the Legislature, but that the certificates of the returning board constitute a valid title to a seat in the Legislature of the State.

The Senator from Massachusetts [Mr. HOAR] the other day did me the honor to read from some remarks which I made upon that occasion. I did contend then that the election of Mr. Sykes was regular; that there was a full opportunity to every man who claimed a seat in the body to go into the Legislature and contest the seat of the person who had the certificate; that that right was secured to him by the constitution and laws of the State of Alabama, and that it was their duty to end the contest in that manner rather than to have gone into a revolutionary body and to have acted in a revolutionary manner.

But the party of the Senator from Massachusetts who quotes my words as good law on that occasion forgets that in the case of Mr. Spofford the right of contest did not exist, because Governor KELLOGG himself had barricaded the State-house and had placed around it a military guard that excluded those who claimed to have been elected, and the right of contest was therefore denied to the men who had been elected by the people and who had been returned defeated by the returning board. We must apply the law to the facts in the case. If you will take the law which the republican members applied to the Alabama case and apply it to this case, unquestionably the men who had been elected by the people were the only parties rightfully entitled to seats in the Legislature of Louisiana. So that I contend that these precedents which have been referred to have no application whatever to this case and have no authority to control the determination of the case.

But, Mr. President, I do not propose to limit my view of this question within the narrow compass proposed by those who differ with the committee. It is not a case to be controlled by technical rules or precedents. It comes before the Senate upon the facts surrounding it differing from any case hitherto known in the history of the country. The sitting member is here not by the authority of the State he claims to represent, but in opposition to her will and in disregard of her constitutional rights. He claims the seat he holds by virtue of an election of a body of men deriving whatever authority they claimed not from the people of the State, but from the corrupt and fraudulent action of a returning board, who sought to defeat the will of the people and continue over them the rule of unprincipled conspirators. The conspiracy failed and the body of men who sent Mr. KELLOGG here dispersed without leaving a trace of its existence behind, save the certificate of his election to the Senate. Upon that certificate he was seated in this body, and now holds the place which Louisiana claims for another. I cannot consent by my vote to aid or assist the perpetuation of a fraud which has deprived her too long of her constitutional right of representation on this floor. By the frauds of this same returning board the people of this country were defeated in the election of a President in 1876, and the Executive Mansion is now occupied by a man who was not elected by his countrymen. It is time that frauds had ceased. The electoral commission would not unmask the frauds of the Louisiana returning board that defeated the popular will in the choice of a President; but neither *aliunde* nor *res adjudicata* should be allowed to protect the results of its frauds in this Senate. We owe it to Louisiana, we owe it to the people of this whole country, to proclaim by our votes upon this resolution that fraud and corruption can give no title to a seat in this Senate.

Mr. President, it may be that the humiliation of Louisiana is still to be continued. For long years she has suffered oppression and wrong inflicted by persons having no common sympathies with her citizens and alien to the attachment and pride they had cherished for their State. Her oppressors were protected and sustained by the strong arm of Federal power while her people were despoiled of their substance and deprived of their liberties. For ten long years her sons with heroic fortitude bore up under the despotism that oppressed them, inspired by the hope that a returning sense of justice in the American people would demand their release from a tyranny protected by the strong arm of military power. They looked in vain to the Federal Executive and to Congress to vindicate their right to local self-government; their appeal was unheard or disregarded and their expectation treated with mockery and derision. During all these years their affliction was increased by a bitter sense of the humiliation and degradation brought upon the State. They remembered the better days of her history, when she was the peer of the proudest State of the Republic, and were compelled to witness with deepest mortification the shame which made her a by-word and reproach throughout the land. Despairing of external aid the people of Louisiana, in 1876, through the peaceful agency of the ballot, drove from power the men who had eaten up their substance and brought disgrace upon the State. Her local affairs are once more in the hands of her own people, but the State is still denied her constitutional right of equal representation in this Chamber by Senators of her own choice. For long years she had been denied that right by a republican administration and a republican Senate, but she had fondly hoped that when the majority in this body became democratic full justice would be done her. But she is doomed to disappointment. Some who acknowledge her wrongs doubt the right and refuse to aid in her restoration to full equality with other States in this Union and bid her wait on time for the vindication of her rights.

Mr. President, I listened the other day to the eloquent tribute of the Senator from South Carolina to the flag that floats from the dome of this Capitol. His words were beautiful and eloquent, but it seemed to me that it was the eloquence of mockery when he spoke of the bright galaxy that adorns its azure folds. I remembered, sir, that one star in that constellation was partially obscured by frauds which the Senator was insisting could not properly be removed. I differ with the Senator. By giving to Louisiana her constitutional representation on this floor we could remove the obscuration and restore her star to its former effulgence in the galaxy that represents the States of the American Union.

Mr. President, the Committee on Privileges and Elections that reported this resolution have discharged their duty to the Senate, to Louisiana, and the country by directing attention again to the frauds that are undermining free institutions and subverting the Constitution upon which they rest. It was perhaps too much to expect that a majority of the Senate would unite with them in an effort to undo a great public wrong. They had witnessed the acquiescence of the American people in the frauds that defeated the popular will in the election of the chief executive officer of the Government, and

had too often heard the adulation and flattery bestowed even in this Chamber upon the man who marshaled around this Capitol the American Army to prevent the representatives of the people from securing to the man of their choice the highest place in the Republic to expect concurrence (even on this side of the Chamber) in an effort to secure to one of the States of the Union her proper representation on this floor. In discharge of the duty devolved upon them by direction of the Senate, the committee have neither been influenced by the hope of success nor deterred by the apprehension of failure. They regret indeed that their conclusions have not met the approval of a majority of the Senate, and especially that they are opposed by some of those on this side of the Chamber. Actuated by the high purpose of assisting to maintain inviolate the constitutional provision relating to the composition of the Senate, the committee are content to leave upon the records of the Senate the evidence of their earnest effort to defeat the frauds which deprive Louisiana of a Senator and annul in that regard the Constitution of the country.

Several Senators addressed the Chair.

Mr. BUTLER. Mr. President, I simply desire to take the floor to address the Senate upon the subject now before it. I do not desire to go on this evening, however, if it will interfere with any business of the Senate.

Mr. HARRIS. If the Senator from South Carolina does not desire to proceed this evening, I will ask the Senate to proceed now to consider the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) Does the Senator from South Carolina give way for that purpose?

Mr. BUTLER. If the Senator from Tennessee will pardon me for one moment, I have just been reminded by the Senator from Alabama on my left [Mr. MORGAN] that he desires to speak this evening, and he insists that I shall either go on myself or permit him to do so. I am not prepared myself to proceed, and if the Senate chooses to hear the honorable Senator from Alabama, it will be entirely agreeable to me. I simply desire to get the floor for to-morrow.

The PRESIDING OFFICER. The Chair will recognize the Senator from South Carolina as entitled to the floor for to-morrow on the pending resolutions.

Mr. HARRIS. Of course if the Senator from Alabama or any other Senator desires to proceed with the argument of the pending question before the Senate, I shall interpose no request; but in the event that neither of the Senators desires to proceed, I do very much desire that the Senate shall consent to take up the bill suggested by me.

Mr. BAYARD. I was not aware that the honorable Senator from Alabama desired to speak upon the pending question to-day, but had supposed that when my colleague had concluded his remarks I should be enabled to move to lay it aside to take up the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

Mr. MORGAN. I shall not detain the Senate very long.

Mr. BAYARD. As the present measure is before the Senate and I understand now that the honorable Senator from Alabama desires to address the Senate upon it, I shall not press this bill against his convenience of speaking. The other is a mere matter of business that I desire to bring to the attention of the Senate as soon as it is convenient for the Senate to hear it; but if the honorable Senator from Alabama desires now to proceed in this case, I have no personal convenience about it.

Mr. MORGAN. I feel a very great interest in the bill that the Senator from Delaware is trying to get before the Senate and would be very glad indeed to have action upon it, but I suppose from the indication this morning that it will lead to considerable debate and I prefer to go on to-day.

Mr. HOAR. Mr. President——

Mr. WITHERS. I ask that the message from the House be taken from the table announcing the disagreement of the House to certain amendments of the Senate to the bill making appropriations for the District of Columbia.

Mr. HOAR. Before the Kellogg resolution is laid aside——

Mr. WITHERS. I ask that it be merely informally laid aside that I may have a committee of conference appointed.

Mr. HOAR. I should like to occupy the attention of the Senate and of gentlemen on the other side for about two minutes. I will not exceed two minutes, if the Senator from Virginia will yield, merely to call the attention of the Senate to one thing.

Mr. WITHERS. I merely wish to ask to have a conference committee appointed upon the disagreeing votes of the two Houses.

Mr. HOAR. If the Senator will yield to me two minutes, I will then give way.

Mr. WITHERS. I will yield the floor entirely to the Senator after I get the bill taken up for the purpose I have indicated. The Senator from Alabama has the floor, and I hold it entirely by his courtesy.

Mr. HOAR. I desire before the Kellogg case is laid aside for any other business, to call attention to one fact, which will not take me so long as we have occupied in inquiring whether I should do it or not, if the Senator from South Carolina will permit me.

Mr. BUTLER. I have yielded the floor to the Senator from Alabama who proposes to address the Senate upon the Kellogg and Spofford case, and therefore I have no further control over the matter. Personally I should be very glad to oblige the Senator.

Mr. HOAR. I do not desire to address the Senate. I merely wish to call the attention of Senators on the other side to the fact——

Mr. BUTLER. The Senator from Alabama has the floor.

The PRESIDING OFFICER. If Senators will give way until the matter to which the Senator from Virginia has called attention is disposed of, the message will be reported by the Clerk.

DISTRICT OF COLUMBIA APPROPRIATIONS.

The Secretary read the message of the House of Representatives communicating its action on the amendments of the Senate to the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

Mr. WITHERS. I move that the Senate insist upon its amendments, and request a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to.

By unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Mr. WITHERS, Mr. BECK, and Mr. BOOTH were appointed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 6033) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected, was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, was read twice by its title, and referred to the Committee on Commerce.

BILLS INTRODUCED.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1770) for the relief of Addison M. Sawyer; which was read twice by its title, and referred to the Committee on Patents.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1771) to establish a post-route in Missouri; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

AMENDMENTS TO BILLS.

Mr. FERRY and Mr. ROLLINS submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals; which was ordered to lie on the table and be printed.

FINAL ADJOURNMENT.

The PRESIDING OFFICER (Mr. CAMERON, of Wisconsin, in the chair) laid before the Senate the following resolution received from the House of Representatives; which was read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the presiding officers of the Senate and House of Representatives shall, on Monday, the 31st instant, at twelve o'clock noon, declare their respective Houses adjourned without day.

Mr. WITHERS. I move that the resolution be referred to the Committee on Appropriations.

Mr. CONKLING. I observe that is a joint and not a concurrent resolution. I object to its being read more than once to-day.

Mr. WITHERS. All right.

The PRESIDING OFFICER. The resolution will lie over.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. MORGAN. Mr. President——

Mr. HOAR. Will the Senator from Alabama yield to me for a single minute?

Mr. MORGAN. I will ask the Senator from Massachusetts for what purpose?

Mr. HOAR. I wish to call attention to a fact simply in regard to the Kellogg case.

Mr. MORGAN. As the Senator from Massachusetts will no doubt occupy a very few moments, I have no objection to yielding to him for a statement of fact, but the hour is growing very late, and I desire very much to complete my argument to-day.

Mr. HOAR. I do not think I shall occupy two minutes in what I

have to say. I wish simply to state that several Senators on the other side, more than one certainly, have stated to the Senate that a certain list which they referred to or annexed to their speeches, of custom-house and other Federal officers, contained the names of thirty-nine members of the Louisiana Legislature. Some of the Senators who have addressed the Senate on the other side of the Chamber have also said that there was evidence before the committee that the returns of elections were sent for and taken to a certain room in the custom-house or some other public building in Louisiana. I simply wish to call the attention of the gentlemen who made those statements to the fact that nobody who made either of them has yet retracted them. That is all.

Mr. HILL, of Georgia. And I say the statement in relation to the employés in the custom-house is true, and I will take great pleasure in reading the names to-morrow or at any other time. When I get the floor I will take very great pleasure in doing so.

Mr. VANCE. I desire to state to the Senator from Massachusetts——

Mr. KELLOGG. I ask the Senator from Georgia to state the names.

Mr. VANCE. The Senator from Massachusetts has made a statement that I suppose alludes to a statement that was in my speech, that the returns of the election were sent to the custom-house.

Mr. HOAR. I do not remember what speech it was in or the Senator who said it, but it was in one of the speeches on that side.

Mr. VANCE. The Senator is mistaken if he had allusion to my speech. I made no such statement. I said the returns of the registration were sent to the custom-house to be doctored; and that I have the pleasure to say I never will retract.

Mr. HILL, of Georgia. That is in evidence plainly.

Mr. MORGAN. Mr. President, any man might despair of being able to present a new argument or a new fact in this case to the consideration of the Senate. The question has been very elaborately argued by a number of Senators on both sides of the Chamber, Senators dividing in opinion it appears not entirely according to political lines. I shall not attempt to do anything else in this case than to justify the vote I shall give by a statement of the reasons that compel me to adopt the conclusions at which I have arrived. In doing this I will not state every fact and every argument which has left a marked impression on my mind, but the conclusions of fact which I am convinced are true as shown by the testimony, and the convictions of duty which they compel me to adopt and to follow to their logical results. I am convinced that the evidence establishes the following facts: first, that the Packard legislature was never the lawful or constitutional Legislature of Louisiana; and, second, that the credentials which were obtained with the assistance or agency of that legislature were obtained by bribery, by fraud and corruption, and have been upheld or attempted to be upheld by perjury and the subornation of perjury. Those are the convictions with which I enter on the discussion of this question. Those are the convictions which I believe have prevailed among those who have discussed this question for the reason that no distinct affirmative, positive opinion has been expressed on the floor of the Senate so far to the contrary.

I will not, however, discuss either of these questions *in extenso*. The argument of the Senator from Louisiana [Mr. JONAS] on this question of the illegality of the Packard legislature is conclusive, and no serious attempt has so far been made to answer it. He has established conclusively by facts, authorities, and argument what we know to be true as a matter of public history, that the President of the United States, the Supreme Court of the United States, and every civil tribunal and officer in Louisiana, and the Congress of the United States, have all recognized and accepted the Nicholls legislature and State government as being the true and only State government of Louisiana; and in doing this they have declared that the Packard legislature and government were never the lawful State government.

I think this case has been argued extensively on false premises. This is not the case of the displacement or overthrow of a government *de facto* by a government *de jure*. Neither in point of time nor in respect of the exercise of governmental powers or functions did the one organization succeed the other. Packard did not abdicate his office that Nicholls might find no obstacle to his entering upon the discharge of its functions. He did not resign, and was not removed from office. The President and the Senate found him a private citizen in Louisiana and sent him to Liverpool as a consul of the United States.

The two organizations, the Nicholls government and the so-called Packard government, were contemporaries in every respect. They claimed to exist under the same constitution and laws, and to derive their right from the same election. They claimed that their respective titles accrued at the same moment of time, and that the offices they each claimed to fill were the same, and were held by the same tenure. The question was not as to the rightfulness of two State governments, each claiming under a different source of power and authority, but it was simply a question of the rightful incumbency of the same offices, under the same laws which derived their force from the same source of authority. In this respect the case is wholly different from the case of Rhode Island, settled in Luther *vs.* Borden.

In that case it was the right and duty of the political departments of the Federal Government to decide between the contending governments as to which of them was the rightful government, because the Government of the United States could not discharge its own constitutional duty toward the people of Rhode Island except with the assistance of the State, and it was indispensable to decide as to who comprised the State in all its official relations with the United States.

That question could not be decided within the State otherwise than by war, because each organization denied to the other any lawful existence under the constitution of the State. They each claimed under distinct constitutions. The political departments of the United States alone had power to decide this question as a matter of law or as a matter of fact, and that was the extent to which the decision of the case of Luther *vs.* Borden went. The same necessity did not exist in the case of Louisiana. There the question was as to the lawful incumbency of the offices of governor and Legislature, and not as to the rightful existence of those offices under different constitutions.

Congress could not, and, for a better reason, the Senate could not decide who were the rightful incumbents of the offices created by the constitution and laws of the State of Louisiana, so as to place it beyond the power of the State to decide the same question adversely to the decision of Congress.

Who can be found to assert that Stephen B. Packard's title to the office of governor was so fixed and established by the act of the Senate in seating KELLOGG as to conclude the State as to the rightfulness of his election?

As far as the Senate *could go*, and therefore as far as it did go, was to decide that for the single occasion, and only for the purposes of the motion to seat a Senator, Packard was governor and his certificate was valid; and that the Legislature, whose action he certified, was the lawful Legislature of Louisiana. It decided only upon the lawful incumbency of the offices in Louisiana, and not upon the rightfulness of two contending State governments.

The questions we are trying to settle are to what extent is that decision binding, and what does it establish. The answer I feel bound to make to the first branch of this question is that it does not bind the State. In theory it does not bind the State of Louisiana, because the Senate has no jurisdiction to decide a contested election in Louisiana, and thereby to oust one set of claimants and put in another. Its judgment has no effect whatever to bind the State in reference to its own officers. In practice, and as matter of fact, it has not bound the State, for we see that, notwithstanding the decision of the Senate, the Nicholls government has continued in full force and authority, while the Packard government has no shadow of existence, except that which has fallen across the Senate, dark and baleful, and is used here as a screen of darkness to hide the most damning corruptions.

The Nicholls government is recognized by every department of the Government of the United States as much as is the Cornell government in New York or the Davis government in Maine, while the Packard government has been hid away in the consular and customs offices by the tender solicitude of an Administration that is grateful, it seems, for the services its members rendered in purloining the Presidency and for the opportunity afforded by its speedy dissolution to hide away the malefactors from public view.

Is it not a strange anomaly in our Government that the Senate, by a vote on a resolution that contained not a word of affirmation of the validity of Packard's title to the office of governor, or of the validity of the membership of the Packard legislature, and no denial of Nicholls being the governor, or as to the Legislature which he recognized being the rightful Legislature of Louisiana, should have bound itself irrevocably to the decision that Packard was governor and that the Packard legislature was the lawful Legislature, while the House of Representatives, the Supreme Court of the United States, all the officers of the State, and the President recognize the Nicholls government as the true government?

This is a novel situation as well as a dangerous one, and it becomes us to give to it a dispassionate examination.

I repeat the question to which I am now calling the attention of the Senate. To what extent is the supposed decision of the Senate (for it is only a hypothetical and not an actual decision) binding? Who are bound by it? The answer of the most reckless advocates and defenders of the doctrines of *res adjudicata*, former adjudication, *stare decisis*, former acquittal, and estoppel could only be that the Senate is bound by it. No one has pretended that Louisiana, or the House of Representatives, or the President of the United States, is bound by it. No one has pretended that the Senate in executive session was bound by it, since it took Packard, who had been declared to be the governor (rightfully in office) of Louisiana by a solemn and so-called irrevocable vote of the Senate on a resolution to seat KELLOGG, and, without any resignation or removal from office, sent him to Great Britain as a consul.

Mr. CARPENTER. Will the Senator allow me to interrupt him, if I do not tire him?

Mr. MORGAN. Yes, sir.

Mr. CARPENTER. Do I understand the Senator to hold that we cannot confirm the governor of New York to-morrow to a consulship in Europe if we choose?

Mr. MORGAN. We could confirm him, but we could not confirm him out of the office of governor of New York by confirming him. That is the position.

Mr. CARPENTER. Exactly. Therefore confirming him would not repudiate the idea that he was governor when we acted on the case.

Mr. MORGAN. We can certainly confirm him, and by that means

might raise against him the presumption that by the acceptance of the office he had resigned the office of governor.

Mr. CARPENTER. I understood the Senator's argument to be that inasmuch as we had confirmed Packard and sent him to Liverpool we had therefore recognized that he was not governor at the time.

Mr. MORGAN. My argument is that after the Senate of the United States has by an irrevocable decree declared that Packard was the governor of the State of Louisiana the Senate cannot without self-stultification take that same governor and, without a resignation or removal on his part, transfer him into the service of the United States and make him a consul to Liverpool. That is my position.

Mr. CARPENTER. Does the Senator think that when the people elect a man governor the Senate cannot confirm him as consul to Liverpool?

Mr. MORGAN. I do not mean that. The Senate can confirm him to Liverpool, but it cannot do it without self-stultification. Having once declared that he is the governor of Louisiana by its decree and ukase, the Senate cannot confirm him to office and carry him off to another place without being satisfied that in some form or other he has resigned his office of governor.

Mr. CARPENTER. How is that? How does it follow that we remove him from the office of governor because we confirm him to another office and leave him at liberty to accept that other office or decline it as he pleases? Could we not do the same thing with Governor Cornell to-morrow?

Mr. MORGAN. I have no doubt about the power of the Senate to confirm Governor Cornell to office to-morrow.

Mr. CONKLING. But, if the Senator will pardon me, did not we, or those who went before us, do the same thing in a more marked case when they confirmed the Chief-Justice of the United States as minister to England? Did they in any way stultify themselves by holding that he was not the Chief-Justice, because they confirmed him as minister to England, which office he afterward took?

Mr. MORGAN. They did not declare that he was not Chief-Justice.

Mr. CONKLING. Nor did the Senate declare that Packard was not governor of Louisiana by confirming him as consul to Liverpool.

Mr. MORGAN. Then Packard is governor yet, in the estimation of the Senator from New York?

Mr. CONKLING. If the honorable Senator will pardon me, if he is not governor I respectfully submit to the Senator that it is not because the Senate confirmed him, nor because the President nominated him, but only because he chose to accept an office, which acceptance vacated any other office he held. That is all.

Mr. MORGAN. Do these resolute champions of the inviolability of the decrees of the Senate understand that the Senate may disregard them at its own pleasure while they remain unrevoked on its Journals, and that the Senate cannot even consider the question of revoking its decrees when, for good cause shown, honesty and the honor of the country require that they should be revoked? Or do they hold to the doctrine that the President and the Senate can take the governor of a State, who has never resigned or been removed, and, while he is still governor, they can transfer him by appointment and confirmation to a Federal office into the service of the United States? That is the question I put. If Packard was ever governor of Louisiana he is governor still, because he has never resigned or been relieved, and the Senate has robbed the State of Louisiana of his valuable services, in the teeth of its own irrevocable decision that the State was blessed with the boon of his rightful accession to that high office.

Certainly it will not be denied by anybody, except the Senate, that Nicholls is now the governor of Louisiana. Did the Senate make him governor in the place of Packard, who it had ordained was governor, and whose resignation it constructively accepted by sending him abroad as a consul-general? How could Nicholls come in as governor in the place of Packard resigned? They held or claimed to hold the same office under conflicting titles, derived through the same election. The one was not in any sense the successor of the other. They were contemporary governors or pretenders, and the one did not come into power by the overthrow of the other. Packard claimed the authority as governor from the beginning, and Nicholls claimed the same authority from the beginning of the same term of office. The claim of one was rightful and of the other was wrongful. It was not the case of a government *de facto* and a government *de jure*, the one ousted of authority by the presence of the other. On the contrary, it was the case of two sets of men in a State claiming and exercising the functions of the same office at the same time.

It should be remembered that there is no such thing known to the law as a *de facto* office. All offices must be created by law; none can be created by usurpation. But officers *de facto* may exist even by usurpation. This doctrine is founded upon the necessity of having the offices created by the Government filled by some one who will execute the laws, otherwise the Government would perish. The end of all law being that government may be maintained for the benefit of the people, we must not allow that purpose to fail because men may quarrel or fight even over their right to fill the offices. The maxim on which this rule is founded is time-honored, and is approved by the experience of many ages, *ut res magis valeat quam pereat*.

When the great departmental offices of a State are filled by a lawful incumbency and are discharging their functions under the law there can be no valid officers *de facto* in that State to discharge the same functions under the same law and at the same time.

Such a condition of government would be repugnant to every proper idea of civil rule in a State. The people cannot at the same time and in reference to the same duties be required to serve two masters—the one *de facto* and the other *de jure*. In a case like that the *de facto* rulers are factionists and rebels against lawful authority, and it is the right of the rulers *de jure* to put them down and to punish them.

This was the exact condition of the case in Louisiana when Packard signed the credentials of KELLOGG. It was upon this condition of affairs in Louisiana at that moment of time, and upon none other, that the Senate is supposed to have acted when it declared KELLOGG to be seated "on the merits."

We have seen that in the decision made by the Senate that Packard was governor and the Packard legislature was a lawful body it stands alone in pitiable isolation. It has not the support or countenance of any other branch of the Federal Government or of any State government.

We have seen that not one government or officer in the United States or in any of the States concurs with the Senate in that decision; and that when it has the immunity from criticism, which gives it freedom of action in its secret sessions, it has not hesitated to reverse its decision by sending *Mr. Packard*, not Governor Packard, to protect our commerce in another country.

We have seen that nobody but the Senate is willing to be concluded by this fiat of the Senate, and I now proceed to state the second question which I mentioned some moments since: What does this fiat of the Senate establish? What fact does it create, or decree, or ascertain, or establish beyond the power of disputation? What status does it create or establish beyond the power of denial? What office does it fill beyond the power of the State of Louisiana, or of the President of the United States, or of the House of Representatives to refuse to recognize as being conclusive? What status has it settled in reference to Packard that even the Senate, in secret session, has felt bound to respect?

The resolution to seat KELLOGG is divisible into only three propositions: First, that the Legislature which elected him was a lawful body; second, that the governor who certified to his credentials was a lawful governor; third, that there was no legal infirmity in the manner of his election or in his constitutional qualifications for the office. As matter of fact, however, the third proposition was not included in the purview of the resolution.

But for the sake of the argument I will take the resolution as covering each of these several propositions.

It is alleged by most of the Senators who have argued in favor of the irrevocability of the decision of the Senate in adopting this resolution that it established a state of facts; that it declared conclusively a status which is expressed in judicial phrase as *res adjudicata*. Others who venture upon definitions gathered also from analogy with more circumspection define the bar to the further action of the Senate as being the rule of *stare decisis*. None have yet argued, I believe, that it is the law of estoppel that binds the Senate to its former resolution; and none, not even the sitting Senator from Louisiana, [Mr. KELLOGG,] has relied upon the constitutional protection afforded by the plea of former acquittal of the crimes that are charged against him.

It is a fact that gives a gratifying support to the possible minority who agree with the report of the committee that the majority, consisting of the solid republican party in the Senate and some few democrats, are not able to agree among themselves whether it is the plea of *res adjudicata* or the doctrine of the rule of *stare decisis* that prohibits the Senate from all right to seek the truth and to rectify its former action based upon a systematic effort of KELLOGG to obtain a seat in the Senate by means of usurpation, fraud, and perjury, which was concealed.

In courts where these doctrines are invoked the plea of *res adjudicata* is addressed to the jurisdiction of the tribunal to further hear the suit, and the party whose rights are in question denies its power to open anew a controversy or to deny a fact that is established by a former judgment between the same parties. If the party chooses to waive the plea, the court may proceed to try the question. It is not a matter which upon mere suggestion breaks down the jurisdiction of the court, nor is it a matter which the court must take judicial cognizance of, with a view of knowing whether it must relinquish its grasp upon a jurisdiction that it has already commenced to exercise. It is a matter of defense, and only a matter of defense, to be set up by plea.

But the application of the doctrine of *stare decisis* is never a question of jurisdiction; it is a doctrine that the court *ex mero motu* asserts or declines to assert according to its discretion. Whenever the court is of opinion that its former decision or ruling was based upon a false principle it will not apply the doctrine of *stare decisis*. Certainly no court has ever employed this rule for the purpose of shutting out an inquiry as to the existence of fraud or perjury.

The doctrine of the power of the Legislature and of the courts, too, to open up inquiries that have been finally settled by judicial decision has been carried to a great extent in the United States. In some remarks which I had the honor to submit to the Senate on a former occasion when these resolutions were before us I adverted to the case of Samperyac, which came from Arkansas, and to another case which was decided by Mr. Justice Campbell, of the Supreme Court bench,

about the year 1858. In Samperyac's case a final decree had been rendered in favor of Samperyac, settling his title and that of those claiming under him to a tract of land. Depositions had been taken, the case had been fully argued and fully heard by the judge of the United States then presiding in that court. After the court had adjourned, after the title had been determined and settled, after all power of new trial had passed away, and when it was impossible to discover an error upon the face of the record in the case which would make the judgment reversible, the Congress of the United States was called upon to pass a law to confer upon that court the power to hear bills of review. Under that statute, passed after the decree was rendered, after these titles were supposed to have been vested absolutely by the decree of the court, a proceeding was instituted by review in the same cause to reverse and annul the decision of the same court rendered theretofore. The court entertained jurisdiction; it heard evidence. It was ascertained in the course of the trial of the cause that some of the depositions which had been laid before them on the previous trial were merely simulated or forged depositions; that in other cases the witnesses had sworn to lies, committed perjuries; and that court, notwithstanding the decision that it had previously made and the conclusiveness of that decision operating directly upon the question of the right of property, reviewed the case and annulled and reversed its own judgment and turned Samperyac with his claim out of court. So that if we are confined to the analogy of the courts in cases like this we are by no means cut off from access to argument and to authority for the purpose of showing that even a court can review its decision when it finds that it has been defranded in the exercise of its jurisdiction—not that the judge has done wrong, not that the judge was inattentive to his duties upon the bench, nor that he had been corrupted, but that the party who sets up the claim to property under a judicial decision cannot hold it in the face of the fact that he obtained his title by fraud and perjury. Crime cannot be a basis of a title to property in the United States, even though that crime has received some sort of sanction by having passed in its results into a judicial adjudication upon a question of title. I do not admit that these analogies are by any means applicable to the Senate of the United States, and I certainly deny that they are binding upon this body.

Those Senators, therefore, who contend that the Senate should be controlled in this case by the doctrine of *stare decisis* admit that it is a pure matter of discretion with the Senate whether or not we will stand by the former decision. So far as we are informed by the debate on these resolutions, the republicans in the Senate stand squarely and solidly on the plea of *res adjudicata*.

I have not yet heard any gentleman on the other side of the Chamber place the defense of this case upon the doctrine of *stare decisis*, upon the doctrine of estoppel, or upon the doctrine of former acquittal of the crime charged against KELLOGG. They stand, and stand squarely, upon the doctrine of *res adjudicata*.

I will therefore treat that plea as the republican plea in this case—the plea of the solid republican party in the Senate. It is not Mr. KELLOGG's personal plea against a second trial for the crimes with which he stands charged, but the plea of a party, a political party, that while it was in power, and by a party vote, it decided questions as to the existence or non-existence of certain facts, and thereby placed it beyond the power of the Senate or of the people to reverse their finding or to dispute the facts. If they found that to be straight which was in fact crooked, according to the argument of the Senator from Wisconsin [Mr. CARPENTER] it was made straight by the finding. If they found the Ethiop to be white, that finding changed his skin. If the leopard was found to be without spots, then the leopard was no longer spotted. If they found that a woman was a man, she was forever incapable of bearing children. It is this doctrine of blessed relief, this *res adjudicata*, that enables the republican party to form an immaculate conception of the innocence of Mr. KELLOGG after his long and familiar association with the most depraved gang of thieves and perjurers that ever disgraced American history. According to this doctrine, if the people had turned out of the Senate every man who voted to seat KELLOGG on "the merits," so-called, and had sent others in their places to rectify the wrong, the plea of *res adjudicata* would shut the doors of inquiry in their faces and sanctify the iniquity, so that the people could never find a way to undo the wrong.

Before we are led to abuse this wholesome doctrine by applying it to a case like this let us see what it in fact is. The chief reason upon which this doctrine or plea is founded is that it is to the interest of the Republic that there should be an end of litigation. The reason of the rule failing, the rule ceases. Can it be assumed by a government or a department of a government that it is to the interest of that government that it should shut its eyes to a fraud upon its jurisdiction or an usurpation of its powers by an unlawful cabal or faction because a case had arisen between two of its citizens in which it was decided, or it might have been decided, that there was no fraud or no usurpation? It is said in the preamble to the Constitution of the United States that the people ordained that instrument "in order * * * to establish justice." I do not know to what particular event in history the words "to establish justice" had relation. I do not think that they meant merely that they should establish courts of justice, for courts of justice had already been established with plenary authority to adjust and to settle every possible human controversy. The Constitution was, therefore, ordained according to the recital of its preamble for one of the main and leading purposes of establishing justice, and by that I understand that whenever by any act of Congress or of any department of the Government of the United States justice is dethroned and injustice is established to that extent the Constitution in its spirit is violated.

If the plea of *res adjudicata* prevents the establishment of justice, and may compel the establishment of injustice as a means of putting an end to litigation, the preamble should have read as follows: "To establish justice, unless by mistake or fraud injustice should be established by the first effort to establish justice, in which case the maxim, '*Interest reipublicæ ut sit finis litium*,' must be regarded as sacred and inviolable."

I am not attempting a travesty upon the arguments advanced to support this doctrine, but I am endeavoring to show that it has no proper application except as to matters of private right between citizens, or between individuals and the Government. It has no application to the exercise of the high powers of jurisdiction conferred by the Constitution upon the three leading departments of this Government.

I will recall a notable illustration of the view I take of this matter. On the 1st of February, 1865, the thirteenth amendment of the Constitution was submitted by a two-thirds vote of Congress to the Legislatures of the then thirty-six States of the Union for ratification; and it was ratified on the 18th of December, 1865. Alabama voted for the ratification through her Legislature, which was largely democratic, and all the other States then lately in rebellion voted for it, unless, it may be, Texas. I am not quite sure in my recollection whether it was submitted to Texas. We considered the question (if it was a questionable matter) that Alabama had a lawful State government as being solemnly and conclusively settled by the act of Congress submitting the thirteenth amendment to her Legislature for ratification. That was *res adjudicata* if anything could be that related to a State and its Legislature as being a lawful State government. But this did not suit a republican President, and he afterward turned our governor out of office and put in his place one of his own appointment. Thereupon Congress, being unwilling to accept his act as *res adjudicata*, by law declared that there was no lawful State government in Alabama, and instead of restoring to the people of Alabama the government that Andrew Johnson had displaced they, by law, put us under military government and abrogated our State constitution. Then we supposed that this government was *res adjudicata*—a government recognized by Congress and put upon the people. But not so. The act for our reconstruction provided that the people of Alabama, through delegates elected by them, should have the right to ordain a constitution, and that it should be submitted to them for their ratification, and if it should turn out that a majority of the registered voters of the State did not vote upon the question of its ratification that the constitution should be rejected. This was done when more than one-fourth of the democrats in the State were disfranchised and could not register as voters. It did turn out that a majority of registered voters did not vote upon the question of ratification, and so we thought the question was *res adjudicata*, and that constitution was forever lost. Not so, however. Congress enacted that constitution and sent it back to us. This is the sort of respect the republican party has heretofore manifested with reference to this sacred doctrine of *res adjudicata*.

I have not now the names before me of those who voted for these various measures in the House and the Senate, but I think I may safely venture the assertion that there is not one Senator on the opposite side of the Chamber who was then in the Senate or House of Representatives who did not vote for each one of these changes thus imposed upon the people of the South and the people of Alabama, and who did not thus at their own sweet will and pleasure violate the doctrine of *res adjudicata*, recall and undo that which they had done in the most solemn manner and several times on the most positive pledges and promises of the permanence and stability of the action that they had taken.

The last crime that this maxim is invoked to shelter is a crime which it is asked that the Senate will adopt, and, by adoption, inflict upon the people, the crime of seating a guilty man who has never had called in question the criminality of his conduct, between whom and the State of Louisiana or the Senate of the United States no plea of not guilty was ever joined, and to seat him because he has the advantage of a resolution that happened to contain within its body the unmeaning, insignificant words "upon the merits."

But to return to the strict line of the argument, which I have left for the purpose of presenting certain precedents to which I have alluded, the whole substance of the plea of *res adjudicata* is that the facts presented in the case, and the supposed right of action based thereon, have been ascertained and finally decided in another suit between the parties or their privies, so that they cannot be again called in question by them.

This is not now, and never was, a mere question between KELLOGG and Spofford as to who is best entitled to enjoy the honors and emoluments of the seat on this floor. The Senate is neither a party or privy to that question, so as to be compelled to accept as conclusive upon this body whatever may be conclusive against either Spofford or KELLOGG.

The Senate represents the country. It represents every State in the Union and the whole people. It does not represent a party litigant before this body for a seat within its circle. It is not party or

privy to a contest for an office between two private people. It is party and privy only to the demands which the people of the United States under the Constitution of our Government have the right to make upon this body in reference to the exercise of its great public functions.

If the reverse of this should be held to be our rule of action and decision, all that a corrupt intruder into the Senate need do to escape final rejection for his actual frauds would be to get up false accusations and have a trial of them upon issues that are broad enough to cover every sort of delinquency, and when a resolution has been adopted to seat him "on the merits" he is then immovably fixed in his seat forever. That is the doctrine that is contended for in the Senate. The Senate and the people must be estopped, the Senate and the State of Louisiana must be estopped, and not merely KELLOGG or Spofford, before the plea of *res adjudicata* has any force to debar the Senate or the people from a demand of their constitutional rights. What fact has been found by the Senate in this case that has been so established by such finding that the same Senate, or the people, or the State of Louisiana is bound to accept it as verity, contrary to every known and actual truth?

Let us see. Was it the fact that Packard was governor of Louisiana? If this was the *res*, the thing, the fact, that was *adjudicated*, adjudged, settled, and established beyond all denial, then the senatorial fact is one way and the truth is the other way. In very truth this fiat of the Senate had no more effect upon the Nicholls government than the Pope's bull had against the comet. If the *res adjudicata*, the matter adjudged, was the lawfulness of the Packard legislature, the decision of the Senate had no effect against the true Legislature of Louisiana, and the fiat of the Senate was no more regarded by the Government of the United States, or by the government and people of Louisiana, or by the Senate itself, than the raging Hellespont regarded the handcuffs that Xerxes threw into its seething waters to curb their fury, or the beating with three hundred stripes with which he chastised it for having swept away his bridges. If the grand old Persian had known enough of Latin to have cried out "*Res adjudicata!*" as he threw the emblems of his despotic will upon the bosom of the Hellespont it is reasonable to suppose, in the light of the modern notion of their value, that these talismanic words would have caused the raging strait to "dry up." If the effect of the *res adjudicata* was to repel and repress all further attempt at inquiry by the people of the United States into the frauds, briberies, and coercion used to gain the vote of the Packard legislature for KELLOGG, or to obtain a false and simulated quorum in that body of imprisoned culprits, or to shut off inquiry into the conduct of the sitting member in manufacturing proof and in repressing proof in respect of his guilt, it will result, and has resulted, in a dead failure when compared with the celebrated efforts of Mrs. Partington to save Isaac from drowning by sweeping back the waves of the sea with her broom.

I now desire to submit a matter to the attention of the Senate that I believe is worthy of our most careful consideration. Suppose that the Senate has heretofore adopted, or shall now adopt, the idea that it is bound, as the courts are bound, to uphold the doctrine of *res adjudicata* in every case and to every extent that it is applicable, can we, without exceeding our rightful jurisdiction under the Constitution, undertake, when seating a member, or when trying a case of contest with reference to a seat, determine upon the validity of a State government, or upon the title of a man to the office of governor, or upon the lawfulness of a Legislature of a State, so as to forever preclude the Senate from afterward deciding the same facts or questions adversely to our first view of the matter?

It is very certain the Senate can neither make nor destroy a State government, or a governor, or a legislature by any decision it can make. It can admit or refuse to admit a Senator according to its opinion of the validity of the State government, but what is established by its resolution in such a case? Nothing beyond the mere opinion of the Senate; and if, as in this case, every other part and department and officer of the State and Federal Governments has come to a different opinion from that of the Senate, is it not the duty of the Senate to yield its opinion to the accomplished fact and to move in harmony with all the other governing powers? You have admitted a Senator here from Louisiana, [Mr. JONAS,] whose credentials were given by Governor Nicholls in due course of law. No man can trace Mr. JONAS's title back through any succession to the Packard government. Thus has the Senate, in fact, taken the most important action in direct opposition to the doctrine set up in this plea of *res adjudicata*.

It has admitted the very government by its conduct, repeated on this floor time and again, which it has by its solemn decree in seating KELLOGG irrevocably bound itself to hold as being no government at all!

All the members of the House from Louisiana in the Forty-fifth Congress were seated on credentials signed by Nicholls. This was in October, 1877, and before KELLOGG was seated as a Senator on this floor.

The one government or the other in Louisiana was revolutionary at the time that KELLOGG and Spofford claim to have been elected. The Senate has said—no, it is only imputed to the Senate that it has said—that the Packard government was the lawful government and the Nicholls government was revolutionary and mobocratic. But the Senate alone has said this, and everybody else entitled to speak has said the reverse, and the reverse opinion has crystallized into fact, law, and government, so that none are left to dispute it.

Now, can it be that the Senate, in deciding upon *the man* who was entitled to a seat in the Senate from the State of Louisiana, had the jurisdiction to bind itself irrevocably to that man as a Senator for six years and to bind itself to recognize only the Packard *government* as being the lawful government of that State?

I must express the most decided conviction that the Senate had no such jurisdiction. It was the right of the Senate then, as it is now, to decide upon the election, returns, and qualifications of its members; but it never had the right or power to create its membership. It cannot make a Senator, nor can it make a Legislature to elect one. The Senate must also be obedient to the law. The constitutions, and laws of the several States, and the authority of the recognized State officials, under the laws of the States, are as much entitled to respect, recognition, and obedience from the Senate as they are from the Supreme Court judges, or the circuit or district judges, or the commissioners who dispense justice in Federal jurisdictions within the several States. The Senate is not a law unto itself, nor is it above or beyond the power of the law. It cannot by any prerogative power, however great that may be, displace or disregard the law of any State, however little that may be in its influence or value. It cannot dismiss any State officer from his office, nor lawfully refuse to recognize his official authority when a proper case is presented requiring such recognition. It can arbitrarily refuse to recognize him, but in doing so it arbitrarily disobeys the law. The Senate may refuse to recognize the certificate of Nicholls or Wiltz as governor of Louisiana, or of the secretary of state, but if the government of Louisiana, under its present officers or under any other officers, is in harmony with the Government of the United States in all its departments except the Senate, a grave question of duty is presented whether the Senate is not bound rather to promote than to disturb that harmony of recognition and action between the State and the United States. A State can be known to the Senate officially only through its constitution, laws, and officers, and through the laws of the United States; and the Senate cannot justly refuse to recognize these as proper evidence of the authority of a State government or of its officers.

But I am not endeavoring to define the correlation between the powers and the duties of the Senate and of the States. It is sufficient to discuss and to define, if I can, the powers of the Senate over its own conduct. The true measure of its duty is to be found in its obedience to the law, and not in its arbitrary refusal to respect the law. If it has no power to change its own action so as to conform to the law, but is bound by its decision once made whether or not that decision was in conformity with the law, then it is the only branch of the Government that has no power to execute its high duty "to establish justice," which the Constitution was expressly designed to secure, and to secure which the Senate was created.

It is the law, and the duty of obedience to the law, on the part of the House of Representatives that compels that body to recognize Rutherford B. Hayes as President of the United States after it has solemnly resolved that he was not elected to that office. The fact remained that Mr. Hayes was President, notwithstanding the opinion of the House that he was not elected and that Mr. Tilden was elected. Every other department of the entire Government, State and Federal, recognized him as being the President, and the maxim prevailed, "*interest reipublicæ ut sit finis litium.*" It is not the force of the plea of *res adjudicata* that keeps Mr. Hayes in his place as President, for the act creating the electoral commission expressly provided for a trial of any right of Mr. Tilden to the office by the courts. He has been kept there by the fact that every State and every department of the Federal Government has recognized him as President. And so the fact remains that Nicholls was governor, and the Nicholls legislature was the Legislature of Louisiana, notwithstanding the opinion and action of the Senate to the contrary.

The Senate cannot resolve to undo facts. The Senate cannot resolve facts into their elementary conditions; it cannot refuse to take judicial notice of facts. The Senate is as much bound as I am to understand the rights of every individual in this country, and particularly is it bound by its constitutional obligation and of the very highest import to understand the relations that the Government of the United States bears to the States. Should we not rather conform our conduct to this duty than to stand in the revolutionary attitude of upholding Packard as governor after the State has rejected him and after the Senate has advised and consented to his transfer to the service of the United States as consul at Liverpool? Are we bound still to say that KELLOGG holds his seat on the merits of his title derived from a legislature that is not recognized as being a lawful body by any department of the Government, State or Federal, and that never passed a law or resolution that for one moment had any force and effect.

It is said that the Senate is conclusively bound to take this revolutionary and obstructive course, and to maintain it, because it has a resemblance or bears an analogy to a court in judging of the election, qualifications, and returns of the election of its members.

This very important constitutional duty imposed upon the Senate thus irrevocably, as is contended, results not from one word or letter or syllable to be found in the Constitution of the United States, but from a supposed analogy in reference to the practice it must observe because the word "judge" is used when the power to determine upon the elections, qualifications, and returns of its members is given to the body. A mere technical quibble, a mere analogy derived by

the most strenuous inference contrary to the fact and contrary to the law too, is set up here as an excuse why the Senate of the United States should abdicate its constitutional authority over its membership and be held bound forever and irrevocably to a false decree.

It seems to be held that, because of this analogy, the Senate can only do in the great matters of state, where all its other powers are discretionary and may be exercised at will, what a court could do between parties to a lawsuit that involved a question of title to a beggar's grave. How flippantly do we substitute the shadow for the substance when passion or the love of power incites our actions, and what unsubstantial excuses do we not make for the abandonment of high duties when their performance disappoints a coveted result! We strain and strive to catch at a fancied analogy between the Senate and a court so as to hold on to a vote that will never be cast by a lawful Senator, if the sitting member is to speak for Louisiana; a vote that will be cast daily in violation of the clause of the Constitution which provides "that no State without its consent shall be deprived of its equal suffrage in the Senate;" a vote that does not represent the suffrage of Louisiana in the Senate by her consent, but contrary to her will, as expressed in every lawful form and manner; a vote which, if the evidence of his comrades and boon companions is to be believed, will ring in the Senate with the abhorrent jingle of the bribe-money as it fell upon the tables of the Temple when Judas betrayed his Master.

I will not further discuss the power of the Senate to correct its own judgments when they are in support of a false and fraudulent title to a seat in this body or are based on a mistaken opinion of duty in seating a person who was never entitled to membership in the Senate. This subject has been treated by my colleague [Mr. PRYOR] in a manner that leaves nothing to be said by those who claim that the Senate has the power to correct and reverse its decision whenever it is clear that it was deceived into becoming the supporter of fraud, bribery, and perjury by the person whom it has admitted to a seat.

My colleague has established the proposition that the power of the Senate to judge of the election, returns, and qualification of its members is the same power that was wrested by the people of England from the Crown and council and also from the courts, as a part of their constitutional liberty, and was given by the people and States of this Government to the House and to the Senate in order to promote the general welfare, to establish justice, and to secure to the States rightful representation and equal suffrage in the Senate according to law. Whoever has followed that argument has seen that the power of the Senate to judge of the election, returns, and qualifications of its members was a power that belonged to the people and to the States before it was transferred to the Houses; that it was a power that the people had appropriated to themselves in despite of the reluctance of the Crown and council and the lord chancellor of England to relax their hold upon it. It was a power deemed essential to the liberties of the people of England that they should be represented in the House of Commons by members of their own choosing.

It will appear also that this power of the people over their representatives was so tenaciously held to by the people of the States that during the nine years of the government of the Confederation they reserved the express right to recall their delegates in Congress. When the people of the States transferred those powers to the Houses of Congress there was no qualification or restriction upon the discretionary exercise of these powers by the Houses. This grant was plenary and without restriction or modification; and when the Houses received this grant of power from the people of the States it was attended with as full and complete discretion as to its exercise by the Houses respectively as attended the power when the people of the States exerted it in recalling their delegates to Congress of the confederation. The Houses received this grant from the people, in trust for the people, and to be exerted so as to establish justice and to secure to the people and to the States rightful, and lawful, and duly qualified representation in each House of Congress.

Whenever the Senate in the execution of this trust has denied to the people of a State the recognition of their rightful State governments, its highest duty is to reverse its own action and correct the wrong by the exclusion of the false representatives, as the people would have done for themselves while the confederation was in existence and while they were in the full exercise of this power. And so it is the duty of the Senate, which it owes to its own dignity of character as well as to the people of every State, to exclude a man from a seat in the Senate who procured that seat by coercion, by duress, by fraud, by bribery, and by perjury.

The people would have done this when they held the power, and when they transferred it to the Houses they conferred upon them the very power that they held and that they so transferred, and it is our duty in their behalf and in the execution of this high trust thus to exercise this great power. When the people intrusted to the Senate this power of judgment they did not restrict it by the narrow and technical rules applicable to private litigation in the courts any more than they restricted themselves to a narrow and technical ground in its exercise while they possessed it. All the English and American history of this power culminates in the grand and true definition quoted by my colleague from Granville, that the Senate, when judging of the elections, returns, and qualifications of its members, is a court and council of state and discretion, whose action is regulated by parliamentary law. It is not a court to hear and determine pleas of contending litigants about private rights of person or of property, nor is it a criminal court to try the crimes of Senators committed before they were elected to the Senate. It is not a court to hear and determine the election of its members upon pleas and demurrers, but it is a council of state and discretion to judge and decide according to its own convictions, so as "to establish justice," and not so as to prevent justice from being established.

Before this court and council of state and discretion the cases of Kellogg and Spofford came up and were referred, under the same resolution, to its Committee on Privileges and Elections on the 25th of October, 1877. The resolution was as follows:

Resolved, That the Committee on Privileges and Elections on the contested cases of William Pitt Kellogg and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers, and administer oaths—

For what now?—

with a view of enabling said committee to determine upon the title respectively, on the merits, of each of said contestants to a seat in the Senate.

And that was all the power that was conferred on that committee. The power was conferred solely with a view of enabling that committee to determine upon the respective merits of the title of each man to a seat in this body—a litigation between the two men, each claiming title under distinct and different Legislatures.

Up to the time that this resolution was adopted none of the charges of bribery and corruption now made against KELLOGG in the matter of obtaining his seat had been made in the Senate. The criminal case had never been made up against him. No memorial was presented to the Senate charging KELLOGG with any crime in procuring his election, or presenting against him any charge or suggestion of personal or constitutional disqualification for membership in the Senate.

Under such circumstances the order of the Senate relating expressly to the credentials of KELLOGG and Spofford, before that time referred to the committee, empowered the committee to take evidence "with a view of enabling said committee to determine upon the title respectively, on the merits, of each of said contestants to a seat in the Senate." It certainly cannot be inferred from such proceedings that it was the intention of the Senate to charge its committee with an inquiry into any criminal conduct of KELLOGG in procuring his credentials. "The merits" of his title had no relation to his personal demerits in procuring the credentials under which he claimed his seat. No just construction of the language of that resolution can cause it to extend to and embrace a question of bribery or an offer to bribe a member of the Louisiana Legislature either by KELLOGG or Spofford, or a question of the subornation of perjury to sustain the credentials of either of them. If such questions were referred by the Senate to its committee with reference to one of the contestants, they were equally referred with reference to both, for the language of the resolution is the same as to both. Who has ever contended that that resolution authorized that committee to inquire into any alleged or supposed or possible criminality of Mr. Spofford in obtaining his credentials from the Nicholls legislature? That question seems never to have suggested itself, and yet the finding upon that resolution in the same language applies to both persons.

Now, will it be pretended that that resolution concluded inquiry into the fact that Mr. Spofford might have obtained his credentials by bribery or by corruption in the event that he should be admitted to a seat on this floor? Suppose we pass the resolution unseating KELLOGG and seating Spofford, which has been reported back by the chairman who has just addressed the Senate, would that debar the Senate from going hereafter into an inquiry as to whether Spofford had bought his credentials from the Nicholls legislature? Certainly not, for the simple reason that the case is not presented; it is not a part of the merits to be considered on the present occasion. The issue is not made up; the cause is not so stated; the indictment has never been framed; the information contains no charge and no specification that has the slightest relation to such an accusation.

A construction of the resolution which would embrace such an unlimited field of inquiry within its scope would be a most dangerous and derogatory proceeding. It would be dangerous, because no committee should be intrusted with such power, and derogatory, because charges against one claiming a seat in the Senate, to which the Senate would not give a moment's consideration, could be forced upon the attention of the committee under such construction of the order.

Such a charge, when trumped up by a committee, when indulged in a hearing had upon it by a committee without a previous resolution of the Senate, would be insufficient for any other purpose than merely to scandalize the party, and it would unfortunately find its way into the public proceedings of the Senate without that body even having had control of the initial point to determine for itself whether it was a subject that ought to get upon the records of this body. I can see no better way than that to damn a man to eternal infamy by a mere scandal which might be brought against him in a committee room, the committee going out to seek information against him whether he was criminal or not upon some accusation made, not before the Senate but before the committee.

If this is lugged in under a resolution which had no reference to that subject and thereby the Senate is compromitted and compromised, when the committee came to report back to the Senate, though we might find that the subject of it was innocent, the Senate would be compelled to place on its records the dark clouds of suspicion which that man and his posterity would never be able to remove. I there-

fore say that such action as this on the part of a committee would have been both dangerous and derogatory.

That committee, when it entered on the discharge of this duty to which it had been assigned by the order of the Senate, on the very same day that the resolution was referred to it, took action upon it, in which they defined their own view of their powers under it precisely according to my present interpretation. Here is the resolution of the committee on the 25th day of October, 1877, the very day on which the Senate passed this resolution:

Resolved, That it becomes necessary in determining the validity of an election of Senator, held in January, 1877, to inquire who were the lawful Legislature at that time, and that no other authority is competent to determine that question for the Senate.

Resolved, That the committee proceed to examine and ascertain the substantial merits of the respective claims of Hon. W. P. KELLOGG and Hon. H. M. Spofford to a seat in the Senate as a Senator from the State of Louisiana, and to this end to inquire particularly which or whether either of the two rival bodies claiming to be the Legislature of said State in January and April last was the true and lawful Legislature of said State.

Resolved, That the chairman furnish to the contestants (W. P. KELLOGG and Henry M. Spofford) a copy of the resolutions passed this morning, indicating what course the committee will take in the hearing, and request them to appear before the committee at 10 30 o'clock to-morrow morning, and then state in writing what evidence, if any, they desire to present, and when they desire to be heard.

That was all the action that that committee felt themselves authorized to take on that subject, and it was all the action that that committee did take. It then defined the issue that was submitted to it. It recognized the true boundaries of its jurisdiction, and entered upon the discharge of the duties circumscribed by the limits of jurisdiction which had been fixed in the resolution of the Senate.

Under this rule the contestants submitted their statements in writing, in neither of which was there any accusation of crime against the other, and the entire investigation was had without any reference to such allegations of crime in the form of charges or specifications, or otherwise, unless by some remote inferences that might have arisen from some of the testimony in the cause.

The committee did not depart from the grounds taken in its resolutions, which I have just read, nor was the inquiry enlarged beyond their restricted terms. On the 23d November, 1877, the committee closed its investigation with the following resolution:

Resolved, That this committee report to the Senate that WILLIAM P. KELLOGG is, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, 1877, and that Henry M. Spofford is not entitled to a seat therein; and that the chairman of this committee be directed to prepare and present to the Senate a report accordingly.

Spofford claimed that the committee had not allowed him a fair opportunity to establish by testimony five of the grounds upon which he contested the validity of KELLOGG's title to a seat in the Senate; but none of those grounds related to any crime imputed to KELLOGG in procuring his credentials.

The inquiry will naturally arise in any mind why Spofford and KELLOGG did not make the charges against each other that they afterward attempted to establish. The answer is that they claimed to be elected by different Legislatures, and each denied the lawfulness of the body by which the other was elected. Until the Senate had determined which of these organizations was the lawful Legislature neither of the contestants could predicate a criminal accusation against the other upon an attempt to bribe the members thereof. Such a charge would have been pregnant with the admission that the contestant so assailed was in fact elected by a lawful Legislature, and the admission would have destroyed the title of the party who made such charge against the other. This condition of these parties is a most complete illustration of the fact that a charge of bribery and fraud in procuring an election to the Senate presents a question between the Senate and the person holding credentials under the lawful Legislature, and does not present a question between the contestants for the seat. If Spofford was not elected by a lawful Legislature, he had no personal grievance to be redressed because KELLOGG corruptly bribed a lawful Legislature to vote for him.

Another fact also comes prominently into view in this condition of the case which indisputably proves that the plea of *res adjudicata*, or the plea of former acquittal, is not sustained by the proceedings had by the committee in their investigation of KELLOGG's credentials and his title to a seat in the Senate. It is this: that KELLOGG could not have been guilty of the bribery of a member of the Packard legislature in any sense that would justify the Senate in inquiring into the fact until the Senate had first decided that that legislature was the lawful body. The Senate, while holding to the opinion that the Packard legislature was an unlawful assemblage, would never have denied a seat to KELLOGG or to Spofford for the bribery of its members, for whatever may have been the moral delinquency of the act no legal consequences could have resulted from it. It was never legally possible that a charge of bribery could be brought against KELLOGG for corrupting the members of the Packard legislature until the Senate had first determined that it was a lawful legislature and that the corruption of its members was therefore a wrong toward the people and the State government as well as an injury to the public morals. So that, in fact, the charge was not brought against KELLOGG and passed upon by the Senate, and it was legally impossible that the charge could have been brought by Spofford or by the Senate until it had first decided that the Packard legislature was the lawful body.

This question divides itself up so naturally, so indisputably in the mind of one who is in the habit of considering questions of law, that it seems to me to be impossible that any man acquainted with even the elementary principles of law can believe that the Senate of the United States could possibly in any case like this have entered upon the investigation and decision of the question whether bribery had entered into the obtaining of credentials until it had first been held that that bribery had reference to the membership of a lawful Legislature. The questions divide themselves naturally and cannot be settled together. No rule of law or of logic or of pleading ever yet required repugnant facts to be pleaded at one and the same time in the same count or the same plea. If the Packard legislature was the legal one, Spofford could not be proceeded against for bribing the Nicholls legislature, or if the Nicholls legislature was the lawful one, KELLOGG could not be proceeded against for bribing the Packard body; but the Senate had the power to determine which was the lawful Legislature, and then naturally, and not before, the question arises as to the corruption of a Senator holding credentials of the body, whether he had bribed the lawful body in the election.

I suppose that Mr. KELLOGG might have wasted all the money he had ever earned in Louisiana on a town meeting down there with a view of trying to influence that body to a conviction that he was a lawfully elected Senator of the United States, or that he should be elected, and yet it would have no effect upon the case here; but if he should take a dollar he should make an overture to bribe a man who was in the Legislature that the Senate had recognized to be the lawful Legislature, then and after that recognition had been so established by that act of this body his crime would begin, his crime would have the stamp of legal dignity upon it, and then, and not before, the jurisdiction of the Senate would arise to inquire into it.

In the arguments that have been presented by those who seek to shelter KELLOGG under the plea of *res adjudicata* there is a surprising omission to notice the plain distinctions between civil and criminal procedure. When the rights of a person are violated he must seek the redress and make good his complaint. When the criminal laws are offended against the State must proceed to bring the offender to justice, and must make the complaint in the name of the Government. If KELLOGG held Spofford's seat, it was the privilege of Spofford to claim it. If KELLOGG does not hold Spofford's seat, but his own, and if he obtained his seat by bribery, it is the law of Louisiana that punishes the crime, and the Senate that must deny him membership because of that crime. Spofford can exercise no control over the Senate in that exercise of duty. He can neither demand that the Senate shall consider the question, nor estop it by anything he may do or by anything he may omit to do.

The question is between the State, the Government, and the delinquent who has been guilty of a crime against the laws of the State, upon which crime and the ascertainment of it by competent evidence the Senate says, "Your title to this seat has become invalid, being based in fraud; we cannot, without making ourselves a party to the fraud, impute innocence to this party. We must adopt that fraud before we can make it available in behalf of Mr. KELLOGG."

It is plainly obvious that the crimes of KELLOGG, committed in the effort to procure a seat in the Senate, were never brought to trial in any form before the resolution was adopted in 1877 seating him on the merits of his title. These crimes never came to light until they were revealed by an investigation under a resolution of the Senate adopted long after that time. It was then, and not till then, that these crimes were laid open before the Senate for its consideration. It was therefore impossible that these crimes could have been tried and KELLOGG's innocence established by the adoption of the resolution under which he was seated. These facts answer the pleas of *res adjudicata* and former acquittal and leave the Senate entirely free to discuss and to determine KELLOGG's guilt or innocence.

In the cases of Fitch and Bright there was no question between two rival Legislatures in a State, and there was no question in reference to any fraud or criminal conduct on the part of anybody concerned in the controversy. The question presented in that case was within the exclusive jurisdiction of the Senate; it was simply whether they were elected by the Legislature of Indiana having a quorum present at the time of the election. That single fact and the question of law as to what constituted a quorum for the purpose of electing a Senator it was competent for the Senate to decide for itself and so as to bind everybody; not that the fact was established by the Senate independently of the truth, and was by its decision placed beyond denial, (for the Senate did afterward reconsider the facts when Messrs. Lane and McCarty appeared and claimed the seats held by Bright and Fitch.) Their memorial was received and referred to a committee as matter entitled to be considered; it was not received and rejected as matter which the records of the Senate conclusively proved had been decided once and forever, or as matter upon which the Senate would *in limine* decline further to act, and would therefore lay upon the table to sleep in eternal oblivion.

The committee did consider the question, and made majority and minority reports, the majority taking the single ground that the seats claimed by McCarty and Lane were not vacant, and supporting their position by what they claim to be a proper analogy taken from the course of decisions in judicial courts. The majority said:

In the opinion of the committee, however, no such authority existed in the Legislature of Indiana. There was no vacancy in the representation of that State in the Senate; and the decision of the Senate, made on the 12th of June, 1858, established finally and (in the absence of a motion to reconsider) irreversibly the right

of Hon. Graham N. Fitch as a Senator of the State of Indiana until the 4th of March, 1861, and the right of Hon. Jesse D. Bright as a Senator from the same State until the 4th of March, A. D. 1863.

The decision was made by an authority having exclusive jurisdiction of the subject.

I should like to call that to the attention of the Senate.

The decision was made by an authority having exclusive jurisdiction of the subject; was judicial in its nature; and, being made on a contest in which all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright, and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana, the judgment of the Senate then rendered is final, and precludes further inquiry into the subject to which it relates.

The fact that the majority presented was that there was no vacancy in the senatorial representation from Indiana. That was the fact that had been determined, they said, by the Senate of the United States, that these seats were occupied and that there was no vacancy, just as this committee present the fact in this case that under the Constitution of the United States, if that is to have any force, there is a vacancy in one of the seats from Louisiana; that the seat is vacant, because the State government of Louisiana has no accredited representative in the seat held by KELLOGG. In the case of Bright and Fitch the Senate adhered to its former decision. It availed itself of the doctrine of *stare decisis*, if it in fact decided anything, and did not stand upon the plea of *res adjudicata*. If this plea had been the basis of the Senate's action it would in that case, as also it would have done in this case, have rejected the memorial which assailed a solemn and conclusive judgment of the Senate the moment it was read in the Senate.

If the Senate of the United States in reference to KELLOGG and Spofford has taken any action at all of a conclusive nature, that action appears fully and at large upon its journals and records. No Senator can be ignorant of that action. Every Senator is as much informed of it as a private citizen is informed of the judgment of a court. There is a judgment of a court settling the title to a tract of land, and a man notwithstanding that judgment buys from the defeated party in that suit. The law of the land holds him conclusively bound by that judgment, by the knowledge of it, and no good faith on his part will screen him from the necessity of taking notice of the fact that that judgment exists. It is alleged here that by the resolution seating Mr. KELLOGG and denying a seat to Mr. Spofford a final and irrevocable decree was made by the Senate determining the title of these two men. It is alleged that that decree covered every possible ground of inquiry that might have been made by the committee whose report led to the adoption of the resolution.

Here are the records spread before the world. Senators know what the records contain. If, therefore, when a memorial is presented here which impeaches that record, and which declares that Spofford is entitled to the seat and that KELLOGG is not entitled to it, it is too manifest for argument that the question in its whole force and power arose *in limine*, and was then bound to be decided by the Senate, and if the Senate took up the question and referred the question upon the memorial of Mr. Spofford to the committee with instructions to investigate, then I take it that the doctrine of *res adjudicata* applies as well to the last act of the Senate as it does to the first.

In the case of Fitch and Bright this principle was adopted. After there had been a solemn adjudication on the part of the Senate of their right and title to the office and that there was no vacancy existing, the Senate notwithstanding received a memorial from the Legislature of Indiana, referred it to the committee, and required the committee to proceed to the investigation, thereby establishing the proposition that the Senate of the United States has not by any precedent that it has ever yet established denied to itself the right to take further action after it had once arrived at a conclusion in regard to the right to a seat which gentlemen on this floor claim to be a final and conclusive action of the body.

If some man shall arise in the Supreme Court of the United States at the next term and by petition which he shall file there impeach the judgment of that court in a particular cause to which he was a party, he would never get that petition heard; he would have it turned out of that court as being offensive, against the known rules and principle of law which charge him with knowledge of the fact that the court had come to a solemn conclusion; but if that august tribunal should entertain the petition and enter upon the consideration of its merits, then it would be inferred that the court did not consider that in the first decision it had established a precedent so absolutely conclusive as that it might not still further enter upon its consideration. This was done in the case of Fitch and Bright, and also it was done in other cases; it was done in the case of Spencer by the Senate, and in this case—three precedents to show that the Senate does not feel itself bound conclusively by the facts that speak undeniably on the face of its record from entering on a second investigation for the purpose of establishing justice according to the Constitution.

But in the Bright and Fitch case the Senate never did express an opinion upon either the majority or minority report by adopting either. It laid the whole subject on the table, and thereby carefully abstained from expressing an opinion as to its jurisdiction to entertain the inquiry. In Spencer's case, the reports of the committee were never taken up for decision, the Senate thereby again cautiously avoiding the expression of an opinion, and as carefully avoiding all discussion of the question. Neither of these cases gives the slightest support to the modern republican plea of *res adjudicata*, by which crime is made virtue, and an advantage gained by bribery and fraud, and sought to be maintained by perjury and subornation of perjury and the assisting power of a solid republican vote in the Senate, is sanctified as an unimpeachable right.

But there is a distinct question in this case which was not in the Fitch and Bright case, but was in the case of Spencer, which the Senate would not meet—which it did not feel willing to meet—for that resolution still sleeps in the archives of this body not acted upon and not called up for action. It is the criminal side of the case—the question whether KELLOGG obtained his credentials by coercion, fraud, and bribery, and whether he has attempted to hold his place by the concealment of the truth, by means of perjury and the subornation of perjury.

The Fitch and Bright case does not cover that question. When the Senate decided that they were elected by a quorum of the Indiana Legislature they did not decide that their election by that quorum would have been valid if it had been procured by bribery.

What is there in this case that covers KELLOGG's crimes as with a mantle and prevents the people and the Senate from looking beneath his senatorial toga at the hideous corruption which it cloaks?

It is "the merits of his title," answers one Senator. How can the merits of his title, the validity of his credentials, when considered, as they were, only with reference to the lawfulness of the authority under which they were granted and certified, involve or include the secret and uncertified crimes, the crimes concealed in darkness and perjury, through which he obtained those meritorious credentials?

Finding that KELLOGG cannot stand upon his own merits, upon his own conduct in obtaining a certificate of election, the solid republican vote of the Senate plants him upon the merits of his certificate and bids him cling to that.

I apologize in advance for the illustration, but the Senate sets up the certificate of the Packard legislature as the cross to which KELLOGG must cling for the expiation of his sins. They have nailed him to that instrument of torture and of death and claim that its virtues have purged him and made him clean, washed him and made him white as wool. But they forget that they have fastened him to a cross that has no power to save and from which the only plea that can be heard is the plea of the dying thief: "Have mercy upon me, a sinner!"

I will not venture to detain the Senate longer in the discussion of a proposition that every man must know to be true, that when the merits of KELLOGG's title were under examination by the order of the Senate the merits of his conduct in procuring the evidence of this title were not considered, and that there is therefore not the least foundation upon which to base that part of the plea of *res adjudicata* or of former acquittal which relates to the criminal side of this case.

No one Senator can afford to undertake to examine or discuss this entire case in all its broad features if he either consults his own strength or the patience or the pleasure of the Senate. I have discharged the duty which to me has been a painful one in this case; but I should not fulfill my duty to myself so long as I occupy a place in this Senate if I should fail to present my view of the law and the evidence in such a case as this, as I have done, not with bitterness, but still with intense earnestness of conviction. I have not intended to wound the feelings of any, but I have stood here, as I think I have the right to stand, as one of the men concerned in arriving at a correct judgment upon these facts; and as they present themselves to my mind I present them to the Senate, as they convince me I have uttered my convictions without fear and without favor.

I hope that some Senator more able than I am to argue this question will take up the evidence in this case and discuss it with a view to show what the Senator from Ohio has not been willing to admit as a conviction upon his own mind, that the evidence in this case does firmly establish beyond a reasonable doubt that KELLOGG did employ bribery, coercion, fraud, perjury, and subornation of perjury for the purpose of obtaining and holding a seat in the Senate of the United States.

Mr. BUTLER. Mr. President——

The PRESIDENT *pro tempore*. Before the Senator from South Carolina proceeds, the Chair will lay before the Senate a communication from the Secretary of the Interior.

Mr. BUTLER. I only desire to take the floor for to-morrow; and I give way to the Senator from Pennsylvania.

The PRESIDENT *pro tempore*. Is there objection to the pending order being laid aside informally to receive other business, without its being prejudiced by an adjournment? The Chair hears none.

Mr. BUTLER. That being understood, I yield the floor for to-day.

TOWN SITES IN UTAH TERRITORY.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a letter of the Secretary of the Interior, in answer to Senate resolution of March 23, 1880, relative to patents for lands issued to Thomas McBride, &c., transmitting the report of the Commissioner of the General Land Office on the subject. The Chair understands that the resolution to which this communication is an answer was introduced by the Senator from Vermont, [Mr. EDMUNDS.] He is not present, and these papers will lie on the table until he returns to make such motion as he may see fit in regard to them.

SOMERVILLE NICHOLSON.

Mr. CAMERON, of Pennsylvania. I should like to occupy the attention of the Senate for a very few minutes with a bill that I asked to have taken up yesterday. It is Senate bill No. 201, for the relief of Somerville Nicholson. I do not think it will require much time.

Mr. BAYARD. I wish to proceed to the consideration of Senate bill No. 1726, regulating the pay and appointment of special deputy marshals.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania has moved to proceed to the consideration of another bill.

Mr. BAYARD. I do not suppose the bill to which I have called attention can be concluded to-night. I do not propose to press it to a vote to-night. Understanding that the measure of my friend from Pennsylvania is one that can be passed in a few minutes, I shall not antagonize it; but I merely desire that this bill should come before the Senate for its deliberate and conclusive action. Whatever debate may be desired upon it, of course it will be the pleasure of the Senate to hear. I desire to state that to-morrow, after the routine business of the morning hour has been gone through with, I shall ask the Senate to proceed to the consideration of the bill which I have indicated.

The PRESIDENT *pro tempore*. Will the Senator from Pennsylvania indicate the bill he desires taken up?

Mr. CAMERON, of Pennsylvania. It is Senate bill No. 201.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the Senate proceed to the consideration of the bill (S. No. 201) for the relief of Somerville Nicholson.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

An amendment was reported from the Committee on Naval Affairs, in line 6, after the word "after," to strike out "George M. Ransom" and insert "Clark H. Welles;" so as to make the bill read:

That the President of the United States be, and is hereby, authorized to restore Somerville Nicholson, now a captain on the retired list of the Navy, to the active list, to take rank next after Clark H. Welles: *Provided*, That no claim for arrearages of pay shall accrue to said Nicholson by reason of restoration under the provisions of this act.

The amendment was agreed to.

Mr. COCKRELL. I ask for the reading of the report.

The Chief Clerk proceeded to read the report, submitted by Mr. CAMERON, of Pennsylvania, from the Committee on Naval Affairs March 24, 1880, but was interrupted by

Mr. DAVIS, of West Virginia. I rise to ask whether the Senator from Missouri insists on the reading of the whole of that report? It is very long.

Mr. COCKRELL. I have asked for the reading of the report; and when I am satisfied to dispense with the reading, I will notify the Chair.

Mr. DAVIS, of West Virginia. As long as I get such a short answer and such an unnecessary answer I will raise a question of order. It is a matter for the Senate to determine, and not for any one Senator. I am sorry the Senator answered me so shortly. I certainly appealed to him in that courtesy with which one Senator ought to appeal to another. I do not know of any rule that permits a Senator to call for the reading of a paper unless the Senate desires it. I make the point of order.

Mr. COCKRELL. I leave it for the Chair to decide.

The PRESIDENT *pro tempore*. If the objection had been made when the reading was called for the Chair would have felt it incumbent upon him to put the question to the Senate whether the paper should be read; but no objection having been then made, the objection comes too late, and the further reading of the paper can only be got rid of by a motion to dispense with its further reading. The reading will proceed.

The Chief Clerk continued the reading of the report; and having read for some time——

Mr. COCKRELL. So far as I am concerned, I have had an opportunity of looking over this report, and I do not care for its further reading. It is the duty of the Senate, I think, to be advised in regard to all these matters. Had I known that this case was coming up I should have looked over the report in advance and have been able to make whatever objections I might have had to the bill. These reports are made for the information of the Senate, and I conceive that it is the duty of any Senator to call for the reading of a report. It has been the uniform rule in the Senate to call for it, and no exception is to be taken by anybody to that. This is a very voluminous report, and the greater portion of it does not touch this case at all. It includes simply questions and answers and unnecessary evidence in the matter. The report of the committee itself is very short. If the Senator making this report will answer some questions and give some explanation I shall not insist upon the reading of the testimony and the evidence in the case.

I supposed this was an officer to be restored who had been dismissed by the sentence of a court-martial, but I find that he is simply an officer on the retired list of the Navy, and the object of this bill, as I understand, is to restore him to the active list. I desire the Senator to answer me what position he now holds and what is his relative grade on the retired list.

Mr. CAMERON, of Pennsylvania. He is a captain on the retired list.

Mr. COCKRELL. What is his relative position to Clark H. Welles?

Mr. CAMERON, of Pennsylvania. About ten points ahead of Clark H. Welles.

Mr. VOORHEES. If he was restored to the rank he would have had but for the circumstances which are alluded to in the report he would be ten points in the commodore's grade above where it is proposed to place him.

Now, let me say to the Senate in all candor that this is not to jump anybody. It affects nobody. I have talked fully with the chairman of the Committee on Naval Affairs, [Mr. MCPHERSON,] who is not present this afternoon. He knew that the bill was coming up and said it was with his entire consent and approbation. It is simply for the purpose of letting one of the oldest and most capable officers in the Navy retire with honor and without any blemish upon his reputation. Forty years this man has been in the service. One misfortune overtook him. It is the desire of his friends to restore him to the active list at the foot of the grade of commodores and from that position let him be retired.

There is much more I could say if it were necessary. Here are witnesses from whose testimony the Clerk was reading in the report that sustain the propriety and fitness and justice of this action more than any case that I have ever known since I have been in the Senate, and as far as my assurance will go with Senators I assure them that this is a thing which can be done with entire safety and propriety.

Mr. COCKRELL. I have no doubt of the kindly feeling and the honorable character of this gentleman; but there is another question that I desire to ask. Captain Nicholson was examined by an examining board of the Navy. In the first place, Captain Nicholson was court-martialed, was brought before a court-martial, and a trial was had, and the sentence——

Mr. VOORHEES. I will explain that if the Senator will allow me.

Mr. COCKRELL. This was in March, 1874. The sentence of the court convicted Captain Nicholson of drunkenness in December, 1873, and in January, 1874, while in command of the Lancaster. It sentenced him to ten years' furlough with loss of rank during that time. Now, as I understand, a portion of that sentence was served out, and then the President pardoned him or relieved him from it.

Mr. VOORHEES. Let me explain. The sentence of the court-martial was revised to six years' suspension. Four years of that were remitted by President Grant, and two years of it have been submitted to. From that day to this—I do not know that I ought to cite my own evidence, but I have given this case attention—from that day to this there has been no more exemplary man that I have ever associated with than Captain Nicholson.

Mr. COCKRELL. Then, as I understand, Captain Nicholson was tried by a court-martial, this sentence was imposed, part of it was remitted, and the rest was served out. Then he was on the active list again, and he was placed before an examining board for the purpose of promotion under the regulations of the Navy Department, and that board found him unfit for promotion. As I understand from the record of the proceedings here, the board found him unfit for promotion. John A. Bolles, naval solicitor, makes this report on the 30th of November, 1877:

Captain Nicholson has been examined for promotion by both of the boards named in sections 1493 and 1497. Only one of those boards recommends him for promotion.

Under section 1447 of the Revised Statutes, he must now be retired, unless the President non-concur with the examining board, which finds Captain Nicholson morally unfit for promotion, and by sending the case back for reconsideration, or by sending it to a new board, shall obtain a report in which he can concur.

Then, as I understand, he was sent to another board, and that board still declined to grant the promotion, although there was a division.

Mr. VOORHEES. I will only say in reply that the finding of the board was a very extraordinary finding.

Mr. CAMERON, of Pennsylvania. It was entirely upon hearsay evidence. There was no evidence before the board at the time of his examination that tended to show that he was unfit morally.

Mr. COCKRELL. Here we have a court-martial sentence that is partly remitted. Then we have an examining board that found him unfit for promotion, and then there was a second examining board, and that found him unfit for promotion. Now, was Captain Nicholson deprived of any opportunity of presenting his evidence before that board?

Mr. CAMERON, of Pennsylvania. He did present his evidence.

Mr. COCKRELL. He had a right to present his evidence and the right of cross-examination to bring out the whole case. Is there any allegation here that he was deprived of any fair and reasonable opportunity of presenting his evidence before these boards, or that these boards were prejudiced against him? Was there any objection made to the boards?

This officer has had three trials it seems to me. He had a trial before a court-martial; he served out a part of the sentence and the residue was remitted. He was then restored to the active list by the expiration of the sentence and the remission of it; and then he was ordered before a board for promotion, and that board found him unfit for promotion. Then he was ordered before a second board, and that board still found him unfit for promotion. Now, in each one of these boards he had an opportunity of presenting his witnesses and examining them and of cross-examining the witnesses against him. Is there any allegation that any one of these trials was not fair, that he was taken unaware, that there was evidence which he had no oppor-

tunity of producing? Or are we simply, upon the former high character of this officer and the sympathy which is expected to be exercised, to overrule and override these two findings? I want to get at the legal point as to whether there was any exception taken to these proceedings.

Mr. CAMERON, of Pennsylvania. The Senator has taken all the points.

Mr. COCKRELL. Was there any exception taken? I have not examined the records of the courts-martial; but was there any exception taken to the composition of the examining boards?

Mr. VOORHEES. Oh, yes.

Mr. COCKRELL. I see nothing of that stated here in the proceedings, and it does seem to me that this is a strange precedent if we are to overrule and override two fair trials.

Mr. CAMERON, of Pennsylvania. Permit me to say a word?

Mr. COCKRELL. In a moment. I know nothing about Captain Nicholson and never heard of him before. It is only the precedent I am speaking of. No doubt he is entitled to all that is said of him.

Mr. CAMERON, of Pennsylvania. I understand that when Captain Nicholson was before the board for promotion the evidence against him was taken from the testimony given before the preceding court-martial.

Mr. INGALLS. What was he tried for?

Mr. CAMERON, of Pennsylvania. In the first place for drunkenness.

Mr. INGALLS. And dismissed?

Mr. CAMERON, of Pennsylvania. No, suspended. He was sentenced to suspension for six years, four years of which was remitted. Then when he came before the examining board they did not take the evidence of his condition at the time, but they took the evidence that had been produced at the court-martial. I think I am correct in that.

Mr. INGALLS. When was he suspended?

Mr. COCKRELL. In 1874.

Mr. CAMERON, of Pennsylvania. But there was no evidence, as I understand, in regard to his habits before the examining board at all when he was up for examination. They relied entirely upon the evidence which had been taken before the court-martial when he was tried and suspended, and therefore I say that the report of the examining board was unfair.

Mr. BAYARD. How long were they apart in time?

Mr. CAMERON, of Pennsylvania. Several years apart.

Mr. SAULSBURY. I desire to inquire of the Senator what are this officer's habits to-day?

Mr. CAMERON, of Pennsylvania. Just as good and perfect as those of any member of this body.

Mr. SAULSBURY. Now I understand that this gentleman has reformed. Is there satisfactory security from gentlemen who know him that he has thoroughly reformed and may be trusted in future? Recognizing the infirmities that attach to humanity everywhere, I am perfectly willing, on the assurance of gentlemen that this is a proper case for clemency, to exercise that faculty. I am not in favor of punishing a man simply because he has fallen into habits which disqualify him for the time being if he changes those habits and becomes qualified again to resume his proper rank in his profession. In such a case, I for one am disposed to restore him. All I wish to know is whether gentlemen feel satisfied in their judgment that if we restore this man to the rank which he left we can do it without injury to the service.

Mr. CAMERON, of Pennsylvania. In reply to the Senator, I will state that so far as I have been able to learn—and I have made full inquiry in the examination of this case—this officer's habits are exemplary. I do not know that he uses intoxicating liquors at all; I do not believe he does in any way, and I do not think he has done so for years. I do not think he has done so since his trial.

Mr. SAULSBURY. Then, so far as I am concerned, if that is the case, I have no hesitation in voting for the bill. I think we are sometimes too hard upon gentlemen who have infirmities of this character. When a gentleman has reformed, and has made an effort to recover himself, I think we ought to restore him if we see that we can do so without injury to the service.

Mr. COCKRELL. As I understand, this is not to put him on the active list. The bill proposes that nominally; but the Senator from Indiana no doubt stated what is the object of the bill as a matter of fact, and that is that he shall be retired with a higher rank. He is now of such an age that he cannot serve much longer in the Navy; he must be now about sixty.

Mr. VOORHEES. Do not misunderstand me. He is now on the retired list. The object of the bill is to restore him to the active list.

Mr. RANDOLPH. How old is he?

Mr. VOORHEES. I will tell you in a moment. In reply to the Senator from Missouri, I would say that he will be subject then to active duty, and when I said that he would be retired at the rank he was placed at now the simple meaning was that I wished him taken from the retired list and put on the active list, so that when he comes to be retired hereafter he shall retire as if this accident or misfortune had not befallen him.

Captain Nicholson is about fifty-seven or fifty-eight years of age. He has one son, as brilliant and promising an officer in the Navy, following in his father's profession, as there is in our service. He has another son, a graduate of West Point, now with Sturgis in the Seventh Cavalry on the frontier. For their sakes and for the sake of his family, as well as his own, I desire that this bill be passed. It hurts nobody and helps some people.

Mr. COCKRELL. The whole of the bill is simply this: Here is an officer on the retired list drawing $1,900 a year, I believe, which is the retired pay of a captain in the Navy; and now it is proposed that an act of Congress shall take him from the retired list and put him on the active list where two boards of examination said he was not fit to remain, and then he will be retired with the increased rank and pay of a commodore.

Mr. INGALLS. How much increased pay will he get?

Mr. COCKRELL. That I cannot say.

Mr. VOORHEES. I do not think that anybody would begrudge Captain Nicholson that if he knew the hard service and brilliant service that he did during the last war. I do not believe anybody would begrudge it if he felt that this bill ought to pass independent of that consideration.

Mr. COCKRELL. I ask the Senator from Pennsylvania how much will be the retired pay of the rank he will get, over and above what he receives now?

Mr. CAMERON, of Pennsylvania. About $2,500 is the retired pay of a commodore, I think.

Mr. COCKRELL. Between $2,500 and $3,000, I think; I cannot tell exactly. The difference would not be that, but it would run up from $1,900 to between $2,500 and $3,000.

Mr. VOORHEES. The difference in the retired pay of the grades, as I understand, is about $1,400 or $1,500 a year. That is just what I understand the difference to be between the retired pay of a commodore and of a captain.

Mr. COCKRELL. I suppose that is it; between $1,400 and $1,500. Probably it is as much as that. To refuse this is doing no injustice to Captain Nicholson. He simply failed to pass an examination and get a higher place; he failed to pass it before two boards; and now he wants Congress to say that he must take that place, wants Congress to override the action of those two boards and give him a higher rank. There is no degradation, no stigma, no stain in letting him stay where he is. He is upon the retired list now; he is drawing the pay of a retired captain; he has been put there lawfully; that is, according to the forms of law; and now this is simply to put him higher. I think the principle is wrong; I think the policy is wrong. I think it is wrong both as to the Army and as to the Navy, and, so far as I am personally concerned, I am consistent in opposing this same thing in the Military Committee and in opposing it upon the floor of the Senate.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. COCKRELL. I simply desire to record my vote without calling for the yeas and nays at this late hour against the policy and the principle of this bill.

The question being put, a division was called for.

Mr. MORRILL. Owing to some conversation that I heard between the chairman of the Committee on Naval Affairs [Mr. MCPHERSON] and the Senator from Rhode Island, [Mr. ANTHONY,] who are not here present to take part in this discussion, I think we really ought to have the yeas and nays on the passage of the bill.

Mr. VOORHEES. I was authorized by the chairman of the Committee on Naval Affairs, with whom I had a long interview in his committee-room this afternoon, to call up this bill, and he said he had no objection. I state that on my personal and official honor.

Mr. MORRILL. Then I withdraw the call.

The question being put, the ayes were 28, and the noes were not counted.

So the bill was passed.

HOUR OF MEETING.

Mr. BAILEY. I ask the Senate to take up and consider the resolution that was introduced by me yesterday morning providing that hereafter the Senate shall meet at eleven o'clock a. m. instead of twelve m. as established by rule.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee, to proceed to the consideration of the resolution which he has indicated.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. BAILEY yesterday:

Resolved, That hereafter the daily hour of meeting shall be eleven o'clock a. m. until otherwise ordered.

Mr. COCKRELL. I think the resolution ought not to pass. I cannot see that it would facilitate business, and I hope that it will not pass now. It may be necessary after a while to pass such a resolution; I think we shall lose by it now. I think if we meet here promptly at twelve o'clock and go on with business, and devote the hour from eleven to twelve to the preparation of business to be brought before the Senate, it would be better.

Mr. CONKLING. I wish to occupy one moment in concurring with the Senator from Missouri. The hour which it is proposed to add to the session of the Senate is an hour taken away from the session of the committees. The committees during this week at least have been

called and expected to meet as usual, and I think that some notice should be given of a resolution of this sort; that is, it should be so framed as to take effect, not immediately but on a day which will enable the committees to meet and dispose of such business (at least to hold one meeting) as they have before them.

I make one other remark, which is that it is my impression very decidedly that there is quite as much importance to be attached to the meeting of several committees as there is to the consideration of business in the Senate. My impression is that this resolution passed now without notice will do more harm than good. If the object is to consider at this session of Congress and in order and intelligibly bills which ought not to be thrown over to the fate of the next brief session, occupied as we know that session will be very largely with matters apart from ordinary legislation, I think it would be much better to allow the resolution to lie on the table, to be taken up, if at all, some days hence than to take it up now.

Mr. INGALLS. Was not the resolution offered to-day?

The PRESIDENT *pro tempore*. Yesterday.

Mr. INGALLS. I understood that it was offered to-day.

Mr. HARRIS. No, sir; yesterday.

Mr. BAILEY. I appreciate the importance of the work of the committees of the Senate; I know very well that that work is absolutely indispensable to the preparation and to the completion of the work which is to be brought before the Senate for its consideration; but it is manifest to every Senator that we are approaching the closing days of this session, and that there is a great deal of work to be done by the Senate, much more by the Senate than can be done or should be done by committees. I imagine that the committee work is almost completed. Certainly, whatever shall be brought by committees now into the Senate will be placed on the Calendar at a point where it cannot possibly be reached during the remaining hours of the session.

Upon the suggestion of many Senators I introduced the resolution with a view to expediting the public business, so that we may meet here an hour earlier in the morning, for it is apparent that as the hour for dinner approaches Senators become restless and will not remain an hour over the usual time in the afternoon. For that reason it was that I desired to have an additional hour in the morning.

However, with a view to accommodate some gentlemen, and the Senator from New York [Mr. CONKLING] among others, I will move myself to amend the resolution by providing that on and after Thursday of this week the Senate shall meet at eleven o'clock a. m.

The PRESIDENT *pro tempore*. The resolution is still subject to be modified by the mover.

Mr. BAILEY. I will say "on and after Thursday morning."

Mr. PADDOCK. It strikes me a better modification would be to say "on and after Monday next."

Several SENATORS. Oh, no.

Mr. BAILEY. It may not be improper to refer to the fact that a resolution has been sent to the Senate from the House of Representatives proposing an adjournment on Monday, the 31st day of May. If the action proposed by this resolution should not be taken until Monday next, then there would be but one week, five days or six days at the furthest, of the time when we should have this extra hour.

Mr. HOAR. I hope the Senator from Tennessee will adhere to his resolution, to the substance of it. Whether it begins to-morrow or the next day is of course not very important.

Mr. BAILEY. Yielding to the request of a number of gentlemen, I am willing to say "on and after Thursday next." That will be the day after to-morrow.

Mr. HOAR. I hope the Senator will adhere to that. The business which is before the Senate on the Calendar, some of which has been here almost the entire session, certainly demands the time of Senators more than the maturing of new business by committees, which is simply to be placed upon the Calendar, and from which nothing will come. The Committee on Appropriations, who have to deal with the appropriation bills, always sit during the sessions of the Senate during the last days of a session. Whether we meet at eleven or twelve, we shall not have the benefit of their presence except when appropriation bills are on their passage.

The PRESIDENT *pro tempore*. The Chair will take the liberty of suggesting to the Senator from Tennessee that he will accomplish his purpose by merely inserting the words "after to-morrow" instead of the word "hereafter" in his original resolution.

Mr. BAILEY. Yes, sir; I will modify it in that way. Let the Secretary insert "after to-morrow."

The PRESIDENT *pro tempore*. The resolution as modified will be reported to the Senate.

The CHIEF CLERK. It is proposed to strike out the word "hereafter" and insert the words "after to-morrow;" so as to read:

Resolved, That after to-morrow the daily hour of meeting shall be eleven o'clock a. m., until otherwise ordered.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as thus modified.

The resolution, as modified, was agreed to.

COMMITTEE ON APPROPRIATIONS.

Mr. DAVIS, of Illinois. I move that the Senate adjourn.

Mr. DAVIS, of West Virginia. I wish just one moment to make a request, and then we can adjourn.

Mr. DAVIS, of Illinois. Very well.

Mr. DAVIS, of West Virginia. I ask that the Committee on Appropriations be allowed to sit during the sittings of the Senate for the remainder of this session. It has been usual to make such a request, and I am reminded of it by the remark of the Senator from Massachusetts, [Mr. HOAR.]

The PRESIDENT *pro tempore*. The Senator from West Virginia asks leave for the Committee on Appropriations to sit during the sessions of the Senate for the remainder of the present session of Congress. Is there objection? The Chair hears none, and leave is granted.

Mr. DAVIS, of Illinois. I renew my motion.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the Senate adjourn.

The motion was agreed to; and (at five o'clock and forty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 18, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ASSAY OFFICE, SAINT LOUIS, MISSOURI.

Mr. BLAND by unanimous consent, from the Committee on Coinage, Weights, and Measures, reported back with a favorable recommendation the bill (H. R. No. 6025) to establish an assay office in the city of Saint Louis, Missouri; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 3788) granting an increase of pension to William Hamill, and that the same be put upon its passage. In the last Congress the Committee on Invalid Pensions reported in favor of this bill, and also in the present Congress. I therefore ask that it be put upon its passage, as there can be no objection to it.

Mr. BREWER. Mr. Speaker, I dislike to object to the request of the gentleman from Illinois, but granting these requests for unanimous consent places some of us in a very embarrassing position. I have letters constantly from constituents saying "why do you not take up my bill from the Calendar and get it passed?" I am compelled to answer that it can only be done by unanimous consent, and that is generally refused. It will be seen that many of us are thus placed in a very embarrassing position.

Mr. TOWNSHEND, of Illinois. I hope the gentleman from Michigan will not object in this instance. I am sure that unanimous consent can be given for the passage of a great many of these bills to which there can be no objection.

Mr. BREWER. I shall be compelled to object under the circumstances.

Mr. TOWNSHEND, of Illinois. Then I shall demand the regular order.

Mr. GARFIELD. I hope unanimous consent will be given now so that we can get through a number of these bills in this way.

Mr. CONGER. That is all very well; but the objection appears always to strike in the wrong place. I know how it is myself.

The SPEAKER. Objection is made to the request of the gentleman from Illinois.

PENSION DEFICIENCIES.

Mr. COBB. I am directed by the Committee on Appropriations to report a bill providing for deficiencies in the Pension Department; and I ask that it be put upon its passage before the House as in Committee of the Whole on the state of the Union.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

The bill was read a first and second time, the second reading being in full, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June 30, 1880, being a deficiency appropriation for said year, and for other purposes:

Pension Office:

For pensions for Army invalids, widows, minors, and dependent relatives, survivors of the war of 1812, and widows of the war of 1812, $8,500,000.

For Navy pensions, to invalids, widows, minors, and dependent relatives, $225,000.

For the arrears of pensions due on claims in which the pensions were allowed prior to January 25, 1879, $500,000; the amounts paid out respectively for Army and Navy pensions, to be accounted for separately by the proper accounting officers of the Treasury Department.

For pay and allowances of salary, fees, for preparing vouchers, rent, fuel, light,

and postage on official matter directed to the Departments and bureaus at Washington, $15,000.

Patent Office:

For payment for illustrations of the Patent Office Official Gazette, $3,299.22.

Miscellaneous:

That the Secretary be, and he is hereby, authorized to employ one of the steamers of the revenue marine now on the Pacific coast, for the relief of the officers and crews of the whaling-barks Mount Wallaston and Vigilant, now imprisoned in the Arctic Ocean; and such sum of money not exceeding $6,000 as may be necessary to properly strengthen and equip such steam-cutter, and to carry out the object of this provision, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Total sum recommended by this bill is $9,249,299.22.

The SPEAKER. The gentleman from Indiana by instructions of the Committee on Appropriations, asks unanimous consent that this bill be considered in the House as in the Committee of the Whole. Is there objection?

Mr. SPRINGER. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I desire to know if the items of this bill are in part the items contained in the appropriation bill which was vetoed by the President?

The SPEAKER. That is hardly a parliamentary inquiry. It may be a legislative one for the consideration of members.

Mr. SPRINGER. Because if so I desire to raise this question: if this bill is a part of the bill vetoed by the President is it not our duty under the Constitution to vote first on that bill whether we shall pass it notwithstanding the objections of the President. The Constitution requires that the bill shall be reconsidered by the House.

Mr. MILLS. That is not a parliamentary inquiry. The only point is, does the gentleman object?

Mr. SPRINGER. It is a question whether or not we have the right, notwithstanding the provisions of the Constitution, to proceed to pass the bill without proceeding in the manner the Constitution directs. I ask the gentleman from Indiana whether this embraces a part of the vetoed bill?

Mr. COBB. It is a portion of that bill, not all of it. There is nothing in this bill that refers to the marshals. This bill relates mainly to pensions.

Mr. MILLS. There are no riders on this bill.

Mr. COBB. There is also a provision in this bill providing a search for our whaling-vessels supposed to be detained in the Arctic Seas. I believe that is all this bill contains in addition to the pension matter.

The SPEAKER. Is there consent to considering this bill in the House as in Committee of the Whole?

There was no objection.

The SPEAKER. The bill will now be read by paragraphs, and will be open to amendment.

The Clerk read as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June 30, 1880, being a deficiency appropriation for said year, and for other purposes:

Pension Office:

For pensions for Army invalids, widows, minors, and dependent relatives, survivors of the war of 1812, and widows of the war of 1812, $8,500,000.

Mr. CHALMERS. I send an amendment to the desk, and ask that it be read.

Mr. CONGER. I wish to inquire if this is a printed bill?

The SPEAKER. The Chair is advised that the bill has been printed for the use of the Committee on Appropriations.

Mr. CONGER. I ask the gentleman from Indiana if the bill is printed?

Mr. COBB. It is printed.

Mr. CONGER. What is the printer's number?

Mr. COBB. I do not remember the number. It is on the bill.

The SPEAKER. The bill at the desk is printed in the form in which it is usual to have bills printed for the committee. It bears no House number.

The Clerk read the amendment offered by Mr. CHALMERS, as follows:

After line 7 insert:

"That the act of March 3, 1873, entitled 'An act to place colored persons who enlisted in the Army on the same footing as other soldiers as to bounty and pension,' be, and the same is hereby, so construed as to extend to and include the heirs of such soldiers in their claims for military service; and the accounting officers of the Treasury are hereby authorized and directed to adjust the claims of such heirs in the same manner as provided by law for the settlement of like cases under existing laws whether the same have been adjusted or otherwise."

Mr. HISCOCK. I raise the question of order on that amendment.

The SPEAKER. The gentleman will state it.

Mr. HISCOCK. I raise the point of order that this is new legislation, that it increases the expenditure, and that it is not admissible on this bill. I do not know that I might be entirely willing that this law should be enacted; but I certainly object to it in connection with this bill for which there is a necessity for immediate passage.

Mr. CHALMERS. My amendment simply gives legislative construction to a law heretofore enacted. I have the opinion of the Attorney-General in which he says that the Treasury Department has misconstrued the law; and I would ask the Clerk to read as a part of my remarks the decision of the Department, and also the opinion of the Attorney-General, upon that subject. I think no one will object to the amendment. It simply puts the heirs of colored soldiers upon the same footing as the heirs of white soldiers.

The SPEAKER. The point of order is raised on this amendment that it changes existing law and is not in the direction of retrenchment. The first point is clear. It is a change of existing law. In regard to the second point, that the amendment does not retrench expenditures, the Chair will cause the rule to be read.

The Clerk read the following portion of clause 3, Rule XXI:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The SPEAKER. The Chair thinks that this amendment does change existing law and is not in the direction of retrenchment; that on the contrary it tends to increase expenditure by giving the benefit of the law indicated in the amendment to persons not already embraced therein.

Mr. CHALMERS. To bring it within the rule I will move to strike out $5 of the amount in the preceding paragraph.

Mr. HAWLEY. I hope the gentleman will not embarrass this bill with his amendment.

Mr. CHALMERS. I do not embarrass the bill. I stand here to represent a large number of colored constituents, men who fought for the flag of the Union, and I am astonished that gentlemen should be unwilling to make this law include the heirs of those colored soldiers as well as the heirs of the white soldiers.

Mr. HAWLEY. Now that is unfair.

The SPEAKER. The Chair desires to state that the rules operate on all alike.

Mr. HISCOCK. So far as the colored soldiers are concerned and so far as their heirs are concerned I am entirely willing my record shall stand in contrast with that of the gentleman who offers this amendment. I say this is no time to offer an amendment of that kind to embarrass the bill now pending. That can be the only effect of it. At the proper time and for a proper bill I will go as far as the gentleman from Mississippi can do in the direction of that amendment.

Mr. ATKINS. Are the heirs of the colored soldiers now excluded by the law?

Mr. CHALMERS. It is merely a departmental regulation.

Mr. ATKINS. As I understand, the Chair has decided that the amendment is contrary to existing law. I have not heard any law read which the amendment changes.

The SPEAKER. The Chair has stated that this is a change of law, by making its provisions include a class of persons not heretofore provided for.

Mr. ATKINS. I beg pardon of the Chair. I think it is merely a departmental regulation.

The SPEAKER. If the amendment be adopted it makes a change in the law as now on the statute-book.

Mr. CHALMERS. It is the construction of a law which is now on the statute-book.

Mr. WEAVER. I rose to suggest that point that this is merely a legislative construction of a law already on the statute-book.

Mr. CHALMERS. I ask that the papers which I send to the desk, including the opinion of the Attorney-General, be read.

The Clerk read as follows:

EXHIBIT A.

TREASURY DEPARTMENT,
Second Auditor's Office.

The following act of Congress is published for the information and government of all concerned:

"An act to place colored persons who enlisted in the Army on the same footing as other soldiers as to bounty and pension.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all colored persons who enlisted in the Army during the late war, and who are now prohibited from receiving bounty and pension on account of being borne on the rolls of their regiments as "slaves," shall be placed on the same footing, as to bounty and pension, as though they had not been slaves at the date of their enlistment.

"Approved March 3, 1873."

This act applies only to those soldiers who enlisted prior to July 18, 1864, and who were denied bounty on account of slavery.

The *heirs of deceased soldiers* are not entitled to any bounty under this act.

E. B. FRENCH,
Auditor.

EXHIBIT B.

DEPARTMENT OF JUSTICE,
Washington, March 26, 1878.

SIR: In compliance with your request, which accompanied the two letters from F. W. Golladay, esq., sent to me by your direction in October last, I have now the honor to state my views upon the question suggested in those letters, viz: Whether the heirs or legal representatives of deceased colored soldiers enlisted during the rebellion, and borne on the rolls as "slaves," are, by virtue of the act of March 3, 1873, chapter 262, (section 4724, Revised Statutes,) entitled to bounty.

The language of that statute (as contained in section 4723, Revised Statutes) is, "all colored persons who enlisted in the Army during the war of the rebellion, and who are now prohibited from receiving bounty and pension on account of being borne on the rolls of their regiments as 'slaves,' shall be placed on the same footing, as to bounty and pension, as though they had not been slaves at the date of their enlistment."

The purpose of this enactment, it seems to me, is to do away with the discrimination previously made between colored soldiers who had been in slavery and were borne on the rolls as slaves and other colored soldiers. Thus while bounty was

allowed to the latter, and, in case of death before payment, to their heirs and legal representatives in the order prescribed by the bounty laws, it was wholly denied to the former. Both descriptions of colored soldiers appear to be placed by the statute upon an equality with respect to this liberality of the Government. Those who were excluded from the benefits of the bounty laws for the reason that they appear on the rolls as slaves are thenceforth to be viewed as if that ground of exclusion never existed. This removal of the foundation for the above-mentioned discrimination leaves the provision of the bounty acts to extend and apply alike to all colored soldiers, whatever their former status might have been. It follows that, in cases where, under the bounty laws, the heirs of deceased colored soldiers not appearing on the rolls as slaves would be entitled to bounty, in such cases the heirs of deceased colored soldiers borne on the rolls as slaves must also be deemed to be entitled to bounty; otherwise, it is submitted, the latter description of colored soldiers would not stand on the "same footing" as to bounty with those of the former description, and the object contemplated by the law not be fully carried out.

I am therefore of the opinion that the question suggested in the letters which you were pleased to refer to me should be answered in the affirmative.

I am, sir, very respectfully,

CHAS. DEVENS,
Attorney-General.

To the PRESIDENT.

EXHIBIT C.

TREASURY DEPARTMENT, *February* 13, 1879.

We have uniformly sustained the following decision, which is found in 12 Opinions Attorneys-General, page 388, to wit:

"No subsequent decision upon a doubtful or controverted question of law, modifying a prevailing rule applied to the settlement of an account, would authorize reopening it with a view to readjustment of it in accordance with such decision."

Under this decision the case presented should not be reopened. Any practice by the Comptroller of treating a definite amount allowed on a claim as a partial payment only is contrary to the provisions of section 191, Revised Statutes, unless the remainder of the claim was expressly suspended. An allowance of $100 as bounty upon a claim of $300, made upon the ground that the amount allowed is all that the claim is entitled to by law, is a disallowance of the remainder of the claim, and in its nature final and conclusive.

(Signed) H. F. FRENCH,
Assistant Secretary.

Approved:
(Signed) JOHN SHERMAN,
Secretary.

Mr. CHALMERS. Upon the point of order I desire to direct the attention of the Chair to the decision of the Attorney-General which has just been read, and by reference to which it will be found that the Attorney-General holds that this departmental regulation is itself in violation of law. This construction which we now ask to have put on the statute is simply for the purpose of overturning a departmental regulation, and not to change any existing law. For that reason I think it is not subject to the point of order.

The SPEAKER. This amendment proposes to incorporate into this bill certain words which are not now on the statute-book. If that is not making a new law and changing existing law the Chair is unable to understand what would do so.

Mr. TOWNSHEND, of Illinois. It does not change existing law.

The SPEAKER. It is making new law, and the rule says that is not admissible unless it also works retrenchment. No one will contend that this is not in the direction of increased expenditure of money beyond what is now authorized by the terms of the existing law as that law is construed. Then there is another point of order lying against this proposition.

Mr. HISCOCK. Under the fourth subdivision of Rule XXI. I understand that there is now pending before the House a bill substantially the same as this.

Mr. MILLS. That point of order is too late.

The SPEAKER. The Chair does not say whether it is too late or not. The Chair sustains the first point of order made, and it is not necessary to go to the one just mentioned.

Mr. MILLS. That section has been discussed, and it is too late to make the other point of order upon it now.

Mr. TOWNSHEND, of Illinois. It does not increase expenditures, for the money has already been appropriated.

Mr. CHALMERS. With all due deference to the Chair, I appeal from his decision.

Mr. WILSON. And I move to lay the appeal on the table.

Mr. BRIGHT. Will the Chair be kind enough to state the question before we are called upon to vote.

The SPEAKER. The Chair has decided that this amendment proposes to make new law and will increase expenditures beyond what is now authorized by law; and because of that fact it is amenable to a point under the third clause of Rule XXI. From that decision the gentleman from Mississippi [Mr. CHALMERS] appeals, and the gentleman from West Virginia [Mr. WILSON] moves to lay the appeal on the table.

Mr. MILLS. I hope the gentleman from West Virginia [Mr. WILSON] will not press that motion.

Mr. SPRINGER. Let the clause be read upon which the point of order was made.

The SPEAKER. The Clerk will read it.

The Clerk read as follows:

That the act of March 3, 1873, entitled "An act to place colored persons who enlisted in the Army on the same footing as other soldiers as to bounty and pension," be, and the same is hereby, so construed as to extend to and include the heirs of such soldiers in their claims for military service, and the accounting officers of the Treasury are hereby authorized and directed to adjust the claims of such heirs in the same manner as provided by law for the settlement of like cases under existing laws, whether the same have been adjusted or otherwise.

The SPEAKER. This is a change of law, by putting a new construction by new enactment on an existing law.

Mr. SPRINGER. Let me ask another question so that I can understand how to vote. Is this a difference of construction simply between the House and the Department, or is it a change of existing law?

Mr. CHALMERS. It is a question of construction.

Mr. GARFIELD. Allow me to make a suggestion. It is that by unanimous consent this amendment be taken up as a separate bill and passed. I do not believe anybody will object to it, and it will save a vote by yeas and nays, save the point of order, and save everything.

Mr. CHALMERS. I will agree to that; all I want to do is to accomplish the purpose.

Mr. GARFIELD. Nobody will object to that.

The SPEAKER. No one objects, and the amendment will be considered as withdrawn, and after the consideration of the pending bill has been concluded the Chair will recognize the gentleman from Mississippi [Mr. CHALMERS] to introduce this as a separate bill.

Mr. GARFIELD. Let unanimous consent be given for its consideration immediately.

The SPEAKER. The House has given its consent that it shall be considered after disposal of the appropriation bill. The amendment is not now in the form of a bill.

Mr. GARFIELD. Then I ask unanimous consent that it may be taken up and considered immediately after this bill has been disposed of.

There was no objection.

Mr. YOUNG, of Tennessee. What is now the question before the House?

The SPEAKER. The House has given unanimous consent that the provisions of the amendment proposed by the gentleman from Mississippi [Mr. CHALMERS] may be considered as a separate bill immediately after the pending bill has been disposed of. It will require but a majority vote to pass it then as a bill.

Mr. CHALMERS. That is all right.

The SPEAKER. The question is upon ordering the pending bill to be engrossed and read a third time.

Mr. COX. What has become of the motion to lay the appeal on the table?

The SPEAKER. The amendment upon which the point of order was made having been withdrawn, the point of order and the decision thereupon and all proceedings connected therewith fall with the withdrawal of the amendment.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. HISCOCK. Does not the rule require the vote upon the passage of this bill to be taken by yeas and nays?

The SPEAKER *pro tempore*, (Mr. CONVERSE.) The Chair has some doubt about this being such a bill as under the rule must have the yeas and nays taken upon its passage.

Mr. ATKINS. There is no necessity of having a yea-and-nay vote on the passage of this bill; it is not a general appropriation bill.

Mr. SPRINGER. I ask unanimous consent that the yeas and nays be not taken.

Mr. GARFIELD. Cannot the question be put in this way: If there be no objection the bill will be passed?

Mr. YOUNG, of Tennessee. I insist upon the yeas and nays if the rule requires it.

The SPEAKER *pro tempore*. The Clerk will call the roll.

The Clerk proceeded to call the roll; but before it was concluded

Mr. ATKINS said: I do not see any necessity for continuing the roll-call. I think by unanimous consent we may dispense with it and go on with the public business. My colleague [Mr. YOUNG, of Tennessee] withdraws his objection.

Mr. YOUNG, of Tennessee. I withdraw my objection to dispensing with the roll-call. My reason for insisting on the roll-call was that I thought it an improper method of legislation to pass with such haste a bill appropriating so large an amount of money, when members had not had the opportunity to see the bill in print.

The bill was then passed.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. No. 3989) to remove the political disabilities of William B. Taliaferro, of Virginia.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes.

POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. I ask unanimous consent that the bill just returned from the Senate with amendments, House bill No. 6036, making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, be taken

from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed with the amendments.

There being no objection, it was ordered accordingly.

HEIRS OF COLORED SOLDIERS.

Mr. CHALMERS. I now ask to have taken up the bill which it was agreed by unanimous consent should be taken up immediately after the pension appropriation bill was disposed of.

The bill (H. R. No. 5562) for the relief of the heirs of colored soldiers was read, as follows:

Be it enacted, &c., That the act of March 3, 1873, entitled "An act to place colored persons who enlisted in the Army on the same footing as other soldiers as to bounty and pension," be, and the same is hereby, so construed as to extend to and include the heirs of such soldiers in their claims for military service, and the accounting officers of the Treasury are hereby authorized and directed to adjust the claims of such heirs in the same manner as provided by law for the settlement of like cases under existing laws, whether the same have been adjusted or otherwise.

There being no objection, the Committee on the Judiciary was discharged from the further consideration of the bill, which was then ordered to be engrossed and read a third time; and was accordingly read the third time.

Mr. SAMFORD. Is it not in order to offer as an amendment to this bill the Mexican pension bill?

The SPEAKER *pro tempore*. No amendment is now in order.

Mr. SAMFORD. Do I understand that unanimous consent was given to take up the Mexican pension bill as soon as this bill is disposed of?

The SPEAKER *pro tempore*. The Chair does not so understand.

The bill was passed.

Mr. CHALMERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROPRIATIONS FOR GOVERNMENT OF DISTRICT OF COLUMBIA.

Mr. COBB, from the Committee on Appropriations, reported back with Senate amendments the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the year ending June 30, 1881, and for other purposes.

The report of the committee was read, as follows:

The Committee on Appropriations, to whom was referred the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the year ending June 30, 1881, and for other purposes, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 18, 21, 24, 25, 26, 27, 28, 29, 30, and 31; non-concurrence in the amendments numbered 3, 10, 11, 16, 17, 19, 20, 22, and 23.

The SPEAKER *pro tempore*. If there be no objection, the report of the Committee on Appropriations will be agreed to and the amendments of the Senate concurred in or non-concurred in respectively as recommended.

There was no objection, and the report was agreed to.

Mr. COBB moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois. The gentleman from Michigan has withdrawn his objection to the passage of the bill (H. R. No. 3788) granting an increase of pension to William Hamill. I ask unanimous consent that it be now taken up and passed.

The bill was read.

The SPEAKER *pro tempore*. Is there objection to the present consideration of this bill?

Mr. WHITE. I object.

Mr. TOWNSHEND, of Illinois. I hope the gentleman will not insist on his objection.

Mr. WHITE. I want to know something about the bill.

Mr. TOWNSHEND, of Illinois. I am willing to explain it.

APPROPRIATIONS FOR AGRICULTURAL DEPARTMENT.

Mr. COVERT, from the Committee on Agriculture, reported back without amendment the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, and moved that the same be referred to the Committee of the Whole House on the state of the Union.

Mr. WARNER. I reserve all points of order on the bill.

The motion of Mr. COVERT was agreed to; and the bill was referred to the Committee of the Whole House on the state of the Union.

TEXAS PACIFIC RAILROAD.

Mr. McLANE. I rise to a question of privilege. I see published in the Washington Post of this morning what purports to be a copy of a letter addressed to the gentleman from Louisiana, Mr. ELLIS, and myself as members of the Committee on Pacific Railroads, charging bribery and corruption in connection with the passage of the Texas Pacific Railroad bill in a former Congress. I want to say to the House that this letter appears in the newspapers, not only without the knowledge of any member of the committee, but through the agency, direct or indirect, of the writer thereof. That letter was opened yesterday after the committee adjourned, was read by me and by Mr. ELLIS, to whom it was addressed, and was then sealed up again to be submitted to the committee at their next meeting—sealed up in order that it might not reach anybody but the committee. The man who wrote the letter is of course the only person who could have given a copy to others; and as it is published this morning, I repeat that it appears not only without the consent or knowledge of the committee, but it must necessarily have been furnished by the writer. As this is a document belonging to the committee and through the committee to the House, I have deemed it a question of privilege to make this statement.

A MEMBER. What is the name of the writer?

Mr. McLANE. J. A. George. It was, and it is now, my intention to submit the letter to the committee. On the receipt of the letter, after the adjournment of the committee yesterday, I read it with Mr. ELLIS, to whom it was addressed jointly with myself, and then sealed it up in the envelope and indorsed it for the consideration of the committee at their next meeting.

Mr. WHITE. I rise to a question of order.

The SPEAKER. The gentleman from Pennsylvania will state his point of order.

Mr. WHITE. We cannot tell what is going on on this side of the House. The gentleman rose to a question of personal privilege and I do not know what he is stating to the House.

Mr. McLANE. I have examined the envelope and find the seal still unbroken. I will state further that when the committee meets at the regular time on Thursday next, it will be submitted for their consideration, and if they shall think the subject worthy of attention, I will come to the House with such instructions as they may choose to direct.

FUNERAL EXPENSES OF ROBERT CALDWELL.

Mr. HAMMOND, of Georgia. The gentleman from Pennsylvania agrees to withdraw his demand for the regular order of business, so that I may introduce a resolution touching the burial of an employé of the House who has just died.

Mr. WHITE. Yes; I withdraw it for that purpose.

Mr. HAMMOND, of Georgia. I ask, Mr. Speaker, unanimous consent to move the adoption of the following resolution:

Resolved, That the necessary funeral expenses of Robert Caldwell, late an employé in the folding-room of the House, be paid out of the contingent fund of the House on vouchers to be approved by the Committee on Accounts, and that the Clerk be directed to pay out of the contingent fund of the House three months' pay to the widow of said Caldwell.

The resolution was adopted.

ORDER OF BUSINESS.

Mr. WHITE. I now demand the regular order of business, and insist upon that demand.

Mr. COX. Will the gentleman allow me to ask him——

Mr. WHITE. No; I insist on my demand for the regular order of business.

The SPEAKER *pro tempore*. The regular order of business is the morning hour.

Mr. COVERT. I move to dispense with the morning hour for the purpose of moving thereafter that the House go into Committee of the Whole House on the state of the Union to take up for consideration the agricultural appropriation bill.

Mr. YOUNG, of Tennessee. Was not the National Board of Health bill made the special order immediately after the morning hour this day?

The SPEAKER *pro tempore*. It was. The gentleman from New York now moves that the morning hour be dispensed with.

The motion was agreed to.

Mr. COVERT. I now move that the House go into Committee of the Whole House on the state of the Union for the purpose of considering the agricultural appropriation bill.

Mr. YOUNG, of Tennessee. The National Board of Health bill was made the special order to-day after the morning hour. I have no desire to antagonize the gentleman from New York. I am instructed by the committee not to insist on our right at the present time, but to ask that to-morrow week be set apart for the consideration of the National Board of Health bill. [Cries of "Regular order!"] This is the regular order now, and it is not the regular order to keep interrupting me with a demand for the regular order. [Laughter.]

The SPEAKER *pro tempore*. The Clerk will read the resolution on the question made by the gentleman from Tennessee.

Mr. YOUNG, of Tennessee. I only ask, Mr. Speaker, unanimous consent to change that order from to-day until next Wednesday, to-morrow week.

Mr. ROBINSON. What bill is it?

The SPEAKER. It is the National Board of Health bill.

Mr. RICE. I object.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT. I now move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of taking up and considering at this time the agricultural appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. HOOKER in the chair.

The CHAIRMAN. The business before the committee for consideration is the bill (H. R. No. 6207) making appropriation for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

On motion of Mr. COVERT, by unanimous consent, the first reading of the bill for information was dispensed with.

Mr. COVERT. Mr. Chairman, the Committee on Agriculture, in presenting to the House the bill now under consideration, have endeavored very earnestly to bring about a combination of conditions ordinarily very difficult of reconciliation. They have sought to combine an economic expenditure of public money with a large amount of utilitarian work on the part of a governmental department. Speaking for the committee, I can safely assert to this House that every individual item in the estimates submitted was most carefully scrutinized and thoughtfully considered. The committee carried with them to the consideration of this bill the deep and earnest conviction that this House had invested them with an exceptional and highly important duty in intrusting to them the work of making appropriations for the Agricultural Department of the Government. They have been actuated by the desire to merit in full measure the confidence which the House has reposed in them in this regard; and this bill is now submitted with the consciousness on the part of every member of the committee that if the combination I have mentioned has not in every respect been successfully accomplished, the failure is attributable to no lack of effort on the part of those who have had in charge the formulation of the pending measure.

The Department of Agriculture has been a distinctive branch of the Government for the last eighteen years. With the sole exception, perhaps, of the Post-Office Department, no other public bureau has been brought into so close and direct intercourse with a majority of the people of this country. And yet perhaps the full scope and purpose of the Department are but imperfectly understood, even at this day, by the great majority of those who are engaged in agricultural pursuits and who are made the direct beneficiaries by its establishment and maintenance.

Scattered throughout the length and breadth of the land are practical, working farmers, who to-day believe that about the only work of the Department is the distribution of seeds and the sending out of annual reports. They know but little of the real labor of experimenting in improved varieties of products in the garden and grounds of the Department; of the work involved in the preparation of the reports which are issued from month to month and from year to year; of the labor entailed in the investigation of diseases among domesticated animals, or by the inquiries and experiments in special directions upon exceptional subjects relating to agriculture, which are constantly being made under the direction of the Department.

Let me call the attention of the House and of the country to a condensation of the statutory provisions relative to the Department as showing in small compass just what the Department was intended to be and what its work was designed to accomplish.

The general design and duties of the Department are to acquire and to diffuse among the people useful information on subjects connected with agriculture, and to procure, propagate, and distribute new and valuable seeds and plants. It is made the duty of the Commissioner to procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, records of which shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power. He is directed further to collect new and valuable seeds and plants; to test by cultivation the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists.

We, upon this floor, may differ as we will upon the proposition for the enlargement of the scope and plan of the Department. Granted that its work primarily benefits a large and self-sustaining class of workers, and that no other distinctive industry, such as commerce or manufactures, is recognized by the Government so far as direct governmental aid is concerned, the fact yet remains that the statute imposes upon the Commissioner and his aids onerous and very responsible duties. These duties cannot be discharged satisfactorily to the country unless they receive the close and constant attention of competent and experienced officials, and it is submitted that so long as the Department remains a distinctive branch of the Government, Congress must appropriate from year to year sufficient amounts to carry not only into operation but into successful operation the purposes for which the Department was organized.

It is made my duty, under instructions from my committee, to explain the provisions of the measure we have submitted.

It will be observed that the annual salary of the Commissioner has been established at the same rate at which he has heretofore been paid for his services. A large majority of the committee (and it was almost a unanimous sentiment with them) were very strongly of the opinion that this salary should be enlarged. It was claimed that the constantly increasing development of our agricultural resources entailed upon the head of the Department a greatly augmented amount of labor and an additional weight of responsibility. Again, it was urged that relatively the Commissioner received for his services less than the head of any other Department, or even bureau, of the Government. The sum of $3,000 per year would seem but a small amount to be paid to the chief of an important governmental Department; and the committee, had they felt they had the power, by an almost unanimous vote would have recommended an increase of compensation. The statute, however, has established the pay of this officer, and the committee has left his compensation at the statutory amount.

Passing on to the consideration of the salaries of the other officers, I desire to say only a very few words. The statute creating the offices of chief clerk, chemist, and other officers of the Department, established their salaries at certain fixed rates, as, for instance, these officers, with the botanist, entomologist, and statistician, received for a number of years, under the statute, $2,000 per annum for their services. A few years ago, in the formulation of an appropriation bill, the salaries of these officers, with the pay of some of the other employés, suffered a reduction of 10 per cent., and since then they have received this decreased amount for their work. The evidence more than established the fact to the satisfaction of a very large majority of the committee that these employés fully earned and were more than worthy of the pay given to them under the statute I have quoted. The work of the chemist, the entomologist, and the botanist call for scientific attainments of a very high order, and the Department has found it very difficult to secure the services of competent scientists at the meager compensation provided by law. The committee could see no good reason why the pay allowed to these officers by the statute should not be secured to them, and they have therefore reinstated these statutory salaries in the present bill. This proceeding, which would seem but an act of simple justice, makes an increase of a small amount only in their present pay, restoring the salaries of the chief clerk and the heads of bureaus I have mentioned from $1,900 to $2,000 each per annum.

I deem it useless to detain the House by any explanation of the minor features of the salary list. These matters of detail have in former years been exhaustively considered by the Appropriations Committee and have had the attention of the House on prior occasions when appropriations for this Department were under consideration. I desire to say only in this connection to gentlemen who may not have had their attention directed specially to the matter that a moment's thought will convince them that the ordinary detail work of the Department is of necessity extremely great. The Commissioner is in direct communication upon agricultural matters with correspondents in every township throughout the length and breadth of the United States. The labor connected with this one item alone, the condensing and tabulating and arranging the information derived in this way, can only be understood by those who have visited the Department and are familiar with its workings.

Notwithstanding the extension of the operations of the Department and the increased demand made upon the time and labor of its employés, absolutely no change or additional expense is made in the present bill so far as relates to the clerical force of the Department. Precisely the same number of clerks and laborers, at precisely the same rates of pay specified in the bill for the present fiscal year, is provided for in the bill now under consideration.

I pass rapidly on, sir, to the consideration of the other and more important features of the bill we have presented.

The committee has recommended an appropriation of $80,000 for the purchase and distribution of seeds and plants for the coming fiscal year. The increase in this amount over the sum expended this year is not at all proportionate to the increase in the number of those to whom seeds will be distributed. When we take into consideration the fact that agriculture in this country is developing year by year, is pushing itself in new sections, and is beckoning new workers to its fields, it will be seen that the slight increase over the last appropriation will scarcely supply the increased demands in this regard.

It will be observed that out of this appropriation for seeds $5,000 may, in the discretion of the Commissioner, be devoted to experiments in connection with tea-culture. I cannot speak from any personal knowledge with reference to the necessity for this special item. I can only say that the Commissioner and those who have given the matter close and careful attention—and this includes a number of the members of the committee—are sanguine that in the near future the matter of tea-culture can be made a certain and pronounced success in this country. It has of course been known for years that tea might be cultivated here. The other problem—whether it could be raised with profit and success—is the problem which the Department claims it has almost successfully solved. The committee, in the light of the testimony and assurances before them, have deemed it for the interest of the country to insert the provision I have mentioned in this section of the bill.

The question as to the manner of seed distribution was discussed at length by the committee. We were aware of the fact that some objection has been urged to the present system, and of a desire on the part of some of our associates on the floor to bring about a return to the former method of distribution; that is, that Senators and Representatives might themselves distribute the seeds among their constituents. Section 526 of the Revised Statutes, however, provides expressly that the Commissioner of Agriculture shall distribute these seeds among agriculturists. I have quoted the exact wording of the statute. This reading will, I trust, satisfy the House, as it convinced the committee, that the present manner of distribution—by the Commissioner—is the only correct and legal method to be adopted.

I pass over other parts of the bill, which are of detail character simply, and call the attention of the House to the provision under

the head of "Laboratory," on page 7, making an appropriation of $6,500 for the use of the chemist and microscopist, and for expenses in conducting experiments. In this connection I desire again to remind the House that the whole scheme and genius of the act creating the Department of Agriculture is that the work of the Department shall be of an experimental character. This is shown by the very wording of the statute. When once the correctness or utility of any idea in connection with agriculture is established, the work of the Department is to turn this to the best account. Its first and important work, however, is to experiment and ascertain what there is that is new in the domain of agriculture which can be utilized and made of successful application. This being the intent, the declared purpose of the statute, adverse criticism should not be indulged in if some of the experiments prove unsuccessful. No great discovery in any direction ever came as the result of experiment, except at the cost of money or labor or both. In making the appropriations in the paragraph referred to, the committee have only carried out the letter as well as the spirit of the statute I have quoted.

It will be observed that special reference has been made to two different subjects in the section referred to, and this reference was only made because the committee regarded these matters as of special importance in the field of investigation. The subjects are, sorghum and the manufacture of sugar from it, and the examination of the textile strength, felting capacity, and other peculiarities of the different wools to be exhibited at the sheep and wool exposition to be held during the year at Philadelphia. I shall not detain the House by any extended remarks in relation to sorghum and its sugar-producing qualities. It has been known for years that this article possesses saccharine matter in large proportion. So far back as twenty years ago experiments were made in this country looking toward the production of sugar from this source. That full success did not follow the experiments then is no reason why success should not come now.

New processes, approved appliances, the opening of new and waste lands, are all important factors in determining the question whether sugar may be successfully made from sorghum in this country. The Department and those who are more familiar with this subject than I, those who can and do speak understandingly upon this matter, and whose opinions are entitled to respectful attention, are unreserved in the expression of the opinion that the manufacture of sugar from corn and sorghum will at no distant day prove one of the most profitable of all the agricultural industries of our country. The Department has already expended time and effort in investigation in this direction, and the committee have thought that special attention should be given to the matter during the coming year, to the end that a question which has awakened so much attention and discussion, and which may be fraught with so much of consequence to the country, may be satisfactorily and conclusively settled.

I may be pardoned if I detain the House by something more than a passing reference to the other special subject to which I have referred.

The neglect on the part of a great nation to avail itself of the possibilities for building up and sustaining by inexpensive and legitimate means a great industry would seem at times to amount almost to a national crime. Of the various industries connected with agriculture—the branches growing out from it—sheep husbandry and wool-growing seem to have been greatly neglected in the past, so far as many sections of our country are concerned. This neglect seems to be all the more remarkable when the history of this subject shows that in every direction and in every instance where anything like proper effort has been made that effort has been crowned with perfect and entire success.

Although sheep husbandry was introduced here in colonial times—though a commencement was made so early as two hundred and fifty years ago—its progress has not until recently kept pace with our advancement in other divisions of agricultural industry. The raising of anything like improved classes of sheep with us dates back less than eighty years ago, when one of our ministers to France sent over to this country some specimens of merino sheep, and his example was quickly followed by another of our representatives abroad. The greatness of great men is sometimes best shown in what may seem at the time to be an affair of small moment. It is matter of record in this connection that Thomas Jefferson sent to the counties adjoining Monticello some of the sheep derived from these importations "as the choicest boon that could be offered to the agriculture of Virginia."

From these very modest beginnings grew the raising in this country of improved varieties of this animal, and to-day the United States can boast that her sheep husbandry has produced some of the best varieties of the animal extant—both for food and wool-producing qualities.

It is needless at this time and in this connection to speak of the importance of this matter so far as the food question enters into its discussion. While sheep-raising with us can be conducted in many sections of the country with profit and success for food purposes chiefly, it is perhaps in connection with wool-growing that this branch of industry has especial importance. I doubt, sir, if it is generally known what astonishing success has attended our efforts in competing with other countries in the growing of superior qualities of wool and in the production of all the finer grades of woolen goods.

The centennial exhibit at Philadelphia was a surprise in this regard to the manufacturers not only of Europe but of this country. Take, for instance, the one item of fancy cassimeres. The best varieties of these goods had theretofore, it was thought, been manufactured in France. Cloths from that country were placed side by side with our own home manufactures at the recent exhibition, and our American manufacturers abundantly held their own in the contest for superiority.

We have in the last twenty years made a most gratifying progress in our woolen manufactures, as is abundantly indicated by the census returns. In 1860 the returns from this source were $61,894,986. In 1870, (the date of the last census,) they were $155,405,358. Take the item of carpet manufacture alone, in which the use of wool largely enters, and we have the returns for 1860 amounting to $7,857,636, as against $21,767,573 ten years later, with an increase of wool used in this particular direction from 8,843,691 pounds in 1860 to 25,139,999 pounds at the date of the last census. In fact, few of our native industries have prospered perhaps to the extent of our carpet manufactories. Statistics on file in the Department of Agriculture show that our domestic carpets have supplanted those made abroad, and that they are giving like satisfaction. Take the figures for the year 1875, for instance. In that year the imports of carpets amounted to but $2,643,932, while our home production during that year aggregated $32,316,168; our manufacture per month amounting to more than the importation for the year.

But I have not the time, Mr. Speaker, to go further into detail in this connection. I have said enough, I think, to italicize and emphasize the statement I made but a moment ago, that any neglect to avail ourselves of the glorious possibilities we have in this direction will amount to criminality.

The statistics show that sheep husbandry in the United States has not received the attention it deserves. While the figures show upon their face a favorable condition of affairs, yet they evidence the fact that very much more can be done in this direction, and that sheep husbandry in many sections of the country is yet in its infancy. The estimated number of sheep in this country at this time is about thirty-six millions. California leads in number, followed by Ohio, Texas, Michigan, Pennsylvania, and New York in the order in which these States are named. The total value of sheep at this time in this country is about $81,365,000, with an average value of $2.25 per head. We have all the conditions at hand to make their number and value very much greater. It is true, sir, that in many of the older settled States—New York, Vermont, and Ohio, for instance, once and not long ago famous as sheep-producing districts—the conditions in this respect have changed somewhat. Lands have increased in value, and other branches of agricultural industry can be carried on with greater profit and success.

It ought to be one of the ends and aims of national legislation to promote by all legitimate means the interests of any section of our common country where the development of these interests will inure to the general good. Stretching from Mexico to the Canadian border and from the Missouri River westward to the ocean is an immense tract of country, its richness in general resources only partially understood even now by the average American citizen. Like a green carpet the surface of the virgin soil stretches out over millions of acres. Numerous rivers and their tributary streams course like silver threads through this emerald setting, making parts of this vast section as fair and fertile as any land the sun ever shone upon. This whole country is without doubt most eminently adapted to sheep husbandry. Statisticians tell us that more than one hundred and forty different species of grasses grow here, and it has been demonstrated that the same grasses which sustain the native animals of this vast region are precisely adapted to the support of the herds of sheep already raised there. The development of this industry in the territory mentioned has been very great during the last few years. It now produces as much wool as was raised in the whole Union twenty years ago, and its resources in this direction seem unlimited.

But, Mr. Chairman, we need not go to the far West in search of a field for successful operation in this matter of sheep husbandry. Competent authorities have decided that no idea is more fallacious than that this industry cannot be successfully conducted in warm climates. In the sheep walks of New South Wales, a region of almost torrid heat, is produced some of the best wool raised in the Australian colonies. Experiments already made have abundantly demonstrated the fact that sheep raising, under proper local regulations, can become a leading and profitable industry in the Southern States of the Union. All the conditions of climate, of soil, and its grass productions, of land values and nearness to available markets, or seaports, are supplied in the tier of States whose interests have seemed almost paralyzed by the changed conditions of these later years. I have not time, sir, to dwell upon this branch of the subject, nor to give the details in support of it. The statistics are at the Department of Agriculture, and they abundantly prove that if well-directed efforts shall be made for the promotion of sheep husbandry in the South, those efforts cannot fail to be crowned with abundant success.

But the question may be asked: Can a ready market be found for the greatly increased supply of wool and of woolen goods, which will come from the full development of this industry? To this inquiry the results of the statistician's labor make reply. A most careful estimate, based upon the use of clean wool in this country for the year 1875, demonstrated that its consumption was at the rate of only four and one-third pounds per head of our population. The demand

should and most undoubtedly would be equal to the supply for very many years to come. Is it, then, Mr. Chairman, too great a stretch of the imagination to doubt the success awaiting the extension of this profitable industry in the West and the development of a comparatively new industry in the South? I wish I had the time to dwell longer upon this last feature of this question. Cotton once was "king." I can see no reason why this other production should not succeed to the throne and rule the industries and interests of portions at least of the South. A people whose hands are shackled and whose industries have suffered a paralysis for years might then say gratefully as truthfully: "*Le roi est mort, vive le roi!*"

A number of prominent gentlemen have associated themselves together for the purpose of holding at Philadelphia an international sheep and wool exhibition during the present year. The proposed exposition will result in giving added thought and renewed interest in the direction of sheep husbandry. The questions not only of an extension of this industry, but of improvement in the varieties and methods of treatment of sheep and wool, are vital questions of present and future interest, as I have attempted to show. The Department and the committee have felt most deeply that the results of this exposition should be utilized, and for this reason special reference has been made to the matter in the bill we have reported.

The committee have recommended that $5,000 be appropriated for the purpose of enabling the Commissioner to procure data touching the agricultural needs of the arid lands of the United States. The term "arid region" has been applied to all that section of country beginning about midway in the great plains and extending across the Rocky Mountains to the Pacific Ocean. This section includes large stretches of territory, extending from Colorado and Nebraska, on the one side, to Arizona and California on the other. It embraces more than four-tenths of our whole country, excluding Alaska. In many parts of this region the annual rain-fall is insufficient for successful agriculture under the methods pursued in other sections. The processes used must necessarily be radically different from those pursued elsewhere. The reasons for this are, first, that in this section the rain-fall is very much less than elsewhere; and, secondly, it all falls during three or four months of the year, leaving, meanwhile, a long, dry interval. The results of this lack of rain are:

1. Irrigation is made essential.

2. Tree belts are confined to mountains, and the planting of forests is made necessary.

3. The alkali soils abound to great extent, lacking rain to wash them out.

So much is known in a general way of the peculiarities and agricultural needs of this great stretch of country. The reports presented as the results of governmental surveys are necessarily of a general character only. To great extent the resources and possibilities of these sections of the territory of the United States remain as a sealed book, and I even venture the assertion that to the very great majority of the people of this country the fact that so great a portion of our territory yet remains to be investigated, to be peopled, and to be rendered productive, is a fact almost absolutely unknown.

These matters, the particulars I have attempted in a hurried way to mention, all require special study and investigation. Heretofore the investigations and reports upon matters connected with agriculture have naturally, perhaps, been confined almost exclusively to the more thickly settled eastern portions of our domain. Those who are familiar only with eastern agriculture cannot understand them. The Department, with its base of operations far removed from the sections where these peculiar conditions exist, cannot understand them unless special investigation is given; and the conditions require that the investigation should be thorough, and conducted with system and intelligence.

No doubt can exist, from what has come to us as the results of governmental surveys, that this whole section can be utilized and that many portions of it can be made to yield abundant returns for the labor that may be expended. Major Powell reports that great deposits of gold, silver, iron, and other minerals are found within the limits of the arid region. The rapid development of these mining industries will demand, as matter of absolute necessity, a rapid development of agriculture. It has been demonstrated that this work of development cannot be accomplished by private enterprise. The work involved is too great for private undertaking. The question is submitted to this House and to the country whether a small portion of the means of the Government can be better expended than in the appropriation suggested for this purpose. This question is not a sectional question. We have abundant precedent in support of this assertion. Some years ago the ravages of the cotton-worm devastated the fields of the South; a great national industry was threatened with absolute destruction; no question of section or of locality was raised, but with a unanimity, born of necessity, the Congress of the United States expended, and has expended from year to year since then, large sums of money to hold in check this threatened national danger. Those of our people whose interests lie in the far West have heretofore been modest and reticent in asking governmental aid in the direction I have indicated. It is not for those alone whose interests may be more direct, but for the interests of the whole country, that the Federal Congress should take immediate affirmative action in this regard, and that the possibilities of this vast region should be thoroughly known and properly utilized.

To sum up all that need be said or can be said on this subject, the greater portion of these vast plains, rich in all that makes material wealth, with undoubted possibilities for successful cultivation, must remain just as the God of Nature has left them, uncared for and neglected, until the strong hand of the Government shall unlock the door leading to this vast treasure-house.

The criticism has been made by the accounting officers of the Treasury that this Department, being in a measure *sui generis*, was to some extent beyond the control of these officers, among other matters so far as related to the settlement of the accounts of the Department. It is true that in the past no provision of law such as is applicable to other governmental Departments in this connection has been made to apply to the Department of Agriculture. The committee have sought to remedy this defect by the provision contained in section 2 of the bill, which makes the law in this respect applicable to other Departments extend as well to the Department of Agriculture.

I have attempted, as concisely as I could, to explain the leading provisions of the bill now before the House.

The total expenses for the support and maintenance of the Department of Agriculture for the approaching fiscal year, estimated and applied for, as shown by the Book of Estimates, aggregate the sum of $226,600, of which sum the committee, after thorough and exhaustive consideration of the requirements of the Department, recommend in this bill the sum of $213,000.

The appropriations for similar purposes for the current fiscal year amounted to $193,000, or $20,000 less than is recommended by the committee for the ensuing fiscal year.

While the bill shows upon its face this increase over last year's expenditures I desire to call the attention of the House in this connection to the following facts:

The original bill making appropriations among other matters for the support of the Department for the present fiscal year amounted to $224,000. This bill, it will be remembered, was rendered inoperative by the executive veto, and thereupon the bill making appropriations for the then current fiscal year was re-enacted and continued in force. Had the original bill become law the appropriations for this Department for the current year would have been $11,000 in excess of the amount recommended by the present bill. This comparatively slight increase over the amount last appropriated will no more than supply, even with the exercise of the strictest economy, the increased demands made upon the Department by the growth of the country and the extension and development of its agricultural interests.

The bill in its entirety is now submitted for action, with the earnest hope on the part of the committee for whom I have the honor to speak that all the details embodied in it may receive the sanction and approval of the House.

Mr. ATKINS. I desire to ask the gentleman before he takes his seat whether the purpose of section 2 of this bill is not to make the Commissioner of Agriculture a Cabinet officer?

Mr. COVERT. No, sir; by no means.

Mr. ATKINS. Then what is the object of that section?

Mr. COVERT. The sole object, as I have attempted to explain, is simply this: The accounting officers of the Treasury have stated from time to time that there was nothing in the statute creating the Department of Agriculture which makes it obligatory upon the Commissioner to report to the Treasury Department an itemized account of its expenses and other matters which other heads of Departments are called upon to report to the Treasury. Section 2 of this bill is merely for the purpose of making these provisions of statute law which are applicable to other Departments applicable as well to the Commissioner of Agriculture.

Mr. ATKINS. I notice that in title 4, section 158 of the Revised Statutes, it is provided that—

> The provisions of this title shall apply to the following Executive Departments:
> First. The Department of State.
> Second. The Department of War.
> Third. The Department of the Treasury.
> Fourth. The Department of Justice.
> Fifth. The Post-Office Department.
> Sixth. The Department of the Navy.
> Seventh. The Department of the Interior.

And so on. Now, section 2 of this bill provides—

> That the provisions of title 4 of the Revised Statutes, entitled "Provisions applicable to all the Executive Departments," excepting so much thereof as relates to salaries of heads of Departments, shall hereafter be, and the same are hereby, made applicable to the Department of Agriculture.

My judgment is that, whether the gentleman so designed or not, this section elevates the Commissioner of Agriculture to be a Cabinet officer, except that it does not give him the salary of other Cabinet officers.

Mr. AIKEN. Mr. Chairman, I am grateful to my friend, the chairman of the Committee on Agriculture, [Mr. COVERT,] for the time allowed me, and shall consume it in endeavoring to convince this House and the country that the appropriations for the Department of Agriculture are not commensurate with the claims which that Department has upon the Government. That I will succeed so far as this House is concerned is quite problematical; for, sir, I have been a member of Congress long enough to know that in all political discussions upon this floor party fealty shapes the issue, and upon all other questions local interests, sectional interests, prejudice, or self-assertion are more potent than argument in determining results.

The very first item in the bill is the salary of the Commissioner—$3,000. I contend, sir, that the responsibilities of him who presides over this, the people's department, are such as entitle him to a salary equal to those paid the heads of other Departments of the Government. True they are all styled Executive Departments, and their heads compose the Cabinet of the President, while this Department, whose sole purpose is to promote the general welfare of the people, is stoutly denied a constitutional existence. But, sir, if the authority of the General Government is to be invoked in such "matters as concern all the States and which cannot be managed by the States in their independent capacity, or managed only with great difficulty and embarrassment," then does the constitutional necessity exist for the establishment here at our national capital of an Agricultural Department which should control all matters of a general and common agricultural interest "which cannot be wisely and efficiently managed by State authority." And he who presides over such a Department should be equal in pay and equal in rank with any other officer appointed by the President. If to give this Commissioner the salary and rank of Secretary of a Department thrusts him into the Cabinet of the President, then be it so. But let it be remembered that neither our statute nor organic law recognizes the existence of a cabinet.

That word or even an allusion to it is not to be found in the Constitution, which authorizes the President to require the opinion in writing of each or all of the heads of the Executive Departments upon any subject relating to the duties of their respective offices. The Cabinet exists by the volition of the President, our first President having instituted the practice of convening the heads of Departments in council at stated periods.

The House will pardon me if I trespass for a few moments upon their patience by giving them a succinct history of the organization and growth of the Cabinet of the President of the United States.

In September, 1789, six months after the inauguration of Washington, there were created by congressional enactment three Executive Departments, to the heads of which were assigned specific duties. To the Secretary of State was intrusted the keeping of the seal of the United States, all official correspondence with public ministers abroad, and the supervision of everything pertaining to the Patent Office.

To the Secretary of War was confided the control of the entire land and sea service; our Army consisting at that time of one battalion each of infantry, cavalry, and artillery, a provost guard, and a company of engineers, and our Navy comprising a few wooden hulks scarcely worthy of recognition as ships of war.

And to the Secretary of the Treasury was given the control of the fiscal affairs of the Government, together with everything pertaining to the Land Office.

Subsequently, or in 1798, a navy department was organized by statute, and the Secretary of the Navy was invited by the President into his Cabinet.

An act of the first Congress, 1789, designated the Attorney-General as that officer who shall conduct all suits in the Supreme Court in which the United States are a party, and requires him to give legal advice or submit opinions upon questions of law when requested by the President or the heads of Departments. In 1861 the supervision of the district attorneys and United States marshals was transferred to this officer, but it was not until 1870 that the Department of Justice was by formal enactment made an Executive Department.

In 1849 the Department of the Interior was created by statute, and to its control were assigned the bureaus of Pensions, Indian Affairs, Public Lands, and the Patent Office; and subsequently the Census Bureau, control of the mines of the United States, and of the district attorneys and the United States marshals, though as we have seen these last were at a still later date transferred to the Department of Justice.

In colonial times we had a postmaster-general, for Benjamin Franklin was appointed to that office by Great Britain, and the Constitution authorizes Congress "to establish post-offices and post-roads;" but nowhere does that instrument nor the statutory law of our country elevate the Post-Office into an executive department. That creation awaited the dictum of Andrew Jackson, who, in 1829, appointed John McLean of Ohio his Postmaster-General and invited him into his Cabinet. Thus, Mr. Chairman, it will be seen that the Cabinet, like our country, has grown in size as it has advanced in years until to-day it is more than twice as large as it was when we were at the other end of our centennial existence; and the demands of the country remind us that this increase has not yet reached its maximum. As our population increases our cultivated area is expanded, our towns and cities are multiplied, our commerce is extended, our industries are developed, and our civilization becomes more enlightened, the responsibilities of our Executive become more grave, and the wisdom of a multitude of counselors more necessary. Whence are to come these additional counselors, from what walks of life they are to be taken, or what interests they are to represent, will be left to the behests of the people in the future. At present the agriculturists demand that they and their interests shall be represented at the national capital by an officer who shall receive the same pay and who shall be the peer of those who sit around that council board, where there is neither gradation of character nor importance but equality in rank and authority.

Appreciating, Mr. Chairman, how very dissimilar our Government is in its construction and its administration from all the other governments in Christendom, it is with hesitation that I cite for the information of this House the exalted consideration some of the greatest nations in the world have bestowed upon agriculture.

In the German Empire, as a federation, there are no heads of departments, but each state has its own officer devoted to this branch of the public service. For instance, in Prussia the minister of agriculture is one of the eight secretaries of state, and has charge of everything that pertains to the advancement of the science of agriculture.

In the Austro-Hungarian monarchy the minister of agriculture is one of the seven secretaries forming the council of ministers.

In Italy the minister of agriculture is one of the nine heads of departments.

In Spain the minister of agriculture and commerce is one of the council of ministers, of whom there are eight.

In Russia the ministry of the domains, presided over by one of the ten secretaries of state, has in its charge agriculture, forestry, mines, stock-breeding, and surveying.

In France the ministry of agriculture and commerce is one of the nine departments of the government, the minister being a secretary of state, having charge of everything that relates to the agricultural interests of the empire, even to the drafting of all laws relating to this science.

In Great Britain, agriculture is a subordinate interest. It has no secretary, nor minister, nor department in that realm. The statistics of agriculture are under the control of the board of trade, which reports only the annual acreage of crops. Mr. Chairman, who can gainsay the fact that the distressed condition of Ireland to-day is attributable to this subordination of agriculture to other interests, and the absence of a secretary of agriculture from the privy council of the Queen of the British Isles?

But, Mr. Chairman, upon the very threshold of this discussion I may be asked, how can an increased pay of the Commissioner of Agriculture, or even an enlarged jurisdiction of the Department, benefit the American farmer? I reply, in no wise directly; for it will not diminish his burdens individually, neither will it lighten his labors, nor increase the productive capacity of his farm. But as a member of that great majority class of our entire population who create the wealth of this country he will be greatly benefited. Increase of pay means increase of authority and power, and a judicious exercise of both by an official of the Government redounds to the advantage of the people individually and collectively.

It is not asked that Government assistance should be substituted for individual exertion in developing the agricultural resources of our country; but the farmers demand that the Government shall secure by adequate salaries such talent in the Agricultural Department officials as can and will guide and direct them when groping in the dark after scientific truths; for be it remembered, Mr. Chairman, agriculture is a science, and it would be no panegyric to call it the mother of sciences. We know it is the source of all our national wealth, and the very bed-rock of our national prosperity. Some may style this the poetic phase of the question, but not so with me. I speak for those who feed the cotton-gin and the grain-thresher and walk between the plow-handles, and not for those who write rural poetry and chant georgics and bucolics, when I assert that agriculture is a science, and the most occult of all sciences, the successful evolution of whose truths not only requires a consumption of time and expenditure of labor, but a disbursement of money far in excess of the accumulated wealth of private individuals.

An appropriation is asked for in this bill to continue the recent experiments made by the Agricultural Department in the manufacture of sugar. Since the days of John Adams it has been known to the American farmers that both molasses and rum could be made from the juice of the corn-stalk; and twenty years ago hundreds of unsuccessful efforts were made to manufacture sugar from sorghum. But failure attended every effort until the Government, by oft repeated and costly experiments, established beyond a peradventure that there is but little less crystallizable sugar in the juice of sorghum than there is in the juice of the sugar-cane of the West Indies; and after carefully conducted experiments in the laboratory of the Department the computation has been made that less than one-fifth the cultivated area of Illinois, if grown in sorghum, could be made to produce annually more sugar than we import. Nay more, sir, the unquestioned conclusion has been arrived at, from successful experiment and legitimate computation, that Illinois might produce and crib her millions of bushels of corn, and from the stalks manufacture annually more sugar than we have ever imported in a single year. To my mind, sir, this is one of the grandest discoveries of the nineteenth century, and should immortalize the parties who made it.

Last year we imported over one billion seven hundred million pounds of sugar, worth abroad $70,000,000, but costing the consumers over $110,000,000, by reason of the excessive import duty levied for the protection of less than a score of sugar refineries in two or three of our large cities.

Ponder well these facts, ye farmers of the Northwest, whose lands, though they be as fertile as the delta of the Nile, have within the past fifteen years decreased in productiveness 20 per cent. Reflect upon your own extravagance, when it is a well ascertained fact that by properly utilizing the stubble of the corn-fields of one of your States the tax-payers of the country might be relieved annually of a burden of forty millions of dollars.

Mr. Speaker, the countries whence we import this vast amount of sugar are nearly all slaveholding. The recent abolition of slavery in some of them, and the gradual emancipation of the slaves in the others, will in all probability in the near future materially reduce our sources of supply, and for this reason if for no other this discovery of the Agricultural Department is most opportune. An appropriation is also asked for to aid the Agricultural Department in encouraging the growth of the tea plant, and manufacturing the commercial article so that we may become the producers and no longer remain, as we are, the purchasers of twenty millions of dollars' worth of tea annually. Thirty years' experience has satisfied individuals in more States than one in the South that tea can be grown successfully, but it has been left to the Agricultural Department to prove that any State south of the latitude of Washington by devoting the same attention to the culture of tea that is now given to its staple crops might obviate the necessity of our importing a single caddy of foreign tea.

But, Mr. Chairman, those who discourage the idea of increasing the appropriations for the Agricultural Department are the first to theorize about the independence of the farmer; ay, sir, they can read pastoral or rural poetry in the skipping lambs, the lowing herds, the golden grain, the fleecy staple, the shining plowshare, the well-laid furrow, and perhaps in the pretty milkmaid. But they can see no connection between the duty of the Government and the wants of the farmer in this respect. Sir, the farmers of this country want nothing from the Government that it is not the duty of the Government to bestow. They ask its fostering care only to the extent that it is given to the other pursuits of life. Manufactures are fostered by tariff exactions. Our internal commerce has become immeasurably great by reason of Government subsidies; and our foreign commerce, relieved of our odious navigation laws, would to-day whiten every sea with its unfurled sails. But agriculture, the very life-blood of commerce and the parent of manufactures, has never from the inception of our Government received a proportionate share even of the crumbs that fall from the Government table.

When the various Departments of the Government were organized specific duties were assigned to each, and frequently the supervision of a single bureau has been transferred from one Department to another. The Patent Office and Land Office, for instance, have each been subject to the supervision of two different Departments; and every one of the Departments to-day has a much more widely extended jurisdiction than could have been anticipated when they were established. Who could have conceived in 1789 that the Treasury Department would to-day control the Life-Saving Service, the Coast Survey Service, the Marine Hospital Service, the Bureau of Printing and Engraving, and the many minor bureaus so numerous and so multifarious that it is far easier to say what is not than what is under the supervision of that Department? Why, sir, so omnifarious are its specialties that a cargo of live stock cannot be exported nor even imported for brood purposes except by permission of the Secretary of the Treasury, after being subjected to inspection by Treasury officials. Enlarge the jurisdiction of the Agricultural Department and many duties, which legitimately belong to it, would be transferred thither from other Departments to which they are now assigned and to which they are totally irrelevant.

In 1839 $1,000 were appropriated and placed in the hands of the Commissioner of Patents to be expended in collecting agricultural statistics. In 1851 this annual appropriation had grown to $5,000. In 1862 the Agricultural Bureau was taken from the Patent Office, and by statute enacted into a department of agriculture, receiving at the same time an appropriation of $60,000 for its support during that fiscal year. From that day until the present time no annual appropriation for the Agricultural Department has ever reached $200,000. And until quite recently the bulk of each annual appropriation was expended in purchasing and distributing promiscuously immense quantities of seeds, oftentimes inferior to those to be had from the most ordinary seed store. But, Mr. Chairman, let us not be too hasty in attaching culpability to the Department for this inefficiency. The law establishing the Agricultural Department required the Commissioner to purchase rare and valuable seeds and distribute them among agriculturists. But no sooner did that law become effective than every Congressman became a genuine animated seed-distributor, and "bulldozing" the successive Commissioners into submission, without a vestige of right assumed the prerogative of scattering these seeds broadcast over the land. For twenty-five years this system prevailed, converting the Department into a wholesale seed store conducted upon a co-operative principle, at once political and eleemosynary. Thanks to the energy and persistence of the present Commissioner this abuse no longer exists, and seeds are now distributed with judgment, and generally to parties whom they will benefit, and frequently to those who will improve the seeds.

It has doubtless seldom occurred to gentlemen upon this floor what it is to purchase rare and valuable seeds and appropriately distribute them over an area as extensive as the United States. Seeds that are rare in one section may be common and valueless in another. And when we remember that there are not two consecutive months in the year in which there is not both seed-time and harvest within the confines of our immense territory, it becomes manifest that the nicest judgment is necessary both in the purchase and the distribution of these seeds. It must be remembered, too, that seeds of the same species though they germinate and grow luxuriantly do not become equally prolific in all latitudes. To illustrate: one kind of wheat may yield abundantly in Minnesota but prove a total failure in the South. And this same grain (wheat) imported from a foreign country will frequently fail to fructify upon the same degree of latitude in America. And these results can only be proven by experiment. But, sir, life is too short, results too precarious, and losses frequently too heavy to rely solely upon the efforts of private individuals to develop by experimental tests the agricultural interests of so great a country as ours. This labor must be performed by the Government, and then if losses occur the injury is not perceived; but if on the other hand success attends the effort, the Government is provided with the means of distributing minutely among its citizens the result attained whether that result be in the shape of acquired information or of some improved agricultural product. And who, Mr. Chairman, can estimate the value of one such successful experiment? The importation of a few bushels of wheat or other grain so peculiarly adapted to our soil and climate that it would in a few years by proper distribution add a single bushel to the average yield per acre, would be a revenue to the country only to be estimated by millions of dollars. I am almost warranted in saying this has already been done by the Agricultural Department, crippled and restrained though it has been from its infancy by a lack of appropriations.

There is another phase to this question. Commercial men tell us that since 1874 the balance of trade has been in our favor, which simply means that for the past few years our exports have exceeded our imports, and that the gold and silver of other countries have been brought to America to pay for that excess. During the year ending the 31st of December, 1879, our exports amounted to $754,656,755 and our imports to $513,745,748, leaving a balance of trade in our favor of $240,911,007. What was it, Mr. Chairman, that aggregated this unparalleled amount of exports, and brought this vast sum of money into our country? Let the farmers of America answer this question. Hear them for their cause, and be silent that you may hear. Beef, $8,583,437; butter, $6,471,772; pork, $5,360,310; live stock, $11,456,984; cheese, $11,219,782; lard, $23,823,297; bacon, $48,434,513; flour, $33,814,505; corn and meal, $44,012,205; tobacco, $16,448,208; wheat, $170,234,120, and cotton, $186,510,436, or a total of $566,378,569. And these are only the leading articles, all of which were of less value per pound, bushel, or barrel then than they have been at any time since the war, or than they are to-day. If to these staple articles we add hides, tallow, other small grain, naval stores, lumber, and the hundreds of other articles of export produced by the farmers, our agricultural products will constitute 85 per cent. of our entire exports, and aggregate an amount $100,000,000 in excess of our annual imports.

This mighty surplus would indicate substantial prosperity. And indeed, Mr. Chairman, that class of our fellow-citizens known as "business men" tell us that returning prosperity is now upon us, and that the "good time a-coming" so long yearned for is at our doors. To my mind, sir, this is not now apparent. True, our farm products are immense and of incalculable value, but if there are net earnings from the sale of these products they are usually divided between the speculators, middlemen, and transportation companies.

There is in all of our cities a class of men who are neither Shorthorns nor Jerseys, neither grizzly nor black, and yet they are known by the euphonious title of "bulls" and "bears." It is these elegant gentlemen, who frequently stock the cards on each other and who never condescend to play with the farmer any game but "heads I win and tails you lose," that tell us the times are prosperous. They deal altogether in "futures," that imaginary product which was never planted, grown, nor harvested, but which establishes the market price of all other agricultural products. It is they who by organizing a "syndicate" can purchase all of any product—wheat, for instance—in any western city, and pay more than the market price; thus, in their technical language, creating a "corner;" and then, by colluding with the "eveners," (another technicality,) transport it to the Atlantic seaboard, sell it for less than the market price, thus destroying all competition from regular merchants, and still make a handsome profit by the speculation. As long as such Shylocks are recognized as the best and controlling representatives of their respective communities there can be no general prosperity among the people.

We are told our rolling-mills and puddling-furnaces are in full blast. But, sir, does it indicate prosperity to find a thousand men struggling day by day to support their families, while every dollar earned beyond their daily wages falls into the coffers of a single capitalist? But, says another, our public securities are at a premium, and, therefore, we must be prosperous. Does it indicate prosperity when the debt of a tax-burdened people is the only tempting investment for surplus capital? This may evince faith in the stability of the Government, but it by no means establishes the prosperity of a people.

No, Mr. Chairman, permanent prosperity has not yet visited our country, nor will it until the masses are made more content and happy. Moneyed men can always be prosperous. The millionaire prospers while he sleeps; and he has only to invest and interest does the balance, working for its master seven days in the week the year round. Not so with the farmer, the mechanic, or the artisan. His subsistence must be earned by an expenditure of muscle, by the sweat of his face. And until the working classes of every description, be they operatives in our factories, puddlers in our rolling-mills, mechanics in our

machine shops, or laborers on our farms—until they are taught to practice that principle of true co-operation which entitles the laborer to a just and equitable share of the net profits of his labor, there can never be permanent and general prosperity in our country.

But, Mr. Chairman, this is a sordid idea of the whole subject, because purely commercial, which simply means to buy and sell and get gain. Let us view it from a more elevating stand-point. In appropriating more money for and in extending the jurisdiction of the Agricultural Department, I would not for an instant encourage the thought that the purpose was to utilize an Executive Department in developing some method by or through which farmers might be taught new and perhaps smoother roads to ease, comfort, or wealth. Natural instincts will stimulate all energetic men to such aspirations. But, sir, I would utilize it further, by encouraging farmers in every possible manner in their pursuit of happiness, educating them to the conviction that an improved farm engenders local attachment, which is only one phase of true patriotism. Sir, as the American soldier loves his country because he feels that its honor is in his custody, and as the American seaman when he treads the deck even in foreign waters symbolizes his love of country by his adoration for the flag that floats at his mast-head, so, sir, I would have the patriotism of the American farmer reflected through his beautified home, and intensified by the knowledge that at this capital his Government had endowed a Department qualified and empowered to disseminate for his benefit, even though he lived upon its most distant confines, practical and experimental instruction nowhere else to be obtained.

Mr. COVERT. I move the committee do now rise for the purpose of limiting debate.

Mr. DUNNELL. This seems an unusual procedure. The committee have occupied the whole time so far.

Mr. GARFIELD. If by unanimous consent we can proceed to consider the bill by paragraphs under the five-minute rule there is no necessity for rising.

Mr. DUNNELL. This is an unusual motion to make just at this time. Why may not we go on with the bill, and at some later stage move to rise and limit debate if there should be too much of it. Two gentlemen have spoken, and have handsomely used up the time so far, but they ought not to assume no one else wishes to speak.

Mr. COVERT. There is no disposition on the part of the committee to cut off debate, and I will withdraw the motion.

Mr. SPRINGER. I hope this discussion will not be terminated, as it is the only one I have enjoyed.

Mr. RICHARDSON, of South Carolina. Mr. Chairman, I desire to say a few words on the pending bill before the Clerk proceeds to read it for amendment.

If there is a single measure before Congress in which we can afford to be liberal in our appropriations, it is in the aid and encouragement we give to agriculture. Never since the Agricultural Department was first organized has it received the aid necessary to make it a success. Since the organization of the Government we have given only about three and one half million dollars *all told* to this great interest; an average of only about $90,000 a year, while every other Department of the Government receives its millions annually.

The Treasury Department receives *one hundred and fifty millions* and upward annually. The War Department, even in times of peace, gets its *thirty-odd* millions every year. The Navy from *thirteen* to *twenty* millions; the Interior Department from *thirty* to *thirty-five* millions; and the Post-Office Department from *six* to *eight* millions annually; while this great interest—yes, this greatest interest of all, on which every other interest depends, which is the groundwork and support of them all, which furnishes us our bread and living, gives us our exports, which is the main source of our revenue, and gives us the balance of trade in our favor—is dealt with as if it is not worth fostering or promoting.

When we remember that one-half of our entire population are farmers or dependent directly upon farming pursuits for a living—yes, when we remember that twenty-three or twenty-four millions of our people are farmers or have a direct interest in the success of agriculture, how utterly insignificant appears the amount we appropriate annually to this vast interest. If gentlemen wish to make the Agricultural Department a success we must deal with it in a spirit of liberality. What the Agricultural Department needs to make it what the people—the farmers—all over this land desire it to become is, first, a committee at its head *friendly* to this great interest and determined to build it up and make it a blessing to our land; not a committee some of whose members perchance may think the farming interest can take care of itself, or that the Department should be abolished. It needs to be in friendly hands. Now, I do not mean to say that the committee in whose hands it now is is not, as a whole, friendly to this interest. But I do mean to say that it should be; and for one I am disappointed to find the committee coming in here with a bill to keep this Department where it has been for years—not one move forward, not one effort to meet the will or the wish of the American people whose interests are closely involved in this subject.

Mr. HUBBELL. Will the gentleman permit me to ask him a question?

Mr. RICHARDSON, of South Carolina. Certainly.

Mr. HUBBELL. I would like to ask the gentleman what he construes section 2 to be?

Mr. RICHARDSON, of South Carolina. I do not construe section 2 as meaning to advance it in the way I refer to. I am not speaking on that point now. I do not speak of making it a Cabinet office. I am speaking in reference to the aid that should be extended to this great and vital interest of our country. I say that we want friendly legislation for this Department, legislation that looks to its improvement, to building it up, to advancing it, to making it felt more and more year by year in every part of our entire country.

To do this, Mr. Chairman, I am satisfied we must appropriate more money to it than we have been doing in the past for this purpose. The officers of this Department should be liberally paid. They should get enough to command the best talent and executive ability the country can afford.

How inadequate and insignificant the salaries we pay the officers attached to this Department when compared to what we pay the officers in the other Departments of the Government.

The Department should be supplied with laboratories of the best kind, and with all of the best appliances that can be obtained. The amounts furnished for experimental work should be liberal and enough to make it thorough and exhaustive.

Remembering that we have a country extending over 6,603,884 square miles and a population of over forty-five millions, all of whom are interested directly or indirectly in agriculture, I say we should make appropriations commensurate with such a great interest.

Mr. Chairman, the twenty-three million people directly interested in this Department expect it of us. Yes, gentlemen, I may say they demand it of us. I represent on this floor a farming constituency, and I say here that my people feel a greater interest in the success of the Agricultural Department and derive more benefit from it than from any other Department of the Government, because it is the one which comes more nearly home to their every-day life. Many of my constituents are colored people, all of whom are interested in some way in farming, and many of whom are farmers upon their own account, either upon rented or lands of their own. These people can receive but little direct benefit from the other Departments of the Government. They are just making a beginning in life, as it were. They need all the aid, encouragement, and light they can get from this Department, and to them this Department could be of immense value if properly administered and properly sustained.

Now, while I have been ready to vote and have always voted the necessary supplies to each and all the Departments of the Government, I ask that this one shall not be made the exception, but that like the other Departments of the Government it shall receive its due share of Government aid and encouragement. Some gentlemen on this floor have found fault with the Agricultural Department for not doing what we have not enabled it to do; others have said that they were ready and willing to vote all the money—$500,000 if it be necessary to its efficiency and success—but that they are opposed to making it a Cabinet office. I am not here to ask that it be made a Cabinet office; but I do say, give us the necessary money to make it a success, and, for one, I care not by what name you call it. What I want is to make it a blessing to the farmers; what I wish is to help and benefit them. This is the ultimate aim, I hope, of us all.

Now, it must be apparent to all that the amount named in the bill reported from the committee is entirely too small to be of much practical benefit to such a large proportion of our population as have a direct interest in this appropriation. The judgment of this House has once been passed upon this matter. It will doubtless be remembered that at the extra session this House voted by a large majority an appropriation of $100,000 for the purchase and distribution of seeds, plants, vines, &c.; but many will be surprised to know, as I was when I first ascertained the fact, that the amount voted by this House was never appropriated. Somehow, either in the Senate or in a committee of conference, or by the Committee on Appropriations when they redrafted the bill after it was vetoed, the amount given by the House was cut down to the sum originally reported by the committee. I believe it was done without the knowledge of the House. At any rate, the farming interests were made to suffer, and they never received the full amount intended to be appropriated by the House for the benefit of the agriculturists of the country.

Now, I say, let us make up for that omission; let us make an appropriation sufficiently large for this purpose. I hope that when I shall offer an amendment to this bill to effect this purpose, which I propose to do, the question of order will not be raised against it, but that it will be allowed to be passed upon by the House. Give us in this House a vote upon it. I now send to the desk my amendment.

Mr. ATKINS. Will the gentleman allow me to ask him to explain further his remark made a moment ago with regard to the loss of an appropriation by the Agricultural Bureau?

Mr. RICHARDSON, of South Carolina. I am unable to say how the loss occurred. But I know this House appropriated $100,000 for the purchase and distribution of seeds, plants, &c., and that the bill as it was finally enrolled and became a law only contained $75,000.

Mr. ATKINS. The bill passed in this House precisely as the law is, and everybody knew when he was voting for it just what he was voting for. There was nothing covered up about it.

Mr. RICHARDSON, of South Carolina. I do not mean to say anything was covered up, but I contend I did not know and I believe the majority of the House did not know the amount was cut down to the original appropriation the committee recommended.

Mr. ATKINS. That was simply the fault of the gentleman himself.

Mr. RICHARDSON, of South Carolina. That may be so; but I say we can make that right now and should do it. We passed that by a large majority, and can do it again if the point of order is not made against us.

Mr. ATKINS. The $100,000 was in the vetoed bill.

Mr. RICHARDSON, of South Carolina. And when the bill was redrafted and brought back into the House that appropriation was not in the redraft, and it was lost.

Mr. ATKINS. The gentleman is mistaken. There was no redraft about it.

Mr. RICHARDSON, of South Carolina. I offer the amendment which I send to the desk.

The CHAIRMAN. The amendment would be more in order to be offered when the section of the bill to which it refers is reached. The amendment, however, can now be read for information.

Mr. RICHARDSON, of South Carolina. Very well.

The Clerk read as follows:

On page 5, line 78, strike out "$80,000" and insert "$100,000;" so that it will read:

"For the purchase and propagation and distribution, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, and expenses of putting up the same, $100 000."

Mr. KELLEY rose.

Mr. COVERT. I renew my motion that the committee rise for the purpose of limiting debate.

The CHAIRMAN. The Chair has recognized the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. I represent a city district, but also a considerable agricultural interest. When I first came here as the representative of the fourth district of Pennsylvania, the greater portion of the territory I now represent was in farm land, and much of that which has under the apportionments following the taking of the census in 1860 and 1870 passed into other districts was under cultivation. Much of the land was then worth $100 to $250 per acre. Some that I bought in 1852, in what is now the Twenty-fourth ward, at $225 an acre, is held to-day at a fair rate at $40,000 per acre. The total increase in the value of the farm land that I was elected in 1860 to represent is told by hundreds of millions of dollars.

I beg the gentlemen who have spoken as the champions of agriculture, and implied in many of their utterances a belief that there is an antagonism between manufactures and agriculture, and that our laws, the tariff and the navigation laws especially, are intended to and do oppress the agriculturist while favoring the manufacturer—I say I beg these gentlemen to take into consideration the means by which the vast increase of the value of land in my district has been brought about. They characterize all the land of Pennsylvania, and are the result of the development of our mineral deposits and the establishment of diversified manufactures in every part of the State. There is no antagonism between the manufacturing and the agricultural interest. No, sir! Their ample development in close proximity discloses a beautiful and beneficent harmony. Nor do the tariff laws enacted in obedience to the exigencies of the recent civil war—which by stimulating the development of our native resources bring the surplus population of Europe to our country, to be fed on American grain and provisions and to be clothed in American cotton and wool spun and woven by American women and children—oppress in any degree or tend to oppress the farmer or planter for whose productions they make a near and remunerative market.

Let us look at it, sir. I confidently affirm that our tariff is so framed as to give protection to agriculture by the benefits it confers on producers of agricultural stimulants—fertilizers. Whenever the tariff is under discussion there come to me by the score appealing letters from South Carolina to see to it that no changes in the tariff shall be made by which the citizens of that State shall be prevented from utilizing the phosphates which abound in such marvelous quantities along the banks of the rivers of that Commonwealth. When crude brimstone was relieved from duty and made free an immense bounty was, according to the theories of free traders, given to citizens of South Carolina by Congress, for with free brimstone that State could manufacture sulphuric acid, and the dry bones that had lain for countless centuries in her marshes could thereby be converted into fertilizers for her own exhausted acres, and for the farms of other States, not only of the South but of New England and of transatlantic countries. By that protective provision of our tariff legislation we vitalized the bones of the dead of remote ages and set them at work to restore the fortunes of impoverished South Carolinians. The establishment of these chemical and phosphate works at Charleston brought an industry to the side of the farmer's field which made minor but profitable farm products available to him.

It was but yesterday, sir, that I read in an English paper an appeal to English farmers to keep heart and hope notwithstanding the abundant and cheap production of grain in the United States. "True," said the writer in the Times, "you cannot compete with America in raising wheat or cattle, but you fail to supply British markets with fresh vegetables, and we send from eight to ten millions of pounds sterling annually to France for eggs and minor articles, the production of which the British farmers' wives should superintend." And the article went on to show that for all England there was work enough in raising those things which will not bear distant transportation but the consumption of which make a comfortable and a healthy working people and which are, the writer asserted, in Belgium and France found to be more remunerative, measured acre for acre, than are grain and cotton in the United States.

Again, South Carolina when the tariff is under discussion appeals to Congress to protect her vast stores of kaolin, that the china her people and the American people at large shall use shall be made of clay dug from her vast deposits by American muscles and not of that imported from distant foreign lands while theirs should lie dead and unproductive under her cotton-fields. Sir, let me ask whether the cotton-growers of the Carolinas and Georgia would be better off if the rice-fields of those States were under cotton instead of rice, and whether the gentlemen from those States who so eloquently denounce protective duties know that the protective duty on rice is one of the highest known to our tariff, ranging as it does from 95 to 115 per cent. *ad valorem?*

The House has before it a tariff bill that proposes to put cut-nails and spikes on the free list. I presume the author of the bill supposed that these articles grow, and are gathered by old women and children as a native product of the woods; that their production involves no capital or skill, for had he supposed their production involved either capital or skill he would certainly not have put them on the free list, though he might have proposed to reduce the duty on them.

While on this point, let us go to West Virginia and ask the Representatives of that State whether her mountain sides have not increased in value hundreds per cent. as agricultural lands under the beneficent influence of tariff laws which have created a demand for her coal, her ore, her limestone, her cut-nails and spikes, her labor, and given a remunerative carrying trade to her transportation companies? I ask them whether the consumption of rapidly succeeding crops of vegetables, which continue for but a short time, and the gathering of eggs and other small and incidental farm products, the sale of milk and of veal and young lamb to the hands employed in the mines, the quarries, the forges, the rolling-mills and nail-works have not trebled, quadrupled, quintupled, ay, added tenfold to the value of what before the establishment of these industries were regarded as the barren hillsides of mountainous West Virginia?

Mr. AIKEN. Will the gentleman allow me to ask him a question?

Mr. KELLEY. Certainly. I want brotherly discussion on this matter, not unkind criticism.

Mr. AIKEN. And give me one minute to state fully my question?

Mr. KELLEY. Certainly.

Mr. AIKEN. In regard to the subject of the tariff, I will invite the gentleman to go with me to a southern plantation where we will find, we will say, two bales of cotton worth in round numbers $50 each. He takes one bale and ships it to Lowell; I take the other and ship it to Manchester, England, the freight in each case being about the same. Those two bales of cotton are returned to New York each converted into one-third white cotton goods, one-third muslins, and one-third osnaburgs.

The English manufacturer says to me, "I can sell to you in New York my muslins at ten cents a yard; my osnaburgs at eight cents a yard, and my long cloths at ten cents a yard." The Lowell manufacturer says to me, "I cannot do that; I must have more than that to make a profit." The Governments steps in and says that in order to protect the Lowell manufacturer, I must pay, if I buy of either of these manufacturers, 50 per cent. increased value upon each of these three articles produced out of that same bale of cotton.

Now, if I buy cotton goods of the English manufacturer the money I pay over the real value of the goods goes into the Treasury of the United States; but if I buy of the Lowell manufacturer that money goes into his pocket. Now, I want the gentleman from Pennsylvania [Mr. KELLEY] to tell me if I am a southern or western merchant buying these goods to put into my store to sell to the people how I benefit the people by paying the Lowell manufacturer 50 per cent. more than these goods are worth? [Applause.]

Mr. KELLEY. I am not staggered by the gentleman's questions; it seems to me I have heard them before. [Laughter.] It seems to me that years ago, before my eyes were opened, and when I was a rampant stumper for free trade, I have myself put just such propositions to audiences, and therefore I am not astounded by the queries now.

Mr. CARLISLE. Did you answer them?

Mr. KELLEY. In the first place let me say, the gentleman supposes a case that does not exist. There is no such disparity between the prices of American and British cottons. We are now exporting cotton goods not only to common markets in competition with England, but are selling them in Manchester, Liverpool, and London.

Mr. AIKEN. I ask of the gentleman why it is that he comes here and clamors for 35 and 50 per cent. protection if he can send American goods to England?

Mr. KELLEY. I will tell the gentleman. It is because the tariff, by securing to him the home market under all fluctuations of price, has enabled the American manufacturer to improve his machinery, to pay good wages to skilled labor, and has thus promoted the establishment of most profitable cotton manufactories in South Carolina and Georgia; and I want to maintain unchallenged the growing prosperity of the cotton manufactures of those States. [Applause.] And just here I beg leave to tell the gentleman that if the proprietors of those factories do not in their reports exaggerate the profits of the cotton manufacturing at Graniteville, South Carolina, and Columbus and

Augusta, Georgia, there is no branch of industry in the North that is so steadily profitable as the manufacture of cotton in those States.

And I also tell gentlemen that if they will maintain the tariff and add the Clements attachment to their cotton-gins they will add 100 per cent. to the inordinate profits now yielded by cotton-spinning in the South; and that if instead of shipping the coarse and raw material, the value of which is eaten into vitally by freight charges, they will ship the same material in condensed packages of yarns, and in that way export twelve or fifteen bales of cotton for the same cost of local hauling, railroad, and ocean freight that they now pay on one bail of the raw material. Sir, while making this economy they will be adding to the value of the land of every planter and farmer within a given distance from the manufacturing village in which the spinning is done, for aggregations of well-paid laborers always enhance the value of neighboring farms.

Again, sir, let me say to the gentleman that I mark this distinction: the English laborer eats meat once a week, when he can get it, which is not at all regularly. I also mark the fact that the agricultural and manufacturing population of England is deteriorating physically by reason of insufficient food to such an extent that the army regulations as to height and as to breadth of chest have had to be reduced; and the army depends on London and Liverpool mainly to recruit its best regiments.

Those English laborers whom the gentleman would employ to spin and weave cheap cotton goods for South Carolina are largely fed on grain grown in Russia, in Australia, and British India; for British India, like the purely agricultural portions of Ireland, though constantly subject to famine, is, like famishing Ireland, a great exporter of food. Her food goes abroad while her people starve; because India is under the fullest possible enjoyment of the blessings bestowed on nations by British free trade. She has no manufactures, and consequently no diversity of employment for the people. They all raise the same crop in a given neighborhood; and when that crop fails, there is no busy hum of machinery from the earnings of which the stricken farmers can be supported; they sit down and pine and die under the blessings of free trade. Not so with those who gather and spin and weave our American cotton. They feed on American beef and mutton. They even of New England go to the South—to Texas often—for the mutton they eat on any day of the week that they choose it in preference to beef, or pork, or poultry. They feed on American grain. They consume American iron and copper and brass ware. By their consumption of hats and shoes and clothes they enhance the wages of other laboring people, and thus contribute to the demands of the magnificent home market in which the South and West sell, at the least possible cost of transportation, their constantly increasing productions.

Mr. Chairman, I did not come to the House to-day to make a speech on this or any subject. I have no notes from which to speak; but hearing one gentleman claim that agriculture was injured by the navigation laws, and others affirm that the tariff was oppressing the agricultural interest, I felt called to say to them, "Come, brethren, let us reason together; let us see whether we may not find in the very diversity of our employments a unity of interests; let us see whether, through the influence of a protective tariff in bringing a population upon your sparsely settled acres and creating a market for small products for which you will get the cash each market-day," there may not be found an identity of interest that should make every agriculturist a protectionist. Certain it is that only with a home market is agriculture assured of prosperity in all periods in which Heaven blesses it with rain and sunshine in due season.

Mr. COVERT. I now move that the committee rise for the purpose of limiting discussion.

The motion was agreed to.

The committee accordingly rose; and Mr. GOODE having taken the chair as Speaker *pro tempore*, Mr. HOOKER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. COVERT. I move that when the House shall again resolve itself into Committee of the Whole on the agricultural appropriation bill all general debate be limited to one minute.

The motion was agreed to.

Mr. COVERT. I now move that the House again resolve itself into Committee of the Whole to resume the consideration of the agricultural appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, and resumed the consideration of the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. COVERT. I ask that the bill be now read by paragraphs for amendment.

The Clerk read as follows:

For compensation of Commissioner of Agriculture, $3,000.

Mr. RYON, of Pennsylvania. I move to amend the paragraph just read by striking out "3" and inserting "4," so as to make the compensation of the Commissioner of Agriculture $4,000.

Mr. COVERT. I am constrained to make a point of order against this amendment. My point is that the amendment increases the proposed expenditures in this direction over the amount provided and prescribed in the statute creating the office.

Mr. RYON, of Pennsylvania. One moment, Mr. Chairman. The object of this amendment is to fix the salary of the Commissioner of Agriculture at the amount fixed by law. The Revised Statutes creating that office fix his annual salary at $4,000, and, if I am not misinformed, it has been reduced, not by any legislation of Congress, but by the Committee on Appropriations.

I knew when I offered this amendment that it might be antagonized on the ground that it increased the appropriation and therefore was not admissible. I regret very much that the gentleman having charge of this bill should raise an objection to the consideration of this amendment. If he will allow it to go to the House and let the members vote on it, then if they determine to reject the amendment, I will be entirely satisfied with the result.

But I regret very much that the convenient rule of this House which gives to the Committee on Appropriations the absolute control of all money and in many instances compels us to vote for appropriations we believe to be manifestly unjust or to lose all appropriations on the subject. I say I regret the gentleman should on that rule raise this objection at this time and defeat an expression of the House upon this subject.

It is manifest that $3,000, a sum hardly in excess of the amount annually paid to many of the clerks in the Departments of this Government, is entirely inadequate to the support of the gentleman who is at the head of this Department. I hope, therefore, Mr. Chairman, my friend who has charge of this bill will withdraw his objection and allow the House to come to a vote on this amendment.

Mr. COVERT. I submit my friend from Pennsylvania need suffer no embarrassment in reference to this matter. His course is perfectly clear. If he thinks the salary paid to the Commissioner is not adequate, and I am frank to say that it is the sentiment of the committee having the formulation of this bill in charge, it is my friend's right as well as the right of any other gentleman on this floor to introduce a special bill to regulate the matter and hereafter make the salary what it ought to be. I submit the gentleman from Pennsylvania should be relegated to that remedy. I am constrained to insist on the point of order.

The SPEAKER. Does the gentleman from Pennsylvania desire to read the statute to which he referred?

Mr. RYON, of Pennsylvania. I do. I desire to say no special law is necessary on the subject. If it were I might possibly do so. The law is on the statute-book now fixing the salary of this officer; and if the gentlemen who have charge of this bill would simply obey the law, the purpose I have in view would be accomplished at once. I read from section 521 of the Revised Statutes, as follows:

The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,000 a year.

Mr. ATKINS. I wish to state simply, as the point of order has been raised by the chairman of the committee having this bill in charge, that it is proper the Chair should consider the fact that, in the last appropriation act, there was an independent section providing that all laws and parts of laws inconsistent with the preceding provisions of that act were repealed. That act fixes the salary of the Commissioner of Agriculture at $3,000. I might add, Mr. Chairman, that the statute which the gentleman from Pennsylvania has just read was repealed in what was called the "salary grab" act, if I am not much mistaken.

Mr. RYON, of Pennsylvania. You are mistaken.

Mr. ATKINS. I will state to the Chair that the last appropriation act, which contained the repealing clause that all laws and parts of laws inconsistent therewith were repealed, fixed the salary of the Commissioner of Agriculture at $3,000.

Mr. HATCH. I do not agree with the position assumed by the chairman of the Committee on Appropriations. The provision in the Revised Statutes is the law which was adopted in the act known as the "salary-grab" act, which raised the salary of the Commissioner of Agriculture from $3,000 to $4,000. That act was specially repealed by the act of January 20, 1874. I do not agree with the position that the fixing of a salary, or the mere appropriation to pay a salary in an appropriation bill, repeals a statute law of the United States. But that law was repealed by special enactment, and the law to-day fixing the salary of the Commissioner of Agriculture is $3,000.

The CHAIRMAN. The Chair will hold, on the point of order made by the gentleman from New York, that if the bill now before the House proposed to fix the salary of the Commissioner of Agriculture at the rate provided by the statute, it would be proper to do it unless there was a clause, such as the gentleman from Tennessee states, in the last appropriation bill, which by its terms repealed all laws and parts of laws in conflict therewith. The Chair takes that to be so, and, while he thinks it is a bad method of legislation, still he must sustain the point of order made by the gentleman from New York.

Mr. DUNNELL. I move to strike out the words "for compensation of," and I suggest they ought to be omitted wherever they occur in this entire section, except in the first provision, "for compensation of the Commissioner of Agriculture, $3,000." Then the bill should go on and read, "chief clerk, $2,000; one clerk," and so on, leaving out the repetition of the words "for compensation of."

Mr. COVERT. There is no objection to that amendment.

Mr. DUNNELL. That is in harmony with the act of last year.

Mr. ATKINS. And put a comma instead of a period.

Mr. DUNNELL. It is in the first paragraph, in line 9. There it should properly remain, and I do not propose to strike that out, but only where it occurs after the first line. It is a repetition that is entirely unnecessary in the bill.

Mr. AIKEN. Mr. Chairman, I attempted to get the ear of the Chair before the Clerk read that clause. I wanted to offer an amendment to the first clause making the salary of the Commissioner of Agriculture $3,600. If the House will bear with me one minute I will make an explanation, and if the point of order is made against the proposed amendment I shall not fight it.

In the last Congress the legislative, executive, and judicial appropriation bill which passed this House and the Senate gave the Commissioner of Agriculture $3,600, a sum which the chairman of the Committee on Appropriations [Mr. ATKINS] proposed on the floor of this House that it should be increased to, because he believed and the Committee on Appropriations had come to the conclusion that he was entitled to it. The Committee on Agriculture were unanimous in reaching the same conclusion, and that is our wish. But I do not desire to increase the expenditures of this Department contrary to law, but if anything can be given in this case by unanimous consent I hope it will be done.

Mr. HUTCHINS. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HUTCHINS. I desire to know whether the amendment proposed by the gentleman has been sent up to the Clerk's desk to be read according to the rule?

Mr. AIKEN. It has not yet been sent to the Clerk's desk. It is only a verbal amendment, but, as I have stated, if the gentleman chooses to raise the point of order I will not fight it, because I know what the rulings have been in such cases.

Mr. HUTCHINS. I shall raise the point of order upon it.

The CHAIRMAN. The gentleman from Minnesota offered an amendment which has not yet been committed to writing. Will he be kind enough to send it to the Chair?

Mr. DUNNELL. My amendment is simply to strike out the words "for compensation" where it occurs in the eleventh line and in each succeeding line in the bill, and I hope this will be done by unanimous consent.

The CHAIRMAN. The Clerk will read the bill as it is proposed to be amended by the gentleman from Minnesota.

The Clerk read as follows:

For compensation of Commissioner of Agriculture, $3,000; chief clerk in said Department, $2,000; chief of division of accounts, &c.

Mr. ATKINS. I do not wish to be hypercritical at all, but if the amendment of the gentleman should carry, it will be necessary to put in in each case after the word "dollars" a semicolon, in order that it may be a complete sentence. Otherwise each one of these separate items will be a detached sentence, meaning nothing.

Mr. DUNNELL. That is right. It will then make a continuous sentence, and that is in the line of the suggestion I have made.

Mr. COVERT. This understanding can be had also with reference to other salaries in the bill where this occurs.

The CHAIRMAN. It will be so understood.

Mr. WARNER. I rise to a point of order on this clause and on all the subsequent clauses increasing salaries for the purpose of raising a question which has been raised in reference to the first clause. I wish to ask the chairman of the Committee on Agriculture whether some salaries in this bill have not been increased over the amount of former appropriations and over the salaries prescribed by existing law; and therefore a change of the law.

Mr. COVERT. I say simply no, and that, sir, in italics and with emphasis. The facts in the matter are these: Under the statute creating the Department of Agriculture the salaries of the officers are prescribed by the very letter of the statute; for instance, the salaries of the chief clerk, botanist, entomologist, and microscopist are fixed at $2,000 per annum each. Now, two years ago in grading the salaries of some of these officials the Appropriations Committee deducted 10 per cent. from them, and consequently these salaries were placed and have been subsequently retained at the rate of $1,900 per annum.

The committee have simply restored the salaries to the amount which the statute law provided they should be paid for the service. It is absolutely no increase of compensation over the amount already established by law.

Mr. WARNER. I desire to have that point of order settled, then, as to whether the increase of salaries in this bill over the appropriation of last year, which I understand re-enacted the former law—whether the increase proposed is subject to the point of order?

Mr. CASWELL. I wish to suggest, Mr. Chairman, that there seems to be a mistake in reference to the appropriation bill of last year repealing laws supposed to be in conflict with this provision. There was such a clause in the regular appropriation bill which was vetoed and failed in the Forty-fifth Congress, but I do not recollect that there was any final provision repealing laws in conflict with this appropriation.

I desire to enter my protest here against the idea that a simple appropriation for any given fiscal year shall repeal a general statute upon that subject, and the clause should not be involved in doubt. It should be a clear and distinct provision of the law which repeals the laws in conflict with it. I hold in my hand the statute which was supposed to contain that repeal, and I do not find it in any portion of the bill; and I think, therefore, it is a misapprehension, and that there is nothing in it, as I understand it, in conflict with the provision raising the salary to $4,000, as that is the act upon the general statute-books.

Mr. WARNER. I agree myself with the gentleman from Wisconsin [Mr. CASWELL] on the point made that the increase or decrease in the salaries made in an appropriation bill does not repeal a general law. But, inasmuch as I understand that a decision contrary to that has been already made, I ask the Chair to rule on that point. I wish to remark further that I raised the point of order more for the purpose of getting this point decided than for anything else. I agree inasmuch as we have raised the salaries of clerks in this House whose duties will require perhaps only three months' service next year that it will be hardly consistent to refuse a reasonable increase to such an officer as Commissioner of Agriculture, but I do not think it ought to be done, or the law changed by changing the amount in an appropriation bill.

Mr. MCMILLIN. I desire to read from the "act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes." It seems that the provision that my colleague from Tennessee [Mr. ATKINS] referred to was not, as is stated by the gentlemen on the other side of the Hall, contained in the act of 1879. But we do find it in the act of which I have read the title. It is section 4 of that act, and is as follows:

That all acts or parts of acts inconsistent with or in conflict with the provisions of this act are hereby repealed.

Approved June 19, 1878.

That act, Mr. Chairman, fixed the salaries as follows:

For compensation of Commissioner of Agriculture, $3,000; chief clerk, $1,900; entomologist, $1,900; chemist, $1,900; assistant chemist, $1,400; superintendent of experimental gardens and grounds, $1,900; statistician, $1,600; disbursing clerk, $1,600; superintendent of store-room, $1,600; librarian, $1,400; botanist, $1,800; microscopist, $1,800; engineer, $1,200; three clerks of class 4; four clerks of class 3, &c.

Those are the salaries fixed by that act. And that is the provision that is appended to the act. And as will be observed by comparing the two, those salaries are inconsistent with the provisions of this bill before us, and hence it is subject to the point of order that has been made.

Mr. COVERT. I desire to say but a word upon this point of order. The bill by which these salaries were decreased from $2,000 to $1,900 was an annual appropriation bill, which by its terms and upon its face made appropriations only for the space of one fiscal year, and which upon its face and by its terms became inoperative at the expiration of the date fixed in the bill.

Now, does any gentleman upon this floor claim to urge with any degree of earnestness and sincerity that simply because the Federal Congress at one juncture, when the exigencies of the Government might demand it, when our industries might demand it, when there might be a demand for the strictest economy in making appropriations, made a reduction in the pay of a Government officer for any one of these reasons; that simply because that reduction was made in an annual appropriation bill, of itself a transitory thing, meeting an early death, expiring by its own limitation at the expiration of one year; that simply because, owing to the passing exigencies of the Government, a reduction of this kind was made, those figures should for all time to come stand as the utmost limit of the pay of those employés? I do not believe, sir, I cannot believe any gentleman on this floor could make that argument with any degree of earnestness, or at all events could be sincere in suggesting an argument like this.

Mr. MCMILLIN. Will the gentleman permit me a question?

Mr. COVERT. Certainly.

Mr. MCMILLIN. Do you deny that the bill to which I have called attention fixed the salary at the rates I have stated?

Mr. COVERT. By no means. On the contrary I have expressly stated that the appropriation bill for the year mentioned by the gentleman from Tennessee [Mr. MCMILLIN] did fix these salaries at the rates mentioned.

Mr. MCMILLIN. Was not that inconsistent with the law that had existed before?

Mr. COVERT. It was inconsistent for that period, for the limit mentioned in the bill. But I invite the attention of the gentleman from Tennessee to other phraseology embodied in that appropriation bill. The phraseology is this. It is near the beginning of the bill:

The sums hereinafter mentioned shall be paid in full compensation for services rendered during the fiscal year.

It does not say the salaries of the officers mentioned in that bill shall be reduced. It does not repeal the statute establishing those salaries. But it says these employés for the brief period mentioned, the limit of the fiscal year, shall accept those sums in full compensation for the services they may have rendered.

Now, with one more suggestion I will yield the floor. As I understand it the proceedings which are claimed as precedents by gentlemen who are urging this point of order have arisen and have only arisen when amendments have been presented to appropriation bills upon the floor of this House; that is to say, when any gentleman not a member of the committee bringing in a bill offered an amendment

to any provision in the bill calling for an increase of the expenditure over the amount reported by the committee; then the chairman of the Committee of the Whole House for the time being has very properly ruled, as it seems to me, the point of order would lie against an amendment of that character. But I do not know an instance anywhere in the proceedings of this or any other Congress where a committee has come and reported a bill establishing the pay of certain officers at precisely the figures mentioned in the statute creating those officers that the point of order has been sustained or has even been presented.

Mr. McMILLIN. Now, if my friend from New York will permit me, I will say this is not a question of whether this is right or wrong to raise the salaries. The question is a question of order before the Chair; and upon that question of order I read this as the law; for, whether it is right or whether it is wrong, the law must control.

The gentleman from New York [Mr. COVERT] has admitted that the appropriation bill fixes the salaries at the limits I have specified, different from those in this bill. He also admits another fact, which could not be denied, that a closing section of the bill repeals all laws inconsistent with the act. The rules provide that no amendment or provision of a bill shall be in order which changes existing law unless it retrenches expenditures. It is admitted that the sections of this bill to which the point of order applies increase expenditures; it thereby changes existing law. Gentlemen say the existing law applies only for this year. Even if that be true, it is nevertheless "existing law" proposed to be changed "without retrenching expenditures."

Mr. RYON, of Pennsylvania. Will the gentleman yield to me for a question?

Mr. McMILLIN. In a moment. I read again the repealing clause, that gentlemen may observe that there is no date fixed at which it shall cease to operate.

> That all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

The CHAIRMAN. That is the act of 1878?

Mr. McMILLIN. Yes, sir. There is no clause limiting the time of that repeal. And as I said before, it is not a question of whether the salaries should be raised or should be lowered. It is a question as to how the law stands upon this point of order. If the point of order is sustained it will save the Government in salaries more than $1,000. Now I will hear my friend from Pennsylvania, [Mr. RYON.]

Mr. RYON, of Pennsylvania. Is there any rule or provision of law that prohibits the Committee on Appropriations from creating an office and fixing the salary?

Mr. McMILLIN. There is a rule of this House which prevents the Committee on Appropriations from changing an existing law by a provision in an appropriation bill, unless that change of law retrenches expenditure.

Mr. HATCH. Will the gentleman refer to that rule?

Mr. RYON, of Pennsylvania. That relates to amendments.

Mr. McMILLIN. It does not apply to amendments only. It is one of the fetters which this House has placed on the Appropriations Committee.

Mr. HATCH. Give us the rule you refer to.

Mr. McMILLIN. I cannot in the short time allowed me undertake to familiarize my friend from Missouri [Mr. HATCH] with all the rules of this House.

Mr. HATCH. I say that you cannot turn to any such rule, even if you should take the balance of the session to look it up.

Mr. McMILLIN. The hours are too few, and I have not the power of Moses to command the sun and moon to stand still. [Laughter.]

Mr. UPDEGRAFF, of Ohio. It was not Moses who did that.

Mr. McMILLIN. Joshua, I mean, and intended to say and thought I did say.

Mr. HATCH. I desire to address myself directly to the point of order. In title 12 of the Revised Statutes, sections 521 and 522, the salary of the chief clerk of the Agricultural Department is fixed at $2,000. I will read that portion of the statutes:

> The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,000 a year.
>
> There shall be in the Department of Agriculture one chief clerk, at a salary of $2,000 a year, &c.

Mr. McMILLIN. Will my friend allow me——

Mr. HATCH. I decline to be interrupted until I get through with my statement. As I have before said, the act approved January 20, 1874, repealed that portion of section 521 of the Revised Statutes which raised the salary of the Commissioner of Agriculture to $4,000 a year; but it did not repeal or change the law fixing the salary of the chief clerk at $2,000. For several consecutive fiscal years the salary of the chief clerk was retained at $2,000. Two years ago it was reduced in an appropriation bill to $1,900 a year. But I submit that that appropriation bill merely appropriated the sum of $1,900 towards the salary of the chief clerk of the Department of Agriculture for that fiscal year, and it did not and could not by implication change an existing law. The point that I make is that a mere appropriation for the payment of a salary during a given fiscal year cannot by implication repeal a statute law of the United States.

I call the attention of the Chair to the further fact that in this review of the salaries of that Department by the act of January 20, 1874, the salaries of the chief clerk and of the other clerks were retained as they then stood, while the salary of the Commissioner was reduced to $3,000. Now, I ask the gentleman from Tennessee [Mr. McMILLIN] to cite me the rule upon which he relies in his argument to the Chair, that a point of order lies against a committee of this House for reporting a sum authorized by existing law as the salary of one of the officers of the Government.

Mr. McMILLIN. Just stop a minute, and I will restate my point and read the rule on which I rely. I have never believed or argued to the Chair "that a point of order lies against a committee of this House for reporting a sum *authorized* by *existing* law as the salary of one of the officers of the Government." What I did argue and do hold is that the increase of salaries proposed by this bill changes existing law, and that on that account the bill is subject to the point of order made by the gentleman from Ohio, [Mr. WARNER,] notwithstanding the committeee recommend the change. I think I am sustained by clause 3 of Rule XXI, which I read:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Mr. UPDEGRAFF, of Ohio. Before the gentleman from Tennessee [Mr. McMILLIN] sits down, I beg to ask him a question.

Mr. McMILLIN. With pleasure.

The CHAIRMAN. Does the gentleman from Missouri yield?

Mr. HATCH. I yield to the gentleman from Ohio to ask a question.

Mr. UPDEGRAFF, of Ohio. While the gentleman is giving us his authority, will he be kind enough to refer to the chapter and verse where we may find the account of that wonderful performance of Moses in causing the sun and moon to stand still? [Laughter.]

Mr. McMILLIN. My friend is in error about who did it; it was Joshua, not Moses.

Mr. UPDEGRAFF, of Ohio. The gentleman said it was Moses.

Mr. McMILLIN. It seems that I will have not only to correct my friend from Missouri [Mr. HATCH] in regard to the rules of this House, but also my very distinguished friend from Ohio, [Mr. UPDEGRAFF,] in regard to the Scriptures; which will be a much more difficult task, I think. [Laughter.]

Mr. UPDEGRAFF, of Ohio. I ask the gentleman from Tennessee if he did not state to the House that it was Moses?

Mr. McMILLIN. If I did so it was a *lapsus linguæ*.

Mr. UPDEGRAFF, of Ohio. And since that time I saw a republican, who is doubtless in the habit of reading the Bible, speaking to him, and after consultation he now reluctantly admits that it possibly might have been Joshua. He is advancing in knowledge. [Laughter.]

Mr. McMILLIN. He was not talking about Moses or Joshua, but asking how I thought he could get forgiveness for his political sins.

Mr. HATCH. In answer to the gentleman from Tennessee [Mr. McMILLIN] I submit that this appropriation bill reported by the chairman of the Committee on Agriculture is a specific appropriation bill, making appropriations for the Department of Agriculture alone, and is not contemplated by the language of the third clause of Rule XXI, which is applicable to general appropriation bills.

Again, I submit that this bill does not change existing law and is not liable to a point of order, because it does not change existing law in any respect. It does not change the law fixing the salary of the chief clerk of the Department of Agriculture, but it conforms to that law and is within the provisions of that law. As I have argued to the Chair, a mere appropriation for one fiscal year does not and cannot change an existing statute.

Mr. WILSON. As I understand it, this point of order is based upon a question of law. So far as I can see, the only question in the matter is whether the appropriation act of 1878 repealed the provisions of the law then existing in relation to this Department. I have not been able to read that act, but from hearing it read by my friend from Tennessee [Mr. McMILLIN] I am clearly of opinion that the act of 1878 did not change the previous law fixing the salaries of these officers.

Now, by the appropriation act of 1878 we simply appropriated a smaller amount of money for that year than was specified in the previous statutes. The act of 1878 does not undertake to fix the salaries at a lower amount than prior law authorized; its office and effect were to appropriate for one year a smaller amount than had been appropriated previously.

Mr. STEPHENS. If the act of 1878 had been intended as a repealing act it would have said so in direct terms, or if it was intended to cut down these salaries for the future it would have done so in unmistakable language, such as, the salaries of these officers shall hereafter be so and so.

Mr. WILSON. The gentleman [Mr. STEPHENS] is entirely correct. Suppose that in 1878 no appropriation at all had been made for these officers; suppose Congress had failed entirely to make any appropriation, and had at the same time inserted as a concluding clause of the bill a provision that "all acts and parts of acts inconsistent with this act are hereby repealed;" would any sane man undertake

to say that because for that year Congress failed to make any appropriation for these officers therefore they must thereafter have no salaries? Or suppose that for the want of money in the Treasury or for any other cause the appropriations had been for only one-half the legal salaries; that would not have had the effect of repealing the previous law. As I understand, the only purpose in the act of 1878 was to indicate that these officers should have a certain sum for that particular year; but the general law fixing these salaries has not been disturbed. I very respectfully submit that there has been no repeal of that law. The Department of Agriculture is the most important one in the Government, and I regret to say that it has been more neglected and its officers worse paid. In the near future I hope a more liberal spirit will prevail in Congress toward the agricultural interest of the country.

Mr. CASWELL. I desire to suggest that the repealing clause of the act of 1878 should be construed to apply solely to the appropriations for that fiscal year, and no further; it should not be construed as attempting to interfere with the appropriations for following years unless such an intention appears in express language.

Mr. WILLITS. Mr. Chairman, the repealing clause of the act of 1878 is cited here. That clause reads as follows:

> That all acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Now, the point turns upon what is repealed. In the first section of the act the statement is made that the moneys herein appropriated shall be full compensation for that year. Under the law as it then existed the chief clerk was entitled to $2,000. The act of 1878 appropriates $1,900 as full compensation for this officer. Now, in order to prevent any possible claim on the part of this clerk for $2,000 for that year, there is inserted in the last section the repealing clause.

Now, I can understand how the chairman of the Committee on Appropriations has fallen into an error in reference to the force and effect of this repealing clause. It had occurred to me, before making the examination, that all the appropriation acts for 1878 contained a clause fixing the salaries of the various officers at the amounts appropriated in that year. But it seems that this particular act of that year did not contain such a provision. I call the attention of the gentleman specifically to the diplomatic and consular appropriation act for 1878. I read the repealing clause of that act to show how it differs from the repealing clause of the act now under consideration. The diplomatic and consular appropriation act, after appropriating for the various salaries, declares:

> And the salaries provided in this act for the officers named herein respectively shall be in full for the annual salaries thereof from and after the 1st day of July, 1879; and all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

It will be seen that the wording is different. The consular and diplomatic act of 1879 attempted to fix the salaries from and after the 1st day of July, 1879, specifically; whereas the legislative appropriation act for the same year did not undertake to fix the salaries at all, but did provide that the amounts appropriated should be full compensation for the year; in other words, that the chief clerk should receive for the fiscal year $1,900, and should not have any claim for $100 in addition.

Mr. YOUNG, of Tennessee. Mr. Chairman, I am at a loss to comprehend the spirit which inspires all this eloquence in support of a proposition which has been voted down more than an hundred times in the last twelve months. It is now sought to place a construction upon one of the rules of the House which has been uniformly rejected for more than ten years. So far as I am individually concerned, I would be entirely willing for the head of this most important Government Department to receive an adequate salary, one in keeping with the dignity and importance of the position he occupies. I do not believe that the salary which he at present receives is an adequate one in any respect, whether considered in reference to the character of his office or the duties he is called to perform. I scarcely believe that the amount to which you have just increased it is sufficient, and I should not object, perhaps, to a still greater increase, for I know that there are many officers of the Government performing far less important and valuable services who receive much larger compensation.

The CHAIRMAN. The Chair begs to call the gentleman's attention to the fact that the paragraph making appropriation for the salary of the Commissioner of Agriculture has been passed. The clause upon which the point of order is made contains an appropriation for the salary of the chief clerk.

Mr. YOUNG, of Tennessee. I know that; but my remarks are none the less applicable to the amendment now proposed, as it involves the very same principle and construction of the twenty-first rule.

As I said before, I am unable to conjecture the reason for this sudden outburst of eloquence in advocacy of giving a different construction to the twenty-first rule than has uniformly been given to it heretofore unless it may be that this change of construction is sought to be had in behalf of a Department which has the power to distribute its patronage all over the entire country. The construction of the rule claimed by the gentleman who raised the point of order and also by my colleague from Tennessee [Mr. MCMILLIN] has uniformly been maintained for more than ten years, and I am unable to discover any sufficient reason why it should be changed in behalf of this particular Department.

Three days ago one of my colleagues, [Mr. WHITTHORNE,] while the legislative, executive, and judicial bill was being considered, proposed to increase the salary of a most meritorious and poorly paid clerk, and made a most able and vigorous argument in support of his proposition, but he was not assisted by a single gentleman who has spoken so eloquently to-day; and this very point of order being raised upon his amendment, it was promptly sustained with the silent acquiescence of the entire House. Now, why should these agricultural clerks receive greater favor than those of other Departments? It is not claimed that they perform more labor, nor has any gentleman asserted that the Department would be more beneficial to the public or more efficient in its operations by reason of increasing the salary of any of its clerks.

I do not remember that I have ever voted to reduce the salary of any Government employé. Certainly not unless I was convinced that he was receiving more than his services were worth. If gentlemen will satisfy me that any employé in the Department of Agriculture is receiving too small a salary, and show me how it can be increased without violation of law, or the rules of the House, thus making a dangerous precedent, I shall be most happy to aid in securing an adequate salary. If gentlemen will give me any reason why these clerks should be exempt from the operations of the rule which governs all others I shall be very glad to see the point of order overruled. But until this is done I trust the chairman will not seriously consider a proposition which tends to so much evil, and that will assuredly open the way to the most dangerous abuses and reckless extravagance.

The House will remember that only two days ago, when the point of order now raised by the gentleman from Ohio [Mr. WARNER] was not presented and the rigid requirements of Rule XXI were for a little while relaxed, the Appropriations Committee was completely run over despite the utmost efforts of its chairman, my colleague, [Mr. ATKINS,] to resist what seemed to be the anxiety of the House to increase the salary of everybody. Every member on this floor must see and know how dangerous it would be to remove every restraint imposed upon the power of Congress to increase the appropriations reported from the committee having them in charge. If this were done, there is no telling what wild and reckless extravagance would soon result, and the Treasury would quickly be depleted in meeting the demands of such legislation. The fact is all our legislation should be general in its effects and application, and no special favor should be bestowed upon any class, whether private citizens or officials.

Mr. ATKINS. I have no feeling whatever upon this subject. I did not make the point of order; but I concur most heartily in the remarks made by my colleague from the Memphis district, [Mr. YOUNG, of Tennessee.] I think the rulings of this House should be uniform. I desire to say that they have been uniform upon this identical proposition for the last four or five years, to my certain knowledge. Why, as he has said, it was only last week the distinguished gentleman from New York, [Mr. COX,] who has long been regarded as one of the best parliamentarians in this House, time and again ruled on this very point on various propositions for increasing salaries in the legislative, executive, and judicial appropriation bill.

Mr. COVERT. Will the gentleman yield to me for a question?

Mr. ATKINS. Not now. With due respect to the gentleman from New York, I will yield to him in a moment.

Mr. Chairman, I cannot see for my life how any distinction can be made as to the agricultural appropriation bill and the other appropriation bill. The gentleman from Missouri [Mr. HATCH] says this is not a general appropriation bill; that it does not come under the head of a general appropriation bill.

Why, Mr. Chairman, is not the Agricultural Committee as much a constituted, organized body as any other committee of this House? Surely it is. And, sir, after much comment, after much debate, after considering this question maturely, this House deliberately took this part of the appropriations for the service of the country out from under the control of the Committee on Appropriations and gave it to the Agricultural Committee to move all the appropriations specific and general which are necessary for the Agricultural Department.

Now, is the Agricultural Department of the country a specific arrangement, independent of and disconnected from all other appropriations for the public service? Does it stand by itself? Is it an exotic? Is it a spasmodic affair? Is it a thing we appropriate for this year and do not appropriate for next year? Or is it in the general estimates and does it come to this House in the general estimates as all the others come to the House in the Book of Estimates?

I think the gentleman from Missouri belittles the Agricultural Committee, and I think he belittles the Agricultural Department when he says it is a specific appropriation.

I want now to call the attention of the House to another point. My colleague on my left here read the repealing section of the appropriation act for 1880. He said it was approved June 18, 1878. That was approved June 18, 1878, but it was wholly incorporated in the act of June 21, 1879. I call the attention of the chairman of this committee to that particular fact, so that there is no *lapsus* in this matter at all. If this repealing clause was in the appropriation act of 1879 it is also in the appropriation act of 1880, and I call the attention of the chairman to that fact. I will read:

> For the purpose of providing for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, there is hereby appro-

priated out of the Treasury the same sums of money, and for the like purposes, and containing the same provisions relating thereto, as were appropriated for the service of the fiscal year, &c.

So it is repealed, Mr. Chairman.

To recur again to the remarks of my colleague, I think the established rulings of this House ought not to be broken in on. I think we should consider that question as settled, for it has been discussed enough in this House.

Mr. CASWELL. In this law of 1880, while it continues the same amounts to be appropriated, it does not attempt to repeal anything or to establish they shall be in full compensation. Let me suggest one word further.

Mr. ATKINS. It repealed the entire act, and that was the purpose of the law.

Mr. CASWELL. Let me suggest, if it is true we passed the first clause of this appropriation under a misapprehension, it is but fair we should return to it. I for one was giving my attention to the first clause and trying to examine this statute of 1880 to see the effect it had, whereupon the committee passed to the second clause without my knowledge.

While I conceive, Mr. Chairman, that the ruling has been quite the reverse to some extent in this Congress, if not in the last, yet I want to say to my friend from Tennessee there has been no ruling emanating from the Chair of this House which has given such dissatisfaction as that, and I for one have the desire to see the time come when that ruling can be reversed and before we close this session we may be placed upon record as rendering a sound judgment. I cannot conceive by what process of reasoning any lawyer can come to such conclusion. While I accord to the gentleman from New York great parliamentary learning, yet I do not understand that a parliamentarian merely should decide this question. It more properly belongs to the judicial mind.

Mr. ATKINS. The gentleman from Kentucky [Mr. CARLISLE] made the same ruling.

Mr. McKENZIE. We have lost $1,000 in time in discussing a one-hundred-dollar amendment. [Laughter.] I want to ask the chairman of the Committee on Appropriations whether the amount involved in this appropriation bill is larger than that which has hitherto been recommended by the committee?

Mr. ATKINS. It is.

Mr. McKENZIE. How much?

Mr. ATKINS. One hundred dollars.

Mr. McKENZIE. Then we have lost $1,000 in time in discussing a one-hundred-dollar amendment in regard to the salary of the only officers that look to the well-being of the agricultural interest of this country, and it does seem to me, if we are to economize, we ought to begin at the other end of the line.

Mr. McMILLIN. There are a number of other officers in the same fix.

Mr. HATCH. Mr. Chairman, I wish to say a single word in reply to the remarks of the gentleman from Tennessee in regard to his criticism upon my stating that this is a specific appropriation bill. I read from Rule XI, clause 8:

To the Committee on Agriculture, who shall receive the estimates and report the appropriations for the Agricultural Department.

Now, Mr. Chairman, the Committee on Agriculture can report an appropriation bill to this House upon no other subject than the agricultural interests of the country. They cannot report an appropriation bill to the House covering any other question whatever or covering any expenditure for any other Department of the Government, and in that sense, and being confined exclusively to this particular Department, I hold that this is not a general appropriation bill. According to this power to provide for this specific Department and for this Department alone it is a specific appropriation bill.

And, Mr. Chairman, if, as the gentleman contends, the provision of the bills of 1879 and 1880 repeals this section of the statute fixing the salaries of these officers at $2,000, where is the law for fixing it at $1,900? If that provision of the statute is repealed, then, under the law, there is no fixed salary of the chief clerk of this Department at all. If that statute has been repealed the Committee on Agriculture can report any salary to this House it may determine upon and it is not subject to the point of order.

Now, I contend that the Committee on Agriculture have followed the law. They have not gone outside of it, and they have reported to this House and asked to pay this clerk, for the next fiscal year, the salary fixed by law—$2,000.

The CHAIRMAN. Upon the point of order raised by the gentleman from Ohio the ruling of the present occupant of the chair is as follows: If the act of 1878, providing in its conclusion that "all laws and parts of laws inconsistent therewith should be repealed," had gone on to say what should subsequently be the salary of this clerk, it would have been in the power of the Committee on Appropriations simply to have followed that law and provided the amount therein specified; but when it is claimed that the appropriation bill repealed all laws and parts of laws inconsistent therewith there was nothing in the pre-existing statute inconsistent with the appropriation made by the committee and reported to the House, and the distinction made by the gentleman from Michigan, [Mr. WILLITS,] it strikes the Chair, is correct, that it was confined to the fiscal year and did not, in terms, repeal existing laws providing for this compensation, and therefore, inasmuch as the rules have been changed upon the subject and the Agricultural Committee has been vested with the power to receive the estimates and make the appropriations for that Department, they of course would be restricted, like the Appropriations Committee, to what is fixed by law, and if that act did not repeal the prior act fixing the salary at $2,000, then there is nothing in the point of order made by the gentleman from Ohio, and the Chair overrules it.

Mr. ATKINS. With all due respect I appeal from the decision of the Chair.

Mr. McKENZIE. I desire to say upon that appeal of the gentleman from Tennessee that the point of order which has been raised against this amendment is an invidious discrimination against the only Department of this Government that has for its object the looking after the agricultural interests of the people of this country. There is not a chief clerk in any one of the departments of this Government that does not receive from two thousand to three thousand five hundred dollars salary. Why it is that the gentleman from Tennessee, representing an agricultural constituency, and whom I know to be a friend of the farmer's interests, should make this discrimination against the chief clerk of the Agricultural Department, is beyond my comprehension to determine.

Mr. ATKINS. Well, that is a very remarkable speech. What have I to do with the appropriations in this bill? I did not make the point of order. I had nothing whatever to do with it.

Mr. COVERT. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. COVERT. I desire to ask whether there is any question pending before the committee which will permit this discussion to go on?

The CHAIRMAN. There is no question pending, the point of order having been overruled.

Mr. ATKINS. I want the rulings of the Chair to be uniform. If this is to be taken as a precedent, it will overturn the rulings which have heretofore been made upon this subject, and which have had a good effect in preventing the increase of salaries beyond what the law provides.

Mr. McKENZIE. The existing law provides for $2,000.

The CHAIRMAN. The question is whether the judgment of the Chair shall stand, the gentleman from Tennessee having taken an appeal therefrom. That must be decided without debate.

Mr. ATKINS. I only appealed from the decision of the Chair in order to enter my solemn protest against it. I am indifferent as to whether the clerk is paid two thousand or nineteen hundred or twenty-one hundred dollars, but I desire to enter my protest against the decision of the Chair as not being in conformity with the uniform rulings heretofore; and with that statement I withdraw the appeal and the House can take care of the question for itself.

I wish also to say a word here in reply to the remarks of the gentleman from Kentucky. The gentleman says that my course has been in opposition to the agricultural interest of this country.

Mr. McKENZIE. The gentleman has entirely misunderstood me. I stated distinctly that he was a friend of the farmer and that he represented an agricultural constituency. The gentleman has been misled in his wild quest for economy.

The CHAIRMAN. The Chair desires to say, in response to the remarks of the gentleman from Tennessee and in reference to his ruling upon the point of order, that he regrets if he has the misfortune to differ with other gentlemen, former occupants of the Chair, in his ruling upon this question; but that he made the ruling upon his judgment as a lawyer, and with all of the lights and evidence that have been brought before him. The Clerk will read the next clause.

Mr. CASWELL. I ask leave to return to the first clause of the bill.

Mr. ATKINS. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. I desire to ask if the decision has passed the paragraph.

The CHAIRMAN. It has.

Mr. ATKINS. That is a remarkable fact. There has been no vote upon it. The Chair announced the decision, and before any vote has been taken upon the subject directed the Clerk to read the next clause.

The CHAIRMAN. The Chair thought the gentleman from Tennessee alluded to the paragraph proposed to be returned to by the gentlemen on the other side.

Mr. ATKINS. No, sir; I alluded to the paragraph in regard to which the point of order has just been decided.

The CHAIRMAN. The question is on agreeing to the paragraph.

The paragraph was agreed to.

The Clerk read as follows:

For compensation of two clerks of class 4, $3,600.

Mr. CANNON, of Illinois. I suggest that the amount, $3,600, should be stricken out. Provision is here made for two clerks of class 4, and the statute fixes the salary. I move to strike out $3,600.

Mr. COVERT. The only objection to the suggestion of my friend from Illinois is that the bill, it seems to me, should show upon its face just how much money is appropriated. It is true by turning to the statutes we can find out what the salaries of these clerks are. But the bill ought to be on its face so plain that he who runneth may read, and, reading, may understand.

Mr. CANNON, of Illinois. I desire to be heard for a moment.

The general law fixes the salary of clerks of class 4 at $1,800 per

annum, and the practice has always been to appropriate for these clerks as clerks of class 4, or class 3, or class 2, as the case may be. The amount of the money appropriated by the section appears at the end of the section. And if these words are stricken out they should be stricken out all through the bill under the same circumstances. I never knew them to be in an appropriation bill, and therefore I insist on my amendment.

Mr. DUNNELL. I will say to the gentleman from Illinois that in the bill of last year the words which the gentleman proposes to strike out are inserted.

Mr. COVERT. I cannot see that any consequence really attaches to the suggestion of the gentleman from Illinois; but it seems to me, if there is any difference of opinion whatever about the question, the decision should be given in favor of retaining the amounts in the bill, so that any one may see at a glance just what appropriation is made. Of course it does not increase the appropriation one iota.

Mr. CANNON, of Illinois. The gentleman from Minnesota states these words are in the bill of 1879. The gentleman is mistaken. The amounts are in the bill of 1879 as to the chief clerk and the heads of divisions, but when it comes to this class of clerks the amounts are not in. The statement of the amounts is mere surplusage, and if it was to run all through these bills it would add considerably to the expense of printing them.

Mr. COVERT. It is a question for the committee to decide. For my own part I have no particular objection if the committee shall determine to strike out those words.

The question was taken; and there were—ayes 13, noes 36.

So the amendment was not agreed to.

The Clerk read as follows:

For compensation of three clerks of class 2, (two of whom shall be practical printers,) $4,200.

Mr. McMILLIN. I move to strike out the last word for the purpose of making a single remark.

The burden of the remarks made by the gentleman from Kentucky [Mr. McKENZIE] was to the effect that the point of order made was a thrust at the agricultural interests of the community.

Mr. PHISTER. My colleague from Kentucky [Mr. McKENZIE] is not in his seat. I would suggest to the gentleman from Tennessee to postpone his remarks until my colleague is here.

Mr. McMILLIN. I would have no objection to that, and would gladly await his return; but I do not wish unnecessarily to occupy the time of the House by returning to this matter. I will state, therefore, there is no such issue involved here; and I, for one representing an agricultural constituency, do not propose that such an issue shall be thrust into this question.

It is a question of economy in the expenditure of money on the clerical force here, and not a question of the amount to be distributed for the benefit of farmers. The amount of saving involved, if I calculate correctly, would be about $1,000 or $2,000, and to have effected that saving would have benefited rather than have injured the farming class.

It was simply a question of law as to whether the Chair should decide one way or the other; and there was no thrust at the agricultural interests of the community, and I think no such allusion is justifiable. To save a thousand or more dollars in the amount to be paid to employés in this city would benefit the tax-ridden people who have to contribute the money instead of injuring them. I withdraw the formal amendment.

The Clerk read as follows:

And it is hereby enacted that in addition to the proper vouchers and accounts for the sums herein appropriated to the accounting officers of the Treasury the Commissioner of Agriculture shall present a detailed statement of the manner of the expenditure of the amounts hereby appropriated, to accompany his estimates to be presented at the next regular session of Congress: *Provided*, That no part of this sum shall be paid to any person receiving at the same time other compensation as an officer or employé of the Department.

Mr. CONVERSE. I move to amend by striking out the word "Department" and inserting the word "Government."

Mr. COVERT. I am willing to agree to that amendment.

The amendment was agreed to.

The Clerk read as follows:

Agricultural statistics:

For collecting agricultural statistics and compiling and writing matter for monthly, annual, and special reports, $10,000: *Provided*, That no part of this sum shall be paid to any person receiving at the same time other compensation as an officer or employé of the Department.

Mr. CONVERSE. I offer the same amendment here also as to the preceding paragraph:

Amend by striking out "Department" and inserting "Government."

The amendment was agreed to.

The Clerk read as follows:

Purchase and distribution of seeds, &c.:

For the purchase and propagation and distribution, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, and expenses of putting up the same, $80,000: *Provided*, That $5,000 of this amount shall, in the discretion of the Commissioner of Agriculture, be devoted to experiments in connection with the culture and manufacture of tea: *And provided also*, That the Commissioner shall report, as provided in this act, the place, quantity, and price of seeds purchased, and the date of purchase; but nothing in this paragraph shall be construed to prevent the Commissioner of Agriculture from sending flower, garden, and other seeds to those who apply for the same; and the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, propagation, and distribution of improved and valuable seeds, plants, cuttings, and vines.

Mr. WHITE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "$80,000" and insert "$79,999," and add the following:

"A reasonable and equal proportion of which seeds shall be supplied to Members and Delegates in Congress when requested, for distribution among their agricultural constituencies, and the persons receiving such seeds shall inform the Department of the results of the experiments therewith."

Mr. WHITE. Mr. chairman—[cries of "Vote!" "Vote!"] All right.

The question being taken on the amendment, there were—ayes 79, noes not counted.

So the amendment was agreed to.

Mr. AIKEN. I rise to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. AIKEN. Why should the appropriation in this paragraph be made $79,999? Why not keep it at $80,000?

Mr. WHITE. I will agree to that.

Mr. McMILLIN. It was to avoid the point of order.

Mr. WHITE. I ask unanimous consent to have it restored to $80,000.

Mr. SIMONTON. I object.

Mr. OSCAR TURNER. I move to amend the paragraph by inserting after the word "purchase" that which I send to the Clerk's desk.

The Clerk read as follows:

And he shall also report the quantity of seeds, plants, trees, shrubs, vines, and cuttings furnished to each congressional district and to whom sent.

Mr. HATCH. I make the point of order on that amendment that it changes existing law and does not pretend to retrench expenditures.

Mr. OSCAR TURNER. How will it increase it?

Mr. HATCH. If that amendment is adopted and complied with by the Commissioner of Agriculture it will require the services of two-thirds of his clerical force.

Mr. OSCAR TURNER. In regard to the point of order I will simply say this: This bill as reported from the Committee on Agriculture provides that the Commissioner of Agriculture shall report the place, quantity, and price of seeds purchased and the date of purchase. I suppose that was put in in order that the country might know what disposition had been made of this money. Now, how will it increase expenditures if the Commissioner should also be required to state what he had done with the seeds after they had been bought? I do not see why any gentleman should object to this amendment, and I supposed the committee would not object. If it is right that the Commissioner shall give a detailed account of his expenditures for seeds, &c., why should he not also show what seeds had been sent to each congressional district?

As to this amendment increasing expenditures, I do not believe one word of it. We all know how this business is transacted in that Department. Members who send a list of names to the Department receive replies to the effect that the seeds called for have been sent according to the list. It is an easy matter for the Commissioner also to report to Congress in his annual report the amount he sends to each district or furnishes to individual members, in order that the country may know that there has been a fair distribution of the seed purchased by the money we have appropriated, and it will cause no increase of expenditure.

Mr. SIMONTON. I think the point of order does not lie against this amendment, because under existing law the Commissioner of Agriculture is bound to make a report, and it is his duty as an officer to make a detailed report. I maintain that it is his duty now to make the same report which this amendment provides shall be made. It is only a further direction to him in the discharge of what is already his duty under the law.

I can refer the chairman to the provision of law prescribing the duties of the Commissioner of Agriculture, but I presume it is not necessary. It is certainly the law that he shall make a detailed report of his expenditure of this money. If I may be allowed to express myself upon the propriety of the amendment, I would say that I think it is one that should be adopted, because every officer having money to disburse should be required to make a report of the manner in which the money in his hands has been expended. No man ought to have a trust fund in his hand and not be compelled to show what he does with it.

We place in the hands of the Commissioner of Agriculture $80,000 for the purchase and distribution of seeds. He ought to be required to show what he does with that money. Suppose he does not use the $80,000 for the purchase and distribution of seeds, we ought to know what amount has been used for that purpose and what distribution has been made of the seeds so purchased. It is not only his duty to show that he has purchased the seeds, but that he has distributed them, and he should show how he has distributed them.

It is said that the Commissioner pays $30,000 for seeds and expends about $30,000 for sending them throughout the country. Does anybody know what he does with the other $30,000? No man knows whether he sends those seeds to the country or not, or whether he uses a portion of the money as a matter of favoritism toward some and not toward others.

No man ought to object to showing what he does with a fund placed in his hands. As for this amendment causing additional expenditures, let me say that the Commissioner is not running his

Department properly if he cannot show precisely what he has done with the money which we have placed in his hands. If he cannot do that, he is not properly discharging the duties of his office. It will add nothing to the cost of the Department, and it will insure a proper and faithful distribution of the large sum of money placed in his hands. No doubt he is able to show clean hands; but he should not only be able to do so, but we should require him to do so.

A few moments since, Mr. Chairman, I objected to restoring the amount in this paragraph to $80,000, as reported by the committee. I now withdraw that objection.

The CHAIRMAN. If there be no further objection, the amount will be restored.

There was no objection, and it was so ordered.

Mr. WHITE. The amendment offered by my friend from Kentucky [Mr. OSCAR TURNER] is at first glance very plausible. It provides that there shall accompany the annual report of the Commissioner of Agriculture a detailed statement of the manner in which he had distributed the seeds purchased by him. The purpose of my friend in offering that amendment doubtless is to secure a detailed statement of the specific amounts of seeds which the different Representatives in Congress have received for their constituencies. That seems to be very plausible, and in some respects is all right. I presume the object is not to have an exhibit made that it may be criticised, but to secure an accurate accountability in the expenditure of public funds. In this object I concur; but I submit that existing statutes upon the subject are abundantly effective. Section 528 of the Revised Statutes requires the Commissioner of Agriculture to submit annually in his report a detailed statement of the expenses of his Department, and of course the accounting officers of the Treasury have the right to call on him at any time for information as to the manner of this expenditure. But I submit that to adopt such an amendment as this will increase largely the labors of the Department, and under existing appropriations cripple its operations.

Mr. OSCAR TURNER. Will the gentleman state to this committee that he can tell from any report that ever emanated from that Department what amount of seeds, shrubs, or anything else have been furnished to any congressional district?

Mr. WHITE. No, I cannot.

Mr. OSCAR TURNER. Then that shows a defect in the law. The object of my amendment is simply that the reports of this Department shall show what amount is given to each congressional district, so that we may see there is some fair distribution of these things.

Mr. WHITE. Now, Mr. Chairman, of course I cannot——

The CHAIRMAN. The gentleman will confine himself to the discussion of the point of order.

Mr. WHITE. Very well. The point of order is that the amendment changes existing law, and is out of order under the rule. I think the point of order is very well taken. Suppose that the wish of my friend from Kentucky [Mr. OSCAR TURNER] were gratified; suppose a report from the Department exhibited how many seeds were sent to different districts; what good would it do? Here is the district, for instance, of my friend from New York [Mr. MORTON] or his colleague, [Mr. MCCOOK.] Each of these is a commercial district, and not many seeds are distributed there. A detailed statement of the quantity of seeds sent to a district like that of my friend from Kentucky, an agricultural district, would exhibit a marked contrast with the amount drawn by gentlemen representing commercial communities. What we want is an honest expenditure of the aggregate amount of money appropriated for the use of this Department. If there is any complaint about unfairness in the distribution, it is within the power of any gentleman making complaint to offer at any time a resolution of inquiry. I hope the point of order will be sustained.

Mr. AIKEN. Mr. Chairman, the adoption of this amendment would unnecessarily increase expenditures. If, however, this bill should become a law with the amendment of the gentleman from Pennsylvania, [Mr. WHITE,] providing that these seeds shall be sent to Representatives on this floor for distribution, the Commissioner will, of course, have very little trouble. He will weigh out proportionate shares, put a valuation on each, and report so many seeds sent to the gentleman from Kentucky and so many sent to other gentlemen. But I hold, sir, that this is not a just arrangement for the American farmer. The farmers of this country want to have something to say about the distribution of these seeds. It is not a question to be determined solely by members of Congress. I hold in my hand the Book of Estimates, in which there is printed an itemized account of every dollar spent for these seeds.

Mr. SIMONTON. Can the gentleman tell me from that where these seeds went?

Mr. AIKEN. No, sir; but if the gentleman will give me time I can say where a good many went. Twenty-eight thousand dollars has been spent for labor in distributing these seeds. I say to gentlemen, go and do as I have done; examine the books of the Department and you will see exactly where the seeds have gone. Everything of that kind is shown on the books. But if the Commissioner of Agriculture, whoever he may be, is to report by items the fact that he has distributed seeds to Tom Jones and Dick Walker and all the other people throughout the United States, you must necessarily double the force of the Department. I wrote to four or five of the leading seed-dealers in the United States on this very question, and I have now in my possession answers from the best known dealers of that class in the North. I will take one at random and read it. These gentlemen beg me not to mention their names because they do not want private business to be made a public commodity. One of these dealers says:

> To receive, distribute, and make account of seeds in packages costs us 150 per cent. on the original cost.

That shows something of the labor. Now, let me show the House how many of these seeds are distributed. In 1870 only 300,000 packages were distributed; in 1877, 2,333,474 packages were distributed; in 1878—I mean the fiscal year ending June 30, 1879—there were 1,115,886 distributed. No computation has been made as to how many will have been distributed by the 30th of June next. But, sir, I have it from the Commissioner, in reply to a question of mine on that very point, and he says that the addresses and entries on seed account for this year amount to 4,636,800. I ask this House, then, how are we to get those duplicate addresses sent off without increase of expenditure.

Mr. SIMONTON. I desire to call attention to the statute as it now exists. Section 528 provides:

> That the Commissioner of Agriculture shall annually make a general report in writing of his acts to the President and to Congress, in which he may recommend the publication of papers forming parts of or accompanying his report, which shall also contain an account of all moneys received and expended by him. He shall also make special reports on particular subjects whenever required to do so by the President or either House of Congress, or when he shall think the subject in his charge requires it.

Mr. WARNER. I move to strike out the last word in the amendment of the gentleman from Kentucky.

The CHAIRMAN. Does the gentleman wish to be heard on the point of order?

Mr. WARNER. I do not, but I do on the amendment.

The CHAIRMAN. The amendment of the gentleman from Kentucky provides in addition to what is called for in the section of the Revised Statutes which has been read by the gentleman from Tennessee that he shall report the quantity of trees, plants, shrubs, and cuttings furnished to each congressional district and to whom sent.

Mr. WARNER. But I propose to amend the amendment of the gentleman from Kentucky by striking out the words "to whom sent," and I think that will relieve the amendment from the point of order.

Mr. OSCAR TURNER. I accept that modification of the amendment. I only want to know how these seeds and plants and shrubs have been distributed to each congressional district.

The CHAIRMAN. The Chair holds that Congress, as the law-making department of the Government, possesses the power notwithstanding the rule, the force of which the Chair acknowledges, to the effect that in offering an amendment to an appropriation bill it must retrench expenditures in case in any respect it changes existing law; yet the legislative department of the Government in investing money in any of its Departments can require the strictest accountability for its disbursements, and therefore the Chair rules the amendment of the gentleman from Kentucky is in order as now modified at the suggestion of the gentleman from Ohio.

The question recurred on Mr. OSCAR TURNER'S amendment as modified.

The committee divided; and there were—ayes 40, noes 56.

The CHAIRMAN. The amendment is rejected.

Mr. BRIGGS. Tellers!

Mr. WILSON. Too late.

Mr. BRIGGS. But no quorum has voted.

The CHAIRMAN. It is the impression of the Chair that the amendment was disposed of before the gentleman demanded tellers.

Mr. BRIGGS. I object that there was no quorum voting.

Mr. HATCH. I object that the point was not made there was no quorum until after the vote had been announced.

The CHAIRMAN. The Chair understood the point was not made in time.

Mr. BRIGGS. I rose in time and tried to be recognized by the Chair to make the point of order that no quorum had voted.

The CHAIRMAN. If the gentleman states that he rose in time and demanded tellers, they will be ordered by the Chair.

The question recurs on the amendment of the gentleman from Kentucky [Mr. OSCAR TURNER] as modified, and the Chair will appoint as tellers Mr. WHITE and Mr. OSCAR TURNER.

The committee again divided; and the tellers reported—ayes 30, noes 100.

Mr. BRIGGS. No quorum has voted.

Mr. COVERT. If the point is insisted on, I shall move that the committee rise.

Mr. BRIGGS. If we can have a vote on this proposition in the House, I will withdraw my point that no quorum has voted.

Mr. COVERT. That privilege will be accorded to the gentleman from New Hampshire.

Mr. BRIGGS. Very well, then, I withdraw my point that no quorum has voted.

So the amendment was rejected.

Mr. YOUNG, of Tennessee. I move to add after the word "tea," in line 82, the following:

> *Provided further*, That $5,000 of this sum shall be expended in the discretion of the Commissioner in experiments for the improvement of the varieties and culture of cotton.

I am very much surprised, Mr. Chairman, that this important agricultural interest has been overlooked by the Committee on Agriculture, as it has in a measure been by the Department of Agriculture at least. I do not perceive that any attention has been given to it in the bill now before me, and am not aware that our Commissioners of Agriculture have ever given it any consideration whatever except to expend a very small sum for some purpose connected with cotton last year. Cotton, I need scarcely say, is the most valuable of all our agricultural products, and brings us more wealth from other countries than one-half of all our other productions put together. It furnishes us a source of wealth and prosperity almost inexhaustible, and which is possessed by no other country in the world.

The table of exports for 1876, which I have just chanced to pick up, shows that out of a total exportation amounting in value to $640,000,000 more than two hundred and ten millions' worth consisted of cotton and cotton goods. I have not the report of last year before me, but have no doubt but that it will show an increase of cotton exportation. The consumption of this staple commodity is rapidly increasing nearly all over the world; hence its production is every year augmented.

The crop of the present year will, I presume, amount to something like five millions of bales, and its value will reach to two hundred and fifty or three hundred millions of dollars. If we are to stimulate inquiry and promote improvement in respect to everything else grown in the soil, it seems to me it would be a very great oversight if we do not embrace cotton in the list. It has, I think, already been neglected too long, and I think this a good time to commence repairing your omissions of the past in this respect. I therefore ask the adoption of the amendment.

The amendment was again read.

The CHAIRMAN. The question is on the adoption of the amendment.

The committee divided; and there were—ayes 51, noes 14.

So the amendment was agreed to.

Mr. HATCH. I give notice that I will call for a yea-and-nay vote on that amendment in the House.

Mr. KEIFER. I offer the following amendment:

Insert after the word "purchased," in line 84, the words "from whom purchased."

Mr. COVERT. There is no objection to that amendment.

Mr. DUNNELL. Is not that the existing law?

The amendment was agreed to.

The Clerk read as follows:

Library:

For entomological and botanical works of reference, works on chemistry, mineralogy, and charts, current agricultural works for library, miscellaneous agricultural periodicals, and the completion of imperfect series, $1,000.

Laboratory——

Mr. GILLETTE. Mr. Chairman, I offer the following amendment, to come in after the word "laboratory," before the one hundred and twentieth line:

For enabling the Commissioner of Agriculture to set up apparatus for manufacturing sugar at various State fairs, and at convenient points in various States to demonstrate to farmers and planters the practicability of making sugar from cornstalks and sorghum, $50,000.

Mr. COVERT. I make the point of order upon that. I am constrained to insist upon the point of order.

Mr. GILLETTE. I hope the gentleman will withdraw the point of order until I can say a word upon this amendment, which is a very important one.

Mr. COVERT. I am not at liberty to do so.

Mr. GILLETTE. The gentleman can retain the point of order against it.

Mr. COVERT. I am compelled to insist upon the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. WEAVER. I hope the gentleman from Iowa will be allowed to speak to the point of order, as that is a very important amendment.

The CHAIRMAN. The gentleman indicated no desire to be heard upon the point of order, and the Chair thinks it is now too late.

Mr. WEAVER. The Chair is mistaken. The gentleman did desire to address himself to the point of order.

The CHAIRMAN. The gentleman appealed to the gentleman from New York to withdraw the point of order or to withhold it, and did not apply to the Chair to be heard. The Chair holds it is now too late.

The Clerk read as follows:

For chemicals and apparatus for the use of the chemist and microscopist, and for necessary expenses in conducting experiments, including experiments in relation to sorghum and the manufacture of sugar therefrom, and for the purpose of testing by scientific examination the textile strength, felting capacity, and other peculiarities of the different wools and animal fibers on exhibition at the international sheep and wool exposition to be held in Philadelphia in 1880, $6,500.

Mr. GILLETTE. I now offer my amendment, to come in after line 128 of the section which has just been read.

Mr. COVERT. I desire to renew my point of order. I will say that while I cannot stop the gentleman from speaking to the point of order, still I must renew the point of order against the amendment itself.

The CHAIRMAN. The Chair understands the gentleman as retaining the point of order.

Mr. GILLETTE. If I cannot speak to the merits of this amendment I move to strike out the last word of the section. I admit the point of order, if insisted upon, defeats the proposition. I wish to say in reference to my amendment that we pay $110,000,000 a year, including duties, for foreign sugars brought to this country, and it has been demonstrated in the laboratory of the Agricultural Department in this city that an acre of cornstalks here in the District of Columbia, after the corn is picked and the stalks are ripe, is worth for the sugar contained in the stalks twice as much as the corn is worth at fifty cents a bushel. If that is so here, how much greater must be the comparative value of the sugar crop in the corn-growing regions of the West and Southwest, where corn is worth only twenty cents a bushel! The sugar produced from the stalks in that case would be worth five times as much as the corn itself, and the necessary apparatus for manufacturing the sugar is extremely inexpensive. I regard this discovery as the greatest of the age for our corn-producing country. It will prove infinitely more valuable than the gold mines of California as soon as it is fully understood by the farmers and utilized.

It is demonstrated that there is a mine of wealth in every cornfield in the land, and I tell you if you pay a million of dollars to carry that news into the extremest corners of this country to show the farmers how they can manufacture the very best of sugar from stalks after corn harvest it will be money well invested, and return a thousand-fold. The stalks are growing now, and the question is, Shall the sugar be saved or wasted?

You voted over $8,000,000 yesterday to improve creeks, rivers, and harbors, some of which cannot be found upon the maps of the country, and to-day you object and raise points of order against any and every proposition to add a dollar to an appropriation bill which proposes to apply to the great agricultural interests of this country less than a quarter of a million of dollars. Yesterday you opened the bung of the barrel for contractors and jobs, and to-day, when you have reached the great farming interests, you propose to stop up the spigot. The policy of the present legislation is to belittle this Agricultural Department, while it should be exactly the reverse. It is penny-wise. I ask the gentleman from New York to withdraw the point of order, and let us send the Commissioner of Agriculture to the great western agricultural fairs and into the South and into New England, too, and let him show the people how the sugar can be made. If we do, this $50,000 will be well spent, for it can be demonstrated that the single State of Iowa or the single State of Illinois is capable of supplying, without raising an additional acre of corn, the whole country with all the sugar it wants, and save at once $110,000,000 a year.

Mr. COVERT. I now renew the point of order which I feel constrained to make upon this amendment.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Arid lands:

For the purpose of enabling the Commissioner of Agriculture to procure data touching the agricultural needs of the arid region of the United States, $5,000.

Mr. CONVERSE. I offer the following amendment:

That with a view to the reclamation of the arid and waste lands lying in certain Western States and Territories the Secretary of the Interior is hereby authorized to contract for the sinking of two artesian wells on the plains east of the Rocky Mountains, and three of them to be sunk west of the Rocky Mountains. The said wells are to be sunk at such places as the Secretary of the Interior may designate. And whenever the site of either of such wells shall be designated the Secretary of the Interior is hereby authorized and required to declare the reservation of four square miles, with the said site as nearly as possible in the center thereof, and the lands so reserved shall not be subject to sale or disposal under any law of the United States until said reservation shall be released. Any party making a contract to sink an artesian well under this act shall, at the end of each week after the work shall have been begun, file with the Secretary of the Interior a report containing a statement of the character of the ground or rock through which the well is sunk, giving the thickness of the strata of each formation; and he shall furnish samples of all the different materials through which the well is sunk, and conform with all regulations made by the Secretary of the Interior. The sum of $20,000 is hereby appropriated to carry out the objects of this bill, the same to be disbursed under such rules and regulations as the Secretary of the Interior shall prescribe.

Mr. AIKEN. I cannot see but that is subject to the point of order, and I am bound to make it, because it is legislating into this bill something which pertains to another Department. If it is proposed that the Commissioner of Agriculture shall attend to this thing, it meets my hearty accord; but if it is to go into the Interior Department, I insist upon the point of order.

Mr. CONGER. Let the amendment state that this is to be under the direction of the Commissioner of Agriculture.

Mr. CONVERSE. I will agree to that.

Mr. CONGER. A bill has passed the Senate for the same purpose. If we put it in here it will become a law.

Mr. WHITE. Let the amendment be read as now modified.

The Clerk read the amendment as modified by striking out wherever they occurred the words "Secretary of the Interior" and inserting in lieu thereof the words "Commissioner of Agriculture."

Mr. SPARKS. I make the point of order against the amendment as modified.

Mr. SIMONTON. I reserve the point of order on that amendment.

Mr. CONGER. I submit that it is too late to reserve the point of order.

Mr. SIMONTON. The amendment has only been read for information.

Mr. CONGER. Oh, no; it has been discussed and amended.

Mr. SIMONTON. It has only been now for the first time read in its new form.

Mr. SPARKS. And I immediately made the point of order.

The CHAIRMAN. The Chair thinks the point of order is in time if the gentleman from Illinois insists.

Mr. SPARKS. I do insist.

Mr. CONGER. Before the Chair makes that decision I wish to say that I made remarks on this clause before it was amended. It has been discussed and it has been amended. The rule provides that the point of order must be made before discussion or amendment. Now, I submit, it is too late to raise the point of order. I attempted to discuss the amendment for the express purpose of coming in before any point of order, and I was successful.

Mr. SPARKS. I understand the Chair has decided that the point of order was made in time.

The CHAIRMAN. The Chair thinks, however, that the gentleman from Michigan did get the floor, and he suggested to the gentleman from Ohio [Mr. CONVERSE] that he should make an amendment to his amendment, so as to substitute the Commissioner of Agriculture for the Secretary of the Interior.

Mr. SPARKS. But the point of order was made on it when the amendment was first read.

The CHAIRMAN. The point of order was made by the gentleman from South Carolina [Mr. AIKEN] prior to the amendment being modified.

Mr. SPARKS. When the amendment was presented in a form to require the Secretary of the Interior to do this work the gentleman from South Carolina [Mr. AIKEN] made the point of order. Then the proposition was amended by substituting the Commissioner of Agriculture in the place of the Secretary of the Interior, and I then made the point of order.

The CHAIRMAN. The Chair will ask the gentleman from South Carolina whether he insisted on the point of order after the proposition was amended?

Mr. AIKEN. I submit the gentleman from Illinois does not put me in a proper position. I said if the amendment was amended so that the Commissioner of Agriculture would have charge of this matter I would not make the point of order. I said it was subject to the point of order, but I think I did not make it.

The CHAIRMAN. The Chair rules that the gentleman from South Carolina [Mr. AIKEN] having withdrawn the point of order, and there having been discussion and amendment, the point of order raised by the gentleman from Illinois [Mr. SPARKS] is made too late.

Mr. SPARKS. Just one word. I do not believe in having an amendment involving $20,000 go through this Committee of the Whole House in this hasty manner and against the protest of a member who makes a perfectly legitimate point of order. The gentleman from South Carolina said: "That is subject to the point of order, and I am bound to make it, because it is legislating into this bill something which pertains to another Department. If it is proposed that the Commissioner of Agriculture shall attend to this thing it meets my hearty accord; but if it is to go into the Interior Department I insist upon the point of order." The gentleman who offered the amendment then substituted the Commissioner of Agriculture, and that relieved the gentleman from South Carolina of his objection. I then immediately made the point of order. Now, is not that in time? If a gentleman rises on this floor and raises a point of order which I want to make and says, "on certain conditions I will not insist on the point of order;" and if the proposition thereupon is amended and I make the point of order and am then told that I should have made it sooner, I submit that is not fair and is not a proper parliamentary proceeding.

Mr. MILLS. In addition to what my friend from Illinois [Mr. SPARKS] has said, I wish to suggest that if it be held that the point of order made by the gentleman from Illinois comes too late, then any one who wishes to get a proposition through that is liable to the point of order can obtain the floor, make the point of order, and then withdraw it, preventing everybody else from making it.

Mr. SPARKS. I should state in addition that if I had not understood the point of order to be made by the gentleman from South Carolina I should myself have made it then. I understood that gentleman as making it.

The CHAIRMAN. Does the gentleman from Illinois state he desired to make the same point of order as the gentleman from South Carolina and at the same time?

Mr. SPARKS. I emphatically state so. I would have made it originally but for the fact of the gentleman from South Carolina making it.

Mr. CONGER. On the question of the point of order I wish to say this: When one gentleman makes a point of order and withdraws it there is no doubt that another gentleman may renew it. But when an amendment, which, as every parliamentarian knows, prevents a point of order, has been offered and accepted and acted on, and discussion has been permitted, I submit it is not enough then for a gentleman to say he would have made the point of order.

Every man knows the rule which is acted upon here every day, that after discussion and after amendment a point of order comes too late. It is not enough for a man to be sorry that he had not made it. His brother members are all willing that he should be sorry. Obstinate as I am, I am willing that the gentleman should be sorry, [laughter;] but that does not give him any right to come in afterward and make the point of order.

There is one time and one only under our rules when a point of order can be made; and that is before amendment and discussion. In this case it was not so made. There were two amendments made to the proposition, and of course it is too late now to make the point of order. It is not enough for the gentleman to say that he would have made it if he had understood that it was necessary to make it before amendment. He must know the rule, he does know the rule on that subject as well as any man in this House. I think the gentleman will admit that himself.

Mr. SPARKS. I state distinctly that when this amendment was submitted I said in my seat that it was subject to a point of order. I designed making a point of order on it, but the gentleman from South Carolina [Mr. AIKEN] made it. He made it conditionally, you may say—that is, he said that if the proposition was amended so as to place this matter under the charge of the Commissioner of Agriculture instead of the Secretary of the Interior he would not then make the point of order. Then an amendment was immediately proposed to meet that point, and when that amendment was made I immediately made the point of order which I should originally have made if the gentleman from South Carolina had not taken me off the floor.

If a gentleman gets up and makes a point of order, is it necessary that I should also arise and make it because I want to make that point of order? The gentleman from South Carolina substantially made the point of order, but said that if they would amend so and so he would not press it. When it was amended I still persisted in my point of order. It was my intention originally to make the point of order on the amendment, but the gentleman anticipated me.

Mr. SPRINGER. I hope there will be no objection to voting on this proposition at this time. It is one of the most important measures presented to Congress, and if the experiment proposed is carried out——

Mr. MILLS. The gentleman is not discussing the point of order.

The CHAIRMAN. The gentleman must confine his remarks to the point of order.

Mr. SPRINGER. I will finish my sentence. If this experiment should prove successful it will bring into market thousands and thousands of acres of arid land now worthless.

Mr. SPARKS. That is discussing the merits of the amendment.

The CHAIRMAN. The gentleman must confine his remarks to the point of order.

Mr. SPRINGER. I am coming to the point of order.

Mr. HUTCHINS. I would inquire for information if this proposition would not be construed as a rider to an appropriation bill and cause this bill to be vetoed? I ask the other side what they think of it?

Mr. VALENTINE. Has not the Chair already decided the point of order?

The CHAIRMAN. The Chair did so, but proposes to hear what gentlemen may have to say, that may lead him to change his decision.

Mr. SPRINGER. I think the point of order in this case comes too late, from the fact that no point of order was made by the gentleman from South Carolina [Mr. AIKEN] that this proposition changed existing law and increased expenditures. The gentleman objected to the substance of the amendment, that it authorized the Secretary of the Interior to do this work instead of the Commissioner of Agriculture. That objection was one which went to the merits of the proposition, and not to the point of order.

Then the gentleman from Ohio [Mr. CONVERSE] moved an amendment to the proposition, which amendment was considered by the Committee of the Whole and unanimously adopted. It was then too late to make the point of order under the rule upon the proposition.

Mr. SIMONTON. Unanimous consent was not asked for.

Mr. SPRINGER. No unanimous consent was required.

Mr. SIMONTON. No vote was taken.

Mr. SPRINGER. The gentleman moved the amendment by virtue of his right as a member of this committee to do so, and it was agreed to without any objection.

The CHAIRMAN. The Chair is prepared to rule upon the point of order. As the Chair remembers the facts which occurred when the amendment was first offered, the gentleman from South Carolina [Mr. AIKEN] rose in his place and said that it would be subject to a point of order because it was not germane to the subject-matter of the bill.

Mr. SPARKS. Allow me to interrupt the Chair by saying that the gentleman said he was bound to make the point of order.

The CHAIRMAN. That he would make it on that ground. He did not in point of fact make the point of order, but suggested that he would make it. The gentleman from Michigan [Mr. CONGER] took the floor and suggested to the gentleman from Ohio [Mr. CONVERSE] who offered the amendment to modify it and amend it by inserting "the Commissioner of Agriculture" in place of "the Secretary of the Interior." That amendment was made, and it was then that the gentleman from Illinois [Mr. SPARKS] objected. The Chair holds that the objection comes too late, after discussion and amendment.

Mr. CANNON, of Illinois. I move to strike out the last word, not for the purpose of antagonizing this proposition, for it probably

should be adopted. Having said this much about the amendment which is pending, I desire to address a question to the gentleman from New York [Mr. COVERT] in charge of this bill.

Since the gentleman from Iowa [Mr. GILLETTE] offered an amendment a few moments ago and made a statement, astounding to me in many particulars, I have inquired of him as well as of other gentlemen familiar with the subject of making sugar from the stalks of maize, and have received information that it is a success. I do not know how that may be except from the information which I have received from other gentlemen. Now, I want to ask the gentleman from New York [Mr. COVERT] whether the gentleman from Iowa is correct in the statement made a few moments ago?

Mr. COVERT. I cannot answer the gentleman. I do not know to what extent my friend from Iowa may be correct in the statement he made. I desire, however, to say this in reply to the suggestion made by the gentleman from Iowa: This proposition looking toward the sinking of these wells in a part of the arid regions of the country is, as I understand, a Senate measure. It has already passed the Senate, after receiving very exhaustive consideration there.

Mr. CANNON, of Illinois. I did not yield for remarks on that subject.

Mr. COVERT. For this reason there is not perhaps the same objection on the part of the committee to the incorporation of this matter in the appropriation bill that might exist to the other proposition advocated by the gentleman from Iowa.

Mr. CANNON, of Illinois. I beg the gentleman's pardon. This proposed appropriation is all right; I will vote for it. But the statement having been made by the gentleman from Iowa and not contradicted, I now want to ask the gentleman from New York, this being the only opportunity I may have, whether he is still willing to interpose the point of order against an amendment to be offered by the gentleman from Iowa appropriating $50,000 for making these experiments and demonstrating to the people that sugar can be made from maize.

Mr. COVERT. I am willing to interpose that objection, and would be constrained to insist upon the point of order.

Mr. CANNON, of Illinois. I withdraw the *pro forma* amendment.

Mr. BELFORD. I renew it. Mr. Chairman, I have been in this House about eight months; and the only opportunity I have had to present the interests of my people has come under the five-minute rule. I am not a member of the Committee on Public Lands, the Committee on Agriculture, or any committee of that kind; and of course I have no right to present the wishes of my people. Yesterday I voted for a bill which appropriated $8,000,000 to improve rivers and harbors of the Eastern and Western States. I did it cheerfully because I believed it was right. Now, I represent a State which embraces hundreds of thousands of acres of arid land. I live in a town where for ten years I have paid forty cents a barrel for water. The people of the West come before this Congress and ask an appropriation of $20,000 to sink two artesian wells to demonstrate that water can be had on the arid plains of the West; and the gentleman from Illinois [Mr. SPARKS] rises in his place and seeks to prevent this appropriation by making a point of order. I think that is rather small business for that gentleman from Illinois. There are millions of acres of arid lands in the West. It is a fact that along the streams in that country large cattle-owners have taken possession of the river frontage and it is impossible for a man who is the owner of a small herd to get water for his stock. The object of sinking these artesian wells is to determine whether or not we can get water on the arid plains to support our flocks and for other purposes. I hope this appropriation will be made.

Mr. HUTCHINS. I would like to ask the gentleman from Colorado [Mr. BELFORD] under what provision of the Constitution the Government can go into the business of digging wells?

Mr. BELFORD. Under the constitutional principle that the Government of the United States owns this land, and should improve it and make it habitable for its citizens. That is warrant enough for any honest man in this country. [Applause.]

Mr. SPARKS. The gentleman from Colorado [Mr. BELFORD] is perfectly correct in the statement that a proposition was brought in here as amendment to this bill to expend $20,000 to dig wells out in his country, and that I attempted to make a point of order against it. The gentleman thinks that was very unkind. I think it was my duty to do it. At all events I shall exercise that right without consulting the gentleman from Colorado. If the gentleman from Colorado should chance to find that he is living in a region of country which God in his wrath has caused to be dried up and where he cannot get water for his herds of starving cattle, let him go to some decent country where the good Lord has smiled upon it and gives rain and springs and running streams to fertilize the earth.

Mr. WARNER. I rise to a point of order. By order of the House a recess is to be taken at half past four o'clock; and I submit that it is time for the committee to rise.

Mr. COVERT. There is only one section of the bill remaining.

Mr. WHITE. That will excite discussion.

The CHAIRMAN. A recess has been ordered to take place at half past four o'clock, and it will not be possible to get through the bill before the recess.

Mr. SPARKS. I believe I have the floor.

The CHAIRMAN. That is the fact; but the committee must rise that the House may take a recess.

Mr. SPARKS. Then I retain my right to the floor.

The CHAIRMAN. The hour for a recess as fixed by the House being at hand, the committee will rise.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HOOKER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill (H. R. No. 580) to construe and define an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871, and for other purposes.

The message also announced that the Senate had passed, without amendments, bills of the following titles:

An act (H. R. No. 2850) to provide a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania; and

An act (H. R. No. 2481) to create an additional land district in the State of Kansas.

The message further announced that the Senate had passed a joint resolution of the following title; in which the concurrence of the House was requested:

Joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina.

The message also announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. WITHERS, Mr. BECK, and Mr. BOOTH.

POST-OFFICE BUILDING, MILTON, PENNSYLVANIA.

Mr. KILLINGER, by unanimous consent, introduced a bill (H. R. No. 6240) to provide for the erection of a public building for the use of the post-office at Milton, Pennsylvania; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

APPROPRIATIONS FOR GOVERNMENT OF THE DISTRICT OF COLUMBIA.

The SPEAKER. The bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, is now on the Speaker's table, the Senate having insisted on its amendments disagreed to by the House, and having asked a conference with the House on the disagreeing votes. The gentleman from Indiana [Mr. COBB] asks that the request of the Senate be complied with, and a committee of conference appointed. If there be no objection, that order will be made.

There was no objection, and it was ordered accordingly.

The SPEAKER announced as the committee of conference on the part of the House Mr. COBB, Mr. BLACKBURN, and Mr. HAWLEY.

ORDER OF BUSINESS.

Mr. CONGER. Will the Chair state the object of the session to-night?

The SPEAKER. It is for the consideration of the bill to establish a court of pensions.

ENROLLED BILLS.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 3989) to remove the political disabilities of William B. Talliaferro, of Virginia;

An act (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama; and

An act (H. R. No. 6096) to remove the political disabilities of Francis L. Galt.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

Mr. MCMAHON, for one week;

Mr. MARTIN, of North Carolina, for ten days from to-morrow, on account of important business; and

Mr. DAVIDSON, for this evening's session.

JOHN H. FORNEY.

Mr. HERBERT, by unanimous consent, introduced a bill (H. R. No. 6241) for the removal of the political disabilities of John H. Forney, of the State of Alabama; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

COAST SURVEY REPORT.

On motion of Mr. WILSON, by unanimous consent, Senate concurrent resolution for the printing of 3,000 extra copies of the report of

the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1879, for distribution by the said Superintendent, was taken from the Speaker's table and referred to the Committee on Printing.

LEAVE TO PRINT.

Mr. WISE, by unanimous consent, was granted leave to print in the RECORD some remarks which he had prepared on the river and harbor appropriation bill. [See Appendix.]

The SPEAKER. The gentleman from Tennessee [Mr. SIMONTON] will preside during the evening session.

And then (at four o'clock and thirty minutes p. m.) the House took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

At 7.30 p. m. the House resumed its session, Mr. SIMONTON in the chair as Speaker *pro tempore*.

The SPEAKER *pro tempore*. The session for this evening has been set apart for the further consideration of a bill (H. R. No. 5394) to organize a court of pensions.

Mr. GEDDES. I move we go into committee for the consideration of House bill 5394, to organize a court of pensions, pending which I suggest the advantage and propriety of limiting general discussion. To my mind it is very apparent that unless that is done we will not reach a conclusion on this measure to night. Unless there is objection to that course, I will now move that general discussion be limited to one minute.

Mr. CONGER. Has this bill been read?

Mr. GEDDES. It has been read during the former evening session.

Mr. CONGER. Let me ask the gentleman. I have a bill here to organize a court of pensions, No. 4652, and I understood the gentleman from Ohio to read another number, 5394. That is a bill introduced by Mr. COFFROTH.

Mr. GEDDES. That is not the bill.

Mr. COFFROTH. The bill under consideration is the substitute for that bill.

Mr. FARR. I move to make it one hour.

Mr. GEDDES. On that motion of mine I demand the previous question.

Mr. CONGER. I will recommend the gentleman not to ask the previous question when he is asking further time, for that will shut off all time.

The SPEAKER *pro tempore*. The question will be on the amendment of the gentleman from New Hampshire, who is recognized to move his amendment that the general debate be limited to one hour.

Mr. WARNER. Make it half an hour, by which time members will have come in.

Mr. CASWELL. I suggest that my friend from New Hampshire adopt that amendment.

Mr. GEDDES. I will accept that.

Mr. FARR. The reason for making the motion is this: I understood there were several members who desired to speak fifteen or twenty minutes or more. I thought the hour would give them all an opportunity, at the end of which time we could enter upon the five-minute debate when the bill could easily be disposed of.

The SPEAKER *pro tempore*. Does the gentleman move that amendment of half an hour?

Mr. FARR. If that is the general desire, I will make it thirty minutes.

Mr. GEDDES. I am willing to accept that, and I will therefore make my motion that the general debate be closed in half an hour.

The motion was agreed to.

Mr. FARR moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COURT OF PENSIONS.

The House then resolved itself into the Committee of the Whole House on the state of the Union, Mr. STEVENSON in the chair.

The CHAIRMAN. The committee has under consideration a bill (H. R. No. 5394) to organize a court of pensions, on which, by order of the House, general debate has been limited to half an hour.

Mr. FARR. I will occupy but a portion of the thirty minutes.

Mr. GEDDES. We reserve fifteen minutes for our side.

Mr. FARR. I desire to oppose the bill.

Mr. BREWER. I hope it will be understood gentlemen who made long speeches the other evening are not to occupy any portion of the time to-night.

Mr. GEDDES. I presume gentlemen who occupied the time the other night will not occupy any time to-night. Half the time will be under the control of those desiring to oppose this bill.

The CHAIRMAN. The Chair will recognize the gentleman from New Hampshire as controlling fifteen minutes of the time.

Mr. FARR. If gentlemen who are to take a portion of the time in favor of the bill desire to proceed now, I have no objection. I propose to state such views of the two bills of the majority and minority as may occur to me.

Mr. GEDDES. The time on this side of the House will be occupied by my colleague [Mr. WARNER] who has just stepped out, and I think it would be better to reserve our time until gentlemen on the other side have addressed themselves to the bill, after which we will occupy the time reserved to this side of the question.

The CHAIRMAN. The Chair will recognize the gentleman from New Hampshire.

Mr. FARR. Mr. Chairman, I have examined both of these bills with a view to determine if I could give either of them my support. There is no member of this House who has a deeper interest than myself in the welfare of the soldier, and especially for that class of soldiers who are seeking pensions from the General Government. By the partiality of the Speaker I have the honor to serve upon both of the pension committees of this House. I am myself a pensioner, and, with a full knowledge of the requirements, I believe there is nothing in either of these bills that will tend to facilitate and forward the examination and adjustment of claims of this kind. If either bill can be relied on to do this, I certainly wish to give that bill which will accomplish this purpose my hearty support. These bills have been introduced here to effect, as it is claimed, the facilitation of the examination of rejected pensions. I find by examining the report of the Commissioner of Pensions made last fall that the number of claims pending on the 30th of June, 1878, in the Pension Office was 120,387; new claims filed during the fiscal year ending June 30, 1879, 74,381; rejected claims reopened, 3,618; making a total of claims for settlement at the end of the last fiscal year, 198,386. Of this number of claims 40,076 were examined and allowed during that year, 21,665 were rejected, making a total of 61,741 claims which were passed upon during that year, leaving pending in the Department 136,645. claims at the end of the last fiscal year, which is an increase over the number pending in the Department at the commencement of the fiscal year of 16,258.

It is stated that there are now pending in the Pension Office at least fifty thousand rejected claims that, if either of these bills becomes a law, will be placed in the hands of this court for examination and action. This number, of course, will be greatly augmented by the number of claims that will be rejected during the current year.

Assuming that the same number will be rejected this year that were during the last year, that is, 21,665, we shall have on the 30th day of June next about seventy thousand claims to be sent to this pensions court. Besides that we have between three and four thousand claims now pending before Congress which by these bills are to be taken from the calendars of the two Houses and from the committees and sent to the court for adjudication. There are only three members of this court, and the best calculation that I can make of the service they can perform is that each member of this court will be able to examine and consider not over two claims each day on an average; that is, there being three members to the court, just six claims a day. That is the most it seems to me from the experience that I have had on the committees they can possibly examine, and I make this statement from my own knowledge of the time it has taken me in examining the claims that came before us on the committees of which I am a member. Many of these claims embrace thirty or forty affidavits, examinations by physicians, many of them reports from special agents, records of the Department, and affidavits of various kinds, and in all rejected claims the evidence is quite voluminous, and some of them I know it would be a good day's work for any person to examine.

Then the court will begin its work with at least forty years of business before it, because it can examine no more than some two cases a day for each member, which amounts to about two thousand a year, and when you remember that there are about seventy thousand cases now in the Department and waiting for this court in addition to those pending in Congress, some three or four thousand more, it will be seen that it will be absolutely a physical impossibility for this court to get through with the business short of the period referred to; that is, about forty years' time.

Mr. GEDDES. Will the gentleman permit me to ask him whether he has considered the fact that the cases now pending in the Department arrange themselves into classes, so that when this court familiarizes itself with one class of claims they can be disposed of very rapidly, in fact as rapidly disposed of as individual cases.

Mr. FARR. If every man making a claim for a pension had been shot in the same place, or if all of them had been affected by the same disease, there might be something in that statement, and it might be possible to arrange them into classes; but that is not the fact. No portion of the human body was free from assault by wounds or by disease, some wounded in one place and some in another, so that it is impossible to lay down any fixed rule by which you can determine cases that are to be examined and disposed of in the Pension Office or in the proposed court.

It is true they may familiarize themselves with the law and adjust the cases more rapidly perhaps so far as that is concerned, as men will get accustomed to examine evidence; but I deny, sir, that they can by any classing of evidence shorten in the least the examination of the proof in any case.

I do not wish to reflect at all upon the good faith or upon the industry of this special committee that have reported these bills. I am aware that they feel that they are doing something in the interest of this class of our citizens. I wish I could feel so. But from an examination of these facts, which are authentic, it seems to me impossible to accomplish this end desired through a court of pensions. The

report which accompanied this bill, the majority bill, is very meager. The majority assign two reasons why they report their bill. One is:

For the purpose of relieving Congress of the consideration of the floods of pension bills introduced at every session.

The other is:

For the speedy disposing of the hundreds of thousands of pension cases now pending in the Pension Department for pensions.

As regards one of the reasons assigned, the bill they have reported does not meet the case at all. It does not propose to transfer to this court claims now pending in the Pension Department. It only proposes to transfer to the court applications that have been rejected and disposed of by the Pension Department. I only speak of this as showing that there was very little care exercised in drawing their report, or they simply wished to conform to the rule and make a report which should accompany their bill. I have read all there is in their report except the formal part, and these two reasons are all the committee give for the adoption of this important bill; and one of the reasons is no reason at all, because it does not fit the case. The claims now pending or hereafter to be pending in the Department will be disposed of there if possible; otherwise they are rejected and then they are not pending; they are taken from the list of pending cases. Section 5 of the majority bill provides that—

All applications before Congress shall be referred to the said court.

It is generally understood, Mr. Chairman, that the Constitution of the United States gives to persons having a grievance against the Government a right of petition to Congress. And it seems to me this bill will be unconstitutional, or that section of it certainly, on that ground. For it proposes to take petitions which have been sent here under the right which these citizens have and throw them out and snow them under in this court, where forty or fifty years may pass by before they can see the light of day. Is it right? Is it just? Is this in any sense, Mr. Chairman, a bill in the interest of adjusting promptly and speedily this class of claims; or is it a common grave where they are to be deposited, and we are to claim for ourselves some virtue for having found it for them? It is true we have a very large number of bills pending here and few have passed. But, Mr. Chairman, if the Private Calendar had received the attention during this session of Congress that the rules of the House give it, namely, one day in each week, we would ask no more. But almost every Friday since this session began has been taken for public business and oftentimes has been frittered away by members here in the general scramble to see who would get up his bill first.

If Congress should simply give the day the rules say shall be given to this class of business I venture the prediction that all meritorious cases can be considered and passed during any session of Congress.

Mr. THOMPSON, of Iowa. Will the gentleman yield to me for a question?

Mr. FARR. Yes, sir.

Mr. THOMPSON, of Iowa. If it will take the court forty years, being in session every day, to dispose of these cases, how long would it take Congress to get through the same number?

Mr. FARR. I will answer the gentleman, although it takes something out of my time which I would like to devote to other matters. I will say to the gentleman that many of the claims that are rejected in the Department never come here to Congress. The parties are satisfied with the decision of the Pension Bureau. But if a court is raised for the sole purpose of taking up these cases and considering them, there is not a single man whose claim has been rejected and which lies there who will remain quiet when a simple petition can have it laid before the court. But these claimants understand if they come before Congress something is to be done. They must follow up the claim and probably may have to produce other proofs.

One of the bills, the minority bill, prevents the court from considering any additional evidence. The court must consider the case upon the evidence as it exists in the Department, and that alone.

Another section provides attorneys may appear and shall be allowed $25 for their services.

Mr. GEDDES. Oh, no; the gentleman is mistaken.

Mr. FARR. I said the minority bill. I prefaced my remarks on this point by speaking of the minority bill, and that bill makes provision for paying the attorneys $25. And for what? What is there an attorney can do to earn such a fee? The court is to take the papers from the files in the Pension Office and consider them without additional evidence.

Mr. CASWELL. The provision is that the compensation shall be not exceeding $25.

Mr. FARR. Very well; not exceeding $25, says one of the members of the committee. The attorneys may have $25. And why should they? What do you want an attorney there for? And yet they will demand and receive $25 in every case appealed to this court, when they are prevented by the terms of the bill from putting in a particle of new or additional evidence to earn this fee.

The majority bill provides that additional evidence may be offer , which, so far as that goes, is an improvement upon the other bill.

How much time have I, Mr. Chairman?

The CHAIRMAN. The gentleman has three minutes of his time remaining.

Mr. FARR. There is another very singular feature of the minority bill. After starting out with a provision that the members of this court shall take an oath to support the Constitution and obey the laws there is a section of the bill which provides that they shall give a *liberal* construction to the pension laws.

What does that mean? When you cut aloof from the well-established rules of construction of statutes, where are you? Into what unknown seas and into what depths will you go?

Under the provisions of both of these bills no person can come here in the exercise of the right which the Constitution gives every citizen to petition Congress for a redress of his grievances. Not only are we to sweep from the Calendar of the House all the cases which have been considered, many of them very laboriously and industriously by your two pension committees, but they are all to be taken away and swept into this common grave, this pension court, the potter's field of every claim not coming within the provisions of the general laws.

These are some of the many objections which have occurred to me, and if I had time I should be happy to speak more in detail of them, and why I am opposed to the passage of both these bills. These claimants have asked for bread and you offer them a stone. It seems to me that the American Congress cannot afford to shut its doors against this great and meritorious class of worthy claimants.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWNE. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWNE. I desire to know how this debate is proceeding; under what rule?

The CHAIRMAN. The Chair will state to the gentleman from Indiana [Mr. BROWNE] that the House ordered all general debate upon this bill in Committee of the Whole to be limited to thirty minutes. Fifteen minutes of that time was given to the control of the gentleman from New Hampshire, [Mr. FARR,] who has occupied that time in opposition to the bill. The Chair now recognizes the gentleman from Ohio, [Mr. WARNER.]

Mr. WARNER. Mr. Chairman, if the committee had been ready to proceed to the consideration of this bill under the five-minute rule I would not have proposed to occupy even the few minutes allotted to me. It seems to me that the mere statement of the situation of matters connected with pensions ought to be enough to call for the most serious consideration of the subject by this House. Taking the latest data and bringing my information down to the 30th of April, I find that there are now on the pension-rolls over two hundred and forty-six thousand pensioners—probably by this time nearer two hundred and fifty thousand—involving an annual payment for pensions of $38,159,000, besides some $23,500,000 already paid as arrears.

Mr. DUNNELL. What does the gentleman mean by annual payment of pensions?

Mr. WARNER. I mean that there will be required for the fiscal year 1880-'81 for the payment of pensions the sum of $38,159,000.

Mr. DUNNELL. When the gentleman speaks of annual payments does he mean that that much will be required year by year outside of arrears of pensions?

Mr. WARNER. Yes; so long as the pension-roll continues as large as it is now it will require over $38,000,000 annually to meet it.

Mr. DUNNELL. Very well; we have appropriated for the present fiscal year about $31,000,000 for that purpose, and we appropriated for the last year $30,000,000. We never have appropriated so high as $32,000,000 for any one year.

Mr. WARNER. We have appropriated for the next fiscal year, as I will proceed to show, over $32,000,000, and I am advised that there will still be a deficiency of from $8,000,000 to $10,000,000.

Mr. DUNNELL. That grows out of the arrears bill.

Mr. WARNER. Not at all. Let me proceed. We have appropriated for the next fiscal year $32,404,000, and there will be a deficiency for that year of from $8,000,000 to $10,000,000. So much for claims already allowed. Next, there are on the files in the Pension Office two hundred and forty-eight thousand unsettled claims, involving, if all are allowed, in first payments, rating them the same as those now on the roll are rated, about $212,000,000. And supposing all these claims to be allowed and rated the same as those now on the pension-rolls, and they will involve thereafter an annual payment of $38,000,000 more, requiring for full annual payments in future, so long as all should remain on the rolls, $76,000,000. That sum at 4 per cent. interest is equivalent to a debt of $1,900,000,000, or larger by more than $150,000,000 our present national interest-bearing debt. But this is not all.

Further claims are coming in at the rate of from six thousand to ten thousand a month; a little over eight thousand claims were filed in April, over ten thousand in December last, and from six thousand to ten thousand a month for the intervening period. The total number of names borne on the Army rolls are about two million seven hundred thousand. How many of these will yet present claims for pensions cannot be told. A few more than twenty-two thousand claims were decided at the Pension Office during the last year, exclusive of claims for arrears decided principally upon the records. It is thought that during the current year, with the present machinery, thirty thousand cases may be decided, or say about one-third as fast as claims come in, but with two hundred and fifty thousand behind to start with.

This is a brief statement of the matter before us. Now, what is the tribunal, what is the machinery by which these claims are considered, determined, and adjusted? It is this: one Commissioner, or one judge

if you please, and from five hundred to six hundred clerks to help him. Imagine a court with two hundred and fifty thousand claims before it, and with but one judge and five hundred or six hundred clerks. What sort of machinery would that be for rightly determining and adjusting claims involving the immediate payment of $200,000,000, and the subsequent payment of hundreds of millions more, and involving the rights of so many thousands of claimants to pension dues?

It seems to me, Mr. Chairman, that it needs no more than a fair statement of the case to convince any member of this House that something ought to be done, and that immediately, to facilitate the examination and adjustment of these claims, and to better determine who are and who are not entitled to pensions.

The bill before us, Mr. Chairman, does not propose a remedy for all the evils complained of; it is only a remedy on one end of the line, as it were—a relief to Congress by providing a court to review, when appealed to it, cases rejected in the Pension Office. As has been already stated, there are some fifty thousand claims which have been rejected at the Pension Office. Many of these will never come up again; they are abandoned, given up by the applicants. Many others, which the applicants believe to be just, are still pressed. But no more of these claims would be likely to come before this court than now come before Congress. But perhaps ten, fifteen, or twenty thousand, and, running along over the next few years, possibly in all thirty or forty thousand claims might go before a court of review, or, without a court, might come to Congress. Now, it is proposed by this bill to provide such a court, so that cases rejected in the Pension Office, which the claimants nevertheless believe to be just, can be reviewed and passed upon without the interminable delays and uncertainties incident to action by Congress. Now, which is best, which is quickest, which is most economical? To have all these rejected claims reviewed by the two Houses of Congress, constituting a court of three hundred and sixty-nine members, on whom other and important public duties are always pressing, and which, as a body, can give at best but a few hours a week to private bills, or a court specially constituted for that purpose?

Why, if every Friday, as provided by the rules of the House, were given to private claims, and none but pension claims were considered, and ten minutes were given to a claim, only about five hundred claims could be disposed of in an average session, which would take six or eight years, at that rate even, to dispose of the bills now pending before Congress. But in fact it is not practicable to pass upon even half that number a session. What chance, then, is there for a new claimant to have justice done him here? None at all. His case would be utterly hopeless. Some other provision, then, I say is necessary. That it is proposed to make in this bill.

As has been said by my colleague who has charge of this bill, these rejected claims when properly taken up will naturally fall under certain heads, or into classes; and a court constituted of judges qualified to determine evidence will arrange the claims in order and be able to decide ten, twenty, thirty, or perhaps more in a day, which would be an immense saving, both in time and money, as compared with the cost of putting the claims separately through Congress, even if it were possible for Congress to consider them at all. The gentleman from New Hampshire says it would take forty years for a court to decide all the cases that would be appealed to it. But the question asked him by the gentleman from Iowa, how long it would take to run them through Congress, if it would take forty years for a court sitting every day to decide them, while Congress gives only one day at most in a week to this class of business, was a very pertinent question, and suggested the proper answer.

Mr. BURROWS. Will the gentleman make it a little clearer how the court could pass cases in a lump without examining each particular case?

Mr. WARNER. Not in a lump. The court will examine each case; but as fast as the cases can be read over the court would arrange them in their appropriate classes. Many claims are rejected on technical grounds, or where the disability is questioned; and as they are read over with the evidence, such cases would naturally fall into classes, and a decision of one would be a decision of a group.

Mr. BURROWS. But does not each case depend peculiarly upon the evidence in that case?

Mr. WARNER. Certainly; but claims are rejected, as I understand—great numbers of cases—because they come under certain rules laid down for the government of examiners. They are rejected because the evidence under the rules laid down is not complete in some particular point, or because the interpretation of the law or the evidence is thus and so. Now, this court would review and decide such cases, and in deciding one it may in effect decide a large number.

Mr. CASWELL. Will my friend tell us what rules there are in the Pension Office which exclude cases that the law does not exclude?

Mr. WARNER. I do not say the rules themselves exclude cases that come within the law, but the Commissioner of Pensions must necessarily adopt rigid rules by which the officers under him, the examiners and clerks, must be governed—rules that the Commissioner himself if he could examine the claims in person would not be bound by; nor would a court be bound by them.

Mr. CASWELL. Do those rules exclude any cases which the law does not exclude?

Mr. WARNER. I am not prepared to say whether the rules do or do not operate in that way; they are, of course, not intended to, but it is claimed that they do. I am not prepared to say whether they do or do not.

Mr. CONGER. I desire to ask the gentleman one question.

Mr. WARNER. I will yield for a question.

Mr. CONGER. I wish to inquire whether this bill furnishes any different law or different rule of decision from existing laws; and if it does not, if the bill provides no new rule or regulation, how could a court of three men, deciding upon the same rule or the same law which the Commissioner now follows, come to any different conclusion?

Mr. WARNER. The bill of course makes no new rule; but it places in the hands of this court powers which cannot be intrusted to a large number of clerks in the Pension Office. The court may prescribe its own rules and decide the equities of a case.

Mr. CONGER. I asked the question because I did not see anything in the bill giving to this court new powers.

Mr. WARNER. The latitude allowed to a court would be, of course, much wider than can be allowed to clerks in the Pension Office.

Mr. CONGER. If the bill gave increased power or greater latitude of judgment or discretion, it would be different.

Mr. WARNER. It does that most certainly.

Mr. RYON, of Pennsylvania. It does, because it provides for an equitable class of claims which now are not within any pension laws.

Mr. WARNER. The court would decide the equities.

Mr. BURROWS. Does not the bill provide that if the court finds, under the laws as they exist, the applicant cannot be granted a pension, the court would report the case to Congress with its recommendation?

Mr. WARNER. That is only where the law does not cover the case, and where legislation is required.

Mr. BURROWS. But where the law does not cover the case, the court does not grant a pension?

Mr. WARNER. The court does not grant a pension where the law does not provide for it; but the court may make a recommendation in such a case.

Mr. CASWELL. Would my friend have Congress lodge in this court legislative power?

Mr. WARNER. Of course not. Nor is it claimed that this bill lodges legislative power in the court; but the court may decide upon the equities of a case.

Mr. BURROWS. One question. Do I understand the gentleman to hold, under this bill, if the applicant should not be granted a pension under the law, the court has equity jurisdiction in fact nevertheless?

Mr. WARNER. Not if the law does not grant it; but it has much broader latitude to pass upon equity.

Mr. BURROWS. What is it?

Mr. WARNER. It has a much broader latitude than could be given to a clerk. But if the Pension Commissioner could himself personally examine all the cases——

Mr. BREWER. The gentleman's time is up.

Mr. WARNER. It is hardly fair to take all these interruptions out of my time.

Mr. THOMAS. I suggest the gentleman have five minutes further.

The CHAIRMAN. The Chair has no discretion in the matter. It is the order of the House.

Mr. BREWER. I have not had any time and the gentleman has had ten minutes. I object.

Mr. WARNER. With the permission of the committee, then, I will add some tables and print some additional remarks.

I was proceeding to say when my time expired that if it were possible for the Commissioner of Pensions himself to decide all the cases decided in the Pension Office there would doubtless be less need for such a court as it is now proposed to establish. But in fact it is impossible for the Commissioner in person to go over one case in twenty. Decisions are made by heads of divisions under rules prescribed for their government. We lately added seventy clerks to the Pension Office, as though more wheels in the machine was all that was needed. But a little inspection will show, I think, that it is not more clerical force that is essential; it is more independent judicial talent and action. Instead of a single Pension Office at Washington, with one Commissioner surrounded by an army of clerks, I am convinced that it would be vastly better, and in the end more economical, to break up this office into separate judicial boards, and have more judges and fewer clerks and assistants. But the details of such a measure I do not propose now to discuss. Suffice it to say that the bill before us does not deal with the mode of determining cases primarily, nor does it make a change in the Pension Office itself less incumbent, nor would a change at that end of the line make less necessary the court of review proposed by this bill.

I am glad to see a disposition manifested on the part of the House to treat this great question with something like the business consideration that is due to so important a matter. The pension question is manifestly fast assuming proportions not inferior to the national debt itself. It is high time that such a body as the national House of Representatives should cease to be actuated by mere sentiment in matters of this kind. Emotional legislation is the most unsafe and uncertain of all legislation.

A pension is not a gratuity vouchsafed by Congress to a destitute or dependent person, nor is it a bounty graciously bestowed.

The other day when the House passed, in an emotional fit, a bill granting a pension to the widow of a general officer who had been

for years on the retired list with a salary of $4,125 a year, it did give a pure gratuity, and with it set, I think, a bad precedent. There was no shadow of claim for pension in that case. There was a claim of destitution set up; but brigadier-generals, as well as other people, must learn that to have they must save.

A pension, as I have before said, is pay and nothing else. It is pay for loss, for damage, for disability; and where there is no loss by disability there is no pension due, and where there is disability incurred in the line of duty a pension is as much due as was the soldier's pay while in the service.

In the military service are casualties that pertain to no other service. A hundred thousand men, for instance, enter battle. Eighty thousand come out as sound as when they went in, but twenty thousand are killed or wounded. All were entitled to pay for services alike, but the twenty thousand who were killed and wounded or their heirs and representatives were entitled to more; they were entitled to pay for loss of life or loss of limb. These payments were not to be made down, but in sums annually through life or during the dependence of children or widow. The individual soldier made a sacrifice of himself for all and suffered permanent loss. As compensation he or his representatives are paid a certain sum annually; that is, a pension. Now, if the whole hundred thousand who went into battle were allowed pensions, the same inequality would be enacted that would exist if no one were pensioned. Even among savages, where war is carried on for plunder alone, the wounded are allotted a double share. So through the whole war some were called upon to undergo prolonged exposure, excessive fatigue, or long imprisonment, and came out with broken constitutions and ruined health. For such disability pensions are due, and as much due as pay for services, because there has been loss sustained in consequence of military duty performed; but, on the other hand, to claim a pension where no disability has been incurred in the service in the line of duty is as much a fraud as it would be to make a claim for pay for services never rendered.

Pensions are not due nor ought they to be granted on any other theory. A pitiful story is not in itself a sufficient foundation for a pension claim. Pensions for actual disability, large as the roll may become and heavy as the burden may be, must be borne as the most sacred of obligations. But the cause of alarm is not in pensions for actual disability nor in such claims, but in wholesale claims for pensions regardless of any disability. The arrears act has undoubtedly put strong temptations before many, and especially before claim agents, who are induced to hunt every nook and corner of the country to find a soldier who can be persuaded to file a claim; and many soldiers, there is reason to believe, are induced to divide arrears with claim agents as a reward for getting their claims through. To place all the names borne on the Army rolls on the pension-list at the rate averaged by the two hundred and forty-six thousand now on the rolls would indeed bankrupt the nation. The figures given in the letter of the Commissioner of Pensions I will have printed with these remarks. These figures, taken in connection with the figures given in the statement furnished from the Adjutant-General's office, will show at a glance the magnitude of the problem we are dealing with. Those entitled to pensions are entitled to them *now*, and they have a right to demand of Congress that the necessary means be instituted for the speedy settlement of their claims; and to that end, and as one of the means necessary, it is proposed to establish the court provided for in the bill now pending, and which I hope Congress will not adjourn without passing:

DEPARTMENT OF INTERIOR, PENSION OFFICE,
Washington, D. C., May 18, 1880.

SIR: In reply to your personal inquiry for certain information relating to pensions, I have the honor to state herewith as follows:

The number of pensioners, as near as can be calculated, on the pension-rolls April 30, 1880, is two hundred and forty-six thousand, and to these there will be paid during the present fiscal year, exclusive of about $23,500,000 for arrears of pension, the sum of $38,159,000.

The appropriations made for pensions for the next fiscal year is $32,404,000, and it is estimated that there will be a deficiency of from eight to ten millions of dollars.

There are on the pending files of the office, exclusive of 19,128 claims on account of service in the war of 1812, 189,359 original Army invalid claims and 58,128 original widows', minors', and dependent relatives' claims; and it is estimated that if these claims should be allowed during the present fiscal year the first payments would be as follows:

189,359, at an average of $750 per case	$142,019,250
58,128, at an average of $1,200 per case	69,753,600
247,487	211,772,850

The estimate of $750 for the invalids is based on a calculation recently made in lately adjusted cases, and that relating to the widows, &c., $1,200 per case, is approximated.

In these estimates the amount of first payment in pensions increased, restoration of pensions, and where pension is increased on account of a new disability, have not been included.

During the year 1879 the increased amount of pensions in the increase and restoration claims was nearly $500,000, and it is estimated that the amount of first payments in the new disability claims will not fall short of $1,000,000.

The following statement shows the number of claims of all classes admitted during the ten months of the present fiscal year:

Original invalids	6,661
Original widows	3,612
Invalid increase	7,275
Widows, increase	350
Arrears	28,753
War of 1812 claims	4,246
Total	50,897

There were filed during the ten months ending April 30, 1880, Army and Navy original claims as follows:

Months.	Invalids.	Widows.
July	5,121	1,469
August	6,202	1,468
September	5,548	1,566
October	5,468	1,669
November	9,000	2,250
December	10,898	3,324
January	9,283	2,391
February	6,414	1,503
March	7,469	1,937
April	8,062	2,093
	73,465	19,670
A total of		93,135

Very respectfully,

J. W. BENTLY,
Commissioner.

Hon. A. J. WARNER,
House of Representatives.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, December 5, 1879.

SIR: I have the honor to transmit herewith statement showing the number of men furnished under each call of the President, the strength of the regular Army, the number of men killed in action, and the number who died of wounds during the rebellion.

This information has been hastily prepared from the best data at hand, and may not be strictly correct.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. A. J. WARNER,
No. 11 Grant Place, City.

Total number of men furnished under each call during the rebellion.

Call of April 15, 1361, for 75,000 militia for three months	91,816
Call of May 3, 1861, (confirmed by act approved August 6, 1861,) and under acts approved July 22 and 25, 1861, for 500,000 men	700,680
Men furnished in May and June, 1862, by special authority, for three months	15,007
Call of July 2, 1862, for 300,000 men for three years	421,465
Call of August 4, 1862, for 300,000 militia for nine months	87,588
Men furnished under President's proclamation, June 15, 1863, for militia for six months	16,361
Calls of October 17, 1863, (which embraces men raised by draft of 1863,) and February 1, 1864, for 500,000 men for three years	369,380
Call of March 14, 1864, for 200,000 men for three years	292,193
Militia for one hundred days, mustered into service between April 23 and July 18, 1864	83,612
Call of July 18, 1864, for 500,000 men (reduced by excess credits on previous calls)	386,461
Call of December 19, 1864, for 300,000 men	212,212
Volunteers and militia furnished at various times	88,916
	2,765,691
Number of men killed in action	44,238
Number of men died of wounds	33,993

The number of deaths as given above was compiled in 1869, and the figures are believed to be 12 per cent. less than the actual loss.

The records of this office do not show the total number of men wounded during the rebellion.

Table showing the aggregate strength of the regular Army from 1861 to 1865, inclusive.

July, 1861	16,422
March, 1862	23,308
January, 1863	25,463
January, 1864	24,636
January, 1865	22,019

The following figures are taken from Mr. Giffen's estimates of the cost of the Franco-Prussian war. In this war two and a half millions of men were engaged for about a year. The loss of French lives was:

Killed	30,000
Totally disabled	30,000
More or less disabled, 90,000, and taken as one-fourth disabled would make	20,000
Total lives	80,000
Total French loss in killed and wounded	150,000
The total killed and wounded on the German side is given as	100,000

The pension-roll of the French army in consequence of this war in 1872 amounted to about $1,000,000, and was counted equal to a capitalized debt of $30,000,000.

Germany set aside out of the indemnity fund for pensions for those disabled in the war $30,000,000. The interest on this sum is set apart for the annual payment of pensions.

Mr. COFFROTH. After I came here at this Congress and saw the amount of bills sent to the Committee on Invalid Pensions——

Mr. CONGER. I understood there is a substitute for this bill. I ask, then, that the friends of the bill perfect it as near as possible, and that then the substitute shall be considered.

The CHAIRMAN. What does the gentleman propose?

Mr. CONGER. As there is a substitute for this bill, I propose that the original bill first be perfected.

Mr. COFFROTH. Have I the floor or not?

Mr. CONGER. I do not wish to keep the floor, but I wish the bill should be perfected by its friends, and then that the substitute should be taken up by those who think it is the better bill and perfect it.

Mr. COFFROTH addressed the House. [His remarks will appear in the Appendix.]

The CHAIRMAN. The time to which debate was limited under the order of the House has expired, and the bill will now be read by paragraph for amendment.

The Clerk read as follows:

That a court, to be known as "The Court of Pensions," is hereby established, to consist of three members, who shall be persons learned in the law, to be appointed by the President, by and with the advice and consent of the Senate, who shall hold their said office for the term of three years, and until their successors shall be appointed and qualified. Each member of said court, before entering upon the duties of his office, shall be solemnly sworn to support the Constitution of the United States and to discharge faithfully and impartially the duties of his office.

Mr. BROWNE. I move to strike out the words "three years," in the seventh line, and in lieu thereof to insert "six years." I am heartily in favor of the bill on the principle involved in it and do not desire to occupy the time of the committee in discussing its provisions, but it suggests itself to me that when we organize a court and it familiarizes itself with this business, it ought not to be changed. If I had the power, I would provide by law this same court should continue to discharge the duties of the position until the whole business was done.

Mr. GEDDES. Will the gentleman permit me to suggest a modification of his amendment, to make their term of office during good behavior? If that be done, so far as I am concerned I am ready to accept it.

Mr. ROBINSON. You do not want them for three years if they do not behave themselves properly.

Mr. GEDDES. If the gentleman will say during good behavior, I will accept the amendment.

Mr. MILLS. I think it better that this court should be renewed every three years. It is not the policy of this Government to create life offices. I have no objection to a court being a life-long court, but I think it better to have the judges renewed every three years.

Mr. WARNER. We do not want a life-long court.

Mr. MILLS. You may want it for all of this generation at all events.

Mr. BROWNE. I prefer to leave the amendment as it is.

The amendment was agreed to.

Mr. ANDERSON. I desire to suggest an amendment, and ask the gentleman in charge of this bill why the number of judges is limited to three. I have been very much impressed by the statement of my friend from New Hampshire [Mr. FARR] as to the amount of business before the court or before the Pension Office, and it seems to me that is a very strong objection, I may say a vital objection. Why not have five judges instead of three? It seems to me that the greater the number the more work they can get through with.

Mr. GEDDES. I will state to the gentleman in answer to what he has said that this matter was very fully and thoroughly considered in committee, and unless you have a number of judges sufficient to constitute really and practically two courts—that is, six members—three I think would be better than five. Three would accomplish about as much work as five would accomplish and discharge as much business, and six was the number pressed by some members of the committee; but it was finally thought best to organize a single court of three members, and if hereafter this court is not able to accomplish the work, or if it is considered advisable to increase the number of judges, it will be a very easy matter to do so. If the court is found to work well and perform all of the work necessary, then of course one court will be as many as we need.

Mr. BREWER. I rise to a question of order to ask what is pending before the committee?

The CHAIRMAN. The Chair understood the gentleman from Kansas as rising to move an amendment.

Mr. ANDERSON. I do propose an amendment. I move to strike out "three," in line 4, and insert "five." I would like to ask the gentleman from Ohio another question, whether it is proposed that these judges shall be assisted materially by clerks, or if they are expected to perform all the work themselves?

Mr. RYON, of Pennsylvania. Provision is made in the bill for clerical assistance.

Mr. GEDDES. They are to be assisted by clerks, such number as may be necessary. That is provided for in the bill; and if the number so provided is not sufficient, they can have the force increased from time to time.

Mr. ANDERSON. Then I withdraw the amendment, because I am satisfied that the committee who framed this bill are better acquainted with all the facts than I am.

Mr. RYON, of Pennsylvania. I offer an amendment. Strike out the word "solemnly," in line 10, and after the word "sworn" insert the words "or affirmed;" so that, if adopted, it will read:

Each member of said court, before entering upon the duties of his office, shall be sworn or affirmed, &c.

Mr. GEDDES. I have no objection to that.

The amendment was agreed to.

Mr. BREWER. I desire to offer an amendment.

The Clerk read as follows:

Strike out the words in the fourth and fifth lines, "who shall be persons learned in the law," and insert "two of whom shall be learned in the law, and one in medicine and surgery."

Mr. BREWER. Mr. Chairman, I think the propriety of this amendment will suggest itself to every member of the committee. It is all-important that there should be some one on that court who shall understand the force and effect of testimony which relates to surgery and which relates to wounds or diseases.

Now, so far as I am concerned, I should prefer to have only one lawyer on this court. I think that one lawyer and one physician, leaving the other appointment to the discretion of the President, would have organized a better court than where we undertake to make all lawyers. I know the suggestion made by the gentleman from Ohio in regard to this bill was that it was believed by the committee that this court should be constituted exclusively of lawyers. I do not think that would be advisable. As one of that profession myself, it has been my experience that lawyers are the poorest class of men to judge of facts of any that I know of. I knew a jury of lawyers, and I had occasion once to sit as a juryman where there were six lawyers when we were entirely unable to agree on what I took to be a very plain statement of facts.

Mr. BROWNE. If you had had a doctor on that jury what would have become of the case? [Laughter.]

Mr. BREWER. It is of importance that men who are called upon to decide technical questions should be skilled in those branches; and in this case the questions to be decided are not always legal ones, but involve the science of medicine and surgery. The Commissioner of Pensions himself will not dare to act on a case where the questions involved are connected with one or the other of these branches of science. You are organizing a court here composed exclusively of lawyers, whereas it ought to be composed of persons who could understand the force and effect of much of the testimony that will be brought before them.

I think we should have at least one physician upon that board who would be able to judge of this matter in the same way as the lawyers would be able to judge of the force and effect of legal phrases that are used.

Mr. WARNER. I hope that amendment will be adopted. I think it is a good one.

The question was taken; and there were—ayes 24, noes 29.

So (further count not being called for) the amendment was not agreed to.

Mr. BROWNE. I desire to move what I send to the desk to come in immediately at the close of the first section.

The Clerk read as follows:

After the word "office," in line 12, add the following:

"Any claimant for a pension or arrears or increase of pension under the laws of the United States whose claim may be denied, or any person whose pension may be suspended by the Commissioner of Pensions, may appeal from such decision to said court by giving said Commissioner notice thereof in writing; and said appeal shall be noted in the record of said case in the Pension Office."

Mr. BROWNE. A single word. I have examined the bill somewhat critically, and I do not see it has conferred, except inferentially, the right of appeal; and this provision is to make it certain that the pensioner shall have the right of appeal from the decision of the Commissioner.

Mr. COFFROTH. That would come in more appropriately when we reach the sixth section of the bill.

Mr. RYON, of Pennsylvania. Let the amendment be again read.

Mr. COFFROTH. The amendment is more appropriate to the sixth section. If the words of the sixth section are not strong enough, that is the place to offer an amendment, and not to the first section, so as to destroy the effect of the sixth section by this amendment.

Mr. WEAVER. I suggest to the gentleman from Indiana to withdraw his amendment and offer it again when the sixth section is reached.

Mr. BROWNE. I will do so.

Mr. MITCHELL. I offer the following amendment:

After the word "years," in the seventh line, insert "if they so long behave themselves well."

I use the words of the common law and also the words of the constitution of Pennsylvania. The constitution of the State of Pennsylvania says:

The supreme court shall consist of seven members, who shall be elected by the qualified electors of the State at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well.

I suppose that would be implied, even if the words were not inserted. But for safety I think it better to have them in.

Mr. WEAVER. I move as a substitute for the amendment of the gentleman from Pennsylvania the words "unless sooner removed for cause."

Mr. DAVIS, of North Carolina. I apprehend that any one of these judges would be liable to impeachment for any impeachable misconduct. It seems to me, therefore, there is no necessity for that amendment.

Mr. MITCHELL. I think it always safe to make a thing clear and express.

Mr. RYON, of Pennsylvania. I think the amendment is right and that it ought to be adopted.

Mr. SPRINGER. Let the substitute be again read.

The Clerk read as follows:

Strike out the words "if they so long behave themselves well" and insert, in lieu thereof, the words "unless sooner removed for cause."

Mr. SPRINGER. I think that is better.

The substitute for the amendment was agreed to.

The amendment, as amended, was agreed to.

The Clerk read the second section, as follows:

SEC. 2. That it shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension-rolls, and for arrears of pensions arising under the laws of the United States which may be appealed to it from the Commissioner of Pensions, together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions; and the decision of said court upon any claim shall be final, except where the disability for which the pension was granted has been removed, in whole or part, and in cases of fraud, as hereinafter provided; and when, in the judgment of said court, the claimant has an equitable right to relief, but which the law does not make provision for, said court shall recommend the allowance of the same by Congress, and thereupon such cases, including the exhibits and testimony therein, with the equitable reasons therefor, shall be certified by said court to Congress; and from and after the passage of this act only cases so certified shall be passed upon by Congress.

Mr. BRIGHT. I offer the following amendment:

Strike out all from the word "together," in the fifth line, down to and including the word "pensions," in the eighth line, namely these words:

"Together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions."

This is a question of jurisdiction. The previous part of the section conferring jurisdiction I find reads as follows:

That it shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension-rolls, and for arrears of pensions arising under the laws of the United States, which may be appealed to it from the Commissioner of Pensions.

I think that that confers all the jurisdiction that is required upon the court proposed to be established. It certainly confers the jurisdiction of all matters arising under law; and having conferred that jurisdiction, I can see no necessity to annex to the jurisdiction what I term a legislative power to be vested in the court. After, as it will be seen, conferring all jurisdiction under the law, the section goes further, and confers another jurisdiction outside of the law in the language which I have read:

Together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions.

Now, Mr. Chairman, I think that that is unnecessary, and probably would be unconstitutional, because all legislative power is vested in the Congress of the United States; and surely a legislative power cannot be delegated to the courts. For that reason I move to strike out the language which has been read.

Mr. SPRINGER. I rise to oppose the amendment of the gentleman from Tennessee.

The object of the provision which the gentleman from Tennessee proposes to strike out is to prevent persons whose claims for pension do not come within any of the provisions of existing law from applying to Congress for relief and to require such persons to go first to the court of pensions and there make out their equitable right before the court, so that the court may hear and determine the equitable features of the claim and then recommend it to Congress. I want to impress upon the committee the fact that to require anybody, and especially a poor man, to come to Congress for relief is a practical denial of justice.

Mr. BRIGGS. Will the gentleman yield to me for a question?

Mr. SPRINGER. Certainly.

Mr. BRIGGS. If that is a practical denial of justice, I ask whether it is not also a practical denial of justice to compel every pensioner in the United States to go to the capital to try his case before the court which you propose to establish by this law?

Mr. SPRINGER. It is less a denial of justice than the present system. They now have to come to the Capitol and to a body which cannot hear them, which has not time to hear them, which never will hear them, and never can give them relief. This bill proposes to refer them to a body, in this same city it is true, but which will have time and opportunity, and if the President does his duty will have the ability to determine these questions.

Mr. BROWNE. Allow me to ask——

Mr. SPRINGER. I do not desire to be interrupted, for I have but five minutes. I want to say that if the provision is stricken out which the gentleman from Tennessee [Mr. BRIGHT] moves to strike out we will still have the Calendar of this House incumbered with thousands of applications for pensions which can never be heard, and to hold out inducements to our constituents that they can be heard here is but a mockery to them and an outrage upon them.

There are pending before this House and before the Senate nearly five thousand applications for pensions, nearly all of which do not come within any of the provisions of law relating to pensions. They are equitable claims, arising outside of the legal technicalities of the case, and many of them are appeals from the Commissioner of Pensions; not all of them. Now, I want to remove the claims on our pension calendar from before this House, where but fifty have been heard in six months past, and where five thousand are now pleading for a hearing. I want to send them to some place where they can be heard, where they can be adjudicated.

Mr. RYON, of Pennsylvania. I hope this motion to strike out the words indicated by the gentleman from Tennessee [Mr. BRIGHT] will not prevail. The object of this bill is to provide for two classes of cases; one is a class which has been adjudicated upon by the Pension Bureau and rejected. One object of this bill is to afford to an applicant for a pension an opportunity, by appeal to a court to be created by this bill, to have a rehearing and a readjudication of his case before men learned in the law and competent to judge of the law and of the evidence which he has submitted.

The second provision of this bill was inserted because there is pending in this House a large number of cases which we have found it to be utterly impossible to consider and dispose of, a large number of claimants presenting equitable reasons why they should be granted pensions. We all know it to be impossible here in this Congress to give them the relief which the justice of their cases demands.

The gentleman from Tennessee proposes to strike out from this bill the provision for a hearing of these equitable cases which do not come within any provision of law made for the pensioning of persons disabled in the service. If you strike out that provision, then those cases will still remain in Congress, and if disposed of at all, must be disposed of here. And other claimants of a like character, who may deserve relief, will be compelled to seek that relief through Congress. By striking out those words one of the objects of this bill would be completely and entirely defeated.

The objection that this provision confers legislative power upon this court, and is therefore amenable to a constitutional objection, has no sort of weight in it; there is nothing in it; it is utterly untenable. This section provides that this court shall examine and consider these cases, and if they are found to possess merit, if there is equitable reason why the pension should be granted, then this court grants no pension. It has no authority to do that, and it has no authority to make any law; but it reports its recommendations to Congress, and Congress is to pass upon the question whether the pension shall be granted or not. It gives no legislative power; it simply endows this court with powers something like a committee of investigation.

Mr. DUNNELL. Does the gentleman refer to the bill of the gentleman from Ohio, [Mr. GEDDES?]

Mr. RYON, of Pennsylvania. I refer to that bill, and to the amendment proposed by the gentleman from Tennessee, [Mr. BRIGHT,] to strike out the words "together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions." If that amendment shall prevail it will mutilate the bill and destroy to a very great extent its efficacy.

[Here the hammer fell.]

Mr. THOMAS. Let us look at the provisions of this bill for a moment and see whether or not the views of the gentleman from Pennsylvania [Mr. RYON] are correct. I am satisfied that the amendment offered by the gentleman from Tennessee [Mr. BRIGHT] ought by all means be adopted. This section provides:

That it shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension-rolls—

I suppose the one who drafted that provision of the bill intended these words to mean "all applications for restoration to the pension-roll"—

and for arrears of pensions arising under the laws of the United States which may be appealed to it from the Commissioner of Pensions.

Under the law any man who was in the United States service may make application for a pension under the law as it now stands. If that application is denied by the Commissioner of Pensions, then under the provision of this section which I have read he may take an appeal to this court. The gentleman from Pennsylvania [Mr. RYON] says that if the amendment of the gentleman from Tennessee prevails, then all provision for equitable cases will be stricken out.

Mr. RYON, of Pennsylvania. There is no original jurisdiction on that point.

Mr. THOMAS. And that all cases pending before Congress will be left without remedy. Let us see whether that is true or not. Eliminate that portion of the bill which the gentleman from Tennessee proposes to strike out and see how it reads:

That it shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension-rolls, and for arrears of pensions arising under the laws of the United States which may be appealed to it from the Commissioner of Pensions; and the decision of said court upon any claim shall be final, except where the disability for which the pension was granted has been removed, in whole or part, and in cases of fraud, as hereinafter provided; and when, in the judgment of said court, the claimant has an equitable right to relief, but which the law does not make provision for, said court shall recommend the allowance of the same by Congress.

Thus it will be seen that the amendment proposed by the gentleman from Tennessee does not affect at all those cases which rest upon equitable grounds. It is not pretended that this court is to have any legislative power. It will not grant a pension in any case unless the party is entitled under the strict letter of the law. If upon examination of the evidence the claimant is shown to be equitably entitled to a pension, his case is to be remitted to this body, to the legislative branch of the Government, where a bill for his relief based upon the equitable decision of this court can be passed.

It will be seen that there is an attempt in this bill to get in not only all the cases that can possibly arise under the law of the land,

but there is something in addition, something which I believe it would be no sin to worship, for it is not like "anything that is in heaven above or in the earth beneath, or in the water under the earth." In addition to all the specific cases mentioned we have the clause "together with all applications for pension and arrears of pension which do not come within any pension law." Thus it is proposed to give this court the right to adjudicate cases of parties who may not apply under any law. I hope the amendment of the gentleman from Tennessee will be adopted.

[Here the hammer fell]

Mr. SIMONTON obtained the floor.

Mr. GEDDES. As the gentleman from Illinois [Mr. THOMAS] has given thought to this question, will he permit me, before he takes his seat, to inquire of him what language in this bill would give to this court jurisdiction of equitable cases if you strike out the words included in the motion of the gentleman from Tennessee?

Mr. THOMAS. I will answer the gentleman with pleasure. In the first place the case must be investigated by the court before it can be determined whether it rests upon legal or upon equitable grounds; and inasmuch as the bill provides that all applications for pension—it does not say this class, or that class, or another class, but "all applications for pension and arrears of pension"——

Mr. SIMONTON. Have I the floor?

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMONTON] is entitled to the floor.

Mr. THOMAS. I should be glad to answer the gentleman from Ohio.

Mr. GEDDES. I should be glad to have the gentleman do it.

Mr. RYON, of Pennsylvania. So should I. I should really like to understand how those cases that the gentleman speaks of would get into that court.

Mr. SIMONTON. I yield to my colleague, [Mr. BRIGHT.]

Mr. BRIGHT. Mr. Chairman, in addition to the remarks I made when last upon the floor I wish to say that the part of the bill which I propose to strike out is, I contend, a power of legislation conferred upon the court outside of any existing law. Now, in reply to the gentleman from Ohio, who seems very anxious to exclude from the jurisdiction of Congress all questions of pensions, I would state that the very jurisdiction which he thinks this language confers upon the court is the door by which the cases may be sent back to Congress, because, according to his construction, the court would have no jurisdiction to dispose of these cases finally, but would have to send them there for congressional action. The gentleman would find that this provision of the bill would give facility to the very thing to which he objects.

But, Mr. Chairman, let us take the words in their logical connection. After stating the jurisdiction of the court in language which has been already read, the section continues:

> And the decision of said court upon any claim shall be final.

The jurisdiction of the court is defined in part by the language I have moved to strike out; and if the judgment of the court is to be final, then, as a matter of course, the cases embraced in that language would be cut off from the consideration of Congress or any other jurisdiction.

Mr. GEDDES. Does the gentleman overlook entirely the language following the word "final," beginning with the word "except?"

Mr. BRIGHT. I will answer the gentleman. The word "final" has relation to the language which precedes it. I do not propose to strike out this provision that the decision of the court shall be final, but I propose to eliminate a part of the jurisdiction which is attempted to be conferred. The connection of the language will then be in proper order. It will read:

> And the decision of said court upon any claim shall be final, except where the disability, &c.

I will state further that I do not propose to touch the recommendatory power of the courts. Whenever any claim is submitted and there shall be equitable considerations arising, this bill very properly confers upon this court the jurisdiction, not of judgment, but of recommendation to the Congress of the United States.

[Here the hammer fell.]

Mr. WEAVER. Upon careful consideration of the amendment, and the bill as it will be left if the amendment be adopted, it is very plain that the effect will be to take away from this court all original jurisdiction and leave it to determine simply cases of appeal—cases that come within the law. Then if the court should decide that the claimant had no legal right to a pension, the only thing for the court to do would be to recommend the case to Congress for relief by special act. This would unquestionably be the proper construction of the section if the amendment should be adopted. If this is what we want, the amendment certainly reaches it. It does undoubtedly take away all original jurisdiction. This was not my first impression, but on careful consideration I am satisfied it is the correct view.

Mr. WARNER. Ought the court to have original jurisdiction? It seems to me it ought not.

Mr. WEAVER. If you want to take away from the court all original jurisdiction and simply allow it to re-examine cases which have been before the Commissioner—to grant such applications or recommend to Congress to grant special relief—that object will be effected by the amendment.

Mr. THOMAS. I would like to inquire of the gentleman in charge of this bill whether the phraseology used here, and which the gentleman from Tennessee proposes to strike out, is designed to confer original jurisdiction on this court, and whether, on the contrary, it is not designed to cover a class of cases rejected by the Commissioner of Pensions as not coming within the provisions of any pension law?

Mr. GEDDES. It is not designed to confer original jurisdiction on this court.

Mr. CASWELL. My friend from Ohio, I think, is mistaken.

Mr. GEDDES. This is designed to cover cases which have gone through the Pension Office and have been passed upon by the Commissioner of Pensions and been disallowed by him.

Mr. THOMAS. Then gentlemen who have spoken on this phraseology evidently have misunderstood its purport.

Mr. GEDDES. The whole scope of the second section, it seems to me, has been misunderstood by the motion of the gentleman from Tennessee.

Mr. CASWELL. I suggest to my friend from Ohio that the clause which the gentleman from Tennessee proposes to strike out was intended to cover a class of cases which were never filed in the Pension Office, so that instead of sending them directly to Congress they should be filed originally in that court, which should take original jurisdiction of them.

Mr. WEAVER. Let me ask a question.

Mr. WARNER. It ought not to do that.

Mr. CASWELL. That is what the section does. And, Mr. Chairman, if I have the floor, let me say none of us here can expect to live long enough to see the day when these cases will be kept out of Congress. Just so long as gentlemen will introduce bills and press them they will come here. If you give this court original jurisdiction of these supposed equitable cases they go upon the Calendar, and it may be three or four years before they will be reached, and then parties who have constituents in such condition will come directly to Congress, for they must ultimately come here, and they will in that way pass over the court entirely.

[Here the hammer fell.]

Mr. COFFROTH. Mr. Chairman, the cases which will be covered by this section, and which, in my judgment, were intended to be covered by it, are cases where the Commissioner of Pensions has decided he possesses no jurisdiction under the law. For instance, he has decided that where a man has been in the employ of the Quartermaster Department of the Government and has been sent out with a detachment of troops, and has been injured in the service, that man does not come within the jurisdiction of the pension laws. He has also decided, although there are plenty of applications, I am told, that scouts are not within the provisions of any of the pension laws, and therefore they must make their application to Congress.

There are various cases of a like character which the provisions of this bill were intended to cover. It proposes this court of pensions shall decide whether the law is general enough to cover them, and, if it is not, it shall then say whether the applicants have equitable cases, and if so, to send them to Congress for action.

Mr. GEDDES. In view of the brief time allowed for action on this bill, I shall have to move that the committee rise for the purpose of closing debate on this section and the pending amendments.

Mr. KEIFER. You cannot do that at this stage of the bill.

Mr. COFFROTH. I have the floor, and the gentleman cannot take it from me in that way.

Mr. FARR. In the line of the remarks of the gentleman from Pennsylvania, I would like to say——

Mr. COFFROTH. Does the gentleman wish to ask me a question?

Mr. FARR. I do. The gentleman has referred to a class of cases not now covered—such, for instance, as scouts—under the general law. Of course they have not applied to the Pension Bureau, because there is no law by which the Commissioner of Pensions could grant them relief.

Mr. COFFROTH. But many do apply there.

Mr. FARR. Some do apply, not understanding what the law is, but if they had consulted an attorney who did know what the law is they would be so informed and save themselves the useless expense of making any such application. Now, what is the object of taking these cases away from Congress and sending them back to Congress through this court?

Mr. COFFROTH. They can apply there so the court may decide whether they have or have not any equitable claim upon the Government.

[Here the hammer fell.]

Mr. HAWK. Mr. Chairman, I do not know that I shall be able to make myself understood, but it seems to me, with this section framed as it is, there are two jurisdictions given. The words proposed to be stricken out by the gentleman from Tennessee are as follows:

> Together with all applications for pensions and arrears of pension which do not come within any pension law.

Now, how is this court to know when a claim does not come within any pension law except that case has been passed upon by the Commissioner of Pensions and been rejected? It seems to me these specific cases mentioned in the first part of the section are quite sufficient to cover the whole, and they do confer sufficient jurisdiction. Why? Because if you extend this jurisdiction you cumber this court with an amount of business which it will be utterly impossible for it to

discharge. It will not only have jurisdiction over cases which have been rejected by the Commissioner of Pensions, but it appears it will have original jurisdiction over a class of cases which, by appearance, have not been referred to the Commissioner of Pensions at all.

A MEMBER. Where do you find that?

Mr. HAWK. Here in the words proposed to be stricken out by the gentleman from Tennessee, "together with all applications for pension and arrears of pension which do not come within any pension law."

Now, then, you say that equity jurisdiction extends to the whole scope of bills here, and you can never know, I submit, whether these bills come within the pension law as existing until the Commissioner of Pensions has so decided. Then the power of this court can be exercised. How? In this way:

Said court shall examine and determine—

What class of cases?

all claims for pensions, increase of pensions, for restoration to the pension-rolls, and for arrears of pensions, arising under the laws of the United States, which may be appealed to it from the Commissioner of Pensions.

Now, you have here a declaration that we have a class of cases that do not come within any existing law. Hence it is competent for this court to act upon that class of cases when they are so certified to the court.

[Here the hammer fell.]

Mr. BELFORD. Mr. Chairman, it seems to be generally conceded that Congress should pass an act of this kind. The question now before this committee is as to the jurisdiction to be conferred upon the court. It seems to me that this section simply invests the court with the power to hear two classes of cases; first, those arising under the law and which fall clearly within its provisions. If the judgment of the Commissioner is reversed the court enters judgment accordingly; the pensioner is placed on the roll, and his pension is paid without any intervention on the part of Congress.

But suppose a party appeals from the Commissioner of Pensions where the claim is not warranted by existing law but where the pensioner has an equitable claim for some relief at the hands of the Government. In a case of that kind this act empowers the court not to enter a final judgment, as suggested by the gentleman from Tennessee, but to make a recommendation to Congress. The recommendation of that court comes to Congress just like the recommendation from the Court of Claims. A citizen has a claim against the United States, and files it in the Court of Claims. That claim is adjudicated. The court enters judgment, and that judgment is brought here and Congress makes the appropriation to pay it. Congress has supervision over the cases and judgments and decrees in all equitable cases, and that is what I understand to be the intent and meaning of this section.

The idea of the gentleman from Tennessee that every judgment made by the court whether based upon equitable or legal claims is final is certainly not warranted by the working of the section, because the language of this section provides that where the claim is an equitable claim that claim only shall be reported to Congress, but there is no requirement that judgment in a case where the pension is warranted by law shall be reported to this body.

Now, Mr. Chairman, it is of the highest importance in my judgment that a court of this character should be created. We have been in session for six or eight months and we are incumbered and our calendars are burdened with these claims. Public measures in which this nation has a vital interest have been absolutely snowed under by the aggregation and accumulation of business on the Private Calendars, and especially on this pension calendar, and it seems to me that unless some better objection can be urged to defeat this section than that urged by the gentleman from Tennessee it will be better to let it stand as it is. This section gives relief to two classes of citizens, those who have legal and those who have equitable claims against the Government. I am in favor of both, and hence I support the section.

Mr. SINGLETON, of Mississippi. Mr. Chairman——

Mr. BROWNE. I desire to offer a substitute for the amendment.

The SPEAKER. The Chair has recognized the gentleman from Mississippi, [Mr. SINGLETON.]

Mr. BROWNE. I hope the gentleman will allow me to offer this and let it be read, and I will yield the floor, as I do not care to discuss it.

Mr. SINGLETON, of Mississippi. I have no objection to that.

Mr. BROWNE. Then I offer the following substitute:

After the word "all," in line 6, insert "appealed from said Commissioner in;" so that, if amended, it will read:

"Together with all appeals from said Commissioner in applications," &c.

Mr. SINGLETON, of Mississippi. Mr. Chairman, I hope the amendment offered by the gentleman from Tennessee will prevail. I must confess that to my mind there is some danger if that clause is left in the bill in the form that it is in. The pension laws of this country are very broad. We have endeavored to comprehend under them everybody we believe to be entitled to a pension; and when we go outside of that law to confer original jurisdiction upon three or four men organized as a court, who are not to be governed by any law, and who are to be permitted to act according to their own discretion outside of any rule prescribed by law, you have then, it seems to me, conferred on them a dangerous power and a power which ought not to be conferred upon any court or body of men in this country for any purpose.

It will not do for gentlemen to say that this does not confer original jurisdiction. The section goes on to declare that all the cases which had been decided under the law may be appealed to this court. And then it continues:

Together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions.

Now, if you intend to make these laws broader; if you want to give to others than those now entitled to it a pension, let us pass an act embracing that class of individuals. But let us not confer upon the court this power of legislation with no rules to control them, no breakwater against their decisions in behalf of the Government. I say it is a most dangerous power in my opinion, and no set of men ought to be invested with that authority. If this were adopted, why should not every one who belonged to the Army come forward and make application for a pension? What man is excluded under this? No one.

Suppose you happen to get hold of a court that is not quite as scrupulous and quite as honest as it might be, this Government might be bled to the tune of millions of dollars under that law. I hold the court should be controlled by the law and not have this discretionary power.

Mr. BROWNE rose.

Mr. GEDDES. I move that the committee rise with a view to limiting further discussion.

Mr. WEAVER. Wait till the amendments which have been suggested have been explained.

Mr. RYAN, of Kansas. Let the gentleman from Indiana explain his amendment.

Mr. GEDDES. I yield, then, to the gentleman from Indiana, [Mr. BROWNE.]

Mr. BROWNE. I understand it was the intention of the framers of this bill to give this court only appellate jurisdiction, but appellate jurisdiction over two classes of cases. First, to review the action of the Commissioner of Pensions in those cases in which a pension, it is claimed, should have been granted under existing law. Secondly, to review that other class of cases in which a pension was denied by the Commissioner where the case is equitable and does not come within any law.

As to the first class the decision of the court is final. If the action of the Commissioner is confirmed that is the end of it. If the action of the Commissioner is reversed the fact is certified to the Commissioner, and the pension goes and the action is final.

As to the second class, a class, too, that must come through the Pension Office, if the court finds that under the law the pension was properly denied, but that the claimant has an equitable right to relief, the fact is certified to Congress. In other words, the court finds the facts, and these facts come by the adjudication of the court to Congress; and in that case Congress must give relief, if it gives relief at all by an act, by a special relief bill.

Now, the proposition on the other side is, as I understand it, to strike down this second branch of the jurisdiction of this court. If so, hundreds at least will have no relief. These special cases will be constantly crowding our Calendar.

[Here the hammer fell.]

Mr. ROBINSON rose.

Mr. GEDDES. The gentleman from Pennsylvania [Mr. RYON] desires two minutes.

The CHAIRMAN. The Chair has recognized the gentleman from Massachusetts, [Mr. ROBINSON.]

Mr. RYON, of Pennsylvania. I understood the gentleman from Ohio [Mr. GEDDES] had five minutes; that he yielded three minutes to the gentleman from Indiana, [Mr. BROWNE,] and that he yields two minutes to me.

The CHAIRMAN. The Chair recognized the gentleman from Indiana [Mr. BROWNE] in his own right. The gentleman from Massachusetts [Mr. ROBINSON] is now recognized.

Mr. ROBINSON. There seems to be a great deal of confusion as to this matter; and I may not be able to state what I want to say in five minutes, but I will try.

What are we trying to do? What are the difficulties? Let us look them in the face. We say in the first place the Commissioner of Pensions makes erroneous decisions, and we want to provide a court to revise those decisions. That is point number one. You take the case as it goes before him for decision; and if he has rendered his decision, a decision adverse to the petitioner, you may on appeal send the case to the court. That is a class of cases provided for under the general law of pensions. Now, that is a broad class of cases, one that produces a great deal of trouble in Congress. Gentlemen then will keep that class in mind; the cases that have gone before the Commissioner and have been rejected; cases that have been assumed to come under the general law.

So far we all agree. We are all agreed that there ought to be some revisory power. Now, we are troubled with a multitude of other cases; that is to say, cases that are merely equitable cases, in which parties seek the gratuity of Congress. These cases are largely based on appeals to our sympathies. Now, if you have thrown open that door

you have thrown open a very wide one. Is Congress ready to say it shall be open in that court for every man who has served in the Army of the United States to apply for a pension without regard to disability or disease? My gallant friend standing in the middle aisle, the gentleman from Iowa, [Mr. WEAVER,] I believe escaped without a wound. Under the general provisions of law he is not entitled to a pension. And we do not want to establish a court which would allow him to go right in there and apply for a pension.

Therefore I say those lines should go out of this section. The gentleman from Tennessee [Mr. BRIGHT] has I think proposed an amendment that is a proper one. If that be adopted, where shall we be then? I take it we shall be in the position of having a court to hear on appeal the cases which the Commissioner has rejected. Now, how will that operate? My friend from Ohio [Mr. GEDDES] says that is all that he wishes to do under this bill. That is, these cases must first go before the Commissioner of Pensions, and then they are to go before this court of appeal.

Now, how will this court reach any other cases except those provided for by law? In the latter part of this second section is a provision which, if it is not now properly guarded, can be made so by and by when we come to it. That provision is: "When, in the judgment of said court, the claimant has an equitable right to relief, but which the law does not make provision for," &c. For instance, John Jones goes before the Commissioner, and the Commissioner decides that Jones's case does not come within any provision of existing law. Jones then appeals to this court, and the court considers the testimony submitted before the Commissioner, as well as other testimony, and after examining the whole case it says that John Jones is not quite entitled to a pension, but it really seems that equitably he should have relief, and the court submits the case to Congress with the exhibit and the testimony and its finding of the facts, and then leaves it for Congress to say upon that showing whether the applicant shall have a pension. Now, is not that all that we desire to do?

[Here the hammer fell.]

Mr. GEDDES. Before the gentleman takes his seat I would like to inquire of him, as I did of the gentleman from Illinois, [Mr. THOMAS,] what provision in this second section, or in any other section of the bill, would confer upon this court jurisdiction of that class of cases, if the clause is stricken out which the gentleman from Tennessee [Mr. BRIGHT] moves to strike out?

Mr. ROBINSON. If I do not trespass too much upon the time of the committee I will endeavor to answer the gentleman. In the first place, let us look at this section, because we want to do right all around; that is what I am for.

It shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension rolls, and for arrears of pensions, arising under the laws of the United States which may be appealed to it from the Commissioner of Pensions.

I should want to insert after those words the words "after an adverse decision by him." I suppose that is what is intended. Then the court would take into consideration every case that comes into the Pension Office on which there is an adverse decision, provided the applicant appeals; the court then has jurisdiction of that case. When the court has revised the case as an appellate tribunal, and has decided against the applicant—and I understand the gentleman would have that decision to be final—if the court shall say that notwithstanding the law seems to be against the applicant technically, yet the court is of opinion that Congress should grant relief, and it certifies the facts and its findings to Congress, is not that all this bill should provide?

[Here the hammer fell.]

Mr. OSCAR TURNER. I desire to say, Mr. Chairman——

Mr. HAZELTON. What is the amendment upon which this debate hangs?

The CHAIRMAN. The Chair will state to the gentleman from Wisconsin [Mr. HAZELTON] that the gentleman from Indiana [Mr. BROWNE] has offered a substitute for the amendment of the gentleman from Tennessee, [Mr. BRIGHT.]

Mr. HAZELTON. I heard that amendment, but this debate does not seem to run on that amendment.

Mr. OSCAR TURNER. I desire to submit a few remarks upon this bill. It does not seem to me that the bill has been framed with that degree of caution and with those restrictions which ought to characterize a bill of this importance. The object and purpose of the bill was to relieve us from the great number of pension bills which have been presented to this Congress, amounting this session to three thousand or more. That, I understand, was the whole object of this bill—to remove those cases from the consideration of Congress, and thereby give us time to legislate for the public good and to provide a tribunal in which these cases could be investigated.

Now, does this bill tend in any degree to give Congress any relief? I think it does not as it is at present framed. My reason for that opinion is this: in the first place it is proposed to give this court jurisdiction of all cases that arise under the pension laws as they are now in force. That would be right, and if the bill stopped there it would accomplish the object which I understand was desired. But the bill goes on and gives to this court "equitable jurisdiction." Now, I am surprised to hear gentlemen talk about "equitable jurisdiction" in pension cases. What is an equitable claim for a pension? Is there any law that defines such a claim? It is simply a claim like that referred to by the gentleman from Massachusetts [Mr. ROBINSON] of a man who was in the Federal Army but not wounded or disabled, and not entitled under any law to a pension, applying for a pension. It is a case that has no legal standing, and is not known in legal parlance; a case not coming within any law. To grant jurisdiction in such cases would be to permit every man who served in the Federal Army to go before this court and claim a pension. This bill either means that or it means nothing.

Mr. GEDDES. Every man can go before the Commissioner and claim a pension, but it does not follow that he should obtain it.

Mr. OSCAR TURNER. Such cases are to go before this court and this court may recommend them to Congress, the very thing we desire to prevent. The court should have no authority to report any such case to Congress. If a case comes within the provisions of any law, then it can be rightly adjudicated by this court, before which it can be taken if it has been rejected by the Commissioner improperly and unjustly. One of the objects in establishing this court was to give a remedy by appeal because of the complaints that the Commissioner of Pensions did not discharge his duty fairly and rejected meritorious cases. But, instead of guarding that point, it is proposed now to give this court equitable jurisdiction; that is, the right to recommend any character of case that it may see proper, whether recognized by law or not. I say this is radically wrong. If you think that the grounds upon which pensions may be granted ought to be increased, enlarge those grounds by general legislation. Let them be enlarged not by the decision of this court but by general law. In this way include if necessary any class of cases which have heretofore been excluded if Congress thinks proper.

It is charged by the Commissioner that thousands of pensions have been fraudulently obtained, and the attempt is being made every day to increase the already burdensome list of pensioners. The honest tax-payers of this country have a right to be protected from unjust burdens of this kind; but some gentlemen seem to lose sight of this fact, and think that everything should yield to the pressure of pension claimants; and we ought not to open the door for this tribunal to flood Congress with pension claims not sustained by any law, which seems to be the desire of some gentlemen who advocate this imperfect bill.

[Here the hammer fell.]

Mr. WILLIAMS, of Wisconsin. Mr. Chairman, this matter seems very clear in my own mind, if I do not "darken counsel" in trying to explain it. As I understand the first section of this bill, it establishes the court; the second section defines its jurisdiction; and it speaks of two classes of cases—cases arising under the pension laws and cases defined here in general terms as equitable cases. Now, as to the first class of cases, there is no question what this section means; it means that this court shall have appellate jurisdiction. The only question, then, is whether the bill is designed to give the court original or appellate jurisdiction of these equitable cases, so termed. It seems to be agreed on all hands that the bill is only intended to give the court appellate jurisdiction of these cases as of the others; that it is not the purpose of the bill that claimants shall pass by the Pension Office and first file their claims with the court.

I have risen to say that if this is the meaning of the bill it seems to me you have only to insert after the word "pension," near the end of line 6, the words "appealed as aforesaid." Then the language will be:

For restoration to the pension-rolls and for arrears of pensions arising under the laws of the United States which may be appealed to it from the Commissioner of Pensions, together with all applications for pension and arrears of pension, appealed as aforesaid, which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions.

Mr. RYAN, of Kansas. That is the amendment of the gentleman from Indiana, [Mr. BROWNE.]

Mr. BROWNE. That is precisely or very nearly the amendment I have proposed.

Mr. WILLIAMS, of Wisconsin. It seems to me it is only necessary to define these as appellate cases and three words, instead of half an hour's discussion, ought to do this.

Mr. RYON, of Pennsylvania. If the gentleman will look at the eighteenth and nineteenth lines of the section, he will see that if we give this court appellate jurisdiction only we drive these people out of Congress; for the last clause of this section provides that Congress shall take no jurisdiction of these cases.

Mr. WILLIAMS, of Wisconsin. It may be necessary to amend other parts of the bill in order to conform to the amendment I have suggested.

Mr. WHITE. Mr. Chairman, I want to understand exactly the question which is before the committee. The gentleman from Tennessee, [Mr. BRIGHT,] as I understand, has moved to strike out the words beginning with "together," in the fifth line, down to the word "pensions," in line 8. My friend from Indiana [Mr. BROWNE] moves to amend this amendment by allowing the words proposed to be struck out to stand and inserting the words "all appeals from said Commissioner" in the sixth line. Now, the amendment offered by my friend from Indiana evidently does not reach the purpose that the committee has had in view in framing this bill. It simply enlarges the class of appeals. I do not think it goes to the root of the difficulty complained of by the pensioners of this country. What is "the old law?" The old law provides for pensions in certain classes of cases. What is "the mischief?" The mischief is that the appli-

cants for pensions cannot get their cases expeditiously disposed of; not only that, but they say they cannot always get them disposed of fairly. Now, for the purpose of providing an adequate tribunal to correct these complaints this bill is proposed; and the intention is not to enlarge the pension law, not to extend the causes for granting pensions, but to give the party who claims he is entitled to a pension under existing law an opportunity for correcting the mistake and injustice which have been committed in the hearing of his case before the Commissioner of Pensions. The amendment offered by the gentleman from Tennessee [Mr. BRIGHT] goes to the root of the matter and moves to strike out the words which make this bill to my mind objectionable.

Mr. GEDDES. If it is desired to continue this discussion, I must insist on my motion that the committee now rise for the purpose of closing debate.

Mr. THOMAS TURNER. I hope the gentleman will yield to me. There is no real trouble here at all. I have a substitute to offer which will remedy every particle of trouble. [Cries of "Vote!" "Vote!"]

Mr. GEDDES. If there is no disposition to debate the matter further, and we can come to a vote at once, I will not make the motion that the committee rise. [Renewed cries of "Vote!" "Vote!"]

Mr. THOMAS TURNER. I believe every man who has had his say wants a vote. There is no trouble about this matter; it is only a question of language. I desire to offer a substitute, which I think everybody will agree to. Will the gentleman yield me the floor, and I will renew his motion. [Cries of "Read!"] Very well, I will read it, but I have to make a word of preface before I do so.

Now, Mr. Chairman, there are several classes of cases. There is one class in which the Commissioner under existing law makes a mistake, and says the law does not authorize the granting of a pension. There should be an appeal in such cases.

There is another class in which the Commissioner says the applications do not come within the provisions of the existing laws. The parties appeal, thinking that they do. If the court decides in either of those cases that they do come within existing laws, and the evidence authorizes the granting of pensions, although they may have been rejected by the Commissioner of Pensions, then the decision of the court should be final.

There is a third class of cases in which application is made to the Commissioner, and this court should not have jurisdiction until after that application has been made to the Commissioner. If the Commissioner then properly decides they do not come within the letter of the existing laws, but do come within the spirit and intention of what was promised to the soldier when he was induced to go into the service, then the court should have recommendatory power to Congress, with power on our part to hear and decide on the testimony taken before the court. But no case should come before the court until application had been made to the Commissioner. Now, is not that right?

Mr. GEDDES. I must insist on my motion, Mr. Chairman.

Mr. THOMAS TURNER. I will now read my proposed substitute. It is as follows:

That it shall be the duty of said court to hear all appeals from the decisions of the Commissioner of Pensions against claims for pensions, increase of pensions, or for restoration to the pension-rolls, and for arrears of pensions, under existing laws; and it shall also have appellate jurisdiction in all cases where any such application has been rejected because it was not provided for by law, and the decision of the court in cases under existing law shall be final. And in cases in which the court is of opinion that the claimant is entitled to equitable relief within the spirit but not the letter of existing law, said court shall recommend the allowance of the same by Congress, and thereupon such last-named cases, with the opinion of the court, exhibits, and testimony, shall be certified to Congress. And from and after the passage of this act only cases so certified shall be passed upon by Congress, and then only on the testimony before said court.

Mr. GEDDES. That amendment is not before the House.

Mr. THOMAS TURNER. That substitute, Mr. Chairman, covers the whole case. I shall offer it at the proper time as a substitute for the other amendments.

Mr. KEIFER. Is this offered as a substitute for the entire section?

Mr. THOMAS TURNER. It is.

Mr. KEIFER. Then I want to be heard on it when it is before the committee.

The CHAIRMAN. The question is on the substitute of the gentleman from Indiana [Mr. BROWNE] for the amendment of the gentleman from Tennessee, [Mr. BRIGHT.]

The committee divided; and there were—ayes 31, noes 24.

Mr. BRIGHT. I demand tellers.

Tellers were ordered; and Mr. BRIGHT and Mr. BROWNE were appointed.

The committee again divided; and the tellers reported—ayes 38, noes 22.

So the amendment to the amendment was agreed to.

The question next recurred on the amendment as amended.

The committee divided; and there were—ayes 41, noes 8.

Mr. BRIGHT. I demand tellers.

Tellers were ordered; and Mr. BRIGHT and Mr. BROWNE were appointed.

Mr. BRIGHT. I want a statement of the question, so the House may understand it.

Mr. McMILLIN. There is doubt as to what we are voting upon.

The CHAIRMAN. The vote is on the amendment as amended. The amendment of the gentleman from Indiana [Mr. BROWNE] was adopted as a substitute for the amendment of the gentleman from Tennessee, and the question now is on that amendment as amended.

The committee again divided; and the tellers reported—ayes 34, noes 7.

So the amendment, as amended, was agreed to.

Mr. BRIGHT. I give notice that I shall ask for a vote on this amendment in the House.

Mr. THOMAS. I rise to a point of order. I wish to know whether the vote was taken on the amendment of the gentleman from Tennessee or the substitute offered by the gentleman from Indiana.

The CHAIRMAN. It was on the amendment of the gentleman from Tennessee as amended by the substitute of the gentleman from Indiana.

Mr. THOMAS. There is great uncertainty as to what was voted on. The reason I ask the question is that the amendment of the gentleman from Tennessee was an amendment to the original text and should have been voted on first, as the original text must be first perfected before a substitute can be considered, and the amendment of the gentleman from Indiana was a substitute.

Mr. BROWNE. I make the point of order that it is too late to raise any such question. The amendment has already been adopted.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ANDERSON. I move, in lines 18 and 19, to strike out the following words:

And from and after the passage of this act only cases so certified shall be passed upon by Congress.

My reason for that is this: It seems to me if these words are permitted to remain there will be certain difficulties in this bill which ought not to be met. And the first one is this, that this Congress has passed upon a large number of cases. There has been active, vigilant work performed by the committees in charge of pension cases. I find, also, that a large number of cases are upon the Calendar which could be or ought to be speedily acted upon. The moment this bill becomes a law all of these cases must be swept from the Calendar, and all of the work that is done upon them will be lost, as those cases are to be remitted to the court.

Mr. THOMAS TURNER. And will be reached by the court in one-tenth of the time that we will ever reach them in.

Mr. ANDERSON. That remark suggests another difficulty. All the members present who have heard the explanation made by the gentleman from New Hampshire [Mr. FARR] will recognize the force of the conclusion which he reached that under ordinary circumstances it will take this court about forty years to get through with all of the cases that are now pending. Suppose that court would only take one-fourth of that time—ten years; that is certainly a great deal longer than anybody wishes. That suggested this point, that if we pass this bill in the form proposed we tie ourselves hand and foot; that by sending the cases into this court we say that this court is to take exclusive jurisdiction of such questions, and that there shall be no other avenue for the claimant and no other power which can afford relief.

There are two objects, it seems to me, that the committee desires to accomplish. One is to expedite the settlement of these claims, and in so far as the court does that I am for the bill. That may be a very appropriate plan of settlement. The other is to give relief to the House; and so far as that is concerned I do not care a solitary straw. I fancy that the men who received the wounds and performed the services that made it possible for this House to be here at all have the right at any time to come here and be heard.

[Here the hammer fell.]

Mr. KEIFER. In addition to the objections which have been assigned to this clause that is proposed to be stricken out I wish first to say that it is flatly in the face of the Constitution of the United States. By enacting this clause in this section we undertake to say to the people and the soldiers of this country that they shall not petition Congress for the redress of grievances or for any relief whatever, and that is the proposition here; and when you turn over to the fifth section of this bill we find that all the pension cases now pending in this Congress are to be thrown out of Congress without consideration and remitted to this court. That includes ninety-nine cases out of every hundred of them that do not come within the provisions of the second section of this bill.

They are not cases where the Commissioner of Pensions had original jurisdiction at all over them. We are to say by the adoption of this clause, proposed to be stricken out, that no person in this country, no matter who, whether the widow of a deceased soldier or a maimed and wounded soldier himself, no person no matter what are his merits, no matter what are his deserts or what right he may have in the premises, is to be permitted to come here to apply as an original proposition for a pension.

Mr. BUTTERWORTH. Does the gentleman think that this law would have the power or the force to prevent that?

Mr. KEIFER. No, I do not; but we perpetrate the supreme folly of saying that we would not have the power to perform our constitutional duty if we pass this bill. It is the most supreme absurdity in the world for us to pass such a bill as this and say that we shall not have the power to perform our constitutional duties; in other words, to limit ourselves as to our future power. We cannot do it. Of course we can pass the bill, but the Constitution of the United States prohibits us from passing a law that will cut off the power of any

citizen of the United States to petition us for relief. Yet this clause proposes to do it, and the fifth section of this bill proposes to wipe out all of the pension cases upon our calendars or pending here in Congress and transfer them to the court. This is a strange sort of legislation. I must confess I cannot understand it. I do not know what it means.

Mr. WHITE. Will the gentleman allow me to ask him a question?

Mr. KEIFER. I have very little time to answer questions.

Mr. WHITE. Will not the passage by Congress of any pension law repeal that portion of the law? It is nothing.

Mr. KEIFER. I suppose the gentleman is not in favor of it because it is nothing. I am in favor of striking it out. I am in favor of striking out the whole of the fifth section. I am in favor of some law that will give the pensioners the opportunity that they want to get their claims speedily acted upon; in other words, that will give them relief. But I am opposed to saying that they shall not come here to Congress for relief, and that is the purport of this section.

Mr. GEDDES. I must now insist upon my motion. It was stated that the discussion would not be prolonged, but there seems to be some desire to do so, and I shall insist upon the motion to come to a vote upon this amendment.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Kansas.

The committee divided; and there were—ayes 32, noes 7.

So the amendment was agreed to.

Mr. WHITE. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. WHITE. My point of order is that there was an amendment by the gentleman from Tennessee moving to strike out certain words. The gentleman from Indiana offered a substitute; in other words, proposed to perfect the section. That is all right, and that was voted upon, but we never had a vote upon the amendment of the gentleman from Tennessee.

The CHAIRMAN. The Chair will state that a vote was taken and the committee had already passed upon that point.

Mr. GEDDES. I rise to a question of order. I would like to know what is pending before the committee.

The CHAIRMAN. The gentleman from Pennsylvania is rising to a question of order.

Mr. WHITE. I press my question of order. I submit that the gentleman from Indiana offered a substitute; in other words, offered to perfect the language of the section. That was done. Now, then, it was all right to perfect the section, but after the section was perfected then the vote should have been taken by the committee on the motion to strike out. I submit that we have never done that.

The CHAIRMAN. The Chair will state that the vote was taken on that amendment.

Mr. WHITE. I appeal to the record. My recollection is we had no vote on the motion to strike out.

Mr. CONGER. The case is simply this: The gentleman from Indiana [Mr. BROWNE] moved a substitute for the motion of the gentleman from Tennessee [Mr. BRIGHT] to strike out. The committee adopted the substitute. Then the question was put, Shall the amendment as amended by that substitute be adopted? and it was agreed to.

The CHAIRMAN. That statement is correct.

Mr. WHITE. I withdraw the point of order, and I now move to amend by striking out from the word "together," in line 5, to the word "pensions," in line 8, namely, these words:

Together with all applications for pension and arrears of pension which do not come within any pension law and cannot be adjudicated and allowed by the Commissioner of Pensions.

Mr. BROWNE. That has already been passed upon.

The CHAIRMAN. The vote has been taken already upon the motion to strike out those words.

Mr. WHITE. I move to reconsider the vote by which the committee refused to strike out those words.

The CHAIRMAN. The motion to reconsider is not in order in the committee.

Mr. UPSON. Is it now in order to offer a substitute for the section?

The CHAIRMAN. That would be in order.

Mr. UPSON. Then I offer as a substitute for section 2 what I send to the desk.

The Clerk read the substitute offered by Mr. UPSON, as follows:

SEC. 2. That it shall be the duty of said court to examine and determine all claims for pensions, increase of pensions, for restoration to the pension-rolls, and for arrears of pensions arising under the laws of the United States which may be disallowed by the Commissioner of Pensions; and the decision of said court upon any such claim shall be final, except where the disability for which the pension was granted has been removed, in whole or part, and in cases of fraud, as hereinafter provided; and when in the judgment of said court the claimant has an equitable right to relief, but which the law does not make provision for, said court shall finally determine and allow such claim.

Mr. CASWELL. Just one word. The language of that amendment would compel this court to examine every case that was rejected, whether appealed or not. A rereading, I think, would disclose that fact. After the words "which may be disallowed by the Commissioner of Pensions" there should be added "and which are appealed."

Mr. COFFROTH. Vote it down. That will be the best way of settling the matter.

The question being taken on Mr. UPSON's substitute, it was not agreed to.

The Clerk commenced the reading of section 2.

Mr. OSCAR TURNER. I understand there have been now two amendments adopted to section 3, but no vote has been taken on the section as amended.

Mr. CONGER. It is not usual to take a vote on a section as amended.

The CHAIRMAN. A formal vote is not necessary, as the Chair understands, on the section.

Mr. ROBINSON. I desire to suggest an amendment to the second section, of which I gave notice and to which I think there will be no objection. I offer the following amendment:

After the words "Commissioner of Pensions," in line 5, insert the words "after an adverse decision by him."

Mr. COFFROTH. The committee will accept that.

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. That each member of said court shall be entitled to an annual salary of $4,000, payable quarterly from the Treasury.

SEC. 4. That said court shall appoint for said court, if deemed necessary, one chief clerk at an annual salary of $1,800, and two assistant clerks at an annual salary of $1,200 each, and a messenger at an annual salary of $800, each payable quarterly from the Treasury. The clerks and messenger shall take an oath for the faithful discharge of their duties, and shall be under the direction of the court in the performance thereof, and for misconduct or incapacity they may be removed by it from office.

Mr. ANDERSON. I wish to ask the gentleman in charge of the bill why the committee did not provide for more clerks?

Mr. GEDDES. The committee thought that the number provided for in the fourth section should be sufficient for the present.

Mr. RYON, of Pennsylvania. I offer the following amendment:

In the seventh line of section 4, after the word "oath," insert the words "or affirmation."

The amendment was agreed to.

Mr. WHITE. I suggest we should correct the language in the first line of this section so as to avoid tautology or repetition. I offer the following amendment:

After the word "appoint," in line 1, strike out the words "for said court."

The amendment was agreed to.

Mr. FIELD. I offer the following amendment:

In line 9, strike out the words "for misconduct or incapacity."

I think, as the court appoints these clerks and messengers, if they do not like them they should have the right to remove them; and if they were compelled in order to do so to prove "misconduct or incapacity" they might find themselves involved in difficulty. The general practice has been that where an officer has a right to appoint he has the right also to remove at pleasure.

The amendment was agreed to.

Mr. FARR. I see no reasons why these persons should be paid only quarterly. I move to amend by striking out the word "quarterly" and inserting the word "monthly."

Mr. COFFROTH. The courts are only paid quarterly.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. That all applications for pensions pending in Congress, not disposed of at the time of the organization of said court, shall be referred, with all the papers pertaining to each claim, to the said court.

Mr. KEIFER. I move to strike out the fifth section.

Mr. WARNER. One word. I do not want to prolong debate, but I desire to call the attention of my colleague to this fact: it is not proposed to refer these cases to the court until it is fully organized. They will be decided much more quickly by the court than they can be by Congress, and it is in the interest of the claimant to have them so referred.

Mr. KEIFER. The whole section should be stricken out because it undertakes to compel applicants to Congress for pensions to go where they have not chosen to go in the first place. It undertakes to transfer a large class of pension cases from Congress that cannot be considered at all by this court.

Mr. COFFROTH. I will state to the gentleman from Ohio [Mr. KEIFER] that the Committee has no objection to striking out this section since a portion of the second section has already been stricken out.

Mr. KEIFER. I am obliged to the gentleman for saying that. I wish to make this further observation——

Mr. GEDDES. What is the question now?

Mr. KEIFER. It is upon striking out the fifth section.

Mr. COFFROTH. Well, strike it out.

Mr. KEIFER. It will be obvious to every person, and I say this for the benefit of the gentleman from Ohio, [Mr. WARNER,] that any applicant for a pension here may under our rules withdraw his application, and if it is a proper case he can go to this court on his own volition.

Mr. BARBER. I move to amend this section 5 by striking out the word "shall" and inserting the words "may at the option of the claimant" before the words "be referred." If an application was pending here the court might well hold that it had no jurisdiction over it.

Mr. KEIFER. Any person under our rules can withdraw his application any time he chooses.

Mr. BARBER. Oh no; we may adjourn within a few days and all the cases will be left pending here. I therefore move to strike out the word "shall" and insert the words "may at the option of the claimant."

Mr. FIELD. I am in favor of referring petitions for pensions to this tribunal or to some other tribunal to ascertain the facts, even if they are to be brought before Congress for final action. I know it cannot be done by a law; I know that perhaps it cannot be done absolutely by a joint rule. But as a matter of practice, unless some reason is shown to the contrary, I am in favor of both the Senate and the House adopting a rule to refer petitions for pensions to some tribunal—to this tribunal if it shall be established—to ascertain the facts and report them to Congress. It cannot be done unless both the Senate and the House agree in some form to do it. Such a tribunal can investigate and ascertain the facts better than our committees can.

If we are to leave Congress open to applications for pensions, as it now is, every Congress will be swamped just as we are now swamped. I know it is said that the right of petition is a sacred one. But it is entirely in accord with the right of petition that we should refer a petition which may be presented here to any tribunal we may choose to select to ascertain the facts and report the case back to us for action. In what form that should be done I do not now say. But unless something of that kind is done at some time, either by a joint rule or by understood practice of the House, except in extraordinary cases, very little relief will be given by this bill.

Mr. UPDEGRAFF, of Ohio. I hope this section will be stricken out. There are now between one hundred and two hundred pension cases on our Calendar which have been passed upon by the Committee on Pensions. That committee has spent nearly five months in the examination of those cases.

I hope this section will be stricken out, not only for the reason given by my colleague, [Mr. KEIFER,] but for the further reason that I hope it will be understood that this House will make an honest and faithful endeavor to finish our Calendar of pension cases before this Congress adjourns. There are on the Calendar only those cases which the Committee on Invalid Pensions have thoroughly examined, and it would not require a great deal of time to consider them.

If it is understood that all these cases are to be tumbled over into this court, then there will nothing be done here in regard to them. I do not intend to say a word against this or any other measure which shall to some extent relieve Congress; for this is a measure to relieve Congress, and not for the relief of pensioners. I am willing to do that, but not unless we shall understand now that we will make a faithful effort to clear the Calendar of the pension bills now on it.

If those bills shall be referred to this court, all the evidence to be gone over again, and then the bills to be again brought back here, there will be little relief even to Congress. And we cannot deny by any law the right of petitioning to this Congress, or the right of Congress to act upon any application for relief that may be made to it. I hope, therefore, that the whole section will be stricken out.

Mr. LOUNSBERY. This fifth section to my mind presents all the difficulty with which the Committee of the Whole has been struggling during this evening. The difficulty with this subject is that which is expressed in the old maxim that you cannot eat your cake and have it.

This bill undertakes to do a thing which is absolutely impossible. I know the great purpose is to take out of Congress the great number of pending pension claims. Section 5, as it now reads, utterly fails to do that, and will fail to do it unless a clause be added to it taking from Congress future jurisdiction of pension claims.

Mr. KEIFER. You cannot do that.

Mr. LOUNSBERY. We might as well meet this question distinctly here and now.

Mr. KEIFER. I suppose the gentleman will agree that we cannot pass any bill which will take jurisdiction from Congress over these claims.

Mr. LOUNSBERY. We can attempt to do it.

Mr. KEIFER. It will be but an attempt.

Mr. LOUNSBERY. We can put in a clause which shall refuse to Congress jurisdiction of pension claims, and it may be wise to do that.

Mr. KEIFER. That may be done by a constitutional provision.

Mr. LOUNSBERY. A clause specially taking from Congress such jurisdiction might result practically in keeping all such claims out of Congress, and transferring them to this court.

Mr. BRIGHT. I am opposed to striking out the fifth section. I do not believe that this Congress has any power to bind a subsequent Congress so far as applications for pensions are concerned; but the reason against striking out this section will I think be apparent when we consider what has been previously provided in the bill. In the second section we have provided that this court which it is proposed to establish shall have only appellate and not original jurisdiction. In addition to this, the applications now before Congress are cases not provided for by law; otherwise they would not be here; there would be no necessity for application to Congress if they were included in the existing law.

Mr. KEIFER. Why does the gentleman want to refer these cases to this court?

Mr. BRIGHT. I am opposed to striking out——

Mr. KEIFER. Then the gentleman is in favor of referring to the court all this class of claims that he has just spoken about, although the court under the bill would have no jurisdiction to consider them.

Mr. BRIGHT. I can explain to the gentleman probably in a moment. I was going on to state, as a reason why the section should not be stricken out but should be amended in the manner I intended to suggest, that while Congress has the power to refer these claims to a judicial tribunal for decision, (there can be no question as to that,) yet if the section be retained without amendment it may refer these claims to the court without making any provision for jurisdiction.

Mr. KEIFER. Would the gentleman refer them to a court that would have no jurisdiction of them at all?

Mr. BRIGHT. But the section ought to be amended. I think that Congress ought to be rid of these cases now pending before it; and when we refer them to the court for adjudication the court ought to be enabled to determine them.

[Here the hammer fell.]

Mr. RYON, of Pennsylvania. I want to offer an amendment, to strike out the word "shall," in the third line of the fifth section, and insert the words "may at the request of the claimant."

Mr. KEIFER. That is the substance of an amendment already pending.

Mr. RYON, of Pennsylvania. Then I wish to add, at the end of the section, the words "and said court shall have jurisdiction to dispose of the same under the provisions of the second section of this act."

Mr. KEIFER. That gives original jurisdiction not provided for in the second section.

Mr. RYON, of Pennsylvania. Yes, it gives original jurisdiction not provided for in the second section, jurisdiction of these cases pending in Congress, which by this amendment will be referred to the court at the option of the claimant.

Mr. KEIFER. There are some claims of this kind: A person who never was in the Army at all, but was a scout or a guide and suffered some injury during the war, applies here for a pension. Is it proposed by this amendment to give this court original jurisdiction without defining any general rules to govern it so that it may grant a pension to an applicant of this sort?

Mr. RYON, of Pennsylvania. If the gentleman will read the section as I propose to amend it——

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania that there is already pending an amendment to the amendment. The question will first be taken upon the amendment of the gentleman from Illinois [Mr. BARBER] to the amendment of the gentleman from Ohio, [Mr. KEIFER.] The amendment of the gentleman from Illinois will be read.

The Clerk read as follows:

In line 3 strike out the word "shall" and insert "may at the option of the claimant."

Mr. MITCHELL. I think the amendment of my colleague [Mr. RYON] is in order as a substitute.

The CHAIRMAN. Does the gentleman from Pennsylvania offer his amendment as a substitute?

Mr. RYON, of Pennsylvania. Yes, sir. My amendment differs from the one just read, because it proposes to add language at the end of the section.

The CHAIRMAN. The Clerk will read the substitute offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Strike out "shall," in the third line, and insert "may at the request of the claimant;" and after the word "court," in the fourth line, add: "and said court shall have jurisdiction to dispose of the same in accordance with the provisions of the second section of this act."

Mr. RYON, of Pennsylvania. I ask the Clerk to read the section as it will stand with my amendment.

The Clerk read as follows:

SEC. 5. That all applications for pensions pending in Congress, not disposed of at the time of the organization of said court, may at the request of the claimant be referred, with all the papers pertaining to each claim, to the said court; and said court shall have jurisdiction to dispose of the same in accordance with the provisions of the second section of this act.

Mr. DUNNELL. It is evident we cannot dispose of this matter tonight. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. SIMONTON having taken the chair as Speaker *pro tempore*, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5394) to organize a court of pensions, and had come to no resolution thereon.

Mr. DUNNELL. I move that the House adjourn.

The motion was agreed to; and accordingly (at ten o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. NELSON W. ALDRICH: The petition of Warren & Wood and 11 others, merchants and dealers in crockery, in Providence, Newport, and Pawtucket, Rhode Island, that the duty on earthenware be reduced from 40 to 20 per cent. *ad valorem*—to the Committee on Ways and Means.

By Mr. COVERT: The petition of Thomas Attkin and others, of Suffolk County, New York, for the opening of a channel between Lloyd's Harbor and Cold Spring Bay, Long Island—to the Committee on Commerce.

By Mr. HENDERSON: The petition of Mrs. Mary E. Fane, widow of John Fane, late a soldier in the Thirty-eighth Regiment Illinois Volunteers, to remove the charge of desertion from his military record, and for back pay and bounty due him—to the Committee on Military Affairs.

By Mr. HERBERT: Memorial of the board of health of the State of Alabama, in relation to national quarantine—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. KILLINGER: The petition of citizens of Milton, Pennsylvania, which place was recently destroyed by fire, for an appropriation to erect a suitable building for a post-office in that town—to the Committee on Public Buildings and Grounds.

By Mr. McKENZIE: The petition of citizens (late soldiers) of Kentucky, against the passage of the sixty-surgeon bill and for the passage of a bill to organize a court of pensions—to the Committee on Invalid Pensions.

By Mr. MITCHELL: The petition of about 200 farmers and others, for the passage of an act to prohibit the manufacture and sale of oleomargarine as butter—to the Committee on Agriculture.

By Mr. ROTHWELL: The petition of John L. Shipley, T. E. Williforce, W. W. Holmes, and 10 others, of Mercer County, Missouri, for the passage of a bill for the relief of Albert Bruse, postmaster at Ravanna—to the Committee on Claims.

By Mr. SHELLEY: The petition of J. J. Almy, that he be paid the proceeds of the sale of certain cotton picked up by him floating derelict on the high seas—to the Committee on Appropriations.

By Mr. THOMAS UPDEGRAFF: The petition of Thomas Williams and 70 others, citizens of Clayton County, Iowa, for the removal of the duty on salt—to the Committee on Ways and Means.

Also, the petition of W. H. Colton and others, citizens of Winneshiek County, Iowa, against the reduction of the duty on wool—to the same committee.

By Mr. WHITE: The petition of rectifiers and refiners, of Cincinnati, Ohio, against certain amendments to the revenue laws—to the same committee.

Also, the petition of sugar dealers of New York and Philadelphia, relating to the duty on sugar—to the same committee.

Also, the petition of American type-founders, against the removal of the duty on type—to the same committee.

Also, the petition of soldiers of Pennsylvania, that a pension be granted to Joshua Heakin—to the Committee on Invalid Pensions.

Also, the petitions of V. A. Brooks and others, of Cameron County; of S. W. Walker and 28 others, of Indiana County; and of T. T. Orr and others, of Clarion County, Pennsylvania, for the amendment of the patent laws so as to make the manufacturer or vendor alone responsible for infringement—to the Committee on Patents.

Also, the petition of T. T. Orr and others, of Clarion County, and of Joshua Lydic and 27 others, of Indiana County, Pennsylvania, for the passage of laws to alleviate the oppressions imposed upon the people by the monopolies at present controlling the interstate commerce of the country—to the Committee on Commerce.

Also, the petition of M. W. Brady and 27 others, of Indiana County, and T. B. Orr and others, of Clarion County, Pennsylvania, that the Department of Agriculture be made a Cabinet bureau—to the Committee on Agriculture.

Also, the petitions of William Clark and others, of William Chenowith and others, of Samuel Painter and others, of William Cochran, and 111 others, of Indiana County; of James E. Glasgow and others, of E. O'Neill and others, of H. M. Locker and others, and of William C. Devincy and others, ex-soldiers of Pennsylvania, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petitions of C. Shambaugh and others, of Indiana County; of William S. Hosack and 29 others, of Ambrose; of J. A. Henny and others, of Clarion County; of James J. Barrett and others, of Armstrong County; and of Cyrus Frause and others, of Fryburgh, Pennsylvania, soldiers in the late war, for the passage of the Weaver soldier bill—to the same committee.

Also, the petitions of Henry Shaeffer and others, of Whitesburgh and Cochran's Mills; of Peter C. Spencer and others, of Indiana County; of J. C. Bair, and other citizens of Shady Plain; of John H. Work and 47 others, of Brady; of Johnson Hamilton and 49 others, of Elk City; of James Campbell and others, of Leatherwood; of Edward Lewis and 18 others, of Reynoldsville; of Lewis Steele and others, of Jefferson County; of William Barlett and others, of Brinkerton; of Samuel W. Anderson and others, of Clarion County; of L. W. Shirley and others, of Curllsville; of John Sager and others, of Limestone, Pennsylvania; and of J. F. Morton and others, of Kentucky, ex-soldiers, against the passage of Senate bill No. 496, relating to pension claims—to the Committee on Invalid Pensions.

By Mr. FERNANDO WOOD: The petition of dealers in crockeryware, of New York City, for the reduction of the duty on said ware—to the Committee on Ways and Means.

Also, the petition of iron companies of Lime Rock and Sharon, Connecticut, for the passage of a bill to create a tariff commission—to the same committee.

IN SENATE.

WEDNESDAY, *May* 19, 1880.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the 13th instant, a copy of a report of the Commissioner of the General Land Office concerning land grants to aid in the construction of railroads; which, on motion of Mr. GARLAND, was referred to the Committee on the Judiciary, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia;

A bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes; and

A bill (H. R. No. 5562) for the relief of the heirs of colored soldiers.

The message also announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. T. R. COBB of Indiana, Mr. J. C. S. BLACKBURN of Kentucky, and Mr. J. R. HAWLEY of Connecticut, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama;

A bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt; and

A bill (H. R. No. 3969) to remove the political disabilities of William B. Talliaferro, of Virginia.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois, presented the petition of J. H. Skinner, of Hillsborough, Illinois, engaged in the manufacture of woolen goods, employing seventy-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie upon the table.

Mr. CAMERON, of Pennsylvania, presented the petition of Joseph C. Turnpenny and 16 others, citizens of Philadelphia, Pennsylvania, and the petition of T. Ellwood Chapman and 22 others, citizens of Philadelphia, Pennsylvania, praying Congress to pass a law granting land titles to Indians in severalty on their reservations, said titles not to be subject to alienation, lease, or incumbrance for the period of twenty-five years from the date of the patent; which were referred to the Committee on Indian Affairs.

He also presented the petition of Mrs. Margaret S. Heintzelman, widow of the late Major-General Samuel P. Heintzelman, United States Army, praying for the passage of a bill granting her a pension at the rate of $50 per month; which was referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania. I desire to present a short memorial, which I will read. It is as follows:

To the Senate and House of Representatives
of the United States in Congress assembled:

The yearly meeting of the religious Society of Friends of Pennsylvania, New Jersey, Delaware, and the adjacent parts of Maryland, held in Philadelphia, respectfully memorialize your bodies for the passage of a bill instituting a national commission of inquiry to investigate thoroughly and impartially the alcoholic liquor traffic in its relation to crime, pauperism, the public health, and general welfare; and also the results of license and prohibitory legislation in the several States and Territories of the Union.

Signed by direction and on behalf of the yearly meeting, at its session held fifth month, 15th, 1880.

BENJAMIN G. FOULKE,
PHEBE W. FOULKE,
Clerks.

I move the reference of the memorial to the Committee on Finance.

The motion was agreed to.

Mr. COKE presented a petition of citizens of Texas, praying an appropriation for the removal of a sand-bar at the mouth of the Brazos River in that State; which was referred to the Committee on Commerce.

Mr. BAYARD. By request of Mr. Francis Vincent, a citizen of the United States and a resident of Wilmington in the State of Delaware, I present his memorial in favor of the formation of an Anglo-Saxon confederacy. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. RANDOLPH presented the petition of Mrs. Mary C. Blake,

widow of the late Commodore Homer C. Blake, United States Navy, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MORRILL. I present the memorial of the Vermont Merino Sheep Breeders' Association, wherein they represent that any change of the present tariff on wool and woolens would be disastrous to the great wool growing and wool manufacturing interests of the country, and they earnestly pray that no change shall be made that will bring upon us the same disasters that have fallen upon free-trade countries. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. MORRILL presented a petition signed by E. N. Bissell as president and Albert Chapman as secretary of the Sheep Breeders' Association, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. CONKLING presented the petition of the Napanock Rolling Mill Company, H. G. H. Tarr manager, of Napanock, New York, manufacturers of merchant bar-iron, employing fifty hands; the petition of the Oswego Falls Manufacturing Company, Oswego Falls, New York, manufacturers of woolen goods, employing nine hundred and fifty hands; and the petition of James Roy & Co., of West Troy, New York, manufacturers of woolen goods, employing seven hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. HEREFORD presented the petition of the Elk River Iron Company, of Strange Creek, Braxton County, West Virginia, manufacturers of charcoal cold black pig-iron, employing eighty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

SCHOOL OF FORESTRY.

Mr. McMILLAN. Mr. President, a few weeks since I had the honor of presenting to the Senate a memorial of the Chamber of Commerce of Saint Paul asking for a grant of public lands to the State of Minnesota as an endowment of a school of forestry, and of introducing at the same time a bill (S. No. 1405) to carry into effect the measure proposed in the memorial.

This memorial and the bill accompanying it were the result of the labors, investigation, and study of a special committee raised by the chamber of commerce to inquire into the expediency of establishing a school of forestry. This committee consisted of General C. C. Andrews, L. B. Hodges, esq., and Hon. W. R. Marshall. The chairman of the committee, General C. C. Andrews, late minister-resident of the United States to Sweden and Norway, while holding that position, made an interesting and able report to the State Department on the forests and forest culture of Sweden. Mr. Hodges had for several years the superintendence and general management of the tree-planting and arbor-cultural interests of one of the principal railroads in Minnesota, and Hon. W. R. Marshall, late governor of Minnesota, a civil engineer by profession, has had large experience and extensive observation of the forests and of the prairie lands and plains of the Northwest and West. They are gentlemen peculiarly qualified by their learning, observation, experience, and sound judgment to consider this subject. Their report is both interesting and instructive.

After the adoption of the report of the special committee by the chamber of commerce, the memorial and bill referred to were submitted for consideration to a number of distinguished persons, among others, the president of Yale College, the president of Amherst College, the president of the University of Wisconsin, the president of Cornell University, the president of Carleton College, the governor of Iowa, the president of the American Forestry Association, whose opinions *pro and con* have been expressed in their communications in response to the letters addressed to them. These communications I am sure will aid the committee in charge of this subject in their investigation. I have therefore the honor of presenting to the Senate their communications, together with the report of the special committee I have mentioned. I move that these papers be printed and referred to the Committee on Agriculture.

The motion was agreed to.

SOMERVILLE NICHOLSON.

Mr. ANTHONY. I enter a motion to reconsider the vote by which the bill (S. No. 201) for the relief of Somerville Nicholson was passed. If the bill has gone to the House of Representatives I move that a message be sent to the House requesting its return.

The PRESIDENT *pro tempore*. The Senator from Rhode Island enters a motion of reconsideration in the case of the bill relating to Somerville Nicholson and asks that a message be sent to the House of Representatives requesting the return of the bill. Is there objection?

Mr. VOORHEES. I object. I object most emphatically.

The PRESIDENT *pro tempore*. Senators, as many as are in favor of the motion will say "ay."

Mr. VOORHEES. Is the motion debatable?

The PRESIDENT *pro tempore*. The Chair does not think it is.

Mr. VOORHEES. The Senator from Rhode Island knew that the question was coming up and was advised so by me and by the Senator from Pennsylvania, [Mr. CAMERON,] both.

Mr. ANTHONY. I did not know that it was coming up.

Mr. VOORHEES. I told the Senator so myself.

Mr. ANTHONY. I misunderstood the Senator, then. An attempt was made to take it up in the morning, but I did not understand the Senator from Indiana to say it was to be taken up in the afternoon, nor did I understand the Senator from Pennsylvania so.

Mr. VOORHEES. I advised the Senator from Rhode Island yesterday and the day before both, that it was our purpose to take it up at any moment we could.

The PRESIDENT *pro tempore*. Senators will suspend. As the Chair understands, a Senator has a right to enter a motion to reconsider at any time within two days, and if it is necessary to get the bill back from the House the Senate can order it to be sent for.

Mr. VOORHEES. I suppose the Senate can.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Rhode Island.

Mr. HOAR. Is not a motion that a message be sent to the House of Representatives debatable?

The PRESIDENT *pro tempore*. The Chair does not think it is.

Mr. HOAR. Under what rule does a motion to send a message to the House of Representatives become undebatable?

The PRESIDENT *pro tempore*. The Chair will submit to the Senate the question whether the motion is debatable or not.

Mr. HOAR. Perhaps there will be no objection to a word being said, without raising the question whether it is debatable or not. I desire to make a suggestion to the honorable Senator from Indiana. I voted for the bill and I expect to vote for it again, but I desire to suggest to the Senator from Indiana that it would be very inconvenient in our relations to each other if objection is made when a Senator desires the day after a bill passes to have it returned, desiring to say something about it, if it should be objected to. I hope the Senator from Indiana will withdraw his objection. I do not think it will hurt his bill any.

Mr. VOORHEES. I pay great respect to the suggestions of the Senator from Massachusetts——

The PRESIDENT *pro tempore*. With the permission of the Senator from Indiana, the Chair will read, in answer to the inquiry of the Senator from Massachusetts, the index to the rules, or he can turn to the rule itself, if necessary:

> When a bill or other matter shall have gone out of the possession of the Senate the motion to reconsider shall be accompanied by a request for the return of the same.
>
> Which last motion shall be determined at once and without debate.

The Senator from Rhode Island has entered a motion to reconsider the vote by which the bill was passed, and moves that a message be sent to the House requesting the return of the bill.

Mr. ANTHONY. I am not certain that the bill has gone to the House.

The PRESIDENT *pro tempore*. The Chair will ascertain the fact.

Mr. ANTHONY. I will say that I have no expectation of defeating the bill, but I desire to offer an amendment to it. It was taken up in my absence. I certainly did not understand my friend from Indiana to say that it was to be taken up yesterday. An attempt was made to take it up in the morning hour and it failed. I did not understand that the bill was to be taken up yesterday, or I should not have left the Senate.

Mr. VOORHEES. Allow me to say, in all kindness to the Senator from Rhode Island, to put us both right, that on the day before yesterday, on Monday, I spoke to the Senator on the subject. Prior to that I had a long and full talk with the Senator from Rhode Island on this subject urgently appealing to him to withdraw his objections, if he had any. While he did not affirmatively withdraw them I thought that his objections were very much allayed. Again on Monday I spoke to the Senator from Rhode Island on the subject of calling the bill up, the Senator from Pennsylvania did the same; and we tried to get him to waive his objection. I thought if there was any one thing specifically known by any one Senator on the floor, it was known by the Senator from Rhode Island that the Senator from Pennsylvania and myself (the Senator from Pennsylvania representing the Naval Committee) desired and intended to embrace any proper opportunity that presented itself to put the bill on its passage. That we thought he understood perfectly, and we conferred about it when we noticed the absence of the Senator from Rhode Island yesterday evening; and really, if the Senator will pardon me, the Senator from Pennsylvania and I supposed that the absence was on purpose.

Mr. ANTHONY. I do not put this motion upon the ground of my absence. It is the duty of a Senator to attend in his seat, and if bills are passed in his absence he may complain of lack of courtesy, but not of lack of order. But I desire to offer an amendment to the bill, and I put this motion upon my right to enter a motion to reconsider. I never have known a request to be refused to return a bill.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Rhode Island that the enrolling clerk reports that the bill has not been sent to the House, so that a motion to request the return of the bill is unnecessary.

Mr. ANTHONY. Then my motion to reconsider is in order.

The PRESIDENT *pro tempore*. It is in order.

Mr. ANTHONY. I am willing to have the motion considered immediately if the Senator from Indiana desires it. I have no desire to fight against the will of the Senate.

Mr. VOORHEES. There is no Senator for whom I cherish kindlier feelings than the Senator from Rhode Island, and I wish to relieve myself and the Senator from Pennsylvania from any imputation of discourtesy on account of the absence of the Senator from Rhode Island yesterday evening. We did not suppose that he desired to be present, and we supposed that he knew exactly what we were doing and designing to do.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered. Reports of committees are next in order.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committe on Naval Affairs, to whom was referred the bill (S. No. 1025) fixing the relative rank and pay of certain officers on the retired list of the Navy, reported it with an amendment.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 364) for the relief of Samuel A. Lowe, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SAUNDERS, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 1772) to provide for the sale of the reservation of the Confederated Iowas, Sac, and Fox tribes of Indians in the States of Nebraska and Kansas, and for other purposes; which was read twice by its title.

Mr. TELLER, from the Committee on Claims, to whom was referred the bill (S. No. 1325) for the relief of Joseph C. Irwin, reported it without amendment, and submitted a report thereon, which was ordered to be printed, and the bill and report were recommitted to the committee.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the bill (S. No. 1365) for the relief of Thomas P. Wollaston, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HOAR, from the Committee on Claims, to whom was referred the petition of Mrs. Mary Hopperton, praying that a sum of money be granted her in lieu of a pension for services of her late husband in the war with Mexico, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. GROOME, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 2793) for the relief of Rachael Martin, reported it without amendment and submitted a report thereon; which was ordered to be printed.

Mr. COKE, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; which was read twice by its title.

PENSACOLA NAVY-YARD.

Mr. JONES, of Florida, from the Committee on Naval Affairs, to whom were referred the letters of the Secretary of the Navy of January 22 and 24, 1880, recommending an appropriation by Congress to put the Pensacola navy-yard in a state of efficiency, reported the following resolution:

Resolved, That in the opinion of this committee the sum of $200,000 ought to be appropriated at the present session of Congress to enable the Secretary of the Navy to make such improvements at the Pensacola navy-yard as the interests of the public service require, and that the same be reported to the Senate and referred to the Committee on Appropriations of the Senate.

The resolution was referred to the Committee on Appropriations, and ordered to be printed.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1775) for the relief of Amanda A. Sterling; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1776) granting a pension to Margaret S. Heintzelman; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1777) for the relief of Charles C. Huntley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Post-Offices and Post-Roads.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1778) authorizing the commissioners of the District of Columbia to appoint guides in said District, and for other purposes; which was read twice by its title, and, with the accompanying communication from the commissioners of the District of Columbia, referred to the Committee on the District of Columbia.

POST-OFFICE AT MILTON, PENNSYLVANIA.

Mr. CAMERON, of Pennsylvania. I wish to present a memorial and to introduce a bill. Before presenting the memorial which I hold in my hand, I desire to call the attention of the Senate to a great misfortune which has lately befallen one of the many beautiful villages which are located on the banks of the Susquehanna River. On Friday last, at noon, a fire broke out in the northern portion of the town of Milton, Pennsylvania, and before the sun set over six hundred houses were destroyed and three thousand people found themselves homeless and many penniless.

It was not a wealthy town, but was made up, as almost all of our inland Pennsylvania towns are, of well-to-do, industrious people, almost every man owning his own homestead and providing for his family by the wages he made in the local manufacturing establishments, or in trade with each other with the population of the surrounding country.

I know the place and the people well. When a boy I spent much time visiting in the neighborhood. At that time I became acquainted with those who were then a prosperous and happy people, but who are to-day in want. They are a proud people, and while gazing upon the ashes, all that remains of their once prosperous homes, do not ask charity, but they ask encouragement. They are broken, but they do not despond; they want to see their town start anew and grow to greater beauty and greater prosperity. They ask the Government to aid them by its example, they ask, and I urge it most earnestly, that the bill which I am about to submit to the Senate, appropriating $25,000 for the erection of a post-office in that town, may become a law. Should this be done the example will be followed by individual enterprise, and soon their hopes will be realized.

I will now read the memorial, which is signed by a number of citizens of Milton, and which was sent to me yesterday:

The undersigned, citizens of the late borough of Milton, so completely destroyed by fire on Friday afternoon, the 14th instant, the post-office building having been totally destroyed, together with about two million dollars' worth of property, would most respectfully ask your prompt services in behalf of a liberal appropriation at the hands of the United States Congress for the erection of a new post-office building. We feel that such a course in this hour of unutterable distress would have a tendency to encourage a speedy rebuilding of our burnt borough, and give immediate employment to many of our ruined and houseless mechanics and artisans.

This is signed by several hundred citizens of the town. I also present a memorial of like character, signed by a majority of the citizens of the neighboring town of Sunbury. I will also read a letter which I received from Ex-Governor Pollock, a native of the town of Milton, addressed to myself:

MILTON, *May* 17, 1880.

Hon. J. DONALD CAMERON,
Senate Chamber, Washington, D. C.:

The bearers are a committee in behalf of the desolated borough of Milton, to solicit your kindly offices in behalf of a liberal appropriation on the part of the United States Congress for the erection of a post-office building at this place. As a native and a citizen of the town for the best years of my life, and writing to you in the midst of the desolation, ruin, and sorrow everywhere prevalent, I appeal to you in behalf of my old friends and neighbors to do all in your power to secure such appropriation. The expenditure of a liberal sum of money by the Government for the purpose indicated will have a tendency to encourage the hearts of these downcast people, and will give immediate employment to a large number of mechanics and artisans now homeless and out of employment.

Yours, with respect,

JAS. POLLOCK.

Mr. President, I now ask leave to introduce a bill, and I ask for its immediate consideration.

By unanimous consent, leave was granted to introduce a bill (S. No. 1774) to provide for the erection of a public building in the town of Milton, in the State of Pennsylvania; and it was read twice by its title.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The bill will be read at length for the information of the Senate.

The Chief Clerk proceeded to read the bill.

Mr. EDMUNDS. Is that a bill just reported?

The PRESIDING OFFICER. It is just introduced.

Mr. EDMUNDS. I think it will have to go over. I notice there is a poor Vermonter who has a pension case on the Calendar, which was reported some time ago.

The PRESIDING OFFICER. Objection being made——

Mr. VOORHEES. I desire to arrest the attention of the Senate. This is a proposition on the part of the Senator from Pennsylvania to erect a public building for a very modest sum in the town of Milton, which has just been swept out of existence by fire, literally destroyed. One of the thriving, prosperous, and beautiful towns of Pennsylvania of four or five thousand inhabitants has been consumed from the face of the earth, and this is a proposition to spend I believe twenty or twenty-five thousand dollars to build a post-office there. They need a post-office and the spending of this money will help a people in misfortune. I hope the Senate will take the bill up and pass it. I thiuk it a worthy and proper thing to do.

Mr. WALLACE. I must appeal to the Senator from Vermont——

The PRESIDING OFFICER. The Chair will state that debate, in the face of the objection of the Senator from Vermont, proceeds by unanimous consent.

Mr. WALLACE. Of course I can only proceed by unanimous consent.

The PRESIDING OFFICER. If there be unanimous consent the Senator from Pennsylvania will proceed.

Mr. EDMUNDS. I thought this was to build a court-house. I understand it is a post-office at the town in Pennsylvania that has been destroyed by fire. I withdraw the objection I made, if that is the case.

The PRESIDING OFFICER. The objection is withdrawn, and the bill will be read for the information of the Senate.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent that the bill just read be now considered. Is there

objection? The Chair hears none, and the bill is before the Senate as in Committee of the Whole, and subject to amendment.

Mr. MORRILL. I do not rise to oppose this bill, but I desire to call the attention of the Senate to the fact that it is setting a precedent for building post-offices at small interior towns. I do not begrudge the money; I would be perfectly willing to contribute even a larger sum to the town; I merely call the attention of the Senate to the fact that this is a bill which has not been before the Committee on Public Buildings and Grounds, and is to put up a post-office at a place where the number of inhabitants would not justify at any other point under any other circumstances the building of a post-office.

Mr. CONKLING. I should have at almost any other time much sympathy with what has been said by the Senator from Vermont, [Mr. MORRILL.] Had his remarks been addressed to the Senate on any one of a number of previous occasions when bills like this have been under consideration, they would, it seems to me, have been more timely than they are just now. As I understand it, this bill proposes to erect a post-office at a town which has just been visited with a most extraordinary affliction—a town which has been swept by fire, and substantially swept out. I need not say that that makes this case an exception distinguished by its own facts. I take it that almost anything that we have power to do, it would be natural and right to do to make up in part for such a calamity as this. Here is a town; I ask the Senator from Pennsylvania of how many inhabitants was it?

Mr. CAMERON, of Pennsylvania. About three thousand.

Mr. CONKLING. And therefore a town more numerously populated than other towns for which public buildings have been ordered at this session, although no calamity had fallen upon them. Therefore I submit that to select this instance for one in which to apply a rule that we have refused to observe in other cases where no misfortune had occurred, would really be rather hard and invidious. For one, I shall vote for this bill, although I have not been able to vote for several other such bills which have found favor with the Senate.

Mr. WALLACE. I trust the bill may be put upon its passage.

We will make no precedent by such a case as this is. It is one in which the besom of fire has struck with frightful force one of our beautiful villages in the valley of the Susquehanna, and in which the percentage of loss has been greater than in any conflagration of which I have ever heard. We ask that the poor people there, who by this terrible calamity have lost homes and houses, and are without clothing and bread, money or work, may be given employment in the erection of a post-office which the Government needs, and in any event must rent. These people really want succor. Those who labor ask for work. You can help them thus, and we appeal to you to do it.

This is all that there is of this case, and I ask the Senate to take up the bill and pass it by a unanimous vote.

The demand is one that rarely comes. The case is within our clear power. No evil precedent can come from such an act, and the charity is one that every Senator can unite in passing.

Mr. CARPENTER. I wish to concur entirely in what was said by the Senator from New York on this subject. An affliction has fallen on this town. A benevolence given and distributed in money would do very little good; it would be used up and gone in ten days. This is establishing a business there, to call back mechanics, to start labor again. It will give the town some hope, and is strictly within our constitutional power to do. If it be a blessing in disguise all the better. I hope the bill will pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TOWN SITES IN UTAH TERRITORY.

The PRESIDENT *pro tempore*. Yesterday a communication from the Secretary of the Interior, in answer to Senate resolution of March 23, 1880, was received and laid on the table to await any motion the Senator from Vermont [Mr. EDMUNDS] might make.

Mr. EDMUNDS. That is the report from the Secretary of the Interior about the matter of the private land claim of Thomas McBride, I believe. I move that it be printed and referred to the Committee on Private Land Claims.

The motion was agreed to.

AMENDMENTS TO BILLS.

Mr. SLATER, from the Committee on Indian Affairs, reported an amendment intended to be proposed to the bill making appropriations for sundry civil service of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, with the accompanying papers, and ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, reported an amendment intended to be proposed to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CALL, Mr. KERNAN, Mr. CAMERON of Wisconsin, Mr. PADDOCK, Mr. ANTHONY, Mr. CONKLING, Mr. MAXEY, and Mr. PLUMB submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. HEREFORD submitted an amendment intended to be proposed by him to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. KIRKWOOD submitted an amendment intended to be proposed by him to the bill (H. R. No. 6207) making appropriation for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations.

FINAL ADJOURNMENT.

Mr. ROLLINS. I ask the Senate to take up and dispose of—I think it will take but a very few moments—the bill (S. No. 1493) to regulate the use and prevent the waste of Potomac water in the District of Columbia.

Mr. CARPENTER. Has the order of resolutions been reached?

The PRESIDENT *pro tempore*. The morning business is not yet concluded. The motion of the Senator from New Hampshire will require unanimous consent at this time.

Mr. COCKRELL. I ask for the regular order.

Mr. ROLLINS. I thought the morning business was through. As soon as it is completed, I shall ask the Senate to consider the bill.

Mr. DAVIS, of West Virginia. I rise to ask the Senate to take up the House resolution relating to adjournment for reference.

The PRESIDENT *pro tempore*. The Senator from West Virginia asks that the Senate proceed to consider the joint resolution from the House of Representatives on the subject of adjournment in order that it may be read the second time and referred.

Mr. INGALLS. I should like to hear it read in full for information.

The Chief Clerk read the resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the presiding officers of the Senate and House of Representatives shall, on Monday the 31st instant, at twelve o'clock noon, declare their respective Houses adjourned without day.

The PRESIDENT *pro tempore*. If there be no objection, the resolution is before the Senate and will be considered as having been read the second time. The Senator from West Virginia moves that it be referred to the Committee on Appropriations.

Mr. MORRILL. I ask the Senator from West Virginia if he does not think it would be quite as well to allow the resolution to remain upon the table?

Mr. DAVIS, of West Virginia. For what purpose?

Mr. MORRILL. I am sure there is no disposition to act hastily on it, or until it is perfectly apparent that we can properly adjourn. It seems to me the resolution might as well remain on the table.

Mr. DAVIS, of West Virginia. It is usual to send it to a committee. The Senator well knows that it would be there considered and would have to be returned to the Senate; and after the report it will be time to let the resolution lie on the table. I think it had better be referred now, as usual.

Mr. INGALLS. Is not this resolution one in form that would require the signature of the President of the United States if it should pass?

Mr. CONKLING. But for the Constitution.

The PRESIDENT *pro tempore*. Certainly not, the Chair responds to the Senator from Kansas.

Mr. DAVIS, of West Virginia. I think not. I think the Constitution permits the two Houses to adjourn in any form that they think proper.

Mr. INGALLS. That is true.

Mr. DAWES. The Constitution excepts specially questions of adjournment.

Mr. CONKLING. It is true that the Constitution says the signature of the President shall be necessary to joint resolutions—I do not employ the words—but it also says that a resolution adjourning the two Houses of Congress need not be submitted to the President. I think, however, no Senator can very well suppress his curiosity in regard to this resolution. Customarily, and always so far as I know from the beginning of the Government, a resolution of adjournment has been a concurrent resolution: "Resolved by the House of Representatives, (if the Senate concur,) that on such a day the presiding officers adjourn their respective Houses *sine die*." For some reason the House of Representatives has sent us a joint resolution, a resolution which in form does require the signature of the President. It is not parliamentary to impute motives; I do not mean to impute any motive to anybody; but if my design had been to contrive a resolution which would require in form the President of the United States to sign it or take the responsibility of sending it back with a veto, this is the form that I must have employed. In that case, as I have a right to ascribe motives to myself, my motive perhaps would have been to divide the responsibility and cast upon the Executive a part of the responsibility of suffering Congress to go away with very important business uncompleted, or else by his *ipse dixit* to interpose and say, "No, Congress ought to remain until some of these leading bills in which the country is deeply interested have received action."

As I said, I have no right and no disposition to ascribe motives to anybody in this case; but it is very remarkable that for any reason, now for the first time in our history, so familiar and stereotyped a thing as a concurrent resolution of adjournment should have been

transmogrified into a joint resolution which in form requires the executive signature and which can escape that signature if at all by reason of a particular provision of the Constitution which provision renders this form manifestly improper.

Mr. DAWES. Mr. President, it is true that the form of this resolution is unusual, and that a form of concurrence with the other branch is the one ordinarily adopted; but the suggestion that the President of the United States would be required to sign a resolution because it is set forth to be a joint one rather than a concurrent one, is not founded in anything in the Constitution or the law, it seems to me. So far as the Constitution expresses anything about it, it requires the signature of the President to a concurrent resolution and says nothing about a joint resolution; and if it were not for the very exception of this kind of resolution from the signature of the President, it would require the signature of the President to it whether it be in form joint or concurrent. It is not because the resolution says "in concurrence with the Senate" or "joining with the Senate," that it requires or does not require the executive signature.

I will read the Constitution:

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States.

So that if this were "Resolved by the House of Representatives, (the Senate concurring,)" there would be precisely the same constitutional obligation to present it to the President that there would if it was in its present form, which is, I agree, the ordinary form of a joint resolution, and is never the form usually adopted in resolutions of adjournment.

Mr. CONKLING. Will the Senator allow me a moment? Does he make the broad remark he does remembering or forgetting that it has been decided not only by the two Houses but by the Supreme Court, as in the case of proposing amendments to the Constitution, that no signature of the President is necessary to a mere concurrent resolution not in the nature of making laws? The Senator will remember that in a leading case long ago the Supreme Court decided that the signature of the President to a resolution doing so grave a thing as proposing a constitutional amendment was not required at all. The point of my suggestion to the honorable Senator is that, although he is technically right I think in form and in substance, he is required to narrow somewhat the observation he makes in order to bring it within the accepted understanding.

Mr. DAWES. I am quite aware that a concurrent resolution proposing an amendment to the Constitution does not require the signature of the President; but I am also aware that it did so receive the signature of the President, and the President was in so much doubt about it when it was presented to him that he concluded, notwithstanding what is to be inferred from the decisions of the Supreme Court, that it was wiser for him to sign it than to withhold his signature, and he returned it with a message expressing his opinion that it was not necessary, but still as it had been presented to him in the ordinary form he did affix his signature.

Mr. CONKLING. No; that was in regard to a joint resolution respecting the electoral count.

Mr. DAWES. No; I think it was in regard to an amendment to the Constitution. I allude to the proceeding when such a resolution was presented to Mr. Lincoln. There does not occur to me any decision of the Supreme Court on the great question whether an ordinary concurrent resolution needs to be signed by the President, I am not aware that such a resolution ever reached the Supreme Court for decision; but the Senator from New York may be right. I only say that the effect would be precisely the same whether this resolution was in the ordinary form, "resolved by the House of Representatives, the Senate concurring," because the language of the Constitution is what I have read. Inasmuch as the Constitution excepts from any such necessity this very kind of resolution, no form in which it is presented will impose upon the two Houses the necessity of obtaining the approval of the President. The Constitution has relieved the two Houses of any necessity of obtaining the signature of the President, whatever may be the form in which they may choose to indicate their united determination to adjourn at a particular time. While this resolution is not in the ordinary form, it is just as proper to be in this form as in the other.

The PRESIDENT *pro tempore*. The question is on the motion to refer this resolution to the Committee on Appropriations.

The motion was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia was read twice by its title, and referred to the Committee on Printing.

The bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 5562) for the relief of the heirs of colored soldiers was read twice by its title, and referred to the Committee on Military Affairs.

THE SOLDIERS' HOME.

The PRESIDENT *pro tempore*. "Concurrent and other resolutions" are in order.

Mr. CARPENTER. I ask the Senate to proceed to the consideration of the resolution I offered several days ago in regard to the Soldiers' Home in Washington and which was laid on the table on the morning when it was offered. It has been on the table several days. I ask that the Senate now consider it.

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Wisconsin that it was ruled by the Senate, overruling the Vice-President, that resolutions are not to be placed on the Calendar and called as they were formerly, before the adoption of the Anthony rule; and the consequence is that they do not come up as a matter of course. It would seem, therefore, to follow that unanimous consent would be necessary to take up the resolution at this time.

Mr. CARPENTER. I submit that that consequence does not follow, but that the Senate by a vote can always take up a resolution heretofore submitted. It certainly does not go on the Calendar for the purpose of killing it.

The PRESIDENT *pro tempore*. The ruling has been that any measure within the morning hour could only be taken up by unanimous consent; but after the morning hour the Calendar under the Anthony rule can be postponed by a majority of the Senate. That was the determination of the Senate overruling the Vice-President. The Chair will ask for unanimous consent, however. The Senator from Wisconsin asks unanimous consent to proceed to the consideration of the resolution submitted by him. Is there objection?

Mr. HOAR and others. What is the resolution?

Mr. CARPENTER. Let it be read for information.

The Chief Clerk read the following resolution, submitted by Mr. CARPENTER April 1, 1880:

> *Resolved*, That a committee of three, to be appointed by the Chair, be raised to examine into the condition, management, and discipline of "The Soldiers' Home" in the District of Columbia, and whether any legislation is needed upon the subject, and to ascertain and report to the Senate what amount of money the said Soldiers' Home has received, when and from what sources received; what amount of money and for what purposes it has disbursed, and the amount of money it now has, and where the same is kept and whether any part thereof is invested, and how invested. That said committee have power to send for persons and papers, administer oaths, and employ a stenographic writer to take down the evidence to be reported to the Senate.

Mr. HOAR. I object. I object for the purpose of raising the question of order, and I shall withdraw my objection when it is settled. I desire to inquire of the Chair whether the ruling is that a resolution offered by a Senator goes over as of course under one rule, and then under another never can be taken up without unanimous consent. What is the limit to the Chair's ruling?

The PRESIDENT *pro tempore*. As the Chair understands the result of the vote of the Senate, it is just this: that a resolution offered and which is not disposed of that day (and any resolution must go over if a single Senator objects to it) does not come up under the old rule which required it to be placed on the Calendar, and to come up after the call of routine business was through, but that it stands like anything else, like any bill. After the routine business is through it can be taken up by a majority on motion, but until the routine business is through it cannot be taken up except by unanimous consent.

Mr. HOAR. Will the Chair pardon me for making an inquiry? Does not a resolution offered in the time set apart for the offering of Senate resolutions, which goes over the first day under the rule that every resolution may be sent over, come up as part of the routine business when resolutions are reached the next day?

The PRESIDENT *pro tempore*. No; the Senate has decided exactly the other way on the yeas and nays.

Mr. HOAR. I do not so understand the decision. I withdraw my objection. I hope the Chair will hold that question an open one if it shall arise hereafter.

Mr. CARPENTER. I understand the Senator from Massachusetts to withdraw his objection.

Mr. HOAR. I withdraw the objection.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of this resolution?

Mr. BAYARD. I gave notice yesterday that as soon as the routine business of the Senate was completed this morning I should move to proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals. Having given that notice, I am unwilling to retire from the notice then given. As the bill to which I refer is on the Calendar before the Senate, I desire its consideration at the earliest possible moment. For that reason, without intending to antagonize at all the resolution of the Senator from Wisconsin, I still prefer that a more important matter of public business should be considered by the Senate.

Mr. CARPENTER. I appeal to my friend from Delaware. The resolution I offered can probably be passed in three minutes. The bill he alludes to is a political bill which will lead to long debate. This resolution has been lying over for many weeks, and I hope the Senator will not object to its being passed.

Mr. BAYARD. Does the Senator suppose that a resolution creating a select committee will pass in three minutes?

Mr. CARPENTER. I only suppose that from the fact that it ought to.

Mr. BAYARD. When a resolution was offered some time since affecting a subject-matter of no less importance than the interoceanic canal, and it was brought before the Senate, it was debated for days upon the ground that a special committee was not required. The

subject to which the Senator refers is a matter of interest, and it may well be a question whether it ought not to pass into the hands of the Committee on Military Affairs, whether they are not perfectly competent to deal with it with their present staff. I only say this because I presume the resolution will lead to debate, and I do not desire that in that debate the measure to which I referred yesterday and again to-day shall be displaced.

Mr. CARPENTER. It is not displaced, because it is not before the Senate. It is a mere question of whether the Senate will let this matter be considered now which can be settled in a few minutes, and then the Senator's bill comes up for a three weeks' debate perhaps.

Mr. ROLLINS. I suggest as a fair compromise that we take up the water bill and dispose of that, which will lead to no debate. As to the proposition made by the honorable Senator from Delaware and that made by the honorable Senator from Wisconsin, each says that the other's proposition will lead to long and interminable debate; but upon this water question I think the debate is exhausted. There will not be much fight over water. The District Committee have instructed me to report some amendments that I think will obviate the objections that were raised by my friends from Kansas [Mr. INGALLS] and Indiana, [Mr. VOORHEES.] I think, therefore, the Senate had better take up the water bill and dispose of it, and let these vexed questions lie over for another day.

Mr. CARPENTER. I am satisfied that the water bill will never pass the Senate without a long discussion and very full consideration. I think the Senator from Delaware will be able to pass his political bill long before that water bill passes.

The PRESIDENT *pro tempore*. "Concurrent and other resolutions" are in order.

Mr. INGALLS. I ask the Chair to decide whether in the absence of the consideration of unobjected cases on the Calendar the morning hour does not expire as heretofore at one o'clock and the unfinished business come before the Senate for its consideration. The resolution that was adopted by the Senate several weeks ago was that at the conclusion of the morning business for each day the Senate would proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock. There was no change of the standing order of the Senate that the morning hour should expire one hour after meeting, that is, at one o'clock p. m. We have been passing the time, an hour and a half, in the consideration of matters not upon the Calendar, and it appears to me that the proper ruling would be that, in the absence of the consideration of unobjected cases on the Calendar, the morning hour should expire at one o'clock, and the Senate should then proceed to the consideration of its unfinished business.

The PRESIDENT *pro tempore*. The Chair will state that this question arose a week ago, perhaps, and the present occupant of the chair ruled it precisely in accordance with the view just expressed by the Senator from Kansas. He was afterward informed that the Vice-President had ruled it the other way, and in deference to his ruling the Chair has since not stopped business at one o'clock. The Chair will, however, submit the question to the Senate if it is desired.

Mr. CARPENTER. For the purpose of raising the question and settling it, I move that the Senate proceed to the consideration of the resolution offered by me, and insist upon it as a matter of right, it having lain over under objection one day and now being routine business of the morning hour.

Mr. CONKLING. Pending that motion, may I ask the Chair whether the morning business—not the morning hour but the morning business—is concluded?

The PRESIDENT *pro tempore*. It is not. The call is not through with.

Mr. CARPENTER. But I understand that the call for resolutions, under which this resolution was offered, has now been reached.

The PRESIDENT *pro tempore*. Yes.

Mr. CARPENTER. The usual course of the Senate is to consider them at that time. The rule provides that one Senator objecting a resolution shall lie over one day; and after that one day has elapsed, I take it, it then belongs to the routine of the order of resolutions and it is entitled to be considered, or at least the Senate is entitled to vote upon a motion to take it up.

Mr. MAXEY. Mr. President, the resolution of the Senator from Wisconsin, in my judgment, ought to be considered by the Committee on Military Affairs. It relates to a very important duty of that committee, and I respectfully submit to the Chair that it ought to take that direction and be reported by that committee to the Senate before being acted on by the Senate; and I move that the resolution be referred to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Chair will state the matter again lest there be some misunderstanding about this business. Rule 8 provides for the morning hour. It provides:

> First. After the Journal is read, the presiding officer shall lay before the Senate messages from the President, reports and communications from the heads of Departments, and other communications addressed to the Senate; and such bills, joint resolutions, and other messages from the House of Representatives as may remain upon his table from any previous day's session undisposed of.

That is the first thing to be done after the reading of the Journal. Then—

> Second. The presiding officer shall then call for, in the following order:
> The presentation of petitions and memorials.
> Reports of the standing and select committees.
> The introduction of bills and joint resolutions.
> Concurrent and other resolutions.
> Until the business of the morning hour shall have been concluded and so announced from the Chair, no motion to proceed to the consideration of any bill, resolution, report of a committee, or other subject upon the Calendar shall be entertained by the Chair, unless by unanimous consent.

Mr. CARPENTER. That seems to settle it, Mr. President.

The PRESIDENT *pro tempore*. Formerly we had in the Calendar a list of resolutions that had been introduced one day and objected to and came over. The understanding of the Vice-President—and I confess that I thought he was right in that—was that if there was anything of the morning hour left after its routine business, he was to call up these resolutions in the order they stood on the Calendar; but the Senate by a majority vote decided that the Anthony rule, so called, displaced this provision and made it incumbent upon the presiding officer to call the Calendar under the Anthony rule the moment the morning business was disposed of, no matter when that should be, at half past twelve or at three quarters past twelve, or at one; and that therefore these resolutions did not come up. That makes it necessary after the close of the morning business to move to take up a resolution which has been introduced on a former day just as much as it is to take up any bill on the Calendar.

Mr. HOAR. Will the Chair permit me to call his attention to one consideration? This is a very important matter, because the ruling indicated substantially deprives a Senator of the right to ask the Senate for an order for any information which he may deem necessary in the discharge of his duty, through a committee of inquiry or a call on the Departments.

The eighth rule provides that at a certain time in the morning hour "concurrent and other resolutions" shall be in order. Then the thirty-third rule is:

> All resolutions shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

Now, if it be true that a resolution of its own motion, except there is a unanimous order otherwise, lies over one day, and it be also true that resolutions are in order at a certain time, is it not clear, is it not just as if it had said that all resolutions which have been presented one day shall on the second day be in order as a matter of course?

The ruling which the Vice-President made the other day related to resolutions which had laid over many days, which had been displaced, from this right which they have on the day after they are first presented and have gone to the General Calendar, and the Senate held that the Anthony rule displaced such resolutions from their place in the morning business. But this resolution is a resolution that was offered yesterday, and the rules of the Senate say in substance that when a resolution is offered it shall be set down for consideration at the end of the morning hour on the second day. That is the substance of the rule.

Mr. CONKLING. This resolution was offered weeks ago.

Mr. HOAR. I thought this was offered yesterday.

Mr. CARPENTER. No.

Mr. HOAR. Then the last observation which I made would not apply; but I understood the Chair to rule that resolutions which had gone over one day under the thirty-third rule lost their right altogether.

The PRESIDENT *pro tempore*. They cannot be taken up except by unanimous consent during the morning hour or by a majority of the Senate after that. The ruling to which the Chair referred is found in the Journal of the Senate, page 369, March 24, of this year:

> On motion of Mr. HILL, of Georgia,
> The Senate proceeded to consider, as in Committee of the Whole, the resolution reported by him March 9, 1880, for the appointment of an assistant librarian for the Senate, at a salary of $1,440 per annum.
> Pending debate, an objection having been made to the further consideration of the resolution,
> The Vice-President decided that the consideration of the resolution was in order. Subsequently, and while the resolution was under consideration, the Vice-President asked the Senate to place its construction upon the point made by Mr. COCKRELL, and submitted the following proposition:
> Does what is known as the Anthony rule supersede that part of the eighth standing rule of the Senate, which provides that—
> "If any portion of the morning hour shall remain after the call for resolutions, the presiding officer shall lay before the Senate, in their order, resolutions and concurrent resolutions introduced on any prior day"—

Which includes yesterday—

> It was determined in the affirmative.
> On motion by Mr. HILL, of Georgia, that the Senate postpone the present and all prior orders,
> It was determined in the affirmative.

The Senate made that decision and it is binding on the Chair.

Mr. CARPENTER. I make this inquiry under that construction, if in the opinion of the Chair it makes any difference that the resolution has been lying over several days?

The PRESIDENT *pro tempore*. Not the least. There is no difference between one introduced yesterday and one introduced last week.

Mr. CARPENTER. If introduced yesterday it would be in the same category to-day?

The PRESIDENT *pro tempore*. Precisely. Resolutions are still in order.

Mr. MAXEY. Would it not be in order to move to take the resolution of the Senator from Wisconsin from the Calendar and refer it to a committee?

The PRESIDENT *pro tempore*. If there are no further concurrent

or other resolutions offered the morning business is at an end, and a motion to proceed to the consideration of the resolution is in order.

Mr. MAXEY. I do not ask for its consideration, but to take it from the Calendar and refer it to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. That would be its consideration. Are there further "concurrent or other resolutions?" The Chair hears none. Now the motion is in order.

Mr. CARPENTER. I move that the Senate proceed to the consideration of the resolution indicated by me.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves that the Senate proceed to the consideration of the resolution in regard to the Soldiers' Home.

Mr. BAYARD. Without desiring to antagonize the resolution of the Senator from Wisconsin, I do not wish that its consideration should have precedence of the bill which I said I would move to consider, and as the morning hour is about expiring, and as I know the honorable Senator from South Carolina [Mr. BUTLER] intends to speak upon the regular order I give notice that I shall press the consideration of Senate bill No. 1726 in preference to the resolution of the Senator from Wisconsin.

Mr. CONKLING. Why not let this resolution be disposed of in the moment that remains, if it can be?

Mr. BAYARD. My desire is that the resolution now moved shall not again displace the measure in my charge.

Mr. CONKLING. It falls at the end of the morning hour if not disposed of.

Mr. BAYARD. Is there not a motion pending by the honorable Senator from Texas for the commitment of this resolution of the honorable Senator from Wisconsin?

The PRESIDENT *pro tempore*. No; the resolution has not yet been taken up. The question is on the motion of the Senator from Wisconsin, that the Senate proceed to the consideration of the resolution indicated by him.

The question being put, there were on a division—ayes 21, noes 29.

Mr. CARPENTER. I call for the yeas and nays.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the Chair calls up the regular order, which is the resolutions reported by the Committee on Privileges and Elections in relation to the seat of the Senator from Louisiana; upon which the Senator from South Carolina [Mr. BUTLER] is entitled to the floor.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed a bill (H. R. No. 5389) for the relief of Samuel Harper; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 2850) to provide a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania; and

A bill (H. R. No. 2481) to create an additional land district in the State of Kansas.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. BUTLER. Mr. President——

Mr. HILL, of Georgia. I ask the Senator from South Carolina to allow me to make a statement in answer to a question propounded by the Senator from Massachusetts [Mr. HOAR] yesterday before he proceeds.

Mr. BUTLER. I have no objection whatever to the Senator from Georgia occupying a few moments.

Mr. HILL, of Georgia. Mr. President, yesterday the Senator from Massachusetts said:

> I wish simply to state that several Senators on the other side, more than one certainly, have stated to the Senate that a certain list which they referred to or annexed to their speeches, of custom-house and other Federal officers, contained the names of thirty-nine members of the Louisiana Legislature. Some of the Senators who have addressed the Senate on the other side of the Chamber have also said that there was evidence before the committee that the returns of elections were sent for and taken to a certain room in the custom-house or some other public building in Louisiana. I simply wish to call the attention of the gentlemen who made those statements to the fact that nobody who made either of them has yet retracted them. That is all.

I ask the Senator from Massachusetts if I am to understand him as denying the correctness of the statement that was made on this subject? Does he deny that there are thirty-nine, or were in June thirty-nine members of what is known as the Packard legislature in the custom-house and other public offices?

Mr. HOAR. I will answer the Senator in regard to both the points which I made at once, if he pleases. I am informed that on the lists which were produced and referred to as containing the names of thirty-nine members of the Legislature, there are borne the names of but three. I am informed that there are in other public offices, however, eleven other names, making fourteen in all, instead of thirty-nine, as was claimed, of members of that Legislature. That is my answer as to the first point.

In regard to the second point, I understand that there is no evidence whatever tending to show that the sitting member or anybody sent for the returns of election, or that they were carried from the proper place of custody to the place suggested, which I understand would be the fair inference from the statement. Now, it is said that those statements applied not to the returns of the election but to the returns of registration. I do not understand that there were any such things as returns of registration. If there were such things the evidence only applied to the city of New Orleans, and not, as was said by one Senator, to several parishes, the city of New Orleans being but one parish.

In the next place such a transportation as was made of returns of registration had and could have no injurious effect whatever on the election or on the honest declaration of the election.

Mr. HILL, of Georgia. Now, Mr. President, I will lay the facts before the Senate, and let the country judge as to the information which the Senator has stated that he possesses.

Mr. HOAR. I have now the list.

Mr. BUTLER. I yielded to the Senator from Georgia to make a statement. I have yielded now two days consecutively; and while I am not disposed to interfere with the debate I cannot yield indefinitely to Senators to make statement after statement.

Mr. VEST. I wish to say——

Mr. BUTLER. The Senator from Missouri can make his statement after I have concluded.

Mr. VEST. I do not want to detain the Senate a minute.

Mr. BUTLER. So the Senator from Georgia said.

Mr. VEST. That what the Senator from Georgia says may be understood, I wish to make a single statement. The Senator from Massachusetts referred, I suppose, to a list that was published in the report of my speech on this question. In that tabulated statement are the names of members of the Packard legislature who hold office in Louisiana or did hold office. That list ought to have been corrected by myself. It was prepared by another person under my direction and published. I wish to state now the mistake I made. There were thirty-four members of the Packard legislature appointed to Federal office.

Mr. HOAR. Thirty-nine was that statement.

Mr. VEST. I said thirty-four who held office or had held office in Louisiana, and that statement was entirely true. I have prepared a list and am prepared to substantiate it. The list which I prepared, however, was not published by some accident, and an incorrect list was printed.

Mr. HOAR. Does the Senator now claim that the list furnished to the Senate the other day and which he then understood (undoubtedly he was misled) contained the names of over thirty such persons, contains more than that number?

Mr. VEST. About that list I was not misled. I fully understood it; I prepared it and supposed it had gone into my speech as I prepared it; but I find that the additional list which I myself prepared was not added to that in my printed remarks. That is the whole of it.

Mr. HILL, of Georgia. The point is this: whether there are thirty-nine members of what was known as the Packard legislature in the public offices of the country, nearly all of them in the custom-house. That is the point I am prepared to sustain.

Mr. HOAR. We will deal with that when the Senator from Georgia is ready. The Senator from South Carolina of course will yield to both sides if he does to one.

Mr. BUTLER. I must ask my friend from Georgia to allow me to proceed.

Mr. HILL, of Georgia. Of course I yield, but I have only risen to say that I am prepared to give the list. It may take a longer time than I would be willing now to trespass on the Senator from South Carolina.

Mr. CAMERON, of Wisconsin. The Senator from Georgia undoubtedly will have opportunity to present any list that he desires.

Mr. BUTLER. Mr. President, I shall vote against the resolution of the majority of the committee, because—

First. I do not believe that the Senate has the legal or constitutional power to unseat one of its members who has been seated after a contest upon the *merits* of his case except by a motion to expel.

Second. The Senate expended its power under that provision of the Constitution which makes it the "judge of the elections, returns, and qualifications of its members" when it confirmed the judgment of a majority of the Committee on Privileges and Elections giving the seat to the sitting member, no motion to reconsider having been entered at the time of the rendition or at any other time.

Third. Whatever may be my private opinion of the partisan action of the majority of the Committee on Privileges and Elections, and of the Senate which rendered judgment in favor of Mr. KELLOGG, and however much I may regret that action as erroneous and wrong, as a Senator I am bound by it until it has been made to appear that said majorities acted fraudulently upon a motion to vacate their judgment.

Fourth. The proceedings of the Senate in passing upon the "elections, returns, and qualifications of its members" are essentially judicial, and there is no power under the Constitution with appellate jurisdiction when it has rendered its solemn judgment upon a ques-

tion of the highest privilege. It would be unsafe and dangerous to establish a precedent or adopt a rule by which an appeal may be taken from one majority to another.

Fifth. It would be no sufficient justification to me to depart from the line of conscientious duty in passing upon the constitutional power of the Senate over the seat of one of its members which it has already adjudicated that the republican majority has in the past disregarded the restraints of law. That party has set so many bad examples of this kind that it would be a stinging rebuke upon their revolutionary methods if the present majority, having the power of numbers, should show to the country that it has the courage to respect the judgments of the Senate in the face of a "terrible temptation" to retaliate in dealing with a most aggravated and aggravating case.

Sixth. The maxim *interest reipublicæ ut sit finis litium* is as important in this body as in any other tribunal; more important, in fact, if there are any degrees of importance in such a principle, because upon the conservatism, stability, dignity, and fidelity of this body largely depends the perpetuation of our free institutions.

Seventh. The majority of *this* committee say, in effect, that there was no lawful Legislature when Mr. KELLOGG claims to have been elected. The majority of the *previous* committee say, in effect, that there was. Which is right? Where is the controversy to end? The political complexion of the committee may change next year, and *they* may reverse the judgment of the present committee, if an appeal is to be taken from one majority to another; and the end of this contest and others following its example may not terminate until the force of numbers may be maintained by force of arms.

It has been said, may be said again, if certain Senators of the majority of this body should feel called upon to vote against this resolution under a sense of their duty and responsibility, that they have not the *courage* to unseat the Senator whose seat is in controversy; that *policy* will be the guide in controlling their votes against the resolution. Such taunts have no terrors for me. I shall indulge in no recrimination. Those who prefer that style of debate or criticism shall enjoy a monopoly of it, so far as I am concerned.

If I believed that I had the authority of law and the Constitution to justify such a vote, I should vote for the resolution without a moment's hesitation; but believing that I have not that authority, there is no power on this earth that can induce me to cast such a vote.

Mr. President, soon after this debate was opened I committed to writing the foregoing remarks, and should have contented myself with expressing them on the eve of casting my vote as a justification of that vote but for some observations made by the honorable Senator from Georgia [Mr. HILL] in the course of his argument, which I shall take leave to notice as briefly as may be.

That Senator is quoted on page 22 of the RECORD of May 15 as saying:

> I need not be surprised at those gentlemen saying those absurd things, but I will be surprised if they find re-enforcement among democrats. I ought not to be surprised at anything in this day, but really when a democratic Senate shall reaffirm deliberately the doctrine of 1877 and declare that we are bound to believe that is true which we know to be a perjury; that we are bound to believe that is genuine which we know to be a forgery; that we are bound to believe that is right which we know to be a fraud—if we are to reaffirm that doctrine, I will confess that even in this day of demoralization I shall be surprised.
>
> If you say that you cannot eject an intruder from this body, the very child that ejects the worm that slimes its way into its play-house will mock you. No, gentlemen, if this wrong is to be continued, I repeat, it is not to be done upon law; it is not to be done upon evidence; it is not to be done according to the principles of the Constitution; *it is to be done for some other reason.* The people will know it is not because of the law, the evidence, or the Constitution, but in plain disregard of all. It is being whispered all over the country that there is some secret, unavowed reason, and nothing illustrates the brazen effrontery of the parties interested in this case so palpably as the charge they have made against members on this side of the Chamber of bargains, honorable agreements, and understandings, and their effrontery does not stop until it seeks to *soil the character of the most sensitive State in this Union on questions of honor in the days of the past.* While I have never been a disciple of that peculiar school of politics known as the South Carolina school, I have always regarded that State as the proudest in the Union. The charge that anybody on this side is to be influenced by any other than proper motives is false, but when applied to that gallant State I deny it with scorn and indignation, for I tell you to-day that that sense of honor which distinguished that State in the days that are past and gone is still instinct with life above the ashes of so many other dead hopes and ambitions, and it will continue so. *What! South Carolina purchase her redemption from carpet-bag infamies by agreeing to continue those infamies upon Louisiana?*
>
> If that were possible, no pelican bird could ever afterward fold its weary wings in the shade of the palmetto without finding it a death-exhaling upas. Away with all these charges; they are not true. Meet the question upon the law, upon the evidence, upon the Constitution, and upon the right. To do right can never be a precedent for wrong. To do right can never be a reason for thinking there is danger. There is always safety in right; there is always danger in wrong.

Mr. President, why the honorable Senator has chosen to pursue this style of argument I do not know, and perhaps it would be none of my business to inquire but for the fact that he has made my State especially prominent by the conspicuous mention which he makes of her name in connection with "some other reason." What does the Senator mean when he says "if this wrong is to be continued, I repeat it is not to be done upon law, it is not to be done upon evidence, it is not to be done according to the principles of the Constitution, it is to be done for some other reason?" What "other reason?" Does the honorable Senator know any "other reason?" If so, why has he not stated it in unambiguous, unmistakable language? Why does he employ the halting language of innuendo or the disguised poison of ambiguity in so grave a matter as this? What does he mean when he says "it is being whispered all over the country that there is some secret, unavowed reason," &c.? Whence come the whispers? How do they reach the Senator's ears; through the corridors of his imagination, or from the polluted lips of busy scandal-mongers? Let the Senator give voice to these whispers and speak in "no uncertain tone" or drive the deadly breath from his presence.

And, again, what does he mean when he speaks of the charge "that they have made against members on this side the Chamber of bargains, honorable agreements and understandings?" What "bargains?" What "members?" Who makes them? I have heard something of "bargains" and "understandings" before in this Chamber, and I was simple enough to suppose that they had been disposed of to the satisfaction of all honorable men when Senators denounced the scandal with scorn and indignation. But it appears the honorable Senator from Georgia has a different impression, for he revives and repeats them in his speech with awful solemnity. Does he reproduce to denounce and destroy them with the terrible thunderbolts of his eloquent indignation, or does he hope to frighten Senators from the line of duty, as they understand it, with the ghost of this branded calumny? I cannot think that the Senator believes these charges, because he says they are "false," and hence I cannot comprehend his purpose in referring to them as he has done. And still less can I comprehend, Mr. President, why the Senator from Georgia, *in this connection*, should have singled out that little State of South Carolina as the special object of his solicitude, unless it be to afford himself the opportunity of disavowing that he had "ever been a disciple of that peculiar school of politics known as the South Carolina school." I can see no other excuse, and he may have spared himself this trouble. I have never heard the Senator accused of belonging to that "school." I am sure he never will be accused of it, for whatever else may be said of that "peculiar school," it had no disciples except those with *fixed and well-defined political principles, thorough convictions, and openly developed methods.*

Now, Mr. President, the "character of that sensitive State" to which the honorable Senator refers can only be "soiled" in this body through her present representatives. The Senator says somebody is "seeking" to "soil" that "character." Will he pray tell us who it is? Where and in what manner? He certainly must know, and if he does not know he is not fulfilling the high trust of self constituted guardianship of the honor of that State when he speaks of her or her representatives in this indefinite manner. If the Senator *had* been a disciple of that "peculiar school of politics" one of the first lessons taught him would have been never to employ toward a friend in the heat of disappointment even that covert style of criticism which the great English satirist ascribes to those who—

> Just hint a fault and hesitate dislike,
> The will to wound but not the heart to strike.

While I shall have the temerity to differ with that distinguished Senator on this great question, and, without meaning to be disrespectful, shall characterize his argument as fallacious and sophistical, and in a large measure having no application to the question as presented to us, I shall not venture to lay any special stress upon my services to South Carolina or to institute a comparison with the great services of the honorable Senator. I must be pardoned, however, for declining to abdicate the guardianship of her honor as far as I control it into *his* hands.

Whenever I am authoritatively reminded from a responsible source, in direct language, that the character of the people of South Carolina is being "soiled" in *my* keeping, I shall seek to meet the charge in a direct manner, and if I fail to vindicate my own conduct I shall not endeavor to create a diversion by hurling the poisoned shaft of calumny at others, but restore the trust to its proper custodians, the people of my State, and beg them to drive me into an oblivion more complete than the oblivion of a departed shadow or the dead sound of an extinct echo. When the honorable Senator has established his great superiority of devotion to his own State, the grand empire State of the South, which he in part represents, and when he has satisfied her noble and gallant people that he has jealously and completely protected and guarded their honor by an exalted patriotism and unselfish devotion to their interest, which I doubt not he can do, I will recognize his right to cross that beautiful stream which divides the territory of our respective States and extend the gracious boon of his powerful protection over the honor, the interest, the welfare of my little State, but not till then.

When the honorable Senator has reached that grand climax in human excellence and has solved that difficult problem which has bothered the brains and baffled the greatest and subtlest intellects of the greatest metaphysicians and philosophers of all time of determining for others as well as for himself what is absolute right and infallible justice, I shall acknowledge his authority to sit in judgment and administer lectures to those who dare to differ with him. His intellectual atmosphere does not occupy a plane so high above the heads of ordinary mortals that he has the right to denounce as "ridiculous" and "absurd;" as violative of the Constitution and laws; as being influenced by some "other reason" than "the law," "the evidence," and "the Constitution," all those who take issue with him upon what "the law," "the evidence," and "the Constitution" are. There is nothing in parliamentary law or usage among honorable men which justifies it.

The honorable Senator exclaims "What! South Carolina purchase her redemption from carpet-bag infamies by agreeing to continue

those infamies in Louisiana?" I answer no, a *thousand times no*, and I repel the unwarranted and unwarrantable suggestion. There is not a throb from the heart of that gallant people to which I do not respond, there is not an impulse that moves them which does not vibrate through the great heart of the people of South Carolina. They were twin sisters in sorrow, in trouble, in humiliation; and under the weight of the greatest wrongs and provocations of the century, with the leadership of their great and incomparable governors, they presented to mankind a grand spectacle of heroic patience and forbearance that should serve as a model for all generations to come.

No, sir! South Carolina and Louisiana tore away from "carpet-bag infamies" by the supreme effort of despair—infamies built upon the ashes of their greatness, the wreck of their power, and the confusion of their misfortunes. They have turned their backs upon their sorrows and troubles and humiliations, and have dispelled the dark shadows thrown across their sunlit borders by the reign of "carpet-bag infamies." They have set their faces toward the welcome sunlight of a dawning prosperity which illumines the path of their regeneration. They have again twined their arms around that grand column of American liberty as it stands out above the horizon of nations, and will cling to it until it raises its head into the pure atmosphere of order, regulated by equal laws equally administered, or perish in the common wreck, if it must fall. It is for this reason that I would not have them turn back and wallow in the mire of "carpet-bag infamies." It is for this reason that I would respect the judgment of this Senate and let it stand. I would do this though my own State were alone involved. "What," say the advocates of this resolution, "let the judgment stand if it is wrong!" "Monstrous!" "Unheard of!" Why, Mr. President, this Senate, or a majority of it, said it was right. A large number of Senators still think it was originally right. I do not say that I am one of them. Who is to assume the *rôle* of infallibility, to determine with absolute certainty what is the right? But admit, for the sake of the argument, that it was wrong. Is this the only wrong judgment that has ever stood? The judgment of that extra-constitutional tribunal, the electoral commission, was wrong. It has stood, and is to-day obeyed, although we have the power of numbers, perhaps, to have set it aside. Many judgments of the Supreme Court of the United States may be wrong, yet they stand and are obeyed. Call it "*res adjudicata*," "*stare decisis*," "estoppel," "case ended," call it by whatever term you please, there must be a terminal point in every human contest, whether it be in a judicial court, or a political court, or a military court, or an ecclesiastical court, or in a voluntary association of individuals. When have we reached the end?

Ah! Mr. President, the advocates of this resolution say, "When the *right* has been done." This doctrine would leave too wide a margin for discussion. The end would never be reached, and human society would be in a perpetual controversy. The safer rule in all tribunals is to narrow the contest and determine upon a given point beyond which it shall not extend, and having been reached, it shall be conclusive upon the parties contestant and all the world.

Why, Mr. President, so sacred are judgments held, and properly so held, by the courts of this country that the smallest judgment of the most insignificant court will not be set aside lightly. Rarely ever are they set aside after the lapse of time, and never, except where the proof of fraud or error or mistake or newly-discovered evidence, or the want of jurisdiction, is conclusive and satisfactory; and yet we are asked to set aside a solemn judgment, or order, or conclusion of this the highest deliberative body in the world, upon evidence which has been denounced by the advocates of the motion with every conceivable term of reproach, of ridicule, sarcasm, as inconsistent, contradictory, and corrupt. Every expletive in the vocabulary has been exhausted; every epithet of contumely and contempt, "perjury," "subornation of perjury," "spy," "pimp," "informer," "liar," "scoundrel," "villain," has been employed in characterizing the witnesses, and still we are asked to upset every precedent and tradition of the Senate, ignore every rule of law, and wipe out a solemn judgment of this Senate upon such testimony. Acting either as a judge or jury—and we must be acting as one or the other in passing upon this testimony—I should feel wholly unable to determine which way it preponderates, much less eliminate the true from the false. The witnesses have not been too severely criticised, for with the examination that I have been able to give the evidence I am entirely prepared to indorse what has been said of them.

We are asked, how, then, are you to "eject an intruder" if a judgment rendered upon the merits after a contest cannot be disturbed? I know of no power under the Constitution to eject him except the power of expulsion, the means usually adopted to get rid of interlopers. Extreme cases have been suggested by some of those Senators who have spoken in favor of the resolution of the committee, as, for instance, if a person should get a seat in this body upon the "credentials" of a "street mob" or upon "fabricated papers" made out "in the back room of a beer saloon," or who was under the constitutional age, or had not been a citizen for nine years, how would you get him out? I would say, by expulsion. This style of argument, Mr. President, is very familiar to all who have had experience in the forum of debate. Nothing is easier upon any given proposition than to lay down improbable or impossible premises and deduce a very satisfactory argument or conclusion from those premises, but when the natural or actual facts of a given proposition are taken as the starting-point of an argument it becomes more difficult to evolve the desired conclusion. My reply, therefore, more at large to such a query would be that such an extreme contingency was never contemplated by the framers of the Constitution and is not likely to occur, and that if a majority of this body could be found so lost to a sense of their duty to the Constitution and laws of the country as to seat a person after investigation upon such credentials we had as well abandon this Chamber and garrison it with armed soldiers, or put the seats up at auction to the highest bidder; for the spirit of liberty will have departed from the country, and our free institutions numbered among the things of the past.

I have said, Mr. President, that "there is no power under the Constitution with appellate jurisdiction, when it" (the Senate) "has rendered its solemn judgment upon a question of the highest privilege." I withdraw that remark and reaffirm it with one qualification. An appeal may be taken in such case to our common masters—the people. The remedy for political wrongs is to be found in the ballot-box.

This is the very bed-rock and fundamental principle, the strength and beauty of our political system. The people—the States—are the great appellate tribunals to correct wrongs, such as has been committed in this case. The State of Louisiana has spoken twice since the judgment was rendered, and if either party to this contest was spoken of at either election I have not heard of it.

Erroneous judgments rendered by courts of law may inflict greater hardships than erroneous judgments in a deliberative body or political court, (if I may use the term,) because in a court of law titles to property may be wrongfully acquired and exist for all time personal liberty may be wrongfully lost or gained; whereas every six years in the case of the Senate, and two years in the case of the House of Representatives, the States and the people have the power of review and can correct the errors of either House as to their representation in either. This was the remedy, in my judgment, contemplated by the framers of our Constitution in such a case as this. The senatorial term of six years is but a breath in the life of a nation moving on the line of longevity. So we had "better bear those ills we have, than fly to others that we know not of." The danger that such a precedent as the passage of this resolution would establish, of setting aside a verdict rendered after elaborate investigation, upon doubtful evidence, is far greater than allowing the judgment founded upon that verdict to stand and expire by its own limitation. The country would survive if Mr. KELLOGG were unseated by this resolution. It has survived a good many shocks, but as the waves of civil commotion, of war, of revolution, are settling, I would do as little as possible to reanimate and stir them anew. Time is cicatrizing the wounds of Louisiana, and in a short time this last thorn in her side will be expelled by the festering that it creates, which is better than to tear it out by the roots.

Mr. President, leaving that view of the subject, there can be no doubt of the correctness of the proposition of the Senator from Georgia that each State is the judge of what is its true and lawful Legislature. It has that power expressly under the Constitution. Each State can prescribe the qualifications of its electors for members of the lower House of Congress, and for members to its Legislature. Each house of its Legislature are the judges of the "elections, qualifications, and returns of its members," and their judgment is binding upon all the world, upon Congress, the Executive, and upon the other States. There can be no doubt of that. But when the Legislature, the senatorial constituency, the electoral body prescribed in the Constitution to appoint a United States Senator, has acted and sent one or more persons to the Senate with credentials in due form of law, and when the Senate has taken jurisdiction of the person or persons, and after investigation of the merits of their respective claims has seated one of them, the State has no further control over that person as a Senator. He retains his citizenship of the State and is amenable to her laws, but he has become a member of a different political family, which may control his person, his conduct, and his action, of a political entity different from that of the State, (over which the State as such has no control,) moving in an orbit as different from the orbit of the State as is the orbit of Mars from the orbit of Jupiter. After a person has been thus seated in the United States Senate the State cannot six, twelve, or eighteen months afterward say to the Senate, "The Legislature which sent A B to you as my Senator was not my lawful Legislature, and A B is not my representative in your body. This is my lawful Legislature, and it has elected C D. Seat him and turn A B out." A State has no such power as that over the members of the Senate of the United States. And yet this appears to be a fair formulation of the position assumed by some of those who contend for the passage of this resolution, and would seem to be about the logic of their arguments.

My honorable and venerated friend, the Senator from Alabama, [Mr. PRYOR,] said at the conclusion of his very elaborate argument:

> It is just as much the duty for the democrats to turn out, when opportunity presents itself, by a majority of ten or more, if the case is made out, as it was by a strict party vote (of two) to seat the member.
>
> Mr. President, in conclusion, I am free to say that if any Senator believes the Packard legislature the lawful and rightful one, then I can see some grounds for his support of the claims of the sitting member. But I do not see how any Senator who says he does not believe the Packard legislature had any lawful existence, and that he fully believes that fraud and bribery were used to procure the seat of the sitting member, can explain himself to the country or satisfy himself in his support of the wrong; "to know the right and yet the wrong pursue." And I do not believe that any Senator will so say and then act so inconsistently.

I listened with great interest and instruction to his very able and exhaustive argument, and I have so much respect for the honorable Senator, for his ability, political and personal integrity, that I dissent from his opinions with great diffidence; but I submit to him that the validity or invalidity of the Packard legislature is not properly an issue in the question under consideration. We are called upon to decide whether we can unseat a member who has been seated *after contest* upon the *merits* of his claim. That is the naked question as I understand it; that is the resolution offered by the committee.

I tell that Senator frankly that as an individual I do not believe the Packard legislature was a lawful Legislature; but unfortunately this Senate decided by a majority of its members that it *was* a lawful Legislature, and made this decision before he and I became members of this body. We found that judgment of record when we entered it. Now the question is, can we disturb it in the manner proposed by this resolution? In my view of this case the legality or illegality of the Packard legislature is not before us for determination, and I beg to call the honorable Senator's attention to the case of Fitch and Bright, upon which he relied in part to sustain his argument, and to remind him that in that case it was very gravely doubted if the Legislature which elected those gentlemen was a legal body. I beg to call the honorable Senator's attention especially now to what I shall announce. I find in the debate in this Chamber on the Caldwell case the honorable Senator from Ohio [Mr. THURMAN] said in reply to an inquiry from the then Senator from New Jersey, (Mr. Stockton:)

> I should think it would be pretty difficult to maintain that that body which elected Fitch and Bright was in a legal, technical sense the Legislature of Indiana——

Mr. McDONALD. Mr. President——

The PRESIDING OFFICER, (Mr. JOHNSTON in the chair.) Will the Senator from South Carolina yield?

Mr. BUTLER. Yes, sir.

Mr. McDONALD. If my friend, the Senator from South Carolina, will allow me, I desire to say that as to whether that was a legal Legislature or not there was no question and could not have been any made. The only question was whether a legal quorum of that Legislature participated in the election, but so far as the Legislature itself was concerned there was no controversy about it at all. It was in all respects a legal Legislature, composed of a senate and a house of representatives, having a legal quorum in each body.

Mr. BUTLER. Of course the honorable Senator from Indiana is better informed of the facts than I am. If the Senator had waited until I got through, perhaps he would not have thought his interruption necessary. I am now quoting from the language of the honorable Senator from Ohio [Mr. THURMAN] in a previous debate on the Caldwell case, in which he used this language:

> I should think it would be pretty difficult to maintain that that body which elected Fitch and Bright was in a legal, technical sense the Legislature of Indiana. It seems to me it would be very hard to maintain that proposition.

And again he says, and I call the attention of the honorable Senator from Indiana to this:

> I do not see very well how the Senate ever could have held those Indiana gentlemen were elected, except upon the theory that the Legislature spoken of in the Constitution, that elects a Senator, is a body of electors who are members of the Legislature. This was a case in which the senate of Indiana refused to go into joint convention and the house of representatives, or rather a majority of them and a minority of the senate, did go into joint convention and elected Senators, and as they constituted a majority of the whole body of members of both houses the Senate held the election good.

Notwithstanding these facts, and I assume that they are correctly stated by the honorable Senator from Ohio, Messrs. Fitch and Bright were seated, and were not disturbed after the rehearing upon subsequent application for reasons which have already been assigned in this debate.

Mr. McDONALD. That is precisely the view that Congress afterward took of the question when it passed the law now on the statute-book regulating the election of United States Senators; but as to whether the Legislature of Indiana was a constitutional body or not, no question ever was made, and none could be made.

Mr. BUTLER. I was not aware that any question had been made until I read the remarks of the honorable Senator from Ohio in which he says that it was not in a technical, legal sense a Legislature to elect a United States Senator. That is all that I said, and I cited that to show that the Senate had acted on the question upon a previous occasion.

Mr. McDONALD. There was no question at all about the legality of the Legislature. The only question was whether it had acted legally in the election of Senators.

Mr. BUTLER. I desire to call the attention of the Senate for one moment to an error into which my honorable friend from Alabama [Mr. MORGAN] fell in the course of his argument. I understood him to say that the resolution, or the report, made by the Committee on the Judiciary in the Fitch and Bright case had been indefinitely postponed and had never been acted upon by the Senate. I do not understand that to be the fact. As I understand the history of that case, the Committee on the Judiciary made a report, accompanied by resolution to this effect:

> That the committee be discharged from the further consideration of the memorial of the State of Indiana.

In the debate upon that report, Mr. Pugh, of Ohio, offered this resolution as an amendment:

> And that the resolution of the Senate adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright, as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision of all the premises then in controversy, and conclusive, as well upon the Legislature of Indiana, and all persons claiming under its authority, as upon the Senators named in the resolution.

That resolution was passed by a very large majority; therefore my friend is mistaken in stating that the Senate had never decided that question.

I submit further to the honorable Senator from Alabama [Mr. PRYOR] that the analogies which he draws from the precedents in the British Parliament have no proper application to the case before us. The methods, scope, and extent of the powers of that great legislative body are essentially different from those of the Congress of the United States. But one branch of Parliament is elective, the members of the other holding their seats by hereditary right or by appointment from the Crown. It is neither restrained or controlled by a written constitution, nor are the members of either house of Parliament under the same degree of responsibility for their official conduct.

But, Mr. President, I have detained the Senate longer than I intended. I shall not fatigue it further by citation of authorities or a review of the evidence and proceedings in this case. That has been done by better and abler hands than mine, and to repeat them would encumber unnecessarily the record of our proceedings. The issue which we are called upon to decide, Mr. President, is in no sense a personal issue, involving merely personal rights, nor a partisan issue between two political parties contending for party supremacy in this Chamber. It certainly ought not to be so. The Senate has been spoken of as a democratic Senate. In a case like this I understand it to be the Senate of the United States. It is neither a democratic nor a republican Senate, but a Senate having jurisdiction over the full length and breadth of this broad land.

It is a great question of law which appeals to the judgments and consciences of Senators, a governmental principle fundamental in its character, going to the very bottom of the constitutional power of the Senate over the seats of its members, upon the proper determination of which rests the stability and future usefulness of the body.

Partisan madness has committed a great many crimes in this country under the guise of liberty and freedom. Political charlatanry has baffled and put to shame the best efforts of the truest patriots, and time-servers have disturbed the delicate, complex, yet happily adjusted machinery of our political system; but whenever the heart of the American people, relieved of prejudice and passion, has spoken, it has generally decided for the right. Upon the people in their intelligent appreciation of well-regulated liberty I place my confidence and pin my political faith. Let them as the highest court of appeals known in this land pronounce judgment in this controversy, and to their verdict I shall bow obedience.

I trust that the great political party of the Constitution to which I owe my allegiance will never impair its power or weaken its prestige by the passionate or partisan disposition of a constitutional question such as this.

Mr. President, to the people of South Carolina I owe my first duty, but I hope that this country is not too broad and may never become too broad to command my devotion to whatever will contribute to the common glory, good, and welfare of the whole people of this great Republic.

Several Senators addressed the Chair.

Mr. GARLAND. Mr. President, I desire to address the Senate upon this subject, but I am not prepared to go on at this time.

Mr. HILL, of Georgia. Will the Senator from Arkansas allow me a moment?

Mr. GARLAND. With the understanding that I have the floor.

Mr. HILL, of Georgia. Recognizing the Senator from Arkansas as having the floor, I simply desire to say that as the honorable Senators from South Carolina have insisted upon making a misconstruction both of the language and manifest spirit of the remarks which I had the honor to submit the other day, and have made their own misconstruction of my language and meaning an occasion and an excuse for assaults by each of them upon myself with a good deal of heat and in prepared but excited rhetoric, I shall deem it due to myself and the Senate at an early day to make kindly allusions to both gentlemen. I have entertained for those Senators only feelings of the purest kindness and highest personal regard. But if the gentlemen imagine that I make attacks covertly or by innuendoes upon anything or anybody, they will soon find out their most egregious mistake. That is all.

Mr. BUTLER. Mr. President——

Mr. HILL, of Georgia. I know there are several gentlemen desiring to address the Senate on this question, and I do not desire to get in their way, but will at an early day honor the Senators from South Carolina with my attention.

Mr. HARRIS. Mr. President——

Mr. BUTLER. If the honorable Senator will yield to me just one moment, I desire to assure the honorable Senator from Georgia, and I desire to assure him with the most perfect candor and frankness, that if I have misconceived his language, and he says that I have, and if anything which I have said appears to be harsh, he will find me as

willing as any man in this country to make him the most complete amends. I did not desire, it is always painful for me, to criticise sharply the language of anybody, still more painful when I felt called upon to criticise the language of a Senator with whom I have had the most agreeable personal relations. If I have misconceived him, if I have been harsh, I desire to assure him that nothing was further from my purpose than to be personally offensive; and as he has said that I misconceived him I am prepared to make any *amende* which one gentleman should be called upon to make to another.

Mr. HILL, of Georgia. I have chosen not to regard anything said by the gentlemen as intended to be personally offensive, but I have regarded both of them as taking occasion by their own misconstruction, and manifest and inexcusable misconstruction of the language used by me, to make allusions to my public and political record which are not justified or justifiable.

The PRESIDENT *pro tempore*. The Senator from Arkansas has asked unanimous consent that the pending order be laid aside informally without being prejudiced by an adjournment, in order that other business may be taken up. Is there objection? The Chair hears none.

AMENDMENTS TO BILLS.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations.

Mr. BURNSIDE, Mr. SLATER, Mr. THURMAN, Mr. BUTLER, Mr. CONKLING, Mr. FARLEY, Mr. PRYOR, Mr. SAULSBURY, and Mr. MORGAN submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

CONGRESSIONAL GLOBE.

The PRESIDENT *pro tempore* laid before the Senate the response of John D. Defrees, Public Printer, to the resolution of the Senate of the 28th of April, 1880, calling for information as to the condition of the stereotype plates, and back numbers of the Congressional Globe, purchased of the representatives of Rives & Bailey, their place of custody, their security against injury by fire or otherwise, the estimated cost of reproducing a sufficient number of them to make complete sets of one thousand, of two thousand, of the whole number, &c.; which was referred to the Committee on Printing, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 5389) for the relief of Samuel Harper was read twice by its title, and referred to the Committee on Finance.

SPECIAL DEPUTY MARSHALS.

Mr. BAYARD. I move that the Senate proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

Mr. HARRIS. I have for the last three or four days given notice that upon the conclusion, first of the speech of the Senator from Delaware, [Mr. SAULSBURY,] secondly, after the Senator from South Carolina [Mr. BUTLER] should have concluded his speech, I would ask the Senate to take up the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes. I am not inclined to antagonize the proposition of the Senator from Delaware to take up the bill suggested by him, but I take this occasion to represent that I shall insist upon the consideration of that bill immediately after the conclusion of the consideration of the bill to which the Senator from Delaware refers.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware to proceed to the consideration of Senate bill No. 1726.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The bill was reported from the Committee on the Judiciary, with amendments.

The first amendment was, in section 1, line 4, before the word "deputy," to strike out "special;" so as to make the section read:

That from and after the passage of this act the pay of all deputy marshals for services in reference to any election shall be $5 for each day of actual service, and no more.

The amendment was agreed to.

The next amendment was, in section 2, line 1, before the word "deputy," to strike out "such special," and after the word "marshals" to insert "to serve in reference to any election;" so as to read:

That all deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, in each year, at the term of court next preceding any election of Representatives or Delegates in Congress.

The amendment was agreed to.

The next amendment was, in section 2, line 11, before the word "deputy," to strike out "special;" in line 12, before "district," to strike out "such" and insert "the said;" and after "district" to strike out "judges" and insert "courts;" so as to read:

But if from any cause there should be no session of the circuit courts in the States or districts where such marshals are to be appointed, then, and in that case, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said district courts.

The amendment was agreed to.

The next amendment was, in section 2, at the beginning of line 13, to insert "and the officers so appointed shall be;" and in line 14, after the word "and," to strike out "all the officers so appointed;" so as to read:

And the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens, of good moral character, and actual residents of the voting precincts in which their duties are to be performed.

The amendment was agreed to.

The next amendment was, after the word "performed," in section 2, line 17, to insert "and shall not be candidates for any office at such election."

Mr. CARPENTER. I should like to inquire of the Senator having charge of this bill what the meaning of that provision is? Suppose they are not candidates at the time they are appointed and become candidates afterward, what then? How is it to be known whether they will become candidates? Who is to say whether they shall or shall not be? When they accept this appointment do they disfranchise themselves from being candidates?

Mr. BAYARD. I confess it seems to me that the object of the amendment is very clear. It is to prevent persons from being present with official authority and using that to procure their own election; and therefore it is that the persons who hold the office of deputy marshals and are in attendance at the polls cannot be voted for at that election. That is the only purpose.

Mr. CARPENTER. That may be; but suppose they become candidates after their appointment, what is to be done then?

Mr. KERNAN. I think they would get beaten if they would try to act at the election.

Mr. CARPENTER. That is a thing to be decided by the votes.

Mr. KERNAN. The people will look to that.

Mr. CARPENTER. The people have not much to do with this matter; but under this bill it is to be done by these persons who are to take charge there. Suppose a man becomes a candidate after he is appointed, is he to be ousted in any way? Is there any method pointed out for superseding him and preventing his acting? It is not very easy to have a court called to do it. Suppose he becomes a candidate on the morning of election, how can he be excluded from acting? You cannot call the court together after that to make the appointment. It seems to me, in other words, that the very object which the Senator announces is totally unprovided for in the bill, and that it never will accomplish the purpose he has in view.

Mr. TELLER. I should like to ask the Senator what he would do if the man who had been appointed a deputy marshal was nominated by a convention on the morning of the election and he had nothing to do with the nomination?

Mr. KERNAN. He need not serve as deputy marshal if he is running for an office.

Mr. TELLER. But that is the very reason why he may want to serve. It may be the very purpose of the parties who nominate him that they want him to serve. It seems to me there should be some provision as to what shall be done when he is a candidate. I admit it does not seem to be the proper thing that a man who is a candidate should be appointed, but if he is appointed when he is eligible to appointment and afterward somebody chooses to nominate him and make him a candidate it might defeat the very purpose of this bill to retain this provision.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to; there being on a division—ayes 25, noes 14.

The PRESIDENT *pro tempore*. This completes the amendments of the Committee on the Judiciary.

Mr. CARPENTER. I offer an amendment to be added as additional sections to the bill. As the sections are intended to carry out the obvious purpose of the bill—that is, to secure an honest election—I hope it will be secured without opposition on the other side.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to add at the end of the bill:

SEC. —. That every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, from peaceably assembling with any other such citizen or citizens for the purpose of petitioning the Congress of the United States for a redress of grievances, or from so assembling for the purpose of considering the subject of the nomination or choice of any person to be a Member of, or Delegate to, the House of Representatives of the said Congress, or from so assembling for any other lawful purpose relating to the preservation, operation, administration, or authority of the Government of the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, break up or disturb any meeting of citizens of the United States, or of any State, lawfully assembled or existing for any of the purposes mentioned in the next preceding section of this act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of

not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or by other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, lawfully entitled so to do, from peaceably going to, remaining at, or returning from any place of registration, tax-paying, voting, or place of doing any other act or thing required by the laws of the United States, or of any State or Territory, to be done by such citizen, in the exercise, or as a requisite to the exercise, of the right to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, for the purpose of doing such act or complying with such requisition, or who shall unlawfully hinder, impede, prevent, or neglect or refuse to allow the doing of any such act or the compliance with any such requisite, or the free voting by such lawfully entitled citizen in the manner prescribed by law, at any election for Member of, or Delegate to, said House of Representatives, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than three years, or both, in the discretion of the court.

SEC. —. When under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done as a prerequisite or qualification for voting for Member of, or Delegate to, the House of Representatives of the Congress of the United States, and by such constitution or laws persons or officers are or shall be charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States, and to all citizens of each State, lawfully entitled, the same and equal opportunity to perform such act and prerequisite, and to become qualified to vote.

SEC. —. Every person or officer charged with any duty specified in the preceding section who refuses or knowingly omits to give full effect to said section shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs and such allowance for counsel fees as the court may deem just.

SEC. —. Whenever, under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done by a citizen of the United States, or of any State, as a prerequisite to qualify or entitle him to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, the offer of such citizen, lawfully made, to perform the act required to be done, shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to perform, and being otherwise qualified, shall be entitled to vote for such Member of, or Delegate to, the House of Representatives, in the same manner, and to the same extent, and with the same effect, as if he had in fact performed such act. Every officer of registration, judge, inspector, or other officer of election, whose duty it is or shall be to register or report the names of voters, or to receive, count, certify, register, report, return, or give effect to, the vote of such citizen for a Member of the House of Representatives of, or Delegate to, the Congress of the United States, who shall wrongfully refuse or omit to make due registration, or to receive, or truly to count, certify, register, report, return, or give effect to the registration or vote of such citizen, upon the presentation by him of his affidavit stating such offer, and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. —. Every officer of the United States, or of any State or Territory, or other person, charged by this act, or who is, or shall be, charged by other laws of the United States, or by the laws of any State or Territory, with any duty in relation to the right of citizens of the United States, or of any State, to become qualified to vote for, or the right of any such citizen to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, or in relation to the conduct of any election for the choice of such Member or Delegate, or in relation to the registration of the names of voters, or the receiving, counting, declaring, returning, or certifying of any vote or votes for such Member or Delegate, who shall knowingly and wrongfully fail or refuse to truly perform such duty, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment not exceeding five years, or both, in the discretion of the court.

SEC. —. Every person who shall cast, deposit, or count, or allow to be cast, deposited, or counted, at, or on the occasion of, any election for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, any false or unlawful vote or ballot, knowing such vote or ballot to be false or unlawful, or who shall knowingly make any false certificate, report, or return of, or in respect to, any such election, or the result thereof, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than five years, or both, in the discretion of the court.

SEC. —. Every person who, in the committing of any of the misdemeanors mentioned in this act, shall assault, beat, or otherwise ill-treat any citizen of the United States, or of any State, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who, in the committing of any of the misdemeanors mentioned in this act, shall kill any citizen of the United States, or of any State, shall be deemed guilty of murder, and, on conviction thereof, shall suffer death.

SEC. —. Every person who shall promise, offer, give, or cause or procure to be promised, offered, or given, any money or other thing of value, or who shall make or tender any contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of any thing of value, to any person, with intent to influence or reward such person for, or on account of, his vote, or for or on account of his omission to vote, at any election for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or imprisoned not more than two years, or both, in the discretion of the court.

SEC. —. Every person who shall in any wise accept or receive, or agree to accept or receive, any sum of money, or other bribe or reward, for, or on account of, his voting or promising to vote, or refraining from voting, or promising to refrain from voting, for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year, or both, in the discretion of the court.

SEC. —. Every person convicted of any offense against either of the two preceding sections shall be thereafter forever disqualified from holding any office of honor, trust, or profit under the United States.

Mr. BAYARD. I regret very much that the honorable Senator from Wisconsin should offer this amendment. The single objection stated by the President of the United States, in his message, to giving his approval to the deficiency bill, which contained in substance the provision which is now before the Senate in a separate form, was its misjoinder with other matters. Therefore proposing that there should be no mistake in regard to this measure, which has received heretofore the approval of both branches of Congress, and after full and ample discussion, it was returned with the statement that the only objection to it was its misjoinder with incongruous matters. I hope the Senate will not permit amendments to be made. Whatever may be the merits or the demerits of this proposed amendment, let us pass upon it as a distinct and separate measure. Let the present measure stand or fall upon its own merits.

For that reason I trust that the amendment offered by the Senator from Wisconsin will not receive the approval of the Senate.

Mr. CONKLING. Mr. President, among the many errors into which the Senate may at this time fall few could be greater than to suppose that the measure now pending has in form or in substance received, as we have been told, the approval of the two Houses. The provision of a recent bill at which the veto of the President was aimed is so different, so radically different from this, that I am moved to make an effort, quite likely to be ineffectual, to bring the attention of the Senate to what I feel warranted in calling the extraordinary nature of this measure when compared with the one referred to or with any other.

An act making appropriations to supply certain deficiencies, which was visited by the veto of the President, contained a provision touching special deputy marshals, special deputy marshals of elections, (these are the two designations by which they were known,) and it directed their compensation and the mode of their appointment. It left untouched of course deputy marshals in general. It did not affect, certainly it did not as I conceive the pending bill does, unravel and destroy not only the theory of official accountability applicable to those officers, but the power which they have in respect of enforcing the laws and maintaining peace in general. It provided that deputy marshals appointed to render service in respect of elections and they alone, and no other deputy marshals, should be created and compensated in a particular way.

I beg the Senate to observe what this bill proposes to do:

That from and after the passage of this act the pay of all deputy marshals—

"All deputy marshals"—

for services in reference to any election shall be—

So and so.

SEC. 2. That all deputy marshals to serve in reference to any election—

Not appointed solely to serve, but all and all manner of deputy marshals to serve, to be authorized to serve, in order to serve, who may serve; for every one of these phrases gives the construction which this language bears—

shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, in each year, at the term of court next preceding any election of Representatives or Delegates in Congress.

I mean to make what I say about this bill very brief, and unless I shall be led into a repetition, I stop at the words already read to make one or two comments.

That all deputy marshals to serve in reference to any election.

What does that language mean? Does it mean to serve on election day? Every Senator knows that it does not mean that. In many of the States the day of registration is thirty days preceding an election. Is not an arrest made on that day or on any day between that day and election day, or on any day after the election day and before the next election day, for an offense against the election laws, service, official service, in reference to the election? My honorable friend behind me [Mr. CARPENTER] very properly observes to me that I do not state it broad enough. Service in reference to an election might not stop even with the election a year afterward, but as he more exactly says, would extend as long as the statute of limitations runs.

Again, all deputies to be authorized and empowered in this behalf must be appointed not only by the court, but observe, by the court at the term thereof next preceding an election for Representatives or Delegates. Election day in all the States for presidential electors, and almost everywhere for Representatives is on the Tuesday following the first Monday of November. The third Monday of October is a favorite day, as you know, sir, [Mr. GARLAND in the chair,] for the convention of courts. There is a term of the national courts in the State of New York commencing on the third Monday of October. That is the term next preceding the election; and the term does not convene until after the whole process of registration, that on which most especially the verity and purity of an election depends, has passed by. Then manifestly under this provision you can in no case, if the court holds a session after registration day, have a police officer empowered to do anything on that day or on any day until the court meets and acts. It is to be "the term of court next preceding any election of Representatives or Delegates in Congress." What does that mean? The general, regular, biennial election? I suppose so; but if a special election occurs in a great city or anywhere else growing out of the death or resignation of a Representative, whether in any instance or contingency peace officers could be provided, is I submit more than questionable upon this language.

Mr. HOAR. If the Senator from New York will allow me, in that connection I would state that in the State of Georgia the regular session of the court commences on Thursday after the first Monday in November, three days after the presidential election.

Mr. CONKLING. I wish the Senator would repeat that date again.

Mr. HOAR. The regular session of the court in the district of Georgia, at Savannah, is on the Thursday after the first Monday in November.

Mr. EDMUNDS. That would be near a year before the election.

Mr. CONKLING. Is that the only day when that court convenes?

Mr. HOAR. There is one in the spring, in April.

Mr. EDMUNDS. Here is one in Arkansas on the fourth Monday in October.

Mr. HOAR. Ordinarily this time in Georgia would be three or four days before the presidential election.

Mr. CONKLING. There is an instance, the Senator from Vermont says he has one before him, in which the district court meets on the fourth Monday in October. That would be immediately preceding the election, and days if not weeks after the registration, the preliminary step, the hinge on which the election turns.

Mr. EDMUNDS. In Florida the court meets on the first Monday in November, the day before the election.

Mr. CONKLING. Tuesday after the first Monday of November is election day, and the first Monday is the day on which the court meets. If the court was ready at the drop of the hat, as is sometimes said, instantly on meeting, to select deputy marshals, they might be brought into existence before sundown on the eve of election, too late of course to do anything whatever except on election day to preserve, if they had any authority to preserve, the peace.

Mr. EDMUNDS. In Indiana the court meets on election day where that happens to be the first Tuesday in November.

Mr. CONKLING. The Senator suggests that in the State of Indiana the day when the court meets is election day, that very day, and whether that will be the term next preceding or whether it will be some other term——

Mr. CARPENTER. It might be an hour earlier.

Mr. CONKLING. I suppose the fraction of a day would not be taken into account.

Mr. EDMUNDS. Then it would be six months before.

Mr. CONKLING. Mr. President, read the next lines of this bill:

But if from any cause there should be no session of the circuit courts in the States or districts where such marshals are to be appointed, then, and in that case——

May I inquire when and in what case? I have no idea. Read this:

But if from any cause there should be no session of the circuit courts in the States or districts——

No time is specified. Of course there must be at some time in every district a term of the circuit and district court, and though it might be a year before it would still be the term next preceding, and therefore the contingency here provided for is impossible; it never can arise. This language has been retained or imported here from a bill which because it specified a time made the language pertinent and sensible; but here all time is dropped and the provision is simply that if from any cause there be no session of the circuit courts in the States or districts where the deputy marshal is to be appointed——

Mr. CARPENTER. Either before or after.

Mr. CONKLING. Either before or after the election that means, for it covers all time; then, and in that impossible contingency, something else is to be done. Look further:

Then, and in that case, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals.

When is that to be? In the first place, the contingency I say never can arise, but if it can, when are the district judges to open their courts under this provision? What is the time or the occurrence which sets them in motion and authorizes them to do it? Proceeding, the bill declares:

And the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens * * * and actual residents of the voting precincts in which their duties are to be performed.

What does that mean? Not merely that there shall be in each precinct two deputy marshals, one representing one of the great parties of the country and the other representing the other, but that in that same precinct if there are deputy marshals at all there shall be as many as there are different political parties. How many deputy marshals are there to be in a space so limited as a voting precinct in a city, or hamlet, or even in a country town? The democratic party, whatever that may be, is to have a deputy marshal in the precinct; the republican party is to have a deputy marshal; the greenback party is to have a deputy marshal; the woman's rights party, if there is one, is to have a deputy marshal; the labor party is to have a deputy marshal, the Kelly party (and I am told there is such a one in the State of New York) is to have a deputy marshal; so that in each voting precinct there may be four, five, six, or seven deputy marshals, and you must have them all if you have any deputy marshals either in that precinct or anywhere who shall have the power to go into that precinct to make an arrest. There is economy, pecuniary economy is there, when you remember that the pay of all these deputies for services in reference to any election shall be $5 for every day.

Mr. President, the effect of this bill, should it ever become a law, will be to do all that law well can do to disturb and disorganize the existing and the true theory of official accountability. Every marshal is liable as much for that done by his deputy as for that done by himself. As you would say, Mr. President, somewhat given to the classics of the law, *qui facit per alium facit per se*. If a deputy marshal lays hands on me unlawfully, I have the same claim, with the same measure of damages, upon the marshal himself as if his own hands and not his deputy's made the arrest. How is this justifiable? Easily justifiable in the case of a marshal, a sheriff, or any other superior officer. So long as he selects his own agents and subordinates he must respond for them. So the law says; so reason and common sense affirm.

But now it is proposed to allow courts not only to select for a marshal his deputies, for whom he is to be responsible, but not even to select them for their fitness, but rather for their unfitness, to select partisans and partisans of all descriptions. The men who would be most likely to transcend the limits of the law and of honest discretion are to be selected, and the marshal, a bonded officer, and his sureties, are to remain responsible for the act of this multitude of officers whom he has nothing to do with selecting, and unless he were a knave or a fool never would select upon any such principle.

Is it possible that an impartial or honest man of sense of any kind, if he were to select deputies to act in regard to an election or on election day, at or in reference to any occasion whatever, would select not only the most heated, rampant men he could find, excited and selected because they were partisans, in regard to the proceeding in question, but men interested and excited on opposite sides on purpose that they might go in and contend with and counteract each other? Is not that a travesty upon every idea of an impartial administration of justice? What would you think, sir, in the State of Arkansas, if you elect sheriffs, as I presume you do, by counties, if there were a provision that in every county the sheriff, for general and miscellaneous purposes, (much less as the objection would be there than here,) should be supplied by some external power or authority with the deputies for whom he was to answer, and that they should be picked out in reference to their partisanship, every stripe and hue of partisan sentiment being typified and incarnated by them?

As I began by saying, the bill vetoed by the President described "special deputy marshals," this bill describes "all deputy marshals." I recur to that to bring to the notice of the Senate this consideration: Here is a man in the State of New York; I speak of that because I am more familiar with its laws, and on some one of the several days when registration is to occur there an offense is committed against the election laws, or a breach of the peace or a riot occurs. The marshal has in that town a deputy; he has been there for a year, for two years, for ten years if you please, appointed without the slightest reference to any election. When this bill becomes a law, can that deputy serve a precept, can he go with a bench warrant in his hand or a warrant of any sort, and arrest the man who committed the supposed offense? Manifestly he cannot, if I understand the force of this language, because he would be a deputy marshal "serving in reference to elections." He would not be as the other bill says, a special deputy marshal, a special deputy for that purpose, but he would be a general deputy serving in reference to an election; and therefore this statute would lay hold on him, and would say that not having been appointed by the court and by the court at the term next preceding the election, he was not authorized to do any such thing, and that he would be a mere naked trespasser.

Mr. President, no such measure as this has been proposed before. The Senator who introduced this bill did not propose it. On the contrary, as the print shows, although it went to the verge of what had been suggested before, it stopped by pointing out special deputy marshals and applying these restrictions to them. As it comes back from the committee, it is enlarged, amplified, and embellished with a dragnet of provisions, the effect of which will be, if they become law, to paralyze as far as they go the efficiency of the machinery of justice and of the courts to execute the laws.

I heard a Senator state yesterday that a veto message had said there was a misjoinder of provisions in the other bill. Well, Mr. President, I imagine that if any Executive, or any Senator, or anybody else who is in favor of executing the election laws on any day, even if he is opposed to executing them on election day, were called upon to pen a criticism or a veto of this bill, he would find something far graver than a misjoinder. But I suppose that on this bill, could I read it between the lines, I should find somewhere an *allocatur* or an *imprimatur* sure to be a passport for it through the Senate, and therefore I have no idea that any objection I can point out will affect its fate one way or the other; but I was unwilling to sit by and see a measure like this going a bowshot beyond all that we have been threatened with before, pass through the Senate without some of its more obvious intents and meanings being brought to the notice of the Senate.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment proposed by the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. EDMUNDS. On that I ask the yeas and nays.

Mr. BAYARD. Mr. President, I desire to state as simply and clearly as I can the difference between the measure now before the Senate and that which passed both Houses of Congress and was returned by the President of the United States for the single reason stated in his veto message.

The language of the provision of the deficiency bill applied to "special deputy marshals of elections for performing any duties in reference to any election." When that bill was before the Senate there was not the first word of criticism heard on either side in regard to

the effect of this frame of words. It is a newly-found criticism to meet the supposed exigencies of the case.

Mr. CONKLING. Will the Senator allow me one moment?

Mr. BAYARD. Certainly.

Mr. CONKLING. Am I wrong in supposing that the bill to which the Senator is now referring employed the words "special deputies?"

Mr. BAYARD. It did.

Mr. CONKLING. Am I wrong?

Mr. BAYARD. Not at all. I have read the language just now and it included the word "special."

Mr. CONKLING. Then I misunderstood the Senator. I understood him to say the same words were employed and no criticism was made, and this was a newly-found criticism.

Mr. BAYARD. The Senator misunderstood me. I said the frame of words which escaped criticism when that bill was before the Senate in April were the words "duties in reference to any election." I know not now if more apposite words could be found, but they are intended, and in all rational interpretation they will be held, to have their simple significance and to be restrained by that—it is the duties of deputy marshals *in reference to elections for Members and Delegates in Congress.* When any other deputy marshals shall have functions not in reference to elections, their powers are untouched, undiminished, unaffected by anything contained in the present measure. They will stand just where they are to-day and where they have been since 1871. There is no change whatever either as to the appointment of the marshal himself, or his control over his deputies, or the control of the courts over his deputies,—there is no change, as I say, whatever from the provisions of existing laws and I may say of long-existing laws. To-day by section 780 of the Revised Statutes and by a statute of no less antiquity than September, 1789, it is provided that—

Every marshal may appoint one or more deputies, who shall be removable from office by the judge of the district court, or by the circuit court for the district, at the pleasure of either.

That is the law and has been the law in all the history of this Government. That law is undisturbed by anything in the present proposition.

Mr. CARPENTER. But suppose the marshal wants to remove him?

Mr. BAYARD. The Senator will let me state the bill and I will with the greatest pleasure submit to any interrogation.

Until 1871 it was never dreamed in this country, it certainly never had been attempted in this country, to place the Federal hand upon the conduct of elections. The qualifications of suffrage were then, as now, left wholly to the States with the exception of the fifteenth amendment, which inhibited the States from making discrimination; but no other power was given over suffrage to the Government of the United States than to see that no discrimination by reason of race, color, or previous condition of servitude was made by the States. In 1871 Congress for the first time proceeded to regulate by the presence of certain officials of two classes, supervisors and special deputy marshals, the election of Members of Congress and Delegates. And here let me say that these are the only election officials provided for by Congress or which they have attempted to create. The officers who conduct the election, they who receive the ballot from the hands of the voter, those who alone decide whether he is a qualified voter, are officers of the State, elected and acting only under the laws of the State and not regulated by laws of the United States; and there is this feature which to the honor of our country and that sense of American fair play and equity so essential for the correct working and perpetuity of our institutions is here denoted, that in no State of this Union is it found that the officers of election are permitted to be or intended to be all of the same political party. Everywhere the minority has its representation. Everywhere the different parties are represented in the officials that conduct an election. And following that wise, wholesome, and honest provision, when the Congress of the United States in 1871 came, as I think improperly and unwarrantably, to deal with this subject, betraying a distrust for citizens in their capacity of State citizenship which they were unwilling to exhibit when they came to act as citizens of the United States, they provided in section 2012 (which was the act of February, 1871) for the appointment of supervisors of the registration of voters and the casting of those votes, and it was provided that the district court of the United States, the same power now invoked to procure the appointment of reputable, of disinterested, of fair-minded policemen styled deputy marshals to be present to see that wrong is done and inflicted on no man entitled to be at that election, should do what?

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, *who shall be of different political parties*, and able to read and write the English language, and who shall be known and designated as supervisors of election.

What, then, becomes of the suggestion of the honorable Senator from New York that you are to reduce this provision to an absurdity by stating that more than two political parties can exist in this country?

Mr. CONKLING. Will the Senator allow me a moment? The reason I would give him is that there the law says there shall be two, and in the law before us we adopt significantly a different form and say that "the different political parties" shall be represented; and may I inquire of the Senator if we mean two, why do we not say two as we did there?

Mr. BAYARD. If we had limited this number to two, the answer would have been that the force was insufficient to quell the intimidation or violence which we have heard complained of. One abuse, one monstrous and gross abuse of the power of appointment by the marshals, has been that there has been no reason, no justice, no moderation in the administration of the law as it now stands, but that the deputies have been appointed by hundreds, nay in some States by thousands. In the ancient and honorable city in which I was born, and where I live, I have seen them appointed, in a State noted for its honorable obedience to law and the honesty and purity of its election—I have seen the deputy marshals appointed by scores, yes by scores as compared with the numbers of the peace officers of the State. That was an abuse of the existing power of appointment. We hope that the same spirit of moderation, of good sense, of high discretion which we believe to exist in the minds of our judiciary, will exert itself in this regard, and that instead of having hosts of superfluous and improper deputies appointed at such pay as made it an absolute bribe to the class of men appointed in order that they should exert themselves as partisans, we shall see reason and propriety not simply as to the character of the appointees, but we shall see reason and justice to the tax-payers in the numbers of officials who are appointed.

Mr. President, everywhere throughout elections, that principle ought to prevail. In the laws of every State it does prevail; in all the laws of the United States it prevails that each party shall be represented by those holding the power of the Government, so that partisan feeling, which we know exists, and party spirit shall not run rampant on a day so vital and important to the liberties of the people as the day when they are to choose their rulers whom, after being chosen, they are to obey.

Mr. President, this bill provides for the appointment of all deputy marshals who have duties in reference to elections by the courts. The courts to-day can, as I say at the pleasure of the district or circuit judge, remove any deputy; the courts to-day under the laws of the United States can appoint any marshal where a vacancy occurs until his successor shall have been duly qualified. That is no new power; it is an ancient power in this Government. It has never been questioned before. And here in regard to this most delicate and important question of popular elections we propose that this wholesome spirit of non-partisan action, tempered by the high discretion of our judiciary, shall apply in order that the shocking scenes which are testified to by the depositions of witnesses taken by committees created by this body shall no longer disgrace the name and the character of the American Government. This is the proposition. It is one that I think all fair-minded men of this country approve, that they desire to see enacted into law. It is open to no just or fair objection, and can be opposed only with the intent to keep the elections of the United States under the control of partisan appointees.

Why, sir, the same spirit marked the important law passed at the last session of Congress for taking the census. There it was understood that in the summing up of our population, their number, their resources, their occupations, the enumerators should be selected "solely with reference to their fitness and without reference to their party and political affiliation." That is the intent; that is the object of this law. It is wise, it is wholesome; it tends to justice, it tends to repress the spirit of party which is so destructive of justice.

Mr. HOAR. Will the Senator from Delaware consent to amend this bill by putting in that exact phrase here that the officers so appointed shall be selected with reference to their fitness and without reference to political affiliations?

Mr. BAYARD. No, because I think the phraseology by which supervisors are chosen is better than that by which the enumerators of the census are chosen. The supervision of election under Federal authority at every voting precinct in the country has been continued for the last ten years, and it has been continued under the same language employed in this bill that the nominees shall be of different political parties. Under that there has been fairness; none of the objections, none of the difficulties which are sought to be conjured up here, have occurred, and therefore there is no just ground for any apprehension that that which has worked safely and well under the appointment of the judges of the district courts in the supervision of elections will not work equally safely and well under the same appointing power under the same frame of words as to the choice of other officials charged with duties in reference to elections.

Mr. President, I wish clearly to be understood that this bill leaves the duties of every marshal and the powers of every deputy marshal as they are now fixed by law untouched and undiminished excepting where the deputy marshal is employed "in reference to elections." Then, and then only, for that purpose and that purpose only, when he comes to act, it shall be by the designation of the circuit judge or in his absence by the district judge sitting in court for the purpose.

As to this bill, carefully providing that there should be no failure of appointment, there is this difference between the present measure and that acted upon in April last: This provides that the appointment of these officers shall be made "in each year." Not only is the word "special" eliminated from the present measure so that it shall apply to all deputies who are to serve in reference to elections, and only

to such, but also it limits their appointment to a single year and requires the courts to pass on them each year at a certain term of the court, or if from any cause the circuit court shall not be in session, then to prevent the possibility of failure the district judge, who forms the district court, himself shall open that court and see that the appointments are duly made. I may here say that the power to appoint runs up to the very day of election. The case cannot reasonably be supposed in which there can be a deficiency of appointing power under this bill.

Mr. EDMUNDS. I wish to ask the Senator from Delaware a question in connection with what he said a moment ago touching the people, and if I correctly understood him, the only people who could exert the power of the marshal's office on an election day as being these deputies provided for in this bill. In that connection, in order to understand his construction of the statute that he proposes, I wish to know whether, in his opinion, this bill being enacted into a law and regular deputies appointed by the marshal, those deputies that the other parts of the law as it now stands authorized him to appoint and not those that he is to appoint on the application of ten citizens—I ask whether such deputies are excluded from all official power on election day in reference to elections, to borrow the language of the bill?

Mr. BAYARD. I apprehend they are.

Mr. EDMUNDS. I supposed that was the purpose.

Mr. BAYARD. And I will state to the honorable Senator my reason for wishing them to be so excluded. By section 2021 of the Revised Statutes it is provided:

SEC 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

Then section 2022 provides:

The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, &c.

Their general power is marked out. It is clear to my mind——

Mr. CARPENTER. Now——

Mr. BAYARD. I will answer the Senator from Vermont and then listen with pleasure to the Senator from Wisconsin. The Senator from Vermont has asked me whether I consider that this debars the general deputies of the marshal from serving at the elections or requires those who do serve in reference to elections to be appointed by the court. I said in my opinion that it did, and I wish to state the reason for that.

The interpretation of the law given at the time of its passage, and which was accepted by the Administration for the first four years of the life of this law of 1871, was that the appointment *ad libitum* of special deputies or general deputies for the purpose of scrutinizing registration lists or attending at the polls was to be confined to cities having twenty thousand inhabitants and upward; but it seems under the construction given to the marshal's powers by Attorney-General Taft the restriction to towns of twenty thousand inhabitants was wholly overthrown, and although they did not call them "special" deputy marshals they called them "general" deputy marshals, with the same powers precisely that the special deputy marshals had at the polls of cities having twenty thousand inhabitants under section 2021. As a result, in the State of Florida, I am told by one of her Senators not now in the Chamber, that many hundreds of deputy marshals were appointed and were paid throughout the rural districts in that State under the construction of the then Attorney-General that there was power in the marshal to appoint at his own will just as many deputies as he saw fit to attend any poll in any part of the country, whether thickly populated or not. That was precisely the evil and abuse that this amendment by striking out the word "special" was intended to meet. We think that the same spirit of fairness that requires the supervisors of elections to be appointed by the district judges equally from the political parties should extend to the deputy marshals who are to assist and sustain them in their election duties, and that whenever general deputy or special deputy—whenever any deputy marshal shall attend for the purpose of assisting in the purification of a registration or in protecting the honesty of an election, he should have his power from the same source, and be appointed upon the same principles of justice as to his political predilections, as has been provided by law in the case of United States supervisors of election.

It is not necessary for me to speak here of my opposition to the whole scheme of Federal supervision of elections or interference with them in one form or another. I believe that when the time shall come that the people of this country, citizens of the several States, shall not have the virtue or patriotism sufficient to make them hold their elections fairly, honestly, and honorably, and abide by the result, all the machinery of Congress combined will never suffice to infuse that virtue into them nor will it secure the result which it now professes to seek—on the contrary, that it will lead to utter confusion, and the ultimate destruction of our Federal system.

Sir, the object of this bill is then plain. It is to prevent the appointment of low partisans and improper men. It asks that at least men of fair character shall be intrusted with these important duties, that such spectacles as have been detailed and proven to the Senate in raking the slums and stews of great cities to find all that was base and reckless and place that force in charge of the popular elections shall no longer be witnessed, and that American elections shall no more be disgraced by the presence of such low characters clothed with power to inflict infinite wrong by the act of Congress. It is impossible to imagine good reasons for refusing so essential and just a reform of clearly proven abuses.

This bill asks for no diminution of any power of the United States; it does not diminish the power of any marshal except as to the appointment of such of his deputies as are to serve in reference to elections; call them general, call them special deputies, if they are deputy marshals charged with duties in reference to elections, then the law says they shall be appointed by the circuit courts or the district courts, and that they shall be men of fair character, that they shall be well-known residents of the precinct where they are to carry out their duties, that they shall not be candidates for office at such election, and that they shall be chosen in equal numbers from the different political parties. There is no interference with the powers of deputy marshals in the service of process in any case, whether the charge grows out of election laws or no.

Surely, sir, objection to a law so reasonable and just must emanate from minds unduly heated by partisan animosities.

Mr. President, this is an attempt to follow the principle of equity and fairness that every State has from the necessity of the case marked out for herself. As I said, all the officers of election are appointed by the States who are to judge of the votes, either as inspectors or judges, have always been a tribunal containing an element representing the minority which needs protection. The presence always of men of different parties has been secured in order to abate the excesses of party spirit. This bill proposes simply that the same principle shall be extended in regard to the police who are to assist the supervisors as is provided by existing law in relation to the supervisors themselves. Already the law provides non-partisan supervisors, to be appointed by the district courts, and this bill simply provides for non-partisan deputy marshals, appointed by the same power. That is all. There is nothing else in it than that; there is no diminution of their powers, or responsibility to their superiors; there is no exclusion of the exercise of their rightful duties; and as to any undermining or seeking to undermine in any way the whole scheme of Federal supervision of elections or any power which may have been construed to reside in these officers by late decisions of the Supreme Court it is a mere chimera, and exists only in the imagination of Senators.

Mr. VOORHEES. Mr. President, I recognize the patriotic purpose of those who favor this bill; it is undoubtedly an improvement upon the present very evil system of laws, but in making that improvement those who vote for this bill commit themselves to the principle which underlies that vicious system. I do not believe in the principle or the practice of the Federal Government taking charge of the local elections of this country. I discussed that question fully something more than a year ago in my place here. I have not changed my mind. I did not believe at that time that it was within the power of Congress to confer upon the courts the appointment of deputy United States marshals for election purposes—officers who do not belong to the administration of justice. In a case in 13 Peters, which I then cited, it was plainly and squarely decided by the Supreme Court of the United States that Congress could not vest in the courts the power to make appointments, except such as are necessary to the transaction of the business of the courts themselves. The appointment of deputy marshals in no wise belongs to the administration of justice. It is true the Supreme Court since then has overruled its well-considered decision in 13 Peters, has made in my judgment a political decision to order, and to meet the issues raised at the extra session. Of course it is binding upon us so far as it is a declaration of the supreme law of the land; but it has not changed my opinion, and I have yet to determine which I shall vote upon when I discharged my oath to support the Constitution—the opinion entertained by the supreme judges or the opinion which I entertain myself. I have come to the conclusion, painful as it is to part company with cherished friends on this side of the Chamber, that I shall have to abide by my own convictions.

The doctrine of this bill is all wrong. It is a subversion of the principles on which our Government was founded. If there is any one thing true on this earth it is that our fathers expected the virtue and intelligence of the people themselves to be sufficient to sustain, support, and protect this Government; that the people were competent to do their own supervising of elections.

Sir, when that basis of government fails and the people can no longer be intrusted to administer its great concerns by their own good sense and love of country, the Republic is at an end. The experiment of self-government is then concluded. There is nothing plainer to my friend than that. There is nothing truer or simpler in mathematics than that our free institutions cease to exist when the time arrives that we sit here to send forth Federal officials to inspect,

stand over, supervise and oversee the voters of this country while they are discharging their hitherto sovereign duties.

We are taking rapid strides, Mr. President, in these latter days, but they are in the wrong direction. We are proceeding upon the doctrine of distrust, that the people cannot be trusted to manage their own affairs. I do not intend to declare or vote that doctrine. I believe the people can be trusted to manage their own elections through their State and municipal laws. I do not believe that this Government is called upon by reason of the degeneracy of the people, their decay in public virtue, or their loss of intelligence, to assume a guardianship over them, as this species of legislation contemplates.

I have already recognized the argument that there is a worse system than this; that this is an improvement on the existing law. I have said that I recognized the patriotism of the attempt to abate an existing evil; but in abating it I cannot, so far as I am concerned, commit myself affirmatively, under my view of the Constitution that I have sworn to support, to a principle which upholds the very evil we are trying to destroy. The principle which upholds supervisors of elections in any respect whatever is what I cannot embrace. It matters not to me whether a supervisor is of my party or of the party which the Senator from New York so distinguishes; I heard his catalogue of parties here given a little while ago. He produced some that I had not known of. But it matters not to me what party a man belongs to who comes to watch the voter on voting day. I have as little respect for one of my own politics who undertakes at $5 a day to act as a spy upon free-born electors as I have for one of any other party. That is nothing to me; the principle is everything; and we have now reached a point where we have to say that we either trust the people, and withdraw this system of espionage, supervisorship—a system of "overseers;" that is the true word; we have to determine whether we will withdraw this odious system and say to the people, "We trust you once more," or we must say to them on the other hand "The doctrine of the fathers has failed and the virtue and intelligence to which they trusted the Government no longer exist."

I said a moment ago that we were traveling rapidly, and I think in the wrong direction. We are breaking down all the sanctions of the past; we are challenging and defying the wisdom of those who made this Government. They declared that the people could be trusted; we say they cannot. They said the people had sufficient intelligence to govern themselves; we say they have not. They said the people were virtuous; we say they are corrupt and need watching on election day for fear they will do wrong. Our fathers said that when a man had been elected twice to the Presidency of the United States it was dangerous to elect him again for fear a dangerous habit would come upon the people—a habit of continuing a man in office for life and then his children after him when the habit became fixed. We have traveled so fast and so far that we are not alarmed about that now. My friend from New York [Mr. CONKLING] smiles with happiness at such a prospect, when in point of fact four years ago nearly every State in this Union that has the misfortune to have a republican majority, either in State convention or in its Legislature, declared it a heresy to entertain the thought of a third term. But, Mr. President, how we change! How time alters all! I sometimes pause and wonder what we shall look like and where we shall be four years hence, when I consider where we are now as compared to where we were four years ago. Had we not better pause and reflect, go back to the landmarks of the Government and the Constitution, the usages and habits of the fathers, and have a little refreshing experience of trust and confidence in the people and in the principles by which they have hitherto been governed so happily, so prosperously, and so gloriously?

I am against this whole supervisor, deputy-marshal business. I cannot vote for this bill.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BOOTH, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were present, I should vote "yea."

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. HAMPTON, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BLAIR.]

Mr. PADDOCK, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

Mr. VEST, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. ROLLINS.]

Mr. VOORHEES, (when his name was called.) I am paired with the Senator from Illinois [Mr. LOGAN] upon all political questions. I presume he would vote for this amendment if he were present, and I should vote against it.

Mr. MCMILLAN, (when Mr. WINDOM's name was called.) My colleague [Mr. WINDOM] is paired with the Senator from Pennsylvania [Mr. WALLACE] on this question.

The roll-call was concluded.

Mr. EDMUNDS. My colleague [Mr. MORRILL] is paired with some gentleman on the other side of the Chamber; I have forgotten who at this moment. If my colleague were present, he would vote "yea."

Mr. BAILEY. I am paired with the Senator from Vermont, [Mr. MORRILL.]

Mr. INGALLS. I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. DAVIS, of West Virginia. I am paired with the Senator from Michigan [Mr. BALDWIN] on all political questions, and I take it this is a political question.

Mr. EATON, (after having voted in the negative.) I withdraw my vote, as I am paired with my colleague, [Mr. PLATT.] I had forgotten it.

The result was announced—yeas 14, nays 25; as follows:

YEAS—14.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders.
Cameron of Pa.,	Edmunds,	Kirkwood,	
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—25.

Bayard,	Garland,	Kernan,	Thurman,
Beck,	Gordon,	McDonald,	Vance,
Butler,	Harris,	Morgan,	Walker,
Call,	Hereford,	Pryor,	Williams.
Cockrell,	Hill of Georgia,	Ransom,	
Coke,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—37.

Allison,	Eaton,	Logan,	Teller,
Bailey,	Ferry,	McPherson,	Vest,
Baldwin,	Groome,	Maxey,	Voorhees,
Blaine,	Grover,	Morrill,	Wallace,
Blair,	Hamlin,	Paddock,	Whyte,
Booth,	Hampton,	Pendleton,	Windom,
Bruce,	Ingalls,	Platt,	Withers.
Carpenter,	Johnston,	Randolph,	
Davis of Illinois,	Kellogg,	Rollins,	
Davis of W. Va.,	Lamar,	Sharon,	

So the amendment was rejected.

Mr. CARPENTER. I offer now an amendment containing the first and second sections of the matter just voted on, inserting in line 5, after the word "in," the words "the next preceding," so as to read, "the next preceding section," and I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The Senator will send his amendment to the desk or state the change in the print.

Mr. CARPENTER. I have marked the change in the copy I send up.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to add to the bill the sections which will be read.

The Chief Clerk read as follows:

That every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, from peaceably assembling with any other such citizen or citizens for the purpose of petitioning the Congress of the United States for a redress of grievances, or from so assembling for the purpose of considering the subject of the nomination or choice of any person to be a Member of, or Delegate to, the House of Representatives of the said Congress, or from so assembling for any other lawful purpose relating to the preservation, operation, administration, or authority of the Government of the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $100, or by imprisonment not more than one year, or both, in the discretion of the court.

Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, break up or disturb any meeting of citizens of the United States, or of any State, lawfully assembled or existing for any of the purposes mentioned in the next preceding section of this act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

The PRESIDENT *pro tempore*. On this amendment the yeas and nays are asked for.

The yeas and nays were ordered.

Mr. MCDONALD. It is very evident that that is a political rider, and undoubtedly would cause the bill to be vetoed.

Mr. CONKLING. This is not an appropriation bill.

The Secretary proceeded to call the roll.

Mr. BAILEY, (when his name was called.) I am paired on all questions connected with this bill with the Senator from Vermont, [Mr. MORRILL.]

Mr. BOOTH, (when his name was called.) I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here I should vote "yea."

Mr. EATON, (when his name was called.) I am paired with my colleague, [Mr. PLATT.]

Mr. CARPENTER, (when Mr. MAXEY's name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. EDMUNDS, (when Mr. MORRILL's name was called.) My colleague [Mr. MORRILL] is paired with the Senator from Tennessee, [Mr. BAILEY.]

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present I should vote "yea."

Mr. VEST, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. ROLLINS.]

Mr. VOORHEES, (when his name was called.) I am paired with the Senator from Illinois, [Mr. LOGAN.]

The roll-call was concluded.

Mr. WINDOM. It has been announced that I am paired with the Senator from Pennsylvania, [Mr. WALLACE,] and that the Senator from West Virginia [Mr. DAVIS] is paired with the Senator from Michigan, [Mr. BALDWIN.] If the Senator from Pennsylvania and the Senator from Michigan may be considered as paired with each other, I will vote. I understand this arrangement transferring the pairs is satisfactory, and I vote in the affirmative.

The result was announced—yeas 15, nays 25; as follows:

YEAS—15.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders,
Cameron of Pa.,	Edmunds,	Kirkwood,	Windom.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—25.

Bayard,	Farley,	Jones of Florida,	Thurman,
Beck,	Garland,	Kernan,	Vance,
Butler,	Gordon,	McDonald,	Walker,
Call,	Harris,	Pryor,	Williams.
Cockrell,	Hereford,	Ransom,	
Coke,	Hill of Georgia,	Saulsbury,	
Davis of W. Va.,	Jonas,	Slater,	

ABSENT—36.

Allison,	Eaton,	Lamar,	Randolph,
Bailey,	Ferry,	Logan,	Rollins,
Baldwin,	Groome,	Maxey,	Sharon,
Blaine,	Grover,	McPherson,	Teller,
Blair,	Hamlin,	Morgan,	Vest,
Booth,	Hampton,	Morrill,	Voorhees,
Bruce,	Ingalls,	Paddock,	Wallace,
Carpenter,	Johnston,	Pendleton,	Whyte,
Davis of Illinois,	Kellogg,	Platt,	Withers.

So the amendment was rejected.

Mr. CARPENTER. I offer to amend the bill by adding as a separate section what was section 3 in the paper the Clerk has. Let it be reported.

The Chief Clerk read as follows:

Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or by other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, lawfully entitled so to do, from peaceably going to, remaining at, or returning from any place of registration, tax-paying, voting, or place of doing any other act or thing required by the laws of the United States, or of any State or Territory, to be done by such citizen, in the exercise, or as a requisite to the exercise, of the right to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, for the purpose of doing such act or complying with such requisition, or who shall unlawfully hinder, impede, prevent, or neglect or refuse to allow the doing of any such act or the compliance with any such requisite, or the free voting by such lawfully entitled citizen in the manner prescribed by law, at any election for Member of, or Delegate to, said House of Representatives, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than three years, or both, in the discretion of the court.

Mr. CARPENTER. This is for the purpose of making up the record for a bill of exceptions, and I therefore ask for the yeas and nays on this amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. EATON. I am paired with my colleague, [Mr. PLATT.]

Mr. BUTLER, (when Mr. HAMPTON's name was called.) My colleague [Mr. HAMPTON] is paired on this question.

Mr. EDMUNDS, (when Mr. MORRILL's name was called.) My colleague [Mr. MORRILL] is paired with the Senator from Tennessee, [Mr. BAILEY.] My colleague would vote in favor of this amendment.

Mr. PADDOCK, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. TELLER, (when his name was called.) On this subject and all others connected with this bill I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] has been quite unwell for three or four days. He was in the Chamber, in his seat, a short time this morning, but was unable to remain. He is paired with the Senator from Maryland [Mr. WHYTE] upon political questions generally, and so upon this bill. I should have made this statement before, but having made it now it will suffice to explain my colleague's position on all votes connected with this bill.

Mr. VOORHEES. I should vote "nay" if I were not paired with the Senator from Illinois, [Mr. LOGAN.]

Mr. COCKRELL. I desire to announce that my colleague [Mr. VEST] is paired with the Senator from New Hampshire, [Mr. ROLLINS.] If my colleague were here, he would vote "nay" and the Senator from New Hampshire "yea."

The result was announced—yeas 14, nays 25; as follows:

YEAS—14.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders.
Cameron of Pa.,	Edmunds,	Kirkwood,	
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—25.

Bayard,	Garland,	Kernan,	Thurman,
Beck,	Gordon,	McDonald,	Vance,
Butler,	Harris,	Morgan,	Walker,
Call,	Hereford,	Pryor,	Williams.
Cockrell,	Hill of Georgia,	Ransom,	
Coke,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—37.

Allison,	Eaton,	Logan,	Teller,
Bailey,	Ferry,	McPherson,	Vest,
Baldwin,	Groome,	Maxey,	Voorhees,
Blaine,	Grover,	Morrill,	Wallace,
Blair,	Hamlin,	Paddock,	Whyte,
Booth,	Hampton,	Pendleton,	Windom,
Bruce,	Ingalls,	Platt,	Withers.
Carpenter,	Johnston,	Randolph,	
Davis of Illinois,	Kellogg,	Rollins,	
Davis of W. Va.,	Lamar,	Sharon,	

So the amendment was rejected.

Mr. CARPENTER. I move as a separate section to the bill the following amendment——

Mr. VOORHEES. Will the Senator from Wisconsin yield for a motion to adjourn? It is obvious we cannot finish the bill to-night.

Mr. CONKLING. This is a very interesting bill. Why not go on with it?

Mr. VOORHEES. If the Senator from Delaware who has charge of the bill desires to go on, I shall not interpose.

The PRESIDENT *pro tempore*. The Senator from Wisconsin offers an amendment, which will be read.

The Chief Clerk read as follows:

SEC. —. When under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done as a prerequisite or qualification for voting for Member of, or Delegate to, the House of Representatives of the Congress of the United States, and by such constitution or laws persons or officers are or shall be charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States, and to all citizens of each State, lawfully entitled, the same and equal opportunity to perform such act and prerequisite, and to become qualified to vote.

SEC. —. Every person or officer charged with any duty specified in the preceding section who refuses or knowingly omits to give full effect to said section, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs and such allowance for counsel fees as the court may deem just.

Mr. CARPENTER. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. EATON, (when his name was called.) I am paired with my colleague, [Mr. PLATT.]

Mr. HAMPTON, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BLAIR.]

Mr. PADDOCK, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Illinois, [Mr. DAVIS.]

The roll-call having been concluded, the result was announced—yeas 14, nays 25; as follows:

YEAS—14.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders.
Cameron of Pa.,	Edmunds,	Kirkwood,	
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—25.

Bayard,	Garland,	Kernan,	Thurman,
Beck,	Gordon,	McDonald,	Vance,
Butler,	Harris,	Morgan,	Walker,
Call,	Hereford,	Pryor,	Williams.
Cockrell,	Hill of Georgia,	Ransom,	
Coke,	Jonas,	Saulsbury,	
Farley,	Jones of Florida,	Slater,	

ABSENT—37.

Allison,	Eaton,	Logan,	Teller,
Bailey,	Ferry,	McPherson,	Vest,
Baldwin,	Groome,	Maxey,	Voorhees,
Blaine,	Grover,	Morrill,	Wallace,
Blair,	Hamlin,	Paddock,	Whyte,
Booth,	Hampton,	Pendleton,	Windom,
Bruce,	Ingalls,	Platt,	Withers.
Carpenter,	Johnston,	Randolph,	
Davis of Illinois,	Kellogg,	Rollins,	
Davis of W. Va.,	Lamar,	Sharon,	

So the amendment was rejected.

Mr. CARPENTER. I offer as an additional section to the bill what is section 6 in the paper the Clerk has, and which I ask to have reported.

The CHIEF CLERK. It is proposed to add as an additional section:

SEC. —. Whenever, under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done by a citizen of the United States, or of any State, as a prerequisite to qualify or entitle him to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, the offer of such citizen, lawfully made, to perform the act required to be done, shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to perform, and being otherwise qualified, shall be entitled to vote for such Member of, or Delegate to, the House of Representatives, in the same manner, and to the same extent, and with the same effect, as if he had in fact performed such act. Every officer of registration, judge, inspector, or other officer of election, whose duty it is or shall be to register or report the names of voters, or to receive, count, certify, register, report, return, or give effect to, the vote of such citizen for a Member of the House of Representatives of, or Delegate to, the Congress of the United States, who shall wrongfully refuse or omit to make due registration, or to receive, or truly to count, certify, register, report, return, or

give effect to the registration or vote of such citizen, upon the presentation by him of his affidavit stating such offer, and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. CARPENTER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. EATON, (when his name was called.) I am paired with my colleague, [Mr. PLATT.]

Mr. HAMPTON, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BLAIR.]

Mr. TELLER, (when his name was called.) I am paired with the Senator from Illinois, [Mr. DAVIS.]

The roll-call was concluded.

Mr. COCKRELL. I desire to announce that my colleague [Mr. VEST] is paired with the Senator from New Hampshire, [Mr. ROLLINS.] If my colleague were here, he would vote "nay."

Mr. DAVIS, of West Virginia. The Senator from Michigan [Mr. BALDWIN] and myself are paired, and the Senator from Minnesota [Mr. WINDOM] and the Senator from Pennsylvania [Mr. WALLACE] are paired; but to make a quorum the Senator from Minnesota and myself propose to vote and transfer the pair to the other two gentlemen.

Mr. EDMUNDS. I will announce again, and that will answer for all the future votes to-day on this bill, that my colleague [Mr. MORRILL] is paired with the Senator from Tennessee, [Mr. BAILEY.] My colleague would vote in favor of this amendment and others of a similar character, to make the bill something like proper.

Mr. PADDOCK. I am paired with the Senator from Virginia, [Mr. JOHNSTON.]

The PRESIDENT *pro tempore*. Before announcing the vote the Chair wishes to state, what he ought to have done before, that he understands his colleague [Mr. PENDLETON] has been called away from the city to-day.

The result was announced—yeas 15, nays 26; as follows:

YEAS—15.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders,
Cameron of Pa.,	Edmunds,	Kirkwood,	Windom.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—26.

Bayard,	Farley,	Jones of Florida,	Slater,
Beck,	Garland,	Kernan,	Thurman,
Butler,	Gordon,	McDonald,	Vance,
Call,	Harris,	Morgan,	Walker,
Cockrell,	Hereford,	Pryor,	Williams.
Coke,	Hill of Georgia,	Ransom,	
Davis of W. Va.,	Jonas,	Saulsbury,	

ABSENT—35.

Allison,	Eaton,	Lamar,	Rollins,
Bailey,	Ferry,	Logan,	Sharon,
Baldwin,	Groome,	McPherson,	Teller,
Blaine,	Grover,	Maxey,	Vest,
Blair,	Hamlin,	Morrill,	Voorhees,
Booth,	Hampton,	Paddock,	Wallace,
Bruce,	Ingalls,	Pendleton,	Whyte,
Carpenter,	Johnston,	Platt,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	

So the amendment was rejected.

Mr. CARPENTER. I offer as an additional section to the bill what is section 7 in the paper which the Clerk has.

The CHIEF CLERK. At the end of the bill it is proposed to add:

SEC. —. Every officer of the United States, or of any State or Territory, or other person, charged by this act, or who is, or shall be, charged by other laws of the United States, or by the laws of any State or Territory, with any duty in relation to the right of citizens of the United States, or of any State, to become qualified to vote for, or the right of any such citizen to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, or in relation to the conduct of any election for the choice of such Member or Delegate, or in relation to the registration of the names of voters, or the receiving, counting, declaring, returning, or certifying of any vote or votes for such Member or Delegate, who shall knowingly and wrongfully fail or refuse to truly perform such duty, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment not exceeding five years, or both, in the discretion of the court.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. CARPENTER. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. HAMPTON, (when his name was called.) I am paired with the Senator from New Hampshire, [Mr. BLAIR.]

Mr. TELLER, (when his name was called.) I am paired with the Senator from Illinois, [Mr. DAVIS.]

The roll-call was concluded.

Mr. SAUNDERS. My colleague [Mr. PADDOCK] is paired with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. MCMILLAN. The Senator from Michigan, [Mr. FERRY,] who is absent, was compelled to leave the Chamber some time since, and desired me to announce that he is paired upon this question with some member of the Senate, whose name has escaped me.

Mr. WINDOM. The Senator from Michigan [Mr. BALDWIN] is paired with the Senator from Pennsylvania, [Mr. WALLACE.]

The result was announced—yeas 15, nays 26; as follows:

YEAS—15.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders,
Cameron of Pa.,	Edmunds,	Kirkwood,	Windom.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—26.

Bayard,	Farley,	Jones of Florida,	Slater,
Beck,	Garland,	Kernan,	Thurman,
Butler,	Gordon,	McDonald,	Vance,
Call,	Harris,	Morgan,	Walker,
Cockrell,	Hereford,	Pryor,	Williams.
Coke,	Hill of Georgia,	Ransom,	
Davis of W. Va.,	Jonas,	Saulsbury,	

ABSENT—35.

Allison,	Eaton,	Lamar,	Rollins,
Bailey,	Ferry,	Logan,	Sharon,
Baldwin,	Groome,	McPherson,	Teller,
Blaine,	Grover,	Maxey,	Vest,
Blair,	Hamlin,	Morrill,	Voorhees,
Booth,	Hampton,	Paddock,	Wallace,
Bruce,	Ingalls,	Pendleton,	Whyte,
Carpenter,	Johnston,	Platt,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	

So the amendment was rejected.

Mr. CARPENTER. I move to amend the bill by adding as an additional section what is section 8 on the paper which the Clerk has. I ask to have it reported.

The CHIEF CLERK. At the end of the bill it is proposed to add:

SEC. —. Every person who shall cast, deposit, or count, or allow to be cast, deposited, or counted, at, or on the occasion of, any election for a Member of, or a Delegate to, the House of Representatives of the Congress of the United States, any false or unlawful vote or ballot, knowing such vote or ballot to be false or unlawful, or who shall knowingly make any false certificate, report, or return of, or in respect to, any such election, or the result thereof, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than five years, or both, in the discretion of the court.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. TELLER, (when his name was called.) I am paired on this question with the Senator from Illinois, [Mr. DAVIS.]

The roll-call was concluded.

Mr. DAVIS, of West Virginia. I am requested to announce a pair between the Senator from Pennsylvania [Mr. WALLACE] and the Senator from Michigan, [Mr. BALDWIN.]

The result was announced—yeas 15, nays 26; as follows:

YEAS—15.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders,
Cameron of Pa.,	Edmunds,	Kirkwood,	Windom.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—26.

Bayard,	Farley,	Jones of Florida,	Slater,
Beck,	Garland,	Kernan,	Thurman,
Butler,	Gordon,	McDonald,	Vance,
Call,	Harris,	Morgan,	Walker,
Cockrell,	Hereford,	Pryor,	Williams.
Coke,	Hill of Georgia,	Ransom,	
Davis of W. Va.,	Jonas,	Saulsbury,	

ABSENT—35.

Allison,	Eaton,	Lamar,	Rollins,
Bailey,	Ferry,	Logan,	Sharon,
Baldwin,	Groome,	McPherson,	Teller,
Blaine,	Grover,	Maxey,	Vest,
Blair,	Hamlin,	Morrill,	Voorhees,
Booth,	Hampton,	Paddock,	Wallace,
Bruce,	Ingalls,	Pendleton,	Whyte,
Carpenter,	Johnston,	Platt,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	

So the amendment was rejected.

Mr. CARPENTER. I am losing faith somewhat in the success of these several amendments, but here is one which I hope will meet with no considerable opposition. I move to amend the bill by adding as additional sections what are sections 11, 12, and 13 in the paper which the Clerk has, and which I ask to be reported.

The CHIEF CLERK. It is proposed to add as additional sections:

SEC. —. Every person who shall promise, offer, give, or cause or procure to be promised, offered, or given, any money or other thing of value, or who shall make or tender any contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of any thing of value, to any person, with intent to influence or reward such person for, or on account of, his vote, or for or on account of his omission to vote, at any election for a Member of,

or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000 or imprisoned not more than two years, or both, in the discretion of the court.

SEC. —. Every person who shall in any wise accept or receive, or agree to accept or receive, any sum of money, or other bribe or reward, for, or on account of, his voting, or promising to vote, or refraining from voting, or promising to refrain from voting, for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year, or both, in the discretion of the court.

SEC. —. Every person convicted of any offense against either of the two preceding sections shall be thereafter forever disqualified from holding any office of honor, trust, or profit under the United States.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. CARPENTER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOAR. I propose to vote against the amendment, because I do not believe in the constitutional power to impose disqualification for office as a penalty by act of Congress.

Mr. CARPENTER. Not for future offenses?

Mr. HOAR. Not for any. I do not think it is within the legislative authority.

The Secretary called the roll.

Mr. COCKRELL. I desire to announce that my colleague [Mr. VEST] is paired, and will be paired during the remainder of the day, as announced, with the Senator from New Hampshire, [Mr. ROLLINS.]

The result was announced—yeas 14, nays 27; as follows:

YEAS—14.

Anthony,	Conkling,	Jones of Nevada,	Saunders,
Burnside,	Dawes,	Kirkwood,	Windom.
Cameron of Pa.,	Edmunds,	McMillan,	
Cameron of Wis.,	Hill of Colorado,	Plumb,	

NAYS—27.

Bayard,	Farley,	Jonas,	Saulsbury,
Beck,	Garland,	Jones of Florida,	Slater,
Butler,	Gordon,	Kernan,	Thurman,
Call,	Harris,	McDonald,	Vance,
Cockrell,	Hereford,	Morgan,	Walker,
Coke,	Hill of Georgia,	Pryor,	Williams.
Davis of W. Va.,	Hoar,	Ransom,	

ABSENT—35.

Allison,	Eaton,	Lamar,	Rollins,
Bailey,	Ferry,	Logan,	Sharon,
Baldwin,	Groome,	McPherson,	Teller,
Blaine,	Grover,	Maxey,	Vest,
Blair,	Hamlin,	Morrill,	Voorhees,
Booth,	Hampton,	Paddock,	Wallace,
Bruce,	Ingalls,	Pendleton,	Whyte,
Carpenter,	Johnston,	Platt,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	

So the amendment was rejected.

Mr. TELLER. I offer an amendment to add to the bill the sections which I send to the desk.

The sections proposed to be added were read, as follows:

SEC. —. That it shall be unlawful for any person in the service of the United States, whether such person holds an elective office or holds his position in the service of the Government by appointment, and having clerks or other employés of the United States under his charge or control, to levy or aid in levying from such clerks or employés any assessment for any political purposes whatever; and any officer or appointee who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding $1,000 and imprisoned for a term not exceeding one year, in the discretion of the court: *Provided, however*, That nothing herein shall be so construed as to prevent any and all officers and employés of the United States from making such voluntary contributions for political purposes as they may see fit.

SEC. —. That if any candidate for Representative in Congress, or other person, shall pay, give, or cause to be paid or given, either directly or indirectly, any money or other valuable thing to or for the use of any person or persons, with the intent and purpose corruptly to influence the vote or political action of such person or persons at any election at which Representatives in Congress or presidential electors are voted for, such candidate or other person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction shall be fined in any sum not more than $5,000, and be imprisoned in the penitentiary, at hard labor, for a term not more than five years, and shall, in the discretion of the court, stand committed until such fine and costs are paid.

SEC. —. That any person who shall either directly or indirectly accept or receive to or for his use any money or other valuable thing as the price, consideration, or inducement paid, offered, or promised, to corruptly influence or control the vote or political action of such person at any election at which Representatives in Congress or presidential electors are voted for, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof by any court of competent jurisdiction, be fined in any sum not exceeding $1,000 and imprisoned not more than two years.

SEC. —. That any person or persons who shall by menaces, threats, intimidation, or violence made or offered on the day of or within thirty days preceding any election at which Representatives in Congress or presidential electors are voted for, with the intent or for the purpose of influencing the votes of citizens having the legal right to vote at said election, or for the purpose of preventing or hindering such citizens from voting, shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction shall be fined in any sum not more than $1,000, and shall be imprisoned for not more than three years, and, in the discretion of the court, shall stand committed until the fine and costs are paid.

SEC. —. That if any person shall attend any public meeting held for the discussion or consideration of political questions with reference to the election of members of the House of Representatives, or the election of presidential electors, armed with deadly weapons for the purpose of disturbing such political meeting, or shall in any way hinder or disturb the free discussion of or consideration of political questions at such meeting, such person shall be guilty of a misdemeanor, and on conviction thereof in a court of competent jurisdiction shall be fined in any sum not exceeding $1,000, and imprisoned for a term not exceeding one year, in the discretion of the court.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the amendment of the Senator from Colorado, [Mr. TELLER?]

Mr. TELLER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CARPENTER, (when his name was called.) I am paired with the Senator from Texas, [Mr. MAXEY.]

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. SAUNDERS. I wish to announce again the pair of my colleague [Mr. PADDOCK] with the Senator from Virginia, [Mr. JOHNSTON.]

The result was announced—yeas 15, nays 26; as follows:

YEAS—15.

Anthony,	Conkling,	Hoar,	Plumb,
Burnside,	Dawes,	Jones of Nevada,	Saunders,
Cameron of Pa.,	Edmunds,	Kirkwood,	Windom.
Cameron of Wis.,	Hill of Colorado,	McMillan,	

NAYS—26.

Bayard,	Farley,	Jones of Florida,	Slater,
Beck,	Garland,	Kernan,	Thurman,
Butler,	Gordon,	McDonald,	Vance,
Call,	Harris,	Morgan,	Walker,
Cockrell,	Hereford,	Pryor,	Williams.
Coke,	Hill of Georgia,	Ransom,	
Davis of W. Va.,	Jonas,	Saulsbury,	

ABSENT—35.

Allison,	Eaton,	Lamar,	Rollins,
Bailey,	Ferry,	Logan,	Sharon,
Baldwin,	Groome,	McPherson,	Teller,
Blaine,	Grover,	Maxey,	Vest,
Blair,	Hamlin,	Morrill,	Voorhees,
Booth,	Hampton,	Paddock,	Wallace,
Bruce,	Ingalls,	Pendleton,	Whyte,
Carpenter,	Johnston,	Platt,	Withers.
Davis of Illinois,	Kellogg,	Randolph,	

So the amendment was rejected.

Mr. CONKLING. I rise to offer an amendment in the hope that it will commend itself to the majority of the Senate. I move to amend in line 1, of section 2, by inserting after the words "deputy marshals" the words "appointed only;" so that the line will read:

That all deputy marshals appointed only to serve in reference to any election shall be appointed—

As is provided. Every Senator, if he does me the favor to attend to the statement of the amendment, will understand its object. As the bill now is, I believe it open to the construction (and so I think the Senator from Delaware admits) that it will strike down and paralyze the powers of every deputy marshal whatsoever, not alone on an election day but on every one of the three hundred and sixty-five days in the year, touching his action in respect of any offense or act whatever affecting or growing out of an election. I can hardly believe that it is the purpose, understood, of all the members on the other side of this Chamber, to put on the statute-book a provision so destructive, so pernicious, and as I think so vicious as that.

If the purpose is, as it has been thus far, as it was in the case of the provision which the Senator from Delaware said nobody challenged in that regard, to provide that the deputy marshals appointed to serve on election day and on other days in respect of elections, and only they, shall be appointed by the court, and shall represent different political parties, the two words which I ask to insert will define and secure beyond all peradventure that meaning. Without those words the provision is open to the construction, and I think the true construction is, that it is aimed at every deputy marshal, whoever he may be, and in respect of every act on every day in the year which he may attempt to perform so that that act has any reference whatever to the election laws and therefore to an election.

I see the moderator of this meeting, the distinguished presiding officer, has come down from his exalted seat and taken a place upon the floor, I doubt not to make a few vigorous remarks in favor of my amendment, and for that purpose I beg to yield the floor to him.

Mr. BAYARD. Mr. President, it really seems to me that it requires a good deal of ingenuity in the honorable Senator from New York to say that where you provide for the appointment of deputy marshals to serve in reference to any election you do not mean those who are appointed so to serve. The very section of the bill provides for the appointment and says "to serve in reference to any election."

Mr. CONKLING. Then has the Senator any objection to my amendment?

Mr. BAYARD. As I understand, the Senator has moved to interpolate the words "appointed to."

Mr. CONKLING. No.

Mr. BAYARD. I misunderstood the amendment possibly.

Mr. CONKLING. Not "appointed to," "appointed only," so that it will read:

That all deputy marshals appointed only to serve in reference to any election.

If that is what it means now, I take it the Senator will have no objection to making the meaning more manifest and conclusive.

Mr. BAYARD. That is what it does not mean, that others appointed by the marshals may serve with reference to elections who

are not appointed by the judges and who are not of the character of men that this bill provides for. The object of the bill is simple, it is plain, it is incapable, in my judgment, of obscuration. It is not the intent nor does the bill effect the deprivation of the power of the deputies of any marshal or of the marshal himself to execute any of the duties now imposed upon him or his agents by law; nor does it prevent the employment of every power in the execution of those duties now given him by law, except for such deputies as are to serve in relation to any election. How can they serve in relation to an election unless they are appointed to serve? One of the sections of the Revised Statutes to be affected by this measure calls them "special deputy marshals;" another section speaks of them as "general deputies." We propose that wherever the supervision of elections can be carried on by non-partisan officers, appointed by the district courts, they shall be conducted for the purpose of assistance, for the purpose of protection if need be, by deputy marshals appointed by the same power, and men of the same class, to wit, men of good character, well-known residents, not candidates for office. That and that alone is the effect and object of the present measure. The section the Senator refers to in a subsequent portion provides for the appointment, and then to qualify it when you look to the first line of the section you see that it is an appointment "to serve in reference to any election." *Expressio unius est exclusio alterius.*

Mr. CONKLING. What is the objection then to the amendment, if I may inquire? What objection does the Senator find to the amendment if it only makes more certain that which is certain.

Mr. BAYARD. Because I think when you have drawn a law that fills the object for which it was plainly intended you had best stop there and not make an amendment that may possibly falsify or obscure it. Therefore, I think the object of the honorable Senator is really reached and fully reached by the present frame of the bill.

Mr. THURMAN. (Mr. GARLAND in the chair.) If the amendment of the Senator from New York should be adopted, my friend from Delaware had just as well when we get the bill into the Senate vote against every single amendment in the bill striking out the word "special," for if the amendment of the Senator from New York be adopted it just as effectually restores the word "special" as if that word was in the bill. Let us see how it would read:

That all deputy marshals appointed only to serve in reference to any election.

Very well. Where, then, do you look to find out who are the deputy marshals who are "appointed only to serve in reference to any election?" You do not find it in the old law organizing the courts. You do not find it in the act of 1792 or any act of that kind down to the act providing for these special deputy marshals to serve at elections. That is where you find it, and you do not find it until then. Therefore, put in the words "appointed only" before "to serve" and you have just limited the power of the court to appointing the special deputy marshals which are provided for by the existing act, and they shall be of different political parties; but the power which Mr. Attorney-General Taft said that the marshal had under the old laws long prior to these election laws, to appoint as many deputies as he saw fit to serve in respect to elections, and under which the marshal in Florida appointed hundreds of such deputies, and the marshal in Louisiana did the same thing, remains untouched by your bill. They would be the mere partisans that they were before, appointed by the marshal just as they were before, and this bill would not be worth the paper on which it was written. That would be the effect of it. There would not be any appointment made by the court, there would not be any special deputy marshals appointed by the marshal, for he would appoint all general deputies with the powers which Mr. Attorney-General Taft said they have, to do everything that these special deputies are authorized to do under the laws in reference to elections.

Oh, no, Mr. President, we struck the word "special" out for the very purpose of preventing that thing. It was done *ex industria;* it was done that no more deputy marshals should be appointed to the number of hundreds to roam over the whole country, not confined to cities of twenty thousand inhabitants and upward, but to roam into every precinct, although there were but fifty voters in it, and to exercise the enormous powers with which they are vested by the election laws.

Therefore, I beg leave to say to my friend who has this bill in charge that it will not do at all to consent either to the amendment offered by the Senator from New York or to his interpretation of the bill. The Senator from Delaware is quite right, however, in saying that the Senator from New York sees difficulties that do not exist except in his own fertile imagination. Pass this bill; let it become a law; there is not one line in it that will prevent any regular deputy, any general deputy of a marshal from executing any process just precisely as he would if the bill had not passed.

Mr. CONKLING. Even if it relates to an election?

Mr. THURMAN. If it relates to an election he can execute process which he would have executed before; but he cannot exercise the extraordinary and special powers which are conferred by the election laws. That he cannot do.

Mr. EDMUNDS. May I ask what the extraordinary and special powers are to which the Senator refers?

Mr. THURMAN. I think it is an extraordinary power where the marshal can arrest a man without a warrant, not because of any offense committed in his sight, but because somebody told him that he saw the offense committed. I think it is an extraordinary power when he can take a judge of election off his bench, and more than one, and put a stop to the election if the marshal sees fit. I think those are extraordinary powers. I think it is not necessary to discuss the question of the extraordinary powers that are conferred by that election law and the appointment of these deputy marshals.

I only rose for the purpose of saying that while this bill will not interfere in the whole three hundred and sixty-five days of the year, while by no possibility can it interfere, it does mean that the marshals who are to exercise the powers provided in the election laws shall be appointed in the manner provided in this bill.

Mr. President, having said that much, I want to say a word in reply to some observations made by my friend from Indiana, [Mr. VOORHEES.] I thought with him, I think still, notwithstanding the decision of the Supreme Court of the United States, that our election laws providing for these supervisors and deputy marshals are unconstitutional laws. I have not denied that Congress might pass laws in regard to the election of members of Congress and laws in regard to the election of electors of President and Vice-President; but I do maintain, and shall maintain as long as I live, that such laws must be framed so as not to interfere with the election of State officers, with elections that it belongs to the State alone to regulate; and because our laws do interfere with State elections, because they do interfere with elections that belong exclusively to the States, I hold that they are unconstitutional. Then, says the Senator from Indiana, how can you vote for this bill?

In the first place, I can tell the Senator that there is nothing in the bill that makes it apply to an election where there would be any unconstitutional interference with that election. *Non constat* because this bill passes that the laws will remain precisely as they are interfering with State elections. Suppose the laws did not interfere with State elections; suppose our laws as they now stand on the statute-book in no wise interfered with State elections; could anybody then say that this bill was unconstitutional? Certainly not.

But this bill stands by itself. It does not commit itself to any unconstitutional interference with elections. But suppose it be said that is rather too refined, that is splitting hairs and getting away from the real substance of the thing, for this is in effect an amendment to the election laws. Suppose that is so; still it is admissible to vote for it, even believing those laws to be unconstitutional, and why? Because a vote for this bill is not a vote to support those laws. If there is an unconstitutional law on the statute-book, one for which I would not vote, and a proposition is made to modify that law so as to make it either less unconstitutional or less oppressive or less unjust or less impolitic, I can vote for the modification without sanctioning the law. I can vote for this modification to that law, if it be considered a modification to it, without in the slightest degree sanctioning the law to which it is a modification.

Mr. HOAR. Will the Senator from Ohio allow me to ask him a question?

Mr. THURMAN. Yes, sir.

Mr. HOAR. I desire to ask whether a judge of a court of the United States holding the view which he intimates, that this law is unconstitutional, would not be bound to refuse to make an appointment for that unconstitutional purpose?

Mr. THURMAN. I am surprised at that question. A judge of a court of the United States inferior to the Supreme Court is obliged to follow the decision of the Supreme Court. Much as I believe that law to be unconstitutional if I were sitting on the bench as the judge of an inferior court I should be bound to follow the decision of the Supreme Court. I admit, though, with my friend from Vermont, [Mr. EDMUNDS,] who has so often told us so, that I do not believe that in legislating I am bound to take that as infallible.

Mr. HOAR. I was going to ask the honorable Senator from Ohio further if he understood that the Supreme Court of the United States had decided the constitutional question which he raises so that this law which he considers himself constitutional he understands that the Supreme Court of the United States have held to be unconstitutional.

Mr. THURMAN. I am perfectly frank. I have not read the decision of the majority of the court in what are called the election cases, and I really do not know the scope of that decision. I hear it said all around that they have held the election law to be constitutional. I read the dissenting opinion which the judge delivering it was kind enough to send me, and I should infer from what he says of the opinion of the majority that they had so held. I have not seen the decision, however; I have not read it, and I therefore do not speak of it with any certainty. I only assume that it is so because I hear it said so.

Mr. CONKLING. Mr. President, the Senate must see now the need and propriety of this amendment. It is made manifest by the very unexpected and painful division of sentiment which seems to exist between the honorable Senator from Ohio and the honorable Senator from Delaware. The Senator from Delaware opposes the amendment on the ground that it is mere surplusage, it is wholly unnecessary; the section as it stands means just what the section will mean with the amendment adopted. But in comes the Senator from Ohio who says that the Senator from Delaware is entirely mistaken, that the opposite is true, that the section does not mean any such thing, and these amendments put in will radically revise and change the whole nature of this proposed statute.

If two Senators so astute and competent as these, who have given, I judge, so much attention in their closets to this measure as they have, come to exactly opposite conclusions as to the meaning, it seems to me that I might argue with some force that it behooves the Senate to so make it that these two great lights of the body can see it alike; for if they differ what hope shall the rest of us find in ascertaining the meaning of this statute.

Now, Mr. President, as the language comes to us, it does mean in my sincere belief, assuming that effect is given to it, that every deputy marshal on every day in the year is curtailed, restricted, and forbidden to execute process or to do any other act, if that act in its origin and nature has reference to an election; and in so far I agree with the Senator from Ohio. Although he did me the favor to allude to my fertile imagination and to say that that imagination peopled the future with effects which he did not think were to be found in the bill, he then proceeded to state what I have endeavored now to repeat as the substance of what he said.

Mr. THURMAN. If I understand the Senator correctly now, he misunderstands me. Did the Senator understand me as saying that if this bill passes a general deputy, one of the ordinary regular deputies of a marshal, cannot execute a process that might in any way have grown out of an election? Did he understand me to say that?

Mr. CONKLING. Virtually, I think the Senator did say it.

Mr. THURMAN. Not at all.

Mr. CONKLING. Does the Senator say the contrary of that?

Mr. THURMAN. I do say this about it, and I thought I explained myself as clearly as could be, that the object of this bill is to prevent any deputy marshal from executing the extraordinary powers conferred by the election law in regard to the registration of voters and in regard to the election, and which are duties that are only performed while those special deputies have their existence—which is very ephemeral, for a few days—that this bill provides or intends to provide that such duties as those shall only be performed by deputy marshals who are appointed in the manner provided for in the bill.

Mr. CONKLING. Now let me, if the Senator will, understand him. He talks about extraordinary powers. I do not know of any such thing; but that does not help me much. Let me put the Senator this question: Suppose on registration day a general deputy sees a breach of the peace, he sees some man, drunk with democracy, or with whisky, or with some other stimulating and disturbing cause, come along and drive away or beat down the election officers whose business it is to sit and receive the registration. It is done in his view. If he is a general deputy and this is a statute, can he interpose? [A pause.] I stopped in the hope that the honorable Senator would instruct me; but he seems to avert his face. I do not know why. I am seeking information about this, and therefore I should really like to know.

Mr. THURMAN. Why, Mr. President, extreme cases absolutely prove nothing; and to pick out a little case here and there——

Mr. CONKLING. If my friend will let me interrupt him, I have not selected an extreme case at all. I have selected the most ordinary case I could to avoid what he calls extraordinary powers. I take the case of a breach of the peace happening right in the presence of a general deputy. Is that an extreme case?

Mr. THURMAN. Let us take it. It might be an extreme case or it might not. In the first place, I do not believe your general deputies under any law but this election law have any business there at all.

Mr. CONKLING. Very well, agreed if you please.

Mr. THURMAN. If there be a riot there, if there be disturbance there, it is not for them but for the State authorities to put that down. Now, if it is a duty to be performed under this election law, that kind of duty with which these special deputies are charged, then, I answer the Senator's question, his regular deputy, if this bill passes, cannot act.

Mr. CONKLING. Now will the Senator answer me one more question? Suppose this same deputy at this same riot is not present but somebody comes and makes complaint and obtains a warrant against the rioters, can the same deputy, the general deputy, go to serve that warrant?

Mr. THURMAN. No.

Mr. CONKLING. Very well. Now the honorable Senator has admitted the whole of the position which I ascribed to him. I said that he argued that these general deputies could not even serve judicial process if that judicial process grew out of an act touching the election. In the first place he corrected me there.

Mr. THURMAN. Ah, stop. Will the Senator allow me a word?

Mr. CONKLING. Certainly.

Mr. THURMAN. I say he cannot do it then and there. I do not say he could not do it a month afterward.

Mr. CONKLING. The Senator did just say so.

Mr. THURMAN. I did not.

Mr. CONKLING. The honorable Senator did just say so. Let me say to that honorable Senator that he must be marching without scouts if he answered the question that I put to him without understanding its significance. I asked him in the first place whether a general deputy on that day and on view could arrest rioters. He said no. Then I said suppose somebody comes after and makes complaint and obtains a warrant, can he execute that warrant, and the Senator said "no," and he said it with great emphasis.

Mr. THURMAN. Certainly the Senator will take my statement for what I understood his question to be.

Mr. CONKLING. Of course I will.

Mr. THURMAN. I did not say, nor was there a word in the question of the Senator that would lead anybody to suppose that he meant a warrant sworn out the next day or two days or a week or a month afterward.

Mr. CONKLING. Shall I understand the Senator, then, to maintain that although a general deputy could not execute a warrant on the day of the riot, he could execute it the day afterward?

Mr. THURMAN. I do mean to say that if this bill passes he cannot interfere at that election at all.

Mr. CONKLING. That is very kind in the Senator; but it is not the point I present to him.

Mr. THURMAN. Then the Senator must find out for himself.

Mr. CONKLING. I am trying to find out; and if the Senator wants me to, I submit to him with great respect that I am debating this question fairly and respectfully with him. My inquiry is an intelligent one, and that Senator, let me say with equal respect, will never in the presence of this Senate resort to such wretched pettifogging as to pretend that although a general deputy to-day cannot execute judicial process, if he hold it until to-morrow he can, although it grew out of an act touching an election. No, sir, no man who has achieved the eminence of the Senator from Ohio as a lawyer will ever degrade his profession or himself so far for a party purpose or for any other purpose as to undertake to maintain such a distinction. It is more than unsound, it is absurd and too disingenuous for any intelligent mind.

Now, sir, this language does mean that a general deputy cannot act in respect of offenses committed against the election law and the election, or it does not; and no Senator can escape by talking about the extraordinary powers conferred by the election law. There are no extraordinary powers—not one that has not been known to the common law for a thousand years. A peace officer can arrest on view; a peace officer can arrest on rumor and without warrant, and he has been able to do it for centuries in England and in this country, and in every State of this Union where the common law prevails. It is not extraordinary, and it does not make it so to call it so.

Mr. President, coming back to my amendment, if we mean to say, as I understand the Senator from Ohio to have admitted that he means to say, that general deputies are to be suddenly emasculated and deprived of their powers as peace officers the year round touching offenses committed against the election laws, let us say so; but do not let us leave a provision which the honorable Senator from Ohio reads one way and the honorable Senator from Delaware reads the other; do not let us vote down an amendment because one Senator says it is mere surplusage, that is what the provision means now, and because the other Senator says let us vote it down because it uproots and eradicates the meaning of the language proposed and puts it upon a totally and entirely different construction.

The honorable Senator from Ohio, referring to something said by the honorable Senator from Indiana, explained a position which I confess is not quite intelligible to me. He said, if I apprehended him, that there being on the statute-book an act offensive to the Constitution and therefore void, he could move to amend, by way of qualification, that act without indorsing the act or offending the Constitution. I can understand that in an abstract case or a case adapted to it; but I cannot understand how the honorable Senator from Ohio, if in his heart he believes these election laws unconstitutional, can vote first for a provision amending them, so as to deposit with the courts this unconstitutional power, and then to provide that the money of the Treasury shall be paid to execute it and follow it or precede it, as he did the other day in his vote upon a bill which I have before me, by making the actual appropriation of money in order to enforce and effectuate void and unconstitutional proceedings. I do not understand how that can be done consistently, whether by an amendment or in any other way, without those who do it and believe it unconstitutional becoming accomplices in violating the fundamental law.

I have no such trouble myself because I believe these laws entirely competent, entirely within the permission of the Constitution, and urgently needed, as urgently needed as any law can be the object of which is to take by the throat high-headed and abominable enormities and subject them to the rules of decency and order. So that makes it very easy and simple for me; but for those who hold the reverse of all this to vote for a provision of this kind preceded or followed by an actual appropriation of money to execute it, is somewhat like Hamlet's grief, it "passeth show."

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment offered by the Senator from New York, [Mr. CONKLING.]

Mr. ANTHONY. I respectfully ask permission of the Senator from Delaware to move that the Senate do now adjourn.

Mr. BAYARD. I hope the Senator will withhold the motion. It is a simple question of the economy of time and the sense of convenience of the Senate. If there be any gentlemen who desire to offer more amendments to this bill or to discuss it further, of course their convenience will be consulted.

Mr. CONKLING. There will be a number of other amendments offered, I can say to the Senator, and I do not refer to myself alone, but there are other amendments of some length which will lead to some discussion.

Mr. BAYARD. Let them be offered. Let us hear what they are.

Mr. ANTHONY. I do not believe we can get through the bill to-night.

Mr. BAYARD. I do not propose to continue this session inconveniently, but I do propose that the Senate should have some reason for its continued session on this bill, if there be any reason for it. The bill, we know, has been before this body and passed before, and the objections have been heard to it. If there be any gentleman who desires now to address the Senate upon it and it is inconvenient to him to go on at this time, the courtesy of the Senate will no doubt accede to a request for delay; but I think we had better proceed further and get rid of some of these amendments. The plain fact is that it is a question of economy as to the remainder of the time of this session. If we can pass this bill now, let us do it. If we cannot, it simply takes time from other bills that are to be considered hereafter within a short space of time if there is to be the adjournment of the session contemplated by a resolution sent to us by the other House.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York.

Mr. CONKLING. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. I should like to say a word about this business on this amendment because I want to vote understandingly. If I correctly understood the Senator from Delaware, he stated that there was no intention of interfering with the powers of the deputy marshals appointed under the original provisions of law. Now, I understand from the Senator from Ohio that that is one of the objects, and I do not know but the chief object that lies somewhere in or under or upon the very extraordinary—to borrow a phrase from the Senator from Ohio—language of this bill. As it was originally introduced and as it stood in the deficiency bill, the provision was that "all such special deputy marshals" should be appointed in a certain way. Now it comes from the Judiciary Committee, and the Senate has agreed to the recommendation of the committee, changed by striking out the words "such special," so that, as it now is, "all deputy marshals to serve in reference to any election" shall be appointed so and so.

If I understand the last exegesis of the Senator from Ohio of the true inward spirit of this text as it is seen by the spiritual light of the eyes of the majority of the committee, it is intended and calculated, and will have the effect, to exclude a regular deputy—if I may use that phrase—of the marshal of the United States for any district from serving a process issued by the Chief-Justice of the Supreme Court of the United States for the circuit to which he is assigned, on an election day, if that process or warrant calls upon him to make the arrest for an offense connected with the election then going on. If, therefore, the red-shirted gentry, or the tissue-ballot gentry, or the coffee-pot naturalization gentry should gather together in one State or another, and by force, or by the tissue-ballot, or by the coffee-pot naturalization, to the number of hundreds, undertake to carry an election for a member of Congress or to prevent an election of a member of Congress that they did not choose to like, and the Chief-Justice of the United States, upon proper complaint by respectable citizens of both parties who were not so lost to their love of country as to forget their duties, should issue a warrant directing the marshal and his deputies to arrest those people who had thus forcibly or by fraud taken possession of the polls for the election of a member of Congress, they could not do it. The Chief-Justice would be obliged to address his warrant in a way that there is no law that authorized him to do it, to the deputy marshal appointed to serve with reference to an election, and I do not know but if you carry out the spirit of this bill—I think it would be sure if you did—that he would be obliged in his warrant to issue it to at least two if not all of the deputies that were appointed for that particular precinct and call on them to arrest themselves or their brothers or friends.

That is the way the thing should be done, I have no doubt, as this is an industrious bill as the Senator from Ohio characterizes it; in fact I am bound to believe that that is one of the things that it is intended to accomplish. Very well, do not let us make any bones about it; let us have it clearly understood that on the day of election at least—I will not go beyond that now—it is not within the power of any judicial officer of the United States to issue process to be served by the ordinary officer of the law on any occasion or emergency connected with elections that the Constitution of the United States provides in terms Congress may regulate and may alter the regulations of the States in regard to, which the Senator from Ohio thinks cannot be done probably because it reads so. The provision is that these regulations shall be prescribed in each State by the Legislature thereof, but Congress may at any time by law make or alter such regulations; that is, the regulations prescribed by the State. But on that day, to say nothing of the days after, the judicial power of the United States upon regular complaint and warrant is absolutely powerless unless it is to be exerted through the deputy marshals appointed to serve in reference to that election.

Mr. McDONALD. I should like to ask the Senator from Vermont some questions.

Mr. EDMUNDS. I should like to get a few of mine answered before I am questioned myself.

Mr. McDONALD. What State regulation in regard to holding elections do these laws alter or change?

Mr. EDMUNDS. Oh. Mr. President, that is a terrific question.

Mr. McDONALD. I should like to have the Senator answer it.

Mr. EDMUNDS. If a State regulation in the State of Indiana—and I believe that State has been trying to make some rather wholesome ones for itself that my friend was not much in favor of, by the way—if a State regulation in Indiana prescribes that the justice of the peace or the town constable should be the sole and exclusive receiver and counter and returner of the votes for member of Congress cast in his town or precinct, there I take it is a State regulation.

Mr. McDONALD rose.

Mr. EDMUNDS. Now if the Senator will just allow me to fill him full of this answer before he begins another question, he will do me a great service. There is a State regulation which provides for the exertion of the supremacy of the State law that the Constitution authorized the State to enact and no other power, a provision as to the mode and manner of the casting and counting of the votes for a member of Congress. Now comes the act of Congress, which is in the Revised Statutes, and declares that there and then there may be, on the application of ten reputable citizens in a given case to a court of the United States, two officers of the United States, who shall participate with him in every one, or the chief and principal and effective steps necessary to have the true man vote if he wishes to, vote once and no more, and thus his true ballot shall be counted and no other but true ballots counted and returned.

Now, Mr. President, I beg leave to say, in further answer to my honorable and distinguished friend, that if that is not altering, by the power of Congress under this clause of the Constitution, a regulation that the State has made and providing a different method for the exertion by the State officers and with them, under this supervisory control that the Constitution has given to Congress of that function, then I am quite incapable of understanding the use of the English language.

Now I will hear the next question.

Mr. McDONALD. I have only this to say, that the State of Indiana——

Mr. EDMUNDS. I beg the Senator's pardon. It is so late that I cannot yield for an observation. I will yield for a question.

Mr. McDONALD. The State of Indiana has passed no such law as the Senator has referred to, and the section of the election laws that he refers to authorizing the appointment of supervisors upon the application of ten persons gives those supervisors no power whatever except simply to sit by and see the votes cast. That is all the power it gives them.

Mr. EDMUNDS. All the power that the act of Congress gives?

Mr. McDONALD. Yes, sir. That appointment is made upon the application of ten citizens and outside of cities of twenty thousand inhabitants; and the sole power in such cases is for them to be in the presence of the election officers during the receipt of the votes and their count, and they possess no other powers whatever.

Mr. THURMAN. Mr. President——

Mr. EDMUNDS. I believe I have the floor.

Mr. THURMAN. I know the Senator has the floor.

The PRESIDING OFFICER. Does the Senator from Vermont yield to the Senator from Ohio?

Mr. EDMUNDS. I will yield presently, but not just now.

Mr. THURMAN. I do not want to make a speech. I was going to ask the Senator if he would yield to a motion to adjourn?

Mr. EDMUNDS. I will in a minute or two; but really this is getting so interesting with my friend from Indiana that I had a little rather not yield just now. Section 2017 of the Revised Statutes of the United States reads something like this:

> The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

Then the next section provides that they are to personally scrutinize and canvass each ballot at the election.

Mr. McDONALD. Now, Mr. President——

Mr. EDMUNDS. I believe I am speaking just now.

Mr. McDONALD. I ask the Senator——

The PRESIDING OFFICER. The Senator from Vermont declines to yield to the Senator from Indiana.

Mr. McDONALD. I ask the Senator to read one other section.

Mr. EDMUNDS. Not just now.

The PRESIDING OFFICER. The Senator from Vermont has the floor and declines to yield.

Mr. EDMUNDS. Now, Mr. President, if that is not something more in all seriousness to my friend than the right to stand by, then again I am not acquainted with the meaning of the English language, nor is anybody else that hears me I think. But suppose that power had not been there as it is, to canvass these votes and scrutinize them, and the mere right to stand by had been there, does the State regulation of Indiana or any other State give every citizen the right to stand by in the sense of being personally present and seeing every ballot? That is impossible. It makes disorder. It cannot be

done. It never is done. Therefore if you had that provision alone, it would be altering the State regulation as to the method and manner of conducting the election for a member of Congress.

Now the Senator has a section that I had not entirely forgotten, which in another aspect of the case does not give these people quite so much power; but what of that? Here are cases where they have powers, and powers that are not consistent with the regulation that the State has made, but which have changed that State regulation by an alteration in favor, as we suppose, of justice and fair play, and as a democratic committee in the city of New York reported had been done for justice and fair play to the satisfaction of decent men of both parties. Now I will hear my honorable friend.

Mr. McDONALD. I simply desired the Senator from Vermont to read section 2029, inasmuch as he referred to the appointment of supervisors on the petition of ten citizens, to see what authority that gives.

Mr. EDMUNDS. Go ahead. I must be excused from playing the part of clerk to my honorable friend. I am rather tired.

The PRESIDING OFFICER. The Senator from Vermont declines to yield.

Mr. EDMUNDS. I yield for my friend to read it, with pleasure.

Mr. McDONALD. I do not accept the task now.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New York.

Mr. RANSOM. I suggest to the Senator from Delaware that it is now almost six o'clock, and after the intimation we have heard we can hardly expect to get through with the bill this evening. I should like the Senator from Delaware to agree to an adjournment.

The PRESIDING OFFICER. Does the Senator from North Carolina move an adjournment?

Mr. RANSOM. I will not make the motion without the consent of the Senator from Delaware.

Mr. BAYARD. The Senate will control their own convenience. I simply submit the matter to the Senate. I have no desire to punish any member of the Senate.

Mr. TELLER. I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and fifty-eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 19, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

TREATY OF WASHINGTON.

Mr. LORING, by unanimous consent, introduced a bill (H. R. No. 6242) relating to certain provisions of the treaty of Washington; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

OCEAN NATIONAL BANK.

Mr. BUCKNER, by unanimous consent, from the Committee on Banking and Currency, submitted a report in relation to the Ocean National Bank, of New York; which was laid on the table, and, with the accompanying testimony, ordered to be printed.

FIELD, MORRIS, FENNER & CO.

Mr. CHITTENDEN, by unanimous consent, introduced a bill (H. R. No. 6243) for the relief of Field, Morris, Fenner & Co.; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SAMUEL HARPER.

Mr. MILLS. I rise, Mr. Speaker, for the purpose of asking unanimous consent to take up and put upon its passage at this time a bill H. R. No. 5389) for the relief of Samuel Harper. It has been reported unanimously from the Committee on Ways and Means. I believe it was the understanding yesterday that this bill, together with the one reported by the gentleman from Ohio, [Mr. GARFIELD,] should be taken up and considered. In this case Samuel Harper was postmaster at the city of Houston, Texas, and was agent for the sale of internal-revenue stamps. The military took possession of his office at Houston during reconstruction times in order to arrest a deserter. A soldier stole during that time three thousand dollars' worth of these stamps out of the office. They were traced to this man. The committee, as I have said, reported unanimously in favor of granting relief to this postmaster who is now being sued and whose case has been deferred until October next in order that Congress may act upon it.

Mr. TOWNSHEND, of Illinois. I have sought now for several weeks to procure action of the House on a claim for pension for a man whose arm has been shattered in battle.

The SPEAKER. The Chair did heretofore recognize the gentleman from Illinois, but there was objection to taking up the bill to which he alludes. Does the gentleman object to the consent asked by the gentleman from Texas?

Mr. TOWNSHEND, of Illinois. If gentlemen will insist on keeping this man from receiving what justly belongs to him then I must interpose objection to every other request for unanimous consent.

The SPEAKER. The Chair does not understand the gentleman as making an unqualified objection to the bill referred to by the gentleman from Texas.

The bill, which was read, authorizes and directs the Secretary of the Treasury, in the settlement of the accounts of Samuel Harper, agent of the Treasury Department for the sale of internal-revenue stamps at Houston, Texas, to allow him a credit for the sum of $2,510, the amount of internal-revenue stamps stolen from his office on the 20th day of March, 1867.

Mr. TOWNSHEND, of Illinois. The only way to get action on all matters before the House is to drive every man to the regular order.

The SPEAKER. Does the gentleman from Illinois demand the regular order of business?

Mr. TOWNSHEND, of Illinois. I will make one more effort in behalf of the case to which I have referred. I will not now ask for the regular order but I give notice I shall hereafter.

There being no objection, the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill; which was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELIEF OF PUBLIC PRINTER.

Mr. GARFIELD. I move, Mr. Speaker, by unanimous consent to take up for action at this time a bill for the relief of the Public Printer. The Committee on Ways and Means have reported unanimously in favor of this measure. The matter is in a nutshell. A few months ago some burglars broke into the Printing Office and opened and stole money from the safe of the Public Printer. The burglars have been arrested and indicted. The whole matter has been proved. It is a Senate bill (No. 1090) to relieve John D. Defrees, Public Printer. The Senate committee reported there was no fault to be found with any Government officer or custodian and the Senate passed the bill unanimously. The Committee on Ways and Means of this House report unanimously that the accounts of the Public Printer may be adjusted by giving him credit for the amount stolen.

Mr. SIMONTON. I object to its being considered out of its proper order.

Mr. BRIGHT. I rise to ask unanimous consent of the House——

Mr. MILLS. Mr. Speaker, it was agreed the other day these two bills should come up together.

The SPEAKER. It was agreed the two gentlemen should be recognized by the Chair, but subject to the consent of the House.

Mr. GARFIELD. When one portion of the country has been allowed to pass a bill under unanimous consent——

The SPEAKER. It was the Chair who agreed to recognize the gentleman, but not to deprive any member of the House of the right to object.

Mr. NEWBERRY. The objection being insisted on, I demand the regular order of business against everything else.

QUARTERMASTER CLAIMS.

Mr. BRIGHT. I ask unanimous consent to take from the Private Calender a bill reported from the Committee on War Claims allowing claims reported by the proper accounting officers of the Treasury Department under the act of 1864, in order to put it upon its passage. I will state, as I did on a former occasion, that this bill embodies a year's work of the Quartermaster's Department, and it is indispensable it should be passed now with a view of being transmitted to the Senate to pass the Committee on Claims of that body.

I will state furthermore that objection was made to it when last called up, in consequence of a clause being inserted that where the quartermaster took evidence against the claimant the claimant should have notice. I do not wish that section should imperil the passage of the bill, and I am perfectly willing that the House should vote on it. Rather than have the bill fail, so far as I am concerned, I would be willing to let the section go out entirely. I have no right to consent to that, but I do say this bill should pass this morning.

Mr. WILLITS. I am willing the bill should pass, if that second section is stricken out.

The SPEAKER. Does the gentleman object?

Mr. WILLITS. I will, unless that second section is stricken out.

Mr. BRIGHT. Mr. Speaker, before you pass me, I wish to make this proposition. The members of the committee are present in the House, and I ask their consent the section may go out.

The SPEAKER. The gentleman had better confer with the committee.

Mr. BRIGHT. They are all present.

BRONZE STATUE OF GENERAL DANIEL MORGAN.

Mr. EVINS. I ask unanimous consent to take from the Speaker's table and put upon its passage Senate joint resolution No. 84.

The SPEAKER. The Clerk will read the title, after which objections will be asked for.

The Clerk read as follows:

Senate joint resolution No. 84, to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina.

Mr. EVINS. That bill has been already considered by the Yorktown Centennial Committee of the House and its passage recommended. I hope there will be no objection to its passage.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. NEWBERRY. I demand the regular order, unless the objection to the request of the gentleman from Ohio is withdrawn.

The SPEAKER. The gentleman cannot make a qualified objection. Objection being made, and the regular order demanded, the regular order is the morning hour.

ORDER OF BUSINESS.

Mr. BRIGHT. Before that is done, Mr. Speaker, let me appeal to the House again in reference to this class of claims to which I refer. Over five hundred people have claims against the Government which have been adjudicated by the Quartermaster's Department——

Several members demanded the regular order.

The SPEAKER. The regular order being demanded, the Chair has no option but to recognize the demand.

Mr. COVERT. I move that the morning hour be dispensed with.

The motion was agreed to, two-thirds voting in favor thereof.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT. I now move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of further considering the agricultural appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. HOOKER in the chair.

The CHAIRMAN. The Clerk will read the pending amendment.

The Clerk read as follows:

That with a view to the reclamation of the arid and waste lands lying in certain Western States and Territories the Commissioner of Agriculture is hereby authorized to contract for the sinking of two artesian wells on the plains east of the Rocky Mountains. The said wells are to be sunk at such places as the Commissioner of Agriculture may designate. And whenever the site of either of such wells shall be designated the Secretary of the Interior is hereby authorized and required to declare the reservation of four square miles, with the said site as nearly as possible in the center thereof, and the lands so reserved shall not be subject to sale or disposal under any law of the United States until such reservation has been released. Any party making a contract to sink an artesian well under this act shall, at the end of each week after the work shall have been begun, file with the Commissioner of Agriculture a report containing a statement of the character of the ground or rock through which the well is sunk, giving the thickness of the strata of each formation; and he shall furnish samples of all the different materials through which the well is sunk, and conform with all regulations made by the Commissioner of Agriculture. The sum of $20,000 is hereby appropriated to carry out the objects of this bill, the same to be disbursed under such rules and regulations as the Commissioner of Agriculture shall prescribe.

The CHAIRMAN. The question is on the adoption of the amendment just read.

The committee divided, and there were—ayes 59, noes 24.

So the amendment was agreed to.

Mr. SPARKS. We demand a separate vote on that in the House.

Mr. DUNNELL. I offer the following amendment to come in after line 146:

For the purpose of enabling the Commissioner of Agriculture to continue an investigation and report upon the subject of forestry, $5,000.

The law providing for this investigation and report under the direction of the Commissioner of Agriculture has been——

Mr. SPARKS. I ask that there be order in committee, as we have not been able to hear the reading of the amendment of the gentleman from Minnesota, and ask that it be again read.

The amendment was again read.

Mr. SPARKS. I make the point of order upon that.

Mr. DUNNELL. Mr. Chairman, I think this amendment is not subject to the point of order, because it simply continues an existing law providing for investigation and annual report upon the subject of forestry. There are two or three provisions similar to the one here contained in the appropriations of the last four or five years. One of the reports under that law has already been printed, and some two hundred thousand copies distributed throughout the country. Another report has been made—volume 2—which is now in the hands of the Committee on Printing. The remaining subjects to be investigated and to be reported upon have been outlined by the commissioner who was designated by the Commissioner of Agriculture, Dr. Hough, of New York, and this amount has been recommended by the Commissioner of Agriculture, and by a special report which was sent to Congress by the President. From the fact that this has been in existence under the law for some years I do not think it is subject to the point of order made. The gentleman from Tennessee, [Mr. ATKINS,] chairman of the Committee on Appropriations, remembers the existing law which provides for this.

Mr. SPARKS. That existing law, I understand, is simply an appropriation made for one year. It was not a continuing appropriation and there is no law existing at all for it. It amounts to this: that merely, at one session of Congress, an appropriation was made for a specific purpose; but that is not a continuing appropriation. That is no basis or foundation for the enactment of a law or for subsequent appropriations for this purpose.

Mr. DUNNELL. This is for the continuation of the investigation already ordered by a specific amendment in an appropriation bill which was passed some three years ago. With one exception, I think, this provision has been contained in each subsequent appropriation bill. I insist, therefore, it is not subject to the point of order.

Mr. CONGER. The rule makes an exception "for the continuance of words already authorized by law." This is a work authorized by law, and its continuance authorized from year to year and an annual report required on the subject.

Mr. DUNNELL. A great deal of interest is felt on this subject, especially in the Western or prairie States, and I hope there will be no objection to its adoption, as it is a matter of importance to that part of the country.

Mr. ATKINS. I do not feel disposed to antagonize the proposition myself. It has been provided for by law, but it is not a fact that it has been appropriated for every year.

Mr. DUNNELL. I made an exception in one year.

The CHAIRMAN. The Chair will ask if the gentleman from Minnesota can refer to the act to which he has alluded?

Mr. DUNNELL. It was two years ago, and there was also a fuller provision made three years ago. I have not the statutes before me, but the gentleman from Tennessee admits the existence of the law providing for this investigation.

Mr. ATKINS. There is a law providing for that investigation; there is no doubt about it. The only point is that it is not a continuing appropriation.

The CHAIRMAN. The Chair will cause to be read the third clause of Rule XXI.

The Clerk read as follows:

3. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment, which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. DUNNELL. I am unable to see that any provision of that rule which has been read at all affects this question. It is admitted by the gentleman from Tennessee [Mr. ATKINS] that there is an existing law providing for this investigation and providing for a report. Under that existing law two reports have been made to Congress. One of them has been printed and distributed and the other is in process of being printed. Although last year this item was not included in the appropriation bill, the law itself still remains in force; and under it I now ask for an appropriation. And that request is in harmony with the request which has come from the Commissioner of Agriculture. I respectfully submit, Mr. Chairman, that the amendment is clearly in order.

The CHAIRMAN. The Chair will be glad if the gentleman from Minnesota will point out the act to which he refers, that the Chair may act intelligently in ruling upon the point of order.

Mr. DUNNELL. I have sent for it.

Mr. COVERT. I have not addressed the Chair on the point of order which has been interposed against the amendment of the gentleman from Minnesota; but while the law is being obtained I desire to say a word only on the merits of the amendment which has just been offered by my friend.

I sincerely trust that this amendment will not prevail. The subject-matter embraced in it has not been submitted to the Committee on Agriculture. They have not deliberated at all upon it. The fact is that the result really of the appropriation originally made for this matter of forestry has not been fully utilized up to this date. There was an appropriation of $6,000 for the purpose of examining into this matter. A report was presented to Congress, and a portion of that report only has been printed. I submit that Congress and the country are entitled in the first place to see the first report as to the expenditure originally granted before an additional expenditure is voted by Congress for the continuation of this work. For these reasons I trust the amendment will not prevail.

Mr. DUNNELL. The gentleman from New York is talking upon the merits. The question now before the committee is a question of order, as I understand it, although I insist that the point of order came too late after the matter had been under discussion.

The CHAIRMAN. The Chair thinks the point of order was made in ample time.

Mr. DUNNELL. Upon the point of order I have stated there is an existing law——

The CHAIRMAN. The Chair will be obliged to the gentleman from Minnesota to refer to the law.

Mr. DUNNELL. I am not able at this moment to refer to the law. The fact is notorious, because we have had upon our document list 200,000 copies of this report, printed for distribution throughout the country. The copies of that report have been in fact circulated all over the country. Five thousand copies of it were sent to Europe and it was commended in the leading journals of Europe. The highest authority in Edinburgh had an article reviewing that report, and pronounced it the ablest report that had come to that distinguished journal on the subject of forestry. Dr. Hough, who conducted this inquiry, is unmistakably the most learned man in the United States on the subject. The second report is now, as I understand, in the hands of the Committee on Printing. That report is more of a statis-

tical nature, showing for instance the consumption of lumber, showing how much lumber is used in building, in railroads, in all the arts, and in all the operations of the people of the whole country. And there is a comparison between the growth of the timber of the country and the consumption of it.

Mr. SPARKS. I would suggest that the gentleman is not addressing himself to the point of order.

Mr. DUNNELL. What I am now saying is in reply to the gentleman from New York, [Mr. COVERT.] The fact that there is such a law has been admitted. It is universally known. I am not able to turn to it here while listening to the debate. No one denies there is such a law, and under that law I propose this amendment.

Mr. CONGER. If the gentleman will allow me I will read the law. It is a provision in the legislative, executive, and judicial appropriation act of the first session of the Forty-fourth Congress.

Mr. DUNNELL. I am obliged to the gentleman from Michigan for having found it.

Mr. BRIGHT. I suggest that it be read by the Clerk that we may all hear it.

The Clerk read as follows:

For purchase and distribution of new and valuable seeds and plants, $60,000: *Provided*, That $2,000 of the above amount shall be expended by the Commissioner of Agriculture as compensation to some man of approved attainments, who is practically well acquainted with methods of statistical inquiry, and who has evinced an intimate acquaintance with questions relating to the national wants in regard to timber, to prosecute investigations and inquiries, with the view of ascertaining the annual amount of consumption, importation, and exportation of timber and other forest-products, the probable supply for future wants, the means best adapted to their preservation and renewal, the influence of forests upon climate, and the measures that have been successfully applied in foreign countries, or that may be deemed applicable in this country for the preservation and restoration or planting of forests; and to report upon the same to the Commissioner of Agriculture to be by him in a separate report transmitted to Congress.

Mr. CONGER. That is the first of the series of appropriations made for that object; and there have been, I think, two appropriations since that time to continue those investigations. The amendment now offered is for the purpose of continuing that work upon which there have been already partial reports. I have not had time while the discussion was proceeding to find the other laws, but they are similar to this. The appropriation has been continued from year to year I think with one exception since.

Mr. SPARKS. That the gentleman from Michigan knows is not a continuing appropriation. The proviso which has been read takes $2,000 out of an appropriation for a certain purpose and applies it to this purpose.

Mr. CONGER. And that has been renewed since that time.

Mr. SPARKS. If the gentleman finds what he calls the renewal of the appropriation, he will find it is made in precisely the same way. As a member of the Committee on Appropriations I remember that on one or perhaps two occasions that committee recommended appropriations for an investigation into the matter of forestry; but never a continuing appropriation; never a law upon which you could base or that warranted or demanded an appropriation.

Mr. CONGER. If the gentleman will allow me—I do not wish to be misunderstood—I did not claim that the law provided for a continuing appropriation; only that here is a work which necessarily runs through a long period of time until it is completed, and a more important work perhaps in regard to the interests of many States and Territories of this Union has not been commenced.

Mr. SPARKS. I understand. The gentleman, I think, was a little critical yesterday in regard to my knowledge of the rules; he insisted that I did know the rules. I insist that the gentleman from Michigan knows the rules; I know that he does; from his long experience I know that he thoroughly understands the rules. Now, he cannot get up in his place and say that this is that kind of a law upon which an appropriation can be based.

Mr. CONGER. I only say that this is a continuing work authorized to be commenced.

Mr. SPARKS. Oh, you must have a law for your appropriation!

Mr. CONGER. And this work is being carried on and has been from year to year up to this time.

Mr. ATKINS. I have been appealed to by gentlemen to give the law which authorizes the appropriation for which this amendment is intended. I have here the act making the last appropriation for this purpose, passed at the second session of the Forty-fourth Congress. That act says:

For continuing and completing the preparation of a report on forestry as provided for by "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes," approved July 15, 1876, $2,500.

That was at the close of the Forty-fourth Congress; and I do not think there has been any appropriation since that time for that purpose.

Mr. COVERT. Allow me to suggest that there has been more than $6,000 appropriated for this work.

Mr. ATKINS. Not since that time.

Mr. COVERT. I mean in all.

Mr. ATKINS. What I said was that no appropriation for the purpose had been made since the close of the Forty-fourth Congress.

Mr. DUNNELL. The Chair will observe that the provision of law which the gentleman from Tennessee [Mr. ATKINS] has just referred to is based upon the previous legislation to which the gentleman from Michigan [Mr. CONGER] referred. This second act is but a recognition on the part of the House of the position assumed by the gentleman from Michigan, [Mr. CONGER,] that the original act was in the nature of legislation.

The CHAIRMAN. The Chair will cause to be read, for the information of the committee, the provision referred to by the gentleman from Tennessee, [Mr. ATKINS.]

The Clerk read as follows:

For continuing and completing the preparation of a report on forestry, as provided for by "An act making appropriation for the legislative, executive, and judicial expenses of the Government, for the year ending June 30, 1877, and for other purposes," approved July 15, 1876, $2,500.

Mr. DIBRELL. That says, "for continuing and completing" the work. This, then, would be a new appropriation.

Mr. CONGER. That appropriation did not complete the work.

Mr. HASKELL. There have been three different acts of Congress concerning this great public work, and money has been appropriated in each for that purpose. The subsequent acts have each referred to the first as the authority for the appropriation. To-day this great work is not completed; it has not been finished. And a member of this House now moves an amendment to complete a work which has been authorized and recognized by law at three different sessions of Congress. That is absolutely and clearly within the specific language of the rule, which exempts from a point of order all those public works authorized by law and not yet completed. This work comes as clearly within that exemption as the language of the rule can be made to mean.

Mr. AIKEN. I am not sufficiently a parliamentarian to say what is actually meant by the wording of the third clause of Rule XXI. But I can state of my own knowledge that this work is not completed, because there is a second volume of it which has been presented for consideration to the Committee on Agriculture, and by that committee has been recommended to the Committee on Printing to be printed for distribution. The distinguished gentleman who compiled that work was before our committee this session of Congress, urging us to have the work printed.

I say further that until another appropriation is made the data that has already been collected cannot be printed or published by authority of Congress, because they are in the hands of the officer who was empowered to collect the information. He is anxious that it shall be brought before Congress and printed.

One word further, as to the history of this matter. The gentleman from Minnesota [Mr. DUNNELL] is slightly mistaken (and I know he does not want to create a wrong impression) when he says that 200,000 copies of the first volume have been printed and distributed. In the last session of Congress the Committee on Agriculture recommended the printing of 100,000 copies of that volume. A resolution to that effect was sent to the Committee on Printing, and that committee simply struck out 95,000 and recommended that 5,000 copies be printed. When their report came before the House it was amended so as to print 25,000 copies; and that is all that has been printed of that volume. That was the first volume.

The data presented to the Committee on Agriculture at this session amounted to enough to make one volume of eleven hundred and fifty pages; and the committee determined not to recommend the printing of the statistical matter until enough had been obtained to make another volume.

The first volume contains no statistics whatever. It comprises about six hundred and fifty pages; and there are now in the possession of the Agricultural Committee sufficient statistics to make a volume of about five hundred and fifty pages, which we hope will be printed between now and the next session.

Mr. DUNNELL. In addition to the matter contained in the second volume there are deductions, conclusions, results, which the Commissioner desires to present to the country in a third volume. As has been said, the two volumes already issued are incomplete; and the result which Congress expected to bring about when this work was first entered upon will not be attained till this third volume, necessary to complete the work, shall be issued.

The CHAIRMAN. The point of order made by the gentleman from Illinois [Mr. SPARKS] is that the amendment offered by the gentleman from Minnesota [Mr. DUNNELL] is liable to a point of order as being in opposition to the provisions of the third paragraph of Rule XXI, which provides:

No appropriation shall be reported in a general appropriation bill or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

The Chair has been referred to the provisions of the appropriation act of the first session of the Forty-fourth Congress, passed in 1876, which provided that $2,000 of the amount appropriated for the purchase of new and valuable seeds and plants should be applied to the investigation of questions relating to forestry. In the second session of the Forty-fourth Congress another appropriation act provided for continuing and completing the preparation of the report on forestry as provided by the act already referred to.

As under the provision of the rule an appropriation may be made in a general appropriation bill for continuing public works and objects already provided for, and inasmuch as this has formerly been regarded as a continuing appropriation, the Chair is of opinion that the amendment offered by the gentleman from Minnesota is to be regarded in

the light of a continuing appropriation for a work of a public nature already provided for by previous laws. The Chair therefore rules the point of order not well taken. The question is on the amendment of the gentleman from Minnesota.

Mr. COVERT. Mr. Chairman, I desire very briefly to be heard upon the merits of the amendment suggested by my friend from Minnesota. The statement has been repeatedly made on this floor this morning that the work already commenced in the direction indicated by this amendment has not been perfected and completed in this sense: that Dr. Hough, the gentleman in charge of this matter, has not yet had the entire results of his investigations printed and submitted to Congress and to the country. Now I ask my friend from Minnesota, and ask this Committee of the Whole, what assurance he or they have but that when these results come to be printed, as they undoubtedly will be, through the appropriate action of the Committee on Printing, it will be found that this subject has been thoroughly considered and that all the material points are treated of in the reports now ready for presentation. I submit that this amendment under the circumstances is premature; that we should wait until we can read the reports when they come to us in formal and official shape in print, before determining the question of the necessity for a further appropriation. I trust the amendment will not prevail.

Mr. CONGER. Mr. Chairman, the small appropriation heretofore made for this object has drawn the attention of people in all parts of the country to the propriety not only of preserving the forests of the United States, but of increasing them by tree-planting.

Mr. COVERT. If my friend will allow me, I wish to make this suggestion: the statement has been made by my colleague on the committee and by the chairman of the Committee on Appropriations that a part of the report in manuscript, as prepared by Dr. Hough, has not yet been printed, so that the House and the country does not know the purport and contents of the part remaining unprinted.

Mr. CONGER. In view of the information obtained by this little appropriation and of the investigations which followed, we have passed a law in regard to giving lands for tree culture all over the prairie country of the West wherever the Government has public lands. That law is now in operation with some very advantageous results. I have not time nor have I the necessary knowledge to inform this House of the very great importance of forestry with reference to the climatic condition of this whole country and especially the open prairie country of the West.

But the amount of the appropriation is very small. If additional information obtained from experiments and investigations already made can be embodied in some publication for the general benefit of the people of the United States, it certainly does not become the chairman of the Committee on Agriculture, with all his zeal for agriculture, to make the slightest opposition. In my view, the little appropriation made in former years has been productive, as the appropriation now asked for promises to be productive, of more general good to the country at large than any other appropriation of equal amount in reference to any agricultural work whatever.

The question being taken on the amendment of Mr. DUNNELL, it was agreed to, there being—ayes 86, noes 23.

The CHAIRMAN. The Clerk will now read the second section of the bill.

Mr. WARNER. I make a point of order on this section that it changes existing law and does not retrench expenditures.

The CHAIRMAN. The gentleman will allow the section to be read.

The Clerk read as follows:

SEC. 2. That the provisions of title 4 of the Revised Statutes entitled "Provisions applicable to all the Executive Departments," excepting so much thereof as relates to salaries of heads of Departments, shall hereafter be, and the same are hereby, made applicable to the Department of Agriculture.

Mr. COVERT. By direction of the Committee on Agriculture, I move to strike out this section and substitute the provision which I send to the desk.

Mr. WARNER. I reserve all points of order.

The CHAIRMAN. The Chair so understands.

The Clerk read the proposed substitute of Mr. COVERT, as follows:

SEC. 2. The Commissioner of Agriculture is hereby directed and required to account and report to the proper accounting officers of the Treasury in the same manner and at the same times as the heads of Executive Departments of the Government are now required by law to account and report.

Mr. COVERT. The criticism was made against the section of the bill which found place in the original measure reported by the committee that its tendency perhaps was to elevate the office of Commissioner of Agriculture to a Cabinet position. It is trusted that the substitute which has been sent to the Clerk's desk and read is so clear and explicit in its terms that the object and purpose of the committee in drafting this original section will be clearly apparent, the sole and only idea being that the Commissioner of Agriculture should be required to report to the proper officers of the Treasury precisely the same way and at the same time that the heads of Executive Departments, under existing law, are required to report.

Mr. WARNER. One word to the chairman of the Committee on Agriculture. That amendment does not interfere with section 529 of the Revised Statutes, which requires the Commissioner of Agriculture to report annually to Congress?

Mr. COVERT. Not at all. It is in addition to that.

The amendment was adopted.

The Clerk read as follows:

SEC. 3. That all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Mr. GARFIELD. I think that section changes existing law.

Mr. HORR. I move to strike out the last word.

Mr. Chairman, there is nothing which can be done for the improvement of agriculture that would not meet with my most hearty approval. I belong to a class of men who believe the prosperity of our country depends on the diversity of its industries, and that every citizen who desires to advance the material interest of this country should work for the greatest multiplicity of all kinds of industrial enterprises. The farming interests and manufacturing interests of the United States are so interwoven together, so interdependent upon each other, that it is impossible to injure one without seriously affecting the other.

I have in my desk, Mr. Chairman, a petition of several thousands of workingmen who engage in the manufacture of salt. They ask that this Congress shall pass no laws that will cripple that great industry, and thereby place them on a level with the cheap labor of the Old World. I shall send these petitions, in the usual way, through the petition-box, so they may gain the ear of the committee having those matters in charge.

Were I afflicted, as my friend from Illinois [Mr. TOWNSHEND] is, with an utter inability to tell where a petition or bill ought to go, it might be better perhaps for these petitioners, because then, forsooth, I could rise in my place here in this House and blazon their prayer all over this country by innocently asking the Speaker for information. [Laughter.]

That gentleman's malady on this salt question is peculiar. [Laughter.] Usually want of capacity to do a thing does not lead to such wonderful activity as the gentleman exhibits. Want of ability to do a thing usually leads to rest and quiet, to indifference. In his case, it has always been the reverse of this, has led to turmoil and incessant denunciation of this great industry. [Laughter.] Is it not a little singular? I wish to-day to make a plea in his behalf. I know that this peculiar faculty of his of not being able to tell where a bill belongs has led him into trouble. It has caused some men on this side of the House to distrust his methods. Some even have questioned his motives, but I beg to say to you, gentlemen, you should be more charitable. It is a defect he cannot help. [Laughter.] He is not to blame for it. We have a method now-a-days of having a big, long, smooth word for new things which come up. What our forefathers used to call stealing now, if it is indulged in by people of pretty good standing in society, we call kleptomania. [Great laughter.] What old-fashioned people used to call the "work-house" and the "poor-house" now runs under the euphonious head of "eleemosynary institutions." [Great laughter.]

Now I have been seeking some word which would describe the difficulty of my friend from Illinois, but I cannot get one. I can give you his symptoms, but the comprehensive epithet you will have to supply. Whenever the jurisdiction of the Committee on the Revision of the Laws is under question his mental vision expands so as to take in the entire universe and everything besides. [Laughter.] Whenever the question concerns the industries, the manufacturing interests of this country, then his vision shrinks to the narrow limits of the nineteenth district of Illinois, which the gentleman represents. His peculiarity refuses to be national in its ideas. It permits the claims of his own district to take the place of great national interests. The great industries of this country he would strike down to gratify the clamor of his immediate constituents.

Now, I entered upon these remarks, Mr. Chairman, with a good deal of apprehension, because I recollect very well when this salt question was under consideration that the gentleman let fall from his lips something in the nature of a challenge. It was at the time the gentleman tried to drive the House into referring one of these bills to the Committee on the Revision of the Laws. When the gentleman from Ohio (Mr. GARFIELD I believe it was) undertook to object to that, the gentleman from Illinois regretted that we on this side of the House were not in the habit of settling questions of honor and courage according to the code! I hope I do him no injustice. He intimated that he was educated in a different school from that in which we on this side of the House were trained. It is true that we do not acknowledge the rules which he and his friends over there do acknowledge in settling questions of that kind.

[Here the hammer fell.]

Mr. BURROWS obtained the floor and yielded his time to Mr. HORR.

Mr. HORR. Mr. Chairman, I had but a word to say further, and that was in reference to the habit which some men indulge in in this House if a thing does not go just to suit them. I refer to the habit of saying, "I am responsible here and elsewhere for my remarks." I say such a thing is unbecoming the House, especially coming from a set of gentlemen who are just aching to get in to that kind of a fight against men whom they know do not believe in that method of settling difficulties. [Laughter.]

But I have other objections, Mr. Chairman. I do not like to have the gentleman from Illinois taunting us with this lack of bravery. I say this method of the code is not a fair way of settling difficulties. Just think of it for a moment. Suppose the gentleman from Illinois should challenge me to settle a question of that kind [laughter] and I was to accept the challenge, what show would I get? [Great laugh-

ter.] Why, he would simply have to be able to hit a full-grown oak of the forest, and I would bite the dust. But what would I have to do? I would have to be able to draw a fine sight so as to hit a basswood sapling. [Laughter.]

Again, Mr. Chairman, I have been reading about some of these duels a little of late. I find from the history of them from the beginning of the Government down to the present time that the men whom the country cannot afford to spare get killed, and those whom the country does not want and does not need generally come out alive. [Laughter.] Hamilton got killed and Burr lived. With this history staring me in the face how could I think of the question of accepting a challenge? [Great laughter.]

Besides, Mr. Chairman, I maintain that it is a relic of barbarism. It is not the best way of settling difficulties. It is by no means an evidence of the highest courage—by no means, sir; and it often requires a much higher grade of courage to do right than to fight a duel. It often requires a higher degree of real manhood for a man to stand up to his convictions and do what he ought to do than to meet an antagonist on the field of personal conflict. Hence I say it is not an evidence of the highest courage, but is a relic of barbarism. Why, sir, even the animals possess this courage in the very highest degree. [Laughter.] I remember when I was a boy one of our neighbors had a pup that was every inch a duelist. [Laughter.] He would give and accept a challenge on all occasions quicker than lightning. He was great on the code. [Laughter.] But he was not a very high-toned dog, after all. [Renewed laughter.] He would suck eggs, and finally they had to shoot him for killing sheep! [Great laughter.]

Now, then, Mr. Chairman, I have said all that I care to upon this question. [Cries of "Go on!" "Go on!"] I will not take the time of the House in discussing this matter longer, because the House ought to proceed to other business, so I will not detain it. I have sat here and listened to tirades against the manufacturers of this country and their interests without opening my mouth, when I have known that those interests have done more to build up this country than all of the croaking of men who are finding fault with them. Still I have waited patiently to see what was to be done. Our nation to-day is the proudest nation on the face of the earth, because she has been under the control of men who comprehend the wants of the entire country, and who have so far never neglected its great interests, whether they be agricultural or mechanical. [Applause.]

[Here the hammer fell.]

Mr. TOWNSHEND, of Illinois. Mr. Chairman, I simply desire to say this: that I hold myself in readiness at all times to engage in debate with any gentleman on this floor; but I have long since learned that it is unbecoming the dignity of a man to descend to a controversy with a clown.

Mr. COVERT. I move that the committee now rise for the purpose of reporting this bill, with amendments, to the House.

Mr. GILLETTE. I desire to offer the amendment which I send to the desk as an additional section to the bill.

The Clerk read as follows:

For enabling the Commissioner of Agriculture to set up apparatus for manufacturing sugar at various State fairs, and at convenient points in various States, to demonstrate to farmers and planters the practicability of making sugar from cornstalks and sorghum, $50,000.

Mr. COVERT. Upon the presentation of this amendment yesterday by the gentleman from Iowa [Mr. GILLETTE] the point of order was made and was sustained. I do not know it is necessary to renew the point of order at this time, but if it be necessary I do so most emphatically.

Mr. GILLETTE. I move to strike out the last word of the section.

The CHAIRMAN. The gentleman has already offered an amendment, and upon that amendment the point of order has been raised. It is only in order now to speak to the point of order.

Mr. GILLETTE. Then I wish to be heard upon the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. GILLETTE. In the few words I have to say I do not wish to be held strictly to the point of order.

The CHAIRMAN. The Chair can only hear the gentleman on the point of order.

Mr. GILLETTE. I withdraw my amendment and move to strike out the last word of the previous section.

I wish to address this body for a moment with reference to the system by which we do, I should say fail to do, things in this Congress. I desire for one moment to call the attention of the House to the rules under which we are trying to manage the affairs of the people of this country.

The greatest interest in the United States is the agricultural interest, and under our rules that industry is consigned to the care of the Committee on Agriculture. This House has nothing whatever to do with the selection of that or any other committee. One member, representing no larger constituency than any of the rest of us, coming from a city district which takes no interest in agriculture, and having himself no experience or practical knowledge of it, has supreme control over its make-up. No other member has had a word to say with reference to who should constitute that committee. I do not wish to find fault with our Speaker nor with any member of this House; far from it. I do not wish to assail the chairman of the Committee on Agriculture or any member of that committee; but I do wish to find fault with the rules of this House, with a system by which the members of this House, representing the great agricultural districts of the West and the South are hampered and tied and crowded out in all these debates before this body. And I wish to show how that is done.

Of the fifteen members of that committee, eight, a clean majority, are lawyers; one other is a judge; one is a president of one national bank and director of another, though he has had some experience upon a farm; one is a clergyman by education and practice, though laterly he has presided over an agricultural college; and *just four are practical farmers.* Seven members come from Atlantic seaboard States, New York having two, while the great West, that mighty domain where nearly all the people are farmers, that great garden which feeds the East as well as the West, and then sends its vast surplus to Europe, has extremely little representation upon this committee, and only one farmer. Missouri, Nebraska, and Kansas are the only States west of the Mississippi River that are represented in a territory comprising more than half our country with a thousand varieties of soil and climate and productions. The magnificent States upon our western seaboard are without a chair in this committee, while the Atlantic seaboard occupies seven, and it is known that almost any one of these Western States and Territories has greater agricultural wealth, undeveloped, than that of all the Atlantic States combined.

Mr. STEELE. The Delegate from Wyoming [Mr. DOWNEY] is a member of that committee.

Mr. GILLETTE. So there has been another lawyer just added to the eight already upon the committee, for he does not appear as a member in the latest Directory.

Texas, an agricultural State, large enough for an empire, Iowa, Minnesota, Colorado, California, and each of the Territories call respectively for a system of agriculture peculiar to themselves and for all possible co-operation of the Government in developing their boundless resources, but are all, unless Wyoming, without representation on this committee of lawyers, which is very naturally presided over by a lawyer from the suburbs of New York City, who does not claim, if I understand it, any practical knowledge of agriculture.

I say this committee does not represent the agricultural interests of the people of this country and has no conception of their needs, as is proved by this bill. I was educated upon a farm and went through a course of study in the State Agricultural College of New York, and am a farmer. I do not say that I ought to be on this committee. But I do claim that when I get up here representing the farmers of Iowa, a State capable of feeding the whole country, and ask to put upon this bill a little amendment in their interest, I should not be crowded out by the objection of a lawyer who comes from New York and has no practical interest in agriculture in this country.

I went to that gentleman, the chairman, and begged him to allow me to present my amendment and let it come to a vote. I went to another member of the committee and begged him to urge the chairman to let the amendment come before the House. And four different times I arose on this floor to urge that gentleman to withdraw his objection that the House might vote upon my amendment, which I believe is as important as all the rest of the bill put together. Yet four different times he put his veto upon me, sat down upon me, and got the Chair to rule that my amendment should not be entertained and that I should not be allowed to say a word upon it.

Mr. Chairman, I want the farmers of Iowa and of the whole country to understand the black infamy of these rules under which this House is controlled by New York lawyers and capitalists, men who take $100,000,000 a year out of our Treasury to pay as usury to the rich, who yesterday appropriated over $8,000,000 for what is called the river and harbor steal and to-day refuse to the great agricultural interest even a paltry quarter of a million. I want the farmers of this great nation to rise up like men and swear by the Great Eternal that the despotism of this House shall be overthrown, and every member they send here shall have as much to say about this Government as if he came from New York or Philadelphia. There was never a code devised better calculated to overthrow free government than the rules of this House, which convert it into a political bastile for those Representatives who come in the interest of the farmers and producers and to crush out monopolies and all forms of abuse and injustice.

[Here the hammer fell.]

Mr. CHITTENDEN. For the comfort of the gentleman from Iowa [Mr. GILLETTE] I wish to tell him I am a farmer; and I am a farmer of New England. And if the gentleman knows anything about farming and the committee will listen to me, I will show him and them his proposition is a proposition to waste $50,000.

I have prepared myself to plant five acres of sorghum this year, and I know something about it. The Commissioner of Agriculture has demonstrated that early amber sorghum will grow in New England, in New York, and in the West. And at Crystal Lake, Illinois, a firm that know how to make sugar, that can make it at half the price the Government can make it at, made from the sorghum, the amber variety, last year forty-seven thousand pounds of sugar; and they claim it cost them but about three cents a pound.

Now, what I tell the gentleman from Iowa is that if a firm of sugar-makers at Crystal Lake, Illinois, have demonstrated to the extent of forty-seven thousand pounds that sugar can be made from sorghum at three cents a pound, let him go home and teach his farmers how

to do it; and that he may do that intelligently I will tell him how to do it, for, as I said before, I am in the business. [Laughter.]

The machinery over yonder at the Agricultural Department, which is sufficient for the treatment of ten acres of sorghum each year—part of it is second-hand—did not cost to exceed $250. There it is; it is the privilege of every member of this House to go and examine it. As I have said, the mill was bought second-hand; the pans are primitive and the brick-work is very primitive; but any man who has $250 can get the same thing, if he can succeed in buying a second-hand mill, and put it upon his farm. And when he has it there, if he knows how to do the work, he can treat with it ten acres of sorghum per annum.

What I say is, that no government is able or capable of doing business of this sort economically. The chemists of the Agricultural Department are still at work. They have an acre of sorghum planted over by the Agricultural building, including thirty varieties of sorghum. I have seen it to-day. They are making experiments upon the several varieties of sorghum, and they hope to find and expect to find other varieties still adapted to the southern country as the early amber is to the North and the West.

Of all the wild things that have ever been proposed in this House, excepting only the worse than wild appropriation of $8,200,000 day before yesterday for many equally blind and useless purposes—I say that of all the wild things that have ever been proposed in this House, in view of existing facts, the proposition of the gentleman from Iowa [Mr. GILLETTE] to appropriate $50,000 for the purpose he has indicated is among the wildest.

[Here the hammer fell.]

Mr. COVERT. I desire to detain the House for a moment in replying to some of the insinuations that have been thrown out by the gentleman from Iowa [Mr. GILLETTE] and directed against the committee of which I deem it a distinguished honor to be chairman.

Mr. WEAVER. Has not debate been exhausted on the motion of the gentleman from Iowa, [Mr. GILLETTE?]

Mr. COVERT. I move to strike out the last two words. It is not perhaps becoming in me to attempt any defense of the power which constituted the Committee on Agriculture. I do not believe that the Speaker of this House needs any defense either upon this or upon any other matter affecting the make-up of the committees of this body.

It is true, as stated by the gentleman from Iowa, that some of the members of my committee, a half dozen of them perhaps, are lawyers, and it may be that some of us are poor lawyers at that. At the same time I submit that the work which has been accomplished by the Committee on Agriculture during the session of this Congress will compare favorably with the work accomplished by any other committee of this House.

My friend from Iowa has said that portions of this country having agricultural interests have been neglected in the make-up of this committee. I fail to see it. Fifteen sovereign States of this Union are represented on the Committee on Agriculture. The West, the section from which the gentleman himself comes, is represented and most admirably represented on this committee by six members, representing districts in Missouri, Michigan, Nebraska, Kansas, Illinois, and Wyoming. Five of our members represent districts lying in the extreme South. Thus, of the entire membership of the committee, out of its fifteen members, eleven represent the agricultural interests of the West and South, leaving a small minority only to represent similar interests in the North and East.

A majority of this committee are not lawyers, and even if they were I know of no reason why lawyers cannot and should not take an active and intelligent interest in agricultural affairs.

If anything further need be said in defense of this committee it seems to me that this House by the judgment which, upon a prior occasion, it pronounced upon this matter, furnishes that which will speak for itself and be its own defense. By a vote, and quite a large majority vote of this House, the Committee on Agriculture, from the whole list of committees other than the Committee on Appropriations, was intrusted with the work of preparing the appropriation bill relating to the Department particularly in its charge. It was a distinguished honor conferred upon this committee, an honor conferred upon no other committee of this House; an honor and a distinction which the Committee on Agriculture fully appreciates and which they have labored most zealously and most earnestly to justify and deserve.

Mr. OSCAR TURNER. Mr. Chairman, I represent almost exclusively an agricultural district. I shall vote for this bill, not, however, because I believe it affords that kind of relief to my constituents that they desire. I am a farmer myself and know the wants of my constituents. I shall vote for it because it is regarded as in the interest of the agricultural communities.

The only benefit we are likely to receive from it is a few seeds which may be obtained from the Department of Agriculture, which can be distributed among a few in each county—for the amount of seed is too small to be of much practical use—and which will really amount to little or nothing. When gentlemen on the other side tell us that they are willing to vote for this bill as a boon to agriculturists, I say to them that it is like throwing out a tub to tickle a whale. It affords no practical relief to the agricultural interests of the country, such as is demanded by the people.

My district raises tobacco; that is our principal crop, our staple crop. What we want is simply to be put on a footing with the other agricultural interests of the country, to be relieved from the heavy tax imposed upon the products of our districts, so that we may realize the whole benefit of the labor and expense in raising our crops.

Mr. ATKINS. This we cannot get through the Committee on Agriculture but through the Committee on Ways and Means.

Mr. OSCAR TURNER. No; we do not ask that, or look for it through the Committee on Agriculture at all, but we desire the Committee on Ways and Means to report bills that have been referred to them taking off this burden of unequal and unjust taxation, some of which bills I offered months ago.

What does the relief afforded by this bill amount to? It may result in distributing a few seeds throughout the country, when we could go to a seed store and for twenty-five cents buy as good seed and more reliable than any that we can obtain from the Department. As I said before, this is but throwing out a tub to tickle the agricultural interests of the country.

We would rather have free trace-chains and free salt, which would benefit every agriculturist in the land, whether democrats or republicans, than to have forty appropriations like this made for the Agricultural Department. It is material relief which we want, nothing else. The total value of the tobacco crop of the United States is in round numbers $22,000,000, and upon this industry there is imposed in this country a tax of forty-two millions, which is wrung from the people and mostly from the tobacco-growers by an unjust system of internal-revenue laws that are odious to the people and have to be enforced by spies and informers whom we made an appropriation to pay in the legislative, executive, and judicial bill the other day and against which I voted. This system is all wrong and unjust. Why should you impose this burden upon the tobacco-growers; why discriminate against us? You do not impose any internal-revenue tax directly on the wheat, corn, rye, and oats raised in the various parts of the United States. I do not complain of this, for I do not believe that any tax should be imposed upon agricultural products; but I do complain of the unjust discrimination against the great staple, tobacco.

We ask no bonus to enrich us, such as you give to your northern manufacturers by your tariff laws at the expense of the agriculturists and laborers of the country; all we ask is to give us equality; let us alone; let us have the fruit of our labor, but do not impose this heavy burden on our tobacco to support the extravagance of the Government and to fill the Federal coffers. Why do you exempt from taxation the incomes of the bondholders and the capitalists? Ought not these millionaires to bear their part of the burden of taxation? Their immense incomes are bringing them in their interest seven days in the week, and yet it is impossible to get this Congress to impose even a light tax upon their incomes. This House voted by a large majority during the extra session for an income tax upon these bondholders. I voted for the tax. But it failed for want of a two-thirds vote, as the bill came up under a suspension of the rules. It was said this would be regarded as an instruction to the Committee on Ways and Means to report a bill similar, taxing these incomes; but, sir, it was a false hope.

Twelve months have elapsed since that vote was taken, if I recollect aright, upon the motion of Mr. DIBRELL, of Tennessee, a faithful and able Representative, who moved to suspend the rules and pass that bill; and yet no bill of that character has been reported from that committee, although they have had such bills referred to them—imposing a tax on incomes. Is this just? Is it right that the industrious and hard-working farmers and laborers of the country should be taxed heavily not only by the iniquitous internal-revenue system, but by the tariff duties, doubling the price of nearly all we use, while capitalists and millionaires pay nothing on their capital. It is against this unjust discrimination that I complain, and in the name of justice and in behalf of the people I represent, I protest on this floor against this iniquity. But, sir, it seems that appeals are vain, judging from the votes of a majority on this floor upon various votes that have been taken looking to even tariff reform in a small degree, lightening the burdens upon the masses of the people. I suppose we will have to wait until the people are aroused to a protection of their own interests by sending men here who will legislate in their interest. The whole legislation of the country in Congress for years has been in the interest of bondholders, railroads, and monopolies; and whenever a move is made here in the interest of the farmers and laborers of the country, to modify the tariff, or to relieve the farmers of the country of any of the burdens of this internal revenue on tobacco, the republican side of this House vote solid against it, and enough democrats unite with them to defeat us. I dislike, sir, to refer to these facts, but it is true, and the country ought to know it. The votes in the CONGRESSIONAL RECORD given even at this session and for years back prove it.

But, sir, I will not trespass further on the time of the committee, and I would not have digressed from the point at issue had it not been for the remarks of gentlemen on the other side of this House on yesterday, when they volunteered their advice to us in regard to the protective system; a system that robs one man to enrich another—by law. I want gentlemen to know that we do not consider this appropriation as giving the relief we want. I had rather see the bill putting trace-chains on the free list, that I offered, pass this House

than have a hundred such appropriations as this. It would be of benefit to every farmer in the land, whether he is a democrat or republican, a white man or a black man, and it would not affect the revenue, for the whole duty collected on trace-chains was only $15,000 last year, as shown by the report of the Commissioner of Internal Revenue. Give us free salt, and free sugar, free type, free paper, and permit the growers of tobacco to sell it free from tax. These are not partisan measures, but just in themselves to all, and then you may say you have done something for agriculture, which is the true source of our wealth and national prosperity.

Mr. Chairman, do we owe what little prosperity we enjoy to-day to the financial policy of this administration? No, sir. We owe it to the agriculturists of our land, to the sons of toil, whose productions happened to be needed in Europe and which threw the balance of trade in our favor to the amount of $240,911,000 in the last year and which enabled us to resume specie payments, such as it is. Sir, let us foster and protect the farmers of our land not by bonuses, for we do not ask them, but by just and equitable laws.

[Here the hammer fell.]

Mr. COVERT. I withdraw my *pro forma* amendment. I now move that the committee rise and report the bill with the amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HOOKER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had directed him to report the same back with sundry amendments, and with the recommendation that the bill be passed as amended.

Mr. COVERT. I now call the previous question.

Mr. WEAVER. I wish to move to recommit the bill to the Committee on Agriculture, with instructions to incorporate in the bill the provision which I will send to the Clerk.

Mr. COVERT. I am constrained to insist upon the demand for the previous question.

Mr. WEAVER. Let my proposition be read.

The SPEAKER. The Chair will cause to be read a part of the first clause of Rule XVII.

The Clerk read as follows:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

The SPEAKER. The gentleman from Iowa, [Mr. WEAVER,] pending the demand for the previous question, moves to recommit the bill with the instructions which will be read.

The Clerk read as follows:

That the bill be recommitted with instructions to incorporate in it the following: "For enabling the Commissioner of Agriculture to set up apparatus for manufacturing sugar at various State fairs, and at convenient points in various States, to demonstrate to farmers and planters the practicability of making sugar from corn-stalks and sorghum, $50,000."

Mr. WEAVER. I hope there will be no objection to this.

The previous question was seconded and the main question was ordered.

The question being taken upon the motion of Mr. WEAVER to recommit the bill with instructions, it was not agreed to—ayes 11, noes 125.

The SPEAKER. The first amendment reported from the Committee of the Whole will be read.

Mr. COVERT. In the absence of a demand for a separate vote on the amendments, can they not be adopted as a whole?

The SPEAKER. They can. If no separate vote be asked, the Chair will submit the question on agreeing to the amendments in gross.

Mr. SPARKS. I demand a separate vote on the amendment making an appropriation for sinking artesian wells.

The SPEAKER. The remaining amendments, if there be no objection, will be regarded as adopted in gross.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Clerk will now read the amendment on which the gentleman from Illinois [Mr. SPARKS] has demanded a separate vote.

The Clerk read as follows:

At the end of line 146 insert the following:

"That with a view to the reclamation of the arid and waste lands lying in certain Western States and Territories the Commissioner of Agriculture is hereby authorized to contract for the sinking of two artesian wells on the plains east of the Rocky Mountains. The said wells are to be sunk at such places as the Commissioner of Agriculture may designate. And whenever the site of either of such wells shall be designated the Secretary of the Interior is hereby authorized and required to declare the reservation of four square miles, with the said site as nearly as possible in the center thereof, and the lands so reserved shall not be subject to sale or disposal under any law of the United States until said reservation shall be released. Any party making a contract to sink an artesian well under this act shall, at the end of each week after the work shall have been begun, file with the Commissioner of Agriculture a report containing a statement of the character of the ground or rock through which the well is sunk, giving the thickness of the strata of each formation; and he shall furnish samples of all the different materials through which the well is sunk, and conform with all regulations made by the Commissioner of Agriculture. The sum of $20,000 is hereby appropriated to carry out the objects of this bill, the same to be disbursed under such rules and regulations as the Commissioner of Agriculture shall prescribe."

The question being taken on agreeing to the amendment, there were—ayes 84, noes 29.

Mr. SPARKS. I call for the yeas and nays.

The yeas and nays were not ordered.

So the amendment was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading, and was accordingly read the third time.

The question being on the passage of the bill,

The SPEAKER said: On the passage of this bill the question will be taken by yeas and nays, as required by the rules.

The question was taken; and there were—yeas 218, nays 1, not voting 73; as follows:

YEAS—218.

Acklen,	Davidson,	Kelley,	Russell, W. A.
Aiken,	Davis, George R.	Kenna,	Ryan, Thomas
Aldrich, N. W.	Davis, Horace	Ketcham,	Ryon, John W.
Aldrich, William	Davis, Lowndes H.	Killinger,	Samford,
Anderson,	De La Matyr,	Kimmel,	Sawyer,
Armfield,	Deering,	King,	Scales,
Atherton,	Dibrell,	Klotz,	Sherwin,
Atkins,	Dick,	Knott,	Simonton,
Bachman,	Dickey,	Ladd,	Singleton, O. R.
Bailey,	Dunnell,	Lapham,	Slemons,
Baker,	Dwight,	Le Fevre,	Smith, Hezekiah B.
Ballou,	Ellis,	Lewis,	Smith, William E.
Barber,	Errett,	Loring,	Sparks,
Bayne,	Evins,	Lowe,	Steele,
Belford,	Ewing,	Manning,	Stephens,
Beltzhoover,	Farr,	Marsh,	Stevenson,
Bicknell,	Felton,	Martin, Benj. F.	Stone,
Bingham,	Ferdon,	Martin, Edward L.	Talbott,
Blake,	Field,	Mason,	Taylor,
Bland,	Finley,	McCoid,	Thomas,
Bouck,	Fisher,	McCook,	Thompson, P. B.
Bowman,	Ford,	McKenzie,	Thompson, W. G.
Boyd,	Forney,	McKinley,	Tillman,
Brewer,	Garfield,	McLane,	Townsend, Amos
Briggs,	Geddes,	McMillin,	Townshend, R. W.
Brigham,	Gibson,	Miles,	Tucker,
Bright,	Gillette,	Miller,	Turner, Oscar
Browne,	Godshalk,	Mills,	Turner, Thomas
Buckner,	Gunter,	Mitchell,	Tyler,
Burrows,	Hall,	Money,	Updegraff, J. T.
Butterworth,	Hammond, John	Monroe,	Upson,
Cabell,	Hammond, N. J.	Morse,	Valentine,
Caldwell,	Harmer,	Morton,	Van Aernam,
Calkins,	Haskell,	Muldrow,	Vance,
Cannon,	Hatch,	Neal,	Waddill,
Carlisle,	Hawk,	New,	Walt,
Carpenter,	Hawley,	Newberry,	Ward,
Caswell,	Hayes,	Norcross,	Warner,
Chalmers,	Henderson,	O'Connor,	Washburn,
Claflin,	Henkle,	O'Neill,	Weaver,
Clardy,	Henry,	Orth,	Wellborn,
Clark, John B.	Herbert,	Osmer,	Wells,
Cobb,	Hill,	Overton,	White,
Coffroth,	Hiscock,	Persons,	Whiteaker,
Colerick,	Hooker,	Phelps,	Whitthorne,
Conger,	Horr,	Philips,	Williams, C. G.
Converse,	Hostetler,	Phister,	Willis,
Cook,	Houk,	Pierce,	Willits,
Covert,	Hubbell,	Poehler,	Wise,
Cowgill,	Hull,	Pound,	Wood, Fernando
Cox,	Hunton,	Reagan,	Wood, Walter A.
Crapo,	Hutchins,	Richardson, D. P.	Wright,
Cravens,	Jones,	Richardson, J. S.	Young, Casey.
Culberson,	Joyce,	Robinson,	
Daggett,	Keifer,	Ross,	

NAYS—1.

Bragg.

NOT VOTING—73.

Barlow,	Frye,	Morrison,	Shallenberger,
Beale,	Goode,	Muller,	Shelley,
Berry,	Harris, Benj. W.	Murch,	Singleton, J. W.
Blackburn,	Harris, John T.	Myers,	Smith, A. Herr
Bliss,	Hazelton,	Nicholls,	Speer,
Blount,	Heilman,	O'Brien,	Springer,
Camp,	Herndon,	O'Reilly,	Starin,
Chittenden,	House,	Pacheco,	Updegraff, Thomas
Clark, Alvah A.	Humphrey,	Page,	Urner,
Clymer,	Hurd,	Prescott,	Van Voorhis,
Crowley,	James,	Price,	Voorhis,
Davis, Joseph J.	Johnston,	Reed,	Wilber,
Deuster,	Jorgensen,	Rice,	Williams, Thomas
Dunn,	Kitchin,	Richmond,	Wilson,
Einstein,	Lindsey,	Robertson,	Yocum,
Elam,	Lounsbery,	Robeson,	Young, Thomas L.
Forsythe,	Martin, Joseph J.	Rothwell,	
Fort,	McGowan,	Russell, Daniel L.	
Frost,	McMahon,	Sapp,	

So the bill was passed.

The following pairs were announced at the Clerk's desk:

Mr. HAWLEY, for to-day, with Mr. BLACKBURN, but voted for the bill, being satisfied Mr. BLACKBURN would have taken the same course.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. SHELLEY with Mr. CAMP.

Mr. ROBESON with Mr. JOHNSTON.

Mr. MCMAHON with Mr. URNER.

Mr. SINGLETON, of Illinois, with Mr. MILES.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. NICHOLLS with Mr. RICE.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. HOUSE with Mr. PRICE.

Mr. GIBSON with Mr. HUMPHREY.
Mr. SPEER with Mr. FISHER.
Mr. DUNN with Mr. HARRIS, of Massachusetts.
Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.
Mr. JAMES with Mr. O'BRIEN.
Mr. MYERS with Mr. FORT.
Mr. RICHMOND with Mr. JORGENSEN.
Mr. STARIN with Mr. HERNDON.
Mr. EINSTEIN with Mr. FROST, for to-day.
Mr. HEILMAN with Mr. DEUSTER.
Mr. GOODE with Mr. HARMER, on all political questions only, for to-day.
Mr. BRAGG with Mr. LINDSEY.
The vote was then announced as above recorded.
Mr. COVERT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.

RECESS.

On motion of Mr. HUNTON, by unanimous consent, the House adopted the following resolution:

Resolved, The House shall to-day take a recess at three o'clock p. m. until seven o'clock and thirty minutes p. m.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2481) to create an additional land district in the State of Kansas; and

An act (H. R. No. 2850) to provide a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania.

ORDER OF BUSINESS.

Mr. TUCKER. I move the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of taking up the revenue bills.

Mr. WHITE. We have not yet had a morning hour.

Mr. FERNANDO WOOD. Let me ask, before the gentleman's motion is put to the House, whether if that motion shall prevail it will not be in order to take the revenue bills in the order in which they were reported?

The SPEAKER. That is a question for the Committee of the Whole House on the state of the Union to determine within the requirements of the rules of the House.

Mr. HATCH. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HATCH. I ask to have read the special order of the House for to-day made on last Monday.

Mr. DIBRELL. That is the law to repeal the tax on leaf-tobacco in the hands of the producer.

The SPEAKER. Does the gentleman from Missouri antagonize the motion of the gentleman from Virginia?

Mr. HATCH. I claim the floor, but will yield to the gentleman from Virginia; but will yield no further.

The SPEAKER. The gentleman from Missouri has not control of the recognition of members.

Mr. HATCH. I am perfectly willing to yield to the gentleman from Virginia to make a motion to test the sense of the House, but do not yield to the gentleman from New York on the refunding bill.

The SPEAKER. The Chair has nothing to do with the question raised by the gentleman from New York. The Chair understands the gentleman from Missouri does not antagonize the motion of the gentleman from Virginia.

Mr. BICKNELL. I desire to raise the question, Mr. Speaker, on the motion of the gentleman from Virginia in favor of the consideration of the bill to regulate the counting of the electoral vote.

The SPEAKER. The best practical mode of relief for the gentleman from Indiana is to vote against the motion of the gentleman from Virginia.

Mr. HASKELL. I rise to a parliamentary inquiry. If these motions to go into committee on the revenue bills be voted down, will it not then be in order to move to go to the business on the Speaker's table?

The SPEAKER. The Chair prefers not to decide questions of order until they arise.

Mr. McLANE. I rise to a parliamentary inquiry. I wish to know from the Chair whether, under Rule XXIII, which regulates business in the Committee of the Whole House, that takes away from the House the right to designate the particular bill among the revenue bills which shall be taken up?

The SPEAKER. The Chair states that the general motion is that the House resolve itself into the Committee of the Whole House on the state of the Union. The committee, as the Chair has heretofore stated, is governed by the rules. He makes the same answer to the gentleman from Maryland he made to the gentleman from New York, that he has nothing to do with deciding points of order as to priority of business in committee.

Mr. McLANE. I will test the opinion of the Chair and the sense of the House on that question, and I move to amend the motion of the gentleman from Virginia. He moves to go into Committee of the Whole to consider revenue bills. Now, the amendment I move is that we go into committee——

The SPEAKER. The Chair has not entertained it in that shape, nor did he understand the gentleman from Virginia to make his motion in that shape.

Mr. McLANE. I so understood it.

The SPEAKER. He gave it as a matter of information to the House.

Mr. TUCKER. Yes; I gave it as a matter of information to the House that I proposed to go into committee for the purpose of taking up the revenue bills.

Mr. McLANE. I move to go into Committee of the Whole with instructions to consider the particular revenue bill in reference to the duties on sugar.

The SPEAKER. The Chair overrules that, as the committee itself regulates the manner in which it shall proceed. It would require a change of one of the rules to accomplish what the gentleman from Maryland wishes.

Mr. McLANE. But the House can instruct.

The SPEAKER. The motion is not amendable in that way.

The House divided; and there were—ayes 81, noes 86.

Mr. TUCKER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 106, nays 97, not voting 89; as follows:

YEAS—106.

Aiken,	Deering,	Lewis,	Sparks,
Aldrich, William	Dibrell,	Lounsbery,	Springer,
Armfield,	Dickey,	Lowe,	Steele,
Atherton,	Dunnell,	Manning,	Stephens,
Atkins,	Elam,	Martin, Benj. F.	Stevenson,
Berry,	Evins,	McLane,	Talbott,
Bland,	Felton,	McMillin.	Taylor,
Bright,	Finley,	Mills,	Thomas,
Buckner,	Ford,	Money,	Thompson, P. B.
Cabell,	Frye,	Morrison,	Tillman,
Caldwell,	Gunter,	Muldrow,	Townshend, R. W.
Cannon,	Hammond, N. J.	New,	Tucker,
Carlisle,	Hatch,	O'Connor,	Turner, Oscar
Chalmers,	Henry,	O'Reilly,	Upson,
Chittenden,	Herbert,	Persons,	Vance,
Clark, John B.	Hill,	Phelps,	Waddill,
Colerick,	Hooker,	Philips,	Washburn,
Converse,	Hostetler,	Phister,	Wellborn,
Cook,	Hull,	Poehler,	Whiteaker,
Covert,	Hunton,	Reagan,	Whitthorne,
Cox,	Hutchins,	Richardson, J. S.	Williams, Thomas
Cravens,	Jones,	Samford,	Willis,
Culberson,	Kenna,	Sawyer,	Wilson,
Davidson,	Kimmel,	Simonton,	Wood, Fernando
Davis, George R.	Kitchin,	Singleton, O. R.	Young, Casey.
Davis, Joseph J.	Ladd,	Slemons,	
Davis, Lowndes H.	Le Fevre,	Smith, William E.	

NAYS—97.

Acklen,	Coffroth,	Keifer,	Ross,
Aldrich, N. W.	Conger,	Kelley,	Russell, W. A.
Anderson,	Cowgill,	Ketcham,	Ryan, Thomas
Bachman,	Crapo,	Killinger,	Ryon, John W.
Baker,	Daggett,	Lindsey,	Sherwin,
Ballou,	Davis, Horace	Loring,	Smith, Hezekiah B.
Barber,	De La Matyr,	Marsh,	Stone,
Bayne,	Dick,	McCoid,	Townsend, Amos
Beltzhoover,	Dwight,	McKinley,	Tyler,
Bicknell,	Einstein,	Miller,	Updegraff, J. T.
Bingham,	Ewing,	Mitchell,	Valentine,
Blake,	Farr,	Monroe,	Van Aernam,
Bouck,	Ferdon,	Neal,	Wait,
Bowman,	Garfield,	Newberry,	Ward,
Boyd,	Godshalk,	Norcross,	Warner,
Bragg,	Hall,	O'Neill,	Wells,
Brewer,	Hammond, John	Orth,	White,
Briggs,	Harmer,	Osmer,	Williams, C. G.
Brigham,	Haskell,	Overton,	Willits,
Burrows,	Hawk,	Page,	Wise,
Carpenter,	Hayes,	Pound,	Wood, Walter A.
Caswell,	Horr,	Reed,	Wright.
Claflin,	Houk,	Richardson, D. P.	
Clardy,	Hubbell,	Robertson,	
Clymer,	Joyce,	Robinson,	

NOT VOTING—89.

Bailey,	Frost,	Lapham,	Rothwell,
Barlow,	Geddes,	Martin, Edward L.	Russell, Daniel L.
Beale,	Gibson,	Martin, Joseph J.	Sapp,
Belford,	Gillette,	Mason.	Scales,
Blackburn,	Goode,	McCook,	Shallenberger,
Bliss,	Harris, Benj. W.	McGowan,	Shelley,
Blount,	Harris, John T.	McKenzie,	Singleton, J. W.
Browne,	Hawley,	McMahon,	Smith, A. Herr
Butterworth,	Hazelton,	Miles,	Speer,
Calkins,	Heilman,	Morse,	Starin,
Camp,	Henderson,	Morton,	Thompson, W. G.
Clark, Alvah A.	Henkle,	Muller,	Turner, Thomas
Cobb,	Herndon,	Murch,	Updegraff, Thomas
Crowley,	Hiscock,	Myers,	Urner,
Deuster.	House,	Nicholls,	Van Voorhis,
Dunn,	Humphrey,	O'Brien,	Voorhis,
Ellis,	Hurd,	Pacheco,	Weaver,
Errett,	James,	Pierce,	Wilber,
Field,	Johnston,	Prescott,	Yocum,
Fisher,	Jorgensen,	Price,	Young, Thomas L.
Forney,	King,	Rice,	
Forsythe,	Klotz,	Richmond,	
Fort,	Knott,	Robeson,	

So the motion was agreed to.

The following additional pairs were announced by the Clerk:

Mr. EINSTEIN with Mr. FROST, for to-day, on all political questions but those relating to tariff.

Mr. BLACKBURN, who would vote "ay," with Mr. HAWLEY, who would vote "no," on this question.

Mr. BUTTERWORTH with Mr. KING.

Mr. HENDERSON with Mr. BEALE.

Mr. SAPP with Mr. MCKENZIE.

Mr. GOODE with Mr. BELTZHOOVER, on this question.

Mr. ERRETT with Mr. SCALES, for to-day.

Mr. BAILEY with Mr. ELLIS, from one o'clock to-day until Saturday.

Mr. MCMAHON with Mr. GEDDES, on the question of the reduction of duties on paper. Mr. MCMAHON would vote "no" if he were present, and Mr. GEDDES "ay."

Mr. BELTZHOOVER. Mr. Speaker, I am announced as being paired with Mr. GOODE, of Virginia. This is a mistake. I am not paired and did not authorize any person to make a pair for me.

The result of the vote was then announced as above recorded.

The SPEAKER. The House determines to go into Committee of the Whole on the state of the Union, and the gentleman from Ohio, Mr. CONVERSE, will please take the chair.

Mr. WILSON. Before going into Committee of the Whole, Mr. Speaker, I desire to propound a parliamentary inquiry. There is some conflict between the old rules and the new. The purpose in view, I think, Mr. Speaker, is to try to get before the Committee of the Whole House the bill known as the hoop-iron bill.

The SPEAKER. The question of priority of business in committee is for the committee to determine.

Mr. HUNTON. I ask the gentleman from Virginia to yield to me for unanimous consent.

Several members objected.

ORDER OF BUSINESS IN COMMITTEE OF THE WHOLE.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union for the consideration of revenue bills reported from the Committee on Ways and Means, Mr. CONVERSE in the chair.

The CHAIRMAN. The Clerk will read the pending proposition.

Mr. CONGER. I object to the consideration of any bill out of its regular order.

Mr. GARFIELD. I desire to make the point of order that the funding bill is the first bill in order.

Mr. MCLANE. I should like to ask the Chairman of the committee what bill will be first taken up in committee?

The CHAIRMAN. The Chair will announce that the House is in Committee of the Whole on the state of the Union, and the Chair will give preference to revenue bills under the rule.

Several MEMBERS. That is right.

Mr. FERNANDO WOOD. And in the order in which they have been reported from the Committee on Ways and Means, and the unfinished business now before the committee having the prior right.

Mr. WILSON. The majority of the committee I suppose can determine that.

The CHAIRMAN. The funding bill, being the unfinished business, is first in order.

Mr. TOWNSHEND, of Illinois. And that, of course, I suppose will be subject to the question of consideration.

Mr. COX. Let the Calendar be read, so the House may see what business is pending.

Mr. FERNANDO WOOD. The unfinished business before the committee is undoubtedly the funding bill.

Mr. TUCKER. I move to lay that bill aside.

Mr. SPRINGER. I rise to a question of order.

Mr. CONGER. What is the unfinished business?

The CHAIRMAN. The gentleman from Illinois rises to a question of order.

Mr. SPRINGER. The question of order is that the funding bill is not a revenue bill, and therefore does not take precedence of revenue bills, and therefore is not before the committee for consideration at this time.

The CHAIRMAN. The Chair is of opinion that it is unfinished business.

Mr. TOWNSHEND, of Illinois. But it is not a revenue bill.

Mr. FERNANDO WOOD. It is a revenue bill of the highest character. I desire to be heard as to the point of order if the Chair has any doubt in regard to it.

The CHAIRMAN. The Chair is informed that the bill was considered as a revenue bill.

Mr. TUCKER. My motion is to lay it aside.

The CHAIRMAN. The Chair will direct the rule to be read.

The Clerk read clause 4 of Rule XXIII, as follows:

4. In Committees of the Whole House, business on their Calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

Mr. TUCKER. Under that rule I object to the consideration of this bill.

Mr. CONGER. I ask that it be read.

The CHAIRMAN. The rule requires that when objection is made to the consideration of any bill the committee shall thereupon rise and report such objection to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole on the state of the Union had had under consideration the revenue bill, known as the funding bill, and objection being made to its further consideration, under the rule the committee had risen, directing him to report that fact to the House.

The SPEAKER. The question is, will the House direct the bill (H. R. No. 4592) to facilitate the refunding of the national debt to be laid aside in Committee of the Whole on the state of the Union?

Mr. CONGER. I ask that the bill be read.

Mr. WILSON. That would consume time unnecessarily.

Mr. CONGER. I desire to know what we are voting on that we may vote intelligently.

The Clerk proceeded to read the bill.

Mr. CONGER. I desire to have order while that bill is read. It is a very important bill.

The SPEAKER. The House will come to order.

The Clerk resumed and completed the reading of the bill.

Mr. CONGER. I desire now to have read the order of the House making this a special order. It is on page 7 of the Calendar.

The Clerk read as follows:

A bill (H. R. No. 4592) to facilitate the refunding of the national debt. Made a special order, immediately after the morning hour, on the first Tuesday in March, and from day to day until disposed of, to the exclusion of all existing orders, but not to interfere with the appropriation bills.

Mr. CONGER. This bill is not antagonized by any appropriation bill.

The SPEAKER. This proceeding provided for by the rule is equivalent to raising the question of consideration. The rule distinctly provides that where objection is made in the Committee of the Whole on the state of the Union to the consideration of a bill, then the committee shall rise and report the fact to the House that objection was made. Then the House comes to the question of consideration of such bill in committee.

Mr. CONGER. I make the point that this bill is a special order to the exclusion of all other bills except appropriation bills, and I submit we cannot set aside a special order without a two-thirds vote.

The SPEAKER. The Chair has repeatedly ruled that when the question of the highest privilege is presented, to wit, the right of a member to his seat on this floor, a majority can refuse to consider it. If the majority shall so decide, this will be a majority of the House directing the Committee of the Whole to lay aside the bill, and the rule provides distinctly for such action.

Mr. CONGER. But the Chair a few moments ago stated that neither the Chair nor the House can instruct except through the rules.

The SPEAKER. This is in strict accord and harmony with the rules, and not in opposition to them.

Mr. GARFIELD. I ask that five minutes be allowed to each side to state the grounds on which this bill should or should not be laid aside.

The SPEAKER. Questions of priority of business are decided without debate.

Mr. GARFIELD. I know that; but I ask unanimous consent.

Mr. THOMPSON, of Kentucky. I object.

The SPEAKER. The rule expressly provides that the House shall decide this question without debate.

Mr. GARFIELD. I know that; but I ask unanimous consent.

The SPEAKER. Objection is made. The question is on laying aside the consideration of this bill in Committee of the Whole House on the state of the Union.

The question being put, there were—ayes 68, noes 87.

Mr. TUCKER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 99, not voting 101; as follows.

YEAS—92.

Aldrich, William	Deering,	Kitchin,	Simonton,
Armfield,	De La Matyr,	Ladd,	Singleton, O. R.
Atherton,	Dibrell,	Le Fevre,	Smith, William E.
Atkins,	Dickey,	Lewis,	Sparks,
Bicknell,	Dunnell,	Lounsbery,	Springer,
Bland,	Felton,	Lowe,	Steele,
Bright,	Finley,	Manning,	Stevenson,
Buckner,	Ford,	McLane,	Talbott,
Cabell,	Gillette,	McMillin,	Taylor,
Caldwell,	Gunter,	Mills,	Thompson, P. B.
Calkins,	Hammond, N. J.	Money,	Tillman,
Carlisle,	Hatch,	Morrison,	Townshend, R. W.
Chalmers,	Henkle,	Muldrow,	Tucker,
Clark, John B.	Henry,	New,	Turner, Oscar
Colerick,	Herbert,	O'Connor,	Upson,
Converse,	Hill,	Persons,	Vance,
Cook,	Hooker,	Philips,	Waddill,
Cox,	Hostetler,	Phister,	Weaver,
Cravens,	Hull,	Poehler,	Whiteaker,
Culberson,	Hunton,	Reagan,	Whitthorne,
Davidson,	Hutchins,	Richardson, J. S.	Williams, Thomas
Davis, Joseph J.	Jones,	Samford,	Willis,
Davis, Lowndes H.	Kenna,	Sawyer,	Wilson.

NAYS—99.

Acklen,	Clymer,	Houk,	Reed,
Aldrich, N. W.	Coffroth,	Hubbell,	Robertson,
Anderson,	Conger,	Joyce,	Robinson,
Bachman,	Covert,	Keifer,	Ross,
Baker,	Cowgill,	Kelley,	Russell, W. A.
Ballou,	Crapo,	Ketcham,	Ryon, John W.
Barber,	Daggett,	Killinger,	Sherwin,
Bayne,	Davis, George R.	King,	Smith, Hezekiah B.
Belford,	Davis, Horace	Loring,	Stone,
Beltzhoover,	Dick,	Marsh,	Thomas,
Bingham,	Dwight,	Mason,	Townsend, Amos
Blake,	Einstein,	McCoid,	Updegraff, J. T.
Bouck,	Farr,	McCook,	Updegraff, Thomas
Boyd,	Ferdon,	McKinley,	Van Aernam,
Bragg,	Field,	Miller,	Voorhis,
Brewer,	Frye,	Mitchell,	Wait,
Briggs,	Garfield,	Neal,	Ward,
Brigham,	Gibson,	Newberry,	White,
Burrows,	Godshalk,	Norcross,	Williams, C. G.
Butterworth,	Hall,	O'Neill,	Willits,
Cannon,	Hammond, John	Orth,	Wise,
Carpenter,	Harmer,	Osmer,	Wood, Fernando
Caswell,	Hawk,	Overton,	Wood, Walter A.
Chittenden,	Hayes,	Phelps,	Wright.
Claflin,	Horr,	Pierce	

NOT VOTING—101.

Aiken,	Frost,	McGowan,	Scales,
Bailey,	Geddes,	McKenzie,	Shallenberger,
Barlow,	Goode,	McMahon,	Shelley,
Beale,	Harris, Benj. W.	Miles,	Singleton, J. W.
Berry,	Harris, John T.	Monroe,	Siemons,
Blackburn,	Haskell,	Morse,	Smith, A. Herr
Bliss,	Hawley,	Morton,	Speer,
Blount,	Hazelton,	Muller,	Starin,
Bowman,	Heilman,	Murch,	Stephens,
Browne,	Henderson,	Myers,	Thompson, W. G.
Camp,	Herndon,	Nicholls,	Turner, Thomas
Clardy,	Hiscock,	O'Brien,	Tyler,
Clark, Alvah A.	House,	O'Reilly,	Urner,
Cobb,	Humphrey,	Pacheco,	Valentine,
Crowley,	Hurd,	Page,	Van Voorhis,
Deuster,	James,	Pound,	Warner,
Dunn,	Johnston,	Prescott,	Washburn,
Elam,	Jorgensen,	Price,	Wellborn,
Ellis,	Kimmel,	Rice,	Wells,
Errett,	Klotz,	Richardson, D. P.	Wilber,
Evins,	Knott,	Richmond,	Yocum,
Ewing,	Lapham,	Robeson,	Young, Casey
Fisher,	Lindsey,	Rothwell,	Young, Thomas L.
Forney,	Martin, Benj. F.	Russell, Daniel L.	
Forsythe,	Martin, Edward L.	Ryan, Thomas	
Fort,	Martin, Joseph J.	Sapp,	

So the House refused to direct the Committee of the Whole to lay aside the funding bill.

The following additional pairs were announced:

Mr. BERRY with Mr. RYAN, of Kansas, for the remainder of the day.

Mr. MULLER with Mr. FORSYTHE.

Mr. COBB with Mr. HISCOCK, they being absent engaged in the consideration of the deficiency appropriation bill.

Mr. PAGE with Mr. MARTIN, of West Virginia, for the remainder of the day.

Mr. AIKEN with Mr. VALENTINE. If present Mr. AIKEN would vote "ay" and Mr. VALENTINE "no."

Mr. FORNEY. I was absent, engaged on a sub-committee of the Committee on Appropriations in preparing the deficiency appropriation bill. I ask consent to vote.

The SPEAKER. That cannot be done under the rule.

Mr. FORNEY. Then I desire to state that if I had been present I would have voted "ay."

Mr. WELLBORN. I was absent for the same reason, and desire to state that if I had been present I would have voted "ay."

The result of the vote was then announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed and requested the concurrence of the House in a bill of the following title:

A bill (S. No. 1774) to provide for the erection of a public building in the town of Milton, in the State of Pennsylvania.

ORDER OF BUSINESS.

The SPEAKER. The House having refused to direct the Committee of the Whole on the state of the Union to lay aside the funding bill, under the rule the Committee of the Whole will now resume its session, and the gentleman from Ohio [Mr. CONVERSE] will resume the chair.

Mr. REAGAN. I desire to raise——

Mr. MILLS. I move that the House now take a recess until half past seven o'clock.

Mr. CONGER. I rise to a privileged motion.

FUNDING BILL.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of proceeding with the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

Mr. REAGAN. I addressed the Chair before the Speaker retired, and I desire to be heard.

Mr. RANDALL, (the Speaker.) I desire to state that the rule distinctly provides that in a case of this kind the Committee of the Whole House on the state of the Union shall immediately resume its session. If the committee now wants to rise it is within the power of the committee to do so, and in accord with rule.

The CHAIRMAN. The Chair recognizes the gentleman from New York, [Mr. FERNANDO WOOD.]

Mr. FERNANDO WOOD. I desire to state to the committee——

Mr. MILLS. I move that the committee now rise. That motion is in order.

The CHAIRMAN. The Chair has recognized the gentleman from New York in charge of the funding bill.

Mr. REAGAN. I desire to raise the question of consideration on the funding bill by moving that the committee now rise in order that we may proceed to consider the interstate-commerce bill. I submit the motion that the committee now rise.

Mr. FERNANDO WOOD. The House has just determined the question, and I now claim the floor by right of the vote of the House.

Mr. MILLS. I make the point of order that the gentleman from New York [Mr. FERNANDO WOOD] has exhausted the hour to which he is entitled under the rule.

Mr. CONGER. No man can take the floor and speak upon this bill until it is read; and I ask for the reading of it.

Mr. REAGAN. Have I not the privilege of antagonizing the measure of the gentleman from New York by moving that the committee now rise?

The CHAIRMAN. The Chair will recognize the motion of the gentleman from Texas [Mr. REAGAN] that the committee now rise, saving all the rights of the gentleman from New York.

Mr. TOWNSHEND, of Illinois. The gentleman has no rights; he has exhausted his hour.

Mr. FERNANDO WOOD. I have charge of this bill; and, with all due deference to these gentlemen, I propose to take care of my rights.

The CHAIRMAN. The motion that the committee rise is a privileged motion.

Mr. MILLS. If there is any way by which the House can regulate its own adjournment I would like to have it done. I will appeal to the House.

The CHAIRMAN. The question is on the motion that the committee now rise.

The question was taken; and upon a division there were—ayes 77, noes 65.

Before the result of this vote was announced,

Mr. BAKER called for tellers.

Tellers were ordered; and Mr. REAGAN and Mr. FERNANDO WOOD were appointed.

The committee again divided; and the tellers reported that there were—ayes 78, noes 60.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4592) to facilitate the refunding of the national debt, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. CONGER. I rise to a privileged motion, and move to reconsider the vote by which the House agreed to take a recess to-day at three o'clock.

Mr. MILLS. And pending that motion I move that the House now adjourn.

The question was taken upon the motion to adjourn; and upon a division there were—ayes 76, noes 68.

Before the result of the vote was announced,

Mr. CONGER, and Mr. ALDRICH of Rhode Island, called for the yeas and nays.

Mr. TOWNSHEND, of Illinois. I ask my friend from Texas [Mr. MILLS] to withdraw his motion to adjourn and substitute for it a motion for a recess.

The SPEAKER. The question is upon ordering the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and there were—yeas 19, nays 145, not voting 128; as follows:

YEAS—19.

Bayne,	Cowgill,	Lindsey,	Philips,
Bingham,	Dick,	Lowe,	Smith, Hezekiah B.
Bouck,	Dickey,	Mills,	Tyler,
Clark, John B.	Harmer,	Mitchell,	Wellborn.
Coffroth,	Hooker,	Morrison,	

NAYS—145.

Aldrich, N. W.	Calkins,	Davis, George R.	Forney,
Aldrich, William	Cannon,	Davis, Horace	Frye,
Anderson,	Carlisle,	Davis, Joseph J.	Geddes,
Atkins,	Carpenter,	Davis, Lowndes H.	Gibson,
Baker,	Chalmers,	Deering,	Gillette,
Ballou,	Chittenden,	De La Matyr,	Godshalk,
Barber,	Claflin,	Dibrell,	Gunter,
Beltzhoover,	Colerick,	Dunnell,	Hall,
Bicknell,	Conger,	Dwight,	Hammond, John
Blake,	Converse,	Elam,	Hammond, N. J.
Brewer,	Covert,	Evins,	Haskell,
Briggs,	Crapo,	Farr,	Hatch,
Brigham,	Cravens,	Felton,	Hawk,
Buckner,	Culberson,	Ferdon,	Hayes,
Burrows,	Daggett,	Field,	Henkle,
Cabell,	Davidson,	Ford,	Henry,

Hill,	Morse,	Sawyer,	Van Aernam,
Hostetler,	Morton,	Sherwin,	Vance,
Houk,	Muldrow,	Simonton,	Waddill,
Hull,	Neal,	Singleton, O. R.	Walt,
Hutchins,	New,	Slemons,	Ward,
Jones,	Newberry,	Sparks,	Warner,
Joyce,	Norcross,	Springer,	Washburn,
Kelley,	O'Connor,	Steele,	White,
Kenna,	O'Neill,	Stevenson,	Whiteaker,
Killinger,	Osmer,	Stone,	Whitthorne,
King,	Phelps,	Talbott,	Williams, Thomas
Ladd,	Phister,	Taylor,	Willis,
Le Fevre,	Pierce,	Thomas,	Willits,
Loring,	Pound,	Thompson, P. B.	Wilson,
Lounsbery,	Reagan,	Tillman,	Wise,
Manning,	Reed,	Townsend, Amos	Wood, Fernando
Martin, Edward L.	Robertson,	Townshend, R. W.	Wood, Walter A.
Mason,	Robinson,	Tucker,	Wright.
McKinley,	Ross,	Turner, Oscar	
McLane,	Russell, W. A.	Turner, Thomas	
McMillin,	Samford,	Updegraff, J. T.	

NOT VOTING—128.

Acklen,	Einstein,	Kitchin,	Richardson, D. P.
Aiken,	Ellis,	Klotz,	Richardson, J. S.
Armfield,	Errett,	Knott,	Richmond,
Atherton,	Ewing,	Lapham,	Robeson,
Bachman,	Finley,	Lewis,	Rothwell,
Bailey,	Fisher,	Marsh,	Russell, Daniel L.
Barlow,	Forsythe,	Martin, Benj. F.	Ryan, Thomas
Beale,	Fort,	Martin, Joseph J.	Ryon, John W.
Belford,	Frost,	McCoid,	Sapp,
Berry,	Garfield,	McCook,	Scales,
Blackburn,	Goode,	McGowan,	Shallenberger,
Bland,	Harris, Benj. W.	McKenzie,	Shelley,
Bliss,	Harris, John T.	McMahon,	Singleton, J. W.
Blount,	Hawley,	Miles,	Smith, A. Herr
Bowman,	Hazelton,	Miller,	Smith, William E.
Boyd,	Heilman,	Money,	Speer,
Bragg,	Henderson,	Monroe,	Starin,
Bright,	Herbert,	Muller,	Stephens,
Browne,	Herndon,	Murch,	Thompson, W. G.
Butterworth,	Hiscock,	Myers,	Updegraff, Thomas
Caldwell,	Horr,	Nicholls,	Upson,
Camp,	House,	O'Brien,	Urner,
Caswell,	Hubbell,	O'Reilly,	Valentine,
Clardy,	Humphrey,	Orth,	Van Voorhis,
Clark, Alvah A.	Hunton,	Overton,	Voorhis,
Clymer,	Hurd,	Pacheco,	Weaver,
Cobb,	James,	Page,	Wells,
Cook,	Johnston,	Persons,	Wilber,
Cox,	Jorgensen,	Poehler,	Williams, C. G.
Crowley,	Keifer,	Prescott,	Yocum,
Deuster,	Ketcham,	Price,	Young, Casey
Dunn,	Kimmel,	Rice,	Young, Thomas L.

So the House refused to adjourn.

The SPEAKER. Before the vote is announced the Chair will submit the following requests for leave of absence——

Mr. WHITE. I call for the regular order.

Mr. CONGER. My motion to reconsider the vote by which a recess at three o'clock was ordered is pending. That is a privileged question. I object to the reading of anything.

The SPEAKER. Before the result of the vote is announced the Clerk will read the pairs. The gentleman has no right to object to that.

The following pairs were read from the Clerk's desk:

Mr. HUNTON with Mr. KETCHAM.

Mr. HERBERT with Mr. ORTH.

Mr. MCCOID with Mr. HARRIS, of Virginia, for the remainder of the day.

Mr. RICHARDSON, of New York, with Mr. RICHARDSON, of South Carolina.

Mr. FINLEY with Mr. MCCOOK, on all questions, for the remainder of the day.

Mr. CALDWELL with Mr. DAVIS, of Illinois, for the remainder of to-day.

Mr. HUBBELL with Mr. MCMILLIN, on all political and tariff questions, for the remainder of the day.

Mr. MCMILLIN. This being a non-political question, I have voted.

The SPEAKER. On the motion that the House now adjourn the yeas are 19, the nays 145. The House refuses to adjourn; and, the hour of three o'clock having arrived, the Chair, in obedience to the order of the House adopted this morning, declares a recess until half past seven o'clock this evening.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

DISTRICT CODE.

The SPEAKER. The session of this evening is for the purpose of considering the bill known as the District code bill.

Mr. HUNTON. I move that the House resolve itself into Committee of the Whole for the further consideration of the bill to establish a municipal code for the District of Columbia, and pending that motion I move that all debate on the pending substitute offered by the gentleman from Illinois [Mr. TOWNSHEND] be limited to thirty minutes.

The motion to limit debate was agreed to.

The motion that the House resolve itself into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. BURROWS in the chair,) and resumed the consideration of the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia.

The CHAIRMAN. The Chair would state that, properly, before the substitute of the gentleman from Illinois is considered, that portion of the text of the bill which it is proposed to strike out should be perfected. The Chair would suggest that there are seven pages of this bill which should be considered, and, if necessary, amended, before the substitute is considered.

Mr. HUNTON. Before we enter upon the consideration of that question I desire, by unanimous consent of the committee, to offer an amendment under the head of exemptions. My attention has been called to the fact that there is an omission in the list of exemptions. Mr. Corcoran's Louise Home has never been taxed, I believe, since its erection except two years. After having been for some years exempt from taxation, it was first taxed about 1874 for two years in succession, since which time it has been exempted. It is purely a charitable institution. At the end of the eighth line, on page 39, I move to insert a provision to exempt from taxation the Louise Home of Mr. Corcoran.

Mr. NEAL. My recollection is that when the sub-committee was drafting this section they had under consideration the question of exempting this institution, and there were reasons which suggested themselves to the sub-committee which prevented them from including it among exempt property. Now, while this is a charitable institution in one sense of the word, it is not in another. It is true it is a home for a certain class of widows; but only a certain class can get into that home—"genteel" widows. The management does not admit everybody or persons from every section of the country. It is a sort of exclusive affair. It does not seem to me that it ought to be exempt. If the Committee of the Whole shall vote to exempt it I give notice I shall call for a vote in the House and elicit the facts in regard to the matter.

Mr. HUNTON. I trust the committee will not refuse to exempt this property. Instead of being a source of revenue to the proprietor of it, on the contrary it is an expense of $30,000 or $40,000 a year to him. It is one of the most beautiful charities I know of. This is a charity, no doubt, by Mr. Corcoran, who has done more in the shape of charities to build up art in this city than any twenty people in the city of Washington. I think it would be hard to impose a tax upon this property, which, instead of being a source of income to him, costs over $30,000 or $40,000 a year.

Mr. ROBINSON. Will the gentleman tell the committee under what provision the exemption has been made heretofore? He speaks of this property having been taxed for two years and then exempted from taxation. If he is familiar with the provision under which the exemption has been made I should like him to state it.

Mr. HUNTON. What do you mean?

Mr. ROBINSON. The gentleman has stated this property has been exempted from taxation for a period. If before that time it was subjected to taxation the exemption must have been in conformity to some law.

Mr. HUNTON. I said so.

Mr. ROBINSON. What is that law?

Mr. HUNTON. I cannot turn to it.

Mr. CLAFLIN. It was done by special act last year, my friend will remember.

Mr. BUCKNER. I can answer the question of the gentleman from Massachusetts. Several acts were passed affecting taxation and the rights of property so far as the public are concerned, since I have had the honor of a seat in this House. Some exemptions had been overlooked. At one time all the churches of the city were subjected to taxation. That was done under a law which evidently through an inadvertence included them as subject to taxation. Relief by subsequent acts has been granted in those cases. By the bill which I had the honor to present here it was provided that church property used for church purposes should be exempted. Prior to that time all property, including parsonage and lots attached thereto, were exempted. There have been frequent changes in this respect. This Louise Home was not exempted, through inadvertence evidently, and it seems to me, notwithstanding the remark made by the gentleman from Ohio, the property should be exempted from all taxation. It may be a sectional charity.

Mr. HUNTON. I did not say that.

Mr. BUCKNER. I say that.

Mr. HUNTON. It is not that.

Mr. BUCKNER. Very well; I will not say that, but it is true that this charity was organized for the benefit of the people who were used up and impoverished by the war; refined and elegant ladies who were left penniless.

If there is objection this is not universal but that it is a charity exceptional in its character, the same objection would apply to a great many of the best charities in the world. They cannot take in the whole world, all classes, colors, and descriptions. It does not seem to me that should be any objection. That it is a charity, doing good work for those who need help, ought to be sufficient; and that Mr. Corcoran's memory will be blessed hereafter, as it is now by every one knowing anything of him and what he has done, is beyond all question. I think this property should be exempted and hope the amendment will be adopted.

Mr. ROBINSON. I heartily agree with making the proposed exemption. It seems, from what my colleague has said, it has been done recently by an act of Congress.

Mr. HUNTON. Wherever property of this character has been taxed through inadvertence, when the attention of Congress has been called to the fact, the exemption has been provided for.

Mr. ANDERSON. I suggest to the gentleman from Ohio to withdraw his objection to this amendment. There is the same reason, so far as the State is concerned or the Union, in exempting this property there is in exempting church property.

Mr. HUNTON's amendment was agreed to.

Mr. NEAL. I want, on page 39, to call the attention of the committee to another matter which, it seems to me, should be amended. It is there provided that the Corcoran Art Gallery, with the works of art contained therein, and all real estate now owned by the trustees of said institution, shall be exempt from taxation. When that clause was drawn it was understood by the sub-committee the only real estate owned by the Corcoran Art Gallery was a little piece of ground adjoining, or nearly adjoining, the building, which, when they had acquired title to the next piece of property from Admiral Lee, was intended to be used in the construction of an addition to the Art Gallery.

The CHAIRMAN. What is the gentleman's amendment?

Mr. NEAL. I move to strike out in the clause to which I have referred the words "and all real estate now owned by said institution." It was understood, sir, when the sub-committee drafted this exemption all the real estate then owned by the Corcoran Art Gallery was the tract of land on which the gallery is located and another small lot adjoining one owned by Admiral Lee, which it was expected the trustees would acquire, and that on both lots an addition to the gallery would be constructed. But I have been informed by citizens of Washington since then this institution has foreclosed mortgages on real estate upon which it made loans and bid the property in, and that it is to-day renting that property and using it as a source of profit. It does seem to me property of that kind should not be exempted, for, if we begin to exempt it, the result will be that one-half of the property here would be exempt for similar reasons.

Mr. HUNTON. I will suggest to my friend from Ohio not to strike out the language indicated by his amendment, but to reach the evil which he complains of by adding to the section, after the words "and all real estate now owned by said institution," the words "and used therefor."

Mr. NEAL. I have no objection to accepting that as a modification of my amendment.

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from Virginia.

The Clerk read as follows:

After the word "institution," in the seventh line, add the words "and used therefor;" so that, if amended, the section will read:

"The Corcoran Art Gallery, with the works of art contained therein, and all real estate now owned by said institution and used therefor."

The amendment was agreed to.

The CHAIRMAN. The Clerk will now read chapter 6, on page 67, section 187.

Mr. NEAL. An amendment was offered by the gentleman from Illinois, [Mr. TOWNSHEND,] who is not now in his seat. His amendment applies to these sections, and I will suggest that perhaps it will be well to wait till he comes in.

The CHAIRMAN. This portion of the bill has not yet been read.

Mr. NEAL. I would suggest that we pass over this for a moment.

The CHAIRMAN. The Clerk will read the sections, after which amendments can be inserted.

The Clerk read as follows:

CHAPTER VI.

FORFEITED LANDS.

SEC. 187. No property advertised as provided in section 188 shall be sold upon any bids not sufficient to meet the amounts of tax, penalty, and costs; and in case the highest bid upon any property is not sufficient to meet the taxes, penalty, and costs thereon, said property shall thereupon be bid off by the said commissioners, or their successors in office, in the name of the District of Columbia; but the property so bid off shall not be exempted from assessment and taxation, but shall be assessed and taxed as other property; and if within two years thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and that may have accrued after that date, and 10 per cent. per annum thereon, or if any property, two years after having been so bid off at any sale whatever in the name of said District, under this or any other law, and whether heretofore or hereafter made, is not or has not been so redeemed as aforesaid, then the same shall be held forfeited to the District, and thenceforth all the right, title, claim, and interest of the former owner shall be considered as transferred to and vested in the District, to be disposed of as may be by law provided. And all such lands shall be kept upon the tax list and the taxes thereon regularly assessed until the same shall have been legally disposed of. But if the former owner shall, at any time before the District may have disposed of the same, pay to the collector all the taxes, penalties, and costs for which the same may have been sold and which have since accrued thereon, the District shall, in such case, relinquish to such former owner all claim to such land or lot, and said land or lot shall be re-entered upon the tax list in the name of the former owner.

Mr. CONGER. Mr. Chairman, I wish to call the attention of the gentleman from Virginia to one clause of this section which has been read. I do not think it is right that lands that may have been bid off under this or any other law at any sale whatever in the name of the District and have not been redeemed—I say I do not think that is a just proposition to put into this bill.

Mr. HUNTON. I do not understand what proposition the gentleman refers to.

Mr. CONGER. I refer to the seventeenth line, on page 68.

The CHAIRMAN. Will the gentleman from Michigan indicate his amendment?

Mr. CONGER. I merely offered the amendment in order to get some information in reference to this point, but if necessary my amendment will be to strike out the words "under this or any other law, and whether heretofore or hereafter made." It seems to me that this is an unjust provision.

Mr. NEAL. If the gentleman from Virginia will allow me to explain this matter——

Mr. CONGER. That is the very object in view in offering the amendment.

Mr. NEAL. I think I can make it clear to the gentleman that it is not as unjust as it seems to be on first sight. There has been from time to time property sold in this District which has been bid off under former laws of the District of Columbia, as provided for in this law. That becomes the property of the District under the present law, and we provide here, nowithstanding this fact, that this property shall be held as forfeited property, and we give the owner a suitable time to redeem the same by paying the tax, penalties, and costs accruing thereon, with an additional 10 per cent. added.

Mr. HUNTON. And this gives two years after having been so bid off.

Mr. NEAL. Yes, sir; two years after.

Mr. CONGER. Still that sale may have been entirely different from the provisions that this law establishes; for instance, a provision in which the property would go to the District if the tax had not been paid upon it, and——

Mr. NEAL. Let me explain further. That must have occurred two years ago, and the party had all that time to redeem his property. In the next section we provide that this property on the first Monday in November of each year shall be advertised for sale as forfeited lands, and on that sale the bidder may bid on it any sum that he chooses, the highest bidder taking the property, and on that the commissioner shall give him a good and sufficient deed which will convey a valid title to the holder of the property. But we provide further that within one year after that time a minor or other owner who may have been laboring under legal disabilities shall have time to come in and redeem the property.

Mr. HUNTON. I do not see how it can be more liberal than it is. Under the provision of this law it is one year before the sale can be made. If the District becomes the purchaser it is two years before it can make the deed to it or sell it after it becomes delinquent; then there is another year allowed for the redemption of it; so that about four years' time elapses before the tax title can be made good. Four years' time is certainly long enough; and unless some provision is made to compel parties to pay their taxes upon their property or else hold the property liable for the tax, we may as well give up the idea of attempting to collect any taxes whatever in the District.

Mr. CONGER. I withdraw the amendment. I only wanted to obtain some explanation in reference to this matter.

Mr. ROBINSON. I renew the amendment for the purpose of asking a question. I understand the gentleman from Ohio to say that the words in the fourteenth and fifteenth lines, "two years after having been so bid off at any sale whatever in the name of said District," were intended to cover instances of sales made heretofore under some prior law. I wish to call attention to the fact that the beneficial operations of this section would not apply to sales made longer than two years ago; for in that time, by this section, forfeiture will have taken place. I simply call attention to this for the purpose of getting a reply to it.

Mr. NEAL. It could not be a bar until after a sale has been made.

Mr. HUNTON. Under this act?

Mr. NEAL. Yes, under this act as provided in section 188.

Mr. ROBINSON. I ask the gentleman from Ohio to weigh these words:

Bid off at any sale whatever in the name of said District under this or any other law, and whether heretofore or hereafter made.

Now, the words "heretofore made" will of course apply to any sale that has been made heretofore within two years last past.

Mr. NEAL. Or ten years. The object is to provide some way to finally close up these outstanding tax matters; and the committee could not devise any better scheme than this. We require all the property heretofore bid off in the name of the District of Columbia to go upon what is known as the forfeited-land list; and upon the first Monday of November annually a list of these lands shall be prepared, with all the taxes, penalties, costs, and interest due or assessed thereon, as provided in section 188, and the same shall be printed in pamphlet with notice of sale, as is provided for the publication of sale of delinquent lands in section 181.

Mr. ROBINSON. The gentleman from Ohio will pardon me. He does not get my point. I am either entirely wrong or some other provision is required. Is it the fact that sales have been made in this District at any time prior to two years ago and bid off in the name of the District?

Mr. NEAL. That is a question it is impossible for me to answer. I presume that is the case.

Mr. ROBINSON. Now assume a piece of property was bid off three

years ago. This section will not afford any relief to the former owner of that property because it says in the fifteenth line, "if any property two years after having been so bid off at any sale." If such property is not redeemed within two years then it is forfeited.

Mr. NEAL. I suggest to the gentleman to move an amendment, so as to make it read "not less than two years."

Mr. ROBINSON. Does the gentleman see exactly my point?

Mr. NEAL. I do not think the gentleman's point is well taken; but I have no objection to having the language made more specific.

Mr. ROBINSON. It is not a matter in which I have the slightest interest. But what the gentleman suggests does not cover my point. I am just informed by the gentleman from Missouri [Mr. BUCKNER] that a very large portion of the property in this District was bid off by the District four years ago. I suggest that the reading go on and we will prepare something at leisure, and not in a hurry, that will cover the point.

The CHAIRMAN. If there be no objection, the section will be passed over for the present.

There was no objection.

The Clerk read as follows:

SEC. 188. The collector of taxes shall annually, on or before the first Monday of November, prepare a list of all lands which may have been so as aforesaid forfeited and not redeemed, with all the taxes, penalties, costs, and interest due or assessed thereon, and cause the same to be printed in pamphlet with notice of sale, as is provided for the publication of sale of delinquent lands in section 181. He shall also give notice by advertising in two newspapers printed and of general circulation in the District, that so many of said tracts and lots as are not redeemed by the second Monday of December next ensuing will be offered for sale by him, at public auction, at his office in the city of Washington, in order to satisfy such taxes, penalties, costs, and interest, and each secular day thereafter between the hours of ten o'clock a. m. and four o'clock p. m. And he shall upon said day and each secular day thereafter, between the hours aforesaid, proceed to sell all said tracts and lots to the highest bidder, selling them separately in the order in which they are arranged in said pamphlet, whether the amount so bid is sufficient to pay the taxes, penalties, costs, and interest, or not. And upon the payment of the amount so bid the commissioners shall execute to the purchaser a deed for the same, which shall be held to convey a good and indefeasible title in law and equity: *Provided*, That minors and other persons under legal disability shall be permitted to redeem any such tracts or lots so forfeited and sold, from the purchaser thereof, within one year after the minor may arrive at full age, or after the removal of such legal disability, on payment of the purchase-money, with 10 per cent. per annum interest thereon, and all taxes and assessments that have been paid thereon by the purchaser or his assigns between the day of sale and the period of redemption, with 10 per cent. per annum interest upon such taxes and assessments.

Mr. CONGER. I offer the following amendment:

In line 5, after the word "printed," insert the words "and distributed;" so that it will read:

"And cause the same to be printed and distributed in pamphlet with notice of sale, &c."

Mr. HUNTON. I will say to the gentleman from Michigan that the idea of the committee in making this provision was to have these pamphlets at the office of the District commissioners with notice of sale so that any person wanting the pamphlet can call and get it.

Mr. CONGER. But the distribution is not distinctly provided for.

Mr. HUNTON. It does not say in so many words that they shall be distributed, but that is the object of their being printed. I think it would be well to advertise that the list of these lands is printed in pamphlet form and that it is at the District office for anybody to get a copy who wants it.

Mr. NEAL. Let me suggest to the gentleman from Virginia that this section provides that the list of these lands shall be printed in pamphlet form with notice of sale, "as is provided for the publication of sale of delinquent lands in section 181." Now, section 181 provides that these pamphlets shall be delivered to any person who may call for them at the office of the District commissioners.

Mr. HUNTON. That was the idea we had in making this provision.

Mr. NEAL. Let us amend this section so as to make the same provision here and we will accomplish all the gentleman from Michigan desires.

Mr. HUNTON. If the pamphlets are delivered to all who want them, a sufficient publication is made.

Mr. CONGER. It can do no harm to require that these pamphlets shall not only be printed but distributed.

The question being taken on Mr. CONGER'S amendment, it was agreed to.

Mr. CONGER. I offer the following amendment:

In line 5, after the word "pamphlet," insert the word "form."

The amendment was agreed to.

Mr. SAMFORD. I offer the following amendment:

In line 23, strike out the words "a good and indefeasible title" and insert "all right and title of the delinquent party against whom the tax has been assessed."

One word, Mr. Chairman, in reference to that.

Mr. WILLITS. I suggest to the gentleman from Alabama that that might not be any title at all. The tax might be assessed against the wrong person. It ought to be made a lien on the property.

Mr. SAMFORD. I concede that.

Mr. WILLITS. A better amendment would be to make the deed convey all the right and title that the District of Columbia would have.

Mr. SAMFORD. I have no objection to the amendment suggested by the gentleman from Michigan, as it carries out the view I am driving at.

Mr. NEAL. The very object of this provision is to give the purchaser a good title to the property. Taxes are assessed not against the owner of the property, not against the individual, but against the property itself, and I do not care whether it is taxed in the right name or not so the property is properly described and the taxes are legally assessed.

Mr. SAMFORD. Is my friend going to make a speech?

Mr. NEAL. I thought you had got through.

Mr. SAMFORD. Oh, no.

Mr. NEAL. Very well, let me state what I desire to say and then the gentleman can reply to it. If the property is properly described and the tax is legally assessed, it does not matter in whose name the property may stand upon the record. The only way to assess taxes against real estate is to assess them against the property itself, not against the individual owner. We have provided in this bill that where the owner was not known the property should be assessed as the property of "unknown," the tax collected against it as "unknown," and if not paid then the property was to be forfeited and sold as the property of an "unknown" owner.

As I have already said, we give a man a year before his property becomes delinquent. If he fails to pay the taxes, then we give him two years after the property is sold at delinquent sale within which to redeem it; and before a man buying the property at such sale can acquire a deed he must give sixty days' notice. If the property is not sold for enough to pay the taxes and the penalty, then it is forfeited to the District, and placed on the forfeited land list and sold a year afterward.

Now, it seems to me there should be an end somewhere of these proceedings by which a purchaser of land at tax sale may have confidence that he will either receive his money back or acquire a title to the property which cannot be disputed. Therefore we provide that while in the case of a delinquent land sale the deed shall only be *prima facie* evidence of title in the case of land sold as forfeited a good and indefeasible title shall be given. It seemed to us that it was necessary that there should be an end some time or other of this matter, and that at some period, if the land is not redeemed, the purchaser at a tax sale would know that he could acquire a good title to the land.

Mr. SAMFORD. The amendment offered by the gentleman from Michigan [Mr. WILLITS] meets the object which I had in view. It makes no difference, I submit to the gentleman from Ohio, [Mr. NEAL,] how anxious or desirous he or any one else of us may be to have an end to what he calls these tax sales. I have no idea that any court in the United States would ever hold such a title as that to be worth the paper on which it is written.

In the line of the point which I attempted to make the other night, it has been decided by the courts that no man in this country can have his property taken from him without due process of law. Not only has that been decided, but it is also asserted in the Constitution of the United States, and perhaps in every State constitution in the Union. No man is deprived of his property by due process of law who has not had his day in court. And it is nonsense, it seems to me, and I say so respectfully, for us to attempt to give a good and indefeasible title in law and equity without giving a party an opportunity in court.

I have no objection to the amendment of the gentleman from Michigan [Mr. WILLITS] if he offers it as a substitute for mine, and I will accept it in place of my amendment—to convey to the purchaser at such sale all the title which the District of Columbia may have, and the District of Columbia cannot have a particle of title unless it has complied with all the prerequisites required in the tax law and has given the party his day in court.

It was attempted in my own State, and I suppose it has been attempted in various other States in the Union and at various times, to say that by these *ex parte* notices, if I may be allowed the expression, by these publications in newspapers, the owners of this property may be precluded from ever defending against a tax title. And every time the touchstone of the law and the Constitution was applied to it such a law was held to be extra-constitutional. Therefore, in order to meet the case, we had to provide by law the machinery of a court so that a delinquent tax-payer should have served on him a notice regularly and lawfully, and have an opportunity to come into court and answer why he should not be divested of the title to his property in consequence of his non-payment of the taxes.

You cannot by a mere publication of a notice in a newspaper, which the party may never see, divest him of his property. If you go forward and give such a notice as will bring him into court, then it is not only possible but it is proper to divest him of his title under a tax sale.

Mr. WILLITS. I made no amendment; I merely made a suggestion.

Mr. SAMFORD. Then I will let my amendment stand.

Mr. HUNTON. I move to strike out the last word, for the purpose of saying that I trust neither the amendment of the gentleman from Alabama [Mr. SAMFORD] nor the proposed substitute of the gentleman from Michigan [Mr. WILLITS] will be adopted. If either is adopted, I hope it will be the amendment and not the substitute. If the substitute shall be adopted, then the sale of land for taxes will not amount to a row of pins, if the gentleman will excuse me for so characterizing his substitute. And I say so for this reason: if you convey only the title which the District commissioners have, then it

will only be in my opinion a lien for the taxes, and of course that will not be worth anything and will not sell for anything. As I understand it, that is the whole title that is vested in the District commissioners in such cases.

The amendment of the gentleman from Alabama [Mr. SAMFORD] is, as he states, in the line of the amendments he has heretofore offered to other sections, and which have been voted down. I trust that this amendment of my friend from Alabama will not be adopted. If there be not some stringent rule as to enforcing tax titles in this District, we might as well bid farewell to the collection of taxes here against the land of some persons who never pay taxes and only laugh when you attempt to make them pay by a sale. The object of the provisions incorporated in this code by the committee was to remedy this difficulty, so that such parties may know that when their lands are taxed they, like other people, must pay the taxes, or if they do not pay their lands will be sold.

We have provided very carefully for giving to parties who fail to pay their taxes the utmost opportunities to redeem their property, but after they have neglected all the opportunities offered, and still fail to pay their taxes, the land ought to be sold and the purchaser ought to get a title.

Mr. WILLITS. Mr. Chairman, I appreciate fully the argument which the gentleman from Virginia [Mr. HUNTON] presents in regard to the necessity of making as good a title as possible, but I have grave doubts whether you can legislate a perfect title on imperfect proceedings. If your proceedings are imperfect I think the courts will set aside the title, notwithstanding you may declare that it shall be indefeasible.

However, I do not propose to antagonize that part of the bill, because gentlemen of the committee seem to be so strenuous in regard to it; and I am willing for one that they may take the chances in court upon it. There is one criticism, however, which I wish to submit. This section proposes to sell the forfeited lands. What are the forfeited lands? We look to a prior section to see; and here arises the very same point suggested by the gentleman from Massachusetts. Now there have been, as is admitted, sales in years past under various laws, and the lands have been bid in by the District of Columbia, years ago, perhaps, without any clause in the law authorizing forfeiture. Now, I submit that after the lapse of years (though the taxes are still unpaid, it is true) it is not competent for Congress to pass a bill forfeiting those lands—at least not without giving the parties interested ample opportunity to redeem them. If a year or two years—any reasonable time—were given for redemption, I would not say you might not forfeit the land and give a good title.

Mr. HUNTON. Two years are given.

Mr. WILLITS. I am coming to that. Now we come back to the point suggested by the gentleman from Massachusetts. Suppose the sale was made three years ago; there is no time given for redemption. The bill does not say two years after the passage of the act.

Mr. ROBINSON. I have prepared an amendment to cover that point.

Mr. WILLITS. I understand that. This much, however, is clear: no legislation can forfeit lands for the non-payment of taxes until there has been time—a reasonable time—in which to pay the taxes or redeem the property. Now, if sales have been made in past years, it is not competent for you to declare the lands forfeited under those sales unless you give reasonable time for redemption, which, as I understand, is not given by the provisions of this bill.

Mr. PAGE. Do the provisions of the bill apply to lands sold under former laws?

Mr. WILLITS. They do; they apply to lands sold under any sale whatever. Therefore, while, as I have said, I am not disposed to antagonize the principle of this bill in regard to forfeiting lands; while I am willing that those who are interested in enforcing such forfeitures should take their chances in court, I do think that the prior section of the bill ought to be amended so as to provide for reasonable notice before forfeiture shall take place.

Mr. HUNTON. The gentleman from Massachusetts is now preparing an amendment which may meet the gentleman's objection. I withdraw the *pro forma* amendment.

Mr. SAMFORD. Does the gentleman from Michigan [Mr. WILLITS] think it possible that a man's title to real estate shall be forfeited without his having had an opportunity to defend it in some court? Can you by legislation provide that the mere proceedings upon a tax sale shall be all the notice required to forfeit a man's title and give a good and indefeasible title in law and equity against him?

Mr. WILLITS. I think it perfectly competent to pass a law declaring that his rights shall be forfeited provided the proceedings are all regular.

Mr. SAMFORD. Precisely; I admit that.

Mr. WILLITS. If the proceedings are all regular under the tax sale, then the title is perfect.

The amendment of Mr. SAMFORD was not agreed to.

Mr. NEAL. I offer the following, to come in after the word "equity," in line 24:

And the proceeds of said sale, after the payment of the taxes, penalties, interest, and costs, and in excess thereof, shall be paid over by said commissioners to the former owner of the property so sold, upon demand thereof, the said commissioners taking a receipt therefor.

The amendment was adopted.

Mr. CONGER. I desire to test the sense of the committee on an amendment. I move to strike out the words "good and indefeasible" and in lieu thereof to insert "*prima facie*." This may be in the law or not in the law, but *prima facie* title in law or equity is the only result there can be from the passage of this law in any case. There is no principle in existence recognized in the court which can declare a title acquired by the process here proposed to be good and indefeasible in law and in equity. If you are to insert at the end of this paragraph the party should not have a standing in court, either in a law court or a chancery court, you could not reach it. There is no use in misleading men to purchase property by intimating to them there is no law under which a former owner may test the title, and especially when this section provides that the highest bidder, even though it be for less than the tax, penalties, and costs, shall have the property—property worth half a million of dollars, against which may be assessed $5,000 for taxes, penalties, and forfeitures, and which may be bid off for one cent; and it provides the purchaser shall have a good and indefeasible title against the world.

Now, so long as the owner of land must come and pay taxes running at the rate of 10 per cent. interest, as long as they run per annum with penalties and costs and must pay upon that 10 per cent. even after the costs have accrued, and so long as that has to be paid, although the title may be defeated, that is enough. The owner of the land may be utterly unable to pay the tax. The owner of the land may be away. The owner of the land may have been deceived. He may have sent his money and have supposed it was all right He may have had a dishonest agent. No matter what the circumstances, without any possible fault whatever, he may be deprived of his land. And if this law should be held good the purchaser of the land shall have a title which could not be attacked, no matter what equities existed, no matter what violations of law brought about the result. I venture there is no State in this Union and no Legislature of any State in this Union which ever passed such a law, or, if they did, there is no court that ever sustained it.

Mr. BOUCK. Will the gentleman from Michigan refer me to some law-book by which I can find what a tax title is?

Mr. CONGER. That is an elementary proposition known to every student of the law.

Mr. BOUCK. I can understand what it means if you say the deed *prima facie* shall convey the title.

Mr. SAMFORD. *Prima facie* title is presumptive title.

Mr. BOUCK. It is no title at all.

Mr. CONGER. The phrase is often used in that way. A title on its face is to be considered good until rebutted by other circumstances.

Mr. HUNTON. I hope the amendment of the gentleman from Michigan will not prevail. The plan of the committee in regard to the sale of delinquent tax lands is to this effect: where the property has been sold at the first sale a *prima facie* title is conveyed. If that land is bid in by the commissioners of the District of Columbia and held and taxed as any other land in the District is taxed and held, then when the District undertakes to sell, the title of the District conveyed in that deed by sale cannot be attacked afterward. It conveys a good and indefeasible title.

Mr. CONGER. Has anything in the mean time been done under the law to make the title which the District conveys any better than the other, any higher title?

Mr. HUNTON. It makes it better in this: if the party delinquent still holds out and will not pay the taxes which this law provides may be paid up to the sale by the District, then the party still holding out and failing to pay his taxes must submit to an indefeasible title when the District of Columbia sells.

The supposition that the gentleman makes about property worth $1,000,000 being sold for a cent is about as probable as the sky falling and catching larks. We all know property of value brings a good market price at sale in this District when the purchaser knows he is going to get a title. The reason why property does not bring in value at these tax sales is because the purchaser knows he cannot get a good title.

Mr. NEAL. He gets nothing but a lawsuit.

Mr. HUNTON. Nothing but a lawsuit, and that is the reason why tax sales in this District have been altogether a failure, and that is the reason why some of the people in the District refuse to pay their taxes.

Now pass this law, which throws around the owner of the property every safeguard in the way of redemption, running through a period of four years, and my word for it there will not be ten sales where there are now a thousand. People will pay their taxes, if this becomes a law, without any difficulty.

Mr. CONGER. But no lawyer will be afraid of this section. It will scare ignorant and credulous people only.

Mr. HUNTON. If the gentleman from Michigan has property here, or if he is a property-owner in the District, it would scare him, I imagine, if he was delinquent.

Mr. CONGER. But I am a timid man anyhow. [Laughter.]

Mr. SAMFORD. I move to strike out the last word for the purpose of asking the gentleman from Virginia a question. I understand the gentleman to be contending for this, and my colleague on the committee from Ohio also, simply for the purpose of determining this tax matter. Now does the gentleman from Virginia or the gentleman from Ohio know of a single State in this Union whose Legislature has

ever passed such a law as this, attempting to give a tax title such a character as is proposed to be given to it here?

Mr. HUNTON. I know of no State which makes such liberal provision for delinquent tax-payers as this bill makes.

Mr. SAMFORD. Then another question: does not the gentleman know that in many States of this Union it has been attempted to give a good and indefeasible title by tax sale and the Supreme Court has decided in every instance that it could not be done?

Mr. HUNTON. I do not know of any such decisions.

Mr. SAMFORD. It has been done in my own State, and it has been so decided by the Supreme Court of the United States.

Mr. HUNTON. In what case?

Mr. SAMFORD. In the cases to which I referred the other night, and also the case in 48 Otto, cited as affirming the contrary doctrine in the case of Smalls. The gentleman from Illinois cited me to it as exploding the doctrine of Cooley on Constitutional Limitations, Blackwell on Tax Titles, and the forty-eight Alabama Reports, but he was in error, as he will find by rereading it. Now, there has not been a single successful attempt ever made in the United States to convey a man's property by an indefeasible title at a tax sale without giving him the opportunity to defend it. That has been tried in several States and in my own State unsuccessfully, and the machinery of the law has been provided by which the tax delinquent shall go into court and show cause why his title should not be divested. There is no use in putting such a section as this into the law. It will only be a snare and a delusion. Every man who buys property at such sales under such a law would suppose he was getting a conclusive title. I have no idea that the courts will sustain it.

Mr. FIELD. What objection is there to inserting in the twenty-third line, after the word "held," the words "*prima facie*," and after the word "title," "in fee-simple;" so that it will read, "which shall be held *prima facie* to convey a good and indefeasible title in fee-simple?"

We know that the words used in this section may be held to convey title for a limited time, for a year or during life; but if the words "fee-simple" are inserted the meaning cannot be mistaken. By inserting the words "*prima facie*" it would be held as presumptive evidence of title. Otherwise the burden would rest upon the purchaser of showing that all of the necessary preliminaries had been complied with. These words, if inserted, would give all necessary protection to the purchaser of property at such sales and make the section complete.

The CHAIRMAN. Does the gentleman from Alabama insist upon his *pro forma* amendment?

Mr. SAMFORD. No, sir; I withdraw it.

The CHAIRMAN. The gentleman from Massachusetts will please indicate his amendment.

Mr. FIELD. As there is an amendment pending, I offer this as a substitute:

Insert after the word "held" the words "*prima facie*," and after the word "title" the words "in fee-simple" in line 23 of this section.

Mr. CONGER. I accept the substitute.

The CHAIRMAN. The Clerk will report the substitute presented by the gentleman from Massachusetts which has been accepted by the gentleman from Michigan in lieu of his amendment.

The Clerk read as follows:

In line 23, after the word "held," insert "*prima facie*," and after the word "title," in the same line, insert the words, "in fee-simple;" so that if amended it will read:

"The commissioners shall execute to the purchaser a deed for the same, which shall be held *prima facie* to convey a good and indefeasible title in fee-simple," &c.

The amendment was agreed to.

Mr. HUNTON. As I understand, although the substitute was adopted, it was in the nature of an amendment to the amendment?

The CHAIRMAN. The gentleman from Michigan accepted the amendment in lieu of his own.

Mr. HUNTON. Very well; I was mistaken.

Mr. ROBINSON. I believe it is agreeable now to the gentleman having charge of this bill to return to the section on the preceding page from that now under consideration, which was passed over, to provide for that place which was omitted. I send up an amendment, which will be readily understood.

The Clerk read as follows:

Strike out all after the word "thereon," in the fifteenth line, down to the word "shall," in the nineteenth line, and insert, "or if any property two years after having been so bid for at any such sale in the name of the District is not or has not been so redeemed as aforesaid, or if any property heretofore bid off at any sale whatever under any law in the name of said District, is not or has not been redeemed as aforesaid, within two years next after the passage of this act then in either case the same; so that, if adopted, it will read:

"And if within two years thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and that may have accrued after that date, and 10 per cent. per annum thereon; or if any property two years after having been so bid for at any such sale in the name of the District, is not or has not been so redeemed as aforesaid, or if any property heretofore bid off at any sale whatever, under any law in the name of said District, is not or has not been redeemed as aforesaid, within two years next after the passage of this act, then in either case the same shall be held forfeited to the District," &c.

Mr. HUNTON. I have no objection to that.

The amendment was agreed to.

The Clerk read as follows:

SEC. 189. On or before the first Monday of November, 1880, the collector shall prepare a list of all lands which may have been bid off at any tax sale, under any law authorizing such sales, at a period more than two years prior to said first Monday of November, and shall proceed to advertise and dispose of the same as is provided in the preceding section for the sale of forfeited lands; and all the provisions of the preceding section as to the sale, execution of deed, character of the title acquired, and redemption upon the removal of disabilities shall be applicable to sales made hereunder.

Mr. CONGER. I suggest that the amendment adopted on the motion of the gentleman from Massachusetts [Mr. ROBINSON] to the former section should also be inserted here.

Mr. HUNTON. I do not think that is necessary. The language here is "under any law authorizing such sales." That applies to the preceding amended section.

The Clerk read as follows:

SEC. 190. Any person who may purchase lands under the provisions of the last two preceding sections may recover possession in any of the modes provided by law for recovering the possession of real estate in the District, and the deed, executed by the commissioners, shall be conclusive evidence of his title and right of possession. He may also have the benefit of all the laws relating to the partition of real estate in the District.

Mr. FIELD. I offer the following amendment:

In line 5 strike out the word "conclusive" and insert "*prima facie*."

The amendment was agreed to.

The Clerk read as follows:

SEC. 191. No court, nor any judge thereof, shall allow any injunction or other restraining order whatever on behalf of any person, company, or corporation to restrain or prevent any officer from the proper discharge of any of the duties devolved upon him by any of the provisions of this title, nor from the collection of any taxes upon any property, real or personal, by the proper officer thereof, either by distress or in any mode provided by law. Any person who may feel himself aggrieved by reason of any of the acts or doings of any person under the provisions of this title, shall, nevertheless, pay all taxes levied upon or assessed against his property, or that which he may control, as herein provided for, under protest, and thereupon may institute legal proceedings against the District to recover back the same. And in suits now pending in any court of the District on behalf of any person, company, or corporation, in which the collection of taxes is enjoined or restrained, or any officer is enjoined from the discharge of any duty devolved upon him by any laws of the District for the assessment and collection of taxes, it is hereby made the duty of the court, or the judge thereof, in which any of such suits may be pending, on motion of the District attorney, who shall appear in the case and conduct the same to final trial and judgment, to advance such suits upon their respective dockets ahead of all other cases, except criminal causes, and to cause the same to be finally disposed of without any unnecessary delay.

Mr. PAGE. I do not wish to delay the committee at all; but I want to offer a suggestion and to call the attention of the lawyers on the committee to the fact that the provision at the beginning of this section seems to be a very peculiar one. I am not a lawyer, but it seems to me that the provision here is very strong:

No court, nor any judge thereof, shall allow any injunction or other restraining order whatever on behalf of any person, company, or corporation, to restrain or prevent any officer from the proper discharge of any of the duties devolved upon him, &c.

That is in regard to the sale of real estate. That seems to me to be very strong and I do not believe it ought to be the law. I believe that every citizen of the United States whose property is about to be offered for sale for delinquent taxes should be permitted to appeal to the court and ask for an injunction to restrain the officer from selling his property. His cause will then get into court and he can have a hearing; and if there has been any mistake made or any improper assessment, or if there have been any improper proceedings in any way, he has his recourse at law. It seems to me this part of the section should be stricken out.

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. PAGE. I merely call the attention of the committee to this part of the section.

Mr. SAMFORD. Let the gentleman move to strike that out.

Mr. PAGE. I move to strike out the first eight lines.

Mr. ATKINS. Let the gentleman read the language which he desires to have stricken out.

Mr. PAGE. I will do so. It is as follows:

No court, nor any judge thereof, shall allow any injunction or other restraining order whatever on behalf of any person, company, or corporation to restrain or prevent any officer from the proper discharge of any of the duties devolved upon him by any of the provisions of this title, nor from the collection of any taxes upon any property, real or personal, by the proper officer thereof either by distress or in any mode provided by law.

I will not insist on my amendment. If the committee do not see proper to strike out that portion of the section, let it go.

Mr. WEAVER. If the gentleman from California withdraws his amendment, I renew it. I do not know a State of this Union where there is such a statute as that.

Mr. HUNTON. There is exactly such a statute in Tennessee.

Mr. WEAVER. There may be in Tennessee, but I certainly should not wish to have a statute of that kind in this District, where the people have no voice in making the law which governs them. It is a very strange statute. I am willing to make the law for this District as strong as that of the average statutes of the States of the Union governing such matters. But I am not willing to vote for this section as it stands. I move to amend by striking out the first eight lines of the section.

Mr. SAMFORD. That would necessitate striking out the whole section.

Mr. ROBINSON. This is the law of the State of Massachusetts, and it has been sustained by the supreme court of that State.

Mr. WEAVER. In this language?

Mr. ROBINSON. There is no need of having a statutory provision in that State, because the supreme court holds a party who seeks relief from taxation, such relief as this, must seek his remedy at law and not in equity.

Mr. BOUCK. As to real estate or personal property?

Mr. ROBINSON. As to every kind of property subject to taxation. Therefore this statute only expresses the decision of the supreme court of that State. In every instance when a party applies for an injunction or restraint to prevent the collection of taxes the application is refused and the party is remitted to his statutory remedy of correction by legal process. No damage is done to the party. I submit to my friend from California and the gentleman from Iowa that he has his full remedy. If the State or the town is enforcing the payment of a sum of money which he considers should not be enforced, he says, "I deny your right to enforce it." Then, for the purpose of summary collection, the State or town can say, "You pay this money and then you will have an action to recover back your money; you pay it under protest." And there is no sale. The payment of the tax stops everything.

I think the doctrine may just as well be applied to the people of this District who are subject to taxation as to any people anywhere. I do not think it is a sound doctrine, as the gentleman from Iowa says, to make a mild and gentle law for the people of the District because they are not represented here in Congress.

Mr. WEAVER. I did not say that.

Mr. ROBINSON. I think that is the substance of what the gentleman says. If it is right for us to legislate for the people of the District at all, let us legislate in a sound and reasonable way. We legislate in that way for our people, and I submit it is proper legislation. The tax is something that the person against whom it is properly assessed should pay promptly; and there should be summary process against the party who would stand out and withstand the collection of that tax.

If you go on without such a statute as this, and if the courts in equity in this District should not hold in accordance with the doctrines held by the Massachusetts courts, what would be the result? You might levy a tax on the people, and they would take you into a court of equity and keep you there year after year in controversy about the tax. I need not enlarge upon that; I think it is apparent to every gentleman.

Mr. WEAVER. One word in reply to the gentleman from Massachusetts, [Mr. ROBINSON.] I do not ask for a rule in this regard that is milder than the general average of the statutes of the different States. It may be that the Massachusetts rule is very rigid in that regard; it may be that the rule in Tennessee is rigid; but what harm could possibly come to the revenues of this District if you allow to a court the right to hear an application for an injunction, and give the court authority to set a day when the property-owner should come forward and present his case, and when the District through its attorney should endeavor to show cause why an injunction should not issue? Certainly no harm will come to the revenue, unless you presuppose that the courts are unfriendly to a collection of the revenue. I do not know any reason in the world why you should say to the people here that they shall not have an injunction to restrain an unlawful sale of their property.

Mr. PAGE. The gentleman from Massachusetts [Mr. ROBINSON] spoke of the law of Massachusetts, and said that this provision was similar to that law. All I have to say about that is that I know they are very strict in Massachusetts; in fact, they are so strict that they disfranchise those who do not pay a poll-tax—a thing which is not done in any other State that I know of.

Mr. ALDRICH, of Rhode Island. It is done in Virginia.

Mr. NEAL. We must do one of two things: provide a law by which taxes can be collected, or else abandon the idea of collecting taxes at all and let the General Government pay all the expenses of the District of Columbia. If the members of this Congress are willing to do that, I am with them. I should like to see this city made a great and magnificent city, the greatest on the American continent, if not the greatest in the world; and I am willing to help pay the taxes necessary for that purpose.

But I understand the policy is to require the people of this District to pay a portion of these taxes. As long as we legislate for the people of this District, as the gentleman from Massachusetts [Mr. ROBINSON] says, we must legislate in a sound and proper manner; in other words, we must provide laws for levying taxes in a reasonable manner, and then provide the necessary machinery for collecting those taxes.

There is now no law in this District prohibiting the courts of the District from issuing restraining orders in these cases. What is the result? The collection of taxes has in a measure been obstructed by the judges of this District issuing restraining orders and injunctions, when called for. One of the judges of this District is already in arrears of taxes to the amount of several thousand dollars. And I am told by citizens of this District who are tax-payers and law-abiding men (I do not know how it is myself) that there is no trouble whatever for any man who wishes to shirk the payment of taxes to get an injunction or restraining order from that judge.

When we permit a court to issue an injunction or restraining order in these cases we virtually say that the revenue machinery of government may be stopped by a judge; because if he can issue such an order in one case he can issue it in all cases. The result here to-day is that there are hundreds of cases pending in the courts, some of which have been upon the dockets for years, and notwithstanding all that has been urged by the district attorney they have not been heard heretofore for want of time.

We say by this section to the people of this District that their property shall be assessed for taxes; that they shall be duly notified of that assessment; that after the assessment has been made the property shall go upon the tax duplicate, and the people must then pay the taxes. If any one thinks that any wrong is done in that assessment, the tax can be paid under protest and recovered back by action at law.

The gentleman from Iowa [Mr. WEAVER] says that he knows of no State in this Union which allows anything of that sort. I say to him that formerly in Ohio no injunction was allowed restraining the officer from collecting the taxes; men had to pay the taxes. Now, by virtue of law, certain proceedings may be had, but none other; and that is by positive statute. I trust the amendment of the gentleman from Iowa [Mr. WEAVER] will be voted down.

The amendment of Mr. WEAVER was not agreed to.

Mr. HUNTON. I do not recollect exactly whether chapter 7, "licenses," has been read or not.

Mr. ALDRICH, of Rhode Island. I think it has been.

Mr. HUNTON. If we are through with the matter of taxes and licenses, then the only matter remaining is the amendment which was offered the other evening by the gentleman from Illinois, [Mr. TOWNSHEND.]

The CHAIRMAN. It is not the recollection of the Chair that chapter 7 has been read; but if there be no objection it can be considered as passed.

There was no objection.

The CHAIRMAN. The pending question is upon the amendment proposed by the gentleman from Illinois, [Mr. TOWNSHEND,] which, together with the amendment proposed by the gentleman from Iowa, [Mr. PRICE,] was by agreement of the committee at its last session ordered to be printed in the RECORD. The House has ordered that all debate upon that amendment shall be limited to thirty minutes. The Chair will now recognize the gentleman from Illinois [Mr. TOWNSHEND] who proposed that amendment.

Mr. TOWNSHEND, of Illinois. Mr. Chairman, the amendment I have offered is a substitute for chapters 2, 3, 4, 5, 6, and 7 of the code as presented by the Committee on the District of Columbia. I desire to say that this amendment was not prepared by myself, but was presented to me by a number of worthy citizens and at their request I have offered it. In fact I am told that there is a petition, signed by a large number of property-holders of the District, asking the adoption of this amendment. Its object is to form a board of assessors in this District. To some extent it reaches that great principle of free government which forbids taxation without representation. It empowers the District commissioners to appoint a board to consist of twenty-one assessors, who shall take into consideration the question as to the method of collecting that portion of taxation which the present law requires shall be contributed toward the support of the municipal government by the citizens of the District. It does not affect that portion of the revenue of the District which under the present law is paid out of the Federal Treasury. Hence the amendment does not affect in any degree the interest of any individual outside of the District of Columbia. It relates alone to the manner in which the taxes shall be collected within the District in order to raise the amount contributed by citizens toward the support of the municipal government.

I have not studied this question deeply. I have simply gone into it far enough to convince me that the amendment is an improvement upon the method of proceeding presented by the Committee on the District of Columbia. At any rate I am convinced from my intercourse with citizens of the District that this amendment is far more satisfactory to the people who are compelled to bear the taxes than the method which has been presented by the Committee on the District of Columbia. Finding that those who are compelled to pay this taxation desire earnestly the adoption of this method, I feel it proper that we should yield to their wishes.

As I have already stated, the simple power proposed to be given to this board of assessors is to determine the manner in which taxes shall be collected. Of course as to the mode of collecting taxation upon real estate there can be no controversy. The great question among the people here is as to the manner of collecting taxation on personal property. There are those who insist that the most just and equitable method of collecting this taxation is by licenses—licenses to persons engaged in mercantile and other branches of business. There are others—represented, I believe, more especially by the gentleman from Ohio—who insist that the tax should be upon personal property, visible and invisible. The amendment I have suggested puts this question entirely within the power of the board of assessors, who will be organized under the appointment of the District commissioners. The District of Columbia is to be divided into twenty-one assessment districts, in each of which an individual is to be selected as assessor who has been an actual resident of the District for the period mentioned in the amendment.

I submit that as this amendment represents the wish of the people

who are compelled to pay the taxes, it should receive more deference from the House than any suggestion that may emanate from those who have no interest whatever in the manner in which these taxes shall be raised. The amendment, I repeat, does not affect that portion of the district revenues paid by the Federal Government; it relates only to the taxation levied upon the property of citizens of the District.

The amendment has been read perhaps by all those who are present; and until I hear some objections urged against it, I shall say nothing further.

Mr. CONGER. Let me ask the gentleman whether it would not be well to state some objections to the provisions proposed in the bill, and to show wherein the amendment is preferable?

Mr. TOWNSHEND, of Illinois. I can only say to the gentleman that there is general disapprobation throughout the entire city (so far as I have had opportunity of ascertaining the feeling of the people) against the method of taxation proposed in the code under consideration. I have not found a single citizen in the District of Columbia who is not in favor of the adoption of this amendment, and not opposed to the plan presented by the commissioners.

Mr. CONGER. What I ask is a statement of the reasons for the amendment, as compared with the plan embraced in the bill. Those who have to pay the taxes might very well desire to make their own assessments. I can imagine such a case. But I would like to hear some reason why the proposed amendment is better than the pending bill.

Mr. TOWNSHEND, of Illinois. I would not undertake to give any reason further than that the method presented by the committee is one which would perhaps be applicable to the rural portion of the District, but has been found in operation to be not calculated to procure within the city proper an equitable distribution of taxation. It is believed by the citizens of the District of Columbia this method will procure a more equitable and more equal distribution of the burden of taxation than the other mode. My time is up, and I will yield to the gentleman from Virginia.

Mr. WILLITS. The only reason the gentleman has given is that it gives the assessment into the hands of twenty-one persons.

Mr. TOWNSHEND, of Illinois. I have only desired to occupy five minutes, and if my time is up I will yield the floor to the gentleman from Virginia, who is much more familiar with the District government than myself.

Mr. WILLITS. That is the only point the gentleman has suggested. I submit that it is simply a question of degree. I look at the present bill and see that the commissioners are to appoint ten assessors, while under the scheme of the gentleman from Illinois there are to be twenty-one. Now, these ten assessors are as near the people as the twenty-one can be.

I should like to know in this scheme which the gentleman presents what other feature there is of difference. I repeat the inquiry put by my colleague, [Mr. CONGER,] in what other feature does the gentleman propose to make a change? This scheme is a long one and I cannot digest it.

There is no change, it seems to me, beyond the question of making twenty-one instead of ten assessors, and that, it seems to me, is not a thing worth fighting over. I should like to know from some gentleman what the radical difference between the two schemes is.

Mr. NEAL. I think I can answer the gentleman from Michigan and explain the difference between these two schemes. I should like, Mr. Chairman, to be stopped when I get through five minutes.

There were two schemes of taxation presented to the committee, one of which is embodied substantially in the amendment offered by the gentleman from Illinois which provides that invisible personal property, to wit, money out at interest, money loaned on mortgages, and money invested in bonds, should not be taxed, and the reason given by those whom the gentleman from Illinois represents is that they want to invite wealthy people to come here and by offering them exemption from taxation induce them to settle and become denizens of the city of Washington.

Mr. TOWNSHEND, of Illinois. You are not stating my reasons, but the reasons of citizens here.

Mr. NEAL. I am stating the reasons of the gentlemen whom you represent.

Mr. TOWNSHEND, of Illinois. I am representing the whole people.

Mr. NEAL. You are representing but a small portion of the people as I will show and show this committee before I get through.

They gave that as the reason why they wanted the scheme of taxation prepared by themselves and introduced by the gentleman from Virginia, which was an elaborate license scheme, taxing all sorts of trades and professions and putting fetters upon all industrial occupations while allowing the wealthy men, those who should bear the burdens of taxation, to escape.

Among other things, they said the rate of interest would be increased. I took the trouble of going to the office of the recorder of deeds and on making an examination I found that since the passage of this act taxing invisible property the rate had decreased. I notice that one real-estate agent offers to loan $100,000 at 6 per cent., showing that charge was not correct and that the borrowers do not pay the taxes, but the lenders.

You provide in this scheme simply for the taxation which prevails in the Western States and in the Southern States which have lately remodeled their constitutions, as well as in the State of New Hampshire and other States, to wit, that all property shall be taxed at its true value in money whether that property is visible or invisible in its character.

The gentleman says he represents the people of this District. I wish to say to the gentleman this: there came before us what are known as the East Capitol Association, and they protested against this scheme. Other gentlemen of the District, equally property-holders with those the gentleman from Illinois represents, also came before us and also protested against the license scheme, claiming the law as it now stands and as it is embodied in this code is the correct principle of taxation. I proposed to these gentlemen whom the gentleman from Illinois represents that they should put this question to a vote of the people, to the tax-payers, and that if they determined that the system was one in their estimation which should be adopted, then we would adopt it. But they would not do that. Why? Because the tax-payers, the small property-holders of this city, would unanimously vote against it. That is the reason.

Another thing the gentleman talks about, property without representation. How is that? There are three commissioners appointed by the President of the United States in whose appointment the citizens of the District have no voice whatever. These three commissioners are to appoint twenty-one assessors. If these three commissioners sympathize with one mode of taxation, they will appoint twenty-one assessors from those they sympathize with, and the people of the District will not be any more represented than they are by this Congress. It would be an irresponsible oligarchy, who would place the tax on other people's property and relieve their own.

I trust this committee will never for one moment think of adopting a scheme of taxation which in the end will only result in making the poor man poorer and the rich man richer; which will take the tax off the large property-holders by an irresponsible oligarchy having nothing behind them except their own selfish interests and put it on the small property-holders, the business men of this District, who never trouble Congress with their wishes as several other classes do.

Mr. TOWNSHEND, of Illinois. Will my friend allow me to say this: that there are petitions in the Committee on the District of Columbia with over two thousand names upon them, signed by persons of the humblest walks of life with the smallest quantum of property. These people signed the petitions indorsing this amendment and asking to have it passed. These parties, or the majority of them who signed these petitions, are poor people of this District who believe it is a more equitable and just method of taxation than that proposed in this bill, and therefore ask to have it adopted.

Mr. WILLITS. I would like to know of the gentleman from Illinois if he would be willing to adopt a general provision like this in his own congressional district; that is, to relieve personal property, bonds, and mortgages from taxation?

Mr. TOWNSHEND, of Illinois. Mr. Chairman, I can conceive that there is a difference in the method of collecting taxes in the rural districts from that which should prevail in a municipality or a large city.

Mr. WILLITS. Have you no large towns in your district?

Mr. TOWNSHEND, of Illinois. No, sir; I represent mainly an agricultural district.

Mr. NEAL. I do not know who got up the petitions that the gentleman refers to, nor do I know whose names are upon them, but I do venture to assert that if any of these small property-owners signed petitions of that character they did not know what they were doing. I ask the gentleman, is he willing to submit this question to a vote of the people with reference to the creation of these twenty-one officers? I also ask the gentleman if he is willing that we shall abdicate the power that is vested in us by the Constitution of the United States to provide the mode of taxation and the laws for the taxation of property in this District, and whether or not he would be willing to vest that power in the people themselves, because there ought to be only two sources of power—the Congress of the United States and the people of the District?

Mr. TOWNSHEND, of Illinois. Has the gentleman brought in a bill here to provide suffrage for the District?

Mr. NEAL. No, sir; but I want to know if he would be willing to vote for this abdication of power proposed here.

Mr. ROBINSON. The gentleman from Virginia kindly yielded to me for a minute, and I wish to say a word upon this proposed amendment.

Mr. TOWNSHEND, of Illinois. I desire to say that I gave the balance of the time to the gentleman from Virginia in advocacy of the amendment. He can distribute it of course as he pleases.

The CHAIRMAN. Does the gentleman from Virginia yield to the gentleman from Massachusetts?

Mr. HUNTON. I have not the floor.

Mr. TOWNSHEND, of Illinois. Do I understand the gentleman from Massachusetts as rising to antagonize the amendment?

Mr. ROBINSON. I do.

Mr. TOWNSHEND, of Illinois. I have yielded the time to the gentleman from Virginia in advocacy of the amendment.

Mr. ALDRICH, of Rhode Island. I hope the gentleman will take the floor now.

Mr. TOWNSHEND, of Illinois. I rather think that the affirmative should have the opportunity of closing this question.

Mr. ALDRICH, of Rhode Island. I differ with the gentleman. I think the committee ought to have the closing.

Mr. ROBINSON. I do not think it is of any consequence to dispute about who shall have precedence in opening or closing this discussion.

This proposition is glaringly defective, it seems to me. We want to tax the property of the District fairly to meet public burdens. I think gentlemen will agree as a general proposition that we ought to tax real and personal property.

Now, the Legislature of the State determines what property ought to be taxed in the State, and Congress, bearing the same relation toward the District as the Legislature bears to the State, determines for the District what property ought to be taxed. This amendment departs entirely from that rule, and in that respect is radically wrong. It provides that twenty-one men are to be selected who shall have legislative power, twenty-one men not selected by the votes of the District, not selected by the people at all, but twenty-one real-estate owners.

Now, notice that twenty-one owners of real estate shall legislate on the subject of taxation for the District! See what a power is given them under the eighth section of the proposition which the gentleman introduces:

They shall—

That is, these twenty-one property-holders—

before the 1st day of April, 1881, and before the 1st day of April of each year thereafter, determine in what manner property, other than real estate, shall be taxed, and may impose a tax on trades, occupations, and corporations, by license or otherwise, and a tax on any personal property not exempted by law.

There is a power given to twenty-one owners of real estate to tax other property than their own in such a manner as they may determine. Was there ever a grosser abandonment of the rights of a legislative body than is there brought forward and submitted for adoption? I ask the gentleman from Virginia to give this matter his consideration. I do not look at the other features of this proposed amendment or at its effects. There is enough in this to condemn it. It is too important a power to place in the hands of this body of men to enable them to lay a tax upon the property of other people in the city. They may put a tax where they like, in such proportions as they like, upon such property as they may select.

Mr. TOWNSHEND, of Illinois. Will the gentleman permit me to ask him a question?

Mr. ROBINSON. Most certainly.

Mr. TOWNSHEND, of Illinois. Would it not be fairer to leave it to those who have property and who pay a portion of the taxes to determine the manner of providing for the tax and the mode of levying it than to leave it to persons who have not a single iota of taxable property, and who pay no tax?

Mr. WILLITS. If the gentleman from Massachusetts will permit me for a moment, I would like to ask if the gentleman from Illinois is willing to adopt that system in his own district; in other words, to disfranchise men because they have no property?

Mr. TOWNSHEND, of Illinois. That is not the proposition at all. This is a proposition to leave this matter to the District. I want to leave it to the people here. I do not reside here myself, and therefore I think the people here who pay the taxes ought to manage it, and not those who do not live here and who pay no taxes.

Mr. ROBINSON. The gentleman from Illinois has put to me the same old question and is troubled about the right of Congress to legislate for the people of the District of Columbia. I am not troubled about it, because we have the power, and in our wisdom we seem to think it best to hold that power; and as long as we, under the Constitution, legislate for the people of the District of Columbia, I say let us legislate as reasonable men, as we would do in Massachusetts, in Rhode Island, or in Ohio.

I submit in any State in this Union you would not find such a provision. The gentleman says, would you not leave it to those who bear the burden of those taxes? It is for us sitting here to determine on whom the taxes should be laid and on what property.

Mr. TOWNSHEND, of Illinois. I do not deny the constitutional power of Congress to do this.

Mr. ROBINSON. I deny very much the constitutionality of this section which puts it out of the power of Congress to determine what property is taxable and at what rate.

[Here the hammer fell.]

Mr. HUNTON. I desire to say a few words in advocacy of the amendment of the gentleman from Illinois. We are all aware, Mr. Chairman, that under the organic act the Federal Government pays 50 per cent. of the taxes necessary to run the government of the District of Columbia and the people of the District pay the other 50 per cent. And the question for us to determine is in what mode shall the Congress of the United States direct that the 50 per cent. shall be paid by the District of Columbia. My friend from Ohio [Mr. NEAL] is right in saying that this question of two modes of taxation was before the committee, and a majority of the committee, a large majority, I believe, favor the mode provided in the bill under consideration. But he is mistaken when he says that the mode provided in the amendment of the gentleman from Illinois was ever before the Committee on the District of Columbia. Nor does the amendment of the gentleman from Illinois prescribe any mode of laying the taxation. But it says that it shall be submitted to this board of twenty-one assessors of the District of Columbia, and they shall determine how the 50 per cent. necessary to be raised by the District of Columbia shall be levied on property, both real and personal, and on what property.

The gentleman from Ohio says that the object of this amendment is to exempt certain personal property from taxation. I beg leave respectfully to deny that that is the object.

Mr. NEAL. The men who got it up told us so.

Mr. HUNTON. A portion of the men who got it up told you so. But I desire to state to this committee that two thousand citizens of the District of Columbia—I state it in round numbers without pretending to be exact about the number—but large numbers, probably two thousand people of this District, have petitioned this House to adopt the mode prescribed in the amendment of the gentleman from Illinois; and the signers of those petitions represent high and low, rich and poor, black and white. And it is not a law, as my friend from Ohio says, to make the rich richer and the poor poorer. God knows if I could be satisfied that such would be the result no man on this floor would be more active in his opposition to this measure than I. But the object of the petitioners, and my object, is to get at a mode of taxation more in accordance with the wishes of the people of this District than this House is able to provide.

I agree that one of the evils of the bill under consideration, in the estimation of very many of the best citizens of this city, is the taxation upon invisible property; and my friend from Ohio, who opposes this amendment, will recollect we had the assessor and the collector of taxes in this District before the committee, and they said the tax on invisible property was a humbug. It could not be taken down; it could not be assessed; it could not be collected. We had the evidence of both the collector and the assessor, and they said invisible property paid no tax in this District, though there was a great deal of it here. They said it leads to fraud and perjury; and the people of the District who own the visible property came forward and said: "We think it is not only a humbug but wrong in itself," because under the provision of the present law, and I believe under the provisions of this bill, when a man lends money on mortgage the money pays the tax and the mortgage also, and thus the capital in this District is subjected to a double tax. It drives the capital from this District to be invested outside its limits in Maryland and elsewhere.

Mr. NEAL. You have the same law in Virginia, have you not?

Mr. HUNTON. Probably we have. But we have the same difficulty there. We cannot collect the tax on invisible property.

Mr. BOUCK. In the State of Wisconsin with the same law we do collect taxes from mortgages.

Mr. HUNTON. Now, these gentlemen who came before the committee and advocated the exemption of invisible property because you could not collect the tax on it said this: We increase our own burdens by paying what the invisible tax amounts to.

[Here the hammer fell.]

Mr. ATKINS was recognized and yielded his time to Mr. HUNTON.

Mr. HUNTON. Now, Mr. Chairman, those of us who favor the amendment of the gentleman from Illinois believe it provides a mode of taxation which will be the most agreeable to the people of this District.

Mr. NEAL. Are you willing that the members of that board shall be elected by the people?

Mr. HUNTON. No sir.

Mr. BRIGGS. What is the proposition as to that board?

Mr. HUNTON. I will tell the gentleman what it is in a few words. It is that when the amount of taxation is ascertained this board of twenty-one men appointed by the commissioners of the District shall say in what manner that amount shall be raised and on what property it shall be assessed.

Mr. ROBINSON. And who shall pay it.

Mr. HUNTON. Yes, and who shall pay it.

Mr. CLAFLIN. Not real estate.

Mr. HUNTON. Of course they must assess the real estate and put a percentage on that assessed value. When this mode of taxation is put in practice it will work in this wise: there will be twenty-one assessors for the District of Columbia, each assessor assessing the property in his own particular district, and then when the assessment is completed the twenty-one men will meet as a board to hear complaints and make corrections in the assessments of the several districts.

Mr. ATKINS. Will the gentleman permit me to ask him a question?

Mr. HUNTON. Certainly.

Mr. ATKINS. Would it be in the power of this board of twenty-one assessors to exempt real estate from taxation?

Mr. HUNTON. No, sir.

Mr. CONGER. Why not?

Mr. HUNTON. They could make exemptions in particular cases, such as we make here.

Mr. NEAL. They could exclude bank stock.

Mr. HUNTON. I have no idea they would.

Mr. TOWNSHEND, of Illinois. The act itself shows that the board of assessors could not relieve real estate from taxation.

Mr. NEAL. Why not relieve real estate as well as personal property?

Mr. TOWNSHEND, of Illinois. This act does not relieve personal property.

Mr. HUNTON. It does seem to me that if this is a mode acceptable to the people of this District—and while I do not say it is acceptable to all the people of the District, and you could not devise any scheme which would be acceptable to all, yet I do most solemnly believe that this mode of taxation is acceptable to a large majority of the people of this District without regard to riches or poverty or color. And if that be the case, why should this committee hesitate to give to the people of this District the mode of taxation most acceptable to them?

I take it for granted that these twenty-one assessors selected by the commissioners of the District will devise a scheme of taxation which will meet the views of the citizens of this District more nearly than can be done by us here, unfamiliar as we are with the habits and thoughts and property of the people of this District.

Mr. CLAFLIN. Will the gentleman explain how these assessors are to know whether the scheme they devise is acceptable to the people of the District unless we give them a vote?

Mr. HUNTON. I will tell you how. A man living in the midst of the people here, knowing their property, knowing their wants and their wishes, meeting them day by day, is much more apt to get at what would be acceptable to them than you can do living in the State of Massachusetts.

Mr. CLAFLIN. What is the objection to a vote by the people of Washington any more than by the people of Richmond?

Mr. HUNTON. That is not the question under consideration.

Mr. CLAFLIN. Yes, it is.

Mr. HUNTON. The question now is as to the mode of taxation in the District of Columbia. While we may not get at the very best mode of taxation, by adopting the amendment proposed by the gentleman from Illinois [Mr. TOWNSHEND] we will at least get at the mode most acceptable to the people of this District.

Mr. ACKLEN. Will it not be in the power of this board of assessors to impose such a tax on trades and occupations as practically to reduce the tax on real estate to the minimum?

Mr. HUNTON. It would be in their power to do so, but it would be against the interest of every one to do it. Are we to be told that a board of assessors selected from the people are going to cripple trade by putting such onerous burdens upon it, when the very men who ask to have this provision inserted in your tax law are themselves, the most of them, engaged in trade?

Mr. ACKLEN. Does the gentleman admit that they may so assess trades and occupations?

Mr. HUNTON. They have the power to assess taxation in the manner most acceptable to themselves. That is the very object of the amendment, to give to the people of this District through this board of twenty-one men, open to the complaints and petitions of the people, an opportunity to devise a scheme of taxation which will be most acceptable to the people of the District?

I have a desire to impose such taxes upon the people of this District as will in all cases be most agreeable to them. And according to the evidence before me the mode proposed by the gentleman from Illinois is the one which will be most agreeable to the people of this District.

[Here the hammer fell.]

The CHAIRMAN. The time for debate upon this amendment, as fixed by order of the House, has expired.

Mr. ALDRICH, of Rhode Island. I understood that the time was to be divided equally between the two sides.

The CHAIRMAN. The gentleman from Illinois [Mr. TOWNSHEND] occupied five minutes and the gentleman from Virginia [Mr. HUNTON] occupied ten minutes.

Mr. ALDRICH, of Rhode Island. And the gentleman from Ohio [Mr. NEAL] occupied five minutes and the gentleman from Massachusetts [Mr. ROBINSON] occupied five minutes.

The CHAIRMAN. The gentleman from Ohio occupied more than five minutes.

Mr. NEAL. I did not intend to do so.

The CHAIRMAN. The first question is upon the amendment proposed by the gentleman from Iowa [Mr. PRICE] to the substitute proposed by the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. BUCKNER. Is the amendment of the gentleman from Iowa [Mr. PRICE] subject to amendment?

The CHAIRMAN. It is not, it being itself an amendment to an amendment.

The amendment of Mr. PRICE to the amendment of Mr. TOWNSHEND, of Illinois, was read, as follows:

Insert between sections 19 and 20 the following:

"SEC. —. The proprietors of bar-rooms, sample-rooms, and tippling-houses shall pay $250 annually, and of beer-saloons $100 annually. Every place where malt liquors only are sold to be drunk on the premises shall be regarded as a beer-saloon. Every place where distilled or fermented liquors, wines, or cordials are sold to be drunk on the premises shall be regarded as a bar-room, sample-room, or tippling-house; and it shall be the duty of the proprietor of every such place to deposit with the treasurer the amount of his license fee with his application for license and also present the written permission of two-thirds of the owners of real estate and two-thirds of the residents keeping house within six hundred feet of the place where it is desired to locate such business, which permission, with the signatures attached, shall be certified to by the superintendent of assessments and taxes and inserted three times in a newspaper published in Washington, at the expense of the applicant, and such license shall not be issued until approved by the commissioners: *Provided, however*, That where during the year no complaint has been made against the proprietor of such place on the part of the property-holders or residents such proprietor shall not be required to file every year with his application for license such a written permission of owners of real estate or residents; but if such complaint has been made, the proprietor shall obtain anew the written consent of such owners of real estate and residents as herein required of him."

The question being taken on the amendment of Mr. PRICE, it was not agreed to, there being—ayes 14, noes 25.

The question recurring on the amendment of Mr. TOWNSHEND, of Illinois, it was not agreed to.

The CHAIRMAN. An amendment which was offered by the gentleman from New York [Mr. LAPHAM] to the fourth line of section 244 was passed over informally. It will now be read.

The Clerk read as follows:

In the fourth line of section 244 strike out "may" and insert "shall;" so that the first clause of the section will read as follows:

"The commissioners of the District of Columbia shall maintain public free schools for the education of all the children within said District between the ages of six and seventeen years, and shall continue to provide separate schools for white and for colored children, and to cause necessary books and stationery to be furnished free of charge to destitute pupils attending the public schools."

Mr. NEAL. So long as public sentiment requires separate schools, they will no doubt be provided; and that is likely to be a good deal longer than any of us will live. There is no need of adopting any compulsory provision on this subject. If, at any future time, the people of the District want mixed schools—which is not likely to occur—let them have them. The committee thought it wise to leave this matter discretionary with the commissioners, as it is left by the present law. The bill does not propose any change in this respect. I hope the amendment will be voted down.

The amendment was not agreed to.

Mr. BARBER. I desire to offer an amendment to section 251.

Mr. DUNNELL. That has been passed.

Mr. BARBER. It will be remembered that a suggestion was made here the other evening that I should prepare an amendment on this point. I have done so.

The CHAIRMAN. According to the recollection of the Chair, consent was granted for this purpose.

Mr. HUNTON. That is right.

Mr. BARBER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Add to section 251 the following:

"In all cases where the interests of any minor, married woman, person *non compos*, or under other legal disability, are to be affected, such certificate or a copy thereof shall be filed in the supreme court of the District; and thereupon such court shall, on motion of said commissioners, cause such party to be notified of such proceedings as nearly as may be in conformity to the practice of such court in chancery proceedings affecting the title to real estate. And upon such notice being given, said court shall have power to proceed in a summary manner to determine the correctness of the award by the commissioners, and may confirm or modify the same, and generally make such orders in the premises in regard to the right or interest involved, the payment, distribution or investment of the damages or compensation awarded, and as to the costs of such proceeding as shall be agreeable to equity."

Mr. HUNTON. I suggest to the gentleman from Illinois [Mr. BARBER] that he strike out the words "married woman." Married women are always represented by their husbands. With this modification I have no objection to the gentleman's amendment.

Mr. BARBER. Very well; I make that modification.

The amendment, as modified, was agreed to.

Mr. HUNTON. I believe now we have gone through the bill. I move that the committee rise and report the bill, with the amendments, to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURROWS reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia, and had directed him to report the same back with amendments, and with the recommendation that the bill be passed as amended.

Mr. HUNTON. I do not propose to have a vote taken to-night on the passage of the bill, or on agreeing to the amendments; but I desire that the previous question be ordered.

Mr. ATKINS. I wish to make a parliamentary inquiry. If the previous question be ordered to-night, will it exclude the reading of the bill to-morrow, should any member demand it? I want to avoid the third reading in full.

The SPEAKER. The bill has already been read twice; the Chair presumes it will be read a third time by its title.

Mr. HUNTON. I propose to move the previous question, which I hope will be ordered; and then in the morning any gentleman can call for a separate vote on any amendment.

The SPEAKER. Then, the gentleman from Virginia had better content himself with calling the previous question on the amendments reported from the Committee of the Whole, and on the bill to its engrossment and third reading.

Mr. HUNTON. Will that bring the bill up as unfinished business to-morrow morning?

The SPEAKER. It will.

Mr. HUNTON. Then I am content.

The previous question was seconded and the main question ordered upon the amendments and on the engrossment and third reading of the bill.

Mr. SAMFORD. There was another amendment on which a separate vote was assented to——

Mr. HUNTON. This does not interfere with that.

Mr. HUNTON moved to reconsider the vote by which the main

question was ordered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATKINS. I move that the House adjourn.

The motion was agreed to; and accordingly (at nine o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and others papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BALLOU: The petition of the Glendale Woolen Mills Company and other manufacturers, of Rhode Island, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. CLAFLIN: The petition of Sarah Jane Hills, for compensation for property taken from her late husband by order of United States military officials during the late war—to the Committee on War Claims.

By Mr. COX: The petition of the American Photographic Company, for compensation for expenses incurred in work done for the United States Patent Office in 1869 and 1870—to the Committee on Appropriations.

By Mr. CRAPO: The petition of George R. Long and 122 others, soldiers, residing in New Bedford, Massachusetts, and vicinity, for the passage of the equalization bounty bill—to the Committee on Military Affairs.

By Mr. HORACE DAVIS: Memorial of the San Francisco Produce Exchange, asking for an increase of the duty on mustard-seed—to the Committee on Ways and Means.

By Mr. FELTON: The petition of citizens of Murray County, Georgia, for a post-route from Spring Place, Georgia, to Conasauga, Tennessee—to the Committee on the Post-Office and Post-Roads.

By Mr. FORD: The petition of W. C. Rhoads and others, citizens of Missouri, ex-soldiers, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petition of M. D. Smith and others, ex-soldiers, for the passage of the bill (H. R. No. 5394) providing for a court of pensions, and against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

Also, the petition of W. C. Rhoads and others, ex-soldiers, against the passage of Senate bill No. 496—to the same committee.

By Mr. LOUNSBERY: The petition of the Napanock (New York) Rolling Mills Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. MILLER: The petition of John H. Fralick, for relief on account of his name having been forged to a check of the Treasury in his favor and the money drawn and appropriated by another person—to the Committee on Claims.

By Mr. NORCROSS: The petition of George H. Gilbert and others, of Ware, Massachusetts, for a commission to investigate the tariff—to the Committee on Ways and Means.

By Mr. O'NEILL: The petition of citizens of Philadelphia, for the passage of the bill (H. R. No. 5038) relating to the granting of lands to Indians in severalty—to the Committee on Indian Affairs.

By Mr. POUND: The petition of James R. Luce and 56 others, ex-soldiers, of Wisconsin, for the passage of the bill providing for a court of pensions, and against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. SPARKS: The petition of J. H. Shimer, of Hillsborough, Illinois, for the passage of the bill appointing a tariff commission—to the Committee on Ways and Means.

By Mr. TYLER: The petition of the Vermont Merino Sheep Breeders' Association, of similar import—to the same committee.

Also, the petition of the Vermont Merino Sheep Breeders' Association, against any reduction of the tariff—to the same committee.

By Mr. VANCE: The petition of the Society of Friends of Pennsylvania, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

IN SENATE.

THURSDAY, *May* 20, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Pennsylvania, presented a petition of citizens of Pennsylvania, praying for the passage of the House bill proposing that land titles be granted to the Indians in severalty on their reservations; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Book Trade Association of Philadelphia, Pennsylvania, remonstrating against the passage of the Tucker tariff bill, and praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

He also presented the petition of Mrs. R. S. Lytle, of Rebecca Furnace, Pennsylvania, manufacturer of iron, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

He also presented the petition of Sylvester W. Trucks, of Bradford, Pennsylvania, praying to be reimbursed for damages alleged to have been sustained by him from the confederate government during the late war; which was referred to the Committee on Claims.

Mr. HOAR. I present the petition of C. F. Morse, captain of colored soldiers in the United States Volunteers in the late war, and a large number of other officers and soldiers residents of Massachusetts, who pray that the Senators and Representatives will use all proper means to prevent partisan action on the bill to relieve General Fitz-John Porter. It is a case, in their opinion, in the decision of which political preferences should not be allowed to enter. I desire to state in presenting the petition that it is accompanied by a letter from a very distinguished officer of Massachusetts, a republican, who says that nine-tenths of the officers from that State will sign a petition if it is of any use; that in presenting it he has endeavored to get representative men as far as possible; that on a like petition, which was presented the other day, two of the signers were colonels who commanded colored regiments; and that only five persons to whom the petition has been presented have refused to sign it, and four of those five persons believe General Porter to be innocent, and the other one believes him to be guilty, and the petitioners are republicans in politics.

The PRESIDENT *pro tempore*. What disposition does the Senator wish made of the petition?

Mr. HOAR. I suppose it will go on the table, as the measure to which it relates is pending.

The PRESIDENT *pro tempore*. The petition will lie on the table.

Mr. INGALLS presented the petition of William Hazelit, of Atchison, Kansas, late private Twelfth Regiment Kansas Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. VOORHEES. I have a letter from the Superintendent of the Botanic Garden, in explanation of an amendment which I offered to the executive, legislative, and judicial appropriation bill. I ask to have it referred to the Committee on Appropriations. It is explanatory of the amendment I offered.

The PRESIDENT *pro tempore*. The paper will be so referred.

Mr. SAUNDERS presented the petition of M. W. Saxton, late first lieutenant Twenty-fourth United States Infantry, praying for restoration to his rank in the Army; which was referred to the Committee on Military Affairs.

Mr. EDMUNDS presented the petition of W. A. Cole and 21 others, citizens of Sharon, Pennsylvania, praying that an increase of pension be granted to John Pearsall; which was referred to the Committee on Pensions.

Mr. FERRY presented the memorial of Dewey, Foster & Co. and 64 other firms of Michigan, manufacturers of staves, heading, and hoops, remonstrating against an increase of duty on low-grade sugars; which was referred to the Committee on Finance.

COLLECTION DISTRICT OF RICHMOND, VIRGINIA.

Mr. RANDOLPH. I report by direction of the Committee on Commerce, to which it was referred, the bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes without amendment. It is to make the collection district of the port of Richmond, Virginia, include West Point.

Mr. JOHNSTON. I ask for the present consideration of the bill. It is a matter of considerable importance.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. EDMUNDS. I should like to hear the letter of the Secretary of the Treasury read, if there is one, on this subject.

Mr. JOHNSTON. I have a letter from the Secretary of the Treasury on the subject which I will send to the desk that it may be read.

The Chief Clerk read as follows:

JANUARY 27, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, inclosing the draught of a bill proposing an amendment to the fourth paragraph of section 2552, Revised Statutes of the United States, to limit the extent of the district of Yorktown and changing its boundaries; also proposing an amendment to the seventh paragraph of the same section, so as to extend the district of Richmond to include West Point, on the York River, and to extend the port of entry of the Richmond district.

It also provides for the appointment of a deputy collector, who shall reside at West Point.

The Department will raise no objection to the passage of the bill, and suggests that the words "City Point and" be inserted, so that the closing paragraph of section 2 of the bill will read, "in which the port of entry shall extend from Richmond and Manchester to City Point and Bermuda Hundred." The draught of the bill inclosed in your letter is herewith returned, the Department having retained a copy.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. R. L. T. BEALE,
Chairman of sub-committee of the Committee on Commerce,
House of Representatives.

Mr. McMILLAN. I should like to ask whether the Committee on Commerce of the Senate have not had a similar bill before them, and if it has not been acted upon by that committee? Has the Senator from Virginia any information on that subject?

Mr. JOHNSTON. This is the only bill that I know of.

Mr. RANDOLPH. This is a House bill and in purport, as I understand it, is similar to one which has already been before the Committee on Commerce. The committee this morning, including the member who had the bill to which the Senator from Minnesota refers in charge, agreed unanimously to report this bill and take the other one from the Calendar. That was my understanding.

Mr. McMILLAN. I knew the same subject had been before the committee, and merely inquired for information.

Mr. RANDOLPH. This is simply to make the collection district of the port of Richmond include West Point, which is made necessary by reason of railway extension.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. HEREFORD. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery, to report it without amendment, and I ask for its immediate consideration.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. EDMUNDS. I am going to object to everything now in order to get to the Calendar of cases reported long ago.

The PRESIDENT *pro tempore*. The Senator from Vermont objects to the present consideration of the bill, and it will go upon the Calendar.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of Mrs. Ellen Call Long, heir of Richard K. Long, deceased, late receiver of public moneys at Tallahasse, Florida, praying payment of certain moneys in accordance with the judgment rendered in the United States court for the district of Florida, January 18, 1847, submitted a report thereon accompanied by a bill (S. No. 1779) for the relief of Mrs. Ellen Call Long and Mrs. Mary K. Brevard.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. COCKRELL. In connection with that bill I desire to state that it was not the unanimous report of the committee.

Mr. BAILEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 72) for the relief of John B. Davis, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. FARLEY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1210) for the relief of certain officers of the Navy, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. GROOME, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 60) for the relief of B. S. James, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MORGAN. I am instructed by the select committee to take into consideration the elections of President and Vice-President, to whom was referred the bill (S. No. 1687) to enforce the observance of the Constitution of the United States in reference to elections of President and Vice-President of the United States, to report it with an amendment and recommend its passage.

Mr. EDMUNDS. I wish to say that myself and the Senator from Colorado [Mr. TELLER] are not able to concur in the report. I need not state the reason of it now.

Mr. MORGAN, from the select committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States, to whom was referred the bill (S. No. 1712) providing that the President of the Senate shall submit to the Senate and House, when assembled to count the votes for President and Vice-President, all packages purporting to contain electoral votes, reported adversely thereon, and the bill was postponed indefinitely.

Mr. RANSOM, from the Committee on Commerce, to whom was referred the bill (S. No. 1410) to aid in increasing commercial relations with the Argentine Republic, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1780) for the removal of the political disabilities of John H. Forney, of the State of Alabama; which was read twice by its title, and, with the accompanying petition, referred to the Committee on the Judiciary.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1781) to donate twelve condemned cannon to aid in the erection of a monument to the memory of General James Shields; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880; which was read twice by its title.

Mr. KIRKWOOD. I should like to have the joint resolution presently considered, but I suppose there is no possibility of that. Can it not lie on the table to be taken up to-morrow morning without a reference to a committee? It is a mere formal matter to lend flags to a soldiers' reunion.

Mr. DAVIS, of Illinois. I do not suppose anybody will object to it.

Mr. KIRKWOOD. I ask unanimous consent that the joint resolution be now considered.

Mr. INGALLS. I object, Mr. President.

The PRESIDENT *pro tempore*. Objection is made, and the joint resolution goes over.

Mr. KIRKWOOD. I move that the joint resolution be referred to the Committee on Military Affairs.

The motion was agreed to.

RETIRED LIST OF NON-COMMISSIONED OFFICERS.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions" the routine business of the morning hour is at an end, and the Calendar is before the Senate.

Several Senators addressed the Chair.

Mr. EDMUNDS. Give us the first case on the Calendar.

Mr. HEREFORD. I reported a bill this morning from the Committee on Commerce to which I presume there will be no objection. It is simply declaring the city of Portsmouth, Ohio, a port of delivery. It is a House bill and has the recommendation of the Secretary of the Treasury. It is a matter of considerable importance to those people there and it will not take more than a moment or two to dispose of it. I ask that that bill be taken up.

Mr. EDMUNDS. I must object to that. I wish to try the experiment to-day and see how it will work of sticking to the Calendar, unless the Senate chooses by a vote on something that it may take up to go out of its order.

Mr. HEREFORD. I ask for a vote on my motion.

Mr. EDMUNDS. We cannot have a vote, it was reported to-day.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the pending order be postponed and that the Senate proceed to the consideration of the bill reported by him in relation to a port of delivery at Portsmouth, Ohio.

Mr. EDMUNDS. When was that reported?

Mr. HEREFORD. This morning. It is a House bill.

Mr. EDMUNDS. Then I respectfully submit it cannot be acted upon to-day.

The PRESIDENT *pro tempore*. If objection is made the bill goes over until to-morrow. The Secrefary will report the first case on the Calendar.

The bill (S. No. 1331) to authorize a retired list for non-commissioned officers of the United States Army who have served therein continuously, honorably, and faithfully for a period of thirty years, or upward, was announced as being first in order upon the Calendar.

The Senate, as in Committee of the Whole, resumed the consideration of the bill, the pending question being on the amendment of Mr. DAWES to the amendment of Mr. ALLISON.

The amendment of Mr. ALLISON was to insert as an additional section:

SEC. —. That in addition to the number of cadets at the West Point Military Academy now authorized by law, the President shall each year appoint two colored cadets at large.

The amendment of Mr. DAWES to the amendment was to strike out "two colored" and insert "five;" so as to read:

The President shall each year appoint five cadets at large.

Mr. KIRKWOOD. My colleague feels considerable interest in the amendment, and is unable to be here. He has been absent during all of this week, except a short time yesterday, by reason of sickness. I would be very glad if he could be here when the matter is considered, and would suggest to the chairman of the Committee on Military Affairs that perhaps he had better let the bill pass over, not losing its place.

Mr. BURNSIDE. I understand that the Senator's colleague is in the building.

The PRESIDENT *pro tempore*. The Senator's colleague is in the room of the Committee on Appropriations.

Mr. KIRKWOOD. I will send for him.

Mr. EDMUNDS. While the Senator from Iowa [Mr. ALLISON] is coming in, I wish to suggest that there was so much confusion when the Clerk was reading before that we could not understand the amendment here, and if he will be kind enough to read it again it will not be any loss of time.

The Chief Clerk read the amendment and the amendment to the amendment.

Mr. KERNAN. My information is—and if I am wrong I should be glad to be corrected by the chairman of the Committee on Military Affairs—that we now have more young men graduating at West Point than we have places for in the Army. If so, I object to increasing the number of cadets to be appointed.

Mr. MAXEY. The law as it now stand authorizes the President to appoint ten cadets at large, that is from any portion of the United States. As the law had been construed until recently the President exercised that authority by appointing ten annually, but by an act of Congress he was limited to appointing ten during every four years; that is, that he should have only the right to appoint in such manner as that there would only be ten at large in the academy at one time. That provision was made upon full consideration by the Senate and by the House, and it was upon full consideration determined that the

number of cadets was too large. The effect of the amendment proposed by the Senator from Massachusetts [Mr. DAWES] would be to reverse entirely the legislation which we have heretofore had and recently on this very subject.

I therefore oppose the amendment of the Senator from Massachusetts because it increases the number of cadets unnecessarily, and I oppose the original amendment of the Senator from Iowa [Mr. ALLISON] because it makes a distinction between citizens of the United States not in my judgment warranted by the Constitution, and in effect discriminates in favor of the colored race and against the white race, when the Constitution as amended contemplates exact equality before the law.

Mr. ANTHONY. It seems to me that the amendment of the Senator from Massachusetts defeats the purpose of the amendment of the Senator from Iowa, for the five additional cadets we have no guarantee would be taken from the colored population. It would be merely adding to the membership of the academy at large.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. DAWES] to the amendment of the Senator from Iowa, [Mr. ALLISON.]

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. EDMUNDS. Let us have the yeas and nays on that.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. FERRY, (when Mr. BALDWIN's name was called.) I desire to state in behalf of my colleague [Mr. BALDWIN] that he has been called away to his own State and is not present to vote. My colleague is paired with the Senator from West Virginia [Mr. DAVIS] on all political questions. Were he here, my colleague would vote "yea."

Mr. HOAR, (when Mr. HAMLIN's name was called.) I desire to state that the senior Senator of Maine [Mr. HAMLIN] is absent from the Senate. Were he here, he would vote "nay."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

The roll-call was concluded.

Mr. PENDLETON, (after having voted in the negative.) I was paired yesterday with the Senator from Vermont, [Mr. MORRILL,] who was not in his seat. I understood the pair to extend only for yesterday; but as he is not here, in order to save any misapprehension, I ask leave to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. ROLLINS. Having paired yesterday afternoon with the Senator from Missouri, [Mr. VEST,] I did not understand the pair to continue any longer than during the day of yesterday.

Mr. COCKRELL. My colleague did not state to me for what length of time the pair continued, and I presume it was not intended to continue beyond yesterday.

Mr. ROLLINS. If the Senator thinks I ought to do so, I will withdraw my vote.

Mr. COCKRELL. I do not think it worth the Senator's while to withdraw his vote. It makes no difference in this matter.

The result was announced—yeas 14, nays 37; as follows:

YEAS—14.

Allison,	Cameron of Pa.,	Hill of Colorado,	Saunders,
Anthony,	Cameron of Wis.,	Kirkwood,	Windom.
Blair,	Edmunds,	McMillan,	
Burnside,	Ferry,	Rollins,	

NAYS—37.

Bailey,	Eaton,	Jonas,	Slater,
Bayard,	Farley,	Jones of Nevada,	Teller,
Beck,	Garland,	Kernan,	Thurman,
Booth,	Gordon,	Maxey,	Vance,
Butler,	Groome,	Morgan,	Voorhees,
Call,	Harris,	Paddock,	Walker,
Cockrell,	Hereford,	Pryor,	Wallace.
Coke,	Hill of Georgia,	Randolph,	
Davis of Illinois,	Hoar,	Ransom,	
Dawes,	Johnston,	Saulsbury,	

ABSENT—25.

Baldwin,	Hamlin,	McDonald,	Vest,
Blaine,	Hampton,	McPherson,	Whyte,
Bruce,	Ingalls,	Morrill,	Williams,
Carpenter,	Jones of Florida,	Pendleton,	Withers.
Conkling,	Kellogg,	Platt,	
Davis of W. Va.,	Lamar,	Plumb,	
Grover,	Logan,	Sharon,	

So the amendment was rejected.

Mr. MAXEY. I ask the Secretary to see if the amendments proposed by the committee in line 3 of the first section and line 2 of the second section have been adopted.

The PRESIDENT *pro tempore*. The Chair understands they have been adopted.

Mr. HOAR. I move the following amendment as an additional section:

In the appointment of cadets to the Military Academy at West Point, whether appointed from the several congressional districts or at large, it shall be the duty of the President to see that no preference is given to any class of citizens on account of race.

On that amendment I ask for the yeas and nays.

Mr. SAULSBURY. I ask the Senator from Massachusetts whether he proposes to confer on the President the power to control the appointments from the congressional districts by members of Congress?

Mr. HOAR. I do not propose to confer it. The President, as I understand, has it now. There is no law that I can find, and I think I may state very confidently that there is no law, under which members of the House of Representatives have any official relation whatever to the selection of cadets for West Point. A usage has grown up under which it has been the practice of the President of the United States to appoint, if they are found suitable on examination, persons recommended to him by members of Congress from the several districts. That is a mere usage, but it has prevailed so long that many persons suppose that it is the result of an actual statute. There is no statute to that effect whatever; but undoubtedly no President of the United States, in the face of a usage so long continued, would venture to disregard such a recommendation. Therefore it seems proper to call by an explicit enactment the attention of the President of the United States to the possibility of the abuse at which this is directed, and to assure him of the support of the law-making power in seeing that no such preference is made, unless the Senator should desire that such a preference should be made hereafter, which I do not take for granted.

Mr. SAULSBURY. I desire to inquire of the Senator from Massachusetts whether there is a single instance in the history of the country where any President of the United States has attempted to control the appointments which have been recommended by members of Congress of persons as cadets to that institution. I am not aware myself whether there has been any attempted authority on the part of the President to control the appointments which have usually been made to him by members of Congress.

Mr. HOAR. I understand that there has been. There is an opinion of the Attorney-General on the subject, and I also know that the President of the United States in the past has exercised his discretion in refusing to appoint persons recommended to him by members of Congress. In a case which arose in my own State a few years ago a colored young man was recommended by a member of Congress as a cadet at West Point. I think that has happened in more than one case from that State, certainly in one; I am sure of that. The President of the United States, on the recommendation of the authorities at West Point—it was during General Grant's administration—declined to appoint the person so recommended, on the ground that on an examination he was not found qualified. I being at the Academy, very carefully went over the examination papers of the young man; and it seemed to me that the authorities at West Point were right in their recommendation in that case. No fault could possibly be found with the President of the United States for refusing to make the appointment recommended to him.

Mr. SAULSBURY. It seems there has been a very unlucky attempt to force into that institution colored cadets, when by the admission of the Senator from Massachusetts such a young man from his own State, from that land of culture, was rejected because of the want of the qualifications sufficient to entitle him to admission, and in the more recent case which has been called to the attention of the Senate, a colored cadet has been found wanting in the studies in which he was engaged, and allegations have been made that by reason of that fact he has actually committed an assault upon himself, mutilated himself, in order that he might create some sympathy, I suppose, on the part of some one.

I do not know whether these allegations are true or not; but the experience in that institution of the attempt to force into it colored cadets has not heretofore proved a success, and I desire to inquire of the Senator from Massachusetts if he now wishes to make it the imperative duty of the President of the United States, where cadets are recommended to him for appointment by members of Congress, to see that they shall be equally selected, an equal number selected from the colored race and from the white race. Is that the object proposed by this amendment? If so, it seems to me to be an attempt to coerce the discretion of the present Executive of the country; or if not that, it is to coerce the discretion of the incoming dynasty. The gentlemen whom the Senator has heretofore supported for that position have had the discretion which he now would take away or require to be exercised under the compulsion of law.

We hear just before every election something in reference to the colored people. Ever since I have been in the Senate, just prior to a presidential election, there has been an attempt made to create public sympathy for the colored people of the country, and to appeal to the prejudice of the northern people. Heretofore there have been accusations of maltreatment on the part of the people of the South to the colored race, and very recently this crusade has taken the form of an assault upon the Military Academy because of the treatment of colored cadets there. At any rate it is very apparent that these periodic references to the colored population of the country are designed to have some political effect and bearing on the presidential election. I think the country will understand this thing.

Gentlemen on that side of the Chamber have no more regard for the colored people than we have on this side of the Chamber, and the people undoubtedly will understand that all this great anxiety to promote the interests of the colored race is designed to secure the votes of those people throughout the country, and also to appeal to the prejudices of northern white men.

The people of the country, I say, will understand this thing. They

are not to be deluded. There is no more sympathy on that side of the Chamber for the colored race than there is among the men on this side. I think the time has come to stop dictating to the President of the United States and members of Congress whom they shall appoint as cadets to the Military Academy and leave it to the discretion of the gentlemen charged with the duty, and I venture the assertion that it will be fully as well performed as if we attempt by enactment to control the discretion which has heretofore been exercised by them.

Mr. HOAR. The Senator from Delaware is very swift, in advance of the decision of a court-martial, in advance of an official publication of the testimony, in advance of any full publication of testimony whether official or not, in advance even of the completion of the testimony, to drag before the Senate his suspicions. I am afraid that the wish has been father to the thought.

The honorable Senator from Delaware thinks that the sympathy for the colored race, as he phrases it, in certain portions of the country is a pretense; that the men who voted for the constitutional amendment which delivered them from slavery are not their friends but those who voted against it are; that the men who thought that their women should not any longer be whipped and their children should not any longer be sold, are pretenders when they claim any regard for their rights; the men who proposed to make it lawful to continue those things are their true friends——

Mr. MORGAN. Will the honorable Senator allow me?

Mr. HOAR. I have the floor, I believe, Mr. President.

Mr. MORGAN. The Senator declines to yield. I wished to ask a question.

Mr. HOAR. I am replying to the Senator from Delaware at present.

He would have it believed that the men who enacted and carried into effect the constitutional amendment which made them citizens, equals, and voters, are pharisaic and pretenders, and the men who resisted all these things were the real honest friends of the colored men. Why, in the Senator's own State of Delaware there is a law on the statute-book to-day, published in the revision of 1874, which enacts that if any person shall within the limits of the State procure or aid in the arrest of any white citizen, or of any white non-resident, he shall be punished so and so, leaving the colored man entirely without any protection of the law in regard to such abuses.

Mr. SAULSBURY. I beg the Senator's pardon. I will say to him here and now that there is no State in this Union where the rights of the colored people are more fully protected than they are in the State of Delaware. I have practiced in the courts of that State, and I know that there is to-day in that State as great justice done to colored people as there is to any class of the people of the State, and I will say furthermore to the Senator that——

Mr. HOAR. I have not yielded, Mr. President, for a speech on the Senator's part. I do not know what rule of order exists in the Senator's mind this morning. It certainly is a very odd protection that these dear friends of the colored man in Delaware yield when they enact that it shall be an offense to commit an outrage on a white man, to deprive him of his liberty, whether a resident or non-resident, and leave the colored man for his protection entirely to that marvelous sympathy which the honorable Senator has professed and has described.

Mr. MAXEY. Mr. President, I hope the Senate will vote down the amendment offered by the Senator from Massachusetts, [Mr. HOAR.] I have not been able to see what this bill has to do with West Point or what it has to do with this special care of the colored man as contemplated by this amendment. The bill under consideration is a bill reported from the Military Committee for a specific purpose; it makes suitable provision for the care of worthy, worn-out non-commissioned officers in the Army, who by long, faithful, and honorable service merit the kindly care of the Government in their old age. That is the whole of it, and I see no reason for attempting to prevent a vote on that proposition by incumbering it with amendments having nothing in the world to do with it, amendments not designed to perfect the text, wholly apart from it, and which act only as an incumbrance to a well-considered, and, as the committee believes, eminently just and meritorious measure.

It is true that all appointments of cadets are made, as will be seen by section 1315 of the Revised Statutes, theoretically by the President:

SEC. 1315. The corps of cadets shall consist of one from each congressional district, one from each Territory, one from the District of Columbia, and ten from the United States at large. They shall be appointed by the President, and shall, with the exception of the ten cadets appointed at large, be actual residents of the congressional or territorial districts, or of the District of Columbia, respectively, from which they purport to be appointed.

That is the law; but it is known that from the beginning, with possibly some exceptional cases—though I never heard of an exception, save that just mentioned by the Senator from Massachusetts—these appointments are made upon the recommendation of the Representative in Congress from the congressional district or from the Delegate of the Territory. Universally, so far as I ever heard, except what I heard just now, the appointment is made on that recommendation.

Now there has grown up (and it occurs to me very wisely) in a very large portion of the country a system of competitive examination. The Representative of the district notifies the people of his district that a cadet is to be appointed from that district, and solicits all who desire to compete for that appointment to appear to be examined by a competent board of educated gentlemen, with a view to test the capacity of the applicants, and he who is upon that trial examination pronounced to be the best qualified and best prepared to receive the appointment is appointed; and I have never heard that any one on account of color was debarred the privilege of appearing, and I believe that any board of examiners, in any section of the country, would make a faithful report in favor of whoever, rich or poor, obscure or influential, black or white, proved best qualified.

Now, the effect of the amendment of the Senator from Massachusetts is practically to ignore and set aside this wise system of competitive examination which is growing up in almost every district in the country. It does away with the plan whereby the young man who proves himself to be the most meritorious, the best qualified, receives the appointment, and compels the appointments to be divided proportionately among the colored and white boys, without regard to any rule save that of color. It does not seem to me that that is a wise or safe rule or in any sense in the interest of the Government.

The President of the United States has the right, in my judgment, under the Constitution and under the law to select those he believes to be competent and qualified, without regard to color, race, or previous condition of servitude, and has a perfect right to make the appointments upon the recommendation of Representatives, as he now does. In this land of ours to-day there is no distinction in law under the Constitution between the colored man and the white man. They are all citizens and are all tax-payers, or presumed to be tax-payers. At all events they are liable to pay taxes if they have anything to pay taxes on. The President has no right to discriminate on account of color, race, or previous condition. He has no right to discriminate against the white man on that account, nor to discriminate against the colored man on that account; but there is under the Constitution equality before the law.

When young men come before a competitive board of examination let the selection be made of him who proves himself the most meritorious. If he be a colored boy, that colored boy ought to get it, because if white boys go into a competition with colored boys who have not had the same opportunities and advantages that they have had and get beat at it, so much the worse for the white boys. They cannot blame the law, but only themselves for not being well enough prepared to carry off the prize. The law affixes no distinction, and under the Constitution can make none. But I cannot for the life of me see, I have not been able to see, how it is that with a President who holds his office from the republican party republicans here have such great doubt in regard to the mode and manner in which the President of their own putting in—I will not say of their election, but the President who occupies that position, who was placed there by the republican party—how it is that they come in here and want to put him in leading-strings, and against what in my judgment is his constitutional privilege of exercising that discretion among citizens in making those appointments that he deems wise and suitable according to his best judgment, making no distinction on account of race, color, or previous condition, but controlled only by what he believes the best interest of the country. If a white boy is the better boy let him go in; if a black boy is the better boy let him go in; and so far as the system is concerned of appointments through Representatives, which has been in operation from the beginning, let the congressional Representative indicate the choice for his district; he is responsible to his people; and let that appointment be made by the President in accordance with that recommendation and in accordance with the immemorial custom and usage; and I believe the true principle is that which is rapidly spreading all over this land of having competitive examinations in every district; and then let him who is best be put at the head of the class competing, whether he be of one color or the other.

For these reasons and in view of the law as it stands, I cannot see any reason whatever for encumbering this bill with this amendment at this time. It appears to be done rather for political effect than to secure salutary laws.

Mr. MORGAN. Mr. President, I desired while the Senator from Massachusetts [Mr. HOAR] was on the floor to correct one observation he made which I thought was unjust to the people of my State at least. I understood the honorable Senator to say that those who had voted in favor of the thirteenth amendment were much better entitled to the sympathy and respect of the negroes of the South than those who had voted against it, thereby intending to insinuate to the gentlemen on the other side of the Chamber that we of the South had voted against the thirteenth amendment.

Now, sir, a convention was held in Alabama in September, 1865, before any amendment was submitted by the Congress of the United States to the different Legislatures of the States in reference to the abolishment of slavery, and that convention voted for the emancipation of the negroes, and amended the constitution of the State so as to liberate the negroes in that State. In that convention there was but one vote cast against that ordinance, and that vote was cast by Hon. Alexander White. In 1868 Alexander White became a republican after having cast that vote, and was made republican candidate for a seat in Congress, and he was elected to Congress by the republican party of Alabama, thereby showing that the negroes had become reconciled in my State to the one single person in the constitutional

convention who had voted against their liberation. I think that fact stands very strongly against the argument, the inference, or the statement of the Senator from Massachusetts.

Mr. INGALLS. Mr. President, the available time for eight days has now been consumed in the consideration of a bill under this rule that was adopted to facilitate the public business. This time has been employed not in discussing the bill, but in the consideration of amendments that had no earthly connection with it. I am in favor of the bill, and I am in favor of justice to the colored race; but relying upon the reserved rights I believe I have under the rule, I propose unless an immediate vote can be taken to object to the further consideration of this bill, for I see no possible chance of arresting a debate that seems liable to continue for the rest of this session. I object to the further consideration of this bill.

Mr. BURNSIDE. I hope the Senator will not object until we have an opportunity of voting on the amendment.

Mr. MAXEY. I hope there will be no more debate about it. It is a small attempt to make political capital, which I do not think the Senate should accede to.

Mr. INGALLS. If there can be a vote, I am willing to withdraw the objection.

The PRESIDENT *pro tempore*. The Senator from Massachusetts demands the yeas and nays on his amendment. Is there a second?

The yeas and nays were ordered and the Secretary proceeded to call the roll.

Mr. FERRY, (when Mr. BALDWIN'S name was called.) My colleague [Mr. BALDWIN] is paired on this question with the Senator from West Virginia, [Mr. DAVIS.] Were he present, my colleague would vote "yea."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. VEST, (when his name was called.) I am paired on all political questions with the Senator from Connecticut, [Mr. PLATT,] and I decline to vote on this question.

The roll-call was concluded.

Mr. HEREFORD. I desire to say that my colleague [Mr. DAVIS] is engaged in the Committee on Appropriations and he is paired on all political questions with the Senator from Michigan, [Mr. BALDWIN.]

Mr. VOORHEES. I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were here, I would vote "nay."

Mr. ALLISON. On political questions I agreed some ten days ago to pair with the Senator from Maryland, [Mr. WHYTE.] I desire to vote in favor of this amendment; but as this question seems to be regarded as a political one, I shall refrain from voting.

Mr. PENDLETON, (after having voted in the negative.) For the reason I stated before, I desire to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

The result was then announeed—yeas 18, nays 31; as follows:

YEAS—18.

Anthony,	Dawes,	Jones of Nevada,	Saunders,
Blair,	Edmunds,	Kirkwood,	Teller,
Burnside,	Ferry,	McMillan,	Windom.
Cameron of Wis.,	Hill of Colorado,	Plumb,	
Conkling,	Hoar,	Rollins,	

NAYS—31.

Bailey,	Farley,	Johnston,	Saulsbury,
Bayard,	Garland,	Jonas,	Slater,
Beck,	Gordon,	Kernan,	Thurman,
Butler,	Groome,	McDonald,	Vance,
Call,	Hampton,	Maxey,	Walker,
Cockrell,	Harris,	Morgan,	Wallace,
Coke,	Hereford,	Pryor,	Williams.
Eaton,	Hill of Georgia,	Ransom,	

ABSENT—27.

Allison,	Davis of Illinois,	Lamar,	Randolph,
Baldwin,	Davis of W. Va.,	Logan,	Sharon,
Blaine,	Grover,	McPherson,	Vest,
Booth,	Hamlin,	Morrill,	Voorhees,
Bruce,	Ingalls,	Paddock,	Whyte,
Cameron of Pa.,	Jones of Florida,	Pendleton,	Withers.
Carpenter,	Kellogg,	Platt,	

So the amendment was rejected.

Mr. KIRKWOOD. I offer this amendment as an additional section:

When an enlisted man has served as such fifteen consecutive years in the United States Army honorably and faithfully, the last five years thereof as a non-commissioned officer, he shall be eligible for appointment as second lieutenant in any corps of the line in which he has served.

I wish to say a single word. The purpose of the bill, as I understand it, is to do something to elevate the character of privates in the Army, to elevate their standing, to hold out some inducement to them to good conduct. That is a desirable thing to do, I think, and I believe the amendment that I have offered will tend very largely in the same direction.

I may be mistaken in my opinion as to the present condition of affairs in the Army, but that opinion is that the line of distinction between the commissioned officer and the private is as broad, as well defined as if the officers were whites and the privates colored, socially and in every other way. My judgment is that if you hold out to the men who carry the musket the prospect that after a period of faithful service of fifteen years, five of which shall be as a non-commissioned officer, they shall be eligible to commissions, that fifteen years' training is of itself sufficient, so far as qualifications are concerned. If you make such a man eligible for appointment as a commissioned officer, if otherwise qualified, you will do something to elevate the rank and file of the Army.

In reading the history of armies in other countries we find that some very distinguished soldiers have risen from the ranks. In France in Napoleon's time my recollection is that some of his marshals, whose reputation became world-wide as soldiers, rose from the ranks of the privates. As I understand it to-day, although not theoretically, practically the door is closed against the private.

Mr. BAILEY. Will the Senator permit me to ask a question for information?

Mr. KIRKWOOD. Yes.

Mr. BAILEY. I wish to ask if under existing laws a colored soldier after two years' service who shall have been made a non-commissioned officer may not demand an examination and if he passes an examination be appointed to the office of second lieutenant?

Mr. KIRKWOOD. There is so much conversation that I cannot hear the Senator.

Mr. BAILEY. I ask whether under existing law the colored soldier who has served two years in the Army of the United States and has reached to the position of a non-commissioned officer may not be appointed to the office of second lieutenant just as a white man may be, by submitting to an examination showing that he is competent to discharge the duties of a soldier?

Mr. KIRKWOOD. The amendment that I have offered has nothing to do with the color of the soldier at all. It does not speak of him as a colored man or a white man. It speaks of him——

The PRESIDENT *pro tempore*. The Senator's five minutes have expired.

Mr. KIRKWOOD. What is the matter?

The PRESIDENT *pro tempore*. The Senator's five minutes have expired. We are under a five-minute rule.

Mr. BAILEY. I have interrupted the Senator, and if I shall be permitted to do so I take the floor and yield to him my time. I misunderstood the Senator's amendment. I thought it referred to colored soldiers.

Mr. KIRKWOOD. No, it does not say a word about color.

Mr. BAILEY. The argument referred to it, and I supposed the amendment did.

Mr. KIRKWOOD. My argument did not refer to color at all.

Mr. BAILEY. Then I misunderstood the Senator in the confusion. I ask that his amendment be read.

Mr. ANTHONY. I hope the Senator from Iowa will be allowed to proceed by unanimous consent, not by a delegation of time by another Senator, because that would be contrary to the whole spirit of the rule.

The PRESIDENT *pro tempore*. If there is no objection the Senator from Iowa will be allowed to proceed.

Mr. INGALLS. For how long?

Mr. KIRKWOOD. A very few minutes.

Mr. BURNSIDE. The Senator from Iowa will allow me to make a remark which will throw some light on the subject. The class of people he is now trying to reach are already eligible.

Mr. KIRKWOOD. There are sometimes wheels within wheels, and sometimes they tend to accelerate and sometimes they tend to retard locomotion.

Mr. BURNSIDE. I am not opposed to the amendment.

Mr. KIRKWOOD. There is a provision, section 1214 of the Revised Statutes, that allows non-commissioned officers, under regulations established by the Secretary of War, to be examined by a board of Army officers as to their qualifications and so on. Well, some of us know how that thing works, and I think the chance of a private serving in the ranks in the field to get a commission under that section is about as promising as the Scripture says is the chance of a camel going through the eye of a needle.

Now, my purpose is to say that when a man has served fifteen years in the Army, five years as a non-commissioned officer, that shall make him eligible to appointment—not entitle him to appointment, but make him eligible to appointment without the examination required by section 1214, but that in itself fifteen years' faithful, honorable service, five years as a non-commissioned officer, shall make him eligible. If he can find friends to back him, then well enough; if not, he must suffer.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. BAILEY. I should like to hear the amendment read.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment submitted by Mr. KIRKWOOD.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MAXEY. I ask that the title be amended by striking out the word "continuously" and adding "and for other purposes;" so as to read: "A bill to authorize a retired list for non-commissioned officers of the United States Army who have served therein honorably and faithfully for a period of thirty years or upward, and for other purposes."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M.

ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. No. 1703) authorizing the changing the name of the schooner Rebecca D.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, with amendments, and I ask that it be printed as early as possible. I desire to state that to-morrow morning, after the routine business of the morning hour, I shall ask the Senate to take up this bill and proceed with its consideration.

ORDER OF BUSINESS.

Mr. PLUMB. By an arrangement which took place on the 26th day of March, as shown by the record of that day's proceedings, the bill which stands next before the bill which has been under consideration, namely, House bill No. 2326, for the relief of settlers upon Osage trust and diminished-reserve lands in Kansas, and for other purposes, was to remain at the head of the Calendar. I therefore ask that that be proceeded with.

The PRESIDENT *pro tempore*. The morning hour has expired. The regular order is the resolutions reported by the Committee on Privileges and Elections in regard to the seat of the Senator from Louisiana, which are before the Senate, upon which the Senator from Arkansas [Mr. GARLAND] is entitled to the floor.

Mr. INGALLS. I think the rule that the Senate adopted declared that the consideration of the Calendar should continue until half past one. That is the language of the rule explicitly.

Mr. GARLAND. That was before we changed the hour of meeting from twelve to eleven.

Mr. INGALLS. But does the meeting of the Senate at eleven abrogate the order that the consideration of the Calendar shall continue until half past one?

The PRESIDENT *pro tempore*. In making the announcement he made just now, the Chair overlooked the exact language of the rule. It has been heretofore the case that there was only an hour and a half for the morning hour. The rule is as the Senator from Kansas states it:

> That at the conclusion of the morning business for each day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock.

Mr. INGALLS. The very object of meeting at eleven, as I understood, was to give the Senate more time for the consideration of morning business.

The PRESIDENT *pro tempore*. The Chair looked into the precedents this morning before the Senate met, and found that it had been the universal usage of the Senate when the Senate met at an earlier hour that the morning hour should extend only an hour and a half from the time of meeting; but the Chair does not see how he can get rid of the positive language of this rule.

Mr. BURNSIDE. I move that the morning hour be extended to half past one.

Mr. INGALLS. It does not require any motion.

The PRESIDENT *pro tempore*. It does not require any motion. In the opinion of the Chair the point is well taken.

Mr. PLUMB. Mr. President——

Mr. FERRY. I hope, then, the Calendar will be proceeded with in its order. I have been patiently waiting for a bill that has once been considered by the Senate and recommitted to a committee and modified according to the objections made. I have abided the interposition of different Senators, and I have said not a word until the present moment. Now, I ask, as we have adopted one hour extra for the purpose of considering the Calendar, that we take up the Calendar in its order, and that Senators shall be treated equally, instead of this effort to interpose and take up bills out of order. I therefore shall object.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Kansas to claim that his bill does stand at the head of the Calendar.

Mr. FERRY. Then I withdraw my objection in that case, but I shall object in any other.

Mr. VOORHEES. The Senator from Arkansas [Mr. GARLAND] very much prefers to go on with his remarks at this time. Having supposed that he would take the floor at this hour, it is disagreeable to him not to do so now; and I suggest to the Senator from Kansas that we can occupy an hour after the Senator from Arkansas gets through with the Calendar by general understanding as well as we can now. I hope the Senate will allow the Senator from Arkansas to proceed with his argument at this time. I ask unanimous consent that he be allowed to go on now.

Mr. PLUMB. In response to the request of the Senator from Indiana I will state that so far as my interest in the Calendar is concerned, I am entirely willing that the Senator from Arkansas shall now proceed with his remarks subject to this condition, that whenever he shall have concluded his remarks the Calendar shall be proceeded with, commencing at the regular order of business, for one hour.

Mr. VOORHEES. I think that is fair.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent that the Calendar may be laid aside informally, and that the Senator from Arkansas may be allowed to proceed with his remarks. The Chair is compelled to state that if those remarks extend beyond half past one the Chair does not at present perceive how the Calendar is to be resumed to-day.

Mr. INGALLS. By unanimous consent.

Mr. CONKLING. The proposition is that by unanimous consent it be resumed for an hour afterward.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senate so agree. The resolutions in regard to the Senator from Louisiana are before the Senate.

HOUSE BILL REFERRED.

The bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. GARLAND. Mr. President, ordinarily it would be a matter of no particular difference to me whether I proceed at one hour or another; but as I had expected to take the floor at this hour and had made committee arrangements to follow the conclusion of my remarks, I prefer to proceed now.

Before going to the case itself I think it is proper that I should allude to some remarks that were made by the Senator from Maine [Mr. BLAINE] not now in his seat, several weeks since, when he had the floor on this subject, in which he stated that there was an agreement, as he had understood, between the respective parties as to the seating of Messrs. KELLOGG and BUTLER. I then occupied temporarily the chair. The Senator from Maine referred to a question of my own, propounded to the Senator from Vermont [Mr. EDMUNDS] when he introduced the resolution as to the time of taking the vote on those cases, and also to a statement made by the Senator from Ohio [Mr. THURMAN] at the same time. I deem it necessary upon reflection to make an explanation of the question that I propounded to the Senator from Vermont at that time, and also to state what I know in reference to any agreement regarding the seating of these two gentlemen.

On November 30, 1877, the Senator from Vermont introduced a resolution proposing an arrangement—

> First, to vote on the Kellogg-Spofford case at or before two o'clock and thirty minutes a. m. to-day.

Then to take the vote after that on the other case, with a certain arrangement of the debate:

> Mr. THURMAN. That would give him all the time now.
> Mr. EDMUNDS. Exactly; but your side has had all the evening on the Kellogg case.

The question in dispute being as to the time that would be required to present the case properly. Then the Senator from Vermont stated the other part of his proposition, and this followed:

> The VICE-PRESIDENT. Is there objection?
> Mr. GARLAND. Is there nothing, I ask the Senator from Vermont, of the other case?
> Mr. EDMUNDS. I propose nothing. I ask unamimous consent for that I have named, nothing more, nothing less.
> Mr. GARLAND. I do not think it is an improper proposition at all.

Then the Senator from Ohio followed with his remarks. "The other case" that I had reference to in that question was the case of Eustis, whose case—without a contestant and without anybody disputing seriously his right to the seat—had been before the Senate prior to the consideration of either of these other cases. I had the impression that there was a disposition to reach a vote on all of them, and dispose of all of them at once; and Eustis's was "the other case" to which I referred in propounding that question to the Senator from Vermont. Efforts had been made, and successfully, as I supposed, to take a vote on all the cases. But by the course actually pursued the anomaly was presented that Mr. Eustis, who had no contestant, and whose case was first presented to the Senate, did not get a vote upon his case until the 10th of the following December, when he was admitted. That is all there is of that proposition.

For one I struggled at the time, which was finally agreed upon, to get a vote, for we had sat here night and day, wearied and tired, and the session of the Senate then called was about expiring. As to any other agreement beyond or further than this, I know nothing of it, and never heard of it until the Senator from Maine [Mr. BLAINE] stated it on this floor.

Now, Mr. President, I come to the question in hand. On the 25th

of October of the same year to which I have alluded the then Senator from Oregon [Mr. MITCHELL] introduced a resolution referring the contested case of Spofford and Kellogg upon its merits to the Committee on Privileges and Elections. That committee, after considering the proposition, reported back a resolution, first, that KELLOGG was entitled to his seat upon the merits, and second, that Spofford was not entitled to the seat upon the merits; and upon those resolutions the vote was taken which resulted in the seating of Mr. KELLOGG on the 30th of November, 1877.

An important question is presented as to how much was settled by that vote, and whether any and everything connected with the seat was settled then beyond any inquiry at this time, or at any other subsequent period. It is contended that the inquiry is closed for all purposes; that neither this Senate nor any other Senate during the six years for which Mr. KELLOGG was seated can look into the question again; and the doctrine known in the courts as *res adjudicata*, that is, that the thing has been determined, has been invoked as a plea or as a defense upon which to rest that position.

To a certain extent it must be conceded there is something adjudicated and determined in this cause. To the length and breadth it is claimed, however, by those who assert that plea I cannot yield. Accepting the definition as given by the Senator from Wisconsin [Mr. CARPENTER] who has twice argued this case, first this month a year ago, when the proposition was offered by the committee to take further testimony, it may be conceded that the case is *res adjudicata*, and yet very grave and serious questions are presented for the Senate to consider in this investigation.

Just here I wish to make a statement. When the committee asked for further time and for leave to take further testimony one year ago that was the proper time to have introduced this plea and to have had the Senate vote upon it. I thought so then; I still think so. An interrogatory propounded by me at that time to the Senator from Massachusetts [Mr. HOAR] will show just what I had in my mind then and what has been developed since by reflection and study of this case. The Senator from Wisconsin did then make his argument upon the plea of *res adjudicata*, but he was overruled by the Senate, every democratic Senator voting, as I now remember, for agreeing to take that testimony. If it was precluded, if the verdict and judgment were conclusive, the time by the precedents now and by the analogy that you are running this on was when an effort was made for further testimony in the court where this judgment had been rendered. I accept, to the extent of the inquiry upon the credentials, the definition given by the Senator from Wisconsin, [Mr. CARPENTER,] taken from his speech in the left-hand column, on page 4, of the RECORD of the 16th instant, which I will ask the Secretary to read.

The Chief Clerk read as follows:

> The Senator from Georgia tried to make out that that did not amount to anything; that it was some technical thing; that "on the merits of the case" was loose and ambiguous. The Senate did not declare in its resolution in words that KELLOGG was elected by the Legislature of the State, but with the Constitution before them, on the well-known principles of law applicable to the subject distinctly understood and brought to their minds by debate, the Senate declared that on the merits, and that is apart from all technicality and all trifling objections—on the merits of the case, namely, the election by the Legislature of the State, his being thirty years of age, his having been nine years a citizen, on all the essential features and elements that enter into the case and make up its merits, he was entitled to the seat.

Mr. GARLAND. That is the fullest extent to which the plea can be urged here. It was demonstrated in the splendid argument of the Senator from Alabama who sits behind me, [Mr. MORGAN,] the other day, that it was a question upon the credentials, the legality of the Legislature that elected, the qualifications of age, citizenship, and residence; so far, no farther.

Accepting those now for the sake of the argument of this case as the finger-boards to guide us upon this road, assimilating this to a case in court, I will read what the Supreme Court of the United States has said in reference to this matter as containing in my judgment, after all my research in the books, the principle stated in one sentence, and in arguing the case I shall attempt to bring it within this rule strictly, rigidly in every respect. I refer to the decision in the Packet Company *vs.* Sickles, reported in fifth Wallace. To those Senators who have been discussing this matter in their minds, whether upon the technical plea of estoppel, or the principle of *res adjudicata*, or the doctrine of *stare decisis*, or on the ground of former acquittal, it is important to consider well this statement by the Supreme Court, which statement Mr. Wells in his book upon the subject of *res adjudicata* quotes approvingly as containing the doctrine. Upon page 592 of fifth Wallace the court says:

> As we understand the rule in respect to the conclusiveness of the verdict and judgment in a former trial between the same parties, when the judgment is used in pleading as a technical estoppel, or is relied on by way of evidence as conclusive *per se*, it must appear, by the record of the prior suit, that the particular controversy sought to be concluded was necessarily tried and determined—that is, if the record of the former trial shows that the verdict could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties; and further, in cases where the record itself does not show that the matter was necessarily and directly found by the jury, evidence *aliunde* consistent with the record may be received to prove the fact; but even where it appears from the extrinsic evidence that the matter was properly within the issue controverted in the former suit, if it be not shown that the verdict and judgment necessarily involved its consideration and determination, it will not be concluded.

You may search all the books that have ever been written upon the subject from the earliest to the latest, and you will never get beyond or any further than that upon this subject. That is the rule by which I shall try this case so far as I am concerned before the Senate.

Mr. President, the comparison limps when it is said this is like a proceeding in court. Of course it is like a proceeding in court. Any issue between persons, any issue in the churches, any issue in any tribunal, in any committee, is to a certain extent like a trial in court. But here a fundamental error lurks and runs through the case from the beginning. This is not a mere contest between KELLOGG and Spofford for the seat as a Senator from Louisiana as would be, sir, between you and myself a suit in equity for a specific performance or a suit at law in an action of ejectment. Let us see if it is, upon some of the simplest and commonest principles that run through the practice of the courts.

Suppose the sitting Senator, Mr. KELLOGG, had failed to make any response or to take any notice of the application on the part of Mr. Spofford. If it is strictly and in every sense a legal proceeding the Senate could have defaulted KELLOGG, rendered a judgment by default, and seated Spofford. That no man will contend could be done, because whether he appears to defend or not the Senate's duty is, under the Constitution, to ascertain who was elected. Further, suppose KELLOGG and Spofford had agreed and filed a written stipulation, as in courts of justice, that a judgment should be rendered in favor of Spofford against KELLOGG, the Senate could not have rendered the judgment. You cannot default an American constituency in that way. You cannot stipulate the rights of an American constituency away in any tribunal. Suppose the Senate, progressing in this inquiry, finds that neither was elected, which it might do very well, and should award the seat to some man in Louisiana who got only one vote, if there was such a one. Those statements illustrate the futility of attempting to assimilate this throughout to a proceeding in court.

In this connection I will state another matter. Suppose the Senate should ascertain that neither of these men was elected, as I stated just now, and in two months from this time it should ascertain by testimony competent that it had committed a mistake. Louisiana stands now, after doing all she can to be represented, disfranchised of a Senator. Has not the Senate power to correct that error and bring in the person who was elected? Most confessedly.

Further than that, the senate of Pennsylvania in 1871, upon a contest between two persons claiming a seat in that body, decided that the sitting member could vote upon the issue of keeping his seat. After extensive argument they came to that decision. The sitting senator did vote and kept his seat by his vote. That case is found in Smull's Legislative Hand-Book, page 542, and in the senate journal of Pennsylvania, (1871,) page 127. If this had been a mere contest for a seat as a replevin for a horse, of course the man could not be a judge in his own case. So the similarity breaks down again in an essential feature.

In Stockton's case in this very body, after he had cast his vote and a resolution was offered by Mr. Sumner to exclude that vote, it was contended by no less eminent persons than Reverdy Johnson and Mr. Hendricks that he could vote and was entitled to cast his vote, because, believing that he was elected, he could not trifle away the rights of his constituents in that way. It was the right of his constituents that he was representing here, and not his own right of property in the seat, to the mere compensation. It is true the Senate decided at last upon a vote that he was not entitled to vote; but when such distinguished gentlemen as those who contended that he could vote took that position, the Senate had better pause and count before they say this is as a suit between A and B for a pair of pantaloons in a court of justice. This cuts both ways, understand. It is like the old jute doctor's bark. If you stripped it up the tree, it would have one effect on you; if you stripped it down the tree, it would have a contrary effect. It came very near being settled, within four votes, in the Senate that Mr. Stockton was entitled to vote. If it had been Mr. Stockton's mere right to that seat that was involved, he never would have got a vote saying he could cast his vote in that issue. The parliamentary rule that excludes a man from voting because he is interested is because of his individual, personal interest, uncombined and unconnected with that of others. Whenever I vote a dollar for a public building in the city of Little Rock the rule is run out in its full length. If it were a measure to benefit my property alone $10, I could not vote on it. It benefits the property of my neighbors as well as mine, and therefore I am competent to vote; but if it was to put $500 in my own pocket direct, I could not vote on it. That is the distinction. If it was a mere case at law, a legal contest for a right of property, neither Mr. Hendricks, nor Mr. Reverdy Johnson, nor Mr. Garrett Davis, nor any of those gentlemen who contended for that right would have asserted it on this floor or anywhere else under the sun.

Mr. President, it comes down to a naked proposition every time for the Senate to deal with, just as a court must deal with it when it is addressed to it, as to whether its prior judgment is conclusive, whether its prior judgment is *res adjudicata* or not. *Res adjudicata*, all know, is a technical expression and a court expression. It runs through all the business of life, private controversies and public controversies, not merely for economy but for quiet and peace, for the end of something when it is in issue. The Departments are not judicial of course. Under the Constitution those administering them are called the heads of Executive Departments, and they are called Executive Departments. When A, as Attorney-General, decides an issue before him, his

successor cannot come in and overturn that. The Departments have decided that repeatedly; the Attorneys-General have so decided; the Supreme Court in 15 Peters, The United States *vs.* Bank, have decided the same. It is a rule of law for the purpose of quieting controversies and for the peace and for the order of society, no more in a court possibly than anywhere else, but when it is carried to the extent that it is claimed here, it becomes preposterous, with all due respect to those who have contended for it. The examples given by the Senator from Wisconsin himself do not tally with the rule that he laid down—with the precept that he gave.

Patrick O'Hara was a most excellent citizen of Chicot County, in the State of Arkansas. He got on a steamboat to take a trip to New Orleans. Going down the river one night his boat struck a snag and the boiler burst and the boat blew up. Many of the passengers were killed, and it was reported to the county of Chicot that O'Hara was dead. The seven years' presumption in the case of the absence of a person, that being the statute in Arkansas, prevailed and O'Hara was reported dead to the probate court. Administration was granted upon his estate. It went through a due course of administration, and finally they were about to take the order of distribution; and as the order was about to be entered, Patrick O'Hara came into the court and addressing the judge said, "Judge, I know you well; here I am; I want my estate." The judge said: "Yes, Patrick, I know you very well, but you are as dead as a door-nail." Patrick said, "You know me, judge; I have worked for you often; here I am, a living man." "No, Patrick," said he, "the record says you are dead; the record cannot lie;" and the judge proceeded gravely to distribute his estate and Patrick left the court-house a sadder man, if he was not a wiser man.

That is the extent of the plea as offered here by the Senator from Wisconsin, whose example, as I said before, goes away beyond the precept which he lays down by which to test this doctrine.

The question then resolves itself always into this: It is a plea addressed to the tribunal itself, and it is for the tribunal to say whether or not it will disturb this order of things that it has established. But at all times, upon every occasion, if any material fact is omitted from the verdict and judgment that could have been brought in before, the case is not concluded in any court or in any tribunal. That is the decision of our courts.

Mr. President, concede, if you please, that the question of the legality of the Legislature was decided; concede, if you please, that the possession of the qualifications attached to KELLOGG that the Constitution prescribes was decided; there is one question that has not been determined in this cause, there is one question that has not been touched in this cause, which is higher and above all these, the recurrence of which every day and every hour of the day makes the Senate a law unto itself to say whether a man who sits here has come to the Senate with pure hands and is worthy to sit here as an American Senator. When the committee a year ago asked for leave to take further testimony, that proposition was combated upon the idea that Mr. KELLOGG and Mr. Spofford, like two men contending for a horse in a court, were estopped, and that the prior judgment was conclusive. Upon page 1082 of the CONGRESSIONAL RECORD, Forty-sixth Congress, first session, I find that I said on the 6th of May, 1879, after propounding a question to the Senator from Massachusetts, [Mr. HOAR:]

Mr. President, I did not ask the question I propounded to the Senator from Massachusetts with any view of engaging him in an argument on his view of this case, nor in fact with any positive conviction in my own mind as to what answer should be given. I have had a sort of rough idea in my head about this matter, that there are three parties possibly to the contest, two persons claiming the seat, and the third party the State of Louisiana, which has a right to be properly and legally represented. In reading the proceedings before the committee, as far as they have been printed, I find that Mr. Spofford makes certain charges against Mr. KELLOGG and Mr. KELLOGG makes certain charges against Mr. Spofford; and if in the course of this investigation the committee shall find that really—and when I say really I mean legally—neither one of these gentleman was elected, they might possibly introduce a resolution declaring the seat vacant, and then let the State of Louisiana elect a Senator. This idea I gathered from the proceedings; and therefore I asked the Senator with perfect good faith the question whether in his judgment, according to the pleadings and the issue made here, there could be under any state of the case a judgment rendered that the seat was vacant.

Then I gave notice that probably I would offer this amendment:

Provided, That this resolution—

That is, the resolution to take testimony—

shall not be construed as determining in any way the question whether KELLOGG's right to such seat is adjudicated.

The Senator from New York [Mr. CONKLING] responded to that proposition, "I am not denying that there was anything in it." Now, let me go further. On May 7, page 1109, it will be seen that I did not entertain this idea alone:

Mr. EDMUNDS. Before the vote is taken on the amendment proposed by the Senator from Massachusetts, which is to strike out the whole of the resolution and insert a different proposition, I wish to offer an amendment to the text of the resolution, which I believe is in order under the rule, by adding after the word "petition," in line 6 of the printed resolution, these words:

"So far only as relates to any charge in said petition of personal misconduct on the part of said KELLOGG, which may render him liable to expulsion or censure."

So that the instruction part of the resolution shall read.

It is seen that not only myself entertained that idea, but the Senator from Vermont thought that possibly there might arise a question here a little higher, a little more important, and a little more grave than a mere right to sit in the Senate as between two persons.

Then, at the conclusion of that debate, upon page 1121 of the same book, the sitting member said if the question of bribery was the one which they were after he courted and begged for an investigation. He claimed that his hands were clean, and he asked for the investigation upon that point.

Further, when the vote was taken to admit Mr. KELLOGG, the Senator from Alabama who sits nearest me [Mr. MORGAN] offered a resolution to this effect, which can be found on the page I read from a little while ago: that this action would not preclude the Senate from inquiring into the ways and means of the procuring of this seat by the sitting member. He made some few remarks upon that resolution. The Senator from New York [Mr. CONKLING] stated that no person could claim it did; that the resolution of the Senator from Alabama would add nothing to it nor take anything from it; that that inquiry stood here all the time staring, as it were, the Senate in the face from which the Senate could not shrink and which the Senate could not evade as a duty. Now, we have got so far that whatever *res adjudicata* may be contained in this case it does not embrace and include that point.

When Mr. Spofford filed his petition for a contest, to be found on page 5 of the report of the committee—I refer to the second petition, the one that he filed in March, 1879—he sets out what I especially desire the Senate to bear in mind:

Petitioner further represents that he ever has been and still is ready to furnish evidence to establish the five specifications upon which he was not permitted to take proof heretofore, and particularly evidence of the direct and active interference of said KELLOGG in the preparation of illegal complaints or protests against polls of which he had no knowledge.

These five points as stated by the Senator from Wisconsin [Mr. CAMERON] do not embrace directly or indirectly, either approximately nor remotely, any question of the corruption of the sitting Senator in obtaining votes for the seat that he occupies. They relate to altogether and entirely different propositions and different subjects. Then he proceeds:

Petitioner further represents that since the contest aforesaid and very recently he has discovered new and material evidence to prove that the election of said KELLOGG was null and void—

Why?—

by reason of improper, illegal, and corrupt influences exerted by him in person to bring about his own election as Senator.

There is a distinctive allegation in the new suit filed upon which the Senate has never passed before, upon which in the former issue there could have been no trial, because it was expressly ruled out upon the very face of the papers, and could not upon the presumption stated by the Senator from Alabama the other day arise in the court at all without a distinct allegation to bring the attention of the committee to it.

This inquiry could be brought to the Senate by any person. If Mr. Spofford had remained as silent at home as the tombs themselves, any respectable gentleman could have sent a paper here and had this inquiry instituted upon that—the governor, the attorney-general, any officer, any citizen. We have just had a long inquiry as to my particular friend from Kansas, [Mr. INGALLS,] whom the Committee on Privileges and Elections have most triumphantly and gladly to us all acquitted, not upon any contest, not upon any person asking for his seat, but upon a charge of personal improper misconduct in procuring his seat, and that charge brought here by individual memorialists.

Here is a distinct allegation in this petition which shows, if my position is correct, and I do not think there can be a successful combating of it, that the voice of the State is here asking that we shall inquire as to the purity and as to the cleanly means by which the person sitting here arrived in this body. The protection of this body itself over such a matter never sleeps, but the power is always alive, and such an allegation is always to be heard. There is an allegation that was not in the former suit; no inquiry was ever made as to that in the former case. Hence the decision in 5 Wallace rescues that from the inquiry before and brings it here a distinct matter for the Senate to pass upon.

If the allegation of bribery is made out in this case, the purchasing of the seat or the contributing of the means to purchase the seat, what is the law upon that subject? I speak by authority higher and better than my own when I say it goes to the very election itself. It goes back to the title, to the beginning of the title. The credentials are nothing but paper at last that evidence a title somewhere, just as your deed to your homestead is not your title but is the evidence of your title. If bribery is made out against the sitting member a majority vote, according to my interpretation of the Constitution, can vacate his seat, for, as McCrary on Elections says, where there is bribery there is a foul election, and where there is a foul election there is no election. But I beg leave to read to the Senate a few passages from the report of Mr. Morton in a similar case on this point. It says all that I desire to say upon this point, and it was a majority report from the Committee on Privileges and Elections in the case of Caldwell, when that committee was composed of Messrs. Morton of Indiana, CARPENTER of Wisconsin, LOGAN of Illinois, Alcorn of Mississippi, ANTHONY of Rhode Island, Mitchell of Oregon, BAYARD of Delaware, and Hamilton of Maryland, the latter two the only democrats on the committee. The conclusion of that report made by Mr. Morton is:

By the Constitution each House of Congress is made the judge of the elections, returns, and qualifications of its members.

If a person elected to the Senate has not the constitutional qualifications, or if

the election is invalid by reason of fraud or corruption, the jurisdiction to examine and determine is expressly vested in the Senate.

Another clause of the Constitution authorizes the Senate to expel a member by a two-thirds vote. The causes for which a Senator may be expelled are not limited or defined, but rest in the sound discretion of the Senate.

It has been a subject of discussion in the committee whether the offenses of which they believe Mr. Caldwell to have been guilty should be punished by expulsion or go to the validity of his election, and a majority are of the opinion that they go to the validity of his election and had the effect to make it void.

Now, I will ask to detain the Senate at some length by having the Secretary read the speech of Mr. Morton on that occasion, commencing on page 31 of the CONGRESSIONAL RECORD of the special session of the Senate, Forty-third Congress, 1873.

The Secretary read as follows:

Mr. MORTON. Mr. President, this investigation originated in the Legislature of Kansas. A committee was appointed there to examine into the circumstances of Mr. Caldwell's election. The volume containing the testimony was transmitted to the Senate of the United States by virtue of a joint resolution of the Legislature of Kansas, which I will now ask the Secretary to read.

The Chief Clerk read as follows:

"*Resolved by the house of representatives, (the senate concurring.)* That a printed certified copy of the report and evidence of the investigating committee appointed to investigate charges of bribery in the senatorial elections of 1867 and 1871 be sent to each of our Senators in Congress, and that a copy of said report and evidence be placed in the hands of the governor of this State, with the request that he forward the same to the Vice-President of the United States, asking him to lay the same before the Senate of the United States for their information."

Mr. CAMERON. Will the Senator from Indiana tell me the date of that document from the Legislature of Kansas?

Mr. MORTON. That resolution, I think, was passed April 4, 1872. I now read an extract from the Globe of April 8, 1872, when this resolution was referred to the Committee on Privileges and Elections of the Senate. The Senator from Kansas [Mr. Caldwell] said:

"I desire to state that I also have received the report of the investigation referred to. I had been expecting that report for some time. I believe it was made up in February, and I have repeatedly inquired of the Chair whether he had received it or not. I am glad to know that it is here, and I desire that it be referred as my colleague has suggested, so that we may have speedy action on it."

I read that simply for the purpose of showing that Mr. Caldwell submitted himself in this matter to the jurisdiction of the Senate.

Mr. Caldwell submitted a printed argument to the committee, which is published with the evidence and the report, in which he made a general denial of the existence of any satisfactory evidence that he, or his friends with his knowledge, had bribed any members of the Legislature of Kansas to vote for him for Senator, but entered into no discussion of the testimony. In the argument of the law he placed his defense upon the following grounds:

First, that his admitted transaction with Mr. Carney was a private affair between citizens, and was not denounced as illegal by any statute, State or Federal, and about which the Senate has no legal right to inquire.

Secondly, that bribery of members of the Legislature to vote for a candidate is not made a criminal offense by any statute of the United States, and that a member of the Senate cannot be unseated for bribery, because he cannot be indicted and punished for it in a court.

Thirdly, that the question of bribery in the election of a Senator can, under no circumstances, be inquired into by the Senate of the United States, but that the right to make investigations belongs only to the State, and that the Senate is concluded by his commission from the State from all inquiries, except as to whether he possesses the qualifications required by the Constitution of the United States.

Fourthly, that the Senate has no power to expel a member for any cause arising before he became a member of the body.

A summary of the evidence and of the conclusions to be drawn from it is made in the report, and an examination of the whole volume of the testimony, which is upon your tables, will show that the statements and conclusions in the report are not fully sustained, but are in a moderate form, and might have been made much stronger in many respects. No impartial man can read that evidence through without coming to the conclusion beyond a reasonable doubt that the transactions with Clarke and Carney are of the precise character stated in the report, and that the charges of direct bribery of members of the Legislature, and that Mr. Caldwell's election was secured by money, are completely sustained.

On the first point in the legal defense of Mr. Caldwell I quote the following extract from his argument:

"I am charged with having procured an election to the Senate by the use of money to induce opposing candidates to retire, and by the use of money and other improper means to induce members of the Legislature to vote for me. The first of these charges, so far as it relates to the retirement of Thomas Carney, stands admitted upon the record; but I insist that that was a private transaction between citizens, neither of whom occupied any official position, and was not denounced as an illegal act by any statute, State or Federal, and was one concerning which the Senate has no legal right or power to inquire, as I shall subsequently endeavor to show."

If the Senate cannot inquire into the circumstances attending the election of its members, whether such election was procured by bribery, corruption, or other matter impairing the freedom of elections, such inquiry cannot be made anywhere. It is true the State may investigate these charges, as was done in this very case, but such investigation amounts to nothing, unless it may be for the information of the Senate of the United States.

The Constitution provides that "each House shall be the judge of the elections, returns, and qualifications of its own members."

The Senate is authorized to judge of three things in regard to its members, their qualifications, returns, and elections.

First. It may inquire in regard to his qualifications, whether the member was thirty years old, had been nine years a citizen of the United States, and was an inhabitant of the State.

Secondly. Whether the returns of the election are in due form, and show an election by the lawful Legislature of the State, certified as required by law.

Thirdly. Whether the election was conducted according to law, and was free, or attended by circumstances that would make it invalid, such as bribery, fraud, or intimidation.

The Senate has no power to inquire whether individual members of the Legislature have been lawfully elected, because each house of the Legislature is invested with like power to judge of the election and qualifications of its own members. It is contrary to the policy of the law to permit a court to inquire whether a statute properly certified was enacted through bribery, but such an inquiry bears no analogy to the question whether the Senate may inquire as to the election of its members, for which purpose it is vested with express power.

The power of the State Legislature is exhausted when it has elected a Senator, and it has no right at the same or at a subsequent session to annul its action from any cause and hold a new election. If the State Legislature could afterward annul an election of Senator and hold a new one, membership in the Senate would not be under the control of the Senate, but of the several States, and the Senate would not be the judge of the election of its own members. And if there be no power either in the Senate or in the State Legislature to inquire whether an election has been procured by bribery or fraud, then the evil would be irremediable, however gross and wicked the instance; and if such be the position of the Senate, it is perhaps the only legislative body in the civilized world in such a helpless condition.

In the case of Asher Robbins, from Rhode Island, referred to by Mr. Caldwell, the only question was whether he had been elected by the lawful Legislature, and there was no question of bribery or misconduct in the case, and the reference to bribery in the report of the committee was only by way of argument.

To show in this connection the real character of the transaction with Mr. Carney, which Mr. Caldwell says is "admitted upon the record," I quote the following extract from the report of the committee:

"It is testified by Mr. Len. T. Smith, a former business partner of Mr. Caldwell, his active friend at the time of his election and during this investigation, that he made an agreement with Thomas Carney, of Leavenworth, by which, in consideration that Mr. Carney should not be a candidate for United States Senator before the Legislature of Kansas, and should give his influence and support for Mr. Caldwell, Mr. Caldwell should pay him the sum of $15,000, for which amount notes were given, and afterward paid, at the same time taking from Mr. Carney a written instrument, in which he pledged himself, in the most solemn manner, not to be a candidate for the office of Senator in the approaching election.

"This instrument is in the words following:

"'I hereby agree that I will not under any condition of circumstances be a candidate for the United States Senate in the year 1871 without the written consent of A. Caldwell, and in case I do, to forfeit my word of honor hereby pledged. I further agree and bind myself to forfeit the sum of $15,000, and authorize the publication of this agreement.

"'THOS. CARNEY.

"'TOPEKA, *January* 13, 1871.'

"Mr. Smith's testimony is fully corroborated by that of Mr. Carney, who admits the execution of the paper, the making of the arrangements, the taking of the notes, and the subsequent receipt of the money. The notes for the money were signed by Mr. Smith, but paid by Mr. Caldwell; and one of them, for $5,000, was made contingent upon Mr. Caldwell's election. The substance of the whole agreement, only a part of which was expressed in the writing, was that Mr. Carney should not be a candidate for the Senate against Mr. Caldwell, that he should use his influence for Mr. Caldwell, go to Topeka, meet the Legislature, and do all he could to secure his election."

The committee have recommended to the Senate the adoption of the following resolution:

"*Resolved*, That Alexander Caldwell was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Kansas."

The ground upon which bribery and intimidation invalidate an election is that they impair "the freedom of elections." Rogers, in his Treatise on the Law and Practice of Elections, speaking of the action of the House of Commons, says:

"Bribery, essentially affecting the freedom of elections, they took cognizance of, and punished both the electors and the elected offending."

Again:

"But numerous instances have not been wanting in more modern times, in which the court of king's bench have, by the rigor of their punishments, vindicated the freedom of elections. Informations and indictments at the common law, as well as indictments on the statute of 2 George II, chapter 24, have there been prosecuted, not only by private individuals, but by the attorney-general, by order of the House of Commons. To bribe a voter is not only an infringement of parliamentary privilege, it is more, a high misdemeanor and a breach of the common law.

"The opinions of the wisest and most honest statesmen embodied in the resolutions and standing orders of the house had been set at defiance, and the first and best principle of the constitution, the freedom of election, was daily and unblushingly violated."

Cushing, in his work on the Law of Legislative Assemblies, says:

"The great principle which lies at the foundation of all elective governments, and is essential indeed to the very idea of election, is, that the electors shall be free in the giving of their suffrages. This principle was declared by the English Parliament in regard to elections in general, in a statute of Edward I, and with regard to elections of members of Parliament in the Declaration of Rights. The same principle is asserted or implied in the constitutions of all the States of the Union.

"Freedom of elections is violated by external violence, by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented in either of these ways from the free exercise of their right, the election will be void, without reference to the number of votes thereby affected."

Again:

"The freedom of election may also be violated by corrupting the will of the electors by means of bribery, as well as by intimidating or preventing them by external violence from exercising the right of suffrage."

Again, speaking of bribery, he said:

"It is an offense of so heinous a character, and so utterly subversive of the freedom of election, that when proved to have been practiced, though in one instance only, and though a majority of unbribed voters remain, the election will be absolutely void."

Whatever impairs the freedom of elections is illegal and against public policy, and makes the election void. Intimidation and bribery are not the only practices that impair the freedom of elections. They are only instances, perhaps the most common heretofore, but may not be hereafter. There is no difference in principle between buying votes and buying influence. To employ persuasion and argument to secure votes is legitimate; but buying off opposing candidates goes much further. That is not only the purchase of influence, but of that power which a man has over his particular friends, springing from political and social relations. We know from observation what power a political leader has over his friends and followers who have been for years devoted to his political fortunes—how they enter into his resentments and attachments, and when he is forced off the stage how bitterly they feel toward those who have forced him off, and how naturally they go with him to the support of another who is represented as his friend.

It is a matter of frequent occurrence that the result of senatorial and other elections is determined by the withdrawal of a candidate and casting his influence in favor of another, thus transferring a body of friends sufficient to secure his election. This is of more frequent occurrence than bribery, and generally far more effective. It is also far less troublesome and dangerous than the bribery of individual voters. The purchasing party has but one man to deal with instead of many, and that man, to have friends who are worth buying, must be a man of some character, and equally interested in keeping the secret. While such an operation is more effective and dangerous than the bribery of individual voters, it also involves more turpitude. The vendor of his friends and influence is betraying and making merchandise of those sentiments of attachment and devotion to him which are honorable to human nature and serve to elevate and relieve political contests from sordid selfishness and ambition, and the purchaser knows he has obtained votes under false pretenses, and that he has bought them just as effectually as though he had paid the bribe to them, although the purchase-money has been paid to another. Such a transaction is within the very definition of bribery as given by Sheperd in his Treatise on Elections, page 94:

"Bribery at an election is the creation or the attempt to create an undue influence over the disposition of suffrages by a lucrative consideration, or a voluntary subjection to such influence."

It is an "undue influence" over suffrages obtained for a lucrative consideration paid to another. As stated in the report:

"If it were legitimate for Mr. Caldwell to buy off Mr. Carney as a candidate, it was equally legitimate to buy off all the other candidates and have the field to himself, by which he would exert a *quasi* coercion upon the members of the Legislature to vote for him, having no other candidate to vote for."

It is in the broadest sense "undue influence" over suffrages, exerted for a "lucrative consideration," and none the less so because the persons upon whom exerted were ignorant of the character of the transaction. It is bribery in the wholesale, rather than retail, for the bribe is paid to a man who, from his peculiar relations to a number of voters, can in all probability control their action.

This sort of "undue influence" was recognized in England as being more extensive and more dangerous to the freedom of elections than the purchase of individual votes. I quote again from Sheperd, on page 97:

"Besides the practice of purchasing individual votes, there sprung up a system of corruption far more extensive, in which the commanding influence in a borough was transferred, either for a sum of money paid down at once, or, with a more accurate calculation of traffic, for an annual payment during the continuance of Parliament; the sitting member thus purchasing the return of him who had previously purchased the power of returning. To repress this practice the 49 George III, chapter 118, was passed, by which it is made highly penal to enter into any pecuniary engagement for procuring the return of a member of Parliament."

This is but another definition of a practice which impairs the freedom of elections, and invalidates an election upon the same principle as bribery of the individual voters.

The principles of the common law are applicable in all civil matters touching the validity of elections or the tenure of office, and it is a well-established principle of the common law that whatever impairs "the freedom of elections" is illegal, against public policy, and will make the election void. Particular forms in which this is done, such as bribery and intimidation, are punishable by statutes in England and nearly all the States; and in England the further form of purchasing the influence of persons who are not candidates themselves, for the return of members of Parliament. But the absence of a statute punishing these several practices impairing the freedom of elections in nowise affects the operation of the general principle touching the validity of elections.

Sheperd, in his treatise, says:

"The bribery act makes no mention of any parliamentary disqualification affecting a member's seat; the effect, therefore, of an act of bribery not within the words of the treating act of 7 William III, chapter 4, is in that respect determined by the law of Parliament as follows: 'Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election.'"

Mr. CARPENTER. If it will not annoy my friend, I should like to ask him at that point whether he has any common-law authorities laying down that doctrine which do not refer to and rest upon the statutes of England.

Mr. MORTON. I hope my friend will allow me to get through with this portion of my speech without interruption.

Mr. CARPENTER. I beg pardon. The Senator asserted that that was the common-law doctrine, and I simply wished to know whether he had found any cases.

Mr. MORTON. I have quoted several very high common-law English authorities on the subject. It has never been held in England or this country that the effect of bribery, in making an election void, depended upon the existence of a statute punishing it as an offense. On the contrary, as stated by Sheperd, it invalidates an election by operation of the ancient law of Parliament.

But if the transaction I am considering was not technically bribery, yet that is immaterial, for it is "undue influence," even more dangerous to the freedom of elections than the purchase of individual votes, and partakes of the same general nature, for it is begotten by a corrupt money consideration. In England bribery was held to invalidate the election of a member of Parliament long before there was any statute punishing bribery, upon the general principle that it impaired the freedom of elections, showing that its effect, in invalidating an election, does not depend upon the fact that it has been made punishable by statute as a penal offense; and so a corrupt contract with an opposing candidate for the Senate, by which he is to withdraw from the canvass and cast his influence for another, must be held to have the same effect in invalidating the election as though the transaction was made punishable as a criminal offense.

Bribery may be said to bear the same relation to an election that fraud does to a contract, but if there be a difference it is that it is more fatal, and that a smaller ingredient will have the effect to destroy the life of the election, because the purity and freedom of elections are vital to the existence of every elective form of government.

Said the court of king's bench, in Rex *vs.* Pitt, (Burrows, 1338:)

"Bribery at elections of members of Parliament must always have been a crime at common law and punishable by indictment or information."

There are, however, no traces of any prosecution for bribery at elections till after the legislature inflicted particular penalties upon it.

Rogers, in the treatise referred to, says:

"Bribery, as we have seen, had always been a misdemeanor at common law, and a violation of the privilege of Parliament; but the above statute [the bribery act] armed courts of law with new and extraordinary powers to attack the growing evil by attaching a penalty of £500 on every conviction of an offense against its provisions, and by disqualifying the offender from ever again voting in any election for members of Parliament."

Sheperd, in his Treatise on Elections, says, speaking of bribery:

"Though it was always an offense at common law, it is thought that no prosecution for this species of bribery took place until the bribery act, for which the jealousy of the Commons in regard to their privileges sufficiently accounts. As soon, however, as the Commons began to rise in importance, and a seat was considered of sufficient political value to be purchased, they were not slow to discover and attempt themselves to repress the pernicious consequences of such corruption."

The general policy and provisions of the laws of England in regard to corruption in elections are embodied in the constitution and laws of all the States, and bribery made to invalidate every election into which it enters. The doctrine that the bribery of a single voter will vitiate an election, although the candidate may have a majority of unbribed votes, is a necessary consequence of the principles I have considered, and indispensable to the protection of the freedom of elections. If the candidate who has been fraudulently elected is entitled to maintain his seat, unless it can be shown that his whole majority was corruptly procured, the operation of the principles I have considered will in most cases be defeated, for although he be shown to be guilty of corruption and unworthy of a seat in any legislative body, yet he has the chances largely in his favor that it cannot be shown to have extended to his whole majority. Corruption in an election may be compared to a drop of fatal poison injected into the human system, which circulates into every part and destroys every function. The man who has purchased one vote has shown himself willing to purchase all, and that his corrupting influence has been limited only by his means or his necessities.

The Constitution declares that "each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member." The causes for which a Senator may be expelled are not limited or defined, but rest in the sound discretion of the Senate. The position taken by Mr. Caldwell, that a Senator can be expelled only for causes arising subsequent to his admission, is not sustained by the reading of the Constitution, by any rule of construction, or by authority.

In this case, the Senate would have the right to proceed either way, if it finds Mr. Caldwell guilty of the charges preferred against him, or any of them: first, by declaring his election invalid, which would require only a majority vote, or by a resolution of expulsion, which would require a two-thirds vote.

The power of expulsion is absolute. It has the definition of an absolute power, for it is not limited in the clause creating it, and there is no tribunal by which its exercise can be reviewed or reversed. It should be exercised with sound discretion, and the security against its abuse consists in the fact that it requires a two-thirds vote. It should undoubtedly be exercised within certain limits and under certain moral restraints; but each case, perhaps, would depend upon its own peculiar character.

As it is a power to be exercised within the sound discretion of the Senate, that exercise may be for causes arising before the election, as well as after, and for any cause which in the sound discretion of the Senate would make it improper for a man to continue to be a member of the body.

It is admitted that the Senate may expel a member for a crime committed during his membership, although it has no connection with his official duties or his position of Senator, upon the ground that his presence in the Senate degrades the body, and that he has shown himself unworthy of public trust and unfit to be associated with honorable men. But do not all these reasons exist with equal force for expulsion where the crime was committed before admission to the Senate, but was not discovered until afterward?

It has been argued that if the Legislature of a State elect a known criminal to the Senate of the United States, it is their business, and the State has a right to be represented by a criminal if she desires to be, and the Senate must receive whomever the State sends as Senator. I dissent from this doctrine. The Senate has a right to protect itself against the admission of a criminal, although the Legislature electing him was indifferent upon the subject or chose him for that very reason. The propriety of exercising the power might be more doubtful if the criminality of the member were known at the time of his election, for it might be argued that the members of the Legislature did not believe the charge to be true, or that the offense was mitigated or had since been condoned.

The power to expel a member is incident to every legislative body, because it is necessary to its protection and character, and this power exists, although the constitution or law creating the body does not confer it in terms. The former constitution of Massachusetts contained no clause authorizing either house of the Legislature to expel a member for any cause. But it was held by the supreme court of that State, Chief-Justice Shaw, one of the ablest jurists who ever sat upon the bench in this country, delivering the opinion, that the power of each house to expel a member existed as a necessary and incidental power, and that each house must be the sole judge of the exigency which may justify and require its exercise. I quote from the decision, which will be found on page 473, in the third volume of Gray's Massachusetts Reports:

"The power of expulsion is a necessary and incidental power to enable the house to perform its high functions, and is necessary to the safety of the State. It is a power of protection. A member may be physically, mentally, or morally wholly unfit; he may be afflicted with a contagious disease, or insane, or noisy, violent, and disorderly, or in the habit of using profane, obscene, and abusive language.

"If the power exists, the House must necessarily be the sole judge of the exigency which may justify and require its exercise.

"As to the law and custom of Parliament, the authorities cited clearly show that the jurisdiction to commit, and also to expel, has long been recognized, not only in Parliament, but in the courts of law, for the purpose of protection and punishment. I here confine myself strictly to the law of personal privilege from arrest. There has been much debate upon abuse of power and excess of claim of privilege, but the power to commit or expel has been uniformly admitted."

But the reasoning as to the propriety of expulsion for an offense committed before admission to the Senate, and wholly disconnected with the election, falls to the ground when you come to consider a case where the offense has been committed in connection with admission to the Senate; where it is the very means by which admission is obtained; where the offense is the stepping-stone to the Senate.

The distinction is radical between such a case and that of an independent crime committed long before the election and having no connection with it whatever. In the latter case the offense goes only to the man's character and his fitness to be a member of the Senate; but in the former it goes not only to his character and fitness, but to his title to the office; and the power of the Senate to examine the matter and adopt the proper remedy is expressly given by that clause of the Constitution which authorizes the Senate to judge "of the election of its members." If this clause does not confer this power, then it is nugatory, for all the other powers are given in the preceding clauses, which authorize the Senate to judge of the qualifications and returns of its members. The Constitution authorizes the Senate to judge of three things concerning its members: their qualifications, returns, and elections; but the doctrine contended for by Mr. Caldwell in effect strikes out the last, and limits the Senate to the exercise of powers which come under the head of qualifications and returns.

To say that the Senate cannot expel a member for a cause arising before his election, when that cause was the very means of the election and brought it about, seems to be very unreasonable, and is to say in effect that, if the crime has a favorable result, and the perpetrator of it enters upon the enjoyment of its fruits, he is by that very fact exonerated from any inquiry into its character and protected in his guilty possession.

For example, suppose a man secretly procure the opposing candidate to be poisoned, and thus secure his election, and afterward the crime become known; or suppose he secretly procure his opponent to be kidnaped, and, the sudden disappearance being unaccounted for, he thus obtain the election; or suppose he procure his opponent to be arrested upon false charges of crime, and thus for the time being disgrace him and break him down, and thus obtain his election; or suppose he procure his election by the most monstrous frauds, by intimidation, by gross bribery, by buying off the opposing candidates, or by other dishonorable and illegal means, and slip into the Senate before his offenses are discovered—shall it be said that the success of his crimes and their successful concealment for the time shall become their constitutional protection, and that he may hold on to the seat which he has thus illegally and fraudulently obtained?

Mr. President, bribery is from its very nature hard to prove. Bribery in matters of election by members of a legislature, who are to be presumed to be men of some character and standing, who have at least some ambition to preserve a good name—bribery upon their part you must suppose will be concealed by every means in their power; and we need not be surprised if men who receive bribes deny it under oath.

Mr. GARLAND. That is all of the speech of Senator Morton, who made the report in the Caldwell case, that I care to incorporate here. The rest of his speech on that occasion referred mainly to the testimony in that case; but in a subsequent speech in that debate, to be found on pages 48 and 49 of the same volume of the RECORD, Mr. Morton said:

Mr. President, by leave of the Senator from Illinois, [Mr. LOGAN,] who is entitled to the floor, I will this morning, in answer to a question asked me yesterday in debate, and I believe the day before also, read some authorities upon the question whether bribery was an offense at common law before the enactment of any statute punishing it, and whether the seats of members of the House of Commons had been declared vacant on account of bribery before any statute had been passed

upon that subject. With the indulgence of the Senate I will read very briefly some authorities upon that point.

I read first from Rogers's Law and Practice of Elections. It is an English work, I believe of the highest character upon this subject, published in London as long ago as 1837. Mr. Rogers says:

"But numerous instances have not been wanting, in more modern times, in which the court of king's bench have, by the rigor of their punishments, vindicated the freedom of elections. Informations, and indictments at the common law, as well as actions upon the statute of 2 George II, c. 24, have there been prosecuted, not only by private individuals, but by the attorney-general, by order of the House of Commons. To bribe a voter is not only an infringement of parliamentary privilege: it is more—a high misdemeanor and breach of the common law.

"The first time the subject of bribery appears to have been brought before the house was in the reign of Elizabeth.

"One Thomas Long gave the returning officer and others of the borough of Westbury four pounds to be returned member. For this offense the borough was amerced, the member removed, and the officer fined and imprisoned."

I have here Coke's Institutes, in which that case is quoted, and I will read an extract from it:

"Thomas Long gave the maior of Westbury four pound to be elected burgesse, who thereupon was elected. This matter was examined and adjudged in the House of Commons *secundum legem et consuetudinem parliamenti*, and the maior fined and imprisoned, and Long removed: for this corrupt dealing was to poyson the very fountain itself."

That was the first case, and was nearly a hundred years before any statute was enacted punishing bribery.

Mr. Rogers further says:

"But it was not until the end of the reign of Charles II that corruption at elections prevailed to any great extent.

"In the year 1669 a bill 'to prevent abuses and extravagances in electing members to serve in Parliament, and for regulating elections,' was thrown out.

"In the Bewdley case, 1676, the committee of privileges and elections reported that Mr. Foley, one of the candidates, had been guilty of bribery. The house passed two resolutions, one declaring Mr. Foley's election to be void, and the other seating his antagonist, Mr. Hobart.

"In 1677, the treating resolution passed, and in the year following was made a standing order of the house. By that resolution, for a candidate to give any person having a voice at an election meat, drink, or present or gift, after the teste of the writ, was declared to be bribery, and to be a sufficient ground for the avoiding the election as to every person so offending."

That was a mere resolution of the house declaring what would be the action of the house in such a case. It was not a law, and did not become a law until a great many years afterward.

"In 1680 a bill to prevent the offenses of bribery and debauchery connected with election proceedings was thrown out."

Parliament refused to pass it.

"In 1689 a bill to prevent abuses occasioned by excessive expenses at elections of members to serve in Parliament, having been read once, was also thrown out. This was the year in which the Stockbridge case was determined, which, being considered to be of a very gross nature, it was proposed for the borough to be disfranchised. The case of Mitchell and Wootton Bassett followed, in the year 1690; the cases of Chippenham and Aylesbury in 1691, and the second Stockbridge case in 1693, in each of which, bribery being proved against the sitting member or members, the elections were avoided."

Mr. CONKLING. Will the Senator stop there one moment while I ask him whether the last case he read was antecedent to the order of the House of Commons which preceded the statute?

Mr. MORTON. No, sir; it is subsequent. The resolution of the house was passed in 1677; was simply made a standing order of the house, as it was called, but was not a law; and another authority shows that it was a declaration of the line of action that the house would adopt in such cases.

"How general had become the system of corruption, and how insufficient the existing laws and resolutions to arrest its progress, is fully proved by the glaring examples just cited, following each other in such rapid succession. Those who had opposed the bills of 1669, of 1680, and of 1689, now found themselves called upon to adopt a different line of conduct. The opinions of the wisest and most honest statesmen, embodied in the resolutions and standing orders of the house, had been set at defiance, and the first and best principle of the constitution, the freedom of election, was daily and unblushingly violated. Taking, therefore, the treating resolution of 1677 for its basis, the house, in 1696, passed the 7 William III, c. 4, now generally known by the name of the treating act"—

making it an offense to give meat or drink to a man who had the right to vote; and that was the first enactment ever passed by the British Parliament upon the subject.

"Hitherto treating has been considered as a species only or mode of bribing. Since the act of William, however, treating and bribery have usually been considered as separate charges and distinct grounds of petitioning. First, then, of bribery, properly so called.

"A candidate or other person is said to be guilty of bribing, if, 'by himself, or any person employed by him, he doth or shall, by any gift or reward, or by any promise or agreement, or security for any gift or reward, corrupt or procure any person to give his vote, or to forbear to give his vote, in any such election.' Such is the definition which is given of bribery in the statute 2 George II, c. 24," which was the first act ever passed punishing bribery, and that was passed in 1727. Mr. Rogers goes on to say:

"This statute, however, did not create the offense; bribery, as we have seen, had always been a misdemeanor at common law, and a violation of the privilege of Parliament; but the above statute armed courts of law with new and extraordinary powers to check the growing evil, by attaching a penalty of £500 on every conviction of an offense against its provisions, and by disqualifying the offender from ever again voting in any election for members of Parliament."

Not only this authority, but Sheperd lays it down distinctly that the power of the House of Commons to declare an election void upon the ground of bribery is not affected by the statute at all, but grows out of the principles of the common law.

Now I will refer to a case that I referred to the day before yesterday, in Burrows——

Mr. SHERMAN. I wish to ask my friend from Indiana a question upon the very point he is now discussing, especially in connection with a quotation from Sheperd, used by him in his remarks the other day. The quotation that I refer to is this:

"Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election."

I wish to ask him whether he finds in our own parliamentary history in either House of Congress, or in England, any particular case where the bribery of a particular person, though it did not affect the election, or did not control the election, unseated the member. Must not the bribery extend to a sufficient number of votes of the constituent body to affect the result? That is the question upon which I desire information.

Mr. MORTON. I will state that in all these cases no reference is made to the number of votes that had been purchased. It is never put upon that ground, but it is put upon the ground expressed by Lord Coke, that bribery poisons the whole fountain. The effect of bribery in avoiding an election is never put upon the number of votes that have been bribed, but simply upon the act as poisoning the whole election: to use the language of Lord Coke, poisoning the whole fountain; and it has been compared by another author to fraud in a contract. What fraud is to a contract, bribery is to an election.

Mr. SHERMAN. In the House of Representatives there are many cases—I do not know whether cases of bribery, but many cases of fraud in elections; but unless the frauds in the election go to a sufficient extent to affect the majority of the elected candidate, they are governed by the actual number of legal votes cast, although frauds, violence, intimidation, and perhaps bribery may have entered into it. That is the point I want to get at, whether there is any distinction in parliamentary law between fraud and bribery.

Mr. MORTON. I am not prepared to answer that question any further than this: I consulted with the chairman of the Committee on Elections in the House, who, I believe, has been the head of that committee for many years, and he told me there had been no case of bribery arising in the House with which the candidate was connected. I think he said he did not doubt but that the law would be in the House, as it is in England in a case of bribery with which the candidate or sitting member was connected, to invalidate the election.

Mr. President, I will read an authority from Lord Mansfield. This decision was made in 1762. In this case the prosecution was based on the common law, not on the statute of George II, and a motion was made for a nonsuit, upon the ground that the case should have been brought upon the statute, and not upon the common law. Lord Mansfield said:

"Bribery at elections for members of Parliament must undoubtedly have always been a CRIME *at common law*, and, consequently, *punishable* by *indictment* or *information*. But the action of 2 George II, c. 24, has introduced a *very severe penalty* in order to *enforce* the laws then already in being, and because they had *not* been *sufficient* to prevent the evil."

He then goes on to quote the statute, and after that he says:

"This crime certainly still *remains* a crime at *common law*. The Legislature never meant to *take away* the common-law crime, but to *add* a penal action."

There is more of it, but that is sufficient to explain its character.

Now I come to the statement that my friend read from Sheperd just now, and I will detain the Senate for a moment by calling his attention to a passage in the argument read by Mr. Caldwell yesterday, which, I suppose, it would be no breach of etiquette to say must have been prepared by a lawyer, not by himself; he does not claim to be a lawyer. He makes the statement that there is no case where a member of Parliament had been expelled before the enactment of the statute punishing bribery. His lawyer ought not to have made such a statement, because it is directly in conflict with what he ought to have known was the law. But he makes another statement:

"English statute-law provides that 'bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election and disqualify him for being re-elected to fill such vacancy.'"

The passage is put in quotation marks as being taken from an English statute. There could scarcely be an excuse for this. He refers to Sheperd, page 103. Now, I will read that. The fact was, that Sheperd said that the power of the House of Commons over the election did not depend upon the statute law at all, but depended upon the law of Parliament, and then he gave the law of Parliament, which is quoted here as the statute. Says Sheperd:

"The bribery act makes no mention of any parliamentary disqualification affecting a member's seat; the effect, therefore, of an act of bribery not within the words of the treating act, act of 7 William III, c. 4, is in that respect determined by the law of Parliament, as follows: 'Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election and disqualify him from being re-elected to fill such vacancy.'"

Here Mr. Sheperd expressly states that the power of the house to declare an election void does not depend upon the statute, but depends upon the law of Parliament; but Mr. Caldwell's counsel just reverses it, and he says that the statute of England says so and so in regard to bribery avoiding the election, which is the particular point which Mr. Sheperd was contradicting.

There are several other authorities which I thought I had here, but I have left them on the table in my committee-room. Perhaps I shall have occasion to read them afterward, as the debate progresses. This is all I intend to say this morning.

This position of Mr. Morton in his report and in those speeches was contested by eminent Senators at that time. I recollect distinctly having read speeches of the Senator from New York, [Mr. CONKLING,] of the Senator from Delaware, [Mr. BAYARD,] and others, who opposed the proposition advanced by Senator Morton, and it is due to truth to state that the report was never acted upon, and it is still further true that Mr. Caldwell resigned and quit this body.

I give the report of Mr. Morton and his speeches for what they are worth. They are absolutely convincing to my mind, and for that reason I use them literally. I say with Mr. Morton that the Senate can by a majority vote vacate the seat of a Senator here for bribery in procuring his election. Mr. Morton's speech draws the distinction clearly and conclusively to my mind between the power to expel by a two-thirds vote after a Senator has become connected with the body and the power to go back to the original fountain of his seat here, the election, and vacate it because the election was corrupt, and therefore was not an election at all within the meaning of the law.

This inherent power, outside of the power of the Constitution, which every deliberative assembly has, to say that a man is a proper person to sit in the body, was placed in the Constitution out of abundant caution to put it beyond interference by any other department; and this power the Senate can never surrender; it always possesses the right to go back and see whether the real foundation, a free election, exists, and it does not go to the point that a Senator's term shall last six years unless a majority of the Senate shall determine otherwise. I say a majority of the Senate may determine that the election is illegal because they are to judge of the election. By all the authorities it is illegal and ought not to contribute to the composition of the body if it was effected by bribery. That is the proposition.

Now we come to the question, has there been by the sitting Senator, directly or indirectly through his agents, with his knowledge and consent, a use of these improper means to obtain the seat?

Mr. EDMUNDS. May I ask the Senator a question merely for information, not to argue it?

Mr. GARLAND. Certainly.

Mr. EDMUNDS. Do I understand the Senator to say that if in the case of the election of a Senator who had if you please 25 majority in the Legislature it appeared that he had bribed one member, that would render the election illegal?

Mr. GARLAND. Most indisputably. It prevents a free election, and I read the authority of Senator Morton for that position in this Senate in response to a question put to him by the Senator from Ohio, Mr. Sherman.

Mr. EDMUNDS. May I ask if there is not in the same book considerable authority of the same dignity the other way?

Mr. GARLAND. The Senator would not have asked me that question if he had been here and heard me before. I stated by name the Senators who opposed that view of the case, and I have quoted the language of Mr. Morton as I use coin, for the value that is contained in it and not for the stamp or the figure or the impress upon it. It is coin that has not been battered away, in my judgment, by any Senator who contended against it on the floor. The reasoning is unanswerable if there is anything like free election in this country.

Then we come to the question, Has there been the exercise of this influence in the procuring of this seat? Now I ask the Senator from North Carolina [Mr. VANCE] to read a summary of the testimony that he has in his speech in the RECORD.

Mr. VANCE read as follows:

On the subject of bribery, before I pass from it, let me briefly refer to the testimony. The bribery of Blackstone, and of De Lacy, and of Milton Jones, and of J. J. Johnson, and of A. Milson, all members of the Packard legislature, is proven by their own confessions as contained in their affidavits and in divers declarations to other men. Souer's testimony, a member of the Legislature, and the intimate friend of Governor KELLOGG and the confidential agent of that gentleman up to this present time, as we see by the telegraphic cipher dispatches—Souer's testimony, from pages 1123 to 1124, shows that the Legislature, being unable to draw any money from the treasury of Louisiana, was kept together by advances made by him, and that he selected the poorest and the most dependent ones to make his advances to; and he admits that he did so for the purpose of keeping them together and promoting the interest of the republican party. If you will read that testimony carefully, you will find, in my opinion, sufficient to establish the proof of the bribery of these men by it alone.

As to the bribery of Senator Twitchell, read the testimony of Garrett, page 809, who likewise had a habitation in this very custom-house at one time.

Mr. KELLOGG. I should like to ask the Senator what he is reading from.

Mr. VANCE. I am reading from my own speech delivered a few weeks ago, at the request of the Senator from Arkansas.

Mr. KELLOGG. What page?

Mr. VANCE. The RECORD of the 5th of May, 1880, page 9:

As to the bribery of Senator Twitchell, read the testimony of Garrett, page 809, who likewise had a habitation in this very custom-house at one time. Twitchell is now consul in Canada. And Twitchell, as the other members of the committee say, proves his own innocence by his own oath; that is to say, the man charged with the crime comes into court and purges himself by stating that he is not guilty! Twitchell denies that he was bribed, and that ought to be satisfactory it is thought by the other side, but Twitchell unfortunately had made admissions to other men, many others; he made admissions to Francis Garrett that he had received this bribe, or rather Garrett saw the bribe passed over to him. Garrett says he was in the room when the money was passed.

As to acknowledgment of the bribery of Milton Jones, read the testimony of Cavanac, page 993, and as to the bribery of De Joie and Stamps, see the testimony of Flanagan, pages 599 and 600. As to the bribery of Dickerson, see the testimony of Dreifus, page 668, and Cavanac, page 926. As to the bribery of C. F. Brown, see Cavanac's testimony, page 926. As to the bribery of Simmes, McGloire, and Robert Johnson, see Murray's testimony, page 117. As to the bribery of Percy Baker, see Carnoy's testimony, pages 453 and 454. As to the bribery of the Packard legislature generally, see De Lacy's testimony, pages 152, 153, and 154, and Watson's affidavit, page 334.

Mr. GARLAND. Mr. President——

Mr. KELLOGG. I ask the Senator from Arkansas to allow me to make a single remark. The Senator from North Carolina has read an extract from his speech, on page 9 of the RECORD of May 5, in these words:

As to the bribery of De Joie and Stamps, see the testimony of Flanagan, pages 599 and 600.

This man Flanagan testified that he saw this money pass from a certain man by the name of Harris to De Joie, a member of the house, and Stamps, a member of the senate; but finally, on cross-examination, he admitted, just before he left the stand, that the transaction was in 1876, and not in 1877—a year before the election. Mr. Stamps was a commission merchant in New Orleans, and swore positively that he was not in the office at the time designated, and that no such transaction took place; and he is not in the custom-house, but is a business man. He is not impeached, and is unimpeachable. Mr. De Joie swore the same thing positively, and Mr. Harris, the man that Flanagan said paid the money, came from Kansas City, where he was a merchant, and swore before the committee positively that no such transaction took place.

As to the bribery of Simmes, McGloire, Robert Johnson—

Mr. Simmes is a member of the present Legislature of Louisiana, and was a member of the constitutional convention that sat last summer, and is a planter of Saint James Parish, who was never in the custom-house, and never held a Federal office. Mr. McGloire was a member of a Nicholls legislature from the parish of Avoyelles, was a planter, and never held a Federal office. Robert Johnson was a business man from Terre Bonne, elected by conservatives as well as republicans.

All three of these men swore positively that they never received any money, and contradicted absolutely and unqualifiedly the testimony of Murray, and Murray was impeached by democrats and republicans.

Then as to Garrett, who testified as to Jones; Jones swore that no such thing occurred, and I brought forward democrats, at the head of them the criminal sheriff of the parish of Orleans, John Fitzpatrick, who swore positively that Garrett's character was such and that he was so infamous that he would not believe him under oath. We have proved that he was an ex-convict; he had been arrested for horse-stealing in Missouri; we proved he had been sent down to the parish prison, and served nearly three months for larceny; that he had been dismissed from the custom-house at New Orleans for stealing one hundred and sixty dollars' worth of paints at the quarantine, and we covered him all over with infamy; and that is the only one man, except the man Baugnon whom he refers to, who swore that any money passed; and as to Baugnon we contradicted his testimony positively by democratic evidence. He said he saw money paid to Mr. Twitchell, and that a Mr. Flynn was present, and we contradicted it by Mr. Twitchell, who is consul at Kingston, and he was not appointed by my solicitation or intervention, but appointed nearly two years ago, and he swore unqualifiedly that no such thing took place. Besides we impeached him. That is all there is of this testimony, every iota.

Mr. CAMERON, of Wisconsin. Mr. President——

Mr. GARLAND. I cannot yield further.

Mr. KELLOGG. I ask gentlemen to point out a single instance except those I have named of any testimony of that kind.

Mr. CAMERON, of Wisconsin. Will the Senator from Arkansas allow me to make a single remark? I will not occupy a minute.

Mr. GARLAND. When I get through the testimony I will state all the crooks and cranks that in his estimation the Senator from Louisiana may think it worth while to affix, and the result will be to make the case for him worse than it was before.

Mr. CAMERON, of Wisconsin. I only wish to speak in regard to the bribery of Piercy Baker. All the testimony there was in regard to that was this: some witness swore that some time after the election Piercy Baker paid him a poker debt and he remarked that he made that money on the Kellogg election. He did not state that he received it for voting for KELLOGG; he did not state whether he made it by betting on the election or otherwise; but merely that he had made that amount of money out of the election of KELLOGG.

Mr. GARLAND. I called upon the Senator from North Carolina [Mr. VANCE] to read the epitome of the testimony he had heard, because he had been with the case from its inception as one of the committee. I have analyzed this testimony from the record, and I have an analysis of it here, which I will read to the Senate and make comments upon as I go along. There is no disposition on my part to do the sitting Senator from Louisiana any injustice. I will state in this epitome of the testimony that I have here all the cross-tracks and all the cross-firing there is upon the case. I have no disposition at all to wound the Senator in any way. He and I have been upon the same committee since he has been in the Senate, and our relations have been agreeable. This is an unpleasant duty, but nevertheless it is a duty. If the recording angel could drop a tear upon this whole volume and blot it out forever I should be glad; but it is here and demands inspection. I will now call the attention of the Senate to the analysis that I have made of this testimony upon this point, for this is the only point that I could take the time to address the Senate upon.

Joseph J. Johnson, page 55:

Deposition of J. J. Johnson, in which he swears that he received $200 for voting for KELLOGG, and that George Washington, a member from Concordia, also was paid money.

Afterward, on examination in committee, he denied the statements in the deposition, (see page 56,) but admitted that he borrowed $25 or $30 from Colonel Souer on his pay-warrants, and that he never returned it because the warrants were never paid.

Examined (page 58) in regard to deposition; admits that it was read to him, and that he signed it.

Now Thomas Murray, sergeant-at-arms of the house of representatives of Louisiana, testifies (page 92) that men showed him money paid them by Colonel Souer for voting for KELLOGG; some got as much as $200.

Upon page 93, more than one showed him money—from three to five.

Page 94, the following showed money to the witness, and said they got it for voting for Senator KELLOGG: "Sonny" Simmes, of Saint James; Magloire, of Avoyelles Parish; Robert Johnson, of Terre Bonne—$200 apiece.

Mr. KELLOGG. I ask the Senator from Arkansas if all of those three men did not come before the committee and swear that it was not true?

The PRESIDING OFFICER, (Mr. RANSOM in the chair.) Does the Senator from Arkansas yield?

Mr. GARLAND. I need not yield for the reason that that will all be stated. If the Senator's anxiety is not suppressed it may betray him into an uneasiness here that will reflect upon the real, clear, fair record that he ought to have. I do not mean to make it any worse than it is, or try to deviate from it. If he can explain it I will be perfectly satisfied.

On page 101 it appears that some twenty-odd ex-members of the Packard legislature were put in the custom-house since the 4th of March, 1877.

Murray reiterates (pages 115, 116, and 118) his statement concerning the payment of $200 to various members for voting for KELLOGG.

He says (page 130) that Thomas, of Bossier, who is recorded in the journal as present in the joint convention when the vote was cast for Senator, was not present, but was sick and at home.

Page 131: Knew he was sick; saw him in bed; had the small-pox, and afterward died.

A Mr. Watson (page 139) personates a member of Legislature (Thomas) and votes in his stead. Contradicted by W. John De Lacy, (page 150.) Watson denies above, (pages 324-334.)

Watson appointed as night inspector in the custom-house, (page 140.)

The names of the men whom witness saw Souer pay were George Washington, of Concordia, and his colleague, Anderson Tolliver, (page 143.)

Richard J. Brooks saw Thomas vote for United States Senator, (page 283.)

Murray wanted him to swear that he was bribed to vote for KELLOGG, (page 284.)

Charles F. Brown saw Thomas and Seveignes vote for KELLOGG, (page 296.)

John T. Fitzsimmons would not believe Murray on his oath, (page 791.)

It seems they do not any of them believe each other on oath, or any one that was concerned in that business down there. William John De Lacy, page 179, admits that he was promised $200 to vote for KELLOGG. Lewis F. Baugnon, on page 663, saw KELLOGG pay Senator Twitchell $300, and that it was on the promise that he would vote for KELLOGG.

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Vermont?

Mr. GARLAND. Yes, sir.

Mr. EDMUNDS. May I ask the Senator if he can state as he goes along in each case what person it is who makes these promises and payments, so that we can understand the force of the statement?

Mr. GARLAND. I will. G. L. Smith made the promise to which the Senator refers.

Mr. EDMUNDS. I suppose if myself or the Senator had made these promises it would not be absolutely necessary to crucify KELLOGG on that ground.

Mr. GARLAND. Possibly it would not. We shall see, though, after a while.

On page 665, Baugnon, examined by KELLOGG, says, "You (KELLOGG) just put it in his pocket.

Albert Bourges testifies (page 1000) that Baugnon's general character is not good; would not believe him on oath.

Albert W. Flanagan, (page 610,) affidavit of, in which he swears that Harris paid Aristide De Joie, a representative, $300 to vote for KELLOGG and that he saw same party pay T. B. Stamps, a State senator, $500 to vote for KELLOGG.

Witness identifies affidavit (page 608) as his and that statements in it are true.

Francis Garrett, (page 810,) concerning KELLOGG's transaction with Milton Jones. Jones admitted being paid for his vote—"Got a little but not much, and they had promised him some place in the custom-house, but they had gone back on him and fooled him."

Senator Twitchell said (page 811) there were not twenty votes that KELLOGG could get unless he bought them.

Jones said (page 811) he had the money in his pocket—that he had made him (KELLOGG) come down.

Senator Twitchell said (page 812) they had agreed and had the money, and the crowd was to vote for KELLOGG that day; * * * he had just seen KELLOGG again, and he had to pay out more money.

Milton Jones (page 906) denies that he ever got money for voting for KELLOGG.

Milton Jones's affidavit, (page 1236:) was paid money by Souer for voting for KELLOGG.

Jeremiah Blackstone, (page 1237:) KELLOGG gave him $1,000 to be used in promoting the election of persons who would vote for KELLOGG for Senator. After election on January 6, 1877, KELLOGG sent for him; met him in his private office in Saint Louis Hotel and gave him $1,000, which he used in buying votes for KELLOGG. KELLOGG promised him all the patronage in his district and that he should always be cared for.

* * * * * * *

After the election of KELLOGG to the Senate deponent was paid by Louis J. Souer $200 as extra compensation and for voting for KELLOGG.

On page 1120 Louis J. Souer denies this statement.

Mr. CAMERON, of Wisconsin. Will the Senator call attention to the fact that Blackstone in his testimony before the Senate denies that?

Mr. GARLAND. I have called attention to it. It is in this analysis.

Mr. CAMERON, of Wisconsin. I did not hear it.

Mr. GARLAND. If it is not, the Senator can put it in.

Mr. KELLOGG. Will the Senator also incorporate in his statement if it is not in (I did not understand him to read it) that not only did Blackstone deny it under oath, but every person mentioned in Blackstone's affidavit came forward and denied it under oath?

Mr. GARLAND. That I do not know to be the fact. If it is, however, it can go in with the statement.

Mr. KELLOGG. Every living man mentioned denied it, and none of them is in the custom-house either.

Mr. GARLAND. Senator Morton said in the case from which I read a little while ago that it was not unnatural for a man who had been bribed to sweat that he had never been bribed. We are now remitted to the question whether this testimony, taking it with all of its cross-firing and cross-tracks of the witnesses, is worthy of belief. It is said on the part of the sitting Senator and those who contend that he should be here that you cannot believe these persons on oath. Then more horrible and more frightful is the record explaining it, Mr. President, when we see here more of these persons than you can count upon your fingers and toes honored by the highest offices and the highest trusts. Yet they cannot be believed upon oath. Some of them have been confirmed by the Senate. All who are in the custom-house, if I understand the law, have to be confirmed and ratified by the Secretary of the Treasury, who is now a prominent candidate for the highest office in the gift of the American people. Horrible, horror beyond horror, the Senator from Louisiana rides upon these men to the Senate and turns upon them and says: "You were worthy to elect me to the Senate, but you cannot be believed upon oath in the Senate to which I go;" like the man who climbs to the place he occupies and kicks over the ladder that carried him up successfully. Saturn, cold and remorseless, perhaps hungry, turned upon his offspring and made a choice repast.

It may be true that this would be dangerous testimony to take into a court to convict men who had not been associated with that class of persons. There is a familiar maxim in the law which I wish to read now to the Senate as applicable to this case. You can never unkennel fraud except by the testimony of those who are participants in that fraud. You can never bring to light the horrid and hellish deeds of conspiracies except by the testimony of conspirators. You would never get a conviction in the Five Points of New York City unless you took the testimony of people who had their existence and breathing in such a place. As to all these dens, who but inmates can prove what has occurred there? Wharton in his Legal Maxims lays down:

Testis lupanaris sufficit ad factum in lupanari:
A strumpet is a sufficient witness to a fact committed in a brothel.

He cites the Reports of Moor. I have taken the pains to go back and get that original case. It is in a language that I am not so familiar with as I am with the English language, and I have had it translated; and I ask the Secretary to read it, if he pleases.

The Chief Clerk read as follows:

[From Moor (Fr.) cases collect and report.: 2d ed., London, 1688; pp. 816, 817.]

SIR ANTHONY ASHLEY'S CASE.

In this term, Michaelmas, in the year 9th James, in the Star Chamber, a great case was tried: Sir Anthony Ashley, knight, plaintiff, and Sir James Creiton, knight, and divers others defendants, for conspiring to accuse the plaintiff of murder committed sixteen years before in the poisoning of one Rise, and that some of the defendants, (to wit,) Henry Smith and Jane, the wife of Rise, should be the witnesses of the murder, and Sir James Creiton, being a Scotchman by birth and one of the esquires of the king's service, should beg of the king the forfeiture of his goods and lands, that he might make recompense to the other defendants, and articles were drawn up, whereby Sir James agreed that one Cantrel should have the sixth part of all that he obtained from the king, and Cantrel covenanted to procure witnesses and also the particulars of the lands and the goods. And Sir James gave £8,000 bonds for the performance of these articles, which articles were for the advantage of Smith, and the name of Cantrel was used in trust for him. Smith being the party who should accuse Sir Anthony and himself also, (to wit,) that he being a servant to Sir Anthony, Sir Anthony put poison in a cup with the drink, and commanded Smith to carry this to Rise, that he did accordingly, and that Rise from this died immediately; and it was proved that Sir James offered to Smith to obtain his pardon if he would accuse Sir Anthony and himself also; and moreover offered him protection against his creditors and £500, for which Smith caused an indictment to be made against himself and Sir Anthony, and sent a petition to the king in which he made known the accusers of Sir Anthony, and prayed for mercy for himself, besides giving other matters and circumstances relative to the conspiracy. For which Sir James was fined £1,000, and committed to prison. And Horning, another of the defendants, was condemned to the pillory and burnt with a hot iron on both his cheeks, on the one with an "F," on the other with a "C," (that is) signifying "a false conspirator." And Thomas Hampton, Jane Dudley, Cantrel, Sterling, and others were sentenced to £300 fine, pillory besides, and imprisonment. And note that in this case the lord chancellor cited divers precedents in this court of censures for conspiracies and false accusations to the danger of the life of the party. As in 36 H. 8, a priest was fined for a false accusation. In 41 Eliz., one Wood, who was a physician conspiring to accuse one Talbot of wishing to poison the Count of Salop, own brother of Talbot. The wife of Fowler conspired with Gascoigne and Eymes to accuse Fowler of high treason. One Lovelace accused another in letters from Venice, the paper being discovered by the mark of Spelman to be an English paper and not Venetian. Munck's case was cited from the Inner Temple, who was accused of a robbery by Pye, and on this was indicted and arraigned and found not guilty, and Pye was condemned to lose his ears upon the pillory, year 3d of King James. Sheppard accused one Hamersley of a felony committed twenty-eight years before in stealing a sheet; he was indicted for this, and arraigned and found not guilty, for which Sheppard was condemned to the pillory, &c. In this term occurred Stone's case against the Poulterers of London for accusing him of a robbery for which they preferred an indictment at Chlemsford and Essex, and gave testimony, and the jury found an *ignoramus*, yet for this conspiracy they were fined in this court, 8th year of James.

And note many things: 1. That in such accusations there should appear apparent malice or corruption. 2. That although an *ignoramus* should be found yet the conspiracy is finable here. 3. *Legitime acquietatus* [though settled in law] it is yet finable in the Star Chamber. Noted by Cook and the Lord Chancellor that Bracton says: *Accusator post rationabile tempus non est audiendus nisi se bene de omissione excusaverit*, [after a reasonable time the accuser shall not be heard unless he gives good reason for his failure to appear.] Noted by Cook that suspicion upon the report of another is no cause for an accusation; there must be one's own suspicion founded on fact. And common fame must be *apud graves* not *apud leves*, [concerning weighty matters, not concerning superficial things.] And for a fact *in lupanari, testis lupanaris*, [in a brothel, a strumpet witness suffices,] and *humores moti, and moti remoti laedunt corpus*, [humors present and not remote affect the

body.] *Consortio malorum me quoque malum fecit,* [the company of evil-doers made me also evil.] *Noscitur ex socio qui non cognoscitur ex se,* [he is known from his company who is not known from himself.]

Mr. GARLAND. Mr. President, ever since the enunciation of these principles there has never yet been a trial of conspirators for any unlawful purpose, or a trial of persons for offenses committed in lewd places or in places notoriously infamous, where the offenders were not tried upon the testimony of those who lived in and inhabited such places. The sitting member was there with those people, and they were his friends, so friendly to him as to send him to the United States Senate. If the world would not know him from himself, they would know him from his associates, according to the maxim laid down there. It is probable that you would not find the most exalted characters for virtue and for veracity in a place of that sort. The testimony is that they were barricaded there and with none to associate with but themselves. If this testimony cannot be believed, the proposition proves too much. It is all a chaos; it is all nothing if those who hatched out the credentials of the sitting member cannot be believed on oath. Take that horn of the dilemma, that they are not to be believed at all, and everything is swept from under them. Three or four or five have been confirmed by the Senate to positions; twenty or more have gone into the custom-house.

An honorable Senator told me the other day that he had examined this testimony and that he could not convict a dog upon it. There is old dog Tray, who is known in historic song as gentle and kind and a devoted friend, but he was convicted because he was found in bad company. It is true in law, in social life, in religion, in politics, in everything, and you cannot escape it, that "birds of a feather flock together." "Tell me with whom you walk and I will tell you who you are." The plea itself is set up by the persons who have done this slimy thing for the State of Louisiana and for the sitting Senator that they cannot be believed on oath. They are infamous now, but they were good enough to do the work of electing the sitting member; and it is asking a little too much of human credulity for the sitting member to tell us they cannot be believed on oath. I am sorry it is so; I am sad that it is so.

Mr. President, I have laid my views in this case before the Senate under a sense of duty. Probably neither by parliamentary nor any other law was I called upon to say anything on this question; but my own State has had to taste the hell-broth that has been commended to the lips of Louisiana through reconstruction, and we have seen these things there. I wish that sad record was blotted out; I wish it was erased from memory. I say not these things in anger, but I say them in sorrow.

Mr. President, as the result of my investigations in this case I beg leave to have a resolution read which I shall offer as a substitute when the proper time comes.

The PRESIDENT *pro tempore.* The resolution will be reported.

Mr. GARLAND. I will read it myself:

Resolved, That WILLIAM P. KELLOGG was not duly and legally elected to the Senate of the United States by the Legislature of Louisiana, and that the seat now occupied by him in the Senate be, and the same is hereby, declared vacant.

Mr. KERNAN. Mr. President——

Mr. KELLOGG. Will the Senator from New York give way to me for one moment?

Mr. KERNAN. I will yield in a moment. I was going to state that I desire to make some remarks on this question, but I consented, if I got the floor, to yield to the Senator from Delaware, [Mr. BAYARD,] to call up a bill. I will yield for a few moments to the Senator from Louisiana before doing that, if he wishes to speak but a few moments.

The PRESIDENT *pro tempore.* Under the unanimous agreement made by the Senate the Calendar is now before the Senate, but the Senate can lay it aside further to hear the Senator from Louisiana. Is there objection to still further laying aside the Calendar in order to allow the Senator from Louisiana to address the Senate? The Chair hears no objection.

Mr. KERNAN. Allow me to make an inquiry. As I understand, it is for but a short time.

Mr. KELLOGG. Yes, sir.

Mr. CONKLING. And then the Calendar will be resumed?

The PRESIDENT *pro tempore.* Then the Calendar will be resumed.

Mr. KELLOGG. Mr. President, I do not intend to occupy the attention of the Senate long. My excuse for troubling the Senate at this time consists in the fact that save the Senator from Wisconsin, [Mr. CAMERON,] who acted upon the sub-committee, few on this or on the other side, I apprehend, have paid much attention to this evidence. I have requested several Senators to read the evidence from beginning to end, but I know it is almost a herculean task, and I am quite confident that very few have read it. The Senator from Ohio, [Mr. PENDLETON,] who addressed the Senate some days since, is an exception, however, for I understood him to say that he had read the evidence from beginning to end. I ask Senators to read this testimony, and when statements are made such as have been made to-day, with no intention, I hope, to prejudice me, to turn to the index and read the testimony given by the witness referred to, and then refer to and read the evidence in rebuttal.

I wish to-day only to illustrate by referring to some portions of the evidence. Great stress has been laid by the Senator from Arkansas [Mr. GARLAND] and the Senator from North Carolina [Mr. VANCE] upon what one Jeremiah Blackstone is claimed to have said in an affidavit. Blackstone, Benjamin Franklin, James Kelley, and one A. E. Milon are said to have made each of them an affidavit. You will find these alleged affidavits set forth in this volume. They were admitted in evidence under the ruling of the sub-committee and against the protest of the Senator from Wisconsin. Benjamin Franklin and James Kelley's affidavits were afterward stricken from the record on the ground, as asserted by the majority of the sub-committee, that they were found not to be members of the Legislature. When these affidavits were tendered in evidence, however, it was distinctly stated by the notary that he did not think they were members of the Legislature, but notwithstanding this they were admitted as evidence. Neither Benjamin Franklin nor Kelley have an existence today so far as we can ascertain. Both of those men are believed to be myths, men of straw. A. E. Milon's affidavit was proved by the testimony of the notary Seymour, who identified it, to be a forgery. Seymour stated that a man appeared before him and requested him to swear him a certain paper that he held in his hand, which is published in this volume as the affidavit of A. E. Milon, a member of the Legislature, acknowledging that he had received money for his vote for me, and that he (Seymour) declined to do so without first reading the contents. A paper was produced and shown to Mr. Seymour, and he said, "That is the paper that the man produced before me;" whereupon the majority of the sub-committee ruled that this paper, though it bore no evidence of having been sworn to, should be admitted in evidence against me as the affidavit of the person who purported to have signed it.

Mr. CAMERON, of Wisconsin. It was not an affidavit at all.

Mr. KELLOGG. No; it was a statement purporting to be signed by A. E. Milon, setting forth that he was paid $500 for voting for me. Mark, now. When this notary, Seymour, was before the sub-committee testifying in reference to the Blackstone and Kelly and Franklin affidavits the Senator from Georgia produced this statement, not sworn to, but signed A. E. Milon. The notary stated just what I have repeated, that a man appeared before him—he was not sure, but supposed it was A. E. Milon—with that paper, and that he refused to swear him because the man did not want him (Seymour) to read it; and thereupon that paper, dated in blank, without the signature of any qualifying officer, and with blank lines left in its most important parts, was ruled in evidence against me, on the ground that it was the declaration of a co-conspirator. Two days afterward I produced A. E. Milon before the committee and laid before him a letter written to me last May, and asked him if that was his signature. He said it was. I or the Senator from Wisconsin then produced another document and asked him if that was his signature. He said it was. We then compared the signatures to the letter and to the document with the signature upon the purported affidavit and found they differed to such an extent that it was evident the signature to the so-called affidavit was a forgery. Milon was requested to write his name, which he did in the presence of the sub-committee. Those signatures are now in the archives of the committee; and if the committee will produce them I believe there is not a Senator on this floor who will dare say that A. E. Milon signed that paper which is put in evidence as his affidavit. A. E. Milon took the stand, as I have said. He inspected the document and declared positively that he had never before seen it. After the sub-committee left New Orleans I caused Mr. Seymour, the notary, to be subpœnaed before the full committee in Washington, and he testified that the man A. E. Milon, who was before the sub-committee as a witness, was not the man who appeared before him and offered to make oath to that paper. A friend of mine personally, a democrat, (and Seymour is a democrat,) had told me that while Milon was on the stand in New Orleans Seymour had been privately introduced into the room to identify him, and after looking at the real Milon had told Mr. Walker, Mr. Spofford's counsel, and Spofford himself and the Senator from Georgia [Mr. HILL] that that was not the man at all. I ascertained this afterward, and then had Seymour subpœnaed here. In the mean time Seymour, through some of his democratic brethren, had communicated to us that he thought this was a pretty bad case when such men as Barney Williams were brought up to testify against me—Barney Williams, and Francis Garrett, and Baugnon, and Murray, and that class of men whose evidence had been buried by democratic witnesses under a mountain of impeachment. He said, "I rather think I had better disclose this whole thing." Accordingly he communicated to the Senator from Wisconsin the fact that those four alleged affidavits, Blackstone's, Franklin's, Kelley's, and Milon's, were made under a bargain, under an agreement, and he produced the original paper, and we put it in evidence before the committee. I will read it:

I am authorized to guarantee, and do guarantee, personally that the expense of obtaining the necessary evidence to establish charges of bribery, &c., made against WILLIAM P. KELLOGG will be paid to the extent of $1,500, provided this expense is approved by you as necessary.

Then was added this convenient phrase according to an understanding (as was subsequently shown by the testimony of Ward) previously entered into between Judge Spofford and his agents:

And provided further that no money or pecuniary reward is paid or promised any witness for testifying.

This was signed by W. K. Spearing, a friend and agent of Spofford's.

Here is another agreement:

NEW ORLEANS, *March* 9, 1878.

It is understood and agreed between George Dicks and Edward J. Ewart that the amount to be deposited in the hands of *William H. Seymour*, notary, $1,500, being the amount to be paid to *Jeremiah Blackstone* for his services in procuring testimony and affidavits in the matter of *William P. Kellogg*, as per contract, signed this 9th day of March, 1878—

That is the one I have already read—

that the said *Edward J. Ewart* shall advance unto the said *George Dicks* what amount may be necessary in order to procure the corroborative testimony in the said case of *Kellogg*, providing that the said sum shall not exceed *five* hundred dollars ($500,) and that William H. Seymour, notary, be authorized to retain out of the said $1,500 the amount advanced by E. J. Ewart, together with interest and commissions amounting to —— dollars.

ED. J. EWART.
GEORGE DICKS.

It was proved by Seymour that the two agreements were contemporaneously made, and under those agreements were procured the four affidavits I have named, two of which were subsequently stricken out, because it was found that the persons alleged to have made them were not members of the Legislature. All four of them, including the Milon forged affidavit and the Jeremiah Blackstone affidavit, were in the handwriting of George Dicks, the man specified in the agreement I have read as agreeing to furnish the corroborative testimony to procure a reopening of this case.

Now, Mr. President, I want to call the attention of Senators as fair-minded men to this fact; and I ask what will they think when I say that in addition to the forged Milon affidavit being admitted in the manner I have stated as evidence of bribery, of conspiracy, as a declaration of a co-conspirator against me, the notary further produced a copy of Jeremiah Blackstone's affidavit with the blanks in the jurat not filled up with any other signature except the initials "J. B.," and they not in Blackstone's handwriting; and that the committee admitted this piece of paper signed "J. B." and not sworn to in evidence against me as the declaration of a co-conspirator.

Mr. CAMERON, of Wisconsin. If the Senator will allow me a moment, the witness stated that he did not know that it was a copy, but he believed it was substantially a copy. He did not know. There was no evidence before the committee to show that it was a copy at all.

Mr. KELLOGG. Yes, at the time the Senator from Georgia ruled it in. He only asked, "What does the Senator from North Carolina say?" "Oh, let it go in." And in it went, though there was no evidence whatever, as the Senator from Wisconsin has stated, that it was even a copy of the original except that the notary said he thought it was substantially a copy of the original that he had once seen. In the mean time we had produced Jeremiah Blackstone, a colored preacher, over whom the Senator from Georgia had a good deal of wrangling in his peculiar way. Blackstone, who by the way never held a Federal office, swore positively that he never received a nickel for voting for me, and every man mentioned in his affidavit, namely, George Bird, Isham Nicholls, neither of whom had held a Federal office, to whom he is made to say in the affidavit he had paid money for voting for me, came before the committee and swore that they never received a cent. Blackstone having testified in this manner, and we having talked so much about this purported copy of his alleged affidavit, it became necessary to produce the original. So they went fishing aroound to get it. It was proved to be in the hands of the man Ewart, a saloon-keeper, the same man who signed this contract I have read. He it appears had advanced some few hundred dollars on it to Dicks and others, and he refused to give it up unless he was first repaid his advances. A week later Spofford's friends succeeded in getting Ewart into the room. He brought the original affidavit, and then for the first time we saw it. Subsequently Seymour testified here before the full Committee on Privileges and Elections, as follows:

Question. I have only a few questions more. In your testimony you produced a copy only?

Referring to Blackstone's affidavit:

Answer. Yes, sir; a synopsis of the original affidavit.
Q. And some days afterward Ewart testified and produced the original?
A. He produced the original of Blackstone's affidavit.
Q. I understand you to say that you do not know whether anything was paid by Mr. Spearing to Mr. Ewart for it. You do not know it?
A. I do not. I know at the last interview that Mr. Ewart mentioned that he was a couple of hundred dollars out of pocket by the transaction that he would like very much to get back. Mr. Spearing and he went off together, and what occurred afterward I do not know.
Q. But Ewart appeared on the stand and testified and produced it?
A. Yes, sir.

So a week after Blackstone had testified in contradiction of a purported copy signed "J. B.," Ewart (being paid his $200) produced the original affidavit, which was then put in evidence. If the contestant's friends had not come to time with the required $200 the presumption is that the statement of "J. B." would have remained on record as conclusive proof of my alleged co-conspiracy with a member of the Legislature whose name began with those initials.

I have only brought the alleged affidavits of Blackstone and Milon to the attention of the Senate for the purpose of illustrating the character of the evidence admitted against me, as they were specially referred to and dwelt upon by the Senator from North Carolina [Mr. VANCE] in his speech the other day, and by the Senator from Arkansas, [Mr. GARLAND,] who has just spoken, and Milon's was referred to the other day by the Senator from Missouri, [Mr. VEST.] All four of these affidavits, Blackstone's, Milon's, Franklin's, and Kelley's, were made under the contract I have read. Let me quote further from Seymour's testimony:

Question. I do not know that you were asked the question in New Orleans or here, but were there any other affidavits than those that were taken by you before Mr. Lewis? Were these all?
Answer. Yes, sir; Franklin, Kelley, and Blackstone, the three. The other was not sworn to.

That is to say, the alleged affidavit of Milon.

Question. Were these taken in execution of and in conformity with this agreement?
Answer. Yes, sir.
Q. And subsequent to it?
A. Yes, sir; that is correct.

So those four affidavits were admitted in evidence in the manner I have stated, one forged, one copied, (or alleged to be,) and two made by men of straw. Had I been unable to produce Milon and Blackstone, their alleged affidavits, according to the ruling of the sub-committee, would have stood unimpeached against me as evidence of bribery, because they were the declaration of co-conspirators. The Franklin and the Kelley affidavits we proved out of existence; the Milon affidavit we proved to be a forgery; and we proved by Blackstone's own testimony and the testimony of two or three other disinterested persons—not one of them, let me remark, as so much has been said on this subject, employed in the New Orleans custom-house—mentioned in his affidavit as having received money for voting for me, that the statements made in this regard were absolutely false.

Mr. VANCE. Will the Senator allow me to ask him a question?

Mr. KELLOGG. Yes, sir; I will always yield for any question. I court inquiry.

Mr. VANCE. I am not obnoxious to the Senator. I think I yielded to him when I had the floor the other day, and I wished to yield to the Senator the other day himself, when it turned out that he was not present.

Mr. KELLOGG. I am glad the Senator has referred to that.

Mr. VANCE. I simply want to ask in this instance if Blackstone did not acknowledge the signature to that paper which was produced before him?

Mr. KELLOGG. I think he did acknowledge that he had signed such a paper.

Mr. VANCE. But he averred that he signed it as a witness, and there being no other signature he only signed it as a witness to his own signature.

Mr. KELLOGG. Blackstone swore, as I recollect—it is in the record—that he signed that paper believing it to be another paper than the affidavit; that he believed it referred to a case of a claim for a pension, I think, (Dicks being a pension agent.) He swore that the statement as read to him was false, as did all the living witnesses therein referred to.

Mr. VANCE. That is, the contents of the affidavit were false.

Mr. KELLOGG. Yes, sir.

Mr. VANCE. But he acknowledged that he had signed it.

Mr. KELLOGG. He acknowledged that he had signed a statement, but he said he was entrapped into signing it.

I do not by any means pretend to sustain Blackstone or to say that he is worthy of belief. I can hardly imagine, indeed, that the Senator from North Carolina in his native State before a petit jury in a case involving not more than the value of a chicken would gravely argue that a man should be mulct even to that small amount on the testimony of such men as he.

Mr. VANCE. Will the Senator permit me to interrupt him again?

Mr. KELLOGG. Certainly.

Mr. VANCE. He might perhaps, if he had observed the course of my legal practice in my native State, have seen such an instance as that, but he never would have found a court in North Carolina or anywhere else when two thieves were charged with stealing chickens, and one of them confessed upon the other, that would refuse to take the testimony of the confessing thief who had turned State's evidence.

Mr. KELLOGG. That may be very good law in North Carolina. But in this case Blackstone swears that the statement bearing his name was false, and so do the several parties named therein. His statement, which he himself contradicts, stands alone—unsupported by any evidence.

Mr. President, that is all I believe I have to say in reference to those affidavits. However, since the Senator from North Carolina has asked me one or two questions, I will ask him a question. The Senator from North Carolina, if my memory serves me right, in a speech made the other day, referred to the testimony of one Flanagan, and in fact now I bethink me the Senator from Arkansas to-day caused the Senator from North Carolina to read this extract from his speech and to incorporate it in his own. Let me tell the Senate something about this testimony as another illustration of the evidence in this case. A man by the name of A. W. Flanagan appeared before the sub-committee in New Orleans. I hope the Senator from North Carolina will set me right if I make an error in my statement of this evidence. The Senator from Georgia asked this witness if he knew of any money being paid to members of the Legislature.

Mr. VANCE. Will the Senator cite me to the page?

Mr. KELLOGG. It is the testimony of one A. W. Flanagan. By turning to the index it can be found. Flanagan said that in the office of one Henry C. Dibble he saw on a certain day in January some money pass between a man by the name of Harris and two members of the Legislature, one De Joie, a member of the lower house, and one Stamps, a member of the senate. When pressed he said he thought it was $300 or $500. The Senator from Wisconsin then took him in hand. I ask Senators to read that testimony. In about two minutes he had him all at sea. He did not know after all what amount of money was paid. In fact, he did not exactly know what occurred between the three men, Harris, De Joie, and Stamps, and finally he ended by saying he believed it was January, 1876, when the transaction took place, that is to say, a year before the senatorial election. Whereupon he was relinquished by the Senator from Wisconsin and the Senator from Georgia took him in hand again and proceeded to abstract from a bundle of papers, always kept handy at his elbow, an affidavit, which he handed to the witness, and asked, "Did you make that affidavit; is that your signature?" "Yes." "Where was it made?" "It was made down town in a certain court." "By whom?" "A man by the name of Sullivan wrote it." "Did you sign it?" "Yes." "How came you to do it?" "Well, I was working for Mr. Sullivan, who gave me a position as clerk of the court, and he said to me, 'you know something about this KELLOGG matter. We want some papers sent up to Washington to show to the Senate to open up this case, and I wish you would sign this affidavit.'" Now, I do not pretend to quote this testimony exactly, but this is the substance of it. So the affidavit was written and Flanagan signed it, and it was subsequently sent to my colleague. "Now," said the Senator from Georgia, "I propose to offer this affidavit in evidence." "For what purpose?" asked the Senator from Wisconsin. Well, the Senator from Georgia thought it ought to be admitted in evidence to refresh the recollection of the witness, and the Senator from North Carolina, if I mistake not, thought it ought to be admitted in evidence to corroborate the witness.

Mr. VANCE. Will the Senator yield to me again? Where can the testimony be found?

Mr. KELLOGG. I will ask the Senator from Wisconsin to read it. What really took place, that is in the entire discussion of this matter, may not be reported in full, for I can point out to Senators where colloquies have been omitted that really took place before the committee and where the record has been made up in such way as to prejudice me. I shall likely have occasion to refer to such matters in detail hereafter.

Mr. CAMERON, of Wisconsin. At page 608 there was quite a colloquy between the members of the sub-committee in regard to this affidavit. I commence reading on page 608:

Senator HILL. Now, here is the affidavit itself that Senator CAMERON alluded to in his cross-examination of this witness. I offer it as a part of the evidence and Senator CAMERON objects to it.
Senator VANCE. Does that affidavit refer to this matter?
Senator HILL. To the very question itself.
Senator VANCE, (to Senator CAMERON.) What is the objection, Senator?
Senator CAMERON. The objection is this: That he is now on the stand, and called here as a witness before this committee, and it is quite material in his evidence whether he made this affidavit a year or two ago, or when he did make it. The principal objection is to the witness corroborating himself, after having testified to the facts themselves, by referring back to this and saying that its statements contain the true version of his testimony upon this point.
Senator VANCE. Certainly, I understand; but suppose he takes it up and says that his memory was better then than now, and that the affidavit is correct?
Senator CAMERON. Yes, but he does not say it.
Senator HILL. He says it is true.
Senator CAMERON. I did not hear him.
Senator HILL. I so understood him.
Senator CAMERON. Well, I have not heard that from the witness yet.
Senator HILL. He said that the year 1872 as written in the affidavit was not correct, but that otherwise the statements were true.
Senator CAMERON. Well, I say that I did not hear it from the witness.
The WITNESS. Yes, that is what I say.
Senator CAMERON. He proposes now to corroborate his declarations upon the stand by an affidavit previously made. If you were lawyers conducting a case—

I said that, addressing myself to my democratic colleagues on the sub-committee—

If you were lawyers conducting a case, you certainly would not admit that a witness had that right.
Senator VANCE. Do you mean to say that he would not be allowed to offer his declaration at another time made about the same matter that he was testifying to?
Senator CAMERON. No, sir; nor would you consent to their admission.
Senator VANCE. Yes, sir; I think he could. I think a party has got a right, after going over his testimony, to offer in evidence the fact that he made certain declarations to the same fact at another time.

Mr. EDMUNDS. I should like to know whether the Senator from North Carolina affirms that to be the law now.

Mr. VANCE. I certainly would affirm it to be the law that when a witness is contradicted he may offer in evidence declarations made at the time of the fact to which he had been testifying, in corroboration of his testimony which he was then giving, if it was contradicted.

Mr. EDMUNDS. I will offer a very high reward for anybody who will bring a law book that will show that, good or bad.

Mr. KELLOGG. The case is even worse than that. If the Senator from Vermont [Mr. EDMUNDS] wonders at this, what will he think of some of the rulings of this committee?

Mr. CAMERON, of Wisconsin. The colloquy proceeds:

Senator CAMERON. I cannot agree with you. I think the opposite party can call it out for the purpose of disqualifying him, but I never heard of its being done before for the purpose of sustaining the witness, or, what is worse here, for the purpose of allowing the witness to correct and corroborate himself.
Senator HILL. I think there was a case in this very committee, certainly in one of the sub-committees of the Committee on Privileges and Elections in Washington, where a question was put as to whether the strict rules of evidence and the admission of evidence were to be followed in these examinations, and it was decided that they were not, and I certainly think in this case they should not be rigidly enforced.
Senator CAMERON. O, well, if you put it on that ground, I do not know that I would object to it seriously.

Mr. VANCE. Is there anything else?

Mr. CAMERON, of Wisconsin. There is considerable here. I do not know whether I will read any more or not. At the conclusion of the colloquy I say:

The witness now on the stand has been examined in chief and cross-examined. The proposition now is to introduce as evidence the affidavit which he says he made some time ago, May 30, 1879, for the purpose of corroborating the testimony that he has given to-day, on the ground that his memory of the alleged facts was clearer and more distinct at that time than now. If you say that, for the purpose of stating the grounds on which I offer it, I object. Let me state it, or rather amend it. It is offered because he now says that statement contained in that affidavit is correct, with the exception that 1872 appears where it should be 1876. What do you say, Senator VANCE, with reference to this objection?
Senator VANCE. I do not think it is a good one under the circumstances.

That is all.

Mr. KELLOGG. Mr. President, I fear I ought to apologize to the Senator from Delaware, [Mr. BAYARD;] but I will take but a short time longer, and my apology must consist in this, that it is pretty difficult to sit here and hear evidence referred to reflecting upon me that is so overwhelmingly refuted and so absurd, and as this is a matter that affects me personally, I must claim the indulgence of Senators if I trespass somewhat upon the time of the Senate. I will try to be as brief as possible. Flanagan made this affidavit on the 23d day of May, 1879. The alleged transaction that he refers to in the affidavit is of course connected with my election to the Senate in January, 1877. In the affidavit he swears that John S. Harris, beef inspector, paid the money, and he gives the date when it was paid as January, 1872; that is, five years before the event to which it bore reference. On the direct examination and cross-examination he had sworn that H. H. Harris was the man who paid the money, who was tax collector of the second district of New Orleans, and that the time was January, 1876. After the affidavit which thus contradicted his oral testimony had been examined by him and admitted in evidence, the witness was taken in hand again by the Senator from Wisconsin, who finally asked him, (page 610:)

Question. In what year did the occurrences take place which you have related as taking place in Judge Dibble's office?
Answer. I think now, sir, they were in 1876.
Q. What month, as near as you can make it out?
A. In January, I think.
Q. After you have refreshed your memory, that is your opinion, is it?
A. Yes, sir.

Thus his final conclusion was, after being refreshed in memory by his affidavit, that the bribery took place one whole year before my election and before the Legislature which was to elect me had been called into existence.

I will only add that Aristide De Joie, a worthy man above reproach, a member of the lower house for years from one of the districts near the city, came before the committee and testified that the statement of Flanagan was an absurd romance from beginning to end. T. B. Stamps, a State senator in the Nicholls legislature, elected from a district near the city by white as well as colored votes, who is now engaged in business as a commission merchant and is not connected with any Federal office, came before the committee and swore as De Joie did, that the statement of Flanagan was false. Mr. H. H. Harris came all the way from Kansas City, Missouri, where he is engaged in business, and I assert stands unimpeached and unimpeachable, and swore that no such transaction took place, and that he did not even know the man Flanagan or Mr. De Joie. John S. Harris, the other person referred to, the beef inspector, was and has been for a long time in Colorado.

Judge Dibble, who is a practicing lawyer in New Orleans, and in whose office this man said the transaction occurred, stated to me that if I had not evidence enough upon this matter he would prove that Flanagan was not in his employ at the time of my election and had not been since 1876, just as the witness himself wound up his testimony by saying. These are two illustrations of the character of the evidence referred to in the speech of the Senator from North Carolina and adopted by the Senator from Arkansas.

Before I sit down I will ask the Senator from North Carolina to state to the Senate if I am not correct in these two or three propositions that I am now about to make: First, that no witness that testified before the committee, and whose testimony can be found in this volume as being a member of the Legislature, swore before the committee that I paid him any money or that he received any money from any of my friends for voting for me; second, that but two men not members of the Legislature, namely, Baugnon and Francis Garrett, swore that any money was paid by me to any one for that purpose. I ask Senators to read the testimony of Garrett and the testimony of Baugnon. Baugnon swore that the money he saw paid was handed to Mr. Twitchell, a State senator, in the presence of Ed. Flynn, the telegraph operator at the State-house. Flynn, who is a democrat, and is now employed by the city administration as a fire-alarm telegraph operator, appeared before the committee and stated that Baugnon's

statement, as far as he was concerned, was false. Mr. Twitchell, who has been for two years consul at Kingston, Canada, and whose word cannot be impeached, swore that Baugnon's evidence was false from beginning to end; and finally Baugnon himself offered to come before the committee and say he was mistaken in the transaction, and if I had allowed him to do so he would have taken the stand and sworn that he was paid for testifying as he had done. He found we were showing up his rank perjury and was anxious to set himself right.

Mr. CAMERON, of Wisconsin. He made an affidavit.

Mr. KELLOGG. He made an affidavit at the solicitation of some of his friends and it was sent to me, saying what he had testified to was not true.

Now, a word as to the other witness, Garrett—Garrett and Baugnon being the only witnesses, as I have said, who swore before the committee connecting me with any money transaction with members. Garrett said he saw me hand an envelope to one Jones, under such circumstances that if any impartial person will read his testimony he will, I am sure, pronounce it as too absurd and incredible for belief. I hope Senators will read his evidence, on page 810.

As to Garrett, Jones swore that no such thing occurred, and I brought forward democrats, at the head of them the democratic sheriff of the parish of Orleans, John Fitzpatrick, who swore positively that Garrett's character was such and that he was so infamous that he would not be believed under oath. We proved that he was an ex-convict; he had been arrested for horse-stealing in Missouri; we proved he had been sent down to the parish prison, and served nearly three months for larceny; that he had been dismissed from the custom-house at New Orleans for stealing at the quarantine, and we covered him all over with infamy—contradicted his testimony at every point.

And these two wretches are the witnesses referred to by the Senator from North Carolina [Mr. VANCE] and the Senator from Arkansas [Mr. GARLAND] as establishing bribery.

The Senator from North Carolina [Mr. VANCE] says in his speech "as to bribery of Simms, McGloire, and Johnson, see Murray's testimony." Why Simms, who is a member of the present Legislature of Louisiana, swore positively that Murray's testimony regarding him was false. McGloire, who is a planter in Avoyelles Parish, Louisiana, swore the same. Neither of these men has ever held a Federal office. Johnson also positively swore that Murray's testimony was false. See their testimony on pages 1100, 318, 785, 341, and 345. Murray was impeached by democrats and republicans, and contradicted in his testimony both on bribery and quorum. I think the Senator from North Carolina [Mr. VANCE] will not question these statements. By the way, one remark in the speech of the Senator from North Carolina [Mr. VANCE] struck me as very ludicrous. I think he made a reference that he did not intend. He referred to evidence on page 152 as showing bribery. Now, if Senators will turn to page 152 they will find that one of Mr. Spofford's witnesses, instead of testifying to bribery on my part, actually testified to bribery of members to vote for Spofford. If this witness is to be believed, it was Spofford's friends, and not mine, who bribed members to vote for him. Still the Senator is in favor of seating Spofford. If this witness had sworn that he received money for voting for me he would be believed, but as he swore to money paid for Spofford's election of course as to that he cannot be believed.

Mr. VANCE. Mr. President——

Mr. KELLOGG. In one instant.

Mr. VANCE. I trust the gentleman will not be so unkind as to ask me a question and then refuse to give me permission to answer.

Mr. KELLOGG. I will ask the Senator from North Carolina to contradict any one of these propositions. I will give him plenty of time to do it.

Mr. VANCE. I will say, with the permission of the Senator, that quite a number of witnesses swore positively before a notary public that they did receive money at the hands of the sitting member from Louisiana, but they denied the same when they came before the sub-committee, and the two he mentions are the only two I now remember who swore before the sub-committee to the fact of seeing money passed or money being paid.

Mr. KELLOGG. I am quite sure the Senator is mistaken. Only one member of the Legislature is even alleged to have made an affidavit that he received money from me, and that is the man Blackstone, whose purported affidavit we have just been discussing. There may have been one other, but they swore before the committee that their statements were false and in no case is their statement corroborated that they were paid.

Mr. VANCE. If the Senator pleases to allow me I will now ask him a question, if he will be so kind as to permit me to do so.

Mr. KELLOGG. Certainly.

Mr. VANCE. I find on page 1229, in cipher dispatch No. 7, the following words:

Genl. A. S. BADGER,
Collector of Customs, New Orleans:

Think it is important that boat be moon. See to this. Confer with Violet and Oak immediately.

I would be much obliged to the Senator if he would translate that; and I will give him an opportunity to do it, and then to translate one on the next page, but one to the same person:

Hope you can get Boat rainbow; also Sorghum & Sponge show conspiracy. When does Walsh leave?

Mr. KELLOGG. Mr. President, I will digress from what I was saying to answer the question as well as I can. I had intended at some time to go into this matter of cipher telegrams fully, and it is a good time for me to say a word or two now in regard to them. As the Senate will notice by inspecting these telegrams, many of them are in the third person, and evidently were not sent by me.

I do not, however, make any especial point on that. I hope the Senator from North Carolina will not imagine that I desire to avoid any responsibility so far as these telegrams are concerned on that ground. These telegrams were sent in cipher for the reason, as one of the visiting statesmen in 1876 stated in a letter which was at the time pretty extensively published, that if "any one wanted to send a dispatch to or from New Orleans, unless he wished the contents to be made as public as a sheriff's sale he had better send it in cipher or trust it to the mails." That is the only excuse for sending these dispatches in cipher—that and the fact that we knew witnesses were being suborned to testify falsely against me; that the agents of Mr. Spofford were using threats and coercion and both promising and paying money to procure affidavits of bribery and improper practices to be used in this case. The Senator from Georgia has laid stress on the fact that these dispatches refer constantly to bribery, but counsel for Mr. Spofford had himself served notice on us that he intended to confine his first evidence before the committee in June to the two points of bribery and the alleged absence of a quorum of the General Assembly on the day of my election. The cipher dispatch read by the Senator from North Carolina is, I believe, substantially correct. What is the telegram? Just indicate, please, again where it is?

Mr. VANCE. The telegram of May 7, on page 1229, No. 7.

Mr. KELLOGG. "Think it is important that boat be moon. See to this." Is that it?

Mr. VANCE. That is it. Now for the translation.

Mr. KELLOGG. I suppose the Senator really desires to know what "boat" means in this telegram. I understand it to mean "Murray."

Mr. VANCE. "Boat" means "Murray," then?

Mr. KELLOGG. I think it does. I do not recollect this telegram very distinctly, but on inspection it would seem that the person sending it thought it important that Murray be all right or prevented from testifying falsely. It was known at that time that Spofford had obtained an affidavit from Murray, as he had from others, and that he was acting as an agent of Spofford in getting up testimony against me. Indeed, he afterward admitted in his testimony that he expected to make $2,500 out of this case, though he subsequently endeavored to explain it away.

Now, let me ask the Senator if anywhere in the record it appears from Murray's testimony, or the testimony of any other witness, that Murray was ever improperly approached at New Orleans by any of the Federal officers. This telegram was addressed to General Badger, the collector. Did Murray himself at any time pretend that he was improperly approached by Mr. Badger?

Mr. VANCE. He pretended before the committee in the city of Washington that he had been improperly approached.

Mr. KELLOGG. No. Murray testified in November before the committee that Barney Williams came to him and told him to go to Detroit, and all that kind of stuff, but Murray also said that Barney Williams did not pretend that he came from me, and more than that, Murray himself says in substance that he did not pay much attention to Barney Williams's proposals. Notwithstanding the frequent mention of Murray's name in these dispatches, it nowhere appears that any one of the Federal officers to whom they were addressed ever approached Murray or sought by any improper means to influence his acts. Murray himself testified before the full committee that he would have liked to have got in the custom-house and tried to, and that if he had succeeded he would have worked for Mr. KELLOGG, and he added that my treatment of him had been "so rough the last time he spoke to me that he did not care to speak to me again."

Mr. VANCE. I want a translation of the whole telegram, if the Senator pleases.

Mr. KELLOGG. I will get there soon if the Senator will permit me.

Mr. VANCE. Certainly.

Mr. KELLOGG. I have no disposition to evade these telegrams, although I am not directly responsible for all of them. I assert that there is not a telegram among them all which, read in the light of the circumstances that surround this case, will not be found when fully translated to be such a dispatch as an attorney or an agent might properly send in the interest of his principal.

Mr. President, I am very glad the Senator has brought forward these telegrams. I sat in my seat the other day and listened to the Senator from Georgia [Mr. HILL] "translating" these dispatches, as he termed it. A few days before the Senator from North Carolina [Mr. VANCE] had also translated or attempted to translate some of them, and in referring to them I, being in the Chamber at the time, arose in my seat and read a letter that I had addressed to the committee on the 5th of February last, stating that I would decipher any cipher telegrams that appeared in the record of which I had knowledge, if so desired, stating also that General Badger, to whom many of them were sent, was also in the city, ready to make any explanation.

I had previously made a similar offer orally to the full committee,

and finding that offer did not appear in the printed record, I repeated the proposition in writing addressed to the chairman, as the testimony was about to close. I then went to the chairman of the committee the following day and stated that I should like to appear before the committee if there was any question as to those telegrams, and he said there would be a meeting of the committee the next day. This is the conclusion to be found on page 1220 of the testimony:

At this point the testimony was closed for the present, and the committee adjourned the further consideration of the case to Monday, February 9, 1880.

In the mean time, February 5, I had written this letter, and when the committee met on Monday, the 9th of February, I was ready to appear before them if I had been called upon or it had been indicated that it would be agreeable for me to appear.

The reason I left the Senate Chamber the other day, as referred to by the Senator from North Carolina when this subject was under discussion, was because I was called out, and I regretted it very much, but I came back and learned that the Senator had referred to me as having left the Chamber, and had quoted, I think, something from Mark Twain in reference thereto. The other day the Senator from Georgia in his turn read numbers of these telegrams and proceeded to translate them in his own way. He started out by saying that he procured these telegrams in this way: that Barney Williams appeared before the committee and testified that he had heard me read certain telegrams. One was, "The bargain is made;" another, "I have given it Charley Cavanac in the neck," and such like trash, and that the sub-committee sent out for these telegrams, and thus got on the track of those now produced. He omitted to say that they did not find any such dispatches as those this Jew spy had sworn to among the files of the telegraph office in New Orleans or here. But he went on to say that, whatever other Senators might think, he (the Senator from Georgia) believed that Williams's testimony was true. He added that through the help of an expert he had deciphered these dispatches.

I tell the Senate and the Senator from Georgia that he never deciphered them by the aid or assistance, directly or indirectly, of an expert. I believe the only words he knows in these cipher telegrams are words that I myself frankly communicated to a person connected with his committee, and who I supposed at the time would very probably take them to the Senator. They were words of frequent occurrence, and from the context easily recalled themselves to my recollection. Other words I have found more difficult to recall, as the cipher, such as it is, mainly consists of arbitrary words for certain agreed-upon sentences and names of persons. Friends in New Orleans had from time to time sent me on sheets of paper lists of names and phrases with arbitrary words to represent them in telegraphing. These memoranda, as the occasion for their use passed away, were destroyed from time to time, but by calling to my aid the recollection of others I have no doubt I shall be able to lay before the Senate a translation of any one of these dispatches which may be desired. The so-called translations which the Senator from Georgia read to the Senate were for the most part simple fabrications. For instance, in order to give a color of corroboration to the testimony of one H. C. Brown, to which I shall presently allude, he asserts in the face of palpable facts proving the contrary that the word "Rose," which occurs very frequently in these dispatches, means Morris Marks, the collector of internal revenue at New Orleans. "Rose" is General Badger, the collector of the port, and not Marks.

Mr. VANCE. Mr. President——

Mr. KELLOGG. I must beg the Senator from North Carolina not to interrupt me just now. I will answer all his questions soon.

Mr. VANCE. The very point I was proceeding to interrupt the Senator upon is that he does not answer my question. I asked him to translate both these dispatches.

Mr. KELLOGG. I understood the Senator to ask me if "boat" meant "Murray."

Mr. VANCE. I asked the Senator to translate both dispatches, and he has not done so.

Mr. KELLOGG. I beg the Senator's pardon. I will stop to translate them, then, as near as I can.

Think it important that Murray be right on testify truthfully. See to this. Confer with Souer and Marks.

Where is the next one?

Mr. VANCE. The next is on page 1231, No. 18 W., May 21:

Hope you can get Boat rainbow; also Sorghum & Sponge show conspiracy. When does Walsh leave?

Mr. KELLOGG. No. 18 is on page 1230.

Mr. VANCE. It is marked "18 W." I beg pardon. I see it is marked above "21."

Mr. KELLOGG. The translation is, I think:

Hope can get Murray friendly or testify truthfully. Also Kelso and Watson show conspiracy.

My recollection is that both "moon" and "rainbow" were used to express substantially the same meaning.

Watson, it will be remembered, is the man who subsequently testified to having entered into a conspiracy to falsely swear that he had personated a member of the Legislature.

Mr. VANCE. If the Senator will be kind enough to answer me one more question I will sit down and not interrupt him any more in his speech. Will he translate the telegram No. 3, on page 1228, which reads:

(3.)

13 Ct.] WASHINGTON, D. C., 3, N. O., 5, 3, 3.20 p. m.

Gen'l A. S. BADGER,
Coll'r of Customs, New Orleans:

Please crown ash & Zebra fan permanently. Important. Hat all can while Pear absent. Hawley little easier. Fear away week.

AMITY.

20 Dhas. (352)

Mr. KELLOGG. I will translate it to the best of my recollection. "Please appoint Ash and Zebra"—I think mean one Lewis, formerly of Natchitoches, and one J. Wands—"immediately. Important. Make all nominations can while Sherman absent. Hawley little easier." Neither of these men, Lewis or Wands, figured at all in this case. Neither was a witness, except Wands, to prove a signature to an affidavit. "Fear" is printed here. I do not know how it is in the original.

Mr. VANCE. "Fear" is a misprint for "Pear," I understand.

Mr. KELLOGG. Very well. I take it for granted that means just what the Senator says it does, then.

Pear away week.

If it does, then it will mean:

Send forward the names while Sherman is absent. Hawley little easier. Sherman away week.

General Badger had become collector of the port of New Orleans only a short time before, and the civil-service rules, so much talked of and so much derided, and justly, too, I think, were being enforced down there, and you could not get, it was thought, Secretary Sherman's approval to nominations as easily as you could Assistant Secretary Hawley's. That is the worst of it. That is all there is to it; and these telegrams related mostly to men other than members of the Legislature; but these men were friends of mine, good republicans, respectable men, and were rendering me friendly service in offsetting the machinations of my opponents.

Now, turn to these other dispatches. Here is one which the Senator has not asked me about, and which will show that these telegrams asking for appointments did not relate exclusively to members of the Legislature or witnesses:

(19.)

[9 W.] WASHINGTON, D. C., 19, 12.25 p. m., *May* 19.

Genl. A. S. BADGER,
Collector of Customs, New Orleans:

Wakefield Brown Fobb Springer Walden Joubert Fish Chapron Carville Adolph Seveignes approved. Last lot goes to-day, all nominations received approved.

A.

20 D. H. (287)

You will find, I think, but two or three men named in this dispatch as being nominated and confirmed who were members of the Packard legislature or witnesses out of the eleven. There is another dispatch, by the way, that was read the other day by the Senator about answering "Pear's letter." This was simply a request to answer a letter of Mr. Sherman's written to the collector suggesting to him the nomination of a man by the name of Chapron—not a member of the Legislature, not connected with this case, a man who was a total stranger to me.

Mr. KERNAN. Mr. President——

Mr. KELLOGG. Now, I hope the Senator from New York will give me a few minutes longer.

Mr. KERNAN. Allow me a moment. I got the floor, and was to yield it to the Senator from Delaware [Mr. BAYARD] to make the motion he wished to make. I was reluctant to refuse the Senator from Louisiana, because I concede that we ought to hear him. He said he would take a few minutes. He has taken an hour. I do not want to speak now, but I desire to interrupt him because the Senator from Delaware feels that he has a right to submit a motion.

Mr. KELLOGG. I recognize that, and I feel obliged to the Senator, but I would like to crave indulgence a moment or two longer.

Mr. CONKLING. I ask the Senator from Louisiana to yield to me for a moment. Nothing my colleague can do or anybody else will entitle the Senator from Delaware to make the motion he wishes, because by unanimous consent the Calendar is in order. I mention this so that my colleague need not suppose that he is standing in the way of any particular Senator, because when the Senator from Louisiana concludes it will be within the power of any Senator to insist upon the regular order, which I shall be sure to do if no other Senator will do it. I want the Calendar taken up. Therefore no Senator need suppose that anybody is suffering in respect of any motion he may desire to make by the speech of the Senator from Louisiana.

Mr. KELLOGG. Mr. President, of course no Senator would desire, I am sure, to prevent me going on for a short time. Now, a word in regard to these cipher telegrams, since the Senator from North Carolina has called me out on one or two occasions.

Mr. BAYARD. I will merely say that as this case is somewhat personal to the member from Louisiana, I do not propose to interrupt him; but I insist on my rights as having charge of the matter that came over from yesterday.

Mr. KELLOGG. I was about to say when interrupted that by looking at the telegram where Chapron is mentioned, and other telegrams, it will be seen that they largely refer to men not members of

the Legislature, perhaps in the proportion of eight to ten of all mentioned in the cipher telegrams. Many of them refer to persons entirely separate from and disconnected with this case, either as members of the Legislature or as witnesses.

Before I pass on now to what I was about to state in criticism of the Senator from Georgia in regard to these cipher telegrams I desire to say one word more to the Senator from North Carolina. The cipher telegram he has asked me to interpret is:

Please appoint Zebra and Ash immediately.

That is all there is of it. Now I will read one translated specially from the Gramercy Park ciphers, which has recently been placed in my hands:

Majority of board have been secured. Cost is $80,000, to be sent as follows: One parcel of $65,000, one of $10,000, and one of $5,000—all to be $500 or $1,000 bills.

I will leave that without comment for the Senator from North Carolina to digest at his leisure. I see he also has left the Chamber. I might retort upon him the quotation he used toward me the other day when I was called from the Senate and absented myself, not supposing he would call upon me or refer to my absence:

> And he smiled a kind of sickly smile, and curled up on the floor,
> And the subsequent proceedings interested him no more.

I will leave it to any fair-minded man to say under the circumstances and in the light of the evidence whether these cipher dispatches of mine were not natural and justifiable. I knew that men were being suborned to swear falsely against me. Agents of Mr. Spofford were in New Orleans buying up false affidavits and sending them on here to procure a reopening of this case, and when they were received here Spofford was sending to his friends such dispatches as these:

Bully! Wait for the wagon. All goes well this end.
Patience. We shall know soon. All working well.
Committee about to act. Patience and sweet-oil work wonders.

Two of those agents who swore they were paid by Mr. Spofford to procure these men to make affidavits—and it was not denied—swore to interviews had with Mr. Spofford and produced his telegrams, which he did not question; swore to letters that he did not dispute directing them to cause these men to go before Charles Cavanac and make affidavits. To Milton Jones, one of the men referred to a short time ago by the Senator from North Carolina and the Senator from Arkansas, they represented that if he would only make the affidavit they wanted he should be protected from a prosecution that had been set on foot against him in the parish of Pointe Coupée, where he lived, for alleged defalcation in the matter of school money, and Jones stated under oath that he made that affidavit they asked him to make simply for protection and upon the assurance that it should not be used only to be shown privately to Senators for the purpose of reopening this case; that I was bound to be unseated anyhow, for it was an edict and mandate of the democratic party that I should be, and that he would get immunity if he made that affidavit. This is the way he said his affidavit was procured, and he was not contradicted. Phillips and Ward, the agents who took him to Cavanac, corroborated him.

But I was about to say that the Senator from Georgia—and I wish he were in his seat—in his speech the other day went on to interpret the cipher telegrams, and he made "Rose" to appear to be "Marks," in order to carry out a theory based on the evidence of a man named H. T. Brown, who testified before the sub-committee at New Orleans. His evidence will be found at page 827, I think. At all events, it is easy of reference, for it embraces just about a page. He swore that Morris Marks declined to appoint him to a position in the office of internal revenue, saying in his private office, when they were alone together, that he had to appoint a lot of squealers for KELLOGG, and consequently that he could not appoint any of his own friends. In the report of the committee they very disingenuously say of this man's evidence:

H. T. Brown testified that Morris Marks (revenue collector, and who was one of KELLOGG's most active supporters) said to witness in June or July, "I cannot take care of any of my friends now while this fight is going on about KELLOGG. I have to appoint a set of G—d d—d curs and hounds to keep them from squealing on KELLOGG." Morris Marks was present during the investigation by the sub-committee in New Orleans; was actively at work for KELLOGG; was himself a witness in behalf of KELLOGG, and did not deny this statement of Mr. Brown.

The Senator from Georgia and the Senator from North Carolina used substantially the same language in their speeches, at least the Senator from Georgia did. I submit that that conveys clearly by intendment, if not directly, the idea that Morris Marks appeared before the committee after Brown testified and did not contradict his evidence though he had an opportunity to do so. As a matter of fact Morris Marks testified two or three days after the committee went to New Orleans. He testified in rebuttal of a statement made by Barney Williams affecting him, and H. T. Brown testified some days afterward, and only just before the committee adjourned. Marks never knew that Brown had testified as he did until after this report was made by the committee, and he immediately sat down and sent me an affidavit denying it *in toto*, which I hold in my hand. I said to the Senator from Wisconsin, after Brown testified, "I think we ought to recall Marks." He derided it. "Why," said he, "it is only hearsay evidence, and if you are going to contradict every little figment of testimony that comes in that way you will keep us here all winter." Whereupon, as we had so many witnesses to call, I did not insist upon it. When we got here, I said to my attorney, Judge Shellabarger, "I am afraid they will use that bit of testimony of Brown's." He read it and said, "Nonsense, I would not call Marks for that," and we did not. Morris Marks, as I say, has made affidavit, which I hold in my hand, saying that this first came under his observation in reading the report of the committee published in New Orleans, that Brown's statement in regard to him is utterly untrue, and that he would have gone before the committee and said so if he had had the opportunity.

Now, the Senator from Georgia, to carry out the theory that Morris Marks was appointing "squealers" for me, takes the telegrams bearing on appointments, and in every one he interprets the word "rose" to mean "Marks," and says he has it from an expert.

Then, to carry out the other theory damaging to me, he says whatever other Senators may believe in reference to Barney Williams's testimony, incredible and startling as it may appear, he believes it. In a speech made on the day he presented his report he stated that there was corroborative evidence given by my witnesses that would fully sustain Williams's testimony; but now he says the corroborating evidence consists in a telegram sent to General Badger, which he read, as follows:

KELLOGG says if you can fix Foundry, Leopard, Templar, Screw, and Eagle, let Souer send them on as corroborating witnesses and the money will be ready at the hotel.

It will be noted that the Senator from Georgia does not venture to read to the Senate the cipher which he assumes to translate, and makes no explanation of the method by which his pretended interpretation was arrived at. There is no such telegram in the record as that which he professed to read. The only dispatch sent to Badger about the date specified containing the words "Foundry Leopard Temper Screw Eagle" was the following, which will be found in the evidence, page 1234:

WASHINGTON, D. C., 11.20 p. m., 6 *June*.

A. S. BADGER,
Coll'r, N. O.:

Terrier says if pin foundry Leopard Temper Screw Eagle fire Let Violet corroborating Vermont Standard Hotel be ready.

INDIGO.

This, therefore, must be the dispatch to which the Senator from Georgia alludes as confirming Williams's evidence. In order to make it fit in with the rest of his misstatements the Senator says, without warrant of fact, that this dispatch was sent on the 5th of June and received on the 6th. The dispatch itself shows it was sent at 11.20 on the night of the 6th. Having some doubts myself as to the true reading of this dispatch—for it was not sent by me—which the Senator from Georgia affects to translate so glibly to suit his own purpose, I wrote General Badger immediately after the Senator's speech was delivered, sending him the statement of the Senator and requesting him to telegraph me at once a correct translation. Here is his reply:

NEW ORLEANS, *May* 18.

To Senator W. P. KELLOGG:

Cipher dispatch from Indigo to Badger, which reads as follows:
"Terrier says if pin foundry Leopard, Temper, Screw Eagle fire Let Violet corroborating Vermont Standard Hotel be ready."
Deciphered correctly reads:
"KELLOGG says if not been tampered with, have Simmes, Magloire, Washington, Tolliver, R. Johnson come immediately. Let Souer's corroborating witnesses joint assembly quorum be ready."

A. S. BADGER.

Turning to the evidence of the witness Murray it will be found that on the 5th of June, the day before this dispatch was sent, he had sworn as to the persons named therein, Simms, Magloire, Tolliver, Washington, and Robert Johnson, all members of the Legislature; that three of them had told him they had received money for voting for me, and the other two had been seen with money some days afterward, (their vouchers having in the mean time been paid.) The assistant sergeant-at-arms of the Senate was at this time in New Orleans with instructions, sent the day before, to remain and summon seven witnesses for me. The officer had telegraphed in substance, "Tell Senator KELLOGG to designate friend here to name the witnesses that I am to summon." Whereupon, in order to rebut Murray's testimony given on the 5th, this dispatch was sent on the evening of the 6th to General Badger asking him to send to the country for these men named by Murray, and forward them on to contradict Murray, if certain they had not been tampered with by Mr. Spofford's agents, and also to send witnesses to testify in regard to the quorum. Murray it will be seen had given evidence on that point also, and indeed he is the only witness who did testify directly in regard to the alleged absence of a quorum when I was elected.

Surely that was an eminently proper dispatch, and its interpretation is clear and reasonable and consistent with the known facts on the record. It is corroborated by other dispatches sent and received about the same time, as I could easily show if I could take the time. I charge, and I think no one in the sound of my voice will venture to dispute it, that in pretending to give a translation of that dispatch the Senator from Georgia wrongfully, if not willfully, perverted it to my detriment, and I now say to him, or would say to him if he were here to make an issue, that if I cannot substantiate to any fair-minded man that the dispatch which he professes to have had translated by an expert was not in fact translated, and that the meaning which he puts on it is an interpretation wrongfully put upon it to my detriment, I will agree to resign my seat in the Senate.

That is the manner in which I have been pursued step by step all through this case, and the record is full of it.

At some future time, Mr. President, I may have occasion to go further into this evidence. I wish the task had not seemed to devolve upon me, but I must crave the indulgence of the Senate and plead only in extenuation the fact that this is a personal matter that touches me closely, and that I have been followed in this matter as few men have been pursued. Read the evidence, see the appliances that have been brought to bear to procure testimony against me, and see how I have met and overthrown them at every point. Before I conclude I will say to the Senator from Arkansas that he did not read from remarks made by me when the resolution passed, but he spoke generally of what I said.

I desire to say to the Senator from Arkansas that this whole matter was really gone over in the original case. It was suggested and was talked about and was in the journals of the houses, and both the Nicholls legislature and the Packard legislature were assailed on the ground that they were maintained by money, and it was insisted as to both Mr. Spofford and myself, in crimination and recrimination, that money had been used. There was never any proof of it.

Mr. GARLAND. I wish to ask the Senator if I have misrepresented him in quoting from him in reference to his statement when that resolution was before the Senate.

Mr. KELLOGG. I did not say anything about that, I think. If the Senator will turn to the RECORD he will find that I protested against the passage of the resolution to take testimony in this case anew for the reason that the whole question had been covered in the original hearing, and if the Senator will refer to the report of the Senator from Georgia in the original case he will see that it is full of allegations that there was all manner of fraud in connection with the Legislature. Every conceivable charge was made, just as the junior Senator from Ohio read the other day from the speech of the Senator from Georgia, [Mr. HILL,] when this case was being considered by the Senate in 1877.

Mr. GARLAND. I do not want to do the Senator any injustice.

Mr. KELLOGG. I am sure of it.

Mr. GARLAND.. What I mean to say is that when the resolution was up to take testimony—I did not read the RECORD which was before me, though I was prepared to read it—the Senator from Louisiana said that so far as the question of bribery was concerned he courted and demanded or insisted upon an inquiry. Did I misrepresent the Senator?

Mr. KELLOGG. I only say to the Senator that I have not looked at my remarks since they were published, now a year ago. My impression is, as I have stated, that I did not indicate any acquiescence in the action of the Senate in passing the resolution, but protested against it on the ground that while I feared no charge of improper conduct on my part, still all that matter as I claimed had been covered in the original inquiry, and that it was unjust and illegal to subject me to an investigation of this kind again.

Mr. GARLAND. I think the Senator will find on page 1121 of the RECORD—I have not a very good memory, but that is my recollection now—that he insisted that that distinct inquiry should go forward, but that at the same time it should not affect his title to the tenure of his office. I said enough to-day on that point as far as I am concerned. I understood the Senator to so say; but if I made a mistake in stating that he wanted that investigation I am ready to be corrected.

Mr. KELLOGG. I do not say that the Senator made a mistake. I have stated the matter as I recollect it, and how I regarded the case at the time, as having been formally settled on the original hearing and all these questions covered. If the Senator will refer to the RECORD in regard to that debate—I think it was early in May, 1879—he will see that it was shown that the whole question of bribery, as well as the other questions, were all raised in and suggested by the record evidence agreed upon by Spofford and myself in the original case. The Senator from Wisconsin [Mr. CARPENTER] in his speech at that time dwelt upon that. I refer the Senator to his remarks.

The PRESIDENT *pro tempore*. The consideration of the Calendar is now to be resumed under the agreement of the Senate.

AMENDMENTS TO BILLS.

Mr. McMILLAN, Mr. FARLEY, Mr. CAMERON of Wisconsin, Mr. HOAR, Mr. PENDLETON, and Mr. HEREFORD submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. CALL submitted an amendment intended to be proposed by him to the bill making appropriations for sundry civil service of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The Chair wishes to notify the Senate that several Senators having suggested doubts as to the correctness of the last ruling of the Chair, that the consideration of cases under the Anthony rule is to be continued up to half past one o'clock notwithstanding the change in the hour of meeting, the Chair will to-morrow at half past twelve o'clock submit the question to the Senate what is the true interpretation of these rules together, whether the morning hour ends at half past twelve or whether it continues to half past one. It is but right that the Senate should decide that question, because if it be decided one way it may lead to a change in the Anthony rule.

Mr. BAYARD. I should like to ask the Chair a question, whether to-day under the orders as they now stand it would be in order for the Senate by a majority vote to take up for consideration a measure without regard to its place on the Calendar?

The PRESIDENT *pro tempore*. It would not be without violating the agreement that was made by unanimous consent. The Chair has that agreement as written out by the shorthand writer, and it was this:

Mr. CONKLING. The proposition is that by unanimous consent it be resumed——

That is, the Calendar—

for an hour afterward.

That is, after the conclusion of the remarks of the Senator from Arkansas.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senate so agree.

So the Senate unanimously agreed to take up the Calendar at the close of the remarks of the Senator from Arkansas and continue its consideration for one hour. Of course the Chair cannot enforce that.

Mr. BAYARD. May I inquire of the Chair whether, the hour which was occupied by the Senator from Louisiana by unanimous consent having long since expired and a second hour or more having intervened, the rule would still apply?

The PRESIDENT *pro tempore*. The Chair put the question at the close of the remarks of the Senator from Arkansas and when the Senator from Louisiana rose whether the Senate unanimously agreed to still further postpone the Calendar in order that the Senator from Louisiana might address the Senate, and the Senate unanimously so agreed.

Mr. BAYARD. May I ask also of the Chair whether the extra morning hour will expire in one hour from the present time?

The PRESIDENT *pro tempore*. It will expire in one hour from the time the first case on the Calendar is called. The Secretary will call the first case on the Calendar.

The CHIEF CLERK. Senate bill No. 33——

Mr. PLUMB. I desire to call the attention of the Chair and of the Senate to an agreement entered into on the 26th of March that a certain bill, which is order of business No. 298, being House bill No. 2326, should retain its place at the head of the Calendar, and to ask for the reading of that bill as the first in order.

The PRESIDENT *pro tempore*. The Chair will hear the Senator from Kansas.

Mr. PLUMB. The Chair will find by referring to the RECORD containing the proceedings of March 26—I simply read the necessary portion of the colloquy which ensued on my request:

Mr. CONKLING. The Senator from Virginia will allow me to suggest that I am sure he will not object to the request that the Senator from Kansas makes now. He asks if the bill is reached during his absence that it may stand until he returns.

Mr. WITHERS. I misunderstood the request entirely.

The VICE-PRESIDENT. The Chair hears no objection to the request of the Senator from Kansas.

I will state further in that connection that when I did return the Senate then had under consideration the bill which it disposed of to-day, having arrived at the consideration of that bill during my absence. Consequently there was no chance to bring this bill up without interposing an objection to the further consideration of the bill which was passed to-day, and hence it remained until that bill was out of the way.

The PRESIDENT *pro tempore*. The Chair has read what took place in the Senate on the 26th of March, to which the Senator refers; and in view of the further statement that when the Senator returned the Senate was considering another bill, the Chair thinks that the agreement then made by the Senate ought to be observed, and that the bill mentioned by the Senator from Kansas, which is House bill No. 2326, retains its place at the head of the Calendar. It will be now called.

SETTLERS ON OSAGE LANDS.

The bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes, was considered as in Committee of the Whole.

Mr. EDMUNDS. I should like to hear the report of the committee read on this bill.

The Chief Clerk read the following report, submitted by Mr. WALKER February 17, 1880:

The Committee on Public Lands, to whom was referred the bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes, have had the same under consideration, and submit the following report:

These lands formerly belonged to the Osage Indians, and under treaty stipulations between the United States and that tribe the sale of the lands and the disposition of the funds arising from the proceeds of such sale were mutually agreed upon. By joint resolution of April 10, 1869, the lands were opened to sale to actual settlers at $1.25 an acre. By act of May 9, 1872, the general principles of the preemption laws were applied to these lands, though they were to be sold only to cash purchasers, with certain conditions as to time of payment, which were still further modified by act of June 23, 1874, which provided against any further extension of time and prescribed that deferred payments under previous laws should draw interest at the rate of 5 per cent. per annum.

A very considerable proportion of the persons who have made settlements upon these lands have failed to comply with the terms as to payment. They have been signally unfortunate. Many invested all the means at their command to put their farms under partial cultivation and to furnish the necessary improvements. Others effected loans for these purposes. Before they were able to realize from their investments the entire section of country within which these lands are included was devastated by the grasshopper scourge, which literally ate out their substance. This, with subsequent losses from an unusually dry season and the pressure of indebtedness, has made it quite impossible for these people, or the greater part of them, to meet their obligations to the Government.

This bill provides for their relief by permitting payment for the lands to be made in equal annual installments, with 5 per cent. interest on deferred payments, and secures the Government, as the representative of the Indians, against loss by default by subjecting the claims of settlers to forfeiture and the lands to sale at public auction in case of failure to meet any one of the payments. This, while a substantial relief to the settlers, will prove just to the Indians; for it insures certain payment for the lands and the consequent enlargement of their fund, while by extending the same principle of payment by installments to the lands unsettled upon their sale will be promoted to the mutual advantage of the State and of the Indian tribe.

No advantage would result to the Government or to the Indians by enforcing forfeiture against the settlers under existing law, while the hardships to the unfortunate settlers would be very great. They would be deprived of the benefit of all the improvements placed upon their lands. Nor would this and the forced abandonment of their homes be all; as their settlement was made under the limitations and requirements of the pre-emption law, they would be prohibited from filing upon any other class of public lands. The committee do not believe that anything would be gained by such severity, while, under the terms of the pending bill, the substantial purpose of the treaty and the original legislation will be carried out.

The bill also provides that the lands shall be taxable after the payment of the first installment, though it is expressly provided that no sale for taxes shall deprive the United States of any part of the purchase-price of the lands. This feature is deemed just to the State, which would otherwise be deprived of any revenue from a very large proportion of an extensive community for a series of years, while the local burdens would fall upon the comparatively few who have received titles to their lands.

This bill was introduced at the last session, and was drawn under the direction of the Commissioner of the General Land Office. It has also passed the House of Representatives. The committee believe that it will be a measure of humanity to the settlers and of substantial justice to the Government and the Indians, and they therefore recommend its passage.

A letter of the Commissioner of the General Land Office, of date April 10, 1878, to the Secretary of the Interior, and by that official transmitted to the House of Representatives, is hereto attached:

"DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
"*Washington, D. C., April* 10, 1878.

"SIR: I have the honor to report as follows upon House bill No. 3275, 'for the relief of actual settlers upon the Osage Indian trust and diminished-reserve lands in the State of Kansas, and for other purposes,' referred by the Department on the 7th ultimo with letter of Hon. THOMAS RYAN dated the 4th ultimo.

"The lands in question are those designated by the second and sixteenth articles of the treaty of September 20, 1865, volume 14 United States Statutes, and by those articles the stipulations respecting their sale and the disposition of the proceeds are expressed.

"By joint resolution of April 10, 1869, the trust lands were opened to sale at $1.25 per acre to actual settlers, and the twelfth section of the act of July 15, 1870, authorized the continued disposal of both the trust and diminished-reserve lands under the provisions therein prescribed, and by act of March 3, 1871, the town-site laws were extended over them. (See Statutes, volume 16, pages 55, 362, and 557.)

"By act of May 9, 1872, (Statutes, volume 22, page 90,) incorporated in section 2283 of the Revised Statutes, the lands have been brought under the general provisions of the pre-emption law, but only to be sold to cash purchasers, and upon prescribed limitations as to time of payment, which limitations were still further modified by act of June 23, 1874, (Statutes, volume 18, page 283,) so as to bar any further extension of time, and to require interest at the rate of 5 per cent. per annum upon all deferred payments under the previous laws.

"It is now proposed to relieve the settlers by allowing payment in equal installments under the terms of the bill, and to provide against default by subjecting the claims to forfeiture and the lands to unconditional sale at public auction after due notice and the lapse of the prescribed periods of time.

"The evident purpose is to carry into effect the treaty obligations with the Indians, and at the same time to secure a productive settlement of the country with an increase of the revenues of the State by taxation, as well as the resources of the General Government, by the added improvements and accumulations consequent upon such settlement.

"The bill as introduced not being, in my judgment, sufficiently explicit in its detail to effect the objects intended, I have, with some care, drafted a substitute, which I herewith submit, and which I respectfully suggest will more fully express the necessary provisions.

"With reference to section 2 of the bill (section 5 of the substitute) respecting the right of the State to tax the lands, and alding a purchaser at tax sale in case of default on the part of the settler to pay the purchase-price and take his patent, I have to remark that I do not consider the matter of any importance in its relation to the public land system or as requiring from me any opinion touching its merits. It is for Congress to say whether or not it will aid the enforcement of State legislation and interpose the patent of the United States as a bar to the equities of redemption provided for parties liable to taxation for local or State purposes.

"The provisions of the bill, as drawn by me, will only give the party paying the tax, after complete default by the settler, the right to take the lands in preference to a purchaser at the public sale on the day of offering, and cannot, therefore, by any possibility, defeat any claim of such settler, or bar any privilege except the mere common right to bid against all the world for the lands which he has had ample opportunity, even after advertisement, of fully securing. In this view of the matter, I have therefore to say that while I have no recommendations to offer I see no objection to the incorporation of the section as it stands in the substitute.

"It will be apparent by a reference to lines 6, 7, 8, 9, and 10 of section 2, in the original bill, that their import would be to limit the power of the State to provide her own remedies for the enforcement of her laws, and I have consequently amended the phraseology of the context, and omitted a clause embraced in those lines which does not command my favorable judgment.

"With the foregoing suggestions and exceptions, looking at the whole scope of the bill, I am of the opinion that the enactment of the substitute submitted, either with or without the incorporation of section 5, will work advantageously to the United States as well as to the Indians, and may with propriety be consummated.

"I am, sir, very respectfully, your obedient servant,

"J. A. WILLIAMSON,
"*Commissioner.*

"Hon. C. SCHURZ,
"*Secretary of the Interior.*"

Mr. EDMUNDS. The report of the committee certainly presents a pretty strong case for giving further time to these settlers who have been so unfortunate; but I do not see in the bill the provision that the committee refer to in their report for computing and requiring the payment of interest upon the unpaid part of the purchase-money. I think it is not in the bill. Of course under the treaty our duty to the Indians where this property is thus extended and sold on time and payment deferred would require us in the execution of the trust to make interest as anybody else would in selling property for the benefit of the Indians. And as the committee recommend that as the part of justice to the Indians, I move to add a section at the end of the bill to carry out that idea in these words:

SEC. 7. In all cases arising under this act interest at the rate of 5 per cent. per annum shall be computed and paid upon all that part of the purchase-money in respect of which time is given for the payment of the same.

The amendment was agreed to.

Mr. EDMUNDS. I should like to ask the Senator from Kansas, who is much more familiar with this matter than I am, whether in other respects than that of interest which is now provided for this bill is consistent with the provisions of the treaty so that we are not violating any duty to the Indians.

Mr. PLUMB. With the single exception of a provision similar to the one just now added to the bill on the motion of the Senator from Vermont, this bill is as it was drawn in the Interior Department, and it was sent there to be drawn for the purpose of ascertaining that fact. In the first place only a portion of these lands were ceded to the Government by treaty. The remaining portion was acquired by reason of a certain act of Congress. I believe myself, independent of the examination given by the Interior Department, that this bill does discharge now as amended all the obligations of the United States to the Indians with respect to these lands. It only provides a new method of selling that does not in any wise interfere with the treaty.

Mr. ALLISON. What act of Congress is referred to?

Mr. PLUMB. The act of Congress of 1869.

Mr. EDMUNDS. I take it upon that trust as far as I am concerned.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

JOSEPH R. SHANNON.

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) The Secretary will report the next bill on the Calendar.

The next bill on the Calendar was the bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims, with an amendment to strike out all after the enacting clause and insert:

That the Secretary of the Treasury is hereby authorized and directed to pay Joseph R. Shannon, formerly of the State of Louisiana, for the steamboat A. W. Quarrier, impressed into the service of the United States in the year 1862, and destroyed in such service, the sum of $48,000, out of any money in the Treasury not otherwise appropriated.

Mr. EDMUNDS. Let us hear the report, Mr. President.

The Chief Clerk read the following report, submitted by Mr. TELLER January 26, 1880:

The Committee on Claims, to whom was referred the bill (S. No. 33) for the relief of Joseph R. Shannon, having considered the same, make the following report:

The claimant, Joseph R. Shannon, petitions Congress to pay him the value of a steamboat (A. W. Quarrier) impressed by General Butler, while in command of Federal troops at New Orleans, in the spring of 1862. There is some conflict of testimony as to the exact time of the impressment, but not more than might be expected where witnesses rely on their recollection of the date. The claimant was a citizen of Missouri, and at all times loyal to the Government, but was, at the time of the capture of New Orleans, in the vicinity of that city with the boat and other property of like character.

The A. W. Quarrier was, before the war, used as a passenger boat, running between White River and the city of New Orleans, but at the time of the commencement of the war was lying at the wharf in New Orleans. Subsequently she plied between Red River and New Orleans. The claimant also owned the Burton and Sallie Robinson, which were both seized by the confederate government, and subsequently taken by the United States forces. The Burton was snagged and sunk while being used by the Government, and was subsequently paid for by the United States. The Sallie Robinson was recovered from the United States by claimant by proceedings in the court at New Orleans.

It appears from the evidence that the claimant was the owner of the boat by purchase, and had been such owner for several years. The claimant does not produce any written evidence of title, but the proof is entirely satisfactory (and was so admitted by the Treasury Department) of the ownership of the boat by claimant. (The reason given for non-production of title papers is that they were destroyed during the war.)

The facts may be briefly stated to be as follows: In the latter part of May or June, 1862, General Butler impressed the boat and sent it up the river under a flag of truce. One great object of the expedition appears to have been to obtain a large amount of gold taken from the New Orleans banks and secreted within the lines of the confederacy. The agent of the banks, whose affidavit is on file, went on the boat to Alexandria, and returned by other means with the gold; the captain and crew were seized and imprisoned as spies; the boat taken by the confederate government and dismantled; the machinery taken to Texas and used by the Davis and Marion County Iron Works, then controlled by the confederate authorities. Afterward these works fell into the hands of the Government of the United States. Shannon made an effort to recover the machinery, which was then in the hands of one Hughs, who appears to have held it as an agent of the Government. In this effort Shannon was unsuccessful, because Hughs proved that it was the property of the United States by capture from the confederate government. Then Shannon attempted to secure from the Government the value of the boat. After much delay, the Treasury Department decided that the owner was loyal, and that the boat had been impressed, as claimed by claimant, but that the boat was not in the insurrectionary district under the proper authority indicated by the joint resolution of December 23, 1869, nor in conformity with the law of the United States, and therefore rejected his claim as not cognizable in that Department.

It is difficult to say just what is meant by this. Mr. Shannon had established

his loyalty and the ownership of the boat to the satisfaction of the Treasury Department. The boat had not been seized by the Government on account of misconduct of the claimant, but because of the pressing necessity of the Government at that time. It was the property of a loyal citizen within the United States at the time of the breaking out of hostilities. The boat remained there through no fault of claimant, but from necessity. When the Government's authority was once more established over that portion of Louisiana, the claimant's rights were the same that they would have been if he had gone from Saint Louis to New Orleans after the capture of that city.

General Butler had authority to impress the boat if in his judgment it was a military necessity, and the liability of the Government is the same whether it was wisely or foolishly done. (Court of Claims, vol. 2, p. 95; vol. 5, p. 542; vol. 7, p. 234; 13 Wallace, 336.)

The claimant, without fault on his part, lost his boat, which he had not forfeited to the Government, and he is entitled to the value thereof. He brought the matter into the courts to obtain, if possible, what was left of the machinery of the boat, but was defeated because the Government claimed title to it as captured confederate property. He then resorted to the Treasury Department, but was informed that while the proof was satisfactory as to his loyalty, ownership of the boat, &c., he did not fall within the resolution of 1869, nor the amendment of 1871, and therefore he could not have redress in that Department, but must go to Congress, which he did some three years since. It is difficult to determine what the value of the boat so impressed was, and the evidence is conflicting on that part. It is doubtless conflicting because of the fact that the boat at the time of its purchase by the claimant was not in first-class condition, and was subsequently repaired at great expense. Some of the witnesses may speak of the boat as it was before the repairs and some after the repairs.

All of the witnesses save one place the value of the boat at not less than $50,000, and several of them much higher than that. The Third Auditor, after a careful examination of the evidence and the value of boats of like character and dimensions paid for by the Government, fixes the value of the boat at the time of the impressment at a little more than $48,000. As the value of the boat must be ascertained by the testimony taken at that time, and from the testimony the Auditor would have been justified in finding the value much greater than he did, and as but one witness out of eight testify to a value below $50,000, your committee think the amount found by the Auditor is not excessive, and therefore recommend that $48,000 be paid to Mr. Shannon, and therefore recommend the passage of the accompanying bill as substitute for Senate bill No. 33.

Mr. EDMUNDS. I should like to have the Senator from Colorado who made this report tell us, as he can no doubt in a very few minutes, the short history of this vessel, where she had been for the year preceding the impressment by General Butler, what she was doing, on which side of the line she was, and what sort of business she was engaged in.

Mr. TELLER. This boat was in the waters at New Orleans when the war broke out, remained there in New Orleans, as I understand, a portion of the time running from the city of New Orleans as an ordinary passenger boat to White River. A portion of the time, to prevent its falling into the hands of the confederates, it was hid in a slough. It was subsequently brought out and put on as a passenger boat. It was in the waters at New Orleans when Butler took possession of the city, and remained there some time after, when Butler, thinking he needed it to send up the river, took possession of it and sent it up the river out of the control of Mr. Shannon, who was the owner. The evidence of that is indisputable in the affidavits of the clerk of General Butler and of various persons as to the taking of the boat. When taken up the river where Butler desired to send it it was captured by the confederates and dismantled, and the machinery was taken over into Texas and used there by the confederate government, and afterward fell into the hands of the United States, and the United States still holds it unless the Government has sold it.

The evidence is satisfactory of the loyalty of the claimant, and the proof is beyond any doubt that the Government took possession of the boat without his consent and sent it off on a military expedition.

Mr. JONES, of Florida. Permit me to ask a question. What prevented this claimant from going before the commission which was created to consider claims of this character? There were a great many claims considered by the southern claims commission, and I know of many claims equally as meritorious as this originating in the taking of property belonging to loyal citizens; but whenever they were brought up here it was said that Congress had created a southern claims commission whose purpose and jurisdiction was to consider matters of this kind, where the testimony would be in accordance with the well-established rules of law, not to be decided upon *ex parte* affidavits, but on cross-examination. I do not know that this case did not fall within the jurisdiction of that commission; and if it did, I wish to know why it was not submitted to their consideration?

Mr. TELLER. I do not know. My impression is that this claimant was not authorized to go before the southern claims commission. If he was, the excuse, I suppose, is this: the machinery, which was worth a large amount of money, was taken over to Texas and was used, and when the war was over Mr. Shannon thought the quickest way for him to get his money was to go and get the machinery. He went over there and instituted suit in the United States courts for possession of the property, and the suit hung on for a very long time—I do not remember the exact time—and when they came to trial the proof was that the property was not held by the individual who was made defendant, but was held really by the United States Government, and thereupon, of course, Shannon lost the suit. Inasmuch as the confederate government had once had possession of it, the United States was not obliged to look and see how it came into possession, and the Government of the United States refused to deliver the machinery, and therefore he lost that opportunity. He then came to the Treasury Department, and was informed there after a good deal of trouble that he must come to Congress; that there was no other place for relief. He came to Congress. There is one other case exactly like this, as I understand, before our committee, that we have reported, where a party is in the same condition, and I have not yet found any case where the parties have gone with this class of cases to the southern claims commission.

Mr. JONES, of Florida. Can the Senator give any reason why they were not bound to go the same as other claimants? Was there anything in their cases that took them out of the operation of that law?

Mr. TELLER. That southern claims commission I understand was instituted for the purpose of hearing the claims of parties that had furnished supplies to the Government either by their own consent or otherwise. This cannot be considered as a supply furnished to the United States.

Mr. JONES, of Florida. Why not?

Mr. TELLER. The Government took forcible possession.

Mr. JONES, of Florida. The Government took possession of this property and used it just as it did the property of other citizens.

Mr. TELLER. If the Senator will turn to the statute establishing the southern claims commission, I think he will see that this did not come within its jurisdiction. This seems to be a fair claim. As the Government has had this man's property, there is no reason why the Government should have it without paying for it. He has been compelled to wait year after year, and he has been before the Department, and been before Congress. I think it is one of those cases that ought to be paid. I trust he will be paid.

Mr. EDMUNDS. I should like to see this southern claims commission law.

Mr. JONES, of Florida. I will say to the Senator from Colorado that I make no captious objection to this case. All I am in favor of is equality. Equality is equity. I know that it has been held here time and again in the case of claimants just as meritorious as this one that because their claims had not been presented to the southern claims commission created for the purpose of considering this class of demands against the Government they had no standing before Congress. I say that if this rule is to be applied to one man it ought to be applied to another, because in respect of loyalty there is no question that other men equally as loyal as this man have had their claims disregarded because they did not present them before this southern claims commission.

Mr. EDMUNDS. Mr. President, I find the origin of the southern claims commission in the Army appropriation bill of 1871, chapter 116 of the acts of that year, March 3, 1871, which provides for the appointment of three commissioners—

> Whose duty it shall be to receive, examine, and consider the justice and validity of such claims as shall be brought before them, of those citizens who remained loyal adherents to the cause and the Government of the United States during the war, for stores or supplies taken or furnished during the rebellion for the use of the Army of the United States in States proclaimed as in insurrection against the United States, including the use and loss of vessels or boats while employed in the military service of the United States.

My friend from Colorado tells us that it is said this case does not fall within that rule. This, according to the report of the committee, is a case in which a vessel belonging to a loyal citizen was taken in a State proclaimed to have been in rebellion, to wit, Louisiana, for the use of the Army of the United States by one of its commanding generals, and was destroyed in that service. I confess as a first impression I do not see why the suggestion of the Senator from Florida is not a sound one, that this is one of that class of cases which should have been subjected to the scrutiny, *quasi* judicial, of this commission.

It seems that this vessel was once taken by the confederate authorities and dismantled, if I correctly understood the Senator from Colorado, and how she got out of the confederate possession into the possession of the owner again and was put into use does not appear to be very clearly stated. Perhaps my friend can explain that.

Mr. TELLER. The Senator misunderstands me. The confederates never had possession of this vessel until they took possession from the United States and dismantled her. After the Government had impressed the vessel and took it up the river on its own service, having put its own crew and officers in, using some of the original crew, but having put some military men in charge of the boat, it was taken possession of by the confederates and dismantled. The Government afterward got it again and still retains the property except the hull of the vessel, which of course was destroyed.

Mr. EDMUNDS. I understood before that this capture or seizure by the confederates was previous to the impressment by General Butler. If the capture was afterward, of course that was no fault of the owner and he ought not be responsible for that. But I should really like to have this case sufficiently considered to understand whether it is one of ten thousand or fifty thousand that properly belonged to this quasi-judicial examination that we had provided for, or whether it really does not fall within that, and if the Senator would not object to let this bill go over without losing its place, because I should be very sorry to do the claimant any injustice by an objection which I could not properly maintain, I should like to have it in order that we may see whether we are beginning again to open matters that might have been and perhaps have been tried before the southern claims commission or not. I make that suggestion that it go over without losing its place.

Mr. TELLER. The statute read by the Senator is just the statute that the Department said did not include this class of cases, and I say in my report that I cannot understand why the Government did

not think they could pay under that act, but inasmuch as the Department decided they could not pay under that act and would not pay under the act, therefore the party came to Congress. The Department decided that this case did not fall within the resolution of 1869.

Mr. EDMUNDS. That was a provision as to quartermaster's stores.

Mr. TELLER. Nor the amendment of 1871. I said that I did not understand why it did not, but they said it did not, and therefore they refused to pay. Now, if this man might have gone to the southern claims commission, he did not go there, and we have paid a good many claims since I have been in the Senate where the parties did not go there for various reasons.

Mr. JONES, of Florida. On that point I would like to ask a question. I say candidly that I have no prejudice against this case. It belongs to a very meritorious class that from inadvertence or other cause never found a place before the southern claims commission, but which have been universally put aside and never allowed because they were not presented there. All I wish to know is what is there in the facts of this case to make an exception in its favor? Why did this man not go before the southern claims commission? If it was because he was beyond the seas, or because of his minority, or for any of those usual causes which operate as exceptions to statutes of limitation, let that fact be stated.

Mr. HOAR. May I be allowed to answer the question of the Senator from Florida?

I do not see myself why this claimant could not have established a case under the act creating the southern claims commission. But that is a judicial proceeding in the nature of a court, as the Senator understands. There was an act of Congress then in force, enacted originally in 1869 and renewed and amended a little in 1871, under which persons whose boats were in the insurrectionary districts in certain enumerated methods, one being the method under lawful authority employing a license to go there, might go to the Treasury Department without any application to the court and the claimant have relief. That is the just and fair interpretation of that statute. His place was where he went, in the Treasury Department, and the Senator making the report says he was right. The Treasury Department examined this case thoroughly and find that he is a loyal man; that his claim is just; that all the facts he states are true; and that the amount which the committee propose to allow him ought to be allowed, but the proper officer of the Treasury is of opinion that in regard to the construction of the law giving the Treasury Department authority to audit and settle such accounts he was wrong, that they had not the legal authority. Therefore he lost his claim by going to the Treasury Department instead of going to the southern claims commission as he might have gone, and the committee under those circumstances, without inquiring whether he ought to have saved his strength, and after the Treasury Department disallowed his claim there for this reason have saved himself in the southern claims commission, concluded, as all the facts were absolutely admitted by the Government beyond any question, that it was proper to report his bill without any regard to the particular technical difficulty, if it be technical.

Mr. JONES, of Florida. The Senator from Massachusetts throws a light on the subject that has never been thrown before. He has stated to the Senate that at least some exceptions would possibly exist to the consideration of claims of this description. Now, I say to the Senator very candidly that I am more anxious that a rule should be established than that this particular claim should be paid or defeated. If we are to have a rule, let us have one. If we are to have exceptions to a rule, let us have them.

Mr. HOAR. Will the Senator from Florida allow me?

Mr. JONES, of Florida. In a moment. If we are to have exceptions, let us understand what the exceptions shall be.

I think cases have been presented to the Senate equally as meritorious as this, and when presented it was said the case fell within the jurisdiction of the southern claims commission; the party did not present his claim within the time fixed by law; he is barred; and now Congress will not undertake to consider that class of cases. What I was anxious to understand was if there were any exceptions to the rule, the hard legal rule which has been hitherto adopted, because if there are to be exceptions pleaded in one case, then I know what is due in others.

I have no complaint to make of the statement of the Senator from Massachusetts with respect to the facts of this case, although I can imagine other cases equally as meritorious as this which I think were put aside where the parties could have alleged a state of facts that would have been in my judgment as good a foundation for an exception as this.

Mr. HOAR. I think it quite reasonable that the case should go over as suggested unless the Senator from Colorado who made the report is able to give to the Senate the dates in answer to the question put by the Senator from Vermont. But the substance of the case as we understand is this, and I think the honorable Senator from Florida will agree that it should be one of the exceptions to the rule which requires the party to go to the proper tribunal within the time: He went in time to the place where he thought he ought to go, the Treasury Department. His case was entertained there, investigated there, all the facts found, and it is admitted that he has an honest, clear, plain case on the merits. The question whether he went to the right or the wrong jurisdiction for his remedy is a question so doubtful that although the Treasury Department thought they had not jurisdiction some of the committee thought they had. I am merely stating the case from general recollection at this moment.

Mr. EDMUNDS. I should like to hear the statute under which he went to the Treasury Department.

Mr. COCKRELL. I desire simply to state that it has been the rule of the Committee on Claims for a long while, when cases were presented to them over which the Court of Claims or the commissioners of claims or the proper Departments had full jurisdiction and ample means of affording relief, not to consider those cases unless there were extraordinary or exceptional facts attending each case justifying its consideration by Congress. When this case was presented it was first submitted in the Forty-fifth Congress and reported favorably, and at this Congress it was again presented and reported favorably, and the attention of the committee was not called to the question of the jurisdiction of the commissioners of claims. When the question was first put I thought the commissioners of claims did not have jurisdiction, and I thought there was an exception in some statute in regard to boats and vessels, but my recollection now is different. I find it is not in the act of March 3, 1869, nor in the amendatory act of 1871. My recollection now is that the exception to which I refer is in regard to quartermaster and commissary stores; that in the law giving the Quartermaster-General and Commissary-General jurisdiction of all claims for quartermaster and commissary stores in States not in insurrection there is an exception in regard to boats and vessels. I must confess that I thought the same thing was in the commissioners of claims act, but I find it is not, and I do not know, never having examined the case personally, all the facts as to why the claimant did not go there. As a matter of course, under the circumstances the claim ought to be postponed without losing its place. Let it be laid aside without losing its place until that question can be investigated.

Mr. EDMUNDS. I wish to suggest to the chairman of the committee in the mean time to ascertain, first, whether this gentleman has ever been to the southern claims commission as a fact; second, if not why not, and when it was that his case was finally determined in the Treasury Department and under what statute.

Mr. COCKRELL. The Senator from Colorado will make that investigation. I have all the reports of the southern claims commission.

Mr. TELLER. I have no objection to the case going over if it can be called up again. Here is a case where the Government has had this man's property. I have examined a great many cases since I have been in the Senate, and most of them were questions admitting of doubt as to the facts. Here is one that does not admit of any doubt; there is no dispute about it. The Government, after a careful examination, themselves said that they had had the boat. They said the value was as alleged, that it was taken under the circumstances the party alleged, that he was loyal to the Government, and they kept him for years in the Treasury Department, where he had some right to go, and who, I think, after examining the statutes, were authorized to pay him. They have paid claims that in my ignorance I cannot distinguish between the principle of and the principle that should govern this.

Mr. EDMUNDS. Can you give us a reference to the statute under which he went there?

Mr. TELLER. I cannot now, though I could if I had time to go through all these papers. I did not think there would be any question raised on that point. This party went to that tribunal. He staid there. He did not get out of there until October, 1877. When he got out of there, of course he could not go before the southern claims commission then, if he ever could have gone.

Mr. EDMUNDS. When did the right to present claims there terminate?

Mr. TELLER. It terminated before I came into the Senate; I cannot say exactly when. We extended their time to adjudicate claims that they had commenced after I came in, and I know it was extended before that.

I desire before the bill goes over to read for the benefit of the Senate just this conclusion, which I have quoted pretty nearly in the report:

> The steamer and her owner were in the insurrectionary districts at the time of the capture of New Orleans. The claimant was loyal and the resident of a loyal State.
>
> His residence in Missouri, and went back there; but at this time he was in New Orleans:
>
> But the boat was not in the insurrectionary district under the proper authorities indicated by the joint resolution of December 23, 1869; nor, indeed, in my opinion, was it there in conformity with the laws of the United States.
>
> For these reasons the office cannot recommend the allowance of the claim, but knowing that you entertain a different opinion of the effect of the amendment of March, 1871, to the joint resolution of December 23, 1869, I submit the case for your consideration and decision.

That is from Mr. Rutherford, the auditor, addressed to J. M. Brodhead, Second Comptroller, who seems to have believed the law was just as I believe it to be.

Now, if this case can go over until it can be examined, and I can call it up without its losing its place, I do not object; but it is better for this man, and better for all men who come here like him, that the case be disposed of if he gets nothing. He is here and has been here for years waiting in his poverty for that which the Gov-

ernment has taken from him, and under no rule of law can the Government justify itself in keeping this man out of his money. It is one of a great number of cases that are a crying disgrace to this nation where we stand here without any earthly excuse for not paying men that which we legally owe them, and either through our own neglect or our lack of attention to the business of the country to look up these cases we let them go and let these parties stay here and suffer in their poverty for that which I say the Government has no right to keep from them; and this is one of those cases.

Mr. THURMAN, (Mr. HEREFORD in the chair.) I shall not object to this bill retaining its place on the Calendar after what I have heard said, but I wish to call the attention of the Senate to the inconvenience and injustice that will result if we get into the habit of getting up a bill, argue it, and then pass it over, and allow it to retain its place on the Calendar. I do not think the Anthony rule will be worth much if that should get to be the practice of the Senate. I will not object in this particular case.

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) It is proposed that the case under consideration be laid over, not to lose its place on the Calendar. Is there objection? The Chair hears none.

NORWEGIAN BARK ATLANTIC.

Mr. ANTHONY. I move that the Senate now proceed to the consideration of executive business.

Mr. THURMAN. That is in violation of the agreement to go on with the Calendar for an hour.

Mr. ANTHONY. I was not aware of the agreement.

Mr. THURMAN. That hour will end at five o'clock. There are ten minutes left.

Mr. ANTHONY. I withdraw the motion.

The next bill on the Calendar was the bill (S. No. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop of war Vandalia, and for payment of any award made by said commission; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Foreign Relations with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of State be authorized and required to submit to an impartial arbitration, to be agreed upon between him on the part of the United States and the minister of the government of Sweden and Norway at this capital on the part of the Norwegian bark Atlantic, the question of the liability of the United States upon the principles of law applicable between private parties for the damage caused to said bark Atlantic by said collision with the sloop of war Vandalia, and of the amount for which the United States should be so liable; and the amount, should any be found upon such arbitration to be justly due and payable by the United States, together with such proportion of the expenses of the arbitration as the Secretary of State shall approve, shall be paid out of the Treasury of the United States upon the warrant or requisition of the Secretary of State; and the necessary amount for such purpose is hereby appropriated thereto out of any moneys in the Treasury not otherwise appropriated.

Mr. EDMUNDS. Is there a report? If so, let it be read.

The Chief Clerk read the following report, submitted by Mr. MORGAN February 18, 1880:

The Committee on Foreign Relations, to whom was referred the bill (S. No. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop of war Vandalia, and for payment of any award made by said commission, have had the same under consideration, and report:

That the owners of the Norwegian bark Atlantic claim of the United States compensation for injuries to their vessel, and for losses by her detention in the port of Lisbon for repairs, under the following alleged state of facts:

That the bark Atlantic was upon the high seas, pursuing her voyage from the port of Ozan, in Algeria, to the port of Leith, in Scotland, on the 31st of October, 1876, when she was hailed by the United States steam war sloop Vandalia, who sent out a boat to the Atlantic with a request for newspapers.

That some delay occurred because the officer from the Vandalia and the captain of the bark could not converse in the same language.

During this delay the vessels collided, and it is claimed by the captain of the bark, in a public protest that he made on his arrival at Lisbon, that his vessel was wholly without fault.

The Norwegian bark was so damaged by the collision that the Vandalia found it necessary to tow her into Lisbon, Portugal, where she could be repaired.

The officer in command of the Vandalia claims that his ship was without fault, and so reported to the Secretary of the Navy.

The claim for compensation appears to be made in good faith, and is so far supported by evidence that it requires impartial examination.

The King of Sweden and Norway has caused his minister to the United States to bring this subject to the attention of this Government, and to ask that some action be had by Congress by which a mode of adjusting this dispute may be provided.

There is no provision of law by which the United States can be sued in courts of admiralty, and ships of war are not subject to any proceeding *in rem* by persons who may sustain damages by their negligent or improper navigation.

The Norwegian minister suggests in his correspondence with the Secretary of State that his government has provided by law so that suits may be brought against it in its own courts in such cases by persons who have unjustly sustained damages. He presents this as an additional ground for his request that Congress shall provide for a settlement of the claim of his countrymen by impartial arbitration.

Your committee agree that this request is reasonable and proper, and report back the bill referred to them with a substitute therefor, and recommend its adoption.

Mr. EDMUNDS. Mr. President, it appears to me that this provision as reported by the committee, requiring the Secretary of State to agree upon an arbitration with the government of Sweden and Norway, is rather trenching upon the executive power, which by the Constitution in such cases it is provided shall be exerted by the President of the United States, by and with the advice and consent of the Senate, in settling any question of a claim of the citizens of one government upon the other; and therefore it seems to me quite plain that it would not do to pass the bill in its present form. On the statement made in the report that the government of Norway—and I should like to see the correspondence—claims that it has provided for its own sovereignty being sued in its own courts in cases of this character, all that the United States would be called upon to do in a case of this kind would be done by a simple provision that could be put in ten lines, authorizing the owners of this vessel to sue the United States in the admiralty court on the instance side, as I believe my friend from Alabama would call it, for damages occasioned by this collision, and let the maritime court settle the question of who was in fault, and that would end the whole affair, and that we could do by law. But to provide in advance by law either that the Secretary of State (which it seems to me is totally out of the question) or the President should enter into an agreement for an arbitration with a foreign government, is I suggest going beyond the Constitution.

I think if this case were to go over an amendment could be prepared which would be satisfactory to the committee and would accomplish the object, simply providing that the owners of this vessel might within a limited time sue the United States on the instance side of the admiralty jurisdiction in the district court for the southern district of New York or in Connecticut or anywhere, for damages occasioned by this collision. Then it could be tried in just such a way as it is said the laws of Norway provide for claims against that government being tried in favor of foreign governments. And although the other government would have no power in that case to introduce a member of the court as in the case of an arbitration, still I believe the civilized nations agree that the maritime courts of each other are fair tribunals in which ordinary matters of this kind may justly and fairly and impartially be tried. If it should turn out afterward that the government of these owners thought that they had not had fair play, that through prejudice or otherwise the court had decided manifestly against the law or facts as to this collision, that would be a subject of arrangement to be tried over again by an arbitration. But to get up an organization and the expense of it to the two governments is needless, when it is so perfectly simple to provide that the admiralty court in any district you choose to name may try it as an instance cause, not *in rem*, and that the United States shall foot the bill found against it if one shall be found. I suggest that to my friend from Alabama.

The PRESIDENT *pro tempore*. The hour allowed by agreement for the consideration of the cases on the Calendar under the Anthony rule has expired, and the Chair lays before the Senate the unfinished business, which is the resolutions of the Committee on Privileges and Elections in regard to the seat of the Senator from Louisiana on the left of the Chair, [Mr. KELLOGG.]

Mr. MORGAN. I desire to inquire whether under the construction given by the Chair to what is known as the Anthony rule this bill will be the unfinished business to-morrow?

The PRESIDENT *pro tempore*. If this measure is undisposed of it remains on the Calendar, and of course will not be the unfinished business, but will be the second case on the Calendar when called, as there is another case previous to it which the Senate ordered to retain its place. The Senator from New York [Mr. KERNAN] is entitled to the floor upon the resolutions reported from the Committee on Privileges and Elections.

Mr. KERNAN. I yield to the Senator from Delaware, [Mr. BAYARD.]

SPECIAL DEPUTY MARSHALS.

Mr. BAYARD. I move to lay aside temporarily the present and all preceding orders, and proceed to the consideration of Senate bill No. 1726.

The PRESIDENT *pro tempore*. It is not the subject of a motion, but it is the subject of an agreement.

Mr. CONKLING. I think the Senator's motion (perhaps technically he should have used the word "postpone") is in order. He moves to postpone the present and prior orders.

The PRESIDENT *pro tempore*. Such a motion is in order, but not a motion to postpone temporarily.

Mr. CONKLING. I did not hear the Senator say "temporarily."

The PRESIDENT *pro tempore*. He did.

Mr. CONKLING. I object to this order being laid aside temporarily to take up the so-called marshals bill.

The PRESIDENT *pro tempore*. The Senator from Delaware can move to postpone the pending order.

Mr. CONKLING. That he may do.

Mr. BAYARD. If exception be taken to the phrase "to lay aside" instead of "to postpone"——

The PRESIDENT *pro tempore*. Objection is made.

Mr. BAYARD. Then I shall move to postpone the pending and preceding orders temporarily in order to take up Senate bill No. 1726.

The PRESIDENT *pro tempore*. The Chair will call the attention of the Senator from Delaware to the effect of his motion, he having moved to lay aside temporarily. If he moves to postpone the pending order the motion must be made without qualification.

Mr. BAYARD. I move to postpone it.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to postpone the pending and all prior orders with a view to proceed to the consideration of the bill he has indicated.

Mr. EDMUNDS. Mr. President——

Mr. SAULSBURY. I would rather the usual motion——

Mr. EDMUNDS. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. EDMUNDS. I hope the Senator from Delaware [Mr. BAYARD] will not persist in his motion, or if he does I hope the Senate will not agree to it. This case of the highest privilege has been before the Senate in its present attitude on the last report for a long, very long, time. It has been taken up from day to day, with odd intervals, for the convenience of excellent orations on both sides of the question, but we have come to a stage of it where it appears to me just and reasonable that it should be brought to a conclusion. It will take no more time, much less really, to bring it to a conclusion now. I do not mean at this instant, but to keep on with it. I do not mean to-day necessarily, because I am not at all disposed to force my friend from New York [Mr. KERNAN] to submit his observations at five o'clock, when there is other business with closed doors that demands our attention, but we should keep on with it until it is done. I may say the same in reference to every other case, although it has not the privilege that this has, that is before the Senate, that a vast amount of time is continually lost by our taking up one subject and devoting ourselves to it for half an hour or an hour, or two hours, or three, and then dropping it without any real necessity to get some further information, but as a mere matter of convenience to take up something else and going on with something else, because when the matter comes up again we have found by experience that all that has been said before has to be repeated in order that Senators not present before and those who were present and busy about something else or had forgotten what was said might understand the subject over.

I think a great deal is lost in respect of our morning hour in the same way, and that we should advance the business of the Senate immensely if the unfinished business of the preceding day began immediately when we had finished the order of the introduction of resolutions, and if we were to stick to that unfinished business until it is done, and then take up the next subject, whatever it may be, and stick to that until it is done.

But in this particular case this is a matter that everybody agrees is a subject of high and important privilege. If the sitting Senator from Louisiana is not justly and lawfully entitled to hold his place among us, then we are doing a wrong not only to his State, but to all of the States and all the people of all the States in postponing a decision upon this question while he is continuing to affect the welfare of this country by his voting upon one side or the other of every question that is presented. On the other hand, if he is rightly entitled to his seat, then every interest of justice and fair play requires us now that the question has been forced again upon the attention of the Senate to say so, and have done with it once for all, until at the next session somebody tries it again, because of course there is no end of anybody's right to try to overset what has been already decided.

Therefore, I submit with great respect to my honorable friend from Delaware that it is not just, it is not right in any respect, to postpone this important matter of privilege in order to take up a subject of ordinary legislation that has come much later before the Senate, to say nothing of its not being a matter of privilege, and which gives rise to considerations not only of law and proper polity but of political bias and all that sort of thing, as is supposed.

I hope that the Senate will not postpone this matter, but will stick to it until it is disposed of. In saying that I have no intention of having it understood that I desire that the Senator from New York should be compelled to go on at this late hour in the afternoon, but we can proceed to business which also demands our attention and which can be considered without displacing anything.

Mr. BAYARD. I apprehend that the business of the Senate will be conducted according to its own discretion of what is due to public interests——

Mr. EDMUNDS. That is what I was trying to make out.

Mr. BAYARD. And also according to what is due to the courtesy of the body. The honorable Senator from New York on my left is not prepared and does not desire to address the Senate at this time upon the question of the Louisiana senatorial election. I am charged by a committee of this body with the presentation of the measure to which I have referred. It is in the power of the Senate to consider which measure they see fit. Therefore I shall deem that I am acting in accordance with the best public interests as well as the courtesy of this body in reference to the Senator from New York when I ask the Senate to proceed to the consideration of this bill. I have made the motion, and I ask that the question be put.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Senator from Delaware moves that the Senate postpone the pending and all prior orders in order to proceed to the consideration of Senate bill No. 1726, pending which the Senator from Rhode Island moves that the Senate proceed to the consideration of executive business. The question is on the motion of the Senator from Rhode Island.

The motion was not agreed to, there being on a division—ayes 17, noes 26.

Mr. VOORHEES. Before another vote is taken I wish to announce that the Senator from Iowa [Mr. ALLISON] has been paired with the Senator from Maryland, [Mr. WHYTE,] who is absent on account of sickness in his family. I have been paired for a long time with the Senator from Illinois, [Mr. LOGAN.] The Senator from Iowa and myself have agreed that the Senator from Maryland and the Senator from Illinois shall be paired, and that will release us from the pairs that have been subsisting heretofore, so that I shall be at liberty to vote on these questions.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware, that the pending and all prior orders be postponed in order to proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The question being put, there were on a division—ayes 24, noes 15.

Mr. CONKLING. I ask for the yeas and nays. This may be a very important vote.

The yeas and nays were ordered.

Mr. CONKLING. I wish to make an inquiry, so as to be sure that no Senator can be mistaken as to the character and effect of this motion. If I understand it aright, it is a motion to postpone the further consideration of the so-called Kellogg case, so that if the motion prevails that subject will never be in order again until it is taken up by a vote of the Senate.

Mr. BAYARD. By a vote of the Senate.

Mr. CONKLING. Yes, I say until it is taken up by a vote of the Senate it will never again come up for consideration.

Mr. SAULSBURY. I desire to say, as the chairman of the committee who reported the resolutions, that I would vote against the motion of my colleague if I did not believe that he and the other gentlemen who will support his motion would vote with me to take the resolutions up hereafter.

Mr. KERNAN and others. Certainly we will.

Mr. EATON. There is no doubt of that.

The Secretary proceeded to call the roll.

Mr. VOORHEES, (when Mr. ALLISON's name was called.) The Senator from Iowa [Mr. ALLISON] in leaving the Senate Chamber awhile ago desired me to announce that he is paired with the Senator from Kentucky, [Mr. BECK.]

Mr. BLAINE, (when his name was called.) I am paired on all political questions (and should have thought of it sooner in voting on divisions) with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "nay."

Mr. BOOTH, (when his name was called.) On this question I am paired with my colleague, [Mr. FARLEY.]

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Michigan [Mr. BALDWIN] on all political questions, and this seems to be considered a political question.

Mr. EATON, (when his name was called.) I am paired with my friend the Senator from Wisconsin [Mr. CARPENTER] on all political questions. I cannot conceive myself that this is a political question, and yet I shall withhold my vote, as other gentlemen have suggested that it is a political question.

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. HILL.] If he were here, I should vote "yea."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. ROLLINS, (when his name was called.) On this question I am paired with the Senator from Kentucky, [Mr. WILLIAMS,] who was obliged to leave the Chamber on account of illness. If he were present, I should vote "nay."

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "nay."

Mr. COCKRELL, (when Mr. VEST's name was called.) My colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT.] If my colleague were here, he would vote "yea."

Mr. MCMILLAN, (when Mr. WINDOM's name was called.) My colleague [Mr. WINDOM] is necessarily absent from the Senate Chamber this afternoon and is paired with the Senator from North Carolina, [Mr. VANCE.] If my colleague were here, he would vote "nay," and the Senator from North Carolina would vote "yea."

The roll-call was concluded.

Mr. BURNSIDE. The Senator from Michigan [Mr. FERRY] is paired with some one, I have forgotten now with whom. He asked me to announce the pair.

The result was announced—yeas 25, nays 16; as follows:

YEAS—25.

Bailey,	Gordon,	McDonald,	Slater,
Bayard,	Groome,	Maxey,	Thurman,
Butler,	Hampton,	Morgan,	Voorhees,
Call,	Harris,	Pendleton,	Walker.
Cockrell,	Johnston,	Pryor,	
Coke,	Jones of Florida,	Randolph,	
Garland,	Kernan,	Saulsbury,	

NAYS—16.

Anthony,	Cameron of Wis.,	Hoar,	Morrill,
Blair,	Conkling,	Jones of Nevada,	Paddock,
Burnside,	Dawes,	Kirkwood,	Plumb,
Cameron of Pa.,	Edmunds,	McMillan,	Saunders.

ABSENT—35.

Allison,	Blaine,	Carpenter,	Eaton,
Baldwin,	Booth,	Davis of Illinois,	Farley,
Beck,	Bruce,	Davis of W. Va.,	Ferry,

Grover,	Jonas,	Ransom,	Wallace,
Hamlin,	Kellogg,	Rollins,	Whyte,
Hereford,	Lamar,	Sharon,	Williams,
Hill of Colorado,	Logan,	Teller,	Windom,
Hill of Georgia,	McPherson,	Vance,	Withers.
Ingalls,	Platt,	Vest,	

So the motion to postpone was agreed to.

The PRESIDENT *pro tempore*. The Senator from Delaware [Mr. BAYARD] now moves to proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals, the pending question being on the amendment proposed by Mr. CONKLING, to insert in line 1 of section 2, after the words "deputy marshals," the words "appointed only;" so as to read:

That all deputy marshals appointed only to serve in reference to any election shall be appointed, &c.

The PRESIDENT *pro tempore*. On this amendment the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BOOTH, (when his name was called.) On this question I am paired with my colleague, [Mr. FARLEY.]

Mr. CAMERON, of Wisconsin, (when Mr. BURNSIDE'S name was called.) The Senator from Rhode Island [Mr. BURNSIDE] requested me to announce that he is paired with the Senator from New Jersey, [Mr. RANDOLPH.]

Mr. EATON, (when his name was called.) On this question and all political questions I am paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. GROOME, (when his name was called.) Upon this and all political questions, this afternoon, I am paired with the Senator from Rhode Island, [Mr. ANTHONY,] with the understanding that I can vote to make a quorum, but not otherwise.

Mr. HEREFORD, (when his name was called.) I am paired on all political questions with the junior Senator from Colorado, [Mr. HILL.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. RANDOLPH, (when his name was called.) I am paired with the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. ROLLINS, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. WILLIAMS.]

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

Mr. MCMILLAN, (when Mr. WINDOM'S name was called.) My colleague [Mr. WINDOM] is paired with the Senator from North Carolina, [Mr. VANCE.] My colleague, if here, would vote "yea."

The roll-call was concluded.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] is not present. He is paired with the Senator from Maryland, [Mr. WHYTE.]

Mr. VOORHEES. The Senator from Iowa is mistaken. An arrangement has been made by his colleague [Mr. ALLISON] and myself by which the pair between Mr. ALLISON and the Senator from Maryland [Mr. WHYTE] is released, and he is paired for the afternoon only with the Senator from Kentucky, [Mr. BECK.]

Mr. KIRKWOOD. I wished to make the announcement of my colleague's pair once for all on this bill.

Mr. BLAINE. I am paired with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "yea."

Mr. EATON. I desire to announce that my colleague [Mr. PLATT] is paired with the Senator from Missouri, [Mr. VEST.]

Mr. BUTLER. I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

The result was announced—yeas 10, nays 22; as follows:

YEAS—10.

Blair,	Hoar,	McMillan,	Saunders.
Cameron of Wis.,	Jones of Nevada,	Morrill,	
Edmunds,	Kirkwood,	Plumb,	

NAYS—22.

Bailey,	Gordon,	Maxey,	Thurman,
Bayard,	Hampton,	Morgan,	Voorhees,
Call,	Harris,	Pendleton,	Walker,
Cockrell,	Johnston,	Pryor,	Wallace.
Coke,	Kernan,	Saulsbury,	
Garland,	McDonald,	Slater,	

ABSENT—44.

Allison,	Conkling,	Hill of Colorado,	Randolph,
Anthony,	Davis of Illinois,	Hill of Georgia,	Ransom,
Baldwin,	Davis of W. Va.,	Ingalls,	Rollins,
Beck,	Dawes,	Jonas,	Sharon,
Blaine,	Eaton,	Jones of Florida,	Teller,
Booth,	Farley,	Kellogg,	Vance,
Bruce,	Ferry,	Lamar,	Vest,
Burnside,	Groome,	Logan,	Whyte,
Butler,	Grover,	McPherson,	Williams,
Cameron of Pa.,	Hamlin,	Paddock,	Windom,
Carpenter,	Hereford,	Platt,	Withers.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. EDMUNDS. Call the roll.

Mr. GORDON. If it is in order, I wish to move that the Committee on Commerce be allowed to sit during the sessions of the Senate.

Mr. EDMUNDS. There is no quorum.

The PRESIDENT *pro tempore*. That motion is not now in order. No motion is in order but to adjourn or for a call of the Senate.

Mr. INGALLS, (at five o'clock and twenty-seven minutes p. m.) I move that the Senate adjourn.

The motion was not agreed to.

Mr. BAYARD. I move a call of the Senate.

The PRESIDENT *pro tempore*. It is the duty of the Chair, without any motion, to have a call of the Senate.

Mr. EDMUNDS. Let the Chair do its duty.

The PRESIDENT *pro tempore*. The Secretary will call the roll.

The Secretary called the roll and forty-four Senators answered to their names.

During the call of the roll,

Mr. SLATER. I desire to say that my colleague [Mr. GROVER] is detained from the Senate by indisposition.

Mr. COCKRELL. My colleague [Mr. VEST] is absent, necessarily so, and is paired with the Senator from Connecticut, [Mr. PLATT.]

The PRESIDENT *pro tempore*. Forty-four Senators are present; there is a quorum; and the question recurs on the motion of the Senator from New York [Mr. CONKLING] to amend the bill, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) I am paired with the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. BOOTH, (when his name was called.) I am paired with my colleague, [Mr. FARLEY.]

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. RANDOLPH, (when Mr. BURNSIDE'S name was called.) The Senator from Rhode Island [Mr. BURNSIDE] is paired with me.

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. HILL.] If he were present, I should vote "nay."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. TELLER, (when his name was called.) I am paired with the Senator from Illinois, [Mr. DAVIS.]

The roll-call was concluded.

Mr. MCMILLAN. My colleague [Mr. WINDOM] is paired with the Senator from North Carolina, [Mr. VANCE.]

Mr. JONES, of Florida. I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. EATON. I am paired with the Senator from Wisconsin, [Mr. CARPENTER,] and therefore I will vote as he would vote if he were here. I vote "yea."

Mr. MCMILLAN. The Senator from Michigan [Mr. FERRY] is paired with some Senator on the other side of the Chamber. The Senator from Michigan, if here, would vote "yea."

Mr. DAVIS, of West Virginia. If there is not a quorum I am at liberty to vote. If there is, I will not.

The PRESIDENT *pro tempore*. There is not a quorum voting as yet.

Mr. DAVIS, of West Virginia. Then I vote "yea," as my pair would vote if he were present.

Mr. GROOME. I am paired with the Senator from Rhode Island, [Mr. ANTHONY,] who if present would vote "yea." The pair was with the distinct understanding that I should have the right to vote to make a quorum. I therefore vote "nay."

Mr. BUTLER. I am paired with the Senator from Pennsylvania, [Mr. CAMERON,] but I will vote as he would vote, so as to help make a quorum, and therefore I vote "yea."

The result was announced—yeas 15, nays 22; as follows:

YEAS—15.

Blair,	Dawes,	Jones of Nevada,	Paddock,
Butler,	Eaton,	Kirkwood,	Plumb,
Cameron of Wis.,	Edmunds,	McMillan,	Saunders.
Davis of W. Va.,	Hoar,	Morrill,	

NAYS—22.

Bailey,	Gordon,	Maxey,	Thurman,
Bayard,	Groome,	Morgan,	Voorhees,
Call,	Hampton,	Pendleton,	Walker,
Cockrell,	Johnston,	Pryor,	Wallace.
Coke,	Kernan,	Saulsbury,	
Garland,	McDonald,	Slater,	

ABSENT—39.

Allison,	Conkling,	Ingalls,	Rollins,
Anthony,	Davis of Illinois,	Jonas,	Sharon,
Baldwin,	Farley,	Jones of Florida,	Teller,
Beck,	Ferry,	Kellogg,	Vance,
Blaine,	Grover,	Lamar,	Vest,
Booth,	Hamlin,	Logan,	Whyte,
Bruce,	Harris,	McPherson,	Williams,
Burnside,	Hereford,	Platt,	Windom,
Cameron of Pa.,	Hill of Colorado,	Randolph,	Withers.
Carpenter,	Hill of Georgia,	Ransom,	

The PRESIDENT *pro tempore*. There is no quorum voting. On the first call of the yeas and nays, no quorum voting, the Chair, pur-

suant to the rule, ordered a call of the Senate. That disclosed a quorum. Upon the second taking of the yeas and nays the votes taken and the pairs show a quorum present, but not a quorum voting. It is for the Senate now to decide what shall be done.

Mr. EDMUNDS. It is the duty of the Chair to have the roll called.

Mr. McDONALD. As it is evident that there is a quorum present, but for various reasons there does not seem to be a quorum voting, I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate do now adjourn.

The question being put, it was declared that the ayes appeared to prevail——

Mr. EDMUNDS. Divide.

The PRESIDENT *pro tempore*. The ayes have it——

Mr. EDMUNDS. Divide!

The PRESIDENT *pro tempore*. And the Senate stands adjourned until to-morrow morning at eleven o'clock.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 20, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

PUBLIC BUILDING, MILTON, PENNSYLVANIA.

Mr. KILLINGER. Mr. Speaker, I ask by unanimous consent to make a statement to the House.

The SPEAKER. The Chair hears no objection.

Mr. KILLINGER. I am obliged to be away for several days on account of sickness in my family. There came from the Senate yesterday a bill (S. No. 1774) to provide for the erection of a public building in the town of Milton, in the State of Pennsylvania, which was last week destroyed by fire. I therefore ask the indulgence of the House that it will allow me to take the bill from the Speaker's table and put it on its passage at this time. It met the unanimous approval of the Senate, and the urgency is so great in that stricken town that I think it will command the approval of every member of the House.

The bill was read.

Mr. BRAGG. I object.

MARYLAND AND DELAWARE SHIP-CANAL.

Mr. KIMMEL, by unanimous consent, was granted leave to print in the RECORD, as part of the debates, some remarks he had prepared on the subject of the Maryland and Delaware Ship-Canal. [See Appendix.]

EVENING SESSION FOR DEBATE.

Mr. BEALE. I ask by unanimous consent that Saturday next at four o'clock and thirty minutes p. m. the House take a recess until 7.30 o'clock p. m., for the purpose of holding an evening session for debate only.

Mr. STEPHENS. I object, as Saturday has been set apart for the consideration of bills for the erection of public buildings, and it may take us over into a night session to complete the work.

PUBLIC BUILDING, MONROE, LOUISIANA.

Mr. KING, by unanimous consent, introduced a bill (H. R. No. 6244) for a public building at Monroe, Louisiana; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MAGNUS S. THOMPSON.

Mr. CARPENTER, by unanimous consent, introduced a bill (H. R. No. 6245) for the relief of Magnus S. Thompson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

INTEROCEANIC CANAL.

Mr. PAGE. Mr. Speaker, I ask by unanimous consent at this time to present a memorial to the Senate and House of Representatives from the Board of Trade of San Francisco, representing over fifty millions of active capital, asking the construction of a ship-canal to connect the Atlantic and Pacific Oceans, which I ask may be referred to the Committee on the Interoceanic Canal and printed in the RECORD.

There was no objection, and it was ordered accordingly.

The memorial is as follows:

To the honorable the Senate and
House of Representatives in Congress assembled:

The Board of Trade of San Francisco, representing over fifty millions of active capital, controlled by two hundred and twenty-four business firms, respectfully call your attention to the great and urgent necessity existing for the construction of a ship-canal to connect the Atlantic and Pacific Oceans. Your memorialists have attentively considered this great question in the interests of our Commonwealth, our Pacific coast, and the whole commercial world. They have availed themselves of all the official information obtainable on the subject; they have examined professional experts on the surveys already made, as well as competent navigators, respecting the practical benefits attainable thereby. After impartial and careful consideration of the subject, and without any interests except as above stated, your memorialists desire, as a commercial body deeply interested in the practical solution of this great enterprise, to place on record their firm conviction that in point of economy of construction, availability for commercial purposes, and certainty of returns for the capital invested, the Nicaragua route for an interoceanic canal, as surveyed by Commander Lull, United States Navy, in 1873, offers the greatest advantages, and should therefore receive the unqualified indorsement of our Government and the capitalists of the world.

Our Pacific coast suffers and is retarded in its onward march of industrial and commercial development for the want of cheap transportation, and your memorialists look upon the Nicaragua Interoceanic Canal as the only available project which holds out to our producers and our merchants the prospect of permanent relief—in the desideratum of cheap freights to the great nations inhabiting the shores of the Atlantic. The millions of Europe and our own countrymen on our eastern seaboard want the varied products of our soil, but we are debarred from the benefit which should thereby accrue to our Pacific coast by the expanse of a continent and by the "Cape of Storms."

Your memorialists therefore pray that when an organization with proper guarantees applies to you for recognition and official encouragement, the Government of our country will assume the protection and support with its moral influence the execution of this great work, upon which so much depends. Your sanction and your encouragement will make this essentially an American enterprise, and afford such a guarantee of success as will attract the capital of Europe to complement our own. Our coast, our country, and the world are ready for this great and beneficent enterprise.

On the shores of the Pacific the sentiment of American nationality and patriotism appeals to you with the assurance of your cordial sympathy and support.

The Board of Trade of San Francisco:

JACOB S. TABER, *President.*
J. DUFFY, *First Vice-President.*
CHAS. F. WYMAN, *Secretary.*
WM. LAWRENCE MERRY, *Chairman,*
C. J. DEMPSTER, *Secretary,*
W. W. DODGE,
LEVI STRAUSS,
LOUIS SACKS,
Committee on Interoceanic Canal.

UNSOLD LANDS, VIRGINIA MILITARY DISTRICT, OHIO.

Mr. DICKEY. I move, Mr. Speaker, by unanimous consent to take from the Speaker's table the amendments of the Senate to an act (H. R. No. 580) to construe and define an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871, and for other purposes.

I introduced this bill in the Forty-fifth Congress, where it was considered by the Committee on Public Lands, and unanimously agreed to, but failed for want of time. It has again been considered by that committee of this Congress, and reported unanimously. In the Senate slight amendments have been made which are perfectly satisfactory. The object of the bill is to enable certain landholders in that district to perfect their titles, which cannot be done under existing statutes. The claim of the Ohio Agricultural and Mechanical College to these lands, to which they at one time supposed themselves entitled under the act of February, 1871, has been abandoned, but the General Land Office can furnish no relief to these owners, because the time for procuring their patents, and so perfecting titles to which there is no other legal objection, has by law expired. The act of 1871, which ceded to Ohio certain lands, never was intended to embrace these lands, as is plainly shown by the remarks of Senator THURMAN at the time of its passage, and as I demonstrated in a speech I made on this bill in the Forty-fifth Congress, so there can be no just objection to its passage as amended.

There was no objection, and Mr. DICKEY's motion was agreed to.

The amendments of the Senate were read, as follows:

Page 1, line 10, after the word "all" insert "legal," so the section will read:

"SEC. 2. That all legal surveys returned to the Land Office on or before March 3, 1857, on entries made on or before January 1, 1852, and founded on unsatisfied Virginia military continental warrants, are hereby declared valid."

Page 1, line 22, strike out "Land Commissioner" and insert "principal surveyor of said district;" so the section will read:

"SEC. 3. That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands, which have, on or before January 1, 1852, been entered within the tract reserved by Virginia, between the Little Miami and Scioto Rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed three years from and after the passage of this act to make and return their surveys for record to the office of the principal surveyor of said district, and may file their plats and certificates, warrants, or certified copies of warrants, at the General Land Office, and receive patents for the same."

Mr. DICKEY moved concurrence in the Senate amendments.

The motion was agreed to.

Mr. DICKEY moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN D. DEFREES.

Mr. GARFIELD. I now ask, Mr. Speaker, by unanimous consent, to call up Senate bill No. 1090, for the relief of John D. Defrees, the Public Printer.

Mr. SIMONTON. I object.

JOHN G. ABERCROMBIE.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 6246) for the relief of John G. Abercrombie, of Benton County, Arkansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BURROWS. Mr. Speaker, I demand the regular order of business.

Mr. STONE. I think it is about time we had the regular order of

business, because every proposition coming from this side seems to be objected to.

The SPEAKER. The Chair has recognized equally both sides of the House.

Mr. STONE. I do not complain of the Chair at all, but I do complain that, while propositions are allowed to pass through from the other side, every one coming from this side is objected to.

Mr. CONGER. While the Chair properly recognizes this side of the House, yet of the propositions offered here but one or two out of fifty for the last two weeks have gone through without objection from that side, and, while that is so, we may as well go on with the regular order of business.

Mr. SPARKS. The gentleman from Michigan occupies the floor more than any man on this side of the House.

Mr. CONGER. I am not referring at all to what men say in debate, but every proposition on this side is objected to.

Mr. BURROWS. I demand the regular order of business.

The SPEAKER. The regular order of business is the unfinished business coming over from last evening's session, on which the previous question has been seconded and the main question ordered.

Mr. BURROWS. I insist on my demand for the regular order of business.

Mr. RYON, of Pennsylvania. Will it be competent to make a motion to suspend the rules to take up that bill to authorize the building of a post-office at the town of Milton, Pennsylvania?

The SPEAKER. Not to-day.

Mr. KILLINGER. Would it be in order to move to go to business on the Speaker's table with a view to taking it up?

The SPEAKER. After the morning hour it would, and after the disposal of the unfinished business the Chair will then entertain the motion because the rule directs him so to do at that time.

Mr. SAPP. Is there not a special order assigned for to-day?

The SPEAKER. There is, but the previous question is now operating upon this bill to provide a municipal code for the District of Columbia.

DISTRICT CODE.

Mr. HUNTON. I now ask to call up the unfinished business, on which the previous question has been ordered.

The SPEAKER. The gentleman from Virginia will please indicate what amendments it is desired to have a separate vote upon, so that the remainder of the amendments coming from the Committee of the Whole on the state of the Union may be adopted in gross.

Mr. HUNTON. The several amendments on which a separate vote has been asked in the House are first the amendment offered by the gentleman from Rhode Island, on page 3, and then the amendment to section 3, on page 312, the amendment offered by the gentleman from Michigan in regard to transfer tickets. Mr. SAMFORD, of Alabama, also desires a separate vote on an amendment which was proposed in the Committee of the Whole and lost.

The SPEAKER. Therefore there are three amendments on which a separate vote is asked.

Mr. HUNTON. Yes, sir.

Mr. ALDRICH, of Rhode Island. I ask the reading of the amendments.

Mr. SAMFORD. The amendment which I offered in Committee of the Whole if not adopted to section 185 I was to have the privilege of offering it to the succeeding section.

The SPEAKER. Then there are four amendments on which a separate vote may be asked—the two indicated by the gentleman from Virginia and two indicated by the gentleman from Alabama.

Mr. SAMFORD. That is correct.

Mr. ALDRICH, of Rhode Island. I suggest that the amendment offered by the gentleman from Alabama was not adopted in Committee of the Whole.

Mr. NEAL. The committee agreed that there should be a separate vote on it in the House.

Mr. ALDRICH, of Rhode Island. But if it was not adopted in the committee I do not see how that could be done without consent.

The SPEAKER. That amendment not having been adopted in the committee will have to come in by unanimous consent, as the previous question has been ordered. The gentleman from Alabama had better submit his amendment now by unanimous consent.

Mr. CONGER. Let the amendment be read.

The SPEAKER. The Chair understands this amendment comes in by consent of the Committee of the Whole. It is often done, but the difficulty here is that the previous question is ordered and this amendment was not put in prior to the ordering of the previous question. Consent, however, has been given for it, and the Chair will direct that the amendment be read.

The Clerk read as follows:

Add to section 185 the following, as amended:

"*Provided*, The provisions of this section shall not apply to special assessments heretofore made, but as to them the law shall remain as it now is."

Mr. CONGER. I do not remember any agreement of that kind.

The SPEAKER. The Chair will cause to be read the proceedings in that connection, as shown by the RECORD.

The Clerk read as follows:

Mr. HUNTON. I do not propose to have a vote taken to-night on the passage of the bill, or on agreeing to the amendments; but I desire that the previous question be ordered.

Mr. ATKINS. I wish to make a parliamentary inquiry. If the previous question be ordered to-night, will it exclude the reading of the bill to-morrow, should any member demand it? I want to avoid the third reading in full.

The SPEAKER. The bill has already been read twice; the Chair presumes it will be read a third time by its title.

Mr. HUNTON. I propose to move the previous question, which I hope will be ordered; and then in the morning any gentleman can call for a separate vote on any amendment.

The SPEAKER. Then, the gentleman from Virginia had better content himself with calling the previous question on the amendments reported from the Committee of the Whole, and on the bill to its engrossment and third reading.

Mr. HUNTON. Will that bring the bill up as unfinished business to-morrow morning?

The SPEAKER. It will.

Mr. HUNTON. Then I am content.

The previous question was seconded and the main question ordered upon the amendments and on the engrossment and third reading of the bill.

Mr. SAMFORD. There was another amendment on which a separate vote was assented to——

Mr. HUNTON. This does not interfere with that.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, with amendments in which the concurrence of the House was requested.

DISTRICT CODE.

Mr. ROBINSON. What is the request now?

The SPEAKER. It is to allow the amendment offered by the gentleman from Alabama to be voted upon by the House. The committee seems to have bound itself to that arrangement, and the previous question was ordered by less than a quorum with that understanding.

Mr. ROBINSON. If that is the understanding, I do not object.

Mr. HUNTON. That unquestionably was the understanding.

The SPEAKER. The Chair will first cause a vote to be taken on the remaining amendments other than those indicated by the gentleman from Virginia and the gentleman from Alabama, on which separate votes are demanded.

The remaining amendments reported from the Committee of the Whole on the state of the Union were agreed to.

Mr. NEAL moved to reconsider the vote by which the several amendments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The first amendment on which a separate vote has been asked will now be read.

The Clerk read as follows:

On page 212, after the word "crime," in line 69, insert "provided that at least 75 per cent. of all appointments hereafter made to the police force, and made prior to January 1, 1885, shall be made from persons who served in the Army or Navy of the United States in the late war and were honorably discharged, and such persons having the requisite physical and other qualifications may be appointed after a residence of three months in the District."

The SPEAKER. This amendment was offered in the Committee of the Whole by the gentleman from Rhode Island, [Mr. ALDRICH.] The vote will be now taken on its adoption and incorporation into the bill.

Mr. ALDRICH, of Rhode Island. That amendment was adopted by the Committee of the Whole.

The SPEAKER. Then the question is on concurring in the amendment reported from the committee.

The House divided; and there were—ayes 62, noes 60.

Mr. HUNTON demanded tellers.

Mr. ALDRICH, of Rhode Island. We might as well have a vote on that by yeas and nays at once.

The question was taken; and there were—yeas 95, nays 78, not voting 119; as follows:

YEAS—95.

Aldrich, N. W.	Daggett,	Kelley,	Reed,
Aldrich, William	Davis, George R.	Killinger,	Richardson, D. P.
Anderson,	Davis, Horace	Ladd,	Robinson,
Barber,	Davis, Lowndes H.	Lapham,	Russell, W. A.
Bayne,	De La Matyr,	Lewis,	Sapp,
Belford,	Deering,	Lindsey,	Sherwin,
Beltzhoover,	Dunnell,	Loring,	Stevenson,
Blake,	Errett,	McCook,	Stone,
Bland,	Farr,	McKinley,	Taylor,
Bouck,	Field,	Miles,	Thomas,
Boyd,	Frye,	Miller,	Thompson, W. G.
Brewer,	Garfield,	Mitchell,	Updegraff, J. T.
Briggs,	Gibson,	New,	Updegraff, Thomas
Brigham,	Gillette,	Newberry,	Valentine,
Browne,	Godshalk,	Norcross,	Van Aernam,
Burrows,	Hammond, John	O'Neill,	Vance,
Calkins,	Harmer,	Orth,	Waddill,
Carpenter,	Haskell,	Overton,	Wait,
Caswell,	Hayes,	Pacheco,	Ward,
Chittenden,	Hellman,	Page,	Washburn,
Claflin,	Henderson,	Phelps,	Willits,
Coffroth,	Horr,	Pierce,	Wilson,
Conger,	Houk,	Poehler,	Wright.
Cowgill,	Joyce,	Pound,	

NAYS—78.

Acklen,	Bright,	Cobb,	Culberson,
Aiken,	Buckner,	Colerick,	Davidson,
Armfield,	Cabell,	Converse,	Davis, Joseph J.
Bachman,	Caldwell,	Cook,	Dibrell,
Beale,	Chalmers,	Covert,	Dickey,
Berry,	Clardy,	Cox,	Evins,
Bicknell,	Clark, John B.	Cravens,	Felton,

Finley,	Jones,	Muldrow,	Sparks,
Forney,	Kenna,	O'Connor,	Springer,
Geddes,	Kimmel,	Persons,	Steele,
Gunter,	King,	Philips,	Thompson, P. B.
Hammond, N. J.	Knott,	Phister,	Tillman,
Hatch,	Lounsbery,	Reagan,	Turner, Oscar
Henry,	Manning,	Richardson, J. S.	Upson,
Herbert,	Martin, Benj. F.	Ryon, John W.	Whiteaker,
Hooker,	McLane,	Samford,	Whitthorne,
Hostetler,	McMillin,	Sawyer,	Williams, Thomas
Hull,	Mills,	Simonton,	Wood, Fernando.
Hunton,	Money,	Slemons,	
Hurd,	Morrison,	Smith, William E.	

NOT VOTING—119.

Atherton,	Ford,	Martin, Joseph J.	Singleton, J. W.
Atkins,	Forsythe,	Mason,	Singleton, O. R.
Bailey,	Fort,	McCoid,	Smith, A. Herr
Baker,	Frost,	McGowan,	Smith, Hezekiah B.
Ballou,	Goode,	McKenzie,	Speer,
Barlow,	Hall,	McMahon,	Starin,
Bingham,	Harris, Benj. W.	Monroe,	Stephens,
Blackburn,	Harris, John T.	Morse,	Talbott,
Bliss,	Hawk,	Morton,	Townsend, Amos
Blount,	Hawley,	Muller,	Townshend, R. W.
Bowman,	Hazelton,	Murch,	Tucker,
Bragg,	Henkle,	Myers,	Turner, Thomas
Butterworth,	Herndon,	Neal,	Tyler,
Camp,	Hill,	Nicholls,	Urner,
Cannon,	Hiscock,	O'Brien,	Van Voorhis,
Carlisle,	House,	O'Reilly,	Voorhis,
Clark, Alvah A.	Hubbell,	Osmer,	Warner,
Clymer,	Humphrey,	Prescott,	Weaver,
Crapo,	Hutchins,	Price,	Wellborn,
Crowley,	James,	Rice,	Wells,
Deuster,	Johnston,	Richmond,	White,
Dick,	Jorgensen,	Robertson,	Wilber,
Dunn,	Keifer,	Robeson,	Williams, C. G.
Dwight,	Ketcham,	Ross,	Willis,
Einstein,	Kitchin,	Rothwell,	Wise,
Elam,	Klotz,	Russell, Daniel L.	Wood, Walter A.
Ellis,	Le Fevre,	Ryan, Thomas	Yocum,
Ewing,	Lowe,	Scales,	Young, Casey
Ferdon,	Marsh,	Shallenberger,	Young, Thomas L.
Fisher,	Martin, Edward L.	Shelley,	

So the amendment was agreed to.

The following pairs were announced:

Mr. STEPHENS, for to-day and to-morrow, with Mr. RYAN, of Kansas, upon all questions where they would disagree, of which Mr. RYAN is to be the judge.

Mr. VAN VOORHIS with Mr. TOWNSHEND, of Illinois.

Mr. TOWNSEND, of Ohio, with Mr. WARNER, on all questions.

Mr. CONGER. I ask that the last announcement be again read.

The announcement was again read.

Mr. CONGER. The gentleman from Ohio [Mr. TOWNSEND] would vote for the soldier, and his colleague, [Mr. WARNER,] I suppose, would vote for the soldier, too. Why are they paired?

Mr. REAGAN. I object to this.

Mr. WARNER. The gentleman from Michigan having filled up all the soft places where there are cushioned seats and wood-fires in the winter and ice-water in the summer with politicians, now proposes to turn over the sidewalks to the soldiers.

Mr. CONGER. I find I was mistaken in the soldier from Ohio.

Mr. WARNER. The soldiers from Ohio know who are their true friends.

The Clerk continued to read the announcements of pairs, as follows:

Mr. MONROE with Mr. CLYMER.

Mr. BUTTERWORTH with Mr. MCKENZIE.

Mr. HALL with Mr. WELLBORN, on this bill.

Mr. SINGLETON, of Mississippi, with Mr. HAWLEY. If present, Mr. SINGLETON would vote "no" and Mr. HAWLEY would vote "ay."

Mr. DICK with Mr. SCALES, for to-day, Mr. SCALES being confined to his room by sickness.

Mr. CANNON, of Illinois, with Mr. BLACKBURN, on all questions for to-day.

Mr. HERNDON with Mr. STARIN.

Mr. TALBOTT with Mr. HALL.

Mr. URNER with Mr. MCMAHON.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. RICHMOND with Mr. JORGENSEN.

Mr. FORT with Mr. MYERS.

Mr. JOHNSTON with Mr. ROBESON.

Mr. JAMES with Mr. O'BRIEN.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. SPEER with Mr. FISHER.

Mr. GIBSON with Mr. HUMPHREY.

Mr. HOUSE with Mr. PRICE.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. NICHOLLS with Mr. RICE.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MYERS with Mr. SINGLETON, of Illinois.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. ELLIS with Mr. BAILEY.

Mr. SHELLEY with Mr. CAMP.

Mr. MCCOID with Mr. HARRIS, of Virginia.

Mr. HENKLE with Mr. NEAL.

Mr. HAWK with Mr. BRAGG.

Mr. HUTCHINS with Mr. KETCHAM.

The result of the vote was then announced as above recorded.

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment on which a separate vote was demanded was read, as follows, having been adopted in the Committee of the Whole on motion of Mr. CONGER:

After section 749 add as a new section the following:

"It shall be the duty of all conductors of street cars in the said city of Washington, at the place of all crossing or connecting car lines where continuous transfer passes are given to passengers, to give to any passenger requesting the same for transfer purposes a transfer pass before such passenger leaves the car to make such transfer."

Mr. HUNTON. I ask that a communication from the president of one of these roads, which I send to the desk, be read.

Mr. CONGER. I object to debate.

Mr. HUNTON. I believe I have some right to debate the question. I do not wish to indulge in any debate, properly so called, but merely desire to have that communication read.

The SPEAKER. The gentleman from Virginia would have been entitled to one hour under the rule if he had claimed it.

Mr. CONGER. Not now.

Mr. HUNTON. Since the amendment was adopted I have received that communication.

Mr. CONGER. The gentleman did not claim his hour.

The SPEAKER. That is true.

Mr. HUNTON. If the reading of the communication is objected to I will merely say that I hope the amendment will not be adopted.

The House divided; and there were—ayes 81, noes 12.

So (further count not being called for) the amendment was adopted.

Mr. CONGER moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment on which a vote was called for was read as follows, having been offered in Committee of the Whole by Mr. SAMFORD:

Add to section 185 the following:

"*Provided*, The provisions of this section shall not apply to special assessments heretofore made, but as to them the law shall remain as it now is."

Mr. ALDRICH, of Rhode Island. This amendment was rejected by the committee.

The SPEAKER. But by agreement allowed to be offered and voted on in the House.

Mr. CONGER. I do not know any rule under which that amendment can come in to be voted upon.

The SPEAKER. The committee, the Chair is advised, agreed to let the amendment come in notwithstanding the previous question.

Mr. CONGER. I do not know of any such agreement.

The SPEAKER. The understanding was read at the Clerk's desk and the statement was corroborated by the gentleman from Virginia, [Mr. HUNTON.]

Mr. HUNTON. Yes, sir; that was the understanding in the committee. I hope, however, the amendment will not be adopted.

Mr. NEAL. I trust the House will allow the amendment to be voted on.

The SPEAKER. Of course the time when the amendment should have been offered was in the House before the previous question was ordered.

Mr. SAMFORD. I called attention to this amendment last evening, and it was agreed that it should be admitted, but the RECORD fails to state it.

Mr. CONGER. I cannot conceive that such an amendment could have been adopted in the committee.

The SPEAKER. It was not adopted in the committee. But the committee, as the Chair supposes, having found itself without a quorum and to save being broken up for want of a quorum, agreed that the amendment should be offered and voted upon in the House.

Mr. HUNTON. It was agreed unanimously in Committee of the Whole that the amendment should be voted on.

Mr. CONGER. The gentleman from Virginia knows there was not a moment while the committee was in session that I did not sit here, and I have no recollection of any such agreement.

Mr. HUNTON. I cannot help that. I am not responsible for any want of recollection on the part of the gentleman from Michigan. But I state this, while I am opposed to the amendment and shall vote against it, that it was agreed in the committee a vote should be taken in the House upon it.

The question being taken the amendment was not agreed to.

The SPEAKER. The Chair understands that there is another amendment to be voted upon, the one of the gentleman from New York, [Mr. VAN VOORHIS.]

Mr. NEAL. The gentleman does not insist upon that.

The SPEAKER. The Chair has not been advised that he does not press his amendment.

Mr. VAN VOORHIS. After consultation with the gentleman having the bill in charge, I will waive the amendment.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. DEERING. I now desire to have the unfinished business disposed of.

The SPEAKER. That will come up after the morning hour.

Mr. CONVERSE. I move that the morning hour for to-day be dispensed with.

SCHOONER REBECCA D.

Mr. COX. I ask the gentleman to yield to me for a moment, that I may call up from the Speaker's table a little bill to change the name of a vessel. It is a Senate bill, which has been favorably considered by the Committee on Commerce of the House, and relates to a vessel which was sunk, and was then raised and fixed over again; and this bill directs the Secretary of the Treasury to grant her a register in another name.

Mr. O'NEILL. Can I move to amend by adding a provision to change the name of another vessel?

Mr. COX. Do not do that, please.

The SPEAKER. Does the gentleman object?

Mr. O'NEILL. I do not make any objection to the consideration of the bill, but I desire to move an amendment by adding a provision to change the name of another vessel.

Mr. COX. I ask the gentleman not to do that.

Mr. O'NEILL. Very well; I will not move that amendment.

There being no objection, the bill (S. No. 1703) authorizing the change of the name of the schooner Rebecca D was taken from the Speaker's table and read a first and second time.

The bill directs the Secretary of the Treasury to allow the owner of the schooner Rebecca D to change her name, and provides that hereafter said vessel shall be known as the William H. Barnes.

The question was upon ordering the bill to a third reading.

Mr. GARFIELD. I hope nobody on this side will object.

The bill was then ordered to a third reading, read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CONGER. Now let us have the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Ohio, [Mr. CONVERSE,] to dispense with the morning hour for to-day. The Chair understands, however, that the gentleman from Wisconsin [Mr. POEHLER] desires, by instruction of the Committee on Indian Affairs, to submit a request to the House.

CESSION OF UTE RESERVATION IN COLORADO.

Mr. POEHLER. In the absence of the chairman of the Committee on Indian Affairs, [Mr. SCALES,] who is detained from the House by illness, I ask consent, by instruction of the Committee on Indian Affairs, to submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That at four o'clock and thirty minutes p. m. on Wednesday, May 26, the House take a recess until seven o'clock and thirty minutes p. m.; said evening session to be for the consideration of the bill of the Senate (No. 1509) to accept and ratify an agreement submitted by the confederated bands of Ute Indians of Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, to continue night after night until disposed of.

Mr. BURROWS. I will not object to that if the gentleman will modify it so as not to compel the House to take a recess at four and a half o'clock on that day. I have no objection to a night session.

Mr. POEHLER. I will modify it in that way.

Mr. HOOKER. I feel bound to object, unless it is understood that when we go into Committee of the Whole for the consideration of business from the Committee on Indian Affairs the Choctaw claim bill be considered, it being unfinished business in Committee of the Whole.

Mr. HASKELL. I hope that the gentleman from Mississippi [Mr. HOOKER] will not object. From every point whence advices have come to the Committee on Indian Affairs it is universally agreed that there will be an Indian outbreak unless this matter can be settled.

The SPEAKER. And that is the reason that the Chair took the liberty at this time of interposing this request to the House.

Mr. BURROWS. I do not object to the consideration of that bill on that evening.

Mr. HOOKER. I must insist that the unfinished business in Committee of the Whole shall be first disposed of.

The SPEAKER. That is equivalent to an objection.

ORDER OF BUSINESS.

Mr. CONGER. I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Ohio, [Mr. CONVERSE,] to dispense with the morning hour for to-day.

The question was taken; and the motion was agreed to upon a division—ayes 110, noes 26; two-thirds voting in favor thereof.

GREAT AND LITTLE OSAGE INDIANS.

Mr. DEERING. I now call up the unfinished business, being the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, reported from the Committee of the Whole on the state of the Union with an amendment.

Mr. CONVERSE. I move that the House now proceed to the consideration of the special order, being business from the Committee on Public Lands.

The SPEAKER. The Chair thinks the bill called up by the gentleman from Iowa [Mr. DEERING] will not require much time for its disposition.

Mr. REAGAN. I desire to raise the question of consideration for the purpose of proceeding with the consideration of the interstate-commerce bill.

Mr. DEERING. It will require but a few minutes to dispose of the bill I have called up.

The SPEAKER. The Chair thinks the unfinished business should come in at this juncture.

Mr. REAGAN. How does it come in now?

The SPEAKER. The bill was considered in the Committee of the Whole on the state of the Union and reported favorably to the House, and the previous question was demanded upon it.

Mr. DEERING. The bill has the favorable recommendation of the Committee on Indian Affairs, and is approved by the Secretary of the Interior and the Commissioner of Indian Affairs.

The SPEAKER. The question is upon the demand for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The first question is upon the amendment reported from the Committee of the Whole, which will be read.

The amendment, which was read, was to insert, in line 6, after the words "United States," the following:

Either by the act of January 29, 1861, entitled "An act for the admission of Kansas into the Union," or.

The amendment reported from the Committee of the Whole was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading, and was accordingly read the third time.

The question being on the passage of the bill,

Mr. DEERING called for the previous question.

The previous question was seconded and the main question was ordered.

Mr. SPARKS. Mr. Speaker, this bill appropriates money, and very likely, as it seems to me from hearing the bill read, an immense sum of money. I submit that under the rules the question upon its passage must be taken by yeas and nays.

The SPEAKER. That rule applies to general appropriation bills.

Mr. SPARKS. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 60, not voting 112; as follows:

YEAS—120.

Acklen,	Daggett,	Jones,	Pound,
Aiken,	Davis, George R.	Joyce,	Reed,
Aldrich, William	Davis, Horace	Keifer,	Richardson, D. P.
Anderson,	Deering,	Kelley,	Robinson,
Bachman,	Deuster,	Kenna,	Russell, W. A.
Barber,	Dunnell,	Kimmel,	Ryon, John W.
Belford,	Dwight,	Klotz,	Sapp,
Bicknell,	Einstein,	Ladd,	Sawyer,
Bingham,	Elam,	Lapham,	Sherwin,
Blake,	Errett,	Loring,	Smith, Hezekiah B.
Bowman,	Farr,	Manning,	Smith, William E.
Boyd,	Ferdon,	Marsh,	Steele,
Brigham,	Field,	McCook,	Thomas,
Browne,	Frost,	McKinley,	Thompson, W. G.
Buckner,	Frye,	McLane,	Tyler,
Burrows,	Garfield,	Miller,	Updegraff, J. T.
Butterworth,	Gillette,	Money,	Valentine,
Calkins,	Godshalk,	Muldrow,	Van Aernam,
Carpenter,	Gunter,	New,	Vance,
Caswell,	Hammond, John	Newberry,	Van Voorhis,
Chalmers,	Hammond, N. J.	Norcross,	Voorhis,
Claflin,	Harmer,	O'Neill,	Waddill,
Clardy,	Haskell,	O'Reilly,	Wait,
Coffroth,	Hawk,	Orth,	Ward,
Colerick,	Hayes,	Page,	Washburn,
Conger,	Henry,	Persons,	Wellborn,
Cowgill,	Herbert,	Phelps,	Whiteaker,
Crapo,	Hooker,	Phister,	Wilson,
Cravens,	Horr,	Pierce,	Yocum,
Crowley,	Houk,	Poehler,	Young, Thomas L.

NAYS—60.

Armfield,	Covert,	Hull,	Samford,
Atherton,	Culberson,	Hunton,	Simonton,
Beale,	Davidson,	Killinger,	Siemons,
Beltzhoover,	Davis, Joseph J.	Knott,	Sparks,
Berry,	Davis, Lowndes H.	Lewis,	Stevenson,
Bland,	Dibrell,	Lounsbery,	Taylor,
Bouck,	Dickey,	Lowe,	Thompson, P. B.
Brewer,	Evins,	Martin, Benj. F.	Tillman,
Briggs,	Felton,	Martin, Edward L.	Turner, Oscar
Bright,	Finley,	McKenzie,	Upson,
Cabell,	Geddes,	McMillin,	Whitthorne,
Caldwell,	Hatch,	Mills,	Williams, Thomas
Clark, John B.	Henderson,	Philips,	Willis,
Converse,	Hill,	Reagan,	Willits,
Cook,	Hostetler,	Richardson, J. S.	Wright.

NOT VOTING—112.

Aldrich, N. W.	Fort,	McGowan,	Scales,
Atkins,	Gibson,	McMahon,	Shallenberger,
Bailey,	Goode,	Miles,	Shelley,
Baker,	Hall,	Mitchell,	Singleton, J. W.
Ballou,	Harris, Benj. W.	Monroe,	Singleton, O. R.
Barlow,	Harris, John T.	Morrison,	Smith, A. Herr
Bayne,	Hawley,	Morse,	Speer,
Blackburn,	Hazelton,	Morton,	Springer,
Bliss,	Heilman,	Muller,	Starin,
Blount,	Henkle,	Murch,	Stephens,
Bragg,	Herndon,	Myers,	Stone,
Camp,	Hiscock,	Neal,	Talbott,
Cannon,	House,	Nicholls,	Townsend, Amos
Carlisle,	Hubbell,	O'Brien,	Townshend, R. W.
Chittenden,	Humphrey,	O'Connor,	Tucker,
Clark, Alvah A.	Hurd,	Osmer,	Turner, Thomas
Clymer,	Hutchins,	Overton,	Updegraff, Thomas
Cobb,	James,	Pacheco,	Urner,
Cox,	Johnston,	Prescott,	Warner,
De La Matyr,	Jorgensen,	Price,	Weaver,
Dick,	Ketcham,	Rice,	Wells,
Dunn,	King,	Richmond,	White,
Ellis,	Kitchin,	Robertson,	Wilber,
Ewing,	Le Fevre,	Robeson,	Williams, C. G.
Fisher,	Lindsey,	Ross,	Wise,
Forney,	Martin, Joseph J.	Rothwell,	Wood, Fernando
Ford,	Mason,	Russell, Daniel L.	Wood, Walter A.
Forsythe,	McCoid,	Ryan, Thomas	Young, Casey.

So the bill was passed.

The following pairs were announced from the Clerk's desk:

Mr. BRAGG with Mr. HAZELTON, on all questions for this day.

Mr. CARLISLE with Mr. HUBBELL, for to-day.

Mr. SINGLETON, of Mississippi, with Mr. HAWLEY, on all political questions.

Mr. FORNEY with Mr. BAKER, during the present session of the Committee on Appropriations.

Mr. HISCOCK with Mr. COBB, for to-day.

The result of the vote was announced as above stated.

Mr. DEERING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CONVERSE. I rise for the purpose of calling up the business assigned as a special order for to-day, being business reported from the Committee on Public Lands.

Mr. REAGAN. Against the business indicated by the gentleman from Ohio [Mr. CONVERSE] I raise the question of consideration in favor of House bill No. 4748, to establish a board of commissioners of interstate commerce, and for other purposes.

The SPEAKER. The gentleman from Ohio [Mr. CONVERSE] now claims the floor under the order of the House fixing to-day for the consideration of measures reported from the Committee on the Public Lands, upon which the gentleman from Texas [Mr. REAGAN] raises the question of consideration.

Mr. REAGAN. The interstate-commerce bill was made a special order for March 24, and from day to day until disposed of.

Mr. FERNANDO WOOD. I rise to a privileged motion. I move that the House go into Committee of the Whole on the state of the Union for the consideration of a revenue bill.

The SPEAKER. The order of the House fixing to-day, and to-day only, for the consideration of reports from the Committee on the Public Lands was made by unanimous consent, being equivalent to a suspension of the rules. While the Chair recognizes that the House has its remedy if it does not wish to proceed with this business by raising the question of consideration, yet the Chair thinks that the right of recognition by the Chair for the motion which the gentleman from New York [Mr. FERNANDO WOOD] indicates is equitably suspended from precedence by the operation of the order fixing to-day for this particular business.

Mr. FERNANDO WOOD. I call the attention of the Chair to the last clause of Rule XVI, where it is stated substantially that after the morning hour the motion I make is a privileged motion.

The SPEAKER. It is a privileged motion, and the Chair will recognize it; but the order of business indicated by the gentleman from Ohio [Mr. CONVERSE] has been fixed by a vote of the House, under unanimous consent, which the Chair thinks meant that the first recognition should be in favor of report from the Committee on Public Lands.

Mr. FERNANDO WOOD. I rise to make a parliamentary inquiry. If the decision of the question of consideration raised by the gentleman from Texas should result in taking the gentleman from Ohio, with his special order, off the floor, will not my motion then be a privileged one?

The SPEAKER. The Chair would then entertain the motion. He now simply rules that where unanimous consent has been given to fix a particular day for the consideration of certain business, the Chair is in duty bound to give the House the opportunity of going on with the consideration of such business. But if the majority shall have changed its mind, it can refuse to proceed.

Mr. PAGE. Can a majority set aside the order of the House?

The SPEAKER. The House can fix an order by suspension of the rules, and yet when the time comes a majority can refuse to consider it. The House has control of its own business.

Mr. REAGAN. I wish to say a word on the point of order. I do not understand the bill to regulate interstate commerce in any respect or in any way can be in a worse condition than the order setting apart this day for the business of the Committee on Public Lands. It is a special order from day to day and from term to term and is a prior order, having been made on the 26th of February last.

The SPEAKER. The gentleman will see by a moment's reflection that injustice might be done if the Chair recognized running orders as against a particular assignment for a particular day and refused to recognize that particular assignment for a particular day. And for this reason: The gentleman from Ohio, if he was not allowed to be recognized to-day, would not have any opportunity to-morrow or hence to consider the business which the House has by unanimous consent said should be considered this day, while on the other hand the proposition of the gentleman from Texas suffers nothing, because it runs from day to day. It was not originally assigned for this day, but the business indicated by the gentleman from Ohio was specially and particularly assigned for this day.

Mr. REAGAN. If it is in order and the gentleman from Ohio will consent I will move to postpone the special order for to-day until this day next week in order that we may have an opportunity to bring up and consider at this time the interstate-commerce bill.

Mr. CONVERSE. I cannot consent to that.

Mr. O'NEILL. In that case I will, then, move that the interstate-commerce bill shall be indefinitely postponed.

The SPEAKER. The vote is to be taken on the question of consideration. If the bill is taken up, it will be time, then, to determine whether the motion to postpone to a particular day is in order.

Mr. BICKNELL. I represent, Mr. Speaker, a question which has precedence of both these. The bill to regulate the counting of the electoral vote for President and Vice-President was made the special order for the 29th of January and from day to day thereafter until disposed of. I submit that is the regular order now.

The SPEAKER. The Chair gives the same reasons in reply to the gentleman from Indiana why he in preference recognized the gentleman from Ohio, who represents the special order for to-day, that he gave to the gentleman from Texas in reply to a similar question which he propounded.

Mr. CONVERSE. I now move that the House proceed to consider the business specially set apart for this day.

The SPEAKER. The gentleman from Texas raises the question of consideration, which the Chair will first submit.

Mr. BICKNELL. And I raise the question of consideration afterward with my bill.

The SPEAKER. The affirmative to consider shuts out all other subjects of course. The gentleman from Indiana has his remedy by uniting with those who do not want to consider the reports coming from the Committee on the Public Lands.

Mr. CONVERSE. I rise to a parliamentary inquiry. I understand these special orders represented by the gentleman from Texas and the gentleman from Indiana were made months ago, and that they were made from day to day; and I now submit this point to the Chair: whether a privilege which has never been claimed, but which, on the contrary, has been allowed to lapse for weeks and months, does not cease to be a pending order of the House.

The SPEAKER. The Chair would rule on that point that orders running from day to day until disposed of take precedence in the order in which they were made. But the Chair rules that where a special order is made for a particular day on a particular subject, it is his duty to recognize the gentleman on the floor representing that subject on that particular day in preference to running orders. The equity of it is perfectly manifest on a moment's consideration, for unless the gentleman from Ohio now gets the opportunity to test the sense of the House as to whether it will proceed to consider the particular subject which he represents assigned for this day, he would lose all his rights, because after to-day the order ceases to have effect, while running orders will not lose any of their rights by preference in recognition being given to the particular assignment for a particular day.

Mr. HOSTETLER. If we go to the House Calendar, I shall claim my rights.

The SPEAKER. The Chair will protect the gentleman in every right. The question is, Shall the House now proceed to the consideration of the special order, being reports from the Committee on the Public Lands.

The House divided; and there were—ayes 101, noes 45.

Mr. REAGAN. I call for the yeas and nays to determine whether members will refuse to take up the interstate-commerce bill or not.

The House divided; and there were—ayes 28, noes 116; not one-fifth voting in the affirmative.

Mr. REAGAN demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

So the motion was agreed to.

Mr. BICKNELL. I now raise the question of consideration with the electoral bill.

The SPEAKER. The House has just taken a vote on the question of consideration and decided to proceed with the special order.

Mr. BICKNELL. But not on the electoral bill.

Mr. CONVERSE. I move the House proceed to the consideration of the business of the Committee on the Public Lands.

Mr. McCOOK. I rise to a parliamentary inquiry. I wish to know if I can raise the question of consideration now upon this bill?

The SPEAKER. The House by a majority vote has agreed to consider the special order set for to-day.

Mr. McCOOK. I would like to raise the question of consideration upon a subject which was made a special order very early in the session, that is the Fitz-John Porter case.

The SPEAKER. The House has decided that it will consider this subject to the exclusion of all other subjects.

Mr. TUCKER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TUCKER. Is it competent now to raise the question of going into the Committee of the Whole on the state of the Union?

The SPEAKER. The House has determined to proceed to the consideration of this business which was made a special order, and the Chair recognized the gentleman from Ohio [Mr. CONVERSE] in accord with the voice of the House to make such motion as he might deem appropriate to facilitate this special order.

PUBLIC LANDS OF THE UNITED STATES.

Mr. CONVERSE. I move that the business fixed to-day by special order of the House be considered to-day in the House as in Committee of the Whole.

Mr. GARFIELD. If the gentleman asks that some special bill be taken up it would be an intelligible thing, but the whole business of the Committee on Public Lands it seems to me would be objectionable.

The SPEAKER. There is objection.

Mr. GARFIELD. No, I do not object; but I merely ask the gentleman if it is not better that he shall indicate some bill.

Mr. CONVERSE. I wish to have taken up and considered all of the bills reported from that committee as fast as they can be disposed of.

Mr. GARFIELD. I think it would be better to take them up *seriatim*, and designate one bill on which his motion shall first be considered.

Mr. CONVERSE. It will take, I think, only two or three hours to get through with the whole thing.

Mr. GARFIELD. I make no objection. I merely suggested to the gentleman what I regarded as a better plan.

The SPEAKER. The Chair supposes that they will be taken up in the order in which they appear upon the Calendar.

Mr. CONGER. The bill in regard to the public lands, which refers to trespassers, has been committed to the Committee of the Whole, and that bill I wish to have considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Ohio had better indicate the first bill under the order which should be taken up.

Mr. CONVERSE. The first bill I propose to take up is House bill No. 1846, which relates to timber lands of the United States.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (H. R. No. 1846) relating to the public lands of the United States.

The SPEAKER. This bill is in Committee of the Whole on the state of the Union, and it is necessary in order to reach it, except by unanimous consent, that the House shall resolve itself into the Committee of the Whole on the state of the Union.

Mr. CONVERSE. I ask unanimous consent to consider it as in Committee of the Whole on the state of the Union.

Mr. CONGER. I object.

Mr. CONVERSE. Then I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering that bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. SPARKS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union, to consider reports from the Committee on Public Lands. The title of the first bill will be read.

The Clerk read as follows:

A bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. TUCKER. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TUCKER. As we are now in Committee of the Whole on the state of the Union is not the first bill before the committee the bill for refunding the public debt?

The CHAIRMAN. By a special order of the House, reports from the Committee on Public Lands were to be considered and the committee cannot change the rule of the House, of course. The Clerk will read the bill.

Mr. CONVERSE. I ask now for the reading of the bill by sections for amendments.

Mr. CONGER. I desire to say a word about this bill before it is read by sections.

It is well known, Mr. Chairman, to this House and to the country that trespasses upon the public lands of the United States in many parts of the Union have been committed to such an extent that unusual efforts have been found necessary to check such depredations. Combinations were made, or, as they are called, conspiracies, to mislead the officers of the Government who are seeking out persons who are committing these depredations and stripping the public lands of their valuable timber. Whole townships, whole regions of country have been stripped of the most valuable timber by persons wholly unauthorized to take a stick from the lands. This Congress has appropriated a good many thousand dollars to follow up these trespassers and bring the wrong-doers to justice. Property thus stolen from the public lands has been seized in many parts of the United States in the timber regions. Such property has been sold more or less by order of the courts. The sums paid for it have been turned over to the Government. Prosecutions have been commenced—criminal prosecutions—and are pending now against many of these persons engaged in this business, and others are about to be commenced. I cannot now state how many thousand dollars have been expended by the Government in following these trespassers and wrong-doers.

If the property of private individuals had been taken by trespassers, to call it by no harsher term, to the extent of a hundredth part that the Government property has been taken, and no measures were instituted for the relief of those who suffered, such a hue and cry would be raised in this country as would prevent any man from undertaking to defend the criminal. But this is the "public property." This is the public land of the Government, which has been taken possession of by trespassers, and the property stolen from it; and here is a bill introduced to condone all of these offenses, to stay all prosecutions, civil or criminal, upon the mere permission to come in and pay the Government price for the lands, and to pay back the cost of prosecution thus far. This is not an exact statement of the case. Where the trespass has been upon lands which were rated under the laws of the United States at $2.50 per acre, this bill authorizes the trespassers on those lands to have a reduction in their favor of $1.25.

The bill says where these lands are situated alongside of railroad lands on the alternate sections, and were rated at $2.50, the law shall be complied with on the payment of $1.25.

Mr. HERBERT. That is where the land has been in market for twenty years.

Mr. CONGER. That is where the legal price of those lands to-day is $2.50. I do not care how long it is since their first survey.

Now, here is a bonus of half the value of those lands offered to those who have trespassed upon them.

Mr. DUNNELL. Will the gentleman yield to me for a moment?

Mr. CONGER. Yes, sir.

Mr. DUNNELL. While it may be true that trespassers are allowed to come in and take for $1.25 what was rated at $2.50, yet this section opens up the whole of these lands not only to those who trespass but to every other citizen of the United States.

Mr. CONGER. The gentleman is right. This bill has gathered around it and has put upon it honey in many cases to attract flies, and it may also attract bees. There are a good many things in this bill on the ground of which it will be urged that it should be passed for considerations of benefit to the country and to the settlers.

Mr. ELAM. Will the gentleman permit me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. ELAM. Does the gentleman not know that the most of these lands have been settled upon and are in cultivation where the alternate sections, six miles wide, have been donated to the railroads?

Mr. CONGER. The lands I am referring to are the wild pine lands of the South and the North; and their value was on account of their timber.

Mr. ELAM. One moment. I know that in the upper part of my State and in my own district there are immense quantities of land held alongside railroad grants made in 1856, and the people who settled them have never been able to buy them yet; and they have got farms on those lands and are raising families and are supporting and taking care of them. They clear the land and cultivate it and support themselves and their families. Thousands and thousands of acres are occupied in this way; and this bill, as I understand, will afford an opportunity to these people to get title.

Mr. CONGER. This is another of those honeyed things thrown around what I consider an infamous bill to attract the sympathies of members in behalf of perhaps here and there one or two scattered settlers in regions of hundreds of miles in extent.

Oh, no; this bill is not for the benefit of the settler on the land. Nobody dare pretend it is. I know the laugh that would arise upon the face of every member of this whole committee if any gentleman should dare to assert that this was for the benefit of the settler would rebuke him. It is not that. It is for the benefit of those who have individually and collectively, directly by themselves, and through their agents all over large tracts of land, robbed the Government of its timber and violated the law. It is a wonder to me that those who introduced the bill did not introduce a bill to give them the lands to encourage future stealing. Such a bill would differ from this one only in degree.

Mr. HERBERT. Will the gentleman allow me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. HERBERT. Does the gentleman not know there is in the bill a provision that it shall not apply to any trespasses committed after the 1st March, 1879, and that it has no future operation at all?

Mr. CONGER. There have been but few trespasses since the 1st March, 1879. At that time the agents of the Government, paid with

money that this Congress appropriated to ferret out these wrongs, were scouring the country all over the South and all over the North. There has not been much time to steal since. We gave money enough to stop it. That is another of the honeyed things thrown around this bill.

Before we get done with this discussion, when the gentlemen that defend the bill come to tell of its virtues and of its good qualities, there will be hundreds of just such things stated to show we should pass the bill in the interest of the settler and the squatter upon these lands in order to cover up the enormities of the trespasses to the extent of hundreds of thousands of dollars, by placing between the eyes of members and those trespassers some poor squatter here and there—a dozen of them it may be—on tracks of several hundreds of miles in extent. I wait with considerable impatience. I shall cut short my own remarks, that I may hear what the advocates of this bill may present to this House for the purpose of preventing the arm of the law from bearing with some little weight at least upon those who have been for many years past trespassing upon the public lands, violating the laws of the land, and combining and conspiring together to prevent detection until they could take the proceeds of these trespasses away from the lands and sell them and receive the money.

If I am not mistaken, there will gather around this bill a great many honeyed remarks; if I am not mistaken, the wrong-doing of those who have stolen the timber from the lands of the United States and violated, in some instances openly and publicly and in other instances secretly, the laws of the land in many particulars will not be alluded to much. We will be told that there is simply a desire for peace, a desire for conciliating the Government with these trespassers; that will be the main stock in trade of the arguments which I expect to hear. If there be a good, solid, substantial reason why the trespasser should not suffer for his trespasses, why he should not be left to the courts, I hope it will be shown to this committee.

I have said enough to indicate a few of the reasons for my opposition to this bill. I have said at least enough to call upon the advocates of the bill for some solid, substantial reason, after we have appropriated many thousands of dollars to bring trespassers to justice, and when we have now got them within the grasp of the law, why we should give them a free discharge, accompanied with a premium and the blessing of the nation.

Mr. VAN VOORHIS. Can the gentleman state how many suits are pending for these trespasses?

Mr. CONGER. I cannot tell how many suits there are now pending. I know that a year or two ago this House rang with an account of the number of prosecutions which were then pending; and I know that the same influences which have brought in this bill brought in at that time resolutions to stop the Government from ferreting out these trespassers. I know that many men in this House opposed the appropriation and finally cut off the appropriation which would enable the Government to ferret out these trespassers and save the property of the United States.

Mr. BELFORD. Will the gentleman allow me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. BELFORD. I want to ask the gentleman whether it is not the fact that the opposition to these prosecutions grew out of the fact that the settlers in the West were unable to get timber with which to construct their houses and to fence their farms, to cook their food, to erect their churches and school-houses without trespassing upon the public lands, because there was no law upon the statute-book authorizing the settlers to purchase public timber for these purposes?

Mr. CONGER. I will answer the gentleman. The gentleman himself did not ask that timber should be given for building churches.

Mr. BELFORD. I merely alluded to that.

Mr. CONGER. Some Christian gentleman (I do not see him here now) did request it. [Laughter.] I do not see that Christian gentleman here now, but I remember that there was such a proposition. [Laughter.] There was no fault found, there never has been any fault found, with a settler cutting from the public lands such timber and firewood as he needed for his own individual and family use.

Mr. BELFORD. They were prosecuted for it nevertheless.

Mr. CONGER. The suits commenced unadvisedly by the agents of the United States in such cases were all discontinued, every one of them. And when we proposed to pass a law here to enable the settlers themselves to get their firewood on the borders of the western prairies simply for their own purposes it was said that there was no necessity for such a law, for the rules of the Department would not permit them to be molested for so doing. The gentleman knows that very well.

Mr. PAGE. May I ask the gentleman one question?

Mr. CONGER. Is it about building churches? [Laughter.]

Mr. PAGE. No, it is nothing about churches. My question is this: did not the commission on public lands, selected by the President of the United States, after a long and careful investigation, report to this House at this session of Congress a recommendation that all these suits be abandoned?

Mr. CONGER. I will answer the gentleman. So far as the suits related to timber taken from the public lands for the individual purposes of the settler, of the squatter, yes. So far as they related to this wholesale trespass by which thousands and millions of feet of pine lumber were taken from the public lands, I do not know of such a recommendation.

Mr. RYAN, of Kansas. Allow me to correct the gentleman; the report recommended a condonation of all such offenses.

Mr. PAGE. Every one of them.

Mr. CONGER. That may be so. I know that in the course of the struggles which men make in this world, either for good or for bad, they sometimes get tired out. In the struggle which the Commissioner of the Land Office and the Secretary of the Interior have been engaged in with these trespassers, with their friends who have come to their offices to plead for them, with those here in Congress who desire to pass this law in order to save them, I do not wonder that they have become exhausted and have finally yielded to the pressure.

My friend from California [Mr. PAGE] has yielded to the pressure, and he is a strong, robust man. [Laughter.] He is advocating here to-day and will vote for a bill which, if there had not been that pressure upon him, his sense of justice to the Government and to the people would not, in my judgment, permit him to vote for, even at the urgency of some of his mountain constituents. I guess that is so. [Laughter.] The gentleman himself admits that he has some ideas of justice. [Laughter.]

I have now accomplished the object I had in view—not by an elaborate argument upon this question, not even by making assertions further than I know them, and all know them to be true in regard to what has been done. Upon the face of the bill, on the record itself, there is enough to condemn the bill.

Now, if a bill could be brought in shielding innocent parties, authorizing prosecutions to be stopped against those who unwittingly and unadvisedly, through agents acting without instructions from them, have committed these depredations, it would meet my approbation. But somewhere in the Congress of the United States there must certainly be men enough representing the Government, representing honesty, representing the protection of Government property whether in the forest or in the Treasury—men enough who ought to know what the effect of this bill will be and how it rather rewards than punishes trespass upon the property of the United States.

Mr. PAGE. Mr. Chairman, I do not desire to detain the committee with any extended remarks, but I simply wish to reply to some observations which have been made by my distinguished friend from Michigan, [Mr. CONGER.] In the course of my legislative duties I have had some occasion to look into this question of the timber lands of the Government. In the last Congress, about a year ago, I found it necessary to appeal to this House for aid from the Government of the United States to prevent the people of California, Oregon, and Nevada from being arrested and fined and imprisoned for having cut timber upon the public lands for mining and agricultural purposes. Up to that time there was no law by which the people of this country, at least that section of the country, could obtain titles to any of these timber lands. They were trespassers under the law for every stick of timber cut to build a fire, for every saw-log used to build their cabins.

Now, Mr. Chairman, I know that the law upon the statute-book makes it a trespass for any person to cut timber upon the public lands except as provided in the act of June 3, 1878, which applies only to a few of the States and the Territories. I presume some people in one section of the country down South have cut timber upon these lands, and have been arrested for the trespass. This bill proposes to condone the offense and to let these parties purchase the land. What Representative is there upon this floor who wants to stand up here and Shylock-like demand his "pound of flesh." I believe the people of this country are naturally and by instinct honest; they do not desire to take any timber from the public land without paying the Government a fair price for it. But these men, by force of circumstances perhaps, have been forced to trespass upon these lands, and they are to-day under indictment. The question for this committee to determine is whether these prosecutions shall continue, or whether the Government in its magnanimity and justice shall remove the charge of trespass from these persons and condone the offense upon their simply complying with the provisions of this bill.

Now, as has been stated, the commission selected by the President of the United States for the purpose of examining these and all other questions relating to public lands reported unanimously in favor of abandoning all these prosecutions and providing that in the future parties might obtain titles to timber lands in a legitimate way. How is it with my friend from Michigan, [Mr. CONGER?] He represents a State where the pine lands were offered by proclamation of the President to the highest bidder, and in very few instances did those lands bring fifty cents an acre. My friend from Michigan says to me now that some of them have brought ten shillings an acre. I say that if you will examine the records of the General Land Office you will find that the timber lands of this country have not averaged fifty cents an acre. I am not mistaken on this point.

Mr. ROBINSON. Referring to the law to which the gentleman has alluded, passed in the Forty-fourth Congress, I find that by its provisions relief was afforded to all those who had not been prosecuted for cutting timber on the public lands for purposes of exportation. Persons of this class were not relieved. But the present law relieves all such persons—not simply small farmers and others who have cut small quantities of timber for their personal use.

Mr. PAGE. That law applies principally to the Territories of the West. I am not here to defend men who have engaged in wholesale trespasses for the purpose of exporting lumber.

Mr. ROBINSON. Does not this bill relieve such persons?

Mr. PAGE. I am not speaking to the main provisions of the bill. I am talking about the general principles which I think ought to govern this House. If an amendment of the sort indicated by the gentleman be necessary, let it be offered and adopted. But I say that this bill in principle is right and ought to be passed by the House. I do not care to detain the committee any longer, because I believe that the good sense and judgment of the House will pass a bill something like this.

Mr. CONVERSE. I move that the committee rise so that the House may limit general debate. We can then take up the bill by sections for amendment under the five-minute rule.

The motion that the committee rise was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1846) relating to the public lands of the United States, and had come to no resolution thereon.

Mr. CONVERSE. I move that when the Committee of the Whole shall resume the consideration of the bill (H. R. No. 1846) relating to the public lands of the United States general debate be limited to one minute.

The motion was agreed to.

Mr. CONVERSE. I move that the House again resolve itself into Committee of the Whole for the consideration of the bill relating to the public lands of the United States.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. SPARKS in the chair,) and resumed the consideration of the bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. CONVERSE. Mr. Speaker, for the purpose of consuming the one minute to which general debate has been limited I will call the attention of the committee to the fact that only two years ago a bill similar to this was passed in reference to California, Nevada, Oregon, and Washington Territory, and so just were its provisions deemed that there was not a division in the House on the passage of the bill. It authorized settlements to be made with trespassers upon the public lands in the way in which they are here proposed by the pending measure.

The CHAIRMAN. The time for general debate has expired.

Mr. CONVERSE. I ask now that the bill be read by sections for amendment.

The first section of the bill was read, as follows:

That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespasses upon, or for or on account of any material taken from, said lands, or on account of any alleged conspiracy in relation thereto, prior to the approval of this act: *Provided*, The defendants in such suits or proceedings begun before such full payment shall exhibit to the proper court or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such payment.

Mr. CONVERSE. By instruction of the Committee on the Public Lands, I move, in line 9, to strike out the words "approval of this act" and in lieu thereof to insert "March 1, 1879." The object of that is to limit it to trespasses committed prior to March 1, 1879.

Mr. BRAGG. I desire to amend that by moving to strike out the whole section. Mr. Chairman, it seems to me, if this bill is to be passed——

Mr. CONVERSE. I rise to a point of order. I suggest the gentleman's motion is not in order until we have had an opportunity to perfect this section.

The CHAIRMAN. The vote will first be taken on the amendment to the text; after which the motion to strike out will be in order.

Mr. CONVERSE. Therefore the motion to strike out is not in order, and debate is not in order upon it. The only question debatable is, as I understand, the amendment I have moved.

Mr. BRAGG. The gentleman from Ohio, if he will listen to me, will know whether what I say applies to his amendment or not.

I say, Mr. Chairman, if we are to pass this bill, the title ought to be amended so as to read "an act to license thieves on the public domain." The facts as stated by the gentleman from Michigan were aptly stated and well put. If we are to pass acts to relieve men just so soon as they are caught the provision in this bill that it shall not apply to future trespasses goes for naught, because if people go on trespassing after the passage of this act until they shall be arrested and brought to justice, and then find there is no other way out, they will come to Congress and say, "You ought to pass laws and condone our trespasses, because a year ago you passed laws to condone all trespasses which had taken place prior to that time."

It is all well enough to talk about honesty; it is all well enough to talk about the timber you want to use for the homes of settlers; but when the members of this committee understand and know, as there are many men on this floor who do, that men engaged in the lumber business, many of them, will enter forty acres of land and have a mill on it near a water-site; they will acquire a title to the land where their little saw-mill is and engage in a legitimate business until they contract with men to furnish them logs. Then they contract with men to furnish them logs at a nominal price and those men steal the logs from the public domain year after year and turn them in to be cut at this saw-mill. It is supplied with stock, although no timber is cut upon the land upon which the mill is located; and when we spend hundreds of dollars searching out these trespassers, finding where the timber has been taken from, by what mill it has been cut, and the mill-owner is brought into court to answer by civil or criminal indictment; when he says he has made a contract with somebody else, innocently, as he alleges, and the Government is able to prove he had not a foot of land but hired men simply for the purpose of stealing logs from the public domain, and it is further able to establish conspiracy, then, when the fruits of the investigation are about to reach results, they come to Congress, and we have this amount of sympathy for the poor settlers. It is sympathy, Mr. Chairman, for the thief, and for nobody else; and the thief does not ask for sympathy until such time as he gets caught in the meshes of the law and is unable to go further.

[Here the hammer fell.]

Mr. HERBERT. Mr. Chairman, it is an easy matter for the gentleman from Wisconsin to denounce the laboring-men who are mostly to be benefited by this bill as thieves; but the fact is all the arguments advanced by him and by gentlemen on the other side against this bill were duly considered and the whole situation taken in by the committee, which, after due deliberation, unanimously reported this bill to the House with the recommendation it should pass. The committee in the Senate has reported, as I understand, unanimously to that body a similar bill. And this question was submitted to the Commissioner of the General Land Office, who is better acquainted with the lands of this country and their general condition than any other officer of the Government, and it was approved by him. These amendments that the committee have instructed their chairman to propose were suggested really by him after consultation with his law officer.

The whole truth in a nutshell is this: The Government for a great many years, almost from its beginning, failed to take any proper steps to prevent trespasses on the public lands of the United States until in the North and the South and the West trespasses had become common. There is no doubt about that fact. All at once, suddenly, prosecutions were begun against these parties, and in order to carry on those prosecutions the Government of necessity was obliged to resort to a system of spies and informers throughout the country for the execution of the law, which up to that time had remained a dead letter upon the statute-book.

Taking into consideration this state of affairs, the committee have proposed and recommended the passage of this bill as a fair, just, and equitable mode of settling these trespass suits. It provides that the party claiming the benefit of its provisions shall first pay the Government price for the land upon which he has trespassed, it matters not how small the trespass may have been. It provides, secondly, that he shall pay all of the costs of any kind accruing in the prosecution of any suits which may have been begun against him before he shall be entitled to the benefits of the bill.

It provides further that it shall have no reference to trespasses committed after a certain date, and its application is limited to trespasses committed prior to March 1, 1879; the reason for that limitation being this: The policy of the Government after the present administration came into power was changed. Large numbers of prosecutions were begun suddenly in all parts of the country against persons claimed to have been trespassers upon the public land, which prosecutions caused great distress to the people in many sections of the country.

This bill recognizes the fact that while it is fair and just and equitable to settle with these persons who were led by the policy of this Government into these trespasses prior to that date, it would not be right or proper to allow its provisions to apply to persons trespassing after a fair notice had been given and that after a certain date such trespasses would be prohibited and punished in the manner prescribed now by law.

[Here the hammer fell.]

Mr. DOWNEY. I have an amendment which I would like to offer.

The CHAIRMAN. Further amendment would not be in order at this time.

Mr. HOOKER. I will yield to the gentleman from Alabama if I am recognized by the Chair.

The CHAIRMAN. Discussion on the pending amendment has closed.

Mr. LOWE. I move to strike out the last word, and will yield my time to the gentleman from Alabama, [Mr. HERBERT.]

Mr. HERBERT. Mr. Chairman, I do not desire to consume any considerable length of time in the consideration of this question, and I shall not ask more than the five minutes so kindly granted to me by my friend. I have said nearly all I think necessary to say in a case of this kind. The Government loses nothing here whatever. All the lands are to be paid for according to the Government price, and all costs are to be paid before any person can get the benefit of this law. There is one clause of the bill to which I ought, perhaps, especially to allude—the section which provides that where lands have been in the market at $2.50 an acre for more than twenty years, the price of such lands shall be reduced, not for the benefit of the trespassers alone but for the benefit of the people of the whole country, to $1.25 an acre. That is a provision of the bill.

Mr. ELAM. I would like to ask the gentleman from Alabama what effect this will have, if any, upon those persons who have acquired homesteads and have been required under certain contingencies to abandon them? In my own and many other Southern States lands have been taken up for homesteads, and afterward they were forfeited——

Mr. HERBERT. As I have but very little time remaining, I shall have to anticipate the question of the gentleman from Louisiana, and answer him as I understand his question, that in all cases of forfeited entries the land is not to go back into market again until it has been first offered at public sale as the law provides, and that the provisions of this bill do not apply to the lands to which he now refers. I want to say further that the Government has been liberal to many classes of people throughout the whole country. It is unnecessary for me to speak of the liberality and generosity of this Government to other classes of people. I simply ask this House whether or not it is willing to make a fair, just, and equitable settlement with these persons who have been led into trespassing upon the Government lands by the conduct of the Government itself. In regard to that provision which reduces the price of lands from $2.50 to $1.25 an acre, I desire to say further only this, that the fact that these lands have been in market for such a length of time and have not been taken up, is a conclusive demonstration that they are not worth $2.50 an acre. In the flush times of the past, before, during, and after the war when money was plentiful, they were subject to entry at the price stated, and yet they have not been sold. If these lands had been sold at $1.25 an acre twenty years ago and the Government had put out the money at interest, or invested it in its own bonds bearing 4 per cent. interest semi-annually, it would have realized on every acre of land at least $3.25 an acre by the compounding of interest, instead of the price fixed—$2.50. That provision seems to be one of the best and wisest provisions in this bill.

[Here the hammer fell.]

Mr. HOOKER. Mr. Chairman, I desire to say but a few words upon this bill. I wish, however, before proceeding to consider the bill itself to notice the remarks made by the gentleman from Michigan and the gentleman from Massachusetts in reference to the effect of the bill, and particularly that portion of it which relates to the settlement of the suits or prosecutions brought against persons who have been found trespassing upon the public lands. Sir, years ago there was a system inaugurated in the Interior Department which related in a very important degree to a portion of my own State, the State of Mississippi, which is largely occupied by lumbermen on the rivers running through its southern portion where the Pearl and Pascagoula Rivers debouch into the Mississippi Sound. Seventy-two suits were instituted in the United States courts; armies of detectives were sent out for the purpose of ascertaining where men had depredated on the public lands; deputy marshals *ad infinitum* were scattered all over the lower portion of Mississippi; and they came upon the rafts of timber cut by the men of hardy industry in that country and seized all the timber in the Pascagoula and Pearl Rivers. One man who had become notorious in that country was selected as the deputy marshal, acting under the regular marshal of the court, and every single mill—twenty-seven in number—within three miles from the mouth of the Pascagoula was stopped by the dictatorial order of the Interior Department acting through these marshals and deputy marshals. All the mills on the Pearl River, involving millions of dollars in their construction, were stopped. One mill alone had been built within a year at a cost of $175,000. All were obliged to cease operations; and for nine long months this great industry was paralyzed by the policy of the Interior Department in seizing all the lumber in both these rivers.

From Pearl River alone there was a commerce in lumber to the amount of four millions, coastwise and foreign. From the Pascagoula River there was about the same amount. And all of this industry, because of this policy of preventing depredations on the public lands, was absolutely stopped and paralyzed for nine months.

What was the result of these suits? All except twelve were dismissed by the district attorney because there was no proof to sustain them. It was an effort to prosecute innocent men who had become purchasers, because the Government wanted to prevent stealing from the Government property. Nobody wants to protect the thieves. There is no man on this floor who represents a lumber district who would do so. But when Government commences a promiscuous seizure of private property, holding it by its marshals under a special process of a court, we do want to say that innocent parties shall be protected and that these suits thus instituted improperly shall be dismissed upon the payment of the costs and after evidence of that fact has been given to the proper officers of the Government.

I say the policy of the Secretary of the Interior was designed and intended to reach the real thieves; and we do not object to that policy. We do not object to the prosecution of real depredators on the public lands. But when the Government prosecution reached, as it did in a great number of instances, innocent men, then we think the provision of this bill which proposes to dismiss the suits on entry of the public lands and payment of costs is a wise one; that it is a policy which, so far from its being proper to characterize it as the gentleman from Wisconsin did, as a policy of protecting thieves, should be characterized as a policy of shielding innocent men from unjust prosecution by their own Government.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

The question being taken on Mr. CONVERSE's amendment, it was adopted.

Mr. CONVERSE. I offer also the following amendment, by direction of the Committee on Public Lands:

In lines 10 and 11, strike out the words "begun before such full payment;" so that it will read, "the defendants in such suits or proceedings shall exhibit to the proper court or officer the evidence of such entry and payment," &c.

The amendment was adopted.

Mr. CONVERSE. I have one more amendment to offer by order of the committee.

The Clerk read as follows:

In line 13, section 1, strike out the word "payment" and insert "entry;" so that it will read, "and shall pay all costs accrued up to the time of such payment."

The amendment was agreed to.

Mr. ROBINSON. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 8, after the words "said lands," insert as follows:

"In the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler."

Mr. ROBINSON. I think, Mr. Chairman, the committee will understand what the purpose of that amendment is.

Mr. MAGINNIS. I reserve points of order.

Mr. ROBINSON. I do not know that the amendment is subject to any point of order.

Mr. CONVERSE. Will the gentleman, before he proceeds, allow me to ask him a question?

Mr. ROBINSON. Certainly.

Mr. CONVERSE. I wish to ask the gentleman whether the law does not now authorize timber to be taken from public lands for mining purposes and domestic use?

Mr. ROBINSON. It seems to me the statutes which have been referred to, as the statutes of California, Oregon, Nevada, and Washington Territory, have in them a saving clause similar to the amendment I now offer.

Gentlemen say they want to protect the innocent miner and *bona fide* settler. So I say. I think we are all agreed about that. Let us do that, and let us leave out all talk about the marshals who have paraded over the country. Let us come down to the solid facts. I find in the report of the committee indorsing this bill this language:

It is true that many of the persons thus proceeded against are both legally and morally guilty, and deserve punishment.

And yet the committee bring into this House a bill that would free all those criminals, men upon their own statement that are morally and legally guilty and that deserve punishment.

I want to say I wish to have no part in such a release as that. When the committee say they have before them a class of men that they know are criminals and ought to be punished, I beg them not to pass a law that will in a wholesale manner excuse those parties. I think the committee are called upon either to justify their report or their bill.

I come now to the merits of this proposition. Take the California act, to which my friend from California [Mr. PAGE] has alluded. From an examination of that act I find that an exception of this character was made relieving these persons, but not allowing parties to be relieved when they have cut timber or taken material for export purposes, or by wholesale, as we may say. Yet this committee gives us a bill that will relieve every man, the intentional trespasser as well as the unintentional; the corporation which perhaps may have been organized in some Eastern State and gone out there and stolen this timber from the public lands. If any persons have gone there innocently, without the intent to evade the law and violate it, let them be relieved.

But if persons have gone there knowingly with a full intent to violate and avoid the law, are we to be told that we should enact a law so that when they come to the court and say that they give the Government $2.50 an acre—no, $1.25 an acre—for the land upon which they have committed these trespasses, they shall be excused although we know they are guilty? That is the attitude of this committee and the attitude of this bill. I hope the amendment will be adopted.

Mr. CONGER. Let the section be read as it will be if amended.

The Clerk read as follows:

That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespass upon or for or on account of any material taken from said lands in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or on account of any alleged conspiracy in relation thereto prior to March 1, 1879, &c.

Mr. HERBERT. It is true that the committee say in their report that some of the persons who will be relieved by this bill are both morally and legally guilty. But it is impossible to enact or pass any general law that will work perfect and exact justice in every case, especially if it be in the nature of an act of general amnesty, which seems to be called for by the circumstances surrounding the parties to be affected by the bill.

The amendment of the gentleman from Massachusetts [Mr. ROBINSON] would confine the relief proposed to be given by this bill to agriculturists and miners and other classes of that kind. Now, is

the laboring-man, who cuts one mast or one spar from one acre and another from another, less deserving before this House than the agriculturist who enters upon land without any right whatever to do so and cuts down every stick of timber upon it, clears up the land, and wears it out absolutely, leaving it worthless to the Government and to all future generations? I cannot see so great a difference between them.

Adverting to the expressions in the report of the committee quoted by the gentleman, this bill does not propose to relieve trespassers from punishment. It is a punishment to a man to compel him to pay all the costs of the suit, and to compel him to enter and pay for at the Government price the land upon which he may have committed a trespass, although he may have taken but a single stick of timber from an acre of land. Under the circumstances it is for the House to judge whether it is not fair and just to pass this general bill relating to all cases that occurred prior to March 1, 1879.

One difference, as I understand, between this bill and the bill relating to the States of California, Oregon, and Nevada is, that that bill operated prospectively, while, as I said before, this bill does not so operate. This bill simply grants amnesty for past offenses under certain circumstances and on certain conditions. It seems to me that those conditions are hard enough. They seemed so to the Commissioner of the General Land Office; they seemed so to the gentlemen of the committee who have considered all the circumstances out of which grew the necessity for this bill.

I appeal to members of this House to do this act of justice, of liberality if they choose so to term it, to these men who have been led by the conduct of the Goverment, by its failure to prosecute them for years and years, to commit trespasses. The Government will lose nothing; it will sell its land, and the costs of the suits which it has instituted will be paid; that is the whole proposition.

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. WASHBURN. I move to strike out the last word. I hope the amendment offered by the gentleman from Massachusetts [Mr. ROBINSON] will not be agreed to. It would not really change existing law. Parties have at present, as I understand it, substantially the same rights under existing law as they would have should this amendment be adopted, while it would emasculate and utterly destroy the force of the bill under consideration.

The remarks of the gentleman from Michigan [Mr. CONGER] and of the gentleman from Wisconsin [Mr. BRAGG] seem to have quite a familiar sound. I have heard just such kind of talk before. Those in want of legitimate arguments are very likely to ring the changes on the terms "thief," "swindler," "scoundrel," and everything of that kind. It seems to me that it is entirely unfair.

Now, what are the facts. This bill was submitted to the Committee on Public Lands of this House early in the session, and after careful consideration by it was unanimously reported. A similar bill has already been considered by the Committee on Public Lands of the Senate, and unanimously reported by that committee. The Public Lands commission, which was appointed by the President, in its general revision of the land laws has introduced a provision doing precisely what this bill proposes—making a clean sweep of all litigation relating to old trespass cases. The Commissioner of the General Land Office has also recommended the plan of settlement proposed in this bill as the most practicable and equitable that can be had.

Now, there certainly cannot be such swindling and thieving operations as the gentleman would indicate. Such statements place the matter in an entirely false position. The facts are simply these: For many years this Government permitted timber to be cut from the public lands. It was not until the incoming of the present Administration that any efficient steps were taken to put a stop to this practice. This Administration has taken efficient steps in that direction, and I commend it for doing so. Now, in the course of the examination which Government officers have made, they have gone back and found timber cut from the public lands as long as seven or eight years ago, when it was the practice of the Government to permit such cutting. They have traced timber taken at that time into the hands of innocent persons, who paid the full price for it. The Government now demands that these parties shall pay for it a second time. And now suits are being brought against these parties who have already paid for timber which the Government permitted to be cut by others.

Mr. DWIGHT. If they have paid for the timber once how can they be compelled to pay again?

Mr. WASHBURN. They have paid for it once, simply, because they bought the logs in good faith of men who cut them from the Government land; for these logs they have paid the entire value. It is their misfortune that they are put in this position, and they simply ask Congress now to allow them to do what might have been done at the time the logs were bought if they had known a trespass was being committed. They merely ask that they may be permitted to go back and enter the land, paying the Government price therefor.

I am sorry that my friend from Michigan, [Mr. CONGER,] generally so good-natured, is so anxious for the "pound of flesh." It is unlike him. I think the position taken by him is ungenerous and illiberal. I hope the amendment will be rejected, and that the bill will pass as reported from the committee.

Mr. BRAGG. Mr. Chairman, I am not surprised to hear from the gentleman from Minnesota [Mr. WASHBURN] that he has heard something about "timber thieves" before. If the history of the Northwest has been properly reported there are in a congressional district in Northern Minnesota corporations and mill-owners that have largely and often heard the term "timber thieves" applied to them.

What I have stated has been learned by me in the progress of litigation in the courts. I learned that men who it is claimed preserved their honesty and integrity by always purchasing timber in "good faith" had employed worthless, irresponsible men to go out and cut logs, and then bought the logs in "good faith." When they have been followed up and the agents of the Government have been able to show that their "good faith" consisted in knowing that the men from whom they bought the logs, and to whom they furnished supplies, did not own a foot of land in the world, the "good faith" disappears; and hence the term "conspiracy" which finds its way into this bill found its way into the courts, because the courts maintained that the transaction was but a conspiracy in order to protect the wealthy mill-owner from being charged with trespasses upon the public lands by enabling him to allege that he had purchased the timber in "good faith" from A B, or C D, or E F, when in truth he knew that they had nothing to sell.

Now, what I stated to this House was learned in the course of a litigation which took place in the northern part of Minnesota last winter. So great is the evil that in my State a law has been passed by which in the case of lumber taken illegally from private lands the person recovering in an action of trover or replevin obtains three times the value of the property taken, and has the right to have his damages assessed upon the value of the timber in a manufactured state rather than in the rough. I am speaking of things which have a history all through our country and of which the gentleman from Minnesota has undoubtedly heard.

Mr. WASHBURN. I withdraw the *pro forma* amendment.

Mr. BELFORD. I ask that the amendment of the gentleman from Massachusetts be read.

The Clerk read as follows:

After the words "said lands," in the eighth line, insert the following:

"In the ordinary clearing of land in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler."

Mr. BELFORD. I move to amend the amendment of the gentleman from Massachusetts by adding the following:

This amendment shall not be construed to repeal or modify the act of June 3, 1878.

Several MEMBERS. That is right.

Mr. CONGER. I suppose there will be no objection to that; but I desire to make a few remarks.

Mr. ROBINSON. Allow me to say that it was not the intention of my amendment to affect that statute at all. If gentlemen will read the statute of 1878, I think they will see that the amendment does in no way affect it.

Mr. PAGE. Then the amendment will do no harm.

Mr. ROBINSON. The statute of 1878 authorizes the taking of timber, &c., for certain specified purposes. No prosecution could be maintained under that act for taking timber for such purposes, because there would be no trespass if the deed was committed in conformity with the act of 1878. Therefore there is no need of inserting this amendment. I have not the slightest objection to it except that it would be, as it were, a blot upon the law.

Mr. PAGE. I think it had better go in, and then there will be no dispute.

Mr. ROBINSON. I suggest to my friend from Colorado [Mr. BELFORD] that it should be inserted, not after the amendment I have submitted, but at the end of the section.

Mr. BELFORD. I withdraw the amendment for the present.

Mr. CONGER. I renew it.

Now, I desire to say, Mr. Chairman, that the amendment offered by the gentleman from Massachusetts covers the entire case advocated by those who spoke upon this bill prior to what I said a few minutes ago. It meets those who are so anxious to protect the settlers, the innocent man, the miner, the man who cuts timber for his house, or for his fire.

I did say perhaps that would not cover all of these cases. I find there is another class of cases alluded to and brought out by this amendment. It is claimed this is of no particular benefit to those who seek relief under this bill. I venture to say that is so; that this bill was not intended at all for miners and settlers, or for the building of houses or cutting timber for their fires or fencing their farms. I have used no words in regard to this case except these were trespassers upon the property of the United States. I have used no other expression. I carefully avoided it. It is strong enough for my purpose to talk of trespassers upon the property of the United States.

If this amendment is adopted, I have no objection to this section of the bill, and shall vote for it very cordially, for that is the class of men I desire to protect, and it is a class of men suggested by gentlemen who favor this bill that they desire to protect. Now, let us see if in good faith that shall be done.

I withdraw the formal amendment.

Mr. DWIGHT. I move to strike out the last word.

Now, Mr. Chairman, if I understand this bill, its title should be

amended so as to read "a bill to condone crime and invite trespass and encourage theft."

As the bill is proposed to be amended, it certainly protects the settler, and if it is the object of those who have introduced it, in good faith to protect the settler and those who use timber because they absolutely need it, then they will vote for that amendment of the gentleman from Massachusetts. But to pass the bill in the terms in which it has been reported from the Committee on Public Lands would, it seems to me, allow a man of straw, not owning a foot of land in the world, to go out into the country upon the public domain where there is timber and to cut it and sell it to those who need timber for the purpose of manufacturing lumber. The latter will take large quantities of it and they must know when they purchase it that the man who sells it to them does not own any timber, but that in order to furnish it he has committed a trespass upon the public lands. The trespasser furnishes a large amount of timber to manufacturing establishments and the latter get the benefit of his theft. Now, somebody should be made responsible. This man of straw may easily be set up where the object is to cheat the Government and to protect the man who has purchased the timber unlawfully taken from the public lands. The man who purchases that timber should be made responsible to know of whom they purchase.

There can be no valid objection, Mr. Chairman, in holding men to a strict account for their criminal acts. If they do trespass and commit theft, they should be made responsible for it. There is no hardship in that whatever. You certainly should not permit men to range all over the public domain and cut and trespass and steal the very best timber upon it. Nor is it right when they are caught three or four or five years after the theft has been committed, to allow them to pay only what they would be required to pay by the law in the beginning, cheating the Government out of the interest in the mean time.

But you do more than that here; you give lands for railroad purposes, granting alternate sections for the sake of having the railroads constructed and the lands thereby opened up to settlers. You encourage, by the provisions of this bill, men to go upon the public lands and steal timber from them, and then, if they are caught, you condone the offense by allowing them to pay only one-half what they would be required to pay in the beginning. It is wrong in principle and must result in wrong all the way through. I am therefore opposed to its passage.

Now, you do not deal with other thieves in this way. You do not condone crimes generally in any such manner. Why, therefore, make a special rule here offering an inducement for men to become timber thieves with the promise of condoning their offense? I can see no good reason in the world why men who steal timber should not be held to the same account with other thieves under the law, and be made equally responsible for their wrong-doing.

Any one who objects to the adoption of the amendment moved by the gentleman from Massachusetts has some other theory. It means something beyond what appears on its face. I know it is easy to say we deal harshly with these men. There is no harshness, sir, in dealing with thieves and trespassers upon the public domain in the country as other thieves and trespassers are dealt with. I withdraw my formal amendment.

The question recurred on Mr. ROBINSON's amendment.

The committee divided; and there were—ayes 44, noes 63.

Tellers were ordered; and Mr. CONVERSE and Mr. ROBINSON were appointed.

The committee again divided; and the tellers reported—ayes 47, noes 72.

Mr. CONGER. That is not a quorum. If, however, the gentleman in charge of this bill agrees that this amendment may be offered in the House before the previous question is demanded, so we may have a vote upon it there, I will not make the point that no quorum has voted.

Mr. CONVERSE. I will make that agreement.

Mr. CONGER. Very well; I withdraw the point of order.

So the amendment was rejected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage, without amendment, of the bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes.

It further announced the passage of the following bill; in which concurrence was requested:

A bill (S. No. 1331) to authorize a retired list for the non-commissioned officers of the United States Army who have served therein honorably and faithfully for a period of thirty years or upward, and for other purposes.

PUBLIC LANDS OF THE UNITED STATES.

The committee resumed its session.

Mr. POEHLER. I offer the following amendment to this section:

Insert between the words "and" and "the," in line 4 of section 1, the word "double;" so that if amended it will read:

"That when any lands of the United States shall have been entered and double the Government price paid therefor, &c.

Mr. Chairman, I do not know who this bill affects in other States. I know what its effect would be in my own State. It affects the trespassers upon the public lands who ought to be subject to and who deserve some punishment. This is done not by persons who are ignorant of the wrong they do or who are innocent of any purpose of wrong, but it is done by those who know well what they are doing, and I offer this amendment as a slight punishment. I think it is very liberal, and I hope it will be adopted.

Mr. CONVERSE. I desire to say upon this amendment that in my judgment it ought not to be adopted. But more especially I desire to say that there is but one proposition in this bill and we desire, if possible, to perfect the bill as far as we can and then to come to a vote upon that main proposition.

I do not believe this Government has ever prosecuted to any considerable extent persons who cut timber for domestic or mining purposes on public lands and used in the ordinary way. The law, as I understand it, now authorizes timber to be taken from the public lands for purposes of mining and domestic use. The fact is that this bill is intended to compromise a large number of lawsuits already begun and others to be begun. This compromise is made in the interest not of revenge, but is made in the interest of economy. If these suits are to be prosecuted all over the country there is no result in revenue. It does not add a dollar to the revenues of the Government. It adds to lawyers' fees. It adds to court costs and the business of hunting them up. All that will be realized from it, and more too, but nothing will result to the Treasury.

Now, the question is, whether it is the best policy to pursue these prosecutions or whether it is better to let them pay for the lands, pay the costs of the court, and let the matter rest there. That is all there is in this bill. I beg gentlemen to allow us to go on and perfect the bill as rapidly as possible and then come to a vote on the main proposition connected with it, as there is much more business which the Committee on Public Lands desire to bring before the House and have considered at this time.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Minnesota.

The House divided; and there were—ayes 32, noes 50.

So the amendment was not agreed to.

Mr. BRAGG. I offer an amendment to line 12.

The Clerk read as follows:

Amend by inserting, after the word "costs," in the twelfth line of the first section, the words "and expenses."

Mr. BRAGG. I understood from the gentleman, the chairman of the Committee on the Public Lands, that this condonation of all these offenses and the settlement of these suits against trespassers is urged upon the ground that it was an economic measure. Now, the bill as it stands provides merely that those persons who shall have cut timber on the public lands may, if they desire to have the offense condoned, be permitted to do so simply by coming into court and paying the costs which have been incurred and the value of the land.

Now, what does the committee mean by "costs?" Do you mean the taxable costs in the Federal courts? If so, the taxable costs proper in the Federal courts are merely nominal—the docket fee and the witnesses, if they have been subpœnaed. In criminal cases they are also merely nominal—simply fees, &c., for docketing the case.

The Government has appropriated fifty to a hundred thousand dollars a year to investigate this fraudulent trespassing upon its property and this depredation upon the public domain. An agent of the Government we say is sent to my own State, as I know one was sent last year. This agent goes into the pinery and spends the whole winter traveling from camp to camp to ascertain what camp is cutting logs on the Government lands, and, after having the proper evidence to lay before the district attorney, he goes to where the United States court is held, at the city of Milwaukee, and there lays the proof before the district attorney, which evidence is submitted to the grand jury. The grand jury meet, the witnesses are sworn, the grand jury find their bill, and the persons against whom the indictment is found or suit commenced, so soon as they ascertain that the proof has been already properly prepared sufficient to convict and secure judgment against them, propose to settle upon the payment of costs. I think they should be compelled to pay the costs and expenses to which the Government has been put in sending its agents into the pinery for the purpose of ferreting out the trespassers upon the public lands. While technically this is not to be added to the costs, still it is really the great expense incurred in it. For that reason I do not think this bill goes far enough in the way of penalties and it is important that these words should be added.

Mr. CONVERSE. It is very impracticable to undertake in a bill like this to require the expenses to be paid in the settlement of these suits. It will be far better if the defendant be allowed to go into court and pay the costs.

The money expended in hunting up those persons engaged in trespassing upon the public lands might be a very considerable sum, and it would be a matter of injustice if the whole expense incurred in this search should be levied upon one defendant who might be the only one caught in the act. There would be nothing at which the court or anybody else could get in order to compute that portion of the expenses.

Mr. BRAGG. Will the gentleman yield to me for a moment?

Mr. CONVERSE. Yes, sir.

Mr. BRAGG. Suppose an agent goes from here to a certain county in Wisconsin. He spends the winter in examining the lumber camps. He finds that five lumbermen are engaged in the business

of trespassing on the public lands; he goes to Milwaukee, enters a complaint, and has indictments found against those five men. What are his expenses? His expenses are what the Government has paid for the time he has been engaged in ferreting out the facts on which those actions are based.

Mr. CONVERSE. That is a small portion of the expense. The agent's expense is his salary from the time he starts from Washington—his hotel bill, his wash bill, every payment he has to make; and if he is obliged to hire a conveyance in going from one camp to another, his expenses will embrace that. They will embrace all the extras of this jaunt; and if you undertook to get to the bottom facts, it would be difficult to tell which was the biggest thief of the two, the man who had trespassed or the man who was sent out to detect trespassers, and who had charged whatever he thought fit to charge in the shape of expenses in the prosecution of trespassers.

The result would be no settlements whatever would be made; and it would be far better to defeat this bill and let the law take its usual and ordinary course.

But there are already in the courts a large number of these cases. They are consuming the time of the people; witnesses are spending their time; court costs are accumulating; and you cannot prosecute whole communities. It is not the policy of the Government to prosecute whole communities. The bill is to prevent trespasses in the future; and if the Government receives pay for the timber that has been cut and stops the trespasses in the future, it is all that the Government, it seems to me, ought to ask, and all that in fact it does ask. This bill will go far toward stopping trespasses in the future on the public lands.

I hope we may be allowed to perfect the bill as far as we can, and then take the vote on the single proposition whether we will allow those actions to be settled or whether we will let the cases go on.

The question being taken on Mr. BRAGG's amendment, to insert the words "and expenses" after the word "costs," in line 12 of section 1, it was not agreed to.

Mr. BRAGG. I withdraw the motion to strike out the section.

The Clerk read section 2, as follows:

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the rights of those having so entered for homesteads, may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying therefor $1.25 per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

Mr. CONVERSE. I am instructed by the committee to offer the following amendment:

In lines 6 and 7 strike out the words "one dollar and twenty-five cents" and insert in lieu thereof the words "the Government price;" so that it will read:
"By paying therefor the Government price per acre."

Mr. BRAGG. I would like to inquire of the gentleman from Ohio what that means?

Mr. CONVERSE. The object is where lands are rated at $2.50 or a higher price the parties shall be permitted to pay the Government price.

Mr. BRAGG. Is it not rather the purpose that where lands would be subject to entry under the graduation act they may be bought at twenty-five cents or fifty cents or seventy-five cents an acre?

Mr. CONVERSE. I understand there is no law now in force whereby lands can be entered under the graduation act. I understand that $1.25 an acre is the lowest Government price.

Mr. CONGER. I suppose the object is to bring in the graduated lands that come down to seventy-five cents, fifty cents, and for a certain number of years twenty-five cents an acre. That, it seems to me, is the effect of this amendment.

Mr. CONVERSE. I suggest to the gentleman from Michigan to offer an amendment providing that the parties shall pay not less than $1.25 an acre.

Mr. CONGER. That will do. I offer the amendment in this form:

In line 8, strike out the words "$1.25 per acre" and insert in lieu thereof "the Government price, and in no case less than $1.25 per acre."

Mr. CONVERSE. I accept that as a substitute for mine.

The amendment was agreed to.

Mr. BARBER. I offer as an addition to the section the amendment which I send to the desk.

The Clerk read as follows:

And provided, That when settlers under the homestead laws are compelled to abandon claims in consequence of a general failure of crops by reason of drought or other cause, the right to perfect title shall remain for the period of two years.

Mr. BARBER. I do not profess to have any peculiar knowledge on this subject; but I received through the mail last evening a letter originally addressed to a friend of mine in Chicago, on this subject, which I desire to have read in support of the proposition I have offered.

The Clerk read as follows:

MILLBROOK, *May* 10, 1880.

HONORABLE SIR: I thought I would write to you for a little advice and assistance, if you could give it. I am now in Kansas on a homestead, and we are having a very dry spring in this part, (Graham County,) and we fear we shall be obliged to abandon our claims for a time, and, if so, under the present laws will be sure to lose them with all our improvements, for men are coming in with money enough to carry them through, that are ready to jump our claims as soon as we leave. Now could there not be sent in to Congress by some of you men of influence in time to help us to two years of absence from our claims, and still hold them? We have worked hard and lived close in order to make our homes here, the soil is good, and the prospects fair to be a rich country when once under cultivation. If you can do anything or advise us so that we can do anything in order to hold our homes and yet go where we can get employment and live, there will be many thankful hearts.

Yours, respectfully,

ELI CORBIN,
(Millbrook, Graham County, Kansas.)
Formerly sergeant Company L, Seventeenth Illinois Cavalry.

Mr. RYAN, of Kansas. I want to say to the gentleman from Illinois that on the 26th day of last month a bill passed this House providing a complete remedy for such cases. It obtained the unanimous consent of the House to be brought before it for consideration and it passed the House unanimously. It provides that all such parties may have a leave of absence from their claims until October 1, 1881, and that in the mean time no adverse rights shall attach to their claims. It gives to the pre-emptor one year after expiration of leave of absence in which to perfect his title and make final payments. That bill is now pending in the Senate and I am informed is likely to become a law in a very few days.

Mr. BARBER. Then the object I had in view in bringing this to the attention of the House is accomplished. I withdraw the amendment.

The Clerk read as follows:

SEC. 3. That the price of lands now subject to entry which were raised to $2.50 per acre more than twenty years prior to the passage of this act by reason of the grant of alternate sections for railroad purposes is hereby reduced to $1.25.

Mr. CONVERSE. I move to amend the section just read by adding the words "per acre;" so that it will read "reduced to $1.25 per acre."

Mr. PAGE. I would ask the gentleman if he will not also agree to strike out "twenty years" and insert "ten years?"

Mr. POEHLER. I have an amendment to offer which will reach that point.

Mr. ANDERSON. I desire to ask whether the price of lands within railroad limits was not fixed at $2.50 per acre by the act of 1864, or whatever act it was that granted these lands to railroads? And then I desire to ask this further question: whether, if that be so, we can now reduce the price of those lands from $2.50 to $1.25 per acre? in other words, whether we have now the power to make that reduction in price? I am most heartily in favor of the reduction if it can be made. I ask for information on this point, for the reason that in my judgment this will not be an operative provision; it is held out as a boon which will simply prove to be valueless.

Mr. CONVERSE. I have no doubt that Congress has the power to reduce the price of land within the limits of railroad land grants.

Mr. RYAN, of Kansas. There can be no doubt about that.

Mr. CONVERSE. This section applies to lands granted more than twenty years prior to the passage of this act; which will be several years prior to the date of the act to which the gentleman refers.

Mr. PAGE. I desire to move to amend the section so as to strike out "twenty years" and insert "ten years." It seems to me that where land has been upon the market for ten years at $2.50 per acre and has not been sold it is time the price was reduced to $1.25 per acre.

Mr. CONVERSE. That amendment has no relation to the one I have offered.

Mr. PAGE. Well, I will withdraw it now.

The amendment offered by Mr. CONVERSE was agreed to.

Mr. POEHLER. I move to strike out the words "more than twenty years prior to the passage of this act," and to add to the section the words "to all actual settlers." The section will then read:

That the price of lands now subject to entry which were raised to $2.50 per acre by reason of the grant of alternate sections for railroad purposes is hereby reduced to $1.25 per acre to all actual settlers.

The object of my amendment is to place all lands within the limits of railroad grants at a dollar and a quarter per acre. I think that is a timely amendment to our land law. I think that actual settlers ought to be allowed to take these lands at that price; and therefore I have moved this amendment.

Mr. CONVERSE. I hope the amendment will not be adopted. It is foreign to the provisions of this bill—is not germane to the bill. If my friend from Minnesota [Mr. POEHLER] is in favor of such a law as that, let him bring in a bill upon the subject and we will consider it by itself.

The amendment of Mr. POEHLER was not agreed to.

The Clerk read the following:

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespasses committed or material taken from any of the public lands after the passage of this act shall be entitled to the benefit thereof.

Mr. CONVERSE. By instructions of the Committee on the Public Lands I move to amend the section just read by striking out the words "the passage of this act" and inserting in lieu thereof the words "March 1, 1879;" so as to make this section conform to the other sections of this bill as they have been amended.

The amendment was agreed to.

Mr. CONVERSE. I have one more amendment to offer by instructions of the committee. It is to add to section 4 the following proviso:

Provided, This act shall not apply to lands in California, Oregon, Nevada, or Washington Territory.

Mr. POEHLER. Will the gentleman explain the reason for that amendment?

Mr. CONVERSE. I will. The act of June 3, 1878, contains this section:

SEC. 5. That any person prosecuted in said States and Territory for violating section 2461 of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of $2.50 per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section 4751 of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named.

It will be seen that trespassers in the States and the Territory excepted by the proviso I have offered are covered by the section of the act of 1878 which I have read.

Mr. PAGE. Does the gentleman from Ohio [Mr. CONVERSE] understand that this bill is in any way in conflict with the act of 1878?

Mr. CONVERSE. It might be so construed, unless the exception is made which I have here moved.

Mr. HERBERT. We do not want to repeal the act of 1878.

Mr. RYAN, of Kansas. This amendment is necessary out of an abundant caution.

The amendment was agreed to.

Mr. DOWNEY. I move to amend section 4 by adding thereto that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That in the State of Colorado, and in all the Territories of the United States, the citizens thereof may take from the public lands such timber as they may need for domestic and other uses within the said State and Territories; *Provided further*, That no timber shall be taken from the public lands for exportation or sale outside of the limits of the said State or Territories.

Mr. DOWNEY. Mr. Chairman, it will be observed by referring to the act approved June 3, 1878, that it contains the language "mineral lands." In other words, the people of the Territories referred to have the right, according to the ruling of the Secretary of the Interior, to go upon surveyed mineral lands and take timber for domestic purposes; but the very minute they go outside of surveyed mineral lands he claims that they are trespassers, and that, if this is a hardship, it is the fault of this legislative body, not his fault.

The act of June 3, 1878, is objectionable with the construction placed upon it by the Secretary of the Interior. In the Territory which I have the honor to represent, embracing about four hundred miles in each direction, we have surveyed mineral lands to the extent of perhaps twenty or thirty townships; the remainder of the land in our Territory, agricultural, pastoral, and otherwise, is not mineral. Hence no actual settler in our Territory who is not a miner and not adjacent to the mineral belt has any right to take any public timber for domestic purposes of any kind.

Mr. CONVERSE. Will the gentleman allow me to call his attention to the law?

Mr. DOWNEY. I have it before me.

Mr. CONVERSE. Let it be read. It settles the question. It authorizes everybody to take timber for domestic purposes.

Mr. DOWNEY. Before the act is read I will state that the Delegates from Idaho and Montana and the Representatives from Colorado and Oregon, in company with myself, held a consultation with the Secretary of the Interior upon this very point. His regulations as issued declare as his construction of the law that except upon surveyed mineral lands the people of the States and Territories named in the act of June 3, 1878, have no right to take any timber. This is a matter of great importance to our people; they are constantly harassed upon this subject. There is a timber agent in our Territory now who is giving great trouble to the actual settlers. I desire that the first section of the act of June 3, 1878, be read. It will be observed that the word "mineral" is used throughout.

Mr. CONVERSE. Oh, no!

The Clerk read as follows:

An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

Be it enacted, &c., That all citizens of the United States and other persons, *bona fide* residents of the State of Colorado, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts——

Mr. DOWNEY. That is the point—"mineral districts."

The Clerk (continuing) read as follows:

of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

Mr. DOWNEY. Now, Mr. Chairman, it will be observed that this act applies only to mineral lands. In the Territory of Wyoming there is a range of country three hundred miles in length by two hundred and fifty in width within which there are no mineral lands. Under the law as construed by the Secretary of the Interior actual settlers in that part of the Territory cannot go to the Medicine Bow range of mountains to get their timber. All I ask is that these settlers in any part of the Territories may be permitted to take for actual domestic purposes timber necessary to fence their claims, to make their fires, to build their houses.

Mr. PAGE. Does the gentleman offer his amendment as an additional section?

Mr. DOWNEY. No, sir.

Mr. PAGE. I think it had better be offered in that form.

Mr. DOWNEY. I have no objection.

The CHAIRMAN. The amendment of the gentleman from Wyoming will be read.

The Clerk read as follows:

After the proviso just adopted insert the following:

"*Provided further*, That in the State of Colorado and in all the Territories of the United States the citizens thereof may take from the public lands such timber as they may need for domestic and other uses, within the said State and Territories: *And provided further*, That no timber shall be taken from the public lands for exportation or sale outside of the limits of the said State or Territory."

Mr. CONVERSE. I think that amendment is in conformity with the existing law, with a single exception. If the gentleman will limit the amendment by striking out the words "and other" after the word "domestic," and will strike out at the end of the amendment the words "outside of the limits of the said State or Territory," I have no objection to the amendment.

Mr. DOWNEY. I am willing to modify the amendment in any way so that the settlers shall have the right to take timber for domestic purposes. I accept the modification suggested by the gentleman from Ohio.

The question being taken on agreeing to the amendment of Mr. DOWNEY, as modified, there were—ayes 28, noes 25.

Mr. ATHERTON. I make the point that no quorum has voted. I want tellers. I think that gentlemen ought to vote when we are giving away the timber on the public lands of the Territories.

Tellers were ordered; and Mr. ATHERTON and Mr. DOWNEY were appointed.

The committee divided; and the tellers reported—ayes 34, noes 39.

So the amendment was not agreed to.

Mr. WHITE. I move to amend by inserting as an additional section what I send to the desk.

The Clerk read as follows:

SEC. —. That so much of section 2309 Revised Statutes as provides "but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law" shall be so altered and amended as to read "but such claimant shall in person or by tenant *bona fide*, employed by such claimant to act in his place and for him, within the time prescribed, make his actual entry, commence settlements and improvements on the same, and thereafter otherwise fulfill the requirements of law."

Mr. WHITE obtained the floor.

Mr. HERBERT. I make the point of order that this amendment is not germane to the present bill. So far as the amendment itself is concerned, I dislike very much to oppose it. I am in favor of such a provision if offered in a separate bill and will heartily support it, but it is certainly not germane to the pending proposition and is only loading it down with provisions foreign to its purpose. I therefore insist on the point of order.

Mr. WHITE. I regret exceedingly the gentleman from Alabama has raised at this stage the point of order which he has stated. I do not, however, think it is well taken. And one word on that subject.

It will be observed this is a bill which is entitled "a bill relating to the public lands of the United States." The first section is in the nature of a condonement of certain trespasses and offenses committed against the public lands. The second section provides specifically for preserving the rights of persons who have purchased by instruments in writing from actual settlers looking to a method of acquiring title to the public lands. The third section graduates the prices of certain public lands. Consequently the purpose of the bill is to regulate the method and manner of acquiring title to public lands of the United States.

Now, the amendment I offer is germane to the subject-matter of the bill itself, because it indicates a method of acquiring title not already provided for by law. So much for the point of order.

Mr. HERBERT. Before the gentleman gets to the merits of the question I wish to say——

Mr. WHITE. To continue further on the point of order, [laughter,] I find here by section 2309 of the Revised Statutes, which is the section referred to in the proposed amendment, the following:

Every soldier, sailor, marine, officer, or other person coming within the provisions of section 2304,—

That is as to the time of service—

may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases.

What I refer to in the amendment are the words which come after what I have read.

But such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

The change I make is that instead of requiring the soldier to go upon the land in person, giving him credit for his time and service, to allow him to employ a *bona fide* tenant. I do this so that constituents of my friend from Indiana who were soldiers, and so that the

constituents of other gentlemen upon this floor who served during the war, may have the privilege, if this amendment shall prevail, of employing *bona fide* tenants, and thereby at the end of five years acquire title to their land.

This, I submit, is in the interest and policy of the legislation of 1872. And if this House desires in this respect to deal substantial kindness to the soldiers of the country in the manner of offering the public lands to them they will at once adopt the amendment I have moved. For, I submit, as the law now is it is practically nugatory. It requires soldiers shall go upon the land themselves, and only in the very smallest number of cases is that done.

Mr. Chairman, the amendment is germane to the bill, and its policy is such as to commend it to the approval of the House.

Mr. HERBERT. There is nothing in relation to regulating the manner of acquiring title to lands in this bill.

Mr. WHITE. Certainly there is.

Mr. HERBERT. I say the point of order I raise is a good one, and that the amendment is not germane to the pending bill.

Mr. WHITE. What does section 2 provide?

That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the rights of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying therefor $1.25 per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

My amendment is cognate to the subject-matter of that section, as it is also to the subject-matter of the third section.

Mr. CONVERSE. This bill simply proposes to arrange with persons who are guilty of trespassing upon the public lands. I hope my friend from Pennsylvania will not endeavor to mix up homestead rights of soldiers with this bill. There is already a bill pending before the House making provision for such persons.

Mr. WHITE. There is no hope of reaching or passing it except in this way.

Mr. CONVERSE. If the gentleman will introduce a bill on that subject, or move to take the pending bill up, I do not think there will be a single objection to it.

Mr. WHITE. I have introduced a bill.

Mr. CONVERSE. I hope the gentleman will not put it on this bill.

Mr. RYAN, of Kansas. There is one more point of order I desire to call to the attention of the Chair; that is, according to the statement of the gentleman from Pennsylvania himself, this amendment is the substance of a pending bill, and therefore not in order as an amendment?

Mr. WHITE. There is no pending bill on this particular matter. There is a pending bill on the subject, but not of this character.

Mr. RYAN, of Kansas. In substance it is the same.

Mr. WHITE. No, sir; I deny it.

Mr. RYAN, of Kansas. What is it?

Mr. WHITE. There is a bill to amend section 2304.

The CHAIRMAN. The facts presented in the point of order raised against the amendment of the gentleman from Pennsylvania show substantially this state of case: that the pending bill affects the settlement of conflicting interests between parties who have been guilty of depredations upon the public lands and the Government; and also makes provision for the sale of these lands to these parties, how they may be bought by them at a specified price to be paid, &c., and hence affects the title or the mode of conveying title to the public lands to a certain extent, and is therefore connected with the general subject of the disposition, sale, &c., of the public lands. This is clearly and obviously the object and import of this bill.

Now there is a statute in force making provision for certain homestead pre-emptions or locations of public lands by those persons who have performed military services, &c., and which of course relates to the disposition, &c., of the public lands. The gentleman from Pennsylvania seeks by offering this amendment to the bill now pending to modify or amend a portion of that statute.

The only rule bearing upon this question known to or which occurs to the present occupant of the chair is the latter clause of the seventh paragraph of Rule XVI, and is in the following words:

And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This amendment, as it strikes the Chair, is not different, but is on the same line and touches the same subject-matter as that involved in the pending bill, both and equally alike relating to the disposition of the public lands. The point of order is therefore overruled.

The question is on the amendment offered by the gentleman from Pennsylvania.

Several members demanded the reading of the amendment.

The amendment was again read.

Mr. ROBINSON. Mr. Chairman, I do not wish to speak of the merits of the question, but simply as to the form of the proposition. As the gentleman has sent it up it will lead to confusion. The gentleman's proposition is to amend this section of the statutes so that it will read in manner as he suggests; but his amendment affects only two or three lines. I think there is great objection to changing a statute in that way. It would be much better to rewrite the whole statute.

Mr. WHITE. My friend from Massachusetts is all right, but I change simply the last three lines of this section and in reference to a subject that is connected with this pending proposition, and thereby make the section homogeneous and harmonious.

Mr. ROBINSON. I do not think it is a wise plan to change a statute in that way. [Cries of "Question!" "Question!"]

The committee divided; and there were—ayes 4, noes 45.

Mr. WHITE. I am disgusted with the friends of the soldier. [Laughter.]

Mr. CONVERSE. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill on the Calendar.

The Clerk read as follows:

A bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862.

Mr. CONVERSE. I object to the consideration of that bill, and also to the consideration of the next bill on the Calendar, No. 1059, and ask to have these passed over. We have not time to discuss them, and there are other matters of importance that we desire to dispose of to-day.

Mr. WRIGHT. That bill, Mr. Chairman, was reported in the early part of the session, and I have been anxiously waiting to have an opportunity of getting a hearing for it.

The CHAIRMAN. Objection being made to the consideration of the bill the title of which has just been read, the committee will now rise to report the objection to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having the calendar of reports from the Committee on the Public Lands generally under consideration, had reached the bill H. R. No. 269, when objection was made to its consideration, and under the rules the committee had risen for the purpose of reporting that objection to the House.

The SPEAKER. The question is, will the House direct the committee to lay aside the bill?

Mr. WRIGHT. I ask to be heard with regard to that matter.

The SPEAKER. For what purpose does the gentleman from Pennsylvania rise?

Mr. WRIGHT. I wish to know, if we pass the bill over now, will it lose its place on the Calendar?

The SPEAKER. It will not lose its place, but its present consideration.

The question was taken; and upon a division there were—ayes 67, noes 15.

So the House directed the committee to lay aside the bill.

The Committee of the Whole resumed its session.

The CHAIRMAN. The Clerk will report the title of the next bill.

The Clerk read as follows:

A bill (H. R. No. 1059) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. CONVERSE. I object to the present consideration of that bill.

The CHAIRMAN. Objection being made, the committee will rise and report the objection to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having the calendar of reports from the Committee on the Public Lands generally under consideration, had reached the bill H. R. No. 1059, when objection was made to its present consideration, and under the rules the committee had risen for the purpose of reporting that objection to the House.

The SPEAKER. The question is, will the House direct the committee to lay aside the bill?

The question was taken; and it was decided in the affirmative.

So the House directed the committee to lay aside the bill.

The Committee of the Whole resumed its session.

The CHAIRMAN. The Clerk will report the next bill.

GRANT OF A BAYOU TO COUNCIL BLUFFS.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city.

The bill was read, as follows:

Be it enacted, &c., That there shall be, and is hereby, granted to the corporate authorities of the city of Council Bluffs, in the State of Iowa, and their successors in office, the meandered lake, situated in sections 11, 13, 14, 15, 22, and 23, in township 75 north, range 44 west of the fifth principal meridian of Iowa, upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises, all incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto; the boundaries to be established, at the cost of the corporation of the said city of Council Bluffs, by the United States; and the official plat, when affirmed by the Commissioner of the General Land Office, shall constitute the evidence of the *locus*, extent, and limits of the said meandered lake; the premises to be managed by the said corporate authorities, or such commissioners as they may elect, and who shall receive no compensation for their services. And the said corporate authorities may proceed, under the laws of the State of Iowa, to condemn and take for the public use any and all lands on the border of said lake, not to exceed in extent a belt or strip six hundred and sixty feet in width along the meandered marginal line of said lake.

The following amendment was reported by the Committee on the Public Lands:

Strike out all after the word "services" to the end of the bill, namely, these words: "And the said corporate authorities may proceed, under the laws of the State of Iowa, to condemn and take for the public use any and all lands on the border of said lake, not to exceed in extent a belt or strip six hundred and sixty feet in width along the meandered marginal line of said lake."

Mr. SAPP. I am instructed by the Committee on the Public Lands to offer the amendments which I send to the desk.

The Clerk read as follows:

In line 3, strike out the word "granted" and insert "conveyed."

In line 5, after the word "office," insert the words "the title of the United States to."

Strike out all from the word "thereto," in line 14, to the word "lake," in line 19, inclusive.

Mr. CONGER. Let the bill be read as it is proposed to be amended.

The Clerk read as follows:

Be it enacted, &c., That there shall be, and is hereby, conveyed to the corporate authorities of the city of Council Bluffs, in the State of Iowa, and their successors in office, the title of the United States to the meandered lake, situated in sections 11, 13, 14, 15, 22, and 23, in township 75 north, range 44 west of the fifth principal meridian of Iowa, upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises, all incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto; the premises to be managed by the said corporate authorities, or such commissioners as they may elect, and who shall receive no compensation for their services.

Mr. REAGAN. How much land does this bill convey?

Mr. SAPP. The bill does not convey any land. It simply conveys a lake that is fed by two large springs, that lake being about a mile and a half in length and half a mile in width.

Mr. BRIGHT. Is the land covered by water?

Mr. SAPP. I suppose there is land under the lake when you go down below the water. But this is a lake which has been there as long as any one has known anything about that country.

I would like to say further in reply to suggestions by some gentlemen around me that it is not salt water, and yet there are fish in it. [Laughter.]

The question being taken on the amendments reported by the committee, they were adopted.

Mr. SAPP. I move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

SURVEY IN CRAWFORD COUNTY, WISCONSIN.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor.

The bill was read, as follows:

Be it enacted, &c., That the Commissioner of the General Land Office is hereby directed to cause to be surveyed that part of townships numbered 9 and 10 north, of range 4 west, in the county of Crawford, State of Wisconsin, which lies east of the Kickapoo River, this part of said townships having never been properly surveyed; and that there be appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to pay the expense thereof, not exceeding $1,000.

Mr. SAPP. Mr. Chairman, I want to say one word in explanation of this bill. It provides for a survey of part of two townships in the county named in the bill, in the State of Wisconsin, that were not surveyed at the time the public surveys were made. Although they were mapped and platted and returned to the office of the Commissioner of the General Land Office, they were in point of fact never surveyed. This is recommended by the Commissioner of the Land Office, and I believe similar appropriations were made for surveys in the State of Michigan. We think that the provisions of the bill are right; and I ask that it be laid aside to be reported favorably to the House.

Mr. DUNNELL. Are those townships now occupied by settlers?

Mr. SAPP. I think they are. It is so reported by the gentleman from Wisconsin [Mr. HAZELTON] who introduced the bill.

Mr. DUNNELL. Does it protect those settlers?

Mr. SAPP. It is for their benefit, as the gentleman would have seen if he had listened to the reading of the bill.

Mr. DUNNELL. That is very satisfactory. [Laughter.] I would like to hear the bill read again.

The bill was again read.

The bill was laid aside to be reported favorably to the House.

TRANSFER OF BAYOUS, ETC., TO THE STATES.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 4378) to transfer to the States the title to all islands, beds of lakes not navigable, bayous, sloughs, ponds, &c., which at the time the public lands were surveyed by the Government were meandered.

The bill was read, as follows:

Be it enacted, &c., That the title of the United States in and to all islands, beds of lakes not navigable, bayous, sloughs, and ponds, as well as the beds of all such lakes, bayous, sloughs, and ponds that have, by evaporation or drainage, become dry lands, suitable for agricultural purposes, and which at the time of the surveys of the public lands by the Government were meandered, and are still undisposed of, be, and the same are hereby, given to the States in which the same are situated respectively.

SEC. 2. That the islands, lakes, bayous, sloughs, ponds, and lands conveyed to the several States in the preceding section shall be disposed of by the Legislatures thereof in such manner and under such regulations as the same shall see proper to provide for by law, having due regard to the rights and equities of all persons in possession under the pre-emption and homestead laws of the United States at and prior to the passage of this act of such lands as have become suitable for agricultural purposes by evaporation or drainage.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

The amendments reported by the Committee on the Public Lands were read, as follows:

In line 6, section 1, after the word "become" insert "or shall hereafter become."

In section 2, line 8, strike out the words "have become" and insert the words "may be."

After the word "drainage," in line 9, section 2, insert the following:

"*Provided*, That the States shall have the right to retain any or all the property hereby conveyed if the Legislature thereof shall so determine: *And provided further*, That nothing herein shall be so construed as to interfere with the rights of riparian owners at common law."

Mr. BOUCK. I desire to offer an amendment.

Mr. SAPP. There is another amendment which the committee have agreed upon and which they have directed me to report. I ask the Clerk to read it.

The Clerk read as follows:

In line 14, section 2, after the word "law," at the end of the amendment heretofore reported by the committee, insert:

"Nor with any pre-emption or homestead claim made prior to the passage of this act; and all such claims shall be proceeded in and established and the title perfected as now provided for by law."

Mr. BOUCK. The amendment just read is satisfactory to me. It covers mine and is all I want.

Mr. SAPP. I now ask that the bill be read by sections for amendment.

Mr. CALKINS. Before the bill is read by sections I desire to say, if I understand it, I do not think it ought to pass. I think it overturns a doctrine which has been recently established by many of the supreme courts of the States and the Supreme Court of the United States, and that it will make simply a fruitful field of litigation in all those cases. I understand the doctrine announced with reference to these titles to islands and to the beds of lakes where the waters recede and uncover the lands to be this: that the United States having sold, not by a meander line, because a meander line establishes no boundary, but having sold all the lands up to certain natural obstructions or water courses, they run the meander lines simply to determine the number of acres to sell; it being the intentiou of the Government to part with all the lands which they own up to the natural obstructions which form the boundary. No meander line is a line for the establishment of the number of acres or for any such purpose.

Now I understand the supreme court of Indiana, in the well-known Madison case, the Supreme Court of the United States in the Saint Paul case, the Michigan supreme court in a series of cases, have all determined that where the Government of the United States sells a pond, a lake, or a river, it parts with all the lands under the water to the riparian owner to the middle of the stream. The same rule applies to non-navigable lakes as to non-navigable rivers.

That doctrine has been established by the decisions of the supreme court of the State of Indiana in a great many cases, by the decision of the Supreme Court of the United States in the Saint Paul case, and by the decisions of the supreme courts of several of the States. If we pass this bill we will open up a fruitful field for litigation in every part of the country where the beds of ponds and lakes have been uncovered by evaporation, or where there are islands which people have squatted upon and now claim under pre-emption.

As I understand it, this bill recognizes a doctrine which is diametrically opposed to the doctrines established by the supreme courts of several of the States and by the Supreme Court of the United States; that is, if I understood the bill when it was read. I assert that the Government of the United States has no title to the bed of any river or pond or lake where there was a meandered line up to which the Government sold land as laid out on the maps; it being the intention of the Government to sell all the land which it had. Such a sale conveyed the right of the Government to all the land to the middle of the stream or to the middle of the lake.

Mr. SAPP. If there has been any such line of decisions as the gentleman from Indiana [Mr. CALKINS] refers to, I would be very glad to have him produce them. To say that the doctrine of riparian proprietor applies to ponds and lakes that are not navigable, and to sloughs and bayous, it seems to me is a new doctrine for a lawyer to advance anywhere.

I assert as a legal proposition that the doctrine of riparian proprietor does not apply even to navigable lakes, although it does to navigable streams and rivers. If what the gentleman claims with respect to the doctrine of riparian proprietor be true we have provided in this bill that it shall not in any way interfere with the rights of such riparian proprietors. Therefore the objection of the gentleman, if there was any ground for it, is completely met by the provisions of the bill.

One word in relation to the necessity for the passage of this bill. As is well known to every man who has made any observations as to the conflicts in various parts of this country, there is and has been for years a controversy as to whether these non-navigable lakes and these sloughs, ponds, and bayous belong to the States under what is known as the swamp-land agent act, or whether they belong to the Government of the United States. In view of that conflict, the Commissioner of the General Land Office and the Secretary of the Interior in

at least two reports to this House have urged that lands such as are described in this bill shall be transferred to the States, so that the States may dispose of them rather than they should be left to be disposed of by the General Government.

Mr. CALKINS. Allow me right there.

Mr. SAPP. Not for a speech.

Mr. CALKINS. No, not for a speech. I assert that the Land Department of the Government has always been in harmony with the theory of this bill; but the courts have always decided the other way. I know that you will find in a report made by Land Commissioner Wilson that he asserts the same doctrine which the gentleman from Iowa does; but it is not the doctrine of the law as construed by the courts.

Mr. SAPP. I cannot yield to the gentleman for another speech. If the gentleman can find a single case where any court has decided that the doctrine of riparian proprietor applies to a pond or a slough or a bayou, I should like him to produce such a reported case.

It is true that there are constant applications made to the Commissioner of the General Land Office to have surveyed lands that have become dry by evaporation or drainage, involving much expense to the Government. It is also true that there is a conflict on the part of claimants of such lands.

I appeal to Representatives on this floor whether it is not better that these lands which have become dry by evaporation or drainage, these sloughs and ponds and lakes not navigable, should be transferred to the States, and that the States be authorized to dispose of them to her citizens rather than they should remain longer a bone of contention.

Mr. REAGAN. I desire to call the attention of the gentleman from Iowa [Mr. SAPP] to section 2476 of the Revised Statutes, which reads:

All navigable rivers within the territory occupied by the public lands shall remain and be deemed public highways; and in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

Mr. SAPP. Nobody disputes that doctrine at all. This bill is intended to apply to the States of the South, the Southwest, the West, and the Northwest, where there are almost innumerable lakes, bayous, and sloughs; and it is certainly important to those States.

Mr. DUNNELL. I am unwilling generally to oppose anything that comes from the Committee on the Public Lands; but I must raise my voice against the passage of this bill, for I believe the principle of it is all wrong.

If there be a lake that has become dry, there ought to be a general law authorizing the Commissioner of the General Land Office to survey it and put it into the market for sale. I do not believe the General Government should surrender the ownership of all the lakes and beds of lakes of this country to the States in which they are located.

Mr. SAPP. Only the lakes not navigable.

Mr. DUNNELL. These lakes are part of the scenery of the country; they contribute to the health of the State in which they are located; they add to the beauty of the State. The General Government owns them, and to turn them over to the State Legislatures to be traded upon, to be drained, to be utilized for any other purpose than that for which God intended them, is something that I do not approve. I am unwilling to vote for such a measure as that, even though it will give to my State thousands of acres.

Mr. CALKINS. If the gentleman will allow me, I will state that the Government does not own the beds of any non-navigable lakes.

Mr. DUNNELL. Then why is this legislation asked?

Mr. CALKINS. That is what I want to know. It seems to me it is designed to make a multiplicity of lawsuits all over the country.

Mr. DUNNELL. Mr. Chairman, this bill does not simply cover non-navigable lakes; it embraces also navigable lakes.

Mr. SAPP. No, sir; I deny that. The bill says "lakes not navigable."

Mr. DUNNELL. If there is anything to be gained by any State from the passage of this bill, these lakes have a value. Otherwise what advantage can it be to the State of Iowa, for instance, to own a non-navigable lake?

Mr. SAPP. Allow me to answer. The Legislature of our State has memorialized Congress to pass this bill in order that she may beautify Spirit Lake, Storm Lake, and a number of other lakes.

Mr. DUNNELL. I assume that the Government will never deny to a State the privilege of utilizing any lake for purposes of recreation. We have already to-day passed a bill giving a lake to the city of Council Bluffs. My opposition to this bill is that it opens up the lakes of the country to the vandalism that will creep into State legislation. I am not willing that the scenery of the country should be subjected to the legislation of the States.

These lakes of the country are valuable. I am unable to see why we should give over a lake covering twenty acres of ground to a State any more quickly than we would give twenty acres of prairie land to a State. Why not turn over to each of the States all the lands as well as all the streams, bayous, &c., within the territorial limits of the State? Why give up the jurisdiction of a lake any more than the jurisdiction of a piece of land of similar size?

Mr. SAPP. I will state to the gentleman the reason, if he will allow me. The land is useful for settlement and cultivation, but a lake such as this bill contemplates is of no use to anybody.

Mr. DUNNELL. A lake of no use to anybody?

Mr. SAPP. Except to citizens of the State or the State itself to make it a place of resort.

Mr. BRIGGS. Why do the States want lakes, bayous, &c., that have dried up?

Mr. SAPP. Simply because the General Government ought to be glad to get rid of them, and the States can utilize them.

Mr. CALKINS. The difficulty is that gentlemen assume that the Government of the United States owns these lakes when it does not own them at all.

Mr. DUNNELL. A few years ago there was a lake in Indiana containing more than two thousand acres. For the first time within my knowledge the Indiana delegation was united. It was entirely united in asking the Government to grant to it twenty-six hundred acres of the dry bed of the lake. If the State of Indiana already owned that lake thus dried up, why did she come here and ask us to give it to her?

Mr. CALKINS. Yes; and that has caused more litigation in Indiana than anything else that ever took place in any legislative body.

Mr. DUNNELL. It ought to have troubled the members who asked the passage of the measure.

Mr. CALKINS. If the matter had been allowed to stand as the courts decided it, it would have been settled long ago.

Mr. DUNNELL. The State of Minnesota has probably a thousand lakes—more than that—an empire of lakes—the most beautiful portion of the entire Republic. We are satisfied to let the title to these lakes remain with the General Government. The beauty of these bodies of water will be better preserved under the jurisdiction of the General Government than if they should be transferred to the State. I am opposed to giving up to the mercy of State legislation the water of the country, the scenery of the country.

Mr. SAPP. It does seem to me that the views expressed by the gentleman from Indiana [Mr. CALKINS] and the gentleman from Minnesota [Mr. DUNNELL] opposing this bill for directly opposite reasons furnish the very best argument that can be presented for the passage of this measure, in order that property of the description contemplated by the bill, useless to the General Government, may be transferred and left to the disposition of the States.

Mr. HENDERSON. I wish to inquire of the gentleman from Iowa whether this bill does not interfere with private rights where there is litigation now pending before the Secretary of the Interior, and whether it does not interfere with such rights so as to destroy them?

Mr. SAPP. I wish to say to my friend from Illinois I think all private rights are maintained. We have especially protected the pre-emption and homestead claims. We have especially protected all riparian rights, if any exist. We have protected all these private rights by the provisions of the bill and amendments reported from the committee.

Mr. HENDERSON. I am informed by a gentleman from my own State, who I know is interested in a case now pending before the Secretary of the Interior, that this bill does interfere with his suit or claim now pending.

Mr. SAPP. I wish to say to my friend from Illinois that an amendment has been moved from the committee to meet the very point which he has stated.

Mr. REAGAN. I do not know, Mr. Chairman, that I fully understand the scope and purpose of this bill, but it provides for the transfer to the States of the United States titles to all islands, beds of lakes, bayous, sloughs, ponds, &c. How much land are we to transfer by the grant of all these islands to the States? Why is it sought to make such transfer? A number of questions connect themselves with the navigable waters of the States and the commerce of the States. The navigable rivers within the Territories occupied by the public lands, it is provided by the Revised Statutes, shall remain and be deemed public highways.

Mr. WHITE. What section is that?

Mr. REAGAN. Section 2476. Now, suppose you cede the jurisdiction over these waters to the States, what is to be the effect in restricting the power of the United States under the general law and under its maritime and commercial jurisdiction over these rivers?

I cannot see exactly what this statute means. It means evidently more than lies on the surface of it. You propose by it a wholesale transfer of the islands and lakes of this country to the States. I am not concerning myself about the rights of riparian ownership, but I am looking especially to the provisions which contemplate the transfer of the islands and lakes of this country to the States. I am not able now without having investigated the matter to say to what extent the jurisdiction over these streams where navigable will be affected.

Mr. SAPP. Allow me to call the attention of the gentleman from Texas to the fact that the lakes here referred to are not navigable lakes, but lakes which expressly are not navigable.

Mr. REAGAN. The bill does not say so.

Mr. SAPP. Yes, it does.

Mr. REAGAN. Read the section.

Mr. SAPP. Let the Clerk read the first section.

The Clerk read as follows:

That the title of the United States in and to all islands, beds of lakes not navigable, bayous, sloughs, and ponds, as well as the beds of all such lakes, bayous, sloughs, and ponds that have, by evaporation or drainage, become *or shall hereafter become* dry lands, suitable for agricultural purposes, and which at the time of the surveys of the public lands by the Government were meandered, and are still undisposed of, be, and the same are hereby, given to the States in which the same are situated respectively.

Mr. REAGAN. Now read the next section.

The Clerk read as follows:

SEC. 2. That the islands, lakes, bayous, sloughs, ponds, and lands conveyed to the several States in the preceding section shall be disposed of by the Legislatures thereof in such manner and under such regulations as the same shall see proper to provide for by law, having due regard to the rights and equities of all persons in possession under the pre-emption and homestead laws of the United States at and prior to the passage of this act of such lands as may be suitable for agricultural purposes by evaporation or drainage: *Provided*, That the States shall have the right to retain any or all the property hereby conveyed if the Legislature thereof shall so determine: *And provided further*, That nothing herein shall be so construed as to interfere with the rights of riparian owners at common law.

Mr. REAGAN. I wish to say, without having had an opportunity carefully to examine this bill, that it seems to me to cover much more than appears from a casual reading of it, and that it is altogether too large in its grant, and I shall therefore not support it.

Mr. SAPP. My friend from Texas will see it refers to lakes which are not navigable.

Mr. BERRY. I should like to inquire of the gentleman from Iowa (although I am a member of the Committee on the Public Lands, but was not present at the time this proposition was considered by that committee, and my attention has not been called to its provisions until this discussion arose) as to the precise effect intended by the passage of this bill. It appears it is extensive enough in its scope to convey all islands. The inquiry I wish to propound is, will this bill convey to the States military reservations—for instance, Goat Island and Angel Island? Will it not place those islands at the disposal and under the control of the State?

Mr. SAPP. Most assuredly it will not.

Mr. REAGAN. It reads that the title of the United States in and to all islands, and then goes on to say "beds of lakes not navigable," and that is the only place where the words "not navigable" are inserted. It conveys bayous, sloughs, and ponds. Now, take the bayous in Louisiana and let them be conveyed to that State, and what will be the result? Except the Mississippi and Red Rivers they constitute the entire navigation of that State. They contain more navigable water than any other——

Mr. SAPP. Are the bayous and ponds navigable down there?

Mr. REAGAN. Certainly they are.

Mr. SAPP. I did not know there were any ponds which were navigable.

Mr. REAGAN. Many of them, perhaps a great majority of them, are.

Mr. SAPP. There may be bayous that are navigable. If they are, they must form a part of another stream.

Mr. ATHERTON. I would like to ask the member of the committee having this bill in charge a single question, and it is this: Why is it that the land that may be reclaimed from the bed of a lake or a bayou which has become dry should any more become the property of the State than any other portion of the public domain?

Mr. SAPP. I will answer that the purpose and object of the committee——

Mr. ATHERTON. That is exactly what I want to get at, the purpose and object of the committee.

Mr. SAPP. That the purpose and object of the committee was to transfer these lands which had been reclaimed by the lake or bayou becoming drained to the States, believing that the States can dispose of them to their own citizens more equitably, more justly, and more properly than the General Government.

Mr. ATHERTON. These lands which may be reclaimed in that way may have been entered under the homestead laws; and if the General Government should occupy any portion of these lands at all, why should it not occupy lands in a State and own lands just as much which have been left after a lake or a bayou has gone dry as any other part of the public domain? Why should it not retain such lands for sale just the same as any other portion of the public lands? It would seem to be in reason for the Government to take possession of these lands and dispose of them for its own use as it disposes of other public lands rather than to give them up to the States.

Mr. NEW. Will the gentleman [Mr. SAPP] give me his attention for a moment? I wish to ask him a question, and before doing that will say that I have seen the lakes in Minnesota described by the gentleman from that State, [Mr. DUNNELL,] and have heard that those in Iowa are almost identical in appearance. Those in Minnesota are beautiful almost beyond description. The pen of the poet would hardly be able to describe their beauties, or the brush of the painter to illustrate or portray the glorious landscape of which they are a conspicuous and valuable part. Those lakes are numerous and vary in size from one mile to one hundred miles in circumference. Most of those lakes are from ten to fifteen miles around them, and with inlets and outlets too small for vessels to pass through. Now the question I wish to ask the gentleman from Iowa is this: Does he mean to include these lakes among those named in the bill as non-navigable? Is it intended by this bill to transfer the titles to these lovely and valuable lakes from the General Government to the States? For one, I must say that I am not prepared to admit that it ought to be done. We ought not to legislate hastily upon a subject of so much importance. I hope the measure will not be further pressed at this time.

Mr. SAPP. Most assuredly I did not, nor did the committee contemplate including any lake that could be navigated by steam-vessels or was of any commercial value. It was only intended to include lakes that are too small for navigation, and which may be beautified and reserved for little sail-vessels and for ornamental purposes. It was not intended to include any body of water susceptible of navigation by steam-vessels or which may be improved for that purpose.

Mr. BERRY. Mr. Chairman, I wish to call the attention of the gentleman from Iowa——

Mr. SAPP. I have not concluded. Mr. Chairman, I would like to say this, that there is——

Mr. BERRY. Have I the floor?

The CHAIRMAN. The Chair has recognized the gentleman from California.

Mr. BERRY. I want to ask the gentleman from Iowa to state to the House what kind of islands it is intended to include in this bill. I am much interested in the subject of islands.

Mr. SAPP. I will state, in reply to the gentleman from California, that the word "islands" may be stricken out altogether if it is objectionable. I have no objection to striking it out, and am willing that it be done.

As this committee has probably a large number of bills that will call for discussion, I have no objection for the present to withdraw this from consideration, as I do not want to consume any time that is not necessary.

Mr. REAGAN. I simply wish to say, Mr. Chairman, in addition to what I have already said, that there are lakes which are used largely for fishing and sailing purposes in which the whole neighborhood is interested, and this bill proposes to give these lakes into the control of the General Government, and under the jurisdiction of one body of men or of one man.

Mr. PAGE. I understand the gentleman from Iowa wishes to withdraw the bill for the present.

Mr. ELAM. Mr. Chairman, before doing so I wish to say a few words upon this subject. There are to my knowledge many lakes in our southern country which have been filled up in the process of time by deposits of soil in their beds by the Mississippi, Red, and other rivers. There was a ruling of the Land Office in relation to the acts in 1849 and 1850 in reference to swamp lands in Arkansas and Mississippi that when these lakes had been dried up or had become drained by artificial or natural causes the lands did not pass to the State, but went to the General Government. The first ruling of the Land Office was that they did; and that was the practice of the Land Office for many years. The first case that came up for adjudication under that ruling was in the State of California. The Commissioner of the General Land Office has referred in his report to this subject.

There is a lake called Silver Lake, just below the city of Shreveport, which is actually filled up. People are living on it; but no survey will be ordered by the United States. There are a great many instances of that kind.

I wish to advert to another point. I think the gentlemen who have this bill in charge should so amend it that it shall be perfectly clear that it shall not interfere with navigable bayous. There are many such in Louisiana, running through the richest country there. I ask the gentleman so to amend the bill that navigable bayous shall be put on the same footing as navigable rivers and lakes.

Mr. MILLS. I will interrupt my friend from Louisiana [Mr. ELAM] to suggest to him that it is contemplated to have a night session and the time for taking a recess has now about arrived. The gentleman from Georgia [Mr. BLOUNT] desires the House to be in session to-night that he may report from the Committee on Appropriations the sundry civil appropriation bill and have it printed.

Mr. CONVERSE. I move that the committee rise.

Mr. SAPP. I object to the further consideration of this bill, and ask that its consideration be laid aside.

The CHAIRMAN. The pending motion is the motion of the gentleman from Ohio, [Mr. CONVERSE,] that the committee rise.

Mr. SAPP. Can we not object to the further consideration of the bill and have it laid aside?

The CHAIRMAN. The gentleman cannot do that. The Chair presumes that a statement heretofore made by him may have misled the gentleman from Iowa. The Chair understands the gentleman cannot make the objection under the rule after the bill has been partially considered.

Mr. SAPP. That is all right.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having had under consideration the bill H. R. No. 1846, the bill H. R. No. 1064, and the bill H. R. No. 4596, had directed him to report the same to the House with various recommendations; also that the committee having had under consideration the bill (H. R. No. 4378) to transfer to the States the title to all islands, beds of lakes, (not navigable,) bayous, sloughs, ponds, &c., which at the time the public lands were surveyed by the Government were meandered, had come to no resolution thereon.

Mr. CONVERSE. I move that the House take a recess until half past seven o'clock, the object being the further consideration of the reports from the Committee on the Public Lands under the order of the House.

EVENING SESSION FOR UTE BILL.

Mr. BELFORD. I ask the gentleman from Ohio to withhold his motion for a moment that I may offer a resolution to which I think there will be no objection.

Mr. CONVERSE. Let it be read.

The Clerk read as follows:

Resolved, That Wednesday night next be set apart for the consideration of what is known as the Ute agreement bill, and its consideration shall be continued from night to night thereafter until it is disposed of.

Mr. MILLS. Let the gentleman confine his request to one night.

Mr. BELFORD. I will modify the resolution so as to make the order apply only to Wednesday night.

Mr. ROBINSON. I suggest also that appropriation bills be excepted.

Mr. BELFORD. I agree to that.

Mr. POEHLER. Let it be part of the arrangement that one hour shall be allowed for the Choctaw bill.

Mr. BOUCK. Oh, no! If you put "Choctaw" in I will object.

The SPEAKER. Is there objection to the proposition of the gentleman from Colorado, that the session of Wednesday evening, commencing at half past seven o'clock, be set apart for the consideration of what is known as the Ute agreement bill?

Mr. HAYES. There may be appropriation bills that will then require to be acted on.

The SPEAKER. A reservation has already been made in the case of appropriation bills on the suggestion of the gentleman from Massachusetts, [Mr. ROBINSON.]

There was no objection, and the resolution, as modified, was agreed to.

REPORTS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. SPARKS. I ask that a session of the House on Monday evening at seven and a half o'clock be allotted to the consideration of bills reported by the Committee on Military Affairs, the order to include only bills as to which there is no minority report. I am unanimously directed by the Committee on Military Affairs to make that request.

Mr. MILLS. I would ask when are we to do anything with the Private Calendar?

Mr. SPARKS. This is a committee which has had no time allowed for the consideration of its reports during this session. It will be remembered that an evening session was assigned to the Committee on Naval Affairs for the business of that committee.

Mr. HUTCHINS. I object.

Several members called for the regular order.

The SPEAKER. The regular order is the motion for a recess.

Mr. PAGE. What is the purpose of the evening session to-night?

The SPEAKER. The consideration of bills reported by the Committee on the Public Lands under the order which the House has been executing to-day.

Mr. HUTCHINS. I withdraw the objection to the request of the gentleman from Illinois, [Mr. SPARKS.]

The SPEAKER. The gentleman from Illinois, the chairman of the Committee on Military Affairs, asks that there be a session of the House on Monday evening at half past seven o'clock for the consideration of reports of that committee where there is no division of sentiment thereon in the committee.

Mr. ROBINSON. The right to consider appropriation bills being reserved?

Mr. SPARKS. Yes, sir.

Mr. CONGER. Is it proposed to consider bills at that evening session under the old objection rule?

The SPEAKER. Not all. The proposition is that only reports which have received the unanimous approval of the Committee on Military Affairs shall be considered.

Mr. BERRY. I object to that reservation.

Mr. SPARKS. Let it go, then. I call for the regular order. If a committee of the House cannot get an evening for the consideration of its business I shall insist on the regular order.

ENROLLED BILLS SIGNED.

Pending the motion for a recess,

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1703) authorizing the changing the name of the schooner Rebecca D.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. ACKLEN for one week.

The motion of Mr. CONVERSE was then agreed to; and accordingly (at four o'clock and twenty-eight minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

ORDER OF BUSINESS.

Mr. CONVERSE. I ask consent of the House that I may be allowed, under instructions of the Committee on the Public Lands, to arrange the business to come up for consideration this evening. There are a great many bills which will excite considerable discussion, and which it is very evident we will not have time to pass upon in Committee of the Whole. There are other bills of much importance which will not excite any discussion. I suppose that by unanimous consent I may be allowed the privilege of indicating the business to be considered this evening.

The SPEAKER. Does the gentleman ask that by instruction of the Committee on the Public Lands?

Mr. CONVERSE. I do.

The SPEAKER. The gentleman from Ohio asks unanimous consent that he may be allowed, under the direction of the Committee on the Public Lands, to indicate the order of the bills to be considered in Committee of the Whole this evening. Is there objection? [After a pause.] The Chair hears none.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DAVIS, of California, until Monday next, on account of public business;

To Mr. FORD, indefinitely, on account of important business;

To Mr. ELLIS, for two days, on account of important business; and

To Mr. ROTHWELL, indefinitely, on account of important business.

LAWS OF UTAH.

The SPEAKER, by unanimous consent, laid before the House a letter from the secretary of Utah Territory, transmitting two copies of the laws and resolutions passed at the twenty-fourth session of the Utah Legislature; which was laid on the table.

LIFE-SAVING SERVICE ON THE LAKES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in reply to a resolution of the House calling for information relative to disasters to vessels and the operations of the Life-Saving Service on the great lakes since the commencement of the present fiscal year; which was referred to the Committee on Commerce.

DOUBLE-TURRETED MONITORS.

The SPEAKER also laid before the House the following; which was referred to the Committee on Naval Affairs, and ordered to be printed in the RECORD:

NAVY DEPARTMENT,
Washington, May 20, 1880.

SIR: My attention has been called by the Committee on Naval Affairs of the House of Representatives to the fact that in my communication of the 11th instant, in reference to the double-turreted monitors Puritan, Monadnock, Terror, and Amphitrite, I omitted to accompany the same with my opinion upon the necessity and propriety of their completion. Having failed to observe that this was required of me, I now beg leave to supplement that communication with the following:

Upon an inspection of the reports of the several boards, it will be seen that upon the first question required to be answered by the joint resolution under which they were organized, that is, "whether it is to the interest of the Government to complete said vessels," they have all reached the same conclusion.

The board of which Rear-Admiral Selfridge was president says, in reference to the Puritan, "in consideration of the very efficient and excellent workmanship manifested in the present structure, and the large sum which has already been expended on this vessel, that it is to the interest of the Government to have her completed."

That of which Rear-Admiral Preble was president says, in reference to the Amphitrite and Terror, "that it is decidedly to the interest of the Government to finish these vessels. As they now stand they represent a large amount of money, which would be almost entirely lost to the Government if they were to be sold or otherwise disposed of. If completed, as herein proposed, we believe they would be of great service to the country in case of threatened or actual war, and return full compensation for whatever sum their completion may require."

And that of which Commodore E. R. Colhoun was president says, in reference to the Monadnock, "that it is to the interest of the Government to complete said vessel."

The unanimity of opinion in reference to each of these vessels would seem to leave no room for doubt, therefore, that the interest of the Government requires the completion of all of them. In this opinion I concur, for two controlling reasons: First, that to leave them uncompleted, after so large a sum of money has been expended upon them, would be bad economy, inasmuch as the loss would be very heavy to the Government; and second, because, when completed, they would undoubtedly be equal, if not superior, to any other vessels of their class in the world.

The only question about which there is room for doubt is that which arises upon the second branch of the joint resolution; that is, "whether it is to the interest of the Government to complete them according to the existing plans, models, and agreements."

The board which examined the Puritan says: "That it is not to the interest of the Government to complete her wholly according with existing plans, models, and agreements."

That which examined the Amphitrite and Terror says: "That it is not to the interest of the Government to complete these vessels according to the existing plans, but that changes specified below should be made to increase their safety and qualities of attack and defense."

And that which examined the Monadnock suggests certain modifications of the existing plans and models.

It appears, therefore, that according to the opinions of these boards it is desirable, if these vessels are completed, that the work upon each of them should be done upon plans and models differing somewhat from those originally contemplated. These conclusions are attributable to the fact that since these original plans were designed repeated experiments made in Europe, at immense cost, have demonstrated the necessity of changes in the construction of vessels, varying them from those of the old type, and thereby greatly increasing their efficiency both for attack and defense. It turns out to be fortunate that delay in the completion of these

vessels has occurred, inasmuch as we now have the opportunity of availing ourselves of the benefits resulting from these experiments without the cost of making them on our own account.

In my opinion the modifications of the original plans of the Puritan, Amphitrite, and Terror, as proposed by the boards of which Rear-Admiral Selfridge and Rear-Admiral Preble were presidents, are wise and should be made. Those suggested in reference to the Monadnock are not such as affect the plan and model of the vessel but only the armor, the method of raising the battery, and the character of the engines.

In a communication made by me to the House of Representatives, January 9, 1879, it was estimated that the amounts necessary for the completion of these vessels were as follows:

In the Bureau of Construction and Repair.

Puritan	$789,614
Terror	348,000
Amphitrite	348,000
Monadnock	410,000
Total	1,895,614

In the Bureau of Steam Engineering.

Puritan	$420,000
Terror	230,000
Amphitrite	230,000
Monadnock	285,000
Total	1,165,000

If the modifications are made in the plan of the Puritan as recommended by the board, it will require an appropriation of $839,614, or $50,000 for the modifications proposed. This includes the cost of the turrets. If those recommended upon the Amphitrite and Terror are made it will require an appropriation of $1,369,000 for these vessels. When the former estimate was made, in 1879, it was contemplated to put the old turrets, now on hand, upon these two latter vessels; but the board, in view of the experiments since made in ordnance, whereby it is demonstrated that these old turrets would be of far less value than such as should be placed upon vessels of this character, have recommended new ones of greater capacity of resistance. The cost of these is embraced in the foregoing estimate. And if those upon the Monadnock are made it will require an appropriation of $639,222.14, or $219,222.14 for the modifications proposed. Thus it will be seen that the aggregate appropriation for construction necessary to secure the completion of the four vessels, according to the proposed modifications, is $2,847,836.14.

For steam-engineering an appropriation of $1,250,000 will be required for the completion of all four of the vessels, including machinery of turrets. This is an increase above the estimate of 1879 of $75,000, and is made up as follows: for the turret machinery of Amphitrite and Terror $15,000 each, or $30,000; for that of the Puritan, $25,000; and for that of the Monadnock, $20,000.

From the foregoing it will appear that the sum necessary to be appropriated for the completion of all four of these vessels is $3,098,836.14. Considering the necessities of the service and the character of these vessels if completed, this sum of money would, in my opinion, be well applied in their completion.

In reference to the contracts of March 3, 1877, providing for work upon these vessels, it will be perceived that the board which examined the Puritan have suggested that, in so far as the contract for that vessel involves construction, no more work should be done under it, and that a new contract should be made providing for the proposed modifications. This, as well as the other contracts of that date, was suspended by me, and the suspension yet remains, because neither at that time nor subsequently have appropriations been made to carry them out. All the contracts for steam-engineering were accompanied by plans and specifications which were made parts of them, and the boards have recommended no change in them, nor do they make any suggestions in reference to the other contracts for construction. Therefore their recommendation to set aside the one having reference to construction on the Puritan does not include that for steam-engineering on that vessel. Yet in view of the fact that both are with the same party, it is for Congress to decide whether either or both shall be affirmed or not. In reference to the whole of the contracts—that is, for the completion of all the vessels—it is proper to say that they each contain a stipulation that they shall not take effect until an appropriation is made by Congress to carry them out; and that, notwithstanding their suspension, all the subsequent estimates of the aggregate cost of the vessels have been based upon the prices specified in them. If, therefore, these estimates should be now adopted and appropriations be made accordingly, it would, in the absence of anything to the contrary, be indicative of a purpose by Congress that they should be executed. If, however, Congress should otherwise direct, and should require that all the contracts be set aside, then it is desirable that it should, at the same time, decide whether new contracts are to be entered into with the same or other parties.

In this connection it is proper for me to say that there is no evidence in the possession of the Department showing or tending to show that any of the parties to these several contracts have exhibited bad faith toward the Government in anything done under them. They have kept the vessels in their yards, and have thereby been subjected, as they allege, to expenses which the Department has not felt itself at liberty to adjust. And it is undoubtedly both to their interest as well as that of the Government, that all matters in reference to them should be finally disposed of.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

ORDER OF BUSINESS.

Mr. CONVERSE. I move that the House now resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. ROBINSON in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering business reported from the Committee on the Public Lands.

MEANING OF THE WORD "ORPHAN."

Mr. CONVERSE. Under the order of the House I ask the Committee of the Whole to first consider House bill No. 4561, to declare the meaning of the word "orphan."

The bill was read, as follows:

Be it enacted, &c., That in all cases arising under an act of Congress in relation to orphans, except where otherwise expressly provided, a fatherless child shall be taken and held to be an orphan.

SEC. 2. That under section 5 of an act approved the 17th day of July, 1854, amendatory of the Oregon donation law, (Statutes at Large, volume 10, page 306,) the death of either parent, entitled to land as in said section provided, shall be taken and held to constitute an orphan under the provisions of said section, and entitled to lands within the district as specified in the section aforesaid: *Provided*, That in case of the death of such parent *en route* to either of said Territories, that such minors shall have been immediately conveyed into and become residents thereof: *And provided further*, That all applications for land under the provisions of the said section 5 shall be presented to the proper officers within two years from the passage of this act or be forever barred.

The CHAIRMAN. The Chair is informed that this bill is upon the House Calendar; if it is considered in Committee of the Whole it must be by unanimous consent.

Mr. CONVERSE. I yield to the gentleman from California [Mr. BERRY] to explain the bill.

Mr. BERRY. The object of the first section of this bill is to define the meaning of the word "orphan." In several cases the question has arisen whether the word "orphan" signified a child who has lost both parents or only one.

Mr. LAPHAM. I would inquire if it is proposed to take up now cases on the House Calendar instead of proceeding with the consideration of business on the Calendar of the Committee of the Whole?

The CHAIRMAN. The Chair would state that the House is now in Committee of the Whole; but previous to going into committee the House gave permission to the gentleman from Ohio, [Mr. CONVERSE,] chairman of the Committee on the Public Lands, to designate the bills which that committee desired to have considered this evening. The Chair understands this to be one of the bills they desire to have considered.

Mr. LAPHAM. There is a very important bill upon the House Calendar to which I shall object if it is proposed to take it up to-night.

Mr. CONVERSE. To what bill does the gentleman refer?

Mr. LAPHAM. I refer to the bill to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes.

Mr. CONVERSE. I propose to ask for the consideration of that bill to-night.

Mr. LAPHAM. I cannot consent to that. My colleague, [Mr. PRESCOTT,] who is deeply interested in that bill, is absent from the city, as gentlemen are aware, by order of the House.

The CHAIRMAN. At present that bill is not before the committee.

Mr. LAPHAM. I only want to give notice in regard to it.

Mr. LOUNSBERY. I desire to make the point of order that the Committee of the Whole cannot consider a bill which is not upon the Calendar of the Committee of the Whole.

Mr. CONVERSE. The point of order is certainly not well taken. The House has given the Committee on the Public Lands the right to call up any business reported from that committee for consideration this evening. This day was set apart by the House for the consideration of business from the Committee on the Public Lands.

Mr. LOUNSBERY. I raise the point of order and ask the Chair to rule upon it. The bill which has just been read is not upon the Calendar of the Committee of the Whole, and therefore the Committee of the Whole, has no jurisdiction to consider that bill.

The CHAIRMAN. In the opinion of the Chair the bill which has been read is not before the Committee of the Whole. There are two calendars of public bills; one the House Calendar and one the Calendar of the Committee of the Whole. As the House is now in Committee of the Whole, it can consider only the bills upon the Calendar of the Committee of the Whole, if the point of order is made.

Mr. CONVERSE. I would like to have read the order of the House setting apart to-day for the consideration of bills from the Committee on the Public Lands, and also the order made this evening in regard to the order of business for the evening.

Mr. LOUNSBERY. Has the Chair ruled upon the point of order which I have raised?

The CHAIRMAN. The Chair has not yet decided the point. Before doing so, he will direct the reading of the order of the House made several days ago with reference to business of to-day, and also the order made this evening.

Mr. LAPHAM. I did not understand that the order of the House made this evening related to anything but cases upon the Calendar of the Committee of the Whole.

Mr. CONVERSE. Let it be read. The original order made last Tuesday was not confined to business in Committee of the Whole at all.

Mr. BOUCK. I suggest to the chairman of the Committee on the Public Lands that the business of the House to-night can be stopped at any moment. The gentleman had better be conciliatory.

Mr. CONVERSE. That is undoubtedly so; but the order having been made, we may as well go as far as we can in that direction. If gentlemen desire to stop business, let it stop.

Mr. HORR. I would inquire whether there are not on the Calendar of the Committee of the Whole quite a number of bills just as important as any others reported from the committee?

Mr. CONVERSE. That may be so; but the House having ordered the manner in which business shall be transacted, we might as well proceed in accordance with that order. I understand the order to have been explicit in giving us authority to present our measures as we may desire.

Mr. LAPHAM. We proceeded in regular order all day, and when a bill which it was not desired to consider was reached it was passed over in the regular way by objection being made and referring the

question to the House. Now, if the chairman of the committee had the right to select for consideration whatever bills he chose, there was no necessity for all that.

Mr. PAGE. An order, I understand, was just made to-night.

Mr. LAPHAM. The order made to-night related to the Calendar of the Committee of the Whole only; it certainly did not relate to the House Calendar.

The CHAIRMAN. The Chair will now have read the order made in regard to business for to-day.

The Clerk read as follows:

On motion of Mr. CONVERSE, by unanimous consent,

"*Ordered*, That Thursday next after the morning hour be assigned to the consideration of reports from the Committee on the Public Lands."

Mr. LAPHAM. That does not touch the question.

The CHAIRMAN. So much of the order of this evening as touches the question will also be read.

Mr. WASHBURN. I will ask the chairman of the Committee on the Public Lands what objection there is to taking the business on the Calendar of the Committee of the Whole and proceeding with it; and then, when we get to bills on the House Calendar, we can go into the House.

The CHAIRMAN. The Clerk is now prepared to read the order made this evening.

The Clerk read as follows:

The SPEAKER. The gentleman from Ohio asks unanimous consent that he may be allowed, under the direction of the Committee on the Public Lands, to indicate the order of bills to be considered in Committee of the Whole this evening. Is there objection? The Chair hears none.

Mr. LAPHAM. That relates to the Calendar of the Committee of the Whole; not to business on the House Calendar.

Mr. CONVERSE. The original order did not confine us to the Committee of the Whole; it related to any business which might come from the Committee on the Public Lands. The objection which gentlemen make now is not to the present bill, I imagine——

Mr. LAPHAM. No, sir; not at all.

Mr. CONVERSE. So I understand. But there are a thousand settlers in Iowa to-day who are being driven from their lands for want of a little needed legislation. The point of order which is now made is presented for the purpose of preventing the consideration of that bill. I ask now that the point of order be decided; not that I or the committee care particularly about the bill now under consideration, but the bill which is intended to be shut out under this point of order is a matter of vast importance to at least a thousand families.

The CHAIRMAN. Does the gentleman from New York [Mr. LOUNSBERY] insist on his point of order?

Mr. LOUNSBERY. Yes, sir.

The CHAIRMAN. The Chair will say, without regard to the merits of the case, that whatever order the House passed to-night was designed to be executed in accordance with the rules of the House. The business upon the House Calendar is not before the Committee of the Whole. The House in Committee of the Whole can take up no other business than that upon the Calendar of the Committee of the Whole. For this reason, the point of order being insisted upon, the Chair holds that the present bill is not properly before the committee for consideration. The point of order is sustained.

Mr. VAN VOORHIS. I will ask the chairman of the Committee on the Public Lands how the Des Moines River land bill got upon the House Calendar. It has no business upon that Calendar.

Mr. ANDERSON. As I understand, there is no objection to the consideration of this bill at this time.

The CHAIRMAN. The point of order has been made that the bill is not properly before the Committee of the Whole for consideration. The Chair sustains the point of order. There is nothing before the Committee of the Whole at present.

SUPPLEMENT TO THE HOMESTEAD ACT.

Mr. CONVERSE. Mr. Chairman, under the order made this evening I will commence by asking for the consideration of the bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and, after fifteen or twenty minutes spent in the discussion of the merits of the measure, will ask for action upon it.

The bill was read, as follows:

Be it enacted, &c., That from and after the passage of this act, any person who is entitled to, and shall comply with, the provisions of the act to which this is supplemental, as well as all the requirements imposed by this act, shall receive from the Treasury of the United States, out of any moneys not otherwise appropriated, the sum of $500 in a loan, to be repaid as hereinafter provided; which money so loaned shall be appropriated solely, by the person who shall receive the same, in improvements upon the land entered and settled upon, under the terms and conditions imposed by the said homestead law, including the erection of buildings, the purchase of seeds, implements of husbandry, and such necessary household articles and means of subsistence as may be necessary in the commencement of a permanent farming residence.

SEC. 2. Every person having thus complied shall, in addition, produce to the register or receiver of the land office of the United States convenient to the homestead selected satisfactory proof to the said register or receiver, by affidavit or otherwise, that he or she does not own goods or effects, money or other property, in excess of $300; that it is his intention or her intention *bona fide* to settle upon and occupy the land entered and selected under the provisions of the said homestead law, and to make the same a permanent abode; that such person shall also make and subscribe an affidavit before the said register or receiver that the money so received under the provisions of this act shall be expended for no other purpose than that named in the first section of this act, which affidavit and all other evidence shall be filed and preserved in the land office of the United States where the proceedings are had.

SEC. 3. Whereupon the said register or receiver shall cause to be prepared a mortgage to the United States, to be duly executed by the applicant, conveying the land so selected and entered, and which he or she contemplates settling upon, conditioned for the payment of $500, with interest at the rate of 3 per cent. per annum, as follows: $100, with the interest thereon, on the fifth year after the date of the mortgage, and $100, with its interest, yearly thereafter, till the whole sum shall be fully paid; when the said mortgage shall be satisfied by the said register or receiver, or by such person as may be designated for that purpose by the Commissioner of the General Land Office. A copy of each mortgage made in pursuance of this act shall, after the original has been duly recorded in the proper office for the recording of deeds most convenient to the land described therein, under the certificate and seal of the register of the land office where executed, be forwarded to the General Land Office at Washington, the original to be retained in the land office where executed. The said registers shall keep a journal of all loans, the names of the persons making them, their places of birth, and their respective ages. The said certified copies are hereby declared to be evidence on the part of the United States, and suits for foreclosure may be instituted upon them as effectually as upon the originals. The said several registers and receivers shall make monthly reports to the General Land Office of the United States of all acts done by them in the premises.

SEC. 4. Upon a full compliance of the terms and conditions hereinbefore stated, as well as those of the law to which this act is supplemental, by the person availing himself or herself of the benefits thereof, the receiver of the land office where the proceedings have taken place shall pay him or her $100, and $100 monthly thereafter till the said sum of $500 shall have been fully disbursed. But before the payment of any one installment of $100 subsequent to the first one, the said receiver shall be satisfied by other testimony than the oath of the applicant that he or she has expended the money loaned, and will expend the money received in accordance with the true intent and meaning of this act. And if it shall appear that any money has not been so expended, no further payment in the particular case shall be made, and the mortgage given shall be forthwith foreclosed, and all rights and privileges under this act, and the one to which it is supplemental, shall become forfeited, and the title to the land entered shall revert to the United States. The several duties to be performed by the register and the receiver shall be generally under the direction and control of the Commissioner of the General Land Office, and who shall also fix a schedule of fees for each officer in each separate case, but which shall not exceed $10 for them both. And the said Commissioner of the General Land Office, in conjunction with the Secretary of the Treasury, shall make and establish such rules and regulations as to the mode and manner of the transmission and payment of the money appropriated by this act as they may deem proper.

SEC. 5. No patent shall be issued under the act of May 20, 1862, and to which this act is supplemental, where a mortgage has been given under the terms of this act, until such mortgage has been fully paid.

SEC. 6. All such parts and clauses of the said act of May 20, 1862, which prohibit persons from the benefits of the same "who have borne arms against the United States Government or given aid and comfort to its enemies" are hereby repealed.

SEC. 7. Whenever the amount of the loan hereby created shall have reached the sum of $20,000,000 this act shall cease and determine so far as the appropriation of money is concerned. And a certificate of the Secretary of the Treasury that that sum has been applied as herein stated shall be evidence of the same.

SEC. 8. All the several penalties imposed in the act to which this is supplemental for false swearing and other offenses therein named are herein incorporated and made a part of this act.

Mr. CONGER. I object to the consideration of that bill now. There are some other bills we want to take up and pass.

The CHAIRMAN. The House allowed the chairman of the Committee on the Public Lands to designate the bills he desired to have considered.

Mr. CONGER. That is all right; but the House can object to their consideration when they come up. But I will withdraw my objection, as I understand the gentleman from Pennsylvania [Mr. WRIGHT] who introduced the proposition desires to submit some remarks.

Mr. WRIGHT. Mr. Chairman, I rise somewhat reluctantly to speak with regard to the merits of this bill for the reason that I know the sentiment and opinion of a large majority of the gentlemen who compose this Chamber are in opposition to the views that I entertain on this subject. I was a member of the Congress, in 1862 I think it was, which enacted the homestead law. Mr. Grow, who was then Speaker of the House of Representatives, took an unusual interest in the preparation and passage of that measure. He was, in fact, the father of the law. I stood by him on that occasion manfully because I believed it was a great charity, as well as an act of justice, to permit the public lands of this country to be occupied solely by those persons who wanted to settle upon them, so they might go there free of cost and without any restriction. We passed the homestead law, but it was in the face of a strong opposition. However, finally we prevailed in placing upon the statute-books of the United States the privilege for any man who is a citizen of the United States, or who has filed his declaration to become one, as the head of a family to have the opportunity of entering upon one hundred and sixty acres of the public domain, and use it and occupy it as his own without compensation and without price. It was a glorious enactment—a righteous law.

I had an important part in the passage of that bill. Years afterward, when it became manifest that the great measure of charity could not be enjoyed by all those who sought the opportunity of settling on the public lands, it occurred to me there should be some means or facilities afforded by the National Government to enable the poorer classes of our people to enter upon these lands and enjoy them to the same extent as those who had the means to go there and avail themselves of the great privilege. Hundreds of poor men, without the means of transportation or for the commencement of a settlement, saw the promised land afar off; but to them it was not available. Poverty could not make its way there. The more fortunate in this world's goods made the gift available and millions of hearts were made happy.

Whatever may be said as to my ideas on this subject, as to impugning my motives, I stand before you to-night, Mr. Chairman, and the Congress of this nation to proclaim that the object I have in my heart is the result of an honest conviction—to do good for the poor laboring-man who is willing to work but is denied it, and who seeks a share of

God's bounty in common with his more prosperous fellows. There are certain great elements which enter into the subsistence of life which ought not to be made the subject of monopoly. Air, light, and water are the common inheritance of us all, the gift of God—and no one has an exclusive right to these privileges, neither kings nor commons—an inalienable right of man, and should not be abridged. Land which yields the subsistence of life ought to be included in that great catalogue; no one has a right to a monopoly in it.

I would not reward idleness by giving people material aid to settle on the public lands who are not inclined to help themselves; but we all know there is a class of people in this country who are in poverty and want, and it is relief to that class of people which is the aim of this bill and the design I seek to carry out in its passage.

I believe in this country we cannot tolerate the individual ownership of immense tracts of territory. This is monopoly, and monopoly of the worst kind—monopoly that takes the food from the mouths of starving men. I cannot believe the title to these farms and plantations, which amount to sixty, seventy, and a hundred thousand acres, will stand the test of time. John Bright, and I regard him as good authority, has been talking for years in the British Parliament to the great landed proprietors, warning them that the time would come when they must make partition of their vast estates—not to divide them up upon the principle of agrarianism, but that the time would come when the people would refuse to tolerate a monopoly of the immense tracts of land held by individuals, and individuals alone. It is an encroachment on God's prerogative. Such is not the policy of good government. That great difficulty we now see growing in Ireland to gigantic proportions is a question of land; the great privilege of life—the right to live. Air, nor light, nor water, nor land can be surrendered to class. It is common to us all. Let us, like men, resolve to assert this doctrine. Let us file our protest, and even if it shall upset the British empire, who will shed tears over the catastrophe, especially if the moving cause be one which destroys the happiness and welfare of the millions?

The same policy which is foreshadowed in the bill I offer in this House was urged upon the proprietary government of Pennsylvania before the Revolution through the instrumentality of Benjamin Franklin. The great counties of Berks and Bucks and Lancaster and Delaware and Chester and Montgomery were seated and occupied by proprietary aid. But then, sirs, of what account are the precepts of Franklin? I know men in this Chamber who think they can drive to the shade the memory of the great philosopher and belittle him in a comparison with themselves. John Bright may hurl his anathemas at the lords of the parks and pleasure-grounds of Great Britain; he may tell the English Cabinet that the lands in Ireland owned by absentees should be sold in small quantities to the Irish tenants and paid for out of the British treasury, or loaned at a small rate of interest, repayable in twenty-five years; but I suppose this act of John Bright may be offset by learned American statesmen on the general charge that he is either a fool or a demagogue. Will he not be sorry when he hears of it? Oh, sir, what profound wisdom we sometimes meet with in legislative bodies! Suspend and exterminate your CONGRESSIONAL RECORD which notes down every word repeated here, and you will save a few millions a year to the Government, but you may possibly destroy a score of embryo statesmen. What a privilege to get in the RECORD daily!

But I wander. It is not a new theory that I introduced in this bill. The same principle was adopted in the settlement of all the provinces acquired by the valor of Roman arms. Territories were added, provinces were annexed, and the people were assisted in the settlement of these provinces. The Roman senate was generous in this particular. Monopoly did not rule Rome. The people in the days of her great renown had a controlling voice in her affairs. Would that our people could only be made to believe that freedom is better than slavery!

Will this knowledge come too late? The hardy pioneer has the courage to reclaim and make a garden of your great desert, and you refuse to aid him. You will make liberal grants for poor-houses and prisons, but when the sacred name of home, household, and the domestic hearth is made the subject of popular favor, a howl comes up in response. What poor, little, feeble creatures some of us are in legislative halls—but then we are well paid. And oh, how patriotic we are, living on Government aid. But let the man in rags, with an empty stomach, ask aid. Down with the vagrant! Away with the tramp!

The bill I have introduced, Mr. Chairman, is carefully prepared and drawn up after mature deliberation and reflection. I have spent much time and thought upon the subject, and I believe it is as perfect a project of law as can be made if you are willing to give aid and assistance at all. The business men of the country, I mean the producing classes, whom I have consulted upon the merits of the bill, very generally give it their approval and encourage the idea of Government aid. Others with less liberal views, and especially those who make the great struggle of life one of selfishness and oppose every measure of legislation which does not benefit themselves personally, oppose the principles of the bill.

There is another class of our people, large in numbers, but men of generous impulses, and who have the power to divest themselves of cramped prejudices, with hearts in sympathy with the woes of the poor and lowly, who do not favor the idea of a small loan payable on time at a low rate of interest, but prefer the plan of colonization—aiding poor emigrants with means to reach the promised land. I do not care what plan is adopted so you give relief to the poor mechanics and laboring-men of the country who are striving to live and who have not the means to live. I provide in this bill that any man, or the head of a family, who shall settle on the public lands under the operations of the homestead bill, may have a small loan from the Government. That loan is fully guarded with respect to expenditures and repayment, and he cannot take advantage of any circumstances by which he may receive his money and then abandon his improvements. It is so guarded that a man who avails himself of the privilege must show after he settles on the public lands that he has expended all the money paid to him up to that time before he may receive any more assistance.

Now, you may not be aware of the fact, but it is true, that I have presented the petition and humble prayers, to this and the last Congress, of over two hundred thousand men, asking for the passage of this law or some other law providing for small aid in the settlement of the public lands, whether by loans, by colonization, or by some other means of settlement. These petitions have gone daily into Mohammed's coffin. How many of you, my colleagues, that know they sleep there. It is the petition of the money king that arouses the lethargy of Congress. The passage of this bill is not a question in which I have any personal pride with regard to its final success. I am influenced by but one solitary motive, and that is to aid and assist this class of people who never can reach the public lands unless you furnish them some aid in order that they may get there and commence their improvements. They are our poor. They have a claim upon our generosity. The heart of the nation is sensitive. Famine and want abroad bring out our ships laden with corn. The individual purse of the nation is generously opened. Greece and Ireland are our witnesses. We have done much; we have the power and the will to do more. And why can we not respond to the calls of our own people? Sir, there are tens of thousands of our own people in want. Strong men go to bed hungry, and women and children cry daily for bread.

Now, Mr. Chairman, a man knows but little with regard to the extent of this country and its vast resources until he travels over that great line of road from Chicago to San Francisco, some three thousand miles in extent. He does not know, he has formed but a feeble conception of the capacity of this country till he has made this journey; he is ignorant of it until he makes that tour. I made it during the last recess of Congress. Why, sir, there is what we put down upon the map as the great American desert, that portion of the country extending from the western boundary of Nebraska to the tops of the Sierra Nevadas, two thousand miles in extent, and ranging in width from five to six hundred miles, nothing visible to the eye but sand and sage. And yet that great desert, with a little assistance upon our part, can be made from one end to the other a fertile field. It is productive; all that it needs is irrigation. As you pass along upon the iron road that threads the great desert, and stop at the little wayside inn, erected to furnish you with scanty accommodations, you will find an acre or two fenced in; an artesian well, and rich vegetation growing all over it with the aid of water alone. You will find luxuriant grass, and rich verdure as rank and luxuriant as any of the bottom lands of the river valleys can produce. It all may be made fertile. The settlement of the Utah Valley—Salt Lake—is an indication of what industry can accomplish in reclaiming a desert. These vast sand fields, which were considered as deserts between us and the Pacific slope, may be made the most productive lands on the globe. A little water is all that is needed. Why, sir, in Salt Lake Valley I was informed during my visit there that before that settlement was made there was nothing but sage and sand. Sage and sand everywhere. A boundless arid desert of sage and sand. But after a settlement in Salt Lake Valley was made, and a careful irrigation through the industry of its people, the heated, arid plain assumed new life, the waste became a flourishing field to the husbandman. A great problem was solved. I saw crops of corn yielding a hundred bushels to the acre. I was shown crops of wheat that yielded fifty bushels to the acre, upon what had been once a barren waste, an unproductive soil, that allowed nothing but a stunted growth of wild sage. Salt Lake Valley may be reproduced everywhere on the vast plain east of it. Water is all that it requires. This territory must be reclaimed. Millions of our worthy and industrious poor, now homeless, should be afforded means to reach it. Why, why, Mr. Chairman, can we not open our hearts, and seat an empire? Churches, and schoolhouses, and the noisy hum of machinery are not now there—nor the smiling faces of prosperous men and laughing children—but a more liberal policy and a more generous Legislature will do in years to come what the force and power of public opinion has not yet compelled. Bourbonism cannot withstand forever the march of intelligence.

Now, sir, in my judgment, it is the policy of the country to occupy this vast desert. It is our duty to do it. How can reasonable and thinking men hope to escape the public censure? That it may be settled and occupied you must give some kind of inducement, offer some kind of aid, or the desert will remain a desert. Bourbonism would have it so. What a sprag on the wheels of progress. The whole of it is susceptible of the highest cultivation. But it requires our assistance, it requires our aid, it requires energy upon our part.

Famine abroad is driving thousands upon thousands for relief here. We have the means placed by a bountiful Providence in our hands. Shall we be false in the discharge of the great trust? This bill by giving a small loan to the adventurer and hardy pioneer will aid to bring about that great and desirable result. It is to be accomplished sooner or later. It is a part of our destiny. The good Samaritan lives here, and who through narrow and contracted parsimony shall stay the hand of his bounty? Our gifts to the industrious poor of this land will be bread thrown upon the waters. Progress is in motion. The power of restraint will grow weaker and weaker. Cabinets, and councils, and legislative bodies will be compelled to realize the fact that money is not king; that the thinking people shall rule.

Of the vast quantity of land of this country, all of it that may be described as agricultural lands—that is, lands where the plow may be introduced and the glebe turned over and the crop secured as the result of the farmer's first season of industry—is mostly appropriated. Corporations have gobbled up as Government subsidies more than two hundred million of acres. There is not more than 5 per cent. of the unreclaimed land in our western territory that we can regard as agricultural. The great portion of that unoccupied, but a vast amount of it fertile, must be irrigated. It must be brought into a state of production by the hard-handed industry of the poor men of the nation. There are farms enough for them all, and, in my judgment, it would be better policy to give this class of people a little aid and assistance than to expend your money in building alms-houses and prisons and other like institutions, where too many of our poor must necessarily go who have not the means of subsistence and are driven to vicious habits for lack of employment or the money to carry them to this great western domain in reserve for them, and could be made available with a small sum of money judiciously given.

Why, sir, in our eastern cities the amount of crime is immense; the number of paupers is immense. It ought to be the policy of the Government, in my judgment, and I have looked at it with a great deal of solicitude and careful attention, to give encouragement to this class of people and aid them in an honest effort to live honest lives and become good citizens. Want of employment and poverty will lead to crime. It is inevitable. The poor laws make no reform; the prison door closed upon the convict forever shuts him out from the society of good men. Honor, justice, philanthropy, all demand that at least that charity which we bestow upon the people of other lands should find a foothold and abiding place in this.

Against an appropriation of this kind by Congress it may be said that it is a bad precedent, possibly an unconstitutional measure; and that other and feeble objection, a reward for idleness. You know yourselves, you who are listening to me to-night, that there are thousands and hundreds of thousands of men in this land who would be willing to labor if they could only find employment. Other unfortunate poor land upon your shores daily by thousands, most of them immigrants, driven from home in despair, and really the objects of pity and commiseration. They are here; there is no alternative left but to give them our care and protection. Those of them who have not the means to reach the great West must remain in our crowded cities, and in too many instances their habits become vicious and they are a load upon the State. And yet these very men, if we give them some aid, in order that they may make a permanent home upon our great unpeopled domain, will become good citizens and industrious men, and fill the rank and file of our armies when occasion shall demand their service. The policy of our Government has been for a hundred years to throw wide open our gates to immigrants. It has been a wise and just policy. It should not be changed. Our country is the house of refuge to the oppressed of mankind. It has ever been so, and so it will remain. That is, I would measure my language in this particular, and confine this invitation to those who will come here to make this land a permanent home, act in concert with us, and help to sustain our Constitution and laws and worship the God of our fathers. The Caucasian feature is the one distinctive and noble outline of our race. It has the pride as well as courage to maintain its ascendency.

I consider that the question of providing homes for our population and the great question of agriculture are the first things that should demand and receive the attention of Congress. You talk about your great debt. Why, sir, look at the resources of your great country. Your wheat crop and your corn crop, if they could be applied for a single year and sold at the ordinary prices in the eastern market, would pay the whole of the national debt, estimating your corn crop at fourteen hundred millions of bushels and your wheat crop at half that number of bushels. These are the sources from which you are to draw your supplies, and it is from the products of the earth that you are to pay the debt of the nation. It is from the results of the industry of your producing classes that you are to pay this debt, if it is to be paid at all. I am one of those who believe that we have the means to pay that debt and that we must pay it. I do not believe in that old English idea, however, that a national debt is a national blessing. I believe that our resources are competent for paying off the debt; and, as I have said already, a single crop that the earth produces in this broad Union of States would dispose of the whole national debt at a dash. Your millionaires of Wall street, who produce nothing and who do neither "weave nor spin," cannot pay the debt. Their schemes of funding and issuing interest-bearing bonds and cunning devices will not do. The crops raised upon the land and the men who raise the crops must pay the debt. The drones in the public hive may live on the labor of the producer, but they are powerless to pay the debt. They prefer speculating in our debt on 'change. They do not want it paid so long as they can hold Government interest-bearing bonds and avoid the payment of an income tax. Ah, sir, your bondholder is a very cunning, shrewd gentleman; very patriotic, very loyal, so long as he is allowed to have both arms up to the elbow in the public Treasury. Are these the men to fill the rank and file of your Army; to clear your forest and break the prairie? If they had to depend upon their own industry for food and raiment they would go hungry and ragged the year round.

These are the finished gentlemen who cry demagogue when generous hearts appeal for aid and assistance for the poor; they say "prisons, penitentiaries, and poor-houses!" Sensible arguments! Wise men! I stand here to-night advocating ideas based upon the eternal principles of right, the cause of equal and exact justice, ten years ahead of my time but twenty behind the opinions and ideas of the intelligent masses of the country. But you shall see the time, you men of this Chamber who oppose the great measures of this bill, when a Congress shall and will be glad to indorse them; the time when public opinion shall be cast from the mold of the great producing classes. Why do they sleep now? They should stand upon the watch-tower. The money power is upon the steps of the Capitol; so were the auctioneer soldiers of Rome one day. I am not ahead of my time. Those contemporaneous with me are in the rear—public men, I mean, not the masses. I am marching under the flag of Franklin and of John Bright. I refer you to the largesses that Rome bestowed upon the people who settled the provinces that were won by Roman valor.

It is not a new question I am agitating. I am pleading for the establishment of a principle that shall reclaim the desert and make millions of poor people happy in the thought that the roof they sleep under is their own; that they have bread to eat and garments to protect them from the cold; that their life of fearful dependency has become the plane of elevated manhood.

It is the true policy of a great nation to protect and care for its people. Even those who come to our shores are entitled to our generosity; for famine drives them here, hunger pinches them, and they flee to this land as their home of refuge. God has made ample provision for his children. Every acre upon which your generosity shall place an occupant is an argument against a house of correction. I believe, as thoroughly as I believe in my own existence, that that principle in this bill is founded in a wise charity and is based upon the soundest policy of national legislation. It is both just and merciful; it is right before God and man. Time will vindicate my position to-night.

I do not wish to detain this committee. I see that members are restive, and that my remarks are not palatable to many of my colleagues of this Chamber. Will they feel more at ease in recording their votes against the bill? But what may be indifferent to some of you is a subject that touches my heart. I have been engaged for years in the advocacy of this principle; I introduced this bill in the last Congress. It was defeated then, but still there were a number of gentlemen who were willing to stand by me. I know that my views are not in accord with those of a majority of this House; but I tell that majority that the day will come when the attention of this nation will be directed to the amelioration of the condition of its poor people and to the measures necessary to enable them to settle upon the public lands of this country.

Although, considering the short lease of life that I have left, I may not live to see that day, yet I prophesy here to-night that the day will come when material aid will be given to the poor in our land to enable them to build homes upon our desert and raise up their families, and educate them, too, where wild beasts and wild men can now scarcely sustain life. To prevent this progress is a want of conception of the true spirit that should characterize statesmanship.

I leave the subject. The idea I will never abandon. In victory or defeat, I shall work on, because in my judgment one of the most important considerations is contained in it, the elevation of man. To its accomplishment I devote the small remnant that is left to me of life. If I fail, I shall have the proud satisfaction of having discharged a duty which to me is paramount to all other matters of public concern. And let my epitaph be:

> In common ways, with common men,
> I served my race and time.

Mr. CONVERSE. In order that the gentleman from Pennsylvania [Mr. WRIGHT] may have an opportunity to get a vote upon his bill I move that it be laid aside and reported unfavorably to the House.

Mr. WRIGHT. All I want is an opportunity to record my vote in favor of this bill.

Mr. CONGER. I object to this bill being reported to the House either favorably or unfavorably.

Mr. WRIGHT. All that I want is an opportunity to record my vote in the House upon this bill.

The CHAIRMAN. The gentleman from Ohio [Mr. CONVERSE] moves that this bill be laid aside to be reported unfavorably to the House.

Mr. CONGER. I object to that. If the committee has no other business to consider I will move that the committee now rise.

Mr. WRIGHT. All that I want is to have the bill go to the House, where it can be voted upon.

Mr. CONGER. After we have perfected the bill it can be reported to the House, but until then it cannot be.

The CHAIRMAN. Does the gentleman call for the reading of the bill by sections for discussion and amendment?

Mr. CONGER. No; I want it to be laid aside and other business, if there is any, taken up. If there is no other business to be taken up, then I will move that the committee rise.

Mr. WRIGHT. If the committee does not choose to recommend the passage of this bill, then let members vote against it.

Mr. CONGER. I withdraw my objection to the consideration of this bill to-night, on the express statement of the chairman of the Committee on the Public Lands [Mr. CONVERSE] that the gentleman from Pennsylvania [Mr. WRIGHT] wanted fifteen or twenty minutes to speak on this bill, and that then it should be laid aside and other business taken up for consideration.

Mr. CONVERSE. That was my understanding, but the gentleman from Pennsylvania desires to have a vote on it in the House.

Mr. WRIGHT. What objection has the gentleman from Michigan [Mr. CONGER] that the bill be reported to the House with an unfavorable recommendation?

Mr. VAN VOORHIS. Is this the unanimous report of the Committee on the Public Lands?

Mr. CONVERSE. At the request of the gentleman from Pennsylvania [Mr. WRIGHT] the bill was reported back to the House without any recommendation.

The CHAIRMAN. Does the gentleman from Ohio [Mr. CONVERSE] insist upon his motion, that the bill be laid aside to be reported unfavorably to the House?

Mr. CONVERSE. I ask the gentleman from Michigan to consent that that may be done.

Mr. CONGER. The bill cannot be reported to the House without being perfected by amendment. I am one of those who stand by the gentleman from Pennsylvania, [Mr. WRIGHT,] he with his million acres of land and I with only one. We are both struggling to give land to the landless and homes to the homeless.

Mr. WRIGHT. The lands which I have in Pennsylvania others have had the benefit of as well as myself.

Mr. CONVERSE. I will ask, then, that this bill be passed over.

Mr. VAN VOORHIS. I object to the further consideration of this bill.

The CHAIRMAN. Does the gentleman from Ohio insist upon his motion, to lay this bill aside to be reported favorably to the House?

Mr. CONVERSE. If I can do it I will object to the further consideration of the bill.

Mr. BRIGGS. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRIGGS. This bill is now before the committee for consideration, and debate has taken place upon it. Is it not too late to object under the rule to its consideration?

Mr. CONVERSE. The bill has not been read by sections for amendment.

Mr. BRIGGS. A half an hour has been wasted in its consideration.

Mr. WRIGHT. Let the committee vote down the bill if they want to.

Mr. CONGER. The condition of this bill is very plain. As I had the right to do, I objected to the consideration of the bill when it was first reached, and that objection under the rule would have required the committee to rise in order that the House might act upon the matter. At the request of others, I stated publicly that I would withdraw my objection so far as to permit the gentleman from Pennsylvania [Mr. WRIGHT] to occupy the floor for fifteen or twenty minutes. Otherwise I would not have withdrawn my objection.

Mr. RYAN, of Kansas. That is a fair statement.

Mr. CONGER. I think that is a fair statement of the case.

Mr. CONVERSE. In order to get out of this difficulty, I will ask a vote on the motion I made awhile ago, that the bill be laid aside to be reported to the House unfavorably.

Mr. CONGER. I object to that. Of course the gentleman knows that he cannot go a step further to-night if we see fit to prevent.

Mr. CONVERSE. Certainly.

Mr. CONGER. Then, why make such a motion?

Mr. CONVERSE. What would the gentleman have us do?

Mr. CONGER. Lay the bill aside, as I have a right to ask.

Mr. CONVERSE. Objection is made to that.

Mr. WRIGHT. Gentlemen in this House may have the power to kill this bill to-day, but the time will come when they will not have the power to kill it. The laboring-men of this country have rights here which ought to be respected.

Mr. CONVERSE. I will say to the gentleman from Michigan that I am willing to make any arrangement which may be satisfactory to both sides of the House.

The CHAIRMAN put the question on the motion of Mr. CONVERSE, that the bill be laid aside to be reported unfavorably to the House, and declared that the ayes seemed to prevail.

Mr. PAGE. The gentleman from Michigan [Mr. CONGER] objected to the consideration of this bill, and if he had insisted on that objection the committee would have been compelled to rise that the House might take action. But he withdrew his objection simply that the gentleman from Pennsylvania [Mr. WRIGHT] might make a fifteen or twenty minutes' speech. After that speech he had the right to renew his objection, upon which the committee should rise and report the question to the House.

The CHAIRMAN. It is the impression of the Chair that after the gentleman from Michigan made his objection he withdrew it, and that the Committee of the Whole proceeded to consider the bill.

Mr. PAGE. He withdrew his objection that the gentleman from Pennsylvania might speak fifteen or twenty minutes.

The CHAIRMAN. The objection was not withdrawn conditionally, as the Chair understands. The question has been taken on the motion of the gentleman from Ohio. The Chair waits for any other motion.

Mr. CONVERSE. I call for the reading of the next bill.

Mr. CONGER. I call for a division on this question. I suppose the Chair can recognize that, if he cannot recognize me for a conditional withdrawal of an objection. After I had stated that I withdrew the objection conditionally, the Chair has assumed to say that I did not. But I can now call for a division, which I do. [Cries of "Too late!"]

Mr. CONVERSE. The question has been decided.

The CHAIRMAN. The Chair is of opinion that the call for a division comes very late; but he will recognize it.

The question was again taken; and there were—ayes 21, noes 24.

Mr. WRIGHT. I call for tellers.

Tellers were ordered; and Mr. CONGER and Mr. WRIGHT were appointed.

The committee divided; and the tellers reported—ayes 33, noes 21.

Mr. VAN VOORHIS. No quorum!

The CHAIRMAN. Is the point of no quorum insisted upon?

Mr. CONGER. I withdrew my objection to give the gentleman from Pennsylvania an opportunity, which I was told he desired, to speak upon this bill. I withdrew the objection conditionally in order that he might have fifteen or twenty minutes. Having obtained that permission, he now desires to carry a motion to report this bill unfavorably to the House. I, the friend of this bill, am opposing it.

Mr. RANDALL, (the Speaker.) The gentleman can vote against the proposition in the House.

Mr. CONGER. I will not make any further point. By what I have said I have put myself right on the record and put the gentleman from Pennsylvania in the wrong.

The CHAIRMAN. As the Chair understands, the point that no quorum has voted is not insisted on.

Mr. VAN VOORHIS. I made the point because I thought that so important a bill as this ought not to be defeated by a majority of twelve in so thin a House.

The CHAIRMAN. Does the gentleman insist on the point that no quorum has voted?

Mr. VAN VOORHIS. I withdraw it.

The CHAIRMAN. The motion of the gentleman from Ohio is agreed to; and the bill will be laid aside, to be reported unfavorably to the House. The Clerk will read the next bill on the Calendar reported from the Committee on the Public Lands.

RELIEF OF SETTLERS ON PUBLIC LANDS.

The next bill on the Calendar reported from the Committee on the Public Lands was the bill (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands.

The bill was read, as follows:

Be it enacted, &c., That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March 3, 1873, and now incorporated in section 2306 of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase-money on lands erroneously sold by the United States.

SEC. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or have been abandoned, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase-money, and excesses paid upon the same, upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office.

SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for out of any money in the Treasury not otherwise appropriated.

SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect.

The amendments reported from the Committee on the Public Lands were read, as follows:

In lines 3 and 4 of section 2, strike out the words "or have been abandoned."

At the end of the second section insert the following words:

"And in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns."

Mr. CONVERSE. I yield the management of this bill to the gentleman from California, [Mr. BERRY.]

Mr. BERRY. Mr. Chairman, this bill, which was introduced by my colleague, [Mr. PAGE,] has but one object, to make repayment to parties who have made payment in the shape of fees and double-minimum price for land where the Government has failed to make title to the land or where it has afterward been ascertained that the lands were not double minimum. This is the only object of the bill, and if properly guarded the measure is manifestly just. The Government certainly should not retain the money of the people, either in the shape of fees or double price, where the Government has failed to pass title. Section 2362 of the Revised Statutes was intended to cover cases of this kind; but under the construction of the Secretary of the Interior the Department refuses to refund the money in these cases. I will read section 2362:

The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

Now, he contends before he is authorized to pay back that money it must be for the purchase, and this bill looks to returning fees and commissions paid to the land offices by the parties when they failed to obtain the title. I suppose perhaps under the present law the Secretary would be authorized to return the excess of payment, but in drawing up this bill it was the purpose to remove all doubts so the Secretary of the Interior should not construe that section 2362 to apply to the purchase-money, but that he might be at liberty to return fees and commissions.

There were under what is known as "the bounty and homestead law for soldiers" many fraudulent warrants issued. The law provided where a soldier had taken less than one hundred and sixty acres as a homestead he might enter an additional quantity to make up, in addition to what he had already taken, one hundred and sixty acres. Many fraudulent pieces of scrip or warrants were issued in excess and fees and commissions were paid on those fraudulent warrants. This bill aims to return those fees and commissions paid upon warrants found to be fraudulent, and which have been canceled. The object of the measure is, Mr. Chairman, that where the party who has honestly entered land upon those fraudulent warrants, and where they have lost the land, they ought not to be required to lose also the fees and commissions paid to the Government. If the bill is properly guarded it is manifestly just.

I will now yield to my colleague, [Mr. PAGE,] who originally introduced the bill into the House.

Mr. BOUCK. The gentleman from California says "fees paid to the Government." Now, are they paid to the Government or to the Land Office?

Mr. BERRY. To the Land Office.

Mr. BOUCK. The Government never got the fees.

Mr. PAGE. Yes; I say they have been paid to the Government. The Clerk will please read the report.

The Clerk read as follows:

Mr. BERRY, from the Committee on the Public Lands, submitted the following report, (to accompany bill H. R. No. 3171:)

The Committee on the Public Lands, to whom was referred bill H. R. No. 3171, have considered the same, and report as follows:

The object of the bill is to refund to innocent purchasers of public lands all moneys they have paid the Government as fees and commissions and excess purchases where, from any cause, the Government fails to make title. The bill as amended also provides that in cases where parties have been required to pay double-minimum price for lands supposed to be within railroad reservations, and it afterward proved not to be within said reservations, and was not double minimum, upon due proof being made the Secretary of the Interior shall refund the extra $1.25.

Your committee think the bill properly guarded and its object manifestly just. The Government should certainly refund the money to the parties to whom it justly belongs, and has no right to retain money for which it gave nothing. Your committee therefore recommend the passage of this bill with the amendments proposed.

Mr. PAGE. I do not desire, Mr. Chairman, to detain the committee with any speech.

The first section of this bill, as it will be observed, provides that in all cases where it shall upon due proof being made appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled, &c., he shall refund the money so paid.

The second section provides that in all cases where homestead or timber-culture or desert-land entries or other entries on public lands have been canceled for conflict, or where from any cause the entry has been erroneously allowed, the fees paid into the Land Office, which have afterward gone into the Treasury of the United States, may be refunded to those parties.

Of course, if the members of this committee will reflect for a moment, they will see it is unjust to those parties that the Government should retain their money when they have had no value for it in a single instance. The money was paid as fees and commissions to the registers and receivers of the Land Office. When they came here it was found the entries had been erroneously allowed, and the Government could not comply with the conditions of the law, and therefore it is wrong these people should lose the fees and commissions paid by them.

Under what is known as the additional homestead act for soldiers it was found soon after its passage there were thousands of fraudulent certificates issued. Innocent parties purchased them in good faith and undertook to locate lands under them. In course of time they were rejected, and these innocent parties lost not only the money paid for the fraudulent certificates, but also the fees and commissions they had paid into the General Land Office.

Mr. DUNNELL. Does the gentleman refer to the soldiers' homestead act?

Mr. PAGE. Yes, sir; you remember we repealed the law simply because of the immense frauds practiced on the people of the country under it. Men in good faith purchased those certificates and attempted to locate lands under them. They paid commissions and fees, but it was afterward shown in many instances they were fraudulent and were forgeries on their face.

This bill simply provides when, in the judgment of the Secretary of the Interior, proof shall be made to justify him in refunding this money thus unjustifiably paid, he shall so refund it. There is no law by which you can reach it now, because the money has gone into the Treasury and can only be drawn out again by an act of Congress.

Mr. BERRY. One more word. One feature of the bill is to refund the extra dollar and a quarter where the amount was supposed to be double minimum when the Government sold it and the price $2.50 per acre was paid, but which was afterward ascertained not to be double-minimum land. This $1.25 per acre lies in the Treasury of the United States and properly belongs to the men who paid it into the Treasury. There is no means by which you can get it. There have been from time to time special bills presented to refund money in certain cases and to certain individuals, and the committee deemed it better to frame a general law to cover all these cases.

Now, I ask the adoption of the amendment proposed by the committee.

Mr. LOUNSBERY. Before that I would like to ask the gentleman from California a question.

Mr. BERRY. Certainly.

Mr. LOUNSBERY. Can the gentleman refer to any opinion of the Secretary of the Interior in which it is held that he has not the power to refund money under the section of the statute which has been read here where a double-minimum price has been paid and double-minimum lands have not been granted?

Mr. BERRY. I do not know that I can refer directly to any written opinion of the Commissioner or the Secretary of the Interior, but I called upon the Commissioner myself, and he informed me that he could not refund this money for the reason, I believe it was, that at the time of the sale the Government regarded that as a double minimum. I have not a written opinion, and do not know that I remember exactly the reason, but that was the substance of it; and besides, he said he did not find anything in the law to warrant him in refunding the money. I framed a general bill myself, which I have now in my possession, to cover these cases.

Mr. LOUNSBERY. The question I put is whether you can refer to any opinion of the Secretary of the Interior in reference to this subject where the Government has refused to refund the difference between the double-minimum price of the land and the real value of the land.

Mr. BERRY. I can refer the gentleman to parties who made application to the Department and who received that information in response to their applications. There is no authority of law to pay it out of the Treasury.

Mr. LOUNSBERY. But the statute which has been read authorizes the Secretary of the Interior to pay it.

Mr. BERRY. I think it has been held differently in the Department.

Mr. PAGE. No, there is no law by which it can be paid. I would like to ask my colleague from California a question, and that is whether this bill has not been prepared or favorably recommended by the Commissioner of the General Land Office?

Mr. BERRY. I am not able to answer that exactly, but I had a conversation myself with him, and he recommended its passage.

Mr. HERBERT. If the gentleman from California will permit me, I can answer the question of the gentleman from New York. I made application myself to have refunded quite a number of entries that were canceled some twenty years ago because of a conflict with a railroad grant. The Secretary of the Interior or the Commissioner of the General Land Office had held that these lands were not subject to entry; that they were improperly permitted to be entered, and thereupon had canceled them; but because the entries had been canceled more than two years prior to the time that the application was made for refunding the purchase-money, the Secretary of the Interior and the Commissioner of the General Land Office, under some decision of the Secretary of the Treasury which they regarded as binding in such cases, held that the applicants could not be paid without a special appropriation by law. I do not now remember the section of the Revised Statutes upon which the Secretary of the Treasury based his ruling, but such was the ruling.

Mr. LOUNSBERY. It was based then, I presume, on the statute of limitations, two years having elapsed. The same ruling would apply here if this bill passed.

Mr. HERBERT. No, sir; not the statute of limitations, but some other statute that affected it; but what it was I do not now remember. I desire to offer an amendment at the close of this bill to cover just such cases.

Mr. BERRY. I now ask a vote upon the amendment.

The CHAIRMAN. The Clerk will read the amendment proposed by the committee.

The Clerk read as follows:

It is proposed to strike out the words "or have been abandoned" in lines 3 and 4 of section 2, so that it will read: "Or shall hereafter be canceled for conflict, or where from any cause," &c.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

Add to line 12, at the end of section 2, the following:

"And in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns."

The amendment was agreed to.

Mr. HERBERT. I ask now to offer this amendment, to come in at the close of the bill:

And for the repayment of the purchase-money and fees herein provided for, the Secretary of the Interior shall draw his warrant on the Treasury, and the same shall be paid without regard to the date of the cancellation of the entries.

The CHAIRMAN. Is this intended to be inserted as a separate section?

Mr. HERBERT. No, sir; to add to the fourth section, at the end of the bill.

The amendment was agreed to.

Mr. BENNETT. I suggest that the title should be amended by inserting, after the word "fees," the word "purchase-money;" so that it will read "for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions," &c.

The CHAIRMAN. The Chair would suggest that this amendment should properly be made in the House. The title can be amended there.

Mr. BERRY. I now move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to; and the bill was accordingly laid aside to be reported to the House with favorable recommendation.

CERTIFICATION OF SCHOOL LANDS IN KANSAS.

Mr. CONVERSE. I now call up the joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas.

The joint resolution was read, as follows:

Whereas the United States has sold and disposed of sections 16 and 36 in certain Indian reservations embraced within the territorial limits of the State of Kansas, in pursuance of treaty obligations; and

Whereas the State of Kansas, in pursuance of a decision of the General Land Office, dated August 14, 1877, has selected for school purposes other equivalent lands in lieu of such sections 16 and 36, disposed of as aforesaid: Therefore,

Resolved, &c., That the lands so selected by the State of Kansas be, and the same are hereby, confirmed to said State; and the Secretary of the Interior be, and hereby is, authorized to certify the same to said State, in lieu of sections 16 and 36, sold and disposed of by the United States, within the limits of any former Indian reservation as aforesaid.

Mr. RYAN, of Kansas. I move that the joint resolution be laid aside to be favorably reported to the House.

Mr. CONGER. How much land does this joint resolution cover?

Mr. RYAN, of Kansas. Only forty-five thousand acres.

Mr. CONGER. Is that all.

Mr. RYAN, of Kansas. That is all.

Mr. CONGER. I thought it might be fifty thousand acres. [Laughter.]

The motion of Mr. RYAN, of Kansas, was agreed to.

OSAGE INDIAN LANDS.

Mr. CONVERSE. I now call up the bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands, lying east of the sixth principal meridian, in Kansas.

The bill was read, as follows:

Be it enacted, &c., That all of the lands known as the Osage Indian trust and diminished-reserve lands, lying east of the sixth principal meridian, in the State of Kansas, remaining unsold on the 30th day of June, A. D. 1881, shall be offered for sale at public auction to the highest bidder for cash at not less than seventy-five cents per acre; and all of said lands remaining unsold on the 30th day of June, A. D. 1882, shall be offered for sale to the highest bidder for cash, at not less than fifty cents per acre; and all of said lands remaining unsold on the 30th day of June, A. D. 1883, shall be offered for sale to the highest bidder for cash, at not less than twenty-five cents per acre; and all of said lands remaining unsold after the last said public offering shall be subject to be disposed of by cash entry at twenty-five cents per acre, and the Secretary of the Interior may offer the same as aforesaid, in such quantities as may seem to him best; and may make all needful regulations, including the publication of notice of sale, as he may deem proper, to carry out the provisions of this act: *Provided, however*, That no proceeding shall be taken under this act until the Osage Indians shall assent to the foregoing provisions.

Mr. RYAN, of Kansas. I move that the bill be laid aside to be reported favorably to the House.

Mr. CONGER. I object to the consideration of that bill.

Mr. RYAN, of Kansas. I do not think the gentleman would object if he understood the bill. If he desires, I can explain it in such a way that I think he will be satisfied.

Mr. CONGER. I understand that this bill provides for the sale of certain trust lands of the Osage Indians.

Mr. RYAN, of Kansas. Yes, sir.

Mr. CONGER. And that it proposes to reduce the minimum price from $1.25 to twenty-five cents an acre after three years?

Mr. RYAN, of Kansas. The gentleman does not state it quite accurately; but it will have that effect substantially.

Mr. CONGER. It is that substantially. That there are lands in Kansas which are to be sold within three years at twenty-five cents an acre.

The CHAIRMAN. Does the gentleman from Michigan object to the consideration of this bill?

Mr. CONGER. I do, unless the gentleman from Kansas wants to discuss it and have some action on it. The gentleman moved that it be laid aside to be reported favorably to the House.

The CHAIRMAN. The Chair understood the gentlemen were discussing the bill.

Mr. CONGER. I was merely asking the gentleman a question or two.

Mr. RYAN, of Kansas. I do not understand what the gentleman from Michigan is aiming at.

Mr. CONGER. I think for the Government to make such a disposition of trust lands belonging to Indians would be a betrayal of the trust of the Government. That is my impression at least, unless there can be some satisfactory explanation. I should hope the bill would be allowed to go over for discussion at some other time.

Mr. RYAN, of Kansas. I will give an explanation, and then if the gentleman from Michigan wants the bill to go over I do not know if I shall have any particular objection.

The lands covered by this bill are Indian trust lands—lands which by treaty we are required to sell for the Indians at not less than $1.25 per acre. Those lands have been in the market all the way from seven years to fifteen years. The remaining lands are refuse lands. Some of them are unfit for purposes of agriculture; they are fit only for pastoral purposes, and cannot be disposed of under the present law.

Now, this bill simply proposes after 1881 to submit those lands to sale at public auction at not less than seventy-five cents per acre. One year thereafter all remaining are to be exposed to public sale at not less than fifty cents per acre, and all remaining one year thereafter are to be exposed at public sale at not less than twenty-five cents per acre.

Mr. CONGER. That is what the bill says.

Mr. RYAN, of Kansas. That is the provision of the bill. But the bill is not to have effect or to go into operation at all until this tribe of Indians assent to it.

Mr. DEERING. How is that assent to be given? What number of Indians are required to assent to it?

Mr. RYAN, of Kansas. The assent is to be given under such regulations as the Secretary of the Interior may prescribe.

Mr. CONGER. What amount is there of those lands?

Mr. RYAN, of Kansas. Most of the lands within those limits have been taken.

Mr. CONGER. About how much are left?

Mr. RYAN, of Kansas. I cannot state definitely. They do not embrace all the trust lands, but only that portion of the lands lying east of the sixth principal meridian that remain unsold.

Mr. BRIGHT. May I ask the gentleman from Kansas a question?

Mr. RYAN, of Kansas. Yes, sir.

Mr. BRIGHT. Do I understand the gentleman to say that the Indians have consented to this diminution of the price?

Mr. RYAN, of Kansas. Oh, no, sir; I say that it is provided in this bill itself that it shall have no effect whatever until the Osage Indians shall assent to its provisions.

Mr. CONGER. Have they petitioned for the sale?

Mr. RYAN, of Kansas. No, sir; they have not.

Mr. BRIGHT. Does the bill prescribe the manner in which they shall assent to it?

Mr. RYAN, of Kansas. It does not. That is left to the Secretary of the Interior.

Mr. BRIGGS. Who ask for the passage of the bill?

Mr. RYAN, of Kansas. The people of that section of the country ask for it. Our people want these lands disposed of and the State developed. They cannot be sold under the existing law. It is better for the Indians that they be sold, or if it is not better for them they would probably not consent to the provisions of this bill.

Mr. BRIGHT. Permit me to make another inquiry.

Mr. RYAN, of Kansas. Certainly.

Mr. BRIGHT. Is there not a prospect of an increase of the price of land in the State of Kansas as it is settled up, and may not these lands bring the trust price by waiting a few years?

Mr. RYAN, of Kansas. That is very possible. It may be that after the lapse of many years these lands will bring the price of $1.25 per acre. That, however, is very doubtful in regard to a large portion of these lands. As I have already stated, much of these lands are unfit for agricultural purposes. It seems to me that no harm can be done to the Indian or to anybody else by simply permitting the Indians to allow us to sell these lands at this price and for as much more as they will bring at public auction.

Mr. BRIGHT. Still you provide for a diminution of the trust fund.

Mr. RYAN, of Kansas. No, we do not make any provision whatever in regard to the fund. The trust fund is simply the amount of the proceeds of these lands. This is a bill which cannot injure any one.

Mr. HASKELL. The trust fund is simply the amount which these lands will bring at public sale.

Mr. BRIGHT. I understood the gentleman to say that these lands were trust lands, and that there was authority with the United States to sell these lands at not less than $1.25 an acre.

Mr. RYAN, of Kansas. That is correct.

Mr. BRIGHT. And now you propose to sell these lands at a minimum price of twenty-five cents per acre in certain contingencies. In other words, you provide for diminishing the trust fund. It is a variation of the original trust and obligation of the Government toward these Indians.

Mr. RYAN, of Kansas. We provide simply that the balance of these lands remaining unsold at a given time shall be sold at a price specified in this bill, and in the manner therein provided, if this tribe of Indians, who are alone interested in this trust fund, shall agree thereto. If they do not agree to it, the provisions of this bill will not be operative at all.

Mr. DEERING. I cannot see any wrong that will be done anywhere, in view of the second article of the treaty, whereby the trust was created, provided the assent of the Indians is obtained in a proper manner. That would be the only reason for objecting to the bill.

Mr. CONGER. I think I will risk a vote on this bill. I do not wish to make any further opposition to it than to have a vote taken on it after the explanation which we have heard.

Mr. RYAN, of Kansas. Very well. Then I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The question was taken; and upon a division there were—ayes 29, noes 13.

Before the result of this vote was announced,

Mr. BRIGHT said: I shall have to ask for tellers on this motion. This is a very important bill, and I would like to have a full vote of the House upon it.

Mr. CONGER. Only Indians are concerned in this; there are no white men to be wronged.

Mr. CONVERSE. The gentleman from Tennessee can have a vote upon this bill in the House.

Mr. BRIGHT. Very well; I will reserve my right to call for a vote in the House.

No further count being called for, the bill was laid aside to be reported favorably to the House.

UNIVERSITY LANDS FOR THE TERRITORIES.

Mr. CONVERSE. I ask that House bill No. 1327 be now taken up for consideration.

The Clerk read the bill, as follows:

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes.

Be it enacted, &c., That there be, and are hereby, granted to the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming respectively, seventy-two entire sections of the unappropriated public lands within each of said Territories, to be selected and located under the direction of the Secretary of the Interior, and with the approval of the President of the United States, for the use and support of a university in each of said Territories: *Provided*, That none of said lands shall be sold except at public auction, and after appraisement by a board of commissioners, to be appointed by the Secretary of the Interior: *Provided further*, That none of said lands shall be sold at less than the appraised value, and in no case at less than $2.50 per acre: *Provided*, That the funds derived from the sale of said lands shall be invested in bonds of the United States and deposited with the Treasurer of the United States; that no more than one-tenth of said lands shall be offered for sale in any one year; that the money derived from the sale of said lands, invested and deposited as hereinbefore set forth, shall constitute a university fund; that no part of said fund shall be expended for university buildings, or the salary of professors or teachers, until the same shall amount to $50,000, and then only shall the interest on said fund be used for either of the foregoing purposes till the said fund shall amount to $100,000, when any excess, and the interest thereof, may be used for the proper establishment and support respectively of said universities.

Mr. CONVERSE. I yield to the gentleman from Dakota [Mr. BENNETT] to explain this bill.

Mr. BENNETT. I deem it necessary only to say that this bill is carrying out, with regard to the Territories therein named, the same policy which the Government has hitherto adopted toward all the States and Territories having public lands within their limits. I think the bill is well guarded in all its provisions.

Mr. WILLITS. Is this the first grant of land for this purpose to these Territories?

Mr. BENNETT. It is. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to, upon a division—ayes 40, noes 4; no further count being called for.

SCHOOL LANDS FOR NEVADA.

Mr. CONVERSE. I ask that House bill No. 3708 be now taken up.

The Clerk read the bill, as follows:

A bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State.

Whereas the Legislature of the State of Nevada on March 8, 1879, passed an act accepting from the United States a grant of two millions or more acres of land in lieu of the sixteenth and thirty-sixth sections therein, and relinquishing to the United States all such sixteenth and thirty-sixth sections in said State as have not been heretofore sold or disposed of by said State, and which act of said State is in words as follows, to wit:

"An act accepting from the United States a grant of two millions or more acres of land in lieu of the sixteenth and thirty-sixth sections, and relinquishing to the United States all such sixteenth and thirty-sixth sections as have not been sold or disposed of by the State.

"The people of the State of Nevada represented in senate and assembly do enact as follows:

"SECTION 1. The State of Nevada hereby accepts from the United States not less than two millions of acres of land in the State of Nevada in lieu of the sixteenth and thirty-sixth sections heretofore granted to the State of Nevada by the United States: *Provided*, That the title of the State and its grantees to such sixteenth and thirty-six sections as may have been sold or disposed of by the State prior to the enactment of any such law of Congress granting such two millions or more acres of land to the State shall not be changed or vitiated in consequence of or by virtue of such act of Congress granting such two millions or more acres of land, or in consequence of or by virtue of this act surrendering and relinquishing to the United States the sixteenth and thirty-sixth sections unsold or undisposed of at the time such grant is made by the United States.

"SEC. 2. The State of Nevada, in consideration of such grant of two millions or more acres of land by the United States, hereby relinquishes and surrenders to the United States all its claim and title to such sixteenth and thirty-sixth sections in the State of Nevada heretofore granted by the United States as shall not have been sold or disposed of subsequent to the passage of any act of Congress that may hereafter be made granting such two millions or more acres of land to the State of Nevada: *Provided*, That the State of Nevada shall have the right to select the two millions or more acres of land mentioned in the act:" Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and are hereby, granted to the State of Nevada two million acres of land in said State in lieu of the sixteenth and thirty-sixth sections of land heretofore granted to the State of Nevada by the United States: *Provided*, That the title of the State and its grantees to such sixteenth and thirty-sixth sections as may have been sold or disposed of by said State prior to the passage of this act shall not be changed or vitiated in consequence of or by virtue of this act.

SEC. 2. The lands herein granted shall be selected by the State authorities of said State from any unappropriated, non-mineral, public land in said State, in quantities not less than the smallest legal subdivision; and when selected in conformity with the terms of this act the same shall be duly certified to said State by the Commissioner of the General Land Office and approved by the Secretary of the Interior.

SEC. 3. The lands herein granted shall be disposed of under such laws, rules, and regulations as may be prescribed by the Legislature of the State of Nevada: *Provided*, That the proceeds of the sale thereof shall be dedicated to the same purposes as heretofore provided in the grant of the sixteenth and thirty-sixth sections made to said State.

SEC. 4. This act shall take effect from and after its passage.

Mr. CONVERSE. I will move that the bill be laid aside to be reported favorably to the House. I yield to the gentleman from Dakota [Mr. BENNETT] to explain the bill.

Mr. BENNETT. If there is no objection to the bill, I do not desire to occupy the time of the committee in explaining it.

Mr. SPARKS. There is objection to the bill.

Mr. BENNETT. Then I ask that the report be read. It will fully explain the provisions of this bill.

The report was read, as follows:

The Committee on the Public Lands, to whom was referred bill H. R. No. 3708, being a bill to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State, having duly considered the same, respectfully submit the following report:

On the admission of Nevada into the Union as a State, in 1864, the Federal grant of the sixteenth and thirty-sixth sections of the public lands within her borders for school purposes gave the State title to one-eighteenth of the entire area of the State, or something over three million nine hundred thousand acres.

Unlike any other State to which similar grants have been made by the General Government, the surface of Nevada is in a large part marked by sparsely-timbered mountain ranges and intervening stretches of valueless desert basins and dry sage-brush valleys, susceptible of irrigation only by means of artesian wells, the few small streams within the State not affording water sufficient to irrigate the valleys through which they pass.

The sixteenth and thirty-sixth sections falling alike upon mountain and desert, and the dry sage-brush lands being unsalable, except in large tracts for cattle ranges or experimental irrigation by artesian wells, the State has been unable to dispose of more than seventy thousand acres in fifteen years, with the certainty of the demand growing less from year to year hereafter. By a provision of the constitution of the State, the proceeds of the sales of these lands become a part of the irreducible school fund of the State, and are devoted exclusively and perpetually to educational purposes. Thus far, it will be seen, the school fund of the State has derived but little benefit from this grant of the sixteenth and thirty-sixth sections, while a burdensome property tax is every year required in the several counties of the State for the support of their public schools.

The people of Nevada now ask that they may be permitted to exchange the three million eight hundred thousand or more acres still remaining unsold of the grant referred to for two million acres of non-mineral public lands within the State, to be selected in such localities and such bodies as will be most likely to render them salable, and thus meet the aim of the General Government in creating for them a serviceable school fund.

In furtherance of this request, and in anticipation of the exchange being authorized by Congress, the last Legislature of Nevada enacted a law formally relinquishing the title of the State to the three million eight hundred thousand or more acres remaining unsold of the sixteenth and thirty-sixth sections, and accepting in lieu thereof the two million acres, to be selected as in this bill provided.

As your committee understand it to be the purpose of the State to attempt to reclaim the desert and sage-brush lands now asked in exchange for its school grant through the inducement of special bounties for sinking of artesian wells, and as this seems to be the only method by which purchasers can ever be found for the most of these lands, your committee recognize the justice and propriety of the proposed exchange, and therefore report the bill back with the recommendation that it do pass.

The CHAIRMAN. Does the gentleman from Dakota desire to occupy the floor?

Mr. BENNETT. I do not.

Mr. SPARKS. I thought the gentleman from Dakota was going to explain the bill.

Mr. BENNETT. No further than the report now explains it. The gentleman from Nevada [Mr. DAGGETT] will occupy the floor for a few minutes.

Mr. DAGGETT. Mr. Chairman, as this bill involves neither expenditure of money by the Government nor any loss of lands, it seems unnecessary for me to add anything to this report, which very succinctly gives the reasons why the people of Nevada ask for this exchange and why Congress should grant it. It appears to me that the propriety of this bill cannot be questioned, and therefore I am willing to submit it to

the judgment of the House upon the report itself. At the same time I hold myself ready to answer any question in relation to the report, or outside of it, which members may choose to ask.

Mr. SPARKS. Mr. Chairman, the principle involved in this bill disagrees with that of all other donations or gifts of land by the General Government to the various States for school purposes. This bill makes provision that in lieu of the lands granted to the State of Nevada for school purposes, namely, the sixteenth and thirty-sixth sections of every township, that that State shall be at liberty to select lands wherever they may be found in the State, and in such subdivisions as it may choose to make in amount equal in aggregate to two sections to every township. Such a measure was never adopted by Congress with reference to any other State within my knowledge. The practice of granting to the States a certain portion of the public lands for school purposes has prevailed since the organization of the Government; but no State since this policy began has ever been permitted to select these lands at discretion and thereby get the choicest lands for this purpose; and in my judgment this ought never to be allowed.

I think it will not be denied by the gentleman from Nevada, [Mr. DAGGETT,] or any other gentleman familiar with that portion of the country, that if this bill should become a law the State of Nevada will get every acre of public land in the State susceptible of cultivation. Is not that a fact?

Mr. DAGGETT. It is not.

Mr. SPARKS. The gentleman from Nevada disputes that point. I am of course simply giving my conviction, which, however, is based upon some personal knowledge of that country. But of course I have not the same knowledge of the State of Nevada that the gentleman representing it has. However, I have gone through that country three times and think that I cannot be far wrong in saying that if this bill should pass every acre of arable land in Nevada will be taken up by the State. I object to that. I am willing that Nevada should receive lands in the same manner as other States have received them from the National Government for school purposes, but I am not willing that she should come in and in this exceptional manner select all the choice lands in the State, leaving only a worthless refuse to the General Government. This is a species of favoritism in her favor and odious discrimination against the other States which can never be sanctioned by my vote.

Mr. DAGGETT. Mr. Chairman, there are about sixty million acres of land in Nevada remaining unsold. Nearly all these lands remaining unsold are desert lands. There are not to-day two million acres of arable land in Nevada; not a million acres that can be cultivated without irrigation by means of artesian wells. It is not the purpose of our State to select the best lands, because there are no such lands unsold. Our purpose is simply to select large tracts, so that by means of bounties offered by legislative action we can redeem lands otherwise utterly valueless. Our sixteenth and thirty-sixth sections, falling as they do upon mountain and desert, are utterly valueless. As the report states, we have been fifteen years in selling seventy thousand acres of land; and our school fund amounts to almost nothing. The railroad companies are not taxed upon their lands which are unsold; the mining companies pay no tax upon anything except their improvements. All the burdens of taxation fall upon the little property we have there.

Our school system is one of the best in the world, and it is sustained by very heavy taxation. We want relief from that. The only mode of relief is by the sale of our school lands, to swell our school fund, our irreducible school fund. I call the particular attention of the House to the fact that the money derived from the sale of these lands will go into our irreducible school fund. Can there be any objection to that? Is it not proper that legislation should look in that direction?

But I repeat, we do not want to monopolize the best lands in Nevada. We simply wish the privilege of taking land in large quantities—desert lands, sage-brush valleys—for the redemption of which by means of artesian wells we expect to offer bounties. The Government itself will be benefited by this measure. By our relinquishment of the sixteenth and thirty-sixth sections the Government will be able to compact its own lands and thereby sell them in large quantities, the lands having the advantage of the irrigation system which the State expects to inaugurate. I say, Mr. Chairman, there is nothing wrong in this bill. It is inspired by the very best motives. Neither the State nor the Government can suffer. It will simply interest our school funds, and I ask the committee to give it the favorable consideration it deserves.

Mr. BERRY. I should like to offer an amendment which I think the gentleman will not object to, and that is, in the third line to insert the words "other than mineral," so the State shall not select mineral lands.

Mr. DAGGETT. That is excepted in the bill.

Mr. BELFORD. It is excepted under existing law.

Mr. BERRY. And timber lands also.

Mr. BELFORD. Why, of course.

Mr. SPARKS. Mineral lands are all excepted.

Mr. BELFORD. And have been for years. So there is nothing in that point.

Mr. CONVERSE. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The committee divided; and there were—ayes 52, noes 8.

So the motion was agreed to.

Mr. CONVERSE. I now move the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. MILLS having taken the chair as Speaker *pro tempore*, Mr. ROBINSON reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration various bills reported from the Committee on the Public Lands, and had directed him to report the same back to the House with various recommendations.

ORDER OF BUSINESS.

Mr. CONVERSE. I now move, Mr. Speaker, without reading the bills reported from the Committee of the Whole House on the state of the Union, that by unanimous consent the previous question shall be considered as seconded and the main question ordered on them all, and that the vote shall be taken in the morning in a full House. I will state that several gentlemen desired to be heard or have their votes recorded on these propositions coming from the committee, but they have gone away under the belief no final vote would be taken to-night.

Mr. DEERING. Does this apply to all the bills?

Mr. CONVERSE. All that have been reported favorably.

Mr. DEERING. Then I ask that an exception be made to one bill to which I wish to offer an amendment.

Mr. CONVERSE. If I have the power I will agree to that.

Mr. RYAN, of Kansas. Offer your amendment now.

Mr. CONGER. I shall object to the previous question being seconded on the bill in regard to trespassers upon the public lands. I do not object to the other bills.

Mr. RYAN, of Kansas. Let the Clerk read the amendment which by unanimous consent is considered to be pending to the bill referred to.

Mr. DEERING. I ask the Clerk to read my amendment to a bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands lying east of the sixth principal meridian in Kansas, which by agreement is considered as pending.

The Clerk read as follows:

Strike out all after the word "until," in the twenty-third line, and in lieu thereof insert "at least two-thirds of the adult males of the said Osage Indian tribe shall assent to the foregoing provisions."

The SPEAKER *pro tempore*. Is there objection to the previous question being considered as seconded and the main question ordered on all the bills reported favorably from the Committee of the Whole House on the state of the Union?

Mr. CONGER. The chairman of the Committee on the Public Lands has agreed that on the bill to which I have referred there shall be given thirty minutes in opposition with the right to offer amendments afterward to be voted on without debate.

The SPEAKER *pro tempore*. Is there objection to that proposition?

Mr. KEIFER. Does that apply to all bills reported?

The SPEAKER *pro tempore*. Only to those which have been favorably reported.

Mr. SPARKS. What effect will that have? Will those bills come up as unfinished business to-morrow?

The SPEAKER. They will.

Mr. SPARKS. To the exclusion of other business?

The SPEAKER. Certainly.

Mr. SPARKS. Then I object to it.

The SPEAKER. The Clerk, then, will read the first bill.

Mr. SPARKS. I withdraw my objection.

Mr. HERBERT. Unless objection is withdrawn to the first bill, I shall be compelled to insist upon objection to all the others.

Mr. HOOKER. Objection has been withdrawn to that bill.

Mr. CONGER. There is no misunderstanding about this, Mr. Speaker, that when this bill in regard to trespassers comes up, whoever has charge of it shall give at least thirty minutes to me or some other member to oppose it.

Mr. CONVERSE. That is the understanding.

Mr. CONGER. And afterward that it shall be open to such amendments as may be desired to be offered, to be voted on without debate.

Mr. HERBERT. And that ten minutes shall be given to reply in favor of the bill.

Mr. SPARKS. And they are all to come up as unfinished business to-morrow.

Mr. CONVERSE. Mr. Speaker, I move now to take up House bill No. 1067 from the House Calendar, the Des Moines land bill.

Mr. SAPP. I want to know what the understanding is in reference to the previous question.

Mr. CONVERSE. The previous question operates on all bills reported from the committee.

I move to take up House bill No. 1067 from the House Calendar in order that it may be made the special order and be allowed to stand as the unfinished business. I will state that my object in taking that up is not to act upon it to-night or to discuss it, but simply to move the previous question on it that it may go over as unfinished business.

Mr. BOUCK. I object. The gentleman from New York is not here who has a special interest in this measure.

The SPEAKER *pro tempore*. Does the Chair understand that the

previous question is to be considered as pending upon all the bills reported from the committee?

Mr. CONGER. On all bills favorably reported from the committee.

The SPEAKER *pro tempore*. Then it is now understood that the previous question operates upon all the bills and upon the bill mentioned by the gentleman from Michigan, with the privilege of thirty minutes' debate on each side, and also that amendments may be offered and be voted upon without debate.

Mr. CONGER. On all bills reported favorably, and amendments to be offered without debate to the bill I have mentioned after the time fixed for general discussion upon it.

The SPEAKER *pro tempore*. The gentleman from Ohio now calls up the bill No. 1067, the title which he has mentioned.

Mr. VAN VOORHIS. I shall be obliged to object to the previous question being moved on that bill.

Mr. CONVERSE. I thought the gentleman had agreed to this arrangement?

Mr. VAN VOORHIS. No, sir; not to this bill. Mr. PRESCOTT has a great deal of interest in the bill and desires to be heard upon it. He has been and is now upon a committee somewhere between this and New Orleans, I suppose. It is a bill of great importance to citizens of the State of New York, and it is not a bill which should pass with any limitation of the debate. It takes two hundred and thirteen thousand acres of land——

The SPEAKER *pro tempore*. Does the gentleman object to the arrangement heretofore entered into?

Mr. VAN VOORHIS. The only objection I make is in reference to this particular bill. This bill is on the House Calendar. It takes two hundred and thirteen thousand acres of land away from citizens of the State of New York, which were bought twenty years ago and paid for, and upon which they have paid taxes for twenty years.

The SPEAKER *pro tempore*. The previous question being demanded, no debate is now in order.

Mr. VAN VOORHIS. The previous question has not been ordered upon this bill. This bill is on the House Calendar.

Mr. PAGE. The gentleman from Ohio [Mr. CONVERSE] moves to take up the bill from the House Calendar. This is a different bill altogether from those on which the previous question has been ordered.

Mr. VAN VOORHIS. And that is the bill that I object to.

Mr. CONVERSE. I rise to a point of order. The House to-day directed that the business to be considered should be taken up as designated by myself, as chairman of the Committee on the Public Lands. Now, this bill comes up in the regular order under that arrangement.

The SPEAKER *pro tempore*. What does the gentleman propose to do?

Mr. CONVERSE. I ask to have the title of the bill read, after which I wish to make a brief statement.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 1067) to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes.

Mr. CONVERSE. I desire now to demand the previous question on that bill, with the understanding that the gentleman shall have three-quarters of the time allowed for discussion, and if the House will consent to extend the time for one hour longer than is allowed under the rule, then that he shall have three-quarters of any extension of time that may be granted.

Mr. SPARKS. Is not the gentleman just cutting out work enough to occupy this House from now until the time fixed for the final adjournment? The proposition to go on with the work that he has fixed and in the manner that he suggests, with unlimited time for discussion, is all very fair, but I do not think it is fair to take up the time of the House in this way when other important matters are waiting to be acted upon.

Mr. CONVERSE. I desire to state that this is a matter in which the interests of one thousand families are involved. Settlers are being turned out of their homes who have lived there for twenty-five years; children and women are ordered out of their homes, and under the operation of a law from which they are unable to obtain any redress. It is important that this question should be settled one way or the other. Now, the gentleman from New York [Mr. VAN VOORHIS] claims that if this bill passes in another direction it will take from his constituents a large sum of money, so that it is important to settle the matter one way or the other. I hope the House will allow it to be taken up.

Mr. WEAVER. This bill does not grant lands to anybody. I am interested in this matter somewhat in behalf of the thousand families mentioned by the gentleman from Ohio.

Mr. VAN VOORHIS. That is all moonshine.

Mr. WEAVER. It is not all moonshine. It is important that it should be acted upon. I know of a case of a family being taken in mid-winter with their children, one of them sick with diphtheria and laid out on a stretcher, and turned out in the snow in Iowa, in order to gratify the maw of these corporations trying to rob these people of their homes. That is the reason why I am interested in this matter and want to have it settled. This bill only allows these men to go into the court and test their title, and because the men the gentleman from New York represents are afraid of their title, and afraid that they cannot keep their stolen property if they go into court, he makes the objection.

Mr. VAN VOORHIS. The gentleman is deceived.

Mr. WEAVER. I am not deceived. I know all about it.

Mr. VAN VOORHIS. There is not a word of truth in that statement. This case has been in the Supreme Court of the United States thirteen times, and on every occasion the Supreme Court of the United States have held that these men who live in New York, who bought the lands in the State of Iowa and who paid for them twenty years ago, have got a perfect title.

Mr. WEAVER. The Supreme Court of the United States have never decided any such thing.

Mr. VAN VOORHIS. Yes, sir; they have, and that they are *bona fide* purchasers and *bona fide* holders of these bonds.

Mr. WEAVER. They never decided that in a single case.

Mr. VAN VOORHIS. And that their land cannot be taken from them.

Mr. WEAVER. If that is so, why does the gentleman object to the title being decided in court?

The SPEAKER *pro tempore*. To whom does the gentleman from Ohio [Mr. CONVERSE] yield?

Mr. CONVERSE. I do not yield at all. [Laughter.] I ask a vote on my motion for the previous question.

Mr. VAN VOORHIS. Have I not the floor? I make the point of order that I had the floor.

The SPEAKER *pro tempore*. The gentleman from Ohio having charge of the bill had the floor. The gentleman from New York only had the floor by his grace.

Mr. CONVERSE. I insist on my motion for the previous question.

The question being taken on seconding the demand for the previous question, the Speaker *pro tempore* pronounced the previous question seconded.

Mr. VAN VOORHIS. No quorum! I call for a division.

Mr. CONVERSE. I move that the House do now adjourn.

Mr. CONGER. The gentleman from New York has raised the question of a quorum on seconding the demand for the previous question. Does the Chair entertain the point made by the gentleman from New York?

The SPEAKER *pro tempore*. How does the gentleman know there is not a quorum when there was not a division?

Mr. WILLITS. The gentleman from New York called for a division.

The SPEAKER *pro tempore*. The gentleman had the right to call for a division. But he could not make the point that there was no quorum when there was nothing to show whether there was a quorum or not. The Chair will again put the question on seconding the demand on the previous question, on which the gentleman from New York calls for a division.

Mr. CONVERSE. Is the gentleman not too late in calling for a division?

The SPEAKER *pro tempore*. It is stated that he called for it in time. The Chair will again put the question.

The question being taken, there were—ayes 44, noes 4.

Mr. VAN VOORHIS. A quorum has not voted.

The SPEAKER *pro tempore*. In the absence of a quorum, only two motions are in order, the motion for a call of the House and the motion to adjourn.

Mr. CONVERSE. I hope this measure will not be left in this shape. This is the only chance we will have to vote upon it this session.

Mr. VAN VOORHIS. Will the gentleman from Ohio allow me to say a word?

Mr. CONVERSE. I will. I understood the gentleman to agree that he would not object to the previous question being ordered if I gave him time to speak.

Mr. VAN VOORHIS. Oh, no; I could not make that agreement in the absence of the gentlemen from New York [Mr. PRESCOTT and Mr. LAPHAM] and others. I am willing some day shall be fixed when the gentleman from New York, [Mr. PRESCOTT,] who is away attending to his duties on a committee of this House, shall be here, and also Judge LAPHAM, and when there will be a chance to debate this case; for I believe there are not ten men in this House who will vote for this bill if they understand it.

Mr. CONVERSE. I will agree to the motion to adjourn.

Mr. TUCKER. I am willing to withdraw it if any arrangement can be made about this bill.

Mr. CONVERSE. I think there cannot to-night.

Mr. BERRY. If the motion to adjourn has been withdrawn I renew it.

Mr. CONGER. I desire to know what is the condition of the pending question.

The SPEAKER *pro tempore*. No quorum voted.

Mr. CONGER. Has the previous question been seconded?

The SPEAKER *pro tempore*. There was no quorum on that vote.

The motion to adjourn was agreed to; and accordingly (at nine o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Mrs. Margaret D. Marchand,

widow of the late Commodore T. B. Marchand, United States Navy, for a pension—to the Committee on Invalid Pensions.

Also, the petition of lumber merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the Committee on Ways and Means.

By Mr. AIKEN: The petition of citizens of Columbia, South Carolina, for the reduction of the duty on earthenware—to the same committee.

By Mr. BALLOU: The petition of merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the same committee.

Also, the petition of importers of and dealers in sugars in Boston, Massachusetts, for one specific rate of duty on all grades of raw sugar up to No. 13, Dutch standard—to the same committee.

By Mr. BUTTERWORTH: The petition of manufacturers of vinegar, against the repeal of section 3282 Revised Statutes—to the same committee.

By Mr. CALKINS: The petition of Joseph J. Martin, for an allowance in a contested-election case in the Forty-sixth Congress—to the Committee on Elections.

By Mr. CHITTENDEN: The petition of manufacturers of plug tobacco, against the reduction of the duty on licorice—to the Committee on Ways and Means.

Also, the petition of merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the same committee.

By Mr. HORACE DAVIS: Papers relating to the claim of John H. W. Riley, for pay for services as phonographic reporter at Mare Island, California—to the Committee on Naval Affairs.

By Mr. DE LA MATYR: The petition of H. W. Long and 37 others, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of M. W. Long and 58 others, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of Hallweg Reese and 48 others, for the revision of the tariff on earthenware—to the Committee on Ways and Means.

By Mr. DUNNELL: The petition of E. C. Eckenbeck and 50 others, citizens of Waseca, Minnesota, for the repeal of the duty on salt—to the same committee.

By Mr. FINLEY: The petition of ex-soldiers of Ohio, against the passage of the sixty-surgeon bill, and for the passage of the Geddes pension-court bill—to the Committee on Invalid Pensions.

Also, the petition of Robert W. Burns and others, that all soldiers of the late war who served in the Army for fourteen days be granted a land warrant for one hundred and sixty acres of land—to the Committee on Military Affairs.

By Mr. GARFIELD: The petition of A. C. White and 225 others, citizens of Youngstown, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. GIBSON: The petition of Rev. Father Coeppens and citizens of Donaldsonville, Louisiana, that the altar, chimes, granite, and marble columns for the church of the Sacred Heart of Jesus, in that place, may be imported free of duty—to the same committee.

By Mr. HAYES: The petition of citizens of Will County, Illinois, for the equalization of the pay of ex-Union soldiers—to the Committee on Military Affairs.

Also, the petition of ex-Union soldiers, of Chamahon, Illinois, for the passage of the bill for the equalization of bounties—to the same committee.

Also, the petition of lumbermen and others, that there be no increase in the duty on low-rate sugars—to the Committee on Ways and Means.

By Mr. KETCHAM: The petition of 14 soldiers of New York, for the creation of a court of pensions—to the Committee on Invalid Pensions.

By Mr. LAPHAM: The petition of lumber merchants and manufacturers of cooperage materials, that there be no increase in the duty on low-rate sugars—to the Committee on Ways and Means.

By Mr. MILES: The petition of citizens of Norfolk, Connecticut, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. MITCHELL: The petition of J. W. Sturtevant and G. W. Worden, of Daggett's Mills, Tioga County, Pennsylvania, against the passage of the Withers bill, and in favor of the Geddes bill creating a court of pensions—to the Committee on Invalid Pensions.

Also, the petition of 2 late Union soldiers and 25 citizens, of Elk, Pennsylvania, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

Also, the petition of 49 late Union soldiers, of Potter County, Pennsylvania, for the equalization of bounties—to the same committee.

By Mr. MURCH: The petition of John Morgan, for a pension—to the Committee on Invalid Pensions.

By Mr. ROBINSON: The petition of George B. Loring, relating to his expenses in the contest of E. Moody Boynton against him for a seat in Congress—to the Committee on Elections.

By Mr. ROSS: The petition of masters and owners of vessels engaged in the coasting trade of the United States, for the repeal of all laws enforcing compulsory pilotage through the channel of the East River—to the Committee on Commerce.

By Mr. PHILIP B. THOMPSON: Papers relating to the pension claim of George W. Waddle—to the Committee on Invalid Pensions.

By Mr. TUCKER: The petition of citizens of various States, against any discriminating duty against low grades of sugars—to the Committee on Ways and Means.

By Mr. J. T. UPDEGRAFF: The petition of the yearly meeting of Friends, of Pennsylvania, New Jersey, and Delaware, representing fifteen thousand persons, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. WHITEAKER: The petition of J. C. Koudrup, for compensation for services rendered as messenger for the reporters of debates—to the Committee on Claims.

By Mr. WALTER A. WOOD: The petition of lumber merchants and manufacturers of cooperage materials, against any discriminating duty against low grades of sugars—to the Committee on Ways and Means.

By Mr. THOMAS L. YOUNG: The petition of internal-revenue officers of the sixth district of Indiana, for the passage of the bill (H. R. No. 4802) relating to granting leaves of absence to certain revenue officials—to the same committee.

Also, the petition of Benjamin Burgess & Sons and 27 other sugar merchants and manufacturers, of Boston, Massachusetts, for the passage of a law placing a uniform tariff on all grades of sugar up to No. 13, Dutch standard—to the same committee.

IN SENATE.

FRIDAY, *May* 21, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. BOOTH presented a petition numerously signed by citizens of Fall River Mills, California, praying for the passage of a bill compensating Captain Samuel G. Goodrich for eight years' service rendered the Government of the United States during the Florida war; which was referred to the Committee on Pensions.

He also presented a petition of importers of crockery at San Francisco, California, praying for a reduction of the duty on the importation of crockery; which was referred to the Committee on Finance.

Mr. MCMILLAN presented the petition of the Duluth Iron Company, of Duluth, Minnesota, manufacturers of charcoal iron, employing three hundred and twenty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. SAUNDERS presented the petition of the members of the Society of Friends, in their yearly meeting, represented by members from Pennsylvania, New Jersey, and Delaware, praying Congress to cause a commission of inquiry to be raised to investigate the alcoholic liquor traffic in regard to its relations to crime, pauperism, public health, and general welfare; which was referred to the Committee on Finance.

Mr. JOHNSTON presented the petition of Wissler, Armstrong & Stone, of Liberty Furnace, Virginia, manufacturers of iron, employing one hundred and twenty-five hands, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. COCKRELL. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof, to report it favorably, with three amendments. I shall call the bill up at the very earliest possible day and ask for its passage. The amendments are immaterial.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1614) to regulate the promotion and fix the rank of line officers of the Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MCPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 3983) to provide a permanent construction fund for the Navy, and for other purposes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 231) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1782) for the relief of William G. Budlong; which was read twice by its title, and referred to the Committee on Patents.

COMMITTEE ON COMMERCE.

On motion of Mr. GORDON, it was

Ordered, That the Committee on Commerce have leave to sit during the sessions of the Senate.

SPECIAL DEPUTY MARSHALS.

The PRESIDENT *pro tempore*. If there be no "concurrent or other resolutions" the routine business of the morning hour is at an end.

Mr. BAYARD. I believe that under the present arrangement the Calendar will now be called.

The PRESIDENT *pro tempore*. It will.

Mr. BAYARD. I move that the consideration of the Calendar be postponed for the purpose of taking up Senate bill No. 1726, which is the unfinished business from yesterday.

I desire to state that, for reasons which I do not care to obtrude upon the Senate, I am exceedingly desirous to leave the city if I can do so to-day. For that reason I should like this bill, which has been before the Senate for several days, and before the Senate for the second time, I may say, for several days, should be disposed of at the present sitting. For that reason I move to proceed to its consideration.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to postpone the Calendar and all prior orders in order to proceed to the consideration of the bill which he has indicated, which is the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The question being put, it was declared that the ayes appeared to prevail.

Mr. EDMUNDS. I call for a division.

While the Senate was dividing,

Mr. EDMUNDS. I withdraw the call for a division. I did not hear the explanation that the Senator from Delaware made of his reason for the motion, and I make no objection to the bill being taken up.

The PRESIDENT *pro tempore*. The call for a division being withdrawn, the motion is agreed to.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals, the pending question being on the amendment proposed by Mr. CONKLING, to insert in line 1 of section 2, after the words "deputy marshals," the words "appointed only;" so as to read:

That all deputy marshals appointed only to serve in reference to any election shall be appointed," &c.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on the amendment. Is the Senate ready for the question?

The Secretary proceeded to call the roll.

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. VEST, (when his name was called.) I am paired with the Senator from Connecticut, [Mr. PLATT.]

The roll-call was concluded.

Mr. MCPHERSON. On this and all political questions I am paired with the Senator from Maine, [Mr. BLAINE.] If he were here, I should vote "nay."

Mr. DAVIS, of West Virginia. I wish to make the announcement now for the day that on all political questions I am paired with the Senator from Michigan, [Mr. BALDWIN,] except when my vote may be necessary to make a quorum, in which case I am allowed to vote.

Mr. TELLER. My colleague [Mr. HILL, of Colorado] is paired with the Senator from West Virginia [Mr. HEREFORD] on all political questions. If present, my colleague would vote "yea."

Mr. BURNSIDE, (after having voted in the affirmative.) I am paired with the Senator from New Jersey [Mr. RANDOLPH] on all political questions; I therefore desire to withdraw my vote. I voted under a misapprehension.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. ROLLINS, (after having voted in the affirmative.) I paired yesterday afternoon with the Senator from Kentucky, [Mr. WILLIAMS,] who was unwell and left the Chamber; I was only paired during the session of yesterday, but he may be sick this morning, and if that is the case I desire to withdraw my vote.

Mr. ALLISON. I desire to announce that the Senator from Maryland [Mr. WHYTE] is paired with the Senator from Illinois [Mr. LOGAN] by an arrangement made between the Senator from Indiana [Mr. VOORHEES] and myself.

Mr. INGALLS. I am paired with the Senator from Virginia, [Mr. WITHERS.]

The result was announced—yeas 13, nays 26; as follows:

YEAS—13.

Allison,	Cameron of Wis.,	Paddock,	Windom.
Anthony,	Edmunds,	Plumb,	
Booth,	Hoar,	Saunders,	
Cameron of Pa.,	McMillan,	Teller,	

NAYS—26.

Bailey,	Eaton,	Kernan,	Thurman,
Bayard,	Farley,	McDonald,	Vance,
Beck,	Garland,	Maxey,	Voorhees,
Call,	Gordon,	Morgan,	Walker,
Cockrell,	Hill of Georgia,	Pryor,	Wallace.
Coke,	Johnston,	Ransom,	
Davis of Illinois,	Jonas,	Slater,	

ABSENT—37.

Baldwin,	Ferry,	Jones of Nevada,	Rollins,
Blaine,	Groome,	Kellogg,	Saulsbury,
Blair,	Grover,	Kirkwood,	Sharon,
Bruce,	Hamlin,	Lamar,	Vest,
Burnside,	Hampton,	Logan,	Whyte,
Butler,	Harris,	McPherson,	Williams,
Carpenter,	Hereford,	Morrill,	Withers.
Conkling,	Hill of Colorado,	Pendleton,	
Davis of W. Va.,	Ingalls,	Platt,	
Dawes,	Jones of Florida,	Randolph,	

So the amendment was rejected.

Mr. HOAR. I move to amend the bill by striking out in the thirteenth and fourteenth lines of section 2 the words "in equal numbers from the different political parties" and inserting "solely with reference to their fitness for their duties and without regard to their political opinions."

Mr. President, the principles of this bill have been briefly but very fully and clearly discussed already. I do not wish to enter upon an extended discussion of the present amendment, but I wish to say that in my judgment the bill as proposed by the honorable Senator from Delaware will establish in our legislation a principle the destructive effects of which it is impossible almost to calculate. The Senator from Delaware will be the first, I think, to have advocated and implanted in the permanent policy of this country the principle which recognizes political divisions in its legislation. The great, in the opinion of Washington, in the opinions of many other fathers the greatest danger to this Republic is that spirit of party which divides the country into two hostile nations—nations to which the allegiance, the attachment, the affection of their members are due and are paid in preference to what is due to the country itself. We have seen already in our history the most lamentable exhibitions of the attachment to political organizations in disobedience to the emphatic call of patriotism.

It is true that the existing law provides that the supervisors who superintend the reception and count of the votes shall be appointed by the courts and appointed from different political parties. That was not intended (whether it be or not) by the framers of the law which contains it to be an exception from the doctrine to which I have referred. In every legislative body the tellers are appointed, one from the minority and one from the majority on the question, and the supervisors take to some extent and in some degree the place of tellers. They are the persons who see fair play in the count and conduct of the election itself, and they stand on their own grounds, whether they be or be not an exception to the principle that I have stated. But in regard to executive officers charged with the duty of keeping the peace, who are in fact the arm and hand of the Executive of the United States himself in the performance of his great duty of seeing that the laws be executed, to enact that the different political parties of the country are to divide between them that political power and that political function, is a recognition of party organizations as having rights to deal with each other in reference to the distribution of offices in this country, and it is, in my judgment, a most dangerous and destructive political principle.

Mr. President, in addition to that general objection to the bill as recommended by the honorable Senator from Delaware, the bill enacting in substance that after one appointment has been made all other persons entertaining different political opinions from the person appointed are disqualified from the office of United States deputy marshal from that time, the bill is further objectionable in that it requires great numbers of deputy marshals frequently to be appointed where but one or two may be all that will be necessary. There will undoubtedly in the State of Massachusetts and in most of the northern States be four, probably five, political parties at the next election—the greenback party, the temperance party, the democratic party, the republican party, to say nothing of the Kelly party, and the woman's suffrage party, and the Butler party, or whatever else there may be. But certainly there will be in the field four political parties in the State which I represent, with regular candidates and regular organization and an entire ticket in the field. Does the Senator from Delaware mean to enact that at every voting precinct where a police officer's presence is needed there shall be four or five marshals appointed although only one is necessary?

I believe in former times in the Senate, in the distribution of its committees, the old rule which gave a recognition to the minority was abandoned in the case of some of the Senators who, it was said by some gentlemen of the dominant political party, were "outside of any healthy political organization." That unhealthy infant grew, however, very fast, and not only became the more healthy but the healthiest political organization known to our history. I do not know whether the Senator from Delaware proposes that the judges of the courts of the United States should institute an inquiry as to what new political party in its infancy be or be not a healthy political organization, whether he intends that unhealthy political organizations shall or shall not be included in this distribution of offices.

Mr. President, there is no law, there is no executive function, there is no judicial function, concerning which it may not be said with great plausibility that as the law should be declared and enforced and obeyed independent of the political opinion of the public officer, for that reason the appointment ought to be made without regard to such political opinion. But that is not what the bill aims at. The bill does not say that when these deputy marshals are appointed the

appointing power shall forget for the time being political distinctions in the merits of the individual. The bill says that the appointing power shall remember and regard those distinctions, and shall recognize the right to hold office as growing out in each case of the political opinion of the applicant.

The judge of each United States court, by such process as he shall find necessary, is to institute in the midst of elections, or as they approach, inquisition in regard to the political opinion of persons who are to be trusted with high public office. I pronounce the proposition of the Senator from Delaware to be in its principle among the most dangerous ever proposed in our legislation. Although the Senator from Delaware may not desire, may not avow—and if he does not avow I know he does not desire—any such result, yet it will tend to establish the right of the different political parties in this country to treat with one another for divisions of public office as if they had separate interests. The different political parties in this country in the eye of the law are not distinguished. The only title to appointment to political office in this country should be not the holding of particular or special political opinions, but solely as the amendment which I have proposed says, merit and fitness for the purpose.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) On all political questions I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were present, he would vote "nay" and I should vote "yea."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. McPHERSON, (when his name was called.) I am paired with the Senator from Maine, [Mr. BLAINE.]

Mr. ROLLINS, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. WILLIAMS.] If he were present, I should vote "yea."

Mr. VEST, (when his name was called.) I am paired with the Senator from Connecticut, [Mr. PLATT.]

The roll-call having been concluded, the result was announced—yeas 14, nays 28; as follows:

YEAS—14.

Allison,	Cameron of Pa.,	McMillan,	Teller,
Anthony,	Cameron of Wis.,	Morrill,	Windom.
Blair,	Edmunds,	Plumb,	
Booth,	Kirkwood,	Saunders,	

NAYS—28.

Bayard,	Eaton,	Jonas,	Saulsbury,
Beck,	Farley,	Kernan,	Slater,
Butler,	Garland,	McDonald,	Thurman,
Call,	Gordon,	Morgan,	Vance,
Cockrell,	Groome,	Pendleton,	Voorhees,
Coke,	Hill of Georgia,	Pryor,	Walker,
Davis of Illinois,	Johnston,	Ransom,	Wallace.

ABSENT—34.

Bailey,	Ferry,	Jones of Florida,	Randolph,
Baldwin,	Grover,	Jones of Nevada,	Rollins,
Blaine,	Hamlin,	Kellogg,	Sharon,
Bruce,	Hampton,	Lamar,	Vest,
Burnside,	Harris,	Logan,	Whyte,
Carpenter,	Hereford,	McPherson,	Williams,
Conkling,	Hill of Colorado,	Maxey,	Withers.
Davis of W. Va.,	Hoar,	Paddock,	
Dawes,	Ingalls,	Platt,	

So the amendment was rejected.

Mr. McMILLAN. I offer the following amendment, to be inserted at the end of line 19 of section 2:

Provided, That the marshals of the United States for whom deputies shall be appointed by the court under this act shall not be liable for any of the acts of such deputies.

Mr. President, the marshals of the United States give their bonds with sureties for the faithful discharge of their duties. Here are deputies appointed by the courts. The marshals have no control over those deputies, and they should not be held to respond for any wrongful act of such a deputy. I cannot see any principle upon which the rule of responsibility can be applied to the marshals or their sureties for the acts of these deputies appointed by the courts.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Minnesota, [Mr. McMILLAN.]

Mr. BAYARD. I am not disposed to think there is anything unreasonable in the proposition of the Senator from Minnesota. I have no objection whatever to its adoption.

The amendment was agreed to.

Mr. EDMUNDS. Mr. President, the amendment proposed by the Senator from Minnesota and accepted by the powers that rule the majority of this body is a very proper one if this bill is to pass, but it illustrates and points out still more clearly what the design and effect of this bill is, and that is either to have no deputy marshals appointed at all in respect of the occasions referred to or to have them appointed by a power over which the executive branch of the Government has no control and to make them officers over which the executive branch of the Government has no control and to make them officers who have no control over each other, no order of rank or superiority in respect of deciding what is to be done in a case where two or three are present having the same right to act under the law and one wishing to do a thing and the other wishing to prevent it. In other words, it leaves the face of this bill just what it was before, but brings it out clearly into the light of day that the contrivance—and I do not use that word in any offensive sense, but it is exactly the word I wish to use—the contrivance is to have at every one of these elections for members of Congress a certain and equal number of the representatives of the various political parties and to have them all or none because they must be appointed on exact equality from all the political parties, present to keep the peace, and that each one of these persons thus present, if he has any powers at all,—which is another matter; but I am speaking of what the theory of this bill is,—each one of these policemen, now called deputy marshals, is made a marshal-in-chief, because you have got a deputy without any head over him, and have declared, what it is perfectly right to declare if you are to do it, that the ostensible head shall have no responsibility in respect to their conduct. Therefore in a given case in the Fifth ward in the city of New York for instance, and in a single precinct, which may be one block, and no more, bounded by four streets, one on either side, and there being three or four political parties, you have two from each, you have eight or ten men, all of them marshals-in-chief for all legal purposes of the exertion of power. A disturbance occurs or is said to occur. One marshal says, "I am going to arrest this man who is trying to obstruct a democratic voter from getting to the polls to vote for a democratic member of Congress." Up steps another marshal, a republican marshal, and says, "You shall not do any such thing; I will arrest you; he is not trying to obstruct a democratic voter, he *is* trying to help him, and I am trying to keep the peace now." No. 2 on the one side steps up and says, "I side with the other fellow," and then No. 2 on the other side steps up, until you have a fine condition of things to keep the peace!

Mr. President, of course this bill is to pass, and it is to pass exactly in the way and with the effect that you wish it to stand in, and I merely, so that there shall not be any mistake about it hereafter, point out to you what you knew so perfectly well before, exactly what it is that you are going to do; and I hope you will like it when you get it, if you do get it.

Think of the civilized progress of the ruling powers of the legislative department of this Government in the arts of peace that is to provide on certain occasions, when above all others there should be peace and order and security, that the keeping of the peace shall be put independently into the hands in every voting precinct of six or eight or ten or any number of men of opposite biases, neither having any control over the other and each having the equal and independent right to arrest everybody that he thinks is guilty of a breach of the peace on that occasion or to arrest each other!

That is on the day of the election, Mr. President. How does it stand under this bill on other days? Does your bill provide that the duties and powers of these marshals shall cease at the end of the election day or at the end of the registration day? Does it provide that they shall begin only when the registration is to begin or about to begin, or the election is to begin or is about to begin? Not a bit of it. They are to be appointed, unless the whole bill is a cheat in some instances as was shown by the Senator from New York from the statute—if you believe in that, and I do not know that you do—six months in advance of the occasion to which, as your bill very vaguely says, reference is to be had. Well you can refer to the Deluge which was several thousand years ago. "Reference" gives an infinite latitude in respect of time.

What are you going to do all the rest of that time in respect to any matter and all the matters that under any construction of this bill are to call for the exercise of the executive power of this Government in the enforcement of the laws? You are going to have a body for a greater or a less length of time, and no man can say how long or how short, of independent marshals all over the country with no common head, nobody responsible for their conduct except each man for himself and a law unto himself; and that you call reform I suppose; and you are determined, as the Senator from Massachusetts [Mr. HOAR] has said, (and nobody has been able to make a criticism upon the correctness of his remarks,) not merely that these selections shall be made without reference to political bias or standing, but that they shall be made with reference to it, and that you cannot take a man to execute the law unless he is a partisan. When we have had the census law before us it has been stated in the newspapers—of course, I have no right to know anything about it in any other way—that the great reformers of this latter day have insisted that you could not have a man even to count his neighbors if he had any political opinion whatever. That is what the law seems to say certainly in respect to his selection. But how is it when you come to count votes and preserve the peace on the occasion of counting votes or preserve the peace and execute the laws on all the other days between the time of the appointment of these marshals, and that indefinite and never to be reached future when they go out of office—for there is no limit to their term; it is true it says that the court shall appoint in each year, but it does not say that the old fellows shall go out; but they go on accumulating at $5 a day for every day in the year, and that is democratic economy, I suppose? And so you are to go on. You say, as to the census, just what the amendment of the

Senator from Massachusetts proposed, that the selection should be made without reference to political bias, and, therefore, that the best and most honorable men should be taken without stopping to inquire what they think about the preservation of the Union or about the tariff. But when it comes to this business you must first have an examining board to find out the political opinions of the persons to be selected. Well, inasmuch as this is done under the name of reform, it may be a good thing for those that like it.

That, then, is the present state of this bill. You are to have an indefinite and equal number from all parties of independent marshals appointed for every precinct, with no control over each other and no common head; every man absolute; and then you are to have, just as your bill puts it, a body of officers who have no powers at all out of the voting precinct in which they reside. That precinct as I said a little while ago may be a single block of houses in a city, bounded on its four sides by the center of the four respective streets that surround it; and the marshal the moment he gets with a prisoner over the line of the center of a street in going to the office of the commissioner who issued the warrant for his arrest, ceases to be a marshal, he has no power over the prisoner, his right to hold him is gone just as much as if the marshal of Vermont should undertake to hold a prisoner on the other side of the line in the State of New York or of New Hampshire. That would be convenient for the violent and destructive and cheating men who hang around the precinct, because they would not much mind being arrested and carried to the center of the street, and then have liberty to knock down the marshal and go back to their nefarious work again. I suppose that is what you mean; and inasmuch as you mean it, I suppose you think it is right, and if it is just what you want, (and I do not know but that it is, for I am bound to suppose you are in earnest about this business and perfectly sincere,) then you want to make the election day as much of a hell and pandemonium and chaos as possible.

That is the attitude of these men. Is there on that day, to say nothing of the other days to which the honorable Senator from New York has referred before and I have now, any other executive power that can execute a warrant? Every voting precinct adjoins on some other in these cities, and you have declared the true construction of your bill to be, and it is the true construction beyond all question, that the marshal himself and none of his general deputies shall have any authority on that day whatever in respect of any process or act that has reference to an election, or an election disturbance, or anything of that kind.

Mr. CONKLING. Or on any other day.

Mr. EDMUNDS. Or on any other day, as the Senator from New York says; but in order to condense and save time, for I know the Senator from Delaware is desirous for reasons that are quite correct to finish this bill as soon as he can, I confine myself to that day. On that day, therefore, you have no executive authority at all in any city, for the voting precincts fill it all up, in the marshal of the United States or in the general and regular deputies that are his ordinary and usual and necessary assistants from one year's end to the other; and in respect of these that you provide for in this bill, no one of them has a particle of authority or official right to do anything outside of the particular voting precinct, of one block as it may be and often is, in which he resides.

Well, if you succeed in turning this bill into a law you will have succeeded in taking a large step certainly toward the success of a certain party that shall be nameless—a large step. The free right of free voting and frequent voting, early and often, of tissue-ballots, of armed intimidation, of everything that corrupts and disturbs and overthrows the purity and peace and justice of an election by the people will go on and will do their perfect work.

There is another curious thing about this bill, Mr. President, that, if my voice could reach the ear of the intelligent American people, I should like to say to them. This bill rests upon the theory, good or bad, that in respect of elections not only the mere tellers and representatives of the two parties as witnesses and assistants to check each other in the administrative reception of ballots and challenges and counts, &c., shall be present and that they shall be composed of the representatives of the two parties, but that the executive power proper which exercises the force as distinguished from the deliberation of the law, shall also be drawn into play by partisan representation in order to secure observation, as the theory is an equality of protection all around.

That is the theory. I believe I have correctly stated it. If I have not I shall be glad to be corrected now. I see the honorable Senator from Delaware in charge of the bill does not correct it, and I assume that I have stated it correctly. That is the theory then, I assume, Mr. President, that the committee that reported this bill believe in that theory, that not only the supervisors of the election but that the marshals who are to assist in keeping the peace at the election shall be equally drawn into representation and action from the various political parties, and that it is not fit that the executive power of the President of the United States or his executive subordinates shall be exerted in the selection of the executive officers who are to exert the power of the Government as distinguished from its administrative deliberation and action, but that the courts shall be resorted to to make these selections. That is the very ground on which the Senator from Delaware places this bill, and is the very provision of the bill itself. You say it is not right that the executive power, either directly or mediately through the marshal, shall appoint the deputies, but that the court shall. You say it is not fit that discretion should be left even to the court to select freely such men as it thinks suitable, but that it must select men for their partisan opinions, taking into the arrangement an equality of representation. You say that, and you have refused to make any change, so that you are committed to it.

Now, Mr. President, what has this same Judiciary Committee told us within a very short period of time on this subject? Let us see. On the 9th of February, 1880, Hon. Mr. WALLACE, the Senator from Pennsylvania, introduced and had referred to the Committee on the Judiciary, the same committee you may remember, Mr. President, that reported this bill now under consideration, and whose organ is now pressing it, "a bill to define the terms of office of certain officials of the United States." I intend to read it in order that the RECORD may have it to all time side by side with this bill that you are about to pass, and then I intend to read the pending bill, so that the two shall stand side by side in the RECORD as the production of the Judiciary Committee of the Senate, and as the will of the majority of the Senate. The bill introduced by the Senator from Pennsylvania is Senate bill No. 1252, and it provides: That the term of office of chief supervisors of election, provided for in section 2025 of the Revised Statutes, shall be two years. Such term shall begin on the 1st day of May in each even-numbered year. The terms of those now in office shall expire on the 1st day of May, 1880, and their successors shall be appointed from among the qualified electors of the proper judicial district by the President of the United States, by and with the advice and consent of the Senate.

That bill having been referred to the Committee on the Judiciary of this body was considered there, I must assume, and on the 10th day of March it was "reported by Mr. BAYARD with an amendment," the amendment being simply a change of title apparently—nothing else—with a recommendation that it pass. Now, in order to bring these two bills directly together I propose to read the bill that you are about to pass now; I will read it in the form in which it is reported by the committee, so that we shall have the committee's position, according to its own attitude, side by side:

That from and after the passage of this act the pay of all deputy marshals for services in reference to any election shall be $5 for each day of actual service, and no more.

SEC. 2. That all deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, in each year, at the term of court next preceding any election of Representatives or Delegates in Congress; but if from any cause there should be no session of the circuit courts in the States or districts where such marshals are to be appointed, then, and in that case, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said district courts; and the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens, of good moral character, and actual residents of the voting precincts in which their duties are to be performed, and shall not be candidates for any office at such election; and all laws and parts of laws inconsistent with this act are hereby repealed.

The majority of the Committee on the Judiciary declare now in the bill we have under consideration that it is unfit that the executive power shall appoint marshals who are to serve processes and keep the peace of the United States in reference to elections; it is not fit that the courts who are to appoint shall have the liberty of free choice among the reputable citizens of the United States, but that it is fit and indispensable that that choice shall be made from partisans on every side in equal numbers. The same committee says that it is also fit that the supervisor of the elections who are to stand by and see that the ballots are fairly deposited and fairly counted, and to participate in that, and to do nothing else substantially, shall not be appointed by the courts, but shall be appointed by the Executive. It declares that it is not fit that there shall be any equal representation of parties in that duty of observation and check upon each other, but that the President of the United States, aided by the Senate, must be and ought to be at liberty to select, according to his own and the Senate's discretion, all from one party if you please.

Mr. CONKLING. If the Senator from Vermont will allow me, I wish to have appear in the RECORD as pertinent to what he is now saying the substance of another bill reported by the Senator from Delaware [Mr. BAYARD] from the Judiciary Committee on the 31st of March, 1880, the point of which is to amend section 2022 of the statutes, I read from the bill, "by striking out the words 'with or without,' on the eighth line, and inserting in lieu thereof the words 'only with due legal;' so that the section will read"—and now I read the operative words with the remark, as I understand it, that after this bill shall become a law there will be no other words authorizing or permitting deputy marshals to make any arrest of any person whatsoever on election day—

Arrest and take into custody, only with due legal process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or commits any offense against the laws of the United States.

As I understand the effect of this is that neither on view of a misdemeanor or a felony nor of any act, however atrocious, committed by any man, an officer of election or anybody else, committed by one man or by three men, (which I believe is the requisite number to make a riot,) or by thirty men, upon no possible occasion however aggravated, can any peace officer on that day proceed to do anything unless he is able to find a judicial officer, make the proof, obtain a warrant,

and go afterward with this judicial process upon which only he may interpose.

Mr. ALLISON. What is the number of the bill?

Mr. CONKLING. It is Senate bill No. 1456, and bears this imprint:

IN THE SENATE OF THE UNITED STATES.

March 10, 1880.—Mr. BAYARD asked, and by unanimous consent obtained, leave to bring in the following bill; which was read twice, and referred to the Committee on the Judiciary.

March 31, 1880.—Reported by Mr. BAYARD, with an amendment, namely: Omit the part struck through.

I have read the gravamen of the bill.

Mr. EDMUNDS. I am very much obliged to my friend from New York; I had mislaid the copy of that bill which I had intended to have read in connection with the other; and I will now present the whole of the bill which my friend from New York has partly read, to go in connection with the bill I have already read:

[Forty-sixth Congress, second session—S. 1456.]

IN THE SENATE OF THE UNITED STATES.

March 10, 1880.—Mr. BAYARD asked, and by unanimous consent obtained, leave to bring in the following bill; which was read twice, and referred to the Committee on the Judiciary.

March 31, 1880.—Reported by Mr. BAYARD, with an amendment, to wit: Omit the part struck through.

A bill to amend section 2022 of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2022 of the Revised Statutes be, and the same is hereby, amended by striking out the words "with or without," on the eighth line, and inserting in lieu thereof the words "only with due legal;" and also by striking out all the remainder of the said section from and after the words "United States," on the eleventh line; so that the said section when amended shall read:

"SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registration or voting, arrest and take into custody, only with due legal process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or commits any offense against the laws of the United States."

The Judiciary Committee of this body, now urging this bill which is pending before the Senate, is of opinion that it is not fit, notwithstanding the ground upon which this bill is pressed, as I have said, that the executive matters of administrative law should be left, in respect of the persons who are to perform them, to the selection of the courts, but that it is fit that now and here that law shall be repealed, and that the constitutional provision for the President and the Senate shall come into play. It is also declared and asserted by this report that it is not fit that the law shall contain any reference to political opinions of persons appointed to office about these elections, but that it is fit and necessary that the President and Senate shall have free scope to choose whom and what they will.

Will not some independent thinking citizens of the United States, even though they go by the name of democrat, think that is a little queer, that you are trying to change the law as it now stands in respect of supervisors for whose appointment from each political party strong reasons can be stated, and in many of the States provisions of that kind do exist, whether they are democratic or republican States; you are to provide that that shall not stand; you are to provide that the courts shall have nothing to do with it; while in the same breath you turn around and say that as to the executive force of this Government that exerts its power under the law in seeing that the laws are faithfully and fairly executed the selections shall be turned over to the courts and that the courts shall not have the liberty of choice that you demand for the President and Senate, but that they shall make up this executive force by the selection of partisans from all sides? The jewel of consistency must be a Koh-i-Nor in the hallowed halls of the Judiciary Committee, I must suppose. Will not somebody be likely to believe that the object of both these changes is in order to squeeze the power of bedeviling things at the next election into the hands of a certain party? Can anybody doubt it?

This body contains a majority of gentlemen supposed to be of a certain way of thinking; what that is nobody knows; but they act together even with their allies, or rather I should say ally, whom I do not see just now. And if you can pass one of the bills I have read, then what kind of men are you going to have for supervisors? You have repealed the law that says they shall be selected from opposing political parties, and so you will not have that law any more. You have said it shall be left to the sweet and independent and unbiased judgment of the Senate and of the President, and of the Senate in the end, because we are the last body that acts. Do you think you are likely to get a selection from different parties for supervisors in that way? The Senate would almost betray its duty if it insisted upon any such thing, because if anybody raised such a question, would not every Senator have a right to reply: "The judgment of the Congress of the United States, the whole law-making power, has been exerted to repeal a provision which said that these officers ought to be selected from the two sides; that has been condemned by the constitutional expression of the judgment of the whole power of the Government, Senate and House and President?" "Do not, therefore, insist when nominations come in from opposing political parties following the theory of the old law when the power of appointment was in the courts, and the provisions of the old law do not say that we are to do that. We are doing just the thing that we undertook to cut up by this repeal. The only man who is safe to be trusted as a supervisor and witness and check at the election of a member of Congress is the man who thinks politically as we do. Therefore we will not confirm anybody unless he is a democrat true-blue, dyed in the wool."

That is the object you have in view of course. Nobody can disguise it; nobody wants to do so, I suppose. You are a bold, brave body of men. You have not any concealments. That is what you intend to do and what you say plainly in your bill: "Inasmuch as under the law as it now stands the appointment of supervisors is with the courts, and inasmuch as the courts are bound to give each of the two opposing parties one in that selection, it may happen that there will be a chance on one side or the other to see whether any cheating is done, and whether fair play is going on or whether it is not, we want to change that; we do not want the courts to have the power to appoint, because if the courts do they must appoint under the law and appoint a representative from each side to do this observing and witnessing of the operation; that is not right for our purposes; we want to appoint him ourselves, and we do not want to be limited in the law to a selection, for this purpose even, of a representative from each of the two sides; by no manner of means; we want everybody that stands around a tissue-ballot box in particular, or who has to pass upon a naturalization paper and so on, to be of the true way of thinking; he will be likely to see difficulties and make trouble if he is not. So we will repeal that law and set up a law for ourselves; but inasmuch as we happen to have a President of the United States who does not agree with us in political thinking, and the most of whose marshals now holding office do not happen to agree with us in the political way of thinking, and inasmuch as the marshals from the beginning of the Government down to this day have had the appointment of their deputies, and inasmuch as the marshals are authorized for these election cases to increase their executive force as far as is necessary, we cannot control that in this way; we must have a new law for that matter; and on the very principle that we have repudiated in respect of the existing law as to supervisors we will proceed to turn the marshals over to the courts and compel them to give us half of them. While the standing law compels the courts to give each side one-half of the supervisors, we take that away and take all the supervisors ourselves, and we will compel the courts to give us half of the marshals." That is the honorable and patriotic consistency, the policy of that kind of constitutional government that we are trying to carry on, is it?

Mr. President, I must confess in all seriousness my utter amazement at these bills being reported from this same committee representing the majority of this body, and getting, as this one has and as the others will, the steady support of every member of that majority. As I say, courage is a thing I admire; but still I repeat my amazement that even courage should carry you so far as to be willing to tell the Executive, who is to be called upon to sign these bills, and to tell the people of the United States that you are going to stand on both these propositions at the same time, in order if you can to obtain an advantage; that when it makes for your interest as you think you will deny to the courts the propriety of their appointing any executive officer of the United States; you will deny that it is right that supervisors, observers of election, shall be representative men of the two parties; you will repeal that and in the same breath you will declare, because you can gain something by that as you think, that the marshals shall be appointed in the same way and by the same power that you repudiate for supervisors, for whose appointment in that way, as I said before, there is strong reason which does not apply to marshals.

Now, Mr. President, we can get some light probably on the theory of this bill itself, leaving out now the others, from the practice of the States. There is the State of Delaware, represented by my honorable friend in charge of this bill, who has said, as has said the honorable Senator from Ohio, the chairman of the Committee on the Judiciary, [Mr. THURMAN,] that the powers exerted by these marshals and the methods of their appointment and so on are extraordinary and excessive, and that you wish to preserve the liberties of the people of the United States and shape our legislation to conform to the spirit of the laws of the States where this legislation is to be carried into effect. That is your theory. It is one that sounds very well stated in that way. Now I turn to the statutes of the State of Delaware and find that as to the judges of election, the people who exert powers similar to although greater than those of these supervisors of election, that State provides that they are to be appointed in a way that allows a representation of both sides in many instances; I think not in all, for that depends on what you may call an accident; but the theory of the statute is that the supervising officers shall be appointed from the two different political parties, the majority and the minority. They are called judges of election; they are the people who attend to the reception of votes and the counting of ballots.

But what is done as to those who are to keep the peace on that occasion in the State of Delaware, your constables, &c.? Turning to the statutes of Delaware I find that the law does not make any provision of that kind as to constables. They are to be appointed according to the force of the powers that have the control of the organization of the State; no division between political parties there; no appointment by courts of judges or anybody else, but they are appointed in the regular and ordinary methods of executive appointment in one form or another, exactly as the law of the United States

is in substance and effect now in respect to this business as to the elections of members of Congress. The judges of the election represent the majority and the minority. The exertion of the political power of the Government in keeping the peace and executing process is left exactly as it is under the laws of the United States, to the ordinary executive channels. That is where you are. But you do not want the law as it is in the State of Delaware. That does not suit you; it is not good enough as you think, or as you think you think, or as you think somebody thinks that you think. I should not want to state any of these propositions too positively. That is the way you seem to want to have it.

Again, Mr. President, the Senator from Ohio, and I do not know but the Senator from Delaware, has said that this power of arrest on the occasion of an election without warrant was an extraordinary and excessive power. Well, let us look to the States. I will take the State of Delaware, for instance, and look to her law about arrests. Let us see how very extraordinary the legislation of Congress is. I read from the revised code of Delaware of 1852, as amended, &c., the edition of 1874, and so I suppose it brings the laws down to 1874—page 769:

That if any person or persons shall, within the limits of this State, arrest, or cause or procure or aid in the arrest of any white citizen of this State, or of any white non-resident, being at the time within the limits of this State, unless such arrest shall be made upon legal process issued for that purpose by a judge, justice of the peace, or some other officer duly authorized to issue process in criminal or civil proceedings by the laws of this State or of the United States, or unless such arrest be made to prevent a breach of the peace or the commission of some crime against the laws of this State or of the United States—

What then?

the person or persons so arrested shall be, forthwith and without any intermediate incarceration, taken before a judge, justice of the peace, or other officer duly authorized—

and complaint shall be made, &c. So that you see the standing laws of the ancient Commonwealth of Delaware provide in substance and almost literally as the laws of the United States provide, for an arrest by the executive authority of persons without warrant when it is to be done to prevent even a breach of the peace. It is not necessary that a breach of the peace should have occurred.

Mr. BAYARD. Will the Senator give me the date of the act he speaks of?

Mr. EDMUNDS. It is dated 24th of February, 1863. The act was passed in 1863, but this edition was prepared under a resolution of the General Assembly of the State of Delaware of the 20th of February, 1871, and is brought down to the year of our Lord 1874. So, as I said before, I take it to be the volume of laws in force in the year 1874. This may have been changed or repealed since.

We have then in the State of Delaware—which I am sure my honorable friend will not reproach for having excessive laws against liberty, &c.—a provision that I have no doubt can be found in the laws of almost all the States just in substance like the provision in the laws of the United States about the power of the executive part of the Government exerted through its hands and arms, as the constables and sheriffs in the States are and as the marshals and nobody else are in the United States, to preserve the peace and prevent a breach of it, which is merely saying (to prevent the violation of the sovereign law that is to protect everybody in his rights and) that that may be done on occasion without any warrant at all as it ought to be.

I hope, therefore, that we shall not be pressed in the passage of this bill with the argument made by the Senator from Ohio that the object of the bill is to cramp and squeeze and limit some excessive powers that the laws of the United States give to marshals and their deputies of making arrests on occasions of elections without warrant, because Senators who urge that argument I think are in a mistake. As I have shown, this law of the United States is not excessive, it is not extraordinary, it is in entire harmony with the laws of the State of Delaware as it is with the laws of the State of Vermont; it is in entire harmony—I say it of course with great diffidence—with the laws of the State of Ohio, represented by the honorable chairman of the Committee on the Judiciary; and here they are. If I am wrong I have the other Senator from Ohio [Mr. PENDLETON] in my eye who is familiar with these statutes, and if I am wrong in supposing that by the statutes of the State of Ohio it is lawful for a peace officer, a sheriff or constable or by whatever name you call him, to make an arrest to prevent or punish or take up for punishment a breach of the peace on an election day and every other day without a warrant, then I beg him to tell me so. He does not reply. I take it I am right in that supposition. If he thinks I am wrong, I will open the statute and read it, for here is the volume of Ohio laws.

Why, then, should we be told by my honorable friend the chairman of the Committee on the Judiciary that this provision of the laws of the United States is excessive and extraordinary, when it has found its origin, its support, and its precedents in the statutes of the State of Ohio and the statutes of the State of Delaware, and I think I can say with safety in the statutes of probably every State in this Union? Do not let us hear any more, Mr. President, about this bill being a noble effort to protect and defend liberty against excessive and extraordinary laws.

This being the state of this affair, it was also stated by the Senator from Delaware—and I hope he will give me his attention, so that I shall not err in my statement—that it was not designed by this bill to cut off or to limit in the hands of these deputy marshals, to be appointed in the way this bill prescribes, any of the legal powers that the deputy marshals now have by law. If I am wrong in that, the Senator will correct me.

Mr. BAYARD. I stated that their power was unimpaired by this bill; that it touched only their term of office, the source by which they are appointed, and the character of the men appointed.

Mr. EDMUNDS. I so understood the Senator. The Senator speaks of the term of office. I suppose he means by that probably that by implication or in some way they are only to hold for a year; I do not care what the Senator means about that. Then I was correct, as I thought I was, that the theory of the Senator and the committee is that the persons appointed in the way named in this bill, if it is to become a law, will have all the powers that the persons whose places they take, now provided by law, have. I do not read this bill in that way. I do not find in this bill, which creates a new officer, appointed by a new power, holding by a new term, connected by nothing in this bill with existing rights and powers at all except the vague phrase "in reference to elections,"—I do not find in this bill anything which will warrant the supposition of the Senator from Delaware that these persons will have the powers that deputy marshals by law have now.

I propose to offer an amendment to make that clear, and I hope that it will meet the unanimous approval of the Senate. I wish it might; I can hardly say I hope it will, because hope implies some expectation I believe. But before I offer it, speaking of this same branch of the topic, you cannot have forgotten, sir, that the Judiciary Committee has reported another bill on this subject which is to provide—

That it shall not be lawful for any marshal, or deputy marshal, or supervisor of election, or any person acting by their authority, to arrest or imprison on election day any election officer acting as such under and by virtue of election or appointment under any State law for any offense against the election laws of the United States, but the warrant or process for such offense may be executed at any time after the close of such election day.

That is, I suppose twelve o'clock at night of the day of the election or if as in some States the election proceeds—I do not know that it does under the act of Congress—over three or four days, at the end of the three or four days that might be construed.

It is part also of the scheme that having got your deputy marshal, and having given him, or think you have given him, or not taken away from him, the powers that he now has, you propose to say that no election officer shall be arrested by any authority of the United States for any offense against the laws of the United States. We have heard very strong arguments, loud and not very long, in favor of that proposition in the way of the discussion of some of these very bills, that this power of arrest on election day might be greatly abused. The judge of the polls, I believe the Senator from Ohio said, might be dragged from his desk by one of these minions of power for an alleged offense against the laws of the United States, and that was monstrous and extraordinary. Can the honorable Senator from Ohio, the chairman of the Committee on the Judiciary, show me anything in the statutes of Ohio to prevent a sheriff doing that very thing to a State officer on election day? I do not think he can. Wishing to seek the very head springs and sources of legislative knowledge, I have been studying the statutes of Ohio for some time past, and I can find no such limitation or restriction. The power of arrest, the orderly process of the law in the State of Ohio, moves on election day just as it does on the others, just as it does in Vermont, just as it does in Delaware, just as it does in New York, and in every other State. Therefore the only power that is to be cramped and broken down in the preservation of what the States make their laws to preserve in respect of their own elections is the power of the United States in respect of the elections of members of Congress. That is what you want to do. You are unwilling that this Government of ours, this Government of all the States and all the people, shall be conducted on laws like those that you conduct your own affairs in your own States on, and while in your States the supremacy of the law is equally great on the day of the election when it comes to the United States it shall not be so.

What can be the motive for such a purpose as that? Where is its philosophy? I think we can imagine; no, we do not need to imagine; I think we can see motives, but can you see the philosophy of it? I think I am safe in saying that the laws of all the States are substantially the same as in Vermont in this respect; but Delaware, Vermont, and New York are enough for me; and I say that either the laws of every one of these States are based upon a false and defective theory and have been from their birth to this time, or this law that you propose to make is based upon a false and defective theory, because they do not stand together; they stand in direct opposition. The sheriff, the constable, in Delaware, or Vermont, or Ohio takes the election officer, if he is charged with a crime, from his desk, where he is stuffing the ballot-box, or charged with stuffing it, takes him from his desk, where he is assisting in passing fraudulent naturalization papers, and takes him into the arena of law. Does that stop the election? By no means. The laws of all your States provide for occasions of that kind. When the wicked or accused person disappears from the scene that he has disgraced, a better man takes his place, that the law provides for, and the election goes on. It might have the tendency to stop the performance of the false ballots or the false papers. But you are to provide, as a part of your grand scheme of reformation, that there shall be no interference by the

hand of the law with any people who break it connected with the elections, and break it chiefly and in the very seat of safety and of power, by the election officers until the wickedness is accomplished, until the mischief is done. Perhaps you think that is legislative progress, civilization, reform, entitling the majority of this body to still further confidence and respect from their constituencies. The constituencies will judge.

So you go on, taking these bills one after another, and you come down to the simple proposition, that which appears to be the determination of the majority of the Senate, that you will not have the law stand as it does in respect of courts appointing supervisors of election; you will not have the law stand as it does in respect of these supervisors being selected equally from the opposing parties. You will repeal all that, and take the unlimited power of appointment into your own hands. But inasmuch as you cannot get the unlimited power of appointment in your own hands as to the deputy marshals who are to keep the peace, you will reverse the performance and compel the courts to appoint them and to divide them one-half or more to yourselves, and that on what you call a theory of legislative jurisdiction. That you profess to defend upon the ground that there is a just political wisdom and philosophy in it. Then you add that no other marshal shall have any power on that day, and that the marshal you provide for being appointed shall have no power except in the block in which he lives. He cannot take a prisoner to jail. The moment he gets with him into the street he is free and has a right to go.

I said on a former occasion that it appeared to me, as it does still, that this provision for appointment by the district courts, if you are to make it at all, is self-destructive in the courts, because in every State and district there is some session of the circuit court at some time in the year. The consequence is that there will be no occasion on which the judges of the district court can exert any of the powers provided for in this act. That, therefore, is absolutely null; and you come to what the circuit court is made to do. The circuit court is to do this at a session. It does not say at the session next preceding; but it must be at some session, I suppose, in that State. There is no provision in the bill for authorizing the circuit judge to convene his circuit court for this purpose, as there is in the law now on the statute-book about the appointment of supervisors that the circuit courts have. Therefore if you are sincere, as I must suppose you are, in designing to leave some vitality and effectiveness to this power of appointment, and to enable the circuit courts to do it and to do it on the proper occasion just before an election, so that the $5 a day will not begin to run until it is necessary that it shall, and to have it stop when the duties are over by terminating their office, &c., I propose an amendment, which I send to the desk and ask the Secretary to read.

The CHIEF CLERK. In section 2, line 4, after the word "duties," it is proposed to strike out the following words:

In each year, at the term of court next preceding any election of Representatives or Delegates in Congress; but if from any cause there should be no session of the circuit courts in the States or districts where such marshals are to be appointed, then, in that case, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said district courts.

And in lieu thereof to insert:

To be opened and held in the same manner, and on the application of ten or more citizens of good standing, as is provided in section 2011 of the Revised Statutes of the United States. Such number of marshals may be appointed as the court shall deem necessary. Said court and its judges shall, in respect of the appointment of such marshals, have all the powers named in sections 2013, 2014, and 2015 of the Revised Statutes of the United States. Such deputy marshals shall be, like other deputy marshals, under the orders and control of the marshal of the district in which the appointment is made, and may be removed by him. Such deputy marshals shall have all and the same powers now lawfully possessed by other deputy marshals, and all the powers conferred on the marshal and his deputies by title 26 of the Revised Statutes of the Unied States.

So as to read:

SEC. 2. That all the deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, to be opened and held in the same manner, &c.

Mr. EDMUNDS. This amendment provides, to effectuate exactly what the Senator from Delaware has stated, and as I say I have not the slightest doubt with entire sincerity, his belief and desire and design to be in respect of the effect of this bill as it is reported; that is to say, as to the powers of these marshals, they shall have all the powers that the present marshals have. As to the appointment of them it carries out what I understand the Senator and the committee to desire, and that is to vest this power of appointment in the circuit courts of the United States effectively, so that the law shall not be either designed or operate to defeat its own professed purpose.

Therefore I have proposed, in the first place, in this amendment that these marshals are to be appointed on the application of ten or more reputable citizens just as the supervisors are appointed now. That is more than is now required on application to the marshals to appoint deputies, I know; but in order to test how far the Senate is willing to go in the avowed design of merely transferring this power of appointment and transferring it effectually to the courts, and to have it guarded and limited, I have instead of putting in two, as is the number now to apply to the marshal, inserted "ten," to make it just like the supervisors,—ten reputable citizens as is provided in section 2011 of the Revised Statutes, as to supervisors. That is as to the number of people who may apply. Then I provide that the court is to be opened and held in the same manner as is provided in section 2011, and that is, it is to be opened upon the application of ten or more citizens of good standing, who apply to the court for that purpose, and who wish to have the peace preserved, and the election scrutinized, &c.

Then it provides in the following sections that are referred to that the number of marshals shall be such as the court thinks is necessary, that the court and its judges in respect of the appointment of such marshals shall have all the powers named in sections 2013, 2014, and 2015. What are those powers? Section 2013 provides that—

The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

Section 2014 provides that whenever the judge of the circuit court is unable from any cause to perform these duties he may designate a district judge to perform them in his place. That the bill professes a wish to do; it says that when the circuit court cannot do it, the district judge may open his court. This puts it in the same category with the supervisors, to be done on the same application and in the same way by the circuit court calling to its assistance, if need be, a judge of the district court. That is another point that the Senate has refused to strike out, and therefore I have limited my amendment to the preceding part of the bill, so as to leave the equality of division where it stood before. It provides, as I think it ought to provide, that these deputies, like other deputies, shall be under the orders and direction of a superior, the marshal himself. It provides that when their duties are done, their service may be dispensed with, that they shall not continue to tax the Treasury; the marshal may terminate their office, and it provides that they shall have the same powers that the present deputy marshals have.

Mr. President, on this amendment I ask for the yeas and nays. That is all I wish to say.

The yeas and nays were ordered.

Mr. PENDLETON. Let the amendment be reported for information.

The Chief Clerk again read the amendment of Mr. EDMUNDS.

The Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) On all political questions I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, I should vote "yea."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. MCPHERSON, (when his name was called.) I am paired on this question with the Senator from Maine, [Mr. BLAINE.]

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Texas, [Mr. MAXEY.] If he were here, I should vote "yea."

Mr. WHYTE, (when his name was called.) Upon this question I am paired with the Senator from Illinois, [Mr. LOGAN.]

The roll-call was concluded.

Mr. INGALLS. I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. TELLER. I am paired on this subject with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

Mr. RANSOM. Yesterday evening I paired with the Senator from Michigan [Mr. FERRY] on these questions. I do not see him in his seat. My impression was that the pair was for that evening, but as he is not here, probably I had better withhold my vote. He may have considered the pair as extending to to-day; and unless some gentleman on the other side knows about it, I shall not feel at liberty to let my vote stand as recorded.

Mr. MCMILLAN. The Senator from Michigan is in the building.

Mr. RANSOM. I understand that the Senator from Michigan is here, and I shall let my vote stand.

Mr. DAVIS, of West Virginia. I am requested to announce that my colleague [Mr. HEREFORD] is paired with the Senator from Colorado [Mr. HILL] on all political questions.

The result was announced—yeas 12, nays 29; as follows:

YEAS—12.

Allison,	Cameron of Pa.,	Hoar,	Morrill,
Blair,	Cameron of Wis.,	Kirkwood,	Rollins,
Booth,	Edmunds,	McMillan,	Saunders.

NAYS—29.

Bailey,	Gordon,	McDonald,	Vance,
Bayard,	Groome,	Morgan,	Voorhees,
Beck,	Hampton,	Pendleton,	Walker,
Call,	Hill of Georgia,	Pryor,	Wallace,
Cockrell,	Johnston,	Ransom,	Williams.
Coke,	Jonas,	Saulsbury,	
Eaton,	Jones of Florida,	Slater,	
Farley,	Kernan,	Thurman,	

ABSENT—35.

Anthony,	Burnside,	Davis of Illinois,	Garland,
Baldwin,	Butler,	Davis of W. Va.,	Grover,
Blaine,	Carpenter,	Dawes,	Hamlin,
Bruce,	Conkling,	Ferry,	Harris,

Hereford,	Lamar,	Platt,	Vest,
Hill of Colorado,	Logan,	Plumb,	Whyte,
Ingalls,	McPherson,	Randolph,	Windom,
Jones of Nevada,	Maxey,	Sharon,	Withers.
Kellogg,	Paddock,	Teller,	

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and it was read the third time.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, he would vote "yea" and I should vote "nay."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. DAVIS, of West Virginia, (when his name was called.) Upon this question I am paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. McPHERSON, (when his name was called.) I am paired with the Senator from Maine, [Mr. BLAINE.]

Mr. WHYTE, (when his name was called.) I am paired on this question with the Senator from Illinois, [Mr. LOGAN.] If he were here, I presume he would vote "nay," and I should certainly vote "yea."

The roll-call was concluded.

Mr. JONES, of Florida. I am paired with the Senator from New York [Mr. CONKLING] on this bill, and thought he was in when the vote was taken on the amendment a while ago. I voted on the amendment inadvertently, under the impression that the Senator from New York was here.

The result was announced—yeas 28, nays 17; as follows:

YEAS—28.

Bailey,	Eaton,	Jonas,	Saulsbury,
Bayard,	Farley,	Kernan,	Slater,
Beck,	Garland,	McDonald,	Thurman,
Call,	Gordon,	Morgan,	Vance,
Cockrell,	Hampton,	Pendleton,	Walker,
Coke,	Harris,	Pryor,	Wallace,
Davis of Illinois,	Johnston,	Ransom,	Williams.

NAYS—17.

Allison,	Cameron of Wis.,	Kirkwood,	Teller,
Anthony,	Dawes,	McMillan,	Windom.
Blair,	Edmunds,	Morrill,	
Booth,	Hoar,	Rollins,	
Cameron of Pa.,	Kellogg,	Saunders,	

ABSENT—31.

Baldwin,	Ferry,	Jones of Florida,	Plumb,
Blaine,	Groome,	Jones of Nevada,	Randolph,
Brnce,	Grover,	Lamar,	Sharon
Burnside,	Hamlin,	Logan,	Vest,
Butler,	Hereford,	McPherson,	Voorhees,
Carpenter,	Hill of Colorado,	Maxey,	Whyte,
Conkling,	Hill of Georgia,	Paddock,	Withers
Davis of W. Va.,	Ingalls,	Platt,	

So the bill was passed.

The title was amended so as to read: "A bill regulating the pay and appointment of deputy marshals."

INTERNAL-REVENUE LAWS.

Mr. BECK. I am requested by the chairman of the Committee on Finance, [Mr. BAYARD,] who is compelled to leave the Chamber this minute, to give notice that on Monday as soon as the ordinary morning business is over he will call up and ask the Senate to consider the bill (H. R. No. 4812) to amend the laws in relation to internal revenue, known as the Carlisle bill. I desire also to say that this afternoon we shall lay the report of the House committee, together with the testimony of the commissioner that was taken before that committee, on the desks of Senators, so that between now and Monday morning we hope they will look it over.

ORDER OF BUSINESS.

Mr. MORGAN. I desire to have taken up the resolution reported by me May 14th, from the select committee to take into consideration the elections of President and Vice-President, providing a joint rule for counting the votes of electors of President and Vice-President. I will say that I understand the Committee on Appropriations desire to bring the legislative, executive, and judicial appropriation bill before the Senate this afternoon, and if the Senate will take up the resolution I will then agree to lay it aside for the consideration of that bill, so as to make way for the appropriation bill.

Mr. DAVIS, of West Virginia. There can be no objection to that.

The PRESIDENT *pro tempore*. As several Senators seem to have morning business to present, the Chair, with the consent of the Senate, will receive it without displacing the motion of the Senator from Alabama.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Pennsylvania, presented a memorial of lumber merchants and manufacturers of cooperage materials of New York, Indiana, Ohio, and Michigan, remonstrating against any increase of the duties now imposed upon low-grade sugars; which was referred to the Committee on Finance.

He also presented a petition of residents of Pennsylvania, ex-Union soldiers, requesting the Senators and Representatives from Pennsylvania to use all proper means to prevent partisan action on the Fitz-John Porter case; which was ordered to lie on the table.

He also presented four petitions numerously signed by citizens of Philadelphia, Pennsylvania, praying for the passage of a law granting land titles to Indians in severalty on their reservations, said titles not to be subject to alienation, lease, or incumbrance for the period of twenty-five years from the date of the patent; which were referred to the Committee on Indian Affairs.

Mr. WHYTE presented the memorial of the Board of Trade of the city of Baltimore, Maryland, praying for an appropriation for the construction of two new steam-tenders for the use of the Light-House Board in the fifth light-house district; which was referred to the Committee on Commerce.

He also presented the petition of L. Furstenberg & Co., of Rossville, Baltimore County, Maryland, manufacturer of pig-iron, employing one hundred and five hands; the petition of Charles E. Coffin, of Muirkirk, Prince George County, Maryland, manufacturer of charcoal pig-iron, employing two hundred and twenty-eight hands; the petition of J. B. Kunkel, of Catoctin Furnace, Frederick County, Maryland, manufacturer of pig-iron, employing three hundred hands; the petition of the Abbott Iron Company, of Baltimore, Maryland, manufacturers of railroad and plate iron, employing eight hundred hands; and the petition of H. William Ellicott, of Baltimore, Maryland, manufacturer of pig-iron, employing six hundred hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

He also presented the petition of the Society of Friends in Maryland, urging on Congress the passage of a bill instituting a national commission of inquiry to investigate the alcoholic liquor traffic in relation to crime, &c.; which was referred to the Committee on Finance.

Mr. BURNSIDE. On the 14th of May I had the honor to present a petition from a large number of cotton manufacturers of the State of Rhode Island who consume in their operations a million and a half bales of cotton and run ten million spindles and use $100,000,000 of capital. I now have the honor of presenting a largely signed petition bearing the signatures of the woolen manufacturers of the State of Rhode Island, who employ fifty-seven hundred and fifty hands, all to the same purpose, that is, favorable to the passage of the Eaton tariff commission bill. I beg to say that these expressions of opinion on the part of these respectable business men convince me that it would be proper for the Senate to favorably consider that bill. I move that the petition lie on the table.

The motion was agreed to.

Mr. HOAR presented the petition of John Chase, of Webster, Massachusetts, manufacturer of woolen goods, employing three hundred and fifty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. WALLACE presented the petition of Charles Spencer & Co., McCallum, Crease & Sloan, and 12 other firms of Germantown, Philadelphia, Pennsylvania, manufacturers of woolen goods, employing twenty-six hundred and eighty-nine hands, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

He also presented additional papers to accompany the bill (S. No. 1306) for the relief of Henry Starr; which were referred to the Committee on Military Affairs.

Mr. GROOME presented the petition of Higgins, Cobb & Co. and 17 other firms, of Baltimore, Maryland, praying for the enactment of a national bankrupt law that shall be equitable in its provisions for the debtor and creditor classes of all sections of the country; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the bill (S. No. 662) for the relief of William C. Spencer, reported it with an amendment, and submitted a report theron; which was ordered to be printed.

Mr. CAMERON, of Pennsylvania. I desire to make a report. I am directed by the Committee on Military Affairs, to whom was referred the joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage, for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880, to report it without amendment, and I ask the Senate to take it up and act upon it now. I expect to leave the city to-day or to-morrow.

Mr. DAVIS, of West Virginia. The appropriation bill is ready and I hope the Senator will not insist upon that.

Mr. CAMERON, of Pennsylvania. It will only take a minute to pass it. I hope the Senator will give way and allow the joint resolution to be passed.

Mr. KIRKWOOD. It is merely to loan tents for a reunion.

Mr. MORGAN. If the Senate will allow the concurrent resolution

to be taken up, I will yield the floor to the Senator from West Virginia, who, if he chooses, may yield and allow the Senator from Pennsylvania to have his bill considered; but I desire to bring this resolution up because it is a matter of general concern to the country.

Mr. KIRKWOOD. We could have had the joint resolution passed by this time.

Mr. DAVIS, of West Virginia. There is an appropriation bill ready.

Mr. CAMERON, of Pennsylvania. Will the Senator permit me to have taken up the joint resolution I have reported?

Mr. DAVIS, of West Virginia. If I give way to one Senator, I shall have to give way to another.

Mr. CAMERON, of Pennsylvania. I make this request because I am going to leave the city to-morrow to be gone possibly two weeks, and I should like to have the joint resolution passed to-day.

Mr. DAVIS, of West Virginia. If it can be taken up subject to objection, and only by unanimous consent that can be done, I will agree to it, but having charge of an appropriation bill which is ready to be taken up, I cannot allow a measure to be interposed which may provoke a discussion.

Mr. CAMERON, of Pennsylvania. If it occupies over five minutes, I will withdraw the motion.

BILLS INTRODUCED.

Mr. MCDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1783) relating to the survey and disposal of unsurveyed lands, keys, and islands belonging to the United States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1784) to regulate promotions in the several lines of artillery, cavalry, and infantry in the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1785) granting a pension to George Wanck; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 19th instant, approved and signed the act (S. No. 309) for the relief of George Heard.

COUNTING OF ELECTORAL VOTES.

Mr. MORGAN. I have the floor on the motion to take up the concurrent resolution I have indicated. I ask that the Senate now proceed to the consideration of the resolution providing for a joint rule for the counting of the votes of electors of President and Vice-President.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Alabama, that the Senate proceed to the consideration of the joint rule reported from the Select Committee on the Count of the Presidential Vote.

Mr. CAMERON, of Pennsylvania. I ask the Senator from Alabama to yield.

Mr. DAVIS, of Illinois. He is going to give way as soon as that is taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Alabama.

The motion was agreed to.

The PRESIDENT *pro tempore*. The joint rule is before the Senate.

Mr. MORGAN. Let it be reported.

The PRESIDENT *pro tempore*. The rule will be reported by its title.

The CHIEF CLERK. "A joint rule for counting the votes of electors of President and Vice-President."

Mr. MORGAN. Now I yield to the Senator from Pennsylvania.

SOLDIERS' REUNION AT MUSCATINE, IOWA.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania [Mr. CAMERON] asks unanimous consent to proceed to the consideration of the joint resolution reported by him to-day from the Committee on Military Affairs. It is understood that the pending order is to be laid aside by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORT OF FISH COMMISSIONER.

Mr. ANTHONY. I rise to make a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the joint resolution (S. R. No. 109) "to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877," having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

In line 7, strike out "four" and insert "six."

In line 11, strike out the word "twenty."

And as thus amended the House recede from its amendment.

M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.

B. WILSON,
P. C. HAYES,
Managers on the part of the House.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this report?

The question being put, it was determined in the affirmative.

The PRESIDENT *pro tempore*. The report is before the Senate. The question is, Will the Senate concur in the report?

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed a bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution:

A bill (S. No. 1090) to relieve John D. Defrees, Public Printer; and

A joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 1703) authorizing the changing the name of the schooner Rebecca D; and

A bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

Mr. VOORHEES submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That 500 extra copies of the report of the president of the National Academy of Sciences for the past year be printed for the use of the academy.

ORDER OF BUSINESS.

Mr. DAVIS, of West Virginia. I ask now, by consent of the Senator from Alabama, to take up House bill No. 6185 known as the legislative, &c., appropriation bill.

The PRESIDENT *pro tempore*. Unanimous consent is asked that the proposed joint rule be laid aside temporarily, without prejudice by any adjournment, in order to take up the appropriation bill. Is there objection?

Mr. HOAR. I object.

The PRESIDENT *pro tempore*. The Senator from Massachusetts objects.

Mr. DAVIS, of West Virginia. Oh; does the Senator object to taking up the appropriation bill?

The PRESIDENT *pro tempore*. He objects to laying aside the joint rule temporarily. That is the pending order.

Mr. HOAR. Mr. President, the resolution concerning the disputed seat from the State of Louisiana has been, until yesterday, laid aside temporarily every day for a long time with an understanding that it should have its right until disposed of. Yesterday it was laid aside by vote of the Senate in order that the bill which has just passed might be taken up and considered. Now it has been proposed, instead of taking that up again by the vote of the Senate, to take up something else. The chairman of the Committee on Privileges and Elections declared he would give his concurrence to the vote laying aside the Kellogg case to take up the bill which his colleague had in charge under the peculiar circumstances, with the understanding that the persons who voted to take that up, or some of them, would aid him in restoring the Kellogg case to its place. Now I understand that it has been demanded first to give the preference to the resolution in the charge of the Senator from Alabama, and now unanimous consent is asked, having given the right of way to that, to lay that aside temporarily, that holding its place, for an appropriation bill.

Mr. DAVIS, of West Virginia. Does the Senator object to taking up the appropriation bill?

Mr. HOAR. If the Senator had listened to what I said, or listened to what the Chair said, he would know.

Mr. DAVIS, of West Virginia. I have been pretty attentive.

Mr. HOAR. I was stating my position. I object to the arrangement that the resolution of the Senator from Alabama shall be laid aside temporarily for the appropriation bill. It will then be in the power of the Senate to lay it aside by a majority vote, and take up the appropriation bill, and then the Kellogg resolution will have its fair title to its place.

The PRESIDENT *pro tempore*. Objection being made, there is no such agreement, and the joint rule is before the Senate.

Mr. HOAR. The Senator from West Virginia can move to lay it aside.

Mr. SAULSBURY. I desire to say in reply to what was said by the Senator from Massachusetts——

The PRESIDENT *pro tempore*. The Chair understands that all this discussion goes on by consent of the Senate.

Mr. SAULSBURY. The report of the Committee on Privileges and Elections is not now before the Senate. The object of the chairman of that committee has been to keep that as the regular order before the Senate; but when a motion was made yesterday to lay it aside temporarily to take up a bill which my colleague desired to present to the Senate, objection was made from the other side of the house, and my colleague was driven to the necessity of moving to lay aside the regular order and all other orders so that he could get up his bill. On this side there was a general concurrence in the propriety of that action and we supported that motion.

Mr. HOAR. Will the Senator from Delaware allow me to ask——

Mr. SAULSBURY. I desire now to make my explanation about it, and then the Senator can propound any question he pleases. When I voted for that motion of my colleague I distinctly stated that I would not have voted for it except for the belief that I should have the assistance of gentlemen on this side of the house at any time to take it up when it was desired to bring it before the Senate again. I should have made that motion again this morning, but I understood that there was an appropriation bill ready, and it has been the custom of the Senate to lay aside the pending orders temporarily or permanently for the purpose of taking up appropriation bills that must be passed for the support of the Government. I understand this appropriation bill is the most important of that series of bills which must come before the Senate. In the mean time the Senator from Alabama comes in with a resolution that he reports from a committee, which by common consent is one of the most important measures that will be presented to the Senate at the present session. I did not feel at liberty to antagonize both the appropriation bill and the resolution of the Senator from Alabama; but I assure the Senator from Massachusetts, so far as I am concerned, there shall be a termination at the present session, if I can accomplish it, of the case to which he has referred.

Mr. HOAR. I desire to ask the Senator a question, as he said he would answer one, and I will preface it by a statement. I gave my assent to the request of the Senator's colleague this morning to take up the bill which he asked to have taken up, and not only gave my assent, but made a suggestion to a Senator who had objected which induced him to withdraw his objection. I understood, however, that the Senator from Delaware had given the previous assurance to the Senate that when that bill was over he would at once move to take up the Kellogg case again. Now, am I wrong in understanding that last night he gave that assurance? I do not complain of the Senator's not antagonizing an appropriation bill. What I do complain of is of the Senator's not making that application, whatever becomes of the Senator from Alabama's resolution.

Mr. SAULSBURY. The Senator is mistaken in supposing that I said I would, immediately on the passage of the bill which has just passed, call up the Kellogg case. I did not so intend to be understood. I simply intended to have the assent of my associates on this side of the Chamber that they would assist me in calling up the case again at some future time, without specifying the particular time when it should be called up.

The PRESIDENT *pro tempore*. The question before the Senate is the joint rule, upon which the Senator from Alabama [Mr. MORGAN] is entitled to the floor.

Mr. DAVIS, of West Virginia. I move that the Senate proceed to the consideration of what is known as the legislative, executive, and judicial appropriation bill.

Mr. HARRIS. You must move to postpone the pending and all prior orders.

Mr. DAVIS, of West Virginia. I move to proceed to the consideration of House bill No. 6185.

Mr. INGALLS. Is that motion in order?

The PRESIDENT *pro tempore*. The prior orders must first be postponed.

Mr. DAVIS, of West Virginia. I shall have to make that motion if it is insisted on, but I hope no Senator will demand it.

The PRESIDENT *pro tempore*. Objection has been made to any agreement.

Mr. DAVIS, of West Virginia. Then I move to postpone the present and all prior orders for the purpose of proceeding to the consideration of the legislative appropriation bill.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves to postpone the present and all prior orders in order to proceed to the consideration of the appropriation bill named by him.

The motion to postpone was agreed to.

The PRESIDENT *pro tempore*. The Senator from West Virginia now moves to proceed to the consideration of the appropriation bill.

The motion was agreed to.

GREAT AND LITTLE OSAGE INDIANS.

The PRESIDENT *pro tempore*. Before the bill is proceeded with the Chair will take this occasion to lay before the Senate a House bill on his table for the purpose of reference.

The bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, was read the first time by its title.

Mr. INGALLS. For the purpose of examining that bill I object to its second reading to-day.

The PRESIDENT *pro tempore*. The bill will lie on the table.

Mr. EDMUNDS. I ask that House bill No. 6112 which has just come over from the House and to the second reading of which the Senator from Kansas [Mr. INGALLS] objected may be printed. There are some rather curious things in it that I should like to look at before it is referred.

Mr. INGALLS. I withdraw the objection I made to the second reading of the bill, and ask that it may be read a second time, referred, and printed.

Mr. EDMUNDS. I do not know but that it is just as well to let the bill stand on its first reading for the present.

Mr. INGALLS. I withdraw my objection.

Mr. EDMUNDS. I renew it.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The bill will lie on the table and be printed.

PRINTING OF A RESOLUTION.

Mr. MORGAN. The resolution which I reported from the select committee to take into consideration the elections of President and Vice-President of the United States has been printed, under a resolution or law, in document form. I ascertain from the document-room of the Senate that it is necessary to get an order of the Senate to print it in bill form, which will be more convenient. I therefore move that it be printed in that form.

The PRESIDENT *pro tempore*. The Chair hears no objection, and that order will be made.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. DAVIS, of West Virginia. I ask that the amendments of the Committee on Appropriations be acted on as they are reached in the reading of the bill so as to avoid a double reading.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) Is there objection to that course? The Chair hears none; and that order will be pursued.

Mr. DAVIS, of West Virginia. Before the bill is read I wish to make a very short statement; I shall not detain the Senate long.

As the bill came from the House the pay of the Senate employés, in a body, was reduced more or less, and other compensation substituted for that now received by them. The Committee on Appropriations has restored, as a rule, the salaries, with very few exceptions, to what they now are and what they have been for some time past. There have been numerous amendments reported so far as the Senate employés are concerned, which the Senate, I hope, will understand all or substantially all restore the employés of the Senate to what the existing law requires shall be paid them. There may be some inequalities, and there may be some changes necessary, and probably the House will insist very strenuously on some of the changes they proposed; but the Committee on Appropriations has thought it best to insist on what the law is, and if there are any concessions to be made they will have to be made in the conference committee; I do not know that any will be made. Such is the view of the Committee on Appropriations.

Mr. TELLER. I should like to ask the Senator a question. Does not the Senate claim the right, and has it not heretofore claimed the right, to determine the sums to be paid to its employés?

Mr. DAVIS, of West Virginia. It has, and has sustained that position so far; and the Committee on Appropriations has taken that view now.

Mr. TELLER. I understood the Senator to say "with a few exceptions." I thought by that they had yielded the principle.

Mr. DAVIS, of West Virginia. If the Senate of itself makes a change, no matter whether that agrees with the view of the House or not, of course that is not giving way to the House; but I will state to the Senator frankly that I do not know that we have agreed with the House in a single instance, though we have of our own accord made some reductions. I recollect now that there is an upholsterer provided for in the present law among the Senate employés. The Sergeant-at-Arms thought the same or a less amount of money applied to secure the services of two laborers in place of the upholsterer would serve the Senate as well and reduce its expenses. So that substitution is made.

Mr. EDMUNDS. I wish to inquire whether the committee of the Senate has made provision according to its own notions of what is right as to the compensation of our own officers and employés, or whether it has taken the judgment of people elsewhere?

Mr. DAVIS, of West Virginia. I will say to my friend from Vermont that the Senate Committee on Appropriations have given this subject a good deal of thought, and they have acted on their own judgment, of course considering what others have presented. After hearing various suggestions, the committee have acted on their own judgment; and this bill in this regard, as amended, expresses the

judgment of the Senate Committee on Appropriations, and not that of the House.

Mr. EDMUNDS. That is, you have merely considered such reasons as some other parties have suggested?

Mr. DAVIS, of West Virginia. Yes; they were attentively considered. While I am on the floor I will say that there is an apparent increase of eight employés of the Senate by the amendments to this bill, but it is only apparent from this fact, that there are several employés here that have heretofore been paid by resolutions or by clauses in the sundry civil bill. Your committee thought it best that all should appear in the proper place, and that there should hereafter be no employés who were not provided for in the legislative bill. We propose to leave no room for resolutions at the end of the session and in later bills for a motion to stick in some employé on the ground that he had been omitted in the regular bill. So far as the Committee on Appropriations knows, all the employés are provided for in this bill as amended; and it apparently increases the Senate employés eight, but the increase is only apparent.

Mr. VOORHEES. Let me ask the Senator from West Virginia in regard to the pay of the telegraph operator. I am informed that his pay is reduced from what it has been heretofore to $720. If such an officer is required at all, I think that is an inadequate compensation.

Mr. DAVIS, of West Virginia. We shall soon reach that in the reading of the bill, and I will take pleasure in explaining the matter when we reach it, and I think our action will be satisfactory to the Senate.

Mr. VOORHEES. All right.

Mr. DAVIS, of West Virginia. This bill as it comes from the House increases by three hundred and odd the clerical force in the different Departments. Many of them are added on account of the pension business, in the Adjutant-General's Office and in the Pension Office, &c. Two-thirds of the increase is in the offices connected with pension claims. The bill as it came from the House is about $600,000 greater than the bill of last year, so that this bill I hope and believe covers the whole ground of the wants of the Departments. I know of very little requested by the Departments that has not been granted by the House or by the Senate committee. The Senate committee has increased the total of the bill by about $100,000 over and above what it was as it came from the House. They have made some reductions and some increases, but the aggregate increase is about $160,000.

The difference between the Senate employés and House employés, of which so much talk has been made, is only about $30,000. The whole question involved there is only about $30,000.

With this statement, I ask that the reading of the bill be proceeded with. Of course if Senators wish explanations as we go along, I can give them; but I believe that our committee is unanimous in every item of the bill, and there is nothing political in it whatever to my knowledge.

The PRESIDING OFFICER. The Secretary will proceed to read the bill, and the amendments of the Committee on Appropriations will be acted on as they are reached in their order in the reading of the bill.

The Secretary proceeded to read the bill. The first amendment reported from the Committee on Appropriations was, under the head of "Senate," in line 15, to increase the appropriation "for compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate" from $161,710 to $193,327.68.

The amendment was agreed to.

The next amendment was, in line 23, to increase the item for "hire of horse and wagon for the Secretary's office of the Senate" from $600 to $1,200.

The amendment was agreed to.

The next amendment was, in line 23, to increase the appropriation for the salary of "Chief Clerk" of the Senate from $2,500 to $3,000.

The amendment was agreed to.

The next amendment was, in line 25, before the word "minute," to strike out "and;" in line 26, after the word "clerk," to strike out "at $2,500 each;" and in line 27, after the word "thousand," to strike out "two hundred and fifty" and insert "five hundred and ninety-two;" so as to read:

Principal clerk, principal executive clerk, minute and journal clerk, financial clerk, and enrolling clerk, $2,592 each.

The amendment was agreed to.

The next amendment was, in line 30, to increase the appropriation for salary of "librarian and six clerks in the office of the Secretary of the Senate" from "$2,000 each" to "$2,200 each."

The amendment was agreed to.

The next amendment was, in line 32, to increase the appropriation for the salaries of "five clerks in the office of the Secretary of the Senate" from "$2,000 each" to "$2,100 each."

The amendment was agreed to.

The next amendment was, in line 33, to increase the appropriation for the salary of the "keeper of the stationery" of the Senate from $1,800 to $2,102.40.

The amendment was agreed to.

The next amendment was, in line 36, to increase the appropriation for the salary of "assistant keeper of stationery" from $1,600 to $1,800.

The amendment was agreed to.

The next amendment was, in line 37, to increase the appropriation for salary of "two messengers" in the office of the Secretary of the Senate from "$1,200 each" to "$1,296 each."

The amendment was agreed to.

The next amendment was, in lines 41 and 42, to increase the appropriation for the salary of the "secretary to the Vice-President" from $1,800 to $2,102.40.

The amendment was agreed to.

The next amendment was, in line 45, to increase the appropriation for salary of "messenger to the Vice-President's room, to be appointed by the Vice-President," from $1,400 to $1,440.

Mr. EDMUNDS. Will the Senator from West Virginia, in charge of this bill, tell me what this amendment means; and that will cover all the others of this class. What is the point of this change? Is it to bring this salary back to the existing law?

Mr. DAVIS, of West Virginia. To bring it back to what the compensation is for the current year.

Mr. EDMUNDS. To bring it back to the ordinary appropriation?

Mr. DAVIS, of West Virginia. Yes.

Mr. EDMUNDS. To leave the salary, whether it is fixed by existing law or not, just what the usual course has been?

Mr. DAVIS, of West Virginia. Yes, and what these employés are getting for the current year. That is the case in all these amendments with one or two exceptions. One exception that the Senator from Indiana [Mr. VOORHEES] spoke of is as to the telegraph operator, which, when we reach, we shall speak of.

Mr. EDMUNDS. When you come to a different case than the ordinary one, please be good enough to state it?

Mr. DAVIS, of West Virginia. I will.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 51, to increase the appropriation for the salary of the "clerk of printing records" from $2,000 to $2,220.

The amendment was agreed to.

The next amendment was, in line 53, after the word "Finance," to strike out "$2,220; for;" in line 59, after the words "Military Affairs," to strike out "and for;" in line 60, after the word "Post-Roads," to insert "and for clerk to the Committee on the District of Columbia;" and in line 61, after the word "thousand," to insert "two hundred and twenty;" so as to make the clause read:

For clerk to the Committee on Finance, clerk to the Committee on Claims, clerk to the Committee on Commerce, clerk to the Committee on the Judiciary, clerk to the Committee on Private Land Claims, clerk to the Committee on Pensions, clerk to Committee on Military Affairs, clerk to Committee on Post-Offices and Post-Roads, and for clerk to the Committee on the District of Columbia, at $2,220 each.

The amendment was agreed to.

Mr. VOORHEES. On page 4, line 61, after the word "Columbia," I move to insert:

For clerk of the Joint Committee on the Library and for clerk of the Committee on Census.

The PRESIDING OFFICER. That is not from the committee, and will not now be received. The amendments reported by the Committee on Appropriations are first to be considered.

Mr. VOORHEES. In the entire bill?

The PRESIDING OFFICER. Throughout the entire bill. That is the usual course. The reading will proceed.

Mr. DAVIS, of West Virginia. I suggest that other amendments may as well be acted upon as we go along if they are really amendments to the committee's amendments. I understand that the Senator from Indiana wishes to make what is now a session clerk a permanent clerk. That will reduce the session clerks one and add one to the permanent clerks. If we adopt the number of session clerks as reported, of course we shall have to again consider that if we agree to the Senator's amendment. So I shall be willing to have the Senator's amendment acted on as we go along.

Mr. VOORHEES. Very well. The Joint Committee on the Library, as the Senate is aware, is composed of the committee of the House and the committee of the Senate. They meet together, however, and the House committee has no separate organization or clerk. I found when I became chairman of this committee that great embarrassment and trouble prevailed in the transaction of its business in this respect. The Library and the Botanic Garden expend between $20,000 and $30,000 a year, and nothing can be paid except on vouchers with the signature of the chairman or somebody authorized to sign for him.

Last year when Congress adjourned I supposed it was not expected that I should stay here and be in attendance to sign these vouchers. I went west; I became engaged in a political canvass in Ohio; and the consequence was that Mr. Spofford and myself were running a race with each other—a sort of wild-goose chase of correspondence—he after me and I after him, with letters explaining, &c., and, in the mean time, laborers and employés in these grounds had to go without their pay.

There is no way of obviating this unless a clerk is left here with authority to sign these vouchers. It is not merely the work that is done in the grounds that has to be paid for constantly and which involves quite a large pay-roll, but the purchases for the Library itself and all the disbursements for its own purposes have to be thus signed.

Further, all the orders upon the Library treasurer, who is George

W. Riggs, for this money have to be signed by the chairman of the Library Committee or by somebody thereunto authorized by him. Mr. Spofford tells me that while the former Senator from Wisconsin, Mr. Howe, was chairman there was the same difficulty that occurred last year between him and me. Indeed he states that the same accidents which occurred between us last year likewise occurred between him and Senator Howe. A large package of vouchers was lost in the United States mail last year in the correspondence which took place between us. In comes a great pile of vouchers which are sent to me at a distant place; I have to go over them as best I can, without any opportunity to confer with the Librarian. As a matter of course I can very safely take his word, and I do so and sign them at a distance; but in the uncertainty of my movements during the recess, and perhaps the Librarian's, the accidents that transpired in the fall of last year may occur again. A package of vouchers as large as the book before me was lost and never got; so that we had to duplicate the vouchers. Meantime bills had to go unpaid.

There is not really a committee of this body that has such a necessity, in my judgment, for a person here on the ground as the Library Committee. There is a disbursement of some $30,000 a year to be looked after. Now, on this question I desire to have a letter addressed to me on this subject by Mr. Spofford, the Librarian, read.

The Chief Clerk read as follows:

LIBRARY OF CONGRESS,
Washington, May 21, 1880.

DEAR SIR: The financial service of the Library of Congress and of the Botanic Garden appears to me to require the presence in Washington throughout the year of some one duly authorized to sign the vouchers for payment of money by the disbursing agent. These vouchers have first to be certified as correct by the Librarian for all disbursements on account of the Library, and by the superintendent of the Botanic Garden for that service, after which they have to be signed by the chairman of the Joint Committee on the Library, directing the disbursing agent to pay. It has always been an embarrassment that these vouchers (involving the payment of laborers and others who can ill afford to wait) have to be mailed in the recess of Congress to a remote State or States, and it has twice happened that large batches of pay-rolls and receipted bills have been lost in the mails, involving a delay of weeks to replace them. Cannot the clerk of the Library Committee be made a permanent one, to be always present in Washington, and authorized to sign vouchers in the chairman's name?

Very respectfully,

A. R. SPOFFORD,
Librarian of Congress.

Hon. D. W. VOORHEES,
Chairman Joint Committee on the Library.

Mr. VOORHEES. Everybody knows that we shall be moving about during the summer looking after the canvass, and I do not see how the business of the Library and of these grounds can be transacted unless we have authority to leave somebody here to sign these papers.

Mr. DAVIS, of West Virginia. I see one difficulty. It appears to me it would be proper that there should be an annual clerk to the two committees, and that part of the amendment I do not object to; but I am under the impression—those who are better versed in the law than I am can say how that is—that the power to sign vouchers cannot be delegated to any one other than the chairman. He is empowered by law to sign vouchers. It may be important to have a clerk for the purpose of getting the accounts together and seeing that they are all right; but I think the Senator will find a difficulty about empowering anybody to sign vouchers.

Mr. VOORHEES. I have conversed with the Librarian on that subject and looked into it. I think the Senator will find I am correct about it. If it cannot be done, I assure the Senator there will be no clerk paid.

Mr. DAVIS, of West Virginia. I fear it cannot be done; but the Senator can look into that and make provision on some other bill if it be necessary.

Mr. VOORHEES. I will.

Mr. DAVIS, of West Virginia. I wish to ask the Senator from Indiana a question, which I take it he will have no objection to answering. It will be recollected by the Senate that a short time ago a bill was passed here creating a commission to take into consideration the building of a Library, or where it should be and the manner of doing it. I ask the Senator, if that bill should become a law, whether he would require an additional clerk for that commission, or whether this one clerk given him will serve both purposes?

Mr. VOORHEES. I have no doubt of the passage of that bill by the House, from the information I have, and that the joint commission will therefore be appointed. Whether I shall be connected with the commission or not I have no means of knowing, and it is not competent for me to say, or to speak of it; but I say that whether I be a member of that joint commission or not, my influence will be in favor of having but the one clerk. There will be no necessity whatever for an additional clerk to the joint commission. If the Senate authorizes the Joint Committee on the Library to make this clerk permanent now, and that commission should be appointed, I undertake to say there will be no necessity for the employment of other clerks.

Mr. DAVIS, of West Virginia. I am glad to hear the Senator say so, and with that explanation I have no objection to his amendment, although it does not come within the rule.

The PRESIDING OFFICER. Is there unanimous consent to receive the amendment?

Mr. VOORHEES. My amendment embraces also—on that point I think the Senator from Ohio proposes to be heard—a clerk to the Committee on the Census. I put these together at the suggestion of the Senator from Ohio.

Mr. BECK. The law now provides that the clerk to the Committee on the Census shall be for the Congress.

Mr. PENDLETON. That is the provision, and it is only necessary to make an appropriation to pay the clerk already appointed under the authority of the Senate. On the 2d of December, 1879, the following resolution was adopted by the Senate:

Resolved, That the Select Committee to make provision for taking the Tenth Census be authorized to employ a clerk for this Congress, at the usual compensation.

The PRESIDING OFFICER. Is there objection to the amendment being received?

Mr. MCMILLAN. Let the amendment be reported.

The PRESIDING OFFICER. The amendment will be read.

Mr. EDMUNDS. An amendment of that kind will certainly be in order, to amend the amendment of the committee on line 60 by adding these words.

The PRESIDING OFFICER. It was not proposed in that way. The committee's amendment was agreed to, and the Senator from Indiana then made a new proposition. The Chair stated that it was out of order, but the Senator from West Virginia gave his consent; but he has not power to give consent for the Senate.

Mr. EDMUNDS. Of course not.

The PRESIDING OFFICER. The Chair asks the Senate now if there be objection to receiving the amendment?

Mr. EDMUNDS. I merely made the suggestion that it would be obviously in order, and the Chair says that it would be if offered as an amendment to the amendment of the committee.

Mr. VOORHEES. It would; but it was not offered in that way.

The PRESIDING OFFICER. The Chair hears no objection; and the amendment will be considered as before the Senate. It will be read.

The CHIEF CLERK. In line 61, after the words "District of Columbia," it is proposed to insert the words "For clerk of the Joint Committee on the Library, and for clerk of the Committee on the Census."

The amendment was agreed to.

The PRESIDING OFFICER. The word "and" will be stricken out of the former amendment by unanimous consent.

Mr. ALLISON. The suggestion of the Senator from Ohio I understood was to secure an appropriation for the present fiscal year for the clerk to the Census Committee. I suggest that the amendment will not cover it, because this is a bill to provide the expenses of the next fiscal year.

Mr. PENDLETON. I know it; it is for the year ending June 30, 1881.

Mr. ALLISON. It provides for the next session of Congress, and not for this, on the assumption that we adjourn before the 1st of July.

Mr. DAVIS, of West Virginia. Is the amendment adopted?

The PRESIDING OFFICER. It is.

The Secretary resumed the reading of the bill. The next amendment reported by the Committee on Appropriations was, in line 64, to increase the appropriation for salary of the "Sergeant-at-Arms and Doorkeeper" of the Senate from $4,000 to $4,320.

The amendment was agreed to.

The next amendment was, in line 65, to increase the appropriation for salary of the "assistant doorkeeper" from $2,500 to $2,592.

The amendment was agreed to.

The next amendment was, in line 65, to strike out "first" and insert "acting," and in line 66, after the word "thousand," to insert "five hundred and ninety-two;" so as to read: "Acting assistant doorkeeper, $2,592."

The amendment was agreed to.

The next amendment was, in line 67, after the word "messengers," to insert "acting as;" and in line 68, after the word "thousand," to strike out "two" and insert "eight;" so as to read: "Three messengers acting as assistant doorkeepers, $1,800 each."

The amendment was agreed to.

The next amendment was, in line 70, to increase the appropriation for salary of the "clerk to the Sergeant-at-Arms" from $1,200 to $2,000.

Mr. EDMUNDS. Does this clause in lines 70 and 71 put this salary at the previous rate when it says $2,000?

Mr. DAVIS, of West Virginia. In all cases we have restored the amount now allowed.

Mr. WALLACE. The appropriation was $2,000 for the current year, and the estimate is $2,000 for the coming year.

Mr. EDMUNDS. Then this brings it to the previous rate?

Mr. WALLACE. Just to the previous rate.

Mr. EDMUNDS. That is what I wish to get at.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 72, to increase the appropriation for salary of "postmaster of the Senate" from $2,100 to $2,250.

Mr. DAVIS, of West Virginia. That is probably the only increase that the Committee on Appropriations of the Senate propose in the pay of Senate employés. The Postmaster of the Senate now gets $2,100. The Postmaster of the House gets $2,500. After considerable consideration the committee, I believe, was unanimous in making this salary $2,250, thinking that it was proper and right that it should be so. It is an advance of $150.

Mr. EDMUNDS. But the number of members of the House to whom mail is delivered is nearly four times that of the Senate.

Mr. DAVIS, of West Virginia. That is true; but on the other hand the Postmaster of the Senate, as I understand, remains here much more of the recess than the Postmaster of the House. In addition to that there are only two assistants here, where there are four or five in the House post-office.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 74, to increase the appropriation for salary of "assistant postmaster and mail-carrier" from $2,000 to $2,088.

Mr. EDMUNDS. Is that in increase?

Mr. DAVIS, of West Virginia. No, sir. I think I am correct in saying that the increase I have just spoken of is the only increase from the present compensation of Senate employés.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 77, to increase the appropriation for the salary of "superintendent of the document-room" of the Senate from $2,000 to $2,160.

The amendment was agreed to.

The next amendment was, in line 78, to increase the appropriation for the salary of "two assistants in document-room" from $1,400 each to $1,440 each.

The amendment was agreed to.

The next amendment was, in line 79, after the word "each," to insert "one page in the document-room, $720."

The amendment was agreed to.

The next amendment was, in line 81, to increase the appropriation for salary of "superintendent of the folding-room" from $2,000 to $2,160.

The amendment was agreed to.

The next amendment was, in line 84, after the word "twenty," to insert "three;" and, after the word "thousand," to strike out "two hundred" and insert "four hundred and forty-four;" so as to read: "For twenty-three messengers at $1,444 each."

Mr. DAVIS, of West Virginia. I understand there are twenty-four messengers. It is not an increase, but the "three" ought to be "four." I therefore move to amend the amendment so as to make it "twenty-four" instead of "twenty-three."

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was in line 87, to increase the appropriations for salary of "messenger to the Committee on Appropriations, to be appointed by the committee," from $1,000 to $1,440.

The amendment was agreed to.

The next amendment was, in line 89, after the word "dollars," to insert "messenger to the Official Reporter's room, $1,200."

The amendment was agreed to.

The next amendment was, in line 91, to increase the appropriation for salary of "chief engineer" from $1,700 to $2,160.

The amendment was agreed to.

The next amendment was, in line 93, to increase the appropriation for salary of "three assistant engineers" from $1,200 each to $1,440 each.

The amendment was agreed to.

The next amendment was, in line 94, to increase the appropriation for salary of "conductor of elevator" from $1,000 to $1,200.

The amendment was agreed to.

The next amendment was, in lines 95 and 96, to increase the appropriation for salary of "two firemen" from $900 each to $1,095 each.

The amendment was agreed to.

The next amendment was, in line 96, before the word "laborers," to strike out "five" and insert "three;" so as to read: "Three laborers in the engineer's department, at $720 each."

The amendment was agreed to.

The next amendment was, in line 99, before the word "skilled," to strike out "ten" and insert "eight;" in the same line, after the word "at," to strike out "the rate of;" and in line 100, after the word "annum," to strike out "during the session;" so as to make the clause read: "For eight skilled laborers, at $1,000 each per annum."

The amendment was agreed to.

The next amendment was, before the word "laborers," in line 101, to strike out "ten" and insert "thirteen;" so as to read: "Thirteen laborers, at $720 each per annum."

Mr. WALLACE. I move, by direction of the committee, to strike out "thirteen" and insert "twelve," and at the end of the line to add the words "and one laborer in charge of private passage, $840;" so as to restore the compensation of one laborer as it has been during the present fiscal year.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 104, to increase the appropriation for salary of "female attendant in charge of the ladies' retiring-room" from $600 to $700.

The amendment was agreed to.

Mr. DAVIS, of West Virginia. I call the attention of the Senator from Indiana to this part of the bill.

Mr. VOORHEES. I only wish to say that the employé named in line 105, the telegraph operator, has heretofore been paid $1,200. This bill puts him at $720. If he is worth keeping this is not an adequate compensation. It is to pay the telegraph operator the same we pay the chambermaid, who is entitled here "the female attendant in charge of the ladies' retiring room." I should like to know why this man is cut down from $1,200 to $720.

Mr. EDMUNDS. I wish to call attention to the pending amendment. In the last appropriation bill the provision stood in this way:

> Kate Dodson, in charge of the ladies' retiring room, $720.

Now I see the provision is—

> Female attendant in charge of the ladies' retiring room, $720.

Which is right in itself, but the provision has been always heretofore to pay this particular person on account of special skill, &c.

Mr. DAVIS, of West Virginia. The Senator is mistaken, I think. I have the law for the current fiscal year in my hand. He is right as to previous years, but the current year law says: "One female attendant," &c. Previous to that it was to an individual.

Mr. EDMUNDS. The bill for the current year, according to the reading of the statute which I have just looked at—if I have looked at the right one—was passed during the first session of the Forty-sixth Congress; and it provided a general appropriation for the same sums and for the same purposes mentioned in the previous appropriation for the year preceding. Am I right about that?

Mr. DAVIS, of West Virginia. Previous to the current year the Senator is right.

Mr. EDMUNDS. But here is the state of the case: On the 21st of June, 1879, an act was passed making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and it provides—

> That for the purpose of providing for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same sums of money and for the like purposes (and continuing the same provisions relating thereto) as were appropriated for the service of the fiscal year ending June 30, 1879, by the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 19, 1878.

Now, I turn to the act of June 19, 1878, being found in volume 20 of the statutes, page 178, where this provision reads in this way:

> Kate Dodson, in charge of the ladies' retiring room, $720.

Mr. BECK. If the Senator from Vermont will look a little further in this same act of June 21, 1879, he will find this amendment:

> Under the heading of Senate, the clause commencing: "For eight skilled laborers" is amended by striking out therefrom the name of "Kate Dodson" and inserting in lieu thereof "female attendant."

Mr. EDMUNDS. That I had not observed. Then this clause will follow the law of the previous year. Very well.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 105, after the word "telegraph operator," to insert "to be appointed and controlled by the Sergeant-at-Arms."

Mr. EDMUNDS. I rise to call the attention of my friend from Indiana to the point he was speaking of a moment ago.

Mr. VOORHEES. I understand—what I desire to say, but I yield to the chairman.

Mr. DAVIS, of West Virginia. The telegraph operator on the other side of the Capitol gets $720 a year. The present Senate operator remains here only during the session. He works probably five months in the year on the average. I have been here and other Senators have been in the same way I take it several mornings at ten or eleven o'clock and desired to send messages to the Departments, and the operator was not in his place. We then inquired whom he was under, who had control of him, and we were told the Vice-President it was thought. I saw the Vice-President and he said he knew nothing of him. That will account for putting him under the control of somebody, the Sergeant-at-Arms perhaps.

The next point is that we think $720 ample pay for the work performed. As I have said, when we have inquired for the operator, even up to twelve o'clock in the day, the answer of the operator to me and to the committee has been that his duties commenced when the Vice-President came here.

Mr. EDMUNDS. That if my friend will allow me to say, I think——

Mr. DAVIS, of West Virginia. Allow me to go on. The cause of naming that is to show the hours of work that he employs.

Mr. EDMUNDS. That is not the point I am on. I am on the point of whether under any regulations of the Vice-President—who unhappily is not here at this time—this operator who has performed duties not for the Vice-President merely but for the Senate and everybody at the Capitol who has a right to telegraph to the Departments, it is his business only to be here when the Vice-President is. Now, I have the best reason for knowing that the Vice-President has required this person to attend here as early as any Senator is usually accustomed to

come to the Capitol, whether it is to attend a committee or not, because I have had some trouble in that department myself and have had occasion to make inquiry about it; and therefore in justice to the Vice-President I state positively that the orders of the Vice President, who by law is now the appointing and controlling power of this person, have been fully in the public interest, that this person should do his duty and be here as early as usually any individual Senator is. That would include the Senator from West Virginia and myself, who usually come at nine o'clock. Thus the necessary communications with the Departments may be had. I say that only in justice to the Vice-President.

Mr. DAVIS, of West Virginia. My remark was not in any way intended to complain of the Vice-President, I think right the reverse, for he was prompt when the matter was called to his attention, and very ready to say that he would see that there was a remedy applied if he had the control of it. He did not know at that time that he had control, nor did he wish in future to be considered as controlling the telegraph operator, that it would be agreeable to him to have him placed where all the other employés of the Senate are placed. The Vice-President acted very promptly, and I thought very faithfully in trying to have a remedy applied. But the committee think the pay of $720 is ample and sufficient for the work performed. That is the whole case.

Mr. VOORHEES. A single word. I have never known the operator personally until to-day. He assures me that with the exception of four times when he was sick, of which he notified the Vice-President, he has never been absent from his post, and I have no reason to doubt his word.

The only question that presents itself to my mind is this: If this officer is necessary to be kept, $720 does not pay a man for the consumption of all his time in such work. It is not right to put a man on duty here and pay him no more than that, and rather than pay him this amount I would vote to abolish the position. I think that the compensation ought to be what it was before, and to test the sense of the Senate I move in line 105, after the word "operator," to strike out "to be appointed and controlled by the Sergeant-at-Arms seven" and insert "twelve," so as to leave him as before at $1,200 a year. I understand this man has occupied this position for seven years, has done the duty acceptably and well. He has had affliction this winter; has been out of health somewhat, and may have been absent four or five times on that account.

Mr. DAVIS, of West Virginia. Not wishing to continue this discussion, I want simply to say that we believe the compensation here named is ample; it is the same as is paid on the other side; and we think the operator ought to be under the control of the Sergeant-at-Arms and not under the Vice-President, especially as the Vice-President does not desire to have it. I presume the Senator from Indiana will not object to leaving this party under the control of the Sergeant-at-Arms or the Secretary, where all the Senate employés should be except those immediately connected with the Vice-President's office.

Mr. VOORHEES. I make no point on that.

Mr. DAVIS, of West Virginia. I think the Senator only proposes to affect the salary.

Mr. VOORHEES. I will correct my amendment, if it be necessary.

Mr. DAVIS, of West Virginia. I am content to have the Senate decide the matter. It is not a question that the committee have any special feeling about. We think that the $720 is sufficient, and we shall so vote.

Mr. ALLISON. I shall vote for the amendment proposed by the Senator from Indiana. I think this telegraphic operator ought to be a skilled operator. If he is so it is impossible for him to find employment elsewhere during the vacation, and therefore we ought to pay him as we pay every other employé about this Capitol of whom we require skilled work. We pay them so that they can give us their whole time, and I think this operator should be paid upon that basis; and therefore, applying to him the same rule that we apply to a vast number of the employés of the Capitol, I believe it is wiser for us to adhere to what we have done heretofore and pay him $1,200.

As to the custody or control, I am indifferent whether he be under the Sergeant-at-Arms or the Vice-President. I think the control is very well where it is, with the presiding officer of the Senate. I think it is a matter that can be regulated, and always will be regulated, for the interest and convenience of the Senate.

Mr. EATON. I agree with my friend from Indiana that it is proper that this employé should receive a larger sum than the House bill allows; but I hope he will not change the direction of this matter. It strikes me that this officer should be under the Sergeant-at-Arms. I do not think the Vice-President should be bothered with this matter at all.

Mr. VOORHEES. I will make no issue on that, but I am under the impression that it would be as well to let the power of appointment remain as it is. I make no point, however, about whether the Vice-President or the Sergeant-at-Arms shall have this gentleman under his authority. I simply thought that the compensation was not sufficient to employ a skilled person, and my motion was to strike out the amendment of the committee and leave the law exactly what it was before it was touched. I believe I will adhere to the amendment just as I moved it.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment offered by the Senator from Indiana, which will be reported.

The SECRETARY. After the word "operator," in line 105, it is moved to strike out the words "to be appointed and controlled by the Sergeant-at-Arms, seven" and insert "twelve;" so as to read: "Telegraph operator, $1,220 per annum."

Mr. HOAR. I do not understand that that motion is in order.

The PRESIDING OFFICER. The Chair is of opinion that the question ought first to be taken upon the amendment proposed by the Committee on Appropriations.

Mr. HOAR. The language which the Senator from Indiana moves to strike out is not yet in the bill, except the word "seven;" the rest of it is merely a proposed amendment.

The PRESIDING OFFICER. The question will first be taken on the amendment proposed by the Committee on Appropriations, to insert the words in italics, "to be appointed and controlled by the Sergeant-at-Arms."

Mr. INGALLS. The language employed by the committee is extraordinary, "to be appointed and controlled by the Sergeant-at-Arms." I presume the committee does not desire that he shall be controlled by the Sergeant-at-Arms. He is to be controlled by the Senate if he is appointed by the Sergeant-at-Arms. I presume that is all the committee desires.

Mr. DAVIS, of West Virginia. That was the intention, as all the executive force of Senate employés are under the control of the Sergeant-at-Arms.

Mr. INGALLS. There is no other employé about whom that language is used, that he shall be appointed and controlled by the Sergeant-at-Arms or by anybody else. These employés are under the control of the Senate. I suggest that the words "and controlled" be omitted.

Mr. DAVIS, of West Virginia. The Sergeant-at-Arms is under the control of the Senate.

Mr. INGALLS. I suggest that the words "and controlled" be stricken out.

Mr. DAVIS, of West Virginia. We have no objection to the suggestion.

The PRESIDING OFFICER. The amendment of the Senator from Kansas will be regarded as agreed to. The question, then, is on the amendment of the committee as amended.

Mr. HOAR. Is not that a change of the law? I inquire of the Senator from West Virginia, is it in order under the rule?

Mr. DAVIS, of West Virginia. I do not think there is any law on the subject except in the appropriation bill where we provide for his pay. I do not know that there is any other law. The words stricken out were "and controlled."

Mr. INGALLS. That motion to strike out has been agreed to.

Mr. HOAR. I raise the point of order on the amendment on the ground that it is a new legal enactment taking away from the Vice-President the power of appointing this officer and transferring it to the Sergeant-at-Arms.

Mr. BECK. Is there a point of order up?

The PRESIDING OFFICER. There is.

Mr. BECK. I know nothing about points of order.

Mr. DAVIS, of West Virginia. This is, as I understand it, appropriating a sum for an employé, and in appropriating that we say how he shall be appointed. That is the whole question.

Mr. HOAR. He is at present a standing officer, appointed under the law by the Vice-President. Now, to make an appropriation and change the law as to the method of his appointment, is a violation of the rule.

Mr. DAVIS, of West Virginia. Does the Senator say that there is a law giving the Vice-President power to make the appointment?

Mr. HOAR. I understand there is.

Mr. DAVIS, of West Virginia. The committee have not been able to find that. He was appointed under an appropriation bill, as we understand, and by general custom the Vice-President has appointed.

Mr. HOAR. It makes no difference whether it is a general law now that he shall be appointed by the Vice-President or not. This amendment enacts for the first time a law providing for his appointment by the Sergeant-at-Arms, which is enough to make it obnoxious to the rule.

Mr. WALLACE. The standing order of the Senate regulates the subject, and it is to be found on page 164 of the Manual:

Ordered, That the presiding officer of the Senate be authorized to appoint the operator for the Senate wing of the Capitol provided for in the act in relation to lines of telegraph connecting the Capitol with the various Departments of the Government.

Mr. EDMUNDS. Where is that act?

Mr. WALLACE. It is not an act, but a standing order of the Senate.

Mr. EDMUNDS. Will the Senator read it again?

Mr. HOAR. Allow me to submit to the committee—I think the committee will agree with me—that if it be true that a standing order of the Senate is the only authority for the appointment of this officer, he being an officer of the Senate, it is not expedient and it is not consistent with the dignity of the Senate to pass a law providing for the method of appointing this officer. If the Senate by a majority favor the proposition of the committee in substance they can at any time change the existing order if they see fit. Now, if they pass

this as a law, the Senator will see how much more obnoxious this is to the objection of the point of order as I consider it. This is an enactment of law which cannot be changed without the assent of the House of Representatives and without the assent of the President hereafter if it is adopted, tying up the hands of the Senate in regard to the method of appointment of one of its own officers perpetually. Certainly that is a new general law, and it is a general law which I do not think on reflection any member of the Senate would desire to pass. The Senators who desire to have the appointment made by the Sergeant-at-Arms will see that it is in their power by a simple order of the Senate at any moment to bring that to pass. This proposition is to take it out of the power of the Senate by its simple order to provide for the appointment of its own officer, and make the appointment subject to a general law which cannot be changed without the assent of the other branches of this Government.

Mr. WALLACE. There was no feeling on this subject upon the part of the Committee on Appropriations. It was intended to relieve the Vice-President of the responsibility and duty of looking after this official, and which he desired to be relieved of, and it is of no kind of moment to any of the Committee on Appropriations as to what action the Senate takes upon this subject. We are content that they should strike out the clause or keep it in, just as the Senate prefers. The committee have no feeling on the subject.

Mr. HOAR. I do not understand that it is of moment to the committee. I merely make the suggestion to them. Of course in the vast number of provisions which one of these appropriation bills contains the committee cannot spend ten years over every one, and sometimes a suggestion may be made to the committee which they would accept, on the floor of the Senate. Here my suggestion is that they had better keep this matter in the power of the Senate, and I make the question of order.

Mr. BECK. My attention was not called specially to this matter. My general idea was that we were restoring the pay of the employés of the Senate to what it had been during the current year. I am inclined to think that we ought to pay this operator $1,200, and if he is not the best man for the place, let us have another man.

Mr. CARPENTER. Is this question of order debatable?

The PRESIDING OFFICER. The debate has proceeded by unanimous consent.

Mr. CARPENTER. It is about time we had a decision.

Mr. ALLISON. If the Senator from Wisconsin will withhold his objection for a moment, I think the Senate had better agree that this matter shall be left on the standing order of the Senate. The Senate can at any time change that. That will save the question of order.

Mr. EATON. I should like to know what the point of order is.

Mr. HOAR. The point of order is based on the twenty-ninth rule:

No amendment which proposes general legislation shall be received to any general appropriation bill.

This is legislation transferring from the Senate the power of appointment of its own officers and regulating it by law.

Mr. EATON. That is a very close point.

Mr. ALLISON. I suggest that we allow this amendment of the committee to be stricken out and leave the matter as it stands now, under the control and direction of the Senate as it is.

The PRESIDING OFFICER. The question may be taken upon the amendment and it be voted down or considered not agreed to.

Mr. ALLISON. Very well, so be it.

Mr. DAVIS, of West Virginia. The committee has no objection.

Mr. HOAR. What has become of the point of order?

Mr. DAVIS, of West Virginia. It is hardly worth while to raise the point of order if the committee recede from the proposition.

The PRESIDING OFFICER. The committee consent that the amendment be not agreed to.

Mr. HOAR. That is a very extraordinary mode of legislation. I raised the point of order.

The PRESIDING OFFICER. The Chair is of opinion that the point of order is well taken.

Mr. ALLISON. Very well, let it be taken.

The PRESIDING OFFICER. The Chair so holds. The reading of the bill will be proceeded with.

Mr. VOORHEES. I move to amend in line 106 by striking out "seven hundred and twenty" and inserting "twelve hundred," so as to make the compensation of this telegraph operator $1,200.

Mr. WALLACE. Prior to last year the telegraph operator was allowed during the session to receive $700, but in the last fiscal year he got $1,200. If the Senate stands by what it did last year, it will adopt the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana.

Mr. EATON. I should like to ask the Chair if this is in order. There has been no notice of this amendment, no day's notice such as is required by the rule. This is a bill coming from the House; it fixes the sum of $720 for this man's pay. Now I ask the Chair if it is competent for a Senator to move to increase it. He may move to decrease it; but can he move to increase it without giving the day's notice required by the rule?

Mr. DAVIS, of West Virginia. I think the point of order is well taken if it is raised, because the rule requires that of all amendments to appropriation bills one day's notice shall be given, and in this case it has not been given.

Mr. SAULSBURY. I ask the chairman of the Committee on Appropriations if this telegraph operator at the Capitol is employed elsewhere. When we send a telegram we pay for it. I suppose he is the agent of some company as well as an employé of the Senate.

Mr. DAVIS, of West Virginia. Oh, no. This is an employé of the Senate to send messages to the Departments. He does no work for any telegraph company. That is a different matter altogether. This is the Senate operator of the Government telegraph connecting the Capitol with the various Departments.

Mr. SAULSBURY. Is his service confined to transmitting communications with the various Departments?

Mr. DAVIS, of West Virginia. Yes, sir; and the Government Printing Office.

The PRESIDING OFFICER. The Chair does not understand that any Senator has raised a point of order on the amendment of the Senator from Indiana. The question is on that amendment.

The amendment was agreed to.

Mr. DAVIS, of West Virginia. Now I wish to say that this amendment was subject to the point of order. I did not choose to raise it formally; but I give notice now, so as to save time hereafter, that all amendments not coming under the rule I shall feel compelled to raise the point of order upon.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in line 112, after the word "hundred," to insert "and fifty;" in line 113, after the word "the," to strike out "Postmaster of the Senate" and insert "Sergeant-at-Arms;" and after "hundred," in line 114, to insert "and fifty;" so as to make the clause read:

For stationery and newspapers, (including $5,000 for stationery for committees and officers of the Senate and $100 for postage-stamps for the Secretary of the Senate, and $150 for postage-stamps for the Sergeant-at-Arms,) $14,750.

Mr. EDMUNDS. What does that mean?

Mr. DAVIS, of West Virginia. One hundred and fifty dollars is appropriated for postage on letters and documents coming here to be forwarded by the Sergeant-at-Arms, and it was thought best to put it under the control of the Sergeant-at-Arms rather than the Postmaster of the Senate, who is his subordinate.

Mr. EDMUNDS. I have not the least reason to doubt that that is a perfectly proper provision in and of itself; but it gives me an opportunity to say that this business of postage for Congress and for the Executive Departments is in a very peculiar attitude as it respects the Senate and House of Representatives.

Senators and Members of the House of Representatives are the only officials in this Government that cannot communicate on official business with each other and with the Departments and with the people through the post-office without paying the postage out of their private pockets. When the clerks in the Treasury and in the Secretary's office and in the Sergeant-at-Arms' office here have occasion to carry on the public business by communicating with anybody the law provides the means of paying the postage on that correspondence; but the Senate and the House of Representatives have such small confidence in each other and in the individual members of the two bodies that it must be believed that every Senator and every Member of Congress will steal a postage-stamp or a stamped envelope or will sell his frank if he can. And in order to help out the enormous tax that it is on Senators and Members, I understand that the Post-Office Department has violated the law by a course of ruling which authorizes the various Departments, certainly the Pension Department that I have presently in my mind, to send to Senators and Members of the House of Representatives stamped envelopes with which Senators and Members may communicate with their constituents about public business. That is to say, a Senator or a Representative is forbidden by law to do that unless he pays postage, but the law declares that the Postmaster-General and the Secretary of the Interior and the Secretary of the Treasury and all the other Departments and the chief of the Pension Bureau may do that with a stamped envelope which shall be used for no other purpose than to communicate letters written in the Department and by its officers to their correspondents. They have in my opinion clearly violated the law by dodging the thing and sending to us—they do to me every day until I have managed to stop it by force of constant remonstrance—these envelopes. I send a letter from some poor pensioner who wants to know what has become of his claim to the Pension Office and ask them how it stands. They send me back an answer that it stands so and so and inclose me an envelope which is addressed to this pensioner, which is intended to enable me to write my letter to my constituent and frank it in that way, using that envelope for that purpose and subject myself to be sent to the penitentiary for doing it, as I am clearly liable to be under the law. Because I cannot be trusted to do that myself, I am under the tutelage and guardianship of the Commissioner of Pensions or the Secretary of the Interior for fear that I should use this envelope for some other purpose, for one of my own, or sell it to somebody!

I only take this occasion to put in my remonstrance against violating the law on the part of the Post-Office Department in order to relieve Senators and Members of Congress from the tax upon them that we have imposed ourselves, and which for some reason, political or otherwise—and it does not belong to any one party—we are unwilling to do. We cannot be trusted to do what every other officer of the Government does, and we have got to keep the statute by

having some guardian dole out to us one envelope at a time to communicate with our constituents. I protest against the whole business.

Mr. COCKRELL. I ask whether the Departments are sending envelopes to Members and Senators, giving them the discretion to fill them up and direct them, or whether they only send when an application is made to them touching some business in their office and an answer has to be sent to a constituent?

Mr. EDMUNDS. As far as I know, it is now limited to a case where you send a particular communication to the Department which apparently, as the Department supposes, will require some answer from a Senator to his constituent. Then they send you an envelope addressed to that constituent, which you can use to communicate with him. Under the law if the Post-Office Department has got a right to recognize that thing or any other Department, then it has a right to send blank envelopes; and it all goes on the proposition that a Senator or a Member of Congress cannot be intrusted to carry on the public business in the same way that the clerks in the Departments are, and we are to accept this gracious boon which clearly violates the law in my opinion (and I think every Senator will agree if he will look at the law) in order to get around it. If I am to go to the State prison I want to go square and straight on some offense that I have committed without an accessory or an accomplice in that way.

Mr. DAVIS, of West Virginia. I concur to a great extent with the Senator from Vermont as to the franking privilege. I believe it never ought to have been repealed, and if ever a proper opportunity comes, with my present information, I shall vote for its restoration. I believe the country wants it, and I believe it will be a benefit generally to the country.

The PRESIDING OFFICER. The question is on the amendment of the committee in lines 112, 113, 114, and 115.

The amendment was agreed to.

The Secretary continued the reading of the bill. The next amendment of the Committee on Appropriations was, before the word "clerks," in line 116, to strike out "twenty five" and insert "twenty-four," and in line 117, after the word "session," to strike out "eighteen thousand" and insert "seventeen thousand two hundred and eighty;" so as to make the clause read:

For twenty-four clerks to committees, at $6 per day, during the session, $17,280

Mr. DAVIS, of West Virginia. Two of the session clerks having been made annual clerks, that should read "twenty-two" instead of "twenty-four," and the amount of money, in lines 117 and 118, should be $15,840.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, so modified, was agreed to.

The Secretary continued the reading of the bill. The next amendment of the Committee on Appropriations was, in line 124, after the word "for," to strike out "hire of" and insert "expenses of maintaining and equipping," and in line 125, after the word "mails," to strike out "two thousand" and insert "three thousand five hundred;" so as to make the clause read:

For expenses of maintaining and equipping horses and mail-wagons for carrying the mails, $3,500.

Mr. SAULSBURY. I should like to inquire as to that.

Mr. DAVIS, of West Virginia. This is just what has been appropriated before. Thirty-five hundred dollars is the amount voted for the current year for this service for the Senate. It is a saving of $600 from the previous year, and my impression is that the saving is greater than that if we were to look back several years.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 127, to increase the appropriation "for materials for folding" from $5,000 to $7,000.

Mr. DAVIS, of West Virginia. I am directed by the committee to move to make the amount $4,000 instead of $7,000. That is a reduction of $3,000, which is to be added in another place.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 128, after the word "document," to strike out "five" and insert "ten," and in line 130, after the word "the," to strike out "superintendent" and insert "Sergeant-at-Arms;" so as to make the clause read:

For folding documents, $10,000: *Provided, however*, That any portion of said sum may be used, at the discretion of the Sergeant-at-Arms, for piece-work.

The amendment was agreed to.

The next amendment was, in line 139, after the word "oil," to insert "and cotton-waste;" so as to read:

For fuel and oil and cotton-waste for the heating apparatus, $5,000.

The amendment was agreed to.

The next amendment was, in line 141, after the word "furniture," to strike out "six" and insert "seven;" so as to read:

For furniture and repairs of furniture, $7,000.

Mr. DAVIS, of West Virginia. In line 141 the "seven" should be "ten," from the fact that on line 127 we reduced $3,000, which we should add here.

The PRESIDING OFFICER. The Senator from West Virginia proposes to amend the amendment by making the amount $10,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment was, in line 142, after the word "packing-boxes," to strike out "five" and insert "six;" so as to read:

For packing-boxes, $600.

The amendment was agreed to.

The next amendment was, in line 143, after the word "labor," to strike out "twenty-five" and insert "forty-five;" so as to read:

For miscellaneous items, exclusive of labor, $45,000.

Mr. SAULSBURY. That is a very undefined appropriation for miscellaneous items. We have no information of the details. I should like the chairman to name what comes under that. We cannot vote intelligently without some explanation. I want to vote all the money that is proper and right, but I do not want to vote for appropriations blindly. I want to know what I am voting for.

Mr. DAVIS, of West Virginia. The contingent expenses of the Senate last year, I believe, were $60,000 in this "miscellaneous" item. Fifty thousand dollars is the estimate for the coming year. The committee gave $45,000. Forty-five thousand dollars is the lowest that the "miscellaneous" contingent expenses of the Senate have been for a number of years.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in line 144, after the word "all," to strike out "thirty-six thousand five" and insert "fifty-seven thousand six;" so as to read: "In all, $57,600."

Mr. DAVIS, of West Virginia. To make the total addition correct in consequence of the changes made before the sum should be $60,600 instead of $57,600. We have added $3,000 above.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "House of Representatives, in line 170, to increase the appropriation "for compensation of the officers, clerks, messengers, and others receiving an annual salary, in the services of the House of Representatives," from $206,698 to $207,798.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 234, to increase the appropriation for salary of "one electrician" for the House of Representatives from $1,150 to $1,500.

Mr. WALLACE. That amendment is made at the suggestion of the House committee.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in line 236, after the word "electrician," to insert "together with everything pertaining to the electrical machinery and apparatus;" so as to make the clause read:

And the electrician, together with everything pertaining to the electrical machinery and apparatus, and all laborers and others connected with the lighting, heating, and ventilating the House, shall be subject exclusively to the orders and in all respects under the direction of the Architect of the Capitol, subject to the control of the Speaker.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 260, to increase the appropriation for the salary of "fourteen messengers on the soldiers' roll" of the House of Representatives from "$1,200 each" to "$1,250 each."

The amendment was agreed to.

The next amendment was, in line 262, to increase the appropriation for the salary of "eight messengers" of the House of Representatives from "$1,200 each" to "$1,250 each."

The amendment was agreed to.

The Secretary continued the reading of the bill to the end of line 381.

Mr. VOORHEES. Some days ago I gave notice of an amendment to make the clause from lines 373 to 377 read thus:

For Botanic Garden: For pay of superintendent, $1,600; for assistants in Botanic Garden and greenhouses, and laborers, under the direction of the Library Committee of Congress, $9,900; in all, $11,500.

Mr. DAVIS, of West Virginia. I understand the Senator wishes to make the "eight" in line 376 "nine."

Mr. VOORHEES. Yes, sir; to make the "eight" "nine" and make the "four" in line 377 "nine."

Mr. DAVIS, of West Virginia. Adding $1,500?

Mr. VOORHEES. Yes, sir. I do this on the recommendation of the superintendent of the Botanic Garden, who says the grounds have been so enlarged that this increased appropriation is needed for their proper care.

Mr. DAVIS, of West Virginia. The Committee on Appropriations considered this amendment of the Senator from Indiana and gave consent that it should be offered in the Senate by the Senator from Indiana. The committee has no objection to it.

Mr. McMILLAN. Where is the amendment to be inserted?

Mr. DAVIS, of West Virginia. On line 376.

Mr. VOORHEES. On page 10 of the bill as it is now, commencing at line 373, the provision in the bill reads:

For Botanic Garden: For pay of superintendent, $1,600.

That I do not propose to change.

For assistants in Botanic Garden and greenhouses, and laborers, under the direction of the Library Committee of Congress $8,400; in all, $10,000.

My amendment is to make that $8,400 read $9,900, and the $10,000, $11,500, providing for an additional force in the labor department of the garden.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. VOORHEES. Now, commencing on line 378, the clause as it stands in the bill is:

For improving the garden, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, $4,000.

I move to make that read $5,000, putting it back to where it stood from 1868 to 1875, and I am assured by the superintendent that it is highly important and necessary that that little addition should be made to the bill.

Mr. DAVIS, of West Virginia. I have no objection. The Senator's amendments in all add $2,500.

The amendment was agreed to.

Mr. VOORHEES. Now, Mr. President, I wish the attention of the Senator from West Virginia. Some two months ago, perhaps, I was authorized by the Joint Committee on the Library to ask an appropriation of $10,000 for our art fund.

Mr. DAVIS, of West Virginia. The Senator does not mean of course to put that on this bill.

Mr. VOORHEES. I want to be advised for fear I might be overlooking my duty.

Mr. DAVIS, of West Virginia. I think the Senator can let that wait for the sundry civil bill.

Mr. VOORHEES. Very well.

The PRESIDING OFFICER. The reading of the bill will proceed.

The Secretary resumed the reading of the bill and read to the end of line 403.

Mr. DAVIS, of West Virginia. My attention is called by the clerk of the committee to the fact that in line 403 the "six" ought to be "eight," as a majority of the committee think, from the fact that there is pressing necessity for a larger sum than $6,000, and I ask that "eight" be inserted.

The PRESIDING OFFICER. The Chair hears no objection, and it will be so ordered; so that lines 402 and 403 will read:

For contingent expenses of the Executive Office, including stationery therefor, $8,000.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 450, to increase the appropriation to the Department of State "for expenses of editing and distributing the laws enacted by the Forty-sixth Congress and for the expenses of editing and distributing the Statutes at Large of the Forty-sixth Congress" from $2,500 to $5,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Treasury Department," in the appropriations for the Secretary's office, in line 458, to insert "actuary for the Treasury Department, $2,000."

The amendment was agreed to.

The next amendment was, in line 476, in the appropriations for the Secretary's office, Treasury Department, before "laborers," to strike out "forty" and insert "forty-three."

The amendment was agreed to.

The next amendment was, in the appropriations for the Secretary's office, Treasury Department, line 478, to increase the item for salary of "one captain of the watch" from $1,200 to $1,400.

The amendment was agreed to.

The next amendment was, in line 489, to increase the total amount of the appropriation for the Secretary's office, Treasury Department, from $387,940 to $392,120.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the appropriations for the office of the Second Auditor, in line 541, before the word "clerks," to strike out "six" and insert "nine;" in line 542, before the word "clerks," to strike out "twenty-five" and insert "twenty-nine;" in line 544, before the word "clerks," to strike out "fifty-five" and insert "sixty;" in line 545, before the word "clerks," to strike out "twenty-five" and insert "twenty-three;" and, in line 547, to increase the total from $200,570 to $204,970; so as to make the clause read:

Second Auditor:

For Second Auditor, $3,600; deputy auditor, $2,250; five chiefs of division, at $2,000 each; nine clerks of class 4; twenty-nine clerks of class 3; additional to one clerk of class 3 as disbursing clerk, $200; sixty clerks of class 2; twenty-three clerks of class 1; eight clerks, at $1,000 each; two assistant messengers; and eight laborers; in all, $204,970.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 667, after the word "statistics," to strike out "two thousand four hundred" and insert "three thousand;" in line 668, before the word "clerks," to strike out "four" and insert "five;" in line 669, before the word "clerks," to strike out "five" and insert "six;" and before the word "thousand," in line 674, to strike out "forty-three" and insert "forty-seven;" so as to made the clause read:

Bureau of Statistics:

For the officer in charge of the Bureau of Statistics, $3,000; chief clerk, $2,000; five clerks of class 4; six clerks of class 3; five clerks of class 2; six clerks of class 1; three clerks at $1,000 each; five copyists at $900 each; one assistant messenger; one laborer; and one female laborer at $480; in all, $47,160.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Commissioner of Internal Revenue," in line 701, to increase the appropriation for the salary of "one deputy commissioner" from $3,200 to $3,500; and, in line 710, to "increase the total appropriation for the office" from $253,330 to $253,630.

The amendment was agreed to.

The next amendment was to strike out from line 718 to line 724, inclusive, in the following words:

That the salary of storekeeper and gauger at all distilleries that mash less than sixty bushels of grain per day shall not exceed $50 per month while the distillery is in operation and $35 per month while the distillery is not in operation. And at all other distilleries storekeepers and gaugers shall not receive exceeding $50 per month while the distillery is not in operation.

Mr. BECK. In support of that amendment I desire to lay before the Senate a letter addressed by the Commissioner of Internal Revenue to myself, and also a letter from a number of the storekeepers and revenue officers in one of the districts of my State. I have received a number of telegrams from Louisville, Cincinnati, and the West generally, protesting against that provision of the House bill. Without taking time to read the letters, I will hand them to the reporter to be inserted in the RECORD as the reasons why the committee struck out the provision, and why I think the Senate should sustain the committee in its action.

The letters referred to are as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, May 15, 1880.

SIR: I wish to call your attention to Mr. DIBRELL'S amendment to the legislative, &c., appropriation bill, as found in this morning's CONGRESSIONAL RECORD, at page 56, which proposes to cut down the salaries of storekeepers and gaugers at distilleries using less than sixty bushels of grain per day to $50 per month while the distilleries are in operation and $35 per month while they are suspended, and reducing the salaries of storekeepers and of gaugers at all other distilleries to $50 a month while the distilleries are not in operation.

In my judgment, it will be very unwise to pass this provision into law. The salaries of storekeepers and gaugers should be sufficient to induce the very best men to enter the service, so as to insure an honest and efficient service, satisfactory alike to the tax-payers and the Government.

Representing a State where there are over a hundred and fifty distilleries that would be affected by the first provision of this amendmept, you can well understand that it is to the interest of the tax-payers to have men thoroughly trustworthy to carry the keys of their distillery warehouses.

You are no doubt aware that when a number of distilleries close business during the hot weather it is the practice of this office, where the warehouses contain less than two thousand gallons each, to group a number of warehouses under the control of a general storekeeper, who visits them from day to day to attend to the withdrawals. Why these men should have their salaries reduced, when they are constantly employed in this work, is more than I can understand.

When the large houses suspend they sometimes have from three to seven thousand barrels of spirits in their warehouses, and it occurs to me that no cheap man should be employed for such responsible positions.

The proposition to compensate gaugers by a fixed salary of $50 per month is entirely new legislation. As you are aware, gaugers are now paid in proportion to the amount of gauging done, sixteen hundred gallons per day being required for the maximum per diem of $5.

The internal-revenue service is in a healthy and satisfactory condition. The taxes are being honestly paid and faithfully accounted for. The whole cost of collection for this year will be less than 3½ per cent. It seems to me that under these circumstances it is not wise to cut down these salaries. I write to you as a member of the committee who represents a State largely interested in the business of distilling, believing that you will not favor a measure that will be calculated to impair the efficiency of the service. I trust that you will make the proper representations to the Committee on Appropriations on the subject.

Very respectfully,

GREEN B. RAUM,
Commissioner.

Hon. JAMES B. BECK,
Of Committee on Appropriations, United States Senate.

LAWRENCEBURGH, KENTUCKY, *May* 17, 1880.

DEAR SIR: The undersigned, internal-revenue officers, would respectfully call your attention to the fact that the section attached to the legislative, executive, and judicial appropriation bill reducing the salaries of storekeepers and gaugers at distilleries that mash sixty bushels or less of grain per day to $50 per month while such distilleries are in operation, and to $35 per month when such distilleries are under suspension, and the salaries of storekeepers and gaugers at all other distilleries to $50 per month when distilleries are not in operation, does them and all other internal-revenue storekeepers and gaugers great injustice.

Many collection districts embrace a very large extent of territory, and under the present ruling storekeepers and gaugers at distilleries mashing over sixty bushels of grain per day must be changed every two months, and at distilleries mashing a less amount per day the changes are made every four or six months, and frequently very heavy traveling expenses are incurred in making the necessary changes. The expenses of making such changes frequently run from $10 to $20.

Two-thirds of the storekeepers and gaugers in the rural districts are compelled to board away from home at a cost of from $15 to $20 per month, including room, washing, and other actual necessaries. Very many in the rural parts of the districts are compelled to keep a horse, as it is often the case that they cannot get boarding within less than five miles of their distilleries; and that makes an additional cost of $10 per month. You will readily see that the actual legitimate expenses of the storekeepers and gaugers are from $25 to $30 per month, and often on the changes $10 to $15 more are added, thus in some cases making the expenses nearly equal to the salary proposed to be given them, and in some instances the expenses actually exceed the salary proposed.

This the fifth collection district of Kentucky embraces a territory including eighteen counties in its boundary, and is over one hundred miles across in two directions, namely, north and south and nearly east and west.

There are some provisions in the Carlisle bill which imposes greater responsibilities upon storekeepers and gaugers, and at the same time make it more diffi-

cult for them to perform their duties, and we feel that in view of these duties and responsibilities our salaries should not be decreased.

JOHN W. CALL, U. S. S.
JOHN H. CARR, U. S. S.
H. F. TROUTMAN, U. S. G.
F. W. STONE, U. S. S. and G.
R. A. HANCOCK, U. S. S. and G.
E. A. BAYLES, U. S. S. and G.
W. R. BELL, U. S. S. and G.
E. HEDDEN, U. S. S. and G.
J. H. McCAMPBELL, U. S. S. and G.
J. S. McGHEE, U. S. S. and G.
S. H. LEWIS, U. S. S.
WILEY SEARCY, U. S. S. and G.
E. R. DAVIDSON, U. S. S. and G.
J. H. ABBOTT, U. S. S. and G.
J. E. MURRAH, U. S. S. and G.
JOHN S. COZINE, D. C.

DEAR SIR: As deputy collector of the third division of the fifth district of Kentucky, I fully indorse the statement of the storekeepers and gaugers as set forth in the above writing. I have been a storekeeper and know the inconveniences to which these officers are subjected, and if the proposed reduction is made many of them who are unfortunately located will hardly be able to make expenses. I hope you will use your influence to have this provision stricken out of the executive, legislative, and judicial appropriation bill. The revenue service is now very efficient, and I hope its efficiency will not be impaired by so reducing salaries that good men cannot be induced to remain in the position they now hold.

Very respectfully,

JNO. S. COZINE,
Deputy Collector.

To Hon. JAS. B. BECK,
United States Senator, Washington, D. C.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Appropriations.

The amendment was agreed to.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in the appropriations for the "assay office at New York," in line 1042, to increase the appropriation for salary of chief clerk from $2,250 to $2,500, and in line 1053, to increase the total amount of the appropriations for "assay office at New York" from $32,650 to $32,900.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "War Department," in line 1196, before the word "dollars," to strike out "five thousand" and insert "six thousand six hundred;" so as to make the clause read:

For the purpose of examining the rebel archives, and having copies furnished for the Government, six thousand six hundred dollars; but no part of this sum shall be used to increase the salary or compensation of any officer or employé of the Government.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 1224, to reduce the amount of the appropriation "for contingent expenses of the Adjutant-General's Office, in the old Navy Department building, and in the building on F street above Seventeenth street, including fuel, light, heating apparatus, matting, cleaning, labor, and incidental items of care of two floors of Navy Department building," from $2,500 to $2,000.

The amendment was agreed to.

The next amendment was, in line 1232, to increase the appropriation "for contingent expenses" of the Bureau of Military Justice from $400 to $500.

The amendment was agreed to.

The Secretary resumed the reading of the bill to the end of line 1353.

Mr. EDMUNDS. I should like to ask the Senator from West Virginia, if he will kindly give me his attention, to refer to lines 1351 to 1353 inclusive:

For compensation of the superintendents of the six buildings occupied by the War Department, at $250 each, $1,500.

What are these "six buildings," and where are they?

Mr. DAVIS, of West Virginia. I am not able to answer the Senator, but I take it that they are the buildings occupied by bureaus of the War Department in the city here. Where they are I am not able to answer.

Mr. EDMUNDS. I have no doubt they are; but all this business of renting buildings, instead of having them when the United States has so much ground to occupy, is in my opinion not economical. Therefore I was led to inquire, as it seems there are six buildings outside of the War Department that are occupied for its purposes, to know what they are and where they are, with a view of having the matter called to the attention of the proper committee at some proper time, and see how it stands about that, and whether some more economical arrangement can be made. I hoped the Senator would be able to give me the information.

Mr. DAVIS, of West Virginia. I should be glad to inform the Senator further, if I could, just where they are. There is the Quartermaster-General's Office; there is the Paymaster-General's Office; probably some of these buildings are occupied by the Surgeon-General, and the Medical Department probably have some of them. I concur somewhat in what the Senator from Vermont says. I believe it would be better for the Government to own all their buildings. In some instances perhaps two or three years' rent would pay for the cost of a building that the Government is now occupying.

Mr. EDMUNDS. Certainly; there is no doubt of it.

Mr. DAVIS, of West Virginia. I think it would be economy if some suitable proper buildings, not too expensive, were added to the Government property here, instead of renting as many as we do.

Mr. BECK. The new building we are putting up for the War Department will accommodate them.

Mr. DAVIS, of West Virginia. I was just going to say to the Senator from Vermont that I take it as soon as the new State and War Department building, as it is called, is completed, as nearly all these bureaus belong to the War Department, they probably will go into that building, and in that way the rent will be considerably reduced, I think.

Mr. EDMUNDS. I hope so.

The Secretary resumed the reading of the bill, and read to line 1386.

Mr. MORRILL. I desire to call the attention of the chairman of the Committee on Appropriations to an omission on page 57. There does not appear to be any watchman provided for the Thomas Circle. It is clearly an omission, I think, and I ask, therefore, for permission to insert one watchman for the Thomas Circle.

Mr. DAVIS, of West Virginia. The attention of the committee has not been called in any way to that circle. I do not think that a watchman was provided for it the current year. Does the Senator know?

Mr. MORRILL. I do not, but I know it formerly was inserted, and I suppose it should be now.

Mr. EDMUNDS. It is absolutely necessary.

Mr. MORRILL. It is as important as any circle in the city.

Mr. ALLISON. It certainly ought to be in.

Mr. BECK. My impression is that the watchmen of some other circles attend to that as well. The circle I suppose by a hop, step, and jump is about twenty steps across. There are some watchmen with light duties at other circles who I think attend to this as well. When that circle was first laid off the suggestion was made that some day some one would want a watchman there and that the Senate or the House of Representatives would agree to put in a watchman for that little circle, as big as this room, and now it has come.

Mr. EDMUNDS. That little circle, as the Senator from Kentucky calls it, is just as large as any other circle, although it does not embrace the State of Kentucky or the State of Vermont, both of which States I am proud to say came into the Union of the States in the same year.

Mr. EATON. It comes very near embracing one of the Senators from the State of Vermont.

Mr. EDMUNDS. Yes, it comes pretty near it, but it does not embrace one of the Senators from Vermont by a good deal. It embraces a Senator from New Jersey and I believe a Senator from New York, and a good many other Senators, but I do not think that there is any Senator who requires to be watched in that neighborhood.

Mr. EATON. I have thought differently.

Mr. EDMUNDS. The Senator has thought differently because he lives I believe within about two squares, and he has a right to think that Senators in that neighborhood ought to be watched. I agree with him about that as to some of them, those in L street, for instance; but to speak seriously——

Mr. BECK. Will the Senator allow me to say a word?

Mr. EDMUNDS. If the Senator from Kentucky will pardon me a moment, this Fourteenth-street Circle, now called the Thomas Circle, is one of the greatest thoroughfares out of town of any circle or square or avenue that there is in the whole District of Columbia, for all the outgoing people and the incoming people and everybody else, and a line of railway on it, also pass through that place. A very fine statue has been erected there to General Thomas. I do not speak of the statue as a mere work of art, because I am not altogether sure that it is a very fine statue, but it has a very fine pedestal, and is what everybody in general, except my colleague I suppose, who is high up in art, would call a very fine statue also. The ground has been ornamented and laid out in grass and trees and flowers, like the other circles.

Mr. EATON. Is the Senator afraid that somebody will steal the statue?

Mr. EDMUNDS. No, I do not think it will be stolen, but people run over the ground just as they do through Iowa Circle and Farragut Square, and Rawlins Square and others, Rawlins Square not being half so big as this one, where the Rawlins statue is. Therefore it is necessary and proper for police purposes and all others that somebody should be in charge of that place. It is not of the slightest consequence to anybody who lives in the neighborhood any more than it is to anybody else, as the Senator from Connecticut, who has been making jocose remarks about this, perfectly well understands; but in respect of the propriety, if there is any propriety at all in this clause from beginning to end, there is no single place in the city that ought to have a watchman so much as that one on account of its being a great thoroughfare. That is all I have to say.

Mr. BECK. All I rose to say was that if the committee's amendments were allowed to be disposed of, before we were through with them I would endeavor to look at the history of that circle.

Mr. EDMUNDS. Very good.

Mr. BECK. I was on the House Committee on Appropriations when it was first established. We built first an iron fence around it and paid $11,000 for that. It was not quite fashionable enough for that fashionable corner and it was taken away, but what was done

with it I never heard; I do not think anybody ever knew, although we paid $11,000 for it. Then the watchmen on other circles were requested to go there and keep an eye on that as well as the other circles. The estimates made up are for "one watchman for the Fourteenth-street Circle and neighboring reservations."

Mr. EDMUNDS. Very good; put that in.

Mr. BECK. Now it is called the Thomas Circle, and a statue has been put there that the Senator from Vermont says is very fine.

Mr. EDMUNDS. I said that with a qualification.

Mr. BECK. I think if I ever saw a miserable brute in the shape of a horse put up in a statue it is there.

Mr. EDMUNDS. It is a Kentucky horse.

Mr. VOORHEES. How much ground is there put under the horse's fore feet to make him seem to be as high before as behind?

Mr. BECK. I do not know, but I think his neck and fore shoulders are heavier than all the rest of the body. All I want to say is, let the amendments of the committee be first acted upon, and then if Senators want a watchman to watch the horse to keep him from running away, perhaps I shall not object.

Mr. DAVIS, of West Virginia. The Senator from Kentucky has requested that we proceed with the bill, as he wishes to look up this question, and the Senator from Vermont can call it up after the reading is completed.

Mr. MORRILL. Very well.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was under the head of "Department of the Interior," in line 1481, after the word "hundred" to insert "and fifty;" so as to read:

Chief clerk, $2,500, and $250 additional as superintendent of the Patent-Office building.

The amendment was agreed to.

The next amendment was, in line 1493, to increase the total amount of the appropriations for the office of the Secretary of the Interior from $102,640 to $102,690.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 1522, to reduce the appropriation "for stationery for the Department of the Interior and its several bureaus and offices" from $44,000 to $35,000.

The amendment was agreed to.

The next amendment was, in line 1537, to reduce the appropriation "for postage-stamps for the Interior Department and its bureaus, as required under the postal union, to prepay postage on matter addressed to postal union countries," from $6,460 to $2,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 1569, after the word "dollars," to strike out "five" and insert "one financial clerk, at $2,000; four;" in line 1574, after the word "each," to strike out "two assistant messengers" and insert "one messenger; one assistant messenger;" and after the word "thousand," in line 1576, to strike out "six hundred and sixty" and insert "nine hundred and eighty;" so as to make the clause read:

Indian Office:

For compensation of the Commissioner of Indian Affairs, $3,500; chief clerk, $2,000; one financial clerk, at $2,000; four clerks of class 4; seven clerks of class 3; one stenographer, at $1,600; eleven clerks of class 2; ten clerks of class 1; thirteen clerks, at $1,000 each; eight copyists, at $900 each; one messenger; one assistant messenger; and two laborers; in all, $77,980.

The amendment was agreed to.

The next amendment was, in line 1583, to reduce the appropriation "for compensation of the Commissioner of Pensions" from $4,500 to $4,000; and in line 1595, to reduce the total amount of appropriations for salaries in the Pension Office from $491,750 to $491,250.

Mr. ANTHONY. What is the occasion of that amendment, striking off $500 from the salary of the Commissioner of Pensions?

Mr. DAVIS, of West Virginia. The salary of the Commissioner of Pensions at present is $3,000. The House advanced it to $4,500. The Senate committee believed that $4,000 was full compensation when compared with many of the other chiefs of bureaus, which are all less than $4,000, I believe, without exception.

Mr. ANTHONY. It is a most laborious and responsible office, and it seems to me the sum fixed by the House is not too much. I hope the Senate will not agree to the amendment.

The amendment was agreed to.

The Secretary resumed the reading of the bill. The next amendment was, under the head of "United States Patent Office," in line 1631, before the word "clerks," to strike out "five" and insert "seven;" and in line 1632, after the word "languages," to strike out "nineteen;" and insert "seventeen;" so as to read:

Seven clerks of class 3, (one of whom shall be translator of languages;) seventeen clerks of class 2.

The amendment was agreed to.

The next amendment was, in the same clause, in line 1635, before the word "copyists," to strike out "seventy" and insert "one hundred;" so as to read: "For one hundred copyists at $900 each."

The amendment was agreed to.

The next amendment was, in the same clause, in line 1636, before the word "skilled," to strike out "four" and insert "three;" so as to read: "For three skilled draughtsmen, at $1,200 each."

The amendment was agreed to.

The next amendment was, in the same clause, in line 1637, after the word "each," to insert "two skilled draugtsmen, at $1,000 each."

The amendment was agreed to.

The next amendmment was, in line 1645, to increase the total amount of the appropriation for compensation of the Commissioner of Patents and the clerks and employés of the Patent Office from $421,470 to $459,670.

The amendment was agreed to.

The next amendment was, in the appropriations "for contingent and miscellaneous expenses of the Patent Office," in line 1652, after the words "printing engraved patent-heads," to insert "paper for the same."

The amendment was agreed to.

The next amendment was, in line 1661, to increase the appropriation "for photolithographing, or otherwise producing plates for the Official Gazette," from $20,000 to $25,000.

The amendment was agreed to.

The next amendment was, in line 1663, after the word "drawings," to insert "of patents;" so as to make the clause read:

For photolithographing, or otherwise producing copies of the weekly issues of drawings of patents, designs, and trade-marks, $85,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 1719, to increase the appropriation for compensation of the "surveyor-general of the Territory of Dakota" from $2,000 to $2,500.

Mr. EDMUNDS. I should like to ask the chairman of the committee whether this is an increase of the salary or whether it is to restore it to the previous arrangement?

Mr. DAVIS, of West Virginia. It is an increase.

Mr. EDMUNDS. An increase?

Mr. DAVIS, of West Virginia. It is an increase of the salary from the fact that it equalizes it with that of the other surveyors-general.

Mr. EDMUNDS. Yes, but I see in the clause just before it: "For surveyor-general in Minnesota, $2,000." That is not equality according to my arithmetic.

Mr. EATON. It is on account of additional labor imposed.

Mr. EDMUNDS. That is another thing, but the Senator from West Virginia said it was to make it equal.

Mr. ALLISON. We have reduced some others.

Mr. DAVIS, of West Virginia. I will explain myself in a moment. I think there were four of these salaries at $2,700 which were reduced $250, and two were advanced $500. Two got $2,000, and the committee made the advances upon the representations of parties who appeared before them, members of the House and others, stating that the work had increased greatly in some cases and probably decreased in others. The Senator speaks of Minnesota. That was cut down as it was considered that there is much less work done there than in the Territories. In other words, in the States the Senator will notice, as in Florida and Louisiana, they are even below $2,000, but in the Territories I think they are about equally divided.

Mr. WALLACE. The Senator from Vermont will recognize the fact that in the neighborhood of the Black Hills the service of the surveyor-general of that Territory is very largely increased. The committee took that subject into consideration. The work is decreasing in the States and it is increasing in the Territories. In the Territory of Dakota it is quite large.

Mr. EDMUNDS. I should like to ask the chairman of the committee whether these provisions are to carry out existing law or whether these salaries are fixed in each annual appropriation bill?

Mr. DAVIS, of West Virginia. I cannot answer the Senator positively, but my impression is that the salaries are fixed in the appropriation bills from year to year.

Mr. EDMUNDS. If that is correct, I have nothing to say; but if this is to change a salary previously fixed by law, a continuous provision, (I am not saying that the salary of the surveyor-general of Dakota shall be $2,000 a year,) then I oppose this amendment on the ground that it changes the law.

Mr. DAVIS, of West Virginia. As I said to the Senator, I cannot answer positively, not having examined the subject, but my impression is, and I think it is the impression of the committee, that these salaries have been fixed from time to time by the appropriation bills.

Mr. EDMUNDS. And therefore if this appropriation bill were not to pass at all, there would be no law that would authorize the surveyor-general of Dakota to receive anything, as each annual appropriation bill provides for his compensation, there being no regulation of law beforehand saying how much it shall be.

Mr. DAVIS, of West Virginia. I think probably there might have been originally, but for many years this has been the practice, I understand.

Mr. EDMUNDS. Ah, that is another thing. If the law providing for the office of surveyor-general of Dakota declares what his salary shall be, and declares that it shall be $2,000 instead of $2,500, as this amendment proposes, then I say that the amendment ought not to be adopted, because it changes the existing law, and that without any reference to the question whether the salary ought to be $2,500 or not.

Mr. EATON. My own impression is, without an examination of the law, that this does not change existing law.

Mr. EDMUNDS. Very well; then I have nothing to say.

Mr. EATON. I have no sort of doubt but that the salary ought to be increased.

Mr. EDMUNDS. I am not making a point about that.

Mr. EATON. I understand that the Senator is not.

Mr. TELLER. I will say that this does change the existing law. The statute fixes the salaries of the surveyors-general. Until about 1876 or 1877 I think they never were put down. The Revised Statutes provide:

The surveyors-general of Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona, shall each receive a salary at the rate of $3,000 a year.

Mr. DAVIS, of West Virginia. It is not enough, then, the Senator thinks?

Mr. TELLER. I am not finding fault about its not being enough.

Mr. DAVIS, of West Virginia. The law fixes it higher than the bill.

Mr. TELLER. Certainly. Dakota is provided for somewhere else. I read this in answer to the question of the Senator from Vermont, whether this changed existing law. Of course it does change existing law.

Mr. INGALLS. The Senator is mistaken. Section 2208 provides:

The surveyors-general of Louisiana, Florida, Minnesota, Kansas, Nebraska, and Iowa, and of Dakota Territory, shall each receive a salary at the rate of $2,000 a year.

Mr. EDMUNDS. That being the law, I make the point of order without any reference to whether this salary ought to be great or small that the amendment changes the existing law.

The PRESIDING OFFICER, (Mr. BURNSIDE in the chair.) The Chair will decide that the point is well taken.

Mr. DAVIS, of West Virginia. The committee have no feeling about it, one way or the other.

Mr. EDMUNDS. I have no feeling about it. I only want to hold on to the law as it is.

The PRESIDING OFFICER. The amendment is thrown out on the point of order. The Secretary will resume the reading of the bill.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in line 1720, to increase the appropriation for clerks in the office of the surveyor-general of the Territory of Dakota from $4,500 to $6,000.

The amendment was agreed to.

The next amendment was, in line 1751, to reduce the appropriation for compensation of the "surveyor-general of the Territory of Montana" from $2,750 to $2,500.

Mr. EDMUNDS. That probably is to bring it back to the law, as it is a reduction. I have nothing to say about it. I do not know anything about it.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, in line 1755, to reduce the appropriation for the compensation of the "surveyor-general of the Territory of Utah" from $2,750 to $2,500.

The amendment was agreed to.

The next amendment was, in line 1758, to reduce the appropriation for the compensation of the "surveyor-general of the Territory of Wyoming" from $2,750 to $2,500.

The amendment was agreed to.

The next amendment was, in line 1762, to reduce the appropriation for the compensation of the "surveyor-general of the Territory of Arizona" from $2,750 to $2,500.

The amendment was agreed to.

The next amendment was to strike out from line 1764 to line 1773, inclusive, in the following words:

That public lands situated in States in which there are no land-offices may be entered at the General Land Office, subject to the provisions of law touching the entry of public lands; and that the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record. And moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury.

The amendment was agreed to.

The reading of the bill was resumed to line 1829.

Mr. DAVIS, of West Virginia. In line 1824 the provision is: "For superintendent of foreign mails, $3,000; chief clerk, $1,800." The salary of a bureau chief clerk is uniformly, I believe, $2,000 through the Departments, and I am directed by the committee to move to strike out "$1,800," in line 1825, and insert "$2,000."

Mr. EDMUNDS. Is that in conformity with existing law?

Mr. DAVIS, of West Virginia. I think the existing law is still higher; but, if I recollect aright, $2,000 is the estimate. The Senator will recollect that in 1876 there was a general reduction of 10 per cent. This man was affected among the rest, but most of the others have got back. As I understand the fact, this one has been left at $1,800. The other chief clerks of bureaus, I think, uniformly get $2,000.

Mr. EDMUNDS. The only point that I make is not about whether he ought to have $2,000 or $1,800; it is whether the law now fixes his salary at $1,800 or whether it does not?

Mr. DAVIS, of West Virginia. The Senator from Maryland [Mr. GROOME] will explain the matter.

Mr. GROOME. I will answer in this way: The law which created this place fixed the salary at $2,000. So it remained until, as was stated by the Senator from West Virginia, a general reduction to $1,800 was made of all the heads of divisions in the appropriation bill as it came from the other House some years ago. The Senate directed the putting of the salaries back to $2,000. Somehow or other in the committee of conference four of them were put back and the remaining one, this man, was left at $1,800. At the end of that law, which was an appropriation act, there was a provision which said that all laws and parts of laws inconsistent with the act were hereby repealed. If that provision is to be understood as in force, then perhaps the salary of this office is but $1,800. If it is not to be understood as being in force, then the salary of the officer as fixed by law is $2,000.

Mr. HOAR. Was not that merely the appropriation for one year, just as this is?

Mr. GROOME. That was the appropriation for that year.

Mr. HOAR. Without changing the general law?

Mr. GROOME. But at the same time in that appropriation act there was a clause inserted which I suppose was intended to meet this provision. The existing laws allowed a larger salary. Hence there was a clause in the concluding provision of that appropriation act which said that all laws and parts of laws inconsistent therewith were repealed, I presume only for that year.

Mr. EDMUNDS. A repeal for one year would be rather an extraordinary repeal.

Mr. GROOME. The object of it evidently was to avoid any conflict. The facts are that there are five chief clerks in the Post-Office Department. The First Assistant Postmaster-General has a chief clerk who gets $2,000; the Second Assistant Postmaster-General has a chief clerk who gets a similar salary; the Third Assistant Postmaster-General has a clerk who gets the same salary; the chief clerk of the money-order office gets the same salary; and this chief clerk, who is the head of the remaining division, the foreign mails division, gets but $1,800, which is the salary paid to the fourth-class clerks who are under him in that office. Hence there is an invidious distinction between him and the other chief clerks, and he is receiving to-day a salary $200 lower than is received by the other chief clerks in his Department, and more than that, I may be permitted to say, the head of his division, that is, the superintendent of foreign mails, has recommended that the salary shall be made $2,000; the Postmaster-General has written a letter recommending that the salary be made $2,000, and I suppose I can say with propriety that if attention had been called in the other legislative body at the proper time to this matter the salary would have been increased there to $2,000.

It seems to me, therefore, that there is a manifest injustice in allowing this chief clerk, who, I am assured on the very best authority, discharges duties as onerous and as responsible as any of the other head clerks in the Post-Office Department, to stand at a salary of $1,800 while all the other chief clerks in the Department get $2,000.

Mr. WINDOM. I want to ask the Senator from Maryland whether he has examined the law which he quotes from, providing that all laws and parts of laws inconsistent were repealed?

Mr. GROOME. I have not, sir. I may say, however——

Mr. WINDOM. Then I think the Senator is mistaken. I am quite sure he is, unless my recollection is very wrong.

Mr. GROOME. I made that statement upon the authority of the superintendent of foreign mails, who told me such was the fact this morning.

Mr. WINDOM. My recollection of the different appropriation bills at the time these small reductions were made, and especially the one at the time the 10 per cent. reduction was made, which reduced this office from $2,000 to $1,800, is that the bill contained the provision, now found in the first clause of the bill now before the Senate: "In full compensation for the service of the fiscal year," &c. The purpose of that form of provision was that there should be no claim for any additional pay or for any lack of appropriation. But I know how great the contest was, and the Senate would not permit the repeal of these acts, but for the year submitted to the temporary reduction. Therefore I think the law stands now at $2,000.

Mr. EDMUNDS. Then, if I understand it now, taking the average of information that we get, the existing law does provide for a salary of $2,000. If that be so, I have no objection to the amendment, for I dare say the Senators are right in supposing that this gentleman, whoever he is, ought to have the same as the others, although that would be accomplished by reducing the others to his salary just as well as by putting him up to the others.

Mr. DAVIS, of West Virginia. There is no objection to the amendment.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Appropriations was, under the head of "Post-Office Department," in line 1869, to increase the appropriation for the "publication of copies of the Official Postal Guide" from $20,000 to $25,000.

The amendment was agreed to.

The next amendment was, in the appropriations for the Post-Office Department, in line 1870, to insert "For directories of the principal cities of the United States, $200."

The amendment was agreed to.

The next amendment was, in line 1871, to increase the total amount of the appropriation "for contingent expenses" of the Post-Office Department from $72,600 to $77,800.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, to strike out the following proviso to the appropriation for salaries of the justices of the supreme court of the District of Columbia, being lines 1895 to 1901:

Provided, That hereafter one-half of the salaries of the said chief justice and associate judges, together with the salaries of the district attorney and warden of the jail of the District of Columbia, shall be paid out of the revenues of the District of Columbia, the other half out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill, and read to line 1925.

Mr. BAILEY. I am instructed by the Committee on Post-Offices and Post-Roads to move to increase the salary of the Assistant Attorney-General of the Post-Office Department from $4,000 to $5,000, in line 1912 of the bill. This amendment is moved at the request of the Postmaster-General, with the approbation of the Attorney-General of the United States, who desire this increase. I therefore move that $4,000 be stricken out and $5,000 inserted.

Mr. BECK. Four thousand dollars is the amount fixed by law. In the act organizing the Post-Office Department the Postmaster-General has authority to appoint certain persons. Section 3 of the act of June 8, 1872, page 284, volume 17 of the Statutes at Large, provides:

That the Postmaster-General may appoint the following employés in the Post-Office Department: One chief clerk for the Postmaster-General and one for each of the Assistant Postmasters-General, one superintendent of Post-Office building, and disbursing clerk, * * * one Assistant Attorney-General for the Post-Office Department.

Section 4 of the same law fixes the annual salary of the Assistant Attorney-General of the Post-Office Department at $4,000. I suppose that the Assistant Attorney-General there simply has a little work to do for the Post-Office Department.

Mr. EDMUNDS. I make the point of order that the amendment changes the law fixing the salary of the Assistant Attorney-General for the Post-Office Department, who is appointed by the Postmaster-General, and not by the President and the Senate as he ought to be.

Mr. BECK. He is appointed by the Postmaster-General.

Mr. EDMUNDS. Yes, I say he is appointed by the Postmaster-General, and not by the President and the Senate as he ought to be like all the others, and his salary is fixed by law, at what is stated in the text of the bill.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BAILEY. Has the Chair decided the point of order?

The PRESIDING OFFICER. The Chair decides that the point of order is well taken. The salary is fixed by law.

Mr. BAILEY. I ask to have read a letter from the Attorney-General and also one from the Postmaster-General on the subject, showing that the duties of this office are not of the insignificant character that are described.

The PRESIDING OFFICER. The Chair will withhold his decision until the letters are read.

Mr. EDMUNDS. The letters are not on the point that the Chair has decided. The letters are only to show the propriety of this change, which I do not dispute or admit. I do not know anything about it.

Mr. BAILEY. I think it likely the Senator from Vermont is correct in saying that this officer should be nominated by the President and confirmed by the Senate, and I call his attention to the fact that when the act under which the appointment was made was passed the Senator from Vermont and his friends were in a majority, I believe, in both Houses of Congress, and certainly ought to have fixed it at that time.

Mr. EDMUNDS. I believe that is true, and as it sometimes happens even when there is a majority, until within a year or two, things will sometimes go wrong; but of course within a year or two nothing of that kind could possibly have happened.

Mr. President, the Committee on the Judiciary had this matter referred to their consideration by communications from the Departments, and I am quite sure that we have reported a bill to change this method of appointment, and I think also to fix the salary like the others, and that is the way to do; but the Senator from Tennessee knows that the Calendar is a swamp, a box, into which everything is put and to which nobody can go apparently unless he is a very lucky fellow.

Mr. BAILEY. I wish to extricate this matter from the bog into which the Senator says it has fallen, namely, the Calendar, and I hope he will withdraw his objection.

Mr. EDMUNDS. I cannot. As far as I know, it is perfectly right to put this gentleman on the same status with the others; but I am opposed, as the Senator is too I think, to tinkering in an appropriation bill with the general regulations of law about the salaries of officers or anything else. Therefore, I feel it to be a duty to insist upon the point of order.

Mr. HOAR. I rose to ask the Senator from Vermont why he thought, because the law-making power has provided a wrong method in the appointment of this officer, the law-making power ought to refuse to give him a sufficient salary until they corrected their own mistake?

Mr. EDMUNDS. I have not expressed any such opinion.

Mr. HOAR. The uninitiated ear would have thought that that was the opinion the Senator expressed.

Mr. EDMUNDS. There are two uninitiated ears.

Mr. EATON. By direction of the committee—I think I have seen all of them—and by request of the Attorney-General, and certainly I am very much disposed as far as I can to grant his request, I move in line 1917 to strike out the word "two" and insert "five," so that the salary of the chief clerk in the office of the Attorney-General shall be $2,500 instead of $2,200.

Mr. EDMUNDS. Is that fixed by a general law?

Mr. EATON. No, it is not.

Mr. EDMUNDS. All right.

The amendment was agreed to.

Mr. DAVIS, of West Virginia. There should be a correction made in line 1924 by striking out "6" and inserting "9," so as to read "$73,900." That is rendered necessary by the amendment that has just been agreed to.

The amendment was agreed to.

The Chief Clerk resumed and concluded the reading of the bill.

Mr. DAVIS, of West Virginia. On page 2, in lines 15 and 16, a correction should be made. The total appropriation for compensation of officers and employés of the Senate, owing to the change the Senate made in the employés, should read "$199,837.68" instead of "$193,327.68." I move that amendment.

The amendment was agreed to.

Mr. MORRILL. In line 1382, after the words "Iowa Circle," I move to insert "one watchman for Fourteenth-street Circle and neighboring reservations." I will merely say that this is in the estimates, and it is particularly emphasized by a note, saying:

The necessity for additional watchmen upon all public reservations is rendered more apparent from year to year.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. BECK. It will be observed that an appropriation is made—

For one watchman for Iowa Circle, one for Rawlins, McPherson, and Farragut Squares, and Washington Circle, and one for Stanton Place and neighboring reservations, three in all.

At the smallest circle, I presume—at least it is among the smallest—it is proposed to have a watchman. Is that the proposition?

Mr. MORRILL. No, sir; I propose it precisely in the language of the estimates, page 43: "One watchman for Fourteenth-street Circle and neighboring reservations."

There are other reservations in that neighborhood—that where the Scott statue is, for example. There is a note here calling especial attention to this matter. I feel no particular personal interest about the matter if it is not thought to be right, but I have no doubt of the correctness of the estimate, and that a watchman is required there perhaps more than at almost any other reservation in the city.

Mr. BECK. If the point of order will lie to it, that this has not been referred to the committee, I make it.

Mr. MORRILL. But it is in the estimates; that is sufficient.

Mr. DAVIS, of West Virginia. It may be in the estimates, but the Senator well knows if the point of order is raised—I do not raise it—the amendment cannot be entertained.

Mr. BECK. I make the point of order on the amendment of the Senator from Vermont.

Mr. DAVIS, of West Virginia. All amendments, no matter if they are estimated for, must be referred to the Committee on Appropriations by the mover one day before they are offered in the Senate.

Mr. WINDOM. I think the Senator is mistaken. If it is in the estimates it does not require one day's notice.

Mr. DAVIS, of West Virginia. I think not. Read the rule.

The PRESIDING OFFICER. The Chair would be glad to have the Senator from West Virginia refer to the rule.

Mr. DAVIS, of West Virginia. I think it is Rule 27.

Mr. WINDOM. The twenty-seventh rule provides that where an amendment is proposed by a committee one day's notice must be given; but I think there is no such notice required where the item proposed is in the estimates.

Mr. DAVIS, of West Virginia. I think it is. However, we shall look.

Mr. ALLISON. There is no doubt about this being in order. It is estimated for regularly in the Book of Estimates by the head of a Department.

The PRESIDING OFFICER. The Chair is of the opinion, if the amendment proposed is embraced in the estimates, that it can be admitted under the rule.

Mr. MORRILL. There is no doubt about it at all; the twenty-seventh rule governs it.

The PRESIDING OFFICER. The twenty-seventh rule is very clear on the subject.

Mr. MORRILL. The last clause of the rule.

The PRESIDING OFFICER. The last clause of the twenty-seventh rule is distinct:

Or proposed in pursuance of an estimate of the head of some one of the Departments.

So that if proposed in an estimate of the head of any of the Departments it is clearly within the rule.

Mr. DAVIS, of West Virginia. But Rule 28——

Mr. ROLLINS. Does the Senator appeal from the decision of the Chair?

Mr. DAVIS, of West Virginia. No, I shall not.

Mr. ROLLINS. The Chair has ruled on the point of order.

Mr. DAVIS, of West Virginia. The Chair ruled under Rule 27, as I understood him.

The PRESIDING OFFICER. Under the last paragraph of Rule 27.

Mr. DAVIS, of West Virginia. But Rule 28 provides:

All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill, or to add new items of appropriations, shall, at least one day before they are offered, be referred to the Committee on Appropriations.

The PRESIDING OFFICER. That refers to amendments moved by a committee, the Chair understands.

Mr. WINDOM. That refers to amendments moved by a committee.

The PRESIDING OFFICER. So the Chair understands.

Mr. DAVIS, of West Virginia. The rule as I have always understood——

The PRESIDING OFFICER. The Senator will allow the Chair to state his view.

All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate.

Then it goes on to state what is to become of them, and all that follows refers particularly to amendments offered by select or standing committees of the Senate, and has no reference to those moved in pursuance of the estimates of the heads of Departments.

Mr. DAVIS, of West Virginia. The rule also says, "or to add new items of appropriation." Why say "or to add new items of appropriation" when it was disposed of previously, having come from a committee?

Mr. WINDOM. A standing committee may move an amendment, provided it is referred one day before it is offered to the Appropriations Committee, but an individual may move any amendment, if it is in the estimates, without so referring it to the Committee on Appropriations.

Mr. BECK. Did I make the point of order? Is that understood?

The PRESIDING OFFICER. The Chair is in doubt whether the Senator from West Virginia or the Senator from Kentucky made the point of order.

Mr. BECK. I withdraw the point of order if I made it. I do not care to have so much time taken up on points of order; but I desire to say that this is just an illustration of everything we do. What is the note that the Senator from Vermont has said particularly emphasizes the necessity for this watchman? The circle is not as large as the Senate Chamber would be if it was continued so as to form a complete circle. Here is what the Department say to emphasize the statement of the Senator from Vermont:

Each reservation containing either a piece of statuary, a lodge, a fountain, ornamental vases, and drinking fountains, requires a watchman, not only to preserve this property from injury, but to make minor repairs of the walks and sodding, to keep the paths and lawns free of papers and shavings, and other rubbish dropped or blown upon the grass and shrubbery, and also to preserve order among and protect those who may chance to visit the squares for their personal pleasure and comfort.

In other words, you cannot put up a drinking-fountain in this city, you cannot put up a piece of statuary, that you are not compelled, according to the estimates of the head of a Department, to put a man at $720 a year to watch it. The thing may cost $50; yet the man is to stand there and do nothing except draw a salary to go there once a week and look at it and see that somebody has not done something to that fountain or that piece of statuary. They put up the Thomas monument, and some boys might throw stones at the horse as though it was a bull—for it looks much more like a bull than a horse. A watchman is to be there to see that some bad boys do not throw stones at it. That is all the use there is for him, and $720 a year is to be paid to him. Seven hundred and twenty dollars would remove it and put a decent looking horse such as they put under General Scott, for that is a good looking horse, I admit. If that were done, I would be willing some one should watch it and keep it from injury; but the sooner that thing is pelted down by the boys the better, in my judgment.

If this provision is to be made, somebody is to be put there to stand at that corner. It is a very important thoroughfare; the street-cars are running around it. If there are not enough policemen in the town to guard it and watch it and see that everything is cared for properly, then, to give this man something to do, let us provide that the watchmen everywhere at the different squares in the city such as Franklin Square, Lafayette Square, the Smithsonian grounds, Judiciary Square, Iowa Circle, Fourteenth-street Circle, and Rawlins, Farragut, and other squares shall have the same powers as are now possessed by the Metropolitan police of the city of Washington. Then each of these watchmen can do something, and that is really all they are fit for. If that amendment is added, I am willing this man shall have something to do.

Mr. ALLISON. I hope that will be done.

Mr. MORRILL. I have no objection.

Mr. ALLISON. I hope the Senator from Kentucky will offer that amendment to include all these watchmen.

Mr. BECK. I offer it in this form: that each of the watchmen guarding the public property shall have the same power and authority to make arrests and act as conservators of the peace as the Metropolitan police of the District of Columbia.

Mr. MORRILL. If the Senator will move that at the end of the paragraph I have no objection. I think it very proper. But in relation to the Senator's criticism of the statue, there——

The PRESIDING OFFICER. Will the Senator suspend until this amendment can be taken down?

Mr. MORRILL. Do I understand that my amendment is agreed to?

The PRESIDING OFFICER. If there be no objection, the amendment of the Senator from Vermont [Mr. MORRILL] is agreed to; and the question will then be on the amendment of the Senator from Kentucky, [Mr. BECK.]

Mr. BECK. If that power is given I will withdraw my objection to the amendment of the Senator from Vermont.

Mr. MORRILL. I desire to amend the line.

Mr. DAVIS, of West Virginia. Wait a moment. We do not know what this amendment is. It has not been reported yet.

Mr. MORRILL. That comes in after my amendment at the end of the whole paragraph, and nobody objects to it. I think it is very proper.

Mr. DAVIS, of West Virginia. We do not know what it is yet.

Mr. MORRILL. Let us perfect the amendment already adopted.

The PRESIDING OFFICER. The amendment of the Senator from Kentucky is not yet before the Senate.

Mr. DAVIS, of West Virginia. Nor is the amendment offered to the bill by the Senator from Vermont yet acted on.

The PRESIDING OFFICER. That has been agreed to, the Chair understands.

Mr. DAVIS, of West Virginia. No, sir.

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from Vermont, which will be reported.

The CHIEF CLERK. The amendment is, in line 1382, after the word "Circle," to insert "one watchman for Fourteenth-street Circle and neighboring reservations."

Mr. MORRILL. If that is agreed to, I will then perfect the paragraph by striking out the word "three," in line 1385, and inserting "four in all;" by striking out "one" and inserting "two;" by striking out "nine" and inserting "six," and by striking out "eighty" and inserting "forty;" so as to make the amount of the appropriation $2,640.

The PRESIDING OFFICER. Those amendments will be made.

Mr. DAVIS, of West Virginia. I understand those amendments are just carrying out the first amendment of the Senator from Vermont.

Mr. MORRILL. That is all.

Mr. DAVIS, of West Virginia. Now the amendment of the Senator from Kentucky to the amendment of the Senator from Vermont.

The PRESIDING OFFICER. That was not an amendment to an amendment. That was an original amendment which the Senator from Kentucky agreed to put on the last paragraph. It will now be reported.

Mr. MORRILL. Let it come in after line 1386.

The PRESIDING OFFICER. That is a separate amendment, and the Secretary will now report the amendment of the Senator from Kentucky.

Mr. DAVIS, of West Virginia. But let it be understood that unless the amendment of the Senator from Kentucky is adopted the other is not to stay.

The PRESIDING OFFICER. The Chair quite understands that. The question now is on the amendment of the Senator from Kentucky, which will be read.

The CHIEF CLERK. After line 1386 it is proposed to add:

Provided, That each of the watchmen herein provided for shall have the same duties and powers as the Metropolitan police.

Mr. HOAR. The object of the Senator from Kentucky seems to be entirely proper; but I suppose the Metropolitan police are subject to some authority, the chief of police or some other head of the police of the city. Now these watchmen are officers not of the District, but of the United States. They ought not to be clothed with the very important and responsible power of making arrests as peace officers, each on his own hook and on his own responsibility, without being subjected to some common superior authority. For instance, a watchman arrests a man arbitrarily, unjustly, a man who is sick, thinking he is intoxicated. He ought to be subjected to the orders or government of some responsible person.

Mr. BECK. The Senator will allow me to make a suggestion to him?

Mr. HOAR. Certainly.

Mr. BECK. I put the amendment in this form, believing it is imperfect, hoping that when the Senators and Representatives who will have charge of the bill in conference come together they will put it in proper form. I desire to have something on which they can act. I agree with what the Senator from Massachusetts says. There ought to be some more distinct power given.

Mr. HOAR. If the Senator would add to his amendment "and shall be subject in the discharge of their duty to the same authority" or something of that kind.

Mr. BECK. I thought that perhaps the Commissioner of Public Buildings and Grounds might not want to transfer all his authority over them. I was not quite prepared to say what was best to be done.

Mr. HOAR. Then say "subject to his authority."

Mr. BECK. The Senator will observe that there is some difficulty about it.

Mr. HOAR. The only point I make is that it is not wise legislation to give to any officer the absolute power of arresting a person with-

out subjecting him to some responsible and competent authority. The Senator can arrange it in any mode he sees fit.

Mr. BECK. I am satisfied it is not exactly right now, but I hope we shall make it right before the bill is finally disposed of.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. Does any Senator desire a separate vote on any amendment made as in Committee of the Whole?

Mr. CAMERON, of Wisconsin. I ask to have the amendments on page 71, in lines 1718, 1719, 1720, and 1721, reserved for a separate vote.

Mr. DAVIS, of West Virginia. I did not catch what the Senator from Wisconsin said.

Mr. CAMERON, of Wisconsin. I want to have a separate vote on the amendments I have indicated. I was in hopes my friend from Vermont [Mr. EDMUNDS] would not insist on the point of order he raised.

Mr. EDMUNDS. The amendment is not before the Senate. It was ruled out on a point of order. It is not in the bill at all.

Mr. CAMERON, of Wisconsin. It was ruled out in Committee of the Whole.

The PRESIDENT *pro tempore*. Then there is nothing to reserve. Does any Senator desire to reserve any amendment? If not, the question will be put on the amendments in gross.

The amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

AMENDMENTS TO BILLS.

Mr. SLATER, Mr. ROLLINS, Mr. GROOME, Mr. CALL, Mr. HILL of Georgia, Mr. WHYTE, Mr. JOHNSTON, Mr. EATON, Mr. PENDLETON, Mr. CAMERON of Wisconsin, Mr. HARRIS, Mr. BUTLER, and Mr. CAMERON of Pennsylvania, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. INGALLS submitted an amendment intended to be proposed by him to the bill making appropriations for sundry civil service of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

COUNT OF THE ELECTORAL VOTE.

Mr. MORGAN. I move that the Senate proceed to the consideration of the resolution providing for a joint rule in regard to the count of the electoral vote for President and Vice-President.

Mr. EDMUNDS. Let us hear it read for information.

Mr. CONKLING. What has become of the Kellogg case?

Mr. HOAR. I object to the motion.

The PRESIDENT *pro tempore*. The joint rule will be reported at the request of the Senator from Vermont.

The Chief Clerk read the proposed joint rule.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this joint rule?

Mr. HOAR. Is that motion debatable?

Several SENATORS. Certainly.

Mr. HOAR. I object to taking up the measure suggested by the Senator from Alabama, because I think the Senate ought first to take up and dispose of the pending resolutions in regard to the seat of the Senator from Louisiana. Those resolutions have been discussed, and they were laid aside without any serious resistance on the part of the minority of the Senate, to accommodate the senior Senator from Delaware under very peculiar circumstances, with the expectation, and as I understood it with what was an assurance, that they were to be resumed. I do not think, therefore, that we ought to consent to their displacement by this measure until they have been disposed of. That question has been argued at great length on both sides. I move to amend the motion of the Senator from Alabama by substituting the resolutions in regard to the seat of WILLIAM PITT KELLOGG.

The PRESIDENT *pro tempore*. That is not in order.

Mr. HOAR. I was afraid the Chair might say that, but I thought I would try it. I call for the yeas and nays on the motion of the Senator from Alabama.

The PRESIDENT *pro tempore*. The Senator from Alabama moves to postpone all previous orders and proceed to the consideration of the joint rule that has been read.

Mr. CONKLING. Mr. President, knowing and feeling the importance of a proper joint rule for the arrangement of the count of electoral votes, still I do not think that anything should be taken up in preference to the question of privilege which has dragged so long and been postponed so often.

The Chair says, and rightly of course, that it is not in order for the Senator from Massachusetts to move to amend this motion by substituting another measure, but nevertheless every Senator will understand that those who vote now to take up this mean again to postpone the so-called Kellogg case, and I am moved to say that I have great doubt whether the majority here will vote upon the Kellogg case during this session.

I am not talking about what anybody means; I will not get into the domain of motives; but I mean to express my apprehension and a rather strong inclination to believe that the majority of the Senate will not pass decisively upon the Kellogg case, if in truth they mean to adjourn at the time or anywhere near the time suggested by the House of Representatives. I am strongly inclined to believe that all those who vote now to refuse to take up the Kellogg case at this time, for that is what this vote "ay" will mean, will be contributing, whether they know it or not, to a state of things which is to throw over to another session the disposition of the Kellogg case. I think it ought to be disposed of, and although I will vote to take up this rule in order to get up the subject to which it relates, at the proper time, I hope the Senator from Alabama will not succeed in this way or in any other way in postponing the Kellogg case. Let us take it up and let us vote upon it some time or other. I do not see why we cannot vote.

Mr. EATON. If I believed as my friend from New York does, I should vote against the taking up of the resolution of the Senator from Alabama, because I desire to have a vote upon the Kellogg matter as speedily as possible. I am ready to vote upon it now; but it seems to me proper that this resolution should be taken up and disposed of, and then let us dispose of the other at once.

Mr. CONKLING. Why should we not dispose of the other now?

Mr. EATON. I do not know of any good reason myself, except that this has to go to the other House for the action of that House. Now, I desire to say to my friend from New York that I am as anxious as he can be to get to a vote upon the Kellogg matter. He believes that this gentleman ought to be retained in his seat; I do not; and therefore I want to unseat him as soon as possible.

Mr. CONKLING. How did the Senator find out those two things?

Mr. EATON. What two things?

Mr. CONKLING. The Senator can tell what his own opinion is, and perhaps I can guess how he found that out; but how did the Senator find out what my opinion is?

Mr. EATON. By the same rule of guessing that belongs to me.

Mr. CONKLING. By the same rule of guessing as to what he thinks himself. I guess that is about right. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Alabama.

Mr. EDMUNDS. The Senator from Massachusetts demanded the yeas and nays.

Mr. HOAR. I demanded the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BLAIR, (when his name was called.) I am paired on all political questions but the Kellogg case. As this seems to affect that case, I vote "nay." I am paired with the Senator from Maryland, [Mr. GROOME.]

Mr. BURNSIDE, (when his name was called.) I am paired on all political questions except the Kellogg case. Therefore I vote "nay."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Nebraska [Mr. PADDOCK] generally, and therefore I do not vote unless it becomes necessary to make a quorum.

Mr. COKE, (when his name was called.) I am paired.

Mr. CONKLING, (when his name was called.) I am paired not on political questions, for I understand all questions to be political, but on party questions with the honorable Senator from Florida, [Mr. JONES.] I take it for granted this is in some sort a party question, and therefore I do not vote.

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. WINDOM, (when Mr. FERRY's name was called.) The Senator from Michigan, [Mr. FERRY,] who is necessarily absent, informed me that he was paired with some Senator on the other side. I am unable to state who.

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. PLUMB, (when his name was called.) I am paired on this question.

Mr. RANSOM, (when his name was called.) This morning I stated that yesterday I had paired with the Senator from Michigan [Mr. FERRY] on party questions. It was then stated that he had been here this morning and I voted. My friend from Minnesota now says that Mr. FERRY is paired with some member of the Senate on this side. I have not paired with him to-day. He would vote "nay," and I should vote "yea."

Mr. TELLER, (when his name was called.) On this and all other political subjects I am paired with the Senator from Virginia, [Mr. JOHNSTON.] If he were present, I should vote "nay."

Mr. VEST, (when his name was called.) I am paired on political questions with the Senator from Connecticut, [Mr. PLATT.]

Mr. WILLIAMS, (when his name was called.) On this question I am paired with the Senator from Nebraska, [Mr. SAUNDERS.]

The roll-call was concluded.

Mr. DAVIS, of West Virginia. I am paired on all political questions with the Senator from Michigan, [Mr. BALDWIN,] except the Kellogg case, and as my friend from Texas [Mr. COKE] has declined

voting because it may in some way affect that case, I feel at liberty to vote. I vote "yea."

Mr. CAMERON, of Pennsylvania. I ask that my name be called. I vote "nay."

Mr. DAVIS, of West Virginia. I ask the Senator from Pennsylvania whether he is paired with his colleague or not. His colleague [Mr. WALLACE] left the Hall saying he was paired with somebody.

Mr. CAMERON, of Pennsylvania. Not with me.

Mr. TELLER. My colleague [Mr. HILL] is paired with the Senator from West Virginia, [Mr. HEREFORD.]

Mr. BURNSIDE, (after having voted in the negative.) On consideration I withdraw my vote. I hardly think, on consideration, that this has any connection with the Kellogg case sufficient to justify me in voting.

Mr. COCKRELL. The Senator from Wisconsin [Mr. CARPENTER] asked me to pair with him and I agreed to do so. To make a quorum I vote.

Mr. BLAIR. I agreed with the Senator from Maryland [Mr. GROOME] that I would refer all questions to the Senator from West Virginia, [Mr. DAVIS,] if any arose, as to whether my pair with him was to apply or not. I should like to know whether the Senator considers this a vote on the Kellogg case in such a way as to preclude my voting.

Mr. DAVIS, of West Virginia. I think there is nothing in this that he would object to the Senator voting.

Mr. BLAIR. I will withdraw the vote under the circumstances.

Mr. COCKRELL, (after having voted in the affirmative.) As I stated I was paired with the Senator from Wisconsin [Mr. CARPENTER] on political questions, reserving to myself, as I do all the time, the right to vote to make a quorum. Now, as there is a quorum here and the opposite sides of the Chamber are voting differently, I shall withdraw my vote.

The result was announced—yeas 25, nays 14; as follows:

YEAS—25.

Bailey,	Garland,	McDonald,	Thurman,
Beck,	Gordon,	McPherson,	Vance,
Call,	Hampton,	Morgan,	Voorhees,
Davis of Illinois,	Harris,	Pendleton,	Walker.
Davis of W. Va.,	Hill of Georgia,	Pryor,	
Eaton,	Jonas,	Saulsbury,	
Farley,	Kernan,	Slater,	

NAYS—14.

Allison,	Booth,	Hoar,	Rollins,
Anthony,	Cameron of Pa.,	Kirkwood,	Windom.
Blaine,	Cameron of Wis.,	McMillan,	
Blair,	Edmunds,	Morrill,	

ABSENT—37.

Baldwin,	Ferry,	Kellogg,	Sharon,
Bayard,	Groome,	Lamar,	Teller,
Bruce,	Grover,	Logan,	Vest,
Burnside,	Hamlin,	Maxey,	Wallace,
Butler,	Hereford,	Paddock,	Whyte,
Carpenter,	Hill of Colorado,	Platt,	Williams,
Cockrell,	Ingalls,	Plumb,	Withers.
Coke,	Johnston,	Randolph,	
Conkling,	Jones of Florida,	Ransom,	
Dawes,	Jones of Nevada,	Saunders,	

The PRESIDENT *pro tempore*. The motion prevails, and the joint rule is before the Senate.

Mr. RANSOM. I beg leave to report from the Committee on Printing a resolution and ask for its immediate consideration.

Mr. MORGAN. I object to any business coming in.

Mr. RANSOM. I do not mean to displace the proposition of the Senator from Alabama. I ask unanimous consent.

Mr. HOAR. I object.

The PRESIDENT *pro tempore*. The Senator from Massachusetts objects.

Mr. KERNAN. I move that the Senate do now adjourn.

Mr. HARRIS. I hope the Senator will withdraw that motion.

Mr. KERNAN. I withdraw it.

Mr. HARRIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eleven minutes spent in executive session the doors were reopened, and (at six o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 21, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

NIGHT SESSION FOR UTE AGREEMENT BILL.

Mr. HOOKER. I see by examination of the RECORD this morning that it contains a statement that by unanimous consent the session of Wednesday night next was set apart for the consideration of the Ute agreement bill. I would inquire if the Journal corresponds with the RECORD in that regard?

The SPEAKER. It does.

Mr. HOOKER. In reference to that matter I wish to state that yesterday morning, when unanimous consent was asked for setting apart a given night of next week for the consideration of the Ute agreement bill, I was approached by two gentlemen from the other side, the gentleman from Colorado [Mr. BELFORD] and the gentleman from Kansas, [Mr. HASKELL,] with a proposition that I should withdraw my objection to setting apart a night for that purpose. I had objected to its being done when the proposition was made, and that objection prevented such order by the House. I objected to it upon the ground that the Choctaw claim bill was pending in Committee of the Whole as unfinished business; that it had been considered at one evening session, and no result had been arrived at in regard to it. I proposed to withdraw my objection to setting apart a night for the consideration of another bill on the Calendar, the Ute agreement bill, on the condition that there should be allowed an hour for debate on the Choctaw claim bill, then pending as unfinished business, and then that a vote should be taken without further debate on that bill.

After having made my objection, which objection prevented the fixing a night session for the consideration of the Ute agreement bill only, a written proposition was brought to me by those gentlemen, proposing to set apart a night for the Ute agreement matter, giving, however, an hour for debate and then a vote on the Choctaw claim bill, which was pending unfinished. I left the Hall with the understanding that that was the agreement, and I desire to say that I think it should have been adhered to in the proceedings of the House.

Mr. BELFORD. I desire to state to the House my connection with this matter. The gentleman from Kansas [Mr. HASKELL] prepared a resolution, which was drawn up in his own handwriting, which he requested me to take to the gentleman from Mississippi [Mr. HOOKER] and submit to him. I did so, and the gentleman from Mississippi objected to it as drawn. I brought the resolution back to the gentleman from Kansas, and it was then modified by him so as to allow Wednesday evening next to be set apart for the consideration of two bills, the Ute bill and the Choctaw bill. That resolution was taken by the gentleman from Kansas to the gentleman from Illinois, [Mr. SPARKS,] and Mr. SPARKS said that he would object to any resolution that assigned Wednesday night or any night to the consideration of the Choctaw claim bill.

Now, I had no understanding with the gentleman from Mississippi that I would forego any opportunity during the remaining days of the session to bring up the Ute agreement bill for consideration. I regarded that bill as one of prime and supreme importance. I felt that, as the sole Representative in this House of the State of Colorado, which is vitally interested in the settlement of this Ute question, it was my duty to press it upon the attention of this House. I did not recognize the right of the gentleman from Mississippi to control the action of this House in setting apart Wednesday night or any other night for the consideration of a great public measure of that character.

Mr. HOOKER. I desire to say to the gentleman from Colorado [Mr. BELFORD] that "the gentleman from Mississippi" does not undertake to control the action of the House only in so far as under the rules it is his right to object to superseding any business under consideration in Committee of the Whole by taking up another bill. My objection proved effective when the proposition was submitted yesterday morning. The gentleman from Colorado afterward brought to me a proposition to withdraw my objection to setting apart next Wednesday night for the consideration of the Ute agreement bill, and I told him that if I could have an hour for the consideration of the bill then pending in Committee of the Whole and unfinished, I would agree to it. I said to the gentlemen representing the Ute agreement bill that I would not stand in the way of its consideration, except that I could not give away a proposition which as long ago as December last was set down for consideration on the second Monday in January.

It was well known to the gentleman that my objection would defeat his proposition. And when I left the Hall, with the distinct understanding that the proposition I had made would be acceded to, I did not suppose that any advantage would be taken of my absence. A distinct proposition in writing had been submitted to me that I should withdraw my objection to setting apart next Wednesday night for the consideration of the Ute agreement bill, on the condition that one hour should be given to the consideration of the matter pending before the Committee of the Whole and unfinished.

Mr. HASKELL. I desire to say a word in regard to this matter. I drew up originally the resolution for setting apart a night for the consideration of Indian business. I presented that resolution to the gentleman from Mississippi, [Mr. HOOKER,] as he has stated, and asked his consent to it. He amended it so that he was willing to agree to it. I then submitted it, so amended, to the gentleman from Illinois, [Mr. SPARKS,] but he refused to agree to it. I then took the resolution to the gentleman from Colorado, [Mr. BELFORD,] and stated to him that what one of those gentlemen would agree to the other would not agree to; that the resolution would be objected to by the gentleman from Mississippi [Mr. HOOKER] or the gentleman from Illinois, [Mr. SPARKS,] whoever of the two failed to get his peculiar ideas incorporated into it.

The resolution which was passed was one that I did not draw and had never seen. It was introduced afterward by the gentleman from

Colorado on his own volition, as I suppose he had a right to do; but it happened to be introduced in the absence of the gentleman from Mississippi. That is all there is about it. I simply desired to state to the House these facts, to show that I had nothing whatever to do with the resolution which finally passed except to vote for it.

Mr. HOOKER. I had designed to conclude my remarks by moving to amend the Journal in this particular, so that the agreement shall stand and an hour be allowed for the consideration of the Choctaw bill.

The SPEAKER. This is not a question of correcting the Journal; but the Chair will submit the motion. As many as are in favor of correcting, or rather changing, the Journal in the manner suggested will say aye.

Mr. PAGE. Would it not be competent for us to know what the record shows?

The SPEAKER. The record shows that a session on Wednesday night for the consideration of the Ute bill was agreed to; and the Chair states that it was agreed to by unanimous consent. The gentleman from Minnesota [Mr. POEHLER] made an effort to have the Choctaw bill considered, but it was objected to.

The question being taken on the motion of Mr. HOOKER, it was not agreed to; there being—ayes 23, noes 45.

Mr. HOOKER. I give notice to gentlemen that they will have a very stiff time with the Ute bill. [Laughter.]

PERSONAL EXPLANATION.

Mr. REAGAN. I rise to a question of privilege. In discussing the bill providing for the transfer of certain islands, lakes, bayous, &c., from the Federal Government to the States I was calling attention to what might be the result of ceding bayous. I see by the RECORD that the gentleman from Iowa [Mr. SAPP] is represented as asking, "Are the ponds and bayous navigable down there?" to which I appear as answering, "Certainly they are." Then he is reported as saying, "I did not know there were any ponds which were navigable;" and my reply appears in this form: "Many of them, perhaps a great majority of them, are."

Mr. Speaker, I did not hear the gentleman say anything about "ponds." No doubt, however, he used that language. I was speaking about bayous. The Atchafalaya bayou, for instance, is two or three hundred miles long. It was of such bayous that I was speaking. I did not understand anything about "ponds." By the RECORD it would appear that I was talking about "ponds."

ORDER OF BUSINESS.

The SPEAKER. The Chair recognizes the gentleman from South Carolina, [Mr. EVINS.]

Mr. CONGER. I call for the regular order.

Mr. BRIGHT. I wish to make a statement. I have several times made an effort to get up the claims bill——

The SPEAKER. The regular order has been demanded, and unless it is withdrawn it is really a waste of time to debate questions.

Mr. BRIGHT. I wish to make a statement. I understand that the objection will be withdrawn to the consideration of the bill providing for claims reported by the accounting officers of the United States Treasury Department.

The SPEAKER. If the call for the regular order is withdrawn the Chair is bound to recognize the gentleman from South Carolina, [Mr. EVINS,] and will next recognize the gentleman from Tennessee, [Mr. BRIGHT.]

Mr. BRIGHT. I hope the objection will be withdrawn, so that the public business can be attended to.

Mr. EVINS. I trust the gentleman from Michigan will withdraw his objection. The matter which I wish to present will take but a few moments.

Mr. BRIGHT. I understand that the objection is withdrawn.

The SPEAKER. The Chair does not so understand.

Mr. MILLS. An arrangement has been made which will obviate the seeming difficulties that have occurred here once or twice in regard to the passage of the bill for the relief of Mr. Defrees, the Public Printer. The gentleman from Michigan [Mr. WILLITS] will withdraw his objection to the taking up of the bill which the gentleman from Tennessee wishes to have considered, upon an understanding that the gentleman from Michigan may have permission to move an amendment; and then the objections on this side to the passage of the bill for the relief of Mr. Defrees will be withdrawn. I hope this arrangement may be carried out.

Mr. SIMONTON. That arrangement will be satisfactory to me; under those circumstances my objection will be withdrawn.

The SPEAKER. The Chair will recognize the gentleman from South Carolina, and afterward gentlemen who wish to bring up these other two bills.

CENTENNIAL CELEBRATION, SPARTANBURGH, SOUTH CAROLINA.

Mr. EVINS. I ask unanimous consent to have taken from the Speaker's table and passed the joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina.

The SPEAKER *pro tempore*, (Mr. CARLISLE.) The gentleman from South Carolina [Mr. EVINS] asks unanimous consent to have taken from the Speaker's table for consideration the bill indicated. Is there objection?

Mr. CONGER. I had called the regular order; but I will not object to this measure, because if not passed promptly it will be of no use, I suppose.

Mr. O'CONNOR. No use whatever, unless passed now.

Mr. CONGER. For that reason, I withdraw the call for the regular order, so that this joint resolution may be considered.

The Clerk read the joint resolution, as follows:

Whereas the Washington Light Infantry of Charleston and the citizens of Spartanburgh County, South Carolina, propose on the 17th day of January, 1881, to celebrate the centennial anniversary of the battle of Cowpens, fought near Cherokee Ford, in Spartanburgh County, in said State, and to have completed before that day an imposing memorial column in honor of the victors in that important and decisive engagement; and

Whereas the governors and peoples of the "old thirteen States" are to be identified with the observance of this centennial event: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as a mark of the appreciation of the whole country for this patriotic undertaking, and as a token of recognition by the American people of the signal service rendered to the cause of independence by the heroic men who took part in this battle, the Secretary of War be, and he is hereby, authorized and directed to have made a bronze statue (heroic size and in the uniform of the riflemen of the period) of General Daniel Morgan, the commander of the American forces in said battle, and cause the same to be delivered through the governor of South Carolina to the Cowpens centennial committee in time to be placed in position upon said memorial column before the proposed commemoration; and the Secretary of the Treasury is hereby authorized and directed to pay, upon the warrant of the Secretary of War, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, or so much of said sum as may be necessary, to carry into effect the purpose of this resolution.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. EVINS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CENTENNIAL CELEBRATION, KING'S MOUNTAIN.

Mr. EVINS. I further ask by unanimous consent the consideration of a kindred matter. The gentleman from Tennessee [Mr. DIBRELL] was instructed by the Committee on Military Affairs to report unanimously a joint resolution (H. R. No. 294) appropriating $5,000 in aid of the centennial celebration of the battle of King's Mountain. The gentleman from Tennessee was even instructed by that committee to move to suspend the rules and put the resolution upon its passage. I hope, by unanimous consent, the Committee of the Whole House on the state of the Union will be discharged from the further consideration of the joint resolution and it will be put upon its passage.

Mr. CONGER. That is a part of the matter for which I withdrew my objection.

Mr. DIBRELL. It will take but a minute to pass it.

Mr. BREWER. I object. And I shall object to the appropriation of any money from the public Treasury for any holiday celebration of any event.

CLAIMS AGAINST QUARTERMASTER DEPARTMENT.

Mr. BRIGHT. I now move by unanimous consent to take from the Private Calendar the bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, for consideration at this time. There was objection to the consideration of this bill heretofore, and I understand now by an arrangement that objection will be obviated by giving an opportunity to strike out the second section of the bill as reported from the Committee on War Claims. With that understanding, I ask unanimous consent of the House that that bill be taken up for consideration.

Mr. WILLITS. It has already been stated that I, who objected before, am to be permitted to strike out the second section.

The SPEAKER *pro tempore*. The Chair hears no objection, and the bill will be read.

The bill, which was read, authorizes and requires the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to the several persons in the act named, the several sums mentioned therein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims examined and allowed by the proper accounting officers, under the provisions of the act of July 4, 1864, since January 6, 1879, &c.

The SPEAKER *pro tempore*. The Clerk will now read the second section which has been reported from the Committee on War Claims as an amendment to this bill.

The Clerk read as follows:

SEC. 2. That the agents appointed by the Quartermaster-General or his subordinates to investigate claims under the act of July 4, 1864, shall give notice to claimants whose claims it is proposed to investigate of the time and place of taking testimony, who shall have the right to cross-examine every witness who may testify in behalf of the Government; and said agents shall also take, at the same time, testimony of any and all witnesses who may be presented by the claimant. And all, both in behalf of claimants and the Government, shall be taken under the law and rules which usually govern the taking of testimony. And the reports of said agents shall be open to the inspection of the claimant or his attorney at all times, on application, subject to such regulations as the Quartermaster-General or Commissary-General may prescribe.

Mr. WILLITS. I move to strike out that second section under the agreement by which the bill came before the House, and I do not desire to submit any remarks upon that subject. It is general legisla-

tion which is objectionable, and I hope the other side of the House will unite with us in striking it out and passing the bill.

The SPEAKER *pro tempore*. The question is on concurring in the amendment.

Mr. SIMONTON. That amendment, Mr. Speaker, was put on by the unanimous consent of the Committee on War Claims, and that committee this morning declined to strike it out in order that the bill might be taken up by unanimous consent. It is so eminently fair and just and will so commend itself to every fair-minded man that I will not detain the House with any remarks.

Mr. NEW. Let the section be again read.

Mr. DIBRELL. It does not do a bit of good and should be stricken out.

Mr. GARFIELD. All the other is appropriation which no one objects to, and let this new legislation be stricken out and then the bill will pass without objection.

Mr. McMILLIN. I hope it will not be stricken out.

Mr. THOMPSON, of Kentucky. I should like to state to the House the reasons which influenced the Committee on War Claims to recommend that amendment to the bill as an additional section.

Mr. WILLITS. The understanding was when the bill was taken up that it should go out, and I hope we shall not have further discussion on the subject.

Mr. THOMPSON, of Kentucky. There is no understanding of the sort; but, on the contrary, the Committee on War Claims insists it is a just and fair provision and that it is necessary it should be incorporated in this bill so justice may be done to these claimants.

Mr. Speaker, the law as it now stands authorizes these quartermasters' claims to be investigated by a system which amounts to espionage of spies. They send out a secret detective. He goes into the country. He is paid to do something. If he comes back after investigating these quartermasters' claims and says he has not spotted any one, why, he will lose his place. He is bound to do something and, in order that he may retain his place, in many instances we find he reports against the loyalty of men who are as loyal as anybody. I know it is that way in my own State.

No man's claim should be considered on purely *ex parte* testimony which he is not only allowed not to see at the time it is being taken but which he is also fordidden to look at even after it has been filed in the Department against his claim. I say it is not fair or just to any claimant. It is not the way the law ought to be administered, and, for that reason, members of the Committee on War Claims belonging to both parties agreed it was a fair and just provision and should be placed upon this bill before it was passed by the House.

Mr. WILLITS. I am willing to leave all decision of the question to the House.

Mr. YOUNG, of Tennessee. Do I understand that if the amendment proposed by the committee is voted down, the gentleman from Michigan has still the right to object to the consideration of the bill? [Cries of "Oh no!"]

The question was taken; and upon a division there were—ayes 68, noes 48.

Mr. SIMONTON demanded the yeas and nays.

Mr. THOMPSON, of Kentucky, demanded tellers.

Tellers were not ordered.

Mr. SIMONTON renewed his demand for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 95, nays 78, not voting 119; as follows:

YEAS—95.

Aiken,	Culberson,	Hull,	Robertson,
Armfield,	Davidson,	Jones,	Russell, Daniel L.
Atherton,	Davis, Joseph J.	Jorgensen,	Ryon, John W.
Bachman,	Davis, Lowndes H.	Kenna,	Samford,
Beale,	Denster,	Kimmel,	Simonton,
Berry,	Klam,	Klotz,	Slemons.
Bland,	Evins,	Knott,	Smith, Hezekiah B.
Bragg,	Ewing,	Le Fevre,	Smith, William E.
Bright,	Farr,	Lowe,	Steele,
Buckner,	Felton,	Martin, Benj. F.	Taylor,
Cabell,	Ferdon,	McKenzie,	Thompson, P. B.
Caldwell,	Frost,	McLane,	Tillman,
Carpenter,	Geddes,	McMillin,	Turner, Oscar
Caswell,	Gibson,	Muldrow,	Tyler,
Chalmers,	Goode,	Myers,	Upson.
Clardy,	Gunter,	New,	Waddill,
Clark, John B.	Hammond, N. J.	O'Connor,	Wellborn,
Coffroth,	Harris, John T.	Orth,	Whiteaker,
Colerick,	Hatch,	Persons,	Whitthorne,
Converse,	Henry,	Phister,	Williams, Thomas
Cook,	Herbert,	Poehler,	Wilson,
Covert,	Hill,	Reagan,	Wise,
Cowgill,	Hooker,	Richardson, J. S.	Wright.
Cravens,	Hostetler,	Richmond,	

NAYS—78.

Aldrich, N. W.	Briggs,	Dwight,	Joyce,
Aldrich, William	Browne,	Frye,	Kelley,
Anderson,	Burrows,	Garfield,	Killinger,
Ballou,	Chittenden,	Godshalk,	Lapham,
Barber,	Conger,	Hammond, John	Lindsey,
Bayne,	Daggett,	Hawk,	Marsh,
Bingham,	Davis, George R.	Hawley,	Mason,
Blake,	Deering,	Hayes,	McCoid,
Bouck,	Dibrell,	Hazelton,	McCook,
Boyd,	Dick,	Horr,	McKinley,
Brewer,	Dunnell,	Hubbell,	Miles,
Mills,	Pound,	Sherwin,	Van Voorhis,
Morrison,	Prescott,	Singleton, J. W.	Voorhis,
Morse,	Reed,	Sparks,	Ward,
Morton,	Rice,	Stevenson,	Washburn,
Neal,	Richardson, D. P.	Stone,	Williams, C. G.
Newberry,	Robinson,	Thompson, W. G.	Willits,
Norcross,	Ross,	Updegraff, J. T.	Young, Thomas L.
Page,	Russell, W. A.	Valentine,	
Phelps,	Sapp,	Van Aernam,	

NOT VOTING—119.

Acklen,	Ellis,	Kitchin,	Scales,
Atkins,	Errett,	Ladd,	Shallenberger,
Bailey,	Field,	Lewis,	Shelley,
Baker,	Finley,	Loring,	Singleton, O. R.
Barlow,	Fisher,	Lounsbery,	Smith, A. Herr
Belford,	Ford,	Manning,	Speer,
Beltzhoover,	Forney,	Martin, Edward L.	Springer,
Bicknell,	Forsythe,	Martin, Joseph J.	Starin,
Blackburn,	Fort,	McGowan,	Stephens,
Bliss,	Gillette,	McMahon,	Talbott,
Blount,	Hall,	Miller,	Thomas,
Bowman,	Harmer,	Mitchell,	Townsend, Amos
Brigham,	Harris, Benj. W.	Money,	Townshend, R. W.
Butterworth,	Haskell,	Monroe,	Tucker,
Calkins,	Heilman,	Muller,	Turner, Thomas
Camp,	Henderson,	Murch,	Updegraff, Thomas
Cannon,	Henkle,	Nicholls,	Urner,
Carlisle,	Herndon,	O'Brien,	Vance,
Claflin,	Hiscock,	O'Neill,	Wait,
Clark, Alvah A.	Houk,	O'Reilly,	Warner,
Clymer,	House,	Osmer,	Weaver,
Cobb,	Humphrey,	Overton,	Wells,
Cox,	Hunton,	Pacheco,	White,
Crapo,	Hurd,	Philips,	Wilber,
Crowley,	Hutchins,	Pierce,	Willis,
Davis, Horace	James,	Price,	Wood, Fernando
De La Matyr,	Johnston,	Robeson,	Wood, Walter A.
Dickey,	Keifer,	Rothwell,	Yocum,
Dunn,	Ketcham,	Ryan, Thomas	Young, Casey.
Einstein,	King,	Sawyer,	

So the amendment was agreed to.

The following pairs were announced:

Mr. ACKLEN with Mr. O'NEILL, on all political questions from the 21st to the 25th instant, inclusive.

Mr. COBB and Mr. HISCOCK are engaged in committee, and are paired for this day.

Mr. HENDERSON with Mr. TOWNSHEND, of Illinois, who is absent on account of sickness.

Mr. ERRETT with Mr. SCALES, who is detained from the House on account of illness.

Mr. STARIN with Mr. HERNDON.

Mr. TOWNSEND, of Ohio, with Mr. WARNER.

Mr. NICHOLLS with Mr. HARMER.

Mr. CAMP with Mr. SHELLEY.

Mr. VANCE with Mr. DAVIS, of California.

Mr. WILLIS with Mr. BELFORD.

Mr. BAILEY with Mr. ELLIS.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. HOUSE with Mr. PRICE.

Mr. GIBSON with Mr. HUMPHREY.

Mr. SPEER with Mr. FISHER.

Mr. HARRIS, of Massachusetts, with Mr. DUNN.

Mr. JAMES with Mr. O'BRIEN.

Mr. ROBESON with Mr. JOHNSTON.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. TALBOTT with Mr. HALL.

Mr. STEPHENS with Mr. RYAN, of Kansas.

Mr. FORNEY with Mr. BAKER.

Mr. URNER with Mr. MCMAHON.

Mr. BLACKBURN with Mr. CANNON, of Illinois.

Mr. CLAFLIN with Mr. HUNTON.

Mr. OVERTON with Mr. BELTZHOOVER.

Mr. KEIFER with Mr. MANNING.

Mr. FIELD with Mr. SAWYER.

Mr. SPRINGER with Mr. CALKINS.

Mr. TUCKER with Mr. ROTHWELL.

Mr. HOUK with Mr. COX.

The result of the vote was then announced as above recorded.

Mr. SIMONTON moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. If there be no objection the remaining amendments, which the Chair is informed are merely in the nature of verbal amendments, will be considered as agreed to.

There was no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SIMONTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN D. DEFREES.

Mr. MILLS. I now move, in pursuance of the agreement made on all sides of the House this morning, to take up Senate bill No. 1090;

for the relief of Mr. Defrees, Public Printer. I move to discharge the Committee of the Whole House from its further consideration, and ask that it be put upon its passage. I hope it will be done unanimously.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill.

The Clerk read as follows:

Senate bill No. 1090, to relieve John D. Defrees, Public Printer.

Mr. THOMAS TURNER. I shall be compelled to object unless consent is given to permit me to get a bill through which I have been attempting to secure the passage of for a long time and continual objection has been made.

Mr. MILLS. I hope the gentleman from Kentucky will not object to this. This is simply carrying out an agreement which was made this morning, and to which no objection was made at the time.

Mr. THOMAS TURNER. I shall be compelled to object until consent is given to permit this bill to which I refer to be passed.

The SPEAKER *pro tempore*. The Chair will suggest to the gentleman from Kentucky that the objection now comes too late. Unanimous consent was given this morning that these two bills should be taken up for consideration to-day. The House is simply carrying out the consent that was then given, and the Chair thinks the objection comes too late. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow John D. Defrees, Public Printer, in the settlement of his accounts with the Treasury Department, the sum of $9,813, being the sum taken by robbers from the safe at the Government Printing Office on the 2d day of January, 1879, for which they stand indicted in the criminal court for the District of Columbia. This act to be in force from and after its passage.

The SPEAKER *pro tempore*. The question is on the third reading of the Senate bill.

The House divided; and there were—ayes 96, noes 23.

So the bill was ordered to be read a third time.

The question recurred on the passage of the bill.

Mr. HOOKER. I call for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

So (no further count being demanded) the bill was passed.

Mr. MILLS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF SMITHSONIAN INSTITUTION FOR 1879.

Mr. WILSON. I rise to make a conference report.

The Clerk read as follows:

The undersigned, managers of the conference on the disagreeing votes of the Senate and House of Representatives on the Senate concurrent resolution to print the report of the Smithsonian Institution for 1879, respectfully report to their respective Houses that they have agreed upon the following:

The Senate recede from their disagreement to the House amendments numbered 1 and 2.

In lieu of House amendment numbered 3, in line 6, strike out "3" and insert "6."

In lieu of House amendment numbered 4, in lines 7 and 8, strike out "6,500" and insert "7,000."

B. WILSON,
P. C. HAYES,
Managers on the part of the House.
H. B. ANTHONY,
M. W. RANSOM,
Managers on the part of the Senate.

Mr. WILSON. I move the adoption of the conference report.

Mr. DUNNELL. Before the gentleman moves the adoption of the report there ought to be read the detailed statement which the rule requires to accompany the conference report. It is impossible from the report which has been read to ascertain how it leaves the concurrent resolution.

Mr. WILSON. I will explain.

The SPEAKER *pro tempore*. The gentleman from Minnesota [Mr. DUNNELL] makes the point that the report is not accompanied by the detailed statement required by the rules of the House.

Mr. WILSON. I have it in my hand.

The SPEAKER *pro tempore*. The gentleman will send it to the desk to be read. The gentleman from West Virginia will understand that that is required by the rule.

Mr. WILSON. I understand that the conference report is the report contemplated by the rules.

The SPEAKER *pro tempore*. The rule requires that the conference report shall be accompanied by a detailed statement showing the effect of the recommendations of the conference committee.

Mr. WILSON. I understand where a conference committee make a report it must be in writing, and that that report is the report contemplated by the rules.

The SPEAKER *pro tempore*. It has been ruled otherwise, and the present occupant of the chair concurs in that ruling.

Mr. WILSON. I am sorry the chair made that ruling. I withdraw the report for the present.

AGRICULTURAL REPORT FOR 1879.

Mr. WILSON. I ask that a conference be ordered on the disagreeing votes of the two Houses on the amendments of the Senate to the House concurrent resolution for printing the agricultural report for 1879.

The SPEAKER *pro tempore*. The Clerk informs the Chair that the resolution has not been sent to the desk.

Mr. WILSON. I sent it up a moment ago.

The SPEAKER *pro tempore*. It cannot be found. The Chair will recognize the gentleman for that purpose hereafter.

EXPULSION OF ISRAELITES FROM RUSSIA.

Mr. COX. I rise to make a privileged report. I report from the Committee on Foreign Affairs, to whom was referred the joint resolution (H. R. No. 298) requesting the President for information in regard to the expulsion of the Israelites who are citizens of the United States from St. Petersburg, as a substitute therefor the resolution which I send to the desk.

The Clerk read as follows:

Resolved, 1. That the President of the United States be requested to inform the Senate and House of Representatives, if the same can be done without detriment to the public service, whether he is in possession of any information showing that any American citizen or citizens professing the Israelitish religion have been expelled, by any order issued by the government of His Imperial Majesty the Czar of Russia, from the city of St. Petersburg, by reason of any decree expelling foreign and alien Jews from said city.

2. That, if it be not incompatible with the public service, the President be requested to communicate to this House all correspondence in reference to the proscription of Jews by the Russian government.

Mr. COX. I move the adoption of the resolution reported as a substitute.

The resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COX. I ask that I may be permitted to have printed in the RECORD some remarks explanatory of the resolution just adopted.

There was no objection. [See Appendix.]

Mr. McLANE and Mr. RYON, of Pennsylvania, called for the regular order.

PURCHASE OF LAND IN PROVIDENCE.

Mr. ROBINSON. I desire to make a privileged report. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 820) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island, to report back the same, accompanied by a report in writing; and I move that the bill be referred to the Committee of the Whole House on the state of the Union, and that the report be printed.

Mr. ALDRICH, of Rhode Island. I ask that by unanimous consent the bill and report go to the Speaker's table with other bills on the same subject.

Mr. THOMAS TURNER. I object.

The bill was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

LIGHT-HOUSE ON AMITE RIVER.

Mr. REAGAN. The gentleman from Pennsylvania [Mr. RYON] withdraws his demand for the regular order that I may submit a report made by the gentleman from Louisiana [Mr. ACKLEN] from the Committee on Commerce, being a substitute, with accompanying report, for a bill to establish a light-house at the mouth of the Amite River, Louisiana. I ask its reference to the Committee on Appropriations. This is the last day that the report can be acted on by the Committee on Appropriations.

Mr. THOMAS TURNER. I object. I object to everything but the regular order.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The regular order is the unfinished business coming over from the last meeting of the House, upon which the main question was ordered, being the several reports from the Committee on the Public Lands.

Mr. BRIGHT. I raise the question of consideration upon the unfinished business. This is Friday, which under the rule is devoted to private business. After the morning hour I shall insist on the motion that the House resolve itself into Committee of the Whole on the Private Calendar. I do not wish to oppose the morning hour.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Tennessee that under the practice of the House the question of consideration cannot be raised against the bills on which the main question has been ordered, because the House has ordered that the question shall be now put on those bills.

Mr. CONGER. I submit whether that does not apply only to a day on which the unfinished business is in order. This unfinished business is public business, and this is private bill day.

The SPEAKER *pro tempore*. This would not have come over as unfinished business to be considered to-day, which is set apart for the consideration of private business, if the previous question had not been ordered. But the ruling has always been that where the previous question has been ordered and the House has directed that the main question shall now be put upon any measure, that measure goes over as unfinished business to be disposed of at the next sitting of the House immediately after the reading of the Journal.

Mr. BRIGHT. I shall reserve the question of order on all bills on which the previous question has not been ordered.

The SPEAKER *pro tempore*. Even on Monday a measure on which the main question has been ordered comes up after the reading of the Journal, even against the call of States and Territories.

PUBLIC LANDS OF THE UNITED STATES.

The first bill reported from the Committee of the Whole with amendments, on which the main question had been ordered, was the bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. CONVERSE. I think it is not necessary to read this bill at length; it was read in Committee of the Whole, and has been pretty thoroughly discussed. By agreement an amendment is to be offered to the bill in the House, notwithstanding the main question is ordered upon it. If the gentleman from Michigan [Mr. CONGER] will indicate what the amendment is, I will yield to him to oppose the bill thirty minutes of the time to which I am entitled.

Mr. CONGER. The amendment I desire to have a vote upon is at the Clerk's desk, and I ask that the section to which it is to be offered and the amendment be read.

The Clerk read the section as amended by the Committee of the Whole, as follows:

That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no suit or proceedings, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespasses upon, or for or on account of any material taken from, said lands, or on account of any alleged conspiracy in relation thereto, prior to March 1, 1879: *Provided*, The defendants in such suits or proceedings shall exhibit to the proper court or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such payment.

The proposed amendment was read, as follows:

In line 8, after the words "said lands," insert as follows:

"In the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler."

The SPEAKER *pro tempore*. The question is upon the adoption of the amendment which has been read.

Mr. CONGER. I yield five minutes of my time to the gentleman from Massachusetts, [Mr. ROBINSON.]

Mr. ROBINSON. I did not intend to say anything this morning on this amendment, but the House was somewhat thinly attended yesterday afternoon when the amendment was offered in Committee of the Whole.

It was said in the current debate upon this bill that the purpose of it was to relieve the innocent trespassers upon the public lands. The fact that the inhabitants of the various States and Territories had unintentionally trespassed upon the public lands by taking the property of the United States was urged as a reason which should weigh very much with Congress in reference to the proposition to grant them relief.

Mr. DUNNELL. The gentleman from Massachusetts [Mr. ROBINSON] has stated in part only what was true.

Mr. ROBINSON. Does this come out of my time?

The SPEAKER *pro tempore*. Does the gentleman yield?

Mr. DUNNELL. The gentleman, however, will admit that during the debate——

Mr. ROBINSON. My purpose is to tell the truth, and the whole truth; and if the gentleman from Minnesota [Mr. DUNNELL] will but be patient I will tell it all.

I stated that emphasis was laid upon the fact that there were so many innocent people all over this country who had unintentionally violated the law in this regard, and therefore it was proper that relief should be given to them. I called attention to the fact that the Committee on the Public Lands stated in their report that there were many persons who were morally and legally guilty and deserved punishment. I therefore said that the House ought not to pass a bill which should excuse such persons.

I discovered further—and this is the essential fact—that there was a strong purpose on the part of the promoters of this bill to relieve those who had trespassed intentionally and by wholesale upon the property of the United States and had taken the timber belonging to the Government. I will not give any name to the act; I leave it to be characterized as gentlemen may choose. I have no bitterness about it.

Mr. CONVERSE. Will the gentleman allow me to ask him a question?

Mr. ROBINSON. Certainly, if it is short.

Mr. CONVERSE. What gentleman in favor of this bill made the suggestion that it was intended to relieve only the persons who were innocent or unintentional trespassers? My understanding is that that suggestion came from the gentleman from Michigan, [Mr. CONGER,] and I do not remember that anybody who favors the bill favored any such suggestion.

Mr. ROBINSON. I have not time to rehearse all the speeches that were made yesterday; but there were gentlemen who took the ground that even those persons who had taken lumber in large amounts from those who had trespassed upon the public lands should be relieved; and then there were other gentlemen who said that the bill would not relieve those who had taken by wholesale, but only those who had taken a solitary stick perhaps to repair a church or a dwelling, or to mend a fence, or something of that sort. That was urged with emphasis as an argument in favor of this bill.

I submit that the House ought not to pass a bill to relieve those persons who have trespassed upon the property of the United States by wholesale. Let the discretion be vested in the courts; let the courts determine whether the parties are, in the language used by the committee in their report, "legally and morally guilty and deserve punishment," and let the courts determine that such shall receive punishment.

This amendment which I offered is not in conflict with the provisions of any other statute; it stands entire by itself and is a distinct and independent feature. If I have time now I will yield to the gentleman from Minnesota [Mr. DUNNELL] to indicate what further item of truth I should state. For myself I desire to take no further time of the House.

Mr. CONGER. Mr. Speaker, when this matter was before the Committee of the Whole I took occasion to make such remarks as I desired to make upon the provisions of this bill. There were but few members of the House then present, and I may therefore desire to repeat somewhat the remarks I made at that time. I wish to call the attention of members to the character of the measure which it is proposed to pass. I will review the question as briefly as possible.

This bill proposes that all persons who have trespassed upon the public lands of the United States in the cutting and carrying off of the timber belonging to the Government up to the 1st day of March, 1879, shall be relieved upon the terms named in the bill from all criminal and all civil responsibility for all trespasses that have been committed up to that time. Notwithstanding the extent of the trespasses, notwithstanding the thousands or millions of Government property in the form of logs or timber taken from the public lands, notwithstanding the number of suits, civil and criminal, commenced against these parties, it is proposed that they may settle it all, may condone their offenses entirely if first they will pay the costs of the prosecutions against them, and secondly will show to the court that the lands upon which the trespasses were committed have been entered and paid for to the United States.

Now, it is within the knowledge of every member of this House who has given any attention to the reports and resolutions and discussions on this subject that there have been trespasses upon the public lands in all the timber-growing States and Territories to such an extent that Congress has been called upon to appropriate thousands and thousands of dollars for the mere purpose of ferreting out and bringing to justice these trespassers. All over the timber region of the South, in many parts of the timber regions of the North, in many places within the Territories, the Government has expended thousands of dollars for the detection and prosecution of criminals of this class. Many of those suits are now pending. The appropriation of money for the ferreting out and prosecution of these trespassers was resisted here until the better judgment of the House and the demand of the country required that Government property should be in some measure protected.

A great number of suits have been instituted; many are still pending. Large amounts of property taken from Government lands have been seized. Large amounts were sold perhaps to innocent parties; perhaps large amounts are still in the possession of the Government. Now, what does this bill propose? To condone all these trespasses, to pardon all the conspiracies. It offers a reward, a great reward, a reward of hundreds of thousands of dollars in the future to men who will trespass upon Government lands; for the passage of this bill, if it should pass, would show that after sufficient trespasses have been committed, after the crimes have swollen to an enormous extent, the parties concerned have only to come to Congress and virtually be paid for their crimes.

Mr. HERBERT. Will the gentleman allow me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. HERBERT. Does not the gentleman know that any man who wants to cut timber on the public lands will know that it is cheaper to buy the land than to trespass upon it and then have to pay for the land and pay all costs besides?

Mr. CONGER. They will not know that; they will know that the cheapest of all possible ways of obtaining timber is to steal, and steal, and steal, until detection comes, and then to apply to Congress; and then, if this bill passes, they will know that with the high sense of morality existing in Congress, with the keen appreciation of duty on the part of every member to protect the property of the Government, it is an easy thing to have their offenses condoned; it is the cheapest way to pay for timber that ever was invented. Gentlemen may talk as they please about it, there are men who under this bill will be able to condone the taking of millions of feet of timber from the Government lands without paying a single cent. They are pardoned in advance of prosecution.

There is no use in discussing the question further. I want a record made on this bill and on the amendment of the gentleman from Massachusetts, [Mr. ROBINSON.] That amendment confines this pardon, if I may so call it, this condonation of wrong, to those who have used the public timber for building their houses, for making fires to warm their families and cook their food, for fencing the little land around their cottages, for carrying on mining works in the new regions where they must use timber if they dig into the earth. This amendment extends the benefit of the bill to all who ought to receive it.

If the bill should pass without the amendment there will be an inquiry why the committee recommended such a bill. There will be inquiry through the country why property to the amount of millions

of dollars, of which we are the guardians, is plundered and given away to wrong-doers. Let gentlemen prepare to meet that inquiry. In committee I have called attention to this subject; I now call the attention of the members of the House to it. I charge that this is an enormous wrong to the Government and to the property of the Government which we are bound to protect and preserve.

Mr. Speaker, I have repeated but a part of the views which I expressed in committee. I do not desire to occupy the time of the House further than to repeat these charges which have been admitted by the other side—I mean by the friends of the bill, not the other side in a party sense, for, thank God, this matter has no partisan complexion. It is admitted by gentlemen who advocate the passage of the bill without the amendment, and it is so stated in the reports, that there have been great trespasses and frauds committed in this respect for the sake of gain by those who have taken the property of the United States in great quantities, manufactured it into lumber, and shipped it out of the country for their own profit without any justification whatever. The amendment of the gentleman from Massachusetts will confine the benefits of this condonation to those who have taken timber from necessity, who have taken it as settlers in clearing their farms; squatters who have cleared the land and built their houses; miners who have cut down trees to prop up the entrances to their mines, and for other mining purposes. Nobody wishes to punish men who, from the very necessity of the case—for safety, for comfort, for life—have been compelled to use the timber of the United States. But many of these trespassers are foreigners, and acting as the agents for companies of foreigners they have come upon the timber lands of the United States to steal and carry away property belonging to the Government.

I now yield five minutes to the gentleman from Wisconsin, [Mr. HAZELTON.]

Mr. HAZELTON. Mr. Speaker, should this bill become a law it would grant not only immunity for all past offenses, but afford security for the future for all like criminal trespasses upon the public domain. It provides any man may steal all he has a mind to, and if you catch him then he may enter the land and escape justice; but if you do not catch him he shall receive all the benefit of his trespass upon the public lands and go scot-free. The enormous amount of timber stolen continually from the public lands, the great extent of these trespasses which are taking place, is not realized by this House, and cannot be, except from examination of the reports of the officers of the Government to the proper Departments and knowledge of the facts presented in the communications of the Commissioner of the General Land Office.

I shall not occupy the brief time allotted to me in commenting on the several provisions of the pending measure, but shall content myself by sending to the Clerk's desk a statement from the Commissioner of the General Land Office, which I have obtained through application to the Secretary of the Interior, and which, to some extent, will exhibit to the members of this House the extent of trespasses upon the public lands during the last two years.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 10, 1880.

SIR: In compliance with your verbal request for a statement showing the amount of trespass upon public timber reported within the past two years, the number of suits instituted and arrests made during that time on account of such trespass, I have the honor to submit the following:

AMOUNT OF TRESPASS.

225,202,368 feet of timber.
2,279,539 railroad ties.
206,267 cords of wood.
1,596 cords of tan-bark.
144,050 rails.
1,028,325 trees.
264,754 logs.
530 pieces square timber.
1,400 bundles of shingles.

Cutting upon 19,120 acres has been reported, but the amount cut not stated. Trespassing upon 20,520 acres by boxing the trees for turpentine purposes has been reported from Alabama and Florida, and trespassing for the same purposes upon ten square miles in Mississippi.

SUITS AND ARRESTS.

One thousand and seventy-four specific cases of trespass have been reported, from which have resulted 484 suits and 275 arrests, as reported to this office. Many other cases have been reported to the United States district attorneys, but whether legal proceedings have been instituted in these cases is not definitely known to this office, they having passed to the jurisdiction of the Department of Justice.

In addition to the above specific statements a very large amount of trespassing has been reported indefinitely, without stating lands trespassed upon, names of trespassers, nor exact amount of trespass, but giving general estimates amounting to millions of feet of lumber, millions of railroad ties and fence-posts, thousands of cords of wood and tan-bark, and hundreds of thousands of logs and trees, and stating instances of mill companies employing from twenty-five to seventy-five log-cutters each.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

Mr. HAZELTON. I will now ask the Clerk to read a letter written by an agent of the Government on the ground where these trespasses are taking place in the Northwest to the United States district attorney at Milwaukee.

Mr. HOOKER. Let me ask the gentleman a question in reference to the document which has just been read.

Mr. HAZELTON. Wait until this letter has been read, and then I will answer the gentleman's question.

The Clerk read as follows:

MENOMINEE, MICHIGAN, *March* 20, 1880.

DEAR SIR: I am examining the United States vacant and not proved up homestead lands for the United States attorney of the western district of Michigan, and the most lands are on the Menominee River and its branches, and I find that nine-tenths of the Government land is stripped of the pine. I think no less than two hundred million of pine has been stolen in the last six years in Northwestern Michigan and Northwestern Wisconsin.

I am a civil engineer and State agent for the upper peninsula, and my whole business is hunting up trespass cases.

Yours, very respectfully,

O. D. HAYNES.

G. W. HAZELTON, Esq.

Mr. HOOKER. I now wish to know from the gentleman from Wisconsin whether the statement which he has read at the Clerk's desk, from the Commissioner of the General Land Office, states how many of these suits which have been instituted have resulted favorably to the Government, and how many have resulted unfavorably?

Mr. HAZELTON. That is not a pertinent inquiry.

Mr. HOOKER. Yes; it is a pertinent inquiry to know how well-grounded the prosecutions have been.

Mr. HAZELTON. The Government may fail for a great many reasons in prosecuting these trespassers in the country where the trespasses have taken place. All the surrounding circumstances are adverse to the Government.

Mr. HOOKER. It will prove, if the result has been unfavorable, that the Government instituted proceedings when there was no ground for any such proceedings.

Mr. CONGER. Where?

Mr. HOOKER. Everywhere; and I will show you when I get the opportunity.

Mr. HAZELTON. This bill ought not to pass. It declares in so many words that anybody may go upon the public lands and take whatever timber he pleases from them, and if you catch him while in the act of stealing the Government timber all he has to do is to enter the land and thereby escape justice; but if you do not catch him that is the end of it, and the Government is estopped from any further prosecution. But my five minutes are up, and I have only time to say that the bill is a general jail delivery of the criminals and trespassers who prey upon the timber lands of the United States.

Mr. CONGER. I will now yield for three minutes to the gentleman from New York, [Mr. DWIGHT.]

Mr. DWIGHT. Mr. Speaker, there is a proposition involved in this bill that it seems to me it would be wise to look at carefully. It is well understood that it is only from the most valuable lands that these trespasses are committed, and from which thieves have stolen timber. Now, there have been public sales of timber lands ordered by the Government under the rule that no land should be sold for less than $1.25 per acre; but they were sold from that price at a public sale in 1869 in the State of Wisconsin up to $5, $6, and $7 an acre. And, in my judgment, all of the valuable timber lands belonging to the Government should be ordered to be sold in the same manner. These lands that have been trespassed upon are among the most valuable that the Government possesses.

Now, under the provisions of this bill these persons may go on and cut and remove the timber upon these lands, and if they are not detected they do not pay anything for the depredations they commit. They have only to take the risk of having their theft exposed, which by this bill involves no disgrace or cost. In the event of their detection, all that is necessary is that they come in and pay the Government price, as fixed in the bill, for the lands, and I submit that it is fair to assume that they would bring anywhere from three to five, seven, or even ten dollars an acre at public auction; and yet you provide in this bill that these valuable lands may be paid for by simply going to the land office and making an entry of them and paying a trifling sum for costs, after the offense is committed. It is the policy involved in a bill like this, a policy which would permit such a wholesale system of trespass and theft upon the public domain as that, that I object to, and it seems to me to be strange that Congress will even seriously contemplate the passage of such a measure and enact a law which is simply for the protection of thieves, who, if they are caught in the act of depredating, have simply to pay less than a quarter, a third, or a half of the value of the lands, as would appear if they were put on the market at public sale. It seems to me that there is not a man in this House or in this whole country that can stand before the American people and defend a policy of this character. It is simply a monstrosity, and how any man, unless the amendment proposed by the gentleman from Massachusetts is adopted, as I hope it will be, can stand up and vote for the bill is simply amazing.

Mr. CONGER. I now reserve the remaining portion of the time until I hear from the other side.

The SPEAKER *pro tempore*. The gentleman has four minutes' time remaining. The Chair will state to the gentleman from Ohio that the gentleman from Michigan has four minutes which he desires to reserve.

Mr. CONVERSE. I would rather that he would conclude his thirty minutes before we begin.

Mr. CONGER. I have charge of the amendment, and that is the affirmative of this proposition. I will hear the gentlemen on the

other side and reserve the time I have remaining so that in case it may be necessary I shall reply.

Mr. HOOKER. I rise to a point of order. Under the arrangement I understand that the gentlemen on the other side were to occupy thirty minutes of time and that thirty minutes' time should be occupied on this side after they had concluded.

The SPEAKER *pro tempore*. That is not, strictly speaking, a point of order. The gentleman from Ohio who has charge of the bill has under the rules one hour to close debate. He has yielded one-half of that time to gentlemen opposing the bill. It is not a matter which the Chair can control.

Mr. CONVERSE. I will settle the problem by allowing the gentleman from Michigan to retain his four minutes to be used whenever he chooses. I now yield fifteen minutes to the gentleman from Alabama, [Mr. HERBERT.]

Mr. HERBERT. Mr. Speaker, the amendment here proposed was offered last night in Committee of the Whole and was voted down. It is again presented to the House this morning, and when analyzed it will be found to give protection to agriculturists and protection to men engaged in the mining business, while it denies the same right of protection to men engaged in the timber business. On what ground can any fair and honest distinction be made? Is it more honest for a farmer to trespass upon the public lands, to cut down timber and clear up the land without having purchased it, than for an axman to go on the same land and cut down a portion of the timber for sale? The difference I cannot see. Perhaps some gentlemen here, however, who have constituents who are agriculturists, who have no timber land in their districts, may see the mighty difference, but I am unable to see it.

Again, this amendment recognizes the right of a miner, or a vast mining corporation organized in the East, to go out West and there to cut the timber of the Government and be allowed to settle up upon the terms or conditions of this bill, but denies the same right to a poor man who seeks to earn his living solely by his ax. Is there any reason for such a distinction as this?

But, Mr. Speaker, I was in error. I fell into that error by adopting the language of the gentlemen who preceded me on the other side as to what this bill authorizes. It authorizes nothing to be done in the future. It has no prospective application whatever. It relates only to offenses that were committed prior to the 1st of March, 1879, when the law on the subject of trespassing upon the public lands was practically a dead letter on the statute-book. The gentleman from Wisconsin [Mr. HAZELTON] has read, or caused to be read, a letter from the Secretary of the Interior, or the Commissioner of the General Land Office, for the information of the House. That letter upon a casual reading would seem to convey the impression that all these trespasses spoken of had been committed within the past two years. If any gentleman has any such idea gathered from the reading of this letter I ask him to dismiss it at once from his mind. The letter shows no such thing. It speaks of the reports that have been made within the last two years; and these reports embrace all the trespasses committed, or almost all of them, for years before that time.

If he had asked that same Commissioner of the Land Office to give him the facts as to how many trespasses had been committed during the last two years the showing would have been very different indeed. As I understand it, trespasses have practically ceased throughout the whole of the United States. I am informed and believe that is the case in my district. I believe it is everywhere. But these suits have not stopped. The spies and informers have not yet done their work. Suits are being prosecuted to-day on account of trespasses alleged to have been committed fourteen years ago in the State of Minnesota, as I am told. When this bill was first framed I had no idea of what was the state of facts in Minnesota. But I learn that to-day the Secretary of the Interior is prosecuting suits there which date fourteen years back, the statute of limitations not running against the Government; and not only that, but he is prosecuting suits against men who paid the valuation agreed upon between them and the agents of the Government appointed by the Secretary of the Interior.

It is now held by the courts that the Secretary of the Interior had no power to make such agreements and they are disregarded in every case where the present Secretary of the Interior does not happen to agree to the valuation that was made. If we do not pass this bill or some other measure of relief, these suits will continue to be instituted for years to come; a lapse of ten years or of twenty years is no bar to the Government, but it is a bar to an individual. A lapse of three years is a bar to a criminal prosecution. What is easier than for a spy or a district attorney to get men who cut timber, or who did not cut timber five years ago, at a period so remote that they are protected by the statute of limitations, to come up and swear that they sold timber to the merchant. It is no defense under the law for the merchant to say that he believed at the time he was buying private property. He cannot set up the plea of innocent purchaser for a valuable consideration; but he is responsible under the law for the value of the timber in its improved condition as it was when he received it; and he is responsible for that sum with interest.

This bill simply provides a mode for a settling of all these suits, a fair and just and equitable mode, compelling parties to pay costs, compelling them to pay the Government price for the lands. And, Mr. Speaker, I can see, as I said before, no difference between the men who have been engaged in cutting timber and the men who have earned their living in other ways by trespassing on the public lands. Most of these trespasses were committed during the hard times from 1873 up to 1879, and the men who committed them were not tramps, they did not infest the country; they incited no riots; they did not put the people in terror; but they shouldered their axes and went to work—it is true upon the public domain, but honestly to make a living for themselves and their children.

Gentlemen say now that some of these men, or that many of them, trespassed wilfully, and that this bill if we pass it into a law will excuse crime. Gentlemen here, well fed and sleek, getting $5,000 a year seem to delight in denouncing these poor laborers who get their living off the public domain as thieves. Many of them were as honest, as true men, as any man on this floor. But they were led into these practices by the conduct of the Government in failing for years and years to prosecute, and it was a natural thing for them to suppose that they had a right when the Government thus tacitly permitted it to make their living off the public domain.

But, Mr. Speaker, I ask has this Government lost all generosity? Is there no sense of magnanimity to which we can appeal here? This great Government that amnestied all the confederates who were engaged in an effort to sever this Union, has it no mercy for the poor who made their living with their axes upon the public lands? This policy of amnesty has worked well in other departments of this Government. Take the Department of Internal Revenue. I am told by my friend from South Carolina [Mr. TILLMAN] who sits upon my right that since the Government pursued the policy of pardoning or failing to prosecute men for illict distilling in South Carolina it has totally ceased. Such, I am proud to say, is the case in my own district. There never was much illicit distilling there; but I believe that since the Government inaugurated the policy of amnestying those parties that were engaged in it there is to-day absolutely none.

Let us rise, Mr. Speaker, to the broad plane upon which legislators ought to stand. Let us take into consideration all the circumstances by which we are surrounded and legislate for communities. And above all, Mr. Speaker, in dealing with this question let us remember—

> The quality of mercy is not strain'd;
> It droppeth, as the gentle rain from heaven,
> Upon the place beneath: it is twice bless'd;
> It blesseth him that gives, and him that takes:
> 'Tis mightiest in the mightiest; it becomes
> The throned monarch better than his crown.

Mr. DAVIS, of North Carolina. Will the gentleman from Alabama allow me to ask him one question?

The SPEAKER *pro tempore*. The time of the gentleman from Alabama has expired.

Mr. CONVERSE. I yield him sufficient time to answer the question of the gentleman from North Carolina.

Mr. DAVIS, of North Carolina. I have no difficulty myself about the point I wish to suggest, but the difficulty does exist in the minds of some gentlemen here, and they desire to know this: Suppose a man has committed trespasses on large tracts of land in divers places; I ask the gentleman from Alabama whether he can be discharged unless he pays the Government price of all the lands upon which he has trespassed?

Mr. HERBERT. The Government does not allow land to be entered except by certain fractional subdivisions. If any party has cut a single stick of timber upon any fractional subdivision of the public land, at any time within which the provisions of this bill operate, he would be obliged to enter the whole of that fractional subdivision before he could plead such entry as a defense to the suit, although he had cut but a single stick of timber from that subdivision.

Mr. DAVIS, of North Carolina. And if he had cut timber from a dozen or more fractional subdivisions he would have to enter the whole of them?

Mr. HERBERT. He would have to enter the half dozen or the dozen; the whole of them.

Mr. CONVERSE. I now yield five minutes to the gentleman from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. When the bill now pending was first reported to the House at the beginning of the present session, I raised an objection to its consideration at that time. I had a prejudice against the bill akin to that which the gentleman from Michigan [Mr. CONGER] has evinced in the remarks which he has made upon it.

Although no constituent of mine was interested in the passage of this bill, I was compelled to make an investigation of the claims presented by those who desire its passage, and after doing so I became thoroughly convinced that a good and substantial argument could be made in favor of the passage of this bill.

Gentlemen have become unusually excited of late about trespasses upon the public lands. From time immemorial there have been trespasses upon the public lands of this country. The district of the gentleman from Michigan [Mr. CONGER] witnessed, in every township in that district, trespasses upon the public lands long before he had the honor of representing it on this floor. The constituents of the gentleman from Wisconsin, [Mr. HAZELTON,] who has spoken here to-day, were guilty in early times, in territorial and early State times, of committing trespasses upon the public lands. There has been perhaps an easy condition of public sentiment which has justified such trespasses. Men going out on the frontier were not inclined to ask where were the Government lines and where the Government bound-

aries. They have gone out and taken from those lands more or less of the timber.

This thing has been very largely exaggerated and overstated. There has been no wonderful raid upon the public lands, or upon the timber belonging to the Government within the last two, three, or four years; no greater trespass than was committed twelve, fourteen, or sixteen years ago. The Interior Department, it is true, has sought to distinguish itself by bringing suits against those persons who have, it is alleged, been trespassers upon the public lands. A large amount of money has been expended, a great many suits have been brought, but the gentleman from Wisconsin [Mr. HAZELTON] failed to answer the question of the gentleman from Mississippi, [Mr. HOOKER,] as to how much the Government had made out of these suits. It has expended ten dollars where it has gained one back to the Treasury.

Mr. DWIGHT. Is that any good reason why thieving should be encouraged?

Mr. DUNNELL. No; it is not of itself an argument. But I have only a few minutes, and I wish to call attention to some of the hardships which have been brought upon the people of the country in some localities by this recent attempt on the part of the Department of the Interior to ferret out trespasses upon the public lands, going back fifteen or twenty years to find out who may have bought a stick of timber from A B or C D, who perchance was a trespasser, but was unknown to the person buying the timber as a trespasser.

I hold in my hand a history of some of the suits which have been brought against the citizens of the State of Minnesota, many of them ranking among the very best citizens of the State, holding to-day a high place in the esteem of the people of the entire State, honorable men, high-toned men, who never bought a stick of timber when they had the least reason to suppose that it was not the legitimate property of the seller. After having bought a raft of logs in the river, in one instance in 1863, and having manufactured those logs into lumber and put it upon the market, after the lapse of fifteen years, lo! and behold a suit is brought against those men, the allegation being that those logs were cut by a trespasser from the public lands.

In the earlier days, and even down to this time, there has been a system of permits in regard to cutting timber upon the public lands. A B has been granted a permit to go upon a piece of timber land and cut timber, we will say at the rate of $1 per thousand feet. These permits were made use of when the time of selling such timber came as evidence that the logs offered for sale were the legitimate property of the men holding the permits.

In many instances, in almost every instance where suits are brought, although the seller has had a permit to cut and sell the timber, the Government now undertakes to show that the logs which the holder of the permit claimed to have the right to sell were cut outside of the limits indicated in the permit. And after the lapse of twelve or fourteen years, men who paid $1 per thousand for this timber are now sued and compelled to pay the large sum claimed, with all the costs of the suit, because it was found that some of the timber had been cut outside of the limit indicated in the permit.

The SPEAKER *pro tempore*. The five minutes of the gentleman from Minnesota [Mr. DUNNELL] has expired.

Mr. DUNNELL. I ask the gentleman from Ohio [Mr. CONVERSE] to give me just another minute.

Mr. CONVERSE. Certainly.

Mr. DUNNELL. I have read over the statement of these cases, and while at the time I had my prejudice, I became thoroughly satisfied that it was the duty of Congress by an act like this to relieve these men of the suits now pending against them.

It is said that this is an act on the part of the Government of great condescension; that the Government is giving up a great deal. Here were these public lands, and they had a given value. If they had a value greater than that indicated by this bill, at which the lands can now be taken, why were they not sold by the Government?

These lands have not been sold. They have been in the market for many years—twenty years or more. They are not worth more than the price at which it is now proposed to dispose of them. Admit that the trespasses have been committed, as they have been. What is the proposition? It is not to condone these trespasses unconditionally; it is in point of fact to say to these trespassers, "Gentlemen, you are trespassers and you have been caught; you have trespassed upon the public lands; you were unwilling prior to the trespass to buy those lands; now, gentlemen, come in and pay to the Treasury the value of those lands with the costs, and we will condone your criminal act." The Government will never get out of this matter in any cheaper way than the manner proposed in this bill.

Mr. CONVERSE. I now yield three minutes to the gentleman from New York, [Mr. VAN VOORHIS.]

Mr. VAN VOORHIS. Mr. Speaker, I shall vote for this bill because I believe it is the best thing that can be done under the circumstances for the benefit of the Government. We find the Government involved in a carnival of litigation against a large number of defendants. It is somewhat difficult to get at the facts; but I have here two reports—one the unanimous report of the Committee on Public Lands of this House in favor of the bill; the other the unanimous report of the Committee on Public Lands in the Senate—also in favor of the bill. I find it stated in the Senate report that these trespasses were "committed from ignorance of the law, from carelessness and under implied or express license from the United States Government." It has been stated by the gentleman who just took his seat [Mr. DUNNELL] that the parties against whom prosecutions are pending are not felons, but respectable citizens of the United States. How many suits are pending? Not less than five hundred. What will it cost to carry to a conclusion these prosecutions? Not less than a million of dollars. What will the Government realize from these prosecutions? In about four hundred and fifty of these five hundred suits the Government will be beaten; and though the Government may obtain judgment in the other fifty, it will in forty of these cases be beaten on the execution. That is what the Government will get out of it. Is it not better to let these men take the lands, and pay for them all they are worth together with the costs of litigation, the Government thus getting rid of this fight? Is it not better to settle this question in that way than to continue a fruitless litigation at an enormous expense—a litigation which will result in no benefit to the Government or anybody else?

Mr. CONVERSE. I yield whatever time I have remaining to the gentleman from Colorado, [Mr. BELFORD.]

Mr. BELFORD. Mr. Speaker, I do not expect to say much in the minute or two remaining; but I want to reply to my friend from Michigan [Mr. CONGER] on the subject of "stealing." Now, out West the Government will not sell the timber lands; that is a well-known proposition; and of course, if the people there desire to get timber for their fences or for their buildings they are compelled to trespass upon the public lands to obtain the timber. So if a company desires to construct a railroad through the Rocky Mountain region it cannot ship ties from across the plains, but must take them out in that country.

I propose to vote for this bill because it is only just and right. I think the people in the West are quite as honest as the people represented by the gentleman from the State of Michigan. I have known three hundred suits brought by the Government in the West within the last two years; and in every single instance the Government has been defeated. This bill provides that parties who have gone on the public lands and taken timber shall pay to the Government the price of the land together with the costs that may have been incurred in the prosecution. I cannot see how the Government is to lose anything under this provision. I do not think that a man who goes to his neighbor's cupboard and takes out a loaf of bread to keep himself from starving is a thief in the ordinary interpretation of the word. Nor do I believe that a man who goes upon the public lands to cut timber for the purpose of cooking his beefsteak or fencing his farm or building his house, or constructing a wagon road, is a "thief" in the ordinary acceptation of the term. We are quite as honest in the West as my distinguished friend from Michigan, who represents an eastern State.

Mr. ROBINSON. Will my friend from Colorado tell me why the parties of whom he speaks are not protected under the amendment which I have offered? The man who has taken timber to cook his beefsteak or build a fence or a church or a school-house will not be prosecuted under my amendment.

Mr. BELFORD. My objection to the amendment is that I regard the proposition to prosecute these suits on the part of the Government as absolutely hopeless. In any State where the people know the necessity for the use of this timber you cannot get a jury to convict any man indicted for a violation of the law. I have seen three hundred suits tried and have witnessed three hundred failures recorded against the Government.

Mr. ROBINSON. Is that an argument in favor of allowing criminals to triumph against the Government?

[Here the hammer fell.]

The SPEAKER. The gentleman from Michigan [Mr. CONGER] is now entitled to the floor for four minutes.

Mr. CONGER. Mr. Speaker, I will first notice the gentleman from Colorado [Mr. BELFORD] a moment, as he seems to invite my attention to him. He has said that he desired to deliver a little moral lecture to "the gentleman from Michigan" on the subject of "stealing." Now, all those who know the gentleman from Colorado and those who know me know very well that on the subject of stealing I make no pretensions to knowledge as compared with the gentleman from Colorado. [Laughter.] He has an advantage over me in that respect which I cannot overcome in this House or anywhere else, notwithstanding my superior age. On that point he carries the day unquestionably.

Now, coming to the serious consideration of this question, let me refer to the admissions which are made here. It is admitted by all who have spoken upon this amendment and in favor of the bill without the amendment that trespasses have been committed; nobody denies that. It is admitted that these trespasses have been committed to an enormous extent. All admit that. It is admitted that these trespasses, with the exception of those exempted by this amendment, were solely for the purpose of gain; that the gains have been enormous, and that under the bill the trespasses may be condoned for a trifle.

I am glad of the additional debate, because on the record we have all that was claimed on this side of the question and more. Men who are innocent in fact, men who have purchased property although it may have been stolen, are not prosecuted. No man dares assert that. No man can be convicted if he were prosecuted criminally unless he himself had been engaged in connection with that trespass and that taking with wrongful intent.

Mr. HOOKER. Will the gentleman from Michigan allow me to ask him a question?

Mr. CONGER. My time is very short.

Mr. HOOKER. I know it is very short, but I cannot ask it at all if you do not let me ask it now.

Mr. CONGER. So that all who should escape under the present administration of the law and with this amendment will escape. All who for gain have taken the property of the United States of which you and I are the custodians ought not to escape.

One other argument. I was surprised to hear the gentleman from Minnesota, the gentleman from Georgia, and all who have spoken in favor of this bill, throw themselves back on the proposition that we might be lenient. We are not offended against, you and I are not offended against, but the people of the United States, who repose trust in you and me, are offended against in these proceedings. You and I might condone an offense to ourselves; we have that right; but we were not sent here to condone the wrongs against the whole people of the United States, the stripping of this property from the timber lands of the Government for gain, for shipment, for the personal advantage of the trespasser. Let those who think they are sustain this bill.

Mr. WASHBURN. Now, Mr. Speaker, by the letter which was read at the Clerk's desk it seems there were two hundred millions of timber taken in the State of Michigan. How does it happen there have been no suits instituted in that State? The suits which have been instituted in my State and prosecuted are for trespasses occurring from seven to fourteen years ago. Has the gentleman from Michigan a friend at court?

Mr. CONGER. It is because just as soon as trespassers come upon the public lands in the State of Michigan people in the neighborhood report it at once to the Government officers. The agents do not have to search who are the offenders, but those who trespass are at once detected, and they walk up and pay.

Mr. BELFORD. How much?

Mr. CONGER. They go and pay the penalty and they do not grumble about it. That is the Michigan kind of man for you. [Laughter.]

Mr. WASHBURN. The statement which was read at the Clerk's desk does not show that they have paid a dollar.

The SPEAKER *pro tempore*. The time for general debate is exhausted.

Mr. HOOKER. Mr. Speaker, I ask permission to say a word in reply to what has fallen from the gentleman from Michigan.

The SPEAKER *pro tempore*. Is there objection?

A MEMBER. What time does the gentleman want?

Mr. HOOKER. I will only ask for five minutes.

The SPEAKER *pro tempore*. The Chair hears no objection, and the gentleman from Mississippi will proceed.

Mr. CONGER. If the gentleman says anything particularly offensive, I want a minute to reply. [Laughter.]

Mr. HOOKER. Mr. Speaker, I desire to say simply a word or two on this bill in reference to the pending amendment. I regret I was not able to occupy a portion of the regular time for debate distributed to the several sides of the House on the pending measure.

This bill, in its general effect, proposes simply on certain terms and conditions to dismiss the numerous prosecutions which have been instituted by the Government against depredators upon the public lands. And, sir, I speak in reference to what I know as coming under my own observation in that large pine region of Mississippi lying along the Mississippi Sound and some hundred and fifty miles in the interior.

A few years ago the Department of the Interior, having in charge matters pertaining to this subject, directed a number of suits to be instituted in Southern Mississippi against what were called "depredators upon the public lands." It embraced, Mr. Speaker, not only the actual men who did the trespass upon the public lands, but a large number of innocent people, whose individual property was seized, and involved a large expenditure of money. The Department of Justice authorized the marshal of the southern district of Mississippi to appoint a number of deputy marshals, and, under a writ of sequestration which was first taken out, a thing unknown to the common law and not in existence in Mississippi at all, they proceeded to the two great streams, the Pearl River and the Pascagoula, which debouch into the Mississippi Sound, and seized upon every single mill. They seized upon every single tier of logs from the mouth to the fountain-head. The deputy marshal, clothed with authority by the regular marshal, mounting the bridge that spans the Pascagoula at Scranton and at Pearl River at a point beyond it, said, with the omnipotence of a dictator, "I seize all the logs in this river from its mouth to its source." And everywhere, indiscriminately, without reference to the fact of procedure against any individual, every single mill was stopped and every single log in that river, and every single owner of logs, from the humblest tiller of the soil who cut all his own timber, from the fountain-head down to the mouth, was seized and held in durance vile by the Government for from five to six months before they were released.

That writ of sequestration when the court met was quashed; but new seizures immediately took place under the law of replevin as it exists at common law and is known to Mississippi law. That writ of replevin was instituted against every mill-owner without regard to whether he had committed depredation upon the public lands or not; and the gentleman from Michigan has stated that thousands and thousands of dollars had been expended by the Government for this purpose, of bringing offenders to justice. Ay, sir, thousands of dollars have been expended, and without authority of law, in violation of law and in violation of right and justice, in instituting prosecutions against innocent citizens, in seizing private property of unoffending citizens without reference to whether they had been committing depredations upon the public lands or not. During the last Congress when I stood here in my place as a Representative, asking information from the Department of Justice as to the amount that had been expended in the State of Mississippi for the purpose of employing spies and marshals—log-minders and keepers—in connection with this business, who was it that stood upon this floor and said, "I object, I object," and prevented my obtaining that information? It came from the mouth of the gentleman from Michigan, [Mr. CONGER,] and came constantly from him whenever this information was sought to be obtained. That gentleman objected to allowing any information to be obtained as to the amount of money which had been expended by the Department of Justice, or, as it is sometimes in such cases very properly designated, the department of injustice. It was impossible to ascertain what amount of money had been expended in these prosecutions of innocent citizens and in the seizure of private property, and the amount of private property thus held by the Government. It was impossible to get a resolution through this House to ascertain the amount which had been expended in these nefarious prosecutions of innocent persons. There were seventy-six of these cases instituted, and the Government, by its own officers, dismissed all these suits *save twelve*, thus admitting that they were improperly and wrongfully instituted. The Government has, in the language of the gentleman from Michigan, [Mr. CONGER,] spent thousands on thousands and has never secured a single conviction, and this was my prediction made on the floor of this House, in my place, when these iniquitous suits were instituted.

[Here the hammer fell.]

Mr. CONGER. I propose, with the consent of the gentleman from Massachusetts, to incorporate in his amendment, before it is voted upon, the words "or who, without fault or knowledge of the trespass, took or used any timber." I think that would cover the cases of all innocent persons.

The SPEAKER *pro tempore*. The Clerk will read the proposed amendment in connection with the amendment already pending.

The Clerk read as follows:

After the word "lands," in the eighth line, insert:

"In the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the lands of any *bona fide* settler, or who, without fault or knowledge of the trespass, took or used any timber."

The SPEAKER *pro tempore*. The Chair was not present last night and is not informed as to the exact condition under which amendments were to be offered. The previous question now operating upon this bill would, however, except by consent, exclude amendments.

Mr. CONVERSE. An agreement was made last night, pending the demand for the previous question, that this amendment might be offered but not to be discussed.

Mr. CONGER. The amendment which I have offered is simply a part of the amendment of the gentleman from Massachusetts who accepts it as a modification of his own amendment. As modified I think it will protect persons who are entirely innocent of any wrong.

Mr. CONVERSE. If this amendment is adopted you might just as well defeat the bill. The amendment destroys it.

Mr. ROBINSON. Not at all.

The SPEAKER *pro tempore*. The Chair desires further to know if there was an understanding or agreement that further amendments might be offered?

Mr. CONVERSE. The understanding was that only one amendment should be offered here.

The SPEAKER *pro tempore*. The Chair so understood and stated.

Mr. CONGER. The reservation was as to another section.

The SPEAKER *pro tempore*. The question is on the adoption of the amendment proposed by the gentleman from Massachusetts as modified.

The House divided; and there were—ayes 55, noes 53.

Mr. CONVERSE demanded tellers.

Mr. HERBERT. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 94, nays 85, not voting 113; as follows:

YEAS—94.

Aldrich, William	Calkins,	Frye,	Joyce,
Anderson,	Caswell,	Garfield,	Keifer,
Atherton,	Chittenden,	Gillette,	Killinger,
Ballou,	Claflin,	Godshalk,	Ladd,
Bayne,	Colerick,	Hammond, John	Lapham,
Beale,	Conger,	Haskell,	Lindsey,
Beltzhoover,	Cowgill,	Hawk,	Marsh,
Bingham,	Crapo,	Hayes,	McCook,
Blake,	Daggett,	Hazelton,	Miller,
Boyd,	Davis, George R.	Heilman,	Mitchell,
Bragg,	Dick,	Horr,	Morton,
Brewer,	Dwight,	Houk,	Neal,
Briggs,	Ewing,	Hubbell,	Newberry,
Brigham,	Farr,	Jones,	Norcross,
Burrows,	Ferdon,	Jorgensen,	Osmer,

Overton,	Russell, Daniel L.	Stone,	Wells,
Pacheco,	Russell, W. A.	Thomas,	White,
Pierce,	Ryon, John W.	Turner, Oscar	Wilber,
Poehler,	Sherwin,	Updegraff, J. T.	Williams, C. G.
Pound,	Simonton,	Valentine,	Willits,
Prescott,	Singleton, J. W.	Voorhis,	Yocum,
Reed,	Smith, Hezekiah B.	Wait,	Young, Thomas L.
Robinson,	Sparks,	Ward,	
Ross,	Stevenson,	Weaver,	

NAYS—85.

Aiken,	Deuster,	Ketcham,	Samford,
Armfield,	Dibrell,	Klotz,	Sapp,
Atkins,	Dickey,	Knott,	Sawyer,
Berry,	Dunnell,	Le Fevre,	Springer,
Bicknell,	Elam,	Lewis,	Steele,
Bland,	Evins,	Mason,	Taylor,
Bright,	Felton,	McCold,	Thompson, P. B.
Buckner,	Finley,	McKenzie,	Tillman,
Cabell,	Frost,	McMillin,	Upson,
Caldwell,	Geddes,	Mills,	Van Aernam,
Carpenter,	Goode,	Money,	Van Voorhis,
Clardy,	Gunter,	Morrison,	Waddill,
Clark, John B.	Hammond, N. J.	Muldrow,	Washburn,
Coffroth,	Harris, John T.	Myers,	Wellborn,
Converse,	Hatch,	New,	Whiteaker,
Cook,	Herbert,	Orth,	Whitthorne,
Covert,	Hooker,	Philips,	Williams, Thomas
Cravens,	Hostetler,	Phister,	Wilson,
Culberson,	Hull,	Reagan,	Wright.
Davidson,	Hunton,	Richardson, J. S.	
Davis, Joseph J.	Hurd,	Richmond,	
Davis, Lowndes H.	Kenna,	Ryan, Thomas	

NOT VOTING—113.

Acklen,	Ellis,	Lounsbery,	Scales,
Aldrich, N. W.	Errett,	Lowe,	Shallenberger,
Bachman,	Field,	Manning,	Shelley,
Bailey,	Fisher,	Martin, Benj. F.	Singleton, O. R.
Baker,	Ford,	Martin, Edward L.	Slemons,
Barber,	Forney,	Martin, Joseph J.	Smith, A. Herr
Barlow,	Forsythe,	McGowan,	Smith, William E.
Belford,	Fort,	McKinley,	Speer,
Blackburn,	Gibson,	McLane,	Starin,
Bliss,	Hall,	McMahon,	Stephens,
Blount,	Harmer,	Miles,	Talbott,
Bouck,	Harris, Benj. W.	Monroe,	Thompson, W. G.
Bowman,	Hawley,	Morse,	Townsend, Amos
Browne,	Henderson,	Muller,	Townshend, R. W.
Butterworth,	Henkle,	Murch,	Tucker,
Camp,	Henry,	Nicholls,	Turner, Thomas
Cannon,	Herndon,	O'Brien,	Tyler,
Carlisle,	Hill,	O'Connor,	Updegraff, Thomas
Chalmers,	Hiscock,	O'Neill,	Urner,
Clark, Alvah A.	House,	O'Reilly,	Vance,
Clymer,	Humphrey,	Page,	Warner,
Cobb,	Hutchins,	Persons,	Willis,
Cox,	James,	Phelps,	Wise,
Crowley,	Johnston,	Price,	Wood, Fernando
Davis, Horace	Kelley,	Rice,	Wood, Walter A.
De La Matyr,	Kimmel,	Richardson, D. P.	Young, Casey
Deering,	King,	Robertson,	
Dunn,	Kitchin,	Robeson,	
Einstein,	Loring,	Rothwell,	

So the amendment was agreed to.

The following pairs were announced:

Mr. MCKINLEY with Mr. CHALMERS.

Mr. CLYMER with Mr. MONROE.

Mr. LORING with Mr. MORSE.

Mr. LOUNSBERY with Mr. BUTTERWORTH, on this bill.

Mr. SINGLETON, of Mississippi, with Mr. HAWLEY.

Mr. BRAGG with Mr. HAZELTON, on all votes for the remainder of this week.

Mr. BARBER with Mr. O'CONNOR, on this bill and amendments.

Mr. BOUCK with Mr. SLEMONS.

The result of the vote was then announced as above recorded.

Mr. CONGER moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. Unless there be a separate vote demanded upon the other amendments the question will be taken upon concurring in them.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CONVERSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GRANT OF A BAYOU TO COUNCIL BLUFFS.

The next bill on which the main question had been ordered was the bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public use, a certain lake or bayou situated near said city; reported by the Committee of the Whole with amendments.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAPP moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURVEY IN CRAWFORD COUNTY, WISCONSIN.

The next bill on which the main question had been ordered was the bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor; reported by the Committee of the Whole without amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAPP moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SUPPLEMENT TO HOMESTEAD ACT.

The Clerk read the title of the next bill reported by the Committee of the Whole, as follows:

A bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862.

The SPEAKER *pro tempore*. The Chair is informed that this bill is reported from the Committee of the Whole with an adverse recommendation. Was the previous question ordered upon that bill as well as upon the others?

Mr. CONVERSE. The previous question was not ordered upon that bill.

Mr. WRIGHT. I now call for the previous question on the bill.

Mr. KEIFER. The previous question was only ordered upon bills reported favorably by the Committee of the Whole.

The SPEAKER *pro tempore*. So the Chair discovers by an examination of the RECORD.

Mr. WRIGHT. I rise to a question of order. I desire to have a vote of the House upon the question whether they will accept the report of the Committee of the Whole or not.

The SPEAKER *pro tempore*. But the bill does not come over as unfinished business to be disposed of to-day, inasmuch as the previous question was not ordered on it.

Mr. WRIGHT. I do not know how that should prevent the House from acting on the report of the committee.

The SPEAKER *pro tempore*. The House will act, the Chair supposes, on the report of the committee at the proper time; but this is not the proper time, because the previous question was not ordered on the bill. This being Friday, which is set apart by the rules for the consideration of private business, only those public measures can be disposed of as unfinished business on which the previous question has been ordered.

Mr. WRIGHT. The time for having a vote on this bill it seems will never come. That is the amount of it. I take occasion to say that a laboring-man has no more rights in this House than though he were an Arab.

RELIEF OF SETTLERS ON PUBLIC LANDS.

The next bill on which the main question had been ordered was the bill (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands; reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BERRY. I move that the title be amended by inserting after the word "fees" the word "purchase-money;" so that it will read "for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions," &c.

The motion was agreed to.

CERTIFICATION OF SCHOOL LANDS IN KANSAS.

The next business on which the main question had been ordered was the joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas; reported from the Committee of the Whole without amendment.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RYAN, of Kansas, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OSAGE INDIAN LANDS.

The next bill on which the main question had been ordered was the bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands, lying east of the sixth principal meridian, in Kansas; reported from the Committee of the Whole without amendment.

Mr. DEERING. It was agreed last night that there should be a vote in the House on an amendment which I offered to this bill.

Mr. CONVERSE. That was the agreement.

The Clerk read Mr. DEERING's amendment, as follows:

Strike out all after the word "until," in the twenty-third line, and in lieu thereof insert "at least two-thirds of the adult males of the said Osage Indian tribe shall assent to the foregoing provisions."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER *pro tempore*. The question is on the passage of the bill.

The question being taken, there were—ayes 49, noes 2.

Mr. CONGER. I think we had better have a little fuller vote. This is, to be sure, Indian property, but I think Congress ought to dispose of it at least with a reasonable vote.

The SPEAKER *pro tempore*. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Kansas, Mr. RYAN, and the gentleman from Michigan, Mr. CONGER.

Mr. CONGER. I was perhaps laboring under a misapprehension. I am told that the amendment requiring two-thirds of the adult males of this Indian tribe to assent to the bill has been adopted.

The SPEAKER *pro tempore*. That amendment has been adopted, and is now a part of the bill.

Mr. CONGER. Then I do not make the point as to a quorum.

So (further count not being called for) the bill was passed.

Mr. RYAN, of Kansas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNIVERSITY LANDS FOR THE TERRITORIES.

The next bill on which the main question had been ordered was the bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes, reported from the Committee of the Whole without amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CONVERSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SCHOOL LANDS FOR NEVADA.

The next business on which the main question had been ordered was the bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State, reported from the Committee of the Whole without amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER *pro tempore*. The question is on the passage of the bill.

The question being taken, there were—ayes 66, noes 16.

Mr. THOMAS TURNER. No quorum.

The SPEAKER *pro tempore*. The point being made as to a quorum, the Chair will order tellers, and appoints the gentleman from Ohio, Mr. CONVERSE, and the gentleman from Kentucky, Mr. THOMAS TURNER.

The House again divided; and the tellers reported that there were—ayes 138, noes 14.

Before the result of this vote was announced,

Mr. THOMAS TURNER said: I call for the yeas and nays on the passage of this bill. I want to enter my solemn protest against giving away the public domain for any purpose; it belongs to my State as much as to any other.

The yeas and nays were not ordered, there being 2 in the affirmative; not one-fifth of the last vote.

So the bill was passed.

Mr. CONVERSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The unfinished business coming over from yesterday has now been completed.

Mr. THOMAS TURNER. I call for the regular order.

The SPEAKER *pro tempore*. The regular order is the morning hour, which will begin at half past two o'clock.

Mr. CONVERSE. I will suggest that there is further unfinished business coming over from yesterday, but not under the operation of the previous question.

The SPEAKER *pro tempore*. The House has considered all the unfinished business which can be considered under the rule to-day, this being private bill day. The other unfinished business will come up on the next public bill day.

Mr. KILLINGER. I move to dispense with the morning hour for the purpose of proceeding to business on the Speaker's table.

Mr. BRIGHT. I move to dispense with the morning hour for the purpose of proceeding with the consideration of business on the Private Calendar.

The SPEAKER *pro tempore*. The question is upon dispensing with the morning hour for to-day; which requires a two-thirds vote.

The House divided; and there were—ayes 55, noes 35.

So (two-thirds not voting in favor thereof) the morning hour was not dispensed with.

Mr. BUCKNER. I desire to inquire of the Chair if after the morning hour of to-day it will be in order to proceed to business on the Speaker's table, private bills alone?

The SPEAKER *pro tempore*. It will.

Mr. HOOKER. If the House will choose to do it.

The SPEAKER *pro tempore*. It will be in order to submit that motion.

LANDS IN SAN MATEO COUNTY, CALIFORNIA.

Mr. MULDROW, from the Committee on Private Land Claims, submitted the views of the minority of said committee on the bill heretofore reported (H. R. No. 531) to authorize the correction of boundaries of certain lands in San Mateo County, California, and the same was ordered to be printed.

MARY E. BOULIGNY.

Mr. MYERS, from the Committee on Private Land Claims, reported back the petition of Mrs. Mary E. Bouligny, widow, and heirs of John E. Bouligny, in regard to lands granted by Congress, and moved that the committee be discharged from its further consideration and that the same be referred to the Committee on the Judiciary.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with an amendment, a bill of the House of the following title:

A bill (H. R. No. 2326) for the relief of settlers on the Osage trust and diminished-reserve lands in Kansas, and for other purposes.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the following joint resolution:

A joint resolution (S. R. No. 100) to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1879.

The message also announced that the Senate had passed and requested the concurrence of the House in a bill and a joint resolution of the following titles:

A bill (S. No. 1726) regulating the pay and appointment of special deputy marshals; and

A joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880.

ORDER OF BUSINESS.

Mr. BRAGG. Has the Committee on War Claims been called?

The SPEAKER *pro tempore*. It has been.

Mr. BRAGG. I did not hear it.

The SPEAKER *pro tempore*. Owing to the confusion in the Hall, members of committees which have been called for reports seem not to have heard the call. The Chair will begin the call again, and the call will be first for reports from the Committee on War Claims.

WILLIAM H. DAVIS.

Mr. BRAGG, from the Committee on War Claims, reported a bill (H. R. No. 6247) for the relief of William H. Davis, of Oakland, California; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PAYMENT OF AWARDS.

Mr. BRAGG also, from the same committee, reported, as a substitute for House bill No. 3510, a bill (H. R. No. 6248) directing the payment of certain awards in favor of parties therein named; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. BRAGG, from the same committee, also reported adversely upon the following; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 969) for the relief of Cane Hill College, Arkansas;

The bill (H. R. No. 1094) to refer the claim of Hiram Lowe to the Court of Claims;

The bill (H. R. No. 1532) for the relief of certain citizens claiming to be loyal and whose claims are now pending before Congress;

The bill (H. R. No. 2457) to authorize payment to the widow of Captain George W. Yates, killed at the Custer massacre, for the loss of a horse;

The bill (H. R. No. 4356) for the relief of Samuel Cabell;

The petition of Joseph R. Shannon;

The petition of Henry Ickes and 253 citizens of Bedford County, Pennsylvania, asking compensation from Congress for Henry Ickes for his mill destroyed by fire in 1863;

The petition of Francis Lowe, asking to be remunerated for moneys expended in the service of the United States;

The petition of H. L. Bradley, of Tennessee, for payment for dwelling destroyed during the siege of Knoxville;

The petition of Ferdinand N. Tuck, for compensation for horse lost in the service of the United States during the late war;

The petition of Julia Duncan, widow of J. G. Duncan, for relief;

The petition of Mrs. M. E. Carrier, guardian, for property taken by the United States Army during the late war;

The petitions of Robert Alexander and Mitchell Alexander, of Thibodeaux, Louisiana, asking compensation for property taken during the war for the use of the United States;

The petition of Wiley S. Cargill, administrator of Wiley Cargill, deceased; and

The petition of G. R. Brandon, of Knoxville, Tennessee, asking compensation for property taken by the United States forces during the late war.

Mr. BRAGG moved to reconsider the votes upon the adverse reports just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BRAGG, from the same committee, also reported adversely upon the bill (H. R. No. 571) for the relief of Dr. C. E. Tupper, of Putnam County, Ohio; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. CARPENTER, from the Committee on War Claims, reported back adversely bills of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 1589) for the relief of Isaac N. Webb;

The bill (H. R. No. 1591) for the relief of William W. Anderson;

The bill (H. R. No. 1592) for the relief of James S. Frizzell;

The bill (H. R. No. 1590) for the relief of Thomas C. Isgrig, of Pike County, Missouri;

The bill (H. R. No. 1588) for the relief of the estate of Thomas V. Sterman, deceased; and

The bill (H. R. No. 1611) for the relief of Lucinda McGuire, of Memphis, Tennessee.

DR. MARY E. WALKER.

Mr. FERDON. I am directed by the Committee on War Claims to ask that the committee be discharged from the further consideration of the petition of Dr. Mary Walker, praying compensation for services and expenditures in the late war, and to move that the petition be referred to the Committee on Claims.

Mr. KEIFER. I hope the gentleman will state the reason that influenced the Committee on War Claims in making this request.

The SPEAKER *pro tempore*. Under the rules there can be no debate upon a motion of this kind.

Mr. McCOOK. We cannot vote intelligently on the question unless some such statement is made.

The motion of Mr. FERDON was agreed to; and the petition was referred to the Committee on Claims.

ADVERSE REPORTS.

Mr. FERDON, from the Committee on War Claims, reported back adversely bills of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 546) for the relief of James R. Richardson; and

The bill (H. R. No. 5949) for the relief of Charles Gearing.

Mr. TYLER, from the Committee on War Claims, reported back adversely bills and petitions of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 2349) for the relief of Samuel Gill;

The petition for the relief of Walter L. Campbell, a resident of Pike County, State of Mississippi;

The petition for the relief of John Cleary, a resident of Hind County, in the State of Mississippi; and

The petition for the relief of John Ahern, of New York, praying compensation for certain supplies furnished to the United States Army.

FAVORABLE REPORTS.

Mr. THOMPSON, of Kentucky, from the Committee on War Claims, reported, as a substitute for House bill No. 2918, a bill (H. R. No. 6249) for the benefit of Colonel Silas Adams; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

BAPTIST CHURCH, CRAB ORCHARD, KENTUCKY.

Mr. THOMPSON, of Kentucky, also, from the same committee, reported a bill (H. R. No. 6250) for the benefit of the trustees of the Baptist church of Crab Orchard, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MAJOR JOHN A. MORRISON.

Mr. THOMPSON, of Kentucky, also, from the same committee, reported a bill (H. R. No. 6251) for the benefit of Major John A. Morrison, of Russell County, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

HEIRS OF JUAN READ.

Mr. VOORHIS, from the Committee on Private Land Claims, reported, as a substitute for House bill No. 5545, a bill (H. R. No. 6252) for the relief of the heirs of Juan Read; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELECTION CONTEST—DUFFY VS. MASON.

Mr. COLERICK. I am directed by the Committee on Elections to present a report upon the contested election of Duffy *vs.* Mason, from the twenty-fifth congressional district of New York. I ask that the report may be printed, and that the resolution accompanying the report may be considered now. I make this request for the reason that this is a unanimous report in favor of the sitting member, and no discussion will arise upon it.

The SPEAKER *pro tempore*. If the gentleman desires to have the report considered at this time he must ask its consideration upon the ground that it is a question of privilege. As a matter of privilege the gentleman has the right to bring the case up for action now.

Mr. CONGER. In the morning hour?

The SPEAKER *pro tempore*. At any time.

Mr. KEIFER. I hope there will be no objection to considering the question now.

The SPEAKER *pro tempore*. Under the practice of the House, reports cannot be entertained for consideration during the morning hour. But if the gentleman brings up this report as a matter of privilege, and not upon a simple request for unanimous consent, it can be considered.

Mr. CALKINS. It will not take five minutes to dispose of the question.

The SPEAKER *pro tempore*. A question relating to the right of a member to his seat is a matter of the highest privilege. The Chair understands that this is a unanimous report in favor of the sitting member.

Mr. COLERICK. I give notice that I will call up this case immediately after the expiration of the morning hour.

FREE IMPORTATION OF CHURCH CHIMES, ETC.

Mr. GIBSON. I am directed by the Committee on Ways and Means to report favorably a bill to permit the altar, chimes, and marble and granite columns for the new Church of the Sacred Heart of Jesus, in Donaldsonville, Louisiana, to be imported free of duty, under such directions and regulations as the Secretary of the Treasury may prescribe.

The SPEAKER *pro tempore*. This being a public bill is not in order to-day, Friday being set apart by the rules for private business.

Mr. GIBSON. I call the attention of the Chair to the fact that this is a private bill with reference to a church.

The SPEAKER *pro tempore*. But it changes a public statute, making an exception in favor of particular articles for a particular purpose. Therefore the Chair thinks that the bill is of a public nature.

Mr. GIBSON. Cannot the bill be acted upon by consent at this time?

The SPEAKER *pro tempore*. Not at this time.

Mr. GIBSON. Then I withdraw it.

JOHN J. KEY AND W. G. M. DAVIS.

Mr. NEW, from the Committee on the Judiciary, reported back adversely the bill (H. R. No. 4980) for the relief of John J. Key and W. G. M. Davis; which was laid on the table, and the accompanying report ordered to be printed.

HARBOR OF REFUGE, MILWAUKEE.

Mr. DEUSTER, from the Committee on Commerce, reported back favorably the bill (H. R. No. 1131) to reimburse the city of Milwaukee for money paid in the construction of a harbor of refuge at the port of Milwaukee; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SCHOONER ALBERT WOODBURY.

Mr. WAIT, from the Committee on Commerce, reported back favorably the bill (H. R. No. 2516) to change the name of the schooner Mary E. Caswell, of Star Island, Isle of Shoals, to that of Albert Woodbury; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

AMENDING ARMY OFFICER'S RECORD.

Mr. BROWNE, from the Committee on Military Affairs, reported back adversely the bill (H. R. No. 2721) to amend an Army officer's record; which was laid upon the table, and the accompanying report ordered to be printed.

CAPTAIN J. S. PAYNE.

Mr. BROWNE also, from the same committee, reported, as a substitute for House bill No. 4406, a bill (H. R. No. 6253) to authorize the President in his discretion to promote Captain J. S. Payne, Fifth Regiment United States Cavalry; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HARRY FONES.

Mr. McCOOK, from the Committee on Military Affairs, reported back favorably the bill (H. R. No. 1221) for the relief of Harry Fones; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

NEZ PERCÉ WAR CLAIMS.

Mr. SMITH, of Georgia, from the Committee on Military Affairs, reported back favorably the bill (H. R. No. 4391) for the relief of citizens of Idaho and Washington Territories, who served in connection with the United States troops in the war with the Nez Percés, and for the relief of the heirs of such as were killed in such service; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

UNITED STATES CEMETERIES.

Mr. MARSH. I am directed by the Committee on Military Affairs to report a resolution asking the Secretary of War for information relative to United States cemeteries, which I ask by unanimous consent be read and adopted at this time.

The SPEAKER *pro tempore*. The practice of the House is not to entertain requests for unanimous consent during the morning hour. The gentleman can call it up at some other time.

Mr. MARSH. Then I withdraw the report.

The SPEAKER *pro tempore*. The gentleman will accomplish his purpose better by making the report and calling it up at some future time.

PHILIP J. LANGER.

Mr. BRIGGS, from the Committee on Military Affairs, reported back adversely a bill (H. R. No. 4651) to place upon the retired list of the Navy Philip J. Langer; which was laid on the table, and the accompanying report ordered to be printed.

CAPTAIN EGBERT THOMPSON, UNITED STATES NAVY.

Mr. BRIGGS also, from the same committee, reported back a bill (H. R. No. 3863) for the relief of Captain Egbert Thompson, United States Navy, with an amendment; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN THORNBY, UNITED STATES NAVY.

Mr. BRIGGS also, from the same committee, reported a bill (H. R. No. 6254) for the relief of Medical Director John Thornby, United States Navy; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DAVID W. BELL.

Mr. STONE, from the Committee on the Post-Office and Post-Roads, reported back favorably the bill (H. R. No. 5832) for the relief of David W. Bell; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM R. OLIVER.

Mr. STONE also, from the same committee, reported a bill (H. R. No. 6255) for the relief of William R. Oliver; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

C. F. FUSTING.

Mr. EVINS, from the Committee on the Post-Office and Post-Roads, reported back favorably the bill (H. R. No. 4209) for the relief of C. F. Fusting; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SETTLERS ON RESTORED RAILROAD LANDS.

Mr. BERRY, from the Committee on the Public Lands, reported, as a substitute for House bill No. 4869, a bill (H. R. No. 6256) for the relief of certain settlers on restored railroad lands; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PHILIP M'CAFFREY.

Mr. BENNETT, from the Committee on the Public Lands, reported back favorably the bill (H. R. No. 5968) for the relief of Philip McCaffrey; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printd.

HEIRS OF A. F. HURLEY, DECEASED.

Mr. ERRETT, from the Committee on Indian Affairs, reported back adversely the bill (H. R. No. 2416) for the relief of R. A. Hurley, J. M. Hurley, Edwin Hurley, and Lucinda J. Delashmutt, brothers and sister and only heirs of A. F. Hurley, deceased, late A. F. Hurley & Co., Utah Territory; which was laid on the table, and the accompanying report ordered to be printed.

FAVORABLE REPORTS.

Mr. ERRETT also, from the same committee, reported back, with a favorable recommendation, bills of the following titles; which were severally referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (H. R. No. 1768) for the relief of Bowers & Richard;

The bill (H. R. No. 1318) for the relief of William B. Hooper & Co., or their assigns;

The bill (H. R. No. 1317) for the relief of E. N. Fish & Co., or their assigns; and

The bill (H. R. No. 1316) for the relief of William B. Hugus, or his assigns.

OSAGE INDIAN DEBT.

Mr. ERRETT also, from the same committee, reported a bill (H. R. No. 6257) to authorize the payment of a debt of the Osage Nation of Indians; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DULUTH AND WINNIPEG RAILWAY COMPANY.

Mr. POEHLER, from the Committee on Indian Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 1156) to authorize the Duluth and Winnipeg Railway Company to extend its line through Red Lake and Pembina reservation, with an amendment; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

EXTENSION OF LETTERS-PATENT.

Mr. AIKEN, from the Committee on Patents, reported back, with a favorable recommendation, the bill (H. R. No. 5375) to provide for the extension of letters-patent for an improvement upon Eclipse cotton-gin; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM HENRY WARD.

Mr. WARD, from the Committee on Patents, reported back adversely the bill (H. R. No. 3311) for the relief of William Henry Ward; which was laid upon the table, and the accompanying report ordered to be printed.

PENSION BILLS.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back, with favorable recommendations, bills of the following titles; which were severally referred to the Committee of the Whole House on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (H. R. No. 4739) granting a pension to Anna A. Probert;

The bill (H. R. No. 5586) granting a pension to C. K. Hughes;

The bill (H. R. No. 3086) granting a pension to Franklin Pile;

The bill (H. R. No. 3081) granting a pension to James Newberry;

The bill (H. R. No. 4394) restoring to the pension-roll the name of Elizabeth Mazell;

The bill (H. R. No. 5864) granting a pension to Mariah Betts;

The bill (H. R. No. 1328) granting a pension to Hannah M. Wright;

The bill (H. R. No. 3083) restoring the name of George Ogline to the pension-roll; and

The bill (H. R. No. 3089) granting a pension to Abraham Howard.

Mr. CALDWELL, from the Committee on Invalid Pensions, reported back, with favorable recommendations, bills of the following titles; which were severally referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 2344) to place upon the pension-roll the name of John A. London;

The bill (H. R. No. 2919) for the benefit of John Watson, of Green County, Kentucky;

The bill (H. R. No. 3618) granting a pension to Joshua S. Dye, of King's Mountain Station, Lincoln County, Kentucky.

Mr. CALDWELL also, from the same committee, reported the following bills; which were severally read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill, (H. R. No. 6258,) a substitute for House bill No. 4515, granting a pension to Maria C. Worthington; and

A bill (H. R. No. 6259) granting a pension to Samuel M. Boone.

Mr. FARR, from the Committee on Invalid Pensions, reported the following bills, with favorable recommendations; which were severally referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 3529) granting a pension to Stephen W. Thompson;

The bill (H. R. No. 3297) granting an increase of pension to Alfred G. Fifield;

The bill (H. R. No. 3243) granting an increase of pension to William Kelly;

The bill (H. R. No. 4638) granting an increase of pension to Charles H. Frank;

The bill (H. R. No. 3294) granting a pension to David G. Hutchinson; and

The bill (H. R. No. 5440) granting a pension to Joseph H. Adams.

ADVERSE REPORTS.

Mr. UPDEGRAFF, of Ohio, from the Committee on Invalid Pensions, reported back, with adverse recommendations, the following bill and petitions; and the same were severally laid upon the table, and the accompanying reports ordered to be printed:

The petition of Charles McCarthy, for a pension;

The petition of Michael L. Kennedy, for a pension;
The petition of Martha F. Woodrum; and
The petition of Samuel Jones, for increase of pension.

PENSION BILLS FAVORABLY REPORTED.

Mr. EWING, from the Committee on Invalid Pensions, reported the following bills; which were severally read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6260) granting a pension to Authur W. Irving;
A bill (H. R. No. 6261) granting a pension to Michael O'Brien;
A bill (H. R. No. 6262) granting a pension to John Sheiber;
A bill (H. R. No. 6263) granting a pension to Michael McGinty; and
A bill (H. R. No. 6264) granting a pension to Robert P. Walker.

OSAGE NATIONAL BANK.

Mr. EWING. I ask consent to report, from the Committee on Banking and Currency, a private bill on which I could not lay my hand when that committee was called.

There was no objection.

Mr. EWING, from the Committee on Banking and Currency, reported back, with an amendment, the bill (H. R. No. 4716) to authorize the Comptroller of the Currency to issue $9,000 in new notes to the Osage National Bank, at Osage, Iowa, to replace a like amount which have never been signed; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompnaying report, ordered to be printed.

PENSION BILLS FAVORABLY REPORTED.

Mr. DAVIS, of Illinois, from the Committee on Invalid Pensions, reported back, with favorable recommendations, bills of the following titles; and the same were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (S. No. 855) for the relief of Narcissa Gibson, widow of the late Captain Alexander Gibson, United States Navy;

The bill (H. R. No. 903) granting a pension to A. J. Arnold, late a private in Company D, Eighty-ninth Regiment Illinois Infantry Volunteers;

The bill (H. R. No. 4627) granting a pension to Missouri Anderson;

The bill (H. R. No. 2398) granting a pension to Mrs. Margarette McKerinan;

The bill (H. R. No. 5100) granting an increase of pension to Benjamin Franklin;

The bill (H. R. No. 858) granting a pension to Anson K. Young;

The bill (H. R. No. 805) granting a pension to William O. Morgan; and

The bill (H. R. No. 814) for the relief of Elizabeth Leebrick.

MAJOR FRANK O. CHAMBERLAIN.

Mr. BARBER, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 2534) for the relief of Major Frank O. Chamberlain, postmaster at Canandaigua, New York; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES L. HEMIUP.

Mr. BARBER also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3026) for the relief of Charles L. Hemiup; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES PARKS.

Mr. O'CONNOR, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 4702) for the relief of James Parks; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

HEIRS OF ABRAM VAN DUYN.

Mr. SAWYER, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 5444) for the relief of the heirs of Abram Van Duyn, deceased; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FREEDMAN'S BUREAU.

Mr. SAWYER also, from the same committee, reported a bill (H. R. No. 6265) directing the accounting officers of the Treasury Department to resettle the claims of the colored soldiers and sailors who were defrauded of their pay and bounty money by the agents of the late Bureau of Refugees, Freedmen, and Abandoned Lands; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGHT. Has the morning hour expired?

The SPEAKER *pro tempore*. It has.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. NEAL. On behalf of the Committee on the District of Columbia, I ask unanimous consent that the order of the House which assigned this evening for the consideration of the municipal code may be so modified as to provide for the consideration of other measures that the Committee on the District of Columbia have reported. It is absolutely necessary we should have an evening for their consideration.

The SPEAKER *pro tempore*. The Chair understands that the order to which the gentleman from Ohio refers was one which related only to the bill establishing a municipal code for the District of Columbia, and provided it should continue until that bill should be disposed of. That bill having been disposed of, the order is executed. The gentleman from Ohio had better request a new order.

Mr. NEAL. Then I ask that to-night be assigned for the consideration of bills reported by the Committee on the District of Columbia.

Mr. BOUCK. I object.

CARRIAGE OF PASSENGERS BY SEA.

Mr. DEUSTER, by unanimous consent, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 5705) to regulate the carriage of passengers by sea; which was placed upon the House Calendar, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. REAGAN. I desire to report from the Committee on Commerce a bill for reference to the Committee on Appropriations.

Mr. COX and others called for the regular order.

The SPEAKER *pro tempore*. The regular order is the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House now resolve itself into Committee of the Whole for the purpose of considering business on the Private Calendar.

Mr. REAGAN. I hope we will not do that.

The SPEAKER *pro tempore*. The motion is not debatable.

Mr. COLERICK. I rise to a question of the highest privilege, one involving the right of a member to a seat on this floor. I now call up the contested-election case of Duffy *vs.* Mason, from the twenty-fourth congressional district of New York.

Mr. BRIGHT. Is not my motion the pending question?

The SPEAKER *pro tempore*. It is not a question of higher privilege than one relating to the seat of a member. The Chair is informed that the contested-election case will take but a few minutes.

Mr. BRIGHT. I raise the question of consideration on that case.

The SPEAKER *pro tempore*. The Chair will submit to the House the question of proceeding to the consideration of the contested-election case indicated by the gentleman from Indiana, [Mr. COLERICK.]

The question was taken; and upon a division there were—ayes 111, noes 14.

So the House determined to proceed to the consideration of the contested-election case.

ELECTION CONTEST—DUFFY VS. MASON.

The SPEAKER *pro tempore*. The resolutions reported from the Committee on Elections will now be read.

The Clerk read as follows:

Resolved, That Sebastian Duffy is not entitled to a seat in the Forty-sixth Congress as a Representative from the Twenty-fourth congressional district of New York.

Resolved, That JOSEPH MASON is entitled to a seat in the Forty-sixth Congress as a Representative from the Twenty-fourth congressional district of New York.

Mr. COLERICK. I desire to say to the House that this case has been carefully considered by the Committee on Elections, and the resolutions just read were unanimously reported from that committee. All the members of the committee, democrats, republicans, and nationals, were in accord. I call the previous question on the resolutions.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were adopted.

Mr. COLERICK moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. I now insist upon my motion that the House resolve itself into Committee of the Whole for the purpose of considering business on the Private Calendar.

Mr. COX. I move that the House now adjourn.

Mr. MILLS. Let us have a recess.

Mr. ALDRICH, of Illinois. It is not time for a recess.

Mr. MILLS. I mean let us take a recess when we close business this afternoon.

The motion to adjourn was not agreed to.

The question was then taken on the motion to go into Committee of the Whole on the Private Calendar, and upon a division there were—ayes 83, noes 9.

Before the result of the vote was announced,

Mr. ATHERTON moved that the House adjourn.

Mr. GARFIELD. We should remain here until the sundry civil appropriation bill is reported from the Committee on Appropriations, as it will save a day if it can be ordered to be printed this afternoon.

The SPEAKER *pro tempore*. The question is on the motion to adjourn.

The motion to adjourn was not agreed to.

The SPEAKER *pro tempore*. If there be no further count on the motion to go into Committee of the Whole, it will be agreed to.

There was no further count, and the motion of Mr. BRIGHT was accordingly agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. BURROWS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering business on the Private Calendar.

JOHN R. SMITH.

The first bill on the Private Calendar was read, as follows:

A bill (H. R. No. 2636) granting arrears of pension to John R. Smith.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John R. Smith, late first lieutenant of Company B, Twelfth Regiment of Indiana Cavalry Volunteers, and pay to him a pension at the rate of $18 per month from the 11th day of November, 1865, less the pension heretofore paid him.

Mr. CALKINS. I desire to say, with reference to the bill just read, that this applicant was the first lieutenant of Company B of the regiment which I had the honor to command during the last two years of the war. I know personally that this applicant is entitled to the relief granted by this bill, and I hope no objection will be made to it.

Mr. BROWNE. Will my colleague allow me to ask him a question?

Mr. CALKINS. Certainly.

Mr. BROWNE. The last time we were in the Committee of the Whole on the Private Calendar there was some misapprehension in regard to this case. As I understand it, this bill proposes to establish a pension rate from some given time in the past—the rate of $18 per month.

The question I then asked of the gentleman who introduced this bill [Mr COLERICK] was whether, at the time this pension was originally granted, had the pensioner been properly rated on the pension roll, he would have been entitled to $18 per month. In other words, was the character of the disability then existing such as, under the law then in force, would have entitled him to the sum named in this bill?

Mr. CALKINS. I can only say that that question has been in dispute from the beginning. Of course I cannot tell what his rating ought to have been. I know it is claimed that he ought to have had as much as $18 a month and more, and the committee have so found. I hope my friend will not object to this bill.

Mr. BROWNE. My friend will understand that I am not objecting to the bill. I wish information, however, on this point: If the disability was, as the committee insist, the same when the pension was granted that it is now, did the law then in existence authorize a pension of $18 a month?

Mr. CALKINS. I so understand. I refer the gentleman to our colleague, [Mr. HOSTETLER.]

Mr. HOSTETLER. I will answer my colleague. I understand that at the time this pension was granted the law would have allowed this man with his then disability a pension of $15 a month. Eighteen dollars a month has been named in the bill through an oversight. The committee overlooked the law as it then existed and reported the bill at $18, as the law now is. It should have been $15, so as to conform to the law from 1865 to 1872.

Mr. BROWNE. From my knowledge of this case I believe that this pension ought to be increased; but it ought not to be increased beyond the sum authorized by law at the time of granting the pension for the particular character of disability existing. As I understand, the law then in existence authorized a pension of $15 a month for disabilities of this kind. I move, therefore, to amend the bill by striking out "eighteen" and inserting "fifteen;" so as to make the amount of the pension $15 a month. With this amendment, I am willing to support the bill.

Mr. BREWER. I desire to inquire why this man cannot obtain his pension at the Pension Office without the necessity for passing a bill here?

Mr. HOSTETLER. It appears that, by reason of the rating of this pensioner's disability at the Pension Office, he did not up to 1872 draw the amount of pension to which the law entitled him; and the difference for that period between the pension actually received and that to which he was entitled cannot be obtained by him except through an act of Congress. His disability in 1865, at the time his pension was granted, was the same that it now is. The object of this bill is to allow him the pension to which his actual disability entitled him from 1865 to 1872.

Mr. BREWER. I do not understand why we should go back to give him a rate of pension to which the Commissioner decided he was not entitled under the law.

Mr. HOSTETLER. But the evidence shows that the pensioner's disability was the same at the time the pension was originally granted that it is now.

Mr. REAGAN. I desire to ask the gentleman from Indiana what period of time is covered by the bill?

Mr. HOSTETLER. From 1865 to 1872.

Mr. REAGAN. What is the additional amount allowed for that time?

Mr. HOSTETLER. I do not know exactly; perhaps $5 a month.

Mr. REAGAN. As I understand this case, the pensioner was granted a certain rate of pension in 1865 and in 1872 received a different rate of pension. Is that correct?

Mr. BROWNE. Yes, sir.

Mr. REAGAN. And it is now proposed to go back and allow this man an additional amount of pension for those seven years.

Mr. BROWNE. That is what I understand.

Mr. LAPHAM. Let the report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2636) granting arrears of pension to John R. Smith, late first lieutenant of Company B, Twelfth Regiment of Indiana Cavalry Volunteers, having had the same under consideration, make the following report:

That the said John R. Smith enlisted in the service of the United States at Kendallville, Indiana, on the 9th day of December, 1863, as a first lieutenant of Company B, Twelfth Regiment of Indiana Cavalry Volunteers, and was honorably discharged on the 10th day of November, 1865, being then the captain of said company.

That while in the service aforesaid, at or near Whitesburgh, Alabama, on or about the 15th day of August, 1864, by reason of overexertion and exposure as a soldier in the service of the United States, and in the line of his duty as lieutenant of said company, he contracted *chronic diarrhea*, resulting in *hemorrhoids*, which caused so much pain and suffering that he was disabled from duty, and ever since said time has been totally disabled from performing manual labor, and that said disease is permanent and incurable. That at the time of his enlistment he was a farmer by occupation, and a sound, able-bodied man, and entirely exempt from disease.

That the above facts are established by evidence of the most conclusive character, especially by the affidavit of Dr. Samuel R. Pratt, late surgeon of said regiment, who knew him personally before and at the time of his enlistment, and who treated him for said disease while in the service, and who years afterward treated him for said disease, and found his physical condition to be the same as when in the service, and that said disease still existed, rendering him unable to obtain a living by manual labor.

All of these facts are further corroborated by the evidence of Drs. R. B. Williams, J. Z. Gower, S. F. Williams, and James Tolenton, four respectable physicians, who from time to time professionally treated said Smith for said disease since his discharge from the Army, and all of whom were personally acquainted with him for many years prior to his enlistment in the service, and concur in saying that he was at the time of his enlistment a healthy, strong, and able-bodied man, and that ever since his discharge from said service he has been *totally* disabled from performing manual labor by reason of said disease, from which he is suffering acutely and is much reduced in flesh, pale, and emaciated, and that said disease is incurable. That said Smith is now on the pension roll, receiving a pension of $18 per month. That prior to the 2d day of April, 1873, he received a pension of less than that sum. That he has been entitled to a pension of $10 per month ever since his discharge from the service, and that injustice has been done in granting him a pension in a less sum. That he has been at different times since his discharge from the Army examined by different examining surgeons of the Government, whose statements agree as to the nature and extent of his disease, and the alarming and extensive hemorrhages occurring therefrom, and his feeble and emaciated condition, caused by said disease, and that said disability is permanent and incurable, and is equal to the loss of a hand or a foot.

It further appears that this condition has existed ever since his discharge from the service. We therefore report back the bill to the House, and recommend its passage.

Mr. BROWNE. Mr. Chairman, the other day when this bill was before the Committee of the Whole for consideration I opposed it. Since that time I have made myself familiar with the facts. If I understand the ruling of the Pension Department correctly, when a pensioner has been rated originally below his actual disability there is no power in the Pension Department under the law to go back and correct the error. Such at least has been the decision of the Commissioner, and I am not disposed to quarrel with that conclusion, for I believe the Commissioner of Pensions is an honest, conscientious man. In this case, however, it is evident, I think, from the testimony (and I have examined it) that the pensioner at the time his pension was granted was rated too low. This bill simply proposes to correct this error and give this man the amount which ought to have been originally granted. It does not involve a very large sum of money, and does nothing more than what I believe to be justice to the claimant. I believe that this man ought to be allowed the difference between the rate of pension originally granted him and what ought to have been granted at that time under the law.

Mr. WHITE. Mr. Chairman, I always regret exceedingly to differ from my very good friend the gentleman from Indiana, [Mr. BROWNE.] He does not seem to remember entirely the position which he took upon this bill one or two weeks ago. Instead of opposing the bill at that time, he actually favored it. He raised some question at first, but subsequently supported the bill. I would not say, and I do not insinuate, that because this pensioner is from the State of Indiana that fact charitably affects the case in the judgment of a Representative from that State; yet I know as a citizen of Pennsylvania how natural such an influence is.

But, sir, this case is most important and most dangerous as a precedent in the administration of the pension laws of the country. The gentleman from Indiana has correctly stated that when a man is placed upon the pension-roll at a certain rate, and it is subsequently discovered that he has been rated too low, the Pension Department, under the existing law, cannot go back and pay him the difference between the amount actually granted him and the amount he ought to have received. That is a correct interpretation of the law. The attempt here is to override that well-recognized principle of the Pension Department, and by a special bill take a new departure. This would be a most dangerous precedent. If it is to be established in this case let us know it. I have in my district, as other gentlemen have in theirs, any number of pensioners who claim that they have been unjustly dealt with. I have in my mind's eye a gentleman who has corresponded with me and is corresponding with me now, who states that injustice has been done him, and that he should be allowed arrearages of increase of pension. I have not introduced a bill for his relief as yet, but if this bill pass I will introduce a bill for his relief and cite this as a precedent.

What does this measure establish? It establishes the principle of

passing bills granting arrearages of increase of pensions from the date of increase back to the date of the original placing of the pensioner upon the pension-roll. That is exactly what it does. If the American Congress wants to launch out upon this wide sea of legislation at this time, why let them do it. I, as a member of this body, give notice I will take it as instruction to me to introduce bills for my constituents who claim injustice has been done them in the same regard. I am indifferent about it except as other gentleman are interested, but I do not think it is fair to start out upon this principle at this time.

Mr. BROWNE. Mr. Chairman, I do not know this applicant. I never saw him nor did I ever hear of him until I found this claim upon the Calendar. It is true he is from my State. It is equally true that the little State of Indiana furnished during the war of the rebellion over two hundred and eight thousand volunteers to restore the Union. If the gentleman from Pennsylvania will only consult the Calendar he will find that a single regiment from the State of Pennsylvania has more bills reported favorably to this House than the whole Commonwealth which I in part represent.

Mr. WHITE. Will my friend allow me to tell him "shake not thy gory locks at me; thou cans't not say I did it?" [Laughter.]

Mr. BROWNE. One regiment of Pennsylvania troops has more favorable reports than the whole State. I do not care to mention its number. It was not particularly distinguished for its services during the war, and yet that one regiment has to-day on the Private Calendar of this House bills for pensions reported favorably by the Pensions Committee, I undertake to assume, larger in number and amount than the whole State of Indiana. I therefore hardly expected a gentleman from Pennsylvania would object to this bill.

Mr. BAYNE. Will my friend allow me a word?

Mr. BROWNE. In a moment. We are here seeking to put an Indiana soldier on the pension-roll, where he belonged under the law at the time the pension was granted. That is all. And a committee of this Congress says that he does belong at that point under the law. I am not asking to increase his pension. The Pensions Committee is not asking it. The gentlemen who represent this claim do not ask it. They simply ask to correct a mistake committed by the Commissioner of Pensions. And while I respect Mr. Bentley—he has treated me generously and kindly always—I do not think it is impossible for him to commit a mistake, particularly when his matters are in a large measure determined by his clerks.

I have been in favor of all these pensions for Pennsylvania troops and for Indiana troops, and I undertake to say I can find a few Indiana regiments which performed quite as much and quite as gallant and as distinguished service for the Union as troops from the Keystone State of Pennsylvania.

Mr. COFFROTH. Will the gentleman let me put a question to him?

Mr. BROWNE. I will let you put any question you choose.

Mr. COFFROTH. What does the gentleman from Indiana think I am here for if it is not to take care of the people of Pennsylvania and the soldiers of Pennsylvania who are entitled to pensions? [Laughter and applause.]

Mr. BROWNE. If the gentleman is the special guardian of Pennsylvania soldiers, he has performed his duty most admirably, for if there be one soldier in the State of Pennsylvania who has not been put on the pension-roll it is not the fault of the distinguished gentleman who is chairman of the Committee on Pensions. The reason why all the disabled Indiana people are not on it, in the service and out of it, is because I did not have the honor of serving on that committee.

Mr. BAYNE. The reason why the soldiers of the State of Pennsylvania have been taken better care of is because the members from that State are much more industrious in their behalf.

Mr. BROWNE. I am not saying anything against Pennsylvania. I am only speaking in behalf of a soldier of an Indiana regiment for whom this bill has been reported. We want to put him where he ought to be, and we ask it on unmistakable evidence at the time the pension was rated in the Pension Office. That is all there is about it. There is no increase of pension, none at all. There is no granting of an original pension. It is simply a determination on the part of the Pensions Committee, and I congratulate them in having recommended the placing of this man where he ought to be placed upon the pension-roll.

Mr. REAGAN. I wish to say to the gentleman from Indiana that he does not seem to understand why it is so many bills are reported giving pensions to soldiers who served from the State of Pennsylvania. He does not seem to realize that, under high protective tariffs for the benefit of privileged classes the people have become so impoverished it is necessary to grant these pensions to keep them up. [Laughter.]

Mr. LAPHAM. As I understand this bill, Mr. Chairman, it is proposed to grant to a person who has received a pension covering the whole period of his disability an additional sum to that which he has received, upon the theory that he has not been rated properly in the Pension Office. It may be in this single instance it is a hardship to the applicant to have been underrated, but I suggest for the consideration of the committee whether in the two hundred thousand cases or over which have been considered by the Pension Office there can not be found a large multitude of claims to which precisely this mode of reasoning might be applied, and which would be all opened for legislation in Congress if this precedent is to be established.

The question of rating the pensioner under the pension law is a question of fact upon affidavits and papers presented by the applicant. Now, if in every instance where it can be shown that by a mistake of fact a less sum was given and received by the pensioner than the law allowed him, that opens every pension case from the close of the war to this time to legislation, whenever the applicants come and present themselves and ask for an increase of the rate of allowance in the past.

Mr. BROWNE. Will the gentleman allow me to ask him a question?

Mr. LAPHAM. Most certainly.

Mr. BROWNE. Suppose it is true that the Commissioner of Pensions is satisfied that the original rate was incorrect—and he would be glad to remedy it if possible—but he finds that he cannot do so under the law; in that case, would the gentleman oppose an act of Congress granting a correction?

Mr. LAPHAM. I would be in favor of a general law giving the Commissioner that power. I am not in favor of having every one of these cases individually opened up by an act of Congress to reconsider the determination of the Commissioner.

Again, sir, that fact does not appear in this case that the Commissioner of Pensions so decides. On the contrary the statement contained in the report is that the applicant was entitled to a pension of $10 per month from the time he was placed upon the roll, and yet now it is proposed to give him $18 per month.

Mr. Chairman, I do not wish to be misunderstood. There is no man on this floor who will go further or more willingly in the direction of giving to those who suffered during the war all that they ask or all that they are entitled to under the law than I. What I am seeking now to have done is, if there are defects in the pension laws which cripple the officers of the Government in allowing the soldiers that to which they are entitled of the bounty of the Government, that by a general amendment here the law may be so altered that justice can be done. But it will not do to take every case where a pension has been granted since the pension laws were first enacted and make it a subject of a special act of Congress and give the difference between what the allowance was in the first instance and the amount which may be claimed as the rate at which the pension should have been fixed in the first instance. To do this would require a perpetual session of Congress.

Mr. HAWK. Mr. Chairman, I am very sorry to see the discussion taking the old course that it generally takes when the pension bills are to be considered in this House. It is a fact which I have observed since my experience in this body that as a general thing bills which are brought up here for the relief of soldiers are talked to death. It seems to me that it would be a wiser plan for us on this floor to take up these claims on the Calendar asking for relief and pass upon them without so much discussion. Let us do more voting and less talking. I hope this question will be put to a vote at once.

Mr. BAYNE. I agree fully with the remarks of the gentleman from Illinois, [Mr. HAWK.] There is no doubt, Mr. Chairman, as has been stated here, that a great many of the claims for pensions on the Calendar come from Pennsylvania. There are two reasons for that. One is that Pennsylvania made immense contributions of men to suppress the rebellion.

Mr. BROWNE. And boys.

Mr. BAYNE. Another reason is that the Pennsylvania Representatives in this Congress, with the exception of my colleague who claims having contributed nothing in this line, and I acquit him from having made any contribution to the calendar of pension cases, but with that exception Pennsylvania Representatives on this floor have evinced a greater degree of industry, perhaps, in presenting and preparing the cases than the gentleman from Indiana, [Mr. BROWNE.] These are reasons for the seeming preponderance of Pennsylvania cases.

Mr. WHITE. Will the gentleman permit me to correct him?

Mr. BAYNE. No, sir; not now.

Mr. WHITE. The gentleman has not done me entire justice in his statement.

Mr. BAYNE. I have merely stated what I understand to be the fact.

Mr. WHITE. It is not a fact. The gentleman is mistaken. I have cases pending.

Mr. BAYNE. I have understood it to be otherwise, and inferred so, too, from the gentleman's own statement.

Mr. WHITE. The gentleman certainly does not mean——

The SPEAKER *pro tempore*. Gentlemen must be in order. The gentleman occupying the floor declines to be interrupted.

Mr. BAYNE. I have the floor and claim the floor, and I do not wish to be interrupted.

Mr. WHITE. I do not want my colleague to misrepresent me, even unintentionally. I have bills pending before the Pensions Committee; meritorious cases are pending there, and some have been reported upon.

Mr. BAYNE. I have the floor and decline to yield further.

Now, sir, the thrust made upon Pennsylvania by the gentleman from Texas is not entirely in keeping, I submit, with good taste. The contributions that were made by Pennsylvania to carry on the war

for the restoration of the Union were necessitated largely by the acts of that gentleman and his colleagues. If he had not in 1860 and 1861 attempted to destroy this Union, and thus necessitated the immense number of troops which the State of Pennsylvania furnished to suppress that rebellion, there would be no occasion to stand here and make application before Congress to be pensioned for the wounds and disabilities received in the defense of the Union. There would not have been a single name upon the Pension Calendar from Pennsylvania.

What the tariff laws may have to do with it I do not know. But the tariff laws had one great objection in this: the tariff laws enabled the Federal Government to manufacture all the munitions of war that were needed to suppress the rebellion. Thanks to the tariff laws we had our founderies, our mills, everything that was necessary to prepare us for that war; and very well may those who were put down in that struggle rise and object to those tariff laws. They dislike them, and well they may.

Mr. REAGAN. I am surprised the gentleman from Pennsylvania [Mr. BAYNE] should have become so vehement. He certainly misapprehends my object. I certainly said what I did say in no unkindness. I suggested, in aid of the gentleman from Indiana, [Mr. BROWNE,] who did not seem to understand it, a good reason why a great many pensions should be granted to the soldiers of Pennsylvania. I made the suggestion in all kindness that the high protective tariff operated so hardly upon the soldier class and the laboring class of that country, the common people of the country, in the interest of the protected classes, that perhaps that was a good reason for pensioning those who could not get along under this protective system; and I did not expect to fight the battles of the war over again with the gentleman from Pennsylvania.

Mr. COLERICK. This bill I had the honor to introduce into this House. I am personally acquainted with the pensioner. I am satisfied injustice has been done to him in the past, and the passage of this bill will merely do justice to one who should have received the pension he is now receiving at the time his name was placed upon the pension-roll.

I desire to ask the lawyers of this committee whether or not we are to respect the law and the facts. I hold in my hand here the pension law. It says if the disability of the party is equal to the loss of the hand or the foot, the pensioner shall receive a pension at a certain rate per month. In this case the very testimony upon which the Commissioner of Pensions granted the pension which the party is now receiving is the testimony that he produced at that Department originally. The testimony consists of the evidence of five surgeons. Three of these persons were appointed by the Commissioner of Pensions himself to examine and ascertain the degree of disability, and they have unitedly said that this man's disability was equal to the loss of a hand or a foot. Now, then, the pension law says that if the disability is equal to that loss, the party must receive a pension at that rate. Sir, is it true that because a clerk in Mr. Bentley's office has decided that this man is entitled to a pension less than the sum the law gives him justice shall not now be meted out to him by the law-makers of the land?

One word in conclusion. I regret exceedingly that the gentleman from Pennsylvania [Mr. WHITE] has seen proper to array himself against this claim. I want to let the country know that the first time the question as to the absence of a quorum was raised upon that side of the House in the passing of these bills it was raised by the gentleman from Pennsylvania, who submissively stood by and saw all the claims from Pennsylvania pass without objection, his clarion voice being then hushed and mum, but now, when an Indiana soldier presents a just claim for a pension, we hear the gentleman from Pennsylvania say that he objects. This man's claim is just; it is right; and I hope the House will have the courage and the sense of right to do justice to this soldier.

Mr. WHITE. Mr. Chairman, I arose in my place a few moments ago to exercise my judgment and express my conviction as a member of this House. I saw fit to oppose on principle the policy of this bill. I did it because I find the bill grants arrears of increase of pension to this soldier and thus creates a new departure in this direction. I opposed it in this regard, because I find that originally for the loss of an arm or a leg I believe the law only granted $8 a month to the soldier; from time to time that has been increased until the law to-day gives $24 per month. If, then, the policy of this bill obtains, those soldiers will address their petitions to this Congress, and with right and justice will ask Congress to grant an increase of pension from the $8 per month to the maximum sum now granted.

Simply for doing this, and expressing my convictions in this regard, I have been set on by my honorable colleague who represents the Allegheny district, [Mr. BAYNE,] who has assailed me as being opposed to pensions, and as making no contributions to this Calendar. My colleague was most ungracious in this unlooked-for assault. My colleague has not looked at the record, or he would observe that in every instance where petitions have been sent to me by my constituents and meritorious cases have been presented I have introduced bills for their relief. But, sir, as a Representative of my district as well as of all the United States, I hold it my right and duty to vote against a wrong policy in a pension bill. I would do so as much for claimants from my own district as from any other district in the country, and I throw back with indignation the charge made by my colleague that I have been indifferent to the claims of my district and of my constituents in the matter of pensions.

Mr. BAYNE rose.

Mr. WHITE. If my colleague has any further remark to make I will hear him.

Mr. BAYNE. Will my colleague allow me to ask him a question?

Mr. WHITE. Certainly.

Mr. BAYNE. Has a single bill you have introduced for a pension been reported and placed on the Calendar?

Mr. WHITE. I cannot say whether that is the case or not. But if it be the case that no bill introduced by me for a pension has been placed upon the Calendar, it certainly is not my fault. I do not belong to the Pensions Committee.

The point I make is this, that it is ungracious and improper for any gentleman on this floor to attack one of his colleagues or one of his associates here for boldly and independently expressing his conviction and opinion of a pension claim or any other kind of a claim. I am the sincere friend of the soldier and desire to do him justice, whenever his services and the laws of the land entitle him to anything from the American Congress.

The question was then taken upon the amendment of Mr. BROWNE, to strike out "$18" and insert "$15," and it was agreed to.

The bill, as amended, was then ordered to be laid aside to be reported favorably to the House, upon a division—ayes 67, noes 27.

ALBERT L. JACK.

The next business on the Private Calendar was the following:

A bill (H. R. No. 2123) granting a pension to Albert L. Jack.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Albert N. Jack, late a private in Company B, Eleventh Indiana Cavalry, and to pay him a pension from the 2d day of June, 1865, being the date of his discharge from the service.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2123) granting a pension to Albert L. Jack, late a private in Company B, Eleventh Indiana Cavalry, having had the same under consideration, make the following report:

That the said Albert L. Jack was enrolled on the 21st day of November, 1863, at Portland, Indiana, in Company B, Eleventh Regiment of Indiana Cavalry Volunteers, to serve three years, or during the war, and was mustered into the service on the 9th day of December, 1863, at Indianapolis, Indiana, as a private, for said period of time, and was, on the 2d day of June, 1865, and before his term of enlistment expired, honorably discharged from said service by reason of his disability to serve longer, as hereinafter stated; that while he was in the service aforesaid, and in the line of his duty, at a place called Camp Smith, at or near Nashville, Tennessee, on the 22d day of November, 1864, his horse stumbled and fell upon him, badly crushing his breast and ribs, from which he has not recovered; that his disease is beyond medical aid and totally incapacitates him for manual labor, and that his lungs are incurably affected, being the result of said violent external injury, which injury and disease caused thereby rendered him unfit for service, and by reason thereof he was discharged from the Army; that he afterward applied to the Commissioner of Pensions for a pension, but his claim was rejected by reason of his inability to procure and furnish the evidence of the surgeon of his regiment as to the injury so received; that said inability to furnish said evidence was caused by the fact that said surgeon was then dead, rendering it impossible to procure said evidence; that he did furnish the affidavits of the second lieutenant of his company and the major of his regiment reciting the facts above set forth, both of whom were personally acquainted with the facts, as they were present when the injury occurred, and also furnished the affidavits of reputable physicians as to the nature and extent of his injury and disease; that his claim for a pension from the time of his discharge is meritorious and just, and should be allowed.

We therefore report back the bill so referred to us and recommend its passage.

Mr. BRIGHT. I am not sure whether a session has been ordered for this evening or not.

The CHAIRMAN. The Chair is informed that no such order has been made.

Mr. ATHERTON. I move to amend the bill just read by striking out, after the words "pay him a pension from," the words "the 2d day of June, 1865, being the date of his discharge from the service" and inserting in lieu thereof the words "and after the passage of this act."

Mr. COLERICK. I desire to oppose that amendment. The facts in this case show that this party applied for a pension about eight years ago.

Mr. BRIGHT. I ask the gentleman to yield to me for a moment.

Mr. COLERICK. For what purpose?

Mr. BRIGHT. I desire to make a statement. I desire that the committee shall now rise for the purpose of moving that the House have a session to-night to continue the consideration of bills on the Private Calendar. If the gentleman from Indiana [Mr. COLERICK] will yield I will submit that motion.

Mr. COLERICK. I prefer not to yield now. As I was saying, this applicant presented his claim for a pension eight years ago, and it was finally rejected, or rather disallowed, by reason of the fact that he was unable to supply the testimony of the surgeon of his regiment to the effect that the claimant was laboring under this disability while in the service. The record shows that it was utterly impossible for him to procure such testimony, for the reason that the surgeon of his regiment was then dead.

He did prove, however, by the testimony of his comrades, by the testimony of the major of his regiment, of the lieutenant of his company, and of others who were present and witnessed with their own eyes the injuries which he received. That testimony, and the testimony of other witnesses to the effect that ever since those injuries were received he has been physically incapacitated from performing

labor, has been laid before the Commissioner of Pensions. Now, if this party is entitled to a pension at all, he is entitled to one from the time of his discharge from the service. I have been advised by gentlemen upon this floor that it is best for me to submit to this amendment. I say that it is wrong for this Government of ours to cheat and defraud this man out of the pension to which he is entitled; it is small business. This man applied for a pension, not under the arrearages-of-pension act, but under the general laws granting pensions. He supplied his proof, and that testimony has remained in the Pension Office for eight or ten long years. You say now he is entitled to a pension, but you will grant him a pension only from this time. Why? If he is entitled to a pension now he was entitled to one at the time that he received this injury, for which injury he was discharged from the service.

Oh, gentlemen, you may save to the Government the pension for the interval between the time this man ought to have received it and to-day; but what would you say to an individual who would act thus meanly and contemptibly, and refuse to pay a debt that was justly due from him? This Government of ours ought to pay what is justly due to this man. You told him that if he would enter your military service and fight the battles of his country, if he fell in the service his widow and little ones should be provided for, or if he was maimed and crippled you would take care of him. Under that promise he went into the service, and he was maimed and crippled while in the service. He now asks you to comply with your promise. He has applied for a pension in the manner which the law points out; yet, because of the carelessness and neglect of those who are engaged in running the Pension Office there has been unfavorable action upon his claim in that office, is it right and just to deprive this man of the money which the law gives him, and which the Government promised he should have, simply because of the failure of the Commissioner of Pensions to place his name on the roll at the time it was entitled to go there?

Mr. BROWNE. Will my colleague allow me a moment?

Mr. COLERICK. Yes, sir.

Mr. BROWNE. I agree with my colleague upon the principle that all men who are entitled to a pension ought to receive it from the date of their disability. But I ask him whether he would be willing to put this particular case on the pension-roll for arrears of pension while there are fifteen hundred men equally entitled to such relief who stand on the pension-roll and merely receive pension from the date of the act of Congress by which the pension was granted? Does my colleague desire to discriminate in favor of this particular case and against the fifteen hundred meritorious men who have been denied this relief? I know that my friend sympathizes with the soldier—perhaps not more than I do; but I want to know whether he is willing to commit this act of injustice against fifteen hundred men who cannot have similar relief?

Mr. COLERICK. I answer that question by saying that if through the neglect of the soldier he failed to apply in season, if he permitted the time for filing his claim to pass by, then he should be shut out by reason of his own negligence. But I do say in relation to this applicant, and all other applicants whose claims have been deferred, not by their own negligence or misconduct, but by the act of the Commissioner of Pensions, that the pensioner whose claim has not been delayed by reason of his own action or neglect ought not to suffer, but his name ought to go upon the pension-roll and he should receive a pension from the date of his disability. I will vote in favor of granting arrears of pension in all cases of this kind.

[Here the hammer fell.]

Mr. BRIGHT. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CARLISLE having taken the chair as Speaker *pro tempore*, Mr. BURROWS reported that the Committee of the Whole, having had under consideration the Private Calendar, had directed him to report back, with a recommendation that it be passed as amended, a bill (H. R. No. 2636) granting arrears of pension to John R. Smith.

JOHN R. SMITH.

The House proceeded to the consideration of the bill reported from the Committee of the Whole on the Private Calendar, being the bill (H. R. No. 2636) granting arrears of pension to John R. Smith.

The amendment reported by the Committee of the Whole, striking out "18" and inserting "15," so as to make the rate of pension $15 a month, was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. COFFROTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF SMITHSONIAN REPORT.

Mr. WILSON, from the committee of conference on the disagreeing votes of the two Houses upon the resolution for printing extra copies of the Report of the Smithsonian Institution for 1879, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the resolution of the Senate to print extra copies of the Report of the Smithsonian Institution for the year 1879, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with the following amendment: Strike out "eight" and insert "six." And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with the following amendment: Strike out "five thousand" and insert "seven thousand." And the House agree to the same.

B. WILSON,
P. C. HAYES,
Managers on the part of the House.

M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.

Mr. ATKINS. Will the gentleman from West Virginia give us some explanation of this report?

Mr. WILSON. There is a written explanation accompanying the report. I ask the Clerk to read it.

The Clerk read as follows:

The Committee on Printing present the following statement to accompany the report of the conference committee on the Senate concurrent resolution to print the Report of the Smithsonian Institution for 1879:

The original resolution, with the House amendments thereto, made the following distribution:

	Copies.
Whole number ordered	15,500
For the use of the Senate	2,500
For the use of the House	8,000
For the use of the Smithsonian Institution	5,000
	15,500

The conference report, if adopted, will reduce the number of copies for the use of the House by 2,000, which will be transferred to the use of the Smithsonian Institution, making the distribution as follows:

	Copies.
Whole number ordered	15,500
For the use of the Senate	2,500
For the use of the House	6,000
For the use of the Smithsonian Institution	7,000
	15,500

Mr. MILLS. I want to ask the gentleman from West Virginia [Mr. WILSON] why the committee give the Smithsonian Institution a larger number of these volumes than they give to the entire House of Representatives?

Mr. WILSON. Because we are informed by officers of the Smithsonian Institution that a large number of these reports are sent abroad in exchange for rare scientific books, which cannot be bought, which are not in the market; and the value to our libraries of the books which we thus receive is much greater than the cost of these reports.

Mr. DUNNELL. It will be noticed upon examining the conference report and the accompanying statement that by the adoption of this report we shall lose all the benefit of the additional number voted by the House, while the Senate retains the full benefit of that addition. The conference report, while giving to the Senate the whole number that the House agreed to, reduces our share by 2,000.

Mr. WILSON. It is very necessary that the Smithsonian Institution should have 7,000 copies of this document. As I have already stated, we are informed by an officer of the Institution that rare scientific books from Europe are received in exchange for these reports.

Mr. MILLS. Do we exchange one book for one?

Mr. WILSON. Yes, sir; one for one.

Mr. ATKINS. How many of these reports will the House receive?

Mr. WILSON. Six thousand.

Mr. ATKINS. And the Senate how many?

Mr. WILSON. Twenty-five hundred.

Mr. ATKINS. Is that in accordance with the numerical proportion of the two bodies?

Mr. DUNNELL. My objection to the report of the committee of conference is that the House conferees have conceded everything to the Senate and reserved nothing to the House. They have given up for the benefit of the Smithsonian Institution the 2,000 copies which we added to our proportion, while the Senate receives the full number that we originally agreed on. There is no proper proportion between the number granted to the House and the number granted to the Senate.

Mr. WILSON. I wish to say that the present Committee on Printing has broken through the rule heretofore established; and under the action of the committee the members of the House will get a very much larger number of reports than they have received heretofore.

Mr. DUNNELL. Certainly not by this report.

Mr. WILSON. That is the best conclusion we can come to.

Mr. COFFROTH. Then reject it.

The House divided; and there were—ayes 47, noes 45.

So the conference report was adopted.

Mr. WILSON moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT, from the Committee on Appropriations, reported a

bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was read a first and second time.

Mr. BLOUNT moved that the bill be printed and recommitted.

Mr. ROBINSON. I reserve all points of order.

Mr. HOOKER. Yes; all points of order are reserved on that bill.

Mr. MILLS. I move to instruct the committee as follows: that the bill be recommitted to the committee, with instructions to amend the same so as to provide for the erection of the public buildings for which the Committee on Public Buildings and Grounds have reported bills to the House and for the amounts recommended by them; also for such public buildings as may be provided for in bills which have passed the Senate, and for the amounts prescribed in the same; and that they report the same back to the House without delay.

Mr. HAWLEY. I rise to a point of order. The gentleman's motion is equivalent to a suspension of the rules, which cannot be moved to-day.

Mr. MILLS. What rule of the House does the gentleman from Connecticut refer to?

Mr. HAWLEY. I do not want to take this away from my friend from Georgia, who has the bill in charge, and will let him answer.

Mr. ATKINS. Do I understand the gentleman from Georgia to make the point of order?

Mr. BLOUNT. I insist, Mr. Speaker, that the motion of the gentleman from Texas is not in order. There is no rule of the House by which what he proposes can be done at this time.

Mr. MILLS. Rule XVII provides that you can instruct the committee.

The SPEAKER *pro tempore*. The Clerk will read Rule XVII.

The Clerk read as follows:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

Mr. BLOUNT. I submit under that rule the gentleman's motion is not in order. The previous question has not been demanded on this bill at all, but it has just been reported, and my motion is that it be recommitted to the committee and ordered to be printed.

Mr. MILLS. Either before or after the previous question has been seconded.

The SPEAKER *pro tempore*. The rule is an enlargement of the right every member has. Up to the time of the adoption of the new rule that motion could not be made when a bill was on its passage, and especially when the previous question was ordered.

The gentleman from Connecticut [Mr. HAWLEY] makes the point of order that this is equivalent to a suspension of the rules under the third clause of Rule XXI. That is the rule, the Chair supposes, to which the gentleman refers.

Mr. HOOKER. There is no motion to suspend the rules.

The SPEAKER *pro tempore*. The gentleman from Connecticut makes the point of order that the proposed instructions to the Committee on Appropriations could not be given without a suspension of the rules, and not being in order to suspend the rules to-day, the motion to commit with these instructions is not in order. That, the Chair understands, is the point made by the gentleman from Connecticut.

Mr. FRYE. That rule which was read by the gentleman from Texas has no more reference to this motion than the proposition of the gentleman from Texas has to his desire for the early extinction of the public debt.

Mr. MILLS. Unfortunately for the gentleman from Maine, the Speaker decided to the contrary the other day on the recommittal of the resolution of final adjournment to the Committee on Ways and Means.

Mr. FRYE. It was on the passage of a bill.

The SPEAKER *pro tempore*. The Clerk will read the third clause of Rule XXI.

The Clerk read as follows:

3. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment, which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. HAWLEY. The proposition of the gentleman from Texas is to direct the Committee on Appropriations to report in favor of the construction of certain public buildings. Bills are now pending in the House and in the Senate for the construction of those buildings. No law has been passed authorizing them and we are to be instructed, in advance of any law authorizing them, to report appropriations in favor of building them. That is to anticipate, to take for granted the House is going to order to be constructed every public building which the committees of the Senate and House have reported in favor of. I make the point of order it is instructing us to violate the rules of the House; and that cannot be done.

Mr. MILLS. It was admitted and argued when this new revision of the rules was brought before the House that the cardinal principle to which the committee had directed their attention in framing them was to so alter the old rules of proceedings of the House as to put everything thereafter to be done under the control of a majority of its members. The new rules were adopted in view of that understanding on the part of the House, and they were adopted with the object, or at least it was so stated here in the argument, and there seems to be some cause for the statement, that it was the object of the committee in making the rules to give the majority supreme control of legislation in this body.

Now, Mr. Speaker, here are two rules seemingly at variance with each other. Will any lawyer contend that you can take one part of a statute and construe it alone without reference to every other part of it? If you have two sections of the law that are seemingly antagonistic does not the very first canon of construction require you to harmonize them and construe them so that both will stand? I say that is the very elementary principle of construction. Now, here you have two rules; the manifest purpose of one is that it shall not be lawful in this House to add to an appropriation bill a change of existing law unless it reduces expenditures. But a subsequent rule in the same code, intended specifically to give a majority of this House control of its legislation, says that when a report shall be made to the House or a bill brought into the House from a committee the majority may order the committee to bring in the bill with such alterations; in other words, may instruct the committee in such manner as it may see proper to do.

Mr. HAWLEY. Under the rules.

Mr. MILLS. Under that one rule, that the House may instruct the committee to bring in such measure as it may deem appropriate. That is manifestly the object of the rule; that is its plain import; but from the reference made to the rules of the House and from the action of the Appropriations Committee itself it would seem that there is but one rule, and that is to execute everything on an appropriation bill that the Committee on Appropriations may want to put upon it, and keep out of the bill everything that they do not want to go in it; and that has been so construed by the Committee on Appropriations that they have adopted a rule unto themselves, and they have put upon an appropriation bill what has been forbidden by the rules and maintained it on this floor.

Mr. ATKINS. The gentleman is utterly mistaken.

Mr. MILLS. I know when you brought in an appropriation bill here for increasing certain clerks' pay the point of order was made that it repealed or changed the existing law.

Mr. ATKINS. That may be so, but no one contended that the point of order could not be made; and the gentleman will not assert that the committee took the ground that the point of order could not be made against it under the rules.

Mr. MILLS. I say you violated the rule in the committee. The rule was made to be observed when against the committee, but when the rule is enforced against the committee in the House you say that it has no effect.

Mr. ATKINS. It was not pretended that the point of order, if a point of order was made of that character, was not admissible.

Mr. MILLS. But you got the bill in here, and when the point of order was made against it you stated that the point of order had come too late; that points of order were not reserved upon the bill.

Mr. ATKINS. Did we violate any rule of the House in making that appropriation?

Mr. MILLS. You did, by putting an appropriation into that bill that ought not to have gone into it under the law.

Mr. ATKINS. I deny it.

Mr. MILLS. The facts show it to be true.

But my argument is that if these rules conflict they must be construed together and both must be allowed to stand, by every canon of legal construction; not that you shall take one and use that as a means of destroying the force and effect of the other.

Now, one of these rules is that when a bill is in the House, or when being framed by the Committee on Appropriations, nothing shall be added to or taken from it that changes existing law, except as the rule provides. That bill comes in from the committee to the House and is recommitted to the committee which framed it, with such instructions as the majority of the House, in the exercise of its power under the rules, may prescribe.

Mr. HAWLEY. I would like to know how the gentleman from Texas determines for himself what is in the bill at all. It has not been read or printed. It is merely presented now for the first time to be ordered printed. We might have put in all the public buildings proposed to be constructed in the whole universe for all he knows to the contrary.

Mr. MILLS. I know you could not have put them in by a vote of the committee without trampling under foot your own rules. You could not get that provision in without the action of the majority of the House in manner as I have specified under the rules. Therefore I have, in obedience to the rules of this House, invoked the only power there is to place it in the bill.

Mr. HAWLEY. You admit it is suspending the rule?

Mr. MILLS. No, sir; it is executing the rule.

Mr. BLOUNT. I do not think it is a question before the House whether the Committee on Appropriations are consistent or not, and

I think all the remarks the gentleman from Texas has made are out of place. If we report legislation contrary to the rules of the House, it is in the power of the gentleman to make his point of order. A single member can prevent legislation which is contrary to the rules. The committee cannot escape the operation of the rules any more than the gentleman himself can now do so. What are they? The Chair has had read the third clause of Rule XXI, in reference to legislation on appropriation bills. That I shall not refer to, because the Chair understands it. Clause 4 of the same rule is as follows:

4. No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House.

That is plain, direct, and absolute. It cannot be construed so as to admit the resolution of the gentleman from Texas. He proposes you shall take a number of bills which are pending before the House and attach them to the sundry civil appropriation bill.

Mr. ATKINS. Bills making appropriations not authorized by law.

Mr. BLOUNT. Yes; bills making appropriations not authorized by law. Gentlemen are seeking to give those bills the effect of law by passing them through Congress.

There is nothing that in these rules so commends itself to my judgment, and I think to the judgment of the House, as this very proposition, that the Committee on Appropriations, having the right to report upon an amount aggregating one hundred and seventy-five millions or one hundred and ninety millions of dollars, shall not report a single appropriation here except for a purpose authorized by law. That is the grand protection of the Treasury. A single member can stay the hands of the Committee on Appropriations if they seek to pass improper measures through the House.

Mr. BELFORD. Cannot the whole House instruct this committee?

Mr. BLOUNT. I will answer the gentleman's question when I think it is necessary to do so. I do not think it is necessary to do it now. It is in order on certain occasions to move to suspend the rules of the House by a two-thirds vote for such a purpose; but, as has already been stated by the Chair some time ago, it is not in order to move to suspend the rules at this time.

Mr. MILLS. I want to ask the gentleman from Georgia if the House did not the other day instruct the Committee on Ways and Means to change the law and bring in a bill making salt free of duty?

Mr. BLOUNT. I will say to the gentleman from Texas in reply to his question that the Committee on Ways and Means and the Committee on Appropriations are different committees, and that the provision of the twenty-first rule in reference to appropriations has nothing to do with the action of the Committee on Ways and Means.

Mr. BLAND. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BLAND. If the House refers this bill back to the Committee on Appropriations with instructions to place those other bills upon it, could not any member when the bill was reported back to the House make the point of order and have all the amendments stricken out on the point of order?

The SPEAKER *pro tempore*. The Chair prefers not to decide that question in advance, especially as it is one which will arise in the Committee of the Whole, if it arises at all, and not in the House.

The third clause of Rule XXI provides that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

Now, the motion made by the gentleman from Texas is to instruct the Committee on Appropriations to report in an appropriation bill certain expenditures which are not authorized by law. There can be no doubt, therefore, in the opinion of the Chair, that the resolution of the gentleman from Texas is directly in contravention of the express language of this rule.

Then comes another rule, which, it may be observed, if the order in which the rules stand be a matter of any consequence, is one of the latest in the revision:

No standing rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor, and no rule shall be suspended except by a vote of two-thirds of the members present, nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month after the call of States and Territories shall have been completed.

If it be conceded, as it seems to the Chair it must be, that this is a proposition to instruct the committee to do the very thing which the rule first read declares that the committee shall not do, then it is a suspension of the rule or a setting aside of the standing rule and standing order of the House, and that can only be done by a suspension of the rules by a vote of two-thirds; and the motion to suspend the rules can only be made on the first and third Mondays of each month.

Passing over the question as to whether or not at this stage of the proceedings any sort of motion can be made to instruct the committee, the Chair thinks that this particular character of instruction cannot be given except by a suspension of the rules, and therefore the point of order is sustained.

Mr. MILLS. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. The Chair hopes the gentleman from Texas will do so, because this is a question of some importance and one which the Chair prefers the House should decide and thereby establish a precedent for the future.

Mr. BLOUNT. I move to lay the appeal from the decision of the Chair upon the table.

Mr. BUCKNER. Pending that I move that the House do now adjourn.

Mr. BLOUNT. I hope the gentleman from Missouri will withdraw the motion to adjourn and allow this matter to be decided.

Mr. BUCKNER. I withdraw the motion to adjourn.

The question being taken on the motion to lay on the table the appeal from the decision of the Chair, there were—ayes 86, noes 4.

So (further count not being called for) the appeal was laid on the table.

Mr. BLOUNT. I now insist on my motion for the printing and recommittal of the bill.

The bill was ordered to be printed and recommitted to the Committee on Appropriations.

Mr. WHITE. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. WILLIAM ALDRICH: The petition of Burley & Tyrell and 56 other firms, crockery merchants of Chicago, Illinois, for a reduction of the duty on earthenware from forty cents to twenty cents—to the Committee on Ways and Means.

By Mr. BERRY: The petition of the Odd Fellows' Building Association of Los Angeles, California, that the Government purchase a certain building of said association for a post-office at that place—to the Committee on Public Buildings and Grounds.

Also, the petition of John R. Frierson, to be refunded certain moneys expended by him while in the United States service—to the Committee on War Claims.

By Mr. BLAND: The petition of citizens of Howell County, Missouri, for a district land office at West Plains, Missouri—to the Committee on the Public Lands.

By Mr. CRAVENS: The petition of W. A. Fatherly, for pay for services rendered in the House of Representatives as telephone operator—to the Committee on Accounts.

By Mr. DICKEY: Papers relating to the pension claim of John V. Adams—to the Committee on Invalid Pensions.

By Mr. LOWE: Papers relating to the claim of Douglass Grady, of Morgan County, Alabama, for property taken by the United States Army during the late war—to the Committee on War Claims.

By Mr. McLANE: Seven petitions of citizens of Atlanta and Savannah, Georgia; of Cincinnati, Ohio; of Davenport, Iowa; of Saint Louis, Missouri; of Atchison, Kansas; of Saint Joseph, Missouri; of Council Bluffs, Iowa; and of Omaha, Nebraska, for the passage of a law to prevent the adulteration of food—to the Committee on Manufactures.

By Mr. MILES: The petition of the Board of Trade of Bridgeport, Connecticut, for the passage of a uniform bankrupt law—to the Committee on the Judiciary.

By Mr. MITCHELL: The petition of 85 farmers and other citizens of Clymer, Tioga County, Pennsylvania, for the passage of a law to prevent the sale of oleomargarine as butter—to the Committee on Ways and Means.

By Mr. PERSONS: The petition of citizens of Georgia, for a post-route from Mulberry Grove, Harris County, Georgia, to Don, and from Warm Springs, Meriwether County, Georgia, to Belmont—to the Committee on the Post-Office and Post-Roads.

By Mr. PHISTER: The petition of J. J. Wood and 19 others, citizens of Maysville, Kentucky, for an investigation of the combination between the Standard Oil Company and railroad companies by which unjust discriminations are made between shippers of oil, and for proper legislation against such combination and the monopoly created thereby—to the Committee on Commerce.

By Mr. POEHLER: The petition of George W. Batchelder and 31 citizens of Rice County, Minnesota, that a pension be granted to Levi B. Aldrich—to the Committee on Invalid Pensions.

By Mr. PRESCOTT: The petitions of citizens of Utica, New York, and of the Rome (New York) Iron-Works Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. RICE: The petitions of John Chase & Son, of Webster, and of Ashworth and Jones, and others, of Cherry Valley, Massachusetts, of similar import—to the same committee.

By Mr. WILLIAM A. RUSSELL: The petition of L. D. Gilman and others, of Lowell, Massachusetts, against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. WILLIAM E. SMITH: The petition of citizens of Georgia, for a post-route from Newton to Leadbetter's Store, Baker County, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS: The petition of 12,282 citizens of the United States, and citizens of the following States, namely: 7,205 of New York, 1,005 of Ohio, 800 of Pennsylvania, 750 of Iowa, 772 of Wisconsin, 600 of New Jersey, 300 of Illinois, 300 of Michigan, 125 of

Indiana, 100 of Minnesota, 75 of Connecticut, 86 of Maine, 40 of Missouri, 40 of Massachusetts, 40 of Kansas, 20 of California, 17 of Tennessee, 14 of Rhode Island, 3 of Colorado, for the enactment of a law taxing oleomargarine and all imitations of butter—to the Committee on Ways and Means.

By Mr. VOORHIS: The petition of citizens of Passaic, New Jersey, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. WARD: Two petitions of citizens of Chester County, Pennsylvania, for the passage of the bill (H. R. No. 5038) granting land titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. WASHBURN: The petition of C. G. Peabody, of Kingston, and others, citizens of Minnesota, for the passage of the Geddes bill creating a court of pensions—to the Committee on Invalid Pensions.

Also, the petitions of the North Star Woolen Mill Company, of Minneapolis, and of the Duluth Iron Company, of Duluth, Minnesota, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WILBER: The petition of the Society of Friends, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. WILLITS: The petition of George A. Cowan and 68 other honorably discharged soldiers and 15 citizens of Monroe County, Michigan, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

IN SENATE.

SATURDAY, *May* 22, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 17th instant, information relative to the method used by the revenue service in subtracting the tare on foreign sugars imported in boxes; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WALLACE presented a memorial of the Philadelphia Board of Trade, in relation to the House bill to amend title 53 of the Revised Statutes, relating to merchant seamen; which was referred to the Committee on Commerce.

Mr. WILLIAMS presented the petition of Alexander Sfields, praying for the correction of his military record and for an honorable discharge; which was referred to the Committee on Military Affairs.

Mr. HOAR presented the petition of Henry S. Russell and others, of Massachusetts, officers in the late war, praying that there be no partisan action in regard to the case of General Fitz-John Porter; which was ordered to lie on the table.

He also presented the petition of Thomas J. Ames and others, of Leominster, Massachusetts, a committee of Post No. 53, Grand Army of the Republic, praying Congress to grant them two condemned cannon for monumental purposes; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. KERNAN, from the Committee on Patents, to whom was referred the bill (S. No. 730) for the relief of Mrs. S. A. Wright, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. PADDOCK. The Committee on Public Lands, to whom was referred the bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas, have instructed me to report it favorably with amendments. I should like to ask for the immediate consideration of this bill. It will take but a moment to pass it. It is a local measure.

Mr. EDMUNDS. I will object to every bill being considered by unanimous consent at this stage in the session under the condition in which the Calendar is.

The PRESIDENT *pro tempore*. The bill will go on the Calendar.

Mr. PADDOCK. I think if the Senator from Vermont knew——

The PRESIDENT *pro tempore*. The Senator from Vermont objects. The bill will be placed on the Calendar.

Mr. WHYTE, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1290) to incorporate the G street Railway Company, reported it with amendments.

BILLS INTRODUCED.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1786) fixing the salary of the surveyor-general of Dakota Territory; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1787) for the relief of John C. Phillips; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

RENT OF DEPARTMENTAL BUILDINGS.

Mr. COCKRELL submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to report to the Senate the number, location, and annual rent of all buildings in the District of Columbia rented for the use of the United States.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. ALLISON. I think that information is already in the possession of the Senate.

Mr. COCKRELL. It may be, but the Senate knows nothing about it.

Mr. EDMUNDS. We had better have it altogether in one table.

Mr. ALLISON. I remember to have seen a full statement showing that we are paying over $100,000 for rents in this city.

Mr. MORRILL. We are paying over $200,000.

The resolution was agreed to.

GREAT AND LITTLE OSAGE INDIANS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate House bill No. 6112, which came from the House of Representatives yesterday, which was read once and the second reading objected to. Will the Senate allow the second reading?

Mr. EDMUNDS. That goes on the Calendar.

Mr. INGALLS. What is the title?

The PRESIDENT *pro tempore*. It is the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867. The Chair yesterday said it would go upon the Calendar, but several Senators said it might lie on the table, and the Chair finds it on his table this morning.

Mr. VOORHEES. The Senator from Kansas, [Mr. INGALLS,] a member of the Committee on Indian Affairs, has charge of the bill. The history of it is this: The Senate Committee on Indian Affairs had agreed on a bill. This House bill came here yesterday, and the Senator from Kansas desired the House bill to lie upon the table instead of being referred until he could look over the two bills and see whether they were exactly similar, desiring to call up and pass the bill from the House if it corresponded with the bill that had been agreed upon in the Committee on Indian Affairs. In his absence—I beg pardon, I did not see the Senator present.

Mr. INGALLS. I came in while the Chair was calling the attention of the Senate to the bill. I objected yesterday, as the Senator from Indiana has said, to the second reading for the purpose that he has detailed. I have examined the bill, and there are differences between the bill as it passed the House and the one reported by the Senate committee that, in my judgment, render it desirable that the bill should be read the second time and referred to the Committee on Indian Affairs.

The bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, was read the second time by its title, and referred to the Committee on Indian Affairs.

NEBRASKA BOUNDARY-LINE.

Mr. SAUNDERS. I ask unanimous consent of the Senate to proceed to the consideration of Senate bill No. 550.

Mr. KERNAN. I will ask my friend to yield to me. There is a bill of only four lines, to correct the record of a poor German soldier, that has been pending here for a long time on the report of the Committee on Military Affairs, and I ask unanimous consent to let it be taken up and have it passed. There is a report which can be read.

Mr. SAUNDERS. The bill which I desire to have taken up will not take five minutes' time. It was recommitted to the Committee on Territories, and we have agreed to every amendment that was suggested when it was under consideration before.

Mr. KERNAN. The bill I desire to have considered is Senate bill No. 1484, for the relief of Ernst Hein.

The PRESIDENT *pro tempore*. The Senator from Nebraska has the floor.

Mr. SAUNDERS. I hope there will be no objection to taking up the bill. It is a very worthy object that the Senator has, but I must insist on my bill.

The PRESIDENT *pro tempore*. What is the motion of the Senator from Nebraska?

Mr. SAUNDERS. My motion is to take up Senate bill No. 550.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska to postpone the Calendar and proceed to the consideration of the bill (S. No. 550) to extend the northern boundary of the State of Nebraska.

The question being put, it was declared that the ayes appeared to prevail.

Mr. EDMUNDS. I think we had better take a division for I do not believe there is a quorum here. I call for a division for that reason.

The question being taken by a division, the ayes were 24 and the noes 4; no quorum voting.

Mr. EDMUNDS. There is not a quorum present evidently, Mr. President.

The PRESIDENT *pro tempore*. The roll of the Senate will be called.

The Secretary called the roll, and 39 Senators answered to their names.

Mr. SLATER. I desire to say that my colleague [Mr. GROVER] is detained from the Senate on account of illness.

Mr. KERNAN. I wish to state that the Senator from Delaware [Mr. BAYARD] was called away yesterday unavoidably.

The PRESIDENT *pro tempore*. There is a quorum present. The question is, will the Senate postpone the Calendar and all preceding orders and proceed to the consideration of Senate bill No. 550?

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 550) to extend the northern boundary of the State of Nebraska.

The bill was reported from the Committee on Territories with an amendment to strike out all after the enacting clause of the bill and to insert:

That the northern boundary of the State of Nebraska shall be extended so as to include all that portion of the Territory of Dakota lying south of the forty-third parallel of north latitude and east of the Keyapaha River and west of the main channel of the Missouri River; and when the Indian title to the lands thus described shall be extinguished, if it ever shall be extinguished, the jurisdiction over said lands shall be ceded to the State of Nebraska, and the northern boundary of the State shall be extended to said forty-third parallel as fully and effectually as if said lands had been included in the boundaries of said State at the time of its admission to the Union; reserving to the United States the original right of soil in said lands and of disposing of the same: *Provided*, That this act shall not take effect until the President shall, by proclamation, declare that the Indian title to said lands has been extinguished; nor shall it take effect until the State of Nebraska shall have assented to the provisions of this act; nor shall this act create any liability or obligation of any kind whatever on the part of the United States to extinguish said Indian title or in any way affect the title thereto: *And provided further*, That this act shall in no way affect the right of the United States to control any military reservation, or any part thereof, which may now or hereafter be on said land.

Mr. EDMUNDS. I move to amend the amendment where the subject of military reservations is spoken of by inserting after the word "military" the words "or other;" so as to include any lawful reservation, whether you call it a military reservation or one for some public building or an Indian reservation, &c.

Mr. SAUNDERS. That is all right.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line 24, after the word "military," it is proposed to insert "or other;" so as to read:

That this act shall in no way affect the right of the United States to control any military or other reservation, or any part thereof, which may now or hereafter be on said land.

The amendment to the amendment was agreed to.

Mr. TELLER. I do not desire to obstruct the passage of this bill, but I made an objection to it the other day which I think still exists. Here is a proposition to take out from the Territory of Dakota a strip of country very narrow at one end and not very wide at the other, containing but a few miles, and to leave it in such a condition that it will neither be in a State nor in a Territory should Dakota be admitted. It cannot be contemplated that the Government will extinguish the title of the Indians to this land for many years. When the State of Dakota comes here, which it will very shortly if we pay due regard to the wishes of the people there and the population is sufficient, we shall have the remarkable spectacle of a little strip that is neither in Nebraska nor Dakota nor anywhere else. I think it should be put in the State of Nebraska at once. I can see no reason why it should not be; and it certainly will be found eventually to make a great deal of trouble. But the Senators who have this bill in charge and who are especially anxious about its passage, do not seem to be willing that that should be done, I suppose for fear that it would embarrass the bill. I do not intend to make any factious opposition to it. I have just stated what I think about the measure.

Mr. ALLISON. As I understand this bill, it makes no change whatever in the existing status until the Indian title shall have been extinguished; therefore I take it that if Dakota should be admitted as a State next year, this Territory would be within the boundary of Dakota for the time being.

Mr. TELLER. If that is the fact, we shall have a very remarkable condition of affairs. This will be in Dakota, and whether it remains in Dakota or not depends upon the action with reference to the extinguishment of the Indian title. Why not put it now in Nebraska? It will not interfere with the relations of the Indians to the Government. If it will, guard with such language as may be proper, and see that it shall not.

Mr. EDMUNDS. It rather strikes me that it would be wise to fix a time within which the State of Nebraska shall assent as is provided in this amendment, because giving her an unlimited time within which to assent, it puts it conditionally out of our power and out of the power of Dakota in arranging for the admission of that State hereafter. Therefore I think it would be reasonable to provide where the assent of the State of Nebraska is spoken of—which is necessary as it changes her boundary—that that assent shall be given within a certain period of time.

Mr. SAUNDERS. I have no objection to that.

Mr. EDMUNDS. When does the Legislature of Nebraska meet?

Mr. SAUNDERS. It meets next winter.

Mr. EDMUNDS. If we provide that the assent shall be given within one year from the passage of this act, it would give the Legislature an opportunity to act. After the word "act," in line 19, I move to insert "which assent shall be given within one year from the passage hereof."

Mr. SAUNDERS. I have no objection to that.

Mr. EDMUNDS. I think that is right. It will not embarrass it.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Territories as amended.

Mr. DAWES. Before we vote on it, I should like to hear the amendment read as amended.

The Chief Clerk read the amendment as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ERNST HEIN.

Mr. KERNAN. I ask unanimous consent to proceed to the consideration——

The PRESIDENT *pro tempore*. It does not require unanimous consent.

Mr. KERNAN. I will make the ordinary motion, then, to postpone all prior orders and proceed to the consideration of the bill (S. No. 1484) for the relief of Ernst Hein.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to cause to be issued to Ernst Hein, late corporal of Company C, Thirteenth Regiment Massachusetts Veteran Reserve Corps, an honorable discharge from the service of the United States, to date from November 13, 1865, and to remove the charge of desertion from his military record.

Mr. EDMUNDS. I should like to hear the report read.

The Chief Clerk read the following report, submitted by Mr. CAMERON, of Pennsylvania, March 16, 1880:

The Committee on Military Affairs, to whom was referred the petition of Ernst Hein, of Utica, New York, praying for an honorable discharge from the United States Army, and that the charge of desertion be removed from his military record, having considered the same, beg leave to submit the following report:

The following is the military record of Ernst Hein as it appears on the records of the Adjutant-General's Office:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, D. C., March 6*, 1880.

"SIR: I have the honor to acknowledge the receipt of your letter of the 28th day of February, 1880, requesting a 'statement of service' of Ernst Hein.

"The following information has been obtained from the files of this office and is respectfully furnished in reply to your inquiry:

"It appears from the rolls on file in this office that Ernst Hein was enrolled on the 20th day of August, 1861, at Dedham, in Company H, Eighteenth Regiment of Massachusetts Volunteers, to serve three years, or during the war, and mustered into service as a private on the 24th day of August, 1861, at Readville, in Company H, Eighteenth Regiment of Massachusetts Volunteers, to serve three years, or during the war. On the muster-rolls of Company H of that regiment, from muster-in to February 28, 1863, he is reported present. March and April, 1863, absent sick; same to August 31, 1863; September and October, 1863; discharged on account of disability, by order of Brigadier-General Martindale, September —, 1863; was discharged on surgeon's certificate of disability September 7, 1863.

"Ernst Hein was enrolled and mustered into service June 18, 1864, at Boston, Massachusetts, as a recruit in the Veteran Reserve Corps, to serve three years. Muster-roll of unassigned detachment Veteran Reserve Corps for May and June, 1864, private, present for duty. Roll of Company C, Thirteenth Regiment (to which assigned) for July and August, 1864, same report. Subsequent rolls to August 31, 1865, corporal, present for duty, (promoted October 10, 1864.) September and October, 1865, deserted September 22, 1865. No later record.

"A majority of the above company were mustered out by detachments at different dates—latest, November 30, 1865. The remainder were transferred to Sixth Independent Company Veteran Reserve Corps.

"I am, sir, very respectfully, your obedient servant,

"S. N. BENJAMIN,
"*Assistant Adjutant-General.*

"To COMMITTEE ON MILITARY AFFAIRS,
"*United States Senate.*"

The petitioner under oath avers that the charge of desertion against him is unjust and unwarranted by the true facts of the case. He alleges that in September, 1865, he received a furlough from the colonel of his regiment for forty-eight hours for the purpose of visiting his family; that immediately on arriving home he was taken very sick and continued so for a number of months; that he remained under medical treatment until after the muster-out and discharge of his regiment; that he was, therefore, unable to return to his regiment, or to report to any military post or hospital, and that on account of his inability to return before his regiment was mustered out, the charge of desertion was placed on his military record.

The following is an affidavit sworn to by the petitioner himself, substantiating the before-mentioned statements:

"STATE OF NEW YORK,
"*County of Oneida, ss:*

"On this 23d day of February, 1880, personally appeared before me, a justice of the peace within and for the county and State aforesaid, Ernst Hein, a resident of Utica, New York, who, being duly sworn according to law, declares that he received from Colonel Hendrickson, of the Veteran Reserve Corps, the regiment to which he was attached, a furlough for forty-eight hours, on or about the month of September, 1865, and that while on his way home to Utica was taken sick, and immediately on his arrival in Utica was taken home and went to bed sick, and was not able to nor did he leave his bed for a number of months; was unable to travel or report to his regiment until after said regiment was mustered out of the service. That he was informed by a member of his regiment, by the name of Louis Herman, who called on him while he lay sick, in the month of December, 1865, or January, 1866, that their regiment was mustered out of service, and that said Herman is now dead.

"ERNST HEIN.

"Sworn to and subscribed before me this 23d day of February, 1880.

"M. M. JONES,
"*Justice of the Peace, Utica, New York, Brevet Major of Volunteers.*"

It will be observed from the military record above quoted that Ernst Hein was mustered into the service of the United States August 24, 1861, and was discharged

on account of disability September 7, 1863. He was again mustered into the service June 18, 1864; promoted to the rank of corporal October 10, 1864, served with his regiment until September, 1865, (in which month he is charged with having deserted,) and the latest detachment of his company was mustered out November 30, 1865. Thus it will be seen that his statement that he received his furlough and was taken sick in the month of September corresponds with the record furnished by the Adjutant-General, which shows that he was absent from his regiment in that month. Hein states that he destroyed his furlough at the time it expired, supposing that it would be of no further use to him. This is an unfortunate circumstance, as the committee has no positive proof that he ever received the furlough which he claims was given him by his colonel, and simply have his own statement under oath that he received such furlough; but his statement that he was actually sick at the time claimed by him is fully corroborated by the following certificates of the physicians who attended him during his sickness:

"*To whom it may concern:*

"This may certify that in the year 1865, as near as I can recollect, I was called to attend Ernest Hein immediately on his return home on a *pass* from military service. I found him suffering from diarrhea, *which he contracted in the service.*

"By reason of this sickness, he was prevented from returning to his regiment.

"The foregoing statement is correct, to the best of my knowledge and belief.

"WM. RUSSELL, M. D.

"UTICA, ONEIDA COUNTY, NEW YORK, *December* 22, 1879."

—

"*To whom it may concern:*

"I hereby certify that in the year 1866 I was called to attend Ernest Hein, of 158 Schuyler street, of this city, for erysipelatous inflammation of his arm, produced by illness brought on by exposure and trials incident to the life of a soldier.

"P. H. THOMAS, M. D.

"UTICA, COUNTY OF ONEIDA, STATE OF NEW YORK, *January* 6, 1880."

The following letters, from citizens of Utica, New York, where the petitioner now resides, bear testimony as to his character and reliability:

"UTICA, NEW YORK, *December* 23, 1879.

"SIR: I know Ernst Hein of this city. His character and reputation are good. He is a hard-working man, and feels deeply the blot on his military record, which I am sure ought to be removed. He is a member of Bacon Post, 53, G. A. R., and would not have been admitted to that order had not the post been satisfied that his record entitled him to membership.

"Very truly, yours,

H. D. TALCOTT,

"*Ex-Post Commander, G. A. R.,*
and Ex-Assistant Adjutant-General of Brigade.

"Hon. J. D. CAMERON,
"*Washington, D. C.*"

—

"UTICA, NEW YORK, *February* 23, 1879.

"SIR: We have known Ernst Hein for the past forty years. Most of that time he has worked in our manufacturing department. His character and reputation are good. We know him to be an industrious, honest man, and any statement that he may make we think can be fully relied on. Trusting that you will do all that you can to have the blot of desertion erased from his war record,

"We remain, respectfully, yours,

"GRIFFITH, ROBERTS & BUTLER.

"Hon. J. D. CAMERON,
"*Washington, D. C.*"

The fact that the petitioner served faithfully during nearly his first term of enlistment, that he re-enlisted again and served with his company until within a little over two months of its muster out after the close of the war, is, in the opinion of your committee, very conclusive that he did not intentionally or willfully shirk the onerous duties of a soldier. It is very apparent that he was not disgusted with Army life from the fact he entered the Army the second time and served faithfully and honorably up to the time when he was granted the furlough. Had he been inclined to desert, he would not, in the judgment of the committee, have waited until after the close of the war, but would have deserted while the war was raging, and while danger was imminent.

Your committee have therefore come to the conclusion that the charge of desertion ought not to be allowed to stand forever as a blemish and stain upon his good and soldierly record; and as an act of justice to him they report a bill granting the relief prayed for in the petition, and recommend its passage.

Mr. EDMUNDS. I should like to ask the Senator from New York how the absence of the testimony of the colonel who is said to have granted the furlough is accounted for?

Mr. KERNAN. I am not able to state. I believe the report says he is dead.

Mr. EDMUNDS. It says somebody is dead; I do not know whether the colonel.

Mr. KERNAN. All I can say is that I presented the petition and bill and had them referrred to the committee, and the committee corresponded and got the information and reported the bill favorably. I ought to say further that I know Mr. Ernst Hein, who is a very honest German. He was a soldier who re-enlisted during the war and was promoted to corporal, and his record is perfect except that it does not appear that he was discharged; it is charged that he deserted and he excuses it in this way. I cannot account for it. I am not familiar with who the colonel was.

Mr. EDMUNDS. The colonel, or the adjutant of the regiment, if the colonel is dead, ought to be able to supply some testimony. It is extremely dangerous to pass bills of this kind which carry back pay, and rights to pension, &c., in a case of disability, on the mere testimony of the party himself, although I am not speaking of it as having any personal doubt as to this particular case.

Then there is another thing I should like to ask about. I understand there is at present a statute which authorizes the Secretary of War, through the Adjutant-General's office of course, usually, to remove charges of desertion in cases in which the War Department may be satisfied upon such evidence as shall be produced that the charge ought to be removed. I should like to know why that power has not been invoked, or if so, what that power did about it?

Mr. KERNAN. The Adjutant-General requires a certain kind of proof, which, I presume, is what the Senator alluded to, that of the officer. I do not know but that he said he had not the power, and relief must be granted by Congress. The man came to me. I went to see the Adjutant-General himself at the last session, and he said it was not a case for the Department, but the case would have to go to a committee of Congress to decide it.

Mr. COCKRELL. I will state to the Senator from Vermont that the Adjutant-General or the Secretary of War holds that in a case of this kind he cannot correct the record. In the report (No. 201) made at this session of Congress from the Committee on Military Affairs there is a letter from the Adjutant-General, giving his views as to his power and as to the propriety of making any change in his power by general legislation. He says:

Legislation on this subject has several times been considered by committees of Congress, but none has as yet been had. In my judgment, any other general legislation than that as to limitation, above alluded to, would be rather in the interest of fraudulent claims than justice to proper claimants. The War Department has ample power now "to do equal and exact justice to every applicant for such relief." There are a few cases of one class in which the action of Congress would be beneficent and not injurious to military discipline as an example or precedent. When a soldier, having become disabled by wounds from any future service, leaves a hospital without permission, and is reported a deserter, the charge is technically true; but the rule which would oblige the man to stay in hospital until freed by regular discharge is made in the interest of humanity, and to enable the Government to fulfill its contract to nurse and heal its sick and wounded. That the man has become weary of restraint and longs for his home is no great offense under such circumstances. It is thought, however, that such rare instances would be better met by special acts for the benefit of individuals, since a general law could not be framed that would discriminate between cases of actual merit and of malingering. It would be difficult to frame a law that would not place many men actually at fault upon the same footing with those whose unblemished service it was intended to reward by bounties and pensions.

As to why the Department cannot make the correction, he makes a statement, which I will read:

The muster-rolls, hospital-returns, and papers of this class which contain the military history of soldiers, are technically called "records." These papers were made and signed as "correct" by commissioned officers, and by law are lodged in the War Department for safe-keeping. It has been the view of the Department that when one record is shown to be inaccurate or incomplete by another one, the faulty one may be corrected by annotation. But it has been proved by experience to be utterly unsafe to change the official records upon affidavits or other testimony made by persons upon whom but little responsibility rests, who rely on memory, and who are most frequently called on for their statements after the lapse of five, up to even fifteen, years of time.

In this case, as I understand, and I only know of the case from the report, this soldier had a furlough, a leave of absence.

Mr. EDMUNDS. He says he had.

Mr. COCKRELL. He says he had, and the report takes the ground that he had a furlough. He went home and was taken sick and was detained at home by sickness until his company was mustered out.

Mr. KERNAN. Which was only the next month.

Mr. COCKRELL. It was mustered out inside of a month. This was in September, 1865. I think, if the facts as alleged are true, that he had a furlough and went home and was taken sick and could not return to his command until his command was discharged, the rule was in all such cases, if no physician's certificate had been sent, to mark the absent soldier as a deserter. I think that the War Department cannot under the present law relieve that charge, and that Congress ought to do so if those facts are true. I think it is one of those exceptional cases where Congress ought to intervene by special legislation; but as a question of fact I have not examined the papers and I do not know about that. If he had a furlough, as stated, and went home, was taken sick, and was detained there by sickness until the muster out of his company, when he was marked as a deserter, then the Adjutant-General cannot remove that record, and Congress ought to do it by special legislation.

Mr. EDMUNDS. That is the very point. I think if the Senator from Missouri will turn to the law which confers this power upon the War Department, under which the War Department does act in some cases, he will find that the law does not say that the record must be corrected in the War Department by some other record, but that it is left to proof to satisfy the Secretary of War that the record is erroneous. They may say "We do not like to do that because it is very unsafe to act on *ex parte* affidavits." So it is; but is it any more unsafe for the War Department to act upon *ex parte* affidavits than it is for us to act upon *ex parte* affidavits? I think the War Department is not taking the responsibility in cases of this kind that the law imposes upon it, and that I think it can take ordinarily with more safety to public interest than we can.

That is my point; and then as to the other matter, of course when the Senator from New York says that he knows this man personally to be an upright person, that is very strong evidence; but it is singular nevertheless, and it strikes my friend from New York so, that the testimony of the colonel, who does not appear to be dead—the report does not say that he is dead—or the adjutant which the regiment must have had, who does not appear to be dead, is not produced; nor is any explanation given why it is not produced. That, except for the personal knowledge of my friend from New York, would make it rather a slender case, and yet it may be perfectly right.

Mr. KIRKWOOD. I desire to say a word, not so much upon this particular case, because I know very little about it, as upon the general subject.

I am satisfied that a great deal of injustice is done to many men who were in the volunteer service, and who were marked upon the roll as deserters, men who never had the intention of abandoning their colors, men who never had the intention of failing to perform their duty in the field, but who are technically deserters.

Let me state instances that occurred in the State of Iowa. When

a regiment came home to be mustered out, passing along on a railroad the train would stop at a station near which a man's family lived; he had not seen them for months, perhaps for years. The regiment was going to a point beyond to be mustered out. He got off at that station and passed over a few miles in the country to where his family lived, to see them, to kiss his wife and babes again, intending to be at the muster-out place on the day of the muster-out and be mustered out with his comrades. But he mistook the day when it would occur; it came sooner than he expected it would, and when the regiment was mustered out he was not there; he was marked a deserter; that is borne against him on the rolls here for all time, although he served the whole length of his enlistment manfully and honorably and faithfully. I say it is a shame that those records should be allowed to remain under those circumstances; and yet the War Department finds itself bound by the records, and it cannot consider those equitable circumstances which would remove the technical stigma of desertion.

I have thought a good deal as to how a law could be framed that would do justice and right in matters of this kind, and I have been unable to satisfy my own mind how it can be done. I can see no way other than that each case shall come before Congress and stand on its own merits.

Take this case; I do not know anything of the facts of it at all, but if the facts be true as stated in the report I say it is a burning disgrace to this Government that this man should be borne on the records of our War Department for all time as a deserter. He got a furlough to go home for a short time and was taken sick and could not get back.

Mr. KERNAN. And his company was mustered out within a month after he went home.

Mr. KIRKWOOD. Let me detail another circumstance that occurred among our Iowa troops. In Iowa we sent the very best men we had into the service. We had to do it. We had no large towns to recruit troops from there. We took men from our farms and our workshops, our offices and our colleges, the very choicest young men we had in our State. At Shiloh a good many of them were taken prisoners. After a while they were sent back, but not exchanged, and were sent to the Benton barracks at Saint Louis. They could not go to the field because they were not exchanged. There they were kept in the barracks. A few miles north of them in Iowa were their homes and their families. They applied for permission to go home, promising to return whenever called upon; but the military authorities, acting according to military rules, would not allow them; and they came home without leave—several hundred of them, I think. I had the honor to act as governor of our State at that time, and the commanding officer at Saint Louis wrote to me that he was going to send the provost-marshals through our State to arrest these men and take them back to their commands. I wrote to him that I thought he had better not do it; that the men had no intention in the world of abandoning their colors; that just as soon as they were authorized under military law to go into the field again I would be answerable for it that every man of them would be there; and after a good deal of trouble I persuaded him not to send the provost-marshals to arrest the men. After a while I got word that an exchange had been effected and the men were wanted, and they went; and yet technically every man of them was a deserter; but he had no more idea of abandoning his cause and his colors than he had of doing any other disgraceful act.

Military men cannot appreciate these things. Men who deal with the regular Army do not understand these things as men who have dealt with volunteers do. I think we ought to exercise a large and liberal discretion in looking into these matters. If a man deserted his colors with the intention of abandoning the cause, I say brand him for all time as a deserter; but if he is only technically a deserter, if he had no intention of abandoning his flag or abandoning his cause, then do not let the disgraceful charge remain against him.

I shall vote for the bill.

Mr. KERNAN. I will not take one minute. The Military Committee unanimously—the ex-Secretary of War [Mr. CAMERON, of Pennsylvania] making the report—find that he did not intend to desert, that he had a furlough, that he was sick, and that he did not get back in time to be discharged.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BATTLE OF GETTYSBURGH.

Mr. HAMPTON. I ask consent to call up Senate bill No. 1490. I think it will not take more than five minutes to pass it.

The PRESIDENT *pro tempore*. The Senator from South Carolina moves to still further postpone all prior orders and proceed to the consideration of the bill indicated by him.

The motion was agreed to; and the bill (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams, was considered as in Committee of the Whole. It appropriates $50,000, or so much thereof as may be necessary, to complete the survey of the Gettysburgh battle-field; also, to provide for the compilation of all available data used in locating troops on the engineer maps of that battle; also, to provide diagrams showing the changing movements and positions during the engagement; the whole to be done by or under the direction of Mr. John B. Bachelder, author of the position plates of the Government maps of that battle, under the direction of the Secretary of War. No part of the sum appropriated is to be disbursed by the Secretary of War except for work actually performed, or for materials furnished for the objects named; and all the maps, data, and materials prepared for or used for the work contemplated are to be the property of the Government, to be deposited in the Department of War.

Mr. HAMPTON. I ask for the reading of the report.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. HAMPTON March 17, 1880:

The Committee on Military Affairs, to whom was referred the letter of the Secretary of War, in answer to Senate resolution of March 4, 1878, communicating information concerning the data from which the positions of troops were added to the Government maps of the battle of Gettysburgh, accompanied by a report of the Chief of Engineers indorsing their valuable character, present fragile condition, and the importance of their preservation to history; also the resolution of the Society of the Army of the Potomac, reiterating their value and the importance of their compilation, have examined these papers, and beg leave to report as follows:

The Chief of Engineers in his report states that "the data from which the positions of troops were placed upon the engineer map of the battle-field of Gettysburgh, recently published, were collected by Mr. John B. Bachelder, and, as stated on the map, are from official reports, consultations on the field, private letters, and oral explanations of the officers of both armies.

"The data are not therefore in the possession of the War Department. The collection is of the most perishable nature, is possessed by no one else than Mr. Bachelder, and, unless compiled by him, will, at his death, be lost to history."

It appears that Mr. Bachelder, having the advantage of a military education and love of history, went to the front early in 1862, more than a year before the battle of Gettysburgh, to be in position to collect data when the most important battle of the war was fought. After working up the details of several engagements, he reached the battle-field of Gettysburgh before the dead were buried, remaining for eighty-four days, making plans of the field, visiting the wounded in hospital, and by permission taking the convalescent officers over the field, by whom their positions and movements were pointed out and established. During this period books full of notes from these actors were secured within a few weeks of the battle. With this information and sketches thus secured, he visited the Army of the Potomac, spending the winter of 1863-'64 in consultations with the officers of every regiment and battery, whose conversations and explanations were carefully noted and preserved. At the close of the war Mr. Bachelder issued an invitation to the many officers whose acquaintance he had made to visit Gettysburgh with him for historical purposes, which was accepted by over one thousand; forty-nine of them generals commanding. From the acquaintance thus secured has resulted, during the past sixteen years, a most valuable correspondence regarding the battle of Gettysburgh.

The Secretary of War having ordered the preparation of maps of the battle of Gettysburgh, and secured the most careful surveys for that purpose, found that the official reports of the battle were so incomplete and conflicting that the positions of the troops could not be located from them; whereupon, on the following recommendation of the Chief of Engineers, Mr. Bachelder was employed to do the work:

"Mr. Bachelder, as you are probably aware, is preparing a history of the battle of Gettysburgh. The information he has collected concerning that battle is extraordinary in amount and correctness. So far as I am able to judge, there is no battle of any war respecting which so many truthful accounts, so many exact details, have been collected and compared with each other from every source, from the private to the generals commanding the armies. * * I have been acquainted with the thoroughness of Mr. Bachelder's researches since the winter of 1863-'4, when he visited every part of the Army of the Potomac. I have since gone over the battle-field with him, and had many interviews with him concerning it."

Mr. Bachelder was engaged by the War Department to do the work, and after years of patient examination of the mass of material thus collected, the maps were completed, representing six phases of the battle; and were approved by the Secretary of War.

Immediately upon their distribution letters were received from all sections of the country by the Chief of Engineers (several of which have been transmitted by the Secretary of War) urging the importance of compiling in text form the knowledge which the maps embody. General Hancock writes:

"Is it not wise to seize the occasion to have such details published while it can yet be done?"

General Longstreet says:

"I beg leave to suggest the importance of a thorough narrative of events connected with the battle, as well as a detailed analysis of the tactical moves upon the field."

General Warren says:

"Unless this is compiled and arranged by Mr. Bachelder, it will be lost to history."

General Fitzhugh Lee says:

"I know I express the sentiment of those on my side in the operations referred to, when I say that we hope every facility will be given Mr. Bachelder to prosecute his purpose of compiling them."

General Hunt says:

"Much of the information, collected and noted under unfavorable circumstances, would be undecipherable and unintelligible for others, and under no circumstances could another make as good use of the material as the man who collected it."

Many other letters of like character, together with nineteen memorials to Congress, presented from the several States, asking that this be done, of which the following are specimens:

One from ex-officers of the Army of the Potomac, indorsing the value of the material and asking that it be preserved, &c., signed by Generals Hancock, Wright, Slocum, Gibbon, Warren, Webb, Graham, Owen, Cross, Shaler, Barnum, Ward, McMahon, Sargeant, Cogswell, Underwood, Robinson, Neill, Torbert, Carr, Carroll, Wells, Stannard, Tilton, Coxe, McCandless, Selfridge, Brigham, Carman, and many others, with a long list of subordinate officers, and another received from late officers of the Army of Northern Virginia, asking "that the Secretary of War have the data compiled and published in text form," &c., signed by Generals Kemper, Fitzhugh Lee, Maury, Taliaferro, W. H. F. Lee, Echols, Lane, Walker, Bradley T. Johnson, Anderson, Hunton, Payne, Terry, McComb, Allen, Alexander, Holtzclaw, Fry, and many other officers of all ranks.

There are also over one hundred and fifty letters from military men, college professors, directors of historical societies, public libraries, and other literary institutions, urging the importance to the history of the country that the maps be accompanied by a text description, and the knowledge which they embody be placed within reach of the public.

Your committee have also examined a series of diagrams representing the battle from its commencement, prepared by Mr. Bachelder, indicating the changing

positions of regiments and batteries by dotted lines and arrows, the whole forming a most comprehensive representation, alluding to which the Chief of Engineers says in his report:

"Most of the commands made frequent changes and took up different positions that do not appear on the (engineer) maps, but which could be represented on diagrams by Mr. Bachelder from data in his possession, which would complete the illustration of the text. He could prepare the tactical moves at Gettysburgh in more detail probably than has heretofore been done for any battle."

The Secretary of War, in his letter accompanying these papers, says:

"The views of the Chief of Engineers are concurred in, and it is recommended that Congress provide in some adequate manner for the publication of the data in question."

Your committee therefore, believing that this material is too valuable in the military history of the country to be lost, report the accompanying bill and recommend its passage.

Mr. EDMUNDS. I should be glad to have the Senator from South Carolina explain the necessity of confining this object to this particular gentleman on the face of the law, and whether it would not be better instead of saying it shall be done by this gentleman under the direction of the Secretary of War, to authorize the Secretary of War to cause it to be done, and put this money at his disposal. I do not say that, supposing or expecting or wishing that any other gentleman than Mr. Bachelder could possibly be employed to do it; but we have had such unfortunate experience in some cases hitherto where particular gentlemen were named to do particular things in various ways, that I should be very glad if it can be safely done, as I have no doubt it can, to have it put in that form, to avoid its being drawn into a precedent. I merely make the suggestion.

Mr. HAMPTON. The objection to the suggestion made by the Senator from Vermont is this: In the first place, Mr. Bachelder has been engaged in this work for eighteen years. He has selected thousands of pages of data from officers now dead and from privates of both armies, and, as the Secretary of War says in his report, no other man can compile and complete these maps and this history. He has recommended Mr. Bachelder himself, and it was in accordance with the recommendation of the Secretary of War that the committee made this report. I will say to the Senate that the report is unanimous, and after looking over the whole ground we are sure no one can compile this matter but Mr. Bachelder, and on the recommendation of the Secretary we thought he was the proper man to do the work. It is not mandatory on the Secretary of War to go on with the compilation unless he thinks it desirable.

I have before me memorials from thousands of officers and soldiers of both armies asking that Mr. Bachelder may be authorized to complete and publish the text illustrating the maps, and I will say he can do it better than anybody. He has done it, and by the maps I have before me he has illustrated this battle, as far as he has gone, as no other battle in the world has been illustrated. I trust there will be no objection to the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BAKER COUNTY, OREGON.

Mr. McDONALD. I move to lay aside the present and pending orders for the purpose of considering now Senate bill No. 1162, which was reported from the Committee on Public Lands. It is a very short bill and cannot possibly occupy much time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1162) confirming the title to block numbered 14, in Baker City, Oregon, to Baker County.

Mr. EDMUNDS. Is there any report? If there is let it be read; if not, I should like to hear the bill explained.

Mr. McDONALD. I have a letter from the Commissioner of the General Land Office in answer to the inquiries made by the committee as to the propriety of this bill.

Mr. EDMUNDS. Have the letter read, then.

Mr. McDONALD. I do not recollect whether I sent the letter to the desk with the bill or not, but I can state very briefly the substance of the letter.

This block No. 14 is a tract of land in Baker City that did belong to the United States. Under an act of Congress it was authorized to be disposed of in lots, and no person was allowed to enter more than one lot by way of entry, but he might take up an additional lot as a pre-emptor. For the purpose of having this property vested in Baker City, the county of Baker authorized the purchase of this tract at the entry price of the rest of the tract after one or two lots had been taken up under the pre-emption and special laws. But as that was more than any one person was authorized to purchase, as a matter of course the title did not pass although the money was paid and received. The Government received the money for the remainder of the lots thus purchased by this trustee for the use and benefit of Baker County, but inasmuch as the law did not authorize it all to be disposed of in that way, the title was held to be imperfect. This bill is simply to perfect that title after the Government has received the money.

Mr. EDMUNDS. I understand from the statement of the Senator that some lots in this block were entered by somebody according to law.

Mr. McDONALD. Yes, sir; a few.

Mr. EDMUNDS. And this bill provides for confirming the whole block to Baker City.

Mr. McDONALD. No; only that part of it purchased.

Mr. EDMUNDS. This is what it says:

That the title to block 14, in Baker City, Oregon, be, and the same is hereby, confirmed to the county of Baker, Oregon, and that a patent be issued to the said county therefor.

Mr. McDONALD. That confirms only that part of it which the Government has title to. As a matter of course, it does not disturb any prior occupant.

Mr. EDMUNDS. That depends.

Mr. SLATER. If the Senator will yield to me for a moment, I think I can explain it. Baker County erected its county buildings, court-house and jail, on this block laid out as a town site, expecting and having the right to expect that it would receive title through a third party, who had selected this under the law of the State out of the five-hundred-thousand-acre tract which had been granted at the admission of the State. That title failed; and subsequently the title failing there, the citizens of the county were compelled to look to the General Government through the town-site act. The town was laid off under the regulations of the law, but only two lots were allowed to any one purchaser or settler. The county applied to purchase this entire block, but were not permitted to do it in that way, the money being paid into the Treasury of the United States and receipted for.

The Senator from Indiana is mistaken in regard to the title being vested in the county for a portion of these lots. No title has been vested, as I understand, to any part of them. All rested on the expectation of getting a confirmation in the way the bill now reads. It is simply to protect the county in its county buildings and county property.

Mr. EDMUNDS. It is obvious to me that this bill ought to be amended. As the case is stated undoubtedly it is quite right to confirm the title to the parties to whom we sold the land and from whom we received the money; but as some parts of this block have been disposed of to other persons by the United States——

Mr. SLATER. No; the Senator is mistaken. None of it has been disposed of to any person.

Mr. EDMUNDS. The Senator from Indiana, if I understood him, stated that two or three or some of the lots under the provision of the law had been entered by somebody.

Mr. SLATER. In that respect the Senator was mistaken. The county buildings were erected on this block long before it was laid out as a town site under the authority of the town-site law. The county applied to purchase the entire block, but was met at the land office by a declaration that it could not be allowed to purchase more than two lots. It paid in the money, and it rests in that way.

Mr. EDMUNDS. It is perfectly easy to make it so that there is not any doubt about it.

Mr. SLATER. I have no objection to any verbal amendment to secure everybody.

Mr. EDMUNDS. I move to amend by inserting after the word "to," in line 3, the words "so much of," and after "Oregon," in the same line, the words "as the United States has title to," and at the end of the bill to insert "without prejudice to the right of any adverse claimant to any part thereof."

Mr. SLATER. I have no objection to that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city;

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes;

A bill (H. R. No. 1846) relating to the public lands of the United States;

A bill (H. R. No. 2636) granting arrears of pension to John R. Smith;

A bill (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;

A bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and the thirty-sixth sections in said State;

A bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor;

A bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands lying east of the sixth principal meridian in Kansas;

A bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States; and

A joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands in the State of Kansas.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the

two Houses on the Senate concurrent resolution of March 22, 1880, to print 10,500 copies of the report of the Smithsonian Institution for 1879.

QUESTION OF ORDER AS TO MORNING HOUR.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a question which it is necessary should be decided now as we are within five minutes of half past twelve o'clock. The Senate will remember that the other day the Chair decided that the consideration of the Calendar under the Anthony rule must be continued up to half past one o'clock, notwithstanding the change in the hour of the meeting of the Senate. That was the ruling of the Chair, and the Chair remains of the same opinion yet and does not see how it is possible to arrive at any other conclusion, for there is no repugnancy between the Anthony rule and the order made on the motion of the Senator from Tennessee [Mr. BAILEY] that the Senate meet at eleven o'clock. The Anthony rule is imperative that "the Senate shall continue such consideration until half past one o'clock." The Chair did not see how he could disregard that plain mandate of that rule; and finding no repugnancy between that and the order to meet at eleven o'clock the Chair ruled that the consideration of the Calendar continued up to half past one o'clock. But some Senators have expressed to the Chair a doubt as to the accuracy of that ruling and suggested its submission to the Senate.

The Chair now submits to the Senate for its decision this question. Does the consideration of the Calendar continue until half past one o'clock, notwithstanding the change of the hour of the meeting of the Senate? Is the Senate ready for the question?

Mr. BECK. I desire to ask, if the morning hour is now held to mean an hour and a half after the meeting, what business comes up then?

The PRESIDENT *pro tempore*. The unfinished business comes up.

Mr. BECK. That is the proposition of the Senator from Alabama, [Mr. MORGAN.]

Mr. HOAR. Mr. President, I hope the Chair will at some proper time take the sense of the Senate on the other and kindred question which came up the other day. The old rules, saying nothing about the Anthony rule, enact that when a resolution is offered by a member of the Senate, it shall go over one day unless by unanimous consent the Senate order otherwise; and then the rules further provide that concurrent and other resolutions shall be laid before the Senate as part of the morning business.

These two rules, therefore, taken together, amount to a provision that resolutions offered by a Senator for the adoption of the Senate are in order as of right and of course the day after they are first proposed. When the Anthony rule was adopted the question came up whether an old resolution which had been lying on the table of the Senate a good while could be called up under that rule, or whether the Anthony rule abrogated that right, and the Vice-President submitted the question. He framed the question in this way: does the Anthony rule take precedence of a resolution offered on a prior day, or something of that kind. He used the words "a prior day," which literally would mean a resolution offered the day before; but it was not the intention of the Vice-President or the intention of the Senate to make a construction of the rule which deprived altogether members of this body to submit resolutions calling upon the Departments for information or for any order or resolve of the Senate, without unanimous consent.

While I do not wish to question the correctness of the ruling intimated by the present occupant of the chair founded upon the order of the Senate on the question submitted by the Vice-President I hope that that will in some form be submitted to the Senate and restricted to its proper application.

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Massachusetts that it is very easy for him to raise that question at the close of the routine business any morning by insisting that the Senate shall proceed to the consideration of a resolution, any one that he may see fit to name.

Mr. GARLAND. The other day when the resolution submitted by the Senator from Tennessee [Mr. BAILEY] was passed, I had the impression that the hour called the morning hour would be limited by that, thinking then that the Anthony rule read as if it gave an hour and a half for what is called the morning hour. Subsequently, on hearing what is called the Anthony rule read, its terms being express that the consideration of the Calendar should continue until half past one, and there being no conflict between that idea and the idea contained in the resolution of the Senator from Tennessee, my opinion was changed at once and I agreed that the Calendar continued to half past one. Indeed a Senator near me remarked that the hour of meeting was changed with a view of giving an hour more each day to the consideration of the Calendar business. I take it that is the correct ruling.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? The Chair will state it again. Does the consideration of the Calendar continue until half past one o'clock, notwithstanding the change of the hour of meeting of the Senate? You who are of opinion that the consideration of the Calendar continues until half past one will say "ay;" those of a contrary opinion "no." [Putting the question.] The ayes have it, and it is so decided.

DISTRICT WATER SUPPLY.

Mr. ROLLINS. I move that the Senate lay aside all prior orders and proceed to the consideration of the bill (S. No. 1493) to regulate the use and prevent the waste of Potomac water in the District of Columbia.

Mr. BURNSIDE. I hope the Senate will adhere to the Calendar.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1493) to regulate the use and prevent the waste of Potomac water in the District of Columbia.

Mr. ROLLINS. I believe the amendment of the Senator from Kansas [Mr. INGALLS] is pending.

The PRESIDENT *pro tempore*. The pending amendment offered by the Senator from Kansas will be read.

The CHIEF CLERK. In line 7 of the amended bill, after the word "inspect," the amendment is to strike out "without previous notice to the occupants."

Mr. ROLLINS. I will simply say that after more careful examination of the bill the committee have instructed me to consent to this amendment.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The question is on agreeing to the amendment proposed by the Senator from Kansas to the amendment of the Committee on the District of Columbia.

The amendment to the amendment was agreed to.

Mr. ROLLINS. The committee have also instructed me to propose an additional section; and, with this amendment, I think the objections which have been raised to the bill will be obviated:

SEC. 4. That the provisions of the preceding sections shall not apply to any premises the owner or occupant of which shall procure and attach a water-meter in such a manner and of such kind as shall be approved by the commissioners of the said District, and upon the attachment of such water-meter the said premises shall be charged with an annual water rent of $4, and in addition thereto shall pay for the water consumed on such premises at a rate to be prescribed by said commissioners not less than one cent per hundred gallons for the quantity consumed in excess of fifty gallons per day for each person permanently occupying said premises.

Mr. ANTHONY. Why not make that the rule of the sale of water; have it sold by measure, and then if people waste the water, they pay for it. That will make them economical.

Mr. ROLLINS. I have no doubt the suggestion of the Senator from Rhode Island is one worthy of consideration; but the people of this District do not seem yet to have reached that condition where they can accept water-meters and have the water measured out to them. This is a proposition looking in that direction. Let the experiment be tried. If it shall be successful, then we may take an advanced step at the next session of Congress. This simply allows those who desire to have a meter, and it prevents the necessity of any visitation of their premises. It will allow each person fifty gallons of water per day. He who uses no more than that will have to pay only $4 a year for water rent. I think it is a very liberal and just proposition. It does not compel anybody to put on a meter, but allows anybody to do it who desires.

Mr. WILLIAMS. It strikes me that the terms of this limitation of the water question are very improper. I am utterly opposed to the first proposition of allowing the police to make domiciliary visits to the houses of the good people of Washington City; and upon the other hand I am equally opposed to measuring out water. One who had heard the discussion on this subject would suppose we were in the midst of a great drought and were considering how we could economize the water supply of this city. Why, sir, think of the idea of preventing people from using or wasting water! With such an abundant supply as there is here, we need never limit its use in the world. I am in favor of encouraging the people of Washington in the most profuse and wasteful use of water. In the name of God give them all they can use and all they can waste, too; and if it costs a million of dollars to provide it, let them have it not only to drink, but to wash——

Mr. ROLLINS. Allow me to ask if the Senator is in favor of carrying that principle into Kentucky?

Mr. WILLIAMS. Yes, sir. I am in favor greatly of doing it. This city is the capital of a great people, fifty millions in number, with a mighty river rolling at the base of this Capitol in a volume that might quench the thirst of all the world without a diminution of the supply, with the finest facilities on the face of the earth for erecting water privileges that shall supply an abundance, not only for use, but for waste. Then I say give to the people all they can drink, all they want to wash their persons, to water their gardens and their flowers and their trees, to wash their houses and their streets. I for one would rather see a waste of water, for not a drop of that which is wasted is lost; it gets into the sewers and washes them out and improves the health of the city. I am not only for making it thus abundant, but for making it absolutely free. Why, sir, the Mexican people are an example on this subject worthy of imitation. There is a magnificent aqueduct upon Roman arches, bringing into the city of Mexico water from a distance of twenty-five miles, in volume as big as a great river and distributing it upon every square in the city. The people have an abundance of water to drink, to wash their houses and their streets, and it runs through every street in the city.

Why limit the use of water? God has limited the use of neither water nor air. It is said it will cost a million dollars to insure a suffi-

cient supply here. Let us make an appropriation of a million dollars and double the capacity of our aqueduct and bring the water here to the national capital in such abundance that we shall hear no talk of any scarcity, no visitation of policemen to prevent waste. That would do no good. The very moment the police officer entered the front door every spigot would be stopped and the water turned on again when he left, or if he caught one accidentally running the housekeeper would say that he turned it on to flush out the pipes, to water the trees, or something of the kind. Let us encourage the people in the most abundant and free use of water—that is my judgment—and make it absolutely free to everybody.

Mr. ROLLINS. Now, I only want to say a very few words. This kind of talk about allowing everybody to use all the water he wants sounds finely in the Senate of the United States; but under existing circumstances we have one hundred and fifty-five gallons for each of the people of the District, for each citizen. Now, let us bring the matter home to the Senator from Kentucky and to those Senators who want water to run to waste.

We will suppose that these gentlemen live here within the sound of my voice, on Capitol Hill, and at the base of the hill half a dozen other Senators live. The Government of the United States has built these water-works at a great expense, some $5,000,000, and the supply that can be received through the pipes is limited to one hundred and fifty gallons per day for each person. Now, they have said to the Senators on the hill and the Senators at the base of the hill, "You will have one hundred and fifty gallons of water, each of you, for each member of your families, every day of your lives, and you cannot have any more." The Senators living at the base of the hill open their spigots and let their water run, and they consume of this water so much that the persons living at the top of the hill have none. Is that just? Is that right?

Mr. WILLIAMS. Double the capacity.

Mr. ROLLINS. But you cannot double the capacity in a minute. It will take time to extend the capacity of the aqueduct—years of time to do it. If we had omnipotent power and could extend the aqueduct in twenty-four hours, I would agree with the Senator; but this supply is limited, and we cannot increase it without a great expenditure of money and of time, and therefore we must stop this waste until the aqueduct can be extended and the supply increased.

If my friend from Kentucky found himself living here on the hill and I at the base of the hill, and I drawing from the pipes this water that he was entitled to, or if he had to pump up every gallon of water he used in his premises, I think he would not come here this morning and make the speech that he has made. I know people living here within a stone's throw almost of the Capitol who have to pump up every gallon of water which they use, and all because those living on the lower levels let it run to waste. This is a simple matter of justice and decency and propriety; and the Senate of the United States cannot afford to be unjust to the people of any portion of this District. I hope, therefore, the amendment of the committee will be agreed to, and that the bill will become a law.

Mr. ALLISON. I should like to ask the Senator from New Hampshire what is the average consumption *per capita* in the District.

Mr. ROLLINS. One hundred and fifty-five and a half gallons for each person, the largest supply in any city in the world.

Mr. INGALLS. Oh, no.

Mr. ALLISON. I move to amend the amendment in view of that by striking out——

The PRESIDING OFFICER. The Chair understands that the amendment offered by the Senator from New Hampshire is an amendment to an amendment, so that another amendment cannot be received now.

Mr. ALLISON. I understood he offered it as an additional section.

The PRESIDING OFFICER. The Chair is informed that the amendment proposed by the Committee on the District of Columbia has not yet been agreed to.

Mr. ROLLINS. The amendment I submitted was offered as an additional section to the amendment reported by the committee.

The PRESIDING OFFICER. Precisely. That is an amendment to an amendment. No further amendment can be made until that is acted on.

Mr. INGALLS. Is it necessary for the Senate to accept the amendment offered by the Senator from New Hampshire precisely in the terms he offered it or not accept it at all? There must be some method by which we can amend the text of the amendment proposed by the Senator from New Hampshire, which I desire to do.

The PRESIDING OFFICER. That is what the Senator from New Hampshire has moved to do. That makes his proposition an amendment in the second degree, on the top of which another amendment is not in order. If the amendment offered by the Senator from New Hampshire is voted down, then another amendment will be in order.

Mr. DAWES. What would be the effect if it should be adopted?

The PRESIDING OFFICER. The Chair will decide that question when it arises.

Mr. INGALLS. The Senator from New Hampshire has proposed an amendment that practically allows the use of water-meters in connection with the aqueduct system of the city. His amendment provides that this meter shall be one to be selected and approved by the commissioners of the District. Now, I want to vote for the section, but I desire to vote for it with the provision to which I have called attention stricken out; and I ask the Chair if it is not in order for me before the Senate votes on the text of the amendment offered by the Senator from New Hampshire to move to perfect the text or to change the text by omitting a certain portion of it. That has been the custom heretofore.

The PRESIDING OFFICER. The Chair understands the condition of the bill to be this: The amendment originally reported by the Committee on the District of Columbia is still pending. One amendment has been proposed to it and agreed to. Now the Senator from New Hampshire offers an independent section by way of addition to the original amendment. If the Senate concur in the amendment proposed by the committee as already amended, it will then be open to amendment. The Chair does not see how any amendment can now be received which would not be in the third degree.

Mr. INGALLS. My understanding of the parliamentary practice is that the text of an amendment is always subject to amendment by striking out or by inserting.

The PRESIDING OFFICER. That is true as to the text of a bill.

Mr. INGALLS. Before the question is taken on the adoption of the amendment itself, it ought to be susceptible of modification. Now take this case before the Senate, the amendment of the Senator from New Hampshire. He proposes to provide for the introduction of water-meters, and his section authorizes the selection to be made by the District commissioners. I think that is wrong. I believe the system of water-meters ought to be adopted, but I am opposed to putting in the hands of the District commissioners the selection of the kind of meters that is to be employed, because I think it would be very invidious and open to serious objections that I need not state at large. They will suggest themselves to any Senator upon the proposition being stated. I therefore desire to vote for the amendment proposed by the Senator from New Hampshire, with that provision left out.

Mr. HARRIS. Will my friend from Kansas allow me to ask him if he does not think it important, if meters are adopted at all, that some authority of the District should be satisfied that no meter except such as is reliable should be used? Should not some authority determine that the meter to be adopted shall be reliable, one upon which the authorities can be satisfied that it measures the water correctly?

Mr. INGALLS. I have no doubt that there should be some judgment employed in the selection of a meter; in other words, that it should be a meter. But the Senate understands that there is a very wide difference of opinion among the manufacturers of meters, and a very great struggle for supremacy. To place the control of this subject in the hands of the commissioners, and to allow them to say that this, that, or the other meter should be selected, would be to introduce a possibility of wrong into the system that I do not think ought to enter into it.

Mr. HARRIS. I would suggest to the Senator from Kansas that so far as I am concerned, although I do not favor the meter policy at all, if it is to be adopted, I should have no objection to modifying the amendment so that the commissioners, or some other officer of the District, shall be satisfied that the meter of whatever character, of whatever manufacture, of whatever kind it may be, or from whomsoever bought, is a reliable meter. If that would be satisfactory to the Senator from Kansas, I think it ought to be satisfactory to the Senator from New Hampshire, and certainly it would be to me.

Mr. ROLLINS. It certainly would be to me. It occurred to the committee that the commissioners were the proper authorities to decide what meter should be used. If we cannot trust the commissioners of the District of Columbia on that matter, I do not see whom we can trust.

Mr. HARRIS. They are the proper persons.

Mr. ROLLINS. It seems so to me; but if there is anybody else to whom it is better to intrust the power, I will agree to it; and so will the committee.

Mr. INGALLS. Here are twenty-five or thirty thousand consumers of water in this District, and I presume that there is no manufacturer of any particular style of meter who would not be willing to pay a very considerable bonus for the purpose of having his meter selected to be applied to the aqueduct system of this town. I do not wish to subject anybody to the temptation of making that selection. The different kinds that have been patented and approved are well known, and one consumer as well as another ought to have the right to select which he pleases, provided it is a reliable meter, a measure of water. If the Senator from New Hampshire will adopt the suggestion I make, and omit the words in lines 3 and 4, "in such manner and of such kind as shall be approved by the commissioners of said District," I shall assent to his amendment.

The PRESIDING OFFICER. The Chair will suggest in regard to this point of order that the amendment reported by the committee is now under consideration, and it has been once amended. The Senator from New Hampshire offers another amendment to it, which is still pending. If that amendment shall be agreed to then it will be part of the main amendment, which, of course, can be amended in a proper way by a motion afterward; or the motion of the Senator from Kansas can be made in the Senate, and then there will be no objection; or, if that is not satisfactory, the Chair will make a definite ruling upon it and the Senator can appeal.

Mr. ROLLINS. I should be very glad indeed to agree to the sug-

gestion of the Senator from Kansas; but certainly the power ought to be lodged somewhere to decide what meter should be used, and not leave the question open and have each man select for himself, for various reasons, among them this, it will require in this city a very peculiarly constructed meter to properly measure the water.

Mr. CONKLING. Why is that?

Mr. ROLLINS. Because the water is not always clear, as the Senator from New York very well knows and has so eloquently described in days past. The water in this District is not always clear, and an ordinary meter will not properly measure the water. As I have been informed by Major Twining, one of the commissioners, it will require a carefully constructed meter.

I am not wedded to the plan of making the commissioners the judges. I am willing any proper authority should be selected, but certainly the power should be lodged somewhere, and there is no better suggestion than that so far.

Mr. ANTHONY. Certainly there should be some authority to settle upon the style of meter. We should not allow every man to select his own meter. I do not know where it can be better lodged than in the commissioners.

Mr. ROLLINS. That is what the committee thought.

Mr. CONKLING. My friend from Rhode Island assumes that, and therefore I must suppose that his proposition is past argument. Nevertheless, with great respect to him I venture to doubt and to dissent, and I ask him this question: Suppose it were provided that the temperature shall be of a certain kind in houses, would it follow that somebody must be deputed to prescribe the particular thermometer that was to measure the temperature? If the Senator should say to me that somebody ought to have power to go about and see whether these thermometers performed their function, I would agree to that; but I would never agree that it was necessary that somebody should have the power to prescribe the make, the price, the fashion of the instrument used to measure heat and cold or water. So here if meters are adopted, there ought to be a water inspector, as there is a gas inspector, with power to go and see if a meter is suspected of being out of order to test it, and prove it; but if it measures the water what business is it of his or of the commissioners of the District whether it is one man's make or another man's make?

Mr. ANTHONY. The Senator concedes the whole point when he says an inspector should go and examine the character of the meter. Of course he would have authority to change the meter if it was not satisfactory.

Mr. CONKLING. That is another thing. He should have power to require the meter to be made effectual, not to change it, to require a thorough effective meter to be put there; if the one there is out of order, to have it repaired; if another one is required, another one to be got; but not to prescribe that everybody shall buy a meter, buying which he has to pay royalty to A B on his patent.

I believe I interfered with the Senator from Kentucky [Mr. BECK] in rising, and if he will pardon me a moment I feel moved to say a word on this subject. Does the Senator want the floor?

Mr. BECK. No, sir. I rose for the purpose of having the bill read first to see what was the form of it, because there are amendments pending which seem not to be in the printed bill before me.

Mr. CONKLING. I will occupy the floor but a very short time.

Mr. President, a philosopher has asserted that "the world is governed too much;" and if that remark be true of any spot of earth that I know anything about, it is true of the remnant of that little area which was once the District of Columbia. By martinetism and despotism and meddling encroachment the legislation of Congress is proceeding step by step until as far as I can understand there is less individual and less household and housekeeping liberty in this city than in any place I know anything about. Take this to illustrate. Here, as the Senator from Kentucky [Mr. WILLIAMS] truly said, an exhaustless river sweeps conveniently past this city, with enormous head and fall within a few miles, so that a short walk carries you to the rapids of the Potomac. One would suppose that with the most rudimental of modern apparatus to convey water nature had made the very field and opportunity for success. What has happened? More than five million dollars have been expended in making ducts for water which had an abundant and an unnecessary head in exhaustless volume. What is the result? Whenever there is a rain, and much of the time when there is none, the water is too impure for fitness and almost for use. It is not fit to drink; it is not fit to be used to wash clothing or to wash anything else.

That is not the fault of the consumers of the water, but it is the fault of the construction of these reservoirs and aqueducts, because no science is needed to teach us that if a reservoir is made of capacity enough when full to supply the city during the brief period when a freshet or a rain makes the water turgid, from that reservoir clear water will come. But $5,000,000 has not been sufficient to achieve that. Not only is the water turgid and unfit in that sense, but I was told by an intelligent and I believe truthful informant, who was down here some time ago at a building not very far from where we sit when the nozzle or hole-cap was taken from one of these mains for a purpose, that there came out, I think I might say, when I consider that I am talking about something that people drink, the most frightful and disgusting accumulation of what should never have been in these water-mains—dead fish, eels, decomposed vegetable and animal matter, a great quantity of it.

I need not say to you, Mr. President, that a very simple and well-known apparatus used in every city that I know anything about with water-works would intercept and prevent any such thing. That has not been done here. Although of this $5,000,000 three million and a half and more, without stopping to look, has been paid from the national coffers on the theory of a dispensation to this city, a fact growing out of the immediate government of Congress, water as I understand costs as much here now as water of a better quality costs in other cities where payment is made by the consumer to the private corporation which constructs the water-works as a private speculation.

The Senator from New Hampshire talks about the waste of water and he wants every policeman turned into a water inspector to go without let or hinderance and snook through the habitations of the town in order to correct that. I allude to it at this moment to say that although familiar with a number of cities in which there are water-works, I never heard of such a provision, nor did I ever hear that there was any difficulty in the agents of the water company themselves finding out the cause of a break in the pipes or letting a spigot run, or using the water for machinery or any other reason whereby a waste large enough to be substantial occurs. I never heard that there was any difficulty in finding it out. On the contrary so able are they to ascertain without any such machinery as this, that I happen to know that where people paying a water rate which did not authorize them to use water to fertilize their grounds, to water their grass, did so use it, without sending anybody to detect them in doing it the water company was able to determine with great accuracy the part of the town in which it was done, and for aught I know the very residence at which it took place. Yet they never have every constable and tipstaff and patrolman of the town authorized to push into private residences and act as a water inspector doing it.

Mr. President, I am rambling somewhat in this talk; I am aware of that; and I rose for the purpose of mentioning two or three things, not because they belong to a particular argument but because they belong to this particular subject. Therefore I wander a little further to speak of another matter.

The sundry civil bill every year contains a considerable appropriation to maintain what is called the Aqueduct Bridge over a narrow part of the Potomac at Georgetown, a short bridge and not a very good bridge. That bridge as I understand it is maintained at the public cost. How blessed a city is, having a Congress in it to maintain a bridge, which is the thoroughfare between it and a great State, the State of Virginia, there being no other below the Chain Bridge, because horses can be driven only at great peril on this narrow strip called the Long Bridge, on which all the way a railway track runs, with trains going to and fro. So this is the one thoroughfare and mode of reaching Washington from Virginia. What an advantage it is to Washington, to the people who live here, to have Congress appropriate money to maintain that bridge! If it was anywhere else, it would have to be maintained by tolls. See, Mr. President, how fortunate it is! Have you had occasion lately to drive across this hundred-yard bridge and to ascertain how much it costs you to exercise the proud privilege of crossing the Potomac there, going over far enough to see the graves of the soldiers at Arlington? If you do not know, I can tell you. It costs you to go over and come back exactly half a dollar of toll,—half a dollar for passing this short bridge and coming back.

There may be some Senator who hears me who knows of an extortion as abominable as that in the case of some private bridge somewhere. I know nothing approaching it. I know ferries running to and from New York, miles in length, upon which a pair of horses and a carriage being driven, the carriage money is thirty cents, and I repeat they are miles long; but I know of no instance in which the privilege of driving over a short bridge and return costs half a day's work. Yet that is here, right under our nose, with liberal appropriations made to sustain this bridge.

Where do these tolls go to, Mr. President? I do not know. I respectfully submit the question to my honorable friend from New Hampshire [Mr. ROLLINS] intelligent as I have always found him, and conscientious as I have no doubt he is, touching the affairs of this District. I think it would be well to look into that. I am inclined to think that an honest observation of the whole thing here will show that the dwellers in this city, in place of being privileged, instead of enjoying large immunities and opportunities because it is the seat of the National Government, because of national expenditure, are visited about as roundly as anybody else.

Last year a bill was passed which I voted against, I am thankful to remember, under which every householder, rich and poor, high and low, is called upon to make a return of everything he has, including household furniture. Everybody who owns a house, everybody who rents a house, everybody who lives here, if the law is complied with, is to sit down and make return of everything, household furniture, a wagon, a horse, if he possesses it, a watch, plate, to state how much money he has on deposit in bank. I hope it does not apply to all the friends who sit around me, because if they were to make return of all their jewels and bank balances, I am afraid it would be a display of wealth imposing at the national capital. Possibly the grave Senators who hear me being non-residents are exempted from this law, but it applies to all the residents here. You never had

such a law in Wisconsin, Mr. President; there never was such a law in New York. When the income tax existed with provisions somewhat tantamount, democrats and republicans could grow hoarse if not eloquent in denouncing it as inquisitorial, despotic, un-American, abominable, and I do not know how many other things. Here you may take these little teasing, vexing, and annoying thorns which one after another you are planting in this city of Washington and they make an aggregate of tyranny which I do not think can be found in all the rest of the laws of Congress.

Mr. President, I am against the whole thing. If they want water-meters here let them require them as an alternative. If a man can buy a water-meter for $5 let him buy it at his peril, and if it does not measure water let the inspector go as now the gas inspector has a right to do, and say to him, "My friend, you are a bad economist; you have bought the thing which costs the least, and it is the dearest thing you could have bought; it is not good for anything; you will have to throw it away and get another." I know it has been said that a despotism if you could have a perfectly wise and fair despot is the acme of wisdom in human government; and that may be true; but do not have these commissioners, eminent and wise as they may be, empowered to say that every man in his house shall have an article on which he pays a royalty to some patentee who for some reason has commended his invention. I rather think my friend from Connecticut agrees with me in that.

Mr. EATON. I should like to say to my friend from New York that in many States of this Union the same law obtains that he now is criticising. I suppose it is so in Ohio.

Mr. CONKLING. What is that law?

Mr. EATON. The law the Senator has just been criticising, what they are now trying.

Mr. CONKLING. What law does the Senator refer to?

Mr. EATON. The law that every man is bound to show the value of his household furniture, his watch, his wagon, his horse. It goes in what is called in my State a list; and if I am not misinformed there is just such a law in parturition in the great State of New York, in order that they may catch the bank account of both of its Senators, their horses and carriages, &c., for the purposes of taxation.

Mr. CONKLING. Did you say in parturition?

Mr. EATON. There is such a law.

Mr. CONKLING. "Parturition" was your word.

Mr. EATON. Yes, sir; just such a law as that is about being born in New York.

Mr. CONKLING. Mr. President, I have not known a morning in a great while on which the Senator from Connecticut appeared to have more full information than he has this morning. His advice is gathered from Connecticut and very accurately usually; but this morning he gets advices from New York State, and I beg to say to him he is absolutely "the only paper that has the news."

I rose for the purpose of trying to attract if I could the attention of Senators to the fact, if it is a fact, and I believe it is, that this sort of legislation going along little by little, is making infinitely vexatious and troublesome the condition of the people of this city. If the Senate and the House, if I may borrow the phrase of Dr. Franklin, would mind their own business a little more, and let the process of life go on in this city as it does elsewhere, I think it would be a great deal better. I think it was Dean Swift who gave a long list to his servant of all his duties. He wrote down everything that he was to do. On one Sunday the Dean fell into a ditch, and he called this man of his to help him out. The man took out his list, perused it carefully, and discovered no head under which he could take him out of the ditch on Sunday, and declined to proceed. I do not believe that all the Dean Swifts in Congress can by statute wisely make rules governing all the minutiæ and detail of municipal life in this city, and I am opposed to the attempt, whether such an attempt as is made in this bill or such an attempt as I have seen made and successfully made in a good many other bills.

But, Mr. President, I do not wish to occupy the attention of the Senate. I will try to expend my energy during the residue of its consideration in my vote when my name is called.

Mr. ROLLINS. I will occupy the time of the Senate just one moment. The Senator from New York says that there are no such regulations anywhere as are proposed here.

Mr. CONKLING. I did not say that. I said anywhere else in any city with which I was familiar.

Mr. ROLLINS. Ah, anywhere in any city with which the Senator is familiar. Such are the regulations of the water department of the city of Washington to-day—just what we propose in this bill, nothing more.

Mr. BLAINE. Then why do you propose this measure?

Mr. ROLLINS. Because they are not enforced. That is just why we propose to make them law.

Mr. BLAINE. You propose to re-enact them?

Mr. ROLLINS. We propose to make them the law, because there is no other way under heaven whereby we can stop some of this water waste, which it is an absolute necessity to do. That is why we propose to do it.

Mr. CONKLING. Will the Senater indulge me a moment for information, in good faith?

Mr. ROLLINS. Certainly.

Mr. CONKLING. Does the Senator from New Hampshire say that the law existing now makes policemen and all of them *ex officio* water commissioners not only, but empowers them without permission to invade all dwellings in the District and look and see for themselves how water is used? Surely the Senator does not mean that.

Mr. ROLLINS. No, the Senator from New Hampshire did not say anything of the kind. He simply said that such were the regulations of the water department. The quality of the water, to which the Senator from New York has alluded, is not in the control of the Senate or of the District Committee. The water supply cannot be increased without increasing the capacity, extending the aqueduct, or laying down additional pipes, which will take much time and large expense. But there ought to be some short way of remedying the difficulty, and it certainly ought not to disturb the equanimity of any gentleman when we do this if he is allowing the water to run at waste, wasting that which legally belongs to his neighbor, depriving his neighbor of just what he has paid for. No Senator certainly and no citizen of Washington ought to complain for a moment if a police officer is allowed to go to his door and respectfully inquire if the water is running to waste, and notifying him that if the water waste is continued the water will be shut off.

Mr. BLAINE. Under what law does——

Mr. ROLLINS. Allow me to proceed. I do not trouble the Senate very often.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. CONKLING. Will the Senator not submit to an interruption just there?

The PRESIDING OFFICER. Does the Senator yield?

Mr. CONKLING. For only a single moment.

Mr. ROLLINS. Yes, sir.

Mr. CONKLING. Does the Senator mean the Senate to infer that an act of Congress is necessary to authorize a police officer or anybody else to go, as he says, and respectfully ring some man's bell and inquire of him whether the water is running away? You might as well have an act of Congress to authorize some man to raise a cry of fire in the street or to ring your bell and tell you that your chimney was smoking and he was afraid it was on fire.

Mr. ROLLINS. This bill adds a little to it. If the man is not willing to let him in, he can go in.

Mr. INGALLS. That was stricken out.

Mr. ROLLINS. We struck that out, but it gives some additional power.

Mr. BLAINE. Power to ring the bell!

Mr. ROLLINS. Power to ring the bell. I do not think there is danger of any Senator's rights being affected injuriously if the bill passes. An adequate supply of water cannot be had immediately; it cannot be had without a large expenditure of money. The question is, when a portion of the people are absolutely suffering in this city by the waste of water, whether the Congress of the United States will say to the people who are wasting it unnecessarily, with much damage to themselves as I believe after a careful investigation of the whole matter, "you must not let your water run to waste, but take some steps to prevent it." I hope the amendment will be adopted.

Mr. BLAINE. I do not really know what has been said on this question, and I begin by professing entire ignorance of the details of what is proposed; but I have a little testimony to give and I have a few inquiries to make, if I shall not ruffle the temper of my friend from New Hampshire, who usually seems so pleasant.

Mr. ROLLINS. Go ahead.

Mr. BLAINE. I do not understand, to begin with, what is meant by wasting water any more than I understand what is meant by wasting air.

Mr. ROLLINS. I am sorry the Senator did not hear the discussion on the bill.

Mr. BLAINE. I say I am confessing my ignorance, and I want to show it still further. I do not imagine there is a family in the District of Columbia that would want to go and set all the spigots and faucets open merely for the pleasure of hearing them run. Even if they were foolish enough to do that, I do not understand how a policeman going and telling them that that was a naughty and wrong thing to do would prevent it, when just as soon as his back was turned and he was out on the street they could set them all going again, if anybody was foolish enough to do that.

What I rose more particularly to say was this, as a piece of testimony: I have been, in common with a good many other members of the Senate, for some sixteen or eighteen years in this city; nearly twelve of them I have been a housekeeper on the flat or level on which I happen to reside in Washington. Twelve years ago there was, compared with to-day, a very small population. Every one who knows Washington to-day knows the enormous increase of population in the northwestern part of the city within the last decade. The commissioners told us in the Appropriations Committee room the other day that the estimate that the census would disclose was one hundred and seventy-five thousand people in this District, and it is growing rapidly. Water was abundant twelve years ago on that flat. It would run not freely but comfortably on the fourth floor; it would run copiously on the third, and as fully on the second as was possibly desirable. To-day it will not dribble a drop on the fourth floor, only about midnight will it do anything on the third floor, and it runs

with provoking insufficiency, and every man who washes his face in the morning knows what that means on the second floor.

Now, the honorable Senator from New Hampshire says that the way to remedy all this is to have a policeman come in about the time you are going to wash your face in the morning, or perhaps, if you feel like it, when you take a bath, to tell you that you ought not to fill the bath-tub sixteen inches with water, because twelve inches is enough, and for a small-sized man like my friend from New Hampshire eight inches might be enough. [Laughter.]

Mr. ROLLINS rose.

Mr. BLAINE. I mean no disrespect at all; it is a mere question of avoirdupois.

Mr. ROLLINS. Mr. President——

The PRESIDING OFFICER. Will the Senator from Maine yield to the Senator from New Hampshire?

Mr. BLAINE. Not while he is in temper.

The PRESIDING OFFICER. The Senator from Maine declines to yield.

Mr. ROLLINS. If the Senator had been——

The PRESIDING OFFICER. Does the Senator from Maine yield?

Mr. BLAINE. I will when he is cool.

The PRESIDING OFFICER. The Senator from New Hampshire will resume his seat.

Mr. BLAINE. I yield to him.

The PRESIDING OFFICER. The Senator from Maine yields.

Mr. ROLLINS. I merely want to suggest to the Senator from Maine that if he had been in his seat when the bill came up a few days ago it would not have been necessary for him to have made the remarks which he has now made.

Mr. BLAINE. That is what I said when I began.

Mr. ROLLINS. I am trying to provide a way by which the Senator from Maine can get water in his very vicinity. That is what I am trying to do.

Mr. BLAINE. That is just in the vicinity of the man I want it.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. ROLLINS. You have not water enough, do not have it now because you are on a little higher level than somebody else who lets the water run day and night, and as long as water will run down hill and not up the Senator from Maine, with the present supply and under the present circumstances, will not get a proper supply of water. That is all there is of that.

Mr. BLAINE. But then while the residence that I may happen to occupy is a little higher up than a good many others, there are a good many others a little higher up than I am, away up on the aristocratic terrace where the Senator from Vermont, not now in his seat, lives. If they should set everything going we could not get a drop.

Mr. President, I do not accuse the Senator from New Hampshire or any other individual, but I say generally and collectively there has been gross and almost criminal negligence in not keeping pace with the obvious increase of population and the consequent demand for more water with the needed supply of water.

Mr. ROLLINS. We have more water here than any other place.

Mr. BLAINE. That is well enough to tell me. The Senator talks about having more water here than anywhere else, when three-quarters of the area of the city (measuring it by area, I do not say by population) is to-day crying out for a sufficient supply of water. I do not believe that there is any efficacy whatever in this measure. If there was, I would gladly vote for it; but I believe that just as long as we keep these little pottering attempts——

The PRESIDING OFFICER. The morning hour having expired——

Mr. BLAINE. One minute yet, I think, if my eye is as correct——

The PRESIDING OFFICER. The unfinished business is the resolution reported from the select committee——

Mr. ROLLINS. I wish the Senator from Alabama would allow this bill to be disposed of. I do not want to trouble the Senate with it again.

Mr. WHYTE. It cannot be disposed of for an hour.

Mr. MORGAN. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Alabama calls for the regular order. If the Senate will indulge the Chair he will lay before the Senate bills that have been sent from the House that they may be referred to the appropriate committees.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou, situated near said city;

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes;

A bill (H. R. No. 1846) relating to the public lands of the United States;

A bill (H. R. No. 3171) for the relief of certain settlers on the public lands and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;

A bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State;

A bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor;

A bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trusts and diminished-reserve lands lying east of the sixth principal meridian in Kansas; and

A joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands in the State of Kansas.

The bill (H. R. No. 2636) granting arrears of pension to John R. Smith was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States was read twice by its title, and referred to the Committee on Finance.

AMENDMENTS TO BILLS.

Mr. BLAIR, Mr. BUTLER, Mr. THURMAN, Mr. COCKRELL, Mr. JONAS, and Mr. WALKER submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. VOORHEES, from the Committee on the Library, reported an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

COUNT OF THE ELECTORAL VOTE.

The Senate proceeded to consider the concurrent resolution reported by Mr. MORGAN from the select committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States, May 14, 1880.

Mr. MORGAN. I ask that the Secretary report the resolution, which is now before the Senate.

The resolution was read, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the following joint rule be, and the same is hereby, adopted:

Joint rule for counting the votes of electors of President and Vice-President.

THE MEETING OF THE HOUSES.

SECTION 1. The Senate and House of Representatives shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the day prescribed by law for opening and counting the votes of electors of President and Vice-President of the United States, and the President of the Senate shall preside over them.

APPOINTMENT OF TELLERS.

SEC. 2. Two tellers shall be previously appointed on the part of the Senate, and two on the part of the House of Representatives, to record and compute the votes of electors.

OPENING THE LIST OF VOTES AND RECEIVING AND COUNTING THEM.

SEC. 3. The certified lists of votes of electors shall be opened by the President of the Senate in the presence of the Senate and House of Representatives and in the alphabetical order of the States, beginning with the letter A. He shall open all the certified lists of votes of electors (or papers purporting to be such certified list of votes) of each State respectively, which shall have been delivered to him, in the order herein prescribed, and shall deliver them to the tellers, by whom they shall be read in the presence and hearing of the two Houses.

When the papers in one of such certified lists shall have been so read, and before another sealed package or list of votes of electors from the same or any other State has been opened, the President of the Senate shall call for objections to receiving such certified list of the votes of electors and to counting the votes therein certified, or any or either of them. If no objection is made, in the manner hereinafter provided, such list shall be received and the votes be counted, and no other package purporting to be a certified list of votes of electors from such State shall be opened.

If objection is made to receiving such certified list of the votes of electors, or to the counting of any vote therein certified, such objection, or objections, if more than one objection is made, shall each be submitted in writing and shall state the grounds of objection succinctly and without argument, and must be signed in duplicate by at least two Senators and three Members of the House of Representatives; and one of said duplicates shall be handed to the President of the Senate and the other to the Speaker of the House of Representatives; and the said objections shall be stated by the President of the Senate in the presence and hearing of the two Houses; whereupon he shall proceed to open another package, if there be any other, purporting to contain a certified list of votes of electors from said State. And the same proceedings shall be had, and in the same order, with reference to said list and any other certified list of votes of electors from said State, or papers purporting to be such lists, in succession, if two or more lists are opened and read in accordance with this rule.

If any list of votes of electors from such State is so opened and read, and no objection is made to receiving such list or to counting any vote therein certified, it shall be received as the valid and authentic list of votes of electors from such State, and the votes therein shall be counted, and the list or lists previously opened, read, and objected to shall be rejected.

If upon the reading of the certified list or lists of votes of electors from any State no list has been received without objection to the same or to any vote therein certified, the Senate shall withdraw to its Chamber and shall proceed to consider such objections as have been made as aforesaid. And thereupon the House of Representatives shall also proceed to consider said objections.

Senators and Representatives in their respective Houses may each speak upon such objections ten minutes and not longer, nor oftener than once, (except by unanimous consent,) and after one hour's debate on the objections the main question shall be put upon receiving each list of votes and counting the same. And when all objections so made are decided upon in either House, it shall communicate its decision to the other House; and when both Houses have disposed of such objections they shall immediately again assemble in the Hall of the House of Representatives and the President of the Senate shall state the decision of each House upon the questions so submitted to them.

If but one list of votes of electors from any State has been so submitted to each

House for its decision, and it shall appear that the Houses have not concurred in rejecting said list, the same shall be received. But if both Houses shall have concurred in rejecting any vote contained in such list, such vote shall not be counted; otherwise all the votes therein shall be counted.

If more than one list of votes of electors from any State, or paper purporting to be such list, has been submitted to each House for its decision upon objections made thereto, and it shall appear that the Houses have not concurred in receiving either of said lists as the authentic and lawful list, they shall each be declared by the President of the Senate, in the presence of the Senate and House of Representatives, as being rejected; and no list of votes of electors so rejected shall be afterward read in the presence of the two Houses except for information.

The votes having been ascertained and counted in the manner provided in this rule, the result of the same shall be delivered by the tellers to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

PRESERVING ORDER.

SEC. 4. When the Senate and House of Representatives are assembled to count the votes of electors for President and Vice-President of the United States, and any question of order shall arise, it shall be decided by the President of the Senate. And no debate shall be had on any question, except by unanimous consent, when the two Houses are in meeting. But the question of receiving a certified list of votes of electors from any State to which objection is made, or the question of counting the vote of any elector to which objection is made, as provided in this rule, before the Houses have considered the objections to the same in the manner provided in this rule, shall not be considered as questions of order to be decided by the President of the Senate. Appeal may be taken by any Senator or Member of the House of Representatives from any decision made by the President of the Senate; and, when so taken, the question of order and the decision upon the same shall be reduced to writing and signed by the President of the Senate, and a copy of the same shall be delivered to the Speaker of the House of Representatives; and thereupon the Senate shall repair to its Chamber, and each House shall consider and decide, without debate, whether such decision of the President of the Senate while presiding over the two Houses shall stand as the judgment of such House. And the decision of each House having been communicated to the other, the Senate and House of Representatives shall again assemble in the Hall of the House of Representatives, and the decision of each House shall be announced by the President of the Senate; and if it shall appear that each House has voted to overrule the decision of the President of the Senate while he was presiding over the two Houses, said decision shall be set aside, otherwise it shall stand.

ARRANGEMENT OF SEATS, AND RECESS.

SEC. 5. At such joint meeting of the Senate and House of Representatives seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall upon the right of the President of the Senate; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and the Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless when a question has been submitted to each House in regard to receiving a list of votes of electors or to counting any of such votes and the Houses have separated to consider the same, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess of such House not beyond the next day at the hour of ten o'clock a. m.

SEC. 6. This rule is adopted to stand until, by the affirmative action of one of the two Houses, the same shall be vacated.

Mr. MORGAN. Mr. President, I find upon an examination of the rule reported by the committee that it is proper in my judgment to offer an amendment on page 4, at the end of line 65, which I will read for the information of the Senate, but I will not now ask the action of the Senate upon it. I propose to insert:

And all objections so made to receiving or counting the vote of electors from any State shall be disposed of before a list of votes of electors from any other State is opened.

I will send it to the desk and will offer it at the conclusion of my remarks.

Notwithstanding the strict party vote that was given yesterday on taking up this resolution, which vote I hope will be found after all to relate to the mere matter of the order of business to be observed by the Senate, I have flattered myself into the belief, or at least the hope, that the grave and momentous questions now under discussion will be decided with reference to the welfare and tranquillity of the country now and in the distant future. But two measures looking to the receiving and counting the votes of electors of President and Vice-President have been brought into the Senate at this session of Congress: one a resolution to adopt a joint rule which I had the honor to present; the other a bill brought in by the Senator from Vermont, [Mr. EDMUNDS.] On this bill the committee made an adverse report, and at the request of a minority of the committee it was placed upon the Calendar. The committee have reported back, in the resolution before the Senate, the substance of the resolution offered by me.

It was my intention to have asked the committee for authority to explain in a written report the rule now under consideration and the reasons that induced the committee to recommend its adoption, but the prospect of an early adjournment of Congress required that the subject should be brought before the Senate at the earliest day possible, so as to afford sufficient time for its deliberate examination, and I did not ask the committee to delay its action to await the preparation and discussion of a report.

In explanation of the rule now submitted to the Senate for its consideration and to show, if I can, why it should be preferred over other pending propositions, I beg leave to present the following suggestions:

The statutes already in force have gone as far as it probably is safe to go in the direction of the enforcement by legislation of the constitutional provisions relating to opening and counting the votes of electors for President and Vice-President.

The laws of Congress fix the time for appointing electors and the day on which the electors are to vote. They provide for the filling of vacancies in the electoral colleges by the States, and they provide against a failure to appoint electors at the time prescribed by law. They prescribe the character of credentials to be given to electors by the States as evidence of their appointment, the manner of recording the votes of electors upon lists, and the manner of certifying those lists; that copies of them shall be delivered to the district court of the United States and to the proper officers of the State for the security of their preservation, and how they shall be sealed up and transmitted to Washington, and to whom they shall be delivered. These laws attend the votes of electors up to the point of time when they are brought into the presence of the Senate and House of Representatives to be opened.

These statutes require Congress to be in session on the second Wednesday of February succeeding every meeting of electors; and further provide that "the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeable to the Constitution." Here the legislative power has ceased to be exerted, and the jurisdiction of the Senate and House of Representatives to count the votes and ascertain the persons elected takes full effect. The legislative power of the Government having thus far aided in the organization of this peculiar constitutional tribunal, composed of the Senate and House of Representatives, and having brought before it the action of the States and of the electors for consideration and judgment, it is the opinion of many persons that its functions are thereby completely exercised, and that it can go no further in the direction of controlling the count of the votes without invading the constitutional jurisdiction of this great tribunal.

After many years of the most mature reflection Congress has not been willing, except in the electoral commission act, to attempt to control the Senate and House of Representatives by legislation in the discretionary exercise of their right to count the votes of electors of any State and to ascertain the persons who are elected, unless the passage of a joint resolution in February, 1865, may be considered as a law to control the Houses in that respect. There was much debate on that resolution, but the prevailing opinion was that the effect of it was rather to declare the status of the people of the States that it disfranchised than to prescribe a law to control the discretion of the Houses when in meeting.

That resolution, as it was originally offered and was afterward adopted with an amendment of the recitals, reads as follows:

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States and have continued in a state of armed rebellion for more than three years, and were in said state of armed rebellion on the 8th day of November, 1864: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the electoral college for the choice of President and Vice-President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice-President for said term or office.

That joint resolution was passed on the 6th day of February, 1865, with some slight amendments by the Senate. It was then carried to the House of Representatives, and on the same day the amendments were concurred in. It was a House resolution. It was at once sent to the President of the United States for his signature. Some apprehension seems to have been entertained at that time as to whether the President of the United States was in accord with the majority of Congress in reference to any constitutional power on his part to participate in any legislation on the subject relating to the counting of the electoral votes; and so on the same day that the Senate had passed the resolution finally and that the House had concurred in the amendments of the Senate, Mr. Trumbull offered the famous twenty-second joint rule, which was, without debate and almost without question, adopted by the Senate, and on the 7th day of the month, the next day afterward, sent to the House and concurred in by the House. That was the joint rule which I will send to the Secretary's desk and ask to have read.

The Chief Clerk read as follows:

22. The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; one teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected; which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two Houses. If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall, in like manner, submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two Houses; which, being obtained, the two Houses shall immediately reassemble, and the pre-

siding officer shall then announce the decision of the question submitted, and upon any such question there shall be no debate in either House; and any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner. At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the "Speaker's chair;" for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall, upon the right of the presiding officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any of such votes, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess, not beyond the next day at the hour of one o'clock p. m.

Mr. MORGAN. Mr. President, that joint rule was adopted the day before the count of the electoral votes occurred in 1865.

The Journal of the House of Representatives shows that on the 7th day of February, 1865—

Mr. Cobb, from the Committee on Enrolled Bills, reported that the committee had presented to the President of the United States joint resolutions and a bill of the following titles, namely:

* * * * * * *

H. Res. No. 126. Joint resolution declaring certain States not entitled to representation in the electoral college.

Notwithstanding that declaration of the two Houses expressed in their joint resolution, and that it had been submitted to Mr. Lincoln, who was then President of the United States, on the 7th day of February, 1865, the Senate proceeded immediately to adopt this joint rule which I have just caused to be read at the Secretary's desk, and the House on the same day of its adoption by the Senate concurred in that joint rule, and Mr. Lincoln was counted in for his second term of office under the twenty-second joint rule. He retained the joint resolution of the two Houses by which eleven States were disfranchised from the electoral college until the 8th of February, 1865, when he returned it with his approval, but with the following message, to the two Houses:

To the honorable the Senate and House of Representatives:

The joint resolution entitled "Joint resolution declaring certain States not entitled to representation in the electoral college" has been signed by the Executive in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from counting all electoral votes deemed by them to be illegal; and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if his action were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes; and he also disclaims that, by signing said resolution, he has expressed any opinion on the recitals of the preamble, or any judgment of his own upon the subject of the resolution.

ABRAHAM LINCOLN.

EXECUTIVE MANSION, *February* 8, 1865.

That part of the history of the legislation of the Congress of the United States by joint resolution, and of the action of the Senate and House by concurrent resolution adopting a rule for the count of the electoral votes, will be found to have a very important bearing, perhaps, so far as Mr. Lincoln's opinion is authority, and so far also as the opinion of that Congress is authority upon certain questions which may be mooted very seriously in the discussion of the resolution now before us. I have therefore brought them to the attention of the Senate in opening my remarks.

This severe caution against legislative interference which has so distinctly marked our history would be equally appropriate if the President of the Senate should be held to have the right (as some persons contend that he has) to count the votes of electors and to ascertain the result. The rule now submitted for consideration, however, distinctly denies the right or power of the President of the Senate under the Constitution to count the votes of electors or to ascertain the result of the election by computing them. After the law-making power has ceased to operate for the purpose of controlling the two Houses, (whether acting separately or in joint meeting,) in the exercise of these powers, every matter relating to their government in the discharge of these high constitutional duties must of necessity be regulated by their concurrent agreement.

It cannot be well doubted that the safer method of regulating the proceedings of the two Houses in this matter is by adopting joint rules for their government. Grave objections suggest themselves as to the right and the policy of the participation of the President in the enactment of laws that are to control the Houses in a matter in which he may have the greatest personal interest.

Mr. Lincoln's example on this subject is worthy of all approbation and deserves to be followed. The power was claimed by the Congress of the United States to disfranchise eleven States of the American Union in an election where he had been voted for by the electors, whose vote was to be counted the next day after the resolution was handed to him; but instead of acting upon that power he refused to act upon it. He held the resolution until he had been counted in for his second term, and then it was that he returned that resolution, having signed it because he did not choose to differ with Congress in the expression of its opinion about the want of authority on the part of these several States to vote, but expressly and emphatically disclaiming, for reasons which were very important and stated with great clearness by him—disclaiming on his part as President of the United States any authority whatsoever to participate in the count of the votes of electors of President and Vice-President of the United States. He therefore set an example to the people of the United States, to the Congress of the United States, and to his successors in office, which I hope we shall never see a President who will not observe and approve.

Until some amendment to the Constitution shall define with greater certainty the powers of the two Houses or regulate more precisely the procedure they must observe in counting the votes of electors, it is the safer course to leave to them the adoption of joint rules for their own government. The States and the people are represented in the two Houses. Their Senators and Representatives compose the tribunal that counts the votes of electors and ascertains the persons who are elected President and Vice-President. The President of the United States has no constitutional voice in counting the votes or in ascertaining who are elected; and he should have none. He is industriously excluded by the Constitution from participation as a member of the tribunal to count the votes; and it is certain that the least dangerous course to follow is to provide rules for the government of the Houses by their own agreement and without his interference.

Such rules, it is true, are only binding as a matter of comity between the two Houses; but in that character they are, in fact, as obligatory and as little subject to abuse or nullification as if they were in the form of legislative enactments. Under the twenty-second joint rule, not now in force, three presidential elections have been counted; but the imperfections of that rule, and its inadequacy to meet new and dangerous questions, became so obvious that the Senate, at least, was unwilling to attempt to count the presidential vote under its provisions in 1877. Whether or not the condemnation of that rule was wise or just, and whether or not that rule was abandoned for political purposes, the fact that it was abandoned plainly indicates that it is not now acceptable to one of the great political parties of the country—the party by which it was adopted.

I have already stated the history of the adoption of that rule and I have shown that the Congress of the United States at that time, distrusting that it might be in hostility of opinion to the President of the United States, after it had placed the joint resolution disfranchising certain States in his hands for approval or disapproval, immediately, summarily adopted the twenty-second joint rule as a rule to count the votes of electors of President and Vice-President, and thereby, contrary to the practice of the Government from its establishment to that moment of time in reference to the manner in which the two Houses should be allowed to act, aided in the exercise of their great constitutional power and discretion, by establishing a rule to govern the count of the electoral votes.

It is our duty, in advance of another election, to adopt some rule that will be just to all parties at all times and under all circumstances, as far as this may be attainable.

The leading features of the rule reported by the committee in respect of which it is believed to be better than the twenty-second joint rule, are as follows:

First, that it more distinctly defines the powers and duties of the President of the Senate in the part which he is to take with reference to the opening and counting the votes of electors, and with reference to the preservation of order when the two Houses are in meeting, and for appeals from his rulings on such questions.

Second, that it provides more definitely for the order in which the votes from the several States should be opened and counted; and for the disposal of any papers purporting to be certified lists of votes of electors that may be received by the President of the Senate, but are not required to be opened and read.

Third, that it accepts as final and conclusive the fact that, when a list of votes has been received from a State without any objection being made thereto, or to any vote therein certified, such list, and such votes, are in all respects valid; and such acceptance is considered as being by unanimous consent, which precludes the necessity for opening and reading any other list, purporting to be a list of votes of electors from such State, and tends to repress any unnecessary questions that might otherwise arise in the examination of other papers than such as have been so accepted.

Fourth. It provides for the manner in which objections to a list of votes or to the vote of any elector must be made and signed, and prevents any member of either House from raising an objection thereto unless the objection is supported by other members, by requiring not less than two Senators and three members of the House to concur in each objection and ground of objection thereto. It requires every question that shall arise with reference to receiving a list of votes of electors, or in reference to counting the same, to be presented in the form of a written objection, in which the grounds are to be stated succinctly and clearly and without argument.

Fifth. It provides that no debate shall be had on any matter while the Houses are in meeting; and it fixes a definite limit to debate in each House upon the question submitted to it.

Sixth. It so provides that precisely the same questions shall be submitted to each House whenever they have separated to consider objections to a list of votes of electors, or the votes of electors, or a question of order. And it secures certainty of action by requiring each House to communicate its decision to the other upon each matter that shall be separately considered by them before they shall reassemble.

Seventh. It provides for the entry upon the journals of each House of the result of the votes counted for President and Vice-President, and that this shall be a sufficient declaration thereof.

Eighth. This proposed joint rule entirely reverses so much of the former twenty-second joint rule as provides "that no vote shall be counted except by the concurrent vote of the two Houses." The reasons for rejecting that provision I will present more fully in another part of my explanation of this rule; but I will now state that such a provision, either by a joint rule or by a law, places the representation of every State in the electoral college entirely within the power of either House, and virtually denies the right of every State to free and independent action in the election of a President and Vice-President of the United States. Under that rule the electors must vote according to the concurrent will of both Houses, or else the States by which they are appointed are entirely disfranchised. Such a principle is subversive of the true letter and spirit of the Constitution, which guarantees to each State the right to appoint a number of electors equal to the number of its Senators and Representatives in Congress, "who shall meet in their respective States and vote by ballot for President and Vice-President." The right of the State to appoint electors is not more distinct or more sacred than is the right of the electors to meet and vote for President and Vice-President, or than is the right of the particular State, and also of every other State, and also the right of the electors themselves, that their votes shall be counted when they are lawfully given and can be lawfully ascertained.

The provision of the twenty-second joint rule that "no vote objected to shall be counted except by the concurrent vote of the two Houses" is in palpable violation of the Constitution. It gives either House the right to disfranchise a State on any objection to its vote, however light or technical in its character, and without reference to the manner in which it is presented; and this notwithstanding such votes are duly certified and are the only votes cast by electors in a State and are therefore capable of being exactly identified. A more arbitrary and despotic power could not be given to any man or body of men than was given in this particular, by the twenty-second joint rule, to each House. In my opinion, the rule now presented will remedy the defects of the former twenty-second joint rule so far as they have been developed by experience and so far as they can be cured by legislation or by a joint rule.

Under the rule we are now considering each House is left entirely free to make its own decision, and according to its free discretion, upon any question that may arise as to receiving a list of votes of electors, and also as to counting the votes after a list has been received. This rule simply declares the effect of such decision, as the result of the action of both Houses, in accordance with a principle of almost universal acceptance, that controls the decision of all questions by tribunals composed of three constituents; or where three distinct bodies participate, in any manner, in the decision of a question. In every appellate court and in joint commissions, except where express stipulation is made to the contrary, the rule of decision is that a majority must concur in all action that reverses or annuls a judgment previously rendered or anything established by a competent tribunal.

In courts of appellate jurisdiction where there is an equal division of opinion the judgment of the inferior court is affirmed. Whether the action of the States in the appointment of electors is subject to revision and reversal by the Senate and House of Representatives as constituting an appellate or revisory tribunal, or whether the States, in the part they perform in a presidential election, are to be regarded as actual constituents of the tribunal that counts the votes and ascertains the result, the rule of decision should be that the action of the State, when ascertained, should not be set aside, at least without the concurrence of the two Houses. The rule reported by the select committee follows this rule of decision, adopts and confirms it, and does not attempt to create a new principle or to enforce an arbitrary method of arriving at a conclusion.

The States must decide upon two questions before the two Houses of Congress can have anything to act upon in the count of votes of electors, namely: that certain electors have been appointed; and that they are qualified under the State laws and action, so far as those laws can qualify them, to fill the offices named in the State's certificate of their appointment. Both of these facts are necessarily open to review to some extent when the action of the two Houses is being taken upon the question of their validity. And to what extent they are open to review the Houses must determine. This power of review must exist in the tribunal that counts the votes, in order to avoid the danger of a forced or compulsory sanction by the two Houses of the usurpation of the powers of government in a State by factions or rebellious conspirators, or to prevent persons who are disqualified from being electors under the Constitution of the United States from asserting that the question of their qualification has been settled finally and conclusively by the action of the States in giving them credentials as electors.

If Congress has the power to recognize, and thereby to establish, either of two rival or conflicting governments claiming to govern a State, to the exclusion of the other, for a better reason the tribunal to count the votes of electors must have the power to determine whether it will receive a list of votes of electors from either of such conflicting organizations. The duty of counting the votes of electors from a State is necessarily predicated upon the power to determine whether the action of a lawful State government has been taken in the appointment of the electors whose votes are certified and whether the appointment has been made in accordance with law.

In the two Houses the States are all represented, both in their political capacity and in respect of their population. To the exclusive jurisdiction of these Houses the count of the votes of electors is confided by the Constitution, and it cannot be said that this tribunal is in any sense foreign to the States. It is true that Senators and Representatives who compose this tribunal are not acting under the direct authority or control of their respective States in the matter of deciding upon the votes of electors, and they could not be instructed in this matter by the States; but it is equally true that the electors themselves, though acting in the States and under their laws when they assemble to cast their votes, are not under the control of the State governments as regards their right of free suffrage, or in casting their votes, or as to the manner of casting them, or in certifying or transmitting their votes to the President of the Senate. The Constitution and laws of the United States control in these particulars. The jurisdiction to supervise the conduct and proceedings of electors and to challenge and investigate their votes changes from the States to the tribunals created by the Constitution of the United States when the powers of the State government have been fully exercised in their appointment and in prescribing the place where they shall meet.

The office of elector was created when the Constitution was adopted. It had no previous existence. The power of appointment to that office was then conferred upon the States respectively. It was not a reserved power, because it had not before that time existed in the States. The question, therefore, whether the power of appointment has been constitutionally and lawfully exercised is a question that is within the competence of the two Houses to determine. If the Houses disagree as to receiving and counting the votes of electors the action of the State, when ascertained, must stand, if upon no other ground at least upon a sound and ancient maxim of law which applies to all legitimate governmental action, that "everything is presumed to be rightly and duly performed until the contrary is shown."

It is scarcely possible that the two Houses, in deciding upon the validity of the votes of electors, can dangerously trench upon the rightful jurisdiction of the States, or deny to them any of their sovereign powers of government. If unhappily such a thing should occur, it will be done when the States and the people are present by their proper representatives, with power to speak and vote. The theory of the rule now presented is that the States first pass judgment upon the fact of the appointment of electors and upon the validity of the votes cast by them so far, at least, as the question of their validity depends upon the laws of the States; and unless the Houses shall concur in overruling that decision, it shall stand.

When a question arises as to what is the action of the particular State whose electoral vote is being considered, the rule of decision is the same as I have above stated, namely: that the decision of the State and one of the Houses must prevail against the judgment of the other House.

In giving effect, however, to this rule it is apparent that the first inquiry must be, whether the State and one of the Houses concur in their decision upon the identical question. To illustrate: if but one certified list of votes of electors from a State is presented and opened and one of the Houses decides that it is the true and lawful list, there is no difficulty in reaching the conclusion that the State and one of the Houses concur in sustaining the identical list of votes of electors as having emanated from the State's authority. But if two or more lists of votes of electors, coming from the same State, are presented and opened and the Houses fail to agree to receive either of them by a concurrent vote, it is not possible to conclude with certainty as to which of the Houses have concurred with the State in its action, or that either House has consented to receive the identical list of votes of the electors that the State has lawfully appointed. Because this fact cannot be definitely ascertained when the Houses do not concur in selecting, among several returns, the list that is the true and lawful one, it must result in such case that no list can be received, and the State is disfranchised in that election.

Mr. EDMUNDS. I should like to ask the Senator from Alabama how it follows in the case of two returns that there can be a difference of principle on that account. If there are two returns we know under the Constitution one must be false and the other may be true. If it be a sound proposition, as I think it is, (granting for the sake of the argument that the two Houses are the judges) that if two returns are presented, one presumably true and the other certainly false, neither can be taken unless the two judges concur, how can it be true logically or constitutionally or presumptively that if only one set of returns comes, which may be true or may be false, that set is to be taken to be true unless the two Houses say it shall not be? If there is no rule at all and no law and if the Constitution confides to those two independent individual bodies, the Senate and the House, the power to decide, I take it the Senator from Alabama would agree that on a paper presented by the Vice-President the question whether that paper should go into the list of footings is a question to be decided affirmatively to admit it, and if there be two judges of the election and one of them says "I decide it shall go in," and the other says 'I decide it shall not," how is it to get in?

Mr. MORGAN. According to the theory of my rule——

Mr. EDMUNDS. Am I right according to the intellectual opinion of my friend? That is what I want to get at. Take a case of law in the circuit court of the United States composed of the circuit and the district judge, and is not the result what I have stated?

Mr. MORGAN. I have always understood that where a thing was established by a competent tribunal and there was any revisory action taken by any other tribunal consisting of two members, if you please, that revisory action must necessarily be concurrent on their part to overrule the court below.

Mr. EDMUNDS. Undoubtedly, because the decision of the court below stands; but suppose when the alleged record of the court below is presented the party affected says "I deny that this is the record of the court below at all; it is not the seal of the court; it is not the signature of the clerk." One of the judges says, "I think it is," and the other says, "I think it is not," will my friend say that that affirms that it is.

Mr. MORGAN. I am not considering a matter of evidence in court. I am not considering this question upon that ground. I think I have the advantage of the declaration of all legal tribunals whose opinions I have had the opportunity to understand, that where one competent tribunal has settled a question and the rights of a third person or of a people, a community, a State, a government, depend upon the action of another tribunal where that first action is under review, unless the two houses or the two bodies who compose this court of revision and review shall concur to reverse, annul, and set aside the action taken by a competent tribunal in the first instance, that must stand. That stands upon a presumption of law which I have already quoted that everything is presumed to be rightfully done until the contrary appears, on the part at least of State governments. That would seem to be very clear.

Now, the difficulty which seems to have puzzled the Senator's brain for the first time—although he has had the same difficulty in bills which he has offered in the Senate and in the bill which he has pending in the Senate now—is what he is going to do when two sets of returns come from a State and the State has made no final and conclusive decision binding upon the two Houses. What are you going to do? You must concur in receiving the one and rejecting the other; each House must concur to receive the one and reject the other, or else the vote must be cast away, and that the Senator has industriously provided for in all the great measures he has ever brought to the attention of the Senate, and now is in his bill. So I answer the Senator's conundrum by reference to his own proposition, which he himself has presented to the Senate of the United States, and which admits the difficulty which his great ability and great genius have been totally unable to master, and which will never be mastered in this country until there is an amendment to the Constitution. This difficulty we have to deal with according to the best possible manner, but we cannot do it effectually until we adopt a constitutional amendment.

I was speaking when the Senator intervened in reference to the disfranchisement of a State in an election. Such a result is of the gravest importance, and is always to be deplored. But no rule has been suggested by anybody so far under which such a conclusion can be avoided, that is also free from the more dangerous feature of *compelling* the States, through the action of Congress, to adopt a particular method of deciding finally and conclusively all questions relating to the appointment of electors. Congress must exercise a power of compulsion and government over the States and require of them that they shall make a decision of this question in a certain way in order that it shall be received as final and conclusive before we can do anything with it except by an amendment to the Constitution. This seems to be the idea of the Senator's bill.

The best means of preventing dual returns of lists of votes of electors is clearly within the power of the States, and it is a deplorable fault in their legislation generally upon this subject that so little has been done by them to settle these questions at home.

I beg leave to suggest for the consideration of the Senate a defect in the laws of the United States which should be remedied. We have no statute to punish persons who unlawfully usurp the office of elector of President and Vice-President, or for the punishment of such as unlawfully conspire to procure or abet such usurpation, or to punish those who, being disqualified under the Constitution, exercise the powers of electors.

The States could do much to prevent these dangerous crimes by appropriate legislation within a field of jurisdiction which clearly belongs to them, but Congress can also legislate in part so as to prevent these crimes.

In order to bring to the attention of the Senate all that is proposed to be done at this time, with a view to correct certain great evils and to avoid the dangers to which the peace of the country is exposed through the present condition of the laws, I ask the Secretary to read Senate bill No. 1687, which I send to the desk. It is a bill reported favorably by the select committee on the count of the electoral vote.

The Chief Clerk read as follows:

A bill to enforce the observance of the Constitution of the United States in reference to elections of President and Vice-President of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person, being a Senator or Representative in the Congress of the United States, or any person holding an office of trust or profit under the United States, at the time of his appointment as elector of President and Vice-President, shall exercise or attempt to exercise the powers of an elector from any State by voting for any person for President or Vice-President of the United States, or by signing any list of electoral votes for President or Vice-President of the United States with intent to have the same transmitted to the President of the Senate to be opened and counted as a vote or votes of an elector from any State, he shall be liable to indictment, and, on conviction, shall be punished by a fine, to be imposed by the court, of not less than $5,000 nor more than $20,000, and imprisonment at hard labor for not less than five nor more than ten years.

SEC. 2. That if any person not being rightfully appointed as an elector, in virtue of the laws of a State, shall willfully, knowingly, and falsely assume to be an elector from such State, and shall cast any vote as an elector for any person for President or Vice-President of the United States, with intent to have the same counted in the presence of the Senate and House of Representatives as the vote of an elector from such State, he shall be liable to indictment, and on conviction shall suffer the punishment prescribed in the first section of this act.

SEC. 3. That if two or more persons conspire together willfully and unlawfully to commit, or to aid or abet any person or persons to commit the crime defined in the second section of this act, such persons shall be liable to indictment, and on conviction shall be punished in the same manner and to the same extent as if they were convicted under the second section of this act.

Mr. MORGAN. Mr. President, if there is no substantial doubt as to the constitutional power to pass this bill, (and I think there is none,) I hope it will be enacted as a part of the plan to provide for a just and true count of the votes of the electors of President and Vice-President. Certainly we must all feel the necessity of some provision of law that will repress all unlawful attempts by factions within the States to force upon the attention and consideration of the two Houses false and surreptitious returns of lists of votes of pretended electors. In the absence of penal laws to repress such efforts we may expect that the peace, safety, and welfare of the country will be seriously imperiled.

I do not yet know that the honorable Senator from Vermont will bring forward his bill as a substitute for this resolution, but I think it is essential to the proper presentation of this resolution, in the light of all the surrounding facts, to ask the Secretary to read the bill which is on the Calendar, Senate bill No. 1485. I am the more interested in having this bill read because it does not differ materially from this rule in its principles, except in the second section, about which I desire to submit a few remarks.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The bill referred to will be read if there be no objection.

The Chief Clerk read as follows:

IN THE SENATE OF THE UNITED STATES.

March 16, 1880.—Mr. EDMUNDS asked, and by unanimous consent obtained, leave to bring in the following bill; which was read twice and referred to the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the Elections of President and Vice-President of the United States:

A bill to fix the day for the meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the Legislature of such State shall direct.

SEC. 2. That each State may, pursuant to its laws existing on the day fixed for the appointment of the electors, try and determine before the time fixed for the meeting of the electors any controversy concerning their appointment, or the appointment of any of them. Every such determination made pursuant to such law so existing on said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated.

SEC. 3. That it shall be the duty of the executive of each State to cause three lists of the names of the electors of such State, duly ascertained according to the law of the State to have been chosen, to be made and certified, and to be delivered, as soon as may be after such final determination shall be had, to the electors, and before the day on which they are required by law to meet.

SEC. 4. That Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day; and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules in this act provided, the result of the same shall be delivered to the President of the Senate who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two Houses. Upon such reading of any such certificate or paper the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall in like manner submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative votes of both Houses. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 2 of this act to have been appointed if the determination in said section provided for shall have been made; but in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 2 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so authorized by its laws. And in such case of more than one return, or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State.

When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 5. That while the two Houses shall be in meeting, as provided in this act, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer, except to either House on a motion to withdraw.

SEC. 6. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator or Representative may speak to such objection or question five minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of the presiding officer of each House to put the main question without further debate.

SEC. 7. That at such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of the electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

Mr. MORGAN. Now, Mr. President, it will be seen that the bill of the Senator from Vermont, which the committee reported against, answers the question that the honorable Senator put to me in regard to the presumption, and how it was that having acted upon a presumption in reference to the count of the votes where but one return from a State came in, and that thereby the Houses were prevented from rejecting the vote except by concurrent action, I could, acting upon the same presumption when more than one return came in, refuse or decline to allow the vote to be counted unless the Houses concurred. That is the same presumption, doubtless, which was working in the Senator's mind when he framed the fourth section of this bill.

Mr. EDMUNDS. Will the Senator yield to me?

Mr. MORGAN. Certainly.

Mr. EDMUNDS. I think that my honorable friend from Alabama is falling into a great misapprehension about my position and the comparison between the bill to which he has done me the honor to refer and this concurrent resolution now pending. I have the impression that, under the Constitution, a bill when it is enacted, passed by the two Houses and signed by the President, or passed over his veto, becomes a law which, under the Constitution of the United States as to laws, is to regulate the exertion of any of the faculties that the Constitution of the United States imputes to any one of the Departments or officers of the Government. Therefore in the bill that I have had the honor to propose, which I do not maintain myself and never have is theoretically perfect but I thought was practically as near to it as it was possible to get securing justice, we make a rule of law, not because it was the law before, but because by force of an act passed under the Constitution it has become a rule of evidence, as perhaps it may be properly called. Now, the proposition of the Senator from Alabama and of the select committee, on this joint rule, is that, without a law and assuming that the two Houses of Congress are a tribunal each acting independently and in its own Chamber on a question in dispute to decide these matters, you reverse what would be their original and natural rights as equals, under which nothing can be done affirmatively that the two do not agree to, and so by this rule, that is not a law under the Constitution, exactly the opposite course shall follow. That may be the same course that is stated in this bill, but in one case the rule is one that the law has made; in the other case, if this concurrent resolution is to pass, it is not a rule that the law has made, but it is a law ostensibly in effect without the safeguards and sanctions of the Constitution passed in the form of a law which changes the law from what it would be if you did not propose this joint rule. That is one difference. I am sure the Senator will see the difference or will see that I think I see the difference so that he does not involve me in the inconsistency he appears to suppose exists.

Mr. MORGAN. I understand that the Senator from Vermont now contends that his bill is for the purpose of establishing a law that does not now exist.

Mr. EDMUNDS. Yes, sir, that part of it certainly. Now if the Senator will pardon me one moment more——

Mr. MORGAN. I cannot yield any further just now, because I do not propose to have my poor, weak speech harnessed with the great argument of the Senator from Vermont.

Mr. EDMUNDS. The Senator does me greatly too much honor. There is another part of the observations he has made that I think requires a little observation——

Mr. MORGAN. Had you not better put that at me after I have answered you?

Mr. EDMUNDS. Very well. Then I hope the Senator will understand that I have not fully answered yet.

Mr. MORGAN. I will give the Senator an opportunity after I have answered him. I understand that the Senator from Vermont contends that his bill orginates entirely a new law; it might be called an arbitrary law, one that had no previous foundation in human experience, I will say. It is *res nova*, something that has never heretofore been enacted or entered into the conception of the human mind to enact. To the contrary thereof I assert—of course I must do it with becoming modesty—that the principle on which this rule is founded is the same principle on which the Senator from Vermont is proceeding in his bill and brings us to precisely the same conclusion in every case, and the principle for which I contend is one that has existed by the recognition of courts of arbitration and joint high commissions since civilized society was ordained and since governments and peoples undertook to have communication with each other and to settle disputes between each other. That is to say, an established order of things created by a competent tribunal or a judgment rendered by a competent court must stand when another tribunal undertakes to review it, where the last or revisory tribunal consists of two members that cannot agree to reverse. There the judgment of the competent tribunal which acted in the first instance is supposed to be united with the judgment of one of the members of the second or revisory tribunal, and the result is that there is an affirmation of the act. There is the simple and plain principle of my rule, and if that be not law then I have never studied law to any profitable result so far.

Mr. President, it is very singular that the Senator from Vermont in his lucubrations on this question should have come to precisely the same result in his enactment of a new law now having its first birth in his mind, and that that law should precisely correspond to the laws and rules of action and rules of decision of all civilized governments since civilized governments were ordained. I desire to call attention to the perfect harmony that exists between this rule and the law proposed to be provided by the Senator from Vermont. His bill provides:

And no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative votes of both Houses.

I have got it in my rule "concurrent votes." Here we are precisely together. I read further:

If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 2 of this act to have been appointed if the determination in said section provided for shall have been made.

That is a new provision; that is not in the rule at all, but this is:

But in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 2 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so authorized by its laws.

That is another new case provided for and precisely in harmony with my rule.

And in such case of more than one return, or paper purporting to be a return, from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes and those only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State.

So that the Senator has put the same conundrum in his bill that I have got in my rule, and if he is utterly incapable of understanding that question in my rule, he does not understand it in his own bill. The truth is that the honorable Senator, like the rest of the distinguished statesmen who have grappled with this question, when they have come to this particular point have never been able to get rid of the result that when two Houses who are to judge of the validity of the returns cannot concurrently agree as to which set of returns coming from a State shall be received as the lawful and valid return from that State, there being more than one, there is no remedy for it. The Senator from Vermont throws these votes overboard in a bold and heroic manner by act of Congress, and I simply let them drop out by the modest provisions of a little rule. That is the difference between him and myself.

But as I understood the Senator's observations, the controversy between him and me, or rather between his proposition and mine, relates to the question whether we shall do this by legislation or whether we shall do it by a rule; whether we shall do it by the creation of a new law, or whether we shall do it by the recognition of an old established principle. The establishment of this principle has the sanction not merely of the courts of the country, but it has had the sanction of the Congress of the United States in various instances; and not only so, but the Senator from Vermont on the 6th of February, 1869, at the time when Ulysses S. Grant was being counted in as President of the United States, submitted the following resolution for consideration, which the Senate agreed to, (I read from the Senate Journal:)

Whereas the question whether the State of Georgia has become, and is, entitled to representation in the two Houses of Congress is now pending and undetermined; and

Whereas by the joint resolution of Congress passed July 20, 1868, entitled "A resolution excluding from the electoral college votes of States lately in rebellion which shall not have been reorganized," it was provided that no electoral votes from any of the States lately in rebellion should be received or counted for President or Vice-President of the United States until, among other things, such State should have become entitled to representation in Congress, pursuant to acts of Congress in that behalf: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That on the assembly of the two Houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice-President as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if

any, which may be presented, as of the State of Georgia, shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: "Were the votes presented as of the State of Georgia to be counted, the result would be, for —— ——, for President of the United States, —— votes; if not counted, for —— ——, for President of the United States, —— votes; but in either case —— —— is elected President of the United States; and in the same manner for Vice-President."

That was not exactly new, for there was a precedent, I believe, in the case of Missouri and perhaps one also in the case of Wisconsin. There was, I remember, in the case of Missouri.

Mr. EDMUNDS. There was none in the case of Wisconsin.

Mr. MORGAN. No, the case from Wisconsin was a different question. There was that one precedent, then; but a precedent never yet conferred constitutional power on any body of men. That is a question which is always open. The Senator from Vermont in reference to this vote of Georgia took action by a concurrent resolution of the Senate and House of Representatives, far more heroic even than his bill, and claimed for these bodies the absolute right by a concurrent resolution adopted before they had any meeting at all, or a chance for the interchange of resolutions or debate or opinions, before the electoral count took place, to prescribe an absolute, unequivocal duty on the President of the Senate which he had no right to violate without violating the order of the two Houses.

I think that when the Senator comes to argue the branch of the proposition which is involved in the question he has just been debating with me as to the power of Congress to enact a law to control the count of the electoral votes, as contrasted with the power of the two Houses to pass a concurrent resolution with a view to control the counting of the votes, he will find that he, too, has been violating the principle, and that precedent is established by himself, and surely no man can set a higher precedent in this country in regard to any matter of constitutional law than the Senator from Vermont. He is under the difficulty of having changed his opinion on this question. I am not. I suppose that is because I have not been so long in the Senate as he has; but I am very glad that the Senator from Vermont does not regard his own infallibility in that extreme light which prohibits him from changing his opinion.

Mr. EDMUNDS. Certainly I do not regard my own infallibility, if such a thing were possible, which is not as I do not have any infallibility or profess to have any in any light that would induce me or I hope anybody else for a moment to hesitate to change an opinion if satisfied it was wrong. Therefore I agree to all that the Senator has said in principle on that subject; but I respectfully submit to him, with great deference and confidence both, that I have not changed my opinion or my attitude on these subjects from beginning to end.

Mr. MORGAN. Then the Senator when he undertook to instruct, as he did instruct by this resolution, the President of the Senate and the two Houses when met together as to precisely what they should do in a certain event, did not mean anything by it. It was a mere matter of advice, and not anything in the way of legislative devolution of duty by him!

Mr. EDMUNDS. Will my friend be willing to hear me a moment on that point? I do not wish to disturb him.

Mr. MORGAN. I am always glad to hear the Senator from Vermont. If I were not I would be compelled to leave the Senate.

Mr. EDMUNDS. The ground upon which that concurrent resolution proceeded was simply the same as that upon which the concurrent resolutions have proceeded from the beginning of the Government about mere methods of orderly procedure, like that which is contained in the bill to which the Senator has referred that I introduced and in his joint rule that when the Senate goes into the Hall of the House of Representatives the President of the Senate shall occupy the Speaker's chair. I do not maintain now and I never have maintained that a law under the Constitution is necessary to regulate that; and so in respect of the mere mode of stating what the figures are on the papers that the tellers have footed up. And that is all that concurrent resolution is, exactly like the one that Mr. Clay introduced in 1821 (if I am right in the date) and that both Houses agreed to without respect of party, that the announcement by him of the votes of the States, good or bad, being put into the statement, that if it did not make any difference in the result you avoided any controversy by stating it hypothetically this way and that way. It decided nothing. I will not take more of my friend's time because I think he will understand my explanation.

Mr. MORGAN. Now, Mr. President, with the utmost respect for the Senator from Vermont, I will quote the familiar language of an eminent statesman from Ohio, and say, "that won't do." It won't do for this reason: the Senator in his resolution instructed the President of the Senate that if the vote of Georgia would not alter the result it should be stated thus and so. If he had the right to prescribe a rule for the disposition of that vote when it could not have altered the result, why did he not have a right to prescribe the same rule or a different rule when it would alter the result? The logic of the situation compels the Senator, I think, to admit in his own mind that the meaning and purport and only purpose of his resolution was to prescribe a duty to the President of the Senate which he dared not disobey unless he disobeyed the law of the two Houses. It was not meant, as I before said, as a matter of advice to the two Houses, but meant as a rule to regulate their count.

Now, I will take the later presidential election, when the votes of three States—South Carolina, Louisiana, and Florida—were necessary to elect Mr. Hayes by one vote, and when the Senator, anticipating a great difficulty in this country as to the count of that vote, introduced and carried through the Senate and afterward through the electoral commission the great project of counting that vote according to a law of Congress. Suppose at that time it should have occurred to the Senator to have put three States into a resolution—Louisiana, Florida, and South Carolina—and he had said, "Count these votes if they will elect Mr. Hayes, but do not count them if they will elect Mr. Tilden." That is precisely what this resolution in regard to Georgia means. The power to pass the resolution directing how the vote of Georgia should be counted implied and carried with it the power on the part of the Senate and House of Representatives by a concurrent resolution to instruct the President of the Senate on that occasion to have counted these three States, provided they would have elected Mr. Hayes, and not to count them provided they would not.

Mr. EDMUNDS. The Senator has fallen into a great error if he puts the meaning of the resolution of Mr. Clay and the one that I introduced and that the two Houses passed on each occasion, as deciding that any vote should be counted. It is exactly the reverse. It did not undertake to decide anything, but said that if the case did not arise where a decision was necessary in order to affect the result, it should be stated hypothetically, and carefully avoided undertaking to decide what should be the consequence, if it was of any consequence to find out how the vote ought to be determined.

Mr. MORGAN. Then I should like to know what was the object of the Senator in introducing the resolution. Was it to have no effect at all?

Mr. EDMUNDS. It was to avoid a disturbance that was of no possible consequence to anybody.

Mr. MORGAN. That was in the line of keeping the peace?

Mr. EDMUNDS. That was about it, and we ought to have had a marshal, perhaps.

Mr. MORGAN. A marshal and supervisor of election would have been a much more easy way of controlling that matter than a resolution of the two Houses which amounted to nothing! The Senator does not very often regale the people of the United States with a meaningless proposition. If there is a Senator in this body who is a man of purpose and all of whose words are worthy of weight and consideration, it is the honorable Senator from Vermont; and when he puts a resolution before the body and has it concurrently acted on by the two Houses, the country will scarcely fail at least to feel and fear that there is something in it more than mere *brutum fulmen*.

Now, Mr. President, I come to the principle contained in the second section of the Senator's bill. The provision is:

SEC. 2. That each State may, pursuant to its laws existing on the day fixed for the appointment of the electors, try and determine before the time fixed for the meeting of the electors any controversy concerning their appointment, or the appointment of any of them. Every such determination made pursuant to such law so existing on said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated.

The principle of the second section of the Senator's bill is to confer the power upon the States to render a conclusive decision binding upon the two Houses as to the validity of the votes of electors.

Mr. EDMUNDS rose.

Mr. MORGAN. I hope the Senator will allow me to get through my argument——

Mr. EDMUNDS. I thought the Senator was not stating correctly my attitude; but I will not interrupt him without his consent.

Mr. MORGAN. I am not discussing the Senator's attitude. I am discussing his bill according to the language on its face.

Mr. EDMUNDS. But he misrepresents, unintentionally, the language of the bill. He says it confers on the States the power. I do not consider that it confers any power, but it recognizes the existence of a power and says that the two Houses shall be bound by the exertion of that power whenever it is exerted.

Mr. MORGAN. The Senator is in a happy mood of mind, and in a great conception which he thought was for the benefit of the country has concealed from himself in the words presented in his bill what I contend is the principle of it, so that I did not state what the Senator meant to say or meant to do; I am talking about the principle on which his bill is founded, this section of it. I repeat the remark I made. The principle of the second section of the Senator's bill is to confer the power upon the States to make a conclusive decision binding upon the two Houses as to the validity of the votes of the electors. If that be not the principle of the second section of the bill, then there is no principle in it, because while the States have got the power, as I conceive, to send in an authentic way the votes of electors to the two Houses to be counted, the States cannot, unless by the influence of an act of Congress or a concession made by Congress in some form, impose upon these two Houses, when these votes arrive there, the duty of receiving those votes as conclusive evidence of anything.

In conferring this power upon the States we must take it from somewhere, and, as I understand, from the two Houses. It has been always exercised by them. They have always judged in reference to the legality of every vote from every State. If the States are to be *empowered* by act of Congress to render final judgment in certain specified cases, to that extent, it appears to me that the two Houses must be deprived of the same power. They must accept the decision of

another tribunal as being conclusive upon them; and in doing this they must abdicate all jurisdiction to judge for themselves. Congress cannot transfer to the States a right, power, or jurisdiction given by the Constitution to the two Houses.

The power to judge, the power to determine, I care not whether you call it a ministerial or a judicial power, is nevertheless a power that is separated by the Constitution from all other powers and conferred upon this peculiar tribunal and upon no other tribunal. That tribunal has the right to judge finally as to the conclusive effect of any papers that come before them, and whoever undertakes to withdraw from that tribunal this power of final judgment and to transfer it to a State by an act of Congress so as to make the action of that State final and conclusive upon the tribunal invades its jurisdiction, whether it is ministerial or judicial, and to that extent breaks it down. I do not consider that that proposition is answerable.

If it is contended that the States already possess the power, under the Constitution, to finally determine upon the validity of the appointment of electors, or upon the validity of their votes, and that the second section of the Senator's bill only *recognizes* that power and *defines the means* by which its final judgment shall be communicated to Congress, such a proposition contains an admission which destroys the jurisdiction of the two Houses to give a judgment on such matters in any case and in every case. For the Constitution has given this power of final judgment either to the States or to the two Houses. It has not given a part of the power to one and a part to the other, nor has it given the power to the two Houses to be exercised upon condition that the State fails to conform to an act of Congress in making its final decision. The constitutional power to make a final decision rests either in the State or in the two Houses. It cannot reside in both at the same time. There is no language in the instrument capable of such construction. I have sought in vain in my reading of that instrument to find any language upon which the conclusion of the honorable Senator can possibly be founded. Congress cannot apportion a power given by the Constitution to one tribunal between two distinct tribunals, and especially it can make no such apportionment between the two Houses and the States.

The Constitution has given this power of final judgment to the two Houses, or else it is to be found among the powers reserved to the States, and the powers reserved to the States are reserved to them expressly, and include all powers not conferred by the Constitution upon the Government of the United States or some department thereof. There is no partnership in the exercise of these powers. If the power to give final judgment in such cases belongs to the States, no part of it belongs to the two Houses.

If the two Houses can, by compulsion of an act of Congress, be required to receive the judgment of the State as final and conclusive, it must be because the power belongs to the States by the Constitution to make a final and conclusive decision, and not because Congress has the right to take the powers of the two Houses away from them to judge of the finality and conclusiveness of a decision and to confer it upon the States. But whether this power belongs to the States or the two Houses, an act of Congress cannot absolutely control its exercise; it can only aid and facilitate its exercise. An act of Congress that assumes to declare in which tribunal the power resides can be nothing more than a legislative construction of the Constitution, a mere *brutum fulmen*.

Congress cannot enact a law to deal with a State for exercising the power of final judgment as to who are electors duly appointed, or to punish any officers of a State who may give such final judgment. It cannot punish the members of the two Houses for refusing to receive as final the decision from a State tribunal, nor can it declare that such action shall make void their decision in receiving or rejecting a vote. It is powerless to enforce its opinions, whatever they may be, and it may as well abstain from uttering them.

As I have already observed, with the exception of the second section, the principles on which this rule is based are substantially the same that are found in the bill of the honorable Senator from Vermont, and the procedure which the rule prescribes is also substantially the same with that in the bill of the honorable Senator.

I have not introduced this question before the Senate by bringing into my remarks the bill of the Senator from Vermont with a view of getting up a discussion, but with a view of attempting to defend the rule which I have presented here against the weighty authority of that Senator's opinion, and with a view to show that he himself has in a large measure adopted the very principles upon which my rule is based, and that in one particular at least I think that he is making a very dangerous attempt to wrest the power of the two Houses in reference to the right to count and determine the electoral vote from that tribunal, and if not to confer it upon the States at least to compel Congress when the States have come to a decision that is final according to their own laws to receive that as conclusive.

My view of this electoral tribunal is simply that it is a great council of States, peculiar in its construction, peculiar in its jurisdiction, intended to meet that which has not occurred in any other government so far as I know, the duty of counting the votes sent up by sovereign States and determining the result of the election. It is not a congress met together; it is not a joint assemblage of the two Houses in which there is any general power to be exercised by them in the presence of each other, but it is the meeting of two distinct constitutional bodies intrusted with a distinct constitutional jurisdiction. The very essence of the jurisdiction that they can exercise implies necessarily that they must have the full and unlimited power of deciding according to their own enlightened discretion and judgment as to what is proper to be done under the Constitution and laws of the United States and the States that are represented there.

I think that we need not harass ourselves with unnecessary fears in reference to the action of this great tribunal, when we reflect that the Senate is represented there, that the States in their political corporate capacity are represented there, and that the people are represented there also by men selected by them for the purpose of participating in this high duty, because there is not a member of the House of Representatives to-day who was not elected with more or less direct reference to his participation in this great constitutional tribunal in the count of the vote for President at the next November election. Therefore we need not be apprehensive as to the effect of leaving the power where it has always been intrusted by the action of the Senate from the day that George Washington was counted in, at least on his second term, down to the time of the electoral commission, leaving the power and the judgment in the hands of those representatives of the people who are the very best guardians of the rights and interests of the people. Are we to infer that this tribunal is going to run wild and make a false judgment—a judgment contrary to popular opinion or popular instruction in the election, when we reflect that we intrust into the hands of these same men when assembled in a Congress of the United States all the full and great powers which belong to them in governing this people in so many important respects?

I think that the best thing to be done now and hereafter in reference to the action of the two Houses when met together is to produce as little friction between them as possible in the nature of resolutions or in the nature of legislation. Let them meet like judges ought to meet and decide as they have a right to decide, first, upon the evidence which they will receive; second, upon the weight that they will give to it; and third, upon the conclusions to which they will arrive upon their oaths in reference to their duties to the country. I have no fears of this kind.

Mr. CONKLING. Will the Senator allow me to make an inquiry?

Mr. MORGAN. Yes.

Mr. CONKLING. May I ask how it contributes to that end or to any other end deemed by the Senator beneficial, to prefer a mode which requires neither the signature of the President to perfect it, nor the signature of the President to prostrate it? How does it conduce to the harmony or lack of friction, if that was the Senator's phrase, which he thinks desirable, to have a mere ephemeral joint rule, more ephemeral than a rule of one House, because subject not only to the will all the time of either House alone, but subject to fall utterly without even the action of either House, when by an act solemnized by the concurrence of all the elements of the law-making power, you could have a permanent provision which would not be subject to the caprice of a mere inaction of a single House?

Mr. MORGAN. That brings up the discussion of a question that I adverted to in the remarks which I have just submitted to the Senate as to the preference that ought to be given between a joint rule and an act of Congress. I have stated already that I thought the Constitution had industriously excluded the President of the United States from all participation in the matter of counting the votes of electors of President and Vice-President, and I thought that was a very wise provision; but I said that the Congress of the United States, at a time, I believe, when the Senator was in the other House, had passed a law for the disfranchisement of certain States, the joint resolution was sent to President Lincoln, and that he very wisely and very patriotically, although signing the joint resolution, expressed the opinion that his signature had no effect at all upon the measure, for the reason that it rested entirely in the power of the two Houses to make the count, and that any interference on his part would be a transgression of the jurisdiction of the body provided by the Constitution to make the count.

I would venture with a great deal of hesitancy, and I confess in some instances with alarm, upon intrusting to the President of the United States the power to participate in legislation which might affect the result of the count in which he was personally interested. A measure of legislation is brought in here, passed through the two Houses of Congress, for the purpose, we will suppose, (because I believe that such things have been done and may be done again,) of giving to certain political parties enough of power to count in the successor of the President then in office. That President himself being a candidate it might be for a third term, or a fourth term, or a fifth term, as the case might be, or even for a second term, this measure of legislation is presented to him. He approves it because it suits his private purposes or the purposes of his party. Now, I will take the obverse view of it. I will suppose a law standing upon the statute-book, which a large majority of the representatives of the people in both Houses desire to repeal, because they believe that such a law as that would thwart and obstruct the full and free expression of their votes cast in the ballot-box. The President, however, desires to have the count of the electoral vote in a way which is compelled by an existing act of Congress. A bill is presented to him, which passes, I will say, by a majority of ten, fifteen, or twenty in the respective Houses. To repeal that law he has a little over one-third of each House who

are his partisans, locked up, tied up, knit up with him in every possible expectation that might result from the presidential election. He says, "I will veto that bill; I will not allow the people to have an expression of their own opinions and views here; I will deprive them of it, because there is a law upon the statute-book, and I have got the power to veto the bill that is presented to me."

Sir, I do not think that the honorable Senator from New York should raise this question, because he is bound by the precedents of his party that adopted this twenty-second joint rule. That party adopted that rule and they kept to it as long as they thought it was a convenience, as long as they thought that it was a means of advancing their success; but the very moment they found it a stumbling-block in their way or an insufficient means perhaps for the disfranchisement of eleven States of the American Union they simply withheld their consent and the rule fell. I have no doubt that that party felt at that time greatly relieved by the fact that they had not bound themselves up by a law in reference to the count of the electoral vote. So they quietly left the rule to break down of itself, and reasserted in their own favor the power in the two Houses to count that vote irrespective of any joint rule whatsoever. Under the twenty-second joint rule the honorable Senator from New York, [Mr. CONKLING,] on the 13th of January, 1869, offered the following resolution:

Resolved, That the President of the Senate be authorized to appoint the teller on the part of the Senate, provided for in the twenty-second joint rule of the two Houses to receive and count the votes for President and Vice-President.

There was a recognition of the power, vitality, force, and influence of the joint rule, the Senator himself moving a resolution in accordance with it by which the votes of the electors at General Grant's election were to be counted.

But I forbear longer to disturb the honorable Senator from New York with my efforts to answer his question. He has been very happily engaged; he has not heard what I have said; and I presume he is now ready to ask me another question.

Mr. CONKLING. If the honorable Senator will pardon me, I assure him that my attention has been as assiduously given to him as to another democratic statesman of equal distinction, and their minds have been on the same topic, namely, the next presidential election.

Mr. MORGAN. I have no doubt that the honorable Senator's mind was upon that topic, for I dare say it has not been out of his mind for a great while. If the people were as much disturbed about it as the Senator, I do not know what would become of the country.

Mr. CONKLING. I am sorry that I annoy the Senator by making a public exhibition of the fact I am stating, but really there is no secret about it. Taking somewhat different views on the subject, the Senator from Alabama being more intent upon counting the votes and the very distinguished Senator by whom my attention was diverted being perhaps more intent upon getting those votes, but still both Senators conspiring, colluding and confederating together, in the language of the law, by hook or by crook if possible to secure the next Presidency for the party of which they are such distinguished ornaments.

If my honorable friend will allow me one moment further, I beg to say to both those Senators in the hope, if not of tranquilizing, of putting them out of their misery, that it makes no difference what steps they take about the casting of the votes or the counting of the votes, or the mode in which it is to be done, their prospect is a mere dissolving view. In the end, and in the inevitable end, the people are going to elect a President who is not likely by having any act submitted to him at this session to be called upon to act in his own case.

There the honorable Senator from Alabama, if he will allow me, permits himself to be afflicted by a fear which I am sure ought not to disturb him. I think he may rely upon it that, if he at this session submits an act of Congress to the Executive signature, that signature will be given or withheld with absolute impartiality so far as bias is concerned growing out of the fact that it might affect the count in his own case. I do not think the Senator from Alabama need disquiet himself with that fear. On the contrary he may go on and legislate wisely and fairly, and I think that I can assure him, bad a politician as I am, a tyro in the art, that the people will elect a President the next time, and that the votes will be counted with sufficient fairness to insure the result that they mean. Therefore I look with a good deal more composure than I otherwise should on this and various other pieces of legislative proceeding all designed to effect that result. I tell the honorable Senator from Alabama it is a foregone conclusion, and all of them put together cannot in my judgment circumvent or confute the result. The honorable Senator from Ohio [Mr. THURMAN] looks very grave about that, and if I were in his place I am frank to confess I should feel very much as I suppose he does, but, sir, that is the difference between being a spectator and a party.

Mr. MORGAN. I have no doubt at all that the Senator from New York is a very bad politician, but not in the sense of being a tyro. He is a good politician in the sense of managing affairs to suit himself and to suit his party. He is a great political leader, and I suppose that now the republican party is speaking through him, and that the republican party do not want a rule established—they do not want a law enacted; they prefer to antagonize any rule or any law at all, so that they can have the advantage perhaps when the two Houses come to count the vote of saying "You have not counted it to our satisfaction, and we will now do what we threatened to do four years ago—use the bayonet." I propose to have this country put in such a condition, if we can possibly do it, as that there shall be no bayonet rule and no guns trained upon the Capitol hereafter.

Mr. CONKLING. May I inquire of the Senator who, if he will tell me, ever threatened four years ago to use the bayonet.

Mr. MORGAN. I was not present in the Capitol myself, but I have the authority of many gentlemen for stating that guns were placed in position to bear upon this Capitol. Does the Senator deny that?

Mr. CONKLING. Deny what?

Mr. MORGAN. That guns were placed in a position to bear upon the Capitol. Does the Senator deny it?

Mr. CONKLING. To bear upon this Capitol?

Mr. MORGAN. Yes, to bear upon it.

Mr. CONKLING. I am glad the Senator after making such a statement as that acquits himself by saying that he was not here and does not know anything about it. If he had been here, and did know anything about it, I do not believe he would make such a statement. For one, I never heard of such a thing that I can remember. If I ever did hear of it, it was a part of the rubbish which hearsay takes up on all occasions of excitement. It is possible that some man somewhere may have labored under the hallucination or may have perpetrated the falsehood which is formulated in that way. I cannot remember ever having heard it before. I was here; I never saw any gun; I never dreamed of any such thing. Now, as the Senator from Alabama is so patient with me, if I do not trespass too far upon his courtesy, I beg to make one other remark.

The honorable Senator has paid me the compliment, in satire no doubt, of supposing that I speak for the republican party. Oh, no, Mr. President, I speak for myself, without authority to speak for anybody else, and so speaking I assure the Senator from Alabama that I do not want the absence of a mode of ascertaining the presidential count. Far from it. I do not want in this regard or in any regard the presence of anything or a condition of affairs in any respect which tends to anarchy or disorder, which opens a door to peril or to confusion. Oh, no, partisan though I am, partisan though I shall never deny that I am, partisan as I believe in politics, in religion, and in all else every man is who has a heart to feel and a head to think, I am not such a partisan as ever to engage in a contest for victory or in an effort for revenge by means of disorder, by means inimical to the Constitution and the genius of the Government.

But, Mr. President, on the other hand I am neither so credulous, so short-sighted, nor so emotional as even to pretend special sympathy or reverence for such an effort as the Senator from Alabama now leads. I do not mean, as he very well knows, to challenge his motive or his purpose. I deal with the measure before the Senate; with that I have a right to deal; giving offense to no man, I have a right to speak of it as I believe it to be, as pretentious, as professing that in respect of which it is hollow and evanescent.

This measure undertakes somewhat ambitiously as I think, with somewhat of ostentatious conservatism, to be very fair in that it requires the concurrent action of the two Houses in order to cast away the vote of a State. Were it an act of Congress requiring, first, the executive signature or else two-thirds of both Houses to adopt it, and, secondly, the executive signature or else the concurrence of the two Houses to prostrate it, it would be conservative; it would have that element of conservatism found in permanence, in duration; but it is the mere device of a passing hour. It is a contrivance, (and I choose that word, not because it implies offense,) it is a device intended for the nonce, intended to operate once and once only, intended to provide for the count of that election in which I hope the honorable Senator from Ohio will carry the standard of his party, because I would like to see the standard on both sides in distinguished hands. It is for that and that alone, as much as if it said, as does the placard for a show sometimes, "positively for one day only."

Mr. THURMAN. Can one Congress bind a subsequent Congress by a joint rule?

Mr. CONKLING. We shall come to that in a moment if you do not worry the Senator from Alabama by making me take so much time.

I wish to say in condolence to the Senator from Alabama that I am not occupying his time, it is the Senator from Ohio who keeps me so constantly occupied here by throwing side-lights upon me and making side-bar remarks, so that I have not been able up to this time to conclude as I conscientiously meant to do. I trust the Senator from Alabama will charge this delay to the account of his distinguished *confrère* and not suppose that it proceeds at all from me.

The two Houses of Congress are democratic by decided, immovable majorities. It will be the 4th of March next before either of these two Houses will or can change its complexion. This count, the one approaching, is to be made and concluded before that day; so that when we say that the two Houses shall concur in casting out a vote the honorable Senator from Ohio knows as well as I know that it amounts to nothing more than if we said either House might do that thing. Why? Because the question is to be, as is sometimes said here, political, not merely political, because nearly all questions are political as I understand that word, but it is to be a party question. It is to be a grapple for the mastery between two political parties, and when a question shall arise on which the democrats of the Senate with their majority say "We propose to cast out the vote of this

State," in that same hour will arise that same question on which the democratic majority in the House will say the same thing.

If this were to be an act of Congress and to survive after the 4th of next March, it might well be said for aught we know the next time a count is to occur one House may be of one political majority and the other House of the other, and therefore counteracting and countervailing each other under such an act no State will be cast out unless upon grounds which commend themselves to men of opposite political proclivities. There, I say again, would be permanence; there would be conservatism; there would be yielding up on the altar of patriotism and constitutional security the advantage of faction, of party, and of coalition.

This measure makes no such provision. The committee did insert an amendment that if the rule is adopted it is to stand until one House or the other shall by affirmative action vacate it. I have no right to refer to what happened in the select committee, but I have a right to state that if the learned committee had been willing to say that this rule should stand until both Houses concurred in its overthrow, although that would have fallen far short of the security of an act of Congress, still it would have been a step in the right direction, a much longer step than this.

Mr. MORGAN. Have I the permission of the Senator from New York to proceed with my argument? Has the Senator concluded his remarks?

Mr. CONKLING. The Senator from Ohio has nowhere near concluded his remarks. It is the remarks of the Senator from Ohio which have detained the Senator from Alabama, as I have once or twice observed. In the intervals I have made a few feeble remarks myself, but the time at large has been consumed by the honorable Senator from Ohio. If the Senator from Alabama wishes to cut me off, of course I must submit, because I am already so much indebted for his courtesy; but if he will allow me to conclude, I will do so in a moment, and will do so by saying that although the Senator does me infinite injustice in jest or in earnest, when he supposes that I want to launch the next electoral vote upon the shoreless and soundless sea of uncertainty, an injustice which I think I can appeal to the very humble part I have had before in electoral counts to refute; I am quite content in the same breath of my denial to admit and assert that I shall have much more respect for a provision guarding the electoral count when that provision comes with something less of ostentatious offer of fairness, and somewhat more of permanent security.

We can make this a permanent provision; we can make it as a joint rule more permanent than it will be in this form, because although as the Senator from Ohio reminded me a moment ago in his seat, there may be doubt about one Congress binding another by a joint rule, still if we were to declare that this rule should remain until both Houses by affirmative action vacate it, we give to it, if not a technical, a moral and thus a legal support which hedges it about with far more prospect of duration than when we so leave it that either House alone may throw it down in a moment, and that it will fall from mere negation though neither House lays hands upon it.

Mr. THURMAN. It requires one House to vacate it.

Mr. CONKLING. The honorable Senator says it requires one House. So I have said it requires one House, and that provision will operate during the life-time of the present Congress. The honorable Senator once argued, I believe, that it would survive that time, but a majority of the Senate, of the committee of his political associates, and the organization to which he belongs in the House of Representatives held the other doctrine.

Mr. THURMAN. I beg my friend's pardon.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Ohio?

Mr. CONKLING. If I have the right.

Mr. THURMAN. The Senator is quite mistaken. On the contrary the Committee on Privileges and Elections of the Senate through their chairman, Mr. Morton, reported certain rules and left out the twenty-second joint rule. They insisted in that report, and their chairman insisted, that the joint rules all fell at the end of what they pleased to call a Congress.

Mr. CONKLING. Have I denied that?

Mr. THURMAN. I combated that and insisted that this thing of calling it the Twenty-ninth, Thirtieth, Fortieth, or Fiftieth Congress was mere nomenclature; that the House of Representatives was as permanent as the Senate, and that a joint rule did not fall with the expiration of a Congress, so called. My colleague then, now the Secretary of the Treasury, not combating my argument, advanced the idea that supposing that to be so, yet either House could withdraw from a joint rule at any time that it saw fit. I do not know that my friend from New York combated that doctrine of my colleague, and I do not believe he will combat it now, that either House can withdraw from a joint rule whenever it sees fit.

Mr. CONKLING. Mr. President, it is not often that I have such distinguished corroboration. It is not often that the Senator from Ohio rises merely to fortify what I say. He has confirmed my statement. I did not allude to his colleague or to the other Senators to whom he has alluded. I said that the honorable Senator from Ohio argued that a joint rule survived the expiration of a Congress, but that the other House and the organization to which he belongs in the other House headed by the Speaker of the House——

Mr. THURMAN. The Senator quotes me wrong.

Mr. CONKLING. Oh, no, Mr. President, I am making a solid contribution to history.

Mr. THURMAN. It is very erroneous.

Mr. CONKLING. Oh, no, on the contrary——

Mr. MORGAN. I desire to say to the Senator from Ohio and the Senator from New York that I have the privilege of this floor, and the Senators did not take the floor from me by my consent for the purpose of discussing questions that have arisen between them to which I have not referred. I made no reference to the subject they are discussing.

Mr. CONKLING. I will yield the floor. I wish first, on behalf of the Senator from Ohio, to apologize for the time that he has occupied belonging to the Senator from Alabama; I feel that that is just; and as I have the floor for that purpose, I will include myself in the same apology. I will conclude, if the Senator will allow me, with simply one remark.

It is true, as I tried twice to say when the Senator interposed in the midst of my sentence, that a majority in the House and a majority in the Senate held that the joint rules fell with the Congress, although as I have twice said that was not the opinion of the honorable Senator from Ohio. It was as he has shown, the opinion of other Senators on both sides. It was the opinion of the House of Representatives, then democratic, and the joint rules did fall. So will this joint rule fall, and the expression in it that it is to stand until one or the other House acts, will operate virtually only during the life-time of a Congress, and even during that life-time either House by a breath, in the twinkling of an eye, in the House under the previous question, may strike down this rule at this session, or at the next when the count is about to begin.

Mr. THURMAN. I ask my friend from Alabama to allow me one moment.

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Ohio?

Mr. MORGAN. I yield to the Senator from Ohio.

Mr. THURMAN. I want to vindicate the truth of history, as a celebrated Senator from Missouri used to say. So far from the House of Representatives agreeing that the twenty-second joint rule fell with the expiration of a Congress, a rule under which three presidential counts had taken place without its being re-enacted; so far from the democratic House of Representatives agreeing to any such proposition as that, my recollection is that the House sternly set its face against any such proposition.

Mr. EDMUNDS. The Senator is mistaken about that.

Mr. MORGAN. I cannot yield further to colloquies between Senators. I have had the floor and have shown great patience and indulgence to Senators in their attempt to interpolate in my remarks.

The PRESIDING OFFICER. The Senator from Alabama declines to be further interrupted.

Mr. MORGAN. Yes; I decline to yield further. When I yielded to the Senator from New York, I did not expect that he would embrace in the few remarks that he asked permission to make a whole body of extensive argument against the rule. I do not complain of this action on the part of the Senator, [Mr. CONKLING rose,] and even if now he will allow me to speak, I shall be much obliged to him, as I have the floor.

I was at a loss whether the honorable Senator expected to get out of the difficulties in which he was entangled by his wonderful facetiousness, or whether he supposed he might be able to throw me from the line of my argument by the interpolation of his witty and humorous remarks, his criticisms, and his cynicisms also upon me and the rule. The Senator will find that I am not to be led off in that way. His argument, radiant as it was, was a mere illumination of my position, not an answer to it. The honorable Senator put no one fact in the way of the argument which I presented, and after he has now exercised his great powers for a full half hour in his endeavor to make a complaint against this rule, it results that he has not been able to state one single principle in the rule which is at fault. There is nothing in the rule that is wrong. There is no rule of decision here, nothing that even jars upon the sensibilities of the honorable Senator from New York except the ostentation and presumption with which this committee have ventured to bring forward for his criticism a certain measure of procedure which they think is necessary for the proper conduct of the business before the great council that is to count the votes.

Mr. CONKLING. Not presumption, but pretension.

Mr. MORGAN. The Senator corrects me; not presumption, but pretension. I believe that is still a more afflicting word to a man of nice sensibilities, for even a fool might be presumptuous and escape on account of his folly the chastisement that might belong to him, but a man who pretends to a thing, knowing better, of course puts himself in a very false attitude.

This rule in its principles had the sanction of a man who at one time had the ear of the people of the United States, or at least the republican party of this country, and before whom these Senators, juniors and seniors, bowed with absolute obedience, whose will they seldom ever attempted to check or to thwart or controvert. That man was Oliver P. Morton. He brought forward the principles of this rule in a bill. The Senate passed the bill and the House disagreed to it, when it was republican. I am not responsible for the

disagreement of the House to that bill. That House of Representatives acted upon the idea that the enactment of a law was beyond the jurisdiction of Congress to control this electoral body or to count the electoral votes.

Now, let us look a little at the history of the joint rules. When the Senator from New York was either in the Senate or in the House—I believe he was then in the House—the twenty-second joint rule was adopted. That was the first move which had within its purview or within its body anything like an established order of procedure for the count of the votes of the presidential electors. Before that time the resolution under which the two Houses had acted during nineteen presidential counts read as follows:

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 13th day of February, 1861, at twelve o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

With a single exception, in all but two or three instances of the use of the words "and the President of the Senate shall be the presiding officer," that is the resolution *in hæc verba* under which there were nineteen counts of presidential elections, including the first election of Mr. Lincoln. No procedure, no law, no permanent rule, but at every Congress within a few days before the two Houses were required by law to meet and count the votes this resolution was introduced and passed upon, the two Houses concurring, and they met and counted the vote. Why was it that all the eminent statesmen who have preceded the Senator from New York, including the great men who have existed from the day of the Constitution down to Abraham Lincoln, had been totally forgetful and oblivious of their duty in converting the rule under which they were to count into a law? What is the country to suppose in reference to the folly and imbecility of that class of great men, supposed to be great at least, who passed through nineteen presidential elections without ever having conceived the necessity that was incumbent upon them that they should pass a law which should be permanent in its bearing and in its operation, and which could not be repealed except by the consent of the President?

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Vermont?

Mr. MORGAN. Yes, for a question.

Mr. EDMUNDS. I think the Senator has forgotten what I am sure he will recall to his recollection in a moment, that on at least two occasions within the time he has mentioned, the two Houses of Congress, at first composed of the very men, many of them, who framed the Constitution, did think it was necessary to propose a law to decide any right, but not necessary to pass a law to merely arrange for the meeting of the two Houses that would decide nothing, because in 1801 they undertook to pass a law which would cover the whole subject, and each House did pass a measure in one form or another, though they could not both of them agree what it should be. In 1824, or about that time, they tried the same thing again.

Mr. MORGAN. Then the Senator from Vermont has very satisfactorily established that the two Houses made a failure on two occasions to pass any law at all. There were men enough, I suppose, in the two Houses of opinion that a law should be passed to have agreed upon one if they could have satisfied themselves in regard to the terms and provisions of it. The danger is illustrated by the fact that the two Houses would not agree in 1801 and in 1824 to a legislative enactment. The danger is that when you commence by means of legislative action upon a subject of this kind, you never find a stopping place. If you enact a law providing that the action of a certain State tribunal shall be final and conclusive evidence upon the Houses in counting the votes, then the next law you must enact is as to what evidence shall be conclusive in the State tribunals and who shall be the witnesses, and how it shall be certified, and the rule under which they shall determine the competence and credibility of witnesses.

Once that you get this subject open to legislative action and put it under the control of the legislative power of Congress you open a wide gap, and it will go like your provision in regard to appointing supervisors of elections and marshals and deputy marshals, instrumentalities of fraud and corruption like that, until the two Houses are absolutely borne down and the constitutional power of the bodies is destroyed. I do not want to see that wedge driven one single inch in this subject. Let it stop now where our fathers let it stop. If they could count nineteen presidential elections without a law, I think we can afford to count one under a rule. If they could adopt the twenty-second joint rule and count three presidential elections under that, I do not see why we cannot adopt a rule which has no other bearing or effect than the mere regulation of the parliamentary procedure between the two Houses, whereby an honest and faithful result may be declared and the country satisfied.

The honorable Senator from Ohio referred to the manner in which this twenty-second joint rule was disposed of. I will read Mr. McDonald's account of it—that able and faithful clerk of the Senate, who was as well informed in regard to the legislative history of this body as any man who was ever in it, I expect, and whose authority upon a question of this kind I consider to be as high as is necessary for such an occasion:

The joint rules which heretofore governed in the transaction of business between the two Houses, are, including the twenty-second joint rule, which was abrogated by the act of Congress of January 29, 1877, regulating the manner of counting the electoral votes for President and Vice-President, inserted in this compilation for the purpose of information, with the following explanatory remarks:

A question having been raised in the Senate at the first session of the Forty-fourth Congress, whether the joint rules of the two Houses did not require for their enforcement the concurrence of both Houses in their readoption, the Senate, on the 20th of January, 1876, passed and sent to the House of Representatives the following resolution:

"*Resolved by the Senate, (the House of Representatives concurring.)* That the joint rules of the Senate and House of Representatives in force at the close of the last session of Congress, excepting the twenty-second joint rule, be, and the same are hereby, adopted as the joint rules of the two Houses for the present session."

To this resolution the House made response, but, on the 14th of August, 1876, as had been usual at the close of a session, sent to the Senate for its concurrence a resolution to suspend the sixteenth and seventeenth joint rules; upon which, the Senate passed and sent to the House the following resolution:

"*Resolved*, That the resolution of the House of Representatives presented this day in the following words, 'Resolved by the House of Representatives, (the Senate concurring,) that the sixteenth and seventeenth joint rules be suspended for the remainder of the session,' be respectfully returned to the House of Representatives, with the statement that, as the House of Representatives has not notified the Senate of the adoption of the joint rules"—

Mr. EDMUNDS. Not "the." The Senator misreads it.

Mr. MORGAN. "That, as the House of Representatives has not notified the Senate"——

Mr. EDMUNDS. "Of the adoption of joint rules," not "*the* joint rules."

Mr. MORGAN. "Of the adoption of *the* joint rules," as it reads here.

Mr. EDMUNDS. I have the Journal here in my hand and it reads "the adoption of joint rules."

Mr. MORGAN. I read it from the Manual. If the Senator can correct me by the Journal, it is all right.

Mr. EDMUNDS. Here is the Journal, which I will pass to the Senator that he may be sure that I am right about it.

Mr. MORGAN. The Senator is compelled in this case to stand upon very fine points. It does not alter the meaning of it.

Mr. EDMUNDS. I propose to read the Journal.

Mr. MORGAN. I will read from Mr. McDonald's statement, and the Senator from Vermont can correct Mr. McDonald.

Mr. EDMUNDS. The Journal has corrected Mr. McDonald, and not the Senator from Vermont.

Mr. MORGAN. The Journal is only a little less accurate than the Senator from Vermont, as we all know. I will read it again:

With the statement that, as the House of Representatives has not notified the Senate of the adoption of the joint rules for this present session, as proposed by the resolution of the Senate of the 20th day of January last, and transmitted to the House on the 22d day of the same month, there are no joint rules in force.

There is the point I am after. I wanted to see where the responsibility lay for this matter, whether upon the House or upon the Senate. The House never departed from that rule nor offered to do so. On the contrary, the House wanted to hold on to all of the joint rules. But the Senate of the United States, forecasting the necessity of having a vacuum in the law, in 1876, knowing that there was a purpose in the minds of certain managers of political affairs to capture the election from the people and to seat a man who was never elected, commenced their series of preparations by the abolishment of the twenty-second joint rule, which they had enacted, and for which they and they alone were responsible. Then afterward it was followed up by the electoral bill and then afterward by something that I do not propose to speak of here, because I cannot speak of it with sufficient respect for all concerned.

Mr. President, there was a fair opportunity to test the question whether or not the Senate of the United States, and particularly the republican part of it, wanted permanency in the rule. Says the honorable Senator from New York—I do not quote his words, but I quote what I infer from his argument—"The rule that you have got is good enough, bating that it is a little ostentatious or something like that; but it is not permanent. Put it in the form of a law; let the President put his stamp upon it; let us have the President's signature appended to it; and then it is all satisfactory enough." I recur, then, to the proposition, when this question was before the Senate the last time upon the joint rule, why did you not adhere to the twenty-second joint rule, or at least to the permanency of it? If you were not satisfied with that rule because it enabled either House to put a veto upon the electoral vote of an entire State at its own sweet will and pleasure, why did you not still hold to it and amend it? You wanted permanency, now you must have permanency; and yet our fathers for nineteen presidential elections did not care so much about permanency. They wanted the permanency of their jurisdiction in these two Houses to count and determine the vote; but they did not seek the permanency of any rule which might obstruct the Houses in the full and free exercise of their own discretionary power in the manner of counting.

Sir, if we had a democratic President in the presidential office today this argument never would have been made. This argument is intended to go before the country with a view to try to produce political dissatisfaction with a rule which is perfectly fair in itself upon the ground that we do not allow Mr. Hayes to come in here and participate in the matter of counting the votes of electors for Pres-

ident and Vice-President, and divide the power and jurisdiction that belongs solely and exclusively to this body with the President of the United States.

Sir, that argument will never answer a people anxious as our people are throughout the length and breadth of this great country in reference to the way the next presidential vote is to be counted. They want to know of the democratic party now in charge of the power of these two Houses whether they intend to leave this awful vacuum in the law to be filled as accident or circumstances or opportunity may allow or may require. They want to know whether we will step up to our duty as men should do and lay down a just and fair rule for the count of this vote, a rule against which Senators on the other side can make no objection except as to the mere form in which it has come forward.

Here are twenty-two joint rules in this book. These Houses have been enacting them since the organization of the Government. They operate like laws upon the two Houses. They not only regulate procedure between the two Houses, but they determine very important matters of legislation themselves, particularly in regard to conference committees and the powers conferred by the rules upon those committees. Not one single rule of the whole twenty-two was ever adopted otherwise than by a mere concurrent resolution. Not one of them was ever carried to the President of the United States. On the contrary, when the first joint rule was adopted between the two Houses the question was expressly raised and voted upon in the Senate of the United States as to whether that was a measure which was to be submitted to the President of the United States for his signature, and it was decided in the negative that it was not such an "order, resolution, or vote." Acting upon that practice we have gone on and have regulated the intercourse between the two Houses. In all the great system of legislation which is carried on here all the vast interests of this country have been staked upon the constitutionality of the rules under which we have acted.

Twenty-two rules have been adopted, and now for the first time a rule that affects no legislation at all but the mere procedure of the two Houses in the count of the electoral vote, it is said, must go to the President of the United States for his signature. That has to my mind just this bearing and no more: "We intend to quarrel with your rule, it makes no difference what you present. You have presented a rule that is so entirely fair, it is so undeniably fair, that the only quarrel we can make with it is first to begin a quarrel with ourselves by saying you have not made it into a law, our example and our precedent in the adoption of the twenty-two rules standing there to justify what you have done."

No, sir; if we had seen proper and could have abdicated our duties on an occasion like this, we might have come forward and adopted the twenty-second joint rule and then when if perchance the State of New York should through her Legislature which is now held in check like a team of horses or a locomotive ready to be set forward or withheld or backed or done anything else with according to the necessities of the presidential campaign—if we had chosen to have taken that twenty-second joint rule, we should have held in check the power of the State of New York which this country dreads from one end of it to the other, so that it could not change its methods of casting the electoral vote, and come here against the consent of either House to force that vote upon us. But in the face of that dread, in the face of the apprehension largely indulged by people throughout the country we still come forward with a rule which requires the concurrence of both these Houses before even that can be rejected. We have dared to be true to principle, we have dared to be fair in our action upon this question, and our appeal is to the people of the United States for the honesty of our motives and for the integrity of our conduct in bringing forward this measure for the satisfaction of the people and for the peace of the land.

Mr. TELLER. Mr. President, as a member of the committee that reported this resolution, and not feeling——

Mr. EDMUNDS. It is now a quarter past four. If the Senator will yield I will move that the Senate proceed to the consideration of executive business.

Mr. TELLER. I yield for that purpose.

Mr. CONKLING. I think pending that motion I will venture to take the sense of the Senate on a motion to adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York that the Senate adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. WHYTE. Mr. President, it seems manifest to me that this resolution cannot be disposed of to-night, and it is but fair and just to our friends on the other side of the Chamber that they should have an opportunity of examining the remarks made by the Senator from Alabama on this resolution, and have Monday at least to discuss it; and for that reason and for that purpose I now move that the Senate adjourn.

Mr. TELLER. I want to understand whether I am to have the floor.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. DAVIS, of Illinois. It is absolutely necessary that there should be an executive session.

Mr. WHYTE. I change my motion and move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eighteen minutes spent in executive session the doors were reopened.

COMPLETION OF WASHINGTON MONUMENT.

Mr. RANSOM, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment:

Resolved, That 1,000 copies of the memorial of the Washington Monument Association, praying an appropriation for the completion of the monument, be printed for the use of the Senate.

The resolution was considered by unanimous consent, and agreed to.

SMITHSONIAN REPORT.

Mr. ANTHONY submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the resolution of the Senate to print extra copies of the report of the Smithsonian Institution for the year 1879, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with the following amendment: Strike out "eight" and insert "six;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with the following amendment: Strike out "five thousand" and insert "seven thousand;" and the House agree to the same.

M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.
B. WILSON,
P. C. HAYES,
Managers on the part of the House.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this report?

The question being put, it was determined in the affirmative.

The PRESIDENT *pro tempore*. The report is before the Senate, and the question is, Will the Senate concur in the report?

The report was concurred in.

ALASKA TERRITORY.

Mr. BLAIR submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and hereby is, directed to transmit to the Senate a copy of all reports of H. C. De Ahna, formerly collector, or acting collector, of customs in Alaska, touching the resources, condition, and affairs of that Territory.

ADJOURNMENT.

Mr. DAVIS, of Illinois. I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and thirty-nine minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May* 22, 1880.

The House met at eleven o'clock a. m., and was called to order by Mr. CARLISLE as Speaker *pro tempore*. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

APPOINTMENT OF SPEAKER PRO TEMPORE.

The Clerk read the following:

HOUSE OF REPRESENTATIVES,
Washington, May 21, 1880.

SIR: I expect to be absent from the session of the House to-morrow, and under the authority given me by the rules I hereby appoint you to act as Speaker *pro tempore* for that day.

Respectfully,

SAMUEL J. RANDALL, *Speaker.*

Hon. JOHN G. CARLISLE,
House of Representatives.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

ORDER OF BUSINESS.

Mr. ATKINS. I ask unanimous consent that the legislative appropriation bill, just returned from the Senate with amendments, be taken from the Speaker's table and referred to the Committee on Appropriations, and, with the amendments of the Senate, be printed.

Mr. THOMAS TURNER. I object. I shall object to anything out of the regular order until I can obtain consent to have passed a bill which I have been trying for a long time to call up.

Mr. ATKINS. I hope my friend's bill will be passed, and passed this morning.

Mr. GARFIELD. Yes, do let us get it out of the way.

Mr. THOMAS TURNER. Mr. Speaker, I ask unanimous consent——

Mr. WILSON. I rise to make a privileged report.

Mr. THOMAS TURNER. I believe I have the floor.

Mr. WILSON. I will not interfere with the gentleman.

DEALERS IN LEAF-TOBACCO.

Mr. THOMAS TURNER. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States, and that it be put on its passage now.

Mr. ATKINS. I join my friend in that request.

Mr. THOMAS TURNER. I have never had the consent of the House yet to anything. [Laughter.] There can be no objection to the bill.

The SPEAKER *pro tempore*. The bill will be read, after which the Chair will ask for objection.

The bill was read, as follows:

Be it enacted, &c., That the sixth subdivision of section 3244 of the Revised Statutes be amended by adding thereto as follows:

"*Provided further*, That dealers in leaf-tobacco (other than retail dealers as defined in the seventh subdivision of the section) who do not deal in leaf-tobacco otherwise than to sell, or offer for sale, or consign for sale on commission, to an amount not exceeding twenty-five thousand pounds in any one special-tax year, only such leaf-tobacco as they purchase or receive in the hand directly from farmers or planters who have produced the same on land owned, rented, or leased by them, or received the same as rent from their tenants, who have produced the same on such land, shall each be required to pay for carrying on such business a special tax of $5 only. If any person who has paid such special tax shall be found to have purchased or received and sold, or consigned for sale on commission, more than twenty-five thousand pounds of leaf-tobacco, such as is herein provided for, in any one special-tax year, the Commissioner of Internal Revenue is authorized and directed to assess such person an amount of tax equal to the difference between the special tax paid by him and the special tax of $25 hereinbefore imposed upon a dealer in leaf-tobacco."

The SPEAKER *pro tempore*. Is there objection to discharging the Committee of the Whole from the further consideration of this bill and considering it in the House at this time?

There was no objection.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. THOMAS TURNER. There will be no objection to the passage of this bill if gentlemen will hear me for a moment.

Mr. HUBBELL. I reserve my right to object until the gentleman has made his explanation.

The SPEAKER *pro tempore*. The Chair called for objection after the bill was read, and none was made. The bill is now before the House.

Mr. THOMAS TURNER. This bill was drawn up by the Commissioner of Internal Revenue, and has received the unanimous approval of the Committee on Ways and Means of this House. It makes no change in the existing law upon the subject except to provide for a class of dealers in leaf-tobacco who do not handle more than twenty-five thousand pounds a year, to pay an annual license of $5 instead of $25 as is now required of wholesale dealers in leaf-tobacco. My district produces two million pounds of leaf-tobacco, and no twenty-five-dollar-license dealer comes into the district.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. THOMAS TURNER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF YELLOW-FEVER COMMISSION.

Mr. WILSON, from the Committee on Printing, reported back, with amendments, the joint resolution (H. R. No. 225) to print 10,000 copies of the report of the yellow-fever commission.

The joint resolution was read, as follows:

Resolved, &c., That there be printed and bound, under the direction of the National Board of Health, 10,000 copies of the report of the yellow-fever commission, with accompanying documents; and the board is hereby authorized to expend, from the appropriation heretofore made for its use, not to exceed the sum of $5,000 for the preparation of illustrations for the report; 3,000 copies of said report for the use of the Senate, 5,000 copies for the use of the House of Representatives, and 2,000 copies for the use of the National Board of Health.

The amendments reported from the Committee on Printing were to make the joint resolution read as follows:

That there be printed and bound, under the direction of the National Board of Health, 6,000 copies of the report of the yellow-fever commission, with accompanying documents; and the board is hereby authorized to expend, from the appropriation heretofore made for its use, not to exceed the sum of $5,000 for the preparation of illustrations for the report; 1,500 copies of said report for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 1,500 copies for the use of the National Board of Health.

The amendments were agreed to; and the joint resolution, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. WILSON. I move to amend the title of the joint resolution by striking out "10,000" and inserting "6,000."

The amendment to the title was agreed to.

Mr. WILSON moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF NATIONAL BOARD OF HEALTH.

Mr. WILSON also, from the Committee on Printing, reported back, with amendments, the joint resolution (H. R. No. 224) to print 5,000 copies of the report of the National Board of Health.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed and bound, under the direction of the National Board of Health, 5,000 copies of its annual report, with accompanying documents; and the board is hereby authorized to expend, from the appropriation heretofore made for its use, not to exceed the sum of $1,500 for the preparation of illustrations for the report; 1,000 copies of said report for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 1,000 copies for the use of the National Board of Health.

The amendments reported by the committee were read, as follows:

In line 4 strike out the word "five" and insert "six;"
In lines 8 and 9 strike out "1,000" and insert "1,500;"
In line 11, strike out "1,000" and insert in lieu thereof "1,500;"
Amend the title by striking out "five" and inserting "six."

The amendments reported by the committee were agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time, was accordingly read the third time, and passed.

The amendment to the title, as proposed by the committee, was then agreed to.

Mr. WILSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF THE COMMISSIONER OF EDUCATION.

Mr. WILSON also, from the Committee on Printing, reported back, with amendments, the joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That of the report of the Commissioner of Education of 1878 there be printed 5,000 copies for the use of the Senate, 10,000 copies for the use of the House of Representatives, and 15,000 copies for distribution by the Commissioner.

The amendments reported by the committee were read, as follows:

In line 4 strike out "five" and insert "four;"
In line 5 strike out "ten" and insert "eight;"
In line 6 strike out "fifteen" and insert "thirteen."

The amendments were agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. TOWNSEND, of Ohio, obtained the floor.

Mr. WILSON. It is highly important that a conference committee should be appointed upon the disagreement of the two Houses in reference to printing the Agricultural Report. It is, I suppose, a privileged motion to move to go to the Speaker's table for the purpose of reaching that question.

The SPEAKER *pro tempore*. The gentleman from West Virginia [Mr. WILSON] is not entitled to the floor at this time, except on a privileged report. Reports from a committee of conference are privileged, but requests for the appointment of such committees are not.

Mr. WILSON. It is highly important that a conference should be had at the earliest possible day.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. TOWNSEND] is entitled to the floor.

HARBOR OF REFUGE, SAND BEACH, LAKE HURON.

Mr. TOWNSEND, of Ohio. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 2695) for the government and control of the harbor of refuge at Sand Beach, Lake Huron, Michigan, and that the bill be now taken up and passed.

Mr. SAMFORD. Let it be read, reserving the right to object.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, and until the completion of the work of construction, the Secretary of War is directed to assume full control over the harbor of refuge on Lake Huron, at Sand Beach, Michigan, now in course of construction by the United States Government, and of the piers, breakwaters, docks, wharves, buildings, and other improvements made by the United States appertaining to said harbor of refuge, and to facilitate the use thereof, including the channels of, and approaches to, said harbor of refuge, so far as may be necessary to the protection and use of said harbor and the improvements aforesaid; and said Secretary of War, for the purpose aforesaid, and for the preservation of said harbor in the interests of commerce, shall prescribe such regulations not inconsistent with the laws of the United States respecting the use of said harbor and its channels, and the approaches thereto, and respecting the use of the piers, breakwaters, docks, wharves, buildings, and other improvements of said harbor, made by the United States, as he shall deem needful to fully protect and preserve the said harbor and its several channels and approaches, and the said piers, breakwaters, docks, wharves, buildings, and other improvements. Such regulations shall be promulgated by publication thereof for ten days consecutively in one daily newspaper published in each of the cities of Detroit, Port Huron, Buffalo, Cleveland, and Chicago, and said regulations may be changed in like manner from time to time. He shall also cause four copies of such regulations to be kept posted in conspicuous places on said piers and breakwaters.

SEC. 2. The Secretary of War shall appoint, upon the recommendation of the engineer officer in charge of the work, a custodian of said harbor and the improvements aforesaid, whose duty it shall be to preserve and protect the same under the regulations made as aforesaid by the Secretary of War, and to enforce the observ-

ance of said regulations, and to guard and preserve the property of the United States at said harbor of refuge. Said custodian shall also have power to direct and regulate the stationing and anchoring of steam-vessels and water-craft in said harbor, and the mooring thereof at the piers, breakwaters, docks, and wharves of said harbor, and the laying out and discharging of cargoes and ballast in said harbor piers, breakwaters, and docks; and it shall be the duty of said custodian to report to the United States district attorney for the eastern district of Michigan all violations of this act and of the said regulations prescribed by the Secretary of War; and such custodian shall receive such compensation, not exceeding $150 per month, as the Secretary of War may allow.

SEC. 3. It shall be the duty of all persons using or navigating said harbor, its channels and approaches, or using any of the piers, breakwaters, docks, wharves, or other improvements made by the United States, to observe the regulations prescribed by the Secretary of War as aforesaid, and any person who shall willfully or negligently strand or sink any steam-vessel, boat, or craft in said harbor, or in the channels or approaches, or who shall willfully obstruct or oppose the custodian of said harbor in the enforcement of the regulations aforesaid, or who shall willfully or negligently or by failure or neglect to observe the regulations prescribed by the Secretary of War for the use thereof, obstruct or impair said harbor, or cause any impediment, injury, filling up, or shoaling therein, or shall deposit any earth, ashes, stone, ballast, or other substances in said harbor, channels, or approaches, tending to obstruct or impair the navigation thereof, or who shall willfully damage or injure the piers, breakwaters, wharves, docks, or other improvements of said harbor, made by the United States, or who shall fail to obey and observe any of said prescribed regulations, shall be liable to a penalty of not less than $50 nor more than $500, to be recovered by information or by action of debt in the district court of the United States for the eastern district of Michigan, with costs of suit, and shall, in addition thereto, be liable to the United States, or to any person aggrieved by such obstructions, or injuries, or unlawful acts or omissions, in a civil action for all damages occasioned thereby, or by any of said unlawful acts, to said United States or such aggrieved person. And if such damage or injury to said harbor, channels, approaches, piers, breakwaters, docks, and wharves, and other property of the United States, in said harbor of refuge, be committed by any steamer, vessel, or water-craft, or by the master or person in charge thereof, or if such master or other persons in charge of such vessel shall willfully violate the regulations aforesaid, the aforesaid penalty of not less than $50 nor more than $500 shall be incurred, and such vessel shall be liable for the penalty aforesaid, and may be proceeded against by way of libel for the recovery thereof in any court of the United States within whose jurisdiction such vessel may be found.

SEC. 4. The Secretary of War may, in his discretion, purchase or hire a steam-launch or tug, to be stationed at and used about said harbor, under the direction of said custodian, for the purpose of enforcing the provisions of this act, and such a sum as may be necessary, not exceeding $10,000, is hereby appropriated for the purchase or hire of said steam-launch, and the expense of removing and maintaining said launch or tug shall be paid out of the appropriation made for said harbor of refuge.

SEC. 5. After the completion of said harbor by the United States Government the control shall be transferred to the Secretary of the Treasury.

The SPEAKER *pro tempore*. Is there objection to the consideration of this bill at the present time? The Chair hears none.

The Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and the House proceeded to consider it.

Mr. TOWNSHEND, of Illinois. I hope my friend from Ohio will explain the effect of this bill.

Mr. TOWNSEND, of Ohio. I will do so with pleasure. This bill, which has been unanimously reported from the Committee on Commerce, contemplates the appointment by the Secretary of War of a harbor-master to serve until the completion of the work on the harbor of refuge at Sand Beach, Lake Huron. A measure of this kind has been asked for by the Secretary of War for several years past; and it is recommended by the engineer officers in charge of the work. The officer whose appointment is contemplated by the bill will only continue in office until the completion of the work, which will not occupy more than one or two years. The work has so far progressed as to be used by vessels; but there is no officer to direct the places they shall occupy; and for want of such an officer collisions attended with very considerable loss have occurred, and property belonging to the Government is jeopardized. Some has already been destroyed for the want of a proper officer with authority to direct the boats when they may and when they cannot go inside the harbor. In the absence of a harbor-master, during storms vessels collide and crush each other, resulting in great loss of vessel property and in some cases loss of life. The bill also authorizes the Secretary of War to prepare and publish regulations governing the harbor of refuge and to guide the harbor-master, as well as the owners and commanders of vessels.

The bill was ordered to be engrossed and read a third time; was accordingly read the third time, and passed.

Mr. TOWNSEND, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. STEPHENS. I call for the regular order.

The SPEAKER *pro tempore*. The regular order is the morning hour.

Mr. BLOUNT. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. STEPHENS. I move to dispense with the morning hour.

The SPEAKER *pro tempore*. The gentleman from Georgia [Mr. BLOUNT] has risen to make a parliamentary inquiry. The Chair will hear it.

Mr. BLOUNT. I desire to ask the Chair whether the order in relation to the considering to-day of business from the Committee on Public Buildings and Grounds precludes me from moving to go into Committee of the Whole for the purpose of considering the sundry civil appropriation bill?

The SPEAKER *pro tempore*. The Chair thinks it does, but will cause the order to be read, so that the House may understand exactly what it provides for.

The Clerk read as follows:

Resolved, That the rules be suspended, and that Saturday next after the morning hour be set apart for the bills reported from the Committee on Public Buildings and Grounds in their order on the Calendar.

The SPEAKER *pro tempore*. Gentlemen will observe that this order of the House was made under a suspension of the rules, and by a vote of the House, and it not only makes bills providing for the construction of public buildings the special order for to-day, in which case the question of consideration might be raised against them, but it dedicates the session of to-day after the morning hour to the consideration of those bills; and the Chair thinks it stands on the same footing as an evening session ordered, for instance, for the consideration of pension bills, or a Saturday set apart for debate, and that therefore this business alone must be transacted after the morning hour. The Chair, however, desires to hear gentlemen state their views on the subject.

Mr. GARFIELD. I wish to say to the Speaker that I do not concur in the suggestion that this order is exempt from the general rule in reference to raising the question of consideration, and I believe it will so appear when it is remembered that even a question of the highest privilege known to the rules, namely, the right of a member to his seat, may have the question of consideration raised against it. And I wish to call the attention of the Chair to another point. This order does not take effect until after the morning hour. We are therefore just as free now as at any other time until after the morning hour. In the mean time a motion to suspend the rules and go into the Committee of the Whole House on the state of the Union for the consideration of the appropriation bill would certainly be in order. It occurs to me the gentleman from Georgia, therefore, has the right to make that motion. The House has the right, as the Speaker has so frequently said, to control its own business. The House has reserved by this order just read the whole control of its business until after the morning hour.

The SPEAKER *pro tempore*. The Chair has no doubt about that.

Mr. GARFIELD. Now, if the House should vote to use all this day, after the morning hour, it is perfectly competent for it to do it. And therefore, if the gentleman from Georgia should now move to go into Committee of the Whole House on the state of the Union on the special order, which is the sundry civil appropriation bill, I think he can do it.

The SPEAKER *pro tempore*. The gentleman from Georgia cannot move to suspend the rules to day.

Mr. GARFIELD. He can on that motion for the purpose of going into Committee of the Whole House on the state of the Union for the consideration of a general appropriation bill.

The SPEAKER *pro tempore*. You may dispense with the morning hour by a two-thirds vote and then move to go into committee; but if the House should this day dispense with the morning hour——

Mr. STEPHENS. I have made that motion.

The SPEAKER *pro tempore*. If the House should dispense with the morning hour this morning the legal effect of that would be precisely the same as if the House had had a morning hour and it had expired.

Mr. STEPHENS. I have moved to dispense with the morning hour, and I insist on that question being put to the House.

Mr. BLOUNT. Do I understand the Chair to decline to entertain my motion at all?

The SPEAKER *pro tempore*. It could not be entertained now of course, because the morning hour has not been dispensed with.

Mr. BLOUNT. After the morning hour has expired, or shall have been dispensed with by vote of the House, will the Chair then entertain the motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of taking up and considering the sundry civil appropriation bill?

The SPEAKER *pro tempore*. The Chair thinks he could not do it under this order of the House, which was made under a suspension of the rules.

Mr. COX. Not by a majority vote?

The SPEAKER *pro tempore*. The gentleman from Georgia moves to dispense with the morning hour, which requires a two-thirds vote.

Mr. ATKINS. Will the Chair allow me to ask unanimous consent of the House for the purpose of taking from the Speaker's table the amendments of the Senate to the legislative, executive, and judicial appropriation bill in order that they may be referred to the Committee on Appropriations and ordered to be printed?

Mr. STEPHENS. I will not object to that, although I have been trying to get the floor for unanimous consent for four days.

Mr. ATKINS. I will withdraw the request.

The SPEAKER *pro tempore*. The question then is on the motion to dispense with the morning hour.

The House divided; and there were—ayes 90, noes 42.

Mr. SPARKS demanded tellers.

Mr. KELLEY. I rise to a parliamentary question. Gentlemen are desirous to know whether, if this motion prevails, we can go on with the sundry civil appropriation bill, or whether the bills for the construction of public buildings will come up?

The SPEAKER *pro tempore*. The Chair has just expressed the opinion, although the question has not practically arisen, that under the order of the House it could transact no business after the morning hour except the consideration of bills for public buildings.

Mr. KELLEY. And suppose we have no morning hour?

The SPEAKER *pro tempore*. If the morning hour is dispensed with

the effect is the same as if the morning hour had been used and had expired. Otherwise, the gentleman could not move to go into the Committee of the Whole House on the state of the Union on any day after the morning hour has been dispensed with.

Mr. FRYE. Cannot the question of consideration be raised?

The SPEAKER *pro tempore*. The Chair thinks not under the order of the House.

Mr. HAYES. Is it not competent for the House to change the order?

The SPEAKER *pro tempore*. This order is made by a vote of the House suspending the rules for this purpose.

Mr. SPARKS. If the Chair will permit me, tellers on this vote have been demanded half a dozen times.

The SPEAKER *pro tempore*. As soon as the House ceases to put parliamentary inquiries to the Chair the Chair will direct attention to the pending question.

Mr. PAGE. Before that is done I wish to ask one question: whether the Speaker of the House has not decided on this point that, under the new rules, even after unanimous consent had been given, the House could control its own business? Now, is this a question of higher privilege than where the rules have been suspended by unanimous consent?

The SPEAKER *pro tempore*. The Speaker of the House, according to the opinion of the present occupant of the chair, ruled correctly; but those were cases where the House had by unanimous consent made some subject a special order of the House. In the present instance the House has by a vote of two-thirds, on a motion to suspend the rules, set apart to-day after the morning hour for the consideration of bills reported from the Committee on Public Buildings and Grounds. The Chair thinks, therefore, that the action of the House places this matter upon the same footing as a case where the House has set apart an evening for the consideration of pension bills, for instance, or set apart a Saturday's session for general debate and for the consideration of no other business.

The Chair desires to say further that in the interest of good faith, if he may use the expression, when such an order is made the House ought not to go into the consideration of other business, for it may happen that gentlemen who feel no special interest in the pending order absent themselves from the session of the House on that day and are not present to participate in other business if the House should conclude to take up other business than that assigned. In this way great injustice might be done.

Mr. WARNER. I wish to ask a question upon that point.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WARNER. I wish to ask when this House makes any subject a matter of special order for a given day, is it not a special order for consideration?

The SPEAKER *pro tempore*. The Chair thinks so; but this is not a special order. The House has dedicated to-day after the morning hour to the consideration of bills generally from the Committee on Public Buildings and Grounds. The question is now upon the order for tellers upon the last vote taken.

Mr. SIMONTON. I make the point of order that, no quorum having voted, tellers should be appointed.

The SPEAKER *pro tempore*. The Chair will appoint tellers, no quorum having voted upon the last vote.

Mr. SPARKS and Mr. COOK were appointed tellers.

The SPEAKER *pro tempore*. The question is on the motion to dispense with the morning hour.

The House divided; and the tellers reported—ayes 106, noes 44.

Mr. CANNON, of Illinois. I call for the yeas and nays on that question.

The yeas and nays were not ordered.

Mr. CLYMER demanded tellers.

Mr. BRAGG. I move that the House do now adjourn; and pending that I move that when the House adjourns it adjourn to meet on Monday next at ten o'clock.

The SPEAKER *pro tempore*. That will not be in order, as it would be changing the rules of the House.

Mr. BRAGG. I amend the motion, then, and make it Tuesday next at eleven o'clock.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. Pending that motion I ask unanimous consent of the House to take from the Speaker's table the legislative, executive, and judicial appropriation bill, the object being to have the amendments of the Senate thereto printed so that the committee can read them. I hope the bill will be referred to the Committee on Appropriations.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill.

The Clerk read the title of the bill, as follows:

A bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Tennessee?

There was no objection; and the bill was ordered to be referred to the Committee on Appropriations, and the Senate amendments to be printed.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from Wisconsin, that when the House adjourns it adjourn to meet on Tuesday next at eleven o'clock.

The House divided; and there were—ayes 64, noes 94.

So the motion was not agreed to.

The SPEAKER *pro tempore*. On the motion to dispense with the morning hour the ayes are 106, noes 44. Two-thirds having voted in favor thereof, the House determines to dispense with the morning hour.

Mr. SINGLETON, of Illinois. I now move that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the special order assigned for to-day.

Mr. BRAGG. I did not understand that the Chair submitted the second of the two motions that I made, one only having been voted upon.

The SPEAKER *pro tempore*. The vote was taken upon the motion of the gentleman from Wisconsin as submitted to the Chair.

Mr. BRAGG. Then I now move that the House adjourn.

Mr. STEPHENS. I ask the gentleman from Wisconsin, before making his motion, to allow me to have a paper read for information.

Mr. COOK. I object to anything except the special order.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from Wisconsin that the House do now adjourn.

The House divided; and there were—ayes 31, noes 82.

Mr. BRAGG demanded tellers.

Tellers were not ordered.

Mr. BRAGG demanded the yeas and nays.

The yeas and nays were not ordered.

Several members demanded the regular order.

The SPEAKER *pro tempore*. The question is now on the motion of the gentleman from Illinois, that the House resolve itself into the Committee of the Whole on the state of the Union. The business assigned for to-day being in Committee of the Whole on the state of the Union, the only way the House can reach it is by going into Committee of the Whole on the state of the Union.

Mr. CONGER. If the House refuses to go into Committee of the Whole on the state of the Union, I desire to ask if it would then be in order to move to go into Committee of the Whole to consider the appropriation bill?

The SPEAKER *pro tempore*. The pending motion is the motion of the gentleman from Illinois to go into the Committee of the Whole on the state of the Union.

Mr. CONGER. But if that is refused will not the House then have reached a point where it will be in order to move to suspend the rules and go into the Committee of the Whole to take up the appropriation bill?

Mr. HOOKER. That will be decided when it comes up.

The SPEAKER *pro tempore*. The Chair will state, if the House should now refuse to go into Committee of the Whole on the state of the Union generally, that motion could not be made again until some business had intervened.

Mr. CONGER. Then, as I understand, a motion to suspend the rules and to go into Committee of the Whole for the consideration of the appropriation bill would be in order.

The SPEAKER *pro tempore*. The gentleman from Michigan appears to misunderstand the nature of this motion. It is a motion generally to go into Committee of the Whole on the state of the Union. When the House goes into Committee of the Whole on the state of the Union it will be for the Chairman of that committee to decide what business the committee must consider under the order of the House.

Mr. CONGER. The only way to get at the appropriation bill is to vote down this motion and then to move to suspend the rules and go into Committee of the Whole for the consideration of the sundry civil appropriation bill.

The SPEAKER *pro tempore*. A motion to suspend the rules is not in order to-day, this not being Monday. The question is on the motion of the gentleman from Georgia, [Mr. COOK,] that the House resolve itself into Committee of the Whole on the state of the Union.

The question being taken, there were—ayes 90, noes 31.

Mr. BOUCK, and Mr. CANNON of Illinois. No quorum!

The SPEAKER *pro tempore*. A quorum not having voted, the Chair will order tellers; and appoints the gentleman from Georgia, Mr. COOK, and the gentleman from Wisconsin, Mr. BOUCK.

The House again divided; and the tellers reported—ayes 93, noes 4.

Mr. BOUCK. No quorum!

The SPEAKER *pro tempore*. The tellers will retain their places. Gentlemen who have not voted and desire to vote will please come forward and pass between the tellers.

Mr. PAGE. There is evidently a determination on the part of the House not to go into the Committee of the Whole to consider the bills in relation to public buildings. Therefore, I ask unanimous consent that the House shall go into Committee of the Whole on the state of the Union to consider the sundry civil appropriation bill.

Mr. ANDERSON. I object.

Mr. PAGE. I do not think it is well to fool away the whole day.

Mr. WILSON. I think every consideration of fairness and justice requires gentlemen to stop their filibustering against the execution of the order of the House for the consideration of the bills reported by the Committee on Public Buildings and Grounds.

The SPEAKER *pro tempore*. The tellers having made no further report, and a quorum not having voted, only two motions are in order: the motion for a call of the House and the motion to adjourn.

Mr. TUCKER. Would it be in order to call for the yeas and nays on the question of going into Committee of the Whole?

The SPEAKER *pro tempore*. If the House should order the yeas and nays that can be done. It would be merely a continuation of the same vote which has been proceeding by tellers, but in a different manner.

Mr. STEPHENS. I call for the yeas and nays.

The yeas and nays were ordered, forty-six members voting therefor; more than one-fifth of the last vote.

Mr. SIMONTON. I move that the House adjourn until Monday next at ten o'clock.

Mr. WILSON. Is that motion in order?

The SPEAKER *pro tempore*. It is not in order. It is equivalent to a motion for a recess.

Mr. SIMONTON. Can I not move that the House take a recess?

The SPEAKER *pro tempore*. That motion is not in order when a quorum did not appear on the last vote. The only motions then in order are the motion to adjourn and the motion for a call of the House; or the House may proceed to take the vote in a different manner, by yeas and nays, and that has been ordered.

Mr. SIMONTON. I move that the House do now adjourn.

The question was taken; and there were—ayes 14, noes 65.

So the House refused to adjourn.

The SPEAKER *pro tempore*. The question recurs on the motion that the House resolve itself into Committee of the Whole on the state of the Union, on which the yeas and nays have been ordered.

The question was taken; and there were—yeas 146, nays 40, not voting 106; as follows:

YEAS—146.

Aiken,	Einstein,	Lewis,	Samford,
Aldrich, N. W.	Elam,	Loring,	Sapp,
Aldrich, William	Errett,	Lowe,	Sawyer,
Anderson,	Evins,	Manning,	Sherwin,
Atherton,	Ewing,	Martin, Benj. F.	Singleton, J. W.
Bachman,	Felton,	Mason,	Singleton, O. R.
Ballou,	Field,	McKenzie,	Smith, William E.
Barber,	Frost,	McLane,	Springer,
Bayne,	Garfield,	Miles,	Steele,
Beale,	Geddes,	Miller,	Stephens,
Belford,	Gibson,	Mills,	Taylor,
Blackburn,	Goode,	Monroe,	Thompson, W. G.
Bliss,	Gunter,	Morrison,	Tillman,
Boyd,	Hammond, N. J.	Morton,	Townsend, Amos
Bragg,	Harris, John T.	Myers,	Townshend, R. W.
Bright,	Hatch,	Neal,	Tucker,
Butterworth,	Henderson,	New,	Turner, Oscar
Cabell,	Henry,	Newberry,	Turner, Thomas
Calkins,	Herbert,	O'Connor,	Updegraff, J. T.
Carpenter,	Hill,	Osmer,	Upson,
Chittenden,	Hiscock,	Pacheco,	Valentine,
Claflin,	Hooker,	Page,	Vance,
Clardy,	Hostetler,	Persons,	Van Voorhis,
Coffroth,	Houk,	Phelps,	Waddill,
Colerick,	Hubbell,	Philips,	Washburn,
Conger,	Hull,	Phister,	Wellborn,
Converse,	Hunton,	Poehler,	Whiteaker,
Cook,	Hurd,	Prescott,	Whitthorne,
Cravens,	Jones,	Reagan,	Williams, Thomas
Daggett,	Jorgensen,	Richardson, J. S.	Willis,
Davidson,	Keifer,	Richmond,	Wilson,
Davis, George R.	Kelley,	Robertson,	Wood, Fernando
Davis, Joseph J.	Kenna,	Robeson,	Wood, Walter A.
Davis, Lowndes H.	Killinger,	Robinson,	Young, Casey
De La Matyr,	Kimmel,	Russell, Daniel L.	Young, Thomas L.
Dick,	Klotz,	Russell, W. A.	
Dunnell,	Ladd,	Ryan, Thomas	

NAYS—40.

Beltzhoover,	Burrows,	Finley,	Norcross,
Berry,	Caldwell,	Frye,	Orth,
Bicknell,	Clark, John B.	Heilman,	Overton,
Blake,	Clymer,	Joyce,	Reed,
Bland,	Cowgill,	Lindsey,	Rice,
Brewer,	Culberson,	Marsh,	Slemons,
Briggs,	Deering,	McCook,	Sparks,
Brigham,	Dibrell,	McKinley,	Thomas,
Browne,	Farr,	McMillin,	Tyler,
Buckner,	Ferdon,	Morse,	Updegraff, Thomas.

NOT VOTING—106.

Acklen,	Fisher,	Knott,	Shelley,
Armfield,	Ford,	Lapham,	Simonton,
Atkins,	Forney,	Le Fevre,	Smith, A. Herr
Bailey,	Forsythe,	Lounsbery,	Smith, Hezekiah B.
Baker,	Fort,	Martin, Edward L.	Speer,
Barlow,	Gillette,	Martin, Joseph J.	Starin,
Bingham,	Godshalk,	McCoid,	Stevenson,
Blount,	Hall,	McGowan,	Stone,
Bouck,	Hammond, John	McMahon,	Talbott,
Bowman,	Harmer,	Mitchell,	Thompson, P. B.
Camp,	Harris, Benj. W.	Money,	Urner,
Cannon,	Haskell,	Muldrow,	Van Aernam,
Carlisle,	Hawk,	Muller,	Voorhis,
Caswell,	Hawley,	Murch,	Wait,
Chalmers,	Hayes,	Nicholls,	Ward,
Clark, Alvah A.	Hazelton,	O'Brien,	Warner,
Cobb,	Henkle,	O'Neill,	Weaver,
Covert,	Herndon,	O'Reilly,	Wells,
Cox,	Horr,	Pierce,	White,
Crapo,	House,	Pound,	Wilber,
Crowley,	Humphrey,	Price,	Williams, C. G.
Davis, Horace	Hutchins,	Richardson, D. P.	Willits,
Deuster,	James,	Ross,	Wise,
Dickey,	Johnston,	Rothwell,	Wright,
Dunn,	Ketcham,	Ryon, John W.	Yocum.
Dwight,	King,	Scales,	
Ellis,	Kitchin,	Shallenberger,	

So the motion was agreed to.

After the second roll-call,

Mr. HAWK said: How am I recorded?

The SPEAKER *pro tempore*. The gentleman is not recorded as having voted.

Mr. HAWK. I desire to vote "ay."

The SPEAKER *pro tempore*. Did the gentleman respond when his name was called on either roll-call?

Mr. HAWK. I did not.

The SPEAKER *pro tempore*. Then the gentleman cannot have his vote recorded.

The following pairs were announced:

Mr. RICHARDSON, of New York, with Mr. RICHARDSON, of South Carolina, on all political questions for to-day.

Mr. ACKLEN with Mr. O'NEILL, on all political questions for this day.

Mr. MULDROW with Mr. DWIGHT, on all political questions during the day.

Mr. ROTHWELL with Mr. GODSHALK, for ten days.

Mr. KNOTT with Mr. CRAPO.

Mr. AIKEN with Mr. WARD.

Mr. DEUSTER with Mr. WILLIAMS, of Wisconsin.

Mr. BINGHAM with Mr. SCALES.

Mr. WAIT with Mr. ROSS.

Mr. MCMAHON with Mr. URNER.

Mr. NICHOLLS with Mr. HARMER.

Mr. FORT with Mr. MYERS

Mr. VANCE with Mr. DAVIS, of California.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. HOUSE with Mr. PRICE.

Mr. GIBSON with Mr. HUMPHREY.

Mr. SPEER with Mr. FISHER.

Mr. JAMES with Mr. O'BRIEN.

Mr. ROBESON with Mr. JOHNSTON.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. SHELLEY with Mr. CAMP.

Mr. TALBOTT with Mr. HALL.

Mr. HAZELTON with Mr. BRAGG.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. RICHARDSON, of South Carolina. I am paired with Mr. RICHARDSON, of New York; but, having been informed that he would vote upon this question as I would, I have voted in the affirmative.

Mr. ROBESON. I am paired with General JOHNSTON, of Virginia; but upon this question we would vote together, and therefore I have voted.

The result of the vote was then announced as above stated.

Mr. BRAGG. I move to reconsider the vote by which the House has resolved to go into Committee of the Whole on the state of the Union.

Mr. KILLINGER. I move to lay the motion to reconsider on the table.

The question was taken; and upon a division there were—ayes 94, noes 1.

Mr. BRAGG. No quorum has voted.

The SPEAKER *pro tempore*. No quorum having voted, and that point being made, the Chair will appoint to act as tellers Mr. BRAGG, of Wisconsin, and Mr. COOK, of Georgia.

Mr. COOK. I call for the yeas and nays on the question.

The question was taken upon ordering the yeas and nays; and there were 47 in the affirmative, more than one-fifth of the last vote.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 142, nays 24, not voting 126; as follows:

YEAS—142.

Aiken,	Cook,	Houk,	Page,
Aldrich, N. W.	Covert,	Hubbell,	Phelps,
Aldrich, William	Cravens,	Hull,	Philips,
Anderson,	Culberson,	Hunton,	Phister,
Atherton,	Davis, George R.	Hurd,	Poehler,
Bachman,	Davis, Joseph J.	Jones,	Prescott,
Ballou,	Davis, Lowndes H.	Jorgensen,	Reagan,
Barber,	De La Matyr,	Keifer,	Richardson, J. S.
Bayne,	Dick,	Kelley,	Richmond,
Beale,	Dunnell,	Kenna,	Robertson,
Belford,	Einstein,	Killinger,	Robeson,
Beltzhoover,	Elam,	Kimmel,	Robinson,
Bicknell,	Errett,	King,	Ryan, Thomas
Blackburn,	Evins,	Klotz,	Ryon, John W.
Blake,	Ewing,	Ladd,	Samford,
Bliss,	Felton,	Lewis,	Sapp,
Boyd,	Frost,	Loring,	Sawyer,
Briggs,	Geddes,	Lowe,	Sherwin,
Brigham,	Gibson,	Manning,	Singleton, J. W.
Bright,	Goode,	Mason,	Singleton, O. R.
Burrows,	Gunter,	McKenzie,	Springer,
Butterworth,	Harris, John T.	McLane,	Steele,
Cabell,	Haskell,	Mills,	Stephens,
Calkins,	Hatch,	Monroe,	Stevenson,
Carpenter,	Hawk,	Morrison,	Thomas,
Chittenden,	Hayes,	Morton,	Tillman,
Claflin,	Heilman,	New,	Tucker,
Clardy,	Henderson,	Newberry,	Turner, Oscar
Coffroth,	Henry,	O'Connor,	Turner, Thomas
Colerick,	Herbert,	O'Reilly,	Updegraff, J. T.
Conger,	Hooker,	Osmer,	Upson,
Converse,	Hostetler,	Pacheco,	Valentine,

Vance,	Weaver,	Willis,	Young, Casey
Van Voorhis,	Wellborn,	Wilson,	Young, Thomas L.
Wait,	Whitthorne,	Wood, Walter A.	
Washburn,	Williams, Thomas	Yocum,	

NAYS—24.

Bland,	Finley,	McMillin,	Smith, Hezekiah B.
Buckner,	Frye,	Mitchell,	Sparks,
Caldwell,	Hawley,	Orth,	Thompson, P. B.
Caswell,	Joyce,	Overton,	Thompson, W. G.
Dibrell,	Lindsey,	Simonton,	Van Aernam,
Ferdon,	Marsh,	Slemons,	Whitcaker.

NOT VOTING—126.

Acklen,	Dunn,	Lapham,	Rothwell,
Armfield,	Dwight,	Le Fevre,	Russell, Daniel L.
Atkins,	Ellis,	Lounsbery,	Russell, W. A.
Bailey,	Farr,	Martin, Benj. F.	Scales,
Baker,	Field,	Martin, Edward L.	Shallenberger.
Barlow,	Fisher,	Martin, Joseph J.	Skelley,
Berry,	Ford,	McCoid,	Smith, A. Herr
Bingham,	Forney,	McCook,	Smith, William E.
Blount,	Forsythe,	McGowan,	Speer,
Bouck,	Fort,	McKinley,	Starin,
Bowman,	Garfield,	McMahon,	Stone,
Bragg,	Gillette,	Miles,	Talbott,
Brewer,	Godshalk,	Miller,	Taylor,
Browne,	Hall,	Money,	Townsend, Amos
Camp,	Hammond, John	Morse,	Townshend, R. W.
Cannon,	Hammond, N. J.	Muldrow,	Tyler,
Carlisle,	Harmer,	Muller,	Updegraff, Thomas
Chalmers,	Harris, Benj. W.	Murch,	Urner,
Clark, Alvah A.	Hazelton,	Myers,	Voorhis,
Clark, John B.	Henkle,	Neal,	Waddill,
Clymer,	Herndon,	Nicholls,	Ward,
Cobb,	Hill,	Norcross,	Warner,
Cowgill,	Hiscock,	O'Brien,	Wells,
Cox,	Horr,	O'Neill,	White,
Crapo,	House,	Persons,	Wilber,
Crowley,	Humphrey,	Pierce,	Williams, C. G.
Daggett,	Hutchins,	Pound,	Willits,
Davidson,	James,	Price,	Wise,
Davis, Horace	Johnston,	Reed,	Wood, Fernando
Deering,	Ketcham,	Rice,	Wright.
Deuster,	Kitchin,	Richardson, D. P.	
Dickey,	Knott,	Ross,	

So the motion to reconsider was laid on the table.

The following additional pairs were announced from the Clerk's desk:

Mr. COBB with Mr. HISCOCK, both gentlemen being engaged in committee.

Mr. LOUNSBERY with Mr. DAVIDSON, on this vote.

The result of the vote was announced as above stated.

The SPEAKER *pro tempore*. The House having agreed to resolve itself into Committee of the Whole, the gentleman from Michigan [Mr. BURROWS] will take the chair.

Mr. BRAGG. I move that the House adjourn.

The SPEAKER *pro tempore*. The House has resolved itself into Committee of the Whole on the state of the Union, and a motion to reconsider that action has been laid on the table.

PUBLIC BUILDINGS.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. BURROWS in the chair.

The CHAIRMAN. The Clerk will read the order of business for to-day.

The Clerk read as follows:

Resolved, That the rules be suspended, and that Saturday next after the morning hour be set apart for the consideration of bills reported from the Committee on Public Buildings and Grounds, in their order on the Calendar.

The CHAIRMAN. It appears by the order of the House that this day's session is set apart for the consideration of business on the Calendar, reported from the Committee on Public Buildings and Grounds, to be considered in its order. The Clerk will report the first bill.

Mr. BRAGG. I move that the committee now rise.

Mr. COOK. I would like the privilege of making a statement for a few minutes before the motion of the gentleman from Wisconsin is submitted to the committee. [Cries of "We will vote it down!"]

Mr. BRAGG. I yield to the gentleman.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BRAGG] withdraws his motion.

Mr. COOK. Mr. Chairman, there seems to exist on the part of many gentlemen very serious misapprehension in regard to the business which the Committee on Public Buildings and Grounds propose to bring before the House. Some very erroneous and exaggerated statements have been made in reference to the action of the committee. If gentlemen will listen a few moments, I may be able to give them some information which they do not possess.

There have been referred to our committee by the action of the House ninety bills asking appropriations amounting to about $13,000,000 for public buildings in various parts of the country. The committee, having considered these bills, has reported forty-two or forty-three of them contemplating an appropriation in the aggregate of nearly $6,000,000.

Mr. BRAGG. Will the gentleman yield for a question?

Mr. COOK. Yes, sir.

Mr. BRAGG. If it costs $6,000,000 to commence these buildings the construction of which is recommended, how many more millions will it cost to finish them?

Mr. COOK. That depends on the question who controls the Government.

Mr. LOUNSBERY. You would not leave the buildings unfinished if they are commenced?

Mr. COOK. No, sir; we would finish them. There is one fact to which I wish particularly to call the attention of the Committee of the Whole. The forty-two or forty-three bills which we have reported involve an aggregate appropriation not to exceed about $6,000,000. These bills make no appropriation, leaving that matter entirely for the House; and they fix about $6,000,000 as the amount beyond which the expenditures shall not go. Of this amount we have recommended that possibly $2,000,000 be expended during the coming fiscal year, being as much as can probably be made effective.

Now, what is the condition of the country? In 1878 (I have not been able to get the figures for 1879) the Government paid $1,282,809 as rent for buildings for public purposes.

Mr. CANNON, of Illinois. How much did the Government pay for rent at these forty-two places?

Mr. COOK. I will say that about $600,000 was paid in the States in which these bills recommend appropriations.

Mr. CANNON, of Illinois. But at the forty-two places where the committee propose the erection of buildings what did the Government pay?

Mr. COOK. The separate reports made by the committee on each of these bills will show the gentleman, when we get to them, what that amounts to.

Mr. FINLEY. Will the gentleman allow me to inquire whether his committee has made an adverse report upon the remainder of the ninety bills referred to them?

Mr. COOK. No, sir; they have not made any adverse report; they have made no report at all.

The Government, as I was saying, is paying now $1,282,809 per annum as rent for buildings used for court-houses, post-offices, and for other purposes necessary to the transaction of the business of the country. The question, therefore, presented is simply this: whether as a matter of economy and good government we should continue to pay million after million, year after year, as rent of buildings for Government purposes, or whether it is not economy for the Government to adopt some proper, judicious system of constructing public buildings throughout the country in such places as they are most needed. At the end of ten years the Government will have expended for rent twice the amount that these bills contemplate shall be expended.

I wish to state another fact. Previous Congresses for years back have put more money in a single building in the city of New York than is asked for all these buildings. They have put more money in a single building in the city of Boston or Chicago than is to be expended under these bills.

Mr. BRAGG. How many of these forty-three bills provide for public buildings in places which are even county towns—places which have no revenue offices and no United States courts?

Mr. COOK. Not one of these bills proposes to construct a public building at a cross-roads or at a place where there is no town, no post-office, no public building, and no public necessity for one. This the reports in each case will show.

I was about to state another fact, that the revenues of this Government, extorted from the people in these States, would defray the expenses of every building recommended by the committee. There has not been a single day in the last ninety when the receipts of the Government in taxes and income would not defray and cover the expenditures which we have recommended in these several cases.

I will answer another question as to the ultimate cost of these buildings. Earlier in our history in reference to the construction of public buildings, we placed them under the direction of engineer officers of the Army, and then those public buildings were economically and properly constructed and the amounts appropriated were never exceeded. In the city of Savannah in my own State when the engineer in charge of the public building being constructed there got through with his work, he turned into the Treasury $60,000 surplus. But there was a change and the construction of these buildings was taken out of the custody of engineer officers of the Army and the whole matter placed under the control of the Treasury Department, and nobody seemed to be responsible but the Architect of the Treasury; and then was opened that flood-gate of unceasing appropriations year after year, and session after session, for the construction of public buildings, which gave rise to so much opposition.

I wish now to read from the law passed in 1870 to show that if that had been enforced by the officers of the Government, by the Secretary of the Treasury, the Postmaster-General, and the Interior Department as it should have been, a vast amount of money never could or would have been used.

Now, section 3733 provides that no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose.

The next section, section 3734, provides in addition that before any new buildings for the use of the United States are commenced, the plans and full estimates therefor shall be prepared and approved by the Secretary of the Treasury, the Postmaster-General, and the Secretary of the Interior; and the cost of each building shall not exceed the amount of such estimate.

That law was passed in 1870, and it was found necessary because

of the excessively expensive buildings under way in Saint Louis, Chicago, Cincinnati, and New York, which had been commenced previously.

The Supervising Architect of the Treasury ascribes these excessive expenditures from the public Treasury beyond the limits determined at the commencement of the construction of these public buildings to three things: first, to the eight-hour law; secondly, to improper contracts made for stone-cutting; and finally, to the fact that the Committee on Appropriations put on the general appropriation bills, year after year, these extraordinary appropriations. This will be corrected when we shall put into the Treasury a man who will appoint a supervising architect who will make his plans and specifications under the limitations of the law and tell these contractors, "Here is $100,000 or $200,000 appropriated to construct a particular public building and you can take the contract but it must be put up at that price."

I will say for the present Architect, Mr. Hill, that the buildings constructed within the last two or three years under his supervision have been kept within the limits of the appropriations. I will say that much for him.

The original contracts were made by Mr. Mullett, who belonged to one of the most prodigal, wasteful, and extravagant administrations which ever controlled this country; and many of them have been set aside. His successor, an engineer officer of the Army, on being placed in charge of the construction of what is called the State, War, and Navy Department building, saved $180,000 in changing the contract for cutting stone.

As to the present architect, Mr. Hill, watching him closely since he went into office, scrutinizing his conduct to some extent as far as we well could, I have no reason to believe, in any instance, he has acted otherwise than in the highest and truest faith to his obligations under the law to the Government. Nor have I any reason to believe in the future he will in any degree violate the obligations he has assumed toward the country.

I thank the House for this indulgence, and will simply say in addition a word in reference to the worthy, proper measures of legislation which have been reported from the Committee on Public Buildings and Grounds. Gentlemen who have had and now have measures pending before that committee have thought in some cases we have not given them the recognition they deserved. We may have made some mistakes. A few days ago we cut down a bill. A member asked for $800,000, and the committee only agreed to give him $200,000. In no instance, however, have we transcended the amount we believed to be proper for the construction of a public building necessary for the purposes of the Government.

Let me call attention to the following statement, to which I invite the careful attention of gentlemen:

Statement of annual rents paid by the Government in each of the States and Territories.

STATES.

	Amount.
1878—Alabama	$7,556
Arkansas	3,600
California	76,736
Colorado	4,030
Connecticut	14,871
Delaware	700
Florida	6,496
Georgia	23,418
Illinois	90,675
Indiana	10,686
Iowa	15,834
Kansas	11,355
Kentucky	11,835
Louisiana	69,469
Maine	6,992
Maryland	11,969
Massachusetts	67,978
Michigan	18,490
Minnesota	31,018
Mississippi	4,570
Missouri	33,998
Nebraska	19,381
Nevada	4,056
New Hampshire	4,050
New Jersey	10,967
New York	278,331
North Carolina	11,959
Ohio	24,984
Oregon	1,924
Pennsylvania	43,430
Rhode Island	3,[illegible]
South Carolina	3,192
Tennessee	9,665
Texas	53,385
Vermont	4,482
Virginia	6,970
West Virginia	616
Wisconsin	11,475
TERRITORIES.	
Arizona	1,890
Dakota	4,100
Idaho	2,660
Montana	8,274
New Mexico	4,554
Utah	7,216
Washington	2,736
Wyoming	6,874
	185,170

WASHINGTON CITY.

Subdivided as follows:	Amount.
1878—War Department	$544,457
1880—Post-Office Department	285,375
Treasury Department	319,723
Interior Department	32,700
1878—Navy Department	13,640
Department of Justice	86,905
Total	1,282,800

Mr. BRAGG. Let me ask the gentleman from Georgia whether he does not aggregate all that is paid in each State for rental?

Mr. COOK. Yes, sir; I do.

Mr. BRAGG. What argument, then, can you base upon that? Because any State in the aggregate pays $90,000 as rent, why should you, therefore, pick out some one town in the State and spend $300,000 in erecting a public building there and calling it economy?

Mr. COOK. The statement in each case shows the amount paid by the Government in the way of rent.

Now, sir, this Government from 1798 up to 1879 has paid some $115,000,000 in constructing public buildings, and the amount of rent that has been paid during that period would have constructed all the public buildings in every place where the Government has a post-office almost, and certainly wherever it has a Federal court.

In recommending these bills, the Committee on Public Buildings and Grounds have looked to the retrenchment of expenditures on the part of the Government, and also to the accommodation of the business of the Government in every branch, as far as practicable—to its postal facilities, to the accommodations for Federal courts, and to the protection on the part of the Government and the security of public records of the country; and they have sought in this way not to apply it to one town or to one State, but to reduce, as far as practicable, the rentals that the Government has been compelled to pay in all parts of the country. And I now repeat what I have said before, that there has not been six days in the last ninety that the receipts of the Government would not have covered every dollar of expense for the construction of these buildings recommended by the committee.

The question now is for the House to determine whether it is better that the Government shall go on renting year after year perpetually, paying out large sums of money in that way, or go to work and establish some judicious plan or system of erecting public buildings where they are absolutely needed.

Mr. THOMPSON, of Kentucky. I would like to ask the gentleman from Georgia a question before he takes his seat. How many more public buildings are recommended this year than have been recommended in past years?

Mr. COOK. Very many of these public buildings were recommended in past Congresses. Some of them passed through the last Congress and some in the Congress before; but this committee has never been able to get the bills before the House at all. They have been continually shoved off, and that is the reason for this large accumulation.

Mr. THOMPSON, of Kentucky. Then another question. How much rent will the Government have to pay if the buildings here recommended are constructed?

Mr. COOK. I have not looked into all of the reports upon that particular point, but there are reports here connected with this subject which show the amount the Government pays on this account. And I will state further that in the State of Mississippi and in the capital of that State, and also in West Virginia and other States, the State governments have allowed the use of the capitol to hold courts in; and now, when the State government has removed back to the capitol again, the State asserts its right to control the building, and the Government will have to go and rent buildings elsewhere. There are several States which have granted the use of their capitols for Federal purposes without charge or rent. But is it right or proper for a great Government like this to go into a State and quarter itself in the capitol, or in the corner of some other building erected as in some cases by the city government, in others by the States, and in others by private subscription? I think not; and the committee have recommended in such cases where it was necessary the erection of these buildings.

I thank the committee for its courtesy and I ask that the first bill on the Calendar be read.

Mr. BRAGG. I now renew my motion that the committee rise.

The committee divided; and there were—ayes 9, noes 68.

Mr. BRAGG. No quorum has voted.

The CHAIRMAN. The Chair will orders tellers.

Mr. BRAGG and Mr. COOK were appointed tellers.

Mr. SINGLETON, of Illinois. Mr. Chairman, I desire to ask whether a quorum is necessary upon a motion that the committee rise? The committee may rise without a quorum, and I make the point of order that a quorum is not necessary for that purpose.

The CHAIRMAN. The point of order being made by the gentleman from Illinois that a quorum is not necessary for this purpose, the Chair sustains it.

Mr. BRAGG. One moment, Mr. Chairman. Can you proceed to business without a quorum?

Mr. COOK. The last vote showed that a quorum was present.

The CHAIRMAN. The committee can rise without a quorum.

Mr. BRAGG. But the last vote showed that no quorum was present, and that point of order was made.

Mr. SPARKS. The committee determined not to rise, and the vote on it failed to develop a quorum. Now the Committee of the Whole House can no more act without the presence of a quorum (if the point has been made) than the House can.

The CHAIRMAN. While it is true that the last vote did not develop a quorum, yet the Chair holds that the committee can rise without the presence of a quorum.

The question now is to be taken by tellers on the motion that the committee rise. The tellers will take their places.

The committee divided; and the tellers reported 1 in the affirmative and 84 in the negative.

Mr. BRAGG. No quorum.

The CHAIRMAN. The committee determines not to rise.

Mr. BRAGG. Does the Chair appreciate my point of order, if it be a point? How does the Chair know that there are more than eighty-four members present when the vote just taken shows that only eighty-four are present? With less than a quorum can you proceed to business?

The CHAIRMAN. It is not doing business for the committee to rise. The committee can rise without a quorum. The motion that the committee rise is equivalent to the motion that the House adjourn, which does not require a quorum.

Mr. BRAGG. Do not the rules provide that so soon as it shall appear there is no quorum but two motions are in order?

Mr. SPARKS. Will the Chair allow me to read the rules bearing upon this question?

The CHAIRMAN. Certainly.

Mr. SPARKS. I read from the second clause of Rule XXIII:

Whenever a Committee of the Whole House finds itself without a quorum the Chairman shall cause the roll to be called, and thereupon the committee shall rise, &c.

Now, that is the case here precisely. The language is:

Whenever a Committee of the Whole House finds itself without a quorum.

And that fact has been indicated by the vote just taken.

Mr. FINLEY. And it makes no difference what the vote is on?

Mr. BLACKBURN. If I may be allowed to make a suggestion in response to the point of order of the gentleman from Illinois, it is this——

Mr. SPARKS. The gentleman from Illinois did not make a point of order. He merely showed what was required by the rules in the case now before us.

Mr. BLACKBURN. I was dignifying the gentleman from Illinois by putting him above the rule.

Mr. SPARKS. I do not think the gentleman can dignify me by putting me in any relation to these rules. Dignity and nonsense are not analogous, and many of these rules are worse than nonsense.

Mr. BLACKBURN. A motion to rise in Committee of the Whole House is exactly equivalent to a motion to adjourn in the House. A motion to adjourn in the House does not require a quorum to determine it. A motion to rise in Committee of the Whole House does not require a quorum to determine it. The rule which the gentleman from Illinois [Mr. SPARKS] has read, or rather the clause of the rule which he has read, simply means when properly and fairly construed that whenever the Committee of the Whole House finds itself without a quorum on any proposition or on any motion which requires the vote of a quorum the roll shall then be called, the committee shall rise, and the Chairman shall report the names of absentees to the House. But on a motion that requires no quorum in Committee of the Whole the development of the want of a quorum does not necessitate the rising of the committee. You cannot do away with the exact similarity, the identity that exists between a motion to rise in the Committee of the Whole House and a motion to adjourn in the House.

Mr. SPARKS. The question here was, shall the committee rise? Upon that question the vote was declared to be in the negative, but showed that no quorum had voted.

Mr. BLACKBURN. The question being one where no quorum was needed to determine it.

Mr. SPARKS. The point was made by the gentleman from Wisconsin [Mr. BRAGG] that no quorum had voted. Then, what does the rule say?

Whenever a Committee of the Whole House finds itself without a quorum it shall cause the roll to be called, &c.

Mr. BLACKBURN. Upon any question that demands a quorum.

Mr. SPARKS. The rule does not say that.

Mr. ATHERTON. Suppose the want of a quorum was developed on the motion to adjourn?

Mr. BLACKBURN. A quorum is not needed on the motion to adjourn.

Mr. ATHERTON. Precisely; and therefore it is not needed on this motion.

Mr. DAVIS, of North Carolina. I wish to ask the gentleman from Kentucky a question.

Mr. BLACKBURN. I will hear the gentleman.

Mr. DAVIS, of North Carolina. Suppose a quorum is not present, can the House adjourn unless a majority of those present vote to adjourn?

Mr. BLACKBURN. No, sir; fifteen members of the House, including the Speaker, are sufficient in the absence of a quorum to order a call of the House.

Mr. DAVIS, of North Carolina. And when there is a failure in Committee of the Whole to obtain a quorum, unless a majority of those present agree to rise, then can the committee rise?

Mr. BLACKBURN. No, sir; they cannot.

Mr. DAVIS, of North Carolina. Then that is just the position we are in now.

Mr. BLACKBURN. Precisely. And I will say that when gentlemen make the point of no quorum they can at once reach their point if they call for a vote on any motion except a motion to adjourn when in the House, or if they call for a vote on any motion except a motion to rise when in Committee of the Whole House; then a quorum is needed.

Mr. YOUNG, of Ohio. I wish to ask the gentleman from Kentucky what is the test of a quorum under the rules?

Mr. BLACKBURN. A quorum is necessary on every question except a motion in Committee of the Whole that the committee rise, or the motion in the House that the House adjourn, or for a call of the House. On those motions a quorum is not needed. A motion to rise in the Committee of the Whole is identical with a motion to adjourn in the House, and a quorum is not needed on either of those two motions. In the Committee of the Whole any other motion except that the committee rise requires a quorum, and the point of order would then be good.

Mr. YOUNG, of Ohio. The gentleman from Kentucky does not seem to understand my point. My question is this: Do the appointment of tellers and the report of how many have passed between the tellers supply the test of a quorum? Or does not the rule require that the yeas and nays shall be called?

Mr. BLACKBURN. I will answer the gentleman by saying you cannot ascertain the presence or absence of a quorum in the Committee of the Whole House by any process more accurate than that of a vote by tellers, because under the rule you cannot call the yeas and nays in Committee of the Whole: so that in Committee of the Whole you must be satisfied with the count by tellers.

Mr. KENNA. But in Committee of the Whole the roll may be called by the express provision of the rule.

Mr. BLACKBURN. The rule provides for that, and that at last is the final test.

Mr. CLYMER. I think the gentleman from Kentucky is confounding cases. A majority of less than a quorum can vote the committee shall rise. And if a majority of less than a quorum shall vote that the committee shall not rise, and by that vote the absence of a quorum which is necessary to do business is determined, then the rule comes into operation that whenever a Committee of the Whole House finds itself without a quorum the chairman shall cause the roll to be called and the committee must rise. The rule is so absolute as to the necessity of a quorum to do business in any way, that in the House whenever a gentleman rises in his place and raises the question of order that a quorum is not present, the Speaker is perforce obliged to ascertain the fact. So here the fact is developed to the chairman of the committee that no quorum is present in the committee.

Mr. BLACKBURN. Will the gentleman permit me to ask him a question?

Mr. CLYMER. Yes, sir.

Mr. BLACKBURN. How has that fact been developed that the Committee of the Whole is without a quorum?

Mr. CLYMER. By the fact that on the vote less than a quorum voted.

Mr. BLACKBURN. By what count?

Mr. CLYMER. By the announcement of the Chairman of the committee, or by tellers.

Mr. BLACKBURN. Let me suggest this: the Committee of the Whole House cannot order the yeas and nays to be called on any question, but it can order the vote to be taken by division or by tellers. If after having exhausted its power in these two regards there then seems to be no quorum present, the rule provides that the roll shall be called, not the call of the roll as on a vote by yeas and nays, but the roll called to ascertain whether or not a quorum is in the committee. That is the only protection which the Committee of the Whole has in the matter of determining whether a quorum is present or not. But I do say that on a motion that the committee rise there is not needed a quorum to be present, any more than there is needed a quorum on a motion to adjourn in the House.

Mr. CLYMER. I grant that on a determination of the motion that the committee rise the presence of a quorum is not necessary, if the majority of those present vote in favor of the motion to rise. But if a majority votes against rising, and the point is made that a quorum has not voted on the proposition, and the vote develops the fact that no quorum is present and voting, then the rule applies and there must be a call of the roll.

Mr. BLACKBURN. That is a call of the members of the committee.

Mr. SPARKS. I do not pretend to understand these rules, and I have not found any man in this House that does understand them. The gentleman from Kentucky [Mr. BLACKBURN] and the Speaker of this House and other eminent members spent all of last summer in trying to amend our rules. Yet when they came back to us and made their report, and we spent three months in this House in amending and adopting the new rules, we find that whenever a question is raised by a member as to what this or that rule means, the presiding

officer very generally says, "The Chair will submit the question to the House." So that the members of the House knowing less about them than the presiding officer are, in fact, the final arbiters of rules that they know nothing about and that experts cannot understand. Now, while I admit that these rules are too hard for me, yet I know that if the English language can be made to mean anything, there can be no doubt as to the meaning of these words contained in the second clause of Rule XXIII:

Whenever a Committee of the Whole House finds itself without a quorum, the Chairman shall cause the roll to be called, &c.

How is the committee to find out that? I do not care how it is found out. But the committee must itself find it out. It may do so by the determination of the Chairman, by a rising vote, or by a vote by tellers. It is to be found out by the committee itself by some process. And when that is found out the rule says:

Whenever a Committee of the Whole House finds itself without a quorum, *the Chairman shall cause the roll to be called*, &c.

Mr. SINGLETON, of Illinois. Will my colleague allow me to ask him a question?

Mr. SPARKS. Certainly.

Mr. SINGLETON, of Illinois. When the committee has found itself without a quorum, is it then competent to move that the committee rise? Is that a proper motion? Would not the committee have the power to rise without a quorum?

Mr. SPARKS. The best answer I can give——

Mr. SINGLETON, of Illinois. I ask my colleague to answer me whether the committee would have the power to rise without a quorum?

Mr. SPARKS. I am going to give the best answer I can, though perhaps it is a very poor one, for I will read a clause of one of the rules of this House as my answer:

Whenever a Committee of the Whole House finds itself without a quorum, the Chairman shall cause the roll to be called, and thereupon the committee shall rise, &c.

Mr. SINGLETON, of Illinois. My colleague does not answer my question.

Mr. SPARKS. I have answered it, if there is sense enough in these rules to answer anything.

Mr. SINGLETON, of Illinois. My question is whether the Committee of the Whole has the power to rise without a quorum?

Mr. SPARKS. Certainly it has.

Mr. SINGLETON, of Illinois. Then if we have the power to rise without a quorum, have we not the power to refuse to rise without a quorum? And we have now refused to rise.

Mr. SPARKS. And upon the vote refusing to rise there was developed the fact that there was no quorum present and voting; in precisely which case the rule applies which I have read.

Mr. TUCKER. I hope the Chair will now decide the question.

The CHAIRMAN. The Chair is very willing to hear gentlemen on this point of order, but he must adhere to his ruling. The Chair holds that clause 2 of Rule XXIII applies to cases arising in the Committee of the Whole when in the transaction of business in the committee it finds itself without a quorum.

It seems to the Chair that upon the simple question whether the committee will rise, no quorum being required in that case to determine the question, the point of order that no quorum has voted is not well taken. The object of the rule is to prohibit the Committee of the Whole from doing business without a quorum. And when engaged in the transaction of business, if the fact is disclosed that there is no quorum present in the committee, then the point of order can be made that no quorum is present, and the roll will be called. But it seems to the Chair that upon the question, "Shall the committee rise?" a quorum not being necessary to determine that question, the point of order cannot be made at that stage of the proceedings of the committee that there is no quorum.

Mr. BRAGG. Will the Chair allow me to make a parliamentary inquiry?

The CHAIRMAN. Certainly.

Mr. BRAGG. My inquiry is this: whether, having gone into Committee of the Whole, what we have been doing is not business? I understand that what we have been doing is throwing light upon the rules of this House. Is not that business?

The CHAIRMAN. The Chair thinks it is not in the sense of this rule.

Mr. BRAGG. With all due respect to the Chair, I appeal from his decision.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BRAGG] appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. CALKINS. As I understand the ruling of the Chair, it is that when no quorum has been disclosed on the last vote, and a member makes the motion that the committee rise, it is in order. Is that the ruling?

The CHAIRMAN. It is in order at any time to move that the committee rise; but the Chair holds that it does not require a quorum of the committee to determine that question.

Mr. CLYMER. And that less than a quorum can keep the committee in session perpetually?

The CHAIRMAN. Less than a quorum can rise or refuse to rise.

Mr. TUCKER. Less than a quorum can keep the committee in session when there is a minority that will not vote in order to make a quorum.

The question being taken, "Shall the decision of the Chair stand as the judgment of the committee?" there were—ayes 87, noes 8.

Mr. CLYMER and Mr. BRAGG. No quorum voting!

The CHAIRMAN. No quorum having voted, the Chair will order tellers.

Mr. KEIFER. I understand the decision of the Chair to be that less than a quorum can transact business in committee. That is what it amounts to.

Mr. BOUCK. We are deciding parliamentary law now.

The CHAIRMAN. The Chair did not so hold. The gentleman from Wisconsin [Mr. BRAGG] and the gentleman from Georgia [Mr. COOK] will please act as tellers.

Mr. HOOKER. I rise to a point of order. On the motion that the committee rise a vote was taken and no quorum was disclosed. The point that no quorum had voted on the proposition was made, and the Chair decided that it did not require a quorum for the committee to rise. Now an appeal is taken from that decision of the Chair; and if it did not require a quorum to determine the question whether the committee should rise, I submit that on the same principle the pending question can be decided by a majority vote, without reference to the presence of a quorum.

The CHAIRMAN. The tellers will take their places.

The committee divided; and the tellers reported—102 in the affirmative, 1 in the negative.

Mr. BRAGG. I make the point that no quorum has voted.

Mr. STEPHENS. Call the roll.

Mr. DUNNELL. Is there any motion pending?

The CHAIRMAN. The Committee of the Whole having voted by tellers upon the question, "Shall the decision of the Chair stand as the judgment of the committee?" the point is made that no quorum has voted.

Mr. HASKELL. And now the question before us is not a motion that the commttee rise, not a motion which is analogous to a motion that the House adjourn, but it is a question——

Mr. BRAGG. I rise to a point of order.

Mr. HASKELL. I am speaking to a point of order. The question before this committee now is as to the decision of the committee relative to a point of order relative to a piece of business. Now, Mr. Chairman, upon the transaction of this business the committee finds itself without a quorum; and it is now the duty of the Chair to direct that the roll be called to ascertain whether or not there is a quorum present.

Mr. DAVIS, of North Carolina. I ask that the second paragraph of Rule XXIII be read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Whenever a Committee of the Whole House finds itself without a quorum the Chairman shall cause the roll to be called, and thereupon the committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear the committee shall thereupon resume its sitting without further order of the House.

Mr. DAVIS, of North Carolina. That rule requires the roll to be called now.

The CHAIRMAN. It seems to the Chair that upon this question, "Shall the decision of the Chair stand as the judgment of the committee?" the point that no quorum has voted is well taken, and there must be a call of the roll. The Clerk will call the roll.

The roll was called, when the following-named members failed to answer:

Acklen,	Fisher,	Martin, Joseph J.	Rothwell,
Armfield,	Ford,	McGowan,	Ryan, Thomas
Bailey,	Forsythe,	McMahon,	Scales,
Barlow,	Godshalk,	Money,	Shallenberger,
Bingham,	Harmer,	Monroe,	Smith, A. Herr
Bland,	Harris, Benj. W.	Morrison,	Smith, William E.
Bliss,	Hazelton,	Morse,	Speer,
Bowman,	Henkle,	Muldrow,	Starin,
Camp,	Hill,	Muller,	Talbott,
Cannon,	House,	Murch,	Urner,
Clark, Alvah A.	Hurd,	O'Brien,	Valentine,
Clymer,	Hutchins,	O'Neill,	Van Aernam,
Cox,	James,	O'Reilly,	Voorhis,
Crapo,	Johnston,	Page,	Ward,
Crowley,	Ketcham,	Persons,	White,
Davis, Horace	Kitchin,	Pierce,	Wilber,
Deuster,	Knott,	Pound,	Williams, C. G.
Dickey,	Le Fevre,	Price,	Wood, Walter A.
Ellis,	Loring,	Richardson, D. P.	Wright.
Farr,	Manning,	Ross,	

The committee accordingly rose; and, Mr. CARLISLE having resumed the chair as Speaker *pro tempore*, Mr. BURROWS reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration bills relating to the construction of public buildings, and finding itself without a quorum had caused the roll to be called, and had directed him to report the names of the absentees to the House under the rule, to be entered upon the Journal.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks,

announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 550) to extend the northern boundary of the State of Nebraska;

An act (S. No. 1162) confirming the title of block numbered 14 in Baker City, Oregon, to Baker County;

An act (S. No. 1484) for the relief of Ernst Hein; and

An act (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the completion and preservation of data showing the various positions and movements of troops at the battle, illustrated by diagrams.

PUBLIC BUILDINGS.

The SPEAKER *pro tempore*. A quorum having appeared on the call of the roll, the committee will resume its session.

The committee accordingly resumed its session, Mr. BURROWS in the chair.

The CHAIRMAN. The question again recurs, Shall the decision of the Chair stand as the judgment of the House? The gentleman from Wisconsin [Mr. BRAGG] and the gentleman from Georgia [Mr. COOK] will resume their places as tellers.

The committee again divided; and the tellers reported—ayes 94, noes 10.

Mr. BRAGG. No quorum has voted.

Mr. STEPHENS. It is very evident, Mr. Chairman, that a minority of this House——

Mr. HOOKER. And a small minority.

Mr. STEPHENS. Yes, and a small minority, intend to impede action on these bills for the construction of public buildings to-day, and I therefore suggest to the gentleman from Wisconsin to withdraw his point of order and I will move the committee rise.

Mr. BRAGG. With that understanding I withdraw the point of order.

The CHAIRMAN. So the decision of the Chair stands as the judgment of the committee.

Mr. STEPHENS. I move the committee do now rise.

The motion was agreed to; and, Mr. CARLISLE having resumed the chair as Speaker *pro tempore*, Mr. BURROWS reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration bills on the Public Calendar relating to the construction of public buildings, and had come to no resolution thereon.

Mr. NEWBERRY. I move the House do now adjourn.

Mr. WARNER. I move we go to the business upon the Speaker's table, by unanimous consent, for the purpose of taking up and acting on the amendments of the Senate to House bills.

Objection was made.

The House divided; and there were ayes 86, noes not counted.

Mr. SINGLETON, of Illinois. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. YOUNG, of Tennessee. I have been as anxious as any member of the committee that they should have the benefit of the floor to-day. It is apparent to my mind now and must be to that of every gentleman on the floor that it is impossible to get up the bills which the Committee on Public Buildings and Grounds have desired to reach. That being so, there can be no good reason why we should not proceed to some other character of legislation. I think we can furnish the House during the balance of the day—— [Cries of "Regular order!"]

Mr. GARFIELD. Will the House unanimously consent to go into Committee of the Whole House on the state of the Union on the appropriation bill?

Mr. NEWBERRY. I object.

Mr. HOOKER. You cannot get unanimous consent now for anything.

The question was taken; and it was decided in the negative—yeas 80, nays 104, not voting 108; as follows:

YEAS—80.

Aiken,	Davidson,	Killinger,	Prescott,
Berry,	Deering,	Kimmel,	Reagan,
Blackburn,	Dibrell,	Lapham,	Reed,
Bland,	Evins,	Lindsey,	Rice,
Bouck,	Felton,	Manning,	Richardson, J. S.
Bragg,	Ferdon,	Marsh,	Ryon, John W.
Brewer,	Field,	Martin, Edward L.	Simonton,
Briggs,	Fisher,	McCoid,	Sparks,
Brigham,	Frye,	McCook,	Stephens,
Browne,	Garfield,	McGowan,	Stone,
Butterworth,	Gunter,	McKenzie,	Taylor,
Caldwell,	Hammond, John	McKinley,	Thompson, P. B.
Cannon,	Hawley,	McLane,	Tillman,
Carpenter,	Hayes,	Miles,	Wait,
Caswell,	Heilman,	Morton,	Warner,
Clark, John B.	Henry,	Newberry,	Wells,
Cook,	Horr,	O'Connor,	Whitaker,
Covert,	Houk,	Orth,	Whithorne,
Cowgill,	Hull,	Overton,	Willits,
Cravens,	Joyce,	Pochler,	Yocum.

NAYS—104.

Aldrich, N. W.	Atkins,	Beale,	Blake,
Aldrich, William	Ballou,	Belford,	Bliss,
Anderson,	Barber,	Beltzhoover,	Boyd,
Atherton,	Bayne,	Bicknell,	Bright,
Cabell,	Hammond, N. J.	Martin, Benj. F.	Steele,
Chalmers,	Harris, John T.	Mason,	Stevenson,
Chittenden,	Haskell,	Miller,	Thomas,
Coffroth,	Hatch,	Mills,	Thompson, W. G.
Colerick,	Hawk,	Mitchell,	Tucker,
Conger,	Herbert,	Myers,	Turner, Oscar
Converse,	Hill,	New,	Turner, Thomas
Culberson,	Hooker,	Osmer,	Updegraff, J. T.
Daggett,	Hostetler,	Phelps,	Upson,
Davis, George R.	Hubbell,	Philips,	Van Aernam,
Davis, Joseph J.	Hunton,	Phister,	Vance,
Davis, Lowndes H.	Hurd,	Richmond,	Van Voorhis,
De La Matyr,	Jones,	Robinson,	Washburn,
Dick,	Jorgensen,	Russell, Daniel L.	Weaver,
Dunnell,	Keifer,	Samford,	Wellborn,
Einstein,	Kelley,	Sapp,	Wilber,
Errett,	Kenna,	Sawyer,	Willis,
Ewing,	Klotz,	Sherwin,	Wilson,
Finley,	Ladd,	Singleton, J. W.	Wise,
Geddes,	Loring,	Singleton, O. R.	Wood, Fernando
Gillette,	Lounsbery,	Slemons,	Wright,
Goode,	Lowe,	Springer,	Young, Thomas L.

NOT VOTING—108.

Acklen,	Elam,	Le Fevre,	Ross,
Armfield,	Ellis,	Lewis,	Rothwell,
Bachman,	Farr,	Martin, Joseph J.	Russell, W. A.
Bailey,	Ford,	McMahon,	Ryan, Thomas
Baker,	Forney,	McMillin,	Scales,
Barlow,	Forsythe,	Money,	Shallenberger,
Bingham,	Fort,	Monroe,	Shelley,
Blount,	Frost,	Morrison,	Smith, A. Herr
Bowman,	Gibson,	Morse,	Smith, Hezekiah B.
Buckner,	Godshalk,	Muldrow,	Smith, William E.
Burrows,	Hall,	Muller,	Speer,
Calkins,	Harmer,	Murch,	Starin,
Camp,	Harris, Benj. W.	Neal,	Talbott,
Carlisle,	Hazelton,	Nicholls,	Townsend, Amos
Claflin,	Henderson,	Norcross,	Townshend, R. W.
Clardy,	Henkle,	O'Brien,	Tyler,
Clark, Alvah A.	Herndon,	O'Neill,	Updegraff, Thomas
Clymer,	Hiscock,	O'Reilly,	Urner,
Cobb,	House,	Pacheco,	Valentine,
Cox,	Humphrey,	Page,	Voorhis,
Crapo,	Hutchins,	Persons,	Waddill,
Crowley,	James,	Pierce,	Ward,
Davis, Horace	Johnston,	Pound,	White,
Deuster,	Ketcham,	Price,	Williams, C. G.
Dickey,	King,	Richardson, D. P.	Williams, Thomas
Dunn,	Kitchin,	Robertson,	Wood, Walter A.
Dwight,	Knott,	Robeson,	Young, Casey.

So the House refused to adjourn.

The following additional pairs were announced from the Clerk's desk:

Mr. DICKEY with Mr. MONROE, for the remainder of this day.

Mr. CLYMER with Mr. RYAN, of Kansas.

Mr. HENDERSON with Mr. TOWNSHEND, of Illinois.

The vote was then announced as above recorded.

Mr. COOK. I move the House resolve itself into the Committee of the Whole House on the state of the Union, for the purpose of proceeding with the special order.

The House divided; and there were—ayes 93, noes 4.

Mr. BRAGG. No quorum.

The SPEAKER *pro tempore*. The question having been raised that no quorum has voted, the Chair will appoint as tellers the gentleman from Georgia, Mr. COOK, and the gentleman from Wisconsin, Mr. BRAGG.

The House again divided; and the tellers reported—ayes 82, noes 8.

Mr. BRAGG. No quorum has voted.

Mr. SINGLETON, of Illinois. I move that there be a call of the House.

Mr. WARNER. I move the House adjourn.

Mr. SINGLETON, of Illinois. The gentleman has no right to make the motion when I have the floor.

The SPEAKER *pro tempore*. The gentleman from Illinois could not hold the floor after he had made his motion. The question will first be taken on the motion to adjourn.

The House divided; and there were—ayes 91, noes 46.

Mr. SINGLETON, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 80, not voting 108, as follows:

YEAS—104.

Aiken,	Claflin,	Hawk,	Martin, Edward L.
Bachman,	Clark, John B.	Hawley,	McCoid,
Ballou,	Cook,	Hayes,	McCook,
Beale,	Covert,	Heilman,	McKinley,
Blackburn,	Cravens,	Henderson,	Miles,
Bland,	Davidson,	Henry,	Mitchell,
Bouck,	Deering,	Hill,	Myers,
Bragg,	Dibrell,	Houk,	Newberry,
Brewer,	Dick,	Hull,	Norcross,
Briggs,	Evins,	Kelley,	O'Connor,
Brigham,	Farr,	Killinger,	Overton,
Bright,	Felton,	Kimmel,	Pacheco,
Browne,	Ferdon,	Klotz,	Page,
Buckner,	Field,	Ladd,	Pochler,
Burrows,	Finley,	Lapham,	Prescott,
Butterworth,	Fisher,	Lewis,	Reagan,
Caldwell,	Frye,	Lindsey,	Reed,
Cannon,	Geddes,	Lounsbery,	Rice,
Carpenter,	Hammond, N. J.	Manning,	Richardson, J. S.
Caswell,	Harris, John T.	Marsh,	Richmond,
Chalmers,	Haskell,	Martin, Benj. F.	Russell, W. A.

Ryon, John W.	Sparks,	Updegraff, J. T.	Whiteaker,
Sherwin,	Stone,	Van Aernam,	Whitthorne,
Simonton,	Thomas,	Wait,	Williams, Thomas
Singleton, O. R.	Thompson, P. B.	Warner,	Willits,
Smith, Hezekiah B.	Tillman,	Wells,	Yocum.

NAYS—80.

Aldrich, N. W.	Daggett,	Loring,	Singleton, J. W.
Aldrich, William	Davis, George R.	Lowe,	Slemons,
Anderson,	Davis, Joseph J.	Mason,	Steele,
Atherton,	Davis, Lowndes H.	McKenzie,	Stevenson,
Barber,	De La Matyr,	McLane,	Thompson, W. G.
Bayne,	Dunnell,	McMillin	Townsend, Amos
Belford,	Dwight,	Miller,	Townshend, R. W.
Bicknell,	Einstein,	Mills,	Tucker,
Blake,	Elam,	Morrison,	Turner, Oscar,
Bliss,	Errett,	Neal,	Upson,
Boyd,	Ewing,	Osmer,	Vance,
Cabell,	Goode,	Phelps,	Van Voorhis,
Calkins,	Hatch,	Philips,	Waddill,
Chittenden,	Herbert,	Phister,	Washburn,
Clardy,	Hooker,	Robertson,	Wellborn,
Coffroth,	Hostetler,	Robinson,	Willis,
Colerick,	Hurd,	Russell, Daniel L.	Wilson,
Conger,	Jorgensen,	Samford,	Wise,
Converse,	Keifer,	Sapp,	Wright,
Culberson,	Kenna,	Sawyer,	Young, Thomas L.

NOT VOTING—108.

Acklen,	Forsythe,	King,	Rothwell,
Armfield,	Fort,	Kitchin,	Ryan, Thomas
Atkins,	Frost,	Knott,	Scales,
Bailey,	Garfield,	Le Fevre,	Shallenberger,
Baker,	Gibson,	Martin, Joseph J.	Shelley,
Barlow,	Gillette,	McGowan,	Smith, A. Herr
Beltzhoover,	Godshalk,	McMahon,	Smith, William E.
Berry,	Gunter,	Money,	Speer,
Bingham,	Hall,	Monroe,	Springer,
Blount,	Hammond, John	Morse,	Starin,
Bowman,	Harmer,	Morton,	Stephens,
Camp,	Harris, Benj. W.	Muldrow,	Talbott,
Carlisle,	Hazelton,	Muller,	Taylor,
Clark, Alvah A.	Henkle,	Murch,	Turner, Thomas
Clymer,	Herndon,	New,	Tyler,
Cobb,	Hiscock,	Nicholls,	Updegraff, Thomas
Cowgill,	Horr,	O'Brien,	Urner,
Cox,	House,	O'Neill,	Valentine,
Crapo,	Hubbell,	O'Reilly,	Voorhis,
Crowley,	Humphrey,	Orth,	Ward,
Davis, Horace	Hunton,	Persons,	Weaver,
Deuster,	Hutchins,	Pierce,	White,
Dickey,	James,	Pound,	Wilber,
Dunn,	Johnston,	Price,	Williams, C. G.
Ellis,	Jones,	Richardson, D. P.	Wood, Fernando
Ford,	Joyce,	Robeson,	Wood, Walter A.
Forney,	Ketcham,	Ross,	Young, Casey

So the House determined to adjourn.

Mr. CABELL. I wish to state that my colleague, Mr. HUNTON, has retired from the House on account of sickness.

STORAGE OF SILVER IN THE SUB-TREASURY OF NEW YORK.

Pending the announcement of the above vote, the Speaker *pro tempore*, by unanimous consent, laid before the House the following executive communications.

A letter from the Secretary of the Treasury, relative to the limited amount of room for the storage of silver in the sub-treasury of New York; which was referred to the Committee on Appropriations.

SURVEY OF ILLINOIS RIVER.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a report of the survey of the Illinois River; which was referred to the Committee on Commerce.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. GODSHALK for ten days, on account of illness.

LEAVE TO PRINT.

By unanimous consent, leave to print in the RECORD was granted in the following cases:

To Mr. SHERWIN, on motion of Mr. CANNON, of Illinois, in response to remarks of Mr. COOK, on the subject of public buildings; and

To Mr. TAYLOR on the bill relative to licensing dealers in leaf-tobacco. [See Appendix.]

ORDER OF BUSINESS.

The result of the vote was then announced as above recorded; and accordingly (at three o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ANDERSON: The petition of William McKenney, for increase of pension—to the Committee on Invalid Pensions.

By Mr. BREWER: The petition of George P. Dudley and 30 others, ex-soldiers of Livingston County, Michigan, for the passage of the Geddes bill creating a court of pensions—to the same committee.

By Mr. CONGER: The petition of 250 citizens of Macomb County, Michigan, for the amendment to the patent laws so as to make the manufacturer or vendor of patented articles alone responsible for infringement—to the Committee on Patents.

By Mr. DAVIDSON: The petition of M. B. Owens, editor of the Star, Quincy, Florida, for the abolition of the duty on type—to the Committee on Ways and Means.

By Mr. DUNN: The petition of citizens of Prairie County, Arkansas, for the passage of laws to alleviate the oppressions imposed upon the people by the monopolies at present controlling the interstate commerce of the country—to the Committee on Commerce.

By Mr. FINLEY: The petition of lumber merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the Committee on Ways and Means.

By Mr. FISHER: The petition of citizens of Huntingdon County, Pennsylvania, for the regulation of interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Huntingdon County, Pennsylvania, that the Department of Agriculture be made a Cabinet bureau—to the Committee on Agriculture.

By Mr. GODSHALK: The petitions of citizens of Pennsylvania, for the passage of the bill (H. R. No. 5038) granting land titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. KILLINGER: The petition of J. and R. Meily, of Lebanon, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. LADD: Two petitions of 340 citizens of Aroostook County, Maine, for a change in the revenue laws and regulations of the Treasury Department, allowing British teams to be admitted under bond to labor in Maine without payment of duty, and for the increase of duty on cattle, sheep, and horses—to the same committee.

Also, the petition of 150 citizens of Houlton, Maine, for an appropriation for head-stones for soldiers who died at Hancock Barracks, Houlton, Maine, under the supervision of the Quartermaster-General of the United States Army—to the Committee on Military Affairs.

By Mr. McKENZIE: The petition of Francis Rowley, of Union County, Kentucky, for back pay and bounty—to the same committee.

By Mr. MURCH: The petition of manufacturers of Camden, Maine, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WILLIAM A. RUSSELL: The petition of Francis F. Lunt, for a pension—to the Committee on Invalid Pensions.

By Mr. THOMAS: The petition of D. C. Moore, John Wheeler, mail agents, and 41 others, citizens of the United States, for the appointment of a committee to investigate the labor performed by mail agents with a view to secure legislation in reference to their salaries—to the Committee on the Post-Office and Post-Roads.

By Mr. J. T. UPDEGRAFF: The petition of F. Dewey, of Napoleon, Ohio, and others, against any increase of the duty on sugar—to the Committee on Ways and Means.

By Mr. WELLS: The petition of dealers in crockery-ware, of Saint Louis, Missouri, for the reduction of the duty on said ware—to the same committee.

Also, the petition of the Saint Louis Cotton Exchange, for the improvement of the Mississippi River—to the Committee on Commerce.

By Mr. FERNANDO WOOD: The petition of Robbins & Appleton and other merchants, of New York City, for a uniform bankrupt law—to the Committee on the Judiciary.

By Mr. WRIGHT: The petition of Elmore Sharpe and 40 others, citizens of Norwich and vicinity, New York, for the passage of the bill for the equalization of bounties—to the Committee on Military Affairs.

Also, the petition of Elmore Sharpe and 45 others, citizens of Norwich, New York, for the passage of the bill (H. R. No. 269) known as the Wright supplement to the homestead act—to the Committee on the Public Lands.

IN SENATE.

MONDAY, *May* 24, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

ARCTIC EXPLORATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from Spencer F. Baird, Secretary of the Smithsonian Institution, transmitting a communication from Dr. Emil Bessels, chief of the scientific department of the Arctic expedition under the late Captain Hall, recommending the appropriation of $8,000 therein suggested for completing the preparation of the scientific results of that expedition; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of the Seymour Woolen Factory Company, of Seymour, Jackson County, Indiana, manufacturers of woolen goods, employing fifty-five hands; the petition of the Sauthers Iron Company, of Sauthers Station, Ohio, manufacturers of pig-iron, employing seventy-five hands; and the peti-

tion of the Junction Iron Company, of Mingo Junction, Ohio, manufacturers of pig-iron, employing one hundred and twenty-five hands, in favor of the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

Mr. INGALLS presented the petition of Stephen M. Rolph, M. D., of Sumner County, Kansas, late of the Seventeenth Regiment of Indiana Volunteers, praying to be placed on the invalid pension-roll; which was referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, presented a petition of Charles Lind and other ex-Union soldiers of Wisconsin, praying for the passage of what is known as the equalization-of-bounties bill; which was referred to the Committee on Military Affairs.

Mr. PENDLETON presented the petition of the Chamber of Commerce of the city of Atlanta, Georgia, and the petition of the Chamber of Commerce of Cincinnati, Ohio, praying for the passage of a bill authorizing the Secretary of War to contract with the San Antonio and Mexican Border Railway Company for the construction of a postal and military railway from San Antonio, Texas, to Laredo, on the Rio Grande; which were referred to the Committee on Railroads.

Mr. COCKRELL presented affidavits of J. T. Moss, William C. Wood, and Dr. C. A. Williams, in support of claim for pension of John C. Hargrave, to accompany the bill (S. No. 1766) granting a pension to John C. Hargrave; which were referred to the Committee on Pensions.

Mr. BUTLER presented the petition of the directors of the Lincoln Mission, of Washington City, praying that the District commissioners be authorized to investigate the condition and title of the property of the Lincoln Mission; which was referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. EATON, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes, reported it with amendments.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1778) authorizing the commissioners of the District of Columbia to appoint guides in said District, and for other purposes, reported it with amendments.

Mr. SAULSBURY, from the Committee on Privileges and Elections, to whom was referred the bill (S. No. 685) to change the day for the election of Representatives and Delegates to the Congress of the United States, reported adversely thereon; and the bill was postponed indefinitely.

Mr. CARPENTER, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1292) to provide for the removal of the terms of the United States circuit and district courts now held at Exeter, for and within the district of New Hampshire, to the city of Concord, reported it without amendment.

Mr. EDMUNDS. I wish to say that I do not concur in favor of either of those bills as they now stand. I should be in favor of the Iowa one with a slight change about the clerks, which I think is important.

Mr. CARPENTER. I ask, if there be no objection, for the present consideration of the Iowa bill.

Mr. EDMUNDS. I object to them all and to every other, Mr. President, out of order.

The PRESIDENT *pro tempore*. The Senator from Vermont objects.

Mr. EDMUNDS. Let them go on the Calendar.

BILL INTRODUCED.

Mr. MCPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 115) to provide for the speedy payment of the workingmen of the District of Columbia; which was read twice by its title, and referred to the Committee on Appropriations.

THE SOLDIERS' HOME.

The PRESIDENT *pro tempore*. The routine business of the morning hour is at an end, and the Senate proceeds to the consideration of the Calendar.

Mr. CARPENTER. I ask the Senate to proceed to the consideration of the resolution offered by me several days ago, and which lies upon the table, in regard to the Soldiers' Home, in Washington.

Mr. BECK. I ask the Senate, in accordance with the notice given on last Friday morning, to proceed to the consideration of House bill No. 4812, being an act to amend the internal-revenue laws, known as the Carlisle bill. I laid the report on last Friday before the Senate. It is a very important bill. As matters pertaining to appropriations generally have precedence, I suppose matters relating to revenue ought to be considered in the same light.

Mr. EDMUNDS. This pertains to taxation.

Mr. BECK. I hope the Senate will take up the bill.

Mr. CARPENTER. The resolution is a short one, and will take but a few minutes.

Mr. BECK. I do not care about antagonizing it. I merely desire to say that the bill to which I have referred should be considered this morning.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to postpone the Calendar and all prior orders in order to proceed to the consideration of the resolution he has indicated, which will be reported for information.

The Chief Clerk read the resolution, submitted by Mr. CARPENTER on the 1st of April, as follows:

Resolved, That a committee of three, to be appointed by the Chair, be raised to examine into the condition, management, and discipline of "The Soldiers' Home," in the District of Columbia, and whether any legislation is needed upon the subject, and to ascertain and report to the Senate what amount of money the said Soldiers' Home has received, when and from what sources received; what amount of money and for what purposes it has disbursed, and the amount of money it now has, and where the same is kept and whether any part thereof is invested, and how invested. That said committee have power to send for persons and papers, administer oaths, and employ a stenographic writer to take down the evidence to be reported to the Senate.

Mr. COCKRELL. The resolution has not been before any committee, and while I have no objection to the investigation, yet on principle I am now, as I have been uniformly, opposed to select committees which entail unnecessary cost and expense.

Mr. EDMUNDS. Is the resolution up?

The PRESIDENT *pro tempore*. It is not. The question is, Will the Senate proceed to the consideration of the resolution?

Mr. COCKRELL. I move its reference.

Mr. EDMUNDS. It is not up yet.

Mr. COCKRELL. I object, then, to its being considered now.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of the resolution.

Mr. COCKRELL. I ask for a division on taking it up. I do not believe there is a quorum present.

The question being put, there were on a division—ayes 22, noes 3, no quorum voting.

Mr. EDMUNDS. There is no quorum present, evidently.

The PRESIDENT *pro tempore*. The roll will be called.

The Secretary called the roll, and forty-five Senators answered to their names.

Mr. SLATER. I desire to announce that my colleague [Mr. GROVER] is detained from the Senate by illness.

The PRESIDENT *pro tempore*. There is a quorum present, and the question is, Will the Senate postpone the Calendar and all prior orders and proceed to the consideration of the resolution submitted by the Senator from Wisconsin, providing for a special committee to investigate the Soldiers' Home?

The motion was agreed to—ayes 29, noes 10; and the Senate proceeded to consider the resolution.

Mr. CARPENTER. I understand objection is made to the resolution which I offered and which is now before the Senate, upon the ground that it authorizes the employment of a stenographer, which would make expense. I move to amend it by striking out the clause which authorizes the employment of a stenographer.

The PRESIDENT *pro tempore*. The resolution not having been amended and the yeas and nays not having been ordered, it is within the power of the Senator to modify it.

Mr. CARPENTER. Then I ask the Secretary to strike out the clause about the employment of a stenographer.

Mr. GARLAND. The objection to the resolution as I have heard is the general objection to the appointment of special committees. I do not want to interfere with the resolution of the Senator from Wisconsin, as he has investigated the matter and I suppose sees the necessity for it, but I should like to ask him why not amend it so as to instruct the Military Committee to take the subject in hand and make the proper investigation?

Mr. CARPENTER. I will answer that question. I take it the Military Committee, like all other standing committees of this Senate, have got enough business before them for the residue of this session. I am sure that an investigation of that kind cannot be conducted by any regular committee for the want of time. It will require the examination of some witnesses, and an examination of accounts and papers; and striking out the only provision which would cost a shilling, there does not seem to me to be any objection to investigating the subject by a special committee, who will have the time to do it. That is the only reason for it.

Mr. DAVIS, of West Virginia. I should be glad to know how the Senator would get along without a stenographer?

Mr. CARPENTER. If the United States is not able to pay for it—and that I understand to be the reason why it is objected to, that Senators do not want to incur any expense—the chairman of the committee can probably take the testimony himself. It is an economical resolution. I understand that to be the policy of the country just now.

Mr. HOAR. Is this a resolution of inquiry into abuses or alleged abuses?

Mr. CARPENTER. Let the resolution be reported, Mr. President.

The Chief Clerk read the resolution as modified.

Mr. HOAR. It seems to me that the committee ought to have the power to employ a stenographic writer, and they ought to be required to do so whether they want to or not; and he should be an official person.

Mr. CARPENTER. Then let the Secretary read the resolution as it was offered originally, and let the Senate vote on it.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin leave in the words "and employ a stenographic writer to take down the evidence."

Mr. CARPENTER. I will leave those words in, as the resolution stood originally.

Mr. HOAR. I was about to say that justice to the Senate and justice to the parties investigated require that whatever evidence in regard to an inquiry of that kind is given should be recorded exactly as it is given, by an officer of the Senate—the Official Stenographer. I should hope the Senator therefore would leave that clause in.

Mr. BURNSIDE. I think this investigation properly belongs to the Committee on Military Affairs, and therefore I shall ask on behalf of that committee that they be empowered to make the investigation.

Mr. EDMUNDS. The Senator can move to amend by striking out "select committee" and making it read "the Committee on Military Affairs."

Mr. BURNSIDE. I move to amend by having the investigation referred to the Committee on Military Affairs. It is a thing that particularly appertains to that committee, and in view of all the surroundings I think it ought to go there.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out after the word "that" the words "a committee of three, to be appointed by the Chair, be raised" and insert "the Committee on Military Affairs be instructed;" so as to read:

Resolved, That the Committee on Military Affairs be instructed to examine into the condition, management, and discipline of the Soldiers' Home, in the District of Columbia, &c.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. CARPENTER. I probably misunderstood him, but I understood the Senator from Rhode Island to say some weeks ago that he desired to have the investigation made by a special committee if it was done at all, and it was partially in deference to his wishes on the subject, as I understood them, that I provided for a special committee.

There are various reasons, however, why the subject should go to a special committee. I do not want to state here in the Senate without knowing whether it is true or false what is said about the institution; but enough has come to me from soldiers who have been inmates there, and who have recently been ejected from there, as they represent, without any cause whatever, and the representations of those who say they have suffered punishment without charges, and all that sort of thing, to justify an investigation.

There is no objection to the Military Committee doing the work if they have the time to do it. A special committee has the time, and is much more likely to do it speedily than a general standing committee. A mere investigation of that institution cannot do any injustice to anybody. The principal managers or governors are high officers of the Army; I forget whether they are called governors or managers or commissioners. The testimony to be taken will disclose the facts. If anything is going on there which is improper, everybody wants to stop it; if not, everybody wants to commend the institution. it was established in 1851, and was supported at first by contributions of all the soldiers in the Army, upon the principle of an insurance company, and while all the soldiers pay twelve and one-half cents a month, out of a thousand probably not more than one has ever been an inmate of the home. If what is said about it is true, it needs overhauling; if it is false, it is for the interest of the institution to have the untruth established. I hope the Senate will not amend the resolution.

Mr. BURNSIDE. In view of the fact that the Senator from Wisconsin has referred to a private conversation between us, I will state the substance of the conversation as I understood it. When this resolution was first introduced by him there was some objection made to it by the Senator from Texas, [Mr. MAXEY,] or myself, or some one else. It was said that this resolution ought to go to the Military Committee. I said I did not care about having it go to the Military Committee; I said I did not think we ought to have it here. I said so to the Senator. That is, in view of the fact that it was aimed against the managers of the institution——

Mr. CARPENTER. Oh, no; that is not so, Mr. President. I never engaged in any proceeding against that institution in my life.

Mr. BURNSIDE. I beg pardon; I have understood that the Senator was engaged for some soldiers who had a contest with the managers of the home.

Mr. CARPENTER. That is a mistake.

Mr. BURNSIDE. Then I beg the Senator's pardon. I had that impression. Nobody informed me of it except the newspapers, that some case had been decided in the Supreme Court in which the Senator was counsel.

Mr. CARPENTER. May I state the fact?

Mr. BURNSIDE. Certainly.

Mr. CARPENTER. The fact is this: Certain soldiers in the Soldiers' Home claimed that they were entitled to pensions. The Soldiers' Home claimed they were not so entitled. Before I was elected to the Senate I brought a suit in the Court of Claims, and got a judgment there that the home was not entitled to retain their pensions, and that the Government must pay their pensions to the pensioners. That is what it involved—no issue, no unpleasantness, no investigation, no quarrel with the Soldiers' Home, nor was it a party to the proceeding in any way whatever.

Mr. BURNSIDE. I will state that when the conversation which I related occurred between the Senator and myself, I said I did not want to be on the committee, for I was so identified with the regular Army that I did not think probably it would be best for me to be on the committee. The Senator said he did not desire to be on the committee himself. I stop there, and will say nothing more about what occurred in the conversation.

Mr. President, every member of this Senate is on some two or three committees, or three or four, except myself. I am on but two committees, but every other member of the Senate is certainly on three, and some of them on four, committees. The time of all Senators is quite occupied now, and a sub-committee from the Military Committee can just as well examine this as any other three men in the Senate. They have lawyers on the committee, they have men who have been in the military service, who are certainly unprejudiced, as far as the regular Army is concerned. They have just as much time as other members of the Senate. It is a question that pertains to that committee, and I do not think it will be treating that committee properly to take a question of this kind out of their hands. The chairman of that committee [Mr. RANDOLPH] has the interest of the Army and everything that appertains to it at heart as much as any man I ever met. He is not a soldier, and never has been, but he is as much interested as any man I ever knew in the work that we have before us. He would either go on the sub-committee himself or make a good sub-committee from the Military Committee. I think it is but fair and right to the institution and to that committee that this work should be placed upon them. They can do it as well as anybody else. I hope, therefore, my amendment will be adopted.

Mr. COCKRELL. I think that the amendment suggested by the Senator from Rhode Island should be adopted. The Senator from New Jersey, [Mr. RANDOLPH,] the chairman of the Committee on Military Affairs, is not here now, but I think that that committee can very thoroughly investigate this matter. If all the standing committees of the Senate are so overwhelmed with business that they cannot attend to this matter, how can the individual members of those committees thus overwhelmed with business become members of a select committee and do the work?

Mr. CARPENTER. If the Senator will allow me, I will suggest to him how that can be done in the easiest possible way.

Mr. COCKRELL. Certainly.

Mr. CARPENTER. One member from one committee and another from another and another from another can be selected without interrupting the business of the three regular committees from which they are taken, whereas if the Committee on Military Affairs has got to take it as one committee in charge, it has got to have more or less exclusively the attention of that committee, and stop its other business.

Mr. COCKRELL. I do not think the answer sufficient. If this be referred to the Committee on Military Affairs it will doubtless be delegated to a sub-committee of one, two, or three members, who can devote their time and attention to it.

Now, I say very frankly that as a member of the Committee on Military Affairs, I shall not be able to be a member of this sub-committee, and therefore I speak with perfect freedom and impartiality. I believe that it belongs to that committee properly to look into this matter, and I hope the amendment of the Senator from Rhode Island will be agreed to, and that the resolution will authorize the Committee on Military Affairs to make the investigation and not a select committee.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, to substitute the Committee on Military Affairs in place of a select committee.

The question being put, there were on a division—ayes 21, noes 10; no quorum voting.

The PRESIDENT *pro tempore*. There is evidently a quorum present. The Chair will put the question again, and requests Senators to vote.

The question being again put by a division, the ayes were 24, and the noes 12; no quorum voting.

Mr. CARPENTER. Give us the yeas and nays. They will settle the question of a quorum.

The yeas and nays were ordered, and the Secretary called the roll.

Mr. VOORHEES. I am requested by the Senator from North Carolina [Mr. RANSOM] to announce that the Committee on Commerce is in session, and that that accounts for his absence and that of other members of that committee.

The result was announced—yeas 29, nays 14; as follows:

YEAS—29.

Anthony,	Davis of W. Va.,	Ingalls,	Saulsbury,
Bailey,	Edmunds,	Johnston,	Slater,
Beck,	Farley,	Jonas,	Thurman,
Blair,	Garland,	Jones of Florida,	Walker,
Burnside,	Harris,	McPherson,	Withers.
Butler,	Hill of Colorado,	Morrill,	
Call,	Hill of Georgia,	Pendleton,	
Cockrell,	Hoar,	Plumb,	

NAYS—14.

Allison,	Dawes,	Morgan,	Williams,
Booth,	Eaton,	Pryor,	Windom.
Cameron of Wis.,	Kernan,	Teller,	
Carpenter,	Kirkwood,	Voorhees,	

NOT VOTING—33.

Baldwin,	Gordon,	Logan,	Saunders,
Bayard,	Groome,	McDonald,	Sharon,
Blaine,	Grover,	McMillan,	Vance,
Bruce,	Hamlin,	Maxey,	Vest,
Cameron of Pa.,	Hampton,	Paddock,	Wallace,
Coke,	Hereford,	Platt,	Whyte.
Conkling,	Jones of Nevada,	Randolph,	
Davis of Illinois,	Kellogg,	Ransom,	
Ferry,	Lamar,	Rollins,	

So the amendment was agreed to.

The resolution, as amended, was agreed to.

STATUE OF PROFESSOR HENRY.

Mr. BECK. I ask the Senate now to take up for consideration House bill No. 4812.

Mr. MORRILL. I ask the Senator from Kentucky to allow me to call up a bill that will receive, I have no doubt, the unanimous assent of the Senate. It will not take five minutes; and as the bill the Senator proposes to take up will probably occupy all the morning, I ask him to allow me to get up the bill for a monument to Joseph Henry, to be erected in the Smithsonian grounds.

Mr. BECK. I hope I shall not lose my place by giving way.

The PRESIDENT *pro tempore*. The Senator from Vermont asks that the Senate proceed to the consideration of the bill (S. No. 1702) for the erection of a monument in the city of Washington to the memory of Joseph Henry, late Secretary of the Smithsonian Institution. Is there objection?

Mr. VOORHEES. Let the bill be read for information.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. Is there objection to proceeding to the consideration of this bill?

Mr. EDMUNDS. I hope the Chair on all such occasions will put the question, for I do not wish to stand unanimous sponsor for anything from this time to the end of the session.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of the bill named by the Senator from Vermont, [Mr. MORRILL.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1702) for the erection of a monument in the city of Washington to the memory of Joseph Henry, late Secretary of the Smithsonian Institution. It authorizes the Regents of the Smithsonian Institution to contract with W. W. Story, sculptor, for a statue in bronze of Joseph Henry, late Secretary of the Smithsonian Institution, to be erected upon the grounds of that institution; and appropriates $15,000 for this purpose, and for the entire expense of the foundation and pedestal of the monument.

Mr. VOORHEES. Mr. President, I am opposed to legislating a contract into any one man's hands on a subject where competition ought to take place. I do not know how often it has been done heretofore, but in every instance where it has been done it is wrong. A work of this kind ought to be open to competition. Every artist ought to be allowed to compete for a work of this character. [A pause.] The Senator from Vermont very justly reminds me that Mr. Story is an eminent artist. I know that. There are other eminent artists in the country, and all of them think they are. Every one of them desires to put his skill on exhibition, and it is his right to do so. I think that the bill ought to be amended by making this work subject to competition rather than a direct contract with Mr. Story.

Mr. MORRILL. I hope my friend from Indiana will not move any amendment. Mr. Story is the son of the late Chief-Justice Story, and is one of the most eminent artists of this country or any other, and has never received an order from the Government. He is eminent in very many other respects than as a sculptor. I trust there will be no amendment offered.

The PRESIDENT *pro tempore*. There is too much conversation in the Chamber, [rapping with his gavel.]

Mr. MORRILL. I merely was appealing to my friend, the Senator from Indiana, not to offer any amendment to this bill. It is no more than justice to the very eminent men, the living as well as the dead, to both the person to whom we propose to erect the monument and the artist whom it is proposed to employ, and the sum offered is a very small one indeed.

Mr. VOORHEES. It is difficult for me to withstand an appeal or request preferred by the Senator from Vermont, but I am satisfied that the bill ought to be amended so as to allow competition.

Mr. MORRILL. I hope not.

The PRESIDENT *pro tempore*. Does the Senator from Indiana move an amendment?

Mr. VOORHEES. I have not done so.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution."

INTERNAL-REVENUE LAWS.

Mr. BECK. I move that the Senate proceed to the consideration of House bill No. 4812, to amend the laws in relation to internal revenue.

The PRESIDENT *pro tempore*. Will the Senate postpone all prior orders and proceed to the consideration of this bill?

The motion was agreed to; and the bill (H. R. No. 4812) to amend the laws in relation to internal revenue was considered as in Committee of the Whole.

The bill was reported by the Committee on Finance with amendments. The first amendment was, in section 4, line 1, after the word "that," to insert "the joint resolution approved March 28, 1878, be, and the same hereby is, repealed; and that;" and, in lines 5 and 6, to strike out the words "by joint resolution approved March 28, 1878;" so as to make the section read:

SEC. 4. That the joint resolution approved March 28, 1878, be, and the same hereby is, repealed; and that section 3293 of the Revised Statutes of the United States, as amended by an act entitled "An act to amend the laws relating to internal revenue," approved March 1, 1879, be amended by striking out all after the said number, and substituting therefor the following, &c.

Mr. BECK. That is proposed at the request of the Commissioner of Internal Revenue, to make the section more distinct.

The amendment was agreed to.

The next amendment was in section 10, line 3, to strike out "of" and insert "exported;" in line 4, to strike out "word 'seventy,'" and insert "words 'at the rate of seventy cents per proof-gallon,'" so as to make the section read:

SEC. 10. That section 3329 of the Revised Statutes of the United States be amended by striking out after the word "exported," in the fifty-sixth line, the words "at the rate of seventy cents per proof-gallon," and inserting in lieu thereof the word "ninety;" and by striking out the words "in quantities of not less than one thousand gallons," in the third line thereof; and by inserting the word "packages" after the word "casks," in the fifth line thereof.

The amendment was agreed to.

Mr. MORRILL. Mr. President, so far as this bill provides for the exportation of liquors in less quantities than a thousand gallons, I have no objection to it.

Mr. BECK. Will not the Senator from Vermont allow the amendment on page 14, line 17, to be acted on? It is to insert the word "proof," which I think the Senate agrees to. Let that be acted on first.

Mr. MORRILL. I have no objection.

The next amendment of the Committee on Finance was stated to be in section 17, line 17, after the word "one" to insert the word "proof," so as to read:

That the allowance which shall be made for such loss of spirits as aforesaid shall not exceed one proof-gallon for two months, or part thereof, one and one-half gallons for three and four months, two gallons for five and six months, two and one-half gallons for seven and eight months, three gallons for nine and ten months.

The amendment was agreed to.

The CHIEF CLERK. The next amendment is in line 40 of section 17.

Mr. MORRILL. I prefer not to have a vote on that just yet.

Mr. BECK. Very well.

Mr. MORRILL. So far as this bill provides for the exportation of liquors in less quantities than a thousand gallons, and so far as it allows a reduction of the amount of bonds, I have no objection to it, believing it will still be safe for revenue purposes; but when it comes to the provisions by which the quantity of spirits is to be reganged, subjecting the Department to an immense increase of labor and to all the contingencies of fraud, I think it is a measure that we may well pause about before we vote in favor of it, and I desire to ask the Senator in charge of this bill to allow the communication upon it received from the Commissioner of Internal Revenue to be read. I think his opinion is worth as much at least on that point as that of any member of the Committee on Finance.

Then there is another provision by which this liquor is to remain in bond, without payment of interest for three years. I believe the fact to be that we might properly require a larger amount of tax upon the Bourbon whisky than is collected from the ordinary corn whisky. It is generally made of better materials and is of higher value. It is in evidence that this whisky improves at least 25 per cent. per annum by age, and therefore instead of being allowed these immense privileges as against the ordinary whisky that cannot be used until rectified, it ought to be made to pay as high rates of duties as any other kind of spirits at least, and certainly the Government ought not to offer to it exceptionable privileges, nor to run any risk by any arrangement, as to the perpetration of fraud. I ask that the communication from the Commissioner of Internal Revenue be read.

Mr. BECK. We have no communication from the Commissioner of Internal Revenue that I know of, except the testimony taken before the House committee.

Mr. MORRILL. Yes; there is a long report in the Committee on Finance.

Mr. BECK. There is a letter from Mr. French, the Acting Secretary of the Treasury.

Mr. MORRILL. With a communication from Mr. Raum.

Mr. BECK. I desire to say in that connection that Mr. Raum was summoned, as will be observed, before the Committee on Ways and Means of the House, and a thorough investigation of every question involved in the bill was had; his testimony is reported and attached to the report. He was also examined before the Committee on Finance of the Senate elaborately, and no suggestion of any serious danger from fraud was made by him before either committee so far as I recollect. His testimony is in the hands of Senators. It is impossible there can be any fraud encouraged or connived at by this change. A

communication, however, was received from the Acting Secretary of the Treasury, a gentleman by the name of French, in which he made almost absolutely the speech that is now being made by the Senator from Vermont; but when we came to summon him to appear before us we were told that he knew nothing personally about it. We summoned the Commissioner and examined him, not troubling ourselves about the Assistant Secretary because of his avowed ignorance.

That communication from Mr. French was not even considered by the committee, because of the information that he did not know anything personally about the subject; but the officer who is presumed to know (Mr. Raum, the Commissioner) was summoned, was examined as he had been examined in the other House, and he did not make any such statement as was made by Mr. French. The letter from French I think is the one referred to. If there was any such communication from Mr. Raum I never heard of it.

Mr. MORRILL. The Senator from Kentucky will remember that the Commissioner of Internal Revenue declined to give any opinion upon the point as to the propriety of changing the law in relation to the loss by evaporation and by the lapse of time, and also as to the question of interest. He declined to give any opinion at all on these two points.

Mr. BECK. That is true. The Commissioner of Internal Revenue declined to give any opinion on those points, having approved of the other sections of the bill. His declination to do so was simply based on the ground that those were questions of revenue to be left to Congress, and he did not desire to give any opinion as to what ought to be done with them. He laid before us information showing that he had received for the first ten months of this year from internal revenue, principally from distilled spirits, $10,751,959 more than he had received for the corresponding period last year, and that the whole loss, if we see fit to give all this relief in every form, taking off the interest, which is a mere annoyance, and which amounted to about $570,000 last year, and the twenty-five-cent stamp which the wholesale dealers pay and rectifiers pay, and if we agree to the proposition to gauge out also, instead of collecting on the gauge into the warehouse, the whole loss by utmost possibility can be only $2,192,907. That is the total loss, while the gain this year already in ten months is $10,751,000. He distinctly averred before us that there was no more chance of fraud by the change proposed than there was under the present system. The liquor is all, at all times and under all conditions, in the hands of Government officers, and always under their control. They have no inducements for fraud in the change proposed. We have allowed deductions for evaporation for all that is now exported, which is right, and all the high-wine producers and continuous distillers at Peoria and elsewhere get the benefit of that. The only complaint comes from the most sordid portion of that interest. I think there are about seven men in Peoria, and ten all over Ohio, and one somewhere else, who are all I have heard of, while hundreds, yes, thousands of men engaged in the various branches of the trade, in the legitimate business of the country, demand this relief. This very general demand, notwithstanding some mean opposition, influenced the committee and influenced the other House very properly.

A man can carry on a distillery in Buffalo now, for example, and can send his product over into Canada, with only a river between them; he can allow it to remain there three, four, or five years, indeed, as long as he likes, and bring it back to Buffalo or any other port of the country and pay tax only on what he brings in. Every man sending his liquor abroad and bringing it back only pays tax exactly on the number of gallons he imports, no matter how much was in the package when exported. That is a much greater privilege than we now ask.

Mr. MORRILL. That is a species of fraud which has not been practiced to any extent, and there is no apprehension that it will be.

Mr. BECK. It is not a fraud or a breach of privilege at all. It is a right exercised according to law. Why, sir, there is an order from the Secretary on the subject; I have it in my hand, and it is now and has been done wherever gentlemen saw fit to do it. Besides, there is not an article now in any country in the world that I know of, except distilled spirits, upon which tax is paid on what is made. The tax is imposed on what enters into consumption, and the presumption and assumption is that the consumer pays the tax. If tobacco spoils and becomes useless the manufacturer throws it out and does not pay the tax.

Mr. McPHERSON. May I ask the Senator from Kentucky a question in this connection?

Mr. BECK. Certainly.

Mr. McPHERSON. I wish to ask the Senator whether the amendment of the Finance Committee to the tenth section of the bill provides for a rebate on spirits exported of seventy cents or ninety cents per gallon?

Mr. BECK. When the Senator from Vermont and others in 1875 secured the passage of a certain law to protect the sinking fund they raised the tax on distilled spirits from seventy to ninety cents, but they forgot to allow the exporter a rebate of the same amount of tax as he had paid.

Mr. McPHERSON. The intention, then, is to give a rebate equal to the tax paid?

Mr. BECK. That is all. That is what the Constitution and justice required, and there is nothing in this bill except just the question I have presented, that men shall not be taxed on what they have not got. Something is said about the amount that the whisky-makers gain by keeping whisky in bond for a long time, and how much it improves. Just one word as to that. These men have this disadvantage to begin with: they cannot obtain more than three gallons of whisky from a bushel of grain, by any possibility, by the process they have to adopt in order to make a high character of whisky. The high-wine man gets four gallons. There is a gallon disadvantage against the Bourbon distiller on every bushel of grain to begin with. Another thing: he has to use the very best grain, for a single bushel of sour grain, the end or decayed nub of an ear, as it is called, of mean corn, will spoil the whole mash. Therefore he has to pay the highest price for his materials. He has to have one-third rye, and must buy the best rye he can get. Anything bad or injurious in his material destroys it all. As his material costs him a great deal more than that used by the manufacturers of common spirits costs them, of course his product must be worth more. The man who makes high-wines can use any kind of corn, refuse of any sort; he can use cheap oats instead of rye. Of course he can make more whisky, and he can make it out of cheaper material, yet the tax per gallon is the same. But in order to give the latter class a chance, as the object is and ought to be to build up trade, and build it up so those engaged in it can make money, and thus continue to pay revenues, we said to them, You need not stop the making of high-wines or spirits at the end of the worm; we allow you by continuous distillation to carry it through charcoal and through other substances and processes, so that when it comes out it will be distilled spirits without odor, of any strength you like. You may regulate proof by injecting distilled water. By virtue of these liberal provisions the distiller takes it out of the receiving tub and runs it through a tub like that, [indicating,] and another like that, [indicating,] bringing it out deodorized, as neutral spirits, by a process of continuous distillation through charcoal, &c. In going from the receiving cistern through the process of making it into pure spirits 5 per cent. is lost. He therefore pays on ninety-five gallons, while the man who makes the superior whisky without this continuous process pays on one hundred gallons.

There 5 per cent. is allowed the continuous distiller to begin with. The Commissioner thinks it is about 4 per cent.; either is a great advantage to the high-wine maker, who is also a continuous distiller. He now gets the 4 or 5 per cent. Congress gave him that. We gave him the right to export and allow him for all the leakage or the evaporation before he gets to the port of departure; but destroyed on the way or at sea he pays nothing. That is all right. These men claimed and begged that we should do these things for them. A few of them now do not like this relief we seek to give to other people because we think it right to give them the like advantage of only paying for what goes into the market for consumption. There is one very honorable exception, a man I hardly know, but I suppose he is known to some of the Senators here, who wrote me this letter the other day. He signs his name Philip Zell, one of the largest distillers of Peoria. I suppose some of the western gentlemen on this floor may know him. He says:

ZELL, SCHWABACHER & CO., DISTILLERS,
PEORIA, ILLINOIS, *May* 15, 1880.

SIR: Your valuable aid to and the enlightened and just views expressed during the discussion of the measure of relief for distillers on export alcohol during the early part of the session of the present Congress are gratefully remembered by the writer, as by all interested and benefited by the passage of the bill known as the "leakage bill" in December last.

Now, inasmuch as the bill known as the Carlisle bill is only the sequence and just extension of the principle covered by the leakage bill to all classes of distilled goods, and as all other provisions of the said Carlisle bill are only in the furtherance of correct business principles, and in no wise detrimental to the collection of the revenue, I earnestly pray you to use your best endeavors and influence to bring to a final passage in the Senate the bill under your care.

Because I had reported it, I suppose.

Again thanking you for the valuable service already rendered, I subscribe myself,

Your obedient servant,

PHILIP ZELL.

To Hon. JAMES B. BECK,
United States Senate, Washington D. C.

He is one of the largest of the men engaged in this business. He admits that the present bill is right and that it is a fair thing to do to collect tax only on what goes into consumption.

I do not care to say any more. I have stated the substance of the bill. I think it ought to pass.

Mr. ALLISON. Mr. President, I suppose this bill is to pass. I do not know that I shall have much to say about it. I think the seventeenth section, which I believe is the one the Senator from Kentucky has been discussing, ought not to pass.

The principle of the collection of taxes upon distilled spirits heretofore has been that the taxes shall be collected at the still, at the worm. It is changed wholly by this seventeenth section, so that the article is gauged and taxed from the distillery warehouse. Some two or three years ago these Bourbon distillers from Kentucky and elsewhere came to us and said that it was very important that we should allow them a longer time to keep their fine whiskies in bond; that we allowed imported goods, for example, to remain in bond three years; and yet for our domestic products we insisted that the tax should be paid after one year. They made a considerable effort to secure the passage of a bill extending the time for these spirits to be placed in bond from one to three years. They said to us, "If you will allow this in order that our product may grow in value, we are will-

ing for the two last years to pay at the rate of 5 per cent. per annum for this extension of time." We allowed them to let their whisky remain in bond for three years, for the last two years requiring the payment of 5 per cent. per annum. After they have had two or three years' experience in this regard they now come here and insist that this 5 per cent. shall be remitted to them, and that is done in this bill. I do not oppose that remission. I think it is a small affair and a matter which in the adjustment of their accounts with the Treasury makes it very difficult. It amounts to only $78,000 per annum, I believe. Therefore I was willing that they should have a remission of that interest; but now they insist, in addition, that these spirits shall be gauged out of the warehouse and that the distiller shall be allowed for the evaporation and leakage, whatever it may be, during the three years the whisky remains in bond.

Mr. BECK. Only up to a given point.

Mr. ALLISON. There is a limitation, I agree; and I will say for this seventeenth section that I think with the limitation here there is probably no danger of fraud. I do not think there is any.

Mr. BECK. There cannot be.

Mr. ALLISON. I do not think there is, because there is a limitation as to the amount of evaporation. Of course the maximum will always be reached; but it seems to me that these Bourbon distillers now ask that at the end of three years they shall have the whisky product gauged out of the bonded warehouse instead of paying the tax upon the amount ganged into the warehouse. It is claimed by other classes of distillers that this is an unjust discrimination as to them. There is a class of distillers who make high wines, so called, and this class are obliged to pay the amount of the tax as the whisky is gauged from the still.

Mr. BECK. Oh, no; they get the benefit of it.

Mr. ALLISON. If they take the whisky out of the still and place it in a bonded warehouse they get precisely the same benefit; but the class of whisky that they make is not benefited by age as the Bourbon whisky is benefited; in other words, their production is completed for the market by a process of rectification or redistillation, and they are obliged to pay the tax upon the raw material, the high wines that they produce from their stills, and these high wines go into a rectifying establishment, the tax being paid before the high wines go into that establishment, and then these spirits are rectified and lose by rectification from 5 to 6 or 7 per cent.

What I object to, and what I am afraid of, is that having corrected this evil, as it is called by the Senator from Kentucky, for the Bourbon distillers, next year we shall be called upon to make a correction in favor of the rectifiers in order that they, too, may be placed upon a par with the Bourbon distillers; and thus by a process of see-saw we shall find ourselves here first legislating for the Bourbon distillers and then next year legislating for the rectifying establishments, and thus we shall never have an established rule for the taxation of spirits; and therefore it is that I think the seventeenth section is a mistake, and I shall be glad to have an opportunity of voting against it.

I say nothing about the additional fact that this is a loss to the revenue of about $2,000,000 per annum. That loss will continue as long as this section stands.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment proposed by the Committee on Finance.

The amendment was agreed to.

Mr. BECK. The last amendment is on page 15.

The CHIEF CLERK. The next amendment is, in section 17, line 40, after the words "per cent.," to strike out:

And in case it shall appear upon such regauging that the proof of such spirits is less than 100 per cent., the distiller or owner shall pay the tax upon the wine-gallons.

So that the proviso will read:

And provided further, That the proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than 100 per cent.

Mr. BECK. That we strike out on the recommendation of the Commissioner of Internal Revenue.

The motion was agreed to.

Mr. MORRILL. I move to strike out section 17.

The PRESIDING OFFICER. The Senator from Vermont moves to amend the bill by striking out section 17, which will be read.

The Chief Clerk read as follows:

SEC. 17. Whenever the owner of any distilled spirits shall desire to withdraw the same from the distillery warehouse, or from a special bonded warehouse, he may file with the collector a notice giving a description of the packages to be withdrawn, and request that the distilled spirits be regauged; and thereupon the collector shall direct the gauger to regauge the same, and mark upon each package so regauged the number of gauge or wine gallons and proof-gallons therein contained. If upon such regauging it shall appear that there has been a loss of distilled spirits from any cask or package, without the fault or negligence of the distiller or owner thereof, taxes shall be collected only on the quantity of distilled spirits contained in such cask or package at the time of the withdrawal thereof from the distillery warehouse, or special bonded warehouse: *Provided, however*, That the allowance which shall be made for such loss of spirits as aforesaid shall not exceed one proof-gallon for two months, or part thereof, one and one-half gallons for three and four months, two gallons for five and six months, two and one-half gallons for seven and eight months, three gallons for nine and ten months, three and one-half gallons for eleven and twelve months, four gallons for thirteen, fourteen, and fifteen months; four and one-half gallons for sixteen, seventeen, and eighteen months; five gallons for nineteen, twenty, and twenty-one months; five and one-half gallons for twenty-two, twenty-three, and twenty-four months; six gallons for twenty-five, twenty-six, and twenty-seven months; six and one-half gallons for twenty-eight, twenty-nine, and thirty months; seven gallons for thirty-one, thirty-two, and thirty-three months; and seven and one-half gallons for thirty-four, thirty-five, and thirty-six months: *Provided, also*, That the foregoing allowance of loss shall apply only to casks or packages of a capacity of forty or more wine-gallons, and that the allowance for loss on casks or packages of less capacity than forty gallons shall not exceed one-half the amount allowed on said forty-gallon cask or package; but no allowance shall be made on casks or packages of less capacity than twenty gallons: *And provided further*, That the proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than 100 per cent.

Mr. MORRILL. I have only to say that it appears to me it is giving this kind of whisky a very great advantage, and that it is subjecting the country to a very large additional expense in regauging. I think it will operate badly for the revenue, resulting in a positive loss, as the Senator from Iowa has stated, of at least $2,000,000 per annum, and while I hardly hope to accomplish the purpose, yet I should like to record my vote in favor of striking out the seventeenth section.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

The amendment was rejected.

Mr. KIRKWOOD. I desire the attention of the Senator from Kentucky for a moment. I should like to know from him whether or not what is called the export stamp by some, that is a stamp placed upon each package of distilled spirits exported, is still retained, or whether the exporter is relieved from that tax.

Mr. BECK. The ten cents on the package on the exporter is still retained, and I desire to say to the Senate that it was discussed a good deal. The Commissioner was not very clear about giving that up; but there is another bill that is already reported dealing with the export of tobacco and other things. I agree with the Senator that it ought to be taken off, and I will aid him when that bill comes up to-morrow or next day, as I think, after we see the Commissioner once more and ascertain what further objection he has to relieving them from that ten cents. I think it ought to be done.

Mr. KIRKWOOD. I think in this way, Mr. President, upon the general subject: It seems to me that instead of placing any burden or restriction upon the exportation of anything we have to export, our policy ought to be directly the other way. If we are to maintain our financial system in its present sound condition; if we are to have our paper money equivalent to coin, and to have means to carry on our Government and pay the interest on our public debt, we must do it by our exports.

The people in Iowa do not know much about finance generally; it is not to be presumed we should; but we observe things about us as we go along. That is the way we learn what little we know, and we observe this: When a farmer year by year buys more than he sells he is sure to get into trouble. It comes in the first place in the shape of a mortgage and after a while a foreclosure, and then he has to sell out and go West and grow up with the country again. We have learned that much, not by books but by seeing what is going on around us; and it seems to me that every restriction we place upon the exportation of anything that we can make here and that people abroad want, is a mistake and an error, and tends to produce a condition of things that cannot be beneficial to the country. We want to make our exports as large as possible, and I wish by persuasion I could induce our people to make our imports much smaller than they are. Here is a tax of ten cents a package in the shape of a stamp placed upon every package of distilled spirits exported. It is no benefit to the manufacturer at all, although it seems to be considered so. Looking over a pamphlet published by the House, I find a question asked by a distinguished member of the other House from Michigan:

Mr. CONGER. Now, is a charge of ten cents apiece an unreasonable charge for the expense and trouble of preparing those stamps and furnishing them to the dealers for their accommodation? I take it that it is for their accommodation.

Mr. RAUM. Yes; it is for their accommodation.

I should like to know how it is for their accommodation. What accommodation is it to have the Government stick a stamp on a barrel? None whatever. Again further I find this question and answer:

Mr. CARLISLE. Is not the export stamp that is put upon a barrel which is withdrawn for exportation also for the protection of the Government?

Mr. RAUM. When you come to talk about alcohol for exportation, the whole thing is run at the Government expense. If you take a distillery that makes alcohol for exportation (a large distillery) you will find that we furnish it with two storekeepers, or probably three, at $4 a day, and with three gaugers at $5 a day. That is $27 a day that the Government pays from day to day for looking after that alcohol distillery, and the Government gets no taxes out of it.

What benefit is it to the distiller that these two or three gaugers and storekeepers are placed in his establishment? They are no benefit to the distiller at all. They do not increase by a thousandth part of 1 per cent. the product that he is making; they do not decrease by the thousandth part of 1 per cent. the expense of producing what he does produce. It is a machinery instituted by the Government itself for the purpose of protecting its revenue. That is all.

Mr. MORRILL. Does not the Senator consider that important?

Mr. KIRKWOOD. Certainly; but would you make the individual pay for it? Why not make the Government pay for it? Why not make the distillers pay the gangers and storekeepers just as well as pay the export tax? I do not know why. It is a tax, and our friends who are sticklers for a strict construction of the Constitution may find some trouble in that clause of the Constitution which says that no tax shall be imposed on any export from any State. Ten cents a package is not a large amount, but if a man makes fifty barrels a day it is $5 a day; if he makes one hundred barrels a day it is $10 a day, and it amounts to a good deal.

There is no provision here striking this out; I thought at one time

that I would offer an amendment seeking to strike out this tax as well; but we are drawing, as I hope, very near the close of the session, and as I think the bill is in the right direction and such an amendment to it here might embarrass it, I shall not offer that amendment. I desire to make the general remark that we are acting in my judgment in the wrong direction in every case in which we do anything to embarrass in any way the exportation of any article that we may produce at home.

Mr. CONKLING. I should like to ask the Senator from Kentucky what answer he has made, (I did not hear him make answer if he has made it,) or what answer he does make, to the allegation of two Senators that this bill will cost $2,000,000 a year in the diminution of the revenue.

Mr. BECK. The only answer I can make to that is that we can very well afford to give it up, because while we obtained $3,000,000 more last year than the Secretary himself estimated we have in ten months of the current fiscal year gained $10,751,959 in excess even of the same period last year. The revenues of the country are in such a condition that as the tax was raised from seventy cents up to ninety cents a gallon three or four years ago because of lack of revenue to the very great oppression of those people, we now suppose that with such abundant revenue these little annoyances ought to be removed so that they may go on and they will still continue to furnish sufficient revenue. The Departments all agree that we are able to lose it; there will be no embarrassment about it. These men do not ask any further relief but believe they will go on successfully and pay their revenue if they are relieved from some little annoyances which this bill seeks to remove. That is the only answer I can make to the Senator, and I hope it is a good one.

Mr. CONKLING. If the answer is not sufficient in all things, it is because whisky is not the only object of taxation for internal revenue. If it were, I see no answer to what the Senator says; but inasmuch as a good many other things are visited for the purpose of internal revenue; inasmuch, for example, as every person who draws a check, however small, is compelled to put upon it a two-cent revenue-stamp; and inasmuch as many objects are inconveniently visited with taxation, the Senator from Kentucky will agree with me that the fair question is whether whisky should be selected from all these visited objects and exonerated and exempted in so far as it is exempted by this bill.

I do not mean to discuss that point, but to say that if this bill or some other, looking to the abundance and overplus, as the Senator says, of revenue, should propose to relieve the people who are annoyed by other taxes still existing, I should vote for such a bill with great pleasure; and then if the Senator from Kentucky were to apply to that bill the statement he makes about this measure, it would have all the force it has in this case, and I think perhaps even with him somewhat more force.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that Hon. JOSEPH C. S. BLACKBURN, a Representative from the State of Kentucky, had been appointed Speaker of the House *pro tempore*, in the absence of the Speaker.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2695) for the government and control of the harbor of refuge at Sand Beach, Lake Huron, Michigan;

A bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes in relation to fees for final certificates in donation cases;

A bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department;

A bill (H. R. No. 5110) granting a pension to David S. Loudon;

A bill (H. R. No. 5541) to establish a municipal code for the District of Columbia;

A joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health;

A joint resolution (H. R. No. 225) to print 6,000 copies of the report of the yellow fever commission; and

A joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

JAMES MONROE HEISKELL.

Mr. WHYTE. I ask the unanimous consent of the Senate to proceed to the consideration of the bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland. It will take but a moment.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of the bill?

Mr. HOAR. Is not that a bill which has given rise to a great deal of discussion already?

Mr. WHYTE. It gave rise to some discussion, but I am going to make a motion to take off the general clause which was put upon it, and which the gentleman who proposed it will agree shall be taken off, and leave it stand as the original bill.

Mr. HOAR. The Senator——

Mr. WHYTE. Allow me to make a further explanation. There is another bill which will give rise to general debate on the Calendar and which will come up hereafter; but this is a personal bill, and I appeal to the Senator from Massachusetts to allow it to pass as a personal bill to relieve personally this gentleman.

Mr. HOAR. The Senator from Vermont, [Mr. EDMUNDS,] if I recollect aright, made very earnest opposition to this bill when it was a personal bill alone and grounded the objection to it as it stood. I think under the circumstances the Senator from Maryland had better wait until that Senator is present before asking unanimous consent.

Mr. WHYTE. The Senator from Vermont objected to the passage of the bill upon the ground that he thought there ought to be a general bill. The Senator from Arkansas [Mr. GARLAND] accepted that view and offered the general provision as an amendment and it was carried, and it has had the effect of being a load upon the back of this private bill.

I have waived many opportunities to get the bill up. It is the third bill from the head of the Calendar. I have been patient and allowed Senators one after the other to get up bills here without objection, until I find that we are not going back to the Calendar in the regular order. Therefore I thought it was my duty in behalf of this gentleman to appeal to the Senate to allow him to be relieved from the disability which prevails against him. The other question which may come up hereafter can be discussed when it comes up in its order. The Senator from Arkansas will allow me to move to nonconcur, when we get the bill before the Senate, with the proposition which he then made.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. HOAR. I will waive the objection so far as to allow the Senator to explain the bill, reserving the right to object.

Mr. WHYTE. I ask the Senator to withdraw his objection to allow me to have the bill taken up. Then some other short bill can be taken up and we can wait for the Senator from Vermont to come in.

Mr. HOAR. The Senator from Vermont will be here in one moment.

Mr. WHYTE. Then let this bill be laid aside informally and let some other bill be taken up.

Mr. ALLISON. I ask to take up while this is pending——

Mr. WHYTE. Is it understood that the bill is up?

The PRESIDING OFFICER. It is not.

Mr. WHYTE. The Senator from Massachusetts withdraws his objection.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill mentioned by the Senator from Maryland?

Mr. HOAR. I object for a moment.

Mr. WHYTE. Will the Senator not allow me to get the bill up, and I will let his objection prevail, if the Senator from Vermont is not here?

Mr. HOAR. The Senator from Vermont will be here in a moment.

The PRESIDING OFFICER. Objection is made to the present consideration of the bill.

PENSION BILLS.

Mr. WITHERS. I move that the Senate proceed to the consideration of the pension bills upon the Calendar.

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia, to postpone the pending and all prior orders, in order that he may move to take up pension bills on the Calendar.

The motion was agreed to.

Mr. WITHERS. I propose to call up first the cases on the Calendar which have not been acted upon and on which favorable reports have been made and dispose of them, and then take up those on the Calendar with adverse reports. I hope the Senate will aid me in relieving the Calendar from the large number now upon it. I think the first favorable report on the Calendar at the point reached in the last consideration of pension bills will be found on the twenty-second page, Senate bill No. 1465.

WILLIAM H. H. ANDERSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1465) granting a pension to William H. H. Anderson.

The bill was reported from the Committee on Pensions with an amendment, to strike out, in lines 7 and 8, "at the rate of $8 per month from and after the passage of this act" and to insert "subject to the provisions and limitations of the pension laws;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, instructed and required to place the name of William H. H. Anderson, late a private of Company B, First Indiana Heavy Artillery Volunteers, on the pension-rolls of the United States, subject to the provisions and limitations of the pension laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH SHOWMAN.

Mr. WITHERS. The next pension bill on the Calendar is House bill No. 2857, granting a pension to Joseph Showman.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2857) granting a pension to Joseph Showman.

The bill was reported from the Committee on Pensions with an amendment, after the word "volunteers," in line 6, to strike out "at the rate of $6 per month, commencing on the 2d day of June, 1865, that being the date of his final discharge from the Army of the United States in the late war of the rebellion, on account of injury received and disease contracted while in the military service, and in line of duty," and in lieu thereof to insert "subject to the limitations of the pension laws;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Joseph Showman, of Company C, Eighty-fourth Regiment of Pennsylvania Volunteers, subject to the limitations and provisions of the pension laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THOMAS H. VAUGHN.

Mr. WITHERS. The next is House bill No. 2860.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2860) granting a pension to Thomas H. Vaughn.

The bill was reported from the Committee on Pensions with an amendment, after the word "from," in line 8, to strike out "the date of his honorable discharge, to wit, September, 1862, from the Army of the United States, on account of disease contracted by him while in the service and line of duty during the late war of the rebellion," and in lieu thereof to insert "and after the passage of this act;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Thomas H. Vaughn, of Company C, Seventy-sixth Regiment of Pennsylvania Volunteers, and that the said Thomas H. Vaughn be allowed a pension at the rate of $4 per month, commencing from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MARTHA J. ROBINSON.

Mr. WITHERS. The next is House bill No. 740.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 740) granting a pension to Martha J. Robinson. It directs the Secretary of the Interior to place on the pension-roll the name of Martha J. Robinson, widow of James H. Robinson, late private in Company E, Fifth Regiment Indiana Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES P. SAYER.

Mr. WITHERS. The next is House bill 1460.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1460) granting an increase of pension to James P. Sayer. It directs the Secretary of the Interior to carry upon the pension-rolls the name of James P. Sayer, late of Company C, One hundred and fortieth Regiment Pennsylvania Volunteers, at the rate of $30 per month, in lieu of the pension he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELI COOPRIDEE.

Mr. WITHERS. The next is Senate bill No. 1363.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1363) granting a pension to Eli Coopridee. It directs the Secretary of the Interior to place on the pension-rolls the name of Eli Coopridee, late a private of Company G, Fifty-ninth Regiment Indiana Volunteer Infantry.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES MORGAN.

Mr. WITHERS. The next is Senate bill No. 1411.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1411) granting a pension to James Morgan. It directs the Secretary of the Interior to place the name of James Morgan, late a private of Company K, Third Regiment United States Infantry Volunteers in the late war with Mexico, upon the pension-roll.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RACHAEL J. REBER.

Mr. WITHERS. The next is House bill No. 2855.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2855) granting a pension to Rachael J. Reber.

The bill was reported from the Committee on Pensions with an amendment, after the word "and," in line 9, to strike out—

Four children under sixteen years of age, commencing on the 2d of June, A. D. 1865, that being the date of the honorable discharge of her husband from the Army of the United States, at the rate of pensions for widows of deceased first lieutenants and adjutants of regiments in the late war of the rebellion; the said Effenger L. Reber having died from the effect of wounds received and disease contracted while in the military service of the United States, in the line of duty,

And in lieu thereof to insert—

Minor children from and after the passage of this act;

So as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rachael J. Reber, widow of Effenger L. Reber, first lieutenant and adjutant of the Two hundred and fifth Regiment of Pennsylvania Volunteers, and pay her a pension for herself and minor children from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

HORACE S. SPEAR.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1638) granting a pension to Horace S. Spear. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Horace S. Spear, late private in Company I, Fifth Regiment Vermont Volunteers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY WILLIAMS.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 1201) granting a pension to Henry Williams. It proposes to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry Williams, late a sergeant in the Fortieth Regiment of Missouri Volunteers, at the rate of total disability.

The bill was reported from the Committee on Pensions with an amendment, in line 7, after the word "Volunteers," to strike out "at the rate of total disability."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ABNER HOOPES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3264) granting a pension to Abner Hoopes. It provides for placing on the pension-roll the name of Abner Hoopes, late a private in Company A, First Regiment of Pennsylvania Reserves.

The bill was reported from the Committee on Pensions with an amendment, after the word "Reserves," in line 6, to strike out "who is hereby granted a pension to date from the date of his discharge, at the rate now allowed by law to disabled private soldiers, wounded in the late war of the rebellion, for disability incurred while in the service of the United States and in the line of duty in the late war of the rebellion" and insert "subject to the provisions and limitations of the pension laws, and pay him a pension from and after the passage of the act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MICHAEL LINGENFELTER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1806) granting a pension to Michael Lingenfelter.

The bill was reported from the Committee on Pensions with an amendment, after the word "Cavalry," in line 7, to strike out "at the rate of $4 per month, commencing November 25, 1865, that being the time of his discharge from the Army of the United States, up to the 3d of April, 1878, and at the rate of $6 per month from that time on, being;" and in line 14, after the word "duty," to insert "subject, however, to the laws governing the rate of disability;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Michael Lingenfelter, a private in Company I, Sixteenth Regiment of Pennsylvania Veteran Reserves, formerly of Company L, Nineteenth Pennsyvania Cavalry, for injury received and disease contracted while in the military service of the United States, and in the line of duty, subject, however, to the laws governing the rate of disability.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ELIZABETH DOUGHERTY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3261) granting a pension to Elizabeth Dougherty.

The bill was reported from the Committee on Pensions with an amendment, after the word "pension," in line 7, to strike out "at the rate allowed by existing laws to the widows of deceased privates killed in the service of the United States and in the line of duty in the said war from and after the 18th day of April, 1864, the date when said soldier was killed while in the said service and in the line of duty as aforesaid" and insert "from and after the passage of this act;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Elizabeth Dougherty, widow of Charles Dougherty, deceased, a soldier in the late war of the rebellion, and pay her a pension from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SOPHIA BROOKE TAYLOR.

The Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor."

An amendment was reported from the Committee on Pensions, after the word "amended," in line 6, to strike out—

So that the pension provided for in said act shall date from the 12th day of October, 1858, the day of the death of the said Major Francis Taylor; and the Secretary of the Interior is hereby directed to place the name of the said Sophia Brooke Taylor on the pension-rolls as of the said date, and to pay her a pension from the said date at the rate provided for in said original act: *Provided*, That no payment shall be made for any time for which payment has been already made under the provisions of the act hereby amended,

And insert in lieu thereof—

So that she shall be entitled to receive, and shall receive, a pension at the rate of $30 per month from and after the passage of this act, to be paid to her in lieu of the monthly rate of pension granted to her by the act hereby amended.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEVI ANDERSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1662) granting increase of pension to Levi Anderson, late private Company A, Seventh Kansas Volunteers. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Levi Anderson, late private Company A, Seventh Regiment Kansas Volunteers, and to pay him a pension of $24 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HIRAM C. SHOUSE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1515) to increase the pension of Hiram C. Shouse. It directs the Secretary of the Interior to pay Hiram C. Shouse, late private of Company G of the Eleventh Regiment of Illinois Infantry, a pension of $24 per month, commencing June 3, 1872, less the pension he has received since that date.

The bill was reported from the Committee on Pensions with an amendment, after the word "month," in line 6, to strike out "commencing June 3, 1872, less the pension he has received since that date" and insert "from and after the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REBECCA E. HASKIN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1535) granting an increase of pension to Rebecca E. Haskin. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rebecca E. Haskin, widow of the late Joseph A. Haskin, lieutenant-colonel First Regiment Artillery, United States Army, and previously brigadier-general of United States Volunteers, and to pay her a pension at the rate of $30 per month instead of the pension now paid her.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH AULTS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2853) granting a pension to Elizabeth Aults. It is a direction to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Aults, widow of Ambrose N. Aults, of Company G, of the Two hundred and fifth Regiment of Pennsylvania Volunteers.

The bill was reported from the Committee on Pensions with an amendment, in line 9, after the word "pension," to strike out "commencing from the date of the honorable discharge of said Ambrose N. Aults from the Army of the United States on account of injuries and disease received and contracted by him while in the service and line of duty during the late war of the rebellion, at the rate of pensions for widows of first lieutenants of the late war of the rebellion" and insert "from and after the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

HARRIETTA M. DAVIS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis. It proposes to authorize the Secretary of the Interior, subject to the provisions and limitations of the pension laws, to increase the pension of Harrietta M. Davis, widow of the late Rear-Admiral Charles H. Davis, from $30 to $50 a month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANGUS M'AULEY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1432) granting a pension to Angus McAuley.

The bill was reported from the Committee on Pensions with amendments, in line 4, after the word "to," to strike out "place on" and insert "restore to;" in line 7, after the word "the," to insert "Creek Indian;" in the same line, after the word "war," to strike out "of 1812, and pay him his pension from the time when he was dropped from the rolls" and insert "and pay him a pension from and after the passage of this act;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll, subject to the provisions and limitations of the pension laws, the name of Angus McAuley, of Suwannee County, Florida, a soldier of the Creek Indian war, and pay him a pension from and after the passage of this act.

Mr. CALL. I object to the amendment. The bill in this shape recommends the restoration to the rolls a soldier, not of the war of 1812, but of the Seminole Indian war. He was dropped from the pension-rolls because of his residence during the war in a State engaged in rebellion. The law as it now stands enables him to be restored to the pension-roll; but the object of the bill in this case was to give the applicant the arrears of pension from the date at which he was dropped from the roll. The ground upon which the application was made was exceptional. The soldier in this case was a disabled man unable to render any service; he did not render any service; he had no sympathy with the rebellion and no kind of connection with it. He was merely a resident of the State of Florida, and under the operation of the law was dropped without fault of any kind whatever.

It was considered that under those circumstances, there being no question in regard to the fact of this poor disabled man having been dropped from the roll without his offending against the law in either its spirit or its letter, it was a proper case for a restoration with arrears of pay. There was nothing in the law which authorized the Government to drop from the pension-rolls a man who had no sympathy and no connection with the war. It was merely a necessity of the case, and it imposed a condition which was the sole obstacle in the way of this man drawing his pay at the end of the war that he should take the iron-clad or test oath. He felt that he was unable to do that, not because of any actual or active participation in the war, but because of a mere sentiment which existed with a great many people, even those who served in the Union Army. Under those circumstances, I introduced a bill asking, inasmuch as this man was a disabled man at the commencement and throughout the war, inasmuch as he rendered no service and had no connection either in sympathy or in fact with the war, inasmuch as there was no provision of law by which he should be deprived of his pension, but it was a mere necessity resulting from his residence within the State, that he should have the arrears of pension. The amount is very small; it is only, I think, two dollars a month; and I therefore ask that the amendment of the committee shall not be concurred in, but that this man may be allowed to have the pension from the date at which he was dropped from the rolls.

Mr. INGALLS. I suggest to the Senator from Florida that as there may be some discussion on this bill, it ought to be allowed to be passed over informally until those bills to which there is no objection have been considered.

Mr. CALL. I do not object to that.

The PRESIDING OFFICER. This bill will be passed over for the present.

Mr. WITHERS. Then let us take up the next bill, Senate bill No. 1697.

MATTHEW O'REGAN.

The bill (S. No. 1697) granting a pension to Matthew O'Reagan, was considered as in Committee of the Whole.

Mr. WITHERS. The Senator from Louisiana who reported this

bill has just notified me that there is an error in the orthography of the name, which he desires to amend.

Mr. KELLOGG. The name is incorrectly spelled. It should read:

A bill increasing the pension of Matthew O'Regan.

The PRESIDING OFFICER. The suggestion of the Senator from Louisiana is to amend the title. Is there an error also in the text of the bill?

Mr. KELLOGG. In line 6 also.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none.

Mr. KELLOGG. Now, after "month," in line 7, I move to add "in lieu of that now received by him;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Matthew O'Regan, and pay him a pension of $24 per month, in lieu of that now received by him.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill increasing the pension of Matthew O'Regan."

GEORGE J. WEBB.

The bill (S. No. 1698) granting an increase of pension to George J. Webb, was considered as in Committee of the Whole. It proposes to increase the pension of George J. Webb, late a private in Company C, One hundredth New York Volunteers, from $12 to $15 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDENT *pro tempore*. The hour of half past one having arrived, the Chair must call up the unfinished business of Saturday.

Mr. WITHERS. I desire to ask the Senator having the regular order in charge if he will not consent to let it pass by informally subject to call, that we may proceed with the consideration of the other pension bills on the Calendar?

The PRESIDENT *pro tempore*. The Senator from Colorado [Mr. TELLER] is entitled to the floor. The Senator from Virginia must address him.

Mr. TELLER. I leave that entirely to the Senator who has the regular order in charge. I do not think I ought to interfere on that point.

Mr. MORGAN. The Senator from Virginia will find ample opportunity to pass these bills, and I desire to give the Senate an opportunity to vote to-day if I can on the resolution which is the regular order.

Mr. WITHERS. Then I give notice that I will ask to-morrow morning that the Senate proceed to consider the pension bills until those on the Calendar shall have been disposed of.

The PRESIDENT *pro tempore*. Before the regular order is called, the Chair will present some bills from the House of Representatives for the purpose of reference.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2695) for the government and control of the harbor of refuge at Sand Beach, Lake Huron, Michigan, was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes, in relation to fees for final certificates in donation cases, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. No. 5110) granting a pension to David S. London was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 5541) to establish a municipal code for the District of Columbia was read twice by its title and referred to the Committee on the District of Columbia.

The following joint resolutions were severally read twice by their titles, and referred to the Committee on Printing:

A joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health;

A joint resolution (H. R. No. 225) to print 6,000 copies of the report of the yellow-fever commission; and

A joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, transmitting papers showing the maintenance of the channel at the South Pass, Mississippi River, for the quarter ending May 9, 1880; which was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the resolution of the House to print 300,000 copies of the Annual Report of the Commissioner of Agriculture for 1879; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BENJAMIN WILSON of West Virginia, Mr. O. R. SINGLETON of Mississippi, and Mr. P. C. HAYES of Illinois, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes;

A bill (S. No. 1090) to relieve John D. Defrees, Public Printer; and

A joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee, of Spartanburgh, South Carolina.

AMENDMENTS TO BILLS.

Mr. EATON, Mr. MORGAN, Mr. BOOTH, and Mr. BRUCE submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. BURNSIDE submitted an amendment intended to be proposed by him to the bill (S. No. 133) to establish an educational fund and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education; which was ordered to lie on the table and be printed.

Mr. MORRILL submitted an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PADDOCK, from the Committee on Agriculture, reported an amendment intended to be proposed to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. DAWES, from the Committee on Public Buildings and Grounds, reported an amendment intended to be proposed to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

COUNT OF THE ELECTORAL VOTE.

The Senate resumed the consideration of the concurrent resolution reported by Mr. MORGAN from the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the Elections of President and Vice-President of the United States, May 14, 1880.

Mr. TELLER. Mr. President, the resolution before the Senate having been reported from a committee of which I was a member, and I not feeling disposed to support it, I desire to submit very briefly my objections to it. I will not discuss the question—which will, I suppose, be discussed by other Senators—as to whether this proceeding should be by joint rule or by bill, except to refer to the fact that this is not a permanent provision, but a temporary expedient. The proposition, fair upon its face, plausible in its text in appearance, is not so in fact when it is understood.

I do not mean by that to say that there is any disposition on the part of the committee to take any advantage of the public or of the Senate; but I mean that while we may claim that we are acting under a pressing necessity, under a demand made by the people for some provision for counting the electoral vote; while we may pass this resolution at this session of Congress, at the very next session, on the very first day of the session or on any day prior to the counting of the vote, either House may retire from it. At all events, it can answer but the purpose of serving for the count of the next presidential election. I believe it is conceded by all that at the end of this Congress this resolution will cease to be obligatory upon either House. I believe it is equally well agreed and admitted on all hands that at any time before the count is completed, if either branch of Congress should see fit to retire from it, that can be done.

Mr. ALLISON. While the count is progressing can either House retire?

Mr. TELLER. I think it can pending the count. I see no reason why it cannot be retired from by either branch of Congress pending the count as well as before the count commences.

This would be an argument in favor of the passage of a bill instead of proceeding by resolution; but as I said, I do not propose to spend much time upon that proposition. I propose to simply state briefly my objections to the resolution, because I believe it is a very important question, and I believe that if the principles proclaimed in this resolution shall be carried out it will work ultimately great disorder and great confusion.

The resolution, in substance, recognizes the right of the two Houses,

when met in joint convention, to canvass the electoral vote, not simply to canvass the votes of the electors, not simply to determine what has been the act of each respective State, but in my judgment it will serve some day as a pretext and as an authority for the canvass of the whole vote of the people. According to my theory, all that the two Houses can do is to canvass the electoral votes. This resolution in my judgment would authorize, if we have authority to pass it, the two Houses acting together to proceed beyond that, to inquire whether the electors had been or had not been elected in the manner provided by the various State Legislatures. I suppose there is no pretense on the part of the friends of the resolution that that is not the object and the purpose, for I find the honorable Senator who has it in charge, and who has given great attention to it as I know, and who I believe has tried fairly to arrive at something that would be satisfactory, seems to have that opinion of the effect of it, for the honorable Senator, in the remarks he submitted to the Senate on Saturday, said:

> The States must decide upon two questions before the two Houses of Congress can have anything to act upon in the count of votes of electors, namely, that certain electors have been appointed; and that they are qualified under the State laws and action, so far as those laws can qualify them, to fill the offices named in the State's certificate of their appointment. Both of these facts are necessarily open to review to some extent when the action of the two Houses is being taken upon the question of their validity. And to what extent they are open to review the Houses must determine. This power of review must exist in the tribunal that counts the votes, in order to avoid the danger of a forced or compulsory sanction by the two Houses of the usurpation of the powers of government in a State by factions or rebellious conspirators, or to prevent persons who are disqualified from being electors under the Constitution of the United States from asserting that the question of their qualification has been settled finally and conclusively by the action of the States in giving them credentials as electors

At another point the Senator from Alabama said:

> The question, therefore, whether the power of appointment has been constitutionally and lawfully exercised is a question that is within the competence of the two Houses to determine.

So I take it there will be no controversy that it is claimed by the supporters of this resolution that when we meet in joint convention we meet not simply to tabulate and count the votes; we do not simply determine what has been the action of the States, but we determine, further, whether that action has been in accordance with what we think it ought to have been.

Not only does the resolution provide for attacking the returns; not only may Congress, if it sees fit, throw out all the returns, but you can make an attack upon any single vote. The objections may go to the whole returns; the objections may go to any vote in the returns.

According to the theory of the electoral college, the last proposition, that the two Houses may determine whether the vote was properly cast and whether it was properly cast by one who was entitled to cast it, it seems to me to be impossible to support. In practice of late we have pledged our electors before the election, morally at least, to vote for a particular candidate, and yet there is on these electors but an honorable and moral obligation. Nobody will pretend or claim that if any elector sees fit after he has been elected, although the public may have understood that he was to support a particular candidate, to vote for another, he has been guilty of any violation of law. True, he thereby disregards the wishes of the men who voted for him; he would thereby be guilty undoubtedly of a breach of the confidence reposed in him by his political friends and constituents; and yet his vote would be as legal as if he had cast it for the candidate nominated by the nominating convention of the party to which he belonged.

Now, suppose that when the returns are made—take the State of New York—those returns show that more than one person was voted for as Vice-President; I do not know under the present existing law of any possible method by which the two Houses acting together, or the two Houses acting separately, or any other body connected with the count, can determine how any particular elector voted, unless it is assumed that we may go down and do that which evidently the founders of the Government did not intend should be done—that we should interrogate the electors specially as to how they did vote. The very fact that they vote by ballot; the very fact that they are not required to certify how they did vote, and the very practice of the electoral returns, show that it was not intended and not understood that when they did vote they should certify to Congress for what particular person each elector did vote.

It may be said that this is but a technical objection; it may be said that this will not take place; and yet I find that in a majority of the electoral counts the electors of different States have divided upon the question of either President or Vice-President. I find that on fourteen occasions, when we have elected a President of the United States, there has been a division in some one State or other on this subject. Commencing with the election of the first President of the United States, the division was with reference to who should be Vice-President. There was a unanimous vote for George Washington as President; but as to who should be Vice-President, there was a division of sentiment. So it was in the next election, and so it continued from time to time, and until 1837 there never was an election in which this was not the fact. That was the first election at which there was not a division, and in which the difficulty that I point out would not have arisen. In 1872 I find that there was a division in the electoral college, that the State of Missouri voted for three candidates for President; some other States divided their votes for President and for Vice-President.

To make this provision of the rule, then, of any account and of any purpose it must be that we shall have the power that I think is claimed for the two Houses under this resolution, to enter into a general examination and a general canvass of the votes—not of the electoral votes, but of the votes cast for the electors by the people.

The electors, I believe it is agreed generally, are State officers. I know that some have said they were not officers at all; that they were merely exercising a privilege the same as the voter does when he goes and votes for the governor of his State; but I find that in discussing these questions for many years the best men of the country have treated them as public officers holding an official position. If they are officers, they are officers of the States. The Constitution has left this whole question with the States. "Each State shall appoint," says the Constitution, "in such manner as the Legislature thereof may direct," a certain number of electors. Congress reserved to itself nothing with reference to these appointments save the power to prescribe that the appointments should all be on a certain day and that the electors should vote on a certain day. There is, I know, a provision that no member of Congress, no Senator, no person holding a place or office of trust or profit under the United States, shall be an elector.

Now, it seems to me very clear that the election of President is purely and entirely an act of the States. We intrust to the respective States the power to appoint the electors exactly in such way as the Legislature of each State should devise. I suppose nobody will pretend that that could be done by a constitutional provision. I suppose nobody will pretend that when this Constitution was adopted it was understood and intended that it should be done by a popular vote. For many years after the Constitution was adopted, in a majority of the States in fact, they did not so elect. Pennsylvania, if I recollect aright, elected by its judiciary; other States elected in other ways; some of them by the popular vote of the people, and some of them by an election through the Legislature. I believe at least one State up to 1860 had never submitted the question of electing presidential electors to the voters of the State.

The Constitution having submitted this whole question to the State, having reserved nothing to Congress except the power to appoint the time at which these men should be appointed and the time at which they should cast their votes, the authority, it seems to me, to examine and determine whether the State has elected them in the manner that we think they ought to have been elected cannot be found anywhere in the Constitution. It appears to me that the joint convention must accept the act of the State, and that all we can do is to inquire what is the act of the State, and when we have arrived at that we are precluded from any further examination. We must stop right there. We cannot inquire whether the voters were registered; we cannot inquire whether improper persons were allowed to vote; we cannot inquire whether the State officials whose duty it was to determine who had been elected electors did their duty or did not do their duty, provided they proceeded according to the ordinary forms of law. If an elector comes within the class of people prohibited from being elected, if one is a postmaster, a member of Congress, or a Senator, has Congress, or have the two Houses, whichever way you choose to treat it, the right to pass upon the question and exclude his vote? I think not. I think that when the State has determined that question, it has determined it once for all; and while that is a command to the State it is like many other commands that are made, it is impossible of enforcement. It is not every constitutional command that is made upon a State which can be enforced. The State is left to exercise its own judgment, and if it refuses it may be guilty of a violation of a moral obligation that the State owes to all the other States; yet there is not any method by which it can be enforced. It is possible that Congress might pass a law on that subject. I do not now pretend to say. I only say that Congress has passed no law on that subject. It is possible that some provision might be made by the national authority to determine that question. It never has been attempted, I believe, or at least, if attempted, it never has been done.

We must take the action of the State if that can be determined, and when one set of returns comes to the proper body for counting, in my judgment, if fair upon its face, if properly certified, there is no power to go behind that return and exclude it. If dual returns are sent up, in the very nature of things somebody must judge as to the true return, and then the object and the purpose is to find which is the true return, and when the true return is found that is the one which must be accepted. There can be but one true return, and that is the one that it should be the object of the two Houses to find and to count.

Mr. President, the Constitution of the United States has excluded from the list of persons who are to be electors members of Congress, Senators, and other persons holding offices under the Government of trust and profit. But for what purpose? For the single and sole purpose that each State might be in the selection of electors of President and Vice-President independent of national influence; and yet it is said by this resolution that not only may we count the vote, but that we can canvass the votes; that we may go in and determine a variety of questions. It was contended, I believe, before the electoral commission that in the State of South Carolina, where there had been no registration as provided for by the constitution of the State, that would make void the vote of that State. A variety of excuses can be

made, if the power is conceded, to throw out the vote of a State, and to disfranchise a State; and instead of arriving at a condition of affairs where peace and quiet will prevail on a presidential election we transfer from the public rostrums the excitement that exists before election to this body and the other, intensified by the fact that the action in many cases of one House alone will change the result.

From the time the returns are to be opened to the time the President is to be inaugurated is ordinarily but three weeks. The impossibility of making any examination, if objections are to be made for the reasons here allowed, is apparent to every one. When an objection is made to one State and then to another, it will be a duty to examine all the returns against which objections are made. Suppose that the objections are made to thirty or to thirty-eight States; suppose that the thirty-eight States present dual returns; suppose it is claimed that the election has gone differently in every State by the different political factions; in what cases can we then proceed to pass upon those questions? It would be morally impossible to determine more than simply the validity of the returns on their face in that length of time, or nearly so; much less could we enter into any discussion as to the fact whether there had been a proper registration of voters, whether there had been a proper count, and a variety of circumstances. If you may enter into a discussion and an investigation before the two Houses of the question whether at one place the returns were proper, then you may as to every voting place in the State. Take the great State of New York, with its millions of votes, and how would it be possible for any body of men in the time given to make any investigation into the truthfulness of the returns made by the officers to whom the State had intrusted that duty? And yet under this resolution you may attack the returns by alleging that in this place and in the other, in every voting place if you please in the State, there has been fraud at the election, and you can go back beyond the return of the State authorities to the local authorities, the county authorities, to the precinct authorities, and clear back to the votes of the voters who voted for the different electors.

I refer particularly to this portion of the resolution on page 3, beginning with line 21:

> If objection is made to receiving such certified list of the votes of electors, or to the counting of any vote therein certified, such objection, or objections, if more than one objection is made, shall each be submitted in writing and shall state the grounds of objection succinctly and without argument.

Then I find in another part, on page 5, beginning with line 69:

> But if both Houses shall have concurred in rejecting any vote contained in such list, such vote shall not be counted; otherwise all the votes therein shall be counted.

I am aware that the resolution does not say that you can go into an examination of the popular vote; but I call attention to the fact that the chairman of the select committee who reported this resolution, in his speech on Saturday, claimed that there was a revisory power here in the two Houses. That was the theory on which he predicated the resolution.

This, if it can be done legally, as I was saying, presents a condition of affairs which everybody must admit that it will be impossible to carry out; that is, it will be impossible of execution in the time allotted. It will be utterly impossible to determine whether the vote is an honest vote or whether it is a dishonest vote. If you can thus go into a general examination and general revision of the act of the State when it submits this question to its electors or when it submits it to a tribunal which it appoints to determine for itself whether it has proceeded according to law, what is the act of the State worth? If it submits the question to its voters at large to decide whether a majority vote for this class of men or for the other, or if to a separate tribunal as was done in the State of Pennsylvania at one time, the judiciary, to decide whether a majority of the judges have voted for this set of electors or the other, that judgment, so rendered, is conclusive and final in my belief, and there is no power in the two Houses of Congress acting together or acting each by itself to undo the act of the State.

Because, Mr. President, this resolution seems to me to open up such a broad field and present such an extraordinary claim (although perhaps not here made for the first time) of power on the part of Congress, which I cannot find in the Constitution, I am constrained to oppose the resolution. It seems to me extraordinary that the framers and founders of this Government, the men who prepared this Constitution, should have so carefully excluded from the electoral college the Members of Congress and the Senators, and yet should have turned over the whole question of revision and examination of all the votes of the States and the whole proceedings of the States, as is now claimed. It cannot be; it was never supposed to be so until recently, and this claim for such an extraordinary right on the part of the two Houses was never made, I believe, till 1876, or at least not in so broad a manner as it is now made.

I know it may be said, and will be said, that it is to be presumed that the two Houses acting together will act honestly, and yet it is a dangerous power to intrust to the two Houses to pass upon the question as to how a State voted if you go beyond the face of the returns. I saw in 1876 something of this, as did many others who are still members of this body. It was then gravely claimed, as I said before, that the fact that one of the States had failed to make a registration as provided by its constitution should disfranchise the State, overlooking the fact that the constitution of the State has nothing to do with the appointing of electors; that that is a matter which the constitution of the State cannot control; that that is intrusted by the Constitution of the United States to the Legislature, and to the Legislature only. That is the body which the Constitution of the United States put this power in, and there it left it, and if the constitution of a State should attempt to place the power anywhere else, I suppose nobody here would contend that that would be in accordance with the constitutional provision with respect to electors.

I am anxious that there should be some law upon this subject, that there should be some rule to govern these bodies when they meet, and I am anxious that it should be of such a character that the voice of the States shall always be distinctly heard. I am in favor of taking away from the two Houses the temptation, when but one vote stands between a man and the Presidency, to stifle the voice of a State. I believe that can only be done by steadily adhering to the doctrine that when the State has determined the question for itself and sent its judgment here we are to be bound by it. If but one return comes here, and if we think another return ought to have come here, we shall still take that return if it is the honest return of the State. If two returns come, then we must simply find which is the honest return, which does speak the voice of the State, and when that is found we must count it. Any attempt to do otherwise will produce anarchy and confusion of the worst character.

Mr. President, because I entertain these views I have determined that I cannot support this resolution. I have spoken simply for myself. I believe that some Senators on our side of the House entertain somewhat different notions from mine. I believe that there has been at some time, and there is perhaps yet, a great difference of opinion among Senators as to these questions; but upon this point, after a careful consideration, I have come to the conclusion that the resolution enunciates a principle that is false in fact, unconstitutional, and that would, if adopted, ultimately lead to anarchy and confusion, if not to a disruption of the nation.

Mr. INGALLS. Mr. President, believing that the method of counting the votes of the electors of President and Vice-President of the United States is exactly defined by the Constitution and its amendments, that it is recognized by the most authoritative contemporaneous construction of that instrument and by an unbroken line of precedents extending from the foundation of the Government down to the second inauguration of President Lincoln, I voted against the electoral-commission bill of 1877; and for these and other reasons equally potential I expect to vote against the joint rule now proposed by the committee.

On the 17th of September, 1787, the constitutional convention adopted a series of resolutions submitting the proposed Constitution to the Congress of the confederation; and the second resolution contains, among other things, this language:

> *Resolved*, * * * That after such publication the electors shall be appointed, and the Senators and Representatives elected. That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives shall convene at the time and place assigned; that the Senators should appoint a President of the Senate, for the sole purpose of receiving, opening, and counting the votes for President.

The requisite number of States having ratified the Constitution and appointed electors pursuant to the resolution of September 13, 1787, Congress assembled on the 4th of March, 1789, in the city of New York, and a quorum of both Houses attended on the 6th day of April, whereupon the Senate elected John Langdon, a Senator from New Hampshire, President of the Senate, for the sole purpose, as the order says, of opening and counting the votes for President and Vice-President of the United States. The language will be found on page 419 of McDonald's Manual:

> When the Senate elected John Langdon, esq., one of the Senators from the State of New Hampshire, President of the Senate, "for the sole purpose of counting the vote for President and Vice-President of the United States."

The House of Representatives was notified on the same day by the Senate in an order directing Mr. Ellsworth to "inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States." In pursuance of this order the two Houses met in joint session, Mr. Boudinot from the House of Representatives communicating a verbal message to the Senate in the following language:

> Mr. President, I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate, to attend the opening and counting of the votes of the electors of President and Vice-President of the United States.

The President, after they had met, declared that Mr. John Langdon was elected President of the Senate for the purpose of counting the votes, and he declared to the Senate subsequently that the Senate and House of Representatives having met he in their presence had opened and counted the votes of the electors for President and Vice-President of the United States; following which appears the schedule of the vote.

If there were two men in this country at that time who knew the intent and meaning of the Constitution, and how the result of a presidential election was to be ascertained and declared, and who was to open the certificates and count the votes, those two men were George Washington and John Langdon. They both were deputies

to the convention that framed the Constitution; Washington was its president, Langdon was the first President of the Senate. We thus have an authoritative contemporaneous interpretation of this clause of the Constitution by the two most conspicuous and notable men who helped to make it. Even were the language obscure and ambiguous, no testimony could be more clear, more emphatic, and more convincing than this, especially when added to the fact that several other deputies to the constitutional convention were also members of the Senate and House of Representatives, and that this example thus set has been followed through nineteen presidential terms without comment or interruption.

There are several emergencies that may arise in connection with the counting of the electoral votes, but one of which was contemplated and provided for by the framers of the Constitution. In the first place, a certificate might be withheld, or it might be defective in form. In the second place, one or more electors from a State otherwise legally chosen might be ineligible by reason of their being Senators or Representatives or holding offices of honor or trust under the United States. In the third place, the two persons voted for as President and Vice-President might be ineligible under the Constitution by reason of age, citizenship, or residence. In the fourth place, a State might not be in practical relations with the General Government. In the fifth place, there might be rival or dual State governments, each transmitting certificates to the President of the Senate; or, in the sixth place, no person might have a majority of the electoral votes. This last contingency has twice arisen, and is provided for in the Constitution by a method which has twice been resorted to and exercised in our history.

Mr. CONKLING. I have the permission of the Senator to ask him a question that I may understand his meaning exactly, and I can put it perhaps in reference to the precedent he has cited, the choice of Mr. Langdon and the inference he draws from that precedent. Shall I understand the Senator to hold that the President of the Senate has the power to judge in instances some of which he has put, for example, whether a State is in practical relations with the Union, is a member of it; whether in case of dual State governments one government or the other is the authentic government to certify? These two illustrations will point my meaning sufficiently to the Senator. I wish he would tell me, if it does not interfere with his argument, whether his understanding of the Constitution empowers the presiding officer of the Senate to judge of and determine these questions when they arise?

Mr. INGALLS. My understanding is that the presiding officer, or, in the language of the Constitution, the President of the Senate, has the power to open the certificates and count the votes in case there is no dispute; but in case of the emergencies that may arise it is necessary that the judgment should be not by the President of the Senate, but that it should be in the method and by the body that has been provided in the Constitution for the only emergency which the framers contemplated, to wit, the emergency where, when the two Houses have met and the certificates have been opened and the votes have been counted, it appears that no person has a majority of the votes of the electoral college. What I say is that the Constitution has provided the method and has pointed out the way in which in that one single emergency of the five or six that I have enumerated the decision is to be ascertained. I contend that we should follow out the analogies of the Constitution and that the other emergencies which may arise, such as I have spoken of and to which the Senator from New York has called my attention, should be passed upon in the same way, and that way I shall proceed to develop in the remainder of the very brief time in which I shall detain the Senate.

Mr. CONKLING. I do not want to anticipate the argument of the Senator, I have no doubt he will make himself understood, but I would be glad, as I have ventured upon one interruption, if he would tell me here who it is, according to his understanding of the Constitution, in whom the power resides to judge which of two governments is authentic, whether a State which sends a certificate is for that purpose a State in the Union. Now, who has that judging power finally?

Mr. INGALLS. The power of judging in that case, as well as in every other case that may arise requiring the interposition of judicial power or the determination between two contending certificates, is in a majority of the States acting in the method pointed out in the Constitution. I contend that under no theory of the Constitution, either in its letter or by necessary or indirect inference, is there any authority for Congress, the Houses acting separately, to exercise any control whatever over anything connected with the electoral count.

Let me call the attention of the Senator to the language of the Constitution in article 12 of the amendments, showing what course is to be pursued in the emergency for which alone the framers of the Constitution provided; that is to say, the emergency where no person by reason of there being a tie or by reason of there being more than two candidates has a majority of the electoral votes. There is a case where there must be a decision made by somebody as to who shall receive the certificate of election for President and Vice-President of the United States. What is the language of the Constitution?

> The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President.

How is that power to be exercised? By a majority of the Representatives in Congress? No, sir.

> But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.

Not a majority of the Representatives, not a majority of those chosen to represent the different districts in the different States, but the concurrence of a majority of the States acting through their Representatives shall be necessary to elect a President in the one contingency for which the framers of the Constitution provided.

It will be observed that this is strictly in accordance with the analogies of the Constitution in regard to the source or fountain of power for the selection of a Chief Magistrate. The President and Vice-President are in no case elected by the people, but by the States. The electors are appointed by the States, and in case of their failure to elect the House of Representatives chooses, not by a majority of Representatives, but by a majority of the States, the States each having one vote. It has not infrequently happened that a minority of the people have chosen a majority of the electoral college. A very small minority of the States—ten out of thirty-eight—New York, Pennsylvania, Ohio, Illinois, Indiana, Missouri, Massachusetts, Kentucky, Tennessee, and Iowa elect one hundred and eighty-five of the three hundred and sixty-nine electors; but if the right of choice devolves upon the House of Representatives, it requires the concurrence of twenty States, which may only cast 96 electoral votes, or they may cast 273 electoral votes in order to secure the same result.

These inequalities are startling; they are monstrous; they are absurd. They have frequently been pointed out heretofore in debates on this subject; but they serve to emphasize the fact that the election of President and Vice-President under the Constitution is not confided to the people; it is not confided to Congress; but it is confided to the States. Congress under the Constitution can determine the time of choosing the electors, and the day on which they shall give their votes, and when it has done this, it has exhausted all its powers under the Constitution.

The electors being appointed by States, and in case of their failure to elect the choice devolving again upon the States acting through their Representatives, upon what theory do the advocates of this joint rule base the claim of power in the two Houses of Congress to act separately upon questions arising during the count of the electoral vote? The rejection of a certificate, the denial of the eligibility of an elector, the refusal to permit the vote of a State to be counted, are matters of the highest and the gravest importance. They are fundamental. If it is admitted that these questions shall be determined by Congress, one House having a veto upon the other, then the whole theory upon which the Constitution proceeds is utterly overthrown and destroyed; a new element enters into our electoral system fraught with the most dangerous possibilities of evil.

I believe that the electoral-commission act and the twenty-second joint rule were wholly without warrant in the Constitution; that they were utterly at variance with its spirit and purpose; that they were destructive innovations, revolutionary in their tendencies, which ought not to be imitated but rather put away and forgotten with the passions and the perils of the painful epoch from which they sprang. If any action is to be taken it should be by statute or by amendment to the Constitution. I do not think myself that it ought to be by statute. It appears inappropriate that a President should have any connection whatever with legislation bearing upon a subject so vital and important to himself. It should be, in my judgment, by an amendment to the Constitution. Notwithstanding the veneration that we all have for that instrument, I am inclined to think it should be amended in other important particulars besides this. But in any event this subject should be provided for by something more than a joint rule of the two Houses, transitory, evanescent, and subject to be changed by the caprice or by the whim or by the fury of a partisan majority in one or the other House.

If a statute could be passed, no one will deny that it should be passed now and at this session. It cannot be safely postponed, because before the next session of Congress the complications against which it is necessary to guard will have arisen if they are to arise at all during the present canvass. The temptations to partisanship may then be too strong to resist. It is safe to say that in no event will there ever be another electoral commission. That device will not be repeated. If there is another disputed or doubtful presidential succession it will not be determined by a trick or by a juggle; it will be decided by methods recognized by the Constitution, or it will be decided by force.

The two Houses of Congress have no constitutional right either by express warrant or by remote inference to act separately in any manner affecting the count of the presidential vote. It should not be tolerated that a partisan majority in the Senate or in the House upon any pretext shall receive or reject certificates or votes by which the right of choice shall devolve upon the House of Representatives where a majority of States can elect a President. All these acts and all these emergencies and all these questions are of equal dignity and importance. They all affect the same function, and should be determined in the manner prescribed by the Constitution and in accordance with its analogies.

In order to ascertain the sense of the Senate upon this view of the

Constitution and of the question where the authority rests to decide upon disputed questions that may arise in the counting of the electoral vote I move to amend the joint rule by striking out from lines 21 to 32 inclusive, in section 3, and inserting:

In deciding any question that may arise upon receiving the certificates or counting the votes the vote shall be taken by States without debate, the representation from each State in both Houses having one vote; a quorum for this purpose shall consist of two-thirds of the States, and a majority of all the States shall be necessary to a decision.

Mr. CONKLING. Before the Senator sits down, I hope he will allow me a word. I learn from him that he intended to answer my question, and from that I am bound to infer that he did, but I do not understand his amendment altogether, and certainly not his answer to my inquiry. May I repeat it? In the judgment of the Senator, who has the judging power in the case of dual governments in a State, each claiming to be authentic?

Mr. INGALLS. The decision of that question, in my judgment, rests with a majority of the States expressed through their representation in Congress, voting as States, each State having a single vote.

Mr. CONKLING. Then shall I understand the Senator that the members of the Senate have no act or part in the question?

Mr. INGALLS. The members of the Senate as a Senate under the Constitution can have no act or part in this matter, that is so far as my judgment is concerned, because I have already said that judging by the analogies of the Constitution there is no contingency in which Congress, acting through its two Houses and acting separately, can decide any question connected with the presidential count.

Mr. CONKLING. If the Senator will bear with me yet a moment, I want to get for information at the very point practically. On the day appointed by law after the next presidential election the two Houses convene, so that by somebody the result may be ascertained and declared. It turns out in the presence of that convention, made up of Senators and Representatives, that in a given State there are rival governments, and that from each government has come a certificate of electors and electoral votes. The question is whether either of these certificates is to be received and counted, and if so which one? Will the Senator be kind enough to tell me who is to decide that question in his opinion?

Mr. INGALLS. I can only answer by saying that that question belongs to the same class of emergencies as that which is contemplated by the Constitution in the case where it appears on the day of meeting, after the certificates have been opened and the votes have been computed or enumerated, that no candidate has a majority of all the votes cast. Therefore there is no person elected. The question then recurs, who is to decide who shall be President and how shall that question be determined?

Mr. CONKLING. No, if the Senator is answering me, I beg his pardon; the question to which he now comes is not the question that I submit to him. It is not who is to elect a President of the United States, but who is to pass upon the antecedent question, namely, whether the electoral certificate, which would produce an election if counted, is to be received and counted, or not. That preliminary question, who is to decide?

Mr. INGALLS. Those questions are all cognate questions; they are indissolubly associated and united. The question of who shall be President depends upon the certificates and upon the votes contained in the certificates; and if it is to be contended that the two Houses acting separately may reject certificates, or that unless they concur certificates shall not be accepted, it must be evident to anybody that the whole control of this subject has passed away from the place where it is lodged by the Constitution into the two Houses of Congress. I am attempting to answer the Senator by saying that in those cases which may arise in the course of a presidential count, where there has not been express provision made by the Constitution, if the power is to be exercised it must be in the method pointed out by the Constitution in the one case which it does contemplate, and that is by the States acting through their representation in Congress.

Mr. CONKLING. Ascribing to myself the fault of not being able to understand the Senator, if he will allow me I will take one other mode of manifesting my difficulty and my ignorance of his position. In the case I have put of rival State governments, each insisting upon its genuineness and each sending an electoral certificate, in that case and in no other now for simplicity, does the Senator hold that the President of the Senate has the power to judge which certificate, if either, shall be counted?

Mr. INGALLS. I hold that he has not.

Mr. CONKLING. Does the Senator hold that the Senate has power to judge which certificate shall be accounted?

Mr. INGALLS. I hold that it has not.

Mr. CONKLING. Does the Senator hold that the House of Representatives has the power to judge?

Mr. INGALLS. I hold that it has not.

Mr. CONKLING. Does the Senator hold that the two Houses in joint convention and the President of the Senate together have the power to judge?

Mr. INGALLS. Not acting as such.

Mr. CONKLING. I do not say "acting as such." Does the Senator hold that a joint convention composed of the members of the two Houses, the members of the House of Representatives and of the Senate and the Presiding Officer of the Senate, has the power to judge?

Mr. INGALLS. No, sir; the same as I hold that in the case where it has been ascertained that there is no majority for any single candidate for President the Senate has not the power to decide who shall be President; the House has not the power to decide who shall be President, nor has the President of the Senate. That question is left to the States to decide, and it will require the concurrence of twenty States, acting through their Representatives, each State having one vote in that assembly, to say who shall be President in case there is a failure on the part of the electors to cast a majority for any candidate.

Mr. CONKLING. Then may I infer from the Senator's statement that he means that the House of Representatives, not as a House but speaking through the delegations from the respective States, has the power to determine which of these two certificates or whether either of them is to be counted?

Mr. INGALLS. Not the House of Representatives as such.

Mr. CONKLING. Have the delegations from the respective States acting as delegations by a majority the power to decide which of the certificates shall be counted?

Mr. INGALLS. I should hold that in the language of the Constitution in a question arising upon a disputed certificate, or a dual State government, on the ineligibility of an elector, the votes should be taken by States, the representation from each State having one vote upon that question, and that a majority of all the States would be necessary to decide that question, and it should be ascertained in that way.

Mr. CONKLING. Then practically, if my friend will permit me, he does mean that although the House of Representatives as a whole House, *en masse*, by a majority, has not the power to decide the question, the Representatives of the respectives States acting by States have that power. Is that what he means?

Mr. INGALLS. I cannot make it any more explicit than I have done. I think the Constitution is very clear in saying where the presidential power is lodged, where the power to elect a President is lodged, where the power to appoint electors is lodged, that it is with the States. In the one disputed question the Constitution has provided how that power shall be exercised, and I contend that in the other cases which may arise, going upon analogy, the power should be exercised in precisely the same way.

Mr. CONKLING. I heard the Senator declare in the outset of his remarks, and his statement was made with his usual clearness, that he found or thought he found in the Constitution a plain direction in this regard. It was because he so said that I inquired, and I beg to assure him in the best of faith and merely for information, what that direction is, not in a fanciful case, not in a case bordering upon impossibility, not in one of those hard or extreme cases which it is said make shipwreck of principle, but in a case which has arisen again and again, a case which we are compelled to call familiar because of its recurrence. It seems to me that he who finds in the Constitution a plain direction in respect of that must be able to bring to the comprehension even of one as dull as I am willing to admit I am the nature of that direction. Now, I say to the honorable Senator in verity that I do not understand his position, after his kindness in explaining it to me, unless it be one of these two positions: unless he holds that the President of the Senate, the Senate, and the House, acting together, or acting separately, have no power in the world over such a question; or unless he holds that the House and only the House has power, not as a House, but the members of the House being divided into delegations from their respective States and by a single vote in the case of each State expressing an opinion, and thus exerting the deciding power.

Mr. INGALLS. Does the Senator from New York, if he will pardon me, hold that in the case of the failure of a majority of the electoral college to vote for any candidate the House of Representatives elect the President?

Mr. CONKLING. Will the Senator repeat that?

Mr. INGALLS. In the case of the failure of a majority of the electoral college to designate a person as President, when the right of choice devolves upon the House, does the Senator hold that the House of Representatives elect a President?

Mr. CONKLING. Yes, if I understand the Senator's question. Unless the purpose of his question be to split hairs, to refine nicely upon language, to be technically minute in terms, I do hold what he has suggested. I have not the Constitution before me.

Mr. INGALLS. Here it is.

Mr. CONKLING. I need not have it in order to answer the Senator's question, although I thank him for it. I hold that the Constitution plainly directs that he who receives a majority of the electoral votes shall be—not shall be declared, but shall be—the President; and that the Constitution with equal plainness directs that if there be no such person, if because of multiplicity of candidates for whom votes have been cast or for any other reason there is no single person for whom a majority of all the electoral votes have been cast, then and in that event a proceeding shall occur in the House for the choice of a President, and that proceeding shall be the utterance and record of votes, the votes being cast by States, every State, be it great or small, having one vote and no more upon that question. If the point of the Senator's inquiry is whether it would be more technical and

exact to say that that is not the House proceeding, but it is rather the members of the House, without the Constitution before me I would not venture to take issue with him in that regard.

Mr. EDMUNDS. "The House of Representatives shall choose immediately."

Mr. CONKLING. That was my recollection. The Senator from Vermont with the instrument before him reads the words as I should have asserted them with some confidence but for the apparent challenge found in the question of the Senator from Kansas, the words the House of Representatives shall choose immediately the President.

Mr. INGALLS. How?

Mr. CONKLING. The rest of it is modal; the rest of it is matter of method, detail, direction, and that direction is, as I have endeavored already, and I think I have succeeded in that effort, to state, namely, not by having the House vote upon yeas and nays, or a division, or otherwise, *per capita*, but by having the House vote by States.

The State of Kansas is called. Suppose for illustration that there are five Representatives from Kansas, three of whom should be for one of the opposing candidates and the other two for the other, the three would prevail and the State speaking as an autonomy would cast its one single vote for the candidate for whom a majority of the Representatives of that State would vote. That, I repeat, is modal; it is manner, it is method, it is the *modus operandi* of the proceedings. But the Constitution says that the proceeding is of the House of Representatives. So the Constitution says that when a bill is returned without the Executive sanction, the question shall be, regardless of all the rules of the House to which it is returned being the House in which it originated, shall the bill pass, the objections of the President to the contrary notwithstanding? And unless it receives two-thirds of the votes it shall not become a law. There is a direction of the method in which the House or the Senate shall proceed in that instance, but it is still the Senate or it is still the House as much as if it were committed to its own rules, or its own option, or its own discretion in choosing between the various alternatives of proceeding to which it might resort. So here the House elects the President, and none the less because the Constitution directs the House in the method of proceeding. That is the answer that I should give to the honorable Senator's question.

That, however, I think is quite apart from the question which I ventured to present to him. It is different because it is a consequence of a decision of the antecedent question, or it may be a consequence. If the possessor of the power to determine whether a certificate which comes from Connecticut is entitled to be counted or not, and shall be counted, if the power authorized to make that decision determines that that certificate shall not be received and shall not be counted, and if a count of the residue of certificates reveal the fact that owing to the absence of Connecticut from the count no person has received a majority of all the electoral votes, then and then first, never till then, in such a case as I have put, the House arrives at the next proceeding. What is that? A proceeding based on the ascertained fact that no person has a majority, a fact resting in the instance I have put on the exclusion of Connecticut's certificate. The House proceeding on that fact, then ascertained, goes into the election by States of a President. But the Senator, if I understand him, fuses these two questions together, melts them into one, and says that because in case there is no election by the electors or the people then and in that event a duty is cast upon the House, because that is so, the House may proceed by States to create the occasion, to make the decision, on which its after proceeding would rest.

I should doubt very much whether the honorable Senator on reflection would stand by that position, if indeed it be his position. I think that his familiarity with governmental and legal proceedings would suggest to him many instances, innumerable instances, in which the authority of the body to proceed depending on a certain condition-precedent, it could claim in principle, does claim in practice, no authority whatever to undertake itself to create and bring about that condition-precedent. If the Constitution provided—and it is not perhaps a very unreasonable supposition—that in case no person had received a majority of the electoral votes, then and in that event the Supreme Court should proceed to choose a President, would it be argued that that implied that the Supreme Court had power, not on the occasion after it had arisen clothing it with power, but on an antecedent occasion, to take jurisdiction and vitiate by excluding votes the electoral count in order to create the contingency out of which this power would arise? If the Senator would say, as I think he would, "Why, manifestly nobody would insist upon that," I should rejoin, then why should it be insisted that because the Constitution declares that if there has been no election by the people the House of Representatives in a certain mode should elect, *ergo*, the House of Representatives has the power voting by States to determine in all its stages whether there has been or whether there shall be an election by the people or not? That will never do.

Mr. INGALLS. Under the joint rule that is contemplated, and under the one that has previously been adopted, the House of Representatives cannot create the occasion for the exercise of its power. That must arise by what I conceive to be the unconstitutional exercise of power by the two Houses of Congress acting separately. I have endeavored to present as clearly as I could my view upon that subject, and that is that in no case recognized by the Constitution have the two Houses of Congress acting separately any power whatever over anything connected with the presidential count.

Mr. CONKLING. Nothing could have been further from my purpose, certainly nothing further at this time, than to be drawn into a debate upon either the merits of the pending rule or of the vast historical field which the Senator from Kansas has plowed. I have been present in the Senate before when that field has been very thoroughly plowed, when the precedents to which the honorable Senator has alluded have been very carefully examined, and when I supposed that no considerable number of Senators were found on either side to ascribe to those precedents the meaning and the force which he gives them. I do not mean at all at this time to wage any debate in respect of them. The Senator seems to suppose from my inquiries of him that I am in some way arguing in favor of this proposed joint rule. I beg to assure him that I am not. It will doubtless be the pleasure of Senators more ready to do it to point out, so far as the honorable Senator before me [Mr. TELLER] has not already done, some of the qualities of this proposed rule which I consider vicious beyond excuse. I am not going to vote for this rule. There may be paragraphs in it for which I might vote, but I should not vote for it were I in favor of the substance of a method like this. I should not vote for it because I cannot determine myself what it means. I should hardly be warranted in voting a direction to a presiding officer which I should not be able to comprehend myself. I do not know what this proceeding means or implies. I do not know where the power it asserted begins or leaves off. I do not comprehend the purpose of repeating in various forms, differing somewhat with each other, some of the most critical of these directions. I might read the passages to which I refer, but I believe I will not.

Again, I do not understand how it is possible or how it can be supposed possible to execute a provision like this:

> After a list of votes of electors from any State has been received under the foregoing provisions of this rule, and before the vote of the electors of another State is considered, the President of the Senate shall cause the name of each elector on such list, and also the votes of such electors for President and Vice-President of the United States, to be read in the presence and hearing of the two Houses.

It was the English cynic who remarked that there was but one man who ever saw through a mill-stone, and he looked through the hole; and even that man, if I read the Constitution aright, could never penetrate the mystery which is here to be made plain. The Constitution provides that these electors are to vote by ballot. They are not to register as they do at an English parliamentary election; they are not to vote as Senators vote sometimes on the election of a President *pro tempore*, when each man is called upon to name the Senator for whom he votes, but by ballot, the very function and object of which is that it is secret, that it makes no mark and leaves no trace, every elector is to vote for President and for Vice-President. Here comes an electoral certificate from the State of Connecticut that is as likely a State as I could take for such an illustration because they are all so free and independent politically in the State of Connecticut. [To Mr. EATON.] How many electors do you have?

Mr. EATON. Six, all told.

Mr. CONKLING. My honorable friend says they have six electors in Connecticut, and he says it in such a way that it sounds as if they had a great many more, certainly more than there would seem if I were to say it. Here comes a certificate which shows, first, that in the providential scourging which has been inflicted upon the country the democrats have carried Connecticut. My honorable friend from Connecticut seems to be actually in favor of such a result. Let me say to him that I am only supposing a case, and I do it with the more freedom because there is not the slightest chance of its occurring soon enough to be of any service or relief to him.

Mr. EATON. I hardly think that the mantle of the prophet Elijah has fallen on the Senator's shoulders.

Mr. CONKLING. I agree with the honorable Senator about that; and I shall have to say of his remark as a very wise man said of the dictionary after he read it through, that the language was beautiful, but he did not see the point of the story!

This certificate comes up with three electoral votes cast for the honorable Senator from Connecticut for President, and if they ever do carry that State for a democrat, I hope there will be at least three men (that is enough to make a riot) who will have sense enough to vote for my honorable friend in preference to all others. Three electors have voted by ballot for the honorable Senator from Connecticut. Which three? There are six, all told. Is there any way known to the Constitution, or known among men, in which anybody can ascertain which three have voted for the Senator from Connecticut? They know; but if they were to come and state it at the bar of the House, I suppose no Senator would insist that we could act upon information of that sort. If we could, this rule does not provide for it. The rule provides that the certificate is to be read to ascertain not only who the electors are, which it would show, but their votes. The certificate shows that three electors voted for the Senator from Connecticut, and it shows that three other electors voted for some perhaps equally distinguished democrat residing in the State of New York; they had had the foresight and wisdom to vote for Mr. Tilden, for example. Which three voted for Mr. Tilden? It is alleged that one of these electors was a postmaster and therefore ineligible because he held office under the United States, and the Constitution says that

a man who holds office under the United States is not to be appointed an elector. As the honorable Senator understands, I think, in the Constitution itself it says he cannot be appointed an elector; that he shall not and he cannot. Then there are five qualified electors from Connecticut, and Connecticut has fired one blank cartridge, because she has had one man acting as an elector who is not an elector, and cannot be. Now which one is he?

And also the votes of such electors.

It cannot be found, it cannot be ascertained, but it is to be read, and then what?

If objection is made to any one or more of the votes of electors on said list, the same shall be presented in writing and in duplicate, and shall specify the elector and also the vote or votes of such elector objected to.

Mr. MORGAN. Will the honorable Senator allow me to ask him on what line of the resolution he is reading?

Mr. CONKLING. I am reading on page 5, lines 16 and 17 now.

Mr. MORGAN. The Senator has not got the resolution before him at all. He has got a different paper. He is arguing upon a subject that has not been reported to the Senate.

Mr. CONKLING. I have a resolution on which somebody has been kind enough to write my name.

Mr. MORGAN. The Senator has a resolution which I offered in the Senate, which was referred to the committee and amended there by striking out the very language that he is now commenting on.

Mr. CONKLING. I did not know that there was such a multiplicity of editions and versions of this rule as there seems to be.

Mr. MORGAN. The Senator was on the committee, and of course he ought to understand the proceeding of the committee and their report to the Senate.

Mr. CONKLING. I am much obliged to the Senator for correcting me; and of course he understands that I fell into error inadvertently. I found on my desk a resolution with my name written on it, a resolution somewhat original not only, but I might say portentous in its imprint, and I could not suppose that there was more than one resolution like that, more than one edition to it. But now I turn to what has been furnished to me by another Senator, and I am going to read it now:

When the papers in one of such certified lists shall have been so read—

I will stop here to say that if I were going to discuss this measure methodically, as I am not, I should have considerable to say upon those words. I will read them again:

When the papers in one of such certified lists shall have been so read, and before another sealed package or list of votes of electors from the same or any other State has been opened, the President of the Senate shall call for objections to receiving such certified list of the votes of electors and to counting the votes therein certified, or any or either of them.

Does that not mean to individualize the elector?

Mr. MORGAN. If the Senator will allow me to answer the question, it does mean to individualize the elector but not the vote that he cast.

Mr. CONKLING. Ah, let us see.

To counting the votes therein certified, or any or either of them.

Does not that mean the individual votes? Now, let me read a little further:

If objection is made to receiving such certified list of the votes of electors, or to the counting of any vote therein certified—

What does that mean? If objection is made to receiving the votes of the electors or to counting any single vote therein certified—

Such objection, or objections, if more than one objection is made, shall each be submitted in writing and shall state the grounds of objection succinctly and without argument, and must be signed, &c.

Now I turn over to page 5:

But if both Houses shall have concurred in rejecting any vote contained in such list—

That is, the list of the electoral vote from one State, bear in mind. Therefore to count any vote contained in such list means any single vote of an individual elector, of course. It does not mean anything if it does not mean that.

But if both Houses shall have concurred in rejecting any vote contained in such list, such vote shall not be counted.

And as if to make what I am saying more certain these words are added:

Otherwise all the votes therein shall be counted.

Although the Senator from Alabama was right and I am obliged to him for correcting my use of a discarded print of this resolution, the resolution as it stands presents no alteration impairing the force of the remarks I made. What is to follow from this? I resume my illustration drawn from the State of Connecticut. Here are five electors to whom no objection is made. Against the sixth elector it is alleged that he holds office under the United States. An objection being made not only to him but under the direction of this rule to the vote he has cast, the two Houses separate and pass upon that, and if they exclude that elector his vote is not to be counted. Will some Senator tell me which one of these six votes is to disappear in the case of Connecticut? There is no way in fact, there is manifestly no way here, in which it can be ascertained whether the disqualified elector is one of the three who voted for the Senator from Connecticut or one of the three who voted for Mr. Tilden of New York; but the rule directs that the vote of that elector is to be cast out and not counted. Is it to be deducted from the votes of the Senator from Connecticut or from the votes of Mr. Tilden, or is it to be done by lot or by chance, or is it to be done according to the caprice or partiality of the four tellers or of the presiding officer or of the others who make up and formulate this table of votes? If my friend before me will tell me, I shall be very glad to know, for I am seeking information.

Mr. EATON. I did not draw the rule, and had no hand in it. Perhaps there is much in it that I do not quite approve of, but I think there is an answer to this point. Taking the illustration of the Senator from New York as I must, he supposes that there were three of the electors from Connecticut who voted for the Senator from Connecticut, and that then manifestly there were three other electors from Connecticut who voted for somebody else. Therefore the names of the three electors who put their certificates into the envelope which is directed to the care of the President of the Senate will appear. Beyond all question it will be so.

Mr. CONKLING. My honorable friend is certainly mistaken.

Mr. EATON. I have not said what the Constitution was. I have spoken of a case where there was a division of the electoral vote in a State, which is not very likely to occur; it has not occurred in a great many years. Of course the electors are to vote by ballot; but to take the illustration of my friend from New York, the very moment that three men have voted for my friend from Iowa and three have voted for somebody else it becomes known for whom each voted. I have no doubt about that.

Mr. CONKLING. Am I to infer from that, that this rule means that we are to proceed upon hearsay as to who they voted for and strike out their votes accordingly?

Mr. EATON. I have not suggested any hearsay about it at all. On the contrary, I have suggested what I supposed would be done in the case illustrated by the Senator from New York.

Mr. CONKLING. I hope my honorable friend will not be annoyed at my asking whether he means we should act upon hearsay.

Mr. EATON. Not at all.

Mr. CONKLING. The Senator did say that it would be known. By that he means that in conversation——

Mr. EATON. No, I do not mean any such thing.

Mr. CONKLING. What does the Senator mean?

Mr. EATON. I mean that when there are six votes from a State, and instead of voting for one man three are cast for one, two for another, and one for a third, they come in three distinct envelopes; they do not come in one, and they will not come in one.

Mr. CONKLING. I rarely fail to learn something from the honorable Senator when he feels willing that I should; but I venture to suggest to him that if he will review the history of this proceeding and look at the Constitution he will abandon the answer which he has been kind enough to give me. Let me call attention to what the Constitution says:

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate.

The honorable Senator from Connecticut will find that unless they disregard the Constitution, unless they invent a form of proceeding never thus far known, the electors in every State will meet, will cast a ballot each for some person as President of the United States and a ballot for some other person as Vice-President of the United States, taking care that both these persons shall not be residents of the State of which they are electors. When they have done that they will make a certificate and sign it, which certificate will no more indicate for whom A B, or C D, or E F, or any other elector voted than it will indicate when the next eclipse of the sun is likely to occur. It has nothing to do with it. It is the same certificate in form made up by the board of state canvassers in the State of New York when they certify that A B received for governor 368,000 votes and C D 428,000, and others following received a smaller number, certified or attested by the signature of their names. There will be, there can be, nothing to show for whom any particular elector voted. Then what is to be done under this rule? Who is to pick and choose the candidate? Who shall be debited with one vote because the Houses find that some man who was voted for as elector was postmaster at Stamford, or somewhere else? It cannot be done, Mr. President. It was a noted man from New England who once said to the court, "an impossibility is the greatest possible fact." Certainly the impossibility here comes fully up to the standard he prescribed. It would indeed be the greatest possible fact if under this rule the two Houses or anybody else could ascertain for whom each particular elector voted, so that in rejecting him and discarding his vote the loss should fall upon the candidate for whom the disqualified elector cast his vote.

Mr. President, it would strike me, had I risen to debate this resolution, which I did not, that there is little need of going much beyond this objection, because it introduces an element of uncertainty and unbridled power to vitiate a presidential election and to frustrate the undoubted will of the States abundantly sufficient for almost any instance of a close election.

Carry this rule back to 1876. Suppose the two Houses had been

then as they are now lamentably, democratic, both of one persuasion decisively. The election turned on the vote of one single elector. Does not everybody see that under this rule it would have been reversed and might have been reversed tenfold, twenty-fold; for if I remember aright there were about a score of electors against whom some allegation of ineligibility was made, sometimes several in a State. In New Jersey an elector was alleged to have held some dormant commission, covered with the dust of a quarter of a century, or something like that, and it was claimed that he was ineligible for that reason. In Vermont there was a postmaster; in Wisconsin there was a pension surgeon; and somewhere else there was a commissioner of a court.

Mr. TELLER. In Florida.

Mr. CONKLING. In Florida the Senator says, and so on. Here is a proposition which permits not only the summary dismissal of every elector charged with ineligibility, but his elimination from the record altogether. Not only so, but as is immeasurably more inadmissible, a debit from the count of either candidate the bodies may select of the vote of this elector. Does not everybody know that the debit would be determined by the complexion of the majority? Why should it not? It must be deducted from somebody's vote. There is no possible way of ascertaining from whose vote it should be deducted, and why should not the loss fall as a majority of the triers would like to have it?

But, Mr. President, that is not all. It is not the only objection to this resolution of the same general species. Here is a contrivance under which in my belief as the two Houses are now constituted, (and in order to state that more fairly I will say as the two Houses would be constituted if in place of a majority being democratic it was republican,) in the case of a close election, partisan bias is certain to govern the result. What is to be the limit in other respects of the inquisition these two Houses are to hold? I cannot ascertain from this resolution. I should look with great apprehension, I should feel deeply concerned, at the prospect of this rule being established if I did not believe, as I said the other day, that on the one occasion for which it is made, the occasion when both Houses are completely in the hands of the same party, the action of the people and of the electoral colleges will be so decisive that no political party is likely to rise to dispute it. Could I believe that the closeness of result which occurred in 1876 would occur in 1880 I should regard with deep concern such a contrivance, such an opportunity, such a peril, as I believe is wrapped up in the various paragraphs, and not altogether consistent phrases, of this proposed joint rule.

But, Mr. President, I beg pardon of the Senate for occupying its time. I rose without the slightest intention to discuss this subject, but merely to ascertain originally the view of the Senator from Kansas as to the residence of this deciding power.

Mr. MORGAN. Mr. President——

Mr. EATON. Will my friend pardon me one word?

Mr. MORGAN. Yes, sir.

Mr. EATON. The honorable Senator from New York has set up a man of straw and dealt him some very vigorous blows. He has supposed what never will occur in any State in the coming election.

I will take the State of Vermont; he has supposed that there are three electors that have cast their votes for the honorable Senator from Vermont, [Mr. EDMUNDS,] as I do not care to illustrate with my own name, and that two other republican electors in the State of Vermont had voted for my friend from Massachusetts, [Mr. HOAR;] and now one of these five was a postmaster and could not vote at all. Now, which did he vote for? There is about as much likelihood of an occurrence of that character as there is that men will fly to the moon.

Mr. CONKLING. Will the Senator allow me to interrupt him?

Mr. EATON. Certainly.

Mr. CONKLING. Does he make that remark remembering that the very thing which occurred repeatedly and especially in the instance of the Vice-President, where from the same State there has come a certificate that a certain number of votes had been cast for one man as Vice-President and a certain other number of votes for another?

Mr. EATON. My friend ought to know that I knew it. I suggested to him myself that it was so years and years ago. There is no earthly chance for any occurrence of this character now, not the slightest in the world. And let me say to the Senator from New York when he illustrates by the State of Connecticut and undertakes to state that three of her electors will vote for one democrat, and three of her electors will vote for another democrat, that they will see to it that the certificate will determine whom they vote for, each one of them. There is nothing in this Constitution to prevent it; and when the list is made, if there are three traitors to the regularly nominated candidate they will know who they are and they will be in that certificate. That is the answer to that man of straw.

Mr. TELLER. I should like to ask the Senator a question.

Mr. MORGAN. I do not propose to yield for a general debate all over the Senate.

Mr. TELLER. I want to ask the Senator from Connecticut a question.

Mr. EATON. My friend from Alabama was recognized, and I do not want to discuss this question now. I may have something to say about it by and by; but I wanted to take care of the man of straw of the Senator from New York as soon as possible.

Mr. CONKLING. If I may be permitted to do so, I wish to apologize to the Senator from Connecticut for supposing a case in which only three of the six electors voted for him. I see that he objects a little to such a supposition. I have no doubt that all six of them would vote for him.

Mr. EATON. They would if they were wise. [Laughter.] If it was New York, I am not so certain how the vote would be just now. [Laughter.]

The PRESIDING OFFICER. The Senator from Alabama is entitled to the floor.

Mr. TELLER. I desire to ask the Senator from Connecticut a question. I desire to ask if the Senator has overlooked the fact that in 1872 at least three democratic States divided their vote on the question of the Presidency.

Mr. EATON. What States were they?

Mr. TELLER. Georgia divided its vote, giving 6 votes to B. Gratz Brown and giving 2 votes for Jenkins. The State of Kentucky gave 4 votes for Brown and 8 votes for Hendricks. It happened on fourteen different occasions that some of the States divided either upon President or upon Vice-President, and up to 1837 there never was an election where they did not divide. In 1872, eight years ago, the State of Georgia divided its vote; the State of Kentucky divided its vote; and the State of Missouri voted for three candidates for President, giving 8 for one and 6 for another. Maryland has voted for more than one man more times than she has voted for only one. As many as five or six States divided their votes in the early history of the country.

Mr. EATON. Do not lay any flattering unction of that sort to your souls that there will be any division the coming fall.

Mr. TELLER. Suppose at the next election the democratic candidate or the republican candidate dies on the eve of the vote, before there is an opportunity for the party to consult and agree on a successor, just as was the case when Mr. Greeley died.

Mr. EATON. I took the floor from the Senator from Alabama.

Mr. TELLER. I beg pardon. I only wanted to show that this division was a matter of frequent occurrence and of very late occurrence.

Mr. MORGAN. The honorable Senator from New York [Mr. CONKLING] has twice had the floor upon this resolution, and I am not quite sure that we have yet got from the Senator all the objections he has found to the resolution. So far he has indulged only in questioning the form of procedure, whether it shall be by law or by resolution, and then afterward he makes a sharp criticism upon the language of the resolution itself, and the Senator has discovered, or thinks he has discovered, a difficulty in this resolution, and presents entirely a new question. The Senator thinks that he has discovered this difficulty, that this rule requires a vote to be rejected when it is impossible under the Constitution of the United States to determine to what vote the action of the Houses relates. He goes back to the Constitution and he gathers from that what he conceives to be its meaning, but he seems to have omitted to notice the fact that the Constitution in terms requires some things to be done in regard to the manner of bringing this electoral vote before the attention of the two Houses:

> They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate.

Mr. CONKLING. I read that.

Mr. MORGAN. The making of these lists, therefore, containing the lists of votes of persons voted for is made imperative by the Constitution. Turn, then, to sections 138 and 139 of the Revised Statutes, and they provide as follows:

> SEC. 138. The electors shall make and sign three certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President, and the other of the votes for Vice-President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State.

The statute, therefore, brings the names of the electors into this certificate.

Mr. CONKLING. So does the Constitution, if the Senator will pardon me. It says every one shall write his name. The Constitution says so. It says every elector shall sign his own name to the certificate. So you do not want a statute to bring them in.

Mr. MORGAN. The Constitution says: "They shall sign and certify and transmit sealed" the lists of the votes. Then section 139 of the Revised Statutes says:

> The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice-President, are contained therein.

That sealed up paper of course is in a package. I believe there is no constitutional difficulty in the way of calling it a "sealed package"—a sealed package containing the lists of votes of electors. It contains also by the Constitution, as the Senator contends, and certainly by the statute, a list of the names of the electors who cast those votes. So that that list and those papers bring before the Houses the names of the electors and bring the list of the persons voted for; but they do not bring the name of each elector in connection with the vote that he casts, nor do I know that it is competent at all under the Constitution of the United Stated to compel the

electors to make a certificate of that character, for it may possibly violate the provision of the Constitution that relates to the vote by ballot. Whether that means by secret ballot or whether it means by written ballot is a question that I do not propose to solve, either by this rule or by any statement that I make in regard to it. It is a question, however, that to my mind is extremely debatable whether the word "ballot" in the Constitution relates to a secret ballot or whether it relates merely to a written ballot, because we understand perfectly well the substantial reason for requiring the ballots to be secret. If in the 35 votes cast in New York one man should vote for the democratic candidate and the remaining thirty-four should vote for the republican candidate, it would be a fact known beyond all question, easily found out. There would be no breach of privilege, or breach of law, or breach of duty, or even breach of politeness in ascertaining precisely how every man voted there, and if one man should cast a vote in that list for the democrat and the remaining thirty-four should cast votes for the republican, every man in the United States who reads the newspapers or feels any interest in the question would know immediately how that vote was cast and Congress would have no difficulty in identifying the vote. But I pass that by.

Now, the Senator must not complain of me if, after having twice flashed his brilliant cimeter in the face of the Senate, I should thrust it on his own honest person and prove that, at a time when both Houses of Congress were engaged in the most serious consideration of all the provisions of the Constitution of the United States, the Senator voted for a law, as I understand he did, which contained the very provisions that are in this rule. Now, I will read from the bill providing for the electoral commission, passed in 1877. In the first section of that bill the following language occurs:

> When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision.

Objections to what? To any vote or paper from a State, not the vote of any particular named elector, nor the fact that any named elector had the right to vote or did not have the right to vote, but that law required the objection to be made to the vote and not to the elector. The Senator did not find that objection at that time, from which we must infer that his wisdom or his astuteness has very greatly increased within four years, on which I congratulate him very highly.

Mr. CONKLING. May I understand if the Senator is alluding to me?

Mr. MORGAN. Certainly.

Mr. CONKLING. The Senator reads, if I understand him, a provision exactly the opposite of the one which I object to here, namely, a provision that objection may be made to the vote from any State, and he is candid enough to say that it did not aim at all at the individual electors, and then strangely enough he jumps from that statement to a remark that I did not at that time find out this objection that I am talking about now.

Mr. MORGAN. I did not say that the language of this statute was that the objection was to be made to the vote from any State.

Mr. CONKLING. Did not the Senator read from it?

Mr. MORGAN. I read from the statute, and will read it again, so as to show that the Senator's accuracy of recollection and construction of statutes depends very much on the proclivity of his mind to find an objection on which he feels that he can or cannot stand:

> When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision.

Mr. CONKLING. Does the Senator mean to say that he understands that as the equivalent of the provision now under discussion, namely, that an objection might be made to the individual vote of an elector?

Mr. MORGAN. I certainly do. "Any vote or paper from a State."

Mr. CONKLING. And that the Senator thinks meant that although no objection were made to a "vote or paper from a State," nevertheless an objection might be made to the individual vote of an elector contained in that "vote or paper?"

Mr. MORGAN. Objections were made to individual votes before that commission and acted upon.

Mr. CONKLING. I did not ask the Senator what was done before the commission, but speaking of the construction of the act.

Mr. MORGAN. I am referring to that to show the construction of the act.

Mr. CONKLING. But I understood the Senator to say at that moment, although I thought before his view was different, that that language at least leveling an objection, not at a certificate or vote or paper from a State, but at the individual vote of an elector contained in that paper.

Mr. MORGAN. Now I will proceed to read a little further for the edification of the Senator in regard to a part of his own work. I have adverted to the fact that the electoral commission did separate the votes and did receive separate objections to individual votes, and did discuss them and did decide them. In the second section of the same law it was provided:

> Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all such objections so made to any certificate, vote, or paper from a State shall have been received and read, all such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together, and, by a majority of votes, decide whether any and what votes—

Now I come to the point—

> decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration.

That made it absolutely distinct that when the commission came to decide the question it should decide upon each vote and upon each elector; so that there is no chance, I think, for the Senator to argue out of that difficulty. At all events, after having set us the example when he used terminology in this bill which expressly identified the individual elector, I think he has scarcely a right to object—of course he has a right to criticise; of course I expect him to make all the points necessary on this occasion to obstruct the passage of this resolution or any other resolution which may lead to such a result as we are trying to attain, but the honorable Senator ought to recollect that he has a record here, and that it is a very distinguished record, because of the great distinction of the Senator, and that the country throughout its length and breadth always understands what the Senator from New York does, and does not always understand what he says. His conduct in the passage of a law, his criticisms upon a law, his vote in favor of a law, give the country an assurance that it is a law which received his profoundest consideration. Now I shall have to turn the Senator over to the Senator from Vermont in this case, because the Senator from Vermont has sedulously pursued the same line of writing upon this subject, and of thinking also, that is contained in the original electoral bill which I believe he drafted; at all events, it was drafted by a committee of which the honorable Senator was chairman.

Now I will read from the fourth section of the bill of the Senator from Vermont. I do this in aid of my own argument and for the purpose of transferring if I can do so this combat between the honorable Senator from New York and myself to an issue between the honorable Senator from New York and the honorable Senator from Vermont. I shall not only have great support in the opinion of the Senator from Vermont, but I shall feel greatly relieved if he is bound to come to my assistance against the Senator from New York. In his bill he says:

> If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 2 of this act to have been appointed if the determination in said section provided for shall have been made.

Those votes shall be counted, and only those votes shall be counted. How could the Senator from Vermont, under the operation of his bill, find out any more than the two Houses under the operation of the rule we are now discussing would be able to find out what votes, and what votes only, shall be counted. Again:

> But in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 2 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so authorized by its laws.

In the case supposed by the Senator from New York, how does the Senator from Vermont in the application of his law ever expect to be able to ascertain what votes to reject? He does not mean, as I understand, that particular ballots are to be rejected, but that the votes of the electors are to be stricken out, and whether it shall result in the disfranchisement of a State to that extent, the loss of a vote to that extent or not, I am not able to decide. But this rule, it must be observed, makes nothing compulsory on the two Houses except that there shall be a concurrence of the two Houses to reject any vote, which means of course that there shall be a concurrence of the two Houses to reject any elector who has cast a vote.

Again, his bill provides:

> And in such case of more than one return, or paper purporting to be a return, from a State, *if there shall have been no such determination of the question in the State aforesaid*, then those votes and those only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State.

Thereby segregating the votes from the electors, so far as it is possible to make a distinction between the two, and making the operative words of the section affect the votes of the electors. It is not necessary in order to accomplish this that you should take out of these ballots the particular vote which a particular elector has cast. If you strike out the elector, that answers the whole purpose. Again:

> No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

I am not at all averse to conforming the language of this resolution in this particular to the language of the bill of the honorable Senator from Vermont. It may make it better; it may not improve it. We are not standing here upon words. We are trying to employ such words as will bear a distinct meaning to the common apprehension of mankind, and when we speak of objections to votes of electors and that votes of electors shall be counted or in certain conditions that the votes of electors shall be rejected, we naturally refer to the elector, and we refer also to those means furnished by the Constitu-

tion and laws of the United States for the identification of the elector.

Mr. TELLER. I should like to ask the Senator what he understands to be the methods that the Constitution has pointed out for the purpose of determining how a particular elector voted in case more than one candidate is voted for by the electors of the same State, as was done by Missouri in 1872?

Mr. MORGAN. None at all.

Mr. TELLER. How, then, are we to find out?

Mr. MORGAN. We must do it by amending the Constitution; but we cannot do it by the passage of a law or by the passage of a rule. We must do it by leaving it to the judgment of the two Houses to determine on the evidence where the objection applies.

Mr. THURMAN. Will my friend allow me to interrupt him a moment?

Mr. MORGAN. Certainly.

Mr. THURMAN. I pray him not to be too hasty in that judgment. I agree that these electors voting by ballot in the language of the Constitution, *ex vi termini* a sealed ballot is meant; but it does not follow that because a man votes by ballot he cannot be compelled to disclose how he voted. In almost every contested election by the people men who have cast their votes are compelled to disclose upon oath how they voted. If it were perfectly apparent to the two Houses that I, a Senator of this body, had been appointed an elector of President and Vice-President and had voted, that fact being proved before the Houses or before a committee of the Houses, I am not prepared to say that I cannot be summoned and compelled to testify for whom I voted, and that evidence may be before the two Houses when the vote is counted.

Mr. MORGAN. It is provided by the Revised Statutes, section 133:

> Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

That statute appears to have been passed on the 23d January, 1845, but as far back as 1821 the question arose in the count of the vote for President Monroe as to what disposition should be made of certain votes of electors who died before the meeting of the electoral college. Of course the statute I have just read had no reference to that, but it was intended as a provision of law to meet a difficulty which had arisen, I believe, only in the case of the election for the ninth presidential term. The whole number of electors appointed by the several States was 235. One elector in each of the States of Pennsylvania, Tennessee, and Mississippi having died before the meeting of the electoral college of which he was a member, it made the whole number of votes actually cast 232, including the vote of Missouri, of which 117 made a majority, or, excluding Missouri, 229, of which 115 made a majority; but in either event Mr. Monroe was elected President and Daniel D. Tompkins Vice-President.

That was the announcement of the President of the Senate before the two Houses at the time the votes had been cast up by the tellers and submitted to him to be announced. The votes of the electors who died before the meeting of the electoral colleges were not cast, and so the number of votes in the electoral colleges to be ascertained and determined with a view of ascertaining the number that should be the majority was reduced by the number of electors who had died before they had cast their electoral votes.

Mr. EDMUNDS. How could it be reduced when the Constitution says that the successful man must have a majority of the whole number of electors appointed by the States.

Mr. MORGAN. This was in 1821.

Mr. EDMUNDS. Their dying afterward does not reduce the number any that I can see.

Mr. MORGAN. I am calling attention now not to what should have been done, not to what was the constitutional method of procedure on that occasion, but to what was done in the absence of a statute to that effect. The President of the Senate making the announcement stated that one elector in each of the States of Pennsylvania, Tennessee, and Mississippi having died prior to the meeting of the electoral college of which he was a member, it made the whole number of votes actually cast 232. That, therefore, was the number from which a majority was determined, including the vote of Missouri, of which 117 made a majority; excluding the vote of Missouri, 229 would be the whole number, of which 115 were a majority. I was referring to that now to show that at least one occasion has arisen in the course of counting electoral votes in which it has been necessary from occurrences beyond the control of men to strike out votes. Electors had died after they were appointed and before the electoral college met; therefore the votes of those three men were lost. Then the act of 1845 provided against that by allowing the colleges to fill up the electoral colleges in any event of that kind.

Mr. EDMUNDS. May I ask my friend whether the two Houses or anybody else on the occasion of the count undertook to strike anything out? There were no votes returned by that number. There were three votes that might have been returned, but were not returned.

Mr. MORGAN. If there were no votes returned and nothing in the papers to show it, how was the President of the Senate on that occasion able to state officially in regard to the missing of these three votes? Of course, each State is entitled under the Constitution and under the laws also, particularly under the Constitution, to a certain number of representatives in the electoral college, and when a less number of votes came up the reason why a less number was returned was stated. It was not because the States had been delinquent in any of their action, but it was because the hand of God had stricken down three of the electors by death; therefore the votes did not come up and they were not counted; and so the President of the Senate on that occasion desired to know, and was obliged to know and to determine also, what number constituted a majority of all the votes cast at that election. These three votes were not counted.

"Ambitious and ostentatious" the honorable Senator from New York on Saturday characterized this modest rule. It has not been so ambitious or so ostentatious in its purpose as to undertake to remedy the defects of the Constitution. This rule provides merely for procedure between the two Houses in the conduct of the matter of counting these votes; and as I believe the Senators on that side, with the exception of the honorable Senator from Kansas, who has addressed the Senate this morning, pretty generally agree that the two Houses are, after all, the constitutional body to count the votes, it is something that commends this rule to my mind that it undertakes to leave the decision of all these grave constitutional questions to the great tribunal to which the Constitution itself commended it.

The Senator from New York does not fairly characterize this rule when he attributes to it any purpose or intent or any possible effect of a compulsory measure upon either House to do or not to do a particular thing. It merely in one instance decides upon an established principle of law as old as government itself, that when one House and the State agree together in reference to an ascertained fact and a deliberately rendered judgment it shall stand, upon the principle of the concurrence of two powers interested in producing a result, the decision of each of which is entitled to respect.

So I think, Mr. President, the criticisms of the honorable Senator from New York are hypercritical; they are not according to that solid method which the honorable Senator usually pursues when he finds an enemy in his front that has enough in it to be knocked down. The Senator has introduced to this rule no objection of a substantial character. There is nothing in it, as he understands, that violates law or Constitution or the traditions of the country; but he has satisfied himself with the most ingenious and most facetious criticism upon the application of the rule and upon its language. I shall be delighted if the honorable Senator will undertake to amend the rule and help it out by his great abilities in suggesting something that will make it better than it is, and will enable us after all to have the benefit of his great service in the Senate in trying to produce peace and tranquillity in this land.

Mr. CONKLING. Mr. President, the other day, in some brief colloquy with the honorable Senator from Alabama, I employed, and unfortunately it seems employed the word "pretensions," and I rise now to make that right with the Senator from Alabama. I re-employ that word as specially fitting this proposition, and I repeat it in order to state to the Senator just how much I mean.

Nothing as I understand it is pretentious more than that which assuming the guise and manner of great fairness and judicial impartiality, of freedom from all the alloy of bias, of temper, and of interest, professes largely, patriotically, and conscientiously to do something, when in reality all the time the mode adopted is such as to answer every purpose of interest, of option, of advantage which may be possessed. I say, therefore, that this rule is full of pretensions. It largely with apparent fairness requires the concurrence of both Houses. Certainly no vote shall be cast out upon the action of one House. How shocked this committee would be at that! The twenty-second joint rule permitted that; not so this rule. How fair it is, how magnanimous, how industrious in putting up the bars against partisan advantage! Both Houses are necessary to cast out the vote of a State; both Houses must concur in robbing a candidate of even a single vote to which he is entitled. Could anything be fairer than that? No, not on the face of it. The honorable Senator from Ohio smiles and I do not wonder. It is a smile that is "childlike and bland," because he knows more accurately than I do how many more votes in each House belong to the party which he leads than belong to the party in which I follow; and therefore he smiles when he thinks how judicious it was, how calm, how patriotic, how free from guile and above all of partisanship, for a committee to require both Houses to concur before New York shall be robbed of its vote or before even a single vote, whether it be the turning vote or not, shall be taken away from the candidate who has received it.

Mr. President, this great matter is a distinction without a difference. Every man who hears me knows that it will never make one hair white or one hair black on the 4th of March, 1881, whether two democratic Houses or one democratic House has the staff in hand which governs the count. It does not amount to the dust in the balance. The candidate himself would not rise up or sit down, be he democrat or republican, for the right to choose whether both Houses should do it or one House.

Now, I say that is pretension, it is unreal, it is a display of the hollow appearance of special fairness when there is nothing in it. But that is an improvement upon the twenty-second joint rule, because under the twenty-second joint rule the Senate alone could reject a vote and the House alone could, in place of concurring as they are just as certain as death and quarter day to do in respect of every challenged vote! But under the twenty-second joint rule neither House

alone nor both Houses together could do a tithe of the mischief which this provides.

The Senator from Alabama with a candor which I bear witness is characteristic of him—it is his habit when he states a legal proposition to state it with intrepidity and to abide by it—says that the Constitution furnishes no mode, and tolerates none, of prying through the key-hole or piercing the consciousness of an elector to ascertain what the Constitution does not provide shall be disclosed.

Mr. MORGAN. The Senator misunderstood me. I made no allusion to that save in connection with the Constitution. To the reverse I stated.

Mr. CONKLING. I am very unfortunate in understanding the Senator from Alabama.

Mr. MORGAN. You are in this certainly, or else I am in stating my position.

Mr. CONKLING. The honorable Senator from Colorado asked a question to which the answer of the Senator from Alabama was the one I gave, and then I thought that the Nestor of the party came in as the elder hand, fearing (if I may use such a phrase) that the Senator from Alabama would give himself away, and he begged him to go slow, he implored him not to commit himself in that way.

Mr. MORGAN. If the Senator from New York will allow me, I will ask the short-hand Reporter to read my remarks there. I want to get this correct before the Senate. I know the Senator does not want to misrepresent me.

Mr. CONKLING. On the contrary the Senator's remarks, if the short-hand Reporter will read them, will be much better reading than anything I can say.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The Reporter will read the notes referred to.

Mr. CONKLING. I should be glad to have him begin with the question of the Senator from Colorado down to and including part of the remarks of the Senator from Ohio.

The Official Reporter (Mr. D. F. Murphy) read from his short-hand notes, as follows:

Mr. TELLER. I should like to ask the Senator what he understands to be the methods that the Constitution has pointed out for the purpose of determining how a particular elector voted in case more than one candidate is voted for by the electors of the same State, as was done by Missouri in 1872?

Mr. MORGAN. None at all.

Mr. TELLER. How, then, are we to find out?

Mr. MORGAN. We must do it by amending the Constitution, but we cannot do it by the passage of a law or by the passage of a rule. We must do it by leaving it to the judgment of the two Houses to determine on the evidence where the objection applies.

Mr. THURMAN. Will my friend allow me to interrupt him a moment?

Mr. MORGAN. Certainly.

Mr. THURMAN. I pray him not to be too hasty in that judgment. I agree that these electors voting by ballot, in the language of the Constitution, *ex vi termini* a sealed ballot is meant; but it does not follow that because a man votes by ballot he cannot be compelled to disclose how he voted.

Mr. CONKLING. That will do, I think. I would not fail, if I had time, to hear if I could the whole of this so as to embrace all the remarks of the Senator from Ohio, except that as our conscientious Reporter is reading there is nobody to report him, and therefore this debate achieves no added immortality by being read from the short-hand notes. Now, if the Senator from Alabama thinks that I have misrepresented him, I beg that he will set me right. He does not need to be set right himself.

Mr. MORGAN. I understood the Senator from New York to state that I had taken the position here that the Constitution of the United States prohibited any one from peering through the key-hole or opening the door——

Mr. CONKLING. I will gladly give way if the Senator from Alabama will have the Reporter read from my remarks where I said that the Constitution contained any such provision.

Mr. MORGAN. That was my understanding, and he attributed to me also (which I should very gladly acknowledge if it was the fact) that when I said that the Senator from Ohio admonished me that perhaps I was going too fast. The fact was that I had already made my statement, I think a very fair one indeed, disclaiming on my part the opinion that the word "ballot" in the Constitution necessarily meant a secret ballot. I said that it meant merely a paper written on, upon which the vote was recorded. Differing with the honorable Senator on that, of course I could see no difficulty at all in looking over that point of his under any circumstances, for the reason that the Constitution guaranteed to it no privacy and no secrecy.

Mr. CONKLING. It was not my purpose either to overstate the Senator from Alabama or to hold him to account for anything he had said. My statement of him was that he with frankness admitted that the Constitution did not contemplate peering through the key-hole or piercing the conscience—I think that was my phrase—of an elector in casting his vote. At that point the Senator interrupted me and thought I was mistaken, and the record shows how far I was mistaken, although it is a matter of very little consequence whether it be more or less.

Taking the admission made by the Senator, I say this rule is mischievous as compared with the twenty-second joint rule, because of the unconstitutional and extra-constitutional permission which it undertakes to give to rummage electoral certificates and cast out individual votes on the ground of alleged ineligibility, and therefore I might say that a rule which opens a door of that sort is very pretentious when it comes in the name of conservatism and fair play. So this rule opens the door for other inquiries, to which I did not allude before, to what extent I am utterly unable to learn from reading it, but to some considerable extent manifestly overpassing the boundaries and the line which I believe have been regarded heretofore as the frontier of power in this regard. I say a rule to be fair should be free from such a feature as that; and if it is not and comes in the name of security and of fair play, it should be condemned for that reason.

It was, Mr. President, in such a sense and with such an application that I employed the word "pretentious," which seems in some sort to have been unsatisfactory to the Senator from Alabama. I did not employ it to apply to him, but only as applicable to the measure before us, of which we have a right to freely speak.

I do not know that at any time I shall vex the ear of the Senate with further observations upon this measure. Should I do so, however, I will not forget the invitation of the Senator from Alabama to point out more generally than I have done the respects in which this resolution could be improved. It is so far from a resemblance to the electoral-commission act, so far from a resemblance to any rule or method ever employed before as far as I know for this purpose, that I think I shall find myself ready on the shortest notice to point out to the Senator from Alabama many features in which I believe it could be improved, and by changes so obvious that he will not require the advice of any man in order to discern them.

Mr. TELLER. Mr. President, the honorable Senator from Connecticut [Mr. EATON] stated a short time ago that in all probability the certificates, where there was a divided vote of a State, would show who cast the votes for the different candidates. I have not had the time to look that up very carefully, but I find that in 1872, when the State of Georgia divided her vote between three candidates, giving three votes to Horace Greeley, some votes to Gratz Brown, and two votes to Mr. Jenkins, this is the form of the certificate:

That the said electors, being assembled as above mentioned, and all present, proceeded to vote by ballot for a President of the United States for the term of four years from the 4th day of March, 1873. When all the ballots were cast and the votes counted it appeared that Benjamin Gratz Brown, of the State of Missouri, had received 6 votes; Horace Greeley, of the State of New York, 3 votes, and Charles J. Jenkins, of the State of Georgia, 2 votes; 11 votes in all being given by the electoral college.

I find also in that remarkable certificate, that we have all heard of, coming from Oregon in 1876—this is the form of what was known as the Cronin certificate:

List of all the persons voted for by the electoral college of the State of Oregon, and of the number of votes cast for each person, at the city of Salem, the seat of government of said State, on Wednesday, the 6th day of December, A. D. 1876, as provided by law, for President of the United States.

Rutherford B. Hayes, of Ohio, received two (2) votes..... 2
Samuel J. Tilden, of New York, received one (1) vote..... 1

Mr. EDMUNDS. Who signed that certificate?

Mr. TELLER. E. A. Cronin, J. N. T. Miller, and John Parker. Now, who voted for Rutherford B. Hayes? Was it Cronin and Miller, or Miller and Parker? Can anybody tell?

Mr. EDMUNDS. They were all democratic electors, if electors at all.

Mr. TELLER. Yes, if electors at all, they were all democrats. I should presume there might be instances found where possibly the electors have designated for whom they so voted; but I doubt very much whether that is the general rule, and certainly it is not required. The certificates will be just as good if sent up without such a designation, without saying Mr. Smith voted for Mr. Jones, and I believe that has been the general rule; and in this very particular case suppose the question had arisen about the State of Missouri. As I said, Missouri divided her vote still more on the Vice-President, and some of the States have voted sometimes for as many as five candidates for Vice-President without any designation of how the particular electors voted. How can that be determined under this resolution? The fact is that this will furnish you an excuse for throwing out the whole vote in just such a case. When it is said that there is an elector here who is not qualified or was not qualified when appointed, and therefore you cannot tell what the legal vote is, then out it must all go, for that has been contended for by more than one man who has occupied a seat in the various legislative bodies, the House and Senate. It has been argued that if you could not tell just how the vote was, out all must go; and under this rule that will be an excuse some day for wiping out all if political necessities and party purposes require it to be done.

The PRESIDING OFFICER, (Mr. GARLAND.) The question is on the amendment of the Senator from Kansas, [Mr. INGALLS,] which will be reported.

The CHIEF CLERK. The amendment is in section 3, to strike out from line 21 to line 82, inclusive, and in lieu thereof to insert:

In deciding any question that may arise upon receiving the certificates or counting the votes, the vote shall be taken by States without debate, the representation from each State in both Houses having one vote, and a quorum for this purpose shall consist of two-thirds of the States, and a majority of all the States shall be necessary to a decision.

A division was called for, but no Senator rose in the affirmative.

The PRESIDING OFFICER. The Secretary will proceed to call the Senate.

Mr. CONKLING. The negative has not been put.

The PRESIDING OFFICER. No one arose.

Mr. EDMUNDS. The Chair has not put the other side of the question.

Mr. HILL, of Georgia. If nobody voted in the affirmative everybody must be in the negative.

The PRESIDING OFFICER. The Chair will put the question again on the amendment of the Senator from Kansas.

The question being again put, a division was called for, and no one rose in the affirmative.

Mr. EATON. We might as well have the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. Mr. President, seeing that we are to have the yeas and nays I wish to say a word about this amendment. If this scheme were in the form of a bill, which is the only thing in my belief that the Constitution tolerates in respect of settling rights as this proposition proposes to do, I think it would be competent for the two Houses to pass it and for it to become a law, because it is one of the methods that the legislative power of the Government might provide for going through the administrative business of receiving and counting these votes. But this being a joint rule, which in my opinion except in so far as it relates to the time and manner of the meeting of the two Houses and the arrangement of seats, and the alphabetical order of procedure possibly, is wholly void, I am entirely indifferent whether I vote for this ornament of this performance or not; and therefore whichever way I vote I wish to put in a *caveat* that I would just as soon have voted the other way, inasmuch as the whole thing, in the respects of the merits of the matter to which the so-called rule and the amendment go, is in my judgment entirely void in the form in which it stands.

Mr. TELLER. I should like to ask the Senator from Kansas exactly what this means before I vote: "The representation from each State in both Houses having one vote?"

Mr. INGALLS. The proposition appears to be plain enough; it is exactly the language that is employed in the twelfth article of the amendments to the Constitution. The language is precisely identical. I drew it from the article of the Constitution itself.

Mr. THURMAN. That is in the case of an election by the House.

Mr. TELLER. I asked whether Senators can vote under this.

Mr. INGALLS. The Senate and House have nothing whatever to do with this matter separately. The Constitution does not recognize the two Houses separately in any matter connected with the count of electoral votes. They are to meet in joint session for a specified purpose.

Mr. EDMUNDS. It does not say "joint session."

Mr. INGALLS. They are to meet together. It may not be in joint session, but they in some way come together.

Mr. EDMUNDS. They are to be present.

Mr. INGALLS. They are present not as a Senate and a House, but as an assemblage, and in case it appears from the computation of the President of the Senate that no person has received a majority of votes for President, then in the manner specified by the Constitution the States elect a President through their representatives in the House.

Mr. TELLER. If this resolution should pass as amended it seems to me the Senators from the State of Colorado, for instance, would overbear the vote of the member of the House, that being a State having only one member. The two Senators acting together of course could prevent the representative of the people from having any selection at all.

Mr. THURMAN. Mr. President, my friend from Kansas says his amendment is copied from the twefth article of the amendments to the Constitution. He has copied some portion of the twelth article of amendments to the Constitution which relates to an election of President by the House of Representatives where there has been no election by the electors; but our rule is not to provide for an election of President by the House of Representatives; it is for counting the votes of electors, and therefore there is no propriety in incorporating into this rule the provision in the twelfth article of amendments to the Constitution that relates to an election of President by the House of Representatives when there is a failure to elect by the electors.

Mr. INGALLS. Does not the Senator from Ohio recognize the fact that the decision upon the acceptance or rejection of a certificate or the decision of the eligibility of an elector is a fact that is just as important as any other in connection with this whole transaction and may result in throwing the election into the House? That being the case, is it not important that the original purpose and design of the Constitution should be carried out in making the decision of this question rest upon the States as States, no matter whether they act through electors or whether they act through their representatives in either House of Congress?

Mr. THURMAN. Why, Mr. President, it is a simple answer to that and a conclusive one, that the Constitution has not provided that the House of Representatives voting by States, the vote of each State counting one, shall decide any question at all. It has provided that when these votes are counted in the presence of the two Houses and the result is declared, and it appears that no one is elected by the votes of the electors, then the election of President shall devolve upon the House of Representatives; and then it goes on to provide how that election shall be made. It shall be made by a vote of the States, the vote of each State counting one. There is not a word in the Constitution that either expressly or by any fair inference sanctions such a proceeding as this; and the Senator not only adopts a rule of voting by States in order to decide a question of what was the vote of the electors of a State, but also brings in the Senate with the House of Representatives to constitute the vote of a State, and so as to give in the State that my friend on my right [Mr. TELLER] represents the two Senators twice the power of the Representative from that State, for Colorado has but one Representative. Of course my friend from Kansas is hardly in earnest about this.

Let me say, as he has spoken about the meaning of the Constitution, that I believe myself—and I offered an amendment to that effect in the committee that framed the electoral-commission bill; I cannot say how the vote was upon it, but it did not carry—the true interpretation of the Constitution is that the two Houses do meet in joint convention and that every question that can arise upon the counting of the votes ought to be decided by that joint convention voting *per capita*. That is my belief of what was the intention of the Constitution.

Mr. EDMUNDS. Why do you not provide for it?

Mr. THURMAN. I will tell you why I do not provide for it, in a very few moments.

When the question was before the convention that framed the Federal Constitution the first proposition was that the President should be elected by the Senate. That was voted down, because it was said that would be too aristocratic, the Senate would be an aristocratic body and ought not to be intrusted with the choice of the President. After that the convention agreed that the President should be elected by both Houses of Congress voting *per capita;* but that in the end was not satisfactory, and nearly at the close of the convention the scheme was adopted of electing electors of President and Vice-President who should choose the President. But mark it, the remainder of the first proposition which gave the counting to the joint convention of Congress continued in the Constitution, and has continued to this day. That is the true history of it.

Under the plan as at first agreed upon Congress would have elected the President voting *per capita*, and of course would have counted their own votes; it would have been nothing more than the counting of any votes in a joint convention or in any chamber whatsoever. They struck out the elective part and provided for the election of President by electors, and they provided for the counting part by the Congress; and mark it, the Congress is the precise counterpart of the electoral college. The electoral college consists of one member for each Senator and Representative, just precisely as the Congress would consist in joint convention of the Senators and the Representatives from the States.

I say that that is the true mode of counting these votes. But my friend asks me, and very pertinently, why do I support this joint rule? Because I cannot shut my eyes to the fact that ever since the votes were counted, or at least ever since any question was made about their counting, a different interpretation has prevailed, and I never yet have had the presumption to set up my judgment against that of not only men who are better qualified than I am to judge, but against decision after decision reaching over more than half a century of our country's history. I yield my own opinion simply in this case to the usage which is contrary to the opinion that I entertain. If it were *res nova*, I should contend strenuously for the proposition that I have stated, but I never should contend for such a proposition as this now presented, which is wholly foreign to the Constitution, which is not a joint convention voting *per capita*, but is a joint convention voting by States.

Mr. President, I did not expect to say a word on this bill, although I did want to say something about it, yet anxious to assist the Senator from Alabama in disposing of it as soon as possible as we all want to go home. I think I did not intend to say a word.

Mr. EDMUNDS. My friend I think is laboring under a misapprehension. This is a rule, not a bill.

Mr. THURMAN. Well, rule, not bill. I called it a bill. I am under no misapprehension about it.

Mr. EDMUNDS. The Senator is quite right in his nomenclature. It is a bill, only it has not that form.

Mr. THURMAN. I am a person who cultivates economy of time. "A bill" does not take me as long to pronounce as "a joint rule." So I hope my friend will allow me to call it a bill.

Mr. EDMUNDS. I will. That is what it is.

Mr. THURMAN. Now, Mr. President, I listened to the Senator from New York—I will not put the adjective to it—asserting with much iteration that this joint resolution is a pretense, a pretentious thing, a pretense to fairness where no fairness exists. Why is there not fairness about it? Why does he say it is a pretense of fairness? Has he ever reflected what that imports, what those remarks imply? Did he ever reflect that that is an imputation upon the motives, upon the integrity, upon the honesty of the men who support this joint resolution? Are they men who come here making false pretenses, making an ostentatious display of fairness, when they have fraud in their hearts, when they mean that this shall be simply held out to the eye and the ear as a fair proposition and never shall have any fair execution or effect? If he does not mean that, then his remarks were wholly beside the mark; there was no occasion for them at all. There was no reason why he should say that this was a pretense; that this was a pretentious thing; that this was an ostentatious exhibition of apparent fairness, unless he meant further to charge that this

was done simply to deceive, and that there was a deeper and an afterthought which was to be followed when we come to the execution of the duty that devolves upon us.

Mr. President, I do not want to protest my honesty, my patriotism, my integrity, my good faith. I do not think much of any man's character or reputation who has to protest that he is an honest man. But this I do say, that my friend has known me long enough to know that what methods I have are open methods, and that what I seek I fight for openly and boldly and above-board.

Again, Mr. President, the Senator from New York was pleased to say—and that was something of the substance of the remarks of the Senator from Colorado as I heard them—that this measure contained a most dangerous provision, far worse than the twenty-second joint rule, and what was that dangerous provision? That it provides for challenging the vote of an elector. Why, to be sure it provides for challenging the vote of an elector, and so did the electoral-commission bill which my friend from New York helped to frame and the report in favor of which bears his signature and which received his vote; so did it, not in exactly the words of this joint rule, but in every substantial particular they are identical. It authorized objection to be received to votes and those votes were to be submitted to the electoral commission, and one of the very first questions that arose before the electoral commission was whether one person in the State of Florida who had acted as an elector was a qualified elector, it being charged that he was a Federal office-holder at the time of his appointment. But that was not all. There was a decision of the electoral commission upon that, and there was a decision of the electoral commission upon no less than two cases from the State of Louisiana. So that the electoral bill was precisely in all its substantial features upon this point the same as this resolution. This resolution opens no wider the door to going into the question of the right of an elector to be appointed an elector or to cast the vote. This joint rule goes not one step further in that direction than did the electoral-commission bill.

But, Mr. President, I am speaking longer than I intended. I do not want to detain the Senate. I hope we are drawing near to the end of this session, and therefore I am inclined to do what I have known my political opponents on this floor to do when the democrats were very few in this body, when they let us do all the talking while they did all the voting. I am very much inclined to that now; and apologizing for having even said this much, I take leave of the subject.

Mr. INGALLS. With the consent of the Senate I will withdraw the amendment that I offered.

Mr. THURMAN. The yeas and nays have been ordered.

Mr. INGALLS. The consent of the Senate can allow me to withdraw the amendment.

Mr. THURMAN. Unanimous consent can do it.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment offered by the Senator from Kansas?

Mr. EDMUNDS. Is this resolution one of the kind that is to be considered in Committee of the Whole or is it in the Senate now?

The PRESIDING OFFICER. It is in the Senate as the present incumbent of the chair understands.

Mr. EDMUNDS. Then, if I understand it, any amendments that are offered are journalized as all amendments in the Senate I believe have to be. That is what I wanted to get at.

The PRESIDING OFFICER. The Senator from Kansas has leave to withdraw his amendment.

Mr. EDMUNDS. I think, Mr. President, that the Senator from Ohio is a little mistaken about the condition of affairs in the convention that framed the Constitution as to giving up the election by the two Houses in joint assembly of President and turning it over to the electoral colleges and retaining—which I believe was his phrase—the provision for their votes being counted and canvassed and being decided by the two Houses. I think if the Senator will only look at the journals and notes of the debates and proceedings in the constitutional convention he will find that when the proposition stood in the form that the two Houses in joint convention should elect the President there was not any such language, or language that bore the faintest resemblance to the language that is now in the Constitution as to the counting of the votes. So when he says that the provision for counting, and as he infers, therefore, by the members of the two Houses as one body, was retained, with great respect to his better memory I submit that I feel quite confident he is mistaken.

Mr. THURMAN. I thought I explained that. Of course literally that would not be correct, because when they said that the two Houses should elect the President it was not necessary to say how they should count their own votes. There was no such provision then; but when they gave the right to elect to electors, and then provided for the count by the two Houses of Congress, or in the presence of the two Houses of Congress, that in my judgment was precisely dividing the subject and providing that a certain body called the college of electors should elect, and the other body, the exact counterpart of it, the two Houses, should count.

Mr. EDMUNDS. Now we come to a matter of argument about which perhaps it is not worth while to spend a great deal of time. The Senator thinks one way and I the other; but I submit to him and to the Senate, inasmuch as his opinions are of value to us all, that it ought to be taken into consideration in connection with what he has said, that, if his notion is correct, why did not the convention provide, as they had the identical matter of the action of the members of the two Houses as one body in their minds distinctly, for some such thing? Having once provided that the two Houses should elect, when they gave that up, if the convention intended as my friend supposes to retain the right of the two Houses as a canvassing and deciding board, why did they not say so? Why did they leave it so obscure to put the very least criticism upon it?

Mr. THURMAN. They left many things obscure.

Mr. EDMUNDS. Yes; but why did they leave it so obscure as to say that the President of the Senate in the presence of the two Houses should open all the certificates and the votes should then be counted, having only spoken of the presence of the two Houses as an act of bodily appearance, just as the unwritten constitution of Great Britain and that of some other empires—as that is now an empire—provide that when an interesting event that relates to the succession of the crown is to take place the new-comer shall come into the world in the presence of the great lords and officers of state? That is the curious thing about this, if my friend from Ohio is right. It is inconceivable to my mind that if the Federal convention having determined at one moment of time that the members of the two Houses as one body should elect the President and having concluded to give them up and say that the electoral college should do that, but that the members of the two Houses should canvass and count and decide, should not have said so if they meant that, instead of saying that the electoral college should elect, that the President of the Senate should open the votes, and that then an event should take place in the presence of the two Houses.

I do not think, Mr. President, that that doctrine can stand as the intention of the Federal convention. But I think the Federal convention did intend what without straining any language at all and taking it in its ordinary and natural and legal sense is its clear and unmistakable import and meaning, that the electoral college having voted and the certified lists having been sent to the President of the Senate, an event should take place, and that is that that officer to whom these papers from all the States had been sent should open them in the presence of the two Houses; and that on that occasion the event of counting and computing and footing up these great and sovereign acts of the States and compiling them should be gone through with. And when it said in another part of the Constitution, indeed had already said, because it precedes this, that the Congress of the United States should have power to make all laws necessary to execute every provision of the Constitution and carry it into full effect, (and without which a large part of its power never could be exerted at all,) they had provided by a clear and industrious foresight for provision being made by law to execute in an orderly and legal and prescribed manner the duty and the event that once in four years must happen, to carry on the Government.

That is what I think; and therefore so far as it respects the counting of the votes and so by implication involved in that in a certain sense and in a certain way for the time being the determination of what is a vote, separating the true from the spurious, just as every county clerk who canvasses in my State is obliged to do for the time being, and just as every sheriff who has a warrant to arrest anybody is obliged to do for the time being in identifying the man that the warrant calls for—provision had been made that the law should find the persons and the means on that occasion to decide for it, and at least as an administrative measure—and I am not now on the question whether it would be final in the courts or not—what should be done, who was elected. That is what I think it was, and that is the first reason I have for not being able to vote in favor of this rule, as it is called, but law as it is in substance except that it is to pass without the form of law, and is to become the law of action of two independent bodies determining rights, without being submitted to the President of the United States, or having been submitted, without having been agreed to by two-thirds of each House.

Now, sir, in the very first instance of this subject being brought to the attention of the Congress of the United States in the year 1800, only thirteen years after the Constitution was framed, there was no human being in either House of Congress I believe—if any I have overlooked him—who supposed it was possible to deal with the question of dispute, in any way except by law; and now I am entirely cited from the mere orderly form of getting together and having anybody compute undisputed papers from the sovereign States of this Union. It might have been provided the Secretary of the Senate should do that, and there would never be any difficulty as long as the returns were undisputed. He could read and he could compute, but on the first occasion when thirteen years after the formation of the Government there came to be difficulties foreseen if not experienced in that very close election, as I say no human being that I can discover in reading the history of those times ever entertained the suspicion that it was possible to do anything binding and effective otherwise than by a law, which, as the Constitution says, is to be made by Congress to execute every one of the powers of the Government vested in any of its Departments, and to carry into force all its provisions. Of course that is to be taken with the exception where the Constitution says that each House is to be the judge of the elections and qualifications of its own members, and that each House may make rules for the conduct of its own proceedings, not for the conduct of the two; not for the conduct of the other; not for the decision of any right, except the right of some members of the body or the right of all of them together. When the matter proposed by

law came up in 1800, Mr. Pinckney, who had himself been a member of the constitutional convention, said this:

Mr. Pinckney further said, in other parts of his speech, that no power or authority is given to Congress—

That is now speaking of the Constitution of course. I read from the compilation made by order of the House of Representatives in 1876 on the occasion of the matter of four years ago—

Mr. Pinckney said "that no power or authority is given to Congress, even when both Houses are assembled in convention, further than to open and to count the votes, and declare who are President and Vice-President, if an election has been made;" "that so far from appointing committees to receive memorials or petitions respecting the election, or decide upon it, or so far from having any right to delegate an authority on this subject, that Congress shall not themselves, even when in convention, have the smallest power to decide on a single vote."

He is there speaking of the inherent power such as this rule assumes to exist, and that we are merely regulating it as we would a rule of our own, though I should not wish to be understood that anybody had proposed a rule, but he was speaking of the power as it existed without some provision.

I have intentionally gone into repetitions on this subject to show how utterly unconstitutional it would be for Congress, either acting in their separate chambers or in convention, to attempt to assume to themselves the power to reject a single vote.

Then he went on to say:

If the bill is not passed, we are to depend, as we have hitherto done, on the attachment of the States and the good sense and integrity of their executives. That the Constitution makes this dependence necessary, and as we have never yet been disappointed, we are to hope we never shall. But surely its friends never could have considered the extent and danger of giving to this committee, or even to Congress, the right to decide on double returns, or they must immediately have seen the extreme impropriety of attempting it. It is, in short, nothing less than holding out to the minority in all the States a temptation to dispute every election, and to always bring forward double returns. In every State where the election is strongly contested there will, of course, be a minority. It will be easily known by the measures of Congress to which candidate the majority of that body inclines, and whose friends will compose the committee that are to be thus packed and selected. If the minority in a particular State find that the candidate they have unsuccessfully supported is the favorite one with the majority of Congress, or their committees, they will easily discover the means of raising objections to the validity of the return of the electors, insist that they themselves are elected, proceed to the length of meeting and voting, and transmit to Congress a double return. It will not be difficult for them to accompany their return with plausible reasons, and perhaps with such unfounded assertions, and specious although false documents, as to give to the committee some colorable reason for rejecting the return of the electors certified by the governor, and admitting the other.

And so on. That, as I say, was addressed to the subject of providing by a bill, as nobody suggested that it was possible to take any step where there was a dispute unless you provided for it by law; and Mr. Pinckney said that this bill providing for a committee would be extremely dangerous, looking forward as it seems he did with a prophetic eye, as all the fathers looked a great deal farther into the future than a great many of us have supposed, to events that have occurred. We have seen double returns, and difficult and disputed returns, which are the same thing, at a time when not only both Houses of Congress were in political accord with each other and with the President, but when the result of the election was immensely in favor of the candidate they all wanted, and even then, when a dispute arose as to any particular vote, scenes of the most extraordinary and humiliating disorder would occur because under the then twenty-second joint rule there was no rule of action, no law, that regulated the principle upon which the dispute should proceed, or the right should be determined. There was the real difficulty, because we have found on a later occasion that when by the arrangement of a law that was carefully prepared, and the reduction of disputes in the first instance to the solution of a single body of persons, a result was arrived at. I am not now at all on the question whether they decided right or wrong; somebody must always decide right or wrong where there is a disagreement; the majority are almost as likely to be wrong as the minority, but still we cannot go on in this world with a government unless the majority's opinion is taken. When you get to the regulation of law, to point out steps and just principles, then there is some hope for you, even in that prophetic time when there would be two Houses of Congress in favor of a particular candidate, and when in order to elect that candidate a dispute must arise or would arise, and in order to bring him in it would be necessary to decide that dispute in a particular way; and this great patriot points out about what is likely to happen.

There is one State in this Union now of which it has been stated that there is an intention that there shall be double returns, and where the very case looked forward to by Mr. Pinckney would in such an event be likely to arise. The governor who is now exercising the power of that State in accordance with the decision of its supreme court, to whom the constitution of that State has explicitly referred that *quasi* political question, may certify on the returns that a particular body of gentlemen have been elected electors. Another person who I believe has never abdicated his pretensions,—if I may use the term pretensions without offense to anybody—to be governor of that State may certify and send forward at the critical moment to tip the scales one way or the other another set of returns, and it is said that that other pretender to the place of governor has some political accordance with what is understood to be the political majority at present in the two Houses of Congress. There you have got Mr. Pinckney's case, and in that instance instead of providing, as Mr. Pinckney's associates and fellows in the two Houses of Congress did, for a rule of law which certainly exercises some constraint upon Senators and members of Congress as well as other people, you propose to decline to have a law at all, but propose to leave it to the entirely unregulated, unbridled, and undirected will of what may happen to be the majority on that occasion, and in the case of a double return to say that you will take neither unless both Houses can agree to take one or the other. That would have the effect to throw out the vote of the particular State on this division.

The Constitution says that the vote of every State shall be counted; and in the case I have been supposing I presume there would not be a man in North America of any color or shade of political or other opinions who would not say that that State had voted and had lawfully voted, and that one or the other of those returns was the true one; and yet you propose to decide the right of the State which I have in my mind as a mere illustration, to participate in the most interesting act of the government of this country, not under the regulation of law that the Constitution says you may pass to carry into effect every part of the Constitution, but by force of a private agreement between ourselves and the other Chamber of this legislative body which has not the force of law nor any of its sanctions.

Mr. President, I should call that a pretty strong stride toward what has been so much condemned in so many quarters, centralization and the destruction of the rights of the States both separately and collectively; and I should be inclined in order to point the moral that I am endeavoring to enforce to read from a recent—I do not know what you call it—letter I think of an eminent statesman not now in my eye, but it appears in the papers of to-day—a clause which seems to me expressly designed to call the attention of his countrymen to the dangerous tendency of a measure of this character. He says:

Any encroachment of one on the distinctive domain of the other necessarily dislocates the machinery of the Constitution, and involves danger to the whole body-politic. In fact, every departure from the great charter of liberty and law is attended with peril. The demand made by adherents of one of the great parties for a strong government means substantially a centralized government, destructive of home rule in the States, and the very reverse of what Mr. Lincoln well described as a government of the people by the people and for the people. Carried to its logical conclusion, such a change would finally overthrow the Republic.

I cannot but persuade myself, Mr. President, that that eminent gentleman had in his mind when he wrote that clause this very measure which undertakes without any rule or regulation to assume absolute unbridled dominion over the acts of a sovereign State in the election of President and to centralize all power concerning the choice of the Chief Magistrate of the nation, which the Constitution has confessedly left in each State for itself, in the two Houses of Congress, and to do that by an act of such extreme centralization as that it is not thought fit to put even into the form of a law making a colorable regulation of the procedure, but as a sheer act of usurpation by a majority of the two Houses of Congress or by all together if this were to pass unanimously. I commend, Mr. President, to our fellow-countrymen everywhere this protest of the honorable Senator from Illinois, [Mr. DAVIS,] because it is to him that I am alluding, against the tendency of acts of this character, and I am sorry that he is not here present that I may thank him.

Mr. HOAR. He is here.

Mr. EDMUNDS. Yes. I wanted to thank him for the very urgent and earnest and timely words that he had made use of in that respect.

Mr. President, the bill of 1800 which undertook to regulate the principles upon which this count should proceed and to provide the means of deciding, at least for the time being and as an administrative act, who had received the constitutional majority, and which explicitly excluded on the part of this tribunal created by the law, being a committee of the two Houses and then subject to their reversal or affirmance, any right to go into the question of who had been elected an elector in respect of the number of votes he had received as against somebody else or in respect of the qualifications of the voters that had voted for him and confining the right of inquiry into the qualification of the elector himself and the regularity and good faith of his own proceeding after his State authorities had given him the certificate. The bill failed on account of the disagreement of the two Houses, one House insisting after the matter had gone through all this alembic of a grand committee, &c., that no paper purporting to be a vote should be admitted and counted unless the two Houses concurred in the propriety of it, concurred in agreeing that it was a vote, and the other House insisting that every paper that purported to be a vote should be counted unless both Houses agreed that it should not, the same insoluble problem in a court of two judges as we have got at this moment and shall always have until we shall make some other provision; and it fell. But I say it is worthy of notice that both Houses agreed that the fundamental right was in the State and that it belonged to the State herself to determine who her electors were, and that it was no part of the constitutional mission of the law-making power even, much less of either or both the two Houses in their constitutional character, to go into any inquiry as to whom the State had elected, but only to inquire as to the qualifications of the persons that she said she had elected and the methods of their voting.

And yet now, without a law, without any limitation, we are called upon to say that it is wise and fit that every paper coming from a State and purporting to be an electoral vote shall go into the sum to make out a majority for one candidate or another unless the two Houses agree that it shall not; and if, therefore, in the case of a State from which only one certificate has been received one House thinks

the whole paper is an entire forgery or that every single elector named in it is a Senator or Representative in Congress, and therefore on the theory of some the vote was void—it is not my theory, but I am only stating it because a great a many people think so—that shall go in and make a man President who without it would not be President at all. Is that a good thing to do?

And yet it may be said and with great force that it is equally bad to assert the reverse, because the Constitution requires you to count every vote of a State, and if this paper which some of us say is forged and others say is the paper of people who had no right to act at all being Senators and Members if you please, is a true paper, then what good does it do to say that it shall not be counted in respect of the Constitution, when the Constitution says it shall? Here is where you find yourselves; and we undertake to find for ourselves a right to be judges in the final and decisive sense either *pro* or *con*, by the rule of inclusion or the rule of exclusion, merely because the Constitution, giving it the broadest interpretation that is contended for of the right of the two Houses to count and decide, commands these two tribunals to count the vote. But it does not say that it shall not be a vote if they do not choose to count it. The command upon the two Houses to count, assuming the construction that is put upon it that that is a command to count, is just as imperative, and not more so and not less so than the command on the President of the Senate to open the thing that is to be counted.

If, therefore, you say it is the constitutional right of the two Houses to decide whether a vote opened shall be counted or not, why is it not the constitutional right of the President of the Senate to decide whether a paper that is sent to him is the certificate of the State that is to be opened? The Constitution says that he shall open the certificates and that somebody—I am now assuming that it is the two Houses—shall count their contents. They are to count what he opens. He has no right to open a paper that is not a certificate. He has no right to refuse to open a paper which is. We have no right to count a paper which is not a vote. We have no right to refuse to count a paper that is. The command is equally imperative upon all, assuming as I do for this purpose that the counting power resides in the Houses as this rule supposes.

Well, sir, then we come down to 1824, when again, after a period of a quarter of a century, the attention of Congress was called to the subject, and no man then in either House or of any party ever conceived the idea that by any process short of a law could any regulation respecting rights be made about this business. I dismiss entirely, once for all, to save your time, the notion of providing by a resolution of each House upon a point, where they meet in common, as to what hour they will meet, as to how they shall sit, and all that ceremony. I lay that entirely aside, and I come to the decision of rights which everybody I think will understand is distinguishable from the mere ceremony of the meeting of two judges, if you call them so.

Then the Senate of the United States, on a report by Mr. Van Buren, I believe, passed (and for aught I know without a division, but no matter as to that) a bill which was intended, and as far as it went did regulate by law the adjustment of these questions, and it went to the House of Representatives, and the Judiciary Committee of that body by Mr. Webster reported it favorably and there was no man, so far as I have been able to find, ever conceived the idea that by any process other than by law, however imperfect and inadequate that might be, and however many difficulties might surround it, could any step which touched rights be taken on such a question.

That bill did not get acted upon, and away we went again until 1857, passing over as I have in my hurry the matters of Missouri and Indiana and Michigan, where nothing was done although there was a concurrent resolution, but that was a resolution of ceremony. It said that when all the votes which came from all the States, good, bad, and indifferent, should have been brought together and it appeared that those about which there might be any question would not affect the result, the question should be left undecided. When we came to 1857 in the matter of Wisconsin, there being then this meeting of the two Houses and the action of the President of the Senate, Mr. Mason I believe, the question arose as to counting Wisconsin, and the President of the Senate determined that nothing could be done at the meeting of the two Houses. He announced the state of the vote without deciding that the vote of Wisconsin was good or bad, and went his way; and then both Houses in their separate character on the motion of somebody in either House raised the question of what was the nature of that transaction that he had gone through with, and what was the effect of it, and what were the rights of the two Houses; and after a discussion of some days in both Houses they dropped the whole subject in both Houses, apparently no wiser than when they began.

Then we came to 1864–'65 on the second election of Mr. Lincoln, and then for the first time we hear suggested the possibility, either in constitutional law or in morals or political expedients, of proceeding to settle any right by what was called a joint rule; and how did that happen? It happened in one of those ways that illustrate what is so often commented upon here and elsewhere, and with a great degree of correctness, how dangerous is the tendency of bad precedents in ticklish and troublesome and exciting times. Here was a great rebellion as we called it, and a great struggle for independence and for State rights as the people who were opposed to us called it; and certainly a great many of the States, either with constitutional authority or without it, had ceased to be practically members of the Union, for they would have no representatives in either House of Congress; they were endeavoring to capture the Congress by force of arms, and came very near doing it once or twice, it may be added. Their flag was in sight of the flag on the dome of this Capitol and staid there altogether too long for the comfort of a great many people. When the election of 1864 came on the war was still going on, but the Union forces had got possession of some part of the State of Louisiana, they had captured New Orleans and some places on the river, and a certain small portion of the people of Louisiana had concluded to consider that they were in the Union again, or that they always had been, or something, and to cast their votes for electors of President and Vice-President and have them sent up here. Everybody would agree I take it—I take it everybody who was on the other side of this question if the case had been reversed would have agreed—that that was not the thing; that nobody could expect that such votes would be counted under such circumstances; and accordingly the two Houses of Congress passed a bill which declared that the votes of Louisiana and perhaps some other State similarly circumstanced—it is no use to go to any further one—on that occasion should not be counted on account of the fact that they were out of relations, did not belong to the Union for the purposes of this great act of self-perpetuation, had no right to come in and assist in the performance of such an act.

That bill was passed less than ten days before the time when the votes were to be counted, by law, the first Wednesday in February, and the President of the United States had some singular notions about constitutional law, and about this reconstruction of Louisiana, and at a time when it was apparently very far from certain whether Louisiana would be one of the chief States of the confederacy or whether she would get back to us—because you will remember that it was not until April, 1865, that the decisive triumph of our arms took place. It was understood immediately after the bill was sent to Mr. Lincoln that he had difficulties about it. He did not know whether, being a candidate for re-election himself, he ought to do anything about it, and it was not at all clear that he would return it within the ten days, and I believe he did not do it before the time for the counting of the vote. Then suddenly one morning Mr. Trumbull, of Illinois, then a Senator, brought forth from the select committee appointed to report a mode of counting the votes, this twenty-second joint rule in the very words in which it stood until it dropped in 1875–'76, and with almost no debate at all, and none as far as I remember on any subject that is pertinent to our present question, it was hustled through the Senate. That was I think only two days before the time for counting the vote. It went over to the House of Representatives, and without a word of debate it was adopted there. The simple thing that those earnest-minded patriots had in view was to keep the vote of the State of Louisiana—or the so-called vote—from being counted. They knew that if they agreed to do that *per fas aut per nefas* they would do a very patriotic thing, and what they feared would not be done in the way of counting the votes.

Thus came this pernicious precedent, the only precedent upon which this joint rule, as it is called, stands, as an act of power decisive of rights that is not to take the form of law; and that is the point I rest on and one which I urge on the consideration of patriotic gentlemen on the other side of the Chamber as well as on this. I say it is a precedent of the most pernicious character in that respect. When the Constitution of my country tells me as a Senator that every order, vote, and resolution of either House of Congress to which the concurrence of the other may be necessary shall be submitted to the President of the United States, or else it shall have no force, and be approved by him, or if not approved returned and acted upon by two-thirds of the two Houses before it shall become a law, by which I understand a binding rule of action that decides the rights of men and of officers—I say that when as a Senator I read that clause of the Constitution, I am unable to see upon what ground either the twenty-second joint rule or this joint rule can be sustained, when it goes into the domain, not an hour of meeting, not of an arrangement of seats, not a mode of settling questions, which I lay aside entirely without expressing any opinion upon either way, and undertakes to decide principles and lay down rules and regulations which determine the most important of all rights in this country, and as many people suppose determine them finally. How can I do that when the Constitution says that every order, vote, or resolution of either House to which the concurrence of the other may be necessary—and I take it my learned friend from Alabama would not contend that this would be very valuable without the concurrence of the other House whatever our rights be otherwise—shall have no force until it goes through this solemn form I have stated? I should be unable to vote for such a proposition then, no matter how strongly I might believe in the propriety intrinsically of every word contained in it. That is the way it seems to me.

I am not without some support in this view. It is true that this affair of 1865 went through in the way I have stated when Louisiana was counted out. In 1869, no attention having been drawn to the nature of the rule, its constitutional basis, sleeping in silence through those four years, another election came on, and, as everybody knew long before the two Houses met, there was no question as to who was elected, no possible dispute. Accordingly, without any attention being drawn to the nature and effect of a provision of this kind, the count-

ing of the votes went on under it, if you may call it that, if it did under anything; I do not know that any question was submitted under it, and I do not know but that there was; no matter which.

So again in 1872, when there was no question as to results, but in 1872 there were serious disturbances, as I believe I have already mentioned, in the Houses in respect to some votes that made no difference with results, the Houses accordant in political opinions, the Houses in accord with the President, and he with each one of those. That called attention to the character and nature and scope of this twenty-second joint rule, and that led to an attempt to remedy the evil that it began to be foreseen, as it had been long years before, would arise in case a disputed matter should affect a result. What was undertaken then? Was there any effort on the part of any considerable number of persons, if at all, to proceed to adjust the principles upon which these counts should go by a rule? By no means.

The Senator from Indiana, Mr. Morton, proceeded in the affair, and proceeded by bill. That bill was reported on the 6th of February, 1875, in the form of a law. It passed the Senate of the United States, and I think there was no Senator then, though I may be mistaken, certainly no considerable number of Senators, who hinted at the possibility of our rightfully being able to settle rights in the counting of the presidential vote otherwise than by law. So that bill was passed. I am not now on the question whether it was a good measure or a bad one. It did not pass the House of Representatives. I believe it never came to a vote.

That was the Forty-third Congress, second session. Then in the next Congress, the Forty-fourth Congress, first session, Mr. Morton again introduced the same scheme in substance in the form of a bill—the very first bill introduced in the Senate in that Congress, Senate bill No. 1. It went to a committee, and on the 23d of March, 1876, after discussion and criticism in respect of the intrinsic difficulties that surround the subject even in the form of a bill, but without any criticism or doubt, that I remember, on the subject of the propriety of a bill, and the impossibility of any other means, it passed the Senate, and it passed the Senate with the vote of my honorable friend from Ohio, the present chairman of the Committee on the Judiciary. It did not pass with my vote, because I feared in the way it stood, just as I should say in respect of this joint rule, if it were turned into a law, as it stands, without any other provision, that it would be productive of vastly more evil than it would cure.

But the point to which I am now addressing myself is the indispensable necessity of whatever action we take being taken in the constitutional form of a law, rather than a prearranged edict of the two Houses or of either with the consent of the other, and which either may change at its pleasure. That is the point.

In the course of these things it was proposed to find out what had become of the twenty-second joint rule, and to ascertain whether it was on earth or where. On the 15th of December, 1875, a resolution to enact joint rules was introduced and sent to the Committee on Rules for inquiry. After a report there was some debate on the subject of the nature of a joint rule in such a case. I should like to read from that in sundry places; I could in a great many, sir. In discussing it on the 17th of January, 1876, Mr. Morton said:

> I once undertook to examine the history of this rule, and found it was adopted in both Houses without a word of debate, without any consideration. My friend from Oregon [Mr. Kelly] remarks that that shows the importance of debate. It was adopted in 1865, in a stormy time, to meet an exigency that it was thought then might occur. I do not justify the adoption of the rule under any circumstances. There was a somewhat curious incident connected with it, and without mentioning any names I will state it. I was talking to a distinguished Senator, not now a member of this body, about the rule, and I called his attention to its dangerous character. He agreed with me; he denounced it as strongly as I could possibly do, and after he had made his statement in full I called his attention to the fact that he was the author of it. He had entirely forgotten it.

That was Mr. Trumbull.

Now I read on the subject of this rule, as a question of constitutional propriety (I am not now saying whether it would be better intrinsically to have it inclusive or exclusive of votes, but on the part of the topic I am now speaking of) from the remarks of my honorable friend from Delaware, [Mr. BAYARD,] on the same 17th of January. After speaking of the difficulties and dangers that surround the whole subject under the Constitution, he said:

> This shows me the necessity of approaching a subject that has been dealt with so unwisely and so unwarrantably with great gravity and with a desire to place it beyond the possible reach of influence of political ambition or political design. Our duty in respect to counting the electoral vote is a constitutional duty. The Constitution is very scant in the phrase that conveys it and unsatisfactory in its silence; but it does seem to me that, when you are to make the Constitution operative, it should be by the forms of legislation, by a law duly passed by each House of Congress and which the Constitution requires shall be presented to the President of the United States.

Weighty words, Mr. President, and full of sound constitutional wisdom and acquirement as it appears to me. Again, on the 20th of January, the matter having gone over, the same Senator, in speaking of the rule, said:

> I do not know at all of difficulties as to other joint rules. I assume that the joint rules of the two Houses, which have been in existence almost from the foundation of the Government and have received the approval and sanction of those preceding us, will remain as they are. I take it for granted that this is the first time that an amendment or cancellation of the joint rules has been proposed, and I consider that the proper method of considering the subject is to submit it to a conference of the proper committees of each House; and then in regard to the twenty-second joint rule, upon which we have had some discussion, I submit to the Senate that the matters embraced in that rule should be acted on by legislation, and not by the joint rules of the two Houses.

Then on the same subject, but not in direct reference to the joint rule, I should like to read a remark of the Senator from North Carolina, [Mr. Merrimon.] It was when one of the Senate bills was up, which passed, as I have said, on the 23d of March, 1876. He quoted the clause in the Constitution about the appointment of electors, &c., and then went on to say:

> This provision of the Constitution is one of those provisions which guarantees to and establishes an absolute right in the States, one to be exercised solely by and for the benefit of the State rather than for the benefit of the United States. It establishes a right and power in the State which no Federal authority can compel the State to exercise, which no Federal authority can in any way control or direct. It is as much a matter under the control of the State as the election of the chief magistrate of the State or the Legislature or the judiciary of the State. It is a matter that they have complete power to regulate and to determine as they will.

Mr. BUTLER. What power is that he refers to, if I may ask the Senator?

Mr. EDMUNDS. It is the power of appointing the electors and sending their certificates to the President of the Senate to be counted. He is maintaining what I have always maintained since I have maintained anything about it, that the Congress of the United States has not a right in any form to draw into question the action of a State, and that when the counting power, be it large or little, or wherever it may be, that is to take place after the President of the Senate has received the papers, has ascertained that those are the official papers of the State, comes to act it has no mission of decision or discretion or consideration at all; that its duty is absolutely ministerial. I think myself, though that is immaterial here now, that the duty of ascertaining the identity of the official paper from the State, whoever is to exert that duty of ascertaining it, is not a judicial duty, is not a final duty, any more than, as I have often illustrated, the decision of a sheriff having a warrant to arrest me is final and conclusive, if he happens to consider for the time being, and with perfect sincerity, that my honorable friend from South Carolina is the person called for in the warrant. It is a duty that the sheriff must exert at the moment, and there is no power in the world but he who can exert it, but he exerts it subject to his act being entirely void if he exerts it wrongly. That is to say, the command to the President of the Senate to open the certificate of a State or of the electors of a State does not imply in him any right to determine except for the purpose of his own action at the moment, and without any other consequence, who is the elector of the State or whether that is his certificate. It is a duty that he must do, just like a sheriff, as I say, in a thousand other instances; but having done it, and done it wrong, does not bind him. That is what I think, but that is apart from any matter that I wish to take up the time of the Senate with now.

When this last bill of 1876 that I have read was under discussion my honorable friend from Delaware, [Mr. BAYARD,] now a member of the select committee that reported this resolution, again recurred to this question of the joint rule and said:

> Those on the defeated ticket, not satisfied with the verdict of the people, losing sight of that great duty of acquiescence in the popular declaration, meet and go through the forms of casting their electoral votes for a candidate, and send up here to the President of the Senate that which purports to be the result of their proceedings and a certificate of how their votes were cast. It has been done; the evil suggestion has been made, and this bill proposes to meet it. I for one am glad that it takes not the shape of a joint rule, which may be rescinded at will, as we have seen in this late joint rule begotten and carried into effect in silence and retired from without notification to the other branch of Congress simply by the sole action of the Senate. That rule is at an end. It has proved (not speaking of its own intrinsic want of merit) to have one of the greatest vices that a regulation can have, and that is a want of stability and certainty, because its existence depends upon the pleasure of the accidental majority of either body of Congress. Therefore it is plain that, if we can provide a wholesome and just and proper rule for this important subject, it should take the permanent form of a law, which can only be rescinded by the vote of each House and the signature of the President. Therefore to provide for meeting this question by legislation seems to me the proper way; and the only remaining consideration is whether we have the power under the Constitution so to deal with the subject.

The colleague of the honorable Senator from Delaware, [Mr. SAULSBURY,] on the same subject and on the same day, in reply to the Senator from Maryland, [Mr. WHYTE,] (who I believe maintained that the power whatever it was and with whatever consequence or want of consequence it might be surrounded resided in the President of the Senate to do all that was to be done,) said this:

> I have listened to this whole debate, I am free to say, with unusual interest, because the questions presented by the bill and the amendments are, as I conceive, of vital importance. If I understood the Senator from Maryland [Mr. WHYTE] aright, and also the Senator from Kentucky, [Mr. Stevenson,] they believe that there is an omission in the Constitution, and that the defect can only be remedied by a constitutional amendment. With that view I do not concur; but I think that if there is any defect, the power is granted to Congress by express provision to make all laws necessary to carry out the grants of power contained in the Constitution; and that the power to count the votes having been expressly given, Congress may determine the mode by which the votes shall be counted.

Then he went on to give a historic account of the various bills that had been considered. I cite that to show from this eminent Senator from the State of Delaware how clear to him it appeared that whatever was to be done must be done, as his colleague said, and as I myself said on these former occasions that I have not quoted, of course, as a matter of delicacy, (it would not prove anything more than now, except that I have been consistent, which I do not mind much about,) that the only step that we could take, by whatever perils it might be surrounded, was the step of the due process of a constitutional law making such provisions as in our wisdom it appeared fit should be made to carry out this provision in the Constitution.

That, Mr. President, I have continually believed myself. I believe

as I have said, because I will condense, that to pass this so-called joint rule in any form (for I am not now speaking of the intrinsic merit of the arrangement at all) is to do an act that the Constitution does not give us any power to do, and that it will be so regarded after the next election by the defeated party, whichever it is, if it is brought into play as any part of the performance by which the defeated party thinks it lost by it; and down to this hour of the report of this highly respectable committee in favor of a joint rule, after deliberation, it will be proved by the declarations and the votes of more than nine-tenths of all the people who have ever studied or acted or voted upon the subject that according to their opinions as well as according to the plain letter of the Constitution you cannot decide right in any such way.

Mr. THURMAN. Will my friend allow me to interrupt him?

Mr. EDMUNDS. With pleasure.

Mr. THURMAN. I speak from memory alone, but if I am not mistaken there have been twenty-three counts of the votes of electors of President and Vice-President. Not one of them was made under any law in a technical sense of law; that is, a statute.

Mr. EDMUNDS. Except one.

Mr. THURMAN. You mean the first?

Mr. EDMUNDS. I mean the last one.

Mr. THURMAN. Oh, yes; except the last. With the exception of the last not one of them was made under any joint resolution approved by the President, or that was supposed to require his approval. Twenty-two out of the twenty-three were made by concurrent resolutions of the two Houses, and this joint rule is nothing but a concurrent resolution of the two Houses. Does my friend from Vermont say that in the twenty-two instances in which the count of the votes of electors of President and Vice-President have taken place under concurrent resolutions of the two Houses the Constitution has been violated?

Mr. EDMUNDS. No, I do not undertake to say anything of the kind; but I undertake to repeat what I endeavored to say before, that until the year 1865 in regard to the election of 1864 there never was a joint rule or a joint action or a joint anything, or a separate rule or anything that professed to decide or regulate any right or determination whatever. I say that what my honorable friend calls joint regulation, concurrent regulation, or joint rule, or by whatever name, that occurred previous to the year 1864, was nothing more than what I have before described as the mere ceremonial of communication between the two Houses as to the place and hour, the day having been fixed by law, at which and where they would attend to perform the duty under the Constitution of being present at the counting of the votes.

Mr. EATON. That was fixed by law.

Mr. EDMUNDS. I say there was nothing except a law which declared they should be in session on that day and that the vote should be counted; but I say that until the rule of the 6th of February, 1865, introduced and put through under the circumstances of revolution and rebellion that I have described, and without consideration or debate, the two Houses or either of them never attempted or thought of attempting, so far as any debate or hint will show from the beginning to the end, to provide by any process of concurrence except by the laws that they tried to pass as I have stated to settle any right or lay down any rules of action whatever.

Mr. THURMAN. Now I want to ask my friend, who has as logical a mind as there is in this world, a question.

Mr. EDMUNDS. Certainly.

Mr. THURMAN. Suppose there were no rule at all on the subject, no law on the subject, but the votes of the electors had been cast and had been returned to the President of the Senate, and either House should send a resolution to the other House, "Let us meet on such a day and such an hour and count these votes," there being no rule, no regulation at all, and suppose when they did meet a question should arise that required decision, the decision of which was unavoidable, and the Senator can well conceive such a case, would not the two Houses have to establish some rule about it?

Mr. EDMUNDS. No, sir; if by rule my honorable friend means what we are now calling a rule. I say the two Houses in such a case would have no power whatever, in my view of the Constitution, until a law should have provided for conferring that power upon them and regulating its exercise.

Mr. THURMAN. Now here——

Mr. EDMUNDS. If the Senator will wait a minute I have not quite finished my answer. I say, therefore, that a joint regulation, without the sanction of law on such an occasion, would be of no binding force whatever. Now, second, because I will make a full answer in two aspects of the case (probably the very other one that my friend is going to put) assume as my friend does not, because he says the right is one in a consolidated body, but assume as most people now contend that the right of deciding whatever can be constitutionally decided on the occasion of this count resides in the two Houses, each in its character as a House; assume that for the sake of the argument, and that the Constitution is to be expounded as if it had read: "The President of the Senate shall open all the certificates, and the votes shall then be canvassed and counted by the two Houses." Now a question arises. There in the Constitution is framed the regulation itself in those words. A paper is presented by the Vice-President purporting to be the electoral vote of the State of Vermont. It says so on the outside, but there is no witness to prove it. It appears to be all regular, and he opens it. There is a certificate which says that "I, Thomas Jones, the governor of the State of Vermont, hereby certify that A, B, C, D, and E," being the five, the number to which the State of Vermont is entitled, "have been at this last election," putting in all the forms, "duly elected, pursuant to the laws of the State of Vermont, and in the manner prescribed by its Legislature, electors of President and Vice-President for this occasion. In witness whereof I have hereunto affixed my signature and caused the great seal of the State to be attached." Then follows the action of these purporting electors all in regular form apparently. Up rises my colleague, he being one of the tellers, if you please, to make it an easy case to get at the fact, and he says: "This is all a mistake. Thomas Jones is not the governor of the State of Vermont, never was, and never pretended to be, and this is not the great seal of the State of Vermont." Well, if true, I take it that vote ought not to be canvassed and counted. Up rises the junior Senator from Vermont who is now speaking, and says, "My colleague is mistaken; Thomas Jones is the governor of the State of Vermont, and this is the seal." Thereupon the two Houses, having got all the light they can, go each into its Chamber to consider as two judges——

Mr. THURMAN. Ah——

Mr. EDMUNDS. Wait a moment. Or to consider together by mutual consultation, each being a body, which is the theory I am on now, a tribunal composed of two canvassers or judges, whatever you call them.

Mr. THURMAN. But must they not decide?

Mr. EDMUNDS. Hold on and I will tell you what they must do. The question is then put. What question is put? The question is put by the presiding officer, Shall this paper be put into the list with the votes of these States that everybody agrees are genuine votes? The Senate says "yes;" the House of Representatives says "no." Now where is your paper? Is it in? I heard my friend state a few years ago that he thought it was, but I think he would reconsider that in the way I state it.

Mr. THURMAN. But my friend is jumping before he gets to the stile.

Mr. EDMUNDS. I will jump again when I get to the stile.

Mr. THURMAN. The presiding officer could put that question to the Senate separately and to the House separately, they being both present in the same chamber. A decision would have to be made on the question whether they were to vote separately or whether they were to vote in joint convention.

Mr. EDMUNDS. What does the Senator mean by that?

Mr. THURMAN. That decision would have to be made; and would that decision as to whether they were to vote separately or whether they were to vote in joint convention have to go to the President for his approval? That is the point.

Mr. EDMUNDS. Why, Mr. President, that is not the point that I am discussing.

Mr. THURMAN. But you are arguing that it must go to the President.

Mr. EDMUNDS. I am now arguing that if the theory of so many people that the Constitution vests in these two Houses as two political individuals, two judges and canvassers of elections, the right to decide all questions that arise on the opening of the votes—with whatever consequence I need not now stop to say, whether conclusive or not—then if the Constitution reads that way you immediately come to the point where, when a question is put and a paper is opened, you have got to have the concurrence of those two judges to get your paper put into the list.

Mr. THURMAN. That is another question.

Mr. EDMUNDS. That is the very question I am discussing. Therefore I say that in a case of that kind, the Constitution saying that these two political entities shall canvass and count the votes and declare the result, it is perfectly true that it does not need a law for them to do what the Constitution says they shall do in their character as such. That is clear enough; but when you come to put an affirmative proposition, then I say that upon every principle of law that ever I heard of (except when it was stated in debate by my friend four or five years ago) in order to carry anything in affirmatively, to receive a vote or to canvass or count it, if there are only two judges it requires two votes; if there are three judges two would do, because that is a majority, but the affirmative must be supported by a majority of the acting body. Therefore if they disagree nothing is done, and that vote cannot be counted.

How does that apply here? It applies in this way, as I think: on that principle, which I do not admit, as to the way the Constitution reads, of any such right in the two Houses until the law gives it to them or to somebody else, the twenty-second joint rule might not be open to a constitutional objection, and for the simple reason that it had not made any law or changed any law, for it merely declared what would have been the duty and the right and the constitutional power and the sole constitutional power of the two Houses without it, and that is, that nothing affirmatively could be done, not a single vote could be carried into the list and footed up, unless both Houses concurred, because there were two of them, and you cannot do anything where there are two that requires the consent of two unless both consent.

Mr. THURMAN. Will my friend allow me to interrupt him?

Mr. EDMUNDS. In one moment more. When you reverse that, however wise it may be on presumption, which I do not admit, by the way, and undertake to make a law which is different from the existing principles of law in a court of two judges or a canvassing board of two judges, or whatever you call it, and say that every piece of paper that is opened by the President of the Senate shall be taken to be the voice of a State unless the two judges concur in saying it is not, then you are making a law which changes the existing law, if the Constitution means at all what most people contend that it does, that the two Houses have any power at all. That is what I say. Now I will listen to my friend.

Mr. THURMAN. I shall never forget at least some of the prominent incidents of that very remarkable event in our history, the count of the last presidential vote. I remember reading a very able paper that maintained the doctrine that no vote of any State could be counted unless both Houses acting separately concurred in counting it. That paper was written and published in the interest of the man who was elected President of the United States, but did not get his seat. I thought at the time whether that be sound law or not it may not work very well in practice, for it might be that if a democratic House of Representatives (and the House was then democratic) should refuse to count the State of Ohio for Hayes a republican Senate might refuse to count the vote of New York for Tilden, and we democrats should be losers in that operation. But when we came to frame the electoral bill by a committee of which my friend from Vermont was chairman, and who undoubtedly gave to it the greatest attention, we did not go on that principle. We referred these matters to an electoral commission which was to make a decision that was only good as a recommendation to the two Houses; it was not in the slightest degree to be conclusive on either. It was nothing in the world but advice to the two Houses; the two Houses were to vote upon it. Did we then say that unless both Houses, after they got that advice, should admit what purported to be the vote of a State, it should not be counted? No, we said just exactly the other way, that unless both Houses concurred in rejecting the vote, or rather overruling the decision of the electoral commission, that decision should stand. So we did not act then upon the principle on which the Senator from Vermont now acts, if I understand him.

Mr. EDMUNDS. My learned and honorable friend I think has fallen into a little mistake and confusion about that. According to my understanding of it—of course there were different understandings and the law was consistent with either in respect of our constitutional powers, because if it is the duty of the two Houses to count as many contend, and I am not now on the question of whether a vote was in or out by one House saying yes and the other no; but if it is the duty of the two Houses to count, then as everybody had agreed, with this rebellious exception of 1864 to 1873 of the twenty-second joint rule, it was the mission of the law to regulate the principles upon which the count was to proceed and not the mission of anything else. If as I contended when the electoral bill was under consideration (and I believe with so much of clearness for me and candor that nobody questioned that he was deceived or taken in by anything that I said) I maintained, as the RECORD will show, that the Constitution did not confer upon either House or both of them together, by force of its own terms, any power whatever, but that the Constitution did confer upon the President of the Senate the power and duty to open the certificates; that it did not confer upon him the power and duty to do anything else any more than it did upon the Houses; and that therefore it remained for that provision of the Constitution which in the same debate and in the former ones on the former measures has been so often cited with truth by my friend from Ohio that the Constitution requiring an act to take place for the carrying on of the Government, it had required Congress by an express provision to make the laws necessary to carry that act into effect. If I was right in that, as I then thought and still think I was, although it is not material for my present purpose whether I was or not, then it was competent for Congress by law to carry on this canvass and to produce this result,—whether judicial and final or not I do not now say at all,—but to do the thing under the regulations and provisions of law suitable to effectuate it by any means that it chose to adopt consistently with what was called for by the Constitution, and that was that the President of the Senate should open the certificates in the presence of the two Houses and that the votes should then be counted, which of course clearly implies that the two Houses are to be present in some sort of convention; they are to be there.

That measure, then, instead of being in opposition to the views that I now maintain is, if I can correctly understand it, entirely in conformity with them, and instead of being in support of what my friend now maintains, even upon the theory of saying that the two Houses are to do it together in a consolidated way, the rule comes in and regulates the organization and the powers and the methods of that court, if you call it such, that tribunal, just as where the Constitution says there shall be one Supreme Court composed of judges and the law steps in and organizes the court, regulates its original jurisdiction, declares the rules of evidence upon which it shall proceed, declares the number of judges necessary to make a decision, declares the consequences when the judges are equally divided in opinion, and so on. I say the rule is consistent with that theory. It is a theory that I agree to, and probably a majority of this Senate without respect to party (and I do not wish to refer to parties at all about this business, it is too serious for me) and that is that there is invested this power in the two Houses, the two as such, each independent of the other, in the same sense that two judges in one court like the circuit courts of the United States are independent of each other. They must act together, but each must act upon its own conscience and its own will.

Then I say it is the mission of the law to regulate the principles upon which that power should be exerted, and that it is not competent for those judges consistently with law, in the absence of a provision of that kind, to say when a paper is offered in their court, which is to decide the right of any man, depending upon its genuineness and the authenticity of its execution, &c., that they will decide his right when one of them says it shall come in and the other says it shall not. I agree that they might adopt a rule which should say that such a paper should not come in unless they both agreed to it, because that would be the necessary effect if they had not adopted any such rule. That is my position, and I think everybody can understand it. I may not be right, but I hope I have stated it clearly enough so that people will see the distinction.

Mr. President, it appears to me that in respect of this event, in whatever form of regulation you are to put it, upon whatever rule of evidence or authority or decision or effect you are to arrange this great and interesting event that occurs once in four years of our country, you ought to do it by a provision of law under the Constitution. You ought to do it by the same methods that your fathers, who formed the Constitution, undertook to do it in the year 1800. You ought to do it by the same constitutional methods of legislation that the sons of the fathers, and our fathers, and this Senate, the Van Burens and the Websters of that day, as was done in the beginning of the century by the Pinckneys and the Madisons of that day, by the forms of legislation. You ought to do it as our own immediate predecessors and some of ourselves in the years 1873 and 1874 undertook by universal concurrence in respect of the means, by constitutional legislation, and you ought to heed what I have read from the statements on those occasions, and connected with this very question of doing it by rule rather than by law, which had never been raised before. I admit what was said by the honorable Senators from Delaware, so eminent and so true to the Constitution from their points of view, and urged upon you almost so recently that the echoes have scarcely died from this Chamber, and that is that when you undertake to make a rule which affects not merely the ceremony of your attendance on an occasion when the Constitution requires it but which settles the rights of the people of the United States, under the Constitution, in respect of their Chief Magistrate, you should do it not by an unconstitutional evasion of the plain language of it in respect of its being not a law, but by a faithful adherence to it, by the passage of a law.

That is what I say, and to that end I am going to offer an amendment to turn this concurrent resolution into a bill. Before I offer it, because I wish to finish as soon as I can, I want to say an additional thing, which bears upon what was said by my honorable friend from Alabama [Mr. MORGAN] in endeavoring to defend his attitude as a supporter of a rule as distinguished from a law, and in respect of the merits of his rule, by saying that it was the same thing that I myself, if that had been of any consequence to the Senate, had been in favor of. The honorable Senator from Alabama is mistaken. I have never yet voted, and until I see a new light I never shall vote, for such a proposition as is contained in this rule, whether it is in the form of a law or in the form of a rule, but I will vote with whatever of consequence, whether I vote with a majority or in a minority, or whether my vote be necessary to make two-thirds in case such a bill should not meet the approval of the Executive, for such a provision with the added one that when the two Houses meet to go through with this ceremony, an act of counting substantially in the method provided in this rule now upon its merits, that they themselves, instead of being an irresponsible and unregulated tribunal, shall be bound to obey the Constitution of the United States, as I understand it, and give to each State in its sovereign character under the Constitution the right to say for herself and agree to follow that decision as to who her electors are.

Mr. MORGAN. The honorable Senator will allow me to ask him whether he is not willing to allow that tribunal to interpret and act upon the Constitution as they understand it?

Mr. EDMUNDS. No, sir.

Mr. MORGAN. Then I will ask the honorable Senator by what process does he expect to make a law enacted here compulsory on that body? Suppose you enact the law and they assert their constitutional authority against your law, say you had no right to enact it, how are you going to make them obey it?

Mr. EDMUNDS. The Senator supposes an impossible case to my mind in two respects. In the first place, I say that they have no constitutional authority to be asserted against such a law, and such an assertion would be an unconstitutional usurpation of power.

Mr. MORGAN. If that be so, I would ask the Senator in what way he is going to apply a remedy; what remedy has he got?

Mr. EDMUNDS. I will tell my honorable friend if he will be patient with me. I cannot tell him everything at once.

I say in the next place, that his supposed case is an impossible case, as I hope and I think I believe it in respect of the fact. I say that I believe—I said just now I thought I believed; the more I think it,

the more clear I am that I do believe it—that if an act of Congress shall declare that any decision made by the constituted tribunal of a State in the manner that the Legislature of that State shall have provided in order to ascertain whom she has selected for her electors, if there be any dispute about it, shall be binding upon the counting power, it will be so.

I say that I believe the two Houses of Congress under the other parts of this bill or of the rule either, because in the other respects they are intended to be substantially alike I suppose, would never fly in the face of such a provision. Now the Senator knows of course that I am not unconscious of the fact that both Houses of Congress are of different political opinions from what I am, and they undoubtedly wish some other gentleman to be the President of the United States from what I do; but I have sufficient faith yet in the patriotism of the people of the United States and of the two Houses to believe that where a law secures on the face of it and in a plain and unmistakable way a right that the Constitution in terms gives to each State to choose its own electors and to send here their votes and votes that are to stay, their votes when they get here to elect a President, nobody will be found in either House of Congress to assert either a constitutional or an unconstitutional authority to override that decision of the State.

Mr. MORGAN. If the Senator will allow me——

Mr. EDMUNDS. If I have a greater faith in the ruling majority of the two Houses of Congress than my friend has, then I am only glad for my sake.

Mr. MORGAN. I think the two Houses would be just as apt to respect a rule which they had ordained by concurrent resolution of their own voluntary action as they would to respect a law because the President had had some participation in it, especially when some persons in the Houses might suppose that the President had no right to participate. But still the honorable Senator, I submit, has not answered the question in the event that the two Houses should not patriotically obey the law, as he supposes and as I suppose they would do, what is the remedy?

Mr. EDMUNDS. If the Senator would only have patience with me, I was trying to answer it. I can only answer one point at a time.

Mr. MORGAN. I beg pardon.

Mr. EDMUNDS. I was just proceeding to this second alternative. The Senator then asks me, supposing they do not, what then? Nothing, sir,—the deluge. Suppose the Supreme Court of the United States, existing under the Constitution, having an exclusive and original jurisdiction in a great variety of cases most important of all to the welfare and the perpetuity of the Union, because it is only there that cases in which a State is a party can be heard, it is only there that cases that involve our good relations with foreign powers can be heard through their embassadors, &c.,—suppose that that court chooses to defy the Constitution, to defy the law that regulates their organization, the principles on which they shall proceed, and the evidence by which facts to be developed before them shall be proved, I say that that is the deluge. There is no help for it.

Mr. MORGAN. If I do not interrupt the honorable Senator, I will ask him this question: I understand his argument now to admit that there is something in the constitutional authority of these two Houses when met to count the votes which cannot be controlled by law in the event that they see proper not to obey it, just as the Supreme Court cannot be controlled by law in the event that they see proper not to obey it?

Mr. EDMUNDS. By no means. The Senator misunderstands my argument, for I have endeavored most emphatically to deny that there is any power by the Constitution in either or both of the Houses over the subject; but I say there is the power in the Constitution that an event shall take place, and an express power in the Constitution to Congress to make a law to regulate that event.

Mr. MORGAN. But no power to enforce it any way.

Mr. EDMUNDS. The same power to enforce it that it has to enforce any other law that appeals to great bodies of men. If the Supreme Court disobeys its duty, you cannot do anything unless you can get two-thirds to impeach it and turn it out, and then, if you had a political majority in favor of the political action of the Supreme Court, you could not do that.

Mr. MORGAN. Mr. President——

Mr. EDMUNDS. Now, if the Senator will be good enough to wait a minute, I will finish my answer.

Mr. MORGAN. I do not wish to disturb the Senator.

Mr. EDMUNDS. The Senator certainly will not disturb me, but his questions are so interesting and he asks them so fast that I really cannot quite keep up with the court.

Now the Senator says, "Why will the two Houses be more likely to observe a provision of law of this kind than they will a joint rule?" Mr. President, certainly under this joint rule that question does not arise; it would not be material if it did in one sense for the reason that if the joint rule is unconstitutional, as I believe it to be in the respects I have pointed out, then it is of no consequence whether the two Houses would observe it well or observe it ill, for unhappily, Mr. President, the very critical and main part of the bill that passed the Senate eighteen months ago on the vote of my honorable friend and myself, when we last had this matter under consideration, and which provided, as the amendment that I am to offer provides, that the State might decide for herself, by her own tribunals, and in her own way who were to be electors and that that should end that matter, does not happen to exist in this joint resolution reported by my friend. He has taken all the formula and framework of the bill that I had the honor to introduce, in its general analogies and likenesses, except the critical and fundamental proposition that the bill contained, and that is that the right of the State itself should be respected and carried out. That he has chosen to leave out of his joint rule and, as I have said, to leave the two Houses entirely free scope, bound by no principle, governed by no rule except their own will and the passions and prejudices of the moment to decide this great question.

Mr. MORGAN. I know the honorable Senator, after quoting that vote upon me, will allow me to say that in voting for his bill, which I did because I thought it was a measure that would promote quietude and order, I expressly stated in the argument that I made upon it that I did not believe we had the power to control the two Houses; and I also stated that there was no measure left within our jurisdiction or reach by which we could compel them to follow that law after we had enacted it, because I took the ground that it was not a ministerial body but a judicial body, and that the effect of that bill was nothing more than an expression of popular sentiment in reference to what their conduct should be in counting the vote, that it was not a compulsory measure on them to obey.

Mr. EDMUNDS. Every constitutional law that deals with rights is a compulsory law except a mere grant; a man is not bound to accept a grant that the law gives him; but in the exertion of the powers of a government, laying aside gifts and grants, the essential idea of law is compulsion, as it seems me. I may be mistaken in my definition; if I am somebody will correct me. The law is the command of the sovereign power that something shall be done, and if that law is addressed to a tribunal that command is just as imperative as if it is addressed to an individual, and it is none the less imperative because there may be difficulty in the punishment of that tribunal that refuses to obey it when there might not be difficulty in the punishment of the individual.

The Constitution of the United States declares that every member of this body shall be at least thirty years of age—a positive provision and a good one. The Constitution of the United States declares that this body shall be the judge of the qualifications and elections of its own members. Ten men come in who are only twenty years of age. Is not the Constitution clear as to the duty of this tribunal that judges in such a case? Suppose nevertheless we all vote these ten fellows are good fellows; they are either of our own party or we are on friendly terms with them, or we for any reason, wicked or foolish, stupid or corrupt, refuse to execute the Constitution, and keep them in. Is that any reason why the Constitution should not provide that every Senator should be thirty years of age? I think not.

I submit to my honorable friend, therefore, that he makes no progress in this debate in the sense that I am trying to debate it, for our mutual understanding as patriotic Senators, by saying that if you put in a provision declaring that the will of the State shall be respected by this tribunal, it may go for nothing, because there is no means of punishing the tribunal if it does not respect it. That argument does not help him any as it seems to me, with great respect.

But I repeat, Mr. President, that my faith in republican institutions will receive a sad blow if making a provision of law carrying out what I believe every Senator that hears me would agree with me in saying is the Constitution, that it is the voice of the State ascertained in her own way in the manner prescribed by her Legislature that is to prevail, that whatever counting power there is here is bound to respect it, it shall come to naught because it is not a law to be obeyed. As a rule of evidence it points out clearly to each State that if she has any difficulties that she chooses to settle and does settle them, they shall stay settled.

If I could believe that that was no good, that made no advance toward good order and security and peace, my faith in republican institutions would have greatly diminished. Sir, I shall not believe it. Let us put this in a law that defends a State right that the fathers had created in each State to select her electors and send forward their votes in such manner as her Legislature should direct shall be respected. If we cannot put that into a law that thus stands up for State rights in the sense that any Congress of any party and at any time will respect it, then I say the government of the people by organic forms is gone. But I want to try the experiment.

Believing in the necessity of a law making this provision for the security of the State right to choose her own electors and send her own votes, instead of leaving it as Mr. Pinckney said in the other way it would be left, and as Mr. BAYARD said it would be left to the contending passions and temptations of party heat and the excitement of the times, in that form, there is given to each State the solemn assurance by the Congress of the United States in a law that what she does under the Constitution, which gives her the right to do it, in the selection and choice and determination of her electors in this business shall be respected. I say my faith is such that I believe that no considerable number of men of any party, whatever might be the result, would be found who would resist the enforcement of such a law. I believed then as imperfect as are these other provisions both in the bill that I had the honor to introduce and in this joint rule which does not contain this most essential one of all and which is the key to all, every State will in case of any difficulty settle it for her-

self, and then it being settled for herself there is no occasion for excitement or dispute here.

If she does not settle it for herself then the provision of the Senator's joint rule or the provision of this bill in substance, (I am not now on details of phraseology,) is the best thing if you put it in the form of law that it would be possible for us to do. We say to the State then: "The vote must be counted and opened here; we give you the opportunity of having your choice respected by your deciding for yourself in case of any doubt what your choice is and letting us know; if you do not choose to do that and choose to put it up for the raffle of contending parties and excitements in Congress, then take the consequences of a raffle and do not grumble if the result is different from what you expected." That is the best we can do. I admit that I have often tried heretofore various ways of having it accomplished but without success. I admit that, after this fundamental one, which I believe is substantially the key of the whole position of leaving it to the State to decide who are her electors, the true solution of all that follows if there be any occasion for anything more than ceremonial beside that, is in having some one tribunal that can decide either way according to the judgment of the tribunal itself—if it contains members by a majority of its members either way; we must decide if we decide intelligently upon rights and not have a two-bodied tribunal where it requires unanimity to decide anything rightly, no matter which way you put it.

Mr. EATON. May I ask my friend a question?

Mr. EDMUNDS. With pleasure.

Mr. EATON. From the argument of the Senator from Vermont I am ready to suppose that he doubted whether States had the constitutional right and power to elect electors of President and Vice-President. I supposed they had, that a declaration made here would not strengthen that power at all. I supposed they had it now.

Mr. EDMUNDS. So did I.

Mr. EATON. So did I.

Mr. EDMUNDS. And I supposed, therefore, that having it, it is one part of the constitutional mission of Congress to protect it and enforce it by constitutional legislation in that place and for that occasion where it is put in the greatest peril and at the time when it is beyond the reach of the State.

Now, Mr. President, I offer as an amendment to this resolution of my friend from Alabama to strike out from the beginning and insert what I send to the Chair, which is the bill that I introduced the other day.

Mr. MORGAN. Will the Senator from Vermont allow the amendment that I offered for the purpose of perfecting the rule to be acted on first?

Mr. EDMUNDS. I did not know one was pending.

Mr. MORGAN. I now offer that amendment, and ask that the Secretary report it.

The PRESIDING OFFICER. The amendment of the Senator from Alabama will be read.

The CHIEF CLERK. At the end of line 65, page 4, the amendment is to insert:

> And all objections so made to receiving or counting the vote of electors from any State shall be disposed of before a list of votes of electors from any other State is opened.

Mr. MORGAN. That is taken from the electoral bill really and was in the original draught of the resolution I offered, but by an inadvertency was omitted. I ask the Senate to vote upon it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Vermont, [Mr. EDMUNDS,] which will be read.

The Chief Clerk read as follows:

> Substitute for the resolution the following:
>
> A bill to fix the day for the meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the Legislature of such State shall direct.
>
> SEC. 2. That each State may, pursuant to its laws existing on the day fixed for the appointment of the electors, try and determine before the time fixed for the meeting of the electors any controversy concerning their appointment, or the appointment of any of them. Every such determination made pursuant to such law so existing on said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated.
>
> SEC. 3. That it shall be the duty of the executive of each State to cause three lists of the names of the electors of such State, duly ascertained according to the law of the State to have been chosen, to be made and certified, and to be delivered, as soon as may be after such final determination shall be had, to the electors, and before the day on which they are required by law to meet.
>
> SEC. 4. That Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day; and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall in like manner submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative votes of both Houses. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 2 of this act to have been appointed if the determination in said section provided for shall have been made; but in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 2 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so authorized by its laws. And in such case of more than one return, or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.
>
> SEC. 5. That while the two Houses shall be in meeting, as provided in this act, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer, except to either House on a motion to withdraw.
>
> SEC. 6. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator or Representative may speak to such objection or question five minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of the presiding officer of each House to put the main question without further debate.
>
> SEC. 7. That at such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of the electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

Mr. MORGAN. I ask for the yeas and nays on that amendment.

Mr. EDMUNDS. I second the call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HEREFORD, (when his name was called.) On this question for the afternoon I am paired with the junior Senator from Michigan, [Mr. FERRY,] with the understanding that if my vote is necessary to constitute a quorum I shall vote.

Mr. CAMERON, of Wisconsin, (when the name of Mr. HILL, of Colorado, was called.) The Senator from Colorado [Mr. HILL] is paired with the Senator from California, [Mr. FARLEY.] I make this announcement once for all.

Mr. PRYOR, (when the name of Mr. JONAS was called.) I am requested by the Senator from Louisiana [Mr. JONAS] to state that he is paired with the Senator from Iowa, [Mr. ALLISON.]

Mr. McDONALD, (when his name was called.) I am paired on this question with the Senator from New York, [Mr. CONKLING.] If he were present, I should vote "nay."

Mr. McPHERSON, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. BLAINE.] If he were here, I should vote "nay."

Mr. PLUMB, (when his name was called.) I am paired on this question with the Senator from Texas, [Mr. MAXEY.] If he were present, I should vote "yea."

Mr. WITHERS, (when his name was called.) I am paired on this question with the Senator from Kansas, [Mr. INGALLS,] except that I reserved the liberty of voting if it should be necessary to make a quorum. I therefore withhold my vote for the present.

The roll-call was concluded.

Mr. BURNSIDE. I am paired on this question with the Senator from New Jersey, [Mr. RANDOLPH,] but I reserved the right to vote in order to make a quorum.

Mr. BLAIR. I am paired on political questions with the Senator from Maryland, [Mr. GROOME.] If he were present, I should vote "yea."

Mr. KIRKWOOD. I desire to say that my colleague [Mr. ALLISON] was called out of the Chamber some time since, and announced to me that he had been paired with some one, but I do not remember now with whom he was paired.

Mr. WILLIAMS. I am paired with the Senator from Nebraska,

[Mr. SAUNDERS,] unless it is necessary that I should vote to make a quorum.

Mr. BAILEY, (after having voted in the negative.) I am paired with the Senator from Nebraska, [Mr. PADDOCK,] unless my vote is necessary to make a quorum. Therefore I withdraw my vote for the present.

Mr. COCKRELL. My colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT.] My colleague is not now in the city, having been called home to attend to business.

Mr. DAVIS, of Illinois. At the request of the Senator from Wisconsin [Mr. CARPENTER] I agreed to pair with him except in case my vote should be necessary to make a quorum. If it is, I shall vote; I shall vote "nay." If it is not, I shall not vote at all. The Senator from Wisconsin would vote "yea" on the amendment of the Senator from Vermont.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Chair will inform Senators that a quorum is not yet recorded.

Mr. DAVIS, of Illinois. Then I vote "nay."

Mr. BURNSIDE. I vote "yea."

Mr. BALDWIN. On this question my colleague [Mr. FERRY] is paired with the Senator from North Carolina, [Mr. RANSOM.] My colleague if present would vote "yea."

Mr. HEREFORD. Since I made the announcement a moment ago of my pair with the Senator from Michigan, [Mr. FERRY,] I have been informed by other Senators that he is paired with the Senator from North Carolina, [Mr. RANSOM.] Therefore I vote. I vote "nay."

Mr. BUTLER, (who had voted in the negative.) I have voted under a misapprehension. I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] Perhaps I ought to withdraw my vote.

Several SENATORS. Vote to make a quorum.

Mr. BUTLER. I reserved the right to vote to make a quorum.

The PRESIDING OFFICER. The Chair will inform Senators that there is not yet a quorum recorded.

Mr. BUTLER. Then let my vote stand.

Mr. HILL, of Georgia. I wish to say that I forgot for the moment that I am paired with the Senator from Nevada [Mr. JONES] with the distinct understanding, however, that I should vote if it was necessary to make a quorum. I reserved that right. Still if a quorum can be got without my vote I shall withdraw it.

Mr. EDMUNDS. I wish to insist, not as of any consequence now, upon the rules of this body being enforced, that when the yea-and-nay list is called through the vote shall be read and announced instead of having a straggling debate and explanation and informations from the Chair that a quorum has not voted until we hear who have voted. I do not speak of it as any criticism of the Chair now, but it is an extremely loose method of doing business.

Mr. WITHERS. I vote "nay."

Mr. HILL, of Georgia. I withdraw my vote, because I am paired with the Senator from Nevada, [Mr. JONES.]

The PRESIDING OFFICER. The vote of the Senator from Georgia will be withdrawn.

Mr. HILL, of Georgia. If it is necessary to make a quorum my vote may stand. The Senator from Nevada was called out of the Hall temporarily and asked me to pair with him, and I said I would if my vote was not necessary to make a quorum.

Mr. BUTLER. I vote with the distinct understanding that my vote is necessary to make a quorum.

Mr. HILL, of Georgia. So do I.

Mr. BURNSIDE. I withdraw my vote.

The PRESIDING OFFICER. Does the Senator from Rhode Island withdraw his vote?

Mr. BURNSIDE. Yes, sir.

The PRESIDING OFFICER. The list will be amended accordingly.

Mr. HILL, of Georgia. I will withdraw my vote unless it is necessary to make a quorum. If it is necessary to make a quorum I vote.

The PRESIDING OFFICER. The Chair will ascertain, as soon as the Secretary reports to the Chair, whether there is a quorum.

The result was announced—yeas 11, nays 27; as follows:

YEAS—11.

Anthony,	Dawes,	McMillan,	Teller,
Baldwin,	Edmunds,	Morrill,	Windom.
Cameron of Wis.,	Kirkwood,	Rollins,	

NAYS—27.

Bailey,	Davis of Ill.,	Hill of Georgia,	Saulsbury,
Bayard,	Davis of W. Va.,	Johnston,	Slater,
Beck,	Eaton,	Jones of Florida,	Thurman,
Butler,	Garland,	Kernan,	Walker,
Call,	Hampton,	Morgan,	Wallace,
Cockrell,	Harris,	Pendleton,	Withers.
Coke,	Hereford,	Pryor,	

ABSENT—38.

Allison,	Ferry,	Kellogg,	Ransom,
Blaine,	Gordon,	Lamar,	Saunders,
Blair,	Groome,	Logan,	Sharon,
Booth,	Grover,	McDonald,	Vance,
Bruce,	Hamlin,	McPherson,	Vest,
Burnside,	Hill of Colorado,	Maxey,	Voorhees,
Cameron of Pa.,	Hoar,	Paddock,	Whyte,
Carpenter,	Ingalls,	Platt,	Williams.
Conkling,	Jonas,	Plumb,	
Farley,	Jones of Nevada,	Randolph,	

The PRESIDING OFFICER. There is not a quorum voting.

Mr. THURMAN. I wish to say one word on the point made by the Senator from Vermont.

Mr. EDMUNDS. There is no quorum here now, it seems.

Mr. THURMAN. Then I will ask unanimous consent.

Mr. EDMUNDS. Go ahead.

The PRESIDING OFFICER. If there be no objection the Senator from Ohio will proceed.

Mr. THURMAN. There is no one here more opposed to this system of pairing than I am; but it is a practice that is for our mutual convenience, and anything that tends to break the practice down only serves as an obstruction unless the Senate shall absolutely pass a rule that there shall be no pairing at all. Under these circumstances and toward the close of a session, and when there is so much difficulty often in preserving a quorum of the Senate, it does seem to me that the plainest principle of convenience, and good fellowship, and good sense, too, would authorize any Senator to inquire "is there a quorum?" and if he finds there is not a quorum without his vote, then let him give his vote.

I know of no arbitrary rule which requires that there shall be no interruption whatsoever by an inquiry of that kind. The Senator from Vermont seems to think that nothing in the world but the call of the names and the recording of their votes can take place. I grant no motion can take place; I grant no motion can be interposed; but I do think for our mutual convenience it is perfectly right and proper that any paired Senator who has reserved the right to vote if his vote is necessary to make a quorum may inquire whether there is a quorum and then vote accordingly as he finds there is a quorum or not. I hope that will be the universal sentiment of the Senate.

Mr. McDONALD. I was paired with the Senator from New York [Mr. CONKLING] with the understanding that if it was necessary to constitute a quorum I should be at liberty to vote. I asked if there was a quorum and did not vote, understanding that there was a quorum, but I am informed that since then a Senator has withdrawn his vote and that has left the Senate without a quorum. If I had known that, I should certainly have given my vote as I reserved the right to do.

The PRESIDING OFFICER. The present occupant of the chair would state to the Senate that the Chair having heard the inquiry made on the floor repeatedly and having heard it answered from the Chair, the Chair volunteered to give information as to whether the vote disclosed a quorum, until it was objected to by the Senator from Vermont.

Mr. MORGAN. Is there any business before the Senate now?

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Vermont.

Mr. MORGAN. There having been no quorum on the vote I suppose there must be a call of the Senate.

Mr. THURMAN. I ask the Chair to count the Senate.

Mr. EDMUNDS. I ask unanimous consent of my friend from Ohio—he got it from me—to make a statement.

The PRESIDING OFFICER. If there be no objection the Senator from Vermont will proceed.

Mr. EDMUNDS. I do not think it is quite fair to me not to hear me respond to the indictment of my friend from Ohio.

The PRESIDING OFFICER. The Chair would state that the question is on the amendment of the Senator from Vermont, and that question is debatable.

Mr. EDMUNDS. When the fact of the absence of a quorum has been developed?

The PRESIDING OFFICER. That makes a difference.

Mr. EATON. If the Chair is satisfied that there is a quorum here the Chair can order the vote to be taken again.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. EDMUNDS. I wish to occupy one minute in defense of what I have done.

I have observed, Mr. President, and as I said when I made the point not with the least reference to this business because I expect to stay here and help make a quorum as long as I am able, and to sit up and finish this matter to-night if you wish although I am not well to-day—I have observed that it produces infinite confusion and makes it impossible to know which side gentlemen have voted upon in the way in which this business is done; and I say that without criticising anybody, because I am just as liable to the criticism myself probably as are others.

In the second place, this pairing in respect of having the right for one side of the pair to vote to make a quorum is a mere delusion. You might just as well make no pair at all, because there is a constant contingency, and usually a general one nowadays that it does not amount to any pair; and therefore gentlemen who want to go away may just as well not pair but simply leave word with their friends to say "I was obliged to go away; I wish you to state that if I had been here I would have voted so and so." I say if you are to have a pair, then have a pair that means something. I have never made any other and do not mean to make any other.

Of course gentlemen in the majority will readily see that they are the side of the question most concerned, as we always found ourselves to be when we were in a majority, the policy of which it is to have the liberty of making pairs, because it is in that way you can keep up your majority, and make it always effectual except that you lose a quorum now and then; but nothing can be done against you. Therefore I do not think gentlemen in the minority do a large stroke of

business, as they say in the West, when making a pair with a gentleman on the other side with liberty to him to throw it up at any time he thinks convenient.

Now, on the other matter, it is quite impossible for me as near the desk as I am to know, as the yea-and-nay list is being taken, whether the clerk is getting the names correctly in this way. I did not mean to offend anybody's sensibility in what I said; and if gentlemen prefer have it a universal understanding that we may rise and make such explanation as we please, and as long as we please while the roll-call is going on, I can abide by it as well as the rest can; but I do not think it is a convenient thing in the Senate.

Mr. HILL, of Georgia. I wish to say one word, and that is simply to explain. I was sitting conversing with the Senator from Nevada, [Mr. JONES.] He was not intending to leave, but he was sent for by his family, and he turned to me and said, "I am sent for, will you pair with me?" I said, "Yes, of course, reserving the right to vote if it is necessary to make a quorum."

The PRESIDING OFFICER. What is the pleasure of the Senate? The Chair will ascertain by count whether there is a quorum present.

Mr. THURMAN. I wish to say a single word. I think nothing in the world could be more simple, more easy of execution, more agreeable all around and tend to better feeling in the Senate than if we come to the understanding that when a Senator is paired, reserving the right to vote if it be necessary to make a quorum, he may withhold his vote until the call is gone through, and then inquire, "has a quorum voted?" There could be no possible difficulty about the execution of such a rule as that, no confusion, and it would tend to good-fellowship between the Senators and to our mutual convenience.

I now ask the Chair to count the Senate. The Senate decided it at the last session on my own ruling that if the Chair is not already satisfied that there is a quorum he can count the Senate.

The PRESIDING OFFICER. The Chair has counted the Senate and announces the fact that there is a quorum present.

Mr. THURMAN. Then I ask the Senate to have the yeas and nays called over.

The PRESIDING OFFICER. By unanimous consent the Chair thinks that may be done. The Chair understands the rule to be that when the vote has disclosed the want of a quorum a call of the roll or a motion to adjourn must be made.

Mr. THURMAN. But whenever there is a quorum that amendment is the pending question.

The PRESIDING OFFICER. If there be no objection the vote will be retaken. The question is on the adoption of the amendment of the Senator from Vermont.

The Chief Clerk proceeded to call the roll.

Mr. KIRKWOOD, (when Mr. ALLISON's named was called.) My colleague [Mr. ALLISON] was compelled to leave the Chamber a short time since, and is paired, I think, with the Senator from Louisiana, [Mr. JONAS.]

Mr. BAILEY, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK,] but with liberty to vote if my vote should be necessary to make a quorum. It being apparent that that necessity exists, I vote "nay."

Mr. BLAIR, (when his name was called.) I am paired with the Senator from Maryland, [Mr. GROOME.] Were he present, I should vote in the affirmative.

Mr. BURNSIDE, (when his name was called.) I am paired with the Senator from New Jersey [Mr. RANDOLPH] on this question, with the understanding that I am at liberty to vote if it is necessary to make a quorum. I vote "yea."

Mr. MCDONALD, (when his name was called.) I have already stated that I am paired on this question with the Senator from New York [Mr. CONKLING] unless my vote should be necessary to make a quorum. I shall vote "nay," with the understanding that I shall withdraw my vote if it is not necessary to make a quorum.

Mr. MCPHERSON, (when his name was called.) I am paired with the Senator from Maine, [Mr. BLAINE.] I shall vote as I suppose Mr. BLAINE would vote were he here. I vote "yea."

Mr. PLUMB, (when his name was called.) I am paired with the Senator from Texas [Mr. MAXEY] on this question. If he were present, I should vote "yea."

Mr. WILLIAMS, (when his name was called.) I am paired unless it is necessary to make a quorum. I think it is evident that it is necessary for me to make a quorum, and I vote "nay."

The roll-call was concluded.

Mr. BALDWIN. My colleague [Mr. FERRY] is paired with the Senator from North Carolina, [Mr. RANSOM.] My colleague, if present, would vote "yea."

Mr. HILL, of Georgia. I desire to announce that I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "nay."

Mr. EATON. I desire to announce that my colleague [Mr. PLATT] is paired with the Senator from Missouri [Mr. VEST] on all political questions.

The result was announced—yeas 13, nays 27; as follows:

YEAS—13.

Anthony,	Dawes,	McPherson,	Windom.
Baldwin,	Edmunds,	Morrill,	
Burnside,	Kirkwood,	Rollins,	
Cameron of Wis.,	McMillan,	Teller,	

NAYS—27.

Bailey,	Davis of W. Va.,	Jones of Florida,	Slater,
Bayard,	Eaton,	Kernan,	Thurman,
Beck,	Garland,	McDonald,	Walker,
Call,	Hampton,	Morgan,	Wallace,
Cockrell,	Harris,	Pendleton,	Williams,
Coke,	Hereford,	Pryor,	Withers.
Davis of Illinois,	Johnston,	Saulsbury,	

ABSENT—36.

Allison,	Farley,	Ingalls,	Plumb,
Blaine,	Ferry,	Jonas,	Randolph,
Blair,	Gordon,	Jones of Nevada,	Ransom,
Booth,	Groome,	Kellogg,	Saunders,
Bruce,	Grover,	Lamar,	Sharon,
Butler,	Hamlin,	Logan,	Vance,
Cameron of Pa.,	Hill of Colorado,	Maxey,	Vest,
Carpenter,	Hill of Georgia,	Paddock,	Voorhees,
Conkling,	Hoar,	Platt,	Whyte.

So the amendment was rejected.

Mr. EDMUNDS. In order to leave this matter so that there shall be no mistake about it hereafter, and in order if this rule is to pass that it may have some provision in it for security, I move to amend on page 4 of the print after the end of line 46 by inserting between that paragraph and the next one what I send to the Chair, which is the second section of the amendment that I offered before, simply standing by itself changed by striking out the word "that" and "section 2" so as to make it read grammatically, "each State may" &c., and using the words "these rules" instead of "as provided in the Constitution," &c.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. It is proposed after line 46, on page 4, to insert:

> Each State may, pursuant to its laws existing on the day fixed for the appointment of the electors, try and determine before the time fixed for the meeting of the electors any controversy concerning their appointment, or the appointment of any of them. Every such determination made pursuant to such law so existing on said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes as provided in these rules, and as herein regulated.

Mr. EDMUNDS. On that I ask for the yeas and nays.

Mr. THURMAN. The States have that power under the Constitution, or they have not. If they have it not, it cannot be conferred upon them by an act of Congress or a joint rule of the two Houses. If they have it, they need no act of Congress or joint rule to confer it upon them.

Mr. EDMUNDS. The States do not need any joint rule or act of Congress to confer on them that power, I agree, because they have it now; but the two Houses of Congress need this provision to govern them against the determination of some party or other to so adjust this thing as that it shall be guided by no rule except its passion, its avarice, or its corruption at the time. That is what it is addressed to and not to the States. I ask for the yeas and nays.

Mr. EATON. The day of passion has gone by entirely. We shall act constitutionally, and give the States all their powers; and this amendment—I will not impugn the motives of my friend, but at the same time I will say of it—is simply offered for buncombe.

Mr. EDMUNDS. Mr. President, I admit that the Senator from Connecticut has a right to come to that inference, because I know that by his communications and assertions he is perfectly aware that my amendment will have no success here and that I know it. Therefore it must be obvious logically—the evidence is conclusive—that it cannot have been offered with any view of its being adopted, because the Senator knows that I believe that it cannot be adopted. It hence follows that in the sense in which I suppose the Senator uses the word "buncombe" he is right; that is, it is offered to point out to the people of the State of Connecticut among others precisely what kind of State rights doctrines exist in this Chamber, and that when they call my honorable friend from Connecticut to account, as I understand they will not long hence, (and he is the last man that I should wish to see leave here of his persuasion; I confess that also,) they will know exactly what his attitude is upon this question, whether you call it buncombe, or legislation, or rule, or whatever. That I suppose to be a part of the object of the Constitution of the United States which requires the Houses to keep journals of their proceedings to be published from time to time. I suppose that is the object of the act of Congress which requires records of the debates and proceedings to be kept for the information of those people who are the masters of the Senator from Connecticut as well as myself. I confess I am speaking to them.

Mr. EATON. Mr. President, one word; I desire simply to say that the people of the State of Connecticut will not be taught the rights of the States by the Senator from Vermont in his offering any amendment of this character. They understand their rights under the Constitution to-day.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Vermont, upon which the yeas and nays are demanded.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. ALLISON, (when his name was called.) On these questions I am paired with the Senator from Louisiana, [Mr. JONAS.] If he were here, I should vote in favor of the amendment.

Mr. BLAIR, (when his name was called.) I am paired as previously announced.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were here, I should vote "nay."

Mr. BALDWIN, (when Mr. FERRY's name was called.) My colleague [Mr. FERRY] is paired with the Senator from North Carolina, [Mr. RANSOM.] If he were present, my colleague would vote "yea."

Mr. MCPHERSON, (when his name was called.) By a new arrangement I am enabled to pair the Senator from Maine [Mr. BLAINE] with the Senator from Louisiana, [Mr. JONAS,] and therefore I am permitted to vote. I vote "nay."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Texas, [Mr. MAXEY.]

The roll-call was concluded.

Mr. MORGAN. By an arrangement made at my request, the pair that existed between the Senator from Iowa [Mr. ALLISON] and the Senator from Louisiana [Mr. JONAS] is off. The Senator from Louisiana will not complain of that. That releases the Senator from Iowa and the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. ALLISON. That being understood, I vote "yea."

Mr. BURNSIDE. I am paired on this question with the Senator from New Jersey, [Mr. RANDOLPH,] with the understanding that I may vote if my vote be necessary to make a quorum. I vote "yea."

Mr. MCDONALD. I vote "nay" under the same understanding which I have already stated.

Mr. HILL, of Georgia. I am paired with the Senator from Nevada [Mr. JONES] on this question with the understanding that I may vote if it be necessary to make a quorum; I vote "nay."

The result was announced—yeas 14, nays 25; as follows:

YEAS—14.

Allison,	Burnside,	Kirkwood,	Teller,
Anthony,	Cameron of Wis.,	McMillan,	Windom.
Baldwin,	Dawes,	Morrill,	
Bruce,	Edmunds,	Rollins,	

NAYS—25.

Bailey,	Eaton,	Jones of Florida,	Slater,
Bayard,	Garland,	Kernan,	Thurman,
Beck,	Hampton,	McPherson,	Walker,
Call,	Harris,	Morgan,	Wallace.
Coke,	Hereford,	Pendleton,	
Davis of Illinois,	Hill of Georgia,	Pryor,	
Davis of W. Va.,	Johnston,	Saulsbury,	

ABSENT—37.

Blaine,	Gordon,	Lamar,	Sharon,
Blair,	Groome,	Logan,	Vance,
Booth,	Grover,	McDonald,	Vest,
Butler,	Hamlin,	Maxey,	Voorhees,
Cameron of Pa.,	Hill of Colorado,	Paddock,	Whyte,
Carpenter,	Hoar,	Platt,	Williams,
Cockrell,	Ingalls,	Plumb,	Withers.
Conkling,	Jonas,	Randolph,	
Farley,	Jones of Nevada,	Ransom,	
Ferry,	Kellogg,	Saunders,	

So the amendment was rejected.

Mr. TELLER. I offer the following amendment, to come in after the word "information," on page 5, line 82:

Nothing in this rule shall draw in question the number of votes on which any elector has been appointed.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. BLAIR, (when his name was called.) I am paired.

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. BALDWIN, (when Mr. FERRY's name was called.) My colleague [Mr. FERRY] is paired with the Senator from North Carolina, [Mr. RANSOM.]

Mr. MCPHERSON, (when his name was called.) I wish to state that the Senator with whom I was paired, the Senator from Maine, [Mr. BLAINE,] is now paired with the Senator from Louisiana, [Mr. JONAS.] Therefore I vote "nay."

Mr. TELLER, (when Mr. PLUMB's name was called.) The Senator from Kansas [Mr. PLUMB] is paired with the Senator from Texas, [Mr. MAXEY.] The Senator from Kansas, if here, would vote "yea."

The roll-call was concluded.

Mr. BURNSIDE. On consultation with the Senator from New Jersey, [Mr. MCPHERSON,] the colleague of Mr. RANDOLPH, his pair has been transferred to the Senator from Mississippi, [Mr. BRUCE.] Therefore I vote.

The PRESIDING OFFICER. The Senator from Mississippi has voted.

Mr. BURNSIDE. Then I do not vote.

Mr. MCDONALD. My pair has been transferred to my colleague, [Mr. VOORHEES.] I therefore vote "nay."

Mr. HILL, of Georgia. I am paired on this question with the Senator from Nevada, [Mr. JONES.] If he were here, I should vote "nay."

Mr. BURNSIDE. I am paired on this question with the Senator from New Jersey, [Mr. RANDOLPH.]

The result was announced—yeas 13, nays 27; as follows:

YEAS—13.

Allison,	Cameron of Wis.,	McMillan,	Windom.
Anthony,	Dawes,	Morrill,	
Baldwin,	Edmunds,	Rollins,	
Bruce,	Kirkwood,	Teller,	

NAYS—27.

Bailey,	Davis of W. Va.,	Jones of Florida,	Saulsbury,
Bayard,	Eaton,	Kernan,	Slater,
Beck,	Garland,	McDonald,	Thurman,
Call,	Hampton,	McPherson,	Walker,
Cockrell,	Harris,	Morgan,	Wallace,
Coke,	Hereford,	Pendleton,	Withers.
Davis of Illinois,	Johnston,	Pryor,	

ABSENT—36.

Blaine,	Ferry,	Jonas,	Randolph,
Blair,	Gordon,	Jones of Nevada,	Ransom,
Booth,	Groome,	Kellogg,	Saunders,
Burnside,	Grover,	Lamar,	Sharon,
Butler,	Hamlin,	Logan,	Vance,
Cameron of Pa.,	Hill of Colorado,	Maxey,	Vest,
Carpenter,	Hill of Georgia,	Paddock,	Voorhees,
Conkling,	Hoar,	Platt,	Whyte,
Farley,	Ingalls,	Plumb,	Williams.

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the adoption of the resolution.

Mr. EDMUNDS called for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BLAIR, (when his name was called.) On this subject I am paired with the Senator from Maryland, [Mr. GROOME.] If he were present, I should vote "nay."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. BALDWIN, (when Mr. FERRY's name was called.) My colleague [Mr. FERRY] is paired with the Senator from North Carolina, [Mr. RANSOM.] If my colleague were present, he would vote "nay."

Mr. MCPHERSON, (when his name was called.) I desire to state that my pair with the Senator from Maine [Mr. BLAINE] has been transferred to the Senator from Louisiana, [Mr. JONAS.] I therefore vote "yea."

Mr. TELLER, (when Mr. PLUMB's name was called.) The Senator from Kansas [Mr. PLUMB] is paired with the Senator from Texas, [Mr. MAXEY.] The Senator from Kansas, if present, would vote "nay."

Mr. MCDONALD, (when Mr. VOORHEES's name was called.) My colleague [Mr. VOORHEES] is paired with the Senator from New York, [Mr. CONKLING.] My colleague, if here, would vote "yea," and the Senator from New York "nay."

The roll-call was concluded.

Mr. BURNSIDE. On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH,] excepting where my vote is necessary to make a quorum. Feeling that that is necessary, I vote "nay."

Mr. BUTLER. In order to make a quorum I am at liberty to vote. I vote "yea."

The PRESIDENT *pro tempore*. There is a quorum.

Mr. BUTLER. Then I do not vote.

Mr. WITHERS. On this question I am paired with the Senator from Kansas, [Mr. INGALLS.]

Mr. HILL, of Georgia. On this question I am paired with the Senator from Nevada, [Mr. JONES.]

Mr. BAILEY. I am paired with the Senator from Nebraska, [Mr. PADDOCK,] with the privilege of voting if my vote should be necessary to make a quorum. I find that more than a quorum has voted, and I ask leave to withdraw my vote.

The result was announced—yeas 25, nays 14; as follows:

YEAS—25.

Bayard,	Eaton,	Kernan,	Slater,
Beck,	Garland,	McDonald,	Thurman,
Call,	Hampton,	McPherson,	Walker,
Cockrell,	Harris,	Morgan,	Wallace.
Coke,	Hereford,	Pendleton,	
Davis of Illinois,	Johnston,	Pryor,	
Davis of W. Va.,	Jones of Florida,	Saulsbury,	

NAYS—14.

Allison,	Burnside,	Kirkwood,	Teller,
Anthony,	Cameron of Wis.,	McMillan,	Windom.
Baldwin,	Dawes,	Morrill,	
Bruce,	Edmunds,	Rollins,	

ABSENT—37.

Bailey,	Gordon,	Kellogg,	Sharon,
Blaine,	Groome,	Lamar,	Vance,
Blair,	Grover,	Logan,	Vest,
Booth,	Hamlin,	Maxey,	Voorhees,
Butler,	Hill of Colorado,	Paddock,	Whyte,
Cameron of Pa.,	Hill of Georgia,	Platt,	Williams,
Carpenter,	Hoar,	Plumb,	Withers.
Conkling,	Ingalls,	Randolph,	
Farley,	Jonas,	Ransom,	
Ferry,	Jones of Nevada,	Saunders,	

So the resolution was agreed to.

PRINTING OF EDUCATIONAL REPORTS.

Mr. BAYARD. I move that the Senate proceed to the consideration of Senate bill No. 1252.

Mr. BAILEY. I ask the Senator from Delaware to yield a moment for me to introduce a resolution to be referred to the Committee on Printing.

Mr. BAYARD. I yield for that purpose.

Mr. BAILEY. I offer the following resolution for reference to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That of the reports of the Commissioner of Education for 1878 and 1879 there be printed of each report 4,000 copies for the use of the Senate, 8,000 copies for the use of the House of Representatives, and 13,000 copies for distribution by the Commissioner.

The resolution was referred to the Committee on Printing.

AGRICULTURAL REPORT.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to proceed to the consideration of the bill (S. No. 1252) to define the terms of office of certain officials of the United States.

Mr. EDMUNDS. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Will the Senator withdraw his motion to allow the Chair to lay a communication before the Senate?

Mr. EDMUNDS. Certainly.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the concurrent resolution of the House, authorizing the printing of 300,000 copies of the report of the Commissioner of Agriculture for the year 1879, and asking for a committee of conference on the disagreeing votes of the two Houses thereon.

Mr. ANTHONY. I move that the Senate insist on its amendment and agree to the conference.

The motion was agreed to; and, by unanimous consent, the Presinent *pro tempore* was authorized to appoint the conferees on the part of the Senate, and Messrs. RANSOM, ANTHONY, and PADDOCK were appointed.

REPORT ON FREEDMAN'S BANK.

Mr. BRUCE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate 500 extra copies of the report of the Select Committee on the Freedman's Savings and Trust Company, together with the testimony and accompanying papers.

CHIEF SUPERVISORS OF ELECTIONS.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate do now adjourn.

Mr. BAYARD. I had the floor. I yielded it to the Senator from Tennessee [Mr. BAILEY] for the purpose of allowing him to offer a resolution to be sent to the Committee on Printing, and it was for that purpose alone I yielded. I have made a motion, and I have a right to have that decided before the motion to adjourn can be carried. I do not yield the floor.

Mr. EDMUNDS. If the Senator from Delaware has the floor I will sit down and listen to him until he is through, and then I will address the Chair.

The PRESIDENT *pro tempore*. The Chair is compelled to say that if a Senator yields the floor he yields it absolutely.

Mr. EDMUNDS. Then I move that the Senate adjourn.

Mr. BAYARD. When I rose to make the motion to bring the bill before the Senate, which I did, I was interrupted by my friend from Tennessee, who asked me if I would give way for the purpose of allowing him to offer a resolution. I said for that purpose I do, and then I made the motion.

The PRESIDENT *pro tempore*. The statement of the Senator from Delaware is entirely accurate; but whenever the question has been made and insisted upon, it has been universally ruled that if a Senator yielded the floor at all he yielded it absolutely.

Mr. EDMUNDS. If the Senator yielded the floor conditionally I give it up to him; he is entitled to the floor. I withdraw my motion to adjourn if he wishes to address the Senate.

The PRESIDENT *pro tempore*. The motion to adjourn is withdrawn, and the motion of the Senator from Delaware is to proceed to the consideration of the bill he has indicated.

Mr. EDMUNDS. Mr. President, has anybody else the floor now? Can I be heard?

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. EDMUNDS. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate do now adjourn.

The question being put, it was declared that the noes appeared to prevail.

Mr. EDMUNDS. Divide.

The question being put; there were, on a division—ayes 15, noes 25.

Mr. EDMUNDS. Yeas and nays.

The yeas and nays were ordered, and taken.

Mr. HILL, of Georgia. I am paired; but as this is a mere motion to adjourn, I will vote to make a quorum. I vote "nay."

The result was announced—yeas 14, nays 26; as follows:

YEAS—14.

Allison,	Bruce,	Kirkwood,	Teller,
Anthony,	Cameron of Wis.,	McMillan,	Windom.
Baldwin,	Coke,	Morrill,	
Blair,	Edmunds,	Rollins,	

NAYS—26.

Bailey,	Davis of W. Va.,	Jones of Florida,	Slater,
Bayard,	Eaton,	Kernan,	Thurman,
Beck,	Garland,	McDonald,	Walker,
Butler,	Hampton,	McPherson,	Wallace,
Call,	Harris,	Morgan,	Withers.
Cockrell,	Hereford,	Pendleton,	
Davis of Illinois,	Hill of Georgia,	Pryor,	

ABSENT—36.

Blaine,	Gordon,	Jones of Nevada,	Ransom,
Booth,	Groome,	Kellogg,	Saulsbury,
Burnside,	Grover,	Lamar,	Saunders,
Cameron of Pa.,	Hamlin,	Logan,	Sharon,
Carpenter,	Hill of Colorado,	Maxey,	Vance,
Conkling,	Hoar,	Paddock,	Vest,
Dawes,	Ingalls,	Platt,	Voorhees,
Farley,	Johnston,	Plumb,	Whyte,
Ferry,	Jonas,	Randolph,	Williams.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware, to proceed to the consideration of Senate bill No. 1252.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary called the roll.

Mr. BAILEY. I announced that I was paired with the Senator from Nebraska [Mr. PADDOCK] on political questions, and for that reason I withheld my vote at first; but as I see by the silence of the Senators on the other side that they make no question of any kind, political or otherwise, upon this motion, I ask to record my vote "yea."

Mr. COCKRELL. I am not paired with anybody, and I vote "yea."

Mr. HILL, of Georgia. I have a right to vote to make a quorum. I have that option, but I am afraid I shall not make it by voting. I vote "yea."

The PRESIDENT *pro tempore*. The Senator's vote will be recorded.

Mr. HILL, of Georgia. I rise to a parliamentary inquiry. Do I understand that this Senate is solidly democratic?

Mr. BAYARD. Mr. President, I ask for the reading of Rule 17. Before the reading——

Mr. EDMUNDS. I call the Senator to order. Nothing is in order until the result of the roll-call is announced.

Mr. BAYARD. I rise to a question of order. By Rule 17 it is provided that:

When a Senator, being present and declining to vote when his name is called, shall be required to assign his reasons therefor, and shall so assign them, the presiding officer shall thereupon submit the question to the Senate: "Shall the Senator, for the reasons assigned by him, be excused from voting?" which shall be decided without debate. And these proceedings shall be had after the roll shall have been called and before the result of the vote is announced; and any further proceedings by the Senate in reference thereto shall be after such announcement.

Therefore, as it is evident that Senators are present and have not answered to their names, I ask that Rule 17 be enforced and I ask at the proper time.

The PRESIDENT *pro tempore*. The rule is as the Senator from Delaware has read it, but the Chair is not aware of any means that he has to compel any Senator to assign his reasons or to ask to be excused from voting.

The result was announced—yeas 25, nays 0; as follows:

YEAS—25.

Bailey,	Davis of Illinois,	Hill of Georgia,	Pryor,
Bayard,	Davis of W. Va.,	Jones of Florida,	Thurman,
Beck,	Eaton,	Kernan,	Wallace,
Butler,	Garland,	McDonald,	Withers.
Call,	Hampton,	McPherson,	
Cockrell,	Harris,	Morgan,	
Coke,	Hereford,	Pendleton,	

NAYS—0.

ABSENT—51.

Allison,	Edmunds,	Kellogg,	Saulsbury,
Anthony,	Farley,	Kirkwood,	Saunders,
Baldwin,	Ferry,	Lamar,	Sharon,
Blaine,	Gordon,	Logan,	Slater,
Blair,	Groome,	McMillan,	Teller,
Booth,	Grover,	Maxey,	Vance,
Bruce,	Hamlin,	Morrill,	Vest,
Burnside,	Hill of Colorado,	Paddock,	Voorhees,
Cameron of Wis.,	Hoar,	Platt,	Walker,
Cameron of Pa.,	Ingalls,	Plumb,	Whyte,
Carpenter,	Johnston,	Randolph,	Williams,
Conkling,	Jonas,	Ransom,	Windom.
Dawes,	Jones of Nevada,	Rollins,	

The PRESIDENT *pro tempore*. There is not a quorum voting. The roll will be called.

The Chief Clerk called the roll. Twenty-four Senators answered "present."

Mr. COCKRELL. I am present, and as I have a great deal of business to do to-night connected with committee-work in my room, this will be my last vote, and I will go home.

The PRESIDENT *pro tempore*. Twenty-four Senators have answered to their names; not a quorum.

Mr. WALLACE. Mr. President, I move that the Senate do now adjourn.

The motion was agreed to; and (at eight o'clock and three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May 24*, 1880.

The House met at eleven o'clock a. m.; Hon. J. C. S. BLACKBURN in the chair as Speaker *pro tempore*.

Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The SPEAKER *pro tempore*. The Chair presents the following communication, which the Clerk will read.

The Clerk read as follows:

PHILADELPHIA, *May* 22, 1880.

SIR: I shall be absent from the sessions of the House for several days. I desire that you shall act as Speaker in my stead until my return, subject to the rules and authority of the House of Representatives.

Yours, very respectfully,

SAM'L J. RANDALL.

Hon. JOS. C. S. BLACKBURN,
Representative from Kentucky.

Mr. CONGER. Mr. Speaker, should not that order in some way be entered upon the Journal, as well as published in the RECORD, so that it may be officially communicated to the President and the Senate?

The SPEAKER *pro tempore*. The Chair thinks the gentleman from Michigan is correct, and that under the rules the appointment just read must have the approval of the House.

Mr. BUCKNER. I move, then, that the House approve the selection for Speaker *pro tempore* just announced at the Clerk's desk.

The motion was unanimously agreed to.

Mr. CONGER. It was only because I learned such appointments heretofore have not always been entered upon the Journal that it occurred to me to make the suggestion so that our record of the proceedings should be complete.

The SPEAKER *pro tempore*. The Chair appreciates the motives of the gentleman from Michigan and concurs in his suggestion.

Mr. ATKINS. I move that the Clerk of the House notify the Senate and the President of the United States of the appointment of a Speaker *pro tempore* of the House.

The motion was agreed to.

The Journal of Saturday last was then read and approved.

SETTLERS ON OSAGE LANDS.

Mr. RYAN, of Kansas. I ask unanimous consent, Mr. Speaker, to take up at this time House bill No. 2326, for the relief of settlers upon the Osage trust lands in Kansas, with a view to concurring in the Senate amendments thereto.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill, and the Senate amendments, after which objection will be asked for.

The Clerk read as follows:

A bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes.

The amendment of the Senate was read, as follows:

SEC. 7. In all cases arising under this act interest at the rate of 5 per cent. per annum shall be computed and paid upon all that part of the purchase-money in respect of which time is given for the payment of the same.

Mr. RYAN, of Kansas. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. RYAN, of Kansas, moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FEES OF LAND REGISTERS—DONATION CASES.

Mr. WHITEAKER. Mr. Speaker, I ask unanimous consent to take from the Calendar House bill No. 3921 for present consideration. It is a bill, I may be permitted to say, in which the people of Oregon are specially interested, and I pledge the House that if it takes more than five minutes in the consideration of it, I will not press the question. This bill is unanimously reported from the Committee on the Public Lands, and has also the recommendation of the Commissioner of the General Land Office.

The SPEAKER *pro tempore*. The Clerk will report the title of the bill, after which the Chair will ask for objections to its present consideration.

The Clerk read as follows:

A bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes in relation to fees for final certificates in donation cases.

Mr. WHITEAKER. I wish to say for one moment that this bill does not change existing law. The act of 1862 when being carried forward into the Revised Statutes was incorrectly copied and makes it twice the amount which it should be. The Commissioner of the General Land Office recommends this action to clear the matter of any doubt. I ask, therefore, that it be passed. It received, as I have stated, the unanimous approval of the Committee on the Public Lands, and I will not take up the time of the House in discussing it.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the sixth paragraph of section 2238 of the Revised Statutes of the United States be, and the same is hereby, repealed, and that in lieu thereof the following paragraph be substituted:

"A fee in donation cases of $2.50 for each final certificate for one hundred and sixty acres of land, $5 for three hundred acres, and $7.50 for six hundred and forty acres."

The SPEAKER *pro tempore*. Is there objection to the present consideration of this bill?

Mr. DUNNELL. Is that a report from the Committee on the Public Lands?

Mr. WHITEAKER. It has been reported from the Committee on the Public Lands unanimously, and has the recommendation of the Commissioner of the General Land Office.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHITEAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WILSON. I desire to make a privileged report.

Mr. DUNNELL. I call for the regular order.

Mr. BLOUNT. I ask unanimous consent to dispense with the call of States and Territories.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Georgia, [Mr. BLOUNT,] that by unanimous consent the call of States and Territories be dispensed with?

Mr. BERRY, Mr. FINLEY, and others objected.

The SPEAKER *pro tempore*. The regular order is demanded. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Nevada, for the introduction on leave of bills and joint resolutions for reference to their appropriate committees not to be brought back on a motion to reconsider. Under this call joint resolutions and memorials and resolutions of State and territorial Legislatures are in order, and also resolutions calling for executive information, for reference to appropriate committees.

CONSULAR AND OTHER COMMERCIAL REPORTS.

Mr. COX introduced a joint resolution (H. R. No. 304) appropriating $14,900 for printing and distributing more frequently the publication by the Department of State of the consular and other commercial reports, and for clerical hire in the preparation of the same; which was read a first time by its title.

Mr. VAN VOORHIS. I call for the reading of the joint resolution.

The joint resolution was read the second time in full, and was referred to the Committee on Appropriations, and ordered to be printed.

JOHN N. PAYNE.

Mr. HAMMOND, of New York, introduced a bill (H. R. No. 6267) to increase the pension of John N. Payne, of Essex County, New York; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RELEASE OF UNITED STATES LANDS AT PLATTSBURGH, NEW YORK.

Mr. HAMMOND, of New York, also introduced a bill (H. R. No. 6268) to authorize the Secretary of War to release certain lands of the United States, at Plattsburgh, New York, for a public highway; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

W. B. DUNCAN.

Mr. RUSSELL, of North Carolina, introduced a bill (H. R. No. 6269) for the relief of W. B. Duncan, of Carteret County, North Carolina; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HOT SPRINGS RESERVATION, ARKANSAS.

Mr. FINLEY introduced a joint resolution (H. R. No. 305) appointing a committee to investigate the condition of property on the Hot Springs reservation, Arkansas; which was read a first time by its title.

Mr. FINLEY. I ask that the joint resolution be read.

The joint resolution was read the second time in full.

Mr. CONGER. What reference is proposed for this resolution?

Mr. FINLEY. I ask that it be referred to the Committee on Rules.

Mr. CONGER. I think it had better go to the Committee on the Public Lands, who have had charge of that subject heretofore. Let them make a report to the House on the necessity of this.

Mr. FINLEY. I hope the gentleman will allow the joint resolution to go to the Committee on Rules.

The SPEAKER *pro tempore*. Debate is not in order as to a question of reference.

Mr. CONGER. I move that the joint resolution be referred to the Committee on the Public Lands, which I think is the appropriate committee.

The question being taken on Mr. CONGER'S motion, it was agreed to; and the resolution was accordingly referred to the Committee on the Public Lands, and ordered to be printed.

HEIRS OF CONNALLY F. TRIGG.

Mr. FINLEY also introduced a bill (H. R. No. 6270) for the relief of the heirs of the late Connally F. Trigg; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN CORDOVA.

Mr. KEIFER introduced a bill (H. R. No. 6271) granting a pension

to John Cordova; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES H. M'BRIDE.

Mr. WARNER introduced a bill (H. R. No. 6272) for the relief of James H. McBride, late of Company I, Twenty-fifth Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS O. OLIVER AND ISAAC S. RINARD.

Mr. WARNER also introduced a bill (H. R. No. 6273) for the relief of Thomas O. Oliver and Isaac S. Rinard, late of the Seventy-seventh Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SUSAN PHEMESTER.

Mr. WARNER also introduced a bill (H. R. No. 6274) granting a pension to Susan Phemester; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

J. W. LINKIN.

Mr. WARNER also introduced a bill (H. R. No. 6275) for the relief of J. W. Linkin, late of Company A, First United States Heavy Artillery, in service in the war with Mexico; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

THOMAS S. COLBURN.

Mr. HURD introduced a bill (H. R. No. 6276) for the relief of Thomas S. Colburn, of Toledo, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LANDS WITHIN RAILROAD LIMITS.

Mr. WHITEAKER introduced a bill (H. R. No. 6277) to reduce the price of lands to actual settlers within railroad limits to $1.25 per acre; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

JOHN H. WEAVER.

Mr. BACHMAN introduced a bill (H. R. No. 6278) granting a pension to John H. Weaver, private of Company E, One hundred and fourth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WALLACE N. AND ELLEN I. HOGE.

Mr. HOUK introduced a bill (H. R. No. 6279) for the relief of Wallace N. and Ellen I. Hoge, of McMinn County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MILES GOFORTH.

Mr. HOUK also introduced a bill (H. R. No. 6280) for the relief of Miles Goforth, of Jefferson County, Tennessee; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ROBERT HUNT.

Mr. HOUK also introduced a bill (H. R. No. 6281) for the relief of Robert Hunt, of Knox County, Tennessee; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PATRICK HALEY.

Mr. JOYCE introduced a bill (H. R. No. 6282) granting a pension to Patrick Haley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOUNTY LANDS.

Mr. HUNTON introduced a bill (H. R. No. 6283) to repeal section 3480 of the Revised Statutes so far as bounty lands are concerned; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CAROLINE LEWIS.

Mr. HUNTON also introduced a bill (H. R. No. 6284) to restore to the pension-rolls the name of Caroline Lewis, of Alexandria, Virginia, widow of John Lewis, late private Company D, United States Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MAHALA MORROW.

Mr. WILSON introduced a bill (H. R. No. 6285) granting a pension to Mahala Morrow, widow of William T. Morrow, deceased, late private in Company F, First Regiment West Virginia Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EVAN MILES.

Mr. BRENTS introduced a bill (H. R. No. 6286) for the relief of Evan Miles, captain United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DESERT LANDS.

Mr. DOWNEY introduced a bill (H. R. No. 6287) concerning fees in desert-land entries; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

WILLIAM H. REXFORD.

Mr. BERRY introduced a bill (H. R. No. 6288) for the relief of Captain William H. Rexford; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CATHOLIC CHURCH LANDS, CALIFORNIA.

Mr. PACHECO introduced a bill (H. R. No. 6289) to authorize the Roman Catholic bishops in California to sell certain church lands; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HARBOR OF SAN FRANCISCO.

Mr. DAVIS, of California, submitted the following resolution; which was read, and under the rules referred to the Committee on Commerce:

Resolved, That the Secretary of the Treasury be directed to report to this House what causes, if any, are tending to diminish the tidal area of the bay of San Francisco, and what action, if any, has been taken by the Government of the United States, by the city of San Francisco, or by corporations or individuals, which will tend to lessen the tidal scour on the bar of San Francisco, and thereby decrease the depth of water on said bar and diminish its value as a commercial harbor.

SAYBROOK BAR, CONNECTICUT.

Mr. PHELPS introduced a bill (H. R. No. 6290) making an appropriation for the erection of a beacon-light on one of the jetty-walls at Saybrook Bar, in the State of Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ALFRED HUBBARD.

Mr. PHELPS also introduced a bill (H. R. No. 6291) granting a pension to Alfred Hubbard, late a private soldier in Company K in the Eleventh Regiment of Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CATHARINE DUFFY.

Mr. PHELPS also introduced a bill (H. R. No. 6292) granting a pension to Catharine Duffy, of New Haven, in the State of Connecticut, widow of John Duffy, late a captain in Company A in the Ninth Regiment of Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL L. ROBINSON.

Mr. PHELPS also introduced a bill (H. R. No. 6293) granting a pension to Daniel L. Robinson, of Middletown, in the State of Connecticut, late a private soldier in Company H, Sixteenth Regiment New York Volunteers, Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE P. SIMMONS.

Mr. PHELPS also introduced a bill (H. R. No. 6294) granting a pension to George P. Simmons, now of East Cambridge, in the State of Massachusetts, late a private soldier in Company A, Twelfth Regiment Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS MORAN.

Mr. PHELPS also introduced a bill (H. R. No. 6295) granting a pension to Thomas Moran, of Middletown, in the State of Connecticut, late a private soldier in Company G, in the Thirteenth Regiment of Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES SPALDING.

Mr. NICHOLLS introduced a bill (H. R. No. 6296) to remove the political disabilities of Charles Spalding, of McIntosh County, State of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LOAN OF TENTS, ATLANTA, GEORGIA.

Mr. STEPHENS introduced a joint resolution to authorize the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances; which, upon request of Mr. STEPHENS, was read in full.

Mr. STEPHENS. I ask unanimous consent that this joint resolution be taken up and passed now. There cannot be any objection to it.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Georgia that this is not the morning hour for the call of committees.

Mr. STEPHENS. I know it is not; but I ask unanimous consent for the consideration of this resolution now.

The SPEAKER *pro tempore*. The Chair does not understand that according to the rules it is competent for him to submit even the request for unanimous consent so as to interrupt the call of States and Territories for the introduction of bills and joint resolutions. The Chair will recognize the gentleman at a later hour of the day.

Mr. STEPHENS. Under that intimation of the Chair, I withdraw

the joint resolution, and will ask unanimous consent for its passage after a while.

MARGARET BEYMER.

Mr. BARBER introduced a bill (H. R. No. 6297) granting a pension to Margaret Beymer, of Chicago, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DUTY ON CONDENSED MILK.

Mr. SHERWIN introduced a bill (H. R. No. 6298) to fix the duty upon condensed milk; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

NATHANIEL WOLFE.

Mr. WILLIS introduced a bill (H. R. No. 6299) for the relief of Nathaniel Wolfe, lieutenant Second United States Artillery; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NAVAL STATIONS, CENTRAL AMERICA.

Mr. ELLIS presented the following resolution, asking for information in regard to the acquisition of naval and coaling stations in Central America; which was referred to the Committee on Naval Affairs:

Resolved, That the President of the United States be required to communicate to this House every step or order that may have been taken or issued for the acquisition of appropriate naval and coaling stations in Central America.

HEAD-STONES AT SOLDIERS' GRAVES.

Mr. LADD introduced a bill (H. R. No. 6300) to provide for headstones at graves of United States soldiers, Hancock Barracks, Maine; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES WATSON.

Mr. RUSSELL, of Massachusetts, introduced a bill (H. R. No. 6301) for the relief of Charles Watson, of Lowell, Massachusetts; which was read a first and second time, referred to the Committee on War Claims, and ordered to printed.

DISTINCTIVE PAPER FOR UNITED STATES BONDS AND NOTES.

Mr. BUCKNER presented the following resolution as to the use of distinctive paper for printing the bonds and notes of the United States; which was referred to the Committee on Banking and Currency:

Whereas the Retrenchment Committee of the Senate in 1869 reported as one of the conclusions of its exhaustive inquiry that the notes, bonds, and other securities of the United States should be printed upon a special and distinctive paper; and

Whereas soon afterward the Government adopted a localized fiber-paper, which for ten years secured for the fractional currency and United States notes and bonds an almost entire immunity from counterfeiting; and

Whereas recently a change has been made in reference to the protective qualities of United States issues by the Treasury Department; and

Whereas every care and vigilance should be provided in a matter of such vital importance:

Resolved, That the Committee on Banking and Currency inquire fully into this whole question of entire security and protection to the notes, bonds, and other securities of the United States; that it shall have power to send for persons and papers; that it especially investigate whether in respect to protection against counterfeiting the change made has been proper, and whether, taking into consideration all incidental changes, the paper is not much more costly; that the examination shall be had solely with reference to the protection of the interests of the people and Government of the United States; that it shall also be ascertained what liability has been incurred by the Government by the refusal on the part of the Secretary of the Treasury to permit the owner of the patent of the localized fiber-paper, on the annulment of his contract, to manufacture and sell the same, thereby depriving him of all profit of his invention; and that it be further inquired into whether any officers of the Treasury Department have caused devices to be placed upon notes, bonds, and other securities, and then, contrary to law, are and have been seeking to prosecute claims therefor against the Government.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The call of States and Territories being now completed, the Chair, if there be no objection, will recognize for the introduction of bills and joint resolutions gentlemen not in their seats when their names were called.

There was no objection.

PUBLIC BUILDING AT TERRE HAUTE, INDIANA.

Mr. HOSTETLER introduced a bill (H. R. No. 6302) to provide for the erection of a public building for the use of the post-office and Government offices at the city of Terre Haute, Indiana; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MEDICAL TREATMENT OF PENSIONERS.

Mr. PRESCOTT introduced a bill (H. R. No. 6303) to pay to pensioners of the late war all moneys for medical or surgical treatment of the same where they are totally disabled; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM GOERCKE.

Mr. POUND introduced a bill (H. R. No. 6304) granting a pension to William Goercke, of Menomonee, Wisconsin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

VOLNEY V. FRENCH.

Mr. POUND also introduced a bill (H. R. No. 6305) granting a pension to Volney V. French, Company C, Thirty-sixth Regiment Wisconsin Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY ANN ARMSTRONG.

Mr. LOWE introduced a bill (H. R. No. 6306) granting a pension to Mary Ann Armstrong; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JOHN A. LAWING.

Mr. LOWE also introduced a bill (H. R. No. 6307) for the relief of John A. Lawing, late postmaster at Athens, Alabama; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

PUBLIC HIGHWAY IN THE DISTRICT OF COLUMBIA.

Mr. KLOTZ introduced a bill (H. R. No. 6308) for the establishment of a certain free public highway in the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

POTOMAC RIVER IMPROVEMENT COMPANY.

Mr. KLOTZ also (by request) introduced a bill (H. R. No. 6309) to incorporate the Potomac River Improvement Company of the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

CHARLES A. SHERMAN.

Mr. CARPENTER introduced a bill (H. R. No. 6310) for the relief of Charles A. Sherman; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

FISHERY LICENSES.

Mr. WAIT introduced a joint resolution (H. R. No. 306) relating to fishery licenses; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LAMPHERE'S UNITED STATES GOVERNMENT.

Mr. WAIT also introduced a joint resolution (H. R. No. 307) for the purchase of fifteen hundred copies of Lamphere's United States Government; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

JOSEPH E. VANHORN.

Mr. KLOTZ introduced a bill (H. R. No. 6311) granting a pension to Joseph E. Vanhorn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COLOR-BLINDNESS IN NAVY, ETC.

Mr. HARRIS, of Massachusetts, by unanimous consent, from the Committee on Naval Affairs reported a joint resolution (H. R. No. 308) relating to color-blindness and visual acuteness in persons employed in the Navy and merchant marine; which was read a first and second time, ordered to be printed, and recommitted.

WILLIAM M'GOWAN.

Mr. DUNNELL, by unanimous consent, introduced a bill (H. R. No. 6312) granting a pension to William McGowan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOAN OF TENTS TO GATE CITY GUARD, GEORGIA.

Mr. STEPHENS. Mr. Speaker, I ask by unanimous consent to introduce a joint resolution which I ask to be put upon its passage at this time. If gentlemen will listen to the reading of the joint resolution, I am sure there will be no objection to it. It is a joint resolution to loan some Government tents under certain circumstances to the Gate City Guard, a military company of Georgia.

The SPEAKER *pro tempore*. Is there objection?

There was no objection.

Mr. STEPHENS, by unanimous consent, introduced a joint resolution (H. R. No. 309) to authorize the Secretary of War to loan to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances; which was read a first and second time.

The preamble recites that whereas the Gate City Guard, of Atlanta, Georgia, are preparing to build a memorial armory in said city commemorative of the reunion of the States and the return of fraternal feeling between the sections; and whereas many organizations of the citizen soldiery of different States, North and South, to the number of several thousands, have accepted the invitation of being present on the occasion of laying the corner-stone of said memorial armory during the fall of this year; and whereas the Gate City Guard have not the means of furnishing comfortable quarters for so large a number of invited guests expected to be present on the great occasion; and then the resolution authorizes the Secretary of War to loan to said Gate City Guard four hundred tents, if they can be conveniently spared, for the purpose of encouraging said soldiery, for a few days during their attendance upon the ceremonies aforesaid, provided that said tents be transported to and from Atlanta, Georgia, without expense to the United States; and provided further that ample security be given to the Secretary of War, to be judged of by him, that

the said tents shall be returned in good condition immediately after their use as aforesaid.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEPHENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOAN OF FLAGS, ETC., TO GRAND ARMY OF THE REPUBLIC.

Mr. HAWLEY, by unanimous consent, introduced joint resolution (H. R. No. 310) loaning to the Grand Army of the Republic flags, &c., for Decoration Day; which was read a first and second time.

The joint resolution, which was read, authorizes the Secretary of the Navy to loan to Charles E. Joyce, representing the Grand Army of the Republic in the District of Columbia, such United States and foreign flags as can be spared and one hundred fathoms of light rope for use in decorating the cemetery at Arlington, Virginia, on the 29th day of May, 1880; provided, however, that security be required for the good care of the property and its return.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HAWLEY moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OCEAN MAIL SERVICE, WEST INDIES, ETC.

Mr. SHELLEY, by unanimous consent, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 6313) to provide for ocean mail service between the United States and the West Indies, South America, Central America, Mexico, and the transpacific ports; which was read a first and second time, ordered to be printed, and recommitted.

ASSAY OFFICE, CHICAGO.

Mr. ALDRICH, of Illinois, by unanimous consent, introduced a bill (H. R. No. 6314) to establish an assay office in the city of Chicago, Illinois; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

BENJAMIN F. BURCH.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. No. 6315) granting a pension to Benjamin F. Burch, Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AUGUSTUS WINTER.

Mr. BUTTERWORTH, by unanimous consent, introduced a bill (H. R. No. 6316) for the relief of Augustus Winter, of Cincinnati, Ohio; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. GIBSON, by unanimous consent, introduced a bill (H. R. No. 6317) making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River; which was read a first and second time, referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

DAVID S. LOUDON.

Mr. SAPP. I ask unanimous consent to take up for present consideration the bill (H. R. No. 5110) granting a pension to David S. Loudon, with a view to filling the blanks.

The SPEAKER *pro tempore*. The bill will be read, after which the Chair will ask for objection.

The bill was read, as follows:

A bill (H. R. No. 5110) granting a pension to David S. Loudon.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and required to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David S. Loudon, late of Company A, Forty-ninth Regiment Pennsylvania Infantry Volunteers, at the rate of $13 per month, commencing on the —— day of ——, eighteen hundred and ——, the date of his honorable discharge, for injuries received while in the military service of the United States and in line of duty.

Mr. SAPP. I ask to have the blanks filled as indicated by the amendment which I send to the Clerk's desk.

Mr. BRAGG. Mr. Speaker, have we not the right to know how the blanks are to be filled before this bill is acted on?

The SPEAKER *pro tempore*. Certainly.

Mr. BRAGG. Then I ask for the reading of the amendments.

The SPEAKER *pro tempore*. The Clerk will read the proposed amendments.

The Clerk read as follows:

It is proposed to insert, in line 8, after the word "the," the word "seventeenth;" in the ninth line, the word "June" before "eighteen;" and in the same line the word "sixty-five;" so that, if amended, the bill will read: "At the rate of $13 per month, commencing on the 17th day of June, 1865," &c.

Mr. BRAGG. That grants arrears of pensions for fifteen years.

The SPEAKER *pro tempore*. The question is on the adoption of the amendments proposed by the gentleman from Iowa.

Mr. FINLEY. I understand that the gentleman from Iowa asks to fill the blanks which have been left in the bill.

Mr. SAPP. That is only a matter relating to the time from which the pension is to date.

The SPEAKER *pro tempore*. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. BRAGG. Then I move to make it date from the passage of the bill.

Mr. FINLEY. I move to recommit the bill to the Committee on Pensions.

Mr. BRAGG. This bill has never been before a committee, I understand.

Mr. SAPP. It has been before a committee, and is unanimously reported from the Committee on Pensions.

Mr. FINLEY. If the gentleman will insert an amendment that it shall date from the passage of the bill, I shall not insist on my motion to recommit.

Mr. SAPP. That is now my proposition.

The SPEAKER *pro tempore*. The question is on the amendment now proposed by the gentleman from Iowa, that the pension shall date from the passage of the bill.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAPP moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOUCK and Mr. HAYES demanded the regular order.

Mr. HUNTON. I ask gentlemen to consent to withdraw the demand for the regular order for a moment.

The SPEAKER *pro tempore*. It is not in the power of the Chair after the regular order is demanded to entertain any other motion. The regular order is the morning hour.

Mr. BLOUNT. I move to suspend the rules to dispense with the morning hour, in order to go on with the appropriation bill.

Mr. HOOKER. Mr. Speaker, all points of order are reserved upon the bill reported by the gentleman from Georgia.

The SPEAKER *pro tempore*. The Chair will state that the gentleman will have an opportunity of reserving the points of order hereafter as soon as the bill is reported to the House.

Mr. HOOKER. Has not the bill already been reported?

The SPEAKER *pro tempore*. The bill has been reported, but recommitted to the committee; as soon as it is reported again, then the points of order can be reserved upon it.

Mr. HOOKER. Then it is time enough yet to reserve points of order upon the bill?

The SPEAKER *pro tempore*. It is.

Mr. HOOKER. I give notice that I will reserve the points of order upon it.

Mr. WILSON. I wish to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WILSON. My parliamentary inquiry is, whether or not, notwithstanding the demand for the regular order, I have not now the right to make a privileged report from the Committee on Printing, providing for the printing of the Agricultural Report? It is so late in the session that unless this order is made at once it will be too late to have this report printed, which is very important.

The SPEAKER *pro tempore*. The Chair has not the right to entertain that as a privileged motion while the House is dividing. If the gentleman had presented it at the proper time it undoubtedly would have been a privileged motion. The Chair will, however, at the earliest opportunity recognize the gentleman on the question of privilege.

Mr. WILSON. I tried to make the motion before, but could not catch the attention of the Chair.

The SPEAKER *pro tempore*. The Chair is not responsible for the confusion in the House. The question now is on the motion of the gentleman from Georgia, to dispense with the morning hour.

The House divided; and there were—ayes 113, noes 10.

Mr. HOOKER. No quorum has voted.

The SPEAKER *pro tempore*. The point of order being made that no quorum has voted, the Chair will order tellers.

Mr. BLOUNT and Mr. HOOKER were appointed tellers.

The House divided; and the tellers reported—ayes 150, noes 15.

So (two-thirds voting in favor thereof) the motion to dispense with the morning hour was agreed to.

AGRICULTURAL REPORT FOR 1879.

Mr. WILSON. I rise to make a privileged report from the Committee on Printing. I report back from that committee the House concurrent resolution for the printing of the Report of the Commissioner of Agriculture for 1879, with Senate amendments, and move that the Senate amendments be non-concurred in and that the House ask for a committee of conference.

The amendments of the Senate were read, as follows:

In line 5, strike out "220" and insert "194;" in line 7, strike out "50" and insert "76;" so that, as amended, the resolution would read:

"That there be printed 300,000 copies of the annual Report of the Commissioner

of Agriculture for 1879; 194,000 copies for the use of members of the House of Representatives, 76,000 copies for the use of members of the Senate, and 30,000 copies for the use of the Department of Agriculture."

The amendments of the Senate were non-concurred in, and the motion that the House ask for a committee of conference on the disagreeing votes of the two Houses was agreed to.

The SPEAKER *pro tempore*. The Chair announces as the conferees on the part of the House Mr. WILSON, Mr. SINGLETON of Mississippi, and Mr. HAYES.

ENROLLED BILLS SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker *pro tempore* signed the same:

An act (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes.

Mr. KENNA, from the same committee, reported that the committee had examined and found truly enrolled a joint resolution and bill of the following titles; when the Speaker *pro tempore* signed the same:

A joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina; and

An act (S. No. 1090) to relieve John D. Defrees, Public Printer.

MAJOR-GENERAL WILLIAM H. FRENCH.

Mr. YOUNG, of Ohio, by unanimous consent, introduced a bill (H. R. No. 6318) authorizing the retirement of Brevet Major-General William H. French, colonel of the Fourth Artillery, United States Army, late major-general of volunteers, with the rank and pay of a brigadier-general; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM G. HALPINE.

Mr. YOUNG, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 6319) for the relief of William G. Halpine for losses sustained while serving in the United States Army in 1862 and 1863; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN E. YARD.

Mr. YOUNG, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 6320) for the relief of John E. Yard, colonel Twenty-Fourth Regiment, United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TIMBER DEPREDATIONS IN INDIAN TERRITORY.

Mr. CARLISLE, by unanimous consent, introduced a bill (H. R. No. 6321) to prevent depredations upon timber in the Indian Territory; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and to move that it be referred to the Committee of the Whole on the state of the Union. I make that motion.

The motion was agreed to.

Mr. MILLS. I reserve all points of order on the bill.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the sundry civil appropriation bill. And pending that motion, I move that all general debate be limited to thirty minutes.

Mr. TUCKER. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. TUCKER. Is it in order for the gentleman from Georgia to move that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of any particular bill? I understand it is not; and I make that point of order. I understand that the rule is that the motion is to go into Committee of the Whole to take up the bills in their order under the rules of the House, and not for the consideration of any particular bill.

The SPEAKER *pro tempore*. In answer to the gentleman from Virginia the Chair will cause to be read clause 9 of Rule XVI.

The Clerk read as follows:

9. At any time after the expiration of the morning hour it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills.

Mr. CARLISLE. I ask that the Clerk also read the first subdivision of clause 6 of Rule XXIV, from which the Chair will see the gentleman from Georgia is endeavoring to reverse the order prescribed in the rule.

The Clerk read as follows:

6. Business on the Speaker's table having been disposed of, it shall then be in order to entertain motions, in the following order, viz:

First. That the House resolve itself into the Committee of the Whole House on the state of the Union to consider, first, bills raising revenue and general appropriation bills, and then other business on its Calendar.

The SPEAKER *pro tempore*. The Chair desires to state to the gentleman from Virginia [Mr. TUCKER] and the gentleman from Kentucky [Mr. CARLISLE] that the Chair recognizes the precedence given to revenue bills as over appropriation bills. But the Chair does think that it is in order for the gentleman from Georgia to move to go into Committee of the Whole on the state of the Union for the purpose of considering a general appropriation bill in preference to any bill except a revenue bill, to which the rule gives the precedence over an appropriation bill.

Mr. TUCKER. I now give notice in all fairness to my friend from Georgia [Mr. BLOUNT] that if the House resolves itself into Committee of the Whole on the state of the Union I shall insist on the revenue bills being taken up in their order in preference to appropriation bills.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Georgia, in order that he may understand fairly what right the Chair construes him to have, that when the gentleman from Georgia moves that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering a general appropriation bill the Chair understands, under the rule cited by the gentleman from Kentucky, [Mr. CARLISLE,] that the gentleman from Virginia would have a right to make the motion he now indicates his purpose of submitting and that that motion would take precedence.

Mr. REAGAN and Mr. MCLANE rose.

The SPEAKER *pro tempore*. The gentleman from Texas is recognized.

Mr. MCLANE. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The Chair can answer but one inquiry at a time, and the gentleman from Texas is on the floor.

Mr. REAGAN. I ask the gentleman from Georgia [Mr. BLOUNT] if he will modify his motion so as to allow two hours and a half for general debate?

Mr. CONGER. I make the point of order that the House cannot direct the course of proceeding in the Committee of the Whole, but the rules must control after the House gets into Committee of the Whole. I think the Speaker has often decided that point in that way.

The SPEAKER *pro tempore*. The Chair does not think the gentleman from Michigan will question the right of the House to give an order to the Committee of the Whole House.

Mr. CONGER. But the Committee of the Whole House must act under the rules.

The SPEAKER *pro tempore*. Does not the Committee of the Whole House act under the rules, subject to any order the House may give?

Mr. CONGER. The Speaker has very often decided that he has nothing to do with the direction of business in Committee of the Whole, but that the Committee of the Whole House must act under the rules which will govern them when they get into committee. I think that has been decided four or five times within the last two weeks.

Mr. MILLS. The rules specially provide that when a matter is submitted to a committee it can be done with instructions.

The SPEAKER *pro tempore*. The Chair would submit to the gentleman from Michigan the question whether the House does not continually order the Committee of the Whole House to limit its debate upon a particular subject to a given time?

Mr. CONGER. The rule authorizes that.

The SPEAKER *pro tempore*. The Chair thinks that the Committee of the Whole House is but a committee of the House, and is subject to any order the House may make.

Mr. MCLANE. I desire to submit a parliamentary inquiry to the Chair.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. MCLANE. The inquiry I wish to submit to the Chair is, whether it is competent for the Chair to entertain any motion at all except the general motion to go into Committee of the Whole House on the state of the Union? That was precisely the ruling of the Chair in my own case, when I made a motion similar to the one now made by the gentleman from Georgia, [Mr. BLOUNT.]

Mr. PAGE. I would inquire what is the question before the House?

The SPEAKER *pro tempore*. The gentleman from Maryland [Mr. MCLANE] is submitting a parliamentary inquiry to the Chair.

Mr. MCLANE. My inquiry is whether the Chair can entertain any motion to go into Committee of the Whole except the general motion to go into Committee of the Whole on the state of the Union, leaving to the Committee of the Whole House the control of its own business under the rules?

The SPEAKER *pro tempore*. The Chair does not feel that he has any right to refuse to entertain a motion looking to the resolving of the House into a Committee of the Whole House for the consideration of a general appropriation bill, or the consideration of a revenue bill, the rule very clearly fixing the question of precedence as between the two classes of bills.

Mr. FERNANDO WOOD. I will call the attention of the Chair to this distinction, which I think has troubled somewhat the gentleman from Maryland, [Mr. MCLANE.] The ordinary motion that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of taking up either a revenue or an appropriation bill is one thing; and I think the rule governs when the House shall get into Committee of the Whole which business shall have priority, whether a revenue bill or an appropriation bill. But when a motion is made to suspend the rules and go into Committee of the Whole for the purpose of considering a particular appropriation bill,

I desire to call the attention of the Chair to the effect of such suspension of the rules.

The SPEAKER *pro tempore*. No motion is made to suspend the rules; no such motion is now pending before the House.

Mr. FERNANDO WOOD. I understood the gentleman from Georgia [Mr. BLOUNT] to move to suspend the rules and go into Committee of the Whole for the purpose of considering the sundry civil appropriation bill.

The SPEAKER *pro tempore*. Under the old practice a motion to suspend the rules was required. Under the new rule that is not required, and the gentleman from Georgia has simply moved that the House go into Committee of the Whole House on the state of the Union for the consideration of a general appropriation bill.

Mr. HAYES. Now let us have a vote on that motion.

Mr. BLOUNT. I understand that the Chair has passed upon the question which has been raised.

The SPEAKER *pro tempore*. That is true.

Mr. BLOUNT. I then call for the regular order.

Mr. SPRINGER. I rise to a question of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SPRINGER. I understand that the gentleman from Georgia [Mr. BLOUNT] has moved to go into Committee of the Whole on the state of the Union for the consideration of a particular bill. That bill is not the first on the Calendar of the Committee of the Whole, and therefore, under the rules of the House, such a motion is not in order. The gentleman can only move to go into Committee of the Whole on the state of the Union to consider the bills on the Calendar of the Committee of the Whole in their order under the rules.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Illinois that the Chair has already ruled upon that point of order, and ruled adversely to the conclusion of the gentleman from Illinois.

Mr. SPRINGER. I desire to call the attention of the Chair to the fact that this motion if made——

Mr. BLOUNT and others called for the regular order.

Mr. SPRINGER. I have raised the question of order that the motion of the gentleman from Georgia [Mr. BLOUNT] is not in order, and I want to be heard upon that.

The SPEAKER *pro tempore*. Unless the gentleman from Illinois [Mr. SPRINGER] has some other ground upon which he rests his point of order the Chair will state that he has already ruled upon that point.

Mr. SPRINGER. I was about to offer another ground, if the Chair will hear me.

The SPEAKER *pro tempore*. The Chair will hear the gentleman with pleasure.

Mr. SPRINGER. If this was a motion on private bill day to go into Committee of the Whole on the Private Calendar the motion would be in order. But if it was a motion to go into Committee of the Whole on the Private Calendar to consider a particular bill, then the motion would not be in order, unless that bill was the first on the Private Calendar. So with this motion; it is a motion to go into Committee of the Whole on the state of the Union, where under the rules of the House the bills are put down upon the Calendar for consideration in a particular order. But the motion is to go into Committee of the Whole on a particular bill, not the one first in order on the Calendar, and therefore I think it is a motion out of order. I make the point of order that under the ruling of the Chair, where the first business in order in the Committee of the Whole on the state of the Union is a revenue bill, the motion of the gentleman from Georgia [Mr. BLOUNT] to go into Committee of the Whole on another bill is not in order.

Mr. HOOKER addressed the Chair.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from Mississippi in a moment. The Chair does not concur with the conclusion of the gentleman from Illinois, [Mr. SPRINGER,] but holds that it is entirely competent for the House to resolve itself into a Committee of the Whole House on the state of the Union for the consideration of a general appropriation bill or for the consideration of a revenue bill; and the Chair does not find in the rule any warrant for the distinction drawn or the difference claimed between a motion made on private bill day and one made on any other day. The Chair will ask the Clerk to read again the ninth clause of Rule XVI.

The Clerk read as follows:

9. At any time after the expiration of the morning hour it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills.

The SPEAKER *pro tempore*. The Clerk will also read the fourth clause of Rule XXIII.

The Clerk read as follows:

4. In Committees of the Whole House, business on their calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

Mr. HOOKER. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HOOKER. While it is true that under the ninth clause of the sixteenth rule, which the Chair has caused to be read, a motion to go into Committee of the Whole for the consideration of a revenue or an appropriation bill is in order after the expiration of the morning hour, yet when the House goes into Committee of the Whole it does so under the fourth clause of Rule XXIII, which the Chair has also caused to be read; and though it may have resolved itself into Committee of the Whole upon a motion to consider a revenue bill or an appropriation bill or any other bill, yet it is competent for the Committee of the Whole to determine what it will consider, constrained and governed by the rules precisely as the House itself would be, so far as precedence is given, first, to revenue bills, secondly, to appropriation bills. I say, therefore, that the Committee of the Whole must necessarily determine, if objection should be made to any proposition, whether it will consider that proposition or some other. Therefore if the motion of the gentleman from Georgia should prevail and the House should resolve itself into Committee of the Whole, it would be clearly within the power of the Committee of the Whole to lay aside the bill indicated by the gentleman from Georgia and take up that indicated by my friend from Virginia, [Mr. TUCKER.] More especially would this be proper when under the rules revenue bills have priority even over general appropriation bills.

The SPEAKER *pro tempore*. The Chair has not ruled upon the point which he understands the gentleman from Mississippi [Mr. HOOKER] to raise, because he sees no necessity to rule upon it. The Chair has simply ruled that the motion made by the gentleman from Georgia was in order; and it would be equally in order for the gentleman from Virginia to move that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of a revenue bill, which motion under the rules would take precedence of the motion of the gentleman from Georgia. The Chair holds that as between these classes of business recognized by the rule the House has the power to instruct the Committee of the Whole as to which shall have preference; but the Chair does not rule that the Committee of the Whole House on the state of the Union would not be amply competent to determine the question for itself should the House resolve itself into Committee of the Whole without such order.

Mr. BLOUNT. I call the previous question on my motion.

Mr. TOWNSHEND, of Illinois. I rise to a parliamentary inquiry. The Chair has ruled that we may resolve ourselves into Committee of the Whole upon either a revenue or an appropriation bill. The Chair has also ruled that a revenue bill has precedence over appropriation bills. Now I raise the point that the motion of the gentleman from Virginia [Mr. TUCKER] to go into Committee of the Whole on the state of the Union to consider a revenue bill supersedes and has precedence of the motion of the gentleman from Georgia to go into Committee of the Whole for the consideration of a general appropriation bill.

The SPEAKER *pro tempore*. The Chair half an hour ago decided that point just as the gentleman from Illinois states it.

Mr. TOWNSHEND, of Illinois. Then the first question is upon the motion of the gentleman from Virginia [Mr. TUCKER] to go into Committee of the Whole for the consideration of a revenue bill?

The SPEAKER *pro tempore*. The Chair made that decision at least half an hour ago.

Mr. TUCKER. Understanding that the motion of the gentleman from Georgia has been entertained by the Chair as in order, I move to amend——

Mr. BLOUNT. I have demanded the previous question on my motion.

The SPEAKER *pro tempore*. The gentleman from Virginia [Mr. TUCKER] was recognized for this motion before the gentleman from Georgia claimed the floor to move the previous question.

Mr. TUCKER. I move to amend the motion of the gentleman from Georgia so as to provide that the House resolve itself into Committee of the Whole on the state of the Union to take up revenue bills.

The SPEAKER *pro tempore*. The gentleman from Virginia does not need to make his motion by way of amendment. It is an independent motion, which in the judgment of the Chair takes precedence of the motion of the gentleman from Georgia.

Mr. TUCKER. Very well; I submit my proposition as an independent motion.

Mr. REAGAN. I desire to know whether the motion of the gentleman from Georgia includes a motion to limit debate.

Mr. TOWNSHEND, of Illinois. The motion of the gentleman from Georgia is not pending.

Mr. REAGAN. I desire to know whether the gentleman from Georgia includes the motion to limit debate.

Mr. BLOUNT. I will withdraw that part of my motion.

The SPEAKER *pro tempore*. The gentleman from Georgia has withdrawn that part of his motion which limits debate.

The question recurred on Mr. TUCKER's motion to go into committee on revenue bills.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 107, nays 111, not voting 74; as follows:

YEAS—107.

Aiken,	Beale,	Blount,	Carlisle,
Aldrich, William	Berry,	Buckner,	Chalmers,
Anderson,	Bicknell,	Cabell,	Clardy,
Atkins,	Blackburn,	Caldwell,	Clark, John B.

Cobb,	Hammond, N. J.	McMillin,	Sparks,
Colerick,	Harris, John T.	Mills,	Springer,
Converse,	Hatch,	Money,	Steele,
Cook,	Henry,	Morrison,	Stevenson,
Covert,	Herbert,	Muldrow,	Talbott,
Cox,	Hill,	Myers,	Taylor,
Cravens,	Hooker,	New,	Thompson, P. B.
Culberson,	Hostetler,	O'Reilly,	Tillman,
Davidson,	Hull,	Persons,	Townshend, R. W.
Davis, Joseph J.	Jones,	Phelps,	Tucker,
Deering,	Kenna,	Philips,	Turner, Oscar
Dibrell,	Kimmel,	Phister,	Updegraff, Thomas
Dickey,	Kitchin,	Reagan,	Upson,
Dunn,	Knott,	Richardson, J. S.	Vance,
Dunnell,	Ladd,	Richmond,	Waddill,
Elam,	Le Fevre,	Samford,	Washburn,
Evins,	Lewis,	Sawyer,	Weaver,
Felton,	Lounsbery,	Shelley,	Weliborn,
Finley,	Lowe,	Simonton,	Whitthorne,
Forney,	Manning,	Singleton, J. W.	Williams, Thomas
Geddes,	Martin, Benj. F.	Singleton, O. R.	Wilson,
Goode,	McKenzie,	Slemons,	Wood, Fernando.
Gunter,	McLane,	Smith, William E.	

NAYS—111.

Aldrich, N. W.	Cowgill,	Joyce,	Richardson, D. P.
Atherton,	Daggett,	Keifer,	Robeson,
Bachman,	Davis, George R.	Kelley,	Robinson,
Bailey,	Davis, Horace	Ketcham,	Russell, Daniel L.
Baker,	Dick,	Klotz,	Russell, W. A.
Ballou,	Dwight,	Lapham,	Ryan, Thomas
Barber,	Einstein,	Lindsey,	Ryon, John W.
Bayne,	Errett,	Loring,	Sherwin,
Belford,	Ferdon,	Marsh,	Smith, Hezekiah B.
Beltzhoover,	Field,	Mason,	Starin,
Blake,	Frye,	McCook,	Stone,
Bouck,	Garfield,	McKinley,	Thomas,
Boyd,	Gibson,	Miles,	Thompson, W. G.
Bragg,	Hall,	Miller,	Townsend, Amos
Brewer,	Hammond, John	Mitchell,	Tyler,
Briggs,	Harris, Benj. W.	Monroe,	Valentine,
Brigham,	Haskell,	Morse,	Van Aernam,
Browne,	Hawk,	Neal,	Van Voorhis,
Burrows,	Hawley,	Newberry,	Wait,
Butterworth,	Hayes,	Norcross,	Ward,
Calkins,	Heilman,	O'Neill,	Warner,
Cannon,	Henderson,	Orth,	Wells,
Carpenter,	Hiscock,	Osmer,	Willits,
Caswell,	Horr,	Overton,	Wood, Walter A.
Claflin,	Houk,	Pacheco,	Wright,
Clymer,	Hubbell,	Page,	Yocum,
Coffroth,	Humphrey,	Prescott,	Young, Thomas L.
Conger,	Jorgensen,	Rice,	

NOT VOTING—74.

Acklen,	Fisher,	Martin, Edward L.	Sapp,
Armfield,	Ford,	Martin, Joseph J.	Scales,
Barlow,	Forsythe,	McCoid,	Shallenberger,
Bingham,	Fort,	McGowan,	Smith, A. Herr
Bland,	Frost,	McMahon,	Speer,
Bliss,	Gillette,	Morton,	Stephens,
Bowman,	Godshalk,	Muller,	Turner, Thomas
Bright,	Harmer,	Murch,	Updegraff, J. T.
Camp,	Hazelton,	Nicholls,	Urner,
Chittenden,	Henkle,	O'Brien,	Voorhis,
Clark, Alvah A.	Herndon,	O'Connor,	White,
Crapo,	House,	Pierce,	Whiteaker,
Crowley,	Hunton,	Poehler,	Wilber,
Davis, Lowndes H.	Hurd,	Pound,	Williams, C. G.
De La Matyr,	Hutchins,	Price,	Willis,
Deuster,	James,	Reed,	Wise,
Ellis,	Johnston,	Robertson,	Young, Casey.
Ewing,	Killinger,	Ross,	
Farr,	King,	Rothwell,	

So the House refused to resolve itself into the Committee of the Whole on the state of the Union to take up revenue bills for consideration.

During the roll-call,

Mr. POEHLER said: Mr. Speaker, I was in my seat and did not hear my name called.

The SPEAKER *pro tempore*. It is now too late for the gentleman to ask to have his vote recorded.

Mr. POEHLER. I did not hear my name when it was called, it was so noisy in the House.

The SPEAKER *pro tempore*. The request of the gentleman to have his vote recorded cannot now be entertained under the rule.

Mr. POEHLER. I would have voted in the affirmative.

On motion of Mr. CONGER, by unanimous consent, the reading of the names was dispensed with.

The following pairs were then announced from the Clerk's desk:

Mr. EWING with Mr. KETCHAM.

Mr. ROTHWELL with Mr. REED.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. CAMP with Mr. HERNDON.

Mr. JAMES with Mr. O'BRIEN.

Mr. HOUSE with Mr. PRICE.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. NICHOLLS with Mr. HARMER.

Mr. MYERS with Mr. FORT.

Mr. MYERS. That pair expired Saturday last.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. KITCHIN. We are not paired on the tariff.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. AIKEN with Mr. WARD.

Mr. WARD. The gentleman from South Carolina and myself being present have both voted.

Mr. CHITTENDEN with Mr. STEPHENS.

Mr. GODSHALK with Mr. FROST, on political questions, but not on the tariff measure.

Mr. ARMFIELD with Mr. FARR.

Mr. BINGHAM with Mr. SCALES.

Mr. SPEER with Mr. FISHER.

Mr. WISE with Mr. WILLIS.

Mr. O'CONNOR with Mr. BOWMAN, from the 24th to the 28th instant, inclusive.

Mr. HAZELTON with Mr. HUNTON, for to-day and to-morrow with the right reserved to make a quorum.

Mr. URNER with Mr. MCMAHON.

Mr. BLAND with Mr. CRAPO, on the tariff question.

Mr. POUND with Mr. POEHLER.

Mr. SPRINGER. I object to dispensing with the reading of the names.

The SPEAKER *pro tempore*. It is too late, as that has already been done before the announcement of the pairs on motion of Mr. CONGER by unanimous consent.

The vote was then announced as above recorded.

Mr. CONGER. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. POEHLER and Mr. SPRINGER demanded the yeas and nays.

Mr. BLOUNT. I hope gentlemen will not do that. We have had a decision of the House on a vote by yeas and nays, and I hope there will be no further unnecessary consumption of time.

Mr. CONGER. I withdraw the motion to reconsider and lay upon the table.

Mr. FINLEY. I object.

Mr. HOOKER. I renew the motion to reconsider.

The SPEAKER *pro tempore*. The gentleman from Mississippi did not vote in the affirmative, and therefore, under the rules, cannot make the motion. The question now recurs on the motion of the gentleman from Georgia.

TARIFF REVISION—MINORITY VIEWS.

Mr. GARFIELD. Pending that motion, I desire to report, as I have a right to do, the views of the minority on the tariff bill, (H. R. No. 6188,) to be printed with the report of the Committee on Ways and Means.

The SPEAKER *pro tempore*. The gentleman has that right under a previous order of the House.

ORDER OF BUSINESS.

Mr. FINLEY. May I ask what ruling the Chair has made upon the point of order which I raised?

The SPEAKER *pro tempore*. The Chair has heard no point of order.

Mr. FINLEY. I made the point of order that the gentleman from Michigan could not withdraw his motion to reconsider after the vote had been taken upon it.

The SPEAKER *pro tempore*. The Chair will reply that under the rule the gentleman from Michigan has the right to withdraw his motion at any time previous to the decision of the motion.

Mr. FINLEY. Then the Chair rules that the gentleman from Mississippi [Mr. HOOKER] had not the right to renew it.

The SPEAKER *pro tempore*. The Chair did so rule if he understands the question which he has not heard. [Laughter.] The question now is on the motion of the gentleman from Georgia that the House resolve itself into the Committee of the Whole on the state of the Union to take up for consideration the sundry civil appropriation bill reported this morning.

The motion was agreed to.

Mr. BLOUNT. I now move that all general debate be limited to thirty minutes, and yield to the gentleman from Texas to offer an amendment.

Mr. REAGAN. I move that the time of general debate be extended to two hours and a half.

The SPEAKER *pro tempore*. The Chair will state that the House has already resolved itself into the Committee of the Whole on the state of the Union, and the result of the vote on that motion has been announced from the Chair.

Mr. BLOUNT. I attempted to get the ear of the Chair while the question was pending, in order to move to limit debate.

The SPEAKER *pro tempore*. The Chair will remind the gentleman from Georgia that he had the ear of the Chair when he made the motion and withdrew it, and after that, as far as the Chair is aware, the motion was not renewed. The Chair will also state that it is not in order to limit debate until after the House has gone into the Committee of the Whole on the state of the Union and had debate on the question.

Mr. ATKINS. I rise to a parliamentary inquiry. Would it be in order to reconsider the action of the House to go into the Committee of the Whole on the state of the Union?

The SPEAKER *pro tempore*. Yes, sir; the gentleman from Georgia can make his motion and reach his object in that way.

Mr. BLOUNT. I do not care to do it at this time.

SUNDRY CIVIL APPROPRIATION BILL.

The SPEAKER *pro tempore*. Then the Chair will state that the

House has determined to resolve itself into the Committee of the Whole on the state of the Union on the sundry civil bill.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The Clerk will now report the title of the bill pending before the committee.

Mr. HOOKER. I rise to a point of order.

The CHAIRMAN. The Clerk will report the title of the bill.

Mr. HOOKER. I wish to make the point of order before the title of the bill is read. That is the point I desire to make against the bill.

The CHAIRMAN. The Chair has already stated that the House is in Committee of the Whole on the state of the Union to consider a bill, the title of which the Clerk will now report.

Mr. HOOKER. I rise to a point of order——

The CHAIRMAN. The gentleman from Mississippi is out of order. The Clerk will read the title of the bill now pending for consideration in the Committee of the Whole on the state of the Union.

The Clerk read as follows:

House bill No. 6266, making appropriation for the sundry civil expenses of the Government for the year ending June 30, 1881.

Mr. HOOKER. I now rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HOOKER. My point is this: that the House having resolved itself into Committee of the Whole on the state of the Union, it must take up and dispose of the business on the Calendar in the Committee of the Whole in the order in which it stands on the Calendar, giving precedence first to bills for raising revenue, and next to general appropriation bills, and when they are disposed of that the other business on the Calendar of the Committee of the Whole must be taken up, beginning with the first case on the Calendar.

Now, under the rule, Mr. Chairman, it will be observed that when you go into Committee of the Whole for the purpose of proceeding with business on the Calendar, you are governed by the fourth clause of the twenty-third rule, which provides that:

In Committees of the Whole House, business on their calendars shall be taken up in regular order—

That is imperative; they shall be taken up in regular order—

except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

Now, I make the point of order that the bills for raising revenue should first be considered by the Committee of the Whole, and then general appropriation bills, and so on in the order in which they are specified under the rule; that is to say, that general appropriation bills can only secondly be considered, and therefore I object to the consideration of this bill, and insist that the first consideration shall be given to revenue bills, as in strict accordance with the letter and spirit of the rule.

Mr. FRYE. Mr. Chairman, the gentleman from Mississippi has read a rule which applies to the general business on the Calendar, but has no application whatever to revenue bills and general appropriation bills. When these rules were before the House for consideration it was noticed that precedence had been given to revenue bills and general appropriation bills, and the subject was referred to the gentleman from Kentucky [Mr. BLACKBURN] and myself, representing, respectively, the Ways and Means and Appropriations Committees, and we met and considered the question and agreed to the rule which stands there to-day as a rule of the House. It was this: That matters touching the revenue should have precedence of matters touching general appropriations, and that general appropriations and matters of revenue should have precedence of everything else on the Calendar. And therefore the provision was made that after the morning hour a motion should be in order to go into Committee of the Whole on the state of the Union to consider revenue bills, to consider general appropriation bills, the motion to consider revenue bills having precedence precisely as the Speaker to-day ruled on the proposition made by the gentleman from Georgia, that his motion was in order; but the gentleman from Virginia having made the motion to go into Committee of the Whole to consider revenue bills, then the Speaker ruled that that motion had precedence. The Speaker was entirely right and was carrying out the rule as the committee made it, and furthermore he was carrying out or enforcing the rule in the only possible way that this House could have to go to the consideration of a general appropriation bill or to the consideration of a revenue bill. You have a calendar there with two hundred bills upon it, and if the gentleman from Mississippi [Mr. HOOKER] is right, you never can reach a general appropriation bill or a revenue bill.

Mr. HOOKER. I beg to say in reply to the gentleman from Maine that he is very much mistaken when he thinks clause 4 of Rule XXIII does not apply to the consideration of revenue bills and appropriation bills. It does apply expressly to the consideration of those bills, and it provides that when objection is made to the consideration of any bill, the committee shall rise, the question shall be referred to the House, and the House shall decide whether the bill shall be considered or not.

It is very true the House in the vote taken a few moments ago did not decide that a revenue bill should be taken up for consideration. But at that time we had not gone into Committee of the Whole. We are now in the Committee of the Whole, and it is for the Committee of the Whole to determine what business it shall take up, subject to the rules; and the following is the language of the rule, if the Chair please:

And when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present.

That is the rule of procedure when the House is in Committee of the Whole, and not before the House has gone into Committee of the Whole.

The CHAIRMAN. The Chair is of opinion that the point of order might have been good if the House had resolved itself into Committee of the Whole simply; but the House having resolved itself into Committee of the Whole for a special purpose, the point of order is not well taken. It ought to be made in the House. Being made now, it cannot avail. The House is in Committee of the Whole for the special purpose of considering the bill which the House has directed to be considered.

Mr. HOOKER. I appeal from the decision of the Chair upon the point of order.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question being taken, it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. BLOUNT. I move to dispense with the first reading of the bill.

Mr. HOOKER. I object.

The CHAIRMAN. The question is on the motion of the gentleman from Georgia [Mr. BLOUNT] to dispense with the first reading of the bill.

Mr. HOOKER. Does the Chair rule that the first reading of the bill can be dispensed with when objection is made?

The CHAIRMAN. The Chair so rules under Rule XXXI, which the Clerk will read.

The Clerk read as follows:

When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any member, it shall be determined without debate by a vote of the House.

The CHAIRMAN. This is not a paper on which the committee is called upon to act finally; and the Chair knows of no rule which prevents the committee by a majority vote from dispensing with the first reading of a bill.

Mr. HOOKER. The rule which the Chair has caused to be read has reference to proceedings in the House, but not to proceedings in Committee of the Whole. Hence the gentleman from Georgia [Mr. BLOUNT] saw there was a necessity to ask for unanimous consent to dispense with the reading of the bill, because in Committee of the Whole you cannot dispense with the first reading of a bill except by unanimous consent.

The CHAIRMAN. The gentleman from Georgia moved to dispense with the first reading of the bill, and the Chair holds that that motion is in order.

Mr. HOOKER. Does the Chair hold that that is in order when objection is made?

The CHAIRMAN. The Chair so holds.

Mr. HOOKER. And that the majority of the committee can determine it?

The CHAIRMAN. Yes, sir.

Mr. HOOKER. I appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee.

Mr. HOOKER. Before the vote is taken I desire the Chair to cause to be read the first section of Rule XXI, and upon that surely the Chair cannot rule that you can dispense with the reading of a bill in committee when there is a single objection on the floor against it.

The Clerk read as follows:

1. Every bill and joint resolution shall receive three readings before its passage, which shall be as follows: The first and second readings by title on introduction for reference, or, being original bills, on report from committees for commitment, except when the second reading in full shall be demanded by a member: *Provided*, That original bills on being reported by unanimous consent for present consideration, shall be read the first time in full; the second and third time by title, unless the third reading in full shall be demanded by a member.

Mr. HOOKER. I also desire the next clause to be read.

The Clerk read as follows:

2. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall then be put upon its passage.

Mr. HOOKER. I will remark that that is a constitutional provision which the rules have simply adopted: that you cannot proceed to consider or pass a bill without reading it, unless the reading be unanimously dispensed with. It has always been so ruled with reference to the first reading of a bill in Committee of the Whole. I venture to say the gentleman from Georgia himself will not question

the fact that the objection of a single member has hitherto always availed to prevent the first reading of a bill to be dispensed with.

The CHAIRMAN. The Chair holds that this bill has received its first and second readings in the House.

Mr. HOOKER. The gentleman from Georgia [Mr. BLOUNT] understood that on that very ground the first reading of this bill could not be dispensed with except by unanimous consent.

The CHAIRMAN. As the Chair has stated, he holds that this bill has already received its first and second readings in the House. The rule to which the gentleman has referred relates to readings of a bill in the House, and not to readings in the Committee of the Whole for information.

Mr. HOOKER. What does the Chair have to say to Rule XXXI? That relates to readings in the House.

Mr. BLOUNT. Has not the Chair ruled on the question?

The CHAIRMAN. The Chair has ruled upon the question, but is willing to hear the gentleman from Mississippi.

Mr. VAN VOORHIS. Has this bill been read except by its title?

Mr. HOOKER. Never.

Mr. FRYE. It has been read twice by its title in the House.

Mr. HOOKER. Rule XXI refers to the original first, second, and third readings of a bill, and incorporates therein the constitutional provision, which cannot be dispensed with.

Mr. McKENZIE. I demand the reading of the bill. It appropriates $20,000,000, and has never been read through either in the House or in the Committee of the Whole.

Mr. VAN VOORHIS. And several of the very first items of the bill are frauds and in violation of the law.

The CHAIRMAN. The Chair adheres to his ruling.

Mr. HOOKER. The ruling of the Chair is that the reading of this bill may be dispensed with?

The CHAIRMAN. By a vote of the committee.

Mr. HOOKER. Then I appeal from the decision of the Chair.

The CHAIRMAN. The decision of the Chair being appealed from, the question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and upon a division there were ayes 90.

Mr. HOOKER. Before the negative vote is taken——

Many MEMBERS. Regular order.

Mr. HOOKER. I ask that the motion of the gentleman from Georgia be reduced to writing, as the rule requires.

The CHAIRMAN. The gentleman is too late, the committee is dividing.

The negative vote was taken, and resulted noes 35.

Mr. HOOKER. No quorum has voted, and I call for tellers.

The CHAIRMAN. The Chair will appoint as tellers the gentleman from Mississippi, Mr. HOOKER, and the gentleman from Georgia, Mr. BLOUNT.

Mr. HOOKER. And I further ask that the motion of the gentleman from Georgia be reduced to writing.

The CHAIRMAN. The gentleman is too late, the committee is dividing. Tellers have been ordered, and they will take their places.

The committee again divided; and the tellers reported that there were—ayes 109, noes 43.

So the decision of the Chair was sustained.

The question recurred on the motion of Mr. BLOUNT, to dispense with the first and formal reading of the bill, and it was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia, in charge of the bill.

Mr. HOOKER. I desire to call the attention of the Chair to a rule which is very important, inasmuch as I believe the ruling of the Chair in this particular has been in contravention of the rulings heretofore made. The first clause of the sixteenth rule is as follows:

> Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any member, and shall be entered on the Journal with the name of the member making it, unless it is withdrawn the same day.

The CHAIRMAN. The gentleman from Mississippi would have been in order had he made his request earlier.

Mr. HAYES. Has not this question been decided?

The CHAIRMAN. The question has been decided. The committee has directed the first reading of this bill for information to be dispensed with.

Mr. HOOKER. I will ask if the gentleman from Georgia [Mr. BLOUNT] will permit a yea-and-nay vote on this proposition in the House?

A MEMBER. Not much.

Mr. HOOKER. You object to it, do you?

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] is entitled to the floor.

Mr. BLOUNT. I shall not take up much of the time of the committee in general debate upon this bill. As is well known to members, this bill is made up of a great variety of subjects entirely disconnected with each other, and differing in amounts and in details. It is therefore impossible for me to give to the committee in any general way an adequate impression of this bill as to its details.

The amount recommended to be appropriated by this bill is $20,729,987. The estimates of the Departments amount to $24,374,026.41. The amount appropriated for the current fiscal year is $19,474,033.51. It is therefore apparent to the committee that the expenditures for the next fiscal year for the purposes named in this bill will be greater than for the current fiscal year.

The branches of the public service for which increased appropriations are recommended for the next fiscal year will be found stated in a table which I have here, and the total amount of increase is $3,293,000.

Mr. HOOKER. What is the total increase over last year?

Mr. BLOUNT. I will repeat my statement. The branches of the public service for which increased appropriations are recommended for the next fiscal year show an aggregate increase of $3,292,000 over the bill of the current fiscal year. But there are items for which decreased appropriations are recommended.

I shall also have printed a table showing the branches of the public service for which increased appropriations are recommended for the fiscal year 1881, with the amount of increase; the branches of the public service for which appropriations are recommended, which were not included in the sundry civil bill for 1880, and also the amount of the sundry civil appropriations for 1880, including expenses of the United States courts and excluding appropriations for the District of Columbia.

The following are branches of the public service for which increased appropriations are recommended for the fiscal year 1881 and amount of the increase, namely:

Engraving and printing	$25,000
Fuel, lights, and water for public buildings	45,000
Furniture for public buildings	50,000
Suppressing counterfeiting and other frauds	20,000
Compensation in lieu of moieties	30,000
Artificial limbs and appliances	152,000
National Soldiers' Home	153,000
Geological Survey	50,000
Tenth census	2,625,000
Entomological commission	10,000
Public printing	100,000
Propagation of food-fishes	10,000
Deaf and Dumb Asylum	6,000
Smithsonian Institution	17,000
Total increase	3,293,000

The following are branches of the public service for which appropriations are recommended for the fiscal year 1881 and which were not included in the sundry civil bill for 1880, namely:

Mileage of electoral messengers	$9,000
Accommodations for storage of coin	100,000
National Board of Health	175,000
National cemeteries	159,000
Moline water-power	50,000
Washington Monument	150,000
Mississippi River commission	150,000
To purchase confederate mail records	10,000
To purchase Ringgold Barracks, Texas	10,500
Roadway for national cemetery, Vicksburgh	8,000
Bureau of Education	5,000
Total new service	826,500
Total increase	3,293,000
Grand total of increase for 1881	4,119,500

The sundry civil appropriations for 1880, including expenses of United States courts and excluding the appropriations for the District of Columbia, amount to $19,474,033.51.

The estimates for sundry civil expenses contained in the regular Book of Estimates for 1881, amount to $24,374,026.41. Bills, resolutions, and executive documents referred to the committee by the House and sent in from the Departments, considered with the sundry civil bill, called for appropriations outside the regular budget in round numbers to the amount of $4,500,000, which makes all the estimates upon which this bill is based amount to $28,874,026.41.

Mr. Chairman, the committee have endeavored with a great deal of earnestness to keep down appropriations. They have perhaps disallowed many items which, considered in themselves, many gentlemen might desire to see appropriated. But there has always been, and rightly, an effort that the expenditures for a given year may have some reference to those of the preceding year as to the regular current appropriations which are repeated from year to year and which are not extraordinary in their nature. This is a wise principle. There is scarcely any proposition in this or any other appropriation bill upon which some gentleman might not suggest reasons for an increase of expenditure. But were we to do what in a liberal spirit might be suggested upon each item, we should find these bills running up to forty, sixty, or one hundred million dollars per annum, and we should be confronted with the question not whether there should be a reduction of the tariff and where it should be reduced, not whether and how there should be a relief of internal-revenue taxation, but what method shall we adopt for increasing the revenues by additional burdens in the form of internal-revenue taxation and custom duties? This being the case, I apprehend gentlemen on both sides of the House will be prepared to say that the Committee on Appropriations has acted wisely in not sanctioning expenditures which would require additional taxation upon the people; that it is but right for us to economize in every particular in which it is possible to do so, and to keep down the expenditures to something like what they have been in the past. This would be correct as a general principle of action; but just now there was additional inducement which might have justified us in going still further in making reductions. During this year we

are compelled to appropriate $6,000,000 for pensions; and we have the extraordinary appropriation of nearly $3,000,000 for the census. In view of this irregular increase of $9,000,000, the duty of economy in expenditures addresses itself to this committee with more force than on ordinary occasions, and urges that for the next fiscal year many matters be postponed by reason of this irregular and large addition to the expenditures of the Government.

If in the course of the consideration of this bill gentlemen should think there are items that ought to be increased, if they should think that the committee have gone too far in the work of retrenchment, I trust they will bear in mind, when seeking to increase appropriations, that the bill itself, with the items judged by the Committee on Appropriations as properly belonging to the expenditures of the coming year, carries us beyond the amount expended for these purposes in the past, and that, in addition, there is an expenditure of $9,000,000 upon the two items I have named. It may be an easy matter for gentlemen to take a single item in the bill and press with vigor for its increase; but it is quite a different matter to take up the whole public service, the Army, the Navy, the postal service, and the various other branches, to consider them item by item and reach a conclusion from a survey of the whole.

I trust, therefore, that upon this general statement members of the House will bear patiently with the Committee on Appropriations if the committee have not in every instance done what members may deem should have been done. This bill makes an increase upon the expenditures in the past, and therefore gentlemen may feel assured that there is no crippling of the Government, that its service is more amply provided for than it has been heretofore. Hence I hope that when we consider the bill by paragraphs these general considerations will operate to induce individual members to sustain the recommendations of the Committee on Appropriations.

Mr. Chairman, after this general statement I prefer not to detain the committee any longer. Anything further that I may desire to say I will submit during the consideration of the bill by paragraphs. I now move that the committee rise for the purpose of fixing a limit to general debate.

Mr. REAGAN. I hope the gentleman from Georgia will allow me to have the floor upon a subject of considerable public importance.

Mr. BLOUNT. I hope my friend will not make this a personal request to me. There is no gentleman in this House for whose ability I have more regard, and to whom personally I am more attached; but there are demands on each side of the House, repeated and numerous, that the general debate on this bill should be closed. I prefer that my friend will allow the committee to rise, so that the House may determine this question.

Mr. REAGAN. I hope that the motion to rise will be voted down.

Mr. McLANE. Before the motion is put, I desire to know from my friend from Georgia how soon he proposes to terminate this debate?

Mr. BLOUNT. When the committee shall have risen I shall move to close general debate in one minute; my friend from Texas will move to amend that motion; and the House can settle the question as it sees fit.

The motion of Mr. BLOUNT, that the committee rise, was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, Mr. SIMONTON reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move, Mr. Speaker, that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the further consideration of the sundry civil appropriation bill; and pending that motion I move that all general debate on that bill in committee be limited to one minute.

Mr. REAGAN. I move to amend that by saying that general debate shall be closed this afternoon at four o'clock. I trust the House will allow that to be done.

Mr. GARFIELD. I intended, Mr. Speaker, to seek an opportunity to consume some time in general debate on this bill, but I find gentlemen on both sides expressing anxiety to press forward with the consideration of the pending measure, and, as I am satisfied in the main the bill is a reasonable one and ought not to occasion much contest in any case, I am willing for the general good to forego any desire I may have to engage in debate, and hope the House will vote to sustain the motion of the gentleman from Georgia; for if we open this now to debate bearing on general political topics, there seems to me to be no natural end to it.

Mr. REAGAN. I desire to say, Mr. Speaker, a few words——

Mr. PAGE. Is this motion debatable?

The SPEAKER *pro tempore*. It is not.

Mr. PAGE. Then I demand the regular order of business.

Mr. REAGAN. I desire to occupy an hour in explaining the provisions and stating the condition of an important measure. [Cries of "Regular order!"] Gentlemen permitted the gentleman from Ohio on the other side to debate this question, and now, when I propose to say a few words, objection is made.

The SPEAKER *pro tempore*. The gentleman from Texas certainly knows that if the gentleman from Ohio was allowed to say anything on this subject it was by unanimous consent, and now that objection is made the Chair is compelled to enforce the rule.

Mr. REAGAN. That is just exactly what I object to, that the gentleman from Ohio was allowed to debate this proposition and when I rise to say a word on the subject the demand is made for the regular order.

The SPEAKER *pro tempore*. Is there objection to allowing the gentleman from Texas the same right that was accorded to the gentleman from Ohio?

Mr. McGOWAN. There is no objection if he will occupy only the same length of time.

The SPEAKER *pro tempore*. That is two minutes.

Mr. REAGAN. I do not desire any longer time.

The SPEAKER *pro tempore*. The Chair hears no objection, and the gentleman will proceed.

Mr. REAGAN. I desire to say, Mr. Speaker, there is no need of that hurry now; there was perhaps on Saturday last. The Senate, as I am informed, have postponed the day of final adjournment for ten days, and we therefore can afford to indulge for a few hours in general debate. While it is for the general good other gentlemen decline to debate. I say it is for the general good in an eminent degree, so far as the subject on which I propose to speak is concerned, that I should be permitted to occupy the floor. I have not before asked the privilege, I believe, for five years, and I would not now do it except for the pressure on the part of members of the House and people throughout the country urging me to do so on a question of great public importance. I do not wish to speak on this bill, but another.

Mr. BUCKNER. The House will give the gentleman leave to print.

Mr. REAGAN. I do not want to print.

The SPEAKER *pro tempore*. The question first recurs on the motion of the gentleman from Texas, [Mr. REAGAN,] that the general debate shall be limited to four o'clock this afternoon.

The House divided; and there were—ayes 36, noes 85.

So the motion was disagreed to.

Mr. BLOUNT'S motion, limiting all general debate on the sundry civil appropriation bill in Committee of the Whole House on the state of the Union to one minute, was then agreed to.

Mr. BLOUNT moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The House then resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The House resumes the consideration of the sundry civil appropriation bill and, under the order of the House, the general debate is limited to one minute.

Mr. BLOUNT. Let the Clerk read the first paragraph.

The Clerk read as follows:

Public buildings:

Court-house and post-office, Austin, Texas: For fencing, grading, and approaches, $12,000.

Mr. HOOKER. I wish to ask the gentleman from Georgia whether the first clause of the bill appropriating $12,000 for the court-house and post-office at Austin, Texas, for fencing, grading, and approaches, is in compliance with any law—whether or not the appropriation primarily made for this subject did not appropriate a fixed amount for the purpose of completing a public edifice there, and whether this appropriation is not in excess of that amount provided by law?

Mr. BLOUNT. The appropriation is beyond the amount fixed for the building, but the grading and approaches, when the building is completed, are an incident to the original appropriation which have always been provided for in appropriation bills.

Mr. HOOKER. On that answer I make the point of order that this provision is obnoxious to the third clause of Rule XXI, which reads as follows:

3. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

I undertake to say under the original law there is no provision for fencing, grading, and approaches to this public building; and therefore the clause is not in conformity to existing law, and certainly is not in the line of retrenchment. It is not a part of the building for which the appropriation was originally made; for, as I understand, the original law limited the amount.

Now, on this page and the next one, and so on down to line 59, appropriations are made for the purpose of erecting public buildings amounting to $2,096,000. These clauses cannot be included in this bill unless they are in conformity to existing law. If the law limited the amount for this public building at Austin, Texas, and this clause provides for an appropriation beyond that amount, then the Committee on Appropriations had no authority to insert it in this bill.

If this is in excess of the amount originally provided for, it is out of order because that amount cannot be exceeded by the committee;

in other words if the law for the purpose of erecting the court-house and post-office at Austin, Texas, provided it should not exceed $100,000 and that amount has been exceeded already, or if the amount herein appropriated or proposed to be appropriated exceeds the original amount, then there is no law authorizing the appropriation of that amount and it is out of order. In making the point of order my object is to propose to strike out that section if the point is sustained.

Mr. BLOUNT. Mr. Chairman, in response to the remarks of the gentleman from Mississippi, I wish to say, in the first place, that it does not appear, nor am I sure from an examination, that this amount does exceed the original amount appropriated for the purpose specified. In the next place, the rule the gentleman has cited, the third clause of which he refers to, "No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress," does not seem to be applicable to the case under consideration. Here is a building which is erected or about completed for the use of the Government. You have got to have some mode of access to it, in order that the business of the Government may be transacted, whether that was provided in the original appropriation for the construction of the building or not. You must inclose the building. It seems to me that this would commend itself to any person as an absolute necessity even if the amount of the original appropriation had been exhausted or nearly exhausted. However, there has never been any rule providing for the grading or approaches to any public buildings whatever, that I know of. Public buildings have never claimed it, and the practice of the House has been the other way. The Committee on Appropriations therefore adopted the construction that whenever the building was finished, or nearly so, and approaches to it were necessary, that it was a legitimate object for the committee to consider. The rule has been the same, and has been construed in this identical way for many years, and upon that construction the committee has been acting now in reference to this matter.

Mr. ATHERTON. Before the gentleman takes his seat will he permit me to ask him a question? I wish to know what was the amount of the original appropriation for this building?

Mr. BLOUNT. I have not had occasion to look into that matter.

Mr. ATHERTON. Should not the committee know before it goes on to make a further appropriation and recommend it in a bill to this House?

Mr. BLOUNT. I want to say to the gentleman that the committee did know, as a general proposition, that there has been an adherence to the law—that the present Administration have been observing the law. But there were buildings which were in progress for which plans and estimates have been given, and as they were in progress it soon became evident that the amount of money fixed by law would not complete them.

I will not take up the time of the committee now in making a statement which I think so shameful to the officer who had charge of this service—false estimates and other irregularities. Take for instance the War, State, and Navy Department. These estimates have been hidden away and no man can put his hand upon them. These buildings were originally begun in that way. They progressed, and after they had gone far forward toward completion, by no fault of the Committee on Appropriations, by no fault of Congress, it was discovered that the buildings could not be completed in accordance with the law; that the money had all been exhausted, and the buildings yet in an unfinished condition. The former Committees on Appropriations have done what we have done in this case—made an appropriation to supply what seemed to be necessary sums to complete the buildings.

The House knows the law, the House knows the rule, and the committee preferred that if the public buildings were to stand as they were in that unfinished condition the House should take the responsibility of it and not the committee, and we have not therefore found it necessary to make an inquiry upon this subject.

Mr. SINGLETON, of Illinois. Will the gentleman from Georgia permit me to ask him a question? I desire to know if it is the opinion of the gentleman having charge of this bill that it would be in order to move an amendment to the bill by inserting an appropriation such as is provided in the section now being considered. That is to say, would it be in order to amend the bill by making an appropriation for grading the approaches to the court-house—such an appropriation as we are now considering in the paragraph under consideration?

Mr. BLOUNT. When that point is reached in the bill I will answer my friend.

Mr. SINGLETON, of Illinois. Very well. The rule provides that no appropriation shall be made unless authorized by existing law, nor shall any amendment to change existing law be authorized or entertained. Now I ask the gentleman from Georgia whether there is any existing law authorizing this appropriation. If there is no existing law, then it is a violation of the rule as much as if it had been presented in the shape of an amendment and incorporated in the bill in that way.

Mr. BLOUNT. That may be true; but the Committee on Appropriations, as I have stated, find these buildings in an unfinished condition, and they prefer that the House should take the responsibility of refusing to supply the money necessary to preserve them.

Mr. SINGLETON, of Illinois. That is not the question, but whether the committee have transcended their power.

Mr. REAGAN. Mr. Chairman, I desire to read the act of March 3, 1877, under which this building was commenced. It is as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be constructed a suitable building with fire-proof vaults, at Austin, in the State of Texas, for the accommodation of the circuit and district courts of the United States, the post-office, and the internal-revenue offices, at a cost not exceeding $100,000, including cost of site: *Provided*, That no money shall be used or applied for the purpose mentioned until a valid title to the land for the site of such building shall be vested in the United States, nor until the State of Texas shall also duly release and relinquish to the United States the right to tax or in any way assess said site, and cede jurisdiction thereon during the time that the United States shall be or remain the owner thereof.

Mr. COOK. Upon the point of order which has been made upon this paragraph, I will say it simply provides for fencing, grading, and approaches. The construction of the building is already provided for, $140,000 having been appropriated for that purpose, and the citizens of Austin gave the Government the site on which this building stands. The contractor to put up the building has nothing to do with the approaches, the fencing, and the grading, any more than he has to do with the furnishing of the building after its completion. That is a separate matter. The construction, the erection, or putting up of the building is one thing; the construction of approaches, the grading, and the fencing is another thing, which always has been provided for outside of any appropriation for constructing a building; precisely as it is necessary to furnish it with boxes, desks, and chairs for the jury, judge, and marshal, when the building is completed. The contractor for the building has nothing whatever to do with what is here provided for.

Mr. BAKER. It seems to me quite apparent that the point of order suggested by the gentleman from Mississippi [Mr. HOOKER] does not apply to this class of public objects. Clause 3, Rule XXI, provides that—

No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law unless—

Unless what?

unless in continuation of appropriations for such public works and objects as are already in progress.

Here is a public work already in progress; and even if this did change existing law the clause I have just read authorizes Congress from time to time to increase the amount originally appropriated.

Mr. PAGE. Will the gentleman yield to me for a question?

Mr. BAKER. Yes, sir.

Mr. PAGE. This section provides for—

Court-house and post-office, Austin, Texas: For fencing, grading, and approaches, $12,000.

Now, is that in continuation of an improvement already in progress?

Mr. BAKER. It is in continuation incontestably of an expenditure previously authorized by law. It is a part and parcel of it. It is absolutely indispensable to the enjoyment of the court-house.

Mr. PAGE. It is not necessary to fence it in or to have a walk to get there.

Mr. BAKER. It is as necessary, it strikes me, and I think it should strike everybody, to have your approaches and fencing and steps and walks around it as it is to have the building itself. It is a rule of law which I have heard mentioned elsewhere, although perhaps it may not avail here, that whatever is necessary to the complete enjoyment of the principal thing is held to attach to whatever is accessory to the principal thing.

Mr. VAN VOORHIS. I do not suppose the gentleman from Indiana would carry that principle so far as to hold that, it being necessary in a court-house to have a judge, under a law to erect a court-house you should pay the judge's salary.

Mr. BAKER. If the judge were a fixture it would be necessary.

Mr. VAN VOORHIS. This is a new proposition just as much as if it were introduced in an independent bill. There is here a proposition to build a fence. Is there any law anywhere authorizing that fence to be built? And what do you want with a fence? If you have a court-house down in Texas, what do you want to fence it in for? Do you want to keep out the wild jaguars and bulls and boars?

Mr. BAKER. It may be necessary to keep the Texas steers out.

Mr. VAN VOORHIS. Now, if you want to build a fence you must have an act to authorize the building of a fence just as much as if you wish to build a court-house you must have an act to authorize that. It seems to me the point of order is well taken.

I am very sorry to hear my distinguished friend who reports the bill from the Committee on Appropriations say that he does not know whether this is in excess of the appropriation allowed for this court-house in Austin, Texas. It seems to me this great Committee on Appropriations that stands back to back to protect the Government ought to know when they bring in a bill here whether the items contained in it are authorized by law or not.

Mr. CANNON, of Illinois. Does the gentleman know whether this increases the appropriation or not?

Mr. VAN VOORHIS. I am told it does. I am told that more than half of these items in this bill which the gentleman who has just spoken has had a part in reporting are in violation of law; are palpably in violation of it. If an alderman had voted for items like these in a common council instead of a member of Congress it would

be a misdemeanor, and he would be indictable and punishable for his act. But this is the committee that arrogates to itself to take care of every appropriation in this House.

I ask the Chair to sustain the point of order so well made by the gentleman from Mississippi that this is an independent proposition to appropriate an independent sum of money for a separate and independent purpose. It cannot be tacked on to the expenditure for a court-house, because a court-house has been built there. Give me a court-house in my city, which has four times the population of the city mentioned here, and we will not ask for any appropriation for approaches; we can find a way into it. And we will not ask any appropriation for a fence, for we will be willing to let in the whole world. We would not want any inclosure, any fence, or anything of that kind. I see no necessity for a fence. The law says this:

All appropriations made for the construction of such building shall be expended within the limitations of the act authorizing the same or limiting the cost thereof.

The law is explicit. It cannot be avoided. That is the law that ought to control the committee in recommending these appropriations. They must keep the appropriations within the limit; and when they exceed the limit they violate the law.

I sympathize with the gentleman from Georgia [Mr. BLOUNT] who reported this bill in his desire to keep down appropriations and in his statement that several appropriations which gentlemen might deem to be necessary ought to be postponed this year, in view of these extraordinary ones that are thrust upon us.

Now, where we have a court-house we can easily postpone the sidewalks and approaches to and about the building. There are millions of dollars in this bill just like this, only worse in some instances, that can be postponed until some other time. Let the people who want these appropriations bring in their bills, have them referred to the Committee on Public Buildings and Grounds, and let that committee examine them and report to the House whether the fences and approaches are needed before we vote the money.

The CHAIRMAN. The Chair is ready to decide the question.

Mr. HOOKER. I desire to say a word before the Chair makes his decision.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. HOOKER. The attention of the Chair has been called to the law enacted in 1877, making provision for the erection of this public building at Austin, Texas. The Chair will observe that by that law it is provided that a public building shall be caused to be erected by the Secretary of the Treasury, provided its cost shall not exceed $100,000.

Now, I will not do the Committee on Appropriations the injustice to suppose that they have come in here with a bill appropriating $12,000 for the completion of the building at Austin, Texas, for the grading, fencing, and approaches of this building, if the hundred thousand dollars has not been exhausted. Surely they will not say that they have done that.

While the point of order I make on this clause of the bill may seem to be made upon an item insignificant in amount, so far as the appropriation is concerned, the Chair and the committee will observe that the same point of order would apply to every single paragraph of this bill on the two succeeding pages. And when we look at the appropriations made by this bill we find, for continuation of the building at Boston, Massachusetts, $350,000; for continuation of the building at Cincinnati, Ohio, $350,000; for continuation of the building at Hartford, Connecticut, $75,000; for continuation of the building at Philadelphia, Pennsylvania, $350,000; for continuation of the building at Saint Louis, Missouri, $350,000; and so on.

I say that unless there is a law in existence which authorizes these appropriations the point of order is well taken. As was well said by my friend from Illinois, [Mr. SINGLETON,] if you cannot move an amendment to this bill making such an appropriation, because it will be obnoxious to the point of order, then a clause in the bill which is reported subject to all points of order for the same purpose would be obnoxious to the same point of order. What cannot be done by amendment, because there is no law authorizing it, cannot be done by the original bill, because it would be obnoxious to the same point of order as the amendment; it would have no law behind it to support it and sustain it. If there is no law to support and sustain the appropriation recommended in this clause, then I submit to the Chair that it is just as obnoxious to a point of order as would be an amendment moved by me to appropriate $100,000 for a public building at Jackson, Mississippi, for which there is a bill already on your Calendar, and which we were not allowed to consider the other day. I say, therefore, that if an amendment which I might offer would be obnoxious to a point of order because there was no law authorizing it, then this clause in the bill is obnoxious to the same point of order.

My friend from Georgia, [Mr. BLOUNT,] who does not technically agree with me on this point of order, called the attention of the committee the other day to the fact that in numerous cases to which he referred the Committee on Appropriations had gone on and exceeded the limit allowed by the law. In this very bill there are appropriations for Boston, Cincinnati, and Hartford, and for various other places, aggregating over $2,000,000, for continuing the erection of those buildings.

The clause to which I now object makes an appropriation, not for continuing the construction of a building, but for something else, for fencing and grading and approaches to it. That may apply to any of the streets that approach it. The $12,000 in this paragraph may be applied, not in continuation of the construction of this public edifice, but for the construction of ways and streets that lead to it. Surely that cannot be done unless there is a law authorizing it.

Mr. GARFIELD. I wish to aid if I can the settlement of this question, for if not properly settled now it will greatly embarrass the further progress of this bill. The rule in the new code is precisely in terms the same as the old rule, to this extent:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

Now, it has never been held that an appropriation to perfect, repair, or continue the necessary parts of a public work already in progress and authorized by law, comes under the prohibition of the rule. For example, we made an appropriation to cut through the walls of the lobby here, in order to enlarge our breathing space in this Hall. No point of order could lie against that, for it was for the repair and betterment of the Capitol of the United States, a building authorized by law.

In the case now pending before the committee, the building at Austin, Texas, has been authorized by law. This is a provision making an appropriation to construct approaches to the building, to make the roads to it, to make steps up to the building, and to grade the grounds about the building. All this is for the perfection or continuation of a work authorized by law. The amount of money granted originally and fixed as the limit of expenditure for the construction of the building did not pertain to the sidewalk, did not pertain to the approaches. That has never been the construction. In all my service here I have never known a point of order sustained by the Chair or by the House against an appropriation of this sort.

Mr. VAN VOORHIS. I wish to ask the gentleman a question. Take the case of the court-house and post-office at Atlanta, Georgia. In 1878 $60,000 was voted to complete the building at Atlanta; in 1879 Congress gave $10,000 for "approaches" to that building; and now in 1880 this bill proposes to appropriate $15,000 more for "approaches." Now, my question is, how many times must we vote appropriations for "approaches" to a court-house before a question of order can be raised?

Mr. GARFIELD. As many times as in the judgment of this House the amount is a proper expenditure to repair, preserve, and render useful a public work.

A year or two ago a fire destroyed a portion of the Patent Office building. We appropriated several hundred thousand dollars to repair that destruction, and even to make betterments in the construction of the building. Nobody thought of raising, for nobody could have raised successfully, a point of order against that appropriation. If we cannot appropriate money to preserve public works in use by the Government, then a point of order can put into decay all the buildings belonging to the United States.

Mr. ATKINS. I would remind the gentleman also that an appropriation was made to fix the roof of the building on Tenth street—the Medical Museum; and no point of order was made on it.

Mr. GARFIELD. Certainly; any building that the Government of the United States owns, any public work that it has ordered, is on the docket of the United States as one of the pieces of public property to be preserved; and it is in order to make appropriations for its preservation. It is of course a matter within the judgment of the House whether the appropriation proposed should be granted or not. If in this case the appropriation ought not to be granted, let it be voted down; but it cannot be ruled out on a point of order.

Mr. VAN VOORHIS. I want to ask the gentleman this question: What is the business of the Committee on Public Buildings and Grounds, if it is not to provide for the preservation of public buildings? How does the Appropriations Committee get jurisdiction of the preservation of public buildings, when we have a committee expressly formed for that purpose?

Mr. GARFIELD. Because the Committee on Appropriations is by the rules of the House and by its order intrusted with the estimates; and those estimates always include the repair and preservation of public property. That is the answer.

Mr. HOOKER. I wish to say a single word in reply to the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Tennessee, [Mr. ATKINS.] The gentleman from Ohio says that the appropriation made for repairs of the Patent Office was not liable to a point of order; and the gentleman from Tennessee says that an appropriation for the improvement of another building referred to by him was not thus liable. But was any point of order made with reference to those matters? I undertake to say that there was not. Nobody raised the question. Therefore these cases can no more be referred to as precedents against the point of order than can the bill passed here the other day by unanimous consent to appropriate $500,000 for the simple purpose of buying a site for a public building in Baltimore be cited as a precedent because no objection or point of order was made. As well might it be said that the bill passed at the instance of my friend from Alabama, when these objectors, so numerous here on Saturday, said nothing in the way of objection, was a precedent because it was passed by unanimous consent.

Mr. ATKINS. The difference is simply this: The building at Baltimore for which an appropriation was made was a new structure

altogether. In this instance the appropriation is merely for the continuation of buildings already ordered by Congress.

Mr. HOOKER. Precisely; and in the cases referred to by the gentleman from Ohio and the gentleman from Tennessee the appropriations were for continuation of improvements already made. But I say the fact that no point of order was made upon them cannot be invoked as a reason why the Chair should now rule against the point of order when it is made.

Mr. BLOUNT. Mr. Chairman I am very glad that my friend from Mississippi has raised this question of order, because there goes along with it this question: when Congress has prescribed that there shall not be any expenditure beyond a given amount for the erection of a public building, and that expenditure has been exceeded, who is liable? I say that it is a piece of arrogance and criminality for a public officer to take the responsibility of placing himself in antagonism to the laws of the land. The man who in the face of an inhibition of law involves the Government in expenditures deserves first to be known and then to be censured. This whole trouble has grown out of false, deceptive, fraudulent estimates sent to the Congress of the United States by a public officer. For instance, I say by high authority which no man will question, that in regard to the War, State, and Navy Department building the plans were made and the estimates of competent officers showed that the expenditures contemplated would be far beyond what Congress would allow. The then Supervising Architect of the Treasury, Mr. Mullett, deliberately and arbitrarily cut down those well-prepared estimates, and Congressmen were made to believe that the building would cost a sum largely below what it has actually cost and what the calculations made by good officers showed that it would cost. This was done to induce the erection of that magnificent structure. The work was commenced by Congress supposing it would cost far less than it has. It went on for years and years before it was developed; and I am authorized in saying now that the very statement of those enumerations of the estimates and cost of that building no man can place his hand on.

This is the trouble as to all of them. We have found ourselves in this attitude. Here is the rule for the continuation of a public building, and we have not felt authorized to stop it. Now, if we have been at fault in that construction it is for this House to restrain us. The limit of the original cost of the original building we did not deem necessary. As we proceed, Mr. Chairman, with the consideration of these matters, I will be able to answer as to the cost of the other buildings.

[Here the hammer fell.]

Mr. CANNON, of Illinois. Mr. Chairman, I do not wish to enter at large on the discussion of the point of order. I am satisfied, so far as I am concerned, to rest the decision of that point of order with the Chair, from the arguments which have already been adduced.

But I do wish to say one word in reply to the gentleman from Georgia. As I understand this point, it is made on a certain clause appropriating money to complete the approaches to a public building at Austin, Texas. I fail to see the necessity, and with all due deference to the gentleman from Georgia, the propriety, after a public officer has been out of office these three or four years, to make an attack upon him when no investigation has been instituted against him at all. I presume much can be said in favor of that officer, but I am not his champion any more than I am his accuser. When brought before Congress, if it is competent for Congress to investigate his public acts, as I have no doubt it is, then it will be time enough to make defense of that officer, if he needs any defense.

Mr. SINGLETON, of Illinois. Mr. Chairman, I desire to say a word on this subject. It seems the only question involved in the point of order raised by the gentleman from Mississippi is whether there is a law authorizing this expenditure or not. If there is no law authorizing the expenditure then the committee have certainly transcended their authority in reporting an appropriation on that subject. As a general principle, this House must govern all expenditures. They must determine by law what amount shall be expended and the purpose for which it is to be expended. It is the duty of the Committee on Appropriations to report all appropriations. Now, there is no law, I understand, authorizing this expenditure, nor is the Committee on Appropriations informed on that point. If so, at least they have not reported to this House whether the appropriation originally made is exhausted. With all their supposed knowledge on the subject of these appropriations, the gentleman who reports this bill comes before the House with no particle of information to give this committee as to what has been done with the appropriation heretofore made. He asks an additional appropriation of $12,000 shall be made—for what? He does not know whether the building is completed or not, but asks an additional appropriation—for what? To make approaches to that public building. Is it not common for cities where public buildings are erected to make these improvements themselves—to make these approaches?

Under the provision of this clause, every dollar of this appropriation may be expended for the purpose of improving a street in the city of Austin leading by or to this court-house. It is indefinite as to how the money is to be expended.

But the main point, and the only point which the Chair must consider in determining this point of order, is this: is there authority of law for this appropriation? Is this committee empowered to come in here and make appropriation not authorized by law? Are members of this committee authorized to propose amendments under the rule making appropriations which are not authorized by law? If you can do the one thing you can do the other. They stand upon precisely the same ground, and gentlemen before they ask us to vote on a subject of this sort should possess themselves of the information which would enlighten this House and enable us to vote understandingly. They claim to be the great reservoirs of legislative knowledge. They are made so by the rules; and when they come to report a bill and ask us to support it, they should come with such information as would enable us to act understandingly on it.

Mr. BLOUNT. What does my friend want?

Mr. SINGLETON, of Illinois. I want to know whether there is any law for this. What has become of the appropriation previously made? I want to know what the committee know on this subject.

Mr. BLOUNT. If my friend will take the report of the Architect of the Treasury, he will find the information he seeks.

Mr. SINGLETON, of Illinois. I want to know what the committee knows, not what the architect says.

Mr. BLOUNT. The gentleman will find that information on page 12 of the report.

The CHAIRMAN. It is plain an appropriation ought not to be reported in a general appropriation bill or allowed as an amendment for any expenditure not previously authorized by law, except in continuation of appropriations for such public works and objects as are already in progress. If the objects mentioned in this paragraph are a part of the building or public work, then it falls within the exception of the rule, and the only difficulty with the Chair is whether fencing, grading, and approaches are, within the meaning of this rule, parts of the public work or building for which appropriation has already been made.

As to the propriety of allowing an appropriation for such purpose, the Chair of course has nothing to do. The Chair has some doubt as to whether the fencing, grading, and approaches to a public building come within the meaning of the rule in reference to the construction of a public building or work; but he prefers to resolve the doubt here in such a way that the Committee of the Whole may be allowed to vote upon the question itself. Therefore the Chair overrules the point of order.

Mr. HOOKER. I move to strike out the clause which appropriates for fencing, grading, and approaches $12,000, in lines 9 and 10 of this bill.

Mr. BURROWS. I move to strike out the pending paragraph.

The CHAIRMAN. The gentleman from Mississippi has already made that motion.

The committee divided; and there were—ayes 17, noes 88.

Mr. SINGLETON, of Illinois. No quorum.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. BLOUNT, and Mr. SINGLETON of Illinois, were appointed.

The committee again divided; and the tellers reported—ayes 19, noes 126.

So (no further count being demanded) the motion to strike out was not agreed to.

The Clerk read as follows:

Custom-house and post-office, Albany, New York: For continuation of building, $90,000.

Mr. COOK. Mr. Chairman, I move to strike out in line 12 the word "ninety" and insert "fifty-five;" so that if amended it will read:

For continuation of building, fifty-five thousand dollars.

The act of Congress authorizing the construction of that building fixed the limit at $500,000. Four hundred and forty-five thousand dollars of that sum has been spent. If $90,000, the amount fixed in this bill, be appropriated now, it will exceed the limit fixed in the original act. If this amount is reduced to $55,000 it will bring the total amount up to the exact limit fixed by the statute providing for that building. And I wish to say now in that there are six other provisions in this bill——

Mr. HOOKER. I desire to reserve the point of order upon this paragraph.

The CHAIRMAN. The Chair thinks the gentleman from Mississippi makes the point of order too late.

Mr. HOOKER. My impression was that when the gentleman from Georgia rose it was his intention to make the point of order against the section or I should have done so at the time.

The CHAIRMAN. The Chair cannot recognize the gentleman from Mississippi now while the gentleman from Georgia is on the floor.

Mr. COOK. I say, Mr. Chairman, that there are six other provisions in this bill appropriating in all the sum of $1,045,000 for the construction of seven public buildings which are over and above the limitation fixed by the law and upon which large sums have already been expended. For instance, at Albany, New York, $35,000 in excess of the amount authorized by law; at Boston, $350,000.

The limit fixed was $1,329,095 for site and $1,500,000 for the construction of the post-office and sub-treasury at Boston. But from that day to this they have expended upon that building the sum of $4,854,295. And yet they now ask an additional appropriation of $350,000 more, after having gone from $654,000, in the first instance, to $5,000,000. They have now in the Treasury, or had in September

last, to the credit of this appropriation nearly $300,000, and yet in the face of all this it is here proposed to appropriate $350,000 more.

Again, when you come to Hartford, Connecticut—and I ask the special attention of the gentleman from Hartford [Mr. HAWLEY] who understood and described so well how the star routes were increasing and how it was necessary to increase the stages, horses, and drivers for a steadily increasing business—for Hartford they ask here an additional sum of $75,000. In 1872 there was a bill limiting the cost of that building to $300,000. In 1874 that limit was increased to $400,000, and since 1874, without any law whatever authorizing it, nothing but a mere appropriation, they have spent $675,000 for that building and now they come in here and ask $75,000 more. If you look into the Book of Estimates sent to the House from the Treasury Department you will see that they ask $125,000 more.

And so with Cincinnati. They have already appropriated for that building $4,100,000, and have a balance of $150,000 in the Treasury still available. They ask now an additional appropriation of $350,000. So at Fall River and at Harrisburgh. At Saint Louis they propose an additional appropriation of $350,000, although $1,050,000 has already been expended in excess of the original estimates. Again, at Utica, New York, and Nashville, Tennessee, it is the same way. I will not enter into details at all these different points in the short time allowed for discussion under the five-minute rule. The law fixed the limit to every one of these buildings, and it went to the Appropriations Committee thus fixed; and before a dollar should have been appropriated the law required that the Architect of the Treasury should file his plans and specifications, to be approved by the Secretary of the Interior, by the Postmaster-General, and by the Secretary of the Treasury. That is the law, but they come before this committee now and ask this excess of appropriations over the original act.

Now, I ask if the Committee on Appropriations investigated one solitary one of these buildings? Have you shown, or have you examined into the matter to show, how Hartford went from $300,000 to $675,000? And this bill, if passed, will make it $750,000. Have they examined as to what was the cost of this? Have they determined that it was the advance of material, the destruction of the building put up, or how it has been that in each of these buildings, where the amount of cost was limited by the original law, there has been such an enormous expenditure beyond that limit. Who is responsible? I say the Committee on Appropriations are bound in good faith to the Government and the country when they come in with a bill of this kind to show from the plans and specifications that they have examined the subject thoroughly and are able to give the information about it which the House and the country demand; that they should be able to give from the plans and specifications that they have had before them all the information necessary before they agree to appropriate a dollar for any such purpose. Take the building in New York, the post-office there. That was started at an expense of $2,000,000 and went to $4,000,000, and they have expended $5,000,000 on it—more than was asked for in all of the forty public buildings brought before this body on Saturday.

I have no objection to it, but I say that all this wasteful and extravagant expenditure of the public money for public buildings has been the result of the course pursued by the Appropriations Committee in not examining in detail as to all these buildings. Half a dozen gentlemen representing these districts are upon the Appropriations Committee, but they are like a good friend of mine who was here from Indiana when I first came to this House five or six years ago, who claimed to be known as the watch-dog of the Treasury, but he never barked when his own family were about. [Laughter.]

I ask the Appropriations Committee to give us explanations in detail, and I hope the gentleman from Hartford will give us the benefit of his experience in raising the expenditure on buildings from $300,000 to $700,000. One of those star bidders must have landed there. My amendment brings the appropriation within the limits authorized by law.

Mr. BAILEY. I am very much surprised that my genial, clever, good-natured friend from Georgia, a State which has added so much luster to the American Union by its Representatives in this House and preceding Houses, should see fit to attack an appropriation of $90,000 for the continuation of a Government building in the city of Albany, a city second to none in the country, a city standing on the banks of the Hudson where the State is expending $20,000,000 in erecting a State capitol, and where the people only ask the Federal Government $500,000 or $600,000 for the erection of a public building.

My friend from Georgia says this amount is limited to $500,000 and therefore this appropriation ought to be cut down. If my friend will look along to Atlanta, Georgia—I do not know who has the honor to represent that district——

Mr. COOK. I do not represent it.

Mr. BAILEY. But I do know the gentleman is interested in that prosperous city, and if he will look at the estimate he will find the amount to be expended on that building is limited to $110,000 and there has already been appropriated for it $260,000. And as my colleague stated here awhile ago, $10,000 was appropriated last year for grading, &c., and $15,000, the whole amount asked for by the Secretary of the Treasury's estimate, is again put in this bill.

Mr. COOK. If the gentleman from New York will permit me——

Mr. BAILEY. I do not want the gentleman from Georgia to suppose that I am finding any fault with it.

Mr. COOK. I do not suppose you want to make any misrepresentation?

Mr. BAILEY. Certainly not.

Mr. COOK. If the gentleman will look at the law in regard to the public building at Atlanta he will find that on June 23, 1874, the limit was extended to $250,000. The gentleman ought to be fair.

Mr. BAILEY. Mr. Chairman, this building at Albany is up one story. The stone has been contracted for and purchased and is on the ground. Now if it is economy for the American people to half erect a building, if it is economy for the people to put up a building one story only or to leave it to go to ruin, all right; but I know this House is not ready to do that. And I believe those gentlemen will be disappointed who seek here to obtain a reputation by cutting down proper public expenditures in the erection of public buildings or by opposing them for any sectional purpose. I voted for the last paragraph to appropriate money for the court-house at Texas. I will vote for any State that has a public building in process of erection. I believe it to be true economy in this Congress to vote such sums of money as may be necessary to properly erect and construct public buildings, no matter whether they are located in the South, in the North, or in the East, or in any other section of the country. We must not commence to retrench public expenditures in this sort of way.

Mr. HOOKER. Will the gentleman yield to me for a question?

Mr. BAILEY. Certainly.

Mr. HOOKER. Does the gentleman see any justice in appropriating another $90,000 for a building at Albany, New York, after the large amounts already expended there, while you refuse even to consider a proposition to appropriate $100,000 as the entire cost of a public building at Jackson, Mississippi?

Mr. BAILEY. I am ready now and at any time, if Jackson, Mississippi, needs a public building, to vote for it. But if gentlemen are to suppose that they are to get public buildings at Jackson, Mississippi, and in other localities by refusing or declining to vote for these proper estimates of the Secretary of the Treasury, and these just and fair reports of the Appropriations Committee, I tell them they are making a mistake, if I understand the temper of this House.

Mr. HOOKER. The Secretary of the Treasury estimated also for Jackson, Mississippi; and you refused last Saturday to consider the proposition for an appropriation for a public building in that city.

Mr. BAILEY. The objection came from your own side of the House.

Mr. HOOKER. And was helped very much from your side.

Mr. BLOUNT. Where are the estimates?

Mr. HOOKER. Hold level and tote fair on this, and you will get your appropriations; otherwise you will not.

Mr. BREWER. Mr. Chairman, during my short experience in this House I have become satisfied that our legislation relating to the construction of public buildings is the very worst that can be devised; that our system of constructing such public buildings is indefensible, and that the appropriations therefor are wasteful and extravagant. In proof of this statement I desire to call the attention of the House to a few facts stated by the Supervising Architect of the Treasury in his annual report for 1879, wherein he speaks of the acts authorizing the construction of certain public buildings and the limitations prescribed for the cost thereof and the appropriations therefor.

COURT-HOUSE AND POST-OFFICE, ATLANTA, GEORGIA.

February 12, 1873, construction of building authorized and the cost limited therefor to $110,000. Total amount appropriated so far, $260,000, or $150,000 above the amount limited therefor; and the *building is uncompleted.*

POST-OFFICE AND SUB-TREASURY, BOSTON, MASSACHUSETTS.

April 3, 1870, construction of building authorized and cost limited to $1,500,000. Amount expended for site, $1,329,195.84. Amount appropriated so far for building alone, $3,525,190.22. Building uncompleted.

CUSTOM-HOUSE, CHARLESTON, SOUTH CAROLINA.

Amount expended on same before the war, $1,939,198.46. July 15, 1870, completion of building authorized and cost limited therefor to $398,855.46. Amount since appropriated to complete same, $698,945.43.

CUSTOM-HOUSE, SUB-TREASURY, ETC., CHICAGO, ILLINOIS.

December 21, 1871, construction of building authorized and cost therefor limited to $4,000,000. Amount already appropriated for site, $1,259,385.65; amount already appropriated for building and site, $5,675,000, and building uncompleted.

CUSTOM-HOUSE AND POST-OFFICE, CINCINNATI, OHIO.

June 10, 1872, construction of building authorized and cost of site and building limited to $2,250,000. Amount already appropriated, $4,100,000. It is estimated that it will take $500,000 more to complete the building.

COURT-HOUSE AND POST-OFFICE, COVINGTON, KENTUCKY.

February 17, 1873, construction of the building authorized and cost for the site and building limited to $130,000. Amount already appropriated for building and site, $305,000. Building uncompleted.

POST-OFFICE, DOVER, DELAWARE.

February 23, 1873, construction of building authorized and cost

of site and building limited to $40,000. Amount since appropriated for same, $62,000.

CUSTOM-HOUSE AND POST-OFFICE, FALL RIVER, MASSACHUSETTS.

May 21, 1872, construction of building authorized and cost of site and building limited to $200,000. Amount since appropriated for same, $440,000. Estimated amount to complete same, $50,000.

CUSTOM-HOUSE AND POST-OFFICE, HARTFORD, CONNECTICUT.

March 18, 1872, construction of building authorized and cost thereof limited to $300,000. Site donated by city. Amount appropriated so far for building, $675,000, which sum is nearly exhausted, and the roof is not yet on the structure. Estimated amount to complete same, $125,000.

CUSTOM-HOUSE AND POST-OFFICE, LITTLE ROCK, ARKANSAS.

June 17, 1872, construction of building authorized and cost of building and site limited to $100,000. Amount since appropriated for same, $200,000. Building uncompleted. Amount estimated to complete same, $30,000.

CUSTOM-HOUSE, POST-OFFICE, AND COURT-HOUSE, NASHVILLE, TENNESSEE.

January 24, 1873, construction of building authorized and cost thereof limited to $150,000. Amount already appropriated, $328,000, and building uncompleted. Estimated amount to complete same, $50,000.

CUSTOM-HOUSE, NEW ORLEANS, LOUISIANA.

Expended on same before the war, $2,929,264.50. March 3, 1871, completion of building authorized and the amount of cost therefor limited to $620,000. Amount already appropriated to complete same, $1,113,327.85.

COURT-HOUSE AND POST-OFFICE, NEW YORK.

Amount appropriated so far for building and site, $9,058,881.28. Building uncompleted.

There does not seem to have been any limit fixed by law for the cost of this building; and I suppose its cost will only cease when Congress refuses to appropriate therefor.

COURT-HOUSE AND POST-OFFICE, PHILADELPHIA.

March 3, 1873, construction of building authorized and the cost of building and site limited to $3,000,000. Amount already appropriated for same, $4,550,000. Building uncompleted, and the architect fails to state how far it is advanced. Without doubt Philadelphia is trying to eclipse New York in the expense of her public building.

CUSTOM-HOUSE AND POST-OFFICE, ROCKLAND, MAINE.

May 17, 1872, construction of building authorized, and cost of site and building limited to $50,000. Amount appropriated for same, $145,000.

CUSTOM-HOUSE, ETC., SAINT LOUIS, MISSOURI.

March 27, 1872, construction of building authorized, and the cost thereof limited to $1,750,000. Amount already appropriated for same, $4,681,117.35.

COURT-HOUSE AND POST-OFFICE, TRENTON, NEW JERSEY.

March 3, 1871, construction of building authorized, and the cost of building and site limited to $100,000. Amount appropriated so far for same, $410,000. The architect fails to state whether the building is completed or not.

These statements might be continued, for the cost of nearly every public building has largely exceeded the amount limited therefor; but I have given enough to show the system which has been adopted in procuring the passage of bills authorizing the construction of our public buildings and the manner of constructing the same. The limitation for the cost thereof has usually been fixed, in each case, at a comparatively reasonable amount, in order that the bill authorizing the construction thereof should pass without opposition; but after such bills have become a law and the construction of the building is begun it has seemed an easy matter to get the limitation increased, or to get appropriations to an amount from two to five times the sum originally fixed for the cost of the building. It might well be said that this limitation is usually fixed by the authors of such bills to deceive Congress, or else fixed by Congress to deceive the country. The whole system of such legislation is deceptive, and unworthy of any legislative body. One of the first steps usually taken to procure a public building in a certain locality where it would not otherwise be warranted is to secure the aid of the Judiciary Committees of the Senate and House and have such committees report a bill to establish a United States court at such point. These committees seem perfectly willing to have such courts established at such points as solicit the same. Although the means of transportation and travel are much cheaper and more convenient than formerly, yet we are increasing the points where such courts are to be held from day to day, and when the court is once established at a place there must be a court-house to hold the court in, and rooms for the clerk and marshal and other officers, and all the paraphernalia surrounding such a court must be supplied. Where no court can be thus established it is insisted that a public building is necessary for a post-office and in order that some gentleman holding a commission as United States commissioner may have a suitable place for an office, at the expense of the Government, in which he can attend to his own private business. I am satisfied that if any one will take the trouble to examine into the matter he will find that many public buildings are constructed where they are not really needed, and that such buildings cost from 25 to 50 per cent. more than they would if properly and economically built. I do not know how many public buildings are now in process of erection, but it is well known that there is a large number, and some which were commenced in 1872 are still uncompleted and useless for the purposes for which they were contemplated. That they are uncompleted may be the fault of the Treasury Department, but I apprehend the fault is with Congress in failing to appropriate the money therefor. It has been thought by Congress, at least by the Committee on Appropriations, that the revenues of the Government would not warrant any greater appropriations for that purpose. Notwithstanding these facts I understand the Committee on Public Buildings and Grounds has reported bills authorizing the construction of some fifty new buildings during the present session.

Some of these buildings are to be constructed in small towns of from three to twelve thousand inhabitants, where there are no United States courts held or customs duties to be collected, but such building is asked for simply for a post-office and perhaps for the office of some deputy collector of internal revenue or United States commissioner. There must be many localities where the needs of a public building is far greater than at such small places as I have mentioned. We should not, in my judgment, authorize the construction of these buildings any faster than the means can be devised for the same. Complete what we have commenced, and refuse to authorize the construction of others except in the most needy localities, and as the means of the Government will permit, should be the policy of Congress, as it would be the policy of good, practical business men. Instead of this we seem to authorize the erection of our public buildings in many places simply upon the solicitation of members that they personally may be strengthened with their constituents, and thus aided in a renomination or re-election. I understand perfectly well the fact that these measures which authorize the construction of our public buildings are strengthened in the House by the increase of their number, as the passage of our river and harbor bills are insured by giving a portion of the money to nearly every district. The people whom I have the honor to represent have no rivers or harbors to improve, and they ask for the construction of no public building in their midst; still they are not opposed to the improvement of rivers and harbors or the construction of public buildings when they are really necessary, but they are opposed to the policy pursued by Congress in appropriating money to improve streams that are too unimportant to be named on our maps and harbors that can have no commerce when improved. They are opposed to the construction of public buildings when not really needed, as they are opposed to the dividing up of the money appropriated for public buildings among so many localities that eight and ten years are consumed in their construction.

Every building the completion of which is not to cost to exceed $500,000 should be completed in at least three years from the time its erection is authorized by Congress. Is there not some remedy for this ruinous policy of having our public buildings cost the Government so much more than the amount limited when their construction is authorized? This question I had hoped the Committee on Public Buildings and Grounds, or the Committee on Expenditures on Public Buildings would have answered long ago, and devised some remedy ere this; but the Committee on Public Buildings and Grounds seems to have been too busy in devising measures for new buildings to trouble itself about the cost of buildings already in process of construction; while the Committee on Expenditures on Public Buildings seems, like many other committees of the House, to have been created for ornamental purposes only. I attempted some time ago by a resolution to get the judgment and views of the Supervising Architect of the Treasury as to why our public buildings cost so much more than the amount limited for their construction; but upon objection being made the resolution went to the Committee on Public Buildings and Grounds, and when reported back to the House it was shorn of its usefulness, and instead of having the information which the architect should furnish in reply to the resolution sent to the House, the architect was directed to send it to said committee, so that neither the House nor the country will ever know what answer has been given to the resolution.

Section 3733 of our Revised Statutes provides that—

> No contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose.

This law prohibits the letting of a contract for the entire construction and completion of a building at one time unless all the money is appropriated when said contract is let. This is wrong in principle, and it is found to be expensive in practice so far as it applies to the erection of public buildings. If the law which I have cited was amended so as to provide that no contract should be entered into for the erection of any public building so as to bind the Government to pay a larger sum of money than the amount *specified by law as the total cost of such building when completed*, it would allow the letting of the erection and completion of such building all in one entire contract, instead of contracting with one man for the stone and another for cutting the stone and another for furnishing the brick, &c. Section 3734 provides that—

> Before any new buildings for the use of the United States are commenced, the plans and full estimates therefor shall be prepared and approved by the Secretary of the Treasury, the Postmaster-General, and the Secretary of the Interior; and the cost of each building shall not exceed the amount of such estimate.

It will be seen from this that the law does not compel the estimates to be within the amount limited by law for the erection of any such building; and this is the main reason why our public buildings cost so much more than was contemplated when their erection was authorized. The system adopted in my own State has been such as I have suggested, and has worked to the entire satisfaction of our people. The contract for the complete construction of a public building is let as an entirety and not parceled out by the State. The total cost of the building is fixed by law when its construction is authorized; and the plans and specifications are prepared for such a building as can be completed within the limited cost.

This is the current system, and I hazard nothing in saying that the public buildings in Michigan are constructed with much greater economy than those constructed by the General Government. Michigan has recently completed its new capitol, which is the pride of the State. It is a magnificent building and would be an ornament to any Commonwealth. Its total cost to the State, furnished as it is in gorgeous style and ready for occupancy, was a trifle less than $1,500,000. Michigan, with a population of one million five hundred thousand people, builds and furnishes its capitol building for $1,500,000, or $1 to each individual; while the Government builds a post-office and sub-treasury in Boston costing nearly $5,000,000; a custom-house and sub-treasury in Chicago costing nearly $6,000,000; a custom-house, post-office, &c., in Cincinnati costing nearly $5,000,000; a post-office in New York costing $9,000,000. This statement exhibits a fair comparison of the standard of practical economy as between the United States and the State of Michigan. In Michigan the purse has been controlled by the republican party for twenty-five years, while the purse of the Government of the United States has, for the last six years, and during the time the most of the abuses alluded to have occurred, been controlled by the self-styled *reform* democratic party. One system is that of a party which practices true economy; while the other is the system of a party which cries "reform" for votes, but whose practices only need be shown to exhibit the deception of the party itself.

Mr. Chairman, the democratic party gained control of this House in 1874 under the deceptive cry of "reform;" but the facts I have stated fully show the manner in which that party proceeds to reform abuses. It charged that the expenditures of the legislative and executive departments of the Government were exorbitant; but when and where has it decreased those expenditures? Certainly not in the legislative department, for there are more officers and employés in and about the Capitol to-day than ever before. This House is continually increasing its committees seemingly for the purpose of giving members of the majority more prominent places. It has increased the number of clerks and other employés to an extent never before known. It has created committees to investigate every conceivable subject, and they roam over the country at their own pleasure, at the expense of the people. It permits its own committees to retain hangers-on without warrant of law, and at the close of its sessions authorizes their payment from the contingent fund until Congress is compelled to appropriate to that fund annually an amount large enough to alone support a respectable government. I doubt whether the people can longer be deceived by these pretenses of the democratic party. Sir, I cannot give my support to any measure authorizing the construction of a public building until some law is enacted changing the ruinous policy adopted in the construction of such buildings.

Mr. BLOUNT. I regret that my colleague [Mr. COOK] has seen fit to arraign the Committee on Appropriations at this time and in the manner which he has done. He has been on the Committee on Public Buildings and Grounds for, I think, nearly five years. He is presumed to have known this information, and while these great outrages, as he terms them, have been perpetrated, my friend and colleague has suddenly discovered the matter and calls the attention of the country to it.

He has taken occasion to express his regret that the Committee on Appropriations did not see fit to acquaint themselves in regard to these things. Sir, my colleague should have had liberality enough to have supposed that the knowledge which he claims to possess upon this subject is not the exclusive knowledge of his committee, but belongs as well to many members of this House. The Architect of the Treasury has given us the information which my friend assumes to give us now, and much more, in a book which is before us, and which has been thoroughly examined in our committee.

When my friend from Mississippi [Mr. HOOKER] a moment ago asked me about the legislation in regard to these matters I did not answer promptly, not supposing that it had any relation to the question before the House. So far as the issue he has made is concerned, as to whether or not it is legitimate for the Committee on Appropriations to go beyond the limit fixed by law in these cases, I will say that that matter has been discussed many times. The question has been raised and discussed at length by gentlemen on both sides of the House, and it has been decided by the House. It is well understood, and I do not care to return to it.

The Committee on Appropriations, in the item now under consideration, have recommended about the same amount which they recommended last year. We have kept in view the general purpose of restraining expenditures within as narrow limits as could reasonably be done, with a due regard to the good of the public service; and therefore we have allowed in this case as much as we did before.

Mr. MILLS. Will the gentleman allow me to ask him a question?

Mr. BLOUNT. Certainly.

Mr. MILLS. Is it contemplated that the appropriations here made will complete all these public buildings?

Mr. BLOUNT. They will complete several of them; not all.

Mr. MILLS. How much more money will be required for the public building at New York?

Mr. BLOUNT. The gentleman will see that it is impossible for me to carry all these figures in my mind. If the gentleman will send for the annual report of the Supervising Architect of the Treasury, he will find, on pages 13, 14, and 15, every law authorizing the construction of a public building, every dollar heretofore appropriated for those buildings, and estimates of the amounts to complete them.

Mr. MILLS. How much is it estimated the building will cost when completed?

Mr. BLOUNT. That is not estimated at all. As my friend will see, all that we can do (for we cannot act as architects) is to take the information coming from the Treasury Department, which comes here as an estimate of the amount needed for a given year to continue the progress of the building on existing plans. That is as far as it is necessary for the Committee on Appropriations to go, and therefore as far as we have gone.

Mr. BREWER. I withdraw the *pro forma* amendment.

Mr. CANNON, of Illinois. I renew the amendment. For six or seven or eight years—in fact ever since I have been a member of the House—I have been hearing this same kind of talk about public buildings. It is not new to my ears; and as the years roll around the abuse still continues. I suspect it arises in part from the desire of individual members of Congress to get good buildings in their respective districts or States, these members in turn conceding to others the same thing, and in part from the fact that we authorize a large number of public buildings and then dole out the money year by year, paying almost half as much for salaries for protecting materials, for restoring materials made useless by exposure to the elements, as it costs to construct the building. I think that this whole system ought to be reformed, that we ought only to erect buildings where they are absolutely necessary, and where, with our revenues, we can afford to erect them; and then we ought to construct them as fast as a private individual would carry forward to completion a building in which he was interested. This should be our system instead of working along from year to year during four, six, eight, or ten years, expending as much in salaries and losses upon materials as it ought to cost to construct the buildings.

This abuse led me on Saturday last to vote against the Committee on Public Buildings and Grounds when they came in here and wanted to authorize forty-two more public buildings—forty-two more structures the erection of which should extend during four, six, eight, or ten years. I antagonized that committee so far as my vote would go, and I am glad I did so. I have no doubt that the committee has made favorable reports as to some places where there ought to be public buildings constructed. In such cases I stand ready to vote for the structures, but I am not ready to commence the wholesale construction of public buildings in the manner in which they have been carried on heretofore. From facts which have been given by the Committee on Appropriations, which is the mere organ of the House and reports these measures for the decision of the House, it occurs to me that the opposition on the part of some gentlemen to items contained in this bill does not come in good taste; that probably they are not economists pure and simple, but are economists "over the left," for the reason that forty-two other buildings which they have advocated are not appropriated for; in other words, because the "pork" was not divided into forty-two more pieces.

Mr. REAGAN. Mr. Chairman, I am not a member of the Committee on Appropriations, and I did not vote as the gentleman from Illinois [Mr. CANNON] tells us he voted when the filibustering was going on last Saturday to prevent the judgment of the House from being taken upon the propriety of commencing the construction of public buildings called for by the necessities of the public service and recommended by the Committee on Public Buildings and Grounds. I would call to the attention of the gentleman from Illinois and others another fact, which he has not spoken of. Here in the Book of Estimates are estimates for public buildings this year amounting to $2,447,000; and if we omit the public building at Saint Louis, only $206,000 of the $2,447,000 is allowed for the whole body of the Southern States from the Potomac to the Rio Grande. Now, does the gentleman think it fair and just to continue appropriations at the rate of $350,000 apiece for at least four public buildings, to continue other public works of a costly character, and at the same time to refuse by "filibustering" to permit even the consideration of bills reported to this House by the Committee on Public Buildings and Grounds? This sets the question in a form in which possibly the gentleman will understand it. I say to him and to all that so long as there is an absolute refusal to consider bills making appropriations for other public buildings where the public service requires them, and where they have been recommended by the appropriate committee, I shall, so far as I am concerned, refuse to vote appropriations for works which have already been started.

Mr. BLOUNT. Did my friend state that the building at Saint Louis is the only building in the Southern States for which we recommended an appropriation?

Mr. REAGAN. No, sir. I said that the estimates to which the Committee on Appropriations have adhered pretty closely, though not entirely, propose an expenditure of $2,447,000, of which, if Saint Louis be excluded, the South would receive the enormous sum of $206,000.

Mr. BLOUNT. Because several of those southern buildings are just about completed.

Mr. REAGAN. Oh, no; some of them have never been started.

Mr. CANNON, of Illinois. I withdraw the *pro forma* amendment.

Mr. PAGE. I renew the amendment for the purpose of saying that during this discussion I have been revolving in my mind the difference between an appropriation for public buildings and an appropriation for any other legitimate purpose of the Government, and I have been endeavoring to ascertain whether it is any more a violation of law for an officer of the Government to expend $600,000 in completing a building which the law has said should not cost more than $500,000 than it is for the Post-Office Department to expend in nine months as much money as Congress had appropriated for the whole year. I understand from the remarks made by the gentleman from Georgia [Mr. COOK] that the cost of many of these public buildings was limited in the original act to a certain amount of money, and that they have already cost far in excess of the amount originally appropriated. I expected to hear my friend from Connecticut and my friend from Georgia and other members of this committee denounce these officers of the Government, as I understand they do.

Mr. BLOUNT. I have done so.

Mr. PAGE. But they do not refuse to take the money. They condemn the action of the officers of the Government, and yet my friend from Connecticut will not refuse to have this money appropriated to complete the building or continue the building at Hartford.

I say, Mr. Chairman, while sitting here I am impressed more and more with the fact that it makes a great deal of difference in this Congress whose ox is gored. If it does not apply to public buildings in certain districts, it is all right; but when it refers to the great postal service of the country, and because the Postmaster-General has exceeded authority by making contracts involving an expenditure greater during the fiscal year than the amount appropriated by Congress, my friend from Connecticut was clamorous almost for his impeachment. We said, he may have done wrong, but do not cut off our mail service because he has done wrong.

I have no doubt my friend from Connecticut will condemn this sort of business, but at the same time he wants this appropriation as we want ours to continue the star service of the country. I wish only to call the attention of the country to these facts. I wish to say I am in favor of appropriating sufficient to continue these improvements. I am in favor of appropriating for new buildings when they are necessary for the public service. I am not here for the purpose of condemning the action of the committee, but simply to call the attention of the House and of the country to the inconsistency of the Committee on Appropriations when in one case they say that no appropriation shall be made but they will disturb the postal service of the country because the Postmaster-General has exceeded his authority, while in the other they will appropriate more money than has been provided for under the original act. While that is so I hear no condemnation of the inconsistency. They do not propose this building shall stop where it is. That would not do; and I recognize the fact that you must go on and build it although the architect has exceeded what was originally contemplated should be appropriated for the purpose indicated.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Chairman, I believe there is but one greater scandal (I mean the river and harbor business) connected with the administration of our Government than this one concerning the erection of public buildings in various portions of the country. I was struck with the viciousness of the system six years ago when I came here and in my greenness attempted, on repeated occasions, to impress upon the House some consciousness of the embarrassment impending.

The gentleman from Kentucky [Mr. WILLIS] has placed every member of this House and the country under great obligations to him for tabulating, in a recent speech, the enormous cost of certain public buildings in our leading cities. First, New York has public buildings which have cost $10,978,000; Boston, $6,000,000; Philadelphia, $5,600,000; Cincinnati—but I will come to my point at once. Brooklyn, the third city in the Union, has not a Federal brick in it and never will have, in my judgment, until some other policy is adopted than that which has been pursued in this House last year and this. Last year a log-rolling scheme, the worst I ever heard of in Congress, was brought on the floor of this House. It was proposed to erect first ten, then it grew to sixteen or eighteen public buildings, in one bill. They were each limited as strictly as language could limit them to specific sums. The Brooklyn building was limited to $250,000 in language as strict as language could limit it. My colleague brought it to me and asked me to support it. I said, "No; that is not right. You know you cannot buy the land for a proper public building in Brooklyn for less than $300,000 and probably $400,000." He replied, "Oh, that is all right; it is the usual way. I will go and see about it." He went and came back and said it was all right. I told him that I would oppose it, although the money was to be spent in my district. I believed then, and know now, that if Brooklyn had kept out of that pool she might have had a building underway, as Baltimore and Pittsburgh have at the present moment. Brooklyn's claims are the best. It is a matter of no consequence to inform the House that the gentleman has never condescended to speak to me since. But I am here to-day to repeat what I said then. I never will, let what will happen, vote for an appropriation for a public building for my city and district with concealment of its probable ultimate cost.

What I now say is that common honesty is not employed in the constructing of these public buildings. The gentleman from Georgia [Mr. BLOUNT] has exposed the wrong, and we cannot live as an honest and free people unless the representatives of the people come to their senses on this subject. In Heaven's name, why come here and ask for a building to cost "not to exceed" $300,000, and go home and tell your constituents, "Oh, we will get a million more by and by?" [Laughter.]

The CHAIRMAN. The gentleman's time has expired.

Mr. CHITTENDEN. I ask unanimous consent to occupy two minutes more for a special purpose. I want to change my subject.

Mr. RYON of Pennsylvania. I object.

Mr. PAGE. I withdraw the formal amendment.

Mr. MILLS. I renew it, and will yield my time to the gentleman from New York.

Mr. CHITTENDEN. We have in our country, in my belief, a practical tariff confederacy of prodigious power prejudicial to the highest welfare of the whole people. I hold in my hand a paper which was first prepared to show that the funding bill reported by the Committee on Ways and Means was of no immediate importance to anybody except Wall street speculators. When the funding debate was abandoned last week, with the tariff debate looming up, I revised the paper, and now, with adjournment probable without a tariff debate, the question arises what is to become of my bantling? [Laughter.] Shall it go to the waste-room or shall it go into the CONGRESSIONAL RECORD? As I have never yet asked leave to print a silent speech the thought of doing it is very disagreeable to me. [Laughter.] But I firmly believe, Mr. Chairman, there are enough grains of truth in this paper to split asunder the tariff junta forever before next winter if wisely employed, and pave the way for better revenue laws; and in that faith I humble myself and ask permission to print my unspoken appeal for tariff reform in the RECORD of to-morrow morning. [Laughter.]

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. CONGER. Mr. Chairman, if the results are as serious as what the gentleman threatens them to be, perhaps that speech had better be kept closely under guard somewhere. [Laughter.]

The CHAIRMAN. Does the gentleman from Michigan object?

Mr. CONGER. No, no. I only want to ask the gentleman if the speech is as dangerous as he says; but, as I understand him to say that it is not very dangerous after all, then I withdraw the objection. [Laughter.]

Mr. CHITTENDEN. Mr. Chairman, the gross amount of the national debt on the 1st of September, 1865, was $2,756,000,000, fractions omitted. The amount of the debt uncovered by cash in the Treasury on the first day of this month was $1,968,000,000. It is estimated by experts that of this gross sum from thirty to fifty millions of fractional and other paper tokens have been destroyed; so that we have not more than $1,938,000,000 to provide for in all the future. These figures show that we have paid up to the 1st of May seven hundred and eighty-eight millions of the national debt in less than fifteen years.

This simple statement is to the point, and should silence gentlemen who, in this debate or elsewhere, have sounded the senseless slogan of a permanent national debt. That idea is a phantom too ridiculous for any one to harp upon, unless the gentleman from Iowa [Mr. WEAVER] be the sole exception. I except him, because he was indiscreet enough to say in his place the other day that I did not want the debt paid.

Week by week the Treasury of the United States demonstrates afresh its power to extinguish rapidly, by honest methods, the war debt. We paid fourteen millions in March, twelve millions in April, and it looks like fifteen millions for May. Can one man be found, who pays his own debts by honest methods, who will object to this policy? Moreover, we not only triumph in our debt-paying power, but we are the only great nation on earth loaded with a war debt that possesses either the means or will to pay the same. There are five or six foreign nations whose respective debts each exceed our own, but not one of them have means at command to pay more than their annual interest regularly. Great Britain, whose debt is more than twice as large as ours to-day, occasionally pays a few thousand pounds sterling of the principal.

The United States are an example, therefore, to the whole world—a people possessing ample means, coupled with a fixed purpose to extinguish their war debt. I believe it would be no hardship but a wholesome economic check to our exuberant and hurried spirit of development if we were forced to pay at least $50,000,000 every year until the last dollar of the national debt is paid. It follows of absolute necessity that our credit is, and will continue to be, the best in the world unless injured by short-sighted and ill-advised legislation. Just here is our only danger. The advocates of injurious legislation scored 85 votes against 117 in this House a few weeks ago. But we

remember a darker day than that, when the manufacturers of dishonest money scored 163 to 34. It was the memorable 5th of November, 1877. The 34 have been continually hooted and twitted here from that day to this as false prophets, because the evils of unlimited silver coinage have not come yet. The silver wiseacres have abused us for two years and a half as if their foolish and reprehensible bill which passed the House but did not pass the Senate actually became a law. This is a fair exhibit of the justice rendered the advocates of honest money by the advocates of a depreciated currency. But, nevertheless, truth and right are marching on. We have 117 votes in 1880 where we had but 34 in 1877. Ours is also pre-eminently the most prosperous nation in the world and bound to continue so against all obstacles of legislation. The country is safe for the reason my colleague [Mr. COX] wittily gives for the failure of the corn laws of England, in his latest and brightest book. "The effort to outwit the natural laws of trade failed, as it must always fail," says my colleague. Yes, the natural laws of trade are always omnipotent against foolish laws of Congress.

Moreover, the people are honest and only require to know the truth. To that end it is necessary for Congress to treat great economic questions frankly, fearlessly, and truthfully. Of three such questions the immediate refunding of the remainder of the national debt is of the least significance. The currency and tariff are manifestly of much greater importance. Unfortunately the silver-dollar business is in abeyance until after the pending presidential election, while the tariff is well-nigh master of Congress and the country.

As I may not have a better opportunity I am tempted to say a few words about the tariff. I confidently assume that the tariff bill (No. 6188) cannot receive the approval of Congress or the country. Its friends will not claim that it is a well-considered and comprehensive reform measure. It is at best an expedient, the *dernier ressort* of a tedious, fruitless struggle in the Committee on Ways and Means to improve the existing tariff. As an expedient, it strikes me as a sort of random shot, so to speak, of sufficient reach and force to do serious mischief, sure also to bring disaster and reaction. I shall not waste time in showing that the bill ought not to pass, for I do not believe it has any chance. The question arises, have we no remedy, no power at all to deal with existing tariff evils? To this question I shall speak briefly, but as pointedly as possible.

In the first place, I wish to recognize the fact that the American people possess and occupy a magnificent continent, nearly all their own, wholly devoted to home free trade. We have of our own nearly every good climate and thing which were made for the Garden of Eden, and with the populations here and coming there is no other inheritance so rich, free, and expansive as ours in the universe.

It is very clear that no such necessity presses us as forced England, under the lead of Peel, Cobden, and Bright, to subsidize the trade of other nations. The United States can live and thrive without a ship. If the heathen overrun us, we may still prosper, though vexed and hurt *with the disreputable Chinese currency*. It is our grand privilege, however, to work and speak for a nobler destiny than that. I believe in a revenue tariff sufficiently productive to pay at least fifty millions of the national debt yearly and support the Government in a liberal and aggressive policy in respect to all proper public works.

But I regard the present tariff as a ridiculous relic of the cruel civil war. Its mysteries, absurdities, and exactions are a great unknown quantity, far beyond the knowledge of Congress. The inherent evils of it are so mixed and vast, so demoralizing and powerful, that no Congress of two years can ever be equal to its thorough and wise revision. I submit, Mr. Chairman, that the repeal of the tax on quinine last year is a petty but useful lesson to Congress and the country. What next?

If I were master I would certainly do something before the adjournment of this session of Congress. To conciliate the press and magnify its power to raise a useful breeze over a matter of trivial importance, I would admit wood pulp at 10 per cent.; I would terminate the bitter sugar war by enacting the substance of Mr. CARLISLE's bill. It must come to about that in the end, and the sooner the better. I would fix the tax on steel rails at one cent per pound, and on wools, classes 1, 2, and 3, as the bill No. 6188 provides; I would limit the duties on all goods made of silk, cotton, and wool, including carpetings, to 50 per cent. *ad valorem*, as the maximum for the present. All this seems very little, but there is more of it than appears. It is a step in the right direction; once taken, never, never to be retraced! It is a waste of time to talk of the impracticable. We have been talking that for six years. It is time to *do* something! Let us do what we can.

The monstrous features of the tariff must be corrected step by step, little by little. We can only win this battle, in my judgment, inch by inch. I speak as a merchant, familiar in some sort with the doings of the New York custom-house for thirty years, and I doubt if there be a man in Congress or the whole country who realizes the magnitude and difficulties of this question. I hold in my hand an eye-opener, a printed list of articles on which a duty of 50 per cent. and higher was collected during the fiscal year ending June 30, 1879. I will print the list, which was prepared by Mr. J. S. Moore, in the RECORD, under the rule, as a part of my remarks:

	Per cent.
Breadstuffs:	
On cleaned rice	85.39
On uncleaned	87.33
Chemicals:	
Acetic, acetous, specific gravity 1047	62.11
Acetic, acetous, specific gravity over 1047	76.40
Tannic	185.06
Alum and substitute	54.43
Aniline dyes	59.96
Baryta, sulphate of	64.83
Borax, refined	70.86
Chloroform	53.76
Sulphate of copper, blue vitriol	82.99
Nitric (ether)	129.21
Copperas	90.90
Licorice, paste or in rolls	77.43
Carbonate of magnesia	52.82
Epsom salts	82.67
Medicinal preparations	50.00
Acetate of soda	221.87
Bicarbonate of soda	59.13
Caustic	56.75
Flower of brimstone	57.29
Tannin	171.43
Burnt chicory	97.74
Kaoline (clay)	52.73
Cotton, plain bleached, printed, over 100 threads to square inch	58.09
Cotton, plain bleached, printed, over 200 threads to square inch	55.64
Cotton, muslin shirtings and lappets	53.62
Spool thread, 100 yards per spool	73.34
Spool thread, 200 yards per spool	76.08
Thread yarn, not exceeding 60 cents per pound	59.36
Thread yarn, not exceeding 80 cents per pound	62.88
Thread yarn, over 80 cents per pound	53.95
Porcelain, painted or gilded	50.00
Beads and bead ornaments	50.00
Artificial flowers and feathers	50.00
Meerschaum pipes	83.00
Pipe cases and stems	75.00
Wood and porcelain pipes	85.86
Toys of wood and others	50.00
Fire-crackers	115.45
Almonds, not shelled	52.79
Almonds, shelled	52.84
Filberts and walnuts	52.50
Plums	52.19
Plate glass:	
24×30 and not above 24×60 inches	58.43
Above 24×60	103.18
Window glass, common unpolished:	
10×15	59.47
16×24	71.88
24×30	78.92
Above 24×30	78.73
Silver leaf in packages of 500 leaves	92.67
Gunpowder, common	58.26
Hair-cloth seatings, 18 inches wide	59.02
Hair-cloth seatings, over 18 inches wide	66.50
Anchors	67.40
Band and hoop iron	53.06
Band and hoop iron, under one-eighth inch	65.27
Bar-iron, common	58.71
Cables and cable-chains	52.78
Cast-iron pipes	51.89
Chains, halter and trace	57.13
Chains less than one-quarter inch	55.35
Hair-pins	50.60
Scrap-iron, wrought	63.03
Wood screws, 2 inches	52.94
Wood screws, less than 2 inches	62.88
Squares, marked on one side	60.00
Squares, all others	90.00
Iron wire, not less than No. 16	65.36
Iron wire, not less than No. 25	62.78
Wire rope	58.90
Wrought steam and gas tubes	73.28
Cutlery	50.00
Files, exceeding 10 inches	56.23
Steel rails*	104.90
Lead, in pigs and bars	56.60
Lead, old scrap	55.01
Marble not exceeding 2 inches thick	80.20
Marble, veined	66.74
Marble, white statuary brocatella	56.14
Marble manufactures not otherwise provided for	50.00
Mineral or medicinal water	61.27
Vegetable, fixed or expressed, bay or laurel	114.52
Castor oil	98.10
Croton	141.24
Olive salad, in bottle or flasks	52.77
Vegetable, volatile or essential, bay leaves	305.88
Cloves	95.58
Fruit others, essences or oils of apple, pears, &c	140.46
Other essential oils not otherwise provided for	50.00
Rum, bay rum, essences or oil	181.21
Lead, dry or ground in oil, red	59.38
Lead, dry or ground in oil, white	50.25
Litharge	69.28
Umber	70.85
Whiting and Paris white	298.52
Pens, metallic	56.26
Repairs on vessels	50.00
Salt, in bulk	65.29
Silk manufactures	60.00
Soap, toilet	50.97
Starch, made from rice	115.05
Sugar:	
Concentratred sirups	62.48
Raw sugar not above No. 7	53.20
Raw sugar above No. 7 and not above No. 10	60.79
Raw sugar above No. 10 and not above No. 13	60.65

* The price of steel rails in Europe in 1879 was about $24 a ton in average. The present price is higher, say from £7 to £7 10s. per ton.

	Per cent.
Sugar:	
Raw sugar above No. 13 and not above No. 16	64.80
Raw sugar above No. 16 and not above No. 20	70.82
Raw sugar loaf and crushed	64.01
Sugar candy and confectionery	126.74
Vinegar	84.60
Varnish	63.08
Wool:	
Class No. 1, cloaking wool valued at 32 cents or less per pound	58.41
Class No. 1, scoured	74.38
Class No. 1, washed, value 32 cents or less	58.58
Class No. 1, washed, value over 32 cents	62.86
Class No. 2, combing wools, value 32 cents or less per pound	59.80
Class No. 2, scoured	90.24
Carpets:	
Aubusson	50.00
Brussels	68.52
Brussels tapestry	65.00
Druggets	103.99
Patent velvet tapestry	63.99
Saxony and Wilton	71.69
Treble ingrain	50.83
Yarn, Venetian or two-ply	51.96
Dress goods and Italian cloth:	
Value not exceeding 20 cents per square yard	70.09
Value over 20 cents per square yard	66.20
Weighing 4 ounces and over, per square yard	65.85
Balmorals, alpacas, and like goods:	
Valued above 80 cents per square yard and weighing 4 ounces and over	70.00
Blankets valued 40 cents per pound	104.14
Blankets valued over 40 and not over 60 cents	85.84
Blankets valued over 60 and not over 80 cents	96.03
Blankets valued over 80 cents per pound	69.00
Flannels:	
Valued 40 cents per pound	95.07
Valued over 40 and not over 60 cents	94.30
Valued over 60 and not over 80 cents	88.66
Valued over 80 cents per pound	64.89
Hosiery:	
Valued at 40 cents per pound	85.81
Valued over 40 and not over 60 cents	97.46
Valued over 60 and not over 80 cents	89.66
Valued over 80 cents per pound	55.31
Manufactures of wool not specified:	
Valued at 40 cents per pound	94.76
Valued over 40 cents and not over 60 cents	90.09
Valued over 60 cents and not over 80 cents	87.58
Valued over 80 cents per pound	70.31
Skirts and drawers not over 60 cents per pound	86.06
Skirts and drawers valued above 80 cents	60.13
Bunting	117.63
Cloths	71.04
Clothing made of wool	56.12
Endless belts or felts	57.74
Hats made of wool:	
Valued above 80 cents per pound	66.32
Manufactures wholly or in part of wool not otherwise provided for	64.78
Rags, waste, and shoddy	52.06
Woolen shawls	57.88
Worsted goods not otherwise provided for	58.04
Webbings, beltings, galoons, &c	69.28
Woolen or worsted yarns:	
Valued not exceeding 40 cents per pound	99.55
Valued over 40 cents and not over 60 cents	96.53
Valued over 60 cents and not over 80 cents	90.33
Valued above 80 cents per pound	78.02

It plainly reveals the power and teaches us that the existing tariff has at this moment a *grip* upon Congress well-nigh irresistible. I mean no offense or disrespect in saying it, but unless I am much mistaken no previous Congress has been so baffled and confused in its attempts to revise the tariff as this. Thomas Jefferson, anticipating in his time to some extent our embarrassment, in speaking against the error of excessive talking in Congress, exclaimed:

> How can it be otherwise in a body to which the people send one hundred and fifty lawyers, whose trade it is to question everything, yield nothing, and talk by the hour?

The people now send nearly three hundred lawyers to Congress. How shall such a body agree upon a general revision of such a tariff as we have? Who can lead them? In Jefferson's time and later there were leaders of public opinion in Congress, men of learning and power, whose resources were constantly employed upon questions of paramount public concern. Have we such leaders now? Is leadership possible under the rules of the House except by filibusters? How long does it take, men and brethren, to distribute the Geneva award? Where has the gold of that award gone? Has it not been coined into short-weight silver dollars, and stored for impending disreputable use? How long does it take to get a bit of simple clean legislation of local interest through Congress? What chance has a destitute widow, whose dead father in his life-time in an emergency as sutler to the Army advanced small sums to servants of Government, trusting Congress to reimburse them?

What chance have ex-Governor Seymour, Royal Phelps, and A. A. Low, of New York, who, as representatives of the chamber of commerce of the Empire State, ask permission of Congress to erect, at their own cost, under close supervision of Government, a memorial statue to George Washington on the steps of the public building which occupies the spot where the first President of the United States was inaugurated? Who shall eject Conant, who holds the old post-office property in New York at nominal rent, and seems to have a fair prospect of holding it to the end of his life?

For one, Mr. Chairman, I do not pretend to understand the tariff. I have practiced it for at least twenty-five years, but its diverse and vicious ways are past my finding out. I am surprised frequently by some new revelation of its mysteries and iniquity. I am confident, however, that a radical and fierce assault upon it would result in a catastrophe and reaction. To avoid backward steps we must advance with great caution. The disease is chronic. The tariff can never be cured in a lump by Congress or a commission. Congress can and should strike, without fear or delay, some of its manifest and indefensible extravagances. One such square blow will educate and reform more than twenty years of speeches.

I will try to enforce the last proposition and make it clear.

Here is a statement of duties actually paid on three hundred pieces of tapestry Brussels carpetings, manufactured in Scotland, imported and sold in New York in October, 1879: First quality cost forty-seven cents, duties paid thirty-seven cents, or 79 per cent.; second quality cost thirty-eight cents, duties paid thirty-four and one-third cents, or 90 per cent.; third quality cost twenty-nine cents, duties paid thirty-one cents, or 108 per cent.; average duties 92⅓ per cent.

Now, then, if nothing more can be done, it will be of incalculable advantage, in my judgment, if this Congress will pass the bill I offered for reference to the Committee on Ways and Means on the 1st of March, simply fixing the maximum rate of duties on carpetings at 50 per cent. *ad valorem*. Not because carpetings are more important than paper and salt, but because my case is simple and representative of many intolerable and hidden features of the existing tariff, which need only to be brought to the light of day to be condemned and abated.

The gentlemen of the press, in looking at their own case, have naturally exaggerated the importance of the moderate tax of 20 per cent. on paper. If they will take a broader view, they will find surer ground to stand upon in fighting the tariff, with less formidable obstacles confronting them and more searching and effective arguments at hand.

And now, Mr. Chairman, in coming to the funding bill, we find in the first place that the proposition to limit the rate of interest on new issues of bonds to 3½ per cent. is clearly right and imperative. England and France, with heavier burdens than we have, borrow at about that rate. There is always plenty of money in Europe seeking investment from 3 to 3½ per cent., and it goes without argument that our resources properly administered entitle us to even better credit than either of the nations above named enjoy, while our self-respect and good name require us to assert the power which belongs to us. It is not for a moment supposable that the people of this country will permit Congress to legislate further against their integrity and good name. On the contrary, we may be sure that the people will require the next Congress to amend or repeal currency legislation now on trial if it shall prove prejudicial to the highest credit of the Government.

With all this apparent, the public judgment hesitates to approve the funding bill before us, and there is a curious and mixed condition of public sentiment in respect to the wisdom of the measure, the reasons for which I aim in part to disclose.

There are no signs of syndicates or organized efforts favoring the bill, while several classes hope for its passage without unity of motives. It is hardly worth mentioning that some of the communistic brotherhood favor the bill under the illusion that it is a blow against bloated bondholders. Some inflationists, who seek to abolish all interest and pay off the total bonded debt in a depreciated currency, will probably vote for it.

Two months ago all the great bulls in Wall street favored the funding bill, with their dependents in Congress and elsewhere, who were loaded with ventures so wild and preposterous that they saw no way out successfully unless Government came to their rescue with the massive refunding machinery which the bulls utilized so nicely last summer for "booming purposes." This is yet unquestionably the most deeply interested and powerful class watching the measure. It is not because the bulls had or have money to lend to the Government at 3½ per cent. Nothing of the kind! But it is because their victims, "the lambs," who have paid from day to day at the rate of 50 per cent. per annum for money to carry their stocks, clamor for some mitigation of their losses, and look to refunding operations as a hopeful remedy and way of escape.

It is noticeable, however, to close observers, that the longest bull heads have lately raised a question as to the value of machinery which cannot be made to work in time.

Finally, we have the great, conservative, honest money power of the country divided in judgment as to the feasibility and wisdom of the measure at the present time—I mean the managers and trustees of life-insurance, savings, and trust institutions, private banks, State banks, and national banks. These are the recognized sources and depositories of honest money, to which all honest laborers and honest borrowers must go for the supply of their wants. I know how incessantly some men berate banks. It is a manifest and great mistake. Commerce can no more dispense with banks than with ships! Our ships of commerce are most commonly commanded by men who began their career before the mast. Our banks of commerce are commonly managed by men who began their career as clerks in village stores. Ship captains and bank managers are alike good or bad for the country. It is safe to say that when the people elect a Congress to

destroy banks the same body will be instructed to burn up ships and wreck railways.

Our national-banking system is the best the world has yet seen, though open to improvement. *The system is devoted to labor and enterprise rather than to the owners of capital.* The stockholders of our national and savings banks are mainly women and children.

If the worst that has been repeatedly intimated on this floor were conceded it is no argument against the system that the First National Bank of New York made a couple of millions on a capital of half a million last year in refunding the national debt. Bank managers are men, and until the millennium *all* men are not saints. Among two thousand banks it must be that some are mismanaged. But the First National Bank of New York will not be the first condemned, I judge, for maladministration. On the contrary, I venture to say that, so far as appears, the most scrupulous member of this body might safely share the brilliant results of its management if legally entitled to them. Possibly I am mistaken. I do not know either of its managers or shareholders; nor am I in any sense their advocate. But I can see how they may have made their money honestly and honorably.

The Secretary of the Treasury conscientiously, with all the light he had, fixed the price of the four percents low enough to secure their steady substitution for the six percents, but never dreamed or had reason to suppose they would all be taken in a day. The managers of the bank were wide awake, and knew better than the Secretary the amount of idle money at their command waiting for investment, and were planning their syndicate to grasp all the four percents authorized, even before the price was fixed. It was a case of early rising on the part of the First National Bank! That is all there is of it.

Why, then, is it that some of the most considerate custodians of real capital distrust the success and wholesomeness of the refunding bill now under consideration? How shall we assure its success? We have not far to go to find the true answer to these questions. Wall-street people have paid in some of the hours of some of the days of the last month as high as 90 per cent. per annum for money! This is not a nice state of things. The virus which infects Wall street at the present time has reached every railway station and almost every hamlet in the land. It was lately in every bale of cotton and every bushel of wheat. Inflation! Gambling! We have made too much haste; we are trying to repair the losses of six years in one year. We cannot do it.

The foundations of our currency are undeniably unstable and dangerous. Every man who earns or owns an honest dollar should be taught this truth and made to understand it. Who in this broad land has money to lend at 3½ per cent. per annum? Do we not all know that American capital is, and is to be, worth much more than that for domestic purposes? Need I stop one moment to argue that point? Do not our wonderful undeveloped resources proclaim the truth of it? If we are to refund at the best advantage may it not only be absolutely necessary, but also the best economy, for us to go where capital is cheapest? Who shall be harmed by buying or borrowing at the lowest rates? How shall we succeed abroad with a depreciated currency?

The Secretary of the Treasury has again and again faithfully warned the country that unless the coinage of the short-weight silver dollar shall be discontinued our gold coin will all be driven out. It is so plain "that the wayfaring man though a fool" can see if he will that whenever the interest on United States bonds shall be paid exclusively in silver the real value of such bonds must depreciate largely at home, while the Government will then have no credit available in Europe at all. Here we find the main reason why many prudent and cautious men refuse to support the funding bill before the House. It will not be denied that with our standard of currency firmly established on an international basis the United States can refund the remainder of its debt at 3½, possibly at 3 per cent. per annum. But not so while Congress, to punish the banks, Mr. Vanderbilt, and the guardians of widows and orphans, *persists in coining and storing at great loss of interest, for future disreputable use, the short-weight legal-tender silver dollar.*

Mr. SINGLETON, of Mississippi. Mr. Chairman, as a member of the Committee on Appropriations it is proper that I say a word in our own defense. It seems to afford very great pleasure to some gentlemen on this floor to cast covert insinuations at this committee when poverty-stricken as to arguments and ideas of their own. I have heard it said, and it has grown into a sort of proverb, that when you go into an orchard and wish to find the choicest fruit seek those trees which have the largest number of sticks and chunks lodged in the limbs and about its roots, and there you will find the best fruit. If that principle can be applied to the Committee on Appropriations, which has been the recipient of attacks and assaults from all parts of the House, justly or unjustly, with or without provocation, then it would seem to be an indication that said committee has produced in its labors the best fruits and the most valuable suggestions for the consideration of the House.

But, Mr. Chairman, gentlemen seem to misapprehend and entirely misunderstand the legitimate province and duties of the Appropriations Committee. My friend from Georgia on my left [Mr. COOK] who assailed us a moment since on this floor has left himself, it seems to me, liable to attack as a member of the Committee on Public Buildings and Grounds. If there has been, as he alleges, these great abuses in the expenditure of the public money, how does it happen that in the five years the gentleman has been on this floor and a member of the Committee on Public Buildings and Grounds he has never presented to the House any bill or measure by which all this stealing and wrong-doing could be obviated? Has the gentleman done anything in that direction? Nothing that I have seen or heard of. If all the abuses he complains of have been going on for a series of years, why has he not asked for a committee of investigation?

Who is to blame for his failure to do so? The Committee on Appropriations has no power to make laws regulating these appropriations. They have no power to do anything but to say what amount shall be appropriated for carrying out laws already in existence, and that in accordance with the estimates furnished, as far as they may deem them reasonable. These public works, or many of them, were begun years ago. This committee has nothing whatever to do and in no sense is responsible for the amounts of appropriations originally made for them or the estimates made for their original cost. The Committee on Appropriations is practically under the control of this House and governed by it, but you have an architect who is not under its control. He furnishes his estimates of what the public building will cost; he tells you what will, in his judgment, be sufficient to rear a public building. The House relies upon his statement, and makes an appropriation in accordance with the estimate. But when you come to finish the building, you find that it will take more than his estimated amount to complete it; that there has been an error in his judgment.

Now, when you find a public building in this condition, what is the Committee on Appropriations to do? Is it to stop there and leave the work unfinished, or is it their duty to go further and provide the means for finishing the building for public use? Therefore I say that all these thrusts at the Committee on Appropriations are altogether unjust, and my friend from Georgia had better set himself to work seriously to propose some plan or general law by which these evils of which he complains can be avoided in the future.

Would any sensible man when he finds his own private building only half completed stop the work and lose all that has been done upon it because his architect made a mistake, or would he not go forward and expend what was necessary for its completion? Let the gentleman from Georgia, then, as I have suggested, go to work and bring in a bill which will cover this point. He will then be in the line of duty.

He with certain other gentlemen proposed the other day to enter upon the erection of forty new buildings. I do not oppose them when the public interest demands them, but let me ask him if in the event he has an estimate from the architect that one of these buildings will cost $100,000, and the work is begun, the building has progressed to some particular point, and then it is found that you have only gotten to the second story, and your appropriation is exhausted, is the gentleman prepared to say that this building should be abandoned because his architect has deceived him? Would it be prudent or wise to stop it and let it go to ruin? I repeat, Mr. Chairman, that the gentleman ought to be a little more careful how he casts censure upon the Appropriations Committee, and not blame it for trying to finish these buildings with the plans and estimates of which they had nothing to do, and are in no wise responsible.

[Here the hammer fell.]

Mr. COOK. I wish to say that the amendment I offered has been misunderstood.

The CHAIRMAN. The debate on the pending amendment is exhausted.

The *pro forma* amendment was withdrawn.

Mr. COOK. I move to strike out the last word.

The gentleman from Mississippi wants to know why the Committee on Public Buildings and Grounds do not prepare a law or some system by which this thing can be controlled. The law, Mr. Chairman, is plain and emphatic and proper now. No officer of this Government is authorized to make any contract to the amount of one dollar beyond the appropriation authorized by law. The Committee on Public Buildings and Grounds recommend the construction of a building at a certain place, and limit the amount beyond which the expenditure shall not go. With that all their duty in the matter and all their power over the subject end. The Department then goes before Congress and gets a limit fixed; and then year by year it goes to the Appropriations Committee—my committee have nothing to do with it—and says: "Give us $100,000 or give us $200,000 out of the $500,000 appropriated;" and they get it. But it is the duty of the Committee on Appropriations to see, when they recommend the appropriation of a dollar, whether a contract has been made in accordance with the law; whether the plans and specifications are in accordance with the amount the law has authorized. And when these gentlemen come before the Committee on Appropriations and say, "We have spent $400,000 in Hartford and want $300,000 more," the committee should inquire into it and investigate it and see who is responsible. They should ask, "Has your contractor given a bond to the Government to complete your building within the limits of the amount authorized by law?"

What has the Committee on Public Buildings and Grounds to do with it? Nothing on the face of the earth. The whole matter of this extravagant, wasteful expenditure on public buildings is abso-

lutely under the control of the Committee on Appropriations, every dollar of it, and they should know precisely the limits fixed in the law. I do not ask the suspension of any building that has commenced. It would be wrong; it would not be economical. But I want to call the attention of the House and of the country to the point as to who is responsible for this. It is not the Committee on Public Buildings and Grounds, because they cannot appropriate one single dollar.

Mr. SINGLETON, of Mississippi. Will the gentleman allow me to interrupt him?

Mr. COOK. Yes, sir.

Mr. SINGLETON, of Mississippi. Have the Committee on Appropriations anything to do with the making out of plans and specifications?

Mr. COOK. When they come before you to ask for money you ought to have the plans and specifications. The amendment I offer keeps the amount within the limit fixed by law.

Mr. VAN VOORHIS. I desire to offer an amendment.

The CHAIRMAN. Another amendment is not now in order.

Mr. VAN VOORHIS. I ask the gentleman from Georgia to withdraw the formal amendment.

Mr. ATKINS. I object.

The question being taken on the *pro forma* amendment, it was not agreed to.

Mr. VAN VOORHIS. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

After line 12 insert as follows:
"And the limitation of the cost of this building is hereby extended to $535,000."

Mr. VAN VOORHIS. Let us assume a virtue if we have it not.

Mr. BLOUNT. I make the point of order on that amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. BLOUNT. It is new legislation, and does not retrench expenditures.

Mr. VAN VOORHIS. My object in offering the amendment was to have this question of order presented. Now, would not the point of order be well taken that the appropriation exceeds the limits of the law if an amendment extending the limitation is out of order? If there is any case anywhere in which the limit should be extended, it is probably this Albany case. If you will not extend the limit in this way, how are you going to do it legally; and if you cannot do it legally, how can you justify yourselves in trampling the law under foot?

Mr. BAILEY. I understand the gentleman from Georgia raises the point of order. It has not been discussed, and I do not think it necessary to discuss it.

Mr. VAN VOORHIS. I find several cases in which appropriation bills have changed the limit of expenditure on public buildings.

Mr. BLOUNT. I do not desire to discuss the point of order. I merely call the attention of the Chair to the rule.

The CHAIRMAN. The gentleman from Georgia will please again state his point of order.

Mr. BLOUNT. My point of order is that the amendment changes existing law. The law limits the expenditure on the building to a given amount, and this amendment proposes to extend it; and the point of order does not rest merely on a technical ground. I do not know, and, although I have great respect for my friend from New York, [Mr. VAN VOORHIS,] I doubt if he knows, what the limit ought to be, and I do not care to tinker with it.

Mr. VAN VOORHIS. I assume the limit ought to be far enough to include what my friend from Georgia recommends in this bill, $90,000.

Mr. REAGAN rose.

Mr. BAILEY. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. REAGAN. Can the gentleman not make his parliamentary inquiry after I get through? I object to his taking me off the floor.

Mr. BAILEY. I do not wish to take my friend off the floor. I only wish to know if it is a question of order that is being debated?

The CHAIRMAN. It is. The gentleman from Texas has the floor.

Mr. REAGAN. I cannot conceive the point of order in this case is well taken. I have not the law before me showing what was the original limitation upon the construction of this building, but I understand the bill reported by the committee appropriates money beyond that amount. If the point of order is good for anything it would go back and strike the appropriation itself out; the appropriation itself would be subject to the point of order.

The amendment proposed is to limit the amount of the appropriation to a given sum. It is in the interest of economy directly. It is in the interest of that spirit of fair legislation which requires that estimates shall state what a building shall cost before appropriations can be made for it. It is in the direction of defeating that sort of policy which obtains a small estimate and afterward gets appropriations running far beyond the estimate.

Therefore it seems to me the amendment is legitimate, and that it is not only legitimate, but proper. If it is said that it changes existing law, then the point of order goes too far and would strike down the appropriation itself, because that changes the law, being an appropriation for more than was estimated for. So it seems to me, Mr. Chairman, that the point of order is not well taken, but that it is competent for this House, in making its appropriations, to place a limit upon them in the interest of economy.

Mr. VAN VOORHIS. I desire to make a single reference to the law of 1874, which changed the limit for the public building at Cincinnati by a clause in an appropriation bill, as follows:

Custom-house and post-office, Cincinnati, Ohio: For continuation of building, $600,000. And the entire cost of said building, exclusive of cost of site, shall not exceed $3,500,000.

The original limit was $2,225,000.

Mr. BLOUNT. I do not deny that that was done. There has been a great deal of legislation on appropriation bills heretofore.

The CHAIRMAN. The Chair is of opinion that the amendment is subject to the point of order, inasmuch as it changes existing law, and on the face of the amendment proposes to extend the limit of the appropriation, and therefore is not in order. The question is now upon the amendment of the gentleman from Georgia, [Mr. COOK.]

Mr. VAN VOORHIS. I desire to make another point of order. If the limitation cannot be extended, is not the appropriation out of order if it goes beyond the limit?

The CHAIRMAN. The appropriation is in order under the rule.

Mr. BLOUNT. That has already been ruled upon.

The CHAIRMAN. The question is on the amendment submitted by the gentleman from Georgia, [Mr. COOK,] to strike out "$90,000" and insert "$55,000."

Mr. COOK. That will leave the appropriation to the extent of the limit fixed by the law.

The question was taken upon the amendment; and upon a division there were—ayes 22, noes 95.

Before the result of the vote was announced,

Mr. HOOKER said: I make the point that no quorum has voted.

The CHAIRMAN. The point of order being made that no quorum has voted, the Chair will appoint to act as tellers Mr. COOK of Georgia and Mr. BLOUNT of Georgia.

Mr. COOK. I hope my friend from Mississippi [Mr. HOOKER] will withdraw that point.

Mr. HOOKER. I insist upon it.

The committee again divided; and the tellers reported that there were—ayes 24, noes 133.

So the amendment was not agreed to.

The committee rose informally, and the Speaker *pro tempore* resumed the chair.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the resolution of the Senate to print 10,500 copies of the report of the Smithsonian Institution for the year 1879.

The message further announced that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 740) granting a pension to Martha J. Robinson; and

A bill (H. R. No. 1460) granting a pension to James P. Sayer.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 1806) granting a pension to Michael Lingenfelter;

A bill (H. R. No. 2853) granting a pension to Elizabeth Aults;

A bill (H. R. No. 2855) granting a pension to Rachel J. Reber;

A bill (H. R. No. 2857) granting a pension to Joseph Showman;

A bill (H. R. No. 2886) granting a pension to Thomas H. Vaughan;

A bill (H. R. No. 3261) granting a pension to Elizabeth Dougherty;

A bill (H. R. No. 3264) granting a pension to Abner Hoopes; and

A bill (H. R. No. 4812) to amend the laws in relation to internal revenue.

The message also announced that the Senate had passed, and requested concurrence of the House in, bills of the following titles:

A bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis;

A bill (S. No. 1201) granting a pension to Henry Williams;

A bill (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;"

A bill (S. No. 1363) granting a pension to Eli Coopridee;

A bill (S. No. 1411) granting a pension to James Morgan;

A bill (S. No. 1465) granting a pension to William H. H. Anderson;

A bill (S. No. 1515) to increase the pension of Hiram C. Shouse;

A bill (S. No. 1535) granting an increase of pension to Rebecca E. Haskin;

A bill (S. No. 1638) granting a pension to Horace S. Spear;

A bill (S. No. 1662) granting an increase of pension to Levi Anderson, late private of Company A, Seventh Kansas Volunteers;

A bill (S. No. 1697) increasing the pension of Matthew O'Regan;

A bill (S. No. 1698) granting an increase of pension to George J. Webb; and

A bill (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session and proceeded with the consideration of the sundry civil appropriation bill.

The Clerk read as follows:

Court-house and post-office, Atlanta, Georgia: For completion of the building and approaches, $15,000.

Mr. HOOKER. I make a point of order on that paragraph.

The CHAIRMAN. The gentleman will state it.

Mr. HOOKER. I desire to call the attention of the Chair to a clause in an act amending the original act authorizing the construction of a public building at Atlanta, Georgia. The clause is as follows:

That the act entitled "An act for the erection of a public building for the use of the United States at Atlanta, Georgia," approved February 12, 1873, be, and the same is hereby, amended so that the sum of money authorized to be expended in the construction of said building is hereby fixed at the sum of $250,000.

I take it for granted that the sum of $250,000 originally fixed has been expended, or the Committee on Appropriations would not now propose to appropriate this $15,000. I imagine that that sum was exhausted a long time ago, for I find in the appropriation act of 1879 an appropriation of $10,000 for fencing, grading, and making the approaches to the public building at Atlanta, Georgia. Therefore, it will be observed that if the limit of the law has been reached it was reached in 1879, because there was then an appropriation of $10,000, and it is now proposed to appropriate $15,000 more, making $25,000 in all, over and above the limit fixed by law.

Now, it is said by my colleague from Mississippi [Mr. SINGLETON] that it is the duty of the Committee on Appropriations to go on and make appropriations for the purpose of completing an edifice, because it would be unwise as a matter of economy to carry the building to the first or second story and then leave it unfinished. So it would be; but will my colleague or any gentleman on the Appropriations Committee undertake to say that if we to-day make an appropriation for erecting an edifice at a cost of $100,000, and the foundation is laid for a building that will cost $1,000,000, therefore it is within the power of the Committee on Appropriations to go on from year to year and appropriate for the completion of that building? Surely not. Such a proposition would be as amenable to the point of order that there is no law authorizing it, and that it is not in the line of retrenchment, as would be a proposition now to amend this appropriation so as to make the amount $100,000.

Suppose I should now propose to raise this appropriation for the completion of the court-house at Atlanta, Georgia, from $15,000 to $50,000—and it will be well understood that I have no feeling against this particular locality more than any other; I make the point of order without reference to the region of country to which it applies—suppose I should move to increase the appropriation as proposed in this bill to $50,000, and that I could demonstrate this additional appropriation to be necessary in order to complete the building, to protect it from the waste and wear of storms beating upon it; I would be met at once by the point of order which I now make, that the amendment was not authorized by law and was not in the line of retrenchment. I say that there is no more power in the Appropriations Committee than in any other committee of this House to bring in appropriations in excess of the provisions of existing law. It will hardly be contended that the Committee on Appropriations is "a law unto itself." It is as much governed by existing law as to the appropriations which it recommends to the House as the House is governed by existing law when it is acting upon an amendment to an appropriation bill. While I doubt not that the Appropriations Committee has followed the precedents set by former Appropriations Committees and has gone on to do what it believed to be right and proper in this matter, yet under our rules this committee cannot report an appropriation unless it be in accordance with law. They must comply with the law as much as any member of the House must comply with it in offering an amendment. Why, sir, if the member representing the Atlanta district should propose to increase the appropriation for the public building at Atlanta from $15,000 to $20,000 the amendment would be met at once by the gentleman from Georgia [Mr. BLOUNT] with a point of order, as exceeding the appropriation authorized by law and not in the line of retrenchment. If the $250,000 originally appropriated for this building has already been expended, then the additional appropriation proposed by the committee in 1879, when they asked $10,000 for the very purpose now indicated, was in excess of that appropriation, as is the amount now proposed to be appropriated.

The CHAIRMAN. While in general an appropriation cannot be made without some provision of law authorizing it, there is in the rule a special exception in favor of appropriations for continuing public buildings, works, and objects already in progress. The Chair overrules the point of order.

The Clerk proceeded to read the next paragraph, but before it was concluded,

Mr. VAN VOORHIS said: I want to ask a single question of the chairman of the committee for information.

Mr. ATKINS. I rise to a question of order. I submit that the Clerk had begun to read the paragraph providing for the post-office and subtreasury at Boston, Massachusetts, and the gentleman from New York [Mr. VAN VOORHIS] cannot take the floor until the Clerk has concluded reading the paragraph.

The CHAIRMAN. The gentleman from New York rises as the Chair understands to a parliamentary inquiry.

Mr. ATKINS. I beg pardon.

Mr. VAN VOORHIS. My purpose was to put an inquiry through the Chair to the gentleman in charge of this bill. Inasmuch as in 1879 $10,000 was appropriated for "approaches" to this building at Atlanta, why should $15,000 more be needed now for the same purpose?

The CHAIRMAN. The question of the gentleman from New York is a question of fact, not a parliamentary inquiry. The Clerk will proceed.

The Clerk concluded the reading of the following paragraph:

Post-office and sub-treasury, Boston, Massachusetts: For continuation of building, $350,000.

Mr. HOOKER. I rise to a point of order. The original act passed in 1873 authorizing the construction of this building at Boston appropriated for the purchase of ground, for repairing the injuries by the fire to the post-office building, and for extending the building over the site to be purchased, $800,000. The appropriation act for the next year contained this provision:

For post-office and sub-treasury at Boston, Massachusetts: For continuation of building, $350,000.

It will thus be seen, Mr. Chairman, that there has already been in this case a very considerable appropriation over and above the amount originally appropriated. This bill now proposes to increase the previous expenditure not only in a small amount, as in the case of Atlanta, Georgia, but in the amount of $350,000. I say there is no law authorizing this appropriation, and that it is grossly in excess of the amount originally designed to be expended on this building. If the Committee on Appropriations can include in the bill this amount in excess of what the law authorizes, they can just as readily propose an appropriation of $5,000,000 in addition, and no point of order can be raised upon it.

The CHAIRMAN. The Chair overrules this point of order, as it involves precisely the same principle upon which he has already ruled.

Mr. BLISS. I move to strike out the last word.

Now, Mr. Chairman, my colleague from New York, [Mr. CHITTENDEN,] in speaking to one of the amendments pending before this committee a short while ago, took occasion to make a personal allusion to me in regard to a conversation which occurred between us some two years ago. I desire to say here if what has been told me—what I get from the reporters' notes—is true, that he has not only misrepresented me, but has made a gross and malicious statement concerning the whole matter.

I have endeavored ever since I have been a member of this House to do something for the district which I have the honor to represent upon this floor, in a very modest and humble way it may be; but that I ever made the statement attributed to me by my colleague I here and now say is unqualifiedly false.

I remember going to him in his seat and asking him to support the bill to which reference has been made. He said that $250,000 was not a sufficient amount, and I replied that it was not the custom of this House to appropriate the whole sum at any one time. That was my reply to him; and it was because he has treated that measure, of so much interest to the city of Brooklyn, as he has many other similar questions since I have been associated with him here, that I have refused to recognize him from that time on the floor of this House.

I do not join with him or with any other member of this House in charging that every bill brought in here by a majority of any committee because a number of items are joined together sometimes is convincing proof there is corruption or wrong-doing at the bottom of it. I hold that it is the duty of every man in this House whenever that charge is made to resent it in whatever way may happen to lie in his power.

And now, sir, so far as I am concerned, if the gentleman did make the remarks attributed to him, and they are liable to the construction which has been put upon them, I hurl back with indignation the insinuations which have been thrown out against me, and I pronounce absolutely false the statement made by my colleague who stands in front of me. That is all I have to say.

Mr. HOOKER. I move to amend the pending clause by reducing the appropriation from $350,000 to $250,000; and I move this amendment, Mr. Chairman, because it appears by the law which has just been read in the hearing of the committee that after the original amount was appropriated for the construction of these buildings repeated additions were made thereto in excess of the original amount authorized by law, and this, it seems to me, is an unusual amount to ask for now in the pending bill. Two years ago some seven or eight hundred thousand dollars were asked for, and last year $300,000 additional were asked for the completion of this building, and I do not know how many times before additional amounts were asked; and I say that, notwithstanding the fact the Chair has ruled on the point of order that it does not lie against this provision in the pending bill, nevertheless it is bad policy, in my judgment, to make these appropriations in this way.

If there is any necessity for additional amounts to be appropriated for the completion of any one of these buildings, let them be obtained by consent of the legislative department of the Government, as the original amount was obtained. If you can go on and by the mere act of the Appropriations Committee with reference to any point anywhere in this country make appropriations simply by the appropriation act which annually occurs for the purpose of raising money to

defray the expenses of the Government and pay the interest on the public debt—if you can do this thing in one instance, then you can do it in every other; and thus the power of legislation is taken from the whole body of the law-makers of the land and confided to a single committee, which is to judge of what is necessary for the completion of public buildings. If there was necessity originally for it to have the legislative action of the country, it should be so now, and it should not be by implication.

As I said when I was debating the point of order, suppose the gentleman from Boston moved this should be increased to $500,000; he would have been met with the objection this was not in the line of economy and not sanctioned by existing law. So, then, if the committee can now appropriate $350,000, next year they can also appropriate $350,000, and so on *ad infinitum;* and thus a building which was limited in its cost by the act of the legislature to be erected out of the funds coming from the Treasury belonging to the people may be extended to cost $5,000,000 when the original appropriation was only $1,000,000. I say, therefore, this system of legislation should be corrected now and at once.

Mr. FIELD. Mr. Chairman, in 1868 Congress appropriated money for purchasing a site for a building for the sub-treasury and post-office in the city of Boston. That building has been constructed. It covers about one-half of the ground occupied by the present structure. In November, 1872, the great fire in Boston occurred, and buildings to the east of that structure were burned. It was thought that the necessities of Boston required an extension of the post-office building, that it should be so constructed as to provide accommodations for the United States courts.

There was limitation on the original building, but on the extension, which is as large as the original building, there has been no limitation whatever so far as I know. The original building is completed and in use, while the extension, which is as large as the original building, has, according to the report, its basement, first-story and second-story walls, and part of the interior masonry built, leaving the third-story walls, mansard roof, and fittings up of the interior utterly incomplete.

There it stands in that unfinished condition. It will take some $650,000 to build the third story and the mansard roof and fit up the building. There has never, so far as I know, been any limitation of the amount of this expenditure, and Congress must abandon the building already two-thirds completed, or else allow it to go on and finish it in this way. The $250,000 asked for this purpose is a small sum economically to be expended on the building in a single year.

Mr. SAMFORD. Mr. Chairman, I desire to ask the gentleman from Georgia in charge of this bill the question I asked the gentleman from Mississippi, [Mr. SINGLETON,] his colleague on the Appropriations Committee, and which he failed to answer, treating me with reference to that question with the same cavalier indifference which laymen upon this floor have frequently received from that committee. Now, my question is this: I find in the statutes of the United States that it is provided:

> No contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose.

There are other sections requiring the contractors to give bond. The question I desire to ask my friend in charge of the bill is, whether or not the Committee on Appropriations have investigated this point, whether the contracts for the construction of these buildings have been let according to existing law, and whether where they have been let a sufficient bond has been given by the contractor for the faithful performance of the work?

Mr. SINGLETON, of Mississippi. Will the gentleman permit me to say to him that I certainly had no intention of ignoring his question or treating him with any disrespect whatever?

Mr. SAMFORD. Very well; I thank the gentleman from Mississippi; that is all right. I yield now to the gentleman from Georgia to answer my question.

Mr. BLOUNT. Now, if the gentleman will repeat his question I will answer it.

Mr. SAMFORD. My question is, whether or not the Appropriations Committee have investigated before appropriating these additional sums in excess of the expenditures originally provided for to see if the law has been complied with, whether they have found out after the contract has been entered into that the requirements of the law have been carried out and bond given for the faithful performance of the contract?

Mr. BLOUNT. I will say to the gentleman from Alabama that I have not made such investigation. There are some matters of this kind that the Committee on Appropriations do not feel it to be their duty to go into. The determination of this matter is with another committee. You have here a Committee on Expenditures in the Treasury Department. Whether or not in the administration of this Department there has been lawful conduct on the part of its heads and the officers in charge of the different branches of it, and a strict compliance with the law, belongs to the Committee on Expenditures in the Treasury Department and not to the Committee on Appropriations. So far as the Committee on Appropriations are concerned it cannot be necessary for us to inquire whether the building as allowed by law——

Mr. SAMFORD. I hope this will not come out of my time.

Mr. BLOUNT. The gentleman has asked me a question, and I am going to answer it.

Mr. SAMFORD. The gentleman might have answered my question by a simple yes or no. I did not yield for a speech.

Mr. BLOUNT. I do not propose to allow the gentleman to put a question to me in such form that a yea or a nay answer would do injustice to myself or to the Committee on Appropriations.

Mr. SAMFORD. The gentleman could not prevent that.

Mr. BLOUNT. I could by declining to answer.

Mr. SAMFORD. I am only objecting to the gentleman consuming my time in his response. My five minutes is about exhausted. If you will take and yield the floor to me I will allow you time to conclude your answer.

Mr. BLOUNT. I do not want the floor except to answer your own question.

Mr. SAMFORD. Then I have no objection if it is not to be taken out of my time.

Mr. BLOUNT. I say that the duties of the Committee on Appropriations are confined to other matters than that which the gentleman would seek to impose upon us. In the construction of these public buildings plans and estimates are furnished, and these estimates the House has access to. Now, what do they contain? Just what is required under the law authorizing a building and authorizing an appropriation to be made in pursuance thereof.

We have nothing to do with the plans or the amount of the estimates. It is presumed that the Committee on Expenditures in the Treasury Department perform their duty, which is to look after this matter. The Committee on Appropriations is not presumed to do the work of the other committees of the House as well as their own, which is sufficiently laborious.

Mr. SAMFORD. Then let me ask the gentleman another question. Section 3663 of the Revised Statutes provides:

> Whenever any estimate submitted to Congress by the head of a Department asks an appropriation for any new specific expenditure, such as the erection of a public building, or the construction of any public work, requiring a plan before the building or work can be properly completed, such estimate shall be accompanied by a full plan and detailed estimates of the cost of the whole work. All subsequent estimates for any such work shall state the original estimated cost, the aggregate amount theretofore appropriated for the same, and the amount actually expended thereupon, as well as the amount asked for the current year for which such estimate is made. And if the amount asked is in excess of the original estimate, the full reasons for the excess, and the extent of the anticipated excess, shall be also stated.

This is the law in the Revised Statutes.

Now, I understand from my friend from Georgia that the Appropriations Committee, without paying a particle of attention to this section of the Revised Statutes, goes forward and recommends an appropriation to continue work on these buildings far beyond the original estimate.

Mr. ATKINS. Will the gentleman from Alabama permit me to ask him a question?

Mr. SAMFORD. With a great deal of pleasure.

Mr. ATKINS. If that even be true, what will he do? Allow the building which is incomplete to rust and rot away by time and neglect?

Mr. SAMFORD. No, sir.

Mr. ATKINS. What would you do, then?

Mr. SAMFORD. I would require the Department to show wherein the contractor had failed to comply with the original contract, and I would make him and his bondsmen responsible for the failure.

Mr. ATKINS. But that certainly is not the duty of the Appropriations Committee. The gentleman is confounding the duties of the Committee on Appropriations with the Committee on Expenditures in the Departments. You have a committee whose duty it is to attend to that matter, and while the gentleman is reading lectures to the Committee on Appropriations he might apply himself perhaps to that committee or some other committee of the House.

Mr. SAMFORD. I have not read a lecture to the Committee on Appropriations. I asked a question for information, and if the question embodied a lecture, that is the construction of the gentleman from Tennessee.

Now, I ask the question again. Does the Committee on Appropriations recommend to this House the appropriation of amounts in excess of the original limit, with reference to these objects, without asking for any reason why the expenditure cannot be restricted within the original limit?

Mr. ATKINS. I answer no, the Committee on Appropriations does not do so.

Mr. SAMFORD. I understood from the gentleman from Georgia that the committee had not investigated this at all. He and the gentleman from Tennessee give different answers.

Mr. BLOUNT. The gentleman from Alabama misunderstood the gentleman from Georgia.

Mr. ATKINS. I do not know what the gentleman from Georgia has stated on this point, but I know the Committee on Appropriations have investigated these matters and have ascertained the reasons why these appropriations are in excess.

Mr. SAMFORD. That is the question I asked the gentleman from Georgia, and he told me the Committee on Appropriations had not done so, because they could not investigate all these details. But taking the answer of the gentleman from Tennessee [Mr. ATKINS] to

my question to be correct, I ask the gentleman from Georgia [Mr. BLOUNT] why in this specific case the contract was not complied with if the bond was given by the original contractor?

[Here the hammer fell.]

Mr. BLOUNT. I move to strike out the last word.

My friend from Alabama assumes that the contract for the building is made by a single person, and that the contract is for the completion of the building.

Mr. SAMFORD. The law requires that.

Mr. BLOUNT. The law does not require any such thing, and it is not done.

Mr. SAMFORD. I ask the gentleman to read the law.

Mr. BLOUNT. I have read the law. When my friend goes wrong he must not assume that he is right and everybody who differs from him is wrong. We have done in regard to these public buildings everything that the laws require and that the rules of this House require. The House sends to us the estimates for the public buildings. Those estimates are in compliance with the law which the gentleman has just cited. They give the original law creating the contract and they give the several appropriations therefor. When the Department have complied with the law the House refer that Book of Estimates to the Committee on Appropriations for their information, for that is the information upon which we are to act upon these matters, and the best we can have.

Mr. SAMFORD. Will the gentleman allow me——

Mr. BLOUNT. The gentleman from Alabama has taken up all my time in asking questions, and I have not been allowed to answer.

Mr. SAMFORD. The gentleman spoke in my time.

Mr. BLOUNT. I object to further interruptions. The gentleman from Alabama is merely repeating over and over again a thrice-told tale as to this matter before the House. He has simply raised a question that has consumed by its repetition and by debate upon it the whole of the time of the committee during this day. If we expect to get through this bill by the end of this week gentlemen will have to abate somewhat their querulousness as to the Committee on Appropriations.

Mr. SAMFORD. Has the gentleman answered my question?

[Here the hammer fell.]

Mr. CLAFLIN. I wish simply to say, Mr. Chairman, that every dollar's worth of work that is being done upon that building is being done under contract—is being done for work under appropriations already made. The building is up nearly to its fourth story. This appropriation, if it is made, will be made to cover the building. Now, $150,000 will be totally inadequate to put the building under roof.

Mr. BLOUNT. Will the gentleman answer me a question?

Mr. CLAFLIN. Yes, sir.

Mr. BLOUNT. As a matter of administration I wish to ask the gentleman whether it is not true that for these public buildings they do not make contracts until the appropriation is made, and that then only they make the contracts?

Mr. CLAFLIN. I do not know as to other buildings, but as to this building I know it is under contract, every dollar of it. No work is done until an appropriation is made, and every dollar is under contract according to law.

Mr. SAMFORD. I do not know if the gentleman from Massachusetts will allow me to interrupt him or not. But if he does, I will ask him a question.

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Alabama?

Mr. CLAFLIN. I do for a question, not for a speech.

Mr. SAMFORD. I am not going to make a speech unless my question carries a speech with it. I ask the gentleman whether the law does not contemplate when you pass a special act for a special public building that the contract shall be let to erect the whole building?

Mr. BLOUNT. Not at all.

Mr. CLAFLIN. You cannot under one contract erect a building covering two acres of ground and that will cost five or six millions of dollars.

Mr. SAMFORD. What is the use, then, of passing a law that you shall?

Mr. BLOUNT. The law is the other way.

Mr. CLAFLIN. The law is that you shall not do anything except by a contract, and this work is being done by contract. Now, as I said before, it is of no use to grant $150,000 for this purpose. You cannot put the building under roof unless you have $350,000. It will be simply a waste of money. The building will be injured more by standing one year waiting for $350,000 to be spent than the whole $350,000 is worth.

[Here the hammer fell.]

[Cries of "Vote!" "Vote!"]

The *pro forma* amendment was withdrawn.

The CHAIRMAN. The question is on the amendment of the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. Before the question is put, I ask the Clerk to read sections 3663 and 3734 of the Revised Statutes as pertaining to this matter. [Cries of "Vote!" "Vote!"] I am going to have those statutes read before the vote is taken.

The Clerk read as follows:

SEC. 3663. Whenever any estimate submitted to Congress by the head of a Department asks an appropriation for any new specific expenditure, such as the erection of a public building, or the construction of any public work, requiring a plan before the building or work can be properly completed, such estimate shall be accompanied by full plan and detailed estimates of the cost of the whole work. All subsequent estimates for any such work shall state the original estimated cost, the aggregate amount theretofore appropriated for the same, and the amount actually expended thereupon, as well as the amount asked for the current year for which such estimate is made. And if the amount asked is in excess of the original estimate, the full reasons for the excess, and the extent of the anticipated excess, shall be also stated.

SEC. 3734. Before any new buildings for the use of the United States are commenced, the plans and full estimates therefor shall be prepared and approved by the Secretary of the Treasury, the Postmaster-General, and the Secretary of the Interior; and the cost of each building shall not exceed the amount of such estimate.

The question was taken upon the amendment of Mr. HOOKER, to strike out "$350,000" and insert "$150,000," and it was not agreed to.

The Clerk read as follows:

Custom-house and post-office, Cincinnati, Ohio: For continuation of building, $350,000.

Mr. HOOKER. I move to amend the paragraph just read by striking out "$350,000" and inserting "$150,000." [Cries of "Vote!" "Vote!"] By referring to the original act authorizing the construction of this building it will be found that the building stands precisely in the same attitude as the Boston building, which we have just been considering. The appropriations for this building have exceeded the original estimate for several years past.

In this instance, there was a certain amount authorized to be appropriated for the construction of this building. The Committee on Appropriations have felt authorized, on account of the incompleteness of the building, to make additional appropriation from time to time. They now ask us to appropriate $350,000. [Cries of "Vote!" "Vote!"]

Gentlemen seem to be exceedingly impatient. This is a very important bill, appropriating a very large amount of money from the Treasury, where it has been gathered by taxation of a very odious character. It is certainly important that we should give some little time to the consideration of this bill.

I have just caused to be read two sections of the law which make it imperative upon the Committee on Appropriations to ascertain what has been done in reference to these buildings; whether or not the heads of Departments who are required by law to obtain specifications and plans have complied with the law. They ought to be able to state the fact.

Mr. BLOUNT. We are able to state it.

Mr. HOOKER. Whenever the Departments have made requisitions for money not authorized by law they have made requisitions on the Committee on Appropriations, which under the law they could not respond to. I say it requires distinct acts of legislation in order to clothe the Committee on Appropriations with power to give the money asked for. The last section of the law which I caused to have read is couched in this remarkable and significant language:

Before any new buildings for the use of the United States are commenced, the plans and full estimates therefor shall be prepared and approved by the Secretary of the Treasury, the Postmaster-General, and the Secretary of the Interior, and the cost of each building shall not exceed the amount of such estimate.

When it was first proposed to erect this building at Cincinnati (which I suppose to be entirely necessary, and to which I have no possible objection) these three heads of Departments were required by the law to see that plans and specifications with estimates were prepared for this building. That no doubt was done in reference to this public edifice.

It has got to be so, however, that I venture the assertion now that upon each of the public edifices erected in the great cities of the country where customs dues are paid more money has been expended by reason of the unlawful appropriations made by the Committee on Appropriations from year to year than was originally appropriated for those buildings.

Mr. SINGLETON, of Mississippi. Will my colleague allow me to ask him a question?

Mr. HOOKER. Certainly.

Mr. SINGLETON, of Mississippi. Was the law passed by the Committee on Appropriations, or by Congress? Does the Committee on Appropriations do any more than make recommendations to Congress, and does not Congress pass any law making an appropriation?

Mr. HOOKER. That is precisely what I am contending for; that the Committee on Appropriations cannot make a law; that it is bound by the law and must be governed by the law. If it requires a special bill to pass the original appropriation for a public building, if you propose to double that appropriation, as has been done in almost innumerable instances, you should go to the legislative department of the country in order to get the power to appropriate money beyond the limit originally fixed by law.

[Here the hammer fell.]

The CHAIRMAN. The question is upon the amendment of the gentleman from Mississippi, [Mr. HOOKER,] to strike out "$350,000" and insert "$150,000" in the clause making an appropriation for the custom-house in Cincinnati.

The question was taken; and upon a division there were—ayes 7, noes 93.

Mr. HOOKER. I make the point that no quorum has voted.

Tellers were ordered; and Mr. BLOUNT and Mr. HOOKER were appointed.

The committee divided; and the tellers reported—ayes 9, noes 135.

So the amendment was not agreed to.

Mr. STEVENSON. I move that the committee rise.
Mr. BLOUNT. I hope the motion will not be agreed to.
Mr. STEVENSON. I withdraw the motion.
The Clerk read as follows:

Custom-house and post-office, Evansville, Indiana: For fencing, grading, and approaches, $15,000.

Mr. BELFORD. I move to amend by inserting after the clause just read the following:

For the purchase of a site and for the erection of a court-house and post-office thereon for the use of the United States at Jackson, in the State of Mississippi, $50,000.

Mr. BAKER. I have an amendment which I desire to offer, to strike out in the paragraph read by the Clerk the words "fifteen thousand dollars" and insert "twenty-five thousand dollars."

The CHAIRMAN. The amendment of the gentleman from Indiana [Mr. BAKER] is an amendment to the text, and is not in order until the amendment of the gentleman from Colorado [Mr. BELFORD] is voted on.

Mr. BLOUNT. I rise to a question of order on the amendment of the gentleman from Colorado. It is without authority of law and increases expenditures.

Mr. BELFORD. I withdraw my amendment for the present, in order to allow the gentleman from Indiana [Mr. BAKER] an opportunity to present his.

Mr. BAKER. I move to amend so as to make the appropriation for the custom-house and post-office at Evansville, Indiana, $25,000 instead of $15,000. The amount recommended in the bill will provide for fencing, for grading, and for approaches, provided a common brick side-walk be placed around the building. But in order to provide flagging, which will be permanent in its character, the architect recommends an increase of $10,000. I desire to say to gentlemen that in the latitude and climate where this public building is situated a brick pavement would be almost entirely valueless. No private individual erecting a building of any considerable value in that section of the country would for a moment contemplate the idea of putting down a brick pavement instead of a stone flagging. The freezing and thawing of winter, together with the soaking of rain into the bricks, render them, as every one familiar with that section of country knows, entirely useless in the course of three or four years.

Mr. BLOUNT. The Committee on Appropriations have recommended the full amount that the Secretary of the Treasury has estimated for this purpose. They have not found any trouble in regard to the material proposed to be used for pavement in this case. In response to an inquiry by a member of this House as to the additional cost of a pavement of a better character than that contemplated originally by the estimates there was elicited the statement that $10,000 more would be necessary to put down a pavement of the character indicated, but it has not been recommended. I have not known any recommendation of this kind in reference to any building in any section of the country. The architect makes his recommendation through the Secretary of the Treasury; and we have done with regard to this building at Evansville just what we have done in regard to other buildings all over the country. I hope the Committee of the Whole will vote down this amendment of my friend from Indiana.

Mr. HEILMAN. I move to amend the amendment by striking out the last word. I have no fault to find with the Committee on Appropriations. They have done what the Secretary of the Treasury at first recommended. But it is not in the interest of economy to make a brick sidewalk around this building at Evansville. In that part of the country any private individual who can afford it always uses flagging, not brick, for a pavement. Our custom-house officers and postmasters join in recommending flagging for this building. The architect, having revised his estimates at my request, states the cost of these improvements as $25,000. I hope the committee will grant that sum.

The question being taken on agreeing to the amendment of Mr. BAKER, there were—ayes 86, noes 43; no quorum voting.

Mr. BLOUNT. I ask for tellers. This amendment is more than the estimate.

The CHAIRMAN. Debate is out of order. In the absence of a quorum the Chair orders tellers, and appoints the gentleman from Georgia [Mr. BLOUNT] and the gentleman from Indiana, [Mr. BAKER.]

The committee divided; and the tellers reported—ayes 94, noes 30.

Mr. BLOUNT. I will not waste time by raising the point that no quorum has voted; but I give notice that I will ask the yeas and nays on this amendment in the House.

Mr. WARNER. I make the point that no quorum has voted.

Mr. BLOUNT. I hope my friend will not press that point. The Senate is waiting for this bill; and if we propose to get away from here by the 31st, we must do something unusual in the way of work.

Mr. BERRY. I move that the committee rise.

The motion was not agreed to; there being—ayes 49, noes 74.

Mr. BELFORD. I renew my amendment.

Mr. WARNER. The amendment of the gentleman from Indiana [Mr. BAKER] is still pending.

The CHAIRMAN. The gentleman from Ohio makes the point that no quorum voted on the amendment of the gentleman from Indiana. The tellers will resume their places.

Mr. BLOUNT. I hope my friend will withdraw that point of order.

Mr. WARNER. It is time for the committee to rise.

Mr. BLOUNT. I hope my friend will not force the committee to rise in this way.

Mr. PAGE. I would like to ask the gentleman from Georgia whether he proposes to have an evening session for the consideration of this bill?

Mr. BLOUNT. I do not. I propose that, as suggested by the gentleman from Ohio, [Mr. GARFIELD,] we shall take a recess until to-morrow morning at half past nine or ten o'clock.

The CHAIRMAN. The tellers will resume their places.

Mr. BLOUNT. If gentlemen will waste time in this way, I will move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, Mr. SIMONTON reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration a bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

PUBLIC BUILDING, COLUMBUS, OHIO.

Mr. MCKENZIE. I ask unanimous consent, Mr. Speaker, to report from the Committee on Public Buildings and Grounds a bill for the erection of a public building at Columbus, Ohio.

Mr. BRAGG. I object.

Mr. MCKENZIE. The gentleman who introduced the bill does not ask for any action on it at this session, his object simply being to have it go to the Calendar, and the accompanying report ordered to be printed.

Mr. BRAGG. I object.

RAILWAYS AND CANALS.

Mr. BLOUNT. I move that the House now take a recess until ten o'clock to-morrow morning.

Mr. COOK. I move the House do now adjourn.

Mr. CABELL. I move that the House take a recess until seven o'clock and thirty minutes this evening, for the purpose of considering reports from the Committee on Railways and Canals.

Mr. ATKINS. I hope the gentleman from Georgia will withdraw his motion.

Mr. BLOUNT. I wish to accommodate myself to the desire of the House, and I will withdraw my motion for a recess if I can have some understanding that if the House takes a recess until this evening, at the close of the evening session a recess shall be taken until ten o'clock to-morrow morning. I will withdraw my motion with that understanding.

LEAVE OF ABSENCE.

Leave of absence by unanimous consent was granted in the following cases:

To Mr. BUTTERWORTH, from to-morrow, for an indefinite period, on account of important business;

To Mr. O'CONNOR, until Saturday next, on account of important business;

To Mr. NEWBERRY, for the remainder of the session, on account of important business;

To Mr. MORTON, for ten days, on account of important business;

To Mr. GARFIELD, indefinitely, after to-morrow; and

To Mr. WILBER, indefinitely, after to-morrow.

RAILWAYS AND CANALS.

Mr. CALKINS. The gentleman from Virginia will withdraw his motion to take a recess for the purpose of permitting me to introduce a resolution for reference to the Committee on Elections.

The SPEAKER *pro tempore*. The Chair has not recognized the gentleman from Virginia, but that the motion of the gentleman from Georgia is still pending.

Mr. BLOUNT. I am willing to withdraw the motion to take a recess until to-morrow morning with the understanding that if there be a session this evening, at the close of that evening session a recess shall be taken until to-morrow at ten o'clock.

Mr. CABELL. I move, then, to take a recess until half past seven o'clock p. m. for the consideration of the business coming from the Committee on Railways and Canals.

Mr. SPARKS. Which particular bill?

Mr. TOWNSHEND, of Illinois. There has been no consent in favor of taking a recess until ten o'clock to-morrow.

Mr. MILLS. Cannot this be done by unanimous consent?

The SPEAKER *pro tempore*. The motion of the gentleman from Virginia requires unanimous consent, for if the House should agree to that motion, no business would be in order during the evening session except the consideration of reports coming from the Committee on Railways and Canals.

Mr. MILLS. The gentleman moves to take a recess.

The SPEAKER *pro tempore*. Yes; and couples with it that the evening session shall be devoted to reports from the Committee on Railways and Canals.

Mr. MILLS. That was only for information.

Mr. CABELL. I made that statement for the information of the

House, so the House might know what they were asked to take a recess for.

Mr. BRAGG. I object to that.

The SPEAKER *pro tempore*. The Chair desires to inform the gentleman from Virginia that if the House takes a recess until 7.30 o'clock p. m. without coupling with it the condition that it is for the purpose of considering reports from the Committee on Railways and Canals, the House would be in session for the consideration of the unfinished business pending before it.

Mr. YOUNG, of Tennessee. Cannot a majority vote change that order of business?

The SPEAKER *pro tempore*. The Chair must state to the gentleman from Tennessee that a majority vote cannot.

Mr. CLYMER. So you are not gaining anything by taking a recess until this evening.

Mr. CABELL. I move the House take a recess until this evening for the consideration of business coming from the Committee on Railways and Canals.

Mr. BRAGG. I object.

Mr. WARNER. I move to take a recess until this evening to complete the court-of-pensions bill.

Mr. CABELL. I desire to state that the Committee on Railways and Canals desire to bring up for consideration House bill No. 6061, to incorporate the Cherokee and Arkansas Railroad Company.

Mr. MILLS. No bounty; no anything in it.

Mr. CABELL. No, sir; only the charter and right of way.

Mr. HAYES. I object.

Mr. BLOUNT. I renew my motion that the House take a recess until ten o'clock to-morrow morning.

Mr. MILLS. I move that the House adjourn.

Mr. HOOKER. The gentleman from Georgia has made a motion that the House adjourn.

Mr. COOK. I withdraw the motion to adjourn.

Mr. REAGAN. I rise to a question of order, that the motion of the gentleman from Georgia is not in order because it changes the rule of the House.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. HOOKER. I wish to make a parliamentary inquiry, whether the motion to adjourn does not take precedence of the motion of the gentleman from Georgia?

The SPEAKER *pro tempore*. The Chair understands the gentleman from Georgia as having withdrawn the motion to adjourn.

Mr. HOOKER. Then I renew the motion to adjourn.

The House divided; and there were—ayes 42, noes 91.

So the motion was not agreed to.

The SPEAKER *pro tempore*. The question now recurs on the motion of the gentleman from Georgia, [Mr. BLOUNT,] that the House take a recess until ten o'clock to-morrow morning.

Mr. WARNER. I wish to make a parliamentary inquiry, whether it would be in order to move an amendment now that the House take a recess until half past seven o'clock this evening to consider the bill creating a court of pensions.

The SPEAKER *pro tempore*. That would be in order, but the Chair will state to the gentleman from Ohio that it requires unanimous consent.

Mr. WARNER. Then I ask unanimous consent that the session to-night be set apart for that purpose.

Several members objected.

The question recurred on the motion of Mr. BLOUNT.

The House divided; and there were—ayes 111, noes 41.

So the motion was agreed to.

And accordingly (at five o'clock and twenty minutes p. m.) the House took a recess until ten o'clock Tuesday morning.

MORNING SESSION.

The recess having expired, the House (at ten o'clock a. m. on Tuesday, May 25) resumed its session.

BREACH OF REVENUE LAWS.

Mr. FERNANDO WOOD, from the Committee on Ways and Means, reported back, with an amendment, Senate bill No. 939 to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws; which, with the proposed amendment, was referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. FERNANDO WOOD also, from the same committee, reported, as a substitute for House resolution No. 288, a joint resolution (H. R. No. 311) to repeal so much of the act approved June 20, 1874, as authorizes the appointment of a commission to take charge of the Freedman's Savings and Trust Company, to abolish said commission; which, with the accompanying report, was referred to the House Calendar, and ordered to be printed.

WILLIAM HEMPHILL JONES, DECEASED.

Mr. FERNANDO WOOD, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay the expenses of the last illness and funeral of William Hemphill Jones, late clerk to the Committee on Ways and Means of this House; and he is hereby further authorized and directed to pay to the widow of said Jones a sum equal to his pay as clerk as aforesaid for six months; and all payments herein authorized and directed shall be made out of the contingent fund of the House, subject to the approval of the Committee on Accounts.

EDWARD BRADEN AND J. W. ANGUS.

Mr. UPSON. I ask unanimous consent to take from the Speaker's table the bill (S. No. 56) and put it upon its passage. It simply authorizes the reference of a claim to the Court of Claims.

The SPEAKER *pro tempore*. The bill will be read, after which the Chair will ask for objections to its present consideration.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Edward Braden, of San Antonio, Texas, and J. W. Angus, of the District of Columbia, partners, doing business under the firm name of Edward Braden & Co., the sum of $12,548.39 for extra labor and materials expended in the construction of the quartermaster's supply depot at San Antonio, Texas, and the said amount of $12,548.39 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, in full and final settlement and satisfaction of said claim.

There being no objection, the bill was taken from the Speaker's table, read three several times, and passed.

Mr. UPSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROSALIE LOUIS.

Mr. KETCHAM. I move that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 4887) granting a pension to Rosalie Louis, and that the same be put upon its passage.

The SPEAKER *pro tempore*. The bill will be read, after which the Chair will ask for objections to its present consideration.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rosalie Louis, widow of Peter Louis, late of Company B, First United States Sharpshooters.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill?

There was no objection.

Mr. KETCHAM. I move to concur in the amendment recommended by the Committee on Pensions.

The amendment was read, as follows:

Said pension to commence from the date of the death of the soldier, April 21, 1876, and to be for the same sum per month as was received by the deceased soldier at the time of his death.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. KETCHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

SOLDIERS' REUNION AT COLUMBUS, OHIO.

Mr. CONVERSE. I ask unanimous consent to take from the Speaker's table the joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, muskets, and blank cartridges, with amendments of the Senate, my object being to move concurrence in the Senate amendments.

There being no objection, the joint resolution was taken from the Speaker's table, and the amendments of the Senate were read, as follows:

Line 4, after "tents," insert "and;" line 5, strike out "and blank cartridges;" line 5, after "spared," insert "without loss, detriment, or expense to the public service;" line 6, after "muskets," insert "to be receipted for by solvent and responsible persons;" so that the joint resolution, if amended, will read as follows:

"That the Secretary of War be, and is hereby, authorized to send, from some convenient Government arsenal, to be used at the soldiers and sailors' reunion at Columbus, Ohio, to be held on August 10, 11, and 12, 1880, such artillery, tents, and muskets as can be conveniently spared without loss, detriment, or expense to the public service; said cannon, tents, and muskets to be receipted for by solvent and responsible persons, and to be returned after the holding of the reunion in as like good condition as when received."

And amend the title so as to read: "Joint resolution authorizing the Secretary of War to furnish for use at the soldiers and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, and muskets."

The amendments of the Senate were agreed to.

Mr. CONVERSE moved to reconsider the vote by which the amendments of the Senate were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. In the absence of objection, the title will be amended so as to conform with the amendments of the Senate.

There was no objection.

ELIAS C. BOUDINOT.

Mr. LAPHAM. I ask that by unanimous consent the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims, and that the same be brought before the House for present consideration.

There was no objection.

The bill was read, as follows:

Whereas the United States, by the enactment of the one hundred and seventh section of the act of Congress approved the 20th day of July, A. D. 1868, superseded the tenth section of the treaty entered into by and between the United States and the Cherokee Nation on the 19th day of July, A. D. 1866; and

Whereas the property of Elias C. Boudinot, a Cherokee Indian, was seized and disposed of by the authorities of the United States in consequence of the enactment of said one hundred and seventh section, although the Supreme Court of the United States, in its opinion expressed in the case prosecuted by said Elias C. Boudinot to test the constitutionality of said one hundred and seventh section and the validity of the said seizure and disposition of his property, and reported in 11 Wallace United States Supreme Court Reports, page 616, entitled "The Cherokee Tobacco," declared "that there was no ground for any imputation upon the integrity or good faith of" him, the said Elias C. Boudinot; and, further, that it is to be presumed that if a wrong has been done to him, the said Elias C. Boudinot, the Congress of the United States will promptly give the proper relief if applied to by the said Elias C. Boudinot; and

Whereas the Supreme Court of the United States was not called upon to decide, and did not decide, whether the executive officers of the United States had taken the necessary steps to make operative said one hundred and seventh section in said Cherokee Nation anterior to said seizure of the property of said Elias C. Boudinot; and

Whereas there is grave doubt that such steps were taken, and it manifestly appears that a wrong has been done to said Elias C. Boudinot, in consequence of the casual infraction of the said treaty, which should be repaired by appropriate satisfaction in maintenance of said treaty, which still subsists: Now, therefore,

Be it enacted, &c., That in order to give Elias C. Boudinot, of the Cherokee Nation, the proper relief for the wrong done him by reason of said seizure and disposition of his property, he, the said Elias C. Boudinot, be, and he is hereby, authorized to bring suit in the Court of Claims against the United States Government, to recover what may be due to him in justice and equity for the loss inflicted upon him by reason of said seizure for an alleged violation of the internal-revenue laws, of his property, a tobacco factory, its detention, and damage thereto while under seizure, the value of the tobacco, material, and other personal property also seized, and the expenses to which he was subjected thereby.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAPHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORNELIUS BOYLE.

Mr. HUNTON. I ask that by unanimous consent the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 4646) for the relief of the heirs of Cornelius Boyle, and that the same be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the commissioners of the District of Columbia be authorized and directed to remit the taxes, assessments, and charges upon the property of the late Cornelius Boyle, located in the city of Washington, and known as lot numbered 10, in square numbered 40, which accrued during the time said property was held under title of confiscation.

Mr. HUNTON. If there be any desire to hear the bill explained I will explain it in a few words.

Mr. ROBINSON. Is this the unanimous report of a committee?

Mr. HUNTON. It is the unanimous report of the Committee on the District of Columbia.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GERMAIN H. MASON.

Mr. WILLITS. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 2499) for the relief of Germain H. Mason, reported by the Committee on the Judiciary with an amendment.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Germain H. Mason, of Michigan, the sum of $192.65, a balance due him for services as United States circuit court commissioner, performed in and during the seven years prior to 1871, as shown by the records of the Treasury Department.

The amendment of the Committee on the Judiciary was read, as follows:

After the word "Michigan," in line 6, strike out all to the words "Treasury Department," inclusive, and insert "so much as may be found due said Mason by the accounting officer of the Treasury for services as United States circuit court commissioner, performed during the years 1863, 1867, 1868, 1869, and 1870, as shown by the records of the Treasury Department, not to exceed the sum of $169.65."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLITS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOUCK. I call for the regular order.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the purpose of resuming the consideration of the sundry civil appropriation bill.

Mr. SPRINGER. Pending that I ask unanimous consent that there be a session this evening, devoted to business by unanimous consent, so that we can all have an opportunity to get consent to call up one bill each, and put it upon its passage.

The SPEAKER *pro tempore*. This evening, the Chair is informed, is already covered by an order of the House.

The motion of Mr. BLOUNT was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. SIMONTON in the chair,) and resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The pending paragraph was read, as follows:

Custom-house and post-office, Evansville, Indiana: For fences, grading, and approaches, $15,000.

The CHAIRMAN. The pending amendment, offered by the gentleman from Indiana, [Mr. BAKER,] will be read.

The Clerk read as follows:

Strike out "$15,000" and insert "$25,000."

Mr. BLOUNT. I propose to my friend from Indiana who offered this amendment that we take a vote in the House upon it, and go on now with the bill.

Mr. BAKER. The point of order that no quorum voted was made by the gentleman from Ohio [Mr. WARNER] after the gentleman from Georgia [Mr. BLOUNT] had given notice that he would call the yeas and nays in the House.

Mr. WARNER. Before withdrawing the point of order which I made, I desire to ask the gentleman from Indiana how much this building has already cost; I have not been able to ascertain.

Mr. BAKER. It has cost $315,000.

Mr. WARNER. How many clerks are to be employed or sheltered in this building?

Mr. BAKER. I am unable to state what the future may disclose. I am not a prophet nor the son of a prophet.

Mr. WARNER. Well, Mr. Chairman——

Mr. BLOUNT. I ask my friend not to insist on the point that no quorum has voted, because——

Mr. WARNER. If the gentleman will allow me to state the reasons for the position I have taken on this subject, I will withdraw the point of order. Of course I do not wish to block the course of business; but I do desire to enter my protest against these reckless expenditures in the construction of public buildings. When we can erect public buildings at reasonable cost, I shall be ready to vote to construct them where there is real need for them. I am prepared to vote for public buildings in States where there are none and where they are needed, as soon as I can have the assurance that they will be constructed as public buildings ought to be constructed. But I shall never vote money to be put into the hands of architects to be expended at their will and with power to involve the Government in endless cost.

Within the last ten or fifteen years there has been developed a mania in this country for the construction of costly public buildings, which indicates an extravagance wholly unwarranted and a total disregard of right or public economy. Public buildings have been erected all over this country, in all the States of the Union, in which it costs $3,000 a head to shelter paupers. Now, we are erecting public buildings in which it will cost from $5,000 to $20,000 a head to shelter clerks in the public service. I dare say that if we now vote $25,000 for fencing and pavement for this building at Vincennes it will amount to one to two thousand dollars apiece for every person employed there, while the mass of residences of the people of this country, even for the better classes, do not average $1,500 in value for families of five persons; and as to a very large number the average is not $500 each for families. Yet we go on spending thousands upon thousands for the most costly structures to shelter public officials; and when we have erected buildings we must add furniture in proportion, as is made manifest a little further on in this bill.

The historian of Athens tells us that public expenditures in that commonwealth increased as public virtue declined. It was so in Rome; it has been so in every other country. And if increased expenditures indicate declining virtue, then it is becoming true here. I am opposed now and all the time to these reckless and extravagant expenditures. Probably a thousand million of dollars have been expended in this country in the construction of public buildings, many of them needlessly costly; which is one-fourth as much as has been expended upon all the railroads in the country. But while the four or five thousand million dollars expended in the construction of railways have made it possible to add at a low estimate a thousand million dollars more to the annual produce of the country than otherwise could be produced, how much would four thousand million dollars spent on public buildings add to the public wealth? Comparatively very little; and it would not increase production or add to the sources of wealth by one-hundredth part of the expenditure. I am therefore opposed to increasing the expenditure at this point by $25,000 for fencing and pavement. It is an extravagant demand, and I shall call the yeas and nays on the amendment in the House if it is adopted. I now withdraw my point of order in regard to the absence of a quorum.

Mr. TOWNSHEND, of Illinois. Mr. Chairman, I am a resident of

Illinois, and I have no other interest in the State of Indiana than has any other citizen of this broad Union; but I am somewhat familiar with the city of Vincennes——

Mr. BAKER. Mr. Chairman, the amendment has been adopted; there is nothing before the committee.

The CHAIRMAN. The point of order being withdrawn, the amendment stands adopted.

Mr. TOWNSHEND, of Illinois. Then I will merely say, before taking my seat, that I am satisfied it is a measure of economy to make the appropriation contemplated in the amendment.

The CHAIRMAN. The amendment of the gentleman from Indiana is adopted. The Clerk will read.

The Clerk read as follows:

Custom-house and post-office, Hartford, Connecticut: For continuation of the building, $75,000.

Mr. HAWLEY. Mr. Chairman, I move to amend by striking out the last word, and I do this for the purpose of replying very briefly to certain suggestions made during this debate. The people of this country have decided beyond question that they will economically put up public buildings wherever they are really needed; wherever the accommodation of the courts, the revenue offices, or the post-offices justifies the expenditure. But I desire to say that I sympathize with the strongest utterances that have been made here in condemnation of extravagance in these public works, and I have as much censure to give in regard to Hartford as to any other place on the whole list. But you need not expect the Committee on Appropriations to give you a thorough history of every public building and whatever abuses may have been connected with it. If you desire a report of these things, adopt the resolution already on your Calendar, presented by the gentleman from Maine, [Mr. MURCH,] (and he is a practical man in that business, familiar with the whole operation,) and then you will have an investigation. If that resolution should be adopted, I beg the post-office at Hartford may not be omitted, for I say I am unwilling that the young men of my town shall look at that building as an example of the economy and good sense of this Government.

We gave the Government of the United States the best lot of land we had in the city of Hartford, free, for the site of a public building. I am sorry we did not offer also to put up the building ourselves, a handsome and substantial one, for less than $400,000. The Government, according to what was then considered a good system, undertook to construct it. They made a contract, after public competition, for the granite, and then in the old way selected some people or allowed the same people, for aught I know, to go on with the cutting of that granite at day's wages, with 15 per cent. added for supervision; and that plan, which has not been referred to here, is the secret of the great extravagance in the expenditure of public money on your buildings. They went on by day's work, and the supervising authority had 15 per cent. for supervision of that cutting. It was 15 per cent. premium offered by the Government for extravagance, and the consequence is, for example, in our building at Hartford, that granite is cut nearly as finely as statuary. I have never seen a finer piece of work in stone-cutting for buildings. There has been $470,000——

Mr. WARNER. It is a monument for some fool architect.

Mr. HAWLEY. There has been $470,000 spent on the cutting of the granite of that public building. We have built in our city larger and better buildings which cost less. We built a marble State-house, with a tower more than two hundred feet high, for less than two and a half millions of dollars, and for less than the appropriation.

Mr. Chairman, I do not like the way you have treated my town, expending over $800,000 on a building which ought to have been erected for $500,000 at the utmost. It is mismanagement of a piece with the extravagance and mismanagement in the star service. You have every stone up in that building. I do not know where they come from or where they were cut—in Maine, or somewhere else; I do not know from whom purchased or at what particular quarry. There has been little expenditure at Hartford save for the excavation and the setting of the stone. If you can find any man of that city who has spent any money improperly I am willing he should be followed. But the building is up, all but the roof, and you must go through and finish it. It has been eight years since you authorized it and for seven years the derricks and lumber have cumbered and disfigured the most prominent spot in our city. I withdraw my amendment.

The Clerk read as follows:

For commencing work on a public building at Pittsburgh, Pennsylvania, $75,000.

Mr. ERRETT. I move, Mr. Chairman, to strike out "$75,000" and insert "$150,000."

Mr. Chairman, I make this motion really in the interest of economy. In my judgment it would be better to appropriate at once all that is needed to complete a building. The architect could then purchase his materials and make his contracts to the best possible advantage, and could push the work to an early completion. Hundreds of thousands are wasted annually in leaving public buildings in process of erection uncompleted for want of appropriations and subject to the wasting effect of the elements. In this case the Secretary of the Treasury Department has estimated that $150,000 is necessary for this year's work upon the building at Pittsburgh, and anything less than that will simply prolong the period and cost of its construction, and spread the erection of this building over a greater number of years than would otherwise be necessary.

Mr. WARNER. I make the point of order that the amendment changes existing law, and does not retrench expenditures.

The CHAIRMAN. The Chair overrules the point of order, and the question is on the amendment of the gentleman from Pennsylvania.

The amendment was rejected.

The Clerk read as follows:

Court-house and post-office, Utica, New York: For continuation of building, $25,000.

Mr. PRESCOTT. I move to strike out "$25,000" and in lieu thereof to insert "$61,000."

Mr. Chairman, yesterday in some strictures pronounced by the gentleman from Georgia [Mr. COOK] upon certain localities that had overridden law and obtained improper appropriations in excess of the original limit by law, he named as one the city of Utica, New York—a city he has doubtless no personal knowledge of, but containing some forty-five thousand inhabitants, and distinguished as no other city ever was in this Republic in that it is the home of both the United States Senators for New York; and renowned as it is as the home of great men, State and national, both past and present, it proudly challenges an examination of its record for integrity.

Mr. HAMMOND, of Georgia. We have three Senators in Atlanta; one regular, one going out, and one coming in. [Laughter.]

Mr. PRESCOTT. The Government gives evidence of economical administration by building and controlling public buildings where population, business, and Government offices demand large structures; and while advocating the provision by general law of restrictions and limits of necessity, economy, or otherwise in the locating of such buildings, yet, whatever might have been such reasonable provision, it would have included the city of Utica.

Being a city paying large sums each year for rental of post-office facilities demanded by its business, besides other offices; having the office of the clerk of the circuit court for that portion of the State, being the locality designated by law for the regular terms of the United States district and circuit courts; having the office of collector of internal revenue for several adjoining counties, with United States commissioners and other officers, that necessity and economy so ably set forth by the gentleman from Georgia [Mr. COOK] would have designated and demanded the building now in process of construction at Utica.

The building has progressed to the second story, but remains useless and valueless to the Government for purposes of occupation, and economy demands at your hands such appropriations at this time for the continuance of the work as can be used within the year.

A misapprehension seems to have arisen in the House as to the mode of such works. They assume that the Government makes a contract for the whole work at one time, which contract being in excess of appropriations at the time is contrary to statute. The fact is, contracts are only made from year to year for such portion of the work as you provide by your appropriations may be constructed for that year. This course has been pursued at Utica, and so scrupulously guarded have been the contracts of the Government, and so strictly enforced by the Department that the Government is erecting and will have a fine building at less cost than the actual expense to some of the contractors for material therefor. The modesty of her able Representatives doubtless is the explanation of the original sum for this building and site being fixed in 1872 at $200,000.

After the purchase of the site the limit of the building alone independent of the cost of site was fixed at $225,000, as the gentleman from Georgia [Mr. COOK] will find on examination of the laws of 1877. The report of the Secretary of the Treasury shows that there had been expended upon the building alone to September 30, 1879, $122,653.31; that there remained in the Treasury at that date unexpended for that purpose a balance of $41,154.44, making the whole amount appropriated for building only $163,807.75 and leaving of the limit fixed by act of 1877 now unappropriated the sum of $61,192.25. The architect advises me it will require $61,000 to complete the building, so that Utica promises to become a phenomenal point where strict honesty in construction will keep her building within the limit of the law.

Knowing the chivalric spirit of the gentleman from Georgia, [Mr. COOK,] I hope he will admit an error in classing Utica among the censurable points and strike it from his grand total of estimates of overpayments.

Being advised by the committee that the sum in this bill of $25,000 is all that the Department has reported necessary for the continuance of the work for the present year, I withdraw my amendment and request the passage of the amount stated in the bill.

Mr. HOOKER. I offer an amendment to come in at line 59, and I hope there will be no point of order raised upon it. The capital of my State has furnished accommodations for the court-house, internal-revenue office, land office, and all the offices of the Government since 1817 without the cost of a dollar to the Government. I now ask simply for an appropriation of $100,000 for the erection of a public building there. I ask that my amendment be read.

The Clerk read as follows:

After line 59, add:

"For the erection of a public building at Jackson, Mississippi, capital of the State,

for United States court-room, internal-revenue office, land office, and post-office, the sum of $100,000: *Provided*, This amount shall not be exceeded for the erection of said building."

Mr. BLOUNT. I raise the point of order on that amendment, because, if I do not do it, there are forty-two bills on the Calendar in the same attitude. It changes existing law.

The CHAIRMAN. The Chair is satisfied the point of order is well taken, and therefore sustains it.

Mr. HOOKER. Very well; let it appear that the objection comes from the gentleman from Georgia.

Mr. OSMER. I move to insert the following, to come in after line 66:

For the purchase of lots numbers 11, 12, 24, and 25, in square 231, in the city of Washington and District of Columbia, being the land lying between the south line of the present site of the new building for the Bureau of Engraving and Printing and a fifteen-foot alley, or any portion thereof, as an addition to the site of the said building, at a cost not exceeding fifty cents per square foot; and the sum of $15,732.70, or so much thereof as may be necessary for the purchase of said land, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. BLOUNT. I raise the question of order on that. A bill is now pending before the House in reference to that same subject, and there is no authority of law for the purchase.

Mr. CLYMER. Clause 4 of Rule XXI prohibits it.

Mr. OSMER. I hope the point of order will not be pressed, at least until I can give the reasons for offering this.

Mr. BLOUNT. This matter has been discussed in the committee, and I hope the gentleman will not insist now upon offering the amendment, as I shall be compelled to make the point of order.

The CHAIRMAN. The Chair wishes the gentleman from Pennsylvania to state if this bill, which seems to be a Senate bill, is not now pending before some committee of the House?

Mr. OSMER. I so understand.

Mr. WILLITS. It is pending before the Committee on the Judiciary.

The CHAIRMAN. The Chair is of opinion that the point of order is good under section 4 of Rule XXI, and rules the amendment out of order.

The Clerk read as follows:

Post-Office Department: To enable the Postmaster-General to refit the rooms lately occupied by the city post-office in the Post-Office Department building, $16,365.

Mr. BLOUNT. I move to add after the word "dollars," in line 74, the words "that the same shall be immediately applicable."

Mr. FINLEY. I make the point of order on that.

The CHAIRMAN. The gentleman will state the point of order.

Mr. BLOUNT. If my friend from Ohio will allow me to make a statement as to the reasons which induced the committee to make this amendment, I think perhaps he will consent to withdraw his point of order.

Mr. FINLEY. I will withhold my point of order, then, for the present.

Mr. BLOUNT. It is well known to the gentleman from Ohio, as well as to the House, that the present city post-office is not in the building used by the Post-Office Department and that the rooms formerly occupied in that building for the city post-office have been vacated. These rooms are in a condition such as prevents them from being used by the Government, and it is important that they should be occupied as soon as possible. We have abundance of room there if the rooms are fitted up; and the proposition is simply to enable us to put them in a condition to be used and to be available.

The lower part of the building is very hot, and a number of employés are working in the basement who will be provided with comfortable accommodations for the transaction of public business if these rooms are fitted up. It will cost no more to fit them up now than it will at any other time, and it will have to be done very shortly anyhow.

Mr. FINLEY. I withdraw the point of order upon the statement which the gentleman has made.

The amendment was agreed to.

The Clerk read as follows:

To enable the Secretary of the Treasury to cause to be constructed a fire-proof roof for the building on the corner of Seventeenth and F streets, Washington, District of Columbia, known as Winder's building, $25,178.14, or so much thereof as may be necessary.

Mr. BLOUNT. I am directed by the committee to offer an amendment to this.

The Clerk read as follows:

On page 4, after line 75, strike out the words "the Treasury" and insert the word "War," so it will read, if amended, "to enable the Secretary of War to cause to be constructed," &c.

The amendment was agreed to.

Mr. POEHLER. I would like to ask the gentleman from Georgia having charge of this bill if this building belongs to the United States?

Mr. BLOUNT. Yes; the Winder building does belong to the Government.

Mr. ANDERSON. I desire to offer an amendment to this paragraph.

The Clerk read as follows:

Add after line 80 the following:

"For the purchase of a site and for the erection of a public building at Leavenworth, Kansas, not to exceed $100,000 in cost, $40,000."

Mr. BLOUNT. I will reserve the point of order on that amendment until I hear what the gentleman may wish to say in reference to it.

Mr. ANDERSON. I am quite aware, Mr. Chairman, that the point of order, if it is pressed, is good against this amendment; but I offer the amendment for the purpose of calling the attention of the House to the fact that in a State containing a population of about one million of people there is no public building. There is one started at Topeka, but at Leavenworth, which is the largest city in the State, there is no public building whatever.

I want to say, too, Mr. Chairman, that I object most decidedly to the action of a very small minority in this House last Saturday in preventing the simple consideration of a bill which I had a right to introduce as a Representative on this floor, and which every other member has a right to introduce, respecting his district, seeking to prevent by filibustering the mere consideration of such bills, all of which was cheap gammon and sheer demagogy.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLOUNT. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN (Speaker *pro tempore*) having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union having had under consideration, in accordance with the order of the House, the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, had come to no resolution thereon.

MONUMENT TO THE LATE JOSEPH HENRY.

Mr. CLYMER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table bill Senate No. 1702 and put the same upon its passage.

The SPEAKER *pro tempore*. The Clerk will read the bill, after which the Chair will ask for objections.

The Clerk read as follows:

A bill (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution.

Be it enacted, &c., That the Regents of the Smithsonian Institution be, and are hereby, authorized to contract with W. W. Story, sculptor, for a statue in bronze of Joseph Henry, late Secretary of the Smithsonian Institution, to be erected upon the grounds of said Institution; and for this purpose, and for the entire expense of the foundation and pedestal of the monument, the sum of $15,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill?

There being no objection, the bill was taken from the Speaker's table, read three several times, and passed.

Mr. CLYMER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HAYES. I move that the House now adjourn.

The motion was agreed to; and the House accordingly (at ten o'clock and fifty-nine minutes a. m.) adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BALLOU: The petition of the Society of Friends from the States of Pennsylvania, New Jersey, and Delaware, for a commission to investigate the effects of the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. BRIGHAM: The petition of William H. Wiggins, for compensation for additional work done in the Clerk's office, House of Representatives—to the Committee on Accounts.

By Mr. COVERT: The petitions of H. B. Van Deventer and W. F. Muchmore, for the repeal of the stamp-tax on proprietary medicines—to the Committee on Ways and Means.

By Mr. GEORGE R. DAVIS: The petition of Alfred Guthrie, for the abolition of the tax on beet-sugar—to the same committee.

By Mr. DEERING: The petition of soldiers of the late war, for the passage of the Geddes court-of-pension bill and for the defeat of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. FINLEY: The petition of 100 citizens of Hot Springs, Arkansas, for the appointment of a committee to investigate the condition of said springs—to the Committee on the Public Lands.

By Mr. FORSYTHE: The petition of soldiers and sailors of Lawrence County, Illinois, for the passage of the Weaver bill—to the Committee on Military Affairs.

By Mr. GARFIELD: The petition of the Ohio Iron and Steel Company, of Lowellville, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. JOHN HAMMOND: The petition of John N. Payne, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. HEILMAN: The petition of grand jurors of the District of Columbia, for an increase of the Metropolitan police—to the Committee on the District of Columbia.

By Mr. HERBERT: Resolutions and memorial of the city council

of Montgomery, Alabama, protesting against the proposed legislation relative to the National Board of Health—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. JOYCE: Papers relating to the pension claim of Patrick Haley—to the Committee on Invalid Pensions.

By Mr. POEHLER: Papers relating to the bill for the relief of John Fenscke—to the same committee.

By Mr. PRESCOTT: The petition of Alonzo Churchill and others, citizens of Utica, New York, for the continuance of the National Board of Health—to the Committee on the Origin, Introduction, and Prevention of Epidemic Diseases in the United States.

By Mr. STEELE: The petition of Brigadier-General M. P. Taylor, Captain Harrison Watts, and other officers of the second military district of North Carolina, for the passage of the bill for the support of the volunteer militia of the several States of the United States—to the Committee on the Militia.

By Mr. STONE: The petition of E. G. Minckler and 50 others, citizens of Allegan County, Michigan, for the amendment of the patent laws so as to protect innocent users of patented articles—to the Committee on Patents.

Also, the petition of E. G. Minckler and 47 others, citizens of Allegan County, Michigan, for the passage of a law that will protect the people from the oppression of transportation monopolies—to the Committee on Commerce.

By Mr. TAYLOR: The petition of Tennessee soldiers, against the passage of the Withers bill—to the Committee on Invalid Pensions.

By Mr. VANCE: The petition of commissioned officers of the second military district of North Carolina, for the passage of the bill for the support of the volunteer militia of the several States of the United States—to the Committee on the Militia.

By Mr. WARNER: The petition of Dr. F. W. Andrews, president, and George R. Rossiter, and other professors in Marietta College, Ohio, and others, clergymen, teachers, editors, and professional men, for the appointment of a commission to consider and report upon the propriety of introducing reform in English orthography in the public schools of the District of Columbia—to the Committee on Education and Labor.

By Mr. WRIGHT: The petition of Thomas J. O'Brien and 304 others, citizens of East Boston, Massachusetts, for the passage of the bill (H. R. No. 269) known as the Wright supplement to the homestead act—to the Committee on the Public Lands.

By Mr. THOMAS L. YOUNG: Two petitions of C. W. Short and others, and of Frank W. Maury and 39 other officers of internal revenue, for the passage of the bill (H. R. No. 4802) allowing internal-revenue storekeepers and gaugers the same leave of absence now allowed to all other employés of the Executive Departments of the Government—to the Committee on Ways and Means.

IN SENATE.

TUESDAY, *May* 25, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting information relative to the military post of Savannah, known as Oglethorpe Barracks, and recommending its sale; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 18th instant, information in regard to the action which has been taken by the Treasury Department in the matter of the claim of the State of Kansas for 5 per cent. of the net proceeds of sales of public lands in that State.

The PRESIDENT *pro tempore*. The Chair would inquire of the Senator from Kansas [Mr. INGALLS] whether he desires this communication to be printed?

Mr. INGALLS. I do not think it will be necessary. I offered the resolution to obtain information in support of an amendment that I have submitted to the sundry civil appropriation bill. The amendment has been referred to the Committee on Appropriations, and I ask that this communication may take the same course.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee on Appropriations.

Mr. INGALLS subsequently said: The communication that was received from the Secretary of the Treasury in reply to the resolution that I offered the other day was referred to the Committee on Appropriations, but I understand that the bill to which my amendment was offered will not be before the committee for a day or two. As the subject is one of considerable importance and the amount involved is large, I will move that the communication be printed.

The motion was agreed to.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the 30th ultimo, a report of the Commissioner of the General Land Office, concerning entries of town sites on mineral lands; which was referred to the Committee on Public Lands, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to the requirements of a clause in the sundry civil act of July 15, 1870, the report and opinion of the surveyor-general of Arizona Territory, together with a duly authenticated copy of the title papers and testimony in the matter of the private land claim No. 7, known as Tumacacori and Catabazas, in Pima County, in that Territory; which was referred to the Committee on Private Land Claims, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. BOOTH presented the petition of the San José Woolen Manufacturing Company, of San José, California, manufacturers of woolen goods, employing eighty hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. PLUMB presented a petition of citizens of Pawnee County, Kansas, praying for such legislation by Congress as will permanently assist them; and praying also for a reduction of the time of homestead settlement necessary to acquire title to lands; which was ordered to lie on the table.

Mr. BALDWIN presented the petition of Hon. Henry Waldron, Judge Daniel S. Pratt, and the county officials of Hillsdale County, Michigan, praying for the passage of an act granting arrears of pension to Mrs. Lucretia P. Brewer; which was referred to the Committee on Pensions.

He also presented the memorial of Dewey, Foster & Co. and 64 other firms of Michigan, manufacturers of staves, heading, and hoops, remonstrating against an increase of duty on low-grade sugar; which was referred to the Committee on Finance.

Mr. COCKRELL presented a petition of citizens of the State of Missouri, residing in Caldwell and Livingston Counties, praying that the bill known as the Eaton bill may be favorably considered, being a bill to provide for the appointment of a commission to investigate the question of the tariff; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. JONES, of Florida, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Pilatka military reservation in Florida, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1846) relating to the public lands of the United States, reported it with an amendment.

Mr. BURNSIDE. I am instructed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned or captured bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade, to report it favorably, without amendment, and to ask for its immediate consideration. I am sure there will be no objection to it.

Mr. EDMUNDS. I think we ought to go straight forward. The bill can be taken up to-morrow.

The PRESIDENT *pro tempore*. The Chair did not hear the remark of the Senator.

Mr. EDMUNDS. I said, as I said yesterday, that I thought it was unjust to other matters reported before to consider bills at once when they are reported from a committee.

The PRESIDENT *pro tempore*. The Senator from Vermont objects.

Mr. BURNSIDE. I suggest, with regard to the remark of the Senator from Vermont about considering the bill to-morrow, that it might as well be taken up to-day as to-morrow. The bill will go on the Calendar, if not acted upon at once.

Mr. EDMUNDS. Yes, but matters reported yesterday that went upon the Calendar can be taken up to-day, and then everybody will have a fair chance.

Mr. HOAR. Mr. President——

The PRESIDENT *pro tempore*. There is nothing before the Senate, objection being made to the consideration of the bill.

Mr. HOAR. I rose to ask leave of the Senate to put a question in this connection to the Senator from Rhode Island. There are quite a number of these applications from posts of the Grand Army of the Republic and other bodies, and they are very desirous, some of them in my own State I know, that these measures should go through before Memorial Day. Does the Senator expect to put through the general bill which contains a number of these provisions?

Mr. BURNSIDE. That bill is in the House. When it comes here it will be acted upon promptly by the committee. I am free to say to the Senator from Massachusetts that the committee considers this matter more important than giving condemned cannon to posts of soldiers who are now living, and who can wait until next year.

Mr. HOAR. The soldier who is dead can wait until next year better than the soldier who is alive.

Mr. BURNSIDE. I do not know about that.

Mr. HOAR. The Senate is the best judge.

Mr. EATON. I am directed by the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. No. 113) appropriating $14,900 for collecting, analyzing, and publishing more frequently the publications by the Department of State of consular and other commercial reports, and for clerical hire in the preparation of the same, together with certain letters from the President and Secretary of State recommending certain appropriations, to report the joint resolution and accompanying papers back, and ask that they be referred to the Committee on Appropriations for the purpose of being the basis of an amendment to the sundry civil bill.

The report was agreed to.

Mr. SAULSBURY, from the Committee on Privileges and Elections, to whom was referred the bill (S. No. 636) in relation to the election of Senators from the State of New Hampshire, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 404) to amend section 14, chapter 1 of title 2 of the Revised Statutes, reported it with an amendment.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1064) for the relief of Henry M. Rector, reported it with amendments.

Mr. McDONALD. I am also directed by the Committee on Public Lands, to whom was referred the bill (S. No. 483) for the relief of William L. White, to report it back with an amendment indicated on the face of the bill, and I ask for the present consideration of the bill.

Mr. EDMUNDS. I object, Mr. President.

The PRESIDENT *pro tempore*. Objection is made.

Mr. McDONALD. I then move that the bill be considered at this time.

The PRESIDENT *pro tempore*. It cannot be considered on the same day on which it is reported from a committee without unanimous consent.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3656) for the relief of John Hohstadt, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State, reported it without amendment, the committee adopting the House report in this case.

Mr. BECK, from the Committee on Finance, to whom was referred the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States, reported it without amendment.

PACIFIC HARBOR OF REFUGE.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred a motion to print a letter from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 5th instant, copies of the majority and minority report of the board of engineers on the proposed harbor of refuge for the Pacific coast, and a letter of the Chief of Engineers, to report back the same and recommend its passage. It is a mere motion to print; there is no resolution.

Mr. DAVIS, of West Virginia. I ask the Senator whether the usual number has been printed?

Mr. ANTHONY. The papers have not been printed at all.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion to print.

The motion was agreed to.

J. V. ADMIRE.

Mr. CAMERON, of Wisconsin. The Committee on Privileges and Elections have instructed me to report back unfavorably the claim of J. V. Admire, of Kansas. I would state in connection with the claim that Mr. Admire was duly subpœnaed by the sub-committee of the Committee on Privileges and Elections, which sat in Kansas last fall. He refused to appear before the sub-committee. The sub-committee reported the facts to the committee when the committee convened at this session; the committee reported the facts to the Senate, and the Senate thereupon ordered an attachment upon Mr. Admire. Upon that attachment he was brought here. The Committee on Privileges and Elections are of the opinion that inasmuch as he was brought here by order of the Senate, and not by order of the committee, the Senate and not the committee must, if any one, order his payment.

The PRESIDENT *pro tempore*. Is the report made on a resolution?

Mr. CAMERON, of Wisconsin. It is a report on an account. Mr. Admire, through the Vice-President, presented an account to the Senate for mileage and per diem, and that account was referred to the Committee on Privileges and Elections.

The PRESIDENT *pro tempore*. The committee report adversely upon that, and if there be no objection the committee will be discharged from the further consideration of the subject. The Chair hears no objection, and it is so ordered.

BILLS INTRODUCED.

Mr. BECK (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1788) for the relief of Mrs. Mary Griffith; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. MORGAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1789) for the relief of Mrs. Almira A. Hardy; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1790) for the relief of E. Sacra; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1791) to increase the pension of James Fleming, a wounded soldier of the war of 1812; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1792) for a public building at Rochester, New York; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

WITHDRAWAL OF PAPERS.

On motion of Mr. COCKRELL, it was

Ordered, That permission be, and it is hereby, granted to Charles Brewster to withdraw from the files of the Senate the proofs and papers filed in support of his bill (S. No. 494) by leaving copies thereof.

REGISTRATION OF DEATHS, ETC.

Mr. MORRILL submitted the following concurrent resolution; which was referred to the Select Committee to make provision for taking the Tenth Census:

Resolved by the Senate, (the House of Representatives concurring,) That the Secretary of the Treasury be empowered and directed to seek co-operation between the General Government of the United States and the several State governments in the establishment of a common, uniform, and efficient system for the registration of deaths, births, and marriages of the population; and for this purpose the sum of —— dollars is hereby appropriated.

ORDER OF BUSINESS.

Mr. McMILLAN. I understand the morning business to be through.

The PRESIDENT *pro tempore*. Concurrent and other resolutions are still in order. If there are no other concurrent and other resolutions the routine business of the morning hour is at an end.

Mr. WITHERS. In accordance with the notice I gave yesterday I ask that we may continue the consideration of the pension cases upon the Calendar.

Mr. BAYARD. At the adjournment of the Senate last night I had moved to proceed to the consideration of a bill of public importance, which I do not think should be displaced by the interpolation of any other measure. For that reason I shall move the Senate to proceed to the consideration of Senate bill No. 1252, the measure which I endeavored to bring up last night.

Mr. WITHERS. At the expiration of the morning hour that bill will come up, I should think.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Delaware that his motion is the unfinished business and will come up at half past one o'clock.

Mr. EDMUNDS. I hope the Chair will not decide that very hastily. Of course it will make no practical difference, because the Senator from Delaware will get the floor when he likes and make his motion; but unless the Chair intends (I am sure he does not) to reverse all the rulings of his predecessors, he will hold when the time comes that a motion to proceed to the consideration of a bill pending at the adjournment of the Senate for a day falls and must be renewed as a motion.

The PRESIDENT *pro tempore*. The Chair would be very glad to be referred to any such decision. He has not been able to find any, nor have the clerks at the desk. The yeas and nays were ordered, and that was the unexecuted order of the Senate when the Senate adjourned.

Mr. EDMUNDS. I can produce a good many witnesses and can have them sworn and prove the fact.

The PRESIDENT *pro tempore*. The Chair is not aware of any such decision.

Mr. McMILLAN. I do not rise to object to the request of the Senator from Virginia, but ask him if he will withdraw his request until I can ask the Senate to proceed to the consideration of a case upon the Calendar, which will not occupy any time, I think, or if objection is made to it I shall not press it this morning.

Mr. WITHERS. I dislike to object, but there is a large number of pension cases on the Calendar, all of which have been considered by committees, and it is important that action should be had by the Senate. I think we ought to dispose of them, and we can do it very readily and still leave time, I am sure, in the morning hour for my friend from Minnesota to get up his bill.

Mr. McMILLAN. The reason of my request is that I am compelled to be absent from the Senate in attendance upon the sessions of the

Committee on Commerce during the sitting of the Senate. That is the only reason why I make the request now.

Mr. WITHERS. I prefer, if the Senate will concur with me, to dispose of the pension bills on the Calendar first; it is my duty to insist upon that being done.

The PRESIDENT *pro tempore*. The Senator from Virginia moves to postpone the prior orders and to proceed to the consideration of pension bills on the Calendar in their order. The question is on the motion of the Senator from Virginia.

The motion was agreed to.

PERMANENT ANNUAL APPROPRIATIONS.

Mr. DAVIS, of West Virginia. I ask the Senator from Virginia to give way until I give notice that to-morrow morning, after the usual routine business, I shall ask the Senate to take up the bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations.

BEN HOLLADAY.

Mr. CAMERON, of Wisconsin. I desire to give notice now that at half past one o'clock to-morrow I shall move to postpone all prior orders for the purpose of taking up and considering the bill (S. No. 231) for the relief of Ben Holladay. The bill was considered to some extent two or three weeks ago, but went over; and I desire to call it up again to-morrow morning at that hour.

LOUISA BAINBRIDGE HOFF.

Mr. WITHERS. The first pension case on the Calendar at the point where consideration ceased yesterday is Senate bill No. 21.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 21) granting a pension to Louisa Bainbridge Hoff. It directs the Secretary of the Interior to place on the pension-rolls the name of Louisa Bainbridge Hoff, widow of Henry Kuhn Hoff, late rear-admiral United States Navy, and daughter of William Bainbridge, late commodore United States Navy, and to pay to her a pension at the rate of $50 a month during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HERMAN BALDWIN.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The Secretary will report the next pension bill on the Calendar in its order.

The CHIEF CLERK. A bill (H. R. No. 2407) granting a pension to Belinda Curtis.

Mr. INGALLS. That is objected to.

Mr. WITHERS. That is reported adversely. The next is House bill No. 2861.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2861) granting an increase of pension to Herman Baldwin.

The bill was reported from the Committee on Pensions with amendments, which were, in line 5, after the word "granted," to strike out "and allowed from September 4, 1877;" in line 7, before the word "dollars," to strike out "ten" and insert "eight;" and, in line 10, after the word "him," to strike out "deducting from said $10 per month any sum heretofore paid him since the said 4th day of September, A. D. 1877, on quarterly pensions, from that period until this act goes into effect" and to insert "such increase to date from the passage of this act;" so as to make the bill read:

Be it enacted, &c., That Herman Baldwin, late corporal of Company B, in the Fifty-fourth Regiment Pennsylvania Volunteer Infantry, be, and he is hereby, granted a pension at the rate of $8 per month; and the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of said Herman Baldwin on the pension-roll at said rate in lieu of the pension now paid him, such increase to date from the passage of this act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

HANNAH S. MACKEY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1711) granting a pension to Hannah S. Mackey. It directs to be placed on the pension-roll the name of Hannah S. Mackey, guardian of Margaret J. Yourison, minor child of John M. Yourison, late a private in Company G, Fifty-sixth New York Volunteers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS P. JOHNSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 913) granting a pension to Thomas P. Johnson. It directs to be placed on the pension-roll the name of Thomas P. Johnson, a soldier in the Mexican war.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. LELIA E. M'CAULEY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1728) granting a pension to Mrs. Lelia E. McCauley. It directs the Secretary of the Interior to place on the pension-roll the name of Lelia E. McCauley, widow of the late Commodore Charles S. McCauley, United States Navy, and to pay her a pension at the rate of $50 per month in lieu of the pension she now receives.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH WIRT GOLDSBOROUGH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 3) granting a pension to Elizabeth Wirt Goldsborough. It directs the Secretary of the Interior to place on the pension-roll the name of Elizabeth Wirt Goldsborough, widow of the late Rear-Admiral Goldsborough, and pay her a pension of $50 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. COCKRELL. I should like to ask the Senator from Virginia, the chairman of the Committee on Pensions, in regard to this class of cases (I see quite a number of them) if we do not grant relief in all this class of cases; and, if so, why not pass a general law? They were allowed $40 and $50 at one time, so the report says. Then it was reduced to $30. These bills are in effect a repeal of the general law.

Mr. WITHERS. They are not a repeal of the general law, but the same relief which is granted in these two cases, and also in two or three other cases which have been reported, has been granted to other persons precisely similarly situated. These persons were entitled to a pension of $50 out of the naval pension fund. Subsequently by act of Congress of July 14, 1862, it was reduced to $30, but it was only a restoration to the rate which they previously received by the operation of the old law.

The PRESIDING OFFICER. The question is, Shall the bill pass? The bill was passed.

CHILDREN OF LAWRENCE BURGESS.

The Senate, as in the Committee of the Whole, proceeded to consider the bill (S. No. 1652) granting a pension to the minor children of Lawrence Burgess. It directs the Secretary of the Interior to place on the pension-roll the names of the minor children of Lawrence Burgess, late a private of Company H, One hundred and fourteenth Regiment Illinois Volunteers, and pay them pensions from the date of their father's death, July 5, 1864, until each shall have arrived at the age of sixteen years, respectively.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM STOCKWELL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1729) granting a pension to William Stockwell. It directs the Secretary of the Interior to place upon the pension-roll the name of William Stockwell, a soldier of the war of 1812.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS J. MACKEY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1716) granting a pension to Thomas J. Mackey.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Thomas J. Mackey, late special provost-marshal, from and after the passage of the act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ISAIAH W. BUNKER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker.

The bill was reported from the Committee on Pensions with amendments, in line 5, after the word "from," to strike out "August 7, 1879" and insert "and after the passage of the act;" and in line 7, before "dollars," to strike out "twenty-four" and insert "twelve;" so as to make the bill read:

That Isaiah W. Bunker, late private of Company C, in the Eighty-fourth Regiment Pennsylvania Volunteer Infantry, be, and he hereby is, granted and allowed, from and after the passage of the act, a pension at the rate of twelve dollars per month; and the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of said Isaiah W. Bunker on the pension-roll at said rate in lieu of the pension now paid him.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

THOMAS RILEY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2474) to increase the pension of Thomas Riley.

The bill was reported from the Committee on Pensions with an amendment, in line 8, after the word "the," to strike out the words

"17th day of June, A. D. 1878, deducting therefrom any and all amounts received by him on account of pension since said date; this pension to be in lieu of the pension now received by said Riley" and insert "passage of this act;" so as to read, "a pension at the rate of $72 per month from and after the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MICHAEL HAYNE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1133) granting a pension to Michael Hayne. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Hayne, a sailor on board of the United States ship Brandywine.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY J. WEST.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1743) granting an increase of pension to Mary J. West. It provides for paying to Mary J. West, widow of Commander William C. West, a pension at the rate of $30 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JASON C. BRADEEN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1178) for the relief of Jason C. Bradeen. It proposes to increase the pension of Jason C. Bradeen, late private in Company D, Second Regiment Maine Volunteers, to the sum of $72 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JACOB J. SMITH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2039) granting a pension to Jacob J. Smith.

The bill was reported from the Committee on Pensions with an amendment, to strike out the words "at the rate of $6 per month from the 20th of July, 1865, that being the date of his discharge from the Army of the United States in the late war of the rebellion on account of injury received and disease contracted while in said military service in line of duty" and insert in lieu thereof "subject to the provisions and limitations of the pension laws;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Jacob J. Smith, first lieutenant of Company H, Twelfth Regiment of Pennsylvania Cavalry, subject to the provisions and limitations of the pension laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

PHŒBE MEECH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 576) for the relief of Phœbe Meech.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the word "directed," in line 4, as follows:

To place the name of Phœbe Meech, widow of Horace I. Meech, deceased, late of Company I, First Regiment New York Volunteers, war with Mexico, upon the pension-rolls of the United States, and to pay or cause to be paid to her a pension of $15 per month from the date of the discharge of said Horace I. Meech, upon satisfactory evidence being furnished to the said Secretary that the said Horace I. Meech was duly commissioned a second lieutenant in the said regiment; the pension herein provided for to be in lieu of the pension now received by the said Phœbe Meech, and to pay or cause to be paid to the said Phœbe Meech the amount of pension-money accruing between the date of the discharge and the date of the passage of this act, less the amounts already received;

And to insert in lieu thereof—

To pay to Phœbe Meech, widow of Horace I. Meech, deceased, late of Company I, First Regiment of Volunteers, in the war with Mexico, from and after the passage of this act, a pension at the rate of $15 per month, in lieu of the pension she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARGARET COSTELLO.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1584) granting a pension to Margaret Costello. It proposes to place the name of Margaret Costello, widow of Thomas Costello, deceased, late a private in the United States Army, general service, on the pension-roll.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY MEIGHAN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2643) granting a pension to Mary Meighan. It proposes to place on the pension-roll the name of Mary Meighan, widow of Peter Meighan, late a private in Company F, Twenty-fourth Regiment of United States Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDITH BROWN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4264) to authorize the payment of $69.09 to Judith Brown, one-seventh of the pension of Margaret Duncan. The bill directs the Secretary of the Treasury to pay to Judith Brown $66.09, being the amount due her as one of the children of Margaret Duncan, widow of Charles Duncan, a revolutionary soldier, under the act of July 7, 1838, and subsequent acts, which sum has not been paid to her or any one for her.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The bill is reported from the Committee on Pensions with an amendment.

Mr. INGALLS. The amendment is to the title of the bill only.

Mr. COCKRELL. I ask that the report be read in that case.

The PRESIDING OFFICER. The report will be read.

Mr. INGALLS. If the Senator from Missouri will listen to my statement one minute, I think he will not ask for the reading of the report. This case stands upon a letter from the Commissioner of Pensions, who examined the matter and informed the committees of both Houses that in consequence of the failure to ascertain the residence of this party who was entitled to the pension, a number of years ago it lapsed into the Treasury, and that there is no question about the right, and that the amount ought to be appropriated.

Mr. COCKRELL. It is not relieving her from any bar?

Mr. INGALLS. No, sir.

Mr. COCKRELL. That is the only point I wanted to know, because there are a large number of cases where parties are barred.

Mr. INGALLS. There is nothing of that kind in this case.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The title was amended so as read: "A bill to authorize the payment of $66.09 to Judith Brown, one-seventh of the pension of Margaret Duncan."

W. J. MORRIS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1754) for the relief of W. J. Morris. It provides for placing on the pension-roll the name of W. J. Morris, of Delhi, Illinois, at the rate to which, upon examination, his disability may entitle him to receive.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EMERY BOWEN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 635) granting a pension to Emery Bowen. It provides for placing on the pension-roll the name of Emery Bowen, late private of Company M, Seventh Regiment of Michigan Cavalry.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

P. B. PERRY, SR.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1546) granting a pension to P. B. Perry, sr. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of P. B. Perry, sr., a survivor of the Mexican war.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STEPHEN FAIRCHILD.

The bill (S. No. 1517) to authorize an increase of pension to Stephen Fairchild was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to increase the pension of Stephen Fairchild, of Ann Arbor, Michigan, formerly of Company F, Twentieth Michigan Infantry Volunteers, from $24 per month, the amount he is now receiving, to a sum not exceeding $72 per month, as shall from time to time seem just to him on examination and proof in his case.

The bill was reported from the Committee on Pensions with an amendment, to strike out "a sum not exceeding $72 per month, as shall from time to time seem just to him on examination and proof in his case, and that he be paid such increase accordingly" and insert "$40 a month from and after the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN H. BLACK.

The bill (H. R. No. 2862) granting an increase of pension to John H. Black was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, after the word "from," in line 5, to strike out "June 4, 1878" and insert "and after the passage of this act;" and in line 11, after the word "him," to strike out "from the above date, deducting

therefrom the amount of pension paid him for said period of time;" so as to make the bill read:

That John H. Black, late first lieutenant Company G, Twelfth Regiment Pennsylvania Volunteer Cavalry, be, and he is hereby, granted and allowed, from and after the passage of this act, a pension at the rate of $50 per month; and the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of said John H. Black on the pension-roll at the said rate in lieu of the pension now paid him.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

EDWARD H. LEIB.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1463) granting a pension to Edward H. Leib. It provides for placing on the pension-roll the name of Edward H. Leib, late brevet lieutenant-colonel United States Army, captain Fifth United States Cavalry, at the rate of $50 per month in lieu of the pension he now receives.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THORNTON SMITH.

The bill (S. No. 562) granting an increase of pension to Thornton Smith was considered as in Committee of the Whole.

The PRESIDING OFFICER. The amendments of the committee to this bill have been formerly agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH SUTHERLAND.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1232) granting a pension to Elizabeth Sutherland. It proposes to place on the pension-roll the name of Elizabeth Sutherland, widow of Hosie Sutherland, of Captain Baitan's company, Colonel Francisco's command, in the war of 1812.

Mr. COCKRELL. I should like to hear the report read in that case.

The Chief Clerk read the report, submitted by Mr. FARLEY February 9, 1880, as follows:

The Committee on Pensions, to whom was referred the petition of Elizabeth Sutherland, widow of Hosie Sutherland, deceased, formerly of Captain Baitan's company, Colonel Francisco's regiment, beg leave to report as follows:

It appears from the evidence that Hosie Sutherland was drafted and served in the war of 1812, from February 8, 1815, to March 7, 1815, when he was discharged. The treaty of peace was ratified March 17, 1815, and the soldier served ten days before and eighteen days after the ratification.

The act of March 9, 1878, requires that soldiers of the war of 1812 must have served fourteen days to entitle them or their representatives to a pension. As the soldier served twenty-eight days in the war before being discharged, it is thought that this case comes within the scope and spirit of the law.

Your committee therefore recommend the passage of the accompanying bill.

Mr. COCKRELL. I move an amendment to that bill by inserting "and that all other persons who come within the provisions of this bill shall be placed on an equal footing with this person."

The PRESIDING OFFICER. The Senator will please reduce his amendment to writing.

Mr. HOAR. If the Senator from Missouri proposes that amendment I shall exercise my right to object, and have the bill go over under the Anthony rule. I do not think that a general pension law, which his amendment will make this bill, ought to be passed without reflection, upon the spur of the moment, as an amendment to a private bill; and whether it be objectionable or not, I am not prepared to consider it.

Mr. COCKRELL. I must insist on the motion simply because this is one of a large number of cases. It is one of a class of cases. We probably have fifty persons in Missouri in this condition, and it is unjust to pension one and not another.

The PRESIDING OFFICER. The bill goes over.

Mr. HOAR. One word before this bill goes over. I think the Senator from Missouri and the Senator in charge of the bill will see that it would be a most vicious precedent to have a general pension bill passed in two minutes by an amendment which a Senator hastily draws up at his desk. I do not wish——

The PRESIDING OFFICER. The bill is already laid aside. Debate is out of order on it.

Mr. HOAR. I have not yet objected to it. I have only given notice that I proposed to object.

Mr. VOORHEES. On a question of this kind, this man ought not to be kept out of his pension.

Mr. WITHERS. I will state, by unanimous consent, that as I understand we have already decided a case just like this.

Mr. HOAR. Who is entitled to the floor?

The PRESIDING OFFICER. The Chair is a little foggy on that subject. The Senator from Massachusetts is entitled to the floor if this bill is still before the Senate. The Chair supposed it had been laid aside by an objection if the amendment was insisted on.

Mr. HOAR. I gave notice that if the amendment was insisted on I should be compelled to object to the consideration of the bill for the reason that I was about to state, that we would all agree it was a most vicious precedent to have a general pension bill drawn up and written with a pencil at the desk, and passed on two minutes' consideration; but I do not desire to interfere with the case of this particular pensioner. I agree with what I understand the Senator from Indiana was about to say, that if the committee have considered this question, even if there are cases that stand like it which are not yet reached, I will not object if the Senator from Missouri does not insist upon making a general pension bill of it.

Mr. VOORHEES. I would vote for the proposition of the Senator from Missouri as an independent bill, but I hope it will not be sought to be tacked upon this bill, which is a private bill for relief in one case.

Mr. COCKRELL. Why should this relief be granted to one individual when there are scores of others equally meritorious and equally entitled to the same relief?

Mr. WITHERS. I have simply to state in explanation of the action of the committee that, as our report shows, we were quite cognizant of the fact cited by the Senator from Missouri, that in other cases where a shorter term of service had been rendered parties might make complaint; but the services in this case were such as in the estimation of the committee entitled this person to relief. That is all there is in it. I concur with the Senator from Massachusetts as to the impolicy of enacting a general pension law in the guise of a particular pension bill.

Mr. COCKRELL. Will the chairman of the Committee on Pensions say whether the Committee on Pensions will favor granting relief to all persons who come within the principle of this case?

Mr. WITHERS. Every person similarly situated, where such a case is made out as was made out by this person, so far as I know, the committee will favorably consider.

Mr. COCKRELL. What are the peculiarities of this case?

Mr. WITHERS. The peculiarities are that the man was greatly injured and in a suffering condition by reason of his service; that he was detained from home nearly three weeks after the treaty of peace, and retained in the Army subject to military rule, and kept subject to orders, and was in reality in the Army, and did not receive his discharge until three weeks after the treaty.

Mr. INGALLS. And the further fact that he is dead and this is an application from his widow.

Mr. COCKRELL. In Boone County, Missouri, I have two precisely similar cases where the soldiers were in service longer than this man; but I understood the policy of the Committee on Pensions was not to grant relief in special cases by special act where there was one common class of cases covering them; that they would do it by general legislation, and there are bills now pending in Congress to grant relief to this class of persons, persons who did not serve fourteen days prior to the ratification of the treaty of peace, but some of them served thirty days and some of them two months after that. It is the duty of the committee, if they propose to grant relief to this class of cases, to put it in as an amendment to this bill. I understand such amendments to the law have been proposed; I understand they have been introduced in the House and in the Senate to avoid the introduction of special bills.

Mr. WITHERS. I am not aware that there is such a bill before the committee.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri.

Mr. INGALLS. While the amendment offered by the Senator from Missouri is unobjectionable, perhaps, as a matter of principle, I submit to him whether it is just to this aged and venerable survivor of a soldier of that war to insist on putting it as an appendix on this little bill for her relief.

Mr. COCKRELL. If the Committee on Pensions will report a bill granting relief to all such cases I will withdraw the amendment.

Mr. INGALLS. Of course the Senator from Missouri has no right to ask the committee to stipulate what they will do. A condition of that kind cannot be complied with, as he is very well aware. I appeal to those who believe that justice ought to be done to this woman to vote down the amendment of the Senator from Missouri, and let us act upon that as a separate, independent measure. I am sure the Senator from Missouri will not object to that.

Mr. COCKRELL. I do not object to granting this pension to this person; I believe it is right and that the principle is right; but it is not right to grant it by special legislation and refuse it to fifty or a hundred others equally meritorious.

Mr. INGALLS. Let the Senator bring in a bill for the relief of the fifty or one hundred others, and then we can pass that.

Mr. COCKRELL. It has been understood here and was stated as the policy of the Committee on Pensions not to grant special relief to given classes of cases, but where a general bill could provide for a class to leave it to a general bill. Now they bring in special bills to the great injustice and injury of persons as meritorious as this person.

Mr. ALLISON. What has become of the objection of the Senator from Massachusetts?

Mr. HOAR. I have not yet made objection.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Missouri.

Mr. COCKRELL. I withdraw the amendment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RESTORATION OF CERTAIN NAVAL PENSIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1501) to restore pensions in certain cases. It declares that section 3 of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July 25, 1866, and section 13 of an act entitled "An act relating to pensions," approved July 27, 1868, and section 4712 of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows or minor children, prior to the 25th of July, 1866; and the Secretary of the Interior is directed to restore all such pensions as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Mr. WITHERS. I will state that this is a bill which is designed to provide by general law for a class of cases suggested by the Senator from Missouri a while ago. It is intended to restore to the former rate of pension widows of naval officers who had under the operation of the old law actually been receiving $50 and were reduced to $30. This is intended by general law to provide for that class.

Mr. COCKRELL. How many?

Mr. WITHERS. Four, I understand.

Mr. ANTHONY. Does this bill restore to these pensioners the arrears?

Mr. WITHERS. No, sir.

Mr. ANTHONY. It seems to me it ought to do that.

Mr. WITHERS. That may be so; but there was a difference of opinion on the part of the committee in that regard while they all concurred in the opinion that they ought to be restored to their rate.

Mr. ANTHONY. There are a number of widows who by special act had received a pension of $50 per month who were reduced to $30. Since that time we have been passing special acts giving to widows $50 a month, while these poor women who are mostly widows of officers in the war of 1812 have been suffering the loss of what they expected to receive during their lives. I know one, the widow of Commodore Turner, who stood by the side of Perry at the battle of Lake Erie. Her pension was reduced from $50 to $30, and has been at the rate of $30 for a number of years. It seems to me that it is but an act of justice that the arrears, the difference between $30 and $50, should be paid to these persons.

Mr. WITHERS. That may very well be; and I concur myself entirely in what has been stated by the Senator from Rhode Island; and I would say that in the view of the committee there was a manifest propriety in restoring these parties to the rate of pension which they formerly enjoyed. It would certainly give them great relief, and it does not at all debar them from a remedy by application hereafter for arrears, which they would appear to be equitably entitled to. Therefore it is in their interest that the rate should be restored. Let us pass this bill and at any rate secure that much to them, and I think their friends will act wisely by concurring in the passage of this bill and leave it to future application to determine whether the arrears shall be paid.

Mr. ANTHONY. I will not embarrass the bill by any amendment, but trust that the Pensions Committee will at some future time bring in a bill rendering to these persons the arrearages of which they have been deprived.

Mr. VOORHEES. I am satisfied that the bill meets the desire of the Senator from Rhode Island as it now stands. The last clause of it reads:

> And the Secretary of the Interior is hereby directed to restore all such pensions as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Mr. WITHERS. That is so; my recollection is refreshed by what the Senator from Indiana reads. The first impression of the committee was to report the bill otherwise; but subsequently they added that clause.

Mr. ANTHONY. That makes it all right.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MISSISSIPPI RIVER LOGGING COMPANY.

Mr. McMILLAN. Mr. President——

Mr. WITHERS. There is one other pension case on the Calendar. I yield temporarily, informally, with the understanding that should the bill the Senator from Minnesota proposes to call up lead to discussion, I shall have the privilege of resuming the consideration of pension cases.

Mr. McMILLAN. Certainly.

The PRESIDING OFFICER. The pension cases will be laid aside, subject to call.

Mr. McMILLAN. I ask the Senate to consider Senate bill No. 1371.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough.

The bill was reported from the Committee on Commerce with an amendment, to insert as an additional section the following:

> SEC. 3. That this act may be altered, amended, or repealed at any time; and in case of such alteration, amendment, or repeal, it is expressly provided that the United States shall not be liable for any damages that may be sustained by reason thereof.

The amendment was agreed to.

Mr. McMILLAN. I move to amend, in line 5 of section 1, after the word "operate," by inserting "in conformity with plans approved by the Secretary of War."

The amendment was agreed to.

Mr. McMILLAN. In line 13, section 1, after the word "approval," I move to insert "or so constructed as to interfere with or obstruct navigation;" so as to read:

> *Provided*, That said sheer-booms shall not be constructed until the plans and location of the same are submitted to the Secretary of War and receive his approval, or so constructed as to interfere with or obstruct navigation.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. WALLACE. I desire to say, in reference to this character of bill, that perhaps it is the introduction of a new policy in regard to that great river, the Mississippi, and I imagine it will return to plague the inventors. I do not desire now to attempt to combat the passage of the bill, but simply to say that the blocking of a great river such as the Mississippi River by sheer-booms, even with the saving clause of non-obstruction of navigation, will be found to be a detriment to the navigation of the river. I speak knowingly. We have had the experience in the Susquehanna River again and again; and I only call attention to the fact that it is the introduction of a new policy which should perhaps require a little thought on the part of the Senate.

Mr. CAMERON, of Wisconsin. Will the Senator allow me to say one word right there?

Mr. WALLACE. Certainly.

Mr. CAMERON, of Wisconsin. This bill does not provide for the construction of a boom in the Mississippi, but in the Chippewa River some distance above the point where it enters into the Mississippi. The boom, as I understand, is for the purpose of shipping logs that come down the Chippewa River into the Beech Slough, which is one of the mouths of the Chippewa, and is used for storing purposes and has been for quite a number of years.

Mr. WALLACE. The principle is the same. The Chippewa River is under the control of the Government of the United States; and if it has the power to put this boom there, that river will be interfered with just as much in proportion to its size as will the Mississippi River by the introduction of this boom there.

Mr. CAMERON, of Wisconsin. It is not a new policy as applied to the Chippewa, because the Chippewa has been full of booms for the last twenty years.

Mr. WALLACE. Under the authority of the State of Wisconsin.

Mr. CAMERON, of Wisconsin. And also under the authority of Congress.

Mr. WALLACE. I only rose to call attention to the character of the proposition.

Mr. McMILLAN. It is altogether under the control of the Secretary of War, and is not in the Mississippi River but in the slough at the east side of the river, not in the channel at all.

Mr. TELLER. I should like to ask the Senator from Minnesota if there is any provision in the bill in case these booms are found to obstruct navigation for taking them out?

Mr. McMILLAN. Yes, sir; and the parties are compelled to do so at their own expense.

Mr. TELLER. That is all.

The amendments were then concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AGRICULTURAL DEPARTMENT APPROPRIATIONS.

Mr. WINDOM. I ask leave to make a report at this time. The Committee on Appropriations, to whom was referred the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, direct me to report it back with sundry amendments and recommend its passage. I give notice that immediately after the conclusion of the routine business to-morrow morning I shall ask the Senate to consider the bill.

Mr. DAVIS, of West Virginia. I suggest to my colleague on the committee that I have given notice that the Appropriations Committee will ask to-morrow morning, after the routine business, to take up what is known as the permanent and indefinite appropriation bill, and let this follow, if it is agreeable to him.

Mr. WINDOM. I shall be governed very much by the wishes of the chairman of the Committee on Appropriations.

Mr. DAVIS, of West Virginia. Both bills ought to be considered, one to follow the other.

TERRITORIAL LEGISLATIVE REAPPORTIONMENTS.

Mr. BUTLER. The Senator from Virginia gives way for one moment in order that I may give notice of my purpose to call up the bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming. I give notice that after the termination of the pension cases I shall ask the Senate to consider the bill.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following

bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims;

A bill (H. R. No. 2499) for the relief of Germain H. Mason;

A bill (H. R. No. 4646) for the relief of the heirs of Cornelius Boyle;

A bill (H. R. No. 4887) granting a pension to Rosalie Louis;

A joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances; and

A joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia.

The message also announced that the House had passed the following bills:

A bill (S. No. 56) for the relief of Edward Braden and J. W. Angus; and

A bill (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution.

The message further announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers' and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, muskets, and blank cartridges.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes; and it was thereupon signed by the President *pro tempore*.

WILLIAM B. WHITING.

Mr. WITHERS. I now call up Senate bill No. 751. This is a bill which has gone over previously on the objection of the Senator from Missouri, [Mr. COCKRELL.] I call his attention to it, and I ask the Senate now to proceed with it.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 751) granting a pension to William B. Whiting.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the report, submitted by Mr. INGALLS December 4, 1879, as follows:

The Committee on Pensions, to whom was referred the petition of W. B. Whiting, report:

The petitioner entered the naval service of the United States as midshipman February 2, 1829; was promoted to be lieutenant September 8, 1841; was placed on the retired list as lieutenant under the act of February 28, 1855, in consequence of physical injuries for which he now asks a pension. His claim has been rejected by the Commissioner upon the ground that the disability for which pension is asked did not originate in the line of duty. His physical condition is deplorable. While under verbal orders to join the Japan expedition, in 1852, he was thrown from a carriage, suffering dislocation of the spine, resulting in paralysis, which renders him a helpless invalid, unable to stand, and requiring the constant care of an attendant to lift him from his bed to a chair.

The committee are of opinion that the disability of which Commodore Whiting complains did occur in the line of duty, and the only remaining question is, whether, being upon the retired list, he is also entitled to pension for the same injury which caused his retirement. Section 4724 reads:

"No person in the * * * Navy * * * shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade or in the civil branch of the service."

The case of Commodore Whiting comes clearly within the provisions of the statute. He was subsequently to his injury employed in a lower grade of the service, and but for that injury would have had full pay instead of retired pay, and would have remained in the line of promotion.

The committee therefore report a bill for his relief, with the recommendation that it do pass.

Mr. COCKRELL. This is a departure from the well-established rule of this Government from its foundation down to the present time. It is to place upon the pension-roll an officer on the retired list of the Navy, one who is drawing to-day $1,900 per annum on the retired list of the Navy, and this is to grant him a pension in addition to that amount; and if this officer is entitled to it there are hundreds of officers upon the retired list of the Navy and upon the retired list of the Army, and it is injustice to them that this special discrimination should be made.

This question was up before the Senate on the 11th of December last, and was discussed at some length. The Senator from Virginia [Mr. WITHERS] on that occasion stated:

The committee decided unanimously that it did come within those provisions.

That is, within the provisions of the pension code.

The Pension Bureau, as the report states, rejected the case because, according to their conclusion, the disability was not received in the line of duty; they thought there was no proof of it. But the facts of the case show that it was received in the line of duty, for this reason: that no officer can be placed upon the retired list of the Navy for disability unless that disability was incurred in the line of duty.

The Senator further said:

If the Senator from Missouri can show that the statute forbids the payment of this pension I will vote against it.

The Senator from Indiana [Mr. VOORHEES] said:

The Senator from Virginia, the distinguished chairman of the Committee on Pensions, made the statement which I desired to make when I rose, that if the Senator from Missouri can show by the law that because a man is on the retired list, either from the infirmities of age or disabilities incurred in the service, he is prohibited from receiving a pension, we should like to see the law.

It was stated in that discussion further that it had not been the rule in the Pension Office to reject applications from men on the retired list. I stated on that occasion that it had been the uniform rule of this Government not to grant a pension to any officer or soldier on the retired list of the Army or Navy; that the fact that a man was placed on the retired list of the Navy and allowed to draw 75 per cent. of his regular pay was in lieu of pension and all other allowances. That point was controverted. I say now that I have in my hand the records of this Government, and it has never, with three solitary exceptions before the retired list was created, allowed such a thing. Those are the only instances where relief was ever granted in a case of this kind. There have been but three such cases, and none of them since the war, not one since the retired lists of the Army and Navy have become what they are.

After this case was up before, I addressed sundry letters to the Commissioner of Pensions and to the Secretary of the Navy for information upon it. I did not know that it would come up so soon, or I should have had these papers arranged so that I could present them in better shape.

I have the report of the proceedings of the board of inquiry in regard to Captain Whiting and the opinion; I also have the letters of the Secretary of the Navy in regard to the amount of pay he has been receiving.

Mr. ALLISON. What is the amount?

Mr. COCKRELL. He is receiving $1,950. I ask the Secretary to read this letter of Commodore Jeffers, acting Secretary of the Navy.

The Chief Clerk read as follows:

NAVY DEPARTMENT, *December* 13, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, making inquiries as to the date of retirement, &c., of Commodore William B. Whiting, United States Navy.

The case of Lieutenant W. B. Whiting was considered by a board of officers convened under the "Act to promote the efficiency of the Navy," approved February 28, 1855. Said board having reported him as one of the officers who should, in their judgment, be placed on the reserved list on furlough pay, and their recommendation having been approved by the President, he was, in accordance with such recommendation and action, removed from the active list and placed on the reserved list on furlough pay, on the 28th day of September, 1855. (Letter appended, marked A.)

Under the provisions of an "Act to amend an act to promote the efficiency of the Navy," approved January 16, 1857, the case of Lieutenant William B. Whiting was again considered by a court of inquiry, organized under the authority of said act; and the court having recommended that he remain on the retired list of the Navy, and that he be placed on leave-of-absence pay, and their recommendation having been approved by the President and confirmed by the Senate on the 14th of January, 1858, he was transferred from that date from furlough to leave pay, and notified of such action February 15, 1858. (Recommendation of court and letter appended, marked B and C.)

From the time of his retirement to the 11th of April, 1861, Lieutenant Whiting was unemployed. At that date he was ordered to the Naval Observatory. On the 4th of April, 1867, he was commissioned as a captain on the reserved list. On the 1st of October, 1871, he was detached from duty at the Naval Observatory and placed on waiting orders; since that date he has been unemployed. On the 15th of February, 1872, he was commissioned a commodore on the retired list, to rank from April 22, 1870.

The waiting-orders or leave-of-absence pay of a lieutenant, at the time of Lieutenant Whiting's retirement, was $1,200 per annum; and this rate of pay, for that grade, waiting orders, or on leave of absence, continued until the passage of the act of July 16, 1862, when the annual pay of a lieutenant on the retired list was fixed at $1,000 per annum. The pay of officers on the retired list on furlough pay is one-half of the pay to which they would be entitled if on leave of absence.

Lieutenant Whiting was therefore entitled to receive $600 per annum from the date of his retirement in 1855 to the 14th of January, 1858, when he was placed on leave-of-absence pay, namely, $1,200 per annum. This rate of pay continued until he was ordered to duty at the Naval Observatory, Washington, District of Columbia, April 11, 1861. His pay from the last-mentioned date was $1,800 per annum until the passage of the act of July 16, 1862, by which the shore-duty pay of lieutenant was fixed at $1,500 per annum. He was entitled to this rate of pay, ($1,500,) being on duty, until the passage of the act approved July 15, 1870, which fixed the pay to which he was entitled on shore duty at $2,200 per annum. This rate of pay continued until he was detached from duty at the Observatory, October 1, 1871.

By the act of July 15, 1870, the pay of all retired officers not on duty was fixed at one-half of the highest pay prescribed by the act for officers on the active list whose grade corresponds to the grade held by such retired officers, respectively, at the time of such retirement. This highest rate of pay was $2,600 per annum, and he was entitled to one-half of that sum ($1,300) per annum from the date of his detachment from the Observatory, October 1, 1871, and which is the rate to which he has been entitled since then, and the rate of pay to which he is entitled at the present time, and is the full amount of his annual pay. He has no allowances.

It will be observed that although the present Commodore William B. Whiting was promoted at different times since his retirement, such promotion does not entitle him to any increase of pay above that of lieutenant, which was the grade or rank held by him at the time of his retirement.

Very respectfully,

WILLIAM N. JEFFERS,
Acting Secretary of the Navy.

Hon. F. M. COCKRELL,
United States Senate.

Mr. COCKRELL. It would appear from that letter that the salary was $1,350. Now I ask that another letter be read from the same officer correcting that letter and the misinformation communicated to me in it, showing that he receives not $1,350 but $1,950.

The Chief Clerk read as follows:

NAVY DEPARTMENT, *December* 15, 1879.

SIR: Referring to Department's letter to you, dated the 13th instant, in the case of Commodore William B. Whiting, United States Navy, you are informed that an error occurred in stating that the rate of his pay on the retired list is at the present time one-half of the highest rate of pay of the grade in which he was retired, viz, $1,300 per annum. By authority of the act of March 3, 1873, the pay of Commodore William B. Whiting was increased to 75 per cent. of the grade or rank (lieutenant) which he held at the time of his retirement. His pay has therefore been at the rate of $1,950 per annum since the passage of that act.

I have the honor to be, very respectfully, &c.,

WILLIAM N. JEFFERS,
Acting Secretary of the Navy.

Hon. F. M. COCKRELL,
United States Senate.

Mr. COCKRELL. There has been one special act already increasing his pay. Now, I ask that a note from the Adjutant-General be read, showing that there is not an officer on the active or retired list of the Army to-day drawing a pension.

The Chief Clerk read as follows:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, December 13, 1879.

SIR: In answer to your inquiry of the 12th instant, I have the honor to inform you that, so far as can be ascertained from the records and by inquiry of the Commissioner of Pensions, no officer of the Army on the active or retired list is in receipt of a pension from the United States.

I am, sir, very respectfully, your obedient servant,
E. D. TOWNSEND,
Adjutant-General.

Hon. F. M. COCKRELL,
United States Senate.

Mr. COCKRELL. That shows the fact that no officer on the active or the retired list of the Army is drawing a pension. Why? Because their compensation, while in the service full pay, and while on the retired list three-fourths pay, is in full of all claims for pension and allowances, and they are not entitled to a pension. Now, I ask that the letter from the Commissioner of Pensions of December 13, 1879, be read.

Mr. WITHERS. Before the Senator reads that letter I ask him to explain why the provision of the act quoted in this report specifies an exceptional case in which an officer on the retired list may draw a pension.

Mr. COCKRELL. That act has never been construed in the light in which the Committee on Pensions is now construing it, and has never been acted upon in any such way. The true intent and meaning of that act is precisely in accord with the rulings of the Commissioner of Pensions, by which he has uniformly refused to place any officer on the retired list of the Army or Navy upon the pension-roll.

Mr. WITHERS. If the Senator will look at the letter of the Commissioner he will find that he was not rejected from the pension-roll on any such account, but simply because in the opinion of the Commissioner the injury was not received in the line of duty.

Mr. COCKRELL. I state now that the question of his being on the retired list of the Navy was not presented to the decision of the Commissioner of Pensions, and I say further that had the Commissioner of Pensions found that the disability was received in the line of duty he would still have refused to place him on the pension-roll.

Mr. WITHERS. That is the assumption of the Senator.

Mr. COCKRELL. There are hundreds of men on the retired list of the Army and Navy not one of whom has ever drawn a pension except by a special act—two in 1857-'58 and one in 1860, which will be shown by the letter of the Commissioner of Pensions, which I ask to have read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., December 13, 1879.

SIR: Acknowledging the receipt of your letter of the 11th instant, asking several questions relating to the right to pension of officers on the retired list, also the effect of Senate bill No. 751, if it should become a law, and grant a pension to William B. Whiting, an officer on the retired list of the Navy, a copy of which you inclose, I have the honor to state:

First. The bill in question provides that the name of William B. Whiting be placed on the pension-roll *under the class of persons who have lost the use of both feet*, &c.

The language of the bill is indefinite in this: that it does not clearly convey the intent of Congress as to the rate of pension which Lieutenant Whiting shall receive, as will more clearly appear by reference to the statutes providing for the rate of pension in this and analagous disabilities.

Section 4698 of the Revised Statutes provides a rate of pension at $31.25 per month for the loss of the sight of both eyes, or for the loss of both hands, or for the loss of both feet, or who shall be *totally and permanently disabled in the same*, &c.

An act of June 18, 1874, provides a rate of pension at $50 per month on account of the loss of sight of both eyes, or the loss of both hands, or the loss of both feet, or by *any other injury resulting in total and permanent helplessness*, requiring the regular personal aid and attendance of another person.

The act of June 17, 1878, provides a rate of $72 per month on account of the loss of both hands, or the loss of both feet, or the sight of both eyes.

It will be observed that the bill in question leaves it a subject for proof whether the pension shall be paid as provided by section 4698, as being "*totally* and permanently disabled in the same," (*i. e.*, both feet,) or by the act of June 18, 1874, as being disabled by "*any other injury resulting in total and permanent helplessness.*"

Second. I have no authentic data from which to inform you what is the present pay of Lieutenant Whiting as an officer on the retired list, but by reference to section 1556 of the Revised Statutes I find that the pay of a lieutenant in the Navy, during the first five years after the date of his commission, to be, when at sea, $2,400 per annum; after the first five years at $2,600 per annum.

It is shown by evidence on file in this office that Lieutenant Whiting was commissioned as such in the year 1841, and placed on the *reserved* list more than five years thereafter.

Section 1588 of the Revised Statutes provides that the pay of those who may have been retired on account of age, or long service, or incapacity resulting from long and faithful services, from wounds or injury received in the line of duty, or from sickness therein, shall be equal to 75 per cent. of the sea pay provided by this chapter for the grade or rank held by them, &c. The pay of all other officers on the retired list, when not on active duty, shall be equal to one-half the sea pay provided by this chapter, &c.

It is shown by papers on file in the pension case of Lieutenant Whiting that up to the year 1876 he was receiving an annual salary of $1,950, or 75 per cent. of his sea pay.

Third. It is held by this office that no officers on the retired list of the Army or Navy are entitled to any pension, as the acts of Congress making provisions for this class of officers intended, it is believed, that the compensation allowed them was in lieu of any pension to which they might otherwise be entitled. Again, all acts of Congress making provision for pensions since 1861 provided no earlier date on which any pension could commence than from the date of *discharge from the service.*

Prior to this the only exception to this was in reference to those in the naval service; to those in the Army, none.

As your inquiries open the way for much other information, I inclose with this a copy of a letter of even date herewith, addressed to Hon. JOHN J. INGALLS, United States Senate, in reply to an inquiry made by him.

Please find also an attached reference, noting the different laws referred to, for your convenience.

I am, sir, very respectfully,
J. A. BENTLEY,
Commissioner of Pensions.

Hon. F. M. COCKRELL,
United States Senate.

References in the Statutes at Large, (edition of Little & Brown.)

April 23, 1800, section 8, volume 2, chapter 34, page 53.
March 3, 1835, section 1, volume 4, chapter 27, page 755.
August 16, 1841, section 2, volume 5, chapter 8, page 440.
April 30, 1844, section 1, volume 5, chapter 15, page 656.
August 11, 1848, section 1, volume 9, chapter 155, page 282.
February 28, 1855, sections 1 and 2, volume 10, chapter 127, page 616.
January 16, 1857, volume 11, chapter 12, page 153.
August 3, 1861, volume 12, chapter 42, page 287.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., December, 1879.

SIR: In reply to your telegram asking if there "are any Army or Navy officers on the retired list drawing pensions?" I have the honor to state that I have no immediate means to ascertain whether those who may have received a pension while on the reserved list in the Navy are now in receipt of such pension as may have been allowed them; but as the retired list of both the Army and Navy were not created until the passage of the act of Congress approved August 3, 1861, I can state definitely that none of that class have been granted a pension, it having been held that the pay of a retired officer was in lieu of any pension which he might otherwise be entitled to.

The question presented involves so many incidental ones that I cannot do better than to give you a history of the legislation relating to pensions of the class where the same has been granted to officers in the Navy during the period while they were such officers and in the service.

The act of April 23, 1800, (section 8,) provides "that every officer, seaman, or marine disabled in the line of his duty shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half his monthly pay."

This act further provided "that the sale of prizes shall be and remain forever a fund for the payment of pensions," pledging the public faith to make up any deficiency which might occur.

The next act containing any legislation upon this matter was that approved August 16, 1841, (section 2,) which provided "that no officer, seaman, or marine, entitled to a pension from the Navy pension fund, who receives pay from the public Treasury, shall receive more from the said fund than is sufficient to make the whole amount received from both the above-named sources"—that is, the pension fund and public Treasury—"equal to the pay fixed by law for the grade to which the officer, seaman, or marine may belong, as an officer in the services in which he may be engaged during the year, so that no officer shall receive pay at the same time both as a pensioner and an officer in the service."

The construction given this act and that which governed the allowance of pensions to those who were still "an officer in the service" may be found in the letter of Hon. George E. Badger, Secretary of the Navy, to the then Commissioner of Pensions, dated August 20, 1841, which I quote in full, to wit:

"SIR: Your letter of the 19th instant has been received. The second section of the act of Congress (August 16, 1841) to which you have called my attention is very obscurely worded, and I am by no means sure that I have been able to collect its true meaning.

"The phrase 'in service' seems to have been used instead of and equivalent to 'on duty,' for in any other sense the whole section becomes unmeaning, as every officer while he continues to belong to the Navy is in the service, though he may not be on duty. Give this sense to the phrase. I am of the opinion, first, that no officer can receive at the same time pay as an officer on duty and as a pensioner, and secondly, that officers who may be 'waiting orders' or 'on leave' or 'furlough' can receive only so much on account of their pensions as, added to their pay when so 'on leave,' &c., will amount to the pay of their grade when 'on duty.' Where by the act of Congress of 1835, regulating the pay of the Navy, officers are entitled to a higher rate of compensation when employed in a certain specified manner than when engaged in other duty, the rate of compensation of the latter is that which is referred to in this act, and is not to be exceeded by the aggregate of the pension and the pay while 'waiting orders,' &c.

"For instance, a commander is entitled when attached to vessels for sea service to $2,500 per annum, and on other duty to $2,100. I am of opinion that such commander when off duty cannot receive more, including his pension, than $2,100 per annum, and so of every other grade.

"The case of seamen and marines seems to present peculiar difficulties, and I regret the hard consequences of the decision I have been compelled to form. They cannot when in service receive more than their pay, because there is no discrimination by law between their compensation when on duty and when unemployed. Hence it seems to follow that no seaman or marine while in the service and receiving pay can receive any payment at all on account of pension.

"I am of opinion that all pensioners are entitled to be paid up to the passage of the law—that is to say, up to the 16th instant—just as they would have been paid had the act never been passed.

"I am, respectfully, &c.,"

For convenience of reference and comparison I may add here that the pay of officers in the Navy, prior to 1835, was a certain sum for monthly pay and certain rations and allowances added thereto.

Taking the rank of two officers, that of a commander and a lieutenant, for illustration in this and subsequent changes, we find that prior to 1835 the pay of a commander was $60 per month and that of a lieutenant $25 per month (rations and allowances not included.)

The act of March 3, 1835, (section 1,) regulated the pay, by which certain allowances were aggregated into a gross amount as an annual salary, under which the annual salary of a commander would be:

On waiting orders	$1,800
At navy-yard or other duty	2,100
Sea service	2,500

and that of a lieutenant, in the same order, at $1,200, $1,500, and $1,500 per annum.

It will be observed that the only pension that a commander would receive would be the difference between his furlough (waiting orders) pay and lowest-duty pay, that is 1,800 and $2,100.

It will also be observed that in the case of a lieutenant the pension would be the difference between $1,200 and $1,500, being that of "waiting-orders" pay and lowest-duty pay.

This act further provided that officers temporarily performing the duties belonging to those of a higher grade shall receive the compensation allowed to such higher grade while actually so employed.

Following the act of August 16, 1841, came that of April 30, 1844, (now section 4724 Revised Statutes,) which declares that "No person in the Army, Navy, or

Marine Corps shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service."

Under the apprehension that this act repealed that of 1841, or so much of it as here quoted, the matter was referred to the Attorney-General for his opinion on this and the following questions: "First, whether he (an officer) is legally entitled to a pension while on duty and in receipt of his pay as an officer of the Navy; second, whether under the restrictions hereinafter recited he can receive a pension when not on duty but receiving the pay allowed to his grade while unemployed?"

The Attorney-General, under date of May 24, 1847, decides that "a lieutenant otherwise entitled to a pension is not entitled to receive it while on duty and in recept of his pay as an officer of the Navy. Nor can he receive it when not on duty while in receipt of the pay allowed to his grade."

The attention of the Attorney-General having again been called to the subject with especial reference to the letter of Hon. Mr. Badger, herein quoted, reviews at length the whole subject. I quote from his opinion, (dated June 2, 1847,) as follows:

"Notwithstanding, if the question were now presented to me in the aspect of the first communication from the Department, as one of new impression, dependent upon the language of the original act, and entirely disembarrassed of any legislative interpretation, I would feel constrained to adhere to the rule which I there laid down, that every officer holding a commission in the Navy, whether 'on duty' or 'waiting orders,' while in receipt of the regular compensation allowed by law to his grade, is in the service of the United States, within the true intent and meaning of the limitation contained in the second section of that act. * * * The rule thus established, (referring to that of Secretary Badger herein quoted,) it seems, has received the sanction of the Department to the present time. * * * Whatever doubt, therefore, may exist in my mind as to the soundness of the rule at the time of its promulgation, if it had been originally established by a judicial determination, I should hold that Congress had ratified the interpretation by subsequently re-enacting the phrase upon which it had been made. No rule of construction is better established or more frequently applied. * * * It will not do, however, to admit that the decision of an executive department can have the same force and effect as a judicial determination. But where there has been an uninterrupted usage of several years, as in this case, founded upon an official opinion, and coupled with a strong implication of legislative sanction, it might be unsafe to overrule the practice without the sanction of Congress."

These two opinions may be found at length, numbered 98 and 98, in Mayo *vs.* Moulton.

The next legislation upon this subject may be found embodied in the act of August 11, 1848, (second proviso of the first section,) which enacts:

"That the act of April 30, 1844, shall not be so construed as to exclude officers, seamen, or marines, from their pensions, when disabled for sea service: *Provided*, That the whole amount received by the pensioner, including pay for his service and pension, shall not exceed his lowest-duty pay."

An act approved February 28, 1855, created a *reserved* list in the Navy, providing for the creation of a board of officers, (naval,) who shall examine into the *efficiency* of certain naval officers to ascertain who shall be found incapable of performing promptly and efficiently all their duty, both ashore and afloat. That such officers as may be found incapable of performing the duties of their respective offices, ranks, or grades shall, subject to the approval of the President, be dropped from the rolls, or placed in order of their rank upon the Navy Register, to be entitled the *reserved* list, and to receive the "leave-of-absence" pay or "furlough" pay to which they may be entitled when so placed, subject at all times to the order of the Navy Department for duty; to be ineligible to further promotion; that vacancies in the active list created by placing officers on the *reserved* list shall be filled by regular promotion in the order of rank.

It will be observed that no reference is, to disability only by implication, when the officer shall be found incapable of performing his duty. &c.

The act of January 16, 1857, (section 4,) provided that officers on the *reserved* list may be promoted on that list, but such promotion shall not entitle them to any pay beyond that to which they were entitled when so reserved.

An act approved August 3, 1861, *created* a *retired* list in the Army and Navy and Marine Corps, providing that officers might be placed on the retired list on account of a specified term of long service, and on account of disability, &c.

It is noticed that a distinction has been made between the *reserved* and the *retired* lists; also that prior to 1861 there was nothing analogous to the reserved list in the Army applicable to Army officers.

Prior to March 3, 1849, the pension claims of the Army and Navy were adjudicated under the direction of the Secretary of War and Secretary of the Navy respectively.

An act approved the date above referred to created this department, and all matters relating to the adjudication of pension claims came under the direction of the Secretary of the Home (now Interior) Department.

I have been able to ascertain of but two claims (both Navy) where the pensioner was in the service and received both pay and pension for the same time, allowed since the act of 1855. It would seem, as near as I am able to ascertain, that it was held that the act of 1855 creating the reserved list of the Navy debarred any officer of that class from receiving a pension.

With regard to the practice of the Pension Office, since the creation of the retired list by the act of August 3, 1861, I can state definitely that it has been uniformly held it was the intent of Congress in making provisions for officers of that class (who may have been retired on account of disability) that the compensation allowed to such officers was in lieu of all pension to which they might otherwise be entitled.

In cases of officers of the Army, neither before nor since the act of August 3, 1861, could they receive any of the benefits of any pension law *while in the service*, the date of their discharge therefrom being the earliest from which pension could commence.

I am, sir, very respectfully,

J. A. BENTLEY,
Commissioner of Pensions.

Hon. JOHN J. INGALLS,
United States Senate.

Mr. COCKRELL. I ask now that the two letters in explanation which I send up be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., December 15, 1879.

SIR: Acknowledging the receipt of your further inquiry for information additional to that furnished you in my letter of the 13th instant, asking that you be informed of the names of the two officers who had been granted a pension since the year 1855 while they were officers in the service; also the character of the evidence on file in this office on which was based my statement that Lieutenant William B. Whiting, on the retired list of the Navy, received $1,950 per annum up to 1876, I have the honor to inform you as follows:

First. Stephen Decatur, a lieutenant on the retired list of the Navy, was granted a pension under date of March 5, 1861, at the rate of $25 per month, to commence January 26, 1861, on account of total blindness.

Second. Francis Lowry, an acting master on the retired list of the Navy, was granted a pension under date of October 20, 1858, to commence September 7, 1854, at the rate of $15 per month, on account of paralysis.

Third. The evidence upon which the information was based that Lieutenant William B. Whiting was in receipt of $1,950 per annum up to 1876 is that of an abstract from the records on file in the Treasury Department, (Fourth Auditor's Office,) showing the payments made to this officer from September, 1855, to December 31, 1876, with an aggregate amount for said period of $45,663.96.

It will be observed that the annual salary varied in amount, having been as low in one instance as $1,200 and as high as $3,500 per annum.

I am, sir, very respectfully,

J. A. BENTLEY,
Commissioner of Pensions.

Hon. F. M. COCKRELL,
United States Senate.

I will inclose for your temporary use the "abstract of payments" in Lieutenant Whiting's case, and request that you return the same as soon as you are through with it that it may be filed with the papers in his case.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., December 16, 1879.

SIR: Acknowledging the receipt of your further reference dated the 15th instant, asking for further information relative to the matter contained in my letters of the 13th and 15th instants, I have the honor to inform you that Stephen Decatur died January 9, 1876. Francis Lowry was living in 1876. I have no means to ascertain if now living without correspondence with the pension agent.

I find that I failed to include in my former letter the case of Lieutenant James F. Miller, on the retired list of the Navy. He was pensioned under date of September 26, 1860, at the rate of $25 per month, to commence from September 20, 1860, on account of paralysis. Lieutenant Miller died July 11, 1868, and his widow was pensioned from that date.

No congressional action had been taken in either of the three cases mentioned, but they were granted pensions by the Pension Office.

I am, sir, very respectfully,

J. A. BENTLEY,
Commissioner of Pensions.

Hon. F. M. COCKRELL,
United States Senate.

Mr. COCKRELL. When this bill was before the Senate before, section 4724 of the Revised Statutes was relied upon by the Senator from Kansas [Mr. INGALLS] and the Senator from Virginia [Mr. WITHERS] to justify the action of the committee in this case. That section reads:

No person in the Army, Navy, or Marine Corps shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service.

That was taken to mean that officers in the Army, Navy, or Marine Corps in certain conditions would be entitled to a pension, and that Captain Whiting was in that condition. There was a controversy as to the meaning of that statute; that section 4724 was drawn from the act of April 30, 1844, the last clause in that act. I will read that clause. It was in "An act making appropriations for the payment of revolutionary and other pensioners of the United States for the fiscal year ending on the 30th of June, 1845." The last clause is:

And provided also, That no person in the Army, Navy, or Marine Corps shall be allowed to draw both a pension as an invalid, and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted be such as to have occasioned his employment in a lower grade, or in some civil branch of the service.

At the time that law was passed there was no retired list of the Army, Navy, or Marine Corps, and that clause in that appropriation bill has simply been transferred into the Revised Statutes as section 4724. Since the passage of that, the retired list of the Army and of the Navy and of the Marine Corps has been created by statute. The section has been drawn into the Revised Statutes, and it does not apply to this class, and it never has, as the letter from the Commissioner of Pensions shows, been made applicable to any officer of the Army, Navy, or Marine service on the retired list in one solitary instance. I state now that there is not upon the records of the Pension Office one solitary pension granted to an officer or a soldier on the retired list of the Army, Navy, or Marine Corps; but the Commissioner of Pensions has uniformly refused to grant a pension to any officer on the retired list either of the Army or of the Navy or of the Marine Corps. I say that under the law such a person is not entitled to a pension, and cannot draw it, and this bill is in violation of the uniform policy and system of the Government from its foundation to the present time, and it is wrong in principle and wrong in policy.

Here is an officer drawing $1,950 per annum on the retired list. That is his salary, and has been. There are officers of the volunteer army who have suffered as much as he has, who risked their lives and their all; they have been discharged from the Army, and they are drawing a pension, and what is it? Not one of them drawing a pension of $100 a month, unless it is by a special act of Congress. Officers of higher rank than he in the volunteer army and in the volunteer navy are in that position. Had he been discharged from the Army instead of being placed upon the retired list, he then would have drawn the same kind of pension that the others draw; but being placed upon the retired list he draws no pension but 75 per cent. of his pay, and that is in full of all allowances, pay, and compensation of every kind. It has so uniformly been held and is so held to-day.

I desire simply to place this case before the Senate; but I have no feeling in the matter. I do not know this gentleman; I do not doubt that he is a gallant officer; but I want to place before the Senate the principle of the bill and the policy of it. Will the Senate establish the principle and the policy that officers upon the retired list of the Army and Navy and Marine Corps drawing 75 per cent. of their active-service pay shall also be entitled to a pension? That is the question involved in this bill. If the Senate say that he shall be entitled to it, it is all right; but I for one do not believe that the principle or the policy of the bill is right.

Mr. President, I shall not consume the time of the Senate in reading from the regulations of the Pension Office. The Commissioner of Pensions has stated the law, and the law is as I say. Pensions are only granted to persons discharged from the service. Prior to 1861 no pension in this Government was ever granted under the pension law to any person except one who was honorably discharged. Since 1861 the law has not required that the pensioner shall have been honorably discharged; but he must have been discharged. He cannot draw a pension while in the service. This bill proposes an innovation upon the law and the principle of the Government in that it grants a pension to a man in the service and drawing pay.

Mr. INGALLS. Does the Senator from Missouri claim that the creation of a retired list had any effect in repealing or amending section 4724? He states that it could not be effective because at the time when it was first adopted, or when the principle was first adopted, in 1844, there was no retired list. Now, does he claim that the subsequent creation of the retired list had any effect whatever upon the provisions of that section?

Mr. COCKRELL. I say this: that there never was a pension granted even under that section to anybody in the Army, and that after the regular retired list of the Army and Navy and Marine Corps was created by law all the legislation from that time has been to exclude any one of those three branches of the service from pensions.

Mr. INGALLS. Obviously, Mr. President, Whiting would not be entitled to a pension except for section 4724, which is a negative. It says, as the Senator from Missouri has read:

> No person in the Army, Navy, or Marine Corps shall draw both a pension, as an invalid, and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service.

What is the affirmative of the proposition contained in that section? It is this: a person in the Army, Navy, or Marine Corps may draw both a pension as invalid and the pay of his rank or station in the service if the disability for which the pension was granted be such as to occasion his employment in a lower grade or in the civil branch of the service. That is the affirmative of the proposition contained in section 4724, which is in itself a negation.

Now, what are the facts? Whiting was retired in 1855 for disability in consequence of injury received while he was in service and in the line of duty.

Mr. COCKRELL. The board did not so find.

Mr. INGALLS. The board did not so find; but the committee have so found, and that is the fact. It was clearly established by incontrovertible evidence, and the Senate is now called upon to act not upon the report of the board but upon what the committee found after an investigation; and I state as a fact that Whiting was retired in 1855, in the month of February I think, in consequence of disabilities resulting from injuries received while he was in the line of duty and the service of the United States.

During the war, after five or six years of retirement, he volunteered for active sea service and asked to be employed, but a medical board which was convened by order of the Secretary of the Navy decided that he was physically unfit to perform the duties of active sea service and assigned him to duty at the Naval Observatory. He had been retired as a lieutenant, but in consequence of casualties and deaths, &c., he had been promoted before the period when he offered to volunteer to the rank of commander. He was employed in the Observatory as a lieutenant from July 21, 1861, to February 19, 1863. Although his name is borne on the rolls during that time as a commander, he was only paid as a lieutenant; and he was so kept at the Naval Observatory, not because he was on the retired list, but because he was maimed and because he was not able to perform active sea service. Does not that state of facts bring this man most plainly within the provision of section 4724? And if he is brought within the provisions of section 4724, is he not pensionable, although I admit that but for the provisions of that section he would not be entitled to draw a pension and retired pay at the same time?

That is a statement of the facts upon which the committee rely in support of the position they take, that this is an exception provided for by the statute; that Mr. Whiting was maimed and crippled and disabled while in the line of service and in his duty as a naval officer, and that in consequence of those disabilities he was employed in a lower grade than that in which he was borne upon the Naval Register; that is to say, while he was a commander in the Navy, having volunteered for sea service, he was declared to be physically disqualified by a medical board and assigned to duty as a lieutenant at the Naval Observatory. Therefore under the statute there can be no question that this is a case which is clearly pensionable.

Mr. CARPENTER. I want to say but one word. I know Commodore Whiting very well. He lives in Milwaukee. He is a gentleman of the first class. He has nothing in the world to live on but what he receives from the Government, his whole life having been passed in the Navy. He is a very large, heavy man. He is entirely paralyzed in his limbs, being unable to get off bed or into bed, or to do anything. He has to have either two common men to help him, or he has to have one very large stout man. It is absolutely necessary for his life in decency and ordinary comfort that this additional allowance should be made.

If there must be some sacrifice made to principle, we have opportunities here enough. Do not let us make a drive at a poor old paralyzed naval officer to vindicate principles, when there are so many other opportunities for doing it. I hope the bill will pass.

Mr. COCKRELL. The position of the Senator from Kansas in regard to the section quoted cannot possibly sustain the report in this case. It is not correct. That section never has been construed to authorize the granting of a pension to any person named in it.

Mr. INGALLS. Suppose it has not, have we not a right to construe it? What are we here for?

Mr. COCKRELL. Here is a section of law enacted in 1844, and here have been officers upon the retired list of the Army, Navy, and Marine Corps for a long series of years, and never one of them dreamed that he was entitled to a pension under that clause of the law. I say that that does not give them pensions, and that they could only be entitled to pensions if they were discharged. The Senator from Kansas and the Senator from Virginia can show no instance where a pension is granted by a general law where the party has not been discharged from the service.

Mr. WITHERS. I should like to answer the Senator, but there are but two minutes now remaining of the morning hour. We have talked over an hour on the bill, and I hope the Senator will let us vote on it.

Mr. COCKRELL. I am not trying to consume time; but I desire to place myself right in this case and to bring the facts before the Senate. The Senator from Wisconsin speaks of the poverty and helpless condition of this man. Mr. President, there are within the confines of my own State men who served as gallantly and as bravely in the Union Army as this officer did; I believe he did no service throughout the late war at all.

Mr. CARPENTER. He was paralyzed.

Mr. COCKRELL. There are in my State officers who did serve, who held as high rank as this officer held or holds to-day, and yet they are just as poor and as needy and dependent, and you give them from $50 to not exceeding $72 a month. It is gross injustice that this special favoritism shall be shown. This officer to-day is drawing $1,950 a year.

Mr. WITHERS. I must enter my protest against the application of the phrase used by the Senator to the committee in charge of this bill. It certainly is not a case of favoritism. It is a case where the provision of law grants this relief, in my judgment and in the judgment of the committee.

Mr. COCKRELL. I do not think it does. I ask that upon the final passage of the bill we may have the yeas and nays.

The bill was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed for a third reading?

Mr. COCKRELL. Let us have the yeas and nays upon the third reading of the bill.

The yeas and nays were ordered.

The question being taken by yeas and nays, resulted—yeas 33, nays 11; as follows:

YEAS—33.

Allison,	Farley,	Jones of Nevada,	Pryor,
Bayard,	Garland,	Kernan,	Slater,
Blair,	Hampton,	Lamar,	Teller,
Burnside,	Hill of Georgia,	McPherson,	Voorhees,
Butler,	Hill of Colorado,	Maxey,	Walker,
Call,	Hoar,	Morgan,	Withers.
Cameron of Wis.,	Ingalls,	Morrill,	
Carpenter,	Johnston,	Pendleton,	
Dawes,	Jonas,	Plumb,	

NAYS—11.

Bailey,	Cockrell,	Edmunds,	Saulsbury,
Beck,	Davis of W. Va.,	Harris,	Williams.
Booth,	Eaton,	Rollins,	

ABSENT—32.

Anthony,	Ferry,	Kirkwood,	Saunders,
Baldwin,	Gordon,	Logan,	Sharon,
Blaine,	Groome,	McDonald,	Thurman,
Bruce,	Grover,	McMillan,	Vance,
Cameron of Pa.,	Hamlin,	Paddock,	Vest,
Coke,	Hereford,	Platt,	Wallace,
Conkling,	Jones of Florida,	Randolph,	Whyte,
Davis of Illinois,	Kellogg,	Ransom,	Windom.

So the bill was ordered to be engrossed for a third reading.

The bill was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills and joint resolution received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 2499) for the relief of Germain H. Mason—to the Committee on the Judiciary.

The bill (H. R. No. 4646) for the relief of the heirs of Cornelius Boyle—to the Committee on the District of Columbia.

The bill (H. R. No. 4887) granting a pension to Rosalie Louis—to the Committee on Pensions.

The joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances—to the Committee on Military Affairs.

ELIAS C. BOUDINOT.

The bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee

Nation, to sue in the Court of Claims was read the first time by its title.

Mr. VOORHEES. I ask that that bill may be printed and placed on the Calendar without a reference to the Judiciary Committee. The Judiciary Committee having considered the subject and reported a bill upon it here, it is not necessary to refer this bill to that committee.

Mr. EDMUNDS. I think it ought to be referred, if it differs from the one reported by the committee.

Mr. VOORHEES. I do not hear the Senator.

Mr. EDMUNDS. I say I think if it differs from the bill reported by the Judiciary Committee, it ought to be referred, as every other bill ought, in order to see whether the committee may not be able to agree with the House in their way of doing it. I think a reference would facilitate the disposition of Mr. Boudinot's case.

Mr. VOORHEES. I do not think it will. I hope the bill will not be referred. I have had an experience, and a painful one so far as this claim is concerned. I hope it may be the pleasure of the Senate in a day or two to pass this bill, which simply authorizes a man to bring suit in the Court of Claims, without the necessity of its going back to the House for further consideration. I think the course I suggest is the best to accomplish that result.

The PRESIDENT *pro tempore*. The Senator from Indiana asks that the bill be read a second time, and placed on the Calendar.

Mr. EDMUNDS. Before it is read the second time, if it is to come up in a day or two, I think we can have it printed; and we can then see whether it ought to be read the second time.

Mr. VOORHEES. Yes, let it be printed.

The PRESIDENT *pro tempore*. The bill has been read once. It will be printed and lie on the table.

LOAN OF FLAGS FOR DECORATION DAY.

The joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia was read twice by its title.

Mr. McPHERSON. I ask unanimous consent to have the joint resolution considered immediately.

Mr. BURNSIDE. I was just going to make the same request that is made by the Senator from New Jersey. There will be no objection to the joint resolution.

Mr. McPHERSON. I wish to state that the Grand Army of the Republic are now making their arrangements for Decoration Day, and unless the joint resolution passes to-day it will not be in time for them to avail themselves of the privileges granted by the measure.

The PRESIDENT *pro tempore*. The Senator from New Jersey asks unanimous consent to proceed to the consideration of the joint resolution. Is there objection?

Mr. EDMUNDS. Suppose we hear it read for information. It must be good reading.

The Chief Clerk read the joint resolution.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the joint resolution? The Chair hears none, and it is before the Senate, as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO BILLS.

Mr. McPHERSON, Mr. JONAS, and Mr. EATON submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. BURNSIDE submitted an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Printing, and ordered to be printed.

CHIEF SUPERVISORS OF ELECTIONS.

Mr. BAYARD. I move that the Senate proceed to the consideration of Senate bill No. 1252.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to lay aside all prior orders and proceed to the consideration of the bill he has indicated. It will be reported by its title.

The CHIEF CLERK. "A bill (S. No. 1252) to define the terms of office of certain officials of the United States."

Mr. EDMUNDS. I wish to know what the prior order is that this is to displace.

The PRESIDENT *pro tempore*. All prior orders.

Mr. EDMUNDS. I wish to know what is the pending order if this bill is not taken up.

The PRESIDENT *pro tempore*. The first bill on the Calendar.

Mr. EDMUNDS. From what the Chair remarked this morning, and I believe it was on this very bill, I did not know but that the Chair considered that it was now before the Senate as the unfinished business on a motion to take it up, and that led me to make the inquiry.

The PRESIDENT *pro tempore*. Upon taking the opinion of Senators who have presided in this body from time to time and also looking into the record of the debates, although it is by no means a clear question, it appears that the usage has been, when a motion was made to proceed to the consideration of a bill and the Senate adjourned pending that motion, that the motion fell and was not the unfinished business the next day. The Chair was of a different impression, and if there had been no usage to the contrary would rule that it is the unfinished business; but it appears the usage (as the Chair is informed by those who have presided here) for many years has been that such a motion falls with the day. The question now is upon the motion of the Senator from Delaware, Will the Senate postpone all prior orders and proceed to the consideration of this bill?

The motion was agreed to; there being on a division—ayes 30, noes 9; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1252) to define the terms of office of certain officials of the United States.

Mr. CONKLING. First of all what is the date when these officers are to be turned out?

The PRESIDENT *pro tempore*. Does the Senator wish the bill read again?

Mr. CONKLING. I should like to have so much of the bill reported as my question relates to.

The PRESIDENT *pro tempore*. The bill will be reported again.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the term of office of chief supervisors of election, provided for in section 2025 of the Revised Statutes, shall be two years. Such term shall begin on the 1st day of May in each even-numbered year. The terms of those now in office shall expire on the 1st day of May, 1880, and their successors shall be appointed from among the qualified electors of the proper judicial district by the President of the United States, by and with the advice and consent of the Senate.

Mr. CONKLING. I suppose the purpose will be no doubt to amend the bill so as to turn the supervisors out in season for the election, but not to turn them out on a day which has already passed.

Mr. BAYARD. The bill was reported on the 10th of March, at which time the 1st of May was long in the future. It will be necessary to change those dates, and I propose to strike out the word "May" and insert "July."

Mr. CONKLING. That will be equally effectual for the election.

Mr. BUTLER. Will the Senator from Delaware yield to me for five minutes?

Mr. EDMUNDS. We must have the regular order. We have to do one thing at a time.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Does the Chair understand the Senator from Delaware as proposing an amendment?

Mr. BAYARD. I shall move to amend on line 6 by striking out the word "May" and inserting "July," and on the eighth line by striking out the word "May" and inserting "July," so that it will cause the term to begin on the 1st day of July on each even-numbered year, and the terms of those now in office shall expire on the 1st day of July, 1880.

The PRESIDING OFFICER. If there be no objection, the amendments proposed by the Senator from Delaware will be regarded as adopted.

Mr. EDMUNDS. I object. I should like to have the Chair put the question.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Delaware, in line 6 to strike out the word "May" and insert "July," and in line 8 to strike out the word "May" and insert "July."

The amendment was agreed to.

Mr. BAYARD. Mr. President, I desire to state, and as shortly as I may, the object and purpose of this bill. A section of the act of the 20th of February, 1871, which is incorporated into section 2025 of the Revised Statutes, provides as follows:

The circuit courts of the United States for each judicial circuit shall name and appoint on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

It will be observed that this is the creation of an office unregulated in most important particulars. There is no term of office whatever, there is no power of removal whatever, and the vacancies which can be contemplated under this act are those caused by death and resignation.

Mr. HOAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Massachusetts?

Mr. BAYARD. Certainly.

Mr. HOAR. I desire to ask the Senator from Delaware a question, and perhaps it will be as agreeable to him to have me ask it before he begins his explanation.

Mr. BAYARD. I will answer it if I can.

Mr. HOAR. My question is whether the Senator understands that by the operation of this act and under existing laws and the Constitution, if the Senate be not in session after the 1st of July of this year, it will be impossible to have any officers for the next election, whether the effect of the bill as practically understood is to destroy that office for the purposes of the next election?

Mr. BAYARD. I apprehend it will not be so; that if the Senate were not in session this officer could be appointed under the tenure-

of-office act now in existence, and his name would be submitted to the Senate at its next session.

Mr. HOAR. That he could go on with the duties of his office in the mean time, although this is an original office?

Mr. BAYARD. I so construe it that if the Senate be not in session at the time of his appointment he would act until the Senate should meet.

Mr. HOAR. Will the Senator from Delaware consent to an amendment to the bill which will make that clear and certain as he understands it?

Mr. BAYARD. I should have no objection to that, because that is my belief of the object and result of the bill, if the Senate is not in session. I do not propose to abolish this office to reach a result that is not plainly indicated upon the face of the bill. There is nothing in this bill designed by way of subterfuge or trick. It is a simple, honest attempt to regulate the term of appointment of an important officer.

I was about to say to the Senate that there is no term fixed for this office, and those officers who were appointed in 1871 are in office to-day except as they have been removed by their resignation or by death.

Mr. TELLER. I should like to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Delaware yield?

Mr. BAYARD. With pleasure.

Mr. TELLER. The chief supervisors can be removed, can they not?

Mr. BAYARD. There is no provision for their removal under the existing law.

Mr. TELLER. I ask the Senator if they are not appointed from what are called commissioners, and if the commissioners cannot be removed at the will of the judge? I ask if that has not been the practice since 1792?

Mr. BAYARD. Although it requires as a qualification for appointment under existing law that the chief supervisor shall be at that time a commissioner, it does not follow at all that because he ceases to be a commissioner he ceases to be chief supervisor.

Mr. TELLER. I think it does.

Mr. BAYARD. The question is as to his qualification at the time of appointment. By law to-day he must be chosen from one of the commissioners of the judicial circuit; but if he is a commissioner and is so appointed the loss of his office of commissioner would not necessarily, in my opinion, entail the loss of his office as chief supervisor. But, however that may be, whether I am right or wrong in that construction, it is proper that an office of this kind should be regulated by the same terms in its tenure that similar offices are. Life tenures except for judicial offices are not found under our Constitution. That is the sole exception known to me under the Constitution. All others are terminable, looking to the fact that the expiration of the term gives to the appointing power (whether it be by popular election or by executive interposition) the right to put an end to an inefficient office-holder or to reappoint a deserving officer.

For that reason the committee have seen fit to recommend to the Senate the passage of this bill, which provides a term of two years, and which provides that the appointment shall be made by the President of the United States with the advice and consent of the Senate. If Congress could have been in session, if I could have thought as a practical piece of legislation that the 1st day of June could have been here inserted so that Congress might be in session when this office came to an end and when the President chose to nominate a successor, then it would have been well to have put a date at which Congress probably would be in session. I do not know whether Congress will be in session or not on the 1st day of July, but I have not the least design to destroy this office by the bill. My object is to regulate it precisely as the title of the bill fairly indicates.

For that reason I trust the Senate will join with me in the propriety of fixing a term to this office, providing for removal by the President after this period and submitting the confirmation of his appointment to the Senate of the United States.

That is all that is necessary for me to say. It is a question of judgment for the Senate. But if any Senator shall consider that the office is in danger from lack of power to appoint this officer, or that he shall not act because the Senate is not in session at the time he receives his commission so that he may be confirmed, I have no objection to guard against that, because it is not my intent that the power of appointment should be excluded.

Mr. EDMUNDS. I should like to ask the Senator from Delaware, with his permission, what is the mischief in leaving the power of appointment of this officer to the courts of the United States, where the law now leaves it?

Mr. HOAR. The Senator will permit me to have my amendment read, as it relates to the point the Senator from Delaware accepted, before he goes to the other point.

Mr. EDMUNDS. Certainly.

The PRESIDING OFFICER. The Senator from Massachusetts offers an amendment, which will be reported.

Mr. HOAR. The Senator from Delaware will be good enough to listen to the amendment.

The CHIEF CLERK. It is proposed to add at the end of the bill:

The President may appoint such officers during the recess of the Senate, who may hold and exercise their office until the end of the next session of the Senate.

Mr. HOAR. That is the precise provision which I understand the Senator says will be in force, without any enactment, as to all civil officers.

Mr. BAYARD. That will not do. That changes the term. The present law, section 1769, the law of 1867, authorizes the President—

To fill all vacancies which may happen during the recess of the Senate, by reason of death or resignation or expiration of term of office, by granting commissions which shall expire at the end of their next session thereafter.

That is the existing law. That law would operate in the case of the proposed law. The President would therefore appoint this officer and he would be filling a vacancy, because the office is not destroyed. There will be a vacancy in this office if the bill passes on and after the 1st day of July next. The Senator mistakes my proposition. After the 1st day of July next there will be a vacancy in the office of chief supervisor provided this bill becomes a law as it now stands. The vacancy so existing is expressly provided for by the section which I have read as capable of being filled by the President by his granting a commission which shall expire at the end of the next session thereafter. I have no doubt that he has the power of appointment in the recess and that the party would act under that appointment until the session of Congress met at which he was to be confirmed or rejected; but this amendment would continue him in office until the end of the session of the Senate. I would suggest to the Senator, if he thinks after my reference to this section that his provision is necessary, that he should continue in office during the recess of the Senate and until the commencement of the next session. By that time his nomination would be sent to the Senate and the Senate would act upon it; but if he is to hold over until the end of the session, the Senate might refuse to confirm the nomination from time to time, or it might pass without submission to the Senate at all. I therefore suggest to the Senator that his object is, and I am sure my own is, that there should not be a destruction of this office and that the vacancy which is to occur, if this bill becomes a law, on the 1st day of July may be filled. [A pause.] I am pausing because I am addressing myself to the honorable Senator from Massachusetts. I saw he was engaged in conversation with the Senator from Vermont, and therefore I paused.

Mr. EDMUNDS. I beg pardon of the Senator if I interrupted him.

Mr. BAYARD. I am disposed to agree to such an amendment as shall prevent this office falling, that shall make the functions operative after the 1st day of July and at the next election, when probably the Senate will not be in session. That is the object the honorable Senator has; it is one in which I am in accord with him. I only desire that there shall be no confusion as to the fact of the advice and consent of the Senate being essential for the tenure of office of this officer and that he shall be nominated. Under the amendment, if the officer holds under this commission until the end of the session and the President makes no new nomination or makes no nomination at all, then, having nothing to act upon, the President might nominate again after the adjournment of the Senate, and so on, defeating thereby the object of the bill, which is in accord with the constitutional provision on the subject, that an officer of this class and with such duties shall be appointed only with the advice and consent of the Senate. That is what I desire to have done, but I do not desire the functions of the office to be delayed in the interval. Therefore if this language can be made clear——

Mr. HOAR. Mr. President——

The PRESIDING OFFICER. Will the Senator from Delaware yield to the Senator from Massachusetts?

Mr. BAYARD. Yes.

Mr. HOAR. The difficulty with the Senator's bill without any amendment is that it is very doubtful whether this will be the case of a vacancy within the meaning of the general law in regard to the tenure of office. This is an officer appointed in a particular way by the courts. Now comes in the statute. The statute abolishes the office as it now exists; it legislates the officer out of office, determines his existing term on the 1st of July, 1880, and provides for a new officer under a new and different appointment. That cannot be said to be a vacancy in the old office like a case where it expires by its own limitation.

Then it presents the next question, whether the failure to have appointed an officer for the first time under a new legal provision creates a vacancy within the meaning of the law. That is a question about which the members of this body differ very widely, as will be remembered in the debates on the admission of Mr. Bell, of New Hampshire, and other cases that have come up.

Therefore I propose to make it clear, and my amendment enacts just what is the existing law. The existing law does not make the tenure of office of a person appointed by the President in the recess to expire when the Senate meets, because the Senate cannot of course deal with such a question the first day. I should be perfectly willing to have the Senator accept, instead of my amendment, a provision that the provisions of that section of the chapter should apply; that is, that the President may appoint in the recess subject to the provisions of the chapter of the general statutes which the Senator has before him. That will accomplish the end. Let me repeat in the hearing of the Senator from Delaware. My proposition is that the amendment should be so drawn as to provide that the President may appoint these officers in the recess of the Senate subject to the provisions of such a section and chapter of the general statutes. That will accomplish it.

Mr. BAYARD. As I stated, my object is not to diminish the functions or powers of this officer at all by the present bill. As the Senator from Massachusetts may be right in his construction that the vacancy that is to occur after the 1st July, should this bill become a law, is not such as is provided for or contemplated by the section of the Revised Statutes which I have read, I propose to accept the amendment offered by him with a slight modification, and I will read it. The amendment offered by the honorable Senator is to add:

The President may appoint such officers during the recess of the Senate, who may hold and exercise their office until the end of the next session of the Senate.

I propose to strike out the words "until the end of the next session" and say "until the next session," and follow it with this language:

And it shall be the duty of the President to send in such nominations within thirty days after the next ensuing session of the Senate.

The PRESIDING OFFICER. Does the Senator from Massachusetts accept the modification of his amendment?

Mr. HOAR. I accept the modification proposed.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Massachusetts as modified.

Mr. ALLISON. I should like to hear the amendment reported as modified.

The CHIEF CLERK. It is proposed to add at the end of the bill:

The President may appoint such officers during the recess of the Senate, who may hold and exercise their office until the next session of the Senate; and it shall be the duty of the President to send in such nominations within thirty days after the next ensuing session of the Senate.

The amendment was agreed to.

Mr. HOAR. I should like to inquire of the Senator from Delaware, in reference to the general policy of his bill, what is the theory of the appointment of public officers under our Constitution which induces him to take the appointment of marshals from the Executive and give it to the courts, and to take the appointment of quasi-judicial officers like chief supervisors of election from the courts and give it to the Executive?

Mr. BAYARD. The duty of the chief supervisor is stated in section 2026, and it is a duty requiring both clerical skill and powers of organization. The chief supervisor is required to—

Furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof.

In other words, you have an officer of varied and extended powers, who requires to be inspected with great care, whose powers are very great, and in regard to whose appointment it is very proper that the Senate of the United States should be consulted. It is an office of dignity; it is an office of trust, an office of great power. Therefore it should be regulated by law, not only as to its term, and there can certainly be no exception to the appointment being by the President of the United States. The function of this officer demands as high an intellectual and moral grade of capacity as do the marshals of the United States who are appointed by the President, by and with the advice and consent of the Senate.

Under existing law this officer I say has no superior, he may not be removed. It is essential that that should be no longer the case. He has no term of office, and it is essential that there should be a term. Therefore there is most excellent reason why an officer of this grade and character, of these complex and difficult duties, should be appointed by the President of the United States, and that the Senate should be consulted as to their advice and consent to his nomination.

I say with entire respect to the Senator from Massachusetts there is no point of comparison between the propriety of the appointment of deputy marshals and their removal by the judges of the courts and the appointment of such an officer as this for the term of two years. The law of this land for nearly one hundred years, by the judiciary act of 1789, made every deputy marshal removable at the pleasure of either the district or the circuit judge. That has been the law ever since this was a government. It was eminently proper, therefore, that as that power was to continue, when we came to pass the bill regulating the appointment of deputy marshals we should consider it and place the power of the supervisors of election and the deputy marshals of election, both having duties cognate in their character, under the same power of removal and appointment; but when you come to this officer you find one of a very different class.

Mr. EDMUNDS. Mr. President——

Mr. BAYARD. I am about to conclude my remarks and will yield to the Senator in a moment. I think, therefore, that I have given reasons, which are entirely satisfactory to my mind, why an office of this gravity and importance should be controlled by the appointment of the President of the United States, by and with the advice and consent of the Senate, and that there is no comparison and no relation between the duties of such an officer and those of the policemen who are to represent the power of the United States at the polls of the United States.

Mr. HOAR. The point of my question related to the claim in behalf of the law which we just passed the other day on the recommendation of the honorable Senator from Delaware, of the propriety and necessity of the non-political character of these officers. It is true that the power of removal of certain executive officers in the United States who are removable at the discretion of the marshal who in his turn is removable at the discretion of the President—the power of removing them for cause and on something in the nature of a judicial hearing in a special instance of misconduct, has been lodged in the courts. It is in many States; and that is in the nature of an adjudication of the forfeiture of an office. I do not mean that the law specially enacts that before a judge removes a deputy marshal he shall have a hearing, but the lodging of such a power in court implies judicial process and implies that he is removable for cause.

Mr. BAYARD. The power is summary and entirely at will.

Mr. HOAR. Of course that is true; but does the Senator from Delaware mean to claim or to admit that if he were a judge of the circuit court or district court of the United States he would remove a deputy marshal as he would if he were a United States marshal having to deal with the deputies of a republican predecessor in office, or that he would expect of any judge, whatever his own political opinion, that he would deal with this judicial power of removal as an executive officer deals with the removal of his subordinates on political considerations, or that he would expect a judge to go into the question of the superior efficiency or ability or capacity? That power is lodged with the judge without limit, without provision as to the mode in which it shall be exercised, undoubtedly; but when it was lodged with the judge, it was with the understanding that it was to be done in a judicial manner and for cause; that is, the marshal is removable himself at the discretion of the court, if I am not mistaken, as well as the deputy.

Mr. McDONALD. No, not the marshal.

Mr. HOAR. Similar officers are in many States. In our State the sheriff is removable at the discretion of the supreme court.

Mr. McDONALD. Deputies are.

Mr. HOAR. In our State the sheriff is removable by the court; in other words, the court shall have the power to interpose and remove from this office, whose purity and integrity is so important to the administration of justice and the enforcement of the law, an officer who has been guilty of criminal or other gross misconduct; but from that policy does the Senator from Delaware think we should derive an opposite policy of lodging in judges a power of appointment of executive officers? I submit it never would have occurred to the men who framed the laws which set in motion in the beginning our system of government to have lodged this power of appointment in the court.

Mr. BAYARD. The Senator forgets that the ancient statutes of the United States provide for the exercise of the very power that the Senator condemns. Since 1836 it has been in the power of the judges to fill vacancies, to appoint marshals who shall retain their office until their successors are duly qualified.

Mr. HOAR. Certainly.

Mr. BAYARD. Whether those officers may be postponed by non-action of the Senate or rejection for two or three years, I have known such cases to occur.

Mr. HOAR. Undoubtedly.

Mr. BAYARD. Therefore, if the Senator will pardon me while I finish my sentence, I did not wish to interrupt him except to state——

Mr. HOAR. I thought the Senator had completed his point; I beg his pardon.

Mr. BAYARD. I merely state the point. The Senator finds fault with the principle of allowing judicial power to exercise an executive function in the appointment, and he finds fault with the appointment by the judges of deputy marshals. I say to him that the laws of this country of ancient standing contain that very principle which he says is incorrect and improper. They do not only permit and have all along in the history of this Government permitted the judges to remove at will and pleasure, and very summarily, any deputy marshal, but if there shall be a vacancy from any cause in the office of marshal by reason of the expiration of the term or other cause the court can fill the place by its own appointment until a successor shall be duly qualified. Further than that, a marshal cannot to-day appoint his deputies under the existing law without the approval of the judge, for the judges themselves administer the oaths to those marshals in the court, and they must approve of any stipulation or bonds they enter into. All that shows that the judicial power of control over these executive officers is sometimes the sole power, but it is at least a concurrent power, and has been so in all the history of this Government.

Mr. HOAR. I utterly deny the inference from the fact which the honorable Senator from Delaware states. It is of course essential to the administration of justice, it is essential even to the holding of a criminal or civil court, that there should be no vacancy in the office of marshal. Therefore, as a necessary incident to the judicial power, the judges are clothed with the power of temporary appointment until the President does act.

Mr. BAYARD. Longer than that.

Mr. HOAR. Until the President does act.

Mr. BAYARD. No, until the successor is appointed and the officer is qualified.

Mr. HOAR. Those are, if the Senator from Delaware will permit me to say so without disrespect, trifling limitations of the accuracy of the general statement that I made. It never was intended to clothe the judiciary of this country with the power of appointing executive officers. On the contrary, the one great contribution to a free republican government made by the framers of the American Constitution was their declaration that the judicial, the executive, and the legislative departments of the Government should be kept distinct, to the end, as the Massachusetts bill of rights adds in a sentence declaring that principle, "that it may be a government of laws and not of men."

We are talking of the power to select and appoint officers and the power to consider their fitness for their office, their personal qualifications, and under the customs of this Government, whether good or bad customs, the customs of our people for more than a generation, their political qualifications and opinions. The Senator from Delaware, it seems to me, will not on reflection insist that the fact that the judges have the power to keep their courts going by a temporary provision when a vacancy occurs in the discharge of the office of marshal, or have the power which he alludes to of approving the bond, administering the oath, should induce anybody to suppose that the power of appointing the executive arm of the United States, upon whom must depend in the end the enforcement and execution of their civil and criminal law, was intended to be transferred from the executive to the judicial department.

I do not think on reflection the Senator will claim that the power of removal lodged in the judge under the statutes, which do not limit the power or provide the mode in which it can be exercised, was ever intended to be exercised except under an adjudication of unfitness to hold the office by reason of crime or other gross offense on the part of the officer.

That being the case, the question recurs, which the Senator from Delaware does not answer. He put to the Senate the other day the desirableness of having the executive officers of the Government, who see that the law is administered at an election, appointed by the judges on account of the desirableness of a non-political character of the persons so appointed. The officer who usually is appointed by the political department of the Government, who still is to be appointed in ordinary cases by the political department of the Government, when he is selected for this duty is to be made the deputy of a marshal who had no voice in his appointment, the responsibility for whose act only remained; but he was to be appointed by the courts, and the courts were dragged into the politics of the country, therefore, by the imposition upon them of this important political function, the selection of officers ordinarily chosen on political grounds and by the political department of the Government. Then comes the supervisor, who is to be the chief judicial functionary, who is not to execute the laws but to declare them, to supervise them, to oversee, to see fair play, and who is already a judicial officer of the court, which duty was imposed upon him because of his judicial character, and the judicial source from which his power came, and the Senator turns around the next day after having transferred the political power from the political department of the Government to the judge and transfers the judicial function so far as it relates to elections from the judge to the political department of the Government.

I submit that the Senator does not answer the question on what principle or theory he reconciles those apparent inconsistencies by saying that a judge has always removed the marshal for cause or a judge has always administered the oath and determined the qualification of the officer, approved his bond, or a judge has had the power of appointment for a brief period in order that the court might not be stopped. So far as approving the bond or administering the oath is concerned, it is a mere quasi-ministerial duty which a judge could be compelled to perform by a mandamus, which might as well be put on the clerk of the court, which practically is referred to the clerk of the court by the judge, or upon any functionary of equal respectability. The reason why that power is conferred upon the judge is not because it has any connection with his judicial functions, but because the court, being a tribunal whose records are preserved carefully, is the natural place of deposit of the bonds upon which the rights of the persons having claims against the marshal must depend. Therefore it was found convenient to see that this instrument should be approved by the court and preserved in the records of the court.

Mr. CONKLING. Mr. President, on the 9th of February last this bill was ushered into the Senate by the chairman of the democratic caucus. Notice was thus given to the Senate, I suppose it was given to me, that to address the Senate upon its merits would be a futile and idle affair. Its motives, its purposes, and its provisions have undergone the judgment of a body which puts it utterly out of the question in the Senate to change or influence the vote by which it is to pass. Therefore the few words which I shall say in regard to it will be addressed only in form to those, especially to a majority of those, compelled to hear me. I would that I could address two auditories neither of which is found in the Senate. I would that I could address the Executive, who has the power to smite with his veto such an enactment. I cannot. I would I could address that considerable class of people in the country who owing to the quiet methods of this session, owing to the dexterous management of a majority of the two Houses, have been led to believe that the democratic party since the extra session was called has really experienced a change of heart. I do not wonder that my friend from Missouri [Mr. COCKRELL] laughs at the suggestion. I laugh at it, but I laugh in vain, and I argue in vain with men I meet who really suppose that because there is not such a clang of debate, such an audible demand, such a manifestation as there was at the extra session, therefore there is no such war of purpose. Speaking to all those I wish I could fasten their attention upon this bill as a link in that chain of legislation adapted, however designed, first, to nullify the laws on which the election depends for its fairness, and, second, to commit the result of that election absolutely to the unbridled behest of a political majority.

I say this bill is a link in the chain, a step in the progress which I have indicated. Let me consider it a moment, separated from measures of kindred purpose which have gone before it, and from those which are to follow after it. What is its apology or pretext? The statutes as they stand empower the courts of justice to select in each judicial district from among the commissioners of the courts a man to act as chief supervisor of elections, to see to and guard against, particularly in the large cities, the perpetration of frauds, first, in the registry, and, second, to guard from defilement and pollution the casting and the count of the vote. This officer has power to propose to the court for each election precinct to which the law applies, namely, those found in towns and populous cities, as supervisors of the election on the spot one man of one political party and another of the opposing party, and being so proposed the court has power to pass upon them, to appoint them or to appoint others in their stead. That is the law as it stands. What is alleged against it? Nothing that I have heard except that the supervisor-in-chief holds an office the term of which is not prescribed by law. It is prescribed by law, it is perfectly fixed and determinable, according to the declaration of many statutes, according to the understanding always of the courts and of every department of the Government.

Mr. EDMUNDS. And according to the solemn decisions of the courts as well.

Mr. CONKLING. My friend from Vermont amends my phraseology by saying "according to the solemn decisions of the courts." Of course, because it is only by its decisions that a court manifests its understanding. What is that term? It lasts and lasts only during the approbation of the court. If I could employ the common law phrase, retaining the Latin or translating it into English, I should say during the good pleasure of the court; that is, during the approbation, so long as it finds that the good behavior of the incumbent entitles him to continue. That is the term of every commissioner; that is the term of every supervisor-in-chief. In the instance of that particular supervisor at whom perhaps more than at any other one this enactment is aimed, we have had fresh reminder of the truth of what I say. Recently, as Senators will remember, on a petition addressed to Judge Blatchford, the circuit judge for the southern district of New York, a regular proceeding took place to determine whether the supervisor-in-chief of that district ought to be removed or not. Depositions were taken, witnesses were called, arguments were had, the law and the facts were presented to the court in perfectly well understood and established methods. This could not be except that the court had the power to remove the supervisor-in-chief, if he deserved removal; but an investigation having demonstrated that he did not deserve removal, and the court having so decided and refused his removal, it is proposed now to employ the instrumentalities of national legislation in order to reverse that judgment and in order to remove a man who for political and partisan reasons is found in the way.

Mr. McDONALD. I should like——

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. CONKLING. Always to the Senator from Indiana.

Mr. McDONALD. I should like to call the attention of the Senator to the fact that the investigation to which he has made reference has not yet closed. It is still in progress.

Mr. CONKLING. Which one?

Mr. McDONALD. Against Mr. Davenport.

Mr. CONKLING. To which investigation does the Senator refer?

Mr. McDONALD. I mean the investigation to determine whether he should be removed for cause. He is now absent from attendance upon the committee of investigation of this Senate in order to enable him to attend that investigation in New York which is now in progress.

Mr. THURMAN. The investigation before the judge?

Mr. McDONALD. Yes, sir.

Mr. CONKLING. Then I am to understand from the Senator from Indiana, I do not dispute it, that there is not only an investigation which I referred to, which has been determined, but that another proceeding has been set on foot to reach this man with the appointing power as it stands now. What a commentary is that upon this bill! How, first, it refutes the pretense that these officers cannot be removed if they deserve removal, and, second, what a glaring light it throws upon the purpose and the inspiration of this legislation! Yet, as I understand it, the sole apology made for this legislation is that the law does not say that on such a day these officers shall go out, but only says that every one of them shall go out on that day when they are weighed in the balance and found wanting, the court being the judge.

Finding the law and finding the arrangement to guard the election as I have stated it, a majority in the Senate, I suppose a majority in the House already consulted, propose to take the appointment of the supervisor-in-chief from the court and deposit it, not with the President, but with the President and a majority of the Senate. What is to be the effect of that? When these supervisors have been made satisfactory to a majority of the Senate, what is to be the effect of it? First it practically takes from the court all power to appoint the supervisors themselves, the witnesses and watchers of the election in the various election precincts. Why? Because the statute, as I remember it, requires the supervisor-in-chief to propose the names of those who are to be appointed, and the action of the court is confirmatory; and if you will put a democratic supervisor-in-chief in office in the city of New York for example he will present as supervisors the class of men who commend themselves to him. That I presume would be those non-partisan democrats whom I have heard sometimes described in the Senate, and who, as far as I have ever seen one of them, are the most virulent, malignant partisans at heart to be found even in that organization,—all those who wring their hands and talk about being non-partisans. Deliver me from them in preference to any outspoken and real class of democrats I ever yet encountered!

That is the first effect of this, to confine the court to the selection of such men as shall be presented by such democrats as will be selected by a majority of the Senate if they select anybody for supervisor-in-chief.

I read in the newspapers that time after time the President has nominated men fit, unobjected to, to count the noses of their neighbors, to take the census, and they have been rejected by the Senate for party reasons. If that be so, no one can doubt I think that that same majority will be much more careful in scrutinizing when they come to select men to act as supervisors-in-chief to guard the registry, the casting, and the count of votes, than they were in the case of the census officers.

The result, then, will be that removing all these officers on the 1st of July nobody will be confirmed in their places save those satisfactory to the inventors of this bill. But then it is all quietly done. The honorable Senator from Pennsylvania, [Mr. WALLACE,] whose brain is the unresting loom on which is woven so many of the devices of the democratic party, is not noisy; he is as still as the breeze, but dreadful as the storm. He never hunts anything with a brass band. The extra session and its management was never inspired by him. If it had been, there might have been more light, but there would have been a great deal less noise; it would not have reverberated near so far; it would have been so managed as not to alarm nearly so many of the people of the country as were alarmed by that revolutionary and extraordinary proceeding.

But this and its kindred measures bear the imprimatur of the honorable Senator from Pennsylvania; they mean business—one a bill depriving the marshals and all general deputies of police powers on election day and on every other day touching the election or registration; another a bill enthroning the election officers, no matter what they may do, beyond the power of courts or police to interfere with them; a bill under which a judge of election may allow, as I am told one did allow in one of the Southern States, a single man to deposit seven hundred and forty-four tissue ballots; and although seen by the public eye, although a multitude look on, under the bill to which I refer, no court, no judicial officer, no judicial mandate, no police power under the sky that bends above them, can lay hand upon a board of officers or an individual officer who may be guilty of such offense. Another bill under which all others, spectators, rioters, intruders, and ruffians, having nothing officially to do with the election, may do as they please and stalk with impunity at any election, all peace officers being absolutely forbidden to lay finger upon them unless they have time to visit some court or some magistrate, make the requisite affidavit, comply with the technical forms, and obtain a judicial warrant, which they may proceed to serve. They may lock up the door, but never until after the horse is stolen; riot and disorder without let or hinderance may proceed; and the peace officers, all of them, of the United States are paralyzed and commanded to stand still. And, as if all that were not enough, now comes a provision sweeping out these officers appointed by the judicial courts and snatching into the hands of the majority of the Senate the selection of their successors; and then some excellent man, a keen student of events, who knows all about it because he reads the public journals, goes out among his neighbors and says: "Let us all congratulate ourselves, everything is so pacific; if the democrats felt now as they did at the extra session, how alarmed we should be, how necessary to be on the alert, and how differently we should act; but now since they have all sunk to rest, now since every democratic Senator and every democratic Representative 'wants to be an angel and with the angels stand,' what a perfect and unexpected millennium it is; how secure, how full of repose, with what perfect impunity every man may now buy a farm, or a yoke of cattle, or pursue the avocations of peace, knowing that neither the democratic nor the independent party will do anything to make him afraid!"

One of Rome's maxims drew sharp distinction between what is and what seems. I cannot too highly commend the skill, the dexterity, and the discretion which has governed the democratic organization during this session of Congress in respect of everything that seems at a distance or to any except those so near as to know more than from the outside appears. If they have not been as harmless as doves, they have been as wise as serpents; and if success attends this effort I would exalt my eulogy; and if the majority of the two Houses of Congress can quietly, without din or alarm in the country, without damaging notoriety put on the statute-book the three bills to which I have referred and also that curious contraption which appeared originally as a rider to a deficiency bill—if they do all that and in the language of the race-course "get away with it," without being reviewed or chastised by public sentiment, and without all its bearings and intents being known in the nooks and in the corners of the land, it will indeed be a feat of partisan dexterity entirely unparalleled in the history of parties.

Mr. President, when the occupations and the thoughts of this hour have passed away, a time will come in many places for many minds to review this action, to retrace these steps, and those of us who are here will perhaps feel more void of offense, freer from even the appearance of seeking undue advantage, if even as imperfectly as I have done they call attention at the time and in their place to the nature of these transactions as they proceed.

It is rather with that view, as I said, than with the faintest hope of changing the judgment or the vote of the members of the Senate whose votes make decrees, that I have ventured to say even so much about the pending measure. I should feel deeply concerned if I doubted that, if not now, hereafter a very strong light will be turned upon it, and that when it comes to be understood along with kindred measures inferences will be irresistible which will not tend to neutralize the delusion in respect to party purpose under which many men are laboring.

Mr. CARPENTER. Mr. President, there is another rich specimen of deviltry in this bill which I have not heard pointed out. We all know how restless our democratic friends are under the election laws in any form. They would be very glad to get rid of the restraints the laws have placed on fraud and villainy at the elections. They have manifested their unfriendly feeling toward all such legislation in all possible ways. They know, however, that a direct attempt to repeal all these laws and to disable all the machinery which the law has put around the next election would be vetoed by the President although it should pass the two Houses by democratic majorities. They know, in other words, that they cannot accomplish directly that purpose; but if they can pass this bill in its present form, so far as I can see they have accomplished the purpose completely. Now see:

That the term of office of chief supervisors of election, provided for in section 2025 of the Revised Statutes, shall be two years. Such term shall begin on the 1st day of May in each even-numbered year. The terms of those now in office shall expire on the 1st day of May, 1880, and their successors shall be appointed from among the qualified electors of the proper judicial district by the President of the United States, by and with the advice and consent of the Senate.

Suppose this bill passes the Senate to-day, as I presume it is to pass to-day, and passes the House to-morrow, goes to the President and becomes a law, every chief supervisor in the land is out of office.

Mr. ALLISON. "July" has been inserted instead of "May."

Mr. CARPENTER. I was not aware of that amendment. It reads "May" in my copy; but if the bill is signed by the President to-morrow, on the 1st of July every supervisor goes out of office, does he not? There is then a vacancy in every office of that kind all over the United States. We have here nobody knows exactly how many days to stay. The House has sent us a resolution to adjourn on the last day of this month. I presume we shall not do that, but——

Mr. McDONALD. Will the Senator from Wisconsin allow me to ask him how many chief supervisors there are now in office? In how many judicial districts has that power been exercised? How many officers will this legislate out of office?

Mr. CONKLING. One in each judicial district, wherever there is a large city.

Mr. McDONALD. Of what size?

Mr. CONKLING. I think it is twenty thousand or upward, but I will not be quite certain. Wherever there is such a city in a judicial district there is such an officer, and this turns him out.

Mr. McDONALD. That is, if the judge has appointed, not otherwise.

Mr. CONKLING. He cannot be in office unless he has been appointed.

Mr. McDONALD. That is very true. We have several cities in Indiana of over twenty thousand inhabitants, and there is no general supervisor in that State. We do not need him.

Mr. CONKLING. That explains perhaps some of the things which have occurred in Indiana. [Laughter.]

Mr. CARPENTER. As this bill reads, these men will all be legislated out of office, and the democrats in the Senate by simple nonaction, by simply refusing to confirm their successors, could defeat the whole machinery of the election laws. But I understand from my friend from New York that a few moments ago while I was out of the Chamber the bill was amended so as to give the President the power of appointment in the recess of the Senate, so that the bill would not have the effect which my printed copy would give to it of arresting the whole machinery of the election laws.

Mr. McDONALD. The Senator from Wisconsin is right in supposing that the majority on this side of the Chamber would rather repeal these laws than do anything else, and if we had the power to repeal them we would not be here trying to amend them. I do not

believe that Federal interference by Federal officers in the elections of this country is within the spirit of the Constitution or beneficial in its results; but as it is not in our power to repeal these laws, we have been endeavoring to take out of what has been very aptly styled by the Senator from Wisconsin the Federal election machinery, its political character, its political teeth, to make it as innocuous in elections as possible.

The Senator from New York has spoken of this bill as having been introduced by the chairman of the democratic senatorial caucus. It was introduced by the Senator from Pennsylvania, who is the chairman of that caucus, but it was not introduced as from any consultation of that kind; and, on the contrary, it was presented by him in connection with a report which it became his duty to make as chairman of a select committee of this body appointed to inquire into the workings of these election laws.

Mr. TELLER. Which report did he introduce this bill on?

Mr. McDONALD. If the report has not been brought forward, I will state that the evidence of its necessity is in the testimony which has been taken on that subject. I have before me a letter of the Attorney-General answering an inquiry addressed to him by the chairman of this committee, the Senator from Pennsylvania, in which he gives the whole number of deputy marshals that were appointed and acted in 1878 in connection with the elections, and his statement upon that subject is as follows:

It will be seen that the whole number of deputies appointed who served was 5,494. Of this number 5,001 were appointed under the provisions of the law relating exclusively to elections, and 493 were appointed in certain districts by virtue of the powers conferred upon marshals by section 780 Revised Statutes, to appoint deputies with general powers to preserve order and keep the peace.

This section 780 reads as follows:

Every marshal may appoint one or more deputies, who shall be removable from office by the judge of the district court, or by the circuit court for the district, at the pleasure of either.

This is simply carrrying into the Revised Statutes the act relating to marshals and their authority, passed September 24, 1789. It further appears from this report that of these 5,494 deputy marshals there were over 3,200 appointed in the State of New York, nearly 800 in the State of Pennsylvania, of which 773 were appointed in the city of Philadelphia. The investigation made by this committee into the appointment and conduct of those deputy marshals so far as the city of Philadelphia is concerned disclosed the fact that they were all partisans of the republican party, most of them ward politicians of the very lowest character, and that the services they rendered for the preservation of the ballot-box and the purity of elections on the day of election was to peddle republican tickets and to browbeat and keep from the polls as far as possible democratic voters. The marshal that made these appointments knew but few of them. They were made upon the nomination of the ward politicians of the different wards in which they were to serve.

Mr. HOAR. Will the Senator from Indiana allow me to put him a question?

Mr. McDONALD. Not at present. When I am through I will answer any question the Senator desires.

Mr. HOAR. I wanted to have the answer as a fact in connection with the point that the Senator was speaking of.

Mr. McDONALD. The marshal, I say, who made these appointments knew but few of the appointees. He so testified before the committee. He further testified, in answer to a question propounded by the Senator from Massachusetts, that these appointments were unnecessary and these officers were unnecessary in order to secure a free and fair election in the city of Philadelphia. In New York for the city alone there were 1,260 deputy marshals appointed; for Poughkeepsie, 13; for the city of Brooklyn, 545; for Long Island City, 16; making for the southern and eastern districts of New York alone 1,834, every one a republican partisan, paid out of the public Treasury $5 a day for his services as an electioneerer, and many of them of the very worst of the people of that city.

It is the disclosure of these facts that has rendered it necessary in our opinion to take out of these laws their political character, if it be possible, and if they are to continue, to allow them to continue in that way, and in that way alone, by which there shall be no interference on the part of this Government in favor of one party and against another, that there shall be no paid emissaries to stand around the election polls.

In the city of Philadelphia the police authorities of that city are not allowed to be within thirty feet of the polls on the day of election. They are to be where they can have observation and keep the peace. But these deputy marshals crowded themselves up to the very door and held the window books, as they are called, of the republican party; in one case took from the desk one of the city judges and carried him before a commissioner, and took from the streets a man to supply his place until he could go before the commissioner and vindicate himself, which he did, and late in the day was returned to his place again. In the city of New York election judges were arrested by these deputy marshals and taken before the commissioner and put under bonds in $10,000 apiece, and detained away until the election was over, and then they were not prosecuted for anything.

It is time that the other side of this question should be held up as well as that which the Senators on the opposite side of the Chamber have been endeavoring to hold up. I say these laws as they stand are not in the interest of free and fair elections. The power exists now under the law as it stands for United States deputy marshals to break up any poll by the arrest of the State officers holding it, and destroy it for the day, and if they are to be mere partisans in the future as they have been in the past that will be the history of the next election held under their supervision.

This bill is designed simply to take away the power that has been lodged in the hands of these chief supervisors and which cannot be removed without a repeal of the law unless the court that has appointed them shall find upon charges that they have misbehaved, and to put these appointments in the charge where the Constitution designed the responsible officers of this Government to be, in the hands of the Executive and the Senate. That is the design of this bill, and nothing more.

As to the other measures that have been considered, their sole purpose is to see that the deputy marshals, who have heretofore been appointed for their mere partisan service and their capability of rendering service on the day of election to their party, shall no longer possess that power, shall no longer be selected from one side, but that both sides shall have a free and fair opportunity of having the benefit of these beneficent laws, if they are beneficent.

I hope the day is not far distant when we can get clear of this whole machinery, notwithstanding the alarm that the Senator from New York is inclined to sound upon that subject, for I believe the people of the States and of the United States are better able to conduct their elections than the minions of any administration appointed for the purpose of controlling their action, or if not appointed for that purpose being used for that purpose. I believe that the appointment of every deputy marshal under section 780, with authority in any manner to interfere in election, is a misapplication of the power intended to be conferred there, a violation of the spirit of the law if not of its letter as well, and yet in some States they are the only election officers that have been appointed. In the State of Arkansas, without a city of twenty thousand inhabitants in the entire State, there were appointed at the election of 1878 one hundred and seventy-three deputy marshals, extending to every county in the State and many of the precincts in counties, partisans, not there for the purpose of seeing to a free and fair election, not understanding their duties in any such way, but, if possible, to control the polls at which they were standing in the interest of the party from whom they received their appointments, drawing their money out of the Treasury of the United States.

Mr. TELLER. Did they not have a fair election? I ask the Senator whether they did not have a fair election in Arkansas?

Mr. McDONALD. They would have had it without any such machinery, and a great deal better.

Mr. TELLER. I think it safe to say that nobody on the other side of the House will rise to defend this bill upon principle. It may be that somebody will defend it as the Senator from Indiana does, as a choice of evils.

Mr. McDONALD. That is just the way I prefer it.

Mr. TELLER. That is the only defense that can be made on that side of the House, unless Senators should be met by the speeches they made at the last session of Congress or by their votes, for from the 18th day of March, 1879, down to the 1st day of July, 1879, the greater portion of the time of this Senate and of the other branch of Congress was spent in discussing these election laws, and every Senator on that side of the Chamber, without exception, put himself on the record against the constitutionality of this kind of a law. Every Senator either made a speech in which he asserted that there was no provision in the Constitution, directly or by implication, that would authorize it, or when the roll was called voted for bills that would justify my declaration that every man of them has put himself on the record against the constitutionality of this act. And now I say the gentlemen will not rise to discuss it, because they will be met with this kind of a statement.

But the honorable Senator from Indiana says it is a choice of evils. Mr. President, this is not an amendment to the law. It is the appointment and creation of an entire new set of officers. It is the creation of an officer until this time never known to the laws of this country. The chief supervisor of elections now is but a commissioner, a quasi-judicial officer, appointed to perform quasi-judicial offices and functions. This is the creation of a distinct office; whether it is judicial or whether it is executive, it is a distinct office. I think if it is a judicial office, it is one that is entirely independent of the courts, and I do not suppose anybody will find any warrant in the Constitution for the authority of these officers. There may be another reason why the Senators on the other side of the Chamber will not be in haste to discuss this question. A fair discussion of this bill will involve the discussion of the whole questions that were presented at the extra session, the constitutionality of the election law, the constitutionality of other laws that are made for the protection of the voter at the polls and the purity of the ballot.

It is said—I do not know how true it may be—or the rumor is that at the early part of this session, away back last fall, in a solemn assemblage of the democratic Senators and perhaps other democrats, it was determined that there had been entirely too much discussion heretofore, and that hereafter when questions of this kind came up none but the most judicious and careful-spoken members of that great organization should come before the Senate and before the country and express their sentiments, such as the Senator from Indi-

ana and a few others. Whether that is true or whether it is not, that has been the policy of this party through this present session. They have been absolutely afraid to stand up and discuss questions in which the whole country was interested. A great political party seeking to control the Government, to get control of the administration of a people of fifty millions, dare not stand up in public and express their honest sentiments for fear that the people of the country would be disgusted with them and refuse to put this much-coveted power in their hands!

Mr. McDONALD. I am very sorry that the Senator from Colorado so much misunderstands us. We do not want to take up the time which is necessary for legislation.

Mr. TELLER. Oh, Mr. President, they have been here since December; and can the honorable Senator from Indiana point to one single bill they have originated and presented that is of any public importance or any public benefit? It was stated not long ago upon the floor of the Senate that this would be known as the do-nothing Senate. Absolutely nothing has been done. They have not only been afraid to speak, but they have been afraid to originate a measure or to vote. They have been making this fight for the control of the Government, and they have made it, as the Senator from New York says, with remarkable shrewdness. I admit it. They have been endeavoring to undo that which they had done during the extra session. They have been endeavoring to allay the public excitement that they created when it was found that a great party held and maintained as its fundamental principle that this was not a nation, but a loose confederacy of States; that the Government had not the power and had not the right to protect its voters at the polls when they went there to exercise the national privilege of selecting their Representatives in the other House or the electors who should make the President of the United States. They have been afraid to do that; and shall I say they will not stand here and defend this bill, and they cannot do it unless, to use a common expression, they go back upon their own record?

Mr. President, the Senator from Indiana says that this bill has been brought out by an examination of the committee of which the honorable Senator who presented the bill to the Senate is the chairman. They have gone into the city of Philadelphia and they have examined as to the number of deputy marshals appointed. The honorable Senator did not see fit to tell that which the files of this committee show—and I speak knowingly, being a member of the committee—that the democratic witnesses, without a solitary exception, testified that they did not know in the great city of Philadelphia a single democrat who had been denied the privilege of voting when he wanted to vote, neither did they know of a single republican that had voted who was not entitled to vote; but the fact that twenty-two hundred marshals were appointed in the city of Philadelphia so worked upon the mind and heart of the democratic members of this committee that they thought they must introduce this bill.

Mr. EATON. How many did the Senator say? Not so many as twenty-two hundred?

Mr. TELLER. I do not know whether there were twenty-two hundred or not.

Mr. EATON. I thought eight or nine hundred in Philadelphia.

Mr. TELLER. Perhaps it was twenty-two hundred in New York and eight or nine hundred in Philadelphia.

Mr. McDONALD. I can give the exact figures.

Mr. TELLER. If the honorable Senator from Pennsylvania, who represents this committee as its head, and his assistant, the honorable Senator from Indiana, who is a member, want to redress the wrongs of men who are claiming citizenship and the right to exercise the privileges of citizenship at the ballot-box, if they want to remedy wrongs, they will find ample opportunity without this bill. They will find on the files of this committee evidence that they have never paid any attention to; that in various sections of the country men have not only been denied the privilege of voting, but have been murdered because they insisted on voting; they will find in communities where there was no question as to the great majority being republican that democrats have been returned to the offices, and that, too, by tissue ballots put in in the face of witnesses who were appointed to see that there was a fair and a free ballot.

Mr. President, they have not acted as if they desired that there should be a free and a fair ballot; and when it is claimed that this bill is in the interest of a free and a fair ballot, it is but a pretense, it is but a part and parcel of this great plan of theirs to undo the election laws and to destroy the control of the National Government over the election of Representatives and presidential electors. It is but the skirmish that they are making for the great presidential campaign that is fast approaching. They are playing for a big stake, they are playing for the Presidency, and they mean to play it, to use a common expression, for all that it is worth, and they mean to stop at nothing; and the honorable Senator from Indiana says we would repeal these laws but we cannot, and because we cannot we will vote for laws that we have repeatedly declared were not justified or authorized by the Constitution.

Now, Mr. President, this is an independent law, and if the Constitution does not authorize the appointment of supervisors of election, no matter whether you call them that or not, if there is not a power in the General Government to oversee and superintend the election of members of Congress, then every man who votes for this bill votes in violation of the Constitution of the United States.

Mr. HAMPTON. I wish to ask the Senator a question.

Mr. TELLER. Very well.

Mr. HAMPTON. I heard him allude to tissue ballots. Did I understand him to say that there was anything illegal in voting tissue ballots?

Mr. TELLER. I have not said there was anything illegal in voting a tissue ballot.

Mr. HAMPTON. In voting one?

Mr. TELLER. In voting one. I have not claimed that a tissue ballot might not be deposited in any election box as fairly as any other ballot; but I do say that the finding of a tissue ballot in any box is presumptive evidence that it was deposited there for the purpose of defrauding somebody.

Mr. HAMPTON. May I ask the Senator to look at this tissue ballot? [Sending a tissue ballot to Mr. TELLER.]

Mr. TELLER. I understand the object and purpose of the honorable Senator. The honorable Senator has handed me what purports to be a republican tissue ballot. Now, at the risk of offending some Senator, I will go into the history of the tissue ballots in Charleston County, South Carolina.

Mr. CAMERON, of Wisconsin. I will ask the Senator from Colorado to read this tissue ballot. [Sending a tissue ballot to Mr. TELLER.]

Mr. TELLER. I am quite willing that the honorable Senator from South Carolina should call my attention to the tissue ballots that were found in the boxes in his State. In 1878, when the congressional election was approaching, as appeared from the evidence taken before what is now known as the Wallace committee, evidence uncontradicted, undisputed, and unquestioned by anybody, with full opportunity given to the active, intelligent democrats of that community to contradict it, just before the election it became known to the republican candidate for Congress in that district who never took his seat that the democrats had provided themselves with a quantity of tissue ballots, and there is one of the tissue ballots [exhibiting] one half the size, one-half the weight of the tissue ballot presented to me by the honorable Senator from South Carolina as a republican tissue ballot.

Mr. McDONALD. It is a republican tissue ballot, is it not?

Mr. TELLER. I will come to that if the Senator will wait. Believing, as Mr. Mackey as a witness swore, that it was the purpose with that lighter tissue ballot in weight, less than one-twelfth part the weight of an ordinary ballot, to deposit such tickets, not through the hands of the voter, but in fraud of the voter, the other side prepared some of these ballots for the purpose of checkmating the trick, if possible; and how did they suppose this was to be done? They had the fact before them how it was to be done, and the evidence shows it was carried out just as they supposed it would be. In every precinct, except one, in the county of Charleston, when the ballot-boxes were opened there were found from one hundred to several hundred of these tissue ballots, and in every place where there was a tissue ballot there was a surplus always of ballots in the box over the number on the poll-list. This was so universally, save and except at one single precinct, of which I will speak, seeing that the Senator has called my attention to it.

When these ballots were returned, said the inspectors: "Now we must proceed to eliminate from the ballot-boxes these ballots which are in excess of the poll-lists;" and thereupon they put their hands in, and feeling these tissue ballots, they did not take them out, but feeling the heavy-weight ballots which had been ordinarily cast by the republicans, they took them out and destroyed them, and the evidence is that in some cases 90 per cent. of the ballots that were taken out and destroyed turned out to be republican. It could not have been in the nature of things possible except it was done by feeling and done by the touch. They foresaw that, and Mr. Mackey said that he proposed to put some of these in. How? By the hands of the voters, and in the county of Charleston there were about one hundred and sixty-five of these republican ballots found in the ballot-box, going there, as it appears from the evidence, fairly, I think, by the hands of the voters. But how many did we find of these tissue ballots? Ten thousand. Said Mr. T. Barker Jones, a prominent democratic lawyer: "I think there must have been in the ballot-boxes in this county ten thousand of these tissue ballots."

Now, Mr. President, take the Palmetto Engine-House precinct, in the city of Charleston. At quarter past three o'clock there had been, by actual count, as was agreed by the democratic supervisor and by the republican supervisor, 915 ballots; not a tissue ballot had been seen by anybody; and then trouble arose with reference to some man voting; a supervisor was knocked down and dragged out and driven away; and at six o'clock, two hours and three-quarters after, when the poll was closed, there were 3,559 ballots in that box, which was putting them in at the rate of 15 for every minute, when every voter under the law had to come up and swear that he was a voter and that he had not voted at that election. How many tissue ballots were there nobody knows; for, while all the other ballots were preserved in the ballot-boxes, the Palmetto Engine-House ballots had all been destroyed.

It was in proof by Mr. Campbell, a prominent democrat of that State and a citizen of repute and worthy of confidence, that he sat and watched the voters as they went to that voting place and climbed the stairs and that no unusual number of men went there, and yet the

whole number of votes found in that ballot-box was counted for the democratic candidates. In that box, and in that box only, did the number of ballots in the box correspond with the number of names on the poll-list. I speak now from memory. I did not intend to go into this and I have not looked it over, but the testimony of an expert brought from the city of Columbia was that there were at least twenty different handwritings on that poll-list, and that a portion of them must have been, from the handwriting, women.

Nobody in the city of Charleston attempted to deny that that was a fraud. It was in proof that the chairman of the democratic club actually sat down, in the face of the officials who were sworn to take these votes honestly from the hands of the voters, and stuffed these tissue ballots in the box just before it closed, putting them in against the protest of a person who sat there and looked on who was in sympathy with the other party; and that man was brought before the committee and never denied the statement that had been made.

There is another tissue ballot [exhibiting] which I am told is a democratic tissue ballot, such as has been voted in some sections of the country. I do not know that it is, and I do not know that I ought to mention the fact, but I am told that is a tissue ballot. But there is one [exhibiting] that was brought by our committee from the city of Charleston, and we found more than 3,000 of this kind of ballots in the boxes, and the testimony, with one exception, was that no man saw a tissue ballot during the day excepting when the chairman of the democratic club stuffed the boxes with them.

Now, Mr. President, I hope the Senator from South Carolina is satisfied with the history of tissue ballots. If he is not, I can go into every precinct in the county of Charleston and show that every precinct had tissue ballots, and just as the number of tissue ballots were in the boxes just so the number of ballots exceeded the number of names on the poll-lists. To any man who thinks for a moment it is evident enough that they went there by fraud, and to nullify and destroy the honest votes of the republicans, but they were all counted. Mr. President, they were necessary to be counted; if they had not been counted that representative district would have been represented in the other House by a republican, as it is now represented by a democrat.

Mr. HAMPTON. May I interrupt the Senator for one moment?

Mr. TELLER. Certainly.

Mr. HAMPTON. The Senator says that there were three thousand tissue ballots found in the boxes, and I think his information is correct upon that point. The present member of the House was elected by 8,000 majority; so that if you take out all the tissue ballots it would leave him a very clear majority without them. One other point——

Mr. TELLER. I only yielded for a question. The Senator can make his speech when I get through.

Mr. HOAR. I ask leave of the Senator from Colorado, as the Senator from South Carolina has given the Senate some information, if he will be good enough to state what is his information as to the number of fraudulent tissue ballots that were actually cast in that district?

Mr. HAMPTON. The Senator from Colorado refused to yield the floor to me, and I decline to speak.

Mr. TELLER. I yield for that purpose.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The Senator from Colorado is entitled to the floor.

Mr. TELLER. The honorable Senator says that this Representative was elected by 8,000 majority. In nearly every precinct in his congressional district we found tissue ballots. A gentleman of reputation and character, a leading democrat, whose name was T. Barker Jones, who had been a prominent man in the campaign, said that he thought there were six thousand tissue ballots found in the boxes when they were opened on that night. I say that every one of those ballots was counted for the democratic candidate, be they more or be they less. In other counties in the district the same thing was done. It was necessary that it should be done.

Mr. McDONALD. If the Senator will allow me, I think there is only one county in the district.

Mr. TELLER. There are more.

Mr. McDONALD. I thought Charleston was the only county.

Mr. TELLER. The Senator is mistaken. There is another county in the district. These facts have been on the files of the Senate. Has any democratic Senator proposed any legislation looking to the prevention of such things? The honorable Senator from South Carolina does not deny the statement that I make. The honorable Senator from Indiana was there and helped to take the testimony, and cannot deny it.

Why, Mr. President, how did they meet the testimony when we had shown that in one ballot-box there were five hundred extra tissue ballots more than there were voters, and when we proved that they took out a large percentage of republican tickets to reduce it to the number of voters? They met it by calling some negro who would swear that in his judgment a great number of negroes voted the democratic ticket; and they made a pretense—but they did not prove it, and did not attempt to prove it—that these tissue ballots were got so that the negroes who desired to vote the democratic ticket could vote it and not have the republicans know it.

The tissue ballot is the least of the offenses of this political party against the purity of the ballot. It is respectable compared with the methods pursued to obtain democratic control in some portions of the country, and I have some little feeling of gratification that they did it in a way that saved blood. If you must swindle the voter, and deprive him of his ballot, it is better that it should be done by tissue ballots than the shot-gun. But in other sections of the country, as the evidence taken by the committee will show, they did not proceed in that way. I am not now speaking of South Carolina, for I believe during the election of 1878 tissue ballots were the system adopted by the democratic central committee of that State to obtain control of the State and to falsify the votes of the people.

But take some other State; take Tensas Parish, in the State of Louisiana; take Concordia Parish, in the State of Louisiana. Mr. President, I will not depend upon the testimony taken by this committee; I will call the attention of the Senate to the statement made by the governor of that State with reference to the proceedings in that State to control the election. Governor Nicholls, of Louisiana, in his message, speaking of Tensas Parish, attempting to excuse it, attempting if possible to have it appear that this was one of the ordinary contests that arise in political campaigns, says:

> The proximate cause of that trouble was the going at night of a party of men, numbering from twenty to twenty-five, to the house of one Fairfax, a colored political leader in Tensas Parish, which act resulted in the killing of Peck (who seems to have been the leader of the party) and the wounding, by Peck's companions, of three colored men who were in Fairfax's house, one of whom afterward died. The visit of these men to Fairfax was utterly wrong—in my opinion, without justification—and while attempted to be justified upon the ground that they went in the interest of peace, to expostulate against a proposed rumored attempt of the colored people to force the quarantine lines at the town of Saint Joseph, I am satisfied that such was not the purpose, but that it had a political object. I do not think the purpose was to kill or harm Fairfax, but I do believe it was to influence his course and the local campaign in the parish.
>
> The killing of Peck and the wounding of the colored men was, in my opinion, totally unexpected and attended by results which none of the parties contemplated, and from which political considerations utterly disappeared.

Speaking of this same trouble afterward, he says:

> An armed body of white men, acting under a warrant for the arrest of Fairfax, who, it was supposed, had passed into Concordia, entered that parish for the purpose of the execution of the warrant, and while there some eight or nine colored men were killed.

Mr. President, I do not propose to enter into any general discussion of the facts proved before this committee. I did not intend to refer to any of these details when I rose. I only want now to say that if the committee are anxious to find places in which they can exercise their skill with reference to the preservation of the ballot, not simply its protection but its absolute preservation, they will find an abundance of evidence on file and a number of places to which they can direct their attention.

It is now said that there is such a pressing necessity for amendments to these laws that this bill has been brought in. Mr. President, will this correct the evil of which I have spoken? Does it look to that? Does anybody pretend that it looks to that? Does not everybody know that it is for the express purpose of shearing and cutting off the power that the Government has attempted to exercise in preserving the purity of the ballot and the very existence of the ballot itself? It is but a pretense to say that that is demanded by anything that has been brought before the committee. On the contrary, the testimony before the committee is the best possible answer to all the arguments that can be made against the exercise of this power by the General Government. This man Davenport, whom they are anxious to legislate out of office, is subject to be removed, no matter what may be said, by the circuit judge at any hour, at any minute when he is dissatisfied with his conduct; without giving cause or reason he may remove him.

It is but a part and a parcel, I say again, of the attempt made by the democratic party to prepare this next campaign so that they shall be untrammeled by Federal power which has been exerted only, as the records of this committee show, and the records of all other committees show in the Senate, for the preservation of the ballot and the safety of the voter.

Sir, the democratic party with all their researches have not been able to show that these officials have violated any law except perhaps in an extreme and isolated case now and then. They have not shown that they have ever deprived any man of his opportunity to vote; but, on the contrary, the evidence is that thousands of men would have been denied that privilege but for the interference of the strong hand of Federal power.

Mr. THURMAN, (Mr. GARLAND in the chair.) Mr. President, I offer the following amendment, to come in at the end of the amendment adopted, which is the end of the bill:

> *Provided*, That no person now holding or who has held the office of chief supervisor of elections shall be reappointed.

Mr. EDMUNDS. Let us have that reported again. That sounds quite like "the Ohio idee." [Laughter.]

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment.

Mr. EDMUNDS. Mr. President——

Mr. THURMAN. I believe I have the floor.

Mr. EDMUNDS. Oh, yes.

Mr. THURMAN. The Senator seems to think this is an Ohio idea. I hope it will be the idea of a majority of the Senate and in a very short time, and I hope it will be the idea of the Congress of the United States and of the President of the United States.

Mr. President, I do not undertake to say that every chief supervisor of elections who has been appointed heretofore is a bad man; but I know, if evidence proves anything, that there have been bad men among them—one man so bad that I think his name will be infamous in the history of this country; and I do not propose that he shall be a supervisor of elections if I can help it. As I cannot undertake to distinguish between all the men who have exercised these powers, I think it the wisest thing to say that none of them shall be reappointed.

That being the case, let us see what objection there is to this. I was quite surprised to hear the Senator from Colorado speak of this bill as a bill to open the door to frauds in elections. Does this bill deprive any supervisor of elections of any of the powers conferred upon him by the election statutes? Not at all; not one of them. It leaves the chief supervisors who are to be appointed under this bill, should the bill become a law, with all the powers that are enjoyed by the present chief supervisors. Where, then, is there any opening of the door to fraud?

But again, there is no opening the door to fraud unless the Senator thinks the President of the United States will appoint villains.

Mr. TELLER. If the honorable Senator will allow me, I will say that my opinion is that the attempt is to actually destroy, if possible, the office of supervisor. As they knew they could not do that by repealing the law, they hoped to do by indirection what they could not do by direction.

Mr. THURMAN. Why, Mr. President, how does it destroy the office of supervisor? Does it say so? Not at all. Does it provide that the President must appoint within a certain time? Not at all. So far from destroying it, the amendment that has been adopted gives him the right to appoint in the recess of the Senate, a thing that ought not to be if it could be avoided, and if the Senate were to sit long enough, never should be, with my consent, I am quite sure.

We now know very well what will be the effect of this bill should it become a law. The President will not make a single appointment while the Senate is in session. Every one of the appointments will be made after we have adjourned and gone home. And does the Senator from Colorado mean to say that the republican Chief Magistrate of the United States wants to break down the election laws, wants to favor tissue ballots, wants to open the door to frauds in elections, wants to destroy the power of the Federal Government? Is that his opinion of his own Chief Magistrate? If not, where in the world does he find ground for criticism in this bill, which simply provides for a term of office in respect to these supervisors when the present supervisors shall go out of office, how long their successors shall hold office, and how their successors shall be appointed? Where is there any breaking down of the election laws in that? Where is there any breaking down of the power of the Federal Government in that? How is there any opening of the door to frand in that? Why, Mr. President, a man must have a wonderfully fertile imagination who can find anything in this that looks like breaking down the election laws of the country or opening the door to fraud.

With the knowledge that we have had, with the facts that have been proved over and over again, with the facts that I shall not trouble the Senate to recapitulate, for on a former occasion I took nearly a whole day for their presentation to the Senate; knowing what the testimony was; knowing perfectly what was done by at least one if not more of the supervisors of elections, I say I do not propose that these men shall officiate any longer, if I have the power to prevent it. Therefore it is that I offer this amendment. There is nothing strange about the amendment; there is nothing singular about it. It commends itself clearly and squarely, as it seems to me, to everybody who wants to have an honest administration of the law.

Mr. EDMUNDS. May I ask my honorable friend a question?

Mr. THURMAN. Certainly.

Mr. EDMUNDS. I ask the Senator if he knows of any precedent in the history of this Government where Congress by an edict, in changing the regulations about appointments to office, has declared that particular persons shall not be appointed to office because they have held it before? I know there have been what have been called edicts which said that gentlemen engaged in the rebellion should not be appointed to office and that the Supreme Court in certain cases have said were wholly unconstitutional. For mere information I should like to know what has been the historic course of affairs about Congress declaring that certain people who now hold office shall not be reappointed to it, and upon what constitutional principle it is that the Senator proposes to disfranchise—for that is the favorite phrase—this particular class of citizens.

Mr. THURMAN. Mr. President, I knew just as well as I knew that I had existence that the Senator from Vermont would make that objection.

Mr. EDMUNDS. Of course you did.

Mr. THURMAN. Of course I knew it. The Senator from Vermont is oppressed with the idea, which he must get rid of some time or other, that the President of these United States has something like imperial prerogatives, and that we cannot in any wise restrain him. He is eternally throwing out suggestions that we are treading upon the presidential toe. Now——

Mr. EDMUNDS. Mr. President——

Mr. THURMAN. I have the floor now, and I propose to answer the Senator before I get through and then he may answer me.

Mr. EDMUNDS. But you may get through before you answer. [Laughter.]

Mr. THURMAN. No, I will not. The Senator wants to know where I find any power for such a provision as this. I find it in statutes that are far older than he or I.

Mr. EDMUNDS. Will the Senator point them out?

Mr. THURMAN. I will if the Senator will not interrupt me. What is the law in regard to the appointment of Secretary of the Treasury, drawn if I am not mistaken by the hand of Alexander Hamilton and passed during Washington's administration? That no importing merchant, no person engaged in the business of an importing merchant, should be Secretary of the Treasury. Was that law good and valid? I think we thought so; I think the Senator from Vermont thought so, for the Senator has not forgotten that the most distinguished importing merchant in the United States was nominated for Secretary of the Treasury by General Grant when he first came into office; and has he forgotten that the President was informed that that was against the law? And surely he has not forgotten that strangest of all things that ever happened, only excusable in a man who had never been in the civil service in his life, that the President sent a message to the Senate to change that law, and did not send it to Congress! The Senator has not forgotten that.

Mr. EDMUNDS. Oh no.

Mr. THURMAN. The Senator has not forgotten the provisions in regard to who may be appointed postmaster, in regard to who may be appointed registers and receivers of land-offices. The Senator has not forgotten the provision that is in this very election law itself. My friend from Delaware [Mr. BAYARD] has just handed me this statute, which is re-enacted in our Revised Statutes as section 243, and for which I suppose the Senator from Vermont voted, a law first passed in 1789:

> No person appointed to the office of Secretary of the Treasury, or First Comptroller, or First Auditor, or Treasurer, or Register, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea-vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State—

The law will not allow him even to buy State bonds—

> or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of $3,000, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of $3,000, when recovered, shall be for the use of the person giving such information.

Now, will the Senator say that that is simply to punish men for doing one of these prohibited things after they get into office, and that a man who has already engaged in that business may be appointed to the office and then indicted the very next day for holding the office and doing what the statute says shall not be done by such officer? Certainly the Senator will not say that. He knows very well that a man engaged in this kind of business, which it is not admissible for the Secretary of the Treasury, or the First Comptroller, or the First Auditor, or the Treasurer, or the Register to do, is not eligible to an appointment to either of those offices.

How is it with our consuls abroad? Once we allowed them to engage in commerce. The revised consular bill which is now in force prohibits I do not know how many of them, but a large number of them, from engaging in commerce at all. Almost all those who receive salaries are prohibited from engaging in commerce at all. Can a man engaged in commerce be appointed consul and hold that office and continue to be engaged in commerce? No one will contend it. But in this very election law itself, section 2028, it is provided:

> No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not, at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

Everybody else is excluded, disfranchised the Senator from Vermont would say; but it is still more striking when you come to the chief supervisor, section 2025:

> The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers—

That is, one of the circuit court commissioners—

> who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner.

There this very law prevents the appointment of anybody to be chief supervisor of election who is not already a circuit court commissioner. In most instances in a judicial district that limits the appointment to one man.

Mr. EDMUNDS. Oh, no.

Mr. THURMAN. In many of the districts it would limit it to one man; in some certainly it would.

Mr. EDMUNDS. Not in a single one.

Mr. THURMAN. Perhaps not a single one, but it limits them to very few. It disfranchises the great body of the citizens, according to the Senator from Vermont.

Mr. EDMUNDS. Oh, no.

Mr. THURMAN. And yet that is a pet law with the Senator from

Vermont. Oh, no, Mr. President, that won't do. There is nothing in it. Nothing but that mental proclivity of the Senator from Vermont to make objections and to stretch presidential prerogative ever would have induced him to question this amendment which I have offered on the ground he has stated. That is all there is of it. It is a mere psychological problem, entirely so. There is nothing in the Constitution to prohibit it. It is not in the Constitution of the United States; it is all in the constitution of the Senator from Vermont.

Now, Mr. President, having said this much and hoping that my amendment, which is perfectly right and fair, will command upon reflection the support of the Senator from Vermont and all the other Senators on that side, I take my seat.

Mr. HOAR. Mr. President, this is a very interesting discussion. Everything that the honorable Senator from Delaware proposes to the Senate deserves the attention of the Senate and of the public; everything that the honorable Senator from Ohio contrives and defends with zeal and eagerness is specially interesting to the public at the present time. Their words, if they were individuals, would not fall to the ground; they would deserve the public attention and consideration from their great experience, their learning, their ability, from their character for honesty and sagacity; but to-day they are the representative men of a great political party, and they have presented to the American people what a great political party thinks should be done and should not be done in regard to a matter which is vital for the permanence of the institutions under which we live.

The right to govern this country by a majority of its people under constitutional restraints and constitutional methods is a right for which the American people have more than once given whatever they had which was valuable and precious, and for which they are prepared when the need be to do it again; and yet I suppose no man will deny that it would be better to be governed honestly by the worst despotism which ever enthroned itself over the necks of a people on this continent or any other than to have the selection of our rulers determined either by fraud or by assassination.

Now, this spectacle presents itself: A committee of this body, taking the testimony, unquestioned, uncontradicted, find that at one end of the Union, in the interest of one party, the political forces of States are seized and the political institutions of States are overturned by such methods as have been described to us by the honorable Senator from Colorado, speaking of what he knows; that in States where large republican majorities had existed their political opponents crowded into the ballot-boxes by the thousand fraudulent votes, put there by the hand of no voter, and took out the ballots which the honest majority of that people had thrown; and the representative of that State, on being inquired of what is his information as to the number of such ballots, did not find time to answer the question.

At the other end of the Union what happened? In the city of New York in the year 1868 within the space of a few days—some ten or fifteen I think in all, but at any rate a very few days—two democratic judges of inferior courts issued sixty thousand pretended naturalization papers. You could not have crowded into fifty times the space the signature by one hand even of the initials of the judge whose judgment was supposed to have given validity to those fraudulent naturalization papers. Clerks sat in rows in the dark, putting upon blanks prepared for the purpose by democratic committees the forged initials in the similitude of the handwriting of the judge. Those papers were sent out broadcast over New York and Connecticut and New Jersey. In one instance some hundreds of immigrant laborers arrived in a ship three weeks before the election, and before the election came every one of those men was supplied with a fraudulent naturalization paper by the democratic committee, and voted the democratic ticket at the next election.

This was a fraud so gigantic that it excited the astonishment of men over the civilized world. The object which was sought to be accomplished by it was equal in magnitude to the crime by which it was sought to accomplish it. It was intended not only to neutralize the will of a popular majority of the greatest American State, but to change the political destiny of the Republic itself. It was part of the same scheme of fraud that a circular to which the name of a well-known democratic candidate for the Presidency, without his assent and knowledge as he tells us, was signed, was issued to take advantage of the short pause after the close of business and sunset on election day.

Now, what is it with which this democratic party confronts this the greatest, the most vital question of administration and of legislation ever submitted to an American Congress? Do you mean to preserve or to try to preserve our institutions from destruction? Do you mean to preserve or try to preserve the American Republic from going down, not in darkness and in blood, not by the honorable fate at the hand of a foreign foe which other people have encountered, not to be divided like Poland, not to be overthrown by foreign barbarians like Rome, but from perishing by its own inherent vileness and baseness at the hand of these fraudulent stuffers of ballots, at the hands of these assassins, at the hands of these manufacturers of naturalization papers by the tens, by the hundreds of thousands as the committees of this body have reported again and again?

Congress in democratic hands has been in session for six months, and the House of Representatives has been in democratic hands for years; and at last there comes out of all this thing simply an attack upon the magistrate whose energy and whose integrity rescued New York from this rot, from this evil and mischievous disease which she had received at the hands of the politicians of that party, and an attempt by its leaders and representatives to declare that he having rendered or helped render that service to this Republic shall be a disqualification for holding office with reference to elections in this country hereafter.

I want the people to understand what is the issue which is made up here at the close of this session in the afternoon of this summer day between the two parties who are competing for the confidence of the American people. You have not brought forth, you have not tried to enact a single measure which shall save our fair States from the assassin, or from the baser than assassin, the man who concocts and contrives and executes frauds such as my friend from Colorado has described, but you stand by reviling and attacking every man whose honest effort has been crowned with any measure of success. The marshal in the court where a ku-klux assassin is convicted is not found fit for a reappointment by a democratic Senate. The commissioner in New York, who has won for her over again what her great soldiers and statesmen eighty years ago won in the first place, the right to govern herself and to contribute her earnest and free voice among her sister States of the American Republic, now you ask to enact by law shall be forever disqualified from holding office of that kind again. And that is all that the democratic party has to say in the face of these evils and in the face of these crimes.

Mr. McDONALD. Mr. President, I am very much afraid that the Senate will not derive any very sound or effective statesmanship from the Senator from Massachusetts. I understood him to say that by the testimony taken before the investigating committee of the Senate it had been proven that within a day or two judges in the State of New York had issued sixty thousand fraudulent naturalization papers. I am a member of that committee; I have been present at all its meetings, and I have never heard that testimony. I do not think it will be found in the evidence printed. I think it has no other foundation to stand upon than the assertion of the Senator from Massachusetts. There were in the year 1868, according to the testimony taken before our committee, some sixty thousand naturalization papers taken out.

Mr. HOAR. In how many days?

Mr. McDONALD. In the course of that year.

Mr. HOAR. About fourteen days.

Mr. McDONALD. I have the floor. The most of them were taken out in the months of October and November preceding the election. They were taken out in two courts of that city, the superior court, consisting of—how many judges my friend to my right who so ably represents the State of New York can state better than I can; and the supreme court, consisting of several judges; two courts, not two judges. I had made no particular reference to the testimony we have taken in New York on that subject because the committee have not closed.

Mr. HOAR. Will the Senator allow me to ask him a question?

Mr. McDONALD. I desire not to be interrupted. I had made no reference to the testimony taken in the city of New York in regard to the supervisors of election, because we had not closed that evidence. The chief supervisor of that city is now in attendance—when he is not required to be present in New York in regard to an investigation before the court there that appointed him—upon the committee to give his evidence. So far as he has presented his testimony it is in print and can be found; and the question of the irregular or fraudulent applications for naturalizations, as you may deem proper to term them, that he has submitted to that committee up to this time amount to eighty cases in the superior court and some thirty-four in the supreme court out of sixty thousand. How many he will be able to present before his testimony closes the Senator from Massachusetts who is on that committee as well as myself will be better able to tell the country and the Senate when his story shall have been concluded.

That there were some fraudulent papers taken out in 1868 has been so long stated to the country that it is perhaps not a subject now of denial; but that there were reasons, and very cogent ones, too, why the number of naturalizations in the year 1868 exceeded almost any other year is well known, and they were testified to before our committee. It was the first presidential election after the close of the war. Quite a number of foreigners who had come into this country during the progress of the war had declined to take out their naturalization papers because citizenship rendered them subject to military duty, and they did not make their application until an important election made it necessary to qualify those who were entitled to be qualified. Thus there was an accumulation in the city of New York on that account from the beginning of the war down to 1868, and that is testified to before our committee.

In addition to that, persons of foreign birth who had served in the Army were entitled on account of that service and an honorable discharge to be admitted to citizenship without a previous declaration of intention; and there were many of that class.

Again, the courts in the city of New York are always open, and it was more convenient for persons living in the country, as far up as Poughkeepsie and other places in the adjacent counties, and in the city of Brooklyn to go there and get their naturalization papers.

These causes, as it was testified before us and to the knowledge of the Senator who has addressed the Senate, swelled the number. I am not here to say how many fraudulent papers were issued that

year, for I am not prepared to say it. I only say that these wholesale charges will do no longer, because I hope the time is not very far off when we shall get down to the bottom facts.

This same committee made some investigations in Massachusetts and among other singular facts we learned that in the town of Plymouth native-born children of foreign-born parents were required to become naturalized, and a young man born within two miles of Plymouth Rock, who had lived all his life in the United States, had never lived anywhere else, had never before gone outside of the State of Massachusetts, could only have his right to vote by going before their court there and swearing allegiance to the United States and forswearing allegiance to Queen Victoria, and his naturalization papers or a copy of them are in the testimony taken on that occasion.

Mr. TELLER. How did he vote?

Mr. McDONALD. He voted, I apprehend, the democratic ticket. If he had intended to vote the other way, so much trouble would not have been thrown in his way, though I do not say that. We have, therefore, our friends in Massachusetts so guarding the rights of an American citizen that they will not even allow one born in the United States to vote, if he was born of foreign-born parents, until he has sworn allegiance to the United States.

I am just as willing that the country should know all the facts in relation to elections and to the action of the party to which I belong as is the Senator from Massachusetts. In reference to what has been said in regard to the Southern States I have only this to say, that the election machinery that the republican party put upon the statute-books there and by which they controlled the elections have remained. That is all. They have remained, and now the complaint is that they do remain.

Mr. HAMPTON. Mr. President——

Mr. HOAR. Will the Senator from South Carolina allow me one moment before he proceeds with his argument? I wish to refer to a fact stated in regard to the State of Massachusetts by the Senator who has just sat down.

Mr. HAMPTON. I will yield for a moment.

Mr. HOAR. Mr. President, the Senator from Indiana [Mr. McDONALD] has been employed by the Senate to ascertain and report certain facts, and the Senate have just heard a statement he has made in regard to a fact which occurred in the State of Massachusetts. He says that in Massachusetts a man born close to Plymouth Rock, or men——

Mr. McDONALD. A man.

Mr. HOAR. "Men," I think he said, but "a man"—never mind.

Mr. McDONALD. I will say "men," because the decision of the town council of Plymouth was that no person born of foreign-born parents, although himself born in the United States, could vote without being naturalized.

Mr. HOAR. Now I want the Senate, after having heard the report, to hear the truth of that story. A young man born of foreign and unnaturalized parents in the town of Plymouth applied to be put upon the voting list. Thereupon Hon. Charles G. Davis, a well-known and eminent democrat in that State, chairman of the selectmen, whose business it was to put him on, held that such a person was not entitled to go on to the voting list without being naturalized, and declined the application. Thereupon further inquiry was made. Somebody applied to me, as the testimony is, though I do not remember it myself. I gave the opinion that the man was entitled to vote. The selectmen of Plymouth reversed their ruling about the young man's name on the voting list, and he voted. From that error of a democratic lawyer, a man whose name is known throughout our State, comes the transaction out of which the Senator has constructed this narrative.

Mr. McDONALD. Will the Senator yield to me?

Mr. HOAR. The Senator declined to yield to me, and I can hardly yield; still I will not object to an interruption.

Mr. McDONALD. As the Senator is giving that narrative he had better state further that the evidence shows that the question was submitted to the attorney for the city of Boston, a republican gentleman, and he confirmed——

Mr. HOAR. A democrat.

Mr. McDONALD. No, sir; he was a republican. He confirmed the decision of the selectmen of the town of Plymouth.

Mr. HOAR. Unless I am much mistaken, the attorney of the city of Boston is Mr. Daniel Webster's former partner, an old Webster whig, afterward a democrat, and one of the most well-known and respected democratic lawyers in the State. But at any rate, however that is, the man who made the ruling was the democratic chairman of the town committee. He reversed his ruling after my opinion was taken, and the young man's name was put on the voting list and he voted. That is the fact.

Mr. HAMPTON rose.

Mr. HOAR. One other word, but I ought not to detain the Senator from South Carolina further. I will say something on the New York question hereafter.

Mr. HAMPTON. The Senator from Massachusetts was entirely mistaken when he supposed that I did not have time enough to answer his question. The fact is, the time has hung very heavily and idly upon me for the last few moments, indeed for an hour or so, but especially since the Senator has been speaking. I did not answer the question because the Senator from Colorado declined to let me have the floor. The question, as I understand it, was if I knew how many tissue ballots were cast in the county of Charleston. I had already stated that I believed I had heard there were three thousand. The Senator from Colorado—I do not know whether he is good authority on that side—said, as I think, that there were about three thousand tissue ballots cast.

Mr. TELLER. The Senator will allow me to correct him. I stated that my recollection was that there were over three thousand found in the boxes. Some had been destroyed. The Palmetto engine-house had none, while the proof showed that a great number had been put in there. I do not know positively, but my recollection is that thirty-five hundred were found. Of course it is a statement of figures about which I could not be exact.

Mr. HAMPTON. I do not know how many were cast according to the statement of the returns that were made. I understood that there were about 3,000 cast, and the sitting member was elected by about 8,000 majority.

I want to correct the Senator from Colorado on one point. The ticket that I sent to him is not the counterfeit but the original tissue ballot which was invented by the man whose name heads it there, Mackey, and who himself in that canvass, as it appeared in evidence before the committee, had printed 10,000 of those tickets. To counteract those tickets some of our people were indiscreet enough to print some others. I regretted that it was done; but that is the history of that thing.

Now, as to the gentleman from Massachusetts, he expresses very great concern about the elections down there and the frauds which he says are worse than assassination. I want to suggest to him that if he would devote his energy, his ability, and his zeal to correcting the violations of the Constitution which Massachusetts is daily committing it would be much better. The Constitution says that the members in the lower House of Congress shall be in proportion to all enfranchised persons in the State, and should there be discrimination in the elective franchise those disfranchised should not be represented. Yet there are one hundred and thirty-six thousand men in Massachusetts who by the educational qualification are not allowed to vote, and still that State owes to them its representation for one hundred and thirty-six thousand men in the other branch of Congress.

Mr. HOAR. Will the honorable Senator from South Carolina inform the Senate in what constitution he has read the language which he undertakes to quote?

Mr. HAMPTON. The Senator will find it in the fourteenth amendment to the Constitution.

Mr. HOAR. Not the Constitution of the United States, certainly?

Mr. HAMPTON. In the Constitution of the United States.

Mr. HOAR. I do not find it in my copy.

Mr. HAMPTON. I beg to read it. I am trying to advise the Senator to read it, study it, and act upon it. If he would do that I think it would be beneficial.

One other very great mistake that the Senator has fallen into, and it is one very common at the North, is that where there is a large number of colored people, or where there happens to be a majority of colored people, they simply take it as a fact that there is a republican majority. There never was a greater mistake on the face of the earth than that. I venture to say here, upon my responsibility as a Senator, that in the Southern States—and I speak of my own State more particularly than others—there are thousands and tens of thousands of colored people who are as earnest democrats as I am, men who will vote the democratic ticket. I believe that I could go before the colored people of South Carolina, and leave it to the vote of those people alone, not one single white man voting, and beat any republican in the State. I have it on record that in the election of 1876 not less than seventeen thousand colored people voted the democratic ticket. They were enrolled in democratic clubs; they came up and voted without any constraint, with nothing in the world but the appeal that was made to all the citizens of South Carolina. I made the appeal to them against Mr. Chamberlain. I said: "Do you know that, while the man who is running for governor here is asking you to vote for him, even in Massachusetts, where he came from and where he ought to be now, you might be as honest and as true and as rich as any man in Massachusetts, and you could not vote unless you could read and write?" I said to them: "Now, you had better tell Mr. Chamberlain to go back to Massachusetts and have universal suffrage as we have it in South Carolina. Let him go there and tell the people that I myself was the first man in the South who advocated giving the right of voting to the colored man, and it was at a time when Governor Andrew, of Massachusetts, was opposed to it, and when Governor Morton, of Indiana, was opposed to it." That is the reason why the colored people were inclined to vote the democratic ticket.

There is no greater mistake on the face of the earth than to suppose that those people have not realized the effects of democratic rule. Many of them are zealous workers for that party. There has been no oppression to them. They have the equal protection of the laws. The courts are open to them; they sit upon juries. There are infinitely more colored schools now than there ever have been before.

If the Senator from Mississippi [Mr. BRUCE] was in his seat I would appeal to him to substantiate a great deal of what I say. I trusted that these attacks upon the South would not be brought into this

debate, but when the Senator made the allusion to South Carolina I thought that I would try and enlighten him by giving him the true history of the State.

Mr. TELLER. The honorable Senator seems to have fallen into an error——

Mr. HAMPTON. The Senator from Massachusetts wishes me to read the fourteenth amendment.

The PRESIDING OFFICER. The Senator from South Carolina asks the Senator from Colorado to yield?

Mr. HOAR. Let him read the fourteenth amendment.

Mr. TELLER. Certainly. I did not understand.

Mr. HAMPTON. I read from the fourteenth amendment as follows:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Mr. HOAR. That is a very different thing from what the Senator from South Carolina said.

Mr. HAMPTON. That is exactly what I proposed to say at any rate, and I say it now.

Mr. HOAR. Undoubtedly the State of Massachusetts does require of its voters that they should be able to read the Constitution under which they live, as other States require of their voters that they should pay a poll-tax.

Mr. VOORHEES. The Senator from Massachusetts does not state quite all of it. It requires the voters of Massachusetts to read the Constitution in the English language.

Mr. HOAR. In the English language, exactly; and the voter must be able to write his name.

Mr. VOORHEES. So the Senator did not state it all.

Mr. HOAR. But the constitution of Massachusetts imposes no restriction or abridgment upon the right of any male citizen of that State, because it imposes upon the right of voting only such conditions as any male citizen may easily attain and fulfill.

Mr. BUTLER. Will the Senator answer me a question right there?

Mr. HOAR. Certainly.

The PRESIDING OFFICER. The Senator from Colorado is entitled to the floor. Does he yield?

Mr. TELLER. I yield for a moment.

Mr. BUTLER. I desire to ask the Senator from Massachusetts how many people in his State are disfranchised by that provision?

Mr. EDMUNDS. Nobody is disfranchised.

Mr. BUTLER. I should like the Senator to answer.

Mr. HOAR. Nobody is disfranchised.

Mr. BUTLER. How many are prevented from voting?

Mr. HOAR. There is not a native citizen of Massachusetts who cannot write, if he is of sane mind.

Mr. BUTLER. How many of them have been prevented from exercising the right of suffrage?

Mr. HOAR. The Senator can answer that question for himself by looking at the census.

Mr. BUTLER. I prefer that the Senator should answer.

Mr. HOAR. I have not the figures in my memory. I should answer very cheerfully if I had.

Mr. DAWES. I should like, with the permission of my colleague, to ask a question of the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Colorado is entitled to the floor.

Mr. DAWES. With the permission of the Senator from Colorado, I should like to ask the Senator from South Carolina how many male citizens of South Carolina under twenty-one years of age are prohibited from voting?

Mr. BUTLER. Without meaning to be disrespectful, that question is simply absurd. That is the answer I give to that.

Mr. EDMUNDS. Is that the only answer?

Mr. BUTLER. The question is simply absurd. The Senator's colleague has not answered my question.

Mr. DAWES. How many female citizens of South Carolina are there who by the laws of South Carolina cannot vote?

Mr. BUTLER. Will the honorable Senator allow his colleague to answer the question which I propounded to him?

Mr. HOAR. I claim that it is a diversion of this debate from the issue——

Mr. BUTLER. Precisely; a diversion.

Mr. HOAR. Wait a moment; I have the floor.

Mr. BUTLER. It is a diversion whenever it strikes at Massachusetts, I see.

Mr. HOAR. The subject of the discussion is a pending bill to deprive certain election officers of their authority to secure full and free elections. In the course of the discussion it was stated by a member of a committee of the Senate that a large number of fraudulent tissue ballots were put by fraud into the ballot-boxes in the interest of a certain party in the State of South Carolina.

Mr. EDMUNDS. Which party calls itself democratic.

Mr. HOAR. The Senator from South Carolina rises in his place and admits it, although he says it did not change the result, and says that he is a great favorite with the negro population of the State. He admits that there were, according to his information, 53,000 fraudulent ballots put in the boxes in a single county.

Mr. HAMPTON. I did not say fraudulent; I said tissue ballots.

Mr. HOAR. Tissue ballots. Then we will leave out the word fraudulent; 3,000 ballots of the character and the use which the Senator from Colorado has described. I made the point when that had happened that it was a very strange statesmanship that encountered such an admitted evil as that, and the evil which I recited from the records of the Senate which occurred in New York in 1868, by a simple measure to declare that the men who helped put a stop to those things should not hold office in this country any longer if the democratic party could help it. That is my point. Now to that point I am encountered by the inquiry put by both Senators from South Carolina, how many men are unable to vote in the State of Massachusetts because of the provision of the constitution of that State that men shall be able to read the constitution in the English language before they vote. That is the mode in which they meet——

Mr. HAMPTON rose.

Mr. HOAR. Wait until I finish my sentence, if the Senator pleases. That is the mode in which they meet this grave, practical question as to what is our duty in legislation. I say to the senior Senator from South Carolina, as I said before, that I would tell him the number of those persons if I knew them; they are not in my memory at this moment.

Mr. BUTLER. There are a good many there.

Mr. HOAR. He can ascertain them in a few minutes if he wants to know by letting one of the pages of the Senate bring him the census in which these things are stated.

Mr. BUTLER. If the Senator will pardon me——

Mr. HOAR. Let me finish my sentence.

Mr. BUTLER. I wanted to say——

Mr. HOAR. The other Senator from South Carolina has a first mortgage on my right to yield.

Mr. BUTLER. Of course if the Senator does not want to yield——

Mr. HOAR. It is an old adage that one should not make two bites of a cherry, and I do not think I ought to have two interruptions at once from the State of South Carolina. That is the proposition; and I say that the question of the Senator from South Carolina, although I would cheerfully answer it if I could, is without any pertinence to the matter before the Senate, and it is intended to divert the Senate and the country from the true issue. If it be true that the people of South Carolina honestly desired to vote for the Senator for governor in 1878, pray tell me what was the use of those three thousand tissue ballots which he admits were in the ballot-boxes? Now I yield.

Mr. BUTLER. It never was claimed——

Mr. HAMPTON. In regard to the election of 1878 the Senator from Massachusetts will be very gratified to hear that there were 119,500 votes cast in the State, and I received all but 213.

Mr. EDMUNDS. The democrats had no opposition.

Mr. HAMPTON. The point that I am on now is not that Massachusetts has not the right to prescribe any qualification that she pleases, because that is good State-rights doctrine, and the constitution of Massachusetts itself is the best State-rights constitution among all the States. I do not make that point, but I say that when they choose to cut off, as I believe the number is, 136,000 men over twenty-one years of age——

Mr. HOAR. No, no.

Mr. HAMPTON. They choose to keep their delegation in the other House representing the whole number of persons, and therefore they are violating the Constitution of the United States.

Mr. HOAR. I say in reply to that that the imposition of a condition for voting on any grown man of sound mind, which can be easily performed and attained, is not within the constitutional prohibition, and I inquire of the honorable Senator from South Carolina what all that has to do with tissue ballots?

Mr. TELLER. Mr. President, as I am entitled to the floor I believe I will proceed.

Mr. BUTLER. If I have the permission——

The PRESIDING OFFICER. Does the Senator from Colorado yield further?

Mr. TELLER. I will yield when I get through. I have waited for some time.

The PRESIDING OFFICER. The Senator from Colorado will proceed.

Mr. TELLER. The Senator from South Carolina who alluded to the fact that he had been a candidate for governor of that State has fallen into error as to the testimony before the committee with reference to the tissue ballots. There is no testimony that will justify any person in concluding that Mr. Mackey first had tissue ballots printed. Mr. Mackey testifies that he had them printed at a democratic printing-office where the persons in charge at least were democrats, and he says he had them printed after the fact had come to him and others that these tissue ballots were in existence, headed by

the honorable Senator, who says that he ran without opposition for governor. So, then, the tissue ballots were not a republican device, but were got up, as I stated, for the express purpose of preventing the democrats from putting their hands in the ballot-boxes and being able to distinguish a republican ballot from a democratic ballot. If they had put enough of them in, very like they might have prevented a portion of the fraud that was then and there committed.

Mr. THURMAN. Will my friend yield to me to ask him a question for information?

Mr. TELLER. I will, if it does not lead to discussion; but I have waited some time.

Mr. THURMAN. I do not want to make a speech; I never inject a speech into another Senator's. I want to ask the Senator in what year these tissue ballots were used?

Mr. TELLER. In 1878.

Mr. THURMAN. Where?

Mr. TELLER. At Charleston, South Carolina.

Mr. THURMAN. Were there supervisors of election at that election?

Mr. TELLER. There were.

Mr. THURMAN. Then will the Senator please tell me whether the supervisors of election prevented the fraud?

Mr. EDMUNDS. They did the best they could, but there were too many democrats for them.

Mr. TELLER. I will say that the evidence is uncontradicted and unquestioned that no democratic supervisor ever interfered to prevent the fraud. The evidence is that when they could not control a supervisor, when he was too smart or too brave, they got up a fight and drove him out of the precinct, and when they could not drive him away from the polls, and when they dared not stuff the box in his presence, then they destroyed the ballot-box after the voting was done. Nobody pretends on our side of the House or anywhere that the supervisors have on all occasions within the last few years kept the democratic party from committing the frauds that they have attempted.

The Senator from South Carolina says he got all the colored vote. Mr. President, what is the fact with reference to that? It was well understood among the republicans in South Carolina that it was an impossible thing to elect a State ticket. The republicans met and canvassed the question; they said, "We shall not be allowed to vote." With the history of 1876, with murders innumerable, with the riot and the confusion of the two years previous fresh in their minds, they said, "It will not do to try to carry the election; it is better we should not do it than that we should do it." But they said in the county of Charleston, in that district, and perhaps one or two others, "Here we have such an overwhelming republican vote that even democratic effrontery and democratic impudence will not dare to return a democrat from this district, and here we will hold our election."

The tissue ballots were not necessary for the election of the honorable Senator as governor, and they need not have put his name at the head of every one of these tissue ballots as they did. They might have left it off. They could have elected him governor under the condition of affairs there without them, but they could not otherwise have elected certain men that they wanted to return to Congress. Hence they used the tissue ballots. That is why they used the tissue ballots, Mr. President.

The honorable Senator says that the colored people in South Carolina are treated just like other people, that they have the same opportunities. I want to inquire, then, what was the purpose of the managers of election in the county of Charleston? Why did they change the precincts? Why did they abolish twenty-two precincts that were in existence before the war when but few men voted comparatively?

Mr. BUTLER. I will answer that question.

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. TELLER. I will yield.

Mr. BUTLER. They did it for the purpose of preventing just exactly what the republicans are after; they did it to prevent repeating. That is why they were diminished in number. The republicans in doing their districting in South Carolina had doubled and quadrupled them for the express purpose of enabling these people to repeat. That is the reason why they were diminished; and it was done, too, in the interest of economy.

Mr. TELLER. That was the pretense.

Mr. BUTLER. It was the fact, and the honorable Senator must not say it was the pretense.

Mr. EDMUNDS. But he does say it.

Mr. BUTLER. I say it was the fact.

Mr. TELLER. I say that was the pretense of the managers. They said they did it for that purpose. Common decency and common respect for the opinions of mankind require when men are disfranchised that some excuse should be given. When the democratic party attempts to strike down the power of the National Government it has pretended that it was in the interest of a fair and free election. Pretenses can always be found for crimes. Crimes are always committed under a pretense that the perpetrators are doing something that they have a right to do. It was a pretense, and they know it was.

Mr. President, the evidence shows that many of these men if they voted at a precinct could not vote at another, as it was before the change, unless they traveled ten miles, and many of them after they had changed it could not vote unless they went to their voting places twenty-five or thirty miles. This is not the only instance where voting places have been changed in the interest of the democratic party. In other parts of the country, as the records of the Senate show, they have resorted to that method to silence the voter. They say the colored voter votes with the democratic party upon all occasions if he is let alone. Moral suasion does not do it. The changing of the districts, tissue ballots, the bludgeon and the gun are the means that they have used to persuade these men to vote the democratic ticket. You might as well deny the fact that there has been a rebellion as to deny the facts that I state; facts so well known and so well established by the files of the Senate.

Mr. EDMUNDS. Has there been a rebellion?

Mr. TELLER. I should begin to doubt it.

Mr. President, if the colored people intended thus to vote, why this change in the districts? The evidence is that their number was so great in the voting precincts that it was an utter impossibility that these men should vote. It was an utter impossibility that every man there should go to the polls and deposit his ballot, even if they had all been depositing their votes for the honorable Senator from South Carolina for governor. They came down to Charleston fifteen or twenty or thirty miles to vote, and when they came there the managers of the election quietly took one of these republican voters at a time and swore the voter.

I propose to read the testimony, uncontradicted, undisputed. This committee sat two weeks in the city of Charleston and summoned more democratic witnesses than republican. It summoned every witness that the committee or any friend of a member of the committee asked should come before it. They were brought there. We never moved from Charleston until the democratic members of the committee and the democrats of the city of Charleston said they were through. I have got here the testimony of a native-born South Carolinian, a man of character and reputation. I know some of the Senators will say that he is a partisan; I know that they will say that he might have colored things a little; but here is the evidence, and why did they not dispute it? They never asked to contradict it. Let us see what he says about it. He says he went over the town to see how the voting was going on, to see whether it was right or not.

Mr. BUTLER. Who is that?

Mr. TELLER. This is Mr. Wallace, the United States marshal. He says he went all over the town, from one precinct to another, and that he heard complaints everywhere that the people were not being allowed to vote. Here he says:

> The managers insisted that these men ought not to vote *there*. They said, "They are repeaters. If they are entitled to vote they must vote at their own precinct. They are evidently countrymen and should vote at their own country precinct." But the supervisors insisted that the law entitled these men to vote at any precinct in the county.

That is the law; nobody denies it.

> Still the managers said these men could not be allowed to vote at their precinct because of the uncertainty as to whether or not they had voted before. The supervisor insisted that they ought to have an opportunity to vote. Then they would refer us to the county executive committee

> Question. The democratic executive committee?

> Answer. Yes, sir; we insisted that they should refer the matter to the commissioners of election; but all the managers said, "Refer the matter to the county democratic executive committee."

And there is where they referred it.

> They did not seem to recognize the commissioners of election authorized by law, and the authorities from whom they got their appointments and from whom they got their instruction. They recognized only the democratic county executive committee. After visiting a majority of the polling precincts, and endeavoring to induce the managers to allow these people to vote, the supervisor and myself visited the chairman of the democratic executive committee. We told him what we had come for; that there was a great wrong being done, and that he was the only party who could correct the matter and give these men the privilege of voting. He acknowledged that they had the right to vote at any precinct in the city, and promised to send out a circular of instructions to the board of managers to that effect.

Think of it, Mr. President, the officials placed there to receive the votes taking their instructions from the head of the democratic committee!

> I did not know how it was that he was authorized to instruct them; still, he did start out a man with a circular, which he read to us, to that effect—that these men were entitled to vote unless it could be shown that they had voted before.

> Question. Who was the chairman of the democratic executive committee?

> Answer. Mr. Buist.

I will say that Mr. Buist stands in that community, I believe, equal to any other man in it, and I think the Senators from South Carolina will agree with me as to that; I mean among the democrats. He was controlling and managing this thing on behalf of the democratic party at that time:

> Mr. Poinier, the chief supervisor, and myself supposed, after these instructions were given, that there would be no further difficulty on that score; but it made no change whatever in the management at the different precincts. The men were still refused permission to vote. They went from poll to poll all over the city begging to vote, but were refused the privilege.

Mr. President, when the Senator from South Carolina rises here and says in the face of such evidence that the colored people of his State have the same privilege that the whites have, I say he is met by irrefutable testimony that he is not acquainted with the true facts as they occurred in 1878, in the State that he in part here represents. They did not have it. If they did have it, why did they resort to tissue ballots? Why did they destroy the ballot-box, as it was sworn before the committee, for the express purpose of preventing a return? Because they had not been able to stuff it with tissue ballots.

The honorable Senator from Ohio asked me why I said this was a measure for the purpose of opening the door to fraud. I will tell him in a moment, and then I shall not longer detain the Senate. If there is anything to-day that distinguishes and marks the democratic party in this country, it is its position upon the right of the National Government to control an election for Representatives and for presidential electors. If there is a marked, distinguishing feature between them and other political organizations, it is upon the question of the supremacy of national power. Upon every other question they cannot get together. Upon the question of the tariff they never dare to hold a caucus. Upon the question of appropriations for rivers and harbors, internal improvements, they have abandoned in part at least the old democratic notion, and they dare not hold a caucus on that. Upon any great question that is before the people they are divided save and except on this simple one that the Government is powerless to protect its voters at the polls. In that they are solid; they are a unit on that whether they come from South Carolina or whether they come from New York. It is the democratic idea that they have a right to practice fraud and the Government shall not put its hand on the man guilty of fraud; that if it is not done by the State, it shall not be done at all.

I say that the party that holds to such doctrine is a party that has been connected with every great fraud upon the ballot that has ever occurred and gone into history in this country without a solitary exception. Beginning with the Calhoun candle-box frauds in Kansas, the fraudulent naturalization in New York City, the stuffing of ballot-boxes in the South, and the murder of citizens to control the ballot, they have always been in the hands of this democratic party. When they come here and tell me that they are now all at once the champions of a free ballot, I know better. The history of the party contradicts it; it is not true; therefore I say gifts being brought by the Greeks I suspect them. I know there is another purpose back of it. It is hostility to a man who in the city of New York conducted the election in 1876 so that a democratic committee of the House declared that it was pure and honest, and that could not have been said of the elections there for many years before. I say the object is to reach that man and remove him from office, and I am supported in that view by the amendment of the Senator from Ohio, that that man, or any other man who has done his duty under the law, should no longer hold office. When that party move some measure looking to the protection of the people, when they bring forward a measure applicable to the whole country, whether it be against frauds that are perpetrated by republicans, as the Senator from South Carolina would have us understand, or whether it be against frauds by democrats, then they will find me giving them the due meed of praise.

Mr. BUTLER. I am glad to hear the honorable Senator say that. He has said a good deal about tissue ballots. Now, will he tell us something about the bumble-bee checks and soup-tickets used in Rhode Island in some elections there?

Mr. TELLER. I know nothing about that, but I say here now if they will bring forward any measure, no matter what it is, within the Constitution, calculated to maintain the purity of the ballot, to protect the voter at the ballot-box, and to see that the negro has an equal chance to vote and to have his vote counted, I will pledge every vote on our side of the Chamber for such a measure.

Mr. EATON. You cannot deliver the goods.

Mr. VOORHEES. Mr. President, this is a sort of refreshing episode in a rather commonplace session of Congress. I have listened with surprise to the energy, not to say courage, of Senators on the other side of the Chamber. I embrace the whole scope of what is assigned to this bill by the Senator from New York. I do not shrink at all from the idea that men who have abused and outraged public justice and public liberty and common decency, and rendered themselves obnoxious to the common sense of mankind, shall not hold their positions any more.

The Senator from Colorado has made himself conspicuous this afternoon by alleging that somebody, or everybody, I think, on this side of the Chamber was afraid to discuss public questions at this session. I did not know that that condition of things existed. I thought we were going along in a homely, modest, common-sense way, trying to get through with the business of Congress as well as we could and as fast as we could, and thereupon adjourn. If the Senator from Colorado or any other Senator on that side of the Chamber will tell me what question we have feared or dreaded to discuss with his side I will be obliged to him. Will somebody do it?

Mr. KIRKWOOD. Repeat the question.

Mr. VOORHEES. Will somebody do it?

Mr. KIRKWOOD. What is the question?

Mr. VOORHEES. I repeat the question. Will some Senator on that side of the Chamber, either the Senator from Colorado or anybody else, name the question that this side of the Chamber has been afraid to discuss at the present session? That charge has been boldly made by the Senator from Colorado. I ask the Senator from Colorado or any other Senator on that side of the Chamber to name the question we have declined to discuss with that side of the Chamber? Name it. I ask the Senators there to name it? Will the Senator from Vermont name it?

Mr. EDMUNDS. Oh, yes.

Mr. VOORHEES. What is it?

Mr. EDMUNDS. I can only name one in a hundred. It would take all the afternoon. Your mouths have been shut up like dead oysters until now——

Mr. VOORHEES. Not at all.

Mr. EDMUNDS. Until now by the enthusiasm of the hot weather you seem to have got off your balance.

Mr. VOORHEES. Name any question at all that you have desired to discuss. In the absence of the Senator's response I will denounce his statement here, that he insinuates what is not true.

Mr. EDMUNDS. I hope the Senator will not consider me as insinuating. I said as positively as I can that you have been as dumb as an oyster that has been dead for several days.

Mr. VOORHEES. What question have we declined to discuss with you?

Mr. EDMUNDS. Every one.

Mr. VOORHEES. What one?

Mr. EDMUNDS. Take the marshals' bill.

Mr. VOORHEES. Have we not discussed it with you?

Mr. EDMUNDS. Not much.

Mr. VOORHEES. When have we declined to do it?

Mr. EDMUNDS. Take the other thing that has gone through.

Mr. VOORHEES. "The other thing!"

Mr. EDMUNDS. Yes.

Mr. VOORHEES. I am astonished that one with the understanding of the Senator from Vermont should use——

Mr. EDMUNDS. I borrowed that phrase.

Mr. VOORHEES. I am astonished that he should use that idle expression.

Mr. EDMUNDS. I borrowed it from the Senator from Ohio, who is the author of the word "thing" here.

Mr. VOORHEES. No, sir.

Mr. EDMUNDS. Because he said at one time we were all things to all men, you know.

Mr. VOORHEES. I do not think you are. I think you are not all things to all men. You have been something to a different class of men. Now, sir, I challenge the attention of the country——

Mr. EDMUNDS. Will my kind friend who is in such good temper allow me to have read from the RECORD the statement of the big Indian in this wigwam that it was the business of the republicans to talk and the business of the democrats to vote?

Mr. VOORHEES. I challenge the statement of the Senator from Colorado and by insinuation the Senator from New York; and I hate to say that, for he generally makes a strong charge. But on the charge of the Senator from Colorado that we have not met the discussion that was tendered to us, I ask the Senator from Colorado to name the question. He keeps his seat. I ask the Senator from Vermont; I ask the Senator from New York; I ask any other Senator to name any question. Do not suppose that I shall go away from this matter until I have an answer. I ask them to name the question that we have declined to discuss with them.

Mr. KIRKWOOD. Will the Senator allow me a moment?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Iowa?

Mr. VOORHEES. I yield to everybody now.

Mr. KIRKWOOD. The bill that passed here a short time since, making appropriations for the Army, contained a provision that no part of the money appropriated by that bill should be applied to paying troops to be used as police at the polls, but that that provision should not be construed to prevent the use of troops when called for by the executive of a State. When that bill was pending before the Senate, I myself, perhaps impertinently, inquired of the gentlemen on that side of the Chamber to know what they meant. I urged upon them that it was construed by some to mean that in case troops were needed in a State to execute the laws of the United States, the troops not having been called for by the State executive, the troops could not go there. For instance, if in the State of Iowa, or the State of Connecticut, there should be resistance to the execution of a law of the United States, and the marshal with the *posse comitatus* could not put it down, and he should appeal to the President of the United States for force to execute that law, I wanted to know whether or not, under the provision in the Army bill, the President could send troops there without asking permission of the governor of Iowa or the governor of Connecticut, and I could not get an answer.

Mr. VOORHEES. The Senator from Iowa can get an answer now.

Mr. KIRKWOOD. Very well.

Mr. VOORHEES. The wide, striking difference between the Senator from Iowa and the school of politics that he represents and myself is this: I believe, and those who act with me on this side of the Chamber believe, that we can trust to the people, and they do not.

Mr. KIRKWOOD. That does not answer my question.

Mr. VOORHEES. The Senator from Iowa and those who act with him believe they have to have the Army, troops, supervisors, agents of the Federal Government, to coerce, suppress, and, if necessary, stamp upon the people of the United States in their sovereign capacity. I believe no such thing. I believe the people are sovereign in their intelligence, their virtue, and their right. There is the broad, striking, marked issue between that side of the Chamber and this.

The Senator from Iowa says that on an issue in regard to the use of troops at the polls we did not discuss it with him. I am glad to know, although my memory fails sometimes in the thick events that are rushing upon us here, that we did not discuss that question. It

is so fundamental, so deeply founded, so everlastingly grounded in the eternal principles of liberty, that it is not a debatable question. In the order of things, upon principle it is not debatable at all; but its debate was forced upon this side of the Chamber, (not this session, but a year or so ago,) and the discussion was had in the fullest possible manner.

Now I wish to call the attention of the Senator from Vermont, this warm afternoon, this sunny afternoon, this impulsive afternoon, to a suggestion which he made to me awhile ago. After speaking of the matter before the Senate, he said that the other thing was not discussed. What it was I did not then comprehend. I do now. It was the electoral count. Have we shrunk from debate on that question? Have we shrunk from a discussion of that question? Has not the Senator from Alabama [Mr. MORGAN] spoken, opened up, discussed, and challenged all the intellect and all the wisdom and all the wit and all the learning and all the information you have on that side of the Chamber? Why, then, do you stand here, or, adopting the language of the Senator from Colorado, how do you dare to say that we are dumb as oysters? Will you answer me?

Mr. EDMUNDS. I am in your condition. I am dumb as an oyster. [Laughter.]

Mr. VOORHEES. The Senator from Vermont spoke without knowing what he was saying; he spoke without judgment of what he was saying when he said to the Senate on this side of the Chamber that it had been dumb as an oyster on these questions. I challenge him to name the questions we have declined to discuss. The Senator from Colorado—and I have a kindly feeling for the Senator from Colorado—used language that was hurtful, used language that was hard to endure. He talked about men being afraid to join in discussion. We are peers here. I know of no question that this side of the Chamber has declined to discuss, and I do not intend to allow an impeaching, impugning, and hurtful charge of that kind to go out of this Senate Chamber without being met. No Senator can make that charge good.

The Senator from Vermont just now said we had been as dumb as an oyster on some questions, and then "the other thing" he referred to was the question which was discussed here an entire afternoon most ably, most eloquently, in a most cultivated and gifted manner, by the Senator from Alabama, meeting all the shafts of wit and wisdom hurled at him by the Senator from Vermont, hurled at him by the Senator from New York, and yet they dare to say that we decline discussion. The sooner you disabuse your minds on that point, gentlemen, the better. There is nothing of that kind whatever.

Mr. EDMUNDS. Suppose you come to the discussion of this very topic.

Mr. VOORHEES. I am coming to the discussion of the questions which you have thrust into this debate that are injurious to personal honor, and which I do not for my part intend to allow to pass unchallenged. I do not desire, I never wish to be upon my feet in the Senate, but no man and no set of men shall stand up here and charge cowardice on this side of the Chamber unless they can show cause——

Mr. CONKLING rose.

Mr. VOORHEES. I will yield now to the honorable Senator from New York to show it.

Mr. CONKLING. Will it be agreeable to the honorable Senator, before he proceeds to what I judge is to be a more animated discussion, to allow me to ask one question?

Mr. VOORHEES. Certainly.

Mr. CONKLING. Will it be agreeable to the Senator from Indiana to name to me—I want it for information—some of the subjects, the leading measures, which the democratic majority of the Senate has either discussed or dealt with at this session?

Mr. VOORHEES. Will the Senator from New York do me the favor to answer the question which I have propounded first to the Senator from Colorado, and then to the Senator from New York and the Senator from Vermont, and all the rest of the Senators, to name one question that supports the charge that we have declined to meet you in discussion?

Mr. EDMUNDS. I will name one now.

Mr. VOORHEES. Name it.

Mr. CONKLING. I want to say to the Senator from Indiana, first, that I understood his question to be much broader than that.

Mr. VOORHEES. Make it as broad as you please.

Mr. CONKLING. I understood him to invite us to name the questions or the subjects which they had refused or failed to discuss.

Mr. VOORHEES. That is what I want you to state now.

Mr. CONKLING. I have no objection to doing that except the brevity of life.

Mr. VOORHEES. That does not impose on anybody.

Mr. CONKLING. I do not mean it to impose on anybody.

Mr. VOORHEES. Or deceive anybody.

Mr. CONKLING. If the honorable Senator will pardon me, I should have no objection to beginning with a very large question which the Senator from Indiana gave us notice that he was going to discuss, and which he grieved me to the heart by refusing to allow me to hear him discuss.

Mr. VOORHEES. Did the Senator want to discuss it himself?

Mr. CONKLING. Ah!

Mr. VOORHEES. Of course he did not.

Mr. CONKLING. I will observe, if my friend will pardon me, that with his strength of nimbleness he wants to shift the point between us.

Mr. VOORHEES. Not at all.

Mr. CONKLING. No matter. The Senator was asking me to name, as I understood him, at least some of the large topics residing in public attention which the democratic party has not chosen to discuss, and I will add not chosen to vote upon, although that was not a part of his question. Now I begin by alluding to the financial question which the honorable Senator from Indiana gave us notice that he was going to discuss, and yet he awaked no echo on that question. I could proceed from that to the tariff question, and from that to one——

Mr. VOORHEES. Can we have a discussion in this Chamber on the tariff question? Of course not; nothing of the kind can originate here.

Mr. CONKLING. My friend will allow me to get through; it is not lawyer-like to cross-examine a witness and then refuse to let him answer.

Mr. VOORHEES. You are not my witness.

Mr. CONKLING. I thought the honorable Senator called me up.

Mr. VOORHEES. Not at all; you called yourself up.

Mr. CONKLING. And, although he may have a right to impeach me afterward, I am not his witness so as to conclude him. Still I think I ought to have a right to answer. Now I say to the honorable Senator that I think the Senator from Colorado was justified in what he said, because of a good many large questions, to two of which I have tried to allude, but the Senator interrupted me—I spoke of the financial question, the currency question, and I spoke of the tariff question, and I might speak of many other questions in respect of which bills have been lying on our table for more than four months; and although I will not say that the majority has been dumb as an oyster, (because it seems the Senator objects to that phrase,) I do say that I think the Senator will be compelled to admit when this session has gone by that there is that vacuum which legislation abhors in respect of discussing the important measures which the public has in its mind and in its eye.

Mr. VOORHEES. Did the Senator suggest that he desired a discussion of the "third term?"

Mr. CONKLING. Well, Mr. President, no, no, because——

Mr. VOORHEES. I thought not.

Mr. CONKLING. Because I observe that nobody is so worried, nobody has such a St. Vitus's dance and *delirium tremens* of anxiety about the "third term" except those hopelessly longing for a first term and the dupes which they have made; and therefore I would not like on a hot day like this, when I see the honorable Senator from Indiana is already considerably animated, to introduce a thing which I think would be so disturbing and so likely to disgruntle him as that. Moreover, the question was not what we wanted to discuss. The question related to what the Senator's party had omitted or refused to discuss. That is what we were talking about. The "third term" has not been neglected, for no man has sat in this Senate ignorant of the fact that every democrat has felt the greatest interest in keeping afloat all the dust and all the rubbish touching a third term which was likely to befool any weak-kneed or weak-backed republican. They have not neglected that.

Mr. VOORHEES. Now, Mr. President——

Mr. CONKLING. That has been industriously attended to and I should never name that.

Mr. VOORHEES. As I am holding the floor, in the language of the Senator from Vermont opposite me [Mr. MORRILL] I would suggest that, if the Senator from New York continues to speak, we shall not need any library here, and consequently I desire to resume the floor.

Mr. President, the Senator from New York answers in a most limping, halting, imperfect, faltering manner to the question of what proposition this side of the Chamber has refused or failed to discuss with that side of the Chamber. I never allow men after making a false issue to escape it, if I can, by throwing up something else. The Senator from Colorado repeated over and over that this side of the Chamber were afraid to meet certain statements. I knew that I was not conscious of fear. I thought that I was reasonably ready to meet with anybody on that side of the Chamber. I did not know what I was afraid of. I knew that I had listened with great pleasure to the Senator from Vermont, the Senator from New York, and the Senator from Colorado, and I knew that there was nothing that we had dreaded to meet on this side of the Chamber.

Mr. EDMUNDS. Always ready to whistle when you go by a graveyard.

Mr. VOORHEES. Especially if the Senator from Vermont was in that graveyard we would whistle a lively tune. [Laughter.]

The Senator from New York suggests that we have shrunk, and myself especially, from a discussion of the finance question. Did the Senator from New York tender that? He knows that he did not. Did he tender that issue? Did he tender that discussion? Did he ever call it up? The Senator from Colorado insisted, in words that were not agreeable, that we were afraid to meet questions apparently tendered by that side of the Chamber. Did the Senator from New York desire a discussion of the financial issue?

Mr. CONKLING rose.

Mr. VOORHEES. I decline to yield, because when the Senator gets on his feet he never knows when to quit.

Mr. CONKLING. I will quit at once.

Mr. VOORHEES. The Senator awhile ago spoke twenty minutes.

Mr. CONKLING. Most assuredly I wished a discussion of the financial question when I read in the newspapers that the Senator was going to deliver an oration upon it.

Mr. VOORHEES. When did you ever say so? Never.

Mr. CONKLING. If my friend will hear me——

Mr. VOORHEES. Of course, you never said so.

Mr. CONKLING. Why, Mr. President, "as the hart panteth after the water brooks," so I panted for that speech about the dollar of the daddies.

Mr. VOORHEES. And yet you never dared above your breath to say that you did.

Mr. CONKLING. I was holding my breath to hear the oration of the Senator.

Mr. VOORHEES. You never dared challenge such a discussion. Nobody knows what the specific views of the Senator from New York are on the finance question. He has never uttered them. When the silver debate took place here, that lasted six months, conspicuously the Senator from New York did not dare to utter his opinions—conspicuously of all the Senators of this body, more than anybody else, he hushed his voice, he suppressed his opinion, if he had any, and never uttered one single word upon the subject; so much so, that the metropolitan journals of New York, his own great State, queried and wondered what influence it was that was debilitating and paralyzing the stalwart intellectuality of the Senator upon that subject; and he dares to challenge me in regard to debating questions when on a question of the greatest possible moment, whether silver should be recoined, whether the money of the fathers should be reinstated, he was silent. When that great measure passed through all its stages without the Senator from New York having uttered even a feeble infantile whisper on that question, he is not the man to challenge me; he is not the man to question me as to whether I dare or dare not meet questions in debate, for no greater question than the question of the remonetization of silver ever swept through this Capitol, and no man was ever more silent than he was when it came.

Mr. CONKLING. Will the Senator allow me now?

Mr. VOORHEES. Yes, sir.

Mr. CONKLING. The Senator from Indiana, perhaps because he misunderstands me, or perhaps for some other reason, chooses to give a very strong odor of personality to this debate. I seek no personality with the Senator. I never charged him with not daring to do anything. That is a word he coined himself. I simply alluded to a question which was in the Senator's mind, because he had given notice that he intended to discuss it and did not.

One other point, if the Senator will allow me. He observed that nobody knows the specific views that I hold touching the question of finance. That must be because nobody cares. I beg to say to that honorable Senator that without a record so conspicuous in either House as his, nevertheless there is a record to which I can appeal to confute utterly the somewhat extraordinary statement and insinuation the Senator makes; and I beg to say to him that from the time in the House of Representatives when he, and not alone he of the democrats who sit on this floor, denounced the legal-tender act as unconstitutional and revolutionary when it was proposed in aid of the war for the Union, from the time when that measure was adopted down to this hour, the Senator will find no financial question upon which a vote has been taken during my time in either House, on which I am not unmistakably recorded. If after the war was over and after the legal tenders had performed their patriotic function I was not able to join the honorable Senator and soar aloft upon the wings of unbridled expansion and go for the "dollar of our daddies" and the other financial hallucinations which have beset him, I hope he will not take offense at that, nor charge me with inconsistency because the truth is—and any other statement is not true—that from the beginning to the end, of whatever other inconsistencies I may have been guilty, touching this question to which the Senator now alludes, I have held one, and never but one position.

Mr. VOORHEES. Mr. President, when the Senator from New York says that I inject the flavor of personality into a debate with him he is mistaken. The Senator from New York knows that my feelings toward him are those of entire personal kindness, and I have no desire whatever to change them in that regard. But at the same time I do not intend that that side of the Chamber, led by the great ability of the Senator from New York, shall put even so humble a person as myself in a false position, nor shall he lead this discussion away from the true issue.

The charge was made that we had declined, and in the boldest and grossest manner it was asserted that we were afraid to meet questions that were proposed for discussion by that side. I say that that is not true by the history of the present session of Congress; it is utterly untrue.

And now, passing from the point that has been made, I desire to pay a little attention to the bill under discussion. I do not believe in supervisors or chief supervisors of elections. With all the strength of my convictions, heart and mind, I am against them all; for when it comes to me either as a revelation or an affirmation that the American people cannot govern themselves, either in township or county or in State, I will feel from my education that this Government is lost as a Republic. I see nothing but evil in this Federal machinery, so called, to supervise the in-going and the out-coming of the American ballot. Whatever other Senators may think upon this subject, I have no disguises about my opinion. If Senators on that side of the Chamber when they talk of a "nation" mean that a nation has the power to subvert the fundamental principles of popular sovereignty, of self-control, I do not believe in that sort of a nation. I believe in no loose confederacy from which an erratic star may shoot at its own pleasure. I believe in no power of a State to break this Union. I said so during the war in my place in the House, and I believe just as little in the power of the Federal Government to usurp and supplant the power of the State in local self-government and home rule.

There has been enormous abuse on this question. No wonder that the Senator from New York rises in his place to defend it; no wonder he attempts to defeat this bill. It supplants, and if it did not supplant, the chief supervisor in New York I should not be for it. The amendment offered by the Senator from Ohio gives vital power, force, efficiency, and acceptability to this bill, and that is that no man who has heretofore held the office of chief supervisor, and holding it illustrated his tyranny, usurpation, oppression, and power of outrage, shall ever hold it again. But for that I would not vote for it. I have no hesitation in saying that I will vote for no bill that gives to the President of the United States the power to keep John Davenport and assimilated hirelings in politics the right to stay in office.

I have heard this afternoon a constant complaint of the danger of illegal voting. I ask the Senate to allow me to read a statement made by a member from the State of New York in the other branch of Congress. Speaking of the scenes and the practices that occurred at New York elections, he says:

> A neighbor of mine, who had resided in the same district for seventeen years and a soldier of the Union Army at that, was arrested. I was asked to go to the republican headquarters in an adjoining district, whither he had been taken. The street for an entire block was lined with carriages, in which the unfortunate citizens who had fallen into the hands of the Philistines had been or were to be conveyed. When I entered the building I found the front room decorated with the paraphernalia of a political headquarters, and filled with republican politicians. In the back room a United States commissioner was holding court. The door was closed, watched by a Cerberus. No one was allowed inside but the prisoners and the republican managers. After about half an hour's waiting I was informed by the doorkeeper that the man I was looking for was no longer there. I asked whither he had been taken. "Suppose to Fort Davenport," was the laconic reply.

Is that agreeable to Senators on that side of the Chamber? Is it agreeable to read that a chief supervisor has some place designated by his own name as a place of imprisonment for American citizens. "'Fort Davenport,' was the laconic reply." Let me read now what "Fort Davenport" looked like when this man reached there:

> Such a scene as the rooms of this court presented on that election day has never before been witnessed in this city or in this country, and it is to be hoped never will again. From early morning until after the polls were closed these rooms were packed and jammed with a mass of prisoners and marshals. Not only were they crowded beyond their capacity, but the halls and corridors were thronged with those who were unable to obtain admission, so that the counsel representing the prisoners and the bondsmen who were offered to secure their release had the greatest difficulty, and were frequently unsuccessful in obtaining entrance. In addition to all this was that delectable iron "pen" on the upper floor, in which men were crowded until it resembled the black hole of Calcutta, and where they were kept for hours hungry, thirsty, suffering in every way, until their cases could be reached.

What a choice morsel of American history is here for those who stand on this floor and cry out for a nation to put people in an iron pen and keep them there.

> With scarcely an exception these men had gone to the polls expecting to be absent but a short time. Many of them were thinly clad; numbers had sick wives or relatives; some were sick themselves. There were carmen who had left their horses standing in the public streets; men whose situations depended on their speedy return; men who wished to leave the city on certain trains. Every imaginable vexation, inconvenience, injury, and wrong which the mind can conceive existed in their cases, so that it was painful for the counsel who were endeavoring to secure their release to approach sufficiently near the railing to hear their piteous appeals and witness the distress which they had no power to alleviate. And over all this pushing, struggling, complaining crowd Mr. Commissioner John I. Davenport sat supreme, with a sort of oriental magnificence, calmly indifferent to everything but the single fact that no man who was arrested was allowed to vote.

No Turk invested with a caliph's power in some province under the sway of the Sultan ever outraged individual security, personal decency, personal liberty beyond what is there described; and I say to the Senators on the other side, on this question, as on all others, we will meet you and continue to meet you, discuss it with you, and we will triumph, unless American liberty shall die. As long as liberty lives, as long as the inherent, everlasting, glorious rights for which our fathers counciled, led the armies, and fell on the field, live, so long we will be right and you will be wrong, and nobody knows it better than the Senators on that side themselves. No one knows the inherent force and power of this issue more than they do. They spring up here and make false issues upon us, or seek to do so, dreading and knowing perfectly well that upon the great question of the right and power of the people, unsupervised, uninspected, unspied, to cast their votes, this side of the Chamber is entirely right.

Mr. President, the Senator from Colorado has assumed to say—and I speak to him and of him with entire personal kindness; it is not in my heart to speak otherwise of men unless I am compelled to do so—that we are afraid to meet issues like this. I will tell you who is afraid. The Senators on that side of the Chamber are afraid to trust the people; they are afraid to trust the sovereign capacity of the people; they are afraid to trust the intelligence of the people; they are afraid to trust the virtue of the people; they dare not do it, because without hinderance, without control, the people will condemn those who

desire to put spies upon them and enact in the laws of this country a system of espionage. The Senators on that side are those who are afraid, and they are much more afraid than it would be possible for this side of the Chamber to be of that side. They are afraid of that great, majestic power of public opinion; they are afraid of the great untrammeled power of the people, and they cant—cant is the word—upon the subject of a nation. What is the meaning of it? What do you mean by it? Do you mean that a nation shall come in with imperial power to strike down the unrestrained and untrammeled voting capacity of the people?

Mr. EDMUNDS rose.

Mr. VOORHEES. No, sir; not just now. Do you mean by that that it is necessary for supervisors and chief supervisors and deputy marshals, clothed with insolent power as they are with their locust clubs, to go into my State and up and down the regions there to master and overmaster the people's judgment and their will? Who is it that is afraid here? I will tell you who is afraid. The Senator from Vermont is afraid to trust the people; the Senator from Vermont is afraid to take away his overseers; he is afraid to take away his spies; he is afraid to take away this system of espionage; he is afraid to take away this system of brute force. He desires John I. Davenport and his iron pen. He is afraid to trust to the doctrines of the Revolution, which said that this Government was founded upon the virtue and the intelligence of the people.

Mr. EDMUNDS. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Indiana yield?

Mr. VOORHEES. Yes.

Mr. EDMUNDS. I am so much impressed with horror and fear at this moment at what the Senator has said that I ask if he would mind allowing us to adjourn until we can recover from the state he has put us in? If he will yield for that purpose, I will move that the Senate adjourn.

Mr. VOORHEES. If the Senator from Vermont will recover a sense of constitutional liberty, if he will recover the doctrines of the fathers that the people are as wise as he is, as virtuous as he is, know as much as he does, and need a supervisor just as little as he does, then I will yield.

Mr. EDMUNDS. I have got a supervisor now, Mr. President. There he is right there. I understand the Senator yields; so I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Does the Senator from Indiana yield to the motion?

Mr. VOORHEES. Just wait, and I will decide in a moment. The Senator from Vermont knows perfectly well that I will yield if it is desired that I shall do so.

Mr. EDMUNDS. Let me appeal to my friend in serious earnest.

Mr. VOORHEES. There is one other point I desire to discuss. I will detain the Senate only a moment. A false issue has been put in here, and that is that the colored voters of the South have been prevented from exercising their judgment upon political questions. I have investigated that question for the last three or four months, and I know better. That is all I want to say now, for I shall soon ask the Senate to listen to me fully upon that question. Now I yield to the Senator from Vermont.

Mr. BAYARD. If any gentleman on the other side desires to continue debate on this subject, I have no wish to press a vote now. If we can take the vote now with the assent of gentlemen on the other side, well and good; but if there is further debate desired, then I suggest that this question go over until to-morrow, that we adjourn now and come to a vote at as early an hour to-morrow as the convenience of the Senate will permit; but I hope we shall certainly come to a final conclusion to-morrow.

Mr. EDMUNDS. If I understand the Senator from Delaware, he merely means to say that he hopes we shall finish this matter to-morrow. The Senator from Delaware is very courteous in saying that, of course, because it does not bind anybody to finish it to-morrow, unless it is convenient to the majority of the Senate, of which he is chief, to do it; and the majority may finish it to-night if they like. But the Senator from Indiana [Mr. VOORHEES] and the Senator from Ohio [Mr. THURMAN] have advanced so many propositions of great interest that surround this subject, surround it as much as they say the rings of Saturn do the planet——

Mr. BAYARD. The Senator does not understand me. His signifying his desire to debate the bill is quite sufficient. I merely said in good feeling that if there was no intention to prolong this discussion now we might as well take the vote.

Mr. EDMUNDS. I was laboring under the impression that I had been permitted to say a few words.

The PRESIDENT *pro tempore*. The Senator from Vermont will proceed.

Mr. EDMUNDS. Mr. President——

Mr. BAYARD. Mr. President——

Mr. EDMUNDS. It is not me after all that is to proceed.

Mr. BAYARD. The Senator takes his seat. Is it from any question of offense at all?

Mr. EDMUNDS. Not in the least. The Chair said that the Senator from Vermont would proceed, and then my friend from Delaware proceeded to address the Chair, and I was very glad to hear him. There is not the slightest offense.

Mr. BAYARD. The intimation having been given that further debate is desired on this subject on the other side of the Chamber, I yield to that. I desire that we shall take the vote on this question to-morrow, and I shall urge the Senate to remain for the purpose of taking it. With that view I now move that the Senate adjourn.

The PRESIDENT *pro tempore*. Does the Senator from Vermont yield to the Senator from Delaware for that purpose?

Mr. EDMUNDS. I was not aware that I had the floor. I certainly make no claims to any rights in this body at the present time.

The PRESIDENT *pro tempore*. Before putting the question on the motion to adjourn, the Chair wishes to inquire of the Senator from Indiana whether he retains the floor for to-morrow. The Chair understood that he had not finished his speech.

Mr. VOORHEES. I yield the floor. I will not claim the floor when we meet again.

The PRESIDENT *pro tempore*. The Senator has concluded his remarks?

Mr. VOORHEES. It may be so understood.

The PRESIDENT *pro tempore*. The Senator from Vermont is entitled to the floor.

Mr. EDMUNDS. I make no claim to the floor at this present time.

The PRESIDENT *pro tempore*. Then no one makes claim to the floor.

Mr. VOORHEES. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. That motion has already been made by the Senator from Delaware.

The motion was agreed to; and (at six o'clock and six minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May* 25, 1880.

The House met at eleven o'clock a. m; Hon. J. C. S. BLACKBURN in the chair as Speaker *pro tempore*.

Prayer by Rev. SAMUEL DOMER, D. D., of Washington, District of Columbia.

The Journal of yesterday was read.

CORRECTION OF JOURNAL.

Mr. REAGAN. The Journal states that I proposed to amend the motion of the gentleman from Georgia [Mr. BLOUNT] to limit debate on the sundry civil appropriation bill by moving to insert four hours. My motion was that general debate should continue till four o'clock.

The SPEAKER *pro tempore*. The Journal will be corrected.

The Journal was then approved.

PAY OF HOUSE EMPLOYÉS FOR MAY.

Mr. ATKINS. I send to the desk a resolution for present consideration which I have no doubt will receive the unanimous consent of the House. If it does not, I will withdraw it.

The Clerk read as follows:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and instructed to pay the employés of the House of Representatives for the month of May on Friday, May 28, 1880.

Mr. ATKINS. This is in view of Decoration Day being observed on Saturday.

There was no objection, and the resolution was adopted.

Mr. ATKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HAYES. I call for the regular order, and shall insist upon it.

The SPEAKER *pro tempore*. The regular order is the morning hour.

Mr. BLOUNT. I move that the morning hour be dispensed with.

The question being taken, the morning hour was dispensed with, two-thirds voting in favor thereof.

Mr. BLOUNT. I now move that the House resolve itself into Committee of the Whole for the purpose of resuming the consideration of the sundry civil appropriation bill.

Mr. CONVERSE. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CONVERSE. My inquiry is, what business comes over as unfinished business? What is the next regular order in the House?

The SPEAKER *pro tempore*. The motion to go into Committee of the Whole House on the state of the Union is the regular order.

Mr. CONVERSE. I suggest to the Chair there is a bill pending on which the previous question has been demanded.

The SPEAKER *pro tempore*. The Chair is not advised, and will ask the Clerk. [After a pause:] The Chair will state to the gentleman from Ohio that the information furnished by the Clerk is that the demand for the previous question upon the measure to which the gentleman alludes was pending. That would come up as unfinished business after the morning hour, when the class of business to which it belongs is reached. But the gentleman from Georgia had moved that the morning hour of to-day be dispensed with, which motion was agreed to, whereupon the gentleman from Georgia moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

Mr. CONVERSE. I would like to inquire if that motion is in order when there is a demand pending for the previous question?

The SPEAKER *pro tempore*. The motion of the gentleman from Georgia is in order. The demand pending for the previous question does not preclude the House from resolving itself into the Committee of the Whole on the state of the Union for the consideration of appropriation bills. The question is on the motion of the gentleman from Georgia.

The question being taken, the motion of Mr. BLOUNT was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union, and resumes the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The Clerk read the following paragraph:

And so much of section 4672 of the Revised Statutes of the United States as provides compensation to collectors of the customs for services as superintendents of lights or as disbursing agents for the Light-House Establishment is hereby repealed.

Mr. CRAPO. I move to amend by striking out the paragraph which has just been read. I desire to inquire of the gentleman from Georgia [Mr. BLOUNT] what provision has been made for the duties of superintendents of lights and disbursing agents for the Light-House Establishment in case this provision of law is repealed?

Mr. BLOUNT. The same officers will discharge the duties. It is simply a question of discretion now as to whether or not the extra compensation shall be given by the Secretary of the Treasury. For several years no allowance was made and none was asked for. But within the last few years these parties have been sending in their claims and insisting they are entitled to compensation. I think these payments can be made by officers connected with the revenue service who go to these points quarterly and can then make a settlement.

Mr. CRAPO. Then I understand it is proposed that the duties of the superintendents of lights and disbursing agents for the Light-House Establishment shall be performed as now, by the collectors of customs, but that they shall receive no compensation for that service. Now I fail to understand how we can expect to have a proper transaction of the public business and a proper care and protection of the public interests without making a fair and reasonable compensation for the services that are rendered.

The officers who discharge these duties have a very small compensation allowed to them. This section of the law which it is now proposed to repeal limits the amount of compensation to a maximum of $400. The amount can in no event exceed $400; and any collector of customs who receives from salary and fees as much as $3,000 is excluded by the statute from having any compensation for this service.

There are important duties which devolve upon these collectors of customs in connection with the Light-House Establishment. They have the charge as local superintendents of the light-houses on the coast. They receive reports of any neglect of duty by the light-house keeper. They make those reports to the Department here at Washington. They handle quite large sums of money. They furnish bonds for the proper discharge of their duties. And it seems to me there is no good reason why these men should not be paid for these services. The average of their compensation for this special service as superintendents of lights and disbursing agents is less than $200 per year.

I represent a district which, as stated in the official reports, has one thousand and thirty-six miles of seaboard, and contains six custom-house collection districts and any number of light-houses, probably many more than any other single congressional district; and I think I may be pardoned if I assume to know something about the practical operations of this branch of the service. Not one of the six collectors of customs in that district receives as much as a fourth-class clerk here in our Government Departments. Some of them, two out of six, receive less than $600 per year, including salary and fees. The salaries of the collectors of customs in these districts range from $150 a year to $250, and some are without fixed salary and dependent entirely upon fees. The amounts received by them——

[Here the hammer fell.]

Mr. BEALE. I entirely approve the provision in this bill which is now under discussion as being in the interest of economy. I will state to the House that there is no occasion whatever for the employment of these custom-house officers to disburse the money to the light-house keepers and to be paid a compensation for so doing. As the law now stands it is entirely discretionary with the Secretary of the Treasury whether he will make this allowance or not. It is not true, as stated by the gentleman who has charge of this bill, [Mr. BLOUNT,] that for any period in the history of this Government since the enactment of the law authorizing these payments to be made, there has been a period when they have not been made. For four years Congress failed to make any appropriation to pay the commissions allowed for these disbursements, and a provision for that purpose is now pending in the general deficiency bill of this session.

There is no occasion whatever for authorizing the Secretary of the Treasury to make this allowance. In the first place, these custom-house officers are paid a salary sufficient to entitle the Government to demand from them their entire time; and if in the discharge of the other duties pertaining to their offices they find time to disburse this money, they have no claim in equity to receive one dollar additional compensation.

There is no necessity whatever for the employment of these officers to perform this service. The Secretary of the Treasury sends quarterly an inspector from Washington all over the customs districts in the United States to inspect the light-houses and the light vessels, and that officer could discharge this duty just as well without any additional compensation whatever as the custom-house officers now do. In addition to that, I will state that the reports from these light-houses are made to the Treasury Department, and in my opinion there is no necessity whatever for the interposition of any third party between the light-house keeper and the Treasury. The Treasury could pay the light-house keepers directly, just as the clerks in the Departments at Washington are paid. I trust that the House will sustain this provision of the bill.

Mr. ALDRICH, of Rhode Island. I move to strike out the last word for the purpose of saying that there is no class of persons in the customs service, or indeed in any branch of the service of the United States, so poorly paid as are the collectors of customs in the small ports of entry. I am surprised that the gentleman from Virginia [Mr. BEALE] should join with the Committee on Appropriations in striking at this class of persons on the score of economy.

I will take for an illustration the collector of customs at Newport, Rhode Island, a very efficient officer, with whose duties I am well acquainted; he receives $600 a year salary. The gentleman from Virginia [Mr. BEALE] says that these collectors of customs receive a sufficient salary from the Government to entitle the Government to all their time. I would like to inquire of him if he considers $600 a year a sufficient salary for a collector of customs at an important port who has to give a bond of $20,000 and give his whole time to the Government?

The law, as it would remain if this clause of the bill shall be adopted, would allow the Secretary of the Treasury to require of these inspectors of customs the same duties they now perform, and for which they are paid at the utmost $400 a year, without paying them any additional compensation. It will take from the Secretary of the Treasury the discretion of paying these officers of the Government an additional compensation for additional services not exceeding $400 a year. The whole amount involved in this item is about $7,000, which is but a mere fraction of the salary received by quite a large number of collectors of customs in various parts of the United States.

If gentlemen are so anxious for economy, let them reduce the fees and salaries of collectors of customs who receive a large compensation, and not strike at those collectors of customs in the small ports along our coasts, who are now, as I have said, the most poorly paid class of men in the customs service.

Mr. BLOUNT. The gentleman from Rhode Island [Mr. ALDRICH] seems to think that it is necessary to supplement small salaries by this sort of compensation, for he argues that these officers are poorly paid, and under the present law the Secretary of the Treasury is enabled to give them some additional compensation.

If there is one abuse to which we should give our attention it is that of these innumerable inspectors of customs which we ought to get rid of. So far as this clause is concerned, as has been well stated by my friend from Virginia, [Mr. BEALE,] the revenue-cutter service is passing from point to point on our coast quarterly at the time these amounts are due, and the officers of that service could make these payments, or they could be made directly from Washington. This provision was not put into the bill until after consultation with the officers of the revenue service. The committee deemed the provision of the present law simply an excuse to supplement the salaries of certain officers.

Mr. WAIT. Only a few words in reply to what has been said by the gentleman from Georgia, [Mr. BLOUNT.] I know that in the district of my own State these collectors of customs are not merely employed as disbursing agents, but they have a supervision and a superintendence of the light service along the coast; they look after the employés who are stationed there, and upon whose fidelity and ability to discharge their duties properly depend the preservation of life and property. They are constantly occupied in seeing that fit men are employed in these various positions.

Mr. BLOUNT. The gentleman is mistaken.

Mr. WAIT. I am not mistaken at all. I know just what kind of duties they perform, and they are not paid now any more than the services that they render are worth. The gentleman inquires if we want to supplement their salaries as collectors of customs in what he is pleased to term "this improper manner?" Let me say, in response to this inquiry, that we have no such object in view. The collectors of customs on our seaboard discharge the other duties, which I have named, in addition to collecting the revenue; and it is simply right and just that these officials should be paid for these other very important and responsible duties which they are called upon by law to perform. The gentleman says that the officers of the revenue vessels stationed along the coast have a supervision of these light-houses, and watch to see if the employés in charge of the same are capable, faithful, and efficient. Why, Mr. Chairman, the revenue

vessels may visit these light-houses five or six times in a year, stay an hour or two and leave. What does such supervision amount to? But the collectors of customs have a constant watch of the keepers of the lights. From the chief keeper down to the humblest subordinate, all are under the charge of the collector; and he selects men for these places that he knows may be relied upon. It is for these reasons that I hope the proposed amendment will be agreed to.

Mr. ALDRICH. I withdraw my formal amendment.

The question was taken upon the amendment of Mr. CRAPO, and upon a division there were—ayes 34, noes 44.

Mr. ALDRICH, of Rhode Island. No quorum has voted, and I ask for tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. CRAPO were appointed.

The committee again divided; and the tellers reported—ayes 92, noes 60.

So the amendment of Mr. CRAPO was agreed to.

Mr. BLOUNT. I shall ask a vote on this amendment in the House.

MESSAGE FROM THE SENATE.

The committee rose informally; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate insisted on its amendments, disagreed to by the House, to the resolution of the House authorizing the printing of 300,000 copies of the Report of the Commissioner of Agriculture for the year 1879, had agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. RANSOM, Mr. ANTHONY, and Mr. PADDOCK.

The message also announced that the Senate had adopted a resolution, in which the concurrence of the House was requested, for the adoption of a joint rule for counting the votes of electors of President and Vice-President.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole on the state of the Union resumed its session.

The Clerk read as follows:

For the improvement of Stamford Harbor in the State of Connecticut, $12,000; $5,000 thereof to be used for the establishment of a day-mark on Harbor Lodge, and $7,000 thereof for the establishment of a light on Forked Rock.

Mr. O'NEILL. I move to amend by inserting after the paragraph just read the following:

For a new light-ship to be placed on Five-Fathom Bank, near the entrance to Delaware Bay, about ten miles north-northeast of the present light-ship now thereon, $50,000.

Mr. BLOUNT. I reserve a point of order on this amendment, as there is no authority of law for the expenditure.

Mr. O'NEILL. If the gentleman in charge of this bill will permit me, I wish to call attention to a fact or two relative to the necessity of having a light-ship at the point designated in the amendment. Some time late in February of this year I presented to the House a resolution, which was adopted, requesting from the Secretary of the Treasury information as to the necessity of a new light-ship upon Five-Fathom Bank. Several days afterward his reply was received, and was transmitted to the Committee on Appropriations. It appeared by his communication that he had submitted the resolution to the consideration of the Light-House Board, which on the 1st of March had acted upon the subject, and had recommended that such a light-ship be placed on Five-Fathom Bank.

I wish to express my great regret that the Committee on Appropriations did not see fit to insert in this bill a provision for this light-ship. Such a vessel upon the part of Five-Fathom Bank specified in the amendment is a necessity for the larger vessels sailing to New York as well as to Philadelphia and all other ports on the Atlantic coast. It is not a matter connected with Delaware Bay especially or with Philadelphia especially, but is of great importance to the general shipping interests. Hence it has been deemed necessary by the Light-House Board that upon this long bank, over ten miles in length, there should be an additional light-ship. I think that after the recommendation of the board which has been communicated by the Secretary of the Treasury to the Committee on Appropriations, and in view of the great necessity for this light-ship, the Committee on Appropriations should have inserted in the bill such a provision as I now propose. I have offered this amendment because that committee omitted putting it in the bill, and I hope it may be adopted in Committee of the Whole.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] makes a point of order upon the amendment.

Mr. BLOUNT. There is no authority of law for this light-ship, and the amendment increases expenditures.

Mr. O'NEILL. I do not doubt that there is no authority of law; but we can give authority of law by inserting this provision in the bill. I would very much like to have read as my justification for offering this amendment the communication which was forwarded to the Committee on Appropriations by the Secretary of the Treasury. The points of that communication I have stated.

Mr. SPARKS. A point of order has been made.

The CHAIRMAN. The point of order having been made, the Chair is bound to hold that the amendment is out of order.

Mr. CLYMER. I move to amend by inserting the following:

For the repair and restoration of the wharf at the arsenal, at Washington, District of Columbia, $2,000.

Mr. BLOUNT. I suggest to my friend to withdraw that amendment for the present. It is not germane here; we will reach the Washington arsenal after awhile.

Mr. CLYMER. I withdraw the amendment for the present.

The Clerk read as follows:

To complete the construction of a light-ship and fog-signal at Trinity Shoal, on the western coast of Louisiana, $15,000.

Mr. CRAPO. I move to amend by inserting after the paragraph just read the following:

Commissions to superintendents of lights: For commissions to collectors of customs, acting as superintendents of lights, being for disbursements to be made by them for the light-house establishments during the fiscal year ending June 30, 1881, $7,500.

Mr. Chairman, this amendment necessarily follows the action of the Committee of the Whole in adopting the former amendment with reference to the superintendents of light-houses. The law requires that the collectors of customs at particular points shall render certain services and perform certain duties with reference to the light-houses, and the law has fixed 2½ per cent. upon the amount of their disbursements as compensation for their services. The amendment I now propose is simply to carry out that law and to appropriate to these officers for the coming fiscal year the same amount that Congress appropriated for the present fiscal year. By the vote which the Committee of the Whole has recently taken we have decided that this service shall be continued, and the law specifies that the compensation, in the discretion of the Secretary of the Treasury, shall be 2½ per cent. upon the disbursements. This amendment simply carries out the law as it exists and as we have voted this morning that it shall continue.

Mr. BLOUNT. I do not propose to take any time in discussing this matter. I have no objection, if there is none from any other source, to considering this amendment agreed to *pro forma*, to fall or stand with the other amendment to which it relates.

Mr. CRAPO. All right.

The amendment of Mr. CRAPO was agreed to.

Mr. BRENTS. Mr. Chairman, I move to amend by inserting here as a new paragraph the following:

For establishing a fog-signal at Sandy or West Point, Puget Sound, $10,000.

I sincerely hope, Mr. Chairman, that the Committee will adopt this amendment. There is no place in the United States where a fog-signal is as much needed as at Sandy Point, in Washington Territory. The commerce of Puget Sound will compare favorably with that of any other portion of the nation. Its shipping exceeds that of more than half of the States of this Union taken separately. During the year ended June 30, 1878, 108 vessels—69 sailing and 39 steam—were documented at Port Townsend, the port of entry of the Puget Sound district, with a carrying capacity of over 31,000 tons. The States to which I refer, such as have any shipping at all, and the entire tonnage of their vessels, are as follows:

	Tonnage.
Alabama	16,839
Delaware	15,229
Florida	26,624
Georgia	20,596
Indiana	8,722
Iowa	3,732
Kentucky	15,011
Minnesota	6,428
Mississippi	9,430
Nebraska	5,619
New Hampshire	13,351
North Carolina	11,692
South Carolina	14,474
Tennessee	13,330
Texas	16,346
Vermont	3,453

This tonnage of Puget Sound is only exceeded by twenty-eight of the one hundred and twenty-five ports of entry of the whole United States. Again, sir, the tonnage of American vessels in the foreign trade which entered and cleared at this port during that year exceeds that of such vessels so entered and cleared during the same time at no less than one hundred and twenty of these other one hundred and twenty-four ports in the United States. There were entered 263 vessels with 152,828 tonnage, and there were cleared 284 vessels with 167,178 tonnage. The ports of Boston and Charleston, New York, Detroit, and San Francisco are the only ones that exceed it.

The tonnage of foreign vessels in the same trade, while not so large in comparison, is quite considerable. Of this class there were 46 vessels with 19,195 tonnage entered during that year, and 61 with 30,962 tonnage cleared. This is only exceeded by thirty-one other ports in the United States. Now, sir, let us take American ocean steam-vessels and draw the comparison, and we find that the tonnage of our entries and clearances during that year exceeds that of all but two of them—New York and San Francisco. Of these 178 with 130,471 tonnage entered, and 183 with 131,432 tonnage cleared during the year.

Now, let us look at figures in regard to another class, and we find that the tonnage of foreign ocean steam-vessels engaged in the foreign trade, entered and cleared during the year mentioned, is only exceeded at ten other ports. These are Portland and Falmouth, Boston

and Charleston, New York, Philadelphia, Baltimore, Norfolk and Portsmouth, New Orleans, Galveston, Brazos de Santiago, and San Francisco.

Now, sir, I have only spoken of the extent of our foreign trade. More than as many more vessels that constantly ply these waters are engaged in the local and coasting trade. Not more than one-third of all the vessels that visit us have their registry at our port, but are documented at San Francisco and elsewhere. I desire to have the Clerk read an extract from a report made by a special commission, appointed by the Secretary of the Treasury, on the Marine Hospital Service, dated November 8, 1877, for the purpose of showing the extent of Puget Sound and its commerce at that time.

The Clerk read as follows:

Puget Sound is an immense inland sea, the distance from Cape Flattery at the entrance of the straits of Fuca to Olympia at the head of the sound being one hundred and seventy-five miles. It is dotted with innumerable islands, some of which are fifty miles long. Many of them are well settled, affording finely cultivated farms, stores, trading-posts, schools, and churches. Dotted all over the sound are small bays, which are denominated ports; and here are built and in active operation the huge saw-mills, many in number, cutting millions of lumber annually, supplying the whole Pacific coast, Sandwich Islands, and South America with that article of commerce.

Immense fields of coal already developed and others being opened are affording daily shipments of large cargoes to California, Oregon, and other points. The agricultural interests of the Territory are largely on the increase. Potatoes, oats, and enormous quantities of hops require transportation to markets. Hoops, poles, staves, water-pipe, &c., are being manufactured in large quantities for shipment. The salmon fisheries are growing in importance, and the general business of this new and interesting country has for the past few years been growing in volume and prosperity. To transport these articles of produce and manufacture a large fleet of vessels is required annually. It is estimated there are employed in the Puget Sound trade at least seventy-five deep-sea vessels in the general coasting trade, and are enrolled and licensed, thus not rendering it necessary to make entry or clearance at this custom-house. One-third of these vessels only are documented in the Puget Sound district. * * * Nearly all the remainder are documented at San Francisco.

Mr. BRENTS. Mr. Chairman, in view of this extensive and rapidly expanding commerce, the importance of proper lights, signals, and other improvements and appliances for its facility and protection must be apparent to this committee. I will now ask the Clerk to read an extract from the last Report of the Light-House Board relative to the subject-matter of this amendment.

The Clerk read as follows:

West Point, (Sandy Point,) Admiralty Head, Washington Territory.—There is no aid to navigation in Admiralty Inlet or Puget Sound established, or proposed to be established, by existing legislation, south of Point-no-Point; and it is highly essential that this magnificent sheet of water, which has not its equal in the world, should be so marked by fog-signals as to render its navigation from Cape Flattery to Olympia possible at all times without danger to life and property. Following the inlet south from Point-no-Point, the point or spit which deserves attention is West Point. This is the first prominent point or sandspit north of the busy town of Seattle, on the east side of the inlet, (or Puget's Sound, the dividing line not clearly defined,) and nearly opposite the center of Bainbridge Island. A 10-inch fog-whistle is recommended for this station. It will cost $10,000, and an appropriation of that amount is accordingly recommended.

Mr. BRENTS. Mr. Chairman, Seattle is the largest city in Washington Territory, and one of the most important of its shipping points. The radius of the fog-signal and light-house at Point-no-Point is so limited that a fog-signal at Sandy Point is absolutely necessary, and I hope the amendment will prevail.

[Here the hammer fell.]

The committee divided; and there were—ayes 42, noes 34.

So the amendment was agreed to.

Mr. ROBERTSON. I move to insert the following:

To establish a light at the mouth of the Amite River, $3,000.

Mr. BLOUNT. I will not make the point of order on this amendment, but give notice I will on amendments coming after this.

Mr. ROBERTSON. Mr. Chairman, this appropriation was reported favorably by the Committee on Commerce, but they have not had time to refer it to the Committee on Appropriations with the view to its being put upon the appropriation bill. It has been unanimously recommended by the Light-House Board. I submit we want more light at the mouth of the Amite River.

Mr. BLOUNT. I wish to say, Mr. Chairman, that so far as the recommendations of the Light-House Board may go, they ought not to have much effect upon the House, for the reason which I will state: Whenever a proposition is submitted to the Light-House Board as to whether or not a light would be advantageous they simply give an opinion. It does not come here as a recommendation from the Treasury Department at all. It is not expected by that board these lights will be established. They have stated to the committee through their official secretary that if they had the appropriations for the service to be found on page 63 of the estimates they could get along well. There have been other items put into the estimates, and some have gone into the bill. For fear of the charge of illiberality we have allowed several hundred thousand dollars more than they have thought fit to urge before the committee.

I say, therefore, Mr. Chairman, that this House will act blindly if it takes all these opinions coming from that Light-House Board as recommendations. Those officials have said to us they do not urge those appropriations, but simply state in reply to inquiries whether a light at a particular point would be of service or not. It is for Congress to measure the amount of appropriations they may see fit, and on that we pass no opinion.

More than that, sir, the Light-House Board has no authority to send estimates to this House. The estimates for that service come from the Treasury Department to the Speaker and are referred to the Committee on Appropriations or to the Committee on Commerce, and in that way legislation primarily is had and reports come to the House.

Again, sir, it is the purpose of the rules of the House, not only that the Committee on Commerce should have seen fit to recommend, but that legislation should be had on whatever recommendation shall come from the Treasury Department. It has been the practice sometimes to refer the reports of the Committee on Commerce to the Committee on Appropriations, and really, under the rules, they are entirely improper and should be preceded by legislation. In the matter of lights, there has been too much facility in establishing them.

[Here the hammer fell.]

Mr. HUMPHREY. I move to strike out the last word for the purpose of saying one word on the pending subject.

Now, Mr. Chairman, while we should not always require the Committee on Appropriations to regard as binding upon them any opinions coming from the Light-House Board, yet when we come to consider the small appropriations which are made for this purpose on our coast and along our navigable streams, and when we further reflect on the aim and object they have in view, namely, to save life and property, it does seem to me that the sum of $3,000, as in the pending amendment, or $5,000 in other cases, is but of small moment compared with the enormous benefit arising as a result of such appropriation. Only ten days since we passed down the Mississippi River and saw many beacon-lights established on the shores of that river and every pilot whom we met said no appropriation ever made by Congress equaled in beneficial results which flowed from it that for taking the snags out of the channel of the Mississippi and establishing beacon-lights on its shores. The expense of keeping up those beacon-lights is in the aggregate but $3 apiece. There has been no appropriation ever made by Congress which has saved so much life and property and which has provided so much security in the carriage of passengers and freight along that great highway as these beacon-lights. Let us not forget, therefore, in making these small appropriations for the Mississippi River, and for other navigable waters, we are in fact providing the means for saving life and property. It is our duty in this way to provide every safeguard for the protection of life and property.

Mr. ROBERTSON. I thank the gentleman from Georgia for not making the point of order in this case. I regret to say, though, that he is very much mistaken when he makes the statement that this proposed amendment is not recommended by the Secretary of the Treasury. I introduced a bill at the extra session of Congress, a bill (H. R. No. 1918) to establish a light-house at the mouth of the Amite River, in the State of Louisiana. It was referred in due course to the Committee on Commerce. That committee have had the matter under consideration during the whole of this time, and last week they reported unanimously in favor of the bill. The Light-House Board not only recommend the passage of the bill, but the Secretary himself says in reference to it, in a letter dated February 28, 1879:

In reply, I have respectfully to transmit herewith a copy of a letter of this date from the naval secretary of the Light-House Board, stating that the matter has been carefully considered by the board and the conclusion reached——

Mr. BLOUNT. I would like to ask what the gentleman is reading from?

Mr. ROBERTSON. I am reading from a letter from the secretary of the Light-House Board.

Mr. BLOUNT. To whom is it addressed?

Mr. ROBERTSON. It is addressed to Dr. FELTON, chairman of the sub-committee of the Committee on Commerce, having charge of this matter.

And the conclusion reached that the interests of commerce and navigation require that a small light shall be established at the mouth of the Amite River at an estimated cost of $3,000.

To show the importance and extent of the commerce on that river I quote an extract from the report of the engineer, Mr. Douglas. He says:

The commerce to be benefited is large and important, as the river is bordered by plantations, the most of which are engaged in the cultivation of cotton. Should the upper river be opened to navigation, at least ten thousand bales of cotton, besides considerable sugar, corn, and all varieties of country produce, together with lumber and wood, would find their way by this route to a market. At present all produce has to be hauled overland, either to the Mississippi River or Jackson Railroad.

Staves, shingles, lumber, and wood are the principal products of the lower river, and a considerable quantity of sugar and molasses comes from Bayou Manchac. The return trade would be large, as all persons residing on the river would obtain their supplies by this route. The present value of the commerce of that portion of the river navigated is about $250,000 per annum.

The Amite River is the natural drain of all the country lying between it and the Mississippi River, and its headwaters extend far up into the State of Mississippi. The bed of the stream is not sufficient during heavy rains to carry off the drainage of this immense area, and in consequence it overflows its entire valley, sometimes rising fifteen to eighteen feet in twenty-four hours, this being its range between high and low water at William's Bridge.

Your assistant was informed that in years past the subject of improving this river had been agitated, and that the State government had appropriated $75,000 for that purpose. With this appropriation the river was cleared of obstructions as far up as Denni's Mill, twenty-two miles below the initial point of the present survey.

All the inhabitants take a deep interest in the proposed improvement, and your assistant and his party were treated with the utmost hospitality, and every assistance required cheerfully afforded.

The amendment was agreed to.

The Clerk read as follows:

Coast and Geodetic Survey:

Survey of the Atlantic and Gulf coasts, eastern division: For every purpose and

object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts of the United States, the Mississippi and other rivers, to the head of either tidal influence or ship-navigation; soundings, deep-sea temperatures, dredgings, and current observations along the above-named coasts, in the Gulf of Mexico and the Gulf Stream, including its entrance into the Gulf, its course through the Caribbean and into and around the Sargasso Sea; the triangulation toward the western coast, and furnishing points for State surveys; the preparation and publication of charts, the Coast Pilot, and other results of the work, with the purchase of materials therefor, including compensation of civilians engaged in the work, $275,000.

Mr. MORSE. I offer an amendment to lines 305 and 306 of this section.

The Clerk read as follows:

In lines 305 and 306, on page 13, strike out "$275,000" and insert "$300,000," so that if amended it will read "including compensation of civilians engaged in the work, $300,000."

Mr. MORSE. I understand that this is the amount the Department has asked for and the amount recommended by the Treasurer to be appropriated. The work has really increased instead of decreased in the last few years, and the amount asked for is absolutely necessary. The amount appropriated for several years past, while in excess of the amount here proposed, has not been enough, and it is true that for the last two or three years a deficiency has resulted in consequence of insufficient appropriations, and it seems to me to be a folly to make an appropriation in such a way as to necessitate a deficiency which must be provided for hereafter. For the amount of work going on the sum asked for is required, and unless the work is reduced the amount herein proposed to be appropriated is not sufficient.

Mr. BLOUNT. The gentleman from Massachusetts says that this appropriation is less than it has been in previous years. In that statement he is mistaken. The appropriation for 1878 was $468,000. It has been increased since that time.

Mr. MORSE. Yes; there was $100,000 deficiency.

Mr. BLOUNT. If my friend will allow me to proceed without interruption—and I say it to him with great respect—I will be very much obliged. The amount proposed in this bill is $48,000 less than for the current year, $13,000 of it growing out of the reduction in rent by the officer in charge of the survey. Now, my friend says there will be a deficiency. I cannot see how that is possible.

There is no occasion for it. In the matter of surveys like these they can easily adjust their expenditures and the amount of work to the amount of money that they have on hand, so that there is not the slightest occasion for a deficiency unless it be a willful deficiency. There have been deficiencies heretofore in this branch, but that is no excuse for a deficiency that may come hereafter. I can understand when you have troops in the field that must be fed, and when you have troops that must be transported from place to place, and expenses of that kind must be settled and provided for, that it would not do to abandon them, and therefore you might go somewhat beyond the amount recommended.

There may be occasions for a deficiency, but I cannot understand how, in the management of a business of this kind, with an absolute understanding of the exact amount of money to be expended in the surveys, there can be a deficiency. If there is any kind of management at all there can be no deficiency, and if there be no good administration of the office there will be just as much likelihood of a deficiency if you give one or two million of dollars as if you give but $200,000. It is the amount appropriated which regulates the cost of this survey, and I see no necessity for exceeding what is a fair and legitimate amount.

Now, what do these surveys consist of? They consist of the coast and geodetic survey. As to the coast survey, that it is desirable and necessary no gentleman will question. As to the geodetic survey, to scientific men who may be interested in it as a matter of pleasure and entertainment it is of importance, but there is no pretense, Mr. Chairman, that the geodetic surveys of this country can be completed in a century. No one claims it. No officer connected with these surveys pretends it. It has not a single practical advantage. It has no possible connection with the land system of the United States. It is disconnected from the survey of the coast, and I challenge any gentleman to state one single practical benefit resulting to this country or to inure to the country hereafter from that survey. And therefore while we are compelled to economize in other departments of the Government, we find that we might with propriety economize to the extent of $30,000 in this and still leave enough to complete the work as far as it is practical or necessary during the next fiscal year. From this I leave it to the committee to determine whether the amount appropriated here, and which in the judgment of the Committee on Appropriations was ample, is really sufficient or not.

Mr. HAWLEY. Mr. Chairman——

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. HAWLEY. Then I move to strike out the last word.

I am very much surprised at some of the remarks of my friend from Georgia. He is very much mistaken in his conclusions and certainly does not understand the scope or the duties of this survey. He admits that it is important to give all the soundings correctly along our coast, in our bays and harbors, and up the rivers as far as tidal influence extends or navigation is possible. All that immense work upon our unequaled coast he admits to be of importance.

That work is by no means complete. So far as it has been done it is the best work of the kind in the world; but it is very far from having reached completion. In connection with the very important survey of the Mississippi River now in progress the commission has been obliged to depend not only upon the past labors of the Coast Survey, but on its present active co-operation. It had surveyed the Mississippi River admirably some eighty miles up; and the Mississippi commission in continuing the work look to it to co-operate with them.

The gentleman from Georgia admits almost everything claimed for the work, excepting this, that he says the geodetic survey away from the coast is of no use and is a matter of amusement. I am astonished at the gentleman's statement. There never has been a parallel of latitude run across the continent to the Pacific. It would furnish base-lines and points of departure for many important State surveys. Wherever the States are making surveys they rely on the work of the Coast Survey whenever they can reach it. There is nothing else for them to depend upon outside of their own exertions, except where they occasionally strike the topographical surveys of the Army. But the object of the coast survey in the interior is not to complete what is called a topographical survey, to give a delineation of the hills, the mountains, and the valleys, all the elevations and the character of the surface. Its object is to give lines and points, triangulations by means of which other surveys can be adjusted and connected. And I said there never has been a line run across the continent. The bureau in question has been engaged, working both from east and west, in establishing the thirty-ninth parallel. It is a matter of great importance.

In the interest of common civilization, we ought at least not to cut down this service. We are able to go on with it; and let those engaged in it have what they have had for some years. Let them have what they have had during the current year, and that is all they ask.

The gentleman from Georgia says they are not excusable for ever having a deficiency. I say that in the Committee on Appropriations it was agreed with virtual unanimity to supply a deficiency for them this very year by a grant to repair a steamer—a necessity that cannot always be foreseen. It is due to the reputation of our country that we should do justice to this important service. I shall speak hereafter, if occasion requires, of the topographical surveys of the Army, the continuance of which is indispensable.

[Here the hammer fell.]

Mr. BLOUNT. I am surprised at the statements of my friend from Connecticut, [Mr. HAWLEY.] He says out of this fund comes a provision for the survey of the Mississippi River. I think the gentleman is too hasty in his conclusions. Not forty-eight hours ago the gentleman as a member of the committee read a provision in this very bill providing for a survey of the Mississippi River and authorizing a detail of officers from the Coast Survey. That does not touch this appropriation, and I am surprised at the haste with which the gentleman from Connecticut comes to his conclusion.

Again, the gentleman says as a matter of fact these lines are used in our land-parceling system. I undertake to say that the gentleman said that without authority. I know the officers in charge of the land-parceling system have combated and ridiculed similar statements. And the officer in charge of the surveys does not pretend that a single line he has run is used at all in the land-parceling system. I am surprised, therefore, at the statement made by my friend from Connecticut.

The gentleman speaks of a deficiency. And how did that deficiency arise? The Committee on Appropriations gave something to build a vessel for this service. Instead of using their fund to keep their vessel in repair to continue the coast survey, they were running their fanciful lines from east to west and from west to east across the continent. We felt that the vessel should be repaired, that the officer in charge had done wrong, and that we ought to provide the money necessary for the repair, so that the coast survey proper may be continued. When the bill reached the Senate this amount was stricken out, and it was given to the Geodetic Survey that it might go forward in its scientific pursuits, and the unanimous wish of the Committee on Appropriations of the House utterly failed. The result is that this survey is still going on, while the substantial service in which the country is interested has been repudiated.

I hope the House will not be misled by what has been said in reference to this survey, but will have the nerve to let the barnacles that are trying to fasten themselves upon this Government understand that we understand what the purpose is, and that we intend to have legislation in the interest of the people of the country.

I can name a hundred things in this bill of fivefold more importance than this. And the committee thought they were acting well when they proposed to economize somewhat in science for the benefit of the people.

Mr. HAWLEY. I withdraw the *pro forma* amendment.

Mr. GARFIELD. I renew it. It happened that I was the chairman of the Committee on Appropriations of this House at the time when the geodetic feature of the coast survey was introduced and added to our law, and I wish to say a word in defense of that branch of our service and of its importance.

It was but a few years ago that the operations of the coast survey were restricted literally to the coast. A careful triangulation and a wonderfully accurate survey of the navigable line of the coast of the United States was made. A survey of that line was made which was

so remarkable that when the party which started high up in New England and another party which started low in the South, after years of careful work, met at the central point, the entire list of triangulations and calculations varied less than ten inches from the point where the two parties met. It was found that when that work was done, it was done once and forever.

It was also found that while we were girdling our coast with the most perfect survey known in the world the whole vast interior of the country was left at loose ends by means of all sorts of systems and all sorts of methods and all sorts of results. It was found on investigation that even the capitals of some of the States of this Union were located on the maps in latitude and longitude some miles out of their true positions; and it was found that all the State surveys, all the interior surveys carried on by the United States, the land surveys, topographical surveys, surveys of State lines, even the surveys of our boundary-lines, were all at fault.

There is scarcely one of the more recent States of this Union that is not now engaged in a controversy in regard to its boundary-lines. My own State and the State of Pennsylvania have commissioners, and have had them for a long time, to settle and adjust if possible the boundary-line between the two States.

Mr. HAWLEY. And so has the State of Connecticut and the State of New York.

Mr. GARFIELD. The State of Connecticut and the State of New York are engaged in the same controversy to-day. We have spent within the last fifteen years hundreds of thousands of dollars to correct our boundary-line with Great Britain, and did it only after we had adopted this method of a thorough, complete, scientific, geodetic survey of the continent.

This work has been going on for the last six years; and to push it forward and to fix these points upon which shall be based all other surveys, State surveys, the geographical and geological surveys ordered by the several States, is an idea so broad, so continental in its proportions, that I am sorry to hear the otherwise large-minded gentleman from Georgia [Mr. BLOUNT] assume that it is a merely sentimental thing.

Sir, it goes down into the very depths and reaches to the very heights of the deepest, highest, strongest practical work that can be done on this continent; a work which cannot be done in a day, which may not be done in the next twenty-five years, and every generation of men, every Congress, every Committee on Appropriations honors itself and its intelligence when it helps on this grand and comprehensive and most important work. I hope the amendment of the gentleman from Massachusetts [Mr. MORSE] will be adopted.

Mr. BLOUNT. The gentleman's eulogy of the Coast Survey is very fine, and his speech a very interesting one. He never does anything in the way of speech-making on the floor of this House that is not done well, and does not elicit the admiration of the House. But unfortunately it has the merits only of the attractions of language and rhetoric.

The gentleman says it has been discovered by the Geodetic Survey that the location of some State capital on a map is wrong; perhaps our lines between the States are not accurately drawn; and he made various suggestions of that sort. I have only this to say: we have been living in that condition for a hundred years, and nobody has been disturbed and nobody is going to be disturbed by the discovery of that fact. And more than that, the officers of the Coast Survey do not themselves pretend that with the appropriations we are making or with all the appropriations that the service could command the information which the gentleman wants could be obtained within the next century. Therefore we shall all have passed away and will not have the advantage of the information which the gentleman proposes to gather up for us. I do not know that anybody has been disturbed in the slightest degree on account of the want of this information. I trust, therefore, that the House will look at this matter in a practical way. I wish I had here to exhibit to the House the documents to show, after millions of dollars have been spent, how little has been done.

Mr. HAWLEY. I wish you had.

Mr. BLOUNT. Then we are agreed on that. If they were here the gentleman from Ohio [Mr. GARFIELD] would see that his hopes were all a dream. The work that they have done amounts to hardly a speck on this continent. There is not an officer connected with your land-parceling system who does not utterly repudiate any advantage to be gained from this survey.

Mr. HAWLEY. That is an entire mistake.

Mr. BLOUNT. No, it is not.

Mr. HAWLEY. I defy any officer of this Government to contradict a line or a point of the Coast Survey.

Mr. BLOUNT. Ah! That is another question.

Mr. HAWLEY. It is not another question.

Mr. BLOUNT. It is begging the question. I have not been discussing whether or no that was not a very accurate survey. Does the gentleman propose to repudiate all the surveys which have been made by your land-survey system, disturbing titles and boundary-lines, simply to conform to what the Geodetic Survey may say is correct? No matter how much your surveys may be corrected, your lines as already established will stand for all time; and it is idle to pretend that the correction of such matters is of any practical benefit. I repeat that not a gentleman on the other side has named a thing which the masses of the people can lay their hands on as of advantage to them.

Mr. GARFIELD. I withdraw the *pro forma* amendment.

Mr. HOOKER. I renew it. Mr. Chairman, I am surprised at the position taken by some gentlemen on this subject and at the feeling which they have manifested. The Coast Survey is not a matter of to-day or of yesterday. It is not a work which can be completed in a day, or a year, or a decade. It must necessarily extend over a large period of time. If you will look at the statutes on the subject you will find that the first act in reference to the establishment of the Coast Survey was passed in 1807, authorizing the President of the United States to make a survey of the coast of the United States. That act was repeated in 1817, in 1843, and in succeeding years; and in these acts provision was made that the officers of the Army and Navy, together with the vessels of the Navy, should be used in the conduct of this survey. I call attention to the several provisions of the Revised Statutes on this subject:

SEC. 4681. The President is authorized to cause a survey to be taken of the coasts of the United States, in which shall be designated the islands and shoals, with the roads or places of anchorage, within twenty leagues of any part of the shores of the United States; and also the respective courses and distances between the principal capes or headlands, together with such other matters as he may deem proper for completing an accurate chart of every part of the coasts.

SEC. 4682. The President may also cause such examinations and observations to be made with respect to Saint George's Bank, and to any other bank, or shoal, and the soundings and currents, although beyond the distance of twenty leagues from the shore to the Gulf Stream, as he may deem especially subservient to the commercial interests of the United States.

SEC. 4683. All appropriations made for the work of surveying the coast of the United States shall be expended in accordance with the plan of reorganizing the mode of executing the survey which has been submitted to the President by a board of officers organized under the act of March 3, 1843, chapter 100.

SEC. 4684. The President shall carry into effect the plan of the board, as agreed upon by a majority of its members; and shall cause to be employed as many officers of the Army and Navy of the United States as will be compatible with the successful prosecution of the work; the officers of the Navy to be employed on the hydrographical parts, and the officers of the Army on the topographical parts of the work; and no officer of the Army or Navy shall receive any extra pay out of any appropriations for surveys.

SEC. 4685. The President is authorized, in executing the provisions of this title, to use all maps, charts, books, instruments, and apparatus belonging to the United States, and to direct where the same shall be deposited, and to employ all persons in the land or naval service of the United States, and such astronomers and other persons, as he shall deem proper.

SEC. 4686. The President is authorized, for any of the purposes of surveying the coast of the United States, to cause to be employed such of the public vessels in actual service as he deems it expedient to employ, and to give such instructions for regulating their conduct as he deems proper, according to the tenor of this title.

SEC. 4687. Officers of the Army and Navy shall, as far as practicable, be employed in the work of surveying the coast of the United States, whenever and in the manner required by the Department having charge thereof.

SEC. 4688. The Secretary of the Treasury may make such allowances to the officers and men of the Army and Navy, while employed on Coast Survey service, for subsistence, in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the Treasury regulation of the 11th day of May, 1844.

SEC. 4689. The salary of the Superintendent of the Coast Survey shall be $6,000 a year.

SEC. 4690. The Coast Survey report shall be submitted to Congress during the month of December in each year, and shall be accompanied by a general chart of the whole coasts of the United States, on as large a scale as convenient and practicable, showing, as near as practicable, the configuration of the coasts, and showing, by lines, the probable limits of the Gulf Stream, and showing, by lines, the probable limit to which the soundings off the coast will extend, and showing, by the use of colors and explanations, the exact portions of our coasts of which complete charts have been published by the Coast Survey; also, showing such other parts of the coasts of which the triangulation, the topography, and the soundings have been completed, but not published, and, also, such parts of the coasts of which the triangulation and topography, or the triangulation only, have been completed.

SEC. 4691. The Secretary of the Treasury is authorized to dispose of the maps and charts of the survey of the coast of the United States at such prices and under such regulations as may from time to time be fixed by him; and a number of copies of each sheet, not to exceed three hundred, shall be distributed among foreign governments, and Departments of our own Government, and literary and scientific associations as may be designated by the Secretary of the Treasury.

The object of this coast survey, Mr. Chairman, is to open up the whole coast by an accurate survey of its soundings within so many leagues of the shore. This work was in aid of the energy, the enterprise, the intellect which man has displayed in subduing the waters of the ocean and compelling them to render service to his wants and necessities. It is a part of the great scientific enterprise of the years that have been gone before us. In adopting this system we followed the policy of the most enlightened nations of the Old World, and the service which this work has rendered to commerce we have no means of calculating.

It is proposed now to cut down very largely the appropriations from what they were last year and what they have been in the past few years. Why, sir, let me call attention to the appropriations made for the Coast Survey for the year ending June 30, 1877, when I may say we had the talents of such a man as Judge Holman on the Appropriations Committee, and when the present permanent Speaker of this House was the leader of the House and the chairman of the Committee on Appropriations—for the year ending June 30, 1877, there was appropriated $618,000 for the Coast Survey; and there was a deficiency for that year of $8,000, making the total expenditure for that year $626,000.

Mr. BLOUNT. If the gentleman will examine the sundry civil appropriation bill of which Judge Holman last had charge he will see that the appropriation for the Coast Survey was $468,000.

Mr. HOOKER. I am speaking of the appropriation for the year ending June 30, 1877. The gentleman is mistaken if he says the amount was $468,000.

Mr. BLOUNT. Then it was largely reduced the next year.

Mr. HOOKER. And you had to appropriate a large amount additional.

Mr. BLOUNT. Because of the lawlessness of the officers in charge of the expenditure.

Mr. HOOKER. No, sir; because you imitated the good example from which you are now departing. The appropriations for the Coast Survey for the year ending June 30, 1878, were $468,000.

Mr. BLOUNT. The gentleman is not reading the appropriations proposed in the bill of the Committee on Appropriations, but the appropriations made by law.

Mr. HOOKER. For the year ending June 30, 1878, the appropriations were $468,000; and what was the deficiency? One hundred thousand dollars; making a total for the year 1877–'78 of $568,000. The appropriations for this service for the year ending June 30, 1879, were $548,000, and the deficiency for that year was $40,000; making a total for the year 1878–'79 of $588,000. For the current fiscal year ending June 30, 1880, the amount of the appropriations was $548,000. The estimates for the year ending June 30, 1881, were $548,000, and the amount asked for by the Coast Survey $544,400, being $3,600 less than the estimates.

Now, in this bill it is proposed to cut down the appropriations to $500,400. Thus it will be seen that during all the recent years in which the democratic party has been in power in this House the appropriations for this service have exceeded the amount now proposed; yet with those liberal appropriations, and with the fair, the honest, the economical administration of the Coast Survey, there were in all these years deficiencies which had to be supplied.

[Here the hammer fell.]

Mr. HOOKER. I will add as a part of my remarks a statement of the appropriations to which I have referred:

Appropriations for the Coast Survey.

Appropriation for year ending June 30, 1877	$618,000 00
Deficiency	8,000 00
Total for 1876–'77	626,000 00
Appropriation for year ending June 30, 1878	468,000 00
Deficiency	100,000 00
Total for 1877–'78	568,000 00
Appropriation for year ending June 30, 1879	548,000 00
Deficiency	40,000 00
Total for 1878–'79	588,000 00
Appropriation for year ending June 30, 1880	548,000 00
Estimates for year ending June 30, 1881	548,000 00
Amount asked by Coast Survey	544,400 00
Less than estimates	3,600 00
Amount in appropriation bill as reported by the committee	500,400 00

Mr. BLOUNT. I move that the committee rise in order that there may be a change made in a committee of conference.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

VACANCY ON THE CONFERENCE COMMITTEE FILLED.

The SPEAKER *pro tempore*. The Chair appoints Mr. COBB in place of Mr. BLOUNT as one of the managers of the conference on the disagreeing votes of the two Houses on the Military Academy appropriation bill.

ENROLLED BILL.

Mr. COFFROTH, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes; when the Speaker *pro tempore* signed the same.

SUNDRY CIVIL BILL.

Mr. BLOUNT. I move that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The House will resume the consideration of the sundry civil appropriation bill; and the pending question is on the amendment of the gentleman from Massachusetts, [Mr. MORSE.]

Mr. BLOUNT. I will move to strike out the last word for the purpose simply of repeating so far as the question of deficiencies is concerned it depends entirely upon how many they will send out and how much work they will undertake to do with a given sum of money. The gentleman from Mississippi has said these deficiencies have been created. He has well said it, and the committee complained last year that deficiencies had been created, and they were then informed there should not be any more created. But we have been met with them again. This officer admits it has been by the indulgence of Congress he has gone on and caused these deficiencies. There is not the slightest occasion for them, and I hope his suggestion will have no weight with the House at all. I withdraw my *pro forma* amendment.

Mr. MORSE'S amendment was agreed to.

The Clerk read as follows:

Survey of the Pacific coasts, western division: For every purpose and object necessary for and incident to the continuation of the survey of the Pacific coasts of the United States, the Columbia and other rivers, to the head of either tidal influence or of ship navigation, deep-sea soundings, temperatures, currents, and dredgings along and also in the Japan Stream flowing off these coasts; the triangulation toward the eastern coast, and furnishing points for State surveys; the preparation and publication of charts, the Coast Pilot, and other results of the work, with the purchase of materials therefor, including compensation of civilians employed in the work, $161,000.

Mr. MORSE. I move in line 518 to strike out the words "one hundred and sixty-one," and in lieu thereof to insert "one hundred and eighty;" so as to increase the appropriation from $161,000 to $180,000.

The amendment was agreed to.

The Clerk proceeded with the reading of the bill.

Mr. HAWK. I intended, Mr. Chairman, to move an amendment in line 346.

Mr. BLOUNT. I object to going back.

Mr. HAWK. We have merely passed by that clause.

Mr. BLOUNT. I object. It is not in order now to go back except by unanimous consent.

The CHAIRMAN. Objection being made, the gentleman cannot go back to move his amendment.

The Clerk read as follows:

Furniture and repairs of furniture for public buildings: For furniture and repairs of furniture, and carpets, for all public buildings under the control of the Treasury Department, including furniture for four new buildings, namely: One at Austin, Texas, one at Fall River, Massachusetts, one at Chicago, Illinois, and one at Atlanta, Georgia, $170,000.

Mr. WARNER. I move to strike out the words "and seventy," in line 411, so as to reduce the appropriation from $170,000 to $100,000, and I think, Mr. Chairman, that is a pretty liberal allowance for furniture. We have reached in this country to that condition of affairs when we cannot even buy furniture here or have it made of material of this continent, but we must go to Turkey and Egypt for the purpose of getting morocco, and to the north of Europe for Russia leather. Why, an ordinary seat is no longer sufficient in one of these Departments for one of the officials of the Government, but they must have stuffed cushions made of leather.

I should like to inquire of the chairman of the committee how this furniture is purchased; who determines, who decides in reference to it? I have seen in rooms occupied by twelve-hundred-dollar or fifteen-hundred-dollar clerks a single looking-glass costing $650, and seats costing more than half an average home in the district which I have the honor to represent upon this floor. There should certainly be some means provided for putting an end to extravagant expenditures for furniture in these public buildings.

Mr. BARBER. I hope this amendment will not prevail. I intend to offer one to increase the amount from $170,000 to $355,000. [Laughter.]

Mr. BLOUNT. You had better take what is in the bill.

Mr. CLYMER. Or perhaps you may lose it all.

Mr. BARBER. We have not any as it is in Chicago and, as the saying is, we might as well die for a sheep as a lamb. [Laughter.]

Mr. Chairman, it will be observed this $170,000 is for the furnishing of all the public buildings of the United States.

Mr. WARNER. I beg the gentleman's pardon, it is only for those under the Treasury Department.

Mr. BARBER. Under the control of the Treasury Department. Now, it is a fact there are in the United States one hundred and eleven public buildings under the control of that Department. It is also a fact that $1,000 per annum is a low estimate for wear and tear and necessary accommodations required growing out of the natural increase of business, which of itself would take out of this $170,000 the sum of $111,000 to begin with, leaving us only a balance of $60,000 to provide for four places—Austin, Texas; Fall River, Massachusetts; Chicago, Illinois, and Atlanta, Georgia.

I have not a word of disapproval of the manifest disposition of the Committee on Appropriations to keep down the aggregate appropriations within proper limits, but I am persuaded no man on that committee can realize the exceeding disadvantages under which the public service has been conducted in the city of Chicago. Since the great fire in 1871 we have been substantially without public convenience; in that behalf we have been poorly provided with accommodations, and the Government has exercised perhaps a wise economy in this direction during the past six or eight years in contemplation of the fact that we were to have a new building. We now have a new building in the city of Chicago completed by the magnanimity of the General Government, and we have already moved into it, but we have been only able to take into it the worn and battered furniture from the old barracks occupied for the last seven years. That is all the furniture we have in this magnificent palace which the Government has erected for our accommodation.

Now, sir, I have had prepared by the Treasury Department a statement in regard to the expenditures of the public service in this direction, and I desire to have that statement read on this occasion. I

do assure gentlemen on this floor that a calm consideration of the statements contained in this paper, in my judgment, will satisfy them that they ought not at this time to stay the hand of the General Government, which has heretofore been so liberally extended in this behalf. I ask that the statement be read.

The CHAIRMAN. The gentleman's time has expired.

Mr. DAVIS, of Illinois. I will yield my time to my colleague.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. DAVIS, of Illinois. I move to strike out the last word; and I yield to my colleague, [Mr. BARBER.]

Mr. BARBER. I am very much obliged to my colleague. I now ask the Clerk to read the statement that I have sent to the desk.

The Clerk read as follows:

In the estimates of appropriations for the public service for the fiscal year 1881, transmitted by the Secretary to Congress, there was estimated for furniture and repairs of furniture for public buildings the sum of $355,000, of which $255,000 was to provide furniture for four new buildings, Chicago, Atlanta, Fall River, and Austin, and the third story of the custom-house building at New Orleans, and the remaining $100,000 to meet requirements in the matter of furniture and repairs thereto in one hundred and eleven buildings already furnished. To meet these requirements the Committee on Appropriations has reported $170,000, an amount in itself insufficient to provide furniture for the custom-house building at Chicago, which building will contain all of the Federal offices in that city, namely: the customs service, internal-revenue service, United States sub-treasury offices, post-office, pension-office, marine hospital, surgeon's office, United States commissioner, special agents of Post-Office and Treasury Departments, United States circuit and district court rooms, district and circuit judges' rooms, grand and petit jury rooms, offices of clerk of district court and clerk of circuit court, United States district attorney, United States marshal, master in chancery, register in bankruptcy, railway mail service, steamboat inspectors, and several other minor and unimportant offices.

The Chicago building will contain a larger number of offices than any other United States public building outside of Washington. In other cities, such as New York and Boston, the Federal offices are in several distinct buildings, each building, as in New York, being occupied by different branches of the service. The inadequacy of the sum reported to provide furniture for all of the new buildings as well as the old may readily be perceived when it has been ascertained that the cost of furniture supplied for one building, the post-office and court-house, New York City, since its occupation in 1875, is close to $400,000; and yet that building is not completely furnished, the Department during the current year having received divers applications for new furniture and repairs and modifications to old required to meet the exigencies of the service. The custom-house at Chicago covers a whole square, four stories high and basement, dimensions one hundred and seventy by three hundred, and will, when occupied, contain the population of a good sized town.

Out of the sum estimated for furniture for the new buildings it was, after careful calculation, supposed that $200,000 would be sufficient to furnish the Chicago building, including counters and screens, screen partitions, benches for judges, clerk's, and marshal's desks in United States court rooms, platforms, file cases for the various offices, desks, chairs, letter-press stands, clocks, gas fixtures, carpets, and the many other articles of furniture which are absolutely needed in public offices for the transaction of business. The estimates for the other new buildings are exceedingly low, and any reduction made thereon must necessarily impair the efficiency of the service by depriving public offices of articles of furniture indispensable to the proper transaction of official business.

There are one hundred and eleven buildings under control of the Treasury Department which are to be provided for from the annual appropriation for furniture and repairs of furniture.

For years past $75,000 have been appropriated to supply new furniture and repair or alter old furniture, and this year it has been found that the sum appropriated was nearly quite exhausted by February 15 last. From the amount were paid all expenses for carpets, new furniture, repairing old furniture, supplying gas-fixtures, &c., during the current year. The outlay did not average $700 per building. In this year (1881) estimate of $100,000 is asked for, and this sum will, it is thought, enable the Department to meet only the most pressing necessities of the service. The average expenditure on the amount estimated would be $900 for each building. The estimate for the year 1881 embraced:

Atlanta, Georgia	$18,000
Austin, Texas	10,000
Fall River, Massachusetts	12,000
Chicago, Illinois	200,000
Third story court-house building, New Orleans	15,000
Furniture and repairs public buildings	100,000
Total	355,000

Only $170,000 has been provided by the House Committee on Appropriations for all the purposes above stated, and after deducting therefrom the sums estimated for buildings other than at Chicago and the amount asked for furniture and repairs of furniture for public buildings, there remains only $15,000 for furnishing the new building at Chicago.

The CHAIRMAN. If there be no objection the *pro forma* amendment will be considered as withdrawn.

Mr. BLOUNT. Mr. Chairman, I desire to say in reference to that paper which has just been read from the Clerk's desk that this is, as I am informed by the gentleman from Illinois himself, a communication which is signed by nobody. It seems to have been prepared by the clerk who has charge of the purchasing of furniture for the Department.

Now, I want the attention of the committee while I make a statement in reference to this very Chicago building alluded to there. This gentleman who made this statement—I refer to the gentleman who purchases the furniture for the public buildings of the country—was before the sub-committee of the Committee on Appropriations, and when interrogated as to the old furniture in these buildings answered emphatically that there was no old furniture, stating that the furniture in the rented buildings did not belong to the Government, but was rented with the building. In that same connection the question came up as to the completion of this building, and inquiry was made of the gentleman in charge of the construction, the chief architect being absent from the city, and immediately after the statement to which I have just referred, in response to questions, he used the following language: "I will tell you something that perhaps you do not know, and that is that every officer in Chicago is now at work in that building."

I asked the question how they did about furniture? He replied they were using the furniture that the Government owned in the public buildings they had been renting. This statement was made in the presence of this officer who purchases the furniture, and he could not and did not gainsay it.

Mr. BARBER. Will the gentleman from Georgia permit me——

Mr. BLOUNT. No, sir; I have not time now.

Now, upon this sort of testimony you are called upon to vote away $200,000 for a public building in the city of Chicago occupied and furnished at this hour.

Mr. BARBER. I hope the gentleman will allow me to have sent to the Clerk's desk and read another statement upon this point.

Mr. BLOUNT. I must decline to be interrupted. I cannot yield to the gentleman now. I say that this building in Chicago is already furnished, and I have given the authority for the statement. I suppose perhaps it is not furnished as elegantly as they would like to have it furnished.

Mr. WARNER. Of course not, and it never will be.

Mr. BLOUNT. And I have no doubt that the gentleman from Ohio [Mr. WARNER] in his remarks struck the true key when he says that there has been great wastefulness in reference to these public buildings and to the furnishing of them. There is no contrast in the mode of furnishing them now and that which prevailed prior to the war. It has been reported to me by a member of this House that in a conversation with the chairman of the committee it was stated that the office of the German prime minister, Mr. Bismarck, was furnished in such an humble way that it would be scorned by many men employed in some of our Departments.

Now, sir, during the Forty-fourth Congress we appropriated for this purpose $75,000. During the last Congress $120,000 was appropriated for the same purpose, and we were furnishing at that time some buildings to be completed as it is now proposed to furnish some that are to be completed. Many of these buildings referred to in this bill are already furnished. There is no occasion in view of the fact that the furniture is not of such an elegant description perhaps as they would desire that all this old furniture should be taken out and great expense incurred in putting in new styles and finer-finished furniture. We have increased the appropriation of last year in this bill to $175,000, having thus made ample allowance for the increase of furniture in these new buildings which are about completed. The Committee on Appropriations think that this is a liberal appropriation. Even the New York post-office building has not been furnished in a single year, nor has there been any pretense that it was necessary to furnish it at once, and I trust the majority side of the House do not intend, in view of the excuse that is brought here, to allow this bill to be loaded down with heavy amendments to be used in the coming political campaign by the other side of the House, as was done by Mr. Sherman last fall.

Mr. CANNON, of Illinois. Mr. Chairman, I wish to say a few words in response to the gentleman from Georgia.

The Committee on Appropriations was not left without a proper estimate for this appropriation and without full information in reference to the amounts required other than that which has been read from the Clerk's desk at the request of the gentleman from Illinois, [Mr. BARBER,] and which the gentleman from Georgia says was not signed.

On page 165 of the estimates submitted by the Secretary there is the amount of $100,000 for repairs of furniture in these one hundred and fifteen buildings. Then there is an estimate for the new building at Austin, Texas, of $10,000; for Fall River, Massachusetts, $12,000 is estimated; and in New Orleans, Louisiana, for third story, $15,000.

Since that time I understand that there has been a supplemental estimate for Atlanta, Georgia, of $15,000. Then there is an estimate of $200,000 for the Chicago custom-house; making the sum of three hundred and fifty-seven to three hundred and sixty thousand dollars in all that has been recommended.

This bill recommends $170,000. I think I am inclined to be as economical as anybody; but I do believe that the recommendation of the committee is not sufficient. The gentleman has well said and truly said that as to the Chicago custom-house it is now occupied. About a month ago the leases that the Government had of various buildings in Chicago expired; and the Secretary having an economical streak upon him, and very properly so, seeing that that great building was about complete, refused to renew the leases, and they went into the building with scanty furniture and with old furniture. Gentlemen will recollect that after the fire the Government officers had to occupy a great many different offices with not very expensive furniture, and they have been occupying them for several years past. Now, I suppose they can get along as they now are. I apprehend that in this magnificent building the House of Representatives could dispense with these desks and all this carpeting and get along with old boot-and-shoe boxes with a candle-dip set upon one corner.

Mr. BLOUNT. Is that what they are doing now?

Mr. CANNON, of Illinois. Oh, no.

Mr. BLOUNT. You can imagine a great many things.

Mr. CANNON, of Illinois. They have this insufficient, worn-out furniture, that has been used in various offices in Chicago, in that magnificent custom-house that cost six or seven millions of dollars.

I say it is not sufficient. I suppose, as I have suggested, that they could do their work on a dry-goods box and a candle-dip. But my opinion is this appropriation ought to be increased.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

Mr. BARBER. I offer the substitute for the pending amendment which I send to the desk.

The Clerk read as follows:

In lines 410 and 411 strike out "$170,000" and insert "$355,000."

Mr. BARBER. Had the reading of the document which was submitted here been concluded it would have appeared to the committee that the sum total of the estimates was the sum of $355,000, the amount named in the substitute. I am at a loss to understand what valid objection should prevail against the appropriation of that amount. It need not necessarily be expended. The expenditure of the entire sum of $355,000 would be largely in the discretion of the Secretary of the Treasury, and the effect of the adoption of the substitute would be simply to put at his disposal a sum sufficient to meet the exigencies of the public service.

I cannot tell what the gentleman who prepared this statement, Mr. Putney, who has the superintendence and purchase of furniture, has said to the Committee on Appropriations; but we have his written statement here presented for our information and action. I am guided solely by that, re-enforced by my own personal knowledge of the situation in Chicago.

In regard to the present condition of the building at Chicago, I desire to have read the letter which I send to the Clerk's desk, or a portion of it, written by Judge Blodgett of the United States district court in that city.

The Clerk read as follows:

CHICAGO, *May* 8, 1880.

MY DEAR SIR: By orders from the Secretary of the Treasury, as I understand, the Government offices, including the courts, are all moved into the new custom-house building, although not a room is fairly tenantable. The court-rooms are without furniture or fixtures save some of the old stuff moved from the Farwell building, and I understand there is no appropriation for furniture. I write this to call your attention to the matter, and to urge you to see to it that an adequate appropriation is got through to complete and furnish the building.

* * * * * * *

Hon. HIRAM BARBER,
Washington, D. C.

Mr. BARBER. Now, I beg gentlemen to remember this is not a local interest. It is not for the benefit of the citizens of Chicago that you erect that custom-house and furnish it. It is the great central point of the interior. It is the place where you eastern men come to assert your remedies against western men. It is the place where southern men come. It is, so to say, the battle-field of the national interests. You have been very generous to us in the past. You can afford to be generous still. We do not complain of the apparent illiberality on the part of the Committee on Appropriations. We believe they do not understand the precise exigencies as they exist there at this moment. I believe that if my friend from Georgia [Mr. BLOUNT] fully realized from personal observation the exact situation he would not hesitate a moment to ratify the proposed substitute.

[Here the hammer fell.]

Mr. WARNER. I understand that the gentleman who wrote the letter that has been read is the same gentleman who purchased the furniture and who made the statement to the committee referred to by the gentleman from Georgia.

Mr. BLOUNT. Before the gentleman from Pennsylvania and myself.

Mr. WARNER. And of course he would like to make very liberal purchases. It is not his own money he is to spend. That is all that communication is worth.

I wish to call the attention of the committee to one fact. The proposition of the gentleman from Chicago is substantially a proposition to appropriate at the rate of about $300 for furniture for every employé in the Treasury Department, including janitors, guards, and servants, and that, too, for additional furniture, when probably to each clerk and employé, on the average, there is furniture to twice that value already supplied. Three hundred dollars per man for furniture for employés each year! That you call economy! Why, sir, these clerks are getting so they cannot sit on seats like these here in this House. They must have stuffed seats, and covered, too, with morocco or with Russia leather. Nothing made in this country will suit them.

As has been stated by the gentleman from Georgia who has charge of this bill, Prince Bismarck does the work of the German Empire in a room with furniture that costs far less than the furniture of many of the rooms in this Capitol occupied by twelve and fifteen hundred dollar clerks. That is a new departure altogether. It is a kind of public economy heretofore unknown in our history, and I do not think it a healthy change.

Mr. HAWLEY. Will the gentleman yield to me for a question?

Mr. WARNER. Yes, sir.

Mr. HAWLEY. Is the gentleman aware that this is not confined to the Treasury Department buildings here, but includes one hundred and eleven custom-houses and court-houses all over the country?

Mr. WARNER. I am aware of that; but what I say is that the appropriation proposed would be at the rate of over $300 to an employé. And that is more than the cost of the furniture in the average homes in the district the gentleman from Connecticut represents. You may find in some rooms, besides Brussels carpets, French looking-glasses, costing five or six hundred dollars each, almost as much as a prairie farm is worth. I do protest against such wasteful expenditures. I say those who are responsible for the purchase of such furniture for use in these buildings ought to be shot on the spot if caught doing it again.

Mr. DAVIS, of Illinois. I move to strike out the last word. I wish to say to the Committee of the Whole that the estimate made for furniture for the building at Chicago, after a careful investigation, aggregated the sum of $200,000. I believe it is not claimed by the Committee on Appropriations that the amount recommended here to be appropriated, and which can be applied to this purpose, will completely furnish that building. I understand they propose, or the purpose is, to furnish but a portion of that building, some of the offices this year, and leave others to be furnished next year. I believe that the offices of the Government located in Chicago at this time are entitled to the full amount estimated for to furnish this building.

For the past seven or eight years scarcely a dollar has been expended for the public offices in Chicago, except for cheap and temporary furniture. The archives, books, and papers are to-day tumbled into that new building without any proper care or protection. I wish to say, further, that the building which the Government, through its generosity, has caused to be constructed in Chicago is not superior in any respect to the buildings which we erect for ourselves. And if that practice would obtain throughout the country we would have less difficulty in securing the appropriations for public buildings.

The building in Chicago is a good one, but it needs to be furnished, and it should be furnished in accordance with the character of the structure, and in some manner commensurate with the character and importance of the building.

The post-office of Chicago is located in this building. The post-office building of Chicago has been destroyed by fire three successive times. It has now but temporary pine furniture. Soon after the burning of the Honoré Block the post-office was removed into the basement of this building at a great saving to the Government, but to the great disadvantage of our citizens.

The other offices of the Government, the United States court and the collectors of internal revenue and customs, were removed to this building on the 1st day of May for the purpose of saving to this Government something like $30,000 or $40,000 annual rental. They went there before a dollar had been appropriated for furnishing the building, and the courts of the United States are being held there without any adequate facilities. I believe it to be wise economy for the Government at this time to appropriate a sufficient sum of money to provide furniture for this building, not elegant but substantial and satisfactory furniture, so that it will be convenient and of proper service and utility to our people. I hope the amendment of my colleague [Mr. BARBER] will prevail. I withdraw my *pro forma* amendment.

The question was taken upon the amendment of Mr. BARBER to the amendment of Mr. WARNER, and it was not agreed to.

Mr. CANNON. I move to amend the amendment of the gentleman from Ohio [Mr. WARNER] so as to make the amount appropriated $250,000. That will be an increase of only $50,000 over the amount named in the bill, and will be $100,000 less than the estimates.

Mr. CLAFLIN. I desire to advocate the amendment of the gentleman from Illinois, [Mr. CANNON.] I wish to call the attention of the Committee of the Whole and of the gentleman of the Committee on Appropriations having this bill in charge [Mr. BLOUNT] to the estimates of the Treasury for this purpose. We are often told by that gentleman that such and such amounts are in accordance with the estimates received from the Treasury Department. Now, in the estimates of the Treasury Department the sum of $250,000 is put down as necessary for repairs and purchase of furniture.

Mr. CANNON, of Illinois. Allow me to correct the gentleman; it is $350,000.

Mr. CLAFLIN. No; that amount was from the officer who purchases the furniture. I have from the gentleman from Georgia himself [Mr. BLOUNT] the information that the estimate of the Treasury was for $252,000.

Mr. BLOUNT. Will the gentleman allow me a moment?

Mr. CLAFLIN. Certainly.

Mr. BLOUNT. The gentleman and I misunderstood each other. The matter I had in mind when the gentleman asked me the question, and which I seem to have misunderstood, was the amount estimated for above the sum appropriated last year.

Mr. CLAFLIN. I asked the gentleman for the amount estimated for this item, and he stated that the estimate was for $250,000.

Mr. BLOUNT. I do not want the gentleman to misunderstand the matter. The Department asked for $100,000 for furniture and repairs. Then a little below in the Book of Estimates will be found an item of $237,000 for new furniture for building. And afterward they sent in an item for the building at Atlanta, Georgia, of $18,000; making a total of $355,000.

Mr. CLAFLIN. Then it would appear that if we vote the amount named in the amendment of the gentleman from Illinois [Mr. CANNON] we will be $100,000 inside of the estimates of the Treasury Department. I think that will be cutting down the estimates enough.

[Cries of "Vote!" "Vote!"]

Mr. BLOUNT. I will take only a moment. My friend from Mas-

sachusetts [Mr. CRAPO] says that I have often referred to the estimates as a guide for the action of the House. I desire to say to the gentleman that the estimates here made were made by the very officer to whose conduct I have to-day referred, and I shall not take up the time of the committee any further about that.

I trust the Committee of the Whole will see fit to stand by the report of the Committee on Appropriations in this regard, which is very far in excess of anything done by Congress heretofore for years. And I would appeal to gentlemen on this side of the House to beware lest it happen that we scarcely get away from here before we are ridiculed for our extravagance in appropriations.

Mr. O'NEILL. Ridiculed by whom?

Mr. ALDRICH, of Illinois. I move to strike out the last word for the purpose of saying that I support the amendment of my colleague, [Mr. CANNON,] not because the amount named in that amendment is sufficient, but because it is better than the amount named in the bill. From the discussion perhaps some gentlemen may think this has nothing to do with any place except Chicago. I hope the Committee of the Whole will remember that there are four new buildings to be furnished, besides repairs in all the old ones. We speak of Chicago particularly because we know the facts of the case as to that city. I know, and I suppose other members who have been there know very well, that the furniture in the old building there is of very little account, and that which is worth anything is not suitable for present purposes. That portion of the old furniture most expensive in its character was used in the assistant treasurer's office, and the new building is so constructed that this furniture is not suitable. Yet, although it cannot be used, it cannot be sold to help pay for new furniture. If furniture which cannot be used should be sold, the money under the law would go into the Treasury.

The first estimate was made when furniture was 40 per cent. cheaper than it is now. Since that estimate was made the cost of furniture has increased about 40 per cent. on an average. Hence the first estimate has been revised recently, as the Committee on Appropriations know very well. The Supervising Architect, who has recently been in Chicago, has written to the Secretary of the Treasury that the estimate was not sufficient, and has asked that $40,000 be added for Chicago alone. Such a letter has been sent to the committee. Although it has not been presented to the House or read here, I have the assurance that the Secretary of the Treasury has within one or two days sent to the committee a letter assuring them that the appropriation for Chicago should be increased $40,000. I have here an official letter from the acting supervising architect stating this fact.

If gentlemen who are opposing this appropriation would go through that and the other buildings they would see the absolute necessity of this furniture. We have finished the building. Is it not economy to furnish it—not extravagantly but with such furniture as is needed? The judges are occupying the building now; and it is furnished only with bare pine benches. The amount proposed is absolutely needed to provide proper furniture.

The question being taken on the amendment of Mr. CANNON, of Illinois, to the amendment of Mr. WARNER, there were—ayes 65, noes 76; no quorum voting.

Mr. ALDRICH, of Illinois. I call for tellers.

Tellers were ordered; and Mr. CANNON, of Illinois, and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 82, noes 79.

So the amendment was agreed to.

Mr. BLOUNT. I give notice that I shall ask the yeas and nays on this amendment in the House.

The CHAIRMAN. The question now recurs on the amendment as amended. If no objection be made it will be considered as adopted, being precisely the same as the amendment already voted on.

Mr. FINLEY. I move to amend by striking out the last word. I hope gentlemen on this side of the House will pause a moment and consider before voting for this amendment. For the little time our republican friends are to remain in office in the public buildings of this country they can get along with the old furniture that they now have. This appropriation bill has been already increased a million dollars over the amount of the last sundry civil appropriation act. I want to call the attention of my democratic friends to the fact that whenever a proposition comes up for an increase in this bill the other side of the House votes for the amendment, but the moment this Congress closes every one of them will go before the country and point to the extravagance of a democratic Congress. It is to their interest as a political party to swell this appropriation bill to as large an amount as possible. This is their purpose, and they know that it is their purpose. The democrat who so far forgets himself as to aid them by furnishing a weapon to be used for the slaughter of our party does not deserve success in the next campaign.

Mr. CANNON, of Illinois. I wish to say only a word in reply to the gentleman from Ohio, [Mr. FINLEY.] I am sorry that during all the long months of this Congress, while all the bills have passed and so far during the progress of this bill, the gentleman from Ohio has held his peace, but has grown economical right here and nowhere else. If this money is not needed I do not ask that it be voted. I only desire to call attention again to the fact that while the total estimate for this purpose is $350,000 the amendment proposes to expend $250,000, $100,000 less than the estimate.

Mr. WARNER. The estimate of whom?

Mr. CANNON, of Illinois. The estimate of the Secretary of the Treasury, which I hold in my hand, the estimate as contained in the regular Book of Estimates, duly submitted and referred to the Committee on Appropriations through the Speaker. This money is needed for all the buildings in the United States under the Treasury Department, including five new buildings, four of them south of Mason and Dixon's line.

But I do not care where the buildings are situated. As the Government has gone to the expense of erecting these buildings—erecting them extravagantly in many cases, I will admit—as we have gone to the expense of constructing them, I say we should vote the small amount of money required to furnish them so that the buildings may be utilized.

Gentlemen seem to think this appropriation is a peculiar favor to Chicago. It is not. Chicago is the great commercial city of the West—the second in the country in its business—a city where a large portion of the people of the great Northwest and a good portion of the South transact their business. If you do not want the Government to utilize its public buildings at that city, do not provide for furniture; but if you want to utilize the building for the collection of your revenues, of which the State of Illinois pays 50 per cent. more than any other State of the Union, then give proper facilities. If you do not want to furnish such facilities, let the amendment be voted down.

Mr. FINLEY, by unanimous consent, withdrew his formal amendment.

Mr. SPARKS. I renew the amendment.

Mr. Chairman, my colleague [Mr. CANNON] has been speaking eloquently of and for the grand State of Illinois, and with some vehemence emphasizes the fact that a part of this appropriation goes to a city of that State. Now, sir, this is all very well. But I must deny that he has any more right to speak for that State than myself, as we both come from and in part represent it on this floor. And I must further deny that he feels any greater pride in it or would do more to advance its prosperity than myself. But, sir, that is not the question. This is an appropriation for the furniture and repair of furniture for public buildings. He thinks the appropriation ought to be increased beyond what have been included in the bill by the Committee on Appropriations, and that from $170,000 it should be increased to $250,000, and just awhile ago he voted to increase it to $350,000. Why? For the reason that the newly-built custom-house at Chicago requires furnishing.

Mr. CANNON, of Illinois. And other new buildings.

Mr. SPARKS. And to enforce his views my colleague quotes from the estimates of the Secretary of the Treasury touching the amount of money deemed necessary to purchase the furniture, &c., required. I see that the Secretary of the Treasury in his estimates puts down the item of furnishing the Chicago custom-house at $200,000. Now, sir, in my judgment such an estimate is an outrage on common decency; and the fact that I am a Representative from the State in which it is located, instead of being an inducement to support such extravagance, affords a strong reason why I should earnestly denounce it. Two hundred thousand dollars for the furniture of this single public building!

And that, sir, is the character of these estimates paraded here by my colleague as authority for this increase. That is to say, this one building is to have $200,000 for furniture in addition to the furniture it already has, and which is all that has been found to be necessary for the officials of that building in carrying on the business where they have been heretofore. The custom-house at Chicago does not need $200,000 for furniture in addition to what it already has, nor the half of it. That custom-house cannot legitimately use it unless there is exercised in its purchase that character of reckless waste and princely extravagance that no man who has a correct appreciation of republican institutions ought to vote for or in any way sanction. Sir, we have been drifting too far in this direction and ought to call a halt. This thing of taking the money from the people's pockets to pay for and supply their official servants extravagant and luxurious surroundings so infinitely beyond what they for themselves can afford is un-American. I speak for the millions of laboring people of the State of Illinois, as my colleague should do, and I know that people indorse and heartily join me in condemnation of such an extravagant appropriation as the estimates of this Secretary of the Treasury would require.

Mr. BLOUNT. Mr. Chairman, I desire to ask the attention of this committee for a short time. I have a table here which I shall ask to be printed at the close of my remarks. It shows the enormous expenditure by this Government in appropriation bills when the republican party was in charge of this House. To go no further back than 1873, it was in round numbers $180,000,000; 1874, $189,000,000; 1875, $184,000,000, and 1876, $177,000,000, followed by deficiencies, which they endeavored to fasten upon a democratic House, of about $7,500,000, which, added to the other amount, would make $184,000,000.

But a democratic House came here and reduced those appropriations to $154,000,000, in round numbers. At the very second session they reduced them to $141,000,000. Then we had on this side a majority of over eighty, enough to give force to the wishes of the majority. In the next House, with a decreased majority on this side,

the appropriation ran up to $157,000,000, and in the next Congress to $192,000,000, from which is to be deducted $25,000,000 for pensions.

The Committee on Appropriations of the last House were compelled to increase expenditures by reason of the very small majority on the democratic side. And for one, sir, I trust that the democratic party in this House will not allow this condition of things to continue, eight or ten filing down in the center and uniting with a solid republican vote on the other side of the House and have it go out and declared to the country as a democratic record.

Last fall Mr. Sherman, the Secretary of the Treasury, in the State of Ohio, in a campaign speech, arraigned your very conduct upon this subject, and referred to the fact of your increase of expenditures and arraigned the party before the people of Ohio on that very ground. I trust, therefore, when expenditures are reasonable, gentlemen will abate any jealousy they may have and stand by the report of their own committee where they can justly do so.

I find gentlemen on the other side who, after concurring in the reports of the committee, uniformly vote with their party upon this floor. There is no responsibility upon them, and whatever we do let us understand, although it may be done by a small portion of the democratic party and a solid republican vote on the other side, goes to the country as our own. For one, sir, I protest against any such record.

The CHAIRMAN. The gentleman's time has expired.

Mr. BLOUNT. The following is the table to which I have referred:

Statement showing the amount appropriated under each of the various appropriation bills for each of the fiscal years since 1867 *until* 1880, *both inclusive, and aggregate of the whole.*

Title of bills.	1867.	1868.	1869.	1870.	1871.	1872.	1873.
Legislative, &c	$25,430,459 89	$23,400,191 89	$17,906,317 09	$20,354,774 76	$18,949,258 40	$19,518,229 24	$18,671,785 74
Military Academy	301,457 00	368,913 00	276,512 00	274,488 88	314,869 20	316,269 50	326,101 32
Army	38,004,241 83	23,874,454 00	33,082,093 00	33,350,893 20	29,321,367 22	27,719,580 00	28,683,615 32
Navy	18,904,514 46	16,288,244 01	17,356,350 00	15,832,246 00	19,250,290 29	19,832,317 25	18,296,733 95
Indian	3,780,772 82	3,042,003 86	3,847,528 45	6,121,004 81	6,324,164 16	5,448,540 95	6,349,462 04
Pensions	17,940,000 00	33,280,000 00	30,350,000 00	19,250,000 00	30,000,000 00	29,050,000 00	30,480,000 00
Post-Office	19,679,500 00	19,133,000 00	21,069,000 00	30,279,153 00	26,288,993 00	26,032,898 00	28,519,341 84
Consular and diplomatic	1,405,494 00	1,425,454 00	1,212,434 00	1,110,734 00	1,041,347 00	1,466,144 00	1,219,659 00
Sundry civil	7,074,126 76	5,307,191 33	8,174,979 66	9,976,228 81	13,447,721 70	24,161,773 86	20,148,413 90
Fortifications	1,540,000 00	1,290,000 00	.....	.....	1,311,500 00	1,627,500 00	2,037,000 00
Deficiencies	11,629,392 67	17,002,222 85	23,677,009 60	6,421,766 46	14,023,131 04	6,045,259 96	12,978,418 60
Rivers and harbors	3,698,047 91	4,702,781 70	.....	2,000,000 00	3,945,900 00	4,407,500 96	5,588,000 00
Miscellaneous	12,705,635 60	1,421,163 46	12,200,200 72	527,988 31	4,947,845 72	1,261,208 80	8,383,743 23
Total	162,093,642 94	150,535,620 15	167,226,672 60	145,499,278 23	169,135,187 73	166,887,211 57	180,328,174 19

Title of bills.	1874.	1875.	1876.	1877.	1878.	1879.	1880.*
Legislative, &c	$17,120,496 60	$20,783,900 80	$18,902,236 99	$14,963,373 30	$15,450,345 30	.....	.....
Military Academy	344,317 56	339,835 00	364,740 00	290,065 00	286,604 00	.....	.....
Army	31,796,008 81	27,788,500 00	27,933,830 00	25,987,167 90	25,612,500 00	.....	.....
Navy	22,276,257 65	20,813,946 20	17,001,006 40	12,742,155 40	13,541,024 40	.....	.....
Indian	5,541,418 90	5,680,651 96	5,360,554 55	4,572,732 01	4,829,865 69	.....	.....
Pensions	30,480,000 00	29,980,000 00	30,000,000 00	29,533,500 00	28,533,000 00	.....	.....
Post-Office	32,529,167 00	35,756,091 00	37,524,361 00	34,585,701 00	33,584,143 00	.....	.....
Consular and diplomatic	1,311,359 00	3,404,804 00	1,374,985 00	1,187,197 50	1,138,374 50	.....	.....
Sundry civil	32,186,129 09	27,009,744 81	26,644,350 09	16,354,474 58	17,133,750 06	.....	.....
Fortifications	1,899,000 00	904,000 00	850,000 00	315,000 00	275,000 00	.....	.....
Deficiencies	4,083,914 26	4,703,699 18	2,908,177 09	2,745,480 97	.....	.....	.....
Rivers and harbors	6,102,900 00	5,218,000 00	6,643,517 50	5,015,000 00	.....	.....	.....
Miscellaneous	3,354,824 17	1,921,614 13	1,862,929 19	5,347,505 84	1,262,061 31	.....	.....
Total	189,025,793 04	184,304,787 08	177,370,687 81	154,390,943 50	141,646,668 26	$157,213,933 77	$192,860,237 17

* The appropriations for 1880 include $26,867,200 to pay arrears of pension, which if deducted would reduce the regular ordinary annual appropriations to $165,993,037.17 of which amount $4,633,000 was for deficiencies on account of previous years.

Mr. WEAVER. Why did you not say something about the greenbackers?

Mr. FINLEY. Yes; the greenbackers have stood by the flag.

Mr. CALKINS. Mr. Chairman, I did not intend to say anything about this appropriation for the Chicago custom-house because I do not live in Illinois; but the exhibition of the two gentlemen who have last spoken in undertaking to rally the democratic majority is somewhat remarkable at this time. Only a few days ago, by almost the entire vote of this side of the House, in an appropriation bill, we gave to the South millions of dollars for the improvement of your streams and rivers. You never thought then of trying to wake up your party spirit. We voted for it because it was right. This side of the House never shrinks from doing right. It is not a question with us what party necessity requires, but what is right; and finding that, we grapple it with "hooks of steel."

We stand here to-day ready to help the people of the South, North, East, or West, and to make any appropriation that is right and proper under the Government for the support of the postal service, for the purpose of carrying mails to their very doors by letter-carriers in all the big cities of the country; but when one of the great cities of the Northwest asks simply what is right, and the people are willing they shall have and ought to have, you come forward with the rallying cry of retrenchment and reform. I hope the whippers-in on the other side of the House will find they cannot strike down the independence of character of gentlemen on that side which has been recently so nobly displayed. Do right; that is all we ask of you; and do not let the cry of party necessity prevent you from so doing.

Mr. FINLEY. I wish to say a word in reply to the gentleman to correct a statement—— [Cries of "Vote!" "Vote!"]

The CHAIRMAN. Debate on this amendment is exhausted. The question now is on the adoption of the amendment of the gentleman from Illinois as amended.

The committee divided; and there were—ayes 73, noes 84.

Mr. CANNON, of Illinois, demanded tellers.

Tellers were ordered; and Mr. CANNON, of Illinois, and Mr. CLYMER were appointed.

The committee again divided; and the tellers reported—ayes 85, noes 90.

So the amendment, as amended, was not agreed to.

The Clerk read as follows:

Suppressing counterfeiting and similar felonies: For expenses of detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, as well as the coins of the United States, and other felonies against the Government, and for no other purpose whatever, $80,000.

Mr. FINLEY. I reserve the point of order on that section in order to ask a question. I wish to inquire whether this is to pay for what is known as the secret-service detectives of the Department, and if so, what law there is for the employment of these persons.

Mr. BLOUNT. Mr. Chairman, I do not know that there is any point of order to be made against this section. I would like to understand what the proposition of the gentleman from Ohio is.

Mr. ATKINS. It is for the purpose of paying secret agents and detectives for the purpose of detecting counterfeiting and other felonies.

Mr. BLOUNT. That I understand; but the point made by the gentleman from Ohio——

Mr. ATKINS. I was going to remark, if the gentleman from Georgia will permit me, that I do not think the point of order can be made against this, for the reason that this is a continuing appropriation and has been made from year to year.

Mr. FINLEY. Then I make the point of order, if that is the only ground on which this appropriation is made. My point against it is that it is not in accordance with existing law. The gentleman admits, as I understand, that there is no law authorizing the employment of these secret detectives by the Department. The language of this section is: "For detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, as well as the coin of the United States, and other felonies against the Government."

Now, we make ample provision for the suppression of crime as well as for the trial of criminals, and this is purely and wholly an appropriation to employ and pay a bureau of secret detectives.

Now, Mr. Chairman, for the past ten years there has been an annual appropriation, with the exception of the last year, of about $100,000 for the use of the Treasury Department, authorizing the employment and payment of secret detectives to ferret out crimes; but in all of the time that this money has been expended there has never to my knowledge—and I have taken great pains to ascertain upon that subject—I say there has never been to my knowledge a report of how that money is used. When the inquiry is made as to the manner in which these detectives are employed we are told that the money is being used to detect persons engaged in felonies and crimes against the Government, but that it is not for the benefit of the public service to make known the uses to which this money is put.

I remember, and probably every gentleman here remembers, that a short time ago a distinguished Senator was hounded down by these detectives. I allude to Senator Conover, of Florida, who was hounded by these detective officers, who managed to get up a false story in reference to this gentleman which brought about an investigation and brought out the facts, when it was proved that the whole statement was wholly without a shadow of foundation. I speak in connection with the Hot Springs bill, that it was shown to have been all the work of these secret detectives or of this bureau as I have been credibly informed, and my information comes from such a source that it cannot be gainsaid.

Now, Mr. Chairman, if it be true that there is no law authorizing this bureau of detectives further than the fact that there has been an appropriation of $100,000, or any other sum, made annually for a number of years, I claim that there is no legal ground for continuing it. I claim that when an appropriation is made against which a point of order would lie under the rules, if no point of order is made and it passes into a law, it is only for the time being and not a permanent law. It does not make it a law coming within the legal construction of the twenty-first rule that it will not be subject to the point of order. It expires with the appropriation first made. My friend from Tennessee [Mr. ATKINS] says that it has been the custom and habit to make this appropriation, but he knows of no law. I will say to him that he will find no law for it whatever. I have looked through the statutes carefully and find nothing to justify it. Can it be insisted on, will the Chair rule, that because an appropriation was made against which the point of order would have been good when it was made, thereby that becomes a law for all time, and we are forced to go, notwithstanding the point of order made against it, and make an appropriation for it continuously? I have no idea that the Chair will rule in such a way as that.

Under the very primary construction of the rule, and in accordance with its express terms, no appropriation shall be made except as provided by existing law, and an appropriation bill cannot make it a law simply by providing an appropriation to carry it on. Now I maintain if there be no law for this appropriation we should not make it at all. Why shall we appropriate $80,000 to pay the employés of a corps of secret detectives to be used for whatever secret purpose the Secretary of the Treasury may see fit to use them? As I have stated, we have ample provisions, under our laws, for the suppression of crime, for bringing to punishment those who counterfeit the coin or money of the Government. We make appropriations in other bills to run our courts, and I do not believe that it is the policy, aside from the point of order that stands against this, to appropriate $80,000 for the secret-service fund, to be placed under the control of the Secretary of the Treasury.

Mr. BLOUNT. Mr. Chairman——

The CHAIRMAN. The Chair is ready to rule upon the point of order.

Mr. BLOUNT. I was about to call the attention of the Chair to an authority.

The CHAIRMAN. The Chair would hear the gentleman with pleasure, but he is already prepared to rule, and his ruling will probably comport with the ideas of the gentleman from Georgia. The Chair finds there has been an appropriation made from Congress to Congress for the purposes stated in this section. He is therefore of opinion it is such an object as creates one of the exceptions provided for in clause 3 of Rule XXI. The Chair overrules the point of order.

MESSAGE FROM THE PRESIDENT.

Here the committee informally rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, a message in writing, from the President of the United States, was communicated to the House by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed bills of the following titles:

A bill (H. R. No. 4507) to abolish all tolls at the Louisville and Portland Canal;

A bill (H. R. No. 6096) to remove the political disabilities of Francis L. Galt;

A bill (H. R. No. 5396) to remove the political disabilities of Thomas L. Harrison, of Mobile, Alabama;

A bill (H. R. No. 3989) to remove the political disabilities of William B. Taliaferro, of Virginia;

A bill (H. R. No. 2481) to create an additional land district in the State of Kansas; and

A bill (H. R. No. 2850) to provide a building for the use of the United States circuit and district courts, custom-house, and post-office at Pittsburgh, Pennsylvania.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The Clerk read as follows:

Examination of rebel archives and records of captured property: To enable the Secretary of the Treasury to have the records of captured and abandoned property examined, and information furnished therefrom, for the use and protection of the Government, $5,000.

Mr. YOUNG, of Tennessee. I move to strike out the paragraph that has just been read.

This is one of those appropriations that have been carried forward from time to time by mere force of habit; there has not been the slightest necessity for it for more than five years. The appropriation was originally intended to aid the Attorney-General with information necessary to defend suits against the Government for proceeds of captured and abandoned property. The statute of limitations has long since run against all claims upon that fund; and if they are paid at all now, it must be by act of Congress. There is no necessity for furnishing anybody with information on this subject; the interest of the Government is as much protected by the Secretary of the Treasury without this as if there were a thousand agents employed. The doors of the Treasury are absolutely closed against anybody who may set up a claim against this captured and abandoned property fund, and they can only be unlocked by Congress.

I have an amendment which I propose to offer to a subsequent section of the bill which will demonstrate more clearly than anything I can say now of the absurdity of making any such appropriation as is proposed in this clause of the bill. I suggest with due deference to the distinguished gentleman who has this bill in charge that this is an item which might very properly be stricken out in pursuance of that rigid economy which he has just been so earnestly advocating.

According to the showing made by the gentleman from Georgia, [Mr. BLOUNT,] in the lecture which he has just delivered to this side of the House, the economic reforms inaugurated by the democratic majority in the Forty-fourth Congress worked rather badly, for, as he puts it, while we reduced the expenditures of the Government ten or twelve millions of dollars, there was also a reduction two years afterward of sixty of the eighty democratic majority which we then had.

Mr. BLOUNT. The gentleman from Tennessee [Mr. YOUNG] is quite mistaken in saying that this is an appropriation which has run on from year to year by the mere force of habit. It has been placed here because there has been going on for several years and has not yet been completed the examination of these archives and records, which it has been stated to the committee—and I suppose there is no doubt about it—have been used very often in suits against the Government, notably in the southern claims commission. It is true that has expired. My friend from Tennessee says the statute of limitations bars these cases. I would like to know what statute of limitations ever barred claimants from getting into this House with claims even though they be a century old?

It is only right the Government should continue to have the benefit of these records which we have gone on year after year examining and making records of them. It is just as important to protect the Government against this as against any other class of claims. It has always been so held by every Congress which has met here. I do not know where my friend gets his information, but it is very different from that which the Committee on Appropriations had.

Mr. YOUNG, of Tennessee. I got it from personal information on the subject. [Cries of "Question!" "Question!"] Gentlemen will get the question by and by. I want to be heard a little further on this question.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. YOUNG, of Tennessee. Then I move to amend by making the amount four thousand instead of five thousand.

It is inquired how I know that this appropriation is unnecessary, and I desire to say in answer, for the information of the House, that I know from personal inquiry and examination that there has not been a single report made to this House by any agent employed in this Bureau of Captured and Abandoned Property for five years past; and I do not think any such report has been made anywhere else.

As I have said before, no disposition can now be made of any part of this fund without the action of Congress, and I want to ask the gentleman from Georgia [Mr. BLOUNT] if he deems it necessary to employ an agent at $5,000 a year to inform us of what legislation is necessary in respect to this matter? The statute of limitation has long since barred the right of every citizen to bring suit against the Government to recover any part of this fund, and the only tribunal claimants can now appeal to is the Congress of the United States.

I do not know of a single bill pending before Congress to remove this bar. When bills are presented for that purpose it will be quite time enough to employ agents to give us information upon this subject.

There is not much danger of any money getting out of the Treasury to pay any claim while the present Secretary remains at the head of the Department, for if he has ever paid a claim, or recommended the payment of one, since he has been there, I have yet to hear of it. So I think every gentleman here may rest entirely easy, in perfect confidence that Secretary Sherman will be able to take care of all the

money in the Treasury without employing agents to advise him how to do it.

Mr. HAMMOND, of Georgia. I will state for the information of the gentleman from Tennessee [Mr. YOUNG] that there is a large claim now pending in behalf of the State of Georgia.

Mr. YOUNG, of Tennessee. In the form of a bill before Congress?

Mr. HAMMOND, of Georgia. Yes, sir.

Mr. YOUNG, of Tennessee. Well, do you think the State of Georgia needs the help of a Government agent to establish its right?

Mr. HAMMOND, of Georgia. I am simply correcting your statement of facts.

Mr. YOUNG, of Tennessee. I never have heard of such a claim. I withdraw my amendment.

The question was taken on the motion of Mr. YOUNG, of Tennessee, to strike out the paragraph; and it was not agreed to upon a division—ayes 45, noes 77.

The Clerk read the following:

To enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, $100,000.

Mr. STEELE. I would inquire of the gentleman in charge of this bill [Mr. BLOUNT] whether or not the Secretary of the Treasury has not at this time sufficient accommodation for the proper safe-keeping of the coin in the Treasury, or whether he requires additional means to keep that fund intact?

Mr. BLOUNT. If I understand the inquiry of the gentleman, it is whether or not the Secretary of the Treasury thinks this amount necessary for the preservation of the coin in the Treasury. The information before the Committee on Appropriations is that this sum is absolutely necessary. I hold in my hand a communication from the Secretary of the Treasury on this subject, but it is rather too long for me to read. As we have the silver, he says we ought to have proper vaults to keep it in.

Mr. BUCKNER. Is there any law now on the statute-book authorizing this appropriation? I make the point of order that there is no existing law under which this appropriation can be made.

Mr. BLOUNT. I will send to the Clerk's desk to be read the letter from the Secretary of the Treasury.

Mr. BUCKNER. That is not meeting my point of order.

Mr. BLOUNT. I know the gentleman will allow the letter to be read, and he can reserve his point of order.

The Clerk read as follows:

TREASURY DEPARTMENT, *April* 9, 1880.

SIR: I have the honor to call your attention to the needs of the Government for greater facilities for the storage of silver. Since the passage of the silver bill the accumulation of silver at the various sub-treasuries has been such that it has been necessary to construct several new vaults, which are now being rapidly filled and will soon be crowded to their utmost capacity, as shown by Department letter to you of the 5th ultimo.

At the present rate of coinage it is necessary that extraordinary vault accommodations be provided at an early day, or the Department will find itself in the position of having a large amount of silver coin on hand without means for its protection. The construction of vaults of the required size will involve in some instances essential alterations in, or additions to, existing buildings, and I would respectfully recommend that, if it is the intention of Congress to continue in force the silver bill, $100,000 be appropriated during the present session for providing suitable accommodations for the storage of silver.

Very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives, Washington, D. C.

Mr. BLOUNT. I do not think the point of order lies against this paragraph.

Mr. BUCKNER. Why not?

Mr. BLOUNT. I am going to tell you why. The law provides for the coinage of this silver. It is on our hands now and the guarding of it is a necessary incident, just as providing furniture for buildings which the law authorizes to be constructed.

Mr. BUCKNER. That is begging the whole question.

Mr. HARRIS, of Virginia. Where is the law authorizing this?

Mr. BUCKNER. I say it is begging the whole question. A year or two ago there was a law passed by Congress authorizing expenditures for the purpose of enlarging the sub-treasury building at New York to hold the coin of the country. There was a law passed for that purpose and that law was executed.

The gentleman now says that there is a necessity for this appropriation. Let us have the law authorizing it before we are called upon to appropriate $100,000 for this purpose. As to the necessity for this appropriation, I do not believe in it, but I am not going into that question. The question now is whether there is any law on the statute-book from which power can be inferred authorizing this appropriation of $100,000 contrary to the rule of the House.

Mr. WRIGHT. I move to strike out the paragraph.

The CHAIRMAN. The question is upon the point of order raised against the paragraph, and the motion to strike out is not necessary at this time.

Mr. GARFIELD. If by a provision in the legislative, executive, and judicial appropriation bill the number of clerks in any Department or bureau is increased, I take it that no one would doubt that that provision would be a sufficient law to authorize the purchase of a sufficient number of desks for the office in which these clerks were authorized to be appointed. It would not be necessary to get a special statute passed for the purchase of an additional amount of paper, ink, and stationery to be used in the particular bureau in which the additional clerks had been appointed by authority of law.

We have a law compelling the Director of the Mint to coin at least two million silver dollars a month. We have another law which allows the purchase of silver bullion and the issue of certificates therefor. Under those laws the United States this day owns $64,000,000 in silver coin, dollars and fractional coin, and $4,000,000 of silver bullion besides, making $68,000,000 of silver coin and bullion, in addition to the gold coin which is owned by the United States.

Now, an ordinary car-load of concentrated silver is eight tons. We own to-day, and are holding in our sub-treasury buildings, two hundred and fifty car-loads of silver coin and silver bullion. The coinage for the next three or four or five months, if additional accommodations are not provided, will necessarily have to be stacked up simply without protection, without a vault to put it in, without a place in which to lock it up, if the law continues as it now is.

The necessity for this appropriation is just as manifest as the necessity for an appropriation for a desk, for a lock and key, or for pens, ink, and paper for additional clerks authorized by law.

Mr. WRIGHT. I cannot understand the policy of this Government——

Mr. GARFIELD. I do not believe in the policy of continuing the coinage of silver; but that is not the question now. The question is upon the point of order, and I say that if you will buy horses you must have stables for them.

Mr. WRIGHT. I cannot understand the policy of this Government in appropriating $100,000 to erect a building in which to preserve its coin. Let that coin go to pay the public debt, and then you need not put up a building in which to keep it. But the policy of the present Administration is to fund the debt which is maturing this year and next year, to issue new bonds bearing interest, and meanwhile to pay $100,000 for the erection of a building in which to put our coin, which should be appropriated to the payment of the national debt.

Gentlemen cannot disguise the fact that there is a disposition on the part of the Secretary of the Treasury to put shackles upon this silver coin—to prevent it from going into circulation, to prevent it from being used. Why, sir, the silver dollar is a legal tender for any debt owing by the United States. We have fixed the value of that dollar. Our bonded debt is maturing. We have eight hundred millions of debt that will mature during the present and the next year. The Secretary of the Treasury is already redeeming in advance the outstanding bonds, and at the same time is asking us for an appropriation of $100,000 for a building in which to put away the silver that should go to cancel the public debt.

Mr. HAYES. Will the gentleman allow me to ask him a question?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WRIGHT] is addressing the Chair upon the point of order.

Mr. HAYES. But he yields to me.

The CHAIRMAN. The Chair thinks it improper to begin a colloquy upon a question of order.

Mr. HAYES. If the gentleman sees fit to yield to me, is not that sufficient?

The CHAIRMAN. The Chair is only hearing the gentleman from Pennsylvania upon the point of order, to satisfy himself as to what ruling may be proper. In the opinion of the Chair it would be improper for the gentleman to begin a colloquy.

Mr. WRIGHT. If I have the opportunity I shall move to strike out the section, because it has no business in the bill.

The CHAIRMAN. The question before the House is simply on the point of order against this paragraph. The Chair would like to hear the gentleman upon that point.

Mr. WRIGHT. Oh, as to the question of order I have nothing to say. [Laughter.]

Mr. CLAFLIN. I object to the gentleman speaking if he does not speak to the question of order.

Mr. BLACKBURN. Mr. Chairman, I believe the point of order is well taken.

Mr. WRIGHT. What is the point of order?

Mr. BLACKBURN. That there is no law authorizing this appropriation. This clause of the bill reads:

To enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, $100,000.

Now, I ask any member of the Committee of the Whole to tell me whether, if this bill should pass with this paragraph in it, the Secretary of the Treasury would not be authorized to construct a building. There is now no law authorizing the construction of such a building, and unless there be a law then the point of order is certainly well taken. I do not believe that the gentleman from Ohio [Mr. GARFIELD] or any gentleman advocating this paragraph of the bill will undertake to say that there is to-day in existence any provision of statute law authorizing the appropriation of one dollar for this purpose. I believe the point of order is well taken. Especially am I induced and constrained to declare my conviction of the anomaly and absurdity of a debtor who is not yet able to cancel his obligations undertaking to build banks or buy vaults in which to store and hoard his coin to which his creditors are entitled.

Mr. MCKENZIE. If there is logic in the argument of the gentleman from Georgia, then the Sergeant-at-Arms, when he pays any

member of the House his salary, ought to furnish him with a pocket-book to put it in.

Mr. WARNER. Mr. Chairman, there are, I think, now two or three bills pending in the House covering this subject. Certainly there are one or two before the Committee on Coinage, Weights, and Measures relating to the mints and their vaults. It is a fact that the vaults of the mint at Philadelphia are in a very unsafe condition. In common with other gentlemen I visited the other day some of those vaults in which was stored not silver but some $9,000,000 of gold, protected only by brick walls fourteen inches thick with no lining. I am satisfied that the vaults not only there but in other places need to be enlarged and improved, not only for the storing of silver, but for the safe-keeping of gold as well.

I agree, however, with my friend from Pennsylvania [Mr. WRIGHT] and my friend from Kentucky [Mr. BLACKBURN] that with a debt of nearly $750,000,000, maturing next year it is not necessary to make extensive provision for storing our money.

Mr. GARFIELD. Then you would not protect it until the debt is paid?

Mr. WARNER. I would protect it until then, assuredly; and if it cannot be done specifically under other bills I would vote for this measure. I am in favor of an appropriation to improve and make safe the vaults of the various mints and assay offices.

Mr. HASKELL. I desire to call the attention of gentlemen who regard this accumulation of silver as unwarranted by law to the effect of a little bill which occupies only about two inches upon the page of our statutes, wherein it is provided that the United States shall redeem when presented in certain sums all the fractional silver coins of the United States. I desire to say to the gentleman from Kentucky [Mr. BLACKBURN] that under the operation of this law for the redemption of silver coin—a law which does not allow the Secretary of the Treasury to pay out this coin, but compels him to hoard it subject to the demands of the people—$23,000,000 of subsidiary coin have floated into the Treasury of the United States in less than eighteen months. Vault-room must be provided for the protection of this coin under the law.

Mr. WARNER. Have we not pending in this House a bill authorizing the Secretary of the Treasury to send out such coin through the mails?

Mr. HASKELL. There is no law authorizing the Secretary of the Treasury to send out fractional coin through the mails unless somebody demands it. Again, there is a law which compels the Secretary of the Treasury to take in bullion and coin and to issue certificates therefor. What are you going to do with that? The Secretary of the Treasury is bound to keep every silver dollar for which a certificate has been issued.

Mr. WARNER. Does the gentleman say there is any law requiring the Secretary of the Treasury to issue certificates on silver bullion?

Mr. HASKELL. There is a law he shall issue certificates on coin, as I have already stated; and every certificate, of which members on this floor have had hundreds pass through their hands——

Mr. WARNER. They are issued on coin only.

Mr. HASKELL. Do not interrupt me. Every one of those certificates represents so many silver dollars that the Secretary must keep on hand for the redemption of those certificates when they come in.

Mr. BLACKBURN. Will the gentleman let me ask him a question?

Mr. HASKELL. Certainly.

Mr. BLACKBURN. Does not the law give to the debtor, which is this Government, the option of paying out this coin, and does not the Secretary of the Treasury practically reverse that law by giving to the creditor the option of calling for it or not?

Mr. HASKELL. That has nothing to do with this question. I hold you and this House to these two laws, one compelling a redemption of fractional coin and holding it there, and the other compelling an issuance of coin certificates to hold the coin for presentation of those certificates. I hold you to those two laws under which——

Mr. BLACKBURN. To which we have no objection.

Mr. HASKELL. Under which the chairman of this committee comes and presents this clause under the law and there can be no question about it.

Again, if I may say just one word, I am surprised that men like myself who have stood upon this floor in defense of the silver coinage of the United States should come in here in this covert and surreptitious way to bring disrepute and dishonor on the coinage of the United States that we have stood before the people of our districts and defended by the hour. And I say to this House that when men on this floor come in here and undertake to rob the Secretary of the Treasury of his right and power to protect that coin—that coin that the people have demanded—that coin that the people have asked at your hands and you have given——

Mr. WARNER. Why not pay it on the public debt?

Mr. HASKELL. They say that he shall not have accommodation to provide himself for its safe keeping in order that the whole silver coinage may be brought into disrepute.

Mr. BUCKNER. I rise to a point of order. The gentleman is discussing not the point of order, but the merits of the question itself.

The CHAIRMAN. The gentleman from Kansas has yielded the floor.

Mr. BLACKBURN. Mr. Chairman, I know no man upon this floor who talks with more fluency or requires less inducement to talk than the gentleman from Kansas. [Laughter.]

Mr. HASKELL. Just for one moment.

Mr. BLACKBURN. Not now; I will yield to you in one moment. I know no gentleman that I am more disposed to deal liberally with than himself in the matter of utterances. I do not think he should be held to a rigid accountability for having declared in this House that gentlemen have come here and in a covert and surreptitious fashion endeavored to take advantages and do discredit to the coinage of the country. It was offensive. It was unwarranted. There was not a scintilla of warrant for the employment of any such phrase.

Are men guilty of covert or surreptitious action when they come into this House and in open debate, with the gag taken out of everybody's mouth, ask the consideration of the Committee of the Whole on the state of the Union for a paragraph or a clause of an appropriation bill? The gentleman seems to be as reckless and as careless in the employment of his language as he is utterly reckless sometimes in his statements of figures and facts.

I tried in the Committee on Appropriations to strike that clause out of this bill. I trust it will go out now on a point of order, as it ought to, in my judgment; and, if that point of order should not be sustained, I hope then it will go out by a vote of the House on a motion to strike it out. I cannot believe that a people burdened with debt as we are and holding laws upon the statute-book that give us, the debtor, the right and option to pay out our revenues to those obligations as we choose—that we will ever be able to convince ourselves, much less the people of the country, there is either wisdom or justice in going to work to build vaults and to build banks in which to store the hoarded coin that is legal tender under the law at the option of the debtor while those obligations stand uncanceled.

The gentleman from Kansas cannot deny—no man here will undertake to deny, that the Secretary of the Treasury has the right, under the law, acting as the financial agent of this Government, at his pleasure and at his option to pay out this coin on the obligations and debts of the country.

He has chosen to give that option to the creditor, and the result is the creditor holding a bond, preferring his interest to the silver coin, does not demand payment, and the hoarding process still goes on until, for the first time in the history of this country, the Secretary of the Treasury comes to Congress and demands that you shall give him *carte blanche* to build vaults in order to store the money you hold and which you honestly owe to the creditor who holds your obligation.

[Here the hammer fell.]

Mr. HASKELL. Now, Mr. Chairman, if the gentleman from Kentucky has concluded, as to whether the words with which he opened this debate be true or not I am not prepared to discuss at this time. I leave it to the judgment of the House to determine whether or not I thrust myself forward upon this floor more often in debate than I am warranted to do——

Mr. BLACKBURN. I did not say so.

Mr. HASKELL. Or oftener than I think it is my right to do. I desire to say further to this House and to the gentleman from Kentucky that if I have "great powers of speech" and have "great capacity for occupying the time of this House," my exploits in that way have not up to the present time been commemorated in sarcastic verse, as I understand the capacities and exploits in that line of other gentlemen upon this floor have been. With reference to whether I have or not offended the gentleman, perhaps I may have offended by saying that the gentleman from Kentucky got upon the floor surreptitiously, or in his argument upon the floor to-day made a surreptitious assault and attack upon the coinage of this country. But, Mr. Chairman, if there is any man upon this side of the House or upon the other side of the House whom I have offended in debate to-day, the gentleman from Kentucky included, I will say to him, I most humbly withdraw all offensive language of that sort. I want to add further to the gentleman, that in all subsequent debate in which I may be concerned upon the floor, if gentlemen upon either side of the House regard me as being offensive or personal, if they will simply give me notice of it, tie a red string or a red rag upon a lead-pencil and hold it up in full view, with the statement that their feelings are being hurt by what they regard as "personal" in my remarks, I will at once desist and apologize. [Laughter.]

Mr. GARFIELD. I do not desire to prolong this debate. We are likely to be misled on this point by the language of the clause which relates to the storage of coin. The wording of this section is, "to enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, $100,000." Now, of course "storage" means building-room, and storage of coin means vaults. It would have been better, therefore, and less liable to ambiguity if the language had been simply to build a vault. That is all it means. By no stretch of construction can this be considered as authorizing the erection of a new building.

Mr. BLACKBURN. Why not?

Mr. GARFIELD. Simply because if a new building is to be put up it requires the selection of a site, the acquirement of the title to the lands, and all that; but this simply provides an accommodation suitable for the storage of coin.

Mr. BLACKBURN. Might not the Secretary of the Treasury construct a public building upon some Government reservation?

Mr. GARFIELD. I think not. This is in connection with the

Treasury buildings here. It is simply to provide accommodation. The recommendation of the Secretary of the Treasury, upon which this provision was inserted in the appropriation bill, was simply to provide more vault room, and I call attention to the fact that under the decision of the chairman of the committee on a point of order raised yesterday, that it is an appropriation for continuing work already in progress and authorized by law, this is plainly comprehended. All these buildings and all ordinary repairs made upon them are works of progress, and the Secretary is simply authorized to put up fixtures in a work already authorized by law. Fixtures, vault room for coin, and under the same decision of the chairman held yesterday this is manifestly in order.

Mr. WARNER. I would like to ask whether $20,000 has already been provided for increasing the vault room?

Mr. SPRINGER. Mr. Chairman, I wish to say a few words upon this subject, and in my remarks I will endeavor to confine myself strictly to the point order.

The section or clause of this bill, the one on which the point of order is made, is as follows:

To enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, $100,000.

I did not hear the point of order when it was stated by the gentleman who made it, but I presume it was made on the ground that this was a change of existing law and increased expenditures. If that is the ground, I do not think it is well taken. In fact I do not see how it is subject to any point of order at all, under the rules of this House upon this subject. The object of the provision is simply to enable the Secretary of the Treasury to make an additional provision or accommodation for the storage of coin.

It is no more a new law than if you authorize him to expend $5 in the purchase of a new lock for a vault which is already built. No one will pretend to say that would be subject to the point of order. When we tore down these walls and made room in the rear of the Speaker's desk, it was not understood to be a change of existing law, but simply carrying on the necessary machinery of Government; and this construction of a vault is carrying on the necessary machinery of Government. Every bill, every measure, increases expenditures somewhere. The very printing of this item necessitates the expenditure of some money; but gentlemen will not make the point upon that, because it is a necessary expenditure and comes under the law providing the necessary machinery for carrying on the affairs of the Government properly, although it does increase expenditures.

The Government must be run. The expenditures of the Government must be provided for and suitable places must be kept for the storage of the Government's treasure. To provide a suitable place in which to put the Government's money is not a new provision of law. This is not an expenditure not authorized by previous law, but is simply a necessary provision for the protection of public property. It is not subject to the point of order, but is a matter addressed to the discretion of this Committee of the Whole, to the discretion of Congress, and ought not to be subject to the decision of the presiding officer of this committee. Therefore I hope that the chairman of the committee will not assume to rule out a provision which is addressed entirely to the discretion of the House as to what is necessary for the preservation of the public treasure and the public property.

Mr. BLOUNT. So far as the question of the administration of the laws of the land or of the government of the country may go, that is not before the House or at issue before the House now on this point of order. I do not question that there has been faulty administration. I know that during the current year there have been printed nearly 50 per cent. more of the smaller Treasury notes—I do not mean the bills for making change, but the one and two dollar notes—than were printed in the preceding year. And I do know that it is in contemplation to add 50 per cent. more in the next fiscal year if money enough is given. Under that system of course there is no demand for silver. If all the small notes the country calls for are put forth without limit, of course they are more convenient and the silver has to be hoarded. But having the silver, it simply becomes a question as to whether or not we will provide for its storage. As stated by the gentleman from Illinois who was last on the floor, [Mr. SPRINGER,] this is analogous to the proposition to furnish locks for your public buildings. I do not think the illustration the gentleman takes from this Hall is an apt one. The question was never raised there, and if it had been raised I do not believe we could have made such a radical change here without legislation.

This does not relate to any question of a change of legislation. It is similar in its character to the proposition which is contained in the Post-Office appropriation bill and in many other bills to provide locks and keys for the safety of the mail. You have your silver there, and it is necessary to take care of it; and you are not restrained by law from providing money to take care of it.

Mr. McMILLIN. Will the gentleman from Georgia permit me to ask him one question?

Mr. BLOUNT. Yes, sir.

Mr. McMILLIN. Will the gentleman be so kind as to point out the section of the law which, even by implication, will authorize this construction?

Mr. BLOUNT. Mr. Chairman, I cannot point the gentleman to the section of the law which authorizes the purchase of a key or a lock to a mail-bag on the back of a horse traveling through this country. It is incidental to the proper custody of your mail. And so when you have provided by legislation for the coinage of silver it is incidentally necessary that you provide for its preservation. And there never was an intention on the part of the House, when this rule was enacted, that its operation should be carried to the extent of making it absolutely ruinous and ridiculous. [Cries of "Vote!" "Vote!"]

Mr. MILLS. Let me ask the gentleman from Georgia [Mr. BLOUNT] one question before he resumes his seat.

Mr. BLOUNT. I will hear the gentleman.

Mr. MILLS. Would an act of Congress authorizing courts to be held in a State authorize the building of a court-house in which they should be held?

Mr. BLOUNT. Not at all. The courts would require, if there was no court-house, to have a rented building, and it would not be necessary to provide by legislation for the renting of the building, and that is not the practice.

The CHAIRMAN. The Chair has had very great difficulty in coming to the conclusion that this section is not liable to the point of order; but inasmuch as if he should err in overruling the point of order it is in the power of the committee to correct the error, he resolves such doubt as he has in favor of the section as it stands, and overrules the point of order.

Mr. BUCKNER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "$100,000" and insert "$50,000;" and add the following at the end of the clause:

"*Provided*, That the Secretary of the Treasury is hereby prohibited from increasing the amount of United States notes of the denominations of one and two dollars: *And provided further*, He is hereby directed to purchase the bonds of the United States due in 1881 with any surplus of coin belonging to the United States in the Treasury over and above the sum of $100,000,000."

Mr. HISCOCK. I raise the point of order on that amendment.

The CHAIRMAN. The gentleman will state what his point of order is.

Mr. HISCOCK. It proposes to change existing law, and that change of existing law does not reduce expenditures.

Mr. FINLEY. I submit that the amendment does not change existing law, because in regard to this clause the point was made that there was no existing law for the construction of this building. How can it change the existing law if there be no law on the subject?

Mr. HISCOCK. If there be no law on the subject, then it is the enactment of a law, and that changes existing law. The enactment of a law is as much a change of law as the positive repeal of a statute.

The CHAIRMAN. The Chair is of opinion that the point of order is well taken.

Mr. BUCKNER. I desire to say a few words before the Chair decides.

The CHAIRMAN. The Chair is very strongly of the opinion which he has just stated.

Mr. BUCKNER. I move to strike out the paragraph altogether, and I want to say a word on that. I have not troubled this committee very much, but I desire to say that in my judgment this proposition of the Secretary of the Treasury is perfectly consistent with his unceasing warfare against silver, and is but a means of carrying on that war. According to the testimony of the gentleman from Georgia, [Mr. BLOUNT,] there is being printed now a large number of one and two dollar notes, more than usual. The necessary effect of that will be to cause the coin of the country to be hoarded.

Mr. BLOUNT. Will the gentleman allow me to say that it will be doubled next year if we proceed as we have done during the last year.

Mr. BUCKNER. That is what I call a surreptitious and fraudulent war on the silver dollar. If you increase the one and two dollar notes you necessarily render useless not only the one-dollar silver coins, but also the gold coins, and they must be hoarded in the Treasury. We have to-day $42,000,000 of one and two dollar notes, while there is no other country on the face of the globe with a specie basis that has one-tenth of that amount. Yet we are told that the number of such notes is being increased; that the large notes are being retired and their place taken by the further issue of ones and twos, until the country is beginning to wonder why there is this immense hoard of silver in the Treasury.

Now, unless you can extinguish the one and two dollar notes you cannot get the silver dollars into circulation, to say nothing about the gold coin. We all know that as a matter of fact there is as much of the silver coin, if not more, in circulation to-day in proportion to the amount of our currency than there is of gold.

Mr. BLOUNT. Will the gentleman yield for a question?

Mr. BUCKNER. Certainly. [Cries of "Vote!" "Vote!"]

Mr. BLOUNT. I hope I will not be interrupted. I desire to ask my friend from Missouri, [Mr. BUCKNER,] admitting all that he says, and I take it to be true, as to the issue of ones and twos and the consequent accumulation of silver in the Treasury, will the refusal to furnish vaults for the coin stop that issue of notes?

Mr. BUCKNER. I do not know that it will, but there is a plan by which the Secretary of the Treasury can stop it, and he recognizes he has the power to do so. He asks that Congress shall fix the amount of the redemption fund to be kept by the Treasury.

Mr. BLOUNT. But we have done it.

Mr. BUCKNER. We have not done it, but there is no reason why the Secretary of the Treasury himself should not do it. He knows,

every one knows, that he does not require $150,000,000 or $250,000,000 to be kept in the Treasury in order to redeem greenbacks that are now out. He has authority now to take $50,000,000 of the gold coin of the country and buy bonds with it. There is no law that stands in his way.

Mr. BLOUNT. Does my friend think that he can——

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. I move to strike out the pending paragraph and insert in lieu thereof that which I send to the Clerk's desk.

The Clerk read as follows:

The Secretary of the Treasury is directed to apply the coin in the Treasury, for the storage of which there is not sufficient accommodation, to the payment of the public debt of the United States.

Mr. KEIFER. I raise the point of order on that amendment that it changes existing law.

Mr. McMILLIN. But at the same time it retrenches expenditures.

Mr. KEIFER. How does it reduce expenditures?

Mr. McMILLIN. By refusing to appropriate $100,000 to build another house to keep the coin in.

Mr. TOWNSHEND, of Illinois. It gets rid of $100,000 in this bill.

Mr. KEIFER. It changes existing law, and does not come from any committee.

Mr. TOWNSHEND, of Illinois. It reduces expenditures $100,000.

Mr. HISCOCK. It is not a question whether the amendment reduces the amount in the bill, but the point is whether the repeal of the law, the change of the law, or the enactment of the new law proposed by the amendment will increase expenditures.

Mr. BELFORD. It does not change any existing law.

Mr. KEIFER. The amendment does not come from any committee.

Mr. WRIGHT. My amendment is in favor of retrenchment and reform.

The CHAIRMAN. The point of order is raised against the amendment, and the gentleman must address himself to the point of order.

Mr. WRIGHT. Very well. If the amendment prevails it will save $100,000 and will change no law. Therefore, in my judgment, the amendment is germane and should be entertained. It provides that we will erect no building in which to hoard up the coin which the Treasury buildings cannot now hold. The vaults of the Treasury are filled, and we are now asked to appropriate $100,000 to erect other vaults for the purpose of destroying the utility of the gold and silver currency of the country.

The next thing they will want a place in which to hoard up the legal tenders for which bank-notes are to be issued. The time has come when there should be some reform in this matter. The time has come when the voice of one man in the Treasury Department ought not to be allowed to overrule Congress and to overrule the nation. And now the supreme power as regards the currency of the country is in the hands of one man at the head of the Treasury Department. Have we in the House of Representatives or the Senate no right to put our construction upon the law? Must we surrender our rights and the rights of the American people to a man who is placed at the head of the Treasury Department? The time has come when we should stand up for popular rights. The time has come when we ought to stop funding our debt and paying interest. We have no right to issue bonds and accumulate interest so long as we have in the Treasury money with which to cancel our indebtedness. It may as well be understood first as last that John Sherman cannot put his hand upon the throat of the silver dollar.

The CHAIRMAN. The Chair decides that the amendment is not germane to the bill.

Mr. ATKINS obtained the floor.

Mr. BELFORD. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BELFORD. As I understand, the Chair rules this amendment out on the ground that it is not germane to the bill. I want to know whether it is ruled out upon the ground that it is not germane to the eastern or the western section of this bill.

The CHAIRMAN. The Chair rules that the gentleman from Colorado is out of order. [Laughter.]

Mr. ATKINS. I move to strike out the pending paragraph; and I hope that my friend from Georgia [Mr. BLOUNT] who has charge of this bill, and who is simply doing his duty in sustaining the proposition under the instructions of the Committee on Appropriations, will consent to this motion. I believe that the majority of the Committee on Appropriations, if they were to scan this matter a little more closely, would themselves be in favor of striking out the paragraph. As no particular rule has prevailed here to-day requiring members of the committee to stand by the text of the bill, and as gentlemen of the committee have voted to suit themselves, I take the liberty of expressing my own preference regarding this matter by the motion I have submitted to strike out the clause.

I want to state that in the original estimate for this clause the language was "silver." The Committee on Appropriations struck out the word "silver" and inserted "coin." If I am not mistaken the letter from the Secretary of the Treasury which was read to-day at the Clerk's desk in support of this clause of the bill had reference simply to "silver."

Now, from the suggestions made by the gentleman from Missouri [Mr. BUCKNER] and other gentlemen in discussing this matter, I am satisfied that the silver coin in the Treasury and in the sub-treasury at New York ought to be paid out. It ought to be put in circulation or it ought to be expended in the liquidation of our bonds. So that really there is no necessity for this appropriation of $100,000. I rose for the purpose merely of making this statement and moving to strike out the clause.

Mr. TOWNSEND, of Ohio. I suppose that before the question is taken on striking out it is in order to submit an amendment to the text. I move to amend by inserting in line 4, after the word "suitable," the word "vault;" so as to read, "suitable vault accommodations." The objection made to this provision seems to be that it might authorize the erection of a building. Such is not the intention. The purpose is to increase the vault accommodations necessary for the storage of this silver.

Mr. BLOUNT. If this appropriation were omitted in the bill, I do not think any great damage would result within the next twelve months. Therefore, as so many gentlemen on this side of the House who are in accord with me on the currency question are opposed to the provision, I shall not insist on its retention.

The CHAIRMAN. Discussion is exhausted.

Mr. CANNON, of Illinois. Mr. Chairman, I move to amend by striking out the last word. I voted with the majority of the Committee on Appropriations to place this provision in the bill, and I am not going to vote to strike it out. What are the facts? It is said that there is now in our vaults $60,000,000 of silver coin which is not paid out.

Mr. TOWNSHEND, of Illinois. Why do they not pay it out?

Mr. CANNON, of Illinois. There is double that amount of gold coin in the vaults. Why is that not paid out?

Mr. TOWNSHEND, of Illinois. Well, why not?

Mr. CANNON, of Illinois. Why do you hunger and thirst to pay out the silver, when there is no demand to pay out the gold? Scarcely twelve months have passed since I heard the same gentlemen——

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. CANNON, of Illinois. Yes, sir.

Mr. ATKINS. Would this appropriation be necessary if all the silver were paid out? Have we not sufficient room to hoard the gold?

Mr. CANNON, of Illinois. If all the silver and all the gold were paid out and would not come back, it would not be necessary. Scarcely twelve months have passed since I heard gentlemen on the other side of the House whose faces are now before me talk by the hour to the effect that we would not be able to keep this coin in the vaults, and some of them said they would be ready to pay thousands of dollars for a place at the head of the column to take it out in redemption of Treasury notes. But there is now no demand to take it out, because we have a paper currency part of which has been issued upon the faith of some of these very dollars in coin which remain in the Treasury to redeem the currency when presented for redemption. I am glad enough that there has been no run to take it out. We got it there under the provision of law. We have the right to deposit it there and to receive coin certificates which are redeemable in it. The Secretary of the Treasury has not the right to pay a single dollar of that fund so held except in payment of these certificates. Money was hoarded for resumption purposes, and it is so held under the law. Resumption has come and gentlemen on the other side have been proved to be false prophets. Now that it has come and there is no demand for this coin, while coin certificates are being issued and circulated in lieu of coin, gentlemen are swift to rise in their places and say they will not provide for its safe-keeping, but they want it paid out. I do not want to keep any more coin in the Treasury than is sufficient to maintain resumption and redeem the coin certificates issued upon the deposit of coin, but instead of believing that it is a misfortune to have the holders of coin deposit it with the Government and receive certificates therefor, which circulate in lieu of the coin and are redeemable in it, I regard it as fortunate, for it does not decrease the circulating medium but does save the loss from abrasion of coin and gives a more convenient circulation than the coin, and it is much cheaper to store the coin deposited in this way than it would be for the Government to make up the loss from abrasion.

Mr. FINLEY. I move to strike out the last two words. [Cries of "Vote!"] I have a word to say. [Cries of "Vote!"] Mr. Chairman, I have always noticed in this House the men who halloo "Vote!" "Vote!" I have watched them—they are the very men who are most upon the floor themselves. They say all they have to say, then, when others take the floor, they cry out "Vote!" "Vote!" [Laughter.] I propose to say that word which I rose to say, and you will gain no time by hallooing out "Vote!"

In addition to what the gentleman from Kentucky [Mr. BLACKBURN] has said, that this proposition allows the Secretary to put up buildings—if I can get the letter of the Secretary of the Treasury read at the desk I could show he says that it is for the purpose of storing silver and making essential alterations and additions to existing buildings—but in addition to that point made by the gentleman from Kentucky I have another objection which has not been urged on this floor, and which it is important gentlemen should consider before voting on the pending proposition.

For the first time this is asked in an appropriation bill, and if we grant it to-day and give the Secretary of the Treasury power under it——

Mr. BLOUNT. The gentleman is mistaken as to that.

Mr. FINLEY. I am not mistaken. I say for the first time in this

form this appropriation is included in an appropriation bill. I recollect a clause in a previous appropriation bill, but not like this. If we give it and a building is begun under it, what will be the result? You have heard the chairman here to-day rule that a point of order would not lie to a clause in an appropriation bill. Why? Because a former appropriation bill contained a similar clause, and therefore it was so far an existing law that the point of order would not lie against it. Then next year, when that building is begun and the clause is inserted making another appropriation of $100,000 and the point of order is made against it, it will be said that the appropriation bill has already provided for it and to that extent it is the existing law. Therefore I am unwilling to establish the precedent. If a law of this kind is necessary, let us pass it as an independent measure, and let us not establish such a precedent in this way and thereby close our mouths for all time to come against objecting to any increase of the appropriation.

The CHAIRMAN. The gentleman's time has expired.

Mr. FINLEY. I withdraw my formal amendment.

Mr. BLAND. I renew the amendment.

Mr. Chairman, this is only the beginning of the war we are to have in the future. It is not a question of hoarding silver, but this whole proceeding on the part of the Secretary of the Treasury and the Government officials is acted here for no other purpose than to discredit in the eyes of the American people and the world the standard silver dollar. This is the beginning of the war that is to come up in the next Congress and to enter into the coming campaign, and which has been foreshadowed by the Secretary of the Treasury when he recommended the repeal of the silver law and a further limitation upon silver coinage. That is the whole object of it. Newspapers, in commenting upon it, call it the silver nuisance.

The Secretary of the Treasury is asking Congress to provide him vaults and houses to hoard up money which he should have paid long, long ago in interest on the public bonds and for their redemption. The people throughout the country demand of him to pay this money out in interest on the public debt and to public officials and in every other way in which money is paid out. Let it go out into the country and let the bank vaults hold it, and there are plenty of them in the country for that purpose. There is no necessity for this law and the object is not so much to secure this money in the vaults of the country as it is to bring discredit on silver; and the war has commenced here now to culminate in nothing more nor less than a bill to be presented at the next Congress to repeal the silver law, because the coin is hoarded in vaults and there is no one to take it.

There is but one way to get rid of silver, a legal and proper way, and a way which the people of the country demand; and that is that the Secretary of the Treasury shall withdraw from his agreement with the clearing-house at New York, by which he proposes to pay all demands there in greenbacks and not to pay one dollar in silver. Let him withdraw from that agreement, as he ought to do, and he can soon get it out. We all know that in defiance of the law of this land, in defiance of the wishes of the people of this country, in defiance of right and of justice, the Secretary of the Treasury entered into and made an agreement by which he discriminated against silver in favor of gold and greenbacks in the New York clearing-house. I want to know if this House is going to sanction such an agreement on such a provision as that from such a source. [Applause.]

The CHAIRMAN. The question is on the adoption of the amendment, which the Clerk will report.

The Clerk read as follows:

Insert the word "vault" after the word "suitable," in line 471; so it will read: "To enable the Secretary of the Treasury to provide suitable vault accommodation," &c.

The amendment was not agreed to.

The question recurred on the motion to strike out the section.

The committee divided; and there were—ayes 107, noes 65.

So the motion was agreed to.

Mr. BAKER. I give notice that I shall call for a yea-and-nay vote on that in the House.

The Clerk read as follows:

National Board of Health: For salaries and expenses of the National Board of Health, and to carry out the purposes of the various acts creating the National Board of Health, $75,000, or so much thereof as is necessary.

Mr. KING. I offer the following amendment to this section:

In line 480, strike out "$75,000" and insert "$125,000;" so that it will read: "National Board of Health, $125,000, or so much thereof as is necessary."

Mr. KING. The National Board of Health, in its estimates, ask for $315,000. Fifty thousand dollars of this amount is to be appropriated to the investigations of epidemics and payments of rents. These estimates indicate that $30,000 of this sum and $19,000 and $1,800 are necessary for special investigations, for the payment of salaries of inspectors and the expenses of inspectors, and also for rents and incidental expenditures in conducting such investigations as the board may deem necessary in this connection. It is a matter of great importance, according to the opinion of eminent scientists composing this board and of others throughout the country, to ascertain the causes of this great plague, yellow fever.

Why, sir, you were asked here a moment ago to appropriate $175,000 for the furniture of the public buildings, and it was granted. Now a scientific board comes before you and asks for an amount not in excess of a half of that with a view to endeavor to find out the cause of this great scourge that marches throughout the land nearly every year, carrying terror and destruction with it. Gentlemen may ask, as I have heard upon this floor this morning, What are scientific investigations? What do they mean, or what do they amount to?

Mr. Chairman, that question needs no answer. Science is but the accumulation of facts and the deduction of truths therefrom. It is necessary that we should ascertain facts to enable us to get the means to overcome this enemy of our country. Year after year we provide millions of money for the destruction of human life and the investigation of the means of destroying human life by war. A scientific body of men, irreproachable in character, ask you for the means of investigating the way of preserving human life, and I do not believe that this House to-day will refuse this request in behalf of mercy.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed a joint resolution and bills of the following titles, and also sundry House bills, with amendments; in which several bills and amendments concurrence was requested:

Joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia;

A bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough;

A bill (S. No. 3) granting a pension to Elizabeth Wirt Goldsborough;

A bill (S. No. 21) granting a pension to Louisa Bainbridge Hoff;

A bill (S. No. 562) granting an increase of pension to Thornton Smith;

A bill (S. No. 576) for the relief of Phoebe Meech, widow of Horace J. Meech;

A bill (S. No. 635) granting a pension to Emery Bowen;

A bill (S. No. 751) granting a pension to William B. Whiting;

A bill (S. No. 913) granting a pension to Thomas P. Johnson;

A bill (S. No. 1133) granting a pension to Michael Hayne;

A bill (S. No. 1178) for the relief of Jason C. Bradeen;

A bill (S. No. 1232) granting a pension to Elizabeth Sutherland;

A bill (S. No. 1501) to restore pensions in certain cases;

A bill (S. No. 1517) to authorize an increase of pension to Stephen Fairchild;

A bill (S. No. 1546) granting a pension to P. B. Perry;

A bill (S. No. 1584) granting an increase of pension to Margaret Costello;

A bill (S. No. 1652) granting a pension to the minor children of Lawrence Burgess;

A bill (S. No. 1711) granting a pension to Hannah S. Mackey;

A bill (S. No. 1716) granting a pension to Thomas J. Mackey;

A bill (S. No. 1728) granting a pension to Mrs. Lelia E. McCauley;

A bill (S. No. 1729) granting a pension to William Stockwell;

A bill (S. No. 1743) granting an increase of pension to Mary J. West;

A bill (S. No. 1754) for the relief of W. J. Morris;

A bill (H. R. No. 1463) granting a pension to Edward H. Leib; and

A bill (H. R. No. 2643) granting a pension to Mary Meighan.

The message further announced the passage of House bills of the following titles, with amendments; in which the concurrence of the House was requested:

A bill (H. R. No. 2039) granting a pension to Jacob J. Smith;

A bill (H. R. No. 4264) to authorize the payment of $69.09 to Judith Brown, one-seventh of the pension of Margaret Duncan;

A bill (H. R. No. 2474) to increase the pension of Thomas Riley;

A bill (H. R. No. 2861) granting an increase of pension to Herman Baldwin;

A bill (H. R. No. 2862) granting an increase of pension to John H. Black; and

A bill (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker.

ENROLLED BILLS SIGNED.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker *pro tempore* signed the same:

Joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers' and sailors' reunion, at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, and muskets;

An act (H. R. No. 740) granting a pension to Martha J. Robinson; and

An act (H. R. No. 1460) granting an increase of pension to James P. Sayer.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. COX. I am not only opposed to the amendment of the gentleman from Louisiana, [Mr. KING,] but if I had my way I would strike out the whole of this appropriation and abolish the whole of this swindling system. I call it swindling, and I measure my words.

There is no occasion whatever for any such appropriation as this

of $175,000 to be paid out under these two paragraphs for this board of health. The statute establishing the National Board of Health was only passed on account of the *argumentum ad misericordiam* during the prevalence of the yellow fever. Now, when once established, they want to remain in existence in the interest of science. The gentleman from Louisiana says, "Science is an accumulation of facts." I say let science accumulate those facts and let the Government mind its own business.

Where is now the yellow fever that walked in darkness, and where is the cholera that wasted at noon-day? The need is gone by for this board of health. If facts are needed, medical science, with its inductions of two thousand years, can give us those facts.

This board of health is nothing more or less than a part of our huge system of bureaucracy, a fungous growth unknown to our Federal legislation heretofore. Who are the officers under this board of health? Some seven men, who get $10 a day. And what do they do? At first they only advised about certain things. They were to give us information. But insidiously, by these two clauses, they are creeping in upon our national system. They call the board national, with a large N. It is not Federal in any sense. It was intended to absorb the State institutions and break down our local quarantine systems. And the result will be in this instance, as it has been with the board of education, in connection with which we have seen our common-school system, the system of townships and counties, overshadowed by a bureau established here in Washington. What we need is not your Federal supervision over this business. It is local regimen, local care, local prudence. If you desire for certain purposes that you should have returns from abroad as we receive from our consuls under the law returns as to commerce, let it be done.

There is asked under this second paragraph a sum of $100,000. What for?

For aid to local quarantine stations, and for aid to local and State boards of health, to be used in case of epidemic, $100,000.

And a sum of $75,000 is asked in the first instance for the board of health itself, a sum which my friend from Louisiana would increase. There is no sense in this. There is no policy in it; there is nothing but extravagance in it. And I do trust the Committee on Appropriations will give their help now to wipe out this excrescence on our body-politic.

I would sustain the Committee on Appropriations in every just thing. I know that sometimes they are accused of parsimony or excessive economy, and sometimes of prodigality or extravagance, and of going from one extreme to the other. I am willing, however, to give them my general support. But I am no slavish follower of the Committee on Appropriations, and I would not vote for any proposition to make the Federal Government overshadow such valuable State institutions as those of local quarantine.

Mr. KING. The gentleman from New York says there is no sense in this thing. If the gentleman should ever be in an epidemic of yellow fever he would find there was a great deal of sense in this proposition.

Mr. COX. I would like to ask the chairman of the Committee on Appropriations these three questions: I would ask who are the members of the board of health and what pay do they receive? I would ask the number of inspectors and their salaries? I would ask the number of clerks and messengers and hangers-on all over the country and what services they render in consideration of the sum that is appropriated?

Mr. YOUNG, of Tennessee. I desire to amend the clause having reference to the National Board of Health. I offer the following amendment:

In line 480, strike out "$75,000" and insert "$150,000."

This is an important matter, and I would like to have the attention of the House. If gentlemen will listen to me I am quite sure they will see the propriety and importance of the amendment. There is no part of the public service that is of greater importance to the people of this whole country than this very matter of making appropriations to carry on the work of the National Board of Health. In all probability it is not as well organized as it might be. The law, perhaps, might be improved. Perhaps the board have not done all the good that was expected at its hands. But under all the circumstances its efforts and work have been of the most gratifying character, and the results it has accomplished furnish most conclusive evidence of its future usefulness.

In 1878, during the epidemic of that year, in the city of Memphis, where I live, five thousand two hundred people died during a period of about seventy-one days. In the congressional district which I represent, consisting of three small counties, nearly seven thousand people perished during the same period. The fever spread rapidly throughout all the surrounding country, and there was scarcely a town or hamlet within one hundred miles of Memphis that was not ravaged by this fearful pestilence. It gradually extended up the Mississippi River and along the lines of inland travel until it reached the great cities of Louisville, Saint Louis, and Cincinnati, and finally near the close of the epidemic it penetrated as far as Gallipolis, in the State of Ohio. After it had secured a firm hold in New Orleans, Grenada, Vicksburgh, Memphis, and the contiguous region, where most of our people who could had fled; when our medical supplies and store of provisions were almost totally exhausted, we were in a most deplorable condition, and were compelled to appeal to the generous charity of other parts of the country. This appeal, I am glad to say, met with a most spontaneous and generous response, and from the North, the East, and the West more than a million of dollars poured into the fever region. Then we had no National Board of Health, no strong power to enforce needed health regulations. The local boards were almost powerless even in their very localities, and totally so a few miles distant.

In 1879 the fever came again, a month earlier than in 1878, and continued longer. The climatic and sanitary conditions at Memphis were about the same, and yet during that year there died in that city less than five hundred people, and not a single case of fever, so far as I am informed, occurred at any point north of Memphis. Immediately after it made its appearance the National Board of Health issued the most rigid sanitary and quarantine regulations, which were strictly enforced; and to this I attribute the fact that the mortality was so small and the fever so completely circumscribed. If this theory is not correct, I can assign no other reason for the vast difference in the results of the epidemic between these two years.

In 1878 all travel and commercial intercourse almost absolutely ceased between the infected region and other localities, a quarantine and an embargo upon traveling being enforced by the shot-gun and revolver, and in some instances by acts of lawless and cruel violence. Under the regulations prescribed and adopted by the National Board of Health in 1879 travel and commerce were but little interfered with, and, by reason of the sense of security which it gave to the public, commercial intercourse was scarcely interrupted at all.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG, of Tennessee. I hope the committee will indulge me for a few minutes longer.

Mr. LOWE. I will ask to be recognized, and will yield my time to the gentleman from Tennessee.

Mr. YOUNG, of Tennessee. I thank my friend from Alabama for——

Mr. KNOTT. Will the gentleman allow me to ask him what the board of health did to mitigate and confine the ravages of the epidemic which might not just as well have been done without it?

Mr. YOUNG, of Tennessee. I think much possibly might have been done by——

Mr. KNOTT. What did the board do?

Mr. YOUNG, of Tennessee. I am not able to inform the gentleman from Kentucky [Mr. KNOTT] of everything which the board did do, but I have no doubt but that it did everything deemed necessary and which was possible with the means at its command.

I have already stated that it adopted such sanitary regulations as were deemed wisest and best by the ablest medical talent of the country, and that it devised and enforced a system of quarantine which no State or municipal authority could have executed. State authority could not control the running of a steamboat on the Mississippi River, for the jurisdiction over navigable waters rests solely with the Federal Government. It was necessary to establish quarantine stations for the purpose of stopping and inspecting all vessels navigating the rivers throughout the Southern States. So it was necessary, too, to establish them on the lines of inland travel, and this could not be done lawfully in either case except by some power having the sanction and authority of the Federal Government. Had this not been done the fever might have reached the largest city in the gentleman's own State and spread to any extent through other localities. Under the regulations adopted by the National Board at Cairo, while there was four times as much travel and ten times as much tonnage shipped from that point in 1879 as there was in 1878, yet there was not a single case of fever that I know of resulted from that cause.

In reply to my friend from New York [Mr. COX] I desire to say that this is the first time, I believe, I have ever heard him raise his voice in opposition to anything that appealed to kinder and more generous attributes of human character. It was only to-day that the House voted nearly half a million of dollars in furtherance of a work of beneficence and humanity, inaugurated by the gentleman himself, and which will be a monument to his memory when all the other generous and patriotic acts of his long public career have been forgotten. Stimulated by his generous impulses he brought into existence the Life-Saving Service, and by his energy and marvelous parliamentary capacity has built it up until it is one of the most cherished of all our Government institutions. To continue its usefulness and to carry out its humane purposes we have to-day given him nearly twice as much money as I am asking for the National Board of Health. It must be borne in mind, too, that this large sum is to be expended for protection against a danger to which only a few thousand people are exposed, and from which only a few hundred deaths result annually. I am asking only a little over half this sum to protect as far as possible ten or twelve millions of people living in the Southern States who are exposed to a danger a thousand times more imminent than that of drowning; so while my friend from New York [Mr. COX] could at best only hope to save a few hundred lives, I seek to save many thousands.

In the single yellow-fever season of 1878 more people died, I venture to say, than have been drowned in reach of the Life-Saving Service in fifty years. I would very gladly accept, without complant,

the amount proposed by the Committee on Appropriations were I not assured by the president and other members that it would almost destroy the service should the amount appropriated be limited to the sum named. I only ask that the sum of $76,000 may be added to the amount proposed in the bill and I shall be content.

There is much more I should be glad to say in reply to what has been said by other gentlemen, but I suppose my time has expired again, and I will not ask a further indulgence.

The CHAIRMAN. Debate upon the amendment to the amendment has been exhausted.

Mr. YOUNG, of Tennessee. I withdraw the amendment to the amendment.

Mr. BLOUNT and Mr. McCOOK renewed the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia, [Mr. BLOUNT.]

Mr. McCOOK. I wish to state very briefly——

The CHAIRMAN. The Chair has recognized the gentleman from Georgia.

Mr. McCOOK. I am so seldom on the floor that I had no doubt that I was the one recognized.

The CHAIRMAN. The Chair will take pleasure in recognizing the gentleman next.

Mr. BLOUNT. I regret that the proposition before the committee brings something else into view than the question of humanity. This House, without regard to party or to section, is very responsive to human suffering, and that kindly characteristic which belongs to us ought not to be abused. If it is often abused it creates a revolt by suspicion when we are invited to good action.

I want to ask the attention of the Committee of the Whole to the administration of this fund which we have appropriated for this kindly purpose and to the legislation which has been had upon the subject. This Congress appropriated the sum of $500,000 for the National Board of Health.

Mr. KING. Will the gentleman allow me to ask him a question?

Mr. BLOUNT. I have not time to yield. An appropriation was made giving to this board of health, not for one year only but absolutely without restraint, the control of the money appropriated. The board was given an existence of four years, and it could use every dollar within thirty days or could extend the expenditure through four years. That law was afterward amended so as to add this provision:

> The Board of Health shall have power, when they may deem it necessary, with the consent and approval of the Secretary of the Treasury, as a means of preventing the importation of contagious or infectious diseases into the United States or into one State from another, to erect temporary quarantine buildings.

Yet, sir, I have an exhibit showing that this board has contracted for three buildings without the sanction of the Secretary of the Treasury—one of them costing $55,000, two others $35,000 each; and it seems to be the intention to multiply these buildings on the Mississippi and on the Atlantic coast—in defiance, in my judgment, of the express provision of law.

After having spent $554,000 this board of health was before the sub-committee of the Committee on Appropriations asking a deficiency for this year; and when questions were asked, and it appeared that these expenditures were being made in violation of this law, the first answer was: "Why, we have authority to put up these buildings under the provision of law authorizing us to make quarantine regulations." The sub-committee was unable to see——

[Here the hammer fell.]

Mr. McCOOK. Mr. Chairman, I propose to vote against the amendment of the gentleman from Louisiana; and for fear that my motives may be misunderstood or misconstrued, I wish to state very briefly to the committee why I shall do so. I recall no vote that I have ever cast in this House with more satisfaction than the vote which I gave in the Forty-fifth Congress for an appropriation of I believe half a million dollars for the purpose of creating this National Board of Health. To me it was a source of great satisfaction that the republican party almost unanimously, if not with entire unanimity, saved the people of the South from the mistaken State-rights notions that were advocated by some of the gentlemen on the other side of the Chamber. At one time, I think the gentleman from Tennessee, who had charge of the measure, had practically abandoned the effort for the creation of a National Board of Health, which was at that time absolutely essential to save the people of the South from that fell scourge, yellow fever.

I shall not vote against this appropriation for the reasons given by my colleague, [Mr. COX.] I have no fear of the action of the Federal Government when it seeks either the preservation of the nation, the preservation of the health of the people, or even the saving of the revenue and the coin of the country as involved in an appropriation of $100,000 asked for by the Secretary of the Treasury. I base my opposition to the amendment solely upon the ground that, as it seems to me, there is just now no necessity for it. I am not opposed to it on any mistaken notions of economy. The people of these United States, when the appeal was made to them in behalf of the sufferers in the South, responded with a generosity which is one of the brightest things in the history of the country. The people of my own great city gave over half a million dollars to that noble charity. This was the contribution of the same people who are to-day denounced on the other side of the Chamber as "bondholders," "sharks," "money-grabbers," &c. To hear some of these gentlemen talk you would think that the citizens of New York, who have always responded promptly to appeals of this kind, are most infamous people.

Whenever the gentleman from Louisiana or the gentleman from Tennessee will convince me that there is a necessity for an appropriation of this character, no notion of economy and no fear that the Federal Government might interfere with the rights of the States will prevent me in my representative capacity from voting the very largest amount that may be required for the very longest period of time that may be thought proper.

The CHAIRMAN. Debate upon the pending amendment is exhausted.

Mr. YOUNG, of Tennessee. Mr. Chairman, this is too important a matter for debate to be cut off in this summary way. My friend from New York [Mr. McCOOK] and the gentleman from Georgia [Mr. BLOUNT] are utterly mistaken in many of their premises, and I want to set them right.

The CHAIRMAN. There are two amendments pending, and debate is exhausted.

Mr. YOUNG, of Tennessee. I modify my amendment by inserting $145,000 instead of $150,000.

The CHAIRMAN. Two amendments are pending already.

Mr. YOUNG, of Tennessee. I withdraw the other amendment and I submit this. I do not think these narrow technical rules of parliamentary practice ought to be enforced in a matter of this kind.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] offered the amendment last pending.

Mr. BLOUNT. I withdraw it.

Mr. MANNING. I renew the amendment. I had hoped, Mr. Chairman, that the merits of the amendment might be reached and that we might engage in this discussion without a revival of the question of the power of Congress to legislate upon this subject. We heard this matter canvassed in a previous Congress, and I then submitted my views at length on the constitutional question involved. I have not forgotten that the gentleman from New York [Mr. COX] at that time took occasion to protest earnestly against the step which Congress resolved ultimately upon taking. To the credit of Congress be it known that it did take that step for the preservation of human life, and without in the least degree disturbing the autonomy of the States or colliding with either the letter or spirit of the Constitution.

I protest against the suggestion which has been made by the gentleman from New York, that all this legislation is unwarranted; and in making this protest, I am not only sustained by what has been said by Story and other commentators upon the power of Congress under the Constitution of this country, but I am thoroughly fortified by the utterances of the Supreme Court of the United States. I cite, in the first place, the decision of Chief-Justice Marshall—who, I suppose, is good authority for the State-rights gentleman from New York—in the celebrated case of Gibbons *vs.* Ogden, (9 Wheaton.) I refer him and this House also to the decision of Justice Field in the case of Melton *vs.* The State of Missouri; the case of Chy Lung *vs.* Freeman, from the State of California, and Henderson *vs.* The Mayor of New York, both reported in 2 Otto; and the case of the Missouri Pacific Railroad Company *vs.* Huson, in 5 Otto. All these cases abundantly show the power of Congress to legislate as now proposed in the interest of the National Board of Health, and furnish the most perfect elucidation of the power hitherto exercised by Congress in regard to this matter. We can create it, maintain it, and give it all the vigor that the necessity of the situation may call for without receding from our position as the advocates of the rights of the States. I submit that when the gentleman from New York wants to bring such a proposition as this into disrepute he must do it by argument and by reference to authority, not by his own *ipse dixit*.

Why is it that we cannot adopt the amendment offered by the gentleman from Louisiana? A little while ago we were about to appropriate $100,000 by mistake—certainly without authority. I thought it was a little singular when the point of order was sustained in regard to proposed appropriation for the safe-keeping of coin, for in the letter of the Secretary in which this $100,000 was asked he stated unequivocally that he wanted to put up buildings, not for repairs merely, but houses, vaults, &c. And the gentleman from Georgia was heard to say he did not think we could repair these walls without legislation; yet we were about to spend $100,000 to construct houses and make essential repairs, &c., on the suggestion of the Secretary of the Treasury, which was in utter defiance of law. We are now asked to give only 50 per cent of what is deemed necessary by those charged with the duty of making effective the laws in regard to this matter. It is only desired to secure the amount of money called for by the National Board of Health by a deliberate, careful, and doubtless accurate estimate as to the necessities of that board. It is not essential to spend all that is appropriated.

Let me call attention to an illustration of the good faith of that board. It seems there is a surplus now of about $75,000, and that testifies to the *bona fides* of the doings of that board. They say they need the money; and who here can say they do not need it?

The gentleman from New York says the storm is passed and gone, and the scourge will never come again. He is a wise man indeed to speak so confidently. Would to God he had authority for saying that, but he had as little authority for that assurance as he had

to declare that all such legislation as is now proposed is fungus growth.

Mr. KING. I hope the gentleman will yield to me to ask a question of the gentleman from Georgia.

The CHAIRMAN. The gentleman's time is out, all but one minute.

Mr. MANNING. Very well; I have said all I desire to and will yield the floor to the gentleman from Louisiana for that one minute to ask the question which he desires.

Mr. KING. I wish to ask the gentleman from Georgia if he means to have it inferred that the $550,000 appropriated at a preceding session has been expended? Now, he well knows that scarcely more than one-half of that sum has been expended and that the balance is to pass into the lapsed fund.

Mr. ATKINS. The gentleman is mistaken about that.

Mr. KING. I wish to ask the gentleman from New York one question. Does he wish to have a plague like the yellow fever to be in our midst first before any means are taken to prevent it? Your ships from the North going into the southern ports bring this disease back with them, and we simply wish, by all means possible, to prevent its being brought from foreign ports into our ports at any time.

The CHAIRMAN. The gentleman's time has expired.

Mr. BLOUNT. Mr. Chairman, when on the floor awhile ago I said the National Board of Health was asking for deficiencies for this fiscal year. They soon discovered it was not likely to be recommended. We have a communication from them in which they show under their contracts they will have at the end of this fiscal year a balance remaining of $75,798.38. That is the balance which they will have left of a fund of $550,000, which was given to them, and which was understood by the House and Senate to be a fund designed to be used according to circumstances; that is, according to the suffering in the country in consequence of epidemic diseases. But contrary to that expectation you find all this fund gone except $75,000. And they are asking for the next year $315,790.

Now, Mr. Chairman, here we see how a bureau may go on; how an institution intended as a charity for to-day will endeavor to fasten itself permanently upon the country. What information have you had about the use of this fund? They tell you what they have spent. I will give you some of the items. For establishment of quarantine stations and erection of quarantine buildings at Hampton Roads, $35,000; at Sapelo Sound, Georgia, $30,000; Ship Island, Mississippi, $56,000, and on Mississippi River, $35,000. But I will include this statement of appropriations, expenditures, and estimates of the National Board of Health in my remarks so it may be seen and read by members. It is as follows:

Statement of appropriations and expenditures and estimates of National Board of Health.

Amount appropriated by act March 3, 1879		$50,000 00
Amount appropriated by act June 2, 1879		500,000 00
Total		550,000 00
Expenditures to June 30, 1879, of National Board of Health, as per vouchers:		
Furniture	$620 89	
Employés	2,346 45	
Printing	669 99	
Telegrams	29 21	
Postage	92 25	
Miscellaneous expenses, including stationery	1,086 03	
Pay and expenses of members	4,044 25	
Havana commission	927 69	
Total expenditures to June 30, 1879		9,816 76
Balance of appropriations June 30, 1879		540,183 24
Balance of appropriations available July 1, 1879		540,183 24
Expenditures from June 30, 1879, to March 31, 1880:		
National Board of Health, furniture	$1,398 69	
National Board of Health, employés	11,853 73	
National Board of Health, miscellaneous expenses	450 66	
National Board of Health, rent, light and fuel	1,428 55	
National Board of Health, stationery	1,466 95	
National Board of Health, pay and expenses of board	6,214 99	
National Board of Health, telegrams	1,523 79	
National Board of Health, postage	672 83	
National Board of Health, printing	4,535 99	
National Board of Health, pay and expenses of inspectors	13,851 79	
National Board of Health, miscellaneous investigations	5,098 37	
National Board of Health, conference with sanitarians	178 25	
National Board of Health, Havana commission	11,406 15	
National Board of Health, T. S. Taylor, act June 2, 1879	540 00	
National Board of Health, floating quarantine stations	4,155 75	
National Board of Health, quarantine at Ship Island	1,806 35	
Expended in State of Louisiana	14,854 06	
Expended in State of Florida	3,006 28	
Expended in State of Tennessee	49,610 75	
Expended in State of Mississippi	16,125 84	
Expended in State of Illinois	3,849 77	
Expended in State of Arkansas	7,589 51	
Expended in State of Texas	535 00	
Expended in State of Alabama	2,195 46	
Expended in District of Columbia	7,710 00	
Expended for sanitary survey of Memphis	5,925 35	
Bills due but not audited March 31, 1880	9,500 00	
		187,484 86
Balance unexpended March 31, 1880		352,698 38
Balance unexpended March 31, 1880		$352,698 38
Estimates of expenditures from March 31, 1880, to June 30, 1880:		
For establishment of quarantine stations and erection of quarantine building, namely:		
At Hampton Roads, Virginia	$35,000 00	
At Sapelo Sound, Georgia	30,000 00	
At Ship Island, Mississippi	56,000 00	
On Mississippi River	35,000 00	
For improvement quarantine station at Charleston, South Carolina	12,000 00	
For aid to other quarantine stations	20,000 00	
For aid to local and State boards of health	25,000 00	
For office expenses of National Board of Health:		
Rent, light, and fuel	700 00	
Clerks, messengers, and watchman	6,000 00	
Postage, stationery, and telegrams	2,200 00	
Printing Bulletin	1,500 00	
Other printing, (blanks, records, &c.)	1,200 00	
Printing report of board	13,000 00	
Special investigations	21,500 00	
Pay and expenses members	4,000 00	
Pay and expenses inspectors	10,000 00	
Pay of Drs. Bemiss and Cochrane and Colonel Hardee	1,800 00	
Contingent and miscellaneous expenses National Board of Health	2,000 00	
		276,900 00
Balance unexpended June 30, 1880		75,798 38
Balance of appropriations available June 30, 1880		75,798 38
Estimates of expenditures for fiscal year ending June 30, 1881:		
For maintenance of quarantine stations as follows, namely:		
At Hampton Roads, Virginia	$6,000 00	
At Sapelo Sound, Georgia	6,000 00	
At Ship Island, Mississippi	13,700 00	
On Mississippi River	13,700 00	
For contingent expenses of quarantine stations, (repairs, supplies, and care of vessels)	5,000 00	
For expenses of National Board of Health:		
Pay and expenses of members	14,000 00	
Pay and expenses of inspectors	19,000 00	
Special investigations and surveys	30,000 00	
Rent, light, and fuel	1,800 00	
Clerks, messengers, and watchman	21,830 00	
Stationery, postage, and telegrams	5,600 00	
Printing Bulletin	6,000 00	
Other printing, (blanks, records, &c.)	3,300 00	
Contingent and miscellaneous expenses	5,000 00	
For aid to local quarantine stations, to be used in case of epidemic	64,860 00	
For aid to local and State boards of health, to be used in case of epidemic	100,000 00	
Amount needed to be appropriated to complete the service for the fiscal year ending June 30, 1881		239,991 62
	315,790 00	315,790 00

You remember, in appropriating this money, we started out with the yellow-fever epidemic. But these investigations are now going to all sorts of diseases in your cities; and the Committee on Appropriations have seen fit to refuse the amount to the extent stated. They have $75,000 on hand and $75,000 is appropriated in the bill, making $150,000 to be used in the event there is no epidemic. Then they have $100,000 beyond that. It seems to me that we have been amply liberal under all the circumstances, and I trust that this appropriation will not be increased. For myself I was not willing, when it was put under the plea of humanity, that it should all be stricken out, but when it is intended to keep it up from year to year, contrary to its original intent, in violation of law, I do not feel it our duty to vote an appropriation without some reference to the laws which we have already enacted. I withdraw the amendment.

Mr. ELLIS. I move to strike out the last word.

The CHAIRMAN. There is an amendment already pending by the gentleman from Mississippi.

Mr. MANNING. I withdraw my amendment.

Mr. ELLIS. Then I renew the amendment. Mr. Chairman, in the first place I desire to ask the chairman of the sub-committee who presented this bill what is the estimate of the National Board of Health? What do they want?

Mr. BLOUNT. The estimate of the National Board of Health is $315,790. They have on hand or will have on hand at the end of the current fiscal year about $75,000.

Mr. ELLIS. And you give them $75,000 in this bill?

Mr. BLOUNT. No, sir; we give them for salaries and expenses of the National Board of Health, &c., $75,000; for aid to local quarantine stations and for aid to local and State boards of health, &c., $100,000; making in all $175,000.

Mr. ELLIS. Very well. In other words, it is proposed here, Mr. Chairman, by the Committee on Appropriations to give to this great National Board of Health just one-half of the amount that they have asked you for. I do not know the process of reasoning by which the committee have arrived at this remarkable conclusion. And I wish to say, Mr. Chairman, generally upon this subject, that the gentlemen constituting this board are men of high character, men of great scientific acquirements, and are certainly able to understand and know the necessities of this department committed to their charge.

The objection to this increase of appropriation, as I understand the argument of gentlemen, appears to be twofold. In the first place, the gentleman from New York says that the epidemic which devastates the cities of the South to-day is gone, and there is no likeli-

hood of its return. Mr. Chairman, the yellow fever is an uncertain enemy in its movements. It is a Bedouin of the air; here to-day upon its mission of destruction, and fleeing only before the icy hands of the polar winds. It comes and goes with an eccentricity of location and movement that has thus far baffled all the quests of sanitary science. True, as my friend from New York [Mr. COX] says, it is gone from our land now; but we know that it is at this time prevalent in Mexico, in Cuba, in South America, and, riding northward upon the advancing waves of tropical heat, it may ere long set its dread step upon our borders and begin its dread work, shrouding homes in mourning, wrapping neighborhoods and cities in the darkness of death, paralyzing commerce, suspending business, involving a pecuniary loss of millions of money and the sacrifice of thousands of precious lives before it ceases its dismal work of destruction, desolation, and death.

Now, sir, in the second place, my friend from New York says let the local boards of health, local quarantines, and the local health authorities attend to this matter. The local authorities do all they can. In New Orleans the sanitary commission is doing a noble work, but in many localities the effort at sanitary measures must of necessity be weak and insufficient for lack of adequate means. The National Board of Health was organized to exercise a general supervision over all localities. It was not organized for a single year, but for all time and through all the years. It is not to suspend its operations because there comes a year of health. It was organized for no special locality, nor indeed to combat any particular disease. Its duty is to look after the health of the whole people for all time. It was organized at the behest of mercy to begin the work of keeping epidemic diseases out of the country. Its mission is yet higher and reaches further. It has sent its commissioners out to the tropical regions, to the very birthplace and home of the yellow fever, to study its origin, its varied types, to discover from whence it comes, and to discover if possible some remedy that will rob it of its terrors, or, failing in this, to learn how to keep it from our shores by quarantine or disinfection. And to adequately discharge the duties of its high mission it must have its vessels, its buildings, its facilities for experiment, and all this must cost money.

Science has robbed loathsome and terrible diseases of all their terrors by the results of its labor. Every child knows how the smallpox scourged the world until a mode of destroying its deadly power by vaccination was discovered; and with that example before us, would it not be the part of wisdom to give ample opportunity and means to the men who compose this board to carry on their researches, which will enable them to destroy this plague of yellow fever which scourges our people every year, to ward off its approaches and prevent its deadly effects? Have you all forgotten the deadly visitation of 1878? Then this board was organized in 1879, and in 1879 the fever was confined to one city of the Union. While New Orleans, Mobile, Savannah, Charleston, Vicksburgh, Shreveport, and other cities situated in the line of its ravages escaped, it was centered solely in the city of Memphis; and who will say that it was not the wisdom and the labors of this National Board of Health, armed by us with money, that prevented the deadly visitor from spreading throughout the other cities, and which confined it to one? I trust, sir, that the increase of money asked for by my colleague will be granted, and that his amendment will be adopted.

Mr. HAWLEY. Mr. Chairman, I feel, as I think all the American people feel, the utmost, the warmest desire to be generous to the limit of generosity in the face of a great public calamity like the yellow fever. I do not question the propriety of providing means to guard against its destructive power, nor do I question the professional skill of the men composing the National Board of Health; but I do seriously question their judgment and their administrative ability. They had at the beginning of the year $550,000 in their hands—generously and freely given. I appeal to members here to say if their recollection be similar to mine. I supposed this was to be held in reserve somewhat.

I did suppose, Mr. Chairman, that this was to be held with comparatively little current expenditure, either for salaries or clerks or furniture or domestic or foreign travel, until we should be in the face of or have reason to fear the approach of pestilence, and that we should then spring forward generously, not to take the work out of the hands of the State authorities, but to supplement them with a half million of dollars, and more if need be.

It is a mistake, in the first place, to take away all local responsibility. There is no help so valuable as self-help. Let the local authorities take the lead under their State and city ordinances, and let the General Government stand by with its own resources to supplement the deficiencies and the poverty of the localities.

Now, these gentlemen have expended $465,000 out of their $550,000, or will have expended that amount by the 30th of June. I refer now to the statement of appropriations and expenditures which I hold in my hand and which was referred to by the gentleman from Georgia. Here is a long list, including furniture, employés, miscellaneous expenses, rents, light, and fuel, stationery, telegrams, postage, printing, "miscellaneous investigations;" Havana commission, $11,406.15; pay and expenses of inspectors, $14,854.06; survey of Memphis, $5,925.35; pay of the board and bills not audited, amounting in all to $76,000. They did expend the following sums I think rightly: In Louisiana $14,854.06, in Florida $3,006.28, in the State of Tennessee $49,610, in Mississippi $16,125, in Illinois $3,849, in Arkansas $7,589, in Texas $535, in Alabama $2,195, and in the District of Columbia, although we did not have any yellow fever here, but small-pox, $7,710. These sums look like fair expenditures for right purposes.

But we come now to what I find serious fault with. They have made contracts for putting up at Hampton Roads a quarantine building at a cost of $35,000, and they have made contracts for building at Sapelo Sound, Georgia, large hospitals at a cost of $30,000; at Ship Island, $56,000; and on the Mississippi River, $35,000. And at Charleston, South Carolina, for the improvement of the local quarantine station, there is an item of $12,000. They propose apparently to largely relieve the hospitals in those localities, and have provided among their buildings for all imaginable wants, physicians and nurses, and attendants, houses, and even bonded warehouses for the goods of infected ships. An infected vessel is to be made to sail away from Charleston and Savannah to Sapelo, six to fifteen hours' sail, to discharge her cargo and wait the pleasure of this board. If we are to have the yellow fever for four years, as we had the war, and to fight it during that period, we may have to do something of that kind. But I do not believe in putting up these hospitals. They may be in accordance with the best sanitary ideas in regard to hospitals, but I am not sure of it. I think the best experts advise that the true policy is to put up your hospitals in a hurry at the approach of disease; build them of an airy, light, cheap, cleanly character, and when the campaign is over burn them down, and not perpetuate disease in buildings of any considerable cost or permanency. But here is an amount of $168,000 for a more or less permanent set of buildings, which will surely supersede and to some extent excuse the work of the local authorities.

I say nothing about the ordinary theory of State rights. I confine myself to the theory of self-help. Let localities help themselves, and then let the General Government supplement their efforts with all the generosity that is needed. I would have preferred to revise the whole law, if it had been in the power of the Appropriation Committee to do so, and put a sum in reserve in the hands of vigorous, judicious men, where it could be easily used when the occasion arose.

In the board's estimate of expenditures for the current three months only, the last quarter of this fiscal year, I find for clerks, messengers, and watchmen, $6,000, or at the rate of $24,000 a year; for stationery, postage, and telegrams, $2,200, or at the rate of $8,800 a year, no epidemic existing; for printing the report of the board, $13,000; for more special investigations, $21,500; for pay and expenses of members, $4,000, and for pay and expenses of more inspectors, $10,000. The bill before us allows them for the next fiscal year, for pay and current expenses, $75,000; and as $75,000 is to be on hand unexpended June 30, we give them that and $100,000 besides for aid to local quarantine stations, and aid to local and State boards of health. We did the best we could for them, giving them $250,000, instead of the $315,000 they ask for, but restricting most of it to supplementing local effort.

Mr. BLOUNT. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

PUBLIC BUILDING AT COLUMBUS, OHIO.

Mr. McKENZIE. I ask unanimous consent to report a bill from the Committee on Public Buildings and Grounds. It is to authorize the construction of a public building at Columbus, Ohio. I am informed by the gentleman from Ohio, [Mr. CONVERSE,] who introduced the bill, that he does not desire action on it at this session of Congress, but asks that it be printed and placed on the Calendar.

There was no objection.

Mr. McKENZIE, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 4267, to authorize the construction of a fire-proof building at Columbus, Ohio, a bill (H. R. No. 6322) to provide for the construction of a public building at Columbus, Ohio; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

SARAH C. ROCK.

On motion of Mr. HAWK, by unanimous consent, leave was given to withdraw from the files of the House the papers accompanying the bill (H. R. No. 3635) granting a pension to Sarah C. Rock.

ORDER OF BUSINESS.

Mr. CALKINS. I move the House take a recess.

Mr. CONVERSE. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CONVERSE. Will the business first in order, coming over as unfinished business, be able to retain its place until Tuesday next by unanimous consent of the House? I refer to the Des Moines River land bill, which I would like to have retain its place until I return, which will be on Tuesday next.

The SPEAKER *pro tempore*. The Chair will state that the order of

the House to which the gentleman refers will enable the bill to retain its place until reached, but the Chair is not authorized to say that it will not be reached until Tuesday next.

Mr. CONVERSE. I ask consent that it be not taken up in my absence.

Mr. VAN VOORHIS. I shall be obliged to object unless the gentleman will say Thursday next.

Mr. CONVERSE. I cannot do that.

The SPEAKER *pro tempore*. The Chair understands the gentleman from New York [Mr. VAN VOORHIS] to object.

Mr. BRAGG. I call for the regular order.

The SPEAKER *pro tempore*. The regular order is the motion of the gentleman from Wisconsin, [Mr. BRAGG,] that the House now adjourn, which motion was made pending the motion of the gentleman from Indiana [Mr. CALKINS] to take a recess until half past seven o'clock.

The motion to adjourn was not agreed to.

Mr. WAIT. I would inquire what is the business for this evening?

Mr. BLOUNT. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The Chair has no time to answer parliamentary inquiries now. The question recurs upon the motion of the gentleman from Indiana, [Mr. CALKINS,] that the House now take a recess until half past seven o'clock.

Mr. SPARKS. Pending that motion I move that the House now adjourn.

Mr. KENNA. By order of the House a recess must be taken from half past four until half past seven.

The SPEAKER *pro tempore*. Under the order of the House the Chair declares that, the hour of half past four having arrived, a recess will now be taken until half past seven o'clock this evening.

The House accordingly (at four o'clock and thirty minutes p. m.) took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The Clerk will read the order of the House in reference to the business of this evening's session.

The Clerk read as follows:

WEDNESDAY, *May* 12, 1880.

Mr. KENNA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the House take a recess at four and a half o'clock on Tuesday the 25th instant, until seven and a half o'clock, the session of the evening to be devoted exclusively to the consideration of House bill No. 1029, concerning commerce and navigation.

REGULATION OF STEAM-VESSELS.

The SPEAKER *pro tempore*. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 1029) to amend certain sections of titles 48 and 52 of the Revised Statutes of the United States, concerning commerce and navigation and the regulation of steam-vessels.

The SPEAKER *pro tempore*. The Clerk will now report the pending amendment.

The Clerk read the amendment, as follows:

Insert as a new section the following:

"SEC. 9. That section 4414 of the Revised Statutes shall be so amended as to read as follows:

"'SEC. 4414. There shall be in each of the following collection districts one inspector of hulls and one inspector of boilers, who shall be entitled to the following salaries, to be paid annually, under the direction of the Secretary of the Treasury:

"'In the district of New York, to a salary of $2,500 a year.

"'In the districts of Philadelphia and New Orleans, to a salary of $2,200 a year each.

"'In the districts of Baltimore, Saint Louis, San Francisco, Boston, and Galena, to a salary of $2,000 a year each.

"'In the districts of New London, Albany, Pittsburgh, Buffalo, Cleveland, Chicago, Milwaukee, Cincinnati, Wheeling, Grand Haven, Detroit, Portland, (Maine,) Norfolk, and Portland, (Oregon,) to a salary of $1,500 a year each.

"'In the districts of Port Huron, Memphis, Oswego, Mobile, Louisville, Evansville, Savannah, Charleston, Marquette, and Seattle, to a salary of $1,200 a year each.

"'In the districts of Galveston, Nashville, and Burlington, (Vermont,) to a salary of $1,000 a year each.

"'In the district of Apalachicola, to a salary of $800 a year; and in addition the Secretary of the Treasury may appoint in such districts, where their services are actually required, assistant inspectors at a salary for the district of New York of $2,000 a year each; and for all other districts at a salary not exceeding $1,600 a year each; and he may appoint a clerk to any such board at a compensation not exceeding $1,200 a year to each person so appointed. Every inspector shall be paid for his actual and reasonable traveling expenses at the rate of ten cents per mile incurred in the performance of his duty, together with his actual and reasonable expenses for transportation of instruments, which shall be certified and sworn to under such instructions as shall be given by the Secretary of the Treasury.'"

The SPEAKER *pro tempore*. The question is upon agreeing to the amendment which has been read.

Mr. STONE. I am willing, of course, to have a vote taken upon this amendment, as I am in favor of it. I conclude, however, that my friend from Kentucky [Mr. WILLIS] desires to oppose it.

Mr. WILLIS. I do.

Mr. STONE. If so, I desire to say a few words in furtherance of what was said when this matter was last under consideration, and especially in reply to what was said by my colleague from Michigan, [Mr. CONGER.] I will first ask to have read a letter from the supervising inspector-general, addressed to Mr. REED, of Maine, who submitted the pending amendment.

The Clerk read as follows:

TREASURY DEPARTMENT,
OFFICE SUPERVISING INSPECTOR-GENERAL OF STEAMBOATS,
Washington, D. C., May 12, 1880.

DEAR SIR: I have noticed in the CONGRESSIONAL RECORD of this date a report of your action in the discussion upon the new steamboat bill now pending before the House, and desire to transmit, for your information, a statement of the inspections of steam-vessels made in the United States during the fiscal year ended June 30, 1879, as compiled from the records of the Department.

I desire frankly to state that in the compilation of vessels and tonnage, as they appear in my annual report of last year, there were two clerical errors; one in relation to the number of vessels inspected at Port Huron—given there as sixty-four when it should have been eighty-three; not three hundred and eighty-six as stated by Mr. CONGER—the other in regard to the tonnage in the Buffalo district, which was corrected in an *errata* slip at the end of the report. (Copy inclosed herein and marked A.) Both errors originated with the clerk upon whom I depended for such details, and who explains the matter of the Port Huron mistake in a letter to the supervising inspector of that district, (a copy of which is inclosed herein and marked B.) With the exceptions stated I believe that every figure in my report will agree with the official records.

I have no personal interest in any inspector whose salary is proposed to be increased or decreased; indeed, the larger number of them I do not even know personally. The matter was first brought to my attention by the inspector whose letter was presented by Mr. STONE last night. I believe my recommendations to be just, and would renew them to-morrow, even in the face of the hostility which it seems to me has unnecessarily been excited against me personally for performing what, to my mind, seemed an imperative duty.

I trust that I have not exceeded the bounds of propriety in writing to you. My excuse is that I thought that I should be blameworthy, after what took place last evening, not to inform you of all the facts in the case.

Very respectfully yours,

JAS. A. DUMONT,
Supervising Inspector-General.

Hon. THOMAS B. REED, M. C.,
House of Representatives.

Mr. STONE. I think that in view of the facts the supervising inspector-general was justified in using the following language in his annual report:

I invite your especial attention to the following list of local boards and statement of the amount of work performed by each, for the purpose of showing the inequalities in salaries now paid and in the hope that you will call the attention of Congress to the subject, in order that it may remedy what seems, in some cases which I shall point out, inexcusable injustice:

In the first column will be found the names of the ports where the local boards are respectively located, in the second column the number of vessels inspected by each board, in the third column the salaries received by each officer, and in the fourth column I have placed the amount each in equity should receive in cases where justice seemed to demand that a change should be made. I am aware that in instances where I have recommended a decrease in compensation there will be dissatisfaction, but no logical reason can, I am sure, be given therefor. A particularly marked case of inequality in salaries in comparison to the work performed may be found in comparing Grand Haven, Michigan, which inspects one hundred and two vessels, salary $900, with Port Huron, which inspects only sixty-four vessels on salaries of $2,000 per annum; or compare Louisville, Kentucky, which inspects but fifty vessels annually, salaries $2,000, with New London, Connecticut, which inspects one hundred and fifty-six vessels, with salaries of $1,200 per annum.

It was right here that the error of the report occurs. Instead of sixty-four vessels at Port Huron it should have been reported as eighty-three vessels. That is the only error contained in this entire statement affecting this proposition of readjustment.

The proposition of the supervising inspector-general is to readjust all these salaries. The result will be a total reduction of $3,400. There will be an increase of salaries at the following ports: New York City, $300; Philadelphia, $200; New London, $300; Albany, $300; Wheeling, West Virginia, $300; Portland, Maine, $300; Grand Haven, $600; Norfolk, $300; Portland, Oregon, $300; Oswego, New York, $400; Marquette, $300; Seattle, Washington Territory, $400; Burlington, Vermont, $200. There will be at other ports a reduction.

As I said the other evening, the most marked case of inequality and injustice is at Grand Haven, Michigan, and whatever may be the vote on this amendment I hope the House will at least do justice to the case of Grand Haven.

Mr. BARBER. Will the gentleman allow me an inquiry? He stated, I think, the number of vessels inspected at Port Huron as eighty-three, and the number inspected at Grand Haven as one hundred and two. Is the tonnage given?

Mr. STONE. The tonnage is given, and at Port Huron and many of these ports the tonnage is larger than at Grand Haven.

Mr. BARBER. Then the difference is in the number of vessels inspected.

Mr. STONE. The difference is in the number of vessels inspected; but as the labor of inspection is substantially the same in each case, there is probably not much force in the argument against a readjustment of the salary. When this question was up before I published a statement showing the tonnage at all these ports, and it can be published again if desired.

To become satisfied that there was a mistake in this matter we followed it further and have obtained from the Chief of the Bureau of Statistics a letter which I submit, accompanied by a tabular statement:

TREASURY DEPARTMENT,
BUREAU OF STATISTICS, *May* 20, 1880.

SIR: I have the honor to acknowledge the receipt of a letter from Hon. T. B. REED, under date of the 12th instant, in regard to the number of vessels inspected in the various inspection districts of the United States referred by you to this bureau with instructions to examine the statement of the supervising inspector of

steamboats, (found on page 6 of his annual report for the last fiscal year,) and to report to you in regard to its correctness with respect to the number and tonnage of the vessels reported therein.

In pursuance of your directions I have to state that I caused Mr. B. T. Welch, one of the most expert accountants in this office, to examine the original quarterly statements of the supervising inspectors for each local district, which were placed in his hands by the supervising inspector-general as the data from which the table above referred to was made. (See page 6 of inclosure marked "A.")

The result of Mr. Welch's examination is shown in the accompanying table marked "B." In this table columns 1 and 2 exhibit the result of the tabulation from the inspector's returns as made in the office of the supervising inspector-general. Columns 3 and 4 exhibit the result of the tabulation from the same returns as made by Mr. Welch. Columns 5 and 6 show the differences between the two tabulations. These differences are mainly explained in the notes and remarks made on the table.

The letter of Mr. REED is returned herewith. (See inclosure "C.")

Very respectfully,

J. N. WHITNEY,
Acting Chief of Bureau.

Hon. H. F. FRENCH,
Assistant Secretary of the Treasury,
Washington, D. C.

B.—*Table showing the number and tonnage of steam-vessels inspected in the several supervising districts of the United States, as shown by compilations of the returns of the supervising inspectors, made in the office of the supervising inspector-general, and by Mr. B. T. Welch, accountant in the Bureau of Statistics.*

[The report of the supervising inspector-general was printed November 14, 1879.]

Supervising districts.	Local districts.	Table of vessels and tonnage as compiled by supervising inspector-general.		Table of vessels and tonnage as compiled by Bureau of Statistics.		Differences shown.		Remarks.
		No.	Tonnage.	No.	Tonnage.	No.	Tonnage.	
		(1)	(2)	(3)	(4)	(5)	(6)	(7)
First district	San Francisco, California	166	75,832.45	166	75,832.45			
	Portland, Oregon	82	25,384.48	82	25,384.48			
	Seattle, Washington Ter	40	4,633.92	40	4,633.92			
Second district	New York, New York	665	228,054.77	665	228,066.44		+11.67	These differences seem to have been occasioned by corrections made in the original reports by the supervising inspector of the district, after they had been returned to him for correction of errors, and received back at the office of supervising inspector-general after tabulation of annual report.—See letter November 24, 1879.
	Albany, New York	145	24,700.85	145	24,694.85		−6.00	
	Philadelphia, Pennsylvania	284	80,817.26	284	80,817.16		−.10	
	Boston, Massachusetts	170	51,897.96	170	51,897.96			
	New London, Connecticut	156	48,893.22	156	48,893.05		−.17	
	Portland, Maine	102	18,075.18	102	18,076.03		+.85	
Third district	Baltimore, Maryland	178	43,889.75	180	44,012.53	+2	+122.78	By letter of December 11, 1879, the supervising inspector of third district reports the omission of two vessels of 122.78 tons from his quarterly report of June 30, 1879.
	Norfolk, Virginia	89	8,689.35	89	8,689.35			
	Charleston, South Carolina	58	7,555.97	58	7,555.97			
	Savannah, Georgia	70	5,546.75	70	5,546.75			
Fourth district	Saint Louis, Missouri	169	49,310.32	169	49,310.30			
Fifth district	Galena, Illinois	158	18,620.79	157	18,914.65	−1	+293.86	
Sixth district	Louisville, Kentucky	50	17,073.36	50	17,073.36			
	Nashville, Tennessee	27	3,398.80	27	3,398.80			
	Memphis, Tennessee	70	15,609.75	70	15,609.75			
	Evansville, Indiana	68	7,432.90	68	7,432.90			
Seventh district	Pittsburgh, Pennsylvania	138	32,291.96	138	32,291.96			
	Wheeling, West Virginia	106	12,657.27	106	12,657.27			
	Cincinnati, Ohio	107	35,606.30	107	35,606.30			
Eighth district	Detroit, Michigan	96	29,138.27	96	29,139.27		1.00	The report of this district for second quarter of 1879 was returned for correction, and by letter of December 13, 1879, the inspector reports an omission of four vessels—tonnage, 129.91—in Chicago district. This difference is shown by letter of chief clerk, Jan. 24, 1880.
	Chicago, Illinois	113	18,083.73	117	19,213.24	+4	+1,129.51	
	Milwaukee, Wisconsin	112	19,375.54	112	19,375.54			
	Port Huron, Michigan	64	12,987.54	83	12,987.54	+19		
	Grand Haven, Michigan	102	6,524.57	102	6,540.87		+16.30	
	Marquette, Michigan	52	3,807.34	52	3,757.34		−50.00	
Ninth district	Buffalo, New York	141	21,566.00	141	68,837.10			Figures of bureau here given agree with those of the errata slip which is attached to the annual report, opposite page 16.
	Cleveland, Ohio	118	10,152.58	117	35,508.56			
	Oswego, New York	55	2,157.26	55	3,236.22			
	Burlington, Vermont	22	2,307.60	22	2,846.90			
Tenth district	New Orleans, Louisiana	218	59,824.97	218	59,824.97			
	Mobile, Alabama	45	6,594.43	56	6,982.74	+11	+388.31	See Note A.
	Galveston, Texas	37	7,144.99	37	7,144.99			
	Apalachicola, Florida	16	2,470.90	16	2,470.90			
Total		4,289	1,018,109.08					

NOTE A.—By letter of September 18, 1879, the supervising inspector-general reported to inspector of the tenth district a discrepancy of eleven vessels between his quarterly statement and the return of the collectors. By letter of October 15, 1879, the inspector reports the omission of one steamer of 416.20 tons. The remaining difference of ten vessels appears to have been reported by the supervising inspector in one quarter and by the collector in another quarter.

Mr. REAGAN. I move to amend the amendment by inserting after the words "Portland, Maine," in the third clause, the words "Galveston, Texas." I will state my reasons for offering this amendment.

In the Forty-fourth Congress, on a petition presented here, the Committee on Commerce considered this question, and agreed to an amendment increasing the compensation of the inspectors of steam-vessels at the city of Galveston from $1,200 to $1,500 a year. This was done in consequence partly of the amount of commerce there, partly on account of the great cost of living on Galveston Island, and also because of information that these inspectors are to a large extent prevented by their duties and by the law from engaging in other business.

The amendment now before the House proposes to reduce the pay of the inspectors at the city of Galveston from $1,200 to $1,000 a year. This reduction seems to be based upon a table which has been presented showing the number of vessels inspected and the tonnage of these vessels. In that table (which may or may not be accurate; I have no means of saying whether it is or not) the number of vessels inspected at Galveston is set down at thirty-seven. I cannot tell how the fact may be on that point. I only know that I often visit that city and that there is always a large fleet of vessels there. I know, too, that nearly twenty-five million dollars' worth of cotton alone is shipped from that port annually; that the commerce of the port, as shown by the books of the Treasury Department, is over $30,000,000 annually; that the cost of living is perhaps greater there than at any other seaboard city in the Union, on account of the fact that Galveston is situated upon an island where wood, water, and all other articles in ordinary use must be obtained in costly ways.

It is clear to me from past examination that to reduce the pay of the inspectors there from $1,200 to $1,000 a year would be a great wrong and would probably have the effect of driving the officers out of the service.

If the pay of inspectors is to be measured by the amount of commerce, then many of the places in the third paragraph where the inspectors are to receive $1,500 a year have no commerce to compare with that of Galveston. This being the fact, I think I have reason for asking the House to insert "Galveston, Texas," after the words "Portland, Oregon;" and if this amendment be adopted, shall move to strike out "Galveston, Texas," when we reach the fifth clause.

Mr. WILLIS. Mr. Speaker, I recognize fully the importance of votes instead of talk, and I have very seldom occupied the time of this House during the discussion of this or any other bill. But I do not believe that any member on this floor desires to do injustice to the officers in charge of the public business. The amendment now pending, offered by the gentleman from Maine, will certainly strike down in many parts of the country most worthy and efficient public officers who are necessary to the proper conduct of a delicate and responsible public duty.

What is the amendment? Where does it come from? Is there any committee on the floor of this House that recommends it? Does the committee having charge of this bill say that these changes should be made? No, sir; but a gentleman from Maine rises in his seat and without notice offers an amendment which changes the salaries of some fifteen or eighteen officers. Are there sufficient facts upon which to base this change? We have had read to us the report of the supervising inspector-general. Another gentleman, the gentleman

from Michigan, [Mr. CONGER,] rises in his place and declares that official statement has been pronounced by the inspectors of ten districts in this country as false in many particulars. And we have a letter read here to-night which, from the same source, confesses in one material point a gross mistake has been made.

I say this amendment is made without notice to the ten supervising inspectors of the ten inspection districts of the country. Does the House know what the duties of these inspectors of hulls and boilers are? What are they? They are prescribed by the statute, and they require for their discharge, in the words of the statute, men of character, men of standing, men of experience, old boatmen. No novice can take charge of this office and discharge its duties. It requires these qualifications, that they shall have good character, suitable qualifications and attainments to perform the service of inspectors of hulls, and who from their practical knowledge of ship-building and navigation and the uses of steam in navigation shall be fully competent to make a reliable estimate of the strength and seaworthiness and other qualities of the hulls of steam-vessels and of the equipment deemed essential to safety of life in navigation. Those are the duties of inspectors of hulls. The inspector of boilers is to be a person of good character, qualified to perform the services required of an inspector of boilers, and who from his knowledge and experience of the duties of an engineer employed in navigating vessels by steam and also of the construction and use of boilers and machinery and other appurtenances therewith connected shall be able to form—what? A reliable opinion of the strength, form, workmanship, and suitableness of boilers and machinery to be used without hazard to life from imperfection in materials, workmanship, and arrangement of any part of said apparatus for steaming. Are there any more important duties to be performed by an officer of the United States?

And what does the amendment propose to do? It proposes to reduce the salaries of these men to a point where you cannot find in my State, I know, reliable, competent, experienced men to discharge these duties. You propose by reducing these salaries to place in charge of these public services men who will subject thousands of your fellow-citizens to loss of life from explosions resulting from imperfect materials placed in boilers which they inspect. You subject to loss the lives of thousands of your people who navigate your waters because of defective hulls which have not been properly inspected by men competent to do so. These are the questions involved in this motion sprung upon this House in this sudden and improper way. Now, so far as the city which I have the honor in part to represent——

The SPEAKER *pro tempore*. The time of the gentleman from Kentucky has expired.

Mr. BERRY. I will take the floor and yield my five minutes to the gentleman from Kentucky.

Mr. WILLIS. I will not detain the House. I say that I know two men in the city of Louisville, Captain George A. Houghton, an old, experienced steamboat man, who has for ten, fifteen, or twenty years been navigating the waters of the West, who is the inspector of hulls, and Captain Mather, another experienced man. What duties do they perform? The gentleman says they inspect only fifty steamboats during the year, but he failed to state what is a most material fact in the decision of this question, and that is at that point, and in its immediate vicinity over which they have jurisdiction, seventeen large palatial steamboats were built last year, some of them costing a quarter of a million dollars. The largest steamboats on the waters of the West were inspected by these inspectors of hulls and boilers. What were their duties? Were they confined simply to going to these boats after they were completed to make a cursory examination of their fitness? No, sir; but they were compelled to watch every sheet of iron, if they did their duty. They were consulted every day by the men who were constructing the hulls and performed other work in connection with the building of these boats, which were to bear human life in safety over your waters.

So you cannot form an estimate of the duty incumbent upon them by merely giving in cold figures the number of boats they are called upon to inspect. Another inspector at some other point may merely perform a perfunctory duty by examining these vessels after they have been inspected from day to day during their construction. This examination may be performed at other points while the building of boats is attended to by these men at that port. You cannot obtain men having the experience they have for the pitiful sum of $1,500, which you propose to give them in this bill.

Now, sir, why should there be a reduction? By whom are these men paid? Are they paid by your purses and from the purses of the tax-payers of the country? No; and I call the attention of the House to that fact. These men are paid from a special fund which is collected from the steamboats of the country, and it is a fund which has been $60,000 per annum in excess of the salaries of these offices. Why, then, should you wish to reduce their salaries to a starvation point when you have a sum of money paid, not by the people of the United States, but by the very vessels which are engaged in this service, and when, by increasing or decreasing their salaries, you do not increase or decrease the tax paid by the people of the country?

It is a self-sustaining service, and hence I say it will be doubly unjust in this matter, without notice, to strike down the salaries in that way. I wish to say, Mr. Speaker, I have no objection to the increase of the salary of the inspector at Grand Rapids, or to the increase of the salary of the inspector at New London, Connecticut. I know that there is an injustice in this matter, and I am prepared now to vote to rectify the wrong. But in doing that I am not prepared to strike down unjustly, without notice, without cause, or without reason, and to the detriment of the service and to the danger of human life, the salary of these inspectors, as worthy, as competent, and as efficient men as can be found anywhere, and as these salaries are fixed by law they ought not to be changed.

In conclusion I ask to have read two letters, one from the surveyor of customs of the city of Louisville, Colonel T. O. Shackelford, and the other from the supervising inspector of the sixth district, Mr. B. O. Carr. Both are men whose views are entitled to credit, and their opinions cover this case fully. I ask that the letters be read and published with my remarks in the RECORD.

The Clerk read as follows:

CUSTOM-HOUSE, LOUISVILLE, KENTUCKY,
Surveyor's Office, May 19, 1880.

SIR: After the receipt of your letter of the 13th instant, in reference to the proposed reduction of the salaries of the local inspectors of this district, I have taken pains to make such inquiry about the matter as would enable me to present many very strong reasons why no reduction should be made:

1. A reduction in the salaries of these officers will inevitably lead to a lower standard of qualifications. It must be remembered that upon the efficiency of the work of these inspectors depends, in a great measure, the safety of both life and property on all vessels propelled by steam inspected at this port. Special fitness, both as to efficiency and experience, is a primary requisite.

2. This district, besides Louisville, embraces also the important ship-yards of Madison, New Albany, and Jeffersonville, in Indiana. During the last five years the number of new boats turned out from these yards has exceeded that of any district west of the Alleghany Mountains. The most elegant floating palaces of the West are built at these ship-yards. The cost of these vessels range all the way from $3,000 to $250,000. Nearly all the fine passenger packets on the Ohio and Mississippi are built here.

3. The local inspectors at this place, therefore, have to deal with the construction and equipment of these boats from the very start. The iron out of which the boilers are made has to be tested carefully before the work is begun. Every detail of the engines, boilers, valves, pumps, &c., has received their attention many times before the final inspection is made which appears on the Government books. The subsequent inspections of these boats, at ports where they may be afterward registered, are by no means so important, and do not require as high an order of skill or efficiency.

4. As an evidence of the thorough work of those having this business in hand I would state that only four lives have been lost during the past thirteen years in the Louisville district from explosions or other disasters by steam. It is a record of which you can speak with pride.

I trust that Congress will see the importance of making the inspection service more efficient, instead of possibly making it less so by lowering the salaries of these skillful and faithful officers.

Very respectfully,

T. O. SHACKELFORD,
Surveyor.

Hon. ALBERT S. WILLIS,
House of Representatives.

WASHINGTON, D. C., *May 17, 1880.*

MY DEAR SIR: I have yours requesting my views relative to the reduction of salaries of local inspectors at various ports of the United States, as recommended by the supervising inspector-general of steam-vessels in his report for the fiscal year ending June 30, 1879. As I was not consulted in the matter, so far as related to the sixth district which I have the honor to represent, and so far as I can learn none of the supervising inspectors were consulted by the supervising inspector-general before making the recommendation, I feel at liberty to dissent from his opinion as to the basis upon which his recommendation was made. I can, of course, only speak from personal knowledge of my own district.

The local district of Louisville, Kentucky, is compared in the report referred to as having inspected during the fiscal year ending June 30, 1879, fifty boats as against one hundred and fifty-six boats inspected by the board at New London, Connecticut. In the last published report of the board of supervising inspectors, which includes the calendar year ending December 31, 1878, the board at Louisville inspected fifty-four boats as against one hundred and forty-eight at New London, Connecticut. Of those inspected at Louisville seventeen were built in that district during that year, several of them the largest and best equipped boats ever built for western waters. These steamers were built by the best, or as good, builders as any in the West. While technically the inspectors need not go near these vessels until they apply for inspection, in practice they are more or less constantly consulted by men who already get more pay than they do, although little, if any, more competent to do the work.

At Memphis, Tennessee, the inspectors are obliged to travel over a large district, embracing the Mississippi River from Cairo, Illinois, to Greenville, Mississippi, including the tributaries, the Saint Francis, White, Black, and Arkansas Rivers, requiring journeying through a sparsely settled country, sometimes nearly two thousand miles. They have also to contend with the epidemics of that region, and the cost of living is usually greater than in the northern cities. There is some building in that district, and the same remarks will apply as have been made in regard to Louisville.

None of these men receive more pay, and some of them less, than they could earn in their profession outside the public service. I have no doubt that the inspectors at New London, Connecticut, and other ports are paid much less than they earn, but cannot understand why for that reason men who get no more or not so much as they deserve should have part of that taken from them. In my opinion the just basis of salaries should be the extent of territory in which inspections are made, the comparative cost of living, the rate of wages paid in the same profession outside the public service, and the qualifications of the men themselves, and not the number of boats inspected, whether they are, as it were, at the inspector's door or a thousand miles away. The inspection service is of too great importance to the public safety to be intrusted to a class of officers who are incompetent, because the pay will not attract competent and reliable men. It requires no appropriations, as its revenues more than pay its entire expenses, and I respectfully submit that it would be far more just to increase the salaries of poorly-paid officers than to reduce those of men who are already paid little enough.

I have the honor to be, sir, your obedient servant,

B. O. CARR,
Supervising Inspector Sixth District.

Hon. ALBERT WILLIS, M. C.,
House of Representatives.

Mr. REAGAN. Mr. Speaker, I want to make a suggestion in the interest of progress, because this is a long bill and it is desirable to get on with it as rapidily as we can. I have offered an amendment to the amendment which is pending, but it will perhaps facilitate the

action of the House upon the bill if we can come to a vote upon the original amendment first, and I hope that will be done at once. It seems to me that enough has been disclosed to show to the House that this amendment, coming in without the examination of a committee and placed on a bill in that form, without the opportunity of careful investigation, is a dangerous experiment in legislation; and especially dangerous here, because it alters the entire inspection service of the country. An important amendment of this character it seems to me should have come more properly through a committee and after an examination and careful investigation by a committee, rather than to come through an individual member. But as I am anxious to get on with the bill I hope the committee will come to a vote on the amendment at once.

Mr. CONGER. What is the amendment?

The SPEAKER *pro tempore*. It is the amendment offered by the gentleman from Maine [Mr. REED] when this bill was last before the House.

Mr. REAGAN. And with a view to securing immediate action upon the amendment I will withdraw my amendment to the amendment for the present, and afterward, if the original amendment is adopted, renew it.

Mr. CONGER. Is this amendment grading the salaries of the steamboat inspectors?

The SPEAKER *pro tempore*. It is.

Mr. CONGER. Then I desire to say a word upon that amendment before the vote is taken. I made some remarks when this matter was before the House recently upon the subject of the report of the supervising inspector-general. I made a mistake in speaking of the number of inspections of steamboats when I attempted to state it from memory. I had in my mind at the time the inspections and licenses all together, and stated, I think, that there were somewhere about three hundred inspections. I see by looking in the RECORD that my remarks contain what was in my mind at the time and not what I intended to express. The inspections of steamboats and issuing of licenses are entirely different matters, of course, and I do not mean to say that there were over three hundred inspections. I make this statement with a view of correcting that error now. If there is doubt now, and if there is I have proof of it, that the statement in regard to the district of Huron was a misstatement to the extent of nineteen examinations at least.

Now I desire to say to the House a few words upon the proposed basis of grading inspectors, which the inspector-general at New York recommended a year ago, and which is now called up again. I wish to call the attention of gentlemen to the first recommendation, as I find in it, in the additions to and in the deductions from salaries, something that looks a little sectional; and as all know, I am of all other men in this House the least sectional, of course it offends me very much if I see a sectional feeling in any proposition, contrary to any sentiment I have, or have ever indulged in, as all who know my course in life well know. [Laughter.] I have prepared a table here which shows where the deductions are made from the salaries of local boards and where the additions are made, and it is a very curious fact that out of the whole list of twelve or fourteen there are only three places where an addition is recommended lying in the West or South, and all the deductions are in the South and West, and with that exception all of the additions are in the East.

Now, I do not believe within the last year, or two years, or three years, or four years, that the increase of business has been in the East in excess of the West. The other way, in fact, is nearer true. On the lakes, on the rivers, with the deepening of the channels of the rivers the boats have commenced running, and with the improvement of harbors on the lakes the vessels and steamboats are running again and need examination. This inspector-general has asked to increase the salary at New York $600. The officer there has nine assistants at $2,000 each, whereas the local board of two in all our western districts have all the work to do without any assistants at all. At Philadelphia an increase is recommended of $400; at New London, an increase of $600; Albany, New York, $600; Wheeling, West Virginia, $600; Grand Haven, Michigan, one of the western ports, $1,200; Norfolk, Virginia, $600; Portland, Maine, $600; Portland, Oregon, another western port, $600; Oswego, New York, $800; Marquette, Michigan, the third western port, $600; Seattle, $800; Burlington, $400. Deduct from the salaries of these local boards the reductions recommended, Pittsburgh, $1,000; Buffalo, $1,000; Chicago, $1,000; Milwaukee, $1,000; Cincinnati, $1,000; Detroit, $1,000; Port Huron, $1,600; Memphis, $600; Mobile, $600; Louisville, $1,600; Galveston, $400; Nashville, $400.

Mr. STONE. What is the gentleman reading from?

Mr. CONGER. I am reading from a statement of the inspector-general, showing the proposed revision and graduation——

Mr. STONE. Not as recommended in the last report?

Mr. CONGER. No, sir. It is a statement furnished to the gentleman from Ohio [Mr. GARFIELD] and myself. This statement is founded upon the same error as to the number of vessels; but I do not desire to dwell upon that. The point made by the inspector-general—and I desire the attention of the House to it—is that the number of inspections is or should be the rule of salary. In my judgment it is the most reasonable rule that could be adopted. What do the inspectors have to do? On the Mississippi River or on the lakes, or any of our waters, if a member of the local board is notified that any vessel is running upon those waters without the proper apparatus that the law requires, it is his duty to follow that vessel up ten or twenty or fifty miles to meet it somewhere and examine it, and if it is found running without the proper furniture to notify the first collector or the first revenue-marine vessel and have it seized. This is the work that occupies nearly half the time on some of our rivers and some of our lakes.

Again, if there be an accident, a collision, a bursting of a boiler, a fire, anything that occurs upon a steamboat, which is brought to the attention of a member of this local board, it is the duty of the local board immediately to summon before them the officer or go to the vessel and examine the boat.

[Here the hammer fell.]

Mr. ANDERSON. I would like to hear the remainder of the gentleman's statement, and I yield to him my time.

Mr. CONGER. I wish to state a few more things, once for all, on this question, because where I live, with thirty-eight thousand vessels passing before my door every season—nearly forty thousand—and half of them steamboats, (I do not mean different vessels, but so many passages as the vessels go from the lower to the upper lakes,) I have necessarily, for years before I ever thought of being a member of this House, been familiar with matters relating to steamboats. With five large ship-yards, where there are more steamboats building at one time than perhaps at any other place on the lakes, I could hardly avoid knowing many things connected with this subject, and I have given it some measure of study.

Now, these local boards, if a complaint is made about any licensed officer, the captain, mate, engineer, or pilot, must hold a court, hear the complaint, examine the witnesses, hear the statement of the offending party, condemn him if he has violated the steamboat law, restore him to duty if he has done his duty or suspend him for a further examination. The duties as you will find in that steamboat law that are required of these local boards are very numerous. A small part of the time occupied and of the judgment required and of the fidelity demanded is in the inspection of the hull and the boiler; a very small part.

Again, these local inspectors, some of them, live in districts having coasts five, six, or seven hundred miles long. In Port Huron the boundaries of the district of the Huron inspectors commence within seven miles of Detroit, follow up the windings of Lake Saint Clair and of the Saint Clair River, all the windings of the shore of Lake Huron up into Saginaw Bay, and around it to Traverse and up to Mackinac, there being shore villages and towns with harbors scattered all along the shore a distance considerably over five hundred miles. To many points along that route these inspectors go wherever a boat is laid up, whether at Saginaw or Bay City or Mackinac or wherever it may be when the spring opens, and the boats before they can go forth have to be examined and licensed. These men go sometimes by land, where there are no railroads, seventy or eighty miles to these places to make these inspections. And so it is I doubt not, as has been stated in this debate, upon the Mississippi. Upon the Red River and at other places they have to go longer or shorter distances.

Now, when the salaries of these men were graded, in 1871, when we compiled this law from the scattered fragments of law which had been adopted one at a time ever since 1854, and had no compact act, at that time we made a careful examination of every district and of the number of inspections and the duties to be performed; and the inspectors were all present here at the time; not these local boards, but the ten inspectors of the ten districts.

We talked with them; we had their reports. As near as might be we took the salaries as they had been before, unless the report showed such an increase of business that we were induced to recommend an increase of salary, and then the increase was put into the bill.

There is no doubt but what there ought to be some changes in this law; there is no doubt but what the amount of business has increased in some of these local districts and decreased in others. That may be; they change very much within two years, increase and decrease continually. But the House should bear in mind that the business of the local board is not to be gauged at all by the number of inspections, is not to be gauged at all by the number of captains and mates and engineers and pilots examined or who are licensed, because in some places the examinations embrace double as many, and sometimes more than double as many as are found fit to receive licenses for those places.

As has been said, wherever there is much ship-building the man who inspects the hull goes from week to week to examine the timbers and the hulls, so that when a boat is built he knows exactly what has been done. So it is with the engine inspector; he examines the boiler and the manner in which it is put in the boat.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. NEW. I will take the floor and yield to the gentleman from Michigan, if he is not through with what he desires to say.

Mr. CONGER. I am very much obliged to the gentleman. I wish to say a few words more upon this subject.

I occupy the time of the House with the more readiness and confidence because when the scattered fragments of the old laws were gathered (I think it was in 1871 that this law was codified, or the codification was commenced then, at any rate) I was appointed a sub-committee

of the Committee on Commerce to gather together the relics and fragments of the old laws which were scattered all through the session laws from 1854 and to prepare them for the action of the full committee. I spent days and weeks and months looking up and writing out from every law and from every set of rules and regulations that I could find in the Departments with two or three clerks most of the time. I gathered together all I could upon this subject and laid it before the Committee on Commerce, and that committee devoted weeks if not months to active labor in the preparation of the bill which we are now called upon to amend, and which is scattered into titles and parts in the Revised Statutes; but which was one code when we passed it, and has not been materially altered since.

In that connection allow me to say that we attempted to place all the fragments of laws in one code so that it could be published in pamphlet form and be read by all steamboat-men and by all officers and by all inspectors and every one else interested in the matter, and not oblige them to hunt through the great body of laws to ascertain what were the duties of these officers.

No doubt the law needs amendment. This House has at least on two different occasions passed a bill to amend this code of laws and sent it to the Senate, but it has failed in the Senate. The effort is again being made to amend it. I have no doubt that there should be amendments. The time unquestionably has come when there ought to be a regrading of the salaries of these officers. But, as has been said here, it should be done by some committee, by some body of men who will take into view the entire duties, responsibilities, expenses, labors, and time occupied by these different local boards, and graduate them according to the actual necessities of the case.

One word more. Before 1873, when this code became a law after two years' labor upon it, there had been casualties and shipwrecks and boiler explosions and loss of life, until every one who took up a daily paper expected to see under the head of "accidents" an account of some explosion resulting in the loss of many lives, of dozens and sometimes of hundreds of lives; it was then so common a thing. But since this law went into operation, year by year the number of casualties of all kinds has decreased, until now we all know that it startles us if we read the account of a boiler explosion on a passenger steamboat, or if we learn that a passenger steamboat has caught fire, as used to be the case repeatedly.

The public have begun to feel that there is some security in steamboat travel. The public have come to feel that the law lies upon the boat in its wanderings, upon the captain in his command, upon the mate, the engineer, and the pilot; that the law lies there with a strong, energetic hand and holds the officers, with all the crew, to their duty.

Among those to whom is due the greater part of the credit for that vast benefit to the public, that vast security of life, that vast saving of property on the water—he to whom it is due more than to all the other machinery of the law—is the local inspector with his fidelity and faithfulness and entire watchfulness. I say it without any fear of contradiction that, more than to all the rest of the machinery, this is due to their watchfulness and fidelity and zeal and emulation and rivalry, an honorable rivalry that their district shall not suffer in comparison with any other by reason of the least neglect on their part. It is to that we owe the fact that we now travel on all our lakes and rivers and coasts with a feeling of security and safety that twenty-five years ago, ay ten or fifteen years ago, was entirely unknown.

[Here the hammer fell.]

Mr. KENNA. I shall certainly not retard the progress of this bill by any observations upon the pending amendment further than to make a statement of fact.

This amendment was under consideration by the sub-committee of the Committee on Commerce, which had this bill in charge. It is true, as stated by the gentleman from Texas, that it was not disposed of by the full committee. It was examined, however, by the sub-committee and rejected—first upon the theory that it was not in any sense germane to this bill, (and by the way upon this theory a similar amendment was rejected by the House upon a point of order in the last Congress;) and, secondly, because the committee had no information to satisfy them that the readjustment of salaries proposed in this amendment was made in accordance with the obligations and duties imposed by the law upon inspectors throughout the country. Upon these considerations the sub-committee was unanimous in rejecting the amendment, and I hope it will not be adopted by the House.

The amendment was not agreed to.

Mr. STONE. I move to amend by inserting the following:

That section 4414 be, and the same is hereby, so amended as to make the annual salary of the inspector of hulls and inspector of boilers in the district of Grand Haven, Michigan, $1,500 each.

Mr. KENNA. I think this amendment is subject to a point of order; but if the gentleman offering it will agree that it may be voted on without debate, I will not make any point of order.

Mr. REAGAN. I shall make a point of order, because this whole subject needs revision.

The SPEAKER *pro tempore*. What is the gentleman's point of order?

Mr. REAGAN. That the amendment is not germane to the subject-matter of the bill. There is nothing in the bill to regulate the salaries of inspectors.

Mr. STONE. I do not care to discuss the point of order.

The SPEAKER *pro tempore*. The Chair will inquire whether the salaries of these officers are anywhere provided for in this bill?

Mr. REAGAN. Nowhere; the subject is not alluded to in the bill at all.

The SPEAKER *pro tempore*. The Chair thinks the point of order well taken.

The Clerk read the next section of the bill, as follows:

SEC. 9. That section 4418 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4418. The local inspectors shall also inspect the boilers of all steam-vessels before the same shall be used, and once at least in every year thereafter. They shall subject all boilers to the hydrostatic pressure, and shall satisfy themselves by thorough examination that the boilers are well made, of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction; that the spaces between and around the flues are sufficient; that the flues are circular in form; that the fire-line of the furnace is at least two inches below the prescribed minimum water-line of the boilers; that the arrangement for delivering the feed-water is such that the boilers cannot be injured thereby; and that such boilers and machinery and appurtenances may be safely employed in the service proposed in the written application without peril to life. They shall also satisfy themselves that the safety-valves are of suitable dimensions, sufficient in number, and well arranged; and that the weights of the safety-valves are properly adjusted, so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there is a sufficient number of gauge-cocks properly inserted, and, to indicate the pressure of steam, reliable and approved steam-gauges, one of which is to be placed in each fire-room and one in the engine-room, and which shall at all times be free to the inspection of passengers; and that there are reliable low-water gauges and a suitable steam-whistle; and that, when required by the inspectors, the fusible metals are properly inserted so as to fuse by the heat of the furnace whenever the water in the boilers falls below its prescribed limits; and that adequate and certain provision is made for an ample supply of water to feed the boilers at all times, whether such vessel is in motion or not, so that in high-pressure boilers the water shall not be less than four inches above the top of the flues; and that means for blowing out are provided, so as to, so far as practicable, thoroughly remove the mud and sediment from all parts of the boilers when they are under the pressure of steam. In subjecting to the hydrostatic tests boilers usually designated and known as high-pressure boilers, the inspector shall assume one hundred and ten pounds to the square inch as the maximum pressure allowable as a working power for a new boiler of forty-two inches in diameter, made in the best manner, of inspected iron plates, one-fourth of an inch thick, and of a quality required by law, and shall rate the working power of all high-pressure boilers, whether old or new, according to their strength compared with this standard; and in all cases the test applied shall exceed the working power allowed in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting to the hydrostatic tests boilers usually designated and known as low-pressure boilers, the inspectors shall allow, as a working power for each new boiler, a pressure of only three-fourths the number of pounds to the square inch to which it has been subjected by the hydrostatic test, and for which it has been found to be sufficient. Should the inspectors be of opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure as is above described, they may, for reasons to be stated specially in their certificate, fix the working pressure of such boiler at less than three-fourths of the test pressure. All boilers used on steam-vessels, and constructed of iron or steel plates, inspected under the provisions of section 4420, shall be subject to a hydrostatic test in the ratio of one hundred and fifty pounds to the square inch to one hundred pounds to the square inch of working steam-power allowed. No boiler or pipe, nor any of the connections therewith, shall be approved which is made, in whole or in part, of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use, or other cause.

Mr. DEUSTER. I move to amend by inserting as section 10 what I send to the desk.

The Clerk read as follows:

SEC. 10. That for the better security of life and vessel property, every steamer and sailing-vessel navigating the ocean, or any lake, river, bay, or sound of the United States, in addition to those appliances now authorized by law to be used for the safety of life and for the protection of steamer and vessel property, shall be provided with one of the relief-valves patented by Edmond R. Bristol, for each and every pump, steam or deck pump, used upon and by such steamers and sailing-vessels; and such steamers and sailing-vessels, for the better security of life and vessel property, shall also be provided with a spray-nozzle, patented by Edmond R. Bristol and James Foley, for each and every hose-pipe on board of and used by such steamers and sailing-vessels. That collectors, or other chief officers of the customs, shall require and see that all steamers and sailing-vessels are provided with the relief-valves and spray-nozzles within six months after the passage of this act. That every steamer and sailing-vessel that shall be navigated without complying with the provisions of this section shall be liable to a penalty of $250, one-half to go to the informer, and for all damages caused thereby; and the steamer or sailing-vessel so navigated may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense. That such relief-valves and spray-nozzles to be used by steamers and sailing-vessels shall be subject to inspection and be inspected in like manner as other appliances now in use for the safety of life and vessel property.

Mr. DEUSTER. I desire to say that this relief-valve and spray-nozzle have been tested and recommended by almost every fire department throughout the United States and also by the board of supervising inspectors of steam-vessels. A committee appointed for the purpose of investigating these inventions made the following report;

That your committee have made a careful examination of the construction of both these appliances, and find that the said relief-valve is for the purpose of preventing undue pressure on the hose attached to fire-pumps by relieving the hose from any pressure in excess of what it will bear with safety. The improved nozzle is provided with a sliding ring on the outside of the same, by the longitudinal movement of which a series of minute holes disposed circumferentially are uncovered, emitting radially a fine spray, which extends ten or fifteen feet from the pipe, furnishing a good protection against the heat and smoke to persons handling the hose. Your committee have witnessed a severe test of the said relief-valve in its application to a steam fire-engine in this city, as also an exhibition of the improved nozzle in actual operation, and we are of opinion that they are both well adapted to effect their intended purpose.

I hope the amendment will be adopted.

Mr. NEAL. Mr. Speaker, I do not rise to speak with particular reference to this amendment, because I know nothing about this patent which it is proposed to inflict upon steamboat owners. I apprehend that the amendment will meet the fate which it deserves—

unanimous rejection by the House. I rise more particularly to inquire of those having charge of this bill whether the requirements of law by which, a few years ago, men were compelled to use on steam-vessels certain patented inventions are still retained in this bill. If so, there should be inserted some provision for the repeal of those requirements. Among other patents was a steam gauge, which on one Ohio River boat when there was not a particle of steam, registered twenty-eight pounds of steam. The steamboat owner was compelled to keep that gauge on his vessel because Congress required it. Another patent gauge actually registered twenty pounds of steam when carried on a man's shoulder from the office to the boat. One steamboat captain, a very reliable man, told me he had been compelled to bore twenty-eight holes in his boilers in order to put upon them the useless patents which Congress had inflicted upon the owners of steam-vessels—patents expensive in their character, but which really impair the protection against boiler explosion—which are no benefit whatever, but a detriment.

I hope, Mr. Speaker, there has been eliminated from the law all provisions requiring any patent gauges and any patents whatever placed upon our western boats at least. They have been unmitigated failures. They have done no good. They have been the source of great expense to boat-owners. They have been the source of still greater irritation to practical steamboat men, and who, at the same time, are deeply interested in securing by every possible means the safety of the lives of passengers traveling on their boats. They have been irritated by the action of Congress in compelling them to adopt and place on their boats patent gauges and other patented articles wholly worthless in their character, and which were put into the law and the provision for which was embraced in the law by lobbies of patentees here in Washington influencing members of Congress, who acted under the honest belief they were thereby aiding to secure in a larger degree the safety of passengers, while in point of fact they were simply putting money into the pockets of patentees for worthless articles, taking it from steamboat owners and officers to the detriment of the traveling public. This worthy class of our enterprising people should not be subjected to this great and unnecessary expense.

[Here the hammer fell.]

Mr. KENNA. In reply to the inquiry addressed by the gentleman from Ohio, I wish to say that a subsequent section in this bill, section 28, relates to appliances which are required by law to be employed on steamboats. The policy of the bill has been, as I understand it, to eliminate from the statutes as far as possible those provisions which impose an absolute requirement for the use of patented articles, and to invest in the supervising inspectors, as far as it was deemed expedient and wise, discretion with reference to such appliances as were necessary to be used. That is as far, until we reach that section, as I deem it proper to go in reply to the inquiry which gentlemen have made.

Mr. NEWBERRY. Mr. Speaker, in view of the remarks made by the gentleman from Ohio, we are all aware undoubtedly of the vast oppression, and I speak it advisedly when I say oppression, that steamboat owners have been subjected to by being compelled by the laws of the United States to purchase continuously, year by year, patents which were absolutely valueless—not only valueless, but which were absolutely injurious and sometimes dangerous.

I admit, sir, that patents may be of value, and in some cases should be adopted by the board of supervising inspectors; but in reference to the remarks of the gentleman from West Virginia on the section subsequent in the act, I wish to say when that section is reached I propose to offer an amendment, which I will read now for information, so that it may be printed in the RECORD. I hope the gentleman from West Virginia will consider it and either accede to it or amend it if it needs it. It is as follows:

Page 24, line 23, add the following words to said section:

"In case any patented invention or appliance is fixed and determined by said board, no royalty shall be exacted or demanded for the same to exceed 5 per cent. of the actual cost of making the specific patented portion of such invention and appliance; and the owner of said patent, before the use of the same shall be enforced, shall enter into an agreement fixing the said royalty, on payment of which said patented article may be made or used; said agreement to be approved by the Secretary of the Treasury, who may at any time withdraw or modify his approval."

A MEMBER. It ought to be 10 per cent.

Mr. NEWBERRY. Five per cent. is a pretty good royalty for any article which is applied by compulsory force of law, and I believe it should not be increased. Now, for some little, insignificant patents that have been put upon steamboats, which cost perhaps $5 to make, steamboat men have been obliged to pay $50, in some cases $75, and I believe in one case $150. Apply that to all the steamers on the lakes, on the rivers, and on the ocean, and it is simply enormous.

Look at the appliances which were compelled to be attached for the lowering of boats, which were said to be safety precautions, so that a boat might be lowered in a sea. It generally was a self-detaching apparatus, which would let go both ends of the boat at the same time; and the result was when in use in case of accident it let only one end drop, letting all the passengers into the sea, and then the boat came down on top of them. That was the best use to which those appliances could be put; yet every seagoing steamer in the United States was obliged to purchase such a patent and apply it to their boats. I have referred to this amendment now because it was in the line of the discussion which has just taken place.

Mr. CONGER. Mr. Speaker, one would think from the remarks that have been made there was something somewhere in this bill relating to this subject which required the use of some patented article. I say to gentlemen they may search diligently for ten weeks and they cannot find anywhere in any section, in any law, any requirement of any patent.

Mr. NEWBERRY. If the gentleman will permit me to interrupt him, he will find this, however, that the board of supervising inspectors is authorized and empowered to adopt certain appliances where they may see fit. They constantly adopt patents, sometimes of their brothers, sometimes of their uncles, and sometimes of their sisters and their aunts.

Mr. CONGER. I will make the speech and the gentleman may talk about the "aunts."

Now in the whole law there is nothing requiring any patent to be used and there never was. All along in the progress of the passage of this law representatives of different patents were running around through the corridors and lobbies of this Capitol; men came here looking to get in just such provisions as would cover these patents in which they happened to be interested, hoping that some of them would be selected; but with all of their work they were not able to get one of them into the law, and no man can find a definition of any machinery, instrument, or anything of that kind in the law, or anything in the law that prescribes the use of any such patented articles. The only provision in the law is that requiring approval by the board of supervising inspectors and by the Secretary of the Treasury. That is in the following words:

No kind of instrument, machine or equipment for the better security of life provided for by this title shall be used on any steam-vessel which shall not first be approved by the board of supervising inspectors and also by the Secretary of the Treasury.

Now, as I say, this Capitol was stormed with patent men two years before the law was passed. The Committee on Commerce had their room full of valves, patterns, boats, registers, and all kinds of machinery so that the committee could hardly turn around in their room until they were forced to clear them all out and the committee determined that there should be no patent legislated upon that law. What was the result? Some two or four inspectors who were themselves personally interested, or had friends interested in the business, got the board of inspectors to approve of certain patent articles and required them to be used on boats. During that year or two—and they did it without the approval of the Secretary of the Treasury—during that year or two vessels were put to an enormous expense. They were tied up in Chicago, Memphis, New Orleans, and Buffalo, because they did not comply with the requirements of this board. I myself received telegrams in my seat here from Chicago and New Orleans, directed to me, because I was known in connection with the law and having charge of it, stating that vessels were tied up because they had not such a "steam register" or such a "valve" or this thing or the other, that was required of them by this board; and I have gone to the Secretary of the Treasury from my own seat here and laid the matter before him and received letters directing the immediate release of the vessels which were so tied up.

There were seven at one time from Chicago in this condition. These inspectors were dismissed from the service. I will not name them here; but look along back from 1873, 1874, or 1875, and when you find a man dropped from the record you will find a man who was instrumental or who had a hand in that business of fixing upon the steamboats of the country some patent or some kind of machine in which he or his friends had an interest. For some years I do not know that there has been any attempt made on the part of the inspectors to select any article on which they might claim a royalty in this way. I understand that lest the inspectors themselves should undertake something of the kind the Committee on Commerce have wisely proposed an amendment to prevent the inspectors from doing anything of the kind. But there is now no law and never has been which authorizes this thing to be done.

Mr. NEWBERRY. That is just what I said.

Mr. CONGER. Ah, but you said that it was in the law.

Mr. NEWBERRY. No; there is no charge against the gentleman or against the law, but simply that the law allows the supervising board of inspectors to do just what the gentleman's own admission shows that they have done, and where, according to his admission, they were bought like sheep in the shambles, and forced the employment of these patented articles, until the country was so aroused that they were compelled to be dismissed.

Mr. CONGER. But the law has been unchanged; there is no law allowing such a state of affairs.

Mr. NEWBERRY. I know that, but still the board of inspectors have the power notwithstanding that under the section which the gentleman himself has read.

Mr. KENNA. I hope the House will now come to a vote upon this amendment.

The SPEAKER *pro tempore*. The question is on the amendment offered by the gentleman from Wisconsin, [Mr. DEUSTER.]

The amendment was not agreed to.

The Clerk read as follows:

SEC. 20. That section 4458 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4458. Before issuing any inspection-certificate to any steamer, the collector or other chief officer of customs for the port or district shall demand and receive from the owners thereof, as a compensation for the inspection and examinations

made for the year, the following sums in addition to the fees for issuing enrollments and licenses now allowed by law according to the tonnage of the vessel: for each steam-vessel of twenty tons or under, $15; and for each vessel over twenty and under one hundred tons, $25; and, in addition thereto, for each and every ton in excess of one hundred tons, five cents.

"Each master, chief engineer, and first-class pilot, licensed as herein provided, shall pay, for the first certificate granted by any inspector or inspectors, the sum of $8; and every chief mate, engineer, and pilot of an inferior grade shall pay, for the first certificate so granted, the sum of $4; and for every subsequent certificate so granted, the said officers shall be paid by them $1.

"Such fees shall be paid over to the chief officer of customs in such manner and under such regulations as shall be prescribed by the Secretary of the Treasury."

Mr. NEWBERRY. I offer the following amendment:

In line 11, strike out "$15" and insert "$10;" so that it will read: "for each steam-vessel of twenty tons or under, $10."

In line 12, strike out "$25" and insert "$15;" so that it will read: "and for each vessel over twenty and under one hundred tons, $15."

I will explain in a word why I offer this amendment.

The SPEAKER *pro tempore*. Does the gentleman submit what he has offered as one amendment or as two amendments?

Mr. NEWBERRY. At present I will submit the first amendment on line 11, to strike out "$15" and insert "$10;" and I will explain my reason for offering this amendment.

There is a considerable number of small vessels, some of them twenty feet long, some of them fifteen feet long, some of them only twelve feet long—a class of little vessels running around harbors that are out for fishing purposes, and are used as pleasure boats, &c. The price of inspection is too high.

And I will say in addition that it is well known to the committee that the fees of inspection and the license fees for pilots are so large that it is well known there is an excess of nearly half a million of dollars in the Treasury that has been accumulated from this class of charges. I hope there will be no objection to striking that out. I think it is quite reasonable it should be.

The amendment was agreed to.

Mr. NEWBERRY. I now move to amend by striking out in line 12 "$25" and inserting in lieu thereof "$15."

The amendment was agreed to.

Mr. NEWBERRY. May I ask the chairman of the committee to tell me from what sums the license fees for engineers, pilots, &c., are reduced to the amounts named in this section?

Mr. REAGAN. These are the fees that are paid by those getting license. They have to pay so much for the certificate. This fund is used for the execution of the provisions of the law, and the amount has been large so that a considerable surplus remains in the Treasury. The supervising inspector-general and the supervising inspectors recommended the reduction of the fees from what they were to what is provided here.

Mr. CONGER. Let me state also that these are the amounts that were fixed in the bill which passed the House.

Mr. WILLIS. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out from line 15 to line 24, inclusive, namely, these words:

"Each master, chief engineer, and first-class pilot, licensed as herein provided, shall pay, for the first certificate granted by any inspector or inspectors, the sum of $8; and every chief mate, engineer, and pilot of an inferior grade shall pay, for the first certificate so granted, the sum of $4; and for every subsequent certificate so granted, the said officers shall be paid by them $1.

"Such fees shall be paid over to the chief officer of customs in such manner and under such regulations as shall be prescribed by the Secretary of the Treasury."

Mr. WILLIS. In the Forty-fifth Congress I supported an amendment to a bill similar to this, reducing the amount to be paid for original license from $10 to $8 per annum and placing the renewals at $1 each. The subsequent thought and examination which I have given to the subject satisfies me that while that amendment was a step in the right direction, it does not go far enough. The whole law upon this subject should be repealed, and pilots, mates, masters, and engineers of steamboats should be permitted to pursue their occupation without being compelled to pay tax for so doing. The committee seem in their report to be inclined to this opinion, but in the bill which they have reported each master, chief engineer, and first-class pilot is required to pay for the first certificate the sum of $8; inferior officers of the same class must pay the sum of $4. Renewals in both cases are fixed at $1.

These sums, Mr. Speaker, are not, it is true, very large, but, small as the tax is, it operates as a hardship, and a very burdensome hardship upon very many of those who are compelled to pay it. Aside from this, however, and of far more importance, is the question of right involved in this proposed legislation. Upon what principle do you select this particular calling out of the thousand other vocations in the United States, and impose upon it a tax, a burden, I care not how small, from which you exempt all others? There is hardly a manufacturing establishment in the country that does not have an engineer in charge of its machinery, and yet the Federal Government requires no license and exacts no money from such engineers. We have hundreds of miles of railroads operated by conductors, engineers, and brakemen, to whom human life and valuable property is more extensively intrusted than to steamboat employés. Why do you not require them to stand an examination and procure a license before they are permitted to discharge their duties?

And so, sir, I might mention the lawyer, the merchant, and all other professions and vocations in life, and ask the same question. Can any gentleman upon this floor assign a reason for this odious discrimination against this class of our fellow-citizens? Will any lawyer upon this floor, with the decisions of our Supreme Court before him, contend that a personal tax of this kind is constitutional? If, then, the license asked for here is exceptional in its application and unconstitutional in its enactment, why should we permit it longer to rest upon our statute-book? Will it be said that it was the intention that this particular service should be self-sustaining, and that therefore this license should be expected? Why, let me ask, why should it be so intended as to this service and not as to others? And then, too, why should you inspect a steamboat and not a locomotive? If you claim and justly claim that over these great lines of railways you can exercise jurisdiction and regulate the prices and the manner of transporting cattle or other freight, could you not also in the exercise of the same authority send your Government officials as inspectors to test the boilers and machinery which propel their cars in the same manner and to the same extent as you now test under law the engine and machinery of our steamboats and steamships?

But, sir, coming back to the question of this service being self-sustaining, I assert here what no gentleman who has examined the subject will deny that every year the Government has collected from this source over and above the amount necessary to pay the expenses of its numerous and unnecessarily numerous officers, an amount ranging from sixty to seventy thousand dollars; so that there is now to the credit of that service in the Treasury—I will not say how many millions of dollars. Why should these steamboat-men be compelled every year to pay sixty or seventy thousand dollars to make up the discrepancies in other departments of the Government?

Sir, the men who pay these licenses are generally not blessed with this world's goods. They are as a class sober, industrious, and honorable men, men whose deeds of daring and self-sacrifice are a part and a most noble part of our country's history. They deserve and should receive the support and encouragement of the Government.

Aside from these considerations, which are personal to these men, there are reasons of a public nature. The question of cheap transportation is involved. We look to our rivers for transportation of our numerous agricultural products. We should foster and encourage our steamboat interests and the interests of those engaged in their service.

Mr. NEWBERRY. I wish to ask the gentleman from Kentucky a question.

Mr. WILLIS. I yield for a question.

Mr. NEWBERRY. Does not a lawyer pay a fee when admitted to practice before the courts?

Mr. WILLIS. No, sir.

Mr. NEWBERRY. He does.

Mr. WILLIS. On the contrary, when a law of that sort was attempted to be enforced in different States against lawyers and the question was made by them which they could make without expense, while these men cannot do so, it was decided by the supreme court of every State where the question was tested that these personal licenses are unconstitutional; and the gentleman from Michigan knows it. Why, then, should we against this humble class try to impose a tax which is an odious discrimination which is unjust in itself, which is characterized by the highest court of the land as unconstitutional? What reason can any gentleman assign why these men should be taxed any more than the men who run your locomotives that carry thousands of people daily and hourly?

Mr. NEWBERRY. Does not every pilot, every engineer, every master, have to go before the board and be examined, that it may be seen that he is competent? Is not that the whole basis of the charge? Whereas the question that the gentleman from Kentucky refers to is the simple question of deriving revenue from a license without any examination.

Mr. WILLIS. Now, let me answer the gentleman's question by another question. By what right does he require these men, before they engage in their occupation, to submit to such an examination?

Mr. NEWBERRY. Because in their hands are put the lives and property of every citizen of the United States; and it is proper the Government should see that competent men are placed in these positions.

Mr. WILLIS. That does not apply any more to that class of men than it applies to the men who drive your locomotives. Is the gentleman in favor of making a similar requirement of the engineers who drive our locomotives?

Mr. NEWBERRY. When the interstate-commerce bill comes up the House will be asked to adopt that very amendment to it.

Mr. WILLIS. There is not merely one occupation but there are dozens of occupations that involve human life, human honor, and human character. Who has more to do with human life and with human honor than the members of the legal profession, the profession to which the gentleman from Michigan himself belongs? And yet he is not required to pay a license before he carries on his vocation. No, sir; there is no principle upon which this odious law has been allowed to remain on the statute-books. It is not required even to sustain the service. Over $60,000 in excess of the necessary demands of the service are every year covered into the Treasury of the United States from this source.

Mr. BRAGG. Will the gentleman permit me to ask him a question?

Mr. WILLIS. Certainly.

Mr. BRAGG. Does not every lawyer when he is licensed pay a fee?

Mr. WILLIS. No lawyer is required by any law of the United States that I know of to pay any fee for his occupation. We are not a State Legislature here.

Mr. BRAGG. Did not you pay a fee when you were admitted to practice?

Mr. WILLIS. I am directing my remarks to this question from a national and not from a State stand-point.

Mr. BRAGG. When you were admitted to practice in the Supreme Court of the United States did you not have to pay a fee of $10?

Mr. WILLIS. Not upon any principle such as is involved in this provision.

Mr. BRAGG. But did you not pay it?

Mr. WILLIS. You may go out upon the streets and you will find every day engineers who are running large manufactories in which hundreds of operatives are employed. Why not call upon them for license fees? Why does not the Government interfere with them in this way? And as I say again, why not with regard to engineers on your railroads? It will not be denied that the jurisdiction of the National Government will apply to them, especially where the railroads cross State lines.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. REAGAN. I think there is a satisfactory answer to the question propounded by the gentleman from Kentucky [Mr. WILLIS] as to what necessity there is for requiring these pilots and engineers to be examined, and to pay for their licenses.

The gentleman from Michigan [Mr. CONGER] a short time ago called attention to a matter which was fresh in the minds of most of the gentlemen here—the time when the want of security on steam-vessels navigating our waters was so great that we constantly heard of the loss of vessels, loss of property, and the loss of life. The action of Congress was invoked for the greater security of life and property on such vessels. One of the most efficient means for securing that object was the obtaining of competent and efficient engineers for steam-vessels. Now, how was this to be done? It was to be done by requiring them to go before a competent board to be examined as to their fitness for the performance of the duties of engineers and of pilots. When they had been so examined, and had received their certificates, they had a privilege which no unauthorized man, no incompetent man, no man whose want of knowledge would endanger life and property could exercise or enjoy, because, after thorough examination and proof, which established their competency under the restrictions of the law, they were authorized to exercise their vocations as pilots and engineers.

Heretofore a fee of from $5 to $8 has been required of them. The board of inspectors and the supervising inspector-general informs us that we may safely reduce that fee to the almost nominal sum named in this bill. It is true that by the payment of this nominal fee for a license we will obtain a degree of security for life and property by having experienced and skillful pilots and engineers, whose experience and skill has been ascertained and certified to by a sufficient examination by a competent board. This gives confidence to those who travel on the water, to those who transport property on the water, and to the owners of vessels navigating our waters. I can say to the gentleman from Kentucky [Mr. WILLIS] that I cannot well conceive of a worse calamity that could befall this country than the repeal of this law, and saying that any man who will go upon a steamboat as engineer or pilot at the lowest price, without any test as to his skill or ability, should have the privilege of doing so. This is one of the great safeguards of life and property on steam-vessels navigating our waters.

The advantage which these persons acquire by having this license and paying this fee is the privilege of being employed as engineers or pilots; they have the monopoly of that service by virtue of the fact that they have been thus examined and licensed. Remember that this is not limited to any particular number of persons, but it applies alike to all who by sufficient study and experience have acquired skill in engineering and in piloting. I think it would be a great misfortune to the commerce and the travel of this country to strike out this portion of the bill.

Mr. MARSH. Prior to the war there was a tax levied on this class of steamboat officers of $1 for every license and $1 for each annual renewal thereof.

When the war broke out and there was a necessity for the raising of extraordinary taxes and extraordinary revenue this license tax of $1 was raised by act of Congress to $10 annually. Everything conceivable and inconceivable was subject during that period of time to taxation for the purposes I have mentioned.

Nearly all the war taxes known as special war taxes have now been repealed. When this bill was under consideration in the Forty-fifth Congress the Committee on Commerce reported it with a provision preserving the existing law upon the subject, with the exception that the license was reduced from $10 to $8 for first-class officers and to $4 for second-class officers. I had the honor at that time to offer an amendment, which was adopted and which has been embodied in the bill reported to this Congress, making the annual renewal of a license subject to a tax of only $1.

I believe that this provision was satisfactory to the class of persons directly interested all over this country; at least I so understood from petitions which were filed by them here and from expressions which we heard from them after the consideration of the bill in the Forty-fifth Congress and the adoption of that amendment.

I have just come into the House. If there is a motion pending to strike out that clause entirely——

Mr. KENNA. There is such a motion.

Mr. MARSH. Then I interpose my objection to it, for two reasons: First, I believe that the system of licensing these steamboat officers is necessary for the protection of property and life upon steam-vessels; secondly, I believe that it is a protection to this class of men themselves, inasmuch as a high standard of proficiency is required before they can secure a license to pursue these vocations; and it prevents the owners of steam-vessels from going into the highways and byways and employing inefficient and inexperienced men at low wages.

Mr. KENNA. Inasmuch as the gentleman was not here when the amendment was offered he will allow me to state to him that the pending amendment affects the question of charges made as against the various parties enumerated in this section, but not the question whether they shall be licensed or not.

Mr. MARSH. Living on the Mississippi River I have some personal acquaintance with river men; and I have never seen one who was not perfectly willing to pay eight or ten dollars as his original license fee. But it is the universal sentiment, so far as I know, and so far as these men were represented in the Forty-fifth Congress by numerous petitions, that the subsequent annual fee should not exceed $1. According to the universal expression of sentiment, so far as I have heard, these men are perfectly willing to pay the annual fee of $1.

[Here the hammer fell.]

Mr. WILLIS. One word upon the question whether pilots are satisfied with this requirement. I presented in the Forty-fifth Congress a petition signed by over three hundred pilots, praying just what this amendment seeks to accomplish—the abolition of this tax which discriminates against them. A gentleman at that time representing the city of Chicago on this floor—Mr. Harrison, its present mayor—presented a petition signed, if I recollect aright, by five hundred pilots on the lakes and upon the western rivers, declaring that this was an odious discrimination against their profession, and that aside from the question of the amount involved, they asked to be placed upon the same level with other occupations in the country.

As late as last September the National Board of Steam Navigation held a convention at Cincinnati. That board, as gentlemen know, represents $600,000,000 of capital invested in river and lake steamboats. A resolution was offered before that board of representative men, in language which I will read, and then I will submit to the House the question whether the pilots consent to this discrimination against them:

> Whereas masters, pilots, engineers, and mates are the only class of laborers in the United States who pay a special tax upon their toil to the Government;
>
> *Be it resolved*, That in the opinion of this association it is unwise and contrary to the liberal spirit of our Constitution to discriminate against any class of citizens, much less to impose the burden of national taxation upon the manual labor of those engaged in fostering our commerce.

That resolution was adopted without a dissenting vote by the representatives of all the steamboat and lake interests in the United States. These are the men who more than all others are interested in having good pilots and good engineers.

Mr. CONGER. But I believe not one master, not one engineer, not one mate, not one pilot, was a member of that convention.

Mr. WILLIS. The very man who offered the resolution was a pilot—Captain Hart, a citizen of my city. So much for the accuracy of the gentleman's broad statement.

Mr. CONGER. It is within my own knowledge that the owners of steamboats would like the privilege of picking up here and there whomever they might desire to be their masters or mates or engineers or pilots, without any license, but the law was designed to hold the steamboat owners, whether they wished it or not, to the selection of men who have been examined and hold certificates of competency.

[Here the hammer fell.]

Mr. KENNA. Before the vote is taken on the pending proposition, I desire to state precisely the effect of the bill reported by the committee. The Committee on Commerce made a very thorough investigation of this subject in the last Congress, and I am informed that an equally thorough investigation was made in the preceding Congress. I believe I speak for every member of the committee of the present House when I say that they have felt most liberally inclined in the consideration of this subject, so much so that they have in fact reduced the license tax in the first grade from $10 to $8, and in the second grade from $5 to $4; and instead of requiring these sums to be paid annually upon every renewal of the certificate, they have provided that the renewal after the first issue shall cost only $1 each year. I should be willing personally to go further even than that, but I think the committee in considering the subject have gone to an extent which ought to be satisfactory to the House and to the parties themselves interested in the subject.

Mr. REAGAN. One word before the vote is taken, and it is this: The gentleman from Kentucky leaves in the clause of this section which provides for the examination and licensing of pilots and engineers, and gives them all the advantages of licensed pilots and engineers. He will see at once there is an element entering into this which would make that a species of absolute injustice. When so

licensed they alone have the right to serve as pilots and engineers. By striking out this part of the section he would have the machinery of their examination, the issuance of their licenses, and the giving them their special privileges paid for by the Government—paid for by other people in order to give them a monopoly in this interesting and important class of business. If they are, by virtue of their license, to be alone allowed to be employed on these vessels, ought not they to be willing to pay the very small amount required in order to compensate the Government for the expense of the machinery for securing them these special privileges?

Mr. WILLIS's amendment was rejected.

The Clerk read as follows:

Such fees shall be paid over to the chief officer of customs in such manner and under such regulations as shall be prescribed by the Secretary of the Treasury.

Mr. DUNNELL. I ask the chairman of the committee how these fees are disposed of? The gentleman from Illinois implies they went into the Treasury.

Mr. REAGAN. I will state in response to the inquiry of the gentleman from Minnesota, they are paid into the Treasury and held as a special fund to defray the expense of licensing this class of men.

Mr. MARSH. What becomes of the surplus? Last year there was a surplus of $140,000.

Mr. REAGAN. That stands to the credit of this fund now and it was because of the surplus the board of supervising inspectors and the supervising inspector-general did not wish, as they said, to impose a greater tax on these men than was necessary to meet the expense.

Mr. DUNNELL. I made the inquiry because of the remark of the gentleman from Illinois who seemed to imply this was a kind of war tax—a tax growing out of the war.

Mr. MARSH. I did not imply that; I stated it as a fact. It was laid as a war tax in the year 1861, which the gentleman will find on examination.

The SPEAKER *pro tempore*. There is nothing pending before the House.

The Clerk read as follows:

SEC. 22. That section 4472 of the Revised Statutes of the United States shall be so amended as to read as follows:

"SEC. 4472. Except on ferry-boats no loose hay, loose cotton, or loose hemp, camphene, naphtha, benzine, benzole, crude petroleum, or other like explosive burning-fluids, shall be carried as freight, or used as stores, on any steamer carrying passengers.

"Baled cotton shall not be carried on such steamers unless the bales are compactly pressed and covered with bagging or other similar fabric, in good merchantable shipping order, and secured with good rope or iron bands; nor shall baled hemp be carried on the deck or guards thereof, unless the bales are compactly pressed and securely covered with bagging or a similar fabric; nor shall gunpowder be carried on any such vessel, except in case of special license granted by inspectors; nor shall oil of vitriol, nitric acid, or other dangerous chemicals, be carried on such steamers, except on the decks or guards thereof.

"Refined petroleum, when in good, hermetically sealed metallic cases, securely packed in boxes or casks, or when in iron-bound barrels, and such cases, boxes, casks, or barrels plainly marked with the manufacturer's name, the name of the article, and the temperature at which it will ignite, which shall not be lower than 150° of Fahrenheit if put up in iron-bound barrels, nor lower than 110° of Fahrenheit if put up in good, hermetically sealed metallic cases, may be carried in such parts of any such steamer as the local inspectors shall designate in writing by special certificate, stating the particular location in which the same shall be carried, the precautions adopted for safety, and any special conditions, if there be such, respecting the stowage thereof; oil or spirits of turpentine, mastic, or other varnishes, when in good metallic cases, or in casks or barrels, well and securely bound with iron; friction matches, when securely packed in strong, tight chests, or boxes, the covers of which shall be well secured by locks, screws, or other reliable fastenings, may be carried on such steamers when stowed in a safe part of the vessel, at a secure distance from any fire or heat. No products of petroleum shall be used on any steam-vessel for illuminating purposes that will ignite at a lower temperature than 150° Fahrenheit: *Provided, however*, That it shall not be lawful to transport, carry, or convey, ship, deliver on board, or cause to be delivered on board, the substance known or designated as nitro-glycerine, or glynoic oil, or nitrated oil, or powder mixed with such oil, or fiber saturated with any such article or substance, or other similar explosive compound or mixture, upon or in any vessel employed in the transportation of passengers on any waters of the United States. For the willful violation of this provision the penalty shall be a fine of not exceeding $5,000, or imprisonment not exceeding three years, or both, one-half of the fine for the use of the informer."

Mr. WARNER. I offer the following amendment:

Strike out "150," in line 25, and insert "110" before "degrees of Fahrenheit;" and in lines 26 and 27, strike out the words "nor lower than 110° of Fahrenheit if put up in" and insert in lieu thereof the word "or;" so it will read, "110° of Fahrenheit if put up in iron-bound barrels of good hermetically sealed metallic cases," &c.

Now, Mr. Speaker, under section 4472 of the Revised Statutes refined petroleum which will stand a fire-test of 110° is permitted to be carried on steamers carrying passengers under such regulations as the Secretary of the Treasury may prescribe. This bill proposes to raise the fire-test from 110° to 150°. I should like to know what reason there is for making this change. One hundred and fifty degrees, as I suppose the committee well know, will rule out nearly all the refined petroleum made in the United States. No petroleum oil is made to stand that test except that which is manufactured for headlight purposes, a very small proportion. Out of the three million or four million barrels of petroleum which are sent abroad, there is very little of it above the standard of 110°.

Some of the States require a fire-test of 120°, and others but 110°. The State of Ohio requires a fire-test of 120°. The State of Indiana, the State of Wisconsin, and other States require a like test. Many of the other States require only a fire-test of 110°. It cannot be, and I assume that it is not because safety requires it, that the change proposed here in this bill is made. Petroleum which will stand a fire-test of 110° is safer than baled cotton or baled hay, and as safe as whisky or turpentine to be carried on steamers. What is the object, then? There can be but one, and I may as well assert it here, although I make no imputation whatever upon the Committee on Commerce or any member of it. I doubt not they have examined very thoroughly, and they had men before them from whom they obtained information; but I suspect the men who are interested in raising this fire-test are men who are interested in the railroads or in the Standard Oil Company monopoly.

Mr. KENNA. Will the gentleman from Ohio permit me right here to correct him?

Mr. WARNER. Very well.

Mr. KENNA. I desire to say, then, to the gentleman from Ohio that there never has been to my knowledge before the Committee on Commerce any man directly or indirectly interested in railroads or in the Standard oil monopoly urging this provision of the bill, and in addition to that I wish to say that the only persons who were before the committee in reference to this matter and those who fully concurred in the propriety of this action by the committee were the steamboat-men themselves, and not the railroad or the Standard Oil Company, and the statement of the gentleman from Ohio is wholly voluntary and without justification.

Mr. WARNER. I say, nevertheless, that if this amendment is not adopted, and this section of the bill as recommended by the committee is adopted, it will put the whole carrying trade of refined petroleum into the hands of the railroads and under the control of the Standard Oil Company, a monopoly which has the whole carrying trade in the oil business on railroads, and they will make it as impossible for refiners to exist along the lakes and on the Ohio River as it is impossible for them now to exist on any of the railroads of the country, simply because, as is well known, the Standard Oil Company has an arrangement with the principal lines of railways by which they receive drawbacks equal on many of the roads to one-half, it is claimed, of all the freightage upon petroleum oil—not only that carried for the Standard Oil Company, but for every other company engaged in the business—and that drawback gives them such a percentage, it is claimed, that it will enable them to crowd out any other company.

[Here the hammer fell.]

Mr. REAGAN. Mr. Speaker, on this subject I cannot speak as an expert. I can speak of no experimental knowledge of my own. In the Forty-fourth Congress the subject of the fire-test for oils was very largely discussed and considered by the Committee on Commerce, and the committee had before it in its examination men who were connected with the oil trade, and who were familiar with the business; although, as the gentleman from West Virginia [Mr. KENNA] has said, in the investigation and formation of the present bill no such persons were before the committee. But in that Congress, the Forty-fourth Congress, we relied, in the formation of our opinion upon the subject, chiefly on the statements of the men who gave us to understand at least that they were influenced by a desire to secure safety to life and property.

I will read a paragraph or two from the report of the committee which will state the reasons for the change much more fully and clearly perhaps than I can give them myself:

The second amendment is to insert the word "dangerous" before "chemicals;" this for the reason that many chemicals are not dangerous. Ordinary vinegar is a chemical acid, but is not dangerous.

The remaining portion of this section is in the bill changed considerably from that portion of the section as it is now in force, the object being to secure greater safety in the transportation of refined petroleum and other dangerous articles. The limit of temperature at which refined petroleum will ignite is fixed by this amendment at such temperature (110° in hermetically sealed cans and 150° when in iron-bound barrels) that the article can be transported with safety.

This illuminator has become of almost universal use and its supply a matter of necessity, and the liberty of transportation under the provisions for safety in this amendment will, it is hoped and believed, tend to reduce and ultimately stop the fraudulent attempts at the shipment and transportation of petroleum oils of an inferior and dangerous character. The provisions of this section are very stringent, and a penalty is provided in some degree proportioned to the offense in case of shipment or transportation of oils of a dangerous character. Heretofore there have been great frauds perpetrated upon steam-vessels by the shipper of such dangerous articles surreptitiously, such as shipping gunpowder in a barrel of beans, spirits of turpentine marked pine-oil, inferior petroleum oils, the igniting point of which has been marked by the manufacturer as 80° or 85°, having these marks obliterated and a new mark put on, placing the igniting point at 120°. These frauds are not committed by steamboat-men, but they suffer from the results.

In the provision at the end of this section it is positively forbidden that nitro-glycerine, glynoic oil, nitrated oil, and all articles of similar character shall be shipped in any manner or under any conditions upon any passenger vessel; the transportation of all articles of this character is attended with too much danger to permit them to be transported on any steamer carrying passengers.

Now it will be seen that the standard fixed by this bill is 110° if the oil be contained in hermetically sealed cans, but if in iron-bound barrels it is fixed at 150°; and the statement made is that this high standard was fixed in order to guard against the dangers to which the transportation of oils of a lower standard were subject. I can only state that the information was given to us by men who have devoted years to the subject of steamboat inspection and to the consideration of the best means of giving greater security in the transportation of life and property, and the committee have no reason to discredit that evidence and information.

Mr. ALDRICH, of Illinois. It is very evident gentlemen are determined to discuss this bill at great length. The clerks are tired out; and I move that the House do now adjourn.

Mr. KENNA. Let us finish this section.

Mr. ALDRICH, of Illinois. I would be willing to stay and pass the bill to-night if we could do so without having so much discussion.

The question being taken on the motion to adjourn, there were—ayes 19, noes 17.

Mr. KENNA. Before the result of the vote is announced I will say to the gentleman that if the proposition is acceptable, I will agree to make the motion to adjourn at ten o'clock. We may in that way dispose of the pending amendment.

Mr. ALDRICH, of Illinois. I withdraw the motion on that condition.

Mr. WARNER. The part of the report read by the gentleman from Texas goes only to show that it is dangerous to counterfeit petroleum that will stand a fire-test of 110° Fahrenheit. It would be dangerous to put up benzine in iron-bound barrels or in hermetically-sealed iron cases that will only stand the fire-test of about 65° and ship it as oil. It would be dangerous to carry that.

But right here in this very bill it is provided that even gunpowder may be carried under certain limitations. Benzine, of course, would be unsafe. But it is not unsafe to carry petroleum that will stand the fire-test at 110° or 120°. Plunge a lighted paper into such petroleum and it would be put out, whereas it would set fire to whisky or a bale of cotton or a bale of hay.

Mr. REAGAN. Our information was that it would set on fire petroleum that would stand the test of one hundred and ten, but not petroleum that would stand the test of one hundred and fifty.

Mr. WARNER. That is a mistake. I have tried it several times, and know something about setting fire to petroleum. You can put a lighted match to it, and it will stand the fire-test at one hundred and ten. I therefore insist that this limitation is not required by safety at all.

But there is an underlying object in this, and I would like to know what steamboat-men have been here before the committee to make this recommendation.

Mr. KENNA. Apart from the unkindness of the sort of insinuation which the gentleman from Ohio [Mr. WARNER] is in the habit of making on this floor whenever he sees fit to oppose any proposition, no matter from where it emanates, I wish to say that there is no justice in the suggestion he makes. This proposition comes from no other source than from those having at heart the success of steamboat navigation and the safety of the life and property which that navigation serves and accommodates. I will repeat for the benefit of the gentleman from Ohio the statement I have already made, that to my knowledge during the three years of my service on the Committee on Commerce, which has had this bill in charge, and from the information of those who have served a number of years preceding my own service, no man has ever been directly or indirectly before that committee asking the passage of this bill or any part of this bill except those who are interested in promoting the navigation interest of the country.

The gentleman has asked to have some one designated who has recommended this proposition. It might have been well for the gentleman to devote at least a limited study to the action of the national board of steam navigation of this country before he propounded such an interrogatory to me or to any one else. I read from the report of the executive committee of that body made at its session of October 22 and 23, 1879. Alluding to this very bill, the report says:

> We had strong hopes up to almost the last day of the regular session that the bill, as amended by the sub-committee of the Senate, would be reported and acted upon, but were disappointed.

The report goes on, then, to enumerate the objects which were sought to be accomplished by the bill; and tenth in the list of that enumeration is to be found the following:

> 10. Raise the standard of refined petroleum in iron-bound barrels from one hundred and ten to one hundred and fifty degrees Fahrenheit.

Mr. WARNER. Who says that?

Mr KENNA. I am reading from the report of the executive committee presented by Mr. Thomas Sherlock, its chairman, to the National Board of Steam Navigation at its regular annual meeting.

That report, after assigning the reasons for the passage of this identical bill, says:

> There are other matters of interest to owners of vessels, as well as to the public, presented in the amendments, each and all of them having some bearing on the efforts we are now making to render steam navigation the safest of modes of transportation.

I now read what took place after the reading of the report:

> A motion to adopt the report was made.
>
> General Negley moved an amendment, that it be adopted with the thanks of the National Board of Steam Navigation; which was carried after an animated discussion upon the section relating to the standard of petroleum oil carried on steamers.

Showing that this very identical question was under discussion by that board of intelligent steam navigators; and after complete discussion and debate they adopted the report in which this very identical proposition was recommended in terms.

Mr. DUNNELL. Just a single word. I had the honor to serve on the Committee on Commerce in the Forty-fourth and also in the Forty-fifth Congress; therefore I was familiar with the making of this bill, which was very thoroughly prepared by the Committee on Commerce and twice passed the House of Representatives, and I sustain everything that the gentleman from West Virginia has said as to this matter.

As the gentleman from Texas [Mr. REAGAN] says, I have no specific, particular knowledge upon this subject. But I remember with very great distinctness that the only question which pressed upon us as a committee, in the preparation of this clause, was the question of safety. All our information came from officers connected with the service, and no outside man had anything to do with the formation or insertion of this clause. I remember that one gentleman who testified before the committee said that he had made many experiments in his office and had come to the ultimate absolute conclusion in his own mind that that clause was a proper clause for securing the necessary safety.

Mr. CONGER. Let me ask the gentleman a question.

Mr. DUNNELL. Certainly.

Mr. CONGER. Under the present law is not refined petroleum of any grade forbidden to be carried, except upon particular vessels where there is no other means of communication?

Mr. DUNNELL. So I understand.

Mr. CONGER. And this is an enlargement of the right to carry petroleum at all, instead of a restriction?

Mr. DUNNELL. It is.

Mr. REAGAN. An enlargement of the right to carry, under increased restrictions for security.

I do not call to mind the name of the former supervising inspector-general, who for ten years occupied that position. He was before us, and of all the men I ever encountered I will say that I saw no man whose information seemed to be so complete and thorough on the subject.

Mr. DUNNELL. It was that gentleman to whom I referred; I do not remember his name.

Mr. REAGAN. We called members of several boards of inspectors before us, and I will say that all seemed to be animated entirely by a desire to give that standard which would secure the greatest degree of safety.

Mr. WARNER. I move to strike out the last word.

Mr. KENNA. I desire now——

Mr. WARNER. I have the floor now. All the steamboats on the Ohio River plying between Pittsburgh, Louisville, Cincinnati, and Saint Louis carry this oil. I have conversed with the owners and masters of many of them and I have never heard one of them object to carrying refined petroleum; they want it. I know that all of them are opposed to this change in the law. They complain now of the restrictions which the Secretary of the Treasury sometimes imposes to prevent the carrying of oil which stands a much higher fire-test than 110°.

One word in reply to what has been said by the gentleman from West Virginia [Mr. KENNA] of a personal character. I stated distinctly that I made no imputation upon the motives of any one. I did not make the charge that anybody was here before the Committee on Commerce endeavoring clandestinely to get this change made in the law. But I do charge that this proposed change is in the interest of the railroads and of the Standard Oil Company. I care not by what agencies it is sought to bring it about; and if this is not their footprint then I am not able to read rightly.

I do not think that I have been in the habit on this floor of imputing improper motives to any gentleman, and such a charge is uncalled for; and I therefore "hurl back" the insinuation of the gentleman from West Virginia. [Laughter.] I do not mean to be serious. I believe, however, that I attend to my duties here as well as he does, and I do not think that I am any more inclined to get into the Treasury than my friend is.

Mr. KENNA. I do not want to enter into any discussion with the gentleman from Ohio [Mr. WARNER] as to the difference between us in the extent to which he and I both would get into the Treasury of the United States.

Mr. WARNER. If we could.

Mr. KENNA. That is, if our capacity was measured by our desire in reference to our rivers and harbors. [Laughter.] In accordance with my promise to the House, not believing that we can finish this subject to-night, I move that the House now adjourn.

The motion was agreed to; and accordingly (at ten o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. DUNNELL: The petition of W. B. Fry and 10 others, citizens of Minnesota, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. FINLEY: The petition of 20,000 ex-soldiers, for the passage of the Finley bill to equalize bounties—to the same committee.

By Mr. HARMER: The petition of citizens of Philadelphia, that lands be granted to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. HILL: The petition of 60 soldiers and others, of Putnam County, Ohio, against the passage of the sixty-surgeon bill, and for the passage of the Geddes pension-court bill—to the Committee on Invalid Pensions.

By Mr. KELLEY: The petition of 78 citizens of Philadelphia, that lands be granted to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. KING: The petition of John L. Megenity, Abraham Noblett, Thomas B. Buskirk, and others, that wood and straw pulp, soda-ash, and other chemicals used in the manufacture of paper, be placed on the free list—to the Committee on Ways and Means.

By Mr. KLOTZ: The petition of soldiers of Carbon County, Pennsylvania, against a change in the mode of granting pensions—to the Committee on Invalid Pensions.

By Mr. O'NEILL: The petition of the Philadelphia Board of Trade, relative to the bill introduced by Hon. S. S. COX, to amend title 53 Revised Statutes, relating to merchant seamen—to the Committee on Commerce.

Also, the petition of citizens of Pennsylvania, that titles to lands be granted to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. OSCAR TURNER: Papers relating to the claim of R. C. Smith, of McCracken County, Kentucky, for property destroyed by United States forces during the late war—to the Committee on War Claims.

By Mr. WILLIS: Resolutions adopted at a meeting of physicians, of Louisville, Kentucky, favoring the adoption of Gamgee's refrigerating ship—to the Committee on the origin, introduction, and prevention of epidemic diseases in the United States.

IN SENATE.

WEDNESDAY, *May* 26, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a communication from the Secretary of the Interior with reference to the agreement made with the chiefs of the Ute Indians, recently in Washington, and urging the immediate attention of Congress to the imminent danger attending the postponement of appropriate legislation to carry into effect the stipulations of the agreement; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, submitting a letter from Colonel John Newton, of the Corps of Engineers, suggesting amendments to a pending bill in relation to the port and harbor of New York and the waters near the same; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a report from the Chief of Engineers urging the necessity for completion of the office work connected with the surveys west of the one hundredth meridian under the charge of Captain George M. Wheeler; which was referred to the Committee on Public Lands, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in connection with the majority and minority reports of the board of engineers for the Pacific coast upon the selection of a site for the proposed harbor of refuge between the straits of Fuca and San Francisco, California, heretofore submitted, a letter from the Chief of Engineers, covering a copy of letter from Colonel Stewart, and a communication made to the board by Assistant George Davidson, United States Coast and Geodetic Survey; which was referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. As the other reports on the same subject were ordered by the Senate to be printed, this communication will be printed, if there be no objection.

SENATOR FROM GEORGIA.

Mr. GORDON. Mr. President, I have resigned my seat as a Senator of the United States from the State of Georgia, and my resignation has been accepted by the governor. I have in my hand the credentials of my successor, (Joseph E. Brown.) I ask that the credentials be read and that Mr. Brown be sworn in.

The PRESIDENT *pro tempore*. The credentials will be received and read.

The credentials were read, as follows:

STATE OF GEORGIA.

By His Excellency Alfred H. Colquitt, governor of said State, to Hon. Joseph E Brown, greeting:

Whereas by the resignation of Hon. JOHN B. GORDON a vacancy exists in the representation of this State in the Senate of the United States; and

Whereas, in conformity with the Constitution of the United States, you have this day been appointed a Senator of Georgia to fill the vacancy aforesaid, until the next meeting of the General Assembly of this State:

These are, therefore, to commission you, the said Joseph E. Brown, to take immediate session in the Senate of the United States as a Senator of Georgia, in place of the said JOHN B. GORDON resigned, and to use and exercise all and every the privileges and powers which of right you may or can do, in and by virtue of the Constitution of the United States, in behalf of this State.

This commission to continue of force until the next meeting of the General Assembly of this State.

Given under my hand and the great seal of the State at the capitol in Atlanta this 21st day of May, A. D. 1880, and of the Independence of the United States of America the one hundred and fourth.

ALFRED H. COLQUITT,
Governor.

By the governor:
[SEAL.]
N. C. BARNETT,
Secretary of State.

Mr. EDMUNDS. I understand the date of the appointment to be the 21st of May. May I ask what is the date of the resignation? Have we the evidence of the resignation before us?

The PRESIDENT *pro tempore*. The Senator from Georgia has announced to the Senate that he has resigned, and that his resignation has been accepted.

Mr. EDMUNDS. The Chair will observe that it has been held by the Senate on some former occasions that the governor of a State has no power under the Constitution to appoint a Senator until a vacancy actually exists. While, of course, everybody knows that I have not the least objection to Governor Brown being sworn in, except the sorrow that it gives me that my friend, who has been here before, is to go away, yet I thought it right to call the attention of the Senate to the fact. One case that I remember was the Connecticut one of Lanman where the governor issued a commission which antedated the actual occurrence of the vacancy, and it was held, if I rightly remember it, that under the Constitution the power of the governor was only to fill a vacancy, and that he could not issue a commission until the vacancy actually existed. I do not know but that it would be better for the Senate to hold as a matter of convenience that that decision was wrong, and that a governor might issue a commission in anticipation of a vacancy that was about to happen.

Mr. GORDON. I will state for the information of my friend from Vermont that my resignation was accepted by the governor several days prior to the issuance of the commission; that is, the date of my resignation is the 14th or 15th, I do not remember now which, and it was accepted within a day or two thereafter, to take effect on the arrival of my successor, I presume. However, that was not then stated, but I learned after consultation with Senators that it was customary for the retiring Senator to hold his seat until his successor made his appearance.

Mr. WHYTE. It was an absolute resignation.

Mr. GORDON. Mine was an absolute resignation and was accepted by the governor anterior to the date of the commission.

Mr. HILL, of Georgia. If the Senator from Vermont will allow me, I will state to him that the credentials themselves show the fact; the credentials state that this appointment is made to fill the vacancy occasioned by the resignation of Senator GORDON. That resignation has already been received and accepted. The vacancy occurred before the appointment was made. Those facts, as I understand, are recited in the credentials themselves. I see the point made by the Senator from Vermont, and I concur with him that the governor of a State has no authority to make an appointment until a vacancy has actually occurred; but in this case the vacancy had actually occurred.

Mr. EDMUNDS. Then the question would arise, if the vacancy had actually occurred on the 21st day of May, which is the date of the commission, by what constitutional or other authority is it that our friend from Georgia has exerted the faculties of a Senator since that date? That would be a puzzle; but I do not know that that would affect this question. I do not know what the custom has been in respect of a notification to the Senate of the fact that a Senator has resigned. It might be interesting to know it. If there was actually a vacancy on the 21st of May then undoubtedly the governor had a right to appoint; but it is strange that a vacancy should have existed now for five days, and we still have had two Senators from Georgia acting since that time.

Mr. HILL, of Georgia. I will make but one remark. I do not see what the point the Senator from Vermont makes has to do with the question now before the Senate. The question now is simply a motion to swear in the appointee of the Governor. Whether my late colleague resigned yesterday or to-day, or whether he appears in the Senate and addresses the Senate, or had a right to do it, is not a question now before us. The fact is that a vacancy has occurred. The fact is that the appointment was not made until after the vacancy had occurred. The only question now before the Senate is to swear in the appointee. That is all there is in it. I move that he be sworn in.

The PRESIDENT *pro tempore*. If there is no objection the Senator appointed by the Governor of Georgia will come forward and be sworn.

Mr. Brown was escorted to the desk by Mr. HILL, of Georgia, and the oath prescribed by the act of July 11, 1868, having been administered to him, he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the memorial of Birney G. Bartle and a large number of others, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and urging the passage of the House bill for the creation of a court of pensions; which was referred to the Committee on Pensions.

Mr. FERRY presented the petition of O. J. Reed, Phebe Putney, Emma J. Mayne, Rufus Putney, Charles H. Wilson, and others, citizens of Blaine, Benzie County, Michigan, praying for an amendment

to the Constitution granting to women the right to vote; which was referred to the Committee on the Judiciary.

Mr. DAWES presented the petition of Rebecca T. Collins, Elizabeth W. Pool, Sarah C. Dunn, David Hammond, Seth Chandler, and others, citizens of Rockland, Plymouth County, Massachusetts, praying for such an amendment of the Constitution as will grant to women the right to vote; which was referred to the Committee on the Judiciary.

Mr. KERNAN. I present eight petitions—the petition of Sarah H. Rathbun, Elizabeth W. Brown, Mrs. Sarah L. Knapp, Joseph Frith, Henry S. Johnson, Robert S. Merrill, and others, of Macedon, Wayne County, New York; the petition of Malinda Marshall, of Brooklyn, New York; the petition of Mary E. Brant, of Brooklyn, New York; the petition of Elosia A. Moore, of Alfred, Allegany County, New York; the petition of H. S. Truman, of Alfred, Allegany County, New York; the petition of Mrs. Sardinia Crandall, of Alfred, Allegany County, New York; the petition of Susan E. Larkin, of Alfred, Allegany County, New York; and the petition of Eleanor J. Potter, of Alfred, Allegany County, New York, praying a constitutional amendment, as follows:

ARTICLE XVI.

The right of suffrage in the United States shall be based on citizenship, and the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex, or for any reason not equally applicable to all citizens of the United States.

I move the reference of these petitions to the Committee on the Judiciary.

The motion was agreed to.

Mr. DAVIS, of Illinois, presented the petition of Mrs. W. E. McGarry, Eliza S. Wiggin, Joseph Siness, and others, citizens of Chicago, Illinois, praying an amendment to the Constitution of the United States granting to women the right of suffrage; which was referred to the Committee on the Judiciary.

Mr. WALLACE presented two petitions of citizens of Philadelphia, praying that Congress will pass a law for granting land titles to Indians in severalty on their reservations; which were referred to the Committee on Indian Affairs.

He also presented the petition of Anna M. Lowene; the petition of Elizabeth D. Snyder; the petition of Mary R. Beale, and the petition of Mary L. Parmelee, citizens of Philadelphia, praying for the removal of their political disabilities, and that they may be invested with the right of self-government at the ballot-box, all State constitutions or statute laws to the contrary notwithstanding; which were referred to the Committee on the Judiciary.

Mr. ALLISON presented the petition of Mrs. Colonel Springer, the petition of Abbie J. Monroe, the petition of M. J. Harvey, the petition of Rev. Bishop Isbell, the petition of H. H. Monroe, and the petition of E. Spencer and others, citizens of Anamosa, Jones County, Iowa; the petition of Mrs. Fannie M. Elliot, the petition of Elmira Aspenwall, the petition of Mrs. S. E. Cobb, the petition of L. Hartshorn, the petition of E. C. Halsted, and the petition of C. P. Collins and others, citizens of Charles City, Floyd County, Iowa, praying for an amendment to the Constitution of the United States granting to women the right of suffrage; which were referred to the Committee on the Judiciary.

He also presented the petition of Mary G. Townsend and the petition of Lydia P. Cowgill, of West Branch, Cedar County, Iowa, praying for the removal of their political disabilities; which were referred to the Committee on the Judiciary.

Mr. McDONALD presented the petition of Mollie G. Zount and the petition of Catharine Ray, of Harveysburgh, Indiana, praying for the removal of their political disabilities; which were referred to the Committee on the Judiciary.

Mr. WINDOM presented the petition of Mrs. M. A. Van Hook, H. M. Harmon, Eva J. Huyler, Mrs. M. B. Parsons, Albert Holton, Will Allen, Rev. William Copp, Professor J. K. Davis, and others, citizens of Rochester, Olmstead County, Minnesota, praying for such an amendment to the Constitution as will grant the elective franchise to women; which was referred to the Committee on the Judiciary.

Mr. VOORHEES presented the petition of Rosilla Jane Hawkins, a citizen of Harveysburgh, State of Indiana, and the petition of Susan Teague, of Mill Creek, Indiana, representing that they are real estate owners and are annually heavily taxed for the support of pauperism and crime, while they have no power to suppress vice or regulate taxation, and asking for the removal of their political disabilities; which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. COCKRELL. The Committee on Claims, to which was referred the bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, generally known as the Fourth of July claims, have duly considered the same and instructed me to report the bill to the Senate favorably, without amendment. I give notice that I shall at a very early day call it up for the action of the Senate.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1627) relating to the appointment of professors of mathematics in the Navy, reported adversely thereon, and the bill was postponed indefinitely.

Mr. PRYOR, from the Committee on Claims, to whom was referred the bill (S. No. 1621) in addition to an act for the relief of Obadiah B. Latham and Oliver S. Latham, approved March 3, 1863, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 3171) for the relief of certain settlers on the public lands and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands, reported it without amendment.

LIFE-SAVING SERVICE REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred a concurrent resolution of the House of Representatives authorizing the printing of 6,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1879, to report it without amendment, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the following resolution:

Resolved by the House of Representatives, (the Senate concurring therein,) That there be printed 6,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1879, without the accompanying tables, for distribution among the officers of our merchant marine, through the collectors of customs, under the direction of the Secretary of the Treasury.

The resolution was concurred in.

NORTH AMERICAN ETHNOLOGY.

Mr. ANTHONY. I am also instructed by the Committee on Printing, to which was referred a concurrent resolution of the House authorizing the printing of 5,000 copies each of volumes 4 and 5 of Contributions to North American Ethnology, to report it without amendment, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the following concurrent resolution:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 5,000 copies each of volumes 4 and 5, Contributions to North American Ethnology, uniform with the preceding volumes of the series, and with the necessary illustrations; 3,000 copies of which shall be for the use of the House of Representatives, 1,000 for the use of the Senate, and 1,000 for distribution by the Smithsonian Institution.

The resolution was concurred in.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

Mr. WHYTE. I am instructed by the Committee on Printing, to which was referred a concurrent resolution providing for the printing of 500 extra copies of the report of the president of the National Academy of Sciences, to report it favorably, and I ask for its immediate consideration.

The Senate proceeded to consider the following concurrent resolution:

Resolved by the Senate, (the House of Representatives concurring,) That 500 extra copies of the report of the president of the National Academy of Sciences for the past year be printed for the use of the academy.

Mr. EDMUNDS. "For the use of the academy?" Is that a usual resolution?

Mr. WHYTE. It costs about $6; that is all. It is a public document which they are in the habit of distributing.

Mr. EDMUNDS. If we appropriate $6 for private printing, I should like to have my name put in an amendment.

Mr. WHYTE. It is a regular executive document. The resolution comes from the Committee on the Library.

Mr. ALLISON. It is printed as one of our documents?

Mr. WHYTE. As one of our documents.

Mr. ANTHONY. It has always been customary to allow this printing.

Mr. EDMUNDS. I never heard in the Library Committee anything about the Academy of Sciences.

Mr. WHYTE. The chairman of the Library Committee, as I understood, reported the resolution from the Library Committee.

Mr. EDMUNDS. He may have offered such a resolution, but I never heard of it.

Mr. WHYTE. I made a full inquiry. I found it was a regular document, printed regularly, and that the academy are in the habit of getting a few copies, amounting to $6 in cost, for their own distribution.

Mr. EDMUNDS. This is the regular rut, I understand. It is merely doing what has been done regularly?

Mr. WHYTE. It has been done regularly. It struck me as it did the Senator from Vermont as an extraordinary thing, and I had the matter inquired into and I found it was the usual course.

Mr. EDMUNDS. I think we had better stop it.

Mr. ANTHONY. When the first report of the Academy of Sciences was ordered to be printed there was quite a debate in the Senate upon it, and it was decided by a large majority to print it.

Mr. WHYTE. I was only following in the footsteps of my illustrious predecessors.

The resolution was agreed to.

ACCEPTANCE OF JEFFERSON'S DESK.

Mr. WHYTE. I am instructed by the Committee on Printing, to

which was referred a concurrent resolution of the House of Representatives authorizing the printing of 10,000 copies of the proceedings of the two Houses of Congress upon the presentation to the United States of the desk upon which Thomas Jefferson wrote the Declaration of Independence, to report it without amendment, with the recommendation that it pass. I ask for its immediate consideration.

The Senate, by unanimous consent, proceeded to consider the following concurrent resolution:

Resolved by the House of Representatives, (the Senate concurring therein.) That there be printed 10,000 copies of the proceedings of the two Houses of Congress upon the presentation to the United States by J. Randolph Coolidge and others of the desk upon which Thomas Jefferson wrote the Declaration of Independence; 7,000 copies to be for the use of the House of Representatives and 3,000 copies for the use of the Senate.

The resolution was concurred in.

LAMPHERE'S UNITED STATES GOVERNMENT.

Mr. WHYTE. The Committee on Printing have also instructed me to report back, without recommendation, an amendment to the sundry civil appropriation bill, submitted by the Senator from Rhode Island, [Mr. BURNSIDE,] for the purchase of fifteen hundred copies of The United States Government, by George N. Lamphere, and ask to be discharged from its further consideration, and that it be referred to the Committee on Appropriations, to which it properly belongs. I should like to say to that committee that I have examined the work, and I think it a very valuable one, and if the committee can do so, I think it would be wise to incorporate the amendment in the sundry civil appropriation bill.

The PRESIDENT *pro tempore*. The proposed amendment will be referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had appointed Mr. T. R. COBB, of Indiana, one of the managers on the part of the House at the conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes, in the place of Mr. J. H. BLOUNT, of Georgia, excused.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 4812) to amend the laws in relation to internal revenue.

The message further announced that the House had passed the joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker *pro tempore* of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 740) granting a pension to Martha J. Robinson;

A bill (H. R. No. 1460) granting an increase of pension to James P. Sayer; and

A joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, and muskets.

DEFICIENCIES IN APPROPRIATIONS.

Mr. EATON. I move that the Senate proceed to the consideration of House bill No. 6239, the immediate deficiency bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

The bill was reported from the Committee on Appropriations with amendments.

The first amendment of the Committee on Appropriations was, after line 38, to insert:

SENATE.

To pay George A. Clarke for services as messenger in charge of the Official Reporter's room of the Senate, from July 1, 1879, to June 30, 1880, inclusive, $1,200.

The amendment was agreed to.

The next amendment was, after line 44, to insert:

UNITED STATES FISH COMMISSION.

Propagation of food-fishes: For continuing the work connected with the propagation of food-fishes, $15,000.

The amendment was agreed to.

The next amendment was, after line 48, to insert:

Fish-hatching steamer: For supplying the fish-hatching steamer authorized by and constructed under the act of March 3, 1879, with the necessary fish-hatching machinery and other furniture, $12,500, or so much thereof as may be necessary; and the Secretary of the Navy is hereby directed to place the vessels of the United States Fish Commission on the same footing with the Navy Department as those of the United States Coast and Geodetic Survey.

The amendment was agreed to.

The next amendment was, after line 57, to insert:

Coast and Geodetic Survey: For the repairs and maintenance of the vessels used in the Coast and Geodetic Survey, $10,000.

The amendment was agreed to.

The next amendment was, after line 60, to insert:

For the continuation of the coast and geodetic survey in the eastern division, (or Atlantic and Gulf coasts division,) $7,500.

The amendment was agreed to.

The next amendment was, after line 63, to insert:

For the continuation of the coast and geodetic survey in the western division, (or the Pacific coast division,) $7,500.

The amendment was agreed to.

The PRESIDENT *pro tempore*. This completes the amendments of the Committee on Appropriations.

Mr. EATON. I am directed by the Committee on Appropriations to move to insert after line 44:

For miscellaneous items, exclusive of labor, $15,000, for the fiscal year ending June 30, 1880.

Mr. EDMUNDS. "Miscellaneous items" where?

Mr. EATON. I will inform the Senator why this amendment is offered. The Secretary of the Senate informs the committee that there is no money. There was $15,000 appropriated, as the Senate will remember, for the contingent expenses of the Senate some two or three weeks ago. It was believed then and hoped that that would be all that would be required for the present fiscal year; but owing to the very great expenditure, more than was anticipated at the time, of divers committees, special committees of the Senate, I regret to say that there is still a deficiency of $15,000. Therefore the committee authorized me to ask for this appropriation.

Mr. EDMUNDS. The event then justified the foreboding and belief that some gentlemen on this side of the Chamber had when we were asked for the other $15,000, and were told that we had got a complete report of these committee expenses, that there was something behind about that business which was not disclosed.

Mr. EATON. I did not say so.

Mr. EDMUNDS. Of course it was not through the fault of anybody. Now, it appears that instead of the $15,000, in addition to the $60,000 or $70,000 that had been appropriated regularly before (I do not know but a hundred thousand dollars) being sufficient, which we appropriated two or three weeks ago to make up this contingent fund of committee expenditure, we are to have a further draft of $15,000 more to foot up old bills. I suppose when we get the next appropriation bill we shall have another draft for ten or fifteen or twenty-five thousand dollars more. If the Senate regards that as economical, and regards it as a good way of doing business to go on and make these appropriations piece-meal without having an exhaustive inquiry and knowing exactly where this money has gone and how much the Senate contingent fund owes now, very well. The majority have a right to manage their business in their own way, as they have so often told us, and can do it; but the privilege of calling attention to it I think is not only a privilege but a duty.

Here are $30,000 of deficiency on this investigation business, it appears, for clerks, stenographers, messengers, and friends, brothers, and countrymen that make up the galaxy of attendants about these perambulating bodies, and there was the general appropriation bill before voting so many thousand dollars; I do not know how many in the regular appropriation bill; and we only know now, after we were told three or four weeks ago that $15,000 was enough, that $15,000 more, double the amount, is necessary. I do not know what it means, but I guess.

Mr. EATON. I was about to say, Mr. President, that I regret as much as the Senator from Vermont can, or any other Senator, the necessity for this increase; but I ought to say to the Senate that if they will examine the report which was presented from the Secretary of the Senate on the application of the last sum they will learn that there has not been as much money expended for this purpose as in previous years. That is a fact. But there has been more money expended for special committees than I desire, and expended on committees that I did not vote for; but the money has been expended or the Government is obliged to pay for the expenses, and I think that the appropriation had better be made, and without grumbling, too. My own impression is on the information that I can get that this $15,000 will cover all these expenses. I certainly hope so.

Mr. INGALLS. Mr. President, it will be remembered that when this subject was under discussion during the pending of some previous bill, the question of the amount of expenditures by the committee to investigate the Treasury accounts was debated, and the Senator from West Virginia [Mr. DAVIS] said that the entire amount that had been paid out by that committee was between $10,000 and $11,000. I stated then that the expense of that committee had been over $16,000. The chairman of the committee challenged the accuracy of my statement, and I told him that on some proper occasion I would take the opportunity to verify it, and accordingly I addressed a communication to the Secretary of the Treasury to advise me what amount of expenditures had been incurred in the Treasury Department in making the examinations and preparing the statements that had been called for by that committee from that Department. On the 7th of May I received an answer, from which I will read to the Senate.

Mr. COCKRELL. Read the whole answer.

Mr. INGALLS. It is as follows:

TREASURY DEPARTMENT, *May* 7, 1880.

SIR: In reply to your letter of the 3d instant, I have the honor to inform you that the estimate of expenses for clerk hire incurred by the Department in the prepa-

ration and printing of statements for the Senate committee investigating Treasury books and accounts, as estimated by each of the respective officers, is as follows:

Clerk hire:		
Secretary's Office	$2,366 00	
First Comptroller's Office	1,365 20	
Treasurer's Office	658 00	
Register's Office	4,266 66	
		$8,655 86
Printing:		
Treasurer's statement	481 52	
Miscellaneous statements	444 93	926 45
Total		9,582 31

Very respectfully,

J. K. UPTON,
Assistant Secretary.

Hon. JOHN J. INGALLS,
United States Senate.

Which, added to the sum that was expended upon the orders of the chairman of the committee from the contingent fund of the Senate, makes the entire expense of that committee over $20,000 instead of over $16,000, as I stated upon a former occasion.

Mr. EDMUNDS. To say nothing of the bills yet to come in.

Mr. DAVIS, of West Virginia. I regret that the Senator from Kansas has thought proper to drag into this debate something belonging to another. I have not heard since I have been in the Senate of any one before in computing the expenses of a committee going to the Treasury Department to learn how much it had cost to furnish statements asked for by that committee. When the Senator stated that there were $16,000 or upward expended, he meant, I took it, and the Senate understood him to mean, that that much had been expended in the usual way of committees. I supposed he meant so then, and this is an afterthought, and it is unusual and out of place for the Senator to go to the Treasury Department and ask there what certain statements cost. I think such an inquiry never has been made before.

However, I propose in a short time to discuss this whole Treasury-accounts question. When the Senator speaks of expenses paid on the order of the chairman of the committee he well knows that the chairman of that committee has not paid one dollar and that not one cent has been expended except for clerk-hire and the usual stenographic charges. Not a cent has gone for any purpose whatever. I think the Senator as a member of the committee knows that fact.

It is true, as the Senator has said, that the committee necessarily had to call on the Treasury Department for statements. Those statements probably would have been made under any circumstances. They were annual statements always, ending with fiscal years. Examinations are going on constantly there. Some of the statements were suggested by the Treasury Department itself. Its officials asked the chairman of the committee whether the committee would not desire such statements, and whether it would not be well to make such statements. I take it the estimate of $9,000 of expenditure in the Treasury Department covers in part the statements that the Treasury Department desired made and which they wanted to go before the committee for its information. I think that has nothing to do whatever with these expenses. I stated the true amount as paid from the contingent fund of the Senate, and that was the subject we were talking about when this matter was last under discussion. I think now that the Senator will find that that committee has since paid only the expense attending the stenographer, which has been very slight, and one clerk who has been employed since the time the matter was under discussion. So the amendment to this bill now before the Senate has very little effect on this committee, one way or the other.

Mr. INGALLS. I hope the Senator from West Virginia of course did not understand from me that I intended even by the most remote inference to state that he was paying his own personal expenses out of this appropriation. Of course it was the expenses of the committee that I was speaking about, and not the expenses that were incurred on the order of the chairman for his personal matters.

I bow with becoming humility, I hope, to the criticism of the Senator from West Virginia as to the appropriateness of the observations that I have made, both as to time and place, and I trust he will allow me to state what I mean myself, and not put his polyglot emendations upon my statements. I said when this subject was under consideration before that the entire expenditures of this committee had exceeded $16,000, and he denied the accuracy of my statement, and I told him that upon the earliest appropriate occasion I would take the opportunity to verify my statement, and the occasion that is now offered is the appropriation of a deficiency in the expenditures of the contingent fund of the Senate, from which the vouchers were paid; and if the occasion is not appropriate, and if the time is not fitting, I hope the Senator will advise me what time would be more appropriate or what occasion would be more fitting.

Now, sir, the fact is that this money was expended from the Treasury Department, not in accordance with the routine affairs of that branch of the public service, but these items were rendered necessary in consequence of the demands made upon the Treasury by this committee for the specific purpose of conducting this investigation; and the fact remains as I have stated, that instead of the amount being $16,000 it is about $20,000, and I believe I am justified in saying the expenditures are not yet entirely stopped; and besides that, this amount of $20,000 does not include the expenses of printing which are yet to be audited.

Mr. SAULSBURY. As I understand, the Senator includes in that estimate not only the expenses of the committee for clerk-hire, stenographer, and matters of that kind, but includes in that statement the expenses that the Treasury Department incurred to meet the demands of the committee. That is not a legitimate charge upon the committee at all. The expenses of the committee are such as arise by the direction of the committee and paid for under the order of the committee; and if the Treasury Department has incurred expense in seeking information that the committee have required, that is not a legitimate charge to the expenses of the committee of which the Senator from West Virginia was chairman.

Mr. INGALLS. That is a very novel position for the Senator from Delaware to take.

Mr. SAULSBURY. It is the correct position.

Mr. INGALLS. Here is a committee that is established by the Senate for the carrying out of a specific inquiry, and in carrying out that work they call upon the Treasury Department for certain information to be furnished them that, but for the creation of that committee, would not have been required to be furnished. That investigation extended over a period of two years and a half, and the amount that I have named was incurred for extra clerk-hire and for clerical expense rendered necessary in consequence of the inquiry of this committee; and the subject under discussion, when this matter was up before, was not what had been the amount of drafts upon the contingent fund of the Senate, but what this useless and unnecessary and superfluous committee had expended in the course of two years and a half, that had developed no new facts, and had put Congress and the country in possession of no information which they had not before fully possessed.

Mr. DAVIS, of West Virginia. Mr. President, the Senator branches off about the committee in a manner which will be replied to before long and on proper occasion as to the uselessness of its service, &c. It shows very clearly that the Senator himself did not know much about it. However, let that go.

We all know that the usual expenses of a committee paid out of the contingent fund of the Senate are the amounts so paid out, not what the Treasury Department might estimate that a statement that they furnish costs. That is not part of the usual expenses of a committee. It is unusual and is never referred to in that connection. This is the only instance in the Senate that I recollect where it has been referred to as part of the expense. Some of the statements of the Secretary of the Treasury were prepared on the motion of the Department, and not at the request of the committee. It is true the Department furnished properly and correctly all statements called for by the committee, but many of the statements furnished were statements that they desired themselves to present to the committee; and in this estimate I take it they are included.

When this matter was discussed as to the expenses of the Committee on Treasury Accounts, I gave the exact amount that was expended—a little over $10,000. There has been some expense since. One clerk is now employed, and that expense is going on, as all other committees of the Senate have a clerk; and that is the entire amount which is being now expended. The present amendment to provide for $15,000 deficiency does not arise from the expenses of that committee, except in so far as the payment of one clerk is concerned.

Mr. KIRKWOOD. I do not know but that I should say a word in regard to this matter. I have had the honor of being chairman of a special committee which is charged with making some investigations in regard to the removal of the Cheyenne Indians.

The popular assumption is that these special committees are pleasure trips to some extent. I appeal with a great deal of confidence to the gentlemen who have served with me on that committee to say that, however it may have been with other committees, it has not been so with that. Our visit to the Indian country last summer was a much harder service than I want to undertake again during any other recess.

A single word further. How extravagant these special committees may have been that have been under the charge of chairmen on the democratic side of the Chamber I do not know; I have no means of knowing. If they have been improperly extravagant, they must be held responsible for it. It is, however, but fair to say that so far as this special committee that I allude to is concerned it ought not to be held chargeable with any extravagance that may appear, and I hope there will none appear in the expenditure of that committee, because all the expenditures made by it had to be indorsed by myself, and I am entirely willing myself to be responsible for any extravagance that may have occurred in the expenditures of that committee.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Connecticut.

The amendment was agreed to.

Mr. WINDOM. The Senator from Connecticut has omitted, doubtless by oversight, a very important amendment, and one that is exceedingly pressing at present, and I know I merely have to call his attention to it in order to secure from him an active support. I ask to have the amendment read which I send to the desk, and I offer it to the bill.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. The amendment is to add:

Department of Justice:

For the payment of the fees and expenses of United States marshals and their deputies, earned during the fiscal year ending June 30, 1880, $600,000.

Mr. WINDOM. I want to say that the Senator from Connecticut is aware that the courts are being closed all over the country and that the administration of justice is very seriously impeded, and hence I will assume that he must have forgotten to offer this amendment. I suggested it to him in the Committee on Appropriations, as I think he will remember, and I had hoped that he might be sufficiently impressed with the necessity for carrying on the courts of the country to offer it.

Mr. EATON. My friend did suggest it to me, but in a very pleasant, jesting way. I had no idea that he supposed for one moment that I would offer such an amendment, and I hardly supposed he would.

The Commissioner of Pensions called on me this morning and said that they wanted millions of money on the 1st day of June for the payment of claims in New York, Philadelphia, and Boston, and that if I could get this bill through the Senate and by great favor get the House to act upon it to-day they could scarcely place this money at the several points in time to draw against it.

Now, I am very sorry that my friend should introduce the amendment, however much he may regard it as a proper one. He knows very well that it will be antagonized by this side of the Chamber and may cause great delay. Therefore I hope that he will not offer it. I may say it is scarcely in order to offer the amendment to this general appropriation bill, as I regard it; but I do not make any point of order.

Mr. WINDOM. I believe the Senator does not make any point of order. I want to say to the Senator, in answer to his suggestion that it may impede the passage of the bill, that I cannot believe it will do so. We are approaching very near the end of the session; the House of Representatives has already passed a resolution to adjourn within one week, and we are trying to work up to it. I cannot believe that the other side of the Chamber intend to deny the necessary means for carrying on the courts, and it seems to me the amendment I have offered will insure the passage of the bill at the earliest day possible. I cannot believe that the Senator from Connecticut and his friends on the other side of the Chamber have deliberately resolved not to appropriate money for the courts; and if they intend to appropriate it, this is certainly the most convenient place to do it. It cannot delay the passage of this bill. I certainly would not impede the passage of the necessary pension appropriation for one moment; and believing that all gentlemen who really have the good of the country at heart, who want to see the courts kept open, who want to see justice administered in this country, will agree with me in its passage, I have offered it, hoping that it will expedite the passage of the bill.

The Senator says I spoke to him jokingly. I think all persons who really feel that the Government should be carried on in good faith have a right to be a little indignant about the refusal of this appropriation hitherto; but my friend is always so kind in such matters that although I have shared in that indignation which I think the whole country feels at the refusal of this appropriation, yet I did kindly and good-naturedly mention to him that I thought he ought to put it on this bill, and that I would offer it.

Mr. EATON. I am very sorry that my friend should say that all persons having the good of the country at heart and want to see the courts opened and want to see justice administered would vote for this amendment. That will not quite do; it is not quite proper; it is very far from being true; it is not courteous for any Senator on this floor to intimate that a part of the Senate, the peers of the Senator making the remark, have not the good of the country at heart, because they do not see fit to adopt an amendment such as he has offered to this bill.

Mr. WINDOM. I think the Senator did not understand my language, or he would not make that criticism.

Mr. EATON. I think I did understand it.

Mr. WINDOM. I said that I thought all gentlemen having the good of the country at heart would desire to keep the courts open and not impede the administration of justice. If this is not a proper amendment to do it, then will the Senator modify it so that it will be so? I did not say, as he assumed, that all persons having the good of the country at heart would vote for a certain amendment, but that they would desire to keep the courts open, and furnish enough money to carry them on.

Mr. EATON. If I did the Senator wrong, I regret it; and so far as I did, I shall be happy to withdraw the language; but a good deal was said yesterday and it is about time that gentlemen should understand that every Senator having the honor of a seat on this floor most unquestionably has the honor and good of the country at heart, on this side as much as on the other—quite as much. We desire to arrive at it if my friend from Minnesota pleases, and other gentlemen please, perhaps by different modes. Far be it from me to impugn the motives or the heart of my friend from Minnesota. I do no such thing. My friend will take it for granted that so far as I am concerned I have a deliberate resolve that that amendment shall not be put upon this bill. I want this bill to pass without that amendment, and I hope that my friends on this side will stand by my deliberate resolution to defeat the amendment. The general deficiency bill will be here within a few days, and then it will be time enough to consider this matter upon that bill.

Mr. WINDOM. Is it the purpose of the Senator to advocate the passage of an amendment like this at that time?

Mr. EATON. It is hardly proper that my friend should ask me what my purpose will be with regard to a public measure to come up hereafter. I will say this to him, however: that whatever I may do when that bill comes here, it will be done with a full understanding of my position, of my own honor, and of my duty to the people that I represent.

Mr. WINDOM. I ventured to ask the Senator what his purpose was because he had stated to the Senate that in two days we should have a deficiency bill here to which this would be appropriate, and I thought if he intended to join me in asking an appropriation for the courts at that time I would not press it now, or if he does not propose to do it then I should like to press it on this bill.

Mr. EATON. My friend is mistaken when he says that I said this would be appropriate to that bill. I said it could be moved to that.

Mr. WINDOM. Suppose we try it on this, and if we fail we can try it on that.

Mr. EATON. Very well; I am ready to try it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Minnesota.

Mr. WINDOM called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) I am paired with the Senator from New Jersey [Mr. RANDOLPH] on all political questions, and I suppose this is to be considered one. If at liberty, I should vote "yea."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were here, I should vote "nay."

Mr. McPHERSON, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. BLAINE.]

Mr. WHYTE, (when his name was called.) On all political questions I am paired with the Senator from Illinois, [Mr. LOGAN.] I presume he would vote, if he were here, "yea." I should certainly vote "nay."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Nebraska [Mr. SAUNDERS] on all political questions.

The roll-call was concluded.

Mr. LAMAR. On this question I am paired with the Senator from Maine, [Mr. HAMLIN.] If he were here, I should vote "nay."

Mr. COCKRELL. My colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT.] If my colleague were here, he would vote "nay."

The result was announced—yeas 22, nays 33; as follows:

YEAS—22.

Allison,	Cameron of Wis.,	Ingalls,	Plumb,
Anthony,	Conkling,	Kellogg,	Rollins,
Baldwin,	Edmunds,	Kirkwood,	Teller,
Blair,	Ferry,	McMillan,	Windom.
Booth,	Hill of Colorado,	Morrill,	
Bruce,	Hoar,	Paddock,	

NAYS—33.

Bailey,	Farley,	Jones of Florida,	Slater,
Bayard,	Garland,	Kernan,	Thurman,
Beck,	Groome,	McDonald,	Voorhees,
Brown,	Hampton,	Maxey,	Walker,
Call,	Harris,	Morgan,	Wallace,
Cockrell,	Hereford,	Pendleton,	Withers.
Davis of Illinois,	Hill of Georgia,	Pryor,	
Davis of W. Va.,	Johnston,	Ransom,	
Eaton,	Jonas,	Saulsbury,	

ABSENT—21.

Blaine,	Dawes,	McPherson,	Vest,
Burnside,	Grover,	Platt,	Whyte,
Butler,	Hamlin,	Randolph,	Williams.
Cameron of Pa.,	Jones of Nevada,	Saunders,	
Carpenter,	Lamar,	Sharon,	
Coke,	Logan,	Vance,	

So the amendment was rejected.

Mr. COCKRELL. When this same bill was before the Senate and passed (it was vetoed by the President) an amendment was offered by myself and was adopted by the Senate and was concurred in by the House, and was in the bill that was sent to the President. The same necessity exists for the amendment now. I was not aware of the fact that the bill had been referred to the Committee on Appropriations, or I should have offered the same amendment and have had it referred to the committee. When the bill was reported yesterday morning I called the attention of the Senator from Connecticut to it, and I hope that no objection will be made to my offering the amendment now. The same amendment was passed in the former bill and approved both by the Senate and House of Representatives. It should be inserted after line 28 of this bill:

For continuing the work of adjusting and settling the claims of the several States under the act of Congress approved September 28, 1850, and the acts supplemental thereto and amendatory thereof, for swamp lands, including all claims for swamp-land indemnity, under the acts of March 2, 1855, and March 3, 1857, and other acts, $6,000.

I ask that it may be put now at $5,000. It was adopted before at $6,000. I hope there will be no objection to it, but that it will be allowed to go in this bill. It is a matter of very great importance, and it will keep the work going on during the rest of this year.

Mr. EATON. I have said to my friend that as one member of the committee I had no objection to the amendment. It is proper to say, however, that there are many other things in the other bill that were of importance, perhaps, which are not in this bill.

Mr. BECK. I will state the only objection I see to the amendment.

We have been pressed to put in twenty-odd provisions on matters equally urgent with this which were in the bill vetoed by the President and passed by both Houses. Here is a bill sent over to us with a few items, and if we undertake to add to it we should be making invidious distinction among the matters included in the other bill.

I shall not object to this amendment. I simply rose to explain why it and other things that Senators urged are not here; it is because we thought they should wait for the general deficiency bill, and I believe the House is going to put these things there.

The PRESIDENT *pro tempore*. The amendment of the Senator from Missouri will be reported.

The CHIEF CLERK. After line 28 it is proposed to insert:

For continuing the work of adjusting and settling the claims of the several States, under the act of Congress approved September 28, 1850, and the acts supplemental thereto and amendatory thereof, for swamp lands, including all claims for swamp-land indemnity, under the act of March 2, 1855, and March 3, 1857, and other acts, $5,000.

Mr. EDMUNDS. Is that amendment in order?

The PRESIDENT *pro tempore*. That depends upon whether this is a general appropriation bill. If it is, the amendment is not in order, the rule being that "no amendments shall be received to any general appropriation bill, the effect of which will be * * * to add a new item of appropriation," which this does, "unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session, or unless the same be moved by direction of a standing or select committee." The Chair supposes it would not be in order, but it may be that this is to carry out some provision of law.

Mr. COCKRELL. It is to carry out an existing law.

Mr. EDMUNDS. I should like to hear the law.

The PRESIDENT *pro tempore*. But the first question is: Is this a general appropriation bill within the meaning of the rule?

Mr. EDMUNDS. I think it is myself.

Mr. COCKRELL. It has been decided, I understand, that this is not a general appropriation bill. That is my recollection of the decision heretofore made.

The PRESIDENT *pro tempore*. There has been very great doubt what is a general appropriation bill and what is not, some Senators being of the opinion that any bill that is for the general purposes of the Government, without reference to the amount appropriated in it, is a general appropriation bill. The Chair will submit the question to the Senate.

Mr. JONES, of Florida. The point of order is of course presented on the supposition that this amendment is not intended to carry out the provisions of any existing law, or is not recommended by the head of some one of the Executive Departments. Even upon the theory of the honorable Senator from Vermont, if this appropriation is recommended by the head of a Department or is intended to carry out the provisions of some existing law it is in order, as I understand.

Mr. EDMUNDS. Very good. I make the point of order upon the ground that I believe this is a general appropriation bill within the rule and within its equity and spirit, as well as its letter. Then my point of order is that this amendment is not shown to be in pursuance of an estimate of the head of a Department, which I believe is the language of the rule. If it is shown to be in pursuance of an estimate of the head of a Department and is to carry out the provisions of an existing law which requires the appropriation, as the law does require an appropriation to pay the salary of each Senator and the other officers of the Government, and to pay the salary and compensation of marshals, I will add, who are also officers of the Government—unless the fact of some of them having political opinions outlaws them—all that, if followed by the estimate of the head of a Department, would make an amendment in order whether a committee had reported it or not, and whether it had been referred to the Committee on Appropriations or not. I agree to that, but I make the point of order in order to see where this comes from, and where is the estimate, and where is the law that requires the appropriation.

Mr. GARLAND. After the passage of the act of September 28, 1850, what is called the swamp-land grant, the General Government and the States who were the beneficiaries under that act very soon found themselves in great trouble with reference to the lands that were to be embraced and to come necessarily under the definition of swamp and overflowed lands. Entries under that act were made that conflicted with entries made at the Government land offices before, what we call the general land entries. Many conflicts in the States arose with reference to the character of the lands claimed under these entries. Necessarily in good faith, if the Government sold lands which were swamp and overflowed within the meaning of the act of September 28, 1850, and therefore belonged to the States, the Government was bound to indemnify the States. Of course, some tribunal had to be organized to determine the character of the lands where there was a conflict. Several acts were passed called acts of indemnity, commencing with the act of March 3, 1855, to harmonize and adjust these difficulties, and in various States steps are being taken now to decide as to the character of the lands and ascertain whether the entries shall stand under the old system or under the swamp-land system.

This appropriation is intended to carry into effect these laws of indemnity, these laws to settle the conflicts of title between entries under the old land system and under the swamp-land system as organized under the act of 1850. Therefore it is strictly within that provision of the twenty-seventh rule which makes an exception "to carry out the provisions of some existing law." In the State of Arkansas at this very time under these different laws proofs are being taken and sent to the Department here to determine as to these entries, and if this appropriation is not made this business must necessarily cease. There is a claim for lands now by the State of Arkansas under this conflict that I have alluded to, amounting to nearly $200,000, from the General Government, to make good the entries that should have been permitted under the swamp-land law.

Mr. EDMUNDS. Would the Senator mind referring to the statute the provision of which he says this amendment is to carry out within the meaning of the rule?

Mr. GARLAND. I will find it for the Senator. There are several statutes that provide for this very thing, not one merely but several. Large and important interests in these States, and particularly in the State of Arkansas, are tied up now in the land offices of the General Government; and it is for the purpose of settling such matters that this appropriation is asked. Certainly it comes within the exception in Rule 27 to which I have alluded. There was no objection to it when it was before the Senate before. The only objection I could have to it now is that I think the amount is too small to complete the purpose in view; but unquestionably it is an appropriation to carry out the provisions of several existing laws on this very subject.

Mr. EDMUNDS. I do not think that my friend from Arkansas can stand on the position that I understand him to set forth in respect of the construction of this rule, that if there is any statute or law of the United States which authorizes a thing to be done, an amendment which should provide the money to do that thing is an amendment within the rule to carry out the provisions of an existing law. The construction and a wholesome one that has always been put on that rule until now in that respect has been that the money proposed in the item moved as an amendment must be called for by force of the statute just as in respect of a treaty. A treaty with an Indian or with a foreign government says that on the 1st day of July in each year an annuity of $10,000 to a particular tribe shall be paid. An amendment to carry that out is to carry out the provisions of an existing law. But the existing law says for instance that it shall be the duty of courts of justice to summon jurors at every term that is held. Would it do to hold that an amendment offered here to increase an appropriation for jurors or to add a new item for jurors in the courts of the United States was admissible under that provision of the rule, that it is to carry out the provision of an existing law? By no means. It is true the law authorizes the selection of jurors, but that is not the meaning of the rule. The rule requires that the amendment shall be to supply money that the law requires to be paid. That is what always has been held, and that is the good sense of it.

Now look at the swamp-land law, and see whether that requires any money to be paid. It is all in the Revised Statutes, from section 2479 onward, and the simple and first provision is:

SEC. 2479. To enable the several States (but not including the States of Kansas, Nebraska, and Nevada) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein—the whole of the swamp and overflowed lands, made unfit thereby for cultivation, and remaining unsold on or after the 28th day of September, A. D. 1850, are granted and belong to the several States respectively, in which said lands are situated: *Provided, however*, That said grant of swamp and overflowed lands, as to the States of California, Minnesota, and Oregon, is subject to the limitations, restrictions and conditions hereinafter named and specified, as applicable to said three last named States respectively.

Then the next section, which I will not occupy the time of the Senate in reading, but I will read the marginal syllabus, which will explain to Senators just what the provisions are—the next section provides that the Secretary of the Interior shall make lists of the lands for transmission to the governors of the States. The next provides for cases where the legal subdivisions are mostly wet and unfit for cultivation. The next provides for indemnity to States where such lands had been sold by the United States. That indemnity is not in the form of money to settle accounts, but is in this form:

SEC. 2482. Upon proof by the authorized agent of the State, before the Commissioner of the General Land Office, that any of the lands, purchased by any person from the United States, prior to March 2, 1855, were "swamp lands," within the true intent and meaning of the act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September 28, 1850, the purchase-money shall be paid over to the State wherein said land is situate.

Then if it appeared that we had got any money into the Treasury by selling wet land, that money is given out to the State. This amendment is not to pay a sum of money to these States; if it were, it would not be within the provision of the rule:

And when the lands have been located by warrant or scrip the said State shall be authorized to locate a like quantity of any of the public lands subject to entry, at $1.25 per acre, or less, and patents shall issue therefor.

Then the next section provides for the issuing of patents, and then further selections and so on. The upshot of the whole business about this is that on the theory of the amendment there is a duty on the part of the United States to proceed to make adjustments with these States about lands that have been sold and a duty to issue scrip for others and to have the public lands surveyed in such a way that this scrip may be located.

Then, it is said that this amendment is to carry out the provisions of that law. I submit with great confidence that it does not come within the rule at all. If so, every amendment to an appropriation

bill, except a mere provision for a gift to somebody, would be within the rule. I do not care which way it is settled, however.

Mr. JONES, of Florida. Mr. President, the only question I can see before the Senate is whether or not this amendment falls within the objection stated by the Senator under Rule 27. It cannot be forgotten that this very item of appropriation has already been passed upon by the Committee on Appropriations of this body at this session——

Mr. EDMUNDS. So was the item for the marshals.

Mr. JONES, of Florida. And it was passed by the Senate. Now, I understand the object of this rule to be to guard against hasty increases of money bills; that is, to prevent individual members of the body from getting up here and moving additions to money bills without the amendments having been considered by that committee in which is reposed the duty of deliberating upon the whole subject. After the committee has passed its judgment upon an item of appropriation, examined into it, and said in the most solemn way it was proper to pass, I conceive that the spirit and intent of the rule has been complied with.

Mr. ALLISON. May I call the attention of the Senator from Florida to the fact that this is recommended by a Department?

Mr. EDMUNDS. Let us see the estimate.

Mr. JONES, of Florida. I did not know that the estimate was in the Senate, but I was putting it on the ground of the fact known to every Senator, that it has already been passed upon by the committee and passed upon by the Senate. That certainly is enough.

The PRESIDENT *pro tempore*. The Chair will state what is submitted to the Senate, and he desires the attention of Senators to these questions, the first of which is a very important one and upon which the Chair desires the guidance of the Senate, because the rulings have been very contradictory upon it.

The first question is, Is this bill a general appropriation bill within the meaning of Rule 27? That question the Chair submits to the Senate. Is the Senate ready for the question? Senators, as many of you as are of the opinion that this is a general appropriation bill within the meaning of Rule 27 will say "ay;" those of the contrary opinion "no." [putting the question.] The Chair cannot decide.

Mr. EDMUNDS. Let us have the yeas and nays, because as the Chair says it is very important to have it settled.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. Senators who are of opinion that this is a general appropriation bill within the meaning of Rule 27 will, as your names are called, answer "yea;" those of a contrary opinion will answer "nay."

Mr. CONKLING. Will the Chair pardon me one moment to inquire whether the question is now, single and alone, whether this is a general appropriation bill within the meaning of the rule?

The PRESIDENT *pro tempore*. That is the first question. If that should be decided in the affirmative, then the question will be whether the amendment is to execute any existing law. That is a second question. But the question now before the Senate is the simple, naked question, Is this bill a general appropriation bill within the meaning of Rule 27?

Mr. ANTHONY. I understand this is a bill reported by the Senator from Connecticut, called the little deficiency bill.

The PRESIDENT *pro tempore*. The Chair does not know that it is called "the little deficiency bill." It is a deficiency bill.

Mr. ALLISON. I can explain to the Senator from Rhode Island what this bill is. This is a special deficiency bill. It does not come under the designation of a general appropriation bill, such as is perfectly understood in the House and in the Senate.

Mr. FERRY. I should like to ask the Senator from Iowa if the deficiencies provided for in this bill are not to make out what was not provided for in the general appropriation bills? In other words, this is an appendix to the general appropriation bill.

Mr. ALLISON. It is one of the little appendices.

Mr. CONKLING. A supplement.

Mr. FERRY. The Senator from New York has given a more correct word. It is a supplement to the general appropriation bills; and if it be such, it cannot be otherwise than a general appropriation bill.

Mr. ALLISON. It may be regarded as a little supplement or one of the supplements. It is simply an appropriation for certain specific purposes. It does not come in any sense within what we understand by the term "general appropriation bill." The House of Representatives has divided up the appropriations into certain bills which it calls general appropriation bills, and we have recognized the House division. That is all there is about it. If the rule said "all appropriation bills," of course this would come under the rule.

Mr. FERRY. I should like to have the Senator from Iowa state a case of an appropriation for an item which is specific and not general. He is upon the Committee on Appropriations, and will be able to inform the Senate.

Mr. ALLISON. I can very easily state specific items. The item of pensions is a specific appropriation. The very item proposed now by the Senator from Missouri is a specific item. There are certain specific items of appropriation here, it is true, and if every bill that comes from the Appropriations Committee is a general appropriation bill, of course this is one; but it has never been so held since I have been in this Chamber.

Mr. FERRY. I should like to ask the Senator further, if it is not providing for items that are provided for in the general appropriation bills at every Congress?

Mr. ALLISON. That may be so, or it may not be so. There are certain items here that are not in any general appropriation bill.

Mr. FERRY. I would ask the Senator, in order to enlighten me as well as other Senators, because he is familiar with the bill, whether, if the appropriations in these several items had been larger in the regular bills, there would be a necessity for the passage of this deficiency bill?

Mr. ALLISON. Undoubtedly not. If the appropriation for the "miscellaneous items" of the contingent expenses of the Senate had been $100,000 instead of $60,000 last year we should not have here an item of $15,000 for miscellaneous expenses of the Senate. These are special items of appropriation that occur because of unforeseen circumstances when the general bills are passed.

Mr. JONES, of Florida. The Senator will permit me to ask a question. Will the Senator state what difference there can be in principle between an amendment like this going to increase a deficiency bill and an amendment going to increase what is called a general appropriation bill? Does not the reason of the rule apply equally well to a deficiency bill as to what you term a general appropriation bill? What is the object of the rule? It is to guard, as I said awhile ago, against hasty legislation; and if we can put on an amendment to a deficiency bill without the committee considering it I think it would be a very dangerous thing.

Mr. FERRY. But, if the Senator from Florida will allow me, the question before the Senate is not now whether the amendment proposed by the Senator from Missouri is applicable or in order; the question now before the Senate, which the Chair has submitted to the Senate, is whether this is a general appropriation bill.

Mr. JONES, of Florida. I understand that, and I am arguing that it is.

Mr. EDMUNDS. If I may ask the indulgence of the Senate a moment on this question of real and substantial importance that is now proposed I should like to be heard.

As the Senator from Florida has said, the object of these rules is to guard against hasty and inconsiderate legislation and the riding on to appropriation bills of all sorts of claims and schemes, &c., that particular Senators get interested in, much more than they are in what I am saying, and that they believe in, that they get through in a hurry, and in a large percentage of such cases turn out to be stupendous errors. I have seen it done a good many times.

The rule therefore begins by saying:

> All general appropriation bills shall be referred to the Committee on Appropriations, except bills making appropriations for rivers and harbors, which shall be referred to the Committee on Commerce.

Here was the original pension bill to which this, as the Senator from New York very properly calls it, is a supplement. When that pension bill came over here did anybody doubt that the rule provided that that pension bill should be sent to the Committee on Appropriations, although it was not a bill to carry on all the operations of the Government, a bill only to carry on a bureau of one Department of the Government? And yet nobody ever doubted or hinted that that bill must go to the Committee on Appropriations, instead of going where but for this rule it would go, to the Committee on Pensions. Take the Army bill in the same way; that is only for part of one of the Departments of the Government; and so on around, take them all. Every one except possibly the legislative and the miscellaneous bill, on the theory of my friend from Iowa, would be taken from the care and custody and vigilance of my friend and his associates and would be sent around to the various committees that have to do with those subjects. A good many people think it would be a good thing to do in and of itself; but nobody could do it. The other day the question arose on the bill appropriating money for the government of the District of Columbia merely, what committee that ought to go to; and after consultation—I do not know that public attention was drawn to it—it was agreed to around among those who talked about it (and some of those were gentlemen who desired and thought on the merits it ought to go to the District Committee) that it should go, as it went by the direction of the Chair, and without a word of dispute, to the Committee on Appropriations.

Therefore, Mr. President, if you are going to have any rule at all, such as you have got, apply to anything, you have got to provide that a bill appropriating money to carry on the Pension Department of the Government for a fiscal year or for a part of a fiscal year, either for the future or to pay a deficiency, is a general appropriation bill that must go to the Committee on Appropriations and that it must be secure in that committee, and on its report, from being made an omnibus, on which but for the restrictions of this rule we could all ride every claims bill and everything else that we wanted to in the Senate. We could put right on this bill if we liked—and I hope it will be done if it is not a general appropriation bill—provisions for various public buildings, that have been reported from the committees and are on the Calendar, provisions for sundry monuments at Yorktown in Virginia and at Bennington in the State of Vermont and lots of other good places where there ought to be monuments. You can do it and nobody can make a point of order; and if mutuality of assistance is to prevail, as it does in a great many cases and ought in a great many cases probably, every one of us can get our particular

favorite in this bill and will be willing to help every other gentleman to do justice to his section of the country.

Oh, no, Mr. President, we shall go astray if we do not interpret these rules so as to hold on to every appropriation bill, call it what you will, big or little, for carrying on this Government, as secured under the limitations and guards that are thrown around it by these rules. Just look at this particular bill. What is it: "A bill making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes," that is, making appropriations for other deficiencies.

Now comes the enacting clause:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June 30, 1880, being a deficiency appropriation for said year, and for other purposes.

Then just like the original pension bill or clause stands first "the Pension Office," then "for Navy pensions," then "for arrears of pensions," then "for pay and allowances for salary, fees, for preparing vouchers, rent, fuel, light, and postage," and all that sort of thing. Then comes the "Patent Office," a deficiency for the publication of the Gazette. Then comes the "miscellaneous," providing means for enabling the Secretary of the Treasury to exert his power in the rescue of shipwrecked mariners. Then comes the "Senate," to provide for its miscellaneous and contingent expenses. Then the "United States Fish Commission," then the "fish-hatching steamer;" then the "Coast and Geodetic Survey," going from the Atlantic to the Pacific; and yet gentlemen tell us that it is not a general appropriation bill, because it does not appropriate all the money in the Treasury for all the purposes of the Government at once.

Mr. INGALLS. Mr. President, I wish to submit whether the Chair is not unnecessarily complicating this question by presenting it in two parts. I understand that this amendment is objected to by some Senator, probably the Senator from Vermont, upon the ground that it is out of order under Rule 27. Now, why is it necessary for the Chair to submit as a preliminary question to be decided by the Senate whether this is a general appropriation bill or not? Why would it not effect the object equally well, and with much more celerity, to take the vote of the Senate whether the point of order is well taken under Rule 27, leaving each Senator to decide on which point he wishes to vote himself?

The PRESIDENT *pro tempore*. The Senator will permit the Chair to state that it was precisely in order to have a distinct and definite decision upon the question whether bills of this character are general appropriation bills within the meaning of the rule that the Chair deemed it his duty to submit this matter separately. The Chair did not submit it because of any doubt in his own mind, for he has no doubt at all that this is an appropriation bill within the meaning of the rule. But it has been ruled otherwise, and some Senators think otherwise; therefore the Chair, in order that it might be determined as it never has been on a yea-and-nay vote, submitted that question. If it be decided that this is not a general appropriation bill, it settles the whole question and the amendment is in order.

The Chair had another reason for submitting the two questions separately, because by so doing it gives those who say this is an amendment in execution of some laws time to hunt up those laws.

The first question for the Senate to decide is, upon which the yeas and nays are ordered, is this a general appropriation bill within the meaning of Rule 27?

Mr. EATON. Mr. President, I do not entertain the slightest doubt on that subject. The bill is entirely general in its character; it is simply to supplement general bills, and therefore it comes back to the frame-work of the original bills. In my judgment, there can be no doubt about it whatever. I have very great doubt whether the Senator from Vermont was right in the other branch of the question.

Mr. GARLAND. Mr. President, I am bound to confess that in my opinion this is a general appropriation bill, because at last it is but an addendum to certain general appropriation bills that contain items on these very subjects. This is to fill omissions in those bills.

But I wish to state, anticipating the next question that will be submitted to the Senate, that this is a legitimate appropriation to carry out existing laws, to carry out an existing subject-matter which is being transacted between the States interested in the swamp-land grant and the General Government. I have not been able in the short time that has elapsed to place my hand on the different statutes on the subject; but——

Mr. EDMUNDS. If my friend from Arkansas does not care about the other point just now, I would suggest that after this vote is taken, if this bill should be held to be a general appropriation bill so that my point of order would be good unless it should be answered by an estimate or a statute, after what has been said I think I shall withdraw the point of order and that will save any discussion of the statutes.

Mr. GARLAND. Then I do not wish to proceed on the point I was about to discuss. I have no doubt this is a general appropriation bill. But I will state further that some one in the chair at the last session on this very question ruled that it was not a general appropriation bill within the meaning of the rule.

Mr. WITHERS. There is no doubt that there have been contradictory rulings upon this subject; and I think that it is eminently proper that now the Chair should submit the question to the Senate for their decision as to whether or not this is to be considered a general appropriation bill. If it be so considered, it will be subject to the rules of order. If it be not so considered, any of us who are interested in other matters will have the opportunity of presenting them in the form of amendments to this bill. It certainly seems to me a plain incongruity that bills should be recognized and admitted to be general appropriation bills covering the whole area of the public service, and yet that here this bill, which proposes simply to provide for deficiencies in general appropriation bills, should be construed as not a general appropriation bill. It seems to me it involves a contradiction.

Mr. FERRY. I also hope, following what has been said by the Senator from Virginia, that those of us who desire to offer amendments to this bill will not allow our desire to do so to influence the vote upon the question whether this is a general appropriation bill, for it is necessary to uphold our rules, to give them force; and therefore since the present occupant of the chair has stated that in his judgment this is a general appropriation bill it would be hardly just to the rules and to the order of the Senate that any interest we may have in any amendment we may wish to propose should enter into our decision of the question whether or not this is a general appropriation bill.

Mr. ALLISON. I do not care personally whether this is a general appropriation bill or whether it is a specific appropriation bill. I have no amendments to offer to this bill. I think it would be wise for us to consider every appropriation bill of such a character as that amendments cannot be offered except in pursuance of estimates or provisions of existing laws, as provided by Rule 27; but as I understand the rules as they exist, this cannot be considered a general appropriation bill. We derive those words from the House of Representatives, not from any language in our own rules. The House of Representatives has divided up the appropriations into sundry bills that they call "general appropriation bills," and we have adopted their language.

Now the Senator from Virginia [Mr. WITHERS] says that because this supplements appropriations already made it ought to be called a general bill.

Mr. WITHERS. The Senator misunderstood me—not that it supplements appropriations already made, but appropriations made under what are admitted to be general appropriation bills.

Mr. ALLISON. Very well; for my purpose that makes no different statement of the case. Here are several appropriations in this bill. Some of them come under what we know as the legislative, executive, and judicial bill; some of them would come under the sundry civil bill, and some under the naval appropriation bill, and so on. We find gathered here together several distinct items of deficiency. I think, as the rules are, that these bills ought not to be considered general bills; but if it is the wish of the Senate, I am perfectly willing to vote now that every bill which comes from the Appropriations Committee, whether it be for deficiencies or whether it be for specific items of appropriation, shall be regarded as a general appropriation bill, and if so, to have an end of this question, which has been construed differently in the Senate because now and then a particular amendment is sought to be ingrafted on the bill. I am as desirous as the Senator from Vermont is to save this Government from hasty legislation, but I cannot conceive, with my present knowledge and understanding of the rules, that this is a general appropriation bill, and therefore I shall vote in the negative on the question now submitted to the Senate.

Mr. DAVIS, of West Virginia. This bill appropriates between nine and ten million dollars of money, and for four or five different Departments and ten or fifteen different objects. In view of the amount of money involved, and the different objects and the different Departments provided for, I do not well see how it can be considered otherwise than as a general appropriation bill under the rule. It is based to a large extent upon the estimates of the Departments for deficiencies.

Mr. FERRY. I should like to ask the Senator from West Virginia, the chairman of the Committee on Appropriations, if it is not to provide for appropriations already established by law and of a general character, and not specific?

Mr. DAVIS, of West Virginia. Yes, sir. In some instances it is for items provided by law, and in other cases they are estimated for.

I think it important that the Senate should decide now for all time to come whether or not this is to be considered under the rules a general appropriation bill. Many things to be done in future may depend on the decision of the Senate now on this point. If this is not a general appropriation bill, then other bills like it when they come to the Senate can be amended by all sorts of things and no rule of the Senate can keep them out.

The bill starts off, "That the following sums are appropriated," not "the following sum" for any particular object, but "the following sums are appropriated," just as all general appropriation bills read; and I hope that the Senate now will decide permanently, as I think it should be, that this and all similar bills are general appropriation bills, so that the Senate in future may act wisely by preventing improper things going upon appropriation bills.

Mr. CONKLING. Mr. President, agreeing entirely as I do with what has fallen from the Chair, I am glad individually to have the question submitted in the form in which the Chair proposes to sub-

mit it. It is convenient and desirable to me to vote upon it in that form. But with great respect to the Chair, I venture to make this remark: A presiding officer acting under Rule 40 and taking the same discretion exercised by the Chair now might I think in another case put the Senate, perhaps the Chair, in a somewhat awkward predicament; and I venture to suggest to the Chair that Rule 40 does not authorize such a division of this question of order as the Chair, very agreeably and conveniently to me, proposes in this case. And speaking, as I say, with the greatest deference to the Chair, it seems to me that the effect of Rule 40 is this: When a point of order is presented or a question of order is raised, the Chair may decide that question of order himself, or he may if he pleases substitute for himself the Senate as the deciding power. Whether he decides it himself, or whether he submits it to the Senate, it seems to me that the rule contemplates that he shall decide the question of order.

In this case what is the question of order? A Senator rises and says, "I object to this amendment because it is out of order; it is an amendment to a general appropriation not recommended by the head of a Department in the estimates." That is his point of order. The question is, notwithstanding that point, ought this amendment to be received, and if the Chair himself should decide that question he would be compelled under the rule, I submit, to decide the very question. Now, the Chair in this case says, "That being the point of order, I will divide it; I will separate it into two members; I will first propose to the Senate the question whether this is a general appropriation bill, and if the Senate shall decide that it is, then I will submit the other proposition which will remain, namely, that this amendment is not recommended by the head of a Department, that it does not appear in the estimates." I submit that the Chair cannot do that. If he were going to decide himself he could not upon such a question being raised answer, "I decide that this is a general appropriation bill, and I decide only so much of the question." The Senator making the question would say to the Chair, "What becomes of my question of order? It is that this amendment is out of order because it has not been recommended as the rule prescribes and is offered to an appropriation bill." The Chair could not answer, "I will not dispose of that point of order, but I will simply rule first that this is a general appropriation bill, and there I stop." And if the Chair could not do it, then I respectfully submit that under the rule when he substitutes the Senate for himself as the deciding power he cannot put to the Senate piecemeal and in parts, with separation, one single question of order.

I say this, Mr. President, because I can conceive a case, quite different from this, in which such a construction of the rule might put the Senate in a dilemma and might enable a presiding officer to do what I am quite sure the present presiding officer would not do under this rule or under any other, and therefore I make my observation rather by way of filing a *caveat* against such a general construction as this being given to the rule.

The PRESIDENT *pro tempore*. The Chair desires to say that, without having particularly considered the point just made by the Senator from New York, it was so obviously important to have a decision upon this very question, and it was so obviously convenient to the Senators who maintain that this amendment is in execution of existing law, to give them opportunity and time to hunt up the law, that the Chair without much reflection submitted it in the way he did; and perhaps reason would vindicate that mode of submission. But that is not the question now. No objection was made to its being submitted in that way, and the yeas and nays were ordered, and the Chair will therefore call on Senators to vote on the question which he submitted, which is, is this bill a general appropriation bill within the meaning of Rule 27?

Mr. HOAR. Mr. President, it is very important that this rule of the Senate should be observed. Whatever Senators may think of the propriety of putting general legislation upon appropriation bills, I suppose all Senators agree that it should not be done in violation or in diminution of the rules of the Senate. It seems to me perfectly clear that this is a general appropriation bill. It is a deficiency bill containing a variety of items making appropriations of money necessary for carrying on the Government, omitted from the general appropriation bills. It is not a bill introduced to meet a special purpose, relating to a special subject, like ordinary bills. It is a bill which cannot be withheld. It is making appropriations which cannot be withheld without the failure of the public service in important particulars. It would make a proper and appropriate section or sections in a general appropriation bill.

What is a deficiency bill? A deficiency bill under our rules and habits of speech means a bill containing items omitted from the general appropriation bills. It is a part of the general appropriation bills coming in by itself just so far as there are deficiency bills. In other words, the general appropriation bills are introduced in two parts, instead of being all introduced at once. What are the deficiencies? All bills are deficiencies in one respect; that is, they provide for things for which without them there would be no appropriation. What is the deficiency which the title of this bill refers to? It is the deficiency of the general appropriations that it is intended to supply; and it seems to me, therefore, that it is just as much a general appropriation bill as it would be if the Committee on Appropriations were to cut up the sundry civil bill into four parts, or instead of making one legislative, executive, and judicial bill, we were to have one bill for the legislative department, another for the executive, and another for the judicial.

Mr. TELLER. If I am not greatly mistaken, when this bill was before the Senate before in substantially the same condition that it is now, with some exceptions, it was ruled by the Chair—I am not confident who was in the chair at the time—that this was not a general appropriation bill and did not fall within the rule. The honorable Senator from West Virginia, who is chairman of the committee, says he is desirous of having a rule established. Why, Mr. President, I have seen this question voted on in the last three years a number of times and it has been decided differently every time. It is usually decided according to the majority, who desire to put on particular amendments. That has been the universal practice as to this question.

Of course as to a certain class of appropriation bills nobody makes any question; and if this is a general appropriation bill, of course it is nonsense to keep the term "general" in the rule, because every appropriation bill comes within the rule. The honorable Senator from West Virginia says it is because it has the word "sums" in it. Then every bill that has more than one item in it becomes a general appropriation bill.

I am not for enlarging the rule. I think the rule is a good one when applied to general bills, and perhaps there is some reason why it should be applied to all appropriation bills; but frequently there are cases when there is a necessity to put on an appropriation that has not been provided for by the committee or recommended by a Department; and this construction puts it in the power of any one Senator to defeat such an appropriation. I am not for enlarging the rule. I believe I will follow what I think has been the universal custom of the Senate when a Senator was in favor of an appropriation, to vote that it was pertinent to put it on the pending bill.

Mr. FERRY. In response to what has been said by the Senator from Colorado, I wish to remind him of what was said by the Senator who presented the bill, the Senator from Connecticut, that it covers no new items that were not in the general appropriation bills; and as he stated it is to supply the frame-work made by the general appropriation bills. In other words, if the regular appropriation bills had been larger in their items, this deficiency bill would not have been submitted to the Senate.

Mr. ALLISON. Now, will my friend allow me to ask him a question?

Mr. FERRY. Certainly.

Mr. TELLER. I know that is a fact, and if they had made the general appropriation bills large enough perhaps they would have included all these items, and yet these come here as separate and distinct and independent items.

Mr. ALLISON. I desire to ask the Senator from Michigan, who is familiar with these rules, and who I believe is the author of Rule 27, a question, because I am confused upon the term "general appropriation bill." If this rule said "appropriation bills" could not be amended, except as prescribed, I could understand the question perfectly well; but the Committee on Rules, or whoever made this abstract, has imported into this rule the words "general appropriation bill." I look for a meaning of that term and I find it in the rules of the House. The rules of the House provide for certain general appropriation bills, and they provide that no amendment shall be placed upon those bills except in pursuance of estimates, &c.

Mr. HOAR. Do they not include the general deficiency bill?

Mr. ALLISON. The general deficiency bill is not included as one of the general appropriations bills, and that is the thing that confuses me.

Mr. DAVIS, of West Virginia. Does the Senator contend that the general deficiency bill is not an appropriation bill?

Mr. ALLISON. I am not contending for anything just at this moment. I am endeavoring to prepare myself to ask the Senator from Michigan a question.

Mr. FERRY. I am patiently waiting for the question.

Mr. ALLISON. I want the Senator to tell me where in the Senate rule or rules I shall find a definition of the term "general appropriation bill?" If there is no definition of it in the rules of the Senate are we not required to go to the rules of the House of Representatives for a description of those words? When we go there we find certain defined, particular appropriations mentioned, namely, twelve in all, now increased to thirteen, and these are called general appropriation bills. According to my understanding we have imported that language into our rules here without giving any other definition to the term.

Mr. WITHERS. I wish to ask the Senator from Iowa a question. I ask the Senator whether I am to understand him as arguing here that in the absence of any specific rule of the Senate the Senate is controlled by the provisions of the House rules?

Mr. ALLISON. Not at all. I never would argue that, I trust, in the presence of my friend from Virginia.

Mr. FERRY. The Senator from Iowa put a question to me which was very long, but I believe I can recollect a portion of it. The honorable Senator from Virginia has partially answered the question. When the Senate adopted these rules they adopted them as the rules of the Senate, not of the House, and gave their own construction to the rules. The object of the Committee on Rules, the framers of the rules, was to cover all bills that were known by the Senate as appro-

priation bills covering general purposes. I will state to the Senator from Iowa, as the Senator who has submitted this bill to the Senate has stated, that it is simply covering deficiencies in the general appropriation bills; and if those general bills had been larger in the number of items this bill never would have appeared in the Senate. Certainly, then, it must be clear that this is a general appropriation bill.

Mr. ALLISON. Now I want the Senator to answer my question, where shall I find a definition in the Senate rules of the term "general appropriation bill?"

Mr. FERRY. I have stated to the Senator as clearly as I can.

Mr. ALLISON. Which particular rule?

Mr. FERRY. There is no particular rule that defines the term, but it appeals to the judgment of the Senator from Iowa as well as to the judgment of other Senators, and to those who adopted the rules, that a general appropriation bill covers general appropriations for general purposes.

I desire to state further to the Senator from Iowa, that if the general appropriation bills had accomplished their purpose this bill never would have been presented, and therefore the question never would have been raised in the Senate.

Mr. HOAR. I should like to ask my friend from Iowa, as one test of what is a general appropriation bill under our usages, if he supposes that under the parliamentary usages a bill like this could first be introduced in the Senate and sent to the House, and if not, would it not be on the ground that both branches agree that it would be a violation of our parliamentary custom? Would not the sole ground be that it is a general appropriation bill?

The PRESIDENT *pro tempore*. Senators, as many as are of the opinion that the pending bill is a general appropriation bill within the meaning of Rule 27 will, when your names are called, answer "yea." Those of a contrary opinion will answer "nay."

The roll was called.

Mr. MORRILL. I desire to say that the Senator from Michigan [Mr. BALDWIN] is paired with the Senator from North Carolina, [Mr. RANSOM.]

Mr. BURNSIDE. I am requested to state that the Senator from Minnesota [Mr. MCMILLAN] and the Senator from West Virginia [Mr. HEREFORD] are paired. I do not know how either of them would vote on this question.

Mr. PADDOCK. I desire to state that my colleague [Mr. SAUNDERS] is absent from the Senate, detained on important business. He is paired on political questions with the Senator from Kentucky, [Mr. WILLIAMS.]

The result was announced—yeas 47, nays 4; as follows:

YEAS—47.

Bailey,	Davis of W. Va.,	Ingalls,	Pryor,
Bayard,	Dawes,	Johnston,	Rollins,
Beck,	Eaton,	Jonas,	Slater,
Blair,	Edmunds,	Jones of Florida,	Thurman,
Brown,	Farley,	Kernan,	Vance,
Bruce,	Ferry,	McDonald,	Voorhees,
Burnside,	Garland,	McPherson,	Walker,
Butler,	Hampton,	Maxey,	Wallace,
Cameron of Wis.,	Harris,	Morrill,	Williams,
Carpenter,	Hill of Colorado,	Paddock,	Windom,
Conkling,	Hill of Georgia,	Pendleton,	Withers.
Davis of Illinois,	Hoar,	Plumb,	

NAYS—4.

Allison,	Call,	Teller,	Whyte.

ABSENT—25.

Anthony,	Groome,	Lamar,	Saulsbury,
Baldwin,	Grover,	Logan,	Saunders,
Blaine,	Hamlin,	McMillan,	Sharon,
Booth,	Hereford,	Morgan,	Vest.
Cameron of Pa.,	Jones of Nevada,	Platt,	
Cockrell,	Kellogg,	Randolph,	
Coke,	Kirkwood,	Ransom,	

The PRESIDENT *pro tempore*. The decision is that this is a general appropriation bill within Rule 27. The Chair understands the Senator from Vermont——

Mr. GARLAND. The Senator from Vermont has just retired from the Chamber, and authorized me to withdraw his point of order, which I do.

The PRESIDENT *pro tempore*. The question, then, is on the adoption of the amendment of the Senator from Missouri, [Mr. COCKRELL.]

Mr. CONKLING. May we hear it read?

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed at the end of line 28 to insert:

For continuing the work of adjusting and settling the claims of the several States, under the act of Congress approved September 28, 1850, and the acts supplemental thereto and amendatory thereof, for swamp lands, including all claims for swamp-land indemnity, under the acts of March 2, 1855, and March 3, 1857, and other acts, $5,000.

Mr. CONKLING. I beg to be heard one moment while I comment, addressing myself especially to the honorable Senator from Connecticut, [Mr. EATON,] who has this bill in charge, upon this singular spectacle. Here is a bill to which the Senator from Minnesota [Mr. WINDOM] offered an amendment, the object of which was to keep open the courts and defray their expenses. The Senator from Connecticut assaulted that amendment successfully, and chiefly, if I understood him, upon the ground that this was not the bill to which appropriately such an amendment could be offered, this being a pension bill, and, said the honorable Senator, "the Commissioner of Pensions tells me that on the 1st of June he needs millions to pay the cripples and the mourners who receive their pensions at New York, at Boston, and at Philadelphia." Having tabooed the amendment in aid of the courts, the Senator from Connecticut remains quiet thus far, hearing an amendment offered to make provisions about swamp-land indemnity.

I beg the Senator from Missouri not to suppose that I am speaking against his amendment. I am not. He will see that before I finish. I do not know enough about his amendment to undertake to attack it, but I call attention to the glaring inconsistency if the Senator from Connecticut will not deem that offensive——

Mr. EATON. Not at all.

Mr. CONKLING. Then I will adhere to it as he authorizes me to do. I call attention to the glaring inconsistency not of the Senator from Connecticut but of the Senate if it shall hold that really an amendment to keep open the court is outlandish, improper upon a bill of this sort, and then shall hold that an amendment to make provision for States and others touching their interest in swamp lands will only perfect the bill, will make it symmetrical, make it harmonious, so that it will touch all around.

I think, Mr. President, that such a record as that will look rather odd to people who know as little as I do about such things. I think a man until he becomes quite highly cultivated in parliamentary proceeding could almost think that a bill on which it was proper to make provision touching swamp lands was a bill which would not have been hurt much by putting in a needed provision to prevent the courts closing their doors.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri, [Mr. COCKRELL.]

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. If no separate vote is called for the question of concurrence will be put upon the amendments in gross. Will the Senate concur in the amendments made in committee?

The amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

PETITIONS AND MEMORIALS.

Mr. WHYTE. I ask unanimous consent to take up Senate bill No. 1191.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that the morning hour is about expiring.

Mr. HOAR. I rise to morning business.

Mr. WHYTE. I yield for morning business.

The PRESIDENT *pro tempore*. The Chair will receive morning business.

Mr. HOAR presented the petition of Margaret Dalrymple, a citizen of Salem, Massachusetts, representing that she is a real-estate owner and is annually heavily taxed for the support and punishment of pauperism and crime, while she has no power to suppress vice or regulate taxation, and asking for the removal of her political disabilities; which was referred to the Committee on the Judiciary.

He also presented the petition of Sarah G. Wilkins, the petition of M. A. Wyman, the petition of Harriet C. Hurlburt, the petition of Henry K. Oliver, the petition of E. C. Bolles, and the petition of Peter Silver and others, citizens of Salem, Essex County, Massachusetts; also the petition of Sarah S. Trask, the petition of Annie M. Hines, the petition of Mary S. Thomas, the petition of Walter S. Lovejoy, the petition of W. H. Hood, and the petition of Charles H. Sawyer and others, citizens of Danvers, Essex County, Massachusetts, praying for an amendment to the Constitution of the United States granting to women the right of suffrage; which were referred to the Committee on the Judiciary.

Mr. CONKLING presented the petition of Viola D. Burnham, the petition of Rose F. Pickard, the petition of Harriet Nelson, the petition of William Knight, and the petition of M. Soucks and others, citizens of Busti, Chautauqua County, New York; also the petition of Mrs. C. J. Humphrey, the petition of Mrs. Martha Lloyd, the petition of Mrs. A. M. Lathrop, the petition of C. J. Humphrey, the petition of Thomas C. Palmer, and the petition of Addison Benedict and others, citizens of Bainbridge, Chenango County, New York, praying for an amendment to the Constitution of the United States granting to women the right of suffrage; which were referred to the Committee on the Judiciary.

He also presented the petition of Avis Satterlee, the petition of Frances A. Marvin, the petition of Amelia E. Stillman, the petition of Mrs. A. A. Allen, the petition of Mary K. M. Babcock, the petition of M. D. Whitford, and the petition of L. M. Pettabone, citizens of Alfred Centre, Allegany Country, New York, praying that they be granted the right of suffrage; which were referred to the Committee on the Judiciary.

He also presented the petition of Bowen & Signor, of Saranac, New York, manufacturers of bloom-iron, employing one hundred and fifty hands, praying for the passage of the Eaton bill providing for the

appointment of a tariff commission; which was ordered to lie on the table.

He also presented the petition of H. W. Ladd and other merchants, citizens of New York City, and the petition of George Brown, president of the New York Furniture Board of Trade, and other furniture manufacturers of New York City, praying for the passage of a uniform national bankrupt law; which were referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1793) to amend section 1 of the act entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812, and their widows, and for other purposes," approved March 9, 1878; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 116) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri; which was read twice by its title, and referred to the Committee on Military Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WHYTE, it was

Ordered, That the papers in the case of Charles Dresser be taken from the files of the Senate and referred to the Committee on Claims.

AMENDMENTS TO BILLS.

Mr. JOHNSTON and Mr. ANTHONY submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. VOORHEES submitted an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CALL submitted an amendment intended to be proposed by him to the bill (S. No. 1771) to establish a post-route in Missouri; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report of the Adjutant-General, and accompanying papers, relative to the case of Peter Moog, Company B, Sixty-eighth Ohio Volunteers; which was referred to the Committee on Military Affairs, and ordered to be printed.

COMMITTEE SERVICE.

Mr. HARRIS. I move that the Chair fill the vacancies on committees occasioned by the resignation of the Senator from Georgia, (Mr. Gordon.)

The motion was agreed to by unanimous consent.

The PRESIDENT *pro tempore*. The Chair will appoint the Senator from California [Mr. FARLEY] a member of the Committee on Commerce, the Senator from Georgia [Mr. BROWN] a member of the Committees on Agriculture, on Labor and Education, on the Freedman's Savings and Trust Company, and to examine the Civil Service.

JOSEPH C. IRWIN.

Mr. COCKRELL. I wish to make a correction of the Senate's record. The Committee on Claims on the 19th day of May, 1880, instructed the Senator from Colorado [Mr. TELLER] to submit to the Senate a report on the bill (S. No. 1325) for the relief of Joseph C. Irwin for printing and recommitment to the committee. I recollect its presentation and I am sure that that was the manner in which the report was presented. It has been printed and laid upon our desks and appears as a report made from the Committee on Claims by the Senator from Colorado to the Senate, when it was only a report submitted to the Senate with the request that it be printed and the bill recommitted to the committee. The committee had taken no action upon the case at all. I desire to make that correction so that it will not be considered a report of the committee at all. It was simply an order of the committee that the report should be submitted to the Senate, and the order for printing obtained from the Senate, and the bill and report then recommitted to the committee.

Mr. TELLER. I should like to say that I submitted the report with the distinct statement, as I recollect, that the report was to be printed only for the use of the committee and it was to be recommitted. It seems the Secretary made a mistake in his entry. It was only contemplated to print enough copies for the use of the committee and not for the whole Senate.

SETTLERS IN KANSAS AND NEBRASKA.

Mr. BAYARD. I ask for the regular order.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business, which is the bill (S. No. 1252) to define the terms of office of certain officials of the United States.

Mr. PADDOCK. I desire to appeal to the Senate for a moment. I understood the Senator from Delaware that he would yield the floor to me for a purpose.

Mr. BAYARD. The pending order is, I understand, before the Senate.

The PRESIDENT *pro tempore*. It is before the Senate.

Mr. BAYARD. Upon that yesterday I signified to the Senate that I would ask the Senate to take a vote to-day before adjournment. The honorable Senator from Nebraska [Mr. PADDOCK] has informed me that he is not personally very well, and he desires to have a measure which will not lead to any debate acted upon. I have had his request seconded by the honorable Senators from Kansas, who feel a personal interest in the measure which the Senator from Nebraska desires to bring up. With the understanding that that measure will not provoke a discussion, and that the pending order is to be laid aside informally with the right to resume its consideration, I give way.

Mr. CARPENTER. Subject to call?

Mr. BAYARD. Subject to my call. With that understanding I shall give way to the Senator from Nebraska.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks unanimous consent that the pending order be laid aside informally in order to proceed to the consideration of a bill.

Mr. CONKLING. What is the bill?

Mr. PADDOCK. It is a House bill for the relief of certain settlers west of the sixth principal meridian in Nebraska, many of whom have been ruined by the drought during the past year. It merely allows an extension of time to them to prove up their titles.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks that the pending bill be laid aside informally, with the right to call for the pending order at any time. Is there objection? The Chair hears none. The Senator from Nebraska now moves that the Senate proceed to the consideration of House bill No. 5975.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas.

The bill was reported from the Committee on Public Lands with amendments, in line 5, to strike out "State" and insert "States," and after "Kansas" to insert "and Nebraska:" and, in line 6, to strike out "east line of the counties of Harper, Kingman, Reno, Rice, Ellsworth, Lincoln, Mitchell, and Jewell" and insert "sixth principal meridian;" so as to make the bill read:

That it shall be lawful for homestead and pre-emption settlers on the public lands, or pre-emption settlers upon Indian reservations, in the States of Kansas and Nebraska west of the sixth principal meridian, where there has been a loss or failure of crops, from unavoidable cause, in the year of 1879 or 1880, to leave and be absent from said lands until the 1st day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office may prescribe; and during said absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska."

ORDER OF BUSINESS.

Mr. CARPENTER. Mr. President——

Mr. EDMUNDS. The regular order.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Vermont calls for the regular order, which is Senate bill No. 1252, the unfinished business of yesterday.

Mr. CARPENTER. I ask the Senator from Vermont to yield for one moment that a court bill for Iowa which is recommended by the Judiciary Committee may be considered.

Mr. EDMUNDS. I am not in favor of one section of the court bill.

Mr. CARPENTER. Is the Senator not willing to have the Senate decide?

Mr. EDMUNDS. Not at this present moment.

Mr. CAMERON, of Wisconsin. Will the Senator from Vermont yield to me a moment?

Mr. EDMUNDS. It would be very unkind to refuse one Senator from Wisconsin and not allow the other, in order to treat the State well.

Mr. CAMERON, of Wisconsin. Yesterday I gave notice that at half past one o'clock to-day I should move to postpone the then present and all prior orders for the purpose of taking up the bill (S. No. 231) for the relief of Ben Holladay. I expected at that time that the bill in charge of the Senator from Delaware would be disposed of before the hour I named, but it has come over as the unfinished business, and I do not choose to antagonize it.

Mr. WINDOM. I ask the Senator from Vermont to yield to me a moment that I may make a request.

Mr. EDMUNDS. Certainly; I do not claim the floor; I only want to proceed with the regular order.

Mr. WINDOM. I gave notice that at the conclusion of the routine business this morning I should ask the Senate to proceed with the regular appropriation bill for the Agricultural Department. I now ask the Senate to lay aside informally the regular order and proceed with that bill.

The PRESIDING OFFICER. Does the Senator from Delaware yield for that purpose?

Mr. BAYARD. No, sir; I must insist on the regular order.

Mr. WINDOM. If no one else but the Senator from Delaware insists on the regular order I will move that all previous orders be postponed for that purpose.

The PRESIDING OFFICER. It is moved by the Senator from Minnesota——

Mr. DAVIS, of West Virginia. One moment. My colleague upon the Committee on Appropriations gave notice yesterday that he would call up the bill known as the agricultural appropriation bill this morning. Inasmuch as the Senator from Delaware [Mr. BAYARD] gave notice yesterday that he would ask the Senate to sit out his bill to-day, I submit to my colleague upon the committee whether he had not better let his bill go over until to-morrow morning directly after the morning business and then take it up.

Mr. WINDOM. If the chairman of the committee submits it to my judgment, I say no. I think we ought to proceed with the appropriation bill, as has always been the custom. I think, at this stage of the session, when appropriations bills are ready, we have invariably given them the right of way. I want to say that I am acting under the order somewhat of my chief, the chairman of the committee, who represents the other side of the Chamber. If they insist that the appropriation bill shall be laid aside, I of course shall not try to prevent it. I am acting under his authority and by his direction in pressing this bill. If he now says he desires the bill to be laid aside in order to proceed with the other measure, I shall not press it.

Mr. DAVIS, of West Virginia. I appeal to the Senator from Minnesota, as it is known that the appropriation bill can come up to-morrow immediately after the disposition of the supervisors bill, I hope my colleague on the committee will give way for the regular order to-day.

Mr. WINDOM. As far as I am concerned I shall obey the orders of the chairman of the committee. I am conducting the bill under his direction.

The PRESIDING OFFICER. Does the Senator from Minnesota withdraw his motion to postpone the pending and all previous orders?

Mr. DAVIS, of West Virginia. By request he does so, I hope.

The PRESIDING OFFICER. Does the Senator from Minnesota withdraw his motion?

Mr. WINDOM. I withdraw it.

CHIEF SUPERVISORS OF ELECTIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1252) to define the terms of office of certain officials of the United States, the pending question being on the amendment proposed by Mr. THURMAN, to add at the end of the bill the following:

Provided, That no person now holding or who has held the office of chief supervisor of elections shall be reappointed.

Mr. EDMUNDS. I should like to know whether we are to take a new departure every day. We have been told nearly every day this session, and always at former sessions, that the appropriation bills were entitled to precedence, and everybody has acquiesced. Now it seems for the first time in the history of the Senate, in the last ten years at any rate, there being a little political bill that is necessary in order that a certain party that controls a certain part of the destinies of this country in this Chamber may have the control of a certain judicial officer in each of the States, the appropriation bill shall have the go-by and shall not be taken up. [A pause.] I am afraid I am going to disturb a good many people and I am just waiting.

The PRESIDING OFFICER. Will the Senator suspend his remarks until other gentlemen cease conversation?

Mr. EDMUNDS. I have suspended.

The PRESIDING OFFICER. Will Senators please resume their seats and observe order. When Senators have resumed their seats and observed order the Senator from Vermont will proceed, but not until then, [rapping with the gavel.] The Senator from Vermont will proceed.

Mr. EDMUNDS. I am not at all desirous that anybody should listen to me, and on the same principle I am not at all desirous of listening to everybody else at the same time that I am speaking myself. I am very sure that what I say, even if interesting, will not be very conclusive upon this question; and I am equally sure that what other Senators are saying, that I cannot hear except in the form of an uproar, will not be very interesting to me. So I am willing to part company in either form. Those who have other matters to attend to must either wait for me or I will wait for them, and I am quite indifferent as to which way it goes.

I was saying, Mr. President, that for the first time in the recent history of this body a political maneuver is to crowd out an appropriation bill, and the political drill has got so severe that it has even operated upon gentlemen in the minority, and a gentleman on the Appropriations Committee in charge of an appropriation bill is obliged by the rules of his committee to give up trying to get the appropriation bill passed in order that the Senate may make haste to grasp the appointing power of the chief supervisors of election in the various States. That having been accomplished for the first time, and to stand as I suppose as a precedent during the brief period of time that the present political majority will be in this neighborhood, we shall have it applied on future occasions. Now we come to this bill.

Mr. WINDOM. Will the Senator allow me just a moment at that point?

Mr. EDMUNDS. With pleasure.

Mr. WINDOM. I want to say before the Senator leaves that point, in which he speaks of the influence extending to this side of the Chamber, that in reporting the agricultural appropriation bill as a member of the minority of the committee I understand myself to be acting by direction of the committee, and I now understand that I am directed by the committee not to press this bill to-day, and in subordination to the ordinary rules which prevail, I act in accordance with the direction of the majority of the Committee on Appropriations, not in accordance with my own wishes or belief as to what ought to be done.

Mr. EDMUNDS. I am glad the Senator has said that. I intended to imply that in what I said, that the military duress of the existing organization here is so stringent that it even operates upon the political minority of committees, and the ancient and useful usage and custom of the Senate to allow an appropriation bill to go on is to be departed from, and a gentleman of my political persuasion in charge of an appropriation bill is not even allowed to make a motion to go on with it because the majority of his committee command that he shall not; therefore, speaking for the committee, he cannot make the motion. I only want to have it stand out clearly, for I suppose that all we say here will be printed for general circulation, as we have been so largely increasing the contingent fund of the Senate from day to day, amounting now for this year only to something over $100,000, that certainly there must be a good margin either by a sufficiency or deficiency (and there does not seem at present to be any special distinction in those two terms in the minds of those who rule us) to have all the knowledge of what we are doing sent to every part of the country, as I hope it will be.

Having killed the appropriation bill for to-day in order that we might become the proprietors of a few chief supervisors of elections, let us see the machinery by which we are going to do it. I will wait again a little while, Mr. President.

The PRESIDING OFFICER. Will Senators on the right of the Chair please cease conversation, so that the Senator from Vermont can be heard?

Mr. EDMUNDS. Not on my account, Mr. President. I am not in the least hurry. I do not care if this bill does not pass until next year.

Mr. DAVIS, of West Virginia. Will the Senator from Vermont allow me to make a very short statement?

Mr. EDMUNDS. I should think not just now. I am afraid there would be a noise.

Mr. DAVIS, of West Virginia. I will sit down.

Mr. EDMUNDS. I am trying to make a short statement myself. Section 2025 of the Revised Statutes, which is the subject of this legislation, stands in this way:

The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the 1st day of May, in the year 1871, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed.

The title is "The Elective Franchise." The next section prescribes the duties of the chief supervisor of elections. I will ask the Clerk to read this, as it is rather tiresome.

The Chief Clerk read as follows:

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section 2012, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed.

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2028. No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not, at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

Mr. EDMUNDS. Sections 2025, 2026, and 2027 I believe cover all that relate to the chief supervisor of elections. You will see, Mr. President, that this provision for a chief supervisor of election is a systematic, a co-ordinated part of this title of the Revised Statutes relating to the elective franchise—the elective franchise of citizens of

the United States in respect of electing Members and Delegates to the House of Representatives of the Congress of the United States—and that the whole title falls under that clause of the Constitution of the United States, if there be such a thing left, which says that the Congress may make regulations, or amend, alter, and change State regulations upon that subject which the Constitution recognizes as existing in the first instance.

When these laws were passed that are now embodied in the Revised Statutes it had been found upon irrefragable and indisputable evidence, and undisputed evidence in the general sense of that term looking at it broadly, that in many of the States of this Union the freedom of qualified voters to meet for the purposes of considering national affairs and of considering who should be their representatives in the National Congress, and of attending at the voting places to vote for such representatives, had been greatly interfered with, and that the State machinery for securing justice and peace at elections of members of Congress, either by design or as a fact without design, had failed to be efficacious in preserving, protecting, and defending (to use another phrase out of the Constitution) this most sacred of the rights of the people of the United States.

It was therefore desirable so far as it could be supposed that Congress desired, to effectuate the Constitution, to take the step that the Constitution itself had with a wise foresight undertaken to say might be taken by the representatives of the people in Congress, and that was to secure by appropriate legislation these rights thus put in peril.

The causes that led to this legislation I have not referred to. They grew out undoubtedly of a legal change in the relations of a great many people in the States that went into the rebellion and a practical change in the relations of the people in a good many of the States that did not go into the rebellion. In short, the ancient aristocratic disposition of having political power confined to the few that existed in the slave-holding States was followed after the rebellion was put down and the slaves had been enfranchised and made citizens, by the natural consequence undoubtedly of an extreme indisposition on the part of that small body of men who were the ancient rulers to share their power with people who had been their serfs and slaves, or to admit with any very good grace those of their fellow white citizens who had stood by the Union, or who, having gone into the rebellion, were willing to stand by it now, to a free share and exercise of political rights. Consequently there were Ku Klux with all that that name and the history of its developments and its trials and otherwise implies. There were knights of this circle and that circle, companies, all manner of combinations and associations that put in peril the lives of a great many people who undertook to have political opinions and express them and carry them into effect differing from those of the small and conservative and aristocratic body who were the ancient rulers in those States. Then in some of the Northern States, notably the great cities where vast immigration had poured in immense numbers of persons above the age of twenty-one years from foreign countries, and a large part of whom came under circumstances and fell under such influences that they seemed to become the natural, not allies but instruments, of an organized party, as in the city of New York, for instance, that had controlled its politics with a despotism as severe as any that has ever been heard of. All these were made the subjects of the contrivances by which the apparent voice of the State of New York in the election of Representatives to Congress and in respect of the election of President of the United States was made to appear strongly democratic (if I may refer to a partisan name) and made to appear so by falsehood and fraud to such an extent as that it shocked a large portion even of the democratic party itself and of the men in it who still had some faith in the justice and right of a well-ordered government.

So these causes combining led to the passage of these laws that are now Title 26 of the Revised Statutes, called "The Elective Franchise," for the purpose of protecting the honest and just voters in the States that had been in the rebellion against the violence and intimidation and peril to which they had been exposed, and of protecting the just and honest voters of the States that contained great cities, like New York, to which I have referred, from the fraud and deviltry, because I think it deserves that name, which had been exerted to produce a false voice from that Empire State instead of a true one in respect of the election not only of its own State officers but of members of Congress in a large part of it, numerically a large part, and of electors of President and Vice-President.

Now, what did it do? We have been told here by the Senator from Ohio, and a good many others who follow him, over and over again, in the last ten years, that this whole scheme was unconstitutional and that the existence in respect of its orderly and just representation of the United States depended entirely upon the will of each State; that we had no business, as they called it, to enter a State by national legislation and undertake to regulate, protect, and defend elections for members of Congress, notwithstanding the Constitution said exactly the other thing. I suppose if these respected friends of mine, and gentlemen, had the power at this moment to make a law which would carry out their wishes and intentions, instead of its being a little bill of eleven lines, which is now before us to grasp the appointment of chief supervisor of elections into its own hands in this body, it would be a bill of a still shorter kind, and would simply be a bill to repeal Title 26 of the Revised Statutes of the United States, which would only take five lines, and to throw out every protection that the provisions of this title afford to the citizen of the United States in his character as such to choose his Representative in the National Legislature and to exert his national rights, and to leave it to the sovereign good-will of the sovereign authority in each particular State to allow fair play to exist or not as it might choose.

I think I am safe in saying that. I am only saying what has so often been said by direction or indirection by gentlemen on the other side on this same topic; and they would do it none the less because the Supreme Court has recently decided that the Constitution was really intended to mean what it says, and that when it says that Congress may regulate these matters Congress may do so. Am I not right about that? There can be no doubt of it. It is one of the things that this little bill gives us an opportunity to say and to call attention to on the part of every lover of his country and of peace and good order in the United States. If the lovers of their country and of the peace and good order of the United States desire to have every vestige of national protection for national rights swept from the statutes and laws of the United States, they have a very easy way of expressing that desire, and that is to do what they can to put it in the power of the so-called democratic party to rule every department of this Government. Then they will accomplish that end quickly enough. If they are not ready to go that length, then they will probably understand what it is still better for them to do.

I cannot help putting in my humble expression of admiration at the courage and the candor with which gentlemen on the other side, in a political year as it is called, have brought forward (although intending, as the Senator from Ohio said, to vote and not to speak about it) these various measures, here a little and there a little, to emasculate what they feel they cannot now absolutely destroy. I think we owe them a certain amount of gratitude for this candor, although it is accompanied with a silence that is ominous and has been, because it enables the intelligent and reading citizens of the United States, in collating and putting together these various bills, which they will—and they will number more than a score—in all the aspects of reaction and retrogression toward the year 1861, which they can read in a very short space of time, to see what are the deeds that those who wish to get possession of all the departments of the Government intend to accomplish if they get the power.

Let us see what this special measure is, looked at by itself. As I have been saying, as it now stands the office and duties of chief supervisor of elections are co-ordinated in a systematic arrangement of the exertion of the protective powers of the law over the elections of members of Congress. There are the supervisors of elections, not the chiefs, who are appointed by the courts from respectable citizens of the vicinity. They are to be appointed two for each election place where the application is made, one of one political opinion and the other of the other, just as I believe I pointed out the other day that in Delaware occasionally and in Ohio I believe always, and in almost all the other States in respect of those particular officers the arrangement is the same, that is, of giving to each party in respect of the special and particular duties of the judge of elections or observer or whatever he is called, the person who performs this kind of function, a representation in order that each can see what the other is doing, which is of course a strong inducement to fair play and furnishes the means of evidence and correction in a case of wrong. That is what the law provides. They are to be appointed by the court. This bill does not propose to change that. On the contrary, another bill which has passed this body has provided that in respect of the duties of the marshal, a long-time officer, as old as the Government, whose duties are purely executive and exertive (if there be such a word) instead of attesting and observing and co-ordinating and canvassing, his power shall be taken away to appoint deputies on such occasions, but that the courts must do it, on the assertion that although this duty of the deputy is an executive and exertive one, as distinguished from the character and the duties of the supervisor, yet it is indispensable, as they say, that there should be judicial calmness in that selection, and that the deputy marshals so appointed should be appointed in equal numbers from all political parties.

That being the state of our recorded opinion by votes, our next step is to declare that the chief supervisor, instead of being appointed by the calm judicial judgment of the courts, and if there be any bias in the courts then influenced only by the counteracting and various biases of the various judges in the courts, so that in one district that bias, if it were exerted at all, would be a bias in favor of the democratic party, and in another a bias in favor of the republican party and so on—instead of leaving this appointment to the courts, it is, to bring it right down to its actual bearing, to be by the Senate of the United States, and being by the Senate of the United States, by those who are a majority of this body of one political complexion. In other words, while they say it is necessary that the deputy marshals shall be selected by the judge in order to produce fairness, it is necessary that the chief supervisor shall be selected by the democratic party of the Senate in order to produce fairness; that he shall not be intrusted with the courts where he now is; he shall be taken away from them and given to a political junta which according to the statements in the newspapers of the last year or two has been governed (I do not mean that as any reproach; I express no opinion about that) by what the French in the times of their commune and their revolution and their guillotine called a committee of safety. I assume that

that committee of safety, like the French one, is within itself also governed by one or two or three—perhaps only one or two—chief and superior spirits.

So that to run it down to its ultimate and practical effect we are to declare by law that the venerable judge of the Supreme Court of the United States, who holds judicial sway in the first judicial circuit, covering the States of Maine, New Hampshire, Massachusetts, and Rhode Island, shall not be intrusted to exert this power as the chief judge of the circuit court, but that somebody in this majority of us here who is a special somebody in the majority of that committee of safety among us here or among us in the other House, and who is a special and peculiar majority of some sub or special or peculiar committee of that committee of safety, is to be intrusted with the management of the selection of the chief supervisors of elections. I think that states the case fairly, Mr. President; I have not any doubt that it states it truly.

What is the chief supervisor of elections to do and what is the nature of his office? He is to be selected by the courts from among their judicial officers, the commissioners, the commissioners being appointed by the circuit courts and removable by the circuit courts at pleasure; and so the removal of a commissioner makes an end of his office of chief supervisor; and indeed without that there would be no question at all according to the decision of the Supreme Court in *Ex parte* Hennen, in 13 Peters, that the courts having this power of appointment without limitation had by necessary implication the power of removal. Thus in any aspect as things now are this office of chief supervisor is an office which must be held by an officer of the court, a commissioner; it is held at the pleasure and judgment of the court, according to its sense of public justice and the public administration of law; and the duties that the commissioner thus selected is to perform are duties the largest part of which properly and justly relate to the judicial administration of justice. The courts are to appoint the supervisors in general. If they do their duty they must appoint them upon scrutiny, as they do, and the statute points out how that scrutiny shall be exerted. It shall be exerted through their selection, in the first place, of this chief supervisor from among their commissioners, through whom applications for appointment of supervisors in general are to come, and on whose report intelligently given upon inquiry and evidence the court is to act. Is not that just? Is not that safe? Is not that right? If it be just and safe and right, is it not exactly like the case of the other part of the organization of the courts of the United States, where they are called upon to select receivers to settle accounts, to administer administrative justice in the ten thousand ways that the courts are called upon to do all the time? How do they do it? They do it upon the selection and report of masters and commissioners and clerks, and so on.

If, then, the provision of this bill is just that this class of officers, who are the hands and the eyes of the courts in doing their judicial duty of appointing supervisors, shall be appointed by a majority of this body, why should not a majority of this body appoint the clerks of the courts, the masters in chancery, special and general, and all the other officers that the courts are obliged to use in order to discharge their judicial duties properly and satisfactorily? Nobody can answer that, Mr. President, because you cannot make any distinction. Yet this bill proposes that no court of the United States shall appoint a supervisor of election at all until a majority of the controlling party of this Chamber shall determine what men shall be proposed to that court to be appointed. That is what it comes to. The majority in this Chamber is to say, "We will have nobody for chief supervisor of elections in New York but William M. Tweed," if he were alive, "or John Kelly;" and I mean no offense to Mr. Kelly, whom I do not know; I know nothing for him or against him; his name comes up naturally enough as the chief of Tammany. The majority is to say, "We will have nobody for chief supervisor of the city of New York but the chief of the society of Tammany." You compel the President to appoint him or to have none. Then you have got your law so that the circuit court for the southern district of New York cannot appoint any supervisor of elections whatever unless it appoints the men whom the chief of Tammany wishes to have appointed, because it must appoint on his nomination. That is where you land.

I hope, Mr. President, that you do not suppose I am stating anything very astonishing, because I suppose you perfectly well understand that that is where you mean to land. There is not any disguise about the business; nobody can misunderstand it. Therefore I almost apologize for calling attention to it; and I only do so in order that we may put in the tribute of our respecful admiration to the open and public way in which you say, so long as you cannot repeal these laws altogether, you will take the control of the chief supervisor of elections in every State into your own hands, and therefore there shall be no supervisors at all except such as he chooses to propose; and you do that I suppose in the name of virtue and good order and civilized progress, &c., and in the same breath that you do it you say that as to the marshal's deputy marshal, that you cannot very conveniently get hold of just now otherwise, you will put him back to the court because he has no duties to perform except to serve process or to arrest for a breach of the peace before his own face, you will turn him over to the court to be appointed; but in respect of the very head and chief officer assisting in the judicial administration of justice in respect of these affairs you will not allow the court to select their own master in chancery, to find out who is a suitable supervisor to be appointed, but you will take it yourself in order that you may shut the gate down upon any appointment at all, if you choose, or if you open it you will open it in the city of New York for the chief sachem of Tammany, for illustration. As I say, the thing is obvious enough, and therefore there is hardly any excuse for expending time in talking about it, because you are going to do it so far as the judgment—I will not say the judgment, I will say the will—of this body can do it. How much further, remains to be seen.

My honorable friend from Ohio [Mr. THURMAN] yesterday defended another provision of this bill which is very curious, which I now come to, and that is the proposition that he offered, which is now pending, and which is of course to go in, that no person holding the office of supervisor shall be eligible to appointment as supervisor any more. I wish the Clerk would be good enough to read that amendment so that I can get the very language of it.

The CHIEF CLERK. It is proposed to add at the end of the bill:

Provided, That no person now holding or who has held the office of chief supervisor of elections shall be reappointed.

Mr. EDMUNDS. That is it; and when some inquiry was made by somebody of the honorable Senator as to where he got the constitutional authority to make an outlaw of the one citizen in each State, if there be one in each State, who has been a chief supervisor of elections, and say that he shall not under any circumstances be appointed to a particular office because he has held the same office before, the Senator responded by saying, so far as the law went, that it was just like the case of the ancient statute of the United States, still in force, which declares that the Secretary of the Treasury and every other officer connected with the financial department of the Government shall not engage in commerce. Inasmuch as we all agree that it is a constitutional law that the man who is to be put in charge of the collection of customs and the adjustment of the finances and bonds of the Government shall not at the same time follow a pursuit which will make him judge and party in the same case, therefore, says my friend from Ohio, the chairman of the Committee on the Judiciary, said to be the chief sachem in this committee of safety and everything else—and certainly no man could be better trusted with all its duties, I will say—it is competent to declare that no man who has once been a supervisor of elections shall ever be appointed again, and by the same sign he could so put it right into this law, if he wanted to, that no man who had ever been a Senator of the United States should ever be appointed again; that no man who had ever been a judge of a judicial court of the United States should ever be appointed again.

Mr. CARPENTER. If the Senator will allow me, I understand the old law in regard to a Secretary of the Treasury did not provide that a man who had been or was an importer should not be appointed Secretary of the Treasury; the law was that while he was Secretary of the Treasury he should not be an importer.

Mr. EDMUNDS. That is what I tried to state, and I state it in this way: that the Secretary of the Treasury and other people connected with the imposts and customs of the Government should not engage in the business of commerce; and that the Senator from Ohio says is the justification for declaring that every citizen of the United States who has held or now holds the office of chief supervisor of elections, an office created by a law, shall never hold it again, and his office shall terminate at once besides. If that does not come into the neighborhood of an edict that would have been thought to be pretty stiff for a Roman emperor, or His Most Catholic Majesty of Spain two hundred years ago, then I do not understand the nature of edicts or decrees that affect the rights of citizens.

Mr. President, it is not fifteen years since when a majority of this House and the other, with the approval of the President of the United States, in the extremity of their zeal to preserve the existence of these United States declared that no man who had engaged in the rebellion should be an officer of the Supreme Court of the United States as an attorney admitted to practice there. The Supreme Court of the United States, as soon as they could lay their hands upon that, said it was wholly unconstitutional; that it was not within the power of Congress to declare that any man, on account of any fact of that kind or any other fact, should not be admitted to all the offices and employments of the country that the Constitution authorized him to be admitted to. And yet it is very jolly for the Senator from Ohio to say that by a decree of the Senate all these existing office-holders shall disappear and cease to be officers and that they shall be outlawed and never be permitted to be appointed to these offices. If you can say that, you can say it in respect of every office in the United States, and you might put an additional amendment on this bill and declare with equal constitutional validity that no person who had been President of the United States, or is now, should ever be elected President again. Perhaps the Senator would say the President of the United States is a constitutional office and there is no such limitation in the Constitution. That is true; it is a constitutional office. So is the office of chief supervisor of elections a constitutional office in the same sense, in the same way, and with the same effect to all intents and purposes, with only this difference of phrase: The Constitution names the office of President of the United States and requires him, like every other officer of the United States, to take a certain oath. The Constitution says that Congress may pass laws to carry into effect all the powers of the Government. It passed this law to carry into effect one of the powers of the Government, and constitutionally passed it, as it is now agreed by the courts. Therefore, when this constitutional

law has been enacted, it is the Constitution itself that speaks through the law and provides for this office, and, consequently, when the office is filled it is just as much a constitutional office as the office of President of the United States, because it exists by a constitutional statute, and a constitutional statute is a part and parcel of the living and exertive will of the Constitution itself, the supreme law of the land.

It follows, therefore, Mr. President, that this amendment of the Senator from Ohio rests upon the broad ground—because I am now only speaking of it in respect of its legal character—that it is within the competence of Congress to declare that no man who now holds or has held any office under the United States shall ever hold it again, and I want to get the yeas and nays on that. I want to see if the committee of safety is sufficiently powerful to put that through even the democratic party in this body. I shall not believe it until I see it done.

Mr. President, the merit of such a proposition itself, aside from its unconstitutionality, would be well worthy of consideration. Now suppose that a great many of these chief supervisors, not to say all, and for aught I know I might say all, are citizens of the United States; I suppose they like we have human feelings and some belief in the rectitude of their own conduct, and that they would dislike as much as we would to be condemned in this way by a legislative stab and sentence without a hearing, without any evidence of misconduct, and without an opportunity to be heard. I think they would, and I should think that anybody who believed in a real republicanism and a real democracy, as distinguished from the meanings that are sometimes attached to those two terms, ought to be a little slow in undertaking by legislative sentence to brand all the chief supervisors of election in the United States as malefactors who should not only be dismissed from office, but rendered forever ineligible to hold that office again; and if you could say that office you could say any other just as well; why not? If it is constitutionally competent to say they shall not hold this office, is it not constitutionally competent to say that they shall not hold any other? And if not why not?

So it seems to me that, take this little bill by and large as they say in the Western States, take it with all that it says and with all that it imports, and with all its surroundings and accessories to which I have referred in the other bills that have either gone through or been moved or are in preparation, and with this amendment, that if we can turn this into a law it will be equally easy to make still shorter work of the business and repeal all the provisions of law that have been passed for the protection of human rights either personal or national and that now exist in the statutes. If this can be made a law, why not make an end of it and sweep it all out as we have so often heard proposed?

Mr. President, I venture at this concluding stage of my remarks for the present to demand the yeas and nays upon the amendment of the Senator from Ohio.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the adoption of the amendment proposed by the Senator from Ohio, [Mr. THURMAN,] upon which the Chair understands that the Senator from Vermont [Mr. EDMUNDS] has demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ROLLINS. Mr. President, it has been my purpose to submit some remarks upon democratic investigations and democratic political tactics, especially with reference to the investigation of the committee on civil service and retrenchment in Rhode Island, and as the senior Senator from South Carolina [Mr. BUTLER] saw fit to call for some information on that matter yesterday, and as the debate on this question has taken a very wide range, I shall venture at this time to submit the remarks which I had intended to make upon some other occasion.

The charges referred to the committee on civil service and retrenchment for investigation were:

First, a violation of section 1754 of the Revised Statutes of the United States, which provides that—

> Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

Second. Nepotism, so called; and

Third. Interference of Federal officers at the polls at town, city, and State elections, restraining men from the exercise of the rights guaranteed by the Constitution.

These charges all appear to have emanated from one person, and all but the first stand solely upon his authority. This man, who takes such a remarkable interest in the affairs of Rhode Island that he has never voted in that State, though a legal voter there and a resident for about twenty years, and whose occupation is shown by his sign, which says "Physician and Surgery," seems to feel that he has a grievance, but precisely what it is it is difficult to say. If his diagnosis of the diseases of his patients are not more definite and well founded than his statement of his grievance we may safely assume that he will never become very eminent either as "physician" or "surgery." His whole testimony is a mass of hearsay and rumor, with scarcely a fact to dignify it, and it is perhaps not remarkable that every allegation made by him was clearly and distinctly disproved.

The charge of nepotism is treated by the majority of the committee in a most remarkable manner. The charge was distinctly made that three of the five new appointments in the Providence custom-house were relatives of a member of the Senate, and upon this the whole charge of nepotism was founded. When this charge was put to the test, it was said that one of the new appointees had married a sister of the wife of a cousin of the Senator, and the witnesses were so exhausted when they reached the end of the genealogical journey that they were unable to give the degree of cousinship, and it must always remain uncertain whether it was fourth or fourteenth. The majority of the committee say that this charge "is not warranted by the facts," but strange to say they also assert that "nepotism is a marked feature in the selection of civilians to fill the positions of discharged veterans;" that is, there is no evidence to warrant the charge, but still we find the charge is true. I am not a lawyer, but I confess I do not understand why it was necessary to deny a charge which was found not to be warranted by the facts.

If my democratic friends are anxious to secure examples of nepotism they need not have sent a committee of this body to Rhode Island. They might have remained quietly in their seats and in a brief space of time could have counted upon their fingers' ends some ten or fifteen unmistakable cases; but unfortunately for their purpose these cases, like some of the Rhode Island sins, belong to their own party, for which we on this side of the Chamber are not responsible. I do not know that there could be any legal objection to my securing for my son, if I had one who desired it, an appointment as clerk of a committee of this body; but if I should do so I do not think I would undertake to give public lectures upon the immorality of the practice. If the democratic party expects to make political capital out of this thing they must have great faith in the credulity and gullibility of the American people.

There were five removals complained of as in violation of section 1754 of the Revised Statutes, but the remarkable fact is that not one of these men so removed were within the terms of that statute, and the three of these who were examined admit it. The first of these is General Shaw, the former collector. He was appointed July 21, 1870, reappointed July 21, 1874, confirmed February 10, 1875, and retired February 1, 1879, having held the office a little over eight and one-half years. At the end of his second term a new appointment was made by the President and confirmed by the Senate strictly in accordance with law.

W. H. Joyce was discharged from the Army in June, 1865, at the close of the war, and has been in office continuously, to use his own term, since that time. He was in the custom-house from July 21, 1871, to May 4, 1879, and was an officer of internal revenue at the time of his examination as a witness.

H. A. Greene was in the custom-house from September, 1870, to March 27, 1879, and to March 27, 1872, was a police officer in Providence. He was succeeded by a person admitted to be within the terms of the statute, while he himself was not.

Buchlin was not examined, but Collector Shaw found him there when he went in, and left him there when he went out. There is no evidence as to the boatmen.

These were all the changes made by the new collector. With these four exceptions the old officers remained, and these changes he claims were made by him for reasons satisfactory to himself, and because the interests of the service would, in his opinion, be promoted by the change, and there is nowhere an intimation even that the new appointees were not capable and efficient officers. The only applicant for any of these places who could make a claim under the statute was Pomeroy, and he was appointed.

The minority of the committee say:

> The collector is responsible for the character and conduct of the subordinates of his own appointment, and is left a reasonable discretion in the selection, under the supervision of the head of the department. He may have reasons for changes which he cannot formulate into charges against the persons removed.

There is some conflicting testimony as to the capacity of the men removed. Two of them make no complaint, and the evident antagonism of those who were examined as witnesses shows a clear justification of the collector's action in removing them. These new appointments were strictly in accordance with law. So far as appears, all those removed had held their places two full terms and there is nothing they can complain of, unless a discharged soldier is entitled to hold an office to which he may be appointed for life or during his own pleasure.

This new-born solicitude for the welfare of the honorably discharged Union soldiers is somewhat remarkable considering the source from which it comes. Lectures upon this subject do not come with good grace from a political party which, in the organization of both Houses of Congress, made wholesale removals of honorably discharged and disabled Union soldiers, and in repeated instances have filled their places with persons whose only military distinction was won in the army of the confederacy in the rebellion against the Government and the Union of the States. It would be more modest for these people to tarry yet a little while in Jericho, and show some more definite signs of repentance, before they undertake to teach the republican party its duties, or assume the guardianship and protection of the rights and interests of the Union soldiers. There is intelligence enough among these Union soldiers to enable them to distinguish between honest bread and political clap-trap.

I am unable to find in the testimony any evidence of the interfer-

ence of Federal officers which restrained men from exercising their constitutional rights. General Shaw, who seems in the opinion of these complainants to have been, and no doubt was, a model Federal officer, does not seem to have thought even under the so-called civil-service rules that he or his employés lost their rights as citizens by accepting office. He exercised his political rights as a citizen and instructed his subordinates that it was their right so to do, and there is nothing in the testimony to show that the present officers have done more than that. But a large portion of the testimony is taken with the intent to show that money was used in the elections in Rhode Island. If some of the witnesses are to be believed, a large part of the voters in this State are in the market at every election. They come to the polls and "hang around" until something turns up, and they go with whichever side shows the best hand. These are said to be not property-holders, but mainly registered voters, and if it is true it perhaps explains why the people of this State have been so averse to the removal of the property qualification; but we believe this is a libel upon the people of the State, and it is to be noticed that the evidence on this point is largely made up of general understanding, hearsay, and rumors, with but very little of personal knowledge. So far as there is any element of fact connected with it, the original occasion to which all seem to go back was many years ago, when a democrat, if the story is to be believed, bought himself into the gubernatorial chair of this then whig as now republican State. The next notable instance was when the regular republican candidate was defeated, and the opposition candidate elected governor by an expenditure as stated of some $130,000.

If these instances are true, I do not see how the old whig or the republican party is to be held responsible for it. They were not benefited by this expenditure of money, but were defeated by it, and my democratic friends probably rejoiced at this democratic victory or republican defeat at the time as much as my political associates grieved at it. But, however great may have been the former expenditure of money prior to 1876, almost all the witnesses agree that since that date there has been very little if any of it.

There is a great deal of sound and, so far as my experience goes, very little of substance in this outcry about the use of money in elections. I have had some experience in politics, and have never yet known a contested election where money was not needed and used for strictly legitimate purposes by both parties. You cannot make a canvass, secure speakers, arrange and hold meetings, print and distribute information, or the thousand and one other things necessary to be done without money. If some man would devise a system by which elections could be carried on without expense, I would cheerfully support it.

But the bill proposed by the majority of the Committee on Civil Service and Retrenchment—being a bill (S. No. 1366) to prohibit officers and employés of and claimants against or corporations created or aided by the United States, or contractors under the United States, from contributing money for political purposes—does not do this, for that bill simply exempts office-holders from any part of this expense, and thereby increases the expense to be borne by the private citizen. It goes further than that. It makes it a punishable offense for any officer or employé of the United States, any contractor, or person who expects to be a contractor, any bank corporation or company organized under a law of the United States, or aided by the United States, to give, contribute, or pay any money, property, or valuable thing in aid of, or with intent or understanding that it is to be used in aid of, any political purpose. That is, these officers, corporations, or companies are virtually disfranchised and debarred from action in any political party. They could not buy and send to a friend a single political document or speech, because if the speech was intrinsically worthless the paper upon which it is printed is a thing of some value. No office-holder could return to his home to vote, because in so doing he would spend both time and money, both things of value. If it is a good rule for these persons why not for all? Apply the same rule to everybody, and perhaps the problem how to hold elections without expense may be solved; but unless you can discover some mode of holding elections without the use of money I do not see why the burden should be imposed upon a portion only, for that is the effect of this bill. I do not believe that a man loses his manhood or his rights as a citizen by accepting a Federal or other office. I am frank to say that I do not see why the possession of an office or of its emoluments should prohibit such officer from acting with his political party or contributing to its success, if he desires so to do.

My friends on the other side certainly never considered this wrong in the days when the democratic doctrine was, "To the victors belong the spoils;" nor in my experience has it so been considered by their party during the last twenty-five years; and this wonderful austerity of virtue which seems so suddenly to have seized upon some of the leaders of that party is certainly not practiced to any great extent by that party in any locality with which I am acquainted. I do not pretend to justify the use of money in the purchase of votes, but the heinousness of this sin in Rhode Island would appear to have been heightened by the fact, as testified to by one of the witnesses, that these merchantable voters were mainly of the "opposite party." It was the democrats who were for sale, and, if the witness is to be believed, the price was exorbitant. But we need look no further back than the last presidential campaign to learn that the democratic party understand and appreciate the influence of money in conventions and elections, and the indications are that the same influences are still deemed worthy of consideration.

The action of the committee in recommending the passage of the bill to which I have referred, and the approval of a similar bill by the committee of which the Senator from Pennsylvania is chairman, make it very evident to my mind that they have given up all hope of success in the coming contest and are simply confining their efforts to an attempt to cripple the resources of the republican party. Perhaps, however, it is deemed more virtuous to take it by the barrel than to collect it in dribblets from office-holders, and it is evident they do not propose to apply the same rule to the candidate as they do to the person who has been elected. There is a great difference under this bill between the railroad wrecker and the wrecked railroad. The one may expend his ill-gotten hoards to put himself into office, while the other could not make special rates of fare for voters desiring to go to and return from the polls, for that would be aiding a political purpose.

In my own State this new austerity of virtue is not understood by the democratic party. From one congressional district in New Hampshire a democrat was elected for two successive terms, and it is a well-understood fact that in these two elections he expended many times more money than has been expended by all the republican candidates in the three districts since we wrested the State from the hands of our opponents some twenty-five years ago; and this same person is now being pushed forward as the democratic candidate for governor, simply and avowedly because he has money and is willing to spend it for the cause. A candidate with a barrel of money is just what suits a modern democrat.

Mr. BUTLER. May I inquire what that gentleman's name is?

Mr. ROLLINS. To whom I have just alluded? He is a gentleman who represented the first congressional district of New Hampshire, Mr. Jones. I have no objection to giving the information.

When we come to the more *refined means* of carrying elections instances so multiply that it is hard to make a selection. The instances at the North, being more rare than at the South, are perhaps more notorious. In 1868 the democrats stole the State of New York through the instrumentality of the Tweed-Tilden circulars sent out on the eve of the election for advance returns. There was the unsuccessful attempt four years ago to steal the electoral vote of Oregon. In my own State a few years since an accidental democratic governor undertook to steal the upper branch of the Legislature, and succeeded in it by the same means substantially as were subsequently tried in Maine without success; but since that time the people of New Hampshire have not permitted a democrat to occupy a position where he could indulge in these virtuous party proclivities, and it will require a vast amount of zeal and earnestness on the part of these latter-day converts to raise the moral standard of their party above the reach of suspicion. Oregon and Maine, Cronin and Garcelon, illustrate democratic tactics.

Mr. EATON. Will my friend allow me?

Mr. ROLLINS. If my friend will wait until I get through he shall have all the rest of the day.

Mr. EATON. Will the Senator not even permit me to ask a question?

Mr. ROLLINS. Not just now, because I do not like to be interrupted. I will repeat, if it disturbs the Senator, that Oregon and Maine, Cronin and Garcelon, illustrate democratic tactics. The first was an attempt of the democratic candidate to steal the Presidency in 1876; the last an attempt of the leaders of this same party to "Garcelon" the State of Maine preparatory to stealing the Presidency in 1880. But if we desire to learn the refined and chivalric method of conducting elections, I know of no State which can furnish so many and such marked examples as the State of Louisiana. Among such a mass of precedents it is hard to select particular cases. The whole State was for years the scene of midnight raids, secret murders, bloody riots, and intimidations, which kept the people in constant terror until the republicans surrendered all claims and left room for a solid and victorious democratic party.

The mode of controlling a constitutional convention in the interests of the democratic party was illustrated in New Orleans in July, 1866, when upward of one hundred citizens were maimed and murdered publicly in cold blood. In Bossier Parish, in September, 1868, the result of a three days' hunt was about one hundred and sixty colored people killed; and at the ensuing presidential election one republican vote was cast out of two thousand registered. The active Louisiana system appears in so many official reports that it is scarcely necessary to cite instances. We may, however, instance the Colfax massacre in Grant Parish, in April, 1873, the Red River Parish in 1874, the revolutionary attempts to drive Governor KELLOGG from office, with its attendant riots and bloodshed, and indeed the State is full of historic names.

A milder form was the White Leaguers' pledge made just before election, (Rep. 261, H. R., page 865,) to wit:

> We pledge ourselves not to patronize or employ or favor, in any manner, shape, or form, now or after election, those persons, white or black, who belong to radical clubs, vote the radical ticket, or refuse to take an open and decided stand with the white people of this State.

And again, after election, (*Ibid.*, page 866:)

> *Resolved*, That the agreement entered into previous to the election to discharge at the expiration of their contracts, and thereafter to give no employment to the

voters (without distinction of race, color, or previous condition) who have desecrated the right of suffrage by supporting ignorant, imbecile, dishonest, and corrupt candidates and officials, is hereby ratified by this meeting.

Yet, with these many pre-eminent and public examples, our friends on the other side have been making an investigating tour up into New England to see if, perchance, they could find some instance where laborers had lost employment by reason of their votes; and now they are so much alarmed that a committee of the Senate under the guidance of the Senator from Indiana is bringing to Washington from the South and West, at great expense, hundreds of witnesses to find out the cause of the "exodus." How passing strange that colored men do not like to be deprived of all their rights, or murdered, and "flee from the wrath to come."

Since the close of the war several thousand of the republican voters in Louisiana in attempting to exercise the rights of American citizens, rights guaranteed by the Constitution, have lost their lives by the hands of members of the democratic organizations of that State, and now we are told that unless the Senate of the United States shall violate the plain provisions of the Constitution and expel by a majority vote the senior Senator from Louisiana that State cannot be relied upon by the democracy in the next presidential canvass.

Let me assure my friends on the other side that the vote of Louisiana will make very little difference in the result of the next presidential election. Whoever may be nominated by the Chicago convention, they may be assured that the election will place him so far above and beyond all opposition that there will be no call for an electoral commission. But what does this mean? Have they begun to lose faith in the refined means for bringing about a solid South? Do they tire of their constant labor in that direction, or do they desire to extend its effects? Will nothing less than a solid democratic vote in both Houses of Congress satisfy them? Cannot they be content to allow the 25,000 republican majority which we have in Louisiana in a fair vote one solitary representative? Must they in defiance of all law and precedent march another democratic Senator into this Chamber over the dead bodies of thousands of citizens that the State of Louisiana may be made safe for the democracy in 1880—a solid South preserved and democratic supremacy be maintained in the Senate? Do they think it well to try the experiment of maintaining a majority in this body by such means? Is it a safe precedent for them to establish, that the right to a seat in this body once established by a vote on its merits may at any time be revoked at the will and pleasure of a bare majority? Do they all hold their seats by such clear title that a searching investigation would bring to light no suspicious defects? Have they marked over these doors, "He who enters here leaves hope behind?" Is it their only object to bury themselves beneath the ruins of the democratic party and furnish another illustration of the saying: "Whom the gods would destroy they first make mad?"

We have also heard something of the result of these improved modes in the State of Mississippi—the Mississippi plan—and in this I will refer to but two cases. The Chisholm massacre has rendered Kemper County famous the world over as the scene of fiendish outrages, not excelled in barbarity even by the horrid deeds of the Modocs and the Utes. The governor of Mississippi has just appointed one of the guilty leaders in this transaction to an important position in taking the census under the State authorities, thus giving official democratic sanction to a most infamous crime. The other case is that of Reuben Davis, as detailed by himself and Captain Vasser. Judge Davis was a resident of Aberdeen, Monroe County, Mississippi, and has been a resident of that county since 1826. He has been twice district attorney, for a while judge of the supreme court of the State, was a member of the Legislature, was colonel of the Second Mississippi Regiment in the Mexican war, was twice elected to Congress before the war, was elected to the confederate congress, and made major-general at the beginning of the war.

He was a democrat, but in 1878 was persuaded to run for Congress on the greenback ticket. He very clearly was not a carpet-bagger, and there was no suspicion of republicanism chargeable to him, but when he attempted to canvass his district his meetings were interfered with and broken up by mob violence, and he barely escaped with his life, and in the end he was most effectually counted out, and our greenback friends were taught that they must not interfere with the movement for a solid democratic South. So much for Mississippi and its famous plan. Florida and Maryland could furnish some very choice examples of democratic tactics, but I forbear at least for the present.

SOUTH CAROLINA.

Any review of the modern methods and tactics of the democratic party would be far from complete without some reference to the peculiar systems of that party, as adopted and practiced in the State so ably represented by the chairman of the Committee on Civil Service and Retrenchment. An earnest and inquisitive seeker after the reason for the recent investigations into the political affairs of some of the New England States might with great propriety inquire why it was necessary to leave South Carolina to find examples of the most striking character of bull-dozing, intimidation, supplemented by ballot-box stuffing, tissue ballots, and fraudulent counts, with scarce an attempt at concealment. Since the formation of political parties in this country there never has been a more outrageous and wicked system of tactics than has been employed by the democratic party in South Carolina in the elections for several years back. Why leave these scenes of murder, riot, and wholesale fraud which have resulted in a solid South to search for fraud or nepotism in the little State of Rhode Island, or for examples of undue influence of voters in that or other New England States? I have no doubt a diligent search would disclose instances in New England where employers have, in hotly-contested elections, sought to carry their employés with them, but it would hardly be safe to assume that these employers were all or even a majority of them republicans. I can point out to you a ward in the largest city in my own State where some years ago, in a contest which was expected to be close, all the names on the check-list or poll register were voted, and upon a contest afterward it was shown that some two or three hundred of the persons whose names were on that list and were checked as having voted were miles away, some serving in the Army, while others had laid quietly in their graves for years; but unfortunately the vote of that ward was 578 for my democratic opponent and but 16 for myself. Perhaps some democratic carpet-bagger subsequently emigrated from that ward to South Carolina and has been teaching political tactics there; if so, he has had apt scholars.

I wish, however, to be just, and therefore I will give my friends on the other side the benefit of one case of republican bulldozing upon the authority of the democratic Legislature of South Carolina, who unseated the seventeen republican members returned from Charleston because the colored people bulldozed the whites to such an extent that there was not a fair election.

In the political campaign of 1876, which was inaugurated at Hamburgh July 8 of that year, the doctrine had been announced that thereafter the State must and should be ruled by white men, meaning white democrats, even if they waded knee-deep in blood to accomplish it. The Edgefield policy or Mississippi plan was adopted as the democratic policy, and its first public demonstration was at Hamburgh. The sole pretext for this outbreak arose on the 4th of July, 1876—the centennial year. In honor of the day a colored military company was parading in the street. Two young scions of the democratic chivalry, in a street one hundred and fifty feet wide, not one-third of which was occupied by the military, instead of passing by on either side, as they might have done, insisted upon driving through the company. This insulting demand was yielded to, and the only delay was for the company to open ranks so that it could be done. This outrageous and unjustifiable insult undoubtedly provoked strong comments, but it was submitted to without violence. This was the heinous affront which inflamed the white democrats and caused an invasion of the town by some hundreds of armed chivalry.

The military company was attacked in their drill-room and when driven from thence were shot down as they ran. They were hunted out of their hiding-places and captured, only to be maltreated, and again set free to be shot down and mutilated as they attempted to get away. Women and children were driven from their homes to sleep in the woods and swamps, and a reign of terror was inaugurated which extended over other parts of the State. The prominent names mixed up in this affair are of men who are neither idiots nor imbeciles. There was no cause for this outbreak unless it was political, and it is most remarkable that those who committed the massacre were white democrats and the victims were colored republicans; and the most wonderful part of the matter is that there has hardly been found a prominent democrat in the State who has not attempted to palliate and apologize for this unprovoked and unjustifiable ruffianism.

But let us look further at these refined and improved election methods as illustrated in South Carolina. James B. Campbell, a democrat, in his testimony (page 17) before the Senate committee, says:

> There is in Charleston County a numerical radical majority of not less than five to six thousand votes. No matter how much we dislike to admit it, we cannot change the facts.
>
> At the election in 1876 the radical nominees received about 6,000 more votes than our nominees. The seventeen persons thus elected to the House where the upper country held undisputed power were ejected from their seats upon the pretext that the white men of Charleston had been intimidated and thus a fair election prevented.

By a law of 1877, according to the same authority, the number of voting precincts were reduced about one-third in the city and two-thirds in the country, compelling the voter in some instances to make a round journey of some forty miles, others twenty, twenty-five, and thirty, and in the greater number of cases from five to ten or fifteen miles. Most of these voters were laboring-men, poor, and without the means of transportation.

In Saint Andrew's Parish, consisting of James's Island and the mainland, the poll on the mainland was abolished and that on the island retained, with a navigable stream to cross and no bridge or regular kept ferry. On John's Island, which is twenty miles in length by fifteen in width, there were three voting precincts, one at Rushland, near Charleston, around which were some six hundred colored voters; one in the center of the island, and one at the other end, at which not more than one-sixth of the vote was cast. The first two were abolished and the last retained, thus compelling the six hundred voters to take a round journey of forty miles to vote.

Mr. Campbell says: "Upon further investigation, I found the time for keeping the polls open compared with the number of voters made it next to impossible to receive all the votes and quite easy for partisan managers to defeat the largest part of the vote." The testi-

mony of a number of witnesses shows that in making this reduction the voting precincts abolished were strongly republican, while those retained were democratic.

This was an introductory step to the campaign of 1878, and in that election hundreds of voters in Charleston County were kept from the polls, and many of those who did succeed in reaching voting places were prevented from voting by purely vexatious objections. They were sent to trial-justices to make affidavit as to their rights, but not a trial-justice could be found in his office. In one precinct of some 800 votes on Edisto Island the polls were not opened at all, and at one strong republican poll in Charleston the box was taken away and destroyed. Then came in those kiss-joke tickets, printed on very thin tissue paper, which seem to have found their way into the ballot-boxes in bundles, and out of 6,099 of these tickets found in the boxes at the time of the investigation 5,837 were democratic.

Again, as a general rule, the number of votes found in the boxes at the close of the election was more or less in excess of the number of names upon the poll-list, and this excess in some cases corresponded precisely with the number of these "kiss-jokes" found; and, still more remarkable, when they came to draw out and destroy this excess the greater part of the ballots so drawn out and destroyed were republican votes. No matter whether the manager was blindfolded or merely shut his eyes, his fingers instinctively closed upon a republican ballot, and only upon rare occasions was one of these "kiss-jokes" destroyed. It was a neat and safe way to establish a democratic majority—to put in a few hundred extra fraudulent democratic votes and then take out and destroy the same number of republican votes.

In Sumter County there was more than this. Mr. Witherspoon, a democrat, declares that he withdrew from the democratic clubs (page 273, Teller committee) "because they proposed to enter upon a course of intimidation and violence which he could not approve," and the testimony is full and explicit that they did precisely what they proposed to do. And he states the result:

The democratic ticket was elected by a majority of 1,776. It was not a good count. I had no confidence that there would be a good count from the first.

This system seems to have been carried out all over the State, as is evident from the testimony taken by the Teller committee, extracts from which I here submit, and from which, if examined, it will appear that I have understated rather than overstated its substance.

Testimony of E. W. M. Mackey, on page 55, volume 2, Teller report:

The next poll-list is that of Niagara engine-house, that I examined, and I have here the poll-list of the managers of election and the poll-list of the United States supervisor.

On the supervisor's poll-list there are 849 names and on the managers' poll-list 1,211, a difference of 372. Now, what I want to state is that notwithstanding that there are 1,211 on the managers' list, yet they returned 1,345 votes as having been cast, or 134 more votes than they had even on their own poll-list—democrats 946, republicans 399.

On page 56:

Now, the whole vote of the city of Charleston at this election, including the 865 votes that were cast at the Washington engine-house, where the ballot-box was destroyed and not counted, was 15,542. In 1876 it was 12,333. In 1875, at the municipal election, the vote was 10,236. In 1874 the total was 10,531; in 1873, 12,097; in 1871, 10,395.

Now, at the only two polls in the city where tissue ballots were not used the republicans carried; at all the other polls, where the tissue ballots were used, the democrats carried.

On page 57:

At eight polls outside the city of Charleston the number of names found on the poll-lists was 3,706, while the number of ballots found in the boxes, 5,317, and the excess of ballots over the names was 1,611, and the republican tickets destroyed was 1,269. Now the vote for Congressman at these eight polls stood—democratic candidate, 2,140; republican, 1,576; democratic majority, 564.

John M. Freeman, supervisor Palmetto engine-house, second precinct third ward, page 123:

Between half past eight and nine o'clock * * * they commenced challenging every colored voter who came up. * * * I kept the names of upward of fifty colored men who were refused the right to vote. Everything went on quietly then until between the hours of three and half past three o'clock. A German came up to vote who had voted already. I knew this German and challenged him, and told him he had voted already. He was under the influence of liquor, and I told him if he voted I would order his arrest for illegal voting. He took the oath and voted. * * * I took the man by the lapel of his coat and took him to the door and handed him to the deputy marshal. * * * I was struck in the mouth and face. * * * By that time there were sticks and clubs flying. Some one said I would be shot. That attack lasted about five or seven minutes. By that time my poll-list had been stolen. Up to that hour my poll-list tallied exactly with the poll-list of the board of managers. There were 915 votes polled.

On page 124:

Up to half past three o'clock there was not more than 915 votes balloted, but their records show that in two and a half hours they balloted 2,600 and some odd votes.

I have since learned 3,569 was the total number of votes, of which O'Connor received 3,108 and Mackey 416.

How many of those tissue tickets did you discover?

A. The first package I took was nearly a quarter of an inch thick. There was about half a dozen packages.

On page 125:

The vote at that precinct generally was a democratic majority ranging from two to three hundred.

Henry W. Purvis, supervisor at Hope engine-house, on page 147:

How many names were on the poll-list kept by you and your clerk?

A. I have a memorandum of it and the original poll-list kept by myself and the supervisor representing the democratic party.

This poll-list was kept by my clerk. The correct number of names after canvassing the votes was 1,238 in the box, less by 68 than the managers of election had on their poll-list. I had on my poll-list 838 names. I did not arrive at the polls at the opening; I suppose it was some twenty minutes. They claimed I was half an hour late. The difference between the number of names on my poll-list and on theirs was 468, which they claim was voted during the interim after the opening of the polls and before I got there. At the canvassing of the votes, of the number found in the ballot-box, O'Connor received 716 and Mackey 522.

On page 148:

After the canvassing of all the straight ballots, there were in the box a lot of tickets, called, I believe, tissue tickets; they were three hundred and twenty-three in number. * * * They were handed to me by the handful. * * * They were the very last tickets in the box.

On page 149:

Did you learn how many persons had voted before you got to the polls?

A. I inquired, and my clerk told me 110. I have not the means of finding out what the number was, but it seems to me that that was a large number. I don't believe that many men could be voted in half an hour; I don't believe they could administer the oath and do it.

John M. Gregg, supervisor Eagle engine-house, on page 153:

As to the counting, when the box was opened and that count was made, 1,226 votes were found in the ballot-box, or, rather, on the poll-list. When we unfolded the ballots, and counted them out on the table, it turned out 1,384 ballots, an excess of 158 above the number on the poll-list. The managers' poll-list and mine agreed exactly.

The ballots, after being poured out upon the table and counted, were put back in the box. One of the managers was blindfolded, and drew out 158 tickets. When the tickets were put back, we found a considerable number of these little tissue tickets; they are soft, and the difference between them and the other tickets could be felt very readily. The republican ticket was printed on thick, stiff paper. I did not count the number of republican tickets taken out, but I judge—and I want to speak only of facts—I judge that the excess drawn out of the box were all, or the larger portion of them, republican tickets; I am sure of it, almost.

R. C. Brown, supervisor Mount Pleasant, Christ Church Parish, page 176:

I was kept at least ten feet from the ballot-box. Finally it was opened. The clerk as well as myself had tallied 620 votes. On this the clerk and I agreed. When the ballot-box was opened, instead of 620 ballots there came out of that box 1,163, which was 543 in excess.

When it was found there were so many votes in excess of the poll-list they were returned to the box and they made a feint of shaking them. Then they drew out the excess. There was 543 in excess of the poll-list. Mr. Vermens, who was clerk of the board, was told to draw out the excess. He did this until they had destroyed 543. Of the number destroyed 372 were republican ballots and 171 democratic. When the excess of ballots had been extracted and the votes were counted, O'Connor received 473 votes, of which 374 were tissue and nine regular tickets, and Mackey had 147 of the regular republican tickets, so that the legitimate vote ought to have been 419 for Mackey and 101 for O'Connor.

M. E. Hutchinson, confederate soldier, supervisor at Cooper-store precinct, page 185:

There were two hundred and eighty-seven persons voted there that day; one hundred and sixty-three colored, one hundred and twenty-four whites. On opening the box there were found 422 ballots, an excess of 135 votes over the poll-list. My poll-list and that of the manager's agreed as to the number of persons who voted. There were in the box 135 kiss-joke tickets.

I kept three lines on my list. There were 126 regular democratic tickets and 161 regular republican; that made 287, and the three lines showed 135 kiss-jokes. All were put back, and 135 drawn out by one of the managers blindfolded. He drew out 88 republican tickets and 47 democratic; about ten were kiss-jokes.

When they drew the ballots out and counted them over again they gave O'Connor 216 votes and Mackey 71. All these 135 tissue tickets were counted as democratic tickets. Saw none of them until the box was opened.

James J. Young, supervisor Thirty-two Mile House precinct, Saint James, Santee, page 188:

I was there at the polls before the balloting commenced. Everything went on right all day. The box was closed, and the managers went to open it in a place at the rear of the balloting place off from the public road.

At the end of the count it was found that while there were 549 names on the poll-list, there were a great many more ballots than that in the box. On the count it turned out that there were 890 votes in the box, 341 in excess of the poll-list. Then we put them back in the box. One of the managers proceeded to throw out the extra votes. I suggested that he be blindfolded. He said, "No; I will shut my eyes."

Our ticket was a much shorter and wider ticket than the other, so that a person could easily tell by feeling, even if he did not see at all, which was the republican and which was the democratic. He drew out the tickets. When they came to count the ballots afterward there were 164 straight republican, 388 kiss-jokes, and 47 large democratic tickets.

On page 189:

Q. Then the tickets that were torn up were all republican except these five, three kiss-jokes and two large democratic tickets?

A. That is all. I could see him tear them up, and kept count.

Q. There were just 341 kiss-joke tickets?

A. Yes, sir; there were three of them destroyed and 338 left in the box, which made exactly 341.

Q. Then the number of votes in the box in excess of the number of names on the poll-list was precisely the same as the number of kiss-joke tickets found in the box?

A. Yes, sir.

Samuel Lee, supervisor, town of Sumter, poll No. 1, on page 288:

The managers proceeded to count the whole number of ballots in the ballot-box. They found there were only 4 votes over and above their poll-list; but there were 215 more ballots than there were names on the poll-list kept by myself as supervisor. They agreed to throw out these 4 ballots. I demanded that they throw out 215 ballots, which was the excess over my poll-list. They refused to do it.

On page 289:

I took a tally of these tissue ballots that were in the box. There were two hundred and fifteen tissue ballots in the box. Every one of these had the names of the democratic candidates on it. The four tickets that were thrown out were republican tickets.

On page 290:

There were eight hundred and fifty on my poll-list and eight hundred and sixty-one on the democratic poll-list. Forty-four white men voted at that poll. I counted that day five or six colored men who voted the democratic ticket. The other colored men voted the republican ticket, so far as I knew.

I. H. Sims, supervisor at Gadsden precinct, Richland County, says, on page 572:

The poll-list called after they had closed the polls for 684 votes. My list tallied with the democratic clerk's list. On counting the ballots, on the first count of the managers, they found there were 1,026 ballots in the box, an excess of 342. Then they blindfolded one of the managers, and he proceeded to draw out the votes in excess of the poll-list. He drew out—I don't think I can give the exact number of republican votes. At that poll the republican vote was not less than 520; that is under value, I am sure. After the drawing they gave the republicans 245 votes. After they had drawn out the 342 votes they found they had made an error of 30 votes in the count. Instead of there being 1,026, it should have been 1,056. They had drawn out the republican votes so rapidly that I thought they wanted to console me somewhat, for one of the managers submitted this proposition: "There are 30 more votes to come out, and I'll tell you what we will do; we will just destroy 30 democratic votes." I told them I had no objection; so he destroyed 30 democratic votes.

On page 573:

There were hundreds of tissue ballots in the box. By aid of the tissue tickets Gadsden precinct, which would have given a republican majority of not less than 350, gave a democratic majority of 194. There were over 520 republican votes polled at that place; they gave us a vote of 245. We counted the republican votes in sorting the tickets out after the box was opened; there were over 520.

Since the democratic party secured a majority in the House of Representatives, and later in this body, as the result of the means, measures, and tactics I have referred to as existing in the reconstructed States, there has seemed to be a mania for political investigations, and these have been sought to be turned in any direction save that in which the solid democratic party could be found. There has been a diligent but unavailing search into republican States for something which might offset the Southern democratic plan. Money and time have been lavishly expended to bring the republican party into disrepute, but the effort has failed. The notorious Glover labored hard for years to unearth some political iniquity, but every time he approached a suspicious egg it was found in a democratic nest, and his mania became so strong that it was found necessary to suppress him, and his report never had a legal birth. The Potter committee found such an odor of democracy in the city of New York that they were scarcely able to save the innocent uncle from the wiles of his wicked nephew, even with the assistance of Moses and the cipher dispatches. For two years or more a distinguished Senator has labored hard to unearth some suspected wickedness in the Treasury Department, and has succeeded in finding that at some time some clerk made an erroneous entry, and, as the shortest way of correcting it, erased it and made the correct entry. Another able Senator has expended a great deal of time and money in developing the fact that suffrage in Rhode Island is hampered by a property qualification and the payment of a capitation tax. The first was the moving cause of the now almost forgotten Dorr rebellion. He did not find there any provision of law under which a conviction of petty larceny disfranchised a citizen, as is the case in some democratic States; nor does he claim that the capitation tax was sectional.

The republican party has survived and will continue to live through all these attacks. Its history for the last twenty years has been the history of the country. It has an open and most glorious record, of which no party need be ashamed.

The light of the democratic party went out in 1861. The secession of its reckless and insane leaders demoralized and defeated it. If it had begun to recover from its fall, the return of the hot-headed element to the front checked it. Many of the men who have put themselves forward as its leaders have learned nothing during the last twenty years. They still, as of old, seek to control by the crack of the overseer's whip. Their democracy is one that never changes—it is the same in all places, whether in Maine or in Oregon, in New York City or Louisiana, in Mississippi or South Carolina—it is rule or ruin; and so long as the rank and file sustain them the whole party must take the responsibility and suffer defeat at the polls.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. BUTLER. Mr. President, the Senator from New Hampshire [Mr. ROLLINS] has ransacked all the filthy and dirty records about Washington and wherever else he could ransack them for the purpose of pronouncing a malediction upon my State. I simply desire to say now that what he has said is from beginning to end a contemptible calumny upon the character of South Carolina. I shall take occasion hereafter to pay my respects to what the honorable Senator has said. I will not delay the Senate now. I simply desire to give notice that he has availed himself of all the contemptible calumnies he could rake up about that State and has embraced them in a speech upon this bill. Hereafter I shall take occasion to reply to them.

Mr. ROLLINS. In justice to myself I will say that nearly all I have said about South Carolina has been taken from the testimony of her own citizens.

Mr. BUTLER. Just about what I supposed.

Mr. LAMAR. Mr. President, I shall not attempt to reply to the Senator who has taken his seat; I am not well enough to do so; but shall before the adjournment probably, and certainly, if I deem it necessary after reading his remarks, take occasion to repel the accusations which he has made against the people of my State.

Mr. CAMERON, of Wisconsin. Mr. President, I desire to occupy the attention of the Senate for about five minutes, not longer.

On page 3755 of the RECORD I find in the remarks made by the Senator from South Carolina yesterday, the Senator not now in his seat, [Mr. HAMPTON,] the following:

I want to correct the Senator from Colorado on one point. The ticket that I sent to him is not the counterfeit but the original tissue ballot which was invented by the man whose name heads it there, Mackey, and who himself in that canvass, as it appeared in evidence before the committee, had printed ten thousand of those tickets. To counteract those tickets some of our people were indiscreet enough to print some others. I regretted that it was done; but that is the history of that thing.

There are several distinguished gentlemen, residents of South Carolina, who rejoice in the name of Mackey, but the particular Mackey referred to in the extract which I have read from the remarks of the Senator from South Carolina is E. W. M. Mackey, of Charleston, who, in 1878, was the republican candidate for the House of Repretatives in the Charleston district. In order that the facts in regard to the tissue ballots, not in regard to the use of them, because I will not go into that at this time, may appear, I will refer to the testimony taken before the Teller committee. The Senator from South Carolina refers to that testimony. The Teller committee sat in Charleston in January or February, 1879. Among the witnesses called before that committee and sworn was a gentleman named William L. Daggett. William L. Daggett swore that he was a printer and was employed in the Charleston News and Courier establishment. It appeared from the evidence that he was the foreman of the job office of the Charleston News and Courier. I refer to the testimony of Mr. Daggett which may be found on page 110 of the testimony taken by the Teller committee. Mr. Daggett was examined by the chairman of the committee, the Senator from Colorado:

Q. What is your business?
A. Printing.
Q. Where are you engaged?
A. I am in the office of the News and Courier, in this city.
Q. Did you print any tickets at this last election?
A. Yes, sir.
Q. Did you print any tickets of that character? (the ordinary tissue ballot for Charleston County was here shown to witness.)
A. I printed some tickets very similar to that.
Q. Like unto that?
A. Very similar.
Q. How many did you print?
A. I could not swear how many. I printed tickets for the whole State.
Q. Can you estimate the number?
A. Well, sir, several thousand—perhaps six or eight, or possibly ten thousand.
Q. Where did you send those tickets?
A. Well, various parties called for them.
Q. In what counties were they distributed?
A. I don't remember. I don't think there were over two or three counties.
Q. You printed tickets of that character for Charleston?
A. Yes, sir.
Q. For Sumter?
A. Well, I could not say as to that. I don't remember.
Q. Orangeburgh County?
A. I don't remember.
Q. Clarendon?
A. I don't remember.
Q. Colleton?
A. No, sir.
Q. Richland?
A. No, sir; I know we didn't print any for Richland of that kind. I printed all the tickets for Richland on what we call "French folio."
Q. Any for Richland on tissue paper?
A. If they were, they were not small.
Q. Any for Kershaw County?
A. No, sir; I don't remember any for Kershaw.
Q. Beaufort?
A. No, sir.
Q. Georgetown?
A. No, sir.
Q. Williamsburgh?
A. No, sir.
Q. Hampton?
A. No, sir.
Q. Barnwell?
A. I don't remember Barnwell. I didn't print any for Barnwell.
Q. Darlington?
A. No, sir.
Q. By whose direction did you print these?
A. No special direction. I think it is a matter I got up of my own. I thought it would be a very good ticket for voting.
Q. You did not have any orders for these?
A. No, sir; they left the order with me, entirely, to print such tickets as I thought proper.
Q. Who conferred with you about this?
A. The chairmen of the different counties.

He swears that he delivered some of them to a Mr. Gonzales, who, I believe, is a prominent democrat residing in Charleston. On page 112 this evidence appears:

Q. You gave these tickets to one particular person?
A. Yes, sir; Mr. Gonzales.
Q. Where does he live?
A. In Charleston.
Q. How many did you give him?
A. Two or three thousand, at different times.
Q. What became of the rest?
A. Well, different persons came in and asked for them.
Q. You don't remember who?
A. I think some few were sent to the executive committee-room in this city the night before the election. I sent all I had here to them.
Q. You can't recollect to whom you delivered them, except this one man?
A. No, sir. I gave them to him whenever he called for them.
Q. You had no particular orders from any one to print this kind?
A. No, sir; I think I got it up on my own responsibility. I am the inventor of it, if there is any credit to be attached to it.

Here we find the inventor, as he swears himself, of the tissue-bal-

lot tickets, and this inventor was the foreman of the job office of the Charleston News and Courier.

In the same connection I refer to the testimony of Mr. T. Barker Jones, on page 67 of the testimony taken by the same committee. I was a member of the committee, and it seems by the record that I examined Mr. Jones. This evidence was given in regard to the tissue ballots, and I will state that Mr. Jones was a member of the democratic executive committee of Charleston County. He not only was a member of the democratic executive committee of that county, but was one of the election commissioners of the county, appointed by Governor Hampton. He is a merchant, I understand, and a gentleman of character and respectability. I asked him this question: "Have you ever seen any of these so-called tissue ballots?" to which he answered:

I have, sir.
Q. When did you first see them?
A. Some time prior to the election.

Reference is made to the election of 1878.

Q. Give the time?
A. About a week or ten days before the election.
Q. Where did you see them?
A. I saw them first at the rooms of the democratic executive committee.
Q. About a week before election, you say?
A. A week or ten days.
Q. In whose possession?
A. In the possession of the executive committee.
Q. Can you give the number that you saw there?
A. There was quite a number; I could not tell what quantity.
Q. What kind of tickets were they, democratic or republican?
A. Democratic.

The boxes from the different election precincts of the county, as I understand the law, were returned to the election commissioners, and the ballots, as I understand the law, were counted by them. After the boxes were returned to the commissioners and the tickets were examined and counted by them, Mr. Jones, being one of the commissioners, it appears that they found these ballots in the boxes. Upon that point I examined him.

Q. About what number of democratic tissue ballots did you find?

That is, did you find in the boxes?

Q. About what number of democratic tissue ballots did you find?
A. I found any quantity of them; I don't recollect just how many or what proportion.
Q. Could you not give the committee some idea of the number?
A. It is hard to say; there were a large number of them in the boxes; that is about as near as I can estimate.
Q. What number of republican tissue ballots, as near as you can estimate?
A. Only a few.
Q. We cannot tell what you mean by a few; give some idea of the number.
A. I suppose a hundred would cover it.
Q. What number would cover the democratic tissue ballots you found?
A. It would run up among the thousands.
Q. Three or four thousand?
A. Fully.
Q. Five or six thousand?
A. Fully.
Q. Eight or ten thousand?
A. Hardly so many as that; I suppose between four and five thousand.

He refers to the democratic ballots found in the boxes sent to the election commissioners from the various election precincts in the county of Charleston:

Q. Did the democratic executive committee determine to use tissue ballots prior to the election?
A. They did.
Q. When did they determine upon that?
A. A day or two before the election.
* * * * * * *
Q. At whose suggestion were the tissue ballots obtained?
A. I do not know.
Q. When did you first ascertain they were to be used?
A. The day before the election.
Q. You say you first saw them a week or two before election?
A. Perhaps I did; between eight or ten days, if my recollection serves me right.
Q. At what time did the committee determine to use them?

The committee, he says, took no action upon them; but one of the members was appointed to circulate them. So, although it grieves me to remove any honor from the brow of Mr. Mackey, who is a friend of mine, especially when those honors were placed there by the kindly hand of the Senator from South Carolina, the truth of history requires that I should.

Mr. BUTLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. CAMERON, of Wisconsin. Certainly.

Mr. BUTLER. I have been listening for some time for the Senator to point out wherein the statement of my colleague is shown to be incorrect by what he is reading. I have not heard him read any testimony negativing the suggestion of my colleague at all. Does the Senator deny that Mr. Mackey had ten thousand of those ballots printed?

Mr. CAMERON, of Wisconsin. No, sir. I am going to refer to the testimony——

Mr. BUTLER. That is all that my colleague stated.

Mr. CAMERON, of Wisconsin. That is not all the Senator's colleague said.

Mr. BUTLER. Substantially all.

Mr. CAMERON, of Wisconsin. Not substantially all, I submit. Your colleague said they were invented by the man whose name heads them, Mackey. Daggett swears that he was the inventor of them.

Mr. BUTLER. I do not think there is the slightest conflict in that. Mackey may have invented the ten thousand he had. Very likely he did. Daggett may have invented some others. It is an example which we derived from our republican friends.

Mr. CAMERON, of Wisconsin. You are willing they should divide the honors, are you? Perhaps I had better refer to Mr. Mackey's testimony upon that point, which can be found on page 48 of the same volume. Mr. Mackey was examined by the chairman of the committee, the Senator from Colorado:

Q. Do you know anything about these tissue ballots?

Mr. Mackey was examined here after the committee returned from South Carolina. The testimony was given in the city of Charleston in regard to the republicans having tissue ballots. He answers:

Q. Do you know anything about these tissue ballots? Some testimony was given in the city of Charleston in regard to the republicans having tissue ballots.
A. About ten days previous to the election I received a message from a member of the democratic executive committee of Charleston County that the democrats were considering the question of using small tissue tickets.

This corroborates, if any corroboration were necessary, the testimony of Mr. T. Barker Jones, who says that eight or ten days before the election he, a member of the democratic executive committee, saw tissue ballots in the rooms of the executive committee. Mr. Mackey says further:

I did not pay much attention to the matter then, because my information was to the effect that the question was only being considered, and it had not been determined upon. Moreover, I was busily occupied at the time, or shortly after, with our county convention, and I had no time to think about it. I did not hear any more about the matter until the Sunday preceding the election, when a gentleman came to me with a message from another democrat, telling me that we had better be on our guard; that the democrats had a large number of tissue ballots with which they intended to stuff the ballot-boxes; that they intended to place four or five hundred in each box, which, of course, would create a surplus, and which would necessitate the drawing out of a number of ballots to the extent of the difference between the number of ballots in the box and the number of names on the poll-list, and the consequence would be that as the republican tickets were larger and printed on coarser paper they would draw them out (easily distinguishing them from the others) and so destroy the republican vote.

On Monday preceding the election Mr. Mackey did have, I think, ten thousand tissue ballots printed—the day before the election. These other tissue ballots were in the possession of the democratic central committee ten days prior to that, as Mr. Jones swears. How can you say that Mr. Mackey was the inventor of these tickets when tissue ballots were in the possession of the democratic central committee for the county of Charleston ten days before he had his printed at all?

Mr. BUTLER. I think it very likely that some of the Senator's republican friends invented them. I do not know whether Mr. Mackey did or not.

Mr. CAMERON, of Wisconsin. I am dealing with the question of whether Mr. Mackey invented them or not.

Mr. EATON. What year was this?

Mr. CAMERON, of Wisconsin. Eighteen hundred and seventy-eight.

Mr. HAMPTON. Will the Senator allow me to interrupt him?

Mr. CAMERON, of Wisconsin. With pleasure.

Mr. HAMPTON. I was not in the Senate when the Senator began, and I only judge from the few remarks I have heard just now that the Senator has been commenting on something that I said yesterday. When I said that Mr. Ed. Mackey was the inventor of these tissue ballots I spoke on what I believed was authority, coming from himself, that he invented, and that they had had these tissue ballots since 1870. They were a device of the republican party, invented to carry the election, and I have no doubt that they did carry the election as far back as that time, when my colleague was a candidate for lieutenant-governor. The State was carried, I believe, by these tissue ballots, when a fair vote would have shown that he was elected; and in 1870, I have authority for saying that Mr. Ed. Mackey says that those tickets were first used in that year, and Mr. Ed. Mackey is here now, and if he accidentally tells the truth he will tell you so now.

Mr. CAMERON, of Wisconsin. Perhaps the Senator from South Carolina had better have him called before the Senate and examine him as a witness. No testimony sustaining the statement made by the Senator from South Carolina, so far as I remember, appears in the evidence taken by the Teller committee. Whether Mr. Ed. Mackey at some remote time admitted to the Senator from South Carolina or somebody else that he was the inventor of them I do not know. There is nothing in the evidence showing it. The Senator from South Carolina referred to the evidence taken by the Teller committee, and as I understood him at that time, and as I understand his remarks as I read them, he founded his statement upon the evidence alleged to have been taken by the Teller committee and not upon any statement at any time made by Ed. Mackey.

Mr. HAMPTON. My remarks yesterday were that these tissue ballots, to the extent of ten thousand, were printed by that republican candidate, and I sent one of them to the Senator from Colorado yesterday, which he did not read, I am sorry to say. The name at the head is Mr. E. W. M. Mackey. I understood that he had printed ten thousand.

Mr. TELLER rose.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. CAMERON, of Wisconsin. I yield to anybody who wants the floor.

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Colorado?

Mr. HAMPTON. I do.

Mr. TELLER. I simply want to say that I did not care to read it because there was any objection to its being read. I supposed every Senator understood that the tissue ballots that were found in the boxes were headed by the name of the Senator from South Carolina who has just spoken, and that the others were headed by Mr. Mackey, who was a candidate for Representative in Congress.

Mr. McDONALD. I desire to put a question to the Senator from Colorado.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield?

Mr. CAMERON, of Wisconsin. Yes.

Mr. McDONALD. I desire to remind my friend from Colorado that there were some three or four hundred of those same tickets found in the boxes.

Mr. TELLER. I said yesterday that I thought 165 was the number. I spoke from recollection, not having looked at this testimony then—since it was taken. It was 265, as I find by referring to it, and the evidence was that they were voted, and the evidence was that the other tickets were stuffed in the boxes.

Mr. BUTLER. Oh, no.

Mr. CAMERON, of Wisconsin, rose.

Mr. KIRKWOOD. Will the Senator allow me to set this matter right here?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. CAMERON, of Wisconsin. Yes.

Mr. KIRKWOOD. I find on pages 265 and 266 of the testimony taken by that committee the result of a count of the tickets found in the ballot-boxes used in Charleston County at the election in the fall of 1878. That statement distinguishes between the tissue ballots and the ordinary ballots. It also distinguishes between two sizes of tissue ballots that were printed by the republicans.

Upon counting the ballots found in Charleston County in the ballot-boxes those of them that were found—there were two or three precincts in which unfortunately the ballots both ordinary and tissue had disappeared—upon counting those that still remained for the ticket containing the name of Mr. O'CONNOR for Congress there were of the small tissue ballots 3,893, of the ordinary ballots 3,306, and of other ballots printed with red ink 1,944. Those were democratic tickets; 3,893 tissue, 1,944 printed in red ink, and 3,306 check-backed, as they were called. The same count developed the fact that of the republican ballots found in the same boxes there were of tissue ballots of the ordinary size, of a ballot six and a half inches long by two and a half inches wide, 256; of the small tissue ballots, small enough to be conveniently folded up and placed inside an ordinary ballot, the magnificent number of 6, while of the ordinary-sized ballots, printed on ordinary paper, there were 7,899.

Mr. CAMERON, of Wisconsin. Mr. President, as has been stated by the Senator from Iowa, the number of democratic tissue ballots found in the Charleston County boxes by the committee was 3,893; the number of republican tissue ballots, and as he has stated the republican tissue ballots were about twice the size of the democratic tissue ballots, was 265. There were no ballots in the box sent up and which was used at the Palmetto engine-house on election day. There is a good deal of testimony in the report concerning the proceedings at that election precinct on election day. I did not intend to go into the matter, but some Senator remarked that these democratic tissue ballots were stuffed into the boxes on the day of election, whereupon the Senator from South Carolina who sits opposite to me [Mr. BUTLER] said in his seat, "Oh, no." Now, I will refer to some testimony upon that point. I will refer to the testimony of John M. Freeman. His testimony commences on page 122. I will commence reading on page 123.

Mr. BUTLER. Who is he?

Mr. CAMERON, of Wisconsin. He is a resident of that city. He was an election supervisor on that day.

Mr. BUTLER. A republican or a democrat?

Mr. CAMERON, of Wisconsin. He was a republican supervisor, a white man. He swears:

About a quarter to five or five o'clock in the evening Mr. W. L. Daggett—

The same W. L. Daggett to whom I have already referred. He not only was foreman in the job office of the News and Courier, but in addition to that was the democratic chairman of that ward, ward No. 3. This witness says:

About a quarter to five or five o'clock in the evening Mr. W. L. Daggett, the democratic chairman of that ward, came to the poll and took position right in front of the box, and commenced challenging every voter, saying that they had voted already, and not attempting to prove it, and therefore a large number were rejected. It was nearly the last hour of the polls, and there was a good deal of inducement for me to go off and drink, as they asked me there; but I invariably refused. Mr. Daggett was in front of the box. They would call me off, and when I would turn around to see what was the matter I would see Daggett with his hand over the aperture of the ballot-box. I noticed it several times and thought I would watch. Mr. White then asked me to take a drink, and my attention was called away, and I said, "I must positively refuse," and I saw Daggett moving his hand and evidently putting his hand over the aperture. There was a package of "kiss-joke" tickets on the aperture, and then Mr. Selgnious attempted to push them down with a pencil. I said "Now, that won't do. Why don't you do it openly if you are going to do it?" He said: "Well, if there is too many you need not count them." They moved the box at the close of the poll about fifteen feet back in the engine-house. They opened the box, and immediately upon the opening of the box I saw half a dozen piles of these "kiss-joke" tickets right on top. One package of them I picked up in my hand, and none of them had any fold at all—had never been folded.

This same W. L. Daggett was called as a witness subsequently to the testimony of Mr. Freeman, which I have just read, and he did not deny a word of it.

Mr. BUTLER. My information is that Mr. W. L. Daggett did deny emphatically ever having put any tissue ballots in the box.

Mr. CAMERON, of Wisconsin. He did not before the committee.

Mr. BUTLER. Now, I want to ask another question: Is it not proven that that very man Freeman who gave that testimony was drunk that day?

Mr. CAMERON, of Wisconsin. I do not think that it was proved that he was drunk.

Mr. BUTLER. The testimony was that that very man from whose testimony the Senator is now reading was so drunk that he could scarcely recognize whether Mr. Daggett was putting tissue ballots in the box or not. That is the fact. Mr. Daggett, I do not know him except slightly, but I am told that he is a most reputable citizen of Charleston, and I do not believe one word of this story as to him.

Mr. KIRKWOOD. Of course the gentleman does not believe it.

Mr. BUTLER. Of course I do not, and the fact that the Senator from Iowa says so does not induce me to believe it any quicker.

Mr. CAMERON, of Wisconsin. I do not deny that Mr. Daggett is a respectable citizen, and the question might naturally arise what would a citizen do who was not respectable if a respectable citizen would stuff ballots in the box in that way.

Mr. BUTLER. The Senator from Wisconsin is more familiar with that business than I am, and can perhaps answer the question better than I can.

Mr. CAMERON, of Wisconsin. I have been in your State on two or three committees, and I admit that I am quite familiar with it.

Mr. BUTLER. I have no sort of doubt about that. Judging from the character of the company that surrounded the Senator when he was there I think it very likely.

Mr. CAMERON, of Wisconsin. If the Senator from South Carolina thinks it is the proper thing for him to say that no doubt I am more familiar with that style of business than he is, he is at liberty to say so. In the State where I reside no man, democrat or republican, ever claimed that anybody at any time attempted to stuff a ballot-box. All the familiarity I have with this business—no, I will not say all of it, because I have been in other Southern States than the State of South Carolina; but the most of the familiarity I have with the business I acquired from the testimony taken before Senate committees in his own State.

This I will say, that Mr. Daggett never denied before the committee the statement made by Mr. Freeman, and he was called as a witness before the committee subsequent to the time that Mr. Freeman testified, as I have stated.

Mr. BUTLER. Was he asked the question?

Mr. CAMERON, of Wisconsin. He was not asked the question.

Mr. BUTLER. Then how was he to deny it?

Mr. CAMERON, of Wisconsin. There were two able and astute democratic Senators on the committee—the Senator from Indiana [Mr. McDONALD] and the Senator from New Jersey [Mr. RANDOLPH]—and I assumed at the time that possibly he had said to them that if he were asked the question he would be compelled to admit that Freeman's statement was true. I could not in any other way account for the fact that they did not ask him the question.

Mr. Freeman is not the only witness who testifies to the stuffing of the ballot-boxes in Charleston on that day. I will refer to the testimony of a Mr. Brown, to be found on page 176. Mr. Brown was also an election supervisor, and he was at Mount Pleasant, Christ Church Parish, which I believe is across the bay from Charleston City proper. He says in regard to the condition of the boxes when they were opened in the evening:

Finally it—

The box—

was opened. The clerk as well as myself had tallied 620 votes. On this the clerk and I agreed. When the ballot-box was opened, instead of 620 ballots, there came out of that ballot-box 1,163, which was 543 in excess. The ballot was 620; that is, the legitimate vote.

Q. How many ballots in the box?

A. Eleven hundred and sixty-three. When it was found there were so many votes in excess of the poll-list they were returned to the box and they made a feint of shaking them; they raised the box once or twice as though they were going to shake it, and then set it down. Then they drew out the excess. There was 545 in excess over the poll-list. Mr. Venning, who was clerk of the board, was told by the chairman of the board to draw out the excess. He was not blindfolded as the law directs. I told them, "Gentlemen, I mean whoever draws these votes out shall be blindfolded, or it is not right." Mr. Venning sat down by the side of the ballot-box and raised the lid sufficiently to insert his hand only, and would place his hand in the box, and there were times when he would keep it there two or three minnutes until he could find the ballot he wanted, and then drew it out, and invariably it was a republican ballot. He did this until they had destroyed 543. Of the number destroyed 372 were republican ballots, and 171 democratic ballots.

This was not confined to the county of Charleston. As appears from the testimony of Mr. Daggett, he printed tickets for the whole State. He gave them to any person who called for them. The testimony taken before the committee shows, according to my recollec-

tion, that tissue ballots were used in more than one-half of the counties in the State. I will refer for a moment to the county in which the capital of the State is situated, Richland County. I refer to the testimony of a witness named M. E. Thompson, a white man, whose testimony commences on page 523. He was a deputy marshal, and the democrats were very much excited indeed when they found that there was a United States deputy marshal at that poll; in fact, they were horrified and disgusted, and they called on a Judge Dogan, and Judge Dogan made a speech. He said: "I am an old lawyer; I have examined the law, and I find that no United States marshal has a right to be nowhere on election day unless it be in a city containing twenty thousand inhabitants or over;" and thereupon the chairman of the democratic committee ordered the arrest of this Mr. Thompson who was there acting as a deputy marshal, and he was arrested and taken to jail. He succeeded, however, in giving bail, and got out again. He was asked:

Q. Did they have these small tickets rolled in another ticket?
A. Yes, sir; they folded up several and kept them in another, and when they got in the box, of course they would be joggled out.

Before he was arrested he says that—

They commenced whispering around there, and it looked like they were getting back of me, being as I was so positive; and finally one of the committee came up and said, "Have you any more 'little Hamptons?'" and the supervisor handed out a lot of those little tickets, (blue ones.) He took them and started off, and came back and said, "I want some of those small ones," and he went off. I wanted to see what they were going to do with them, and I followed. They stood down on a stoop of the door and commenced folding them in the larger tickets. I saw them fold up some seven or eight and put them in, and then they would lash some India-rubber around them to keep them from coming out, and they kept folding them up in that way, and folding them up.

There is a great deal of testimony from different witnesses in regard to the use of tissue ballots in Richland County, and it was not pretended by any one, democrat, republican, or independent, that tissue ballots were not used in Richland County on that day; and one curious thing about it was that in almost every instance where tissue ballots were used there was an excess of tickets in the ballot-box over the number of names on the poll-list, and frequently the excess corresponded exactly with the number of tissue ballots found in the boxes. I only refer to that as a curious coincidence! I will refer to the county of Colleton, which I believe is the first county south of Charleston County and adjoins Charleston County on the south. I will refer to the testimony of a witness who bears an honored name, George Washington. His testimony commences on page 649. I read from page 651. He was examined by the Senator from Colorado:

Q. Did you see the vote counted?
A. When it came to the counting of the votes I went to look. I stood up there and kept a good lookout at it. Pretty soon I saw them pull out fifteen votes all at once—out of one ticket. They unfolded a big democratic ticket, and inside of it were fifteen little tickets—tissue tickets, I believe I have heard them called. I looked at that, and thinks I "That is mighty strange," but I said nothing just then. They went on, and went on, and went on, and pulled out other tickets of the same kind—big tickets with a lot of little ones inside.

He produced a specimen of the tissue ballots, and it appears in the report of the evidence taken by the committee, headed:

COLLETON COUNTY.

For governor,
Wade Hampton.

Lieutenant-governor,
W. D. Simpson.

Secretary of state,
R. M. Sims.

With the entire balance of the regular democratic ticket following. There was a large excess found in this ballot-box of ballots over the number of names on the poll-lists. The managers proceeded to draw out the excess. There were 280 votes more than the poll-lists called for. The witness proceeds:

They drew out the two hundred and eighty tickets, and when they were done drawing out they had drawn out and destroyed four democratic tickets and all the balance were republican. They did not have any mercy on us at all.
Q. Out of 280 torn up all were republican except 4?
A. Yes, sir.

A witness named Robert Grover was also examined by the committee in regard to the election in Colleton County. His testimony may be found on page 661 of the volume containing the evidence and the subsequent pages. He was examined by the Senator from Colorado:

Q. Now, you may state what occurred at the counting.
A. After they got through voting, the box was opened and all the tickets were picked out—democrats here and republicans there. They were not counting them then, but just separating them. In opening the tickets (I was sitting right behind the clerk) the very first one he opened I saw, and as he unfolded it I saw a ticket about the size of this little tissue ballot roll out, although this tissue ballot is not one of the same kind as that which dropped out. The moment I saw that drop I was astonished. I was directed that none of the republican voters should vote anything but one straight republican ticket. The moment I saw that drop out I went over to Captain Grays, and said to him, "Well, it don't pay us to count. If seven come out of one, what in the devil is the use of our counting?"
Q. What did Captain Grays say?
A. "Oh," he said, "never mind; we will bring this out peaceably." "Yes," I said, "I want it done peaceably, but honestly," and at the same time a friend of mine came to me and touched me. As I had instructed the people not to have any disturbance, I thought it would not do for me to be the first to make a disturbance. The first time I saw seven and the second time I saw five, and when they opened another I saw as high as sixteen in one ballot. I said, "Jesus! God Almighty! There is no use for me to count." I never got excited until I saw thirty-seven come out of one. I started for Captain Grays, and I said I did not blame the democrats for these papers, "but," I said, "I believe you are the one that brought these men here." When I first spoke to him it was secretly, for I didn't want to alarm the others. It went on further, and it went as high as fifty-nine in one ticket. I said, "Gracious God! I had better go home." I said, "When you take out this fine silk paper all night you will nearly carry the election!"

* * * * * * *

Q. Were these tissue tickets?
A. Yes, sir; every one of them. After we got through counting I said, "Now, Captain Grays, as an honest man, you who have seven times as much honor as me who is as black as the ace of spades, why does this happen? why does this hat hatch out democratic tickets and not republican?" "Well," he said, "a man can vote as much as he wants to; he can vote fifty tickets if he wants to." "Well," I said, "that is no law for me." I thought as an honest republican I could put in one vote, but that was all I was entitled to.

I will not refer particularly to the testimony in regard to the use of these tissue ballots in other counties in the State further than to say that they were very generally used throughout the State.

Mr. HAMPTON. In how many counties, may I ask the Senator?

Mr. CAMERON, of Wisconsin. I am not able to state now, because——

Mr. HAMPTON. I can state. There are thirty-three counties in the State, and they were used in eight.

Mr. CAMERON, of Wisconsin. In eight the Senator says they were used. The Senator may be correct about that; I do not know whether it is so or not.

Mr. HAMPTON. I say it is so.

Mr. CAMERON, of Wisconsin. I understand the Senator says it is so. I say it does not appear from the testimony that they were not used in more than eight. My recollection from the testimony is that it shows they were used in more than eight.

Mr. HAMPTON. I would ask the Senator, if he says that the testimony shows that they were used in any other than the eight counties, to refer to that testimony. That will be the best way of settling it.

Mr. CAMERON, of Wisconsin. That is one way of testing it. If the Senator from South Carolina desires to refer to it, he can do so. I will take my own course in regard to it.

Mr. CONKLING. What year's election was that?

Mr. CAMERON, of Wisconsin. The year 1878. The Senator from South Carolina said yesterday that he received all the votes that were cast for governor that year, except a very insignificant number, a few hundred. He did not state at the same time or at any time within my hearing that the republicans had no candidate for governor that year. Different witnesses who appeared before the committee explained the reason why they had not. The State central committee of the republican party had a regular meeting called for the purpose of taking the matter into consideration, and came to the conclusion that the democratic party would not permit them to have a free and fair election, and consequently that they would attempt to elect their local candidates, but would not place in nomination any State ticket.

Mr. HAMPTON. May I interrupt the speaker a moment, Mr. President, or I will ask the Senator if he is through?

Mr. CAMERON, of Wisconsin. I am not quite through yet.

Mr. HAMPTON. I should like to give the version, as stated to me, why there was no opposition ticket put into the field.

Mr. CAMERON, of Wisconsin. I would ask the Senator to withhold his remark for a few moments until I conclude, as it is not in the nature of a question or an inquiry.

The committee did not know how to account for a great many things that were testified to before the committee. A little light was thrown upon some of them by a witness named Charles Moise. Charles Moise resides in Sumter County. He is what they call a gentleman of high character in that country. He at that time held a lucrative and honorable office in the county, the office of auditor, to which he was appointed by Governor HAMPTON. I want to refer to his testimony a single moment. It is to be found on page 335. A political meeting—a republican meeting—was called at Sumter some time during the fall of 1878, at which there was a good deal of disturbance. This witness, who was a democrat, was examined in regard to the disturbance that took place at that meeting. Upon cross-examination he was asked:

Q. Now, you say on the 12th of October—

That is the day on which the meeting was held—

everything was quiet up to the time the republicans passed along with banners?
A. Yes, sir.
Q. And the band of music?
A. Yes, sir; one band.
Q. And banners—what kind of banners did they have?
A. They had some transparencies and the United States flag, which is an unpopular emblem there.

Mr. HOAR. What flag is that?

Mr. CAMERON, of Wisconsin. The United States flag, in Sumter County. This witness, who was at that time auditor of the county, appointed by Governor HAMPTON, swears that everything was quiet until the republicans passed along in their procession, having some transparencies and the United States flag; that the United States flag "is an unpopular emblem there;" that it excited their young men, and thereupon the disturbance followed.

I do not care, Mr. President, to pursue this matter any further.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The question recurs on the amendment offered by the Senator from Ohio.

Mr. HOAR. Mr. President, I wish to occupy the Senate only a moment. Both the Senators from South Carolina yesterday alluded to

the fact that certain persons were disqualified from voting under the constitution of Massachusetts by reason of their inability to read and write. One Senator from South Carolina demanded several times, and in his usual emphatic method, whether I knew how many persons were so disfranchised. I had not the facts in my memory at the time. The other Senator, the junior Senator from South Carolina, [Mr. HAMPTON,] made this statement as he is reported:

> The Constitution says that the members in the lower House of Congress shall be in proportion to all enfranchised persons in the State, and should there be discrimination in the elective franchise those disfranchised should not be represented.

The Constitution, in fact, makes that statement in regard to male citizens. Then he goes on to say:

> Yet there are one hundred and thirty-six thousand men in Massachusetts who by the educational qualification are not allowed to vote, and still that State owes to them its representation for one hundred and thirty-six thousand men in the other branch of Congress.

Mr. HAMPTON. The Senator will allow me a moment. When I looked at the RECORD this morning I noticed that there, and I saw that the stenographer had fallen into an error. I did not mean to say that there were one hundred and thirty-six thousand voters in Massachusetts debarred from the ballot-box, but what I intended to say was that I thought there were one hundred and thirty-six thousand persons, the representation being upon persons, not upon men.

Mr. HOAR. Did the Senator mean men or women?

Mr. HAMPTON. All, because the fourteenth amendment says "persons." It does not say "citizens."

Mr. HOAR. Did the Senator in making the point that Massachusetts claimed a representation on account of persons whom she disfranchised, or as he stated it, who by the educational qualification are not allowed to vote, mean to include women?

Mr. HAMPTON. Of course not.

Mr. HOAR. Then he was speaking of men. So far the reporter has got him right.

Mr. HAMPTON. I was referring only to males beyond the age of twenty-one.

Mr. HOAR. Did he mean to include persons who have been in this country only six months in making that point, or did he mean to include persons who otherwise would have the right to vote when he said they were disfranchised by the educational qualification, or not allowed to vote?

Mr. HAMPTON. I simply meant to make the point that by the constitution of Massachusetts there was a discrimination in regard to voters, and yet, at the same time, that the State of Massachusetts has her representation in the other branch of this building for all persons.

Mr. HOAR. But what does the Senator from South Carolina now think that the discrimination to which he alludes by the educational qualification amounts to in numbers?

Mr. HAMPTON. I took it from the census of 1870, which shows that of males twenty-one years of age and over there are 30,920.

Mr. HOAR. Where is the one hundred and thirty-six thousand the Senator got?

Mr. HAMPTON. I spoke of persons in that, not of voters.

Mr. HOAR. The Senator referred to persons who would not have the right to vote any way when he counted one hundred and thirty-six thousand. Did he mean to say simply there are one hundred and thirty-six thousand women, children, and foreigners who cannot vote in Massachusetts?

Mr. HAMPTON. I could hardly have meant that. The point I wanted to make—and I will bring it out by a simple question to the Senator from Massachusetts—is this: I ask him if Massachusetts is not having more Representatives in the other branch of Congress than she is entitled to under the Constitution of the United States?

Mr. HOAR. No, sir; she is not. I will answer that question most emphatically.

Mr. BUTLER. If the Senator will permit me, he referred to some remark I made about——

Mr. HOAR. I did not refer to any remark that the Senator made whatever. I said he asked a question.

Mr. BUTLER. That was a remark of course; it was in the form of a question. Therefore the Senator——

Mr. HOAR. I should like to finish this point with the other Senator first, and then will discuss with that Senator anything he chooses.

The PRESIDING OFFICER. The Senator from Massachusetts declines to yield.

Mr. BUTLER. I simply wanted——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. HOAR. No, sir; I say I want to finish with what his colleague said first, and then I will yield to the Senator now addressing me.

Mr. President, I affirm as my undoubting conviction, first, that no person is counted in the representation of Massachusetts who should not be counted under the Constitution of the United States: second, that there are not more than three thousand persons who by the educational qualification in Massachusetts are not allowed to vote. I wish in about two minutes to state to the Senate the reasons.

In the first place, the whole number of male persons in Massachusetts over the age of twenty-one who by the census of 1870 were found to be unable to write were 30,920 white males and 822 colored persons. In my judgment and belief, not one-tenth of those persons were natives of the State or naturalized citizens. I have frequently made the statement to persons well acquainted with the Massachusetts community, and of course our State is not an exception to the States which adjoin it in any direction, that I never knew a native of Massachusetts of sound mind who did not know how to read and write. I make that statement here, and I think the experience of other persons who are familiar with that community will confirm me, as I dare say my friend before me [Mr. MORRILL] would say for his State of Vermont.

It does not appear from the census what proportion of these 30,920 male persons who could not write were natives and what were colored, but the census does show another fact which will help us certainly, that of natives of Massachusetts over ten years of age in 1870 of both sexes (the thirty thousand that I gave were males) who could not read and write there were 7,912. Half of that would bring it down to about the tenth part of the thirty thousand, and then you would have to deduct all the persons who learned to read and write before they got to twenty-one after they were ten. So I think I have established that pretty well.

Now, another point. I asked General Walker's opinion upon this question this morning, the accomplished head of the Census Bureau, if he had any means of settling the question. This is his reply:

> CENSUS OFFICE.
>
> Of the persons ten years old and upward in Massachusetts in 1870 who could not write 92 per cent. were foreigners, but it is not known how many were unnaturalized.
>
> FRANCIS A. WALKER.

We have in our State in greater numbers than in any other State in the Union except New York, and probably in as large proportion as New York, a vast number of unnaturalized foreigners. One of the great ports of entry for such persons from Europe is the port of Boston. From Ireland, from England, from Germany, and from other European countries they come, and they remain in our factories and make our railroads, and stay where their friends and relations are already established. In addition to that, we have a vast number of Canadians who come down in the early spring, sometimes remaining several years, sometimes going back in the fall again to their homes, who are counted in a census which is a census of all the residents of the State on the 1st of June.

The honorable Senator from South Carolina [Mr. HAMPTON] made a statement in regard to his contest with Governor Chamberlain, who he said he told his people ought to have been in Massachusetts at the time, and who I will say ought to have been in the chair of the governor of South Carolina by right and by law, as I believe. In that contest the honorable Senator told the colored people that if they were in Massachusetts, however wealthy they might be or intelligent, they would be disfranchised because they could not read and write.

Mr. HAMPTON. Unless they could read and write.

Mr. HOAR. Unless they could read and write; whatever he said, I think that is not the way it is reported, [examining the RECORD.] Yes, it is; the Senator is right:

> You might be as honest and as true and as rich as any man in Massachusetts, and you could not vote unless you could read and write!
>
> I said to them: "Now, you had better tell Mr. Chamberlain to go back to Massachusetts, and have universal suffrage as we have it in South Carolina."

"Universal suffrage as we have it in South Carolina!" I should like to have that issue debated, if I could get Governor Chamberlain before the people of Massachusetts. The Senator omitted to tell that audience of colored people that the wealth, and the power, and the intelligence of Massachusetts tax every dollar of its property and every faculty of its citizens to provide for the poorest colored child who dwells within its borders the capacity to read and write. The bottom mortgage on everything that Massachusetts has and owns and is, is placed to secure for her humblest citizens, of whatever race or whatever color, the education which fits them for citizenship. The reading and writing clause in her constitution goes hand in hand with a policy which makes it impossible for a Massachusetts citizen to be unable to read and write if he so desires. The great poet of that State has summed up in one noble and homely verse her principles of republican liberty, which I respectfully commend to the attention of the Senator from South Carolina:

> The noble craftsman we promote,
> Disown the knave and fool,
> Each honest man shall have his vote,
> Each child shall have his school.
> For what avail the plow or sail,
> Or land or life, if freedom fail?

Mr. HAMPTON. Mr. President, I am not at all disposed to undervalue the educational facilities of Massachusetts, nor the wonderful manner in which those people have availed themselves of them. I sympathize with the feeling which has provided those facilities. I will state to the Senator from Massachusetts that immediately after the war, when it was in doubt whether the Southern States were to be readmitted into the Union, when we did not know whether we were out or whether we were in, I suggested to the first convention that met in South Carolina that they should copy the constitution of Massachusetts and submit it to Congress as the constitution of South Carolina. I thought that would be a very fair test of the sincerity of the republicans here, whether they would admit us under the constitution of Massachusetts, for, as I said yesterday, it is a wise constitution, and it commends itself to me, because it is one that more

emphatically than any other constitution perhaps in all this great confederacy of States recognizes State rights. I approve of it. I approve of the manner in which they have scattered education all over their country. I have endeavored in my own State to do that, and there are now more schools for colored people in South Carolina than there have ever been before.

When the Senator quotes my language where I spoke of universal suffrage in South Carolina, I say to him that he may take the returns of the election in 1876, where he says, and where it is said by the republican party that there was intimidation, that there were armed mobs, that there were rifle clubs, and I will venture to say that a larger proportion of the votes of South Carolina were given on that occasion than had ever been given in Massachusetts, and I challenge him or anybody else to deny it. There were, by the census of 1876, in South Carolina 185,000 voters, and by the returns of the republican managers there were cast in that election 183,500 votes. If any other State can show as large a proportion——

Mr. HOAR. What year was that?

Mr. HAMPTON. In 1876, when it was said that we had such intimidation down there, there were 183,500 votes cast in that election. I think that is a conclusive answer to all that has been said to the effect that the colored people of South Carolina have not been allowed to vote. At that very election what swelled that vote so largely, and I hear no Senators on that side alluding to that, in that very Charleston district, where these tissue ballots had been used, in 1876 there were 8,000 more votes given than the population. In Beaufort County there were 3,000 more given than they were entitled to have.

Mr. TELLER. When was that?

Mr. HAMPTON. In 1876.

Mr. CAMERON, of Wisconsin. What was the proportion in Edgefield County?

Mr. HAMPTON. In Edgefield the vote was larger than usual, but I have explained that. There were eleven companies of United States soldiers there, and they all voted for me. I think that is the way the vote of Edgefield is accounted for. I am told that they voted for me, and the only illegal vote that I heard of in that election was a very extraordinary one. There was a lieutenant who took thirty-seven men down to the polls, and the men having nothing to do there proposed that they should have an informal ballot. The lieutenant held his cap out, and when they counted out the ballots there were thirty-nine votes for me, and he declared the election illegal because there were more ballots cast than there were men who cast them.

Mr. President, I do not undervalue Massachusetts, but I may go back as far as the days when Washington was there, and our friends on the other side know that he never told a lie. Washington made a very characteristic remark about them, and I will read what he said to a man with whom he was connected, after he got there, for the edification of my friends on the other side. This was a private letter of Washington:

Remember me kindly to him—

Dr. Craik—

and tell him that I should be very glad to see him here, if there was anything worth his acceptance, but the Massachusetts people suffer nothing to go by them that they can lay hands upon.

Mr. HOAR. He probably referred to the attempt of the British army to get by them, which they succeeded in doing, I think, in South Carolina. I think they succeeded there pretty effectually.

Mr. HAMPTON. If the Senator wants to know something more of the opinion of General Washington in regard to that, I can give him some of that also:

The people of this government have obtained a character which they by no means deserved—their officers—

This was just after the battle of Bunker Hill—

their officers, generally speaking, are the most indifferent kind of people I ever saw. I have already broke one colonel and five captains for cowardice and for drawing more pay and provisions than they had men in their companies. There are two more colonels now under arrest and to be tried for the same offenses. In short, they are by no means such troops, in any respect, as you are led to believe of them from the accounts which are published; but I need not make myself enemies among them by this declaration, although it is consistent with truth. I dare say, the men would fight very well, (if properly officered,) although they are exceedingly dirty and nasty people.

Mr. HOAR. Does the Senator from South Carolina know whether at the close of the war, after the Massachusetts troops had scoured the fields and plains of South Carolina of the British tories and invaders, General Washington expressed such an opinion as that?

Mr. HAMPTON. I venture to say that there never was a Massachusetts soldier as far South as South Carolina during the war of the Revolution; and I should be glad if the Senator would show me that there was.

Mr. HOAR. I think I ought to have the permission of the Senator from South Carolina to say that I do not think a discussion of this kind in regard to the revolutionary history of these two States is profitable.

Mr. HAMPTON. Exactly; as the Senator said the other day about tissue ballots, that he did not see why they should be brought in.

Mr. HOAR. If the Senator will permit me (I do not design to pursue it) I do not think that the Senator on reflection will think that any representative of Massachusetts fails to discuss her revolutionary history or to compare it with that of any other State, or to appeal to General Washington's mature opinion of the character of her people, either in civil or military life, from any unwillingness to have them known.

Mr. HAMPTON. I have no doubt, sir, that they would not shrink from any discussion. I was simply stating the opinion entertained by General Washington at the fight of Bunker Hill soon after he got there. I have already said that as far as the enterprise, the energy, of Massachusetts is concerned, as far as their earnest desire to give the benefits of education to all classes is concerned, I admire it, I appreciate it, and I trust it may extend to all the other States.

Mr. President, I wish to say one word in regard to what fell from the Senator from Wisconsin, [Mr. CAMERON.] I know there was no opposition in 1878, and I only alluded to that fact yesterday to show one thing. There are but 75,000 white voters in South Carolina, and if there were 119,000 votes cast it shows that there must have been at least 45,000 colored people who voluntarily voted. I know the fact that there were a great many who did not vote because the names of the State officers were not put upon their ticket. When I interrupted the Senator in reference to the fact that had been reported to me, as to why there had not been a ticket put in the field on that occasion, I wanted to say to him what was my information, which I got, and I will give the name, from Judge Melton, who is the ablest and most consistent republican in South Carolina. The Senator no doubt knows him. In 1877 he came to me and made a personal appeal to me that I should be a candidate again. I told him that I would not do so, but that we would put a conservative man in the field. He said to me, "I tell you what I know; and it is that if you will allow your name to be put up as governor there will be no opposition; but if you do not, we will nominate a ticket against anybody else;" and he not only himself but very many other leading republicans in that State made the appeal to me that I should allow my name to be presented again, because they had been satisfied with the policy of the administration of the two preceding years.

Mr. BUTLER and Mr. EDMUNDS addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from South Carolina.

Mr. BUTLER. I know the Senate is extremely anxious to come to a vote.

Mr. EDMUNDS. Oh, no; we are not at all. This is too interesting a subject.

Mr. BUTLER. Unfortunately the Senator from Vermont does not constitute the Senate. He is only one part of it. I said the Senate.

Mr. EDMUNDS. I am just speaking for myself.

The PRESIDENT *pro tempore*. The Senator from South Carolina has the floor.

Mr. BUTLER. I do not intend to delay the Senate. The Senator from Massachusetts addressed an inquiry to me in reply to a question that I asked him yesterday. He appeared to be on that occasion very unfamiliar with the statistics of his own State, and very much more familiar with the statistics of mine. I shall not imitate the bad example of that Senator by attacking Massachusetts as he has attacked South Carolina for the purpose of making political capital. I shall do nothing of the kind; but I asked him the question how many of the people of Massachusetts were prevented from voting by reason of the existence of the educational qualification in their constitution. He said he could not answer, and he referred me to the census. I have referred to the census, and I find by the census of 1870 that there were 85,387 people who were debarred citizenship by reason of that qualification in the constitution of Massachusetts.

Mr. HOAR. Will the Senator——

Mr. BUTLER. I will not yield to the Senator. He declined to yield to me, and he must excuse me.

The Senator went on then to inquire to-day of my colleague where he got the information that there were one hundred and thirty-six thousand people in Massachusetts who were not allowed to vote by reason of the provision of the constitution or on some other account. I will state to him my authority. It comes from a very distinguished citizen of that State, no less a person than General B. F. Butler. If I am correctly informed, that distinguished gentleman has said publicly, and I ascertain that his statement has been uncontradicted, that there are one hundred and thirty-six thousand grown-up men over twenty-one years of age who are not allowed to vote in Massachusetts for some reason. Some call it civilized bulldozing, cultured bulldozing. Some say they are prohibited by reason of the provision of the State constitution which says the voters shall read and write. I do not know. Certainly that gentleman must be better informed about his own State than I am. Now one other question, Mr. President.

Mr. EDMUNDS. Will the Senator mind if I ask him a question?

Mr. BUTLER. Not just now.

Mr. EDMUNDS. I merely wanted to know how many of these people were citizens of the United States.

The PRESIDENT *pro tempore*. The Senator from South Carolina declines to yield.

Mr. BUTLER. I am not prepared to say how many are citizens, I am only stating the fact as I get it; whether it is true or untrue I do not know. I find that by the census of 1870 there were 30,920 males beyond the age of twenty-one years who could not write. The honorable Senator from Massachusetts says that he believes there are not over 3,000. When it comes to opposing the mere belief and opinion of the Senator to the uncontradicted statement of the census I think the census ought to prevail. The census says there were 30,920.

Mr. KIRKWOOD. Entitled to vote?

Mr. BUTLER. No, who could not write in 1870 in Massachusetts, and there were 85,387, according to the last census, over twenty-one years of age, who were, in the language of the census, debarred citizenship, and I take it that among other things they are not allowed to vote. Since that time that number has been very largely increased, according to the statement of General B. F. Butler. That was what I meant by the question which I propounded to the honorable Senator. He declined to answer; he said he could not answer it; he did not remember the number; and I submit he has not answered it to-day. He gives us his belief; I give him the figures.

I have no desire whatever to make any improper allusion to the great State of Massachusetts; I will not do so. The Senator asked me yesterday why that question was propounded; he said that it had no relevancy to this debate. It had just this relevancy: that a Senator who has so much at home to correct by way of reform should address himself to that home before he goes out upon a pilgrimage into other parts of the Union. That was all the relevancy it had.

When the Senator says the reason why we desire to pass this bill and the reason why we do not desire Federal supervisors to superintend elections is because we desire to have frauds perpetrated upon the ballot, I might retort upon the honorable Senator and say that the reason why he desires them is because he through that instrumentality seeks to dragoon the honest voters of this country away from the polls. I believe there is evidence enough taken by the different committees of the Senate to prove that that has been done by these very supervisors, and to that extent I submit it has very decided relevancy to the question. I desire that there shall be a free, pure ballot, and I desire that the people themselves shall be the judges. The honorable Senator from Massachusetts proposes to post around these precincts at each poll supervisors and marshals. As I said awhile ago, I might retort upon him with the charge that he is doing that for the purpose of preventing a free ballot, and so as to use the great power of this Goverment to suppress the free expression of the people through the ballot at the ballot-box. I might do so perhaps with very much more reasonableness and truthfulnesss and pertinence than he can sustain the charge which he makes.

Mr. HOAR. Mr. President, the Senator from South Carolina has totally misread the census. I desire the attention of that Senator, if he pleases, because I affirm that he has totally misread to the Senate the census of the United States and has utterly misunderstood what I said. The question was not how many unnaturalized persons who could not vote by reason of not being citizens there were in Massachusetts. The question was how many citizens were debarred from voting by the Massachusetts provision of her constitution who could otherwise have voted. The Senator's colleague affirmed with great confidence that there were one hundred and thirty-six thousand men, and when the Senator after that affirmation put to me the question, I not having looked at the census, I did not undertake to answer from memory. Now, the Senator says that I have put my belief on that point against the census. I utterly deny it. He says that the census shows that there were 30,920 male persons in Massachusetts who could not write. I read that from the census. How many of those persons were citizens and how many were aliens?

Mr. BUTLER. I presume all were citizens?

Mr. HOAR. I am addressing the Senate now. I presume they were not, and that is the precise point which I am going to give my reasons for. Those were male persons found in the Commonwealth on the 1st of June. Of that number of male persons over twenty-one the census does not tell how many there were who could not write, but it does tell how many persons over ten years there were who could not at the same time, and it shows that of those over ten years of both sexes there were only 7,912 persons who could not write at that time.

Mr. CONKLING. Native persons?

Mr. HOAR. Native persons. Half of those probably were females. Then, in addition to that, General Walker telegraphs me that of the persons ten years old and upward in Massachusetts in 1870 who could not write 92 per cent. were foreigners. That I read to the Senate.

I trust if the Senator addresses the Senate on this subject again he will address himself to the point. There are unnaturalized persons in Massachusetts, a great many of them, and unnaturalized persons not being citizens cannot vote. That is true. We will admit that; and if the Senator thinks there is any significance in that, if I were to draw an inference from that, it would be that the instinct of men, truer than the instinct of birds, takes them to communities where labor is respected, where the citizenship, when they get it, will be valuable and honored; and there may be places and communities and methods of managing elections which repel that class of persons so that they are not found there. That is the point.

I affirm again, not only as my belief but I have demonstrated to the reasonable satisfaction of everybody who has listened, that there are not more than three thousand citizens in Massachusetts upon whom her constitutional inhibition of voting because they cannot write and read is operative; and I say that for those the State makes a provision at the public charge which enables every one of them to comply with the condition if they see fit.

Mr. KIRKWOOD. Mr. President, something over a year ago the Senate appointed me as one of a committee to go to South Carolina and Louisiana to investigate the manner in which the election of 1878 in those States was conducted. I went with a good deal of reluctance. I believe I should not have gone had it not been for the fact that much had been said in the Northern States, and in that region of the country in which I live, with regard to the abuse of colored men in those States, and much had been said tending to carry with it the impression that what was said in that regard was either untrue or was much exaggerated. It was a matter in which there was, and properly should be, a great deal of interest taken. I accepted the appointment on the committee and went for the purpose of satisfying myself as well as I could about those matters, and I did. I went there with opinions somewhat undecided, and came away with opinions very decided. I never have spoken here of what I learned in those investigations. I have talked to my own people about it, but this discussion seems to place me in an attitude where it is required that I should say something about it or appear to neglect what, perhaps, is a duty. I will do it very briefly.

The Teller committee went first to Louisiana. It is impossible for me to go through with the testimony occupying one of these volumes, or to do anything like it. I must take particular instances, and I will take in Louisiana the case of Tensas Parish. My republican colleagues upon the committee, the Senator from Wisconsin [Mr. CAMERON] and the Senator from Colorado, [Mr. TELLER,] in talking over how we would manage our business there, reached the conclusion which I shall state. We found that what had been testified to before former committees was discredited largely because it was said of the witnesses that they were either ignorant negroes or carpet-bag democrats, and whether the one or the other they were not to be believed. I do not think that is true; but we determined that that should not be said truly of the testimony taken by our committee, and any person who will take the trouble to look through the testimony taken in the State of South Carolina will find that the larger portion of it is given by white men who were democrats and had served in the rebel army. Whether those qualifications would entitle them to greater credit than other men who do not have all of them, every one must judge for himself.

Now, take Tensas Parish, Louisiana. It was a parish containing a large majority of colored people, two, three, four, five, to one; I do not remember precisely. If the Senator from Wisconsin will refer to the commencement of the testimony in regard to that parish he can give the figures.

Mr. EDMUNDS. Let us have them.

Mr. KIRKWOOD. Tensas was a parish that had always been republican until the year 1878, and in that year it became almost solidly democratic, the republican vote almost wholly disappeared, and in its place stood the democratic vote. One of the republican leaders in that parish was a colored man by the name of Fairfax, a man of considerable education, a man of bright parts, a man of good character, as is given to him by whites and blacks, by republicans and democrats. No man spoke against him. The only faults alleged against him were that he was colored—that was because God made him so—that he was a preacher and a republican, and that came by nature I suppose. He was perfectly willing to abandon the parish or county contest, because the white democrats there had said they would have the control of the parish. He was willing to abandon that, but he was unwilling to abandon the contest for a seat in Congress. He went to the democratic convention and proposed to them, "Now, gentlemen, let us have in our parish no contest at all as to local officers; let us have a ticket that will satisfy everybody; but we will keep up our organization for the congressional election." The offer was indignantly spurned by the democratic convention. That was on Monday. On the Saturday following that man was sitting in his house with his family about him, his wife and some of his neighbors, men and women, and while there, sitting peaceably and quietly, molesting no one, dreaming of harm from no one so far as he could learn, an armed body of men numbering from twenty-five to fifty, under the lead of a man from another parish, not his own, came there, and going to his front door demanded admittance, inquiring for him, meeting his wife or a neighbor woman at the door. Fairfax himself, seeing these men, sought to escape by the back door, and was fired at as he went. He did escape without injury, but three men were wounded there, one of them killed, one of them crippled for life, his arm rendered utterly useless to him, and another slightly wounded. Fairfax himself escaped to the woods in the swamp.

Mr. EDMUNDS. Were these persons ever brought to justice?

Mr. KIRKWOOD. I will come to that after awhile.

Mr. CAMERON, of Wisconsin. If the Senator will allow me now, I have the figures before me. By the census of 1870 the population of Tensas Parish was, whites, 1,400; colored, 11,018. By the State census of 1875 the population was, whites, 1,417; colored, 17,100.

Mr. KIRKWOOD. Fairfax, as I said, escaped to the woods in the swamp, and he wandered around in them for a week or ten days, lying by in the day time and traveling by night. He sought to escape from the parish, and he did, and I will state the way he escaped. Approaching the river by night, hiding by day as I said, he at last reached within a short distance of one of the steamboat landings on the river. He had been informed that men were watching every landing and the only mode of escape would be by disguising himself. Acting upon his own judgment and the advice of some of his neighbors he dressed himself in a negro cabin in a negro woman's clothes, and putting upon himself

an old fashioned sun-bonnet he went with two or three colored women to the landing. He saw standing there a man with arms in his hands, as he supposed, watching for him. Under the disguise he got on board the boat with the women, who remained with him until the boat was about to start and then they left the boat, leaving him on board, and he escaped to New Orleans. We found him there in hiding, and what did we do? It may have been cowardice; if it was it was not cowardice on our own account, but we were afraid to bring that man before a committee of your body in the city of New Orleans. A warrant was out, not for the arrest of the men who attacked his house, not for the arrest of the men who committed murder there, but for his arrest, and it was in the hands of an officer in New Orleans. Your committee were afraid to bring him before them there, lest when we were done with him he should be taken back to Tensas Parish and dealt with.

Mr. EDMUNDS. Dealt with for what?

Mr. KIRKWOOD. Because his house was attacked, and the men were murdered there.

Mr. JONAS. Will the Senator permit me to ask him a question?

Mr. KIRKWOOD. Certainly I will.

Mr. JONAS. At the time your committee was in session in New Orleans were not warrants out from the United States court for the arrest of nearly every white man belonging to the democratic party in the parish of Tensas who was accused by Fairfax and others of participation in what you described as an open outrage?

Mr. KIRKWOOD. Warrants were out for some men.

Mr. JONAS. Were they not all arrested and brought to New Orleans before your arrival?

Mr. KIRKWOOD. No; some were arrested, and some were brought there, and some, after a trial at which they were acquitted, were accompanied by mobs of people of the city of New Orleans in triumph to embark upon the steamboats, and they sent them home.

Mr. JONAS. If the Senator will allow me, I will state that out of some three hundred odd democratic voters in the parish of Tensas, over one-half of them were indicted in the Federal courts, over one-half of them were brought to New Orleans for trial, over one-half of them were held to bail. Those who were tried were brought before a packed jury.

Mr. KIRKWOOD. And acquitted.

Mr. JONAS. No man was admitted on that jury who could not take the test-oath, and if they were acquitted under such circumstances and accompanied to the boats by the clamors of the populace it was because their innocence was transparent, indeed, when it could have been established in such a court and before such a jury.

Mr. KIRKWOOD. Will the Senator from Louisiana tell me why the State courts of Louisiana never tried to arrest these men and punish them?

Mr. JONAS. I will say to the honorable Senator that in the parish where these men lived the judge of the district court is a prominent republican; the sheriff is a republican; the coroner is a republican; every parish officer is a republican; the district attorney is a republican, and at that time the appointee of the sitting member on the other side from the State of Louisiana. They were all republicans; and if there were charges against these men and they were not brought to justice it was their fault.

Mr. KIRKWOOD. The Senator from Louisiana forgets the fact; the sheriff of Tensas Parish was not a republican.

Mr. JONAS. He was a republican, and every parish officer was a republican.

Mr. KIRKWOOD. Mr. Register had been elected at that very election by the democrats of that parish sheriff of the parish.

Mr. JONAS. He was a republican, however.

Mr. KIRKWOOD. He had been a republican.

Mr. JONAS. He was a republican.

Mr. KIRKWOOD. He had been what you men call a scalawag.

Mr. JONAS. Who was the judge of that district court?

Mr. KIRKWOOD. I do not know.

Mr. JONAS. Mr. Hough, a prominent republican.

Mr. KIRKWOOD. Let me tell my story, and if the Senator from Louisiana disputes it he can answer me. I say that Register, a man who had been a republican, who was what in the language of that country is called a scalawag, a native-born Louisianian who had been in the republican party, received a nomination on the democratic ticket at the convention held by the democratic party in that parish in 1878, and became a sound conservative democrat, and was elected by the means that I have been endeavoring to show in that parish. Cordill, who had been the parish judge—another scalawag, who had been elected by the republicans of that parish to the office of parish judge—was nominated upon the democratic ticket at the same democratic convention, not for the same office, but for the Legislature of the State, and we found him there occupying a seat on that side of the chamber, and one of the leading men of the democratic party in the Legislature of that State. The police jurors of that parish had been republicans, but under a law passed almost immediately after the democratic party secured the control of the State of Louisiana there was given to the governor of that State the power to appoint a number of police jurors in every one of the parishes of the State, and that power he had exercised in the parish of Tensas; so that although the police jurors of that parish had been divided before that between the two parties, yet when the appointees of the new governor came in the power was in the hands of the democrats of that parish totally.

The men got out warrants for Fairfax, whose house had been raided. They charged him with murder because Peck was killed by some of his own men in the *mêlée* that took place in that house; but no effort was made that I learned to sue out a warrant of any kind against any man who attacked his house. But there is another side to this story. After this democratic convention was over a portion of the white democrats of that parish were dissatisfied with the result of it. They were utterly disgusted with the nomination of Cordill, a scalawag, for the Legislature, and of Register, a scalawag, for sheriff, and they just swore they would not stand it; and they called an independent democratic convention and put in the field an independent democratic ticket, every man on which was a white man, every man on which was a democrat, and four-fifths of whom had been in the rebel army. That ought to have been democratic enough to suit almost any one, it seems to me. And yet it did not. Before that canvass closed thirty men of the kind I have named to you were compelled to and did ensconce themselves on the plantation of one of them behind a barricade of cotton-bales, with arms in their hands, to defend their lives against the attacks of raiders from neighboring parishes, who were raiding around through that parish to deter men from going to the polls to vote, not the republican ticket, but the independent democratic ticket.

I have a little testimony about this matter. It was my pleasure during that visit there to make the acquaintance of a man by the name of Warfield, Elisha Warfield. He was born in Kentucky. The Senator from that State may know the name. We have an offshoot of the family in Iowa. After being raised in Kentucky he went to Arkansas. The Senator from that State may be able to say something as to his knowledge of him there. I do not know whether he can or not. He was raised in Kentucky, lived some years in Arkansas, and when the rebellion broke out raised a regiment and marched at its head into the confederate army and did doubtless what he conceived to be his duty there.

I said I had the pleasure of making his acquaintance, and I mean just what I say. He is a still, quiet man; and yet if any day I was to get into what we call in the West a tight place or knew I was to get in a tight place where I needed a man to stand by my side who would neither blench nor fear under any circumstances I would not take a better man than Elisha Warfield. It is an uncomfortable thing in that section of the country and ought to be in every section of the country to charge a man with untruthfulness, and now I have this to say, that I do not know a more uncomfortable man in all my acquaintance to make a charge of that kind against than Elisha Warfield if it could be made when he was by. There is no man who knows him who will question his truthfulness.

Now, let us see what he has to say about the way this thing works down there in Louisiana. He was examined before our committee. I put the question to him in the beginning after he had stated where he was born and that he had been in the rebel army, and so on, "What are your politics?" and he answered:

I am a democrat.

Mr. CONKLING. It was not necessary to ask him that after the preliminary questions.

Mr. KIRKWOOD. I did not do that.

Mr. EATON. If he was a truthful man that established that he was a democrat.

Mr. KIRKWOOD. After it had been answered that he was a democrat I put this question:

Still?

He replied:

Yes, sir.

Then he went on to give some of the details in regard to what occurred on election day there at a particular poll that he himself attended:

Q. Did you pay attention to the way in which the voting was done in your ward?
A. Yes, sir; I was there all day, except that I was gone down to the First ward about an hour and a half; the balance of the time I was there.
Q. You had no representative on the board there?
A. No, sir.
Q. Were the votes counted in public?
A. Yes, sir; I was present. Our tickets were yellow; theirs were purple. We polled the last votes that were polled that evening; the last tickets put in the box were thirty or thirty-five yellow tickets. When we opened the box the purple tickets were on top, four inches deep. Then I knew we were beaten.

The last thirty or thirty-five votes that went into the box were yellow ballots. When they opened the box to count the votes the purple votes were on top four inches deep; and when he saw that the man concluded that he was beaten. It looked that way, and it turned out that way.

Q. You had yourself seen those yellow tickets going in just before the close of the voting?
A. Yes, sir.
Q. How many white men were associated with you in this independent movement?
A. About twenty-five or thirty, I think, sir.
Q. What was the character of these men?
A. They were the best in our country, sir.

The Senator from Louisiana by looking at their names will be able to verify whether this is correct or not—the Blands, the Douglasses,

the Warfields, the McGills, and others of that kidney. Now let me get on a little further:

Q. Did they count the votes at the polls?
A. Yes, sir. The purple tickets came out first, and there were no yellow ones found until 150 or 200 purple tickets had been counted.
Q. How do you account for that?
A. I think a lot of purple tickets had been put in the box after the voting stopped.

I do not well see how it could have been otherwise.

They could not have got on top of the yellow tickets unless they had been put in afterward.
Q. You gave special attention to that matter?
A. I did. That was the first thing that struck me after the box was opened—that the yellow tickets which we had voted last, and that ought to have been on top in the box, were not there. Then I gave up. They had told us they were going to beat us anyhow; if they could not win by voting, they would by counting. And they did it.

Now, let me go on a little further.

Mr. EATON. Does he say what kind of a box it was? May it not have been with a slide in the bottom, which they opened first?

Mr. CONKLING. They undoubtedly turned the box upside down and opened the bottom!

Mr. KIRKWOOD. That may have been so.

Mr. EATON. I guess it was.

Mr. CONKLING. They stood the box on its head and opened the bottom. [Laughter.]

Mr. KIRKWOOD. Let me go on a little further. Speaking of the killing that occurred there:

Q. Do you know of any other persons being killed except this young man of whom you have spoken?
A. Not that I know of myself; I was told of another man being killed.
Q. Was there any excitement on account of what occurred at Waterproof?
A. Yes, sir.

Waterproof was the place near to which Fairfax was.

There was great excitement on account of that.

Now mark:

I lost three or four as good men—colored men—as I had on my place, as the result of that.
Q. How do you mean you lost them?

He said he lost three or four men, and the question is, "How do mean you lost them?"

A. They became so frightened that they left me and went into the woods, where they hid and staid out all night, without sufficient clothing and without bed-clothing. They caught pneumonia and died a few days afterwards.
Q. Why did they go into the woods?
A. Because we could not keep them back, they were so frightened. They would leave their quarters and come and sit in my yard, or would run out and hide in the woods.
Q. How many men did you have on your place?
A. Seventy-five or one hundred—about seventy-five, perhaps.
Q. How many women?
A. I could not tell exactly.
Q. The most of your men went to the woods?
A. Yes, sir. I went to see them in their quarters and they were pretty nearly all gone. The women were moved to my house, but the men staid out.

And that kind of thing was continued up to the election, and the result was when election day came the black man did not come out and the democratic ticket was triumphantly elected.

Mr. HOAR. That was a perfectly free and fair election on that day, I suppose!

Mr. KIRKWOOD. Oh, yes, of course!

Mr. President, I dislike this thing exceedingly. But there is another parish in this State that I want to allude to. The Senator from South Carolina—and I am sorry that he is not in his place just now—said to us yesterday that the black people were becoming democrats and voting the democratic ticket largely. We had before us a very intelligent gentleman as a witness from Tensas Parish; a Mr. James McGill, who according to his own report had been a whig before the rebellion, and who when the rebellion broke was in his own language "as hot a 'reb' as any one," and this question somehow came up during his examination as a witness and the inquiry was put to him what his observation was in that direction, and the answer he made the democratic members of the committee will remember, because it was a pointed answer, "Show me a colored man who voluntarily votes the democratic ticket and I will show you either a hypocrite or a fool." That was his estimate, and the observation I made led me to concur entirely in that estimate.

But I wish to refer now to another parish in that State, the parish of Pointe Coupée. I am not sure that what I am about to relate had any political significance as this occurrence in Tensas had. It occurred some time before the election, perhaps in June, but it tends to show how well protected the lives of colored men are there, how carefully their lives and property are guarded there. It appears that a young man by the name of Archer claimed that on a certain evening, while riding along the public highway, he had been fired at by four or five colored men. He was not wounded or killed, no injury came to him; but he had been fired at, and as a consequence a few days afterward a body of forty or fifty whites, in broad daylight, marched down the levee in that parish carrying with them five young colored men. After describing seeing the men come down the levee and some conversation he had with a neighbor, and some with his wife, Claiborne Cammon, colored, on page 420, says of himself and his wife:

We sat there, and I saw some white men come down, and then the others all came over the levee and started back. I heard Ben Haroldson say to another man, "Well, that is five sure." In about half an hour I went up on the levee, and I saw those five men hanging just that way—

Holding his arms down by his side—

with their arms tied to their sides. The men hung there until the next day. At eight o'clock Mr. Lejune—

A neighbor, a white man—

came down there with the fathers of two of those boys, and these three other men and myself went over there and took them down. We wanted to have them buried in the church-yard, but Lejune said, "No, sir; we will bury them right here, now; there's excitement enough now; if you take them away, there will be a heap more excitement." We dug a hole large enough for them, and put them in. That was about the last of June or the first of May. We never heard a word said about it. The next day it was like as if it had never been done; the colored people dare not speak of it.

No man has been disturbed in that parish in consequence of that murder of those five lads from that day to this, although the names of the men who did it are as well known as the names of the men who occupy seats on this floor.

Mr. JONAS. Will the Senator permit me to interrupt him?

Mr. KIRKWOOD. Certainly.

Mr. JONAS. I desire to say that the parish of Pointe Coupée is a republican parish, and that every officer in it, from the judge of the district court down to the sheriff and the coroner, is a republican, and was a republican at that time.

Mr. KIRKWOOD. It is the most astonishing thing in the world, Mr. President, that republican courts and republican officials and republican judges will punish crimes committed against democrats, but will not punish crimes committed against republicans.

Mr. EATON. Does the Senator deny that they are republican officials?

Mr. KIRKWOOD. Yes, sir.

Mr. EATON. From the testimony?

Mr. KIRKWOOD. It is a parish that sends a republican to the Legislature, and had a republican in the Legislature from that parish at that very time, elected at that election, and here is his testimony.

Mr. JONAS. Does the Senator deny that the officials of that parish were republicans at that time?

Mr. KIRKWOOD. I do, so far as the testimony shows; but whether they were or not, this thing is perfectly true.

Mr. JONAS. I wish to state the question fairly.

Mr. KIRKWOOD. Let me say my say. Whether they were or not, they were men who punished crimes committed against democrats; and the Senator will have to exercise a degree of ingenuity that I have never yet seen equaled to satisfy any intelligent man why the officials who would punish crimes committed against democrats would not punish crimes committed against men of their own political faith as well.

Mr. JONAS. Will the Senator permit me now?

Mr. KIRKWOOD. Yes, sir.

Mr. JONAS. I state from my personal knowledge, because I know them all, that all the officials of that parish at that time were republicans. The district judge of the district in which the parish was situated I have known from my boyhood. He is what the honorable Senator is pleased to call a scalawag; he is a republican of the most bitter partisan dye. The sheriff of that parish and every official of that parish at that time were republicans and elected on the republican ticket, and until the recent election in March last the parish of Pointe Coupée never since the colored man was allowed to vote has cast a democratic vote or has elected a democratic parish officer. Now, I desire to say——

Mr. KIRKWOOD. Well, Mr. President, I am perfectly willing to yield for a question or anything of that kind, but I am unwilling to occupy the floor myself and have the Senator make a speech at the same time. Will the Senator answer me a question?

Mr. JONAS. Yes, sir.

Mr. KIRKWOOD. Does he deny that the facts here testified to are true?

Mr. JONAS. I deny that the facts there, so called, as testified to are true. I say that that book is a tissue of falsehoods. I say that there is not one grain of truth to a bushel of falsehood. I say that the facts as he calls them, which he asserts were there proved, have been winnowed and examined in the courts of the United States, and have been proven to be false, and that the persons accused have been vindicated by the verdict of juries.

Mr. KIRKWOOD. Has this been before the United States court?

Mr. JONAS. No, sir, it has not yet been before the United States court, because no one could make the allegation that it had any connection whatever with politics or with the deprivation of persons of any political right or privilege.

Mr. KIRKWOOD. That may be so, but does the Senator pretend to say that this thing did not occur in that parish?

Mr. JONAS. I do not say that it did not occur; but the Senator interrupted me and prevented me from giving my version of it.

Mr. KIRKWOOD. I thought the Senator said he did deny that it did occur there.

Mr. JONAS. I did not deny that.

Mr. KIRKWOOD. The five men were hung, then?

Mr. JONAS. I do not know how many were hung. Some were hung. I will state that these are the facts as I understand them——

Mr. KIRKWOOD. The Senator will please wait until I get through.

Mr. JONAS. Permit me to answer your question.

Mr. KIRKWOOD. I merely asked an answer to my question and not a speech.

Mr. JONAS. I have understood some of the men were hung.

Mr. KIRKWOOD. Very well; let us see the proof in regard to it.

Mr. EATON. Perhaps they were hung by authority.

Mr. JONAS. They were hung by a court that exercises rigorous jurisdiction in the State which the Senator from Iowa represents, a court that convicts and hangs ten men in his State where one is hung in the State I represent—the court of Judge Lynch.

Mr. KIRKWOOD. The gentleman ought to be careful in making statements of fact about matters.

Mr. JONAS. I can prove it by history.

Mr. KIRKWOOD. I could never distinguish much between the absolute statement of what a man knew not to be true and a statement in regard to matters about which he did not know anything at all; but I will go on.

There was a gentleman—I presume he was a gentleman, because he was a member of the State Legislature of Louisiana at the time we were there—Gatien De Cuir. He was a republican from Pointe Coupée Parish.

Mr. EATON. Was he a democrat?

Mr. KIRKWOOD. I think not. I think he is respectable for all. I read from Mr. De Cuir's testimony:

Q. Do you hold any public position?
A. I am the representative from my parish in the lower house, State of Louisiana.
Q. How long have you resided there?

He was not a carpet-bagger.

A. I was born there, and so was my father, my grandfather, and my great grandfather.

He had a reasonably long residence there by himself and his ancestors. He was of French descent. Now, let us see what he says:

Q. You spoke of five men having been killed on one occasion; when was that?
A. It was in the summer; it might have been in June or July, I do not recollect it exactly. I never had any official transaction with that thing; they were hung in the day-time.
Q. Are these the same five persons spoken of by Mr. McGowan and the witness who preceded him?
A. I suppose so.
Q. Had not young Mr. Archer been fired on a few days before that hanging?
A. Yes, sir; he told me he was himself.
Q. Were not these men hanged because they were supposed to be the assassins that attempted to kill Mr. Archer?
A. That is what they say.
Q. And they were hung for that reason?
A. Yes, sir; so I understood. Some other people supposed other things, but I had nothing to suppose about it. They gave a reason that a few nights previous they had shot Dr. Archer, the son of old Dr. Archer, who ran against me for the house of representatives.
Q. You say these matters were brought before the grand jury?
A. No, sir; the hanging of these men was never brought before the grand jury. Governor Nicholls, I saw, had given instructions to the district attorney to investigate the matter, but it never came before the court.
Q. Was the whipping of these men—

Other men who were whipped—

ever brought before the grand jury?
A. Yes, sir.
Q. But indictments were never found, because the witnesses were not present?
A. Yes, sir; I supposed that was the reason. I understood it to be, but I have no right to know, for the grand jury is a secret organization.
Q. Mr. McGowan is the person at whose instance this matter was laid before the grand jury?
A. Yes, sir.
Q. You understood that the whole affair fell to the ground because there were no witnesses, did you not?
A. That is my understanding.

The white men who went down there and had hung the five men were not willing to testify, and they could not be compelled to do it, and no one else saw it. The men who went down there and saw the five men hung of course could not be called to testify, they having been present and equally guilty with those who did it.

Mr. DAVIS, of West Virginia. Were they accused of killing the man?

Mr. KIRKWOOD. They were accused of shooting the man; my apprehension is that he was not even scratched.

Q. The witnesses had run off, had they?
A. Some of them; some of them are in the parish yet.
Q. You say it was claimed that these men had shot at Dr. Archer?
A. Yes, sir.
Q. But you say that other people supposed the contrary?
A. Yes, sir.
Q. What was it that other people supposed?
A. Well, some said it was from politics. These five men who were hung had never been in politics; one of them was only about eighteen years old. Republicans of course will say they were killed for politics. Democrats will say they were killed for other reasons.
Q. They were killed by democrats?
A. Yes, sir.
Q. Is it known what men were engaged in the hanging of those five men?
A. I suppose it was known, but it never was investigated. I do not know that any of those who were engaged in it will deny it. It was all done regularly. They appointed a jury of twelve men; gave a lawyer to the accused, and a lawyer for the prosecution. The case was pleaded as if in court, and all was regularly done. That is, they had a lawyer on each side and a jury of twelve men who found the man guilty.
Q. Where were they tried, in the woods?
A. No, sir; on the public road beside of the levee. They were hung in a little woods. There was some trees near there.

By Mr. CAMERON:

Q. Were the jury colored men or white men?
A. White men?
Q. All white men?
A. Yes, sir.
Q. Was the lawyer a white man or a colored man?
A. A white man.
Q. Was there any colored man connected with the affair except the prisoners?
A. No, sir.
Q. Who selected this lawyer to defend them?
A. I never knew; I supposed the colored men did themselves.
Q. Do you know whether they did or not?
A. I do not; I only know that a lawyer was assigned them, and that the jury was regularly impaneled. I heard this from parties who were there at the time.
Q. Is that the way in which juries are generally impaneled?
A. No, sir.
Q. Is this the only instance where this sort of thing has occurred?
A. No, sir; it has happened before the war, and in the North States.
Q. You do not claim that it was done according to law?
A. No, sir; but sometimes we have certain laws which were called lynch law, where certain circumstances give a right for men to take another man and kill him.
Q. That is the way you understand that this was done—by lynch law?
A. Yes, sir; by lynch law.
Q. Was the trial had at the place where the men were hung?
A. Yes, sir; on the spot.
Q. Did they have a judge, according to your information?
A. No, sir; they had no judge. The jury reported, and the men were hung. Some of the jurymen left the spot before they was hung, because they were opposed to it. They thought these men should have been sent to the jury to be regularly tried.
Q. The jury were not unanimous, then?
A. No, sir. I suppose they agreed after that. There were about forty or fifty of these men. Out of that number a jury was formed, but some of those that were there left the place before the men were hung.
Q. Some of them had the idea that the men ought to be sent to be tried before a regular court?
A. Yes, sir.

And those poor fellows lie in that hole yet I suppose. The father wanted to take them away and bury them in the churchyard, but he was afraid it would cause an excitement and it was not done.

Now, Mr. President, these are specimens of things that the investigation in Louisiana developed there. I take no pleasure in telling them. I have never alluded to these things on this floor before, but when the attempt is made here again and again and again to carry to the people of this country the belief that the lives of the black men in these States are cared for as they are in the Northern States, that their rights are cared for there as they are in the Northern States, I should hold myself, with the knowledge I have acquired under your direction, derelict in my duty if I did not say what I have said, and these are but specimens of what occurred in parish after parish, parish after parish, during that investigation.

Mr. BAILEY. How many parishes in Louisiana does the Senator say these disorders are shown to have occurred in?

Mr. KIRKWOOD. I cannot tell the number.

Mr. BAILEY. Did they occur in exceeding four or five?

Mr. KIRKWOOD. In all we investigated.

Mr. BAILEY. I am speaking of those where disorder occurred, not of those investigated.

Mr. KIRKWOOD. I cannot speak of the number. I am sure the Senator from Colorado will have pleasure in looking up the list of parishes and giving the names of them. It is no pleasure to me to say these things. I would rather they should never appear in our RECORD to be read, and the only consolation I have in regard to that matter is that I do not think the RECORD is very extensively read, and perhaps what is here said will not be very extensively known.

Now, a few words, and but a few, about South Carolina. The manner in which the result was produced in South Carolina was different to a large extent from the manner in which the result was produced in Louisiana. It was mainly through the tissue ballots. I would not have alluded to them at all had it not been that I have understood both the Senators from the State of South Carolina to give as their personal judgment that the election of 1878 in the State of South Carolina was fairly and honestly conducted. That I have understood to be their personal statement in that regard; and that being so, it becomes necessary to state in a few words why I cannot concur with them in an opinion about a fact which they ought to know better than I know.

I cannot tell now how many counties in South Carolina we investigated. We investigated, I think, every voting precinct in Charleston County and several adjoining counties, but how many I cannot tell. In regard to these tissue tickets, we found in voting precinct after voting precinct, voting precinct after voting precinct, until the thing became monotonous and disgusting, that when at the close of the poll the ballots were turned out under the law in that State upon the table to be counted—not canvassed—the number to be counted in order to compare the number of ballots with the names on the poll-list, that when the counting was done there were from fifty—I think in some cases as low as fifty—to as high as five hundred in some instances more tickets found in the ballot-boxes than there were names of voters on the polling-lists.

How did this happen? If it had occurred at a single polling-place it might have been said that some irrepressible, irresponsible youngster who did not have a proper regard for the sanctity of the ballot-box and the majesty of the law had foolishly, wickedly, and presumptuously done this thing; but when it went on in precinct after precinct, and precinct after precinct through a whole county and through precincts in other counties as well, it shows a predetermined and deliberate fraud. It could not have happened by accident. Well, when they had gone to work and counted the number of ballots and compared them with the number of names upon the poll-list and found there were 100, or 150, or 200 ballots too many, they purged the

ballot-box; that is, one of the managers would either be blindfolded or would turn his back toward the ballot-box, and the tickets having been tumbled into it again, he would draw out the fifty or two hundred or three hundred in excess; and there is where the joke came in with regard to the tissue ballots. A blind man could tell the difference between one of them and an ordinary ballot, and the purging of the ballot-box resulted, I am very much afraid, very largely to the prejudice of the republican vote.

There is no disguising this. There cannot be. I do not impute to the Senator from South Carolina that his election as governor was secured in that way, because he ran without opposition. I do not impute to him that he knew aught of what was being done there in regard to that matter. I have no right to do so; no reason to do so; but these things did occur. They were not denied. We brought every republican supervisor who attended these polls and had him sworn, and if my recollection does not deceive me our democratic friends did not produce a single one of the democratic supervisors, who stood side by side with them, in order to contradict what was testified to if it had been wrong. The managers of the election were all democrats, the managers of the election were named by the democratic executive committee—not appointed by that committee, but named by that committee to the county board, who had the power to appoint the managers.

Mr HAMPTON. Will the Senator allow me to interrupt him a moment there?

Mr. KIRKWOOD. Certainly.

Mr. HAMPTON. The committees did not appoint the managers.

Mr. KIRKWOOD. I so said.

Mr. HAMPTON. They did not appoint them.

Mr. KIRKWOOD. I so said.

Mr. HAMPTON. I beg pardon. Nor were they all democrats.

Mr. KIRKWOOD. I have heard the testimony of one of the democratic—I cannot call the name of the committee of the county that appointed the managers——

Mr. CAMERON, of Wisconsin. Commissioners.

Mr. KIRKWOOD. County committee of some kind. There is a State authority appointed, and then a county authority appoints the managers of elections.

Mr. BUTLER. The commissioners of elections appoint the managers of election.

Mr. KIRKWOOD. The commissioners are appointed by the governor, and the commissioners appoint the managers of election. We had before us one of these commissioners, himself a democrat; and he testified that the managers of the election—that is, the men who sit at the polls on election day to receive the ballots and subsequently count them—were named by the democratic executive committee of Charleston County to the board of commissioners and were appointed by the board of commissioners, and that they were democrats.

Mr. HARRIS. Will the Senator from Iowa yield to me in order that I may move that the Senate proceed to the consideration of executive business?

Mr. KIRKWOOD. I shall be done in five minutes.

Mr. HARRIS. It is so late that I thought probably the Senator would not conclude his remarks to-day.

Mr. KIRKWOOD. I shall be done in five minutes. I want to get through. This is business I do not like—making speeches; but I call the attention of the Senator from South Carolina to the testimony of T. C. White, of Charleston County:

Q. Then, as you understood it, the democratic executive committee of the democratic party appointed the managers for the different voting precincts in the county?

A. I suppose they would designate them. I don't know that they would appoint them. I will say that we went by the printed law entirely.

Q. Is it not a fact that the democratic executive committee of the county designated the managers, and that they were appointed by your board?

A. The names came through them.

Q. That is the fact?

A. I believe it.

Q. A list of republicans was furnished to you and you were asked to make some appointments from this, and you refused to make any appointments?

A. Yes, sir; we refused.

Q. Why?

A. Because it had been done by the opposite party before, and we judged it would be so this time.

Q. Why did you refuse?

A. Because it had been customary before.

Q. Did the board talk it over and come to the conclusion?

A. If I remember right, there was a motion that there should be no republican managers, and it was carried.

I never heard the claim while we were there that there was a republican manager at any one of these boards.

As I said, Mr. President, this is very unpleasant to me. I feel a pride in our American Government, and it is humiliating to stand here in the Senate of the United States and have to say what I have to say to-day. I have refrained from saying it again and again and again until it has seemed to me in the face of what has been said otherwise that I was failing to do a part of the duty that properly pertained to me as a member of the committee that made this investigation, and that I ought to take some part in laying before the country what was the result of it, and now I have done.

Mr. JONAS. Mr. President, I desire to occupy about five minutes. The honorable Senator from Iowa [Mr. KIRKWOOD] has made a speech which he has prefaced and ended by expressing his great regret at being compelled to go into such a discussion, and to have to spread before the Senate facts, as he calls them, which he has culled from the report of the evidence taken by the Teller committee. I can scarcely give credit to these expressions of regret. At this late hour, after the report of this committee has been before the country for nearly two years, after it has been discussed repeatedly upon this floor, it appears to me that in going again into that mass of infamous falsehood and perjury to select from it a few examples which he says illustrate the condition of affairs and the political situation in the Southern States that he, like the hyena, is digging up the remains of the dead in order that he and his party may feast upon carrion.

I say, Mr. President, as I have had occasion to say before in this Chamber, that the only case which he has cited here to-day which could have any possible political significance, the Tensas case, was fully investigated by the Federal court in Louisiana, by a court which was presided over by a republican judge, a court which had a republican district attorney, which had a republican grand jury, which had a republican petit jury; a court before which the very parties were brought who were arraigned by the testimony taken by his committee, a court whose indictments were framed upon the testimony taken by his committee, a court where the prosecuting attorney used the report of the Teller committee (having had advanced sheets furnished him) in order to prompt him in interrogating the witnesses, and under all these circumstances the verdict of the jury stamped the evidence of these witnesses with falsehood.

Mr. President, while there may have been troubles in the parish of Tensas, which I am not called upon to defend—troubles which can occur in any community, such as have occurred in the South, the North, the East, and the West—I deny that these troubles had any connection whatever with politics; and the argument of the honorable Senator himself admits that no political issue was at stake, at least so far as the republican party was concerned. He says that the ticket, which he calls the democratic ticket, was composed in large measure of republican scalawags. Because this ticket prevailed and received the support of a majority of the people he stamps that ticket and its candidates with disapprobation; he stamps the evidence adduced on behalf of the friends of that ticket with his disbelief, and he indorses the other ticket and the candidates upon it when they appear as witnesses, although he admits that they were rebels, that they had always belonged to the democratic party and still belonged to it. If this was a mere contest between two branches of the democratic party, as the honorable Senator says, what political significance was there in it, and why should he bring it before the Senate and before the country to-day? Why should he who professes so much love and respect for the country and its honor seek to distort this case to the shame and disgrace of a portion of its people?

I say that the troubles which occurred in the parish of Tensas were not political. I say that in the parish of Tensas since that time the utmost peace and quiet has prevailed. It is a parish with a large colored population, who are prosperous and happy and contented. That parish produced the largest and most valuable crops last year and the year before ever raised by any equal number of laboring people on the face of the earth, and divided more wealth among the laboring classes who inhabit it than was ever realized by the same number elsewhere. In the election held last December, an election perfectly quiet and peaceful, without the slightest shadow of disturbance, both parties having their candidates in the field, the democratic ticket was elected, and elected by receiving a large majority of the votes of the colored people of the parish.

The honorable Senator has cited an occurrence which took place in the parish of Pointe Coupée in June, 1878, I believe, and which somehow found a place in the evidence taken by the Teller committee, whose duty, if I mistake not, was simply to inquire into the elections held in November, 1878, in Louisiana and South Carolina. At the time of this occurrence there was no political canvass going on in the State of Louisiana; neither party had nominated its candidates; politics were not discussed. A prominent citizen of the parish, a medical man, riding along the high road, was fired at from an ambush. The citizens turned out in pursuit of the parties who had fired upon him. I think the honorable Senator mistakes when he says he was not wounded. He was wounded.

Mr. KIRKWOOD. The evidence is otherwise.

Mr. JONAS. My impression is that he was wounded. They arrested some persons who were suspected. A regular trial was had. The proceedings, I will admit, were conducted in the court of Judge Lynch, but conducted with far more order and propriety than they are usually in the great Northwest, which the honorable Senator in part represents. These men were convicted upon their own confession that they were part of a sworn gang who had organized together for the purpose of assassinating not only Dr. Archer, but several others of the prominent citizens of the neighborhood; and with that confession upon their lips they were hung. I am not here to vindicate the action of the people who hung them; I do not know who they were; I do not know that their names have ever been mentioned; but I say that their act had no connection whatever with politics, and that it was a similar occurrence to many which have happened in other States of this Union, both North and South.

But, Mr. President, I repeat what I said before, that when these disturbances occurred in the parish of Tensas and the parish of Pointe Coupée the whole power and authority of those parishes was

in the hands of the republican party and of officials chosen by them. The district judge in each parish was a republican.

Mr. KIRKWOOD. Will the Senator say what he argues from that?

Mr. JONAS. Why, the honorable Senator says nothing was done, no inquiry was made, no prosecutions were instituted, these people were never brought to justice. Let the honorable Senator ask the officials of those parishes, whose duty it was to investigate the matter, to bring the parties to justice. They belong to his own party, the district attorneys, the district judge, the coroners of those parishes, the citizens of the parishes, (of whom he has said a large majority belonged to the republican party.) If there was any default they were to blame.

Mr. KIRKWOOD. What conclusion does the Senator reach from his premises?

Mr. JONAS. The conclusion I reach is, that the statement is not true that these offenses were committed in parishes where the democratic party was in power, and responsible (as the gentleman charges) for their prevention or punishment, and if no prosecutions and no punishments have taken place for these outrages, (if there were outrages,) if they have not been prosecuted, if there have been no trials and no convictions, the dereliction is with the parish officers, who belong to the republican party. I do not say that they have failed in their duty; I do not say that there has been any dereliction of duty; I do not know that there has been. There probably was in the case of lynch law. I am not here to defend lynch law either there or elsewhere; but I say if there has been any official dereliction, it has been on the part of the republican party. The honorable Senator is most unfortunate if, after having been a member of that committee, after having refreshed his memory by searching through the numerous pages of the testimony, he has only been able to bring forward what he has alleged to-day against the people of Louisiana and the conduct of the election of 1878 in that State.

The elections in Louisiana are as free and fair as they are in the State represented by the honorable Senator. Every man, white and black, can deposit his vote for the candidate of his choice. At the last general election, which resulted in a large democratic majority, there was not a riot, not a disturbance, not a quarrel throughout the length and breadth of the State; and no one complained of the result. Testimony to the fairness of that election has been given by the members of the republican party elected to the Legislature, and the best proof of the good feeling and amity which prevailed between the races and the parties in that Legislature was evidenced in the fact that every member of the republican minority cast his vote for the gentleman who was elected by the democratic party to a seat in the Senate in 1883, Hon. Randall L. Gibson.

Mr. President, it is time that these calumnies should cease. Let us look at the condition of the people now, let us look at the condition of our politics now, let us look at the condition of our States now, and not go back on the eve of an election to rake up the ashes of the past to revive these disputed and disproved calumnies, these malignant charges which have been exhausted in the political campaigns of the past. Let us look forward, with sympathy and interest, to the glory and welfare, the peace and happiness of our whole country, and let us exalt its honor both at home and abroad.

Mr. KIRKWOOD. What is the desire of the Senator from Delaware, to go on to-night or to adjourn?

Mr. BAYARD and others. Let us vote.

Mr. KIRKWOOD. I will say a very few words. The Senator from Louisiana alludes with a great deal of self-complacency to the fact that the prosecution against these men in Tensas Parish before the United States courts in New Orleans failed. They were indicted for conspiracy; and a lawyer much less distinguished than the occupant of the chair knows that conspiracy is perhaps one of the hardest crimes to prove that there is in the list of crimes, even perhaps harder than that of perjury. If the juries in the United States were packed as the Senator from Louisiana says, how happens it that these men escaped? But he says that in the parishes to which I referred the local courts, the local criminal officers were republicans. They were engaged in punishing all other kinds of crimes, regularly, did punish all other kinds of crimes, but when their own political friends were injured by crimes committed against them the courts presided over by republican judges, with prosecuting officers themselves republicans, failed to punish these crimes against their own political friends. That is strange and suggests to me that there must be some other cause than the fact that they were of a particular school of politics. The difficulty may result somewhat from the peculiar nature of the crimes committed. They are committed by men who have to testify against each other in order to prove them. It may be that men who happen to know anything are deterred from appearing. This appears to me to be a much more reasonable solution of the reason why these crimes were not punished than to suppose that republican officials and republican courts who will punish every other kind of crime fail only when it comes to punishing men who commit crimes of this kind. That is all I have to say.

Mr. TELLER. Mr. President, I do not propose to take the time of the Senate by any extended remarks on this subject. The Senator from Louisiana has made some very extraordinary statements. He declares that all the testimony taken by the committee is a tissue of falsehood, or words to that effect. Now, Mr. President, as stated by the honorable Senator from Iowa, we determined to take and did take the testimony of very many democrats, and I propose to read the testimony of quite an influential democrat. I believe he was speaker of the house of representatives of Louisiana when the honorable Senator was elected to the Senate. The statement that there was such a peaceful, quiet condition of affairs in Louisiana in the fall of 1878 is not borne out by the testimony of democrats, and I will not refer to any republican; I will refer to the testimony of democrats. It was in evidence and not disputed that there had been trouble at some political meeting prior to the day of election. It was claimed by the democrats that if there was trouble there, which they did not deny, it originated in the imprudent course pursued by republican speakers. Among others it was charged that Mr. Leonard, the United States attorney, had made very imprudent and improper speeches, and they justified these disturbances and this destruction of the political meetings on the ground that Mr. Leonard had made incendiary speeches, calculated to inflame the negroes and to excite them against the whites. I inquired of the speaker of the house of representatives, a democrat, as to what an incendiary speech was, and I will read to the Senate what he stated, and what is considered in Louisiana a justification for breaking up a republican meeting and silencing a public speaker who proposes to discuss political questions I suppose when it is understood that a political speaker cannot prior to the day of election discuss the ordinary political topics of the day without being mobbed nobody will ever infer that there could be, or that there would be, a free and a fair ballot.

Mr. Moncure, who I understand to be a man of character in the community—he must have been or he would not have been elected speaker—was brought before the committee by the democratic portion of it, and these are questions put to him by me with his answers:

Q. Did you hear of any other disturbance during the canvass?

A. I do not think I recollect any disturbance except the one at Spring Ridge. I heard time and again of Mr. Leonard's speeches having given very great offense to our people, for the reason that the people regarded those speeches as very incendiary and calculated to bring very serious hazard upon their families, their wives, and their children. The negroes outnumber us as three to one; in some parts of the parish five to one or six to one; and our people are extremely sensitive when anything incendiary is said to those negroes, and they may have given expression to their very great objection to such speeches being indulged in.

Q. Now, will you state what you call an incendiary speech?

A. I did not hear Mr. Leonard's speech, and, of course, I cannot repeat.

Q. I do not desire you to repeat what he said, but to state what you consider an incendiary speech?

A. Any speech that has a tendency to arouse an ignorant set of people like the negroes, and to encourage black people to rise against the whites; such speeches as you, in your section, would regard of an innocent character I consider injurious and incendiary.

Q. I cannot yet form a definite opinion as to what you mean; we do not use the term in our northern and western country very much; I never have heard a man in the North charged with making an incendiary speech. I have frequently seen the word in the papers.

The witness then goes on:

A. I will give you what I heard was the speech made by Mr. Leonard at Spring Ridge, and will say that I consider that to have been an incendiary speech.

This is what Mr. Leonard said:

I was told that Mr. Leonard said that a great prejudice exists between the democratic party and the republican party, between white people and black people. "Now," he said, "this prejudice ought to be got rid of. Some of these white democrats who have been slaveholders in years gone by have brought down to this present day the prejudices of that time long ago when they were slaveholders; and some of you colored people have your prejudices, too. You remember the time when you were hunted down by the slaveholders with dogs; you remember the time when your backs were lashed by the bull-whip, and it is difficult for you to get rid of the prejudices driven into you under such circumstances. But," said he, "you must get rid of such prejudices." He spoke of the condition of affairs in the country, and said he knew of no remedy. He went on to say that these planters buy their provisions, such as bacon, for instance, at eight or ten cents a pound, and sell it to the colored people at fifteen or twenty or twenty-five cents a pound. They rent their lands for $3 an acre when they would sell them outright for less than that. Now, gentlemen, you have no such condition of things in the North.

This is what the speaker of the Louisiana house said to us:

Now, gentlemen, you have no such condition of things in the North; you have no such people to dwell with in the North; and knowing the negro as we do, we consider that kind of talk exceedingly dangerous.

Then I said:

Q. That is what you mean when you speak of incendiary talk?

To which he responded:

A. Yes, sir; and such a speech as that would be considered an incendiary speech by anybody.

Of course referring to anybody in his section of the country. If a man cannot make a speech of that kind in Louisiana, and the evidence of that is democratic evidence, which even the Senator from Louisiana will not question, nobody will stand up before any intelligent American audience, much less the American Senate, and claim that under that condition of affairs there can be a free and a fair ballot. A free and a fair ballot was never had in any country that stifled public discussion, that limited any public expression of opinion as it is stated by the speaker of the house of representatives of Louisiana that they limited it in that great State.

That cannot be gainsaid and cannot be denied. The testimony as to the condition of affairs in Tensas Parish does not rest upon the testimony of colored men or republicans; it rests upon the testimony of a democratic governor, given to the people of that State in his annual message. It rests upon the testimony of Elisha Warfield, of Bland, of Douglass, of Rollins, and of other men of character and property in that parish. Mr. Warfield testified that they were so certain that this was a political maneuver and for political purposes

that they notified the bulldozing democrats who were opposing the independent ticket that if they came into their neighborhood to bulldoze the colored people they would protect them with their rifles, and he testified, as did others, that so determined became these bulldozers, and so imbittered, that they proposed to make a fight, not against the colored men, not against the negroes of that section, but against the independent voters, on what was known as the Bland ticket. The testimony is that Mr. Bland, Mr. Douglass, Mr. Rollins, and their associates notified the colored men that this was now their fight. They said, "This has ceased to be a question between you and these men, and it is a question between us white men, and you need not step into this fight at all; you go to the rear and we will fight it out;" and then he testified that they met down at Douglass's house, where there was a suitable place to intrench, and that there these independent white voters, democrats at that, intrenched themselves behind cotton-bales to fight their fellow-democrats who were making a raid upon them to prevent them—not negroes but white men—from exercising the highest privilege of American citizens, the right to go to the ballot-box and vote as they see fit.

Mr. President, when that is done to white men, when that is done to ex-confederate colonels and ex-confederate majors and captains, need I say that the honorable Senator will speak louder and oftener than he has done upon this floor or will be able to do on this floor to make the American public believe that there is a free and a fair ballot in the State of Louisiana?

Sir, this testimony has been on file in the Senate for more than a year, and I will say as the Senator from Iowa said, I have not alluded to it before. I made a speech upon political questions last year in which I but casually referred to it. There is evidence coming from democrats that is of the most damning character, that if it were read in the presence of any white man, democrat or republican, he would blush. There is testimony of murders committed there of a bloodthirsty character that would disgrace a Ute Indian. I have never read it to the Senate for the credit of the American name; but when the Senator from Louisiana rises and says there is in Louisiana a free and a fair ballot, I should mark myself down a liar if I did not stand up and say that the Senator is misinformed or does not intend to correctly state the facts in this case.

Mr. President, if this rested upon the simple testimony of colored republicans, it might be said with some degree of reason that there might be some falsity in it; but when it stands here proven by the declaration of the governor, by the speaker of the house, by influential and honorable democrats, it will not do for the Senator to cry it down in this way.

Mr. President, I do not mean to say that the people of Louisiana approve of these things. These men were democrats who denounced them, and Mr. Warfield said that he was prepared to fight for the cause of freedom, not simply of his white neighbors, but of his colored neighbors at the ballot. There are a great many democrats in Louisiana who will do that; but the organization is in the hands of men who do not believe in the freedom of the ballot; they do not practice it, and they do not intend that anybody else shall practice it in that great State; and if anybody now wonders that the colored man leaves Louisiana and seeks the wilds of Kansas and Colorado and the Northwest he will not wonder when he has read the testimony here, and that, too, if he shall read nothing but democratic testimony, given by men whom the honorable Senator knows well he dare not characterize in their presence as untruthful or unworthy of belief.

Mr. President, this testimony has been here, I repeat now, a long time, and I have not referred to it. I never would have referred to it, and I would not have referred to the tissue ballots, but for the fact that after having referred to them casually the honorable Senator forced me into it. I do not want to put upon the record of the Senate that there is in this country any considerable number of men who have such a great disregard for the rights and privileges of their fellows that they are prepared not simply to resort to the tissue ballot, but to go on and murder men, that they may have their will and their way.

Sir, if the American Republic shall stand, it must stand by the honest effort made by its citizens to protect the ballot, and when any considerable majority of the people of a State shall abandon the attempt to preserve the purity of the ballot then that State is in danger, not simply of going from a republican to some other system, but of going from republican government to absolute anarchy and destruction.

I charged yesterday—I did not mean to do it offensively—that the democratic party dared not discuss these questions. And now here after another day, after we have discussed this bill, has anybody defended it? Has anybody stood here and said that this bill is in the interest of a free and a fair ballot? If Senators can make me see that, I will vote for it, because I believe in a free and a fair ballot. I do not believe even in the doctrine that the Massachusetts people maintain, that there should be an educational qualification. No, Mr. President; when you have undertaken to do that, when you have provided that a man should read and write, that he should be able to read the Constitution before he can vote, the next Legislature may say he shall interpret it intelligently; and when you have said that, you may say, as they say in many States, he must have paid his taxes before he shall vote, and you may then say with equal propriety that he must own real estate.

Sir, I was educated in the old democratic doctrine that every man ought to have the right to walk up to the ballot-box and express his sentiments, and that when he had done it, it was the sacred duty of the Government—if not of the States, of the nation—to see that that ballot was counted. That is all I have ever asked. The democratic party have spent a session here, not to protect men at the ballot-box, but to destroy, in my judgment, the safeguards that we as a party have thrown around the ballot. If they are defective, let us amend them; if they are wanting, let us make them perfect. But when they come here with a bill which nobody stands up and says is in the interest of a free and a fair ballot, or if he does, declines to state how and why, I say that I was not presumptuous when I declared that a democratic edict had gone out from a democratic caucus that the democrats should not discuss these questions. They knew very well that if they discussed them they must discuss them honestly. I did not mean that personally they were afraid of it; I meant that the great party back of them meant to say to them, "You spoke too plainly in the extra session our sentiments and ideas; you said too much, and the people are not with you; you must lie low and go slow now at this session, or we shall not clutch the Government; we shall not elect a President." I said that, and I said it in view of the history of the democratic party, and I repeat now as to all the frauds that have ever been perpetrated that the democratic party has never refused to accept the result of frauds. Everywhere they have taken it. Whether it gave them the control of a State or whether it gave them the control of the United States, a Senate or a House of Representatives, there is yet the first instance to be put upon record—they may yet do it at this session, but it has yet to be done—where they have declined to accept the results of fraud perpetrated in the interest of the democratic party.

I do not charge upon the Senators from South Carolina collusion in this or the Senator from Louisiana or from any other State. It is a sentiment that is in the people there, and whether it originated in hostility to African suffrage or what, it is there; they deny the right of a certain class of men to vote and the right to speak, whether they be black or white, according to the dictates of their conscience. I have not any apologies to make for the statement that the Senators on the other side would not discuss this question. They will not; and if they come here to-morrow with this bill pending they will go off upon a side issue and not one of them will discuss the question of the power of the National Government to protect its voters at the polls, and that is the issue presented, and I think all these others are but side issues, and for that reason I did not propose to introduce them. Has the Government the right to protect its voters at the polls if the State refuses so to do? That is the issue before the people on this bill, and now let the democratic Senate come up and discuss with us that proposition, not whether there was a fair election in 1876 or 1878, but are you presenting legislation tending and calculated to give us a free and a fair election and a free and a fair count in 1880, and that is what we will discuss with you and to your heart's content.

Mr. THURMAN, (Mr. GARLAND in the chair.) Mr. President, fortunately for the Senator from Colorado there is no rule in this Senate that requires a Senator's remarks to be germane to the matter under consideration. If there were such a rule, not one single sentence that the Senator from Colorado has uttered in his various speeches on this bill could have been uttered without his being out of order.

Mr. TELLER. As that is not the rule, I suppose I was not out of order.

Mr. THURMAN. No, the Senator was not out of order, because it is the rule that a Senator may speak about anything he pleases, no matter what is the question pending before the Senate.

Mr. TELLER. There is more freedom here than there is in some other sections.

Mr. THURMAN. That is the Senator's assertion. There are other people who do not think so.

Now, Mr. President, the Senator has got up here and has rung the changes with damnable iteration that this is a measure in favor of fraud at elections. Has he pointed it out? Has he shown it? Has he shown one single word in this bill that opens any door to fraud? Has he shown any single word in this bill that lessens the power of the Federal Government, whatever that power may be? Has he shown that this bill in any degree fails to protect voters? Has he shown that this bill is not just as strong and as powerful in its protection of the rights of the American people as the laws as they now stand on the statute-book? No, sir; and why not? Because he cannot. But he has started the campaign of 1880 by flaunting "the bloody shirt" and digging up his miserable old report of southern outrages for stump speeches for 1840.

Several SENATORS. Eighteen hundred and eighty you mean.

Mr. THURMAN. Yes, 1880; but I cannot help thinking about 1840. And now I will tell the Senator why I think about 1840. The Senator has the audacity to talk about democratic frauds at elections. Why, sir, that term, which will be immortal in American history, "pipe-laying" as referring to frauds in election, did not originate in democratic frauds, and if the Senator sees fit to go with me, some time when there is time to discuss it, through the history of elections in this country and see what party is most responsible for frauds in elections, what party has most gained by frauds in elections, what party has been most injured by frauds in elections, I will travel with him until he is tired of the journey.

But now, Mr. President, let us see what this thing is. Here is a bill that does not abolish the office of supervisor of elections; that does not take from any such officer one single power; that leaves them all precisely where they now are, but that simply fixes the duration of their offices, and that proposes, if the amendment I have had the honor to offer shall be adopted, to dispense with the services of certain men who, in the opinion of the majority of the Senate, have disgraced the offices they hold.

Mr. EDMUNDS. The Senator has forgotten one point in the bill, I think, and that is that it takes the appointment from the courts and gives it to the Senate of the United States.

Mr. THURMAN. No, it does not. It gives it to the man who by the greatest fraud that was ever perpetrated in this country now sits in the White House. And now the Senator talks about democratic frauds.

Mr. EDMUNDS. Is that the reason why the Senator wants to have it there?

Mr. THURMAN. No, the Senator knows very well it is not; but that estops him, that estops every man on that side from saying that this is a partisan measure. When we offer to put it in the hands of their own President, though we do not believe that he ever was elected to that place; when we offer to put into his hands the appointment of these supervisors, it will be useless for you to say to the country that this is a partisan measure on our part.

Mr. EDMUNDS. Why, Mr. President, is the Senator willing——

Mr. THURMAN. If the Senator wants to interrupt me, very well.

Mr. EDMUNDS. I do not wish to do so without the consent of my honorable and distinguished friend.

The PRESIDING OFFICER, (Mr. GARLAND.) Does the Senator from Ohio yield to the Senator from Vermont?

Mr. THURMAN. I do not wish a speech injected into mine; that is all. If the Senator has a simple, naked question to ask me in the Socratic method, I will answer him as well as I can.

Mr. EDMUNDS. I should hardly be willing to put a naked question to my friend just at this time, because it might not be exactly modest, but I should like to put a question to my honorable friend, clothed in suitable apparel.

Mr. THURMAN. The Senator would like to inject a speech in mine. That I object to. I do not do that with other Senators, and I will not submit to it on my part. A simple, naked question I will listen to; but as to having a speech, according to the bad custom which has grown up here, injected into the midst of another Senator's speech, I object to it.

Mr. EDMUNDS. Then I shall overcome my modesty and put a naked question, if that answers the desire of my friend better at this present time. I wish then to put this naked question: When he says that this appointment is given to the President of the United States, I ask whether the President of the United States can make such an appointment without the consent and approval of my honorable friend and his political associates?

Mr. THURMAN. The bill answers it. On the motion of the Senator from Massachusetts [Mr. HOAR] it was amended to allow the President to nominate in vacation. The bill answers it from the amendment of one of his own friends.

Mr. EDMUNDS. But take it without the vacation. We have not a vacation just now.

Mr. THURMAN. I do not answer questions that have no pertinency whatever.

Mr. EDMUNDS. Oh!

Mr. THURMAN. If this bill passes and the President should do his duty as he ought to do, and send in these nominations before the Senate adjourns, then we shall have a word to say upon these nominations. I hope he will do so. I hope for his own credit, I hope for the credit of his office, I hope for the credit of the State from which he comes, that he will do so; but he is not compelled to do it.

Mr. EDMUNDS. May I ask another naked question?

Mr. THURMAN. Wait until I answer this. And then, Mr. President, if he should perform his duty and send these nominations to us before the Senate adjourns, is the Senator from Vermont here to say that the majority of the Senate will not decide honestly and conscientiously upon those nominations?

Mr. EDMUNDS. Not from their point of view; but from my point of view I should say quite the reverse. But, Mr. President, the naked question I wished to put to my friend is whether he knows of any constitutional provision of law at this present moment that would enable the President of the United States to adjourn the Senate, and whether we cannot continue to sit here until after the first Tuesday of November if we thought we could shut off all supervision of the election.

Mr. THURMAN. Beyond all question we might do so.

Mr. EDMUNDS. And probably would.

Mr. THURMAN. That is just about as strong an argument as has been made on that side of the Chamber, that this Congress will continue to sit here until November!

Mr. EDMUNDS. Not this Congress, but this Senate.

Mr. THURMAN. Or that this Senate will. When the Senator from Vermont, with all his fertility of mind, is driven to put such a proposition as that, such a supposition as that as an argument in this Senate, then the cause that he advocates is weak indeed.

Mr. EDMUNDS. But what is the answer to it?

Mr. THURMAN. My answer to it is that the Senator knows as well as I do, as well as everybody else does, that the Senate has no idea of sitting here to any such time. He knows as well as I do that the majority on this side of the Chamber would adopt the House adjournment resolution if it were not for the obstruction on that side of the Senate.

Mr. EDMUNDS. Which is manifested by my friend occupying the time, I suppose.

Mr. THURMAN. No, it is the Senator from Vermont that is occupying the time by interrupting me.

Mr. EDMUNDS. Then we are doing a better public service than I supposed. But, Mr. President, supposing this bill is to pass—and I am perfectly serious, and I do not wish to interrupt my honorable friend for whom I entertain the highest respect as he knows—suppose he should get this bill passed to-day and it should get the approval of the President; suppose that to be possible; and then the question of the appointment of the chief supervisor who controls the appointment of all the others, whether they can exist at all or not, comes up. The adjournment resolution not having been passed, the majority of the Senate amend the House resolution by providing that the House in its congressional capacity and the Senate in its congressional capacity may cease their functions on the 31st of May or the 15th of June or any other time, but with a provision that with the consent of the House of Representatives the Senate may stay. The Constitution provides for that. If I were in the majority and had the wit and wisdom that belongs to the majority of this body, if I had gained the point of passing this law, I should not go home until a certain very warm place as it is said should freeze over between now and November, and I would stop their being any supervision of the elections, on my democratic theory that Congress has no business to interfere and that if it did it ought to be checked in every other way, and we would have a free run, and I think that will happen if you pass this law.

Mr. THURMAN. Now, the honorable Senator from Vermont has only shown how much bolder he is in carrying out his party views or his party measures than are the gentlemen on this side.

Mr. EDMUNDS. That shows the boldness of truth.

Mr. THURMAN. The Senator from Vermont, during the long years that he has been accustomed to sit in this Senate, has become so much accustomed to revolutionary measures and to despotism in this Chamber that he might be willing to do that. I do not think the majority on this floor are willing.

Mr. EDMUNDS. Does my friend think that the Senate staying here under the Constitution is a revolutionary measure.

Mr. THURMAN. The Senator himself seems to think that it would be a measure fraught with danger to the country.

Mr. EDMUNDS. Oh, no.

Mr. THURMAN. Now, I beg the Senator to take his seat and possess his soul in peace.

Mr. EDMUNDS. Certainly, if my friend has got enough, I am satisfied.

Mr. THURMAN. Yes, I have got quite enough of that.

Now, Mr. President, I repeat once more, we have debated this bill two days; the Senator from Colorado complains that we have not discussed it on this side. Why have we not discussed it? Discuss his speeches, answer his bloody shirt which had nothing more to do with this bill than it had with squaring the circle! Can the Senator with any propriety pretend to say that we have not answered speeches that had no more to do with this measure than they had with seeking the North Pole. No, sir, we have not answered his speeches. His speeches, if they had been made anywhere else than the Senate, would be called stump speeches. They will be repeated on the stump; they are to be published in campaign documents. They are not made to influence anybody here, but they are made to try to wave aloft once more that "bloody shirt" which has sometimes proved too successful in controlling the judgment, and the patriotism, and the cool common sense of the people of this country. That is all there is of that.

And now I appeal to every one who hears me, here is a measure that in no wise strikes down or touches or weakens in any way the power of the Federal Government; that changes no law; that weakens the power of no officer whatsoever. It has no such effect whatsoever. If it were the law to-day it would be just as effectual in preventing frauds at elections as are the statutes which now are upon our statute-book. And upon this law we have had two days' declamatory stump-speaking about the election of 1876. I am willing that the country shall understand it. I am willing that the country shall know that if this Senate stays in session for this kind of debate when there are hundreds of bills on the Calendar of Congress that need the attention of Congress the minority in this body is responsible, because instead of discussing the measures which fairly come before the Senate they are wasting the time of the Senate and preventing the transaction of business by speeches that are simply made for the campaign next fall, and are not meant to influence the vote of a single man in this Chamber.

Mr. EDMUNDS. Mr. President, I am very sorry that my good friend from Ohio has not found time to devote himself to the provisions of this bill in the few remarks he has made. He has proposed for one thing an amendment to this bill which is now pending, which proposes by an edict, as I consider it, but that is a matter of opinion, to dismiss a certain number of people who hold a lawful office from that place and to say that those people shall never hold it again.

That proposition has been combated with more or less force, I do not say how much, but considerations have been brought forward against it. Instead of my friend from Ohio undertaking to maintain the constitutional or specific or just wisdom of that proposition, he has proceeded to assail the gentlemen on this side of the Chamber for taking up time, and that is all; and he has said in addition that this bill does not make any change in any essential aspect of existing law. If it does not, why is it pressed? Why is it that for the first time in the history of this Senate for fourteen years that I can speak of from personal knowledge the Senate has refused to consider an appropriation bill, which is waiting to press this matter that the honorable Senator from Ohio says really leaves the law just as it is, does not make any essential difference. Will anybody believe that? I do not mean that anybody will doubt that my friend is sincere; but will anybody take any stock in that kind of logic or reasoning? If this bill is fit to stand in the way of an appropriation bill at all, it is because it contains somewhere in it, by direction or indirection, by fact or consequence, some important change in the law as it stands now; and it does contain it beyond all question. The sanhedrim that invented it, the committee of safety that perfected it, the kings of the caucus that direct it now, are not wasting all this time, as they call it wasting time, to get it through unless it has got some stomach in it, unless there is some milk in this cocoanut. I doubt if my honorable friends are passing it merely for the jollity of the shell, and the milk is so obvious that no one can fail to see it. It is simply this: that while the law now puts the supervision of this affair through this chief officer and by whose recommendation alone any other supervision can take place, in the hands of the judicial power of the United States as a part of their judicial administration, it is proposed to take it away from that judicial power and put it into the negative and controlling power of the majority of this body. That the honorable Senator from Ohio has not denied, and he will not deny it, because he cannot nor will any other man. There it is. That is exactly what you mean to do, and you say that does not make any essential change. If it does not, then the courts are as good as the democratic party. If it does, then from your point of view the democratic party is vastly better than the courts, and you ought to pass it. Well, Senators, pass it if you can, but do not have my honorable friend and leader stand up here and say that you are proposing a mere phraseological bagatelle, a mere hollow *simulacrum*, a ghost of a ghost of some phraseological change in a statute that is of no consequence, and that we are guilty of great impropriety in proceeding to try to hold it up to the light and scrutinize it for mere political effect. Just stand fast by your colors, but tell us plainly, as some of you did yesterday when you were more candid than wise perhaps, that this is a part of a designed scheme, one of the bricks of this edifice of retrogression that you are undertaking, and say that, and say that while you will not allow an executive officer to be appointed by the President of the United States through his marshals you will not allow the courts of the United States to select from among their judicial officers a man to perform judicial functions in reporting to them the suitableness of the selection of ordinary supervisors, and that you will take it into your party control yourselves for this election.

That is what you say; and the honorable Senator from Ohio cannot talk so loud or so long about something else as to disguise that fact, because he does not talk about that fact at all and he cannot deny it. Here it is. You mean to say, therefore, that the next election shall be conducted under exactly such provision as the majority of this body and the majority of the majority of this body may think fit to prescribe.

My honorable friend says that that must be a mistake because, in spite of the committee, the Senator from Massachusetts has offered an amendment so obviously defensible that no man could open his lips against it and in committee—we do not know what will happen to it in the Senate—it has been agreed to. And what is that? It is that when the Senate is not in session the President of the United States may, under the Constitution and for the time being, appoint these officers. Does anybody doubt the patriotism of the men who compose the majority of this body? Certainly nobody on the other side doubts it, and if they believe that the welfare of the people of the United States demands that there shall not be any national, unconstitutional interference with elections next fall, do you suppose they will selfishly run away from their duty instead of staying here to have the Senate in session ready to confirm the appointment of chief supervisor to regulate the appointment of the others, and to confirm only those men who are the chiefs of Tammany or the chiefs of the Ku Klux, as the case may be? In fact, I think it would violate the rules for me to doubt that kind of patriotism. It cannot be that the heat of the weather would send you, sir, [Mr. WALLACE in the chair,] to the beautiful mountains of Pennsylvania on such an occasion! You would burn at the stake first; and our staying here is very much like it, I admit.

No, Mr. President; you get this passed into a law if you can persuade the co-ordinate branch over here, and I do not know but you may, and then can persuade the other co-ordinate legislative branch (which is not quite so clear) to be entrapped and cheated into this performance, then the sun of November would go down before this Senate disappeared from this Capitol until you had taken the control of every supervisor of elections in the whole United States; and you would have been the judge, the chief supervisor being appointed, whether the men he recommends as being the fair representatives of two opposing parties are those or not, and you and he might say in the State of Iowa that it would be the greenbacker and the democrat who should be the two supervisors instead of the democrat and the republican or the greenbacker and the republican. In other words, the man who had committed the offense of being for the Union all the time and for fair play all around, and for a great many other things that republicans are supposed to be for, would not appear on the scene in any place out of New England, and in some States he would not appear there, one at least—I do not know that there is more than one; because I am bound to say for the honor of what is called the democratic party in Connecticut that I have now in my mind, which I look upon with great respect as the mother of the State of which I am a native and a citizen—that this greenback notion has not got a large sway there; and I doubt even if my friend from Connecticut, whom I have now in my eye, would recommend any chief supervisor to put in a greenbacker and democrat as supervisors of election there. I do not think he would do it; I know he would not. But when you go up into the northeast corner, into the place called the State of Maine, if that is in the Union, which is questioned in a certain point of view, it would be another thing, and in Massachusetts it would be another thing, and in New Hampshire it would be another thing; and I do not know but in Vermont, for I understand there are fifteen or twenty people there who are national greenbackers or something of that kind, and the supervisors of election in that State if any were called for as they never have been might be taken from them and the democrats.

Mr. EATON. How about Illinois?

Mr. EDMUNDS. There is the independent party which would knock everything endwise; that problem is too much for me; I must leave out Illinois. You will see, therefore, to be perfectly serious—and I only refer to these things to show how it would work—that if the Senate choose to sit here in order to perform this great public duty, as you would look upon it, of securing the freedom of elections, as you call it, the Tammany, and the tissue, and the naturalization papers freedom of election, you would be derelict in your duty if you did not stick it out and say "we will not have any supervisors unless we can have those in whom we can have confidence."

Why does the Senator from Ohio tell us that this bill really does not mean anything; that it is a mere little kind of variation of the universal tune of the statutory Yankee-doodle, and that there is no use of our making any fuss about it? That will not work east of the Alleghanies. Somebody may believe it elsewhere, but all men of all parties east of the Alleghanies will understand it just as it is.

That is all I wish to say; only to add that I should like my honorable friend from Ohio or somebody else to take up the points to which I have called attention in this debate as to the legal effect of this amendment, as to the legal effect of the bill in the other aspects that I have spoken of and its constitutional effect, and tell us plainly and fairly how they reason it out that the thing can be done. That is what I should like to know.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The question is on the amendment of the Senator from Ohio, [Mr. THURMAN,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, I should vote "nay."

Mr. BUTLER, (when his name was called.) On all political questions I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea" and he would vote "nay."

Mr. CALL, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.] If he were here, I should vote "yea."

Mr. MCDONALD, (when Mr. CARPENTER'S name was called.) The Senator from Wisconsin [Mr. CARPENTER] is paired with my colleague, [Mr. VOORHEES.]

Mr. MAXEY, (when Mr. COKE'S name was called.) My colleague [Mr. COKE] is paired with the Senator from Nebraska, [Mr. SAUNDERS.]

Mr. EDMUNDS, (when his name was called.) I arranged a little while ago with my friend from Arkansas, [Mr. GARLAND,] as we were both about to go to West Point under the order of the Senate, to make a universal pair, and as I do not see him in the Senate Chamber at this moment I withhold my vote, thinking he may have gone away under the impression that the pair began immediately. If he were present, I should vote against this amendment.

Mr. ALLISON. I will relieve the Senator from Vermont; the Senator from Arkansas left the Chamber paired with me in case he did not return. I have refrained from voting, and if he does not return by the end of the roll-call I shall not vote.

Mr. EDMUNDS. Then undoubtedly the Senator from Arkansas supposed our pair would begin later; so I vote "nay."

Mr. ROLLINS, (when Mr. INGALLS'S name was called.) The Senator from Kansas [Mr. INGALLS] is paired with the Senator from Alabama, [Mr. MORGAN.] If he were present, the Senator from Kansas would vote "nay."

Mr. LAMAR, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. HAMLIN.]

Mr. PRYOR, (when Mr. MCPHERSON's name was called.) The Senator from New Jersey [Mr. MCPHERSON] is paired with the Senator from Maine, [Mr. BLAINE.] If he were here, the Senator from New Jersey would vote "nay."

Mr. PRYOR, (when Mr. MORGAN's name was called.) My colleague [Mr. MORGAN] is paired with the Senator from Kansas, [Mr. INGALLS.] If my colleague were here, he would vote "yea."

Mr. SAUNDERS, (when his name was called.) I am paired with the Senator from Texas, [Mr. COKE.] If he were here, I should vote "nay."

Mr. MCDONALD, (when Mr. VOORHEES's name was called.) As I have already stated, my colleague [Mr. VOORHEES] is paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. DAWES,] unless my vote be necessary to make a quorum.

The roll-call was concluded.

Mr. ALLISON. The Senator from Arkansas [Mr. GARLAND] not appearing in his seat, I desire to say that I am paired with him on all questions connected with this bill.

Mr. TELLER. My colleague [Mr. HILL, of Colorado] is paired with the Senator from Virginia, [Mr. JOHNSTON.] If my colleague were here, he would vote "nay."

Mr. EATON. Perhaps I ought to state that my colleague [Mr. PLATT] is paired with the Senator from Missouri, [Mr. VEST,] and that I am paired with the Senator from New York [Mr. CONKLING] except my vote be necessary to make a quorum. I understand a quorum has voted, and therefore I withhold my vote.

Mr. ALLISON. I desire also to announce that the Senator from Maryland [Mr. WHYTE] is paired with the Senator from Illinois, [Mr. LOGAN.]

Mr. COCKRELL. I paired with the Senator from Wisconsin, [Mr. CARPENTER,] reserving the right to vote whenever it should be necessary to make a quorum on any question, and to vote just as I believed——

Several SENATORS. Mr. CARPENTER is paired with Mr. VOORHEES.

Mr. COCKRELL. I vote "yea" if he is paired with anybody else. He came to my desk and asked me to pair.

Mr. MCDONALD. I will explain that. The Senator from New Hampshire was with him in committee, and the pair was exchanged in the absence of the Senator from Wisconsin.

The result was announced—yeas 26, nays 16; as follows:

YEAS—26.

Bailey,	Hampton,	McDonald,	Thurman,
Bayard,	Harris,	Maxey,	Vance,
Beck,	Hereford,	Pendleton,	Walker,
Brown,	Hill of Georgia,	Pryor,	Wallace,
Davis of W. Va.,	Jonas,	Ransom,	Withers.
Farley,	Jones of Florida,	Saulsbury,	
Groome,	Kernan,	Slater,	

NAYS—16.

Anthony,	Bruce,	Hoar,	Plumb,
Baldwin,	Cameron of Wis.,	Kirkwood,	Rollins,
Blair,	Edmunds,	McMillan,	Teller,
Booth,	Ferry,	Morrill,	Windom.

ABSENT—34.

Allison,	Conkling,	Johnston,	Randolph,
Blaine,	Davis of Illinois,	Jones of Nevada,	Saunders,
Burnside,	Dawes,	Kellogg,	Sharon,
Butler,	Eaton,	Lamar,	Vest,
Call,	Garland,	Logan,	Voorhees,
Cameron of Pa.,	Grover,	McPherson,	Whyte,
Carpenter,	Hamlin,	Morgan,	Williams.
Cockrell,	Hill of Colorado,	Paddock,	
Coke,	Ingalls,	Platt,	

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, and read the third time.

Mr. EDMUNDS. I ask for the yeas and nays on the passage of this bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. ALLISON, (when his name was called.) I am paired with the Senator from Arkansas, [Mr. GARLAND.]

Mr. BURNSIDE, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, I should vote "nay."

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.] If he were present, I should vote "yea."

Mr. CALL, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. MAXEY, (when Mr. COKE's name was called.) My colleague [Mr. COKE] is paired with the Senator from Nebraska, [Mr. SAUNDERS.] My colleague, if here, would vote "yea."

Mr. EATON, (when his name was called.) On this question I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. ROLLINS, (when Mr. INGALLS's name was called.) The Senator from Kansas [Mr. INGALLS] is paired with the Senator from Alabama, [Mr. MORGAN.] The Senator from Kansas, if present, would vote "nay."

Mr. PRYOR, (when Mr. MCPHERSON's name was called.) The Senator from New Jersey [Mr. MCPHERSON] is paired with the Senator from Maine, [Mr. BLAINE.] If he were here, the Senator from New Jersey would vote "yea."

Mr. PRYOR, (when Mr. MORGAN's name was called.) My colleague [Mr. MORGAN] is paired with the Senator from Kansas, [Mr. INGALLS.] If my colleague were here, he would vote "yea."

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from Texas, [Mr. COKE.] If he were here, I should vote "nay."

Mr. MCDONALD, (when Mr. VOORHEES's name was called.) My colleague [Mr. VOORHEES] is paired on this question with the Senator from Wisconsin, [Mr. CARPENTER.] My colleague, if present, would vote "yea."

Mr. WILLIAMS, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. DAWES.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. TELLER. My colleague [Mr. HILL, of Colorado] is paired with the Senator from Virginia, [Mr. JOHNSTON.] If my colleague were here, he would vote "nay."

Mr. COCKRELL. My colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT.] If my colleague were here, he would vote "yea" on the passage of this bill.

Mr. ALLISON. The Senator from Illinois [Mr. LOGAN] is paired with the Senator from Maryland, [Mr. WHYTE.]

The result was announced—yeas 27, nays 14; as follows:

YEAS—27.

Bailey,	Groome,	Kernan,	Slater,
Bayard,	Hampton,	McDonald,	Thurman,
Beck,	Harris,	Maxey,	Vance,
Brown,	Hereford,	Pendleton,	Walker,
Cockrell,	Hill of Georgia,	Pryor,	Wallace,
Davis of W. Va.,	Jonas,	Ransom,	Withers.
Farley,	Jones of Florida,	Saulsbury,	

NAYS—14.

Anthony,	Edmunds,	McMillan,	Teller,
Baldwin,	Ferry,	Morrill,	Windom.
Booth,	Hoar,	Plumb,	
Cameron of Wis.,	Kirkwood,	Rollins,	

ABSENT—35.

Allison,	Coke,	Ingalls,	Platt,
Blaine,	Conkling,	Johnston,	Randolph,
Blair,	Davis of Illinois,	Jones of Nevada,	Saunders,
Bruce,	Dawes,	Kellogg,	Sharon,
Burnside,	Eaton,	Lamar,	Vest,
Butler,	Garland,	Logan,	Voorhees.
Call,	Grover,	McPherson,	Whyte,
Cameron of Pa.,	Hamlin,	Morgan,	Williams.
Carpenter,	Hill of Colorado,	Paddock,	

So the bill was passed.

The PRESIDENT *pro tempore*. The Committee on the Judiciary report an amendment to the title, which will be read.

The CHIEF CLERK. It is proposed to amend the title so as to read: "A bill to define the terms of office of chief supervisor of election."

Mr. HOAR. I move to amend that amendment by substituting "a bill to deprive chief supervisors of election of their powers and to remove them from office."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. HOAR. On that I call for the yeas and nays.

Mr. BECK. Can that be amended by adding "and to break up the iron cages of John I. Davenport?"

The PRESIDENT *pro tempore*. That amendment would be in the third degree.

Mr. EDMUNDS. I think we ought to have a vote on that.

The PRESIDENT *pro tempore*. No, that would be in the third degree. It is out order.

Mr. BECK. I withdraw it.

The PRESIDENT *pro tempore*. The amendment of the Senator from Kentucky is out of order. The Senator from Massachusetts demands the yeas and nays on his amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BURNSIDE, (when his name was called.) I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] Were he here, I should vote "yea."

Mr. BUTLER, (when his name was called.) I am paired on political questions with the Senator from Pennsylvania, [Mr. CAMERON.] I do not understand this to be a political question. It seems to me a question of taste. I shall vote "nay."

Mr. CALL, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. PADDOCK.]

Mr. EATON, (when his name was called.) On all political questions I am paired with my friend the Senator from New York, [Mr. CONKLING.] I shall vote on this, because it is not a political question. I vote "nay."

Mr. ROLLINS, (when Mr. INGALLS's name was called.) The Senator from Kansas [Mr. INGALLS] is paired with the Senator from Alabama, [Mr. MORGAN.]

The roll-call was concluded.

Mr. VOORHEES. On this question I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] Otherwise, I should vote "nay."

Mr. LAMAR. On all political questions I am paired with the Senator from Maine, [Mr. HAMLIN.]

Mr. TELLER. My colleague [Mr. HILL, of Colorado] is paired with the Senator from Virginia, [Mr. JOHNSTON.] My colleague, if present, would vote "yea."

Mr. ALLISON. I am paired with the Senator from Arkansas, [Mr. GARLAND.]

The result was announced—yeas 15, nays 30; as follows:

YEAS—15.

Anthony,	Edmunds,	McMillan,	Saunders,
Baldwin,	Ferry,	Morrill,	Teller,
Blair,	Hoar,	Plumb,	Windom.
Cameron of Wis.,	Kirkwood,	Rollins,	

NAYS—30.

Bailey,	Farley,	Kernan,	Thurman,
Bayard,	Groome,	McDonald,	Vance,
Beck,	Hampton,	Maxey,	Walker,
Brown,	Harris,	Pendleton,	Wallace,
Butler,	Hereford,	Pryor,	Williams,
Cockrell,	Hill of Georgia,	Ransom,	Withers.
Davis of W. Va.,	Jonas,	Saulsbury,	
Eaton,	Jones of Florida,	Slater,	

ABSENT—31.

Allison,	Coke,	Ingalls,	Paddock,
Blaine,	Conkling,	Johnston,	Platt,
Booth,	Davis of Illinois,	Jones of Nevada,	Randolph,
Bruce,	Dawes,	Kellogg,	Sharon,
Burnside,	Garland,	Lamar,	Vest,
Call,	Grover,	Logan,	Voorhees,
Cameron of Pa.,	Hamlin,	McPherson,	Whyte.
Carpenter,	Hill of Colorado,	Morgan,	

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment recommended by the Committee on the Judiciary, to change the title so as to read: "A bill to define the terms of office of chief supervisor of election."

The amendment was agreed to.

EXECUTIVE SESSION.

Mr. HARRIS. I move that the Senate do now proceed to the consideration of executive business.

Mr. EDMUNDS. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The motion to adjourn takes precedence.

Mr. HARRIS. I ask the Senator to withdraw that motion for a single moment. There are several Senators who desire to make some reports in executive session, and I particularly desire to have at least one or two reports made. It will not take five minutes.

Mr. EDMUNDS. I withdraw my motion.

The PRESIDENT *pro tempore*. The Senator from Tennessee moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seventeen minutes spent in executive session the doors were reopened, and (at seven o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May* 26, 1880.

The House met at eleven o'clock a. m.

The Journal of yesterday was read and approved.

INTERNAL REVENUE.

Mr. CARLISLE. I ask unanimous consent to take from the Speaker's table House bill No. 4812, to amend the laws in relation to internal revenue, which has been returned from the Senate with amendments. My object is to move a concurrence in the amendments of the Senate. I will state to the House, before objection is asked for by the Chair, that no amendment was made to the bill by the Senate, except such as were suggested by the Commissioner of Internal Revenue in order to make the provisions of the bill less ambiguous than they were as passed by the House.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Kentucky, [Mr. CARLISLE?] [After a pause.] The Chair hears none.

The bill, with the Senate amendments, was accordingly taken from the Speaker's table.

The amendments of the Senate were read, as follows:

On page 2, line 6, after the word "that," insert "the joint resolution approved March 28, 1878, be, and the same is hereby, repealed, and that."

On page 2, strike out all after the word "amended," in line 7, down to and including the word "and," where it occurs the second time in line 8.

On page 7, line 15, strike out "of" and insert "exported."

On page 7, line 15, strike out the word "seventy" and insert the words "at the rate of seventy cents per proof-gallon."

On page 10, line 20, strike out "gallon" and insert "proof-gallon."

On page 11, strike out all after the word "cent," in line 11, down to and including line 13.

Mr. CARLISLE. I move that the House concur in the amendments of the Senate.

The motion was agreed to.

Mr. CARLISLE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' REUNION, MUSCATINE, IOWA.

Mr. THOMPSON, of Iowa. I ask unanimous consent to have taken from the Speaker's table for immediate consideration the joint resolution (S. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the Secretary of War be, and he is hereby, authorized to send from the Government arsenal at Rock Island, in the State of Illinois, to be used at the soldiers' reunion at Muscatine, Iowa, to be held in September or October, 1880, such tents, camp equipage, flags, and muskets, as can be spared, and four pieces of artillery, said tents, camp equipage, flags, muskets, and pieces of artillery to be returned after the holding of said reunion in like good condition as when received: *Provided*, That the same can be spared without detriment to the public service: *And provided*, That all transportation of said articles to and from the place of reunion to the arsenal shall be without expense to the United States: *And provided further*, That the adjutant-general of the State of Iowa or other proper accounting officer shall receipt for said tents, camp equipage, flags, muskets, and pieces of artillery in the name of said State, and that such of them as shall not be returned shall be charged to said State and deducted from the amount and share of the annual sum of $200,000 appropriated for the purpose of providing arms and equipments for the whole body of the militia which may be assignable or distributable or allotted to the State of Iowa.

There being no objection, the joint resolution was taken from the Speaker's table, read three times, and passed.

Mr. THOMPSON, of Iowa, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 3788) granting an increase of pension to William Hamill, and that it be now passed.

The bill was read as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Hamill, late sergeant Company E, One hundred and seventeenth Regiment Illinois Volunteers, at the rate of $18 per month; and that said pension date from and be paid at the rate of $15 per month from the 6th day of June, 1866, to the 4th day of June, in the year 1872; and that he be paid pension from and after the 4th day of June, in the year 1872, at the rate of $18 per month, deducting former payments.

The SPEAKER *pro tempore*. Is there objection to the consideration of this bill?

Mr. BUCKNER. I object.

Mr. TOWNSHEND, of Illinois. It has been twice reported unanimously.

Mr. ATHERTON. But it provides for arrears.

CONDEMNED CANNON FOR MONUMENTAL PURPOSES.

Mr. NEAL. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 6110, donating condemned cannon, &c., for monumental and other purposes. This bill has been reported from the Committee on Military Affairs; and I desire that it be acted on now.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized and directed, if the same can be done without prejudice to the public service, to deliver to the parties herein named the following condemned cannon, &c., for monumental and other purposes, namely:

To the Union Township Monumental Association of Union Township, Union County, Ohio, four condemned cannon, to be placed at the corners of the soldiers' monument in the cemetery at Milford Centre, Ohio.

To the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts, two condemned twelve-pounder guns and gun-carriages, to be used for monumental purposes in the decoration of a free burial-ground for ex-soldiers, sailors, and marines who have been honorably discharged from the service of the United States.

To each of the towns of Woburn, Winchester, and Wakefield, in the State of Massachusetts, four condemned cannon, to be used in the erection of a soldiers' monument, or in the decoration of the soldiers' lot in the cemeteries in said towns.

To Post No. 78, of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at South Abington, Massachusetts.

To McPherson Post, No. 73, of the Grand Army of the Republic, district of Massachusetts, four condemned cannon, to be used for monumental purposes in the cemetery at Abington, in said State.

To the selectmen of the town of Paxton, in the county of Worcester, State of Massachusetts, four condemned cannon, to be used in ornamenting the lot upon which the soldiers' monument is erected in said town of Paxton.

To the Wayne Monumental Association, of Rockland County, New York, four condemned cannon and sixty-four cannon balls, together with the trophy gun captured by the American troops under General Wayne at the taking of Stony Point, in 1779, now at Watervliet arsenal, to be placed on a monument to be erected at Stony Point, New York, in honor of General Anthony Wayne.

To Hamilton Post No. 20, Grand Army of the Republic, Poughkeepsie, New York, four small condemned cannon, to be used for corner-posts to soldiers' plat in the cemetery in said city.

To the authorities of the town of East Bloomfield, New York, four condemned cannon, for the purposes of the soldiers' monument in said town.

To the authorities of the city of McGregor, Clayton County, Iowa, four condemned cannon, either six or twelve pounder, as said authorities may select, to be placed at the corners of the soldiers' monument erected in said city.

To the Danville Light Battery A, Illinois National Guard, at Danville, Illinois, four condemned cannon for monumental purposes.

To the town of Killingly, in the State of Connecticut, four condemned cannon, to be used in the construction of a suitable inclosure to the monument erected by said town in honor of its deceased soldiers of the late war.

To William L. Curry Post, No. 18, Grand Army of the Republic, four condemned cannon, to be placed in their burial place in the city of Philadelphia, the same being for deceased Union soldiers, sailors, and marines.

To Colonel L. Z. Cadot, Surgeon William S. Newton, and Major Samuel F. Neal, four condemned cannon, for the use and adornment of the soldiers' cemetery in the city of Gallipolis, and State of Ohio.

To the Williams Monument Association, of Detroit, Michigan, ten condemned cannon, to be used for the purpose of erecting a monument to the late Alpheus S. Williams, a member of the House of Representatives of the Forty-fifth Congress, and a major-general during the late war.

To the city of Aurora, in the State of Illinois, four condemned cannon, to be used in ornamenting the lot upon which the Soldiers' Memorial Building is erected in the said city of Aurora.

To John Ennis Post, Grand Army of the Republic, at Saint Clair, Pennsylvania, four condemned cannon for monumental purposes.

To the park commissioners of the city of Fremont, Ohio, four condemned cannon, to be placed in Fort Stephenson Park for decoration purposes.

To the Soldiers' Memorial Association, of Chelsea, Vermont, three condemned twelve-pounder cannon, to be used by the said association in their Memorial Hall.

To the selectmen of the town of Brimfield, Massachusetts, four condemned cannon, to be used in the completion of the soldiers' monument in said town.

To the authorities of the town of Avon, county of Livingston, and State of New York, four condemned cannon, either six or twelve pounder cannon, as said authorities may select, to be placed at the corners of the soldiers' monument erected by said town.

To the William H. Bartlett Post, No. 3, Grand Army of the Republic, of Taunton, Massachusetts, four condemned cannon, for the purpose of ornamenting the burial-grounds of deceased Union soldiers.

To the Monumental Association of Franklin, Pennsylvania, four twelve-pounder, solid-shot, condemned cannon, to be used for ornamenting the burial-grounds of soldiers of the late war.

The SPEAKER *pro tempore*. Is there objection to discharging the Committee of the Whole from the consideration of this bill and taking it up now for consideration?

Mr. MAGINNIS. Is this the bill reported from the Committee on Military Affairs by the gentleman from Illinois, [Mr. SPARKS?]

The SPEAKER *pro tempore*. It is.

Mr. MAGINNIS. All right.

There being no objection, the House proceeded to the consideration of the bill.

Mr. NEAL. I move to amend by striking out, in lines 65 and 66, the words "to Colonel L. Z. Cadot, Surgeon William S. Newton, and Major Samuel F. Neal" and inserting "to the city authorities of Gallipolis."

The amendment was agreed to.

Mr. RUSSELL, of Massachusetts. I move to amend by adding the following:

To the city of Lawrence, Massachusetts, four condemned cannon for monumental purposes.

Mr. MAGINNIS. This bill, after careful consideration by the Committee on Military Affairs, was reported as a substitute for a great many bills of this character. I do not think it ought to be amended by adding anything which has not been considered by the committee. However, I will not object to this amendment.

The amendment was agreed to.

Mr. CLAFLIN. I move to amend by adding to the bill the following:

To the Charles S. Chandler Post, No. 143, Brookline, Massachusetts, four condemned cannon, to be used for memorial purposes.

The amendment was agreed to.

Mr. NEAL. I now call the previous question.

Mr. DEERING. I have an amendment which I desire to offer. It is the substance of a joint resolution that has had the approval of the Committee on Military Affairs.

The SPEAKER *pro tempore*. Does the gentleman from Ohio [Mr. NEAL] withdraw his demand for the previous question?

Mr. NEAL. No, sir.

Mr. CONGER. Then I move to lay the bill on the table. I desire to offer an amendment——

The SPEAKER *pro tempore*. The gentleman is aware that debate is not in order upon a motion to lay on the table.

Mr. CONGER. I would like to know why other provisions of this kind which have been reported favorably may not go into the bill?

The SPEAKER *pro tempore*. That is a question which it is not the business of the Chair to answer.

Mr. NEAL. This bill has been reported by the Committee on Military Affairs after full consideration——

The SPEAKER *pro tempore*. Debate is not in order. It is within the power of the House to vote down the demand for the previous question, if it so desires, leaving the bill open to any amendment that may be offered.

Mr. CONGER. Then I withdraw my motion to lay upon the table.

The SPEAKER *pro tempore*. The gentleman from Ohio demands the previous question.

The previous question was not seconded.

Mr. CONGER. I move the following amendment:

Four condemned cannon and cannon-balls for the soldiers' monument in the city cemetery of Port Huron, Michigan.

Mr. FINLEY. I call for the regular order.

The SPEAKER *pro tempore*. The regular order is the consideration of the bill now pending before the House.

Mr. SPARKS. I do not know the character of the amendments which are to be offered, but I will say that in the Military Committee we have gone upon the general rule to allow these condemned iron cannon to be granted for these monumental purposes. If the pending amendment is confined to that and grants condemned cannon without the balls I shall have no objection to it.

Mr. CONGER. Very well; let it be modified so as to read "four condemned cannon for the soldiers' monument in the city cemetery of Port Huron."

Mr. SPARKS. Otherwise it would be a discrimination against all the provisions in the substitute.

Mr. CONGER. I will so modify my amendment, in compliance with the suggestion of the chairman of the Committee on Military Affairs.

Mr. BUCKNER. Will the gentleman from Illinois allow me? I desire to ask my friend from Illinois who has reported this bill whether he has information from the Secretary of War there are no condemned cannon or there are not condemned cannon sufficient in number to comply with these various requests?

Mr. SPARKS. In answer to the gentleman from Missouri, I will say that the Secretary of War has informed the committee there are none. The committee, however, have gone on the theory that there will be condemned cannon. There are plenty of cannon. Many of them will be of no more utility than this or be used for old iron. In view of condemnations of cannon in the future, we have concluded to act on these various requests.

Mr. BUCKNER. I will move to lay the bill and amendment upon the table.

Mr. CANNON, of Illinois. Before that motion is voted on, I hope the gentleman will yield to me for a moment.

Mr. BUCKNER. I will move to lay the pending amendment upon the table.

The SPEAKER *pro tempore*. Under the rule that motion will carry the bill with it.

Mr. BUCKNER. I understand that.

Mr. CANNON, of Illinois. I ask the gentleman to withdraw his motion for two minutes.

Mr. HUTCHINS. I rise to a point of order, that gentlemen should take their seats, as we cannot hear what is going on by members leaving their seats and gathering in front of the Speaker's desk.

The SPEAKER *pro tempore*. The Chair recognizes the point as well taken, and begs members to resume their seats so the business of the House may be transacted.

Mr. SPARKS. I wish to say in respect to this substitute——

The SPEAKER *pro tempore*. Debate is not in order, as the motion pending is to lay upon the table.

Mr. SPARKS. I do not want to debate it, I want simply to say that——

The SPEAKER *pro tempore*. Debate is not in order.

Mr. SPARKS. I got that far anyhow. [Laughter.]

Mr. BUCKNER's motion was disagreed to.

Mr. CONGER's amendment was then agreed to.

Mr. DEERING. I move the following amendment, and will state that it has been acted on favorably by the Committee on Military Affairs:

Four condemned cannon for the monument at Charles City, in the State of Iowa.

The amendment was agreed to.

Mr. THOMAS. I move to amend as follows:

To Mound City National Cemetery, for monumental purposes, ten condemned cannon.

Mr. SPARKS. We have not been in the habit of giving that number.

Mr. THOMAS. I will modify it, then, and make it "four."

The amendment was agreed to.

Mr. KEIFER. I move the following amendment:

To Fern Cliff Cemetery Association of Springfield, Ohio, to be placed at the soldiers' monument in its cemetery, four condemned cannon.

Mr. ATHERTON. I wish to know whether we have cannon enough in the country to fill the bill, taking all the cannon that are condemned and all that are not.

Mr. SPARKS. As I said before, we have no condemned cannon now.

Mr. ATHERTON. What, then, is the use of passing this bill, giving away what we have not got?

Mr. SPARKS. Simply because we know there are some cannon which will be condemned.

Mr. KEIFER's amendment was agreed to.

Mr. FINLEY. I move the following amendment:

For cannon at the soldiers' cemetery at Bucyrus, Ohio.

Mr. HAYES. Is not our stock of condemned cannon about exhausted?

Mr. SPARKS. How many are provided for in that amendment?

Mr. FINLEY. The number is not fixed.

Mr. CANNON, of Illinois. I move to strike out "for" and insert "four," and to insert the word "condemned" before the word "cannon."

Mr. FINLEY. I accept that as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. WARD. I offer an amendment to come in after the one just adopted.

The Clerk read as follows:

For Post Wilde, Grand Army of the Republic, at Chester, Pennsylvania, four condemned cannon for monumental purposes.

The amendment was agreed to.

Mr. VALENTINE. I offer an amendment.

The Clerk read as follows:

For monument to General Silas A. Strickland, at Omaha, Nebraska, four condemned cannon.

The amendment was agreed to.

Mr. GEDDES. I send an amendment to the Clerk's desk which I ask to have inserted in this bill.

The Clerk read as follows:

Five condemned cannon to be allowed at Mansfield, Ohio, for cemetery purposes.

The amendment was agreed to.

Mr. ATHERTON. Mr. Speaker, I move to recommit this bill, with amendments, to the Committee on Military Affairs. It is evident that these cannon cannot be furnished. They are not in existence.

Mr. SPARKS. I do not know how far this is going to run; but I think there will be enough cannon. There are no cannon on hand which can be applied to this purpose at present, none having been condemned. We are only allowing four cannon in each of these amendments; and I think there are only twenty-three bills consolidated into this one, which is a substitute for all of the original bills. I have no doubt that sufficient cannon will be condemned to meet all the requirements of this bill and the amendments which are proposed to it. I do not know who brought this measure up this morning; I did not; but we may just as well dispose of it now.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from Ohio, to recommit the bill.

The House divided; and there were—ayes 67, noes 60.

Mr. WILLIS. I offer an amendment.

The Clerk read as follows:

Four condemned cannon to the soldiers' monument at Cave Hill, Louisville, Kentucky.

Mr. NEAL. I ask the previous question upon the bill and pending amendment.

Mr. CANNON, of Illinois. I desire to be recognized to speak to that amendment.

The SPEAKER *pro tempore*. The demand for the previous question will cut off all debate or amendments. The question is on seconding the demand for the previous question.

The House divided; and there were—ayes 28, noes 59.

So the previous question was not seconded.

Mr. CANNON, of Illinois. I now rise to discuss the pending amendment.

Mr. CONGER. I understood that the gentleman moved the previous question on the bill.

Mr. CANNON, of Illinois. That is a mistake. I did not move the previous question.

Mr. WILLIS. I wish to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WILLIS. What has become of the amendment which I offered?

The SPEAKER *pro tempore*. That amendment is pending, and the gentleman from Illinois desires to discuss it.

Mr. CANNON, of Illinois. Mr. Speaker, this, as I understand it, is a report from the Committee on Military Affairs.

Mr. SPARKS. Not these amendments.

Mr. CANNON, of Illinois. I understand that; but the bill to which these amendments are added is a report from the Committee on Military Affairs, and, as I am informed, they have made up their bill from all of the bills which have been regularly introduced for six or eight months past and referred to them and considered by that committee.

Now, then, a bill is reported to the House and referred in due process for consideration to that committee. The committee consolidate these bills into one general bill which they introduce here. When that bill comes up for consideration before the House gentlemen offer amendments by the score, of which I do not complain unless it jeopardizes the passage of the bill; but what I do complain of is that they not having thought enough of their respective localities to introduce bills individually and have them referred regularly, now ask to load this bill down with amendments after it is reported from the committee.

I object to that mode of proceeding. The result is certain defeat of the bill unless there be a limit to their introduction. If these amendments are to continue, the meritorious measures which have been referred to and investigated will be defeated, while it is true that the measures which are proposed in the way of amendments may be equally meritorious, but they are introduced at a time when there is no opportunity to investigate their merits and the result will be not only to strike down the amendments but the original bill itself.

Now, Mr. Speaker, I have for seven years in my place in this House voted for bronze cannon by thousands and tens of thousands of dollars' worth for monumental purposes, all over the country; but I did it because I believed it was a wise expenditure of money to commemorate our fallen heroes. Here is a bill to donate iron cannon to certain places throughout the country for monumental purposes, and I agree that the bill ought to pass. It is true that there are at present no condemned cannon on hand, but it is also true, as has been stated upon this floor, that there must be in time a large number of cannon condemned as worthless except for old iron, and this number will be sufficient to meet all of the requirements of this bill. I beg the House, therefore, to give the previous question on this bill and the pending amendments, so that it can be passed at once and not loaded down with fifty or a hundred unconsidered amendments.

Mr. SPARKS. Mr. Speaker, prior to acting upon any of these bills the Committee on Military Affairs conferred with the Secretary of War and had a communication from him stating that there were now no condemned cannon, but in view of the fact that we had a large amount of ordnance that it is well known will be condemned in time, it was the sense of the committee as there were perhaps thirty bills introduced, to allow them to become law, and reported favorably those which conformed to certain requirements established by the committee. All of those bills were consolidated and reported in one substitute, which is the pending bill.

Now, at some time, I propose to try to get this bill up for action and endeavor to prevent this scramble to have every little place put upon it.

As my colleague has said it is unfair to those gentlemen who introduced bills in good time early in the session, and had them referred to the Committee on Military Affairs, to be thrown out now by these other gentlemen scrambling to get grants of condemned cannon for their respective localities in the way of amendments.

It is clear we can do nothing with this bill to-day in this shape and with a hundred applicants for amendments. I think that of these condemned cannon, and of those that ought to be condemned, there are enough perhaps to supply all those places. These cannon are worth nothing except for old iron, and if they can be used to adorn cemeteries or for monumental purposes, it would be far better to use them in that way than to break them up and sell them for old iron. I think they might be very well given for these purposes. But to get at it in any reasonable shape it seems to me the bill ought to go back to the committee with all the amendments. I therefore move that the bill be recommitted to the Committee on Military Affairs together with all the amendments, and if the House will agree to it I will ask that the committee have leave to report at any time.

Mr. WILSON. I ask the gentleman whether the Committee on Military Affairs have information as to the number of condemned cannon now on hand?

Mr. SPARKS. There are none.

Mr. WILSON. Can he state the number of cemeteries now applying?

Mr. SPARKS. I cannot.

Mr. WILSON. I concur in the view that the bill should be recommitted.

The question being taken on the motion of Mr. SPARKS, that the bill with all the amendments be recommitted to the Committee on Military Affairs, it was agreed to.

Mr. CANNON of Illinois. I ask unanimous consent that the committee may have leave to report at any time.

Mr. KITCHIN. I object.

ORDER OF BUSINESS.

Mr. ROBINSON. I demand the regular order.

Mr. SPARKS. I ask the gentleman to withdraw the demand for the regular order that I may report back an executive document from the Committee on Military Affairs for reference to another committee.

Mr. ROBINSON. I yield for that purpose.

CLAIMS FOR BOUNTY AND BACK-PAY.

Mr. SPARKS, by unanimous consent, reported back from the Committee on Military Affairs a letter from the Secretary of the Treasury, in response to a resolution of the House calling for information as to the cause of the delay in payment of claims for bounty and back pay, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Select Committee on the Payment of Pensions, Bounty, and Back Pay.

The motion was agreed to.

AGREEMENT WITH UTE INDIANS.

The SPEAKER *pro tempore*. The Chair lays before the House a message from the President of the United States.

The Clerk read as follows:

To the Senate and House of Representatives:

I have the honor to transmit herewith a communication from the Secretary of the Interior with reference to the agreement made with the chiefs of the Ute Indians recently in Washington, a copy of which was submitted to Congress on the 9th of March last.

The special and immediate attention of Congress to the imminent danger attending the postponement of appropriate legislation to carry into effect the stipulations of this agreement is urgently solicited.

R. B. HAYES.

EXECUTIVE MANSION, *May* 25, 1880.

The message of the President was referred to the Committee on Indian Affairs, and ordered to be printed.

COMMITTEE ON THE PACIFIC RAILROAD.

The SPEAKER *pro tempore*. The gentleman from Maryland [Mr. MCLANE] asks unanimous consent that the Committee on the Pacific Railroad have leave to sit during the sessions of the House for the remainder of this session.

There was no objection.

WITHDRAWAL OF PAPERS.

On motion of Mr. MORSE, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Mrs. Mary A. Hoyt, there being no adverse report thereon.

On motion of Mr. DE LA MATYR, by unanimous consent, leave was given to withdrawn from the files of the House the papers in the case of Isaac T. Earl, now before the Committee on Pensions.

SALE OF OGLETHORPE BARRACKS.

The SPEAKER *pro tempore* by unanimous consent, laid before the House a letter from the Secretary of War, recommending that authority be given to sell Oglethorpe Barracks, Savannah, Georgia; which was referred to the Committee on Military Affairs.

SURVEYS UNDER CAPTAIN G. M. WHEELER.

The SPEAKER *pro tempore* also, by unanimous consent, laid before the House a letter from the Secretary of War recommending the completion of surveys under Captain George M. Wheeler, and asking an appropriation of $30,000 therefor; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. The Chair submits the following requests for leave of absence:

Mr. EINSTEIN, indefinitely, from Wednesday, May 26, on account of important business;

Mr. HUBBELL, for three days, on account of important business;

Mr. CHITTENDEN, for two days;

Mr. MCLANE, for Friday and Saturday;

Mr. DAVIS, of Illinois, after to-morrow;

Mr. ALDRICH, of Illinois, for the remainder of the session, after the 30th instant;

Mr. RUSSELL, of Massachusetts, for ten days, on account of important business;

Mr. DAVIDSON, indefinitely, after June 2; and

Mr. ALDRICH, of Rhode Island, for seven days, on account of important business.

Mr. HUTCHINS. I desire to address a question to the Chair. I ask, for information, how many gentlemen have now got leave of absence.

The SPEAKER *pro tempore*. The Chair cannot answer that question without being furnished with the information by the Clerk.

Mr. HUTCHINS. I object to any indefinite leave of absence being granted. If the gentlemen will fix the time I will not object.

The SPEAKER *pro tempore*. If the gentleman from New York insists on his objection, leave of absence will be granted only to those gentlemen who have specified the time.

Mr. HUTCHINS. I object to leave of absence being granted indefinitely except in cases of sickness. We will soon be without a quorum at the rate we are now going on.

The SPEAKER *pro tempore*. The objection of the gentleman from New York [Mr. HUTCHINS] will be entered on the Journal. The requests to which his objection does not apply will be granted.

EVENING SESSION FOR FOREIGN AFFAIRS COMMITTEE.

Mr. COX. I desire to make a request of the House in the interest of public business. I ask that to-morrow night be assigned to business of the Foreign Affairs Committee. There has been no assignment made as yet for the consideration of the reports of that committee. Our business is pressing; and I ask that the session of to-morrow night commencing at half past seven be assigned to the Foreign Affairs Committee for the consideration of the immigration and other bills.

Mr. BLOUNT. I shall object unless an exception is made in favor of appropriation bills.

Mr. COX. I agree to that exception.

Mr. CONGER. I ask that revenue bills be excepted also.

Mr. COX. I will agree to that also.

The request, as modified, was then agreed to by unanimous consent.

REPEAL OF CLAYTON-BULWER TREATY.

Mr. KING. I ask unanimous consent that Friday evening next, at half past seven o'clock, be set apart for the consideration of the resolution reported from the Committee on Interoceanic Canal, and also the report of the Committee on Foreign Affairs looking to a repeal of the Clayton-Bulwer treaty.

Mr. BAYNE. I object.

Mr. KING. This is a subject of national importance.

The SPEAKER *pro tempore*. Objection is made to the request.

Mr. KING. I desire to appeal to the gentleman to withdraw his objection.

Mr. BAYNE. I do not withdraw my objection.

ORDER OF BUSINESS.

Mr. TUCKER. Mr. Speaker, I desire to ask consent——

Mr. ROBINSON. I thought that I called for the regular order some time ago.

The SPEAKER *pro tempore*. The Chair desires to hear the gentleman from Virginia.

Mr. TUCKER. I rise for the purpose of making a report from the Committee on Ways and Means, and I ask my friend from Georgia [Mr. BLOUNT] to allow me to make a statement of a minute or two, after which I think there will be no objection to the passage of the resolution I desire to report.

The SPEAKER *pro tempore*. Does the gentleman from Massachusetts [Mr. ROBINSON] withdraw his demand for the regular order?

Mr. ROBINSON. I cannot, because I have already refused several other gentlemen who requested me to do so.

The SPEAKER *pro tempore*. The regular order being called for the morning hour will now begin——

Mr. BLOUNT. I move to dispense with the morning hour.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. Pending the motion to dispense with the morning hour, the Chair will submit sundry requests to the House:

Mr. KITCHIN asks leave of absence for eight days from the 28th of May; and

Mr. HEILMAN asks leave of absence from Saturday next for the remainder of the session.

Mr. HUTCHINS. I object to the last request.

Mr. MCCOOK. Is it within the power of any one member of the House to object to granting leave of absence by the House?

The SPEAKER *pro tempore*. Most certainly it is.

Mr. MCCOOK. Must not the request be submitted to the House for its determination?

The SPEAKER *pro tempore*. The Chair will submit to the gentleman from New York, [Mr. MCCOOK,] and the Chair is sure that the gentleman will at once recognize the correctness of the proposition, that these requests cannot be considered by the House except by unanimous consent, pending other business.

Mr. MCCOOK. I recognize that.

The SPEAKER *pro tempore*. And the gentleman from New York [Mr. HUTCHINS] objects to the consideration of these requests.

Mr. TOWNSHEND, of Illinois. I am authorized to modify the request of the gentleman from Indiana [Mr. HEILMAN] so that he be granted leave of absence for eight days from Saturday next. I think there will be no objection to that.

The SPEAKER *pro tempore*. Is there objection to granting the requests as modified?

There was no objection, and the requests were accordingly granted.

Mr. DAVIDSON. I modify my request for leave of absence so that it be granted for two weeks from the 31st of May.

There was no objection, and leave was accordingly granted.

ORDER OF BUSINESS.

Mr. ROBINSON. I now insist upon my demand for the regular order.

The SPEAKER *pro tempore*. The regular order is the motion of the gentleman from Georgia, [Mr. BLOUNT,] to dispense with the morning hour of to-day.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. BLOUNT. I now move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SIMONTON in the chair.

SUNDRY CIVIL APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of proceeding with the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes. The Clerk will report the pending paragraph.

The Clerk read as follows:

National Board of Health:

For salaries and expenses of the National Board of Health and to carry out the purposes of the various acts creating the National Board of Health, $75,000, or so much thereof as is necessary.

The CHAIRMAN. The pending question is upon the amendment of the gentleman from Tennessee [Mr. YOUNG] to the amendment of the gentleman from Louisiana, [Mr. KING.]

The amendment of Mr. KING was to strike out "$75,000" and to insert "$125,000."

The amendment of Mr. YOUNG, of Tennessee, to the amendment of Mr. KING was to strike out "$125,000" and to insert "$150,000."

The CHAIRMAN. When the committee rose yesterday debate upon the pending amendment and the amendment to the amendment had been exhausted. If there be no objection, however, further debate will be allowed, and the Chair will recognize the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I yield my time to the gentleman from Michigan, [Mr. MCGOWAN.]

Mr. MCGOWAN. At the close of the discussion yesterday afternoon we had just had some very severe criticisms and strictures upon the National Board of Health. The Committee on Appropriations recommended in the paragraph under discussion that $75,000 be appropriated for the ordinary expenses of the National Board of Health, although that board had asked for more than double that amount.

It has been charged in this debate that this board has not used good judgment and has not exercised good business ability in the expenditure of the appropriation given to it by the original act. Gentlemen have made that criticism who I believe make no pretense to sanitary science or to any peculiar and particular ability upon that subject. Who are the members of the National Board of Health? They

are men selected from the best sanitarians in the country, men who have given their whole lives to the study and investigation of this subject. They are intelligent and honorable men, and have entered upon the prosecution of a most responsible duty. The presumption should at least be in their favor, not against them.

Yellow fever had swept over a whole section of this country, nearly devastating it, costing the charitable people of the country more than $3,000,000, costing the country thousands and thousands of lives, injuring its commerce to the extent of millions more. To provide against another epidemic of that kind, to protect the country from the devastation of another such visitation, this National Board of Health was created by act of Congress and the national quarantine act passed. What has that board of health done? What did it do during the year 1879, on the occasion of the second visitation of the yellow fever? It protected the country from a repetition of the terrible losses of 1878.

Facts in this case are worth more than mere theories; and this House is not altogether ignorant of the fact that the National Board of Health, in the execution of the national quarantine law, was enabled to surround the yellow fever in Memphis and hold it there, so that it did not spread to other parts of the country. It was able to hold the scourge at New Orleans so that it did not come up the Mississippi River. It protected the country from another epidemic such as we had in 1878—a thing which no local organization was ever able to do.

The truth is, Mr. Chairman, that no local quarantine has ever been able to protect any part of this country from a severe epidemic. Only when the power of the National Government was back of the quarantine authorities have we found protection. Even the boasted local quarantine at New York City was not able to keep out Asiatic cholera. As late as 1868 that disease went through that local quarantine and spread out on the different lines of travel all over the country; went as far as New Orleans down the river; was carried across the continent; went to our forts, killing the soldiers there. Thousands and thousands of lives were destroyed. From ravages of this kind the country is entitled to protection. That protection can only be secured through the agency of a national quarantine operated by some central authority.

[Here the hammer fell.]

Mr. THOMAS TURNER obtained the floor and yielded his time to Mr. MCGOWAN.

Mr. MCGOWAN. Mr. Chairman, what is asked by this National Board of Health? In the first place, $44,400 for establishing and maintaining quarantine stations. This is a modest request. The whole coast line of the United States and the Mississippi River are to be protected Gentlemen have criticised the expenditures of the board for erecting hospitals, and the estimates of the board have been cited to show their extravagance. But the gentleman from Connecticut [Mr. HAWLEY] who cited these items failed to tell the House that these expenditures had not yet been made.

Mr. HAWLEY. I said contracts.

Mr. MCGOWAN. The contracts have not been made. Advertisements were made for contracts; but only a single one of the whole five contracts has been let—the one for Ship Island. The others have been canceled and new advertisements have been made, because the proposals were so large the board would not accept them. Neither are these buildings which are sought to be erected by the National Board of Health permanent hospitals, as has been said by the gentleman from Connecticut. On the contrary, the board proposes only to put up what the law provides for—temporary structures, no one of which shall cost more than $4,000.

Mr. BLOUNT. I would like to ask the gentleman where he gets that information.

Mr. MCGOWAN. I very gladly tell the gentleman in charge of this bill that I get this information from the vice-president of the board of health, Mr. Billings.

Mr. BLOUNT. The board is on record here the other way, as expending $50,000 for one building and $35,000 each for two others.

Mr. MCGOWAN. On the contrary, the board is not "on record the other way." I have in my hand the estimate which was read by the gentleman from Georgia yesterday. It is an estimate of expenditures for the establishment of quarantine stations, not for hospital buildings. Now what does it require for a quarantine station? Something more than a hospital building. Wharves, boats, places to unload cargoes, places for fumigation. All these are necessarily involved in the proposed appropriation of $50,000 for a quarantine station at Ship Island. This amount is not for a mere hospital building. On the contrary, all the quarantine stations of the Mississippi are to be entirely without buildings, the board proposing simply to use tents for these purposes. The expenditure asked is for tugs and boats, for the securing of locations, and for other expenses necessary for quarantine and inspection purposes.

Gentlemen will understand very well that there is a great difference between a hospital and a quarantine station. At a quarantine station there have to be not only hospitals for the sick, but also buildings for the well; there have to be buildings in which to store goods, buildings for fumigating purposes, wharves; a thousand and one necessary attendant expenses have to be estimated for. The charge that they are attempting to violate the law by putting up permanent buildings is altogether an error.

This board is composed of a number of medical gentlemen, besides one law officer from the Department of Justice specially detailed for the purpose. Most of this work is supervised by the Treasury Department. There is no danger that the board will violate the law; and in view of the care with which it has heretofore executed its duties there is very slight danger of extravagance in expenditures.

The CHAIRMAN. Discussion on the pending amendment is again exhausted, but there seems to be a disposition on the part of members to still further pursue the discussion.

Mr. HAWK. I move to strike out the last word.

Mr. COX. I demand a vote.

Mr. BLOUNT. And I demand a vote.

Mr. HOOKER. I ask the gentleman to withdraw his amendment.

Mr. BLOUNT. I object to further extension of the debate.

Mr. MCGOWAN. I withdraw the formal amendment I was speaking on.

The CHAIRMAN. The gentleman was speaking on the amendment of the gentleman from Tennessee, [Mr. YOUNG.]

Mr. HOOKER. I ask the gentleman from Tennessee, then, to withdraw his amendment, and I will renew it.

Mr. YOUNG, of Tennessee. I will withdraw it.

Mr. BLOUNT. I object. There is another proposition, which will suit my friend from Mississippi quite as well, for $125,000. That is, unless he prefers to go on now.

Mr. COX. I insist on a vote.

Mr. HOOKER. I insist on being heard on the pending amendment which I have just now moved.

The CHAIRMAN. The gentleman from Mississippi will proceed.

Mr. HOOKER. Mr. Chairman, I desire to say in response to what fell from the gentleman from New York [Mr. MCCOOK] yesterday, who stated, in the course of his speech, that when the original bill for creating the National Board of Health and establishing quarantine stations on the outer line of defense of the country was under discussion these State-rights men on this side objected to it. We did no such thing. On the contrary, we insisted precisely as the gentleman now does, and his associate from New York, [Mr. COX,] that in establishing the national quarantine it was designed to have outposts of defense against this insidious disease upon the ocean, and therefore it fell properly under the conduct and control of the National Government. We insisted that you should not, therefore, strike down the State boards of health, the municipal boards of health, and the county boards of health which established quarantine all over our own land. To this extent, and this extent alone, was there any idea of State-rights embraced in this question.

Now, sir, the idea originally was we should establish a national quarantine. It has been asked, what has it accomplished? Why, sir, it has accomplished this: In 1878, when this terrible scourge had devastated this whole land and when the National Government met, they appropriated first $50,000 and subsequently $500,000, making an appropriation of $550,000. I say this was done—for what, sir? Not to cure that which was incurable, not to extirpate the disease while it was in existence, but to prevent its recurrence. Yet my friend from New York asked the question, What has this National Board of Health done? Why, sir, it has done everything. It has systematized quarantine by the States, cities, and municipal authorities of the whole land. It has rendered them everywhere efficient where they were inefficient. We know that in 1878 it suppressed all appearance of the yellow fever at New Orleans until the accidental passage of the steamer Emily Souder propagated that fell disease which swept its way up the Mississippi Valley, stopping not until it reached the high regions of Ohio.

What has that board done? It has done this: it has rendered efficient the quarantine of New Orleans. It is true the yellow fever did appear there in a slight degree last year when the gallant General Hood and some of his unfortunate family met their fate at its hands. It is true it appeared some hundred miles below Memphis in my own city, and physicians were sent there by the Board of Health. Dr. Craft, of Jackson, and Dr. Banks, of Vicksburgh, and Wirt Johnston, the president of the State board of health of Jackson, were sent there, and for two months or more they were prisoners at the small town where the disease had broken out, with no companions except the dead bodies of yellow-fever victims and the convalescents, whom their skill had saved, around them. The National Board of Health has rendered efficient every municipal, county, and State board of health, and it has adopted rules which are universal in their application.

Now, because it proposes to establish certain quarantine stations it is to be struck down. The gentleman from Connecticut [Mr. HAWLEY] was mistaken when he said these expenditures had been made. The paper he read from the National Board of Health was an estimate of the expenses for the erection of quarantine stations they propose to build. I refer to the paper itself. It says:

Estimate of expenditures from March 31, 1880, to June 30, 1880.

For establishment of quarantine stations and erection of quarantine building, namely:	
At Hampton Roads, Virginia	$35,000
At Sapelo Sound, Georgia	30,000
At Ship Island, Mississippi	56,000
On Mississippi River	35,000
For improvement quarantine station at Charleston, South Carolina	12,000
For aid to other quarantine stations	30,000
For aid to local and State boards of health	25,000

This amount, however, is not yet expended. It is only in the process of expenditure. It is necessary at Ship Island and other points quarantine stations should be established, so every ship coming from a foreign country where yellow fever makes its home is compelled to touch and show a clean bill of health before being admitted, as in the case of Ship Island, into the mouth of the Mississippi River. When a ship has passed Ship Island quarantine station, after having shown a clean bill of health, it then meets the board of health of the State of Louisiana, and afterward of all the States along the river until it strikes Cairo and even up to Saint Louis, and Louisville on the Ohio River.

I say, therefore, Mr. Chairman, that the National Board of Health has done much. And who are they? They consist of the ablest men in this country, the most prominent and distinguished scientists in their profession.

We have first Dr. Cabell, of Virginia, president of the board, a gentleman of high culture and experience; Dr. Bowditch, of Massachusetts, a gentleman than whom there is no one who is more familiar with the origin and treatment of these epidemic diseases; Dr. Bemis, of Iowa, a gentleman of well-known ability in his profession; Dr. Mitchell, of Tennessee; Dr. Smith; Dr. Verdi, of this city, all men of high attainments in the profession which they adorn, and in whose hands the country will be willing to see millions confided to free the country from this terrible periodical scourge, which has too often decimated the cities of the South, changed all commercial relations, and caused losses to the amount of millions.

Mr. COX. Mr. Chairman, I know it is ungracious to make any remarks in reference to a measure of this nature; but I desire to say that I was not here yesterday when gentlemen responded to some remarks I made then. I did not then know the *personnel* of this board of health. When I charged that it was a swindle on the people, in that connection I said—what the RECORD does not show—that the large sum was a swindle because there was no consideration for the money which had been expended and was asked. In that light it is a fraud upon the Treasury. This board has done no good. It is a pernicious impediment, a junketing excrescence. After the epidemic is gone, is it not out of its sphere? It has no epidemic to fight; and when it was here, it made no fight.

Mr. HOOKER. Will the gentleman permit me to ask him a question?

Mr. COX. Yes, sir.

Mr. HOOKER. This board is simply preventive. It is not intended for the treatment of disease, but simply to provide means to prevent its recurrence or spread in the country.

Mr. COX. That is not a question. The gentleman is usually exact in his logic. The gentleman is right, however, when he said that when the board was established the question of State rights was well considered by both sides. The identical proposition which the gentleman from Mississippi [Mr. MANNING] referred to yesterday was considered long before he came here. Mr. Bromberg, of Mobile, undertook this question when he was a member of Congress. We discussed the case of Ogden and others, making a dividing line between the local or police and the Federal authority. In a bill introduced here before the Hartridge bill, we passed upon this question. We considered the question as to whether the Federal authority could or should come in conflict with the local authorities. We showed then how the local quarantine performed effective service. We distrusted Federal supervision. We reserved local right by special provisos. But that bill did not suit gentlemen then. They wanted to make a grand Federal bureau here; and if I remember aright, the bill was finally dropped because my amendment for local supremacy was not what was desired.

Thus we began with a bit of a bill, but it has grown monstrous. It is now, instead of a harmless benevolence, a hideous devil-fish, with its arms and claws and suckers clasped around our polity, absorbing and choking all the powers of the local boards of commerce and quarantine and all police regulations upon such subjects of local concernment.

The gentleman from Michigan said that cholera has been disseminated from the local quarantine in New York. Mr. Chairman, there has been no cholera in New York for thirty-two years. In 1848–'49 the cholera was there as an epidemic—never since. It was brought there from Philadelphia. There has been such a perfect system of quarantine at New York—and paid for by New York—that it has preserved the city and its surroundings and connections from epidemics for over thirty years. Why? Because there were local officers and regulations. There was, and is yet, local accountability, and that is the secret of our freedom from epidemic diseases.

When Mobile failed here to get the general system her member proposed, she began a system of local quarantine. She perfected her own hygiene and made her own police effective. What was the result? When Memphis, all rotten and in stench, and other cities almost as bad, gave hospitality to the yellow fever, Mobile went through safely. Why? Because of her sensible local quarantine guards.

Mr. MANNING. Will the gentleman permit me to ask him when was it that these decisions were discussed?

Mr. COX. They were discussed when Mr. Bromberg came here, before the gentleman from Mississippi was a member of this House, and they were again discussed in the Hartridge bill.

Mr. MANNING. I understood that the Hartridge bill suited my friend from New York then.

Mr. COX. It did suit me, with my amendment which was adopted. It was an amendment to the bill which deprived it of its obnoxious features. That amendment was, that there should not be any interference with the local or police boards of health, and that the Federal Government should not be permitted to interfere. Having that amendment in the bill, I agreed to the bill and championed it. It saved our New York quarantine. But this proposition is a step in advance of that, as the next paragraph shows. This is a measure that will rob openly and insidiously the local authority of its powers, while the quarantine system of the United States will absorb all the local systems by this abnormally increased system.

Mr. HOOKER. It has not done so yet.

Mr. COX. It is in process of absorption, as my genial friend would say: "in process of absorption."

Now, I will acknowledge the elegant compliment from my friend from the Memphis district, [Mr. YOUNG.] I was, I confess, gratified as well as surprised at the beautiful and undeserved tribute which was paid me by my friend, for exertions in behalf of the life-saving service. Representing that service, I was glad, in a way, that I was absent at the time of such unexpected praise. Praise from the praiseworthy is praise indeed! It was like apples of gold in pictures of silver. It came near to my heart of hearts. But my friend says that I always favored these humane policies, and he is amazed at my defection on this bill.

Sir, I have endeavored to be humane and just under the Constitution of my country. The life-saving service, like the light-house service, has its warrant in the organic law. They are of those commercial regulations recognized by the refinement of our civil system. Life saving! There is constitutional warrant for that, not from God alone and by highest humanity. The purest philanthropy I know here is in observing the law! The greatest of all blessings under the Constitution is to guard with vestal vigilance the divisions of power and maintain the barriers between the State and Federal Governments. Without this care and vigilance in observing constitutional restrictions on the part of our southern State-rights friends, all our humanity in this country, and especially with reference to their section, would be without virtue and will fail utterly and ignominiously at last. The great bulwark of all generous impulses and all humane projects will vanish when you break down the limitations of constitutional freedom.

[Here the hammer fell.]

Mr. ROBESON. If the gentleman from Tennessee [Mr. YOUNG] will withdraw his amendment I will renew it.

Mr. HAYES. I object.

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee [Mr. YOUNG] to the amendment of the gentleman from Louisiana, [Mr. KING.] The Clerk will report the paragraph to be amended and will then report the amendment of the gentleman from Louisiana [Mr. KING] and the amendment of the gentleman from Tennessee [Mr. YOUNG] thereto.

The Clerk read the pending paragraph, as follows:

National Board of Health:
For salaries and expenses of the National Board of Health, and to carry out the purposes of the various acts creating the National Board of Health, $75,000, or so much thereof as is necessary.

Mr. KING'S amendment was read, as follows:

Strike out "$75,000" and insert "$125,000."

The amendment offered by Mr. YOUNG, of Tennessee, to the amendment was read, as follows:

Strike out "$125,000" and insert "$150,000."

The question being taken on the amendment of Mr. YOUNG, of Tennessee, to the amendment, there were—ayes 21, noes 82.

So (further count not being called for) the amendment to the amendment was not agreed to.

Mr. COX. I move now to amend the amendment by striking out "$125,000" and inserting "$50,000."

Mr. BLOUNT. I hope my friend from New York will not insist upon that amendment.

Mr. GOODE. What is the pending amendment?

The CHAIRMAN. The pending amendment is that offered by the gentleman from Louisiana to strike out "$75,000" and insert "$125,000."

Mr. GOODE. I desire to be heard upon that amendment. I am as much opposed as the gentleman from New York [Mr. COX] to any attempt to build up a grand national establishment here in the city of Washington; my course in this House heretofore has demonstrated that fact. But I call the attention of the gentleman from New York and of the House to this fact, that the present National Board of Health has not been established upon any such theory. That gentleman well remembers the debate which took place here in the last Congress, and how the existing law constituting the present board of health was constructed upon the theory that primarily quarantines and health laws belonged to the States and that the Federal Government could only come in properly by way of supplementary legislation and in aid of the health authorities of the State.

Now, Mr. Chairman, this board was organized upon that theory; and I challenge denial when I assert here to-day that the eminent

scientific men who composed that board have acted strictly within the purview of the statute creating it. What have they done, sir? I call upon the chairman of the sub-committee of the Committee on Appropriations, which prepared this bill, to point to a single item of expenditure paid out by this board which has not been sanctioned and approved by the Secretary of the Treasury. Whenever they have had any question of difficulty they have taken the opinion of the Solicitor-General, Judge Phillips. They have taken the opinion of Judge Porter, one of the Comptrollers of the Treasury; they have had the approval of the Secretary of the Treasury, and their action has been indorsed by the Committee on Epidemic Diseases of this House, and the like committee of the Senate.

Now, what have they done? The gentleman from New York says they are gradually grasping power. I call upon him and I call upon the Committee of the Whole to take this statement of expenditures and show from the beginning to the end where a solitary item of expenditure has been made against authority of law? There has not been one.

The gentleman says they have undertaken to put up public quarantine stations. Why, sir, the law justifies that. It was not only their right but their duty to establish quarantine stations in order to carry out the purpose of the organization. It was to prevent the introduction of infectious and contagious diseases in this country. And not only that, but they have the express authority of law to establish temporary buildings for quarantine purposes. The gentleman from Connecticut [Mr. HAWLEY] says they are not temporary. Why, sir, does he not know that they are built of wood? And what could be more temporary and less durable in their character than these wooden structures that are here estimated for? Gentlemen have fallen into error by supposing that the $35,000 in the one case and the $50,000 in the other are to be expended altogether for wooden structures. The quarantine buildings themselves only cost $4,000. But they must have yards and wharves for landing, and buildings to receive freight to be disinfected, &c., and all the buildings amount to the sums of money here.

One word as to what fell from the gentleman from Connecticut [Mr. HAWLEY] as to the quarantine buildings at Hampton Roads. I want the House to remember that Hampton Roads is a place of call for vessels going from the South to the North and from the North to the South. In the time of epidemics these vessels have people on board sick with yellow-fever, and when they land them there is no place to put them. To keep them on the vessels where they belong would be an act of barbarism and inhumanity. And the object of the National Board of Health is to establish a quarantine station at Hampton Roads which will do—what? It will not only protect Norfolk and Richmond, but it will protect Chesapeake Bay, the city of Baltimore, and the city of Washington, against the introduction of these epidemic diseases.

Now, sir, in the name of humanity, in the name of common fairness and of justice, I ask the House to do no injustice to those sick people, and to do no injustice to this board of health.

[Here the hammer fell.]

Mr. HAWLEY. I desire to clear up some misunderstandings of other gentlemen and possibly some apparent errors I may have committed. I did say, as I understood the facts to be, that contracts had been made for buildings at Hampton Roads, at Sapelo Sound, at Ship Island, and on the Mississippi River, and for the improvement of the local quarantine station at Charleston, South Carolina. If I was in error on that point it arose from the statement laid before us by the National Board of Health, in which they give estimates of expenditures from March 31, 1880, to June 30, 1880; that is to say, the last three months of this present fiscal year. They estimate that they are going to spend during those three months a very large sum, and they put down sums for the establishment of quarantine stations and the erection of buildings at Hampton Roads, Sapelo Sound, Ship Island, and on the Mississippi River and for the improvement of the quarantine station at Charleston.

I understood the secretary of the board to say that they had made the contracts for these buildings; I am very sure the secretary of the board said that they had made them, but I may have been mistaken. I am not mistaken in saying that they contemplate building them before the 1st of July; there is no question that it is so put down in their estimates.

Mr. BLOUNT. And they give us some of the accepted bids.

Mr. HAWLEY. Yes, as the gentleman says, they give us some of the accepted bids. Moreover, I have here a statement from the Treasury Department showing that that Department has approved a requisition of $12,000 for the improvements at Charleston and a requisition of $30,000 for the station at Ship Island. Gentlemen say that that is not altogether for buildings; I am not sure about that. And then there is a requisition approved for $18,000 for establishing three quarantine stations on the Mississippi River.

Mr. MCGOWAN. That is not all for buildings.

Mr. HAWLEY. My friend from Michigan [Mr. MCGOWAN] thinks that that does not mean buildings. I do not know very well how they can spend $18,000 without putting up some buildings—their statement includes buildings on the river.

Mr. MCGOWAN. For obtaining vessels.

Mr. HAWLEY. I do not know whether it is to be expended for vessels or not. The Treasury Department declares that it has approved a requisition for three quarantine stations on the Mississippi River at $18,000.

Mr. MCGOWAN. Is not the gentleman willing to admit that a steam-launch is necessary for a station?

Mr. HAWLEY. I am not willing to admit that a station means a steam-vessel.

Mr. MCGOWAN. The expenditure is for that purpose, any way.

Mr. HAWLEY. Then the statement is wrong. They have no right to build a vessel when they obtain a requisition for a station.

Mr. MCGOWAN. It may be a wrong statement in the letter.

Mr. HAWLEY. This is a statement of the Secretary of the Treasury. They propose to build at Pittsburgh a steam-vessel for $20,000 and launches at something additional; I do not remember how much.

I say I may be mistaken possibly as to the actual signatures of the contracts for the erection of these buildings. But the secretary of the board stated, and here is his printed estimate which has been published in the RECORD, that this amount was to be spent during the current three months. Whether the contracts have been signed or not is another matter. But the bids are there for the buildings.

Mr. MCGOWAN. Will the gentleman allow me a suggestion?

Mr. HAWLEY. Certainly; I want to get at the facts.

Mr. MCGOWAN. It was stated this morning before the Committee on Epidemic Diseases, by Dr. Billings, that the contracts had been canceled except for the stations on the Mississippi River, and——

Mr. HAWLEY. When were they canceled?

Mr. MCGOWAN. And that new advertisements had been put in the papers.

Mr. HAWLEY. Very well; new advertisements are in the papers for other contracts. They are determined to construct the buildings and are asking bids for them to-day. And they have stated in the statement which has been submitted and printed yesterday in the RECORD that said buildings are to be constructed by the 30th of June. Now, it is a mere verbal quibble as to the rest of it.

The only question for us to consider is our legislative duty. I am not impeaching the board. It is a question of our legislative duty, and I think the question is already upon us whether we shall enter upon the construction of an expensive system of buildings along the coasts, to be cared for from year to year, for they are to be guarded and preserved. We will be preparing for an expenditure of $150,000 to $200,000 a year, even in the most salubrious years, when there is no prospect of disease before us. [Here the hammer fell.] Let me add one word. The Committee on Appropriations in this bill have given to the National Board of Health $250,000. All that that board asked was $315,000. We have restricted them in the expenditure of some of it to local aid, which the gentleman from Virginia [Mr. GOODE] says was the original purpose of creating the board. I call attention to the following papers in connection with this matter:

TREASURY DEPARTMENT, *May* 21, 1880.

SIR: In reply to the telegram of your committee of to-day, I have the honor to inform you that requisitions of the National Board of Health have been approved and paid as follows:

1879.		
April 4. Salaries and expenses		$10,000 00
May 20. Salaries and expenses		10,000 00
June 18. Salaries and expenses		15,961 50
July 1. Investigating yellow fever at Havana and other places in the West India Islands		2,000 00
July 10. Building at quarantine station, New Orleans	$8,000	
July 10. Furnishing the same	2,600	
July 10. Salaries and expenses	2,600	
		12,600 00
August 16. Investigating yellow fever at Havana, &c		2,000 00
September 6. Salaries and expenses National Board		13,932 30
September 11. Investigation yellow fever at Havana, &c		2,000 00
September 23. Building for hospital, Pensacola, Florida	$500	
September 23. Two boats for boarding vessels	400	
September 23. Salaries and expenses	4,100	
		5,000 00
September 23. Salaries and expenses (Tennessee)	15,670	
September 23. Four temporary hospitals, Memphis, Tennessee	2,600	
		18,270 00
October 9. Hospital building, East Pascagoula, Mississippi	2,600	
October 9. Constructing wharf	1,200	
October 9. Boats for boarding vessels	500	
October 9. Salaries and expenses	830	
		5,130 00
October 17. Salaries and expenses	6,400	
October 17. Buildings or tents for quarantine purposes in Mississippi	3,000	
		9,400 00
October 17. Salaries and expenses (Illinois)		3,900 00
October 17. Salaries and expenses (Alabama)	$3,150	
October 17. Temporary hospital at Mobile, Alabama	1,200	
October 17. Furniture for same	350	
		4,700 00
October 17. Salaries and expenses (District of Columbia)		300 00
October 18. Investigating yellow fever at Havana, &c		2,000 00
October 25. Investigating yellow fever at Havana, &c		2,000 00
November 13. Purchase of tents, &c., to prevent spread of yellow fever from one State to another		10,000 00
November 13. Tents at three stations in Kentucky	$750	
November 13. Salaries and expenses	1,600	
		2,350 00
November 13. Salaries and expenses	550	
November 13. Four tents at Richland Parish, Louisiana	250	
		800 00
November 13. Tents in Arkansas	900	
November 13. Salaries and expenses	2,800	
		3,700 00

1879.		
November 13. Salaries and expenses (Texas)		$2,000 00
November 15. Investigating yellow fever at Havana, &c		102 34
December 2. To prevent spread of yellow fever in Louisiana		450 00
December 2. To prevent introduction of yellow fever in Meridian, Mississippi		425 00
December 2. To prevent introduction of yellow fever in Jackson, Mississippi		505 00
December 2. To prevent introduction of yellow fever in Vicksburgh, Mississippi		730 00
December 2. Three quarantine stations in Mississippi		4,000 00
December 9. Two floating stations on Mississippi River		16,000 00
December 9. Special investigation shore line New York Bay, New Jersey		800 00
December 27. Two quarantine stations on southern coast of Mississippi at Ship and Horn Islands		4,000 00
1880.		
January 8. Salaries and expenses, Memphis, Tennessee		3,451 00
January 8. To prevent spread of fever from one State to another		10,000 00
January 20. Salaries and expenses (Louisiana, Arkansas, and Tennessee)		5,500 00
February 4. Salaries and expenses (National Board Health)	$10,500	
February 4. Salaries and expenses (Mississippi)	5,000	
		15,500 00
March 12. Salaries and expenses (Tennessee)		14,000 00
April 17. Salaries and expenses (Arkansas)	$3,140	
April 17. Salaries and expenses (District of Columbia)	250	
April 17. Special investigations in connection with Academy of Science	5,000	
		8,390 00
May 15. Salaries and expenses (Tennessee)		8,600 00
Total		230,497 14

The following requisitions have been approved and are before the First Comptroller of the Treasury for recommendation:

1879.		
October 15. To enable the National Board of Health to make a special examination and investigation at Memphis, Tennessee		$4,500 00
October 20. To enable the National Board of Health to co-operate with the State board of health of Arkansas, in executing rules, &c., in restricting yellow fever at Forest City and elsewhere		2,000 00
For salaries of inspectors, sanitary police, disinfectants, and disinfection		2,000 00
October 24. Expenses of National Board of Health:		
Furniture	$500	
Employés	1,000	
Printing	1,000	
Telegrams	1,000	
Postage	500	
Miscellaneous expenses	1,000	
Per diem of members of board	2,500	
Traveling expenses of board	3,000	
Pay of inspectors	2,500	
Expenses of inspectors	1,000	
		14,000 00
December 9. Expenses of National Board of Health:		
For pay of employés	2,500	
For per diem of members	1,000	
For expenses of members	1,000	
For pay of inspectors	5,000	
For expenses of inspectors	1,000	
		10,500 00
December 11. To enable the National Board of Health to make special examinations for the purpose of obtaining information on matters affecting the public health		2,700 00
December 24. For the purpose of establishing a quarantine station at Charleston, South Carolina		12,000 00
For the purpose of establishing quarantine station at Ship Island		30,000 00
For the purpose of establishing three quarantine stations on the Mississippi River		18,000 00
December 29. To enable the National Board of Health to co-operate with the commissioners of the District of Columbia in preventing the spread of small-pox		5,000 00
1880.		
January 9. Expenses of the National Board of Health:		
Pay of employés	$3,000	
Printing	2,000	
Pay of inspectors	4,000	
Expenses of inspectors	1,000	
Rent, light, and fuel	1,500	
Stationery	1,000	
		12,500 00
January 20. To enable the National Board of Health to make special examinations and investigations at Memphis, Tennessee		1,000 00
January 29. To enable the National Board of Health to co-operate with State board of health of Tennessee in enforcing rules to prevent spread of yellow fever		500 00
January 29. For payment of fees of counsel to dissolve an injunction at Memphis, Tennessee		500 00
February 7. To enable the National Board of Health to co-operate with the commissioners of the District of Columbia to prevent the spread of small-pox		2,000 00
February 17. To enable the National Board of Health to co-operate with the commissioners of the District of Columbia to prevent the spread of small-pox		160 00
April 30. To enable the National Board of Health to establish a quarantine station at Blackbeard Island, coast of Georgia		10,000 00
May 15. Expenses of the National Board of Health:		
Furniture	$500	
Employés	4,000	
Printing	1,000	
Telegrams	500	
Pay of inspectors	2,000	
Traveling expenses of inspectors	2,000	
		10,000 00
May 12. Expenses in preparing report of yellow-fever epidemic of 1878		1,800 00
Total		139,160 00

1880.		
March 13. The following sums being no longer required for the purpose for which they were originally estimated have been transferred to be expended under the following heads:		
1. Appropriation for Richland Parish, Louisiana:		
For tents	$250 00	
For outfit of station	150 00	
For pay of officers	300 00	
For pay of nurse	100 00	
		$800 00
Transferred to stationery account, National Board of Health.		
2. Appropriation for Vicksburgh, Mississippi:		
For quarantine officers	155 00	
For sanitary police	100 00	
For tents	175 00	
For furniture, &c	300 00	
		730 00
Transferred to rent, light, and fuel account, National Board of Health.		
3. Appropriation for Meridian, Mississippi:		
For tents	75 00	
For furniture	131 70	
		206 70
Appropriation for Jackson, Mississippi:		
For inspectors	155 00	
For tents	150 00	
For furniture	200 00	
		505 00
Appropriation for State board of health, Kentucky:		
For inspectors	900 00	
For tents	750 00	
For disinfectants	700 00	
		2,350 00
Transferred to employés' account, National Board of Health.		
4. Balances of appropriation for State board of health, Illinois:		
For rent of barge	1,200 00	
For fitting up barge	300 00	
For boatmen and boats	64 52	
For pay of cook	39 04	
For pay of nurse	128 00	
For subsistence	34 59	
For furniture and extras	39 95	
For disinfectants and incidentals	770 58	
		2,576 68
Transferred to account for floating quarantine stations on the Mississippi River.		
5. Balances of appropriations for Memphis, Tennessee:		
For sanitary police	78 00	
For employés	1,759 00	
For supplies	379 64	
For equipments	1,000 00	
		3,216 64
Transferred to account for inspectors, police, and laborers, State board of Tennessee.		

It is understood that the contracts for construction of boats and buildings for quarantine purposes are on file in the office of the National Board of Health.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations,
House of Representatives.

NATIONAL BOARD OF HEALTH,
Washington, D. C., May 20, 1880.

SIR: In compliance with your request, I inclose herewith copies of the requisitions made upon and approved by the Secretary of the Treasury for the purpose of carrying out the provisions of section 6 of the act approved July 1, 1879, authorizing the National Board of Health to erect temporary quarantine buildings, &c.

It is proper to state that the board has never been officially notified by letter from the Department of the approval of these requisitions, but it is known by personal inspection that the requisitions are approved and on file in the office of the First Comptroller of the Treasury.

The board, after mature deliberation, determined to establish three maritime quarantine stations where vessels could be isolated, disinfected, and cargo and persons treated for the purpose of executing the provisions of the act above referred to, as follows:

1. At Hampton Roads, Virginia.
2. At Blackbeard Island, Georgia.
3. At Ship Island, Mississippi.

A fourth, river quarantine inspection on the Mississippi River, was also determined upon.

For this purpose the requisitions, copies of which are inclosed, were drawn upon the Secretary of the Treasury and approved by him for each particular station.

Of the above maritime stations that at Ship Island is the only one in process of construction, and I inclose herewith the bids made for the construction of that station, with report, &c., by myself.

I inclose also a copy of the advertisement calling for proposals for the construction of the station at Blackbeard Island. No bids have yet been received for the construction of this station.

No action has been taken in the matter of the station at Hampton Roads, in consequence of the failure of the bill passed by the Virginia Legislature ceding the land, on which it was proposed to erect the buildings, to the United States to reach the governor in time for signature prior to the adjournment of the Legislature.

A proposition is now before Congress which, if passed, will cure the defect and enable the board to proceed with the work at that point.

For the Mississippi River stations a boat and launches are being constructed at Pittsburgh. In consequence of the near approach of the season when the Mississippi Valley is usually exposed to the ravages of epidemics the board did not deem it prudent to await the time for advertising. Bids, however, were received, and after consideration the proposal of James Rees was accepted. I inclose the two bids received, being file Nos. 4074-79 and 592-80, which I will thank the committee to return when it has completed its examination.

I am, Mr. ATKINS, very respectfully, &c.,

T. J. TURNER, U. S. N.,
Secretary National Board of Health.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations,
House of Representatives, Washington, D. C.

PITTSBURGH, PENNSYLVANIA, *February* 2, 1880.

DEAR SIR: I here submit you a revised estimate of the iron hospital boat and the three iron launches as follows, namely: One stern-wheel, iron hull, 110 feet long on deck, 18 feet beam, 4 feet depth of hold, with a wooden deck and wooden rudders, iron cylinder timbers, iron stanchion to support cabin. The iron in bottom of hull 3-16 inch thick and the sides 3-16 inch thick, with one fore-and-aft and two cross bulkheads of iron ¼ inch thick; no guards; with one siphon in each compartment of the hull; 18-foot forecastle; 8 feet between decks; cabin deck with bulkhead all around, and doors, and windows, and a skylight full length of cabin; pilot-house, and a railing around on boiler deck and hurricane deck, with quarters for crew on main deck, 1 office for captain, 1 bed-room for medical officers, 1 room for administration, 1 store-room, 1 kitchen, 1 dining-room; the roof to be made of 10-ounce canvas and Getchell's roof paint; the skylight and forward and after doors to have enameled glass in them, and the other glass all to be plain; the cabin painted inside 4 coats and varnished, and outside 3 coats, and lettering name of boat, &c. Machinery to consist of one pair engines, 13 inches diameter, 5 feet stroke, to escape on roof and to wheel only; one doctor-engine to supply boilers, one hand-power deck-pump, one iron hand-power capstan, 1 set shifters; the wheel to be of iron, with shaft and wrists of steel; and cranks of iron; with 2 boilers 42 inches diameter, 22 feet long, 2 flues in each with steam and mud drums, one pair chimneys 30 feet above deck; with all pipes, valves, and gauges to connect engines and boilers; boilers covered with brick, and steam drum and pipes covered with non-conducting material; chimneys cased between boiler deck and hurricane roof; engineer's locker, coal-box, iron tiller-rope, and all steerage apparatus; hog-chains, blacksmith work, tools for firemen; 100 feet gum hose and fittings; 1 anchor and chain-cable; 1 line, 1¼ inch diameter, 720 feet long; 1 yawl, iron, 18 feet long, and oars; 3 flag-staffs, and iron guys for same; 2 signal-lamps and 6 deck lanterns; 1 roof-bell, 200 pounds, and hangings; engine bells and whistle; 1 stage, 5 axes, shovels, buckets, water-barrels, engine lamps; 2 oil-tanks and oil-cans; 2 water-closets, with iron enameled urinals in same; iron ring washstands; 2 dining-tables, including floats; and all Government outfit and inspection expenses, and a trial trip made, and ready for delivery to the authorized agent of the National Board of Health; including one extra set of grate-bars, and 300 bushels of coal on board of boat, for the sum of $23,000. This includes davits for hoisting launches and rigging for same.

Then, I will furnish the 3 steam-launches, 30 feet long, 7 feet beam, 3 feet depth of hold, with engine, boiler, and propeller for same, covered roof; screens, and steering apparatus, with tools for fireman, flag-staff, whistle, all painted; and 1 anchor, 1 line to tie with, for $8,000.

Then, I will furnish the iron disinfectant tank, 10 feet by 10 feet and 8 feet high, of 3-16 iron, with pipe and fittings for same, for $700. The terms will be one-half on contracting and one-half when complete and ready for delivery. The foregoing does not include any stoves or cooking utensils, or any furniture or fittings, except as I have mentioned, for the rooms or office.

Yours, truly,

JAS. REES.

MR. TURNER,
Secretary National Board of Health.

Mr. ROBESON. I move to strike out the last two words.

Mr. McCOOK. I move to strike out the last word.

The CHAIRMAN. The Chair is under obligation to first recognize the gentleman from New York, [Mr. McCOOK.]

Mr. McCOOK. A few moments ago the distinguished gentleman from Mississippi [Mr. HOOKER] denied positively, as I understood him, the substance of some statement which I made yesterday. As to what was done in the Forty-fifth Congress upon this question, that is a matter of record, and there can be no necessity for controversy between us about it.

In order to show what the gallant gentleman from Tennessee, [Mr. YOUNG,] whose courage in remaining at his post in Memphis when it was desolated with yellow fever, and whose eloquence in advocating relief for the people of the South have commanded admiration and respect from every gentleman on this floor—in order to show what he thought then in regard to the action of some of his colleagues on that side of the Chamber, I ask the indulgence of the committee for a moment while I read:

> I do not concur in many of the views expressed by my colleague of the committee from Virginia, [Mr. GOODE.] I spent four years of my life in an effort to make the States greater than the Federal Government. During that time the people of the South fought more than a thousand battles to maintain that doctrine, and in the effort more than a million of lives were sacrificed. I am very much afraid that the effort made here to-day to establish the superiority of the States to the Federal Government may result in the loss of a million more lives in this Quixotic effort to maintain some imaginary right of the States that is threatened with no danger. Arguments of this character are only calculated to defeat the measure by bringing into the discussion questions that it is in no way important to investigate or determine.

Mr. GOODE. Will the gentleman allow me to state that the debate from which he is reading took place on an entirely different bill from the one constituting the board of health?

Mr. McCOOK. I am reading from the CONGRESSIONAL RECORD, volume 35, proceedings of March 1, 1879. This debate, Mr. Chairman, if I remember aright—I have not had time to look over it all—grew up on a substitute offered by the gentleman from Tennessee [Mr. YOUNG] for the bill passed by the Senate. The Senate bill, as I understand it, conferred full and ample powers for putting down and crushing out, if possible, the yellow fever and all its germs. At all events, growing out of that discussion, the gentleman from Virginia made some expressions which it is not necessary for me to read, and following those remarks the gentleman from Tennessee, having charge of the bill and interested directly in behalf of his immediate constituency as well as for the best interests of the whole people of the South, spoke here in the presence of the country the very language which I have read.

Mr. ROBESON. Mr. Chairman, as I propose to vote in opposition to the recommendation of the Committee on Appropriations upon this question, I desire to state in a few words my reasons. The question of national or State rights is not at issue in this matter. It is waived for the time being at least. The recommendation of the committee is as much an attack upon State rights as the amendment is, if either is an attack upon them, and the man who on principle can vote for the recommendation of the committee can vote on principle for the larger sum. Therefore I say that that question does not arise; it never has arisen in this matter. Two years ago the southern portion of our common country, with all its great avenues of trade and traffic permeating the whole land, was visited by such a scourge as this generation had not before known. The air was loaded with pestilence and every breeze heavy with death. Families were broken up, homes abandoned, and whole towns deserted. Neighbors fled before the fearful scourge and friends deserted the afflicted, till nothing remained to guard the dying and the dead save the heroism of science and the fidelity of women. It was a picture at which humanity stood aghast. The great heart of the country beat responsive to the demand upon its sympathy; it poured out its wealth like water, not to prevent, (it was too late for that,) but to alleviate the sufferings of those stricken by disease.

Mr. HOOKER. Three or four million dollars came from the North for our relief.

Mr. ROBESON. And when the representatives of the people came together they responded to the feeling of their constituents, and by wise legislation established this National Board of Health, sinking for the moment all questions of localism, of State rights, or federalism, and uniting in a common cause, and took up arms against the enemy that threatened all. They put upon this national board representatives of the highest science that the country afforded. They launched it a year ago to make what provision it could against this periodic destroyer. The board has entered upon its duties. It has brought to their discharge the highest resources of science and the wisest discrimination that talent and education could give. This board, if I understand the facts, seeks not to interfere with local quarantines, but to erect an outer line of defense, an outside barrier which is to challenge disease at the entrance to the country and prevent it coming in.

I am not willing, Mr. Chairman, at this period to unite with the Appropriations Committee in restricting the views of this board of health as to what is necessary, because when we have organized the board and constituted it of the best talent in the country, I think we should give it a chance to carry out its scheme and illustrate its benefit, before we venture to interfere with it, unless there is some positive reason for such action.

Now, I understand that this scientific board has made these estimates as necessary for the completion and carrying out of their scientific work, and I understand that the Appropriations Committee, in the discharge of what they think their duty, and in accordance with their unquestioned right, seek to cut those estimates down. It is their right to do so. It is their business to systematize the appropriations and to report them to the House upon as economical a principle as possible.

But the House, under all the circumstances, may choose for themselves to act upon broader views of policy and upon higher questions of generosity than their committee would be authorized to recommend.

I have heard of no scientific information being sought for or received by the Committee on Appropriations which tells us that these estimates are not necessary to the scheme which we have inaugurated and which we have expended large sums to institute. It is said that the board have expended $35,000 here and $50,000 there for the purposes of quarantine stations. And I have heard also a gentleman say that they expended $6,000 for clerks, watchmen, and attendants.

Mr. Chairman, this expenditure is not large. You cannot have an outside quarantine system which will not interfere with the States, unless you put these quarantine stations out into the harbors, out at sea possibly; you must occupy the outposts. And the sum of $35,000 to prepare the ground, to make the slips and the wharves, to establish the plant of your buildings, is not a large sum anywhere. And $6,000 is four clerks at $1,200 each and one messenger and one watchman at $600 each, and is not a great sum for this great purpose.

If these are all the objections that are urged to this, if there is no scientific information which says that this system is wrong, do not let us stop for $50,000. What is $50,000 compared to the loss of fifty lives? Gentlemen—

> The quality of mercy is not strained:
> * * * *
> 'Tis twice blessed;
> It blesseth him that gives and him that takes.

Do not, then, let us hold this enterprise within too strict barriers nor choke it by narrow views. This is a noble enterprise upon which we have entered in behalf of the country, ay, noble, because whatever alleviates the sufferings, whatever softens the hardships, whatever lessens the disasters of mankind, that is a criterion of good, and to do good is noble. No power can debase it, no circumstance impeach it, no time can dim the luster of its glory. It receives its patent from higher than earthly power, and looks for its guerdon to a nobler than mortal destiny. Let no party attempt to limit it, let no local spirit seek to confine its powers. Its realm cannot be held within conventional boundaries; it is the broad domain of human feeling. Its throne is erected within that great metropolis, the human heart.

Before Mr. ROBESON had concluded,

Mr. BLOUNT. I move that the committee rise for the purpose of limiting debate upon the pending paragraph and amendments to the same.

The motion was agreed to, there being—ayes 83, noes 25.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole on the state of the Union; and pending that motion I move that all debate on the pending paragraph and amendments to the same be limited to one minute.

Mr. HOOKER. I move to amend the motion of the gentleman from Georgia so as to limit debate to ten minutes, to be given to the gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. I want but five.

Mr. MCGOWAN. I want five. I move to amend the amendment so as to limit debate to twenty minutes.

Mr. HAYES. We have already spent two hours in discussing this matter.

The amendment of Mr. MCGOWAN to the amendment of Mr. HOOKER was not agreed to.

The question recurring on the amendment of Mr. HOOKER, there were—ayes 35, noes 71.

Mr. HOOKER. I make the point that no quorum has voted.

Tellers were ordered; and Mr. BLOUNT and Mr. HOOKER were appointed.

Mr. BLOUNT. If the House will sustain me, I propose to get through with this bill.

Mr. HOOKER. If the House will sustain me, I propose that we shall discuss such portions of the bill as we want to discuss.

The House divided; and the tellers reported—ayes 47, noes 104.

Mr. HOOKER'S amendment limiting debate to ten minutes was rejected.

The question then recurred on Mr. BLOUNT'S motion to limit debate on the pending paragraph and all amendments thereto to one minute.

The motion was agreed to.

Mr. BLOUNT moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The House resumes the consideration of the sundry civil appropriation bill, and the debate has been limited on the pending paragraph and amendments thereto to one minute.

Mr. COX. I will consume that one minute, Mr. Chairman, for the purpose of saying that I believe this National Board of Health has been trying by some of its regulations and some propositions I have seen here to regulate the whole commerce of this country, and they can do it if they are sustained by Congress. They can discriminate against any port or any place if they choose to exercise that power. They have made regulations looking in that direction, and this House should be careful, therefore, not to aggrandize that power which may be abused in the interest of charity. I will therefore, at the proper moment, move to strike out this whole paragraph.

Mr. HOOKER. I hope the gentleman will itemize the regulations he refers to and let us understand what they are.

Mr. COX. I cannot in one minute.

Mr. KING. I say the gentleman from New York is mistaken. There are no such regulations prescribed. The regulations are simply recommended and adopted by State boards.

Mr. COX. They have overslaughed, wherever they have gone, all State boards.

Mr. KING. I think the gentleman is in gross error.

Mr. COX. The gentleman who represents the Mobile district——

The CHAIRMAN. The time fixed for debate has expired.

Mr. COX. I move, then, to strike out the whole paragraph.

The CHAIRMAN. The question first recurs on the formal amendment to the text.

Mr. COX. That is withdrawn.

The CHAIRMAN. The Chair hears no objection, and the formal amendment is withdrawn.

Mr. COX. I now move to strike out the whole paragraph.

Mr. BLOUNT. Let us have a vote on the pending proposition.

Mr. COX. What is it?

The CHAIRMAN. It is the amendment of the gentleman from Louisiana [Mr. KING] to strike out $75,000 and insert $125,000.

The committee divided; and there were—ayes 32, noes 88.

Mr. LOWE. No quorum has voted.

The CHAIRMAN. The gentleman from Alabama makes the point that no quorum has voted, and the Chair therefore will appoint Mr. LOWE and Mr. BLOUNT as tellers.

The House again divided; and the tellers reported—ayes 37, noes 112.

So the amendment was not agreed to.

The question recurred on Mr. COX'S motion to strike out the paragraph.

Mr. MCGOWAN. I move to strike out "$75,000" and insert "$100,000."

Mr. MANNING. Is it necessary to give notice that a yea-and-nay vote will be called for in the House?

Mr. CLYMER. You cannot get it.

The CHAIRMAN. There can be no vote in the House, as the amendment was not adopted.

Mr. MCGOWAN. Before a vote is taken, I ask the slip I hold in my hand be read.

Mr. BLOUNT. I object.

Mr. MCGOWAN. It will give information to the gentleman from Georgia.

Mr. BLOUNT. I presume the gentleman from Michigan needs information, as he seems to be not fully informed on this subject.

Mr. COX. Is not my motion still in reserve?

The CHAIRMAN. It is.

Mr. COX. Would it be in order to move to amend the amendment of the gentleman from Michigan by inserting $50,000?

The CHAIRMAN. That amendment is in order.

Mr. COX. I make that motion, to reduce the appropriation to $50,000.

Mr. MCGOWAN. I rise to a parliamentary inquiry. The gentleman from New York moves as an amendment to my proposition to strike out the whole paragraph. I moved to strike out certain words and insert others.

The CHAIRMAN. The motion of the gentleman from New York is in the nature of a substitute.

Mr. COX. The section has to be perfected before the vote comes up on my motion to strike out.

Mr. HOOKER. I rise to a point of order. It is this: the motion now pending before the House is the amendment of the gentleman from New York to the amendment of the gentleman on the other side of the Chamber. Is not that motion debatable?

The CHAIRMAN. No debate is in order on this paragraph.

Mr. ROBESON. Debate was limited only to pending amendments.

Mr. HOOKER. I rise to a point of order, that the order of the House was to limit the debate on the paragraph and all pending amendments to one minute.

Mr. BLOUNT. That was not my motion.

Mr. HOOKER. State it then. Read it from the Clerk's desk.

The CHAIRMAN. There is no record here.

Mr. HOOKER. There certainly is a Journal of what took place in the House.

Mr. BLOUNT. I made no such motion, because it would be a failure of my purpose. The motion was to limit debate on the paragraph and all amendments to the same.

Mr. HOOKER. But the gentleman could not apply his motion to amendments which had not been offered and which were not pending at the time before the Committee of the Whole. The motion of the gentleman was to limit debate upon the paragraph and pending amendments. Necessarily it could not apply to amendments which were not pending.

The CHAIRMAN. The gentleman from Georgia will please state what his motion was.

Mr. BLOUNT. My motion was that the committee rise to limit debate upon the paragraph and all amendments to the same.

Mr. HOOKER. That motion could not apply to amendments which were not in existence.

Mr. BLOUNT. The motion could, and it is often so applied. That is the usual method of cutting off debate on a paragraph.

The CHAIRMAN. The gentleman from Mississippi will recollect that when a motion is made to close debate upon a paragraph it limits it not only upon amendments pending, but upon all amendments which may thereafter be offered.

Mr. HOOKER. I call for the reading of the Journal of the House. That will show what the motion was. The motion was to limit debate in the House after the committee had risen, and the Journal of the House is the proper authority to determine what the motion was. If the Chairman will allow that to be done, it will settle this matter at once.

The CHAIRMAN. The Journal of the House has not been made up or approved. The Chair will cause to be read the notes of the official reporter. That is the only record that is made of the motion. The Clerk will read the transcript from the reporter's notes.

The Clerk read as follows:

Mr. BLOUNT. I move that the House resolve itself into the Committee of the Whole on the state of the Union, and pending that motion, I move that all debate on the pending paragraph and amendments to the same be limited to one minute.

Mr. HOOKER. I insist that could only apply to amendments then pending.

The CHAIRMAN. The Clerk will read in this connection the sixth clause of Rule XXIII.

The Clerk read as follows:

6. The House may by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only; but this shall not preclude further amendment, to be decided without debate.

The CHAIRMAN. The Chair regards that as conclusive. The question is on the amendment proposed by the gentleman from New York, [Mr. COX.] The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Strike out "$100,000" and insert "$50,000."

The committee divided; and there were—ayes 35, noes 68.

So the amendment to the amendment was not agreed to.

The question recurred on the amendment to strike out "$75,000" and insert "$100,000."

The committee divided; and there were—ayes 17, noes 77.

So the amendment was not agreed to.

Mr. COX. I withdraw my motion to strike out the paragraph.

The CHAIRMAN. The Clerk will read the next paragraph.

The Clerk read as follows:

For aid to local quarantine stations and for aid to local and State boards of health, to be used in case of epidemic, $100,000: *Provided*, That $75,000 of the appropriation made by act of June 2, 1879, entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," shall be applied to the same purposes.

Mr. SINGLETON, of Mississippi. I move to strike out the last two words. As a member representing one of the yellow-fever-infected districts and at the same time a member of the Committee on Appropriations it may be considered that I am in a position to do what I believe to be justice to all parties. I hope there will be no changes made in the bill as reported from the committee. We have endeavored to examine this whole question and have arrived at what we believe to be a just and fair solution for all parties and all interests concerned. We did not find that the board had used, as we believed, their power and discretion wisely. We did not believe that it was necessary that $52,000 should be appropriated for buildings at Ship Island as a quarantine station.

Mr. KING. Will the gentleman allow me to ask him a question?

Mr. SINGLETON, of Mississippi. Yes, sir; if I am wrong the gentleman may correct me.

Mr. KING. The $52,000 asked for is not to be used for the construction of a hospital at Ship Island.

Mr. SINGLETON, of Mississippi. No; I said for the erection of buildings there.

Mr. KING. It is for the construction of a wharf and warehouses. The estimate for the hospital is only $4,000.

Mr. SINGLETON, of Mississippi. I understand that, but $52,000 is proposed to be expended at this one point to put up buildings for quarantine purposes, while it is well known as a matter of experience to all persons who are familiar with yellow-fever epidemics that it is the policy and wish not only to burn up the bed, the bedding, and clothing of those persons who have been afflicted with the disease, but absolutely to burn up the buildings themselves; every plank of buildings in which yellow-fever patients have been quarantined should be destroyed to destroy the latent germs of the disease. And yet here it is proposed to build a quarantine station of a permanent character. Why, if I am not mistaken, many citizens along the coast and on the Mississippi River are opposed to the erection of this building for that purpose, for the reason that it will establish a sort of harbor for the disease in years to come.

I do not believe, Mr. Chairman, it was contemplated by Congress that the $550,000 appropriated for the health department should be used for erecting buildings at different points along the coast which ought to be destroyed after every epidemic. The same is true as to the other buildings which I understand are under contract to be completed. These contracts, however, having been entered into, involving the construction of these buildings, the Committee on Appropriations did not think it would be proper to interfere with them, and by the estimates furnished to us it will be found that they will complete all the buildings out of the $500,000 and still have at the end of the current fiscal year about $75,000 on hand. Now, we propose to give them $75,000 to pay salaries and expenses, and give them $100,000 besides to be added to the $75,000 they have on hand, for the purpose of dispensing charity and making provision for an epidemic should one break out within the next twelve months.

Mr. HAWLEY. And the balance of $75,000.

Mr. SINGLETON, of Mississippi. I say there are $100,000 and the balance of the $75,000. What do they want with any more money than this? How do they propose to use it? Have these gentlemen given you any detailed statement as to the manner in which they want to use $315,000? They have made the contracts for the buildings. We have agreed they should go on and erect those buildings. They have $75,000 for salaries and expenses and $125,000 under the provisions of this bill to meet contingencies as they arise. This is the view the committee took, and I hope the report will not be changed.

[Here the hammer fell.]

Mr. UPDEGRAFF, of Ohio. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 484, strike out "$100,000" and insert "$50,000."

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, as a member of the Committee on Epidemic Diseases I desire to say only a word or two in reference to this amendment. I have endeavored for a year past in connection with this committee to do everything that was possible in order that we might take action if we could to perfect a system by which the people of this country, and especially of the southern section, should be protected from the ravages of yellow fever.

In that committee and in this House the trouble from the very first has been that there has been a sensitiveness on the part of a great many members of this House about enacting a law giving authority to establish a national quarantine with sufficient powers and sufficient authority to be of use. It is the unanimous verdict of the whole civilized world that State and local quarantines are powerless in the presence of a great pestilence of this kind. There is no dispute in reference to that among all the scientists and medical authorities of the world.

Now, what has hampered action in this matter has been a continual sensitivenesss in reference to this question of national authority. My friend from New Jersey [Mr. ROBESON] says there are no State rights belonging to this discusssion. But it has been impossible to keep it out. It has no place here legitimately. It ought never to have been dragged into this great question of science and humanity. But when the National Board of Health was authorized by the Forty-fifth Congress, it was gentlemen who hold ultra State-rights doctrines who thrust this whole question into the discussion. The gentleman from Virginia [Mr. GOODE] feared that in the anxiety to afford relief we should do mischief by completely upsetting that equilibrium of powers which has heretofore been recognized as existing between our Federal and State systems of government. "*The power to guard and protect the lives and health of its citizens belongs to the State.*"

Others followed in the same line. So ultra and aggressive were they in this line that the gentleman from Tennessee, [Mr. YOUNG,] who is chairman of the Committee on Epidemics and had charge of the bill, very pointedly said to these, his own party friends on the other side, "I spent four years of my life in an effort to make the States greater than the National Government. * * * And I am afraid that the effort made here to-day to establish *the superiority of States to the National Government* may result in the loss of a million lives." It has been so ever since in every discussion of this question. I will now demonstrate to the House that it has intruded itself into this bill which has been prepared by the sub-committee of the Committee on Appropriations.

The National Board of Health asked for $150,000 for general national purposes. Some of their requests I think were wise and some unwise. I am not in favor of granting all the amount they asked for. But I call the attention of gentlemen on this floor on both sides to this strange coincidence: in that part of the appropriation which was for national purposes the committee reduced the amount one-half, cutting it down to $75,000. And probably that is enough. I presume it was done in the interest of economy. I have no doubt of it. But something stranger than that happened in juxtaposition with it. What was that? Just as soon as they touched this clause, which says "for aid to local quarantine stations and for aid to local and State boards of health," they made an appropriation of $175,000, which is $10,400 more than the board asked for. That was in the interest of economy, too, I presume. Of course it was. They would not do anything that was not. I do not suppose anybody would suspect that sub-committee of doing anything that was not in the interest of economy. But that is the way it has happened; and I call the attention of the House to the fact that while the board asked $164,600 to aid local quarantines, the bill grants $175,000—the first time that committee has offered more than was asked.

The gentleman from Mississippi [Mr. SINGLETON] has stated that the board has acted with indiscretion. So they may have, probably, in some cases. But this money that is appropriated for State quarantine goes through their hands, and if they acted with indiscretion in one case they are liable to do so in another. And for my part, though I have regretted while I have sat silently for a year past to see in the discussion of this great humanitarian question State rights and politics dragged into it, yet it constantly comes up and will not down. Therefore I say for one as a member of this Committee of the Whole and as a member of the Committee on Epidemic Diseases, I will no longer consent that the money of the nation, so bountifully given, shall be paid for this or for any other purpose while a large majority or a large part of the gentlemen here from the very sections most interested in this matter stand up and arrogantly declare that the nation shall not dictate how the nation's money shall be expended, but that after the nation grants the money it shall be expended under State law. This is too costly for an abstraction. A wise liberality is good in a great government, but it merits and should meet a faithful and loyal reciprocity.

[Here the hammer fell.]

Mr. BLOUNT. I move that the committee now rise for the purpose of obtaining an order from the House to close debate upon this paragraph. We have progressed but seven lines to day.

Mr. SINGLETON, of Mississippi. I withdraw my formal amendment.

The motion of Mr. BLOUNT was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker *pro tempore* signed the same:

An act (S. No. 56) for the relief of Edward Braden and J. W. Angus;

An act (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late secretary of the Smithsonian Institution;

A joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880;

An act (H. R. No. 1463) granting a pension to Edward H. Leib;

An act (H. R. No. 2643) granting a pension to Mary Meighan;

An act (H. R. No. 4812) to amend the laws in relation to internal revenue; and

A joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of further considering the sundry civil appropriation bill. And pending that motion, I move that all debate upon the pending paragraph and all amendments to the same be limited to one-half minute.

Mr. McGOWAN. I move to extend the time for debate to ten minutes. The Committee on Epidemic Diseases have not been heard upon the pending paragraph.

Mr. ANDERSON. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ANDERSON. The gentleman from Georgia proposes to limit debate upon all amendments to the paragraph.

Mr. BLOUNT. Upon the paragraph and all amendments.

Mr. ANDERSON. My point is whether he can move to limit debate on amendments which have not been proposed.

The SPEAKER *pro tempore*. The Chair has no doubt of the power of the House to do that.

Mr. CALKINS. I do not care much about it in this connection, but I do raise the question whether the House can limit debate upon amendments not yet offered.

The SPEAKER *pro tempore*. The Chair will refer the gentleman to clause 6 of Rule XXIII, and if he desires it will direct the Clerk to read it.

Mr. CALKINS. I do not care to take up the time of the House now, because I do not consider the question of any importance in this connection. But I wish to say that if I understand the rules, the limitation of debate can apply simply to pending amendments. I only want to enter my protest now against any other ruling.

The SPEAKER *pro tempore*. The Chair has no hesitation in declaring it his opinion that it is within the power of the House not to prevent the offering of any amendment to a pending paragraph, but to limit debate on all amendments to that paragraph, whether pending or to be offered.

Mr. ROBINSON. Right here, as the gentleman from Indiana [Mr. CALKINS] has entered his protest, allow me to say that during the discussion of this rule in the House we added a clause to it in this language: "but this shall not preclude further amendment to be decided without debate." We adopted that clause as a new feature in a new rule, and it means something. I ask that this expression in the rule be put right here where the protest is.

The SPEAKER *pro tempore*. The Chair thanks the gentleman from Massachusetts [Mr. ROBINSON] for the suggestion, in corroboration of his own views.

The question being taken on the motion of Mr. McGOWAN, to amend the motion of Mr. BLOUNT so as to limit debate to ten minutes, it was not agreed to.

Mr. McGOWAN. I move to amend so as to fix five minutes as the limitation of debate. That is all the time I want.

The motion of Mr. McGOWAN was not agreed to.

The question recurring on the motion of Mr. BLOUNT to limit debate to half a minute, it was agreed to.

The question then recurring on the motion of Mr. BLOUNT, that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the sundry civil appropriation bill, it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. SIMONTON in the chair) and resumed the consideration of the sundry civil appropriation bill.

Mr. McGOWAN. I desire to move an amendment which does not increase the appropriation; I move to strike out in lines 488 and 489 the words "shall be applied to the same purposes" and insert "shall be applied in carrying out the purposes of the various acts creating the National Board of Health, in addition to the $75,000 above appropriated for the same purpose."

Mr. BLOUNT. I make the point of order that this amendment is not germane. That subject has been considered in connection with the previous paragraph and disposed of.

Mr. McGOWAN. This amendment does not affect the former paragraph. It simply provides that the $75,000 embraced in the proviso of this paragraph shall be applied to another purpose than that named in the proviso. The Board of Health want this done. The amendment will simply give the board $150,000 for the ordinary legitimate purposes of the board, for which they have asked $160,000. The Committee on Appropriations can have no object in opposing this amendment, because it does not increase the aggregate of the appropriation at all. It simply diverts this appropriation of $75,000 from local and State board aid to the general purposes of the national board and increases their facilities for providing against the epidemic of yellow fever which is to-day coming here from Havana. I hold in my hand a newspaper which reached me this morning, stating that in Havana during the last week there were fourteen deaths from yellow fever.

Mr. BRAGG. I make a point of order that the gentleman is not discussing the merits of the amendment.

Mr. BLOUNT. This House has repeatedly to-day refused the very thing which the gentleman now asks to have done. Various propositions of this kind offered upon the preceding paragraph have been voted down. We have now passed from that subject, and this is not germane.

Mr. HAWLEY. The Committee of the Whole has refused to give more and has refused to give less; it has decided upon $75,000.

Mr. COX. This amendment is simply an indirect way of going back to the other paragraph.

Mr. HOOKER. The amendment does not propose to increase the appropriation.

Mr. HAWLEY. It proposes to increase the appropriation made in the former paragraph by the addition of $75,000.

Mr. HOOKER. It does not do any such thing, it simply proposes a different application of money which the bill proposes to appropriate.

The CHAIRMAN. The Chair thinks the amendment is liable to the point of order that it is not germane to this paragraph of the bill, that it ought to have been offered as an amendment to the preceding paragraph.

Mr. McGOWAN. I move to amend by striking out the whole paragraph. That amendment I presume is in order. We do not want to appropriate this money to be used for State purposes.

The CHAIRMAN. The amendment of the gentleman from Ohio [Mr. UPDEGRAFF] is pending. The question will be taken on that amendment before the motion of the gentleman from Michigan to strike out the paragraph is voted upon.

The amendment of Mr. UPDEGRAFF, of Ohio, was read, as follows:

In line 484 strike out "$100,000" and insert "$50,000."

The amendment was not agreed to, there being—ayes 14, noes 41.

The question then recurring on the motion of Mr. McGOWAN, to strike out the paragraph, it was not agreed to.

The Clerk read the next paragraph, as follows:

For salary of a clerk, who shall be a stenographer, to the international sanitary congress to be called by the President, at the rate of $6 per day while actually employed, a sufficient amount to pay said salary is hereby appropriated.

Mr. HOOKER. I move to amend this paragraph by striking out "six" and inserting "seven." Mr. Chairman, in the progress of this debate the statement has been made that the original bill passed here was objected to by some persons upon the ground that it interfered with State regulations. I am very glad to set that question at rest by quoting an authority the authenticity and propriety of which I presume my friend from New York will not question. When the bill of Mr. Hartridge was under discussion——

Mr. BRAGG. I rise to a point of order. The gentleman is discussing a paragraph of the bill which has already been passed.

Mr. HOOKER. I am doing no such thing. I have a right to speak as I please.

Mr. BRAGG. I call the gentleman to order.

Mr. HOOKER. I am in order. I have the right to speak upon any matter pertaining to this paragraph.

The CHAIRMAN. The gentleman from Mississippi [Mr. HOOKER] will confine his remarks to the pending amendment.

Mr. HOOKER. Why, Mr. Chairman, the gentleman from New York the other day, without objection, made a speech on the revenue question when a bill which had no relation to that subject was under consideration.

The CHAIRMAN. The Chair does not undertake to say whether the gentleman from Mississippi is strictly within parliamentary usage or not; but the Chair does remind him he must confine his remarks to the amendment before the committee.

Mr. HOOKER. The necessity for this increase of salary is made apparent by the quotation which I will make from the speech of the gentleman from New York, [Mr. COX.] "I am not prepared," speaking in reference to the bill then pending, "but one thing is sure"——

Mr. BRAGG. I renew my point of order. The speech of the gentleman from New York has no reference to the employment of a stenographer, because there was no international sanitary congress then in session.

Mr. COX. I cannot speak unless in order; and how can I reply to my friend from Mississippi, who is speaking entirely out of order? [Laughter.]

Mr. HOOKER. I want you to reply to yourself and not to me.

The CHAIRMAN. The Chair does not like to say the remarks the gentleman from Mississippi will make are not in order, but he will request the gentleman to confine himself strictly to the amendment pending before the committee.

Mr. HOOKER. I am laying down the premises from which I propose to draw a conclusion in reference to this paragraph, and I hope these interruptions will not be taken out of the limited time which I am allowed under the rules. The gentleman from New York [Mr. COX] says:

But one thing is sure, that this bill is not obnoxious to the charges made by the gentleman from Alabama.

Mr. BRAGG. I renew my point of order. That bill is not now under discussion.

Mr. HOOKER. I say, Mr. Chairman, I have a right in the discussions of the Committee of the Whole House on the state of the Union to say anything which pertains to the subject-matter of the motion I submit.

The CHAIRMAN. A great deal of latitude is allowed in discussion no doubt, and the Chair does not like to undertake to decide that what the gentleman from Mississippi will say is out of order and can have no application to the pending amendment, although the Chair does not see how he can apply the remarks he is making to the pending amendment. The Chair would again request the gentleman from Mississippi to confine himself to the amendment pending before the committee.

Mr. HOOKER. I will do so, and I will read this to show as a reason why this increase of salary should be given to this stenographer:

It is not centralization. It decentralizes.

Mr. BRAGG. I make my point of order again, that the gentleman's remarks are not at all applicable to the amendment pending.

Mr. COX. I desire to be heard on that point of order.

Mr. BRAGG. The gentleman from Mississippi has had all the talk on this subject.

Mr. HOOKER. I only made one speech yesterday.

The CHAIRMAN. The Chair must sustain the point of order.

Mr. COX. I wish to be frank with the gentleman from Mississippi. He picks out a few extracts from a speech, dislocates them from their connection, and I therefore protest against it.

Mr. BRAGG. I make the point of order against the gentleman from New York, that he is not discussing the point of order. [Laughter.]

Mr. HOOKER. On the point of order I say this——

Mr. BLOUNT. I should like to know whether the gentleman has the right to address himself to a point of order after the Chair has ruled on it?

The CHAIRMAN. The Chair sustains the point of order, and requests the gentleman to confine himself to his amendment.

Mr. HOOKER. I will ask, then, as the gentleman from New York and his friend the gentleman from Wisconsin seem to be afraid of having the speech read on this subject, that I shall be allowed to print it.

Mr. COX. I am not afraid to have anything printed which I have ever said, but I want it printed in its proper context and connection.

Mr. HOOKER. I will have it printed and will send a copy to the gentleman from New York and the gentleman from Wisconsin, so they may deliberate on it, and so the gentleman may have the opportunity of correcting his own speech.

Mr. COX. You propose to take out an extract here and there, taking them out of their proper connection.

Mr. HOOKER. I will print your whole speech, and will do more if you desire it.

Mr. COX. I stand by that speech, with my amendment, which was proposed by me and incorporated in the bill. That amendment makes the speech intelligent and consistent with my present relation to this business.

Mr. HOOKER. I want you to stand by it. I intend to make you stand by it.

Mr. COX. I rise to a point of order. The Chair ought to censure the gentleman from Mississippi for bringing in a speech and giving little, partial statements, when he knew he was out of order, and when I could not make reply.

Mr. HOOKER. I am going to give you the benefit of your whole speech, and not extracts from it.

In reply to what has been said by the gentleman from New York [Mr. COX] in his speech of yesterday, and which, in the limited time, I have not the opportunity to respond to, I append to my remarks the speech of the gentleman, made on what is known as the Hartridge bill, discussed in the Forty-fifth Congress, as being the best and most satisfactory reply to what fell from the gentleman from New York [Mr. COX] on yesterday:

Mr. COX, of New York. Mr. Speaker, the gentleman who represents the Mobile district of Alabama [Mr. JONES] has made a very handsome presentation of his views on this question. I remember that one of his predecessors in the first session of the Forty-third Congress, Mr. Bromberg, introduced a bill here for a similar purpose. It had a unanimous report from the Committee on Commerce. It was a so-called national bill, overriding all State regulations of municipal and quarantine laws. It was not unlike this bill, when it was first introduced. It did not reserve any local rights. The author of that bill, as will appear by the debate, (CONGRESSIONAL RECORD, first session, Forty-third Congress, page 4562,) urged it on the grounds of mercy. He represented boards of trade. He presented memorials from southern cities, who were imperiled by the terrible visitations of imported plagues. He invoked the national arm. In that arm alone he contended was the remedy. He made sad pictures of the danger and its malignancy. He argued the inadequacy of the local authorities. There were no imaginary fears in his presentation of the dangers, inland and coastwise. He portrayed the poverty of the Southern States. He held that his measure was only an extension of the customs regulations. But his bill had one capital defect. What was it? He forgot the dangers of central or national power; he was oblivious to the grand work of the States and coast cities in protecting our shores.

That bill was fought by me from the beginning of the session to the 4th of June, when it came before the House for action. It was defeated again and again because of its one capital defect. All the objections which have been made by the gentleman from Alabama were made by myself in that debate (page 4564) against that measure. That bill was a purely national or Federal measure. I preferred that no mere bureau or commission should override all local precautions and provisions. That bill went so far as to make it a felony for a quarantine officer to act under a State law. I then quoted the very decisions quoted by gentlemen on both sides, holding that, while commerce in a constitutional sense was exclusively a matter of Federal government, yet our quarantine, inspection, and other laws were peculiarly local in their nature and scope. I referred to the case in 9 Wheaton, (Gibson *vs.* Ogden,) to the opinions of Webster, Wirt, and Chief-Justice Marshall, that certain health regulations should be of domestic and municipal regulation. I said that "I did not care to discuss then whether the power was concurrent or not." It was enough for me that an amendment I then offered reserved and secured all local rights. No one seemed to deny that the States had ample power to protect by all suitable health laws their inhabitants from imported contagion.

What was the amendment proposed to guard against all trouble on this head? The amendment which I proposed is as follows:

"That the provisions of this act shall not be so construed as to apply to the health regulation and quarantine measures maintained by States or municipalities; and such local systems and their appendages shall remain under the control of the respective local authorities."

Mr. Bromberg accepted that amendment. That amendment was adopted. It was incorporated in the bill. No objection was made after its acceptance. The bill passed the House *nemine contradicente*. It never, however, passed the Senate. Now the new and accomplished member from the Mobile district [Mr. JONES] disclaims any intention or desire to have the Federal Government interfere with their local matters. What has happened since that time? I hope I may congratulate my friend from Alabama that by State laws and domestic regulations they have at last obtained a good local system of quarantine. It would seem so from his satisfaction with his local affairs in this regard and his jealousy of Federal intervention.

The object of my amendment at that time was that the admirable systems of Massachusetts, New York, Pennsylvania, and Louisiana, (in the latter established with the aid of the distinguished gentleman from Massachusetts, [Mr. BUTLER,]) should not in any wise be interfered with by our Federal system. To-day the gentleman from Georgia [Mr. HARTRIDGE] who spoke last with grace and sense has accepted the suggestion and amendment which I made to him. He thus saved his measure. He has gone further. He holds and he has agreed by his amendment that the Federal system shall be only subordinate and auxiliary to the State system; that these local systems shall not in any way be interfered with by any Federal power. He agrees that neither the laws now in existence with reference to quarantine nor those that may hereafter be enacted shall ever be intrenched upon by congressional legislation. What more can the most careful and logical adherent of State rights desire? What application can be made of decisions looking to State and local supervision as exclusive? Why may we not all agree to assist the unassisted and impoverished cities of the Gulf and South? Groundless are all fears under this amendment, and if it passes I can do, as I did with the former bill in 1874, give it cheerful acquiescence.

I do not care now to consider at length the argument *ad misericordiam*. I am satisfied we have the power to assist by our Federal instrumentalities the sanitary regulations connected with commerce. When the gentleman from Alabama [Mr. JONES] who last spoke conceded we might use our consular and diplomatic systems for the purpose of helping and protecting health in this country from foreign plagues, he conceded in my judgment the whole question. He thus at once concedes this Federal authority, in spite of the case of Gibbons against Ogden, in spite of the decision of Attorney-General Wirt, in spite of other decisions jealously guarding State powers, which I quoted at the time of the former argument upon the Bromberg bill, all concede this, by accepting the construction given before and by accepting the amendment I proposed that there can be no collision, but rather much helpful aid between the Federal and State systems for sanitary purpose.

I am not prepared, and shall never be I fear, to say that the Federal Government ought to take entire charge of this subject. I could not say that to-day, even if there were State failure and neglect. The power may not inhere in the power to regulate commerce. But one thing is sure: that this bill is not obnoxious to the charges made by the gentleman from Alabama. It is not centralization. It decentralizes. I would not disturb in one jot or tittle the splendid local systems of the States, already established or to be established; certainly not that of the great metropolis of this country. It has cost us in New York many years of scientific and medical study and trouble to avert malignant visitants like cholera and yellow fever. It has cost us two or three millions of dollars' expense. We have saved, by our cautious vigilance over vessels arriving at our great port, not only our seaboard cities but the inland towns. By our espionage and careful hygienic system in regard to these quarantine regulations, we have, with unmatched skill and care, contributed to the general welfare.

Quarantine, sir, is nothing new in the history of commerce. It is as old as the fifteenth century, as old as the plagues of mankind. It came out of the old Italian word "quarantina," which, as my friend from Georgia [Mr. FELTON] said, signified forty days. The intention was to save from the ravages of pestilence and contagious disease. It rendered small-pox, fever, and other epidemics innoxious by detaining ships, passengers, &c., until the danger of contagion passed. I hope, therefore, all the objections based upon a refinement of construction of the Constitution as to the commercial powers of a Federal nature and as to the reserved powers of a State nature may be all brushed aside. We should do it for the purpose of reaching the great evil. Since our Constitution was made steam has developed this country. Railroads run from seaboard to seaboard and compass and traverse all the inland. The course of disease can be traced along the railroad tracks for hundreds of miles into the interior, almost as perfectly as you can trace it within the limits of one block or one square of a city. Time and space have been annihilated, and a new application of government powers seems to be a necessity. Surely this can be vindicated in the light of mercy as well as wisdom.

Let me illustrate: Yellow fever comes from Cuba. It strikes Savannah. Next day it may be at Atlanta. Then it is found at Saint Louis, and then in Dakota, and where not in this country owing to the peculiar nature of certain contagions and owing to our vast system of internal communication. Hence, though we may for some purposes have State quarantine regulations—regulations made for one section owing to its situation, exposed to peculiar dangers from peculiar diseases—yet for great general purposes this bill may be immensely useful. What would suit New Orleans, or Mobile, or Savannah would not, perhaps, suit so well the kind of immigration, importation, or shipping that comes to New York or Portland, or crosses the Canadian frontier. Certain local circumstances may require certain local laws and remedies. Therefore, it is wise to unite the Federal with the State system, in so beneficent a work, especially when the Federal is auxiliary to the State system and when the State system is made by this bill paramount to the Federal.

Mr. HOOKER's amendment was disagreed to.

The Clerk read as follows:

To enable the Secretary of the Treasury to provide for the repairs of the bulkhead or sea-wall of the marine hospital at Key West, Florida, $1,000.

Mr. DOWNEY. I move the following amendment:

To enable the Secretary of the Treasury to provide suitable and sufficient accommodations for the storage of the coin of the United States, he is hereby directed to pay all sums appropriated by this act in lawful silver coin of the United States.

Mr. BLOUNT. The point of order was raised against such an amendment yesterday, and I now renew it.

Mr. SPRINGER. I ask that the amendment be reported.

The amendment was again read.

Mr. BLOUNT. I will not take the time of the House in discussing the point of order. Let the committee vote upon the matter. This question was discussed yesterday and fully considered, and I will not consume time now in discussing it again. [Cries of "Vote!" "Vote!"]

Mr. DOWNEY. In relation to this amendment, I desire to say a few words.

Mr. FINLEY. Mr. Chairman, I made the point of order upon that amendment.

The CHAIRMAN. The gentleman from Ohio is too late making his point of order.

Mr. FINLEY. I made the point of order at the time the amendment was offered.

The CHAIRMAN. The Chair did not recognize the gentleman as making the point of order; in fact did not hear him at all.

Mr. FINLEY. I made the point of order at the time the amendment was read. I rose in my place for that purpose.

Mr. CANNON, of Illinois. I hope the gentleman from Ohio will not instruct against making these payments in silver.

The CHAIRMAN. If the gentleman from Ohio states that he rose in time to make the point of order the Chair will of course entertain it. The gentleman will state his point of order.

Mr. FINLEY. My point of order is, that this was acted upon in the House yesterday; besides, there is no necessity for this, because there is already authority under the law to pay out the silver.

Mr. DOWNEY. Mr. Chairman, in reference to the amendment which I have offered and the point of order raised by the gentleman from Ohio against it I desire to say this: that the amendment is perfectly germane to the subject-matter of this bill. It provides what? It provides simply that this money which is in the Treasury of the United States, this silver, lawful standard silver coin of the United States, shall be appropriated to pay the sums appropriated by this bill—$20,040,000.

Think of it for one moment! Here, for instance, is $3,000,000 appropriated for the Tenth Census. This silver coin will go into every county, township, and district in every State and every Territory of these United States. It will give a new impetus, a new life. The circulation of this coin coursing through every part of the land will be like the life-blood coursing through the veins and arteries of every member of this House. If you desire to have this money go into circulation, you should support the amendment and let it go upon the bill.

Mr. FINLEY. I will not insist upon the point of order.

Mr. YOUNG, of Ohio. I move to amend by inserting, after the words "silver coin," the words "or silver certificates." [Cries of "Oh, no!" "Withdraw that!"]

Mr. YOUNG, of Ohio. Very well; in deference to the wishes of gentlemen I withdraw the proposed amendment.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Wyoming.

The committee divided; and there were—ayes 85, noes 21.

So the amendment was agreed to. [Applause.]

Mr. BLOUNT. I move to amend the amendment by inserting $25,000. As I understand there is no sum of money fixed at all. I would like to have the amendment read first.

The amendment was again read.

Mr. BLOUNT. I withdraw the amendment.

The Clerk read as follows:

Construction, maintenance, and repair of military telegraph lines: For the construction and continuing the construction, maintenance, and use of military telegraph lines on the Indian and Mexican frontiers and in the Northwest, and for the connection of military posts and stations, $75,000.

Mr. KING. I offer an amendment to this section, which I send to the desk.

The Clerk read as follows:

After line 521, add as follows:

"For the collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors, for the fiscal year ending June 30, 1881, under act of March 3, 1879, the sum of $8,000."

Mr. BLOUNT. I will suggest to my friend from Louisiana there is no authority of law for that, as I understand it.

Mr. KING. Mr. Chairman, in reference to this matter——

The CHAIRMAN. The gentleman from Georgia makes the point of order against the amendment. It is necessary first that the Chair shall decide that before debate is in order.

Mr. KING. If the Chair will permit me, this is only to continue the payment of sums for which the law has already made provision. The law states, as I am told by the Paymaster-General——

The CHAIRMAN. Will the gentleman from Louisiana refer the Chair to the law?

Mr. KING. I am informed that the soldiers are to be paid this bounty in current money; not by check, but in current money. The habit of the Department has been to send agents first to pay these men with current money. Situated as they now are, without this appropriation, these men will have no money provided to pay the expenses necessarily incurred; and there will be no means of paying it. Under Rule XXI of this House I believe this amendment to be in order, notwithstanding the objection the gentleman from Georgia makes against it. I am assured by the Paymaster-General that he cannot pay these men their bounty unless he be provided with the means as contemplated in this amendment; that is, to pay the expenses of the agents sent out for that purpose.

The CHAIRMAN. The Chair does not know whether under the law there is any provision for paying this money, but he supposes the law does provide it in connection with the payment of pensions. Can the gentleman from Georgia enlighten the Chair upon that subject, or refer him to any provision of the law which contemplates this expenditure. The gentleman has made the point of order that there was no provision of the law, or authority of law for this.

Mr. BLOUNT. True, but it does provide a method of disbursing the money; but this provides a method that is not contemplated by the law. This matter was before the committee, and was in the bill, but the committee struck it out because we could not feel that we were authorized to insert it. There is no law providing for the collection of the money. These parties are supposed to be able to do that for themselves.

Mr. KING. If the law authorizes the disbursement of the money, certainly it must contemplate some means by which the collection of it can be made.

Mr. CHALMERS. I ask for the reading of the amendment.

Mr. CLYMER. In reference——

The CHAIRMAN. The gentleman from Pennsylvania will please suspend. The reading of the amendment has been asked again.

The amendment was again read.

Mr. KING. I ask that, for the information of the committee and for the information of the gentleman from Georgia, he allow this communication which I send to the Clerk's desk to be read.

Mr. BLOUNT. I object unless it is on the point of order.

The CHAIRMAN. If the gentleman from Louisiana states that this will give any light in reference to the point of order, the Chair thinks it can be read.

Mr. KING. It refers to a law.

Mr. BLOUNT. This amendment is not germane, at all events, to the bill. It ought to be on the pension bill, not here.

Mr. CLYMER. I desire to say a word upon the point of order. By the act of 1877 provision was made for turning over the payment of these bounties to colored soldiers to the office of the Paymaster-General, and in the sundry civil act for the fiscal year ending June 30, 1879, there is this provision:

Collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors; for salaries of agents and clerks; rent of office, fuel, light, stationery, and similar necessaries; office furniture and repairs; mileage and transportation of officers and agents, telegraphing and postage, $16,000; to be disbursed under the direction of the Adjutant-General, for the purpose of closing up and turning over the affairs of said bureau as provided for in the act approved December 15, 1877.

So that the affairs of that bureau have been closed up, and two years ago we made a final appropriation for that purpose. Therefore, to-day there is no existing law authorizing the amendment proposed by the gentleman from Louisiana.

The CHAIRMAN. The Chair desires to ask the gentleman from Pennsylvania [Mr. CLYMER] and the gentleman from Georgia [Mr. BLOUNT] if there is any provision in this bill for paying pensions or bounty money?

Mr. CLYMER. There is none; and the further point of order might be made that the amendment of the gentleman from Louisiana is not germane to this bill, and would only be proper on the general pension law.

Mr. KING. There is one expression in the law which I think the gentleman from Pennsylvania has overlooked. It is the expression, "turning over." This business has not been closed up. It was first under the Freedman's Bureau; it was then transferred to the Adjutant-General's Office. Subsequently provision was made that it should be turned over to the Paymaster-General's Department, and this officer now has this responsibility upon his hands. This law does not extinguish the duties that preceded it under another law. All the duties appertaining to this law have devolved upon the Paymaster-General, but he has not means, he assures me, to pay these men the money that is due—these bounties and this prize-money that are now due them.

Mr. ATKINS. Prize-money?

Mr. KING. Yes, sir; that is the language of the Secretary of War. I ask that, for the information of the House and the Chair, the letter of the Secretary of War be read.

The CHAIRMAN. The Chair thinks that the letter of the Secretary of War may be read.

Mr. KING. It may throw some light on this subject.

The Clerk commenced the reading of the letter.

Mr. BLOUNT, (interrupting.) I object to the letter being read—my object being to save time.

Mr. CONGER. Let us hear the letter.

Mr. KING. I hope the gentleman from Georgia will not object. Let us have all the light we can on the subject.

Mr. BLOUNT. I insist upon my objection.

The CHAIRMAN. Objection being made to the reading of this paper, the reading can only be ordered by a majority vote.

The question being taken, it was agreed that the letter should be read.

The Clerk read as follows:

WAR DEPARTMENT,
Washington City, January 6, 1880.

The Secretary of War has the honor to transmit to the Senate an estimate amounting to $8,000 for collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors for the fiscal year ending June 30, 1881.

This estimate, for the reasons stated by the Paymaster-General in his communication of December 2, 1879, (copy herewith,) was not embraced in the estimates printed in Executive Document No. 5, House of Representatives, Forty-sixth Congress, second session.

ALEX. RAMSEY,
Secretary of War.

Mr. CONGER. On the point of order I wish to say that this bill is for the express purpose of providing money for carrying out provisions of law in regard to a great many subjects where appropriations for that purpose have not been made in those provisions. That is one of the objects of this sundry civil bill. And I cannot see why, if the law requires these duties to be performed, we should not furnish the means of performing them. The amendment, therefore, I think is strictly germane to the object of this bill, and is in order.

Mr. CLYMER. I read now the provision contained in the act of December 15, 1877:

Collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors: For salaries of agents and clerks; rent of office, fuel, lights, stationery, and similar necessaries; office furniture and repairs; mileage and transportation of officers and agents; telegraphing and postage, being a deficiency for the service of the fiscal year 1878, $20,000; which is appropriated to close up and finish the collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors; and if the work of collecting and paying said bounty and other claims shall not be finished before January 1, 1879, said bureau shall be closed, and all papers connected therewith shall be turned over to the Department having charge of the payment of bounties due to white soldiers.

The CHAIRMAN. The Chair asks the gentleman from Pennsylvania if he has the act of March 3, 1879?

Mr. CLYMER. The act of March 3, 1879, appropriates a further sum for the purpose of doing what is provided for in this act—closing it up, ending it. And the Committee on Appropriations in obedience to law struck out the estimate of the Department.

Mr. ATKINS. I am glad the gentleman from Pennsylvania has read the act of 1877. I remembered it, but did not remember exactly when it was passed. I only came into the Hall a few moments ago. I suppose the point of order the gentleman from Georgia has raised upon the amendment of the gentleman from Louisiana is that there is no law providing for the further payment of prize-money and bounty-money to these soldiers. Now, I think that the clause in the appropriation act which the gentleman from Pennsylvania has just read and the clause in the sundry civil act for the fiscal year 1879 show conclusively it was the purpose of Congress to wind that whole matter up.

I want to state just there that the reason why that clause was inserted—for I remember it well—was that we had the officers before us and they said in one more year this whole subject would be closed up. Why now it should be continued from year to year and never be closed up I do not know.

Mr. CLYMER. The effect of the amendment is to continue a separate bureau which the law has said shall be closed. There is no law authorizing it, and in fact there is a provision of law that it shall no longer exist.

Mr. CHALMERS. Gentlemen are mistaken when they say these matters have been all closed up. Only yesterday I received from my district quite a number of applications from colored soldiers in precisely this line. I think, however, my friend from Louisiana has made a mistake so far as the evil complained of is concerned.

What should be done is to provide that colored soldiers should be put upon the same footing in regard to payment of bounties, &c., as the white soldiers.

Mr. ATKINS. I have no objection to that.

Mr. CHALMERS. Within the last few days I had occasion to endeavor to collect payment for a constituent of mine who resided upon a plantation of Senator HAMPTON, and he requested me to collect the money and pay it over to Senator HAMPTON. I went to the Paymaster-General's Office, and there I learned that that could not be done, although it could be done for a white soldier. That colored soldier had to leave his plantation and go some hundreds of miles to Vicksburgh in order to there receive his money. Now this should be remedied; and I hope an amendment will be put on this bill which will allow a colored soldier to receive his money the same as a white soldier now receives his. If you adopt the amendment which is now offered it will but continue a mode of payment which is unjust to the colored soldier.

Mr. CLYMER. I had not proposed to discuss at all the merits of the proposition.

The CHAIRMAN. The Chair does not invite discussion on the merits of the proposition.

Mr. CLYMER. I merely endeavored to answer an objection made to the point of order.

The CHAIRMAN. The Chair does not yet know from the information before him whether there is an existing law for the payment of the money hereby proposed to be appropriated. Unless the Chair is referred to a statute or to a provision of law authorizing it he will be compelled to rule that the point of order is well taken.

Mr. DAVIS, of California. I move to amend by inserting after the pending paragraph that which I send to the Clerk's desk.

The Clerk read as follows:

To pay the city of San Francisco for improving Bay street, along the southern boundary of the military reservation of Point San José, California, $23,000.

Mr. BLOUNT. I make the point of order on that amendment that there is no authority of law for that appropriation.

The CHAIRMAN. Can the gentleman from California [Mr. DAVIS] cite the Chair to any provision of law authorizing this appropriation?

Mr. DAVIS, of California. This is a continuation of a work already ordered by the Government. The Government has had at that point a military reservation for thirty years, and from time to time during that period the Government has been expending money in the improvement of its property. This appropriation is simply for the purpose of providing means of access to that property. I would represent to the Chair that there is nothing in this amendment but what is perfectly germane and in order, as being in continuation of former work ordered by the Government.

Mr. CLYMER. Will the gentleman answer a question?

Mr. DAVIS, of California. Certainly.

Mr. CLYMER. It is whether the facts are not these: that the city of San Francisco has gone on and done this work, and this is merely to pay her for doing that for which there was no authority of law?

Mr. DAVIS, of California. There is no authority by special statute of the United States, but this is a continuation of work for the improvement and maintenance of this reservation.

Mr. CLYMER. Has not the work been done by the city of San Francisco?

Mr. DAVIS, of California. The work has been done by the city of San Francisco, and this is a proposition to reimburse that city for doing the work.

Mr. CLYMER. It is a claim.

Mr. BLOUNT. It is not even a claim, for there was no authority of law for it.

The CHAIRMAN. Does the gentleman from California [Mr. DAVIS] state that there has been any appropriation heretofore made by Congress for this work? Or is this now a proposition to reimburse the city of San Francisco for that which the city itself has done?

Mr. DAVIS, of California. This is a proposition which is recommended by the Secretary of War, in a letter which I hold in my hand, to reimburse the city of San Francisco for necessary work done in front of this reservation. It is work absolutely essential to provide means of access for this reservation. It was recommended by the general in charge there, it was done by the city, and the Secretary of War, in a letter which I hold in my hand, recognizes the payment. It is not a new work, but simply in continuation of work that has been going on in that locality for the last thirty years. This is the letter of the Secretary of War:

WAR DEPARTMENT,
Washington City, December 12, 1879.

The Secretary of War has the honor to invite the attention of the House of Representatives to a letter addressed by his predecessor to that body on the 7th of February last, transmitting a communication from Major-General Irwin McDowell, commanding the military division of the Pacific, recommending an appropriation of $23,000 to pay the city of San Francisco for improving Bay street, along the southern boundary of the military reservation of Point San José, California.

Favorable action on said recommendation at an early day is respectfully requested.

ALEX. RAMSEY,
Secretary of War.

The SPEAKER
of the House of Representatives.

Mr. BLOUNT. The city of San Francisco, on its own motion, without the sanction of Congress in any way, shape, or form, has gone on and made certain improvements which the local authorities there thought proper to make. They now come here and insist that as it was in connection with a military reservation of the Government, the Government shall pay one-half of the expense. There is no authority of law for it at all.

Mr. DAVIS, of California. There is authority of right.

Mr. BLOUNT. The gentleman may say that the Government ought in equity to pay this amount.

Mr. DAVIS, of California. I do say it.

Mr. BLOUNT. Then the gentleman ought to go before some committee and have that question examined.

Mr. DAVIS, of California. I have been before the Committee on Appropriations.

Mr. BLOUNT. That committee has no right to consider claims.

The CHAIRMAN. The Chair is of opinion that if this is a work which the city of San Francisco has prosecuted, and not the Government, and there is no law providing for it, the point of order is well taken.

Mr. DAVIS, of California. I would ask the Chair by what means the Government is to obtain access to its property there?

The CHAIRMAN. That is not a question for the Chair to determine.

Mr. BLOUNT. The Government can take care of itself. It goes there now.

The Clerk read as follows:

For pay of seventy-one superintendents of national cemeteries, $59,000.

Mr. McCOOK. I move to amend by striking out "seventy-one," before the word "superintendents," and inserting "seventy-two," and by making the appropriation "$59,720" instead of "$59,000."

Mr. BLOUNT. I desire to reserve a question of order on the amendment.

Mr. McCOOK. I will explain briefly the purpose of the amendment. There are now seventy-nine national cemeteries scattered all over the country. This bill appropriates for only seventy-one super-

intendents. Now, at the national cemetery at Rock Island, Illinois, there are twenty-two hundred men buried, three hundred of them Union soldiers, nineteen hundred confederate soldiers. Heretofore there has been assigned to duty there as superintendent a keeper, as the Quartermaster's Department calls him. It has been impossible for him, as I understand, owing to many reasons, to take such care of that cemetery as ought to be taken. This amendment has been suggested to me by the proper authorities at the Quartermaster's Department; and I am very sure that under the circumstances there will be no objection to it. It classes the cemetery as one of the fourth class, with $60 per month as pay of the superintendent, whereas in the first class the pay is $75 per month.

Mr. BLOUNT. I have no objection to the amendment.

The amendment was agreed to.

Mr. GOODE. I move to amend by inserting after the pending paragraph what I send to the Clerk.

The Clerk read as follows:

For repairs of buildings at Fortress Monroe, Virginia:

The four sets officers' quarters, old brick buildings, $1,500; the quarters of the commanding officer, $900; repainting four sets captains' quarters, $800; Carroll Hall, large building, officers' quarters, new porches front and rear, new floors inside throughout, painting and plastering, $1,500; the repairs of two old houses, officers' quarters, $3,000 each, $6,000; casemates, first front, six sets officers' quarters replastered, refloored, and wood-work painted, $250 each, $1,500; casemates, second front, same as first, $2,000; casemates, third front, porches repaired and painted, $600; to repair ordnance storehouses, &c., $4,000; repairing and painting office and quarters of post quartermaster, $650; repair and removal of storehouses and quartermaster's department, $3,000; total, $22,450.

Mr. BLOUNT. I raise the question of order that this amendment is not germane to the pending bill. It properly belongs to the fortification bill, in which we provide for just such purposes.

Mr. GOODE. The gentleman is mistaken; there is no such provision as this in the fortification bill, while if he will take this sundry civil appropriation bill and read it from beginning to end he will see that it abounds with just such items as this. He will find items looking to the repairs of public buildings of every character and description.

Upon either branch of Rule XXI the amendment is strictly in order. In the first place there is existing law providing for this building; and in the next place, if there were not any existing law, the amendment would be in order under the second clause of the paragraph, being in continuation of appropriations for public works and objects already in progress. If it is not in order to make an appropriation to preserve the public buildings from decay and ruin, I am at a loss to conceive what would be in order.

Mr. BLOUNT. As to what may be in this bill the Chair need not, and I presume will not, concern himself.

Mr. GOODE. I hope the Chair will look at the items of the bill.

Mr. BLOUNT. I hope my friend will allow me to proceed.

The CHAIRMAN. The Chair will be obliged to the gentleman from Virginia [Mr. GOODE] if he will refer to any provisions of the bill containing appropriations kindred to this.

Mr. BLOUNT. I was about to say that the question before the Chair is not what may be in this bill, but whether or not this proposition is germane. I read from the fortification act for the current fiscal year:

Be it enacted, &c., That the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the protection, preservation, and repair of fortifications and other works of defense for the fiscal year ending June 30, 1880.

For the fiscal year ending June 30, 1881, we have already made a similar appropriation. It is clear that if this proposition belongs to the fortification bill (it is only necessary to state that it does) the Chair will not hesitate to say that it has no place here.

Mr. GOODE. In answer to the suggestion of the Chair I will call attention to pages 1, 2, and 3 of this bill, containing appropriations for various public buildings of different classes and descriptions. Then, again, on page 32, is this appropriation:

For casual repairs of the building occupied by the Department of the Interior; for replacing heating apparatus in Ninth-street wing of same; for renewing water-closets; for replacing sewer and drain pipes in the east and south wings, $10,000.

Then follow appropriations for the Capitol extension, for work on the Capitol and general repairs thereof; for improving the Capitol grounds; for lighting the Capitol and grounds, repairs to court-house, Washington, District of Columbia, and so on. As I said awhile ago, this bill from beginning to end contains appropriations for the preservation and repairs of public buildings. Fortress Monroe is as much a public building as the various buildings enumerated in this bill, and this amendment is in continuation of objects heretofore recognized.

Mr. BLOUNT. I have only to say, so far as concerns the public buildings and the other things which the gentleman has mentioned, that they belong in this bill and always are put here. But repairs of fortifications do not belong here but are every year placed in the fortification bill.

Mr. GOODE. If the Chair has any doubt I hope he will submit the question to the Committee of the Whole. I really think the point of order is not well taken. My amendment is as much in order as any amendment that has been proposed, or any item contained in the bill. The bill is full of such items.

Mr. BLOUNT. I hope the Chair will rule on the amendment. The gentleman can then take an appeal if he chooses.

The CHAIRMAN. The Chair is inclined to think the matters specifically mentioned in this amendment belong to the fortification bill, and therefore sustains the point of order.

Mr. GOODE. I am compelled to take an appeal from the decision of the Chair.

Mr. BRIGHT. Have the amendment again read.

The amendment was again read.

The decision of the Chair was sustained.

Mr. HASKELL. I offer the following amendment——

Mr. BLOUNT. I reserve the point of order.

The amendment was read, as follows:

After line 525, insert "to construct roadway from Fort Scott to the national cemetery near that city, $5,500, subject to the approval of the Secretary of War."

Mr. BLOUNT. I should like to know whether there is any authority of law for that.

Mr. HASKELL. I will refer the gentleman to chapter 6 of the general statutes of the United States, relating to national cemeteries.

Mr. BLOUNT. What is the amount?

Mr. HASKELL. Only $5,500. It is provided for; surveys have been made.

Mr. BLOUNT. I will withdraw any question of order against the amendment.

The amendment was agreed to.

The Clerk read as follows:

For developing and maintenance of water-power, $30,000.

Mr. CLYMER. I move the following amendment, to come in after line 151:

For repairs and restoration of the wharf at the arsenal, Washington, District of Columbia, $2,000.

I have only to say in reference to the wharf at the arsenal that it is not only out of repair, but a night or two ago it fell into the river; and there is no means of getting to the arsenal, and this appropriation is absolutely necessary.

The amendment was agreed to.

The Clerk read as follows:

Sandy Hook proving-ground, Sandy Hook, New Jersey: For clearing, leveling, grading, and building roads and walks at the proving-ground, $5,000.

Mr. BERRY. I move, at the end of line 554, to insert the following:

Benicia arsenal, Benicia, California: For construction and completion of machine and armory shop, $60,000.

To build present wharf, $5,000.

For continuation of artesian well, $9,000.

I find in the Book of Estimates that the Secretary of War has made a recommendation that these works be appropriated for; and I should like to know of the gentleman from Georgia in charge of this bill why those works were not provided for. Certainly the arsenal at Benicia is one of the most important in the country. Supplies are furnished from it and repairs are there made for at least one-third of the territory of the United States. It is one of the new arsenals. It stands, I think, on an equal footing with the arsenal at Rock Island. It certainly is of as much importance as any in the United States.

Now, the necessity for these works is indisputable. There have been two shops constructed and this is the third of the series. It has been designed and planned that the three shops shall be connected by one shaft and run by one engine. The engine is on the ground, the shaft is there, and but little work can be done, scarcely anything completed for want of this third shop. Neither can the purchases for the equipments of those shops be of use without the construction of this third shop. Then in reference to the wharf. Two years ago, the Secretary estimated, I believe, for $12,000, or at least it was estimated that it would require $12,000 to put that wharf in repair. The committee at that time only appropriated $5,000. That was used in repair of that wharf. It is now in a bad condition, and, without additional appropriation to make it secure the wharf may fall in as the one at Washington referred to by the gentleman from Pennsylvania, [Mr. CLYMER.]

As to the artesian well, it is a work on which the Government has expended nearly $35,000. It is now down fourteen hundred feet, and if the Government expects to realize any benefit from the appropriation already made it does seem to me it is injudicious to omit any appropriation for the work at this time. All the apparatus for sinking the well is upon the ground, all the material and everything necessary, the engine and engine-house. It is a continual expense to take care of the machinery there, and if you are going to complete that well and expend any additional money on it it ought to be done at this time, because the machinery is deteriorating.

I think it is high time that arsenal upon the Pacific coast, upon which such a vast territory is dependent for supplies and repairs, should receive consideration at the hands of the Government. I would state that during the last five years the Rock Island arsenal has had appropriated for it about $1,400,000, while the pitiful sum of $175,000 only has been given to the arsenal at Benicia, upon which our entire country depends for its supplies. I will inquire from the Committee on Appropriations why it is this arsenal, which is of so much importance, has been entirely ignored?

These appropriations are below the estimates recommended by the War Department; but after considering the matter I concede that it

may be possible with the appropriation I have asked for in this amendment to get on until the assembling of another Congress.

[Here the hammer fell.]

Mr. BLOUNT. Mr. Chairman, so far as that work is concerned and the works in Illinois they are simply contemplated with a view to the great future ahead of us. There is no doubt that they will be necessary in time, but there is no demand upon the Government for the product of these shops at the present time. The policy has been to go on and complete them slowly and build the works in the same way at Rock Island, authorizing an addition here and there and go on gradually so that hereafter they may be completed as the necessities or demands of the Government will require. The committee did not see and I do not now see that there is any special demand for this at the present time. The information I have in reference to this subject, and on which the committee acted, comes from the Department itself and there is no pretense that these arsenals, although they may be at some time important, are specially important at this time; and their only importance is in reference to the great future ahead of us. Besides that, this is a matter with which we ought to go along slowly. These are the reasons which have actuated the committee, and with this statement I am ready to submit the matter to the vote of the committee.

Mr. BERRY. I would like to state, in response to the remarks of the gentleman from Georgia, that the arms, guns, cartridges, ordnance stores, and repairs for the States of California, Nevada, Oregon, and the Territories of Arizona, Alaska, Idaho, and Washington are all made at this arsenal. For want of the completion of this shop we cannot make the repairs which are absolutely necessary, and much of the ordnance lies there in an unfinished and damaged condition for want of repairs. If we had the shop completed, the stores could be repaired and utilized, and after consultation with the officers in charge of it I have ascertained that it is absolutely necessary for the preservation of the machinery in the shop that this should be done.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from California.

The amendment was rejected.

The Clerk read as follows:

Repairs of arsenals: For repairs of smaller arsenals, and to meet such unforeseen expenditures at arsenals as accident or other contingencies during the year may render necessary, $40,000.

Mr. DIBRELL. I offer an amendment, to come in at the close of this section.

The Clerk read as follows:

At the end of line 558 add the following:

"For the improvement of the harbor at Cumberland Sound, and the preservation of Fort Clinch, the sum of $50,000."

Mr. BLOUNT. I reserve the point of order upon that amendment.

Mr. DIBRELL. The gentleman from Georgia reserves the point of order, and I desire to make a brief statement in reference to the reasons for offering this amendment. I regard my authority for the amendment more as coming from the Committee on Military Affairs. There was a memorial of citizens of Florida asking that some steps should be taken to preserve the fort from destruction, as there was danger of Fort Clinch being undermined by water. That was referred to the Committee on Military Affairs. A recommendation was unanimously adopted that the memorial be referred to the Committee on Appropriations, with request that a sum not exceeding $50,000 should be added to this appropriation for the purpose of preserving that fort. That is regarded as one of the best harbors for the protection of the shipping of the United States on the whole southern coast. When Fort Clinch was erected Cumberland Sound was only from forty-one to forty-two hundred feet wide; now it is upward of six thousand, and the water threatens to undermine and completely destroy the fort. The fort will be destroyed and become absolutely useless unless protected in some way. The committee prepared a report on this bill before the Committee on Military Affairs had authority to report general bills, and therefore I feel that I am authorized to offer this amendment as coming from that committee.

I will be glad to hear my friend from Florida make some statement in regard to this matter, as he is familiar with the subject.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, a message from the Senate by Mr. BURCH, its Secretary, announced that the Senate had passed a concurrent resolution, and also sundry House bills, with amendments, of the following titles; in which several bills and amendments concurrence was requested:

A bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes; and

A bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas.

The message further announced the passage, without amendment, of House resolutions of the following titles:

To provide for printing 6,000 copies of the Report of the Operations of the Life-Saving Service for the year ending June 30, 1879;

To provide for the printing of 5,000 copies each of volumes 4 and 5 of Contributions to North American Ethnology; and

To provide for the printing of 10,000 copies of the proceedings of the two Houses of Congress upon the presentation to the United States of the desk upon which Thomas Jefferson wrote the Declaration of Independence.

Also, that the Senate had passed a concurrent resolution providing for the printing of 500 extra copies of the report of the president of the National Academy of Sciences for the past year.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. BLOUNT. I raise the question of order on the amendment offered by the gentleman from Tennessee [Mr. DIBRELL] that it is not germane. The amendment relates to a matter of fortification. And then there is the further point that this same matter is pending before the Committee on Military Affairs, as stated by my friend who offers the proposition. Therefore under clause 4 of Rule XXI the amendment is not in order here.

Mr. DIBRELL. I will state, in regard to the point that this is pending before the Committee on Military Affairs, that committee gave instructions it should be reported to the House with a recommendation that it should be ingrafted upon this bill.

Mr. BLOUNT. That has not been done. It has not come before the Committee on Appropriations.

The CHAIRMAN. Does the gentleman from Tennessee state he is authorized by the Committee on Military Affairs to offer this as an amendment to the pending appropriation bill?

Mr. DIBRELL. I did not directly receive instructions to offer this as an amendment to the pending bill in the Committee of the Whole. But I was instructed to report it back to the House that it might be referred to the Committee on Appropriations, with a request to have it ingrafted on the sundry civil appropriation bill. That was not done in time because the Committee on Military Affairs was not called.

The CHAIRMAN. The Chair desires to inquire whether the Government has any improvements in progress at Cumberland Sound?

Mr. DIBRELL. It has none in progress now, I believe. Fort Clinch was built by the Government.

The CHAIRMAN. The Chair has no difficulty about Fort Clinch. The improvement of the harbor of Cumberland Sound is like the improvement of any other harbor, and unless there be some law authorizing it, or unless there has been some appropriation made heretofore for this improvement, the Chair thinks the amendment is out of order. The Chair therefore sustains the point of order.

The Clerk read as follows:

Improvement and care of public grounds: For filling in and improving grounds south of Executive Mansion, $5,000.

Mr. CLAFLIN. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by inserting after the word "grounds," in line 561, the following:

"For paving with asphaltum the roadway in front of the Executive Mansion, $8,000, or so much thereof as may be necessary, and."

Mr. CLAFLIN. I think a mere statement of the case will satisfy the House this amendment should be adopted. Every one knows that roadway is a mere cart path, as compared with the streets generally of the city. It is covered with earth and sand and in dry weather is very dusty and in wet weather is muddy. This roadway is for the people of this country. Every man who visits the Executive Mansion wonders at the condition of it. I merely offer the amendment and do not wish to detain the House by any further remarks in advocacy of it.

Mr. BLOUNT. This is an old proposition that has been voted down time and again. The grounds around the Executive Mansion, I think, are admirable. I have never been astonished as my friend from Massachusetts has been at the condition of this roadway.

Mr. CLAFLIN. This very amendment passed last year, went over to the Senate, and was thrown out in the conference committee.

The question being taken on Mr. CLAFLIN's amendment, there were—ayes 24, noes 47.

Mr. CLAFLIN. A quorum has not voted.

The CHAIRMAN. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Massachusetts, Mr. CLAFLIN, and the gentleman from Georgia, Mr. BLOUNT.

The committee again divided; and the tellers reported—ayes 38, noes 72.

So (further count not being demanded) the amendment was not agreed to.

The Clerk read as follows:

For manure and hauling the same, $4,000.

Mr. BRAGG. I move to strike out that paragraph. I do this for the purpose of trying to derive some information from the committee. I have noticed in all the bills we have had with reference to expenditures in this city provision has been made for manuring the public grounds. I desire to know what public grounds remain that are not sufficiently manured? And in that connection I desire to call attention of the committee to the fact that but a few days since in an appropriation bill we provided $10,000 to pay for hauling off manure and the sweepings of the streets in order to get rid of it. I want to know whether this sum of $4,000 is for the purpose of buying it back that we may get rid of it? [Cries of "Question!" "Question!"]

Mr. BRAGG. I withdraw the amendment.

The Clerk read as follows:

Executive Mansion: For care of and repairs to the Executive Mansion, and for furniture, $20,000; fuel for the Executive Mansion and the greenhouses, $2,000; care and necessary repairs of the greenhouses, $5,500; in all, $27,500.

Mr. McMILLIN. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 589, strike out "$20,000" and insert "$10,000;" and in line 593, strike out "$27,500" and insert "$17,500."

The amendment was not agreed to.

The Clerk read as follows:

Building for State, War, and Navy Departments: To continue work on the north wing of the building, $450,000.

Mr. McMILLIN. I move to amend by striking out that paragraph. We have made an appropriation in another bill for the continuance of this work.

Mr. BLOUNT. I will state out of respect to my friend that that bill failed.

Mr. McMILLIN. In response to the remark of the gentleman from Georgia I will say that I had overlooked the fact, if it is so, that that had failed; but even in that bill, in which there was about the amount demanded there as here, this House, after a full discussion of the question, resolved to give only $100,000.

Mr. BLOUNT. If my friend will permit me, I will relieve his difficulty upon that point. There were $525,000 appropriated for the present fiscal year. The proposition of the conference committee was to add $100,000 to that, which would have made $625,000. The committee is recommending here for the next fiscal year a much less sum, $425,000.

Mr. McMILLIN. Is this amount in excess of the amount in the other bill?

Mr. BLOUNT. It is for a different year.

The amendment was not agreed to.

The Clerk read the following:

For continuing the work on the Washington Monument, $150,000.

Mr. WARNER. I move to strike out that paragraph. Knowing the force and character of public sentiment on this matter, it is with misgivings that I offer this amendment. But I have convictions of my own, and they are against such a monument as this. I do not base my objections on grounds of public economy merely, although it will take a million or two of dollars yet to complete it; but I place them on higher grounds. The ages of pyramids, towers, and spires are ages of barbarism, ignorance, and superstition. [Laughter, and cries of "Vote!"] Men whose memories are worthy to be perpetuated live in their own works, and not in monuments built by others. This monument, if completed, will perpetuate not the memory of Washington so much, in my judgment, as the folly of the age that builds it. Men who have stamped their impress on the ages, who have founded nations or given them laws, Minas, Solon, Lycurgus, Confucius, Zoroaster, Numa, have come down to us not in monuments of brass or stone, but in the living monuments they themselves erected. The walls of Troy or the monuments of the heroes that warred about the gates of Priam did not disclose to us the songs of Homer, but the songs of Homer have made it possible in these later times to discover the site of that ancient city and to lay open the tombs of Agamemnon and Menelaus.

Mr. BURROWS. Will the gentleman allow me to ask him one question?

Mr. WARNER. Not now; the Acropolis has fallen, but Pericles and Plato live. The names of the kings who builded the pyramids by the labor of millions of enslaved subjects were long ago forgotten; but a law-giver who was once the slave of one of those kings is known on every continent and every isle of the sea where the language of civilized man is spoken.

And so will live the name of Washington, but not in yonder unsightly pile of stone. It will live in the nobler monument of his own erection—a free Republic on a new continent. It will live wherever liberty has an abiding place, and will be green I hope when the last stone in that pile has crumbled to dust and blown away. The monument as it is proposed to complete it can not be classed with works of high art like the Prince Albert Memorial. It possesses no element of beauty, and to propose simply to raise a pile of masonry a little higher than stone was ever piled before will only show that the vanity of this age overtops a little the vanity of any preceding age. The foundation is patchwork, and the top will be uncertain. [Renewed laughter and applause.]

Mr. HAYES. I was going to remark [cries of "Vote!" "Vote!"] that probably the gentleman from Ohio [Mr. WARNER] would not need any monument to perpetuate his name, as his own deeds would be sufficient. But an insignificant individual like Washington would need a monument. [Laughter and cries of "Vote!" "Vote!"]

Mr. WARNER. It will tumble down before it is completed.

The question was taken upon the motion of Mr. WARNER, to strike out the paragraph, and it was not agreed to.

The Clerk read the following:

MISCELLANEOUS OBJECTS UNDER WAR DEPARTMENT.

Survey of the northern and northwestern lakes: For reduction of the field-work of the lake survey; for the preparation and publication of the final report, for printing charts for the use of navigators, for continuance of water-level observations, for aid to State surveys, and miscellaneous, $44,800.

Mr. ATKINS. I move to strike out the words "for aid to State surveys." I notice that on page 13 of this bill this work has been given to the Coast and Geodetic Survey. I do not see any necessity for duplicating it, or rather I do not see any necessity for dividing the work between the Coast Survey and the War Department.

I understand that the field-work upon the northwestern lakes has all been completed. This paragraph is for "aid to State surveys." I think it would be well to strike that out and leave it to be done by the Coast Survey, as already provided for on page 13 of the bill.

Mr. TOWNSHEND, of Illinois. I dislike to differ with my friend from Tennessee [Mr. ATKINS] in regard to this matter, but I desire to call attention to the fact that from the foundation of the Government to this day the War Department has had charge of the land surveys, while the duty of the Coast Survey has always been restricted to coast and marine surveys. I think it would be improper for us now to place the entire jurisdiction over this subject in the Coast Survey. I think it properly belongs to the Engineer Bureau of the War Department.

Mr. BLOUNT. My friend is very much mistaken; the War Department has never had charge of this sort of survey. I think the gentleman from Tennessee is right.

Mr. TOWNSHEND, of Illinois. In answer to the gentleman from Georgia, [Mr. BLOUNT,] I desire to say that the land surveys have always been under the charge of the War Department. As I have already remarked, from the time when Washington was commander-in-chief of the revolutionary army down to this day these surveys have been under the charge of the War Department, and millions of dollars have been appropriated for the purpose of making surveys in the western country under the charge of that Department. I think this is an innovation upon the past practice of the Government, and it would be unjust to the War Department to take this work away from it and place it under the charge of the Coast Survey, which never has had jurisdiction over this subject. The surveys of the Coast Survey have never extended beyond a mere fringe on the Atlantic and Pacific coasts. In my judgment this would be a departure from the past practice of the Government, and I think it would be very improper to strike out this paragraph.

Mr. BLOUNT. I take the balance of my friend's time to say that he is very much mistaken; for the Coast Survey officers are now running a line from east to west and from west to east across the continent. The gentleman has in his mind another matter—the survey which has been conducted by Lieutenant Wheeler.

Mr. TOWNSHEND, of Illinois. Not at all. I am not thinking of Wheeler's survey, but numbers of other surveys, extending from 1803.

The question being taken on the amendment of Mr. ATKINS, it was agreed to.

The Clerk read as follows:

For the completion of the necessary buildings for headquarters of the Department of Dakota, at the military post of Fort Snelling, Minnesota, $100,000.

Mr. VALENTINE. I move as a substitute for the paragraph which has just been read the following:

For the continuation of the construction of necessary buildings for headquarters of the Department of Dakota, at the military post of Fort Snelling, Minnesota, and for headquarters Department of the Platte, at the military post of Fort Omaha, Nebraska, $50,000 at each post; in all, $100,000.

Mr. BLOUNT. I raise a point of order on the amendment. There is no authority of law for one of the structures named in the amendment.

Mr. VALENTINE. The authority of law for the construction of buildings for headquarters of Department of the Platte is identical with the authority for buildings for headquarters of Department of Dakota. Congress has appropriated at former sessions for both structures, and the buildings are partially constructed at both points. A few years ago the War Department determined that these two departments, the Department of the Platte and the Department of Dakota, should be permanently continued. Therefore the department headquarters were taken from the cities, and the regular military post for the Department of the Platte was placed at Fort Omaha. The general offices for the headquarters have been erected at a cost of some $30,000. Quarters for the commanding general have also been partially constructed. A portion of the buildings for departmental headquarters for the Department of Dakota have been erected at Fort Snelling.

On the 12th of January last the Secretary of War transmitted to this House estimates for $100,000 for the continuation of the construction of the buildings for the Department of the Platte; and on the 22d of January a similar letter was sent in recommending an appropriation of $100,000 for continuing the construction of the buildings at Fort Snelling.

The CHAIRMAN. The Chair has some difficulty in hearing the gentleman, and he desires to ask whether the gentleman states that buildings of the sort mentioned in the amendment are already in process of construction at these two points?

Mr. VALENTINE. Yes, sir.

Mr. HAWLEY. Plenty of them.

Mr. VALENTINE. My amendment does not propose an increase of this appropriation——

The CHAIRMAN. The gentleman from Georgia will please give his attention. The Chair has just asked the gentleman from Nebraska whether there are buildings already in course of erection at these two

points, and the reply is that there are; that appropriations have heretofore been made.

Mr. VALENTINE. The estimates in the two cases are just the same; I hold them in my hand. The records show that both these letters were referred to the Committee on Appropriations; but by some mistake the letter relating to the Department of the Platte was sent to the Committee on Military Affairs, and has been referred to a sub-committee, which is now ready to report.

The CHAIRMAN. The Chair must overrule the point of order, unless the gentleman from Georgia is prepared to controvert the statements of fact made by the gentleman from Nebraska.

Mr. CLYMER. I desire to ask the gentleman when the last appropriation was made for the Department of the Platte?

Mr. VALENTINE. I think it was in 1878.

Mr. CLYMER. Was it not earlier than that?

Mr. VALENTINE. No, sir; and last year $10,000 was allowed for officers' quarters.

Mr. CLYMER. As I understand the legislation on this subject, some years ago there was an appropriation made for the headquarters of the Department of the Platte. Last year $100,000 was appropriated for the erection of officers' quarters and other necessary buildings at Fort Snelling, in the department commanded by General Terry. Those improvements are under way; they have not been completed. As there was no recommendation or estimate before the committee from the War Department in regard to the buildings for headquarters of the Department of the Platte, the committee did not feel justified in reporting any appropriation. They believed, and believe now, that such a provision would be liable to a point of order, as I believe the appropriation made last year for Fort Snelling would have been liable to a point of order. But the improvements at Fort Snelling are under way; and the appropriation in this bill is merely for their continuation. I conceive that the point of order made by the gentleman from Georgia is well taken.

Mr. HAWLEY. I cannot see how a point of order can be raised upon this amendment. The bill contains an appropriation of $100,000—all that is asked—for Fort Snelling. I would be very glad to have that amount remain without reduction and have some other money granted for buildings for the Department of the Platte. But the two headquarters stand upon precisely the same footing; they stand upon precisely the same ground. Here is the official Executive Document No. 38, recommending the appropriation my friend from Nebraska is advocating, and here are the plans submitted of buildings to be put up there. The two forts stand on precisely the same ground before the House, except by a mistake of the Clerk, or possibly of the Speaker, the Fort Platte headquarters went to the Military Committee, and so it was not before the Appropriations Committee when they made up this bill. If it had been, the appropriation would have been reported precisely as the gentleman from Nebraska desires.

Mr. BLOUNT. The item for the completion of necessary buildings at the headquarters of the department, at the military post at Fort Snelling, Minnesota, I desire to say, was not the unanimous recommendation. I did not then, and do not now, believe it is properly in this bill. The fact it is in here does not settle the question as to whether it is rightfully here or not.

Mr. VALENTINE. Do I understand the gentleman to say——

The CHAIRMAN. The Chair desires to ask the gentleman from Georgia——

Mr. BLOUNT. I would like to say what I wish to say, and then I will answer inquiries.

The CHAIRMAN. The gentleman will proceed.

Mr. BLOUNT. Now, Mr. Chairman, the rules of this House give to the Military Committee all subjects relating to the military establishment and the public defense, other than the appropriations for their support. That is the rule of the House. This is not an appropriation for the support of the military establishment, and therefore not properly before the committee. It was, and rightfully, before the Military Committee. Who is supposed better to understand the wants of the country, military roads, proper location of barracks, amount to be appropriated, &c., than your Military Committee?

There is no authority of law for the structure—none; and the gentleman cannot cite it. Therefore, sir, I say the amendment is entirely out of order.

There is no proposition to complete a structure in progress. There is no information that there is any structure half completed or partially completed. There is no information before the committee of that sort.

The idea is simply to give an additional sum with the view of adding more structures there; that and nothing more. For two years we have done nothing at that point. And, sir, will gentlemen say because we have a barracks at a given place and buildings to accommodate so many regiments, that for that reason it is always in order to propose vast sums of money, not to accommodate ten regiments, but fifty if you please?

I trust that the Chair will have no difficulty on this subject. If this now be done there will be no end to it, and forty years from the completion or supposed completion of any barracks it will be in order to come into this House and move appropriations to that end. There is not, I say, one particle of information there is any structure which is not completed. There is no authority of law for it. If there has been appropriation which has been made heretofore with that end in view it is simply an error, and it is certainly not a precedent for the guidance of the House.

Mr. CLYMER. I should not have referred to the difference in the sub-committee whose duty it was to prepare the first draught of this bill as to this question; but the majority of the sub-committee was of the opinion that it was warranted in law in reporting an appropriation for the work at Fort Snelling, for the simple reason that last year an appropriation for that purpose was made and the work being in progress within the knowledge of the committee, largely in progress, for there are a large number of buildings under way and for which contracts have been made, we felt under the third clause of Rule XXI we had full authority to make a continuing appropriation. We may make an appropriation for the continuation of such public works and objects as are already in progress. These works are in progress at Fort Snelling under the law, and therefore we conceived we had the right to recommend this appropriation.

There was no information before us as a committee that works were either in progress or authorized or desired to be continued at the headquarters of the Department of the Platte. Therefore, I conceive, as the work is not in progress, as Congress did not last year appropriate anything for it, and as the work must have ceased long ago, we could not make, under the law, any appropriation for it.

Mr. CANNON, of Illinois. I wish to say a word. I do not understand, where an appropriation happens to be dropped for one year, therefore it is not in order another year to make, or rather for the committee to report an item for the continuance of a work which has been commenced under law and not completed under appropriations already made. I think if for three years or for five years they were to cease, it would make no difference. The rule does not say in continuation of public buildings for which appropriations were made last year, but for the continuation of public works already in progress. For this reason I do not believe that the amendment is subject to the point of order.

The CHAIRMAN. The amendment does not say for the continuation of the construction of the necessary buildings now in process of erection.

Mr. VALENTINE. I can add that.

The CHAIRMAN. If the gentleman puts that in, the Chair will certainly overrule the point of order.

Mr. VALENTINE. Very well; I propose to insert that.

Mr. BLOUNT. Do I understand the Chair to rule that the gentleman can make a mere verbal amendment which will be sufficient, without changing the sense of the amendment, to avoid the legal point raised against it? The rule is specific that it must be for the continuation of works already in progress of construction.

Mr. KEIFER. I raise the point of order that the gentleman has no right to debate the point of order after the Chair has decided upon it.

The CHAIRMAN. The Chair understands the gentleman from Nebraska as modifying his amendment.

Mr. VALENTINE. I have modified it to meet the views of the Chair.

Mr. BLOUNT. I desire to say a word upon that.

The CHAIRMAN. The Chair will cause to be read the amendment as proposed to be modified by the gentleman from Nebraska.

The Clerk read as follows:

For the continuation of the construction of the necessary buildings now in process of erection for headquarters of the Department of Dakota at the military post of Fort Snelling, Minnesota, and for headquarters Department of the Platte, at the military post of Fort Omaha, Nebraska, $50,000 at each post; in all, $100,000.

Mr. BLOUNT. Now, Mr. Chairman, the gentleman from Nebraska has changed the phraseology of his amendment and put in the words "for the continuation of works already in process of construction." Rule XXI of this House provides that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Now, in view of what has occurred here, I ask the Chairman will he assume that this amendment is in order, and also if it is not incumbent upon the gentleman offering it to show, what does not exist, that there are works there, public works, already in progress? What is the use of the rule if a gentleman by a simple verbal modification, without changing the construction of the language or the effect of the amendment, can defeat the rule so as to provide for an appropriation for work that is not in process of construction? Now, there is no work going on there, not a particle; and it is a gross violation of this rule to allow this amendment to come in; and there is no end to it. All gentlemen have to do is simply to adopt that sort or form of language and avoid the rule.

The CHAIRMAN. The Chair desires to state in response to the remarks of the gentleman from Georgia that he thinks upon the face of this amendment it is not obnoxious to the point of order at all. "For the continuation of the construction of the necessary buildings now in process of erection" implies that the work is going on. If there are buildings there now in process of erection——

Mr. BLOUNT. But there are none of that sort.

The CHAIRMAN. Then if there are no buildings there in process

of erection the amendment amounts to nothing, because it provides for the continuation of the necessary buildings now in process of erection. The Chair therefore overrules the point of order.

Mr. BRAGG. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRAGG. My point is this: Does the effect of the mere recital in the verbiage of the amendment, that the work is in process of construction, furnish proof sufficient to sustain the amendment and establish the fact that it shall not be obnoxious to the rule? Must not the party offering the amendment show the fact to be true as stated in the amendment, or show the existence of a law which will warrant the statement of facts which he makes? Otherwise you can couch any amendment in such terms, no matter what its effect may be, as to relieve it from the rule.

The CHAIRMAN. The Chair must take the language of the amendment as he finds it in its ordinary and natural construction, and base his ruling upon that. He thinks he has no authority to go outside of it for any purpose. Now, if the amendment, as presented to the Chair, is not in itself in terms obnoxious to the point of order, it is the duty of the Chair to so rule.

Mr. REAGAN. The Chair having already ruled upon the point of order, it is hardly necessary to discuss it, but it would seem that in the construction of the rule here the spirit and intent of it must be taken as well as its letter; and I ask the Chair if it is not necessary that a person moving an amendment shall show that such a law exists as would call for the expenditure proposed before the House can consider it?

The CHAIRMAN. The amendment proposed contains on its face nothing which would warrant the Chair in ruling it to be out of order.

Mr. VALENTINE. I wish to ask if gentlemen are discussing the question of order?

The CHAIRMAN. The Chair desires to hear gentlemen upon the parliamentary question involved here.

Mr. VALENTINE. Has not the Chair already decided upon the question of order?

The CHAIRMAN. The Chair has decided.

Mr. BLOUNT. I would like to ask if the Chair rules that he can go outside of the verbiage of the amendment to ascertain whether or not the appropriation is within the spirit of the rule or not?

The CHAIRMAN. The Chair has not ruled that. The Chair rules it is his duty to take the ordinary and natural construction of the language presented in the amendment and rule upon that in the absence of anything to the contrary.

Mr. BLOUNT. But I have stated as a matter of fact that there is no building in process of construction there.

Mr. KEIFER. There are buildings in process of construction. The gentleman is mistaken.

Mr. BLOUNT. I think not.

Mr. VALENTINE. I am so informed by the commanding officer.

Mr. BLOUNT. That there is a building in process of construction?

Mr. VALENTINE. Yes, more than one.

Mr. BLOUNT. That is not the information that the committee is in possession of.

Mr. VALENTINE. They have commenced a series of buildings for the officers at that place. They are partially constructed.

Mr. BRAGG. I rise to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRAGG. Is not the onus on the party who seeks to avoid the rule to show what will take his amendment out of the rule, instead of the onus being on those who support the rule to prove a negative? Must not the member offering an amendment show affirmatively the existence of the fact on which he claims that it is in order?

The CHAIRMAN. The Chair thinks that when on its face an amendment is not liable to the point of order the onus is on the gentleman making the point of order to show that the ordinary natural construction which would be put upon the language is not correct. And moreover the Chair understands the gentleman from Nebraska to state that the buildings are in process of erection.

Mr. CLYMER. I desire to make a remark of a parliamentary character. When the point of order is that there is no law to warrant an appropriation it certainly does not lie upon the member making the point of order to show that no law exists. It lies on the other side to show there is a law. Nothing of that kind has been pretended. It has not been shown there is any law. In the next place, the statement that there is no work in progress is supported by the fact that there has been no appropriation for the past year; for it is impossible that work should be in progress unless an appropriation had been made. Therefore the two positions are impregnable. No law can be shown for it, and no work can be in progress because no appropriation has been made.

Mr. KEIFER. I rise to a question of order. I understand the Chair has ruled on the point of order.

The CHAIRMAN. The Chair has ruled on the point of order.

Mr. KEIFER. I understand further that no gentleman has appealed from the decision of the Chair.

The CHAIRMAN. No appeal has been taken from the decision of the Chair.

Mr. KEIFER. Then I submit that further debate is not in order, and I ask that it shall close.

The CHAIRMAN. The Chair desires if gentlemen are not satisfied with his decision that they shall take an appeal from it.

Mr. BRAGG. Before that is done I would like to call the attention of the Chair to the letter of the Secretary of War.

Mr. KEIFER. I insist on the question of order. The point of order having been decided it is no longer debatable.

Mr. BRAGG. I do not rise for the purpose of debate. But it was stated by the gentleman from Nebraska that the works are in progress. That was a statement of fact on which the Chair ruled. I hold in my hand the letter of the Secretary of War which shows that statement of fact to be incorrect.

Mr. VALENTINE. I have no desire to deceive the Chair or this House——

The CHAIRMAN. The Chair would be glad to have the sense of the committee tested in regard to his decision.

Mr. REAGAN. With much deference I appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question being taken, there were—ayes 62, noes 15.

So (further count not being called for) the decision of the Chair was sustained.

The CHAIRMAN. The question is on the amendment of the gentleman from Nebraska, [Mr. VALENTINE.]

Mr. VALENTINE. The proposition offered by the substitute is to divide the amount given in the bill to the Department of Dakota with the Department of the Platte, $50,000 to each, to be expended during the present year, instead of giving $100,000 to the Department of Dakota and giving none to the Department of the Platte.

I have thought that as the Committee on Appropriations seem very desirous to keep down the appropriations, and not to increase this amount at this time, the substitute I have offered would probably meet the approbation of this House better than if I had offered an amendment increasing the amount $50,000. I think $50,000 is as much as could profitably be expended at either of these posts for this purpose during the present fiscal year, and I think it very unjust and unfair for these gentlemen to stand here and ask this House to give one of these departments $100,000 that they may erect quarters for all the staff of General Terry, and when you have erected quarters for a part of the staff of General Crook you shall stop there, and they should not have their buildings completed. It is just to treat these departments exactly alike.

Mr. POEHLER. I have no desire to oppose any appropriation that may be necessary for the headquarters of the Department of the Platte; but I do oppose the dividing of the appropriation made in the bill for the headquarters of the Department of Dakota. The buildings have been commenced at a point that is most accessible from all directions from the Northwest. It is a post that will be maintained for many years. I certainly hope that the amendment will not prevail. If the gentleman from Nebraska wants an appropriation for his post or for the Department of the Platte let him bring in his amendment; but he should not try to take away a part of our appropriation.

Mr. BRAGG. I move to strike out the last word.

I hope the committee will not adopt the amendment. My first objection to it is that no permanent department headquarters ought to be established at Omaha. I can well appreciate the feeling which would make the gentleman representing Omaha anxious to have a permanency in the way of permanent headquarters established there. But I can also well appreciate the feeling which makes those who live on the frontier desirous of having headquarters established, if they are to be permanently located, at Cheyenne or somewhere nearer the scene of action when troops may be called upon to operate.

At Fort Snelling the works are in progress and are necessary for the maintenance of the post. It is a post which will probably be of service for the next twenty-five or thirty years as commanding all the headwaters of the Mississippi and Yellowstone. They are in progress, and there is need of their being built.

The works at Omaha are not in progress. I hold in my hand what the gentleman from Nebraska [Mr. VALENTINE] had at the time the statement was made that these are works in progress. I have here the estimates for the original work, and asking for an appropriation. There is no estimate for the completion or continuation of any work; the estimate is for a new work, accompanied by the plans. It will be found in Executive Document No. 38, second session Forty-sixth Congress, together with a letter of General Crook commanding, in which he states, only inferentially, it is true, that he has headquarters. In his letter of June 28, 1879, he says:

> Although the quarters at present occupied by the staff have been patched up in the best manner possible, yet the timber and brick in them are so decayed that they are but little more than habitable; in some cases they are unsafe.
>
> I therefore recommend most urgently that funds be supplied, so that the work may be at once commenced.

Now, I would like to know upon what ground the gentleman from Nebraska [Mr. VALENTINE] can maintain his footing when he holds in his hand such a document as this, with the original estimates and the original plans and the letter from the general commanding? Yet the gentleman asks that there be taken away an amount from the appropriation for works in progress, because, he says, the works there at Omaha are in progress of completion.

Mr. VALENTINE. If the gentleman will send that document back to me, I will show him.

Mr. BRAGG. I insist that the needs of the frontier are greater than the needs of Omaha; and it is unwise and inexpedient, while they have buildings enough there, though they may not conform to the tastes of General Crook and his staff, but which are sufficient for all present purposes, it is unwise for us to go to work and make a permanency there by laying out $100,000 for making permanent headquarters at Omaha when the demands of the frontiers are that the headquarters shall be moved to the front.

Mr. VALENTINE. I submit to this House whether it is for the gentleman from Wisconsin [Mr. BRAGG] or the general commanding the armies of the United States to determine where the headquarters of the Department of the Platte should be.

Mr. BRAGG. I will answer the gentleman.

Mr. VALENTINE. I say it is not for him, but it is for the officer commanding the troops of the United States to determine where the headquarters of each department shall be for the interest of the service.

It has been determined by the proper authorities that the headquarters of the Department of the Platte shall be at Fort Omaha, and Congress appropriated, in August, 1878, $30,000 to build a headquarters building at Omaha. They had already appropriated $10,000 to build quarters for the commanding general. Now the estimate comes in to continue the construction of quarters for the rest of the staff of the department commander. It is clearly in continuation of a work already begun.

Mr. BRAGG. Will the gentleman allow me to make a statement?

Mr. VALENTINE. As to whether the headquarters should be removed from there or not, it is not for me and it is not for the gentleman from Wisconsin [Mr. BRAGG] to say. But with the understanding that they are to remain for many years at Omaha, the commanding general of the Army, with approval of the Secretary of War, has recommended to Congress this identical appropriation. Now I submit that the judgment of the Secretary of War, with that of General Sherman, General Sheridan, and General Crook, upon the question of the necessity for this work for the wants of that department, and the proper place where the headquarters should be located, is as good as the judgment of the gentleman from Wisconsin, [Mr. BRAGG.]

I do not represent Omaha. I am here to represent the interests of the department in which I reside. I do not think it has been fairly treated by this House, and I am endeavoring to get fair treatment for it.

Mr. BRAGG. I would like to make a statement to the gentleman from Omaha.

Mr. VALENTINE. I am not from Omaha.

Mr. BRAGG. I beg pardon; I should have said the gentleman from Nebraska.

Mr. VALENTINE. I do not live at Omaha.

Mr. BRAGG. Upon the recommendation of the Committee on Military Affairs of this House it was directed by law that all headquarters should be established in Government buildings, for the purpose of driving out of cities all those officers who preferred to remain in cities rather than to go where they would have to bear the hardships of a campaign. The question was then raised, how many headquarters it was necessary to have established; and it was left to the Secretary of War to select the places where he would relieve the officers from the necessity of going out of the buildings they then occupied and going into the Government buildings. I was present in the committee of conference on that bill, and it was then stated that all the officers attached to the headquarters at Omaha had buildings in which they resided——

Mr. VALENTINE. Allow me just now——

Mr. BRAGG. As the letter of General Crook shows they have.

Mr. VALENTINE. They are residing temporarily in the regimental headquarters.

Mr. BRAGG. But it was stated that the commanding general wanted quarters, and an appropriation was made for constructing headquarters for the commanding general and for building a warehouse. No other application was made for any other appropriation, and you were satisfied with that at that time.

The CHAIRMAN. Discussion on the pending amendment is exhausted.

Mr. BRAGG. I withdraw the *pro forma* amendment.

Mr. WASHBURN. I renew the *pro forma* amendment. If the amendment offered by the gentleman from Nebraska [Mr. VALENTINE] simply appropriated $50,000 or any other sum for the construction of buildings at Omaha, I should have no objection provided the locality named is the proper one, of which I know nothing. But it proposes to reduce the appropriation of $100,000 proposed for carrying on a very important work in the Department of Dakota—a work which was commenced last year in pursuance of an appropriation then made. The buildings are now in course of construction. The department commander, General Terry, joins with General Sherman and the War Department in the request that the appropriation now proposed be made in order that the entire work may be completed this season, and that the large expenses now paid for Government offices at Saint Paul may be discontinued by the removal of those offices from that city to the quarters at Fort Snelling. It seems to me that by this amendment we would simply make "two bites of a cherry." We ought to accomplish promptly the completion of the work already begun, so that the department officers may be removed to the new headquarters.

No appropriation has been recommended by the War Department with more earnestness than this appropriation for the completion of the buildings at Fort Snelling. General Sherman, in his report to the Secretary of War, urges the appropriation with great earnestness in language which I read:

> HEADQUARTERS OF THE ARMY,
> *Washington, D. C., January 19, 1880.*
>
> This paper is most respectfully submitted to the honorable Secretary of War, whose long residence in Saint Paul makes him more familiar with the importance and historic interest of old Fort Snelling. I regard it as a strategic point which should always be held by the United States, and am therefore disposed to recommend almost any outlay which will make it valuable as a permanent military site. I recommend that the honorable Secretary submit this report and estimate to the Minnesota delegation, that they may ask of Congress an appropriation of money as large as their better knowledge of the temper of Congress will stand. A hundred thousand dollars is a large sum, but it could well be expended at Fort Snelling.
>
> W. T. SHERMAN,
> *General.*

In view of this recommendation and my knowledge of the situation I should feel myself derelict to my duty as a representative of that locality where I am so well acquainted, located as it is in my congressional district, if I did not object in most emphatic terms to taking away a part of this appropriation of $100,000 and using it for another purpose. I hope the substitute will not be adopted.

Mr. CLYMER. I am satisfied that the Committee of the Whole wishes to do what is right and best under the circumstances. It is manifest from the facts stated here that at Fort Snelling there are no quarters whatever for the officers, that all the officers now employed there are obliged to reside in the city of Saint Paul, some four or five miles distant. It is equally manifest that all the officers stationed at Omaha have quarters within the barracks. Now, then, which case presents the strongest necessity for an appropriation? The law requires these officers, wherever practicable, to live within the works of the United States. At Omaha the officers are all accommodated; but at Fort Snelling the officers have to be provided with quarters four or five miles distant, at a cost to the Government of thousands of dollars. Should we then go on and build the works at Fort Snelling, where there are no Government quarters for officers and where quarters must be provided at great expense, or is it better to divide this appropriation and let the work upon these two forts run along for two or three years to come, so that the improvements at both may be completed at the same time?

I do not wish to complain of the decision of the Chair; it has been made and we must act under it; but so careful was the law-making power some years ago with reference to the erection of any new and permanent quarters that there is an express act forbidding the construction of such buildings except under special law.

Now, two or three years ago an appropriation was made for headquarters at Omaha. Those headquarters have been finished under that appropriation. The Secretary of War now sends in his communication saying that the work there cannot go on without a special appropriation. This is not an appropriation for the continuation of a work in progress. It is a new appropriation, and we cannot make it in a general appropriation bill except in pursuance of some law authorizing the expenditure.

As to the relative necessity for the work in the two cases, I have made a statement which cannot be gainsaid. For years and years to come Fort Snelling must be the headquarters of the great army which is to extend its operations upon the frontier and to the Pacific coast. This is one of the oldest forts in the United States. It was established years ago—in 1809—when that country was a wilderness. There are associations and memories and traditions connected with it which will make the American people desirous to preserve it. I wish to see the work finished. Within one year from the 1st of July next I wish to see the headquarters of our Army established at that point. There may be differences of opinion as to the necessity of headquarters at Omaha or other places, but in the minds of military men there is no difference as to the necessity of headquarters at Fort Snelling. The officers there are now compelled to occupy quarters four or five miles distant. I have myself lately seen the large amount of work that has been done there. It would be unwise as a matter of economy, it would be injustice to both places named in the amendment, if we should split up this appropriation. Let us finish the work at Fort Snelling; and if it is right that at Omaha there should be another great post established, let us provide for it another year. I trust the Committee of the Whole will not agree to the amendment.

Mr. SPARKS. What amount has already been appropriated for Fort Snelling?

Mr. CLYMER. One hundred thousand dollars last year.

Mr. SPARKS. And you propose another hundred thousand in this bill?

Mr. CLYMER. Yes, sir.

Mr. SPARKS. That makes $200,000 for building headqnarters at Fort Snelling?

Mr. CLYMER. Yes, sir,

Mr. SPARKS. Well, I think that is too much. I wish I knew how the Committee on Appropriations get these estimates.

Mr. CLYMER. From the War Department.

Mr. CANNON, of Illinois. I move to amend the amendment of the

gentleman from Nebraska [Mr. VALENTINE] so as to appropriate $100,000 for the headquarters at Fort Snelling and $50,000 for the headquarters at Omaha. I ask the Clerk to read the amendment as I propose to amend it.

The Clerk read as follows:

For the continuation of the construction of the necessary buildings for headquarters of the Department of Dakota at the military post of Fort Snelling, Minnesota, $100,000; and for headquarters Department of the Platte at the military post of Omaha, Nebraska, $50,000; in all, $150,000.

Mr. CLYMER. I shall have to ask for a division of the vote on the amendment.

Mr. CANNON, of Illinois. I desire to say a word on the proposition. The gentleman from Pennsylvania and the gentleman from Minnesota seem to believe that $100,000 is necessary for headquarters at Fort Snelling notwithstanding $100,000 has been already expended there for that purpose. They say it is an important post. Running along with this estimate for the completion of Fort Snelling comes equally as strong an estimate from General Crook, recommended by General Sherman and approved by the Secretary of War and regularly referred, for headquarters at Fort Omaha. There has been about $40,000 for headquarters at Fort Omaha. It is as important a department as the other. I believe we should give $50,000 to be expended there this year, and therefore I shall vote for this proposition.

Mr. BLOUNT. I have in my hands all the information the House has on this subject, comprised in the letter of the Secretary of War and accompanying documents, from which it appears, so far as the proposition in reference to Omaha is concerned, that on the 12th of January this year, the first time it was proposed, an estimate was sent in of $77,000 for the construction of officers' headquarters at Omaha, Nebraska. Here is the original. I do this simply because of what occurred heretofore in reference to the point of order. We have now before this committee a proposition which, if the amendment itself had stated it correctly, could not be before this committee at all, and this furnishes a reason why before this committee should take it up the Military Committee should first recommend it. The House referred this matter to the Committee on Military Affairs, and it so referred it rightfully. It was done under the rules of the House. It went there under no mistake, but it went there under the rules of the House. I say we ought not in this matter to take up this proposition in reference to Omaha. [Cries of "Vote!"] Very well, I am willing that the House should vote.

Mr. VALENTINE. The gentleman from Georgia has stated only a part of the facts.

Mr. HAYES. We should have a division on the amendment. Many who want to vote for Fort Snelling do not wish to vote for the other.

The CHAIRMAN. If the amendment of $100,000 is ingrafted with the amendment of the gentleman from Nebraska, it will then be subject to division.

Mr. CLYMER. Permit me to make the suggestion that the amendment should be amended so as to provide for continuation and completion, &c.

Mr. VALENTINE. That is a proper modification.

Mr. CANNON, of Illinois. I will accept that modification of the amendment.

The question recurred on the amendment of Mr. CANNON, of Illinois.

The committee divided; and there were—ayes 43, noes 71.

So the amendment to the amendment was rejected.

The question next recurred on Mr. VALENTINE'S amendment.

Mr. VALENTINE. I will modify my amendment by striking out "$50,000" and inserting "$20,000." And I wish to have read at the Clerk's desk a letter from the Secretary of War——

Mr. BRAGG. Is debate in order? It is the same amendment, only modified, and debate has already taken place on it.

The CHAIRMAN. Debate is exhausted.

The committee divided; and there were—ayes 55, noes 73.

Mr. VAN VOORHIS. There is no quorum voting.

Mr. VALENTINE. I will modify my amendment and make it $80,000 for Fort Snelling and $20,000 for Fort Omaha.

Mr. BRAGG. I make the point of order on the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. BRAGG. It is not for the continuation of any work and is not authorized by law.

Mr. VALENTINE. That has already been decided.

Mr. BRAGG. No; the ruling was on the other amendment without the facts being before the Chair.

The CHAIRMAN. The amendment will be read as modified.

The Clerk read as follows:

For the continuation of the construction of the necessary buildings now in process of erection for headquarters of the Department of Dakota at the military post of Fort Snelling, Minnesota, $80,000; and for headquarters of the Department of the Platte, at the military post of Fort Omaha, Nebraska, $20,000; in all, $100,000.

Mr. BRAGG. In support of the point of order I make that this is for new, original work, I will read the letter of the Secretary of War, transmitting the estimates, dated January 12, 1880:

WAR DEPARTMENT,
Washington City, January 12, 1880.

The Secretary of War has the honor to transmit to the Senate estimates of appropriation required, amounting to $77,403.48, with tracings of plans for the construction of officers' quarters at Fort Omaha, Nebraska.

The necessity for the buildings and the propriety of this expenditure are evidenced in the accompanying communication from the department commander, which bears the indorsement of the General of the Army, stating, "I approve of the plans and estimates of General Crook, as Omaha is, in my opinion, likely to be a depot and a post of reserve for many years."

The law forbids erection of permanent barracks, &c., without special appropriation and sanction of Congress. (See section 1136, Revised Statutes.)

In view of the premises, I recommend that these estimates be favorably considered by Congress.

ALEX. RAMSEY,
Secretary of War.

There, sir, is an admission of the fact that there is no existing law authorizing them, and requesting that there be a law of Congress passed for that purpose, and an admission of the fact that these are new works proposed; and this statement shows the estimates.

Mr. HAWLEY. I think that is a distinction without a difference, for this reason: that the work at Fort Omaha has unquestionably been begun. The house for the colonel has been built, and to that extent the work undoubtedly has been commenced. There are no quarters for the major or the captain and subordinate officers as yet, and this is to provide them with the necessary quarters. If this is not work begun, I do not know what it is. If the house for the commanding officer has been completed, and you want to begin buildings for the other officers, you may object to it on the ground that you are beginning a new construction; but this is to provide for headquarters, and the buildings for the subordinate officers are just as much a part of the headquarters as the building for the colonel. These headquarters are only partly completed. The commanding officer himself cannot use the headquarters unless he has room for his subordinate officers. They have some dilapidated regimental barracks there that they can use temporarily.

Mr. BRAGG. Do I understand the gentleman to talk about rickety barracks? I would like to ask how long those barracks have been constructed.

Mr. HAWLEY. I understand they have some cheap barracks there which can be used, as I say, temporarily. I do not speak from my personal knowledge.

The CHAIRMAN. The Chair adheres to his former ruling that the amendment is in order.

Mr. MAGINNIS. I rise to oppose the amendment. Not so much because I am against providing for Omaha as to say that no money ever should have been appropriated for these purposes at either place. But a large expenditure has been gone into at Fort Snelling, and the best and only ground on which the recommendation of the committee rests is that this appropriation of $100,000 is absolutely necessary to save the previous expenditure of a similar amount from being rendered useless. On this ground the committee report it; just as they would complete a building that had already been half erected. It is now necessary to complete these headquarters, but it is not necessary to begin any others. Having put in $100,000 at Fort Snelling, it is required to put in that much more to complete the work and save the rent now being paid at headquarters in Saint Paul, where, in my judgment, headquarters should have remained. It is now too late to retrace that move.

But gentlemen here will probably remember that when, several years ago, there was a provision placed in one of our bills requiring all department headquarters to be moved to military posts I opposed the proposition, worked and spoke against its adoption. But it was urged, upon the ground of economy and reform, as a saving of expense in rents and allowances to officers stationed in cities. How has this reform worked? How has this economy panned out? Up to this time it has cost the Government $800,000, and it promised to cost that much more but that at the extra session, by a provision on their bill, the Appropriations Committee repealed it. This is, I hope, the last remnant of that most extravagant economy. Let the Congress vote it and save the money spent already and then have done with it. It will require this $100,000 to complete the work at Fort Snelling and it is not wise to divert it. Let it go to some new post necessary for frontier defense.

The reason why I opposed the action of the House several years ago was that I saw it would be taken advantage of to fix department headquarters at points far outgrown by the necessities of the service. The major and brigadier-generals should go West with the troops they command, to visit the posts, to inspect the troops, to be models for younger officers, to give them the emulation born of serving directly under the eyes of their generals, and above all to direct military operations from the immediate scene of action, instead of from distant points. Every man who has had military experience knows the advantage of such a policy. The Indians, the soldiers, the line of the Army have gone West, and generals and general headquarters should go with them. For years I have desired that headquarters for Montana should be in Montana, and I know that at the time of the Sioux war General Crook wanted to move West. The fact that department headquarters are not moved to the immediate scene of action is the most serious criticism I have ever felt called on to make against Army management. But political influences have been too strong, and Senators and Representatives have been enabled to hold these headquarters at their cities, which were once proper bases for frontier operations, but have long since been outgrown by the development of the country. The new countries and their needs are still held tributary to the desires of older communities. As for the officers themselves, they have desired to be out near their troops.

If any of this appropriation must be diverted from Fort Snelling, let it be for needed posts to shelter the soldiers on the frontier. This

bill omits to make provision for the erection of quarters at Fort Assinaboine for six companies of the Eighteenth Infantry, sent up to the extreme border last year from the South in obedience to the demand of the whole country. Well may the President decline such requests when you decline to provide for the shelter and accommodation of troops so transferred. They cannot spend the winters in tents in that severe climate. There were letters before the committee from all the generals of the Army and from the Secretary of War, showing the necessity for a garrison on Frenchman's Creek, where several years ago sixty soldiers out of about two hundred were so badly frozen that several died and many had to have their hands and feet amputated. The troops on the Musselshell have to tramp back and forward many miles every spring and fall from the scene of conflict to quarters and back again at vast expense of transportation. One would think that if there was only so much money to spend that here would be the places where it should go first. But this bill contains provisions for places all over the land, to shelter clerks and other officials, furniture of the most luxurious description, carpets of velvet pile and mirrors of French plate; offices turned into parlors, and mostly used as parlors; furniture in the worst possible taste, as being useless and out of place, with no recommendations save its costly price and shoddy extravagance; while your soldiers have not wherewith to comfortably hut themselves. The office of the chancellor of the German Empire is more plainly furnished, as was said yesterday, than the room of a Department clerk; but in that strict and well-disciplined land the iron rule at least grants to its troops safe, warm, and comfortable quarters. Has it got to be so in our Republic that, as in old empires and old republics, too, the people who have influence about the capital, the courtiers around the throne, the favorites at the seat of political power, have everything? The soldiers on the distant frontier have nothing but hardship and the glory of a duty well performed.

It is well enough to go on and complete these buildings at Snelling. There is a military rendezvous and recruiting station there. You have troops there now; there is a regiment stationed there. It is economy to complete these buildings, as the committee recommend. There is no other alternative. But outside of that point it would have been better if the law to remove department headquarters to military posts never had been passed. These expenditures have had the tendency to fix general headquarters near large cities, no matter where the frontier advanced. I know it is not the desire of our general officers; they like to be in line with their men, to be where their soldiers are, and that if their wishes alone had been consulted, generals, soldiers, Indians, and headquarters would all have gone west together.

[Here the hammer fell.]

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Nebraska.

The committee divided; and there were—ayes 56, noes 66.

Mr. VALENTINE demanded tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. VALENTINE were appointed.

The committee again divided; and the tellers reported—ayes 63, noes 67.

So (no further count being demanded) the amendment was not agreed to.

The Clerk read as follows:

To complete the purchase of Ringgold barracks, Texas, $10,538.19.

Mr. POEHLER. I move that the committee rise.

Mr. BLOUNT. If gentlemen propose to get through with this session at an early period they must be willing to sit longer.

The question being taken on Mr. POEHLER's motion, there were—ayes 70, noes 41.

So the motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

HARBOR AT CUMBERLAND SOUND AND FORT CLINCH.

Mr. DIBRELL, by unanimous consent, from the Committee on Military Affairs, reported back the memorial in regard to the harbor at Cumberland Sound and Fort Clinch, with the recommendation that an appropriation be made to protect the same, and moved that the memorial be referred to the Committee on Appropriations.

The motion was agreed to.

TAXES IN THE DISTRICT.

Mr. ALDRICH, of Rhode Island, by unanimous consent, from the Committee on the District of Columbia, reported, as a substitute for the Senate joint resolution No. 64, a bill (H. R. No. 6323) to reduce the rate of interest on general and special taxes in the District of Columbia, and for other purposes; which was read a first and second time, recommitted to the Committee on the District of Columbia, and ordered to be printed.

CHURCH PROPERTY IN THE DISTRICT OF COLUMBIA.

Mr. ALDRICH, of Rhode Island, also, by unanimous consent, from the Committee on the District of Columbia, reported a bill (H. R. No. 6324) to construe an act entitled "An act to relieve the churches of the District of Columbia and to clear the title of the trustees of such property;" which was read a first and second time, referred to the House Calendar, and ordered to be printed.

HEIRS OF EDWARD B. CLARKE.

Mr. SLEMONS. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SLEMONS. Is it now in order to move to suspend the rules or to ask unanimous consent to pass a bill.

The SPEAKER *pro tempore*. It is in order to ask unanimous consent for that purpose.

Mr. SLEMONS. Then I ask unanimous consent to move that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 2098) for the relief of the heirs of Edward B. Clarke and that the bill be put upon its passage.

The bill was read.

The SPEAKER *pro tempore*. Is there objection to the present consideration of this bill?

Mr. WHITE. I object.

Mr. SLEMONS. I hope the gentleman from Pennsylvania will withdraw his objection. This is the unanimous report of the Committee on the District of Columbia.

The SPEAKER *pro tempore*. Does the gentleman from Pennsylvania insist on his objection?

Mr. WHITE. I do.

BRIDGE ACROSS DETROIT RIVER.

Mr. TOWNSEND, of Ohio, by unanimous consent, from the Committee on Commerce, reported back, with an adverse recommendation, the bill (H. R. No. 984) to authorize the construction of a railroad bridge across the Detroit River, and moved that the bill be laid on the table, and that the report be printed.

The motion was agreed to.

ASSISTANTS TO ENROLLING CLERK.

Mr. ATKINS. I ask unanimous consent to offer for present consideration the resolution I send to the desk, to which I think there will be no objection.

The Clerk read as follows:

Resolved, That the Clerk of the House be, and he is hereby, authorized to employ not exceeding two clerks to assist the enrolling clerk during the remainder of this session, to be paid out of the contingent fund of the House, at a rate of compensation to be fixed by the Committee on Accounts.

There was no objection, and the resolution was agreed to.

Mr. ATKINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BRAGG. I move that the House take a recess till half past seven o'clock this evening.

Mr. FINLEY. I wish to inquire of the Chair if the session of the House to-night is for a special object?

The SPEAKER *pro tempore*. It is for the special object of considering the Ute Indian bill, subject to appropriation bills. The Chair is not informed whether it is the purpose of the gentleman in charge of the appropriation bill now under consideration to antagonize that bill or not.

Mr. HOOKER. I move that the House do now adjourn.

Mr. FORNEY. I rise to make a privileged report. I desire to present the report of the conference committee on the Military Academy appropriation bill.

Mr. BRAGG. I have made a motion that the House take a recess.

The SPEAKER *pro tempore*. Does the gentleman from Wisconsin desire to exclude the report of the conference committee on the appropriation bill?

Mr. BRAGG. I do not.

Mr. ATKINS. I wish to ask the gentleman from Georgia [Mr. BLOUNT] if he contemplates proceeding with the sundry civil appropriation bill to-night?

Mr. BLOUNT. I do not.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. FORNEY. I present the report of a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2 and 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4, and agree to the same.

WILLIAM H. FORNEY,
T. R. COBB,
J. G. CANNON,
Managers on the part of the House.

WILLIAM WINDOM,
R. E. WITHERS,
Managers on the part of the Senate.

Mr. CONGER. Let the statement be read which the rule requires to accompany a conference report.

The Clerk read as follows:

The effect of the agreement, if adopted, will be to allow, by amendment 1, $315.28 more for pay of professors, being legal longevity pay for two professors; to refuse (amendment 2) the discretion to the Secretary of War of assigning any officers of the Army as professors of law; and to limit (by amendment 3) the amount appropriated for hospital for cadets to the sum recommended by the House; and to allow (by amendment 4) $1,000 for repairing roof of cadet barracks.

The SPEAKER *pro tempore*. The question is upon adopting the report of the committee of conference.

The report was adopted.

Mr. FORNEY moved to reconsider the vote by which the report of the conference committee was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEVEES AND IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. DUNN. By instructions of the Committee on Levees and Improvements of the Mississippi River, I ask consent at this time to submit a report from the sub-committee of that committee, and ask that it be printed and recommitted.

There was no objection, and it was so ordered.

Mr. DUNN. I ask leave that the committee have authority to report at any time.

Mr. BRAGG. I object to that.

ORDER OF BUSINESS.

Mr. HOOKER. I call for the regular order.

The SPEAKER *pro tempore*. The gentleman from Wisconsin [Mr. BRAGG] has moved that the House now take a recess until half past seven o'clock.

Mr. HOOKER. And pending that motion, I move that the House now adjourn.

Mr. TUCKER. I ask the gentleman to withdraw that motion for a moment.

Mr. HOOKER. I will do so.

Mr. CONGER. I call for the regular order.

Mr. BRAGG. I insist upon my motion for a recess.

Mr. HOOKER. Then I insist upon my motion to adjourn.

The motion to adjourn was not agreed to, upon a division—ayes 9, noes 57.

The SPEAKER *pro tempore*. The question recurs upon the motion for a recess.

Mr. TUCKER. I ask the gentleman from Wisconsin [Mr. BRAGG] to withdraw that motion. I think this is the first personal request that I have made during the session. I desire to have passed a private bill for the relief of political disabilities.

The SPEAKER *pro tempore*. Is there objection?

Mr. BRAGG. I insist upon my motion for a recess.

Mr. DUNNELL. I suggest to the gentleman that he change the time to eight o'clock this evening.

Mr. BRAGG. I will modify my motion, so as to make it for a recess until eight o'clock this evening.

The question was taken by a *viva voce* vote.

LEAVE OF ABSENCE.

Before the result of the vote upon the motion for a recess was announced, the following applications for leave of absence were read by the Clerk:

To Mr. FRYE, for ten days, in order that he may attend the Chicago convention. [Laughter.]

To Mr. HOUK, for ten days, from Saturday next, on account of important business;

To Mr. HARRIS, of Massachusetts, for two weeks, from Friday next;

To Mr. WILLIAMS, of Wisconsin, for one week, on account of important business;

To Mr. CALKINS, indefinitely after Friday next, on account of important business;

To Mr. BURROWS, for fifteen days;

To Mr. FARR, indefinitely, on account of sickness;

To Mr. RICHMOND, for ten days, from the 31st instant;

To Mr. KILLINGER, for one week, on account of sickness; and

To Mr. UPDEGRAFF, of Ohio, for one week from Saturday next, on account of important business.

The SPEAKER *pro tempore*. Is there objection to granting the requests just read for leave of absence?

Mr. HUTCHINS. I object, unless they are coupled with the condition that if the gentlemen asking leave of absence are paired those with whom they are paired shall be at liberty to vote if necessary to make a quorum.

Mr. HOUK. That is generally understood.

Mr. KEIFER. That is a matter for the member to determine.

Mr. KELLEY. That condition should be applied to all pairs which have been granted.

Mr. HUTCHINS. I object, without that condition.

Mr. CALKINS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CALKINS. Is it not within the power of the House by a majority vote to grant leave of absence to any of its members?

The SPEAKER *pro tempore*. It is not in the power of any member at this time to get his request before the House except by unanimous consent.

Mr. CALKINS. I was not referring to that point.

The SPEAKER *pro tempore*. The gentleman from New York [Mr. HUTCHINS] must state whether he objects to granting these several leaves of absence.

Mr. BRIGGS. I desire to state that my colleague, Mr. FARR, has been sick for some time.

Mr. HUTCHINS. I do not object to granting leave of absence in any case on account of sickness.

The SPEAKER *pro tempore*. The Chair has no discretion except to announce that in all cases but those of sickness objection is made to granting leave of absence.

WITHDRAWAL OF PAPERS.

Mr. MORSE asked and obtained unanimous consent for the withdrawal from the files of the House of a resolution providing for the printing and binding of 500 additional copies of the Report of Chief Engineer J. W. King on the War Ships and Navies of the World; no adverse report.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. By the *viva voce* vote on the motion that the House now take a recess until eight o'clock the ayes appeared to have it.

Mr. HOOKER. I call for a division.

The House divided; and the tellers reported that there were—ayes 87, noes 12.

Mr. HOOKER. No quorum has voted.

Mr. BELFORD. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BELFORD. Some days since the House set apart the session of to-night for the special consideration of what is known as the Ute agreement bill. I desire to inquire if it is competent for the House at this time to change that previous order?

The SPEAKER *pro tempore*. The Chair will state to the gentleman that in the judgment of the Chair there is no necessity to answer that question, as it is not now before the House. There was no order of the House fixing the time from which the recess should be taken.

Mr. BELFORD. The order of the House fixed the time for the session of to-night to commence at half past seven o'clock.

The SPEAKER *pro tempore*. The Chair remembers the order just as the gentleman states it; but he does not see that the gentleman's question has any bearing upon what is before the House. The House may remain in session up to the time fixed for the evening session. The point of order has been made that no quorum voted.

Mr. HOOKER. I will say to gentlemen on the other side of the House that if they will agree by unanimous consent to take up in Committee of the Whole this evening the unfinished business—the Choctaw matter—I will withdraw my objection.

Mr. HASKELL. I desire to state that the objection to taking up the Choctaw claim does not come from this side of the House, but from the gentleman from Illinois, [Mr. SPARKS.]

Mr. SPARKS. It comes from me.

The SPEAKER *pro tempore*. Debate is not in order. The point of order is made that no quorum voted upon the motion for a recess.

Mr. COOK. I move that the House adjourn.

Mr. TOWNSHEND, of Illinois. We are dividing upon the question of a recess. A count by tellers is the only thing in order.

The SPEAKER *pro tempore*. Does the gentleman from Georgia [Mr. COOK] insist on his motion to adjourn? The Chair understanding that the gentleman does not insist on that motion, tellers will be ordered. The Chair appoints the gentleman from Mississippi, Mr. HOOKER, and the gentleman from Wisconsin, Mr. BRAGG.

The House again divided; and the tellers reported—ayes 95, noes 9.

Mr. HOOKER and Mr. ERRETT. No quorum.

Mr. GUNTER. I move a call of the House.

Mr. DICKEY. I move that the House now adjourn.

The question being taken on the motion of Mr. DICKEY, that the House adjourn, it was not agreed to, there being—ayes 43, noes 50.

The question recurring on the motion of Mr. GUNTER for a call of the House, it was agreed to.

The roll was called, when the following-named members failed to answer:

Acklen,	Clark, John B.	Hall,	Lapham,
Armfield,	Clymer,	Hammond, John	Lewis,
Atherton,	Cobb,	Harmer,	Lindsey,
Bachman,	Coffroth,	Harris, Benj. W.	Lounsbery,
Bailey,	Converse,	Harris, John T.	Manning,
Baker,	Cowgill,	Hayes,	Martin, Benj. F.
Barber,	Cox,	Hazelton,	Martin, Edward L.
Barlow,	Crapo,	Henry,	Martin, Joseph J.
Beale,	Crowley,	Herndon,	McCoid,
Beltzhoover,	Daggett,	Hill,	McCook,
Bingham,	Davidson,	Hiscock,	McKenzie,
Bland,	Davis, Joseph J.	House,	McKinley,
Bliss,	Dwight,	Hubbell,	McLane,
Blount,	Elam,	Hunton,	McMahon,
Bowman,	Farr,	James,	Miller,
Boyd,	Felton,	Johnston,	Money,
Brigham,	Finley,	Jorgensen,	Morse,
Browne,	Fisher,	Joyce,	Morton,
Buckner,	Ford,	Kenna,	Muller,
Butterworth,	Forsythe,	Ketcham,	Murch,
Camp,	Fort,	Killinger,	Neal,
Caswell,	Frost,	Kimmel,	Newberry,
Chalmers,	Frye,	King,	Nicholls,
Chittenden,	Garfield,	Kitchin,	O'Brien,
Clark, Alvah A.	Godshalk,	Klotz,	O'Connor,

O'Neill,	Rice,	Smith, Hezekiah B.	Wait,
O'Reilly,	Richardson, J. S.	Smith, William E.	Weaver,
Orth,	Richmond,	Starin,	Whitthorne,
Overton,	Robertson,	Steele,	Wilber,
Pacheco,	Ross,	Stephens,	Williams, C. G.
Page,	Rothwell,	Stone,	Williams, Thomas
Persons,	Russell, Daniel L.	Talbott,	Willis,
Phelps,	Russell, W. A.	Taylor,	Willits,
Philips,	Ryan, Thomas	Thomas,	Wilson,
Phister,	Ryon, John W.	Thompson, W. G.	Wise,
Pierce,	Sapp,	Townsend, Amos	Wood, Fernando
Pound,	Scales,	Turner, Thomas	Wood, Walter A.
Prescott,	Shallenberger,	Tyler,	Wright,
Price,	Shelley,	Van Aernam,	Young, Casey.
Reagan,	Simonton,	Vance,	
Reed,	Singleton, J. W.	Van Voorhis,	

Mr. DUNNELL. Mr. Speaker, has the Clerk made the second call for responses of those who did not answer on the first call?

The SPEAKER *pro tempore*. The second call is concluded. One hundred and thirty-one members less than a quorum have answered to their names. The doors will now be closed, when excuses will be heard for absentees.

Mr. COOK. I move to dispense with further proceedings under the call.

The SPEAKER *pro tempore*. If the gentleman desires to dispense with further proceedings under the call, his object will be reached by a motion to adjourn.

Mr. COOK. I make that motion.

Mr. McMILLIN. If there are to be further proceedings under the call, I desire to state in behalf of my colleague, Mr. TAYLOR, that he was complaining of being unwell to-day and is probably absent on that account.

The question being taken on the motion of Mr. COOK, that the House adjourn, there were—ayes 66, noes 42.

Mr. HASKELL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 56, nays 53, not voting 183; as follows:

YEAS—56.

Aldrich, William	Dick,	Humphrey,	Osmer,
Bayne,	Dickey,	Hurd,	Samford,
Blackburn,	Ellis,	Jones,	Sawyer,
Blake,	Errett,	Knott,	Singleton, O. R.
Brewer,	Ferdon,	Ladd,	Slemons,
Cabell,	Field,	Lowe,	Smith, A. Herr
Caldwell,	Forney,	Marsh,	Sparks,
Carlisle,	Geddes,	McGowan,	Speer,
Clymer,	Hatch,	McMillin,	Updegraff, Thomas
Colerick,	Henkle,	Mills,	Upson,
Culberson,	Hooker,	Mitchell,	Urner,
Davis, Horace	Horr,	Morrison,	Voorhis,
Davis, Lowndes H.	Houk,	Muldrow,	Wellborn,
Dibrell,	Hull,	Norcross,	Whiteaker.

NAYS—53.

Aiken,	Cook,	Heilman,	Tillman,
Aldrich, N. W.	Covert,	Hostetler,	Townshend, R. W.
Anderson,	Cravens,	Hutchins,	Turner, Oscar
Atkins,	Davis, George R.	Keifer,	Updegraff, J. T.
Belford,	De La Matyr,	Kelley,	Waddill,
Bouck,	Deering,	Le Fevre,	Warner,
Bragg,	Dunn,	Monroe,	Washburn,
Briggs,	Dunnell,	Myers,	White,
Bright,	Evins,	New,	Willits,
Burrows,	Gunter,	Poehler,	Yocum,
Calkins,	Hammond, N. J.	Richardson, D. P.	Young, Thomas L.
Cannon,	Haskell,	Sherwin,	
Claflin,	Hawk,	Springer,	
Conger,	Hawley,	Stevenson,	

NOT VOTING—183.

Acklen,	Cox,	Herndon,	Money,
Armfield,	Crapo,	Hill,	Morse,
Atherton,	Crowley,	Hiscock,	Morton,
Bachman,	Daggett,	House,	Muller,
Bailey,	Davidson,	Hubbell,	Murch,
Baker,	Davis, Joseph J.	Hunton,	Neal,
Ballou,	Deuster,	James,	Newberry,
Barber,	Dwight,	Johnston,	Nicholls,
Barlow,	Einstein,	Jorgensen,	O'Brien,
Beale,	Elam,	Joyce,	O'Connor,
Beltzhoover,	Ewing,	Kenna,	O'Neill,
Berry,	Farr,	Ketcham,	O'Reilly,
Bicknell,	Felton,	Killinger,	Orth,
Bingham,	Finley,	Kimmel,	Overton,
Bland,	Fisher,	King,	Pacheco,
Bliss,	Ford,	Kitchin,	Page,
Blount,	Forsythe,	Klotz,	Persons,
Bowman,	Fort,	Lapham,	Phelps,
Boyd,	Frost,	Lewis,	Philips,
Brigham,	Frye,	Lindsey,	Phister,
Browne,	Garfield,	Loring,	Pierce,
Buckner,	Gibson,	Lounsbery,	Pound,
Butterworth,	Gillette,	Manning,	Prescott,
Camp,	Godshalk,	Martin, Benj. F.	Price,
Carpenter,	Goode,	Martin, Edward L.	Reagan,
Caswell,	Hall,	Martin, Joseph J.	Reed,
Chalmers,	Hammond, John	Mason,	Rice,
Chittenden,	Harmer,	McCoid,	Richardson, J. S.
Clardy,	Harris, Benj. W.	McCook,	Richmond,
Clark, Alvah A.	Harris, John T.	McKenzie,	Robertson,
Clark, John B.	Hayes,	McKinley,	Robeson,
Cobb,	Hazelton,	McLane,	Robinson,
Coffroth,	Henderson,	McMahon,	Ross,
Converse,	Henry,	Miles,	Rothwell,
Cowgill,	Herbert,	Miller,	Russell, Daniel L.
Russell, W. A.	Starin,	Turner, Thomas	Wilber,
Ryan, Thomas	Steele,	Tyler,	Williams, C. G.
Ryon, John W.	Stephens,	Valentine,	Williams, Thomas
Sapp,	Stone,	Van Aernam,	Willis,
Scales,	Talbott,	Vance,	Wilson,
Shallenberger,	Taylor,	Van Voorhis,	Wise,
Shelley,	Thomas,	Wait,	Wood, Fernando
Simonton,	Thompson, P. B.	Ward,	Wood, Walter A.
Singleton, J. W.	Thompson, W. G.	Weaver,	Wright,
Smith, Hezekiah B.	Townsend, Amos	Wells,	Young, Casey.
Smith, William E.	Tucker,	Whitthorne,	

So the motion was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. BRAGG with Mr. HAZELTON, until Friday morning, on all political questions, reserving the right to vote on the sundry civil appropriation bill, on all questions affecting the management of the Soldiers' Home, and in all cases to make a quorum.

Mr. ROBINSON with Mr. TALBOTT. If Mr. TALBOTT were present, Mr. ROBINSON would vote "no."

Mr. GUNTER with Mr. BURROWS, of Michigan, on all political questions; either at liberty to vote to make a quorum.

Mr. ALDRICH, of Rhode Island, with Mr. SLEMONS, until June 4, 1880, on all questions except the bill fixing the rate of duty on sugar.

Mr. THOMPSON, of Kentucky, with Mr. CARPENTER.

Mr. BOUCK with Mr. WILLIAMS, of Wisconsin.

Mr. LAPHAM with Mr. HERBERT.

Mr. FARR with Mr. DAVIDSON.

Mr. OVERTON with Mr. BLISS.

Mr. THOMAS TURNER with Mr. RUSSELL, of Massachusetts.

Mr. HOUK with Mr. MORSE.

Mr. BLOUNT with Mr. ANDERSON, on all political questions.

Mr. MARTIN, of Delaware, with Mr. SMITH, of Pennsylvania.

Mr. McKENZIE with Mr. SAPP.

Mr. HARRIS, of Massachusetts, with Mr. LEWIS.

Mr. SHELLEY with Mr. STONE.

Mr. JAMES with Mr. O'BRIEN.

Mr. REED with Mr. ROTHWELL.

Mr. HUBBELL with Mr. STEVENSON.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. CONVERSE with Mr. PIERCE.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. MYERS with Mr. FORT.

Mr. HOUSE with Mr. PRICE.

Mr. McMAHON with Mr. URNER.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. O'CONNOR with Mr. BOWMAN.

Mr. CHITTENDEN with Mr. STEPHENS.

Mr. McLANE with Mr. MASON.

Mr. BEALE with Mr. HALL.

Mr. EWING with Mr. WISE.

Mr. TUCKER with Mr. GARFIELD.

The vote was then announced as above recorded.

The House accordingly (at five o'clock and forty-five minutes p. m.) adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BREWER: The petition of Harding Stebbins, N. L. Clark, and 25 others, ex-soldiers, of Hartland, Michigan, against the passage of the congressional district pensions-court bill—to the Committee on Invalid Pensions.

By Mr. GEDDES: The petition of Robert D. McBride and 46 others, citizens of Ohio, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. McKINLEY: The petition of James A. Hamilton, of Orrville, Ohio, for the abolition of the duty on type—to the Committee on Ways and Means.

Also, the petition of citizens of Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. REAGAN: The petition of 15 citizens of Clayton, Texas, for the passage of the bill to regulate interstate commerce—to the Committee on Commerce.

By Mr. STARIN: The petition of 86 citizens and ex-soldiers of Saratoga County, New York, for the passage of House bills numbered 4836 and 5809—to the Committee on the Public Lands.

By Mr. URNER: The petition of Adam Rahrla, for a pension—to the Committee on Invalid Pensions.

WOMAN SUFFRAGE.

By Mr. CLAFLIN: The petitions of Rebecca T. Collins, Elizabeth W. Pool, and others, of Plymouth County, and of Sarah S. Trask, Annie M. Hines, Mary S. Thomas, and others, of Essex, Massachusetts, for an amendment to the Constitution securing woman suffrage—to the Committee on the Judiciary.

Also, the petition of Sarah Needham Bancroft, of Peabody, Massachusetts, for the removal of her political disabilities—to the same committee.

By Mr. COX: The petition of Elosia A. Moore, of Allegany County, New York, of similar import—to the same committee.

By Mr. DEERING: The petitions of Mrs. Fannie M. Elliott, Elmira Aspenwall, Mrs. S. E. Cobb, and others, of Floyd County; of Mrs.

Colonel Springer, Abbie J. Monroe, M. J. Harvey, Rev. Bishop Isbell, and others, of Jones County, and of Mrs. H. O. Stevens, C. A. White, Esther Phelps, and others, of Floyd County, Iowa, for an amendment to the Constitution securing woman suffrage—to the same committee.

By Mr. DE LA MATYR: The petitions of Mollie G. Zount, Catharine Ray, and Rosilla Jane Hawkins, of Harveysburgh, and of Susan Teague, of Fountain County, Indiana, for the removal of their political disabilities—to the same committee.

By Mr. EINSTEIN: The petition of Mrs. Laura M. Smith, of Allegany County, New York, of similar import—to the same committee.

By Mr. FERDON: The petition of Eleanor J. Potter, Allegany County, New York, of similar import—to the same committee.

By Mr. JOHN A. HAMMOND: The petition of L. M. Pettibone, of Allegany County, New York, of similar import—to the same committee.

By Mr. HUTCHINS: The petitions of H. L. Truman and of Susan E. Larkin, of Allegany County, New York, of similar import—to the same committee.

By Mr. KELLEY: The petitions of Elizabeth M. Beale, Anna M. Lowene, Mary R. Beale, Mary L. Parmelee, and Elizabeth D. Snyder, of Philadelphia, Pennsylvania, of similar import—to the same committee.

By Mr. LAPHAM: The petitions of Susan B. Anthony, of Rochester, and of Amelia E. Stillman, of Allegany County, New York, of similar import—to the same committee.

Also, the petition of Mrs. C. J. Humphry, Mrs. Martha Lloyd, Mrs. A. M. Lathrop, and others, of Chenango County, New York, for an amendment to the Constitution securing woman suffrage—to the same committee.

By Mr. LORING: The petition of Harriet Dalrymple, of Salem, Massachusetts, for the removal of her political disabilities—to the same committee.

Also, the petition of Henry K. Oliver and others, of Salem, Massachusetts, for an amendment to the Constitution providing that suffrage may be based upon citizenship—to the same committee.

By Mr. MASON: The petition of M. D. Whitford, of Allegany County, New York, for the removal of her political disabilities—to the same committee.

By Mr. DAVID P. RICHARDSON: The petition of Mrs. Sardinia Crandall, of Allegany County, New York, of similar import—to the same committee.

By Mr. STARIN: The petition of Frances A. Marvin, of Allegany County, New York, of similar import—to the same committee.

By Mr. VAN AERNAM: The petition of Mrs. A. A. Allen, of Allegany County, New York, of similar import—to the same committee.

By Mr. VAN VOORHIS: The petitions of Malinda Marshall and Mary E. Brant, of Brooklyn; of Mary R. Pell, of Flushing, and of Mary K. M. Babcock, of Allegany County, New York, of similar import—to the same committee.

Also, the petition of Sarah H. Rathburn, Elizabeth W. Brown, Sarah L. Knapp, and others, of Wayne County, and of Viola D. Burnham, Rose F. Pickard, Harriet Nelson, and others, of Chautauqua County, New York, for an amendment to the Constitution securing woman suffrage—to the same committee.

By Mr. CHARLES G. WILLIAMS: The petitions of Mrs. H. J. Partridge, Lucena De Wolfe, Augusta Shepard, and others, of Walworth County, Wisconsin, of similar import—to the same committee.

By Mr. WILLITS: The petition of O. J. Reed, Phebe Putney, Emma J. Mayne, and others, of Benzie County, Michigan, of similar import—to the same committee.

By Mr. WALTER A. WOOD: The petition of Avis Satterlee, of Allegany County, New York, for the removal of her political disabilities—to the same committee.

IN SENATE.

THURSDAY, *May* 27, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 22d instant, information relative to the number, location, and annual rent of all buildings rented in the District of Columbia for the use of the United States.

Mr. COCKRELL. That information is in answer to a resolution which I had the honor to submit. I ask that the communication be printed and laid upon the table, that Senators may have an opportunity to examine it. I do not think there is any necessity for referring it to any one committee. It will be a matter for the consideration of the Committee on Appropriations and also the Committee on Public Buildings and Grounds.

The communication was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting copy of a letter sent by him to the House of Representatives, containing the reports of the boards of officers appointed to inspect the double-turreted monitors Puritan, Amphitrite, Terror, and Monadnock; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the 22d instant, a report of Henry C. De Ahna, formerly collector of customs at Sitka, Alaska, in regard to the resources, condition, and affairs of the Territory of Alaska.

The PRESIDENT *pro tempore*. This communication is in answer to a resolution introduced by the Senator from New Hampshire, [Mr. BLAIR,] not now in his seat.

Mr. EDMUNDS. It ought to be printed and referred to the Committee on Territories, I imagine.

Mr. GARLAND. I will state to the Senator from Vermont that the Committee on Territories have reported a territorial bill for Alaska which was before them, and probably the communication had better lie on the table.

Mr. ROLLINS. In the absence of my colleague [Mr. BLAIR] I think perhaps the communication should merely be printed and laid on the table.

The PRESIDENT *pro tempore*. It will lie on the table and be printed, and if the Senator from New Hampshire, when he comes in, wants any other disposition of it, he can move it.

PETITIONS AND MEMORIALS.

Mr. JONAS presented the petition of the Chamber of Commerce of New Orleans, Louisiana, praying for the establishment of an ocean postal service in steam-vessels between the ports of the United States and those of South America; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KIRKWOOD. I present the petition of Mrs. H. O. Stevens, C. A. White, Esther Phelps, S. E. Phillips, J. C. Yocum, W. M. Newell, and others, citizens of the State of Iowa, county of Floyd, town of Charles City, praying for the following amendment to the Constitution of the United States:

ARTICLE XVI.

The right of suffrage in the United States shall be based on citizenship, and the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex, or for any reason not equally applicable to all citizens of the United States.

I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. KIRKWOOD also presented the petition of Elizabeth Cowgill and the petition of Anna M. Simonds, citizens of West Branch, Cedar County, Iowa, representing that they are real-estate owners and are annually heavily taxed for the support of pauperism and crime, while they have no power to suppress vice or regulate taxation, and asking for the removal of their political disabilities; which were referred to the Committee on the Judiciary.

Mr. FARLEY presented the petition of F. E. Bailey, the petition of C. L. Anderson, M. D., the petition of Hannah J. Grover, the petition of Hannah Scully, the petition of P. B. Fagan, the petition of H. M. Blackburn and others, citizens of Santa Cruz, California, praying for an amendment to the Constitution of the United States granting to women the right of suffrage; which were referred to the Committee on the Judiciary.

Mr. HARRIS presented the petition of R. J. Morgan and 115 others, citizens of Memphis, Tennessee, praying for the extension of the patent of the Eclipse cotton-gin; which was referred to the Committee on Patents.

Mr. EDMUNDS presented the petition of Sarah W. Lynde, a citizen of Guilford, Windham County, Vermont, praying for the removal of her political disabilities; which was referred to the Committee on the Judiciary.

He also presented the petition of Lucinda Smith and sundry other citizens of Vermont, praying for such an amendment to the Constitution as to give females the right to vote; which was referred to the Committee on the Judiciary.

Mr. HAMLIN presented a petition of citizens of Maine, soldiers of the late war, praying for non-partisan action on the bill for the relief of General Fitz-John Porter; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. KERNAN. I am directed by the Committee on Patents, to whom was referred the bill (H. R. No. 2019) for the relief of Daniel M. Cook, to report it with the recommendation that the bill do not pass. There is a short written report stating the facts. I ask that the bill go upon the Calendar, as some one has asked that it might have that disposition.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The bill will be placed on the Calendar with the adverse report of the committee, which will be printed.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles, &c., reported it without amendment.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1211) for the relief of R. M. Briggs, reported it without amendment.

BILLS INTRODUCED.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1794) to provide for an increase of the numbers and efficiency of the Metropolitan Police of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. VANCE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1795) for the relief of G. M. Woodruff; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1796) to provide for the erection of a public building for the use of the post-office and Government offices at the city of Terre Haute, Indiana; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1797) to confirm the title to certain lands in the Territory of Arizona to Charles P. Sykes and John Currey; which was read twice by its title, and referred to the Committee on Private Land Claims.

CENSUS SUPERVISORS.

Mr. VOORHEES. In the absence, for the time being at least, of morning business, I ask the Senate to do a little work of charity.

The PRESIDING OFFICER. The Chair has not called the order of "concurrent and other resolutions." Concurrent and other resolutions are next in order.

Mr. PENDLETON. I offer a resolution, and as it is a matter of inquiry I ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the President be, and hereby is, requested to communicate to the Senate whether any supervisor or supervisors of the census, appointed by and with the advice and consent of the Senate have been removed from office by him or with his consent, and whether a successor to fill the vacancy caused by any such removal has been appointed by him or with his consent.

Mr. EDMUNDS. I should like to see that in print. There is a little other information of the same kind that I should like to add. The resolution may go over until to-morrow and be printed, if the Chair pleases.

The PRESIDING OFFICER. On the objection of the Senator from Vermont the resolution goes over, and it will be printed.

ORDER OF BUSINESS.

Mr. MORGAN. If there is no further morning business I desire to ask the Senate to take up for consideration Senate bill No. 1687.

The PRESIDING OFFICER. The Chair does not know whether there is any further morning business or not, and will ask the Senate whether there is, before laying before it the regular order. Concurrent and other resolutions are still in order. If there be none, the routine business of the morning hour will be announced as closed.

Mr. THURMAN. The routine business having been closed, I ask the Senate to take up Senate bill No. 1320, which was considered once, and I believe by reason of the expiration of the morning hour or something of that kind was not passed.

Mr. MORGAN. I believe I was on the floor and was recognized on a proposition of the same kind.

The PRESIDING OFFICER. The Chair cannot recognize Senators out of the order in which the business is called, and he recognizes Senators after that in the order in which they apply to the Chair.

Mr. MORGAN. I rose to inquire whether there was any routine morning business. There was none. I then made a motion to the Senate and upon that motion I had the floor. I do not think the Senator from Ohio has the right to take me off the floor with his motion.

Mr. THURMAN. I certainly did not know that the Senator had risen.

Mr. MORGAN. I was recognized by the Chair; and no morning business has intervened. My motion is in order.

Mr. THURMAN. I did not know that my friend from Alabama had risen, but I wish to call his attention to the fact that the routine business of the morning hour is not through until it is so announced by the Chair. That is the rule, an express rule. The moment the Chair announced that the routine business was through, I addressed the Chair and was recognized and moved that the Senate proceed to the consideration of Senate bill No. 1320.

The PRESIDING OFFICER. If the Senator from Alabama makes the point, the Chair will submit it to the Senate for its decision. The Chair had not announced when the Senator from Alabama rose to take the floor that the morning business was concluded. When he took the floor and asked for the consideration of business not belonging to the morning hour the Chair stated that it was not in order. After that the Chair called for morning business; and there being none, announced that the routine business of the morning hour being over, the Chair would lay before the Senate the Calendar.

Mr. MORGAN. I believe I will relieve the Chair from the disagreeable necessity of deciding between me and the Senator from Ohio, and I will yield to the Senator from Ohio.

Mr. THURMAN. I am very much obliged to the Senator from Alabama. I will not take up much time——

Mr. VOORHEES. Will the Senator from Ohio let us know what the bill is?

Mr. THURMAN. Certainly; that is what I propose to do as soon as I can get the opportunity. I move that the Senate proceed to the consideration of the bill (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio, which was reported by the Committee on Public Buildings and Grounds unanimously on the 4th of March.

Mr. VOORHEES. I think there is no objection to that bill.

Mr. THURMAN. I move to proceed to its consideration.

Mr. MORGAN. I hope the Senate will not proceed to the consideration of that bill, because it is a mere local measure concerning the people of Ohio alone, who I believe have as much compensation out of this Government as any other set of people we know of. I propose to antagonize that bill with a bill of general value to the whole country, the bill (S. No. 1687) to enforce the observance of the Constitution of the United States in reference to elections of President and Vice President of the United States.

Mr. THURMAN. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio will please wait until there is some business before the Senate. There is nothing before the Senate.

Mr. MORGAN. There is a motion before the Senate.

The PRESIDING OFFICER. The Chair begs Senators to wait until there is something before the Senate. There is nothing yet put before the Senate. The Senator from Ohio moves that the Senate proceed now to the consideration of Senate bill No. 1320. The question before the Senate is, Will the Senate proceed to its consideration?

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. Upon that question the Senator from Alabama has the floor.

Mr. MORGAN. That question is open to debate.

The PRESIDING OFFICER. It is now before the Senate. It was not before.

Mr. MORGAN. That is a fault of the Chair; not a fault of mine.

Mr. EDMUNDS. I rise to a point of order.

The PRESIDING OFFICER. The Senator from Vermont rises to a point of order, and will please state his point of order.

Mr. EDMUNDS. I state the point of order that the Calendar under the Anthony rule being before the Senate, it is not in order to move to proceed to the consideration of some other bill. The only motion in order is a motion to postpone the Calendar and all prior orders, because the rule expressly provides that the two things of postponing one thing and taking up another shall not be run together. If we do postpone the Calendar and all prior orders, then it will be open to the Senate to determine whether it will take up the bill mentioned by the Senator from Ohio or the bill mentioned by the Senator from Alabama. If we do not postpone the Calendar, we shall go on with it.

Mr. THURMAN. I supposed that my motion was understood. It is to postpone the pending and all prior orders for the purpose of considering this bill. The same motion is made every day.

Mr. EDMUNDS. It is not in order to move to postpone for the purpose of considering a bill.

Mr. THURMAN. That is my purpose, which I announce. My motion is to postpone the pending and all prior orders—all prior to this bill.

Mr. EDMUNDS. Very well; that motion is in order.

The PRESIDING OFFICER. The point of order made by the Senator from Vermont is well taken; and the Senator from Ohio modifies his motion and moves the Senate to postpone the pending and all other orders prior to the bill he names, signifying his intention, if that motion is sustained, then to ask the Senate to consider the bill he has indicated. Those favoring the motion will say "ay;" the contrary "no," [putting the question.] The Chair is in doubt, so few Senators voted.

Mr. DAVIS, of West Virginia. I ask the Chair to put the question again.

The PRESIDING OFFICER. The question is, Will the Senate now postpone the pending and all prior orders for the purpose the Senator from Ohio has stated, after that is acted upon, if it is acted upon favorably, of moving to proceed to the consideration of Senate bill No. 1320. Is the Senate ready for the question? [Putting the question.] The "ayes" appear to have it.

Mr. EDMUNDS. I ask for a division.

There were, upon a division—ayes 26, noes 12.

The PRESIDING OFFICER. There being no quorum, no action is had upon the motion.

Mr. THURMAN. I ask for the yeas and nays.

Mr. EDMUNDS. Call the roll.

Mr. HARRIS. I ask for the yeas and nays.

The PRESIDING OFFICER. The roll of the Senate will be called.

Mr. HARRIS. I ask for the yeas and nays.

Mr. EDMUNDS. I ask that the roll be called under the rule. That is what I ask for.

Mr. THURMAN. I hope the roll will not be called. There is a quorum here, but a quorum did not see fit to vote.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. EATON. Under the rule of the Senate, and under the rule, in my judgment, of all bodies that I know anything about which have

rules, where it is manifest to the Chair that there is a quorum a call need not be had, but the yeas and nays may be ordered if the Chair is satisfied that there is a quorum present.

Mr. THURMAN. That is the rule.

Mr. EATON. Therefore I ask for the yeas and nays.

The PRESIDING OFFICER. If the Senator from Vermont makes the point, the Chair will decide under the rule that where there is a division on a vote and no quorum votes, if the Chair be satisfied that there is a quorum present and the yeas and nays are demanded upon the question before any further action, the demand for the yeas and nays will be submitted to the Senate. If it was upon a call of the yeas and nays that no quorum appeared to be present some other motion would have to be made.

Mr. EDMUNDS. May I be allowed to make a suggestion to the Chair?

The PRESIDING OFFICER. Certainly.

Mr. EDMUNDS. If the Chair will kindly look at Rule 2 he will see this:

If either at the commencement of any daily session of the Senate, or at any time during its daily sessions, a question shall be raised by any Senator as to the presence of a quorum—

Which I did raise, and the Chair did, as well—

the presiding officer shall forthwith direct the Secretary to call the roll of Senators, and shall announce the result to the Senate.

The PRESIDING OFFICER. The Chair will direct the roll to be called; and yet the Chair thinks his decision is perfectly correct that where it is manifest that there is a quorum present and upon a division a quorum has not voted, the yeas and nays can be ordered by the Senate without a call of the Senate.

Mr. THURMAN. I ask for the yeas and nays.

Mr. EDMUNDS. Yes, but I have called the attention of the Senate under Rule 2 to the question of whether a quorum is here, as the Chair did by stating that no quorum had voted, and the rule explicitly commands in that case that the Chair shall direct the Secretary to call the roll of the Senate.

The PRESIDING OFFICER. This question is not debatable, and the Chair orders the roll to be called.

The Secretary called the roll, and 53 Senators answered to their names.

Mr. SLATER. I desire to state that my colleague [Mr. GROVER] is detained from the Senate on account of illness.

The PRESIDING OFFICER. Fifty-three Senators are present, a quorum. The Senator from Ohio asks for the yeas and nays upon his motion. Shall the call be sustained?

Mr. THURMAN. There is no necessity for the yeas and nays, I am sure, and I withdraw the call. I made the demand, but it was not seconded. I ask now to have the motion disposed of. Before that is done I wish to say to Senators that they can bear me witness that I have asked as few favors of this kind as any other Senator on this floor during this session. It is the rarest thing in the world that I have asked the Senate to take up anything that concerns my State. Here is a little bill that does concern our people, and I ask the Senate to do me the favor to take up the bill and dispose of it this morning. I think I have some little claim upon the kindness and consideration of the Senate to do so. It need not take five minutes to dispose of the bill.

Mr. PLUMB. What is the bill?

Mr. THURMAN. It is a bill in relation to a public building at Toledo, Ohio.

Mr. MORGAN. I have no disposition to antagonize the measure of the Senator from Ohio, but I had the floor on a general bill for the purpose of enacting a law that concerns the people of the United States. I did not think the Senator from Ohio was quite circumspect enough, especially in reference to a junior Senator, in thrusting his measure over mine, and hence I opposed it. Now I withdraw all opposition and will let him go ahead.

Mr. THURMAN. I am glad the Senator does so. I repeat once more that I did not know the Senator had the floor; and in matter of strict law he had not the floor; he was not entitled to the floor. I was the first person who addressed the Chair after the Chair made the announcement, which the rule requires, that the routine business was at an end. But do not let us take up time with this matter. I ask the Chair to put the question on my motion.

Mr. MORGAN. I desire to say that this is the first time I have ever heard the point raised since I have been in this body that a motion at the conclusion of the morning business was not in order because the President of the Senate had not announced that the morning business was at an end.

Mr. THURMAN. It is the express rule.

The PRESIDING OFFICER. The Chair will state to the Senate that if the Chair had recognized Senators in the order in which they applied the Senator from Indiana [Mr. VOORHEES] would have been recognized, for he was the first Senator who rose to move to proceed to business out of the morning hour business; but the Chair declined to recognize him and declined to recognize any Senator until after the announcement was made, the Chair believing that that was the proper rule. Will the Senate lay aside the pending and all other questions?

The motion was agreed to.

PUBLIC BUILDING AT TOLEDO.

Mr. THURMAN. I now move that the Senate proceed to the consideration of Senate bill No. 1320.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, to proceed to the consideration of the bill he has indicated.

Mr. EDMUNDS. Let it be read for information.

The PRESIDING OFFICER. The bill will be reported for information.

Mr. THURMAN. It will not be necessary to read the original bill. The Committee on Public Buildings and Grounds have reported to strike out the original bill.

The PRESIDING OFFICER. The Secretary will report the bill by its title to the Senate for information before the question is put.

The CHIEF CLERK. "A bill (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio."

Mr. HOAR. I hope the Senate will take up this bill. It is a bill for the erection of a public building in Toledo, Ohio, the home of Nasby, the great and discriminating historian of democracy. I hope, out of compliment to him, the Senate will take up the bill and erect the building.

Mr. THURMAN. I am obliged to the Senator.

The PRESIDING OFFICER. The question is, Will the Senate now proceed to the consideration of this bill?

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole, and will be reported.

Mr. THURMAN. It will be unnecessary to read the original bill. The Committee on Public Buildings and Grounds have stricken it all out and inserted a substitute, which is printed in italics.

Mr. EDMUNDS. Perhaps the Senate will think the original bill better than the substitute.

Mr. THURMAN. Very well; let the bill be read.

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, authorized and directed to purchase, at private sale, or by condemnation in pursuance of the statute of the State of Ohio, a suitable lot of ground contiguous to the land now owned and occupied as a post-office site by the United States in the city of Toledo, State of Ohio, and to cause to be erected on the grounds, as enlarged by the purchase aforesaid, a building suitable for the accommodation of the courts of the United States, and of the custom-house, bonded warehouse, and other Government offices in that city. The lot of land to be purchased and the building hereby authorized to be constructed, when completed, upon plans to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $250,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title shall be vested in the United States, and until the State of Ohio shall cede its jurisdiction over the same, and relinquish the right to tax or assess the same while the United States shall be the owners thereof.

The Committee on Public Buildings and Grounds reported the bill with an amendment, to strike out all after the enacting clause and to insert in lieu:

That the Secretary of the Treasury be, and hereby is, authorized and directed to purchase, at private sale or by condemnation in pursuance of the statute of Ohio, a suitable lot of ground contiguous to the land now owned and occupied as a post-office site by the United States in the city of Toledo, State of Ohio, and to cause to be erected on the grounds, as enlarged by the purchase aforesaid, a building suitable for the accommodation of the courts of the United States, and of the custom-house, bonded warehouse, and other Government offices in that city; and for the purposes herein mentioned the sum of $75,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. The lot of land to be purchased, and the building hereby authorized to be constructed, when completed, upon plans to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $250,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title shall be vested in the United States, nor until the State of Ohio shall cede its jurisdiction over the same and relinquish the right to tax or assess the same while the United States shall be owners thereof. And the site shall be of sufficient extent to leave an open space upon every side of the building to be erected, including streets and alleys, of at least fifty feet.

Mr. EDMUNDS. Is there any report from the committee as to the necessity for this building, and so on?

The PRESIDING OFFICER. There is no written report accompanying the bill.

Mr. EDMUNDS. Are there United States courts held at Toledo now?

Mr. THURMAN. Courts are held at Toledo. There is a public building at Toledo erected by the Government when there were but nine thousand inhabitants of that town. It is now a city of sixty or seventy thousand inhabitants. Since that public building was erected the courts of the United States have been directed to be held there. There is no room for them in this public building, and they hold their sessions in property rented by the Government. The post-office, the offices of the collector of internal revenue, and of the collector of customs, are all crowded into the small and utterly inconvenient building that is now there, erected when the population of Toledo was about nine thousand, and when its commerce was not one-fiftieth of what it is now.

In respect to the necessity of the building, the Postmaster-General detailed a special agent of the Department to examine the present building, and his report is conclusive that it is not even sufficient for the post-office, and that a large amount of the business that is done by the post-office in Toledo is done in the basement, where the only light they have during the whole twenty-four hours is gas-light—an unhealthy, inconvenient, and insufficient room. The Secretary of the Treasury also furnished a statement that the enlargement of this

building is necessary in order to accommodate the customs and the internal-revenue departments. I am quite sure that if there ever was a case in which it is proper for the Government to improve its own property—for that is what this is—this is that case.

Mr. EDMUNDS. Mr. President, my justification—I will not say apology—for making this inquiry is in the fact that I think we cannot be ignorant of the tendency just now in the last two or three years to extremes in this business of public buildings. I saw an account in a public newspaper a day or two ago of some events that occurred in a place which propriety obliges me to leave nameless, where a vast number of public building provisions were grouped together on what is called the log-rolling principle and I think the wags called it "the little divide" to distinguish it from the river and harbor bill, which I may speak of as it is now before this body, which goes by the very appropriate title of "the great divide," division in this sense not being what the geographers or the geodetic people that appear now in the appropriation bills mean by that word as a watershed, but a method of apportioning out the public money into where there is not any water or anything else—into private hands.

That being the state of affairs, Mr. President, I thought it right to ask the Senator from Ohio to state his case, for the extravagant tendency about this public building business is, I think, very serious. It is proposed in this instance, I see, to start off with $250,000 for a court-house and post-office in a city of fifty or sixty thousand inhabitants. That, according to all our previous experience, will result in an expenditure of from three to five hundred thousand dollars. That the Treasury experience has demonstrated, just as certainly as insurance tables demonstrate the average of human life, to be the effect in respect of these public buildings. And then there will be added to that, besides the cost of the structure running up to from three to five hundred thousand dollars, the expenditures which are always considered as not within the building appropriation of water pipes, gas pipes, and all the interior fixtures, and furniture and carpets, &c.

I am not saying this to show that there should not be a proper provision at Toledo, because the Senator has stated a very strong case apparently, that of a great and growing city where a great deal needs to be done. But I thought it right to call the attention of the Senate to just how the thing stands and the broad road that we are traveling so rapidly and cheerfully in this direction of extravagant expenditures for these public structures.

I know a good many States in this Union that to be sure are not as large as the State of Ohio but that still have inhabitants and pay taxes and administer justice and collect revenues, where it is thought that a public building large enough for the collector of internal revenue and his clerks and the custom-house officers and their clerks and the post-office and a room for the district judge besides, can be built at a cost of $40,000. That to be sure is only a brick structure—the one that I have in my mind just now—it has not fluted Italian marble columns; it has not capitals and frizees and triumphal arches, such as my friend and colleague would wish to have erected to commemorate great events; but still it is a comfortable and convenient building for the administration of public affairs. If my friend from Ohio would consent to put in a little more stringent limitation upon the expenditure of the money and reduce the amount, I should be very glad. I do not know that he would be willing to try it. I wish he would.

Then there is another point to which I should like to call the attention of my friend from Ohio, that I find in lines 23 and 24 of the amendment:

Provided, That no money to be appropriated for this purpose shall be available until a valid title shall be vested in the United States, nor until the State of Ohio shall cede its jurisdiction over the same—

That is all right—

and relinquish the right to tax or assess the same while the United States shall be owners thereof.

I submit to him that that seems to convey what I should by no means be willing to admit or contribute to as an implication, that the State of Ohio under these circumstances would have the right to assess a tax on the property while the United States was the owner unless it should have relinquished that right. I do not wish, and I hardly suppose that my friend from Ohio wishes, to put into a statute of the United States a provision that recognizes the right of any State to tax any property that is held by the United States for the public purposes of the Government.

Mr. THURMAN. Mr. President, there is no implication in this whatever; certainly it is not intended to assert the right of a State government to tax property that belongs to the United States and is used and employed for carrying on the Government of the United States. Nobody contends that. But if the United States see fit to sell that property, so that it becomes the property of private individuals, of course the right of State taxation immediately ensues, and that is all there is of this provision.

Mr. President, in much that has been said by the Senator from Vermont I quite agree. We are in danger of running into extravagance in this matter of public buildings, and long years ago I began fighting against it; but because we are in danger of running into extravagance that is no reason why we should shut down the gates against every proposition. When a proposition has merit, let us agree to it; if it has not, let us disagree to it, and not be prevented from agreeing to it where it has merit by the fact that there is danger of extravagance. The danger of extravagance should make us cautious, I quite agree, and I object to no one scrutinizing every proposition of this kind that comes up. It ought to be scrutinized, and I place this bill on its merits—not on favor, but on its merits.

Now what are the facts? Twenty-five years ago, when Toledo had a population of not exceeding nine thousand, the United States felt that it was right—and there was certainly no extravagance about public buildings then—to purchase a property and erect a public building in that city. There was no use then for that public building except for the post-office and the custom-house. We had no internal-revenue laws; there were no Federal courts held at Toledo; there was nothing to be supplied but the custom-house and the post-office. The Government bought that property; it bought it for a very low price, and that property which it bought for a few thousand dollars is now worth from one to two hundred thousand dollars, and would sell for it if the Government were to see fit to sell it. But what a change has taken place in Toledo! Toledo then had a small commerce, very little; now it is the third if not the second grain mart in the United States. It has an immense trade besides that in lumber and in all the articles of merchandise that are to be found in any mart of commerce. Again, sir, we have put the United States courts there, and nearly the greater part of seven congressional districts do their judicial business there. In the mean time it has become one of the greatest points for distributing the mails in all the West. The consequence is that the building erected nearly twenty-five years ago is now totally inadequate, and your courts there can find no place in it at all and are held in the fifth story of a rented house, and you have not, Mr. President, in that city one single fire-proof room in which any of your records—the internal-revenue records, your custom-house records, the contents of your post-office, the records of your courts—are safe.

Under these circumstances I do not think there is any extravagance at all in this measure. I will not detain the Senate longer with talking about it. I move to strike out, and I believe I do it with the consent of the committee, these words:

And the site shall be of sufficient extent to leave an open space upon every side of the building to be erected, including streets and alleys, of at least fifty feet,

And to insert in lieu of them:

And the site shall be of sufficient extent to leave an open space on the east side of the building to be erected, including the alley, of at least twenty five feet, and upon the other side, including streets and alleys, of at least fifty feet.

The necessity for that was not known at the time the substitute was reported; but a survey which I have here shows that the amendment is necessary.

Mr. EDMUNDS. Will that make it safe? I suppose this is intended for security against fire, chiefly.

Mr. THURMAN. I know it is; but that will make it perfectly safe, as I can show to my friend by the survey before me.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the committee.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment reported by the Committee on Public Buildings and Grounds as amended.

Mr. SAULSBURY. I desire to say one word. The remarks of the Senator from Vermont would seem to convey the impression that there was not sufficient care on the part of the Committee on Public Buildings and Grounds in reference to this matter. I am not chairman of that committee, and perhaps am not called upon to say anything in regard to the action of the committee in reference to the measures that come before it; but I desire to say that so far as my observation goes there never was a time in the history of that committee when it was more careful in the scrutiny it gives the measures that come before it.

Very great pressure is brought on us by gentlemen of the Senate and House of Representatives who desire public buildings, and the files of that committee show to-day a great many applications for measures of this kind, which have not been reported. The committee have only reported such measures as in their judgment were right and proper to be acted upon at the present session. Large appropriations which we recommended for public buildings are to complete those already commenced, not of a recent date, but which were commenced at the time the party of the Senator from Vermont had control of the Senate. Buildings have been commenced, have been carried on under the direction of agents of that party under the Supervising Architect, for whose appointment that party is responsible, and whatever deficiencies in the appropriations for carrying on those buildings have occurred we have now to provide for, and a very large percentage of the moneys in the bills we have recommended is to complete buildings already commenced.

So far as new buildings are concerned, the Committee on Public Buildings and Grounds have not been at all extravagant at the present session in the recommendations which they have made.

Mr. JONES, of Florida. I do not think there is any necessity for my saying anything in defense of the Committee on Public Buildings and Grounds of this body, because I understood the observations of the honorable Senator from Vermont to relate to what was done in the other end of the Capitol.

Mr. EDMUNDS. I did not mean that entirely; but I certainly did not mean to imply that the Committee on Public Buildings and

Grounds of the Senate was not trying to do its best duty. I know, however, that just like the Committee on Commerce under the river and harbor bill, the Committee on Public Buildings and Grounds will be snowed under at any time if there is a little co-ordination of forces about public buildings.

Mr. JONES, of Florida. There is some misapprehension I think in regard to the aggregate amount of money recommended to be expended for public buildings by considering the number of bills, and not the amounts recommended in them. We have not passed many bills at this session providing for the erection of public buildings. We have recommended some, but it will be found on the average that the amounts recommended are comparatively small. There have been no large structures provided for such as have been provided for in the past. Take for instance the public building at Boston where there has been $5,000,000 expended and where it will be necessary to expend $2,000,000 more. Take Philadelphia, where $4,500,000 have been expended. One of those buildings would cost more than enough of money to put a public building in thirty States at the average of $100,000, and when you come to look at the amounts named in these bills it will be found that they are comparatively small, and in most cases the necessities of the Government demand the buildings because they are in places we pay large amounts for rent.

The Senator from Vermont the other day, very wisely as I thought, called the attention of the Senate to the fact that the Government of the United States here in its own capital was paying annually a large sum of money for rents, which is true and which in my opinion is a very unwise policy. The Government in this District to-day is paying 10 per cent. upon the amount invested in rented property when it could get money for 4 per cent. and put up its own buildings. That may be the wise thing to do or it may not; and so throughout the Union. In very many important cities of the Union the Government is paying large sums annually to private property-holders for public uses when its own credit is sufficiently high to enable it to get money at 4 or 4½ per cent. instead of paying ten to the private property-holder for the use of his property. At a proper time I shall be able to show to the Senate the amount of rent paid in this District and to advocate, as I hope to be able to do, the propriety and the wisdom of the Government in its own capital owning and controlling every building that may be necessary for public uses.

Mr. EDMUNDS. Mr. President, I wish to state that I had not the slightest intention of criticising the conduct or want of diligence of the Committee on Public Buildings and Grounds in what I said; but I thought it was fit and right when a public subject is up to call the attention of Senators to the wider bearing of the subject than this mere bill, and also as well to what I believe to be the excessive addition to the cost and the want of a sufficiently stringent limitation to keep the cost even at this quarter of a million dollars that is proposed to be spent. And now that we are on this general subject I should like to ask the chairman of the Committee on Public Buildings and Grounds, who has alluded to the conservative reluctance of that committee, and very properly I suppose about this business, how many bills, Senate bills and House bills that have come over, have gone to the Committee on Public Buildings and Grounds for these structures all over the United States during this Congress?

Mr. JONES, of Florida. I have not the exact information at hand. I can furnish it to the Senator after a little.

Mr. EDMUNDS. I suppose that my honorable friend can state roundly that it would be somewhere between fifty and one hundred?

Mr. JONES, of Florida. Yes.

Mr. EDMUNDS. My honorable friend says, and I am sure quite correctly, that the committee have reported but a very small proportion of the whole number; but I do not remember—though I shall be glad if it turns out that my memory is deficient—any adverse report from that committee on any of these schemes. It may be the policy of the committee not to act upon or report the measures that they think are not wise, and to rather just box them up and smother them in the committee, kill them with that kind of nursing kindness that leaves them there; but it may happen in such cases, if the committee do not report fairly and squarely against the propositions that they think are untenable, that when the next session of Congress comes and the stimulation to economy that we all feel just before great critical events, when the eyes of the voters are looking pretty sharply at the state of affairs, and where there are so many of us who have a particular desire that in the eyes of the voters we shall look careful and well you know—when that stimulation is over and December comes, it is just possible that the Committee on Public Buildings and Grounds, if they are still tenacious against these measures to hold on to them, may find themselves discharged some day from their consideration. In that way, in spite of all the conservative tendencies of the committee these things would go through; whereas now, if the Committee on Public Buildings and Grounds will report adversely upon these propositions that they believe ought to be dismissed, you may be pretty sure that they will be supported by every candidate for the Presidency in this body, and does not that take us pretty nearly all? We shall stand by the committee, to be sure, all of us; but in December who can tell how many public buildings that ought not to be provided for will come forth and grow and be appropriated for that would not stand the slightest chance in the month of May, 1880? That is the thing that gives me trouble?

Mr. MORRILL. Mr. President, I desire to say that so far as I have noticed, the Committee on Public Buildings and Grounds have tried to be entirely impartial and reported such bills as the exigencies of the country require. It seemed important in the first place that we should take care of all the presidential candidates, and therefore we reported one bill for the independent candidate for Peoria, Illinois; and we have also now reported, as will be seen, a bill for the democratic candidate from Ohio for Toledo; and I desire to assure my colleague that we propose to support an appropriation for the Washington Monument, which I suppose he will take to himself as his bill. We appropriated $200,000 for putting up that chimney at a time when it is true that I preferred a triumphal arch. We are now informed that after having appropriated $200,000 it will require $667,000 to complete the chimney of my colleague. We propose that that shall not be neglected.

Mr. EDMUNDS. Good.

Mr. MORRILL. Now, Mr. President, in relation to these matters concerning the appropriations made for public buildings and grounds there has been a good deal of uninformed and unfounded criticism. So far as this body is concerned, the amount of the bills that have been reported from the Committee on Public Buildings and Grounds has been exceedingly small.

Mr. DAWES. I hope my colleague on the committee will bear in mind the distinction, if he thinks it exists, between the committees in this branch and in the other.

Mr. MORRILL. So far as that is concerned I am not willing, as one unimportant member of the committee, to make any criticism on any information that may be obtained in relation to what ought to be done. Only one bill, I think, has been reported upon which the committee feel any matter of regret. One small bill did get through that is perhaps indefensible.

But, Mr. President, I do not desire to occupy any time in relation to this matter. I rose only to repel any idea that the Committee on Public Buildings and Grounds have either set an example of extravagance or that they mean to tolerate it so far as others may be concerned.

Mr. BECK. Mr. President, I desire only to say a word about the relation of the Public Buildings and Grounds Committee to this business. The fault does not seem to me to lie in the appropriations we make so much as in the want of proper care in requiring the money appropriated to be used in executing the works that are undertaken, and in the failure to supply adequate penalties against the officials who violate the laws. I remember, for example, that when the present post-office building in New York was begun we passed a law requiring it to be completed for $3,000,000. When that three million was expended the first story was not erected. Now, there ought to have been provided by the Committee on Public Buildings and Grounds (whether it was Mr. Mullett's fault, or the superintendent's fault, or anybody else's fault) such punishment as would prevent a repetition of a condition of things like that. We gave them $3,000,000 more, and we endeavored in the Committee on Appropriations, when it came before us, to put on all the restrictions we could; but not having authority to make laws we could not do it efficiently. So they got six millions for that building. Then another million was subsequently voted, and the last I heard of it they had had somewhere about eight million and some thousands of dollars.

So in regard to the new building erected in Boston. As I remember, some years ago when it was authorized a million and a half was the limit. It got to three million. Then new laws were passed and we talked about punishing somebody. Nobody was ever punished. I think that building got to four and a half million before it was finished.

Mr. JONES, of Florida. Over five million.

Mr. BECK. Over five million. It was limited to a million and a half on the face of the law that commenced it; and when the other million and a half was given the same provisions were made against going beyond that sum. The difficulty lies in this, that we do not punish our public officers at the other end of this Avenue for failing to obey the laws of Congress. If two or three of the leading architects and their subordinates and the men who made those contracts not in accordance with the act of Congress but so as to put coercion on Congress either to leave unfinished buildings or to appropriate more money, had been sent to the penitentiary, there would have been a stop put long ago to this condition of things. I trust the Committee on Public Buildings and Grounds will see to it that the law be so changed that the man who takes $100,000 to build a public building and willfully puts it in a condition where it is only half completed for that money and requires another hundred thousand for it shall be guilty of a misdemeanor and shall be forever disqualified from holding any office of honor, trust, or profit under the United States, for that has more effect upon them than the penitentiary.

Until something of that sort is done we shall not get along well with the management of public buildings. If the Committee on Public Buildings and Grounds can devise, as I have no doubt they earnestly desire to do, some plan by which the money appropriated shall finish the buildings authorized according to the orders of Congress, then I think a liberal policy may well be pursued toward the smaller towns and cities in the putting up of public buildings and avoiding the renting of private buildings, and thus getting greater security for the court papers, for our custom-houses, and for our post-offices.

My friend from Florida spoke of the rents we are paying; but he forgets one thing, that when we order a public building to be erected some architect who gets charge of it has an idea that he must put up a grand monumental building that will carry him down to posterity, and he will put one up that costs ten times as much as if an individual were ordering the same kind of work. We have a grand State Department building now going up. I have no doubt it is very architectural. The columns on the south side of the Treasury Department, for instance, look to me like columns fit for a public building; but when you go to the State Department, they are exactly the same as I have seen in glass cases, ginger-cake things that look like pipe-stems; plenty of ornamentation, plenty of elaboration, plenty of money spent; yet they do not look to my eye appropriate in a massive building that is to stand for centuries. They may do it; I do not know; but we can build a plain, good, substantial building for half the money we are throwing around now, and the committee ought to take care that whenever they say, "We will give $100,000 for a building" at any place, or $200,000, and give it, the building shall be constructed for that. Give Toledo what she wants; it is a great city, a growing city, and it will become bigger and bigger every day. I do not care what you give it in this line; but when you give the money let the building be finished for it.

Another mistake we make is in giving in dribblets. We vote just enough one year to have a contract made to do so much and then quit, and the contractors have to dismiss all their hands and let all the work done go for nothing, and then we have to give a great deal more when work is resumed. Do as business men do, give the money necessary, no matter how much; put it in the proper control; let the proper officers make the contract at once and finish the building, and not go on year after year dribbling along, one story this year and another story another year, and so on. Our ideas of economy seem to be altogether to keep down the appropriations this year and to be able to say "the appropriations of this year are lower than last." One-half the money will do the work if you do it at once. Finish as you go, and punish the officers if they do not do the work for the money you give.

Mr. DAWES. Mr. President, what the Senator from Kentucky has said was what I tried to get the floor to say myself when I rose at the time he did, because I think the Senator from Kentucky and myself have had very much the same experience in reference to these matters.

I do not think the Committee on Public Buildings and Grounds of this body are open to censure or criticism in the manner in which they have endeavored to do their duty, nor am I disposed at this moment to censure any other committee in any other body very much. I desire to try to enforce the ideas that have been so well put forth by the Senator from Kentucky.

For the completion of public buildings already commenced there are in the estimates this year about $10,000,000 beyond the amounts limited in the law which authorized the commencement of those buildings. I do not speak with entire accuracy, but it is about that sum. The fault does not lie with the committee which authorizes the commencement of a building. The experience to which the Senator has alluded in reference to buildings in Boston and New York and Cincinnati and Chicago and Saint Louis, is an experience which shows that it is Congress and not the committee that are in fault for these great expenditures.

At the commencement, the building in Boston was limited in the law itself to a million and a half of dollars in as strong terms as it was possible for the Senator from Kentucky and myself to put words into a bill. So it was in reference to the post-office building in New York. Three millions and a half of dollars was put into that bill as the limit. They came then the next year and asked for half a million more, and took the half million; and took with it the injunction of law that not a dollar more should be spent. Year after year they came for half a million and a million until, if I do not misrecollect, that single building in New York has cost more than $7,000,000; but it is Congress and not the committee that is responsible for it; and not this party or that party alone, but the Congress itself as a whole.

A single building in one of the western cities was authorized on the statement of those who urged it that with the old location and $300,000 they might be limited in the bill as strongly as it could be made in language to complete their building; but the Architect of the Treasury went with that bill in his hand to that city and he was given a public dinner, and at that dinner-table he told those people that they were entitled to just as valuable a building as Cincinnati or Chicago, and more than $3,000,000 has been added in appropriations year after year to that $300,000, and still the building is not completed.

It was not the committee that were in fault; there was no language that the committee could adopt in this bill more strong than that which they have put in the various bills for the last ten years trying to limit the expenditures; but Congress is superior to the bill itself. No law upon the statute-book made this year is as strong as a majority in the next session of Congress. The majority repeal these provisions and they add to these bills; and therefore it is that in the estimates this year we are asked for $10,000,000 to complete buildings already begun beyond the limitation that was fixed in the law itself; and every dollar that is added in appropriation bills toward the completion of these buildings is a repeal of the limitations which the committee have imposed, and which Congress, following them, have enacted.

And now, sir, bills for new buildings are reported in different branches of Congress, amounting in the appropriations asked for in these bills themselves to $4,000,000, in addition. Congress expects that it has limited the expenditure to these $4,000,000; but not half these buildings will be completed for the sum fixed in the bills unless Congress here and now puts a stop to appropriations beyond the limitations in the bills themselves. Look at the State Department building with its gingerbread-work.

Sir, the Architect of the Treasury who took the appropriations with limitations of law upon them and undertook to erect monuments in New York City, in Boston, in Chicago, in Cincinnati, and in Saint Louis, has involved this Government, with the approbation of Congress itself and by the votes of all parties in Congress, in more than $20,000,000, in my judgment; and, sir, it well becomes this Congress upon the passage of these new bills to see to it whether they can put any provision of penalty upon the officers executing these bills that will put a stop to plans deliberately made with the law before them that involve in the completion of the structures twice, thrice, and sometimes four or five times the amount limited in the law itself.

Now, so far as the bill under consideration is concerned, I believe that there is great need of a public building in Toledo. I was about to ask the Senator from Ohio what had become of the bill for the enlargement of the public buildings in Cleveland, for it seems to me that the necessities of the public service require very much, and I do not know but more, the enlargement of that public building than the erection of a new building at Toledo.

Mr. PENDLETON. That bill has passed the Senate.

Mr. DAWES. That bill has passed the Senate but has not become a law, I am told. I think that should be completed and this should be completed. But there are pending bills——

Mr. THURMAN. I can inform my friend that the Cleveland bill has passed both Houses.

Mr. DAWES. I do not think the expenditure of public money for new public buildings and for the enlargement of public buildings in Ohio is anywhere beyond the public necessities; but three new public buildings in bills already reported are arranged in one State, and five in another, and seven in another, each needed, I have no doubt, if considered by itself; but in the aggregate and in the hopeless impotency of Congress to limit expenditures they present an alarming demand upon the Treasury.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Public Buildings and Grounds, as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 100) to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1879.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 56) for the relief of Edward Braden and J. W. Angus;

A bill (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution;

A bill (H. R. No. 1463) granting a pension to Edward H. Leib;

A bill (H. R. No. 2643) granting a pension to Mary Meighan;

A bill (H. R. No. 4812) to amend the laws in relation to internal revenue;

A joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880; and

A joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia.

PAUL E. GILLEN.

Mr. VOORHEES. Mr. President, I ask the Senate to consider House bill No. 3351, being a bill for the relief of Rev. Paul E. Gillen.

Mr. BUTLER. Will the Senator yield to me a minute? I have a bill here reported from the Committee on Territories which is a matter of vast consequence to the people of several of the Territories.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana.

Mr. VOORHEES. This is an act of charity to an old man eighty-one years of age, to pay him for a little chaplain service that he did

during the war, and that he ought to have. The bill is reported from the Military Committee, and here is the report. I ask the Senate to consider it and pass it and be done with it. I ask that the bill be read.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana that the Senate proceed to the consideration of the bill named.

Mr. VOORHEES. I will read for the information of the Senate—so that they can vote understandingly on taking it up—the report, which is very brief.

Mr. KIRKWOOD. I understand the bill is not yet before the Senate?

The PRESIDING OFFICER. The motion of the Senator from Indiana is that the Senate now proceed to the consideration of this bill.

Mr. KIRKWOOD. I have a word to say on that subject.

The PRESIDING OFFICER. The Senator from Indiana has the floor. Does he yield to the Senator from Iowa?

Mr. KIRKWOOD. I have a word to say on that subject before a conclusion is reached.

Mr. WHYTE. I call for the regular order.

Mr. VOORHEES. I am on the floor, and I presume I am as regularly in order as anything else.

The PRESIDING OFFICER. The Senator from Indiana has the floor unless he yields.

Mr. VOORHEES. I do not yield, and I do not expect to yield. I expect to have the Senate give this old chaplain his pay before I yield the floor. Now, to show the Senate what this case is, let me read the report of the Committee on Military Affairs. That committee has reported the following facts:

The bill, as amended, simply provides for the payment of Rev. Paul E. Gillen as chaplain of the Army from the 20th of July, 1861, to the 25th of November, 1862. It appears from evidence furnished your committee that Rev. Paul E. Gillen, in view of the scarcity of Catholic chaplains, volunteered his services immediately after the first battle of Bull Run. He was duly accepted by General McClellan, who properly supplied him, and being furnished with a pass, entered upon his duties. He visited the Second, Seventeenth, Thirty-sixth, Forty-second, Sixty-ninth, One hundred and fifty-fifth, and One hundred and sixty-fourth Regiments New York Volunteers; also the First Pennsylvania Artillery, and the Sixty-ninth Pennsylvania and Tenth New Hampshire Volunteers; performing the duties of chaplain in each of the regiments. The officers in command bear testimony to the faithfulness and efficiency of his laborious duties; show that he was constantly engaged in administering the consolation of his religion to the wounded and dying. His noble work impressed the One hundred and seventieth Regiment New York Volunteers, and he was chosen its chaplain, being mustered in as such November 25, 1862. From the 20th of July, 1861, to the time he was mustered in as chaplain of One hundred and seventieth New York, a period which he performed the severe duties referred to, he received no compensation, and to which your committee believe he is justly entitled.

Mr. EATON. I should like to ask——

Mr. VOORHEES. Let me finish the reading of this report.

Mr. EATON. This is all out of order. I was going to ask how much more there is to read?

Mr. VOORHEES. There are only two more sentences.

Mr. EATON. Then I do not object.

Mr. VOORHEES. The report concludes:

He is warmly indorsed by General Devins, now Attorney-General; General Hancock, General McClellan, Colonel James McQuade, commander of the Grand Army of the Republic, and others.

In view of his extreme old age—being now in his eighty-first year—and the feebleness and suffering aggravated by disease contracted in active service, and as an act of merited justice, your committee recommend the passage of the bill, with an amendment.

That gives the information which I desired to lay before the Senate, and on which I ask the Senate to take up and pass this bill. The bill is this:

That the Paymaster-General of the Army be, and he is hereby, authorized and required to pay to Rev. Paul E. Gillen, out of any money appropriated or hereafter appropriated for the payment of the Army, such sum as may be due him and unpaid, for service as chaplain in the Army from the 20th of July, 1861, the date of his actual commencement of duty as such.

Mr. KERNAN. It gives him fourteen months' pay.

Mr. VOORHEES. The Senator from New York is armed and equipped with letters on this subject. This old man did his high and Christian duties and he ought to be paid this little money in his old age.

Mr. KIRKWOOD. Now, Mr. President——

The PRESIDING OFFICER. Is the Senator from Indiana through?

Mr. VOORHEES. Mr. President, is the question to take up a bill debatable?

The PRESIDING OFFICER. It is not, and the Senator has been out of order all the time, but the Chair did not feel that it was his duty to call him to order. If any Senator had objected, the Chair would have done so.

Mr. VOORHEES. I am very much obliged to the Chair.

The PRESIDING OFFICER. It is the universal rule where no objection is made to let a Senator proceed.

Mr. VOORHEES. I am very much obliged to the Chair.

Mr. KIRKWOOD. Do I understand the Chair to say that on a motion to take up a bill no debate can be had?

The PRESIDING OFFICER. Not upon the merits of the bill.

Mr. KIRKWOOD. I wish to say a single word in regard to this matter. I do not desire to antagonize this bill, but I am charged by the Committee on Post-Offices and Post-Roads, of which I am a member, with the care of a bill that involves very important interests to the whole Southwest; that is, the whole country west of Saint Louis and southwest of it.

Mr. VOORHEES. This bill can take but a moment.

Mr. KIRKWOOD. If this bill will not involve any discussion I am willing not to antagonize it. If it shall, I shall insist upon antagonizing it with the bill I mention.

Mr. VOORHEES. My motion is to postpone the pending and all prior orders and take up this little bill.

Mr. MAXEY. I have no objection in the world to passing this bill of the Senator from Indiana; but I do ask as chairman of the Committee on Post-Offices and Post-Roads that as soon as it is disposed of the bill in charge of the Senator from Iowa be taken up and disposed of. It is an important bill, and I know it.

Mr. BUTLER. I have no desire whatever to antagonize the bill of my friend from Indiana; but I gave notice weeks ago, and have from time to time, when I have had an opportunity, repeated the notice, that I wished to call up House bill No. 5203, which is of the very last consequence to three of the Territories of the Northwest, Montana, Idaho, and Wyoming. The honorable Senator from Iowa says that the bill he represents is of great importance to the Southwest. I say to him that unless this bill is passed there can be no election in these Territories this fall. It is for the apportionment of representation upon population according to the act of Congress. I desire now to give notice that after the Senator from Indiana has passed his bill I shall ask the Senate to proceed with this.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana, [Mr. VOORHEES.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3351) for the relief of Rev. Paul E. Gillen.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That the Paymaster-General of the Army be, and he is hereby, authorized and required to pay to Rev. Paul E. Gillen, out of any money appropriated or hereafter appropriated for the payment of the Army, such sum as may be due him and unpaid, for service as chaplain in the Army from the 20th of July, 1861, the date of his actual commencement of duty as such.

Mr. ALLISON. I wish to ask the Senator from Indiana why this gentleman was not paid.

Mr. VOORHEES. Because he was not regularly mustered in while he was performing these duties. He was technically not in the service while he was actually in it. The Senator was not in when the report was read. That shows the case fully.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following acts and joint resolution:

An act (S. No. 1090) to relieve John D. Defrees, Public Printer;

An act (S. No. 464) for the erection of a public building at Montgomery, Alabama;

An act (S. No. 1703) authorizing the changing the name of the schooner Rebecca D; and

A joint resolution (S. R. No. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburgh, South Carolina.

MAILS AT SAINT LOUIS.

Mr. KIRKWOOD. I ask the Senate to take up for present consideration Senate bill No. 1570.

Several SENATORS. What is it?

Mr. KIRKWOOD. It is this: There is a line of railroad three miles in length running from East Saint Louis to the general depot in the city of Saint Louis. The roads centering at East Saint Louis coming from the east to the west all terminate at East Saint Louis, and the lines of rail from the terminus at Saint Louis spreading west fanlike leave a gap between that and East Saint Louis of three miles, covered by a line of railroad costing $15,000,000, with the bridge and the tunnel. Under the existing law the Postmaster-General can pay only $300 a mile for carrying that mail. The Department supposed it could do otherwise, but it is instructed by its law officer that it cannot. The amount is totally inadequate, and we report the bill to remove the trouble. I do not think it will take ten minutes in consideration, and it is of exceeding importance to Colorado, to Kansas, to Texas, to Arkansas, and the whole southwestern country. The country in which I live is not at all involved in it.

The PRESIDING OFFICER. The Senator from Iowa moves to lay aside the pending and all prior orders for the purpose of moving afterward to take up the bill named by him?

Mr. KIRKWOOD. I do.

Mr. BUTLER. As I stated awhile ago the bill that I desire the Senate to consider is House bill No. 5203, which has been on the Calendar for six weeks or two months. The bill, as I have stated, provides for the reapportionment of members of the Legislature in the Territories of Montana, Idaho, and Wyoming. I do not desire to

antagonize the bill in charge of the Senator from Iowa; but of this bill I gave notice certainly two weeks ago, and I have on every occasion that I have had an opportunity endeavored to get the Senate to consider it. I am sure five minutes will determine it; and as I have said heretofore there can be no election in these three Territories unless this bill passes. It has passed the House, has been unanimously reported by the Committee on Territories, and I have been instructed again and again to attempt to get it up before the Senate.

Mr. ALLISON. Call it up after this bill.

Mr. BUTLER. That has been said every morning, "Call it up after this one." I have waited and waited until I insist on this bill being taken up, and if it is not I shall call for the regular order.

Mr. MAXEY. I have but one word to say about this. This bill I know to be a bill of very great importance to the mail service west of the Mississippi River as well as east. As stated by the Senator from Iowa the entire eastern system of railroads going west to Saint Louis stops at East Saint Louis, this side of the river; those coming from the west reaching Saint Louis stop on the other side of the river. The road over the space of three miles, covered by the bridge and tunnel, cost $15,000,000 according to the evidence before us. It is impossible for us to get the mail carried over those three miles at the rate allowed under the general railroad law over roads costing $25,000 and $30,000 a mile. The purpose of the bill is to secure the rapid transmission of the mails between these two points; and it is so important that the committee instructed the Senator from Iowa to request immediate action. The bill, in my judgment, will not take five minutes.

Mr. BUTLER. Well, sir, I insist on the bill I have named being taken up.

The PRESIDING OFFICER. The only motion before the Senate which the Chair can put to the Senate is the motion of the Senator from Iowa, and that is that the Senate lay aside the pending and all other orders up to the order named, with the purpose afterward of moving to take up that bill. That is the motion before the Senate.

Mr. BUTLER. What would be the effect of calling for the regular order?

The PRESIDING OFFICER. This motion is to suspend the regular order, to lay it aside. That is the very question in issue now.

Mr. BUTLER. I call for the regular order.

Mr. KIRKWOOD. I have moved to lay aside the regular order and take up this bill.

The PRESIDING OFFICER. The regular order cannot be laid before the Senate while there is a motion pending to lay it aside. The motion of the Senator from Iowa is to lay aside the pending and all other orders, and to proceed afterward, as he notifies the Senate, to the consideration of the bill named by him. The question is on that motion.

The motion was agreed to.

The PRESIDING OFFICER. Now the Senator from Iowa moves that the Senate proceed to the consideration of the bill named.

The motion was agreed to; and the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri, was considered as in Committee of the Whole.

The bill was reported by the Committee on Post-Offices and Post-Roads with amendments, in line 5, after the word "Missouri," to strike out "(over the bridge and through the tunnel,)" and in line 7, after the word "same," to insert "to the lowest bidder therefor, having due regard to efficiency of the service;" so as to make the bill read:

That the Postmaster-General be, and he hereby is, authorized to treat the transportation of mails between East Saint Louis and the Union Depot in Saint Louis, Missouri, as other than railroad service, and to pay for the same to the lowest bidder therefor, having due regard to efficiency of the service, out of any appropriation available for the purpose.

The amendments were agreed to.

Mr. BECK. I desire to say to the honorable Senator from Iowa that I see no limitation put upon this bill. There can be but one bidder, the owner of the bridge and the owner of the tunnel.

Mr. DAVIS, of West Virginia. A steam ferry company might bid.

Mr. BECK. There is no possibility of a steam ferry-boat bidding to take it to the point now required.

Mr. KIRKWOOD. I will state to the Senator from Kentucky the precise dilemma.

Mr. BECK. I should like to know something about the cost of this service.

Mr. KIRKWOOD. I will be as brief as I possibly can. As I said before, the railroads centering in East Saint Louis from the east terminate at East Saint Louis; the railroads diverging from Saint Louis across the river to the west go from the central depot there. Between these two, a distance of about three miles, there is this line composed of the river bridge and the tunnel. That river bridge is a wagon bridge as well as a railroad bridge. The river lies between the two. There are then the railroad, the ordinary wagon-road across the bridge, and the river; so that there may be competition between wagon transportation, steamboat transportation, and railroad transportation. That is all the competition there can be. As it is at present the legal charge for carrying the mail across that space is $300 per mile, which is totally inadequate. The Department has been paying, under a misconception of its powers, $17,500 a year for carrying the mail across the river there, but its law officer advises it that the contract for that sum, or for any sum beyond $300 a mile, under the existing law is invalid, and that it cannot be renewed. The dilemma of the committee was what should be done.

The bill as first proposed required the mail to be carried over the bridge and through the tunnel. We have stricken that out so as to bring in competition with the railroad wagon transportation and river transportation. There is only one of two things to be done: either to authorize the Department to contract on the best terms it can for railroad or steamboat or wagon transportation, or to fix in the bill the sum to be paid. The committee, after very careful consideration, thought the Department was better qualified to judge what should be paid than Congress is, and they have so reported.

Mr. BECK. One question. Did the Department give to the committee any information as to the probable cost of the service, and whether offers had been made by one or another to do this work?

Mr. KIRKWOOD. The Post-Office Department have informed the committee what they have been paying, which I think is $17,500 a year. During the existence of that contract the amount of transportation has been steadily growing, and the Senator from Kentucky and myself both know well enough the development about that southwestern country to know that the amount of work must be continually increasing, year by year, and very rapidly.

We have here, in a letter from the manager of the bridge and tunnel company, whom I do not know, but who is known doubtless to the Senator who now occupies the chair, [Mr. COCKRELL,] a statement of the amount of work done by the company in carrying these mails, and I think, perhaps, it will expedite matters for me to read it myself:

WASHINGTON, D. C., *April 29, A. D.* 1880.

SIR: In relation to the bill authorizing the Postmaster-General to contract with the Saint Louis Bridge Company and the Tunnel Railroad of Saint Louis for the transportation of the mails between East Saint Louis and Saint Louis, and for handling the same at the Union Depot, at a compensation different from that allowed for common railway service, I beg, in behalf of those two companies, to submit the following statement of facts:

First. The railroads which lead to Saint Louis from east and west (sixteen in number) all terminate within about a mile of the Mississippi River. The gap thus created between the eastern and western roads amounts to about three miles. The Bridge Company and the Tunnel Company have filled this gap and furnished a double-track roadway at a cost of *five millions of dollars per mile.*

Second. The entire interchanging traffic, passenger and freight, between these sixteen railroads, as well as the entire local passenger and the largest portion of the local freight traffic, are conducted by the Bridge and Tunnel Companies with their own motive power, and with all the various departments of a complete railroad represented in their organization.

Third. This service is performed at an expense of 66.47 per cent. of the gross receipts. (See page 4 of printed report.)

Fourth. The mail service is performed in connection with the passenger trains. The ascertained cost of hauling passenger trains across the bridge and through the tunnel (irrespective of interest or capital) is $1.50 per car. On this basis the railroads pay the bridge, that is, they pay a certain sum for each passenger, but the aggregate must never be less than $1.50 per car. On this basis the cost to the bridge of hauling the mail cars would have been as follows:

4,068 postal cars, at $1.50	$6,102 00
3,443 route-agent cars, 8,396 express and mail cars, which, since they contain also express matter from which separate revenue is derived, are counted only as half cars, say, 11,839 cars, at a cost of seventy-five cents each	8,879 25
Cash expenses for handling, loading, unloading, and trucking the mails at Union Depot, for rent of mail agents' offices, fuel, and maintenance of same per annum	2,500 00
Total cost	19,481 25

Fifth. If the general result of the bridge and tunnel operations are applied to the compensation received for mail service, it would result as follows:

Amount of compensation received	$17,500 00
Less 66⅔ per cent. expenses	11,637 00
	5,863 00

which would amount to a net compensation of about thirty cents per car, while the average net receipts for other cars, passenger and freight, is $2.

Sixth. Since the contract for the compensation of $17,500 per annum was made in 1876, upon the basis of the then existing volume of mail service, such service has increased 20 or 25 per cent.; and inasmuch as it is the policy of the Department to make all mail contracts for a long period, the future increase of the service which is sure to take place ought to be taken into consideration when the next contract is made.

For these reasons it is respectfully submitted that the Postmaster-General should be authorized to allow such a compensation as seems to him fair and reasonable and which will be commensurate with the services rendered.

I am, very respectfully, your obedient servant,

WM. TAUSSIG,
General Manager Saint Louis Bridge Company and Tunnel Railroad of Saint Louis.

HON. SAMUEL B. MAXEY,
Chairman of Committee on Post-Offices and Post-Roads.

The Department have been paying $17,500 under a contract. They supposed they had a right to make that contract. They find that they had not. They ask the right to make a contract in the future. The Committee on Post-Offices and Post-Roads think it safer to leave the matter in the hands of the Department with the wagon competition and the steamboat competition which will compel the railroad to make a reasonable bid, because it will have behind it the entire pressure of the business men of Saint Louis and East Saint Louis to prevent an extortionate rate.

That is our judgment. What the judgment of the Senate may be I cannot tell.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TERRITORIAL REAPPORTIONMENT.

Mr. BUTLER. I ask the Senate to proceed to the consideration of House bill No. 5203. I move that the pending order be laid aside for the purpose of taking up this bill.

The PRESIDENT *pro tempore*. The Senator from South Carolina moves that all orders prior to House bill No. 5203 be postponed, in order to proceed to the consideration of that bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from South Carolina now moves that the Senate proceed to the consideration of the bill named.

The motion was agreed to; and the bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming was considered as in Committee of the Whole.

Mr. BUTLER. There is a report.

The Secretary read the following report, submitted by Mr. BUTLER April 28, 1880:

The Committee on Territories, to whom was referred the bill H. R. No. 5203, having had the same under consideration, submit the following report:

The report from the Committee on the Territories of the House, accompanying said bill, is as follows:

"Mr. BOUCK, from the Committee on the Territories, submitted the following report:

"The Committee on the Territories, to whom was referred the bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming, submit the following report:

"An act of Congress approved June 19, 1879, reduced the number of the members of the territorial Legislatures, and it also provided that the Legislatures of the Territories at their next session redistrict their respective Territories.

"This the Legislatures of the Territories named in this bill failed to do. In said Territories there cannot be a lawful election of members of the Legislature or a lawful Legislature unless the said law, so far as it changes the number of the members of the territorial Legislatures is repealed and the old law re-enacted as to said Territories, or the passage of an enabling act by Congress.

"The time fixed by law for the next election of members in said Territories is in the month of November next.

"This bill provides that the governor and the speaker of the house of representatives, and the president of the council during the last session of the Legislatures in the Territories named in said bill, shall constitute a 'board of apportionment' in their respective Territories to redistrict the same, such redistricting to be upon the basis of the population as shown by the census of 1880.

"The bill further provides that the Legislatures elected under such redistricting shall have authority to alter or amend such apportionment so made under this bill, and that at any time thereafter the Legislatures of said Territories may reapportion their respective Territories in accordance with the population.

"The committee are of the opinion that a new apportionment in said Territories is an absolute necessity, and that the same must be had before there can be a lawful election for members or a lawful Legislature in either of said Territories, and that the mode provided by this bill for making such apportionment is not only convenient and economical, but fair and just to all persons and interests.

"The committee therefore recommend the passage of the bill.

"Attention is called to the necessity of the passage of this bill at the present session of Congress, because the time fixed by law for the election of members of the Legislature in said Territories is in the month of November next."

As this report explains the necessity for the passage of the bill at this session of Congress, your committee adopt the same and recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO BILLS.

Mr. FERRY and Mr. WILLIAMS submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. KERNAN, from the Committee on Patents, reported an amendment intended to be proposed to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, reported an amendment intended to be proposed to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

BRONZE CANNON FOR MEADE STATUE.

Mr. BURNSIDE. I ask unanimous consent to take up House bill No. 2440.

The PRESIDENT *pro tempore*. It does not require unanimous consent. The Senator can move to take up the bill.

Mr. BURNSIDE. I make the motion.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to postpone all prior orders to House bill No. 2440.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Rhode Island now moves that the Senate proceed to the consideration of the bill indicated.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned or captured bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade.

Mr. MORRILL. I desire to ask the Senator from Rhode Island whether there are any bronze cannon now that can be appropriated for this purpose?

Mr. BURNSIDE. There is a letter from the Chief of the Ordnance Department accompanying the bill.

Mr. MORRILL. Will the Senator from Rhode Island please inform the Senate whether there are any condemned cannon now that can be properly appropriated for this service? Supposing there were any, I suppose that the value of these bronze cannon is very considerable, and to donate them would compel the Government to buy new bronze in order to replace the old bronze cannon that might be used for the purpose of casting new cannon. It seems to me that we ought to have definite information upon this subject.

Mr. BURNSIDE. There is a letter from the Ordnance Department upon the subject. I move to amend the bill by striking out the words "or captured," before the words "bronze cannon," in line 6, so as to read "thirty condemned bronze cannon." I move the amendment because there are other condemned cannon besides captured cannon.

The amendment was agreed to.

Mr. BURNSIDE. There is a letter from the Ordnance Department accompanying the bill, which I desire to have read.

The PRESIDENT *pro tempore*. It has been sent for by the Secretary.

Mr. BURNSIDE. I will state for the information of the Senator from Vermont that there are some two hundred and fifty or three hundred of these bronze cannon. The rule of the Ordnance Department is, "first come, first served." Including the amount donated to Clark Mills, they are probably all appropriated, but it will be a long time before all will be called for, and perhaps they never will be. The rule is, "first come, first served." I think this is a very meritorious object.

Mr. MORRILL. Does the Senator mean to say that there is now any large number of condemned bronze cannon?

Mr. BURNSIDE. Two hundred and sixty-four or two hundred and seventy, something like that number.

Mr. MORRILL. Condemned?

Mr. BURNSIDE. Condemned, and they would sell at the present value of metal at about $124 apiece.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade."

TARIFF COMMISSION.

Mr. EATON. I move to postpone the regular order and all orders, so that the Senate may proceed to the consideration of Senate bill No. 900.

The PRESIDENT *pro tempore*. The first motion is to postpone all prior orders.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is, Will the Senate proceed to the consideration of the bill indicated by the Senator from Connecticut?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

The bill was reported from the Committee on Finance with amendments.

The first amendment was, in section 2, line 6, before the word "dollars," to insert "ten," and in line 7, before the word "traveling," to strike out "a reasonable sum for" and insert "actual;" so as to read:

The President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission. The commissioners shall receive as compensation for their services each at the rate of $10 per day when engaged in active duty and actual traveling and other necessary expenses.

Mr. BECK. I desire to make a parliamentary inquiry. I hold in my hand a bill which I have somewhat modified, and I think it will suit the Senator from Arkansas, [Mr. GARLAND.] If he will look at it a moment he will see the modification that I have made in line 5. I wish to move it as a substitute for this bill, and I desire to know whether I can move it at this time or after the amendments of the Committee on Finance shall have been acted upon. The bill that I propose to offer as a substitute provides that three of the commissioners shall be Senators appointed by the Senate and three shall be members of the House of Representatives. In the bill of the Senator from Arkansas the three from the House are to be appointed by the Speaker of the House, which I have stricken out, so as to have them appointed as the House of Representatives may direct.

Mr. BAYARD. May I suggest to the honorable Senator from Kentucky whether it is not well for us to allow the bill proposed by the committee to come before the Senate that it may be considered as a whole and then to have his plan of substitution proposed in com-

parison with it? Until the plan proposed by the committee can be read and comprehended by the Senate it seems to me that the proposition of my learned friend will not be so useful by way of comparison. Therefore I suggest that we pass upon the amendments reported by the committee in order that the bill as perfected by them may be before the Senate for the consideration of the Senate, and then if they prefer the plan of the honorable Senator from Kentucky the Senate will so vote.

The PRESIDENT *pro tempore*. In answer to the question of the Senator from Kentucky the Chair will state that all amendments, whether reported by the committee or offered by Senators, to the text of the original bill are to be acted upon before a motion to substitute another measure for it is to be put to the Senate.

Mr. GARLAND. Understanding the ruling of the Chair to be the correct ruling, in pursuance of the notice I gave some two or three weeks since when the friends of the measure reported the bill from the committee, having perfected it to suit themselves, I renew the notice that I shall offer Senate bill No. 906 as an entire substitute for the bill that comes from the committee which may be perfected. I will state that I shall be willing to accept the suggested amendment of the Senator from Kentucky when I propose Senate bill No 906 as a substitute.

Mr. BAYARD. Let the amendments of the committee be acted upon now.

Mr. GARLAND. Certainly.

The PRESIDENT *pro tempore*. The question is on agreeing to the first amendment of the committee, in lines 6 and 7 of section 2, which has been reported.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 2, line 9, after the word "stenographer," to strike out "who shall also be the clerk of the commission;" so as to read:

The commission shall have power to employ a stenographer and a messenger.

The amendment was agreed to.

The next amendment was, in section 2, line 10, after the word "messenger," to insert:

And the foregoing compensation and expenses to be audited and paid by the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was, in section 3, line 3, after "commercial," to insert "mercantile;" in line 4, before the word "mining," to strike out "and," and after "mining" to insert "and industrial;" and in line 6, after the word "tariff," to insert "or a revision of the existing tariff upon a scale of justice to all interests;" so as to make the section read:

SEC. 3. It shall be the duty of said commission to take into consideration and thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff or a revision of the existing tariff upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission in the prosecution of its inquiries is empowered to visit such different portions and sections of the country as it may deem advisable.

The amendment was agreed to.

The next amendment was, in section 4, line 1, after the word "commission," to strike out "after full inquiry and investigation;" in line 2, after "results," to strike out "thereof" and insert "of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in December, 1881;" so as to make the section read:

SEC. 4. The commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in December, 1881.

The amendment was agreed to.

Mr. GARLAND. Mr. President——

Mr. EATON. There is one other slight amendment.

Mr. BAYARD. It has been suggested that the official and proper words of appropriation are not stated in the bill. Therefore I propose at the end of section 2 to insert "out of any money in the Treasury not otherwise appropriated."

The amendment was agreed to.

Mr. GARLAND. The bill of the committee being now perfected, I ask leave to offer as an entire substitute for it Senate bill No. 906.

The PRESIDENT *pro tempore*. If there are no further amendments to the bill as reported from the committee, the Senator from Arkansas offers a substitute which will be reported.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause and to insert:

That a commission is hereby authorized and constituted, to consist of three Senators to be appointed by the Senate, three Members of the House of Representatives to be appointed as the House may direct, and three others, not members of either House, to be selected by and associated with them, with authority to determine the times and places of meeting, to employ a stenographer, and to take evidence, and whose duty it shall be to inquire:

First, into the relative effects of the tariff under the existing law upon the different industries of the country;

Second, into the relative effects of the present tariff upon the consumer and producer;

Third, as to the relative merits of the specific and the *ad valorem* systems;

Fourth, what, if any, improper discriminations exist under the present laws;

Fifth, what, if any, changes are necessary to be made to insure a wholesome and judicious law on the subject, and to secure its proper enforcement; and especially if the law cannot be greatly simplified, and the list of dutiable articles diminished, and the law executed at much less expense than it is at present;

Sixth, into and review the whole tariff system as now existing; and

Seventh, the said commissioners to report the results of their examination into the subject above referred to, with such suggestions and recommendations as to them may seem proper, to Congress, at the earliest day practicable.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Arkansas. [Mr. GARLAND.]

Mr. GARLAND. Mr. President, I wish to make a few remarks in explanation of the purpose of the amendment, showing the distinction between the bill which comes from the committee and that which I offer as a substitute, and also to state my reasons for still preferring the amendment to the bill of the committee.

Just about two years ago, struck with the importance of an inquiry of this character, I introduced in the Senate the bill that I now have in my hand, to raise a commission upon the subject of the tariff, to examine into that matter in all its length and breadth and all of its details, and to report to Congress the result of that examination and inquiry, with such suggestions as that commission might see proper to make, with the view that Congress could with more propriety, upon the information thus furnished, legislate upon this among the most important subjects of legislation before the country. The matter of doubt that I then had, as to whether the proposition to raise a commission would be acceptable to the Congress or either branch of it, has been in part removed, and I shall be relieved of the necessity of discussing that subject, because the Finance Committee, in the bill that they report, recognize the fact that it is important to have a commission of some sort to inquire into this matter.

For myself I do not hesitate, nor did I when I introduced the bill, to admit that I am in a woeful condition of ignorance upon this subject of the tariff. What I knew of it from what I had before me satisfied me that much of our tariff legislation had been enacted at a time when the country was disorganized; at a time when the conflicting interests of the country could not be adjusted and weighed as they should be, and much of it following upon the war and springing, in fact, from the war, was legislation in a spirit of retaliation and was not based upon a fair and legal adjustment of the subject. We heard upon the floor of the other House, we heard upon this floor gentlemen who had been in these Houses during the war and before the war, and had this subject in hand, disputing absolutely as to some of the most minute and some of the simplest things in reference to the tariff system of the United States; and I was impressed with the importance——

The PRESIDENT *pro tempore*. The hour of half past one o'clock having arrived, it is the duty of the Chair to lay before the Senate the regular order, which is the first bill upon the Calendar.

Mr. BAYARD. This is a matter of public interest and I think the Senate cannot spend its time better than to pass the present measure in such shape as after a comparison between the two schemes offered it shall think best. I therefore move to postpone the Calendar for the present in order to allow a vote to be taken on this measure.

Mr. WINDOM. I gave notice yesterday that at the end of the morning hour to-day I should ask to take up the agricultural appropriation bill.

Mr. BAYARD. I will say to the honorable Senator that if I thought this measure would postpone for any great length of time the appropriation bill with which he is charged, I should not antagonize it; but as it is before the Senate and as the Senator from Arkansas is in the midst of his explanation of the plan that he proposes as a substitute for the bill of the committee, I submit to the honorable Senator from Minnesota that if the Senator from Arkansas is allowed to proceed we may come to a speedy determination of this measure.

Mr. WINDOM. I do not desire to take the Senator from Arkansas off his feet by the expiration of the morning hour, and I am inclined to let the appropriation bill be laid aside for a few moments to ascertain whether a vote can be had upon the pending measure.

Mr. BAYARD. With that understanding, let the appropriation bill be laid aside informally.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to postpone all previous orders, and continue the consideration of the bill that was under discussion when the morning hour expired.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Arkansas will proceed.

Mr. GARLAND. Impressed, then, Mr. President, as I was proceeding to say, with the lack of sufficient information upon this subject to legislate properly upon it, I proposed this measure, being unwilling myself to embark upon a sea of legislation with the very limited information and the very few lights that I had before me. Indeed on any of these great subjects that affect every section of the country in all the ramifications of their different interests, the theory of commissions to get up the necessary information and report to Congress must necessarily be a favorite, as in the instance of the silver commission. There is no doubt that the information gathered by that commission, after its severe and hard labor, was of great benefit to the law-making power as well as to the people themselves. So I have the hope that a commission, in whatever form it may be created, upon the subject of the tariff, will be of like utility to the country as the silver commission was. As we may take it for granted that a commission will be agreed upon, it is not necessary to spend much time upon the necessity of it. I have simply made these few remarks upon that idea

as the reasons for introducing the bill at the early day I did, two years ago now.

The substitute that I offer attempts to bring, as far as I was able to do so in drafting it, the whole subject-matter of the tariff before this commission under separate and distinct heads, and closing with a general instruction that if anything should be omitted from the half dozen heads enumerated, the commission should take into consideration the whole subject-matter if they discovered anything omitted.

In the first place, they are to inquire "into the relative effects of the tariff under the existing law upon the different industries of the country." Every time this subject has been discussed in either or both branches of Congress complaints have been made, for example, that the iron interest was protected as against the hemp interest, and *vice versa*. It was with that view, not prolonging the examples, that this first item was put in to see that Congress might have before it, and the country might have before it, the effect of the present tariff system upon the different industries directly as the inquiry should be.

"Second, into the relative effects of the present tariff upon the consumer and producer." That is the old question that always was and always will be prominent in the discussion of the tariff, in the settlement or adjustment of any law on the subject.

"Third, as to the relative merits of the specific and the *ad valorem* systems." These are two other old familiar faces whenever this subject has been mentioned in the halls of Congress.

"Fourth, what, if any, improper discriminations exist under the present laws." That might have been included under the first item, but for fear that something had been omitted it was deemed best to still see if any particular industry had been discriminated against or any interest had been improperly discriminated in favor of.

"Fifth, what, if any, changes are necessary to be made to insure a wholesome and judicious law on the subject, and to secure its proper enforcement; and especially if the law cannot be greatly simplified, and the list of dutiable articles diminished, and the law executed at much less expense than it is at present." Possibly the fifth is the most important of all the particular items specified in the amendment, the object being to secure a wholesome and judicious law on the subject and its proper enforcement. Complaints upon complaints have always been made, and they continue to increase as the days come and go, that whatever law we have upon the subject has not been enforced in its true meaning and spirit, and if there have not been discriminations in the law in favor of or against some particular industry its enforcement has often been of that character. The inquiry is to be made especially if the law cannot be greatly simplified, and the list of dutiable articles diminished, and the law executed at much less expense than it is at present.

Another great complaint has been that the tariff system, in whatever shape it has been, has been a burdensome system in the way of expense to the Government. The Government has absolutely groaned under it. With a view of ascertaining whether or not this machinery cannot be worked in a more simple manner and at less expense, this fifth suggestion was put in the bill which is now the pending amendment.

So that nothing should be omitted, by the sixth item the commission is to inquire into and "review the whole tariff system as now existing;" and, seventh, "to report the results of their examination into the subject above referred to, with such suggestions and recommendations as to them may seem proper, to Congress, at the earliest day practicable;" that is, at the next session. If the bill becomes a law before the adjournment of the present session of Congress, it seems to me the commission would have ample time by the meeting of the December session of Congress to examine into this matter fully and to make their report with their suggestions. Of course if gentlemen upon the floor of the Senate who have more experience in these matters than I, should deem that this period of time is too short, it may be extended; but to my mind the time will be ample to make the report at the next session of Congress with their suggestions, when Congress may take up the subject-matter and adapt their legislation to it according to the exigencies of the day when the report is made.

We all agree that some tariff system suitable to the interests of the country and properly adjusted to them should be adopted at the earliest possible time. I believe no one with whom I have conversed on this subject pretends that he understands the tariff system as it now exists in the United States, and to read the different speeches that have been made in the Senate explanatory of it in my humble judgment, according to my experience, only makes "confusion worse confounded."

These are the general ideas which have operated upon my mind in favor of creating a commission to consider this important subject.

As to the distinctive features between the two propositions I prefer a system such as I have proposed to that introduced by my honorable friend the Senator from Connecticut [Mr. EATON] and reported favorably by the Committee on Finance with a slight amendment, because, in the first place, it is more distinct and direct in bringing clearly before the minds of the commission the particular subjects upon which information is sought. It is more direct and more minute. The Senator from Connecticut will understand me, I am not now praising my own particular work; I am only praising that idea as distinguished from the general idea that is incorporated in his bill. It was important, I thought, and still think, to direct the commission as far as could be to the particular points and subjects upon which information was desired.

Then I prefer the substitute to the bill of the committee, because I am not willing for the Congress of the United States to part with this subject entirely in this preliminary examination. I think the two Houses of Congress should hold all such matters in their own hands, if not fully at least in part. When this report comes into Congress with the information and the recommendation contained in it, there should be Senators and members ready to defend the measures that are recommended; there should be Senators and members already posted upon the investigation which had been made so that they could tell the why and the wherefore of a particular recommendation. There should be some persons upon the floor of the two Houses posted in regard to the examination before it is printed and laid before us, so that they understanding the reasons of the suggestions which have been made can lay them before the two Houses in a practical and intelligent shape at the very commencement.

According to my theory we do not care, or at least we ought not to care, to simply place this measure in the hands of persons who may be called experts, whose very interests and whose very matters of right as they would deem it we are going to consider in this report, and in the legislation that we propose to base upon the report. They will do for witnesses. As a matter of course we want sugar-men and hemp-men and iron-men and all other men before the commission, those who are experts in those matters, but we do not want them to make the entire investigation for us. The Congress should hold the reins of this investigation in its own hands, for the reason that when the report comes into Congress there will be persons here who have been familiar with it from its inception to its close and who can give the reasons for the action of the commission; for otherwise it would be an inquiry new altogether to every one in Congress; we should have to open the immense volume of their report and study it from the very beginning. We should have no one in either House to whom to appeal to tell us the why and the wherefore of this, that, or the other recommendation.

Therefore, Mr. President, it occurred to me, and my subsequent reflection and consideration of the matter have confirmed me in the conviction, that we should have members of both Houses of Congress upon this commission, with three outsiders if I may use the expression, call them experts or what not, whom they may designate, so that the commission may have the necessary and the personal information of the particular witnesses who are to be brought before the commission. For one I would not be willing unless in a last resort to pass the bill of the Senator from Connecticut as recommended by the Committee on Finance. Of course I want a commission raised, and I will vote for that measure rather than have no commission; but I deem it of the very last importance that the two Houses of Congress for these reasons should be represented upon the commission, and I should be unwilling and would regret to see them part with the investigation entirely and commit it to other hands.

These ideas that I wished to lay before the Senate upon this matter are in the interest of no particular class or party, and not made as against the interest of any particular class or party. I want a fair, a full, and a free investigation, and I believe that can be had with a majority of members of Congress upon the commission better than it can be had with outside persons. That is all I desire to say for the present.

Mr. WINDOM. Mr. President——

Mr. BECK. Before the Senator proceeds will he allow the substitute to be read, in part at least?

Mr. WINDOM. Certainly.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause and insert:

> That a commission is hereby authorized and constituted, to consist of three Senators to be appointed by the Senate, three members of the House of Representatives to be appointed as the House may direct, and three others, not members of either House, to be selected by and associated with them, with authority to determine the times and places of meeting, to employ a stenographer, and to take evidence, and whose duty it shall be to inquire——

Mr. BECK. That is all I care to have read. After the word "by," in line 7, I suggest that the words "such Senators and Representatives" be inserted; so as to read:

> To be selected by such Senators and Representatives and associated with them.

Mr. GARLAND. Let that modification be made.

The PRESIDING OFFICER, (Mr. WHYTE in the chair.) The amendment will be so modified.

Mr. WINDOM. I ask unanimous consent that the bill now under discussion be informally laid aside in order that the Senate may proceed to the consideration of the bill known as the agricultural appropriation bill.

The PRESIDING OFFICER. The Senator from Minnesota asks to lay aside the matter under present consideration informally to take up the agricultural appropriation bill. Is there objection? The Chair hears none, and that bill is before the Senate.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WINDOM. Before proceeding with the consideration of the agricultural appropriation bill, I present the report of the committee of conference on the disagreeing votes of the two Houses on the Military Academy appropriation bill, and I ask that it be acted upon now.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2 and 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4, and agree to the same.

WILLIAM WINDOM,
R. E. WITHERS,
Managers on the part of the Senate.
WILLIAM H. FORNEY,
T. R. COBB,
J. G. CANNON,
Managers on the part of the House.

Mr. WINDOM. There were but four disagreeing votes between the two Houses on this bill. By the amendment numbered 1 the Senate added $315.28 for pay of professors, made necessary by the increased rank of two of the officers; and the conference committee agreed to the amendment. By amendment numbered 2 the Senate struck from the bill, on page 6, the following proviso:

Provided, That the Secretary of War may, in his discretion, assign any officer of the Army as professor of law.

The Senate Committee on Appropriations recommended striking out that provision, and I believe the Senate acted upon that recommendation because of the lack of information as to the necessity for it. A letter was presented from the law officer of the Academy showing that the provision would work advantageously, and the conferees on the part of the Senate receded, leaving the proviso as it stood in the bill as it came from the House.

On page 8 the Senate struck out $10,000 "for completion of main building and one wing for the new hospital for cadets" and inserted "$21,617.84," that being the amount necessary to complete the main building and one wing. The House conferees were quite persistent in holding that there was no urgent necessity for that to be done during the year, and as the Senate conferees were also of the opinion that it might possibly be dispensed with, and as it had been placed there by the Senate Committee on Appropriations, and as I believe by the Senate because it was believed to be more economical to complete the building, the Senate conferees did not feel it to be their duty to insist upon that provision, and receded, leaving the amount appropriated $10,000. The remaining amendment made by the Senate was—

For repairing roof of cadet barracks, $1,000.

The House receded from its disagreement to that amendment. That covers all the points of disagreement between the two Houses.

The report was concurred in.

AGRICULTURAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. WINDOM. The bill now before the Senate is a new bill. Hitherto the appropriations for the Agricultural Department have been included in the legislative, executive, and judicial appropriation bill and in the sundry civil appropriation bill; but by a very wise provision, as I think, the House of Representatives has this year separated the items of appropriation for this Department and included in a single bill all of the appropriations for that specific branch of the service.

The bill as it came from the House of Representatives appropriated $238,000, to which the Senate Committee on Appropriations have recommended an addition of $28,100, and they have also recommended a reduction of $5,400, making a total net increase of $22,700 to the entire bill.

Mr. President, in presenting this bill I desire to make a very few general remarks upon it, explanatory of its provisions and necessity, but I shall not occupy the time of the Senate more than ten minutes in so doing.

The Department of Agriculture is the only direct representative in the Executive Departments of the Government of more than one-half of the people of this country. These people as a class stand high among the most sober, industrious, thrifty, and intelligent people in this or any other country. They participate less than some others in the rivalry and strife of political affairs, but their steady and conservative conduct and acknowledged virtues contribute most largely to the strength and safety of the Government. They constitute the true conservative element of the Republic. Their labor gives food to the people, and is the source of commerce and the life of manufactures. Though slow to move, they are earnest in their convictions and powerful in the achievement of their just purposes. They feel that their interests have been to a great extent ignored by the Government, and in the future they mean to be heard in the councils of the nation.

Though agriculture received the most hearty indorsement of the first President, no serious effort to give it organized representation in the Executive Departments of the Government was made until the administration of Mr. Lincoln. The Department of Agriculture came into existence with that other beneficent measure intended to provide free homes for the people—the homestead act. They were the twin offspring of the broad and liberal statesmanship which prevailed at that day, and which sought to elevate the working classes, to develop the resources of the country, and to secure to all the people the full and free enjoyment of all their rights and privileges and the highest possible degree of prosperity. Its limited powers, inadequate appropriations, and in some cases its perversion as a mere instrumentality to promote the political interests of certain persons by the free distribution of seeds, plants, &c., have to some extent diminished its usefulness; but notwithstanding the ridicule of its critics it has accomplished a measure of good far in excess of the meager appropriations grudgingly doled out to it during the short period of its existence.

While the country has doubled in population and extent of cultivable territory since its organization, the expenditures in aid of agriculture have remained very much the same as at the beginning. In contrast with the meager, halting, stingy encouragement given to agriculture in this country I may mention the fact that the French government expends for that purpose something more than one million per annum. Perhaps no government on earth has done so little as ours for the benefit of that great interest on which our prosperity so largely depends.

Within the past few years the farmers of this country have united, imperfectly as yet, it is true, except as to the Grangers, but in general determination that this Department shall receive a much greater degree of consideration than has heretofore been awarded. And they are urgent that it shall receive such increased appropriations as shall enable it to extend its benefits and enlarge its capacity for good in some degree commensurate with the importance of the industry which it is designed to foster. They also believe that this Department should be dignified with a more prominent place in the Government, and that the benefits which it dispenses should not be made a source of political or partisan advantage, but be devoted exclusively to the promotion of the industrial interests of the whole people.

In short, they believe that its powers to benefit the country should be enlarged by appropriations commensurate with the work it has to do; that the scientific force should be increased and properly paid; that the means for proper and needed scientific experiments, so necessary in this day of improved agriculture, and which the Government alone can undertake with probability of success, should be afforded. That these demands are just and proper must be apparent, and that they will be complied with is as certain as that the Government shall endure and the farmers of the country continue to appreciate the justice of their claims and their undoubted power to enforce them.

No nation can be entirely independent or attain the full measure of possible prosperity which does not produce everything necessary for food, clothing, shelter, and defense, and such articles of comfort and luxury as the wants and circumstances of the people require. One of the great food staples, sugar, once an expensive and rare luxury, has now become a necessity in every family. Few, if any, articles have exerted a greater influence on the world's commerce, and even the bread of civilized countries costs but little if any more than the sugars they consume. The tax upon this country for the sugars imported within the last thirty years is said to exceed by many millions the entire amount of precious metals taken from our mines since the discovery of gold in California.

The Department of Agriculture insists that the experiments of the last two years have fully proven that the production of sugar from different varieties of sorghum, corn, millet, &c., can be made one of the most successful and prosperous industries of the country. The results of those experiments, under all the difficulties and embarrassments attendant upon unfit and inadequate machinery and insufficient appropriations, are already commanding the attention of the whole country, and we can no longer ignore them. It is now proposed by the Department of Agriculture to demonstrate upon a practical working scale the value of this new industry, and to prove that the home production of all the sugar we consume, or may consume, is entirely practicable.

Upon the recommendation of the President of the United States, at the earnest solicitation of the Commissioner of Agriculture, and with full faith in the success of the experiments, the Committee on Appropriations have proposed an amendment to this bill, appropriating $15,000 to enable the Commissioner of Agriculture to purchase and erect suitable machinery and to make more complete and instructive experiments in this regard. Doubtless private enterprise would in the course of time make these experiments, but if by making them ourselves we can hasten by a single year the production of our own sugars we will save a thousand-fold the cost of such experiments.

There are many other ways in which this Department, if properly sustained, will be of incalculable benefit to the country.

The committee also recommend the appropriation of $5,000 for the ordinary current chemical work of the laboratory. This, although less than the amount required by the Commissioner for the purpose of employing assistant chemists and others in the laboratory work, will, it is believed, be productive of results of great value as compared with the expenditure. The examination of the native grasses alone, to ascertain their food value, which is one of the subjects under consideration in the laboratory of the Department, is of the greatest importance to all who are engaged in the rearing of domesticated animals, and indeed to all who are engaged in any farming operations whatever. The profits arising from the labors of sci-

entific men when applied to agricultural pursuits it is as difficult to compute as are the profits arising from the newer and better varieties of grains or new and improved breeds of animals.

It is within the knowledge of Senators now present that the introduction and distribution by the Department of Agriculture of a single variety of grain represent a greater value to an individual State than the expenditures of the Agricultural Department from its origin to the present time.

By the labor of careful specialists new varieties of grains may be produced with as much certainty as new breeds of animals. That it is clearly within the power and that it is the duty of this Government to provide means for originating new and improved varieties of grains, vegetables, and animals is a question which needs no discussion.

Another immediate necessity for which a small appropriation has been included in this bill is the matter of the production of tea. Our importations of this article have ranged in amount within the last few years from thirteen to twenty-two millions per annum. This consumption would rapidly increase could our people be sure that the article is pure and unadulterated. It is claimed by the Department that the fact that we can produce tea in this country equal to the best Assam or Chinese varieties has been demonstrated, and the committee has been furnished with samples that appear to fully sustain the assertion. Whether this article can be produced in our own country at a cost that will warrant its manufacture and that will enable us to compete successfully in the world's market is a question which the Department desires and proposes to solve. To provide means to make experiments in this direction the bill appropriates $7,000, the committee having added $2,000 to the $5,000 appropriated by the House.

It is well known that a large area of our western country is barren and uninhabitable only because of the absence of water. A partial examination of these arid regions having been made under the direction of the Commissioner of Agriculture, it is believed to be quite possible to render lands which are now waste and uninhabitable fertile and productive by reaching with drilled wells the underground waters. The bill as it came from the House of Representatives contains an appropriation of $20,000 for the purpose of sinking two experimental wells. The Government some years since, through the military arm of its service, attempted to sink wells of this description in the arid regions which it is believed were unsuccessful only by reason of the imperfect implements at its command and the want of skill and experience of those in charge of the work. Since these experiments were attempted improved machinery and large experience in boring for oil has made it quite probable that the difficulty which before intervened and produced a failure will no longer stand in the way of success. It is also well known that owners of spring or running streams in these portions of the great West control the country for miles in every direction, and hence the Government finds no market for lands which otherwise would be sold and the proceeds added to its revenues.

While your committee have granted but a small portion of the requests of the Commissioner of Agriculture, they are of the opinion that a much larger sum would be profitably used for the enlargement of the scope of the Department of Agriculture in many ways. Whatever adds to our agricultural production adds to the wealth of not only the agriculturist but perhaps even more to the manufacturer, the merchant, the common carrier, and indeed to all classes of society.

A partial examination has been made which seems to disclose the fact that by means of artesian wells a serious difficulty may be obviated. An appropriation in the bill as it came from the House of Representatives proposes to apply $25,000 for the purpose of making a test of two wells in different parts of the country.

I shall not take the time of the Senate further with general remarks, but ask that the bill may be proceeded with and the amendments acted upon in order as they are reached in the reading of the bill.

The PRESIDING OFFICER. That is the usual practice of the Senate, and in the absence of objection the bill will be proceeded with in that way.

The Chief Clerk proceeded to read the bill. The first amendment of the Committee on Appropriations was, in line 10, to increase the appropriation "for compensation of Commissioner of Agriculture" from $3,000 to $4,000.

Mr. SAULSBURY. I should like to inquire of the gentleman having charge of the bill whether $4,000 is the former salary which the Commissioner has received, or whether this is an advance of the salary?

Mr. WINDOM. Three thousand dollars is the salary which is paid this year, but the Revised Statutes provide that the salary of that officer shall be $4,000. For that reason, and for the additional reason that the committee believe $3,000 is an insufficient salary for the office, we have recommended the increase to $4,000. It is simply in compliance with existing law. The Revised Statutes, the Senator will find, makes the salary $4,000.

Mr. SAULSBURY. Has the Commissioner heretofore been paid more than $3,000?

Mr. WINDOM. He has not; but the law has not been complied with in making that payment. There are many other cases, I will say to the Senator on this point, where the law fixes the salary higher than we have been appropriating. It is only in a few cases where the committee believed that the salary paid was inadequate that they have ventured to raise it. Individually, I would vote to comply with the law in all cases. I think we ought either to do it or to repeal the law. That is my judgment; but I represent the committee in this case.

Mr. SAULSBURY. I desire it to be understood that personally I am opposed to the increase of the salary over what it has been heretofore. I desire it to be especially understood on that subject that I am opposed to the increase beyond what has been the usual compensation of the Commissioner.

Mr. DAVIS, of West Virginia. The committee recommended that the salary of the Commissioner of Agriculture should be $4,000, as now fixed by the Revised Statutes. For the last few years he has been paid $3,000. Previous to that time he had been paid $4,000, as the Revised Statutes fixed his compensation.

Mr. SAULSBURY. Will the Senator allow me to say that the Senator from Minnesota has just informed me that the Commissioner had never been paid $4,000?

Mr. DAVIS, of West Virginia. That is the reason why I am making the statement. When the law fixed the salary by the Revised Statutes at that time he certainly was paid $4,000, as I understand, though for the last two or three years, perhaps for four years, he has not been paid more than $3,000. It was one of the cases that the committee took under consideration and gave it some thought, and after a proper consideration by the committee it was determined that the services of a man competent to take charge of the agricultural interests of this great country were certainly worth $4,000 a year.

Mr. JONAS. I do not consider that this is a matter within the discretion of the Committee on Appropriations at all. As I read the statutes as they exist now, they plainly fix the salary of the Commissioner of Agriculture at $4,000 a year. Section 521 of the Revised Statutes provides that—

> The Department of Agriculture shall be under the charge of a Commissioner of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $4,000 a year.

That was the salary fixed by law at the time the Commissioner was appointed to office, and it is the salary which exists now. I do not think it is within the discretion of the Committee on Appropriations to alter the law, either by increasing or reducing a salary that is fixed by law. If Senators think the salary is too large, they can introduce a bill, and have it passed, reducing the salary; but so long as the law remains on the statute-book, my opinion is that it is the duty of the Committee on Appropriations to report an appropriation to pay the salary as fixed by law.

Mr. DAVIS, of West Virginia. I cannot agree with the Senator from Louisiana, although I am in favor of this amendment, and I take it he is. The Senator must bear in mind that there are a thousand, I suppose, certainly hundreds, of employés of the Government now who are receiving a less salary than the Revised Statutes fix for them. The Senator must recollect that in this bill the salary is fixed at $3,000, not by the Senate, but by the House. The bill comes to us with the salary at $3,000, and it is perfectly competent in my judgment, at least it has been so decided by both Houses of Congress on numerous bills, for either branch of Congress to propose to fix a salary in an appropriation bill at any amount it may think proper.

I should not have taken issue with my friend from Louisiana but for the fact that I could not let the statement that the Committee on Appropriations had no control over the salaries of employés of the Government in an appropriation bill go unchallenged.

Mr. JONAS. Custom does not make law; and if this has been the custom heretofore, I think

> It is a custom
> More honor'd in the breach than the observance.

The law fixes the salaries of certain officers, and in my opinion it is the duty of Congress to make appropriations to pay those salaries. I do not think that the Committee on Appropriations of the House or of the Senate has any right to reduce such salaries or to exercise discretion in regard to the matter. I shall vote for the amendment of the committee because it simply places the salary where the law places it.

Mr. MORGAN. I concur entirely with the Senator from Louisiana on this proposition. I do not see why we are not under moral as well as legal obligation to vote deficiencies to those men who have been deprived of salaries which have been provided in the statutes. When a man is appointed to office his appointment is in the nature of a contract on the part of the Government that he shall receive the compensation prescribed by law.

Mr. DAVIS, of West Virginia. Let me ask my friend if he holds that a salary can be increased, and not decreased, by an appropriation bill?

Mr. MORGAN. I do not understand that a salary ought to be either decreased or increased by an appropriation bill when there is a statute which provides exactly the compensation to which the officer is entitled. If I were to make a contract with the Senator from West Virginia, employing his ability in some way on a public work at $5,000, I certainly could not get rid of it by paying him $4,000. The statute is an expression of the Congress of the United States in reference to what the party is entitled to have. The President of the United States, with the other House, associated with the Senate, enacted that into a law, and when the party is appointed to that office I do not see why he is not entitled to receive the compensation

fixed by the law. As the Senator from Louisiana well suggests, if we are not satisfied with the amount of salary that is provided by law for an official of this Government, we should reduce it by a statute, and not undertake to reduce it by an appropriation bill. If we can do this, we can stop the wheels of Government entirely by reducing the salary to a nominal sum. What would the honorable Senator from West Virginia think if we should offer the Commissioner of Agriculture $100 a year? Yet we have as much right to reduce his salary to $100 as we have to reduce it a thousand dollars below the sum of money fixed in the statute. I do not conceive that we have any such right as that.

I believe that these men are lawfully entitled to-day to the deficiency that we have hitherto refused to vote to them under the salaries fixed by the statutes. We ought to obey the laws of the land. We ought to set the highest example on that subject. We enact laws here and then disobey them. After we have fixed a salary intended to command the best talent, at least suitable talent, why should we let our offices out to the lowest bidder, and say that we want to find somebody who will work cheaper than that? If you want a cheap man, fix a cheap salary; but do not be continually fluctuating in the arrangement of the salaries of our officers upon an appropriation bill.

There is entirely too much temptation in an appropriation bill in the interest of economy, and therefore in the interest of public applause, to reduce a salary that is fixed by law. I think it is an unfair and unjust method of legislation. I believe that while the statute remains upon the statute-book which authorizes this gentleman to have $4,000 a year he ought to have it, or else we ought to modify the law and take the responsibility of saying to the country, "we think that the statute allows the man too much, and therefore we want a cheaper man than that; we want a $3,000 man instead of a $4,000 man in this office."

Mr. KERNAN. I wish to inquire if I am rightly informed that the Commissioner of Agriculture has not been paid more than $3,000 a year for six, seven, or eight years? When was the last time that he was paid $4,000?

Mr. WINDOM. I do not remember when the last time was, but I think that probably it was four or five years ago.

Mr. KERNAN. This bill does in effect, I think, change the salary. The first portion of the bill declares:

> That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, in full compensation for the service for the fiscal year ending June 30, 1881, for the objects and purposes hereinafter expressed, namely.

So that the effect of the bill is to give the Commissioner but $3,000 in full for his salary.

Mr. WINDOM. That provision, I would say to the Senator from New York, has been in all the bills, I think, since 1876, at which time numerous salaries were cut down below the amount fixed by law. It was designed by that provision to prevent any claims being made upon the Government for a deficiency in salaries.

Mr. KERNAN. I think the question is whether we ought to pay more than $3,000. We certainly are not bound to change the amount that has been fixed in the appropriation bills for five, six, or seven years, whatever it be, unless we think that $3,000 is too small. On that point I am uninformed, but I understand that $3,000 is all that has been paid since about 1874.

Mr. WINDOM. I think that was the chief ground upon which the committee made the recommendation. They felt at liberty to do it because the law made it $4,000, although there are hundreds of cases in all the Departments where the law has fixed the salary and the amount appropriated is not equal to it. But in this case we felt that the salary ought to be raised to that amount, and it being the law we recommended the increase.

Mr. KERNAN. I wanted only to make the inquiry because I think that is the real question. Is there any complaint, has there been during these years, that this is not a fair and adequate compensation to the Commissioner? I think that is the question we ought to decide.

Mr. WINDOM. There has been a constant complaint that it was inadequate. The Auditors of the Treasury Department got $3,600, and the heads of nearly all the bureaus receive $4,000; and it was thought but fair that this officer should have the same compensation.

Mr. SAULSBURY. In reply to the question of the Senator from Alabama [Mr. MORGAN] I will say that there is no doubt in my mind but what as the phraseology of the appropriation bills has been, only $3,000 shall be paid, there can be no claim on the part of the Commissioner of Agriculture against the Government for any deficiency.

Mr. KERNAN. The last section of the bill would seem to repeal all laws inconsistent with the provisions of this act.

Mr. SAULSBURY. The last section does repeal "all acts or parts of acts inconsistent or in conflict with the provisions of this act," so that the salary of the Commissioner of Agriculture is fixed by this bill independent of any other provision of the statutes. The question therefore recurs, Is $3,000 a sufficient compensation for the services of this officer of the Government? My impression is that the duties of the position are not very onerous. The Commissioner of Agriculture has a fine department building in which he has his offices. Formerly I believe the Commissioner had his family in the building. Whether that is the case at present or not I do not know.

Mr. WINDOM. It is not the case.

Mr. SAULSBURY. But he has no office rent to pay. He has a fine position there, beautiful grounds, a fine prospect out, and everything is pleasant to the Commissioner. He has plenty of clerks to do his bidding. He sits in his office and gives his commands, and they are executed by his subordinates.

I think the people of this country can very well understand that there are hundreds of gentlemen in this country performing equally as important services for the Government as the Commissioner of Agriculture for less compensation. I am satisfied that there are hundreds of men who are perfectly willing and fully as competent as Mr. Le Duc to perform the duties which he now performs wh would gladly accept the position at $3,000.

But the tendency of late has been to increase salaries. Our Government formerly was a very simple and republican form of government, but we are getting to increase salaries, making a magnificent government here, and the people pay it out of the taxes which are assessed upon them. We ought to have regard to the money that the people pay into the Treasury before we appropriate so much out of the Treasury.

For one, I shall not vote to increase the salary of this employé of the Government, or any other. If I knew of any employé who was not properly compensated for the services rendered by him, I should certainly vote to increase his compensation; but so far as I am advised, so far as I can get any information, the duties performed by the Commissioner of Agriculture are not so laborious, they are not so onerous, that we should necessarily increase the compensation that has been paid to him heretofore, and which he has accepted, retaining the position.

Mr. McPHERSON. I am very sorry to hear the Senator from Delaware talk as he does in respect to the pay of the Commissioner of Agriculture. I have taken occasion to investigate somewhat the duties of that officer, and I do not think there is any Department of this Government in which the duties are more laborious than are those of the Commissioner of Agriculture; nor do I believe that there is to-day in this Government an officer in any Department who brings as much energy, as much ability and diligence, to the performance of his duties as the Commissioner of Agriculture does in the management of his Department.

The idea of requiring an officer of this Government at the head of a bureau to work for a salary that the Senator from Delaware would scarcely offer to a second-class clerk seems to me astonishing. There certainly is no other Department of the Government that requires as much investigation, as much care, as the Department of Agriculture. Agriculture is the important business of this country. Its products constitute three-fourths, perhaps I might say nine-tenths, of all the exports of the country. It is the great wealth of the country. I believe that we should pay the officer in charge of that Department not only $4,000 a year, but that we should pay him a salary in excess of that amount.

I heartily agree with the Senator from Alabama, [Mr. MORGAN.] I believe that during the continuance of his term, and for the portion of the term which has already expired, instead of being paid $3,000 a year, as he is now paid, a deficiency bill should be introduced, and he should be paid the whole $4,000 fixed by the statute during his entire term.

Mr. DAVIS, of West Virginia. Will the Senator allow me a moment?

Mr. McPHERSON. Certainly.

Mr. DAVIS, of West Virginia. While I agree with the Senator that the Commissioner of Agriculture ought to have $4,000 a year, and while I agree with what he says in regard to the importance of agriculture, yet when he says the Commissioner of Agriculture or any other employé has a claim upon the Government for back salary I must disagree with him very widely. Each and every appropriation bill contains a clause providing that the salaries therein paid shall be in full for services, and if the party retains the office he has no claim. If we should invent the theory that employés have a claim against the Government for the years that have passed in which the full compensation fixed by law has not been appropriated, I am afraid it would give the inventors some trouble.

Mr. McPHERSON. Notwithstanding my honorable friend from West Virginia seems not to agree with me upon that point, I still reiterate what I said, that if the statute fixes the salary of a public officer at a certain sum, as the salary of the Commissioner of Agriculture as I understand the Senator from Alabama to say is fixed at $4,000 a year, a contract was thereby made with the Commissioner of Agriculture when he accepted the office upon the condition that if he would perform the services he should receive $4,000; but according to the statement of the Senator from West Virginia he did not receive the $4,000.

Mr. DAVIS, of West Virginia. Will my friend allow me to interrupt him?

The PRESIDING OFFICER. Does the Senator from New Jersey yield?

Mr. McPHERSON. Yes, sir.

Mr. DAVIS, of West Virginia. Oh, yes, he yields; this is a friendly talk. For the year in which the statute fixed the salary at $4,000 he did receive $4,000, and perhaps for a year or two afterward; but after that there were reductions of many salaries, and among these the salary of the Commissioner of Agriculture was reduced.

Mr. McPHERSON. I supposed from the statement of the Senator he had not received $4,000 for the first year, and that an appropriation bill had fixed his salary at $3,000 during his term thus far. Whether an appropriation bill fixed it at that sum or not, I claim that he should have received his $4,000 per year. It is not reasonable to suppose that the Commissioner of Agriculture or any other bureau officer of this Government, if the Senate and House of Representatives should refuse to place in the appropriation bill a sum sufficient to cover the amount allowed by statute as his salary, would resign his office on that account. The idea of asking the Commissioner of Agriculture to perform all the duties incident to and attendant upon that great office, living here in the city of Washington under just as much expense, I suppose, as the Senator from West Virginia or the rest of us, for the sum of $3,000, seems to me to be a most niggardly thing on the part of this Government.

Mr. COCKRELL. Mr. President, I am in favor of increasing the salary of the Commissioner of Agriculture, but not upon the untenable, undemocratic, and unfounded ground which I think my good friend from New Jersey has taken, and I desire to repudiate that doctrine from beginning to end. No man under the form of government under which we live has a title and a right to an office so that he can make the tax-payers of the country pay him more than is appropriated by law. If the Commissioner of Agriculture does not want to hold the office at $3,000, let him resign. The people are not forcing him to perform the duties of the office. If any employé of this Government whose salary has been fixed by an appropriation bill is not satisfied with it, let him resign. There is no act compelling men to hold civil employment in this Government. While these men are coming in here and claiming that we are under obligation to pay them some amount that may have been fixed a few years ago by provisions in the Revised Statutes, there have been a thousand hungry applicants standing at the doors of those very offices trying to get them. These employés remained in office, and they have accepted the salaries which have been appropriated. They have refused to give up their offices. There were just as good men, and better too in many instances, standing ready to take their offices and to serve the country at the same salaries that these gentlemen were receiving. I doubt not but what there are a thousand men in the United States who would have taken General Le Duc's office at the salary that has been fixed by former appropriation bills. He accepted the office; he has taken the salary appropriated; and he has no legal right on the face of the earth to call upon the tax-payers of this country to pay him a back salary, nor has any other officer a particle of right. I do not believe that you can in that way bring the tax-payers of this Government under obligation to pay gratuities to men who have served at a fixed regular price, and who have accepted that in full for their services, and who knew it.

Mr. President, there is no salary except that of the judges of the United States courts and that of the Executive which Congress cannot change by way of reduction. The Constitution gives Congress the right and the power to change these salaries as circumstances may dictate. And to say that because it may have been put into a provision which was adopted into the statutes called the Revised Statutes that an officer should receive a certain salary, that is to be binding on all subsequent Congresses, in my estimation is perfectly ridiculous and entirely untenable. Each Congress year by year can fix and regulate the salary of every officer under this Government except judges of the United States courts and the President. The representatives of the people in the House and in the Senate have the right to do it, and the office-holders, if they are not satisfied with the salaries allowed, ought not to find fault with the Government but ought to resign their office and give way to some of the thousands of applicants on the outside who are willing to serve for the same sum.

Mr. JONAS. Allow me to ask a question. Why does the Senator say we cannot touch the salary of President or of the judges of the United States?

Mr. COCKRELL. Because the Constitution of the United States, the supreme authority, prohibits it.

Mr. JONAS. Does the Constitution fix the salary?

Mr. COCKRELL. No; but you cannot reduce the salary during the term. You cannot reduce the salary of the President on an annual appropriation bill, and you cannot reduce the salary of the President after he accepts his office. You cannot reduce the salary of a United States judge after he accepts his office. These are the only exceptions in the Constitution.

Mr. McPHERSON. And therefore, because under the Constitution you cannot change the salary of the President or of the members of the Supreme Court who are receiving high salaries, you make an attack on a bureau officer who is receiving the mere pittance of $3,000 per year. If that is democratic justice, I had better move on the other side of the Chamber.

Mr. COCKRELL. Who has attacked the officer? I am defending him and trying to get the amendment through increasing his salary, but I am assailing the false doctrines and grounds on which it is attempted to be placed. I am for the amendment; I announced that I was in favor of it, but not for the reasons stated by the Senator from New Jersey. That is the point I make.

In 1876, when the democratic party reduced the salaries of hundreds and thousands of officials of this Government, I say they did it constitutionally, and there is no obligation on this Congress or any subsequent Congress to put those salaries back to what they were before those appropriation bills were passed, and they have no right to come in now and claim that their former higher salaries have been binding on the tax-payers all the time although we have refused to appropriate for them. That is the point I am making.

Mr. McPHERSON. I do not understand that the Commissioner of Agriculture is doing any such thing.

Mr. COCKRELL. I do not either.

Mr. McPHERSON. I understand that the Committee on Appropriations have reported to fix the salary of the Commissioner of Agriculture at $4,000.

Mr. COCKRELL. Yes, sir.

Mr. McPHERSON. I understand the statute to allow him the sum of $4,000. I further understand that with the exception of the first year that he filled the office of Commissioner of Agriculture, when he received $4,000 a year, according to the statement of the Senator from West Virginia, he has since received but $3,000 a year. Therefore he has not received the amount that the statute entitled him to; and the Committee on Appropriations of this Senate have reported persistently year after year that the appropriation for his salary should be only $3,000. Now, I wish to know, in all justice, in all fairness, and in all honor, if that is a fair way to treat an officer of this Government who has accepted an office under a statute provision giving him $4,000 a year and then reduce his salary by appropriation bills to $3,000, a sum upon which he cannot live?

Mr. COCKRELL. I stated distinctly that I was in favor of this increase of salary, but while I was in favor of it I was not in favor of accompanying it with a statement that the Congress of the United States would make the tax-payers liable for $1,000 for each of the years he had not received $4,000. That is the exact point I make. I say that Congress has a perfect right to reduce his salary.

In speaking a moment ago of the salary of the President and judges of the United States courts I spoke in reference to the reduction of their salaries. As a matter of course Congress may increase them, but it cannot reduce them during their continuance in office. In regard to every other officer it can reduce his salary, and when it has reduced salaries, whether it be in the Revised Statutes, whether it be in the annual appropriation bills, or in anything else having the form of law, that reduction is binding on the officer; and if he continued in the office and accepts the salary allowed by Congress he has no claim in law, justice, equity, or right to come here and say that we must appropriate to pay him the difference in the past.

Mr. McPHERSON. The only difference between the honorable Senator from Missouri and myself is this: I insist that this Government shall keep all its contracts, express and implied, and the honorable Senator from Missouri does not appear to be quite willing to do that.

Mr. MORGAN. Mr. President, I find that in this debate I am about to be cast out by some of my associates of the democratic party; and inasmuch as I cannot go to the other side, I do not know whom I shall go to except to the honorable Senator from Illinois, [Mr. DAVIS,] the third party. The view that I presented was that there did not seem to me a doctrine of justice, a doctrine of right in the notion that Congress could appropriate a less sum than the law fixed as the salary of an officer; but I omitted to note the fact stated by the Senator from West Virginia, that in each of these previous bills in which this salary was reduced from $4,000 to $3,000 there was a practical repeal of all statutes in contravention of that. That was a fact that I was not aware of. Of course if these repealing statutes have been effectual this salary for the last year was $3,000 and not $4,000, and so the honorable Senator from Missouri, when he comes to vote this additional $1,000 to this Commissioner, will have the honor and pleasure of participating in the passage of a law to do what he says is undemocratic—increase a salary.

Mr. WINDOM. Will the Senator allow me, at that point, a word?

Mr. MORGAN. Yes, sir.

Mr. WINDOM. The law has not been repealed, but the provision has been that the appropriation for each year should be in full compensation. It did not repeal the law.

Mr. MORGAN. I notice that "all acts and parts of acts inconsistent or in conflict with this act are hereby repealed."

Mr. WINDOM. That would not repeal it even if the appropriation were only $3,000.

Mr. MORGAN. I suppose it would.

Mr. WINDOM. I think not, because it simply provides that the appropriation is $3,000 for the year and shall be in full compensation; but it does not repeal the law.

Mr. MORGAN. I do not understand how it can be anything else than a repeal of the former law, because the former law as contained in the Revised Statutes fixed the salary at $4,000 per annum. Therefore the law, appropriation bill, or whatever it may be, has fixed it at $3,000 per annum and contains a positive repealing clause, and must necessarily repeal so much of the previously existing statute as made $4,000 the salary.

Mr. WINDOM. For that year, yes.

Mr. MORGAN. So I understand. I was, it seems, under a misapprehension as to the state of the law when I spoke before. I was arguing on the hypothesis that the law found in the Revised Statutes was the law, whereas it appears from the statement of the honorable Senator from West Virginia that the previous appropriation fixed the salary at $3,000. I have no doubt that that was done con-

trary to the rules of the Senate; but it is too late now to speak about that, because it passed into a constitutional enactment. The rule provides that no amendment proposing general legislation shall be received to any general appropriation bill, and that rule was stricken down in this effort to repeal statutes of this kind. If the point had been made, it must have been effectual; but it seems it was not——

Mr. DAVIS, of West Virginia. I will state to my friend from Alabama that the provision came from the House; it was not done by the Senate.

Mr. MORGAN. I do not think it makes any difference where it comes from. I think when we find general legislation on an appropriation bill here it is out of order under our rule. That is my view of the subject, although I am not a very good parliamentarian, and do not intend to assert that I am.

But now the honorable Senator from Louisiana seems to feel a very great interest in the Agricultural Department of this country, and he desires, I have no doubt, to say to the agriculturists that he is for granting a thousand dollars additional salary to the head of the Department. My proposition was to add a thousand dollars because it belonged to him under the law, not because I thought he was entitled to it—I mean entitled to it because of the superiority of his services or that he has rendered or is likely to render any services to the United States that require us to raise his salary a thousand dollars. So I shall vote against raising his salary a thousand dollars. There is no law of that sort that requires me to do it, and therefore I shall not do it.

The honorable Senator from Missouri, however, who is entirely democratic in everything, in his economy will add a thousand dollars to this man's salary who has been entirely willing to serve three or four years at $3,000. I leave that to the people of Missouri and the honorable Senator whether that is democratic economy according to their view of the subject. It is not according to mine.

Mr. Le Duc is the gentleman who is the incumbent of the office. I dare say he fills the office reasonably well, with a great deal of dignity and a great deal of pleasure, so the honorable Senator from Delaware seems to think; but the honorable Senator from Missouri desires to raise his compensation a thousand dollars a year, and yet complains of a want of democracy in those who desire to adhere to the law of the land. I do not quite appreciate the value of that argument. I do not see how it cuts so heavily against me or against my friend from New Jersey as it does against the Senator from Missouri, and I think the honorable Senator had as well rectify his own views and his own attitude in reference to democratic principles before he undertakes to change the opinions of other gentlemen on that subject.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Appropriations, in line 9.

The amendment was agreed to.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was, in line 13, after the word "dollars," to strike out "assistant disbursing clerk, $1,400."

The amendment was agreed to.

The next amendment was, in line 16, before the word "clerks," to strike out "three" and insert "four," and in the same line, after the word "two," to strike out "two of whom shall be practical printers, four thousand two" and insert "five thousand six;" so as to make the clause read:

Four clerks of class 2, $5,600.

The amendment was agreed to.

The next amendment was, under the head of "Chemical division," after the word "dollars," in line 23, to insert "three assistant chemists, at $1,200 each, $3,600."

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 40, to reduce the appropriation for compensation of librarian from $1,800 to $1,400.

Mr. JONAS. I find that the salary of the librarian of the Department of Agriculture is fixed by statute at $1,800 a year, which is the amount contained in the House bill. I do not see why a distinction should be made and her salary reduced. All the other salaries in this section I find are left as fixed by the statute and the appropriations made before. I see no reason why the librarian should be reduced.

Mr. WINDOM. The committee recommended the amendment to make it $1,400 because they believe that $1,800 is a very exorbitant salary for the duty performed; and, as I said a little while ago in discussing the other proposition, there are hundreds of cases where the full amount as fixed by the law is not appropriated, and, until all of those were restored, the committee believed that this was a case that should not be, because $1,400 is a very full and fair compensation for taking care of that little library, and a much better compensation than is usually paid for more difficult service in other Departments of the Government; and believing that the salary fixed by the House bill was too high, the committee submit to the Senate an amendment to make it $1,400.

Mr. MORGAN. I will ask the Senator in charge of the bill whether the salary fixed by the last appropriation bill as well as the statute is not $1,800?

Mr. WINDOM. No, sir; the last appropriation bill was $1,400. It has been $1,400 ever since 1876, and the House bill raises it from $1,400 to $1,800.

Mr. DAVIS, of West Virginia. I hope the amendment will be agreed to. The compensation of the librarian has been $1,400 since the organization of the Department, or at least since the appointment of the librarian; but this year the House from some cause has advanced the salary $400, making it $1,800, when heretofore it has been uniformly $1,400. I think it proper that this salary should remain where it is. I might state that from information from the Department it is believed there that $1,400 is a fair compensation in proportion to the compensation of other officers in the Department.

Mr. JONAS. The honorable Senator from West Virginia is mistaken in supposing that this has been the salary since the organization of the office. I find that the office was organized by statute in 1862, and the salary was fixed at $1,800. The honorable Senator from Minnesota said the appropriation had been $1,400 since 1876; so that it has been only changed within the last four years. During all the previous time it was $1,800.

I find that the salary of the superintendent of the seed division, of the superintendent of the flower-seed room, of the superintendent of the folding-room, and of the engineer are all left as fixed by statute. This is the sole and solitary exception. If the Department has furnished any information to the committee that this appropriation is in excess of what should be appropriated and that $1,400 is sufficient I should like to have that information given to the Senate. That information does not seem to have been furnished to the House. The House in the bill made the appropriation conform to the salary fixed by law.

Mr. DAVIS, of West Virginia. I said that the information from the Department was that in proportion to other salaries $1,400 was a fair compensation for the librarian, who is a very estimable lady, I understand, and a very good librarian; but her entire duties are to take care of the library of the Agricultural Department. The salary originally, as I understand and as I believe, was fixed at $1,400, and, with the exception of one year, which was the year known as the salary grab——

Mr. JONAS. Will the Senator permit me?

Mr. DAVIS, of West Virginia. Not now; I will go on. That happened to be the year the Revised Statutes were adopted, and that year all salaries were increased, our salaries among others. If the Senator will look in the Revised Statutes, he will see that his salary to-day is $7,500 and the members of the House $7,500. Does the Senator contend that because the Revised Statutes say that Senators and Members are to receive $7,500 they are entitled to it?

Mr. JONAS. I contend that the act of May 15, 1862, organizing this Department, fixes the salary at $1,800, and it has remained so ever since. The honorable Senator from Minnesota said the appropriation of $1,800 had been made until four years ago—in 1876.

Mr. DAVIS, of West Virginia. I think my friend is mistaken about the act of 1862 fixing the salary. The Revised Statutes fixed it at $1,800, because the Revised Statutes were enacted the year when there was 20 per cent. or 25 per cent., whichever it was, added to all the salaries, and for that reason in the Revised Statutes this was made $1,800. I have no particular feeling about this special salary.

Mr. VOORHEES. I want to inquire about a fact of the Senator from West Virginia. How large a library is this?

Mr. DAVIS, of West Virginia. The Senator can tell that probably better than I. I have been in the library two or three times. It is an ordinary library, not a very large one.

Mr. VOORHEES. I am not well informed as to the library of the Agricultural Department; it does not fall within my domain. One further question. Has this librarian an assistant or has she the library alone?

Mr. DAVIS, of West Virginia. I think she has the library alone.

Mr. VOORHEES. Then if she has got a good-sized library there she is not paid any too much in my judgment. If she is responsible for the library and all the books, I do not think we pay her too much. We have a large number of assistants here to Mr. Spofford at a larger salary than that. I think a librarian alone managing any considerable library does not get too much at $1,800.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Appropriations, in line 40.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 43, to increase the total amount of the appropriation for compensation of the Commissioner of Agriculture and the clerks and employés of the Department from $67,900 to $72,100.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "purchase and distribution of seeds," &c., in line 62, after the word "reasonable" to strike out "and equal;" in line 63, after the word "seeds" to strike out "shall" and insert "may," and after the word "to," in the same line, to insert the word "Senators;" so as to read:

For the purchase and propagation and distribution, as required by law, of seeds, trees, shrubs, vines, cuttings, and plants, and expenses of putting up the same, $80,000; and a reasonable proportion of which seeds may be supplied to Senators, Members, and Delegates of Congress, when requested, for distribution among their agricultural constituencies; and the persons receiving such seeds shall inform the Department of the result of the experiments therewith.

The amendment was agreed to.

The next amendment was, in line 68, after the word "that," to strike out "five" and insert "seven;" so as to read:

Provided, That $7,000 of this amount shall, in the discretion of the Commissioner of Agriculture, be devoted to experiments in connection with the culture and manufacture of tea.

Mr. HAMPTON. I wish to propose an amendment in line 68, to strike out "seven" and insert "eight," and then in line 72, so that there shall be no additional sum appropriated, to strike out "three" and insert "two."

The PRESIDING OFFICER. The Chair will suggest to the Senator from South Carolina that the usual practice of the Senate is to dispose of the committee amendments first.

Mr. WINDOM. This is a short bill, and I have no objection to the Senator's motion being disposed of now.

The PRESIDING OFFICER. The question is on the amendment of the committee, in line 68, to strike out "five" and insert "seven."

Mr. WINDOM. I understand the Senator from South Carolina proposes to amend that amendment by making it "eight."

Mr. HAMPTON. I move to amend it in that way.

Mr. WINDOM. That amendment meets the approval I know of the head of the Department, the Commissioner of Agriculture, and if it meets the approval of gentlemen from the States most interested, as is the State of South Carolina and some others, I for one am entirely willing to agree to it, and I think the committee will be.

Mr. DAVIS, of West Virginia. The Senator from Minnesota who has charge of the bill has stated the facts, but I would like to know from the Senator how it is that the appropriation for the culture of cotton is to be reduced and this increased, though I fully agree with the Senator from Minnesota if the Senator from South Carolina wishes a change made.

Mr. HAMPTON. The reason I propose the amendment is that I think the culture of tea can be made a very large industry in this country. We are importing upward of twenty millions—twenty-five millions I suppose—in value of tea every year; and the experiments which have already been tried, in my own State for instance, and in various other Southern States, have proved that we can cultivate this plant to great advantage. I should be glad to see $10,000 appropriated for that; but in reference to reducing the $3,000 to be "expended, in the discretion of the Commissioner, in experiments for the improvement of the varieties and culture of cotton," I propose to do that because it is too late, as all cotton-planters know, at this time of the year to make any experiments upon the seed of cotton. The best cotton seeds in the world are found now in America. We can get no improvement on them in foreign countries, and $2,000 would be an ample amount to place in the hands of the Commissioner to enable him to report upon the best varieties of cotton. For that reason I hope that the amendment which I suggest will be adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from South Carolina, to amend the amendment of the Committee on Appropriations by striking out "seven" and inserting "eight."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment as amended.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 71, after the word "tea," to insert "and shall be available immediately."

The amendment was agreed to.

The next amendment was, in line 72, after the word "that," to strike out "five" and insert "three;" so as to read:

Provided further, That $3,000 of this sum shall be expended, in the discretion of the Commissioner, in experiments for the improvement of the varieties and culture of cotton.

Mr. HAMPTON. I move to amend by striking out "$3,000" and inserting "$2,000."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was, under the head of "Experimental garden and grounds," after line 95, to insert:

For labor, new implements, repair of tools, wagons and carts, manure, repairing and whitewashing fence, and purchasing trees for arboretum, $5,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Laboratory," in line 119, after the word "experiments," to strike out "including experiments in relation to sorghum and the manufacture of sugar therefrom, and for" and insert "$5,000, to be available immediately. For;" and in line 126, after the word "eighty," to strike out "$6,500" and insert "$5,000, to be available immediately;" so as to make the clause read:

Laboratory:

For chemicals and apparatus for the use of the chemist and microscopist, and for necessary expenses in conducting experiments, $5,000, to be available immediately. For the purpose of testing by scientific examination the textile strength, felting capacity, and other peculiarities of the different wools and animal fibers on exhibition at the international sheep and wool exposition to be held in Philadelphia in 1880, $5,000, to be available immediately.

The amendment was agreed to.

The next amendment was to insert, after line 127:

For the purchase of machinery and apparatus, and for experiments in the manufacture of sugar from sorghum and corn-stalks and other sugar-producing plants, $15,000; and out of the above sum the Commissioner of Agriculture is hereby authorized to pay to the chief chemist $1,000 as additional compensation for the next fiscal year.

The amendment was agreed to.

Mr. WINDOM. I desire to add the following to the amendment just adopted:

And the Commissioner is hereby authorized to sell and apply the products of such manufacture in other experiments authorized by this provision.

The amendment was agreed to.

Mr. ALLISON. I desire to move, in line 131, after the word "dollars" in the amendment just adopted, to insert:

Said machinery to be erected and experiments made in one of the chief corn-growing States.

Mr. WITHERS. I call attention of Senators to the fact that that would at once institute a very active competition among a very large number of States as to where this machinery should be located. The subject was considered by the committee, and they determined that the proper theater for the operations of the machinery, and for the experiments to be conducted, would be here. This is the point from which information can be distributed to every direction, and we have the assurances of the Commissioner of Agriculture that there will be no difficulty in getting the requisite amount of material to experiment with.

Mr. ALLISON. I am perfectly clear that if this experiment is to amount to anything it ought to be made where the raw product is produced, and that is in some one of the chief corn-growing States. I have expressly omitted to name States, because, however sharp the competition may be, the result will be beneficial. But to suppose that corn-stalks and sorghum-stalks can be transported here from Illinois, or Indiana, or Iowa, or Missouri, or Kentucky, or Virginia, if you please, or any of the great corn-growing States, and made into sugar with this machinery, and the experiment be thorough and successful, is to my mind an absolute impossibility. It is just as easy for this machinery to be erected in any one of the great corn-growing States. If the experiment is to be thoroughly made, let the test be made there and not here in the city of Washington, many hundred miles away from the large corn-growing regions.

Mr. WITHERS. My friend forgets that Maryland, and Virginia, and Pennsylvania, are all large corn-growing countries. They produce sorghum.

Mr. ALLISON. Then let the machinery be put in one of these States. I do not wish to discriminate between States.

Mr. WITHERS. In this respect the committee followed the suggestions of the Commissioner. We believe that the experiments can be conducted more satisfactorily here. He is satisfied that there will be no difficulty whatever in securing the necessary material—and that is my own conviction—from the productions of the region round about here; and I have no question, therefore, that this is the most eligible location for the conduct of this experiment.

Mr. DAVIS, of Illinois. Mr. President, I have a great deal of faith in General Le Duc. I believe he is the best Commissioner of Agriculture we have had since the bureau has been established, and I have no doubt that in good faith he wishes to experiment in relation to this subject of sorghum; but it does seem to me that the experiment should be made in the midst of great corn-fields, and they may be in Virginia, or they may be in Pennsylvania, or Ohio, or Illinois. I do not think this is the proper place to put up machinery and make the experiment. It should be where five or six miles of corn can be hauled in to make a thorough experiment on this subject. I think that the manufacture of sorghum from corn-stalks can be made, but I want the experiment made somewhere else than in Washington City. I want it made in some one of the great corn-growing States.

Mr. BECK. The Senator from Illinois will observe that if we make this experiment in the midst of the corn-fields of Kentucky, Illinois, or Indiana we shall break up all the men who are now carrying on the work of making these experiments; we interfere with their operations, and we establish a branch of the bureau somewhere else than at Washington, at very great expense.

Mr. DAVIS, of Illinois. There is no great amount of force involved in this experiment besides the common labor of the country which can be picked up anywhere. There cannot be more than one or two men besides who are to have charge of it.

Mr. BECK. I understand that many of the men connected with the Department here in Washington desire to have it before them for the purpose of carrying on their observations and seeing how, in what way, the thing can be best operated, and it is to be done under their supervision for the very purpose of giving information to the people as to how it can be best done. These men have a variety of other duties independent of this thing, and if the experiment is carried on here it can be done at very little expense, whereas if the whole corps is moved out to some of the corn-growing States it will cause great expense.

Mr. ALLISON. I have had several consultations with the Commissioner of Agriculture on this subject. Machines for the purpose of thoroughly testing the sugar properties of corn-stalks and sorghum will cost about $12,000, as he stated to me. I think I can say that, because it was stated to others. The true place to make this experi-

ment and these tests is in the midst of the corn-fields, and that if the Commissioner had one machine and can use it for a month or for two weeks in the midst of the great corn-fields of Illinois or Indiana or Kentucky he will thereby be enabled to show to the corn-growers that they can from their corn-stalks produce many millions of dollars in value in the way of sugar. Now, to contend that these experiments can be made here with a few car-loads of corn-stalks, or that it is a wise thing to transport by rail a dozen car-loads of corn-stalks into the city of Washington for the purpose of making these experiments, strikes me as not very wise. These experiments are all made by a single man, by Professor Collier, the chemist in the Agricultural Department. He is the inventor of this process. He has given years of study and thought to it, and it is under his supervision and guidance that these experiments will be made. It will be of vast importance to the agricultural interests of this country that he should go to the corn-bearing regions and see for himself how extended these experiments can be made and how useful this machinery may be in the future.

Mr. INGALLS. Mr. President, to the unscientific mind the amendment of the Senator from Iowa seems to have some sense. This amendment is designed, as I understand, to ascertain the saccharine qualities of corn-stalks and sorghum stalks; and if the experiments are to be conducted here they must be under two conditions: either, in the first place, the stalks themselves must be bodily transported here by rail or by boat and dumped over in the Agricultural grounds for the purpose of being manipulated by the Commissioner; or, in the second place, the juice must be expressed by machinery near the place where the corn or sorghum grows and itself borne hither in reservoirs or receptacles constructed for that purpose.

This appears to me to be open to two objections. In the first place, there is the unnecessary expense of transporting this material either in the raw state or in its intermediate state of having been subjected to artificial pressure. In the second place, it must occur to anybody that in the process of transportation chemical changes in the products themselves are liable to occur, either by heat or by motion, or by the operation of fermentation or other chemical processes. Changes are liable to occur that will change the conditions under which these experiments could properly be conducted.

Therefore it seems obvious, as I say, to the unscientific mind that these experiments should be conducted under those conditions most favorable to determining the facts that we desire to ascertain—that is, the saccharine product of this material and how it can best be obtained. Then, as there can be no objection to putting this machinery in some one of the corn-growing or sorghum-growing States upon the score of expense, and as the results can manifestly better be obtained by that course, I hope the amendment of the Senator from Iowa will be adopted.

Mr. DAVIS, of West Virginia. Mr. President, Virginia, Maryland, Delaware, and all the surrounding States have always been considered as corn-growing States, and I see no reason why we should inaugurate a new system and take from the Agricultural Department proper to some place out West or down South or up North, as it may be, a part of the Agricultural Department.

It is well known that I am as favorable to that Department as any Senator here probably, but I can never believe that a proper thing to do is to commence and make divisions of that Department over the country. When you do that you embark in a very dangerous process. It will soon be that another section of the country will claim that it has as much right to a part of the Agricultural Department as the one that has this part. I think it will add greatly to the expense. This $15,000 is intended not only for the machinery but to put up suitable buildings. The buildings and necessary apparatus for the testing of sorghum as well as corn-stalks have got to be built somewhere. This is the place in my judgment, and not out West or down South or up North. As soon as that is done, we have got to go in all directions in this country, and I think it a very dangerous step and a very expensive step whenever you undertake to establish a part of the Agricultural Department at any other place than where it belongs, in Washington.

Again, I understand that a part of the machinery of the Department in the way of employés will have to follow this machinery and go with it west or north or wherever it may go. I think it a very dangerous experiment, and I hope on the score of economy, if nothing else, that it will not take place. This is not only for corn-stalks, but it is for sorghum and all other materials that may be made into sugar.

Mr. INGALLS. I should like to ask the Senator one question before he sits down. I understand him to object to this amendment on the ground that it will disperse the functions of this Department over all parts of the country?

Mr. DAVIS, of West Virginia. That is one objection.

Mr. INGALLS. He says that these operations ought to be conducted here.

Mr. DAVIS, of West Virginia. I think so.

Mr. INGALLS. Now this Department has an entomological division for the purpose of inquiring into the depredations of the locust and cotton-worm. Why should men be sent out for the purpose of inquiring about those? Why not bring all the grasshoppers here and all the cotton-worms and all the tobacco-worms here and have them investigated on the spot?

Mr. DAVIS, of West Virginia. The Senator does not mean that question to apply to anything I said. The Senator certainly did not intend that question for me. I did not know that grasshoppers and other insects require buildings in which to be taken care of. Persons go, of course, and they will go out under this system if we have the machinery, South or North or West probably to get the products of different sections of the country for the purpose of making the experiment. It is not the corn-stalks of one State or another that are to be experimented on, but of the whole country, and to determine what section of the country is best adapted to this. I think this is the most central and most proper place. My friend from Iowa speaks of bringing car-loads of corn-stalks here. There is no such thing contemplated. Persons will bring them in from all around the neighborhood here and every other section without the hauling, just as would be done if this should go West. They would have to be hauled by wagons.

Mr. ALLISON. I am sorry to hear the Senator from West Virginia speak of dispersing this Agricultural Bureau. I find in the next page a proposition for the digging of two artesian wells. These are to be dug in the arid regions of our country. The Agricultural Department will have to be dispersed somewhat to dig these artesian wells. They cannot be dug in Washington City. I must confess my amazement that the Senator from West Virginia, who has been so long connected with the agricultural interest and so ably promoting it in this Chamber and elsewhere, is now suggesting that we should haul in here a few car-loads of corn-stalks in order to make this great experiment.

Mr. EATON. It seems to me that my friend from Iowa somewhat misunderstands this question. It has already been determined, science has determined the great fact that the saccharine matter can be expressed from sorghum and the corn-stalk. What we desire is to know in what manner the sugar can be obtained after the sirup has been expressed. My friend from Iowa forgot to say that one of the most intelligent members of the House, a member from South Carolina, well known to my friend behind me, [Mr. HAMPTON,] Mr. AIKEN, said that last year he expressed five hundred gallons, but the difficulty was to make sugar of it. He did not desire the machinery carried to South Carolina for that purpose, but that it should be set up in some central place, so that scientific information might be given to the country.

Then there is another matter which my friend from Iowa has forgotten, that the chief of the Department said to the committee, and that was that the various stages of the stalk should be taken into consideration, and therefore in my judgment this is the proper place right here, and let the manager go into Maryland, go into Virginia, and take the cuttings of the stalk at different times, and then he will be able to see exactly what the result will be. While I should be very glad that Kansas and Iowa and some of the other States should have this apparatus set up there at a cost of several thousand dollars, I am clearly of opinion that this is the point.

Mr. WITHERS. I have been anticipated in a great deal that I desired to say by my friend from Connecticut. It is not essential to the successful conduct of these experiments that the machinery should be located in the midst of miles of corn-fields. The result of the experiments can be as easily ascertained with a much smaller quantity of corn, which is sufficient to indicate the percentage of saccharine matter in the corn-stalk at a particular period of its growth. It can be done upon a small quantity as well as upon a large; and the object designed to be attained by the Senator from Iowa would not at all alleviate the necessity which would exist for subsequently changing the locality of the machine with which these experiments would be made, because it is the design not to experiment on one field of corn alone but upon various fields. Forty different varieties of corn, the Commissioner told us, would be made the subject of experiment—corn extending all over the country. It is only necessary to bring specimens of the different varieties of corn here to test the quantity of the saccharine matter contained in each, and that will be necessary wherever you locate the machine.

So far as disseminating information more widely by putting it in the midst of a corn-field of miles of area so as to give information to the corn-grower that sugar can be more profitably grown than corn itself to be sold as grain, that information which the grower derives from these experiments could be much more widely disseminated through the country from this center than from any other which may probably be designated. The persons desiring information in regard to agricultural matters send here to the Commissioner of Agriculture and to the Department of Agriculture for information connected with the subject. It is recognized as the great center; and under his immediate supervision, too, these experiments would be conducted; and, so far from relying on the services of one man, it will require the services of a considerable number of men to superintend the construction of machinery and experiments, besides a chemist who shall have to conduct a portion of the experiments.

All these different operations can be, I say, conducted more successfully here, more perfectly here, where all the appliances that may be necessary in carrying on any collateral portion of the investigation are at hand for getting information upon any branch of the subject for which immediate provision cannot be made in any location which is proposed to be selected somewhere out West. Much of the machinery has been already removed here. While these experiments are being conducted under the supervision of the chemist of the Agricultural Department his labors and services can be appropriated also

at the same time to other objects. Carry him away from here, and you remove him entirely from the theater of his operations in regard to every subject except this specific one.

Taking all these things into consideration, I humbly submit that as reported the bill meets the requirements of the Department.

Mr. VOORHEES. Mr. President, I understand that the experiment of making sugar out of corn-stalks is already a successful one. I do not understand that there is any necessity for small experiments on this question any more. If this measure is of any use it is to determine whether sugar can be created in that way on a large and extensive scale. I have examined sugar in the Agricultural Bureau, and upon the representation of the Commissioner of what it was produced from I have no hesitation in saying that about as good sugar as I ever have known is produced from corn-stalks.

Now, why you will go on experimenting here at Washington in a small way to determine the fact, when it can be done, I do not understand. I understand that if anything further is necessary it is to develop the fact that it can be done on a large scale and by an extensive process. To do that I learn the product has got to be brought here or the machine has got to be taken to the product, one of the two things. I can respond to the remark of the Senator from Kansas that to the unscientific man it looks as if the proposition of the Senator from Iowa was correct. If it was still an open question whether sugar could be made out of corn-stalks, the proposition of the Senator from West Virginia and the Senator from Virginia would be right, it ought to be done here. If that was yet to be solved as a question of doubt to be done by some process that did not call for much transportation of corn-stalks or anything else, then I would say let it go on here. But if this is a question to determine whether the farmer upon a large scale and in his own corn-fields can turn corn-stalks into sugar, the sooner you get these machines out among the farmers the better, the better to avoid the expense of transportation which has been spoken of by the Senator from Kansas, and also the better because the farmers will then see for themselves what is going on.

Let me remind Senators that those farmers who raise corn are the persons primarily interested in the production of sugar out of their corn-stalks, and every machine that is put out in the West, in Iowa, or the great State of Illinois or the great State of Indiana, will be an educator to many minds, and people will be educated who cannot come here and hunt up some laboratory where this work is going on. Everybody comes here more than the farmers do. I notice that the classes of people who are interested in first one thing and then another are to be found along these corridors and about these halls, but it is the rarest thing in the world to see the dusty suit of a farmer upon some man's back around these lobbies. You need not tell me they come in their Sunday clothes. You rarely see a sunburnt farmer's face or feel his hard hand when you shake hands in these reception or retiring rooms—rooms where you rarely find a man who sends for you and to whom you go out, addressing you upon the subject of the farming interest. I would like to ask what Senator has had such an experience as that within we will say the last three years since I have been here?

Mr. WITHERS. I have several times.

Mr. VOORHEES. The Senator from Virginia says he has several times. That is because of the little section of old Virginia over here whose people come across to see their excellent Senator and shake hands with him.

Mr. WITHERS. I will say with the permission of the Senator that I have been formally waited on by the representatives of the Virginia State Agricultural Society on more than one occasion.

Mr. VOORHEES. And generally had to make a speech for them.

Mr. WITHERS. No, sir; to urge matters particularly affecting the agricultural interest.

Mr. VOORHEES. Very well. I will then do the credit to Virginia to say that she is moving in the right direction, and I attribute that largely to the excellent manner in which her agricultural interests are presented here. So it is of the constituents of the Senator from West Virginia; but still my proposition is good that there is not a Senator in this body who, one time in a thousand, when he is called out, meets anybody who wants to talk to him about corn-stalks being made into sugar, the diseases of swine, or even the great question of cattle disease. These corridors and these surroundings are filled with men bent upon different things from these.

So I say in place of housing up this experiment of making sugar out of corn-stalks, (which is no longer an experiment, for it is a fact, as fixed a fact as it can be; if you go on experimenting years,) instead of keeping it out of public sight, if we are to have these machines, I want to see them go out on the broad prairies of my friend the Senator from Illinois, and I want to see the farmers gather in; see them look at their workings; see them bend their thoughtful faces and calculate how much this improvement is going to add to their wealth. For, Mr. President, we stand upon the eve, in my judgment, of an era on the sugar question which is to revolutionize things. I will say to the Senator from Ohio I have passed over his great State from the lakes to the Ohio River, and from the Indiana to the Virginia line repeatedly. I have met the people of that mighty empire of physical wealth, the great State of Ohio, on repeated occasions; and what a magnificent interest they would take in the great question of whether they could turn their corn-fields into sugar. Just think of it! The idea of housing up an experiment of this kind, which is no longer an experiment, if I may be allowed to repeat myself! Let the amendment of the Senator from Iowa be adopted, not only because it facilitates the work, avoids the trouble of transportation, but because it will go among the people and they will see the workings at least of that part of the machinery of this Government.

Mr. WALLACE. Mr. President, if the Senator from Indiana be correct I cannot vote for this proposition. If the experiment that it is undertaken to try by this amendment is no longer an experiment, then it does not devolve upon this Government to carry to every farmer a machine to make his sugar. The field of individual enterprise and not of paternal government is the one that is then to be occupied. It is absurd to say that the Federal Government can carry to the corn-fields of Iowa or of Virginia or of any other State of this Republic machinery to make sugar. It is simply because it is yet an experiment that it is proposed to test this question here where chemistry in all its varied forms is applied to this simple agricultural commodity, where we are here under the direction of an expert chemist to test the question as to whether or how sugar can be made from corn-stalks.

We were met with this very question in the committee, and we had to confront the thought that farmers could not make sugar because it is yet an experiment, it has yet to be settled, and therefore this proposition as embodied in the committee report was adapted; that is, that here, where the experience of an agricultural chemist will be applied to this new and unsettled field, was the place at which we should erect the necessary machinery to endeavor to demonstrate here, this being the central point, the fact that sugar could be made from this agricultural product. If it is a fact already settled, this bill ought not to contain this provision. If, on the contrary, it be an experiment yet to be tried, we want it tried where we have the acquirements of chemistry, right here.

Mr. ALLISON. Will the Senator yield to me for a moment?

Mr. WALLACE. Certainly.

Mr. ALLISON. I think the Senator from Indiana can defend what he said better than I can; but as I understand this question, the fact that sugar can be made from sorghum and from corn-stalks has been thoroughly tested in a small way at the laboratory. Now, the question is whether or not these corn-fields can be turned into sugar at an expense that would enable the farmer to have the sugar made at a profit. That can only be done by experiment upon a larger scale than can be made here.

Mr. WALLACE. The Senator knows as well as I do that a gentleman who has five hundred acres of corn—five hundred acres in cultivation for this very purpose—came before the committee and said to us: "I can make sugar, but I cannot make a success of it; I want the appliances that chemistry gives; I want to know the results of a great experiment; I want this agricultural product subjected to the test of chemistry and of science in order that I may learn." When we asked him the question, "Can you do it in your locality now?" he said, "I have tried it, but I cannot make it a success; give me the experience which the chemist has and I may make it a success." His statement was that we ought not to have the machinery sent about the country, but that it ought to be here, where it could be reached from every locality.

But the broader ground, the higher ground, the more tenable ground, that the Federal Government cannot enter into this business, that it does not belong to us to occupy the field of individual enterprise, is the ground upon which we should put this thing. This is an exceptional case, and only because it is exceptional can we stand upon it at all. I would not vote for a bill containing such a provision unless it be for the mere purpose of experiment and to aid so valuable an industry as this is.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. DAVIS, of Illinois, called for the yeas and nays, and they were ordered.

Mr. DAVIS, of West Virginia. This is not a question of money, but whether the machinery and apparatus necessary to make a test of whether sugar can be made from corn-stalks and sorghum shall be here at Washington, at the Agricultural Department, or should go West somewhere. That is the question.

Mr. DAVIS, of Illinois. Where the experiments can be better made. There is no use of the Senator from West Virginia telling the Senate what they have to decide; they certainly have sense enough to know that.

Mr. BECK. I desire to explain in a word my own vote. The Senator from Pennsylvania stated precisely what the view of the committee was, that this is an experiment, and that we, representing all the taxpayers of the United States, were to furnish some money to test this experiment. There may be corn-stalks raised on some soils which will make 10 per cent. of sugar, on others 15, on others 5. Taking it to any farm in Illinois, or in Indiana, or in Kentucky, will only develop one particular condition. They make their sorghum; they make their sugar; they make their molasses; they tell what they have got; but we want to test it here to see whether there is enough saccharine matter contained in certain soils to make it profitable, and at this central point we desire the aid of chemistry to see whether they ought to go on with it or not. It cannot be taken to any place and thoroughly tested by an application to the product of the particular soil of that particular locality alone. It is very well known—it is known in my own State—that the corn of particular regions, of particular

neighborhoods, possesses qualities that are not possessed by corn within a mile of it. All these things are to be ascertained, and you can only ascertain them at one given point, and that is at a central point where the machinery would be built, where the chemists are, where the experiments can be made, and where the machinery now used can be used for sugar-cane, used for sorghum, used for corn-stalks, used for everything, and give each section of the country the benefit of the experiments so made.

For that reason we determined that it should be here. I would rather strike it out altogether than to have it go through all the country. I hope it will be stricken out if it is sent to wander around.

Mr. MORRILL. May I ask the Senator from Kentucky a question?

Mr. BECK. Yes, sir.

Mr. MORRILL. I do not see by the bill that this would confine the experiment here to the city of Washington, but it could be made wherever the Agricultural Department might think it best.

Mr. BECK. The idea was that the Agricultural Department would draw in from all sections of the country products here and test their chemical qualities.

Mr. DAVIS, of Illinois. You have to go where the product is, and there find them out.

The Secretary proceeded to call the roll.

Mr. JOHNSTON, (when his name was called.) I am paired on this subject with the Senator from Wisconsin, [Mr. CARPENTER.] If he were here, I should vote "nay."

The roll-call was concluded.

Mr. COCKRELL. I desire to say that my colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT,] who will be absent for several days.

Mr. ALLISON. On this question?

Mr. COCKRELL. On political questions.

The result was announced—yeas 15, nays 35; as follows:

YEAS—15.

Allison,	Ferry,	Kirkwood,	Teller,
Blair,	Hamlin,	Paddock,	Thurman,
Cameron of Wis.,	Hoar,	Plumb,	Voorhees.
Davis of Illinois,	Ingalls,	Saunders,	

NAYS—35.

Bailey,	Conkling,	Hill of Colorado,	Rollins,
Bayard,	Davis of W. Va.,	Jonas,	Vance,
Beck,	Eaton,	Kernan,	Walker,
Booth,	Edmunds,	Lamar,	Wallace,
Burnside,	Garland,	McDonal	Whyte,
Butler,	Groome,	McPherson,	Williams,
Call,	Hampton,	Maxey,	Windom,
Cockrell,	Harris,	Morrill,	Withers.
Coke,	Hereford,	Pryor,	

ABSENT—26.

Anthony,	Dawes,	Kellogg,	Ransom,
Baldwin,	Farley,	Logan,	Saulsbury,
Blaine,	Grover,	McMillan,	Sharon,
Brown,	Hill of Georgia,	Morgan,	Slater,
Bruce,	Johnston,	Pendleton,	Vest.
Cameron of Pa.,	Jones of Florida,	Platt,	
Carpenter,	Jones of Nevada,	Randolph,	

So the amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Arid lands," after line 149, to strike out the following clause:

For the purpose of enabling the Commissioner of Agriculture to procure data touching the agricultural needs of the arid region of the United States, $5,000.

The amendment was agreed to.

The reading of the bill was resumed and concluded.

Mr. COCKRELL. The Senate passed a separate bill providing for the boring of artesian wells under the Department of the Interior, and the bill was sent to the House. I desire the committee to explain to the Senate why the provision is put in here from line 153 to line 177.

Mr. WINDOM. The House put in the provision itself. I suppose they did not intend to act upon the separate bill, and this is precisely the same bill the Senate passed, except that it is under the control of the Commissioner of Agriculture instead of the Secretary of the Interior.

Mr. COCKRELL. It is not intended, then, to pass both and have two separate provisions?

Mr. WINDOM. I suppose not, of course.

Mr. INGALLS. I suggest to the Senator from Minnesota who has this bill in charge that in line 167, on page 9, the provision is that the parties contracting to sink these wells shall at the end of each week file with the Commissioner of Agriculture a report, &c. Obviously that is impossible, and the language should be, instead of "file with," "forward to."

Mr. WINDOM. I have no objection to that.

Mr. INGALLS. I suggest that the change be made in order to make the bill practical.

Mr. WINDOM. There is no objection to that.

The PRESIDENT *pro tempore*. The Senator from Kansas moves an amendment after the word "begun," in line 167, to strike out "file with" and insert "forward to."

Mr. DAVIS, of West Virginia. Does the Senator in charge of the bill accept that?

Mr. WINDOM. I can see no objection to it. I think it is more practicable than the other.

The amendment was agreed to.

Mr. CAMERON, of Wisconsin. I move to amend on line 36, page 3. I will state that the Senator from Minnesota who has charge of the bill has no objection to the amendment. The amendment is to insert:

Microscopical division:
For compensation of.

So as to read:

Microscopical division:
For compensation of microscopist, $1,800.

Mr. DAVIS, of West Virginia. What is the meaning of that?

Mr. WINDOM. Making a new heading. It is a very small matter; but the microscopist is able to see small things, and if he prefers it, I do not see any objection to it.

The amendment was agreed to.

Mr. WINDOM. On page 2, line 20, I propose, after the word "dollars," to insert "clerks." It adds nothing to the bill, but covers an additional service that ought to be included and was in the bill of this year.

Mr. ALLISON. If that clause is amended as proposed, the Commissioner of Agriculture can pay any price he pleases for clerks out of this $10,000. Is that the intention of the Senator?

Mr. WINDOM. No, it was not the intention if it is subject to that criticism.

Mr. ALLISON. I do not object to it. I only want to call attention to the fact that the Commissioner of Agriculture may employ two or three eighteen-hundred-dollar clerks, if he desires, under this provision.

The amendment was agreed to.

Mr. DAVIS, of West Virginia. Did I understand my friend from Minnesota to accept the amendment just acted on?

Mr. WINDOM. I offered it myself so as to authorize the employment of clerks. If it be considered desirable to limit the compensation of the clerks so employed, I have no objection, but the criticism did not occur to me when I offered the amendment.

Mr. DAVIS, of West Virginia. I have no objection, if the Senator agrees to it. I should like to have the Senator now state what the amendment is.

Mr. WINDOM. In line 20, after the word "dollars" and before the word "copyists," to insert "clerks." The Commissioner is of the opinion that that sum of $10,000 cannot be used for the payment of clerks, and this amendment makes the clause read as it stands in the bill for the current year. I inserted it to correspond with the present law. It is an omission.

Mr. DAVIS, of West Virginia. Mr. President——

The PRESIDENT *pro tempore*. The amendment has been agreed to.

Mr. DAVIS, of West Virginia. It can be reconsidered if necessary; I do not know that it is necessary. We might give the Commissioner the privilege to have no laborers, but to employ fourth-class clerks at $1,800, and use all the $10,000 in that way. Had there not better be a limit?

Mr. WINDOM. It undoubtedly gives him the liberty to use the $10,000 in the employment of any one of these classes or in their employment in such proportion as he shall think proper.

Mr. DAVIS, of West Virginia. Is not that considerable liberty to give the Commissioner? When we keep clerks in the classes to which they belong ought we to give the Commissioner an opportunity with $10,000 to advance any he may deem proper?

Mr. WINDOM. I will say to the Senator that I do not think there is very much danger in it. It exists in the law for the current year in this form:

For clerks, copyists, laborers, watchmen, carpenters, attendants in museum, and other necessary force, including two clerks of class 2, who shall be practical printers, $15,500, or so much thereof as may be necessary.

There was that general sum granted last year. I offered the amendment at the suggestion of the Commissioner, because he thought it would enable him to arrange his force to better advantage. I have no desire to insist upon it if the chairman thinks it is improper.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

AGRICULTURAL REPORT.

Mr. GARLAND. Mr. President, we have had no executive session this week. We have important executive business. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I wish to make a report from a committee of conference.

Mr. GARLAND. I yield for that purpose.

Mr. ANTHONY. I submit the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution of the House of Representatives to print 300,000 copies of the Annual Report of the Commissioner of Agriculture for 1879, having met, after a full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment, namely: Strike out "one

hundred and ninety-four" and insert "two hundred and fourteen." And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment, namely: Strike out "seventy-six" and insert "fifty-six." And the Senate agree to the same.

M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.

B. WILSON,
P. C. HAYES,
Managers on the part of the House.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this report?

The question being put, it was determined in the affirmative.

The PRESIDENT *pro tempore*. Will the Senate concur in the report?

The report was concurred in.

EXECUTIVE SESSION.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

Mr. WHYTE. I ask the Senator from Arkansas to yield a moment, while I make a report.

Mr. GARLAND. We can come back into open session.

Mr. PADDOCK. Will the Senator from Arkansas yield to me to present a bill?

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Arkansas.

Mr. BAYARD. I wish the Senator would withdraw that motion.

Mr. GARLAND. I cannot withdraw it any more. Senators are appealing to me all around.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Arkansas.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-one minutes spent in executive session the doors were reopened, and (at four o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 27, 1880.

The House met at eleven o'clock a. m; Hon J. C. S. BLACKBURN in the chair as Speaker *pro tempore*.

Prayer by Rev. J. G. BUTLER, D. D., of Memorial church, Washington, District of Columbia.

The Journal of yesterday was read and approved.

REPORT ON FISH AND FISHERIES.

Mr. WILSON submitted the following conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the joint resolution (S. R. No. 100) to print extra copies of the Report of the Commissioner of Fish and Fisheries for the year 1879, having met, after full and free conference have agreed to recommend to their respective Houses as follows:

In line 7, strike out "four" and insert "six."

In line 11, strike out the word "twenty."

And, as thus amended, the House recedes from its amendment.

B. WILSON,
P. C. HAYES,
Managers on the part of the House.
M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.

Mr. WILSON. Let the Clerk now read the statement accompanying that report, which is submitted under the rules of the House.

The Clerk read as follows:

The Committee on Printing submit the following statement showing the effect of the adoption of the conference report on Senate joint resolution No. 100, to print extra numbers of the Report of the Commissioner of Fish and Fisheries for 1879:

The resolution, as amended by the conferees, provides for printing 10,000 copies in all—2,000 for the Senate, 6,000 for the House, 1,500 for the Commissioner of Fish and Fisheries, and 500 for sale by the Public Printer—10,000.

The original resolution distributed as follows: 2,000 for the Senate, 4,000 for the House, 1,500 for the commissioner of Fish and Fisheries, and 2,500 for sale by the Public Printer—10,000.

The only change is in reducing the number for sale by the Public Printer to 500 and adding the 2,000 copies thus saved to the quota allotted to the members of the House.

Mr. WILSON moved the adoption of the report of the conference committee.

The report was adopted.

Mr. WILSON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BRAGG. I demand the regular order of business.

Mr. KEIFER. I hope the demand for the regular order of business will be withdrawn until I can ask unanimous consent to present a petition.

Mr. BLOUNT. I demand the regular order, and move to dispense with the morning hour.

The House divided; and there were—ayes 81, noes 19; no quorum voting.

Mr. HATCH demanded tellers.

Tellers were ordered, and Mr. HATCH and Mr. BLOUNT were appointed.

The House again divided; and the tellers reported—ayes 107, noes 35.

So (two-thirds having voted in favor thereof) the morning hour was dispensed with.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I now move the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of resuming consideration of the sundry civil appropriation bill. The Clerk will read the pending paragraph.

The Clerk read as follows:

To complete roadway from Vicksburgh, Mississippi, to the national cemetery near that city, $8,000.

Mr. GOODE. I offer an amendment to come in after line 638.

Mr. CLYMER. I reserve the point of order upon the amendment.

The Clerk read as follows:

For continuation of repairs on the public buildings at Fortress Monroe, $20,000.

Mr. BLOUNT. Mr. Chairman, I raise the question of order upon that amendment. That was the same matter that was up and was passed upon by the Chair yesterday and ruled out of order. This is the same question identically, with some slight changes in the phraseology, but the substance of it is the same.

Mr. GOODE. The gentleman from Georgia is entirely mistaken in his statement. This is not the same amendment that was offered on yesterday. It differs both in phraseology and amount from the amendment then offered. The amendment offered on yesterday specified the expenditure to be made item by item, and the amount was $22,450. This amendment differs from that, as I have stated, both in amount and phraseology, for it provides that this amount shall be expended for the continuation of the repairs on the public buildings at that fortress and reduces the amount from that specified on yesterday about $2,500. It is neither the same amendment in amount nor in phraseology.

Mr. BLOUNT. I hold, Mr. Chairman, that it is substantially the same amendment with only a very slight variation in the mode of expression, and the effect of the amendment is identical with that which was ruled out yesterday. This does not specify, it is true, for the continuation of the repairs of the works already in progress, but it is substantially the same subject-matter, and therefore it comes under the general idea which was passed upon by the Chair and ruled out before. And even if it were a different thing, it comes on a different proposition, and the point made yesterday, to wit, that it is not germane to this bill, would be good against it, for it should have gone into the fortification bill.

Mr. GOODE. The gentleman from Georgia states that this amendment should have gone on the fortification bill. I submit, Mr. Chairman, if this amendment had been offered to that bill and the point of order had been raised against it, it would have been ruled out on the objection made on the ground that it was not germane and had nothing whatever to do with the fortification bill. What is a fortification bill? A fortification bill provides for the necessary money to keep up the fortifications and equip the same with armament and supply the necessary works of defense connected therewith; in other words, put up the walls and supply the big guns.

But this could not come in on a fortification bill for the reason that it has no connection with a fortification. These are officers' quarters which are to be provided for in this amendment. They are public buildings; and the gentleman cannot put an expenditure for public buildings into a fortification bill. It is a different object; they may not even be located in the same neighborhood. If my friend will go to Fortress Monroe and see what the fortifications there consist of, brick, mortar, and big guns, and then see these officers' quarters, he will see that the amendment here proposed would be altogether out of order if attempted to be placed upon a fortification bill.

In this proposition I have a precedent. This question was raised in the Forty-fourth Congress, and the uniform decision of the House was that when you are considering a fortification bill you must confine yourself to the fortification alone and nothing else. Now this is a proposition to continue work upon public buildings at Fortress Monroe, but it has no connection whatever with the fortification. It simply provides officers' quarters, and these might be erected in any other part of the country, but in this case they are absolutely needed. So far as the change of phraseology is concerned to which the gentleman has referred, that is my right, and in that I have also a precedent. This was done here yesterday on an amendment offered by the gentleman from Nebraska. The gentleman changed the phraseology of his amendment, and the Chairman ruled that it was in order. Hence, Mr. Chairman, I claim that the objections urged by the gentleman from Georgia against this amendment are not applicable. I

would not press this matter with so much pertinacity if I did not know from actual observation that the money is needed. This amount is called for by the Secretary of War and the commandant of the post, and I know from personal inspection of the buildings there that they are going to wreck and ruin for want of this money. If my friend from Georgia owned this property in his private right, as a prudent, sensible man, as I know him to be, he would not hesitate a moment to appropriate the money for these necessary repairs.

Mr. WILSON. How much money do you ask for?

Mr. GOODE. Twenty thousand dollars.

Mr. WILSON. You ought to have it.

Mr. GOODE. Yes, this is a mere bagatelle. It is a trifling sum to perform a very important service.

The CHAIRMAN. Does the gentleman from Virginia state that this amendment applies to the same buildings as were contemplated in the amendment he offered yesterday?

Mr. GOODE. It applies to the same buildings, but the language is different and the amount is different.

Mr. HAWLEY. I do not know that such items as paving bricks and repairs to officers' quarters should properly go into the fortification bill. In this very bill, without objection from any of us, are appropriations for certain expenses connected with the Leavenworth military prison. For example:

Paving bricks, $2,500.

For repairs to officers' quarters, prison buildings, shops, and for extension of shops, $3,000.

In another part of the bill, as I recollect it, is an item for building a guard-house at the Springfield arsenal. There are a number of such items, none of which usually go into the fortification bill. I do not remember any items of that description in that bill, and I cannot see why it should be lawful to provide in this bill for building a guard-house at the Springfield arsenal and new shops at the Leavenworth military prison and to provide paving bricks at the military prison, yet that it should not be in order to repair a rotten floor in the officers' quarters at Fortress Monroe or to paint some of them over again.

Mr. BLOUNT. After the ruling of the Chair yesterday, I do not conceive it as proper for me to enter into any further discussion of the point of order. I rise simply to say the points just made by the gentleman from Connecticut [Mr. HAWLEY] amount to nothing. So far as the appropriation for Leavenworth prison is concerned, that is an item that always goes into the sundry civil bill. It cannot go into the fortification bill. So with the armories and arsenals. These always go into the sundry civil bill. So far as the matter of fortifications is concerned, we have a separate bill in which appropriations relating to fortifications and their repairs are made; and we have passed that bill.

Mr. HAWLEY. Does the fortification bill contain the whole run of little items of repairing, painting, &c., at the different forts?

Mr. BLOUNT. Yes, sir; there is a general fund provided for that purpose in the fortification bill.

Mr. GOODE. The fortification bill of this Congress appropriated $150,000 for the preservation and repair of fortifications and other works of defense. Surely the gentleman from Georgia cannot seriously contend that the public building occupied by officers at Fortress Monroe come under the head of fortifications. A fortification is altogether a different matter; it is mounted with guns, and, as I have said, consists of bricks and mortar and these heavy guns, and nothing else; and $150,000 are appropriated for that purpose. If I had moved my amendment to that bill the gentleman in charge of it would undoubtedly have raised the point of order and I could not have said a word. I know that question came up in the Forty-fourth Congress when the fortification bill was in charge of the distinguished gentleman who is now the presiding officer of the Senate.

Mr. HOOKER. I desire to say a word on the point of order. I think the phraseology of the amendment offered by the gentleman from Virginia [Mr. GOODE] excepts it from the objection made by the gentleman from Georgia. If the Chair will look at two subsequent clauses of this bill he will find it makes appropriations precisely of this character. I call the attention of the Chair to the paragraph commencing at the top of page 28:

Support and improvement of the Leavenworth military prison, Fort Leavenworth, Kansas.

On the following page, in line 687, will be found this provision:

For repairs to officers' quarters, prison buildings, shops, and extension of shops, $3,000.

Here is a provision which the gentleman from Georgia [Mr. BLOUNT] has introduced in his own bill precisely of the character and nature of the amendment offered by the gentleman from Virginia. And if the amendment of the gentleman from Virginia is out of order, the provision in the bill I have just read, under the reservation made of points of order, would also be subject to the point of order.

The CHAIRMAN. On the face of the amendment the Chair thinks the point of order would not be good. But it appears it relates to precisely the same items on which the Chair ruled yesterday. In that ruling he was sustained by the judgment of the committee, and he is therefore compelled to sustain the point of order again.

Mr. KEIFER. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 638, page 26, insert:

"For geographical and topographical surveys of the territory of the United States west of the Mississippi River, to be executed under the Secretary of War, the supply branches of the War Department aiding as heretofore, and to be immediately available, $75,000: *Provided*, That maps of the surveys be furnished upon requisition to the Director of the Geological Survey of the Department of the Interior, and that geographical points be established for connection with the surveys for subdivision of the public lands."

Mr. BLOUNT. I make the point of order that that is contrary to existing law.

Mr. KEIFER. I hope the gentleman will withhold the point of order for a moment.

Mr. BLOUNT. This is an old matter, and I insist on the point of order.

Mr. KEIFER. If the gentleman will withhold the point of order to allow me to make an explanation I think he will not press it.

Mr. BLOUNT. I think I know the points the gentleman desires to submit; but I want to get on with the bill.

The CHAIRMAN. The Chair decidedly prefers that the gentleman from Georgia, if he is to make the point, should make it now.

Mr. KEIFER. I desire to make a statement in reference to this matter. It is possible that under a very strict construction of our rules the point of order is well taken.

Mr. BLOUNT. With all due deference to my friend from Ohio, I must insist on the point of order.

Mr. KEIFER. Before the point of order is passed upon, I wish to say that this matter of appropriating for the geological and topographical survey of the territory west of the Mississippi River under the War Department has fallen into some confusion, in view of the condition of our legislation. As a matter of fact this survey under the direction of the War Department has been continued for more than a hundred years in this country. In the Forty-fifth Congress——

Mr. BLOUNT. The gentleman is not discussing the point of order.

The CHAIRMAN. The Chair understood the gentleman from Ohio [Mr. KEIFER] to admit that the point of order was good against his amendment.

Mr. KEIFER. No, sir; I said that under a very strict construction of the rule it was possible that the point of order might be sustained. But I do not think the Chair will, in view of the state of our legislation on the subject, give the strict construction to the rule which the gentleman from Georgia insists upon.

I wish to state that in the closing days of the Forty-fifth Congress there was a rider put upon an appropriation bill which seems to wipe out one part of the survey, commonly known to all of us as the Wheeler survey, the geographical part of it. But there is nothing said in that act of March 3, 1879, about discontinuing the topographical survey under the direction of the War Department. As a matter of fact there was made in 1879 an appropriation to carry on the geographical and topographical survey, and it was only the topographical part of it that was discontinued by the act of March 3, 1879.

As early as in the days of George Washington, Congress authorized such surveys to be made, and they have been continued from time to time until they have grown up to be very valuable not only to the Army but to the whole country. It seems to me that in view of the state of the law, this appropriation is authorized, especially that part of it which proposes the continuation of the topographical survey under the direction of the War Department.

If I had been permitted, I think I would have been able to show that this survey is absolutely essential to the country; and if we now commit the folly of abandoning it we will be driven ere long to go back to it.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following:

For continuing the preparation of the publication of the Official Records of the War of the Rebellion, both of the Union and confederate armies, and for the compensation of temporary clerks and other employés engaged thereon, the collection of such confederate records as may be placed at the disposal of the Government by gift or loan, for rent of necessary offices, for fuel, stationery, and incidental expenses, $40 490; and the Secretary of War is authorized to negotiate with the legal representatives of the late confederate Generals Bragg and Polk for the purchase of their private papers relating to the late war, and said Secretary shall report thereon at the next session of Congress.

Mr. WARNER. I move to strike out all that portion of the paragraph after "$40,490."

Mr. McCOOK. I hope the gentleman will withhold his amendment until I can offer one to the first part of the paragraph.

Mr. WARNER. I will withdraw it for the present, with the understanding that I can renew it hereafter.

Mr. McCOOK. I move to amend the paragraph just read by inserting after the words "both of the Union and confedrate armies" that which I send to the Clerk's desk.

The Clerk read as follows:

For the printing and binding, under direction of the Secretary of War, of 10,000 copies of the compilation of the official records, Union and confederate, of the war of the rebellion, so far as the same may be ready for publication during the fiscal year, $40,000; and of said number, 7,000 copies shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, and 1,000 copies for the use of the Executive Departments.

Mr. BLOUNT. I raise the point of order that there is no law authorizing this appropriation.

Mr. McCOOK. I want to be heard just one moment on that point of order. As I understand it, the point of order raised by the gen-

tleman is that there is no authority of law for the publication of these records. I make no pretense to understanding the peculiar rules of this House. But in looking at the sundry civil appropriation bill passed by the Forty-third Congress I find that it contains this clause:

To enable the Secretary of War to begin the publication of the Official Records of the War of the Rebellion, both of the Union and of the confederate armies, the sum of $15,000; and the Secretary of War is hereby directed to have copied for the Public Printer all reports, letters, telegrams, and general orders, not heretofore copied or printed, and properly arranged in chronological order.

Without elaborating the proposition at all, it appears to me that there is a distinct and explicit act of Congress providing, not for a compilation of these records, the compilation being preliminary to the publication, but in express words providing for the publication of the official records of the war from Union and confederate sources.

Mr. CONGER. On the point of order I desire to state that the Government has ordered the publication of these records at very great expense and I presume to the satisfaction of all parties and of all people in this country. As the gentleman from New York [Mr. McCOOK] has shown, directions have been given by Congress to the authorities compiling these records to turn them over to the Public Printer and have them ready for publication. Everything that could have possibly been done, except to provide for the printing, has been done under authority of law.

These records are now ready for printing; I do not know how many volumes. I suppose there will be no objection on either side of this House to having these records put in print and distributed to all of us on both sides who desire to have a full record of the war. I have never heard any objection from this side of the House or from that, or from any person in this country to the publication of these records.

On the point of order I think there is no question but what this proposed appropriation is in continuation of a work already authorized by law, and therefore it comes within the rule.

Mr. BLOUNT. I desire to call the attention of the Chair to the forty-fifth clause of Rule XI, on page 9:

All proposed legislation or orders touching printing shall be referred to the Joint Committee on Printing on the part of the House.

This rule shows very clearly that the provision now offered as an amendment has no place here. The gentleman from New York [Mr. McCOOK] refers to legislation authorizing the preparation or compilation for the Public Printer. The preparation of matter for printing may go on, is going on all the while under the direction of the Department. When that matter comes to this House, the House, if it sees fit, may order the printing. In comformity with certain provisions of law authorizing the Departments to give orders, printing may be done for the Departments.

But there has been no printing commenced for this purpose; there is none authorized by law. All that has been authorized is the simple preparation of this matter for printing, which does not preclude this House from exercising its discretion as to whether or not it will order the printing to be done. If we should see fit through the Committee on Printing to order this matter printed, it will be printed just as all other public documents are printed.

Mr. McCOOK. I should like to ask the gentleman what construction he puts upon the word "publication" as used in the statute?

Mr. BLOUNT. The gentleman does not quote the entire language. The phraseology, I believe, is "preparation for publication."

Mr. McCOOK. The Chair has before him the statutes which I read word for word. I think the word "publication" is used.

Mr. BLOUNT. "Preparation for publication" is the language.

Mr. McCOOK. I do not know whether the word "preparation" is there or not.

The CHAIRMAN. The Clerk will read the provision of the statute.

The Clerk read as follows:

To enable the Secretary of War to begin the publication of the Official Records of the War of the Rebellion, both of the Union and of the confederate armies, the sum of $15,000; and the Secretary of War is hereby directed to have copied for the Public Printer all reports, letters, telegrams, and general orders not heretofore copied or printed, and properly arranged in chronological order.

Mr. McCOOK. One word more; not so much with reference to the question of order——

The CHAIRMAN. The Chair would rather hear the gentleman on that point.

Mr. McCOOK. I do not know whether I can say anything more on that question, except in regard to the point of the gentleman from Georgia, that this matter must be referred to the Committee on Printing. If the gentleman wants to make a very close point on this, I will say that there have been already printed proof-copies of the work so far as compiled. This, it seems to me, takes it out of the provisions of this portion of the rule which would refer the matter to the Committee on Printing. Proof-copies have been printed for the use of the Department itself.

In regard to the merits of this question, Mr. Chairman, it is perhaps known to some gentlemen—probably not to all—that in 1865 the Government of the United States was furnished with practically all the essential reports belonging to the Confederate States, many of them having been captured on the downfall of the rebellion. Under the direction of the Adjutant-General of the Army, these reports were put in some kind of order; and subsequently, Congress, by the provisions of the act which has been read, authorized their compilation and publication. I am informed that there has been already prepared enough matter from Union and confederate sources to give to the country eight complete volumes, embracing from six hundred to eight hundred pages each, of the official reports of the two armies for the year 1861, and up to and including the peninsular campaign in 1862. If we are going to continue the publication of these records—and certainly no gentleman of this committee will, I think, object to that—it appears to me that instead of waiting till the compilation is entirely completed, making matter sufficient for fifty or sixty volumes of six hundred or eight hundred pages each, we should publish the matter as prepared year by year.

This bureau has now been in existence some three or four years. Congress has made appropriations (judiciously and liberally, as I think) for this purpose. I hope and believe—I hope, at all events—that the Chair will not sustain the point of order made by the gentleman from Georgia; and I have entire confidence that if the proposition comes before the Committee of the Whole it will be adopted as a part of this appropriation bill without any opposition.

Mr. CONGER. I call the attention of the Chair to two or three out of many places in this bill where provisions of the same nature as this amendment have been inserted. On page 13, for instance, beginning at line 302, I find provision for "the preparation and publication of charts, the Coast Pilot, and other results of the work." Under the rule cited by the gentleman from Georgia, if he construes it correctly, this provision would have to go to the Committee on Printing. On page 26 I find a more distinct case:

Survey of the northern and northwestern lakes: For reduction of the field-work of the lake survey; for the preparation and publication of the final report, for printing charts for the use of navigators, &c.

This is the only bill in which appropriations for printing the material which has been authorized to be collected and prepared can properly come. The rule to which the gentleman from Georgia has referred relates to orders of the House for printing its own documents. It applies to any new printing or new publication which goes beyond the law. For instance, the law authorizes the various Secretaries to have printed for the use of their Departments a certain number of copies of a work. Now if the House desires an increased number of copies for the use of members the proposition is referred to the Committee on Printing. That is an independent proposition. The amendment now offered is in continuation of a work already ordered. The preparation of the material has been made in pursuance of law, and the authority for printing is properly to be given in this bill in the same way as in the cases I have cited.

The CHAIRMAN. The Chair is of opinion that this amendment contains "legislation touching printing," and under the terms of the rule must be referred to the Committee on Printing. In the opinion of the Chair the point of order, that the rule requires legislation of this kind to be referred to the Committee on Printing, is good.

Mr. HAWLEY. Is there not a statute authorizing this publication?

The CHAIRMAN. But the making of an appropriation under that statute is "legislation," which, according to the contemplation of the rule, must be referred to the Committee on Printing. The Chair sustains the point of order.

Mr. CONGER. I should like to have a vote in committee on that ruling. If that ruling of the Chair is to be sustained by this committee, then——

Mr. BLOUNT. I object to debate.

Mr. HAWLEY. I appeal from the ruling of the Chair.

Mr. CONGER. Yes, if that decision is to be sustained it will stop the ordinary printing required of every bill——

The CHAIRMAN. The question must be decided without debate. The pending question now is, Shall the decision of the Chair stand as the judgment of the committee?

The Committee divided; and there were—ayes 63, noes 58.

Mr. HAWLEY. I demand tellers.

Tellers were ordered; and Mr. HAWLEY and Mr. BLOUNT were appointed.

Mr. BRIGHT. I should like to have the decision of the Chair stated to the House, so we may know exactly on what it is we are voting.

The CHAIRMAN. The question is, Shall the decision of the Chair be sustained in ruling out, on the point of order raised by the gentleman from Georgia, the amendment submitted by the gentleman from New York, [Mr. McCOOK?]

Mr. YOUNG, of Tennessee. Several gentlemen on this side of the House were not present, and do not know exactly the point of order which was raised against the amendment of the gentleman from New York.

The CHAIRMAN. In the absence of objection, the Chair will first have the amendment read.

The Clerk read as follows:

In line 141, amend by inserting after the word "arms" the following:

"For the printing and binding, under direction of the Secretary of War, of 10,000 copies of a compilation of the official records, Union and confederate, of the war of the rebellion, so far as the same may be ready for publication during the fiscal year, $40,000; and of said number 7,000 copies shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, and 1,000 copies for the use of the Executive Department."

The CHAIRMAN. On that amendment the gentleman from Georgia raised the point of order, which the Chair sustained, that there was in it legislation granting authority for the publication of this work, as well as making appropriation to pay for it, and that under the rule

of the House it should be first referred to a committee. From that decision the gentleman from Connecticut has appealed.

Mr. HAWLEY. Would it not be fair to read that line of the statutes which I claim authorizes the publication?

The CHAIRMAN. That is in the nature of debate.

Mr. HAWLEY. The statute directs the publication. The word "publication" is in the law now on the statute-book.

Mr. BLOUNT. It is in defiance of the rules of the House.

The committee again divided; and the tellers reported—ayes 57, noes 90.

So the decision of the Chair was overruled.

The CHAIRMAN. The pending question is on the amendment of the gentleman from New York.

Mr. BLOUNT. I have nothing to say, as there seems to be a disposition on both sides of the House to insert that amendment.

Mr. ATKINS. Mr. Chairman, I have just got in, and I see no good reason why this amendment should be adopted. I think I know a good reason why it should not be adopted, if I understand the object of the amendment. Let the Clerk again read the amendment.

The amendment was again read.

Mr. ATKINS. Would it not be better, before we enter on the printing of these records costing so much money, to wait until we have all of the records of the confederate government during the late war, so we may know what we are doing, so we may have all these records before us and shall be able to proceed in a systematic way in regard to their publication. I do not see any necessity now for having these records printed in piecemeal. I think we had better wait until we get them all and then we can have them published, if necessary, in complete form.

I suppose the object is to write the history of the late war, and if that is the object, and to write it truthfully, which I doubt not will be done, then we ought to have all these records, and I do not see any necessity for entering upon the publication of them at this time, or until we shall have completed the original manuscript.

Mr. CONGER. If this were to write under any authority a history of the war, giving views and opinions and reasons, then the objection would be a very good one and I should concur with the gentleman that all should be collected and then we should decide who should be historian and under what auspices the history should be written. But I understand this is not to give an individual opinion of any living man, but to collect and print the records just as they were and just as they are, without comment and without opinion, thus giving the true record which each part of the country made during the war by its officers and to publish that without comment, leaving to all who may read it the formation of their own opinions and to the future historian of any side and every side the possibility or the power to write the philosophy of the history of the war from complete and undisputed facts.

I desire those records without any opinion, without any coloring, without any shadowing of anybody, so I and all others may see what the record actually is; and then we will be able to draw our own conclusions. Thus the historian may use them as from a common public fountain, and draw from that fountain the information which, with all of the facts before him, may be regarded as just and conclusive.

I wanted to add just this before closing, Mr. Chairman. These records are and necessarily will be for some time in such a condition that one catastrophe—one fire, for instance, or any accident of that kind—may obliterate the entire record and destroy all hope of recovery. I venture to say that there is no gentleman here, no matter what opinions he may entertain or however opposite their views may have been in the past as to the causes which led to this war or to the compilation of this history—I say that not one but what desires that these shall be preserved for future knowledge and reference. These official records of both sides, if they are not thus printed and distributed throughout the length and breadth of the land, may be destroyed and gone forever without the reach of those who desire to preserve them.

Mr. HUNTON. Mr. Chairman, I move to strike out the last word. There seems to be an error prevailing in the committee as to the object of the publication of the archives mentioned in the amendment proposed by the gentleman from New York. There is an idea prevailing that the object is to write history. That is a grand mistake, Mr. Chairman. The parties having charge of the preparation of these records are not charged with the writing of history; but the sole object is to preserve in proper shape the material from which the future historian may compile accurate data on which to base history. For I am informed—and it is no doubt true—that these archives are now kept in buildings not fire-proof; and the gentleman from Michigan well says that one fire or catastrophe of that kind would destroy them forever. The people of this country—and I have no doubt that it is the general impression—believe it to be a very important matter that the true history of the late war shall be at some time published. If these archives are destroyed the opportunity of doing that is gone forever, and the only object in printing these records is to have copies scattered throughout the land, so that in case the original archives are destroyed in the buildings they may be collected from other sources, and thus in that way preserved to the country. Now, I think it is important, for these reasons, that this work shall be published as it is prepared or as it progresses. The gentleman from New York, I understand, says that only eight volumes have been prepared. My information was different.

Mr. McCOOK. Yes; eight volumes of from six to eight hundred pages each.

Mr. HUNTON. I have been otherwise informed. I understood the Adjutant-General to say that there were some sixteen volumes, but whether there be eight or sixteen it is important that the publication should be made without running the risk of losing the whole by fire.

Mr. MILLS. Will the gentleman from Virginia permit me to say in his time, as I do not care to occupy the time of the committee myself upon this subject, this work is prepared by the year. I had a conversation with General Wright recently, who has charge of the matter. He takes up, for instance, say 1861, from the beginning of the war, and that year is completed before proceeding with the next one. The record of 1861 will be as perfect when it is completed as though we were to wait for any number of years hereafter. The work is divided into different portions; for instance, one part will refer to battles—reports of battles—during the year 1861.

Mr. HUNTON. Without a word of comment.

Mr. MILLS. Yes, without a single word of comment; simply the official reports of both sides.

The next part will contain reports from the Surgeon-General's Department or similar reports from other departments of the Army. This provision is simply for binding the work as fast as it is completed, and as the gentleman from Virginia has said, it is very important to do this at once, and not risk a total loss by delaying the work.

Mr. HAYES. Mr. Chairman, in response to what the gentleman from Tennessee [Mr. ATKINS] has said, and also to emphasize what the gentleman from Michigan [Mr. CONGER] says, I wish to add this: that these are simply records of the war which are to be composed of reports, telegrams, letters, and things of that kind, being an official statement and nothing else. As the gentleman from Texas has well said, there is to be no word of comment in reference to this compilation of the records, but they are to give the official reports of the two governments in regard to the war.

Now, it seems to me in the line of economy, after we have spent such a large sum of money to get these records together, to appropriate a certain amount of money each year for the publication of these volumes as fast as they are prepared, instead of waiting until we have a vast accumulation on our hands, in which case it would be necessary to appropriate a large amount of money for publishing them at one time.

This matter of publishing these records has been before the Committee on Printing of this House, and I hold in my hand a resolution which was before that committee, and the committee, after due consideration, has recommended that this resolution be reported back to the House with a favorable recommendation. In view of all these things it seems to me we ought to act favorably upon the proposition to continue the publication of these volumes, according to the amendment proposed by the gentleman from New York, [Mr. McCOOK.]

Mr. HUNTON. I withdraw the formal amendment.

Mr. McCOOK. I renew it. The gentleman who is in charge of this bureau, Colonel Scott, as many gentlemen in this committee know, is a very patient, careful, painstaking officer. In addition—and I concede and every one must concede the necessity for it and the justice of it—there are engaged upon this work one or two ex-confederate officers, General Wright, I believe, being one of them. Of course in looking over the records of the confederate army it is necessary some one should be there who is thoroughly acquainted with the *personnel* of that army. They have already received from different sources, including the official reports of the brightest names on the roll of the confederacy, enough to describe according to the confederate reports about thirteen hundred battles, skirmishes, and affairs. The Southern Historical Society puts at the disposal of this bureau everything which has a bearing on this matter. Of course, as far as the reports of the Union side are concerned, they are all on hand and accessible. The purpose is now, as I understand, to perfect this whole work. As I have already said, this appropriation will print 80,000 volumes of these reports from the material they have now on hand. [Cries of "Vote!" "Vote!"]

The question being taken, the amendment was agreed to.

Mr. WARNER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all of the paragraph after the word "dollars," in line 647, namely, these words:

"And the Secretary of War is authorized to negotiate with the legal representatives of the late Confederate Generals Bragg and Polk for the purchase of their private papers relating to the late war, and said Secretary shall report thereon at the next session of Congress."

Mr. WARNER. I made an unsuccessful attempt yesterday to tip over the Washington Monument before it got any bigger. I hope I will be more successful in my effort to-day to upset this scheme to buy history ready made before it goes any further.

We are all interested in having a truthful history of the late great war written. Especially all who participated in the war and bore any personal part in it are interested in having facts and truth for history instead of fiction. I am glad, therefore, that the House has voted to print the records that have already been collected; and I hope that that work will be continued until all the information, all the facts now in possession of individuals in the country may be collected.

printed, and placed at the disposal of some future Napier, Jomini, or Saint Cyr, if such a man shall arise hereafter in this country, who will sift this material and make for future readers an impartial history. For my own part, I have refrained from reading anything pretending to be a history of the war that has so far been written, because I believe it to be impossible yet to write a true history.

Now, Mr. Chairman, officers on both sides, all over the country, have sent in to the War Department their official papers, memoranda, diaries, &c. There are doubtless many more to come. But to establish the precedent of going into the market to buy such things is what I think ought not to be done. There have been some purchases already, I believe; but I think the policy a bad one. Doubtless there are thousands of diaries, some perhaps of great value, and other papers in the country that instead of being brought forward and offered for publication will be withheld to be sold to the Government. I am opposed to that.

In this case the authors of the papers are dead. They may be in the hands of their heirs; they may be in the hands, for aught I know, of brokers. But if we establish the precedent of buying information, we will find brokers springing up all over the country with valuable papers to sell to the Government. I think all who participated in the war and their friends should have interest enough in the truth of history to come forward with all the facts they possess and place them in the proper hands to be printed for the use of the future historian, who may sift them and write such a history as that great event merits.

Mr. BLACKBURN. I do not believe there is a gentleman in this House who will vote to sustain the amendment offered by the gentleman from Ohio when the facts are stated. I am glad that the motion to strike out this part of this clause comes from this side of the House, and I am more than glad to bear testimony to the unanimity with which our republican friends upon the Committee on Appropriations agreed to insert the words and lines the gentleman from Ohio desires to strike out.

It is a fact, sir, known to most of us, although the gentleman from Ohio does not seem to be apprised of it, that the retention of these lines establishes no precedent of purchase at all. This Government is going to get credit and it is entitled to credit, and posterity will give it credit for having made an honest effort to publish in as fair a shape as possible the scattered fragments of the history of the armies upon the other side. It has appropriated money for that publication without limit, and the House has added this day by an amendment $40,000 for that purpose to the recommendations of its money committee. The Government has called to this work two officers—one an ex-confederate, the other a detailed Federal officer—that they may jointly take charge and custody of the preparation of these archives for publication. It has done more, sir. It has voted money from the public Treasury to purchase the papers of General Price and General Kirby Smith and General Sydney Johnston, and others. Now, sir, in the face of this record it will not do for any who stood upon that side during the war hereafter to charge that the Federal Government has been lacking in an honest, manly effort to put before the world and to give to posterity a fair and candid statement of the charge.

Mr. ROBESON. May I ask the gentleman from Kentucky one question?

Mr. BLACKBURN. Yes, sir.

Mr. ROBESON. Would the record be perfect without these?

Mr. BLACKBURN. No, sir. I thank the gentleman for the question.

Mr. ROBESON. Would it not be just as if we had a volume of statutes with a half a dozen chapters left out?

Mr. BLACKBURN. Yes, sir; it would be even worse than that, for this reason: the Committee on Appropriations, without a dissenting voice, proposed to authorize the Secretary of War, by the provision which the gentleman from Ohio [Mr. WARNER] moves to strike out, to negotiate—not to purchase—to negotiate with the legal representatives of General Bragg and General Polk for the purchase of their papers; and then——

Mr. WARNER. Will the gentleman allow me to ask him a question?

Mr. BLACKBURN. Not just now; in a moment. To negotiate for the purchase of their papers, and then to report to Congress the result of that negotiation. If that result shall be such as to commend itself to the best judgment of this Congress, then there is not a precedent to be set, but a precedent already set to be followed in the purchase of the papers of two men, one of whom organized the army of the West, and the other commanded it from the day of Shiloh down to the time when that army tottered to its fall.

How will you ever make anything but a garbled record without those papers? Is it not an absurd injustice and a positive insult to tell us that you will collect and publish and give to the world the records of the western army of the southern confederacy, when you do not have one solitary paper that belonged to the man who organized it and fashioned it, and not a line from the man who commanded it for three of the four years of its existence?

I know there is a clerk in the archives department of this Government who, in a printed letter which has been laid before us, has recommended that no more purchases shall be made, but that the process of seizure shall be applied; that the Government shall seize the private property found in the hands of the widows and children of dead men. I have not found in the Committee on Appropriations a single member who would tolerate such a suggestion.

Mr. YOUNG, of Ohio. What is his name? Let the letter be read.

Mr. BLACKBURN. His name is Scott, and I believe he is the chief clerk of that bureau.

Mr. BRAGG. Allow me to correct the gentleman from Kentucky.

Mr. BLACKBURN. In what?

Mr. BRAGG. Your statement is incorrect as to what he recommends.

Mr. BLACKBURN. It is not incorrect, and the gentleman will stand corrected himself.

Mr. BRAGG. I send up the letter, and ask that it be read.

Mr. BLACKBURN. I will include it as a part of my remarks.

Mr. BRAGG. Very well; let it be brought back to me, and I will read it myself.

Mr. BLACKBURN. I will have it read.

Mr. CALKINS. I do not understand that the author of the letter recommends that the Government shall seize the private papers of these officers.

Mr. BRAGG. No.

Mr. CALKINS. Only the records of the confederate government.

Mr. HOUK. Let the letter be read.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. BLACKBURN] has expired.

Mr. BLACKBURN. If I can have five minutes more I will have the letter read.

The CHAIRMAN. By unanimous consent the letter can be read, not otherwise.

Mr. KEIFER. I desire, Mr. Chairman——

Mr. BLACKBURN. If the gentleman from Ohio [Mr. KEIFER] will yield to me his five minutes I am sure the committee will give him an opportunity to speak after I have concluded.

Mr. KEIFER. I will do so if I can be recognized afterward.

Mr. BLACKBURN. I thank the gentleman.

Mr. YOUNG, of Ohio. Let the letter be read.

Mr. BLACKBURN. Let me finish and I will have the letter read. What this clerk of the archives recommends is this: that no more purchases of these records should be made, but that the Government should assert the right of seizure; and he declares if that is done then public sentiment will compel the owners of these papers to donate them to the Government.

I say that I do not believe there is a man on this floor who will approve the suggestion to seize private papers for this or for any other purpose. But even if the Government were so disposed, a thing which she has never before suggested through any of her employés, and never before through any of her officers, she stands estopped by the records from doing so, because she has already purchased the papers of other confederate generals; and it would ill become her at this late day to undertake to seize and grasp the balance.

Now, in the name of common justice, in the name of common fairness, I ask this House to evince the same spirit that was shown by the Committee on Appropriations, without regard to political division, in dealing with this matter, and authorize your war officer to negotiate for the papers of the two generals named, the papers of either of whom are absolutely essential and necessary to anything like an approximation to the truth. Let us authorize the Secretary of War to enter into negotiations looking to a purchase of the papers of that general who organized that army from its very inception, and commanded one of its corps to the last retreat it ever made through the State of Georgia; and also authorize him to negotiate for the papers of the other general who from the first great battle ever delivered in the West commanded it until its flag was furled in that defeat which overtook it at the end of four years.

On this subject the precedents go back too far to be disregarded. For the precedent of purchasing private papers from the legal representatives of deceased American citizens and soldiers we go back to the very earliest and best of the Presidents who adorned the Executive Mansion of the country. There is no dangerous precedent in this provision of the bill; and unless this authority to negotiate subject to future approval on the part of Congress is to be given to the Secretary of War, I do sincerely trust that no garbled extracts will be published, and that the world will not be forced to accept a skeleton instead of a life-like body. I ask that the letter of Mr. Scott be read.

Mr. WARNER. Will the gentleman yield to me for a question?

Mr. BLACKBURN. Yes, sir.

Mr. WARNER. If these papers be as valuable as the gentleman represents (and I do not question their value as parts of the history of that army) have not the heirs or legal representatives of these men the greatest interest in having these papers made a part of the history of the country, and why will they not do what hundreds of others have done, present them for publication?

Mr. BLACKBURN. I answer the gentleman by asking, why did not the legal representatives of Washington and Jefferson and Madison do the same thing?

Mr. WARNER. I cannot answer that.

The CHAIRMAN. The gentleman from Kentucky asks to have a letter read which is not in the possession of the Clerk.

Mr. BLACKBURN. Will the gentleman from Wisconsin let me have the use of the letter?

Mr. BRAGG. No, sir; I will read it myself when I get the floor.

Mr. BLACKBURN. Well, I ask to incorporate this letter as a part of my remarks.

The CHAIRMAN. Is there objection to allowing the gentleman to incorporate the letter as a part of his remarks? The Chair hears no objection.

The letter is as follows:

Annual report of Brevet Lieutenant-Colonel R. N. Scott, U. S. A.

WAR DEPARTMENT, *September* 1, 1879.

SIR: The preparation for publication of the Official Records of the War of the Rebellion has steadily progressed since the date of my last report; but the amount of labor involved in examining the mass of records stored in this city, in making judicious selections from them, and in the verification of the copies made, can hardly be appreciated by those not immediately connected with the War Department.

The records of the Union armies are very complete. They have been thoroughly examined for the years 1861 and 1862, and in part for the later years of the war. The confederate records are yet very incomplete; they are kept in insufficient space, and have never been so indexed or catalogued that they could be systematically examined. A catalogue is now being made.

The War Department agent for the collection of confederate records (General Marcus J. Wright) has been successful in the discharge of his duties. By gift or loan many very valuable documents have been placed at the disposal of the Government. The Southern Historical Society has given us free use of its important collection. Through the courtesy of Generals Johnston and Pemberton we have now the inside history of the siege of Vicksburgh and the confederate side of the campaigns of Atlanta and of the Carolinas. Generals Wheeler, Jones, and Ruggles, among others, have also placed valuable papers at our disposal. In fact, a general disposition is manifested among the ex-confederate soldiers to contribute material for the official history of the war. There are some three or four collections of confederate records held for sale, but I respectfully renew my objections to that method of procuring such property. It is submitted that there is no propriety in such purchases; that, strictly speaking, some of these records belong to the Government, and that the fact that the Government has refrained from seizing them ought to induce the present holders to permit the authorities to make use of them. Moreover, the price of such things is purely arbitrary. The Government stands ready to publish to the world every duly authenticated document of historical value and documents thus published must carry greater weight than those appearing without such guarantee of genuineness. If the existing rule of making no purchases be adhered to, I believe that public sentiment will force every important confederate document into the hands of the Government.

At my urgent solicitation an ex-confederate officer has been employed as one of the clerks in my office. The necessity for having some one familiar with the *personnel* of the confederate armies has long been apparent; but the appropriations have not justified the employment of additional clerks until now. The gentleman selected is specially qualified, and was vouched for by distinguished men of both the great political parties.

As yet Congress has made no provision for the publication of any of the records. In my judgment some such publication is now desirable. A publication of the Official Records of the War of the Rebellion for the period ending December 31, 1861, can be made in eight octavo volumes, of (excluding maps) eight hundred pages each, and the cost of composition and stereotyping, if the work is done at the Government Printing Office, would not exceed $9,000. The further cost of the publication would, of course, depend upon the number of copies printed, the quality of the paper, and the style of binding. No estimate is made for the publication of maps because they should be prepared and published under the direction of the Chief of Engineers, and should form a separate series. It is suggested that any money appropriated for this purpose be made available till the work is actually completed.

I beg to invite your attention to so much of my report of September 30, last, as refers to the manner in which the war records should be published, and with all deference I respectfully urge that a publication of the formal reports of military operations, segregated from the correspondence, orders, returns, &c., immediately connected therewith, would, while it simplified the labor of the compiler, prove a most unsatisfactory arrangement of the matter to be published. The arrangement that I propose would record every military event not only as an isolated fact, but as an incident of the campaign to which it belonged, in chronological order; would give the correspondence, &c., immediately connected with such military events therewith, and would, as far as possible, give both the Union and confederate versions of any event or controversy in the same volume.

I desire especially to invite your attention to the question of extra compensation to Messrs. Kirkley and Tasker, of the Adjutant-General's Office, whose special services in connection with the war records have before been brought to your attention. Their assistance in my work is extra duty to them and most valuable to my office. It obviates the necessity for another clerk in my establishment, and there seems to be good reason for some substantial recognition of it.

The force now employed in my office is as follows:

CLERKS.

Class 4	2
Class 3	1
Class 2	1
Class 1	1
Class $1,000	2
Copyists	12

PRINTING OFFICE.

Foreman	1
Pressman	1
Compositors	6
Assistant messengers	2
Watchman	1
Agent	1
Total	31

Very respectfully, your obedient servant,

ROBERT N. SCOTT,
Brevet Lieutenant-Colonel, United States Army.

To the SECRETARY OF WAR.

The CHAIRMAN. Debate on the pending amendment is exhausted. The *pro forma* amendment was withdrawn.

Mr. BRAGG. I renew the amendment.

The CHAIRMAN. The Chair feels under obligation from what has passed to recognize the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I renew the formal amendment.

Mr. YOUNG, of Ohio. I object to the incorporation of that letter in the speech of the gentleman from Kentucky unless it is read now.

The CHAIRMAN. The gentleman is a little late with his objection. The gentleman from Ohio has been recognized.

Mr. YOUNG, of Ohio. I called for the reading of the letter at the time.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HOOKER. Nobody objects to the letter being read. It will be read as soon as a copy can be obtained. It has been sent for. The objection comes too late.

Mr. KEIFER. Mr. Chairman, I am sorry that the distinguished gentleman from Kentucky, [Mr. BLACKBURN,] who was so very full of information on this subject, did not give us some information as to the precise nature and character of these private papers said to be held by the legal representatives of the confederate Generals Bragg and Polk. I think we ought not now to commence purchasing purely private papers. Gentlemen seem to have assumed that it is essential to the completion of the history of the war that we should have the private papers of generals in the army. My distinguished friend from New Jersey [Mr. ROBESON] appears to think it necessary to have the private papers of these two generals in order to complete a chapter of the history of the war.

Mr. HUNTON. Will the gentleman allow me a question?

Mr. KEIFER. Certainly.

Mr. HUNTON. Are you afraid to trust the Secretary of War to cull out from these papers such as are necessary to the history of the war? for as I understand the clause, it amounts to nothing more than that.

Mr. KEIFER. I think we all have a great many papers which might be regarded by some people as valuable contributions to the history of the war. But I am speaking of the character of these papers. If they are purely private papers held now by the representatives of those two generals, we ought not now at least to commence making the purchase of such papers. On the other hand, if it has been understood by the Committee on Appropriations in inserting this clause in the bill that it includes the official papers appropriated and treated and regarded as private papers of these two officers, we ought to know that fact.

Mr. REAGAN. Allow me to correct the gentleman. The reference was to their being private property—not private papers.

Mr. KEIFER. Well, the gentleman undertakes to correct the language of the bill. The bill provides:

The Secretary of War is authorized to negotiate with the legal representatives of the late confederate Generals Bragg and Polk for the purchase of their private papers relating to the late war, and said Secretary shall report thereon at the next session of Congress.

These are purely "private papers" according to the language of the bill. Now, in the first place I do not believe that these generals, Bragg or Polk, had at the time of their death private papers which give any peculiar history of the war. If they had official papers—if they had in their possession official reports of battles, which were kept and treated and regarded as strictly private papers, and if these are not to be obtained by gift, by donation or by allowing them to be copied for the purpose of publication, ungracious as it might seem not to deliver them to the Government, then, rather than go and seize them, I would pay for them. But I am not prepared from the information furnished here now to say there are any such papers held by these persons. There is a rumor going about that some persons, professing to represent these two distinguished officers of the confederate army, have gathered up official papers of various kinds referring to the campaigns made by those officers and are held by them for the purpose of speculation under this clause.

Mr. BLACKBURN. Negotiation is alone to be with the legal representatives of these officers. I undertake to assure the gentleman that the widow of one and the children of the other own the papers in both cases, and they are to be the beneficiaries under this clause.

Mr. KEIFER. Are they the present possessors?

Mr. BLACKBURN. Yes; they are the present possessors and are to be the sole beneficiaries.

Mr. KEIFER. Under that assurance of course I do not press the other point any further.

But I wish to say in justification of this officer of the United States who is said to be in favor of seizing these papers that there never came any such suggestion from Colonel Scott to seize any person's private papers anywhere. I have his letter in my hand, and I propose to read all that relates to the subject. I do not understand there is a syllable in it which relates to the subject of seizing private papers of any person:

There are some three or four collections of confederate records held for sale, and I respectfully renew my objection to that method of procuring such property. The collections referred to are collections of official papers that were prepared during the war.

Then he says:

It is submitted that there is no propriety in such purchase, as, strictly speaking, some of these records belong to the Government; and the fact that the Government has refrained from seizing them ought to induce the present holders to permit the authorities to make use of them. Moreover, the price of such things is purely arbitrary.

Now, does the gentleman from Kentucky claim there is anything more in this letter on the subject of seizure?

The CHAIRMAN. The gentleman's time has expired.

Mr. WILLIS. I will take the floor, and, if recognized, I will give my time to the gentleman from Ohio.

Mr. BRAGG. I desire to have the floor.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin.

Mr. KEIFER. I wish to add a word or two more and then I will yield the floor.

The CHAIRMAN. By unanimous consent the gentleman can proceed.

There was no objection.

Mr. KEIFER. I will not occupy the whole of the time which has been granted to me by unanimous consent; but I wish to be understood fairly about this whole matter. I am in favor of purchasing official papers even, which give a record of the war on the confederate side, if we cannot procure them otherwise. But I believe with Colonel Scott, of the Army, that all official papers, all orders, all official reports of battles, everything that was connected with the confederate war office, belonged at the close of the war not to any individual member of the confederate government, but became a part of the records which belonged to this Government. Certainly no person ought now to be permitted to speculate on them, for by the terms of the surrender of the confederacy they became a part of the property of the Federal Government.

I wish to add, Mr. Chairman, to the credit of the living officers of the confederate army of all kinds, civil and military, they handed over those papers to the General Government. The Government might have seized and taken those which belonged to it, but, as suggested by Colonel Scott, it refrained from seizing many of the papers which fairly belonged to it.

Mr. GIBSON. With the permission of the gentleman, I will interrupt him but for one moment. In many cases, to my personal knowledge, the families of these deceased generals employed agents and clerks to travel over the Southern States to collect authentic papers and make a record of them. This, of course, was done at great expense, and I think, no matter what opinion gentlemen may have whether these are private or official papers, it cannot be denied that the legal representatives possessing these papers should be paid at least for the expense and trouble which they were at in collecting and collating these papers and for the care which they have taken in preserving them.

Mr. KEIFER. The answer to that seems to me to be this. If the legal representatives of these persons traveled over the country and gathered papers which belonged, under terms of the surrender, to the Government of the United States, thus preventing the Government of the United States getting them and preserving them among the records where they ought to have gone, then they are not entitled to any remuneration, and it is a matter of speculation which ought not to be encouraged. But, if there is no other way to get them, and I would not resort to seizure, I would pay for them. But I hope before this clause is passed, if we do not strike it out, the word "official" will be inserted in place of "private."

[Here the hammer fell.]

Mr. BRAGG. I hope, Mr. Chairman, that this amendment will prevail. We have appointed distinguished officers to collect and to collate all the official information relative to the war, for the purpose of making such a body of records that the future historian might be able to write a complete and perfect history of that war. We have done what few other nations would have done. We have gone on carefully to collect all statistics, all data, all information which could be procured from confederate sources for the reason that we desire to do justice to those men who defended the confederate cause. We wish to place upon the pages of history the true and accurate account of the motives, the reasons which governed, with the purposes they had in view—everything that actuated them in carrying on the war to break down the old government and restore a new one in its stead. In doing that we have a right to ask the aid of all confederate authority, of all confederate officers, of men living in the confederacy, that they shall yield every assistance in their power to aid the Government in carrying out the publication of a work which is to do justice to them; and when we are advised by the officer who has this matter in charge that the direct effect of our bidding for the purchase of papers here and there is to impede the proper collection of the material necessary for the preparation of the work we ought to heed it and not to be carried away by the gush of eloquence talking about what has been done by the dead and the glories that surround the memories of men who are gone.

I respect the memory of that fiery bishop who threw away his miter and seized his saber to protect his cause, and I respect, too, the Government that protects, as far as it can, the correspondence and reports which would do justice to him in discarding the miter and going into the field in support of his convictions. I respect also, Mr. Chairman, the memory of my namesake, General Bragg, but I believe that both of these gentlemen, if living, would scorn and scout the idea of Representatives here in Congress peddling out their collections of official or private papers to the highest bidder, just as hucksters peddle out cabbage in the market. I have got sick and tired of all this talk of our desire to spare the memory of the dead and procure an honest and impartial history of the war, and at the same time reach out with both hands to get money before they will contribute a document or anything which is essential for the protection of their own reputations.

Mr. HAWLEY. Mr. Chairman, I do not desire to prolong this debate. I would not consume time in the discussion of this proposition but for the fact that the gentleman from Kentucky in his remarks saw fit to allude to the republican members of the Appropriations Committee and their action upon this subject, which induces me to make a remark or two.

What is the necessity for this provision in this bill? The living confederate officers have, I think I may say without an exception, considered it a matter of justice to their comrades, and I may say a point of honor, to place all the records or official documents in their control at the disposal of the Government, to aid in perfecting a record of the war. I do not attempt to say what any man may think is due to his own honor or that of his associates, but it is generally assumed that they ought to furnish these records, and I believe they have done so.

But now come the executors or others representing the widows and heirs of these deceased officers, and it is alleged and believed that they have accumulated a large mass of papers and records, which it is claimed have cost a considerable sum of money to compile and preserve. These may be of great importance. That we can only ascertain by an investigation. Now, I am willing to go as far in that direction as this amendment proposes. I am willing to say to the Secretary of War that he may inquire concerning these papers and ascertain the truth of the claim, and report the result to Congress—report whether money has been expended in collecting and preserving those documents, what value they have as records, what price is demanded for them, and whether the Government shall proceed to get control of them. I am willing to say that much.

Now, as to the claim that these are private papers—distinctively private—and ought not to be purchased. It is not always easy to say precisely what are private papers and what are official records. The purely official papers of the confederate officers belong to the Government, but it may not always be easy to get possession of them.

General Polk may have sent an official report of a battle to Richmond and at the same time sent a semi-private letter to Jefferson Davis, which would be more important to history than his bare official statement.

While living confederate officers, so far as I know, have done all they ought in the way of giving their papers freely, I am willing as regards papers in the hands of executors representing the estates of deceased officers, that the Secretary of War, as is here provided, may inquire into the matter and report whether we ought to give anything for such papers or not.

Mr. WHITTHORNE. I desire simply to say a word to the House, and that merely personal.

The CHAIRMAN. Debate on the amendment is exhausted. The gentleman can only speak by unanimous consent.

Mr. WHITTHORNE. Then I ask unanimous consent.

There was no objection.

Mr. WHITTHORNE. I am induced by the remarks of the gentleman from Wisconsin [Mr. BRAGG] to say a word to the committee. That gentleman seeks to put the representatives of General Bragg and the representatives of General Polk in the position of hucksters. He spoke of them as if they were trading, as it were, upon the reputations of General Bragg and General Polk. It is such an intimation I desire to deny and repel.

Sir, it was my good fortune, early in life, to know Bishop Polk. I know his family, and to-day have the honor to represent some of them; with his and their reputation I am somewhat allied. God Almighty, in my judgment, never has made a better or a purer man than Bishop Polk. Representatives upon this floor may differ as to the merit or glory of his actions, but, sir, for the rectitude of his motives and the purity of his actions in the historic struggle referred to he appealed to his God and to his country, and in the cause that he espoused he willingly sacrificed his property and his life.

Sir, that family that are now charged with being hucksters once rolled in wealth, in affluence, and in luxury. To-day there are in property none hardly so poor, but yet in high honor none so rich; and the private papers that they have of General Polk are a part of their estate. It may be if they were in the huckstering business the publishers of this country would demand to know their price. But they are jealous of his reputation as Americans; since from the dawn of our Revolution of Independence to the present moment their name is with high honor and estate written on the brightest pages of American history. And I say, speaking for them, that they desire, when the history of the war is written in the future, that not a "huckster" shall write it, but that the iron pen of history shall be held by the historian of our common country; and if their ancestor has made mistakes let the impartial judgment of his country hereafter pronounce that verdict; but if what he did was to follow the teachings of the fathers of his country, let history so record and acquit him.

It is in that spirit alone that this appeal to Congress, if it is an appeal at all, is made. The object is that when the history of this greatest war the world has ever seen shall be written, justice shall be accorded alike to the victor and the vanquished, and that every good and heroic deed shall remain a common heritage for this Republic, which I trust God in his wisdom will perpetuate forever and forever.

Mr. McCOOK rose.

The CHAIRMAN. Debate cannot proceed further upon the amendment except by unanimous consent.

Mr. KEIFER. I offer an amendment to perfect the section which it is proposed to strike out, as follows:

Amend by striking out the word "private" and inserting in lieu thereof the word "official."

Mr. ROBESON. I desire to be heard on that amendment. I desire to do what little good I can to the clause as it stands in the bill; and therefore my remarks will be solely practical. If these are not private papers in some sense so that they can be held as private property they ought not to be and cannot be purchased. But they are private papers, as I understand. They are the private duplicates, the pressed copies, the duplicate order-books, the semi-official letters that are in the hands of the representatives of these generals, and make a part of these estates, the public records upon those matters being lost and destroyed; and these are to be supplied from that source.

Mr. KEIFER. I wish to ask the gentleman from New Jersey [Mr. ROBESON] how he knows these papers are mere copies of official papers; and further, if they are, whether they are not still official papers?

Mr. ROBESON. I think not; and I have personal information with regard to some of them.

Mr. BLOUNT. We will know what they are before we are called upon to pay for them.

Mr. ROBESON. Yes, sir. I am acquainted with the representative of one of these generals. He is a gentleman of the highest honor and highest sense of propriety. For himself he would be willing not only to give up the papers, but to undertake the work of their compilation for the benefit of the memory of his relative. But he represents a penniless widow and orphans who work for their daily bread.

Now, if these be private papers in any sense that they belong to private estates, and I believe they are, they cannot be seen under the provisions of the Constitution without a search warrant, which cannot be had without a criminal suit—if they are such, then let us examine them and pay for them. Do not let us ask poor people to be generous while we fail to be just.

Mr. BLOUNT rose.

Mr. HOOKER. I desire to call the attention of my friend from New Jersey to one point.

Mr. BLOUNT. I believe I have the floor; and I move that the committee rise for the purpose of closing debate on this paragraph and all amendments thereto.

The motion was agreed to.

The committee accordingly rose; and Mr. HUNTON having resumed the chair as Speaker *pro tempore*, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move that the House now resolve itself into Committee of the Whole for the further consideration of the sundry civil appropriation bill. Pending that motion I move that all debate upon the pending paragraph and all amendments thereto be limited to one-half minute.

The motion to limit debate was agreed to.

The motion to go into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SIMONTON in the chair.

The CHAIRMAN. The committee now resumes the consideration of the sundry civil appropriation bill. By order of the House all debate upon the pending paragraph and all amendments thereto is limited to one-half minute. The first question is upon the amendment of the gentleman from Ohio, [Mr. KEIFER,] to strike out the word "private" and insert the word "official" before the words "papers relating to the late war."

Mr. McCOOK. I ask consent to have read as a portion of my remarks a letter of General Marcus J. Wright.

Mr. GIBSON. I object.

Mr. McCOOK. I hope the gentleman will not object; it is a letter of an ex-confederate soldier.

Mr. GIBSON. I insist upon my objection.

Mr. WHITE. Would it be in order to have read in this connection the letter of Colonel Scott?

The CHAIRMAN. It would not be, without unanimous consent.

Mr. BLACKBURN. That letter is already in the RECORD.

The question was taken upon the amendment of Mr. KEIFER; and it was not agreed to.

The CHAIRMAN. The question recurs upon the motion of the gentleman from Ohio, [Mr. WARNER,] to strike out what will be read by the Clerk.

The Clerk read as follows:

And the Secretary of War is authorized to negotiate with the legal representatives of the late confederate Generals Bragg and Polk for the purchase of their private papers relating to the late war, and said Secretary shall report thereon at the next session of Congress.

The motion to strike out was not agreed to.

Mr. WARNER. I think this is wrong in principle; but since the committee has refused to strike out this portion of the paragraph, I think it but just to include the papers of another general, General Hood, who died leaving ten orphan children.

Many MEMBERS. No debate.

Mr. WARNER. I move to amend the paragraph by inserting after the word "Bragg" the word "Hood."

Mr. McCOOK. I move to amend the amendment by inserting after the word "Polk" the words, "and of General Kearney, of the Federal Army." If we are to go into this thing, we ought to have all these papers, and the widow of General Kearney has very valuable papers.

The amendment of Mr. McCOOK was agreed to, upon a division—ayes 68, noes 11.

Mr. BRAGG. I move to amend by inserting the name of "Reno" after "Kearney."

The amendment was not agreed to, upon a division—ayes 22, noes 50.

The question was taken upon the amendment of Mr. WARNER as amended, and it was not agreed to.

Mr. HOOKER. I would inquire what goes into this paragraph now?

The CHAIRMAN. Nothing has been inserted. The amendment of the gentleman from Wisconsin [Mr. BRAGG] to the amendment of the gentleman from Ohio [Mr. WARNER] was not adopted; but the amendment of the gentleman from New York [Mr. McCOOK] to that amendment was adopted. Then the committee rejected the amendment as amended, and consequently the whole falls.

Mr. BRENTS. I move to insert as a new paragraph that which I send to the Clerk's desk.

The Clerk read as follows:

For the completion of the necessary buildings and repairs at Fort Vancouver, the headquarters of the Department of the Columbia; and at Fort Walla Walla, to render the same adequate and suitable for the occupation of the forces now stationed thereat, $25,000 each, making $50,000 in all.

Mr. CLYMER. I make the point of order on that amendment that there are no buildings in process of completion at these points, and no appropriation has been made for them within the memory of man; and therefore there is no authority of law for this amendment.

Mr. BRENTS. I think the gentleman is mistaken in that respect. I know that my memory does not run back very far, and I can remember that some appropriations have been made.

Mr. CLYMER. Then I make another point of order: that there is pending now before this House a bill for this same purpose.

Mr. BRENTS. But a moment on the point of order. The Chair ruled on the very first amendment offered to this bill that where an appropriation had been made for the construction of a building, it was in order to move an amendment providing for the construction of the appurtenances and approaches to that building. Applying that rule here, I think the first point of order made by the gentleman from Pennsylvania [Mr. CLYMER] is not well taken. This military post has been established by law, and of course a military post includes all the necessary buildings for the accommodation of the troops at that post.

Mr. BLOUNT. Are there any buildings in process of construction?

Mr. BRENTS. Until the whole system of buildings is completed to make the post a complete post, the work cannot be considered as completed. The Chair overruled the point of order made against the very first amendment moved to this bill, upon the ground that the amendment was in continuation of a work already begun. Applying that rule to this case, I think the point of order is not well taken; one building does not constitute a military post.

Mr. CLYMER. Then there is the other point of order.

Mr. BRENTS. In regard to the other point of order, if the gentleman abandons this one——

Mr. CLYMER. I do not abandon it.

Mr. BRENTS. There have been appropriations made for both of these posts.

The CHAIRMAN. Is there a bill pending before this House for this purpose?

Mr. BRENTS. I will ask the Clerk to read the bill, and I think the reading will answer the question of the Chair. The appropriation in my amendment is not the same as in the bill, and the amendment is not so broad and not for the same purpose, as I think the Chair will see when the bill is read.

The Clerk read as follows:

A bill (H. R. No. 4871) for the construction and repair of officers' quarters at Vancouver Barracks.

Be it enacted, &c., That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $56,000 for the construction and repair of officers' quarters at Vancouver Barracks, in Washington Territory; the said sum to be expended under the direction of the Secretary of War.

Mr. BRENTS. The Chair will see that the bill is for a specific purpose, while the amendment is for an entirely different purpose. It may be kindred to the bill, but is not identical with it in any sense. I do not think it is necessary to comment further on that point of order.

Mr. CLYMER. If the Chair deems it necessary, I would like to be heard further on the point of order.

The CHAIRMAN. Does the gentleman from Washington state that these two propositions are for entirely separate and distinct objects?

Mr. BRENTS. I think the Chair can determine that from an examination of the bill and the amendment which I submit for the consideration of the Chair. I will say, however, that the two propositions are not identically the same. The estimates made for the purposes embraced in the bill far exceed the appropriation sought by this

amendment, which is only to provide for a work the necessity of which is immediate and pressing, a work which must be completed before another session of Congress.

Mr. CLYMER. In order to determine this question, I beg leave to have read a letter on the subject from the War Department.

Mr. BRENTS. Yes, sir; I would like to have that letter read.

Mr. CLYMER. It will show that these two propositions are for the same thing.

The Clerk read as follows:

WAR DEPARTMENT,
Washington City, May 19, 1880.

SIR: Referring to House bill No. 4871, appropriating $56,000 for the construction of officers' quarters at Vancouver Barracks, Washington Territory, I have the honor to invite your attention to the inclosed copy of report of the commanding general Military Division of the Pacific, dated March 8, 1880, submitting estimates for improvements at headquarters Department of the Columbia and at Vancouver Barracks, and recommending an appropriation of $70,000 to cover all alterations and new structures thereat.

This recommendation is concurred in by this Department.

Very respectfully, your obedient servant,

H. T. CROSBY,
Chief Clerk, for the Secretary of War in his absence.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

The CHAIRMAN. The Chair desires to ask the gentleman from Washington Territory a question. Are the public works mentioned in the amendment and in the bill different or are they the same?

Mr. BRENTS. Several estimates and reports were sent in by the Secretary of War—three, I think, separate estimates for separate purposes. The amendment, it will be seen, provides simply for one purpose—for building for immediate use——

The CHAIRMAN. Are there now at the point designated buildings in course of construction for which appropriations have been made?

Mr. BRENTS. I cannot say that any one single building is incomplete; but I say that the whole series of buildings necessary for the immediate accommodation of the forces that have been sent there within the last three months are incomplete. These buildings, which were evidently contemplated in the first place, have become now a matter of necessity and should be completed.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Support and improvement of the Leavenworth military prison, Fort Leavenworth, Kansas: For purchase of subsistence stores, oil, wicking, and fuel for heating and cooking purposes and running machinery, $28,165.

Mr. DOWNEY. I move to amend by inserting after the clause just read what I send to the desk.

The Clerk read as follows:

After the word "dollars," in line 660, insert:

Whereas, after an adjudication of the claims arising under what is known as the Geneva award by the tribunal created for that purpose, there remains in the Treasury a large amount to the credit of that fund, and the distribution of which is now clamorously contended for by pretended claimants who are without legal or equitable rights; and

Whereas it is within the power of Congress to dispose of the balance of the fund in any manner which may be deemed best for the public good;

That therefore the balance of the Geneva award fund remaining in the Treasury, amounting to $9,553,800, be, and the same is hereby, appropriated, to be expended under the direction of the Secretary of the Treasury, as follows: First, for the purchase of a site and the erection thereon in the city of New York of suitable buildings for the accommodation of emigrants from European and other foreign countries, $2,000,000. Second, for new public buildings for the United States, as follows, namely:

Kansas City, Missouri	$100,000
Rochester, New York	300,000
Toledo, Ohio	250,000
Jackson, Mississippi	100,000
Lynchburgh, Virginia	75,000
Brooklyn, New York	600,000
Quincy, Illinois	150,000
Greensboro, North Carolina	50,000
Maysville, Kentucky	60,000
Minneapolis, Minnesota	100,000
Denver, Colorado	200,000
Houston, Texas	75,000
Clarksburgh, West Virginia	40,000
Peoria, Illinois	400,000
Portsmouth, Ohio	40,000
Owensborough, Kentucky	50,000
Louisville, Kentucky	200,000
Altoona, Pennsylvania	60,000
Saint Joseph, Missouri	100,000
Hannibal, Missouri	75,000
Jefferson City, Missouri	100,000
Sacramento, California	100,000
Oxford, Mississippi	50,000
Jefferson, Texas	50,000
Dallas, Texas	75,000
Augusta, Georgia	100,000
Greenville, South Carolina	50,000
Marquette, Michigan	100,000
Key West, Florida	125,000
Lancaster, Pennsylvania	75,000
Syracuse, New York	100,000
Leavenworth, Kansas	100,000
Tyler, Texas	50,000
Galveston, Texas	125,000
San Francisco, California	200,000
Frankfort, Kentucky	100,000
Wilmington, North Carolina	65,000
Brownsville, Texas	60,000
Poughkeepsie, New York	60,000
New Albany, Indiana	75,000
Charlotte, North Carolina	$50,000
Council Bluffs, Iowa	100,000
Boise City, Idaho	50,000
Cheyenne, Wyoming	200,000
Yankton, Dakota	250,000
Olympia, Washington Territory	200,000
Prescott, Arizona	200,000
Santa Fé, New Mexico	218,800
Helena, Montana	250,000
Salt Lake City, Utah	250,000

The balance of said fund, amounting to over $1,000,000, to be expended by the Secretary of the Treasury for any of the objects expressed in this bill other than those above enumerated.

Mr. BLOUNT. I raise a point of order that this amendment is not in order on this bill. Clause 3 of Rule XXI——

The CHAIRMAN. The Chair is very clearly of opinion that the point of order is well taken.

Mr. DOWNEY. I desire to be heard on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DOWNEY. On the point of order I have a right to be heard.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DOWNEY. The gentleman from Georgia contends—— [Cries of "Vote!" and "Regular order!"]

Mr. WHITE. I insist that the gentleman from Wyoming has a right to speak on the point of order.

The CHAIRMAN. The Chair is satisfied that the point of order is well taken, and has sustained it.

Mr. WHITE. I insist that the gentleman has a right to be heard.

Mr. HAYES. The Chair has ruled on the point of order, and there is nothing before the Committee of the Whole.

Mr. DOWNEY. I appeal from the decision of the Chair. I desire simply to be heard on the point of order. I can show that this is in order within the meaning—— [Cries of "Regular order!"]

The question was put, "Shall the decision of the Chair stand as the judgment of the committee?" and the Chairman declared that the ayes seemed to prevail.

Mr. DOWNEY. I call for tellers.

Tellers were not ordered.

So the decision of the Chair was sustained.

The Clerk read as follows:

For tobacco for issue to prisoners on special and excessive hard labor, $400.

Mr. GILLETTE. I move to strike out the clause just read.

The motion was not agreed to.

Mr. GILLETTE. I move to amend by striking out the words "tobacco for issue" and inserting in lieu thereof the word "awards;" so as to make the clause read: "for awards to prisoners on special and excessive hard labor, $400."

Mr. KEIFER. I make the point of order that the motion to strike out this clause was made and voted upon; and the action of the committee in negativing that motion is equivalent to approving the clause in its present form. I submit, therefore, that it is not subject to further amendment.

Mr. GILLETTE. I think the gentleman's position is certainly untenable, because while the Committee of the Whole decided not to strike out the clause, they did not decide to retain it precisely in its present form. I wish to say a word with reference to the merits of my amendment.

The CHAIRMAN. On the point of order the Chair will remark that it would have been better to have perfected the clause before the vote was taken on the motion to strike out.

Mr. KEIFER. Refusing to strike out is equivalent in parliamentary form to accepting what the committee refused to strike out; and therefore what was inserted by a vote of the committee cannot be stricken out.

The CHAIRMAN. The Chair is inclined to think it would be a hard rule, although a good and proper practice.

Mr. KEIFER. It is the rule, nevertheless.

The CHAIRMAN. The gentleman will quote some authority on the subject, if he has any.

Mr. KEIFER. Jefferson's Manual is the authority. But I will withdraw the point of order, as we may get along quicker in voting it down than in discussing the point of order.

Mr. GILLETTE. I should like, Mr. Chairman, to satisfy the House that it would be a mistake on our part to vote for this appropriation to furnish rations of tobacco to prisoners. A few years ago rations of whisky were issued by the Government. We have got beyond that. Yet we still deal out tobacco, which is the twin brother of whisky. I object to giving this narcotic poison to these men. It is a thousand times better to give them the money, and let them do as they please with it. If they must have tobacco, give them this money and let them buy it, but if they prefer to purchase books, or anything else, my amendment allows them to do it. I do not believe this Government should dabble with tobacco in any such way. In our revenue laws we put an immense tax upon it, because regarded as an article of luxury; and, if it be an article of luxury, why distribute it to convicts. Our prisons are designed to be reformatory institutions, and yet we here pander to the worst, most disgusting, most debasing habits of criminals.

Mr. YOUNG, of Tennessee. I wish to make a single remark in reply to the gentleman from Iowa. The Federal Constitution and the constitutions of most of our States forbid cruel and unusual punishments. Most men who get in prison at some period of their lives

have been in the habit of drinking whisky or chewing tobacco, and if they should be deprived of one or the other of those articles it would be that cruel and unusual punishment forbidden by the Constitution. [Laughter.]

Another suggestion I make to the gentleman from Connecticut is this: that if he proposes to start out in a general reform against the chewing of tobacco or the drinking of whisky, then we had better make both a crime and put all offenders found doing either in the penitentiary, and have done with it. [Great laughter.]

Mr. WEAVER. I move to strike out the last word, and I do so for the purpose of saying, as I understand the amendment of my colleague his object is not to deprive the prisoners of the use of tobacco or anything of that kind, but, as many of them do not chew tobacco, all should be treated alike, and in order to do that they should be given commutation in money where they do not chew tobacco. Those who do not chew should receive commutation in money, and those who do chew can take the money and buy the article where they can buy it cheapest.

Mr. SPRINGER. They may buy whisky with it.

Mr. WEAVER. They will be able thus to get the best article or the article which will best suit them. I withdraw my formal amendment

Mr. GILLETTE's motion was disagreed to.

The Clerk read as follows:

Support of National Home for Disabled Volunteer Soldiers: Current expenses, including construction and repairs: For the Central branch, for the Eastern branch, for the Northwestern branch, for the Southern branch, and for barracks and other necessary construction purposes, for clothing of extra sizes and underclothing, for out-door relief and incidental expenses, $1,033,560.83: *Provided*, That so much of this amount as may be necessary, not exceeding $30,000, is hereby authorized to be used for the purpose of rebuilding Memorial Hall at Dayton, Ohio: *Provided further*, That General John M. Palmer, of Illinois; General William B. Franklin, of Connecticut; and General Charles W. Roberts, of Maine, are hereby appointed managers of the National Home for Disabled Volunteer Soldiers to fill vacancies which occurred on the 21st day of April, 1878; and General Martin T. McMahon, of New York; General John Love, of Indiana; and Major David C. Fulton, of Wisconsin, are hereby appointed managers of said National Home, to fill vacancies which occurred on the 21st day of April, 1880.

Mr. VAN VOORHIS. Mr. Chairman, I make a point of order on the following proviso of this bill:

Provided further, That General John M. Palmer, of Illinois; General William B. Franklin, of Connecticut; and General Charles W. Roberts, of Maine, are hereby appointed managers of the National Home for Disabled Volunteer Soldiers to fill vacancies which occurred on the 21st day of April, 1878; and General Martin T. McMahon, of New York; General John Love, of Indiana; and Major David C. Fulton, of Wisconsin, are hereby appointed managers of said national home, to fill vacancies which occurred on the 21st day of April, 1880.

My first point of order is that there is a joint resolution now pending before this House, reported back by the Committee on Military Affairs, which, in form and substance, is identical with this proviso. I will ask the Clerk to read Rule XXI, subdivision 4.

The Clerk read as follows:

4. No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House.

Mr. VAN VOORHIS. I send to the Clerk's desk to be read the joint resolution and the report of the committee thereon.

The Clerk read as follows:

Joint resolution appointing managers of national military homes for disabled volunteer soldiers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons be, and they are hereby, appointed managers of the national homes for disabled volunteer soldiers:

General John M. Palmer, in the place of General Thomas O. Osborne, of the State of Illinois;

General William B. Franklin, of Connecticut, in the place of General Benjamin F. Butler, of Massachusetts;

General Charles W. Roberts, of Maine, in the place of Governor Smyth, of New Hampshire;

All of said appointments to date from April 21, A. D. 1878, the expiration of said terms.

Also, General Martin T. McMahon, in the place of General Martindale, of New York;

General John Love, of Indiana, in the place of Judge Hugh L. Bond, of the State of Maryland;

Major David C. Fulton, of Wisconsin, in the place of Dr. E. B. Wolcott, deceased;

All of said appointments to date from April 21, A. D. 1880.

Report, to accompany H. R. No. 282.

The Committee on Military Affairs, to whom were referred sundry resolutions in relation to the appointment of managers of national military homes for disabled volunteer soldiers, having duly considered the same, for report thereon present the accompanying joint resolution appointing as said managers as follows:

General John M. Palmer, of Illinois.
General William B. Franklin, of Connecticut.
General Charles W. Roberts, of Maine.
General Martin T. McMahon, of New York.
General John Love, of Indiana.
Major David C. Fulton, of Wisconsin.
All of which is respectfully submitted.

Mr. VAN VOORHIS. I now ask the Clerk to read clause 3 of Rule XXI.

The Clerk read as follows:

3. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment, which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

Mr. VAN VOORHIS. It will be seen that the joint resolution and the proviso are identical. I also make the point that this provision changes existing law and does not retrench expenditures. It changes existing law, because the law requires the managers of the National Home for Disabled Volunteer Soldiers to be appointed by joint resolution. This is not a joint resolution; it is a rider on an appropriation bill.

The act establishing this institution was passed March 21, 1866. It provides for a board of managers, consisting of twelve, which includes the President, the Chief-Justice, and the Secretary of War. The term of office is six years "and until others are appointed." Section 2 contains the following clause:

The term of office shall be for six years, and until others are appointed in their places, after the first election, which shall be of three for six years, three for four years, and three for two years.

It then provides for new elections, as follows:

New election shall be made by joint resolution of Congress, and vacancies by death, resignation, or otherwise shall be filled in like manner.

In conformity to this law, on the 21st day of April, 1866, by a joint resolution of the two Houses of Congress, the managers of this national asylum, or national home, as it is now called, were appointed. General John H. Martindale, of New York; Horatio G. Stebbins, of California; and George H. Walter, of Wisconsin, were appointed in the third class, which had two years to serve.

On March 12, 1868, John H. Martindale, Hugh L. Bond, and Erastus B. Wolcott were appointed by joint resolution, the term of the third or two-year class having expired.

On June 9, 1870, Louis B. Gunckel, Jay Cooke, and John S. Cavender were appointed by joint resolution, Thomas Osborn having been appointed to fill a vacancy by joint resolution December 14, 1864.

On January 23, 1873, Frederick Smyth, Benjamin F. Butler, and Thomas O. Osborn were appointed by joint resolution.

On February 26, 1875, General John H. Martindale, Judge Hugh L. Bond, and General Erastus B. Wolcott were appointed by joint resolution. The term of these managers will not expire until February 26, 1881.

In every instance save one the managers have been appointed by joint resolution. That instance occurred in 1878, when Colonel Leonard A. Harris, of Ohio, democrat; General Richard Coulter, of Pennsylvania, democrat; and Colonel John A. Martin, of Kansas, republican, were appointed by a rider on an appropriation bill. But the point of order was not made, as I am informed, and that case furnishes no authoritative precedent. At that time, June 20, 1878, the Senate was republican, and I am informed the selection of these gentlemen was a matter of mutual agreement between the democrats and republicans, and therefore no point of order was made.

This rider changes existing law in two respects:

First. It changes the manner of election, which the existing law requires to be by joint resolution. This bill is not a joint resolution.

Second. It changes existing law as to the term of office of one class of managers. General Martindale and his class were appointed February 26, 1875, and their term of six years does not expire until after six years from that period, or until February 26, 1881. There will be no vacancy until then. This law cuts off their term and shortens it nearly one year.

It is quite true that the previous six-year terms of these gentlemen expired April 18, 1874, but there was no election until February 26, 1875, and by the very terms of the act they held "for six years or until others" were "appointed in their places." Their term, therefore, was extended beyond the six years, until Congress had made another appointment.

Nothing is plainer than that the new appointment begins from its date, and continues six years. This rider, therefore, legislates out of office three men whose term does not expire until next February.

I trust this point of order will be sustained. If, however, the Chairman is unable to rise to that degree of independence and impartiality necessary to sustain this point of order, then I trust the committee will sustain an amendment striking this proviso out of the bill.

General John H. Martindale, who resides in my district and was a distinguished officer of the Union Army in the late war, has been a manager of this institution from the beginning. He has taken an enthusiastic interest in it and in the disabled soldiers who are supported by it. He devotes large time and his great ability in rendering this institution successful, in accomplishing the desired result.

One million dollars annually is expended for this institution. It requires great labor on the part of the managers and great knowledge of the institution, its business, and its needs, to make a good manager. It is not a place for idlers. It is the policy of the law that there shall at no time be in this institution less than six men who have served three full years. If this rider passes there will be left only two men who have served as long as two years.

Mr. BRAGG. Mr. Chairman, I will endeavor to answer the points of order of the gentleman from New York, but not perhaps in the order in which they were made.

First, as to the point that this changes existing law: By turning to page 4522 of the RECORD of June 12, 1878, volume 31, upon the con-

sideration of the sundry civil bill, in the Forty-fifth Congress, the following proceedings took place in reference to this matter:

Mr. MAISH. I move in line 907 to insert the following:

"That Colonel Leonard A. Harris, of Ohio; General Richard Coulter, of Pennsylvania; and Colonel John A. Martin, of Kansas, be, and are hereby, appointed managers of the National Home for Disabled Volunteer Soldiers, to fill vacancies occasioned by the expiration of the terms of office on the 21st day of April, A. D. 1876, of Louis B. Gunckel, of Ohio; James S. Negley, of Pennsylvania; and General John S. Cavender, of Missouri."

Mr. PAGE. Is not that liable to the point of order?

Mr. KEIFER. I make the point of order that it is new legislation.

The CHAIRMAN. It does not change any existing law. The law provides for filling these vacancies.

Mr. MCCOOK. The general statute provides, I think, that Congress shall fill the vacancies as they occur.

The CHAIRMAN. The Chair is of the opinion that the amendment is not a change of existing law, and therefore overrules the point of order.

That is the decision of the Chairman of the Committee of the Whole of this House upon the same identical question presented in the Forty-fifth Congress upon the election of these officers.

Mr. MILLS. Will the gentleman permit me to interrupt him to ask who was then in the chair?

Mr. BRAGG. The gentleman from Kentucky [Mr. CARLISLE] occupied the chair.

So much for that point of order. As for the next, subdivision 4 of Rule XXI, which is relied upon, is as follows:

No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House.

That rule must be taken as it reads. That simply provides no bill under consideration before this House shall receive an amendment to it by a proposition of a member of the House while it is under consideration. But that does not apply here. There is no amendment offered to this bill, and therefore this does not come within the provision of the rule, which excludes any amendment from being added to a bill. This is an original proposition, an original bill, and not an amendment to a bill, and the subdivision which is relied upon applies only to such cases as are amendments or propositions to be added to a pending measure. The Chairman will see that the point of order made here might be made on this bill if that was an amendment and not an original bill; but this is no bill pending which is to be added to another bill pending, but a proposition in a pending bill. The rule in making provision in manner to guard against an amendment to a bill of the character specified must be taken and construed as it reads, and with its obvious intent and purpose.

As to the next point, that the terms of office of these gentlemen have not expired. My friend from New York seems to go upon the theory that if some Congress away back in 1795 had said in a law that all future Congresses should elect in a particular manner, and all elections must be held at a particular time, that it would be out of the power of any subsequent Congress to change that rule. That is simply the force and effect of his argument. The original bill authorizing the appointment of trustees for these homes provides the method of their selection. First it confers the power to make the appointment upon Congress, and that is the gist of the bill. It is the kernel. Now, what is the husk? After you have passed that it authorizes their appointment by joint resolution. That is, it prescribes the form of law which future Congresses are to be governed by. Now, I submit, sir, that the substance of the law is all that governs Congress and all that is binding upon this Congress until it be repealed, and that the form is not a matter of substance, and may be disregarded by the present or any intermediate Congress in the passage of that bill, or by any subsequent Congress.

That same law provides that these trustees or managers shall be divided into three classes, and that each of these classes shall expire in alternate years so as to give the board at all times a majority of experienced members of the board. The present board are a board, with the exception of two, who are holding over a term of years; and if we are limited to the appointment for six years, we might nullify the whole provisions of the law which require an election to be made, so that the terms of the different classes of trustees will expire at different times. To preserve experience and knowledge in the board and in its management is a very great essential, disbursing as they do, as it appears by this present bill, over a million of money and having charge of all the disabled soldiers of the United States.

I will show this committee that such is the construction that has been placed upon this law by the Congress itself.

In volume 17 of the United States Statutes at Large, page 417, it will appear that Frederick Smith of New Hampshire, Benjamin F. Butler of Massachusetts, and Thomas O. Osborne of Illinois, are made managers of this corporation by an act of Congress and not by joint resolution. And perhaps in this connection it is proper for me to say that a joint resolution and an act of Congress are in effect the same. They are required to be signed by the President of the United States; their legal effect is the same; and to all legal intendment the legislation is the same. But whether it be the same or not, the Forty-second Congress elected three of these gentlemen who are raising this objection and they held their seats as trustees of the home under an act of Congress and not under a joint resolution. That act shows that this House have given construction to the original act which I now submit as the proper construction to be given to it by the present committee.

Mr. BRIGGS. I wish to say one word.

Mr. BRAGG. I will occupy but a moment longer; I have not finished yet.

The title of an act, if it were called a joint resolution, is no part of the act. It is the substance of it that controls, and not whether you call it a bill, a concurrent resolution, or a joint resolution. To show that same construction, let me state that the Forty-fifth Congress, on the sundry civil bill, which will be found in volume 20 of the Statutes at Large, page 223, appointed Colonel Harris, Colonel Coulter, and Colonel Martin trustees of the Soldiers' Home. So that we have a majority of the board under the construction by Congress itself, of its own act, elected by acts of Congress, and not technically by joint resolutions.

I come now to the other point, that they hold for six years. I submit, Mr. Chairman, that although the act provides that they shall hold for six years, yet a subsequent Congress had a right to say they could hold for one year or for four years, or for five or for ten years. They have a right to limit the tenure of office. It is not like a constitutional provision which fixes what the tenure of office is. But the tenure of office is fixed by Congress; and all subsequent appointees to that office may have their terms increased or limited at their time of appointment within the discretion of Congress.

Mr. CALKINS. Will the gentleman allow me a question?

Mr. BRAGG. In a moment; as soon as I have finished this point.

Mr. CALKINS. I desire to make my suggestion to the gentleman just here. If they do limit the tenure of office, it is a change of existing law and therefore open to the objection.

Mr. BRAGG. I knew, if the gentleman talked before he waited to hear the point I was going to make, he might suppose I was making an argument that was tending to such a result.

Mr. CALKINS. I always like to hear the gentleman from Wisconsin.

Mr. BRAGG. If the gentleman will hear me through, he will hear from me on that proposition.

By turning to volume 18 of the United States Statutes at Large you will find that John H. Martindale, who by proxy makes the point of order that his term of office is six years, was appointed to fill a vacancy in a term of office that expired on the 21st day of April, 1880. And hence, when we fill the vacancy, I will say to my friend from Indiana we are not altering the exisiting law. Here is the act which appoints Mr. John H. Martindale:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons be, and are hereby, reappointed managers of the National Home for Disabled Volunteer Soldiers, under the provisions of the act entitled "An act to amend an act entitled 'An act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States,' approved March 21, 1866"—John H. Martindale, of New York; Hugh L. Bond, of Maryland; and Erastus B. Wolcott, of Wisconsin; whose terms expired on the 21st of April, 1874.

Approved February 26, 1875.

So, by the very terms of the act appointing these gentlemen they are appointed to fill the vacancy of that term which expired on the 21st day of April, 1874, and the following term which commenced on the 21st day of April, 1874, and ceased on the 21st day of April, 1880. So the legal construction of the act is they were appointed to fill their own vacancies which had existed from the 21st day of April, 1874, and which would exist again on the 21st day of April, 1880.

Mr. BRIGGS. I wish to say just a word on this question of order. In the twenty-first rule, which has been read, it is provided that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures, &c.

Now, sir, the first question of inquiry here is, what is the existing law in relation to the appointment of the managers of the soldiers' home? About this there can be no mistake, for the law is embodied in the Revised Statutes in section 4826.

What does this law provide? It provides that the managers of the soldiers' homes shall be appointed by joint resolution. That is the law, and that is the law that binds the action of this House to-day. That is the law under which these officers are to be chosen, and there is no other law relating to it. It is proposed now to provide for the election of certain of these officers in this appropriation bill. In so far as it thus provides it changes the provisions of that section of the Revised Statutes and is liable to the objection brought against it. That objection is so clear, so plain, and so palpable that no man, unless he be blind, can fail to see it.

One other thing, as bearing on this question. Here is our Committee on Military Affairs, the members of which committee are presumed to know what the law is in relation to the appointment of these managers. That committee has brought in a joint resolution, in conformity with the law, providing for the election of these very officers. Now, it is perfectly clear, if anything can be clear, that this proviso in this appropriation bill is liable to the point of order and should be ruled out.

Mr. KEIFER. Mr. Chairman, I have to-day had the misfortune to hear points of order made from the other side against the provisions offered in the interest of science, and the Chair has been appealed to to apply the strictest possible construction of the rule in order to exclude provisions which we desired to incorporate into this bill and

which were entirely germane to it. But up to the present moment I find the leaders of the other side and the men who have charge of this bill sitting silent here and allowing new legislation to be incorporated in this bill which has no sort of relation to or connection with an appropriation bill.

And I learn, as a mode of arguing before the House of Representatives, that it is sufficient in the estimation of the gentleman from Wisconsin [Mr. BRAGG] to show that previous Congresses have violated the provisions of the charter under which this National Home was organized; and that is held up as a sufficient argument why the Chair should rule that this Congress should again violate the law. He gave you not one, but two and three instances where the original law, which provided that these men should be selected by joint resolution, had been disregarded. Hence he says that you are now bound to disregard that old act, that old charter, and to hold that this provision is not in violation of the law, and does not change the operation of that law. Some of us have never learned, even up to this time, with the aid of all the singular propositions submitted here, that that is sound logic.

Mr. BRAGG. Will the gentleman allow me to ask him a question?

Mr. KEIFER. One thing further. The gentleman says that on a former occasion I made a point of order against a similar provision to this, which it was proposed to incorporate in an appropriation bill, and the point of order was ruled against me. And he now says that you, Mr. Chairman, ought to rule the same way, notwithstanding that the rule under which the point of order is now raised was not in existence at all at that time. He waives that all aside and says that the old ruling is sufficient for you.

Mr. BRAGG. Will the gentleman allow me to ask him a question here?

Mr. KEIFER. Certainly.

Mr. BRAGG. While you are trying to make a distinction between a law which is a joint resolution and a law which is an act, are you not subjecting yourself to the criticism of my Lord Coke: *qui hæret in litera, hæret in cortice.*

Mr. KEIFER. The gentleman will draw his own conclusion about that; he will arrive at his own conclusion in regard to that matter. I will say, in the first place, that I have not yet undertaken to show any such distinction; but I will do so now.

The provision of the original charter which required the appointment of these trustees of the National Home was doubtless put in the form it was in order to exclude us from doing the very thing which it is proposed to do here to-day. And although the gentleman says there is no distinction between a joint resolution and an act of Congress—and I agree with him that after they are passed they are in effect the same—there is a vast distinction between a joint resolution and an act when we come to deal with the subject here in the form of legislation.

You cannot incorporate a joint resolution in an appropriation bill as a rider, even with all our strange rulings, up to this time. It is sufficient now to say that under the third clause of Rule XXI such a provision as this is expressly excluded. That has been read once, but I beg to call the attention of the Chair to it again:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures—

"Retrench expenditures" how?—

> by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Is this provision germane to the sundry civil appropriation bill? Gentlemen on the other side say yes, because under a former rule of this House it was ruled to be in order; not under the present rule, for they do not deign to read the present rule.

But last of all we get the most singular and strange declaration that comes from the examination by the gentleman from Wisconsin [Mr. BRAGG] of the joint resolution which was passed February 26, 1875. He reads the whole of that joint resolution which appointed three of these trustees, and says that, although the joint resolution says nothing about it, yet those three men were appointed for terms which began long before the joint resolution was passed. Now I beg of the gentleman to point out where there is a syllable in that joint resolution of February 26, 1875, which indicates that the three persons there named, Martindale, Bond, and Wolcott, were appointed for terms of office which began at an earlier day than the one upon which that joint resolution was approved.

It is true, Mr. Chairman, (and I beg your careful attention to this,) the bill recites that the term of office of these three persons as originally fixed expired some time before. But the original act, which has been read by the gentleman from New York, provides, as the Chair will remember, that the term of office shall be for six years, and until their successors are appointed. Now, all that this bill undertakes to state is that their term (referring to their six years' term) had expired some time before. But their lawful terms would continue forever if Congress did not act. So we have here three persons whom it is proposed to appoint to take the place of persons who have been appointed and whose term does not expire until February 26, 1881. It is proposed by this very proviso to shorten the term of Martindale, Bond, and Wolcott.

Mr. BRIGGS. The Revised Statutes also provide that the term of office shall be for six years, and until their successors are appointed.

Mr. KEIFER. I am told that in the Revised Statutes the same language is used that was used in the original act when the national home was incorporated.

Now, to summarize my points briefly. This provision is not germane. It does not retrench expenditures. It has no reference to cutting down salaries or expenditures, or amounts of money appropriated by the bill. It undertakes to limit the terms (fixed by law or by joint resolution, as gentlemen prefer) of three of the present managers of the home. More than that, it undertakes in an appropriation bill to violate the terms of the original act and to appoint these persons. I have not claimed that if an act is passed making these appointments it will not have the same effect as a joint resolution; but I do claim that this is not a joint resolution, and hence is not in accordance with the existing law, and is in effect new legislation.

Mr. SPARKS. Mr. Chairman, it is a mistake when any gentleman asserts that the term of any one of these officers expires next February. Their terms all expired April 21, 1880.

Mr. VAN VOORHIS. Will the gentleman explain how he reaches that conclusion?

Mr. SPARKS. I will with the greatest pleasure. General John H. Martindale, whose term is the only one in question, was appointed a manager for the term beginning April 21, 1868, and has continued in office for that and a subsequent term, making twelve years from April 21, 1868, to April 21, 1880.

Mr. KEIFER. General Martindale was appointed February 26, 1875, by an act passed in the Forty-third Congress.

Mr. SPARKS. I am reading and make this statement from the joint resolution of March, 1868.

Mr. KEIFER. It does not make any difference what the gentleman is reading. Here is the law.

Mr. SPARKS. I have it before me.

Mr. KEIFER. No, sir, you have not.

Mr. SPARKS. Yes, sir; I beg the gentleman's pardon. I have the joint resolution before me and from which I read that General Martindale was appointed at the time I have mentioned to fill a full term of six years. I read from the joint resolution—

> That Erastus B. Wolcott, of Wisconsin, and John H. Martindale, of New York, be and are hereby, appointed managers of the National Asylum for Disabled Soldiers, under the provisions and conditions of the third section of an act approved March 23, 1866, for six years, from the 21st day of April, 1868; and that Hugh L. Bond, of Maryland, be, and is hereby, appointed a manager to serve out the unexpired term of Horatio G. Stebbins, of California, resigned.

This act was approved March 12, 1868. You will perceive, Mr. Chairman, that the term commenced April 21, 1868. I have not the next act appointing General Martindale; but he could not have been appointed under any circumstances so that his two terms would extend beyond twelve years. By the act I have read he was appointed for six years; and I presume that at the end of six years he was again appointed.

Mr. VAN VOORHIS. That is where the gentleman makes his error.

Mr. SPARKS. His second term must have expired on the 21st of April last.

Mr. VAN VOORHIS. Not at all.

Mr. SPARKS. Why not?

Mr. VAN VOORHIS. His term began February 26, 1875—his last term.

Mr. SPARKS. Oh, no! I have read the law showing that he was appointed for a full term of six years, beginning April 21, 1868.

Mr. KEIFER. Will the gentleman read the law of February 26, 1875, passed more than six years after the law which he has read?

Mr. SPARKS. He was appointed April 21, 1868, for six years, as the joint resolution says.

Mr. VAN VOORHIS. For six years, and until his successor should be appointed.

Mr. SPARKS. Precisely; and whether he was reappointed precisely at the end of the six years or reappointed shortly before or after that time can make no difference, for his second term must have expired on the 21st of April, 1880, he being continuously in service since April 21, 1868.

Mr. VAN VOORHIS. But he was not reappointed at the end of six years.

Mr. SPARKS. Well, I do not care when he was reappointed, he could not have filled more than the two full terms in any event, for there have been but the two terms of that office to fill.

Mr. VAN VOORHIS. But the law says he can.

Mr. SPARKS. If the gentleman cannot see this point I cannot give him the information or the capacity which will enable him to see it. But I repeat that General Martindale was appointed for a term of six years, beginning April 21, 1868. Now, I do not care what has happened since then. By no possibility under the law could his term fail to have expired on the 21st of last April, because, the term being for six years, and he appointed for a term commencing on the 21st of April, 1868, his first term must have expired April 21, 1874. Then if he was appointed for another term of six years that term also must have expired April 21, 1880. Of course he was not appointed for a less term than six years, for that is the regular term, and he has been continuously in service.

Now, Mr. Chairman, this provision in this bill with reference to the

appointment of managers of the soldiers' homes I did not suppose was going to arouse any excited feeling. It is true when the managers were originally appointed the party sitting on the other side of the House had all of them.

Mr. VAN VOORHIS. I make the same point of order against the gentleman from Illinois that the gentleman from Wisconsin made against me, that he is discussing the merits of the pending proposition.

Mr. SPARKS. I do not know that it is discussing the merits of the proposition. I am simply stating a fact, with a view of getting at the point of order. Since then, as their terms have expired, gentlemen on this side of the House have insisted on having a little share in it. Yet so fair in this matter were we that a part of these gentlemen, whose names are now before us, have been nominated from that side of the house. Where is the gentleman from Connecticut, [Mr. HAWLEY?] I do not see him on the floor. One of his nominations is included here in this bill. The gentleman from Connecticut [Mr. HAWLEY] suggested, by way of resolution in the House, the name of General Franklin, and we have accepted him and insist most cordially on his confirmation.

Mr. VAN VOORHIS. Has the gentleman from Connecticut the right to appoint?

Mr. SPARKS. He suggested it as a member of Congress. His resolution presented to the House was that General Franklin should be appointed, and his resolution went to the Committee on Military Affairs, by which it was adopted. And that gentleman is included in this bill.

Mr. VAN VOORHIS rose.

Mr. SPARKS. I hope the gentleman from New York will not insist upon taking any more of my time with his constant interruptions. I have been disposed to give him about one-half of it, that ought to satisfy him.

I repeat that the terms of all the managers whose places we are now attempting to fill have expired. The only question therefore is, how shall their successors be appointed? The gentleman from New York [Mr. VAN VOORHIS] cited clause 4 of Rule XXI. That has no possible relation to this matter, as my colleague on the committee [Mr. BRAGG] has already shown. That clause relates solely to amendments, and does not touch this matter at all, for this clause now under consideration is a part of the original bill as reported by the Committee on Appropriations.

It is true there is another bill or rather joint resolution reported from the Committee on Military Affairs on this subject which has been stated correctly as now on the Calendar of this House. But the bill pending before us has as much right to be here as the joint resolution would have if it were before us. The fourth clause of Rule XXI has no earthly relation to the matter, as that simply relates to amendments.

The next point is, that this legislation changes the existing law. Wherein does it change existing law? Is there no law for the appointment of these managers of the Soldiers' Home? We have had them ever since the organization of these institutions. Yes; of course there is a law for it, but it is insisted that that law says they shall be appointed by joint resolution.

Now, what is the difference between the practical or substantial effect of a joint resolution and what is commonly known as an act, such as this here proposed? There is no earthly difference. Then, are we to be precluded from making these appointments in this bill for the reason that these managers have heretofore generally been appointed by joint resolution? I certainly think not. There being a law for their appointment, there is no infringement of any rule of the House in selecting and appointing them in the manner proposed to be done by this bill. The original act, it is true, said they should be appointed by joint resolution, but between which and a common act such as is here proposed there is no earthly, practical difference. There is some question, it appears, about the term for which these gentlemen should be appointed. I desire now to direct attention to the first appointment, which was by joint resolution in 1866. I will read it:

That the following persons be, and they are hereby, appointed managers of the National Asylum for Disabled Volunteer Soldiers, under the provisions and conditions of the third section of the act approved March 23, 1866: Richard J. Oglesby, of Illinois, Benjamin F. Butler, of Massachusetts, and Frederick Smythe, of New Hampshire, of the first class, to serve six years; Louis B. Gunckel, of Ohio, Jay Cooke, of Pennsylvania, and P. Joseph Osterhaus, of Missouri, of the second class, to serve four years; John H. Martindale, of New York, Horatio G. Stebbins, of California, and George H. Walker, of Wisconsin, of the third class, to serve two years.

There we find that General Martindale was appointed from April 21, 1866, to April 21, 1868, and by the joint resolution I read awhile ago he was reappointed for six years more from and after April 21, 1868.

Mr. Chairman, there is no question if this proposition were moved as an amendment to the sundry civil appropriation bill it would be out of order, under clause 4 of Rule XXI. But there is just where the mistake is made by my friend from New York. This is not an amendment to the sundry civil bill, but is a part of the bill itself, a part of the bill now pending in this House as reported by the Committee on Appropriations—a committee competent and authorized to report it under our rules. It may be subject to the exception gentlemen take to what they call riders on appropriation bills; but it is competent under the rules. If moved as an amendment it would be different of course.

Mr. VAN VOORHIS. I wish to ask the gentleman if that amendment was not incorporated in the bill on motion of the Committee on Military Affairs?

Mr. SPARKS. No, sir; by no manner of means. This is no amendment to the bill at all. And I say there is just where the gentleman has made his mistake. This is a part of the sundry civil appropriation bill as reported from the Committee on Appropriations itself, and is no amendment, and therefore clause 4 has no reference whatever to it.

Now, the only real question having anything in it, made by the gentleman from New York and insisted upon by the gentleman from Ohio [Mr. KEIFER] is, does this legislation change existing law? For whether it should be reported from the Committee on Appropriations as a part of the bill, or sought to be incorporated as an amendment to it, makes no difference as respects that clause of the rule, for if it changes existing law, of course it would be subject to the objection they raise.

But it does not, as I have already shown, change existing law. There is a law, in the first place, establishing these homes, and there is a law appointing the managers for them by joint resolution; and further than this, we find that the Forty-fifth Congress, acting upon this identical matter of appointing a portion of these managers, adopted precisely the mode that we now propose in this sundry civil bill to appoint them. In that case, to which the gentleman from Wisconsin has already referred, the sundry civil appropriation bill had a clause in it identical with this. Objection then, as now, was made, the question discussed, and decided adversely to the point of order, and decided, too, by one of the most competent parliamentarians this House can furnish. I refer to the gentleman from Kentucky, [Mr. CARLISLE.] The question was raised then and there on a case identical with this, and by the ruling of that presiding officer settled. That bill was sanctioned by the House, went to the Senate, passed the Senate, and received the approval of the President and became a law. We are simply attempting to-day to do identically the same thing and in the same way.

I say, therefore, Mr. Chairman, that there is not only a law as a basis for what we are doing, but there is precedent for it directly in point; and, further than all, we are appointing six of the most prominent soldiers of the late war, men of the highest characters, who have served with credit, honor, and glory to their country.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. WHITTHORNE having taken the chair as Speaker *pro tempore*, a message was received from the Senate, by Mr. BURCH, its Secretary, announcing the adoption of the report of the committee of conference on the bill (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes.

It further announced the passage of the following bills, with amendments; in which concurrence was requested:

A bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned or captured bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade; and

A bill (H. R. No. 3351) for the relief of Rev. Paul E. Gillen.

It further announced the passage of the following bills, in which concurrence was requested:

An act (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri;

An act (S. No. 1320) for the erection of a building for the use of the United States at Toledo, Ohio; and

An act (S. No. 1252) to define the terms of office of chief supervisor of election.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. WEAVER. Mr. Chairman, I shall not occupy the attention of the committee but for a very brief time. I wish to make a single remark in reference to wherein I believe this bill changes existing law. The law is plain that this board of managers shall hold office for six years and until their successors are elected.

I want to get this one illustration before the committee, and I am through. Suppose my friend on my right was appointed to one of these positions for six years. Congress fails to elect his successor until he has held the office for eleven years and eleven months. In the twelfth year my friend on my left is appointed. Now, this law provides that the term shall be six years. It does not provide to fill a vacancy. Is it possible, then, that his term will lawfully run back over the term lawfully filled by my friend on my right? I trow not.

It certainly changes existing law. The law, as I have said, does not provide for filling a vacancy, but in express terms it provides that the appointee shall hold his office for six years and until his successor is elected. And with that law so plain and unequivocal in its terms I cannot conceive how any man can for a moment have any doubt upon this question.

Mr. ROBINSON. Mr. Chairman, I dislike very much to take up the time of the committee in the discussion of this point, but I want to say a word or two in connection with remarks of gentlemen who have preceded me.

Now, in the first place, by way of preface, I may say that I cannot accept the proposition of the gentleman from Wisconsin, who, as I understand, alleges that every gentleman who has addressed the House on this question in opposition to it has appeared by proxy for somebody. I appear as nobody's proxy; neither do I recognize the soundness of the suggestion made by the gentleman from Illinois [Mr. SPARKS] when he says he cannot understand why anybody should raise the point of order, even if it was a good one.

Mr. SPARKS. I hope the gentleman will permit me to correct him. I did not use language quite so broad as that.

Mr. ROBINSON. I certainly will do the gentleman no injustice in my remarks, and will be glad to have any correction if I am in error.

Mr. BRAGG. If the gentleman will pardon me, I wish to state that I remarked simply to the gentleman from New York who spoke for Mr. Martindale that Mr. Martindale spoke here by proxy.

Mr. ROBINSON. Very well; I have no desire to do either gentleman injustice. I know that both the gentleman from Illinois and the gentleman from Wisconsin made their remarks before I had addressed the committee, and of course could not refer to me.

Mr. SPARKS. I hope the gentleman will let me explain, however, exactly what I did intend to say. My proposition was that I did not see why gentlemen should raise this objection, for the reason that the terms of all these officers had expired on the 21st of April last, and they ought to be filled by appointment.

Mr. VAN VOORHIS. You have a bill here now to do that.

Mr. ROBINSON. I have said so much simply that the position that may be taken by any gentleman here, and especially by myself, may not be misunderstood. I am interested in correct procedure in this House. I profess that I will stand by the chairman in a correct ruling upon a parliamentary proposition, even if he rules out the very proposition that I want to sustain by my vote. If I think he is right I will sustain him, if I stand alone, separate from all my party associates; because in no other way can we have a proper administration of the business of this House. I hope that in the discusion and consideration of this question, either from the floor or from the Chair, we will hold up that standard which I believe is the only true one. There is no question of party or personal preference about it.

I approach, then, the discussion of this question in that view, and I say very frankly that when the question was first opened I had the feeling that the point of order was undoubtedly good, that it ought to be sustained. But upon very careful reflection I think it is not good, and I want to state my reasons.

In the first place, it is said that this proposition changes existing law, because it stops the term of office of men already incumbent. I suggest upon a fair construction of the law it does not do so. The language of the original statute is that the term of office of these managers shall be for six years, and until their successors are chosen.

Now, I understand that to mean just the same as similar language in all statutes of that kind. It means the fixing of the terms of office to six years, but that there may be no lapse of authority the appointees shall continue when the six years expire until a new appointment is made; but when a new appointment is made it dates from the expiration of the term, and not from the time of appointment.

I suggest to the gentlemen who are familiar with the terms of office of town and county officers throughout the United States—and I think they will bear me out in my recollection—that when a man is appointed for a term of one year, and until his successor is chosen, that means that he will go out of office at the expiring of one year, say the 1st of April; but if the town or county meeting is not held for some days thereafter the officer takes his place when elected, but leaves it the next 1st of April or at the time fixed by statute; and so it is for a term of three years. I think there can be no doubt of it.

I say the law laid the time out in blocks of six years, and so often as a period of six years comes round so often do the terms of office terminate. But there shall be no lapse of power, because if Congress does not fill the vacancy the present holders continue till the vacancy is filled.

Mr. KEIFER. Will the gentleman allow me to ask him a question?

Mr. ROBINSON. Yes, sir.

Mr. KEIFER. I suggest to the gentleman that under the law there can be no such thing as a vacancy, but simply the right on the part of Congress to elect one man in place of another at the end of his term.

Mr. ROBINSON. My answer to that is the statute says the term of office shall be six years. Then I undertake to say that when Congress appoints a gentleman to that office it appoints him for that term, and nobody, I believe, understands that Congress intended that the term of office was to run on *ad infinitum*. If he takes that position, I antagonize him squarely.

Mr. BRIGGS. The gentleman from Massachusetts [Mr. ROBINSON] misquotes the statute.

Mr. ROBINSON. Then let it be read aright. Let the gentleman from New Hampshire read it.

Mr. BRIGGS. The statute provides that—

> The term of office of these managers shall be for six years, and until a successor is elected.

Mr. ROBINSON. I have cited that. I have given my argument for what it is worth and I pass it by. The gentlemen who are opposed to me in this matter say this changes existing law. Let us analyze that. Does this change existing law? They say the original statutes provides the election shall be by joint resolution. But we find that Congress on two other occasions has passed two acts appointing managers. Now, I submit that if this act will change existing law, then the two prior acts have changed existing law and the existing law is the act and this does not change it. If the joint resolution was the law prior to the passage of the act, then I submit to my friend the act either changed it or did not. If he says it changed it, then the act is the law now. If he says it did not change it, then this act does not change it. I leave him where he found himself.

Mr. KEIFER. I desire to say just a word.

Mr. BRAGG. I make the point of order on the gentleman from Ohio that he cannot speak twice on the point of order.

Mr. PHILIPS. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PHILIPS. I wish to know by what rule of this House these repeated and interminable discussions on points of order are allowed?

Mr. KEIFER. Is the gentleman from Missouri the keeper of the House?

The CHAIRMAN. The Chair will state that upon this question the Chair did desire very much to hear this question discussed, and if he has detained the committee too long by the discussion he can only say he is sorry for it and is ready now to make his ruling.

Mr. VAN VOORHIS. As I understand, there is no limit to a debate on the point of order as long as the chairman of the Committee of the Whole sees fit to allow it.

The CHAIRMAN. The Chair thinks it is necessary now to make his ruling.

Mr. SPARKS. The rule has always been that the Chair has permitted a reasonable amount of discussion on a point of order.

The CHAIRMAN. The Chair is satisfied in his own mind upon the question of order, and is now ready to make his ruling.

Mr. VAN VOORHIS. I ask the privilege of being heard for a moment longer.

The CHAIRMAN. The Chair does not want to be discourteous to any one, but he thinks it is a part of his duty to facilitate the dispatch of public business, and being ready to announce his decision he will proceed to do so.

Mr. KEIFER. The rule or the practice is that where a point of order has been submitted the gentleman submitting the point of order is permitted to close the discussion.

The CHAIRMAN. The Chair has not invited discussion, but simply the opinions of gentlemen and their statement of law and fact for his own information.

As the Chair understands it, the point of order is presented upon three distinct grounds. The first is: that the provision in the bill against which the point of order is made is obnoxious to clause 4 of Rule XXI, which reads:

> No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House.

This is not an "amendment," but it comes to the House from the Committee on Appropriations as a part of an original bill, and in the opinion of the Chair cannot be obnoxious to clause 4 of Rule XXI.

Again, it is insisted that this provision of the bill against which the point of order is made changes existing law, because it changes the method of the appointment or election of these trustees. And again, that it changes existing law because the term of service of the incumbents of the offices to which the persons named in the bill are to be appointed or elected have not yet expired.

Mr. VAN VOORHIS. The latter point applies only to one class of these officers.

The CHAIRMAN. The Chair is of the opinion that this provision does not change existing law. In the first place, the Chair does not think the act providing the method of electing these officers was an act binding upon subsequent Congresses as to the method of election. In this conviction the Chair is sustained by the fact that subsequent Congresses have adopted different modes of election. If, however, it is to be held that it was a law which bound subsequent Congresses as to the method of election, it would seem that Congress is no longer bound by it, because they have elected these managers in a different way several times, and therefore by implication have accomplished a repeal of the former law.

Mr. VAN VOORHIS. Without enacting anything in its stead.

Mr. KEIFER. Without changing the law.

The CHAIRMAN. The law must have been changed, because a different method of electing these managers has already been adopted by former Congresses, and that was an assertion by Congress of its right to elect these officers by bill and in an appropriation bill instead of by joint resolution. Again, a bill and a joint resolution are perhaps one and the same thing in the language of the law. Besides, the Chair relies with confidence on the ruling of a former chairman, Mr. CARLISLE, on this very question of order, to which he has been cited. As to the question concerning the term of office, the Chair thinks he is authorized by the face of this bill to assume that the term of office of the incumbents in whose places the persons named in this bill are to be elected has already expired, that there is a vacancy in those officers.

Mr. VAN VOORHIS. No, sir.

Mr. CLYMER. I submit that the gentleman from New York [Mr. VAN VOORHIS] is out of order in interrupting the Chair.

Mr. VAN VOORHIS. There are no vacancies except as to three of the officers.

The CHAIRMAN. The Chair hopes he may be allowed to state his ruling upon this question of order without further interruption. It devolves upon the gentleman making the point of order to show that these terms of office have not expired, that there is no vacancy. That has not yet been done to the satisfaction of the Chair. The Chair thinks that under the act of 1866 the offices of trustee were created for a term of six years. At the expiration of those six years, or term of office, if no new officers were elected the old officers hold over, but hold over into the new term, and when their successors were elected they were elected for the unexpired portion of that new term.

Mr. VAN VOORHIS. Suppose that somebody else was elected.

The CHAIRMAN. The Chair has overruled the point of order, and does not propose to discuss it.

Mr. VAN VOORHIS. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from New York appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. VAN VOORHIS. I ask to be heard on my appeal.

The CHAIRMAN. It is not debatable.

Mr. KEIFER. What rule provides that an appeal is not debatable?

The CHAIRMAN. Perhaps the Chair is mistaken about that.

Mr. KEIFER. I wish to be heard on that question.

Mr. VAN VOORHIS. And I wish to be heard.

The CHAIRMAN. The Chair will examine and see if the appeal is debatable in Committee of the Whole; if so, the Chair will hear the gentleman. [After a pause.] The Chair will state that in the House an appeal is debatable, and he will hear the gentleman from Ohio [Mr. KEIFER] any way.

Mr. KEIFER. The gentleman from New York [Mr. VAN VOORHIS] desires to be heard, and I will yield to him for the present.

Mr. VAN VOORHIS. I wish to be heard for a moment only; I do not desire to consume time. I will confine what I have to say chiefly to the point of order that the term of office of General Martindale has not expired. The Chair holds that by a fair construction of the law the term of office is six years, and that if a man holds over, the time that he holds over is into the new term. Now, the fallacy of that position is shown by this: suppose that instead of General Martindale a new man had been elected, would the holding over of Martindale subtract so much from the term of the new man? Of course it would not in such a case, and it is equally plain that it would not in the other. The term begins with the date of appointment, whether it be the first appointment or second. The time during which a manager holds over belongs to the old and not to the new term. Suppose that in February, 1875, some other man than General Martindale had been elected, when would the term have expired? Would his term extend back to April preceding? Not at all. It is utterly absurd to claim that. Gentlemen from Virginia know that this identical question arose there with regard to a judge in that State, and was decided contrary to the ruling of the Chair in this case. A judge who had been appointed to fill a vacancy was afterward elected for a full term, and the question arose whether the term began at the date of his election or whether the time which he served to fill the vacancy was to be counted as a part of his term under the election. The supreme court of Virginia held in that case that the judge took a full term from the time of his election.

I have never read that decision, but I have conversed with the gentleman from Virginia [Mr. JOHNSTON] about it. That gentleman, who is a member of the Committee on Military Affairs, and who is thoroughly familiar with the decision to which I have referred, took the ground, which in my judgment is impregnable, that General Martindale's term of office does not expire until next February.

Mr. SPRINGER. Was not General Martindale appointed in the first instance to fill a vacancy?

Mr. VAN VOORHIS. No, sir.

Mr. SPRINGER. Not in the first instance?

Mr. VAN VOORHIS. In the first instance General Martindale was elected for the short term of two years.

Mr. SPRINGER. Then there is such a thing as a term?

Mr. KEIFER. In the beginning of the history of the Soldiers' Home there were some short terms. After those ran out the term was six years.

Mr. SPRINGER. Then there are terms?

Mr. VAN VOORHIS. There cannot be any vacancy under this act unless a man dies or resigns, because the law says that the incumbent holds until his successor is appointed. General Martindale began his service as manager with the act of 1866. He has held the office ever since. He was reappointed February 26, 1875; and it is nothing but sheer pettifogging to say that his term has expired. It is an argument which becomes necessary in order to turn out a Union soldier and a good republican for the purpose of putting in a democrat. I am sorry that my friend from Massachusetts resorted to such sophistry, not, as he said, for the purpose of fairness to the other side, but, as I believe, for the purpose of toadying to that side of the House.

Mr. ROBINSON. Mr. Chairman, I very seldom have any occasion to rise here under such circumstances——

Mr. VAN VOORHIS. If I have done the gentleman injustice, I am very sorry for it. I have stated my impression of his position.

Mr. ROBINSON. I will submit to the House whether the gentleman has not done himself greater injustice than he has done me. I am willing to leave to the judgment of the House at any time my attitude and action on any question.

Mr. VAN VOORHIS. I am content to leave the matter there.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ROBINSON] is entitled to the floor.

Mr. ROBINSON. I have not any feeling about the matter——

Mr. VAN VOORHIS. If the gentleman can stand before any judge anywhere——

The CHAIRMAN. The gentleman from New York [Mr. VAN VOORHIS] is out of order.

Mr. ROBINSON. If the gentleman from New York has concluded I have nothing more to say.

Mr. KEIFER. Of course, Mr. Chairman, I do not want to take part in this little feeling that has grown up between the gentleman from New York and the gentleman from Massachusetts, [Mr. ROBINSON.]

Mr. ROBINSON. I have not any feeling about the matter.

Mr. KEIFER. When I heard the opening remarks of the gentleman from Massachusetts I knew in advance where he was going to land, for a man always prepares himself by first speaking of his own supreme virtue before he makes a lunge in some strange direction. I would not make this remark of the gentleman if he had not chosen to lecture me and all on this side of the House before he undertook to lay down his strange position of law, to sustain which he stopped by reading only a part of a paragraph.

The law fixing the terms of managers of the National Military Asylum says that the term shall be for six years and until a successor is elected. When the gentleman stopped after reading simply the provision that the term should be for six years, of course we knew he was preparing to spring into some great field of virtue.

Except in case of death or resignation there cannot be a vacancy in the office of manager of the Soldiers' Home. I submit, Mr. Chairman, that when in your ruling you undertake to say that there are terms for less than six years you do it by interpolating in the law what is not there. All laws that provide for filling vacancies, where vacancies can possibly occur, speak in terms of the unexpired term. But in all these laws—the original act and all subsequent acts, whether in the form of joint resolution or specific acts of Congress—there is not a word about the unexpired term. No man since the original appointments could be appointed for less than an entire term.

Now, let us suppose that General Martindale, instead of being appointed (if he was so appointed) as his own successor, had been appointed as the successor of some other person who had held the position for six years or longer. Do I understand the Chair to rule that this appointment, without anything said in the act about the term, would have been for a less period than six years? Of course that is what the Chair means to conclude, and that is what my distinguished friend from Illinois claims is the law. But we have decision after decision arising under State organic acts in this country all of them holding, in the absence of provision for filling unexpired terms, that the term means the time fixed in the organic act. And I venture here to say to the lawyers on this floor, at least to those who are not filled with partisanism or with supreme virtue, they cannot find a single law anywhere that has been construed otherwise, or a single constitution. There is not one which can be pointed out.

After appealing to my friends on this side of the House, simply as republicans without claiming anything more than belongs to me as a partisan, I now appeal to lawyers on the other side not to vote alone as partisans but to adopt and accept and carry out some of the plain virtue laid down by my distinguished friend from Massachusetts, who prefers some of these men in this bill to some who are to be legislated out.

The CHAIRMAN. The Chair thinks the discussion is now exhausted.

Mr. SPARKS. I stated distinctly the terms for which these managers were appointed had expired; and as the gentleman from New York has emphatically stated that it is not so with respect to General Martindale, I think I ought to be permitted to read the law and show that it is so with respect to him and the others.

The CHAIRMAN. It can only be done by unanimous consent.

Mr. SPARKS. Well, then, I distinctly state that these terms are out, and any lawyer who will read the acts or joint resolutions appointing them will admit it unless he wants to play the demagogue or deceive somebody.

The CHAIRMAN. The question recurs, Shall the decision of the Chair stand as the judgment of the committee?

The committee divided; and there were—ayes 98, noes 53.

So the decision of the Chair was sustained.

Mr. VAN VOORHIS. I move to strike out the proviso.

Mr. BROWNE. I move, in line 726, to strike out the name of General Charles W. Roberts, of Maine, and in lieu thereof to insert General Frederick Smythe, of New Hampshire.

Mr. BLOUNT. I move the committee rise for the purpose of closing debate.

The motion was agreed to.

Mr. BLACKBURN, as Speaker *pro tempore*, having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole House on the state of the Union had, according to order, had under considera-

tion the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole House on the state of the Union, and pending that motion I move that all debate on the pending paragraph and amendments thereto be closed in one half minute.

Mr. VAN VOORHIS. I move to amend by making it fifteen minutes, and I wish to say——

The SPEAKER *pro tempore*. Debate is not in order.

The amendment was disagreed to.

Mr. BLOUNT's motion was then agreed to.

Mr. BLOUNT. I now insist on my motion that the House resolve itself into committee.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. SIMONTON in the chair.

The CHAIRMAN. By order of the House all debate on the pending paragraph and amendments thereto is limited to one half minute.

Mr. BROWNE. I propose to offer as an amendment to this proviso the names of three gentlemen. Two of them are at present, and have been for a long time past, managers of the Soldiers' Home, and the other is not and has not been. There are six provided for by the bill.

The CHAIRMAN. The time for the debate under the order of the House has expired. The question first recurs on the amendment of the gentleman from Indiana.

The committee divided; and there were—ayes 44, noes 94.

So Mr. BROWNE's amendment was rejected.

Mr. KEIFER. I move to strike out the words "General William B. Franklin, of Connecticut," and in lieu thereof to insert "General Benjamin F. Butler, of Massachusetts."

The committee divided; and there were—ayes 33, noes 101.

Mr. WEAVER demanded tellers.

Tellers were ordered; and Mr. WEAVER and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 33, noes 116.

So the amendment was rejected.

Mr. WHITE. As there seems to be some difficulty between General Franklin and General Butler, I move to strike out "General Charles W. Roberts, of Maine," and in lieu thereof to insert "General Benjamin F. Butler, of Massachusetts."

The committee divided; and there were—ayes 14, noes 106.

So the amendment was rejected.

Mr. VAN VOORHIS. I move to strike out "General Martin T. McMahon, of New York," and in lieu thereof to insert "General John H. Martindale, of New York."

Mr. COX. Does not the gentleman know that General McMahon is a Union soldier and trustworthy man and gentleman?

The CHAIRMAN. Debate is not in order.

The amendment was rejected.

Mr. VAN VOORHIS's motion to strike out the proviso was then rejected.

The Clerk began to read the next paragraph.

Mr. BROWNE. I move to strike out the name of "General John Love, of Indiana," and in lieu thereof to insert "William W. Dudley." [Cries of "Too late!"]

The CHAIRMAN. The Chair thinks it is too late, as the committee refused to strike out the proviso.

Mr. BROWNE. Is it not still in order to move to strike out and insert?

The CHAIRMAN. The Chair thinks not.

The Clerk read as follows:

The Secretary of the Navy is hereby authorized to use any balances of appropriations heretofore made upon contracts not fully executed at the close of the present fiscal year to be applied to payments upon such contracts up to the time of their fulfillment, anything in sections 3690 and 3691 of the Revised Statutes to the contrary notwithstanding.

Mr. CONGER. I move to strike out the last word, and ask the Clerk to read paragraph 7 of Rule XVI.

The Clerk read as follows:

7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Mr. CONGER. Now, Mr. Chairman——

Mr. BLOUNT. I object to going back.

Mr. CONGER. I have about five minutes here, I think. I am not making a motion to go back. I am not one of the kind that go back or "crawfish" at all.

Mr. BLOUNT. I was not alluding to the gentleman's character at all, but exercising a right that I have on this floor.

Mr. CONGER. Now, Mr. Chairman, the gentleman from Indiana rose in his place before the Clerk had commenced the reading of the next paragraph and addressed the Chair. The Chair, from the manner of his locality, naturally looking that way, toward the other side, instead of this, would not be likely to have observed the gentleman when he rose.

The CHAIRMAN. The Chair desires to state that he did see the gentleman rise, but at the time, he is frank to say, that he did not know the rule was as it is.

Mr. CONGER. Then I withdraw my amendment. I only wished to have the attention of the Chair called to the construction of this rule.

The CHAIRMAN. The Chair in making the ruling was guided by what the gentleman from Ohio had said, who insisted that the rule was in effect substantially as the Chair had ruled. Relying upon that parliamentary knowledge of the gentleman which his long experience here had given him, and without carefully looking into the matter, the Chair informed the gentleman from Indiana that his amendment was not in order. If, however, the gentleman from Indiana regards himself as having been injured by the ruling of the Chair, the Chair will cheerfully rectify the wrong by going back, as he believes it is his duty to do.

Mr. BROWNE. I would like to have the RECORD show the amendment which I offered and the fact that the other side voted it down. This gentleman lost a leg at Gettysburgh, and has been going on crutches ever since.

The CHAIRMAN. The RECORD will doubtless show all that transpired in this connection.

The Clerk read as follows:

Navy-yards and stations:

Navy-yard, Mare Island, California: For continuation of work on stone dry-dock, $75,000.

Mr. BERRY. I offer an amendment to this paragraph.

The Clerk read as follows:

In line 754, strike out "$75,000" and insert "$150,000;" making it read:

"Navy-yard, Mare Island, California: For continuation of work on stone dry-dock, $150,000."

Mr. BERRY. I regret very much, Mr. Chairman, to take up the time of the committee after a discussion which has continued for such a long time here, and when the committee is worn out and desires to make progress upon this bill; and unless I deemed it my duty to offer this amendment and believed I have good reasons for presenting it I would not encroach upon the time of the committee with any remarks upon this subject.

It is true I will be met with the statement that $75,000 is the amount contained in the Book of Estimates for this work. But, sir, at the time those estimates were made the Department itself did not fully understand the extreme necessities of this case. That dry-dock there has been under progress for about eight years. The excavation is about thirty-five feet below the water line, and the water is only prevented from coming in by the wooden coffer-dam that surrounds the work. That dam, when constructed, was simply a temporary arrangement, as it was anticipated then that it would only remain until the work should be completed, which, under ordinary circumstances, would have been done within five or seven years at most. The dam being constructed of wood and iron, it is necessarily becoming weaker every day. The timbers are rotting away and the iron is being corroded and weakened, and it is liable at any time to go out and create a great loss and destruction of property.

I have here a report of the engineer in charge of the work and the superintendent, who while in this city made out a written statement and presented it to the Committee on Appropriations, showing them the urgency of the case; and upon consultation with the Secretary of the Navy, he, not understanding that the urgency was so great, stated that if the matter had been called to his attention at an earlier date he would have made a report recommending the Committee on Appropriations to increase the amount to $150,000. And he will, I have every reason to believe, when this bill comes to the Senate, if it is not amended here, recommend to the Senate Committee on Appropriations that this sum be increased to the amount here named. And why? Simply because $150,000, if properly expended, will place the end of the dock next to the coffer-dam in such shape that, if by the weakening of the coffer-dam it should give way, the dock itself would be protected; in other words, the end of the dock next to the tide would be so secured by the expenditure of $150,000 that we could then afford to go slow. I will take occasion to say here that for the want of appropriations that dock has not been pushed forward with that zeal or rapidity with which it should have been.

The necessity of the great commerce upon that coast demands that it should be speedily completed. We have an old floating dry-dock there that has been in use for twenty-seven years, and the expenditure last year upon that dock was $45,000—an amount which would have gone far to placing the new stone dock in suitable order for receiving vessels.

[Here the hammer fell.]

Mr. PHISTER obtained the floor and yielded his time to Mr. BERRY.

Mr. BERRY. I am very much obliged to the gentleman from Kentucky for his courtesy. I only want to say a few words in addition to what I have said. I wish to speak of the necessity of the completion of that dry-dock in the interest of commerce upon that coast and for the benefit of the Navy Department. As I stated, there was $45,000 expended upon that dry-dock last year. A portion of that money had to be taken by the Secretary of the Navy and diverted into other channels, to the detriment of other yards.

It is dangerous both to life and to property to place a first-class ship upon that dry-dock. If we have to continue to use that dry-dock the annual expenditure upon it would amount to a sum that ought not to be thrown away upon a dock that has been patched and pieced until it can be no longer made available. I insist that it is

in the interest of economy that this appropriation should be increased and that we should have a sufficient amount of money to place that end of the dry-dock in a state of security. And then if this House in its wisdom sees proper to delay the completion of that dry-dock, you can do it with safety. But no business man would suffer so valuable a piece of property as that to be in the condition it is and exposed to the dangers that that dock is exposed to.

Mr. DAVIS, of California. I move to strike out the last word. I rise simply to corroborate the statement that has been made by my colleague so clearly with reference to the economy and necessity of this appropriation. This stone dry-dock is already excavated to a depth of thirty-five feet below the level of the water, and it is protected from the influx of the water simply by a wooden coffer-dam, which has been standing now some eight years. It was intended only to stand some four or five years, the supposition being that the dock would be completed in that time.

The coffer-dam is rotten, and while the Government postpones the completion of this work it is obliged to maintain at great expense floating docks, which are some twenty-seven years old, to take its vessels up when they require repairs. If I were a business man and had the question before me to judge which was the most desirable for my business as a matter of economy, as a matter of safety, as a matter of prudence, and as a matter of business judgment, I could not hesitate for a moment whether to invest $75,000 or $150,000 in this matter of forwarding the work of the dry-dock.

One hundred and fifty thousand dollars placed properly at the end of the dock nearest the water will finish the stone-work so that the gates can be placed in position, and make it perfectly safe. That is the point I wish to impress upon the Committee of the Whole, that $150,000 placed at the outer end of the dock will make us perfectly safe, while with $75,000 that cannot possibly be done.

Mr. BLOUNT. I have but a few words to say upon this amendment. The law of Congress requires the Secretary of the Treasury to send in his estimates as to the wants of the Government for their information. We have given every single dollar that Department has asked in the Book of Estimates; and from the time we received the Secretary's estimates until this instant not a single recommendation has come to the Committee on Appropriations asking for a dollar more.

Mr. HARRIS, of Virginia. That will do, if you give all you are asked.

The amendment was not agreed to.

Mr. WAIT. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 754 insert as follows:

"For continuing repairs and improvements at the navy-yard, New London, Connecticut, in extending one of the buildings at same so as to furnish a drill-room and hospital for the use of the training-ships of the Navy, $30,000.

"For repair of the sea-wall at Gosport navy-yard, Virginia, $50,000. And for rebuilding temporary sheds to preserve timber at same, $75,000."

Mr. BLOUNT. I raise the question of order on that amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. BLOUNT. The amendment proposes substantially the construction of buildings; and the rule expressly provides that plans and estimates shall be sent before any building shall be ordered to be constructed. We have nothing of that sort.

Mr. WAIT. I do not agree at all with the gentleman from Georgia as to the point of order applying in this case. My claim is that a navy-yard as well as a fort is never completed, but that you may go forward all the time and constantly add to the one or the other just so far as the public necessity and the exigencies of the case require. Neither the fort nor the naval station can ever reach a condition where it can be said to be finished, perfected, and requiring nothing further to be added to it.

This is not erecting an independent building there at all, but merely adding to and continuing work on a building. The amendment is clearly outside of the point of order which the gentleman raises against it. The rule provides that:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

Now, I say there are existing laws for the building of navy-yards and for the construction of forts. A navy-yard as well as a fort is never at any time finished. There are constantly appropriations being made to complete the work. This is not for a separate and independent building started *de novo* on a piece of land purchased for that purpose; if it was, the Attorney General would be required by law to investigate and pass upon the title, and plans and estimates of the cost of the building would be required. But it is an expenditure which is in the very language of the rule. It is "in continuation of appropriations" on an existing public work now in process of construction.

Take, for instance, a fortification; it is built up to a certain point, and it is then found that the barracks are not sufficient in size and extent to give proper accommodation to the troops there stationed. I ask the Chair if it would not be in order to make an appropriation originally or by amendment in this bill for *continuing* the construction of the barracks to give proper accommodations to the troops stationed in that fortification? Another illustration: a magazine is constructed in a fort, and it is found to be too small to afford proper storage room for the munitions of war placed there. Can there be any doubt that an amendment to the pending bill appropriating a sum of money to increase the magazine to the size required would be in order, it being in fact the continuation of an expenditure to perfect and complete a public work still in course of construction?

What are the facts connected with the establishment of this navy-yard on the river Thames? The State of Connecticut purchased the property and in 1867 presented it to the United States. It was a most munificent gift. Intelligent men connected with our Navy, and capable of judging, have pronounced the site one of the best adapted for a naval station on the Atlantic coast. It is situated at the head of one of the safest and finest harbors of which this Union can boast, a harbor in which all the navies of Europe and this country could be gathered; a harbor that is protected from storms and rough seas by the high lands that rise up on its sides and the islands that are located on its front and separate it from the ocean. From the entrance of this harbor up past the navy-yard to a point where Decatur's fleet lay sheltered from storms and the attacks of our enemies in the war of 1812 there is a depth and width of water which affords an easy passway for vessels of the largest draft belonging to the United States Navy or the navies of the old world.

This site has a front of a mile, abutting on a bold shore, with a depth of water varying from thirty to fifty feet. Access can be had to this navy-yard at all seasons of the year, for the harbor of New London and the river Thames far above the yard are never embarrassed by ice.

It is not for these advantages alone that the Secretary of the Navy has seen fit to select the New London yard as the best station on our coast to which to send the school or training-ships of the Navy. He has taken into consideration the health and morals of the thousands of lads who are gathered from the interior and along the coast and entered as apprentices in our Navy. He felt the vital importance of having the men who are to man our navies sound in body and pure in heart. This yard is located away from the allurements and vices and corrupting influences of a city. It is in an agricultural district. The climate is genial and healthy. There are not within miles any places of resort calculated to corrupt and debauch these boys. And the Secretary presents all these considerations with great force in his response to the resolution of this House transmited to him through the Committee on Appropriations.

The CHAIRMAN. Are these works now in process of construction at this yard?

Mr. WAIT. Buildings have been constructed there, one after the other, just as the necessities of the public service required.

The CHAIRMAN. Are there any buildings now in process of construction there?

Mr. WAIT. I ask the Chair to permit to be read a communication from the Secretary of the Navy on this very point. I do not, in the amendment that I offer, ask for the amount which the Secretary recommends should be appropriated for the continuance of repairs and improvements at the yard.

Mr. BLOUNT. I object to that paper being read.

Mr. WAIT. Is it because the gentleman from Georgia is afraid of having light shed upon this matter that he objects to the reading of the Secretary's report?

Mr. BLOUNT. Not at all.

Mr. WAIT. Then I should suppose that the gentleman would not make an objection.

Mr. BLOUNT. Yes, I do, to save time.

The CHAIRMAN. The gentleman from Georgia objects.

Mr. WAIT. I do not occupy very much time of the House in discussing questions, and certainly have not encroached on the time of the committee, and I do not believe that the committee will object to having this paper read.

The CHAIRMAN. The Chair will submit the question to the committee.

Mr. BLOUNT. Well, let it be read.

The Clerk read as follows:

NAVY DEPARTMENT,
Washington, March 10, 1880.

SIR: I have the honor to acknowledge your reference to this Department, for examination and report, of a resolution of Hon. Mr. WAIT, with a letter addressed by him to you, in relation to putting the New London navy-yard in a state of thorough repair and efficiency.

This yard is admirably situated, upon the waters of a bay unsurpassed on the coast, in a healthy region of the country, and if put in a state of thorough efficiency would add greatly to the facilities for repairing ships. The waters of the bay are not seriously affected by ice in the winter season, and on this account the Department has considered it a desirable station for the Minnesota, one of the vessels engaged in training boys for the Navy. She is now there, and has been for several months, and important advantages to the boys are expected to be derived from it, on account of their removal from injurious influences to which they were likely to be exposed in the harbor of New York.

The question whether this yard shall be put in a condition of "thorough repair and efficiency" is one peculiarly belonging to Congress, and can only be decided by reference to the general policy which may be adopted in regard to the future building of ships for the Navy and the sufficiency of the present completed yards for that purpose. There are now there two brick store-houses, each 100 by 40 feet, two stories high, the lower story of one of which is used as a drill-room for the boys on the Minnesota. As the floor of this building is concrete, much inconvenience is complained of on account of the dust raised while the drill is going on, and if its use for that purpose is continued a plank floor will be required to replace the one now there. But as a possible point for permanent use by training-ships, it is well to consider whether it would not be better to improve the yard with reference to that fact. If this shall be considered expedient a store-house, 65 by 275 feet, should be built. Such a building is supposed by the commandant to be required

for immediate use, in view of the necessities of the training service. If erected, this building can be partitioned off so as to provide storage for all material of the different bureaus, and at one end shop-rooms for minor repairs of ships and machinery can be erected, space for drilling under cover and for rigging-loft can be provided, and it will also provide a place for the accommodation of the sick. It is estimated that such a building will cost $100,000.

There is also needed a bathing and swimming house, with steam for heating and pumping, bath-tubs, &c. Such a building, 20 by 40 feet, with the necessary fixtures, will cost $10,000.

Besides the foregoing there is a shed for spars and boats required, forty by one hundred and fifty feet, at a cost of $1,000.

The commandant has no house, as in the cases of other yards, and it is desirable that one shall be erected for his use. It can be done for $10,000. For grading the grounds the sum of $5,000 is needed, and $10,000 for repairs of the wharves and the buildings already erected. The above may be summed up as follows:

Building, 65 by 275 feet	$100,000
Bathing and swimming house	10,000
Spar and boat house	1,000
Commandant's house	$10,000
Grading grounds	5,000
Repairs of wharves and buildings	10,000
Total	136,000

I am, very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

Mr. WAIT. The Chair has asked me if there was any building at the yard now in process of construction.

The CHAIRMAN. Such buildings as are mentioned in the letter just read.

Mr. WAIT. I do not understand that the law makes it necessary that a building shall be in process of construction within what is the ordinary meaning of the term in order to enable Congress to make an appropriation. I look upon it that a naval station of this kind is to be considered as never completed, never finished, but always in process of construction, in process of erection, until all that the public interest demands has been placed there; in this case all that is deemed necessary for the accommodation of the vessels of war stationed there, and the crews of such vessels, and the apprentice boys sent there on the training-ships.

The CHAIRMAN. It seems to the Chair that this amendment contemplates new improvements, and the Chair is inclined to think it liable to a point of order.

Mr. GOODE. Before the Chair rules on the entire amendment I desire to call attention to the part relating to the Gosport navy-yard. The objection made by the gentleman from Georgia [Mr. BLOUNT] to the portion of the amendment of the gentleman from Connecticut [Mr. WAIT] relating to the New London navy-yard does not apply to the item relating to the Gosport navy-yard. That item has been estimated for by the Secretary of the Navy for the last four years.

The CHAIRMAN. The amendment is offered as a whole, and a point of order which is good against any part of it is good against the whole of it.

Mr. GOODE. Then I offer the part to which I refer as a separate amendment.

The Clerk read as follows:

For repair of the sea-wall at Gosport navy-yard, Virginia, $50,000; and for rebuilding timber-sheds to preserve timber at same, $75,000.

Mr. BLOUNT. I reserve all points of order on that amendment.

Mr. GOODE. I ask to read what the Secretary of the Navy says.

The CHAIRMAN. If it is in the way of debate on the merits of the amendment the Chair does not care to hear it. If it is upon the point of order——

Mr. GOODE. It is upon the point of order.

The CHAIRMAN. The gentleman from Georgia has not yet stated his point of order.

Mr. BLOUNT. My point of order is that this amendment provides for an original structure, a new structure, one for which the Committee on Naval Affairs has made no recommendation, and it does not belong here.

Mr. GOODE. In reply to the gentleman from Georgia——

Mr. WHITTHORNE. Before the gentleman proceeds, allow me to say that while I do not think the amendment of the gentleman from Connecticut [Mr. WAIT] ought to be entertained at all, yet with my knowledge of the fact that immense quantities of public property are going to destruction at the Norfolk navy-yard I consider it a matter of economy and of public interest that the proposition of the gentleman from Virginia [Mr. GOODE] should be adopted.

Mr. GOODE. The statement of the chairman of the Naval Committee [Mr. WHITTHORNE] meets the first point made by the gentleman from Georgia, [Mr. BLOUNT.] In addition I want to say that for the last three or four years—ever since the present Secretary of the Navy has been in office—he has uniformly from year to year estimated for these timber-sheds and urged their construction upon Congress. He says in a letter which I have before me:

You will see that the aggregate sum which the bureau considers necessary to expend during the next fiscal year in order to improve the Norfolk navy-yard is $126,000. Of this sum $81,000 is estimated for on account of two timber-sheds which are considered absolutely necessary to the protection and preservation of the valuable timber now in that yard. The injury the timber at this yard has already sustained is very great, and as the Department now has no means at its control to protect it from decay on account of exposure to the weather, the public interest imperatively demands that the timber-sheds shall be rebuilt.

Now, in regard to the sea-wall I wish to say that last August there was a violent storm of wind and rain by which this sea-wall surrounding the navy-yard was very materially damaged; and to-day it is sinking and going to ruin. So much as to the absolute necessity of these two items.

In reference to the point of order I wish to call the attention of the Chair to the fact that the paragraph which we have now reached provides—

Repairs and preservation at navy-yards: For construction and repairs at the different navy-yards and stations, and preservation of the same, $300,000.

The Chair will observe that my amendment is strictly germane. It comes under the head of "repairs and preservation at navy-yards." I hope the gentleman from Georgia will not press the point of order. If he does, I trust the Chair will consider the language of the amendment in connection with the paragraph we have now reached and the third clause of Rule XXI, from which the Chair will observe that not only is this appropriation provided for by existing law, but if it were not, it is an appropriation in continuation of existing works and objects, one of these being the preservation of public property.

Mr. WAIT. What has been stated by the gentleman from Virginia [Mr. GOODE] is entirely true, because I have had a conversation with the Secretary of the Navy, in which he stated that he found it impossible to obtain means for rebuilding the sheds at Norfolk, and that the timber there was rotting from exposure to the elements. I with pleasure make this statement in corroboration of the claims made by my friend from Virginia.

But I wish to say one word in response to the remarks of my friend from Tennessee, [Mr. WHITTHORNE.] He seems to take a very deep interest in having this timber at Norfolk preserved from destruction, but he appears to care but little for the health and morals of the poor boys on our training-ships, and is unwilling to do anything to keep them away from the enticements and corruptions of city life. On that point the gentleman and I very evidently differ.

Mr. WHITTHORNE. No doubt Connecticut is a very bad place to send the boys to.

Mr. COX. Oh, Connecticut is a steady old State.

Mr. WAIT. The gentleman from New York knows from his personal observation the advantages this navy-yard presents as a rendezvous for our school-ships.

Mr. BLOUNT. I understand that the proposition of my friend from Connecticut [Mr. WAIT] has been ruled out and that the pending question is simply upon the amendment of my friend from Virginia, [Mr. GOODE,] which is to repair the sea-wall and construct certain buildings at the Gosport navy-yard. The gentleman says that this expenditure has been estimated for. I do not care whether it has been estimated for or not. But even on that point I take issue with the gentleman. There is no estimate. The gentleman has read a letter from the Secretary of the Navy——

Mr. GOODE. Now, allow me one moment. Of course the gentleman does not want to mislead the House. I have simply read an extract from a letter of the Secretary of the Navy, who quotes a part of the estimate of the Chief of the Bureau of Yards and Docks. If the gentleman questions my statement, I will send for the last report of the Secretary of the Navy, containing an estimate from the Chief of the Bureau of Yards and Docks of $126,000 for the Norfolk navy-yard and $80,000 for these timber-sheds, being in addition to the general expenses of wear and tear in the different navy-yards of the country, covered by the appropriation of $300,000.

Mr. BLOUNT. Now, I was going to make the very speech my friend has made, with some additions. The document which he has here and which he calls an estimate is a letter written by the Secretary of the Navy to my friend from Virginia at his own solicitation, in which he states, not what he himself thinks, but what the Chief of the Bureau of Yards and Docks has said in reference to the matter. This does not form any part of the estimates. The estimates sent in here by that officer I have before me in the Book of Estimates. What the Bureau of Yards and Docks may say has nothing to do with it. From 25 to 30 per cent. of the estimates of these bureaus are cut down by the heads of Departments, and they never appear here. They are not considered properly here, but are excluded. These estimates which we have properly here under the law, I take occasion to say, every single dollar has been provided for.

But I have been drawn from the point of order by the remarks of the gentleman from Virginia. He has two propositions coupled here. He proposes to provide for the building of original structures. As to the needs of the buildings, whether there is timber there which ought to be cared for or not, is not any question to be considered at this time. It is the same old point of order which the Chair has ruled upon time and again. Whenever the question shall come up on its merits, then perhaps I shall have something to say as to the proper disposition of this timber.

Mr. GOODE. With the permission of the Chair, I wish to set my friend from Georgia right on the question of fact. I hold in my hand the last report of the Secretary of the Interior, which is part of executive documents accompanying the President's message in the second session of the Forty-sixth Congress. Under the head of navy-yards I find the Secretary uses this language in speaking of the navy-yard of Norfolk:

Without the re-erection of timber-sheds the valuable timber now on hand will be subject to great decrease in value from exposure to the weather.

And the Chief of Bureau of Yards and Docks, in a communication sent along with it, and part and parcel of the estimates, estimates for timber-shed No. 32, $40,925.26, and for timber-shed No. 33, $40,925.26, making some $81,000 in all.

Mr. BLOUNT. I submit that is not in the estimates at all, and never has been regarded as any part of them.

Mr. DUNNELL. Does the gentleman from Georgia say if the Secretary of the Interior in sending in his estimates includes the estimates of the Commissioner of the General Land Office those estimates of the Commissioner of the General Land Office do not constitute a part of the Secretary's report?

Mr. BLOUNT. I will say again as I have already stated that the Secretary of the Interior does not send in any estimates, nor does the Secretary of the Navy, and for the plain reason that the law prescribes they shall be sent in by the Secretary of the Treasury. What a head of the Department may think proper a Cabinet consultation may determine to exclude. What is known as the Book of Estimates is a document sent to this House in obedience to the law by the Secretary of the Treasury.

Mr. CONGER. On page 92 of the Book of Estimates, among other things, there is an estimate for the preservation of materials at the navy-yards, including several other things, of $1,500,000. Now that estimate certainly includes the preservation of timber at the Norfolk navy-yard. There certainly is an estimate for this purpose; whether that is the proper place to increase it or not I do not know.

Mr. BLOUNT. What does the gentleman refer to on page 92?

Mr. CONGER. Under the heading of the Bureau of Construction and Repair there is an estimate for the preservation of vessels on stocks and in ordinary.

Mr. BLOUNT. That has nothing to do with navy-yards.

Mr. CONGER. It goes on for preservation of materials and for general care and protection, &c., in the line of construction and repair. There is an estimate of a million and a half of dollars, so that there is an estimate from the proper Department.

Mr. BLOUNT. If the gentleman is correct, that is under the head of the Bureau of Construction and Repair and is included in the Navy appropriation bill, which has passed the House, and is not, therefore, germane here.

Mr. CONGER. The gentleman had said there was no estimate for that kind of thing.

Mr. BLOUNT. I say so still, but I am willing to accept the gentleman's statement as correct and, so accepting it, I say the amendment is not germane.

Mr. CONGER. I have read the estimate for over one million and a half of dollars. This is a special estimate under the same head.

Mr. BLOUNT. Not on the subject of repairs.

Mr. CONGER. On the preservation of material. That is what I read.

The CHAIRMAN. The Chair is in very great doubt as to whether the point of order excludes the amendment or not. He will overrule the point and submit the question to the judgment of the committee.

Mr. BLOUNT. I do not care to take up the time of the committee. We have given every dollar estimated for navy-yards, every dollar for repairs; and I trust the committee will be content with that.

Mr. GOODE. My friend is entirely mistaken. I have the documentary evidence in my hand to show that the Secretary of the Navy says in terms explicit and distinct, so far as the navy-yard is concerned, this sum for timber-sheds is necessary over and above the necessary wear and tear for which the provision has been made in the appropriation bill. The Secretary says that this appropriation is absolutely necessary to enable him to protect the public timber from decay on account of exposure to the weather.

Mr. BLOUNT. I have in my hand, Mr. Chairman, the estimates for the appropriations for the fiscal years 1880 and 1881, sent in under the law of the land by the Secretary of the Treasury to the Speaker of the House of Representatives, furnishing information as to the needs of his Department. On page 148 of this Book of Estimates I find the following items:

Navy-yard, Mare Island, California: For continuation of work on stone dry-dock, $75,000.

Repairs and preservation at navy-yards: For construction and repairs at the different navy-yards and stations, and preservation of the same, $300,000.

Every dollar of these two items is in this bill, and there is not another word said on the subject in the whole of this book.

The CHAIRMAN. The question is on the amendment.

The committee divided; and there were—ayes 34, noes 49.

Mr. GOODE demanded tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. GOODE were appointed.

The committee again divided; and the tellers reported—ayes 63, noes 54.

So the amendment was agreed to.

Mr. BLOUNT. I shall ask a separate vote on that in the House.

The Clerk read as follows:

Repairs and preservation at navy-yards: For construction and repairs at the different navy-yards and stations, and preservation of the same, $300,000.

Mr. BLOUNT. There is an amendment to this section proposed by the Committee on Appropriations.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out, in lines 755 and 756, the words "construction and;" so that it will read: "For repairs at the different navy-yards," &c.

The amendment was agreed to.

Mr. HARRIS, of Massachusetts. I am instructed by the Committee on Naval Affairs to offer an amendment, to come in at the end of line 758.

The Clerk read as follows:

For completing the construction of the iron-clad monitors Puritan, Terror, Amphitrite, and Monadnock, $2,847,836.14; for engines and machinery for said vessels, $1,250,000; in all, $4,097,836.14. And the Secretary of the Navy is hereby authorized to complete said vessels and to construct said engines and machinery in the navy-yards, or to contract according to law for the same, as may seem to him to be for the best interests of the Government.

Mr. BLOUNT. I make the point of order on that that the construction of these vessels has not been authorized by law and that the subject-matter is pending now in a bill before the House:

A bill (H. R. No. 73) making appropriations for completing the double-turreted monitors Puritan, Amphitrite, Terror, and Monadnock.

Mr. HARRIS, of Massachusetts. I hope the gentleman, before he insists on the point of order, will allow me to state the reasons for offering this amendment.

Mr. BLOUNT. I am unable to do that, as it is very important that we proceed with this bill. The point of order will of course shut out the amendment.

Mr. HARRIS, of Massachusetts. I will not occupy much time in the discussion of it, and I hope the gentleman will withdraw the point of order, so as to enable me to proceed.

Mr. BLOUNT. I must insist upon the point of order.

Mr. HARRIS, of Massachusetts. Then I will speak to the point of order. I would like, sir, to have been allowed to make a statement not exceeding three minutes upon the general proposition; but as I am shut out from that by the point of order I call the attention of the Chair to the first objection that is raised by the gentleman from Georgia. The first point of order the gentleman raises is that there is no law authorizing the completion of these vessels. I have to say in reference to that that in 1874, in the sundry civil bill of that year, Congress authorized the Secretary of the Navy to use the balance of an appropriation which had been made for a floating dry-dock to be expended (and this was an amendment put in by the Senate) for the repairing of the monitors Terror, Amphitrite, Monadnock, and the Puritan. When that amendment came into the House it was in a committee of conference and was there amended so as to allow that money to be expended by the Secretary of the Navy on such of the turreted ships as he might deem proper. Under that authorization he expended that appropriation upon the four iron-clads there mentioned and the Miantonomah which is now afloat and nearly completed. Besides that, we have expended by actual appropriations more than $2,000,000 upon these vessels—appropriations made directly by this House and the Senate.

Therefore, Mr. Chairman, so far as that first objection against this amendment goes, it seems to me that it can have no force; to the other, perhaps, there is a better ground. At the opening of this session I introduced a bill providing for the completion of these four vessels, but the amount appropriated here is different, the distribution of the money is different, although, Mr. Chairman, I frankly say that the purpose of that bill was to provide the money to furnish these four vessels. These five ships that I have named, double-turreted iron-clad monitors, are the largest vessels now belonging to the Navy of the United States, and are the only iron-clads which could meet a foreign enemy. The Committee on Naval Affairs have had no opportunity to report a bill, because, under the advice of our chairman, we consented to ask the Secretary of the Navy to appoint a board of officers to consider the propriety of finishing these vessels and to make known to the country all the facts in connection with them; also in what manner they should be completed. They have come in but lately and that report has scarcely been completed so as to enable the Committee on Naval Affairs to pass upon the questions, and this bill now pending before the House came up for consideration before the Committee on Naval Affairs could have an opportunity to act upon the matter. Therefore it was deemed best on the part of the committee to offer this in the shape of an amendment to this bill.

I hope the gentleman from Georgia will allow this matter to come before the House. I beg of him to withdraw his point of order in the interest of the country.

Mr. WHITTHORNE. Just one word. I desire no one on account of what has been said by my friend from Massachusetts shall go off with any false impression with reference to the act to which he has called the attention of the Chairman, the act of 23d June, 1874. It did not then, and does not now, refer to the construction of these vessels. If the Chairman has paid attention to the reading of the act and to its date he will observe that it is for the completion of repairs—the gentleman from Georgia [Mr. BLOUNT] has it before him—upon the double-turreted monitors. That act was passed on the 23d day of June, 1874, at which time repairs upon some of the old wooden vessels called by these names were being made.

But in September, 1874, the naval administration of that time determined to reconstruct, rebuild, or build anew these vessels; and these vessels now being built, and which it is said were recognized in the act of 1874, did not then have a legal existence. And when

my friend from Massachusetts refers to appropriations made of $2,000,000, I say to him there never has been a dollar appropriated for the purpose by name for the construction of these vessels. He refers to the general terms "construction and repair" in making that statement.

Mr. HARRIS, of Massachusetts. Will the gentleman allow me one moment?

Mr. WHITTHORNE. Yes, sir.

Mr. HARRIS, of Massachusetts. I ask the gentleman whether in the session of 1878 we did not pay by name the men who built these vessels; whether we did not do so in terms?

Mr. WHITTHORNE. Ay, Mr. Chairman, if my friend from Massachusetts will refer to that debate——

Mr. HARRIS, of Massachusetts. I speak of the act.

Mr. WHITTHORNE. He will see that the judgment of this House was that they could not take advantage of the frauds that had been committed, but that inasmuch as we had received the work and labor and property of other parties we were bound in equity to pay for it. Do you call that a recognition of the rascalities and frauds that have marked the building of these vessels? The House did not mean to do it, nor the country. They simply meant that the Government, having received from contractors or other parties property or material and having enjoyed it, would not deny them the pay. That was all the recognition that was meant or intended at the time.

And, sir, tracing this matter up, I for one am willing it should be done now or on some occasion prior to the adjournment of this Congress. I trust this whole matter will be brought before the House fairly, fully, and frankly. I desire to have the entire question disposed of.

For one I regret to say I was unable to concur in the proposition which is now submitted. But I deem it due to frankness and candor to say there is so much in it that I do not and cannot quarrel with any good man for coming to a different conclusion from myself, and I will aid my friend, and am here to appeal to the gentleman from Georgia to withdraw the point of order, and let this entire matter be considered. Allow me to repeat, under a conscientious sense of public duty, I feel, for one, and am prepared to say it is better for the Navy and better for the country that this sum of money should be sunk in the ocean or applied in different ways or for different purposes.

Mr. HARRIS, of Massachusetts. The gentleman from Tennessee has spoken in a manner seeming to indicate that he thought I had attacked him.

Mr. WHITTHORNE. No, sir.

Mr. HARRIS, of Massachusetts. I said a few weeks ago when the subject-matter of that bill was before the committee——

Mr. WHITTHORNE. I assure the gentleman I had no such idea.

Mr. HARRIS, of Massachusetts. I hope not. When the subject-matter of that bill was before the Committee on Naval Affairs the chairman of the committee asked, and we all yielded to his proposition, that the question of building the iron-clads should be sent to boards to be appointed by the Secretary of the Navy.

Mr. BLOUNT. I do not like to interfere with my friend from Massachusetts, but I suggest that he confine his remarks to the point of order, as we desire to get along with this bill.

Mr. HARRIS, of Massachusetts. I think the gentleman will be kind enough to yield me a minute or two to make a short reply to the gentleman from Tennessee. We yielded to the proposition, and these boards were organized and acted on the subject and have made reports which a few days ago were communicated to this House by the Secretary of the Navy and they have been printed.

Those reports recommend the completion of these iron-clads. They recommend certain modifications. Our Committee on Naval Affairs, having those reports before them, came to the conclusion it was wise—and it was the best thing to be done—to let vessels which had cost two and a half million dollars be completed in the best manner possible, taking into consideration the naked condition of America as far as defense goes. The decision of the committee has been reported to this House in the form of an amendment, which I have offered as instructed by the committee. Now, Mr. Chairman, I hope with the chairman of the Committee on Naval Affairs that some time will be given before the close of this session, if not now, to determine whether we shall finish those vessels or not. I think now is the time. I think the Committee on Appropriations, when they consider that at the commencement of this session the rules of the House were so far amended as to give into their hands almost the entire legislation of the country and to furnish what is only a bone-yard into which the legislation from the other committees shall go—it seems to me that committee should be willing not to insist on the point of order, but to have this question now discussed and settled.

The CHAIRMAN. It seems to the Chair that the amendment contains the same proposition in substance as the bill which has been handed to the Chair. The Chair therefore sustains the point of order.

The Clerk read the following:

UNDER THE DEPARTMENT OF THE INTERIOR.

Casual repairs: For casual repairs of the building occupied by the Department of the Interior; for replacing heating apparatus in Ninth-street wing of same; for renewing water-closets; for replacing sewer and drain pipes in the east and south wings, $10,000.

Mr. WARD. I move as an amendment to come in after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

For continuance of work already in progress at building of Interior Department, to wit:

For fire-proof reconstruction of the model halls and roofs of the Patent Office building, under the supervision of the Commissioner of Patents, the Architect of the Capitol, and the Commissioner of Public Buildings and Grounds, and to replace the condemned arches and wooden roof of the south wing and main portico by fire-proof construction according to the new plans, $90,000.

For fire-proof model cases, to be used in fitting up the north and west wings of the Interior Department, $80,000, in continuance of work already in progress at said building.

Mr. BLOUNT. I raise the point of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. BLOUNT. My point of order is that this Interior Department building has all been completed; there is now no work going on there; all the work authorized by law has been completed. This is a new proposition. The gentleman from Pennsylvania [Mr. WARD] will not say that this is not for other work than is now authorized by law. The work which has been authorized by law on that building has been completed; the appropriation made for the purpose has been exhausted, and the commission considering that its work is done has reported.

Mr. HARRIS, of Virginia. Is this included in the estimate?

Mr. BLOUNT. It is not in the estimate.

Mr. WARD. I cannot conceive how this amendment can be regarded as subject to a point of order. It is not necessary for me to present any proof to establish the fact that the building of the Department of the Interior is a portion of the public property, and one of the most important and valuable public buildings in this city, containing, as it does, accommodations for the Bureau of Indian Affairs, the Bureau of the Patent Office, the Bureau of the Land Office, and various other bureaus and divisions.

When I state that that building is not only now in danger of absolute destruction by reason of a rotten roof, but it has very imperfect and insecure accommodations for the protection of valuable archives and models there deposited, I do not think the gentleman from Georgia [Mr. BLOUNT] will insist on his point of order. It is a part of the history of this country that repairs upon that building have been going on from the time the fire occurred—September 24, 1877. These repairs are now in progress, and are not yet completed. The money proposed to be appropriated by this amendment is simply to continue and complete the work, not for ornamentation, but necessary for the absolute safety and security of the property of the Government in that Department. I could show, if we ever get to the merits of this proposition, by testimony from the architect and others having the matter in charge, how necessary this appropriation is.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] says that all the improvements estimated for have been completed, and that this amendment proposes new and additional work.

Mr. BLOUNT. I desire to state further this proposition: the work which has been completed there was commenced by the recommendation of the Committee on Public Buildings and Grounds, who have charge of the matter; and legislation for the purpose was put on an appropriation bill at their suggestion. That work has been completed, and this proposition is for a new matter entirely. I state that from personal observation.

Mr. WARD. I ask the gentleman from Georgia whether he will state here that the building of the Department of the Interior is completed, in face of the fact that in the roof of that building there are burned charred timbers insufficient to support it?

Mr. BLOUNT. The "gentleman from Georgia" never made that statement in the outset. I said that so far as the work of reconstructing that building was authorized by law it is now completed. The proposition was reported from the Committee on Public Buildings and Grounds by my friend from Georgia [Mr. COOK] and was put into an appropriation bill. An official report has been made stating that the work so authorized has been completed.

The CHAIRMAN. Under the circumstances the Chair thinks the amendment is obnoxious to the point of order, and therefore rules it out.

Mr. SMITH, of New Jersey. I move to amend by inserting after the paragraph last read that which I send to the Clerk's desk.

The Clerk read as follows:

That the sum of $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Commissioner of Patents in the preparation of classified abridgments of all letters-patent of the United States; that the said abridgments shall be printed and one copy of each shall be furnished to each Senator, Representative, and Delegate in Congress, one copy to each of eight public libraries to be designated by each Senator, Representative, and Delegate, and two copies to the Library of Congress; and also copies to such foreign governments, libraries, and learned societies as the Commissioner of Patents may designate: *Provided*, That copies shall be sold at the cost of printing, and all sums received from such sale shall on or before the first day of each month be paid into the Treasury.

Mr. BLOUNT. I reserve all points of order until the gentleman can be heard.

Mr. SMITH, of New Jersey. Mr. Chairman, it seems unaccountably strange that among this vast array of legislative ability there is none but myself to plead for the American inventor. I very much regret that the more capable members of this House seem to take no interest in advocating their cause in view of what they have done for us and what we have good reason to expect they will do in the future if we do our duty.

To begin with, I wish to show some of the difficulties under which inventors are obliged to labor for the reason of having no knowledge of what others are doing or have been doing before them.

An inventor or an originator of a machine must have a practical knowledge of not only the material of which he constructs his machine, but he must have a practical knowledge of the work he expects his machine to perform, or the chances are against his success; therefore the inventor must be a laboring-man, and is usually a man of small means.

This poor inventor conceives an idea of a machine, and he toils through the midnight hours to perfect it. Using time and money perhaps needed to furnish the necessaries for his family, but spurred on by the hope of bettering their condition he toils on for months, perhaps for years, and finally gets his machine in a condition to apply for a patent. Then by borrowing five dollars of one neighbor, two of another, &c., he succeeds in getting the amount of the Government fee, patent-attorney fee, &c., and sends on his application. After a few weeks of the greatest anxiety, he gets a letter from the Patent Office that his claims were anticipated by some other patent. Now, with hopes crushed, he gives up the chase. And it is an even thing that the world has lost a valuable inventor besides a valuable invention.

Now, had this inventor had any opportunity of knowing what this interfering machine actually was, he could have brought out a machine which would have been valuable to himself and the world, and no infringement. But by this mean policy of obliging inventors to grope in the dark the country perhaps loses both inventions and inventors.

What our inventors want and should have is a condensed description of every patent ever issued. There should be enough of these published to allow every inventor to have access to them.

Patents are being applied for now at the rate of over twenty thousand a year; the rejected applications are about ten thousand a year. These applications are made at an expense of more than $300 each, on an average, which would make $3,000,000 lost annually by these poor inventors for the want of a little light, which you could easily furnish with ⅛ of 1 per cent. of the money taken from them without an equivalent, as I will show you hereafter.

I have seen nothing so disgusting during my short experience in Congress as this "penny wise and pound foolish," straining at the gnat and swallowing the camel policy speeches for home consumption. I have no occasion to play the demagogue. My constituents do not desire me to steal the crutch from under the cripple and call it economy. Neither do they wish me to refrain from putting up the dollar if there is a chance to make $100 by so doing.

Twenty years of the dirtiest kind of demagogism got us into a fight once, in which we destroyed able-bodied, wealth-producing young men enough, standing shoulder to shoulder, to encircle this Capitol with Bunker Hill monuments, and twenty thousand millions of treasure. I think we have had enough of that kind of thing. Let us set demagogism aside and go for the prosperity of our country once more.

I find when there is an extension of some valuable patent, the owners of which have become wealthy and desire to make a few more millions out of it, demagogism shuts its eyes, puts its head under its wing, and sleeps. I will cite one case to illustrate: In 1873 a patent was granted to Joseph P. Woodbury, of Boston, for pressure-bars to planing-machine. This bar he claimed to have invented in 1846, about twenty-seven years before. This bar was in general use, and had been for twenty-five years. There were tens of thousands of these being used all over the country at the time this patent was issued.

The details of this great fraud are too sickening to contemplate, but I cannot refrain from giving a short description. S. S. Fisher was at that time Commissioner of Patents. He had the "honor" of engineering the thing through, and to the credit of the examiners I was told they opposed the swindle. I think Fisher resigned the day before the letters-patent were signed. It was understood he was to have an interest in the great steal and be counsel for the Woodbury party. There were some wealthy Boston men interested in that thing. They expected to make many millions out of it. Woodbury valued it at twenty millions. But "the best laid schemes o' mice and men gang aft a-gley." It cost about $40,000 to show up this attempted swindle. The case came to a final trial here in the Supreme Court at its last session and was decided against the Woodbury party. Now the thing will go into oblivion. The thousands using the bar will never realize what they have escaped or what villains they have had in office. I shall not forget it myself; neither will two or three of my friends, for we had to furnish the forty thousand.

But this is the dark side of the patent story. Our patent laws have been wise and honestly administered until within a few years. The patent business has increased until it is enormous. There is now in the Treasury of the United States $1,400,000 put there by and standing to the credit of the Patent Office. This sum, paid in by inventors, is over and above all expense incurred by the office in examining the claims of and issuing the patents to the patentees. In other words, this sum is in excess of all expense to the Government; or, as we might say, Government has filched $1,460,000 from American inventors without any equivalent.

Now, do our inventors deserve this kind of treatment after doing what they have done for us? Let us take a look at their work and see how it compares with ours—we members of Congress, legislators. They have brought our agricultural machinery to such state of perfection that less toil is required to-day to produce ten bushels of wheat than was required forty years ago to produce one, thus lessening the labor in that line 90 per cent.

In the line of house building, the saving of labor is fabulous. Fifty years ago it would have been considered a good day's work for a good carpenter to plane and match three hundred feet of floor boards. Now an ordinary mechanic can plane and match twenty thousand feet in a day, and the work will be done with that unerring accuracy with which machinery alone can do its work.

Take the self-operating carpet-loom, handling twenty shuttles, with as many different colored yarns, selecting the color required to produce these figures with the certainty and accuracy of our solar system, appearing more like a reasoning, calculating thing of life than a combination of iron and steel, shafts, pulleys, gears, &c.

We will take the pin for another illustration. Fifty years ago all the pins used in this country were made in England. It required the combined ability of four or five men to make a pin. A young man learned the trade of cutting off the wire, another to point it, another to put on the head, &c. The head was made by a smaller wire being wound twice round the pin and swaged up by pinchers so as to make it nearly round. These pins cost Americans about one-fourth of a cent each; that would be $10 or more per pound. Now, it was with these pins something as it is with some of my friends who oppose these necessary appropriations; they lost their heads sometimes, and we were obliged to use no-headed pins. I can see some present who have not forgotten those English-made pins. Now, an American at Cohoes, New York, invented a machine with which one man could make tons a day, and the heads were put on in such a way they never came off; they never lost their heads. These pins cost Americans about five cents per pound more than the material cost of which they are made, say twenty-five cents per pound on an average.

I can remember very well when matches were unknown. If the farmer's fire went out during the night, he was obliged to go to his neighbor and get a fire-brand in the tongs or a few coals on a shovel, perhaps half a mile or a mile distant, sometimes through snow two feet deep, and if he fell down in the snow and put out his fire before he got home with it, go back and try again. I have done those things myself many times. But an American inventor has saved us all that trouble.

Now, if there is any gentleman on this floor who is disposed to vote against this small appropriation, and has any faith in the multiplication table, I would like to have him figure up the amount saved to the American people annually by the invention of matches alone. This has not resulted in cutting down the pay of the mechanic, but has raised it threefold. Fifty years ago to my certain knowledge it required a good carpenter to command $1 per day; now the same class of carpenters will get two or three dollars per day. Fifty years ago mechanics worked fifteen hours per day; now they work ten hours. While all the necessaries of life by the aid of machinery are produced for less money by one-half.

Inventors have covered our country with a net-work of railroads and telegraphs, thus annihilating time in conveying intelligence and almost space in carrying passengers. That long train of cars passing over that deep gulf, high above that large river, now plunging into the base of the mountain and emerging miles distant on the other side of the range, laden with cattle and corn, precluding the possibility of any more famine, is the work of the inventor.

Let us suppose that Franklin could return to earth to-day. He would say: "This is not the world I left, but the one I saw in my brightest, happiest dreams. This is the work of the godlike American inventors, who have made my dreams living realities."

Yes, American inventors have made a new world of this; they have made it the pride of every true American and the admiration of the civilized globe. They have put the elements in harness, and taught them to do our drudgery, raising man from the brute nearer his God.

Can it be possible, Mr. Chairman, that there is one member of this House who dares to put himself on record—who has the courage to allow his name to go down to future generations as being opposed to allowing American inventors ⅛ of 1 per cent. of their own money to shed light on their, at best, dreary and toilsome pathway? If members of the Forty-sixth Congress wish to make such a record for generations yet unborn to read with astonishment and disgust, they must count me out.

Mr. EWING. I desire to state to the committee the effect of this amendment.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] has raised the point of order against the amendment.

Mr. EWING. No, he only reserved the right to do so.

Mr. BLOUNT. I reserved all points of order.

Mr. EWING. This is a proposition for an annual appropriation of $10,000 to print a digest of the patents heretofore granted by the United States so that inventors throughout the country, when they conceive an invention which they believe to be new, can have access to some volume in the public libraries or elsewhere on consulting which they can ascertain whether a patent for that invention or any part of it has ever been granted. We shall thus save an immense waste of time and labor to the only class of persons whose intellectual efforts are directly and heavily taxed by the Government of the United States. The fees exacted by the Government for examining inventions and issuing patents yield to it a large surplus revenue after pay-

ing all the expenses of the Patent Office. It seems to me reasonable and fair that out of this surplus the small sum of $10,000 should be cheerfully appropriated to the publication of a digest of patents granted. In fact, I would like to see the publication include all inventions on which patents have been applied for and rejected as well as those on which patents have been granted, so that the inventive talent of the country may not be eternally groping in the dark.

Mr. BLOUNT rose.

Mr. TOWNSHEND, of Illinois. I hope my friend will allow me to say something.

Mr. BLOUNT. I hope we are not going into a general debate on this question.

The CHAIRMAN. The gentleman from Georgia rises to a point of order.

Mr. TOWNSHEND, of Illinois. I ask the courtesy of the gentleman——

Mr. BLOUNT. My friend knows that I am disposed to extend to him every possible courtesy; but I have a duty to the House.

Mr. TOWNSHEND, of Illinois. Then I rise to discuss the point of order.

The CHAIRMAN. The gentleman from Georgia has not stated the point of order.

Mr. TOWNSHEND, of Illinois. After the gentleman has stated the point I hope I may be allowed to say a word or two.

Mr. EWING. This proposition was agreed to, I understand, by the Committee on Patents, though it has not been formally reported.

Mr. TOWNSHEND, of Illinois. I wish to say that as a member of the Committee on Patents I have given some consideration to this question. I believe I am warranted in saying that every member of the committee has been deeply impressed with the importance of an appropriation of this kind. At the present time the examiners in the Patent Office are employed sometimes, I believe, for months in ascertaining whether an application for a patent should be granted or not. This arises from the inability of the examiners, with their present means of information, to determine whether there has been already made an improvement such as that for which a patent is sought. The courts are often occupied with litigation growing out of the difficulty arising in this way in passing upon applications for patents.

The fund out of which this appropriation is to be made is derived from the contributions of inventors. Not one dollar comes out of the pockets of the people. A surplus of over half a million dollars, contributed by the inventors of the country, is to-day lying in the Treasury. The intelligent inventors see the necessity of a work of this kind.

Mr. BLOUNT. I rise to a point of order. The gentlemen is discussing the merits of the proposition.

Mr. TOWNSHEND, of Illinois. I am discussing the point of order.

The CHAIRMAN. The gentleman must be proceeding by unanimous consent, as the gentleman from Georgia has not yet stated his point of order.

Mr. BLOUNT. I was not allowed to do so.

The CHAIRMAN. The Chair always recognizes a gentleman for that purpose.

Mr. TOWNSHEND, of Illinois. I will wait until the gentleman has stated his point of order, and will then address myself to it.

Mr. BLOUNT. My point is that the same proposition is pending in a bill before the House; that it is new legislation, and does not retrench expenditures.

Mr. EWING. Will the gentleman withdraw the point of order if we can have a vote immediately on the amendment?

Mr. BLOUNT. I propose to avail myself of the shortest way out of this matter.

Mr. EWING. That will be as short a way as the other.

The CHAIRMAN. The Chair is ready to determine the point of order. In the opinion of the Chair the point is well taken.

Mr. DWIGHT. I wish to say a single word. [Cries of "Read!" "Read!"]

The CHAIRMAN. The Chair has decided the point of order. If the gentleman is dissatisfied with the ruling, he has the right to appeal from the decision of the Chair.

Mr. DWIGHT. I rise to a point of order. I want to know whether time cannot be given here to state this question a little more fully than the gentleman from Ohio [Mr. EWING] has stated it. [Cries of "Regular order!"] As a member of the Committee on Patents, I want to say a word or two.

The CHAIRMAN. The gentleman is out of order. The Clerk will proceed.

Mr. ANDERSON. I suggest that as a session has been ordered for to-night, it is time that the committee rise.

Mr. DWIGHT. I move to strike out the last word. The gentleman from Ohio, so far as he has gone, has made a fair and handsome statement of this case. The question has been before the Committee on Patents. I submit that no penuriousness, no want of liberality, should characterize the action of the House on this question. No appropriation proposed here is more richly entitled to the approval of the House than this. I am satisfied that if we can have time to present the case properly the amendment will be adopted almost unanimously. Certainly the acting chairman of the Committee on Appropriations is not advancing the interest of the public service in attempting to raise a question against this appropriation. I hope, therefore, that if the gentleman insists on the point of order it will be overruled by the Chair or voted down by the House.

The CHAIRMAN. The only question before the committee is on the motion of the gentleman from New York, [Mr. DWIGHT,] to strike out the last word.

Mr. DWIGHT. I withdraw that motion.

The Clerk read as follows:

Public buildings:

Capitol extension: For work on the Capitol, and for general repairs thereof, $50,000.

Improving Capitol grounds: For continuing the work on the Capitol grounds, $60,000.

Lighting the Capitol and grounds: For lighting Capitol and grounds about the same, including Botanic Garden and Senate stable——

Mr. CONGER, (interrupting the Clerk.) Are all these appropriations under the head of "public buildings" to be read before amendments are offered? I understand that the gentleman from Pennsylvania [Mr. KLOTZ] has an amendment.

Mr. SMITH, of New Jersey. I wish to take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair thinks the gentleman from New Jersey is too late, although he has a disposition to accommodate him.

Mr. KLOTZ. I ask unanimous consent to go back.

Mr. ROBERTSON. I will state to the Chair that the gentleman from New Jersey was about to take an appeal when the Clerk went on with the reading of the bill, and being a modest man he took his seat. I did not know——

The CHAIRMAN. If the gentleman makes the statement that he intended to take an appeal the Chair will recognize him.

Mr. BLOUNT. The House has some right in the matter. The Clerk had gone on reading for several paragraphs, and it is now too late to raise an appeal on a matter which has been passed over.

The CHAIRMAN. If there be no objection the Chair will allow the gentleman from New Jersey to take an appeal from the decision of the Chair in reference to the matter to which he refers. Is there objection to allowing the gentleman to take an appeal?

Mr. BLOUNT. Yes; I object.

Mr. BERRY. I move that the committee rise.

The committee divided; and there were—ayes 51, noes 63.

So the committee refused to rise.

Mr. KLOTZ. I rise for the purpose of offering the following amendment:

In line 767, after the word "dollars," insert "and for passenger elevator in south wing of the Capitol as may be located by the Speaker and Architect of the Capitol, $7,000."

Mr. BLOUNT. We have passed that.

Mr. CONGER. No; we did not pass it, for I called the attention of the Chair when the Clerk was reading it.

Mr. BLOUNT. I ask the amendment be again read.

The amendment was again read.

Mr. KLOTZ. I hope the gentleman from Georgia will not insist on his objection to that amendment.

Mr. BLOUNT. I will make no objection to that.

Mr. McMILLIN. I rise to a point of order. [Cries of "Too late!"] My point of order is that it changes the law and does not retrench expenditure.

The CHAIRMAN. The Chair overrules the point of order.

Mr. KLOTZ'S amendment was adopted.

The Clerk read as follows:

For the payment of retained percentages on contracts for paving made during the fiscal year ending June 30, 1877, for paving roadways in Capitol grounds, namely: to Cranford and Hoffman, $1,723.43; to W. H. Groot, $253.61; in all, $1,977.04.

Mr. BLACKBURN. I move, in line 781, after the word "cents," to insert the words "to George W. Riggs, attorney for W. R. Davis, $4,269.68;" and, in lines 782 and 783, to strike out "$1,977.04" and in lieu thereof to insert "$6,246.72." I understand the gentleman in charge of this bill consents to the amendment being offered.

Mr. BLOUNT. I have no objection to that amendment.

Mr. DUNNELL. We ought to know something about it before we vote for it.

Mr. BLACKBURN. I will state to the gentleman from Minnesota that, under the contracts made by the Government for the street pavements in the city of Washington, 10 per cent. of the amount of the contract price was to be retained for a term of years. The committee, when they came to this clause, inserted the names of two contractors and provided for 10 per cent. of their contract price, but omitted the third one, who is exactly in the same position. Colonel Clark, the architect, asked me to have the amendment just read inserted, and the committee have accepted it in order to make the clause complete.

The amendment was agreed to.

Mr. TOWNSHEND, of Illinois. I move the committee rise.

The committee divided; and there were—ayes 37, noes 55.

The Clerk read as follows:

National Museum:

For furniture and fixtures, National Museum: For cases, furniture, and fixtures for the reception, care, and exhibition of the collections of geology, mineralogy, ethnology, technology, and natural history, presented to the Government by foreign nations, $50,000.

For a steam-heating apparatus and for fuel, $20,000.

For water, gas-fixtures, and electrical apparatus, $10,000.

Mr. BLOUNT. I move, after the word "dollars," in line 806 and in line 808, to insert the words "to be immediately available."

The amendment was agreed to.

Mr. EWING. I move, after line 808, to insert the following:

That the sum of $20,000 is appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Commissioner of Patents in the preparation of a classified abridgment of all letters-patent of the United States, and application for letters-patent.

That the said abridgments shall be printed, and one copy of each shall be furnished to each Senator, Representative, and Delegate in Congress; one copy to each of eight public libraries to be designated by each Senator, Representative, and Delegate; and two copies to the Library of Congress; and also copies to such foreign governments, libraries, and learned societies as the Commissioner of Patents may designate: *Provided*, That copies shall be sold at the cost of printing, and all sums received from such sale shall, on or before the first day of each month, be paid into the Treasury.

Mr. BLOUNT. I raise the question of order on that.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLOUNT. This is subject to the point of order because it is in a bill which is pending before the House, and that same matter has already been passed upon. Also, that it is legislation.

The CHAIRMAN. The Chair sustains the point of order.

Mr. EWING. I ask to be heard upon the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Ohio.

Mr. EWING. This amendment is not the one that has been just voted upon, nor is it the same as the bill referred to. It differs from the amendment of the gentleman from New Jersey in this: that it appropriates $20,000 instead of $10,000, $10,000 being obviously insufficient; and it further provides for publishing a digest of rejected applications as well of patents granted, for the reason that a prior rejected claim is as complete a bar as a prior patented claim to the inventor who is seeking to get a patent for the same invention. Therefore, the digest should obviously include not only the inventions for which patents have been granted, but also the inventions for which patents have been refused. In the two particulars to which I have referred it differs from the amendment which has already been ruled upon by the Chair, and also from the bill now on the Calendar in the Committee of the Whole.

The CHAIRMAN. The Chair is of opinion that the amendment is obnoxious to the point of order.

Mr. TOWNSHEND, of Illinois. I wish to make another point in connection with the remarks made by the gentleman from Ohio.

The CHAIRMAN. The Chair will hear the gentleman from Illinois, but the Chair thinks that having ruled upon this question it is too late to reopen it for discussion; still the Chair is willing, if it can be shown that his ruling was wrong, to change it in this case.

Mr. TOWNSHEND, of Illinois. I hope the Chair will not prevent me from making a simple statement. I regard this proposed publication as of great importance. This amendment also retrenches expenditures. It does not change the law, but if it did change the law it practically retrenches expenditures. There is a large force of examiners and clerks employed in the Patent Office, at a great expense, who will be dispensed with if this work is completed, and therefore it will be economy on the part of the Government to allow the work to go on and be completed. The clerical force of the Patent Office will be largely reduced if this is done.

Besides, Mr. Chairman, this question has been carefully considered, not only by the Commissioner of Patents but by the Committee on Patents of this House, and that committee regard it not only as an act of justice to the inventor, but of great importance to users of patents throughout the whole country, especially in the agricultural regions, especially in the West where farmers are constantly brought into difficulties by claims for infringements of patents.

Mr. WHITE. Is there not a bill pending for that purpose?

Mr. TOWNSHEND, of Illinois. No, sir; that is a different bill.

Mr. WHITE. It is the same bill, is it not?

Mr. EWING. It is not the same in effect with the bill referred to. This amendment proposes to appropriate $20,000, instead of $10,000 as proposed by the bill, and this amendment also proposes to make the digest contain the rejected applications as well as the patents which have been granted, and in that respect also it differs from the bill.

Mr. WHITE. But it is substantially the same bill.

The CHAIRMAN. The Chair is of opinion that the bill to which reference has been made here (bill No. 566) substantially covers the ground of this proposed amendment. The Chair also believes that this amendment contains matter which comes within the scope of legislation, and therefore it is not in order.

Mr. EWING. With all due respect, I appeal from the decision of the Chair.

The CHAIRMAN. The question is on sustaining the decision of the Chair. Shall the decision of the Chair stand as the judgment of the committee?

The committee divided; and there were—ayes 94, noes 14.

So the decision of the Chair was sustained.

The Clerk read as follows:

PUBLIC LANDS.

Expenses of the collection of revenue from sales of public lands:

For salaries and commissions of registers of land offices and receivers of public moneys at ninety three district land offices, at not exceeding $3,000 each, $386,000.

Mr. BLOUNT. I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN, as Speaker *pro tempore*, having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, had come to no resolution thereon.

GENERAL DEFICIENCY BILL.

Mr. COBB, from the Committee on Appropriations, reported a bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified due by the accounting officers of the Treasury, in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was read a first and second time, recommitted to the Committee on Appropriations, and ordered to be printed.

Mr. CONGER. I reserve all points of order on the bill.

ORDER OF BUSINESS.

Mr. COX. I move that the House take a recess until half past seven o'clock this evening.

Mr. RICHMOND. I ask the gentleman from New York to yield to me for a matter that will not occupy a minute. It is merely to amend the title of a bill which has been returned by the Senate.

Mr. COX. I yield to the gentleman for that purpose.

JUDITH BROWN.

Mr. RICHMOND. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 4264) to authorize the payment of $69.09 to Judith Brown, one-seventh of the pension of Margaret Duncan, with an amendment by the Senate.

There being no objection, the bill was taken from the Speaker's table, and the amendment of the Senate was read, as follows:

Amend the title so as to read: "An act to authorize the payment of $66.09 to Judith Brown, one-seventh of the pension of Margaret Duncan."

The amendment of the Senate was concurred in.

Mr. RICHMOND moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker *pro tempore* signed the same:

An act (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker *pro tempore* signed the same:

Joint resolution (S. R. No. 100) to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1879.

ORDER OF BUSINESS.

Mr. WHITE. I move that the House do now adjourn.

Mr. BLOUNT. I desire to make a suggestion.

Mr. COX. I yield to the gentleman from Georgia, [Mr. BLOUNT.]

The SPEAKER *pro tempore*. The gentleman from New York is not now in possession of the floor, the gentleman from Pennsylvania having moved to adjourn.

Mr. BLOUNT. I desire to make an inquiry of the Chair. If there be a night session to-night will it be in order to move at the close of the business of that session that the House take a further recess until ten o'clock to-morrow?

The SPEAKER *pro tempore*. The session of this evening is for the sole purpose of considering reports from the Committee on Foreign Affairs, subject to general appropriation bills. The gentleman from Georgia [Mr. BLOUNT] can now ask that by unanimous consent, if there be a session this evening, there be a further recess after the evening session till ten o'clock to-morrow.

Mr. BLOUNT. I ask unanimous consent that that order be made.

Mr. HOOKER. I object.

Mr. COX. I demand the regular order.

Mr. WHITE. I press my motion that the House do now adjourn.

Mr. VALENTINE. I ask the gentleman to yield to me to ask unanimous consent——

Mr. WHITE. I yield to the gentleman from Nebraska.

The SPEAKER *pro tempore*. The gentleman cannot yield. He can withdraw his motion.

Mr. WHITE. I withdraw it.

Mr. COX. I insist on my motion that the House take a recess until half past seven o'clock.

Mr. HUMPHREY. I move that the House do now adjourn.

The question being taken on the motion to adjourn, there were—ayes 51, noes 52.

So the House refused to adjourn.

Mr. WHITE. I move to amend the motion of the gentleman from New York for a recess by making it extend to ten o'clock to-morrow morning.

Mr. COX. That is an insidious way of getting around it.

The question being taken on Mr. WHITE's amendment, there were—ayes 68, noes 58.

Mr. COX. I call for tellers.

The SPEAKER *pro tempore*. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from New York, Mr. COX, and the gentleman from Pennsylvania, Mr. WHITE.

The House again divided; and the tellers reported—ayes 59, noes 61.

So the amendment was not agreed to.

The SPEAKER *pro tempore*. The question recurs on the motion of the gentleman from New York that the House take a recess until half past seven o'clock.

Mr. COX. I will modify the motion so as to make it eight o'clock, as that may suit gentlemen better.

Mr. WHITE. I move that the House do now adjourn.

The question being taken on the motion to adjourn, there were—ayes 71, noes 59.

Mr. COX. I call for tellers.

Tellers were ordered; and Mr. WHITE and Mr. COX were appointed.

The House again divided; and the tellers reported—ayes 60, noes 45.

CONTINGENT FUND OF TREASURY DEPARTMENT.

Pending the announcement of the vote,

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the expenditures of the contingent fund of the Treasury Department for the fiscal year which ended June 30, 1879; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. The Chair submits the following requests for leave of absence:

Mr. ORTH, for twelve days from Monday next, on account of important business;

Mr. THOMAS TURNER, indefinitely, on account of sickness in his family;

Mr. DICK, for two weeks from Saturday;

Mr. COWGILL, for eight days from Saturday, his pair to have the liberty to vote to make a quorum;

Mr. PHISTER, for six days, on account of important business, his pair to have the liberty to vote to make a quorum;

Mr. GEDDES, for ten days from Saturday, his pair to have the liberty to vote to make a a quorum;

Mr. WILLIAMS, of Wisconsin, for one week, on account of important business;

Mr. YOUNG, of Ohio, for ten days from Friday, on account of important business, his pair to have the liberty to vote to make a quorum if necessary;

Mr. STARIN, for ten days, on account of important business;

Mr. POUND, for six days from Saturday next, on account of important business;

Mr. LINDSEY, for ten days;

Mr. WASHBURN, for ten days from Monday next;

Mr. CALKINS, indefinitely; and

Mr. COX, for the remainder of the session.

Mr. MCKENZIE. I object to granting leave of absence in any case except for sickness.

The SPEAKER *pro tempore*. Objection being made, leave of absence will not be granted except where sickness is assigned as the reason.

Mr. CONGER. I ask leave of absence for next week, in order that I may attend the convention to meet in Chicago.

The SPEAKER *pro tempore*. Is there objection to granting the request of the gentleman from Michigan, [Mr. CONGER?] [After a pause.] The Chair hears none, and it is granted. [Laughter.]

Mr. KEIFER. I make a similar request.

Many MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order is the announcement of the result of the vote upon the motion that the House now adjourn. On the vote by tellers there were ayes 60, noes 45.

So the motion was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BELTZHOOVER: The petition of George S. Duey and others, soldiers of Adams County, Pennsylvania, for the passage of the Weaver bill—to the Committee on Military Affairs.

By Mr. BERRY: The petition of soldiers of Cloverdale, California, against the passage of the bill establishing a congressional district pension court—to the Committee on Invalid Pensions.

By Mr. BINGHAM: The petition of citizens of Philadelphia, Pennsylvania, for granting land titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. CHALMERS: The petition of Sidney Ballard, for pay for property taken for the use of the United States Army during the late war—to the Committee on War Claims.

By Mr. CLAFLIN: The petition of H. O. Houghton & Co. and 30 leading firms, book publishers in Boston, Massachusetts, for a commission on the tariff—to the Committee on Ways and Means.

By Mr. HARMER: The petition of citizens of Philadelphia, Pennsylvania, that lands be granted to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. HILL: The petition of David Warner and other citizens, soldiers of Fulton County, Ohio, for the passage of the Geddes pension bill—to the Committee on Invalid Pensions.

By Mr. HOUSE: The petition of Warner Brothers, of Dickson, Tennessee, for a commission on the tariff—to the Committee on Ways and Means.

By Mr. MCGOWAN: The petition of citizens of Branch County, Michigan, for the passage of House bill No. 6088—to the Committee on the Public Lands.

By Mr. MCKINLEY: Papers relating to the claim of Asbury Waddell to be refunded the proceeds of the sale of certain cotton seized and sold by United States revenue officials—to the Committee on Claims.

Also, the petition of the Ohio Iron and Steel Company, of Lowellville, Ohio, for a commission on the tariff—to the Committee on Ways and Means.

By Mr. MILES: The petition of citizens of Connecticut, of similar import—to the same committee.

By Mr. O'NEILL: The petition of citizens of Pennsylvania, that land titles in severalty be granted to Indians on their reservations—to the Committee on Indian Affairs.

By Mr. TUCKER: The petition of Cornelius Warrock and others, for the passage of an act to incorporate the Grand Ancient Order of Melchisedec, King of Peace—to the Committee on the Judiciary.

By Mr. WARD: The petition of citizens of Delaware County, Pennsylvania, for the passage of the bill granting lands to Indians in severalty on their reservations—to the Committee on Indian Affairs.

IN SENATE.

FRIDAY, *May* 28, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

ADJOURNMENT TO MONDAY.

Mr. BURNSIDE. Mr. President, to-morrow being Decoration Day, I move that when the Senate adjourns to-day it adjourn to meet on Monday next at eleven o'clock.

The question being put, it was declared that the ayes appeared to prevail.

Mr. MORRILL. I ask for the yeas and nays upon the motion.

Several SENATORS. To-morrow is Decoration Day.

Mr. VOORHEES. The Senator from Vermont forgets that to-morrow is Decoration Day.

Mr. MORRILL. I withdraw the call.

The PRESIDENT *pro tempore*. The call is withdrawn, and the motion is agreed to.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Wisconsin, presented the petition of Rev. Theodore Auguste Schintzler, of De Pere, Wisconsin, praying compensation for services rendered during the late civil war; which was referred to the Committee on Military Affairs.

Mr. JOHNSTON presented the petition of A. M. Bowman and 33 others, citizens of Virginia, engaged in sheep husbandry and woolgrowing, in favor of the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. KIRKWOOD. I present a memorial of 330 citizens of Iowa. They say in their memorial that they are residents of the sixth congressional district of Iowa, and were soldiers in the late war of the rebellion; that they most earnestly remonstrate and protest against the passage of the bill now introduced and pending in the Congress of the United States purporting to equalize the pay of the soldiers so engaged in such war, and commonly known as the Weaver bill. They say that they believe the act is unjust and against good policy, uncalled for, and pressed for no good reason. I move the reference of the memorial to the Committee on Military Affairs.

The motion was agreed to.

Mr. PLUMB. I present a petition of a number of citizens of Allen County, Kansas, reciting a resolution of the Legislature of the State of Kansas passed at its session in 1879, asking that the Attorney-General be directed to institute a suit to determine and quiet the title to certain lands claimed by railroad companies. I may say in presenting the petition that this is a matter of considerable moment to the persons who are directly interested, and I bespeak for it the earnest and immediate consideration of the Committee on the Judiciary, to which I move its reference.

The motion was agreed to.

Mr. MAXEY presented the petition of citizens of Galveston, Texas, comprising sixteen firms, importers and dealers in crockery, praying a reduction of the present duty on earthenware; which was referred to the Committee on Finance.

Mr. McPHERSON presented a petition of the German Society of the city of New York, praying for the passage of a bill for the protection of arriving immigrants, and the care of such as may become sick and diseased; which was referred to the Committee on Foreign Relations.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, calling attention to his letter of the 25th instant recommending an appropriation to complete the office-work of surveys under Captain George M. Wheeler and respectfully suggesting that the papers be referred to the Committee on Appropriations and not to the Committee on Public Lands, as the reference appears to have been made.

The PRESIDENT *pro tempore*. The chairman of the Committee on Public Lands [Mr. McDONALD] is not present, and the Chair invites the attention of some member of the Committee on Public Lands to the communication.

Mr. WITHERS. I suggest that it lie on the table until the chairman of the committee comes in.

The PRESIDENT *pro tempore*. The communication will lie on the table until the chairman of the Committee on Public Lands comes in, and he can move some disposition in regard to it.

Mr. WITHERS. It can lie over informally.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting a statement of the Commissioner of Education, in compliance with the resolution of the Senate of February 2, 1880, containing all the information possessed by the Department relative to the development of drawing as applied to the fine and mechanical arts in colleges and schools over the country; which was referred to the Committee on Education and Labor, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers covering a copy of a report of Lieutenant-Colonel Q. A. Gillmore, Corps of Engineers, upon an examination of Port Royal, Royal River, near Beaufort, South Carolina, made in accordance with the provisions of the river and harbor act of March 3, 1879; which was referred to the Committee on Commerce, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. COCKRELL. I am directed by the Committee on Military Affairs, to which was referred the bill (S. No. 1742) in relation to the Fort Sedgwick military reservation, to report it with an amendment in the nature of a substitute, and with the recommendation that the substitute be passed and the report printed.

The PRESIDENT *pro tempore*. The report will be printed.

Mr. TELLER. I ask for the immediate consideration of the bill. It is a matter that is local entirely.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. EDMUNDS. I think I should like to look at it first. I have been behaving the same way for a day or two.

The PRESIDENT *pro tempore*. Objection is made, and the bill goes over.

Mr. PENDLETON. I am instructed by the Committee on Indian Affairs to make a supplemental report to accompany the bill (S. No. 1254) for the relief of Henry Warren, and I ask that it be printed.

The PRESIDENT *pro tempore*. The report will be printed.

Mr. PENDLETON. I desire to say to the Senate that on Monday, after the conclusion of routine business, if no public business intervenes, I shall ask the Senate to consider the bill. There is already a report printed to accompany the bill. There are papers in addition that have come to the possession of the committee.

Mr. FARLEY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2290) granting a pension to William Bowan, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (H. R. No. 753) granting a pension to Thomas J. Jackson, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 182) granting a pension to Mary A. Shemelia, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes, to report it with amendments. I am instructed by the Committee to say in reference to the report that the committee were not unanimous and that there will be amendments offered to the bill by other members of the committee.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (S. No. 1114) granting a pension to Luman Case, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 440) granting a pension to David L. Payne, submitted an adverse report thereon, which was ordered to be printed, and the bill was postponed indefinitely.

Mr. KIRKWOOD. I am directed by the Committee on Pensions, to whom was referred the bill (S. No. 1084) granting arrears of pension to the heirs of Captain J. H. Dent, United States Navy, and his wife, to report it adversely, but at the request of a Senator interested I ask that the bill be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1669) for the relief of Abbie N. Condron, reported it without amendment.

Mr. JONES, of Florida, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1724) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana, reported it without amendment.

Mr. BLAIR, from the select committee to inquire into alleged frauds in the late elections, submitted the views of the minority concerning the supposed abridgment of suffrage of citizens of the United States by the State of Rhode Island; which were ordered to be printed.

Mr. HEREFORD. I am instructed by the Committee on Commerce to report back favorably and without amendment the bill (S. No. 1498) to grant an American register to a foreign-built ship for the purpose of scientific exploration. I ask for the immediate consideration of this bill for the reason that I shall state. We have already passed into a law a provision authorizing Captain Howgate, who is now the owner of this vessel, to tender it to the General Government free of any charge to go to the North Pole for scientific purposes. The vessel was built at his expense and tendered to the United States, but it was a foreign-built vessel originally. It has been thoroughly repaired here at Alexandria at his own expense, and it is necessary now for it to have an American register before it can start. Therefore I ask for the immediate consideration of the bill.

Mr. EDMUNDS. Let the bill be read for information.

The Chief Clerk read the bill.

Mr. EDMUNDS. It must go on the Calendar until pension cases are disposed of.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

Mr. EATON. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions, with sundry memorials on the same subject, have instructed me to report it with an amendment in the nature of a substitute.

As the resolution is a proper one and as it should go early to the House that there may be some action taken there if the Senate should adopt the recommendation of the committee, I ask the immediate consideration of the joint resolution.

Mr. HOAR. Let it be read for information.

The joint resolution was read at length.

The PRESIDENT *pro tempore*. Is there objection to proceeding to the consideration of the joint resolution?

Mr. EATON. I will not ask its consideration at this time.

Mr. EDMUNDS. The Senator from Connecticut asks that it be printed so that it can be called up afterward.

The PRESIDENT *pro tempore*. The joint resolution will be printed and placed on the Calendar.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the letter of the Secretary of War transmitting a report from the Chief of Engineers urging the necessity for the completion of the office-work connected with the surveys west of the one hundredth meridian under charge of Captain G. M. Wheeler, and recommending an appropriation therefor, asked to be discharged from its further consideration, and that it be referred to the Committee on Appropriations; which was agreed to.

Mr. FERRY, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5627) to amend section 1484 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken, with reference to the rank of engineer officers, graduates of the Naval Academy, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

HORACE BOUGHTON.

Mr. INGALLS. The Committee on Pensions, to whom was referred the bill (S. No. 1755) granting an increase of pension to Horace Boughton, have instructed me to report it without amendment. I ask that it may be considered now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of Horace Boughton, late colonel One hundred and forty-third Regiment New York Volunteers, and brevet brigadier-general, and to pay him a pension of $72 per month in lieu of that which he now receives.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. PADDOCK asked, and by unanimous consent obtained, leave

to introduce a bill (S. No. 1798) for the relief of Charles N. Emery; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1799) for the relief of Albert Holliday; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1800) construing conveyances or devises to two or more persons in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama; which was read twice by its title, and, with the accompanying petition, referred to the Committee on the Judiciary.

LOAN OF TENTS FOR KING'S MOUNTAIN CELEBRATION.

Mr. VANCE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 117) authorizing the Secretary of War to lend to the governor of the State of North Carolina one hundred and forty-five tents for the use of the State Guards to enable them to participate in the centennial celebration at King's Mountain in October, 1880; which was read twice by its title.

Mr. VANCE. I ask the favor of the Senate to have the joint resolution considered immediately.

Mr. EDMUNDS. Let it be read at large for information.

The Chief Clerk read the joint resolution.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the joint resolution?

Mr. EDMUNDS. Before I object or do not object, I wish to call the attention of the Senator from North Carolina to the last proviso which is:

Provided, That the governor of the State shall receipt for and return the same at the close of such celebration, or when requested by the Secretary of War.

That is consistent with these State Guards keeping them indefinitely on call. I can hardly suppose that that is intended.

Mr. VANCE. Strike it out.

Mr. EDMUNDS. I would simply suggest "or sooner if requested," or strike it out altogether so that it would be a definite return at some time.

Mr. VANCE. That amendment will be perfectly satisfactory.

Mr. EDMUNDS. With that modification I shall not object, because it seems ungracious to North and South. I am not altogether sure that this is a very wise thing, but I am willing to go it for the rest of this session.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the joint resolution is before the Senate as in Committee of the Whole. The Senator from Vermont moves to amend it by adding the words "or sooner if requested."

Mr. EDMUNDS. It would be better to strike out the clause altogether, and then it will not imply that they can be recalled before the celebration. Let the words "or when requested by the Secretary of War," be stricken out and let them return them at the end of the celebration.

Mr. VANCE. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

NEW YORK CENTRAL RAILROAD DIVIDEND TAX.

Mr. BUTLER submitted the following resolution; which was read:

Whereas the claim of the United States named in the following resolution remains unsettled, and the interests involved therein are subjects of great public importance: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he hereby is, directed to report to this body within ten days from the passage of this resolution true copies of all papers, figures, decisions, opinions, with all other records of interest in his Department, relating to the claim of the United States against the New York Central and Hudson River Railroad Company for 5 per cent. tax on the scrip dividend of 80 per cent. declared by the New York Central Railroad Company in 1869 on its stock capital, and that the Commissioner of Internal Revenue suspend all action thereon until instructed by Congress as to the manner of its settlement.

Mr. BUTLER. I ask for the present consideration of the resolution.

The PRESIDENT *pro tempore*. Is there objection?

Mr. EDMUNDS. I do not know that the preamble is correct in its statement; I do not know that the Secretary of the Treasury can give this information in ten days; and I do not know that proceedings ought to be suspended for that length of time. Therefore I think the resolution had better be printed and go over.

The PRESIDENT *pro tempore*. The resolution goes over, and will be printed.

COMMITTEE SERVICE.

Mr. FARLEY. I ask to be excused from further service upon the Committee on Pensions. I have been placed upon the Committee on Commerce, and as I am on two or three other important committees it will be impossible for me to attend to the duties of the Committee on Pensions. I therefore ask to be relieved from further service on that committee.

The PRESIDENT *pro tempore*. The Senator from California asks that he may be excused from further service upon the Committee on Pensions, having been placed on the Committee on Commerce several days ago. Is there objection? The Chair hears none. How shall the vacancy be filled?

Mr. EDMUNDS. By the Chair, I suppose.

The PRESIDENT *pro tempore*. If there be no objection that will be the order.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

Mr. WILLIAMS. I give notice that on Monday morning after the morning business is through I shall move to take up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes, which was reported this morning from the Committee on Pensions, with a view of submitting some remarks upon it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 4264) to authorize the payment of $69.09 to Judith Brown, one-seventh of the pension of Margaret Duncan.

The message also announced that the House had agreed to the resolution of the Senate of May 4, 1880, to print 3,000 extra copies of the Report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1879.

The message further announced that the House had passed the following bill and joint resolution of the Senate:

A bill (S. No. 1484) for the relief of Ernst Hein; and

A joint resolution (S. R. No. 15) authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry.

The message also announced that the House had passed a joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1881, and for other purposes; and

A joint resolution (S. R. No. 100) to print extra copies of the Report of the Commissioner of Fish and Fisheries for the year 1879.

INDIAN HOSTILITIES IN FLORIDA.

The PRESIDENT *pro tempore*. If there are no other resolutions the routine of the morning hour is at an end.

Mr. EDMUNDS, and Mr. JONES of Florida, addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Florida.

Mr. EDMUNDS. I thought I addressed the Chair first.

The PRESIDENT *pro tempore*. The Chair did not hear the Senator address the Chair.

Mr. EDMUNDS. Because his ear was turned this way, I suppose.

The PRESIDENT *pro tempore*. If the Senator from Vermont did address the Chair first he will be recognized, of course, but the Chair did not hear the Senator.

Mr. EDMUNDS. The Senator from Vermont addressed the Chair quite positively, as positively as was polite, and the Senator from Vermont did not hear the Senator from Florida address the Chair at all.

The PRESIDENT *pro tempore*. The Senator from Vermont.

Mr. EDMUNDS. Oh no, Mr. President, I would not think of standing in the way of any arrangement.

Mr. JONES, of Florida. There is no arrangement about it. I certainly addressed the Chair very distinctly, but I may not have spoken as loud as the Senator from Vermont. If there is any question about it I will give way.

Mr. EDMUNDS. I certainly yield to my friend from Florida.

Mr. JONES, of Florida. I ask the Senate to proceed to the consideration of Senate joint resolution No. 79, which was reported from the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Senator from Florida moves to postpone all prior orders to that which he has named in order to proceed to the consideration of the joint resolution (S. R. No. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida.

Mr. EDMUNDS. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Vermont.

Mr. EDMUNDS. Being now recognized I ask the Chair to be kind enough to have the joint resolution read for information.

The PRESIDENT *pro tempore*. The joint resolution will be read.

The Secretary read the joint resolution.

Mr. EDMUNDS. I respectfully ask for the yeas and nays on postponing prior orders for the purpose of taking up the joint resolution.

The yeas and nays were ordered.

Mr. JONES, of Florida. The joint resolution is a very simple one.

It came here from the Committee on Military Affairs. It proposes to have made a fair adjustment of the account between the State which I in part represent and the Government of the United States. It makes no appropriation of public money; it simply invests the Secretary of the Treasury with authority to adjust these long outstanding accounts, and if there is anything found due to recommend it; if not, to say so; and after that is done the matter comes back to Congress for final action.

The facts in the case are very few, and are presented in the report of the committee which accompanies the joint resolution. A large amount of the bonds held by the Government in what is known as the Indian trust fund are held against the State of Florida. The money raised on those bonds was necessary to enable the State to co-operate with the General Government in defending the people of that State against Indian hostilities in the years 1855, 1856, and 1857. It borrowed the money——

The PRESIDENT *pro tempore*. The Chair is compelled to say to the Senator from Florida that debate on the merits is not in order on this motion.

Mr. JONES, of Florida. I was not intending to go into the merits, except to say that the joint resolution makes no appropriation of public money whatever, but merely provides for the adjustment of this outstanding account, which has been done time and again in the case of other States.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the orders prior to Senate joint resolution No. 79, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. VANCE, (when Mr. RANSOM's name was called.) My colleague [Mr. RANSOM] is engaged in committee work, and is paired with some Senator, I have forgotten whom.

The roll-call was concluded, and the result was announced—yeas 40, nays 10; as follows:

YEAS—40.

Bailey,	Garland,	Kernan,	Saulsbury,
Bayard,	Groome,	McDonald,	Saunders,
Beck,	Hampton,	McPherson,	Thurman,
Brown,	Harris,	Maxey,	Vance,
Butler,	Hereford,	Morgan,	Voorhees,
Call,	Hill of Georgia,	Paddock,	Walker,
Coke,	Ingalls,	Pendleton,	Wallace,
Davis of Illinois,	Johnston,	Plumb,	Whyte,
Eaton,	Jonas,	Pryor,	Williams,
Farley,	Jones of Florida,	Randolph,	Withers.

NAYS—10.

Allison,	Edmunds,	Hoar,	Windom.
Blair,	Ferry,	Morrill,	
Booth,	Hill of Colorado,	Rollins,	

ABSENT—26.

Anthony,	Carpenter,	Jones of Nevada,	Ransom,
Baldwin,	Cockrell,	Kellogg,	Sharon,
Blaine,	Conkling,	Kirkwood,	Slater,
Bruce,	Davis of W. Va.,	Lamar,	Teller,
Burnside,	Dawes,	Logan,	Vest.
Cameron of Pa.,	Grover,	McMillan,	
Cameron of Wis.,	Hamlin,	Platt,	

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Florida moves to proceed to the consideration of Senate joint resolution No. 79.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida.

The joint resolution was reported from the Committee on Military Affairs with an amendment, to strike out all after the resolving clause and to insert:

That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary to authenticate said claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department. In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States.

Mr. EDMUNDS. Is there not a report from the committee in this case?

Mr. JONES, of Florida. There is a written report.

Mr. EDMUNDS. Let us hear it read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. PLUMB March 17, 1880:

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. No. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida, have had the same under consideration, and submit the following report:

The claims of the State of Florida, for which this resolution seeks to make provision, grew out of the Seminole war of 1855, '56, and '57. It appears that in December, 1855, the Indians of that tribe in Florida, who had for some time been in a turbulent and threatening state, commenced actual hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff. This outbreak occasioned great excitement along the extended exposed frontier, and urgent demands were made upon the State authorities by the people for their protection. So urgent seemed the necessity that the citizens of several of the counties hastened to effect voluntary organizations in advance of the action of the State executive. These companies were promptly recognized by the governor and rendered efficient service. In the emergency the governor appealed to the War Department to accept the services of the troops thus raised and organized, but the Secretary consented to receive only five companies.

These forces, with the United States troops then on duty in that section, were inadequate to the protection of the people, and the governor felt constrained to retain in the service, besides those received by the General Government, several companies, aggregating about four hundred men. These were added to from time to time as the exigency seemed to require. These forces were regularly organized and mustered into the service of the State for a period of six months unless sooner discharged. They co-operated with the United States troops and rendered efficient service.

All the facts in the case and the voluminous correspondence submitted—correspondence between the State executive and officers of State troops and citizens living in the exposed localities, and between the executive and the military authorities at Washington and the officers of the United States Army in service in Florida—satisfy the committee that the necessity which prompted the action of the governor in organizing and maintaining State troops in the field was imperative. He could not well have done less than he appears to have done without culpable neglect of duty.

This service, of course, was a serious burden to the State financially. The troops in the field had to be equipped, supplied, and paid. The funds at the command of the executive were insufficient for the purpose, and he was forced to negotiate burdensome loans in anticipation of the action of the Legislature. This is a mere outline of the facts upon which the committee base their recommendation, as they do not deem it necessary to their present purpose to treat the subject in minute detail.

On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective co-operation with the United States troops; and to emphasize the necessity of the course he pursued he alluded to the circumstance that when Brigadier-General Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, "to approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor, as follows:

"WAR DEPARTMENT,
"*Washington, D. C., May 21, 1857.*

"SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

"Very respectfully, your obedient servant,

"JOHN B. FLOYD,
"*Secretary of War.*

"His Excellency JAMES E. BROOME,
"*Governor of Florida, Washington.*"

The official order mentioned in the foregoing letter is as follows:

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, D. C., May 21, 1857.*

"SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

"The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster-rolls will at once be sent to your address.

"I am, sir, very respectfully, your obedient servant,

"S. COOPER,
"*Adjutant-General.*

"COMMANDING OFFICER,
"*Department of Florida, Tampa, Florida.*"

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropiation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question."

The committee are of the opinion that the facts set forth as to the urgent necessity for the services of these troops for the defense of the State and the protection of the people against the hostilities of the Indians create an equitable obligation on the part of the General Government to reimburse the cost of such necessary service. This obligation is so clearly enforced by a long series of precedents that the action of the President and the Secretary of War in this particular case only strengthens it by evidencing the opinion they entertained at the time, with a full knowledge of all the facts and circumstances, of the judicious and necessary action of the governor in summoning the troops to the field. In a report recently submitted to the Senate by this committee, and also submitted in the last Congress, relative to military expenditures by the State of Kansas, the question of the obligation on the part of the United States to reimburse the States for expenditures of this character is fully presented in the light of numerous cited precedents. The committee would not deem it necessary to traverse this field again, even if the liability of the Government were less generally conceded than it is. We hold, therefore, that the State of Florida has a proper and legitimate claim against the United States for expenses properly incurred by her in the manner indicated.

While the committee are satisfied of the justice of this claim of the State of Florida, they are not prepared to recommend the passage of the specific bill referred to them. They think it would be wiser to authorize and direct the Secretary of War to cause this claim to be thoroughly investigated, and to report the result to Congress for further consideration. It is probable that the data on file in the War Department will greatly facilitate the proposed investigation, so that no great delay is likely to result if the recommendation of the committee shall be adopted by the Senate and be followed by a law to the same effect. A similar course has been pursued in the case of the State of Kansas, to which reference has been made, and we therefore submit a substitute for the joint resolution, and recommend its passage.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Military Affairs.

Mr. EDMUNDS. Mr. President, I think the first thing that would strike the casual Senator is that it does not appear that the committee has called officially on the President of the United States or the Secretary of War to get the present state of information that is supposed officially to exist in the office of the Secretary of War on the subject of this claim, now twenty-five or thirty years old; and we are in that respect to proceed in the dark.

I think the next thing that would strike the casual Senator is the circumstance of the bringing together of this Indian military affair and the Indian trust funds held by the United States under treaties with the United States and which are the property of the Indians and which in part happen to be invested as it is said in the bonds of the State of Florida, is rather an extraordinary, bringing together two very dissimilar things.

And so I think it would strike an ordinary person as somewhat strange that if the State of Florida has any just claim against the United States growing out of military operations, that her duty to pay the interest upon her State bonds which happen to have been bought by the Secretary of the Interior and held in trust for the Indians—not the Seminoles, but other Indians—should not be hung up and charged with the settlement of military claims on the part of the State of Florida against the United States and taken out of property and funds that do not belong to the United States at all, in order to make even. But that may be one of the new and better civilized and reformatory methods of administering the Government that we have heard so much about; but it would certainly, I think, strike most people as strange, and I think it would be difficult to find anything that is more novel than this as a precedent in legislation.

Here is a State of the Union that in the course of its own operations finds it necessary to raise money, and it issues its bonds and raises money upon them, the bonds passing into the market being payable to bearer, and bearing interest. Here is another government that in the execution of a trust for certain beneficiaries needs to invest money. The second government goes into the market and buys these bonds and invests the trust funds of its beneficiaries in them. After that a claim arises in behalf of the bond-issuing State against the trustee government that has happened to buy its bonds in the market and holds them for a trust. Then the State comes forward and says, "Let us stop paying interest on this trust-debt until we can have an inquiry as to whether the trustee on its own and a separate and different account does not owe us something, and if it does we will by mutual arrangement take the money of the beneficiaries and wipe out the two debts by an offset."

Mr. JONES, of Florida. I will say to the Senator that the substitute as reported by the committee makes no such provision. That was in the original resolution, and was stricken out by the committee.

Mr. EDMUNDS. Have I not a good right to address myself to the Senate on the original resolution, Mr. President?

The PRESIDENT *pro tempore*. The Senator from Vermont knows his rights.

Mr. EDMUNDS. I had that impression. That was the proposition, and that is the proposition that the Senate is called upon to decide as between it and another which I admit is not quite so rough as this; it is a good deal less so.

What is the next proposition? The next proposition is—

That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary to authenticate said claims,—

He is not to receive and consider any that will show that they are not authentic, but his duty is simplified very largely by requiring him apparently to receive evidence only on one side and that of a particular character—

including the muster-rolls of the State troops, and such other official data as may be on file in the War Department. In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States.

Now, Mr. President, taking that as an original proposition, after twenty-five years in round numbers, a quarter of a century, without any report from the executive department of the Government as to what may have transpired between 1855 and this time connected with these affairs, the Secretary of War is directed to take proof in support and authentication of unlimited claims made by the State of Florida for any expenditures that she incurred in respect of Indians in the five years between 1855 and 1860.

I never heard of this joint resolution before; but it struck me as strange that we did not have a report from the Secretary of War on the subject. I find, however, on turning cursorily to the acts of Congress of 1859, about which time it would seem to be natural that if there was any just claim in the war of 1856–'57 it would have been presented and pressed, that in an appropriation bill of that year there are two or three references to this subject. Here is one of them, and I think if I had the time and the Senate the patience, I could find a good many others:

For the payment of volunteers—

This is in the sundry civil appropriation bill of 1859, chapter 82, approved March 3, 1859:

For the payment of volunteers employed in Florida during the years 1857 and 1858, and who were called into service by requisition of the President on the governor of that State—

I think you will find, though that is a mere suspicion of mine that that "on" is a misprint for "or," so that it should read "called into service by requisition of the President or the governor of that State"—

But that I do not know; so I only call attention to it—

the sum of $413,600, or so much thereof as may be necessary to pay the amount found due for the time said troops were actually in the service of the United States: *Provided*, That no greater pay or commutations be allowed than are authorized by law to similar troops of the United States Army.

You will notice that this act was passed on the 3d of March, 1859, which was nearly two years after the correspondence referred to by the committee between Mr. John B. Floyd, Secretary of War, and his excellency James E. Broome, the governor of Florida, upon the same subject. Before that time, in the year 1857, the State of Florida made a claim for pay of troops that had not then been paid by the United States, troops having been paid by the United States that were regularly called into the service, there being plenty of money to do it; that was not the difficulty; but here was a body of people who had been called out by the Government, and that Mr. Floyd, the Secretary of War, and S. Cooper, the Adjutant-General, and the governor of Florida thought it would be a good thing to pay, and accordingly the first course suggested was, in order to make it proper to pay them out of the regular Army appropriation, to just muster companies in and muster them out again by relation, and antedate the whole thing—rather a loose way of doing business, but still that was one way to accomplish it. Then it was found that that could not be done with any regard to truth, from the fact that these people were disbanded two years before and had gone home, and they could not be got together; they were scattered everywhere.

What happens next? Two years afterward, in round numbers, nearly half a million dollars, $413,600 is appropriated to pay the volunteers of that occasion who had been called into the service of the United States to help repress that difficulty by being called upon by the President, as it reads here "on the governor," but I think careful investigation might show—I do not say that it would because I am only arguing now—that this appropriation of nearly half a million dollars was made to cover and did cover, and has been spent to cover and discharge the identical obligation that is referred to in the correspondence of Floyd and Broome. If not, then the four hundred men who are mentioned in this report as being the contingent of Florida for that occasion, that were not so regularly mustered into the service of the United States as to be paid out of the ordinary and regular appropriation, must have been a very costly four hundred, because here are $413,000 given in the year 1859 and apparently to cover the same service.

Now my point is, with great respect to everybody, that we ought to go rather slowly about old claims of this kind, and before we vote any kind of a new investigation, particularly on a measure that is framed as this is, commanding the Secretary of War to find all the evidence that will support the claim and by implication seems to exclude him from finding anything else, we should know for what purpose this half million dollars was paid in the time of it two years after this claim arose.

Mr. JONES, of Florida. I will tell the Senator, if he will permit me.

Mr. EDMUNDS. And we should know from the records of the War Department to what uses it was applied and should know from the debates in Congress on the occasion of the passage of those items how it was that, if here was a claim that the Congress in the time of it thought was fit to be paid or considered, it was not provided for then, and whether or not this is not one of that numerous, infinite class of claims that being considered by the responsible representatives of the people in the time of them are decided against or are only allowed in part, are disposed of, that again after years rise out of their graves when the circumstances of any adjudication at all or the evidences that would show the real state of the fact have gone by, and when there is the greatest possible danger that there will be a mistake.

These are the considerations to which I wish to call the attention of the Senate.

Mr. JONES, of Florida. Will the Senator yield to me a moment?

Mr. EDMUNDS. I have said all I wish to say at present.

Mr. JONES, of Florida. There is no concealment about this matter at all. We are perfectly willing that the whole subject shall be committed to the War Department, where I suppose the evidence exists going to show what the appropriation to which allusion has been made by the honorable Senator was expended for.

A very large volunteer force during the years mentioned in the report became necessary to co-operate with the troops of the United States to suppress Indian hostilities in Florida. The Seminole war there, which is a matter of common history, broke out in several stages in that State, the last was at the period indicated in this report; and quite a number of volunteers were called for in the first instance by the General Government. They were regularly mustered into the service of the United States in compliance with the rules and regulations of war. There was no question made whatever in regard to the payment of those troops, and the appropriation referred to by the Senator from Vermont was to pay the volunteers that were regularly mustered into the service of the United States. For that service, but outside of that number, there was another body of men whose service, owing to the great emergency of the occasion, became necessary, and time did not permit of their going through all the details necessary to a regular muster, although their service was sanctioned by the authority of the United States, indeed, called for by the United States.

The correspondence here shows that after their services became no longer necessary the Adjutant-General suggested that they then be mustered in; but the governor of the State entertaining doubts in regard to this matter and setting forth the impracticability of it, said that as the men had been disbanded that could not be done. Then the War Department suggested that the muster-rolls of the State which contained evidence of the service of those men who went into the service just the same as those and were paid, that had imperilled their lives the same as the others, should be taken by the War Department and submitted to Congress for such equitable relief as this body might feel disposed to give.

That is the whole of it. The $400,000 was expended to pay the volunteers that were regularly mustered in. What we seek now is to get a settlement between the State and General Government for troops that performed just as much service as the others, certainly as meritorious as the others, but that, on account of the want of time and the great pressure of an emergency then upon the people of that State, could not be mustered in formally according to the rules and articles of war. Therefore this matter is merely remitted to the War Department to see if from the evidence there or that can be produced there is ground for an equitable claim.

What was said awhile ago by the Senator from Vermont in regard to the Indian trust fund is somewhat astonishing to me. There is no pretense here of interference with the Indian trust fund; but I would submit to the Senate and the honorable Senator this proposition: If, for instance, it were found that the United States were indebted to the State of Florida in the sum of $100,000, or $50,000, or $10,000, and the United States in the character of trustee at the same time held Florida bonds in the Indian trust fund which were purchased by the United States, and the proceeds of which went to enable the State to pay those very troops, I ask whether in that case the Government of the Union, with the consent of the State, could not, if it were found that there was anything due the State, appropriate such fund to the payment of the interest that she might be behind in from the past on account of her impoverished condition?

If it were found that $100,000 was due to the State of Florida in consequence of payments made by the State to troops that had actually been in the service of the Union engaged in suppression of Indian hostilities, would there be anything extraordinary in the Government taking that fund, with the consent of the State, and applying it to any deficiency that might exist on account of the non-fulfillment by the State of her obligation with respect to these very Indian trust bonds? Would it not be a step for the protection of the trust fund? I have no hesitation in saying that the State is largely behind with the General Government in the payment of the interest on these bonds. She has not been able to meet it, and she wants to do what is honorable in the whole transaction. The Government of course has to make good the Indian trust fund itself out of its common Treasury where the State fails to pay the interest. For example, if the Government holds the bond of a State on which there is deficiency in paying interest, the Government of the Union has to make it up, has to meet the requirements of the fund, whether the State discharges her obligation or not.

Mr. ALLISON. Will the Senator allow me a moment on that point? I will say to him that there is in the Indian trust fund $32,000 of bonds of the State of Florida, and that the interest on those bonds has never been paid since 1860 by the State, but has been paid regularly by the Government of the United States.

Mr. EDMUNDS. And it is 7 per cent. interest.

Mr. ALLISON. Seven per cent.

Mr. JONES, of Florida. I say there is nothing extraordinary in the proposition at all to have this account between the State of Florida and the Government of the United States investigated by one of the highest officers of the executive government, and let it be ascertained whether there is any ground or not for a claim, because we have no concealment to make respecting it. This resolution appropriates no sum of money; it remits the whole subject to the investigation of the executive department, where all the evidence can be found bearing on this subject, where the muster-rolls of the State troops can be presented. And when the matter is brought again to Congress for final action it may then be decided whether the claim shall be allowed; but in the present condition of the case I think there is nothing extraordinary in simply asking that an adjustment of the claim shall be made as has been done in other cases.

Mr. ALLISON. May I ask the Senator a question before he sits down?

Mr. JONES, of Florida. Certainly.

Mr. ALLISON. I ask the Senator whether or not the State of Florida has made up an account with reference to this claim? What is the actual claim of the State of Florida as against the United States as appears upon her own books or archives?

Mr. JONES, of Florida. I do not know the precise figures at this time, or whether the account has been gone into with sufficient definiteness to enable me to speak accurately about it; but I think the account has been made out and I think several hundred thousand dollars can be shown to be due to the State, not as in some cases where the State has paid nothing out, because here the State actually paid the money. She borrowed the money to pay these troops. In the other case where an appropriation was made for similar services, the troops were actually mustered in; but owing to the want of time these troops were not mustered in in this case.

Mr. ALLISON. But here, as the report states, were four hundred troops. They must have been in service for a particular length of time, and if they were paid for their services by the State, that ought to be a matter of reasonable adjustment.

Mr. JONES, of Florida. I think so; and that is the whole question.

Mr. ALLISON. But the State ought to know what she paid.

Mr. PLUMB. Mr. President, the Committee on Military Affairs, to whom this bill was referred, did not deem it advisable to go into the relations existing between the State of Florida and the General Government, growing out of the investment by the General Government in the bonds of Florida as a part of the Indian trust funds; and on considering this case further they concluded that the proper thing and the only proper thing to do under the circumstances was, following the precedent which they had themselves recently set, and which had been adopted by the Senate, to provide for auditing the claim. If the measure which the committee has reported, designed to accomplish this purpose, is subject to a narrow construction, according to the theory of the Senator from Vermont, or if it is too latitudinarian in its language, I think I feel warranted in saying that if the Senator from Vermont or any other Senator will move an amendment which will sufficiently and properly guard the interests of the Government in regard to the adjustment of this account, it will be promptly accepted.

The committee in agreeing to report this bill, as I said, followed the precedent which had been set and which has continued in a legislative way for very many years. It has had recent illustration in the action of the Senate with reference to the accounts of the State of Missouri, as well as in regard to accounts of the State of Kansas. The General Government has for more than fifty years recognized by legislative appropriation its liability to respond to the several States for sums of money by the States expended for their protection against Indian hostilities; and that includes nearly, if not all, the Western States and most of the Southern States. I find on looking into the report which I made from the Military Committee at the present session of Congress, report No. 139, in referring to the statutes on that subject, I said:

> By act approved July 7, 1838, an appropriation was made to the State of New York of such amount as should be found due by the Secretary of War and the accounting officers of the Treasury, out of the appropriation for the prevention of hostilities on the northern frontier, to reimburse the State for expenses incurred in the protection of the frontier in the pay of volunteers and militia called into service by the governor. (See 5 United States Statutes, page 268.) By an act approved June 13, 1842, the State of Maine was reimbursed for the expenses of the militia called into service by the governor for the protection of the northeastern frontier. (See 5 United States Statutes, page 490.)

There is absolutely no break in the precedents as I think; but the committee did not assume for any purpose of payment that this claim of the State of Florida was just, and simply provided that it might be put in some authentic shape, in order that Congress may be able hereafter to settle the question on full knowledge of what was due, if anything, from the General Government to the State of Florida, and when we settle the account we can also prescribe the manner in which the payment shall be made, if payment is to be made at all.

The Senator from Vermont has quoted a statute of 1859 or 1860, providing for the payment of certain volunteers brought into the service of the United States in the State of Florida for the purpose of suppressing Indian hostilities. I have in my hand the journal of the Legislature of the State of Florida, which contains the message of Governor Broome for 1856, which I think fully explains what seems to the Senator from Vermont to be a contradiction. The governor, after making reference to the fact which is set out in the report, that the Indians had commenced hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff, and reciting various acts on his part immediately succeeding that event, says:

> The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens, naturally and properly, called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained, many men from the counties of Manatee, Hillsborough, and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped, and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible,

the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive more than five companies, three of mounted men and two of infantry—the latter of which I could only procure to the extent of one detachment.

It appears that the General Government accepted a certain portion of these forces, and that is the portion which Congress afterward provided for the payment of. It appears by other portions of this message that the State had in service other companies besides these here referred to. The governor goes on to say:

The infantry companies ordered to be recruited were deemed necessary for temporary service in the Gulf Hammock and adjacent places, and were then desired for Colonel Monroe, commanding United States forces in Florida, to aid in filling a requisition, then daily expected, of which advices from the War Department had been received. A portion of these were recruited, but it was found difficult to raise full companies, and as the commanding officer required such, they were discharged at the completion of the special service for which they were enlisted. This whole special service terminated in September, and the companies were generally discharged on the 30th day of that month.

At the expiration of six months from the respective dates of mustering the three mounted companies, and one infantry detachment of volunteers, into the service of the United States, and the four companies and one detachment of mounted volunteers into the service of the State—

Referring there to a separate force which was employed by the State as distinct from that which had been accepted by the General Government—

they were all regularly mustered out. The second requisition from Colonel Monroe, for three companies to supply the places of those mustered out, was filled by companies organized and commanded by Captains S. L. Sparkman, L. G. Lesley, and Robert Bullock. The companies mustered out of the service of the State were promptly supplied by others commanded by Captains F. M. Durrance, W. H. Kendrick, Abner Johnson, and E. T. Kendrick. The detachment commanded by Lieutenant Addison was ordered to be substituted by a full company, the organization of which has not yet been reported to me.

It seems, therefore, not only that the State of Florida furnished to the General Government on its requisition certain companies of volunteers for a specified time, but that that term of service having expired and the Government still requiring the services of an equivalent number of men, others supplied their places and were taken from the militia forces then in the field, and the vacuum in the militia forces thus created was supplied by additional enlistments. The governor goes on:

It will be seen by a correspondence herewith communicated, between the Post-Office and War Departments and one of our Senators, that the provisions for mounted force on the part of the Government was so limited that the mails between Palatka and Tampa were virtually suspended for the want of protection. On being advised of this state of things, I ordered General Carter, the State's special agent, to confer with the colonel in command, on this subject, and if he was unable to give the necessary protection, to furnish it from the forces in the service of the State. My order in reference to the matter is herewith communicated.

No provision having been made by the Government of the United States to pay or subsist our State forces, it becomes the imperative duty of the State government to do so. The amount which will be due on the 20th of February next, should no change in our present force be made, will be, (including pay, subsistence, forage, transportation, incidental expenses, and the loan negotiated in Charleston,) according to my estimate, about $225,000, and for each six months' service beyond that period, should the necessity unfortunately continue to exist, a provision of $110,000 should be made.

In the appendix to this volume is a voluminous correspondence showing the necessity which existed for the calling out of the State forces, the inadequacy of the Federal force, and the recognition by the General Government of the emergency which existed at that time. On the 5th of April, 1856, the governor addressed a letter to the Secretary of War, which it is not necessary to read, but to which the Secretary replied by letter dated 15th April of that year, from which I extract one paragraph:

The policy of the General Government is, the removal of the Indians from Florida at the earliest practicable period, in accordance with its recognized obligations.

He then recites the efforts that the Government had made to remove the Indians peaceably.

Mr. EDMUNDS. It is right to call the attention of my friend from Kansas in that connection to the fact that on the 30th of August, 1856, after that correspondence on the subject was called to the attention of Congress, an appropriation was made in one of the bills; there may be a good many others:

For pay, furnishing and maintaining with quartermaster's stores and supplies, and subsistence of mounted and foot companies of Florida volunteers called into the service of the United States, $240,667.52.

Which leads to the inference (it may be a wrong one) that after all this correspondence provision was made for everything that Congress then thought it was right to provide for.

Mr. PLUMB. No doubt the General Government at that time provided specifically for that portion of its own force which had been drawn from the militia of Florida. That was part of the military establishment of the United States. It could not have paid for anything else at that time, simply because it had not then had an adjustment of accounts with the State of Florida, and until the accounts were adjusted there was no foundation for a claim; but this letter of the Secretary of War of 15th April, 1856, recites the fact that the General Government had determined to draw into its service certain volunteers from the State of Florida, and he goes on further to say:

Should it hereafter be found necessary to employ a greater number of volunteer militia, the commanding officer in Florida will be authorized to receive into the service of the United States such additional force as may be from time to time required. It may be proper, however, to inform you that the authority already given to receive the five companies of volunteers covers the whole force which that officer has reported necessary or desirable.

That covers, I think, distinctly the force for which an appropriation was made, as stated by the Senator from Vermont. As stated in the report which I will read from, because I cannot readily turn to the correspondence in this volume, on the 21st day of May, 1857, the then Secretary of War writes as follows to Governor Broome, of Florida:

WAR DEPARTMENT,
Washington, D. C., May 21, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you—

Not volunteers that had gone into the service of the United States, but volunteers called out by the governor of the State of Florida—

and in reply to inform you that the explanation as to the necessity of their services is satisfactory—

There was an express recognition by the officer then at the head of the War Department that the service to which his attention was called by the governor of the State of Florida was a service that was necessarily and properly rendered—

and orders have been issued—

He continues—

to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,
JOHN B. FLOYD,
Secretary of War.

His Excellency JAMES E. BROOME,
Governor of Florida, Washington.

That was a recognition of their services and a direction that they should be put upon the muster-rolls of the United States forces in order that they might be paid in the same manner as the regular forces of the United States were paid, out of the money appropriated for that purpose. On the 21st of May, 1857, the then Adjutant-General, Mr. Cooper, addressed the following letter to the commanding officer of the Department of Florida:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., May 21, 1857.

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

Always during this correspondence appears that distinction between the forces that were drawn into the service of the United States on the requisition of the President and those which the governor of Florida felt himself called upon by the necessities of the case to provide for at the expense of the State in order to protect the exposed frontiers of that State.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose.

Mr. EDMUNDS. What is the date of that?

Mr. PLUMB. May 21, 1857. The letter continues:

A supply of blank muster-rolls will be at once sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

COMMANDING OFFICER,
Department of Florida, Tampa, Florida.

When that order was received the troops had been dispersed. Whether they had been formally mustered out of the service of the State does not appear, but that is not material, because no formality was to be employed for a purpose of that kind. The service for which they had been called out had been performed, and they had gone to their respective homes, and, as the governor explained in a subsequent letter, they could not be recalled to a given place where they could be mustered into the service of the United States for the purpose of being at once mustered out. The expense the men would have incurred in going from remote points to be mustered into the service of the United States for the purpose of being immediately mustered out would have been in excess probably of all the pay they would have received. It could not be done. It became a physical impossibility that they could be mustered in and mustered out according to this direction. In view of that fact, what next?

The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question."

Among the papers in this case was a letter from the Secretary of War. I have inquired for the papers, but in some way they have been mislaid, and are not now with the bill. The letter is a formal recognition of the fact that the muster-rolls of the State of Florida, or the papers and documents purporting to be muster-rolls of the State of Florida, are in that Department, where they have been for many years; but of course they cannot be passed on by the War Department with any effect without the specific authority of Congress for that purpose.

I do not now care to say, even so strongly as I said in the report which I had the honor to make as the organ of the Military Committee, whether this account on the part of the State of Florida is just

or not. I only say that *prima facie* a claim does exist on the part of the State of Florida against the General Government, an honest, legitimate account according to the legislative precedents that have been established for the last fifty years. The committee therefore deem it proper that that account should be stated by the Secretary of War under whose control are the muster-rolls of these troops showing the rendering of the military service which is mentioned; that the Secretary of War should take those rolls and such other evidence as may be attainable for the purpose of determining exactly what the service was and the character of the account existing on the part of the State of Florida against the General Government. Let him take that information, compile it, and put it together, and authenticate it in order that Congress may not be obliged to go into the details of this matter, and let him send it to Congress in order that Congress may determine whether anything is due, and if so, how much is due, and if anything is determined to be due, how and in what manner it shall be paid. It is not, I believe, a violation of precedents established, but is exactly in accordance with the whole line of them.

The Senator from Vermont has referred to the lapse of time. I do not know anything about the history of this claim so far as any legislative presentation of it for recognition is concerned heretofore; but I am informed by the Senator from Florida that it was presented to Congress as late as 1860 and not acted on. While I do not believe in paying claims that are said to be stale without the most searching and thorough investigation, at the same time if Congress itself has failed, on its attention being called to them, to recognize these claims and to pay them, such failure on the part of Congress certainly ought not to operate in the mind of any Senator to make these claims stale so far as the purpose of ascertainment in regard to their character and amount is concerned. And yet if in our action here upon claims on the part of States and on the part of individuals we are to cut off claims solely and only because they are stale, because there may have been a lapse of ten, fifteen, or twenty years, then I imagine that much the larger proportion of all the claims that are presented would by that very fact itself fall to the ground. No doubt it ought to be a reason for greater scrutiny; and if there is any suggestion the Senator from Vermont can make which will add security to that which the bill if it shall pass will devolve on him as his duty, then, as I said before, so far as I am concerned I am entirely willing it shall be inserted, and let the investigation be exactly what it ought to be, whether this claim is of a class heretofore recognized or not, and the precise amount and character of the service that has been rendered, the value of that service, from not only the official evidence in the War Department, but from any other evidence which the Secretary of War in his judgment may deem necessary for that purpose. Then when it comes before Congress, Congress not only has the finding of facts by the Secretary of War, but it will also have the evidence upon which he predicated his finding; and his conclusion upon the facts will be subjected to that proper scrutiny upon the part of Congress which it should receive, and then there will be an appropriation or not as Congress may see best.

Mr. MAXEY. Mr. President, I will not repeat the facts on which the Committee on Military Affairs acted, and which have been so well stated by the Senator from Kansas [Mr. PLUMB] who was intrusted with the report of this joint resolution with a substitute therefor; but I desire to state in a very few words the theory on which the Military Committee acted in presenting the substitute for the resolution, in which substitute I concurred as a member of the committee, and in the report made by the Senator from Kansas on behalf of the committee.

It will be observed that in the original resolution the Secretary of the Treasury was directed "to examine, adjust, and settle the military claims of the State of Florida on account of Indian hostilities, and to allow, according to Army regulations, such expenditures as were made in good faith prior to the year 1861," &c.

There was a mandatory direction to the Secretary of the Treasury to adjust those accounts and when adjusted to allow them. Then the joint resolution went on further to provide that he should allow not only the amount of such claims but the interest at such rates as the State had been required to pay on her bonds to the United States. Then it provided in the original resolution "that upon the adjustment and settlement of said accounts and claims, and after providing for the cancellation of said bonds, if any balance shall be found to be due to the United States, an amount of the bonds of the State now held by the Indian trust fund equal to such balance shall be retained by the United States; and if a balance shall be found to be due to the State of Florida it shall be allowed and paid to said State, out of any money in the Treasury not otherwise appropriated."

Thus not only was the Secretary of the Treasury directed to adjust and settle this question of the claim of the State of Florida, but upon that adjustment and settlement according to his discretion to pay the amount found due. The Military Committee did not believe this to be the correct method; but as the State of Florida had presented a claim which in the judgment of the committee from the evidence before it required investigation, and which, if found to be a valid, subsisting, and just claim against the United States, ought to be settled, we proposed the substitute which has been read. That substitute directs the Secretary of War "to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860."

Then it goes on and provides what character of evidence he shall take for making that investigation. He is directed—

To receive and consider such testimony as he may deem necessary to authenticate said claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department. In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States.

Thus all that the Secretary of War has to do under the substitute is to audit and adjust this claim of the State of Florida, and when he has adjusted this claim of the State of Florida he presents his report thereon to Congress. It is then for Congress to determine in its own wisdom whether or not the claim of the State of Florida is a valid, subsisting, and just claim. That fact determined, then the auditing of this claim, thus found by Congress to be just, made by the Secretary of War, will, unless modified by Congress, be the criterion for the appropriation.

It seems to me that there cannot be a better framed resolution to protect the United States, and at the same time to give to a State that which she is entitled to, than the substitute the committee offers, and if the facts warrant, the State ought to have her claim paid. It is a claim of the State of Florida, a State of this Union, not presumed to make a fraudulent claim. She thinks that it is a just claim. We say that the claim ought to be audited and presented here, and then let Congress determine whether the claim be just or unjust; and if under the Constitution of the United States respecting our duty to provide for the common defense we conclude that this money was expended by the State of Florida in providing for the necessary defense of her people and thus in the common defense, then the duty would devolve on Congress, in my judgment, to pay the amount. That is what you have done in Kansas, Minnesota, Oregon, and perhaps in other Territories. At all events that is a question for Congress to determine after the claim is properly audited and adjusted and presented here; and this substitute only directs the Secretary of War to audit and adjust this claim, whatever the claim may be, and present that auditing to Congress, and then it is for Congress to determine what course shall be pursued. I think there can be no valid objection to the passage of the substitute, and I trust that it will be passed.

Mr. CALL. Mr. President, I do not wish to make a speech, but simply to say a word. This is a resolution which is of very great importance to the people of Florida. The justice and propriety of this resolution of inquiry have been acknowledged in the legislation of the United States. In the Indian wars of 1855, 1856, and 1857, the State of Florida, by virtue of the immediate and sudden outbreak of hostilities, raised, organized, equipped, and paid the troops, and they were accepted by the United States, and provision was made for her reimbursement. As I understand the matter those appropriations have not all of them been expended; but I am informed by the agent of the State that no part of the appropriation of $250,000 to which the Senator from Vermont has referred has ever been paid to the State of Florida. The resolution merely proposes an inquiry and an adjustment of these accounts on proof to be taken. There is a large amount of these claims unaudited and unpaid which rest upon vouchers indisputable, bearing the official signatures of the mustering officers of the United States. The payment of these troops has never been made, and the matter stands now upon evidence which can be presented of the most satisfactory character.

In regard to the objection of the Senator from Vermont, it certainly can have no weight whatever even if this were a resolution to bind the Government absolutely to the payment of a fixed sum; but it simply proposes that if any amount of money shall be found due by the Government of the United States it shall be paid upon the obligations of the State of Florida, not providing in any way for any release on the part of the Government of the obligations held by the trust fund, nor providing in any manner for avoiding the obligation of the bonds which it now holds. It simply provides this additional security, that whatever may be found due from the Government of the United States, if anything is due, shall be paid upon this bonded debt which this trust fund holds of the State of Florida. There certainly can be no kind of objection to an appropriation of the money, if any shall be found due to the State of Florida, in that way.

I hope there will be no objection to the passage of this resolution in its present form, inasmuch as it simply proposes that this account may be investigated and a report made to Congress. The failure to make payment has been long a great hardship on the people who gave their services to the Government, and it would have been remedied years ago but for the unhappy war that interrupted the settlements that were being made at the time when the war occurred.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Military Affairs.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended.

Mr. HOAR. Was the point made by the Senator from Vermont answered, by amendment or otherwise, that this only authorized the taking of testimony on one side?

Mr. JONES, of Florida. It means that there is full discretion in the Secretary of War.

Mr. HOAR. I understood the objection of the Senator from Vermont to be that this joint resolution as it was drawn authorized the

Secretary of War to take evidence to authenticate the claim of the State; and the reply made to that by the Senator from Kansas was, not that it was not a good objection, but that he was perfectly willing to have the joint resolution amended in any way that would remove that difficulty, and I do not understand that the joint resolution has been amended.

Mr. JONES, of Florida. The Senator from Vermont, if he thought it proper, I suppose would have presented an amendment; and he is generally able to look after matters of that kind, I am sure. The inference is that on looking into the thing he thought it unnecessary to move any amendment.

Mr. HOAR. I move to concur in the amendment with an amendment substituting for the words "to authenticate said claims" the words "for or against."

Mr. PLUMB. I have no objection to that.

The PRESIDENT *pro tempore*. The amendment will be reported.

The SECRETARY. After the word "necessary," in line 11, it is proposed to strike out "to authenticate said claims" and insert "for or against."

Mr. HOAR. I will make the motion in this form:

To receive and consider evidence necessary or proper for or against.

The PRESIDENT *pro tempore*. The amendment will be reported.

The SECRETARY. After the word "necessary," in line 11, it is proposed to strike out "to authenticate" and insert "or proper for or against."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole as amended.

The amendment, as amended, was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution directing the Secretary of War to investigate the claim of the State of Florida against the United States for expenditures made in suppressing Indian hostilities in said State between the years 1855 and 1860, and to report the result of such investigation to Congress."

VISITORS TO NAVAL ACADEMY.

Mr. BECK. I desire to say that some months ago the President of the Senate did me the honor to appoint me a Visitor to the Naval Academy at Annapolis. I accepted the appointment, but the condition of the appropriation bills is such that I cannot leave here. The sundry civil bill which has been placed in my charge as chairman of the sub-committee of the Committee on Appropriations is likely to come before us to-morrow or Monday, and I shall be compelled to be here to attend to that duty. Therefore I ask leave to decline the appointment and ask the Chair to substitute some other Senator.

The PRESIDENT *pro tempore*. Shall the Senator from Kentucky be excused from service as a Visitor to the Naval Academy?

The question was decided in the affirmative.

The PRESIDENT *pro tempore*. The Chair appoints the Senator from North Carolina [Mr. VANCE] to fill the vacancy.

Mr. HAMLIN. Mr. President, on the 13th of April the Vice-President courteously and kindly designated myself and the Senator from Kentucky [Mr. BECK] as Visitors on the part of this body to attend the annual examination of the naval school at Annapolis. At that period of time I supposed I should be able to perform the service, but like my colleague upon that service I find myself unable to do it. I therefore with regret ask the Senate to excuse me from that service and that the President *pro tempore* appoint another Senator in my place.

The PRESIDENT *pro tempore*. The Chair will put the question, shall the Senator be excused?

The question was decided in the affirmative.

The PRESIDENT *pro tempore*. The Chair will appoint the Senator from California, [Mr. BOOTH.]

PRINTING OFFICE EMPLOYÉS.

The joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington was read twice by its title.

The joint resolution was read at length, as follows:

Whereas the President of the United States has issued a proclamation closing the Departments in the city of Washington, including the Government Printing Office, on Saturday, the 29th instant, Decoration Day; and

Whereas the Superintendent of the Government Printing Office has ordered that said office be closed on said day without pay to the employés; and

Whereas all employés in other Departments are entitled to pay for said day: Therefore,

Resolved, &c., That all employés of the Government in the city of Washington, District of Columbia, be, and they are hereby, declared to be entitled to payment for said 29th day of May, 1880.

Mr. WHYTE. According to the regular course that resolution would properly be referred to the Committee on Printing, but I ask unanimous consent of the Senate that it be now put upon its passage.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

BONDS OF EXPORTERS OF TOBACCO.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of Senate bill No. 640.

The motion was agreed to; and the bill (S. No. 640) to authorize the bonds of manufacturers of tobacco, snuff, and cigars exporting the same to be canceled at the port of clearance was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance with amendments.

The first amendment was, in line 6, after the word "twenty," to strike out "eighth" and insert "seventh;" so that the clause will read:

That section 3385 of the Revised Statutes of the United States be amended by striking out all of said section after the word "shipment" where it occurs in the twenty-seventh line, and insert in lieu of the part stricken out the following.

The amendment was agreed to.

The next amendment was to add to the bill the following additional section:

SEC. 2. That section 3357 of the Revised Statutes of the United States be amended and re-enacted so as to read as follows:

"Every collector shall keep a record in a book or books provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his district, the place where such manufacture is carried on and the number of the manufactory. And he shall enter in said record, under the name of each manufacturer, a copy of every inventory required by law to be made by such manufacturer, and an abstract of his monthly returns. And he shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not be thereafter changed, except for reasons satisfactory to himself and approved by the Commissioner of Internal Revenue."

Mr. ALLISON. Before the amendment is voted upon, I should like to ask the Senator from Delaware if the second section meets the approval of the Commissioner of Internal Revenue.

Mr. BAYARD. It does. I may state that the only change in this section which is made is the addition of the words "except for reasons satisfactory to himself and approved by the Commissioner of Internal Revenue." That is the amendment of the Commissioner himself. That is the only difference. It is not changed otherwise at all.

Mr. KIRKWOOD. I wish the attention of the committee while I submit one or two amendments that I think might well be made. One object of this bill is to relieve persons who are engaged in the exportation of tobacco in its various forms from the hardships they undergo by reason of the bond they are required to give that the tobacco thus exported shall not be returned to the United States. It has been and is a great hardship unquestionably, and I think it should be removed.

But there is another article produced in our country that is largely sent abroad that is subjected to the same difficulty, the same hardship, and which hardship also I think should be removed. I mean the bond required upon the exportation of alcohol—distilled spirits. I can scarcely imagine a greater hardship than the exporters of distilled spirits have to undergo in this particular. They are required to give a bond similar to that required in the case of the exportation of tobacco, and that bond cannot be canceled until the vessel that carries the exported liquor reaches the foreign port, and the fact that the spirits have reached that port and been discharged there is certified to and returned to our country. In a large distillery where they are making one hundred or two hundred barrels of liquor per day and exporting it, it will exhaust the available power of the entire community in which the distillery is carried on from the date of one bond issued until that bond can be returned canceled. It is an enormous hardship upon the men engaged in that business.

I submit to the Senate a proposition to make the provisions made applicable by this bill to the exportation of tobacco extend to bond given for the exportation of distilled spirits. If there be any good reason why it should not be done, of course it ought not to be done; but until I shall have heard assigned some reason beyond anything that I have been able to discover myself, I must insist that this amendment be made. I send the amendment I propose to the Chair.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Iowa offers an amendment, which will be read.

The SECRETARY. The amendment is to add:

And the foregoing provisions are also hereby made applicable to the bonds which have been or shall hereafter be required for the exportation of distilled spirits.

Mr. BAYARD. Mr. President, I share with the Senator from Iowa his desire to strike from the growing exportation of these commodities every shackle which is now imposed upon them so far and so fast as safety to the revenue will permit. I would say to the Senator that we have not in the Committee on Finance agreed to the alteration of any regulation touching the collection of taxes upon these two staple commodities of taxation, spirits and tobacco, from which the great body of our internal revenue is derived, until we submit the proposition to the officers of the revenue and have them consider fully the effect of our amendments. Therefore while I am disposed to go with the Senator from Iowa in doing all that we can to facilitate the exportation of our commodities and thereby increase the balance of trade in our favor, still I would suggest to him not to interfere with the present bill which has been considered by the Department, which has been considered by the committee, and to allow it to pass by itself as a wholesome reform in regard to one branch of the revenue, and take up the other matter which he suggests when we have had time to submit it to the officers of the revenue and learn their opinion of the practical working of the amendment proposed.

I am sure the honorable Senator and myself are both working to the same end; but in dealing with laws which touch subjects of such

magnitude as the taxation involved on these two commodities it is necessary for us to be very careful. Therefore I say that while I incline to relieve all business in this country from every interfering exaction which may impede it, at the same time I think we should do so only in the light of careful examination by the officers of the revenue whose experience warrants them in instructing us on these questions.

Besides that, the Senator will observe that this bill affects a particular section of the Revised Statutes which according to our form we have printed as it appears after it shall become a law, and it would involve confusion of the two subjects of taxation, tobacco and distilled spirits, if the amendment the Senator now moves were put upon the present bill.

For that reason, not in hostility to, but on the contrary with entire co-operation in, the design he suggests of relieving the exportation trade of distilled spirits from any harassment by way of regulation, I beg that he will withdraw his amendment, and allow this bill to pass in its present shape.

Mr. MORRILL. May I ask the Senator from Delaware a question? Was not the same matter included in the whisky bill that was reported from the committee and passed a few days ago?

Mr. BAYARD. I was about to say that, but not having that bill before me I did not feel warranted in saying to the Senator from Iowa that the provision he desires to ingraft in this bill was in substance ingrafted on the bill that passed here the other day; but that bill was in the hands of my friend from Kentucky who can answer better. I do know this, however, that the other day a very large and important gain was given to the exportation trade in distilled spirits by the bill that was passed. There was a very considerable diminution of taxation upon distilled spirits the other day in aid of a large and growing exportation.

Mr. MORRILL. And also a reduction of the bonds.

Mr. BAYARD. It did reduce the bonds. The Senator is right. It took from the bonds the penal sum, the cautionary sum which is generally double the amount, and prescribed that they should never exceed in any case $100,000, and then only be for the single value of the goods which were to be secured.

Mr. KIRKWOOD. I have no desire to embarrass this bill, but I do like to have things fair all around——

Mr. KERNAN. Allow me to make a suggestion. When the other bill was here the friends of the alcohol trade were before the committee. I cannot say how it is fixed exactly, but we fixed it to relieve them so far as I heard them complain. I was going to ask my friend not to embarrass this bill on another subject as to a particular section of the Revised Statutes by this other matter. The result may be ruin to both. I think we had better pass this, and if the other is not right I will aid in a separate bill.

Mr. KIRKWOOD. I do not think there is any mistake about this matter at all. The point under consideration is this: The law as it stands requires in regard to the exportation of tobacco in various shapes that a bond shall be given that the tobacco shall not, from the vessel on which it is put, be returned to our country so as to avoid taxation, but it shall go to a foreign port, and its arrival there shall be certified by a Federal officer, and when that certification returns to this country the bond shall then be canceled. It may be outstanding three months or six months; and on every shipment, if there is a shipment made every day by the same person, he must give a bond every day, and thus he may have out one hundred, one hundred and fifty, or two hundred bonds before his first bond is returned. This exhausts his power to get bondsmen, unless he is a man of extraordinary pecuniary responsibility.

I desire to relieve the exporters of tobacco from that difficulty, and to provide that when the proper certificate is made that the tobacco product has been placed on board the vessel for shipment abroad, that certificate shall discharge the bond. The same precise difficulty exists in regard to the exportation of alcohol. The same provisions as to the bond required in the one case to-day are required in the other case to-day, and I have been unable to discover any reason, and certainly the Senator from Delaware has not assigned any reason, why the same process of reasoning that would require the removal of the difficulty in the case of one class of bonds shall not apply to its being removed at the same time in regard to the other.

Mr. BAYARD. I do not say that the Senator's reasoning is not perfectly good, but the Senator should make it the subject of a separate measure.

Mr. KIRKWOOD. If it is right, why should it be made separate? Why not have it go through now?

Mr. BAYARD. It might confuse and retard the passage of the present bill.

Mr. KIRKWOOD. The principle is precisely the same; and in justice to the people that I live among and the people of my neighboring countries who are engaged largely in this business, I do not think I should be justified in withdrawing the amendment. Of course the Senate can pass upon it as it deems best.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa.

Mr. KIRKWOOD called for the yeas and nays, and they were ordered.

Mr. BECK. Mr. President, I have only to say that the Department desire more safeguards thrown around the bonds given on the exportation of distilled spirits than the amendment proposes, and it would be a mistake to put this clause into this bill now.

Mr. KIRKWOOD. How is that——

The PRESIDING OFFICER. The hour of half past one having arrived, the morning hour has expired.

Mr. JOHNSTON. I hope the pending order will be laid aside informally.

The PRESIDING OFFICER. The Senator from Virginia moves that the pending and all prior orders be postponed in order that the consideration of the bill called up on his motion may be continued.

Mr. JOHNSTON. Let the pending order be laid aside informally.

Mr. EDMUNDS. The Chair did not state so that I could understand it what the motion of the Senator from Virginia is.

The PRESIDING OFFICER. It is that the pending and all previous orders be postponed, so that the bill under consideration at the expiration of the morning hour shall be continued.

Mr. JOHNSTON. Let the regular order be laid aside informally.

Mr. BAYARD and others. Very well.

Mr. TELLER. Is it in order to permit an interruption and declare the morning hour closed pending a call of the yeas and nays? The Secretary had proceeded to call the yeas and nays and the Senator from Iowa [Mr. ALLISON] had answered to his name.

The PRESIDING OFFICER. The Chair did not understand that the Senator from Iowa had answered; otherwise the Senator from Kentucky would not have been recognized.

Mr. TELLER. I think the Secretary had recorded the vote of the Senator from Iowa.

The PRESIDING OFFICER. The name had been called but the Chair was not aware of the fact that a response had been made.

Mr. ALLISON. I made a very feeble response, but I think at the same moment the Senator from Kentucky addressed the Chair.

The PRESIDING OFFICER. The Chair recognized the Senator from Kentucky supposing that the Senator had risen in time and before response had been made.

Mr. TELLER. I have no objection to the proceeding; I made the inquiry as a question of order simply.

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia, [Mr. JOHNSTON,] to postpone the pending and all previous orders in order that the Senate may continue the consideration of the bill under discussion at the expiration of the morning hour.

Mr. ANTHONY. I hope that the regular order will not be postponed, but that it will be laid aside informally.

Mr. WITHERS. That was the proposition.

Mr. BAYARD. So I intended.

The PRESIDING OFFICER. The Chair will state that the regular order is the first bill on the Calendar.

Mr. BAYARD. Is not the pending order the tariff-commission bill?

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia, [Mr. JOHNSTON.]

The motion was agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD,] upon which the yeas and nays have been ordered.

Mr. ALLISON. I desire to vote with my colleague upon this amendment, but I am not clear that the language he proposes will cover the case of the exportation of alcohol; and I address myself to him to see whether it does.

Mr. KIRKWOOD. Then make it better.

Mr. ALLISON. I should like to make it better, if it can be made better. I think that this bond ought to be confined to the exportation of alcohol. The language is "distilled spirits." I think where spirits have been formulated into alcohol in such a way as to be exported, there would be no danger in the amendment proposed by my colleague; but if distilled spirits known as ordinary high wines or Bourbon whiskies are to be exported, I think there might be great danger in such an amendment. Therefore, if my colleague will so modify his amendment as to authorize the exportation of alcohol only, I think there would be no difficulty in it.

Mr. BECK. I only rose to say that the Commissioner is entirely satisfied that more checks and guards are required in regard to the exportation of whisky than of tobacco, because when a tobacco manufactory is once broken up there is no chance of repairing it, and there is no danger, or very little, of smuggling; whereas the Commissioner is afraid unless there are more safeguards in regard to whisky it will be got back in other ways. I doubt whether the Senator from Iowa [Mr. KIRKWOOD] can provide satisfactorily on this bill for the object he has in view. I agree with him that it ought to be done, but I state my understanding of the Commissioner's view of it, and I am afraid of the effect of the amendment.

Mr. KIRKWOOD. I have but a word or two more to say. I have great respect for the Commissioner of Internal Revenue; he is a most faithful and energetic officer; but he seems to have absorbed the idea in some way or other that certain industries of the country are carried on solely for the purpose of creating a revenue for the Government, and that that is the whole object there is in having them carried on, and he is disposed to take distorted views of measures looking in the direction of their relief for that reason.

I am perfectly willing to withdraw the amendment and put it into the hands of the Senator from Kentucky and my colleague to shape

it in such words as they see fit, to guard it as strongly as they may, but I do insist that it is but right and but fair play to all the industries of this country that they should be allowed to stand upon the same footing. I am not only willing but anxious to relieve the industry of the country engaged in producing tobacco from any burden placed upon it that is not absolutely necessary for the protection of the Government, and so I say in regard to this other great industry it ought to be protected as well, it ought to be relieved from burdens as well.

I repeat what I said the other day here, that if we are to continue our system of finance successfully and make our country what it ought to be, prosperous, we must see to it that our export trade has every facility given to it that can be given to it, so that we may sell more than we buy. If we do not do that, we cannot maintain resumption, we cannot maintain our financial condition in any way. If we buy year by year more than we sell, we are sure to go down; there is no possible help for it. I say, therefore, we ought to take away every restriction that possibly can be taken away from this industry.

If it be in order, I will withdraw the amendment and commit it to the hands of the Senator from Kentucky and my colleague, and let them guard it just as carefully as possible.

The PRESIDING OFFICER. The amendment can be withdrawn only by unanimous consent, the yeas and nays having been ordered.

Mr. BAYARD. Of course it is in the option of the Senator to withdraw his amendment; and I beg that he will do so in the view that it would delay the passage of the present bill to press it at this time.

Mr. KIRKWOOD. I have another amendment to offer, and while that is being considered the Senators can perhaps perfect the language of this amendment.

Mr. BAYARD. Does the Senator mean, then, to make it the subject of separate action, disconnected from the bill before the Senate?

Mr. KIRKWOOD. I do not see why it should be insisted on that it should be in a separate measure.

Mr. BECK. If the Senator from Iowa will allow me to say one word, I will state that if this amendment be withdrawn or voted down, as I think it ought to be, I will go with his colleague or himself to the Commissioner of Internal Revenue, and if a bill can be drafted at all satisfactory to the Department for giving bonds on exported alcohol and having them canceled on the departure of the article instead of on proof of delivery abroad, I shall have a bill drawn by Monday morning to be referred to the committee, and it will be reported back as early as possible. I desire to do this, but I believe it cannot be done by an amendment to this bill in such a way as the revenue officers will say is satisfactory to them, but I will go with the Senator or I will go myself, if he desires it, and whatever bill the Commissioner or the Department shall recommend or indorse, or half way approve, I will aid him to have reported back and acted upon promptly. I believe such an amendment will injure this bill.

Mr. WITHERS. The bill now under consideration has been very carefully prepared and carefully considered by the Commissioner of Internal Revenue and by the Committee on Finance. It is designed to correct great evils which exist now and which interfere seriously with the export trade in tobacco to an extent that is driving the export trade from the hands of our own people into the hands of Canadians and others. Consequently I submit to the Senator from Iowa, while the principle for which he contends may be manifestly just, and I admit that to my mind it seems to be just, whether it is right now to embarrass the passage of this bill by insisting on incorporating into it an amendment, when no such care or consideration has been given to it either by the committee itself or by the Commissioner of Internal Revenue as has been given to the bill under consideration? Why not let us take this bill, which will give us relief from the troubles our trade is now suffering, and present another bill embodying substantially the provisions which the Senator desires to incorporate into this measure as an amendment, and if it commends itself to the favor of the Commissioner and of the committee I have no doubt it will secure the favorable action of the Senate.

Mr. KIRKWOOD. I think I shall let the vote be taken.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa, on which the yeas and nays have been ordered.

Mr. EATON. I cannot vote against the amendment of my friend from Iowa unless I say a word, for I should put myself on the record in an unfortunate position. I believe that the principle of the amendment is entirely right; but it is entirely wrong, in my judgment, that without proper consideration in regard to a great matter like that we should adopt such a measure by an amendment to another bill. I simply desire to put myself right before my own people on that subject. I think the principle is right, but it is entirely wrong without proper consideration to present the proposition as an amendment to this bill and pass it here.

Mr. KIRKWOOD. The Senator from Connecticut is something like the man who was in favor of a temperance law but against its enforcement. If there is any difference in these two cases I cannot possibly see it.

Mr. EATON. I might agree to the proposition if I had time to examine it, but this is not the time nor the place.

Mr. KIRKWOOD. I cannot possibly see the difference. The certificate of the proper officer that tobacco has been placed on the outward-bound vessel for exportation to foreign ports is sufficient to discharge under the bill pending the bond of the exporter; it ought to be. How in common sense can it be otherwise than that the same certificate of the proper officer of the delivery of alcohol—I will amend my proposition so as to use that word instead of "distilled spirits"—upon an outward-bound vessel for export to a foreign country shall also be a sufficient discharge of the bond?

I will with permission amend the amendment offered by me by striking out the words "distilled spirits" and inserting in lieu the word "alcohol."

The PRESIDING OFFICER. The Senator has a right to propose that amendment.

Mr. EATON. Will my friend permit me to ask him why he makes that change; why he puts in "alcohol" and strikes out "distilled spirits?"

Mr. KIRKWOOD. Upon the suggestion of my colleague.

Mr. EATON. Does not that show at once that the matter has not been thoroughly investigated even by my friend from Iowa? He is willing upon a suggestion to strike out the article called "distilled spirits" and insert the article called "alcohol," and no reason yet has been given why that should be done.

Mr. KIRKWOOD. A reason was given by my colleague. He is upon the committee which has investigated these things, and he says that with that amendment and with the investigation he has given to the matter there is no objection to the proposition. Therefore, trusting more in his knowledge of these things, derived from his service on that committee, than my own, I yield to his suggestion to insert instead of "distilled spirits" the word "alcohol." He did assign a reason for it; but there is no reason that I have heard assigned for making a distinction between the export bond given for tobacco and the export bond given for alcohol.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment proposed by him.

The amendment to the amendment was rejected.

Mr. KIRKWOOD. That is queer.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, on which the yeas and nays have been ordered.

Mr. KIRKWOOD. I supposed I had the right to amend my own proposition.

The PRESIDING OFFICER. Not after the yeas and nays had been ordered upon it.

Mr. KIRKWOOD. The Senate then propose to refuse me permission to amend my own amendment. I ask for the yeas and nays on that.

The PRESIDING OFFICER. The demand for the yeas and nays, the Chair holds, is too late, the decision of the Chair having been announced. The question is on the amendment of the Senator from Iowa, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 34; as follows:

YEAS—12.

Allison,	Dawes,	Hoar,	Saunders,
Blair,	Hamlin,	Kirkwood,	Teller,
Cameron of Wis.,	Hill of Colorado,	Paddock,	Windom.

NAYS—34.

Bailey,	Garland,	McDonald,	Vance,
Bayard,	Groome,	Maxey,	Voorhees,
Beck,	Hampton,	Morgan,	Walker,
Booth,	Harris,	Morrill,	Wallace,
Brown,	Hill of Georgia,	Pendleton,	Whyte,
Call,	Johnston,	Pryor,	Williams,
Cockrell,	Jonas,	Saulsbury,	Withers.
Eaton,	Jones of Florida,	Slater,	
Ferry,	Kernan,	Thurman,	

ABSENT—30.

Anthony,	Coke,	Ingalls,	Plumb,
Baldwin,	Conkling,	Jones of Nevada,	Randolph,
Blaine,	Davis of Illinois,	Kellogg,	Ransom,
Bruce,	Davis of W. Va.,	Lamar,	Rollins,
Burnside,	Edmunds,	Logan,	Sharon,
Butler,	Farley,	McMillan,	Vest.
Cameron of Pa.,	Grover,	McPherson,	
Carpenter,	Hereford,	Platt,	

So the amendment was rejected.

Mr. KIRKWOOD. Having ascertained that there is some difference, to me wholly unaccountable, between tobacco and alcohol for exportation, I will offer another amendment that does not perhaps raise the same question, and it may perhaps meet with better favor. I move to add as an additional section:

SEC. —. That on and after July 1, 1880, the expense attending the providing and affixing the stamps to each package of alcohol for exportation as now provided by law shall be borne by the United States, and shall not be required to be paid by the distiller or exporter.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. BECK. A point of order will lie to that. That converts this into a revenue bill, which can only originate in the House. This is a Senate bill merely regulating the collection of revenue. The amendment now proposed would be perfectly germane to a House bill, but the point of order will lie to it on this bill, because it is an attempt to originate in the Senate a revenue bill.

Mr. KIRKWOOD. Are we bound in the Senate by the rules of the House in that regard?

Mr. BECK. We are bound by the Constitution. We cannot originate a revenue bill in the Senate.

Mr. KIRKWOOD. But the bill pending is a bill affecting the revenue, and it originates in the Senate and I suppose we have the subject before us.

Mr. BECK. This bill does not affect the revenue at all.

Mr. KIRKWOOD. It may or may not very seriously affect it perhaps.

Mr. BECK. It cannot.

Mr. KIRKWOOD. It changes the mode of collecting the revenue, certainly.

Mr. BECK. Bills merely regulating the revenue can originate in either House, but if we should seek to take off a tax the bill would be sent back from the House with an assurance that we were usurping some prerogative of that body. There is the difficulty. They have sent back such bills several times.

Mr. KIRKWOOD. The question of order must be decided by the Senate. I cannot withdraw my amendment.

Mr. INGALLS. If the Senator will allow me a moment upon the point of order, I will state that under the Constitution I think the amendment must be received. The language of the Constitution is that—

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

I think the point of order of the Senator from Kentucky is hardly well taken.

The PRESIDING OFFICER. The Chair holds that the point of order is not well taken. The amendment is in order.

Mr. KIRKWOOD. Let us have a little time to consider this matter. I do not see why this question should be rushed through in this way without any time for deliberation.

The PRESIDING OFFICER. The Chair has decided that the amendment is in order. Unless there is an appeal from the decision of the Chair the question is on the adoption of the amendment. Is the Senate ready for the question?

Mr. KIRKWOOD. Not quite. There is another question behind the mere amount of revenue to be collected that is worthy of the consideration of the Senate, I think. A clause of the Constitution reads thus:

No tax or duty shall be laid on articles exported from any State.

Is this that I seek to remove a tax? If it is a tax, it is clearly unconstitutional, because the Constitution says that no tax shall be levied upon articles exported from any State.

Mr. BECK. I desire to state that my recollection is that the Supreme Court in 2 Otto has decided that this is not a tax on exports. I have sent for the book.

Mr. KIRKWOOD. Very well; it is a question worthy of consideration. The Chair has decided, however, that the matter is properly before the Senate, and that it is in order. Why not adopt it? What is the reason why every package of alcohol exported to a foreign country whether it be a five-dollar package or a fifty-dollar package shall pay ten cents into the Treasury? What reason is there for it, I ask? If it be true that we should encourage instead of discourage the exportation of everything we can export, why levy a tax upon this exportation? I do not know why; I cannot understand why. I cannot tell any reason in the world, if it is important to encourage the exportation of products abroad to foreign countries, why we should come between the exporter and the country to which he wishes to send his goods, and tax the product before it leaves our country. I have done my duty, Mr. President, and have no more to say.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Iowa.

Mr. McDONALD. I ask that the amendment be reported.

The amendment was read.

The question was put, and it was declared that the noes appeared to prevail.

Mr. KIRKWOOD. Let us have the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The amendment is rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was accordingly read the third time, and passed.

The title was amended so as to read: "A bill to amend sections 3385 and 3357 of the Revised Statutes of the United States."

ORDER OF BUSINESS.

Mr. CAMERON, of Wisconsin, and others addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. BAYARD. I ask for the regular order.

Mr. BECK. I rose for the purpose of asking the Senate to take up the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods.

The PRESIDING OFFICER. The Chair had recognized the Senator from Wisconsin, [Mr. CAMERON.]

Mr. BAYARD. I ask for the regular order.

Mr. CAMERON, of Wisconsin. I move to postpone the present order, and if that motion prevails I shall then move to take up for consideration the bill (S. No. 231) for the relief of Ben Holladay.

The PRESIDING OFFICER. The Senator from Wisconsin moves that the pending and all prior orders be postponed in order that he may ask the Senate to proceed to the consideration of the bill mentioned by him. Is the Senate ready for the question?

Mr. BAYARD. I understand that the pending business is the tariff-commission bill.

The PRESIDING OFFICER. The Chair does not so understand.

Mr. BAYARD. It is the unfinished business.

The PRESIDING OFFICER. The Chair understands that the tariff-commission bill was laid aside informally yesterday, was not taken up prior to the adjournment, was not the unfinished business at the adjournment yesterday evening, and that the bill holds its place on the Calendar.

Mr. BAYARD. I certainly understood that pending the consideration of the tariff-commission bill it was informally laid aside in order to permit the consideration of the agricultural appropriation bill, and that *ipso facto* upon the conclusion of the agricultural bill the unfinished business again took its place; that it never was displaced by a vote of the Senate, but being laid aside informally and by unanimous consent, it became the order of the Senate whenever it should be called up again.

The PRESIDING OFFICER. The facts stated by the Senator from Delaware are in accordance with the showing of the RECORD and the recollection of the Chair; but the Chair has stated to the Senator from Delaware that the priority of that bill fell with the adjournment yesterday. Not having been called up before the adjournment it fell back to its place on the Calendar, and such is its position to-day.

Mr. BAYARD. Then that being the case, I trust the Senate will not displace the bill which was informally laid aside, which is of great public importance, but will proceed to its consideration at once.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin, [Mr. CAMERON,] that the pending and all prior orders be postponed in order that he may ask the Senate to proceed to the consideration of the bill mentioned by him.

The question being put, there were on a division—ayes 17, noes 23.

Mr. CAMERON, of Wisconsin. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I sincerely trust the Senate will not postpone the tariff-commission bill for the purpose of considering a private claim at this stage of the Senate's business. The tariff-commission bill is a matter of importance to every man, woman, and child in this country, and I do not consider that in the present condition of the public business, at this stage of the session, there should be a postponement of a measure of this kind for the purpose of considering any private claim. I trust the Senate will not agree to take up a claim for the relief of any private citizen when a measure of this kind stands before it.

Mr. GARLAND. I trust as earnestly as the Senator from Delaware can express himself to the contrary that the Senate will proceed to the consideration of the claim of Benjamin Holladay. I believe I was the first one to introduce a bill into the Senate of the United States for the purpose of creating a commission upon the subject of the tariff. That was two years ago. The Senate was not in a hurry then to consider the subject, and has not been until this time; but before it got into a hurry to consider this subject the claim of Ben Holladay came before the Senate, and was discussed three different days and laid aside.

As earnest as the Senator from Delaware may be in hoping that the Senate will not take up the claim of Ben Holladay, I am as earnest in hoping that it will take it up. I believe, in the first instance, the most important thing the Government can do is to determine whether or not it owes private justice to its individual citizens; and if it determines that it does not owe it, then it need not consider their claims. This man has been here haunting these corridors for fourteen years. He has been here with a claim that has been reported twice favorably by two committees of this body, and which is reported favorably now by a committee headed by the gentleman who is now presiding over this body, [Mr. COCKRELL,] who never fails to object to any claim that has anything objectionable about it, who never fails to scrutinize every claim that is presented against the Government, who never fails to thrust his Argus eyes in to see whether the Government will lose one cent unjustly or not. It will not do at this day and time to say after this long delay upon the tariff commission that this man's claim, which has been here so long, shall not be determined in some way or other. Let the Government determine whether or not it will do private justice; in the first place, whether it owes anything or not. If it does not, then the claimant can go hence. If it does, let the Government discharge its duty. As I have said repeatedly upon this floor, I think that is the first duty of the Government, tariff or anything else, and without such a principle my interest in this Government could be sold at a very small rate indeed.

It will not take a very long time to dispose of this question. There have been two reports by committees here. All the testimony and all the affidavits are before the Senate, having been examined by two different committees. Let us determine whether the matter is to be adjusted here in the Senate, whether he is to get his claim or not. I am anxious to have a tariff commission, and my anxiety was known on that subject before that of the Senator from Delaware; but let us

take up this case and dispose of it, and then we can go to the tariff-commission bill or anything else that lies in our way.

Mr. WITHERS. There are fifty other private claimants demanding to be heard.

Mr. GARLAND. I am in favor of taking up the cases of five hundred private claimants, if there are so many.

Mr. McDONALD. I have not any doubt but that every Senator has made up his mind in regard to the Holladay case. It has been before us and has been considered. The testimony has been printed and laid on the table of each Senator, and every opportunity to investigate it has been given. I think it will take but a very short time if the bill is taken up now, to dispose of it. As the Senator from Arkansas has said, if the claim is right, or if there is any part of it that is right, let us allow it and pay it. If the claim is wrong, and if it is not to be paid, let us settle that question.

Mr. SAULSBURY. I voted to take up the claim of Mr. Holladay when the question was put on a division. I did not intend by that vote to commit myself to vote for the bill upon its passage. From the reports which I have seen of the committees I believe that Mr. Holladay has some claim upon this Government. As to the amount of that claim, I have not formed in my mind any decided opinion. This gentleman has been delayed for a very considerable length of time. I made up my mind upon the evidence the other day that when the Senator from Wisconsin called up the case I should help him to bring it before the Senate, so that it might have consideration; and to-day, when the Senator from Wisconsin moved to postpone all prior orders, I voted with him, believing it was right that Mr. Holladay should have a hearing and that we should take up his case. In doing so, I do not mean to say that I shall give my vote in support of or in opposition to the measure. I shall give to it proper consideration when it comes up and vote according to my understanding of its merits.

Mr. BAYARD. Mr. President, I value I believe as highly as any other member of this body the diligence and the intelligence of my honorable friend from Arkansas, [Mr. GARLAND.] He did introduce a measure some time since to create a commission for the purpose of examining into our present very defective system of tariff duties. It is also true that on that important question of taxation the Senate was obliged to remain in abeyance to the action of the House of Representatives. But if the Senator signifies that the interest in the subject is confined to himself or a few members of the body, or that it has not been largely felt by the Committee on Finance for a long time past, I may say even for a longer time than covers his membership in this body, he is in error. The measure has been brought before the Senate as an ultimate resort because we can obtain and are apparently destined to obtain nothing in a practical form from the other branch of Congress upon which to act.

The bill was reported by me as the organ of the Committee on Finance. The honorable Senator from Arkansas has had, as some of the rest of us have not had—indeed I believe no one but himself has had—an opportunity to express his opinions to the Senate upon the advisability of substituting a measure of his own for that which the committee have recommended. I have nothing to say of course as to that, for I listened to him, as I always do, with pleasure and with profit; but at the same time there may be a difference between a Senator who has already expressed his opinions in full upon the matter, and who therefore feels better satisfied to let it go, and those who do not desire to see the measure, while pending, suddenly removed from the discussions of the Senate and a matter which affects but a single individual brought in to take the place of that which is confessedly a matter of the first public importance.

Mr. HARRIS. I shall vote against the motion of the Senator from Wisconsin, [Mr. CAMERON,] because it is to consider a mere private claim. While I am ready to co-operate with the Senator from Delaware [Mr. BAYARD] upon any proper occasion for the consideration of the bill reported by him, I shall vote against a motion to take up that bill to-day for the reason that I desire to move to postpone the pending and all previous orders in order that I may ask the Senate to proceed to the consideration of House bill No. 2328, being a bill proposing the adjustment and settlement of a million and a half dollars of claims that have been long postponed, and in which more than a thousand people of the District of Columbia are deeply interested. That bill has been here from the House demanding consideration at least four months; it has been on the Calendar for nearly four months. I shall therefore urge the Senate to proceed to the consideration of that bill whenever it is in order so to do, and for that reason I shall vote against the motion of the Senator from Wisconsin and the motion of the Senator from Delaware, when he makes it.

Mr. GARLAND. Upon the motion properly before the Senate I have said all that I desire to say. I wish to make a reply, however, to the insinuation made by the Senator from Delaware. He insinuated that because yesterday I had under the parliamentary rules the advantage of first expressing myself upon the subject of the proposed tariff commission, possibly I was satisfied to let the matter go and to hear no one else. The chairman of the Finance Committee, who is the Senator from Delaware himself, made the report, and under the parliamentary rules of the Senate he had an opportunity to explain that report, and to say everything that he desired to say upon the subject. The bill was amended, and after it was amended, I asked the question whether it was perfected to suit the friends of the measure. The Senator answered that it was, and I offered a substitute, and that gave me the parliamentary advantage of making a speech upon it, of which I availed myself. The Senator did not see proper to make a speech when he had the guardianship of the bill. I did not know any other better time to make the speech that I wanted to make than to make it in order, which I did. If the Senator sees proper to complain of that advantage, he is welcome to it. I have no apologies to make for it.

The case of Ben Holladay has been thrice before this body. The tariff proposition came back from the Committee on Finance. In voting to take up different measures, as the Senator from Tennessee [Mr. HARRIS] says, it is but proper to consider them in their order; and, as the Senator from Delaware [Mr. SAULSBURY] says, it does not commit any one to support the bill. The question is whether we will take up and consider this claim after it has been here fourteen years, before I—and the Senator from Delaware [Mr. BAYARD] has alluded to my membership here—before I or he either, I suppose, dreamed of a commission upon the subject of a tariff.

I do not intend, by any vote that I shall cast, to let go the subject of a commission on the tariff. I intend to adhere to my original proposition upon that subject and vote upon all proper occasions that the Senate shall consider it; but here is a measure that antedates it by years and years, and if it is not so universal in its results it is more universal in its application at last to the principle to be established than all the tariffs and all the financial questions that can be raised before the Senate. As the Senator seemed to complain because I got the chance to make my speech yesterday, if he will notify me when he speaks I will hear him with as much patience and endurance as he heard me.

Mr. MORGAN. I cannot declare myself opposed to the bill for the relief of Ben Holladay, for I am willing to allow him whatever due compensation the Government owes to him; but his bill stands in the order of business No. 249 on the Calendar. It has been three times called, I believe, during this session, and considerably debated, and will lead, no doubt, to considerable discussion hereafter. For about six weeks we were at No. 82 on the Calendar. After a while we made a leap to No. 305, and took up a bill which has not been disposed of, in which a foreign government is making a supplication of us—I may call it truly that—for the relief of one of her citizens. I do not mention that with a view of antagonizing that bill with this, but we have got upon the Calendar seven hundred and thirteen cases, or at least that is the last order of business, leaving about four hundred bills or thereabout on the Calendar which have never yet had the benefit of a single call of the Senate.

In view of the rest of the claimants upon the Calendar, of which there is a large number, many of them widow women and many of them in a condition of absolute suffering, I cannot understand the justice of taking up this measure and giving to it the time of the Senate when we refuse to call up bills that will not be objected to, and which can be passed by a mere formal proceeding. Therefore I am bound to vote in favor of these four hundred measures having at least one chance for consideration before I vote to take up this bill again and give it its fourth chance in the Senate.

Mr. BECK. I desire only to say that I was instructed this morning by the Committee on Finance at the earliest possible moment to bring forward a bill to amend the statutes in relation to the immediate transportation of dutiable goods, a matter in which the whole country is largely interested, as it affects the goods which land at New York, Boston, Chicago, Louisville, and other ports in the country. I have been struggling all I could to get that bill up, but the Senator from Virginia [Mr. JOHNSTON] obtained the floor to get up the bill relative to the cancellation of bonds on tobacco. I consented to that, and agreed with him that it was a very important bill, relieving a large number of people and a large interest. That bill was about to fall by the expiration of the morning hour, as half past one o'clock had arrived; and if it had fallen, that probably would have been the end of it in the midst of the contests that are likely to arise as to the precedence of various bills at this stage of the session. I rose in my place, and so did others, and we assured the Senator from Delaware, we assured all the friends of what is known as the Eaton bill, that if they would allow us to take a vote upon that bill the Eaton bill should come up at once in its regular order as the unfinished business; and every man around where I am standing, so far as I knew, agreed to that course upon that condition. I urged gentlemen to let us finish the other bill, as the Eaton bill would be the unfinished business. It was the understanding, I believe, in all this part of the Senate that the tariff-commission bill was to be laid aside informally and to come up regularly. It has been argued partly by the Senator from Arkansas. I propose to speak upon it myself, and the Senator from Connecticut, [Mr. EATON,] I believe, is going to speak upon it. Having made that agreement, I would not ask to take up any other bill; I could not vote to take up the bill of which I had charge myself until I heard that likely that order would be reversed and that the Eaton bill did not have its place.

I feel that I am obliged, even as against other important bills of committees, to vote against any other measure, whether that suggested by myself or that moved by the Senator from Wisconsin or the Senator from Tennessee, so that the tariff-commission bill shall retain the place that its friends thought it had, and but for the assurance that it had that place they never would have allowed the bill

of the Senator from Virginia to pass; it would have fallen with the morning hour but for that understanding. I cannot afford to place that bill in a false position by saying now, having obtained a right to pass the bill for the relief of the tobacco manufacturers of Virginia and of all the country, that the tariff-commission bill shall lose the place it had, which it only lost by the Senator from Delaware giving up to those of us who assured him that it would not lose its place.

I believe in considering every private claim whenever it can be done. I refused to vote against taking up the Holladay bill before. Whenever it comes up where I can in good faith vote to take it up I will vote to take it up again at any reasonable opportunity, but I believe that good faith to the Eaton bill, to the men who manage it, to the kindness which they showed to the gentlemen who were urging the tobacco bill by allowing the hour of half past one to pass with that understanding, prevents me from voting for anything that will deprive them of the rights they have.

Mr. WILLIAMS. Mr. President, I know nothing of more importance than that this Government shall do justice to its citizens. We are told that "charity begins at home," and I think the first duty of statesmen is to the people of their own country. I think the bill called the Eaton bill will not spoil by keeping a little longer. It is too well named, and it is in too good keeping to spoil by remaining a little while longer.

The position that some Senators take on this question is amazing to me, and it does not come with good grace from gentlemen who have occupied so much of the time of the Senate in the last three or four months upon three questions: first General Porter's case, then the Geneva award bill, and then the Spofford-Kellogg case. Those three cases have occupied nearly four months of the time of the Senate. We have heard a vast amount of law and of eloquence upon those subjects, by which I was very much edified; but I have hoped from day to day and from week to week that at last there should be an end to the scholarly and learned orations with which the seers of the Senate and of the country have been engaged for four months. We have heard of the doctrine of subrogation and of the doctrine of *spes recuperandi;* we have heard of *ultra vires*, of *stare decisis*, and of *res adjudicata;* and I have hoped the time would come when the Senate might pay some attention to the claims of private citizens who had rendered great and important services to the country.

I am one of those who believe that our first duty here is to do justice to our fellow-citizens and our constituents. I know of no more important principle than that. I know there is no public measure before the Senate of such importance to any man in this country as this measure to the petitioner before us here. If it were a question involving legislation that might affect the rights and interests of a bondholder, a great manufacturer, a banker, or a railroad corporation, gentlemen would turn up the whites of their eyes in holy horror at the idea of not doing justice to the rights of the claimant; the faith and the honor of the nation would be invoked; but when a private citizen comes with a claim before us, "oh, it is nothing but a private claim;" it is whispered around that it is a fraudulent one, that the man is a thief, that he has come here to rob the Treasury!

Sir, it is this delay of Congress which has broken the hearts of thousands of the best men in this country from year to year. Here is a claimant who has been knocking at the doors of Congress for fourteen years with a claim that in my judgment is as just a one as ever went before a court or a legislative body upon the earth. Can we not afford to give him a day? That is all he asks. When you have given four months to three questions involving the rights of private individuals, two-thirds of the time of the Senate, can you not give him a day? That is all that Mr. Holladay asks. Why can you not afford to give him a day? It is a matter of life or death to him. He has incurred his losses in the service of his country, and all he asks is that Congress may give him a hearing, and I for one shall vote to give him that hearing.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question before the Senate is, will the Senate lay aside the pending and all other orders, the yeas and nays having been ordered upon that question.

The Secretary proceeded to call the roll.

Mr. DAVIS, of Illinois, (when his name was called.) I am paired on this question with the senior Senator from New York, [Mr. CONKLING.] If he were here, he would vote "yea," and I should vote "nay." That is, we paired upon the Holladay bill, which this question carries with it.

Mr. KERNAN, (when his name was called.) At the request of the Senator from Pennsylvania, [Mr. CAMERON,] I paired with him on the Holladay claim. Were he here, I should vote "nay."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.]

The roll-call was concluded.

Mr. GARLAND, (after having voted in the affirmative.) The Senator from Vermont [Mr. EDMUNDS] and myself are paired upon the Holladay claim generally, upon its merits, supposing possibly it would come up in our absence, as we are Visitors to West Point. I have just sent word to the Senator from Vermont, and, as he considers that the pair extends to the motion now before the Senate, I ask leave to withdraw my vote.

The result was announced—yeas 22, nays 27; as follows:

YEAS—22.

Allison,	Groome,	Jones of Florida,	Voorhees,
Blair,	Hamlin,	Kirkwood,	Walker,
Booth,	Hereford,	McDonald,	Williams,
Burnside,	Hill of Colorado,	Paddock,	Windom.
Cameron of Wis.,	Ingalls,	Saulsbury.	
Dawes,	Jonas,	Teller,	

NAYS—27.

Bailey,	Coke,	Maxey,	Slater,
Bayard,	Eaton,	Morgan,	Thurman,
Beck,	Farley,	Morrill,	Vance,
Brown,	Hampton,	Pendleton,	Wallace,
Butler,	Harris,	Pryor,	Whyte,
Call,	Hill of Georgia,	Randolph,	Withers.
Cockrell,	Johnston,	Ransom,	

ABSENT—27.

Anthony,	Davis of Illinois,	Jones of Nevada,	Platt,
Baldwin,	Davis of W. Va.,	Kellogg,	Plumb,
Blaine,	Edmunds,	Kernan,	Rollins,
Bruce,	Ferry,	Lamar,	Saunders,
Cameron of Pa.,	Garland,	Logan,	Sharon,
Carpenter,	Grover,	McMillan,	Vest.
Conkling,	Hoar,	McPherson,	

So the motion was not agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair will lay before the Senate the regular order, which is the Calendar.

Mr. HARRIS. I move that the pending and all prior orders be postponed in order that I may ask the Senate to proceed to the consideration of House bill No. 2328.

Mr. BAYARD. I call for the regular order.

The PRESIDING OFFICER. The regular order has been laid before the Senate.

Mr. WALLACE. I rise to a privileged question, the report of a conference committee.

The PRESIDING OFFICER. The report will be received.

SUPPLEMENT TO REVISED STATUTES.

Mr. WALLACE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the amendments of the House numbered as follows, 1, 5, and 7, and that the Senate agree to said amendments of the House as amended by the Senate.

WM. A. WALLACE,
FRANCIS KERNAN,
DAVID DAVIS,
Managers on the part of the Senate.
JOHN. T. HARRIS,
GODLOVE S. ORTH,
JNO. B. CLARK, JR.,
Managers on the part of the House.

The PRESIDING OFFICER. Will the Senate proceed to the consideration of this report?

The question being put, it was determined in the affirmative.

The PRESIDING OFFICER. Will the Senate concur in the report?

The report was concurred in.

RIVER AND HARBOR BILL.

Mr. RANSOM. I ask the consent of the Senate to make a report from the Committee on Commerce. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, to report it with amendments. On Monday, after the morning hour, I shall ask the Senate to consider the bill.

ORDER OF BUSINESS.

Mr. BAYARD. Under a misapprehension I called for the regular order supposing the unfinished business to be the tariff-commission bill. It certainly was the intention of the Senate that that bill should not be more than temporarily displaced. It was informally laid aside, and that was done by unanimous consent, which has but one interpretation by the action of this body, and that is that it is subject to be called up at any time on the motion of the Senator having the bill in charge. That bill was intrusted to me by the Committee on Finance. I brought it into the Senate under their direction. It has been placed before the Senate for their consideration and has been partly discussed. I ask now that the Senate may resume the consideration of that measure, and postpone the present and all prior orders for the purpose of considering the tariff-commission bill.

Mr. HILL, of Georgia. I desire to say that for one I voted on the last vote with the express understanding on my part that the negative vote on the last motion should bring up the bill to which the Senator from Delaware refers.

Mr. BAYARD. It would have been so, but it was understood from the interpolation of a certain measure yesterday that the bill lost its place. It was certainly not the intention of those in charge of the bill that it should, nor do I believe it to have been the understanding of the Senate that such a result was to be accomplished.

Mr. THURMAN. I wish to state, rather more for the vindication of the clerks than anything else, for I was not in the chair yesterday

when the tariff-commission bill was laid aside, that the clerks were perfectly correct in not placing the bill as the unfinished business upon the Calendar of this morning. Upon looking at the RECORD, it will be seen that the bill was laid aside temporarily; that is true, and of course subject to call, but, as will be seen by looking at the proceedings of very many previous days on previous bills, it was not laid aside "without prejudice by an adjournment." There was no agreement to that effect. That was, no doubt, an oversight, but it was the fact, and the clerks could do nothing more than take the proceedings of the Senate as they actually occurred. The bill was laid aside temporarily, but not without prejudice by an adjournment. An adjournment took place, and that of course displaced the bill.

I shall vote for the motion of my friend to postpone other matters in order that the tariff-commission bill may be taken up; but it is but justice to the clerks to say that the Calendar is correctly made up.

Mr. HARRIS. I rise to a question of order. My motion to suspend the pending and all prior orders was pending when the Senator from Delaware suggested the motion that he has just made.

The PRESIDING OFFICER. The Chair is in doubt in regard to the point of order. The question had just been submitted to the Senate as to whether the Senate would lay aside the pending and all other orders on the motion of the Senator from Wisconsin. Nothing had been done after the announcement of that vote when the Senator from Tennessee [Mr. HARRIS] rose and addressed the Chair. Whether the same motion could be submitted again the Chair is in doubt.

Mr. THURMAN. Beyond doubt it can. The Senate has since that time acted upon a conference report.

The PRESIDING OFFICER. Will the Senator from Ohio please wait until the Chair states the proposition? The Chair stated distinctly that no other business had intervened when the Senator from Tennessee rose and addressed the Chair and made his motion. The question that the Chair desires to submit is, when the Senate has voted down the motion of the Senator from Wisconsin to lay aside the pending and all other orders and that vote is announced and not one particle of other business has been done by the Senate, and the Senator from Tennessee rises and makes the same motion precisely, whether that is in order. That is the point upon which the Chair desires instruction.

Mr. THURMAN. I think, with due submission, that the motion of the Senator from Tennessee was in order no matter whether other business had intervened or not. I know of no rule that prevents that motion from being made, because the objects are different. It does not matter on which motion it is put, whether on that of the Senator from Tennessee or that of the Senator from Delaware, except that the Senator from Tennessee moves to postpone all orders prior to a certain bill which he names; the Senator from Delaware moves to postpone all orders prior to a certain other bill which he names. Those are very different motions. Therefore, the Chair must decide which one of them is entitled to precedence. I beg leave to submit that the Senator from Tennessee has a right to make his motion.

Mr. HARRIS. If the Senator from Ohio will allow me to make a suggestion, I will say that my motion was a different motion from that of the Senator from Wisconsin.

Mr. THURMAN. Entirely.

Mr. HARRIS. It was a different motion from the fact that the Senator from Wisconsin moved to postpone all orders prior to a certain order named by him, and I moved to postpone all orders prior to a different order named by me. The motions were different in that respect.

Mr. THURMAN. Certainly; wholly different.

The PRESIDING OFFICER. The Chair, if there is no objection to his decision on the part of the Senate, will decide that the Senator from Tennessee had the floor, having made his motion first, immediately after the announcement of the decision of the motion of the Senator from Wisconsin.

Mr. HARRIS. I desire only to say that, owing to the large number of persons interested in the bill to which I refer, the fact that these claims have been pending for five or six years, the fact that this bill has been on the Calendar (being a House bill) for the last three months, I desire very much that the Senate should proceed to its consideration. Of course, the Senate will elect between that and other bills.

Mr. HILL, of Georgia. Will the Senator read the title of the bill?

Mr. HARRIS. It is a bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

Mr. HILL, of Georgia. I have simply to say that I voted before under the impression that the bill which the Senator from Wisconsin wished to call up was in competition with the tariff-commission bill. I think that the tariff-commission bill ought to be acted on promptly. I think it one of the most important measures before this Congress. I think it ought to have been acted on before this time, and I was unwilling to take up anything, especially any private matter, to its prejudice. I am unwilling to take up a bill relating to the District of Columbia to its prejudice. I shall therefore vote, as I voted before, against any measure until we get the tariff-commission bill up.

Mr. BECK. I desire to say but one word. As I said before, I voted against the proposition of the Senator from Wisconsin because I believe that the Senator from Delaware who is managing the tariff-commission bill and all the friends of the bill believed that it was only temporarily laid aside and would not lose its place by accommodating the friends of the tobacco bill. If we take up any other bill, whether that moved by the Senator from Wisconsin or that moved by the Senator from Tennessee, then no Senator in charge of a bill being the unfinished business will ever from this time give way one minute to oblige anybody. Good faith, in my judgment, requires that the bill which the Senator from Delaware has in charge ought to have the preference over all other bills, no matter how meritorious, if we ever expect to have fair understandings in the Senate.

Mr. HARRIS. I had risen for the purpose of suggesting (I am less inclined to do so after hearing the remarks of the Senator from Kentucky than I was before) that if I can have the consent of the Senate to consider the bill named by me at the conclusion of the consideration of the bill upon which the Senator from Delaware insists, I would cheerfully consent to such an arrangement as that.

Mr. ROLLINS. That is fair.

Mr. HARRIS. But I do not feel that good faith demands that I or any other Senator should consent to the consideration of that bill any sooner than any other of the hundreds of bills that lie here upon the Calendar unconsidered.

Mr. BECK. I desire to say that I have a bill equally as important as that, infinitely more important, where the whole commerce of this country from one end of it to the other and the fair equality of the people of every State depend on allowing the goods that they import to pass to the great cities of the West without being stopped at New York and agents' charges there and costs of all sorts put upon them, it being the bill for the immediate transportation of dutiable goods. The House passed the bill almost unanimously; it has been amended by request of the Department, and has to be acted upon. The whole commerce of the country will be taxed for another year unless we pass it before we adjourn, and I say that I will make no arrangement whereby any claim for the benefit of any set of people in the District of Columbia or anywhere else shall remove that bill from the consideration of the Senate and deprive the people of having the right that it secures to them.

Mr. MAXEY. I voted against the motion of the Senator from Wisconsin, and I did so without regard to the merit or demerit of the claim presented by him, but on the statement made to the Senate of the United States by the Senator from Delaware [Mr. BAYARD] that he yielded his place on the bill then in the possession of the Senate as an act of courtesy to the Senator from Virginia [Mr. JOHNSTON] with the distinct understanding in his mind that it was informally laid aside to be taken up when the bill which the Senator from Virginia had in charge was disposed of. Whether he was technically correct or incorrect makes no difference to me; substantially he is right. He performed that act of courtesy, and he should not by that act of courtesy lose a valuable right. Therefore I shall vote for his bill to be taken up, and I shall do so against any bill that I have in my possession, or that is in anybody else's possession, as a pure naked question of right.

Mr. WITHERS. I wish to say one word in the same line. I do not pretend to assert that good faith requires every Senator to vote in favor of taking up the Eaton bill, but I do say that all of us who insisted and asked the favor that it should be laid aside in order to complete the consideration of the bill presented by my colleague, are bound in good faith to stand by that bill.

Mr. THURMAN. There are two ways of untying this knot, and each of them is very simple. One is for my friend from Tennessee [Mr. HARRIS] to withdraw his motion, and if he does not do so, I would say that if his motion prevails it will set aside all orders prior to 336. I ask the attention of my friend from Delaware. If the motion of the Senator from Tennessee prevails it sets aside all orders prior to 336, but it does not take up any bill. The Chair has afterward to submit the question whether the Senate will take up the District bill, and prior to that being moved the Senator from Delaware can move to postpone all further orders down to 510; so that there is no trouble about it. Or if the motion of the Senator from Tennessee be voted down, then the Senator from Delaware can make his motion; so that in either event there is no trouble in untying this knot.

Mr. HARRIS. I suggested a moment since that if I could have an understanding that the bill referred to by me should be considered immediately after the consideration of the bill reported by the Senator from Delaware, I would consent to such an arrangement. I understand that the Senator from Kentucky has objected to any such understanding or arrangement. In order that the whole time of the Senate may not be consumed in a controversy as to what shall be considered, I will withdraw my motion in deference to the committee represented so ably by the Senator from Delaware; but I take this occasion to give notice that immediately upon the completion of the consideration of that bill I shall ask the Senate to postpone all orders previous to the one referred to by me, and shall insist upon the consideration of House bill No. 2328.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BAYARD] moves that the Senate now lay aside all orders prior to a certain one, intending, if that motion is sustained, to move to proceed to the consideration of Senate bill No. 900.

The motion was agreed to.

The PRESIDING OFFICER. Does the Senator from Delaware now submit another motion?

Mr. WHYTE. Is it in order to make a report?

The PRESIDING OFFICER. The Chair will receive it, as there is nothing before the Senate.

Mr. WHYTE. Then I ask permission to make a report in regard to some printing.

Mr. BAYARD. Allow me first to get up the bill.

Mr. WHYTE. I have no objection in the world; but I only made the request now to save time.

Mr. BAYARD. I thought that Senate bill No. 900 had been taken up and was before the Senate. If not, I make the motion that it be taken up.

The PRESIDING OFFICER. The Senator submitted a motion to lay aside all orders prior to that bill, and that motion was carried, and the Chair could not submit a second motion until the Senator had made it. Now the motion is submitted. The Senator from Delaware moves that the Senate proceed to the consideration of the bill named, which will be reported by its title for information.

The CHIEF CLERK. "A bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff."

The motion was agreed to.

Mr. WHYTE. I appeal to the Senator from Delaware to allow that bill to be laid aside for a moment while I make a report.

Mr. BAYARD. With pleasure.

REPORT OF COMMISSIONER OF EDUCATION.

Mr. WHYTE. I am directed by the Committee on Printing to report, with an amendment, the joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

I have been endeavoring for several days to get an opportunity of making this report. It is for the printing of a very important report of the Commissioner of Education. The printing of the report for 1878, as directed by the House of Representatives, is provided for in the resolution from the House. We find that the report for 1879 is also interesting, and therefore the Committee on Printing have proposed an amendment to this resolution including the report for 1879. It is very important that this resolution should pass at once, that the work may be done this summer, and I ask for its immediate consideration. I am sure nobody will object to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendment reported from the Committee on Printing was to strike out all after the resolving clause and insert:

That of each of the reports of the Commissioner of Education for the respective years 1878 and 1879 there be printed 4,000 copies for the use of the Senate, 8,000 copies for the use of the House of Representatives, and 13,000 copies for distribution by the Commissioner.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution providing for the printing of the report of the Commissioner of Education for the years 1878 and 1879."

AMENDMENTS TO BILLS.

Mr. HARRIS, Mr. BURNSIDE, Mr. KERNAN, Mr. PADDOCK, Mr. BOOTH, Mr. HILL of Colorado, and Mr. COCKRELL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified due by the accounting officers of the Treasury, in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. SAUNDERS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

TARIFF COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff, the pending question being on the amendment proposed by Mr. GARLAND as a substitute for the bill.

Mr. BAYARD. Mr. President, I represented the Committee on Finance and their wishes in reporting to the Senate this bill, it having been introduced the 17th of last December by the honorable Senator from Connecticut, [Mr. EATON,] "to provide for the appointment of a commission to investigate the question of the tariff." On the day after the bill was introduced by the honorable Senator from Connecticut, the honorable Senator from Arkansas [Mr. GARLAND] brought in a bill (S. No. 906) "providing for a commission to examine into the subject of the tariff, with a view of facilitating legislation in reference thereto." So it will be seen that about the same time both of these Senators brought this matter before the Senate for consideration. It touches a subject of the gravest importance to the people of the United States, because by means of the taxation upon imported merchandise more than one-half of the public revenue is derived. Every dollar that comes into the Treasury of the United States must come from the labor and productive energies of the American people; and by our present laws more than one-half of the revenues of our Government are derived from duties taxed upon imported merchandise. It will well be understood, then, how grave is the duty of adjusting burdens so weighty as these, in such manner as will enable the mass of our population to bear them with most comfort.

Under the terms of the Constitution of the United States, the Senate is inhibited from originating measures of revenue; and, therefore, it has been not from any lack of interest, not from want of study or grave consideration, but simply from the want of constitutional power, that the committee of this body have been unable to present to the Senate at the present session, or at any other, an original scheme for adjusting this heavy body of taxation upon the people. In the present case there was delay upon the part of the Committee on Finance to report back this measure, because they have been awaiting action of the other branch of Congress and have awaited it in vain until now at the close of the session, or what most of us believe and hope are to be the closing days of the session, it becomes necessary for us to make some preparation to obtain that broad generalization of knowledge which will enable us to apportion the taxes upon imported merchandise in such form as that justice to all our productive industries may be reached.

There certainly should be in adjusting the burdens of a people no favoritism as to class; and color it as we may, or disguise it as we will, legislation that inures to the benefit of one class to the detriment of others is un-American, unconstitutional, and unjust. It is all-important, therefore, that we should have a tariff system so arranged as to bear hardly upon no classes of our producers more than upon others. Equity and justice are required as the foundation of this great system; and in order to know what they are, to obtain knowledge of them, we must have information from proper sources.

These two measures are akin in providing a commission. The bill of the honorable Senator from Connecticut proposes that it shall consist of nine commissioners. The bill of the honorable Senator from Arkansas proposes the same number. The composition of this commission differs in the two. The Senator from Connecticut by his bill, which has received the approval of a majority of the committee, has provided that these nine commissioners shall be appointed from civil life, one of whom shall be the president of the commission and that they shall be appointed by the President of the United States by and with the advice and consent of the Senate. That is the proposition recommended by the committee. The duties of these commissioners are in general very much the same. I will read the third section of the bill that has received the approval of the committee:

SEC. 3. It shall be the duty of said commission to take into consideration and thoroughly investigate all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and industrial interests of the United States, so far as the same may be necessary to the establishment of a judicious tariff or a revision of the existing tariff upon a scale of justice to all interests; and for the purpose of fully examining the matters which may come before it, said commission in the prosecution of its inquiries is empowered to visit such different portions and sections of the country as it may deem advisable.

Section 4 reads as follows:

The commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in December, 1881.

The proposition of the honorable Senator from Arkansas is not very different from that. It proposes that the commission shall examine—

First, into the relative effects of the tariff under the existing law upon the different industries of the country;

Second, into the relative effects of the present tariff upon the consumer and producer;

Third, as to the relative merits of the specific and the *ad valorem* systems;

Fourth, what, if any, improper discriminations exist under the present laws;

Fifth, what, if any, changes are necessary to be made to insure a wholesome and judicious law on the subject, and to secure its proper enforcement; and especially if the law cannot be greatly simplified, and the list of dutiable articles diminished, and the law executed at much less expense than it is at present;

Sixth, into and review the whole tariff system as now existing; and

Seventh, the said commissioners to report the results of their examination into the subject above referred to, with such suggestions and recommendations as to them may seem proper, to Congress, at the earliest day practicable.

These two measures are *in pari materia*, the difference being as to the frame of words under which the inquiry is directed, and I believe the Senate, on examination and comparison of the language used in the two bills, will find that of the committee to be more embracing, more direct, more exact, and more to the purpose than the language employed in the measure by the Senator from Arkansas.

Now, first, is it wiser and more practicable that we should employ three members of the Senate and three of the House together with three persons chosen from civil life, being members of neither House, for the purpose of giving us proper information how to legislate hereafter? In my judgment it is better that this whole commission should come from civil life and not be connected with Congress. In the first place, what we want is widespread knowledge representing every view of taxation, representing every great interest of the country

which is the source of taxation; that men should be chosen for this purpose who have made political economy, the gathering and arrangement of statistics, and the philosophy of trade and commerce the special study of their lives. It is proper in this commission that the great interests of the cotton-growing States, of the sugar-growing States, of the wheat and grain growing States, the tobacco interest; in other words, that the great agricultural interests of the country, its manufacturing interests, its mining interests, all should have their intelligent representative upon this board of nine men in order that the plan submitted by them shall be truly an explanation and a grouping of the facts essential for a proper understanding and execution of the great task which Congress is to undertake.

Sir, such a commission and such labors will need the most diligent care, the highest intelligence, special education, and the application of a long variety of labor and time. I put it to the practical sense of every member of this body whether he can select hopefully any three members of the Senate who can be expected in the recess, between the time of the adjournment of Congress and its convention in December, who will be able or willing to devote time sufficient for the purpose of considering this great task? Must not the answer be in the negative? What three men in this body will conscientiously accept the task and the labor? Shall we not hear from every one who is named for this purpose an application to be excused from the service? And if this be true of the Senate, it will be found to be true of the House of Representatives. Therefore, from the simple fact that we may not expect members of the House and Senate to spend the recess in this exacting and laborious task, from the fact that it will be hopeless to expect that devotion to this peculiar and laborious duty, I think we should choose the commission outside of the membership of the two Houses of Congress.

But further: our opinions, our thoughts, our studies will all be given I trust in the measure of our capacity to a proper solution of this question, and what we ask and what we need is light from other quarters brought to us, and which we can obtain only through the employment, under the authority of law, of individuals who have made these subjects their peculiar study.

I suppose that these nine commissioners will represent all the views as to the wisdom of the protective or the revenue systems, the wisdom of specific or *ad valorem* taxes, of the relative proportions of tax which the different interests of the country can justly and fairly bear by relation to each other; and above all things this commission should not be conducted in the light of partisan interests. Neither the interests of section nor the interests of party should govern this great economic question, and men should be chosen upon whom the ties of party and the ties of sectional prejudice sit more lightly than they do upon most of us who find our way into these two Houses of Congress. I believe the good sense of this proposition will commend itself to the Senate of the United States as well as the people of the United States, because if these great economical questions are to be subjected to the harsh lights and fierce heats of party organization, depend upon it there will be instability, because dependent upon the permanence of party power they necessarily will lose their place when parties shall lose their power. The ebb and flow of party strength in this country marks our whole history, and it never touches any question that it does not injure. It touches no question that it enlightens. And it is for that reason that having a President to-day representing one of the political parties who is to make these nominations subject to the advice and consent of the Senate controlled by an opposing political party, between the two dealing with this great subject, I believe the time is especially opportune in the history of this country to come at a proper basis for the settlement of this great question.

For that reason I would not subject the gentlemen who are to be commissioners to any of the stress or strain of party affiliation which as I say we all feel more or less in these two Houses of Congress. Let them give their report free, unchallenged, undeterred by any fear of loss of popularity from the votes that they are to cast one way or the other upon it. Let us have from these nine men who I am happy to say can to-day be selected from a class growing in importance and recognized day by day more and more in this country, the class of scientific political economists. The education, the labor, the skill, the learning that is being applied to the consideration of public questions is the result of that leisure which follows the accumulation of wealth. Our colleges, our seats of learning, our practical industries are every day developing a class of intellect and a class of information which augur well for the future system of the Government of this country. And as I say the present time is especially opportune when we can have what every man who will think of this question fairly will agree with me we ought to have, a non-partisan commission of highly educated and responsible gentlemen representing the great and varied interests of this country to meet together and adjust a system of taxation upon our imported merchandise.

I doubt not, sir, as a fact, that our revenue will for generations to come be chiefly paid upon imported merchandise. It has always been so in our history, and I see nothing at present that will induce the American people to alter it. Whether these taxes shall be laid with a view to produce most revenue, or whether they shall be laid with a view (in which I do not concur) of fostering private industries at public cost, is a different thing; but that the great body of the taxation of this country will be laid upon imported merchandise is not only true to-day as it has been in the past, but I believe it will be found to be true in the history of our country for generations to come.

Since I have been a member of this body, now well-nigh twelve years, I have been assigned to duty upon the committee to whom this subject of revenue in its various shape has been submitted. The question of tariff duties, the question of excise duties, has therefore become in some degree familiar to my mind. It has been a constant subject of my thought; is has been a constant subject of my examination, and far and wide, as far as my opportunities have permitted, I have endeavored to gather knowledge upon the subject and to apply proper principles and the great principles of government to make that knowledge useful, and I feel to-day that we need in Congress the independent counsel of educated men. There is to-day in Congress too much of local influence and of party influence upon the councils and the votes both of Senators and Representatives, and therefore I should despair of reaching through the agency of Congress alone a scheme upon which all men of all sections and of different parties could unite in order to make any system of taxation rest as lightly as may be upon the industries of the entire country; and I believe our chance for that is infinitely better if we shall adopt as a whole a well-digested, well-considered, wholesome plan which shall have been framed with reference to every industry and every producing interest of this country—not one or two or three, but all, the agricultural, the mining, the manufacturing, all shall be considered in the scheme, which I trust this commission of nine intelligent and independent men will present to us; and for one, even though when that scheme came before us flaws were visible, although specks could be seen upon its luster, I would be disposed to accept it, to adopt it if it contained that principle of justice, of equitable adjustment, which is so sadly wanted in the system under which we now conduct our affairs, because I do consider that a greater agglomeration of selfish interests and injustice was never made in the form of law than that which is known as the present tariff system of the United States.

It needs reform, it needs reparation, it needs amendment, and I would prefer not to tinker at it piecemeal. I believe that in order to ascertain whether one tax is just, you must consider all other taxes at the same time. I will not say there are none so manifestly wrong but that they should be stricken from the list without any consideration. I do not say that a long list of dutiable articles, numbered almost by the thousand, should not instantly be placed upon the free list, articles from which no revenue worth speaking of has ever been gathered, and which only form obstructions to our commerce, which have so laden down our manufacturers that they cannot compete in foreign markets where they must go to sell their surplus products. I will not say there may not be individual instances in which you may act promptly and also with a certainty that you are reforming as well as changing; but I do say that in order to make the tariff system that which it ought to be, it should be done as a system and upon a principle, and that principle should be based upon a widespread and thorough knowledge of the subject-matter to which it related. We should not call in (as has been done and as I have seen done since my period of service here) one manufacturer who would explain to you with great ingenuity how the burden can be taken from his shoulder and laid on the shoulder of some brother struggling against him in rivalry. Often and over have I heard manufacturers and others coming in to show how they could be exempted and how others engaged in other manufactures could safely have their burdens increased. Well, sir, it is perfectly natural. It is a very old and wise saying of the law that no man is a judge in his own case; certainly he should not be; and therefore I hold it to be exceedingly wise that this commission should be composed of men not influenced by politics, not warped by prejudice, not narrowed by sectionalism, but educated men, capable not only of understanding each the interest which he came to speak of, but of comprehending that there is an alliance, a true and a real alliance, between all the industries of a country like this.

Mr. President, the great object of this tariff will be not only its simplification, its adjustment, its being based upon a principle which shall be equitable and fair, but more than that, that it shall be stable. The great curse of laws is their instability, deluding and destructive to all regular business. Excellence in any manufacture, excellence in any pursuit can be attained only by long practice. The very skill in manufacture of any kind, whether it be in the delicate machinery of a watch or be in those vast and powerful engines that move tons by the hundred and manufacture guns weighted by hundreds of tons—all this is the result of persistence of endeavor and of long experience, very often times of inherited experience; but how can experience be inherited, how can it be acquired, when the capital that is invested in business to-day may be driven from it to-morrow? We do need in this country the absorption and comprehension of the great idea that our Government and our country is to last, and our laws must be made with a view to permanence in order that they may be just, that they may be safe, that they may give capital protection, and that they may insure that proficiency that only can be the result of persistent endeavor and practice.

It is for that reason that I hold this tariff scheme should be elevated as high as it can be above the planes of party politics and of passing excitements. Let it be a business measure. Let it be such as shall commend itself to the respect of the people because it is just,

and its permanence recommended because it will be proven to be wise.

Now, sir, on this subject we are not committing ourselves blindfolded to the decree of this unknown body of experts, but we are by this measure taking the step needed to give ourselves that information, derived from a source entitled to our respect, which will command our confidence, and which we do think will be a basis of a proper scheme of legislation. The more independent such a commission is of Congress and of party and of section the better and the more valuable will be its counsels. I for one want them. I can learn from my associates in this Chamber their views; I can obtain them by my private intercourse, and I can gather them from them in debate; but I have not the advantage of learning from these nine other men occupied each in his own pursuit unless we shall call them into public service and obtain from them the knowledge which they are so competent to give.

Mr. MORGAN. May I ask the Senator from Delaware when he expects this commission to report.

Mr. BAYARD. The bill provides that they "shall report to Congress the results of their investigation, and the testimony taken in the course of the same, from time to time, and make their final report not later than the first Monday in December, 1881."

What is the result of that? Supposing this bill to become a law in June, 1880, the President can make his selections during the summer months; they can be submitted to the Senate at its next session; therefore there would be about one clear year for the operation of this commission. I take it for granted that the President of the United States will rise to a full sense of the great duty imposed upon him in making a proper selection of men, and will send to us names that will challenge respect on both sides of this Chamber. But they are not limited to report only in December, 1881, but from time to time, if they find serious abuses which need immediate correction, if they shall say "thus far we find evils and to this extent we advise reform *instanter*," they may do so, and Congress may respond; but as to the final report it shall not be later than December, 1881. This gives them a year from next December. This time was fixed on a comparison of views, and its propriety I think will commend itself. My friend from Alabama will notice that it gives reasonable time, at the same time it fixes a term to the existence of the commission.

I have nothing more to say, Mr. President. I speak upon this matter off-hand, as I supposed my friend from Kentucky [Mr. BECK] would take the floor on the conclusion of the remarks of the Senator from Arkansas, but what I have said in a very general way explains the views of the committee and expresses my approval of the measure presented by them in preference to the scheme of the honorable Senator from Arkansas. As I have said before, there is no difference in principle between the two, but there is a difference, and I think an important difference, in the practical machinery by which we propose to execute this great work.

I feel that it is due to the subject that the Senate should act; and the only way that we can act is to endeavor to obtain the information that shall enable us to make a wholesome law for taxation.

Mr. THURMAN. Mr. President, it is not my purpose to say a word upon the general subject of the tariff; but I wish to make a suggestion or two for the consideration of my friends who are in favor of this bill and are opposed to the substitute of the Senator from Arkansas.

I wish first to call attention to this fact: The bill of the Senator from Connecticut [Mr. EATON] has the support of a multitude of petitions; somebody has called them machine petitions, because they are all, I believe, in the very same words, printed and sent to us, and as far as my observation goes—and I think I am quite right in that—every one of these petitions comes from a particular interest in this country—the manufacturing interest. If there has been a petition in favor of the measure presented to the Senate from anybody engaged in agriculture, or anybody engaged in navigation, or anybody engaged in merchandise, or anybody engaged in professional pursuits, it has wholly escaped my observation. Therefore, Mr. President, it has been supposed by some that those who have thus petitioned for the adoption of this bill and who are themselves largely protected by the tariff laws regard this measure as an extension of the present tariff law unaltered for at least nineteen months, and more than that, because after the report will come it will have to be discussed—two years or more. Well, sir, two years' further extension of the tariff law precisely as it exists might be a very great boon to them; but on the other hand it might be a thing which the people of this country would not willingly consent to.

Mr. EATON. I know my friend would not knowingly misrepresent either the bill or the petitioners for the bill.

Mr. THURMAN. Certainly not.

Mr. EATON. Now, the fact is that the bill—and that is one of the main features that I regard as of great importance—is that—

> The commission shall report to Congress the results of their investigation, and the testimony taken in the course of the same, *from time to time*, and make their final report not later than the first Monday in December, 1881.

And when they report on certain matters next December, then we shall be ready to act next December, and I shall be able to show very many matters that I hope we shall receive their report on between now and that time.

Mr. THURMAN. That may be; but then it may be that they will not report on those matters, and then it may be, and I think my friend will hear it said here next December, "Do not let us take up the tariff by piecemeal; let us wait until all the reports are in, until we have the final report; do not give judgment before all the evidence is in." I think that argument will be used.

However, let that pass. That was not what I rose to speak about. The difficulty in my mind to which I wish to call the attention of my friends is the proposition that this commission shall be created by the President, by and with the advice and consent of the Senate. Now, we are near the end of this session, as we all hope. We all hope that in a few days this session will be at an end. Will the Senate have an opportunity to advise and consent to these nominations when made to the Senate? Let us see how that matter is. That turns upon your interpretation of the Constitution of the United States; and upon that point the interpretations given by different Attorneys-General are utterly irreconcilable. It was first laid down by Mr. Wirt in Swartout's case that the words authorizing the President to fill any vacancy that should happen in the recess of the Senate were to be read as if they were "happen to exist;" and that therefore, although a vacancy did happen during the session of the Senate, yet if that vacancy continued after the adjournment of the Senate, it was a vacancy that happened to exist in the recess of the Senate, and the President could appoint to fill it. The very same decision was made by Attorney-General Roger B. Taney in the celebrated case of Mr. Gwin, appointed register in Mississippi. It is true there is language in that opinion to the import that if the vacancy was known to exist the President should fill it by nomination to the Senate. Of course he should; but still the decision that was made in that case shows perfectly well that he did not intend by that to limit the power of the President by the fact that he had knowledge of the vacancy. But in a subsequent case Mr. Attorney-General John Y. Mason laid down the true constitutional rule to be this:

> If vacancies are known to exist during the session of the Senate, and nominations are not then made, they cannot be filled by executive appointments in the recess of the Senate. And the rule is the same where offices are created by law, taking effect during the session of the Senate, and no nominations are made.

Now let us take either one of these interpretations of the Constitution and see where we are going to land.

Mr. EDMUNDS. What is the date of that last opinion?

Mr. THURMAN. Eighteen hundred and forty-five, during Mr. Polk's administration.

Mr. HAMLIN. Will the Senator let me ask him, as he has examined the subject and will be able to answer, whether the doctrine laid down by Mr. Mason has not been followed by the Government from then until now?

Mr. THURMAN. I do not know but that it has been.

Mr. HAMLIN. I think it has been invariably.

Mr. THURMAN. Very likely. I am willing to take that interpretation with the weight of the opinion furnished me by the Senator from Maine, who has had so much experience in the Government. Then let us see how this stands. If Mr. Mason's opinion is correct, we create nine offices at this session of Congress, and provide that the President shall fill them by nominations to the Senate; and they shall be appointed upon his nomination, by and with the advice and consent of the Senate. If he does not make the nominations during the session, he cannot do it in the recess; if we do not confirm them, he cannot appoint in the recess; if we do confirm them and they decline the office, so that the office is never filled by them, then he cannot appoint during the recess.

Now, what are you going to ask of the President with perhaps only twenty-four hours to consider it? You pass this bill; it gets through both Houses of Congress, and when will you get it through? If you get it through at the end of next week you will be very fortunate. If it goes to the President, he has ten days to consider it. How much time has he to consider the bill and approve the bill and find the proper nine men? He will not have twenty-four hours probably, and are twenty-four hours sufficient to enable him to make nominations and for the Senate to consider those nominations upon a great subject like this? And then if we do not confirm them, and the Senate adjourn, there is an end of the power to appoint until next winter. If you do confirm them and they decline to accept the office, then there is an end of the power to appoint them until next winter.

Is it wise in us to run any such risk as that near the close of the session? Is it not very much better that we should appoint a commission ourselves, such a commission as requires no appointment by the President, requires no confirmation by the Senate, that gives to the House of Representatives, the great power in the Government upon whom devolves the duty of inaugurating all bills for raising revenue, its fair share in the selection of these men, than that we should give it all to the President of the United States by and with the advice and consent of the Senate? Do you think the House of Representatives will like that? All bills for raising revenue are to originate in the House of Representatives; but this bill gives to the House of Representatives not one iota of power in respect to the appointment of these commissioners, no will of its own, no choice of its own, nothing whatsoever; confers it all on the President and on the Senate, neither of whom can inaugurate a revenue bill. Do you think that bill will go through the House of Representatives?

Although I have no right to say it will not, for that would not be parliamentary, I must be permitted to doubt it extremely; and I must be permitted to doubt whether this bill, if it passes into a law at this session, will ever be executed at all; but it may go over until next session. So much the better for some; that would postpone the report on the tariff for nine or ten months longer perhaps.

We get rid of these difficulties, every one of them, by adopting the substitute of the Senator from Arkansas, or something of that nature. But, says my friend from Delaware, "I want a commission that is raised above party." Why, sir, can we have a commission on a great question of public interest without that influence, whether it is called party politics or called public policy? Can you ever have such a question decided by men who have no opinions one way or the other? Can you find them? I have heard of jurors that must have no opinion at all. A judge once said, "The only way I can get a jury that has no opinion is to get one composed of men that cannot read, and then have men who cannot hear; then possibly I might get a jury that had never heard anything about the subject, and have perfectly independent and blank-minded men." No, Mr. President, do not do that. The way you arrive at sound conclusions is by a conflict of ideas, and where there are conflicting interests it is the conflict of ideas on the part of those whose opinions do conflict that finally brings you to the truth or to a compromise between the conflicting interests. That is all you can do. There never was a tariff bill passed and never will be that will not be a conflict between conflicting interests. There never was and there never will be, perhaps it might be said that there never ought to be, because every interest is equally entitled to the care and kindness of the Government. Do we not have to decide in the end? Suppose you have your commission, and they make their report here; do not then the Senate and House of Representatives have to decide, and are not we just as much partisans as this joint committee that the Senator from Arkansas proposes shall be appointed? Every bit as much so. In the end, whatever be the conflicts between the agricultural interest and the manufacturing interest and the navigation interest and the interests of all people who are engaged in any one of these pursuits, how are you getting rid of special interests, of party interests, if you call them so, by having a commission appointed by the President, when ultimately it has to lay its work before Congress for consideration?

Sir, it does seem to me with the highest possible respect for my friend who introduced this bill, for the Senator from Delaware who advocates it, for the majority of his committee that reported it, that the bill, for the reasons I have stated, will be found to be an impracticable measure and have the effect if passed, and no other effect in the world, but to sustain the present tariff unaltered for two years or two years and a half. I shall therefore support the substitute.

Mr. BECK. Mr. President, I was of the minority of the Committee on Finance in opposing the favorable report of what is known as the Eaton bill. I may have been the only member, perhaps; I was at least in the minority. I opposed it for a variety of reasons, some of which have been very well stated by the Senator from Ohio, [Mr. THURMAN.]

I am of those who believe that the oppressions and defects of the present tariff ought to have been considered and remedied long ago, and I believe that it is one of the most unfortunate things for the country, and especially for the democratic party, that its committees in the other House have been so constructed that the subject has not been considered and carefully acted on long ago. We met at Saint Louis in national convention in 1876 and published as a leading and binding plank in our platform this provision, every word of which I indorse and believe to be true:

> We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretense. It yields a dwindling, not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufactures at home and abroad, and depleted the returns of American agriculture, an industry followed by half our people. It costs the people five times more than it produces to the Treasury, obstructs the processes of production, and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demand that all custom-house taxation shall be only for revenue.

Mr. ALLISON. When was that?

Mr. BECK. In 1876. It is the best part of the democratic platform. Yet it seems we have an obstructively constructed committee at the other end of the Capitol, which has prevented action, for the Senate of the United States has to confess its inability to give relief, as it cannot inaugurate legislation on financial questions and has to play a subordinate part to the House. In the face of the known condition of things, it is now proposed to transfer all power to the President of the United States, and to authorize him to select any nine men he may please, subject only to confirmation by the Senate, to take this whole subject into their own hands, without requiring any report until December, 1881, allowing two years at least of "good fat stealing" to those protected pets, who have now got everything in their own hands. This seems to me to be a very improper thing to do. If it has come to this, that the democratic majority in the two Houses of Congress cannot select men competent to look into these great questions and to remove at least some of the more glaring of the outrages promptly by the 1st day of December next, then it has fallen very far short of the expectations of the country.

I hold in my hand a list laid before the House the other day of articles on which a duty of over 50 per cent. was collected during the fiscal year ending June 30, 1879, several hundred of them, from the great majority of which scarcely one dollar of revenue is produced, the duties being in many instances prohibitory, the effect of which is to bring destruction on the labor of this country and ruin to all its industries; yet we are asked to appoint a commission, to be named by the chief of the party that imposed this tariff robbery upon the country, and granted these monopolies to the protected interests upon the assumption that the House and the Senate have not the sense or ability to appoint competent men and have not among their own numbers fit men to look into, to understand, or relieve the people from this incubus; that must be the conclusion if we are to turn it over to the President. This is the list as originally prepared by Mr. J. S. Moore, of New York, one of the best informed men in the country:

	Per cent.
Breadstuffs:	
On cleaned rice	85.39
On uncleaned	87.33
Chemicals:	
Acetic, acetous, specific gravity 1047	62.11
Acetic, acetous, specific gravity over 1047	76.40
Tannic	185.06
Alum and substitute	54.43
Aniline dyes	59.96
Baryta, sulphate of	64.83
Borax, refined	70.86
Chloroform	53.76
Sulphate of copper, blue vitriol	82.99
Nitric (ether)	129.21
Copperas	90.90
Licorice, paste or in rolls	77.43
Carbonate of magnesia	52.82
Epsom salts	82.67
Medicinal preparations	50.00
Acetate of soda	221.87
Bicarbonate of soda	59.13
Caustic	56.75
Flower of brimstone	57.29
Tannin	171.43
Burnt chicory	97.74
Kaoline (clay)	52.73
Cotton, plain bleached, printed, over 100 threads to square inch	58.09
Cotton, plain bleached, printed, over 200 threads to square inch	55.64
Cotton, muslin shirtings and lappets	53.62
Spool thread, 100 yards per spool	73.34
Spool thread, 200 yards per spool	76.08
Thread yarn, not exceeding 60 cents per pound	59.36
Thread yarn, not exceeding 80 cents per pound	62.88
Thread yarn, over 80 cents per pound	53.95
Porcelain, painted or gilded	50.00
Beads and bead ornaments	50.00
Artificial flowers and feathers	50.00
Meerschaum pipes	83.00
Pipe cases and stems	75.00
Wood and porcelain pipes	85.86
Toys of wood and others	50.00
Fire-crackers	115.45
Almonds, not shelled	52.79
Almonds, shelled	52.84
Filberts and walnuts	52.50
Plums	52.19
Plate glass:	
24×30 and not above 24×60 inches	58.43
Above 24×60	103.18
Window glass, common unpolished:	
10×15	59.47
16×24	71.88
24×30	78.92
Above 24×30	78.73
Silver leaf in packages of 500 leaves	92.67
Gunpowder, common	58.26
Hair-cloth seatings, 18 inches wide	59.02
Hair-cloth seatings, over 18 inches wide	66.50
Anchors	67.40
Band and hoop iron	53.06
Band and hoop iron, under one-eighth inch	65.27
Bar-iron, common	58.71
Cables and cable-chains	52.78
Cast-iron pipes	51.80
Chains, halter and trace	57.13
Chains less than one-quarter inch	55.55
Hair-pins	50.00
Scrap-iron, wrought	63.03
Wood screws, 2 inches	52.94
Wood screws, less than 2 inches	62.88
Squares, marked on one side	60.00
Squares, all others	90.00
Iron wire, not less than No. 16	65.36
Iron wire, not less than No. 25	62.78
Wire rope	58.90
Wrought steam and gas tubes	73.28
Cutlery	50.00
Files, exceeding 10 inches	56.23
Steel rails*	104.90
Lead, in pigs and bars	56.60
Lead, old scrap	55.01
Marble not exceeding 2 inches thick	80.20
Marble, veined	66.74
Marble, white statuary brocatella	56.14
Marble manufactures not otherwise provided for	50.00
Mineral or medicinal water	61.27
Vegetable, fixed or expressed, bay or laurel	114.52
Castor oil	98.10
Croton	141.24

* The price of steel rails in Europe in 1879 was about $24 a ton in average. The present price is higher, say from £7 to £7 10s. per ton.

	Per cent.
Olive salad, in bottle or flasks	52.77
Vegetable, volatile or essential, bay leaves	305.88
Cloves	95.58
Fruit ethers, essences or oils of apple, pears, &c	140.46
Other essential oils not otherwise provided for	50.00
Rum, bay rum, essences or oil	181.21
Lead, dry or ground in oil, red	59.38
Lead, dry or ground in oil, white	50.25
Litharge	69.28
Umber	70.85
Whiting and Paris white	228.52
Pens, metallic	56.26
Repairs on vessels	50.00
Salt, in bulk	65.29
Silk manufactures	60.00
Soap, toilet	50.97
Starch, made from rice	115.05
Sugar:	
Concentratred sirups	62.48
Raw sugar not above No. 7	53.20
Raw sugar above No. 7 and not above No. 10	60.79
Raw sugar above No. 10 and not above No. 13	60.65
Raw sugar above No. 13 and not above No. 16	64.80
Raw sugar above No. 16 and not above No. 20	70.82
Raw sugar loaf and crushed	64.01
Sugar candy and confectionery	126.74
Vinegar	84.60
Varnish	63.08
Wool:	
Class No. 1, cloaking wool valued at 32 cents or less per pound	58.41
Class No. 1, scoured	74.38
Class No. 1, washed, value 32 cents or less	58.58
Class No. 1, washed, value over 32 cents	62.86
Class No. 2, combing wools, value 32 cents or less per pound	59.80
Class No. 2, scoured	90.24
Carpets:	
Aubusson	50.00
Brussels	68.52
Brussels tapestry	65.00
Druggets	103.99
Patent velvet tapestry	63.99
Saxony and Wilton	71.69
Treble ingrain	50.83
Yarn, Venetian or two-ply	51.96
Dress goods and Italian cloth:	
Value not exceeding 20 cents per square yard	70.09
Value over 20 cents per square yard	66.20
Weighing 4 ounces and over, per square yard	65.85
Balmorals, alpacas, and like goods:	
Valued above 80 cents per square yard and weighing 4 ounces and over	70.00
Blankets valued 40 cents per pound	104.14
Blankets valued over 40 and not over 60 cents	85.84
Blankets valued over 60 and not over 80 cents	96.03
Blankets valued over 80 cents per pound	69.00
Flannels:	
Valued 40 cents per pound	95.07
Valued over 40 and not over 60 cents	94.30
Valued over 60 and not over 80 cents	88.66
Valued over 80 cents per pound	64.89
Hosiery:	
Valued at 40 cents per pound	85.81
Valued over 40 and not over 60 cents	97.46
Valued over 60 and not over 80 cents	89.66
Valued over 80 cents per pound	55.31
Manufactures of wool not specified:	
Valued at 40 cents per pound	94.76
Valued over 40 cents and not over 60 cents	90.09
Valued over 60 cents and not over 80 cents	87.58
Valued over 80 cents per pound	70.31
Skirts and drawers not over 60 cents per pound	86.06
Skirts and drawers valued above 80 cents	60.13
Bunting	117.63
Cloths	71.04
Clothing made of wool	56.12
Endless belts or felts	57.74
Hats made of wool:	
Valued above 80 cents per pound	66.32
Manufactures wholly or in part of wool not otherwise provided for	64.78
Rags, waste, and shoddy	52.06
Woolen shawls	57.88
Worsted goods not otherwise provided for	58.04
Webbings, beltings, galoons, &c	69.28
Woolen or worsted yarns:	
Valued not exceeding 40 cents per pound	99.55
Valued over 40 cents and not over 60 cents	96.53
Valued over 60 cents and not over 80 cents	90.33
Valued above 80 cents per pound	78.02

Was there ever such a scheme of legalized plunder! The exhibit exhausts the argument. In a carefully prepared abstract furnished by the Secretary of the Treasury, (Executive Document No. 51,) which I hope Senators will carefully look over, you find scarcely a dollar's worth of blankets imported; the protection is entirely prohibitory. Look over the exports; hardly a dollar's worth of blankets is exported. What does it mean? That every laboring-man in this country who has to use a blanket, and every man has, has to pay 104 per cent. for the coarse blanket that warms himself, his wife, and his children more than any man in any other country has to pay. He works for, say, $6 a week, a dollar a day; it costs him $6 to buy a pair of blankets which are only worth $3 anywhere else. The so-called pauper that somewhere else works for seventy-five cents a day, $4.50 a week, can buy the same blankets for $3 and have a dollar and a half left in his pocket, while the American who laborer gets $6 and buys his blanket has not a cent left from his week's work. So with most other necessaries.

Yet we are to go to the President to ask him to select nine men to tell us what to do about that.

Blankets furnish only one of the specimens of the system which we are asked to consider so tenderly. This matter has been delayed long enough. It is the duty of the Senate and the House of Representatives to act, and act at once. There seems to be no hope for a tariff bill at this session. As long as there was a hope for such a bill to come from the House I was opposed to all commissions. I was willing to sit here until September, if necessary, to act upon any bill the House might send, and to see if these crying wrongs could not be alleviated, if not removed at once. But as there seems now to be no such hope I was one of those on the committee who agreed that we should appoint a congressional commission at once to report to Congress at its meeting in December next what ought to be done. Such a committee can summon all the learned men of the country before it; each one of them can give his views; every one of the nine that the President could now select can come or be brought before that joint committee, and with our Stenographer, Mr. Murphy, whom I see before me taking down what I say, they can tell in an hour or a day what each one of them knows upon all these questions. The experts that would be selected because they are trained to look to the interests of some particular class of men can come before this joint committee and express their views and be examined and cross-examined, instead of writing out essays which can neither be explained nor contradicted on the floor of either House if the Eaton bill prevails.

I served on the House Committee on Ways and Means for six years. I saw all the great monopolies and protected interests of the country struggling there to perpetuate their privileges. I have seen the ablest lawyers argue their cases for pay day by day—some for salt, some for iron, some for blankets, some for cotton, and for everything that is protected; but I never saw one human being come here yet to argue for a reduction of taxation in the interest of the great producers and tax-payers of this country. The experts that the Senator from Delaware speaks about are experts carefully trained to maintain the virtues of protection to special interests; their training is devoted to the interest of classes and to show that these things have to be continued, increased, or at least maintained, to keep up the great interest they seek to protect. There are no trained men among the masses of the people in special interests; they can have no representative on any commission appointed by the President—*not one*. The woolen manufacturers will have a representative, the cotton manufacturers, the iron men, all the great interests will have their representatives, their special hired, well-paid, trained men, and they will all cling together, and sustain each other; every protected interest has to cling to every other, because the moment one drops the combination is weakened and endangered to that extent. None ever drops, because they all work together, and have their experts, their lawyers, their trained men, who stand by them and threaten to destroy the others if theirs fall.

The only chance that the people have to obtain relief from grinding and oppressive taxation is from the representatives they send to Congress, from men whom they can hold responsible—men like you, Mr. President, [Mr. COCKRELL in the chair,] and myself, and others sent here to represent no interest except the common good and the interest of the tax-payers of this country, whose only interest is to seek to get them relief; and if they are ever to get relief, it is not by experts selected because of their knowledge of and devotion to special interests, but it is because the representatives of the people, after a full investigation into the present condition of things, bringing all these experts before them, hearing all sides, shutting out nobody, representing nobody but the great mass of the people, will lay all the facts, all the extortions, and all the iniquities and enormities of this tariff before the Senate and the House, and defend their report upon the floors of their respective Houses. Then, and then only, and by that means alone, will any relief ever be obtained.

The President may be, perhaps is, as good as any other party leader; but that he is the leader of his party, necessarily obedient to its will, veto after veto of our measures on the flimsiest pretexts shows; that he is the leader of his party and obedient to its orders has been repeatedly demonstrated. When the census was ordered to be taken under a bill passed by a democratic Congress it was provided that the enumerators were to be non-partisan, that the enumeration of the people should be free from all political bias; but we could hardly get from him the appointment of a solitary democrat as supervisor in the great State of Ohio, a closely-contested State. I do not know that we have got one from New York. Not one I hear from the great State of New York in a service meant and required by law to be strictly non-partisan. The action of his party on this great tariff question has been attacked on the hustings, in Congress, and in the platform of the democratic party, attacked by nine-tenths of the democratic representatives in both Houses. We have long sought to break it down. I know that the President of the United States will select nine men who will sustain his party, sustain their past legislation, and he will secure their confirmation even in this Senate, in spite of you, Mr. President, and me, and men who think like us. I want the representatives of the people in the Senate and the House to get together and select men to make this examination. Let them be chosen by the body of the House, and here, if you prefer, selected

by the body of the Senate, and let the men thus chosen by the two Houses select three others; let sub-committees be appointed, and let one sub-committee look into the textile fabrics, wool, cotton, and other things; another into manufactures of iron and metals; another into drugs and chemicals; and then before December next we can get before us the testimony of all the leading experts and others upon all these subjects, and can hear as well the complaints of the people.

Sir, I wish Senators would take time to examine the very valuable report laid before the House of Representatives the other day, being Executive Document No. 51 for the second session of the Forty-sixth Congress, compiled by order of the Secretary of the Treasury, where information is given as to the amount of revenue received, the amount of imports and of exports, of duties, the carrying trade, and various things that no expert and no body of experts perhaps could get up in a year—all contained in the small document which I hold in my hand, which, if condensed still more, would make a report that would convince any Legislature that the present condition of things ought to be changed, and that speedily.

I have selected for example from the exports for the year ending June 30, 1879, the articles that were not manufactures in any sense. The total exports were $698,340,790, and the exports of articles in no sense manufactures were $626,816,324, thus made up:

Exports.

Animals, living	$11,487,754
Bread and breadstuffs	210,355,528
Cotton, raw	162,304,250
Fruit	1,916,382
Fur skins	4,828,158
Ginseng	465,611
Hay, hops, and ice	1,019,975
Manures	1,240,000
Rosin, tar, and oil-cake	6,645,596
Oils, crude and refined	2,180,413
Oils, illuminating, &c	37,914,110
Oils, animal	2,860,000
Vegetable oils	2,497,694
Provisions	116,858,650
Cotton and other seeds	2,281,828
Spirits	2,673,241
Spirits of turpentine	2,045,673
Sugar (rebate of duty)	7,118,673
Tallow	6,934,940
Tobacco	28,215,240
Boards, planks, &c., (mostly rough,) say	13,972,608
	626,816,324
Grand total, less coin	698,340,790
Every manufactured thing	71,524,466

Showing that there was but $71,524,466 of articles that were manufactures in any proper sense exported. What is the meaning of that? All these raw products had to be sold without any protection from any legislation. They had to compete with the labor of the world, and had to be sold as cheaply as anybody else would sell a like article in open market. Only $71,524,466 of the exports, less than 10 per cent., were in any sense manufactures. Think of it!

To make it plainer, from the great port of New York to-day we have not a ship that crosses the Atlantic Ocean to carry any of these things. England carries 60 per cent. of all our exports. France and Prussia nearly all the residue. We have not a ship that bears the American flag between the port of New York and Europe to carry these exports or bring return imports. Let France, England, and Germany go war to-day; let their fleets chase the merchant ships of each other from the ocean, and what is the result even if we are at peace with them all? All our surplus products are unable to go abroad, and we are bankrupted; they have to rot on the wharf. We have not a ship to carry them. Who suffers? Does the manufacturer suffer? No; the farmer, the man who raises the provisions, the animals, the raw cotton, the tobacco, and everything that makes up the $626,816,324 of exports suffers. America may be at peace with all the world; yet if the nations whose ships are now doing our carrying trade should get into war with each other the whole agricultural interest of this country is ruined, because the vast surplus must lie at the wharf and rot and cannot be preserved. But the manufacturer with his 104 per cent. on his blankets, and his 100 per cent. on railroad iron, who sells alone to the people of this country, neither allows imports to come nor seeks to export his products, keeps up his trade among the people of the United States, sells his goods at whatever price he likes, and he enjoys prosperity, while all those around him are bankrupted, if prosperity can be maintained amid universal bankruptcy.

What is the remedy proposed? A committee of experts is to be selected by the President to show that all this is right, and that the policy of his party has been good, and that this condition of things ought to be maintained at least until December, 1881, for that is the meaning of the selection of experts as proposed.

Why, sir, the petitions, as the Senator from Ohio said, that were laid before us, nearly all I saw and certainly a large majority of them, pray for the speedy passage of the bill "known as the '*Eaton bill,' which provides for the appointment of a tariff commission* to prepare and submit to Congress a bill revising the duties on imports of foreign products. They say, we favor the passage of the 'Eaton bill' for the reasons set forth in a letter from Hon. Daniel J. Morrell, president of the American Iron and Steel Association, to Hon. JAMES A. GARFIELD, of the House of Representatives, which letter is as follows."

This letter has been laid over one hundred times on this table as the reason why the Eaton bill should pass; and what does it begin by saying:

OFFICE OF THE AMERICAN IRON AND STEEL ASSOCIATION,
(No. 265 South Fourth Street,)
Philadelphia, March 23, 1880.

Hon. JAMES A. GARFIELD,
House of Representatives, Washington, D. C.:

DEAR SIR: The various bills introduced into the House threatening injurious reductions of duties disturb and alarm the manufacturers of the country at a time when they should be free to give their time and efforts to the creation of the means of supplying the demand which has suddenly arisen for their products.

In every industry affected beneficially by the revival of business extensions and improvements of buildings and machinery and increased facilities for production have been projected, and would be more generally under way if it were not for the threatening aspect of Congress.

He goes on to show how cruelly and remorselessly we had made quinine free, how he desired a great bureau to be built up which would advise in regard to all these great interests. In other words, the whole burden of the petitions is that the present order of things must be maintained, and it is ruinous to Mr. Morrell and ruinous to those who think like him if this Congress dares to interfere. "Give us the commission, extend it to 1881, give us two years more of good stealing, and we will take the chances of getting a report from such men as the leader of the republican party will nominate to sustain us, but do not let this Congress interfere; it has not enough regard for our rights to be trusted;" and they parade among other things, "this association works six hundred hands," "this association works eight hundred hands;" every petition tells how many hands they work, just as a Mississippi or Louisiana planter before the war would tell how many negroes he owned and worked on his plantation. It may be very well for the master manufacturer, because the very moment they have enough made to supply the wants of this country they stop production. Free trade at home, among all the States, is of course a great boon to them and all of us; it enables them to trade over a continent containing fifty millions of people. The moment they have manufactured enough to supply the wants of our own people their high protective tariff, which is a wall to keep other people out, is a wall that prevents them from going out to trade with the world; we have no trade of any consequence anywhere else, and the monopolists do not want it. Their machinery may lie idle six months in the year; its owners prefer that it shall lie idle six months of the year rather than allow outside competition. The machinery costs nothing while idle, and the operatives who are idle they care nothing about. They are not content and they do not desire and will not submit, if they can help it, to have any report made that will take off any of the enormous profits that they now enjoy and by legislation steal from the people.

The closing part of the letter of Mr. Morrell embodied in these petitions is as follows:

I therefore regard the appointment of a commission, as proposed by Senator EATON, as but a temporary resort leading to the establishment of permanent bureaus, which will have the condition and needs of the industries of the country constantly in charge, and will be able at all times to advise with congressional committees employed in maturing legislative measures. The most symmetrical and useful form of organization would be to constitute a department of industry, in charge of a secretary of industry, to be a Cabinet officer, and containing bureaus of agriculture, manufactures, and commerce. This would bring the present isolated Department of Agriculture into harmonious relations with other branches of the Government; it would satisfy the demands made by the boards of trade for a department of commerce; and it would give the manufacturers a representation which they deserve, and without which they are in constant danger of injury.

I regret the necessity of writing to you at such length, but feel that the importance of the subject is my justification, and, sincerely hoping that you will regard my suggestions with favor, I remain, yours truly,

D. J. MORRELL,
President American Iron and Steel Association.

Two years ago these men thought we were in earnest in our efforts to break up their monopolies. We had adopted resolutions in the Saint Louis convention as part of our platform saying that we demanded and would insist on a revenue tariff. They thought that we would succeed; they had but little doubt about it; I had not a doubt of it. Unfortunately we have not succeeded. What then happened? A bill was introduced in the House of Representatives striking down the high protective tariff rates to which I have referred in the list of articles I have set forth, and in many others. Mr. Banks, of Massachusetts, formerly Speaker of the House, one of the best informed men there, believing that it was inevitable, feeling that something would be done, called his people together. What did he say in the House of Representatives? Let me read. On the 8th day of May, 1878, Mr. Banks, of Massachusetts, said:

Therefore, sir, when I was placed by the honorable Speaker of the House upon the Committee of Ways and Means and was notified by the chairman that we were to consider a bill for the reduction of the duties upon imports, I said to the people whom I represent: It is better for you to consider the condition of the country, ascertain what is necessary for the full security and protection of the interests in which you are engaged, and make a statement, if you please, to the committee of the House setting forth what you think will be expedient, necessary, and just for the Government and yourselves. Now, sir, these gentlemen did not act upon this question as extremists, but as judicious friends of American industry and the Government which they serve and honor. These papers which I hold in my hand bear the official signatures of the authorized representatives of one hundred and twelve manufacturing corporations and firms of New England, in which they themselves suggest and consent to reduction of duties upon an extended and complete list of articles of foreign manufacture which come actively and directly in

competition with the industries in which they are engaged, rising from 10 to 20, 30, 40, and 50 per cent. upon the present schedule of duties upon such importations. More than a hundred and twelve corporations and firms of cotton and woolen manufacturers alone, of their own choice, and after repeated conferences in which all the interests of the cotton fabrics of this country were considered, high and low, they made this proposition. They are not to be regarded or condemned, therefore, as extremists, fanatics, or corruptionists upon the subject of American manufacturing industry. They embrace and represent the entire cotton interests of New England, where the manufacture of American cotton fabrics originated. They created the industry they represent, and for that reason they understand what consideration and security it requires, and what benefit it confers upon the Government and the people. It is true they are opposed, unanimously opposed, to the passage of this bill. They regard it as in conflict with public interests and with the principles that have been recognized in all acts upon this subject from the first tariff act of July 4, 1789. They do not consider the present moment favorable for legislation upon this subject, and they will regard its passage as detrimental, and perhaps fatal, to every form of industry and every interest, private and public, in which the people and the Government are engaged at the present time. But, if it is thought to be necessary to reduce duties or taxes, they are willing to take their share of whatever disadvantages may follow, and they voluntarily recommended the retention of the frame-work of the present tariff, and consented to and advised a reduction of duties affecting the industry in which they are engaged from 10 to 50 per cent., leaving only one branch of all their industries unchanged, and that one the most delicate, complicated, expensive, and novel of all their products.

Now, sir, how can the honorable gentleman from New York, [Mr. WOOD,] the chairman of the Committee of Ways and Means, state, as he stated in his speech the other day, that nobody opposes this bill except friends of the extreme doctrine of protection? As it was with the cotton manufacturers so it was with the woolen manufacturers. They consented to and in a certain sense recommended as of their own accord a reduction of duties of from 23 to 25 per cent. And as regards that still more delicate and less firmly established branch of industry, the manufacture of silk, for which the people of this country have long struggled, an industry which has given wealth to the most prosperous and richest States of the globe, this, too, came forward after anxious deliberation and made what the chairman called a most liberal proposition in the way of reduction of duties with which they had been and are now protected by the Government. They, too, are alike opposed to the passage of this bill and for the same reasons. The friends of the silk industry, its operatives, its laborers, and its directors and capitalists, all regard the passage of this bill as the destruction of their interest and their industry, and no man can examine the case they present without admitting that there is good ground for anticipating such a result. It is the same, therefore, with the growers of wool and the manufacturers of woolens and silks as with the cotton manufacturers.

That was a confession, a proper confession that not only the present tariff ought not to be maintained, but that one hundred and twelve of the largest cotton and woolen manufacturing corporations of New England had given their consent to a reduction as great as 20, 30, 40, and 50 per cent. of what now exists; yet, seeing that that was not done as anticipated, they grew bolder and the petitions began to come to this Congress with the letter signed by Mr. Morrell, for his letter is attached to nine-tenths of all that I have seen, praying that a commission should be appointed, not to take action immediately, not to be appointed by the House or the Senate, but to be appointed by the President of the United States, not compelled to report anything except that they have not finished their work, until December, 1881, so that the present condition of things shall continue with the hope and confident expectation that such a report will be had from the men selected as will prevent all interference with their present monopolies.

Mr. President, whenever this Congress parts with its power over the subject then the monopolists of the country will have absolute control. We have no ships now; we will have none; hereafter we will have a Chinese wall continued around us; we shall have a high protective tariff with diminishing revenue except when they have put up their prices so high that they can be competed with in spite of their extortions. Let me illustrate what I mean. Five years ago, in 1875, when there was a pretense, for it was only a pretense, of great alarm and apprehension felt about the sinking fund, both Houses, then republican, said that the honor of the country required that this fund, though $225,000,000 ahead, should be provided for annually, that $37,000,000 more should be raised, and that more than half of it should come by restoring the 10 per cent. reduction that was made in 1872 or 1873 from the tariff. What was the result? The table furnished by the Secretary of the Treasury shows that after the 10 per cent. reduction was made we received $163,000,000 from customs in 1874 and $157,000,000 in 1875. When the 10 per cent. was added, and we were to get $17,000,000 more, according to the estimate, from that source annually, the customs receipts fell to $148,000,000 in 1876, to $130,000,000 in 1877, to $130,000,000 in 1878, and in 1879 to $137,000,000. That has been the experience always.

Every time taxes are increased the revenue is diminished. When high protective taxation was placed upon railroad iron and steel rails, this table shows that the receipts fell from $18,000,000 annually down to nothing. We did not receive a dollar in 1879 from that source, though we are paying $28 a ton on every ton of steel rail placed on any railroad in the country, and that is the great industry over which Daniel J. Morrell presides, whose letter is in all these petitions paraded before us.

I had a paper handed me to-day that illustrates very well what I am contending for. It is only about a year since we reduced the tax on tobacco from twenty-four cents to sixteen cents. The Commissioner of Internal Revenue and all the officials cried out that we were plundering the Government; that from $9,000,000 to $12,000,000 would be lost annually by the change we made. I have the Commissioner's official figures made this morning, showing the receipts from the 1st of May, 1878, to the 30th April, 1879, when the tax was twenty-four cents a pound, were $22,314,613.20, and from the 1st of May, 1879, to April 30, 1880, $24,561,277.47, an increase of $2,256,604.27 at sixteen cents over what it was at twenty-four cents, instead of $9,000,000 or $12,000,000 loss. Here are the official figures:

Tobacco.	Receipts from—		Increase.	Decrease.
	May 1, 1878, to April 30, 1879.	May 1, 1879, to April 30, 1880.		
Cigars, cheroots, and cigarettes	$12,359,594 19	$14,522,135 82	$2,162,541 63	
Manufacturers of cigars	152,262 11	152,060 02		$202 09
Snuff	882,000 06	756,730 11		125,269 95
Tobacco of all descriptions	22,304,673 20	24,561,277 47	2,256,604 27	
Stamps for tobacco or snuff intended for export	7,600 20	6,877 80		722 40
Dealers in leaf-tobacco	94,399 07	88,952 31		5,446 76
Retail dealers in leaf-tobacco	4,168 43	2,178 29		1,990 14
Dealers in manufactured tobacco	1,697,387 53	1,827,491 66	130,104 13	
Manufacturers of tobacco	10,938 55	10,265 30		673 25
Peddlers of tobacco	32,270 40	31,001 39		1,269 01
Total	37,545,293 74	41,958,970 17	4,413,676 43	

So it was when Congress imposed a tax of $2 a gallon on distilled spirits. In 1868 the receipts were only about $14,000,000. The tax was reduced to fifty cents, and the receipts rose to $40,000,000 at once. What is the meaning of all that? Simply this: the moment you impose taxes too high fraud and smuggling hold sway and honest industry is crushed; and the very moment you lighten the tax to a point where the producer can live, then the revenue is increased, business becomes prosperous, and the people of the country are relieved.

But, Mr. President, I am not going to make a tariff speech, as I am very apt to do when I start on this subject. I have no interest, my people have none in anything except the general prosperity of the country. I know as well as I know anything that under the present high protective tariff we cannot be permanently a prosperous people. No people ever were great who had not a ship on the sea. We have fewer ships now by half than we had immediately after the war closed. We are dwindling year by year, in comparison with other nations, until we are to-day paupers and beggars on the great highway of the world's commerce. One hundred and ten million dollars now is the best estimate of what foreign nations are drawing from us every year to do our carrying trade, all of which we ought to do and keep the money at home instead of enriching our rivals, and would do but for our present infamous protective tariff laws.

What does it all mean? That we cannot make anything here as cheaply as it is made anywhere else. How can a man labor here as cheaply at any employment when he pays six dollars for a pair of blankets that any other man in the world can buy for three? How can he labor as cheaply as people elsewhere when his wife's dress costs ten dollars that an English woman pays five for? All the clothes on his back, everything that he uses, costs him double, not to put revenue into the Treasury, but to enrich a few of these men who want their experts now to make reports to Congress, and I have no doubt that in hopes that the Eaton bill will pass the men are now selected, the applications are in by the dozen, with the respectability and the ability of the men who are sought to be imposed upon the country vouched for by those high in favor and authority, and vouched for in order that they may report why these things should be continued.

If you turn to the statutes passed during the war you will find that the duties were increased eighteen different times; and knowing that it was an extortion imposed upon the country, nearly every act read thus in its title: "An act increasing *temporarily* the duties on imports, and for other purposes." For example, Congress imposed a tax of 5 per cent. on manufactures and added double 5 per cent. to the tariff duties to compensate for that. It soon removed all the taxes upon manufactures, all the tax upon incomes, which were the reasons assigned why the high protective tariffs were imposed upon the imports into the country, said to be imposed temporarily as measures to compensate against the internal taxes that were then imposed by the internal-revenue laws; but the high protective tariffs remained and remain until to-day. Our tariff is now 44½ per cent. on dutiable goods, higher by over 4 per cent. than it was six years ago on all the dutiable goods of the country.

There is no relief to the tax-payer, no relief from the burdens said to have been temporarily imposed, but the taxes fastened on us by the tariff have been always kept up until the revenue of the country has dwindled instead of being augmented as population increases until the revenue from whisky and tobacco alone, with a few matches, check-stamps, and proprietary medicines, has almost reached a point as high as all the revenue derived from the thousand of articles on the tariff list with their large percentages of protection. One hundred and twenty-five million dollars come in from these few articles of internal revenue, one hundred and thirty odd millions from all the thousands of articles on which protective tariff duties are levied; and at the

same time we have a confession by the men largely engaged in them that they can afford to reduce them 20, 30, 40, and 50 per cent., and yet have all the protection they require or have any right to ask in order to accumulate all the wealth they can reasonably demand.

But I must not longer detain the Senate, Mr. President. I hold in my hand a resolution laid upon our tables from the House of Representatives, now pending, which reads thus:

Resolved by the Senate and House of Representatives, &c., That five members of the House, to be chosen by ballot, three members of the Senate, to be chosen by the Senate, and three experts, to be selected by the members of the House and Senate so chosen, shall be constituted a commission, any three of the members of the Senate and House being a quorum, to take into consideration—

The question now before us. Then following almost in the language of the bill introduced by the Senator from Arkansas. That resolution, in my opinion, will pass the House of Representatives. A bill such as that known as the Eaton bill, in my judgment, will receive no consideration there, and ought not to. Why should it? The representatives of the people, the men who are presumed not to represent any class interests but wish to relieve the people from taxation and at the same time honestly apportion the burdens of government, should have a part in any investigation that is to be had. They belong to the House that under the Constitution has to originate all revenue bills. Why should they be excluded altogether from selecting the men who are to advise Congress?

Does any reasonable man suppose they would consent to transfer all the power which the Constitution vests in them to act upon this subject, to have all the information upon which that power is to be based, gathered by men hostile to them economically, and to the people they represent, men who will act, of course, in the interest of class legislation? A bill such as that known as the Eaton bill I have not the least idea will receive serious consideration there. And if the Senate is in earnest and desires an investigation into the facts to be had, it will agree to the proposition of the Senator from Arkansas and select, as the Senate may see fit, three of its own members; let the House select its own members as they may see fit; and then let the men thus selected take experts, such as they may see fit to select, not men who are employed as experts by any particular class; men above that. For example, I would go back to the old tariff of Robert J. Walker of 1846, and see how that measure was perfected. I would, if I had my way, name a man as one of the experts who was dismissed by the republican party from place because he told them the truth, David A. Wells, of Connecticut, who was once special commissioner here. I would name R. M. T. Hunter, of Virginia, and Mr. Moore, of New York. I could name plenty of men that could be selected by the joint committees of the two Houses who would take up these subjects intelligently and under the supervision and, with the aid of the members of the two Houses, before next December tell wherein these tariffs were wrong. Mr. Atkinson, of Boston, and others might be selected. Representative Banks, of Massachusetts, said two years ago that one hundred and twelve of the great corporations of New England would come in at once and admit, "We can submit to this reduction, and that reduction, and the other reduction," and bring the rate down from 33 to 50 per cent. below what it is now. In this way we can double the revenues of this Government and give the manufacturers all the protection they ought to have, and at the same time open up places for exports where our manufactures would go to supply the nations of the earth, instead of having a Chinese wall built around us as now so that we may neither get out nor allow anybody else to come in. Then you will see commerce springing up. But unless you do give the House of Representatives an opportunity to select their own men, and select your own representatives on that commission for yourselves, and let them choose the experts they desire, if you attempt to turn this matter over to the President, it is equivalent to saying: "We will do nothing; we mean to do nothing; we will make a show of fairness, but we know that there is no substance in it, because we know that the House of Representatives will never agree that it shall be deprived of a voice in saying who shall gather the information upon which that body shall act." They never ought to do it; they never will do it. Nobody ought to expect that they will. And besides it is a confession that the dominant party majority in this Chamber and at the other end of the Capitol are unfit either to gather the information or to select the men who will aid them in getting that information.

For these reasons, and for many others that I might give but for the fact that I have already spoken longer than I expected, I shall urge the passage of the substitute as offered in committee, which is now offered in the Senate by the Senator from Arkansas as the best thing that can be done.

I only desire to say in addition that while I want to see taxes as low as possible I would not deal harshly with any industry. If it has been nurtured or fostered up to a point where it needs still further support I would give it, but I would give it in such a form as to make it content with a reasonable profit; make it self-sustaining as soon as possible. I would endeavor to have a revenue tariff the bulk of the receipts from which would go into the Treasury of the country, and not into the pockets of a few. Believing that the Senate and the House can select from their own members and that those members can select others to aid them who will, when we meet in December, make a report that will aid us in doing this needed work instead of postponing it all to December, 1881, I shall vote for the amendment. If we pass the Eaton bill we have no power over the gathering of the information; we shall have a report made to us that we cannot canvass, and we cannot have the men who made it called before us to tell us by what authority they made it when they whitewash all that has been done. Their report will only prevent us from taking steps to give relief in the future. I shall therefore vote against the bill of the Senator from Connecticut if the amendment of the Senator from Arkansas is voted down.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment proposed by the Senator from Arkansas, [Mr GARLAND.]

Mr. KIRKWOOD. I desire to offer an amendment to the substitute offered by the Senator from Arkansas. On line 6 I move to strike out the word "three" and insert "five;" so as to read "and five others, not members of either House."

I will state to the Senate very briefly what I mean. I am inclined to support the substitute offered by the Senator from Arkansas. That provides for the appointment of three persons outside of those selected by the House and Senate. I think there should be on this commission at least one person familiar with the foreign commerce of the country; I think there should be upon the commission one person familiar with the manufacturing interest of the country, one familiar with the internal-transportation interest of the country, and I should like to have upon it a representative of the grain and provision growing interest of the country, and one of the cotton and tobacco growing interest of the country—not that I expect that either the grain-growers, or the provision-growers, or the cotton-growers, or the tobacco-growers can be protected in any material way by a tariff; but their interests are to be materially affected by the tariff, whatever it may be, by the duties imposed upon what they buy, although no protection can be given to what they sell; and I think it would be well to have representatives of those interests upon this commission, not to testify, perhaps, but to question the gentlemen who may appear before the commission to give information to it.

I would ask the Senator from Arkansas to consider the propriety of that proposition, and if it meets his favor to accept it.

Mr. GARLAND. In drafting the bill I considered in general the suggestion made by the Senator from Iowa. I appreciate the force, as I did then, of the suggestion; but there is one trouble about it. I want to be entirely practical in this matter and arrive at the best result we can. As I understand the suggestion made by the Senator from Iowa, he wants on this board five persons representing five distinct interests to be reached or to be affected by this commission and the subsequent legislation. That will not embrace every class. There will be many more than five, probably if you classify them three times five, and perhaps more than that interested; and your machine becomes cumbrous and unwieldy. My reading and experience and observations are that the smaller the body the more efficient the work, as a general proposition. Take the proposition I submit, three from each House makes six, and three outsiders, if you may so designate them, make nine. That is a tolerably large committee; that is a large commission of itself.

If you get away from the idea of nine by way of including distinct classes you are without any compass or any rudder on this sea, for you must enlarge it much beyond that. The proposition of the Senator from Iowa does not designate what particular interests these five shall come from as representing interests on the commission. So it might not reach the purpose he has in view. What I mean is that unless the bill specifies that they shall come from the sugar interest, or the iron interest, or the hemp interest, or the coal interest, and so on, probably the purpose had in view by the Senator from Iowa would not be accomplished. But I will not make any strenuous opposition to his amendment. At the same time in my view of the proper organization of the commission, I should not be willing to accept it. I shall make no particular opposition to it. If it meets the judgment of the Senate and shall be adopted, I shall make no special objection.

Mr. KIRKWOOD. A single word and I shall relieve the Senate. The Senator from Arkansas will notice that I do not designate from what classes these men shall come. My amendment merely fixes the number five. I indicated what I thought would be proper sources from which to draw them. It would certainly be proper to have on the commission one man well versed in the foreign commerce of our country. It would be proper to have there one man well versed in the manufacturing interest of the country. The internal-transportation interest of the country I think should be represented there because all these questions will affect that great interest. Then I would like to have two others taken from outside of those that appear to be absolutely necessary. The men who grow the grain and the provisions, the cotton and the tobacco and such things pay very largely the duties that are imposed. They might be able to furnish valuable information to the commission as to what articles duties could be laid upon so as to be less burdensome to those who have them to pay. That is my purpose and the only one. I would increase the commission by two, raising it from nine to eleven. I ask for a vote on my amendment.

Mr. EATON. I hope my friend will not press that vote to-night. It might affect the Senate in point of numbers. Let it lie on the table for the present.

Mr. KIRKWOOD. Very well; I should rather the Senate would consider it before a vote is taken. I think there is merit in it.

Mr. EATON. I think it improves the substitute somewhat. If you would make it nine from outside it would better it.

Mr. DAWES. Mr. President, I do not know how long the Senate desire to sit to-night. I know they are weary; I am myself; but some time before the vote is taken I should like the indulgence of the Senate for a short time.

Mr. MORRILL. If the Senator does not like to go on now, I will move that the Senate proceed to the consideration of executive business.

Mr. KIRKWOOD. The Senator from Vermont withdraws his motion for an executive session for a moment to enable me to submit an amendment to the substitute offered by the Senator from Arkansas and ask that it be printed.

The PRESIDENT *pro tempore*. Is that the amendment the Senator offered before?

Mr. KIRKWOOD. No; it is another; one which I ask to have printed.

The PRESIDENT *pro tempore*. That order will be made. The Chair would inquire if the Senator from Massachusetts took the floor on the pending bill?

Mr. DAWES. I did.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 1484) for the relief of Ernst Hein;

A bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming;

A bill (H. R. No. 4264) to authorize the payment of $66.09 to Judith Brown, one-seventh of the pension of Margaret Duncan;

A bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes;

A joint resolution (S. R. No. 15) authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry; and

A joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington.

EXECUTIVE SESSION.

Mr. MORRILL. I renew my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifty-two minutes spent in executive session the doors were reopened, and (at five o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May* 28, 1880.

The House met at eleven o'clock a.m. and was called to order by the Speaker. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

DECORATION DAY—PAY OF EMPLOYÉS.

Mr. VALENTINE. I ask unanimous consent to submit for consideration at this time the joint resolution which I send to the Clerk's desk. I think no one will object to it if gentlemen will hear it read. It is a joint resolution touching the pay of employés in the Government Printing Office in the city of Washington.

The joint resolution was read, as follows:

Whereas the President of the United States has issued a proclamation closing the Departments in the city of Washington, District of Columbia, including the Government Printing Office, on Saturday, the 29th instant, Decoration Day; and

Whereas the superintendent of the Government Printing Office has ordered that said office be closed on said day without pay to the employés; and

Whereas all employés of other Departments are entitled to pay for said day: Therefore,

Resolved, &c., That the employés of the Government Printing Office in the city of Washington, District of Columbia, be, and they are hereby, declared to be entitled to payment for said 29th day of May, 1880, the same as employés in other Departments.

Mr. WHITTHORNE. I ask my friend from Nebraska [Mr. VALENTINE] to modify his resolution so that the principle of it shall apply to all of the daily employés of the Government.

Mr. VALENTINE. I have no objection to that, although I know of no others situated like those in the Government Printing Office.

Mr. WHITTHORNE. There are other Departments of the Government where the daily employés should receive this compensation.

Mr. HAYES. The gentleman means employés in the Departments here in Washington?

Mr. WHITTHORNE. Yes, sir.

Mr. HAYES. That would be all right.

Mr. VALENTINE. This resolution must be passed to-day.

Mr. WHITTHORNE. I ask the gentleman to apply it to the daily employés in other Departments, in every Department of the Government in the District of Columbia.

Mr. VALENTINE. I have no objection to that, though I did not know there were other employés to be affected by such action.

The joint resolution was modified so as to read:

Resolved, &c., That all employés of the Government in the city of Washington, District of Columbia, be, and they are hereby, declared to be entitled to payment for said 29th day of May, 1880.

Mr. VALENTINE. That will cover all of them.

The joint resolution (H. R. No. 312) was read three several times, and passed.

Mr. VALENTINE. I move to amend the title of the joint resolution so as to correspond with the body of the resolution as modified.

The title was modified so as to read: "A joint resolution touching payment of employés of the Government in the city of Washington."

COLONEL THOMAS WORTHINGTON.

Mr. EWING. I ask unanimous consent to take from the Speaker's table for consideration at this time Senate joint resolution No. 15, authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry. It is a joint resolution to pay Colonel Thomas Worthington the sum of $962.49, being a balance which the Committee on Military Affairs of the Senate find to be due him on his pay account as a colonel in the United States Army.

Mr. ALDRICH, of Illinois. That is all right.

The SPEAKER. The joint resolution will be read.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he hereby is, authorized and required to settle and adjust the account of Colonel Thomas Worthington, Forty-sixth Regiment Ohio Volunteer Infantry, engaged in the service of the United States during the late war, by crediting and paying him, in addition to what he has already received on account of said services, the sum of $962.49, being the amount of pay to which he would have been entitled as colonel of volunteers from November 21, 1862, the date of his last payment, to March 1, 1863: *Provided*, That this compensation shall be accepted and receipted for by said Worthington as a full satisfaction of all claims on his part against the United States on account of said military services.

Mr. HAYES. I do not like to object to a joint resolution or bill of this kind, but it is asking us to vote rather blindly for a bill of this sort without any explanation, without knowing what we are voting on.

The SPEAKER. The Chair will ask unanimous consent to consider the joint resolution at this time, and then an explanation can be made.

Mr. HAYES. If the gentleman from Ohio [Mr. EWING] will state in a word the reasons for this——

Mr. EWING. Colonel Worthington was tried by court-martial and sentenced to be dismissed the service in 1862. He resigned, to take effect the 1st of March, 1863. The proceedings of the court-martial were examined and disapproved by the Judge-Advocate-General and disapproved by the President. The finding and sentence of the court-martial were therefore annulled, and Colonel Worthington went out of service on his resignation. This is to pay him for the time between the finding of the court-martial and the date of the resignation, March 1, when he actually went out of the service.

Several MEMBERS. That is right.

Mr. EWING. The matter was examined into by the Committee on Military Affairs of the Senate, who unanimously reported this joint resolution which, after consideration in the Senate, was passed. I understand that the Committee on Military Affairs of the House have also had the subject under consideration, and have come to the same conclusion as the similar committee of the Senate.

Mr. DIBRELL. It was considered by a sub-committee of the Committee on Military Affairs.

There being no objection, the joint resolution was taken from the Speaker's table, read three times, and passed.

PENSIONS.

Mr. KEIFER. I ask consent to present at this time, in a more formal manner than usual, a petition signed by——

Mr. TOWNSHEND, of Illinois. It can go into the box. This House has held, I understand, that all petitions must be presented through the petition-box.

The SPEAKER. That is the rule. The gentleman from Illinois objects.

Mr. KEIFER. Will the gentleman allow me to state what the petition is? I think then he will not object.

Mr. TOWNSHEND, of Illinois. I sought to present here one morning one hundred and five petitions in reference to the duty on salt; but they were all required to be put into the box.

The SPEAKER. The objection is conclusive.

Mr. KEIFER. I do not think the gentleman will object if he understands the nature of the petition.

The SPEAKER. The gentleman does object.

Mr. KEIFER. I do not understand that he insists on his objection.

Mr. TOWNSHEND, of Illinois. I do not know anything about the petition.

Mr. KEIFER. It is a petition signed by nearly twenty thousand soldiers, and deserves to be presented in a more formal manner than usual——

Mr. TOWNSHEND, of Illinois. I had petitions here with two thousand two hundred names, and was not allowed to present them in the House.

The SPEAKER. Objection is made, and debate is out of order.

Mr. KEIFER. I know the question is not debatable, but I think the gentleman will not insist on his objection.

Subsequently,

Mr. TOWNSHEND, of Illinois, said: Having been informed of the nature of the petition which the gentleman from Ohio wishes to present, I withdraw my objection.

Mr. BRAGG. I renew it.

COAST SURVEY REPORT.

Mr. SINGLETON, of Mississippi, from the Committee on Printing, reported back without amendment a resolution; which was read, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 3,000 extra copies of the Report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1879, for distribution by the said Superintendent.

Mr. SINGLETON, of Mississippi. This resolution provides merely for printing the usual number printed year after year.

The resolution was adopted.

ERNST HEIN.

Mr. PRESCOTT. I ask unanimous consent to have taken from the Speaker's table for immediate consideration the bill (S. No. 1484) for the relief of Ernst Hein. Its object is to remove the charge of desertion from the military record of this man. The Senate committee, in favorably reporting the bill, said:

Your committee have therefore come to the conclusion that the charge of desertion ought not to be allowed to stand forever as a blemish and stain upon his good and soldierly record; and as an act of justice to him they report a bill granting the relief prayed for in the petition, and recommend its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War is hereby authorized and directed to cause to be issued to Ernst Hein, late corporal of Company C, Thirteenth Regiment Massachusetts Veteran Reserve Corps, an honorable discharge from the service of the United States, to date from November 20, 1865, and to remove the charge of desertion from the military record of said Ernst Hein.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

ORDER OF BUSINESS.

Mr. HAYES. I call for the regular order. We ought to get through with the sundry civil appropriation bill.

The SPEAKER. This being Friday, the regular order is the morning hour for the presentation of reports of a private nature.

Mr. BLOUNT. I move to dispense with the morning hour.

The SPEAKER. That motion requires a two-thirds vote for its adoption.

Mr. BRIGHT. This is Friday——

The SPEAKER. The Chair has so stated.

Mr. BRIGHT. And under the rules must be devoted to private business.

The SPEAKER. The Chair has so stated.

Mr. BRIGHT. I think that private business is entitled to its day in court. The private citizens of the United States whose bills are pending here have rights which should be respected. There has been time enough for public business during this whole session.

The question being taken on the motion of Mr. BLOUNT, to dispense with the morning hour, there were—ayes 97, noes 29.

So (two-thirds voting in favor thereof) the motion was agreed to.

Mr. BRIGHT. At the end of one hour will it be competent for me to move to go into the Committee of the Whole on the Private Calendar?

The SPEAKER. Under the vote of the House there will be no morning hour to-day. The next business in order is the consideration of private business, and the Chair will entertain a motion of the gentleman from Tennessee——

Mr. BRIGHT. Will it be in order for me at the end of one hour——

The SPEAKER. There will be no morning hour to-day. It would be in order for the gentleman to make his motion now.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole for the consideration of business on the Private Calendar.

Mr. BLOUNT. I give notice that if this motion be voted down I shall move to go into Committee of the Whole on the sundry civil appropriation bill.

The SPEAKER. This is a test vote as to whether the House will proceed to private or public business.

The motion of Mr. BRIGHT was not agreed to; there being ayes 24, noes not counted.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole for the purpose of resuming the consideration of the sundry civil appropriation bill.

The SPEAKER. The regular motion would have been that private business for to-day be dispensed with. The Chair makes this remark because on Friday private business cannot be dispensed with by a majority vote.

Mr. BLOUNT. I knew that was the rule; but I thought substantially the order to dispense with private business had been made.

The SPEAKER. There was a two-thirds vote against proceeding with private business, which might be considered equivalent to an order dispensing with the consideration of such business for to-day; but the Chair did not desire this method of proceeding to be considered as a precedent.

SUNDRY CIVIL APPROPRIATION BILL.

The motion of Mr. BLOUNT, that the House resolve itself into Committee of the Whole for the consideration of the sundry civil appropriation bill, was agreed to.

The SPEAKER. The Chair is advised that the gentleman from Tennessee, [Mr. SIMONTON,] who has been presiding in Committee of the Whole on this bill, is sick. The Chair therefore appoints the gentleman from Virginia [Mr. HARRIS] to act as Chairman of the Committee of the Whole during the absence of the gentleman from Tennessee.

The House accordingly resolved itself into the Committee of the Whole (Mr. HARRIS, of Virginia, in the chair) and resumed the consideration of the sundry civil appropriation bill.

The CHAIRMAN. The committee resumes the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and the Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Surveying the public lands:

For surveying the public lands, $300,000 at rates not exceeding $12 per linear mile for standard and meander lines, $10 for township, and $8 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard and meander lines through lands heavily timbered, mountainous, and covered with dense undergrowth, a sum not exceeding $16 per linear mile for standard lines, $14 for township, and $10 for section lines.

Mr. DUNNELL. I move to strike out the word "three," in line 826, and to insert the word "four;" so it will read: "For surveying the public lands, $400,000."

Mr. Chairman, I make this amendment not simply in the interest of the State of Minnesota, but of all the States and Territories in which there are remaining unsurveyed public lands. The Land Department has recommended the appropriation of $400,000 for these surveys, and that estimate of $400,000 constitutes the basis upon which the Committee on Appropriations has acted. With all respect to that committee, I am compelled to say there is no item in the entire bill, or in the entire Book of Estimates, which should have been accepted as conclusive, as proper, as absolutely called for, as the item now under consideration.

If the committee will only consider the facts which are presented in the report of the Commissioner of the General Land Office, it will be seen there has been within the past two or three years a very great increase in entries of public lands. There is nothing at all to be gained by withholding $100,000 from the necessary surveys of the public lands. The settlers are rapidly increasing in number. They are confined to no one section on the frontier, but the entries everywhere are in advance of the actual surveys.

There have been cash entries during the past year of 622,573 acres. The homestead entries during the past year have been 5,260,111 acres. Then the entries under the tree-culture act have been 2,766,573. All the entries during the year amounted to 8,892,087 acres. These statistics show there has been a very large increase in the entries of homesteads.

There remain some fourteen thousand square miles to be surveyed in the State of Minnesota, and in all the frontier States and Territories there is a loud call for surveyed public lands to be entered by homesteaders and pre-emptors in every section of the country.

I think, Mr. Chairman, that in 1874 there was appropriated, very fortunately, about $700,000 for the surveys of the public lands. There is now proposed to be appropriated in this bill less than one-half of what then was appropriated. I say fortunately it was appropriated at that time, because during the last three or four years there would have been much less relief to the country had there been no means opened up by these surveys for settlers who have come to us from the older States in the Union. There is no better outlet and no better solution for many of the difficulties which have pressed upon the country for the last few years than to open up and keep opened up by actual survey the public lands, so they may be readily entered by settlers from all parts. If these lands had not been surveyed four, five, or six, or seven years ago, great difficulty would have been experienced in entering these lands.

I say to the gentleman from Georgia who has this bill in charge that there is no demand for a reduction of this appropriation. We have the money in the Treasury.

The CHAIRMAN. The gentleman's time has expired.

Mr. VAN VOORHIS. I will take the floor and yield my time to the gentleman from Minnesota.

The CHAIRMAN. Does the gentleman from New York take the floor to oppose the amendment?

Mr. DUNNELL. The lands must be surveyed at some time; we have the money in the Treasury now; and it is not like spending $20,000 or $40,000 for costly furniture in any one Department.

The CHAIRMAN. The Chair must insist upon the observance of

the rules of the House. The rule is peremptory that there shall be five minutes for and five against any amendment. The gentleman from Minnesota has occupied five minutes in favor of the amendment, and he is not in order now in taking up five minutes allotted for the opposition to the amendment, thereby cutting off all chance of reply.

Mr. KEIFER. Such has been the practice of the House.

The CHAIRMAN. It is a practice which should be stopped at once. The duty of the Chair is to have the rules observed.

Mr. DUNNELL. I will yield the floor, then.

Mr. BLOUNT. I have but little to say, Mr. Chairman, as the temper of the House is not to protract debate.

The occupancy of the public lands does not depend on precedent survey. We have millions of acres already surveyed. The appropriation is as much and more than it has been for several years. The surveys during the past fiscal year are about equal to the lands occupied by various methods of occupation. In addition to that, we have millions of acres of land unsurveyed.

My friend speaks of what has been done by the Forty-second Congress. That is true; and while it is true, it has provided for the survey of millions of acres of land which are not in demand, and, so far as anything we have seen, are not likely to be in the next decade. This has been the result of these extravagant appropriations for this purpose. There is no danger about settling up our public lands, and I trust the committee will see fit to do what we have been doing in previous years. It has not been the policy of this side of the House to give all of the appropriations which have been asked for or estimated in this item or any other, and I may say, Mr. Chairman, further, that it was not the policy of the other side of the House to yield implicitly to the demands made in these estimates when they had control of the matter.

Mr. PAGE. I move to strike out the last word. Mr. Chairman, I shall not occupy any considerable time in the discussion of this matter. I do not know whether $300,000 is sufficient or not; I am not here to say whether it is or not; but I simply want to call attention to one fact, that I believe this is about the usual amount which has been appropriated for several years past in bulk.

Mr. BLOUNT. In 1878 the amount appropriated was $238,000.

Mr. PAGE. Very well; I say the average for years past will be near about $300,000. I wish to say this, that there are millions of acres of railroad lands owned by the railroad companies in market and which cannot be entered until the surveys are made. These surveys, when they are made, must be paid for by the railroad companies, and if there is any object in adding $100,000 to this appropriation—and I do not know that it is necessary; I am not here to say whether it is or not—but all I desire to call attention to is the fact that these millions of acres of land remain unsurveyed, and the excuse is that there is no money by which the surveys can be carried on. I am in favor, Mr. Chairman, and were it not subject to the point of order I would offer an amendment to that effect, of requiring the lands within railroad limits to be surveyed, that they may become taxable as other lands within the limits of the public domain. I believe that the sum of $400,000 for this purpose could be very properly expended, but that sum may be, as I have said, more than is absolutely necessary; but even if the whole of that amount should be expended—and certainly all that is necessary ought to be appropriated for this purpose—it will be money well expended in opening up these public lands of the United States to settlers.

Mr. BENNETT. Mr. Chairman, in reply to the remarks of the gentleman from Georgia, I wish to say that the emigration to the Western Territories in the last year or two years has had no parallel in the history of this country, and the rapidity with which the public lands are being occupied has no precedent since the public lands were opened for settlement. I wish to say further that the settlement of the Territory of Dakota in many places is far in advance of the public surveys, so that when men settle upon the lands they do not know where the lines are, and consequently are unable to arrange their improvements as an intelligent man would desire with a view to permanency.

Further than that, Mr. Chairman, the Northern Pacific Railroad is pushing its line through from the Mississippi River toward the Rocky Mountains, and by the close of the summer and before the autumn leaves fall the whistle of their engines will be heard on the Yellowstone, two hundred miles west of the Missouri River.

They have grants of lands in alternate sections ten miles on either side of their road. Settlements will necessarily follow in rapidly and close upon the heels of the construction of this road. It is of great importance that the settlers pushing along that line of road to take up their claims, homestead and pre-emption, to determine whether they are on railroad or Government lands; and gentlemen around me here who are familiar with this country know something of the difficulties which have heretofore arisen from this state of affairs. Men go on the public lands to make improvements, valuable improvements, and when the surveys are made they are discovered to be on the railroad lands. The railroad company has no power to take other lands in lieu of these, and the claimant consequently cannot get any relief. The result is, there is trouble constantly growing out of this condition of affairs. The Government should make appropriations sufficient to follow up with the public surveys the construction of this great line of railway, so that the people would know, when they make a settlement upon any of these lands, whether they are settling upon the public land belonging to the Government or on those which belong to the railroad company.

[Here the hammer fell.]

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. PAGE. I withdraw the *pro forma* amendment.

Mr. BRENTS. I renew it, Mr. Chairman, and I do this simply to correct some erroneous impressions which may have gone forth from the statement made by the gentleman from Georgia. The gentleman has indicated that the Commissioner of the General Land Office does not wish any greater appropriation than that allowed in this bill.

Mr. BLOUNT. The gentleman has entirely misunderstood me. I did not state anything of the kind; on the contrary, I stated that the appropriation was less than the amount estimated for, and gave the reason for it.

Mr. BRENTS. Then I am very glad the gentleman corrected my misunderstanding as to what he did say. I was under the impression that he had stated the amount appropriated was all that was asked for. He has estimated for $400,000. I have conversed with him—if that is proper to be stated here—and he insists that it is very necessary, and that this estimate is exceedingly low. I know in regard to my own Territory that it is exceedingly low. When the last appropriation that was made a year ago was divided among the several districts a very small portion only went to each one, of the $330,000 which was appropriated for this same purpose last year——

Mr. BLOUNT. Oh, no.

Mr. BRENTS. There being a special appropriation of $30,000 for the survey of timber lands, which is omitted from this bill.

I know, Mr. Chairman, that there are hundreds of settlers in my Territory who are living on lands to which they can obtain no title, simply because those lands are unsurveyed; and I know in regard to these timber lands that the most of the violations of the law, in the way of depredations upon timber lands, are occasioned for the very reason that these lands are unsurveyed and that no title can be obtained to them, the lands being upon the mountains; and the settlers in the valleys are unable to get the timber from those lands except they go and, as we say, steal it, or render it necessary for our millmen, who saw our lumber for us, to do so. We can only get the timber to make our improvements in that way while these lands are unsurveyed, and that crime is encouraged and the settlement of the frontier retarded.

Sir, it is consummate hypocrisy and mockery to pass laws purporting to give lands to the landless and homes to the homeless, and then, by leaving them unsurveyed, place an insuperable obstacle in the way of ever obtaining title to those lands.

[Here the hammer fell.]

Mr. BLOUNT. I move that the committee rise, that I may ask the House to limit debate upon the pending paragraph.

Mr. DUNNELL. I desire to say a word further. This is the first amendment I have offered to this bill.

Mr. BLOUNT. I must insist upon my motion. Debate must be limited if we are to get through with this bill to-day.

The question being taken on the motion that the committee rise, there were—ayes 59, noes 57.

So the motion was agreed to.

The committee accordingly rose; and Mr. TOWNSHEND, of Illinois, having taken the chair as Speaker *pro tempore*, Mr. HARRIS, of Virginia, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had come to no resolution thereon.

DECORATION DAY—ADJOURNMENT OVER.

Mr. HUNTON. I ask the gentleman from Georgia to yield to me that I may offer a resolution.

Mr. BLOUNT. I yield to the gentleman.

Mr. HUNTON. I ask unanimous consent to submit the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That when the House adjourns to-day it adjourn to meet on Monday at eleven o'clock a. m.

Mr. HUNTON. The object is to allow the members and the employés of the House the opportunity of attending the decoration ceremonies to-morrow.

The resolution was adopted.

Mr. HUNTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole to resume the consideration of the sundry civil appropriation bill, and pending that motion I move that all debate upon the pending paragraph and the amendments to the same be limited to one-half minute.

Mr. VAN VOORHIS. I move to amend by making the time five minutes, to be given to the gentleman from Minnesota, [Mr. DUNNELL.] I do not believe in applying the gag in this way on an important measure like this.

Mr. BLOUNT. I will modify my motion so as to make the time five minutes.

The motion, as modified, to limit debate was agreed to.

The motion that the House resolve itself into Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. HARRIS, of Virginia, in the chair) and resumed the consideration of the sundry civil appropriation bill.

Mr. DUNNELL. I offered this amendment not for the sake of making the motion as it might apply to the State which I have the honor in part to represent, but I made it for better and higher reasons—reasons affecting the whole country; reasons not simply affecting the States and Territories where these lands lie, but affecting the entire country from which settlers are to come.

We have been assured, and that justly, Mr. Chairman, within the past few weeks that a large immigration is pouring into this country, a wonderful tide of immigration as the gentleman from New York [Mr. COX] has well told us. Whither shall this tide wend its way? Shall it be compelled to go out on the unsurveyed lands and be troubled with all the annoyances growing out of that condition of things?

These public lands are part and parcel of our great domain. Why may they not be surveyed, platted, and duly recorded, and information given to these immigrants and the people of this country who desire to settle upon them just where the surveyed public lands are that they may be entered for the settlers? There is no economy at all in what is here proposed, because—and I ask the attention of the gentleman from Georgia [Mr. BLOUNT] for a moment—the sooner these lands are surveyed and the records made in the General Land Office here the sooner will very many of these local land officers be dispensed with and the settlements will be completed in many localities. The gentleman from Washington [Mr. BRENTS] has stated that as an argument in favor of my amendment.

I was saying, Mr. Chairman, when you called me to order a short time ago that we have these lands; and why may they not be surveyed now as well as five, four, or three years hence? They are our domain to be ascertained by survey. We are to find out where these lands are; what portions of these lands are fit for agricultural purposes; where our timber is located. The sooner we find out all about the public domain of this country the better it is for the Government here at Washington; the better it is for the immigrants that are coming into the country; the better it is for the entire country.

The amount recommended in this bill is $300,000. The Department want $400,000. Shall this Congress say to the Executive Department "We will only give you $300,000?" The gentleman from California [Mr. PAGE] advocated quite faintly the pending amendment.

Mr. PAGE. Not at all.

Mr. DUNNELL. I was a little surprised at it. But when I put my eye on the page showing the allotment of the money last year I can see a reason for the faintness of that gentleman's support of my amendment. California got $29,500 of this money. She got, I do not say any more than she ought to have had, but she got by far more than other portions of the country got.

Mr. PAGE. California has more unsurveyed lands than all the balance of the States of the Union.

Mr. DUNNELL. I know, but not so much unsurveyed land which agricultural settlers are taking as my own State and other portions of the country. The fact that California got $29,500 is of itself an argument why we should have more money, not only to be allotted to that State, but to the other States and Territories. It is a cheap policy that stops the surveys of the public lands and keeps from the settlers of the country accurate and positive knowledge which they need in regard to our public lands.

The question was taken upon the amendment of Mr. DUNNELL, to increase the amount from $300,000 to $400,000; and upon a division there were—ayes 46, noes 50.

Mr. PAGE. No quorum has voted.

Mr. DUNNELL. I call for tellers.

Tellers were ordered; and Mr. DUNNELL and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported that there were—ayes 79, noes 76.

So the amendment was agreed to.

Mr. BLOUNT. I give notice that I shall ask for a separate vote in the House on this amendment.

Mr. BENNETT. I move to insert, after the paragraph last read, that which I send to the Clerk's desk.

The Clerk read as follows:

For the resurvey of land within the Sioux Indian reservation, west of Big Stone Lake, in the Territory of Dakota, retracement of the west boundary of the reservation, and closing the lines of public surveys thereon, $4,000.

Mr. BLOUNT. I make the point of order on that amendment.

The CHAIRMAN. Is there any survey going on there now?

Mr. BENNETT. No, sir. A survey was made——

The CHAIRMAN. The Chair sustains the point of order.

Mr. BENNETT. I move to strike out the last word for the purpose of giving my reasons for offering this amendment.

The CHAIRMAN. The Chair cannot hear reasons upon matters of fact. There will be no objection to the gentleman printing his remarks.

Mr. BENNETT. I ask to have printed in the RECORD some communications which I send up.

There was no objection.

The communications are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 17, 1880.

SIR: I have the honor to transmit herewith copy of a letter from the Commissioner of the General Land Office, dated April 15, 1880, relative to erroneous surveys in the former Sioux Indian reservation west of Big Stone Lake, in Dakota, and submitting an estimate for $4,000 for said resurvey.

I respectfully recommend the matter to the favorable consideration of Congress.

Very respectfully, &c.,

C. SCHURZ,
Secretary of the Interior.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 15, 1880.

SIR: This office is in receipt, by reference from Hon. G. G. BENNETT, Delegate from Dakota, of a letter addressed to him by W. M. Evans, bearing date the 12th ultimo, relating to fraudulent or erroneous surveys of public lands embraced within the limits of the former Sioux Indian reservation, lying to the west of Big Stone Lake, in Dakota.

An examination of the case in connection with information recently furnished by Messrs. Burdock and Kline and P. M. Quist, surveyors, of that locality, and others, discloses the fact that seriously erroneous, if not wholly fraudulent, returns have been made to this office of the public land surveys within the aforesaid reservation.

The surveys above referred to were made by Deputy C. C. P. Meyer in 1865, and payment for the same was made from proceeds of sale of Indian lands.

It is now ascertained that titles to lands anywhere within the limits of the reservation cannot be perfected until a correct survey and subdivision of the lands embraced therein has been made. This work may also involve the retracement of the west boundary of the reservation. The cost of the public land survey by Meyer was $3,177.36. The cost of the resurvey, which will embrace lands not surveyed by Meyer and retracement of boundary, is estimated at $4,000.

There being no law authorizing the application of public funds to the prosecution of resurveys of public lands, the resurvey, if done at the expense of the Government, must be provided for by act of Congress.

As an early adjustment of the serious difficulties that have grown out of the erroneous survey is important, and with intention to prevent further complications arising from the same cause, I have the honor to transmit herewith an estimate of appropriation (in duplicate) of $4,000 for said resurvey, with the recommendation that the same may be submitted to Congress.

I have the honor to be, very respectfully,

J. A. WILLIAMSON,
Commissioner.

Hon. CARL SCHURZ,
Secretary of the Interior.

The Clerk read as follows:

For appraisement and sale of Fort Dallas military reservation, in Oregon, and other abandoned military reservations, $5,000.

Mr. VAN VOORHIS. I move to strike out the paragraph just read, for the purpose of asking the gentleman in charge of this bill [Mr. BLOUNT] what is meant "by other abandoned military reservations" and what necessity there is for paying this large sum for the appraisement and survey of military reservations?

Mr. BLOUNT. I cannot designate the reservations. I presume that these surveys are needed; they are estimated for by the Commissioner of the General Land Office, and the estimates are sent in under the sanction of the Secretary of the Treasury.

Mr. VAN VOORHIS. I withdraw the motion to strike out.

The Clerk read as follows:

To enable the Secretary of the Interior to protect, preserve, and improve the Yellowstone National Park, in compliance with section 2475 of the Revised Statutes of the United States, $15,000.

Mr. HAWK. I move to insert after the paragraph just read the following:

To establish the boundary between the Territories of Montana and Dakota, $19,460.

Mr. BLOUNT. I raise the point of order against that amendment that there is no authority of law for it.

Mr. HAWK. It is in the estimates.

Mr. BLOUNT. That may be.

Mr. HAWK. There have been these surveys establishing the boundaries between Territories—not on this particular line, however; but there must be a commencement.

The CHAIRMAN. The Chair is compelled to rule the amendment out of order.

Mr. HAWK. I ask permission to give my reasons for offering the amendment.

There was no objection.

Mr. HAWK. It is true, Mr. Chairman, that there is now no survey in progress on the boundary between the Territories of Montana and Dakota; but the survey is recommended in the Book of Estimates, at page 173; and the boundaries of other Territories have been surveyed during the last two or three years. This work is needed in order that the jurisdiction of these two Territories may be established, and that the settlers may know to what particular Territory their rights of citizenship belong. The establishment of this boundary is needed, as we are informed, that the lines of public surveys projected from different bases and meridians may be closed thereon. These are some of the reasons for the prosecution of this survey. I desire to present the following note, taken from the Book of Estimates, as indicating clearly the reasons for the prosecution of this work. It is as follows:

The $19,460 is submitted for the purpose of establishing the boundary, in order to define the political jurisdiction of the Territories of Montana and Dakota, so

that the respective inhabitants may know to which particular Territory their rights of citizenship belong. The boundary is needed in order that the lines of public surveys projected from different bases and meridians may be closed thereon; also to enable settlers to apply to the proper land-offices to secure their claims.

It may be proper to add, Mr. Chairman, that the portion of the line the survey of which is contemplated is that part of the twenty-seventh meridian of west longitude from Washington Observatory as is indicated between the forty-fifth and forty-ninth parallels of north latitude, and is estimated for at $70 per linear mile, the distance being two hundred and seventy-eight miles.

I have thus shortly presented the necessity for this survey, and beg to urge upon the Chairman the propriety of beginning the work upon this line and prosecuting the same to early completion, that the interests and rights of settlers in these Territories may be easily fixed and properly guarded. I trust the Chair will see the necessity for the prosecution of this work and will permit a vote of the committee upon the point of order raised by the gentleman from Georgia, [Mr. BLOUNT,] who has the bill in charge.

The Clerk read as follows:

Contingent expenses, office of surveyor-general of California:
For fuel, books, stationery, pay of messenger, and other incidental expenses, $4,000.

Mr. DUNNELL. I notice that this item is for fuel, books, stationery, pay of messengers, and other incidental expenses for the office of the surveyor-general of California, $4,000. In all the other offices of surveyors-general the appropriation for the same purpose is $1,500. Why is $4,000 given in this case?

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. DUNNELL. I do. I move to strike out "$4,000" and insert "$3,000," so that the gentleman from Georgia in charge of this bill may explain this provision.

Mr. BLOUNT. The information which we have is that the quantity of record and blank books and other stationery for this work requires the amount which is here recommended.

Mr. DUNNELL. And is any of this amount for survey?

Mr. BLOUNT. Oh, no.

Mr. DUNNELL. Why $4,000 here and $1,500 elsewhere?

Mr. BLOUNT. Because the demands of the office are greater.

Mr. PAGE. They work about three times as many clerks in that office as in other offices.

Mr. DUNNELL. That is not for the pay of clerks.

Mr. BLOUNT. No.

Mr. DUNNELL. It is simply for books, fuel, stationery, pay of messengers, and other incidental expenses. I would like to know why more is required for these purposes in California than elsewhere?

Mr. BLOUNT. The office is larger there and the clerical force is larger.

Mr. PAGE. The estimate for this comes from the Department and is on account of the amount of business done in the office, the expense of running the office, which the gentleman from Minnesota [Mr. DUNNELL] knows is very large. In the office of the surveyor-general of California it is necessary to employ a great many clerks.

Mr. DUNNELL. This item does not cover clerk-hire.

Mr. PAGE. That office has control of the Spanish archives. Besides it is very well known that the price of material of every kind—wood, coal, &c.—is higher there than at almost any other place. The presumption is that this item is made up in conformity with the usage of the Department and the needs of the service. I hope the gentleman will withdraw his amendment.

Mr. DUNNELL. I withdraw the amendment.

Mr. WARNER. I renew it. The difference between $1,500 and $4,000 is worth a vote.

The amendment was not agreed to.

The Clerk read as follows:

Contingent expenses, office of surveyor-general of Arizona:
For rent of office for surveyor-general, fuel, books, stationery, and other incidental expenses, $1,500.

Mr. MONROE. I move to strike out the paragraph just read. I make this as a formal motion, which, with the consent of the committee, I will withdraw when I have offered one or two remarks. I have no objection to this paragraph, but I take this method of saying to the Committee of the Whole a word or two in regard to some votes which I have felt called upon to give in connection with this bill.

Mr. Chairman, as members who know me will testify, I have always voted liberally in regard to questions which affect the welfare of the people; and I believe I shall in all instances vote with at least reasonable liberality this year for these various interests. But as some members have mentioned to me that they thought I was not voting quite as liberally for some interests as I have done in former years, I wish to say that I had laid upon me this year for the first time the responsibility of assisting, according to the measure of my ability, in preparing the sundry civil appropriation bill; and I will confess that this responsibility of being obliged to assist in preparing this bill has given me some new light upon the difficulty of preparing appropriation bills so as to combine two things: first, to give all interests as much money as your heart would prompt you to give; and, in the next place, to bring the appropriations for all these interests within a reasonable aggregate. I will acknowledge that there are some very difficult problems to be solved in preparing an appropriation bill under these conditions. I expect during the consideration of this bill to vote in some instances against an increase of appropriation where it will give me pain to do so and where my heart would prompt me to vote much more liberally. I can see how considerably more money than is appropriated in this bill could in some instances be expended with advantage. But no one can attempt to prepare a bill of this kind without seeing that there must be a limit somewhere. I spent nearly one whole evening in undertaking to find out what would be the aggregate amount of this sundry civil bill, if we should decide to put into it every item recommended to us upon highly respectable authority. Without covering the whole ground, I succeeded in making up an aggregate of $35,000,000, which I believe is a much larger amount than has been embraced in any sundry civil bill heretofore passed.

[Here the hammer fell.]

Mr. ANDERSON obtained the floor and yielded his time to Mr. MONROE.

The CHAIRMAN. If the gentleman from Ohio [Mr. MONROE] proceeds, it must be by unanimous consent, because under the rule the second five minutes must be occupied in opposing the amendment.

Mr. MONROE. I ask unanimous consent to proceed for a few minutes longer.

The CHAIRMAN. The Chair hears no objection.

Mr. MONROE. The aggregate of this bill is about $21,000,000, which I believe makes it the largest bill of this kind which has been reported for some years. Some of the items embraced in the bill are possibly less in amount than I could wish; and I may vote, against the Committee on Appropriations, in increasing a very few of these items. But with the information I have in regard to the difficulties of preparing a bill of this kind I shall vote in the great majority of cases with the committee.

I believe that this bill is on the whole what may justly be called a liberal one. I have not discovered on the part of any member of the Appropriations Committee with whom I have been associated any disposition or purpose to cripple any important interest or give it less than it ought to have. There has been of course a desire to exclude from the bill appropriations not authorized by law. The committee also endeavored to adhere as closely as possible to the rule of not putting in the bill appropriations not to be found in the regular estimates. I believe that the Government in all its Departments should, so far as possible, include in this Book of Estimates, which is our guide in making appropriations, all the items which are expected to go into the general appropriation bills. This rule, I presume, cannot be carried out without exceptions; emergencies will of course arise when something additional must be appropriated; but I think that in general it is a most wholesome rule that we should rely on the Book of Estimates for items which are to be included in our appropriation bills. In preparing this bill we have for the most part adhered to this rule.

Now, if any old friend of mine in this House should think that for some particular object I do not vote quite as much as I ought, he will understand that it is not because of any lack of heart on my part, not from any indisposition to be liberal toward these great interests, but because we have been obliged to draw the line somewhere, and in fixing it at $21,000,000 for the aggregate in this bill we think we have done fairly well. I withdraw my motion to strike out the paragraph.

Mr. DOWNEY. I offer the following amendment:

After the word "dollars," in line 928, insert:
"That all moneys which may hereafter be collected as the timber tax or stumpage for the felling or removing of any timber or other trees growing or being on the public lands within the Territory of Wyoming shall be paid over by the officers of the General Government whose duty it is to receive the same, to the treasurer of Wyoming Territory, to be placed by him to the credit of the public-school fund and allotted in due proportion among the different counties of said Territory."

Mr. BLOUNT. I make the point of order against that amendment that it is general legislation, that it changes existing law, and is not in the line of retrenchment.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

Mr. DOWNEY. I ask in connection with the amendment, Mr. Chairman, to print some testimony taken before the land commission.

The CHAIRMAN. The Chair hears no objection; and the gentleman has leave to print in the RECORD the testimony he refers to.

The testimony is as follows:

Testimony of Stephen W. Downey, attorney and counselor-at-law and Delegate in Congress, Laramie City, Wyoming.

LARAMIE CITY, WYOMING, *September* 25, 1879.

DEAR SIR: I have the honor to invite your attention to some phases of the matter of timber-cutting upon the public domain, the laws inhibiting or regulating the same, the rulings and regulations of the Interior Department thereupon, and the effect of such laws, rulings, and regulations upon the industries and interests of the citizens of Wyoming Territory.

You are probably aware that Hon. Carl Schurz, Secretary of the Interior, has made the discovery and prevention of infractions of the law in this regard and the punishment of offenders the object of special efforts.

From the studious and watchful zeal directed toward the conservation of the public forest wealth, as manifested by the edicts, agencies, and acts emanating from that Department, have arisen grave apprehensions of unjust, oppressive, and impolitic exactions and restrictions upon the pursuits of our people, of which some appear to be without warrant in law, others not to have been contemplated by the National Legislature upon the passage of the acts whose requirements are claimed to be enforced, and yet others to be clearly usurpation of the functions properly appertaining to the Navy Department.

In consideration of the latter fact I am specially led to make this communica-

tion to you, while having in view the general object of placing the matters herein considered before one or more of the Cabinet ministers, in order that the fullest light may be shed upon the subject in case it should arise for the consideration or action of the Cabinet.

I solicit your special attention to those phases of the question involving issues assigned by law to the administration of your Department.

All such questions relating to felling and removing timber from the public domain as are now at issue between our people and the Interior Department appear to have been originally referred by law to the discretion of the Secretary of the Navy. Subsequent legislation has effected a partial repeal of such law, making special regulations in certain specified States and Territories, assigning the details of these regulations to the Interior Department, the most recent of which legislation expressly announced the repeal of former law only so far as relates to the specified States and Territories, thereby reaffirming the full force of the old statute as to all other States and Territories.

In order to a full statement and exposition of the case as regards the letter and spirit of the law, official action to be taken, and official discretion to be exercised, it will be necessary to advert to the provisions of the old statutes bearing upon the issue, to the provisions of subsequent legislation effecting modifications or partial repeal of the same, to the imperative wants of the people essential to civilized existence in Wyoming Territory, together with their sources of supply, and to the spirit of the laws and of the administration thereof by the Government in the past, uniformly fostering the exploration, settlement, and development of resources of the remote and unoccupied portions of the public domain.

By act of Congress, approved March 1, 1817, sections 2458 and 2459, Revised Statutes, the Secretary of the Navy is authorized to select, and the President to reserve from future sales, public lands producing live-oak and red cedar, to be appropriated to the sole purpose of supplying timber for the Navy of the United States. Other sections of the same act provided for punishment of trespass upon timber thus reserved.

By act approved February 23, 1822, the President is authorized to use the land and naval forces of the United States to prevent the destruction and removal of timber in the State of Florida, then public unorganized territory.

By act approved March 2, 1831, entitled "An act to provide for the punishment of offenses committed in cutting, destroying, or removing live-oak and other timber or trees reserved for naval purposes," it is provided in section 1 in the most definite, sweeping, and comprehensive language that certain fines and penalties shall be imposed upon any person convicted, first, of cutting or wantonly destroying, or aiding or procuring to be cut or wantonly destroyed any live-oak, red cedar, or other timber reserved pursuant to law for the use of the Navy; second, of removing or aiding or procuring to be removed such timber so reserved without competent written authority, and for the use of the Navy; third, of cutting or removing or of aiding or procuring to be cut or removed any such timber upon other lands of the United States with intent to dispose of, use, or employ the same for any other purpose whatever other than for the use of the Navy. It is further provided in section 2 of the same act that any vessel seized, having on board such timber so cut and removed for the purpose of transportation, with the knowledge of the master, owner, or consignee, shall be wholly forfeited to the United States; and that the master of the vessel wherein such timber has been exported to any foreign country shall be fined not less than $1,000. The first and second sections of this act appear as sections 2461 and 2462 in the Revised Statutes; the third section of the same act appears as section 4751 in the Revised Statutes, the words "the Secretary of the Navy" being substituted in the Revised Statutes for the words "the commissioners of the Navy pension fund," the Secretary of the Navy having been made "trustee of the Navy pension fund" by act approved July 10, 1832.

Section 4751, Revised Statutes, substantially the same, except the substitution above recounted, as section 3 in original act of March 2, 1831, is, in full, as follows, namely:

"All penalties and forfeitures incurred under the provisions of sections 2461, 2462, and 2463, Title 'The public lands,' shall be sued for, recovered, distributed, and accounted for, under the directions of the Secretary of the Navy, and shall be paid over, one-half to the informers, if any, or captors, where seized, and the other half to the Secretary of the Navy for the use of the Navy pension fund; and the Secretary is authorized to mitigate, in whole or in part, on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred."

This act seems designed to be a substitute, in a great measure, for the act above referred to, approved March 1, 1817, except as to the first two sections of that act, still retained in sections 2458 and 2459, Revised Statutes.

Before proceeding to subsequent legislation affecting the provisions of the later act or restricting their application I desire to comment briefly upon it, because it is that under which, by the rulings of the Interior Department, the main issue between certain officers and agents of that Department and the people of Wyoming has been raised.

It appears evident from the text that the act was designed to punish trespass upon the public timber lands, so far as thereby the sources of supply for the anticipated wants of the Navy might be abridged, and for no other purpose; and that the Secretary of the Navy (originally the commissioners of the Navy pension fund) should be the sole judge of such abridgment, and exercise sole discretion as to what or whether any prosecutions should be instituted under the provisions of the act.

That the institution of proceedings against offenders by officers or agents of the Post-Office Department, of the War Department, or of the Interior Department, or any otherwise, except by and under the directions of the Secretary of the Navy, was ever contemplated, seems absurd when it is considered that the Secretary of the Navy, in whom alone the law, by express provision, fixes the power to direct such proceedings, has also the power, by equally express provisions, to mitigate, in part or in whole, any penalty, forfeiture, or fine incurred.

The supposition that this statutory law contemplated any vindication through the agency of the Secretary of the Interior is sufficiently answered by the fact that the office of the Secretary of the Interior had not been created and did not exist at the time of the passage of said act.

The supposition that the powers and discretion given by the act to the Secretary of the Navy would have been given to the Secretary of the Interior had such office then existed is sufficiently answered by the fact that the office of Commissioner of the General Land Office was created in 1812, prior to the passage not only of the act of 1831 but also of the act of 1817, with powers and duties similar to those now pertaining to said Commissioner, but then in the Treasury Department, and to this officer or to the head of his Department would have been assigned the discretion given to the Secretary of the Navy had the National Legislature contemplated such interpretation of the law as is now sought to be put upon it by the Secretary of the Interior.

The substance and strength of the law is the will of the enacting Legislature. If the body of the act under consideration leaves any doubt as to the purpose of its passage, the title seems to set all doubt at rest: "An act to provide for the punishment of offenses committed in cutting, destroying, or removing live-oak and other timber or trees reserved for naval purposes."

The grants made to the various divisions of the Pacific Railroad system rendered section 2461 Revised Statutes inoperative, so far as concerned timber procured for the construction of said roads.

By act approved June 3, 1878, entitled "An act for the sale of timber-lands in the States of California, Oregon, Nevada, and in Washington Territory," sales of timber lands are authorized under certain regulations, and section 4751 rendered inoperative in the States and Territory named.

By act also approved June 3, 1878, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes," section 4751 Revised Statutes seems to have been rendered inoperative by implication, though not expressly, as to all mineral lands in the States of Colorado and Nevada, and in the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, and Montana, applying to all persons except railroad corporations, Nevada alone receiving the benefits or burdens, whichever it be, of both acts approved June 3, 1878.

Railroad corporations being expressly excluded from the provisions of the latter act, if such exclusion be constitutional, are necessarily excluded from the provisions of the third section, as well as of the first and second sections, and as to such corporations sections 2461 and 4751 Revised Statutes would still be in force, both upon mineral and non-mineral lands. Therefore, if I am right in my conclusions above in regard to the construction of those two sections, actions against railroad corporations for taking timber from the public domain in Wyoming Territory for the construction or maintenance of their roads can legally be instituted by and under the directions of the Secretary of the Navy alone.

In speaking of the act approved June 3, 1878, I shall refer to the one named second in order above, that being the one which applies to Wyoming.

In the "Rules and regulations prescribed by the Secretary of the Interior" pursuant to said act, in a circular issued from the Department of the Interior, General Land Office, dated August 15, 1878, the Secretary, among other things preliminary to the rules, says: "To the end that the mountain sides may not be left denuded and barren of the timber and undergrowth necessary to prevent the precipitation of the rainfall and melting snows in floods upon the fertile arable lands in valleys below, thus destroying the agricultural and pasturage interests of the mineral and mountainous portion of the country," &c. (See circular.)

However solicitous the Secretary may be to guard the interests of the agriculturists and herdsmen of Wyoming against the fatal consequences of their own vandalism, and however reasonable such a setting forth of the grounds and cause of action may be, applied to other regions, it seems absurd in its application to Wyoming, the great body of whose lands, by the decision of the same Interior Department, rendered prior to the issuance of said circular, have been held to be "desert lands" within the meaning of the "desert-land act," approved March 3, 1877. Yet Wyoming alone, of all the eastern slope of the Rocky Mountains, has been chosen by the Department as the field of active operations for the repression of timber-cutting upon the public domain.

The first rule in said circular announces that section 2461, Revised Statutes, is still in force, and that trespassers upon lands not mineral "will be prosecuted under said section." Under whose directions will they be prosecuted? Is the Secretary of the Interior the mouth-piece by which the discretion of the Secretary of the Navy is to be promulgated? If section 2461 is in force in Wyoming as to all lands not mineral, section 4751 is also in equal force, there being nothing in the act of June 3 to the contrary. Yet under such rulings, through officers or agents of the Interior Department, a demand has been made upon railroad-tie manufacturers, lumber manufacturers, and wood dealers for a fine, forfeiture, or stumpage tax for timber taken from the public domain, or alleged to have been so taken, prior to June 3, 1878. Through the same agency a demand has been made upon lumber manufacturers for a sworn statement of the extent of trespass by them committed, as a basis for compounding the offense, accompanied by intimations or menaces of some undefined evil to befall upon neglect or refusal to furnish such statement; all of which demands, as well as settlements made pursuant to acquiescence therein, and by officers or agents of the Interior Department, I claim to be without warrant in law.

Through the same agency an order has been served upon tie makers, lumber manufacturers, and wood dealers in Wyoming, inhibiting all further cutting or removal of timber, of whatever character or dimensions, from the public lands by them, whether such lands be mineral or non-mineral, and whether such timber be dead or alive. With this order of inhibition has been announced the adoption as a rule of action of the principle that the wood dealer, lumber manufacturer, and tie maker is each barred from the pursuit of his vocation by the act approved June 3, 1878—*i. e.*, that John Doe being a merchant may shoulder his ax, go and cut from the public forest such timber as he may need for fuel fencing, and buildings, provided the same, dead or alive, be not less than eight inches in diameter, or that he may hire the same to be done for him, provided the mediate agent be not a wood dealer or lumber manufacturer; but that Richard Roe, a wood dealer, or Henry Jones, a lumber manufacturer, may not anticipate the wants of John Doe and prepare to supply his wants on demand, because this would savor of speculation. Such ruling and action based thereupon I claim never to have been contemplated by the national legislature upon the passage of the act. All organized and systematic business is speculative so far as it is based upon anticipated want. The more accurate anticipations of want are, the more successful will business be. Such a departure from this principle as the ruling above stated enjoins is a return toward the primeval and barbarous state, in which each man must provide for his own wants by the labor and skill of his own hands. I do not know whether or not the agent of the Department has transcended his instructions in announcing this absurd principle and acting upon it, but I do know that the industries mentioned are at a dead stand-still, checked by the order referred to, and this with the knowledge of the Commissioner of the General Land Office. At the same time no ban is laid upon similar pursuits in the State of Colorado, just south of us. If any credence can be placed in the public journals, a dozen or more saw-mills have been put in operation within a year in the vicinity of Leadville, all manufacturing lumber from timber taken from the public domain. Homes are warmed, food prepared, and ores reduced there by fuel taken from the public forests, furnished in whole or in part by wood dealers and lumber manufacturers pursuing their vocation. Can it be that these operations carried on there, where are operating alert capitalists from San Francisco, New York, and London, are less speculative than here, where lumber manufacturing has been, and but for the present ban upon it would now be, carried on to a limited extent, and exclusively to supply the ordinary home demand? Whatever the general and ultimate rights of the issue, such discrimination against Wyoming as between it and Colorado cannot be justified.

I do not institute this comparison desiring Colorado to be placed under the same ban. On the contrary, I believe the privileges and immunities there accorded and enjoyed to be in full harmony with the letter and spirit of the law.

Colorado has made great and praiseworthy progress within the past fifteen years, adding much to the credit and wealth of the nation; a progress which would have been utterly impossible without, and is largely due to, repeated and constant violations of the inhibitions of section 2461 of the Revised Statutes, according to the interpretation of those inhibitions by the Department of the Interior. Many of the mineral products of Gilpin County, the first great mining center, could not be utilized on account of their refractory nature until the inauguration and successful operation of the Boston and Colorado company's smelting-works, at Black Hawk, by Professor N. P. HILL, now United States Senator from that State. These works probably did more to establish the worth of Colorado minerals and the success of Colorado mining, and consumed more fuel procured through violation of the inhibitions of section 2461 of the Revised Statutes, than any three other reduction works of Colorado. Nine-tenths of all the stamp-mills or other reduction works have been run by steam-power, and the fuel procured in the same way. Nine-tenths, probably ninety-nine hundredths, of all the buildings erected prior to June 3, 1878, were constructed wholly or in part of lumber obtained by the same violation. To say that such use of the timber upon the public domain was not contemplated, and was wrong and criminal, is to say that the progress made in the development of the resources of Colorado, the growth in wealth, the increase in population, the establishment of homes, the founding of institutions of learning, and the build-

ing of churches were not contemplated, and were wrong and criminal. Yet all this has been carried on for the last fifteen years, under the eye and with the full knowledge and consent of Congressmen, Senators, Cabinet ministers, Vice-Presidents, and the President of the United States, who have from time to time visited Colorado. With none of these industries, none of this progress, none of this settlement and increase of population, the timber of Colorado might as well have been put in the moon, so far as any value it would have possessed to the United States Government or anybody else. It was valuable precisely for the use to which it has been devoted, and for no other use.

The timber of Wyoming is valuable alone for use within Wyoming, or in regions immediately adjacent thereto, and sinks in value as that use is obstructed.

It is a fact greatly to be regretted that far more timber is annually blasted and destroyed by the ravages of forest fires than is cut up for use for all purposes to which it is devoted. While I write a fire is raging in the Medicine Bow Mountains, some thirty-five or forty miles to the west of Laramie City, which has already swept through thousands of acres of the heaviest timber, enveloping a region of more than one thousand square miles in dense clouds of smoke. The trees thus destroyed in a few weeks would have kept all the lumber manufacturers, tie makers, and wood dealers in this portion of the Territory occupied for years in supplying the demands of the people, while they, upon the order of the agent of the Interior Department, are standing idly by, witnessing the destruction by conflagration of what they are not permitted to devote by their industry to the uses for which it is chiefly valuable. Such forest fires are of almost annual occurrence. In many cases the limitation of their spread is dependent upon the presence of timbermen, who, when present, are able to take advantage of glades and cut off the progress of the flames. I am informed by Mr C. H. Bussard, who has been one of the leading tie manufacturers in this region, that if he had been engaged, with his usual number of employés, in the region of the present fire, he could have checked it before extensive damage could have been done.

The idea, more or less prevalent in the East, that tie-making and lumber manufacturing in the Rocky Mountains is a kind of royal road to wealth, is altogether a mistake. Few engaging in such pursuits gain more than a livelihood; as many fail utterly; and, like the majority of their patrons engaged in other pursuits, they have nothing to depend upon but their industry and energies. With few exceptions, we are all struggling along on the ragged edge of poverty for an existence; a condition not by any means unique or unusual in new and sparsely-settled regions. We are surrounded by many varied and extensive resources, teeming with the germs of future wealth, but yet mainly undeveloped, and we are without the means for present development. We need the fostering, not the repressive, hand of Government.

If section 2461, Revised Statutes, is to be construed strictly as maintained by the Interior Department, many high officers of the Government, upon impartial prosecution, would fall under like condemnation as the citizens of Wyoming. The War Department has violated and continues to violate, in the most marked and open manner, its inhibitions. In Wyoming alone there are some ten or eleven military forts constructed wholly or in part of timber felled and removed in violation of those inhibitions. The forts which are or have been occupied have been or still are supplied with fuel by contractors—violators of the same inhibitions. It is no answer to say that such employment of timber is for Government use, for the language of the statute is: "If any person shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting, any live-oak or red cedar trees, or other timber on, or shall remove, or cause or procure to be removed, or aid or assist or be employed in removing, any live-oak or red-cedar trees or other timber, from any other lands of the United States, acquired or hereafter to be acquired, with intent to export, dispose of, use or employ the same in any manner whatsoever other than for the use of the Navy of the United States, every such person," &c., &c. The building and heating of a United States military fort upon the plains is certainly an employment other than for the use of the United States Navy. Upon a strict construction any person, be he Secretary of War or General of the Army, who cuts, or removes, or causes or procures to be cut or removed from the public domain timber for the use of such forts, is obnoxious to all the penalties imposed by the statutes as much as the humblest squatter who constructs his rude hut or cabin. An officer of the Government, even the President himself, has no more right to violate law and do an act therein characterized as felony than has a private citizen. The War Department is not alone in the condemnation. The judges of the United States courts, the United States attorneys, United States marshals, registers and receivers, and special agents of the Interior Department are all sheltered by roofs and warmed by hearths supplied by violation of the said inhibitions. The very exclusiveness of the use reserved in the act of March 2, 1831, no provision being made for any other Department of the Government, tends to establish the interpretation of the act which I first gave above, and confirms the ruling that what fines or penalties, or whether any, shall follow infractions of said inhibitions rests wholly with the discretion of the Secretary of the Navy, and that the exercise of that discretion should depend upon whether or not sources of supply for the anticipated wants of the Navy have suffered abridgment.

To encourage the development of latent resources, the increase of immigration, and the expansion of civilization the Government has wisely sanctioned the most unrestrained use of its agricultural resources, its water supply, and its mineral wealth. It is difficult to see upon what principle pioneer citizens should be restrained from enjoying the ample timber resources to the extent required for domestic purposes. Mineral wealth, once exhausted, offers no hope of restoration by reproduction where exhausted. Quite the contrary is it with timber wealth. Portions of timber land in Colorado, entirely denuded in the early days, are now covered by a fine growth of promising young trees. The timber of Wyoming would not be exhausted by the uses of the people in ten generations. Cut it all off, and it will be replaced in three or four generations by natural growth.

I have alluded incidentally to the use of timber for railroad purposes. A few words directly to that subject: The Government thought it expedient, in order to secure the construction of the Union Pacific Road, not only to devote all necessary timber from the public lands to that purpose, but also to subsidize the enterprise by other grants of large proportions. Is the maintenance of the road, with the increased facilities of communication which it has brought, and the consequent arrangement and ordering of commercial transportation, of less importance to the Government and the people than the construction? Where, if not from the public domain, shall ties be obtained? Would it be the exercise of a wise discretion to compel their purchase from the Alleghany Mountains and transportation to Wyoming to keep up a road-bed along or near the forests here? All cutting of ties upon any terms from public lands in Wyoming is at present banned by order emanating from the Interior Department, whether with or without warrant of law. Should the question come for decision to the Secretary of the Navy, where I think the law clearly places it, as I have before indicated, would absolute prohibition upon any and all terms be discreet governmental policy? The United States has an important, direct interest in the economical and successful operation of the Union Pacific Railroad, which both justice and discretion dictate should be permitted, on some reasonable terms, to procure ties from the forests of Wyoming. Some portions of the timber lands are within railroad limits, and where these are yet unsurveyed the company, under present rulings, is practically barred from its own as well as from Government lands. At the same time a large amount of fuel has been taken from railroad lands, both for private and Government use, and no objection has been made by the company. In view of these facts the prohibition now sought to be put in force seems impolitic, and can scarcely be characterized as magnanimous.

The act of June 3, 1878, is objectionable even with the most liberal construction. That agriculturists and denizens of towns adjacent to timber growing on mineral lands should be accommodated with all necessary timber for fuel, building, and other domestic purposes, while similar classes adjacent to timber growing on non-mineral lands should be debarred from like privilege, is not based upon any fair, sound doctrine. In the first section of the act the words "said lands being mineral and not subject to entry under existing laws of the United States except for mineral entry" should have been omitted; and in the second section the word "mineral" before the word "land" should have been "timber." The act is faulty in other respects, chiefly in its uncertainty and in the possible susceptibility of the interpretation which has been put upon it. The faults in the text of the act are, however, as a matter of course chargeable only to the enacting Legislature, and it is to be hoped will be remedied at the next session of Congress either by amendment or repeal of the present and the enactment of a better statute.

During the late extra session of Congress, at an interview with the Secretary of the Interior, I represented to him the matters and facts herein considered pretty fully, bringing to his attention many points from this omitted, at the same time presenting a written request for his reconsideration of certain features of the "rules and regulations" promulgated from his Department, stating in what particulars changes seemed desirable, and giving reasons therefor.

The features which, according to the announced instructions of the special agent of the Department in Wyoming, would work evil to the citizens and which are especially complained of are: First, the prohibition of all persons from felling or removing all timber, dead or alive, less than eight inches in diameter; and, second, the prohibition of mediate operators, such as lumber manufacturers, wood dealers, &c., from prosecuting their vocations for supplying the citizens of the Territory by felling and removing timber for building and other domestic purposes.

The grounds of complaint of the first feature are, that there are immense tracts of dead timber, suitable for fuel and fencing, less than eight inches in diameter which is passing into decay; that thousands of acres of land have been taken up by actual settlers, through pre-emption homesteading, under the desert-land act or otherwise, which lands have no timber for fencing or building. Settlers upon these lands have had recourse to the mountain forests for building timber and fencing poles. These settlers must fence their claims or abandon them. A prohibition of the privilege of obtaining fencing poles, whatever the design, results practically as bad faith on the part of the Government. The fencing poles ordinarily obtained and used range from four to seven inches in diameter, averaging about five and one-half. Trees of such size, for such use, are more valuable than those of larger size.

Acts of Congress and rulings of governmental departments cannot alter established principles of political economy, among which none is more generally acknowledged and none more readily commends itself to quick discomment than the policy of reasonable assortment and division of labor. The average settler does not transport a saw-mill among his chattels. He must purchase the lumber for his dwelling from him whose regular occupation is that of a lumber manufacturer. The average baker is not an axman; he must purchase his fuel from the woodman or collier. I have already remarked upon this feature of the ruling, and need not enlarge upon it.

At the same interview with the Secretary I asked and received a promise that whatever course he decided upon in regard to the general, ultimate issue, no action should be taken or restrictive measures instituted against the citizens of Wyoming that were not also taken or instituted against the citizens of other Territories and States where the same laws are in force. According to my recollection, Hon. N. P. HILL, United States Senator, and Hon J. B. BELFORD, Representative of Colorado; Hon. MARTIN MAGINNIS, Delegate from Montana, and other gentlemen were present and participated in the interview. About the same time I had an interview with Hon. Edgar M. Marble, Assistant Attorney-General, Department of the Interior, and several interviews with Hon. J. A. Williamson, Commissioner of the General Land Office, upon the same subject. I refer to these several interviews here merely to show that I took what I conceived to be proper and reasonable steps to avert impolitic and oppressive restraint menacing the industries of our people by a fair presentation of the case to the Department, moving for such restraint before making any appeal to you or to the Cabinet generally. The result of my efforts, both as to promises secured and subsequent action, is shown in the foregoing pages.

It is not my purpose to assail herein the sincerity of the honorable Secretary or of any officer or agent of the Interior Department. I am prone to believe the action above set forth to be the consequence of a misconception of the real merits of the case, but on that account none the less ill-advised and impolitic, and in effect upon the citizens of Wyoming none the less unjust and oppressive.

I therefore ask, in behalf of the people whom I represent, a candid consideration by you of the letter and spirit of the laws, and of the facts and issues which I have presented, and that you take such official action, as head of the Navy Department and as Cabinet minister, for the relief of the citizens of Wyoming from their present distress as the laws and facts in the case and the history and philosophy of the spread and development of civilization in the country shall seem to warrant.

If the interpretation which I have put upon the act of March 2, 1831, sections 2461, 2462, and 4751, Revised Statutes, seems to you just, reasonable, and conducive to the growth, development, and general prosperity of the regions adjacent to the timber lands of Wyoming, where alone such timber is valuable, and to which growth and development it is naturally tributary, I ask that, in the capacity of Secretary of the Navy, you signify in some effective manner the retention and exercise of the lawful functions of your office to the prevention of usurpations of the same by officers or agents of the Interior Department, and that you so exercise the discretion given you in said act as to foster the prosperity of this region.

If the interpretation of the act approved June 3, 1878, by the Interior Department seems inconsistent with the purpose of the National Legislature upon its passage, and not conducive to the interests of the people for whose benefit it was passed, I ask that, in the capacity of Cabinet minister, you use reasonable efforts to secure a modification of the interpretation and rulings and orders based thereupon.

Finally, I ask, as a courtesy, that you communicate to me, at as early a day as practicable, your views and proposed action, if any, upon the matters herein submitted.

I have the honor to remain, with much respect, sincerely yours,

S. W. DOWNEY.

Hon. R. W. THOMPSON,
Secretary of the Navy, Washington, D. C.

The Clerk read as follows:

Geological Survey:

For the salary of the Director of the Geological Survey, $6,000.

For the expenses of the Geological Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain, to be expended under the direction of the Secretary of the Interior, $150,000.

Mr. BUCKNER. I move, in lines 936 and 937, to strike out "150" and insert "300;" so as to make it read "$300,000."

Mr. Chairman, I desire to occupy the attention of the Committee of the Whole House but briefly on the amendment which I have proposed. It is proper for me to say in the beginning that very rarely in this House have I offered any motion in opposition to the recommendation of the Committee on Appropriations. I appreciate the

magnitude, the importance, and the responsibility of the position of that committee. I have always sympathized, and now do, with the necessity of keeping the expenditures of the Government within proper limits. I should not now depart from my almost uniform support of the recommendations coming from that committee were I not perfectly satisfied that the sum of money recommended for the expenses of this Geological Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain was entirely inadequate to the consummation of the great objects for which the Geological Survey itself was created.

It must be borne in mind, Mr. Chairman, that there is in the national domain of the United States, outside of the limits of organized States and Territories, land sufficient in extent to equal all that is embraced within the limits of the States and Territories.

It will be recollected that in the Forty-fifth Congress, under the lead of the distinguished gentleman from New York, now no longer a member of this House, (Mr. Hewitt,) the various geological surveys which before had carried on their important work in a confused and inharmonious way were consolidated into one homogeneous Geological Survey. During the ten preceding years there were as many as four surveying parties often out at the same time, and frequently occupying in their work the same ground. The consequence naturally was they were in constant conflict, acting without any harmony with each other whatever. Under the lead of the honorable gentleman from New York of whom I have just spoken, and the chairman of the Committee on Appropriations, the provision of law was enacted by which these important surveys were consolidated under one head. For the purpose of carrying on the work of that Geological Survey the Secretary of the Interior sent in an estimate of $354,000. That was reduced by the report of the Committee on Appropriations in the pending bill to $150,000. My amendment is to increase the amount to $300,000. It is of vital importance this appropriation should be made, as this organization is just now beginning its work. Indeed, sir, it may be said that the Geological Survey has hardly yet been fully organized. It has made no report. As we are commencing one of the grandest works which ever commended itself to the people of any country, I hope there will be no objection to the increase proposed.

Not only is it proposed in reference to the public domain outside of the Territories, but valuable results are to be secured in the States as well as in the Territories. It was intended by the consolidation of all these previous surveys that not only should the public domain be surveyed outside of the limits of the States and Territories, not only should investigation be had of the mineral wealth of the public domain, not only was it intended the gold-fields of the country and the silver deposits should be opened up and developed, but it was also intended scientific investigation should be more extended and take a wider range. It was intended there should be scientific investigation of the vast fields of iron extending through the Appalachian chain of mountains from Pennsylvania to Alabama; that the salt deposits of West Virginia and Ohio should be examined; that the petroleum of Pennsylvania and West Virginia should be inquired into; that the phosphates of the South, the gold of Virginia and the Carolinas, and wherever else there was mineral deposit—wherever, in fine, in behalf of the interests and welfare of the people and the Government, our country required examination and scientific development at the hands of these scientists, there it was intended this Geological Survey should operate and submit reports for the information of Congress and the people.

The CHAIRMAN. The gentleman's time has expired.

Mr. BUCKNER. I beg on this subject to have read to the committee the remarks of the gentleman from New York, Mr. Hewitt, on this very important proposition. I hope there will be no objection to it.

Mr. BLOUNT. I object to the reading of the paper, but I do not object to its being printed.

Mr. BLACKBURN. Very well, let it be printed.

Mr. BUCKNER. I want to have it read in the hearing of the committee, so members may understand exactly what it is that is proposed.

Mr. BLOUNT. I object.

Mr. BUCKNER. Very well.

The extract from Mr. Hewitt's speech is as follows:

> When we come to contemplate the whole field of these natural resources available for food, for industry, and for commerce; when we attempt to grasp in one act of thought the length and breadth and depth of the riches with which the Maker of the universe has loaded this continent on which happily our lot is cast; when we try to realize how every possible want, every material aspiration of man is bounteously provided for; when we consider how measureless are the values which spring into being at the touch of modern industry, and how these values when once created are solid and real and become incorporated into the enduring structure of human society, we may begin to estimate properly the measure of responsibility which rests upon this nation and its chosen rulers, not merely to preserve unharmed the priceless boon of civil liberty which leaves the individual citizen free to do his share in work of development, but to adopt such measures as will prevent the waste of natural resources, clear the way of progress, and promote the triumphs of civilization.
>
> It is to these immeasurable elements of national wealth that we wish to direct the new surveys.
>
> It is to a rigid, profound study of these great fundamental problems of national progress that we mean to turn the new organizations.
>
> Is there any member of this House, is there any man living within our borders, who can suggest an undertaking more deeply fraught with all the elements of national prosperity? Has there ever been submitted to Congress a proposition more worthy of the support of patriots and statesmen?

Mr. HUNTON. May I ask the gentleman a question?

Mr. BLOUNT. Mr. Chairman——

Mr. HUNTON. I hope the gentleman from Georgia will permit me to ask a question of the gentleman from Missouri.

Mr. BLOUNT. I do not want it to be taken out of my time.

The CHAIRMAN. The Chair has no right to extend the time of the gentleman.

Mr. HUNTON. I only want to ask the gentleman from Missouri in reference to the manner in which this sum is to be expended, how the money can be expended in the States in geological surveys when the appropriation expressly confined it to the national domain?

Mr. BUCKNER. It extends to many of the States in which public lands are located.

Mr. BLOUNT. I desire the attention of the committee for a few moments in response to the remarks made by the gentleman from Missouri. The appropriations in 1877, for all of the various surveys of the Government, were $175,000. The next year we appropriated $175,000; the next year, $175,000; and during the last year $160,000 was deemed sufficient for all these surveys. During the last year these surveys were consolidated. It was stated, as an argument in favor of the consolidation, that if this bill was passed authorizing the consolidation there would be a large saving of expense to the public. This consolidation was effected under that assertion and idea, and for these geological surveys for the current year the sum of $100,000 is appropriated. It was supposed by the Committee on Appropriations, in view of all the facts alleged, that there would be a large reduction, and that was the proposition held out as an inducement, as I have stated. We come in here now with an appropriation of $150,000 for this work.

This commission, I wish to say, Mr. Chairman, has furnished no report. It has never made a report, as the law requires shall be made to accompany the report of the Secretary of the Interior. Therefore we are in the dark as to what the commission has done. Now, without a single line from that commission, without knowing a single act which it has done, whether it has operated wisely or not, my friend from Missouri comes in here and asks that we appropriate $150,000 additional, making the total amount three and one-half times what was appropriated for the current year. I hope this will not be done. We started, sir, on this bill with $1,250,000 in excess of the last year's appropriations. We have already added to it $350,000. If you include in this the deficiency for the pay of the marshals, as suggested, you will have increased the sundry civil bill of this year some $2,000,000 over what was appropriated last year. I ask you, gentlemen, in view of these facts, that you hesitate before you make the addition proposed here. And I wish to say, in addition, that the manner in which this survey is being engineered here is discreditable. Gentlemen connected with the survey, who are paid out of the public Treasury, have for months, day after day, lobbied from one wing of this Capitol to the other to get an increase of this appropriation. It has been a sort of hiding-place for the sons of public men of all parties, and it has used that influence to push its way through the House.

Now, I trust I have said enough to satisfy the committee that this appropriation has nothing to commend itself to make this increase. We do not know, sir, whether the surveys are being well or badly conducted. We have not had a single report before us, although nearly a year has elapsed from the time of its consolidation, and yet, before that year has entirely elapsed of this new administration of these surveys, you propose to give more for one year than you gave in the past, not only to the geological survey, but to all of the surveys combined, and in face of the fact that this consolidation was effected on the basis of economy. I trust, sir, the committee will see fit to do no such thing.

Mr. BUCKNER. Will the gentleman from Georgia be kind enough to inform us of the name of a single public man who has a son in the survey?

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. CHALMERS. Mr. Chairman, I move to strike out the last word.

I was struck once in reading the lives of the lord chancellors of England, by Lord Campbell, by a regret which he expressed that so few of these distinguished Englishmen had impressed themselves upon the history of their country by any great improvement in the laws.

Now, sir, as a member of the Forty-fifth Congress, I believe that the distinguished gentleman from Tennessee, as chairman of the Committee on Appropriations, has impressed himself upon his day and time by the inauguration of one of the most important, one of the most interesting and most useful commissions that was ever created by an American Congress, and I am astonished now, sir, that a sufficient appropriation is not made here to carry out the grand work inaugurated by the gentleman from Tennessee, [Mr. ATKINS,] and ably supported by Mr. Hewitt, of New York. The proposition was then simply to organize a commission to inaugurate this work, but the gentleman from Georgia now denounces the commission because it has done no work.

Mr. BLOUNT. Not at all.

Mr. CHALMERS. It was simply created as was another commission, and which as a matter of legislation we may all be proud of who belonged to that Congress. I refer to the commission for the im-

provement of the Mississippi River. These two acts, sir, are, in my judgment, the grandest species of legislation that have been adopted for more than twenty years in this country. The gentleman from Tennessee followed it up in this Congress by having a bill passed, which is now pending in the Senate, if I mistake not, providing for the extension of these surveys, not only in the Territories and public lands of the United States, but into all of the States, that we may know what is hidden in this great mountain chain which extends through Pennsylvania, Maryland, Virginia, North and South Carolina, Alabama, Georgia, and Tennessee, down to the Gulf of Mexico.

There are mines of wealth there, gold, silver, iron, copper, and lead, hidden in the recesses of those mountains. It is right the American people should know what is in the bosom of the earth in those States. Not only is it essential to the prosperity of the Territories that such surveys should be made, but it is essential that a proper understanding of the mineral wealth of our States should also be ascertained.

More than that, this survey is necessary as an adjunct to the Agricultural Department, because this geological survey will give us a proper knowledge and appreciation of the different soils of this country. Men will not waste time in endeavoring to raise sugar where cotton is more productive. Men will know from the scientific ascertainment by this Government survey what is the peculiar characteristic of each of the different soils of this country.

I say again, I am astonished the gentleman from Tennessee has stopped short in prosecuting one of the grandest works undertaken by the American Congress for many years. I only regret the gentleman from Missouri did not ask for the full appropriation asked for by the Department. They ask for $380,000, if I remember rightly. And I will say unless you give this amount you had better strike it out altogether. It is a waste of money to leave it as it now stands. The amount here recommended will not give these scientific men an opportunity to do justice to themselves or to the subject. I would much prefer you should either strike it out altogether, or else give to them money enough to enable them to demonstrate the wisdom of the movement you have set on foot.

Mr. MAGINNIS. I oppose the *pro forma* amendment. So far as I am concerned—representing a mining Territory—I am not at all opposed to the establishment of a mining bureau at the center of Government, a bureau which shall bear somewhat the same relation to the mines of the country that the Agricultural Department does toward the farming interests. But the House should know exactly what it is doing when it is engaged in establishing such a bureau. It should not be done under cover of a law to survey the public domain, and make the resources of the Government property known to all parties who may desire to purchase it. When these surveys were established the legal and constitutional grounds on which they were supported in debate were considerations affecting the public property. We were told that the United States had a mighty estate to dispose of, and that the country should be informed as to the extent of its resources; that we had lands to sell, and that surveys and explorations were necessary to advise prospective purchasers of their value. We had no advices, at that time, that under the name of the geologic survey and exploration of the public lands we were going to build up a great mining bureau, which is to take charge of the mineral resources of the whole Union, whether embraced in the public domain or in the old States where the Government has no lands and can have no interests in mines or mineral deposits; that we were here to have a geological bureau—not for the public lands, but to supersede and swallow up the geological surveys of the several States of the Union, to supplant these State surveys, and to cover the whole country by a survey with headquarters here, engineered, directed, and paid by the General Government.

Now, if Congress desires to do this, all right. Mine is a mining country and a chief producer of the precious metals. We have heretofore received but little attention from these scientific gentlemen, who, with a strange perversion of judgment, have directed their attention to a region of country where agricultural and mining resources are limited, which no emigration seeks, and where neither settlers nor prospectors are likely to go. If this bureau is established it may be useful under honest auspices—and I beg to say that it is under such control now. The Territory I represent may get some of the benefit of it, though in my judgment such an institution must, in the nature of things, be largely used to advertise localities and to bolster on the market the precarious fortune of individual properties. The record of scientific indorsement of mining properties, as instanced by the Little Emma, the Little Pittsburgh, and other mines that I might mention, has not been an auspicious one, and the funds of the struggling poor, of women, and of wards invested on the authority of names of high scientific repute, have been sunk in mines that failed to continue notwithstanding the indications of the geological formation.

I am warmly in favor of the survey of the public lands, of geographical and topographical surveys, which shall give us information in regard to the country, which will be a guide to prospectors and miners, and to our soldiers when engaged in Indian campaigns; of land-classification surveys, for the benefit of settlers seeking homes; and of geological surveys, descriptive of the structure and mineral resources of the Territories; and, above all, in favor of surveys of the public lands for homestead and pre-emption and mining purposes. I submit that it is a perversion of these surveys to make elaborate examinations and expensive maps and plats of particular mines and mining districts and to publish costly reports, which, however valuable as scientific records, are in no sense guides to the practical exploration and development of new countries.

Let me call the attention of the House to the record that we are making of late years in regard to surveys of these public lands. Up to 1874 it was customary to make an annual appropriation of about six hundred thousand for the public land surveys. Professor Hayden had a modest appropriation for his survey; so did Professor Powell, and so did Captain Wheeler. These appropriations were increased from time to time, and as the geological and scientific surveys increased the appropriations for public-land surveys were cut down. The land surveys were made in sections where settlement was going on, in regions to which immigration was directed; the others by a strange device sought sections of country where no one wanted to go and where no one will want to go. But in spite of all this Congress went on until the ornamental surveys exceeded in attention and threatened to swamp and absorb the public-land surveys. Then this Geological Survey was instituted for the purpose of classifying the public lands and making known the resources of the Territories. Now, I think it is a perversion of the purpose and intention of Congress, which was to explore and map out and prepare the way to settlement in these new countries—to make what will really be a mining bureau for the United States out of this Geological Survey.

But, as I have said, if you want to go into this matter I have no objection to the mining bureau. My Territory is a gold and silver and copper and lead country, and a mining bureau will do us good. But I want you to understand precisely what is the character of these plans that are laid before you.

Mr. Chairman, I am glad to be able to pay a tribute to the character and ability of the eminent gentleman at the head of this survey, Mr. Clarence King; but I believe that he has given the survey a direction which Congress did not intend, and which will be of little benefit to men seeking homes in our new Territories. Such work as he did in his survey of the fortieth parallel is of high scientific value. Such maps as he made of the Comstock mines, their workings, shafts, and levels, are very handsome indeed. There is a pressure for similar descriptions in detail of other localities, like Leadville, where mining excitements obtain. But these costly maps are of more benefit to individual property-owners than to the country at large, and the mining engineers and mine-owners can certainly furnish working plans of their mines, with the continual changes and daily developments, of more practical value than any the Government can furnish. I doubt the practical value of these detailed descriptions and maps of localities, and believe that the general geology and description of the country is of more practical value.

Again, this geological bureau, if it is to furnish information in regard to the value of mines and mining districts, cannot be just to the whole country. It must be absorbed in some districts and some properties to the detriment of others. Only the miners themselves can give a value to their property or open up new mines. Geology is a descriptive science. It is not a means of mineral discovery or mineral development. America has never wanted men to carry on this work. From the days that the hardy prospectors from the Spanish mines followed Cortez into Mexico and Pizarro into Peru until their successors discovered California and opened up the recesses of the Rocky Mountains the prospectors, miners of America, have been equal to the solution of every difficulty that has confronted their progress. It is these who have discovered all the mines that add to our country's wealth, who have made the great improvements in gold and silver mining, who have inspired and framed the best code of mining laws and regulations known to the world—laws which some of these gentlemen connected with this survey are most unwisely endeavoring to change.

My friends, Mr. BUCKNER and Mr. CHALMERS, seem to think that a geological survey directed from Washington will discover mines and develop the mineral resources of the Southern States. A geological survey never will. Geology never has discovered mines or profitably worked them in the Territories, nor will it do so in Mississippi, West Virginia, or Missouri. The energy of home labor and the enterprise of home capital must do that.

The CHAIRMAN. The gentleman's time has expired.

Mr. BLACKBURN. I will yield the gentleman from Montana a part of my time. I desire to say a few words myself.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. CHALMERS. I withdraw the *pro forma* amendment.

Mr. MAGINNIS. I renew it, and thank the gentleman from Kentucky [Mr. BLACKBURN] for his time, which I know he could occupy much better than I.

I confess that my people and myself do not feel very kindly to the legislative action which has resulted in the organization of this survey, and of the land commission, which was organized, inspired, and directed very largely by gentlemen of this survey, and by the Academy of Sciences, which made its recommendations to Congress. The first work of that commission has been a report in favor of changes in our land and mining laws, against which a solid and universal protest comes up from the Pacific States and Territories. Members of that commission went into the Territories ostensibly to acquire correct information. They must have wofully misapplied their time. They come in here with a bill, introduced with all the sanction of the

approval of the Department, and all the weight of a special message from the President. What will that bill do if Congress is mad or foolish enough to adopt it. It will disarrange all our mining laws and put an end to deep mining and prospecting in this country. It will abolish placer-mining laws and customs and dispose of our placers—those great sources of wealth—as common lands. Under the plea that the country west of the one hundredth meridian is desert and arid the great mass of irrigable lands can be taken up by companies and speculators. The land that is our sacred trust as homes for the people can be taken up and held by monopolists. Large companies, organized in New York and elsewhere, can purchase our grazing lands by counties and kingdoms, and graze their herds to the utter exclusion of the farmer and small stock-raiser. The people who take the irrigable lands can hold them indefinitely before making final proof and expenditure, and forever shut out the homesteader and pre-emptor.

Mr. Chairman, in your desk this past winter we had an Irish member of the British Parliament, [Mr. Parnell.] We did him the extraordinary honor of inviting him to address this House on the evils which large land-holdings and non-resident proprietorship had brought upon a fertile and beautiful land. I warn gentlemen here that if the changes in our land laws which these scientific gentlemen advise are adopted your new Territories will be monopolized by non-resident proprietors. These changes are urged on by some gentlemen from mistaken views, but in my judgment they are born of the desires of great cattle kings and of wealthy stock companies who wish to engage in raising sheep and cattle, and to occupy the land to the exclusion of the people. Otherwise, why this pressing influence brought to bear on Congress? Why this clamor from great commercial centers to get at our lands in large bodies to occupy them as stock preserves, as the highlands of Scotland are occupied as game preserves—to make a new Ireland out of our Western Territories, where the homesteader and pre-emptor cannot go.

Mr. CHALMERS. Can the pre-emptor take up mineral lands now?

Mr. MAGINNIS. I have from the first opposed this whole scheme, which, in the name of science, has made a scientific advance on this House. I will give them the credit of saying that never has any scheme been so scientifically lobbied. I am in favor of the proper use of this survey and all surveys. Why should I not be? But I am opposed to this organized attempt, which I feel everywhere, to turn the opinions of the country in regard to our mines and lands in a wrong direction, and shall oppose every attempt to rob labor of the right to mine in our mountains and gulches and to rob the settler of a right to a home on our public lands. [Applause.]

Mr. BLACKBURN. I have no war to wage upon the geological survey; it is at best but a piece of empiricism.

The CHAIRMAN. Does the gentleman rise to oppose the amendment?

Mr. BLACKBURN. I rise to speak upon this subject.

The CHAIRMAN. The amendment has already been spoken upon.

Mr. BLACKBURN. I move to strike out the paragraph, and will speak upon that motion. I have no quarrel with the geological survey. It is but one year old, and we cannot speak from practical results, for we have none to guide us. At the last session of Congress $100,000 was appropriated for that survey. The Committee on Appropriations have now brought in this bill with an appropriation of $150,000 for this purpose. And now the gentleman from Missouri [Mr. BUCKNER] proposes to increase the sum to $300,000. It is not contemplated that this survey shall go into the States. The amendment of the gentleman from Missouri does not contemplate that; the law prohibits it. The amendment of the gentleman from Missouri looks to the operation of this survey upon the public domain, and there only.

Now, I think it would be hazardous, I think it would be premature, I think it would be dangerous, in the light of the fact that here is a survey not yet having finished its first year's existence, which started out with $100,000 and is now to be given by the action of the Committee on Appropriations $150,000 more; I think it would be extremely injudicious and unwise, reckless and hazardous, for this House to make that appropriation $300,000.

I have no quarrel with the Delegates representing the Territories of the country. With them I am agreed, for they do not want this, they are not asking it. Yet it is to their Territories and their Territories alone that this appropriation, if given, is to be applied by the provisions of the existing law and by the express provisions of the amendment which is now pending. It does not seem to me that it can commend itself to the sober judgment of this House. I trust, therefore, that the amendment will be voted down.

Mr. CANNON, of Illinois. One can say but little in five minutes upon a question of this kind. But I desire to call the attention of the committee to the fact that we have heretofore had very good surveys made under the leadership of three men, Lieutenant Wheeler, Mr. Powell, and Mr. Hayden. For eight or ten years they prosecuted these surveys.

If you count up the amounts for transportation given to Lieutenant Wheeler for past years you can get the total cost of these surveys when they were split up in that way, and it will run from $275,000 to $300,000 a year. Under the lead of the gentleman from Tennessee, [Mr. ATKINS,] the chairman of the Committee on Appropriations, and of another member of the Committee on Appropriations, not now a member of this House, Mr. Hewitt, the law was amended a year ago so as to consolidate these surveys and give them one head, with the view that they should not overlap each other, and that there should be intelligent work in this whole matter. I think that was a wise provision. And it was less than one year ago that that was done, and $100,000 was given for the first year's work. The gentleman from Georgia [Mr. BLOUNT] now says that there has been no report. There could be none, because none is due until the 1st day of December next.

Mr. BLOUNT. I simply meant that prior to getting the first report, and before we knew anything of the operations of this survey, it was proposed to give $300,000 to it.

Mr. CANNON, of Illinois. We know what have been the operations of these other parties which were sent out for ten years; we know their operations were very beneficent. We know that we have consolidated all the surveys and have put them under the direction and control of perhaps the most eminent scientists and geologists of this country.

The gentleman from Georgia [Mr. BLOUNT] now proposes to wait until we get the results before we give them any money to make the results with. You will wait forever if you pursue this beggarly policy of asking them to do work without giving them the tools with which to work.

I am not ready to agree with some gentlemen that we should not inquire concerning the great mineral wealth in one-half of the territory of the United States, embracing all the Territories in the aggregate, excluding Alaska. I believe in obtaining this knowledge, and I believe in the Federal Government obtaining it systematically and scientifically, and giving it to the public by the publication of the reports of these gentlemen, when they make their reports, and not for the benefit of one miner or for a hundred miners, but for the benefit of the whole forty-five millions of people in this country.

The gentleman from Montana [Mr. MAGINNIS] says that no practical results have been obtained from these surveys.

Mr. MAGINNIS. No, sir.

Mr. CANNON, of Illinois. I so understood the gentleman. I want to call attention to the fact that a single survey in Colorado has repaid to this Government in the incidental advantages which it obtains from the energy of its citizens a hundred-fold the total cost of these surveys from the commencement to the present time.

I would appropriate the whole $300,000 for this work, as proposed by the gentleman from Missouri, which would be $57,000 short of the estimate. I would give the necessary tools to work with. I would give facilities for making these surveys systematically, expecting that when the appropriation has been expended and the reports of the bureau have been made we shall get back our outlay multiplied a hundred-fold.

[Here the hammer fell.]

Mr. BLOUNT. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and Mr. TOWNSHEND, of Illinois, having taken the chair as Speaker *pro tempore*, Mr. HARRIS, of Virginia, reported that the Committee of the Whole on the state of the Union had had under consideration the sundry civil appropriation bill, and had come to no resolution thereon.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole for the purpose of considering the sundry civil appropriation bill, and, pending that motion, I move that all debate on the pending paragraph and amendments to the same be limited to five minutes.

Mr. WARNER. I move to amend by making it ten minutes. I would like to say a word or two.

The SPEAKER. Is the amendment accepted?

Mr. BLOUNT. No, sir.

Mr. WARNER'S amendment was not agreed to.

The motion of Mr. BLOUNT, to limit debate in Committee of the Whole, was agreed to.

The question recurring on the motion of Mr. BLOUNT, that the House resolve itself into Committee of the Whole, it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. HARRIS, of Virginia, in the chair,) and resumed the consideration of the sundry civil appropriation bill.

Mr. ATKINS. Mr. Chairman, if I should follow entirely my own opinion I would not concur altogether in the appropriation proposed in this bill for this geological survey. But in the Committee on Appropriations it was found that there were divergent views upon this subject, some members preferring that the amount should be larger and others that it should be less. Hence the amount was fixed at $150,000.

Mr. BLOUNT. The gentleman will allow me to ask whether the estimate of $350,000 was not based on the idea that a bill pending before Congress proposing to extend this survey into the States would become a law.

Mr. ATKINS. That may be true. Mr. Chairman, in five minutes it is utterly impossible for me to suggest the considerations that occur to me as proper to be discussed with regard to this subject. The object of the consolidation which was made a year ago under the lead of Mr. Hewitt and myself, as some gentlemen have been kind enough to state on this floor, was principally to organize a bureau for the purpose of surveying our public lands upon a uniform scale of measurement. As has been suggested by the gentleman from Illinois, there were three different surveys, one under Powell, one

under Hayden, and one under Wheeler. Each one of these surveys was conducted upon a different scale of measurement. Hence it would be impossible to use these surveys for any future operations in that direction, for the reason that the surveys differed among themselves. It was deemed important by the Academy of Sciences and other scientific authorities in this country that we should have a uniform scale upon which these public lands should be measured and these geological and mineralogical surveys conducted.

Another reason for the consolidation of the surveys was that under the three different surveying organizations many of the public lands had been surveyed two or three times; the surveys had been duplicated and triplicated. In some cases Wheeler, Hayden, and Powell had all surveyed the same identical territory. Thus hundreds of thousands of dollars were needlessly expended. To accomplish the different objects I have indicated it was considered necessary that these surveys should be unified and consolidated.

For the three surveys under Wheeler, Hayden, and Powell we appropriated last year $175,000; but that did not include transportation furnished to Wheeler and Hayden by the War Department. In the case of Wheeler this amounted to much more than the appropriation made by Congress. In the case of Hayden it amounted to many thousands of dollars, though not so much, perhaps, as the amount appropriated. The appropriation embraced in this clause, $150,000 for the geological surveys, does not equal the entire amount which was appropriated last year in actual money for these three surveying parties.

That this is an important bureau no gentleman on this floor will deny. I should dislike very much to see it cut down. I had hoped, however, that as the bureau is just starting $150,000 for the coming year would enable it to make its operations successful; and when this success has been demonstrated before Congress and the country in the reports of the bureau, it will then perhaps be time for Congress to increase the appropriation.

Mr. TOWNSHEND, of Illinois. Will my friend permit me to ask him a question?

Mr. ATKINS. Yes; I will permit my friend, but it throws me entirely off what I was saying.

Mr. TOWNSHEND, of Illinois. If the appropriation of $150,000 is inadequate to the proper support of the work, would it not be economical to increase it?

Mr. ATKINS. That may be so.

The CHAIRMAN. The gentleman's time has expired.

Mr. ATKINS. I have hardly begun.

The CHAIRMAN. There being no objection, the formal amendment will be considered as withdrawn, and the question recurs on Mr. BUCKNER'S amendment.

The committee divided; and there were—ayes 62, noes 59.

Mr. BLOUNT demanded tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. BUCKNER were appointed.

The committee again divided; and the tellers reported—ayes 72, noes 84.

So the amendment was disagreed to.

Mr. HUNTON. I now move to strike out "$150,000" and insert "$200,000."

Mr. WARNER. I hope that will be adopted. It is for the purpose of the dissemination of knowledge.

Mr. HUNTON. The question has been so fully discussed, Mr. Chairman, that I do not propose to say a word on the subject, and will ask for a vote.

The committee divided; and there were—ayes 57, noes 62.

So the amendment was rejected.

Mr. BLOUNT. I move, on page 39, before line 941, to insert the heading "ethnological researches," simply for the purpose of separating it from the other paragraph.

The amendment was agreed to.

Mr. KEIFER. I had the floor to offer an amendment prior to——

Mr. BLOUNT. Very well; I do not object.

Mr. KEIFER. I move, after line 940, on page 39, to insert the following:

For the preparation and completion, under the direction of the Secretary of War, of reports and maps and such other illustrations as may be necessary in completing the work of the geographical and topographical survey of the territories of the United States west of the one hundredth meridian, including the cost of engraving and printing, $30,000, to be immediately available.

Mr. BLOUNT. I rise to a question of order, that there is no authority of law for that appropriation.

Mr. KEIFER. I should like the gentleman to state his point of order, and then I wish to be heard on it before the Chair makes his ruling.

Mr. BLOUNT. I will send to the Clerk's desk to be read the paragraph which I have marked.

The Clerk read as follows:

For the salary of the Director of the Geological Survey, which office is hereby established, under the Interior Department, who shall be appointed by the President, by and with the advice and consent of the Senate, $6,000: *Provided*, That this officer shall have the direction of the geological survey and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain. And that the Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations; and the Geological and Geographical Survey of the Territories and the Geographical and Geological Survey of the Rocky Mountain Region, under the Department of the Interior, and the Geographical Surveys west of the one hundredth meridian, under the War Department, are hereby discontinued, to take effect on the 30th day of June, 1879. And all collections of rocks, minerals, soils, fossils, and objects of natural history, archæology, and ethnology made by the Coast and Interior Survey, the Geological Survey, or by any other parties for the Government of the United States, when no longer needed for investigations in progress, shall be deposited in the National Museum.

Mr. BLOUNT. Further, Mr. Chairman, with a view to completing and winding up that whole matter, there was an appropriation made for the completion of the reports of the Geographical and Geological Survey of the Rocky Mountain region with the necessary maps and illustrations, $20,000, to be immediately available. That was to wind up this survey west of the one hundredth meridian. The object of this law was to abolish all these other surveys and to combine them under this Geological Survey. For all the surveys which were abolished an appropriation was made for the purpose of winding them up. The amendment of the gentleman from Ohio is to continue a military organization which has been abolished by law and to provide an appropriation in this bill for its continuance when it has no legal existence.

Mr. KEIFER. Is is very true the law of the 3d of March, 1879, discontinued the geographical survey of the Territories under the direction of the War Department. It did not, however, totally discontinue the survey under the War Department. It did not interfere with other portions of that survey which had been continued from year to year substantially throughout the history of this country in some form or other. This is a most important survey, and most valuable to the country. It is one not only of great value to the War Department, but of equal importance on account of its great value to the whole country.

The topographical survey has not been discontinued by the terms of the law which the gentleman from Georgia has had read in the hearing of the committee.

But, Mr. Chairman, if this were true, even as claimed by the gentleman from Georgia, we find by looking to the same act of March 3, 1879, that an appropriation similar to the one now proposed to be made was put in that bill for the purpose of preparing the reports and performing other necessary functions for completing the work begun under the direction of the War Department west of the one hundredth meridian, commonly known as the Wheeler survey.

That appropriation was made, but that work is yet incomplete, and this is simply a proposition, not to make a new survey, but simply to continue that which never was discontinued, and for completing that which has not been completed. It is for the purpose of utilizing the vast amount of money which has been appropriated heretofore, to bring together what has only been partially brought together under the control of the Wheeler survey by the War Department. The proposition is to do exactly what was done under the act of 1879; that is, to make an appropriation to bring together all this work, to consolidate these duties, and to publish it in some form, so that the whole shall not be lost. It does not transfer the material collected by the War Department. It was not ordered to be transferred to the geological survey as organized under the act of March 3, 1879. This will all be utterly lost unless we can make some provision to take charge of it and carry out the object contemplated.

The proposition here is not to change existing law, but, in pursuance of law, to carry out and utilize the work which has already been begun, and which has in large part been done.

On the merits of the proposition I do not now speak, but I submit the point of order is not well taken.

Mr. BLOUNT. Mr. Chairman, I wish to say a word in response——

Mr. KEIFER. I have not yet concluded. I wish to say in addition that the paragraph immediately preceding the one that is proposed to be amended provides for making an appropriation of exactly the same character put in by the immortal Committee on Appropriations that never does anything wrong. I believe I understood the gentleman to say the other day it never could do anything wrong.

Mr. BLOUNT. The "gentleman from Georgia" never said any such thing.

Mr. KEIFER. Well, that is the impression that seems to have been drawn from the remarks of the gentleman here.

The CHAIRMAN. The Chair is ready to decide upon the point of order raised.

Mr. TOWNSHEND, of Illinois. Mr. Chairman, I desire to say a word upon this question before the decision is made.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HAWLEY. My friend from Ohio has presented his views in reference to this point of order very well, but, Mr. Chairman, there are some other considerations to be made. There is a fact, I think, which has been omitted in this connection to which attention ought to be called, and I hope opportunity will be given to discuss it.

The CHAIRMAN. The Chair regards the point of order as presenting a very plain question.

Mr. TOWNSHEND, of Illinois. I hope the Chair will give a little more time to the discussion upon this matter.

Mr. HAWLEY. I desire to submit a suggestion myself in this connection.

The CHAIRMAN. The Chair has heard already a speech for and one against the point of order and is ready to decide.

Mr. TOWNSHEND, of Illinois. I desire to be heard upon the point of order.

The CHAIRMAN. The Chair will hear a speech on each side if gentlemen desire it.

Mr. TOWNSHEND, of Illinois. There are some points in connection with this matter that I think ought to be clearly stated.

Mr. HAWLEY. The Chair, as I understand, has not decided yet upon the point of order, but withholds his decision.

The CHAIRMAN. The Chair has decided the point, but will hear gentlemen for five minutes on each side, and if reasons are given, of course the Chair will modify his decision.

Mr. HAWLEY. Mr. Chairman, the geological and geographical surveys were consolidated in the act to which reference has been made and which is now before me. I will not take the time of the committee in reciting that act now. But there is a subsequent act upon which I have been unable to lay my hand in the short time since this discussion has arisen which takes away the geographical work from King's geological survey, changing the system to that extent.

And I wish to call the attention of the committee to the fact that, aside from such little work as the Coast Survey does near the coast and large rivers and in the survey of the thirty-ninth parallel across the continent, we have not a dollar in any bill passed or pending before Congress providing for geographical and topographical surveys, and unless provision of that kind is made that whole work must necessarily be stopped. The importance of such work I need not state to this committee. You have over eight hundred thousand square miles of territory in this country on which the surveyor's chain has never been drawn and for the survey of which you will not have provided a dollar in any bill. You have no topographical survey provided anywhere in any bill.

Wheeler's survey of the country west of the one hundredth meridian remains incomplete. The data are in the office. You turned him over bodily to the geological survey, calling that a geographical survey also; but you have stricken out the "geographical;" so that that leaves no geographical survey provided for anywhere; only a mass of detail of field notes in Wheeler's office to be made up. This is for the completion of that old work; and even then there will not be a dollar left to survey topographically or geographically eight hundred thousand square miles and furnish the basis for a geological map, nor anything for the topographical maps the Army is so well qualified to prepare, which it always has been preparing, and which it needs.

Mr. TOWNSHEND, of Illinois. This point of order is not good. The War Department during the Forty-fifth Congress estimated this work; the work provided for in the amendment of the gentleman from Ohio would take two years to complete. They further estimated it would require $10,000 to complete the work. The last Congress by a provision in the sundry civil bill appropriated $20,000 to complete this work. I send to the Clerk's desk and ask to have read that provision of the sundry civil act for the fiscal year ending June 30, 1880.

The Clerk read as follows:

For the preparation of reports, maps and such other illustrations as may be necessary for completing the office work of the geographical surveys west of the one hundredth meridian, under the direction of the Secretary of War, $20,000; to be immediately available.

Mr. TOWNSHEND, of Illinois. Now, the last Congress having directed that this work should be completed, and having appropriated only $20,000 for it, the Secretary of War in the estimates submitted to this Congress asks that $30,000 more, making up the original amount that was suggested by him, shall be appropriated to complete this work. There is the law that has laid the foundation for the continuation of this work and for the appropriation. The amendment, therefore, stands upon a law already recognized by the Forty-fifth Congress.

I desire to say one further word in response to the gentleman from Georgia, [Mr. BLOUNT.] If you read again the provision with regard to the jurisdiction of the geological survey it will be discovered the geological survey does not supersede the geographical surveys. The jurisdiction of the geological survey is confined exclusively to the geology and does not include the topography of the country.

I submit, therefore, the amendment is in order, and it is right and proper we should adopt it.

Mr. BLOUNT. I will read again the provisions of the statute, the sundry civil act of 1880:

And the geological and geographical survey of the Territories, and the geographical and geological survey of the Rocky Mountain region, under the Department of the Interior, and the geographical surveys west of the one hundredth meridian, under the War Department, are hereby discontinued.

Mr. TOWNSHEND, of Illinois. But that does not retrench.

Mr. BLOUNT. The gentleman will allow me to complete the sentence which I am reading from the law:

To take effect on the 30th day of June, 1879.

And from that hour till this, no matter how the gentleman from Illinois may construe it, that has been regarded by the Department as conclusive, and no estimate has been sent by the Department in relation to it.

I have before me the Book of Estimates, made in pursuance of law. The thirty-six hundred and sixtieth section of the Revised Statutes provides that—

The heads of Departments, in communicating estimates of expenditures and appropriations to Congress, or to any of the committees thereof, shall specify, as nearly as may be convenient, the sources from which such estimates are derived, and the calculations upon which they are founded, and shall discriminate between such estimates as are conjectural in their character and such as are framed upon actual information and applications from disbursing officers.

The law goes on to provide that they shall send their communications through the Secretary of the Treasury. These estimates come in as the official information communicated to this House binding the Government.

Mr. TOWNSHEND, of Illinois. Will the gentleman allow me——

Mr. BLOUNT. I do not yield.

Mr. TOWNSHEND, of Illinois. The gentleman should not make assertions and refuse to allow himself to be set right.

Mr. BLOUNT. I will make whatever assertions I think right.

Mr. HAWLEY. Here is the estimate.

Mr. BLOUNT. Oh, I know the gentleman from Connecticut has a communication from the Secretary of War in relation to this matter. It is a communication, and is not an estimate in any sense known to the law. It is not here before us.

This organization, sir, has been abolished, and has been regarded as abolished. I know there are communications not only from the War Department, but from generals of the Army, asking, on the merits of the question, for the reinstatement of this survey on the ground it has not been essentially abolished.

The CHAIRMAN. The Chair will suggest to the gentleman from Georgia that he should confine his remarks to the point of order.

Mr. CLYMER. I desire to be allowed a word on the point of order. I fully concur in what the gentleman from Georgia has said. And I suggest the further point of order that under any circumstances the amendment is not germane to this bill.

Mr. TOWNSHEND, of Illinois. Why not?

Mr. CLYMER. Last year there was an appropriation of $20,000 made for the purpose of completing and winding up this survey. If that was not sufficient, and this further amount should be necessary for the same purpose, that would be in the nature of a deficiency, and belongs properly to the deficiency bill.

The CHAIRMAN. The Chair thinks the point of order made by the gentleman from Pennsylvania [Mr. CLYMER] would be good if the facts stated by the gentleman from Illinois [Mr. TOWNSHEND] were correct. But in addition to that this amendment has the effect of reviving a law which has been repealed, and therefore it is new legislation. The Chair sustains the point of order.

Mr. KEIFER. I appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the House?

The question being taken, there were—ayes 54, noes 35.

So (further count not being called for) the decision of the Chair was sustained.

The Clerk read the following:

For the purpose of continuing ethnologic researches among the North American Indians, under the direction of the Secretary of the Smithsonian Institution, $20,000.

Mr. BLOUNT. I move to amend by inserting before the paragraph just read the heading "National Academy of Sciences."

The amendment was agreed to.

Mr. STEVENSON. I move to amend the paragraph just read by striking out "$20,000" and inserting "$40,000, to be immediately available."

Mr. Chairman, I have offered the amendment increasing this appropriation for the sole reason that the amount proposed by the committee is wholly inadequate. The letters which I will have printed with my remarks will show that even a larger amount than I have proposed is considered necessary to the efficient prosecution of this work.

During the last few years Major Powell has made many valuable contributions to our stock of information pertaining to the North American Indians. The object of the present appropriation is to enable him efficiently to continue the work. The Secretary of the Smithsonian Institution, in a recent official communication to the Speaker of this House, says:

From the first the researches in question have been carried on with vigor, and the results already obtained, as shown in numerous publications and the large collections deposited in the National Museum, are of great scientific and general interest.

Mr. Chairman, the plan proposed by Major Powell, and which with his well-known energy and ability will be successfully carried out, embraces a discussion of the manners and customs of the North American Indians, of their religion and language. It will likewise embrace, in so far as it is possible to trace it, a history of each tribe, with its dealings with the white race to the present time.

Under his supervision catalogues have been made of all that has been written touching the history, literature, religion, and customs of this race. His atlas shows the location of the various tribes when the white race first took possession of this continent; the sites of the ancient villages; the successive cessions of lands to the whites; the various removals of the tribes, whether compulsory or voluntary; the localities where agricultural pursuits have been most extensively followed and schools for them have been established.

Another important service has been the collection of the necessary

data, including copies of all reports, treaties, and other official documents, with a view to the preparation of a legislative history of the Indian race. The interest and value of such a work will be great.

Much attention has been given by Major Powell to the study of the different Indian languages. This includes a study of their various sign and picture languages. Much curious and interesting information of this character has already been accumulated. In addition to this, the discussion of the unwritten laws and customs of this people, the ties which hold them together in barbarous or semi-civilized relations, of their habits, arts of war, marriage, &c., all these cannot fail to be both interesting and instructive to the more favored race which now holds undisputed sway over this continent.

Mr. Chairman, few of us fully realize the immense material there is upon the western confines of our continent for the study of primitive man. There are to be found the pueblos, mounds, and ruins, all telling of a race which once occupied portions of this continent. Many of these antiquities have been removed to foreign countries as valuable additions to their libraries and museums. Professor Baird, in the letter to which I have referred, says:

Collectors amply provided with means have been engaged for several years in securing objects from the modern tribes and in disinterring the contents of aboriginal graves and mounds, the results being carried away almost in ship-loads to foreign museums. An immense collection from the coasts of California, Oregon, and Alaska has recently been transmitted to a government museum in Paris by an agent sent to the United States for that purpose. Another French expedition will soon be under way for the almost virgin archæological fields of Arizona and New Mexico.

Mr. Chairman, we will all agree with the distinguished Secretary that this Government should retain and preserve the historical monuments of our aborigines. Great services in this as well as in other departments of learning have been rendered by Major Powell and his associates. The small appropriation asked will enable them to make still greater contributions to our history, contributions of great interest to the present, but of untold value to coming generations.

This, sir, is one of the many ways in which can be executed the will of the generous founder of the Smithsonian Institution, by which he gave to our country the magnificent bequest for "the increase and diffusion of useful knowledge among mankind."

SMITHSONIAN INSTITUTION,
Washington, D. C., April 15, 1880.

SIR: I have the honor to transmit herewith a statement by Major J. W. Powell, relative to the subject of investigations into the past and present condition of the Indian tribes of the United States—a work in which he has been engaged during the past ten years, and commenced under the direction of the Smithsonian Institution, in accordance with an enactment of Congress. Subsequently it was continued by Major Powell, as Director of the United States Geographical and Geological Survey of the Rocky Mountain Region, the Smithsonian Institution assisting by placing in his hands all the materials collected by its collaborators in this branch of science.

By act of Congress approved March 3, 1879, the work was again placed under the control of the Smithsonian Institution and Major Powell charged with its immediate supervision for the purpose of continuing the systematic investigations he had previously organized.

From the first the researches in question have been carried on with vigor, and the results already obtained, as shown in numerous publications and the large collections deposited in the National Museum, are of great scientific and general interest.

The plan proposed by Major Powell provides for a systematic and complete account of the aboriginal inhabitants of this country—a work of importance from the fact that at no distant time the opportunity will disappear, as the Indian tribes in their primitive condition are rapidly passing away before the advance of civilization.

A further argument for immediate action is furnished by the fact that exhaustive researches are now being prosecuted within our own territory by foreign nations. Collectors, amply provided with means, have been engaged for several years in securing objects from the modern tribes and in disinterring the contents of aboriginal graves and mounds, the results being carried away—almost in ship-loads—to foreign museums. An immense collection from the coasts of California, Oregon, and Alaska has recently been transmitted to a government museum in Paris by an agent sent to the United States for the purpose. Another French expedition will soon be under way for the almost virgin archæological fields of Arizona and New Mexico.

The retention by a country of its own historical monuments has been considered of such moment that laws have been passed by several foreign governments prohibiting the exportation of antiquities. Such laws prevail in Denmark, Greece, Mexico, and elsewhere; and while it may not be practicable or desirable for the United States to follow their example, we may at least anticipate foreigners by collecting such objects and transferring them to the National Museum in Washington. Unless some such action be taken at an early day it will be necessary to depend upon European museums for the material for investigating the antiquities of the United States.

For the foregoing reasons I would respectfully urge the careful consideration of Major Powell's suggestions and that such appropriations be made as Congress, in its wisdom, may think proper.

I am, sir, very respectfully, your obedient servant,
SPENCER F. BAIRD,
Secretary.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

SMITHSONIAN INSTITUTION,
BUREAU OF ETHNOLOGY, (*J. W. Powell in charge,*)
Washington, D. C., April 2, 1880.

DEAR SIR: Ethnographic researches among the North American Indians have been carried on by myself and under my direction for the last ten years. During the second session of the Forty-fifth Congress the various geographical and geological surveys were consolidated and reorganized by the establishment of a geological bureau in the Interior Department. In the act affecting this change it was provided that the ethnographic researches previously conducted by myself should be continued under the direction of the Smithsonian Institution, and an appropriation was made therefor.

These ethnographic studies have heretofore embraced the following subjects:

1. That portion of somatology relating to the skeleton, and especially to the crania, of the North American Indians. In this department large collections have been made.

2. *Philology.*—Under this head a great number of the languages of the North American Indians have been studied, and a tentative classification of the linguistic stocks has been made.

In connection with this work a map of the United States has been prepared, exhibiting the original homes of the several linguistic families.

Much has also been done in the study of the sign language of the Indians, and large collections of pictographs have been made.

3. *Mythology.*—A very large collection has been made of the myths of the various tribes of Indians scattered throughout the United States.

4. *Sociology.*—The line of investigation originally pursued by Mr. Lewis H. Morgan, the results of which were published by the Smithsonian Institution, has been continued under my direction, and a large body of material relating to the organization of the family, clan, tribe, and confederacy among our North American Indians has been collected.

5. *Habits and customs.*—In this field also much has been done, especially in relation to their mortuary customs and religious observances.

6. *Technology.*—In this field extensive investigations have been pursued relating especially to the pristine dwellings of the Indians, beginning in caves and lodges made of brush and bark, and culminating in the pueblo structure of the southwestern portion of the United States. This rude architecture has been studied with special reference to the domestic life of the Indians. Their arts as exhibited in their stone implements, their pottery, their bows and arrows, their clothing, ornaments, &c., have been studied, and a large collection made for the National Museum.

7. *Archæology.*—Much has been done in this branch of investigation, especially in California, where the works of extinct races are buried in great profusion. Throughout Arizona, New Mexico, Colorado, Utah, and a part of Wyoming ruins of ancient pueblos are also found in great abundance. The researches in this field have been of wide extent.

8. History of Indian affairs, including treaties, cessions of lands by the Indians, removals, the progress of the Indians in industrial arts, and especially the efforts made to induce them to become agriculturists and manufacturers, the distribution of lands among them in severalty, and the efforts made to establish schools among the Indians and elsewhere for their education.

A large number of persons, including missionaries and teachers among the Indians, Indian agents, Army officers, scholars connected with the colleges of the United States, and others are assisting in this general work.

In the progress of settlement the western portion of the United States is being rapidly filled by people from the eastern portion, so that at present there is no valley of magnitude uninhabited by white men. Rapidly the Indians are being gathered on reservations where their original habits and customs disappear, their languages are being modified or lost, and they are abandoning their savagery and barbarism and accepting civilization. If the ethnology of our Indians is ever to receive proper scientific study and treatment the work must be done at once.

In view of the facts briefly set forth above, I would respectfully request that you forward to Congress this statement, with an estimate for "$50,000 *for the purpose of continuing ethnologic researches among the North American Indians, under the direction of the Secretary of the Smithsonian Institution,*" if the same meets with your approval.

I am, with respect, your obedient servant,
J. W. POWELL.

Prof. S. F. BAIRD,
Secretary Smithsonian Institution.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and Mr. TOWNSHEND, of Illinois, having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, without amendment, a joint resolution of the House of the following title:

A joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution of the House to print 300,000 copies of the annual report of the Commissioner of Agriculture for 1879.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The message further announced that the Senate had passed, and requested the concurrence of the House, in a bill and a joint resolution of the following titles:

A bill (S. No. 1755) granting an increase of pension to Horace Boughton; and

Joint resolution (S. R. No. 117) authorizing the Secretary of War to loan the Governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT. I ask unanimous consent that the bill of the House No. 6207, making appropriations for the Agricultural Department of the Government, just returned from the Senate with amendments, be taken from the Speaker's table, referred to the Committee on Agriculture, and, with the Senate amendments, ordered to be printed.

There was no objection, and it was so ordered.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The question was upon the amendment of Mr. STEVENSON, to amend the clause in relation to ethnological researches among the North American Indians by increasing the appropriation from $20,000 to $40,000.

Mr. BLOUNT. I have no doubt that this is a very interesting subject, and I should have been very glad to have listened longer to my friend from Illinois, [Mr. STEVENSON.] I have only this to say, how-

ever: these investigations have been going on for a series of years without authority of law, for ten years, and their expenses have to a great extent been paid out of the appropriations for surveys, which I regard as an improper diversion of that fund. Nevertheless, the investigations have been in progress for a long time.

There is no estimate at all for this purpose. There was a communication from the Secretary of the Smithsonian Institution asking for an appropriation, and the majority of the Committee on Appropriations thought it best to fix the sum at $20,000, and they have so reported. I hope my friend from Illinois and the Committee of the Whole will be content with that sum, which is a larger amount than has ever heretofore been appropriated for this purpose.

Mr. HOOKER. I think the amendment offered by the gentleman from Illinois [Mr. STEVENSON] ought to receive the favorable consideration of this committee. If the argument made against it by the gentleman from Georgia [Mr. BLOUNT] is made on good and sufficient grounds, then he and his committee should not have reported anything for this purpose. If, as he asserts, there has been a malapplication of the money heretofore appropriated for surveys during the last ten years, then clearly the Committee on Appropriations have committed a great error. If his position is at all correct that this great and important work should be abandoned——

Mr. BLOUNT. The gentleman certainly misapprehends me.

Mr. HOOKER. I understood the gentleman to say that the money appropriated for the last ten years for surveys had been misapplied to this purpose, and that there was no necessity for it at all. I say to the gentleman if his premises are correct his conclusions are erroneous.

Mr. BLOUNT. I have no doubt the gentleman is right about that.

Mr. HOOKER. I send to the Clerk's desk to be read a letter on this subject from the Secretary of the Smithsonian Institution.

The Clerk proceeded to read the letters appended to the remarks of Mr. STEVENSON. Before the reading was concluded the hammer fell.

Mr. HOOKER. I ask that the reading of the letter may be finished.

Several MEMBERS. Let it be printed.

Mr. HOOKER. I would prefer to have it read now for the information of the Committee of the Whole.

Mr. ATKINS. I move that the committee rise for the purpose of having the House consider the amendments of the Senate to the pension deficiency bill. It is important that action be taken at once with a view to payments to be made by the Pension Bureau on the 4th of June next.

The motion of Mr. ATKINS was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HARRIS, of Virginia, reported that the Committee of the Whole on the state of the Union had had under consideration the sundry civil appropriation bill, and had come to no resolution thereon.

PENSION DEFICIENCY APPROPRIATION BILL.

Mr. COBB. I move to take from the Speaker's table the amendments of the Senate to the bill (H. R. No. 6239) making appropriations for a deficiency in the appropriation for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes.

There being no objection, the motion was agreed to.

The SPEAKER. What action does the gentleman from Indiana [Mr. COBB] ask on these amendments?

Mr. COBB. I am directed by the Committee on Appropriations to move that the House concur in the amendments.

The amendments of the Senate were read and concurred in.

Mr. COBB moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I move that the House again resolve itself into Committee of the Whole to resume the consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. HARRIS, of Virginia, in the chair,) and resumed the consideration of the sundry civil appropriation bill.

Mr. BLOUNT. I have before me the sundry civil appropriation act of 1879, which contains an appropriation in this language:

For the completion of the reports of the Geographical and Geological Survey of the Rocky Mountain Region, with the necessary maps and illustrations, $20,000; to be immediately available.

This is the sort of appropriation under which this work has been going on. When an effort was made to abolish these surveys the Committee on Appropriations recommended and Congress passed in the sundry civil appropriation act of 1879 the following provision:

For completing and preparing for publication the Contributions to North American Ethnology, under the Smithsonian Institution, $20,000: *Provided*, That all the archives, records, and materials relating to the Indians of North America, collected by the Geographical and Geological Survey of the Rocky Mountain Region, shall be turned over to the Smithsonian Institution, that the work may be completed and prepared for publication under its direction: *Provided*, That it shall meet the approval of the Secretary of the Interior and of the Secretary of the Smithsonian Institution.

This, in the past, has been the language of the appropriations for the surveys of which Major Powell has had charge. Yet these ethnological investigations have been going on all the while for the last ten years. I think that an appropriation of $20,000 is quite ample.

The question being taken on the amendment of Mr. STEVENSON, there were—ayes 37, noes 44.

Mr. STEVENSON. I make the point that no quorum has voted.

Tellers were ordered; and Mr. BLOUNT and Mr. STEVENSON were appointed.

The committee divided; and the tellers reported—ayes 73, noes 78.

So the amendment was not agreed to.

The Clerk read as follows:

For the expenses incurred by the committee of the National Academy of Sciences during their consideration of the scientific surveys of the Territories, $400.

Mr. BLOUNT. After the paragraph just read I move to amend by inserting as a heading to the succeeding paragraph the words "Biennial Register."

The amendment was agreed to.

The Clerk read as follows:

TENTH CENSUS.

To meet the expenses of enumeration and compilation attendant upon the taking of the tenth census, (including printing and engraving, $125,000,) to be expended under the direction of the Secretary of the Interior, $2,875,000.

Mr. COX. I move to amend by inserting after the clause just read the following:

Provided, That the public exhibition and correction of the schedules of population provided by the sixth section of the act approved April 20, 1880, shall only take place when the enumerator shall be requested thereto in writing by five reputable citizens resident in the enumeration district.

Mr. KEIFER. I desire to reserve a point of order on this amendment. I do not understand its object.

Mr. COX. The object is to save about $200,000 without destroying the efficiency of the census service in any particular. This amendment has the sanction of General Walker, the Superintendent of the Census, and I can show to the gentleman in five minutes or less just how this saving will be made.

Mr. KEIFER. Reserving the point of order, I have no objection to hearing the gentleman.

Mr. COX. By the census act of the last Congress the sum of $3,000,000 was the limitation to the expense of taking the tenth census. The Senate, however, passed at the present session a bill appropriating for this purpose the additional sum of $375,000. Upon a conference between the House and the Senate we struck out all of this increase except $125,000, which was intended to carry out the sixth section of the act of April 20, 1880. That sixth section provided in the first place for the filing in the county clerk's office of the name, age, sex, and color of the persons enumerated. In the second place, it required there should be a sort of census court of correction at the county seat. The first provision required a cost of ten cents per hundred words, and at fifty millions of people it would cost $50,000. The second part required two days' session of these enumerators at the county seat, at the cost of $2.50 a day each, or $5 for the two days, making $140,000. The two together amount to $190,000. We propose to get rid of that large cost. How? By requiring no such court of correction shall be held at the county seats except when five reputable people call for it. For it was the opinion of the Superintendent and the opinion of those who considered it that in very few places, perhaps a dozen in the South, none in New England, none in the North, none in the West—that in very few places would there be a demand for a correction of the list of population, age, sex, name, &c. So until this demand is made this enormous expense will not accrue to the Government.

And I therefore ask my friend from Ohio, although his point of order is not well taken as I can show, not to insist upon it, for there is no other mode to make this retrenchment, no other mode to give so much efficiency to the taking of the census. I will now answer any question any gentleman may wish to ask me. [Cries of "Vote!" "Vote!"]

Mr. KEIFER. I still reserve my point of order.

Mr. COX. Then he wants to add $200,000 to taking the census without giving it any additional efficiency.

Mr. KEIFER. I am not satisfied that is the fact.

Mr. COX. General Walker, the Superintendent of the Census, says so.

Mr. CONGER. This is an afterthought. It has an object. I think the correction of any improper enumerations should be made at the time and in the counties where it occurred. If this was too expensive to be put in the original bill, it should have been thought of then.

Mr. COX. It was not in the original bill.

Mr. CONGER. It was put in the Senate.

Mr. COX. Yes; it was put in the Senate and we opposed it, and our conference opposed it. We cut off $250,000, but this was retained. We did our best in cutting it down $250,000. We proposed, by a wise revision, to get rid of this expense, which is entirely unnecessary.

Mr. CONGER. I think this is one of the best safeguards in the bill.

Mr. COX. Who said so?

Mr. CONGER. It provides for a correct return of the enumeration.

Mr. COX. You can have the same thing precisely——

Mr. CONGER. I hope the gentleman from Ohio will insist on his point of order.

Mr. COX. You can have the same safeguard when it shall be demanded by five reputable citizens.

Mr. DWIGHT. Suppose they do not know it?

Mr. COX. That is *prima facie* evidence there is no call for it.

Mr. DWIGHT. Suppose they do not know it?

Mr. COX. I am willing to trust something to the honor and efficiency of the men who are to take our census.

Mr. KEIFER. I insist on my point of order.

The CHAIRMAN. The Chair would like to hear from the gentleman from New York on the question of whether it retrenches expenditure.

Mr. COX. I have already stated that; that it does save to the Government $200,000.

The amendment was again read.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. KEIFER. I do.

The CHAIRMAN. The Chair sustains the point of order for this reason——

Mr. COX. I thought the Chair wanted to hear me on the question of retrenchment.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. COX. This directs how the money appropriated shall be expended.

Mr. KEIFER. There is a further point of order; that, after the decision of the Chair has been made, debate is not in order.

Mr. COX. When I was in the Chair I allowed the gentleman from Ohio to speak on a point of order forty minutes, and now he proposes to cut me off. Oh, the generosity of such people!

The CHAIRMAN. The Chair desires to hear the gentleman from New York.

Mr. KEIFER. Very well, if the Chair desires to hear him.

Mr. COX. I say by the sixth section of the act of 1880 there are two requisites. In the first place, that the enumerator shall make and file at the office of the clerk of the county or the office of the clerk of a court of record, or board administering the affairs of a county, a list of the name, age, sex, and color of the persons enumerated by him. As I have shown, this will cost $50,000 if our population turns out to be fifty millions. We save that amount by this proviso. In the next place, it is required the enumerators shall attend two days at the county court-house of the county for correcting all omissions or mistakes in the enumeration, for which service they are paid $2.50 a day each, or $5 for the two days. That saves $140,000.

So this bill will practically save $190,000 minus the sum which may be expended where there are districts demanding through five reputable citizens a correction. In that case of course the law will be complied with. Therefore the whole saving in this bill will be something near $200,000, minus some five or six thousand dollars. That is the opinion and estimate of General Walker, and I have the estimate here, which I wish to print with my remarks, directing how the money shall go in the line of economy.

The CHAIRMAN. The Chair will decide the question of order. This amendment proposes that the public exhibition and correction of the schedules of population provided by the sixth section of the act and so on shall only take place under certain contingencies. It is therefore a proposition as to how this money shall be expended, and therefore a proposition to change existing law. It is provided that this correction of the schedule shall only take place when the enumerator shall be requested thereto in writing by five reputable citizens. The law provides that this shall be done in every case.

Mr. COX. This, then, does not add to the expenses.

Mr. HAWLEY. But it will be no saving.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

MISCELLANEOUS OBJECTS.

Government Hospital for the Insane:

Current expenses, Government Hospital for the Insane: For support, clothing, and treatment in the Government Hospital for the Insane of such persons as are entitled to admission therein under the provisions of chapter 4 of the Revised Statutes of the United States, $138,000.

For general repairs and improvements, $5,000.

For furnishing and fitting a relief building, including heating apparatus, $15,000.

Mr. BARBER. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Insert between lines 974 and 975: "For repairs and improvements in United States Marine Hospital building and grounds at Chicago, Illinois, $15,000."

Mr. BLOUNT. I raise the point of order that that is not germane to the bill and it changes existing law.

The CHAIRMAN. Does the gentleman from Illinois desire to speak to the point of order?

Mr. BARBER. Yes, sir; I would like to know why it is not germane, in the first place? These are miscellaneous objects provided for under this head.

Mr. BLOUNT. I would like to have the amendment again reported.

The amendment was again read.

Mr. BLACKBURN. If the gentleman from Illinois will permit me, there is an amendment which I want to offer which meets the approval of the committee, and which ought to go in before his, as it belongs to lines 973 and 974. If the gentleman from Illinois will yield, therefore, I will move to amend by inserting, after the word "dollars," in the lines indicated, the words "to be immediately available." I will ask the Clerk to report the amendment.

The Clerk read as follows:

Add to line 974, after the word "dollars," the words "to be immediately available."

The amendment was agreed to.

Mr. BARBER. I do not understand, Mr. Chairman, that the objection raised by the gentleman from Georgia to the amendment I offered is tenable. This is a deficiency bill.

Mr. BLOUNT. We have passed that part of the bill where the amendment of the gentleman would be germane.

The CHAIRMAN. The Chair is ready to decide the point of order. The amendment on its face purports to be an original proposition to make repairs, not to continue existing work. The Chair rules, therefore, that it is out of order.

Mr. COX. I move to strike out the last word of the section, and I do that for the purpose of getting consent to publish General Walker's letter to show that there will be a deficiency of $75,000 if this bill is carried out as it is proposed to be carried out, and to show that the amendment which I have offered will save the amount which I have stated, but which I have not been able to get into the bill, thanks to the gentleman from Ohio.

Mr. CONGER. If it is desirable to supply that deficiency now it is a very good time for the gentleman to make the offer. We all want a satisfactory census bill.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The communication is as follows:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., May 13, 1880.

SIR: I have the honor to invite your attention to the fact that the provision made by the seventh section of the act approved April 20, 1880, is inadequate to the service required by the next preceding section of that act.

The sixth section requires that the enumerator, on completing the canvass of his district, shall perform two services in addition to those prescribed by the act of March 3, 1879:

First. "To make and file in the office of the clerk of the county court, or in the office of the court or board administering the affairs of the county to which his district belongs, a list of the names, with age, sex, and color, of all persons enumerated by him."

For this service it is provided that he shall be paid at the rate of ten cents per one hundred names.

Secondly. To attend, for two days, at the court-house of the county, for the purpose of correcting all omissions and mistakes in the enumeration, for which service it is provided that he shall be paid a sum to be fixed by the Superintendent of the Census, in no case to exceed $2.50 per day.

For these two services as above an aggregate appropriation of $125,000 is made by the seventh section of the act. I cannot but regard the appropriation as inadequate to this purpose.

For the first of these services the enumerator is to be paid at a fixed rate.

If we assume the population of the country to be fifty millions, the amount to be paid on this account will be $50,000. This will leave but $75,000 with which to compensate enumerators for their attendance at the county seat and the correction of the returns.

The number of enumerators at the approaching census will be close upon 28,000. It does not appear to me that anything less than the full maximum allowance in this case, $2.50 a day, can properly be paid for this service, especially when it is considered that no allowance is made for traveling expenses in going to and remaining at the county seat during the time indicated. Even where the traveling expenses are small, $2.50 a day appears to be no more than should be paid an enumerator for this service. But in perhaps a majority of cases the total sum of $5 (being $2.50 for two days) will be nearly or quite consumed in the service, leaving the enumerator little or nothing for his time and trouble.

In the case of some counties even, particularly those upon the frontier, the sum of $5 allowed will be inadequate to the expenses of travel incurred. Many enumerators will have to go thirty, forty, or fifty miles by expensive conveyance, and stay two days at hotels where the charges will be equal to their per diem allowance. The duty imposed by the sixth section of the act approved April 20, 1880, will thus be in the nature of a fine imposed upon enumerators—a deduction to be made from the amount of compensation earned by them in the canvass of their districts.

I cannot believe, therefore, that the interests of the census will allow a smaller allowance than the maximum for this service.

But, if the allowance is to be fixed at $5 for the two days of attendance, and the number of enumerators reaches, as estimated, twenty-eight thousand, the total payment on this account will be $140,000, which, added to the $50,000 paid for making and posting lists of enumeration, and $5,000 necessary to defray the expenses of paper and printing, will bring the total expenditure required by this act up to $195,000.

The estimate which I had the honor to submit to the committee for the cost of this service was $200,000.

In view of the facts and considerations above recited, I respectfully recommend that an additional appropriation of $75,000 be made for carrying into effect the provisions of the sixth section of the act aforesaid.

I have the honor to be, very respectfully, your obedient servant,

FRANCIS A. WALKER,
Superintendent of Census.

Hon. SAMUEL S. COX, M. C.,
Chairman Joint Committee on Census,
House of Representatives.

The Clerk read as follows:

For erection and fitting up of a gymnasium for the use of the students and pupils, $5,000, and for the improvement and inclosure of the grounds of the institution, $2,500; in all, $7,500: *Provided*, That hereafter one-half of the expenses of this institution shall be paid out of the revenues of the District of Columbia.

Mr. HUNTON. Mr. Chairman, I raise the point of order on the proviso contained in this paragraph. It changes existing law, and it does not, upon its face, retrench expenditures.

Mr. BLOUNT. On the question of order raised by the gentleman from Virginia I have only to say this: that the persons in this institution from the District of Columbia have to be paid for now out of the general fund and appropriation for the whole country, and this provision which the gentleman from Virginia desires to have stricken

out is simply to relieve the United States of one-half of the expense. The Chair will notice, of course, that the laws as they now stand require an expenditure on the part of the Government, a portion of which will be saved by this proviso, and consequently to that extent it does retrench expenditures upon its face.

The CHAIRMAN. The Chair is ready to decide the question of order.

Mr. HUNTON. Before deciding the point I desire to say a word in response to the gentleman from Georgia.

According to existing law this institution is wholly a Federal institution, and up to this moment has been supported out of the Federal Treasury, and therefore to put upon the District of Columbia one-half of the expenses of the institution is a clear change in existing law. It does not retrench expenses, because on its face there is no diminution of the expenditures for the support of the institution. In regard to the persons put into this institution by the District of Columbia, the statement of the gentleman from Georgia is undoubtedly true; but there are persons in that institution from every State in this Union as well as from the District of Columbia, and why the District should not participate in the benefits to be derived from it to the same extent that the States participate in a Federal institution I am at a loss to understand.

Mr. BLOUNT. I desire to have read in this connection sections 4864, 4865, and 4866 of the Statutes at Large.

The CHAIRMAN. The Chair thinks it is unnecessary to take up time in the discussion of this question and is ready to decide the point of order at once. The Chair thinks that although upon its face it appears to be new legislation it evidently retrenches expenditures. It retrenches expenditures in this, that one-half of the expenses that have heretofore been paid by the General Government are now to be paid out of the revenues of the District of Columbia, and therefore it does retrench expenditures to that extent. The Chair therefore holds that the point of order is not good.

Mr. HUNTON. Then I move to strike out the proviso.

The CHAIRMAN. The Clerk will read the pending proposition.

The Clerk read as follows:

Strike out all after the word "dollars," in line 986, as follows:

"*Provided*, That hereafter one-half of the expenses of this institution shall be paid out of the revenues of the District of Columbia."

Mr. HUNTON. As I said a while ago, this is a Federal institution, and never, until now, has one cent been appropriated to the support of the inmates of that institution by the District government. There are one hundred and eighteen persons in that institution, and of those one hundred and eighteen persons twenty-three are from the District. And yet the gentleman from Georgia has reported a provision here putting upon the District government the support of one-half of all the inmates of that institution. I have before me the report of the president of the institution from which I get this fact: that there are one hundred and eighteen students and only twenty-three of them are from the District of Columbia.

I desire, Mr. Chairman, to call the attention of the committee to the provision in the organic act providing a permanent form of government for the District of Columbia, by which the District is charged with one-half the cost of maintaining the various institutions belonging to the District and the Federal Government with the other half. Any gentleman who will pay attention to the reading of the clause of that act will find that this institution is not one of those which the District has to contribute to support:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail * * * the cost of maintaining all public institutions of charity, reformatories, and prisons, belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia.

This institution is controlled altogether by the Federal Government, and under the organic act the District government is not liable to pay one cent of the expenses. It is a national institution for the purpose of receiving these inmates from all the States and Territories in the Union. It receives inmates from every State and Territory just as much as it does from the District of Columbia; and I trust, Mr. Chairman, no part of the maintenance of this institution will be placed upon the District of Columbia.

Mr. BLOUNT. My friend from Virginia certainly misunderstands the nature of this institution. The law expressly declares that all deaf and dumb persons of teachable age, and in indigent circumstances, properly belonging to the District of Columbia shall be sent there by order of the Secretary of the Interior. It is an institution primarily for the District. There is a provision allowing that forty persons outside of the District may come to the institution, but the number of such shall not exceed forty; and the Government do not pay for them. They are compelled to pay their own way. The only persons who are educated free of charge here are the deaf and dumb persons belonging to this District. I cannot see why this District should not pay one-half the expense of educating its own deaf-mutes when deaf-mutes from everywhere else except forty are excluded from the institution.

Mr. HUNTON. Where does the gentleman get all that?

Mr. BLOUNT. In sections 4864, 4865, and 4866 of the Revised Statutes.

Mr. HAWLEY. I hoped this excellent institution had passed through its fiery trial. It has been established something like twenty-three years, and has been through debate after debate and been hammered and hammered, but has prospered in spite of it all.

Now, in the first place, this is not a mere primary and preparatory or even academical school like the others of our deaf and dumb asylums in the various States, the original one having been established in my own State of Connecticut. These asylums take the deaf and dumb children unable to make anything but natural signs and teach them, putting them through a common school and also perhaps an academical course. But the Government has built up in this District what you may call a university for deaf and dumb scholars, and the instructors in that institution take those who graduate from our State institutions and furnish them a collegiate course here.

Mr. BLOUNT. Who pays for them?

Mr. HAWLEY. The United States Government very largely.

Mr. BLOUNT. Not at all.

Mr. WASHBURN. Who, then, pays for them?

Mr. HAWLEY. The gentleman from Minnesota very properly asks who does pay for them, and I repeat his question.

Mr. BLOUNT. They pay their own way. The statute expressly provides the Federal Government shall not pay for them.

Mr. WASHBURN. As a matter of fact, I know personally that is not the case.

Mr. BLOUNT. I refer the gentleman to the law.

Mr. HAWLEY. I am speaking as to what is the fact. I do not know what the precise terms of the statute are, and could not give its exact construction without stopping to look at it. But I know this, that this deaf and dumb institution has worked its way through Congress until it is now a Government, I might almost say a congressional institution. Here among the names of the trustees and directors I find the names of THOMAS F. BAYARD, Senator from Delaware; J. T. HARRIS, Member of Congress from Virginia; WILLIAM CLAFLIN, Representative from Massachusetts; H. L. DAWES, Senator from Massachusetts; William E. Niblack, who was in Congress formerly as a Representative from Indiana. I have named five out of the eight directors of the institution. Not a single member of the District government is one of the directors. And I affirm, proceeding upon the assertion of a former commissioner of the District, that no pupil has ever gone there by order of the District commissioners.

The Government of the United States has established this institution and opened its doors, and it says to the children of this District that they may come in there as primary scholars; and once in a while when a pupil shows himself to be fit and more than ordinarily intellectual he goes up and is admitted to the collegiate course. It is a national deaf-mute university with a primary department to which scholars may come from the District as well as from other parts of the United States, and we have paid its expenses for a series of years. It went through a terrible trial a few years ago. There was a severe discussion of the whole theory upon which it was maintained, and it was then established according to the provisions of law, which the Appropriations Committee has since followed in making appropriations for it until this bill came in.

I say there is no justice in putting this upon the people of the District of Columbia. If at this late day, after having practiced to the contrary for years, you are to take a slate and pencil and figure out how many pupils in this institution are from the District of Columbia, when you do not do that in regard to the States of the Union, then all I have to say is that you have put two or three times too much in this bill. I affirm that scarcely one-fourth of the pupils in this institution come from the District of Columbia, and those are in the primary and least expensive department, while the pupils at large represent from twenty-five to twenty-seven States of the Union, and the graduates of the institution represent thirty-one States.

Without asking the District of Columbia whether it wished for this institution or not, without giving it any share in its control, you have made it a purely national institution. Now, do not let us try to saddle on the District of Columbia the expenses of an institution which you have built up for the benefit of the whole country.

Mr. BLOUNT. I move to strike out the last word, for the purpose of having read by the Clerk section 4865 of the Revised Statutes.

The Clerk read as follows:

Deaf mutes not exceeding forty in number, residing in the several States and Territories, applying for admission to the collegiate department of the Columbia Institution for the Instruction of the Deaf and Dumb, shall be received on the same terms and conditions as those prescribed by law for residents of the District of Columbia, at the discretion of the president of the institution; but no student coming from either of the States shall be supported by the United States during any portion of the time he remains therein.

Mr. BLOUNT. That statute provides simply for forty pupils from the different States, and the Government refuses to pay any of the charges.

Mr. HAWLEY. The Government pays for the buildings and the salaries of the professors. The cost of the board and clothing of the pupils is another affair.

Mr. BLOUNT. What the Government pays is simply a donation to charity.

Mr. HUNTON. This proviso says——

Mr. BLOUNT. Is my time out?

The CHAIRMAN. The Chair thought the gentleman had concluded his remarks.

Mr. BLOUNT. No, sir. I want to add further that if it is found by the reports that there are in that institution persons not entitled to be

there by law, then that is so much the stronger reason why we should protect ourselves from that abuse. It certainly is right and proper that the District of Columbia should pay half of the expense proper. There are a great many things for which the General Government pays one-half and more of the expense and does not receive one-tenth of the benefit. It does not become this District to take issue upon a matter of mathematical calculation as to the mere number of persons admitted to this institution.

Mr. HUNTON. The language of the proviso is as follows:

Provided, That hereafter one-half of the expenses of this institution shall be paid out of the revenues of the District of Columbia.

As I read that proviso, if it shall be adopted, hereafter the District of Columbia will have to pay one-half of the cost of these additional buildings, one-half of the cost of fitting up the gymnasium, one-half of the cost of repairs, and all that upon property owned by the Federal Government. Now, can any gentleman say that that is a correct principle?

Moreover, in reply to what the gentleman from Georgia [Mr. BLOUNT] said when last up, I will say that if it would be right that the District of Columbia should pay any portion of the expenses of this institution, it is utterly unjust that it should be made to pay one-half of the expenses, because, according to the report of the president of the institution, out of the one hundred and eighteen students there, twenty-three only are from the District of Columbia.

Mr. BLOUNT. Then discharge the illegal number.

Mr. HUNTON. I state upon the authority of the report of the president of the institution that of the one hundred and eighteen students there but twenty-three are from the District of Columbia.

Mr. BLOUNT. Then I say discharge the illegal number.

Mr. HUNTON. And yet the gentleman would have the District pay one-half of the expenses of that institution; not only the expenses of her students who are there, but one-half of the expense of the repairs and one-half of the cost of the necessary buildings for the accommodation of the students. That would be wholly wrong and unjust to the District, and I hope this proviso will be stricken out.

Mr. HAWLEY. I withdraw my formal amendment.

Mr. NEAL. I renew the amendment.

In addition to what the gentleman from Virginia, [Mr. HUNTON,] the chairman of the Committee on the District, has stated, I wish to state for the consideration of the Committee of the Whole that a large proportion of the improvements made in the District of Columbia have been made by special assessments upon the property here. There has been assessed upon the property of the United States, in proportion to the property of individuals, the sum of over $1,000,000, which is now due the authorities of the District from the Government of the United States, and not one dollar of which has been appropriated by any bill yet presented by the Committee on Appropriations.

This burden has been imposed upon the people of this District, a burden of taxation which I venture to say no other people in the United States have been compelled to submit to. The property of the United States has been benefited by these improvements to the same extent that all other property has been benefited; and yet the Government has not paid one cent of the special assessments made upon its property.

It would be equitable that the Government of the United States should continue to bear this expense, in view of these circumstances, even if the statement was correct that all the pupils educated in this institution belong to the District of Columbia. But that is not correct. Every gentleman who knows anything about these deaf and dumb instiutions knows that the actual expense of supporting a student in any of them, aside from the expense of repairs, the salaries of the professors, &c., is from $150 to $200 a year at the utmost.

Therefore the expense of the District of Columbia for supporting and educating these deaf and dumb scholars, instead of being nearly $2,000 a year for each pupil, as would be the case if this proviso should be retained in the bill, would not be over $200 a year if the proviso be struck out. I trust that the motion of the gentleman from Virginia will prevail and that this modicum of justice will be meted out to the tax-burdened people of the District of Columbia.

The *pro forma* amendment being withdrawn, the question was taken on the amendment of Mr. HUNTON; which was agreed to, there being—ayes 58, noes 27.

The Clerk read as follows:

Entomological commission:

For the completion of the work of the United States entomological commission under the Department of the Interior in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm, the sum of $20,000, to be immediately available.

Mr. AIKEN. I make a point of order on this paragraph.

The CHAIRMAN. The gentleman will state it.

Mr. AIKEN. My point is that this provision violates the third clause of Rule XXI, which provides that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

I make the point that this provision is not for the continuation of work already in progress, because for the last two years there has been in each sundry civil appropriation bill a clause appropriating $10,000 for the completion of this work. In the sundry civil appropriation act for the current year I find this clause:

For the completion of the work of the United States entomological commission under the Department of the Interior in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm, the sum of $10,000.

I make the further point that this provision has no proper place in this bill. If an appropriation is to be made for the continuation of this work, it should be made in the deficiency bill and not in the sundry civil bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. AIKEN. I move to amend by striking out the paragraph which has been read and inserting the following:

For continuing, through the Agricultural Department, the investigation of the Rocky Mountain locust or grasshopper and the cotton-worm, the sum of $5,000, to be immediately available.

Mr. HASKELL. I make a point of order on this amendment. It proposes to change existing law by taking work from the hands of a commission already authorized by law and putting it into other hands.

The CHAIRMAN. Does the gentleman from South Carolina desire to discuss the point of order?

Mr. AIKEN. I must say that from the ruling of the Chair recently made upon my point of order it hardly seems necessary for me to discuss this point. [Laughter.]

The CHAIRMAN. The Chair sustains the point of order The Clerk will read.

Mr. AIKEN. I appeal from the decision of the Chair, and ask that I be heard upon my amendment.

The CHAIRMAN. The gentleman from South Carolina appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was put, and decided in the affirmative.

The Clerk began to read the next paragraph.

Mr. STEELE. I move to strike out the paragraph in regard to the entomological commission.

The CHAIRMAN. The gentleman is too late. The Clerk had proceeded to read the next paragraph.

The Clerk read as follows:

Indian Office:

That the Secretary of the Interior be, and he is hereby, authorized to pay Mrs. Sarah Shaw, of Lawrence, Kansas, the sum of $5,000 in five annual installments of $1,000 each, out of any money that may hereafter be appropriated for the use and benefit of the Cheyenne Indians; the first installment to be paid out of the money appropriated for said Indians by the act approved May 11, 1880, "making appropriations for the current and contingent expenses of the Indian Department," &c., "for the fiscal year ending June 30, 1881."

Mr. DWIGHT. For the purpose of getting some information about this paragraph, I move to strike it out. Perhaps it is all proper.

Mr. BLOUNT. I yield to the gentleman from Kansas, [Mr. HASKELL,] who understands this matter fully.

Mr. HASKELL. Mr. Chairman, at the last session of Congress a petition was received at the Department of the Interior, signed by the chiefs and headmen of the Cheyenne Indians, asking that the sum of $10,000 be paid out of their money to the surviving widows of a party massacred on the border. The committee who gave the subject examination were of the opinion that one of the persons named in the petition of the Indians should not receive more than $5,000, and it was provided that the other widow should receive the remaining $5,000. I was not at that time in possession of the papers for the second case; but the first case was unanimously acted upon by the committee, backed by the Interior Department, and the action of the Indians themselves, without solicitation upon the part of anybody except one poor, lone female, who went to their camp unaccompanied to ask this action on their part. The money was granted by the last Congress to that woman.

Mr. DWIGHT. I withdraw the amendment. I am satisfied with the gentleman's explanation.

The Clerk read as follows:

POST-OFFICE DEPARTMENT.

To enable the Postmaster-General to purchase, in his discretion, records of the post-office department of the late Confederate States, touching the payment of mail contractors under contract with United States at the breaking out of the late war, by the Confederate States government, $10,000, or so much thereof as may be necessary.

Mr. BRAGG. I move to strike out the paragraph just read. I desire to call the attention of the committee to this proposition. Yesterday we decided to buy, or to give the Secretary of War discretionary power to purchase, certain private papers for the purpose of completing the history of the confederate government. To-day we go a step further and propose to authorize somebody to buy the records of that defunct concern for our benefit. If there are any such records in existence they belong to us; we have the right of capture; and I think that this House will not be willing to give anybody the discretion to pay $10,000, or any other sum, to buy a part of the remains of the defunct confederacy.

Mr. EVINS. Mr. Chairman, I have no personal interest whatever in the matter contained in this paragraph. I know nothing whatever of the parties who claim to have these books in their possession. But I happen to have met a gentleman who is attempting to negotiate the sale of these books to the Postmaster-General; and that officer has, in a letter addressed to the Speaker of this House, recommended an appropriation of $25,000 to purchase these books.

My friend from Wisconsin [Mr. BRAGG] has very properly said that according to law these books belong to the United States Government. But how is the United States Government going to get them? Now, Mr. Chairman, this Government has already appropriated about $300,000 for the payment of the claims of the southern mail contractors in 1861. The money has been appropriated for that purpose. I know this gentleman to be a gentleman of veracity, and he says that $10,000 will not purchase these books. These parties have these books in their possession, and there is no use of talking whether they belong to the Government or not. It is simply a question whether it is wise to invest $10,000 or $30,000 to get possession of these books which may save the Government not $25,000 but $300,000 or $400,000.

I know from conversation with this gentleman that these books contain a complete history, item by item, of every cent which has been paid by the post-office department of the Confederate States to each one of these contractors. And, if the Government ever intends to pay these contractors, I think it would be the wisest expenditure of money made by this Congress to pay the sum of $25,000, which I propose to insert instead of $10,000.

Mr. ATKINS. I think, sir, it is due to this Government that something should be said by some member of the Committee on Appropriations with regard to this appropriation. Its object, as shown upon its face, is to purchase certain records connected with the post-office department of the late confederate government. It grew out of the fact that several years ago an amendment was offered to the sundry civil appropriation bill by myself, and carried, appropriating $375,000 for the payment of what were called *ante bellum* mail contractors. That clause in that sundry civil bill provided also that no payment should be made to any one of these *ante bellum* contractors who had been settled with by the Confederate States government. The Secretary of the Treasury refused under that law to pay any of the claims of these *ante bellum* mail contractors; and it is not necessary to rehearse or to allude to the contest which was had on this floor afterward in a subsequent Congress, certainly in a subsequent session, between the gentleman from Michigan [Mr. WILLITS] and the gentleman from Texas, [Mr. REAGAN,] one on the one side and the other on the other. Suffice it to say that it was the decision of the House not to put that appropriation back into the then pending sundry civil appropriation bill. This appropriation is asked for the purpose of enabling the Government to ascertain which of these mail contractors were paid.

Mr. BRAGG. Will the gentleman from Tennessee permit me to ask him a question?

Mr. ATKINS. I will in a moment. For myself, in the Committee on Appropriations I was opposed to this, because I believed there were other means by which these facts could be obtained without the purchase of these confederate records. But it was voted in, and, if it were not improper to speak of the complexion of the vote, I would say it was voted in by the general consent of the committee, as I believe I was about the only one on that committee who expressed any opposition to it. There may have been one or two others.

Mr. BRAGG. I will ask this question of the gentleman from Tennessee: While the law stands that contractors who took contracts under the confederate government shall not be paid unless it appears to this Government those debts were not assumed and paid by the confederate government, is not the burden on them, the confederates, to produce the confederate records and show who was paid, rather than for us to pay $10,000 in order to settle it?

Mr. ATKINS. That may be so, but I am not so certain of it. So far as I am concerned I do not care about this appropriation; but I wanted this House and the country to know exactly the facts in reference to the incorporation of this clause in this appropriation bill.

[Here the hammer fell.]

Mr. BLOUNT. I move to strike out the last word, and will send up to be read a communication from the Postmaster-General.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., March 1, 1880.

SIR: An act of Congress entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes," approved March 3, 1877, contains the following clause: "That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, Virginia, and West Virginia, for the years 1859, 1860, and 1861, and before the said States engaged in a war with the United States." For the reasons mentioned in the report of the Postmaster-General for the year 1877, pages 31, 32 no money has been paid on those contracts.

It has very recently been brought to my attention, in a very confidential manner, that certain parties, whose names and residences have not been given to me, nor have I any knowledge of them, have the following books of the records of the post-office department of the late so-called Confederate States:

1. One record of schedules and contracts for transportation of the mails from July 1, 1863, to November 7, 1864.
2. One postage-stamp and envelope-ledger.
3. One register of dead letters.
4. One register of postage-stamps sent.
5. One record of communications and letters of the postmaster-general from October 12, 1863, to April 1, 1865.
6. One statement of the disbursements of the post-office department aforesaid, from October 14, 1861, to April 1, 1865, including what was paid to contractors for their services under the United States.

This book, I am told, gives the names of the contractors, the amount paid, &c., distinguishing those paid for services under the United States from the others, and includes all the payments so made. I am informed that this book shows payments of this character to the aggregate sum of between $449,000 and $450,000. I believe these books, or rather the last-mentioned book, will be of great value if these *ante bellum* claims shall ever be adjusted for payment. I am satisfied the books are genuine. I am told that the parties who have the books will deliver them to the Government for the sum of $25,000, and for no less sum. I am not authorized, as Postmaster-General, to purchase these records, nor has the Department any appropriation for such an object; but I have considered the matter of sufficient importance to make it my duty to bring it through you to the attention of Congress that such action may be taken as that body shall consider useful and expedient should in its judgment anything in the case justify any action.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives.

Mr. BLOUNT. It will be seen the appropriation included in this bill is less than the recommendation of the Postmaster-General, growing out of a division in the committee of which it is not necessary to speak in the House.

Mr. HOUK. I desire to make a suggestion here as a practical question coming before this House. I come from a portion of the country where these contracts were had.

The Government does not want anybody to work for it for nothing. I think it all-important that these books should be purchased that the proper authority may see and understand who has or who has not been paid, and for one I ask members of this House to make such an appropriation as may be necessary to purchase these records for the Government of the United States and its agents in order that they may act intelligently in settling this whole question of mail contractors in the South. I do not think this is a question of the defunct confederacy, as has been suggested. But if the gentleman's party associates will forgive him for making the remark I do. I think it is a question of policy. If the Government can get at the practical truth of this matter, which is a vexed question, in order to ascertain what is absolutely due, what has been paid and what has not been paid—if these records show that, I think there can be no question of their importance. A more just proposition I do not think can be made for the protection of the Treasury itself and for the purpose of doing justice to the people who rendered the service to the Government. If anything is due to them they certainly ought to be paid, and if there is any means of getting at the amount that is due I think there should be no objection to taking that course.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. BLOUNT. I withdraw the *pro forma* amendment.

Mr. WILLITS. Mr. Chairman, I have some little knowledge of this subject myself, which is a practical question. The investigation which I gave some years ago to this matter showed $800,000 to be due to the contractors prior to the rebellion. Further investigation, however, showed that the southern confederacy had paid $564,000 of this $800,000, leaving about $250,000 still unpaid; that is, as far as the evidence in the Department was concerned. Whether the whole $800,000 was paid or not we have no evidence. Now, if all the books of the confederate post-office department can be furnished to show the exact truth of that matter, to show exactly what has been paid, I for one would be willing to vote, if necessary, $50,000 for that purpose. But, Mr. Chairman, the books referred to here show disbursements in this case of only $450,000; over $100,000 less than we have evidence in the department was actually paid; so that we can see that this cannot help us out of the dilemma we are in. These books do not show all the disbursements. I am perfectly willing for a reasonable sum to get these books; but I wish to inform the House or the committee that these books, for the reasons I have stated, will not help us out of the difficulty.

Mr. KEIFER. I rise to oppose the amendment. My objection to this clause in the bill is not that we should not have the records. I think we are entitled to them; but this proposition in the bill is exceedingly peculiar. We are not informed, and we cannot learn from the bill itself, from whom we are to purchase these records. We do not know who is in possession of them. We do not know to whom we are to pay this $10,000. The Postmaster-General is to use $10,000 or so much thereof as may be necessary to purchase the official records of the post-office department of the Confederate States, and that is all the information there is about it.

Now, Mr. Chairman, some of the gentlemen on this Appropriations Committee, at least, ought to tell us who holds these records, who has the title to them, and if possible tell us how they acquired that title. I understand my distinguished friend, the gentleman from Texas, [Mr. REAGAN,] once was the official custodian of all these records. If he has them in his possession, and I do not believe he has, I would be willing, perhaps, to pay him for them if he has kept them for all this time. If he has done that, and taken care of them, I would be willing to give him a bonus for the fact he had cared for them that much. But if they have gone into some private hands, if some individual has got hold of them, perhaps some speculator by purchase, should our Government be willing to pay for records that should not belong to any individual at all? These absolutely belong to the United States by virtue of the terms of the surrender of the Confederate States army, and by virtue of the fact that the confederacy lost title to all of these records and could not convey them to anybody. They fell, by the laws of war, into the possession and became the property of the United States.

I now protest against paying the money for them, especially if we have to pay some speculator who has made a practice of getting pos-

session of these official records, to which nobody but the Government is entitled.

Mr. HISCOCK. Do I understand that the gentleman would not be willing to pay a small sum to get possession of documents or papers which would save the Government three or four hundred thousand dollars, and stands upon the technical question that we have a legal right to these papers, when we recognize the fact that we cannot get possession of them?

Mr. KEIFER. The gentleman is putting now a wholly hypothetical case.

Mr. HISCOCK. No, it is not a hypothetical case. It is the case that is presented here.

Mr. KEIFER. I say we are losing sight of the fact that nobody is mentioned here as having possession of these records which it is proposed to sell. Now, I should like to hear from somebody who is informed upon the subject how title could be acquired to them by anybody, or who has them?

Mr. REAGAN. Mr. Chairman——

Mr. BLOUNT. I move that the committee rise to close debate upon this paragraph.

Mr. KEIFER. I hope that will not be done yet.

The motion was not agreed to.

Mr. KEIFER. The gentleman from Texas ought to be heard. I hope he will have an opportunity.

Mr. TUCKER. I think the gentleman from Texas ought to have an opportunity of replying to the remarks of the gentleman from Ohio.

Mr. REAGAN. I could not hear the remarks of the gentleman from Ohio, [Mr. KEIFER,] but I understood him to be addressing some remarks to me.

Mr. KEIFER. My question to the gentleman from Texas was how any one could get possession of these books, of which I understand the gentleman from Texas [Mr. REAGAN] was at one time the official custodian.

Mr. REAGAN. I will state what I know about that matter. After the fall of Richmond all the archives of the post-office department that I did not retain were conveyed to North Carolina, and were there captured by the Federal authorities or taken possession of by other persons. I do not know what became of them. I had sent to Augusta, Georgia, my letter-books and the finance-books of the post-office department; I mean the books of the finance bureau of that department, not the books of the auditor of the post-office department, with some dies and plates for the printing of postage-stamps. I do not remember any other government books or property that I had in the boxes which were turned over by the friend in whose possession they were to the Federal authorities when they took possession of Augusta.

From that time I lost sight of them. The first I knew of them was the fact that a set of my official reports had been returned to the Department here. That was some years ago. More recently, and since the discussion which took place between the gentleman from Michigan [Mr. WILLITS] and myself, I found that the official books of the postmaster-general containing the reports and the financial statements were also here in the Department with the confederate archives. These were the books contained in those boxes. From that fact I infer that the Government has in its possession all the books I undertook to separate from the body of the archives of the Department with a view to preserve them. I have at home a printed copy of nearly all my official reports. These I would turn over to the Department, but that is not necessary, as they have the originals. That is the only document of any kind connected with the archives I have preserved. I have sent for the letter of the Postmaster-General to see what was the character of the papers, and have not had time to look into it. I do not know whether the books here referred to belonged to the post-office department or to the office of the auditor of the post-office department. I suppose it would be the books that were in the office of the auditor that would disclose the information here referred to; and they would be the books of the treasury, and not of the post-office department; for in the confederate government, as in this Government, the auditor of the post-office department was a treasury officer and kept his office in the treasury department.

I have had no information as to these books except that one of them was shown to me within the last month in the Capitol. The name of the party who had charge of it was not disclosed to me. That was a book evidently connected with the postal service of the confederacy, but somewhat mutilated, having torn leaves and being scratched on as if by children writing. That is the only book I have seen. I have no information as to who had it in possession, or as to how the person may have got it. I can only state that the large mass of the archives of the post-office department on the fall of Richmond were sent on the cars, and that was the last I knew of them. Those I attempted to preserve, the papers of the finance bureau and my own letter-book, and the book which contained my annual reports, I suppose are in the hands of the Government; but I learned from my friend at Augusta, Georgia, that he turned them over. I mention these facts to show I have no means of knowing who has those books.

Mr. THOMAS. It has been stated here that this is a practical question. I grant that it is a practical question. It is as to whether the Government of the United States will suffer itself to be blackmailed out of $10,000 by parties who unjustly, unlawfully hold part of the records belonging to this Government, part of the property of this Government; it is as much the property of the Government as anything it owns. That is the practical question before this House.

The gentleman from New York [Mr. HISCOCK] asked the gentleman from Ohio [Mr. KEIFER] if he would stand upon $10,000 when the Government was likely to lose $200,000 or $250,000 by not having the records. Sir, there is no danger of the Government losing anything. As was happily stated by the gentleman from Wisconsin, [Mr. BRAGG,] the burden of proof is upon these contractors who claim compensation for carrying the United States mails before the war. It is for them to bring forward the proof. It is for them to hunt up these records and bring them forward and turn them over to the Government. It is not right for this Government to condone the offense, the unlawful offense, of the parties who are concealing and retaining unlawfully the property of this Government and thereby attempting to blackmail the Government out of $10,000. I hope the section will be stricken out.

Mr. HISCOCK. I desire to say a single word in reply to what has been said by the gentleman from Illinois, [Mr. THOMAS.]

Mr. FINLEY. I rise to a question of order. I make the point that debate is exhausted. If I cannot speak once in a while I shall insist that other gentlemen shall only speak within the rules.

Mr. BLOUNT. I move that the committee rise that I may ask the House to close debate upon this paragraph.

The motion that the committee rise was agreed to.

The committee accordingly rose; and Mr. MILLS having taken the chair as Speaker *pro tempore*, Mr. HARRIS, of Virginia, reported that the Committee of the Whole House on the state of the Union had had under consideration the sundry civil appropriation bill and had come to no resolution thereon.

Mr. BLOUNT. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the sundry civil appropriation bill; and pending that motion I move that all debate on the pending paragraph and amendments thereto be limited to one half minute.

The motion to limit debate was agreed to.

The motion that the House resolve itself into Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into Committee of the Whole on the State of the Union (Mr. HARRIS, of Virginia, in the chair) and resumed the consideration of the sundry civil appropriation bill.

The question was upon the motion of Mr. BRAGG, to strike out the following:

POST-OFFICE DEPARTMENT.

To enable the Postmaster-General to purchase, in his discretion, records of the post-office department of the late Confederate States, touching the payment of mail contractors under contract with United States at the breaking out of the late war, by the Confederate States government, $10,000, or so much thereof as may be necessary.

The motion was agreed to.

The Clerk read the following:

That the Legislative Assemblies of the several Territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such Territory as they shall deem proper, and for that purpose may authorize and contract for the care and custody of such convicts in any other Territory or State, and provide that such person or persons may be sentenced to confinement accordingly in such other Territory or State, and all existing legislative enactments of any of the Territories for that purpose are hereby legalized: *Provided*, That the expense of keeping such prisoners shall be borne by the respective Territories, and no part thereof shall be borne by the United States.

Mr. THOMAS. I move to amend the paragraph just read by striking out the words "in any other Territory or State, and provide that such person or persons may be sentenced to confinement accordingly in such other Territory or State, and all existing legislative enactments of any of the Territories for that purpose are hereby legalized" and inserting "within the respective limits of the Territories where such conviction is had." I ask the Clerk to read the paragraph as it will stand if my amendment shall be adopted.

The Clerk read as follows:

That the Legislative Assemblies of the several Territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such Territory as they shall deem proper, and for that purpose may authorize and contract for the care and custody of such convicts within the respective limits of the Territories where such conviction is had: *Provided*, That the expense of keeping such prisoners shall be borne by the respective Territories, and no part thereof shall be borne by the United States.

Mr. THOMAS. In support of this amendment I desire to say that I am advised that certain persons convicted of violations of territorial laws are sent beyond the limits of the Territories and confined in different State penitentiaries. I grant you that in the case of parties convicted of violations of United States laws this may properly be done; but where the conviction is for a violation of the local laws of the Territories, the courts of the Territories have no right to deport the persons so convicted and send them beyond the limits of the Territories by way of punishment for violations of local laws.

Mr. BLOUNT. This provision was put into this appropriation bill for the reason that in one of the Territories the judges have held, on a writ of *habeas corpus*, that the Territory had no right to send beyond its limits for confinement persons convicted of crime. The court further held that it was competent for Congress to legalize such a proceeding, and a bill has been reported, I believe, from the Committee on Territories to this House for this purpose, containing the identical proposition which we have put into this bill, and which has

been recommended by the Attorney-General of the United States. That is the whole of it; it is intended to remedy that difficulty. At this time there is no place for their confinement in the Territories, and the only disposition that can be made of them is to confine them in other penitentiaries.

Mr. MAGINNIS. If the amendment which has been proposed shall be adopted, it will defeat whatever merit there is in the pending paragraph of this bill. The means provided for the confinement of prisoners in the Territories is very limited; the only means being the United States penitentiaries there. The United States has penitentiaries for its own prisoners, and the Territories pay the United States a dollar a day for keeping the territorial prisoners.

The United States does not furnish now sufficient penitentiary room. In my own Territory, for instance, there are cells for twenty-six convicts only, and there are forty or fifty, and perhaps more, convicts to be put into those cells; so that men and women have to be put together in the cells. It is perfectly disgraceful that this Congress has for years refused to provide the means for completing the penitentiaries in the Territories.

The Committee on Appropriations have time and again refused, notwithstanding the recommendation of the Department of Justice, to appropriate the necessary amounts to complete these penitentiaries and provide enough cell-room to make them decent and humane. If they will not do that, the only alternative which we have left is either to contract with authorities outside of the Territory for taking charge of and keeping our prisoners, or else turn them loose.

The amendment of Mr. THOMAS was not agreed to.

The Clerk read the following:

To enable the Attorney-General to supply the United States courts at Deadwood, Dakota, with the United States Supreme Court Reports and the Statutes at Large, $423.

Mr. OSCAR TURNER. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

To enable the Attorney-General to supply the United States district court at Paducah, Kentucky, with the statute laws of the United States and the reports of the Supreme Court of the United States, $500; so much of said sum as is necessary to furnish said books to be expended by the Attorney-General.

Mr. OSCAR TURNER. I desire to state to the Committee of the Whole that some time ago my attention was called to the fact, by the officers of the Federal court at Paducah, that no books had ever been supplied for that court, although it had been in existence a long time. The other branch of the court is located at Louisville, some one hundred and eighty miles distant, and of course when the court is held at Paducah the judge has no public books of the kind specified in the amendment.

I notice that in this bill appropriations are made to furnish books to four other Federal courts, and I see no reason why we should discriminate against this court, which has no public books and which needs them. It certainly is the duty of the United States to furnish the statutes and reports of the Supreme Court of the United States to every Federal court, for reasons palpable to every one.

I do not know of a State in the Union that does not furnish each of its circuit courts with the statutes of the States and the reports of the supreme or appellate courts of the State. I hope this amendment will be adopted.

Mr. BLOUNT. There is no estimate for this appropriation, and if we adopt this amendment there will be no end to such amendments.

Mr. OSCAR TURNER. It is similar to four paragraphs which we have just passed, and equally just and proper.

The amendment was not agreed to.

The Clerk read as follows:

JUDICIAL.

United States courts:

For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, and expenses of suits in which the United States are concerned, of prosecution for offenses committed against the United States; for the safe-keeping of prisoners, and for defraying the expenses which may be incurred in the enforcement of the act approved February 28, 1871, entitled "An act to amend an act approved May 30, 1870, entitled 'An act to enforce the rights of citizens of the United States to vote in the several States of the Union, and for other purposes,'" or any acts amendatory thereof or supplementary thereto; which expenses, being separated into the following itemized statement, show that there will be needed, namely: *Provided*, That hereafter one-half of the expenses which may be incurred for the District of Columbia under the foregoing clause shall be paid out of the revenues of the District of Columbia.

Mr. BLOUNT. I move to amend by striking out the proviso at the close of the paragraph just read, the object being to insert it elsewhere.

The amendment was agreed to.

Mr. BLOUNT. I move to amend by inserting the following:

For payment of marshals and their general deputies, except for services of the latter rendered at elections, $650,000.

Mr. HISCOCK. I move to amend by striking out the words "except for services of the latter rendered at elections." It will hardly be claimed by gentlemen on the other side that any part of this appropriation can be expended in payment of general deputy marshals except in payment of fees earned by them in the execution of process. There certainly is no statute providing a per diem compensation for general deputies. The effect of the exception in this amendment would be to exclude these general deputies from being paid for their services in the execution of process when acting under the mandate of the court, attending at a place where an election was being held, arresting a person violating the law, whose arrest had been commanded by process.

Mr. BLOUNT obtained the floor.

Mr. BRAGG. I hope the exception will not be stricken out.

The CHAIRMAN. The gentleman from Georgia [Mr. BLOUNT] is recognized.

Mr. BLOUNT. If my friend from New York [Mr. HISCOCK] is correct in the supposition that this does not relate to services at elections in the sense in which special deputy marshals are employed, then it cannot do any injury in the direction he fears. The object of the committee was simply to provide an appropriation for marshals and their general deputies for services in connection with the courts and the processes of the courts, and to omit to provide money for any service in connection with elections. The provision is plain and simple. There is no legislation. It is simply a motion to provide for a certain class of service, nothing more.

Mr. HISCOCK. I desire to call attention to the fact that an appropriation for marshals and their general deputies has once been passed upon in this House without this exception. The attaching of the exception to this appropriation is a later thought.

The CHAIRMAN. Debate is exhausted.

The question being taken on the amendment of Mr. HISCOCK, there were—ayes 49, noes 64; no quorum voting.

Tellers were ordered; and Mr. HISCOCK and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 74, noes 99.

So the amendment of Mr. HISCOCK was not agreed to.

Mr. CONGER. I move to amend the amendment by striking out the word "general."

The question being taken on the amendment of Mr. CONGER, there were—ayes 45, noes 86; no quorum voting.

Tellers were ordered; and Mr. CONGER and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 43, noes 101.

So Mr. CONGER'S amendment to the amendment was not agreed to.

The question recurring on the amendment of Mr. BLOUNT, it was agreed to.

Mr. CONGER. I give notice that I shall ask a vote by yeas and nays in the House on this amendment.

The Clerk read as follows:

For expenses of bailiffs and other miscellaneous expenses, $300,000; in all, $2,175,000.

Mr. BLOUNT. I move to amend by striking out "$2,175,000" and inserting "$2,825,000."

The amendment was agreed to.

Mr. BLOUNT. I move to amend by inserting at the close of the pending paragraph the following:

Provided, That hereafter one-half of the expenses which may be incurred for the District of Columbia under the foregoing clauses shall be paid out of the revenues of the District of Columbia.

Mr. HUNTON. The amendment now offered by the gentleman from Georgia is one of a pair of provisos, the first of which has been stricken out. I hope this will not be inserted.

A MEMBER. Why not?

Mr. HUNTON. Because it is not proper that the District of Columbia should pay one-half of the expenses of the work in this District. Anybody who is familiar with the dockets of the courts of the District of Columbia knows that a large majority of the cases—I am speaking now somewhat at random, but I think I approximate to the fact—are suits of non-residents of the District of Columbia. The district court in the District of Columbia corresponds very nearly with the United States district courts in the several States; and it is no more proper that one-half the expenses of the district court here should come out of the people of the District than that one-half of the expenses of the district courts in the States should come out of the people of the States.

The question being taken on the amendment of Mr. BLOUNT, it was not agreed to, there being—ayes 54, noes 87.

The Clerk read as follows, under the head of "Public Printer and Printing:"

For the annual rental and necessary repairs of the telephones and lines connecting the Capitol with the Government Printing Office and the several Executive Departments, $300, or so much thereof as may be necessary.

Mr. FINLEY. I move to amend, by inserting after the paragraph just read the provision which I send to the desk.

The Clerk read as follows:

The Public Printer shall, and he is hereby directed to, keep true and correct books of account, showing in detail the amount of all moneys received by him as Public Printer, from whom and on what account received, and how and for what account disbursed. One of said books shall be a blotter, or book of original entry, in which he shall charge himself in proper account, on the day the same shall be received, with all moneys coming into his hands from every source whatever, and in which he may credit himself in proper account with all moneys by him lawfully disbursed. The said books shall be kept by double entry, and all entries therein shall be made so as to clearly show for what account all moneys are received, and likewise for what account disbursed, or deposited in the Treasury of the United States, and the amount of money at any time remaining in his hands. From the said blotter all entries therein shall be posted to proper ledger accounts. The said blotter shall be daily balanced—the cash on hand being the true balance. A trial balance-

sheet of all of said ledger accounts shall be made as often as once each month, at which time all of said accounts shall be balanced, and the remaining balance carried forward. The said books and accounts of the Public Printer shall be at all times open to inspection by the Joint Committee on Printing.

Mr. FINLEY. I only ask to say a word.

Mr. MILLS. There is no objection to that amendment.

Mr. FINLEY. Very well; if there is no objection to the insertion of the provision I will not detain the committee.

The amendment was adopted.

Mr. FINLEY. I offer the following amendment:

That the word "material," wherever the same occurs in the laws now in force respecting the public printing and binding, shall be held to apply to all machinery, implements, tools, and all other articles of property or supplies purchased for or used in the Government Printing Office, and such material or property shall not be disposed of by sale, exchange, or transfer, except upon the written order of the Joint Committee on Printing: *Provided*, That nothing in this act shall be construed to authorize the sale or disposal of any property or material pertaining to the Government Printing Office otherwise than by advertisement and public sale. And the Public Printer be, and he is hereby, required to furnish, in his annual report to Congress, a complete and itemized account of all materials on hand, purchased, sold, expended, or used by him during each fiscal year.

Mr. KEIFER. I make the point of order on that amendment, that it changes existing law and is not germane to this appropriation bill.

Mr. FINLEY. I wish to be heard on the point of order. I expected the gentleman to make the point of order. I will ask the Clerk to read the following——

Mr. KIEFER. Does the gentleman propose to debate the merits of the proposition?

Mr. FINLEY. I do not propose to debate the merits of the proposition, but to debate the point of order, and nothing more. I ask the Clerk to read the law which I send up.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Committee on Printing be, and hereby is, authorized to give permission to the Public Printer to purchase material in open market, whenever in their opinion it would not promote the public interest to advertise for proposals and to make contracts for the same: *Provided, however*, That the purchases authorized by this act shall not in any term of six months exceed the sum of $50 for any particular article required.

Mr. FINLEY. You will observe from the reading of that statute passed on the 12th of February, 1878, that the Joint Committee on Printing is authorized to permit the Public Printer to buy material not exceeding $50 in any six months in open market. Now the Public Printer has bought from $55,000 to $65,000 of material in open market every year.

The CHAIRMAN. The gentleman will confine himself to the point of order. That is a matter of fact.

Mr. FINLEY. I am not going into the merits of the proposition. I am speaking on the point of order. He gives as his reason for purchasing $65,000 of material in open market that the word "material" used in that law only refers to paper and ink, and that consequently, as he construes the word "material" in that act, except paper and ink, he may buy to an unlimited amount in the open market.

Mr. HAWLEY. Is the gentleman arguing the question of order?

Mr. FINLEY. Now, the question is this: The amendment I offer proposes to construe the word "material" as used in that act, that it shall be held to mean whatever he has to purchase for the use of the public printing.

Now, Mr. Chairman, can it be said that an amendment to existing law which defines the true intent and meaning of a word used in the law is subject to a point of order? I think not. It is simply to explain what Congress meant when it passed the act declaring material should be purchased not exceeding $50 in any six months in open market.

I believe my proposition clearly is not subject to the point of order. It is simply explanatory of an act passed by Congress, explaining what Congress meant. It is a clear proposition that the word "material," as construed by the Public Printer, is a fraud.

Mr. CONGER. I only wish to say a word. The gentleman's own argument proves this changes law, and that ought to be sufficient.

The CHAIRMAN. The existing law provides for purchase of certain articles under certain circumstances in open market, and the amendment proposes to take that right away, and therefore it is a change of existing law or the construction of an existing law. The Chair sustains the point of order, and rules the amendment out.

The Clerk read as follows:

House of Representatives:
That the parties named below be allowed the amounts set opposite their names, in full of expenses incurred by them, respectively, in contested-election cases:
Joseph Mason, $2,006.
Sebastian Duffy, $2,000.
J. M. Bradley, $1,500.
W. F. Slemons, $1,500.
Seth H. Yocum, $2,000.
Andrew G. Curtin, $2,000.

Mr. MORSE. I move to strike out that paragraph.

Mr. KEIFER. I have an amendment to offer, which I am instructed to offer by the Committee on Elections.

The CHAIRMAN. The gentleman will be heard at the proper time.

Mr. KEIFER. My amendment has reference to what the gentleman proposes to strike out, and comes from the Com mittee on Elections.

The CHAIRMAN. Then send up the amendment.

Mr. MORSE. Let it be read for information to see whether it conflicts with mine or not.

The Clerk read as follows:

Strike out "Joseph Mason, $2,000; Sebastian Duffy, $2,000; Seth H. Yocum, $2,000; and Andrew G. Curtin, $2,000," and in lieu thereof insert: "that so much of the act of March 3, 1879, entitled 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes,' as relates to the payments of the expenses of contestants and contestees for seats in the House of Representatives, wherein it is provided that no contestant or contestee shall be paid exceeding $2,000 for expenses in election contests, shall not be construed to apply to contests begun before the passage of said act, and in which testimony had actually been taken, or was actually being taken prior to or at the time of the passage of said act."

And also insert the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, the following sums to the parties herein named on account and in part of the amounts due them for expenses of contest for seats in the House of Representatives, Forty-sixth Congress of the United States, to be immediately available, namely: Horatio Bisbee, jr., second district of Florida, $1,400; Noble A. Hull, second district of Florida, $1,400; Jesse J. Yeates, first district of North Carolina, $900; Joseph J. Martin, first district of North Carolina, $900; Ignatius Donnelly, third district of Minnesota, $1,400; William D. Washburn, third district of Minnesota, $1,400. These allowances shall be made only to those persons who have complied or may hereafter comply with existing laws in regard to the filing of vouchers and affidavits showing expenditures to the amount herein allowed."

Mr. CLYMER. Mr. Chairman, I am obliged to make the point of order upon that amendment. I desire to say that the gentleman from Georgia who has this bill in charge has been suddenly called away from the House by illness in his family, and unexpectedly I am left in charge of the bill.

Mr. COX. What does the gentleman from Pennsylvania say? There is so much confusion here that we have not been able to hear him.

Mr. CLYMER. I say that the gentleman in charge of this bill [Mr. BLOUNT] has been suddenly called away from the House on account of sudden and serious illness in his family, and I am therefore unexpectedly left in charge of the bill. Therefore I make the point of order against the amendment offered by the gentleman from Ohio.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CLYMER. My point of order is this: that this is a proposition which changes existing law and does not on its face reduce expenditures, but increases them. I will refer, Mr. Chairman, to the act of March 3, 1879, in which it is provided that hereafter no contestee or contestant for a seat in the House of Representatives shall be paid exceeding $2,000 for expenses of such election contest. That is the existing law, and the point of order I make is in reference to that, because it is a flat prohibition against any contestant or contestee being allowed any greater sum for expenses than $2,000. I have to say, sir, in reference to the merits of this proposition, nothing at this time. The duty is imposed upon me, having the bill in charge, to make the point of order, and it is for the chairman of the committee to decide in reference to it and for the committee afterward, if they were dissatisfied with the decision of the Chair.

Mr. MORSE. Mr. Chairman, I have only allowed the proposition of the gentleman from Ohio to be read for the information of the House. I ask now to be heard on the amendment which I have offered.

Mr. CONGER. Is the point of order made upon that amendment?

The CHAIRMAN. It is not.

Mr. MANNING. I would like to be heard upon the point of order raised by the gentleman from Pennsylvania.

Mr. COX. That matter is not before the House.

The CHAIRMAN. The point of order is made by the gentleman from Pennsylvania upon the proposition submitted by the gentleman from Ohio from the Committee on Elections, which has simply been read for information, and not upon the amendment proposed by the gentleman from Massachusetts, [Mr. MORSE.]

Mr. MORSE. I ask that the amendment which I have offered be read.

The CHAIRMAN. The Clerk will report the pending amendment.

The Clerk read as follows:

Strike out all from lines 1204 to 1212, inclusive.

The CHAIRMAN. It will now of course be in order for the gentleman from Ohio to submit his amendment as a substitute for the pending amendment.

Mr. KEIFER. I offer mine, then, as a substitute for the amendment proposed by the gentleman from Massachusetts. I do not desire myself to be heard on this question at this time, but yield to my colleague upon the committee, [Mr. MANNING,] who I understand wishes to be heard in reference to the point of order.

The CHAIRMAN. The gentleman from Mississippi will be recognized if he desires to be heard.

Mr. MANNING. Mr. Chairman, in regard to the point of order which the gentleman from Pennsylvania now in charge temporarily of this bill has made, I submit that he is in error as to his calculation, as an examination of the figures will show him.

Mr. COX. May I ask if the point of order has been raised on the amendment offered by the gentleman from Massachusetts?

The CHAIRMAN. No, the point of order is on the substitute.

Mr. MORSE. The proposition I have offered is the one that is before the House. I have only permitted the other to be read for information.

The CHAIRMAN. The proposition of the gentleman from Ohio is offered as a substitute for the amendment proposed by the gentleman

from Massachusetts. That substitute covers the same question and the same section.

Mr. MILLS. It does not cover the same question at all, as I understand. It is not a proposition to strike out the paragraph but only certain portions of it, and adds to it.

The CHAIRMAN. It is substantially the same proposition, only it is a more comprehensive one.

Mr. ELAM. The first question would be upon the substitute; if that is lost then the question will be upon the original amendment.

The CHAIRMAN. That will come up after the question of order is decided.

Mr. ELAM. But I submit that the question of order does not attach to the proposition of the gentleman from Massachusetts at all. It is not subject to the point of order.

The CHAIRMAN. The point of order is not made on the proposition of the gentleman from Massachusetts, but on the substitute pending for it.

Mr. MANNING. We are told by the gentleman from Pennsylvania [Mr. CLYMER] that the substitute offered by the gentleman from Ohio [Mr. KEIFER] does not reduce expenditures. If the Chair will agree with me that $7,400 is less than $8,000, then I submit there is no point as to that. Eight thousand dollars is stricken out of this bill by the substitute of the gentleman from Ohio, and $7,400 is put in. That is enough, I submit, as to that point.

The CHAIRMAN. Will the gentleman state those figures again?

Mr. MANNING. I will state them more in detail. The substitute of the gentleman from Ohio strikes out from the bill the following lines:

Joseph Mason, $2,000.
Sebastian Duffy, $2,000.
Seth H. Yocum, $2,000.
Andrew G. Curtin, $2,000.

Four persons at $2,000 each, making $8,000. The amounts allowed in the substitute are: Horatio Bisbee, jr., $1,400; Noble A. Hull, $1,400; Ignatius Donnelly, $1,400; William D. Washburn, $1,400; Jesse A. Yeates, $900; and Joseph J. Martin, $900. Four persons at $1,400, and two persons at $900, making $7,400. There is thus a difference of $600 on the side of retrenchment.

Now, I ask the question whether or not this is a change of existing law. I submit it to lawyers. I submit the clear proposition that you cannot, after expenses have been incurred; after, as in all of these cases, almost all of the expenses have been incurred, you cannot then pass a law saying that those expenses authorized by law to be incurred shall not be paid. That is just what has been attempted to be done by the Committee on Appropriations when it adopted the provision which was read by the gentleman from Pennsylvania. It is a proposition wanting in justice, and it is demonstrative of the inability of the gentlemen to accomplish what they propose without it.

This substitute merely says what perhaps is not necessary to be said, but to remove all difficulty and doubt the substitute of the gentleman from Ohio is submitted, to the effect that that act of March 3, 1879, shall not be construed to affect these cases that occurred in November, 1878, and in which expenses were incurred up to March, 1879. All gentlemen familiar with the election system know that the testimony in these cases must be taken promptly. Notice must be given within thirty days after the result is announced, and then they go forward, contestant and contestee, into the field to take testimony upon their respective sides, and there all the work is done and the bulk of the expenses incurred; and in all these cases there were no expenses to be incurred after the passage of the law referred to by the gentleman from Pennsylvania.

I submit, therefore, the amendment does not change the law. If this act of March 3, 1879, could not reach these cases, then possibly we are engaged in a work of supererogation in construing it at all; but the substitute makes clearer what ought to be clear enough, it seems to me, to any who are willing to address themselves to the legal proposition involved.

Mr. MILLS. Does the gentleman embrace in his amendment the cases of Yocum and Curtin?

Mr. MANNING. I stated distinctly those cases were stricken out of the bill by the substitute. And I say the gentlemen of the Appropriations Committee, not regarding the suggestions of the Elections Committee, not regarding the voice of that committee which was unanimous as to what should be allowed those gentlemen, cut them down to $2,000 and say they have done it in obedience to the law of March, 1879; their decision applying to expenses which were incurred in 1878 and the early part of 1879.

Mr. CLYMER. The facts in this case are so plain, and the evident intent of the existing law is so manifest, that I do not think it necessary to address any further remarks to the Chair in the way of argument upon this question.

The CHAIRMAN. The Chair is ready to give his ruling. The substitute of the gentleman from Ohio provides as follows:

That so much of the act of March 3, 1879, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," as relates to the payments of the expenses of the contestants and contestees for seats in the House of Representatives wherein it is provided that no contestant or contestee shall be paid exceeding $2,000 for expenses in election contests, shall not be construed to apply to contests begun before the passage of said act, and in which testimony had actually been taken or was actually being taken prior to or at the time of the passage of said act.

Now, we must take the amendment upon its general purport and meaning, not because it reduces expenses a few hundred dollars, for the reduction in the case of a few individuals is not final as regards the effect of the substitute generally.

The real object of this amendment is to reopen cases heretofore decided, so that the old cases may be reopened and the contestants and contestees receive compensation under the old law. Therefore the substitute changes the existing law and increases expenses. The Chair sustains the point of order.

Mr. KEIFER. I desire to offer as a substitute all of my former amendments except that which relates to the construction of the law of 1879.

Mr. FINLEY. I desire to offer an amendment to the amendment.

The CHAIRMAN. That would be an amendment in the third degree, and is not in order. There is now pending an amendment offered by the gentleman from Massachusetts, [Mr. MORSE,] and the gentleman from Ohio [Mr. KEIFER] has offered an amendment thereto.

Mr. CLYMER. I understood the amendment of the gentleman from Ohio [Mr. KEIFER] was ruled out.

The CHAIRMAN. As a whole, the amendment was ruled out; but the gentleman from Ohio [Mr. KEIFER] now offers a portion of that amendment to which he considers the point of order does not apply.

Mr. KEIFER. I have withdrawn the portion which relates to the construction of the law of 1879.

The CHAIRMAN. The Clerk will read the amendment of the gentleman from Ohio, as now presented.

The Clerk read as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, the following sums, to the parties herein named, on account and in part of the amounts due them for expenses of contest for seats in the House of Representatives of the Forty-sixth Congress of the United States, to be made immediately available:

Horatio Bisbee, jr., second district of Florida, $1,400.
Noble A. Hull, second district of Florida, $1,400.
Jesse J. Yeates, first district of North Carolina, $900.
Joseph J. Martin, first district of North Carolina, $900.
Ignatius Donnelly, third district of Minnesota, $1,400.
William D. Washburn, third district of Minnesota, $1,400.

These allowances shall be made only to those persons who have complied, or may hereafter comply, with existing laws in regard to the filing of vouchers and affidavits showing expenditures to the amounts herein allowed.

Mr. CLYMER. I make a point of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. CLYMER. There is no law authorizing these payments.

Mr. KEIFER. The answer to that is that there is just such a law.

Mr. CLYMER. Are these cases decided?

Mr. KEIFER. Some of them are, and some are not.

Mr. CLYMER. There is no law authorizing the payment of expenses in contests until the cases are decided.

Mr. KEIFER. The gentleman had better read the law. The law does not require a case to be decided before any payment is made.

Mr. CLYMER. If the gentleman will show that there is any law authorizing the payment of parties in cases not decided I will withdraw my point of order; but it is impossible for the gentleman to show such a law.

Mr. KEIFER. There is no law which provides that payment shall be made only in cases that have been decided. Contestants in election cases may be paid under the law at any time. Allow me to state this much, further, on the point of order: there is no statute in existence that applies to any particular one of these election cases directly.

Mr. CLYMER. Then I will make my point of order broader yet, and hold that there is no law to put in here a provision for paying a contestant at all; surely none in a case which is not yet decided. I am making this point of order merely in obedience to the instructions of the Committee on Appropriations, for the purpose of facilitating action on this bill.

Mr. KEIFER. The general statute authorizes the payment of these cases.

Mr. MANNING. I would inquire if there are not precedents for making an allowance on account to contestants and contestees?

Mr. CLYMER. In one single case.

Mr. MANNING. Is it not a new departure on the part of your committee to refuse to make appropriations for payment on account?

Mr. CLYMER. That never has been done in the history of the Government until the last Congress.

Mr. MANNING. Do you say that it was never done until the last Congress?

Mr. CLYMER. That is my understanding.

Mr. MANNING. I cannot give the name of the case, but if the gentleman from Indiana [Mr. CALKINS] was in the House he could give a case in the Forty-second Congress, which was brought to the attention of the Committee on Elections yesterday, where such an allowance was made without any objection.

Mr. CLYMER. A single precedent does not make a law.

Mr. MANNING. In reference to the payment of these expenses, I ask the gentleman from Pennsylvania if he does not recognize that the law authorizes these expenses to be incurred? And yet he says there is no law authorizing their payment.

Mr. CLYMER. If there be any such law, I call upon the gentleman to read it.

Mr. MANNING. Do you not know that expenses on the part of these contestants are authorized by law?

Mr. CLYMER. That is by law.

Mr. MANNING. And the expenses being incurred by law, you say that they cannot be paid because there is no law authorizing appropriations to make such payment. Of course, appropriations must be made to discharge these expenses authorized by law.

Mr. CLYMER. I am merely trying to have the rule of the House enforced.

Mr. MANNING. It is a law that was passed by the Congress of the United States, and I have never yet heard that there was objection to paying any of these contested-election expenses because there was no law for it. It would be difficult to get a law in each particular case.

Mr. CLYMER. The payment of expenses in election cases is at all times a matter of grace on the part of the House, and there is no law for it. There may be a law that the expenses shall not exceed a certain amount for mileage and witness fees, and things of that kind; but I say that it cannot be shown that there is any law authorizing the payment of such expenses.

Mr. HAYES. Now let us have a decision on the question.

The CHAIRMAN. While it has been the custom of the House to pay the expenses of contestants and contestees, yet the Chair is aware of no law that recognizes the right of those parties to payment. There is a law which limits the expenses so that they shall not exceed $2,000 in any case; but there is no affirmative law providing that contestants and contestees shall be paid their expenses. The Chair understands that where the point of order has been made heretofore it has always been sustained. While reluctant to do so, the Chair feels that he is compelled to sustain the point of order.

Mr. KEIFER. I appeal from the decision of the Chair; that is, if the Chair undertakes to rule my last amendment out of order on the ground that it is not competent to pay the expenses of the contestants and contestees in these cases.

The CHAIRMAN. There is no general law authorizing the payment of the expenses of parties in contested-election cases; it goes with every session of Congress to the discretion of Congress. If the point of order is made, the Chair reluctantly must sustain the point of order and rule the amendment out of order.

Mr. KEIFER. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman appeals from the decision of the Chair.

Mr. KEIFER And I insist upon being heard upon that appeal.

Mr. TOWNSHEND, of Illinois. Is debate in order upon an appeal from the decision of the Chair?

The CHAIRMAN. The Chair is advised that in the House an appeal from a decision of the Chair is debatable, and by analogy it has been ruled that it is debatable in Committee of the Whole. If that ruling had not been made the Chair would be inclined to hold otherwise.

Mr. KEIFER. In order that we may understand how far the Chair is right, I wish to say first——

Mr. COX. I rise to a question of order.

Mr. KEIFER. I wish to say that if it be true, as stated by the Chair, that there is no law authorizing these payments——

Mr. FINLEY. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. FINLEY. My point of order is that the gentleman is not in order in debating this question after the decision of the Chair has been rendered.

The CHAIRMAN. The Chair has given his understanding of the general law on the subject. If there is a law authorizing these payments to be made, the Chair will thank the gentleman from Ohio [Mr. KEIFER] to read it. The Chair has no pride of opinion, and is willing to reverse his decision or to have it reversed if it can be shown that it is not correct.

Mr. KEIFER. In the first place, let me say that if the Chair is right in holding there is no law authorizing the payment of contestants and contestees in these election cases, then the Chair is absolutely wrong in saying that this amendment changes existing law.

In the second place, I ask the Clerk to read the existing law, which authorizes the payment of $2,000 to each contestant and contestee; and I wish to say that no appropriation in this proposed amendment exceeds the sum of $2,000.

The Clerk read as follows:

That hereafter no contestee or contestant for a seat in the House of Representatives shall be paid exceeding $2,000 for expenses in election contests; and before any sum whatever shall be paid to a contestant or contestee for expenses of election contests, he shall file with the clerk of the Committee on Elections a full and detailed account of his expenses, accompanied by the vouchers and receipts for each item, which account and vouchers shall be sworn to by the party presenting the same, and no charges for witness fees shall be allowed in said accounts unless made in strict conformity to section 128 Revised Statutes of the United States.

Mr. KEIFER. Section 128 of the Revised Statutes, referred to in the provision just read, regulates the method of taking testimony and paying witnesses in these election cases. Through all the history of the country these payments to contestants and contestees have been made, and made in pursuance of law. The statute just read is an express provision, the effect of which is to limit the amount, making it less than had usually been appropriated.

Mr. CLYMER. The law just read does not authorize or warrant the payment of any sum, but is a mere limitation upon the grace of Congress.

Mr. KEIFER. The gentleman concedes, as I understand, that there was a law authorizing payment, but that no sum was fixed until this act of 1879. I agree to that; but it does not cut off the right to make payment.

Mr. ATHERTON. Does the provision just read fix any sum that the House is bound to pay? Does it not merely say that we shall not pay more than a specified sum?

Mr. KEIFER. The act which has been read fixes $2,000 as the maximum for each contestant and authorizes payment up to that maximum.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. KEIFER. I do.

The question being taken, "Shall the decision of the Chair stand as the judgment of the committee?" there were—ayes 61, noes 46.

Mr. KEIFER. I make the point that no quorum has voted.

Tellers were ordered; and Mr. KEIFER and Mr. CLYMER were appointed.

The committee again divided; and the tellers reported—ayes 94, noes 78.

So the decision of the Chair was sustained.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and a message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

The message further announced that the Senate had passed joint resolution and bill of the following titles; in which the concurrence of the House was requested:

Joint resolution (S. R. No. 79) directing the Secretary of War to investigate the claim of the State of Florida against the United States for expenditures made in suppressing Indian hostilities in said State between the years 1855 and 1860, and to report the result of such investigation to Congress; and

An act (S. No. 640) to amend sections 3385 and 3357 of the Revised Statutes of the United States.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 4264) to authorize the payment of $66.09 to Judith Brown, one-seventh of the pension of Margaret Duncan;

An act (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana, Idaho, and Wyoming;

An act (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes; and

Joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington.

Mr. KENNA, from the same committee, reported that the committee had examined and found truly enrolled bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 1484) for the relief of Ernst Hein; and

Joint resolution (S. R. No. 15) authorizing the settlement of the account of Thomas Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry.

SUNDRY CIVIL APPROPRIATION BILL.

The Committee of the Whole on the state of the Union, resuming its session, proceeded with the consideration of the sundry civil appropriation bill.

Mr. KEIFER. I move to amend the amendment of the gentleman from Massachusetts, [Mr. MORSE.]

Mr. FINLEY. There is an amendment to the amendment pending.

The CHAIRMAN. The gentleman from Ohio [Mr. FINLEY] has moved an amendment to the amendment of the gentleman from Massachusetts. No further amendment is in order at present.

The amendment of Mr. FINLEY was read, as follows:

Strike out lines 1208, 1209, and 1212.

Mr. MORSE. I am very sorry to detain the committee, but I really feel that it is about time for us to stop advertising to the country that any man may come here and contest a seat with the knowledge that, however groundless the claim, he is to be rewarded for pressing it. The whole object of my amendment is to put a stop to this practice. A man who comes here with an election contest and fails to make good his claim to a seat is, in my judgment, entitled to no consideration from the House.

Mr. FINLEY. The proposition of the gentleman from Massachusetts is to strike out all these appropriations. My amendment is to strike out line 1208, which provides for Mr. Duffy; line 1209, which

provides for Mr. Bradley; and line 1212, which provides for Mr. Curtin.

I think, Mr. Chairman, the successful contestant should be paid his actual legitimate expenses. But I think the unsuccessful contestant should not be paid. It simply offers a premium for men with scarcely a show of having been elected to come here and make a contest and draw from $1,000 to $2,000 out of the Treasury. If they lose let them stand it as other unsuccessful contestants do in court—pay the costs.

Mr. HAWLEY. If debate is not exhausted on the pending amendment, I desire to say a word.

The CHAIRMAN. The gentleman from Connecticut will proceed.

Mr. HAWLEY. Mr. Chairman, as nearly as I can understand the two gentlemen opposite, they claim this: that an unsuccessful contestant should be allowed nothing whatever. I have but to suppose, then, the case—of half this House, I may say—of a man of very moderate means elected in a close district, and of a man worth half a million of dollars, who may choose to summon him to twenty different places in the district for a contest, and the poor man, with the certainty he will be allowed nothing, has nothing, cannot spend a dollar, out of patriotic duty to his constituents, believing himself to be honestly elected, and representing his sentiments, is to fight to the bat's end as the boys say, to defend his seat; that it is his duty to his constituents and his country. But he has not a dollar in his pocket; and he knows that the House under the lead of these gentlemen will not give him a cent, and he has to step out while the man worth a million gets $2,000 for dragging him out of his seat. Is that patriotism or law?

Mr. FINLEY's amendment was rejected.

Mr. KEIFER. I move to modify the amendment of the gentleman from Massachusetts [Mr. MORSE] so as to strike out lines 1211 and 1212, providing for Seth H. Yocum $2,000 and Andrew G. Curtin $2,000.

Mr. FINLEY. I rise to a point of order on that amendment. The vote has already been taken on striking out line 1212. That was my amendment.

The CHAIRMAN. But this amendment includes another line, and therefore is in order. It would not be in order to strike out simply the same line.

Mr. KEIFER. I wish to be heard on my amendment. In the Committee on Elections we are of the opinion in the case of the contestant and contestee in the case of Curtin against Yocum, which case has been finally disposed of in the House, that a much larger sum should be allowed to each one of the parties to the contest.

We know at least that Mr. YOCUM was compelled to expend legitimately, according to the vouchers filed in compliance with the statute passed in the Forty-fifth Congress, above $13,000 to make his contest. We know also that Mr. Curtin expended, according to the vouchers filed, above $15,000 in the same contest. We were not prepared to say he did not do it in perfect good faith. In fact, as one of the evidences of this good faith, a majority of the Committee on Elections found there was no election at all. The question was perhaps a close one as a question of law. We recommended a larger sum than $2,000. We were not of opinion that a law which passed on the 3d of March, 1879, limited the amount which could be paid by Congress in a contest that commenced in the year 1878.

Mr. WILSON. It was not intended to be retroactive.

Mr. KEIFER. Yes; it was not intended to be retroactive or *ex post facto*. Very much and, indeed, a greater part of the expense of the contest by each of the parties was prior to the 3d of March, 1879.

But when this recommendation of the Committee on Elections passed under the review of the Committee on Appropriations they applied this law of theirs which had been put in by the action chiefly of the Appropriations Committee of the Forty-fifth Congress—they applied it to a case where there could have been no notice of the existence of any such provision and suddenly cut down the amount to $2,000.

Neither of these parties wants the United States to insult him, I venture to say, and I say it in the presence of one of them, by giving him only $2,000. This law of the 3d of March, 1879, came into this statute very peculiarly. That Committee on Appropriations, at the very moment they put in this provision and recommended its passage here, allowed $4,000 to one contestant and $6,000 to another and to various persons $2,500. That was the recommendation of the Committee on Elections over which you had the honor, Mr. Chairman, to preside.

Mr. LAPHAM. They allowed $10,000 in one case.

Mr. KEIFER. Yes; as the gentleman from New York has stated, they allowed $10,000 in one case at the time they were having this provision inserted into the statute; but they suddenly grew virtuous and said they would not allow in any future case on the recommendation of the Elections Committee any larger sum than $2,000.

Now, I make my motion to strike out from this section $2,000 for each of these parties in order that they may not be precluded at least by an appropriation to that amount.

Mr. WILSON. What amount did the committee think they ought to receive, or is due?

Mr. KEIFER. The committee concluded to pay $5,800 each, and I wish to say I was in favor of paying $10,000 to each, and that would have left one of the parties to lose $5,000, and the other one $3,000.

Mr. MANNING. Will my colleague on the committee permit me to ask him a question? This $10,000 was less than what had been incurred absolutely in the way of expense, was it not?

Mr. KEIFER. Yes, sir; it was less than the amount shown to have been expended. Now, I propose to ask the committee to strike out the words of the Appropriations Committee and leave the matter to be considered by a committee or by Congress when we can get at the question directly and give these gentlemen an opportunity of receiving what is proper in the premises, and not undertake to make a law here the operation of which would exclude them from receiving a portion, at all events, of what they have expended after they had entered upon the contest.

Mr. CLYMER. I do not rise to resist the amendment of the gentleman from Ohio, but merely to state what I regard as a simple act of justice to the Committee on Appropriations in the last Congress. The law as it stood before the enactment of that which has been read in this connection, that is, limiting the amount that parties should receive in contested-election cases to a sum not exceeding $2,000, was that no money should be allowed to the contestant or contestee in any election case whatever. In the Forty-fifth Congress there were more contested-election cases than any before known, and the aggregate amount of the expenses incurred was so great that every one in the House—not merely the Appropriations Committee, which seems to be a veritable nightmare to the gentleman from Ohio—not merely that committee, but every one else co-operated with them, every gentleman upon this floor determined that thereafter there should not be any expenses allowed exceeding $2,000 in any one case. Now my friend, the sitting member in the contested-election case of Curtin against Yocum, and my friend, Governor Curtin, of Pennsylvania, had notice that thereafter there should not be any expenses paid exceeding the sum of $2,000; that the action of Congress under the law could not extend beyond that; and if they, as they did, incurred a greater expense it was their own risk, their own misfortune or possible necessity. But when the Committee on Appropriations come to deal with grave subjects of this character it is neither above nor below the law. It simply obeys the law, and if we are to be denounced and derided by the gentleman from Ohio for conscientiously and exactly doing our duty, if there be any honor in that, the gentleman is welcome to it.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. WEAVER. I move to strike out the last word. Mr. Chairman, I only want to say, in furtherance of what the gentleman from Ohio has so well said, and in reference to the remarks of the gentleman from Pennsylvania, in charge temporarily of this bill—I allude to his remarks wherein he says that Messrs. Curtin and Yocum had notice that the law limited the amount which should be paid them—that he is simply mistaken in that matter. That law was not passed until near the close of the last session of Congress, in 1879.

Mr. CLYMER. Well, at that time, if the gentleman will permit me, or previous to that time, the law was that no expenses whatever should be paid in contested-election cases.

Mr. WEAVER. Then your Committee on Appropriations has been paying from $2,500 to $10,000 in contested-election cases in entire disregard of that law.

If there was such a law you were violating it in making payments in these cases. Now I say there was no notice to these contestants of this action of Congress until this law to which the gentleman from Pennsylvania refers to was passed. That was passed on the 3d day of March, the last day of the last Congress, and the contestant and the contestee had at that time closed their testimony and had incurred all the expenses they have incurred in this contest; and this law as sought to be applied here is simply retroactive and it ought not to be sanctioned. I think the committee are mistaken in their construction of it, and that it should not apply to this case at all. The motion here is to strike out lines 1211 and 1212, which if it is adopted will leave these gentlemen without any appropriation whatever. Certainly the committee can have no objection to that.

Mr. MANNING. I would like to ask the gentleman from Pennsylvania [Mr. CLYMER] a question. I understood him to say that these gentlemen had notice that there was a law under which no expenses could be paid to the contestant or contestee in excess of the sum of $2,000?

Mr. CLYMER. Yes, sir.

Mr. MANNING. You refer to page 490 of the seventeenth volume of the Statutes at Large?

Mr. CLYMER. No, sir; I do not.

Mr. MANNING. What, then, do you refer to?

Mr. CLYMER. I refer to section 130 of the Revised Statutes.

Mr. MANNING. That is the very law I have here.

Mr. CLYMER. This section provides—

That no payment shall be made by the House of Representatives out of its contingent fund or otherwise to either party in contested-election cases for expenses incurred in prosecuting or defending the same.

Mr. MANNING. The gentleman has read just what I have in my hand; and if he will read it again he will see that this act does not speak of the Congress of the United States, but of what the House of Representatives may do with its contingent fund or other funds which it may have in its power or under its control, and the gentleman from Pennsylvania has read the statute carelessly when he undertakes to impress upon this House that there is no provision by which payment can be made in contested-election cases.

Mr. CLYMER. The gentleman from Mississippi is gravely in error when he said I read the law carelessly. It provides we cannot make the payment out of our contingent fund or otherwise.

Mr. MANNING. The House cannot; but nothing is clearer than that the Congress of the United States can.

The CHAIRMAN. The question is on the amendment of the gentleman from Ohio [Mr. KEIFER] to the amendment of the gentleman from Massachusetts, [Mr. MORSE.] The Clerk will read the amendment to the amendment.

The Clerk read as follows:

Strike out lines 1211 and 1212, as follows:
"Seth H. Yocum, $2,000.
"Andrew G. Curtin, $2,000."

Mr. ATKINS. I call for a division on that amendment.

The question was taken; and there were—ayes 82, noes 50.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question now recurs on the amendment as amended, which the Clerk will read.

The Clerk read as follows:

Strike out from line 1204 to line 1212, inclusive.

Mr. KEIFER. There is a mistake about that, as I understand. The amendment of the gentleman from Massachusetts [Mr. MORSE] has been amended so as to strike out only two lines. The amendment of the gentleman from Massachusetts was to strike out all those appropriations. My amendment was to modify it so as to strike out but two of them.

Mr. ATHERTON. But it did not have that effect.

Mr. KEIFER. Yes, sir; it did have that effect.

Mr. MORSE. The object of my amendment is perfectly clear. It is to strike out all of those appropriations. The gentleman from Ohio moved to modify it by striking out two of them.

The CHAIRMAN. Two of the names have been stricken out. If the amendment of the gentleman from Massachusetts [Mr. MORSE] as now amended be adopted, it strikes out all of them. The question is on the amendment as amended.

The question was taken on the amendment as amended; and the Chair declared that it was agreed to.

Mr. COX. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. COX. There is not a member here who understood the effect of that last vote. The question was not stated properly.

The CHAIRMAN. The Chair will again submit the question and will restate it. The amendment of the gentleman from Ohio [Mr. KEIFER] was to strike two names from the list of contestants and contestees.

Mr. ATKINS. Which two?

Mr. KEIFER. The names of Yocum and Curtin.

The CHAIRMAN. That was carried. The amendment of the gentleman from Massachusetts was to strike all out. That was amended by the action of the committee before the vote was taken on the original amendment by striking out two of the names.

Mr. HAYES. Let us have the amendment read as it is now amended.

Mr. FINLEY. I inquire of the Chair what will be the effect of an affirmative vote. Will it be to strike out two names?

The CHAIRMAN. The effect of it will be to strike out all the names.

Mr. KEIFER. Just one word in order to get this matter right. If the notes of the reporters are appealed to they will show my amendment as offered was to modify the amendment of the gentleman from Massachusetts so as to strike out just two lines, namely, lines 1211 and 1212—the lines appropriating $2,000 to Seth H. Yocum and $2,000 to Andrew G. Curtin. That was carried. Now the Chair put the question on the amendment as amended, which was to strike out lines 1211 and 1212. That was carried, and now we are through with it.

Mr. MORSE. How can we be through with it when we have not voted at all on my amendment? [Laughter.]

The CHAIRMAN. The Chair will state the question before the committee. The gentleman from Massachusetts [Mr. MORSE] moved to strike out all the names. The gentleman from Ohio [Mr. KEIFER] moved as an amendment to strike out two only. Those were stricken out by the action of the committee. Now, the question recurs on striking out the others, which is the amendment as amended.

Mr. SIMONTON. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SIMONTON. It is this: The gentleman from Massachusetts offered an amendment to strike out certain names from the list which the gentleman from Massachusetts offered. Those names are stricken out; and the four names remaining in the list which the gentleman from Massachusetts offered to be stricken out constitute the names on which the last vote was taken. His amendment was amended by striking out of the list certain names, leaving only four to be voted on. In other words, the gentleman from Ohio offered an amendment to the amendment to strike out part of the list which the amendment of the gentleman from Massachusetts proposed to strike out of the bill.

The CHAIRMAN. That is correct.

Mr. KEIFER. One word on the point of order. [Cries of "Vote!" "Vote!"]

Mr. KEIFER. If there is a shadow of doubt about this it ought to be cleared up.

The CHAIRMAN. There is no disagreement between the gentleman from Ohio and the Chair.

Mr. KEIFER. My motion was to modify the amendment of the gentleman from Massachusetts so as to strike out but two lines.

Mr. COX. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. COX. I want to know what is going on and how the gentleman from Ohio [Mr. KEIFER] gets the floor every once in awhile.

The CHAIRMAN. The Chair will ask the gentleman from Ohio [Mr. KEIFER] a question. Did he mean to retain the names of Yocum and Curtin, or to strike them out?

Mr. KEIFER. To strike them out, and only those.

The CHAIRMAN. And they were stricken out by the action of the committee.

Mr. ATHERTON. I wish to inquire if that was the way in which the gentleman from Ohio put his motion?

Mr. KEIFER. I will state——

Mr. ATHERTON. And I wish to know if no one has a right to be heard but the gentleman from Ohio.

Mr. VAN VOORHIS. I rise to make an inquiry.

Mr. COX. I rise to a question of order. I submit it is the duty of the Chair to state the proposition so that the committee can understand it.

The CHAIRMAN. The Chair will do it when he has an opportunity. He cannot do it when gentlemen are all on the floor addressing the Chair.

Mr. COX. I hope the Chair will direct order to be preserved in committee.

The CHAIRMAN. The Chair tried to make himself understood before, and he hopes he will not now be interrupted. The gentleman from Massachusetts [Mr. MORSE] moved to strike out of this bill all the names of those to whom it is proposed to give the sums named for election-contest expenses. The gentleman from Ohio [Mr. KEIFER] moved to amend that so as to strike out but two of the names.

Mr. KEIFER. To modify the motion of the gentleman from Massachusetts [Mr. MORSE] so as to strike out but two names.

The CHAIRMAN. The purpose of the gentleman, as he states, being to strike out two of the names and leave the others. That amendment was agreed to. The question now recurs upon the motion of the gentleman from Massachusetts as amended, and if adopted the effect of it will be, in the judgment of the Chair, to strike out all the names from the bill.

The question was taken; and upon a division there were—ayes 48, noes 88.

Mr. MORSE. I call for tellers; no quorum has voted.

Mr. ATKINS. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. I make the point of order that all these names cannot be considered as in one paragraph, because they are not one paragraph.

The CHAIRMAN. That point of order is made too late.

Mr. MORSE. I have called for tellers.

The CHAIRMAN. The point of order being made that no quorum voted, the Chair will appoint Mr. MORSE, of Massachusetts, and Mr. KEIFER, of Ohio, to act as tellers.

Mr. TOWNSHEND, of Illinois. What will be the effect of a negative vote?

The CHAIRMAN. It will be to leave in four of the names.

Mr. HISCOCK. If the motion, as amended, is rejected, will not the effect of it be to leave the bill as it now stands?

The committee again divided; and the tellers reported that there were—ayes 15, noes 80.

Mr. MORSE, (one of the tellers.) I do not call for any further count.

So the motion of Mr. MORSE, as amended, was not agreed to.

Mr. ATKINS. What is the effect of the vote just taken?

The CHAIRMAN. It is to leave the bill to stand as reported from the Committee on Appropriations.

Mr. ATKINS. I rise to a privileged motion.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. I move that the committee now rise.

Mr. CLYMER. I trust not.

The CHAIRMAN. The amendment of the gentleman from Massachusetts, [Mr. MORSE,] as amended, having been rejected, the bill stands as it was before any vote was taken upon this portion of it.

Mr. KEIFER. I move to strike out lines 1211 and 1212, as follows:

Seth H. Yocum, $2,000.
Andrew G. Curtin, $2,000.

Mr. ATKINS. What has become of my motion that the committee rise?

The CHAIRMAN. The Chair did not understand the gentleman to insist upon it.

Mr. COX. I insist upon the motion.

The question was taken upon the motion that the committee rise; and it was not agreed to upon a division—ayes 30, noes not counted.

The CHAIRMAN. The question recurs upon the amendment of the gentleman from Ohio, [Mr. KEIFER,] to strike out the two lines indicated by him.

Mr. FINLEY. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. FINLEY. My point of order is that the committee has already voted upon that very proposition.

The CHAIRMAN. The Chair overrules the point of order.

The question was taken upon the amendment of Mr. KEIFER; and it was agreed to upon a division—ayes 75, noes 44.

Mr. CLYMER. I give notice that I shall call for a separate vote in the House on this amendment.

Mr. BREWER. I move to amend by inserting what I send to the Clerk's desk.

The Clerk read as follows:

To enable the Clerk of the House to pay Frederick Carlisle in full for services as an expert before the Committee on Public Expenditures, $234.

Mr. CLYMER. I make the point of order upon that amendment that there is no law authorizing it. If there is a law for it I will not object to it.

Mr. ATKINS. I must ask the committee to stop a moment. I want to inquire of the gentleman in charge of this bill what has been done in regard to these contested-election cases?

Mr. CLYMER. As I understand it——

The CHAIRMAN. The effect of the amendment is——

Mr. ATKINS. I did not ask the Chairman.

The CHAIRMAN. It is the duty of the Chair to state the effect of the action of the committee.

Mr. ATKINS. I want the gentleman from Pennsylvania to state it.

Mr. CLYMER. If the Chair would permit me, I would answer the gentleman by stating that the action of the committee just had strikes out the clauses relating to Mr. YOCUM and Mr. Curtin.

Mr. ATKINS. And the rest are left in the bill?

Mr. CLYMER. They are left in.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Michigan, [Mr. BREWER.]

Mr. CLYMER. I raise the point of order on that amendment, that there is a bill now pending in the House for this very purpose.

The CHAIRMAN. The point of order is well taken.

Mr. BREWER. I desire to be heard upon the point of order.

The CHAIRMAN. The Chair is of opinion that upon a point so familiar as that no time for debate is necessary. The point of order is sustained, and the Clerk will proceed with the reading of the bill.

Mr. BREWER. I insist upon being heard. There is no bill before the House like this. These services were authorized by law.

The CHAIRMAN. The Chair wants to be informed on that point.

Mr. BREWER. And I desire to inform the Chair, and I have a right to do so. It is not very often that I take up the time of the House, and when I do I want to be heard.

The CHAIRMAN. The Chair wants to hear the gentleman.

Mr. BREWER. There is no bill before the House to pay this man.

Mr. CLYMER. If I have been misinformed I will withdraw my statement.

Mr. BREWER. This man was employed by the Committee on Public Expenditures of the Forty-fifth Congress. That committee was authorized by a resolution of this House to make an investigation in regard to the Government Printing Office, and it was authorized by a resolution of the House to employ a clerk, book-keepers, and experts. The gentleman from Ohio on the other side [Mr. FINLEY] employed this man in behalf of the committee and under authority of that resolution. The man came here and rendered the service required of him. He presented his account to the Clerk of the House, and the Clerk declined to pay it, because he thought he had no authority to do so. During the first session of this Congress my colleague [Mr. NEWBERRY] introduced a resolution, supposing a simple resolution passed by the House would authorize the Clerk of the House to make this payment.

But, Mr. Chairman, the Committee on Accounts, to whom the resolution went, held that they had no jurisdiction to pass upon it, and referred it back to the House. It then went to the Committee on Claims, who unanimously reported in favor of the payment of the amount. Here is the account certified to in the Forty-fifth Congress by the gentleman from Ohio, [Mr. FINLEY,] chairman of the Committee on Public Expenditures, and by two other members of that committee.

I wish to state further that I submitted this matter, within a day or two, to the gentleman from Georgia [Mr. BLOUNT] who has this bill in charge; and I showed him the report of the Committee on Claims, and he said that the provision ought to be inserted; that he had no objection.

Mr. CLYMER. The gentleman admits that I was substantially correct in the statement on which I based the point of order. Though not a bill, it is a resolution that is pending. Therefore my point is correct.

Mr. TOWNSHEND, of Illinois. The gentleman from Michigan admits that there is a resolution pending embracing substantially this proposition.

Mr. BREWER. I admit that there has been a resolution presented for paying this amount; but that is not a bill.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

To enable the Clerk of the House to pay the widow of Hon. A. M. Lay, deceased, late a member of the Forty-sixth Congress, $6,000.

Mr. HUNTON. I move to amend by inserting after the paragraph just read the following:

To enable the Clerk of the House to pay A. C. Ditner for two horses lost and damage to hearse and harness, at the funeral of the late Hon. B. B. Douglas, $237.50.

Mr. HAWLEY. I make a point of order on this amendment.

Mr. HUNTON. Will my friend reserve the point of order till I can explain the matter?

Mr. HAWLEY. I think I understand this matter; and it is not likely I shall withdraw the point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

To pay Miss B. A. Hincks, sister of William Hincks, late one of the official reporters of the debates of the House, the balance of his salary from date of his death to close of his contract and one month's additional pay, $2,500.

Mr. CRAPO. I move to amend by striking out the paragraph just read and inserting as a substitute the following:

For Miss B. A. Hincks, of Cohasset, Massachusetts, the sum of $5,000, being the amount of one year's salary of her brother, William Hincks, late a reporter of debates for the House of Representatives.

I offer this amendment at the request of my colleague from Massachusetts [Mr. HARRIS] who is necessarily absent and who represents the congressional district of which Mr. Hincks was a resident.

Mr. CLYMER. I must make a point of order on this amendment.

Mr. KELLEY. There is no point of order to be made. The Committee on Appropriations has reported a provision to pay a certain amount, and this amendment simply changes the amount.

Mr. CLYMER. It increases the amount.

Mr. KELLEY. I ask the gentleman to hear a statement before he raises the point of order.

Mr. CLYMER. I reserve the point of order.

The CHAIRMAN. The Chair overrules the point of order. It came too late. The question is on the amendment of the gentleman from Massachusetts, [Mr. CRAPO.]

Mr. KELLEY. Mr. Chairman, nineteen years and more ago, when I began my service as a member of this House, I found at the reporters' desk Mr. Hincks, one of the first stenographers who had ever undertaken the formidable task of reporting *verbatim* the proceedings of this oft-times excited and turbulent body. He continued in the employ of the House till the close of last session, and at the time of his death had served here as a reporter nearly thirty years.

A MEMBER. And drew $5,000 a year all that time.

Mr. KELLEY. Having labored during a large part of those thirty years for pay inadequate to the talents which his duties demanded—pay inferior to that which the two Houses of Congress now give to many of their committee clerks—Mr. Hincks did during the last five or six years of his life receive, as he deserved to receive, a salary of $5,000, in full compensation for the services of himself and his assistants; for I hardly need remind members that without the aid of a large body of clerks (whom Congress is not asked to compensate) five official reporters could not furnish our voluminous proceedings with that promptitude which we have learned to regard as a matter of course, but which in former years would have been deemed impossible.

Mr. Hincks from early manhood cared faithfully for his two orphan sisters, one of them for years an invalid. He never enjoyed the comforts of a home presided over by a wife because his earlier life and his maturer manhood were devoted to the care of those sisters. I am here to plead for the adoption of this amendment as a suitable tribute to a worthy servant of the House engaged for nearly thirty years in most laborious and responsible duty.

In further justification of the amount asked, I will add that, as the death of Mr. Hincks occurred during the recess, we have never yet made in his case any allowance for funeral expenses and extra pay, a provision uniformly made in the case of officers of the House dying while in its employ.

We have just voted more than a year's pay to the widow of one who was scarcely known to us, and I am glad that we did it. Here is a case of a stricken invalid sister, for whom no provision has been made. I ask that we shall treat this necessitous relative of a faithful servant of the House as well as we treat one of our own body. I hope the Committee of the Whole will cheerfully and promptly vote the amount which this amendment asks for the invalid sister of the late Mr. Hincks.

The question being taken on the amendment of Mr. CRAPO, it was agreed to; there being—ayes 78, noes 50.

Mr. MCKENZIE. I shall ask a vote by yeas and nays in the House on this amendment.

Mr. HUNTON. The point of order which was made upon my amendment by the gentleman from Connecticut [Mr. HAWLEY] is now withdrawn. I desire that the amendment be again read, and in two minutes I can satisfy any member that it ought to be adopted.

The Clerk again read the amendment of Mr. HUNTON, as follows:

To enable the Clerk of the House to pay A. C. Ditner for two horses lost, and damage to hearse and harness, at the funeral of Hon. B. B. Douglas, $237.50.

Mr. ATHERTON. I reserve a point of order on the amendment.

Mr. HUNTON. I wish to make a short statement before the point of order is passed upon. I am satisfied that nobody will object to the amendment when the facts are explained. I was chairman of the committee that accompanied the remains of Hon. B. B. Douglas to their final resting-place. At Richmond the nephew of our deceased colleague, Henry T. Douglas, had made an arrangement for the hearse and hacks to go down by the York River Railroad (of which he was superintendent) free of charge to the Government. There was an arrangement with the livery-stable man that the hearse and hacks should be taken down on the railroad to the depot nearest to the residence of Mr. Douglas, free of charge, and returned to the city of Richmond. They were carried down to the depot; but there was some confusion about the order in reference to the return of the hearse and the hack on a special train; and the hearse and the hack had to come overland; and in ferrying one of the streams the two horses attached to the hearse jumped overboard and were drowned. The owner of those horses demanded pay of Henry T. Douglass; and the only question here is whether we are to relieve Henry T. Douglass of this responsibility or not.

I desire to say in addition the Government paid not a dollar of the expense of this burial from the time we reached the city of Richmond until we returned to it. The special train and the hearse were furnished free; and accommodation all along the road was free also. If this sum is paid the Government will pay out less money than if the accommodation had not been furnished by Colonel Douglass.

Mr. ATHERTON. I withdraw the point of order.

Mr. HUNTON. I thank the gentleman.

The amendment was agreed to.

The Clerk read as follows:

To pay M. M. Herr for services as messenger to the Sergeant-at-Arms, at $5 per day, from December 1, 1879, to May 31, 1880, inclusive, $915.

Mr. SHELLEY. I move, after line 1230, to insert the following:

To pay J. Russell Barbee for three months' service as messenger to War Claims Committee in the Forty-fifth Congress, $180, to be immediately available.

Mr. BREWER. I rise to a point of order on that amendment.

The CHAIRMAN. Is it authorized by law?

Mr. CLYMER. I am informed that it is authorized by law.

The CHAIRMAN. Will the gentleman from Alabama state whether it is authorized by law or not?

Mr. SHELLEY. The law does authorize it. The young man was appointed, under resolution passed during the Forty-fifth Congress, as a messenger to the War Claims Committee. By inadvertence he failed to get his allowance on the sundry civil bill during that Congress. A resolution was introduced in the last days of the Forty-fifth Congress and passed both Houses, but failed to reach the President in time to receive his signature and become a law.

Mr. BREWER. I insist on my point of order.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. BRIGHT. I hope the point of order will be withdrawn as to the claim of Mr. Barbee.

Mr. SHELLEY. We shall be obliged to take an appeal from the decision of the Chair in that matter.

Mr. BREWER. I withdraw the point of order,

The amendment was agreed to.

Mr. HENRY. I move to insert the following:

To pay certain claims found just and proper and recommended by the Committee on Accounts, to wit:

To J. C. Kondrup, for services rendered as messenger to the official reporters of debates from December 1, 1879, to February 4, 1880, at the rate of $1,000 per annum, $178.68.

To Mrs. Anna E. Ward, balance due for services rendered in washing and cleaning Statuary Hall from June 30, 1878, to March 3, 1879, at $3.60 per day, $400.

Mr. CLYMER. I reserve the point of order on that amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CLYMER. There is no law for it.

Mr. HENRY. If the gentleman from Pennsylvania will hear me for a moment, I am sure he will withdraw his point of order.

Mr. CONGER. If there is no law to pay a woman for work done by her in this Capitol, then let us stop all business and pass a law that will provide for her payment. [Cries of "That's right!"] A woman who is dependent on her daily labor for the support of herself and children ought to be paid, and I now move the committee rise in order that we may pass some law that will enable her to be paid.

The CHAIRMAN. Is the point of order insisted upon?

Mr. CLYMER. I make the point of order and insist upon it.

Mr. HENRY. I desire to state in reference to the point of order, Mr. Chairman, that J. C. Kondrup is the messenger for the official reporters of debates. He has acted in that capacity for a number of years and has been paid by resolution. At the present session he was appointed by resolution and holds his position by virtue of that resolution. This is only to pay him from the beginning of the present session, at the time he commenced to perform his duties, up to the time of the passage of that resolution. There is always some delay in getting these resolutions through.

Mr. CLYMER. On the statement of the gentleman from Maryland I withdraw my point of order.

The amendment was adopted.

Mr. HENRY. I have another amendment to offer with the approval of the Committee on Accounts, and it has for its purpose to place employés in the post-office of the House on the same footing with committee clerks and others in making their pay commence at the beginning of the session. These men remained here during the recess at the instance of the Postmaster of the House and performed duty continuously.

Mr. ATKINS. I make the point of order against the amendment. This can be adjusted in the legislative appropriation bill.

Mr. HENRY. I hope the gentleman will withdraw his point of order and allow the amendment to pass at this time.

The CHAIRMAN. The amendment will be read.

The Clerk read as follows:

To each of the following-named persons, to wit, Richard Granger, John J. Tytherleigh, Harry C. Acton, Charles M. Henry, Walter H. Robertson, and Perry S. Goodsell, the sum of $67 for services rendered as session messengers in the House post-office, from March 18 to April 4, 1879; and to William T. Revill and Joseph T. Knipe, each, the sum of $52 for services rendered in the same capacity from March 18 to 31, 1879, which sums, in this section allowed respectively to the persons named, shall be in full satisfaction of their respective claims.

Mr. ATKINS. I withdraw the point of order.

The CHAIRMAN. The question is on the amendment just read.

The amendment was agreed to.

Mr. CRAVENS. I offer an amendment which I send to the desk.

The Clerk read as follows:

After the word "dollars," in line 1242, insert "to pay E. B. Blanks, jr., for services under the Doorkeeper of the House from February 1, 1878, up to and including June 30, 1878, at $2.50 per day, $375."

Mr. WARNER. I would like to ask the gentleman where there is any law or if there was any law for the appointment of this man?

Mr. CRAVENS. This boy served in the seal-room of the House. There was only one employé there at that time. Prior to that and since that time two persons have been employed to do that work. He served under the immediate observation of every member of the Forty-fifth Congress, and the question is whether he shall be paid or not. It was understood when he performed the service that he was to be paid for it, but it was omitted by some means, and this is simply an act of justice to him.

Mr. WARNER. Was he employed in pursuance of any law?

Mr. GUNTER. I will say to the gentleman from Ohio that he was filling the place that had to be filled by somebody else. It had been filled by some other person before, but at this time there was a necessity for his employment there, and he was employed but was not paid.

Mr. WARNER. I objeet to making any payments to any persons whose appointments are not authorized by law. I think we have gone far enough in that direction.

Mr. GUNTER. It was understood that he was employed under the Doorkeeper of the House, and the boy supposed of course that he was to receive his pay—in fact there was no question of it. It would have been necessary to have employed somebody to do the work and he did it, although there was no immediate law for filling such an appointment as that; but if a person had been detailed to do the work it would have been necessary to pay for it. I will further state that he did faithful service to the House, that he is a good boy and he ought to be paid for his work.

Mr. DUNNELL. I know nothing about this special case, but inasmuch as we have paid many others appointed under like circumstances and who served as this boy did, I hope the amendment will be adopted.

Mr. WARNER. This method of appointing persons to fill positions and afterward bringing in bills or resolutions to pay them I am opposed to. I think it is a wrong principle that ought not to be encouraged. If this is the last case, however, I will withdraw my objection, but I shall insist in future on a strict compliance with the law.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Arkansas.

The amendment was agreed to.

Mr. CLYMER. I desire, Mr. Chairman, to withdraw the objection which I made a short time ago to the amendment proposed by the gentleman from Michigan, [Mr. BREWER.] I withdraw the point of order on that.

Mr. SPARKS. Then I must renew the objection.

Mr. BREWER. I trust the gentleman from Illinois will not object to this.

Mr. FINLEY. Mr. Chairman, inasmuch as every claim has been allowed this claim certainly ought to be allowed. [Cries of "Regular order!"]

The CHAIRMAN. Objection being made, the Chair cannot entertain the motion of the gentleman from Michigan.

The Clerk read as follows:

To pay Henry H. Smith for services as clerk to the Committee on Rules, and as reimbursement for money expended by him for clerical services under the resolutions of June 25, 1879, and March 2, 1880, $500.

Mr. MORSE. I offer an amendment to come in after the clause just read.

The Clerk read as follows:

At the end of line 1258 add the following:

"To enable the Clerk of the House to pay the cloak-room men, eight in number, the difference in pay between the amount received by them under the last legislative, executive, and judicial appropriation act the amount they would have received in the bill of the same title which was vetoed, to wit: $10 per month each for six months, $480."

The amendment was agreed to.

Mr. SPRINGER. I desire to offer a further amendment as an additional clause.

The Clerk read as follows:

After line 1218 add the following:

"To the clerk of the Committee on Elections, for the purpose of enabling him to continue the compilation of the decisions of the Committee on Elections of the House of Representatives, a sum not exceeding $1,500; to be paid on vouchers approved by the Clerk of the House, 50 per cent. of the amount to be paid as the work may progress; the volume to be printed and bound at the Government Printing Office in the same style as Smith's Election Cases."

Mr. MILLS. I make the point of order upon that.

The CHAIRMAN. The point of order is sustained.

Mr. SPRINGER. I desire to say a word upon the point of order. I ask that the point of order be stated.

The CHAIRMAN. It changes the law in reference to the publication of a report——

Mr. SPRINGER. This is a work in progress. The last Congress published a volume of this kind, and it is an ordinary publication. [Cries of "Regular order!"]

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. SPRINGER. No; because there is nothing to appeal from. I did not hear any decision on which an appeal could be based.

Mr. COOK. Let the gentleman have leave to print his remarks.

Mr. SPRINGER. I have no objection to the gentleman from Georgia printing his speeches, but I prefer to deliver mine orally in the House.

The Clerk read as follows:

For the removal of the remains of R. H. Carter, late inspector of customs at Panama, from Panama to his late home in Fauquier County, Virginia, $500, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Treasury.

Mr. McCOOK. At the risk of appearing ungenerous I move to strike out the section until the gentleman in charge of the bill explains it.

Mr. CLYMER. The bill having been but recently placed in my hands the gentleman asks me to explain a matter of which I have little personal knowledge. I understand that this was a public servant who died at his post. His family being poor, could not pay for bringing his remains home. This provides that the Government shall pay the expense of their removal.

Mr. McCOOK. There are many public servants who die abroad, in the Army, in the Navy, and in various public capacities. While I do not wish to appear as objecting to a small item like this, I think we should be prudent about incurring such expenditures.

Mr. CLYMER. I understand there are precedents for this appropriation. The Government has done this over and over again.

The CHAIRMAN. Does the gentleman from New York withdraw his motion to strike out the section?

Mr. McCOOK. I do.

Mr. BREWER. I offer the amendment which I send to the desk to come in after the paragraph last read.

The Clerk read as follows:

To enable the Clerk of the House to pay Frederick Carlisle in full of services as an expert before the Committee on Public Expenditures, $234.

The amendment was agreed to.

The Clerk continued and concluded the reading of the bill.

Mr. CLYMER. I move that the committee rise and report the bill and amendments.

Mr. COX. Before that is done I offer the amendment which I send to the desk, to come in as an additional paragraph after what is now the last paragraph in the bill.

The Clerk read as follows:

That whenever the interests of commerce and humanity no longer require the existence of any life-saving or life-boat station, or house of refuge, the Secretary of the Treasury is hereby authorized to discontinue such station or house of refuge: *Provided*, That the district superintendent and the inspector of life-saving stations shall first certify that in their opinion such station or house of refuge is no longer needed, and the General Superintendent of the Life-Saving Service shall concur.

That the General Superintendent may transfer the apparatus, appliances, equipments, and supplies of any discontinued station to such other stations as may need them, and may also transfer any portion of the apparatus, appliances, equipments, and supplies of one station to another whenever in his judgment the interests of the service require it.

That the Secretary of the Treasury is hereby authorized, upon the recommendation of the General Superintendent, to fix the annual compensation of the keeper of any station at which a crew is not employed during any portion of the year, at such rate below the rate now authorized by law as may in his judgment be just and proper.

That whenever any keeper of a life-saving station or any member of the crew thereof shall have died, or shall hereafter die, by reason of any wound or injury received or disease contracted in the line of his duty in the Life Saving Service, his widow, or, if there be no widow, or in case of her death, his child or children under sixteen years of age, shall be entitled to receive a pension of $15 per month if the husband or father were a keeper of a station, and $12 per month if he were a member of a crew; said pension to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry or die the child or children shall be entitled from the date of her remarriage or death until they severally attain the said age of sixteen years.

Mr. DWIGHT. I make the point of order on that amendment.

Mr. COX. I wish to be heard for a moment.

Mr. DWIGHT. I withhold the point of order until the gentleman is heard.

Mr. CLYMER. I reserve the point of order.

Mr. COX. I will explain. Gentlemen who are not familiar with the life-saving service are not aware that twelve families have been made destitute by the heroic self-sacrifice of our life-saving heroes. Have gentlemen never heard of the sacrifice of the surfmen at Aux Barques, on Lake Huron? Are they insensible to these heroes of the sea? They make no points of order on widows, &c., around this Capitol; will they make it on the helpless ones, made so by the effort to save? I want to know who will do it.

These first three provisions propose a reduction of expense of some $1,500. It is not much, but it saves the point of order. I ask for these twelve families only such pensions as will amount to about $1,200 per annum. That is equal in each case to the pension of a private soldier. My amendment, therefore, is in the interest of economy, certainly of humanity. At the same time it does justice to these helpless, beseeching families, whose natural protectors lost their lives when trying, amid frost and wave, not to take but to save human life. Oh, give us one generous thought at the end of this bill and this day! Then I am content. Let no point of order be made on this service, of all others which has commended itself so signally to the American people and to God Almighty.

The CHAIRMAN. Is the point of order insisted on?

Mr. CLYMER. I must insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order on two grounds. The amendment relates to the same subject-matter as is contained in a bill now pending; and it is new legislation not in the interest of economy.

Mr. COX. I offer the amendment which I send to the desk, to come in as an additional paragraph at the end of the bill.

The Clerk read as follows:

To pay the expenses for the public exhibition and correction of the schedules of population provided by the sixth section of the act approved April 20, 1880, $10,000, in lieu of $125,000 heretofore appropriated by the seventh section of said act: *Provided*, Said exhibition and correction shall only take place when the enumerator shall be requested thereto in writing by six reputable citizens resident in the enumeration district.

Mr. KEIFER. I make the point of order on that amendment.

Mr. COX. This will save at least $195,000.

Mr. DWIGHT. We do not want to save money in that way. We want an honest census.

Mr. COX. This has the indorsement of the honest Superintendent of the Census and of the Secretary of the Interior.

Mr. HAWLEY. So much the worse for them.

Mr. COX. And the indorsement of all who know anything about the subject.

I wish to know what is the point of order?

The CHAIRMAN. The gentleman from Ohio [Mr. KEIFER] will state the point of order which he makes.

Mr. KEIFER. The amendment changes existing law and is not germane to the bill. And it is not evident at all on the face of the amendment that it reduces expenditure. The Chair ruled out a similar amendment a few moments ago.

Mr. COX. The amendment cuts down the expenditure from $125,000 to $10,000.

The CHAIRMAN. The Clerk will read the section of the act referred to in the amendment.

The Clerk read as follows:

SEC. 7. That to pay the enumerators for the additional services required by this act, the sum of $125,000, or so much thereof as may be necessary, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. COX. In only a very few districts of the United States will they call for a correction and exhibition of the schedules of population as to sex, age, &c.

Mr. HAWLEY. If the amendment is ruled to be in order, I want to be heard upon it.

Mr. KEIFER. I insist on the point of order.

The CHAIRMAN. In the opinion of the Chair the amendment retrenches expenditure by providing that the cost of this service shall be $10,000 instead of $125,000. Therefore the change of law is in the interest of economy and the amendment is in order.

Mr. HAWLEY. I desire to be heard upon the merits of this amendment, it having been ruled by the Chair to be in order. The law providing for the taking of this census has been fully published throughout the United States. If I understand correctly, one of its requirements is that the work of the enumerator of a district shall be placed in view of the people of that district, to be examined by them. Is that correct?

Mr. COX. That is correct, somewhat.

Mr. HAWLEY. The gentleman from New York [Mr. COX] says that is correct. That is the law which has been published all over the United States. Now, at the heel of a session, it is proposed to slip into an appropriation bill an amendment declaring that that publication of the tabulation of a district shall not be put up in view of the citizens, unless six citizens require it over their signatures. Now, it is probable that not one out of a million in the United States will ever hear of this provision if it is adopted. The enumeration will be made, the time will pass by, and when the question is asked why the tabulation has not been made public, they will be told that a year or two after the original bill was passed somebody got a little clause through Congress which excludes that from being done.

Mr. COX. I desire to say to my friend from Connecticut [Mr. HAWLEY] that this requirement was not in the original bill. He does not understand.

Mr. HAWLEY. It ought to have been.

Mr. COX. It was passed only a short time ago—April 20, 1880. It was thrust upon us by the Senate, and the House objected to it. All we could do was to object and get a conference. In that conference we saved several hundred thousand dollars, and should have saved more. We have now an honorable plan to save more, and still keep the system energetic and honest. There has been no promulgation made by the superintendent in the manner stated by the gentleman. He is utterly wrong.

Mr. HAWLEY. There ought to have been.

Mr. COX. Nothing of the kind is contemplated; I try to enlighten members in vain. All that we want is, if anybody questions the correctness of any enumeration, or any schedule, that he shall have a right to examine it by calling on the Superintendent of the Census in a way to make it effectual and inexpensive. In that way we will save $190,000, and not lose a particle of efficiency in taking the census.

I ask my friend from Connecticut to defer in this matter to the wisdom of others, not myself, but of General Walker, who wrote this amendment himself, and of those who understand and approve it.

Mr. HAWLEY. How can any man test the accuracy of an enumeration when you do not provide for its being published?

Mr. COX. It never has been done before in this country; neither in 1850, 1860, or 1870. This is a new but most costly experiment; and yet we effectuate it without much cost. Why will not gentlemen defer to those who are studious and honest?

The question was taken upon the amendment of Mr. COX; and upon a division there were—ayes 33, noes 68.

Mr. COX. No quorum has voted, and I call for tellers.

Tellers were ordered; and Mr. COX and Mr. HAWLEY were appointed.

The committee again divided; and the tellers reported that there were—ayes 60, noes 66.

Mr. COX. I make the point that no quorum has voted.

Mr. HAWLEY. Do not do that.

Mr. COX. I will raise the point of a quorum any time to save $150,000, if I have to stay here all night.

The CHAIRMAN. The tellers will continue their count; and members are requested to vote on one side or the other, in order that the committee may not find itself without a quorum.

The tellers continued the count, and reported—ayes 70, noes 79.

So the amendment was not agreed to.

Mr. ATKINS. I am instructed unanimously by the Committee on Appropriations to move as an amendment a proviso to the amendment which has been adopted, offered by the gentleman from Pennsylvania, [Mr. KLOTZ.]

The amendment of Mr. KLOTZ was as follows:

For a passenger-elevator in the south wing of the Capitol, as may be located by the Speaker and the Architect of the Capitol, $7,000.

The amendment of Mr. ATKINS was to add the following:

Provided, That the location of such elevator shall not in any way interfere with the use or occupation of, or communication between, any of the offices or committee-rooms of the House.

Mr. CONGER. I think we can leave that to the Speaker of the House.

The amendment was agreed to; upon a division—ayes 54, noes 48.

Mr. KLOTZ. I give notice that I shall call for a separate vote on this amendment in the House.

Mr. CLYMER. I move that the committee now rise and report this bill with the amendments thereto to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HARRIS, of Virginia, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. CLYMER. I call for the previous question upon the amendments, and upon the bill to its engrossment and third reading.

The previous question was seconded and the main question ordered.

Mr. CLYMER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. I desire a separate vote on some of the amendments.

The SPEAKER. The Chair is advised that it is not designed to take a vote on the bill and amendments to-night.

Mr. CONGER. I desire that the record shall show that a separate vote is demanded on the amendment in relation to the marshals.

The SPEAKER. That amendment having been made by the Committee of the Whole, it is the right of any member to demand a separate vote upon it.

Mr. CLYMER. I move that the House now adjourn.

MISSISSIPPI RIVER.

Mr. GIBSON, by unanimous consent, from the Committee on the Levees and Improvement of the Mississippi River, reported, as a substitute for House bill No. 6317, a bill (H. R. No. 6326) making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

ARMY OFFICERS ON DETACHED SERVICE, ETC.

Mr. SPARKS. I am instructed by the Committee on Military Affairs to report back the letter and accompanying documents of the Secretary of War in relation to the rank of officers of the Army not on duty with their regiments, &c., and to ask unanimous consent that it be printed and recommitted to the Committee on Military Affairs and also printed in the RECORD.

There was no objection, and it was so ordered.

The letter and accompanying documents are as follows:

WAR DEPARTMENT,
Washington City, May 12, 1880.

The Secretary of War has the honor to transmit to the House of Representatives in response to the resolution of that body of January 31, 1880, calling for the names and lineal rank of all officers not on duty with their regiments or corps, their compensation, &c., a statement prepared in the offices of Adjutant-General and Paymaster-General containing the information required; also copies of reports from each of those officers in explanation of said statement.

ALEX. RAMSEY,
Secretary of War.

The SPEAKER
of the House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 12, 1880.

SIR: I have the honor to return herewith the resolution of the House of Representatives of January 31, 1880, with the information called for therein as to officers on detached duty. The amounts received by the officers as extra compensation are furnished by the Paymaster-General. These include mounted pay to officers whose duty requires them to be temporarily mounted; commutation of quarters in lieu of quarters in kind, where there are no public quarters available; additional pay to the commandant of cadets and assistant professors at West Point; additional pay to examiner of State claims, War Department; acting commissaries of subsistence; officer in charge of public buildings and grounds in this city; officers acting as signal officers; aids-de-camp to general officers.

All these allowances have grown gradually, by legislation, to be a part of the pay and allowances of the Army for good reasons. The mere mention of the subject will recall most of these reasons; and as it would delay this report, already repeatedly called for, much longer to collect and explain them fully, it has not been done. The same reasons still exist for these allowances, which are believed to be right, necessary, and just. The growth of many years' experience of the needs of the public service, their abridgment would result to the disadvantage of the service.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
Assistant Adjutant-General.

The honorable SECRETARY OF WAR.

Forty-sixth Congress, second session.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,
January 31, 1880.

On motion of Mr. WILLIAM A. J. SPARKS,

Resolved, That the Secretary of War be, and he is hereby, requested to furnish this House with the names and lineal rank of all officers of the Army, not on duty with their regiments or corps, but doing duty elsewhere, and the nature of that duty, the length of time each has been absent from his regiment or corps, the length of time each so absent has been performing the duty he is now engaged upon; the total amount of extra pay and cash value of emoluments, if any, each has received, over and above that due to his lineal rank, by reason of such duty away from his regiment or corps; the amount of extra compensation each is now drawing yearly, and the reasons why, if any, such extra compensation should be now allowed.

Attest: GEO. M. ADAMS, *Clerk.*

ADJUTANT-GENERAL'S OFFICE, *February 16, 1880.*

Respectfully referred to the Paymaster-General United States Army. A list of officers on duty detached from their regiments or corps, the period they have been on detached duty, &c., is inclosed herewith.

E. D. TOWNSEND,
Adjutant-General.

PAYMASTER-GENERAL'S OFFICE, *May 11, 1880.*

Respectfully returned to the Adjutant-General, whose list of officers received and returned herewith has been made to show—

First. The amount of extra compensation, if any, each is now drawing yearly. This is stated for the date of the resolution, January 31, 1880.

Second. The total amount of extra pay and cash value of emoluments, if any, each has received over and above that due to his lineal rank for the stated period of duty away from his regiment or corps. This statement is made up to December 31, 1879, the latest date to which payments had been in all cases recorded when this paper was received at this office. This total amount is made up of the payments made by the Pay Department, the figures of which are actual, and of the payments made by the Quartermaster's Department, which the Quartermaster-General states to be estimated on the basis of what the officer was entitled to draw, and is therefore presumed to have received.

Where figures appear under the first head only, it will be found that the officer was detached subsequent to December 31, 1879, the date to which the figures under the second head are stated.

Where figures appear under the second head only it is to be understood that the officer had ceased to receive extra compensation at the date of the resolution, January 31, 1880, for which the figures under first head are stated.

Money allowances for quarters are included as extra compensation in all cases of officers receiving same because of their detail; that is to say, who were not entitled thereto at date of detachment.

BENJ. ALVORD,
Paymaster-General, U. S. A.

Officers of the Army on detached duty from their regiments or corps, with the nature and commencement of such duty and commencement of absence from regiment or corps; furnished in compliance with resolution of the House of Representatives of January 31, 1880.

Names.	Rank, regiment, or corps.	Nature of duty.	Commencement of—		Amount of present annual extra compensation.	Total amount of extra pay and cash value of emoluments over and above that due to lineal rank.		
			Present duty.	Absence from regiment or corps.		Paid by Pay Department.	Paid by Q. M. Department.	Total.
A. P. Blunt	Capt. Q. M. Dept	Governor military prison, Fort Leavenworth, Kansas, but performing appropriate duties of a quartermaster.	Apr. 25, 1877	Apr. 25, 1877				
G. M. Sternberg	Surg. Med. Dept.	With National Board of Health	June 30, 1879	Apr. 27, 1879	$576 00	$347 46		$347 46
Elliott Coues	Asst. surg. Med. Dept	With geographical and geological surveys of Territories.	July 3, 1875	Apr. 28, 1873				
Charles Smart	Asst. surg. Med. Dept	With National Board of Health	Sept. 17, 1879	Sept. 17, 1879	432 00	122 40		122 40
W. F. Reynolds	Lieut. col. Corps of Eng	Engineer fourth light-house district.	Apr. 13, 1873	Apr. 13, 1873				
J. C. Duane	Lieut. col. Corps of Eng	Engineer first, second, and third light-house districts.	May 31, 1879	May 31, 1879				
T. L. Casey	Lieut. col. Corps of Eng	In charge of public buildings, grounds, &c., District of Columbia.	Mar. 3, 1879	Jan. 2, 1879	644 00	1,607 17	$321 07	1,928 24
Nathaniel Michler	Lieut. col, Corps of Eng	Preparing report on engraphing topographical maps on copper.	Apr. 9, 1879	Dec. 14, 1878				
O. M. Poe	Major Corps of Eng	Colonel and aid-de-camp to the General of the Army, also member of Light-House Board.	Jan. 1, 1873	May 14, 1873	1,144 00	8,069 67	1,386 27	9,455 94
O. E. Babcock	Major Corps of Eng	Engineer fifth light-house district.	Mar. 12, 1877	Apr. 8, 1864		8,487 75	3,057 74	11,545 49
P. C. Hains	Major Corps of Eng	Engineer sixth light-house district.	July 1, 1879	June 2, 1874				
F. U. Farquhar	Major Corps of Eng	Engineer secretary Light-House Board.	June 30, 1879	June 30, 1879				
W. J. Twining	Major Corps of Eng	Engineer commissioner District of Columbia.	June 29, 1878	June 29, 1878				
C. B. Sears	1st lieut. Corps of Eng	At Military Academy	Aug. 30, 1876	Aug. 30, 1876	480 00	1,569 39		1,569 39
J. G. D. Knight	1st lieut. Corps of Eng	At Military Academy	Aug. 30, 1874	Aug. 30, 1874	480 00	2,408 14		2,408 14
R. L. Hoxie	1st lieut. Corps of Eng	Assistant to the engineer commissioner District of Columbia.	July 25, 1878	July 2, 1874				
Eric Bergland	1st lieut. Corps of Eng	At Military Academy	Aug. 28, 1878	Aug. 28, 1878				
S. E. Tillman	1st lieut. Corps of Eng	At Military Academy	Aug. 28, 1879	Aug. 28, 1879				
F. V. Green	1st lieut. Corps of Eng	Assistant to the engineer commissioner District of Columbia.	May 20, 1879	June 28, 1876				
W. T. Rossell	1st lieut. Corps of Eng	At Military Academy	Aug. 30, 1876	Aug. 30, 1876	440 00	150 31		150 31
T. N. Bailey	1st lieut. Corps of Eng	At Military Academy	Aug. 30, 1876	Aug. 30, 1876				
Willard Young	1st lieut. Corps of Eng	At Military Academy	Aug. 28, 1879	Aug. 28, 1879				
C. E. Dutton	Capt. Ord. Dept	Secretary public land commission, Department of the Interior.	July 16, 1879	Dec. 17, 1877	432 00	577 60	349 20	926 80
John Pitman	Capt. Ord. Dept	With division of mining, geology, and geological surveys.	Nov. 12, 1879	Nov. 12, 1879				
S. E. Blunt	1st lieut. Ord. Dept	At Military Academy	Aug. 30, 1876	Aug. 30, 1876				
James Rockwell, jr	1st lieut. Ord. Dept	At Military Academy	Aug. 28, 1878	Aug. 28, 1878				
O. B. Mitcham	1st lieut. Ord. Dept	At Military Academy	Mar. 28, 1877	Mar. 28, 1877	440 00	224 85		224 85
T. F. Barr	Major Bureau Mil'y Just	Special duty in the War Department.	Jan. 10, 1880	Jan. 10, 1880				
Cuvier Grover	Col. 1st Cav	Superintendent mounted recruiting service and commanding Jefferson Barracks, Missouri.	Oct. 1, 1878	July 15, 1878				
J. Q. Adams	1st lieut. 1st Cav	Aid-de-camp to Brigadier-General O. O. Howard.	Sept. 17, 1879	Feb. 27, 1879	200 00	57 77		57 77
F. K. Ward	1st lieut. 2d Cav	Signal Service.	Nov. 11, 1879	Oct. 30, 1879				
John Pitcher	2d lieut. 2d Cav	Member of board at Washington, District of Columbia, for examination of candidates for appointment as superintendents of national cemeteries.	Nov. 14, 1879	Nov. 1, 1879	288 00	37 60		37 60
M. E. O'Brien	1st lieut. 1st Cav	Mounted recruiting service	Oct. 30, 1879	Sept. 5, 1879	288 00	48 00		48 00
Colon Augur	1st lieut. 1st Cav	Aid-de-camp to Brigadier-General C. C. Augur.	Jan. 3, 1872	Dec. 20, 1871	200 00	1,589 75	2,805 60	4,395 35
W. A. Dinwiddie	1st lieut. 2d Cav	Professor of military science, Illinois Industrial University.	Jan. 9, 1878	Oct. 12, 1874	288 00	385 07	206 40	591 47
E. J. McClernand	1st lieut. 2d Cav	At Military Academy	Aug. 28, 1879	July 14, 1879				
C. B. Schofield	1st lieut. 2d Cav	Aid-de-camp to Major-General J. M. Schofield.	Oct. 18, 1878	July 28, 1878	200 00	240 05		240 05
J. G. Bourke	1st lieut. 3d Cav	Aid-de-camp to Brigadier-General George Crook.	Sept. 1, 1871	Sept. 1, 1871	200 00	1,666 67	1,411 20	3,077 87
Charles Morton	1st lieut. 3d Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 10, 1878				
E. Z. Steever	1st lieut. 3d Cav	At Military Academy	Sept. 18, 1876	Feb. 11, 1876				
James Allen	1st lieut. 3d Cav	Signal Service	June 7, 1875	May 29, 1875	288 00	384 00	832 80	1,216 80
E. M. Heyl	Capt. 4th Cav	Mounted recruiting service	Oct. 1, 1878	Aug. 19, 1878	432 00	487 60		487 60
F. D. Grant	1st lieut. 4th Cav	Lieutenant-colonel and aid-de-camp to Lieutenant-General P. H. Sheridan.	Mar. 17, 1873	Feb. 22, 1873	2,116 00	11,095 57	5,435 53	16,531 10
E. M. Hayes	Capt. 5th Cav	Member of board at Washington, D. C., for examination of candidates for appointment as superintendents national cemeteries.	July 1, 1879	Oct. 6, 1878	432 00	216 00		216 00
W. J. Volkmar	Capt. 5th Cav	Aid-de-camp to Brigadier-General John Pope.	Jan. 8, 1880	Sept. 22, 1879	632 00	112 80		112 80
C. H. Rockwell	1st lieut. 5th Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 22, 1878	288 00	221 07		221 07
A. W. Greely	1st lieut. 5th Cav	Signal Service	July 29, 1871	July 15, 1871	288 00	385 07	2,989 20	3,374 27
W. S. Schuyler	1st lieut. 5th Cav	Aid-de-camp to Brigadier-General George Crook.	May 30, 1876	May 27, 1876	200 00	716 67	901 20	1,618 87
Frank Michler	1st lieut. 5th Cav	Adjutant at Military Academy	July 1, 1878	July 10, 1873	220 00	1,224 45	1,170 67	2,395 12
James Biddle	Major 6th Cav	Acting assistant inspector-general, Department of Arizona.	Apr. 10, 1876	Apr. 10, 1876				
J. C. Audenried	Capt. 6th Cav	Colonel and aid-de-camp to the General of the Army.	Oct. 1, 1863	Mar. 28, 1862	2,620 00	22,730 45	11,400 56	34,131 01
A. R. Chaffee	Capt. 6th Cav	In charge of San Carlos Indian agency, Arizona.	July 1, 1879	July 1, 1879				
C. G. Gordon	1st lieut. 6th Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 3, 1878	288 00	289 72		289 72
G. S. Anderson	1st lieut. 6th Cav	At Military Academy	Sept. 22, 1877	Oct. 9, 1875		396 64	43 50	440 14

Officers of the Army on detached duty from their regiments or corps, &c.—Continued.

Names.	Rank, regiment, or corps.	Nature of duty.	Commencement of—		Amount of present annual extra compensation.	Total amount of extra pay and cash value of emoluments over and above that due to lineal rank.		
			Present duty.	Absence from regiment or corps.		Paid by Pay Department.	Paid by Q. M. Department.	Total.
J. E. Tourtellotte	Capt. 7th Cav	Colonel and aid-de-camp to the General of the Army.	Jan. 1, 1871	Apr. 24, 1869	$2,020 00	$16,998 75	$8,639 48	$25,638 23
M. V. Sheridan	Capt. 7th Cav	Lieutenant-colonel and military secretary to Lieutenant-General P. H. Sheridan.	Apr. 9, 1878	June 12, 1867	1,876 00	11,890 68	9,319 14	21,209 82
E. S. Godfrey	Capt. 7th Cav	At Military Academy.	Aug. 27, 1879	July 1, 1879				
F. M. Gibson	1st lieut. 7th Cav	Mounted recruiting service.	Oct. 1, 1878	Sept. 17, 1878	288 00	211 33		211 33
J. H. Coster	Capt. 8th Cav	Aid-de-camp to Major-General Irvin McDowell.	Mar. 23, 1867	Never joined	200 00	2,760 42	6,084 67	8,845 09
H. J. Farnsworth	Capt. 8th Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 12, 1878	432 00	453 60		453 60
E. E. Wood	1st lieut. 8th Cav	Aid-de-camp to Major-General J. M. Schofield.	June 24, 1879	Nov. 10, 1872	200 00	1,388 13	340 39	1,728 52
G. A. Forsyth	Major 9th Cav	Lieutenant-colonel and aid-de-camp to Lieutenant-General P. H. Sheridan.	April 9, 1878	Mar. 20, 1867	650 00	3,633 12	9,746 40	13,379 52
J. M. Bacon	Capt. 9th Cav	Colonel and aid-de-camp to the General of the Army.	Jan. 1, 1871	Jan. 13, 1871	2,620 00	17,558 59	7,434 05	24,992 64
Michael Cooney	Capt. 9th Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 5, 1878	432 00	487 40		487 40
T. C. Davenport	1st lieut. 9th Cav	Assistant in war records publication office.	July 21, 1879	Oct. 4, 1878	288 00	208 00		208 00
J. F. Wade	Lieut. col. 10th Cav	Mounted recruiting service, executive officer Jefferson Barracks, Missouri.	Oct. 1, 1878	Aug. 19, 1878				
T. J. Spencer	Capt. 10th Cav	Professor military science, Southern Illinois Normal University.	July 10, 1878	Jan. 25, 1875	432 00	474 59		474 59
J. T. Morrison	1st lieut. 10th Cav	Mounted recruiting service	Oct. 1, 1878	Sept. 6, 1878	288 00	325 06		325 06
R. H. Pratt	1st lieut. 10th Cav	In charge of education of Indian youths, under orders of the Interior Department.	Sept. 2, 1878	Apr. 28, 1875	288 00	303 06	1,344 00	1,647 06
John Bigelow, jr	2d lieut. 10th Cav	At Military Academy	Jan. 1, 1880	Dec. 24, 1879				
J. T. Webster	1st lieut. 1st Art	Professor military science, University of Nebraska.	June 13, 1879	June 13, 1879	288 00	144 00		144 00
J. T. Honeycutt	1st lieut. 1st Art	At Military Academy	Aug. 28, 1878	Aug. 20, 1878				
J. P. Wisser	2d lieut. 1st Art	At Military Academy	Aug. 28, 1878	July 29, 1878				
J. S. Oyster	2d lieut. 1st Art	At Military Academy	Sept. 25, 1879	Sept. 23, 1879				
T. H. Bliss	2d lieut. 1st Art	At Military Academy	Sept. 14, 1876	Sept. 13, 1876				
James McMillan	Major 2d Art	Recorder of the Warren court of inquiry	Jan. 5, 1880	Apr. 15, 1879	576 00	412 00		412 00
L. L. Langdon	Major 2d Art	Temporary duty at headquarters Department of the East	Jan 28, 1880	June 27, 1879				
W. McK. Dunn, jr	Capt. 2d Art	Aid-de-camp to Brigadier-General John Pope.	Nov. 11, 1867	June 4, 1867	460 00	5,243 09	9,238 58	14,481 67
H. G. Litchfield	Capt. 2d Art	Special duty at headquarters Department of the East.	Nov. 17, 1878	Sept. 17, 1878				
R. G. Howell	1st lieut. 2d Art	Professor of military science at the Kentucky University.	Nov. 27, 1877	Nov. 22, 1877	288 00	384 93	256 80	641 73
G. S. Grimes	1st lieut. 2d Art	Signal Service	Feb. 10, 1870	July 20, 1869	418 00	1,499 27	3,920 90	5,420 17
C. E. Kilbourne	1st lieut. 2d Art	Signal Service	Sept. 19, 1871	Aug. 30, 1871	408 00	1,326 95	3,998 50	5,325 45
E. T. C. Richmond	1st lieut. 2d Art	Professor of military science at Dickinson College, Pennsylvania.	Jan. 14, 1880	Jan. 13, 1880	288 00			
Medoren Crawford, jr	1st lieut. 2d Art	Professor of military science at Bowdoin College, Maine.	June —, 1879	June 3, 1879	288 00	144 00		144 00
H. A. Reed	1st lieut. 2d Art	At Military Academy	Aug. 28, 1876	May 15, 1875	600 00	1,906 10		1,906 10
C. A. Tingle	2d lieut. 2d Art	Signal Service	Sept. 4, 1876	Aug. 27, 1876	388 00	657 57	1,016 15	1,673 72
E. M. Weaver, jr	2d lieut. 2d Art	Professor of military science at Western Reserve College, Ohio.	Aug. 27, 1877	Aug. 13, 1877	288 00	384 00	364 80	748 80
W. T. Howard	2d lieut. 2d Art	Acting judge-advocate, Department of Texas, and from November 1, 1879, aid-de-camp to General Ord.	Oct. 29, 1878	Oct. 29, 1878	288 00	305 73		305 73
R. N. Scott	Major 3d Art	In charge of war records publication office.	Dec. 14, 1877	Dec. 13, 1877	576 00	683 80	354 60	1,038 40
F. W. Hess	1st lieut. 3d Art	Professor of military science at Allegheny College, Pennsylvania.	Mar. 27, 1877	Feb. 16, 1877	288 00	385 06	544 80	929 86
J. B. Burbank	1st lieut. 3d Art	Professor of military science at Cornell College, New York.	Sept. 20, 1877	Sept. 18, 1877	288 00	385 06	337 20	722 26
G. A. Thurston	1st lieut. 3d Art	Professor of military science at Iowa State University.	Dec. 27, 1879	Dec. 24, 1879	288 00			
H. B. Osgood	1st lieut. 3d Art	Professor of military science at Western University of Pennsylvania.	Sept. 5, 1876	Sept. 2, 1876	288 00	385 06	787 20	1,172 26
H. C. Danes	1st lieut. 3d Art	Professor of military science at Bishop Seabury Mission, Minnesota.	Aug. 31, 1877	July 27, 1877	288 00	385 07	360 00	745 07
W. E. Birkhimer	1st lieut. 3d Art	Signal Service	July 15, 1878	July 12, 1878	408 00	395 48		395 48
B. H. Randolph	1st lieut. 3d Art	At Military Academy as assistant instructor.	Nov. 1, 1879	June 23, 1878	550 00	428 73		428 73
J. E. Myers	2d lieut. 3d Art	Professor of military science at Cornell College, Iowa.	Oct. 16, 1875	Oct. 13, 1876	288 00	385 07	738 00	1,123 07
J. R. Williams	2d lieut. 3d Art	At Military Academy	Oct. 2, 1878	Oct. 1, 1878				
H. H. Ludlow	2d lieut. 3d Art	At Military Academy	Aug. 28, 1879	May 5, 1878		220 00		220 00
F. B. Blair	2d lieut. 3d Art	Professor of Military Science at the University of Missouri.	Aug. 18, 1879	Aug 2, 1879	288 00	106 40		106 40
Alexander Piper	Major 4th Art	At Military Academy	Sep. 1, 1876	May 13, 1876				
J. P. Story	1st lieut. 4th Art	Signal service	Aug. 5, 1876	Aug. 4, 1876	408 00	793 94	1,358 93	2,152 87
R. P. Strong	1st lieut. 4th Art	Signal service	May 1, 1872	May 1, 1872	130 00	907 42	1,967 55	2,874 97
H. H. C. Dunwoody	1st lieut. 4th Art	Signal service	June 6, 1872	May 31, 1872	408 00	1,148 36	4,558 11	5,706 47
Robert Craig	1st lieut. 4th Art	Signal service	Feb. 13, 1871	Feb. 7, 1871	408 00	1,573 95	5,566 55	7,140 50
C. P. Miller	1st lieut. 4th Art	At Military Academy	June 29, 1875	June 21, 1875	120 00	411 25		411 25
A. S. Cummins	1st lieut. 4th Art	Professor of Military Science at the University of Vermont.	Aug. 15, 1877	June 30, 1877	288 00	385 07	379 20	764 27
Joseph Garrard	1st lieut. 4th Art	Professor of Military Science at the Georgia Agricultural College.	Jan. 17, 1877	Sept. 25, 1876	288 00	385 07	628 80	1,013 87
M. M. Macomb	1st lieut. 4th Art	With Captain Wheeler's Geographical Surveys.	Apr. 21, 1876	June 19, 1875	288 00	635 89	1,568 28	2,204 17

Officers of the Army on detached duty from their regiments or corps, &c.—Continued.

Names.	Rank, regiment, or corps.	Nature of duty.	Commencement of—		Amount of present annual extra compensation.	Total amount of extra pay and cash value of emoluments over and above that due to lineal rank.		
			Present duty.	Absence from regiment or corps.		Paid by Pay Department.	Paid by Q. M. Department.	Total.
Clarence Deems	2d lieut. 4th Art	Professor of Military Science at the Maryland Agricultural College.	July 19, 1878	May 1, 1878	$288 00	$374 00		$374 00
William Crozier	2d lieut. 4th Art	At Military Academy	Aug. 28, 1879	July 21, 1879				
H. A. Springett	2d lieut. 4th Art	At Military Academy	Oct. 21, 1879	Oct. 4, 1879				
Richard Arnold	Major 5th Art	Acting assistant inspector-general, Department of the East.	Feb. 26, 1877	Feb. 21, 1877			$1,164 00	1,164 00
Charles Morris	1st lieut. 5th Art	Professor of military science at Massachusetts Agricultural College.	Sept. 26, 1878	July 23, 1878	288 00	325 07		325 07
Luigi Lomia	1st lieut. 5th Art	Professor of military science at Ohio Agricultural and Mechanical College.	July 10, 1876	July 2, 1876	288 00	385 06	853 20	1,238 26
John McClellan	1st lieut. 5th Art	Signal Service	Oct. 1, 1875	Sept. 21, 1875	408 00	877 95	988 97	1,866 92
C. R. Barnett	1st lieut. 5th Art	Professor of military science at the Pennsylvania Military Academy.	Dec. 27, 1875	Dec. 20, 1875	288 00	385 06	1,084 80	1,469 86
R. A. Ives	2d lieut. 5th Art	At Military Academy	Aug. 28, 1876	Mar. 3, 1876	660 00	1,639 00		1,639 00
W. H. Coffin	2d lieut. 5th Art	At Military Academy	Aug. 28, 1876	Aug. 13, 1876	660 00	825 00		825 00
J. P. Jefferson	2d lieut. 5th Art	Professor of military science at Brooks High School, Ohio.	June 25, 1876	June 8, 1876	288 00	144 00	871 20	1,015 20
W. R. Hamilton	2d lieut. 5th Art	Professor of military science at Asbury University, Indiana.	Nov. 20, 1879	July 27, 1879	288 00	32 80		32 80
H. M. Lazelle	Major 1st Inf	Commandant of cadets at Military Academy.	July 1, 1879	May 27, 1879	500 00	250 00		250 00
Kinzie Bates	Capt. 1st Inf	General recruiting service	Oct. 1, 1878	Aug. 23, 1878				
C. A. Booth	1st lieut. 1st Inf.	Signal Service	Dec. 21, 1875	Dec. 3, 1875	418 00	870 65	1,331 92	2,202 57
W. F. Drum	Capt. 2d Inf.	General recruiting service	Nov. 12, 1878	Sept. 20, 1878	432 00	444 96		444 96
R. P. Hughes	Capt. 3d Inf.	Aid-de-camp to Brigadier-General A. H. Terry.	Apr. 23, 1873	Apr. 19, 1873	892 00	3,520 64	4,435 86	7,956 50
J. H. Gageby	Capt. 3d Inf.	General recruiting service	Oct. 1, 1878	Sept. 4, 1878	432 00	469 00		469 00
M. C. Wilkinson	1st lieut. 3d Inf.	Professor of military science at Pacific University, Oregon.	Aug. 8, 1879	Mar. 15, 1871	288 00	2,224 18	5,565 45	7,789 63
Philip Reade	1st lieut. 3d Inf.	Signal Service	Jan. 8, 1875	Dec. 10, 1874	120 00	579 28	2,107 10	2,686 38
J. S. Mason	Lieut. col. 4th Inf.	Acting assistant inspector-general, Department of Texas.	Nov. 6, 1875	Oct. 12, 1875	576 00	770 00	2,292 00	3,062 00
C. J. Von Hermann	Capt. 4th Inf.	General recruiting service	Oct. 1, 1878	Sept. 15, 1878	432 00	484 60		484 60
Edmond Butler	Capt. 5th Inf.	General recruiting service	Oct. 1, 1878	July 28, 1878	432 00	479 60		479 60
W. G. Mitchell	Capt. 5th Inf.	Aid-de-camp to Major-General W. S. Hancock.	Apr. 19, 1871	Never joined	460 00	2,352 94	6,698 11	9,051 05
Wyllys Lyman	Capt. 5th Inf.	Special duty at Saint Paul, Minnesota.	Aug. 2, 1878	Nov. 16, 1876	432 00	577 60		577 60
Henry Romeyn	1st lieut. 5th Inf.	Professor of military science at Hampton Normal and Agricultural Institute, Virginia.	Mar. 18, 1878	Oct. 30, 1877	288 00	385 06	160 80	545 86
J. W. Pope	1st lieut. 5th Inf.	At military prison, Fort Leavenworth, Kansas.	Sept. 17, 1879	Aug. 29, 1879				
W. M. Wherry	Capt. 6th Inf.	Aid-de-camp to Major-General J. M. Schofield.	Dec. 24, 1867	Apr. 19, 1867	460 00	2,585 60	8,585 70	11,171 30
D. H. Murdock	Capt. 6th Inf	General recruiting service	Oct. 1, 1878	Aug. 26, 1878				
F. W. Thibaut	1st lieut. 6th Inf	At military prison, Fort Leavenworth, Kansas.	Aug. 30, 1879	Aug. 15, 1879				
E. B. Gibbs	1st lieut. 6th Inf	Aid-de-camp to Brigadier-General A. H. Terry.	Oct. 24, 1870	May 10, 1869	618 00	3,351 07	6,220 64	9,571 71
T. G. Townsend	2d lieut. 6th Inf	At Military Academy	Aug. 28, 1876	Sept. 1, 1875				
J. M. J. Sanno	Capt. 7th Inf	General recruiting service	Oct. 1, 1878	Aug. 18, 1878		173 00		173 00
C. A. Worden	1st lieut. 7th Inf	At Military Academy	Apr. 11, 1879	Mch. 4, 1879				
G. M. Brayton	Capt. 8th Inf	Recruiting service	July 30, 1878	July 17, 1878	432 00	547 60		547 60
Charles Porter	Capt. 8th Inf	General recruiting service	Aug. 23, 1879	Mch. 29, 1879		127 20		127 20
T. M. Anderson	Lieut. col. 9th Inf	Commanding recruiting depot, Columbus Barracks, Ohio.	Oct. 1, 1878	Aug. 25, 1878				
W. H. Jordon	Capt. 9th Inf	General recruiting service	Oct. 1, 1878	Aug. 24, 1878	432 00	480 60		480 60
G. B. Russell	Capt. 9th Inf	Aid-de-camp to Brigadier-General C. C. Augur.	May 15, 1867	Never joined	460 00	3,110 51	8,764 37	11,874 88
W. S. Wyatt	1st lieut. 9th Inf.	Signal Service	Oct. 21, 1879	Oct. 15, 1879				
A. McD. McCook	Lieut. col. 10th Inf.	Colonel and aid-de-camp to the General of the Army.	July 1, 1875	June 22, 1874	1,220 00	3,241 01	3,325 83	6,566 84
J. J. Coppinger	Major 10th Inf.	Acting assistant inspector-general Department of the Missouri.	May 20, 1879	Feb. 4, 1879				
J. A. P. Hampson	Capt. 10th Inf.	General recruiting service	Oct. 1, 1878	Aug. 24, 1879	432 00	468 00		468 60
Theodore Schwan	Capt. 11th Inf.	In charge at Cheyenne Indian agency, Dakota.	Mar. 29, 1878	May 18, 1878				
Ira Quinby	1st lieut. 11th Inf.	General recruiting service	Oct. 1, 1878	Sept. 3, 1878				
A. M. Raphall	1st lieut. 11th Inf.	Special duty at headquarters Department of Texas.	Feb. 1, 1873	May 24, 1872	288 00	385 07	4,060 57	4,445 64
F. W. Mansfield	1st lieut. 11th Inf.	Special duty at headquarters Department of the South.	Nov. 29, 1878	Apr. 15, 1878				
E. C. Woodruff	Capt. 12th Inf.	General recruiting service	Oct. 12, 1878	Sept. 28, 1878	432 00	466 60		466 60
H. G. Brown	Capt. 12th Inf.	Aid-de-camp to Brigadier-General E. O. C. Ord.	June 18, 1866	Never joined	892 00	4,576 83	5,692 81	10,269 64
D. J. Craigie	1st lieut. 12th Inf.	Assistant in war records publication office.	Aug. 1, 1879	July 13, 1879	288 00	120 00		120 00
J. B. Guthrie	1st lieut. 13th Inf.	General recruiting service	Oct. 1, 1878	Sept. 2, 1878				
B. H. Gilman	1st lieut. 13th Inf.	Signal Service	June 24, 1878	June 16, 1878	110 00	350 66	10 11	360 77
M. F. Jamar	1st lieut. 13th Inf.	Professor of military science at the Louisiana State University.	Apr. 18, 1879	Apr. 16, 1879	288 00	185 07		185 07
G. R. Cecil	2d lieut. 13th Inf	Professor of military science at the Michigan Military Academy.	Apr. —, 1879	Apr. 11, 1879	288 00	192 00		192 00
G. W. Davis	Capt. 14th Inf	Assistant engineer Washington Monument.	June 26, 1878	Feb. 14, 1876	692 00	1,066 97	1,698 72	2,765 69
J. A. Sladen	1st lieut. 14th Inf	Aid-de-camp to Brigadier-General O. O. Howard.	May 22, 1866	Never joined	330 00	4,121 14	9,223 90	13,345 04
Patrick Hasson	1st lieut. 14th Inf.	General recruiting service	Oct. 1, 1878	Sept. 7, 1878				
J. A. Buchanan	1st lieut. 14th Inf.	Signal Service	May 29, 1875	May 23, 1875	408 00	982 57	1,448 64	2,431 21
Chambers McKibbin	Capt. 15th Inf	General recruiting service	Oct. 1, 1878	Sept. 20, 1878	432 00	510 60		510 60
L. H. Walker	1st lieut. 15th Inf	At Military Academy	Aug. 28, 1876	Apr. 25, 1876	550 00	1,833 20		1,833 20

Officers of the Army on detached duty from their regiments or corps, &c.—Continued.

Names.	Rank, regiment, or corps.	Nature of duty.	Commencement of—		Amount of present annual extra compensation.	Total amount of extra pay and cash value of emoluments over and above that due to lineal rank.		
			Present duty.	Absence from regiment or corps.		Paid by Pay Department.	Paid by Q. M. Department.	Total.
J. S. Fletcher, jr.	Capt. 16th Inf	General recruiting service	Oct. 1, 1878	Sept. 19, 1878	$432 00	$485 60		$485 60
G. E. Bacon	1st lieut. 16th Inf	At Military Academy	June 14, 1878	June 2, 1878				
T. L. Crittenden	Col. 17th Inf	Superintendent general recruiting service.	Oct. 1, 1878	June 15, 1876		500 00	$2, 208 00	2, 708 00
T. H. Ruger	Col. 18th Inf	Commanding district of Montana	Oct. 1, 1879	Oct. 1, 1879				
E. W. Smith	Capt. 18th Inf	Aid-de-camp to Brigadier General A. H. Terry.	Mar. 20, 1871	Mar. 11, 1871	892 00	4, 485 68	6, 373 46	10, 859 14
Jacob Kline	Capt. 18th Inf	General recruiting service	Oct. 1, 1878	Sept. 15, 1878	432 00	487 40		487 40
E. B. Keeler	Capt. 18th Inf	Aid-de-camp to Major-General Irwin McDowell.	Feb. 24, 1875	Sept. 4, 1874	892 00	2, 234 56	3, 576 89	5, 811 45
C. H. Potter	Capt. 18th Inf	Acting assistant adjutant general district of Montana.	Oct. 1, 1879	Oct. 1, 1879	432 00	104 40		104 40
Z. R. Bliss	Lieut. col. 19th Inf	Commanding recruiting depot David's Island, New York.	Oct. 1, 1878	Feb. 27, 1878			136 80	136 80
J. S. Wharton	Capt. 19th Inf	Aid-de-camp to Major-General W. S. Hancock.	May 18, 1869	June 24, 1868	460 00	4, 513 15	8, 829 24	13, 342 39
S. C. Vedder	1st lieut. 19th Inf	Signal Service	Feb. 26, 1875	Feb. 20, 1875	408 00	862 04	2, 371 06	3, 233 10
A. A. Harbach	Capt. 20th Inf	General recruiting service	Oct. 1, 1878	Sept. 17, 1878				
H. W. Howgate	1st lieut. 20th Inf	Signal Service	Apr. 20, 1868	Feb. 17, 1868	408 00	1, 680 36	7, 941 36	9, 621 72
E. C. Mason	Major 21st Inf	Acting assistant inspector-general Department of the Columbia.	Dec. 5, 1876	May 3, 1877			1, 003 20	1, 003 20
G. H. Burton	Capt. 21st Inf	General recruiting service	Dec. 1, 1878	Aug. 2, 1878				
T. H. Bradley	1st lieut. 21st Inf	Special duty in War Department	Aug. 22, 1863	Never joined	1, 082 00	799 72	7, 285 03	8, 084 75
C. E. S. Wood	1st lieut. 21st Inf	Aid-de-camp to Brigadier-General O. O. Howard.	July 22, 1877	July 22, 1877	310 00	772 28	709 17	1, 481 45
E. S. Farrow	2d lieut. 21st Inf	Temporarily in office of the Chief of Engineers.	Jan. 13, 1880	Nov. 15, 1879	288 00			
William Conway	Capt. 22d Inf	General recruiting service	Oct. 1, 1878	Sept. 25, 1878				
G. S. L. Ward	1st lieut. 22d Inf	Aid-de-camp to Major-General W. S. Hancock.	Nov. 1, 1871	Nov. 7, 1871	330 00	2, 786 40	4, 606 93	7, 393 33
J. T. Haskell	Capt. 23d Inf	General recruiting service.	Sept. 20, 1878	Sept. 10, 1878				
Charles Bird	1st lieut. 23d Inf	Acting assistant quartermaster and acting commissary of subsistence at Fort Columbus, New York.	Oct. 3, 1876	Sept. 25, 1876				
F. L. Dodge	1st lieut. 23d Inf	At military prison Fort Leavenworth, Kansas.	June 5, 1879	May 30, 1879				
E. B. Bolton	2d lieut. 23d Inf.	Professor of military science at Mississippi Military Institute.	Dec. —, 1879	Nov. 21, 1879	288 00	24 00		24 00
J. H. Potter	Col. 24th Inf	Governor of the Soldiers' Home, District of Columbia.	July 1, 1877	May 13, 1876				
H. C. Corbin	Capt. 24th Inf	General recruiting service	Dec. 12, 1877	Sept. 9, 1876	432 00	577 60	858 60	1, 436 20
J. W. Clous	Capt. 24th Inf	Recruiting service	Jan. 5, 1878	May 6, 1877	432 00	577 60	324 00	901 60
A. C. Markley	Capt. 24th Inf	General recruiting service	Oct. 1, 1878	Sept. 11, 1878				
J. D. Clem	1st lieut. 24th Inf	Professor of military science at Galesville University, Wisconsin.	June 6, 1879	Nov. 19, 1878	288 00	241 67		241 67
Gaines Lawson	Capt. 25th Inf	General recruiting service	Oct. 1, 1878	Feb. 23, 1878	432 00	169 20		169 20
J. C. Ord	1st lieut. 25th Inf	Aid-de-camp to Brigadier-General E. O. C. Ord.	Nov. 1, 1876	Oct. 25, 1876	598 00	1, 395 07	1, 081 57	2, 476 64

ADJUTANT-GENERAL'S OFFICE, *February* 16, 1880.

E. D. TOWNSEND, *Adjutant-General.*

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. KEIFER, for one week from the 31st instant, on account of important business;

To Mr. MULLER, for ten days from Monday next; and

To Mr. ERRETT, for ten days, to attend the Chicago convention.

DEFICIENCY APPROPRIATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, relative to a deficiency in appropriations for the Post-Office Department; which was referred to the Committee on Appropriations.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, relative to a deficiency in the appropriation for printing, dies, and stamps for 1880; which was referred to the Committee on Appropriations.

ORDER OF BUSINESS.

The question recurred on the motion of Mr. CLYMER, that the House adjourn.

Mr. CONGER. If the motion to adjourn should be agreed to, to what time will the House adjourn?

The SPEAKER. The House adopted to-day a resolution dispensing with the session of to-morrow. If the motion to adjourn should be agreed to, the House will stand adjourned till Monday next at eleven o'clock.

The question being taken on the motion of Mr. CLYMER, that the House adjourn, it was agreed to; and accordingly (at six o'clock and five minutes p. m.) the House adjourned till Monday next.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. COFFROTH: The petition of Joseph Resling, Robert Douglas, and 22 other Union soldiers, of Bedford County, Pennsylvania, against the passage of the traveling-pension-court bill—to the Committee on Invalid Pensions.

Also, the petition of A. R. Sharp and 20 others, of similar import—to the same committee.

By Mr. DICKEY: The petition of J. T. Cockerill and 95 others, citizens of Brown County, Ohio, against the passage of Senate bill No. 496, providing for the examination and adjudication of pension claims—to the same committee.

By Mr. ELLIS: The petition of citizens of Louisiana, for the abolition of the duty on salt—to the Committee on Ways and Means.

By Mr. GEDDES: The petition of Albert A. Altman and others, of Missouri, against the passage of the sixty-surgeon bill, and for the passage of the bill introduced by Mr. GEDDES providing for a court of pensions—to the Committee on Invalid Pensions.

By Mr. GILLETTE: The petition of Nelson Whitney and 76 others, citizens of Wellsborough, Pennsylvania, against the passage of the Wood or any other refunding bill, and for the passage of the bill (H. R. No. 4910) providing for the payment of the public debt—to the Committee on Ways and Means.

By Mr. HEILMAN: The petition of crockery dealers of Evansville, Indiana, for a reduction of the tariff on earthenware—to the same committee.

By Mr. JOHNSTON: The petition of George Gibson, jr., and E. B. Taylor, of Richmond, Virginia, of similar import—to the same committee.

By Mr. LAPHAM: The petition of the yearly meeting of the Society of Friends of Pennsylvania, New Jersey, Delaware, and Maryland, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. McGOWAN: Papers relating to the pension claim of Gardner C. Buck—to the Committee on Invalid Pensions.

Also, the petitions of A. L. Lytle and 23 others; of Tyler M. Par-

rish and 140 others; of George Stearns, Charles Upson, and 130 others; of D. C. Powers, J. S. Barber, Ed. Root, and 230 others, against granting public lands to the Quincy Chain Lake Company—to the Committee on the Public Lands.

By Mr. McLANE: The petition of C. Blackburn and others, citizens of Baltimore, Maryland, for the passage of the law giving Indians title to lands in severalty—to the Committee on Indian Affairs.

By Mr. MORRISON: The petition of Elias K. Preivett, late sergeant of Company K, Eightieth Regiment Illinois Volunteers, for pay as a commissioned officer while acting as such—to the Committee on Military Affairs.

Also, the petition of Conrad H. Flick, late sergeant Company B, Eightieth Regiment Illinois Volunteers, for pay as a commissioned officer while acting as such before muster—to the same committee.

By Mr. MORSE: The petition of J. B. Green, of Providence, Rhode Island, for an investigation of irregularities of post-office and custom-house officials in that State—to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEILL: The petition of citizens of Pennsylvania, for the passage of the law granting land titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. THOMAS: The petition of V. G. Wehrheim, for increase of pension—to the Committee on Invalid Pensions.

Also, the petition of 22 ex-soldiers, against the passage of the traveling-pension-court bill—to the same committee.

By Mr. PHILIP B. THOMPSON: The petition of C. R. Coffey, for pay for property taken by United States soldiers in 1862—to the Committee on War Claims.

By Mr. URNER: The petition of Joseph T. Moore, Isaac Hartshorne, and 14 others, citizens of Montgomery County, Maryland, for the passage of the law granting titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. WASHBURN: The petition of Mrs. M. A. Van Hook, H. M. Harmon, Eva J. Huyler, and others, of Rochester, Minnesota, for an amendment to the Constitution securing woman suffrage—to the Committee on the Judiciary.

By Mr. WEAVER: The petitions of D. G. Rowe and 89 others, of Macksburgh; of George W. Hicks and 140 others, citizens of Iowa; of Fred W. Hicks and 130 others, of Sand Lake, Michigan; of William K. Sayler and 25 others, of G. M. Potter and 5 others, and of H. L. Goodrich and 24 others, of Grayville, Illinois, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

Also, the petition of Marcus Russell and 55 others, of Potterville, New York, and of L. B. Bennett and 54 others, of Nobles, Minnesota, of similar import—to the same committee.

By Mr. THOMAS L. YOUNG: The petition of F. K. Bowles and others, United States revenue officers, for the passage of the bill (H. R. No. 4802) to allow revenue officers the same leave of absence now allowed to all other employés of the Executive Departments of the Government—to the Committee on Ways and Means.

IN SENATE.

MONDAY, *May* 31, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to the requirement of the eighth section of the act of July 22, 1854, the documents in the private land claim in the Territory of New Mexico reported by the surveyor-general of that Territory as No. 116, known as the "Antonio Martinez grant."

The PRESIDENT *pro tempore*. The communication will be referred, with the accompanying papers, to the Committee on Private Land Claims. As the report is accompanied by a map which would require engraving, no order to print will be made until the committee shall have examined the claim and made known their wishes to the Senate.

There was also laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to the requirements of the eighth section of the act approved July 22, 1854, the documents in private land claim in the Territory of New Mexico reported by the surveyor-general of that Territory as No. 115, known as the "Francisco de Anaga Almazan grant for the Cieneguilla tract."

The PRESIDENT *pro tempore*. This communication will also be referred to the Committee on Private Land Claims, with the accompanying papers, and for the reason already stated no order to print will be made until the committee makes known its wishes to the Senate.

PETITIONS AND MEMORIALS.

Mr. McDONALD presented a petition of L. S. Wells, of Washington City, representing the owner of the Peerless, a steamer lost off Cape Hatteras while in the service of the Government, praying an appropriation for the reimbursement of the owner; which was referred to the Committee on Appropriations, and ordered to be printed.

The PRESIDENT *pro tempore* presented the petition of J. B. Greene in behalf of a large number of citizens of Rhode Island, praying for an investigation of alleged irregularities in the Federal offices in the State of Rhode Island, and the interference of Federal officials in local, State, and general elections; which was referred to the Committee on Civil Service and Retrenchment.

Mr. HEREFORD presented the petition of Cecil Clay, praying for an increase of pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1794) to provide for an increase of the numbers and efficiency of the Metropolitan police of the District of Columbia, reported adversely thereon, and the bill was postponed indefinitely.

Mr. BUTLER. I am instructed by the Committee on the District of Columbia to report back the bill (S. No. 57) for the relief of the Metropolitan police force of the District of Columbia adversely, the same matter having been considered by the Committee on Claims.

The bill was postponed indefinitely.

Mr. BUTLER. I am instructed by the same committee, to whom was referred the bill (S. No. 725) to incorporate the Columbia Historical Society, to report it back adversely, the parties making application for an act of incorporation having full power under section 545 of the Revised Statutes, relating to the District of Columbia, to obtain a charter of incorporation.

The bill was postponed indefinitely.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of Ann M. Paulding, widow of Hiram Paulding, deceased, late senior rear-admiral of the United States Navy, praying to be allowed a pension, submitted a report thereon, accompanied by a bill (S. No. 1802) granting a pension to Ann M. Paulding.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 992) granting a pension to Mrs. Julia Gardner Tyler, widow of Ex-President Tyler, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 745) granting a pension to Colby Hornaday, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2608) granting a pension to Anna M. Wehe, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. DAVIS, of Illinois, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1450) supplemental to the provisions to sections 1866, 1867, 1868, and 1869, chapter 1, and section 1907, chapter 2, title 23, of the Revised Statutes of the United States, increasing the jurisdiction of the probate court of Lawrence County, Territory of Dakota, reported adversely thereon, and the bill was postponed indefinitely.

Mr. SAUNDERS subsequently said: A few moments ago the Senator from Illinois [Mr. DAVIS] reported adversely, from the Committee on the Judiciary, Senate bill No. 1450, and it was indefinitely postponed. I should like to have that bill placed upon the Calendar.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that the vote be reconsidered by which the Senate indefinitely postponed the bill he has named. The question is on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. McDONALD, from the Committee on the Judiciary, to whom was referred the petition of John D. Long and others, praying for aid in the completion of the national monument to the forefathers at Plymouth, Massachusetts, asked to be discharged from its further consideration, and that it be referred to the Committee on the Library; which was agreed to.

Mr. DAWES. The special committee appointed to ascertain the circumstances connected with the removal of the Northern Cheyenne Indians from the Sioux reservation to the Indian Territory were also instructed to inquire into the circumstances of the removal of the Ponca Indians from their reservation, and whether said Indians were not entitled to be restored thereto; and in that connection there was referred to them the bill (S. No. 1298) for the relief of the Ponca tribe of Indians. That committee have taken testimony upon the subject referred to them in connection with the Ponca Indians, and have considered the bill. They have instructed me to report to the Senate the testimony which they have taken and also to report back the bill so referred to them with a recommendation that it pass. The testimony and the bill are accompanied by a report in writing. I ask that the report and evidence may be printed and the bill placed upon the Calendar.

I will say in addition that this report is not entirely unanimous; that the chairman of the committee, the Senator from Iowa [Mr. KIRKWOOD] will at an early day submit his views upon the subject so far as they differ from those of the rest of the committee.

The PRESIDENT *pro tempore*. The Senator from Massachusetts, from the special committee in reference to the Ponca Indians makes

a report in writing accompanied by testimony, and asks that it be printed and laid upon the table. If there be no objection that order will be made. The Chair hears none, and it will be so ordered. The bill reported will be placed on the Calendar.

FINAL ADJOURNMENT.

Mr. DAVIS, of West Virginia. In the nature of a report from a committee I desire to say that the Committee on Appropriations has considered the question of adjournment, the House resolution fixing to-day at twelve o'clock as the time of final adjournment having been referred to it; the committee believe that the business of the two Houses is now in such a condition that it would be unsafe to name a day, though they believe that Congress ought to adjourn from the 10th to the 15th of June and hope to get through by that time. There are two important appropriation bills now before the House which the Senate of course has not had an opportunity of acting upon, and it is known that there are several other important bills that ought to be considered. The committee, after full consideration, believe that for the present it will be best not to report back the resolution naming a definite day for adjournment.

BILLS INTRODUCED.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1803) for the relief of certain settlers on swamp lands in Minnesota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BALDWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and grounds known as the Detroit Arsenal, in the State of Michigan; which was read twice by its title, and referred to the Committee on Public Lands.

THORNTON SMITH.

On motion of Mr. WALLACE, it was

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. No. 562) granting an increase of pension to Thornton Smith.

O. B. AND O. S. LATHAM.

Mr. PRYOR. On Wednesday last I reported from the Committee on Claims adversely the bill (S. No. 1621) in addition to "an act for the relief of Obadiah B. Latham and Oliver S. Latham," approved March 3, 1863, and asked that it be indefinitely postponed, which was done. At the instance of the Senator from New York [Mr. KERNAN] I now ask a reconsideration of that by the proper motion, or any motion that will place the bill upon the Calendar.

Mr. KERNAN. I would suggest that the proper motion is to reconsider the vote by which the bill was indefinitely postponed.

Mr. HARRIS. When was the order to indefinitely postpone made?

Mr. KERNAN. Last week.

Mr. HARRIS. It can be done by unanimous consent, of course.

Mr. KERNAN. Then I ask unanimous consent that it be done. I did not learn of the indefinite postponement until after we adjourned Friday.

The PRESIDENT *pro tempore*. The Senator from New York asks unanimous consent that the vote by which Senate bill No. 1621 was indefinitely postponed be reconsidered, and that the bill be placed on the Calendar. Is there objection? The Chair hears none, and it is so ordered. The bill goes on the Calendar with the adverse report of the committee.

TREASURY ACCOUNTS COMMITTEE.

Mr. ALLISON. On the Calendar I see on the first page a resolution introduced by myself on June 27, 1879. The occasion for the resolution having passed away, I move that it be indefinitely postponed, so as to get it off the Calendar.

The PRESIDENT *pro tempore*. The item on the Calendar reads:

Resolution submitted by Mr. ALLISON, June 27, 1879:

"*Resolved*, That all the testimony taken by the select committee investigating Treasury accounts be reported to the Senate and printed for the use of the Senate."

The Senator from Iowa moves that the resolution be indefinitely postponed.

The motion was agreed to.

RESTRICTIONS ON TOBACCO TRADE.

Mr. FERRY. If the morning business is through——

The PRESIDENT *pro tempore*. The routine business of the morning hour is at an end——

Mr. EATON. I am very anxious——

Mr. FERRY. Does the Senator from Connecticut rise to morning business?

Mr. EATON. I do not. I rose to ask for the consideration of a matter of very considerable importance that will not elicit any discussion whatever—a joint resolution which is reported from the Committee on Foreign Relations.

Mr. FERRY. I have the floor, I believe. I yield to the Senator from Connecticut for that purpose.

Mr. EATON. I ask the Senate to proceed to the consideration of House joint resolution No. 215.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to postpone all orders prior to order of business No. 725, being House joint resolution No. 215, in order to take up the joint resolution named. The question is on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of the joint resolution?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions.

The joint resolution was reported from the Committee on Finance with an amendment to strike out the preamble and all after the resolving clause and to insert:

Whereas it is the policy of the United States to permit its own citizens and the citizens of France, Spain, Italy, and Austria to freely engage in the purchase and importation into the United States any and all of the great staple productions of said countries respectively, subject only to such import duties as are deemed proper by this Government: Therefore,

Resolved, &c., That the President be respectfully requested to open such negotiations with France, Spain, Austria, and Italy as he may deem advisable, with a view to removing the restrictions on the importation of tobacco into the countries named and securing to our citizens an open market therein for the same.

Mr. EATON. In the whereas the word "import" should be "impost." I so wrote it. There is a mistake in printing it.

The PRESIDENT *pro tempore*. That is a mere clerical error, and will be corrected. The question is on agreeing to the amendment reported from the committee.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

ORDER OF BUSINESS.

Mr. DAVIS, of West Virginia, Mr. FERRY, and Mr. McDONALD addressed the Chair.

The PRESIDENT *pro tempore*. The Chair had recognized the Senator from Michigan, [Mr. FERRY,] and he gave way to the Senator from Connecticut.

Mr. COCKRELL. I raise the point of order whether a Senator can retain the floor?

The PRESIDENT *pro tempore*. He cannot, but the Senator from Michigan spoke as soon as anybody after the passage of the joint resolution moved by the Senator from Connecticut.

Mr. COCKRELL. I call for the regular order.

Mr. FERRY. I hope the Senator from Missouri will not object.

Mr. COCKRELL. I simply call for the regular order.

Mr. FERRY. I rise to make a motion, and in making that I desire to state that over two months since a joint resolution (S. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park, was recommitted to the Committee on Military Affairs. I think upon the objection of the Senator from Missouri, [Mr. COCKRELL,] because it did not provide for the sale of the whole remaining tract after the grant of this right of way, which will be about forty acres remaining of about six hundred acres of the original reservation, the joint resolution was recommitted to the committee, and the committee have provided for the sale of the whole after an appraisal by a board of competent officers of the United States Army, subject to the approval of the Secretary of War.

I now move the postponement of the present and all prior orders, and my object will be, if that motion prevails, to take up this joint resolution, and I think it will provoke no discussion whatever.

Mr. COCKRELL. What is the order of business?

Mr. FERRY. No. 411. The joint resolution has met the unanimous approval of the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to postpone all orders prior to order of business No. 411.

Mr. COCKRELL. In the regular order of business on the Calendar we have reached the three hundred and fourth case and passed that. The three hundred and fifth case with one which is still retained at the head of the Calendar, No. 182, is the beginning of the Calendar now of unobjected cases. This joint resolution is No. 411. If we go to the Calendar and proceed in the regular order we shall in all probability reach that case this morning. I suppose every Senator has one, two, or three cases upon the Calendar that he is anxious to have considered. If we go to the Calendar and stay upon the Calendar and take the cases in their regular order, all these bills can be disposed of; the measure of the Senator from Michigan will be passed without objection, and it will not take half the length of time that it is taking now.

I do hope the Senate will stay at the Calendar until we get through calling the unobjected cases. I have been in the Senate five years, and never during the entire time that I have been here have I seen the Calendar of the Senate so overloaded with cases as it is to-day. We have heretofore always managed to call all the cases on the Calendar once at least; and here we are with seven hundred and twenty-seven cases reported from our committees upon the Calendar and we have reached the three hundred and fifth case. There are four hundred and twenty-two cases upon the Calendar uncalled. I hope the Senate will vote down the motion and proceed regularly for a day or two, and then we shall have passed on all these cases.

Mr. FERRY. I have very patiently waited for the space of two months, and the Senate will bear me out that I have not in any one instance asked that any measure should be taken out of order. I think it comes with rather ill grace from the Senator from Missouri, who only last week asked that a measure be taken out of order, and has asked more than once, I think——

Mr. COCKRELL. I beg pardon; I did not ask anything last week.

Mr. FERRY. The Senator from Missouri has at this session more than once asked that measures be taken up out of order, and I have very cheerfully joined him in taking up his measures, which have passed. Now, this is a measure that has gone to his own committee, and I think upon the objection of the Senator himself, which has been covered by his own amendment in committee and which is all that the Secretary of War requires.

Mr. COCKRELL. And I am in favor of it, and will help to pass it when we reach it on the Calendar.

Mr. FERRY. Without objection in two minutes this joint resolution will pass. I move that the present and all prior orders be postponed for that purpose.

Mr. WHYTE. I dislike very much to object to any gentleman asking to take up a bill out of its order, but I have been watching the Calendar for a long time, being interested in a case the third from the top, which came up a long time ago. I have twice had it up and it has been objected to by some Senator, and it has laid over.

Mr. FERRY. Not by me.

Mr. WHYTE. I admit it has not been objected to by the Senator from Michigan; but the truth is, either the Chair has to select to whom he will give the floor, or it is a race of diligence who shall get the floor to call up a bill. If it is to be a race of diligence I am ready and willing to take my chances with other Senators, and I will stay here until I get an opportunity to call up the bill; but I protest against the floor being given to Senators to enable them to get up bills to the exclusion of other Senators. It is a practice I know that has grown up, and I do not condemn any occupant of the chair for following the old practice; but if we take up the Calendar everybody has a fair, even chance, or if we give the floor to whoever is quick enough to obtain it then everybody will have an equal chance; but this mode of doling out the floor first to one Senator and then to another, no matter how prompt and efficient a Senator may be in trying to get up his bill, I must protest against.

I therefore hope that we shall proceed with the Calendar, and I do not want it limited to unobjected cases. I have no objection to taking up the Calendar, and if a case is objected to, then to take a vote of the Senate whether they will proceed to the consideration of it. That is the fairest way of disposing of business.

Mr. FERRY. I desire to remind the Senator that I obtained the floor simply because I spoke first. I am not here on any courtesy. I addressed the Chair, and the Chair stated that my voice was recognized first. If it is a rule of diligence that is to be adopted now, I am with the Senator from Maryland; and if he speaks first, I should be most happy cordially to sustain any proposition he has that may commend itself to my judgment; but I think I have been as patient as the Senator from Maryland. As I said, this is the first bill that I have asked for the consideration of, and it is very important for the railroad company concerned to enable it to enter the city of Port Huron. The city has granted the right of way through its property, and I am being pressed for the passage of this resolution to cover the military reserve, and with all that pressure I have said nothing until the present moment. Now I ask that the present and all prior orders be postponed for the purpose of considering the joint resolution. I ask for a vote.

Mr. WHYTE. Before the Senator claims his right to a vote he will of course respect my right to the floor. I had not concluded. I yielded courteously to the Senator from Michigan to enable him to make a statement, but not to take me off the floor by demanding a vote on his proposition.

Mr. FERRY. I supposed the Senator was through.

Mr. WHYTE. I did not refer to the Senator from Michigan at all; I did not refer to the proceedings of this morning; I was referring to a practice that has been prevailing for some time past in the Senate by which the Calendar was laid aside completely; that was all. I know the Senator from Michigan is diligent and prompt and efficient, and he is always on the *qui vive* when he wants anything passed, and attends to his own duties without asking courtesies from anybody; but at the same time I was speaking of a general principle. I hope the Senate will do one of two things, either have it distinctly understood that we are to take up the Calendar, or that the Calendar is to be laid aside, and then everybody is to have an equal and a fair chance of getting the eye of the Chair. That is all I meant to say.

Mr. VOORHEES. I want to say a single word and leave the matter to the Senate. We are proceeding when we strike the Calendar under what is known as the Anthony rule, under which an objection prevents action on a bill, and it has to go over. In this way only a very small portion of the Calendar is disposed of. I take it no Senator here would impose on the Senate. I think when a Senator rises here, as the Senator from Michigan has done, and states that a matter has been fully considered by a committee, and that there is no objection to it, stating it on his personal honor, it is not to be supposed that there would be any deception or fraud or imposition practiced. It is better to take up business and dispose of it in that way. I do not think any Senator need to apologize for moving to take up cases under these circumstances. We all have to do it. I have done it heretofore, I intend to do it again, and it is right. It is the right of any Senator. Instead of antagonizing each other here on the floor, if we would lend ourselves to the work of assistance in matters where there is no objection to the bills we should transact business a hundred times faster than we do, and this bill could have been passed before now if we had gone on with it.

Of course I do not make these remarks in any spirit of criticism on the Senator from Maryland or anybody else, but for the purpose, I hope, of arresting the attention of the Senate to the better mode of disposing of business before it. We cannot dispose of the Calendar by going to it as long as the Anthony rule prevails and a single objection puts a case over. Thereupon a Senator feels bound by the necessity of the case to make a motion to take it up and take the sense of a majority of the Senate on the subject, and thus delay is caused.

Mr. BECK. Mr. President, I shall vote for the proposition of the Senator from Michigan, because when we attempt to take up the Calendar in regular order and objection is made to a bill, as I have made objections once or twice myself, Senators having charge of a bill constantly come and say "withdraw that objection," and I would either have to do it or be considered impolite. Objection has been made to some bills that I have desired to pass, and I have done the same thing myself, so that really we do not get up unobjected cases without being somewhat impolite to each other. I rose, however, simply to say that I have called up several cases out of their order, and expect to call up several others. Why? I am upon the Committee on Finance. They put bills in my charge and order me to report them at once; bills of public interest, not private bills; bills affecting the commerce of the whole country. I have one now that I have been endeavoring for the last three or four days to get before the Senate, recommended by the Treasury Department, passed almost unanimously by the House, which has to go back to the House again before it can become a law—a bill regulating the immediate transportation of dutiable goods to interior ports, which will save thousands and millions of dollars in the way of costs to all the people of the country away from the seaboard. If we go over the Calendar of seven hundred cases, with this bill at the close of it, it will never be reached. The very moment I can get a chance I shall move to take up this bill, believing it to be for the general good and believing that while we give way to appropriation bills it is more important to the Senate to establish a rule that we should give way to all general bills coming from the Committee on Finance that seek to reduce taxes, to remove impediments to commerce, and furnish the means whereby the appropriations we make can be met. If I were to establish a rule in the Senate, it would be that whenever there was a bill to relieve the country from taxation, to aid commerce, to help the people, to get the means into the Treasury whereby we could make appropriations, such a bill should always have precedence over appropriation bills. The bill I have in charge is one of that character.

Mr. FERRY. I do not wish to consume time; but to fortify my motion I will merely state what may not be known to all Senators, that this joint resolution came up in its regular order, and on the objection that it did not cover the whole tract of forty acres, because cutting through it would destroy its value, it was recommitted to the Committee on Military Affairs, and they have provided for the sale of the whole, and guarded it so that it will be under the appraisal of three officers and subject to the approval of the Secretary of War. I think under such circumstances my motion is not improper, nor does it interfere with the business of the Senate.

Mr. MAXEY. The Committee on Military Affairs reported the joint resolution named by the Senator from Michigan, and the discussion of that resolution before the Senate disclosed that in the judgment of the Senate certain amendments might well be made. The resolution was recommitted to the Committee on Military Affairs, and the committee agreed with the Senate that those amendments ought to be made. The amendments were made and the bill reported back. Therefore the discussion in the Senate and in the committee, the committee and the Senate concurring, has already been had, and this resolution, it seems to me, needs nothing more than to be called up, when it will be passed on the former discussion.

The PRESIDENT *pro tempore*. The Chair asks the attention of the Senate a moment while the Chair corrects what seems to be a misapprehension on the part of some Senators.

Toward the close of the session, as every Senator knows, there is a struggle between Senators to get up bills which they want taken up, and the Chair is frequently spoken to by Senators asking the Chair to recognize them. For more than a week, ever since this struggle has commenced—and it commenced about a week ago—the Chair has refused to make any arrangement whatever for the recognition of any Senator, saying that every one must take his chance. It embarrasses the Chair exceedingly, for nothing is more common than for half a dozen and sometimes a dozen Senators to rise and address the Chair at the very same moment, so that nobody in the world could tell which one spoke first. What can the Chair do? Only administer a sort of rude justice according to his best ability, selecting, first from one side of the Chamber and then from the other, those who are equally entitled, who have equally addressed the Chair at the same moment.

Now, unless the Senate can frame some other rule than that which exists to get rid of that difficulty, or endow the presiding officer of the Senate with some specific faculty which is not now possessed by any one of the human race, I do not know how this thing is to be settled.

The question is upon the motion of the Senator from Michigan, to postpone all orders prior to the one he has named.

The motion was agreed to.

FORT GRATIOT MILITARY RESERVE.

The PRESIDENT *pro tempore*. The Senator from Michigan now moves to proceed to the consideration of Senate joint resolution No. 67.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

The joint resolution was reported from the Committee on Military Affairs with amendments, in line 3, after the word "sell," to strike out "or lease, in his discretion," and after the word "company," in line 5, to strike out:

A strip of land, not exceeding one hundred feet in width, along the western line of the Fort Gratiot military reserve, to the Grand Trunk Railroad intersection thereof; thence southeasterly to the southeast corner of the reserve; thence southeasterly through that portion of the reserve lying south of Sedgwick street and north of Pine Grove Park and south of said park and north of Lincoln avenue, together with all the area bounded by Stone street, Thomas street, and the grounds of the Grand Trunk Railway Company.

And insert in lieu thereof:

All of the Fort Gratiot military reserve remaining unsold or undisposed of; and the value of said remaining reserve shall be appraised by a board, appointed by the Secretary of War, consisting of three competent and disinterested officers of the United States Army; and the price at which the same shall be sold shall not be less than the appraisal by said board, and the sale shall be made only under the direction and approval of the Secretary of War.

So as to make the joint resolution read:

That the Secretary of War is hereby authorized to sell to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve remaining unsold or undisposed of; and the value of said remaining reserve shall be appraised by a board, appointed by the Secretary of War, consisting of three competent and disinterested officers of the United States Army; and the price at which the same shall be sold shall not be less than the appraisal by said board, and the sale shall be made only under the direction and approval of the Secretary of War. And the city of Port Huron is hereby authorized to grant said railway company the right of way through the easterly portion of that part of the military reserve granted to said city for use as a park, and known and described as Pine Grove Park.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas.

The message also, in compliance with the request of the Senate, returned the bill (S. No. 562) granting an increase of pension to Thornton Smith.

COURTS IN IOWA.

Mr. McDONALD. I ask the present consideration of House bill No. 5526, to regulate the holding of courts in the State of Iowa. This bill has been reported by the Committee on the Judiciary without amendment, and it will take but a moment to pass it.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to postpone all orders prior to order of business No. 692.

Mr. DAVIS, of West Virginia. I do not rise to object to the bill of my friend from Indiana, but I wish to say that I thought I addressed the Chair before the Senator from Michigan, and I am pretty sure I did before the Senator from Indiana, but he differs with me, of course.

Mr. President, the Committee on Appropriations, nearly three months ago, reported a bill repealing sundry permanent indefinite appropriations which each year are paid out of the Treasury, amounting to eight or ten million dollars, without the supervision of Congress. I have endeavored half a dozen mornings or more to get up that bill. It is a measure of public and general benefit I think, and the tendency of our legislation lately has been to try and let Congress pass upon all the appropriations. Unless this bill is called up and acted on soon it has got to go over another year, because the estimates cannot be made in time for action at the next session.

I hope the Senate, when the bill of the Senator from Indiana has been disposed of, will take up this bill of public and general nature. It has been on the Calendar for months.

Mr. McDONALD. I would suggest to the Senator from West Virginia that he give notice that he will move to take up that bill tomorrow. It is understood by the Senate that the Senator from Kentucky [Mr. WILLIAMS] gave notice on Friday that at the close of the morning business to-day he would ask to take up informally and consider the bill to put on the pension-rolls the surviving soldiers of the Mexican war for the purpose of enabling him to submit some remarks upon it, and that will undoubtedly occupy the morning hour.

Mr. DAVIS, of West Virginia. There is an hour and a half of the morning hour yet left.

Mr. McDONALD. But the Senator from Kentucky desires to address the Senate at the close of the morning business, I understood.

The PRESIDENT *pro tempore*. The question is on postponing all orders prior to order of business No. 692.

The question being put, it was determined in the affirmative.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate proceed to the consideration of the bill named by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BURNSIDE. I move that all orders prior to No. 405 be laid aside, with a view to taking up the House bill called the Yorktown Monument bill.

Mr. KIRKWOOD. I desired to say a word upon the bill that has just passed the Senate, but the Chair got it through before I had an opportunity of saying it. [Laughter.]

The PRESIDENT *pro tempore*. If the Senator is opposed to the bill he can move to reconsider.

Mr. KIRKWOOD. No; but I wanted to say a single word in explanation of the bill.

The PRESIDENT *pro tempore*. The bill has passed, and the Senator would be out of order in speaking on it now.

YORKTOWN CENTENNIAL CELEBRATION.

Mr. BURNSIDE. I believe the question is on my motion.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to postpone all orders prior to order of business No. 405.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Rhode Island now moves to proceed to the consideration of House bill No. 3966.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 3966) to carry into effect the resolution of Congress, adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes.

The PRESIDENT *pro tempore*. This bill was up once before. For information the bill had better be read.

Mr. ROLLINS. Let the bill be read.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. The Secretary will read the amendment reported by the Committee on Military Affairs.

Mr. COCKRELL. Before we commence with any amendments, I should like to have the report of the committee read.

The Chief Clerk read the report, submitted by Mr. BURNSIDE March 16, 1880, from the Committee on Military Affairs, which was published in the RECORD of April 21.

Mr. JOHNSTON. The amendment is superfluous; it only re-enacts the general law.

The PRESIDENT *pro tempore*. It will be read first.

The CHIEF CLERK. The amendment of the committee is to insert at the end of the bill the following proviso:

Provided, That no money appropriated by this act shall be expended or drawn from the Treasury until the United States shall have received free of expense a legal title to the site chosen for said monument, and the State of Virginia shall have relinquished jurisdiction over the same.

Mr. JOHNSTON. That only provides for exactly what must be done under the law as it now stands. Section 355 of the Revised Statutes provides for that very thing. This is only a re-enactment of the general law, and therefore is wholly unnecessary.

Mr. BURNSIDE. So far as I am concerned I have no objection to the amendment being voted down.

Mr. JOHNSTON. I send the section of the Revised Statutes I have referred to to the desk to be read.

The Chief Clerk read as follows:

SEC. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, nor until the consent of the Legislature of the State in which the land or site may be, to such purchase, has been given. The district attorneys of the United States, upon the application of the Attorney-General, shall furnish any assistance or information in their power in relation to the titles of the public property lying within their respective districts. And the Secretaries of the Departments, upon the application of the Attorney-General, shall procure any additional evidence of title which he may deem necessary, and which may not be in the possession of the officers of the Government, and the expense of procuring it shall be paid out of the appropriations made for the contingencies of the Departments respectively.

Mr. McDONALD. I do not think that covers the case. It does not cover a site for a monument. It relates simply to forts, arsenals, and other public buildings. I do not think the enumeration in that section embraces sites for monumental purposes.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Military Affairs.

Mr. WITHERS. The section which has been read covers substantially the same thing as is provided for by the amendment, and it is as broad as it is possible to express it in the Revised Statutes. It applies to public buildings of any character whatever. It is desired by the friends of the measure that the bill should not be amended unless it should be deemed absolutely indispensable, for the effect of any amendment will be to send the bill back to the House and perhaps defeat its passage at this session. We ask that this amendment proposed by the committee shall not be concurred in for that reason. There can nothing be done and no money expended until the title is secured, so that it is not necessary to ingraft the provision in the bill.

Mr. McDONALD. That is true so far as the particular classes of structures enumerated in the section just read are concerned, but I do not think that embraces a mere monumental structure.

Mr. WITHERS. I think it does.

Mr. JOHNSTON. It covers everything that the United States acquires a site for to build anything on. It covers this case if the United States becomes the owner of the real estate:

> No public money shall be expended upon any site or land purchased by the United States—

This bill provides for the purchase of land by the United States—

> for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building of any kind whatever.

That would seem to cover every possible case in which the United States can be the purchaser of land for the purpose of erecting a building thereon.

Mr. JONES, of Florida. What is to prevent Congress from modifying that?

Mr. JOHNSTON. The only objection is that the amendment is a re-enactment of the present law, and hence it is unnecessary.

Mr. JONES, of Florida. A monument is clearly not a building such as is contemplated in that section, it seems to me. It would be carrying the section further than ever was supposed, to have it include a monument.

Mr. KIRKWOOD. When the bill fixing the times and places at which the sessions of the circuit and district courts in the State of Iowa, which has just passed, was pending, I sought an opportunity to say a few words in regard to it; but so many others were claiming the attention of the Chair for the purpose of getting the next chance to get up a bill that I presume the President supposed I was trying to do the same thing, and the bill went through without an opportunity for me to say what I desired to say. Our liberal rules, however, will permit me to say it now, I apprehend.

There are two points in the bill upon which I think both my colleague and myself would, if we had time and opportunity, desire to make some amendments. One relates to the appointment of the clerks; the other to the division of the State by counties into districts. Upon both representations were made to the Judiciary Committee, and the committee reported the bill as it came from the House. We were afraid—I was afraid at least—to attempt any amendment of it for the reason that I feared if it was amended and sent back to the House it might fail entirely. That portion of it relating to the appointment of clerks I regarded as of less importance than the other.

In regard to the division of the counties into districts, I have this to say: My colleague and myself both have throughout held that every county ought to feel that it has not been placed in a worse position by the bill than it was before. I am afraid that some of them have been. I wish to say now that if it shall appear to me at the next session, as it does appear to me now, that some of the counties have not been as well accommodated as they should be, I shall then seek to remedy what now appears to be wrong by changing the boundaries of the existing districts.

Mr. GARLAND. In reference to the matter of the bill spoken of by the Senator from Iowa I wish to say a word. The chief point he refers to, that in reference to the distribution of the counties, was before the Judiciary Committee on the presentation of the case by three of the Representatives from the State of Iowa, Messrs. GILLETTE and WEAVER on one side, and Mr. SAPP on the other. Every possible suggestion was made as to changing the counties in the different divisions; and the whole matter was fully considered by the committee. But in cases of that sort, as you are well aware, Mr. President, the conflicting interests neutralize each other; and in the judgment of the committee it was thought, under those conflicting interests, best to leave the bill just as the House put it, inasmuch as the matter had been discussed there by the very members who appeared before the Senate Judiciary Committee. The difficulty was that if we changed one end something would turn up at the other end; then the center would need a change. The very best was done by the Judiciary Committee to settle all the interests, and by way of accommodating all as best they could, and hence they took the bill as it came from the House.

Mr. WITHERS. Mr. President, I rise to a question of order. I submit to my friends on both sides whether it is exactly right to inject into the consideration of this bill a discussion upon a bill not before the Senate and which will consume the limited time we have for the consideration of the bill before the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Military Affairs.

Mr. JONES, of Florida. I do not think that the report shows how much ground is contemplated to be acquired.

Mr. WITHERS. Sufficient for the purpose.

Mr. JONES, of Florida. So far as the jurisdiction clause is concerned, I am clearly of opinion that it is unconstitutional. I do not think it ought to be in the bill. I do not think the State ought to be called upon to yield its jurisdiction for this purpose. We have carried this question of jurisdiction too far already. The Chair can testify, I think, as well as anybody in the Chamber the objections that exist to provisions of this kind. In all public-building bills heretofore passed, I think, at the present session, nothing has been put in them with relation to jurisdiction. I have opposed such a provision as far as I could, although there was an appearance of authority for such a cession of jurisdiction with respect to arsenal, navy-yards, and public buildings; but when it comes to a monument I can conceive of no authority whatever for asking a cession of jurisdiction by the State for such a purpose, and I sincerely hope the amendment will not be concurred in.

Mr. WITHERS. I hope not, too.

The PRESIDENT *pro tempore*. The question is on the amendment.

The amendment was rejected.

Mr. KERNAN. Mr. President, I shall vote for this bill to mark the site where the struggle of the Revolution was ended by the surrender of Cornwallis. I do not favor the provision in the bill to appropriate $20,000 to celebrate the event there, but I shall not move to strike it out. I think we should mark by appropriate monuments these important sites in the history of the struggle which gave us independence, but I am opposed to furnishing money to celebrate them by the men who live now. And, sir, in that spirit, I ask to offer an amendment to this bill. The amendment is a bill which has passed the House of Representatives, and which appropriates $1,100 to aid an incorporated society in the State of New York to erect a monument to mark the site of the battle of Oriskany, and to commemorate not only that event, but the general, Herkimer, who commanded our troops on that occasion and died for his country. That battle was fought in 1777; fought when the British were moving down from Canada along the lakes to the Upper Hudson. Saint Leger and Sir John Johnson, with British troops, a picked body, and the tories and Indians entered New York at Oswego, marched to the upper waters of the Mohawk at Rome, and besieged Fort Stanwix, which was defended by Colonel Willett. The plan of that campaign was that Saint Leger should move down the valley of the Mohawk and meet the British under General Burgoyne at the junction of the Mohawk and the Hudson, and thus enable Burgoyne to effect a junction with the British who were moving from New York City up the Hudson. The Continental Congress in 1777, on the 4th of October, passed a resolution, which I will read:

> October 4, 1777.—*Resolved*, That the governor and council of New York be desired to erect a monument, at continental expense, of the value of $500, to the memory of the late Brigadier Herkimer, who commanded the militia of Tryon County, in the State of New York, and was killed, fighting gallantly in defense of the liberty of these States.

That resolve of the Continental Congress has never been carried out. The Oneida Historical Society desire to have that $500, with simple interest to this time, appropriated by Congress to aid in completing a monument which that society and citizens of the State of New York propose to erect to commemorate the battle of Oriskany and General Herkimer, who commanded the patriots of the Revolution on that bloody field.

I have been urged by many of the best men in that section of the State to ask the Senate to pass this House bill. It was passed by the House with great unanimity, and I offer it as an additional section to the bill under consideration, and I hope it will be adopted by the Senate.

Mr. JONES, of Florida. Where is the bill?

Mr. KERNAN. It is a House bill, and was referred to the Committee on Military Affairs of this body and is not yet reported. The same committee that reports the pending bill has not yet reported the one I offer as an amendment. I think that we should mark this spot at Yorktown with a monument costing $100,000; but I think while doing that we should also aid in marking with a monument the spot where Herkimer fell. The battle of Oriskany was one of the most important battles of the Revolution.

I hope, therefore, this small amount will be voted. It is not so much the amount as a desire to have Congress take part in erecting this monument in accordance with the resolution which the Continental Congress, soon after the battle, passed directing it to be done at their expense. I hope, therefore, this amendment will be adopted. The House has passed upon it, and I trust the Senate will concur.

Mr. WITHERS. I hope my friend from New York will withdraw the amendment. I have no objection in the world to voting for the House bill he moves as a separate measure. The committee here can report it, and it can be passed. It will be passed *nem. con.*, I have no doubt, on the part of the committee. I hope it will not be added as an amendment to this bill, which will cause it to go back to the House of Representatives and prevent its passage perhaps. This is a peculiar case. The Yorktown fight was the closing and the culminating point of the great struggle for our independence, and no other battle occupies the same ground. Let the bill pass without an amendment which will send it back to the House—an amendment which I am in favor of by itself.

Mr. KERNAN. My friend says we ought to mark the spot where we triumphed. The battle of Oriskany was fought in the very dark-

est days of the revolutionary struggle, and if we had not compelled St. Leger to raise the siege of Fort Stanwix and driven him back into Canada from the valley of the Mohawk Burgoyne would have triumphed at Stillwater and at Saratoga, as is believed by all men who have written on the subject. I should like to accommodate my friend, but the House bill has not been reported to the Senate. It asks but for a small amount. Everybody sees the difficulty in getting it passed as a separate bill at this stage of the session, and I ask that it may be put in the bill under consideration, thus aiding to erect a monument on the site of one of the earlier struggles of the Revolution, as the bill under consideration provides for a monument commemorating its glorious close.

I have a letter from a former governor of my State, Governor Seymour, the president of the society, urging that the bill be passed, that it may be said that the Government of the United States has aided to erect that monument that was ordered by the Continental Congress. There will be no trouble in the bill passing the House with this amendment. I ask but this $4,100, being the amount originally voted one hundred years ago, with simple interest, to mark the spot where one of the earliest successful struggles was had, and where there were more men killed according to the number engaged than in any other battle of the Revolution. I hope my amendment will be adopted. I ask it as a matter of justice and patriotism.

Mr. McDONALD. I would go a great way to accommodate my friend from New York, but it does not seem to me exactly proper to undertake the work of erecting monuments to commemorate every important battle of the Revolution. I think it is very well for us to mark the beginning and the ending, Bunker Hill and Yorktown; but to undertake to pick out the intermediate grounds, and examine the various battle-fields of the Revolution, and fix monuments upon each in accordance with what we might deem the importance of each particular event, would certainly seem to me to be a very great departure from our policy heretofore. I could not vote for such a bill as a separate proposition. I cannot vote for it as an amendment to this bill. Therefore I hope my friend from New York will deem it best not to press it here, but call it up hereafter on its merits.

Mr. KERNAN. This bill passed the House early, and it was sent to the Military Committee. It passed the House I think before the Yorktown bill. What time did that pass?

Mr. WITHERS. January 27.

Mr. KERNAN. Then it was passed afterward. I have respectfully asked the committee to act upon the bill, but it has not yet been reported to the Senate. I fear it will not be, but they report a bill here for $100,000, which I approve and favor, to erect a monument at Yorktown; and they report a provision to give $20,000 for the men of this day to have a celebration. I thought that when they were doing this they at least would not object to giving the citizens of New York $4,100, which was pledged in 1777 to aid them in building a monument to General Herkimer and his brave soldiers who died in the battle of Oriskany.

Mr. BURNSIDE. Will the Senator from New York allow me to say one word?

Mr. KERNAN. Certainly.

Mr. BURNSIDE. The Military Committee has acted upon that bill in a general way and has made this general report in reference to the Yorktown monument, and the report states that the committee does not think it wise to make appropriations for all these different places where the fights of the Revolution took place, but that it is eminently wise to mark the spot where the Revolution culminated in the last act of the war. The committee are very distinct on that. Therefore the bill that the Senator from New York refers to was acted upon by our committee, and I violate no confidence in saying that all other bills were laid aside.

Mr. KERNAN. It has not been reported either way.

Mr. BURNSIDE. I do not know that I have a right to say why it was not reported, but it was not reported for a very good cause, and it was not reported out of respect to the Senator from New York.

Mr. KERNAN. Pardon me a moment more. I am against the policy that says we shall mark by a monument but one of these spots rendered glorious by the revolutionary war. Sir, I believe we cannot do a greater good to the country nor to our people than to put up at moderate expense a great many monuments to remind us of the self-sacrificing patriotism and bravery of the men who made this Government and who won the right to make it with blood and toil. We are appropriating money every day for things that will not do our people as much good as these monuments, reminding and inspiring the present generation of the sacrifices which our forefathers made for liberty and the right of self-government, which we, I fear, are becoming too careless of.

I believe it is better than almost any other expenditure, and I will vote for a reasonable sum to mark every spot that stands out as the site of a signal event during the revolutionary war. I would rather vote it than vote much of the money that we do vote here. I believe the time has come when we ought to build up monuments; and I did not believe, when the committee thought we could give $20,000 to celebrating ourselves the spot where the surrender was made, that they would hesitate to give $4,100 to fulfill a pledge of the Continental Congress to mark with a monument the spot where one of the bloodiest and most important battles of the early portion of the Revolution was fought.

I hope the Senate will adopt the amendment, and I hope that we will in every such case give a reasonable sum to build a monument. If we carry out every pledge—I have them all before me—of the Continental Congress, the cost would be a bagatelle compared with the money we are voting for building other matters, and I am especially willing to aid where the people themselves contribute, so as to make a respectable monument by our carrying out the resolutions of the Continental Congress. I will vote for every one of them, and I think the Senate will when they come to reflect upon it. I ask that this be voted now, if it is the pleasure of the Senate.

The PRESIDENT *pro tempore*. The Senator from New York moves to add what will be read.

The CHIEF CLERK. At the end of the bill it is proposed to insert:

That the Secretary of the Treasury be authorized, and he is hereby directed, to pay to the Oneida Historical Society, of Utica, New York, out of the Treasury, from any moneys not otherwise appropriated, the sum of $4,100, for the purpose and to be used by said society in carrying out and consummating the resolution of the Continental Congress of the United States of America, passed October 4, 1777, providing for the erection of a monument to the memory of Brigadier-General Herkimer, who commanded at the battle Oriskany, and was there "killed, fighting gallantly in defense of the liberties of these States."

Mr. KERNAN. Mr. Seymour is the president of that society, and we need no other guarantee that the money will be wisely expended.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York.

Mr. KERNAN called for the yeas and nays, and they were ordered.

Mr. BUTLER. I merely wish to say by way of explanation of my vote that I shall vote against this amendment for the reason which has been assigned by the Senator from Virginia. I apprehend it will imperil the passage of the bill. If the Senator from New York will bring up this section as a separate proposition it will give me very great pleasure to vote for it; but I cannot vote for it as an addition to this bill for the reason I have assigned.

Mr. WHYTE. Mr. President, if this amendment is adopted, as proposed by the Senator from New York, I shall feel it my duty also to offer an amendment for a monument to the memory of Baron De Kalb. The Continental Congress pledged itself to the erection of a monument in the city of Annapolis commemorative of his services in the revolutionary war. The Legislature of the State which I in part represent at the last session passed a resolution calling on its Senators in Congress and requesting its Members in the other House to bring the subject-matter before Congress; and I shall feel it my duty to offer that amendment if this amendment is adopted. I give notice, therefore, to the gentlemen in charge of the bill that I shall offer that amendment.

Mr. MAXEY. Perhaps it is proper, Mr. President, that something should be said in respect to the reasons which actuated the Military Committee as to these measures for monuments. Every member of that committee appreciates the necessity of perpetuating in the minds of the American people that grand revolutionary war which culminated at Yorktown in the achievement of the independence of the American people, since established, as we trust, for all time to come through our matchless Constitution.

In looking at all these various propositions for establishing monuments at different points commemorative of different generals, and thus the soldiers they commanded, it was thought by the committee that it would be better, in view of all things, to report this bill for the erection of a monument at Yorktown as a monument commemorative of that victory which eventuated in the achievement of American independence, a victory which ended that seven years' long struggle for American freedom, and thus in one single monument we should perpetuate the grand purpose of the revolutionary war. That was our reason for it.

The results of the revolutionary war will last as long as man loves liberty. They gave to the world thirteen independent States, which wisely adopted a common Constitution for purposes common to all, and this Union of the old thirteen States, as the years rolled by, grew and strengthened into a Union of thirty-eight States limited only by the oceans. We owe a lasting debt of gratitude to our revolutionary sires, and this monument will at best be but a feeble tribute to their memory.

Now, I should like that this bill which is pending should go through without any amendment; but I will say to the Senator from Maryland and to the Senator from New York that since this matter has come up and been before the committee, and it has been discussed over and over again, my mind has undergone some change in regard to the policy of the American Congress in respect to these monuments. At the outset I did believe that it would be perhaps a needless expense to erect these monuments at different points; but I have studied this question over and studied it free of all passion and of all prejudice, and the conclusion to which I have come is, that if we can on the notable battle-fields in every one of the original States of the American Union erect monuments to the memory of men who distinguished themselves in battle during the revolutionary struggle for American freedom, whether it be the Pole, the French, or the American, it will be a gracious recognition of their friendly services. It will be carrying out that great thought which underlies the establishment of Westminster Abbey, which has caused to be erected monuments in different States of the Union to the distinguished dead who fell on different battle-fields in Mexico; it will be fostering a spirit of patriotism in the mind of growing generations; and in this view I believe that

we might wisely and well appropriate some portion of the money of the people in perpetuating and increasing this spirit of liberty, of freedom, by the erection of monuments on the notable battle-fields of the Revolution in the old thirteen States. And not only that, but it would aid in unifying the whole people, in removing the estrangements of the recent past, and in teaching the people that this is one grand Union of coequal States, that we are all part and parcel of one great family, and that we would do well to remember our forefathers of the revolutionary war and their grand achievements, and by passing back in memory to that grand and glorious event which culminated in American Independence, and in which the people of all the colonies, Massachusetts, New York, Virginia, North Carolina, South Carolina, all the States of the original thirteen, participated, we would be better men and truer patriots, and we would cement by such acts the bonds of fraternal union.

In that view I will say to the Senator from New York that when his bill comes up, as it will, I think, in time, so far as I am concerned it will meet no opposition, nor would the proposition of the Senator from Maryland; but let us pass this bill on its own merits, and do not let it be said that by reason of the great strength in Congress of this measure approved so cordially, other measures of not such national concern go through by the strength of this bill, which must meet with the approbation of every man whatever State he may come from, either from the original thirteen or from any of their children—from the younger States.

Therefore, I think it would be wise that this amendment shall not go on the bill now, and I state that with the distinct understanding that it is not because I oppose the measure of the Senator from New York, but because I want this bill to stand alone on its own merits.

Mr. KERNAN. I thank the Senator from Texas for his kind words, but this report shows that if we fulfill every pledge of this character made by the Continental Congress it will not cost $200,000 beyond the amount appropriated by this bill. The committee in their report upon the pending bill say:

The following copies of resolutions are the only ones passed by the Continental Congress or by the Congress of the United States touching revolutionary monuments:

"[Journals of Congress from 1774 to 1788, inclusive.]

"*Monuments to revolutionary soldiers, &c.*

"Montgomery, General Richard.

"January 22, 1776.—Committee of three appointed to consider a proper method for paying a just tribute of gratitude to the memory of. (Vol. 1, p. 244.)

"January 25, 1776.—Report of committee with resolution that a monument be procured from Paris, or any other part of France, &c. And that the continental treasurers be directed to advance a sum not exceeding £300, sterling, to Dr. Benjamin Franklin (who is desired to see this resolution properly executed) for defraying the expense thereof. (Vol. 1, p. 247.)

"June 1, 1784.—Preamble and resolution requesting that the monument, which was procured and sent to care of Mr. Joseph Hewes, in North Carolina, now deceased, be delivered, by the executors or other persons having charge of same, to the superintendent of finance, to be transported to New York and erected in such part of said State as the Legislature thereof may judge proper, and that the expense thereon be paid by the United States, &c. (Vol. 4, p. 431.)

"Warren, General Joseph; Mercer, General Hugh.

"January 31, 1777.—Committee of four appointed to consider what honors are due to the memory of. (Vol. 2, p. 28.)

"April 8, 1777.—Committee make a report that monuments be erected to each—that of General Warren in Boston, and that of General Mercer at Fredericksburgh, Virginia—with suitable inscription; also that the eldest son of General Warren and the youngest son of General Mercer be educated from this time at the expense of the United States. Report read, and agreed to. (Vol. 2, p. 82–83.)

"April 12, 1777.—Resolution appropriating $500 for each of the above monuments, and executive powers of Massachusetts Bay and Virginia directed to see the above resolutions properly executed. (Vol. 2, p. 89.)

"Wooster, General David.

"May 19, 1777.—Resolution that a committee of three be appointed to consider what honors are due to the memory of. (Vol. 2, p. 133.)

"June 17, 1777.—Committee brought in a report, which was considered, and '*Resolved*, That a monument be erected to the memory of General Wooster, with the following inscription, &c., and that $500 be allowed for that purpose.' (Vol. 2, p. 168.)

"Herkimer, General.

"October 4, 1777.—*Resolved*, That the governor and council of New York be desired to erect a monument, at Continental expense, of the value of $500, to the memory of the late Brigadier Herkimer, who commanded the militia of Tryon County, in the State of New York, and was killed fighting gallantly in defense of the liberty of these States. (Vol. 2, p. 276.)

"Nash, Brigadier-General Francis.

"November 4, 1777.—*Resolved*, That his excellency Governor Caswell, of North Carolina, be requested to erect a monument of the value of $500, at the expense of the United States, in honor of the memory of Brigadier-General Francis Nash, who fell in the battle of Germantown, on the 4th day of October, 1777, bravely contending for the independence of his country. (Vol. 2, p. 312.)

"DeKalb, Major-General, the baron.

"October 14, 1780.—*Resolved*, That a monument be erected in the city of Annapolis, in the State of Maryland, to, with the following inscription, &c. (Vol. 3, p. 536.)

"Davidson, Brigadier-General.

"September 20, 1781.—On motion of Mr. Sharpe, '*Resolved*, That the governor and council of the State of North Carolina be desired to erect a monument, at the expense of the United States, not exceeding the value of $500, to the memory of,' &c (Vol. 3, p. 669.)

"Scriven, Brigadier-General.

"September 20, 1781.—On motion of Mr. Walton, seconded by Mr. Telfair, '*Resolved*, That the Legislature of the State of Georgia be desired to erect a monument, at Sunsbury, in the said State, at the expense of the United States, not exceeding $500, to the memory of the late Brigadier-General Scriven, who fell, covered with wounds, fighting for the liberties of the United States.' (Vol. 3, p. 669.)

"Greene, Nathaniel.

"August 8, 1786.—On a report of a committee, consisting of Mr. Lee, Mr. Pettit, and Mr. Carrington, '*Resolved*, That a monument be erected to the memory of Nathaniel Greene, esq., at the seat of the Federal Government, with the following inscription:

"'Sacred to the memory of Nathaniel Greene, esq., a native of the State of Rhode Island, who died on the 19th of June, 1786, late major-general in the service of the United States, and commander of their Army in the southern department.

"'The United States in Congress assembled, in honor of his patriotism, valor, and ability, have erected this monument.

"'*Resolved*, That the board of treasury take order for the due execution of the foregoing resolution.'" (Vol. 4, pp. 679, 680.)

"Surrender of Lord Cornwallis at Yorktown, Virginia.

"October 24, 1781.—Proceedings of Congress respecting letter from General Washington of 19th instant, giving information of, and '*Ordered*, That letter with inclosed papers be referred to the committee of intelligence, &c., and *Resolved*, That it be an instruction to said committee to report what, in their opinion, will be the most proper mode of communicating the thanks of the United States in Congress assembled to General Washington, Count de Rochambeau, and Count de Grasse for their effectual exertions in accomplishing this illustrious work, &c., &c., and *Ordered*, That the secretary of foreign affairs communicate this intelligence to the honorable the minister plenipotentiary of France.'"—*Journals of Congress*, volume 3, page 679.

The following is the report of the committee raised by the resolution to take into consideration the proper mode of communicating the thanks of the United States to General Washington, Count de Rochambeau, and Count de Grasse for their work:

"The committee, to whom were referred the letters of the 16th and 19th instant, with their inclosures, from General Washington, report the following resolutions:

"*Resolved*, That the thanks of the United States in Congress assembled be presented to General Washington for the expedition with which he led the allied forces of America and France against the British army under the command of the Earl of Cornwallis, for his arrangements, vigor, personal attention, and military ability in the course of his operations, and for the prudence and wisdom of the capitulation.

"*Resolved*, That the thanks of the United States in Congress assembled be presented to his excellency the Count de Rochambeau, for the cordiality, zeal, judgment, and fortitude with which he seconded and advanced the progress of the allied army against the British garrison in York.

"*Resolved*, That the thanks of the United States in Congress assembled be presented to his excellency the Count de Grasse, for his display of bravery in attacking and defeating the British fleet off the bay of Chesapeake, and for his zeal and alacrity in rendering with the fleet under his command the most effectual and distinguished aid and support to the operations of the allied army in Virginia.

"*Resolved*, That the thanks of the United States in Congress assembled be presented to the commanding and other officers of the corps of artillery and engineers of the allied army, who sustained extraordinary fatigue and danger in their animated and gallant approaches to the lines of the enemy.

"*Resolved*, That General Washington be directed to communicate to the other officers and the soldiers under his command the thanks of the United States in Congress assembled for their conduct and valor on this occasion.

"*Resolved*, That the board of war be directed to present to Lieutenant-Colonel Tilghman, in the name of the United States in Congress assembled, a horse properly caparisoned, and an elegant sword, in testimony of their high opinion of his merit and ability.

"*Resolved*, That the United States in Congress assembled will cause to be erected at York, in Virginia, a marble column, adorned with emblems of the alliance between the United States and His Most Christian Majesty, and inscribed with a succinct narrative of the surrender of the Earl of Cornwallis to his excellency General Washington, Commander-in-Chief of the combined forces of America and France, his excellency the Count de Rochambeau, commanding the auxiliary troops of His Most Christian Majesty in America, and his excellency the Count de Grasse, commanding in chief the naval army of France in the Chesapeake.

"*Resolved*, That two stands of the colors taken from the British army under the capitulation of York be presented to his excellency General Washington, in the name of the United States in Congress assembled.

"*Resolved*, That two pieces of the field ordnance taken from the British army under the capitulation of York be presented by the Commander-in-Chief of the American army to Count de Rochambeau, and that there be engraved thereon a short memorandum that Congress was induced to present them from considerations of the illustrious part which he bore in effectuating a surrender.

"*Resolved*, That the Secretary of Foreign Affairs be directed to request the minister plenipotentiary of His Most Christian Majesty to inform his majesty that it is the wish of Congress that Count de Grasse may be permitted to accept a testimony of their approbation similar to that to be presented to Count de Rochambeau."

[Indorsed:] Report of committee on General Washington's letters of 16th and 19th October, 1781. Passed October 29, 1781.

MARBLE COLUMN AT YORKTOWN, VIRGINIA.

* * * * * * *

On motion of Mr. Randolph, seconded by Mr. Boudinot,

"*Resolved*, That the Secretary for Foreign Affairs be directed to prepare a sketch of emblems of the alliance between His Most Christian Majesty and the United States proper to be inscribed on the marble column to be erected in the town of York, under the resolution of the 29th of October last."—*Journals of Congress*, November 7, 1781, volume 3, page 686.

There are not a dozen of them, and the amounts given are $500 and some larger sums. I will vote to carry out every one of these pledges. They should be put on the same bill whereby we provide for erecting this monument to mark the close of the Revolution. Therefore there is no danger if we put on this bill an appropriation to carry out every one of these pledges, on condition that the people unite in the work. We shall make but a very slight inroad on the Treasury, and I think we shall do great justice to ourselves. We have received and enjoy the liberty and government which our forefathers fought for, and let us carry out the pledges which they in the Continental Congress made if we do nothing else on this subject.

Mr. HAMPTON. Mr. President, I am in favor of the amendment offered by the Senator from New York. I violate no confidence in saying that I advocated it in the committee. As the chairman of the committee is not here, I think I may state the condition of the Herkimer Monument bill before the committee. As the Senator from Rhode Island [Mr. BURNSIDE] said, it was deemed certain that we should put up one grand monument to commemorate the closing struggle of the Revolution; but I have been in favor and am now in favor of having at least one monument built by Congress in each one of the original thirteen States; and I feel very sure that if my friend from New York will present this measure as an independent one for

consideration it will pass. If it is proposed as an amendment now I shall have to vote against it.

Mr. KERNAN. Allow me to respond. My proposition is a House bill. If I can have a reasonable prospect that the Committee on Military Affairs will report the bill at this session as it came from the House——

Mr. MAXEY and Mr. HAMPTON. It will be done.

Mr. KERNAN. Under that assurance, to relieve this bill, I withdraw the amendment, and I expect to get a favorable report on the House bill for the Herkimer Monument at this session. I withdraw the amendment.

The PRESIDENT *pro tempore*. Is there objection to granting leave to the Senator from New York to withdraw his amendment? The Chair hears none, and it is withdrawn.

Mr. BURNSIDE. I wish to offer an amendment to the bill, in line 9, section 2, after "1879," to add "and of ten Senators, to be appointed by the presiding officer of the Senate."

Mr. JOHNSTON. I hope that amendment will not be adopted. I trust that the bill will not be amended at all. I understand that the charge of the celebration is left by the bill to the House committee, because that committee was appointed by the House to represent the thirteen original States of the Union. The object in raising that committee was to have it a representative of the original States. I trust, therefore, the amendment will not be adopted.

Mr. BURNSIDE. This is a very important measure; a good deal of money is to be expended under it; and I see no reason why the Senate should not participate in the management of the matter, and I see every reason in the world why it should. I therefore insist on the amendment. The House have ample time to adopt it, and I do not think it is well for the immediate friends of this bill to oppose an amendment of this kind. It is very proper that the Senate should have a representation on the committee which is to take charge of the celebration here provided for.

Mr. BUTLER. Will the Senator allow me a moment?

Mr. BURNSIDE. I will modify my amendment so as to make it a committee of thirteen Senators.

The PRESIDENT *pro tempore*. The amendment is modified by making the number thirteen.

Mr. BUTLER. I would inquire of my friend whether he might not accomplish the same purpose in some other way, by a resolution, for instance?

Mr. BURNSIDE. I think not. I do not care to run the risk of allowing an important measure like this go through without an amendment of that kind. I have favored the measure from the start, and I did everything I could in yielding the point in reference to the building clause. In reference to this I think it highly proper that the Senate should be represented.

Mr. McDONALD. I think myself the Senate ought to be represented; but would it not be better to amend the House section so as to provide that of the thirteen provided for so many shall be appointed by the Speaker of the House and so many by the President of the Senate?

Mr. BURNSIDE. The theory is to have a representative from each one of the thirteen original States. There would be no harm in adding a Senator from each of the original thirteen.

Mr. McDONALD. But there is no necessity for any larger number than thirteen altogether.

Mr. BURNSIDE. It would give a larger body participating and would preserve the original idea, having thirteen from each House.

Mr. ANTHONY. I think the committee of the House has already been appointed.

Mr. BURNSIDE. Yes; and they have been acting for some time.

Mr. McDONALD. Under an act already passed?

Mr. ANTHONY. Under authority already given.

Mr. JOHNSTON. I understand the committee of the House has already been appointed and any action on our part now would entirely disarrange all the plans of the House. This measure has come down to us as a legacy from the old Continental Congress, when there was no Senate, but a Congress of thirteen States. I think we had better leave it as it is, with a committee consisting of a Representative from each of the original thirteen States. I trust no amendment whatever will be put on the bill.

Mr. ANTHONY. Certainly the amount of the appropriation, the importance of the subject, and the dignity of it demand that the Senate should be represented. It is not proper that a matter of this kind should pass under the exclusive jurisdiction of one body of Congress. It should be done by Congress; the whole Government should be represented in it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

The question being put, there were on a division—ayes 18, noes 19; no quorum voting.

Mr. BURNSIDE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. I trust the Senate will not pass this bill without providing for the representation of our own body upon this committee. It seems to me exceedingly improper.

Mr. BUTLER. The very same reason that would have induced me to vote against the other amendment if it had been pressed will induce me to vote against this. I think the bill ought not to be amended at all for fear that it will obstruct its passage by the House. I do not see why the same object cannot be accomplished by a resolution of this body hereafter. Hence I shall vote against it. We can pass a separate resolution and accomplish precisely what is proposed to be accomplished by this amendment.

Mr. BURNSIDE. I do not believe a separate resolution can get through. I know the difficulty of getting things through the House, because there are matters I am interested in myself which have been delayed. Senators who vote for this bill as it now stands with the idea that a separate resolution can be got through the House embodying the idea of the amendment I have submitted will vote, in my opinion, for something that cannot take place. If it is easy to get a resolution through the House, it is just as easy to get this bill through with the amendment.

Mr. BUTLER. I shall vote for such a resolution with the greatest pleasure.

Mr. McPHERSON. I ask that the amendment be reported.

The SECRETARY. After the word "seventy-nine," in line 9, section 2, it is proposed to insert "and of thirteen Senators to be appointed by the presiding officer of the Senate."

Mr. COCKRELL. If the bill goes back to the House there is plenty of time between now and the 19th day of October, 1881, for action. This thing is not to be done until 1881, a year and four months off; and even if the bill should be passed at the next session of Congress there will be ample time then. Delay is not dangerous, and the Senate of the United States certainly ought to have an opportunity of participating in the expenditure of this $20,000.

Mr. BURNSIDE. I appeal to the Senators from Virginia, who have been to me so often in reference to this bill, to withdraw their opposition to the amendment. In view of the interest which I have taken in the measure, and in view of the fact that I gave way upon a question on which I had some doubt in reference to the title, I appeal to them to yield and allow this amendment to be made.

Mr. JOHNSTON. I withdraw my objection.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island insist on the yeas and nays now?

Mr. BURNSIDE. No; I do not.

The PRESIDENT *pro tempore*. By unanimous consent the order for taking a vote by yeas and nays can be rescinded. Is there objection? The Chair hears none. The question is on agreeing to the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

The amendment was agreed to.

Mr. MORRILL. I now offer the amendment proposed by me which is in print, and I modify it in line 10 of the first section proposed by inserting "ten" where it reads "twenty-five."

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont will be reported.

The CHIEF CLERK. It is proposed to add the following additional sections to the bill:

SEC. —. That whenever any monument association or historical society shall propose to designate a revolutionary battle-field, not already commemorated by a monument completed and dedicated, and shall have procured a charter from one of the United States, or shall have so organized under State laws as to be a corporate body, and shall have commenced to raise money to carry out its patriotic object, it shall be entitled to one dollar from the Treasury of the United States for every dollar actually raised by its own efforts: *Provided*, The sum so raised shall not be less than $10,000, and not more than $50,000.

SEC. —. That no moneys shall be paid out of the Treasury for the benefit of any such organization until the design for its monument shall have been approved by the President of the United States, or by a commission appointed by him for the purpose, and a board of three Army officers appointed by him shall have reported to him that the moneys already raised, together with an equal sum from the Treasury of the United States, shall be sufficient to complete the monument in accordance with the design approved by him, or by the commission appointed by him.

SEC. —. That the Secretary of the Treasury be authorized, and is hereby directed, to pay to the governor of the State wherein is to be erected any monument contemplated by this act, out of the Treasury, from any moneys not otherwise appropriated, a sum of money equal to that already raised by the local association having the erection of the proposed monument in charge, whenever the governor of said State and the President of the United States shall certify to him that the conditions of section 6 of this act have been complied with, the same to be expended by said governor, in accordance with the charter of the association and the laws of the State.

SEC. —. That the grants of money in sections 5 and 7 of this act shall lapse at the expiration of twenty-five years from the date of the approval of this act.

SEC. —. That sections 5 to 8, inclusive, are not to apply to the monument at Yorktown.

Mr. MORRILL. Mr. President, I am quite satisfied from the expression of the Military Committee and of other gentlemen in the Senate that this is a measure that should meet with almost, perhaps, the unanimous approval of the Senate. It is true we have a National Hall of Statuary where statues will be probably before the end of many years placed to individuals, many of whom derive their eminence from services in the Revolution either as civilians or as military men; but there is a desire on the part of the citizens of the country to have the battle-fields of the Revolution commemorated. They are distributed over the country, North and South, and it seems fitting that every one of these battle-fields should be decorated in some handsome manner.

The amendment proposed by me simply provides that where the citizens of the respective localities shall raise a sum of not less than $10,000 and not exceeding $50,000 the United States shall appropriate an equal sum for each one of these places. It is not likely that the whole of this sum would ever amount to more than two or three hundred thousand dollars, and it would be after the lapse of a considerable time.

Take, for instance, the present bill; it proposes to erect a monument at Yorktown to commemorate the end of the Revolution. Why should not such a battle as that of Bennington, where we won perhaps the first victory, be commemorated? Why not Trenton? Why not Saratoga? So I might go through with the list. There are perhaps not more than half a dozen in all. This amendment proposes to help those who help themselves. It does not interfere with Yorktown. I think it must meet with the approbation of not only every member of the Military Committee, but with the approval of Senators throughout the entire country.

I hope, Mr. President, there will be no objection to the amendment. The bill has already been amended so that it must go back to the House, and I am quite satisfied from intimations that have been given to me by various members of the committee that the bill would be much stronger with the amendment proposed by me than it would be without it.

Mr. McPHERSON. I should like to call the attention of the Senator from Vermont to the amount which he moves in lines 10, 11, and 12 of the first section of his proposed amendment.

Mr. MORRILL. That has been modified so as to read "shall not be less than $10,000 and not more than $50,000."

Mr. McPHERSON. I am very glad the Senator has amended it in that respect. I will state that so far as the people of New Jersey are concerned they are already engaged in raising a fund to commemorate the battle-fields of Monmouth and Trenton. I think the sum of $12,000 or $15,000 has already been raised for a monument to be raised on the battle-field of Monmouth, and they are now engaged in raising a fund to commemorate the battle-field of Trenton. The modification which the Senator has made is of course entirely proper. I suggest, however, while I am on my feet, that if it should remain as it is in the printed copy, it would perhaps defeat the object the Senator has in view. They would scarcely raise that amount.

Mr. MORRILL. I modified it, at the request of several Senators, to $10,000.

Mr. JOHNSTON. I hope the amendment will not be adopted. It will defeat the bill, in my opinion. It is legislation proposing a general law that should be passed, if at all, in a separate measure. As for myself, I must say that I am in favor of carrying out the wishes of the Continental Congress by commemorating all the battle-fields mentioned by that Congress itself, not by States, or citizens, or societies. I am in favor of executing the will of the Continental Congress, and building monuments on every one of the battle-fields where the Continental Congress passed resolutions to erect them, and to do it by the United States exactly on the terms proposed.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

Mr. MORRILL. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 34; as follows:

YEAS—15.

Allison,	Cameron of Wis.,	McPherson,	Saunders,
Anthony,	Cockrell,	Morrill,	Thurman,
Baldwin,	Ferry,	Paddock,	Windom.
Burnside,	Harris,	Rollins,	

NAYS—34.

Bayard,	Eaton,	Kernan,	Slater,
Beck,	Farley,	Kirkwood,	Vest,
Booth,	Garland,	Lamar,	Voorhees,
Brown,	Hampton,	McDonald,	Walker,
Butler,	Hereford,	Maxey,	Whyte,
Call,	Ingalls,	Morgan,	Williams,
Coke,	Johnston,	Pendleton,	Withers.
Davis of Illinois,	Jonas,	Pryor,	
Davis of W. Va.,	Jones of Florida,	Randolph,	

ABSENT—27.

Bailey,	Dawes,	Hoar,	Ransom,
Blaine,	Edmunds,	Jones of Nevada,	Saulsbury,
Blair,	Groome,	Kellogg,	Sharon,
Bruce,	Grover,	Logan,	Teller,
Cameron of Pa.,	Hamlin,	McMillan,	Vance,
Carpenter,	Hill of Colorado,	Platt,	Wallace.
Conkling,	Hill of Georgia,	Plumb,	

So the amendment was rejected.

Mr. MORRILL. I desire to vote for the bill, but I cannot vote for it with the fourth section as it stands. I think that had better be stricken out, and as no one else has made the motion I move to strike out the fourth section down to and including the word "committee," in line 6. I do not know whether the proviso remains in the bill. If that has been stricken out my motion then is to strike out the fourth section. It seems to me it would be very unwise for us to make an appropriation to pay the expenses or to contribute to the entertainment of the folks who go there.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Vermont that the proviso printed in italics was not agreed to by the Senate.

Mr. MORRILL. Then I move to strike out the remainder.

Mr. JOHNSTON. I hope that amendment will not be adopted.

The PRESIDENT *pro tempore*. The Senator from Vermont moves to strike out the fourth section, which will be reported.

The Chief Clerk read as follows:

SEC. 4. That the sum of $20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of defraying the expenses incurred in the said centennial celebration, and to be disbursed under the direction of the said committee.

Mr. MORRILL. I do not think it is going to add anything to this celebration to contribute $20,000, and I think it is a matter that is open to criticism that the Congress of the United States should make an appropriation to furnish an entertainment of this kind. If we build the monument and pay the $100,000 for it, I think that is enough.

Mr. WITHERS. I have simply a word of explanation to make. It seems to be assumed that this appropriation is designed to be expended simply for local purposes, for the benefit of the State of Virginia. Nothing of the kind is contemplated. This whole project or the monument and the committee appointed to supervise its construction was prepared by a committee composed of a representative from each of the old thirteen States. It is national in its purposes, national in its objects. Assurances have been received from the French government that it will be present by official representation, and it is simply to provide the means of entertaining these gentlemen on the occasion of their visit in commemoration of the close of the revolutionary war and the great services which they rendered us in that war that this money is desired. No appropriation has been made otherwise than as I have indicated. It is not a matter in which the State of Virginia is interested at all. These gentlemen will come over as the guests of the nation.

Mr. MORRILL. I do not object to it on account of Virginia, but I object to it on account of the principle of setting a precedent of this kind. I am sure that the hospitality of Virginia will be extended as well to the French as to the Yankee people who may be present on that occasion.

Mr. COCKRELL. Twenty thousand dollars is certainly inadequate for this purpose. There is to be a committee of thirteen appointed by the Speaker of the House of Representatives and thirteen by the Senate. That makes twenty-six. Mr. President, $20,000 will not buy anything for them! Think of all the patriot citizens of the thirteen original States being invited to Yorktown to participate in this centennial celebration and only $20,000 to pay for champagne and other luxuries! It is wholly insufficient! I am astonished that the Senators from Virginia are so penurious in their demands in this respect. It ought to be at least $75,000, to put it upon a scale that will compare with the magnitude and grandeur of this great country.

Mr. President, the original resolution was passed in 1781 by the patriot fathers of this country to raise a monument at Yorktown. They were then burdened and oppressed with debts and obligations. They went on under the articles of confederation until 1789, when they adopted our present constitutional form of government. They were still oppressed with debts and obligations, and they continued so for a series of years. We may excuse them, then, for not immediately erecting the monuments which they had pledged their faith and their patriotism and their devotion that they would erect. But we come down to the time of the great Jackson, Andrew Jackson, the founder, one of the perpetuators at least, of democratic principles in this country. We find then that our country was out of debt, not a dollar owing to any mortal being; all its obligations, legal, equitable, and moral, according to the standard of judgment of our fathers existing then, had been discharged, and we had a surplus of $28,101,644.91 lying idle in the Treasury. We distributed that amount to the various States, and the State of Virginia got only the small sum of $2,198,427.99 in the distribution. We were out of debt, and yet the patriots of Virginia never asked that any portion of that money should be expended in the erection of this monument.

This measure is a direct reflection and stigma upon the character and patriotism and loyalty of the men who managed the affairs of this Government from 1789 down to the present time, and particularly from 1832 to 1840 and 1850 and 1855, when the country was entirely out of debt. Are we to cast this reflection upon them?

Mr. President, what is the condition of the country now? There are nearly $2,000,000,000 of interest-bearing indebtedness resting upon the tax-payers of this country, and we are called upon to donate $100,000 for the erection of a monument. Not only that, but we are called upon to appropriate additionally $20,000 in order that those connected with the celebration may have a grand jollification, their expenses paid, champagne furnished, and all other ingredients attending such a celebration.

The principle of the bill is wrong, the policy is wrong, and I for one now record my earnest protest against the country, at this late day and under its present indebtedness, entering upon a career of erecting monuments anywhere, and particularly monuments that the faith of the old Continental Congress alone was pledged to in 1781.

I am in favor of striking out the fourth section, as it will reduce the amount that much. Then I am opposed to the bill. I voted to attach the amendment of the Senator from Vermont to the bill because I think if we enter upon one of these things we ought to enter upon all and have nothing small about it. If we are going to take the people's money and expend it in this way, let us do it on a scale commensurate with the grandeur of the country and erect monuments on all the battle-fields not only of the revolutionary war, but, coming down later, of the Florida war with the Seminole Indians for the benefit of Florida, then of the Black Hawk war, then of the Mexican war, and then of the late rebellion. Let us erect monuments all over the country and have their glittering spires everywhere.

Mr. President, I tell you I have not much respect for that kind of patriotism and devotion which can alone be inspired by an appropri-

ation, which can alone be developed and brought out by the erection of a monument here or there or anywhere else.

Mr. HEREFORD. Mr. President, the Senator from Missouri seems to have gotten very economical or very patriotic this morning; I do not exactly know which. He seems to have some spite at the State of Virginia. There is some trouble with him somehow. He says that we have a debt of $2,000,000,000 hanging upon us, and that we should not engage in such appropriations as this. When it was sought this morning to take this bill up out of its order, he objected and he said we must remain and stand by the Calendar.

Mr. COCKRELL. I beg the Senator's pardon; I did not object to taking up this bill.

Mr. HEREFORD. Then it was another bill.

Mr. COCKRELL. It was another bill.

Mr. HEREFORD. The point is the same. It has not been two weeks since the Senator from Missouri himself asked to lay aside the pending and all other orders to take up a special matter which had just come from the House for the State of Missouri, the rich State of Missouri, and it is a wealthy State. It was all right then when he asked that the Senate should loan to the State of Missouri or to some association in it a vast number of tents, I believe——

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. WITHERS. I ask unanimous consent to lay aside the regular order temporarily.

Mr. COCKRELL. I object.

Mr. WITHERS. The Senator from Missouri objects. I move, then, that the pending order be laid aside for the purpose of concluding the consideration of this bill.

Several SENATORS. Informally?

Mr. WITHERS. Informally. I can move to lay it aside informally, subject to call?

The PRESIDENT *pro tempore*. The Senator has that right.

Mr. RANSOM. Will the Senator from Virginia give way for one moment until I make a statement?

Mr. WITHERS. Certainly.

ORDER OF BUSINESS.

Mr. RANSOM. I gave notice on Friday, by instruction of the Committee on Commerce, that to-day at half after one o'clock I would propose to take up the river and harbor bill, but the printed bill did not reach the desks of Senators until this morning, and at the request of a large number of Senators I have thought it best not to ask the Senate to consider it until to-morrow at half after one o'clock, when I shall positively insist upon taking it up.

Mr. McDONALD. I shall not object to the suggestion of the Senator from Virginia; but it is known to the Senate that the Senator from Kentucky [Mr. WILLIAMS] expected to address the Senate at this hour, and he gave way at the time the bill under discussion was taken up. This bill is evidently going to take more discussion yet and perhaps more amendments. I think that the Senator from Kentucky ought to be allowed now to proceed. I understand that his remarks will not occupy over half an hour or three-quarters of an hour.

Mr. WITHERS. To meet all points I ask that the unfinished business be laid aside informally in order to take up the bill which has been under consideration this morning, and then I will yield to the Senator from Kentucky.

Mr. COCKRELL. When I made my objection it was because the Senator from Kentucky had given notice that he would speak. It was expected that he would have commenced at half past twelve, but the time has been consumed up to this hour. I think it only proper and courteous that the Senator from Kentucky should be allowed now to proceed. When he concludes I shall offer no objection to the continuance of this bill at all. I should offer none now but for that fact.

The PRESIDENT *pro tempore*. The Senator from Virginia moves still further to postpone all prior orders to continue the consideration of the bill that was under consideration at the close of the morning hour.

Mr. McDONALD. I understand that that is to be done with a view of laying the bill aside informally so that the Senator from Kentucky may address the Senate upon the bill in favor of pensioning soldiers of the Mexican war.

Mr. HARRIS. While that is the purpose, the effect certainly is to postpone the pending and all prior orders and they take their places on the Calendar, I should think.

The PRESIDENT *pro tempore*. If the motion of the Senator from Virginia prevails, and then the Senate unanimously consent to lay aside informally the bill thus taken up in order to take up the pension bill that the Senator from Kentucky may make his remarks upon the same, the Senate can, at the close of his remarks, upon the call of any Senator resume the consideration of the monument bill.

Mr. BAYARD. The unfinished business, the pending order, is the tariff-commission bill, upon which I understand the honorable Senator from Massachusetts [Mr. DAWES] has the floor and is prepared to speak. It is a question of economy of time and the convenience of the Senate; but I should regret to see that measure displaced. Having expressed at such length as I thought proper my views upon that commission bill, I should be very glad if the Senate would take a vote upon the bill so soon as Senators shall have concluded their remarks, and I do not wish it displaced as the order of business. There is no economy in time (which is, after all, the main thing to be considered) in displacing it. If the motion made by my friend from Virginia prevails, it will not displace it, because it will then be in order to call it up at any time provided the pending order be passed by informally, which is by unanimous consent. Then at any time the regular order may be called, and that would bring the tariff-commission bill again before the Senate.

The PRESIDENT *pro tempore*. The Chair would state to the Senator from Delaware that the Senator from Virginia asked unanimous consent to lay aside the pending order, which is the tariff-commission bill, and objection was made, and then he was compelled to make a motion.

Mr. JOHNSTON. I understand the Senator from Missouri has withdrawn the objection he made.

The PRESIDENT *pro tempore*. The Chair will put the question again.

Mr. COCKRELL. If the Senator from Kentucky is permitted to go on after taking up the monument bill, I have no objection, but I do object to cutting him off from the floor.

Mr. BAYARD. Let it be done by unanimous consent.

Mr. DAWES. If the——

The PRESIDENT *pro tempore*. If the Senator from Massachusetts will allow the Chair to correct his wrong impression on the subject, he will state that if the unfinished business is laid aside informally in order to proceed with the monument bill, the monument bill cannot be laid aside informally in order that the Senator from Kentucky may proceed. That would be piling one agreement upon another in a way that would not be in order.

Mr. WITHERS. I submit that we can by unanimous consent do it.

Mr. DAWES. If that arrangement should be entered into, the Senator from Kentucky would occupy the floor, and then the monument bill and then the Eaton bill would come up of right after that.

The PRESIDENT *pro tempore*. Undoubtedly, if the unfinished business, which is the tariff-commission bill, be laid aside by unanimous consent in order to proceed with the monument bill, the moment the monument bill is disposed of the tariff bill comes up, or, indeed, it is liable to be called up at any time by any Senator; but the Chair is not aware that after laying aside one bill informally in order to take up another it has ever been the practice then that the bill thus taken up should be also laid aside informally.

Mr. WITHERS. I ask for information whether it is not in the power of the Senate, by unanimous consent, to take such action as is now proposed? One objection would prevent it, but in the absence of that objection it can be done.

Mr. DAWES. Let unanimous consent be given to the Senator from Kentucky, and at the close of that, I have no doubt unanimous consent will be given for the other matter to be considered; but let us do one thing at a time. According to the courtesies of the Senate it is expected that the Senator from Kentucky will be heard.

Mr. WITHERS. Either way, it makes no difference. I am just as anxious as anybody to hear the Senator from Kentucky.

Mr. DAWES. Let unanimous consent be given to the Senator from Kentucky, and then the pending order may be laid aside, if unanimous consent can be obtained, after that; but let us do one thing at a time.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent that the pending order, which is the tariff-commission bill, be laid aside informally in order that the pension bill may be taken up and the Senator from Kentucky may make the remarks that he desires to submit to the Senate.

Mr. DAWES. That will leave the pending order to come up and be disposed of at the close of the remarks of the Senator from Kentucky.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed a joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the concurrent resolution of the House to print 300,000 copies of the Report of the Commissioner of Agriculture for 1879.

REPORTS OF COMMITTEES.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (S. No. 732) granting a pension to George W. Leamy, submitted an adverse report theron; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer as therein directed, reported it without amendment.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1805) relative to revolutionary battle-fields; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1806) granting a pension to Sarah Ann Davis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1807) granting a pension to Amanda J. McFadden; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1808) granting a pension to Earl S. Rathbun; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

The PRESIDENT *pro tempore*. The Senator from Kentucky now moves to take up the pension bill reported by the Senator from Florida [Mr. CALL] from the Committee on Pensions in order that he may speak upon it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

Mr. WILLIAMS. Mr. President, I am glad the committee has reported the bill to pension these old soldiers even at this late day of the session, and I am glad of this opportunity of saying something on behalf of my old comrades in arms, to whom I am deeply attached. No man, sir, but a soldier knows how one true soldier feels toward another. There are no ties on earth that hold men together in bonds of union stronger than those which spring from sharing a common hardship and a common danger. They are strong as the ties of blood, will live through life, and with us rise in the resurrection. This subject carries the mind back over the lapse of years and touches with freshness the most cherished recollections of my life. It is well, too, perhaps that we should be reminded occasionally that we have had other great and glorious wars besides the war of the rebellion, and that we have other meritorious soldiers besides those who were engaged in our unhappy civil strife. I propose to say something in behalf of those soldiers to-day.

Mr. President, there is a deeply-seated prejudice in the minds of the American people against large standing armies. The wise men who framed our institutions and watched over them in their infancy had learned from experience and from history how tyrants had in every age employed standing armies to overthrow the liberties of the people, and to hold them in subjection afterward. They therefore concluded that a well-regulated militia was the best and only safe defense of a free state.

The people of the Old World have for ages been oppressed by taxation imposed for the support of vast military establishments intended to compel their submission to unjust and arbitrary government.

Our system is to maintain, in time of peace, only a small regular force, with an undue proportion of educated officers, ready to aid in the organization and instruction of the undisciplined masses, which the emergencies of war may call suddenly into the field. This system has worked admirably in the past. It has proved to be the cheapest of all the known systems of national defense, and has carried the country in honor and in safety through three great wars, in which the courage and constancy of our volunteer troops have commanded the admiration of the military men of the world.

Our whole volunteer system rests upon the patriotism of the people and the promises of the Government that it will take care of its defenders when they are disabled in battle or have become old and infirm.

For officers worn out in the regular service the Government has provided a retired list, which relieves them of active duties, and allows them three-fourths pay for life. For non-commissioned officers and privates it has provided those beautiful asylums called soldiers' homes, where the scarred veteran, after a life of conflict and toil, may spend the evening of his days in peace and comfort.

For the volunteers the Government provides pensions for all who are wounded or disabled in the service, not large, it is true, but sufficient for the necessary wants of humble men; and to all who risk their lives in its service it promises that they shall be kept from want when they become old and infirm.

These are the pledges the Government makes to the men who quit the workshop and the plow for the tented field. And, sir, it is no answer to this obligation to say that our pension-roll is already larger than that of any other nation. Perhaps it is; be it said to the honor of the country.

If the military pension-rolls of foreign nations are not large, the civil pension-rolls are something monstrous. All the ruling classes in the Old World are pensioned upon the people. The monarchies of Europe care very little for their soldiers when they get all the fighting possible out of them. They turn them out like old horses upon the commons to die of starvation. But the ruling classes are all pensioned upon the people. We pension the soldiers who defend the country; they pension the nobles who plunder and oppress it.

Now, Mr. President and Senators, this being the settled policy of our Government, I submit that the time has come when the veterans of the Mexican war yet surviving and the soldiers remaining who fought the Indian wars should be placed upon the roll of honor. No service was ever attended with more individual danger, difficulty, and suffering, or with more honor, glory, and profit to the country than theirs.

Two objections are urged against this measure of justice. First, it is said that these soldiers are not old enough to be placed upon the pension-rolls; and second, that there are too many of them yet living to think of such a thing at this time.

These objections I suppose do not apply to the soldiers of the Indian wars. They are all over seventy, and there is but a handful of them. The objections are intended to apply to the soldiers of the Mexican war only. Now, let us examine these objections a little. The opposition say that the average age of the Mexican soldiers was about twenty-six years when they entered the service. It has been thirty-four years since the war began, and upon this basis the average age of the survivors is now sixty years. But, sir, this estimate is too low, and, besides, we all know that the death-rate in the Army is much greater among the young and immature than among the older men. Ten boys die in the Army where one mature man dies. With this allowance, I am satisfied that the average age of the surviving veterans is not far from sixty-five. And, sir, after sixty-five years, there cannot be much marrow left in an old soldier's bones. If he is not old enough at sixty-five to be placed on the pension-rolls, when, in the name of common sense, will he be?

The Senator from Massachusetts, [Mr. HOAR,] who I regret is not in his seat to-day, intimated on a former occasion that if the soldier will wait until he is about seventy-eight years old he may then be willing to consider his case. I wish the Senator were here, for on behalf of all the soldiers of the Mexican war I would like to thank him for this extreme effort of generosity and gratitude toward these defenders of his country's honor. Why mock the poverty of the old soldier by a proposition to wait until he is ready to die and then grant him a small pittance, barely enough to pay his funeral expenses? Why not give it to him while it will do him some good? Why wait until he is dead or too old to enjoy it? About a year ago two Mexican veterans, each one of them over seventy-five years of age, petitioned Congress for a pension. Nothing was done with their petition. Both have since died and gone to where pensions can never reach them.

The Senator from Massachusetts mentions a robust veteran of his State of forty-eight years, who is rich and in the enjoyment of a lucrative salary, and who entirely agrees with him in opposing what he calls reckless legislation. Why, sir, this solid man of Boston with his long rent-roll and fat salary may well afford to sneer at the paltry sum of $8 a month. This model Massachusetts soldier must have been quite young when he entered the Army. According to my arithmetic he could not have seen more than thirteen or fourteen summers. I do not know how it is in warlike Massachusetts, but down in Kentucky we keep our small boys at home to wait on their mothers and send grown men only to the wars. My observation through life has been that it is not your thrifty, plodding, money-loving man who goes to war, but the generous, brave, and reckless fellow who falls in to the music of the drum and fife on recruiting day.

About a year ago I attended one of the annual meetings of the Mexican veterans. There were one hundred and fifty present, and of that number not more than six were men in easy and independent circumstances. To illustrate more fully the truth of this statement I beg leave to read a letter from one of the real heroes of the Mexican war, a distinguished citizen who has filled with honor every high office in the gift of his countrymen except the Presidency. The letter was written to a committee inviting him to attend a meeting of the Mexican veterans at Indianapolis on the 8th of last January, and is as follows:

ROSEBURGH, OREGON, *December* 16, 1879.

GENTLEMEN: I have the pleasure to acknowledge the receipt of your card, invitof the State of Indiana, to be held at the city of Indianapolis, on Thursday, January 8, 1880, and to bring any veterans I may know. I thank you for the kind invitation you have been pleased to send me and other veterans of my acquaintance. There are but few of us in this State, and, with one or two exceptions, they are old, infirm, and very poor. I am unable to accept your invitation, and I deeply regret it, for I well know that there will not upon any other occasion be as many of the old veterans together as will meet on the forthcoming occasion, and yet I am compelled to forego this last opportunity that I shall have of meeting my old companions-in-arms, to whom I am strongly attached. I witnessed their good and soldier-like bearing under all circumstances, and especially their gallant conduct upon many a battle-field, and the gratification that it would afford me to meet them again in life would be greater and above any other earthly pleasure that could be conferred upon me, but I cannot meet you or them. I have not the money to bring me to Indianapolis and back to my home. I have little hope of Congress allowing us a pension. We seem to be ignored, although our services secured to our great country all of California, Nevada, Utah, and New Mexico, an empire of itself, and to our country worth more than money. And yet the remaining few of us can hardly expect a pension. Well, my friends, we will not very long need that little that is so justly due from our Government. We served her faithfully, honestly, intelligently, and gallantly, and under all circumstances did our duty, and if Congress will not recognize us we must do as best we can without its aid.

My dear sirs, you will please accept my kindest wishes and honest prayers for the health, prosperity, and contentment of yourselves, of the association, and all old veterans of the Mexican war.

I am, with much respect, your friend and obedient servant,

JOSEPH LANE.

What American can read this touching letter from this grand old man without a feeling of shame for the ingratitude and injustice of his Government? A few of the veterans are independent of the nation's bounty, but the great majority of them are extremely poor men, to whom a hundred dollars a year would be real affluence. Colonel Foreman, who commanded one of the Illinois regiments in the Mexican war, and was in all the hard-fought battles around the city of Mexico, told me only a few days ago that a number of these old soldiers were now in the poor-houses of Illinois.

As to the second objection, which relates to the number of survivors, I am satisfied the estimate is greatly exaggerated by those who oppose the bill. I have availed myself of all possible means of information, and have consulted men of great experience in vital statistics, and the conclusion reached is that there are not more than eight thousand persons, including soldiers, sailors, and widows, who would be entitled to the benefit of this bill for services in the Mexican war, and not more than twenty-six hundred for services in the Indian wars.

In order to excite prejudice among the ignorant classes at the North this measure has been denounced as a "southern war claim." Nothing can be farther from the truth. This is not a sectional or a party question. It is a broad, national one, which addresses itself to the patriotism of every man, North and South, who loves his country and cherishes its glorious memories. The war itself was the war of the whole country, in which the blood and treasure of all the States were mingled in a common cause. Its glories, undimmed by a single drop of fratricidal blood, are the common inheritance of all. A careful examination of the records of the War Office will show that taking regulars and volunteers together the Northern States furnished more troops for this war than the Southern States did. The total force enrolled was 100,780; of this number 54,424, a little over half, came from the Northern (or free) States, and the balance from the South.

The following tabulated statement, compiled from Executive Documents, Nos. 38, Thirtieth Congress, and 24, Thirty-first Congress, shows the exact number contributed by the Northern States:

States.	Volunteers.	Regulars.
California	571	
Connecticut		231
Illinois	6,123	1,133
Indiana	4,585	1,478
Iowa	838	293
Maine		672
Massachusetts	1,057	1,499
Michigan	1,103	821
New Jersey	425	440
New Hampshire		299
New York	2,396	8,650
Ohio	5,536	2,321
Pennsylvania	2,503	4,369
Rhode Island		183
Vermont		391
Wisconsin	146	517
Remustered	844	
Naval forces		5,000
	26,127	28,297
		26,127
Total from Northern States		54,424

Now, sir, if this was a sectional war, which section waged it more than the other? No, sir; it was a war of a common country, in which the blood and treasure of all the States mingled in a common cause.

In order to explain to the full satisfaction of the Senate the methods by which we arrive at our conclusions as to the number to be pensioned, I beg leave to have read an extract from an able and elaborate report recently make by a committee of the House on this subject.

The Secretary read as follows:

There were enrolled in the volunteer forces in the Mexican war 73,532 men of all arms; in the regular Army, 27,248 of all arms of the service; making a total enrolled force of 100,780. Of this aggregate, 36,127 volunteers were furnished by the Northern States, and 37,405 volunteers by the Southern States; of the regular Army, 18,320 men were enlisted in the Northern States, and 8,928 men in the Southern States; total number of regulars and volunteers enlisted in Northern States, 54,447; total number enlisted in the Southern States, 46,333. (See Ex. Doc. No. 24, of the Thirty-first Congress, and Ex. Doc. No. 38, of Thirtieth Congress; report of Adjutant-General R. Jones.)

In the aggregate of volunteer forces above stated there are included 1,339 three-months men, 11,211 six-months men, and 27,063 twelve-months men, or a total of 39,673 volunteers whose terms of enlistment expired while the war was still in progress and nearly a year before it terminated.

It appears that at least one-third of these short-term volunteers re-enlisted, and hence are duplicated on the rolls to the number of 13,224, and must, therefore, be deducted from the above total of volunteers, as they can only draw but one pension, although counted twice on the muster-rolls. These re-enlistments were notable among the short-term troops of Georgia, Texas, Louisiana, Kentucky, Tennessee, Missouri, Illinois, Indiana, Ohio, and Arkansas.

There were also many men enlisted in regiments, who went on to Mexico and were discharged before they had served sixty days, and will therefore not be entitled to a pension. This class number at least 1,500 men. There were also three regiments, organized and mustered in from the States of Ohio, Missouri, and Alabama, and one company from Iowa, that did not go to the seat of war, and were mustered out of service in less than sixty days from the date of their enlistment, the war being near its termination. These numbered 3,709 men, and, with the 1,500 stated above, aggregate 5,209 who, while they swell the sum total of troops enrolled, will not be entitled to a pension under the bill.

It appears further that there were at least 4,000 soldiers of the regular Army who re-enlisted, they having entered the service several years prior to the commencement of hostilities with Mexico, and their terms of enlistment expiring while the war was still in progress. The proportion of re-enlistments among regulars is always notably greater than among volunteers. The report of the Adjutant-General of December 3, 1849, shows that there were killed and died of wounds received in battle in Mexico 1,349 men, and that 10,885 died of disease while there in the service.

The Adjutant-General states therein that his report is incomplete, owing to a number of missing muster-rolls, and the mortality far exceeds the number stated the report. There were many regiments that lost by battle and disease in Mexico from one-fourth to one-half of their number.

The Palmetto Regiment of South Carolina, commanded by Colonel Pierce M. Butler, is shown by the official reports on file in the War Department to have been mustered in with eleven companies, aggregating 1,077 officers and men, and was mustered out with but 369 survivors—a loss of 708 in one regiment. Lieutenant Colonel J. J. Seymour's Georgia battalion of 400 men lost 184; Colonel Collins's Illinois regiment of 980 men lost between 300 and 400, and Colonel W. B. Campbell's First Tennessee Regiment, numbering less than 1,000, lost 217.

When we take into consideration that these troops campaigned for more than two years over a wide theater of operations, embracing many thousand square miles, in the malarial belt of a tropical country, and engaged in many hard-fought battles with forces which outnumbered them generally three to one, and were fully equal to them in military training and equipments, it will appear highly reasonable to estimate their losses in Mexico by the casualties of battle and disease at not less than 16,000.

There were about 500 deserters from the regular Army, and the report above cited shows that there were 6,725 desertions from the volunteer force in Mexico.

Eleven thousand invalid pensions have been heretofore granted to soldiers of the Mexican war.

All of the foregoing classes must be deducted from the total number enrolled (100,780) to determine the number who would be entitled to a pension under this bill.

The authorized deductions will then be as follows:

First. Men serving less than sixty days	5,200
Second. Re-enlistments	17,224
Third. Deaths in Mexico	16,000
Fourth. Desertions	7,225
Fifth. Heretofore pensioned	11,000
These aggregating	56,658

subtracted from the aggregate enlistments, leave 44,122 as the number to which the terms of this bill would have been applicable at the close of the Mexican war. Measuring the chances of life by any reasonable scale of probabilities, and applying the knowledge derived from vital statistics to this number of men of their average age when discharged from service, it is not unreasonable to conclude that after the lapse of thirty-two years not more than one-third of their number, or 15,000, now survive, even if they had been subjected to purely normal conditions in the peaceful and ordinary pursuits of life.

But the period that followed close upon the termination of the Mexican war was one of intense activity throughout this country. The veterans of that conflict were among the foremost pioneers in the development of the vast domain acquired by their triumphant arms. Laying down their military equipments when the war was over, they joined, and led in a measure, that great multitude of American citizens who traversed pathless and treeless plains for thousands of miles, and, entering upon the Pacific slope, became the builders of States.

It requires no very profound knowledge of the laws that regulate the duration of human life to demonstrate that periods of extreme activity and excitement, when mind and body are strained to their utmost tension, are attended by a very high death-rate. This is the teaching alike of history and of common observation.

Within the sixteen years that followed the close of the war with Mexico the people of the United States achieved more in the material development of the country, and in the general and permanent expansion of all useful industries, than had been effected by them during the two preceding generations. They acted history on a stupendous scale, and achieved beneficent results that challenged the respect and admiration of mankind.

During the last four years of that period an unexampled civil war was raging, which taxed to their utmost the vast resources of this Republic, and embraced within its theater, as contending forces, thirty-six powerful Commonwealths. The vast majority of these veterans bore parts of more or less importance in that mighty struggle which involved in its progress the actual operation in the field of armies that aggregated over two millions of soldiers.

These veterans were exposed to all the toils and privations of that four years' war and to the casualties of its more than one hundred battle-fields.

When we consider these causes that were so potent in the rapid destruction of life, and which baffle all calculations based on vital statistics that are applicable to purely normal conditions of society, and the further fact that thousands of these veterans came out of the Mexican war with the seeds of mortal disease implanted in their constitutions, the committee are satisfied that there are not now living more than 7,000 soldiers of that war who will be entitled to pensions under this bill. The committee are convinced that this is not an underestimate in view of all the circumstances, and especially of the fact that the actual military operations against Mexico commenced in April, 1846, and the first battle was there fought on May 6 of that year, more than a third of a century ago.

There were 5,000 sailors employed in the naval operations against Mexico, of whom 2,700 served less than sixty days within the theater of operations.

Of the remaining 2,300, the committee estimate that there are not more than 600 now living, and, including the widows of this class, they will not add more than 700 to the beneficiaries of the bill. The committee therefore present the following tabulated statement, showing the number of survivors of all classes who will be entitled to pensions under this bill:

Surviving veterans of Mexican war	7,000
Widows	900
Sailors and their widows	700
Total	8,600

Mr. WILLIAMS. I am sorry to have detained the Senate by the reading of so long an extract, but it is a very elaborate and accurate report, founded not only upon facts, but upon correct principles of vital statistics stated better than I could state myself. From this calculation we must deduct those soldiers and sailors of the Mexican war who are now pensioned for wounds in the late war who cannot fall short of six hundred, this leaves in round numbers eight thousand to be pensioned by this bill on account of services in the Mexican war. According to the best estimates we are able to make there cannot be more than two thousand six hundred survivors of the Black Hawk,

Creek, and Seminole wars who would be entitled to pensions under this bill. The total number to receive pensions for services in all four of these wars will not exceed ten thousand six hundred persons. At $96 each per year the first annual appropriation would be $1,017,600—a frightful sum, indeed, to Senators who voted for $20,000,000 of arrearages of pensions! I am not finding fault with them for that vote, but I do find fault with them after that liberal vote to stick at $1,017,600, which would be the first appropriation to be made for all these soldiers now living to be placed on the pension-roll.

Mr. President, no class of soldiers ever presented stronger claims upon the justice and gratitude of their country than these eight thousand survivors of the Army of Mexico. They are all that remains unprovided for of that hundred thousand brave men who upheld their country's honor in its first foreign war. Where are their comrades that answer not to roll-call to-day? Dead upon the field of honor; fallen into that sleep from which the bugle shall wake them to battle and glory no more.

The war with Mexico grew out of the annexation of Texas to our Union. Mexico, after achieving her independence of Spain and overthrowing the imperial government of Iturbide, established a federal republic modeled upon our own. That vast country, known as Texas, lying between our southern borders and the Rio Grande, was occupied by roving bands of warlike savages, hostile to both countries. Mexico conceived the idea of protecting her exposed border by peopling this country with North Americans. She tempted emigration by large grants of land, which lured thousands of our land-grabbing race to these fertile but perilous plains. These emigrants soon drove out the Indians and organized a State government. About this time the government of Mexico was seized by a military usurper, who overthrew the federal system and proclaimed the absolute supremacy of a unified central power. The people of Texas revolted against this imperial despotism, and took up arms to defend their liberties and won them upon the glorious field of San Jacinto. Mexico made no further effort to subjugate Texas, but refused to recognize her independence. Other nations, however, did acknowledge her right to freedom, and she was received into the family of nations as the independent Republic of Texas.

Texas now began to treat for admission into the Union of North American States, but her adoption was delayed for a time by sectional and party opposition. The annexation of Texas became the absorbing issue in our presidential contest of 1844, which resulted in the triumphant election of Mr. Polk to the Presidency, and the passage of the joint resolution of annexation; and the star of Texas, by the will of the people, was added to our glorious constellation of States. Mexico regarded this as an act of hostility and abruptly terminated all diplomatic relations with our Government and the war followed. Popular enthusiasm swept away all opposition, and what had been denounced as a party measure became the common cause. The patriotism of the people responded on the spot to the call of the Government for troops.

The old soldiers now appealing to the justice of Congress are the survivors of those brave men who, in the prime of their young manhood, rallied around their country's flag and bore it victoriously across the burning sands of Mexico; upon the bloody fields of Palo Alto, Resaca, Monterey, and Buena Vista; who planted it upon the walls of Vera Cruz and the Castle of San Juan de Ulua; bore it up the heights of Cerro Gordo; through Contreras, Churubusco, Chapultapec, and Molino del Rey, and finally planted it in triumph upon the Halls of the Montezumas. These are the survivors of the war who did that to the honor of their country.

The Mexican war is one of the most remarkable in history when we consider the character of the conflict and the field of its operations, the skill of the generals, and the valor of the troops, the smallness of the means, and the magnitude of its results, it must fill one of the brightest pages in the military annals of the world. Its records read more like romance than recitals of ordinary military operations.

Its achievements eclipse those of the first Spanish invader. Cortez, with his mail-clad warriors of Spain and gunpowder machines met with but little resistance from the bow and bamboo lance of the Aztec armies; while Taylor and Scott contested every inch of ground with a race inured to hardships and familiar with war, commanded by Santa Anna, the most famous captain of the age, who was sustained by subalterns educated in the highest schools of modern military science. The seats of population lay in almost inaccessible valleys and were defended by natural ramparts deemed impassable to the invader; and yet in less than a year and a half from its landing upon Mexican soil our little Army was master of the entire country. Taylor had won the battles of Resaca, Palo Alto, and Monterey, and with a handful of regulars and four thousand volunteers had beaten Santa Anna at Buena Vista with an army of twenty-five thousand regular soldiers; while Scott, landing at Vera Cruz with fourteen thousand men, besieged and captured that city with its famous castle San Juan de Ulua and then moved on Cerro Gordo, where an army of thirty thousand disputed his passage of that modern Thermopylæ. After two hard and bloody days the Mexican army is routed and dispersed. From Cerro Gordo our little Army moved rapidly on, capturing without resistance Jalapa and Puebla, the Castle of Perote, and the whole country of the Tlascallas and Chululas and stood upon the Sierras overlooking the magnificent capital of Mexico, with its groves and gardens planted by the Montezumas and its gilded temples erected by the old Spaniards in the days of their power and splendor.

Our Army was dazzled by the spectacle and eager to be led at once upon the renowned city. But its direct approaches were over narrow causeways, through swamps and lakes, and defended by strong fortresses. Scott led his army to the left around the lakes near the base of the mountains, over fields of jagged pedregal, which the enemy supposed impassable. Then commenced that series of brilliant operations beginning at Churubusco and ending in the triumphal entry of six thousand American troops into a capital containing a population of two hundred and fifty thousand, and defended by an army of twenty-five thousand men. History records no campaign marked by such rapid and brilliant successes and ending in such valuable and lasting results. This war was not more marked for the splendor of its achievement than for the humanity of its conduct.

War and not barbarism bore our victorious banner through Mexico. We made war upon the organized forces of the enemy and not upon the people and property of the country. Private property and church property were everywhere respected by our victorious soldiers. Our camps were safe and attractive markets to the people for all they had to sell. Nothing was taken without a full equivalent being paid for it. I doubt if any friendly army ever marched through its own country with so little damage to the people as ours did through Mexico. The people were expecting the scenes of Badajos and Saragossa, and were astonished and completely won by the mercy and moderation of their conquerors. High and low they took every occasion to express it. I remember being present at a banquet given by the principal citizens of the City of Mexico to General Scott at which a paper signed by many hundreds of the most influential and wealthy citizens of Mexico was presented offering to make him president of that republic for life.

This, the greatest honor ever offered to an American citizen by a foreign country, was respectfully declined by the old hero who said to these gentlemen that "his whole life was consecrated to the service of his own country."

I have often thought that it was a great misfortune for this distracted people that he did not accept. He would have brought order and stability out of chaos and change. His government would not have been a Maximilian affair. Half of the volunteers would have remained with him and a stream of immigration would have set in from the United States, bringing with it all the arts, energies, and push of our race; and Mexico would to-day, with a population of twenty millions of free and prosperous people, be found side by side with her northern sister, moving in the grand march of the nations in civilization and progress, or perhaps would have merged in and become an important part of the mightiest republic that has ever existed upon the face of the earth. The regeneration of this wonderful country cannot much longer be delayed, her marvelous possibilities must soon be developed, and Mexico is destined to play a grand *rôle* in the drama of the coming century.

There is another remarkable fact that deserves to be noted in connection with this war. From the beginning to the end, from the landing of our troops at Corpus Christi and Vera Cruz to the capture of the capital, we never met with a single reverse; no matter what the disparity of numbers, whether the battle was upon the open plain or against the enemy intrenched upon inaccessible heights, victory always perched upon our standard, success exalted our soldiers into heroes and inspired them to prodigies of valor. The military men of Europe had predicted for us, from the very start of this war, nothing but disaster and defeat; while admitting that our volunteer system might do very well for the defense of homes and firesides, they utterly scouted the idea that volunteer troops could be made effective in a foreign, aggressive war. They were amazed at the success of our arms, and forced to admit that the battle-fields of Mexico had fully demonstrated that our volunteer soldiers were equal to any emergency of war; that freedom makes men brave, and courage makes them warlike. Before this war we had but little character among the nations as a military power, but our successes here placed us in the front rank of warlike nations.

But, Mr. President, in addition to all these facts, in addition to all the honor and character which that war gave to the country, we have yet other fruits of this war, moral and material, far more valuable than all I have mentioned. I venture to assert that this is the only war in all history that, in a mere money point of view, has proved to be a profitable investment. Wars are the most expensive luxuries in which nations ever indulge. They soon exhaust their hoarded treasures and dry up the very sources of revenue; and it is well that it is so, for otherwise the world would never be at peace.

But here is a war costing only $60,000,000, and resulting in the acquisition of a country worth thousands of millions. Indeed its value cannot be estimated in dollars and cents, for there are moral, social, and political aspects that cannot be summed up in money.

Only think of its results! The boundaries of Texas were established definitely and fixedly, and that great State with its two hundred and sixty thousand square miles of territory was assured to the Union forever.

In addition to this we acquired California, Nevada, and Colorado, Utah, New Mexico, and Arizona, with a territory of nearly a million more square miles, through all of which nature has scattered with a lavish hand all the elements of wealth and power.

This vast region, greater in extent than the whole of the twenty-six States organized at the time of the acquisition, should be visited in order to form a rational conception of its extent and value. One should see its fertile valleys and its crystal streams, its magnificent parks, the old grazing-grounds of millions of aboriginal cattle now filling with domestic herds; he should look upon its majestic mountains, grander than the Alps, lifting their snowy heads above the clouds and holding in their laps primeval forests whose giant pines and redwoods dwarf all other trees into shrubs. In a twelve-passenger coach drawn by six horses, I drove through a tunnel cut by an enterprising Yankee through the base of one of these monster trees. We halted under the arch, and the whole turnout, from the foretops of the front horses to the boot of the stage, was sheltered in the hollow of this tree. Ten feet of solid wood on either side, while the living tree with its green branches rose three hundred feet into the air. That tree is but an emblem of the magnitude and greatness of this wonderful country; it is but a symbol of its power and its might and of its great possibilities in the future. Everywhere the foot-hills are filled with the precious metals and the valleys covered with fatness.

Twelve hundred miles were added to our Pacific sea-coast and the country squared out from ocean to ocean. Railways already cross the continent and literally link the Union together by bars of steel.

Greet commonwealths and splendid cities have sprung into existence like the work of magic. The city of San Francisco is already the third city in the Union, with the finest harbor in the world, with room enough for every ship that floats upon the whole ocean. There she sits like a queen upon a throne of gold, while the commerce of Asia and the islands of the eastern ocean pour a constant stream of wealth through her golden gates, greater than that flowing from all her mines. No city on the continent possesses such natural advantages as San Francisco, and none is more disposed to press them to account.

Mr. President and Senators, have you ever reflected upon the changes which the discovery of gold and silver in these Territories have wrought upon the affairs of men, not only in our own country, but in every civilized nation? This discovery was made at a time when the stock of the precious metals in the world was rapidly declining, and progress and civilization were at a stand-still. History proves that the great empires of the earth have risen or declined, that civilization has made progress or stood still, just as the precious metals have abounded or become scarce. Gold and silver have in all ages been not only the standards of commercial values, but also the exact measure of the progress of mankind.

The discovery of gold in California woke up the nations from a long slumber, and sent an electric thrill through the nerves of every industry in every land. The darkest corners of the earth felt its magnetic influence. Agriculture, commerce, and manufactures—all the arts and industries of every nation were touched by the quickening influence of this vitalizing power. The boom of progress has been universal, and civilization has advanced more in the last thirty years than in the two preceding centuries. These are some of the moral as well as the material results. Have you ever thought of it that but for the gold of California our Government would have been bankrupt? Since the acquisition of this country more gold and silver has been taken from its mines than would pay off the public debt, although the mining industry is but in its infancy—the surface only has been scratched, the richest lodes await the miner's pick.

And now, sir, all these incalculable benefits, all this power and greatness, all this glory and gold are the fruits of the valor and toil of the soldiers of the Mexican war.

These eight thousand old men, the survivors and remnants of that grand army of the Republic, the one hundred thousand which carried the Stars and Stripes across the burning plains, and under the brazen skies of Mexico, appear at the bar of the nation and demand that a long-delayed justice shall be done them; that the nation shall redeem its pledge to take care of them, now that they are old and infirm, and that they shall be kept from the poorhouse. No soldiers ever presented a stronger claim upon the justice and honor of the Government than these. There are but few of them remaining and that number is rapidly growing less. Day by day, one by one, these veterans are falling out of ranks, and their graves like milestones mark their march through time. It will be but a little while ere the last one of them shall have pitched his tent in that silent camping-ground that lies beyond the river of life.

Twenty-four States have instructed their Senators and Representatives to support this bill. Then why not call it up and pass it without further delay? There is no measure before Congress of half so much importance to so many meritorious men as this bill provides for. Do your duty. Discharge the duty of your Government to these people, and thousands of poor men and women and children will rise up and call you blessed.

I should make a motion to proceed with the consideration of the bill now and put it upon its passage, but there was a sort of tacit understanding that I should not do so to-day, but I hope some other Senator will do it. I thank the Senate for listening to me.

Mr. VOORHEES. It had been my intention at the close of the remarks made by the Senator from Kentucky to move to consider and act upon the bill which he has so very fully discussed, but I think the arrangement by which he took the floor precludes me from doing so.

YORKTOWN CENTENNIAL CELEBRATION.

Mr. WITHERS. I ask unanimous consent that the pending order be temporarily laid aside for the purpose of considering the Yorktown bill.

Mr. PENDLETON. Will the Senator allow me to get up a resolution of inquiry?

The PRESIDING OFFICER, (Mr. EATON in the chair.) The regular order is before the Senate, being Senate bill No. 900, on which the Senator from Massachusetts [Mr. DAWES] is entitled to the floor.

Mr. DAWES. I can understand very well the solicitude of the Senator from Virginia in this matter. If I thought that the debate upon his measure was substantially exhausted, of course I would not interfere.

Mr. WITHERS. I do not think it will take long to dispose of the bill now.

Mr. DAWES. I do not know what those who have charge of the pending measure desire. I am willing myself to conform to the wishes of the Senate in the matter. I should like, however, not to see the whole afternoon expended in debate upon that bill. I shall not interpose any objection at this moment.

The PRESIDING OFFICER. If there be no objection, the Senate unanimously lays aside temporarily the order of the day for the purpose of resuming the consideration of the bill indicated by the Senator from Virginia.

Mr. WITHERS. I now move to proceed to the consideration of House bill No. 3966.

The PRESIDING OFFICER. That bill is before the Senate.

Mr. DAWES. No motion is necessary; it is done by unanimous consent. I think by unanimous consent that measure is temporarily before the Senate.

The PRESIDING OFFICER. It is.

Mr. WITHERS. I will state that it is not my desire to antagonize the order of the day at all; but I think after the time consumed in debate this morning we can very speedily dispose of it. I am very solicitous to have it disposed of.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 3966) to carry into effect the resolution of Congress, adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes, the pending question being on the amendment of Mr. MORRILL to strike out the fourth section of the bill in the following words:

SEC. 4. That the sum of $20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of defraying the expenses incurred in the said centennial celebration, and to be disbursed under the direction of the said committee.

Mr. WITHERS. I wish merely to state that I am very anxious to get a vote on the bill, and consequently refrain from doing what I strongly desire to do, say a few words in reply to my friend from Missouri, [Mr. COCKRELL,] so as to allow a vote to be taken.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. MORRILL. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 31; as follows:

YEAS—15.

Allison,	Cockrell,	McDonald,	Rollins,
Bayard,	Dawes,	McMillan,	Vest,
Booth,	Harris,	McPherson,	Windom.
Cameron of Wis.,	Kernan,	Morrill,	

NAYS—31.

Anthony,	Davis of W. Va.,	Jonas,	Ransom,
Bailey,	Eaton,	Jones of Florida,	Slater,
Beck,	Garland,	Kirkwood,	Vance,
Brown,	Hampton,	Lamar,	Voorhees,
Burnside,	Hereford,	Morgan,	Walker,
Butler,	Hill of Georgia,	Pendleton,	Whyte,
Call,	Ingalls,	Pryor,	Withers.
Coke,	Johnston,	Randolph,	

ABSENT—30.

Baldwin,	Edmunds,	Jones of Nevada,	Saunders,
Blaine,	Farley,	Kellogg,	Sharon,
Blair,	Ferry,	Logan,	Teller,
Bruce,	Groome,	Maxey,	Thurman,
Cameron of Pa.,	Grover,	Paddock,	Wallace,
Carpenter,	Hamlin,	Platt,	Williams.
Conkling,	Hill of Colorado,	Plumb,	
Davis of Illinois,	Hoar,	Saulsbury,	

So the amendment was rejected.

Mr. INGALLS. In line 8 of section 2 I move to amend by inserting after the word "Speaker" the words "of the House of Representatives," to make the official designation correct.

Mr. WITHERS. I have no objection to that.

The amendment was agreed to.

Mr. INGALLS. I also move, in line 1 of section 3, before the word "committee," to insert the word "joint;" otherwise that word "committee" may be construed to refer to the military commission mentioned in the second section.

Mr. WITHERS. To that there is no objection.

The amendment was agreed to.

Mr. INGALLS. In line 6 of section 4 I move the same amendment by inserting "joint" before "committee."

The PRESIDING OFFICER. If there be no objection the amendment will be agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri was read twice by its title, and referred to the Committee on Military Affairs.

CENSUS SUPERVISORS.

Mr. PENDLETON and Mr. MCPHERSON addressed the Chair.

The PRESIDING OFFICER. The Chair ought to say that the regular order is before the Senate, and the Senator from Massachusetts [Mr. DAWES] is entitled to the floor. By unanimous consent it was laid aside temporarily.

Mr. PENDLETON. I ask the Senator from Massachusetts to allow me the floor for a moment to move to lay aside the pending order informally for the purpose of calling up a resolution which I offered on Thursday last, and which was laid over twice at the instance of the Senator from Vermont, [Mr. EDMUNDS.] I think it will give rise to no discussion, as it merely asks for information from the executive department of the Government.

Mr. DAWES. If it does not cause any debate, I will yield.

Mr. PENDLETON. I presume it will cause no debate. The colleague of the Senator, [Mr. HOAR,] who is now absent, has not any objection to it. I think it will take but a moment.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Is there unanimous consent that the pending order be laid aside informally to take up the resolution suggested by the Senator from Ohio? The Chair hears no objection.

Mr. PENDLETON. I ask the Senate to adopt the resolution offered by me.

The PRESIDING OFFICER. The resolution will be reported.

The Secretary read the following resolution, submitted by Mr. PENDLETON on the 27th instant:

Resolved, That the President be, and hereby is, requested to communicate to the Senate whether any supervisor or supervisors of the census, appointed by and with the advice and consent of the Senate, have been removed from office by him or with his consent, and whether a successor to fill the vacancy caused by any such removal has been appointed by him or with his consent.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. BLAINE. What is the point of inquiry, if the honorable Senator will state?

Mr. PENDLETON. The point of inquiry is simply this: that it has been rumored—I do not know whether it is true—that supervisors of the census have been removed and their successors have been appointed without communicating that fact to the Senate.

Mr. DAWES. I call the attention of the Senator from Ohio to the twenty-third section of the census act.

Mr. PENDLETON. I am perfectly aware of the existence of that section and of the power it contains. The resolution asks only for information on the subject.

Mr. DAWES. Let that section be read and go along with the resolution.

Mr. PENDLETON. I am perfectly willing that it shall be read, but the resolution asks only for information from the Department.

Mr. DAWES. I do not object to the information being given, but it is well enough to have that section read along with it.

The PRESIDING OFFICER. The section will be read.

The Chief Clerk read as follows:

SEC. 23. The Superintendent of Census, with the consent of the President, may at any time remove any supervisor of census, and fill any vacancy thereby caused or otherwise occurring; and the supervisor of census may, with the consent of the Superintendent of Census, remove any enumerator in his district, and fill the vacancy thereby caused or otherwise occurring; and in such cases but one compensation shall be allowed for the entire service, to be apportioned among the persons performing the same in the discretion of the Superintendent of Census.

Mr. DAWES. Let that go along with the resolution.

Mr. PENDLETON. I had no objection to its being read.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. MCPHERSON. I ask to call up House bill No. 2046, if the Senator from Massachusetts will yield to me for that purpose. It is to authorize a compromise of the claim of the United States under the will of Joseph L. Lewis.

The PRESIDING OFFICER. Does the Senator from Massachusetts [Mr. DAWES] yield the floor to the Senator from New Jersey?

Mr. MCPHERSON. I wish to state to the Senator from Massachusetts that there are two or three old ladies in a very destitute condition dependent upon the adjustment of this case. I do not think it will take more than two minutes to dispose of it.

Mr. DAWES. The Senator from Indiana [Mr. VOORHEES] has just made an appeal to me, and while the Senator from New Jersey is talking the Senator from New Hampshire [Mr. ROLLINS] makes another.

Mr. COCKRELL. And I make another.

Mr. DAWES. And the Senator from Missouri, who is always vigilant, is now addressing me.

Mr. MCPHERSON. I will say to the Senator that if this bill takes more than two minutes I will have it withdrawn.

Mr. BAYARD. I reported the bill from the Judiciary Committee referred to by the honorable Senator from New Jersey, and I do not know any reason why it should take more than two minutes to pass.

Mr. COCKRELL. And there are fifty other cases precisely in the same situation.

Mr. MCPHERSON. We could have passed it while we have been talking.

The PRESIDING OFFICER. Is there unanimous consent that the pending order——

Mr. WITHERS. I rise to present a report of a conference committee, which has always had precedence.

Mr. DAWES. Mr. President——

The PRESIDING OFFICER. The Senator from Virginia announces his desire to make a report from a committee of conference, and is entitled to the floor for that purpose.

DISTRICT OF COLUMBIA APPROPRIATIONS.

Mr. WITHERS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 20.

That the House recede from its disagreement to the amendments of the Senate numbered 10, 11, 16, 17, 19, 22, and 23, and agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same, amended as follows: In lieu of the sum proposed insert "thirty-seven thousand dollars;" and the Senate agree to the same.

R. E. WITHERS,
JAS. B. BECK,
Managers on the part of the Senate.
T. R. COBB,
J. C. S. BLACKBURN,
JOS. R. HAWLEY,
Managers on the part of the House.

The PRESIDING OFFICER. The question is, Will the Senate concur in the report of the committee of conference?

The report was concurred in.

WILL OF JOSEPH L. LEWIS.

Mr. MCPHERSON. Now I move that House bill No. 2046 be taken up.

The PRESIDING OFFICER. Is there unanimous consent that the pending order be informally laid aside in order that the Senate may proceed to the consideration of the bill mentioned by the Senator from New Jersey?

Mr. DAWES. I would be glad to accommodate the Senator from New Jersey, but he sees at once that it is impossible for me to do it.

Mr. BAYARD. I do not think this will take five minutes.

Mr. MCPHERSON. I will say to the Senator from Massachusetts that if it takes more than three minutes I will allow it to go over.

Mr. DAWES. I will yield for five minutes.

Mr. ROLLINS. I shall ask the Senator from Massachusetts to yield to me for the same length of time.

Mr. DAWES. I yield for five minutes.

The PRESIDING OFFICER. The Chair will again put the question. Is there unanimous consent of the Senate that the pending order be laid aside for the purpose mentioned by the Senator from New Jersey? The Chair hears no objection.

Mr. MCPHERSON. House bill No. 2046——

Mr. MORGAN. I object.

The PRESIDING OFFICER. The only doubt in the mind of the Chair is whether the objection of the Senator from Alabama is in time.

Mr. MORGAN. I made it five minutes ago, but still I objected——

The PRESIDING OFFICER. The Chair had not heard it at all.

Mr. MCPHERSON. Does it require unanimous consent to take up a bill out of order?

The PRESIDING OFFICER. It does to lay aside the pending order.

Mr. MCPHERSON. I move to postpone the pending order to take up this bill.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. DAWES. I have the floor. I will yield to the Senator if he can obtain unanimous consent, but I cannot yield to have the regular order laid aside by a vote the consequence of which, the Senator will observe, is to put it beyond our reach.

Mr. MCPHERSON. Let it be laid aside informally.

Mr. DAWES. I do not object if the Senator can obtain unanimous consent.

Mr. RANSOM. He has unanimous consent.

Mr. MORGAN. I objected for the purpose of allowing the Senator from Massachusetts to go on with his remarks. I thought it was due to him to allow that to be done. If he yields the floor, I have no objection.

The PRESIDING OFFICER. The Chair will ask again, is there unanimous consent that the pending order be informally laid aside? The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider

the bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis.

Mr. McPHERSON. This bill was reported by the honorable Senator from Delaware [Mr. BAYARD] from the Committee on the Judiciary, who has charge of the matter and will make any explanation that may be deemed necessary.

The PRESIDING OFFICER. The amendments will be reported.

The amendments of the Committee on the Judiciary were, in line 3 to strike out "is" and insert "and Secretary of the Treasury are," and in line 7 to strike out "him" and insert "them;" so as to make the bill read:

Be it enacted, &c., That the Attorney-General and Secretary of the Treasury are hereby authorized and directed to adjust or compromise the claims of the United States under the said devise or bequest upon such terms and conditions as shall be deemed by them fair and reasonable.

The amendments were agreed to.

Mr. DAVIS, of Illinois. The words "and directed" ought to be stricken out.

The PRESIDING OFFICER. The bill will be so modified if there be no objection.

Mr. INGALLS. I saw in some newspaper either this morning or yesterday that the contest over this will had terminated by a decision of the court that the testator was of sound mind, and that the bequest to the United States was valid. I should like to ask the Senator from Illinois if that is correct, and why if it is correct the matter should be compromised and the right of the United States Government to a million of dollars relinquished?

Mr. DAVIS, of Illinois. The Senator from Delaware will answer.

Mr. BAYARD. There is no suggestion of relinquishing a farthing of the money due to the Government. The contestation of the will proceeded not only upon the fact of the will which has been settled in the first place by formal probate by the chancellor of New Jersey, leaving the right to appeal open, but there is a prior trust, and the great question of contest is whether the whole will is not destroyed in its effect by an existing deed of trust. That is the backbone of this contest. If the contest is to be continued it will be indefinitely prolonged and probably be a great loss to the Government and a certain loss to the other legatees.

Mr. INGALLS. The explanation is entirely satisfactory; I understood the only question was the sanity of the testator.

Mr. BAYARD. No, sir; it is not the fact of the will at all.

Mr. ALLISON. The words "and directed" were stricken out, I understand.

The PRESIDING OFFICER. They were.

Mr. ALLISON. I think the words "if they see fit" should be inserted. As I understand it, there is an intention to give discretion.

Mr. BAYARD. I have no objection to the amendment.

The PRESIDING OFFICER. If there is no objection the bill will be so modified.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAYARD. I move the following amendment to the preamble, to take the place of the second recital. I move to strike out the second recital and insert:

Whereas the said will and codicil are now the subject of contestation in the courts of the State of New Jersey by Frances Grace and Catharine G. Ward, claiming as the surviving sisters, and John S. Cathcart as the nephew of Joseph L. Lewis, in which the Government of the United States has been and is represented by legal counsel, and it is further claimed that said bequest is void, and that the testator had no power to dispose of his said property by his said will in derogation of a prior deed of trust: Therefore,

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

AMENDMENTS TO BILLS.

Mr. ANTHONY. I notice it is the habit of Senators to introduce amendments to bills that are not yet before the Senate, but are sure to come. I therefore offer three amendments to the sundry civil appropriation bill.

The PRESIDING OFFICER. The amendments will be printed and referred to the Committee on Appropriations for the action of that committee when the bill comes from the House of Representatives.

Mr. ROLLINS, Mr. PADDOCK, Mr. WHYTE, Mr. WALLACE, Mr. VOORHEES, Mr. McPHERSON, and Mr. JONES of Florida, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which, together with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

Mr. McDONALD submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury, in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BROWN submitted an amendment intended to be proposed by him to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

TARIFF COMMISSION.

Mr. DAWES. I now ask for the consideration of the regular order.

The PRESIDING OFFICER. The regular order is the bill known as the tariff-commission bill, Senate bill No. 900, on which the Senator from Massachusetts is entitled to the floor.

Mr. ROLLINS. I appeal to my friend from Massachusetts to yield to allow a bill to be taken up, to which there is no objection whatever—not six lines. It ought to be disposed of.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. DAWES. The Senator will excuse me, I think.

Mr. ROLLINS. My friend will not ask me to excuse him. I know he is too generous to decline.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. DAWES. I do not.

The PRESIDING OFFICER. The Senator from Massachusetts is entitled to the floor.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. KIRKWOOD. I desire to offer an amendment to the pending bill. I understand the Senator from Massachusetts intends to direct his remarks to the bill introduced by the Senator from Connecticut, [Mr. EATON.] I desire to offer an amendment to that. I do it that the Senator from Massachusetts may direct his attention to it.

The PRESIDING OFFICER. The Chair will state to the Senator from Iowa that the amendment may be read for information; but the Chair is informed that there is now pending an amendment to an amendment, and therefore a further amendment would not be in order.

Mr. KIRKWOOD. That is the substitute offered by the Senator from Arkansas, [Mr. GARLAND.] My amendment is to the text of the original bill in section 3, line 7, after the word "tariff" to insert "and the existing internal-revenue laws." My object in introducing it now is that the Senator from Massachusetts may direct his attention to it in his remarks if he shall think it worthy of attention.

Mr. DAWES. Mr. President, I am in favor of the bill reported by the Committee on Finance, because I am in favor of a revision and reform of the tariff. Great inconsistencies and incongruities exist in the tariff. A great many excessive duties remain upon the statute-book. Many dutiable articles should be on the free list and many of the provisions of the tariff have become obsolete and inoperative. The present is a favorable time for such a revision. The increased prosperity of the country and of all business in it has so increased the receipts of the Government, both from sources of internal revenue and from customs duties, as to render such a revision desirable and possible, keeping in view first the primary object of the imposition of duties, a revenue for the maintenance of the Government, and keeping that revenue as near as possible to its current and necessary expenses. There is an opportunity to revise and reform not only the duties but the methods of enforcing the law and collecting them. Some of the circumstances justifying this course have sprung up without any reference to legislation. Changes in business, changes in the relations of industries to each other, as well as changes in the sources of revenue to the Government require the Government to look now to one quarter and now to another from which little was expected or received in former times. We should conform our legislation to the changes going on all the time in the methods of business as well as in the sources of revenue. All these invoke at our hands attention to the question whether we shall permit the revenue system of the Government to remain as it is or address ourselves to the best method of producing out of it a state of things that shall answer as well the demands of the Government as the expectations and necessities and claims of those under the Government whose business pursuits it is impossible to reform the revenue laws without affecting.

If I desired the continuance of the present state of things, if I wished to perpetuate these incongruities and these excesses and these defects, I should desire that the ideas submitted on Friday last by the Senator from Kentucky [Mr. BECK] should prevail; for it is by the attempt to enforce just such ideas in the past that has come this condition of things. Since the tariff of 1846, before the tariff of 1846, yea before from the time of the tariff of 1842, the effort has been made to establish a tariff system by precisely the same means as those suggested by the Senator from Kentucky. All the industries of the land affected by the imposition of duties or by the relief of industries from their imposition have been summoned before committees from 1842 to to-day in precisely the same manner suggested by him. They have been in a great measure also under the control of party organizations.

The two leading features of the remarks submitted by the Senator

from Kentucky were that he desired this reform to be a party measure, and that he desired it to be so brought about as to work the ruin of somebody, and as between his fellow-citizens and foreigners he gave the preference in this visitation to his own fellow-citizens.

Sir, I am not about to discuss the comparative claim of one of the two parties to the confidence and support of the people on this question of the tariff. I am not here now to say that to the democratic party or to the republican party the country may most safely turn for relief or for reform. I do not think that it is a part of my duty, resulting from the conviction of an experience in this matter somewhat extended, to undertake at this time to stake the great questions involved in the bill and the substitute before the Senate upon the merits of either party. Out of these contests of parties have come the evils of which we complain. We have had the struggle of the one party or the other to take to itself and appropriate the work of so adjusting the tariff in this country between the Government and those affected by it as to seek and obtain from the people some support that the adversary should not be entitled to; and out of that has come the shifting from party to party of this question and these measures; and the Government on the one hand and the many industries of this country on the other have suffered in this conflict of party. It is only from the possibility now presented that the wise men of both parties can take up this question without reference to its effect upon political parties and determine it upon its merits that anything like permanency, built upon justice and fairness, will ever result from legislation.

Mr. President, take the process suggested by the Senator from Kentucky. He has described the interests which have flocked before the Committee on Ways and Means and undertaken to enforce their claims and obtain some advantage over conflicting interests; and yet he proposes to continue that method; he proposes to continue it substantially as we have had it heretofore, to invite before committees of Congress anew all the many industries of this land, to contest and to contend and to use their power before these committees to obtain some undue advantage over some rival or competitive industry. It does not matter, nor does it cure it, that he takes in with these committees two or three outside experts; it is the committees of the two branches before whom he invites these interests to present their claims and argue their case. The outside experts, whom he calls in to sit like side-judges with these committees, are in the way, are no help to committees. The committees act in reference to the bodies they represent, just as they would were not these outside experts there. A mixed commission is a failure always. The attempt to prepare legislation in that way has always proved a failure. Let it be either the product of an independent commission presented to Congress on its merits, to be taken and weighed upon the evidence on which it rests, or let it be the work of committees of Congress who are and must be responsible to the bodies that appoint them, influenced and controlled as they must be by their political preponderance and bias, and preparing always and shaping measures with reference to that political bias, and then the Senator from Kentucky can see himself again precisely in the position of the past, out of which has come the present tariff system of which and about which he discourses with such passionate zeal and force.

Mr. President, does he expect that joint committees of the two branches shall be appointed to examine and consider the tariff question during the recess of this Congress and prepare for action next December a revision of the whole system, and invite before them the many interests affected thereby, and not see crowding the doors of this committee-room the same men who have visited it in the years that are past and against which in the same breath he protests? Who are they, Mr. President? Whom do they represent? Take the tariff and start with the fundamental doctrines that it is to be a revenue tariff; that the first and prime duty of the Government is to provide a revenue for its support, (and that is no doubt its first purpose, and all else is incidental to that provision and that purpose,) then there comes to be settled one other question which cannot be settled without embracing all the many interests against adhering to which the Senator from Kentucky protests.

A duty for the purpose of revenue must be imposed in one of two ways: indifferently, hap-hazard, by blind folly, or with discrimination. I take it that neither the Senator from Kentucky nor any other Senator proposes to impose duties for revenue blindly and indiscriminately, without regard to what will be the effect either upon the revenue or upon the subject-matter upon which the duty is imposed. Then it must be imposed with discrimination. And one other question arises immediately and settles the whole matter: it must be imposed either upon the raw material or upon the manufactured article, and no man can address himself one moment to the consideration of this question, but must settle at the threshold the point whether he will impose that duty upon the raw material or upon the manufactured article.

These men represent the manufactured article who are invited before a committee of Congress, by the side of whom in the proposition of the Senator from Arkansas two or three experts are invited to take seats. They are producers in this land. According to the census of 1860 their products amounted to $1,800,000,000, and in 1870 to $4,000,000,000, an increase in value of 102 per cent. in ten years. Making all due allowance for the disturbance of prices by inflation, in actual quantity during those ten years the increase had been 52 per cent. Fifty-two per cent. more in actual quantities was produced at the end of that decade. According to that rate of increase, well-nigh eight billion dollars' worth of fabrics will have been produced and developed in the year 1880, as shown by the census. This is represented by men who must appear before this committee. This is the production in this land consumed here, made here for our own people, under such an adjustment of duties as the Government was under the necessity of imposing, so imposed that they could be produced here rather than brought here already produced; for where the production is, there is the manufacture, there are the people whose hands fashion these fabrics; and where the people are whose hands manufacture these fabrics, there is the capital which moves the thousand busy fingers of industry, and there is the town built up by those whose time is employed in these productions; and where the town is, there is the school-house and there is the church and there is the State.

These are productions which, under a proper adjustment of the tariff, as I conceive, every Senator I apprehend would say it were better should be on this side of the Atlantic than on the other. The men who appear before these committees are citizens of the United States, part and parcel of the body-politic, having all sorts of politics and political affiliations, with their thoughts turned to the productions of these industries which are required for consumption by the people of this land. They furnish employment for the people, the thousands and tens of thousands and millions of people who find employment in these establishments, fashioning for our own people the fabrics our own people consume. They are those most interested in this question. They furnish employment.

It is said that the man who will so conduct his agricultural pursuits as to produce two spears of grass where one only was produced before is a benefactor of mankind. He who furnishes employment for two where only employment could be obtained by one is a larger benefactor of his race, as the employment which is thus furnished not only provides one spear of grass, but food and raiment and sustenance and comfort and education for a fellow-citizen of the United States of like rights and capacities and opportunities with the most favored of us.

These are the men upon whom the Senator from Kentucky turns his malediction; these are the men whom he calls thieves, stealers of other people's goods, extortionists, monopolists, coming here under false pretenses, and claiming on the surface to desire a reform and revision of the tariff system of the country while at heart bent upon prolonging their "good fat stealing." These are the men whom the Senator from Kentucky likened unto the masters of slaves before the war; put into their mouths, as I find in his speech in the RECORD, words they never used, and verified the statement by quotation marks, that they came here telling us how many men they worked, like masters telling how many slaves they worked. There is no such representation in any petition upon the table of the Senate. They have represented that they have furnished employment for many thousand of the poor, toiling masses of this country who would otherwise have suffered in want and in squalor. Those of them who have come from my own State and made this representation in respectful language to this honorable body deserve no such treatment at the hands of the Senator from Kentucky or any other man. I regret exceedingly that the great ability and zeal of the Senator in any cause he espouses do not permit him to consider anybody honest who differs with him in opinion. Commending these men when two years ago they represented to Congress that the change in public affairs and business relations permitted without damage to these great interests a reduction of duties 10, 20, and even as much as 40 per cent.—commending them in one breath for this statement, in the next, when they come forward here and represent that they desire to have these changes effected by intelligent, candid experts, who understand the effect of changes both upon the revenues and upon those industries from which the revenues are derived, he turns upon them and denounces them, as I have said, as thieves, monopolists, extortionists.

Thieves, sir! What have they stolen? They have afforded an opportunity to build up the towns and the States of this great nation, to summon forth its resources and its activities, to produce what otherwise this nation would be dependent upon foreign production for in its daily use. Monopolists! What is a monopoly which is open to every one? No pursuit in which these men are engaged is shut out from any and every man who finds in it an opportunity or seeks in it an occasion either to improve his own condition or that of those whom he must necessarily employ. There is not an industry or a pursuit represented by the men branded as monopolists that is not as free to the Senator from Kentucky or any constituent of his to pursue as it is to the men whom he thus brands. Extortionists, sir! Follow these men year after year in these honorable pursuits, count the wrecks and failures along the path, and sum up the whole result, and you will find that as a whole the capital invested has never paid more than 6 per cent. If it had paid 25 or 50, if it had paid 2 per cent. more than the average pursuits, does not my friend from Kentucky know that the business itself would at once be so crowded that there would be no opportunity for any more? Does not my friend know that any business in this land, open to all, as the business of these men whom he thus brands is, that produces any more than the ordinary and average income, will at once invite into it all unused capital and all energy and enterprise that is unable to find any more profitable employment?

Mr. President, the Senator says they tax the people and extort from them the miserable pittance which is the reward of their daily toil. Sir, those of my constituents whom the Senator thus represents have furnished employment in my State to that class of people until the savings-banks of Massachusetts have now deposited in them $225,000,000, an actual examination of which reveals that 75 per cent. of the whole of it is the wages of labor in these employments by those thousands of people who would otherwise have been begging from door to door for employment. Seventy-five per cent. of $225,000,000 thus deposited and safely invested, has been laid up by the employés whom the Senator from Kentucky likens unto the slaves before the war!

Sir, the Senator has indicated what seems to him to be a better mode than that proposed by the bill reported by the Committee on Finance. He says he would go back to the tariff of 1846 and inquire how that was enacted, and reproduce its blessings and its duties. Sir, history tells us that the tariff of 1846 was enacted by methods very much like those which the Senator has been commenting upon, with this great difference: that the representatives of British manufacturers, pending the preparation of the tariff of 1846, crowded this city and kept their warerooms open here with samples of manufactured goods brought over to our country to demonstrate to Congress how much better it was for them to take their money to British manufacturers and purchase already made the manufactured article rather than to make it here. That is the manner in which the tariff of 1846, history tells us, was made. I am not undertaking, as I said before, to arraign the democratic party or to commend the republican party. It was an attempt by a party to wrest from the consideration of statesmen of all political parties that which belonged to the whole country and affected one as well as another.

I do not think the Senator from Kentucky would prefer to be in a committee-room of Ways and Means or of Finance crowded with manufacturers or their representatives from abroad in preference to those of this country. I do not believe nor do I charge him with any such design as that. However uncharitable he is himself to those who differ with him as to methods of obtaining the same common end, I still think that the Senator has failed to see that the method which he proposes of arriving at this end is just exactly the method that has brought about the necessity of a change.

Sir, the tariff of 1846 fills the eye of the Senator from Kentucky; its beneficent results, its glorious fruits, seem to have dazzled his eye and filled his vision. Sir, does he not know that less than eight years of its operations brought financial distress and ruin upon this country? Does he not know that it was hailed abroad as the means and the method of making this nation dependent upon foreign powers. I picked up from the desk of my colleague, who is absent, a book from among the materials that he would so much better have used than I, and from which I will read to the Senator, if he will give me his ear, how the tariff of 1846 was viewed abroad.

The administration which produced it had upon its hands besides this tariff a great international dispute with Great Britain whether the northern line of this country on the west should go to 54° 40′ or be brought down to the Columbia River. It involved that grand Territory of Washington, large enough, when peopled and developed in its resources and strength and possibilities, to make an empire. Both sides, Great Britain and the United States, were at one time well-nigh ready to fight for it. "Fifty-four forty or fight" was a political war-cry in this country, and equally belligerent were those in Great Britain, who asserted that their line should be brought to the Columbia River. I hold in my hand a book of speeches of one of the great men of that time who figured so largely in the corn-law repeal agitation, who had another method by which he could make not only that grand Territory but the whole United States dependent upon Great Britain. The beauty of the tariff of 1846 and its effect upon this country, as seen on the other side of the water, is that to which I invite the attention of the Senator from Kentucky. Says Mr. William J. Fox in an address to Englishmen:

> Quarrel about this! Why, we might just as well be invited by Peel and Polk to fight about mountains in the moon.
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> But let men have something to do with it; let those who have found no preferable home go there, and see what effect they can produce upon the best portions of the soil; as their numbers increase and their exertions tell, it will soon become more valuable. And when man has occupied it; when industry has driven its car of peaceful conquest around the borders of that vast land; when towns have arisen and cities appeared, with their thronging numbers; when the Rocky Mountains are tunneled, and rail and canal have united the Atlantic and Pacific; when the waters of the Columbia swarm with steamboats—why, then will be the time to talk of the Oregon Territory. Then, without a regiment or line-of-battle ship, without bombarding any town whatever, free trade will conquer the Oregon Territory for us and will conquer the United States for us also—as far as it is desirable either for us or for them that there should be any conquest whatever in the case—free trade will establish there all the insignia of conquest. When their products come here, and those of our industry return, there will be scarcely a laborer upon the pine forest that he is clearing but will wear upon his back, to his very shirt, the livery of Manchester. The knife with which he carves his game will have the mark of Sheffield upon its blade, as a testimony of our supremacy. Every handkerchief waved upon the banks of the Missouri will be the waving of an English banner from Spitalfields. Throughout the country there will be marks of our skill and greatness, and tribute paid for us received not by warriors or governors, not coming directly into the national treasury, but flowing into the pockets of the industrious and toiling poor, refreshing trade, and enriching those who pursue it, giving them an imperial heritage beyond the wide Atlantic. Why, they will be conquered, for they will work for us; and what can the conquered do more for their masters?

And winding it all up in conclusion, he says:

> There is nothing upon earth worthier the name of empire than this; this is a nobler kind of dominion, less degrading both for the one party and for the other, less debasing than any sovereignty that was ever won by armies, and, being so won, reluctantly swayed by scepters.—*Collected Works of W. J. Fox*, London edition, 1866, volume 4, pages 202, 203.

Such, sir, was the prophecy of a great Englishman. During that administration they brought forth the tariff of 1846 to which the Senator from Kentucky so longingly turns. I have but to read an account of their own condition to test the question who is conquered in these proceedings, who has furnished the sinews and the energy and the life and strength and power that come from the development of men and the development of the resources and the independence of States that takes care of their own interests, when brought into competition with others. Twenty-five years only after this process of conquering Oregon and Washington Territory and the United States, and bringing them to the feet of a power that was to furnish them with whatever it was necessary for them to consume, this condition of things was revealed in England itself as found in an account of their social condition in a book called "Social Politics in Great Britain and Ireland," speaking in 1870:

> There are now above seventy thousand souls in the east end of London who must emigrate speedily or die. They are being shipped off as fast as charity and government can transport them to North America. Above twenty-five thousand of these are workmen more or less skilled in engineer and ship-building occupations. These are not shepherds, nor are they plowmen, nor will they ever be to any great extent one or the other. They are mechanics, and will be so go where they may. In the vast hives of industry in Lancashire there are a greater number who must emigrate or die. These are getting off as fast as they possibly can to Massachusetts to find full occupation in cotton. Not one is either pastoral or agricultural, and few are likely ever to be either.

Under that policy which would impose the necessary duty upon the manufactured article rather than upon the raw material, a policy which would make it possible to manufacture it here rather than make it cheaper to bring it here already manufactured, we have opened up opportunities for skilled mechanics to desert the country and the home whose policy is that to which the Senator from Kentucky invites us and make their new homes here in this country, building up its States, developing its resources, making it wealthy and strong and great and powerful.

Sir, who is it that exports under this policy? Let me read to you what I cut but a few days ago from a New York paper:

> *Cutlers leaving Sheffield for America.*—The Cunard steamer Algeria arrived at this port last night from Liverpool, and in her steerage were 130 practical cutlers and their families from Sheffield, England, who have been brought to this country by Mr. Frary, of the Frary Cutlery Company, of Bridgeport Connecticut. The party which arrived yesterday is the second batch of workmen following the cutlery trade that has been brought to this country by Mr. Frary. The men say there are fifty thousand men in Sheffield to do the work of ten thousand.—*New York Post.*

Who furnishes the knife for the pioneer in clearing away the forests of this country at this day, the Sheffield manufacturer or the manufacturer in this country? Where is capital invited to take its home and take up its work? In Sheffield, England, or in those Sheffields that are springing up all over this country? Sir, at the Centennial Exposition in Philadelphia was demonstrated the beneficial effect of this policy. Said one of the Swiss commissioners sent over here upon the special case of the boot and shoe manufacture, when he went home to report to his people, "I visited North Brookfield two years ago, and I purchased and brought here to Switzerland the best improved machinery that could be found in America; I set it up under the instructions and guidance of Americans whom I took with me, and I set my people to work upon it. Before I returned this summer from Philadelphia I visited North Brookfield again, and I found the same machinery there producing just double what I can produce with it here in Switzerland; and while I am talking to you American shoe-boxes are being opened under the very shadow of my manufacturing establishment, and I am undersold in my own market." Said the commissioner whose specialty it was to examine into the watch industry in the United States going home to Switzerland, the great watch manufacturing country in times past, and telling his people, "I have here in my hand a watch which costs the American manufacturer $5 to make it; there is nothing manufactured in all Switzerland that will do better execution than that watch; I tell you, you must study of the American mechanic, or not only give up the markets of Europe, but contend with American skill and industry in your own markets." But a day or two ago the papers of New York had this article:

> *American Watches.*—The American Watch Company, of Waltham, received last week an order from the British government for three hundred and seventy-two watches, intended for the use of conductors, engineers, station-masters, and other employés of the state railroads of India. This is the third large order received by the company from the same source, and, like the former ones, was obtained in public competition with foreign manufacturers. The London Jeweler and Metalworker, in its issue of January 15, observes, in reference to this order:
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> "The contract for watches to be used by the officials on the Indian state railways has again been secured by the American Watch Company. This is the third time Messrs. Robbins & Appleton have received this distinction, which is not a barren one, for it must be evident to the most prejudiced individuals that the timekeepers supplied on the previous occasions must have given satisfaction and answered the tests required of them. This is a mortifying fact for Englishmen, especially for those who believe that were manufacturers here to show more enterprise they would be able to compete advantageously in the manufacture of all grades of watches."

Sir, the American manufacturers, branded as monopolists and extortionists and thieves and stealers of other men's substance, and masters of slaves, have under the policy heretofore pursued substantially supplied the consumption of the country with manufactures, and they have now come to the position of being able to force their

products into foreign markets. The Senator from Kentucky called attention to the fact that of the seven or eight hundred million dollars of exports from this country but seventy-one millions were of manufactured fabrics. What he desires to have us infer from calling attention to that fact I do not quite see, for there he left it. He will allow me to ask him does he desire it shall be more or less? Does he desire a policy that shall build up and strengthen and multiply the productions of this country, so that the 10 per cent. shall come to be 50 per cent.? Or does he desire a policy that shall not only extinguish that small evidence of superiority in production and skill——

Mr. BECK. Will the Senator allow me to tell him?

Mr. DAWES. Certainly.

Mr. BECK. I have listened to most that the Senator from Massachusetts has said, and I will not now interrupt him. I will endeavor to reply at the proper time. I never answer a gentleman on the floor. But when he asks me what I mean by one hundred and twenty millions of agricultural exports and hardly any manufactures I tell him that I mean this: I would endeavor to pursue a policy whereby the men who are obliged to sell all their products in competition with other people should have a right to buy what they need without having to pay 100 per cent., not to go into the Treasury, but into the pockets of a few of the gentlemen of New England, who by monopoly get it all. This is what I desire.

Mr. DAWES. Mr. President, "who by monopoly get it all!" One hundred per cent. is advertised as the fruit of a pursuit which certain men in New England are following, and the ears of capitalists are deaf and they will not invest in it. There is not an obstacle of a hair's breadth in their way; but if there was the slightest particle of truth in the statement that 100 per cent. is the profit of any such pursuit as that, the highways would be blocked with men rushing with capital and hungry mouths and aching hands to plunge into and participate in the work and the fruit.

Mr. BECK. The Secretary's report shows 104 per cent. on the coarse blankets people all have to use.

Mr. DAWES. Does the Senator desire commerce between this country and foreign nations? And does he expect competition, which comes of commerce, upon any other terms than those of absolute equality? And when the conditions are not equal, does he not know that the one will just as practically annihilate the other as that the one of two deposits of water which is lower than the other will certainly drain the other? Competition for the benefit of the buyer can exist only upon terms of perfect equality; and if there be anything in the conditions upon which an article is produced in one country that does not exist in the other, which causes obstructions, obstacles, or embarrassments, unless they are equalized the Senator cannot hope to obtain competition. Sir, will it benefit anybody for commerce to take the fabrics of this country abroad and bring back the same fabrics from another country? Commerce consists in taking from one country what it produces and bringing back from the country with which commerce is carried on that which that country produces. If I manufacture the raw material that grows in a foreign country, it is of no benefit to anybody to take the manufactured article made of that from this country there and bring back their manufacture of the same article here. Nothing comes but consumption of the value of the product in the transportation. But if you bring the raw material from a foreign country here without cost, free of duty, free of charge, relieved of every obstruction, and put it down at the least possible cost at the door of the manufacturer here, and take what we produce back to that country for them on the same equal conditions, you establish a commerce that will last, that will build up those engaged in it on both sides and make each rich, but not the one at the expense of the other.

The Senator calls attention in connection with the tariff to the small amount of American shipping compared with what there was before the war, as if that had anything to do with the amount of commerce existing between this and foreign countries. Does not the Senator know that the aggregate of exports and imports of this country to-day is larger than it ever was before? Does he not know that development, industry, and enterprise here have increased commerce many fold what it was before the war? Commerce is not measured by the number of ships we own. To our misfortune it is that foreigners derive seven-eighths, or near that, of all the profit from our commerce; not that our commerce is fading away, but that means over which we have no control and which as yet we have been unable to counteract, foreign policy toward commerce, has enabled foreign nations to take our commerce from our shores, away from our own shipping. It is not the tariff that has had anything to do with it, for by the statutes of the land every article of foreign production that enters into the building of a ship is free of duty; but other causes, the requirements of our law to pay the sailors discharged in foreign ports two or three months' extra wages, not required by foreign policies, the rate of capital invested, and a thousand causes having no connection with the tariff have destroyed almost our shipping. That, however, has nothing to do with the question of the amount of commerce we are at this day cultivating and nourishing in this country.

Sir, I have been led into this remark not because it has a special bearing upon the comparative merits of these two measures, but in vindication of that great class of American citizens who, pursuing a legitimate calling, have produced that enormous and almost incalculable amount of wealth in this country, furnishing employment for a vast number of otherwise starving and dependent population, in reply to the Senator from Kentucky who branded them as unworthy of respect or confidence.

Sir, the condition of things which I have described renders a revision of the tariff not only possible, but necessary. We have arrived at that condition in production that puts it in our power to take off these large and excessive duties, for I hold that, keeping to the idea that revenue is the object and purpose and laying the duty upon the manufactured article as against the raw material, still it should never rise one penny above a perfect equality. Put the American producer, in levying your duties, simply upon an equality with the foreign producer; make up the difference between the interest on his money, the cost of his living, and the wages which he pays; just even them up and no more; lift up and not pull down; for if you desire an interchange of produce he who can manufacture the cheapest will in the end triumph over his neighbor. On any other basis, if you maintain these industries in this land, you must cut down the pay of the laborer to a level with the pay of him with whom you compete, or you cannot compete with him.

The question is all summed up in this single aphorism: To the American laborer belongs the labor which is to be performed for Americans; whatever is to be performed for us should be done here among us. I desire for one to see an effort made to frame a revenue tariff upon this principle. See to it that the Government is supplied; take that which it is necessary to levy upon production and levy it upon manufactured articles, so distributed upon each and every article as well as you may until you bring up our own producers to a level in cost with the foreign competition, and let the raw material come in free. Sir, to that work, involving the growth and prosperity and development of this country, all men of all parties, the wisest and the most discreet and expert, ought to be invited. No one party can accomplish it. The doctrine thus developed does not exist in this or that party exclusively. It has come to be every day more and more the common sentiment and conviction of economists throughout the country.

Sir, if I desired any political capital to be made out of the question now before the Senate, it seems to me clear that I could well lay by and see the doctrines announced by the Senator from Kentucky and those of his school asserted by the party to which I do not belong. Bills pending in one House or the other taking the duty off from the manufactured article and putting it upon the raw material, making it so that the thing made up abroad can be brought here at less cost than the material out of which it is made, show the enormity as well as the absurdity of that doctrine; and whatever of political capital can be made out of such measures and such doctrines, if I looked to that alone, I could well fold my arms and say to gentlemen, proceed, for the intelligence and the experience of all producers in this land, and the fruits of their labor and their enterprise and their capital spreading through every village and hamlet and town and city in this broad land, are so many arguments for the condemnation of that scheme and any political party that shall wed its interests and its fate to it.

But, sir, I hail the spirit in which the Senator from Delaware [Mr. BAYARD] and the Senator from Connecticut [Mr. EATON] approach this subject. The measure they tender, the invitation to all parties to take up this subject of the material prosperity of this nation in connection with the resources of the Government itself and see how its exactions and its wants and its demands are to be supplied out of its industries in a manner that shall promote and stimulate rather than crush and destroy, promises some good, some permanent results, something upon which capital and labor alike can repose with confidence, because, being just and fair and equitable toward all, it will abide all the attempts of politicians and demagogues to undertake to extract political capital and strength out of measures that in their effect will prostrate the producers of eight or nine thousand million dollars' worth of fabrics each year in this nation and all the labor that hangs upon their prosperity.

Having seen all the efforts to which the Senator from Kentucky alludes, the crowding of parties into a committee-room, and bidding them contend in rivalry and competition for advantage in legislation, I desire for once to see the experiment tried of a study by intelligent and learned economists and practical men of this subject, and the result of that study tendered to Congress for its action. Congress has tried in vain within itself to evolve reform of the tariff. Each attempt has only involved those engaged in it in greater absurdities and enormities and wrongs either to the Government, like the repeal of the duty upon tea and coffee, or to the producer, the industry, the laborer of the land, like bills pending now before Congress that put a duty on the article we are to work on, and invite the article manufactured to come in free and take the place of one made by the hands of our own citizens.

Let us, then, try this experiment, and not continue the old wrangling and strife and conflict of interests and party bias and party zeal in committees over and over again with no practical fruits and no improvement.

Mr. MAXEY. I desire, Mr. President, without entering into a discussion and comparison of the merits and more especially the demerits of the present protective tariff with such as might be presented by a tariff bill for the raising of revenue only, to present to the Senate briefly the reasons which will induce me to vote for the raising of a

committee or commission. I shall, if here when a tariff bill is laid before the Senate, present my views fully. At this time my only purpose is to present my reasons generally in favor of the principle of a tariff for revenue only. In my judgment the question is a simple one. The Constitution grants to Congress the power "to lay and collect taxes, duties, imposts, and excises." Had that power stopped there, it might be said that the discretion was in Congress to appropriate revenues thus raised according to the best judgment of Congress; but in the same sentence there is a complete expressed limitation upon that power. The objects for which the grant of power "to lay and collect taxes, duties, imposts, and excises" was given is limited in the same sentence, namely, "to pay the debts and provide for the common defense and general welfare of the United States;" and that is in itself a limitation upon the grant of power "to lay and collect taxes, duties, imposts, and excises." The very objects for which this taxation is to be laid and collected being specified in the grant of power, are a limitation upon the application of the money thus to be raised; for the objects being specified, all others, upon well-known principles, are excluded.

So far as paying the debts is concerned, that explains itself; so far as providing for the common defense goes, that explains itself; but those who favor the doctrine of a protective tariff fall back upon the clause providing for the "general welfare of the United States." The general welfare of the United States, so far as it is intrusted to the Congress, is specifically laid down by appropriate grants in the Constitution, not only in the eighth section, but in various other portions of the Constitution. Congress has power "to raise and support armies," "to provide and maintain a navy," "to establish post-offices and post-roads." It is the duty of Congress to see to the proper conduct by judicious appropriations of the executive department in all its ramifications, and in like manner of the legislative department and of the judiciary department. These are the objects for which the money raised by taxation is to go. The Supreme Court, all courts and commentators, so far as I have examined, agree that the general-welfare clause of the Constitution refers to the general welfare as to the objects set forth by grants of power on the face of the instrument. Any other construction would practically annihilate the very design and purpose of a written constitution. Therefore when you come to examine that clause of the Constitution—clause 1, section 8, article 1—where the power of taxation (which is never liberally construed, but always strictly) is given it was so given for specific purposes—"to pay the debts and provide for the common defense and general welfare;" and hence it follows that we have no right by law to go beyond that and say that that tax shall be laid and collected for the special welfare of a specific portion of the community engaged in certain pursuits as against the general welfare of all the people of the community, and more especially when the Constitution by specific grants shows how far Congress can legislate, and, to prevent misconstruction, goes on to provide that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." No power is delegated to lay a tax upon the people generally to protect a few industries. Therefore the power does not exist. I am speaking of constitutional power, not upon constructions which may have been placed by courts upon tariff laws, for when a bill comes up every man should be governed by his own conscience and not by somebody else's in his vote upon this bill.

It is clear, therefore, in my judgment, that any tariff bill should be a tariff for revenue, and for revenue only, and that we cannot constitutionally or in sound policy make any other character of a tariff than a tariff for revenue, for the purpose of raising revenue to support the Government and to carry out the various objects for which the Government was created. In laying a tariff looking alone to revenue it is within the sound discretion of Congress to select the articles for taxation. Any tariff will, in its nature, to a certain extent, protect incidentally; but revenue should be the object, and protection but the inseparable incident. Under the present oppressive tariff, protection, as it seems to me, is the principal object, and revenue the incident.

The law which we now have upon the statute-book is not only oppressive, but crude and difficult to comprehend. Everybody admits that it is cumbrous and ill-digested. It began during the war, and it has been amended and patched piecemeal until now there is an enormous number of articles protected by specific duties, helping the protected and hurting everybody else. It is so complicated that it is difficult for the custom-house officers themselves to comprehend and understand this law and its workings. It is the prolific source of fraud, and like every other law where there is an enormous tax laid above what is felt to be just it is productive of evasion to a great extent and universal discontent. Wherever the people believe the tax has been unjustly laid, benefiting the few at the expense of the many, the effect of such a law as that is to produce evasion of the law and dissatisfaction.

Two different plans have been presented for securing information with the view to a new tariff bill. I have been here for more than five years patiently looking to the House of Representatives for the discharge of the duty of originating a revenue bill, which under the Constitution is in the House of Representatives. This body cannot originate a revenue bill; it is not in the power of this body to do it; but if the House will send us a bill we have the right under the Constitution to amend; but no bill is sent. Hence, I have sat here with such patience as I possess, for five years, waiting for a revenue bill, such as is demanded by the best interests of the country, to come up to us. It has not come. The people all over this land are demanding that there should be at least a revision of the tariff and large reduction of duties; and thousands and hundreds of thousands of men throughout the country believe as I do, that the only just, the only honest, the only fair, the only constitutional tariff law that can be made is a tariff for revenue, and for revenue only.

The purpose of the committee bill is in that direction. That is as far as we could go. We cannot originate a bill here, but a commission to consist of nine members from civil life to be appointed by the President, by and with the advice and consent of the Senate, is authorized by the bill as reported by the Committee on Finance for the purpose of investigating all the various questions relating to the agricultural, commercial, mercantile, manufacturing, mining, and other industrial interests of the United States so far as may be necessary to a judicious tariff revision, and of reporting the result of that investigation to this body. That commission is to be raised by nominations by the President and by confirmation if so advised and consented to by the Senate.

Mr. President, I want a revenue bill; I want all the light that can be thrown upon this great question, and I believe that the clearer the light shed upon this great question by free, conscientious, intelligent investigation, the greater will be the reasonable probabilities in favor of a just tariff, for revenue and revenue only. In my judgment the justness and sound policy of a revenue-tariff bill can be made clear and palpable—so manifest that the American people will demand the adoption of such a bill. I do not expect such a bill from men who do not believe in the doctrine of a tariff for revenue only. Therefore I do not propose to place the nominations in a power of this Government (the President) that does not, so far as I know or believe, believe in that doctrine. Indeed, I think those who would rely on the hope of a just tariff for revenue only from any commission thus nominated would find it as true now as in the past there are those

> That keep the word of promise to our ear,
> And break it to our hope.

The Senator from Arkansas [Mr. GARLAND] has presented a proposition in the nature of a substitute to the committee bill having in view the same object of investigating this tariff question, the commission to consist of three members of the Senate, three members of the House, and three others, not members of either House. As between the proposition presented by the Senator from Arkansas and that presented by the committee I shall unquestionably support that presented by the Senator from Arkansas, because it comes nearer my view than the other proposition does, and as I think more completely defines the duties of the commission; but I would favor over his proposition or that of the committee a joint committee of the Senate and of the House raised in such mode and manner as the Senate may determine so far as its part is concerned, and the House as to its part, and let the committee be invested with full power to employ a stenographer, the best in America, and I think we would not have to go outside of this Chamber to get him, and if he will pardon me, I say to Mr. Murphy, Thou art the man. My idea is to employ first-class clerks and stenographers and invest the committee or commission as the case may be with ample power to send for books, persons, and papers, and to employ experts in matters relating to the tariff to aid them if need be, because this is a question which goes way down into the pocket of every man in this country. It involves untold millions of money, for however we may doubt about some things death and taxes are certain, and the people can well afford the trifling expense of investing this committee with ample power and facilities to investigate this whole subject to the bottom and bring all the light that it is possible to be brought upon it.

So far as expenses are concerned, I say arm the committee with every power that we can constitutionally arm it with to make a thorough and complete investigation, and then let us have a bill reported back here. By this course (that is, of a joint committee) the Senators are held directly responsible to their States and people; the Representatives upon that committee are held directly responsible to their people, and thus we have the information upon which can be framed a bill such as the demands of the country need, and no chance for shifting responsibility.

It does not meet my views, it does not strike me as a strong argument, to say that there is not ample capacity in the two Houses to obtain this light; that we have not got enough men of commercial and industrial information, men of business attainments, to investigate the subject. If we have not nine men with general acquaintance with business pursuits, then we had better be turned out and send somebody here who has got such information; and I beg to say that knowledge of the constitutional powers of Congress is as important as special knowledge of commerce or other industry. If we have the information to take up this report and intelligently act upon it, to frame a bill based upon that information, we surely have the intelligence to obtain the information, and you have then a body directly responsible to the States and the people for what they do unincumbered by any outsiders.

Therefore, and I say it with all deference to my friend from Arkansas, whose sound judgment I recognize, I believe the suggestion I make would be an improvement upon his substitute; but I am so

much better satisfied with his substitute than the original bill I will not endanger it by amendments.

But my only object in rising now is to place myself upon record as favoring this tariff commission, because I hope that it will eventuate in a bill for the raising of revenue for that purpose and no other, so that the needful means of conducting the Government may be raised with the most ease to the people. So long as the protective principle is retained in any tariff bill, then, as a matter of course, those of us who have articles to be protected are going to claim protection out of it. My colleague and myself are in accord on this question; but our people are interested in the sugar question; we are largely interested in the wool question, and as a matter of course if you go into the protective business we will have to look to our own State, to our own people, and see to them, but when you come down to a bill such as will meet the sense of justice and fair dealing of every honest man, I care not what his calling may be, a bill for raising revenue and revenue only, in order to support the Government at the least cost to the people, then he and I can well go before our people and say: "We supported this revenue tariff bill because it is equal and exact justice to all, and exclusive privileges to none; it is not class legislation, but legislation for the welfare of the whole people."

That is my view of this matter, Mr. President, and for that reason I shall support a bill for creating a commission. I shall support the substitute offered by the Senator from Arkansas if I cannot do better, but I would be glad if my friend from Arkansas would accept the suggestion I make and reduce it down squarely to a joint committee of the two Houses.

Mr. President, I have not gone into the details of the present tariff, oppressive and iniquitous as I believe it to be, because such a discussion will be idle till the House sends us a tariff bill. When that comes I shall meet the question. But in the discussion of this bill it is legitimate, and I have confined myself to that, to contrast the theory of protection with that for revenue. On every principle of right reason, sound policy, justice to all, there is no question in my mind but that the only wise, politic, just, and constitutional tariff is a tariff for revenue, and revenue only. I trust the people of the United States will become fully aroused to the importance of this great question.

Mr. EATON. Mr. President——

Mr. VOORHEES. I take it the Senator from Connecticut does not want to proceed with his remarks at this time. If he does not, I suggest to him that the pending order be informally laid aside.

Mr. EATON. As the originator of the measure which the Committee on Finance have reported favorably to the Senate, I have some views that I should be glad to give to the Senate upon the subject.

Mr. VOORHEES. I will ask the Senate to informally lay aside the pending order that the Senator from Connecticut may address the Senate upon it to-morrow, and if it be the pleasure of the Senate to do so I will ask that the Senate take from the table a bill which came here last week from the House to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims.

Mr. EATON. Let the pending bill then be informally laid aside for the present.

The PRESIDENT *pro tempore*. Shall the bill be laid aside?

Mr. EATON. I will, if it is proper, say that I shall be glad to be heard at half past one o'clock to-morrow on this subject.

The PRESIDENT *pro tempore*. This bill would lose its place as the unfinished business unless there is unanimous consent that it shall not be prejudiced by an adjournment.

Mr. EATON. If it will not lose its place, I shall consent to laying it aside.

Mr. VOORHEES. I ask unanimous consent that it be informally laid aside without prejudice, so that it shall not lose its place.

Mr. PENDLETON. Even though by adjournment.

Mr. VOORHEES. Even though by an adjournment, that nothing shall take it from its place as the unfinished business.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent that the pending order be laid aside informally and without prejudice by adjournment, in order that he may ask the Senate to take up the bill he has named.

Mr. ALLISON. Before that motion is put, I desire to say a word in the absence of the Senator from North Carolina [Mr. RANSOM] who has charge of the river and harbor bill. I think he gave notice early in the day—and I mention it to the Senator from Connecticut—that at half past one to-morrow he would call up the river and harbor bill.

The PRESIDENT *pro tempore*. He gave notice that at the close of the routine business to-morrow he would do so.

Mr. VOORHEES. I think there will be no difficulty in arranging that.

Mr. EATON. I will leave this bill standing as the order for to-morrow and we can arrange the matter then.

ELIAS C. BOUDINOT.

Mr. VOORHEES. I believe there is no objection to my proposition.

The PRESIDENT *pro tempore*. Is there objection to the proposition of the Senator from Indiana? The Chair hears none.

Mr. VOORHEES. The bill came here from the House last week, and was read the first time and laid on the table.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of the bill the title of which will be read?

The CHIEF CLERK. A bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims.

The PRESIDENT *pro tempore*. Shall the bill be read the second time?

Mr. DAVIS, of West Virginia. Has it been referred to a committee?

Mr. VOORHEES. Oh, yes; the Judiciary Committee has considered it. The Senator from Arkansas [Mr. GARLAND] will explain in a moment.

Mr. DAVIS, of West Virginia. I understood the Senator to say that the bill came from the House.

Mr. VOORHEES. It is a House bill, but the Judiciary Committee considered the same question and has a bill here on the Calendar like this.

The PRESIDENT *pro tempore*. The question is on reading the bill the second time. [Putting the question.] The ayes have it, and the bill will be read the second time.

The bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims was read the second time by its title.

Mr. INGALLS. Let the bill be read at length.

The PRESIDENT *pro tempore*. The bill is now before the Senate as in Committee of the Whole and open to amendment. It will be reported at length.

Mr. KIRKWOOD. Does the bill come from a committee?

The PRESIDENT *pro tempore*. This bill came from the House of Representatives.

Mr. VOORHEES. A bill on the same subject and of the same purport exactly came from the Judiciary Committee of the Senate and is on the Calendar, but instead of asking to pass that bill, which would have to go back to the House, the House having sent the same kind of a bill here, I am trying to get the Senate to concur in the House bill and thus accomplish the legislation which the Senate Judiciary Committee reported here.

Mr. KIRKWOOD. What committee had the bill in charge in the Senate?

Mr. VOORHEES. The Judiciary Committee.

Mr. KIRKWOOD. And have they reported it favorably?

Mr. VOORHEES. They have reported it favorably, and as soon as this bill is read for the information of the Senate I will ask the Senator from Arkansas, who had the matter in charge in the Judiciary Committee, to explain it still further to the Senate.

The PRESIDENT *pro tempore*. The bill must first be read.

The Chief Clerk read the bill, as follows:

Whereas the United States, by the enactment of the one hundred and seventh section of the act of Congress approved the 20th day of July, A. D. 1868, superseded the tenth section of the treaty entered into by and between the United States and the Cherokee Nation on the 19th day of July, A. D. 1866; and

Whereas the property of Elias C. Boudinot, a Cherokee Indian, was seized and disposed of by the authorities of the United States in consequence of the enactment of said one hundred and seventh section, although the Supreme Court of the United States, in its opinion expressed in the case prosecuted by said Elias C. Boudinot to test the constitutionality of said one hundred and seventh section and the validity of the said seizure and disposition of his property, and reported in 11 Wallace United States Supreme Court Reports, page 616, entitled "The Cherokee Tobacco," declared "that there was no ground for any imputation upon the integrity or good faith of" him, the said Elias C. Boudinot; and, further, that it is to be presumed that if a wrong has been done to him, the said Elias C. Boudinot, the Congress of the United States will promptly give the proper relief if applied to by the said Elias C. Boudinot; and

Whereas the Supreme Court of the United States was not called upon to decide, and did not decide, whether the executive officers of the United States had taken the necessary steps to make operative said one hundred and seventh section in said Cherokee Nation anterior to said seizure of the property of said Elias C. Boudinot; and

Whereas there is grave doubt that such steps were taken, and it manifestly appears that a wrong has been done to said Elias C. Boudinot, in consequence of the casual infraction of the said treaty, which should be repaired by appropriate satisfaction in maintenance of said treaty, which still subsists: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to give Elias C. Boudinot, of the Cherokee Nation, the proper relief for the wrong done him by reason of said seizure and disposition of his property, he, the said Elias C. Boudinot, be, and he is hereby, authorized to bring suit in the Court of Claims against the United States Government, to recover what may be due to him in justice and equity for the loss inflicted upon him by reason of said seizure for an alleged violation of the internal-revenue laws, of his property, a tobacco factory, its detention, and damage thereto while under seizure, the value of the tobacco, material, and other personal property also seized, and the expenses to which he was subjected thereby.

Mr. ALLISON. I should be glad to have the Senate bill read which was reported by the Judiciary Committee.

The PRESIDENT *pro tempore*. It is Senate bill No. 120, and will be read.

The Chief Clerk read as follows:

Whereas upon certain proceedings in the district court of the United States for the western district of Arkansas, in the year 1870, in the matter of the United States against certain tobacco and other articles claimed by Elias C. Boudinot, there was a judgment of forfeiture and condemnation of the said articles; and

Whereas a part of said articles were returned to said Boudinot on his giving a bond of $5,000, pending an appeal of said cause to the Supreme Court of the United States; and

Whereas certain other of said articles were sold by the marshal of the United States under said judgment of forfeiture, and the proceeds paid into said court; and

Whereas the said Boudinot now claims that in respect of the acts and neglects upon which said forfeiture was pronounced he was protected by the tenth article of a treaty between the United States and the Cherokee Indians, proclaimed on the

11th day of August, 1866, and that in respect of the matters charged in the proceedings of said forfeiture he did nothing and omitted nothing that he was not authorized to do and omit by the provisions of said treaty; and

Whereas the act of Congress of the 20th day of July, 1868, entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," has been held by the Supreme Court of the United States to override and annul the provisions of said treaty in conflict therewith: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said Boudinot may, within six months next after the passage of this act, file a petition against the United States in the Court of Claims for the recovery of any sum of money he or his associates may have paid upon the bond mentioned in the preamble of this act, and any sum of money that may have been realized on the sale by the marshal of the United States of certain of the articles as mentioned in the preamble of this act. And if it shall be proved to the satisfaction of said Court of Claims that, in respect of the matters set forth in said proceedings in the district court for the western district of Arkansas mentioned in the preamble of this act, the said Boudinot and his associates in the business did, in all respects, act within the provisions of said treaty, and did nothing in violation of the laws of the United States, so far as the same were consistent with said treaty, said court may render judgment in favor of said Boudinot against the United States for such amount of money as he or his sureties may have paid upon said bond, and for such sum as may have been received by the marshal of the United States on the sale before mentioned; but if, in the opinion of said Court of Claims, the evidence shall not authorize such a judgment, it shall render judgment against the said Boudinot for the costs incurred by the United States in defending against said petition. Upon the filing of such petition the said Boudinot shall give a bond to the United States, with sufficient surety, in such sum as the Court of Claims shall direct, that he will prosecute said petition to effect, and pay to the United States such costs as may be adjudged against him in such proceeding.

Mr. GARLAND. In order to save time, I suppose I might just as well now state in reference to this matter all that I propose to say.

A short time after the war between the States Elias C. Boudinot and others established a tobacco factory in the Indian country. Before doing so, however, they took the advice and counsel of the Internal Revenue Department of the Government as to the effect that the revenue law of the United States would have upon that enterprise and how far they would come within its meaning and be subjected to its exactions. A very satisfactory correspondence took place between them, as detailed somewhat at length by the Senator from Indiana, [Mr. VOORHEES,] who some weeks ago addressed the Senate upon this question. Having full faith and confidence in the responses made by the Department to their inquiries, they established this factory and proceeded with their business.

The main point was whether section 107 of the revenue act of 1868 attached to and applied to the Indian country. Receiving, as they believed, satisfactory information under the ruling of the Department here that it did not, they felt encouraged and emboldened to go forward with their enterprise, which they did. After proceeding to a certain extent, I will not say there was a change of individuals in the Department, but the Department changing its opinion, this factory was seized and all the property connected with it, by process issued from the district court for the western district of Arkansas.

Mr. KIRKWOOD. Will the Senator allow me a question just there? I do not know anything about this matter, but I heard, either from the statement of some Senator on the floor or otherwise, that the manufacturing establishment was engaged not only in manufacturing tobacco raised in the Territory, but got tobacco from outside the Territory that was subject to taxation, and manufactured it as well. How is that?

Mr. GARLAND. The Senator is correct as to having heard that. That was alleged and was one of the causes assigned for the seizure of this institution, if I may call it that; and several other things were alleged which I will allude to after a while. Upon the seizure the whole case was brought before the court for the western district of Arkansas, and the parties, particularly Mr. Boudinot, were arrested and imprisoned. Mr. Boudinot was indicted and gave bail. He was released from the indictment and finally dismissed, but his property was condemned and sold, and he lost the use and proceeds of it. The question came up on the construction of the one hundred and seventh section of the revenue act of 1868.

Mr. KIRKWOOD. Was the question whether or not he had brought tobacco from outside involved in the suit?

Mr. GARLAND. Yes; that was involved in the suit, too.

Mr. KIRKWOOD. And was it found against him?

Mr. GARLAND. That was not found at all. I will to come to that after a while. Mr. Boudinot and his *confrères* in this enterprise claimed that the treaty of 1866 protected them from the operation of the one hundred and seventh section of the revenue act of 1868. Various proceedings, as occur in matters of that sort, took place, not necessary now to name, and finally the case came to a hearing. Mr. Boudinot appealed from the condemnation of the court for the western district of Arkansas to the Supreme Court of the United States. That is set forth substantially in the preambles to both the House bill and the Senate bill, and was set forth more fully in the remarks made by the Senator from Indiana who sits on my left some two or three weeks since. When the question came before the Supreme Court it was contended, of course, that the one hundred and seventh section of the act of 1868 was not operative in the Indian country; but yielding that the very point suggested by the Senator from Iowa did not come within the meaning of that act so as to exclude them, the Supreme Court simply decided, and decided that and nothing more, that the act of Congress of 1868 repealed the treaty of 1866, and that Congress had the authority to do that. That startled the profession of the country to a very great extent. Many people did not believe it, I among the number, and I do not believe it yet. It was decided by a minority of the court, I believe only five judges sitting, three out of the five making the decision and two dissenting; but they did not decide the other question that is suggested by the Senator from Iowa. Boudinot and his *confrères* were there operating under the advice and instruction of the Department, given upon correspondence and assurance, or at least what ought to be held as an assurance just as much as an individual would be bound in making such admission and declaration. The Supreme Court did not decide the question that is submitted by the Senator from Iowa, but simply decided that Congress could repeal a treaty when it saw proper.

Mr. KIRKWOOD. Does the bill under consideration decide that question in favor of Boudinot in any way?

Mr. GARLAND. No, sir; neither the House bill nor the Senate bill does that.

Mr. KIRKWOOD. It leaves it an undetermined question to be settled by the Court of Claims, or how?

Mr. GARLAND. By the Court of Claims, with the whole case before it, and to take in the farther question as to whether the operations of the tobacco factory did come within this prohibitory statute.

Mr. VOORHEES. Will the Senator from Arkansas allow me one moment?

Mr. GARLAND. Yes, sir.

Mr. VOORHEES. I have the decision of the Supreme Court in the case in 11 Wallace. In rendering the decision—and I ask the attention of the Senator from Iowa, if he pleases——

Mr. KIRKWOOD. I have read that case.

Mr. VOORHEES. I wish to call the special attention of the Senator to this language of the Supreme Court:

> We are glad to know that there is no ground for any imputation upon the integrity or good faith of the claimants who prosecuted this writ of error. In a case not free from doubt and difficulty they acted under a misapprehension of their legal right.
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> * * * * * * *
>
> If a wrong has been done the power of redress is with Congress, not with the judiciary, and that body, upon being applied to, it is to be presumed, will promptly give the proper relief.

Now, the question is whether in a case of that kind Mr. Boudinot should be allowed to test whether he has any rights in the Court of Claims.

Mr. GARLAND. There were two bills, if the Senator from Iowa will pay attention, one in the House, introduced by Mr. GUNTER, of Arkansas, and one in the Senate, introduced by the Senator from Indiana, [Mr. VOORHEES.] The bill introduced by the Senator from Indiana went to the Judiciary Committee, and the committee reported through myself a substitute by way of amendment to that bill, and if the Senator from Iowa will listen while I read the preamble and the substitute itself he will get in short all the case there is:

> Whereas upon certain proceedings in the district court of the United States for the western district of Arkansas, in the year 1870, in the matter of the United States against certain tobacco and other articles claimed by Elias C. Boudinot, there was a judgment of forfeiture and condemnation of the said articles; and
>
> Whereas a part of said articles were returned to said Boudinot on his giving a bond of $5,000, pending an appeal of said cause to the Supreme Court of the United States; and
>
> Whereas certain other of said articles were sold by the marshal of the United States under said judgment of forfeiture, and the proceeds paid into said court; and
>
> Whereas the said Boudinot now claims that in respect of the acts and neglects upon which said forfeiture was pronounced he was protected by the tenth article of a treaty between the United States and the Cherokee Indians, proclaimed on the 11th day of August, 1866, and that in respect of the matters charged in the proceedings of said forfeiture he did nothing and omitted nothing that he was not authorized to do and omit by the provisions of said treaty; and—

The Senator from Iowa will bear in mind that, as in court so here, Mr. Boudinot and his partners insist that they were protected by the treaty all the time—

> Whereas the act of Congress of the 20th day of July, 1868, entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," has been held by the Supreme Court of the United States to override and annul the provisions of said treaty in conflict therewith: Therefore,
>
> *Be it enacted by the Senate and House of Representatives*—

That he bring his suit within a certain time, &c.

Mr. KIRKWOOD. Now, what is the difference between the bill from the House and the substitute reported by the Senate committee?

Mr. GARLAND. I will come to that in a moment. Pending the bill now upon the Calendar, the House passed a bill upon this same subject, and when it came into the Senate the Senator from Indiana, instead of having it referred to the Judiciary Committee, who had already acted upon the same subject with the same papers before it that the House had, asked that the bill be printed and lie on the table to be called up together with the Senate bill. The House bill differs from the Senate bill mostly in phraseology, not reciting the facts as completely as the Senate bill does, but reciting them substantially the same so far as the actual occurrences are concerned. The difference, then, substantially in the merits of the two bills is that the Senate bill restricts Mr. Boudinot and his partners in their recovery or in the measure of damages they shall have in case the Court of Claims finds that they are entitled to anything.

Mr. KIRKWOOD. How far? To what extent?

Mr. GARLAND. I will read the provisions of the two bills. I have simply read the preamble of the Senate bill in order to give the Senate the facts connected with the case. The Senate committee's substitute is:

> That the said Boudinot may, within six months next after the passage of this act, file a petition against the United States in the Court of Claims for the recov-

ery of any sum of money he or his associates may have paid upon the bond mentioned in the preamble of this act, and any sum of money that may have been realized on the sale by the marshal of the United States of certain of the articles as mentioned in the preamble of this act. And if it shall be proved to the satisfaction of said Court of Claims that, in respect of the matters set forth in said proceedings in the district court for the western district of Arkansas mentioned in the preamble of this act, the said Boudinot and his associates in the business did, in all respects, act within the provisions of said treaty, and did nothing in violation of the laws of the United States, so far as the same were consistent with said treaty, said court may render judgment in favor of said Boudinot against the United States for such amount of money as he or his sureties may have paid upon said bond, and for such sum as may have been received by the marshal of the United States on the sale before mentioned; but if, in the opinion of said Court of Claims, the evidence shall not authorize such a judgment, it shall render judgment against the said Boudinot for the costs incurred by the United States in defending against said petition. Upon the filing of such petition the said Boudinot shall give a bond to the United States, with sufficient surety.

Instead of restricting the Court of Claims to any particular subject-matter or confining them to any mere item of recovery the House bill throws the whole case before the court as a matter of course, subject to the decision of the Supreme Court on appeal as to the validity of the one hundred and seventh section of the act of 1868. These are the terms of the House bill now before the Senate:

That in order to give Elias C. Boudinot, of the Cherokee Nation, the proper relief for the wrong done him by reason of said seizure and disposition of his property, he, the said Elias C. Boudinot, be, and is hereby, authorized to bring suit in the Court of Claims against the United States Government, to recover what may be due to him in justice and equity for the loss inflicted upon him by reason of said seizure for an alleged violation of the internal-revenue laws of his property, a tobacco factory, its detention, and damage thereto while under seizure, the value of the tobacco, material, and other personal property also seized, and the expenses to which he was subjected thereby.

It throws the whole case in the court.

Mr. KIRKWOOD. Does it not declare the opinion of Congress that there has been wrong done Mr. Boudinot?

Mr. GARLAND. If the Senator will keep in mind the preamble, it is upon condition that he has complied with the treaty of 1866. The Supreme Court, if the Senator will examine the Cherokee tobacco case, as it is styled, in 11 Wallace, did not go the length of deciding, did not construe in other words the operations of that treaty, but simply sat upon the question that Congress could repeal a treaty by an act which a great many of us are not yet prepared to accept.

Mr. McMILLAN. Will the Senator from Arkansas allow me to ask him, then, whether or not the effect of the bill is to construe that treaty and declare a determination adverse to the decision of the Supreme Court?

Mr. GARLAND. No.

Mr. McMILLAN. I understand the Supreme Court have passed on the question of that treaty and the effect the act of Congress had upon it, the Supreme Court determining that the act of Congress repealed the provisions of that treaty. Did I understand him so to say?

Mr. GARLAND. No, sir. If the Senator did he misunderstood me. The bill does not undertake to decide that question.

Mr. McMILLAN. But did the Supreme Court decide that the act of Congress to which the Senator has referred subsequent to the treaty, as I understand it, repealed the treaty?

Mr. GARLAND. That was held by a minority court.

Mr. McMILLAN. Now, is the effect of this bill reported by the committee to declare that the act of Congress does not repeal that treaty?

Mr. GARLAND. Oh, no, not at all. It leaves that just exactly where it is, but it submits the question to the court that if these gentlemen running this factory complied with the treaty of 1866 and acted in good faith and backed by the instructions and the directions of the Department lost the property, the court may give them proper damages for that, the Supreme Court not having decided the operation of this treaty as they were asked to decide it in the Indian country.

Mr. HARRIS. As I understand the Senator, the damages are to be awarded whether the treaty has been repealed or not.

Mr. GARLAND. If they acted in good faith, and did not commit any fraud, but simply carried out what they considered the treaty under which they were acting. That is the whole point in the case.

The Senate bill restricts the inquiry as to damages as to the market value of the property. The House bill leaves that an open question for the court to assess according to the rules of law; and although I reported the Senate Judiciary Committee bill, I thought it was too restricted. You cannot take property of this sort and put it in the market and sell it at any price as a matter of course, and say that price is a compensation to the owner. You may go and take in the city of Washington or the city of New York the best furnished house in either, furniture worth $50,000, and put it up at public auction, and if you get a fourth or fifth of that, you do well. The question is what that property was worth to those parties in that particular business; and that is the law of the case, because you take property for the business you want it, and it would not do to strip these persons and bring them down to the mere auctioneer's price of property that cost $500 and possibly would not sell for over a hundred in the market.

Then the House bill, as I said before, throws the question entirely before the court. They may pass upon it according to rules of law and equity. They may bring in Mr. Boudinot's bond under review in that. If he asks equity he must be compelled to do equity. That is the only difference between the two bills.

I yield to the House bill for this reason particularly: the Supreme Court itself intimated and almost said that Mr. Boudinot was entitled to some relief at the hands of the law-making power, and they found that he was guilty of no fraud, but on the contrary was all the time acting in the best of faith. He has been here some eight or ten years or more. He has prosecuted this matter before the two Houses till from a young man he is becoming not very old, but he is getting beyond the sunny side of life, like myself, and I am thirty years old, and I do not care who knows that. [Laughter.] So, Mr. President, as the session is drawing to a close, if we intend to give this person any remedy to which he is so clearly entitled, as was demonstrated by the Senator from Indiana a few weeks since, we had better pass the House bill and trust to our courts to act according to the rights of those who have litigation before the tribunals of justice.

Mr. ALLISON. I listened with interest to the remarks of the Senator from Indiana some weeks ago upon this question, and he convinced me that Mr. Boudinot under the circumstances was entitled to some relief. But in giving him this relief I want, for one, to be perfectly certain that the one hundred and seventh section of our revenue law of 1868 shall remain intact, it being what is now section 3448 of the Revised Statutes, and I am not certain whether or not this House bill will have that effect. I find the recital of the circumstances which lead up to this bill, and in the last "whereas" it is said:

And it manifestly appears that a wrong has been done to said Elias C. Boudinot in consequence of the casual infraction of the said treaty, which should be repaired by appropriate satisfaction in maintenance of said treaty, which still subsists.

Mr. VOORHEES. Will the Senator from Iowa allow me to make a suggestion? The Supreme Court has decided that the act of Congress is paramount to the treaty. The Department in its correspondence with Mr. Boudinot that I showed here some weeks ago held otherwise; but the Department itself changed its mind, and without the proper notice to Mr. Boudinot, under the advice of some agents of rather bad repute, seized the property and broke him up when he was acting according to his lights derived from the Department. Then the question came up here, and the Supreme Court held the one hundred and seventh section to be the law, the treaty to the contrary notwithstanding. There is no danger and cannot be any danger, I think, of our giving the Court of Claims any power to overrule the decision of the Supreme Court of the United States. That section is sufficiently protected by the law of the land, much more than any other provision, because it has received the construction of the Supreme Court. The fears of the Senator from Iowa, therefore, are not well grounded at all.

Mr. ALLISON. Then may I ask the Senator from Indiana why it is that in this preamble, which is the foundation of this bill, it is declared that this treaty "still subsists?" Of course the treaty does subsist in its general terms; but the Supreme Court has decided that the law of 1868, which is an essential law for the protection of the revenue, overrides the treaty to that extent, *pro tanto*.

Mr. VOORHEES. There is no place in this preamble that asserts that the tenth article of the treaty remains.

Mr. ALLISON. I am aware of that.

Mr. VOORHEES. But the tenth article is expressly overruled and held null and void by reason of the one hundred and seventh section of the revenue law.

Mr. ALLISON. Yes; but the Senator will see that this last "whereas" says:

In consequence of the casual infraction of the said treaty, which should be repaired by appropriate satisfaction in maintenance of said treaty, which still subsists.

What I want is that it shall be clearly understood that section 3448 of the Revised Statutes shall remain in force, and that neither Mr. Boudinot nor any other person in the Indian Territory against that section shall under the treaty be permitted to reorganize manufactories for the purpose of manufacturing tobacco.

Mr. VOORHEES. No one thinks of it. You could not get Mr. Boudinot to build a tobacco factory in the Indian country or anywhere else.

Mr. ALLISON. That may be true. I am willing so far as I am concerned that the Court of Claims shall take this question and give Mr. Boudinot what he is fairly entitled to because of this seizure, for I do think from the recitals made by the Senator from Indiana some days ago that Mr. Boudinot and his associates were led to incur this expenditure by the internal-revenue officers, and therefore they ought to be entitled to some remedy somewhere for this loss to himself and his associates.

Mr. VOORHEES. I can assure the Senator from Iowa that nobody thinks—it never entered my brain or the brain of Mr. Boudinot or anybody else—that the revenue laws can be called in question. The Supreme Court has declared the act of Congress to be paramount, and nobody dreams of making a question of it.

I hope there will be action on the bill. I presume nobody desires to discuss it further.

Mr. KIRKWOOD. I ought to apologize to the Senate for saying a word on this subject, because really I have not studied it so carefully as I should have done before endeavoring to engage the attention of the Senate about it; but there are some things here that seem very strange to me in an enactment by Congress. Read the last paragraph of the preamble to the House bill:

Whereas there is grave doubt that such steps were taken, and it manifestly appears that a wrong has been done to said Elias C. Boudinot, in consequence of the casual infraction of the said treaty, which should be repaired by appropriate satisfaction in maintenance of said treaty, which still subsists.

Then go on to the enacting clause:

That in order to give Elias C. Boudinot, of the Cherokee Nation, the proper relief for the wrong done him by reason of said seizure and disposition of his property, he, the said Elias C. Boudinot, be, and he is hereby, authorized to bring suit in the Court of Claims against the United States Government.

Congress does not give the Court of Claims authority to examine the question whether wrong has been done this man or not. It settles that question and leaves nothing for the Court of Claims but to determine the amount of damage to be rendered in his favor, and how is that to be measured by this bill?

To recover what may be due to him injustice and equity for the loss inflicted upon him by reason of said seizure for an alleged violation of the internal-revenue laws of his property, a tobacco factory, its detention, and damage thereto while under seizure, the value of the tobacco, material, and other personal property also seized, and the expenses to which he was subjected thereby.

Mr. VOORHEES. Now will the Senator allow me to explain to him?

Mr. KIRKWOOD. Let me proceed a moment further. He is allowed to recover. The rule is laid down to govern the court by which they shall ascertain the loss inflicted upon him by reason of the seizure of his factory, by reason of its detention, by reason of the "damage thereto while under seizure, the value of the tobacco, material, and other personal property also seized, and the expense to which he was subjected thereby." It appears to me that is a very broad rule of damages. Among other things, I am inclined to think it would cover all the expense he was put to in the suits prosecuted against him resulting in the decision of the Supreme Court that has just been read. It would certainly entitle him to recover for the damages inflicted by the seizure of his factory, the damages inflicted by its detention, the damage while it was under seizure. What that means I do not know. It may have been burned down or blown down while under seizure. Something may have occurred to it during that time. What did occur, if anything, I cannot tell.

Then he is to recover "the value of the tobacco, material, and other personal property also seized," and, as I before said, "the expenses to which he was subjected thereby." It is a very liberal rule of damages, and it seems to me that it is going very far for Congress to prescribe so minutely and extensively the rule that shall govern the court in awarding him damages. It first finds that he is entitled to damages, and it finds the rule by which the court shall be governed in awarding him damages from beginning to end. I do not know but you might as well refer it to a master in chancery at once.

Mr. VOORHEES. Will the Senator allow me now?

Mr. KIRKWOOD. Yes.

Mr. VOORHEES. Mr. President, I hold in my hand a history of this case. From the ratification of this treaty, extending over a space of nearly three years, Boudinot sought a construction to be placed upon the treaty from the Department, obtained it, step by step followed it. When this law was passed he asked for a construction and got it, that the treaty protected him in going on in his business, and at last, after everything in the world he had was invested there under the direct instructions which I hold in my hand of the Commissioner of Internal Revenue and his solicitor, Judge James, now one of the judges of the supreme court of this District, that he had a right to proceed—forty days after the last instruction of that kind, John A. Joyce and John McDonald and that class of revenue marauders in the Southwest fell upon the property and seized it and destroyed it, and ruined him and made him a broken man. The Supreme Court itself, when passing upon the question of law simply, whether the revenue law or the treaty was paramount, went out of its way in making a technical decision to declare the equity of Boudinot and to say that a wrong had been done him in as strong a manner as this bill asserts it. The court, in deciding against him, go out of the way—the Supreme Court, by Judge Swayne, in rendering the decision of the majority—and I may say here the minority of that court, composed of the distinguished Senator from Illinois, now a member of this body, then on the bench, and Justice Bradley, gave a powerful dissenting opinion that Boudinot was right in the law all the time; but the decision against him went out of its way to declare that the court were glad to know that there was no ground for any imputation upon his integrity or good faith—none whatever. They just simply said that, in a case not free from doubt and difficulty, he had acted under a misapprehension of his legal rights, and he was led into that misapprehension by the recorded letters and decisions of the Commissioner of Internal Revenue, which I hold in my hand; and then the Supreme Court go on and say that:

If a wrong has been done, the power of redress is with Congress, not with the judiciary, and that body, upon being applied to, it is to be presumed, will promptly give the proper relief.

In a case of that kind, I hold that he ought not to be restricted in the measure of his damages to what the property would sell for under the hammer at a forced sale. After being damaged by these revenue officials he ought to be allowed to go into court and prove under the evidence, if anything, how much he had been damaged. This bill does not undertake to decide a single legal question. It leaves the revenue laws standing paramount to the treaty; but it provides that he may, if he can, show to the Court of Claims that he has been damaged by this seizure, a seizure made in violation of the instructions which had been given to him for nearly three years by the officials themselves. That is all there is in this proposed legislation.

Mr. KIRKWOOD. The Senator is either very much mistaken, or I am, when he says that this bill does not undertake to decide any legal questions. Let me read a section of the preamble:

Whereas the Supreme Court of the United States was not called upon to decide, and did not decide, whether the executive officers of the United States had taken the necessary steps, &c.

When this question comes before the Court of Claims, as I think it ought to go there, it may be that court would be led to inquire what was the extent of the decision of the Supreme Court of the United States. They would have that decision before them, doubtless, but here Congress steps in and says that they were not called upon to decide and did not certain questions. Suppose the Court of Claims should differ in opinion with Congress upon that subject and hold that the Supreme Court had decided those questions, is the decision of the Supreme Court or the preamble in this bill to control their action? I confess I am not lawyer enough to know.

Mr. VOORHEES. I presume the Court of Claims would not under any circumstances attempt to overrule a decision of the Supreme Court of the United States.

Mr. KIRKWOOD. It looks to me as if Congress is at least endeavoring to tell the Court of Claims what, in the opinion of Congress, the Supreme Court of the United States did decide.

Mr. VOORHEES. If we should incorrectly quote the authority of the decision already made by the Supreme Court of the United States, I presume the Court of Claims would discriminate between where we have gone inside of our authority and the treaty itself.

Mr. KIRKWOOD. It is rather awkward for Congress to get into that quarrel.

I have called attention already to the allegation both in the preamble and in the enactment. Congress finds affirmatively, settles the question that this man has a right of action and a claim for damages against the United States. It does not leave to the Court of Claims the determination of that question.

Mr. VOORHEES. The Supreme Court of the United States told him to come here and ask for relief. The Supreme Court told him, in deciding against him, to come here.

Mr. KIRKWOOD. We can appropriate a sum of money undoubtedly, and it looks to me as if it would be more consistent to do that.

Mr. VOORHEES. We can furnish this kind of relief, too.

Mr. KIRKWOOD. It seems to me it would be more consistent with respect to ourselves and for the Court of Claims for us to do it than for us to find in advance what the law is, and then send it to the Court of Claims to assess the damages, and lay down the precise rule, and it seems an extraordinarily liberal rule, by which the damages shall be found.

Let me repeat again what is to be the rule of damages: "The loss inflicted upon him by reason of said seizure * * * of his property, a tobacco factory," the damages inflicted upon him by the seizure, the damages inflicted upon him by the detention of his property, the damage to the property while it was under seizure, then the value of the tobacco, then the value of the factory, then the value of other personal property also seized, and then the expenses to which he was subjected thereby.

Mr. VOORHEES. Permit me to say to the Senator from Iowa who I understand is a good lawyer——

Mr. KIRKWOOD. No.

Mr. VOORHEES. And I know he is a candid man——

Mr. KIRKWOOD. It is because I am not a good lawyer that I am calling the attention of the Senate to this matter.

Mr. VOORHEES. It may be that the party may not prove any damages under a good many of these heads; but if he can prove damages under these heads, and it is right to allow them, he ought to have a right to do it, ought he not?

Mr. KIRKWOOD. It seems to me the safer rule is to allow the court to say what shall be the rule of damages in this as in other cases under the law.

Mr. VOORHEES. This does not fix any amount of damages. It fixes the points on which he may give proof of damages.

Mr. KIRKWOOD. It fixes that certain things shall be the basis of damages; and now I would ask the Senator himself under this would he have the right to recover if the bill should become a law the costs and expenses incurred by him in defending the suits brought against him?

Mr. VOORHEES. I think he would.

Mr. KIRKWOOD. His lawyer's fees and all?

Mr. VOORHEES. If the court should allow them.

Mr. KIRKWOOD. But would the court be required to allow them to him under this?

Mr. VOORHEES. No, I think not. Good lawyers all around me say, "Not at all."

Mr. KIRKWOOD. I have done my duty, Mr. President, in calling the attention of the Senate to it.

Mr. VOORHEES. I will certify that the Senator has.

Mr. KIRKWOOD. And will end what I have to say by declaring that I shall vote against substituting the House bill for the Senate bill. I like the Senate bill much the better.

Mr. McDONALD. Mr. President, as I understand this bill it takes up the case of Mr. Boudinot just where the decision of the Supreme Court left it and proposes to authorize him to bring an action in the Court of Claims to recover the damages which he has sustained by

the seizure and confiscation of his property by the revenue authorities in a case where the Supreme Court says that but for the effect of the revenue act upon the treaty stipulation he would not have been in fault at all, and that acting under the treaty stipulation he had acted in good faith, supposing that as a Cherokee he had a right to engage in manufacturing as he did without incurring any penalties under the laws of the United States. That is what I understand this bill to be, the Supreme Court having passed upon all these other questions, and having arrived at the conclusion that he would have been entitled to a restoration of his property and to such remedies and relief as the law gave him as for an unlawful seizure but for the effect of the revenue acts upon the treaty stipulations under which he claimed to be acting. The Supreme Court thought that he ought not to be mulcted in damages for acting under the treaty stipulation, that ought to be a restoration of rights to him and a redress of the injury, because he had supposed himself, as a person entitled to the benefit of that treaty, to be acting clearly within his legal authority; and this bill simply sends to the Court of Claims the question—and that is all it ought to send there—of how much he has been damnified.

Mr. ALLISON. May I ask the Senator from Indiana a question?

Mr. McDONALD. Yes, sir.

Mr. ALLISON. I find this bill provides:

That in order to give Elias C. Boudinot, of the Cherokee Nation, the proper relief for the wrong done him by reason of said seizure.

The Supreme Court decided that the seizure was lawful, and yet we decide here in advance that it was wrong.

Mr. McDONALD. No; the Supreme Court decided that it was legal, because it was made under an act of Congress that overrode the treaty, but that it was wrong as to him, because he was acting in good faith under the supposed protection of the treaty. That is exactly the situation. The purpose of this bill, as I have said, is to take up this case just at that point and not go over those proceedings again. There was a trial in the district court of the United States for the western district of Arkansas and an appeal from its decision to the Supreme Court of the United States, in which the question of good faith and of the manner in which he acted was before the court, and the Supreme Court held, if I understand their decision, that if he and the bureau had not misconceived the law at the time he established his manufactory there, and if the treaty stipulation had been a protection to him, as he supposed it was, then the seizure would have been all wrong.

There are a great many things that may be law and yet act very unjustly, as this did in this case when we consider it with reference to the person involved. Here was a person who supposed that the treaty entered into between his people and the United States in reference to their rights and privileges within what is called the Indian nation, the Indian Territory, protected him against the operation of the revenue laws of the United States with respect to the manufacture of tobacco, and the Internal Revenue Bureau supposed the same thing, arrived at the same conclusion; and afterward, when a different conclusion was arrived at and the seizure took place, the Supreme Court of the United States decided that the act of Congress superseded the treaty, and that the revenue acts therefore made him liable legally, technically, as for a wrong. Now, the question is whether, following the suggestion made by the Supreme Court of the United States as to the department of Government he should apply to for relief, this bill properly meets the case.

Mr. ALLISON. Now will the Senator allow me one moment?

Mr. McDONALD. Yes, sir.

Mr. ALLISON. I find trouble with this last clause of the preamble:

Whereas there is grave doubt that such steps were taken, and it manifestly appears that a wrong has been done to said Elias C. Boudinot, in consequence of the casual infraction of the said treaty.

Now, the Supreme Court has absolutely decided that there was no infraction of the treaty.

Mr. McDONALD. But there was an infraction of the revenue law.

Mr. ALLISON. But we lay the foundation of this bill on grounds directly opposite to the grounds stated by the Supreme Court.

Mr. McDONALD. I think not.

Mr. ALLISON. We say he is entitled to relief because there was an infraction of the treaty. The Supreme Court expressly decided that the law was an overriding or overruling of the treaty and that the treaty was not in force.

Mr. McDONALD. The law broke the treaty. The act of Congress overrode the treaty. That was the infraction.

One word now in reference to the question that we send to the Court of Claims. We send to the Court of Claims the question of the ascertainment of the damage that he has suffered by reason of the seizure of that property, and I think that is right. I do not think we should send any other question there if the records and if the decision of the Supreme Court are to be relied on at all in this case; and in sending that question I do not think the House bill covers anything more than in equity and justice he would have a right to show to that court and to recover such damages before that court as he may prove he has sustained in respect to any one of these specifications.

Mr. McMILLAN. Will the Senator from Indiana allow me?

Mr. McDONALD. Wait one moment, until I get through with this point. It is true this bill might have assessed these damages. It was competent for Congress to have done so upon such proof as might be submitted to the committees and receive the consideration of the two Houses, but I submit that it is better in a case of this kind that the assessment should go to a tribunal like the Court of Claims, where there will be proofs upon such testimony as is admissible, and only such as is admissible in a court of justice, where the testimony will not be *ex parte*, but where the whole question may be fully and judicially investigated.

As to the latter provision in the bill in regard to the expenses which he was subjected to, that certainly does not include attorneys' fees. No lawyer will claim that under the term "expenses" anything is covered except judicial expenses. Attorneys' fees are never so regarded. It is the judicial expenses. "Expenses" is something of a technical term when used in an act of this kind, and would not embrace what he may have paid to his attorneys or agents. That is a different class of expenditure entirely, and not covered by the term "expenses incurred in litigation."

Mr. McMILLAN. That is not the language of the bill if the Senator from Indiana will observe.

Mr. McDONALD. Yes.

Mr. McMILLAN. "And the expenses to which he was subjected thereby."

Mr. McDONALD. "Expenses." I say the term "expenses" does not include attorneys' fees, but simply judicial expenses that he is subjected to in the prosecution or defense of his suit.

Mr. McMILLAN. If the Senator from Indiana will allow me to direct his attention to the language of this bill as to the rule of damages, I think he will come to a somewhat different conclusion from that stated by him. This bill settles that Boudinot has a cause of action against the United States. Clearly that question is not open.

Mr. McDONALD. I think not.

Mr. McMILLAN. Clearly not open. Then he is—

Authorized to bring suit in the Court of Claims against the United States Government, to recover what may be due to him in justice and equity for the loss inflicted upon him by reason of said seizure for an alleged violation of the internal-revenue laws of his property, a tobacco factory, its detention, and damage thereto while under seizure.

The Supreme Court decided that this seizure was technically right.

Mr. McDONALD. Technically legal.

Mr. McMILLAN. Technically legal, of course, and that means right. The officers of the law were properly in possession of this property, and yet, under the language of this bill, if that tobacco factory had been burned while it was under seizure the Government of the United States would have been liable for its value. It is liable for any injury which occurred to that building during its possession by the United States, although it held it properly under the process of law. "Any injury;" this language puts it beyond all doubt. It gives the court no discretion in the matter. The bill does not say that he may recover whatever damages he may be legally entitled to. It specifies the terms in which he shall recover, and it gives him a right to recover where even a person could not recover against a wrong-doer in an action at law. It makes the Government an insurer for this property during all the time it held it, and for aught we know this property may have been destroyed by fire while it was held by the Government of the United States.

The value of the tobacco, material, and other personal property also seized, and the expenses to which he was subjected thereby.

The Senator from Indiana who has just addressed the Senate claims that the word "expenses" includes such expenses as were necessarily incurred in the litigation. If the term "costs" had been used, then the Senator from Indiana might have been correct; but the term "expenses" is far beyond the term "costs." It must have been used with an intention to give Boudinot recompense for all the expenses which he incurred in any way arising out of this seizure. It cannot be intended that the Government should recompense him for all these.

The Supreme Court, as I understand it, has decided that this property was properly seized under the revenue laws; but as I apprehend the general opinion seems to be here that Boudinot was led into error under some instructions from the revenue officers. If that be so, then the law operating hardly in his case you may recompense him; but this bill certainly goes too far. I cannot see how we can properly pass a bill extending as far as this does, giving him damages beyond what a person would have a right to recover even against a wrong-doer in trespass.

Mr. BUTLER. Before the Senator sits down may I ask him a question? I ask him if, in his opinion, under this bill there is any command to the Court of Claims?

Mr. McMILLAN. I have no doubt whatever but that this is imperative, and that the court must allow him whatever damages he proves under any of these items.

Mr. BUTLER. The Senator had not heard me through. My view of the language of the bill is that it is simply directory and not mandatory; there is no command here, as I understand, on the part of the Congress of the United States requiring the Court of Claims to award Mr. Boudinot any amount of damages whatever. It simply says that if he should prove damage for this, that, or the other, he shall have it. That is all.

Mr. McMILLAN. Of course it must be proved; but if he proves damages under any of these specifications, then he can recover.

Mr. BUTLER. I am sure the Senator would not deny him damages if he can prove them.

Mr. McMILLAN. If the Senator from South Carolina will just observe the instance to which I have called attention, that if this property had been destroyed by fire without any negligence upon the part of the officers of the Government, if he should prove that fact, we should be compelled to reimburse him the whole value of the property, and the court cannot deny the allowance under this bill.

Mr. BUTLER. I think the Supreme Court very clearly indicates that he is entitled to damages from the very language of its decision.

Mr. McMILLAN. It never was heard of that a person could recover damages for the loss of property by accident or any unintentional injury or for any other injury except through carelessness while in the possession of the officers of the law under legal process; and yet here it is required. I am willing to go as far as could reasonably be asked for in this matter, but this bill I think goes entirely too far.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. McMILLAN. I move that the Senate adjourn. I think this matter had better be looked into further.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the Senate do now adjourn.

Mr. VOORHEES. I hope the Senate will vote on this bill. We can pass it in a minute. I hope the motion will be withdrawn.

Mr. McMILLAN. Well, I withdraw the motion.

The bill was reported to the Senate without amendment.

Mr. KIRKWOOD. I think this bill of sufficient importance to have the yeas and nays to test the sense of the Senate, and I ask for the yeas and nays on the third reading of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 8; as follows:

YEAS—31.

Anthony,	Coke,	Lamar,	Ransom,
Bailey,	Eaton,	McDonald,	Slater,
Bayard,	Groome,	McPherson,	Vance,
Beck,	Hampton,	Maxey,	Vest,
Booth,	Hereford,	Morgan,	Voorhees,
Brown,	Hill of Georgia,	Paddock,	Walker,
Butler,	Jonas,	Pendleton,	Williams.
Call,	Jones of Florida,	Randolph,	

NAYS—8.

Cockrell,	Farley,	Kirkwood,	Morrill,
Davis of W. Va.,	Harris,	McMillan,	Thurman.

ABSENT—37.

Allison,	Davis of Illinois,	Johnston,	Saunders,
Baldwin,	Dawes,	Jones of Nevada,	Sharon,
Blaine,	Edmunds,	Kellogg,	Teller,
Blair,	Ferry,	Kernan,	Wallace,
Bruce,	Garland,	Logan,	Whyte,
Burnside,	Grover,	Platt,	Windom,
Cameron of Pa.,	Hamlin,	Plumb,	Withers.
Cameron of Wis.,	Hill of Colorado,	Pryor,	
Carpenter,	Hoar,	Rollins,	
Conkling,	Ingalls,	Saulsbury,	

So the bill was ordered to a third reading.

It was read the third time, and passed.

ORDER OF BUSINESS.

Mr. MORGAN. I move that the Senate proceed to the consideration of Senate bill No. 1687.

The PRESIDENT *pro tempore*. The Senator from Alabama moves to postpone all prior orders and proceed to the consideration of the bill (S. No. 1687) to enforce the observance of the Constitution of the United States in reference to elections of President and Vice-President of the United States. The question is, Will the Senate postpone all orders prior to that?

Mr. BAYARD. I would ask the honorable Senator to modify his motion so as to lay aside the prior order informally.

Mr. MORGAN. I have no objection to that.

Mr. BAYARD. I do not desire that the tariff-commission bill should be displaced. The honorable Senator from Connecticut [Mr. EATON] has the floor for to-morrow at half past one, and as matters now stand that bill is the unfinished business. It is now quarter past six, and I submit to my friend that unless the order is made in the form I propose there is danger of displacing the tariff-commission bill.

Mr. ANTHONY. Mr. President, I move that the Senate adjourn.

Mr. RANSOM. One word, if the Senator from Alabama will allow me to say a word.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island withdraw his motion?

Mr. ANTHONY. I withdraw the motion for an explanation from the Senator from North Carolina, if he will renew it when he has finished.

Mr. RANSOM. I understood the Senator from Alabama to have the floor. I ask pardon of the Senator from Rhode Island.

Mr. ANTHONY. I moved an adjournment.

Mr. RANSOM. I thought the Senator from Alabama was still on the floor. The Senator from Delaware stated that the Senator from Connecticut had the floor for to-morrow at half past one o'clock. I undertook to state this morning—and I understand it has since been stated by the Chair—that immediately after the completion of routine business in the morning I would move to take up the river and harbor bill, and I would not like any motion to be made that would interfere with that.

Mr. MORGAN. No motion is being made now to interfere with that. In view of the statement of the Senator from Delaware, I wish to ask that the pending order be laid aside informally, not to be prejudiced by an adjournment, if the Senate will make that order, for the consideration of the bill I have indicated.

Mr. ANTHONY. The Senator from Alabama does not accomplish anything by laying aside the pending order informally. The informal taking up of his bill expires with the adjournment.

Mr. MORGAN. I say to the Senator from Rhode Island that I accomplish this much: I am charged by a committee to present this bill to the Senate. It is a measure affecting the entire people of the United States. While I do not wish to intrude myself, I think it is a duty I cannot possibly avoid, having charge of the bill, to ask the Senate to proceed to its consideration, it being a measure which I believe will not really take half an hour's time. There is but one possible question connected with it, only one that will involve a division of opinion, and I think the Senators on both sides will be ready to vote on the passage of this measure. I respectfully ask the Senate to pass by the pending order informally, without prejudice by an adjournment, and to take up this measure, so that it may come up to-morrow, and then if the bill of the Senator from North Carolina takes precedence over this of course it will have it.

The PRESIDENT *pro tempore*. The Senator from Alabama asks unanimous consent to lay aside all pending and prior orders.

Mr. ANTHONY. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate adjourn.

The motion was agreed to; and (at six o'clock and sixteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 31, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Friday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday the first business in order is the call of States and Territories, beginning with the State of Nevada, for the introduction of bills and joint resolutions, for reference to their appropriate committees. Under this call memorials and joint resolutions from State and territorial Legislatures, and also resolutions calling upon the Executive Departments for information, are in order for reference.

The Chair desires to explain why he recognizes this call of the States and Territories as having priority over the sundry civil appropriation bill upon which the previous question was ordered on Friday last. The first clause of Rule XXIV provides that—

> Each Monday morning, during a session of Congress, immediately after the Journal of the proceedings of the last day's sitting has been read and approved, the Speaker shall call all the States and Territories, &c.

This appears to come in conflict with Rule XVII, relating to the operation of the previous question. But the uniform practice of the House has been not to allow anything to interfere with the opportunity afforded on Monday, under the rules, for the introduction of bills and joint resolutions. The Chair thinks it safe to adhere to this usage, in spite of the apparent conflict with the rule as to the effect of the previous question when it has been ordered upon a bill. The Chair, in recognizing an exception to that rule in favor of this order of business on Monday, does not decide anything as to the effect of Rule XVII on any other day. That rule declares the effect of the previous question shall be to "bring the House to a direct vote upon the immediate question or questions." But in view of the word "immediately," as used in Rule XXIV, in defining the business for Monday morning "immediately after the reading of the Journal," the Chair deems it equitable to hold that the call of the States on Monday morning cannot be interrupted, even under the operation of the previous question coming over from a preceding day. If anything should be allowed to interrupt this call, the business interrupting it might run through the entire day, and thus the call be entirely excluded.

Mr. SAMFORD. I desire to ask unanimous consent——

The SPEAKER. The Chair will not entertain any request for unanimous consent at this time. The practice has been to allow nothing to interfere with this call. He will recognize requests for unanimous consent as soon as he is able.

Mr. HAYES. Will the previous question ordered on Friday last come into operation immediately after the morning hour?

The SPEAKER. It will operate immediately after the call of States and Territories is completed. There is to-day no morning hour until after the call of States and Territories has been completed. To-day the previous question on the sundry civil appropriation bill would interrupt and come in advance of the morning hour for reports.

LUCRETIA CLARK.

Mr. ROSS introduced a bill (H. R. No. 6327) granting increase of pension to Lucretia Clark; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

C. A. OLIVER.

Mr. ROSS also introduced a bill (H. R. No. 6328) for the relief of C. A. Oliver; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

EIGHT-HOUR LAW.

Mr. ROBESON introduced a bill (H. R. No. 6329) to enforce the eight-hour law; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

LOAN OF CAMP EQUIPAGE.

Mr. ROBESON also introduced a joint resolution (H. R. No. 313) to authorize the Secretary of War to loan camp equipage to the departments of the Grand Army of the Republic; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ELIZABETH REESE.

Mr. PRESCOTT introduced a bill (H. R. No. 6330) granting arrears of pension to Elizabeth Reese; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JARVIS C. LINCOLN.

Mr. PRESCOTT also introduced a bill (H. R. No. 6331) granting a pension to Jarvis C. Lincoln; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

F. Z. TUCKER.

Mr. O'REILLY introduced a bill (H. R. No. 6332) for the relief of the heirs of F. Z. Tucker; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JOHN D. CARROLL.

Mr. BLISS (by request) introduced a bill (H. R. No. 6333) for the relief of John D. Carroll, of Brooklyn, New York; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

DANIEL E. DAVENPORT.

Mr. BLISS (by request) also introduced a bill (H. R. No. 6334) for the relief of Daniel E. Davenport; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

ANTHONY IHMS.

Mr. BLISS (by request) also introduced a bill (H. R. No. 6335) for the relief of the heirs of Anthony Ihms; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

HENRY MULLEN.

Mr. SMITH, of Pennsylvania, introduced a bill (H. R. No. 6336) for the relief of Henry Mullen, postmaster at Columbia, Pennsylvania; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

O. P. SEALS, DECEASED.

Mr. DIBRELL introduced a bill (H. R. No. 6337) to remove the charge of desertion from the record of O. P. Seals, deceased; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES M. COOK.

Mr. WELLBORN introduced a bill (H. R. No. 6338) granting a pension to James M. Cook; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BETTIE M. DOWNIE.

Mr. MAGINNIS introduced a bill (H. R. No. 6339) granting a pension to Bettie M. Downie; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TIMBER FOR MINING AND DOMESTIC PURPOSES.

Mr. DOWNEY introduced a bill (H. R. No. 6340) authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ZELL COLLIER.

Mr. GUNTER introduced a bill (H. R. No. 6341) for the relief of Zell Collier, of Carrollton, Arkansas; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JOHN WATKINS.

Mr. GUNTER also introduced a bill (H. R. No. 6342) for the relief of John Watkins, of Carrollton, Arkansas; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MRS. ELLEN CALL LONG AND MRS. MARY K. BREVARD.

Mr. DAVIDSON introduced a bill (H. R. No. 6343) for the relief of Mrs. Ellen Call Long and Mrs. Mary K. Brevard; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

SAMUEL A. DAUGHENBAUGH.

Mr. DEERING introduced a bill (H. R. No. 6344) for the relief of Samuel A. Daughenbaugh, late a private in Company G, Forty-sixth Illinois Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HOMESTEAD ENTRIES.

Mr. RYAN, of Kansas, introduced a bill (H. R. No. 6345) authorizing the certificate and patent to issue for homestead entries at the expiration of three years from the date of entry; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

BRIDGE ACROSS THE OHIO AT PADUCAH.

Mr. OSCAR TURNER (by request) introduced a bill (H. R. No. 6346) to authorize the construction of a bridge across the Ohio at Paducah, Kentucky; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CENSUS ENUMERATORS.

Mr. HENRY submitted the following preamble and resolution:

Whereas the "act to provide for taking the tenth and subsequent censuses" expressly requires that "enumerators shall be selected solely with reference to their fitness and without reference to their political or party affiliations;" and

Whereas a disregard of this requirement tends, as experience has shown, to impair the accuracy and destroy public confidence in the fairness of the census; and

Whereas for weighty reasons it is of the utmost importance that the social, material, and other interests of every part of the country should be clearly exhibited in correct and impartial statistics, free from every appearance of suspicion of political bias: Therefore,

Resolved, That the Secretary of the Interior be, and he is hereby, requested to inform this House whether the above-mentioned requirement of the law has been observed in the appointment of enumerators in the second census district of Maryland; and to furnish this House with a list of the enumerators appointed in the several counties composing said district, together with a statement of the political or party affiliations of each of said enumerators.

Mr. DUNNELL. Is that resolution in order at this time?

Mr. COX. It is a resolution of inquiry and is in order.

The SPEAKER. The Clerk will read the first clause of Rule XXIV.

The Clerk read as follows:

1. Each Monday morning during a session of Congress, immediately after the Journal of the proceedings of the last day's sitting has been read and approved, the Speaker shall call all the States and Territories in alphabetical order for bills and joint resolutions for printing and reference, on which call, joint and concurrent resolutions and memorials of State and territorial Legislatures may be presented and appropriately referred, and on this call only, resolutions of inquiry directed to the heads of the Executive Departments shall be in order for reference to appropriate committees, which resolutions shall be reported to the House within one week thereafter.

The SPEAKER. The Chair thinks this is a resolution of inquiry and is in order under this call and that it should go, under the rule, to the Committee on the Census.

Mr. COX. The gentleman from Maryland amends the resolution by inserting the words "and other districts."

The SPEAKER. The Chair has nothing to do with that. The gentleman can present his resolution as he sees fit.

Mr. HENRY. I have no objection to the modification suggested by the gentleman from New York.

The SPEAKER. The resolution will go to the Committee on the Census and that committee can amend it as it may deem best when it reports it back to the House.

Mr. COX. Very well, that will answer my purpose.

The SPEAKER. The resolution is referred to the Committee on the Census.

A. P. BURDITT AND JAMES FISK.

Mr. CLAFLIN introduced a bill (H. R. No. 6347) for the relief of A. P. Burditt and James Fisk; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

GARDNER C. BUCK.

Mr. HORR (by request) introduced a bill (H. R. No. 6348) granting a pension to Gardner C. Buck; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK CASEY.

Mr. HORR (by request) also introduced a bill (H. R. No. 6349) for the relief of Patrick Casey; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

WASHINGTON G. IRWIN.

Mr. FINLEY introduced a bill (H. R. No. 6350) for the relief of Washington G. Irwin; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN GAREGHTY.

Mr. CARPENTER introduced a bill (H. R. No. 6351) for the relief of John Gareghty; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ROBERT PELKEY.

Mr. COWGILL introduced a bill (H. R. No. 6352) for the relief of Robert Pelkey, private Company A, Twentieth Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL A. BERCHETT.

Mr. HOUSE introduced a bill (H. R. No. 6353) granting a pension to Daniel A. Berchett, of Nashville, Tennessee, a soldier of the Mexican war; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

PUBLIC BUILDING, NEWARK, OHIO.

Mr. ATHERTON introduced a bill (H. R. No. 6354) to provide for the construction of a public building at Newark, Ohio; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

HERMANN VOIGHTLANDER.

Mr. DEUSTER introduced a bill (H. R. No. 6355) granting a pension to Hermann Voightlander, late a sergeant Company K, Thirteenth New York Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIAS K. PREUITT.

Mr. MORRISON introduced a bill (H. R. No. 6356) for the relief of Elias K. Preuitt, late sergeant Company K, Eightieth Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CONRAD H. FLICK.

Mr. MORRISON also introduced a bill (H. R. No. 6357) for the relief of Conrad H. Flick, late sergeant Company B, Eightieth Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SETTLERS IN KANSAS AND NEBRASKA.

Mr. RYAN, of Kansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House bill No. 5975, with a view to concurring in the Senate amendments.

The SPEAKER. The Clerk will report the title of the bill, after which the Chair will ask for objections.

The Clerk read as follows:

A bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas.

The SPEAKER. There being no objection to the present consideration of the bill, the Clerk will report the Senate amendments.

The Clerk read as follows:

In line 5, strike out "State" and insert "States;" and after "Kansas" insert "and Nebraska;" and in line 6, strike out "east line of the counties of Harper, Kingman, Reno, Rice, Ellsworth, Lincoln, Mitchell, and Jewell" and insert "sixth principal meridian;" so as to make the bill read:

"That it shall be lawful for homestead and pre-emption settlers on the public lands, or pre-emption settlers upon Indian reservations, in the States of Kansas and Nebraska west of the sixth principal meridian, where there has been a loss or failure of crops, from unavoidable cause, in the year of 1879 or 1880, to leave and be absent from said lands until the 1st day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office may prescribe; and during said absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred."

Also, amend the title so as to read: "An act for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska."

Mr. RYAN, of Kansas. I move to concur in the Senate amendments.

Mr. BAKER. I would like to ask the gentleman from Kansas whether or not the Committee on Public Lands have considered these amendments and directed him to move concurrence therein?

Mr. RYAN, of Kansas. The committee have no objection to it. It is all right.

The Senate amendments were concurred in.

The SPEAKER. If there be no objection, the title of the bill will be amended as indicated.

There was no objection, and it was ordered accordingly.

Mr. RYAN, of Kansas, moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' REUNION AT KIRKSVILLE, MISSOURI.

Mr. HATCH. I ask unanimous consent to introduce a joint resolution for present consideration.

The SPEAKER. The joint resolution will be read, after which objections, if any, will be in order.

The joint resolution was read, as follows:

A joint resolution granting the use of artillery, muskets, and tents at the soldiers reunion in Northeast Missouri.

Resolved, &c., That the Secretary of War be, and hereby is, authorized to send from some convenient arsenal for use at the soldiers' reunion in Northeast Missouri to be held in September, 1880, at Kirksville, Missouri, four cannon, five hundred muskets, and five hundred tents, if the same or any part can be spared without detriment or injury to the public service: *Provided*, That all transportation to and from the place of reunion shall be without any expense to the United States, and the said cannon, muskets, and tents, or the number that can be spared, shall be duly receipted for by responsible persons who shall be responsible for the same and shall return the same in as good order as received, ordinary wear and tear excepted, and shall be responsible for all such articles received, and pay for any not returned, at cost prices.

Mr. BAKER. If the gentleman from Missouri will make a slight amendment to the joint resolution, I have no objection to its passage. Otherwise, I feel disposed to object.

Mr. HATCH. In what respect does the gentleman propose to amend it?

Mr. BAKER. Instead of requiring the parties to give a simple receipt, the joint resolution should require the parties who receipt to give a good and sufficient bond to the Secretary of War.

Mr. HATCH. I have no objection to that.

Mr. BAKER. That is the usual form, I beg to say.

Mr. HATCH. This has been drawn in conformity with one or two similar joint resolutions that have passed the Senate. It was sent to me by Senator COCKRELL. I have no objection, however, to the amendment suggested by the gentleman from Indiana.

There being no objection, the joint resolution (H. R. No. 314) was read a first and second time.

Mr. BAKER. I now move to amend as follows:

After the words "excepted, and shall" insert "execute a bond to the United States in such form as the Secretary of War shall direct and approve, and."

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HATCH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

G. W. LITTLEFIELD.

Mr. UPSON, by unanimous consent, introduced a bill (H. R. No. 6358) for the relief of G. W. Littlefield; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CARPENTER. I ask unanimous consent to take from the Private Calendar for present consideration the bill (H. R. No. 1102) granting a pension to John S. Corlett. The bill passed both Houses of Congress at the last session of the Forty-fifth Congress but failed to reach the President in time to receive his signature.

Mr. VAN VOORHIS. What is the number of the bill?

Mr. CARPENTER. It is House bill No. 1102.

Mr. BOUCK. It appears there is to be discussion, and I call for the regular order, that we may dispose of the appropriation bill.

The SPEAKER. The regular order is the sundry civil appropriation bill, on which the main question has been ordered.

DISTRICT APPROPRIATION BILL.

Mr. COBB. I rise to make a privileged report. I submit the report of the committee of conference on the District appropriation bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House of Representatives No. 5896, making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment numbered 20.

That the House recede from its disagreement to the amendments of the Senate numbered 10, 11, 16, 17, 19, 22, and 23, and agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 3, and agree to the same, amended as follows: In lieu of the sum proposed, insert $37,000; and the Senate agree to the same.

T. R. COBB,
JOSEPH C. S. BLACKBURN,
JOSEPH R. HAWLEY,
Managers on the part of the House.
R. E. WITHERS,
JAMES B. BECK,
Managers on the part of the Senate.

The explanatory statement accompanying the conference report was read, as follows:

There were nine matters of difference between the two Houses, most of which were comparatively unimportant. The effect of the action on disagreement on amendment 3 is to reduce the sum of $45,000, as recommended by the House, for the support of the insane in the District of Columbia, to $37,000. On amendment 10 $3,000 were granted for a map showing sub-divisions of land of the District outside of the cities. On amendments 16 and 17 the agreement is to dispense with the mechanical janitor provided by the House and allot this work to the various janitors. On amendment 19, to increase the amount for fuel $2,000. By amendment 20, to assert the limit under which purchases of sites for school buildings may be made out of the appropriation in the bill for that purpose. By amendment 23, to allow the amount for school buildings to be used for one or more buildings and sites when necessary.

The report of the committee of conference was adopted.

Mr. COBB moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AGRICULTURAL REPORT FOR 1879.

Mr. WILSON. I rise to make a privileged report. I present the conference report which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution of the House of Representatives to print 300,000 copies of the Annual Report of the Commissioner of Agriculture for

1879 having met, after a full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment, namely: Strike out "194" and insert "214;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same, with an amendment, namely: Strike out "76" and insert "56;" and the Senate agree to the same.

B. WILSON,
P. C. HAYES,
Managers on the part of the House.
M. W. RANSOM,
H. B. ANTHONY,
Managers on the part of the Senate.

The Clerk read the following explanatory statement accompanying the conference report:

The Committee on Printing submit the following statement to the House to accompany the report of the conference committee of the two Houses on the House concurrent resolution to print 300,000 copies of the Report of the Commissioner of Agriculture, for 1879.

The distribution as made by the resolution as it originally passed the House was as follows:

To the Senate	50,000
To the House	220,000
To the Department	30,000
Making a total of	300,000

In the Senate this was amended as follows:

To the Senate	76,000
To the House	194,000
To the Department	30,000
Making a total of	300,000

The conference report makes the following distribution:

To the Senate	56,000
To the House	214,000
To the Department	30,000
Making a total of	300,000

This gives to members of the Senate about 710 copies each; and to members of the House about 706 copies each.

The report of the committee of conference was adopted.

Mr. WILSON moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate requested the return by the House of a bill of the Senate, No. 562, granting an increase of pension to Thornton Smith.

Mr. WHITTHORNE. I hope the request of the Senate for the return of the bill will be agreed to.

The SPEAKER. If there be no objection, the request of the Senate will be complied with, as is usual in such cases.

There was no objection, and it was so ordered.

DEFICIENCY APPROPRIATION BILL.

Mr. COBB, from the Committee on Appropriations, reported back, with amendments, the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee of the Whole on the state of the Union.

Mr. COBB. I will state to the House that there have been some amendments made by the Committee on Appropriations mainly by way of additions to the bill. The amendments are simple in their character and easily understood; but if the House desires that the bill be printed with the amendments the order can now be made.

Mr. WILLITS. Let us have it printed.

Mr. COBB. I merely desire to call the attention of the House to the fact that amendments have been made to the bill.

The SPEAKER. If there is no objection the bill will be printed.

Mr. BAKER. I object to printing the bill. The amendments are all of a trifling character, and if it is ordered to be printed it will delay the consideration of the bill. I am sure that no gentleman would desire to delay the consideration of the bill merely for the purpose of having a few unimportant amendments printed.

The SPEAKER. It would involve the printing of 1,500 copies of a fifty-four-page bill.

Mr. ATKINS. There is but one material amendment and that can be very readily explained.

Mr. COBB. I do not ask to have the bill printed. I desire to give notice that as soon as the sundry civil appropriation bill is disposed of I will move to proceed to the consideration of the deficiency bill.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I call for the regular order.

The SPEAKER. The regular order is the sundry civil appropriation bill, reported from the Committee of the Whole with amendments, and coming over from Friday last under the operation of the previous question. The Chair is advised that there are thirty-five amendments, or about that number, reported from the Committee of the Whole, but that separate votes have been called for on only eight of those amendments.

Mr. BUCKNER. Is it competent now, with the consent of the gentleman in charge of the bill, [Mr. BLOUNT,] to offer a substitute for one of the amendments adopted in Committee of the Whole and reported to the House?

The SPEAKER. The previous question is prevailing on all the amendments.

Mr. BLOUNT. And I desire to modify the statement with regard to the number of amendments upon which separate votes are asked.

Mr. BUCKNER. Is it competent now to offer an amendment with the consent of the gentleman from Georgia?

The SPEAKER. Not with the consent of the gentleman from Georgia, but with the unanimous consent of the House.

Mr. BUCKNER. I have a substitute which I desire to propose for one of the amendments which was adopted by the Committee of the Whole.

Mr. HAYES. I call for the regular order.

The SPEAKER. The regular order being called for, that is equivalent to an objection to the request of the gentleman from Missouri, [Mr. BUCKNER.]

Mr. BAKER. I would suggest that the amendments be read in their order, and then if any member desires a separate vote on any one of them he can demand it.

The SPEAKER. That will be done.

The first amendment upon which a separate vote was called for was in the following paragraph:

Custom-house and post-office, Evansville, Indiana: For fencing, grading, and approaches, $15,000.

The amendment was to strike out "$15,000" and insert "$25,000."

Mr. BLOUNT. I ask for the yeas and nays on that amendment.

Mr. BAKER. Let the vote be taken by a division first.

Mr. BLOUNT. Very well.

The question was taken upon the amendment; and, upon a division, there were—ayes 73, noes 47.

Before the result of this vote was announced,

Mr. BLOUNT called for the yeas and nays.

Mr. BAKER. I hope the gentleman will not call for the yeas and nays; that was a pretty full vote.

Mr. BLOUNT. Very well, I will withdraw the call.

So the amendment was agreed to.

The next amendment upon which a separate vote was demanded was to strike out the following:

And so much of section 4672 of the Revised Statutes of the United States as provides compensation to collectors of the customs for services as superintendents of lights or as disbursing agents for the Light-House Establishment is hereby repealed.

The question was taken upon agreeing to the amendment; and upon a division there were—ayes 56, noes 69.

Before the result of this vote was announced,

Mr. HAWLEY called for tellers.

Tellers were ordered; and Mr. HAWLEY and Mr. BLOUNT were appointed.

The House again divided; and the tellers reported—ayes 59, noes 69.

No further count being called for, the amendment was not agreed to.

The next amendment upon which a separate vote was asked was to insert after line 290 the following:

Commissions to superintendents of lights: For commissions to collectors of customs acting as superintendents of lights, being for disbursements to be made by them for the Light-House Establishment during the fiscal year ending June 30, 1881, $7,500.

Mr. BLOUNT. That amendment was adopted in Committee of the Whole in consequence of adopting the one just voted upon. As the one has been disagreed to the other should also be disagreed to.

The amendment was not agreed to.

The next amendment upon which a separate vote was asked was in the following paragraph:

Coast and Geodetic Survey:

Survey of the Atlantic and Gulf coasts, eastern division: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts of the United States, the Mississippi and other rivers, to the head of either tidal influence or ship navigation; soundings, deep-sea temperatures, dredgings, and current observations along the above-named coasts, in the Gulf of Mexico and the Gulf Stream, including its entrance into the Gulf, its course through the Caribbean and into and around the Sargasso Sea; the triangulation toward the western coast, and furnishing points for State surveys; the preparation and publication of charts, the Coast Pilot, and other results of the work, with the purchase of materials therefor, including compensation of civilians engaged in the work, $275,000.

The amendment was to strike out "$275,000" and to insert "$300,000."

Mr. BLOUNT. I call for a separate vote on that amendment.

The question was taken; and upon a division there were—ayes 59, noes 59.

Mr. BAKER. That is too important an amendment to be decided by a tie vote. I call for tellers.

Tellers were ordered and Mr. BAKER and Mr. BLOUNT were appointed.

The House again divided; and the tellers reported—ayes 71, noes 63.

Before the result of this vote was announced,

Mr. BLOUNT called for the yeas and nays.

Mr. BAKER. I suggest that it was a very full vote by tellers, and the amendment should be considered as adopted without further count.

Mr. BLOUNT. I insist upon the yeas and nays.

The yeas and nays were ordered, there being 35 in the affirmative, more than one-fifth of the last vote.

The question was taken; and there were—yeas 88, nays 82, not voting 122; as follows:

YEAS—88.

Aldrich, William	Cox,	Humphrey,	Prescott,
Anderson,	Crapo,	Jones,	Rice,
Bailey,	Daggett,	Joyce,	Richardson, D. P.
Baker,	Davis, Horace	Ketcham,	Robeson,
Ballou,	De La Matyr,	Lapham,	Robinson,
Barber,	Deering,	Le Fevre,	Ross
Bayne,	Deuster,	Marsh,	Ryan, Thomas
Belford,	Dunn,	Mason,	Shallenberger,
Blake,	Dwight,	McCook,	Sherwin,
Boyd,	Evins,	McLane,	Stephens,
Brewer,	Ferdon,	Miles,	Stevenson,
Briggs,	Field,	Miller,	Thompson, W. G.
Browne,	Fisher,	Morse,	Townshend, R. W.
Cannon,	Goode,	Neal,	Tyler,
Carlisle,	Hall,	Newberry,	Updegraff, Thomas
Carpenter,	Hammond, John	Norcross,	Van Aernam,
Caswell,	Haskell,	Osmer,	Van Voorhis,
Chittenden,	Hawk,	Overton,	Voorhis,
Claflin,	Hawley,	Pacheco,	Wait,
Coffroth,	Hazelton,	Page,	Whitthorne,
Colerick,	Hill,	Phelps,	Williams, C. G.
Cowgill,	Horr,	Poehler,	Wood, Walter A.

NAYS—82.

Acklen,	Dickey,	Ladd,	Smith, William E.
Atkins,	Elam,	Lewis,	Sparks,
Bachman,	Ewing,	Lowe,	Speer,
Berry,	Felton,	Manning,	Springer,
Bicknell,	Finley,	Martin, Benj. F.	Steele,
Blackburn,	Forney,	McKenzie,	Taylor,
Bland,	Gillette,	McMillin,	Thomas,
Blount,	Hammond, N. J.	Mills,	Thompson, P. B.
Bouck,	Hatch,	Morrison,	Tillman,
Bragg,	Hayes,	Muldrow,	Turner, Oscar
Bright,	Henkle,	New,	Vance,
Buckner,	Henry,	Nicholls,	Waddill,
Cabell,	Herbert,	O'Connor,	Weaver,
Caldwell,	House,	O'Reilly,	Wellborn,
Chalmers,	Hubbell,	Philips,	Wells,
Clark, John B.	Hunton,	Reagan,	Whiteaker,
Clymer,	Hutchins,	Samford,	Willits,
Cook,	Johnston,	Sawyer,	Wilson,
Cravens,	Kenna,	Simonton,	Wright.
Culberson,	King,	Singleton, J. W.	
Dibrell,	Klotz,	Singleton, O. R.	

NOT VOTING—122.

Aiken,	Farr,	Lindsey,	Ryon, John W.
Aldrich, N. W.	Ford,	Loring,	Sapp,
Armfield,	Forsythe,	Lounsbery,	Scales,
Atherton,	Fort,	Martin, Edward L.	Shelley,
Barlow,	Frost,	Martin, Joseph J.	Slemons,
Beale,	Frye,	McCoid,	Smith, A. Herr
Beltzhoover,	Garfield,	McGowan,	Smith, Hezekiah B.
Bingham,	Geddes,	McKinley,	Starin,
Bliss,	Gibson,	McMahon,	Stone,
Bowman,	Godshalk,	Mitchell,	Talbott,
Brigham,	Gunter,	Money,	Townsend, Amos
Burrows,	Harmer,	Monroe,	Tucker,
Butterworth,	Harris, Benj. W.	Morton,	Turner, Thomas
Calkins,	Harris, John T.	Muller,	Updegraff, J. T.
Camp,	Heilman,	Murch,	Upson,
Clardy,	Henderson,	Myers,	Urner,
Clark, Alvah A.	Herndon,	O'Brien,	Valentine,
Cobb,	Hiscock,	O'Neill,	Ward,
Conger,	Hooker,	Orth,	Warner,
Converse,	Hostetler,	Persons,	Washburn,
Covert,	Houk,	Phister,	White,
Crowley,	Hull,	Pierce,	Wilber,
Davidson,	Hurd,	Pound,	Williams, Thomas
Davis, George R.	James,	Price,	Willis,
Davis, Joseph J.	Jorgensen,	Reed,	Wise,
Davis, Lowndes H.	Keifer,	Richardson, J. S.	Wood, Fernando
Dick,	Kelley,	Richmond,	Yocum,
Dunnell,	Killinger,	Robertson,	Young, Casey
Einstein,	Kimmel,	Rothwell,	Young, Thomas L.
Ellis,	Kitchin,	Russell, Daniel L.	
Errett,	Knott,	Russell, William A.	

So the amendment was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. GOODE with Mr. LORING, on all political questions except when necessary to make a quorum.

Mr. HARMER with Mr. ELLIS, until Tuesday, June 1, except that either may vote to make a quorum.

Mr. COVERT with Mr. YOUNG, of Ohio, for the ensuing ten days.

Mr. STARIN with Mr. RICHMOND, until further notice, on all political and tariff questions, not to interfere with a call of the House or a quorum.

Mr. DUNNELL, for to-day, with Mr. HARRIS, of Virginia, except on the question of a quorum and on the amendment to increase the amount for survey of the public lands.

Mr. UPSON with Mr. RUSSELL, of Massachusetts, until Monday, June 7, on all questions except the Post-Office appropriation bill.

Mr. BEALE, with Mr. JORGENSEN, for this week, upon all questions except that of a quorum.

Mr. WILBER with Mr. BELTZHOOVER, until Wednesday next.

Mr. AIKEN with Mr. WARD, on the amendments to the sundry civil appropriation bill, but on the final passage of the bill both gentlemen would vote "ay."

Mr. UPDEGRAFF, of Ohio, with Mr. HULL, until the 5th instant except when necessary to make a quorum.

Mr. TOWNSEND, of Ohio, with Mr. BLAND, for this week, on all political questions and on all questions affecting the tariff, Mr. BLAND reserving the right to vote, when a call of the House is ordered, for the purpose of making a quorum.

Mr. THOMAS TURNER with Mr. MCGOWAN, indefinitely, on all political questions.

Mr. DAVIS, of North Carolina, with Mr. MITCHELL, on all questions, until Wednesday night, June 2, reserving the right to vote to make a quorum.

Mr. LADD with Mr. LINDSEY, on all political questions, until June 5, not to affect the right to vote to make a quorum.

Mr. MARTIN, of West Virginia, with Mr. DICK, for the week ending June 5, on all questions except when necessary to make a quorum.

Mr. BRIGHAM with Mr. RICHARDSON, of South Carolina, until Wednesday, June 2, except on the questions of adjournment and a quorum.

Mr. MCKINLEY with Mr. HURD, on all political questions and all questions affecting the tariff until the return of Mr. MCKINLEY, now absent at West Point by order of the House.

Mr. CALKINS with Mr. PHISTER, on all political questions; in case of doubt, Mr. PHISTER to decide for himself how Mr. CALKINS would vote, or to consult with Mr. BROWNE or Mr. BAKER.

Mr. KNOTT with Mr. FRYE, on all questions except the sugar question, during Mr. FRYE's absence at Chicago.

Mr. MYERS with Mr. ORTH, for twelve days from to-day, on all political questions; Mr. MYERS reserving the right to vote when necessary to make a quorum.

Mr. ALDRICH, of Rhode Island, with Mr. SLEMONS, until June 4, on all questions except the bill fixing the rate of duty on sugar.

Mr. WILLIS with Mr. CONGER, for one week beginning to-day, upon all questions except that of a quorum.

Mr. BINGHAM with Mr. DAVIDSON, from May 29 till Saturday, June 5, inclusive, on all political questions and all measures relating to the revenue.

Mr. TAYLOR with Mr. HOUCK, from May 29 indefinitely, on all political questions.

Mr. GUNTER with Mr. BURROWS, on political questions; either gentleman being at liberty to vote to make a quorum.

Mr. HOSTETLER with Mr. DAVIS, of Illinois, until and including June 7; not to effect a quorum.

Mr. KEIFER with Mr. MANNING, for one week from and after May 31.

Mr. WISE with Mr. MCCOID, for this week, on political and tariff questions.

Mr. MULLER with Mr. WALTER A. WOOD.

Mr. MCCOOK with Mr. TALBOTT, on political questions.

Mr. TUCKER with Mr. GARFIELD.

Mr. SHELLEY with Mr. STONE.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. ROTHWELL with Mr. REED.

Mr. CONVERSE with Mr. PIERCE.

Mr. JAMES with Mr. O'BRIEN.

Mr. MARTIN, of North Carolina, with Mr. KITCHIN.

Mr. MCMAHON with Mr. URNER.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. WASHBURN with Mr. WILLIAMS, of Alabama.

Mr. GEDDES with Mr. SAPP.

Mr. HERNDON with Mr. CAMP.

Mr. HENDERSON with Mr. MONEY.

Mr. COBB with Mr. HISCOCK.

Mr. LOUNSBERY with Mr. PRICE.

Mr. DAVIS, of North Carolina. No announcement was made from the Clerk's desk of the pair of my colleague, [Mr. SCALES,] who is detained from the House by illness. He is paired with Mr. ERRETT, of Pennsylvania.

The SPEAKER. There was no statement at the Clerk's desk, but the Chair will recognize the pair.

Mr. DAVIS, of North Carolina. I will write one and give it to the Clerk.

Mr. SMITH, of Pennsylvania. I am paired with Mr. MARTIN, of Delaware, and no announcement has been made of the pair at the Clerk's desk.

The SPEAKER. It was not announced, as there is no statement at the desk of any such pair.

Mr. SMITH, of New Jersey. I will write a statement of the pair and give it to the Clerk.

Mr. MCCOOK. I am paired with Mr. TALBOTT on all political questions, but understanding the vote would be close, I appealed to his colleague, [Mr. MCLANE,] and on the suggestion he would vote that way, I have voted "ay." I deem it necessary to make this statement.

Mr. URNER. I was paired with Mr. MCMAHON, but that pair has expired. Learning, however, that the gentleman from Ohio has not yet returned, I will withdraw my vote.

The vote was then announced as above recorded.

The next amendment on which a separate vote was asked was read, as follows:

Page 20, lines 471 and 472, strike out the following:

"To enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, $100,000."

Mr. BAKER. I gave notice I would demand a yea-and-nay vote on striking out those words when we came into the House. I first ask for a division upon it.

The House divided; and there were—ayes 78, noes 58.

Mr. BAKER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 71, not voting 131; as follows:

YEAS—90.

Aiken,	Cravens,	Kenna,	Singleton, J. W.
Atherton,	Culberson,	King,	Singleton, O. R.
Atkins,	Daggett,	Klotz,	Smith, William E.
Bachman,	De La Matyr,	Ladd,	Sparks,
Berry,	Dibrell,	Le Fevre,	Speer,
Bicknell,	Dickey,	Lewis,	Springer,
Blackburn,	Dunn,	Lowe,	Steele,
Bland,	Elam,	McKenzie,	Stephens,
Blount,	Ewing,	McMillin,	Stevenson,
Bouck,	Felton,	Mills,	Taylor,
Bragg,	Finley,	Morse,	Thomas,
Bright,	Forney,	Muldrow,	Thompson, P. B.
Buckner,	Gillette,	New,	Tillman,
Cabell,	Hammond, N. J.	Nicholls,	Townshend, R. W.
Caldwell,	Hatch,	O'Reilly,	Turner, Oscar
Carlisle,	Henkle,	Persons,	Vance,
Chalmers,	Henry,	Phelps,	Weaver,
Clardy,	Herbert,	Pochler,	Wellborn,
Clark, John B.	House,	Reagan,	Whitthorne,
Coffroth,	Hunton,	Ross,	Wilson,
Colerick,	Johnston,	Samford,	Wright.
Cook,	Jones,	Sawyer,	
Cox,	Kelley,	Simonton,	

NAYS—71.

Aldrich, William	Cobb,	Hiscock,	Page,
Anderson,	Cowgill,	Hubbell,	Prescott,
Bailey,	Crapo,	Humphrey,	Rice,
Baker,	Davis, Horace	Hurd,	Robeson,
Ballou,	Deering,	Joyce,	Robinson,
Barber,	Dunnell,	Ketcham,	Ryan, Thomas
Bayne,	Dwight,	Lapham,	Shallenberger,
Blake,	Evins,	Marsh,	Sherwin,
Boyd,	Ferdon,	Mason,	Smith, A. Herr
Brewer,	Field,	McLane,	Valentine,
Briggs,	Fisher,	Miles,	Van Aernam,
Browne,	Hall,	Miller,	Van Voorhis,
Cannon,	Hammond, John	Monroe,	Voorhis,
Carpenter,	Haskell,	Newberry,	Wait,
Caswell,	Hawk,	Norcross,	Ward,
Chittenden,	Hawley,	O'Neill,	Wells,
Claflin,	Hayes,	Osmer,	Willits.
Clymer,	Hazelton,	Overton,	

NOT VOTING—131.

Acklen,	Frost,	Martin, Edward L.	Sapp,
Aldrich, N. W.	Frye,	Martin, Joseph J.	Scales,
Armfield,	Garfield,	McCoid,	Shelley,
Barlow,	Geddes,	McCook,	Slemons,
Beale,	Gibson,	McGowan,	Smith, Hezekiah B
Belford,	Godshalk,	McKinley,	Starin,
Beltzhoover,	Goode,	McMahon,	Stone,
Bingham,	Gunter,	Mitchell,	Talbott,
Bliss,	Harmer,	Money,	Thompson, W. G.
Bowman,	Harris, Benj. W.	Morrison,	Townsend, Amos
Brigham,	Harris, John T.	Morton,	Tucker,
Burrows,	Heilman,	Muller,	Turner, Thomas
Butterworth,	Henderson,	Murch,	Tyler,
Calkins,	Herndon,	Myers,	Updegraff, J. T.
Camp,	Hill,	Neal,	Updegraff, Thomas
Clark, Alvah A.	Hooker,	O'Brien,	Upson,
Conger,	Horr,	O'Connor,	Urner,
Converse,	Hostetler,	Orth,	Waddill,
Covert,	Houk,	Pacheco,	Warner,
Crowley,	Hull,	Philips,	Washburn,
Davidson,	Hutchins,	Phister,	White,
Davis, George R.	James,	Pierce,	Whiteaker,
Davis, Lowndes H.	Jorgensen,	Pound,	Wilber,
Davis, Joseph J.	Keifer,	Price,	Williams, C. G.
Deuster,	Killinger,	Reed,	Williams, Thomas
Dick,	Kimmel,	Richardson, D. P.	Willis,
Einstein,	Kitchin,	Richardson, J. S.	Wise,
Ellis,	Knott,	Richmond,	Wood, Fernando
Errett,	Lindsey,	Robertson,	Wood, Walter A.
Farr,	Loring,	Rothwell,	Yocum,
Ford,	Lounsbery,	Russell, Daniel L.	Young, Casey
Forsythe,	Manning,	Russell, W. A.	Young, Thomas L.
Fort,	Martin, Benj. F.	Ryon, John W.	

So the amendment was agreed to.

Mr. DUNNELL. On the former vote I was paired with Mr. HARRIS, of Virginia. Mr. HARRIS is now paired with Mr. FARR.

On motion of Mr. BROWNE, the reading of the names was dispensed with.

The following additional pairs were announced from the Clerk's desk:

Mr. DEUSTER with Mr. WILLIAMS, of Wisconsin, for the balance of this day and evening, with permission to vote to make a quorum.

Mr. HILL with Mr. BUTTERWORTH, on this question.

Mr. FARR, for to-day, with Mr. HARRIS, of Virginia.

Mr. O'CONNOR with Mr. BOWMAN, for the remainder of the day.

The vote was then announced as above recorded.

The next amendment on which a separate vote was asked was read, as follows:

After line 497, insert:

"To enable the Secretary of the Treasury to provide suitable and sufficient accommodation for the storage of the coin of the United States, he is hereby directed to pay the sums appropriated by this act in lawful silver coin of the United States.

Mr. BUCKNER. I ask unanimous consent to substitute the following for that amendment reported from the Committee of the Whole:

To enable the Secretary of the Treasury to relieve the Treasury vaults of the coin of the United States, and distribute it among the people, he is hereby directed to pay the several sums appropriated by this act in standard gold or silver coin of the United States.

The SPEAKER. That can only come in by unanimous consent.

Mr. BAKER. I object to it; it discriminates against the greenbacks of the country. [Laughter.]

The question recurred on agreeing to the amendment of the Committee of the Whole House on the state of the Union.

The House divided; and there were—ayes 77, noes 32.

Mr. CLAFLIN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEPHENS. If that amendment is modified by stating "or certificates of coin or silver," I will vote for it. [Cries of "No!"] But without those words I shall vote against it.

The SPEAKER. It is not in order to modify the amendment.

The question was taken; and it was decided in the affirmative—yeas 105, nays 58, not voting 129; as follows:

YEAS—105.

Acklen,	Cravens,	King,	Singleton, J. W.
Aiken,	Culberson,	Klotz,	Singleton, O. R.
Anderson,	Daggett,	Ladd,	Smith, William E.
Atherton,	Davis, Horace	Le Fevre,	Sparks,
Atkins,	De La Matyr,	Lewis,	Speer,
Berry,	Dibrell,	Lowe,	Springer,
Bicknell,	Dickey,	Martin, Benj. F.	Steele,
Blackburn,	Dunn,	McKenzie,	Stevenson,
Bland,	Elam,	McMillin,	Taylor,
Blount,	Evins,	Mills,	Thomas,
Bouck,	Ewing,	Muldrow,	Thompson, P. B.
Boyd,	Felton,	New,	Tillman,
Bragg,	Finley,	Nicholls,	Townshend, R. W.
Bright,	Forney,	O'Brien,	Turner, Oscar
Buckner,	Gillette,	O'Reilly,	Valentine,
Cabell,	Hammond, John	Pacheco,	Vance,
Caldwell,	Hammond, N. J.	Persons,	Van Voorhis,
Carlisle,	Haskell,	Phelps,	Waddill,
Chalmers,	Hatch,	Philips,	Warner,
Clardy,	Hawk,	Reagan,	Weaver,
Clark, John B.	Henkle,	Robertson,	Wellborn,
Clymer,	Herbert,	Ross,	Whitthorne,
Cobb,	House,	Ryan, Thomas	Wilson,
Coffroth,	Johnston,	Samford,	Wright.
Colerick,	Jones,	Sawyer,	
Converse,	Kelley,	Sherwin,	
Cook,	Kenna,	Simonton,	

NAYS—58.

Aldrich, William	Crapo,	Humphrey,	Overton,
Baker,	Deering,	Hurd,	Prescott,
Ballou,	Dunnell,	Joyce,	Rice,
Barber,	Dwight,	Ketcham,	Robeson,
Bayne,	Ferdon,	Kimmel,	Robinson,
Blake,	Field,	Lapham,	Shallenberger,
Brewer,	Fisher,	Marsh,	Smith, A. Herr
Briggs,	Hall,	Mason,	Tyler,
Browne,	Hawley,	McLane,	Urner,
Cannon,	Hayes,	Miles,	Van Aernam,
Carpenter,	Hazelton,	Monroe,	Ward,
Caswell,	Henry,	Morrison,	Wells,
Chittenden,	Hiscock,	Norcross,	Willits.
Claflin,	Horr,	O'Neill,	
Cowgill,	Hubbell,	Osmer,	

NOT VOTING—129.

Aldrich, N. W.	Fort,	Martin, Joseph J.	Scales,
Armfield,	Frost,	McCoid,	Shelley,
Bachman,	Frye,	McCook,	Slemons,
Bailey,	Garfield,	McGowan,	Smith, Hezekiah B.
Barlow,	Geddes,	McKinley,	Starin,
Beale,	Gibson,	McMahon,	Stephens,
Belford,	Godshalk,	Miller,	Stone,
Beltzhoover,	Goode,	Mitchell,	Talbott,
Bingham,	Gunter,	Money,	Thompson, W. G.
Bliss,	Harmer,	Morse,	Townsend, Amos
Bowman,	Harris, Benj. W.	Morton,	Tucker,
Brigham,	Harris, John T.	Muller,	Turner, Thomas
Burrows,	Heilman,	Murch,	Updegraff, J. T.
Butterworth,	Henderson,	Myers,	Updegraff, Thomas
Calkins,	Herndon,	Neal,	Upson,
Camp,	Hill,	Newberry,	Voorhis,
Clark, Alvah A.	Hooker,	O'Connor,	Wait,
Conger,	Hostetler,	Orth,	Washburn,
Covert,	Houk,	Page,	White,
Cox,	Hull,	Phister,	Whiteaker,
Crowley,	Hunton,	Pierce,	Wilber,
Davidson,	Hutchins,	Pochler,	Williams, C. G.
Davis, George R.	James,	Pound,	Williams, Thomas
Davis, Joseph J.	Jorgensen,	Price,	Willis,
Davis, Lowndes H.	Keifer,	Reed,	Wise,
Deuster,	Killinger,	Richardson, D. P.	Wood, Fernando
Dick,	Kitchin,	Richardson, J. S.	Wood, Walter A.
Einstein,	Knott,	Richmond,	Yocum,
Ellis,	Lindsey,	Rothwell,	Young, Casey
Errett,	Loring,	Russell, Daniel L.	Young, Thomas L.
Farr,	Lounsbery,	Russell, W. A.	
Ford,	Manning,	Ryon, John W.	
Forsythe,	Martin, Edward L.	Sapp,	

So the amendment was agreed to.

Mr. CONVERSE. I was paired this morning, and was so announced on the previous vote. My pair has been withdrawn on the present vote.

The following additional pair was announced:

Mr. MCMAHON with Mr. PIERCE, for this day.

The result of the vote was then announced as above recorded.

The next amendment reported from the Committee of the Whole was read, as follows:

After line 625, page 26, strike out the words "for aid to State surveys."

The amendment was agreed to.

Mr. BLOUNT. I ask unanimous consent, Mr. Speaker, to make a verbal correction here which is rendered necessary by the amendment just adopted. That is to strike out "$44,600" and insert "$40,000." This is merely a formal amendment and rendered necessary by what has preceded.

The SPEAKER *pro tempore*, (Mr. McMILLIN in the chair.) The Clerk will read the proposed amendment.

The Clerk read as follows:

In line 625 strike out "$44,800" and insert "$40,000;" making it read:
"For continuance of water-level observations and miscellaneous, $40,000."

Mr. BAKER. I would like to ask why this amendment is proposed?

Mr. BLOUNT. The action of the House in striking out the words "for aid to State surveys," for which $4,800 was estimated, makes this change in the aggregate necessary.

The amendment was agreed to.

The next amendment on which a separate vote was demanded was read, as follows:

In line 754 insert "for repairs of the sea-wall at Gosport navy-yard, $50,000; and for rebuilding timber-sheds to preserve the same, $75,000."

Mr. BLOUNT. I ask for a separate vote on that amendment.

The House divided; and there were—ayes 60, noes 20.

Mr. BLOUNT demanded tellers.

Tellers were ordered; and Mr. GOODE and Mr. BLOUNT were appointed.

Mr. CONVERSE. I desire to inquire whether that amendment is divisible.

The SPEAKER *pro tempore*. It is too late now. The House is dividing, and there cannot be a division of the question at this time. The question is on the amendment.

The House again divided; and the tellers reported—ayes 74, noes 26.

So (no further count being demanded) the amendment was agreed to.

The next amendment on which a separate vote was demanded was as follows:

Insert after the word "dollars," in line 767, the following:
"For a passenger elevator in the south wing of the Capitol, as may be located by the Speaker and the Architect of the Capitol, $7,000: *Provided*, That the location of such elevator shall not in any way interfere with the use, or occupation of, or communication between any of the offices or committee-rooms of the House."

Mr. KLOTZ. Mr. Speaker, I reserved the right to call for the yeas and nays on the proviso to that amendment in the House, and I demand therefore a separate vote upon the provision which has been added to the original amendment. I want to explain the reason of this, and I would like to ask if I have the right to do so?

The SPEAKER *pro tempore*. The gentleman cannot at this time.

Mr. KLOTZ. If this provision is inserted in that amendment it will kill the bill.

The SPEAKER *pro tempore*. Debate is not in order at this time.

Mr. BLACKBURN. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BLACKBURN. The question pending, as I understand it, before the House is upon the amendment to the clause of the bill which provides for the erection of an elevator in the House wing of the Capitol, which shall not interfere with the use or occupation of any of the rooms of the House. Is that the question pending?

The SPEAKER *pro tempore*. The gentleman from Kentucky is in error. The House is voting upon a proposition which comes from the Committee of the Whole and which is not subject to a division.

Mr. BLACKBURN. Then I ask this further question: whether it is not a vote upon a proposition to put an elevator in this wing of the Capitol, with the condition coupled that the elevator shall not interfere with the use, or occupation, or communication between any of the committee-rooms or offices of this House?

The SPEAKER *pro tempore*. For the benefit of the gentleman from Kentucky and of the House the Chair will cause the amendment to be read.

Mr. BLACKBURN. The vote, as I understand, is upon the provision as an entirety.

The SPEAKER *pro tempore*. It is.

Mr. KLOTZ. I rise to a parliamentary inquiry. I see that is the only way to get a chance to state the question to the House. Now, I wish to ask the Speaker if the effect of this amendment is not to kill the bill?

Mr. BLACKBURN. No.

Mr. KLOTZ. I asked the Speaker. [Laughter.]

Mr. ATKINS. I object to debate.

Mr. CLYMER. My colleague [Mr. KLOTZ] has the right to ask a parliamentary question.

Mr. ATKINS. But not to make a speech.

Mr. KLOTZ. I learned from the gallant gentleman from Kentucky [Mr. BLACKBURN] how to get this before the House, and I desire to exercise my right.

The SPEAKER *pro tempore*, (Mr. McMILLIN.) The gentleman from Pennsylvania shall have every right to which he is entitled. The Chair will state the vote is on the amendment as an entirety as reported from the Committee of the Whole. What effect its adoption will have on the bill or on the elevator to be constructed the House will have to judge.

Mr. KLOTZ. I desire to ask another question. If the amendment offered by the gentleman from Tennessee [Mr. ATKINS] be adopted, will it not virtually kill the proposition?

The SPEAKER *pro tempore*. That is not a matter of which the Chair can judge.

Mr. KLOTZ. I wish to ask the Speaker—[cries of "Vote!" "Vote!"] I am bound to have my say, and gentlemen may as well keep still first as last. [Laughter.] I wish to ask the Speaker if the elevator is not to go through a committee-room or an office, whether the effect of that is not to kill the proposition?

The SPEAKER *pro tempore*. With that the Chair has nothing to do. The question is on the amendment.

Mr. BAYNE. I rise to make a parliamentary inquiry.

Mr. KLOTZ. Mr. Speaker, I ask for a division of the propositions in the amendment.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. BAYNE] is recognized.

Mr. BAYNE. I wish to say that my colleague [Mr. KLOTZ] reserved the right to call for a separate vote on the proviso which was an amendment to his amendment. Has he not a right to demand a separate vote on that proviso?

The SPEAKER *pro tempore*. No such reservation has been reported to the Chair.

Mr. BAYNE. I distinctly remember my colleague made such a reservation at the time, and I suppose it forms a part of the RECORD. [Cries of "Regular order!"]

Mr. KLOTZ. The RECORD shows that I reserved the right to demand a separate vote on that proviso.

The SPEAKER *pro tempore*. No such condition has been reported to the Chair. The regular order is demanded, and the question is on the amendment reported by the Committee of the Whole.

The question being taken, the Speaker *pro tempore* stated that the ayes had it, and the amendment was agreed to.

Mr. BLACKBURN. I move to reconsider the vote by which the amendment was agreed to; and also move that the motion to reconsider be laid on the table.

The SPEAKER *pro tempore*. The Chair will inform the gentleman from Kentucky that it is usual to reserve the motion to reconsider until all the amendments have been disposed of.

Mr. BLACKBURN. Very well; I withdraw the motion for the present.

Mr. KLOTZ. I call for the yeas and nays on the amendment. I want to show the Chair and the House that it appears from the RECORD I reserved the right to demand a separate vote on the proviso.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. KLOTZ] was on the floor at the time the Chair announced the result of the vote. He now says he demanded the yeas and nays. The Chair will put the question on ordering the yeas and nays.

The question was taken; and there were ayes 10; not a sufficient number.

So the yeas and nays were not ordered, and the amendment was not agreed to.

The next amendment on which a separate vote was demanded (by Mr. BLOUNT) was as follows:

In line 826 strike out the word "three" and insert the word "four;" so it will read:
For surveying the public lands, $400,000.

The House divided; and there were—ayes 46, noes 49.

Mr. ATHERTON. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 36.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 73, nays 85, not voting 134; as follows:

YEAS—73.

Aldrich, William	Culberson,	Joyce,	Robertson,
Anderson,	Daggett,	Kelley,	Robeson,
Bailey,	Davis, Horace	Ketcham,	Robinson,
Baker,	De La Matyr,	King,	Ryan, Thomas
Barber,	Dunn,	Marsh,	Shallenberger,
Bayne,	Dunnell,	Mason,	Sherwin,
Belford,	Dwight,	Miles,	Singleton, J. W.
Berry,	Elam,	Miller,	Smith, A. Herr
Blake,	Ferdon,	Neal,	Thomas,
Boyd,	Field,	Newberry,	Thompson, W. G.
Brewer,	Fisher,	Norcross,	Urner,
Briggs,	Hall,	O'Neill,	Valentine,
Browne,	Hammond, John	Overton,	Van Aernam,
Carpenter,	Haskell,	Pacheco,	Voorhis,
Caswell,	Hawk,	Page,	Wait,
Claflin,	Hayes,	Phelps,	Whitaker.
Converse,	Hubbell,	Poehler,	
Cowgill,	Humphrey,	Prescott,	
Crapo,	Jones,	Rice,	

NAYS—85.

Acklen,	Bouck,	Chittenden,	Dibrell,
Atherton,	Bragg,	Clark, John B.	Dickey,
Atkins,	Bright,	Clymer,	Evins,
Bachman,	Buckner,	Cobb,	Felton,
Ballou,	Cabell,	Coffroth,	Finley,
Bicknell,	Caldwell,	Colerick,	Forney,
Blackburn,	Carlisle,	Cook,	Gillette,
Blount,	Chalmers,	Cravens,	Hammond, N. J.

Hatch,	Lewis,	Reagan,	Tillman,
Hawley,	Lowe,	Ross,	Turner, Oscar
Henkle,	Martin, Benj. F.	Samford,	Vance,
Henry,	McKenzie,	Sawyer,	Waddill,
Herbert,	McMillin,	Simonton,	Warner,
House,	Mills,	Singleton, O. R.	Weaver,
Hunton,	Monroe,	Smith, William E.	Wellborn,
Hutchins,	Morse,	Sparks,	Wells,
Johnston,	Muldrow,	Speer,	Whitthorne,
Kenna,	New,	Springer,	Willits,
Kimmel,	Nicholls,	Steele,	Wilson.
Klotz,	O'Reilly,	Stevenson,	
Ladd,	Persons,	Taylor,	
Le Fevre,	Philips,	Thompson, P. B.	

NOT VOTING—134.

Aiken,	Ford,	Loring,	Sapp,
Aldrich, N. W.	Forsythe,	Lounsbery,	Scales,
Armfield,	Fort,	Manning,	Shelley,
Barlow,	Frost,	Martin, Edward L.	Slemons,
Beale,	Frye,	Martin, Joseph J.	Smith, Hezekiah B.
Beltzhoover,	Garfield,	McCoid,	Starin,
Bingham,	Geddes,	McCook,	Stephens,
Bland,	Gibson,	McGowan,	Stone,
Bliss,	Godshalk,	McKinley,	Talbott,
Bowman,	Goode,	McLane,	Townsend, Amos
Brigham,	Gunter,	McMahon,	Townshend, R. W.
Burrows,	Harmer,	Mitchell,	Tucker,
Butterworth,	Harris, Benj. W.	Money,	Turner, Thomas
Calkins,	Harris, John T.	Morrison,	Tyler,
Camp,	Hazelton,	Morton,	Updegraff, J. T.
Cannon,	Heilman,	Muller,	Updegraff, Thomas
Clardy,	Henderson,	Murch,	Upson,
Clark, Alvah A.	Herndon,	Myers,	Van Voorhis,
Conger,	Hill,	O'Brien,	Ward,
Covert,	Hiscock,	O'Connor,	Washburn,
Cox,	Hooker,	Orth,	White,
Crowley,	Horr,	Osmer,	Wilber,
Davidson,	Hostetler,	Phister,	Williams, C. G.
Davis, George R.	Houk,	Pierce,	Williams, Thomas
Davis, Joseph J.	Hull,	Pound,	Willis,
Davis, Lowndes H.	Hurd,	Price,	Wise,
Deering,	James,	Reed,	Wood, Fernando
Deuster,	Jorgensen,	Richardson, D. P.	Wood, Walter A.
Dick,	Keifer,	Richardson, J. S.	Wright,
Einstein,	Killinger,	Richmond,	Yocum,
Ellis,	Kitchin,	Rothwell,	Young, Casey
Errett,	Knott,	Russell, Daniel L.	Young, Thomas L.
Ewing,	Lapham,	Russell, W. A.	
Farr,	Lindsey,	Ryon, John W.	

So the amendment was not agreed to.

The following additional pairs were announced:

Mr. CLARDY with Mr. KILLINGER, until half past three o'clock to-day; and

Mr. TOWNSHEND, of Illinois, with Mr. VAN VOORHIS, on this question.

The next amendment upon which a separate vote was demanded was to insert, after line 1132 of the bill, the following:

For payment of marshals and their general deputies, except for services of the latter rendered at elections, $650,000.

Mr. HAWLEY. We may as well have the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 85, nays 66, not voting 141; as follows:

YEAS—85.

Acklen,	Culberson,	Le Fevre,	Singleton, J. W.
Atherton,	Davis, Lowndes H.	Lewis,	Singleton, Otho R.
Atkins,	Dibrell,	Lowe,	Smith, William E.
Berry,	Dunn,	Martin, Benj. F.	Sparks,
Bicknell,	Elam,	McKenzie,	Springer,
Blackburn,	Evins,	McLane,	Steele,
Blount,	Ewing,	McMillin,	Stevenson,
Bouck,	Finley,	Mills,	Thompson, P. B.
Bragg,	Forney,	Morse,	Tillman,
Bright,	Hammond, N. J.	Muldrow,	Townshend, R. W.
Buckner,	Hatch,	New,	Turner, Oscar
Cabell,	Henkle,	O'Reilly,	Vance,
Caldwell,	Henry,	Persons,	Waddill,
Carlisle,	Herbert,	Phelps,	Warner,
Chalmers,	House,	Philips,	Wellborn,
Clark, John B.	Hunton,	Poehler,	Wells,
Clymer,	Johnston,	Reagan,	Whiteaker,
Cobb,	Jones,	Robertson,	Whitthorne,
Coffroth,	Kenna,	Ross,	Wilson.
Colerick,	Kimmel,	Samford,	
Cook,	King,	Sawyer,	
Cravens,	Klotz,	Simonton,	

NAYS—66.

Aldrich, William	Daggett,	Joyce,	Prescott,
Baker,	Davis, Horace,	Kelley,	Robeson,
Ballou,	Dunnell,	Ketcham,	Robinson,
Barber,	Dwight,	Lapham,	Ryan, Thomas
Bayne,	Ferdon,	Marsh,	Sherwin,
Belford,	Field,	Mason,	Thompson, W. G.
Blake,	Fisher,	Miles,	Tyler,
Boyd,	Hall,	Monroe,	Updegraff, Thomas
Brewer,	Hammond, John	Neal,	Urner,
Briggs,	Haskell,	Newberry,	Valentine,
Cannon,	Hawk,	Nicholls,	Van Aernam,
Carpenter,	Hawley,	Norcross,	Van Voorhis,
Caswell,	Hayes,	O'Neill,	Voorhis,
Claflin,	Hazelton,	Osmer,	Wait,
Converse,	Hiscock,	Overton,	Willits.
Cowgill,	Horr,	Pacheco,	
Crapo,	Hubbell,	Page,	

NOT VOTING—141.

Aiken,	Errett,	Lindsey,	Scales,
Aldrich, N. W.	Farr,	Loring,	Shallenberger,
Anderson,	Felton,	Lounsbery,	Shelley,
Armfield,	Ford,	Manning,	Slemons,
Bachman,	Forsythe,	Martin, Edward L.	Smith, A. Herr
Bailey,	Fort,	Martin, Joseph J.	Smith, Hezekiah B.
Barlow,	Frost,	McCoid,	Speer,
Beale,	Frye,	McCook,	Starin,
Beltzhoover,	Garfield,	McGowan,	Stephens,
Bingham,	Geddes,	McKinley,	Stone,
Bland,	Gibson,	McMahon,	Talbott,
Bliss,	Gillette,	Miller,	Taylor,
Bowman,	Godshalk,	Mitchell,	Thomas,
Brigham,	Goode,	Money,	Townsend, Amos
Browne,	Gunter,	Morrison,	Tucker,
Burrows,	Harmer,	Morton,	Turner, Thomas
Butterworth,	Harris, Benj. W.	Muller,	Updegraff, J. T.
Calkins,	Harris, John T.	Murch,	Upson,
Camp,	Heilman,	Myers,	Ward,
Chittenden,	Henderson,	O'Brien,	Washburn,
Clardy,	Herndon,	O'Connor,	Weaver,
Clark, Alvah A.	Hill,	Orth,	White,
Conger,	Hooker,	Phister,	Wilber,
Covert,	Hostetler,	Pierce,	Williams, C. G.
Cox,	Houk,	Pound,	Williams, Thomas
Crowley,	Hull,	Price,	Willis,
Davidson,	Humphrey,	Reed,	Wise,
Davis, George R.	Hurd,	Rice,	Wood, Fernando
Davis, Joseph J.	Hutchins,	Richardson, D. P.	Wood, Walter A.
Deering,	James,	Richardson, J. S.	Wright,
De La Matyr,	Jorgensen,	Richmond,	Yocum,
Deuster,	Keifer,	Rothwell,	Young, Casey
Dick,	Killinger,	Russell, Daniel L.	Young, Thomas L.
Dickey,	Kitchin,	Russell, W. A.	
Einstein,	Knott,	Ryon, John W.	
Ellis,	Ladd,	Sapp,	

So the amendment was agreed to.

The following additional pairs were announced:

Mr. SHALLENBERGER with Mr. YOUNG, of Tennessee, on this amendment; and

Mr. COX with Mr. MORTON, on this and other political questions.

The next amendment upon which a separate vote was asked was, to insert after line 1242 of the bill the following:

To pay E. B. Blanks, jr., for services under the Doorkeeper of the House from February 1, 1878, up to and including June 30, 1878, at $2.50 per day, $375.

Mr. ATHERTON. I call for a separate vote on that amendment.

The question was taken upon the amendment, and it was agreed to.

Mr. CONVERSE. Before we pass from this portion of the bill, I ask consent to offer an amendment to come in after line 1252. I ask that it be read for the information of the House.

The SPEAKER. If there is no objection the amendment will be read.

The Clerk read as follows:

And the Clerk of the House is directed to have completed the digested summary and alphabetical list of all private claims presented to the House of Representatives from the Forty-second to the Forty-sixth Congress, inclusive, and the expenses of said work shall, under the direction of the Committee on Accounts, be paid out of the contingent fund of the House.

Mr. CONVERSE. If I may be allowed to make one single statement, it is that all the private claims that have ever been presented to Congress up to the Forty-second have been alphabetically arranged.

Mr. BLOUNT. I must object to this amendment. I have had no opportunity to examine it.

The SPEAKER. Objection being made, the amendment cannot be entertained.

Mr. BLACKBURN. I ask unanimous consent——

Mr. KLOTZ. I object. [Laughter.]

Mr. BLACKBURN. The gentleman will not object, I think. I simply want to insert a provision that the money appropriated by this bill for contestants and contestees in election cases may be immediately available for them.

Mr. KLOTZ. I object.

The remaining amendments were agreed to without objection.

The bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BLOUNT. On that I call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. This being one of the general appropriation bills, under the rule the yeas and nays must be taken upon its passage.

The question was taken; and there were—yeas 111, nays 53, not voting 128; as follows:

YEAS—111.

Acklen,	Cabell,	Davis, Horace	Haskell,
Atkins,	Caldwell,	De La Matyr,	Hatch,
Bachman,	Cannon,	Dibrell,	Hayes,
Barber,	Carlisle,	Dickey,	Henkle,
Belford,	Chalmers,	Dunn,	Henry,
Berry,	Chittenden,	Elam,	Herbert,
Bicknell,	Clark, John B.	Evins,	House,
Blackburn,	Clymer,	Ewing,	Hunton,
Blake,	Cobb,	Felton,	Hutchins,
Bland,	Colerick,	Ferdon,	Johnston,
Blount,	Converse,	Field,	Jones,
Bouck,	Cook,	Finley,	Kenna,
Bragg,	Cravens,	Forney,	Ketcham,
Bright,	Culberson,	Gillette,	King,
Buckner,	Daggett,	Hammond, N. J.	Klotz,

Ladd,	Nicholls,	Ryan, Thomas	Thompson, P. B.
Le Fevre,	Norcross,	Samford,	Tillman,
Lewis,	O'Reilly,	Sawyer,	Townshend, R. W.
Lowe,	Persons,	Simonton,	Waddill,
Martin, Benj. F.	Phelps,	Singleton, J. W.	Warner,
McKenzie,	Philips,	Singleton, O. R.	Weaver,
McLane,	Poehler,	Slemons,	Wellborn,
McMillin,	Prescott,	Smith, William E.	Wells,
Mills,	Reagan,	Sparks,	Whiteaker,
Morrison,	Rice,	Speer,	Whitthorne,
Morse,	Robertson,	Springer,	Wilson,
Muldrow,	Robeson,	Steele,	Wright.
New,	Ross,	Stevenson,	

NAYS—53.

Aldrich, William	Crapo,	Joyce,	Thomas,
Anderson,	Deering,	Kelley,	Thompson, W. G.
Atherton,	Dunnell,	Lapham,	Turner, Oscar
Baker,	Dwight,	Marsh,	Tyler,
Ballon,	Fisher,	Miles,	Updegraff, Thomas
Bayne,	Hall,	Miller,	Urner,
Boyd,	Hammond, John	Monroe,	Valentine,
Brewer,	Hawk,	Neal,	Van Aernam,
Briggs,	Hawley,	Newberry,	Van Voorhis,
Browne,	Hazelton,	O'Neill,	Voorhis,
Carpenter,	Hiscock,	Osmer,	Wait.
Caswell,	Horr,	Overton,	
Claflin,	Hubbell,	Page,	
Cowgill,	Humphrey,	Robinson,	

NOT VOTING—128.

Aiken,	Ford,	Lounsbery,	Sapp,
Aldrich, N. W.	Forsythe,	Manning,	Scales,
Armfield,	Fort,	Martin, Edward L.	Shallenberger,
Bailey,	Frost,	Martin, Joseph J.	Shelley,
Barlow,	Frye,	Mason,	Sherwin,
Beale,	Garfield,	McCoid,	Smith, A. Herr
Beltzhoover,	Geddes,	McCook,	Smith, Hezekiah B.
Bingham,	Gibson,	McGowan,	Starin,
Bliss,	Godshalk,	McKinley,	Stephens,
Bowman,	Goode,	McMahon,	Stone,
Brigham,	Gunter,	Mitchell,	Talbott,
Burrows,	Harmer,	Money,	Taylor,
Butterworth,	Harris, Benj. W.	Morton,	Townsend, Amos
Calkins,	Harris, John T.	Muller,	Tucker,
Camp,	Heilman,	Murch,	Turner, Thomas
Clardy,	Henderson,	Myers,	Updegraff, J. T.
Clark, Alvah A.	Herndon,	O'Brien,	Upson,
Coffroth,	Hill,	O'Connor,	Vance,
Conger,	Hooker,	Orth,	Ward,
Covert,	Hostetler,	Pacheco,	Washburn,
Cox,	Houk,	Phister,	White,
Crowley,	Hull,	Pierce,	Wilber,
Davidson,	Hurd,	Pound,	Williams, C. G.
Davis, George R.	James,	Price,	Williams, Thomas
Davis, Joseph J.	Jorgensen,	Reed,	Willis,
Davis, Lowndes H.	Keifer,	Richardson, D. P.	Willits,
Deuster,	Killinger,	Richardson, J. S.	Wise,
Dick,	Kimmel,	Richmond,	Wood, Fernando
Einstein,	Kitchin,	Rothwell,	Wood, Walter A.
Ellis,	Knott,	Russell, Daniel L.	Yocum,
Errett,	Lindsey,	Russell, W. A.	Young, Casey
Farr,	Loring,	Ryon, John W.	Young, Thomas L.

So the bill was passed.

The following pairs were announced:

Mr. SHALLENBERGER with Mr. YOUNG, of Tennessee, on the passage of this bill.

Mr. AIKEN with Mr. WARD, on this and the two preceding votes.

Mr. VANCE and Mr. WILLITS, for the remainder of the day.

The result of the vote was announced as above stated.

Mr. BLOUNT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the morning hour for reports of committees.

Mr. ATKINS. I move to dispense with the morning hour.

The motion was agreed to; two-thirds voting in favor thereof.

LEAVE TO PRINT.

Mr. McGOWAN. I am unexpectedly called home, and I ask leave to have printed in the RECORD some remarks on what is known as the "leaf-tobacco bill."

There being no objection, leave was granted. [See Appendix.]

SETTLERS ON DES MOINES RIVER LANDS.

Mr. KETCHAM, by unanimous consent, submitted the views of a minority of the Committee on Public Lands upon the bill (H. R. No. 1067) to quiet the title of settlers on the Des Moines River lands, and for other purposes; which were ordered to be printed.

ENROLLED BILL SIGNED.

Mr. UPSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska.

RELIEF FROM IMPORT DUTIES.

Mr. TUCKER. I desire to report from the Committee on Ways and Means for immediate consideration a joint resolution.

Mr. BAKER. Let the title be read, reserving the right to object.

The Clerk read the title, as follows:

Joint resolution for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein.

Mr. BAYNE. I object.

Mr. WILSON. Let the resolution be read.

The SPEAKER. There is objection.

Mr. TUCKER. If the gentleman will hear me a single moment, I think he will have no ground for objection. This is not a bill in reference to hoop-iron, and does not change duties at all. It is for the relief of certain parties who are now required under the orders of the Secretary of the Treasury to pay duties from which, as the whole Committee on Ways and Means think, they ought to be relieved. That is all of it. My friend from Pennsylvania, [Mr. KELLEY,] my colleague on the committee, will say that I have stated the case properly.

Mr. KELLEY. This resolution has had the very careful consideration of the Committee on Ways and Means; and it is now reported unanimously, not only upon an adequate meeting of the committee, but upon a full meeting. There is not a member of the Committee on Ways and Means who has not concurred in authorizing the gentleman from Virginia [Mr. TUCKER] to report this resolution.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. BAYNE] insist on his objection?

Mr. BAYNE. Yes, sir.

Mr. TUCKER. I will say to the gentleman that there is not a particle of tariff in this.

Mr. WILSON. Not a particle.

The SPEAKER. The gentleman objects.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I am instructed by the Committee on Appropriations to report back, with the amendments of the Senate, the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The SPEAKER. What action or what order of proceedings does the gentleman desire?

Mr. ATKINS. Well, Mr. Speaker, as to the differences between the two Houses in the matter of salaries of employés of the two Houses, we recommend a general non-concurrence with the Senate. There are a good many amendments in which we recommend concurrence.

The SPEAKER. The Chair would suggest that in the cases where the committee recommend concurrence the vote be now taken on concurring, as that will complete legislation upon those questions.

Mr. ATKINS. I was going to make such a suggestion—that the vote be first taken on the amendments in which we recommend concurrence.

The SPEAKER. The amendments in which concurrence is recommended will be read.

The SPEAKER. The amendments of the Senate, in which the Committee on Appropriations recommend concurrence, will first be read and acted upon by the House.

Mr. ATKINS. The Committee on Appropriations have recommended concurrence in the third amendment of the Senate. As the bill went from the House, the salary of the Chief Clerk of the Senate was $2,500; that has been increased by the Senate to $3,000. The Committee on Appropriations recommend concurrence. I think, however, it would be well for the House to non-concur in that amendment so the whole question of salaries between the two Houses may be an open one before the committee of conference.

The amendment was non-concurred in.

The SPEAKER. The Clerk will now read the amendments in which concurrence has been recommended.

The Clerk read as follows:

Sixty-eighth and sixty-ninth amendments:

Strike out "8,004" and insert "9,009;" and strike out "10,000" and insert "11,500;" so the paragraph will read:

"Botanic Garden:

"For pay of superintendent, $1,600; for assistants in Botanic Garden and greenhouses; and laborers, under the direction of the Library Committee of Congress, $9,900; in all, $11,500."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendments were severally concurred in.

The Clerk read as follows:

Seventieth amendment:

Strike out "4" and insert "5;" so it will read:

"For improving the garden, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, $5,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Seventy-seventh, seventy-eighth, seventy-ninth, eightieth, and eighty-first amendments:

Strike out "six" and insert "nine;" strike out "twenty-five" and insert "twenty-nine;" strike out "fifty-five" and insert "sixty;" strike out "thirty-five" and insert "twenty-three;" and strike out "thousand five" and insert "and four thousand nine;" so it will read:

"Second Auditor:

"For Second Auditor, $3,600; deputy auditor, $2,250; five chiefs of division, at $2,000 each; nine clerks of class 4; twenty-nine clerks of class 3; additional to one clerk of class 3 as disbursing clerk, $200; sixty clerks of class 2; twenty-three clerks of class 1; eight clerks, at $1,000 each; two assistant messengers; and eight laborers; in all, $204,970."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendments were severally concurred in.

The Clerk read as follows:

Eighty-ninth and ninetieth amendments:
Strike out "250" and insert "500;" and strike out "650" and insert "900;" so it will read:

"Assay office at New York:

"For salary of superintendent, $4,500; for assayer, $3,000; for melter and refiner, $3,000; chief clerk, $2,500; weighing clerk, $2,250; paying clerk, $2,000; bar clerk, $1,800; warrant clerk, $2,250; two calculating clerks, at $1,800 each; assistant weigh clerk, $1,600; for assayer's first assistant, $2,250; for assayer's second assistant, $2,150; for assayer's third assistant, $2,000; in all, $32,900."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendments were severally concurred in.

The Clerk read as follows:

Ninety-first amendment:
Strike out "5,000" and insert "6,600;" so it will read:
"For the purpose of examining the rebel archives, and having copies furnished for the Government, $6,600; but no part of this sum shall be used to increase the salary or compensation of any officer or employé of the Government."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Ninety-second amendment:
Strike out "500;" so it will read:
"For contingent expenses of the Adjutant-General's Office, in the old Navy Department building, and in the building on F street above Seventeenth street, including fuel, light, heating apparatus, matting, cleaning, labor, and incidental items of care of two floors of Navy Department building, $2,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Ninety-third amendment:
Strike out "4" and insert "5;" so it will read:

"Bureau of Military Justice:

"One chief clerk, at $1,800; one clerk of class 3; one clerk of class 1; one assistant messenger; in all, $5,320.

"For contingent expenses, $500."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Ninety-seventh amendment:
In paragraph in reference to watchmen on reservations, &c., insert the following:
"*Provided*, That each of the watchmen herein provided for shall have the same duties and powers of the Metropolitan police."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Ninety-eighth and ninety-ninth amendments:
Insert "and fifty;" and strike out "40" and insert "90;" so it will read:

"DEPARTMENT OF THE INTERIOR.

"For compensation of the Secretary of the Interior, $8,000; Assistant Secretary, $3,500; chief clerk, $2,500, and $250 additional as superintendent of the Patent Office building; six clerks, chiefs of division, at $2,000 each, one of whom shall be disbursing clerk; one clerk, chief of division, at $2,000; for one stenographer, $1,800; six clerks of class 4; four clerks of class 3; four clerks of class 2; seven clerks of class 1, one of whom shall be the telegraph operator of the Department; six copyists; five assistant messengers; four laborers; for one captain of the watch, $1,000; and forty watchmen, to be allotted to day or night service, as the Secretary of the Interior may direct; in all, $102,690."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendments were severally concurred in.

The Clerk read as follows:

One hundred and thirteenth amendment:
Insert the words "paper for the same;" so it will read:
"For contingent and miscellaneous expenses of the Patent Office, namely: For construction and repair of model-cases, stationery, portfolios for drawings, furniture and labor connected therewith, repairing, papering, painting, plumbing, gas-fitting, carpets, ice, advertising, moneys refunded, printing engraved patent-heads, paper for the same, international exchanges, and other contingencies, $20,000; and no money appropriated by this paragraph shall be expended for advertising in newspapers published in the city of Washington other than the Patent Office Official Gazette."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and fifteenth amendment:
Insert the words "of patents;" so it will read:
"For photolithographing, or otherwise producing copies of the weekly issues of drawings of patents, designs, and trade-marks, $35,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and sixteenth amendment:
Strike out "4,500" and insert "6,000;" so it will read:
"For surveyor-general of the Territory of Dakota, $2,000; and for the clerks in his office, $6,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and seventeenth amendment:
Strike out "750" and insert "500;" so it will read:
"For surveyor-general of the Territory of Montana, $2,500; and for the clerks in his office, $3,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and eighteenth amendment:
Strike out "750" and insert "500;" so it will read:
"For surveyor-general of the Territory of Utah, $2,500; and for the clerks in his office, $3,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and nineteenth amendment:
Strike out "750" and insert "500;" so it will read:
"For surveyor-general of the Territory of Wyoming, $2,500; and for the clerks in his office, $3,500."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and twentieth amendment:
Strike out "750" and insert "500;" so it will read:
"For surveyor-general of the Territory of Arizona, $2,500; and for the clerks in his office, $3,000."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and twenty-second amendment:
Strike out "clerk" and insert "clerks;" so it will read:

"POST-OFFICE DEPARTMENT.

"For compensation of the Postmaster-General, $8,000; chief clerk to the Postmaster-General, $2,200; stenographer, $1,800; appointment clerk, $1,800; law clerk, at $2,250, (office of Assistant Attorney-General for Post-Office Department;) three clerks of class 1; one messenger, (clerk of class 1,) $1,200; one assistant messenger; topographer, $2,500; temporary employés, $14,000; in all, $38,070."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

One hundred and twenty-third and one hundred and twenty-fourth amendments:
Strike out "1,800" and insert "2,000;" and strike out "5" and insert "7;" so it will read:

"For superintendent of foreign mails, $3,000; chief clerk, $2,000; one clerk of class 4; three clerks of class 3; one clerk of class 2; two clerks at $1,000 each; one assistant messenger; in all, $15,720."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendments were severally concurred in.

The Clerk read as follows:

One hundred and twenty-sixth amendment:
Under the heading of "contingent expenses of Post-Office Department," insert "for directories of the principal cities of the United States, $200."

The SPEAKER. The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The SPEAKER. There are about one hundred amendments of the Senate in which the committee recommend non-concurrence, which the Clerk will now read.

Mr. ATKINS. Mr. Speaker, on page 65 of the printed bill, amendment numbered 102, providing one financial clerk at $2,000, was inserted by the Senate, and the Committee on Appropriations have concurred in it.

The SPEAKER. In what department is that proposed?

Mr. ATKINS. It is under the head of the Indian Office.

The SPEAKER. The Clerk will read the Senate amendment.

The Clerk read as follows:

One hundred and second amendment:
On page 49, line 3, strike out "five" and insert "one financial clerk at $2,000; four"——

The SPEAKER. That amendment is not contained in the list which has been furnished to the Clerk as having been concurred in, and is contained in the list in which non-concurrence is recommended by the committee

Mr. BAKER. It was unqualifiedly agreed upon in committee, and it is a mistake if it is contained in the list in which non-concurrence is recommended. There was a provision originally in the appropriation bill for five clerks at $1,800. The Senate changed that provision and provide for one financial clerk at $2,000, leaving four clerks to remain at the rate originally proposed, that is, $1,800 each.

The SPEAKER. Then it was concurrence with an amendment.

Mr. BAKER. It was not concurrence with an amendment, but the Senate amended the original by striking out "five" and inserting the words "one financial clerk at $2,000; four." That is what consti-

tutes the Senate amendment. The substance of the amendment of the Senate is one financial clerk at $2,000 and four clerks of class 4.

The SPEAKER. The Chair will submit the question, but the report sent up recommends non-concurrence in this amendment.

Mr. ATKINS. I suggest to the gentleman from Indiana to let it go as non-concurrence and it can be adjusted hereafter.

Mr. BAKER. It does not matter; but I prefer that it should be settled now. It is evidently a mistake in the report handed to the Clerk.

The SPEAKER. The matter will be submitted to the House.

The amendment was concurred in.

Mr. MILLS. Do I understand the gentleman from Tennessee now to move non-concurrence as to the remainder of the Senate amendments, and to ask for a committee of conference? If he does, I propose to offer an amendment.

Mr. ATKINS. That is my intention unless the House desires to open up the whole question and discuss these different amendments *seriatim*.

Several MEMBERS. Oh, no!

Mr. ATKINS. Then I move non-concurrence in the remainder of the Senate amendments.

Mr. MILLS. I offer an amendment for the motion to non-concur.

Mr. ATKINS. Is that in order?

The SPEAKER. The proposition will be read.

The Clerk read as follows:

Resolved, That the conferees on the part of the House on the legislative, executive, and judicial appropriation bill are hereby instructed to fix the salaries of the employés of the House so that the employés of the Senate and House of the same grade shall receive the same salaries.

The SPEAKER. This bill is not yet in the conference committee.

Mr. MILLS. But I understood my friend from Tennessee to move for a committee of conference.

Mr. ATKINS. I move non-concurrence in the remaining amendments of the Senate.

The SPEAKER. The amendments in which non-concurrence is recommended will be read.

The Clerk read as follows:

The Committee recommend non-concurrence in the following amendments:

Amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 73, 74, 75, 76, 82, 83, 84, 85, 86, 87, 88, 94, 95, 96, 100, 101, 103, 104, 105, 106, 107, 108, 110, 111, 112, 114, 121, 125, 127, 129, and 130.

Mr. ATKINS. I ask the Clerk now to read the action of the committee on the amendment numbered 65, touching the electrician.

The Clerk read as follows:

The committee recommend non-concurrence——

Mr. ATKINS. That is a mistake; we recommended concurrence together with everything pertaining to the electrical apparatus. The insertion of that language in the Senate bill is agreed to by the Committee on Appropriations and concurrence recommended. I move that the House concur in the amendment numbered 65.

The SPEAKER. The bill and report both authorize non-concurrence.

Mr. ATKINS. Well, I move that we concur in amendment numbered 65. That was the action of the committee.

The SPEAKER. The Chair will submit the question to the House. The Clerk will read the amendment of the Senate.

The Clerk read as follows:

Amendment No. 65:

Page 7, line 19, after the word "electrician," insert "together with everything pertaining to the electrical machinery and apparatus."

The amendment was concurred in.

Mr. CHALMERS. Is it in order to move concurrence before non-concurrence?

The SPEAKER. It is as to any amendment.

Mr. CHALMERS. Then I desire to move to concur in all amendments where the employés of the Senate have been stricken down by the House and put up again by the Senate amendments.

The SPEAKER. The Chair will submit the motion to the House.

Mr. ATKINS. I do not exactly understand the motion of the gentleman from Mississippi. We have non-concurred in the amendments of the Senate placing their employés back at the salaries the law now gives them.

Mr. CHALMERS. I move to concur in the amendments of the Senate to put the employés back where they now are.

Mr. MILLS. I hope the gentleman from Mississippi will not insist upon that at present. I have offered a resolution to instruct the committee of conference to put our own employés on the same footing as those of the Senate employés, and it might interfere with that matter if the gentleman presses his motion.

Mr. TOWNSHEND, of Illinois. I thought the gentleman from Tennessee [Mr. ATKINS] had moved non-concurrence upon that point.

The SPEAKER. The Chair has not submitted the motion of the gentleman from Tennessee, and the motion of the gentleman from Mississippi is in order. The motion to concur and complete legislation has precedence over a motion to non-concur, which does not complete legislation.

The question being taken, the motion to concur was not agreed to.

The SPEAKER. Voting down the motion to concur is equivalent to non-concurring in the amendments indicated by the gentleman from Mississippi. The Chair will now submit the question as to non-concurring in the remaining amendments in which the Committee on Appropriations recommend non-concurrence.

The question being taken, the remainder of the amendments were non-concurred in.

Mr. ATKINS moved to reconsider the various votes of concurrence and non-concurrence; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. TOWNSHEND, of Illinois. I desire to make a parliamentary inquiry. Is the motion of the gentleman from Texas [Mr. MILLS] not in order?

The SPEAKER. The Chair understands that the gentleman from Texas has withdrawn his motion.

Mr. MILLS. I am satisfied that the motion is premature at present. After the Senate has considered the action of the House on these amendments, and a conference is asked by either House, I can then make the motion. I therefore withdraw it for the present.

The SPEAKER. The Clerk will now read the amendments of the Senate in which the Committee on Appropriations recommend concurrence with amendments.

The committee recommended concurrence in amendment 71, with an amendment striking out "8" and inserting "7;" so that it would read:

For contingent expenses of the Executive office, including stationery therefor, $7,000.

The recommendation of the committee was agreed to.

The committee recommended concurrence in amendment numbered 72, with an amendment striking out "5" and inserting "3;" so that it would read:

For expenses of editing and distributing the laws enacted by the Forty-sixth Congress, and for the expenses of editing and distributing the Statutes at Large of the Forty-sixth Congress, $3,000.

The recommendation of the committee was agreed to.

The committee recommended concurrence in amendment numbered 109, with an amendment striking out "one hundred" and inserting "eighty;" so that it would read:

For eighty copyists at $900 each.

The recommendation of the committee was agreed to.

The committee recommended concurrence in amendment numbered 128, with an amendment substituting for the proviso stricken out the following:

Provided, That hereafter one-half of the amount of the salaries of the said chief-justice and associate justices, together with the salaries of the district attorney and warden of the jail of the District of Columbia, shall be charged against the revenues of the District of Columbia.

The recommendation of the committee was agreed to.

Mr. ATKINS moved to reconsider the various votes concurring in amendments of the Senate with amendments; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT, from the Committee on Agriculture, reported back the bill (H. R. No. 6207) making appropriations for the Agricultural Department for the fiscal year ending June 30, 1881, and for other purposes, with amendments by the Senate, and moved non-concurrence in the Senate amendments.

Mr. BAKER. I think the amendments as to which non-concurrence is recommended ought to be read.

Mr. COVERT. The committee recommend non-concurrence in all the amendments.

Mr. ALDRICH, of Illinois. I call for the reading of the amendments.

The amendments of the Senate were read, as follows:

On page 1, line 8, strike out "3" and insert "4."

On page 1, line 12, strike out "assistant disbursing clerk, $1,400."

On page 1, line 14, strike out "3" and insert "4."

On page 1, lines 14 and 15, strike out "two of whom shall be practical printers, $4,000, two;" and insert "$5,000, six."

On page 1, line 17, before "copyist," insert "clerks."

On page 1, line 21, after "dollars," insert "three assistant chemists, at $1,200 each, $3,600."

The amendments of the Senate were non-concurred in.

Mr. BLACKBURN. I move that the House do now adjourn.

PRIVATE LAND CLAIMS IN NEW MEXICO.

Pending the motion to adjourn,

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting papers in the New Mexico private land claim "Francisco de Anaga Almazan grant for the Cieneguilla tract;" which was referred to the Committee on Private Land Claims.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting papers in the New Mexico private land claim, "Antonio Martinez grant;" which was referred to the Committee on Private Land Claims.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows.

To Mr. SIMONTON, from the 1st of June indefinitely, to discharge his duty under the appointment of the Speaker as a member of the Board of Visitors to the Naval Academy at Annapolis;

To Mr. MITCHELL, until Wednesday, on account of sickness;
To Mr. MCCOID, for six days, on account of important business;
To Mr. MCGOWAN, indefinitely, on account of sickness; and
To Mr. STEELE, from and after the 12th of June, for the remainder of the session.

LEAVE TO PRINT.

Mr. CLARK, of Missouri. I ask unanimous consent to have printed in the RECORD as a part of the debates some remarks I have prepared on the revenue bill known as the Tucker bill.

There was no objection. [See Appendix.]

JOHN HOUCHIN.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 6359) granting a pension to John Houchin, of Burning Springs, West Virginia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WESLEY COLEMAN.

Mr. WILSON also, by unanimous consent, introduced a bill (H. R. No. 6360) for the relief of Wesley Coleman; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ORDER OF BUSINESS.

Mr. COBB. I hope the gentleman from Kentucky will withdraw his motion to adjourn that I may move to proceed to the consideration of the general deficiency bill.

Mr. BLACKBURN. I withdraw the motion to adjourn.

Mr. COFFROTH. I ask unanimous consent to offer the resolution which I send to the desk.

Mr. HAYES. I call for the regular order.

GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. COBB. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the general deficiency appropriation bill.

Mr. TOWNSHEND, of Illinois. I reserve all points of order.

The motion of Mr. COBB was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. WHITTHORNE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

Mr. COBB. I shall take but a moment or two in explaining the provisions of this bill. It is made up mainly from executive documents No. 24 and No. 29 of this session, which documents contain a large number of items, some of them small and some pretty large in amount.

In pursuance of the fourth section of the act of June 14, 1878, the accounting officers of the Treasury are required to make up their accounts of claims where appropriations which have been made have become exhausted or have been covered into the Treasury. Those claims so found to be due by the accounting officers of the Treasury are reported by them to the Secretary of the Treasury, and by him transmitted to Congress at the beginning of each session. That is all I need to say upon that part of the bill. There are other provisions of the bill which have been inserted upon the recommendations of the different heads of Departments, whose letters have been referred to the Committee on Appropriations, and upon those letters, with such other information as the committee was able to obtain, those items have been put in the bill. There are also other provisions which were put in by the committee, which I do not propose to discuss at present. One of them is a somewhat important provision, with regard to the treaty between the Government and the Miami Indians, making an appropriation amounting to $223,000.

There is also a provision in the bill making an appropriation to pay such judgments as have heretofore been rendered by the Court of Claims against the Government and such as may hereafter be rendered during the fiscal year. I do not desire to take up the time of the committee with further explanation of the bill. I have given the general outlines of it so as to enable members to understand what are its general features.

Mr. REAGAN. If the gentleman will give way, I desire to occupy the attention of the committee for a short time.

Mr. COBB. I will yield to the gentleman from Texas, [Mr. REAGAN.]

Mr. REAGAN. I desire to take the floor in my own right.

Mr. BAKER. How much time does the gentleman desire?

Mr. REAGAN. I take the floor in my own right.

Mr. BAKER. If there is to be general speech-making——

Mr. REAGAN. I propose to address the committee on House bill No. 4748, to establish a board of commissioners of interstate commerce, and for other purposes.

Mr. BAKER. I move the committee now rise for the purpose of obtaining an order from the House to limit debate.

Mr. REAGAN. I do not yield the floor for any such purpose.

The CHAIRMAN. The gentleman from Texas is entitled to the floor.

Mr. HISCOCK. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. HISCOCK. My question is whether the gentleman from Texas [Mr. REAGAN] can speak at this time on any bill other than the one now pending before the committee?

Mr. REAGAN. I have been trying for some time to make some remarks on a bill which I regard as very important and necessary, and I propose to make them now.

The CHAIRMAN. The gentleman from Texas has the floor.

Mr. HAZELTON. I rise to a parliamentary inquiry.

Mr. REAGAN. I do not yield to any parliamentary inquiry.

Mr. HAZELTON. I have a right to make it.

The CHAIRMAN. The gentleman from Texas has the floor, and cannot be interrupted.

Mr. WILSON. And he has already commenced his speech.

Mr. REAGAN. I propose to address the committee on House bill No. 4748, which has for its object to establish a board of commissioners for interstate commerce, and for other purposes; and also upon the substitute offered by myself for that bill, and also the substitute for the bill offered by the gentleman from Maryland, [Mr. MCLANE.]

Mr. HISCOCK. I ask the Chair to rule on my point of order.

Mr. REAGAN. Can I be permitted to proceed?

The CHAIRMAN. The gentleman from New York [Mr. HISCOCK] rises to a point of order.

Mr. HISCOCK. My point of order is that the gentleman from Texas [Mr. REAGAN] cannot speak upon the bill he indicates while another bill is pending before the Committee of the Whole.

The CHAIRMAN. The Chair decides that he can speak upon any bill.

Mr. BAKER. And from that decision of the Chair I appeal.

Mr. REAGAN. I have not yielded the floor for any such purpose.

The CHAIRMAN. The gentleman from New York [Mr. HISCOCK] rose to a point of order, which he had a right to do.

Mr. REAGAN. To take me from the floor?

The CHAIRMAN. He had a right to make the point of order, inasmuch as it contests the right of the gentleman from Texas to speak at this time. The Chair has decided that the gentleman from Texas is in order and has a right to proceed, from which decision the gentleman from Indiana [Mr. BAKER] takes an appeal.

Mr. HAWLEY. Allow me to call attention to the fact that the Chair ruled distinctly that the gentleman from Texas had a right to speak on one bill while another bill was pending before the Committee of the Whole. That is the form of the ruling of the Chair.

The CHAIRMAN. And the Chair will state it even more broadly for the benefit of the gentleman from Connecticut, [Mr. HAWLEY]—that there being no limit to debate, the debate being general in its character, any gentleman who is recognized as entitled to the floor in the Committee of the Whole on the state of the Union has a right to discuss any matter affecting the state of the Union.

Mr. MCCOOK. For any length of time?

The CHAIRMAN. For one hour only.

Mr. HAZELTON. I am glad that ruling has been clearly made.

The CHAIRMAN. And the question is upon the appeal from the decision of the Chair.

Mr. WILSON. The point I make is that a gentleman cannot interject a point of order so as to interrupt the gentleman from Texas after he has commenced his speech.

The CHAIRMAN. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question being taken, there were—ayes 74, noes 4.

Mr. PAGE. No quorum.

Tellers were ordered; and Mr. DIBRELL and Mr. BAKER were appointed.

The committee again divided; and the tellers reported—ayes 81, noes 6.

Mr. PAGE. No quorum.

Mr. REAGAN. I desire to raise a question of order.

The CHAIRMAN. No quorum having voted upon the last division, unless a motion be made that the committee rise the roll must be called.

Mr. REAGAN. I desire to raise a question of order.

The CHAIRMAN. A question of order is now pending, and no other question of order can now be raised. In the absence of any motion, it is the duty of the Chair to direct the roll to be called.

Mr. HAZELTON. What was the special question on which we went into Committee of the Whole?

The CHAIRMAN. It was for the consideration of the deficiency appropriation bill.

Mr. HAZELTON. Yes, sir; for a special purpose.

The CHAIRMAN. The Chair has already made his decision.

Mr. DUNNELL. I trust there will be no further objection to the gentleman from Texas proceeding. If it be conceded that an hour shall be occupied on this side, the gentleman from Texas can no doubt go on by unanimous consent. I trust there will be no objection to this arrangement. [Cries of "Agreed!"] The gentleman from Texas has carefully prepared himself, and I hope he will be allowed to proceed.

The CHAIRMAN. In the absence of any motion, the Chair must direct the Clerk to call the roll.

Mr. DUNNELL. Let the gentleman from Texas have one hour, and then let there be an hour on this side. [Cries of "That is right!"]

Mr. HAZELTON. I move that the committee now rise.

Mr. DUNNELL. I did not hear any objection to the proposition I made.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WHITTHORNE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, &c., and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. STARIN, for ten days.

ORDER OF BUSINESS.

Mr. REAGAN. Mr. Speaker, the Committee of the Whole found itself without a quorum, and according to my understanding the rule requires that on the rising of the committee the roll shall be called.

The SPEAKER. The Chair is governed by the report of the Chairman of the Committee of the Whole, who made no such statement.

Mr. REAGAN. I now make it; and I presume the gentleman from Tennessee [Mr. WHITTHORNE] will confirm the statement.

The SPEAKER. The gentleman from Tennessee, as Chairman of the Committee of the Whole, merely reported that the committee had had a certain bill under consideration and had come to no resolution thereon.

Mr. WHITTHORNE. My reason for not making the report that the committee had found itself without a quorum was that the committee rose upon a motion, and not under the rule which requires the committee to rise and report absentees after the roll has been called.

Mr. MULDROW. I move that the House adjourn.

The question being taken on the motion of Mr. MULDROW, there were—ayes 42, noes 53.

Mr. MULDROW. I call for tellers.

Mr. COBB. As there seems to be a desire to consume some time in the discussion of this bill or in the discussion of something else I propose that we allow an hour on each side——

A MEMBER. On what subject?

The SPEAKER. The gentleman from Mississippi [Mr. MULDROW] has demanded tellers on the motion that the House adjourn.

Mr. HAWLEY. I beg to make a statement. We are simply wasting time. I hope the gentleman from Texas will be allowed to occupy an hour.

The SPEAKER. Debate is not in order pending the motion to adjourn.

Mr. HAWLEY. I hope we shall make that arrangement by unanimous consent.

The SPEAKER. The gentleman from Mississippi has made a motion on which he demands tellers; the Chair recognizes the gentleman's right to have a further count by tellers. The Chair appoints the gentleman from Mississippi, Mr. MULDROW, and the gentleman from Connecticut, Mr. HAWLEY.

Mr. TOWNSHEND, of Illinois. On the motion to adjourn no quorum is required.

The SPEAKER. The Chair has not said anything to the contrary. Less than a quorum can adjourn.

Mr. TOWNSHEND, of Illinois. But the proposition was to adjourn.

The SPEAKER. And upon a count by the Chair the noes prevailed, when the gentleman who had moved to adjourn demanded tellers, which (whether a quorum voted or not) he had the right to do.

Mr. TOWNSHEND, of Illinois. On the motion to adjourn?

The SPEAKER. Yes, sir.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendment joint resolution and bill of the following titles:

Joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions; and

A bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis; and

A bill (H. R. No. 3966) to carry into effect the resolution of Congress adopted on the 29th of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes.

The message further announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

ORDER OF BUSINESS.

Mr. MULDROW. I withdraw my demand for tellers.

The SPEAKER. So the House refuses to adjourn.

Mr. ATKINS. I hope now the House will agree to this understanding, that the gentleman from Texas shall proceed with his speech, and then that some gentleman on the other side shall speak an equal length of time, say an hour, in the morning.

The SPEAKER. On a general subject?

Mr. ATKINS. On any subject he wants to.

Mr. BAKER. I object if it is to be limited to one man on this side. If an hour is asked on that side, an hour ought to be conceded on this.

Mr. HAZELTON. I object, unless the debate is confined to the bill pending in the committee.

Mr. SPRINGER. I move that all general debate in the Committee of the Whole House on the state of the Union be limited to two hours, one hour on each side.

Mr. WEAVER. I want to ask the gentleman from Illinois what he means by one hour on each side. What sides does he refer to?

Mr. SPRINGER. One on this side and one on the other. I will say two hours and not say anything about sides.

Mr. WEAVER. I protest against any arrangement being made whereby gentlemen who do not belong to either side shall be cut out from this debate.

The SPEAKER. The Chair wishes to state that the motion of the gentleman from Illinois, to be in order, should be preceded by a motion to go into Committee of the Whole House on the state of the Union, and, moreover, the Chair desires to state to the House that this arrangement must be by unanimous consent, as the rules require, the point of order being raised, that the debate shall be confined to the bill under consideration in the committee.

Mr. REAGAN. There will be no difficulty if the committee will allow me to proceed. After I have finished my remarks any gentleman who chooses to can occupy an hour. The question I wish to discuss has nothing to do with party politics.

The SPEAKER. The Chair states, the point of order being raised, that the debate must be confined to the pending bill. That is the reason why the Chair recognizes the gentleman from Wisconsin to object. The rule states expressly such discussions, if the point of order is raised, must be confined to the subject-matter of the proposition under consideration.

Mr. REAGAN. That can be arranged by the gentleman having charge of the bill.

Mr. HENDERSON. I should be glad to make a statement.

Mr. REAGAN. I give notice, Mr. Speaker, if I am to be prevented from making my remarks by the point being raised that no quorum is present, then no action shall be had on any bill unless a quorum is present until I shall be permitted to make my speech. I am determined, and so are the friends who act with me, that on the only opportunity I have had for expression on this subject I shall not be choked off.

Mr. COBB. I wish to make a statement. I yielded the floor to the gentleman from Texas, but I did not desire to have the time which ought to be devoted to the consideration of the deficiency bill frittered away; and therefore, if the rule requires, objection being made that the gentleman shall confine himself to the subject-matter of the pending proposition, I will move the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the deficiency appropriation bill.

The SPEAKER. The Chair does not know what occurred in committee, but he did state and states again that the gentleman from Wisconsin objected to any arrangement by which any gentleman on the floor should speak to a subject not before the committee. The gentleman had the right to make that objection, and the Chair, under the rule, was compelled to recognize it.

Mr. COBB. I misunderstood the Chair.

The SPEAKER. The Chair understands the bill on which the gentleman from Texas desires to speak is not in the Committee of the Whole House on the state of the Union.

Mr. COOK. I move the House take a recess until half past seven o'clock this evening for discussion only.

Mr. REAGAN. If that is intended for my accommodation, I will say to the gentleman that I have no expectation of making a speech this evening.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, notified the House that that body had adopted the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

ORDER OF BUSINESS.

Mr. SPRINGER. If the gentleman from Indiana does not press his motion to go into the Committee of the Whole House on the state of the Union on the deficiency appropriation bill, I will move to go to the business upon the Speaker's table for the purpose of reaching as soon as possible the joint rule from the Senate for counting the electoral vote.

The SPEAKER. That joint rule is upon the Speaker's table.

Mr. SPRINGER. So I understand, and my motion is to go to the business upon the Speaker's table.

The SPEAKER. The Chair entertains that motion.

Mr. SPRINGER. And I wish also to reach the bill in reference to supervisors of election. I make that motion.

The House divided; and there were—ayes 60, noes 8.

Mr. BAKER. No quorum.

The SPEAKER. The Chair will appoint as tellers Mr. SPRINGER and Mr. BAKER.

The House again divided; and the tellers reported—ayes 51, noes 4.

And then, on motion of Mr. SIMONTON, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ATHERTON: The petition of Caton Hill and 22 others, citizens of Licking County, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. ATKINS: The petition of H. H. Lovelace and others, citizens of Henry County, Tennessee, for legislation to regulate interstate commerce—to the Committee on Commerce.

By Mr. BOUCK: The petition of Rev. Theodore A. Schnitzler, for a pension—to the Committee on Invalid Pensions.

By Mr. BOYD: The petition of J. H. Turnbull and 21 others, citizens of Stark County, Illinois, engaged in wool-growing, for the passage of the Eaton tariff bill—to the Committee on Ways and Means.

By Mr. BREWER: The petition of George Alpin, E. C. Webber, and 56 others, soldiers, of Genesee County, Michigan, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. CARLISLE: Papers relating to the claim of W. C. Watts to be refunded certain taxes improperly collected from him—to the Committee on Claims.

Also, the petition of soldiers of the late war residing in Kentucky, for the passage of a law granting bounty lands—to the Committee on the Public Lands.

Also, the petition of Thomas D. Wright, of Trimble County, Kentucky, for compensation for a printing-press destroyed by United States soldiers during the late war—to the Committee on War Claims.

By Mr. DEUSTER: The petition of Hermann Voightlander, for a pension—to the Committee on Invalid Pensions.

By Mr. JOHN HAMMOND: The petition of John N. Payne, for increase of pension—to the same committee.

By Mr. KING: The petition of the Merchants' Exchange, of Saint Louis, Missouri, for the appointment of a standing committee of the House on Mississippi River improvement—to the Committee on the Rules.

By Mr. McGOWAN: The petition of J. R. Barnes, Edwin Fellers, and 20 others, citizens of Michigan, for legislation regulating freight rates—to the Committee on Commerce.

Also, the petition of the same parties, for the amendment of the patent laws—to the Committee on Patents.

By Mr. MORRISON: The petition of Louis Pitthan and others, citizens of Belleville, Illinois, for the abolition of the duty on newspapers, magazines, and other periodicals—to the Committee on Ways and Means.

By Mr. PRESCOTT: The petition of Elizabeth Reese, for arrears of pension—to the Committee on Invalid Pensions.

Also, the petition of Jarvis C. Lincoln, for a pension—to the same committee.

By Mr. ROBESON: The petition of citizens of New Jersey, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petition of citizens of New Jersey, for a law to provide for granting lands in severalty to Indians—to the Committee on Indian Affairs.

By Mr. THOMAS: The petition of 231 citizens of New York, 45 citizens of Illinois, 34 citizens of Indiana, 29 citizens of Ohio, and 21 citizens of Minnesota, for the enactment of a law taxing oleomargarine and all imitations of butter—to the Committee on Ways and Means.

By Mr. PHILIP B. THOMPSON: The petitions of T. M. Pennington and of John Huffman, for pay for stores furnished the United States Army during the late war—to the Committee on War Claims.

By Mr. UPSON: Papers relating to the bill for the relief of G. W. Littlefield—to the Committee on Indian Affairs.

By Mr. VANCE: A paper relating to the establishment of a post-route from Burnt Chimney, North Carolina, to Gaffney's, South Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WEAVER: The petition of N. D. Hockett and 25 others, of Baraboo, Wisconsin, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. WILSON: The petition of N. B. Low and others, for the passage of the interstate-commerce bill—to the Committee on Commerce.

By Mr. THOMAS L. YOUNG: The petition of Gilbert Cairns and 19 others, revenue officers, of Philadelphia, Pennsylvania, for the passage of the bill (H. R. No. 4802) extending the privilege of annual leave of absence to revenue officers—to the Committee on Ways and Means.

IN SENATE.

TUESDAY, *June* 1, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a telegram from Lieutenant-Colonel Q. A. Gillmore, Corps of Engineers, president of the Mississippi River commission, recommending that the estimate heretofore submitted for surveys and expenses of the commission for the next fiscal year be increased to $300,000; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting letters from the heads of the several bureaus interested, relative to the recommendation made in Senate report No. 539, second session Forty-sixth Congress, that the legal-tender and national-bank notes, the stamps, bonds, and other securities of the Government be delivered to and passed through some office of the Department before their delivery to the office putting them in use; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the 13th instant, a report from the Commissioner of Indian Affairs, and accompanying correspondence, concerning the rejection of certain bids for wagons for the Indian service alleged to be lower than those upon which the award was made; which was ordered to lie on the table.

The PRESIDENT *pro tempore*. No order to print will be made until the Senator who introduced the resolution [Mr. PLUMB] shall return, unless some one makes the motion.

PETITIONS AND MEMORIALS.

Mr. SAUNDERS presented the memorial of T. A. Hansom, C. J. Van Lanington, J. Q. Potter, and 17 others, ex-soldiers of the Union Army, protesting against the passage of the bill introduced by Mr. WITHERS providing for the examination and adjudication of pension claims, and favoring the bill introduced by Mr. GEDDES, of Ohio; which was ordered to lie on the table.

Mr. CAMERON, of Wisconsin, presented additional papers in the matter of the claim of W. H. Young, of the Kentucky Light Cavalry; which were referred to the Committee on Claims.

Mr. WHYTE presented the petition of Henry Janney, Cyrus Blackburn, L. W. Hopkins, J. C. Burrough, Peter New, B. C. Childs, and other citizens of Baltimore, Maryland, praying for the passage of a bill granting land titles to the Indians in severalty on their reservations; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. SLATER. I am instructed by the Committee on Agriculture, to whom was referred the bill (S. No. 568) to provide for the purchase of two hundred acres of land in the State of Florida, and to establish thereon an experimental farm for the cultivation and improvement of plants adapted to the climate of that part of the United States, to report the bill without recommendation, and ask that it be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar.

Mr. KERNAN, from the Committee on Finance, to whom was referred the bill (S. No. 1628) for the relief of Harry J. Todd, late keeper of the Kentucky penitentiary, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (S. No. 1734) for the relief of S. Rosenfeld & Co., reported it with amendments.

Mr. ALLISON, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 186) authorizing the Secretary of the Treasury to furnish States, for the use of agricultural colleges, one set of standard weights and measures, and for other purposes, reported it with amendments.

Mr. WALLACE, from the Committee on Finance, to whom was referred the bill (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (S. No. 465) granting an increase of pension to George Smith, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WITHERS. I am also instructed by the same committee to report back the bill (H. R. No. 4887) granting a pension to Rosalie Louis and request that it be indefinitely postponed in consequence of no application having been made to the Pension Bureau.

The bill was indefinitely postponed.

Mr. PLATT. The Committee on Pensions have instructed me to report back unfavorably the bill (H. R. No. 3099) granting a pension to Caroline Boll. I have been requested to have it placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar with the adverse report of the committee.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 863) granting a pension to George W. Woodward, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Jane E. Slamm, widow of Levi D. Slamm, deceased, praying to be allowed arrears of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 295) for the relief of the Fifteenth and Sixteenth Regiments Missouri Cavalry Volunteers, reported adversely thereon, and the bill was postponed indefinitely.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1737) for the relief of Magnus S. Thompson, reported it without amendment.

Mr. CALL, from the Committee on Pensions, to whom was referred a petition of Army officers, praying that a pension be granted to Amos Chapman, scout, submitted a report thereon, accompanied by a bill (S. No. 1809) granting a pension to Amos Chapman, scout.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mary E. Ambrester, praying for a pension, submitted a report thereon, accompanied by a bill (S. No. 1810) granting a pension to Mary E. Ambrester.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mary E., widow of James H. Shepley, late a first lieutenant Company E, First Minnesota Volunteers, praying for the benefits of the acts of January 25 and March 3, 1879, providing for arrears of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. JONES, of Florida, from the Committee on Public Lands, to whom was referred the bill (S. No. 1641) for the relief of certain purchasers of the public lands, reported it with an amendment.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (H. R. No. 751) granting a pension to Harvey Burk, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1318) granting a pension to Seymour Colby, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1890) granting a pension to Ellen Gillespie, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3017) granting a pension to William Bryant, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McPHERSON, from the Committee on Pensions, to whom was referred the bill (S. No. 1334) for the relief of Charles H. Frank, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

SOLDIERS OF THE NORTHWEST'S REUNION.

Mr. BURNSIDE. I am directed by the Committee on Military Affairs to report favorably, and without amendment, the joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition, and tents to the soldiers' reunion committee of the Northwest, and to ask its immediate consideration. It is a resolution which will take no time. There will be no objection to it.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the joint resolution?

Mr. COCKRELL. If the resolution which I reported, which is on the same subject and equally guarded, is considered, I have no objection; but unless unanimous consent for the consideration of both is given, I cannot consent to have one of the measures acted upon to the exclusion of the other.

Mr. BURNSIDE. I do not understand the Senator from Missouri.

Mr. COCKRELL. I say if the joint resolution which I reported on the same subject is also taken up and acted on, I have no objection. The two resolutions are of the same character.

Mr. BURNSIDE. I shall not object to the joint resolution of the Senator from Missouri being acted on.

Mr. COCKRELL. I make no objection to the joint resolution, but simply wish the other one acted on too.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the joint resolution reported by the Senator from Rhode Island?

Mr. DAVIS, of West Virginia. Let it be read for information, subject to objection. I want to know what it is.

The Chief Clerk read the joint resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition, and tents to the soldiers' reunion committee of the Northwest.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOLDIERS' REUNION IN NORTHEAST MISSOURI.

Mr. COCKRELL. Now I hope the joint resolution which I reported this morning may be considered.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. KIRKWOOD. Is there a provision in the joint resolution providing that the transportation to and from the arsenal shall be without expense to the Government?

Mr. COCKRELL. That is in the resolution.

Mr. KIRKWOOD. Is there any provision requiring the proper State officers to receipt for the articles?

Mr. COCKRELL. They are to give bond.

Mr. KIRKWOOD. Very well.

The joint resolution was passed.

ABIGAIL S. TILTON.

Mr. DAWES. The Committee on Revolutionary Claims, to whom was referred the bill (S. No. 205) granting arrears of pension to Abigail S. Tilton, who is the widow of a revolutionary pensioner, have instructed me to report it with an amendment in the nature of a substitute, and with a report. I ask that the report be printed.

The PRESIDENT *pro tempore*. The report will be printed under the rule.

Mr. DAWES. At the suggestion of the chairman of the committee [Mr. ANTHONY] I venture to ask for the present consideration of the bill. I think a statement of two minutes would cause its passage, as all the pension bills have gone off the Calendar. This is the widow of a revolutionary pensioner, who asks to have her pension increased from $8 to $16. She is the last of them, so far as we know, and she would have obtained her pension in 1854 had it not been for her being misled by her agent here, and having had her papers lost. In order to relieve her from her destitute condition as one, if not the only survivor of the venerable widows of the soldiers of the Revolution, the committee propose, as the only report they will make at this session, to increase her pension from $8 to $16 a month.

Mr. DAVIS, of Illinois. Nobody will object to that.

Mr. DAWES. She is over ninety years of age, and it will last but a year or two.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. DAWES. The original bill need not be read. Instead of granting arrears of pension the substitute reported proposes to increase her present pension to $16 a month.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill, and in lieu thereof to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Abigail S. Tilton, at the rate of $16 per month, to date from March 3, 1879: *Provided*, All payments heretofore made shall first be deducted.

The amendment was agreed to.

Mr. INGALLS. In order to prevent any possible difficulty, I would suggest to the Senator from Massachusetts that the bill should be amended by adding that this shall be in lieu of the pension she now receives.

Mr. DAWES. The proviso is that "all payments heretofore made shall first be deducted."

Mr. INGALLS. That only applies to what has gone before.

Mr. DAWES. Any suggestion the Senator's experience thinks proper I will accept.

Mr. INGALLS. In line 7, after "1879," I move to insert "which pension shall be in lieu of that now received by her."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Abigail S. Tilton."

NEGRO EXODUS.

Mr. VANCE. I am instructed by the special committee appointed

by the Senate to investigate the causes which have led to the migration of the negroes from the Southern to the Northern States to submit a report, and to ask that the testimony which accompanies it lie upon the table and be printed.

The PRESIDENT *pro tempore*. The Senator from North Carolina, from the special committee on the exodus, submits a report and asks that the report, with the accompanying testimony, be laid on the table and printed. If there be no objection, it will be so ordered.

Mr. WINDOM. Before the question of printing the report passes from the Senate, I desire to say that I have not yet been able to procure a copy of the evidence, and my colleague on the committee, the Senator from New Hampshire, [Mr. BLAIR,] is absent. I believe, with the leave of the majority of the committee, I may ask the Senate for unanimous consent to submit the views of the minority, and that they may be printed with the majority report and the evidence.

The PRESIDENT *pro tempore*. Does the Senator wish the order to print withheld for the present?

Mr. WINDOM. I have no objection to the report being printed, but I ask to be permitted to submit the views of the minority at any time before the close of the session.

The PRESIDENT *pro tempore*. The Chair hears no objection, and it is so ordered.

LAND FEES IN DONATION CASES.

Mr. SLATER. I ask unanimous consent to take up the bill (S. No. 701) for the relief of settlers on the public lands of the United States.

Mr. WALLACE. We are not through the morning business yet.

The PRESIDENT *pro tempore*. We are not yet through the routine business of the morning hour.

Mr. McDONALD. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes in relation to fees for final certificates in donation cases, to report it without amendment. As it is a very brief bill and affects simply the interests of certain settlers in Oregon, I ask for its present consideration. It will take but a moment.

Mr. RANSOM. I should like very much to yield to my friend from Indiana, but I gave notice yesterday that immediately upon the conclusion of the routine business this morning I should ask the Senate to take up the river and harbor bill. I have been appealed to by a great many Senators to yield to them. I shall have to be positive, and I hope my friend will not insist on his bill now.

Mr. SLATER. I hope the Senator will not object. The bill will take but a moment.

Mr. RANSOM. If each of seventy-six Senators has a bill which he says "will take but a moment," and I yield, over an hour will be taken. I must be a little positive for once in my life.

The PRESIDENT *pro tempore*. Objection is made, and the bill cannot be considered at this time. It will be placed on the Calendar.

DETROIT ARSENAL.

Mr. PADDOCK. I am instructed by the Committee on Public Lands, to whom was referred the bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan, to report it with an amendment, and recommend its passage. It is a very simple bill, and it is very necessary that it should pass at once. Therefore I ask for its present consideration.

Mr. RANSOM. I object to the present consideration of the bill.

Mr. BALDWIN. I hope my friend from North Carolina will withdraw his objection. This is a bill that will not take two minutes. The bill is of a public character, not of a private character at all.

Mr. RANSOM. My colleague upon the Committee on Commerce did not hear what I just said. There are seventy-six Senators here, and if each of them asked me to give him one minute, an hour and sixteen minutes would be consumed; and I must be firm about it. I cannot yield. I wish I could yield to the Senator from Michigan.

The PRESIDENT *pro tempore*. The bill will be placed upon the Calendar.

Mr. PADDOCK. Under such circumstances I feel constrained to withdraw the report until I may have an opportunity to have it considered immediately on its presentation.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks leave to withdraw the report just made from the Committee on Public Lands. Is there objection? The Chair hears none, and it is withdrawn.

NEW YORK CENTRAL RAILROAD DIVIDEND TAX.

Mr. BUTLER. I introduced a resolution of inquiry on the 28th of May, directing the Secretary of the Treasury to furnish certain information to the Senate in relation to the New York Central Railroad dividend tax, and it was laid over under objection by the Senator from Vermont, [Mr. EDMUNDS.] It is simply a resolution of inquiry, and I submit that it ought to be passed.

Mr. RANSOM. I hope my friend from South Carolina will not insist on that at this moment. It is very important that we get through the river and harbor bill to-day.

The PRESIDENT *pro tempore*. Does the Senator from North Carolina object?

Mr. RANSOM. I must object, although I dislike to do so.

Mr. BUTLER. It is a resolution simply of inquiry, and it is the uniform custom of the Senate to consider such resolutions when submitted.

BELINDA CURTIS.

Mr. KIRKWOOD. I am instructed by the Committee on Pensions to ask that the bill (H. R. No. 2407) granting a pension to Belinda Curtis, which was reported from the committee adversely and indefinitely postponed on the 3d ultimo, be recommitted to the Committee on Pensions.

The PRESIDENT *pro tempore*. If there be no objection the vote by which the bill was indefinitely postponed will be reconsidered. Is there objection? The Chair hears none, and the bill will be recommitted to the Committee on Pensions.

BILL INTRODUCED.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1811) for the relief of Captain John Lafferty, United States Army, retired; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

ELECTION INVESTIGATION.

Mr. WALLACE. I offer the following resolution and ask for its present consideration:

Resolved, That the select committee to inquire into alleged frauds in the late elections be continued with power to report at the next session of the Senate, and to file the reports of the majority and minority in the office of the Secretary of the Senate during vacation when the same with the testimony taken shall be printed, and the said committee shall have authority to sit during the recess of the Senate, and shall possess during said recess all the powers and authority heretofore conferred on it.

Mr. INGALLS. Let that lie over, Mr. President.

The PRESIDENT *pro tempore*. The resolution goes over.

POSTAL CONTRACTS OF BENJAMIN HOLLADAY.

Mr. DAVIS, of West Virginia. I offer the following resolution of inquiry, and ask for its immediate consideration:

Resolved, That the Postmaster-General be, and hereby is, directed to furnish to the Senate copies of any and all contracts entered into between the United States, and amount paid on each contract, through the Postmaster-General and Benjamin Holladay, and any and all firms and companies of which said Holladay was a member, from July 1, 1859, to January 1, 1866, for carrying mails.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. RANSOM. I object to the present consideration of all questions.

The PRESIDENT *pro tempore*. The resolution lies over.

Mr. DAVIS, of West Virginia. I then ask to withdraw the resolution. I will offer it to-morrow.

ORDER OF BUSINESS.

Mr. BUTLER. Mr. President, I rise to a question of inquiry, and that is whether my friend, the chairman of the Committee on Commerce, has the right to object to the consideration of a resolution of inquiry which was introduced several days ago. In other words, I ask whether a single objection will defeat the consideration of that resolution. It is a simple resolution of inquiry.

The PRESIDENT *pro tempore*. The rule is express that no bill, resolution, or any other matter shall be taken up during the call of the routine business of the morning hour, except by unanimous consent.

Mr. RANSOM. Now, Mr. President, the routine business being through, if my friend will pardon me, I move that all prior orders be postponed——

The PRESIDENT *pro tempore*. The Senator will suspend. The close of the routine business has to be announced. The rule requires it expressly. If there are no other resolutions the routine business of the morning hour is at an end.

Mr. RANSOM. I move that all prior orders be laid aside so that the river and harbor appropriation bill may be taken up.

Mr. MORGAN. I hope that the morning hour will not be intruded upon by the river and harbor bill. The morning hour has been set apart by a resolution of the Senate for the purpose of considering bills upon the Calendar. There are a great many of these cases that consist of debts and demands against the United States for services long since rendered, and many of the applicants are suffering for want of the money which the Government honestly owes them. There are other bills upon the Calendar which relate to the general public welfare.

The river and harbor bill is not a bill of privilege at all in the Senate. It is a bill for the distribution of the proceeds of the taxation of the people into the hands of favorite citizens. Some of the works provided for in the river and harbor bill are of public necessity; others are of no public necessity whatever. Some of them doubtless are entirely within the purview of the Constitution on this subject, and others are entirely outside of it. It is a bill that will lead of course to a good deal of discussion. It cannot pass through the Senate of the United States merely by its own weight, as it went through the House of Representatives. The bill will receive an attentive consideration in the Senate and the Senate ought to be prepared to bestow upon it its very best efforts when it is presented in due season.

I shall not antagonize calling up the river and harbor bill after the morning hour has been occupied by legitimate business, but there are cases upon the Calendar of the description to which I have already alluded, and among others cases of most meritorious character that should not be laid aside for a mere bill, not of proper appropriation for carrying on the Government of the United States, but a bill for

the purpose of facilitating commerce, as it is supposed. We have as much right to take up a tariff bill in the morning hour as we have to take up a river and harbor bill, or a railroad bill, or any other description of bill which can be brought before Congress.

I hope the Senate will not take up the river and harbor bill in the morning hour. The honorable Senator from North Carolina should not feel himself entirely authorized to make such a request.

I have tried in three instances here, at the request of the committee of which I happen to be chairman, to bring to the attention of the Senate of the United States a subject relating to frauds perpetrated by people of this country upon the electoral vote. I have tried to bring that measure to the attention of the Senate, feeling that there was nothing partisan in it at all, and perhaps that it would not attract any division by party lines. I have failed in these efforts. If the Senate postpones the pending order and undertakes to set aside the Calendar so that gentlemen will be cut off from the privilege of going on and having a call of the cases on the Calendar, I hope that instead of taking up the river and harbor bill the Senate of the United States will take up Senate bill No. 1687, now upon the Calendar, to enforce the observance of the Constitution in reference to elections of President and Vice-President of the United States. The House of Representatives should have a fair opportunity to deliberate upon this measure. It will be impossible to have such an opportunity if the action of the Senate is delayed for a few days longer.

I think, Mr. President, that in the motion I shall make, in the event that the Senator from North Carolina gets the Calendar laid aside, to take up the bill I have referred to, I am representing a great many more people and a great many more of the interests of the country than can possibly be represented in a river and harbor bill.

Mr. KIRKWOOD. I am not familiar with the bill alluded to by the Senator from Alabama; but it certainly relates to a very important subject, the election of President and Vice-President. It so happens that all the members of the committee from which the bill comes who are of the minority in this Chamber are absent. I do not know how my associates upon this side of the Chamber feel; but I should feel myself very much embarrassed in considering that bill without the assistance of gentlemen from this side of the Chamber who are on the committee. I think I can appeal successfully to the sense of fair play of the Senator from Alabama not to press that bill until at least some one of those gentlemen shall return.

Mr. MORGAN. I will say to the Senator that I am not aware that any Senator antagonized the bill in committee, and if antagonism should spring up in the Senate it would rather surprise me. Hence I fail to see that there would be any injustice in pressing the measure now. But the same remark would apply to the river and harbor bill. There are Senators on the republican side of the Senate who are upon the Committee on Commerce who are not here.

Mr. KIRKWOOD. That is a different matter.

Mr. RANSOM. Some of the representatives on the other side who are upon the Committee on Commerce are here.

Mr. MORGAN. Not all of them.

Mr. RANSOM. I ask for a vote.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from North Carolina [Mr. RANSOM] to postpone all orders prior to order of business No. 727, with a view to take up the river and harbor bill.

Mr. MORGAN. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary called the roll.

Mr. WALKER. My colleague [Mr. GARLAND] is paired with the Senator from Vermont, [Mr. EDMUNDS.] If present, my colleague would vote "yea."

The result was announced—yeas 45, nays 7; as follows:

YEAS—45.

Allison,	Cockrell,	Kirkwood,	Saunders
Anthony,	Coke,	McDonald,	Slater,
Bailey,	Davis of Illinois,	McMillan,	Vance,
Baldwin,	Davis of W. Va.,	McPherson,	Vest,
Bayard,	Dawes,	Maxey,	Walker,
Beck,	Farley,	Morrill,	Whyte,
Booth,	Ferry,	Paddock,	Williams,
Brown,	Groome,	Pendleton,	Windom,
Burnside,	Hereford,	Platt,	Withers.
Butler,	Ingalls,	Randolph,	
Call,	Johnston,	Ransom,	
Cameron of Wis.,	Kernan,	Rollins,	

NAYS—7.

Harris,	Jonas,	Pryor,	Wallace.
Hill of Georgia,	Morgan,	Thurman,	

ABSENT—24.

Blaine,	Eaton,	Hill of Colorado,	Logan,
Blair,	Edmunds,	Hoar,	Plumb,
Bruce,	Garland,	Jones of Florida,	Saulsbury,
Cameron of Pa.,	Grover,	Jones of Nevada,	Sharon,
Carpenter,	Hamlin,	Kellogg,	Teller,
Conkling,	Hampton,	Lamar,	Voorhees.

So the motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and had concurred in other amendments of the Senate with amendments in which it requested the concurrence of the Senate.

The message further announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department for the fiscal year ending June 30, 1881, and for other purposes.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska; and it was thereupon signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. DAVIS, of West Virginia, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. DAVIS, of West Virginia, Mr. WALLACE, and Mr. WINDOM.

AGRICULTURAL DEPARTMENT APPROPRIATIONS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. DAVIS, of West Virginia, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WINDOM, Mr. DAVIS of West Virginia, and Mr. WALLACE.

RIVER AND HARBOR BILL.

The PRESIDENT *pro tempore*. The Senator from North Carolina now moves to proceed to the consideration of House bill No. 6237, being the river and harbor bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The PRESIDENT *pro tempore*. Before the reading of the bill commences the Chair would inquire of the Senator from North Carolina whether he wishes the amendments considered as they are reached in the reading of the bill?

Mr. RANSOM. Yes, sir; and I beg leave to give notice now that I shall feel it my duty to ask Senators not to offer any amendments until we are through with the amendments proposed by the Committee on Commerce.

The PRESIDENT *pro tempore*. That is the usage.

Mr. RANSOM. Let the amendments be acted on as the reading proceeds.

The PRESIDENT *pro tempore*. The reading of the bill will commence.

Mr. ALLISON. What is the understanding? That the committee amendments shall first be acted on?

The PRESIDENT *pro tempore*. As they are reached.

Mr. MORGAN. I am not aware of the amount of money appropriated by this bill, and I should be glad if the honorable chairman would inform us how much money is appropriated by the House and how much the Senate Committee on Commerce has added to it.

Mr. RANSOM. As nearly accurately as can be determined the amount appropriated in this bill is $8,600,000 in round numbers.

Mr. MORGAN. The honorable Senator has not answered the question which I had the honor to ask him. I desired to know how much money was appropriated in the bill by the House and how much the Senate committee has added to the House appropriations?

Mr. RANSOM. That I did not hear.

Mr. MORGAN. The honorable Senator said as nearly as could be ascertained about $8,600,000 were appropriated. I suppose that an appropriation bill when footed up may be made to speak exactly the

amount of money appropriated, and I am a little surprised to know that the honorable Senator in charge of the bill does not know how much it is going to take out of the Treasury, and still more surprised to know that he is not able to state how much the Senate Committee on Commerce has added to it.

Mr. RANSOM. I will not say what I think of that remark. I did not hear the Senator from Alabama.

Mr. MORGAN. I will say to the Senator that he is perfectly at liberty to express himself on this floor as he chooses, and I am responsible for the answer.

Mr. RANSOM. I did not hear the question put to me by the Senator from Alabama. If I had I certainly should have been prepared to have given him a full answer. I understood him to ask how much was the amount of money appropriated by this bill. I did not hear the latter part of his question. I am informed by the clerk of the committee, who has taken great pains to add it up, that the amount in the bill as it came from the House was $8,482,500, and the Senate Committee on Commerce have added to that $154,000. Now, if the Senator from Alabama will put those two amounts together he will know as much about the sum appropriated in this bill as I know.

Mr. MORGAN. I meant no offense to the honorable Senator by making the inquiry on the floor of the Senate. I withdraw the inquiry and make an apology for it, but at the same time I thought it was not unusual that the chairman of the committee should have it entirely in his power to state without much trouble to himself exactly the amount of money that would be taken out of the Treasury of the United States to be distributed in an appropriation bill.

Mr. RANSOM. I do not desire to take up any time of the Senate this morning in a discussion of this character. Perhaps it would be well if I would take a lesson in this matter from the distinguished Senator from Alabama. I am very sorry that I cannot do it. I will do the very best I can to let the Senate have all the information that I have in reference to this bill, and will try to get along with it as rapidly as possible.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The reading of the bill has not yet commenced.

Mr. RANSOM. I am very much obliged to the Senator from New Jersey, my colleague upon the Committee on Commerce, [Mr. RANDOLPH,] for suggesting to me that a misapprehension might arise in reference to my statement about the amounts in the House bill and the amendments of the Committee on Commerce. I ought to have stated that $154,000 was the increase made by the Senate Committee on Commerce after deductions which the committee had made.

The PRESIDING OFFICER. The Secretary will proceed with the reading of the bill.

The Chief Clerk proceeded to read the bill. The first amendment reported from the Committee on Commerce was in section 1, line 22, to increase the appropriation for "improving harbor at Plymouth, Massachusetts, continuing operations," from $5,000 to $10,000.

The amendment was agreed to.

The next amendment of the Committee on Commerce was in line 34, after the word "dollars," to insert "and so much of said appropriation as shall be necessary therefor shall be so expended as to have the channel six feet deep at low water between the steamboat landing in said Norwalk and Long Island Sound;" so as to make the clause read:

Improving harbor at Norwalk, Connecticut: continuing improvement, $5,000; and so much of said appropriation as shall be necessary therefor shall be so expended as to have the channel six feet deep at low water between the steamboat landing in said Norwalk and Long Island Sound.

The amendment was agreed to.

Mr. MORGAN. I desire to know now whether it is necessary, while we are in committee, to ask for a separate vote to be taken on amendments in the Senate?

The PRESIDING OFFICER. It will be necessary to reserve that right before the bill goes out of committee into the Senate, but that can be done at any time.

The reading of the bill was continued. The next amendment of the Committee on Commerce was in line 52, to increase the appropriation for "improving harbor at Little Sodus Bay, New York, continuing operations," from $1,000 to $25,000.

Mr. WITHERS. I would ask for an explanation of that great increase from $1,000 to $25,000.

Mr. RANSOM. The amendment was offered by both the Senators from New York, and upon an examination of the engineer's reports and estimates the Senator from Virginia will see that $25,000 is the amount that ought to have been appropriated, and which I think in his judgment he will say ought to have been appropriated. I will have the estimate read if it is desired.

Mr. WITHERS. I merely desired an explanation. It seemed a very large increase, larger than I have ever known made before, and I wanted an explanation of it.

Mr. KERNAN. I have a letter here in my hand from the Department saying that the report of the engineer in charge was not received when they made the small estimate for continuing the work. They say it is necessary and proper that this appropriation should be made. I have the engineer's estimate, in which he says:

IMPROVEMENT OF LITTLE SODUS HARBOR, NEW YORK.

The scheme for the improvement of this harbor, as modified in 1871, provided, as at Great Sodus, for an east pier and breakwater, and a west pier and breakwater, and was essentially completed during the fiscal year ending June 30, 1878. Their lengths are as follows:

	Feet.
West breakwater	500
West pier	1,070
East breakwater	1,524
East pier	512

The width of the channel from pier to pier is about 250 feet.

The balance now available for this work will be applied during the present season to rebuilding 1,016 linear feet of the superstructure of the west pier, and deepening the channel between the piers and into the bay to 12 feet at low water.

In 1866 it was proposed to extend the west pier out to the twelve-foot curve, but this has never been done, and the outer end of this pier is in 9 or 10 feet water. The outer end of the east pier is 610 feet inside of the outer end of the west pier, and, in consequence, sand has washed into the channel and formed shoals that cause great annoyance to vessels going out or in.

These piers should be carried out equally into the lake, and both should be extended to the twelve-foot curve. In order to accomplish this the west pier would have to be lengthened 420 feet and the east pier 1,030 feet, a total length of 1,450 feet, which, at $40 per linear foot, would cost $58,000, or with contingent expenses $60,000; and I strongly recommend that this be authorized and the necessary appropriation be asked for. Without this, dredging will constantly have to be resorted to in order to keep the channel clear for the trade, which is very rapidly increasing at this port.

For the next year I would recommend that $25,000 be asked for in order to carry the east pier as far out as the west pier now is.

The growing importance of this harbor is shown by the fact that more revenue from customs was collected here during the past year than was collected at Charlotte, the port of Rochester.

Little Sodus Harbor, New York, (Fairhaven,) is in the collection district of Oswego, about twelve miles west of Oswego and Fort Ontario. It is lighted by a fixed white light of the fourth order, situated near the head of the west pier.

The following statement of the commerce of the port for the past fiscal year is furnished from the records of the custom-house at Oswego, through the courtesy of the collector of customs:

1. Revenue from customs	$27,019 19
2. Value of imports	$171,985 00
3. Value of exports	$133,000 00
4. Number of vessels cleared	254
5. Their tonnage (tons)	32,947
6. Number of vessels entered	253
7. Their tonnage (tons)	32,942
8. Probable number of other vessels arriving and departing	25
9. Chief articles of commerce, barley, coal, lumber.	

I have letters from experienced captains saying that it is becoming one of the most important harbors on the lake, both as a harbor of refuge and for its commerce.

Mr. WITHERS. I do not wish to detain the Senate or to require the Senator from New York to read the letters. I merely desired to know the principle on which this large increase was made. I find that there is a revised estimate, and that the amount called for by the engineer in charge of the work is reported by the committee.

Mr. KERNAN. I wanted to state what I have presented for my own justification in offering the amendment to the committee; that is all.

Mr. MORGAN. I do not understand from the statement that this amendment is based on the revised estimate, but it is based upon a letter of the Chief of Engineers. Am I correct in that?

Mr. KERNAN. I understand that Engineer McFarland reported the estimate to the Chief Engineer, but it did not reach here until after the Department had submitted the estimates. Therefore they did not ask for this sum in the regular estimates, but the Chief of Engineers says it is necessary to secure the harbor that it should be done.

Mr. MORGAN. I have no objection to the increase of the appropriation, nor have I any objection to the fact that it is to be made on the estimate of the engineer. I only called the attention of the Senate to what is being done because I have a case in point precisely. I shall appeal to this precedent hereafter in the consideration of this bill.

The amendment was agreed to.

The reading of the bill was continued. The next amendment of the Committee on Commerce was, in line 71, after the word "Delaware," to insert "to dredge the bar and channel at the mouth of the Christiana River, and make such survey as may be necessary to determine the site of such works as may be necessary for the permanent improvement of said river;" and in line 75, after the word "operations," to strike out "five" and insert "ten;" so as to make the clause read:

Improving harbor at Wilmington, Delaware: To dredge the bar and channel at the mouth of the Christiana River, and make such survey as may be necessary to determine the site of such works as may be necessary for the permanent improvement of said river, continuing operations, $10,000.

The amendment was agreed to.

The next amendment was, in line 87, to reduce the appropriation for "improving harbor at Onancock, Virginia, continuing improvement," from $5,000 to $3,500.

Mr. WITHERS. That is the first amendment reported by the committee in which there is a reduction made upon the bill as sent from the House. I would respectfully inquire of the chairman of the committee the cause of this reduction, so trivial in amount, amounting only to $1,500, and, as I know the facts at this particular locality, the work which has been prosecuted there for several years is now about being completed and the amount of $5,000, which is included in the House bill as sent here, will complete the work and $3,500 will not do it. I would ask the chairman the cause of the reduction.

Mr. RANSOM. The reason operating with the committee for making this small reduction of $1,500 was that the estimates for finishing the work, I think, as well as I remember it, is $7,000, and $3,500 is a fair proportion of the total to be voted this year. If we gave all the estimates of the War Department and of the engineers in this bill, I hardly know how many millions it would amount to. The House

were obliged to reduce the appropriations below the estimates. Sometimes they were reduced 100 per cent., sometimes 200 per cent., sometimes 50 per cent. Works of this kind as a general rule were reduced about 50 per cent., one-half the estimates; and upon that principle, no work having been recently done as the report says at Onancock, this item was reduced to $3,500.

Mr. WITHERS. I certainly am not going to complain of the application to any of the improvements in Virginia of any rule of proportion which may be adopted by the Senate; but as I see that no such rule has been observed in many other portions of the bill, I protest against its application to this little improvement where by the appropriation of $5,000 as included in the House bill the whole work will be ended and the improvement will be complete, and it can be done certainly much more economically under that provision than it can by appropriating $3,500 this year and $3,500 next.

I hope, therefore, that the chairman of the committee will consent to restore this provision of the bill to $5,000, as it exists in the House bill, as that will complete the work.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was in line 90, to increase the appropriation for "improving harbor at Charleston, South Carolina, continuing improvement," from $125,000 to $170,000.

The amendment was agreed to.

The next amendment was, to strike out lines 95 and 96, as follows:

Improving harbor at Brunswick, Georgia: continuing improvement, $10,000.

Mr. BROWN. Mr. President, I desire to ask the honorable chairman of the committee why the committee have stricken out the $10,000 appropriated by the House bill for the improvement of the harbor of Brunswick, Georgia? It is certainly a very important harbor.

Mr. RANSOM. Mr. President, on page 765, appendix to the report of the Secretary of War, the Senator from Georgia will find this remark as to Brunswick Harbor:

Before submitting a plan for improving this harbor, I deem it necessary to have an examination made of the locality, and perhaps to have the streams gauged. It is proposed to expend a sum not exceeding $1,000 in this preliminary work.

Upon that, and no estimate being made for the work, the committee reported the amendment.

Mr. BROWN. The House of Representatives has passed, after a thorough examination of the question, as I understand from members from Georgia, an appropriation of $10,000 for that harbor. I trust that the committee will not insist on the amendment; but if they do, I trust the Senate will not adopt it. The harbor of Brunswick is certainly one of the best harbors on the Atlantic coast, and why it should be cut down in this way we in that section are somewhat at a loss to understand. I do not know that there is any guarantee given that the preliminary surveys are to be made next year, and the appropriation of $10,000 for improving the harbor will doubtless afford enough for preliminary surveys to be made and the work to proceed. As we are getting a very small amount of appropriation for Georgia, I trust the Senate will not concur in the amendment to strike out this item.

Mr. RANSOM. I dislike to oppose anything that the Senator from Georgia specially wishes in this matter, but there are already $20,000 available for this improvement and not expended, and the engineer says he does not know what to do with it without a survey. Would it not be well to have Brunswick Harbor put in the list of surveys?

Mr. HILL, of Georgia. I was about to ask if there is any appropriation here for surveys.

Mr. RANSOM. Yes, sir; $150,000 is appropriated for surveys everywhere.

Mr. HILL, of Georgia. But is any appropriation made for the survey of the harbor of Brunswick?

Mr. RANSOM. No, sir.

Mr. ALLISON. There are $20,000 already appropriated and unexpended; $1,000 of that can certainly be used for a survey.

Mr. HEREFORD. I would suggest to the Senator from Georgia that he must see from the report of the Secretary of War that before the Department know what ought to be done or can submit an estimate, there must be a survey. I would suggest to the Senator from Georgia if he desires a survey that it can be inserted in the second section along with all other surveys when we arrive at it, and as there is already $20,000 on hand, any part of it can be used for that purpose. The report shows that there are $20,000 on hand now. Then when we arrive at section 2 we can insert there a provision for the survey of that harbor, and there will be no trouble in going on with the work.

Mr. HILL, of Georgia. If a preliminary survey is indispensable before an appropriation is made for an improvement, why is it that the House of Representatives inserted this appropriation?

Mr. HEREFORD. The committee could not understand why they did it.

Mr. HILL, of Georgia. The harbor of Brunswick is in regular use and has been for years. As my colleague has correctly said, it is one of the best harbors on the Atlantic coast. There were appropriations for this improvement before the war. How does it happen that there has been no survey; and if that be so, how does it happen that the House of Representatives has made an appropriation?

Mr. HEREFORD. That is what the committee of the Senate could not understand, because before we make an appropriation for a river or a harbor we must have a survey and a report with an estimate. There is nothing of that kind in regard to the harbor of Brunswick.

Mr. HILL, of Georgia. As I understand, under the rules of the Senate, you cannot make an amendment here to a river and harbor bill for an improvement which has not been surveyed or which has never been estimated for. But that does not prove that we are under obligations to strike out an appropriation made by the House of Representatives.

Mr. HEREFORD. Oh, no; I do not desire to be understood as saying that; but how could we appropriate any amount of money knowingly and intelligently until we had a report from the War Department showing whether it was feasible, what character of work should be done, and how much it would cost? If the committee had had that before them, they never would have stricken out this item.

Mr. HILL, of Georgia. Has not the harbor of Brunswick been surveyed?

Mr. HEREFORD. No, sir; the Secretary of War says not.

Mr. HILL, of Georgia. Money has been appropriated for its improvement.

Mr. HEREFORD. There has never been a survey by the Government of the harbor of Brunswick for purposes of improvement so far as the committee is informed. If there had been and an estimate had been made, the item would not have been stricken out.

Mr. HILL, of Georgia. The harbor of Brunswick has been in use for years. We have a custom-house there. I do not belong to the Committee on Commerce; but I cannot understand how it has been that this harbor has never been surveyed. Perhaps the harbor is so good that it does not need a survey. It is probably one of the best harbors on the coast, and it may not need a survey.

Mr. HEREFORD. That may be the reason.

Mr. HILL, of Georgia. It is no reason why it should not be improved if it is such a good harbor that it does not need to be surveyed. There is certainly no constitutional objection in the way of improving the harbor until it is surveyed. I know of no reason why. There may be, as I say, a rule of the Senate prohibiting us from offering amendments; but here is an appropriation made by the House of Representatives for the improvement of a harbor already in use, for the improvement of one of the best harbors on the coast. I cannot see any reason for striking it out.

Mr. ALLISON. Will the Senator yield to me just a moment?

Mr. HILL, of Georgia. Yes.

Mr. ALLISON. I have here before me the report of the Chief of Engineers in which I find a statement that $20,000 is now available for the improvement of the harbor of Brunswick, appropriated last year. Now, the Chief of Engineers says that he has directed $1,000 of this to be used for an examination of the harbor; and if the Senator will turn to page 765 of this volume, he will find that the only appropriation for Brunswick Harbor that has ever been made was the appropriation last year and one made, in 1836, of $10,000. I suppose it will turn out that an examination must be made of this harbor anew before a plan of expenditure is entered upon. So it seems to me, even if we were to appropriate this $10,000, it would not be used during this fiscal year. I think, therefore, the committee have done right in striking out the appropriation inasmuch as there is already $20,000 not used.

Mr. HILL, of Georgia. I was informed by the gentleman in the House who represents that district of the State of Georgia that they need an appropriation of $25,000, and he wanted to see if the amount appropriated by the House, $10,000, could not be raised to $25,000. We did have it in contemplation, if we could have the Senate disagree to this amendment, to ask for an increase of the appropriation; but now if the Senate will ratify the appropriation of $10,000 by the House, we shall drop the other matter.

Mr. McMILLAN. Will the Senator from Georgia permit me to call his attention a little further to the report of the Chief of Engineers referred to by the Senator from Iowa, [Mr. ALLISON?] The engineer in charge represents to the Chief of Engineers that the appropriation of $20,000 made by the act of 3d March, 1879, still remains unexpended.

Mr. HILL, of Georgia. That I have already heard.

Mr. McMILLAN. And that it is proposed to use a portion of that fund for the purpose of making the preliminary surveys which will enable them to apply the money already appropriated, and until a survey is made they cannot expend it judiciously. This is the language of the engineer's report:

Before submitting a plan for improving this harbor, I deem it necessary to have an examination made of the locality, and perhaps to have the streams gauged. It is proposed to expend a sum not exceeding $1,000 in this preliminary work.

Then the application of the remainder of the $20,000 will be made, and further appropriation can proceed from time to time as the harbor needs.

Mr. HILL, of Georgia. I learn from those better informed than I am that we need $25,000 instead of $10,000. I have in my hand a letter from Engineer Fremont, now on that work, dated May 6, 1880, in which he says:

The appropriation for the harbor of Brunswick is entirely too small to be of any use at all that I can see. Last year $20,000 was appropriated. I made a survey, and estimated the cost of the work at $57,000.

The survey, then, has been made; and $57,000 is the estimated cost of the improvement.

That would leave $37,000 to complete the work. Twenty thousand dollars to be applied to the continuance of the jetty and dredging is as small a sum as can be

used to best advantage. In continuing that work consideration should be had to the condition it is left in, or how far the work can be carried and leave it so there will be no loss before the work can be recommenced.

We are now constructing a jetty thirty-four hundred feet long, or so much of it as the appropriation will cover; say one thousand feet, and $6,500 of the $20,000 is to be applied to dredging a channel in connection with this jetty. If these are left in an incomplete state the expenditure will not only not be of much use, but the effect will be soon to fill up the dredged channel. I think $15,000 will be the very least amount that can be judiciously expended at Brunswick next year, and with that amount permanent results, very beneficial to that harbor, can be obtained, though the work will not be completed.

Here is the engineer of the Government in charge, who says he has made a survey and he sends you the estimate, and he says the amount now appropriated is too small. This was written to my honorable colleague in the House from that district, Hon. JOHN C. NICHOLLS, and yet you have stricken out that small sum. He says:

I made a survey and estimated the cost of the work at $57,000. That would leave $37,000 to complete the work—$20,000 to be applied to the continuance of the jetty and dredging.

Doubtless that is the $20,000 to which honorable Senators have referred. Now he says $37,000 more is needed, and the House in accordance with this suggestion has given $10,000. The honorable committee of the Senate have stricken that out because it is said there has been no survey, when the engineer notifies you that he has made a survey, that he has made an estimate, and that, allowing for the $20,000 already given, he needs $37,000 more. The House has given $10,000, and you propose to strike that out. I hope the amendment of the committee will not be agreed to.

The PRESIDING OFFICER. The question is on the amendment.

Mr. BROWN. One word before the vote is taken. As stated by my honorable colleague, a survey has actually been made. It is stated in the document read by the honorable chairman of the committee that the preliminary survey had not been made. Doubtless the survey has been made since the printed document to which the chairman referred was prepared. We now have the evidence not only that the survey has been made, but that an estimate of the amount which is necessary to improve the harbor has been definitely made by the engineer. The whole amount is not now appropriated. Twenty-five thousand dollars was asked for the coming year. Ten thousand dollars was given by the House. The Senate committee propose to strike out the $10,000 because a survey has not been made. In other words, $57,000 is necessary; $10,000 is given by the House, and that is to be taken from us on the ground that there has been no survey made, when the Government officer, the engineer in charge, certifies that he has made the survey.

It seems to me that it would be very improper in this state of the case for the Senate to strike out this small appropriation. It is true it is not enough to do all that is necessary to the harbor, but it is enough to commence what ought to be done.

Let the work be commenced and then Congress can appropriate whatever may be necessary to complete it. This would seem to be the generous course. I would ask the honorable chairman whether there have been surveys in all this long list of appropriations proposed to be made by this bill? There are many of them here; I have not counted the number, but it is a very large number. Am I and my colleague to vote against all appropriations where there has not been a survey made of these rivers, of these small harbors and inlets, where large amounts of money are to be expended? Are we to vote against them unless it is shown that they have been surveyed? I presume that is a rule which many of the Senators here would not like to have applied to this appropriation bill. Suppose we inquire of the honorable chairman as each item is read whether there has been a survey and estimate in that case. I think he will be unable to answer in the affirmative in many cases.

Mr. RANSOM. If it will not interrupt the Senator from Georgia, I will state to him that in every case in which there was not a survey and an estimate the Committee on Commerce rejected the item.

Mr. BROWN. I have shown to the honorable Senator that, although he did not have the fact before his committee, there was a survey; it really has been made by the engineer in charge, for he so writes to our colleague in the House.

Mr. RANSOM. I dislike to interrupt the Senator from Georgia, but I see his colleague reading the letter that he has just read to the Senate. Will he be good enough to inform me who wrote that letter?

Mr. HILL, of Georgia. I stated it.

Mr. RANSOM. I did not hear the Senator state it.

Mr. BROWN. Mr. Fremont, the engineer in charge.

Mr. RANSOM. Has it been submitted to the Chief of Engineers and to the Secretary of War, and is there any report upon that letter?

Mr. HILL, of Georgia. If my colleague will indulge me a moment, I will read the letter.

Mr. RANSOM. That is not the question I asked. I asked if the conclusion of the letter had any recommendation from the board of engineers, or the Chief of Engineers of the United States, or the Secretary of War.

Mr. HILL, of Georgia. That I do not know.

Mr. BROWN. My colleague has read a portion of the letter.

Mr. HILL, of Georgia. I wish to read another portion of this letter wherein the writer says:

I am the United States assistant engineer to General Gillmore, in charge of these improvements and others along the coast, "Ramley Marsh," and Inside passage, between Fernandina and Saint John's River.

I will reread what I read before in connection with what follows:

The appropriation for the harbor of Brunswick is entirely too small to be of any use at all that I can see. Last year $20,000 was appropriated. I made a survey and estimated the cost of the work at $57,000. That would leave $37,000 to complete the work. Twenty thousand dollars to be applied to the continuance of the jetty and dredging is as small a sum as can be used to best advantage. In continuing that work consideration should be had to the condition it is left in, or how far the work can be carried and leave it so there will be no loss before the work can be recommenced.

He proceeds:

We are now constructing a jetty thirty-four hundred feet long, or so much of it as the appropriation will cover, say one thousand feet—

He is now actually engaged in the work that this very appropriation is needed for—

and $6,500 of the $20,000 is to be applied to dredging a channel in connection with this jetty. If these are left in an incomplete state the expenditure will not only not be of much use, but the effect will be soon to fill up the dredged channel. I think $15,000 will be the very least amount that can be judiciously expended at Brunswick next year, and with that amount permanent results, very beneficial to that harbor, can be obtained, though the work will not be completed.

He speaks of the $20,000 already given; and he says $15,000 additional is the least in his judgment that should be appropriated this year to continue the work upon which he is now engaged. I cannot understand how it is wrong to appropriate money to carry on work upon which our officers are now engaged by authority of the Government. That is all I have to say.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Commerce, to strike out lines 95 and 96.

The amendment was rejected.

Mr. RANSOM. In the Senate I shall ask for a separate vote on that amendment.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 109, to increase the appropriation for "improving outer bar, Galveston Harbor, Texas: continuing operations," from $125,000 to $175,000.

Mr. MAXEY. In support of that amendment I beg to send to the Reporter and have him incorporate in the RECORD a letter from the Secretary of War and the Chief of Engineers.

The letters are as follows:

WAR DEPARTMENT,
Washington City, April 20, 1880.

SIR: I am in receipt of your letter dated the 17th instant, requesting to be informed, in view of the growing commerce of Texas and the importance of Galveston Harbor, what appropriation, in addition to those heretofore made, can be wisely and economically expended in the improvement of this harbor during the fiscal year beginning July 1, 1880.

In reply, I have the honor to invite your attention to the accompanying report of the Chief of Engineers, which furnishes the information desired by you.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. S. B MAXEY,
United States Senate.

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., April 19, 1880.

SIR: I beg leave to submit the inclosed letter of the 17th instant, addressed to me by Hon. S. B. MAXEY, United States Senate, making inquiry in regard to the appropriation necessary to be made for continuing the work of improvement at Galveston Harbor, Texas, and to state in reply thereto that in my judgment the whole of the estimate ($200,000) asked by this office for continuing this important work could be profitably expended during the next fiscal year. Any additional sum that Congress may see fit to appropriate can also be judiciously expended.

In works of this character, (improving entrances to harbors,) where large expenditures for completion are necessary, it would seem to be in the interest of economy to have appropriations sufficiently large for a vigorous and continuous prosecution of the works, thus securing the desired improvement at the earliest possible date.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers,
Brigadier and Brevet Major-General.

Hon. ALEXANDER RAMSEY,
Secretary of War.

STATISTICS OF THE PORT OF GALVESTON, YEAR ENDING DECEMBER 31, 1879.

Exports of domestic produce.

Cotton to foreign ports	$16,511,525
Cotton to domestic ports	9,859,075
	26,370,600
Wool, 19,873 bags	1,530,230
Hides, bales 9,993, bundles 8,434, loose 7,637	2,206,550
Cattle	402,000
Tallow	170,000
Pr. meats	12,800
Bones, 6,000 tons	78,000
Horns	57,300
Peltries	85,000
Pecans	19,400
Beeswax	17,200
Hair	4,000
Oats (wheat and corn, none)	16,700
Cotton-seed, 15,000 tons	120,000
Cotton-seed oil, 11,500 barrels	184,000
Cotton-seed oil-cake, 77,000 sacks, foreign	154,000
Sugar	206,580
Molasses	81,620
Total	31,715,970
To foreign ports	16,665,670
To domestic ports	15,050,300
	31,715,970

Value of imports for the years 1878 and 1879, each ending December 31.

Imports.	1878.	1879.
Groceries	$5,981,500	$7,813,700
Dry goods	2,280,000	2,795,000
Notions	430,060	661,090
Boots, shoes, and hats	1,533,420	1,785,650
Hardware	595,100	704,200
Clothing	604,000	735,000
Crockery	35,000	78,000
Drugs	200,000	200,000
Lumber, shingles, and laths	220,000	225,000
Wines and liquors	470,000	540,000
Furniture	230,000	270,000
Lime and cement	18,000	25,000
Bricks	38,000	48,000
Sash, doors, blinds, &c	120,000	147,000
Paints and oils	78,000	92,000
Iron ties and baling stuffs	969,850	997,400
Coffee	519,000	683,000
Coal	80,000	88,500
Railroad iron and fastenings	112,000	340,000
Railroad rolling-stock	45,000	102,500
Total	14,558,930	18,331,040

Increase of 1879 over 1878, 26 per cent.

The above are the imports for the Galveston trade only, and are estimated as being only one-fourth of the imports at Galveston for the State at large, which would be for 1879, $73,324,000.

Statement of duties collected at the custom-house, Galveston, on imported goods, for the calendar year ending December 31, 1879, furnished by E. M. Pease, esq., collector.

January	$2,645 81
February	1,135 45
March	5,407 83
April	3,314 99
May	1,719 74
June	1,755 52
July	2,841 53
August	26,809 11
September	11,842 22
October	8,187 61
November	14,198 91
December	48,684 79
Total, 1879	128,543 51

Total for calendar year ending December 31, 1878, $43,007.41.

Increase of 1879 over 1878, 200 per cent.

In addition to other foreign goods to be entered at this port during this year there have been ordered from England 100,000 tons of iron and steel rails, which will give a revenue in duties of over $160,000.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 124, to reduce the appropriation for "ice-harbor at the mouth of Muskingum River, Ohio: continuing operations," from $40,000 to $20,000.

Mr. THURMAN. Mr. President, I am going to make a motion which I submit with considerable reluctance, because I am not at all disposed to enlarge the appropriations in this bill against the judgment of the House of Representatives and the Committee on Commerce in this body; but I do think that I can show such good reasons, if the Senate will do me the favor to listen to me for a very few minutes, and I promise to be very brief, that the Senate will be convinced that true economy requires that this appropriation for an ice-harbor at the mouth of the Muskingum River, instead of being cut down, should be enlarged; and therefore—and I believe that is not contrary to the understanding that the committee's amendments are to be acted upon first; if it is I will not insist upon it, but I think it is not—I move to amend the committee's amendment by striking out the word "twenty" and inserting "seventy-five;" so as to make the appropriation $75,000.

Now I beg the kind attention of the Senate for a very few minutes. This appropriation is for an ice-harbor at the mouth of the Muskingum River. It is for the benefit of the commerce of the Ohio River. The Muskingum River is the largest tributary of the Ohio River on its northern side, except the Wabash. The Ohio River from Pittsburgh to its mouth at the Mississippi is one thousand miles in length. Counting properly from the head of navigation on the Allegheny River and on the Monongahela River, there are fifteen hundred miles of steam navigation, and that river is a boundary of seven States. It is a river that in severe cold weather in the winter freezes up at least one-half or two-thirds of its length; and the consequence of the breaking up of the ice in the spring is such that a man who has not looked at the statistics would scarcely credit it. I am assured upon the most reliable authority that only a few years ago the loss by the breaking up of the ice in the Ohio, in the destruction of steamboats, of barges, of coal-boats, and of other craft, amounted to very nearly $3,000,000 at one single breaking up.

The necessity for an ice-harbor, where boats may be protected, has been recognized by the Engineer Department of the Army, by every steamboatman and bargeman on that river, by every board of trade at every one of its cities, for many, many years; and such a harbor would have been constructed long ago perhaps had it not been that it was found impossible at first to agree where the harbor should be. But that matter has been settled conclusively by the surveys made by the Engineer Department and by the testimony which it collected, and I believe now there is but one sentiment among the boatmen, among the engineers and others, that the Muskingum River is the place for that ice-harbor.

It is so for this reason: the Muskingum River is a very large river. At its mouth in the Ohio is the dam erected by the State of Ohio in the improvement of the slack-water navigation there. That dam of itself saves from two hundred and fifty to three hundred thousand dollars of the expense of creating an ice-harbor, and the Legislature of Ohio has consented to the construction of an ice-harbor there and for the creating of a lock in that dam for that purpose. That dam sets the water back for four or five miles and makes a channel four or five miles long with water in it from twelve to fifteen feet deep, and with a width, I do not recollect now how much it is, but more than eight hundred feet I think. There is the best place in an economical point of view for the construction of the ice-harbor. But there is a far greater consideration than that, and that results from this fact: the ice in the Ohio River is broken up by the rise in the tributaries that come from the south, by the rise in the Monongahela, by the rise in the Kanawha, and by the rise in other streams which come from the south; and they heading in the south, the ice in them breaks up at least two weeks before it breaks up in the Muskingum, the headwaters of which are nearly at Lake Erie. The consequence is that the breaking up in the Ohio takes place about two weeks before the ice is broken up in the Muskingum. Make that an ice-harbor, and every steamboat that navigates the Ohio could lie there in perfect safety until all the ice had gone out of the Ohio, and then be locked down into the Ohio, and not one dollar of injury done to any one of them.

These considerations are so apparent that I believe now there is no difference of opinion on the subject. There was none, I think, when we made the first appropriation for an ice harbor at the mouth of the Muskingum. There is not a particle of difference of opinion among the engineers of the Army. Well, sir, we appropriated $30,000. The title to the property necessary to be obtained for the construction of the lock has been obtained, as I have here the letter of General Wright, the Chief of Engineers, to show.

Now, what says Major Merrill, who is in charge of the work? Major Merrill, in a letter which I will not trouble the Senate to have read unless some one desires that it be read, says that the true policy would be to appropriate $100,000, so that he may finish the lock and have no danger whatever to the work by ice in the winter in its incomplete condition, but he thinks he can get along with $75,000. To appropriate a small amount and begin the construction of a great steamboat-lock in that dam with twenty thousand or thirty thousand or even forty thousand dollars is to subject the work to the danger of being utterly destroyed next winter by the ice and by the rise which will take place when the ice breaks up in the spring, whereas if you make it $75,000 now the work will be perfectly secure, absolutely secure; and that is the report of Major Merrill, and it is fully approved by General Wright, our Chief of Engineers.

Mr. President, there never was a case in the world in which it would be more penny-wise and pound-foolish than to stick about fifteen or twenty or twenty-five thousand dollars in a great work of this kind. This is a work for the safety of every boat that navigates the Ohio River, of every boat that navigates fifteen hundred miles of a river that is the boundary of seven States and that has not an ice-harbor on it from its beginning to its end. This is an appropriation to provide an ice-harbor for such a stream as that, the commerce on which is worth tens—I was going to say hundreds, but perhaps that might be an exaggeration—of millions of dollars every year.

Mr. President, I hope that we shall not have any penny-wise and pound-foolish economy on this subject. Let us give to Major Merrill, that engineer who has shown himself a discreet and wise and by no means an extravagant man, that appropriation for which he asks, which he estimated, which he sent to his chief, General Wright, which General Wright approved, as this report shows. Let us give to him that amount which will enable him to put in that lock and make it perfectly secure, and thus furnish a harbor of refuge to the great commerce of the Ohio River.

I hope, sir, that my amendment will prevail.

Mr. RANSOM. Mr. President, I should have anticipated something of what the Senator from Ohio has said except for the very great pleasure that I always have in hearing him and that I know the Senate has in hearing him.

I stated that when this amendment was made in the Committee on Commerce, according to the statement of the engineers and the War Department before us, the amount appropriated by the last Congress for this work had not been expended, not a dollar of it. The Committee on Commerce found the last appropriation untouched and some difficulty in reference to the title to the harbor; and the committee concluded, in deference to the importance of this work, that they would merely reduce the appropriation. The committee have since been informed, and the proof has been brought to us, that the money has been or is being expended, and that there is now no difficulty about the title to the land; and I feel authorized to say that the Committee on Commerce would not have proposed the amendment to reduce the appropriation if these facts had been before the committee, but they were not before the committee until late yesterday evening.

In reference to the proposed amendment of the Senator from Ohio, I hope it will be voted down. I propose to restore the item as it came

from the House, to reject the committee amendment, and not to adopt the amendment of the Senator from Ohio, and for this reason: The amount estimated for this work by the Secretary of the Treasury was $70,000, and we have taken $40,000 and allowed it. The same proportion to the estimates throughout the whole bill would make the bill double what it is.

Mr. THURMAN. I will modify my amendment to make it exactly conform to the estimate, $70,000, and not $75,000.

The PRESIDING OFFICER. That modification will be made.

Mr. VOORHEES. Mr. President, I believe the amendment of the Senator from Ohio ought to be adopted. It is a great work. The Muskingum River enters into the Ohio and is the outlet of one of the richest valleys on the face of the earth; and a shelter for the Ohio navigation at its mouth by this ice-harbor is greatly needed and will save millions of dollars' worth of property from destruction. I simply rose for the purpose of bearing my testimony to the propriety of the amendment offered by the Senator from Ohio, as I have had personal inspection of that river.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the Committee on Commerce.

Mr. RANSOM. I call for the yeas and nays. There must be some limit to these appropriations.

Several SENATORS. Try a division first.

Mr. RANSOM. Very well, I will call for a division.

Mr. ALLISON. Before the vote is taken I desire to ask the Senator from North Carolina whether or not the $30,000 appropriated last year has been expended?

Mr. RANSOM. I am informed by the member of the House from that district that it has been expended now.

Mr. THURMAN. I have a letter here from General Wright.

Mr. ALLISON. Does he say it has been expended?

Mr. THURMAN. He states:

The material for commencing the work has been contracted for to the extent of the appropriation, $30,000, made by the river and harbor act of March 3, 1879.

And the most of the material, I am informed by the member of the House who lives at Marietta, is already on the ground.

Mr. ALLISON. It seems to me if the $30,000 has been already expended it is true economy to spend the $70,000 proposed by the Senator from Ohio. Although it may swell this bill, as the chairman suggests, a few thousand dollars, I think a great improvement, such as is proposed here at the mouth of the Muskingum, ought to be entered upon and completed at the earliest possible day, and I shall vote for the amendment of the Senator from Ohio.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the committee.

The amendment to the amendment was agreed to; there being on a division—ayes 34, noes 15.

The amendment, as amended, was agreed to.

Mr. VOORHEES. While I was out of the Senate Chamber, I am informed, an understanding was arrived at that the amendments of the committee are first to be acted upon before any amendments are to be offered of which notice has been given. I desire to move an amendment, which I will do after the reading of the bill shall have been concluded.

The PRESIDING OFFICER. The understanding is that the committee's amendments shall be first acted on.

Mr. VOORHEES. So I am informed.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 126, to increase the appropriation for "improving harbor at Port Clinton, Ohio: continuing operations," from $5,000 to $10,000.

The amendment was agreed to.

The next amendment was, in line 130, after the word "harbor," to insert "to the depth of sixteen feet," and in line 131, after the word "operations," to strike out the word "twenty" and insert "thirty;" so as to make the clause read:

Improving harbor to the depth of sixteen feet at Toledo, Ohio: continuing operations, $30,000.

The amendment was agreed to.

The next amendment was, in line 136, after the word "dollars," to insert "to be used and expended in improving the inner harbor, the additional sum of $15,000;" so as to make the clause read:

Improving outside harbor at Michigan City, Indiana: continuing operations, $40,000; to be used and expended in improving the inner harbor, the additional sum of $15,000.

The amendment was agreed to.

The next amendment was, in line 140, to increase the appropriation for "improving harbor at Calumet, Illinois: continuing improvement," from $15,000 to $25,000.

The amendment was agreed to.

The next amendment was, in line 166, to increase the appropriation for "improving harbor at Grand Haven, Michigan: continuing operations," from $10,000 to $50,000.

The amendment was agreed to.

The next amendment was, in line 180, to increase the appropriation for "improving harbor at Muskegon, Michigan: continuing operations," from $5,000 to $7,500.

The amendment was agreed to.

The next amendment was, in line 191, to increase the appropriation for "improving river and harbor at Saint Joseph, Michigan, including channel leading up to Benton Harbor: continuing operations," from $6,000 to $8,000.

The amendment was agreed to.

The next amendment is, in line 217, after the word "entrance," to strike out "four" and insert "and for repairing existing works, five;" so as to make the clause read:

Improving Superior Bay, Wisconsin: Dredging for improvement of natural entrance, and for repairing existing works, $5,000.

The amendment was agreed to.

The next amendment was, after line 236, to insert:

For improving Exeter River, in the State of New Hampshire, $20,000.

The amendment was agreed to.

The next amendment was, in line 246, to increase the appropriation for "improving Providence River and Narragansett Bay, Rhode Island: continuing improvement," from $50,000 to $60,000.

The amendment was agreed to.

The next amendment was, after line 247, to insert:

Improving Little Narragansett Bay, Rhode Island, $5,000.

The amendment was agreed to.

Mr. ANTHONY. I see the words "continuing improvement" are left out in the amendment just adopted. I move, after the words "Rhode Island," to insert "continuing improvement."

Mr. RANSOM. There is no objection to that.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill to line 274.

The PRESIDING OFFICER. The Chair would suggest to the Senator from North Carolina that after the word "continuing," in line 274, the word "improvement" should be inserted.

Mr. RANSOM. Yes, sir; it should be "continuing improvement."

The PRESIDING OFFICER. That correction will be made.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 294, after the word "improvement," to strike out "eighty-five" and insert "sixty;" and in line 295, after the word "sum," to strike out "forty" and insert "thirty;" so as to make the clause read:

Improving Delaware River, below Bridesburgh, Pennsylvania: continuing improvement, $60,000; of which sum $30,000 shall be expended at or near Petty's Island, between said island and Philadelphia, and $10,000 at or near Smith's Island, between Philadelphia and Camden, through the sand-spit.

Mr. WALLACE. I hope this amendment will not be agreed to. I cannot understand the policy of the Senate Committee on Commerce in striking down the appropriation to a great national work such as the improvement of the Delaware River, and giving large additional appropriations to works that are of no national importance. The estimate for this improvement of the Delaware River is $150,000. The House gave $85,000. The Senate committee has stricken down $25,000 of that $85,000 and proposes to put it at $60,000.

It is scarcely necessary for me to call the attention of the Senate to the commerce of that great city and the magnificent river, where there are to-day ten millions and a half of revenue coming to the Government annually; where there are now over eight thousand vessels, coastwise and foreign, passing annually; where the commerce is growing—the second city in the Union. I am astonished, Mr. President, at the action of the Committee on Commerce, and I trust the Senate will not indorse their action in thus striking down the appropriations for this river. I read very briefly from the statistics on this subject:

These improvements are demanded by the largely increased commerce of the Delaware Bay and River, and the much greater draught of water of the large vessels of modern construction carrying the bulk of this commerce. The foreign imports and exports of Philadelphia during 1879 aggregated $77,904,790, and on the import trade the Government received $10,453,069 in duties. The coastwise trade of Philadelphia in 1879 was estimated at $36,550,000, making an aggregate of $114,454,790 of goods passing up and down the Delaware River and Bay in one year, equal to one-eighth to one-tenth of the entire foreign and coastwise commerce of the United States. Nineteen hundred and eleven vessels, with 1,444,455 tonnage, arrived at Philadelphia from foreign ports, and 6,144 vessels, with 2,149,996 tonnage, from coastwise ports during 1879, making a total of 8,055 vessels and 3,594,451 tonnage passing up the river. Twenty-two hundred and twenty-two vessels from foreign ports, besides an immense number coastwise bound, entered the Delaware breakwater during 1879, using it as a harbor of call or refuge. The trade of Philadelphia is of rapid and steady growth, having increased fully 20 per cent. in 1879 over 1878, while the foreign trade yielded the Government 37 per cent. increase of duties. Philadelphia is a terminus of three of the great railways leading from the interior to the seaboard, and pouring out millions of tonnage to be shipped from its wharves, thus contributing to the vast trade these improvements are designed to benefit.

I trust that this which is really a national work——

Mr. HEREFORD. All these are national.

Mr. WALLACE. They are not. I deny it. I say they are not national works. I shall controvert the Senator's proposition. I assert that there are appropriations in this bill to a larger extent than was ever brought before the Senate hitherto, amounting to $3,600,000, for works that are not national, that are by no means national in their character. Navigation which is not natural in its original character is not a national work.

Mr. HEREFORD. The Supreme Court has decided——

Mr. WALLACE. I know what the Supreme Court has decided as well as the Senator; but I am simply asserting that this which no man denies is a great river, bearing on its bosom the commerce of

what was the greatest city in the country when the Constitution was formed, and now the second in population, should be protected and allowed to have its just share of appropriations. I trust the Senate will not agree to this amendment.

Mr. RANSOM. Mr. President, the Committee on Commerce realized the force of what the Senator from Pennsylvania has so well said. We knew the importance and the value of the commerce of Philadelphia, and there was no reason whatever with the committee for reducing the amount appropriated by the House except that it was a larger amount in proportion than was generally conceded throughout the bill. Had the committee felt at discretion to appropriate the full amount or anything like the full amount of the estimates this appropriation would not have been cut down. I feel the force of what the Senator from Pennsylvania has said; but simply to justify the action of the Committee on Commerce, and not to anticipate or change the sentiment of the Senate in reference to this matter, I will call the Senator's attention to what I know he has looked at—the report of the engineers, which states that the amount available July 1, 1879, for this improvement then unexpended was $121,000, and that last year only $45,000 was expended on the work. The Committee on Commerce, with this large burden before them, felt that when with $120,000 available only $45,000 had been expended last year it would not be doing a very great wrong to reduce this appropriation by the amount which the committee propose.

That is all I have to say upon it. We all appreciate the value of this improvement; we all know what the commerce of Philadelphia is; and the committee have moved the amendment in view of the circumstances I have stated, and none other.

Mr. WALLACE. What the Senator says is correct, but the amount that can be profitably expended during the coming fiscal year ending June 30, 1881, is $150,000, as stated by the same engineer. The House has given $85,000 to this great work, and I trust the Senate will not strike it down.

The PRESIDING OFFICER. The question is on the amendment reported by the committee in lines 294 and 295.

The amendment was rejected.

The reading of the bill was continued. The next amendment of the Committee on Commerce was, in line 306, to reduce the appropriation for "improving Delaware River, near Cherry Island Flats: continuing improvements," from $100,000 to $75,000.

Mr. WALLACE. I hope that will not be agreed to. This is the point at which the great ocean steamers find great difficulty in passing. The improvement now is continuing in the way of widening and deepening the channel at this point, and this amount, as I understand from the statement made by the engineer, is necessary to continue the improvement. He states "the amount which can be profitably expended in the fiscal year ending June 30, 1881," at $100,000. That is what the House has given, and I hope it will also be given here.

Mr. RANSOM. I feel it my duty in behalf of the committee to say that on July 1, 1879, the amount available for this work, then unexpended, was $100,000, and $100,000 is now the full amount of the estimate asked for. If the full amount of the estimate were given in every case or in one-half of the items provided for in this bill the bill would exceed $20,000,000. In this case the committee felt it to be their duty to reduce this estimate 25 per cent. With $100,000 unexpended on the work on the first day of the last fiscal year and in hand for this improvement, and the engineer only asking for $100,000 more in all, when other important works have been cut down 100 per cent., 200 per cent., 500 per cent., we thought that in this case we might take off 25 per cent. It is for the Senate to determine.

The PRESIDING OFFICER. The question is on the amendment in line 306.

The amendment was agreed to.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Commerce was, after line 311, to insert the following item:

Improving harbor at Annapolis, Maryland, $5,000.

The amendment was agreed to.

The next amendment was, in line 355, to increase the appropriation for "improving Cape Fear River, North Carolina: continuing improvement," from $40,000 to $70,000.

The amendment was agreed to.

The next amendment was, in line 361, after "North Carolina," to insert "from its mouth to the head of navigation;" and after the word "improvement," in line 362, to strike out "fifteen" and insert "forty-five;" so as to make the clause read:

Improving Neuse River, North Carolina, from its mouth to the head of navigation: continuing improvement, $45,000.

Mr. VEST. I would inquire of the chairman of the committee whether this is not increased above the estimate made by the engineer?

Mr. RANSOM. No, sir; the estimate is $68,000, I think.

Mr. VEST. On page 94 of the Engineer's Report is the estimate for that improvement, and it is there said:

Amount that can be profitably expended in fiscal year ending June 30, 1881, as revised in this office, $40,000.

This appropriation is $45,000, $5,000 more than I understand the engineer asks.

Mr. RANSOM. My friend will pardon me. The report of the Secretary of War, page 705, Appendix H, says:

Amount (estimated) required for completion of existing project	$68,000
Amount that can be profitably expended in fiscal year ending June 30, 1881	68,000

Mr. VEST. I read from the report of the engineer, page 94; I understand the estimate is as I stated it. The whole amount necessary for completing the work is put at $68,000, but the amount asked for the next fiscal year is $40,000. That is the statement here in the report of the Chief of Engineers. I make no objection to the amendment, however.

Mr. RANSOM. If it had been the duty of my friend from Missouri, as it was mine, to study the reports of the engineers in reference to the North Carolina improvements, he would have found that the engineer in reference to this river states that it will require an annual appropriation of $60,000 for some years to come.

Mr. VEST. I will read what the report says:

Amount (estimated) required for completion of existing project	$68,000
Amount that can be profitably expended in fiscal year ending June 30, 1881, as revised in this office	40,000

The Chief of Engineers states that the amount which can be profitably expended during the year 1881 is $40,000; and the total to complete the work is $68,000. How that happens is what I want to understand. I understand the Secretary of War goes by the report of the Chief of Engineers. That unquestionably is his statement in regard to the amount to be expended this year.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Commerce, in lines 361, 362, and 363.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 364, after the word "Pamlico," to strike out "River" and insert "and Tar Rivers;" and in line 365, after the word "operations," to strike out "three" and insert "nine;" so as to make the clause read:

Improving Pamlico and Tar Rivers, North Carolina: continuing operations, $9,000.

The amendment was agreed to.

The next amendment was to strike out lines 366 and 367, as follows:

Improving Roanoke River, North Carolina: continuing improvement, $2,000.

The amendment was agreed to.

The next amendment was to strike out lines 370 and 371, as follows:

Improving Tar River, North Carolina: continuing improvement, $2,000.

The amendment was agreed to.

The next amendment was, in line 373, to increase the appropriations for "improving Trent River, North Carolina: continuing improvement," from $5,000 to $10,000.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill to line 397.

Mr. CALL. I wish to move an amendment.

The PRESIDING OFFICER. The Chair will remind the Senator from Florida that under the agreement individual amendments are not in order until the amendments reported by the committee have been acted on.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 493, to reduce the appropriation for "improving Kentucky River from its mouth to Three Forks: continuing operations," from $200,000 to $100,000.

The amendment was agreed to.

The PRESIDING OFFICER. The hour of half past one having arrived, the Senate resumes the consideration of its unfinished business, which is the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. RANSOM. I ask the Senate to go on with the river and harbor bill, and to lay that aside informally.

Mr. EATON. Let it be passed by informally without prejudice.

The PRESIDING OFFICER. Is there objection to proceeding with this bill, laying aside the unfinished business informally, to be resumed at call, Senate bill No. 900 not to lose its place. The Chair hears no objection to that arrangement.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JOHNSTON, Mr. BOOTH, Mr. DAWES, Mr. DAVIS of Illinois, Mr. BAILEY, Mr. PADDOCK, Mr. VEST, Mr. WITHERS, Mr. SAUNDERS, Mr. BUTLER, Mr. LAMAR, Mr. BURNSIDE, and Mr. McMILLAN submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. BAILEY submitted an amendment intended to be proposed by him to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which, together with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

RIVER AND HARBOR BILL.

The Senate, as in Committee of the Whole, resumed the considera-

tion of the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, after the word "improvement," in line 512, to strike out "one hundred and ten" and insert "eighty-five;" and in line 514, after the word "sum," to strike out "one hundred" and insert "seventy-five;" so as to make the clause read:

Improving Illinois River: continuing improvement, $85,000; of which sum $75,000 shall be expended on locks and dams and $10,000 for dredging.

Mr. DAVIS, of Illinois. Mr. President, I hope the amendment proposed by the committee will not be adopted. This is a great improvement in the State of Illinois, and $100,000, the sum fixed by the House, was much below the estimate of the engineer-in-chief. The Illinois River is the great river of the State of Illinois. It is two hundred and twenty-five miles in length and unites the waters of the Mississippi with the great lakes.

The first appropriation by the General Government was in 1852, of $30,000, which was used for dredging out sand-bars. Surveys were made by the Government in 1869, extending along up to 1878. Then the board of engineers of the United States adopted a plan of improvement, which was slack-water navigation. Appropriations were not at once made for it. Two dams were constructed by the State of Illinois, the dam at Copperas Creek and at Henry. Two other dams are in process of construction by the General Government. That was the system adopted, and the report of the engineer says that the General Government should undertake the whole improvement. There are but two more dams to be made to make this a stream two hundred and twenty-five miles long with good water through the heart of the State of Illinois, uniting the Mississippi River with the great lakes through the canal from La Salle to Chicago.

There was nothing done last year except to appropriate $40,000 for carrying on the dredging system, but that was abandoned and this other system adopted. The engineer asked for an appropriation of $400,000. The House has given $110,000. I do not ask to have that increased, but I do insist upon it that for such a great highway as this is—God's greatest canal in this country, some have styled it—we should not cut down the appropriation from $110,000 to $85,000. It seems to me out of all reason.

Mr. RANSOM. I dislike to trouble the Senate again, but I shall have to say in this case just as I said a moment ago in reference to the Delaware River at Cherry Flats. If the Senate will look at the report of the Secretary of War to Congress, volume 2, part 2, page 1571, they will find that only $100,000 is asked for by the Chief of Engineers for this improvement, and the Secretary of War in his estimates for public works cut that down in the Book of Estimates, page 144, to $75,000. That is the revised estimate, and there is now on hand unexpended for that work, $70,290.32. The Committee on Commerce considered that when only $100,000 was asked for, and they had over $70,000 on hand to work with now, and the Secretary of War had reduced the estimate of $100,000 to $75,000, the very least the Committee on Commerce could do was to put it to $85,000, $10,000 over the estimate of the Secretary of War.

Mr. MORRILL. I desire to call the attention of the Senator from North Carolina to the fact that the Senator from Illinois merely asked this to be increased for two dams. Does not the Senator from North Carolina think this bill ought to be double-dammed? [Laughter.]

Mr. RANSOM. The Senator from North Carolina never has damned anybody.

Mr. DAVIS, of Illinois. The report of the engineer-in-chief asks for $400,000 as necessary to make this improvement. It is miserable economy to be apportioning it from year to year instead of going on promptly to make the improvement required. It seems to me that as the House had it it ought to be left.

The PRESIDING OFFICER. The question is on the amendment reported by the committee in lines 513 and 514.

Mr. DAVIS, of Illinois. I want to test the sense of the Senate. This is a great stream, and I want to test the sense of the Senate whether the amount for it is to be reduced from the House appropriation and all these small streams, hundreds and hundreds of them, increased. I call for a division.

The question being put; there were on a division—ayes 20, noes 11; no quorum voting.

Mr. DAVIS, of Illinois. I withdraw the demand for a division at present.

Mr. RANSOM. A count is not insisted on.

The PRESIDING OFFICER. The amendment will be considered as agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 525, to reduce the appropriation for "improving Mississippi River between the mouths of the Illinois and Ohio Rivers: continuing improvement," from $250,000 to $200,000.

Mr. DAVIS, of Illinois. The proposition to cut down the appropriation for the improvement of the Mississippi River is to me very astonishing. Certainly everybody in the Senate will agree that what is estimated for such an improvement as that ought to be voted. Let me read what the engineer-in-chief says upon the subject. The work upon that part of the river is to obtain a depth of water of six feet from the mouth of the Illinois to Saint Louis, and from Saint Louis to Cairo of eight feet:

The estimated cost of the improvement is $7,684,200. * * * The least amount that can be profitably expended during the fiscal year ending June 30, 1881, is $500,000.

And yet for that great river between the mouth of the Ohio and the mouth of the Illinois, where $250,000 is allowed by the House, $50,000 is left off by this amendment. I want to test the sense of the Senate upon it.

Mr. VEST. Mr. President, I very heartily concur in what the Senator from Illinois says, and I call the attention of the Senate to the fact that the estimate is far above the amount allowed by the House. From the mouth of the Ohio to the mouth of the Illinois River the distance on the Mississippi River is two hundred and forty-seven miles. I undertake to say that upon no stretch of inland water on this continent is there such commerce as on those two hundred and forty-seven miles. All the vast commerce which floats down on the bosom of this mighty river passes along this stretch of water. The engineer, in making his estimates, says:

The estimated cost of the improvement is $7,684,200, but this estimate is based upon the supposition that funds are provided as rapidly as they can be judiciously expended. With annual appropriations of $200,000, as have prevailed, it is my belief that the improvement will occupy at least a century, and will cost $20,000,000. But enlarged operations will leave more unfinished works at the end of each year and subject the Government to greater loss from their destruction by the failure of appropriations for the following year, for it is rarely advantageous to entirely complete any work in one season.

Mr. DAVIS, of Illinois. And the same engineer says $500,000 for this fiscal year at least ought to be appropriated.

Mr. VEST. Yes, sir, that is the estimate.

The *least* amount that can be profitably expended during the fiscal year ending June 30, 1881, is $500,000.

But $250,000 is proposed to be appropriated by the House of Representatives, just one-half of this amount, and now the committee of the Senate seek to cut off $50,000 from the greatest river upon the continent, the great artery of the commerce of the West and of the whole country, while they increase appropriations for creeks and bayous over which a miller can hardly make his way. What an outrage upon the West! I appeal to the report of the Engineer Department of the United States, and ask that this $250,000 at least be retained, and it ought to be more.

Mr. KERNAN. I rise for information. I understood the Senator from Illinois to say that this entire work is estimated to cost $7,000,000.

Mr. DAVIS, of West Virginia. That is what the engineer-in-chief says.

Mr. KERNAN. How much has been expended on it?

Mr. DAVIS, of Illinois. The Senator from Missouri has read what has been done. This engineer says:

With annual appropriations of $200,000, as have prevailed, it is my belief that the improvement will occupy at least a century, and will cost $20,000,000.

He says that—

The least amount which can be profitably expended during the fiscal year ending June 30, 1881, is $500,000.

Mr. KERNAN. How many years have they been at it?

Mr. DAVIS, of Illinois. I do not know. The commerce of the world goes through the Mississippi River.

Mr. KERNAN. The Senator should not understand me as opposing the appropriation. I only wanted information. I wanted to learn about what had been expended from year to year. I also wanted to ask, if we gave everything estimated in each case, where would this bill be? It is about $9,000,000 now. I am in favor of discriminating. I believe this river is one that work ought to be done on; but I want to vote intelligently.

Mr. VEST. I have nothing to say about discrimination; I do not say any committee could do equal and exact justice to all the improvements; but I repeat that the Mississippi River is the largest river on this continent, and it is an outrage to cut it down on the basis of 50 per cent. or any other percentage. I will read to the Senator from New York the statement of the engineer as to the condition of the appropriations for this work:

July 1, 1878, amount available		$256,307 62
Miscellaneous receipts		56 92
Amount appropriated by act approved March 3, 1879		200,000 00
		456,364 54
July 1, 1879, amount expended during fiscal year	256,119 27	
July 1, 1879, outstanding liabilities	8,889 91	
		265,009 18
July 1, 1879, amount available		191,355 36
Amount (estimated) required for completion of existing project		6,289,600 00
Amount that can be profitably expended in fiscal year ending June 30, 1881		500,000 00

We only ask for one-half of that. I submit the whole estimate ought to be given; but when the House only gave one-half the estimate for the greatest river in the continent, equal in its commerce to almost all the others, surely that should not be cut down. I ask it not in the interest of my State; I ask it in the interest of the whole country—the Mississippi Valley and all the other States.

Mr. RANSOM. I will say in behalf of the Committee on Commerce that it was with very great reluctance indeed that this appropriation

was reduced. It was passed by that committee, if I may be allowed to lift the veil from its action, several times. The whole amount appropriated for the Mississippi River, which in my judgment is not one-third what it ought to be, is $861,000. That is the amount proposed by the Senate Committee on Commerce; and upon this stretch, and a grand stretch it is, of two hundred and odd miles, the committee thought an appropriation of $200,000 about in keeping with the other appropriations upon that great line of commerce.

I am saying this not to prevent the defeat of the amendment, for really I know the importance of the work so much that I am not disposed to resist it, but I am simply vindicating the committee. The amount available to-day is $191,000. I mean by "to-day" the day when this report was sent in.

Mr. ALLISON. When was that?

Mr. RANSOM. December 1, 1879, and our action here must speak from that date. There is no other date from which it can speak. The Senator from Iowa appreciates that fact, I know. Then the Committee on Commerce found the engineer asking for $500,000, which, in the judgment of the Committee on Commerce, was not excessive, but we said: "They have $191,000 on hand; let us give them $200,000 more, and like all the other improvements they can make out." Still, sir, I feel instructed by the action of the Committee on Commerce not to insist strenuously upon the amendment of the committee reducing the amount. I leave it for the Senate to decide.

Mr. VEST. I beg to call the Senator's attention to the fact that he says that on July 1, 1879, there was a balance of $191,000 available. The fact is that the report shows:

July 1, 1879, outstanding liabilities	$8,889 91
July 1, 1879, amount expended during fiscal year	256,119 27

All that was to come out of the $191,000, so that there is not a dollar available now.

The PRESIDING OFFICER. The question is on the amendment, in line 525.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, after line 528, to insert:

Improving Cuivre River, from mouth to Chain of Rocks, and removing snags and obstructions, $2,000.

The amendment was agreed to.

The next amendment was, in line 547, to increase the appropriation for "removing bar in the Mississippi River, opposite Dubuque, Iowa: continuing operations," from $3,500 to $7,000.

The amendment was agreed to.

Mr. RANSOM. In line 549, I suggest the insertion of the word "River" after "Mississippi;" so as to read:

Improving Rock Island Rapids, Mississippi River.

The PRESIDING OFFICER. That correction will be made; and in line 561, the word "dollars" will be inserted after "thousand," if there be no objection.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 569, to increase the appropriation for "improving Missouri River at Council Bluffs, Iowa, and at Omaha, Nebraska: continuing operations," from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was, in line 573, to increase the appropriation for "improving Missouri River at Eastport, Iowa, and at Nebraska City, Nebraska: continuing operations," from $14,000 to $20,000.

The amendment was agreed to.

The next amendment was, in line 582, after the word "river," to strike out "opposite" and insert "at and near;" so as to make the clause read:

Improving Missouri River at and near Saint Joseph: continuing operations, $20,000.

The amendment was agreed to.

The next amendment was, in line 595, after the word "operations," to strike out "ten" and insert "fifteen;" in line 596, before the word "thousand," to strike out "five" and insert "ten;" in line 597, after the word "of," to strike out "bar at mouth of Saginaw River" and insert "bars at the lower end of the river and in deepening the channel from the mouth of the river out into the bay;" so as to make the clause read:

Improving Saginaw River, Michigan: continuing operations, $15,000; of which sum $10,000 shall be expended for removal of bars at the lower end of the river and in deepening the channel from the mouth of the river out into the bay.

The amendment was agreed to.

The next amendment was, in line 621, after the word "river," to insert "Arkansas;" and in line 622, after the word "improvement," to strike out "four" and insert "ten;" so as to make the clause read:

Improving Upper Red River, Arkansas, from Fulton to the head of the raft: continuing improvement, $10,000.

The amendment was agreed to.

The next amendment was, in line 637, after the word "Willamette," to strike out "River" and insert "and Yamhill Rivers;" so as to make the section read:

Improving Upper Willamette and Yamhill Rivers: continuing improvement, $12,000.

The amendment was agreed to.

The next amendment was, in line 643, to increase the appropriation for "improving Sacramento River, California: continuing improvement," from $30,000 to $45,000.

The amendment was agreed to.

The next amendment was, after line 643, to insert the following item:

Improving harbor at Wilmington, California: continuing improvement, $35,000.

The amendment was agreed to.

The next amendment was after the word "use," in line 664, to insert:

And provided further, That after such transfer the Secretary of War be, and hereby is, authorized to draw from time to time his warrant on the Secretary of the Treasury to pay the actual expenses of operating and keeping said canal in repair.

So as to make the clause read:

Improving and operating Saint Mary's River and Saint Mary's Falls Canal, $250,000. And the Secretary of War is hereby authorized to accept on behalf of the United States from the State of Michigan the Saint Mary's Canal and the public works thereon: *Provided*, Such transfer shall be so made as to leave the United States free from any and all debts, claims, or liability of any character whatsoever, and said canal after such transfer shall be free for public use: *And provided further*, That after such transfer the Secretary of War be, and hereby is, authorized to draw from time to time his warrant on the Secretary of the Treasury to pay the actual expenses of operating and keeping said canal in repair.

The amendment was agreed to.

The next amendment was to strike out lines 671 and 672, in the following words:

Improving Ashley River, South Carolina, $1,000.

Mr. BUTLER. I hope that amendment will not be concurred in. It seems to me that it is a very small matter. That river is in fact a part of Charleston Harbor, and I find that the estimate made for the improvement of the river is $10,000—an estimate made by General Q. A. Gillmore. We only ask for $1,000 of that, and it seems to me it might be left in the bill.

Mr. RANSOM. I have simply to say to the Senator from South Carolina that the estimate in reference to Ashley River escaped the Committee on Commerce, and it was only upon the ground that there was no estimate that the appropriation was reported to be stricken out.

Mr. BUTLER. There is an estimate.

Mr. RANSOM. Will the Senator have the estimate read?

Mr. BUTLER. The engineer says:

I recommend the appropriation of that amount for deepening of the ship-channel in Ashley River, South Carolina.

He says:

About two miles above Accabee, at a point two hundred and fifty yards below the "Wando Phosphate Works," there is another short shoal, with only six feet of water over it, where dredging will be necessary to the extent, perhaps, of two thousand cubic yards. Total amount of dredging required, twenty five thousand cubic yards. This work will cost, at forty cents per cubic yard, $10,000.

I recommend the appropriation of that amount for deepening of the ship-channel in Ashley River, South Carolina; a portion of the dredging might have to be repeated at intervals, as the enlarged channel would probably collect silt to some extent on the bars.

* * * * * * *

Amount expended for survey, (paid from balance of allotment for Savannah River survey)	$116 10
Appropriation asked for fiscal year ending June 30, 1875	10,000 00

This is only $1,000 in the bill to remove shoals which are really and practically part of Charleston Harbor. I hope the amendment of the committee will not be adopted by the Senate.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Commerce.

The amendment was rejected.

Mr. BECK. I rise for the purpose of inquiring whether the Senate just now voted to disagree to the committee amendment, and that without an estimate.

Mr. RANSOM. I understood—I did not hear very well—that the Senator from South Carolina read an estimate.

Mr. BUTLER. I did.

Mr. RANSOM. The Senator from Kentucky informs me that it was the recommendation of the engineer, and not an estimate from the Secretary of War.

Mr. BUTLER. It is in the report of the Secretary of War.

Mr. RANSOM. Certainly.

Mr. BECK. This is the course: The engineers' reports estimate that if such a work is done on such a plan it will require so much. The Secretary of War disapproves very often of their recommendations; but if he approves them they are submitted to the Secretary of the Treasury, and there considered, and the only estimates that come to us come in the Book of Estimates which I hold in my hand; and if there is a dollar estimated for the improvement of the Ashley River I cannot find it.

I only desire to be understood. I have given up asking for certain things because they were not estimated for. Now the Senate, simply upon a recommendation of an engineer officer, which recommendation has been disapproved, and which the Secretary of War and the Secretary of the Treasury have both refused to recommend, has, with great unanimity, voted an appropriation without estimates and in spite of estimates, merely because the engineer has recommended it. If that is to be the rule I desire it to be known. I have no objection to it so far as I am concerned, but I want it understood.

Mr. RANSOM. Upon that statement, which seems to be correct,

the Committee on Commerce will insist upon its amendment to this item. I understood the Senator from South Carolina to read an estimate. I did not know how it was that it was not in the Book of Estimates before me; but I misunderstood him.

Mr. BUTLER. The Senator from Kentucky refers to a rule which has been almost unanimously adopted by the Senate. I do not propose to depart a particle from any rule which the Senate or the Committee on Commerce has adopted any more than the Senator from Kentucky does. I read from the report of the Secretary of War, and the engineer, General Q. A. Gillmore, estimates the cost of that improvement at $10,000. Whether the estimate has been sent to the Committee on Commerce at this session I am not able to say, and I submit it is a matter of very little consequence. Here it is in an official document of the Senate, the report of the Secretary of War, recommended by General Gillmore, and I submit it conforms in every essential particular to the rule which the Senate has adopted.

Mr. BECK. I have the volume here in which there are estimates for a thousand things by the subordinate officers, Gillmore, Wheeler, Merrill, and others. Their estimates are here in gross; they are simply advisory to the Secretary of War and to the Secretary of the Treasury, and those officers have rejected the estimate which the Senator from South Carolina has read; they have refused to recommend it. The Committee on Commerce was right in striking out the item if we are to be bound by estimates. If we are not to be so bound, and everybody is to be free to insert everything whether estimated for or not, then let the opposite rule be established just as well here as anywhere else. This recommendation to the Secretary of War is not an estimate. The estimates come from the Secretary of the Treasury. Every Senator has the Book of Estimates in his hand, and from page 146 on all the estimates for the improvement of rivers and harbors are contained. If that item is there, I am unable to find it. I do not object to the improvement in this locality, but I desire to have the rule established that we are to hear no more about estimates if this item is to be put in.

Mr. BUTLER. As I said a while ago, I do not want to depart from any rule any more than the Senator from Kentucky does. I only repeat that I find in the report of the Secretary of War the estimate for the improvement of Ashley River, South Carolina, put down at $10,000. I find in the bill as it came from the House $1,000 on that estimate. I have not examined the report of the Secretary of War critically with a view of finding out whether he recommends this specific appropriation or not. The Senator from Kentucky says the Secretary of War refuses to recommend it. How does the Senator from Kentucky know any such thing as that?

Mr. RANSOM. Mr. President——

Mr. BUTLER. One moment. I want to know how the Senator from Kentucky knows that the Secretary of War has refused to make this estimate?

Mr. BECK. Because every estimate that is adopted is in the Book of Estimates now upon the tables of Senators, and whatever is not there is not estimated for.

Mr. JONES, of Florida. That comes from the Treasury Department.

Mr. BECK. It comes from the Treasury Department after revising the action of the Secretary of War and the Secretary of the Navy and the Postmaster-General and all the other heads of Departments.

Mr. BUTLER. By whom is that Book of Estimates furnished?

Mr. BECK. By the Secretary of the Treasury.

Mr. BUTLER. I should be glad to know how the Secretary of the Treasury knows anything about the improvement of Ashley River?

Mr. BECK. Because the law requires the head of every Department of the Government each year before the 1st day of October to furnish him the estimates of all their Departments, and then after consultation with them he lays the estimates before Congress the 1st of December of each year. If the Senator will turn to the Revised Statutes he will see by what authority it is done; and after the Secretary of War and the Secretary of the Treasury and the chief officers have consulted over what they can properly recommend, out of all the various recommendations, the substance of it all and the essence of it all is put in the Book of Estimates and sent to Congress, and whatever is not sent is rejected. That is how I know that it is not an estimate from the Department.

The PRESIDING OFFICER. The amendment of the committee has been rejected, and unless there is a motion made to reconsider debate on it is out of order.

Mr. RANSOM. I make a motion to reconsider.

Mr. BAYARD. The amendment of the Committee on Commerce was, to strike out this item. The subject-matter under consideration is the action of the House of Representatives. That is not subject to the rules of the Senate. The question as to what they may put in this bill is a question wholly for their independent consideration; but when the matter comes before the Senate, if we undertake to increase an appropriation, if we undertake to act upon it, then the rules of the Senate apply and not the rules of the House.

Mr. RANSOM. If my friend from Delaware will pardon me, it is not a question of parliamentary law which the Senator from Kentucky has suggested; it is simply a rule generally governing the Senate upon questions of this sort, not to exceed the estimates sent to us by the Secretary of War, not to adopt an appropriation without the foundation of an estimate. Upon a full examination of the facts as to the proposed appropriation for Ashley River we find that the Secretary has made no estimate whatever.

Mr. WITHERS. I wish to call the attention of the chairman of the committee to the point that no estimate is made by the Secretary of the Treasury for works of internal improvement, according to my understanding, until the works have been commenced, but prior to that time action is based upon the report of the engineers, which has been furnished in this case.

There is another point to which I wish to call the attention of the Senate. This morning the Senate determined that they would base their action upon the report of the engineers, and not upon the Book of Estimates. The first case that came up for consideration and discussion upon this bill was a proposition to increase the appropriation for Little Sodus Bay from $1,000 to $25,000, and upon inquiry being made it was ascertained that the motion was predicated not upon the estimate of the Secretary of the Treasury, but upon the report of the engineer in charge of the work. The question being submitted to the Senate, by a vote of nearly two to one they affirmed the action of the committee in increasing the appropriation from $1,000 to $25,000 upon the report of the engineers, without any reference to the estimates.

Mr. BECK. I desire only to say that if that is to be the action of the Senate, then the Senate is at sea from this time on, and this bill may as well appropriate $25,000,000 as $8,000,000. I do not object to this appropriation of $1,000 for Ashley River; I wanted exactly the rule to be understood as now stated, and if that is to be the rule of action, then I think the Senate should proceed and act upon it.

Mr. BUTLER. I do not concur with the Senator from Kentucky when he says that the Senate will be at sea hereafter. The Senate certainly has not lost its discretion. I have asked the Senate to do nothing except that which has been already passed upon by the Engineer Department of the Government. If the engineers should recommend $1,000,000 for the improvement of Ashley River, I take it for granted it would be entirely competent for the Senate to refuse it or admit it. I find in the report of the Secretary of War this language:

> The estimates submitted, based on the several estimates of the officers in charge, which have been carefully revised, present the amounts which, in the judgment of this Department, are necessary for the completion, continuance, or commencement of projects during the coming fiscal year.

That is all there is of this proposition. General Gillmore recommends $10,000 to improve the navigation of the Ashley River at a certain point. The Secretary of War says in effect that it is necessary and he concurs in the estimate; he recommends it. It is true, I think it perhaps just to myself to say, that the estimate is not made in the last report of the Secretary of War, but in 1875. I stated that once. But it is still one of the records upon which we may properly base our action.

Mr. RANSOM. I move to reconsider the vote by which the Senate rejected the amendment.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Carolina, to reconsider the vote by which the Senate rejected the amendment of the committee striking out lines 671 and 672.

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JONES, of Florida. I should like to understand from the Senator from Kentucky, who has had so much experience in matters of appropriation, what is the rule to govern the Committee on Commerce in a matter of this kind. Do I understand the Senator to say that they have no authority to make a provision for an appropriation under the existing laws or rules that govern this body unless an estimate is sent here from the Treasury Department? Have they no authority to pay regard to the recommendation of the Secretary of War, made in pursuance of a survey and examination under authority of Congress, independent of the Treasury Department? I confess that this is a matter of some importance to us all, and it is well for us to understand it now, because in the time that I have been in this body I think I remember a great many additions of this description that were made to appropriation bills based entirely upon the recommendations of the War Department, founded upon the investigation of the Engineer Corps. If it is necessary to put in the Book of Estimates which annually is sent here from the Treasury Department everything appertaining to public works of this description, it is an important matter for us to understand it, because it will affect a great many works of internal improvement.

Mr. BECK. I understand it to be the rule that before any new work can be begun a survey and examination into it must be made by the engineer officers and a report made thereon as to the advisability of starting that new work. When an appropriation is sought to be made, the first question asked is, has there been a survey, has there been an estimate? The same question was made this morning on a proposition of the Senator from Georgia, [Mr. BROWN;] the committee made the inquiry, and it was found that the Department had said: "We are now seeking to make a thorough investigation of this work to see whether it should go on or not, and the moment it is done we will advise you, and then you can go on with your estimates."

Near the close of the bill there is a second section appropriating $150,000 for that very purpose. Section 2 provides:

> That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points, namely:

Giving a long list of those that have not heretofore been appropriated for, which perhaps ought to be among the amendments made in the Senate. "And the sum of $150,000 is hereby appropriated" for the purpose of carrying on this work.

Mr. JONES, of Florida. That is the very point, if the Senator will permit me, right there, for I am seeking information, and no one can give it better than himself. That authority is directed to the Secretary of War and requires him to make those examinations and surveys and to furnish estimates of the cost of the work. I want to ask in all candor and seriousness what has the Secretary of the Treasury to do with that? The act of Congress giving this power does not mention the Secretary of the Treasury. It gives this authority to the Secretary of War by name, and in every appropriation bill that passes here known as a river and harbor bill he is required to discharge that duty, and he has done so. It matters not in what shape his recommendation may come to this body, whether in a book of estimates or in a special report, or in any other way, I say the law is carried out. I can find nothing in the law, with all due deference to the Senator from Kentucky, which requires the co-operation of the Secretary of the Treasury with the Secretary of War to give validity or effect to an estimate.

Mr. BECK. I will ask the Senator from Florida if he ever saw any estimates for rivers and harbors come from the Secretary of War?

Mr. JONES, of Florida. Yes, I have.

Mr. BECK. Where? In what book? Was it laid before us in any form?

Mr. JONES, of Florida. The annual report that comes here from the War Department, upon which I understand the Committee on Commerce acts every year, goes on to give a detailed explanation of how much money is on hand, how much is necessary to complete the work and other details. This is an exceptional case. It is not like a case falling within the authority of the Treasury Department at all. These internal-improvement works are entirely different from others, and they all stand on distinct ground. In every improvement in the United States coming under a river and harbor bill the authority of Congress gives to the Secretary of War power to send them the estimates of this, that, and the other work of internal improvement?

Mr. RANSOM. Will the Senator from Kentucky pardon me a moment?

Mr. BECK. Yes, sir.

Mr. RANSOM. As I consider it, there is no fixed law like a rule of the Senate binding the hands of the Senate upon a question of this sort. We have, of course we must have, as a legislative body, a discretion. The Senate never would consent that it was bound by the estimates of the Secretary of the Treasury or the estimates of anybody else, because that would be to take the discretion of legislation from the Senate and transfer it to another power; but the rule and the very general habit of the Senate has been to adopt these estimates and only to depart from them in very rare instances. I have never known a river and harbor bill in which the estimates were not departed from, and I have been upon the Committee on Commerce for some time. At the same time I must say that I have never known a river and harbor bill in which they were departed from slightly. The general rule of the Senate has been to be governed by the estimates. That has been the argument always presented to the Senate. We have almost uniformly been governed by the argument made to-day by the Senator from Kentucky, with now and then a very rare exception. I knew a case, not to go into details, in the last river and harbor bill in which, after all the items had been agreed upon, a statement was made in reference to some sudden calamity that had befallen a harbor, and without one word from anybody except a letter from the engineer to a Senator, which he did not read, an appropriation was made. That was done on this floor then, and has often, no doubt, been done; but the habit of the Senate, the rule of the Senate, and the safe rule of the Senate is to stand by the estimates.

Mr. HEREFORD. Not to go above them.

Mr. RANSOM. Not to go above them.

Mr. JONES, of Florida. I understand the rule to be this: Every year Congress in the river and harbor bill inserts a provision empowering the Secretary of War to cause examinations and surveys to be made of certain rivers and harbors and to furnish Congress with an estimate of the probable cost of doing the work and a statement whether it be practicable or not. I ask to whom is he to make his report under the authority of Congress? It is Congress that gives to the Secretary of War this specific authority; and if there is any rule applicable to the case at all, it is that this body and the other House will not make an appropriation unless such examinations and surveys have been made by its own authority. The Secretary of the Treasury has nothing to do with it.

When it comes to the making of appropriations for the other great Departments of the Government, the regular appropriations, which fall by the general terms of law under the control of the Treasury Department, there a different rule as I understand prevails. There the rule insisted upon by the Senator from Kentucky comes in, and the items have to be made up in a regular Book of Estimates, which is sent here for the Appropriations Committee to act on. But with regard to this description of improvements all the authority that exists comes from Congress every year. Every report that is here to-day touching the improvement of any river or harbor in the country has come from the Secretary of War by virtue of the authority conferred on him by us, and he has fulfilled it.

Mr. BECK. Section 3669 of the Revised Statutes of the United States provides that—

> All annual estimates for the public service shall be submitted to Congress through the Secretary of the Treasury, and shall be included in the Book of Estimates prepared under his direction.

The Secretary of War and the Secretary of the Navy have complied with this law by furnishing to the Secretary of the Treasury every year the estimates for the number of soldiers, the number of sailors, and everything else that they have. The Secretary of the Treasury alone reports to Congress the annual estimates for the public service, embracing Army, Navy, rivers and harbors, and everything else. Section 3670 provides that—

> The Secretary of the Treasury shall annex to the annual estimates of the appropriations required for the public service a statement of the appropriations for the service of the year, which may have been made by former acts.

It requires the Secretary of the Treasury to give a detailed statement of them all. Every one of the other heads of Departments has to confer with him. The presumption is, and the statement of the Book of Estimates itself follows the provision of the statutes, that all that has been submitted has been submitted after thorough consultation and consideration of what could be left off and what was indispensable; and whatever else may have been recommended by the engineer officer or by the Secretary of War, yet after consultation with the Secretary of the Treasury the result is presumed to be here in this book.

Mr. BUTLER. Will the Senator allow me to ask him one question there?

Mr. BECK. Certainly.

Mr. BUTLER. I ask it by way of testing the applicability of the principle the Senator claims. I ask the Senator whether or not every appropriation made by this Congress has to be made only upon the estimate of the Secretary of the Treasury? In other words, are no appropriations made except upon his recommendation?

Mr. BECK. That is not assumed to be the law.

Mr. BUTLER. I should like the Senator to inform me whether or not any appropriation has been made by this Congress except upon the estimate of the Secretary of the Treasury?

Mr. BECK. I think that we have exceeded the estimates over and over again; and we have fallen short of them over and over again.

Mr. BUTLER. If my friend will pardon me one moment, I will ask him another question. When an appropriation is made of $200,000 to build a fort on the frontier, is it required that the Secretary of the Treasury should make an estimate for that amount?

Mr. BECK. The rule of the Senate, and a very wise one, is that before we can build a fort on the frontier, before it is in order for the Committee on Appropriations to provide the money for it, it must be recommended by the head of a Department or by the committee of Congress which has had charge of the subject. We can depart from the rule of course—there is nobody who denies the power to do that; but when the Senator from South Carolina insists that there is an estimate for this work he surely has to go very far beyond anything he has shown yet. I have sent for the book which he purported to read from, being appendix S, No. 8, page 756, of the report of the Secretary of War, and it turns out to be a report of a subordinate officer and a report made in 1875, five years ago. Does the Senator now tell us that the report of a subordinate officer that $10,000 was needed in 1875 is to be read as an estimate before the Senate now?

Mr. BUTLER. That is exactly what I do propose to tell the Senate.

Mr. BECK. When the vote was first taken perhaps that fact was stated by the Senator from South Carolina, but it was not heard by the Senator in charge of the bill and not by a good many others of us. The amendment was voted upon as though no estimate was made for it now, as I understood, and it turns out that this is the report of a subordinate recommending in 1875 that $10,000 be appropriated.

Mr. BUTLER. I should like to ask the Senator if that recommendation is not a part of the report of the Secretary of War to Congress?

Mr. BECK. I will ask the Senator whether he advised the Senate before the vote was taken that it was the estimate of a subordinate engineer for 1875?

Mr. BUTLER. I did, sir, distinctly.

Mr. BECK. Was that stated by the Senator?

Mr. BUTLER. Distinctly.

Mr. WITHERS. It was.

Mr. BECK. Before the vote was taken?

Mr. BUTLER. Before the vote was taken.

Mr. BECK. I am glad to hear the Senator say that it was stated; I did not hear it.

Mr. BUTLER. I am not responsible for that. I stated distinctly that the report was made by General Gillmore, and gave the date, 1875.

Mr. BECK. Before the vote was taken?

Mr. BUTLER. Precisely.

Mr. BECK. I do not doubt the fact.

Mr. WITHERS. I want to ask the Senator from Kentucky if he was in the Senate at the time the first amendment came up for consideration and discussion here? In that case the committee itself had recommended an increase from $1,000 to $25,000, and when the

authority was asked upon which that large increase was made it was stated in the Senate to have been recommended by the engineer, and the language of the engineer in charge was quoted in support of the amendment recommended by the committee, and it was adopted by the Senate by a decisive vote.

Mr. BECK. If I was here I did not observe it; but the rule of the Senate, as the Senator from Virginia well knows, is that whenever an amendment is recommended by the head of a Department or reported by a committee of the Senate that makes it in order. There are very many estimates made, say a year ago, which altered conditions make it necessary to change, as in the case that came before the Committee on Appropriations where the Secretary of the Interior said to us, "We require more money to buy provisions and clothing for Indians, because prices have risen 40 per cent. higher than before:" and I have the papers lying on my desk now. The Secretary of War comes in and says to us, "I desire an appropriation for an additional fort, because I have information since my estimates were made that it will be necessary to protect the frontier." All these things that may happen after the estimates are made can be provided for by additional recommendations, and Congress is always ready to do it. I do not mean to say, I never have said, that we are bound to do what the Departments ask; but I mean to say that there was no estimate for this improvement for this year, and the Senator from South Carolina agrees with me that there was none, and that the report was for 1875.

Mr. BUTLER. I do not agree to that, for I have not examined the whole report on that subject. It may be in the last report.

Mr. BECK. It may be; I do not say that it is not; but I meant to say that it was a very dangerous departure if without any specific reason we should not follow the Book of Estimates, which is presumed to be made up and sent to us by the Secretary of the Treasury after a full consultation with the heads of Departments, rejecting all items that are not supposed to be valuable and inserting all that are, and take up and insert in this bill things that are not there. That is all that I desire to say. I have stated distinctly that I do not object to this appropriation of $1,000, but I have one or two things that I have allowed to pass because they were not in the estimates, which perhaps I will now ask to change, if the Senate departs from the rule.

Mr. WITHERS. I wish to say in reply to the Senator from Kentucky that he has correctly stated the rule of the Senate and the principle which controls the Senate in acting upon general appropriation bills; but I request the attention of the Senator to one point. In regard to the appropriations for rivers and harbors, until work is commenced upon them they are never estimated for; and the effect of the principle stated by the Senator as applied to the river and harbor bill would be forever to estop Congress from making any appropriation for rivers and harbors. They are given in charge of the War Department. Consequently all primary appropriations for works of internal improvement must be predicated upon the reports of the Secretary of War and the engineer who is assigned to the particular locality. Until the law is changed, as is very properly suggested to me, it is impossible that they can be included in the estimates. I state here that this being an original improvement, having a report of the engineer who has investigated the whole subject and surveyed the river and forwarded the report to the legitimate head of the Department, the Secretary of War, it furnishes the only basis which it is possible to secure for making the first appropriation for a work of internal improvement, and to establish any other principle would be forever to debar us from making appropriations for works of internal improvement.

Mr. BECK. Let me ask a single question. Has the Senator any assurance that there never was before any money appropriated to improve the Ashley River in South Carolina? Is that the assumption?

Mr. WITHERS. That is my understanding of it.

Mr. BECK. That is a mistake. It has been improved, improved for years and years.

Mr. WITHERS. That may be. Assuming, however, that all the Senator says is true, and that the original improvements projected may have been completed, here is a projected improvement which is predicated upon the report of the engineer in charge.

Mr. BECK. In 1875.

Mr. WITHERS. In 1875; it makes no difference when. The condition of the river which then demanded that improvement still exists by virtue of the fact that no improvement has been made. I do not think it right to debar the persons in that locality, even temporarily, from the benefit of an appropriation for the improvement of this river. Inasmuch as the committee itself and the Senate itself by repeated votes this morning have indicated a purpose and determination to exercise that discretion which is vested in them by law in making appropriations for internal-improvement purposes without reference to the Book of Estimates, I see no reason why this particular appropriation should be made an exception to the rule which has been acted on this morning.

Mr. BECK. I am not able to lay my hand on a report showing that the Ashley River has been improved before.

Mr. BUTLER. I do not think the Senator from Kentucky can lay his hand on it.

Mr. BECK. Perhaps it may be so; I am not sure. I see "Charleston" over and over.

Mr. BUTLER. That is an entirely different thing. I do not think there has been one dollar appropriated to this river, certainly not since I have been in the Senate.

Mr. JONES, of Florida. There cannot be any doubt in this matter that the very provision of the river and harbor bill alluded to a while ago, which directs the Secretary of War to cause examination and surveys and estimates of costs of improvements to be made, is his warrant and his authority. His report must come here. If the Book of Estimates is to control this body, as the Senator from Virginia says, we never shall have any power to make an appropriation at all for these purposes.

Mr. HEREFORD. There were two reasons which governed the committee in striking out the appropriation for Ashley River—not the one invoked by the Senator from Kentucky, for I think in that he is wrong. As was stated by the Senator from South Carolina, I believe not on the floor of the Senate, but before this bill was taken up, the first reason was because there was no report upon it. The committee was not aware that years ago an examination and survey and estimate for this river had been made, and the report was not furnished to the committee. We had the report for the present year before us, and in that it was not found; and in all cases where we had no report before us we struck the item out. Some of those items have been restored with the consent of the committee as soon as the report was brought to our attention.

Another reason was that this being, as stated by the Senator from South Carolina, virtually a part of the harbor of Charleston, and as we had made, as we thought, a pretty good appropriation for the harbor of Charleston, it was considered that this appropriation was not needed.

For these two reasons—mainly for the first, however, that we had no report before us—we struck the item out.

The Senator from Kentucky is clearly in error when he invokes the fact that an estimate for this river is not found in the Book of Estimates as an argument against it. In section 2 of this bill, as we find in all river and harbor bills, there is an appropriation made for the surveys of certain rivers and harbors. The Secretary of War is directed to make those surveys and to make his estimates. He does so, and he makes his report to Congress; but he does not make an estimate in his Book of Estimates for any of those rivers and harbors; it is not in his province to do that. He leaves it to Congress, after he has made this report to us, to determine whether they will go on and improve that river or harbor. After Congress has done that and placed it upon the list of rivers and harbors, then it is his duty in each year's estimates after that, until Congress stops making an appropriation, to make an estimate for it. He has no right to make an estimate before, but after that it is his duty to do it.

Mr. VEST. Will the Senator from West Virginia allow me to ask him a question?

Mr. HEREFORD. Certainly.

Mr. VEST. Do I understand the Senator to say that the Committee on Commerce consider themselves bound or committed by the estimates of the Secretary of the Treasury in any way?

Mr. HEREFORD. Not by those of the Secretary of the Treasury, but by those of the Secretary of War.

Mr. VEST. I understood the Senator from West Virginia to say that it was the estimate of the Secretary of the Treasury by which they were bound, and that it all comes through him. The Committee on Commerce have not been governed by that estimate, for they have gone over it.

Mr. HEREFORD. They have not always been governed by it, because the Secretary of the Treasury himself has not always been governed by the report of the Secretary of War. The doctrine invoked by the Senator from Kentucky is not correct, that because an appropriation is not estimated for a river or harbor in the Book of Estimates sent to us by the Secretary of the Treasury it is an argument against the improvement. That is not a sound position, because the Secretary of the Treasury never estimates in the Book of Estimates for a new river or harbor improvement. After Congress has decided to improve a river or harbor, in the following year and every succeeding year in his Book of Estimates the Secretary of the Treasury places it there, as it is his duty to do. It is for the Senate to-day after the report has been read, although made in 1875, to place the river Ashley upon the list of rivers and harbors to be improved. The Senate has the power to do it to-day. If it should do so, then twelve months hence, when we shall have the estimates of the Secretary of the Treasury for next year, there will be an estimate if it needs any according to the report of the Secretary of the Treasury.

Mr. RANSOM. Now, Mr. President, I hope to have a vote on this question, so as to get along with the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Carolina, to reconsider the vote by which the Senate rejected the amendment of the committee to strike out lines 671 and 672, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 23; as follows:

YEAS—20.

Allison,	Davis of Illinois,	Groome,	Ransom,
Baldwin,	Davis of W. Va.,	Hereford,	Rollins,
Beck,	Dawes,	Kirkwood,	Saunders,
Booth,	Eaton,	McMillan,	Wallace,
Cameron of Wis.,	Ferry,	Platt,	Windom.

NAYS—23.

Bailey,	Harris,	McDonald,	Vance,
Bayard,	Ingalls,	Maxey,	Vest,
Brown,	Johnston,	Morgan,	Voorhees,
Butler,	Jonas,	Pendleton,	Walker,
Call,	Jones of Florida,	Pryor,	Withers.
Hampton,	Kernan,	Slater.	

ABSENT—33.

Anthony,	Conkling,	Jones of Nevada,	Saulsbury,
Blaine,	Edmunds,	Kellogg,	Sharon,
Blair,	Farley,	Lamar,	Teller,
Bruce,	Garland,	Logan,	Thurman,
Burnside,	Grover,	McPherson,	Whyte,
Cameron of Pa.,	Hamlin,	Morrill,	Williams.
Carpenter,	Hill of Colorado,	Paddock,	
Cockrell,	Hill of Georgia,	Plumb,	
Coke,	Hoar,	Randolph,	

So the motion to reconsider was not agreed to.

The PRESIDING OFFICER. The amendment is rejected, and the Secretary will resume the reading of the bill.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 673, to increase the appropriation for the improvement of Elk River, Maryland, from $5,500 to $12,000.

The amendment was agreed to.

The next amendment of the Committee on Commerce was, in line 684, to reduce the appropriation for improving Bayou Courtableau from Port Barre to Atchafalaya, Louisiana, from $7,500 to $5,000.

Mr. JONAS. I trust that amendment will not be agreed to. This is a very important stream, one of the most important navigable streams in Louisiana, and there is a very heavy commerce upon it. I see that the engineer's report was communicated to the Secretary of the Treasury too late to be embodied in the estimates. The estimates for the improvement of that stream are $109,340, and for the portion contemplated by this appropriation the sum of $21,400 is estimated. I see no reason why the appropriation should have been cut down from $7,500, which is only about one-third of the engineer's estimate. As I said, it is one of the most important navigable streams in the interior of Louisiana, and I trust the amendment will not be agreed to.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, to strike out lines 686 and 687, in the following words:

Improving Susquehanna River, Pennsylvania, from Richards's Island up, $25,000.

The PRESIDING OFFICER. Will the Senate agree to this amendment?

Mr. WALLACE. I hope not. Here is the Susquehanna River, one branch of which rises west of the Alleghanies and the other branch finds its source in the State of New York. The small sum of $25,000 is appropriated for its improvement in that part of it which lies above Sunbury, which is familiarly known to us as the North Branch. This amount of money is intended to add to the already existing navigation of that part of the stream, and I trust the Committee on Commerce will not insist on their amendment.

Mr. McMILLAN. Will the Senator from Pennsylvania allow me to ask him how far is this point from any navigable waters?

Mr. WALLACE. All the water in the North Branch runs into the main Susquehanna, which finally empties into Chesapeake Bay.

Mr. McMILLAN. But how far is the portion of the river to which this appropriation is applicable from any navigable waters?

Mr. WALLACE. I believe Richards's Island is sixty or seventy miles above Sunbury, which is the point of junction of the two streams.

Mr. RANSOM. I do not propose to have two of us at once upon the Senator from Pennsylvania, but I should be glad if he would let us hear the report of the engineers and the estimates upon this stream at that point.

Mr. WALLACE. I imagine there are such. I know nothing of it; I have not looked up the question. If there is not a report, of course I must acquiesce.

Mr. RANSOM. We did our best, and we have not found one. It may be found, but we have not discovered it. Looking at the map and studying the river, I think the point proposed to be improved is some distance above any navigable part of the river now.

Mr. WALLACE. May I ask the Senator from North Carolina, the chairman of the Committee on Commerce, what is, in the understanding of the Committee on Commerce, a navigable water of the United States?

Mr. RANSOM. With very great deference may I ask the Senator from Pennsylvania——

Mr. WALLACE. That would do for Connecticut; it surely will not do for North Carolina. [Laughter.]

Mr. RANSOM. Nothing bad would do for North Carolina. I am afraid even this shallow stream would not do for North Carolina.

Mr. WALLACE. Will the Senator from North Carolina answer my question and not ask another?

Mr. RANSOM. Laying all joking aside, let me ask the Senator from Pennsylvania if a steamboat or a batteau can ascend within fifty or one hundred miles of the point on this stream where it is proposed to be improved?

Mr. WALLACE. In the spring of the year it can undoubtedly; but in the vicinity in which this navigation is intended to be improved there is a steamboat plying continually upon the stream. I am bound to say to the Senator and to the Senate that it is true there is no ascending navigation.

Mr. RANSOM. Then this is a spring improvement.

Mr. WALLACE. In the spring of the year when the freshets come there is a very large amount of lumber transported upon that stream by descending navigation.

Mr. ALLISON. Where is Richards's Island.

Mr. WALLACE. On the North Branch of the Susquehanna, in the neighborhood of Wilkesbarre. It is in the district of Colonel WRIGHT, of Pennsylvania, in Luzerne County.

Mr. ALLISON. I did not know where it was, and only asked for information.

Mr. WALLACE. I hope the committee will not insist upon this amendment.

Mr. RANSOM. I wish I could concede this to the Senator from Pennsylvania, as I did another item this morning; but really, if the Committee on Commerce ought to be sustained upon any amendment in the bill, it seems to me this is the one. There has been no estimate and no report.

The amendment was rejected.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Commerce was, after line 691, to insert:

Improving Yadkin River, North Carolina, $20,000.

The amendment was agreed to.

The next amendment was, in line 695, to increase the appropriation for "improving White River above Buffalo Shoals, Arkansas," from $5,000 to $20,000.

The amendment was agreed to.

The next amendment was to strike out lines 712 and 713, in the following words:

Improving Pagan Creek, Virginia, $5,000.

Mr. WITHERS. I hope that that recommendation of the committee will not be concurred in. I understood the clause was stricken out by the committee because they had no report of the engineers recommending the appropriation. Since that time I have three reports.

Mr. RANSOM. I will simply say now that the survey and estimate and recommendation were not before the committee, or the clause would not have been stricken out.

Mr. WITHERS. Then, having the reports in possession here, I hope the clause will be restored.

Mr. ALLISON. I should like to have the report read. I think Pagan Creek is an important place.

Mr. WITHERS. Pagan Creek is a large tidal stream, not a very long stream, but a very large one, on which is located a very thrifty town.

Mr. ALLISON. In what report? Let us hear what it is.

Mr. WITHERS. It will be found in the recommendation of S. T. Abert, United States civil engineer, and forwarded by Brigadier-General Humphreys, the late Chief of Engineers, United States Army, giving a description of the survey of the stream, the difficulties to be encountered in navigation, and estimating the cost of the improvement to be $28,300. There is a bar at the bridge and another bar at the mouth which it is desired to be removed, and he recommends the appropriation of that amount for this purpose. The engineer's report having been presented, recommending and recognizing the necessity of the improvement, I ask that the amendment be disagreed to.

The amendment was rejected.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Commerce was, in line 718, to increase the appropriation for "improving Block Island Harbor, Rhode Island," from $4,000 to $6,000.

The amendment was agreed to.

The next amendment was to strike out lines 722 and 723, in the following words:

Improving Broadkiln River, Delaware, $5,000.

Mr. BAYARD. I ask the attention of the Senate to a report made in 1872 by the engineer in charge, Major Brown, of the Corps of Engineers, the same who has been in charge of the jetties at the mouth of the Mississippi River. At that time, in stating the importance of this stream as a matter of public and national commerce, he made a statement which I shall read. I read from page 7 of his report, which is accompanied by a diagram of the stream, which takes its departure from the Delaware Bay just above the cape at Lewes. He says:

> At present the commerce entering and departing from the mouth of the Broadkiln River embraces about fifty-five thousand tons annually. The average value of shipments is about $10 per ton. A commerce exceeding half a million of dollars per year is therefore the nucleus of a trade which would unquestionably receive a great impetus from the improvements suggested. It is estimated that within a year after the completion of the improvements desired a commerce of $2,000,000 per year would be permanently established. Seven-eighths of the present tonnage of the river enters and departs from Milton. The remainder is distributed among five other points called landings, indicated on the principal chart forwarded. The out-shipments consist mainly of quercitron and Spanish oak bark, lumber, partly manufactured and unmanufactured, hickory stuff for ax-helves, and timber for ship-building. The return cargoes embrace general merchandise, fertilizers, lime, and other building materials, &c. The manufactures on the river are the products of two saw-mills and one bark-mill. At present about two thousand tons of vessels are built on the banks of the river yearly, the average tonnage of the vessels launched being four hundred tons. It is anticipated that with the desired improve-

ments of the river the ship-building *will increase fivefold*. This expectation is founded on the fact that ships are built very cheaply on the river, and that the great drawback heretofore encountered has been the shallowness of the water preventing the exit of deep-draught vessels. It is thought also that vessels of greater draught from southern ports, which are now prohibited from the commerce of the river, will enter laden after the suggested improvements are made. All ships of considerable tonnage now built on the river are obliged to leave without cargo; but under better conditions it is said they would leave laden.

Such was the report of that officer which induced Congress to make an appropriation of some $12,000. Of that I am assured that nearly $5,000 has remained unexpended since 1874. I have in my hand a letter from a merchant and ship-builder upon that river. If this expenditure of $5,000 appropriated by the House can be made, he says the ships built there can be readily increased from four hundred tons to one thousand and twelve hundred tons.

There is to-day all over this country a recognition that the American carrying trade is something that especially needs, as it is said, a start. I do not believe in subsidies; I never have asked for one and never expect to, but on the contrary have opposed and shall continue to oppose that system; but I do say that when the natural features of the country point to an improvement in which the national commerce can be benefited in this matter of ship-building it deserves the attention and approval of the Senate. The House of Representatives knowing these facts gave this small appropriation. I trust it will not be the pleasure of the Senate to take it away, and I think I have given good reasons for retaining it. I therefore trust the amendment will be voted down.

Mr. BECK. This item is for improving Broadkiln River, $5,000. I am not going to oppose it. The Book of Estimates is silent in regard to it. There seems to have been no report since 1872, and in a book giving the appropriation made in 1875 I find that Broadkiln River, Delaware, has received $10,000.

Mr. BAYARD. It is partly unexpended.

Mr. BECK. I do not know that.

Mr. BAYARD. I know it.

Mr. BECK. I do not know it from the record.

Mr. BAYARD. There is, I understand, upward of $5,000 unexpended.

Mr. WITHERS. Of the former appropriation?

Mr. BAYARD. Of the former appropriation.

Mr. BECK. With no recommendation, with nothing except the fact that $10,000 apparently given in 1875, (I do not know what was done with it,) and with no estimate for it now, the same language being used there that was used in the case that I called attention to before, and that language applies as well where appropriations have been made as to those cases where no appropriations have been made, as this record shows, I will not object to retaining the clause.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 744, after the word "Florida," to insert "deepening the bar and channel from the bar to the town of Tampa;" so as to make the clause read:

Improving Tampa Bay, Florida, deepening the bar and channel from the bar to the town of Tampa, $10,000.

The amendment was agreed to.

The next amendment was, in line 763, to strike out "Obed's" and insert "Obey's;" so as to make the clause read:

Improving Obey's River, Tennessee, $4,000.

Mr. HARRIS. I call the attention of the chairman of the Committee on Commerce to the fact that the name of the river was properly inserted in the bill as it came from the House. The amendment is wrong. "Obed's" is the proper name of the river.

Mr. RANSOM. So the Senator from Tennessee [Mr. BAILEY] has told me. I understand there are two rivers in Tennessee; one is called Obed's, and the other Obey's. The engineer's report misled the committee in reference to Obey's River.

Mr. ALLISON. Where is this river?

Mr. HARRIS. In Middle Tennessee.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 774, to increase the appropriation for "improving San Joaquin River, California," from $15,000 to $25,000.

The amendment was agreed to.

The next amendment was to strike out lines 776 and 777, in the following words:

Improving Mattaponi River, Virginia, $2,500.

Mr. WITHERS. That amendment of the committee stands upon precisely the same ground as the one with regard to Pagan Creek. The item was stricken out by the committee because they had no estimate of the engineer recommending the appropriation. The estimate which I hold in my hand is from the engineer in charge, who made the survey, and it is approved by General Humphreys. The estimate for the improvement is set down at $30,000, of which, however, they desire now only the amount appropriated by the House, $2,500, to remove one of several bars and two wrecks which now lie in the channel of the stream. It is the principal branch of York River, and has a very considerable trade, and there are two wrecks which impede the channel, and they desire to use this appropriation for the removal of them.

Mr. RANSOM. This amendment was made by the Committee on Commerce because we could not find any recommendation for the appropriation. The Senator from Virginia states that he has it. In what year was that?

Mr. WITHERS. In 1875.

Mr. ALLISON. Has there been an appropriation since that time.

Mr. WITHERS. No, it never had any. There is one other improvement in the same category in regard to which I have here the report of the engineers for which no appropriation was made in accordance with it.

Mr. RANSOM. Without resisting the proposition which the Senator from Virginia makes, I beg leave to state to him that if he will look at the end of the bill he will see that nothing should be appropriated for removing wrecks because general power in that matter is given under the bill to the Secretary of War.

Mr. WITHERS. I mentioned those two obstacles in addition to the bar which it is desired should be removed.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 788, to increase the appropriation for improving Black River, Arkansas, from $5,000 to $15,000.

The amendment was agreed to.

The next amendment was to strike out lines 792 and 793, in the following words:

Improving Mississippi River at Hannibal, Missouri, $25,000.

Mr. VEST. I ask the committee to give its reasons for striking out that appropriation.

Mr. HEREFORD. The reason why the committee struck out the appropriation was simply because it was not known to us that there was any necessity for it. There was no engineer's report. I do not say there was none, but there was none laid before the committee.

Mr. VEST. That is simply an accident. I have in my hand a letter from the Secretary of War in regard to that appropriation. The following report is embodied in his communication:

UNITED STATES ENGINEER OFFICE,
Rock Island, Ill., January 17, 1880.

GENERAL: As instructed, as per indorsement from office of the Chief of Engineers, dated January 13, 1880, on letter written by Hon. W. H. Hatch to the honorable the Secretary of War, I have the honor to report as follows:

During November, 1879, by direction of the Chief of Engineers, a dredge was sent to Hannibal and a little work for the temporary relief of the steamboat-landing done.

While this work was going on some soundings were taken in the vicinity, and the results are shown on the accompanying tracing.

A large gravel-bar, about one-half mile in length, lies along the Missouri shore above the Hannibal landing, and causes a continual deposit in front of the city wharf. This bar should be removed.

To confine the current to the Missouri shore and hold the sand-bars opposite Hannibal dams should be thrown out from the Illinois shore.

The shoaling caused by these dams will probably destroy the present ferry-landing, and therefore one of the dams should be built in the form of a causeway, furnishing a new landing in deep water.

The first work to be done would be the removal of the gravel-bar, the construction of causeway or dam No. 2, the construction of a low dam from the Illinois shore to Glasscox Island, and one thousand feet of shore protection on the west side of the island, as shown on the accompanying tracing.

Should these dams fail to confine the channel to the Missouri shore, dams Nos. 1 and 3 could be subsequently built.

The material removed from the bar can be used in the construction of dams.

ESTIMATES.

For removal of bar, 60,000 cubic yards of gravel and clay, at 50 cents per cubic yard	$30,000
For dam No. 2, about 1,000 feet long and 12 feet high, containing 10,000 cubic yards, at $1.25 per cubic yard	12,500
For closing dam No. 4, behind Glasscox Island, containing 6,000 cubic yards, at $1.25 per cubic yard	7,500
For 1,000 feet shore protection, at $2.50	2,500
Total	52,500
Probable saving from gravel dredged	12,500
Balance required	40,000

This work could be done in one season if commenced at an early date.

Should the above work prove insufficient and dams Nos. 1 and 3 be subsequently found necessary, they would cost approximately as follows:

Dam No. 1	$5,000
Dam No. 3	15,000
Total	20,000

The price estimated for dredging is very large, and undoubtedly it can be done for much less, but the uncertainty as to hardness and the small number of dredges at present available for such work render it unsafe to reduce the estimate.

Very respectfully, your obedient servant,

A. MACKENZIE,
Captain of Engineers.

To the CHIEF OF ENGINEERS, U. S. A.,
Washington, D. C.

This work could be done in one season if commenced at an early day.

Mr. RANSOM. As my colleague upon the Committee on Commerce [Mr. HEREFORD] has stated, the only reason why this amendment was made was because the report of the engineer and the letter of the Secretary of War were not before the Committee on Commerce, and, as the Senators well know—they say it was an accident—there was no way for us to ascertain it. The document is a miscellaneous one, I think.

Mr. COCKRELL. I will state to the Senate that it is Miscellaneous

Document No. 24, and was only sent in on the 11th of February, and is not in the regular report.

Mr. ALLISON. To what committee was it referred?

Mr. COCKRELL. It was sent to the House of Representatives.

Mr. RANSOM. It never was referred to the Committee on Commerce of the Senate.

Mr. COCKRELL. No; but it was sent to the House, as all these reports are.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 795, to increase the appropriation for "improving and surveying Winnipiseogee Lake, New Hampshire," from $2,500 to $5,000.

The amendment was agreed to.

The next amendment was, in line 797, after the word "South Carolina," to strike out "up to Conwayborough, nine," and insert "from the mouth up to Waccamaw Lake, North Carolina, fifteen;" so as to make clause read:

Improving Waccamaw River, South Carolina, from the mouth up to Waccamaw Lake, North Carolina, $15,000.

The amendment was agreed to.

The next amendment was to strike out lines 802 and 803, in the following words:

Improving Totusky River, Virginia, $2,500.

Mr. WITHERS. That is precisely of the same character as the Mattaponi case. Here is the report of the engineer in which the survey is given.

Mr. HEREFORD. What year was the report made?

Mr. WITHERS. In 1875, the same year, recommending the appropriation of $14,960 for some diking, but especially for sixteen hundred thousand cubic yards of dredging at a bar which interferes with the passage of vessels up the stream. It is a tidal stream in Northumberland County, Virginia, penetrating the State.

Mr. DAVIS, of Illinois. Does the Secretary of War make any estimate?

Mr. WITHERS. Not an estimate, but the engineer's survey recommends it.

Mr. DAVIS, of Illinois. In the case of the Illinois River the estimate of the engineers was $400,000, and everybody voted against it on that side.

Mr. WITHERS. I will state to my friend from Illinois that it is impossible, as has been demonstrated in the Senate, that an estimate can be included in the estimates from the Treasury Department for a river-and-harbor improvement which has not been commenced, because until improvements are commenced they do not come under the control of that Department. Our action must be predicated upon the engineer's report.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was to strike out lines 808 and 809, in the following words:

Improving French Broad River, Tennessee, between Knoxville and Leadvale, $10,000.

Mr. BAILEY. I ask the Senate to disagree to the amendment recommended by the committee. I am informed that the committee acted upon the belief that the French Broad River had not been surveyed. I hold in my hand the survey that was made under the order of the Chief of Engineers, with which estimates are made for this work. I believe the Senator who has charge of the bill when I called his attention to the fact said he would not object to my motion to disagree with the committee being considered by the Senate.

Mr. ALLISON. I should like to ask the Senator from Tennessee about the French Broad River. I remember some years ago we had a discussion about the French Broad, when it was disclosed that so far as this river runs in North Carolina——

Mr. BAILEY. This is in Tennessee.

Mr. WITHERS. In Tennessee below a much larger stream.

Mr. ALLISON. I am very much obliged to gentlemen who sit in their seats and give me precisely the information I want to get from the Senator from Tennessee.

Mr. RANSOM. If my friend from Iowa will pardon me, I wish that the Senator from Virginia, my esteemed friend, would let us speak about North Carolina. I defer greatly to Virginia on account of my devotion and love for her, but there are few larger streams in this world than the French Broad in North Carolina, and I am sure no stream has ever figured more largely in this body, not even a Virginia stream.

Mr. WITHERS. Possibly New River.

Mr. RANSOM. I protest against that.

Mr. ALLISON. I am much obliged to both the Senators who in their seats volunteered the information that this was not the same river I was endeavoring to talk about.

Mr. BAILEY. It is the same river, but a portion of it rises in the State of North Carolina and flows into the State of Tennessee. This is an improvement within the limits of the State of Tennessee.

Mr. ALLISON. It is larger, then, in Tennessee than in North Carolina?

Mr. BAILEY. I suppose so. It is not one of the largest rivers in the United States, nor is it tide-water.

Mr. ALLISON. I want information about this river. I ask the Senator if it is a navigable stream now?

Mr. BAILEY. It is a navigable stream.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was to strike out from line 810 to 812, inclusive, in the following words:

Improving the falls of the Cumberland River, Kentucky, according to plan recommended by W. R. King, major of Engineers, $35,000.

Mr. BECK. I desire to ask the chairman of the committee why that is stricken out. This is an appropriation to make the improvement upon a plan recommended by W. R. King, major of Engineers. If the Senator will be kind enough to tell us why it was stricken out I shall be obliged to him.

Mr. RANSOM. With very great pain to me, for I wish it was not so, I have to notify the Senator from Kentucky that this very report and this very plan are adverse to this improvement, do not recommend it, and in substance declare that it is impossible. The report is a long one. If the Senator from Kentucky desires it to be read, it may be read. It is several pages long. I ask that it be made part of the record in this case.

Mr. BECK. I have read it.

Mr. RANSOM. Anybody who reads it ought to be satisfied that the amendment is right.

Mr. ALLISON. I should like to have it read.

Mr. HEREFORD. It is a long report.

Mr. ALLISON. If we are to vote intelligently upon the subject as the committee have voted in making the amendment we must have the report read.

Mr. RANSOM. I will state that it is a decided and pronounced adverse report, as strong as it can be.

Mr. THURMAN. I want to invite the attention of my friend from Iowa one moment. I never in my life, during the eleven years that I have been here, saw a report of more than one page listened to in the Senate. You may read a report as much as you please, but while it is being read it is not listened to.

Mr. ALLISON. After that statement of the Senator from Ohio I withdraw the request to have the report read.

Mr. RANSOM. Now let it go in the RECORD.

Mr. THURMAN. The only way to get the contents before the Senate is for somebody who knows what the report contains to state it. Senators will listen to a statement, but they will not listen to the reading.

The report referred to is as follows:

UNITED STATES ENGINEER OFFICE,
Chattanooga, Tennessee, February 20, 1879.

GENERAL: I have the honor to forward herewith a report of Assistant Engineer Samuel Whinery, on a survey of the falls of the Cumberland River, Kentucky, made in compliance with your letter of August 19, 1878. A preliminary report on this survey was forwarded with my letter of December 27, 1878.

Mr. Whinery is well qualified by former experience in surveying the Cincinnati Southern Railway in the vicinity of the falls to form an intelligent opinion on the character and merits of the proposed improvement, and I have no doubt his conclusions are correct. The amount of his estimates might possibly be somewhat reduced by substituting an inclined plane similar to that at the new outlet lock at Georgetown for the locks, but there would still remain the almost insurmountable obstructions for many miles below the falls, and the want of an adequate commercial necessity for such an improvement.

Very respectfully, your obedient servant,

W. R. KING,
Captain of Engineers.

The CHIEF OF ENGINEERS, U. S. A.

WHEELER, ALABAMA, *February 15, 1879.*

MAJOR: The following report of a survey of the falls of Cumberland River, made by me under your direction, is respectfully submitted.

The weather was very unfavorable during the progress of the work, and long-continued rains raised the river several feet, thus increasing the difficulties of the work.

The survey extended from a point about one mile above to a point about one and two-thirds miles below the great fall, and was made with a party of three men beside myself, and an additional man for handling a boat part of the time. The work was done with a transit instrument, having a telemeter attachment, with which distances were measured. A stadium wire was inserted, and readings taken with that also as a check upon the telemeter. They were found to agree sufficiently well for all practical purposes. The levels were taken with the transit, which had a good level tube attached to the telescope. Soundings were taken in the channel of the river from opposite station 2 of survey to station 18 wherever it was possible to take them. The boat at our disposal could not, if taken below the "Jump" at station 18, be brought back with the force available, and soundings were not attempted below that point. The observations for velocity of current were made by placing floats in the channel of the river and noting the time of their passing the various stations. The accompanying map, with profile, will show the principal facts developed by the survey.

The great falls of the Cumberland River are situated in the southwestern part of Whitley County, Kentucky, about sixty miles by river above Point Burnside, and twelve miles east of the line of the Cincinnati Southern Railroad. The river at and above the falls is a rapidly descending mountain stream carrying a large volume of water at flood-tide and shrinking to a mere brook during extremely dry seasons. Geologically, the fall is situated in the "Millstone Grit" or "Cliff Rock" of the Upper Coal Measures, through which it has cut a deep and narrow chasm, with walls often three hundred feet high and almost perpendicular. The table-rock, over which the cataract pours, is a very hard, firm sandstone, filled with pebbles of white quartz, and containing iron in various combinations. This is underlaid by a heavy stratum of argillaceous shale, filled with nodules of clay iron-stone. The rapid disintegration and carrying away of this shale from under the massive sandstone allows the latter to project and finally break away in enormous masses, which, falling into the chasm, have seriously obstructed the channel of the river below the fall. The iron and the various mineral salts contained in this sandstone, and the shale underneath, serve to supply the several mineral springs in the vicinity, whose waters are reputed to have great medicinal virtues.

The bed of the stream above the fall is solid rock. The soundings immediately below the fall indicated that the shale had been cut down to a stratum of solid rock; but before the end of the pool is reached the water becomes shallow, and the bed is made up of bowlders and gravel. A good summer hotel has been erected just above the fall, and the place bids fair to become a popular watering-place when the completion of the railroad makes it more accessible and its many attractions become better known.

The country surrounding the fall, being on the slope of the Cumberland Mountain, is very rough and sterile; very little of the land is capable of improvement and cultivation. At present there are only a few widely scattered openings or farms, and the population is very sparse, and made up of the most shiftless class of mountaineers. Higher up the stream, where it approaches the top of the Cumberland Plateau, the character of the country improves, and there are good farming settlements and many intelligent and thrifty people.

The course of the river for one hundred miles above the fall is easterly through the counties of Whitley, Knox, Josh Bell, and Harlan, which four counties embrace all the territory that would be benefited by the improvement of this part of the river. The aggregate area of these counties is about twenty-five hundred square miles, and the census of 1870 shows that their population was 24,718, or about ten to each square mile; that the total assessed valuation of real estate and personal property was $2,564,623; that the total valuation of agricultural and manufactured products for 1870 was $972,204. This, however, does not include timber in the form of saw-logs, of which considerable numbers are sent down the river to market. The agricultural products are barely sufficient for home consumption, and therefore but little finds its way to any market. The slopes and valleys of this region are fairly well timbered with yellow pine, poplar, (tulip tree,) white oak, chestnut, and considerable quantities of black walnut are found near the headwaters of the river. The whole area of these counties lies in the coal-field of the Cumberland Mountain, and it is highly probable that large quantities of fine coal will be found; but as yet most of the region has been but imperfectly examined by competent parties, and but little is positively known of the extent and value of the deposits.

From the profile of the survey it will be seen that the aggregate descent of the river from the beginning to the end of the survey is 84.5 feet, made up as follows:

	Feet.
Beginning of survey to head of main rapids	5.9
Head of rapids to brink of fall	14.1
Great Fall at stage of water when survey was made	51.1
Foot of fall to end of survey	13.4
Total	84.5

The levels obtained for extreme high water above the fall are reliable, but the high-water elevation given below the fall is of questionable accuracy, as we were unable to get any very reliable high-water marks below the fall. At the time the survey was made the stage of the river directly below the fall was, as nearly as could be ascertained, about four feet above extreme low water, so that, allowing for some reduction in the elevation of the crest of the fall as the water below recedes, it is probable that the total difference of level between the crest and the foot of the main fall at extreme low water is between fifty-three and fifty-four feet.

The average of four pairs of observations with an aneroid barometer (two of them made at the time of the survey, and two by me several years previous) between a point of known elevation on the Cincinnati Southern Railway and the crest of the fall shows a difference of elevation between the latter point and low water of the river at the railroad bridge at Point Burnside of three hundred and eighty feet.

MEANS OF IMPROVEMENT.

The only commercial use at present made of the river in the vicinity of and above the falls is the floating of saw-logs to market from the timbered region above the fall. The logs are rolled into the river at the nearest point and allowed to float down separately to a point eight or ten miles below the fall, where they are caught and made into rafts before proceeding. Owing to the great obstructions in the channel caused by the large bowlders and drift many of the logs are caught and left by the side of the river when it goes down. The clearing of the channel of such obstructions would make this business safer and surer, but this could not probably be done with a less expenditure than $50,000, and the amount of business done would not justify the expenditure.

To make the river navigable for boats of any description very extensive improvements would be necessary in the way of clearing out the channel, excavating rocks, and building locks and dams to overcome the fall.

Two plans for such improvement are admissible. The first contemplates making the river navigable for flatboats down stream. The second, its further improvement so as to be navigable for small steamboats. In either case it will be necessary to construct a canal around the fall. This canal would be located on the right-hand side of the river, and extend from about station 1 to about station 11*a* of the survey, and would be about 3,700 feet long. Its location is approximately shown on the map.

To overcome the difference in elevation of the water at the upper and lower ends of the canal there will be required eight locks, each of ten feet lift. The locks should be of thirty-five feet clear width and have an effective length of one hundred feet. The canal should have a clean width of forty feet at the water-line, and a depth of three feet below the water's surface. Owing to the character of the topography, curves of six hundred feet radius would have to be used for the center line of the canal. It would be necessary to build a low dam across the river just below the head of the canal, to reduce the current at that point and render the handling of boats entering the canal less difficult and dangerous. The stone (sandstone) and timber required for building the canal can be found in the immediate vicinity. It is not thought necessary to go further into the details of construction of the canal in this report. The following is an approximate estimate of the cost of the canal:

30,000 cubic yards earth excavation and embankment, at twenty cents per cubic yard	$6,000
70,000 cubic yards rock excavation, at $1 per cubic yard	70,000
Eight locks complete, at $30,000 each	240,000
Dam at head of canal	2,500
	318,500
Add for engineering, miscellaneous expenses, and contingencies	50,000
	368,500

This canal, when completed, would carry either flatboats or small steamboats around the falls, but it is to be remembered that the river above this point and below to Point Burnside is simply a series of rapids, with intervening quiet pools, and that in many places the channel is obstructed by bowlders and projecting rocks. The clearing out of these obstructions and the improvement of a few of the worst rapids would allow flatboats loaded with coal or produce to drop down the river at high stages of water, but nothing short of a complete system of slack-water improvement would make the river above Point Burnside available for steamboat navigation. To give plans and estimates for such improvements above and below the falls is not within the province of this report.

The statistics and description of the country tributary to this part of the river clearly show, I think, that at present such a system of improvement would not be justified by the meager advantages to commerce to be gained thereby. Should the reputed existence of valuable and inexhaustible coal deposits be confirmed in the future, with a great market demand for their products, these improvements may become advisable, but it is safe to say that such a time is far in the future.

Very respectfully, your obedient servant,

S. WHINERY,
Assistant Engineer.

Major W. R. KING,
Corps of Engineers.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee striking out lines 810, 811, and 812.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was to strike out from line 815 to 819, inclusive, in the following words:

For ice-harbor at Saint Louis, Missouri, $50,000: *Provided*, That no part of this sum shall be expended until a board of engineers shall have been convened and determined upon a plan for the construction of the work.

Mr. VEST. I do not know any part of this bill in which the people of Missouri, especially of Saint Louis, are so much interested as in this provision. Since the year 1865 there has been a destruction of steamboat property at the city of Saint Louis of more than half a million dollars, resulting from the fact that there is no ice-harbor at that place. The ice from the northern and the upper portion of the Mississippi River, from Northern Missouri, gorges there every winter just above the city of Saint Louis, and there being no ice-harbor within thirty miles of the city or anywhere in that vicinity the result is an immense destruction of steamboat property, not only property belonging to private individuals, but to the Government of the United States—transports and dredge-boats and snag-boats that accumulate at that harbor. Upon the whole of the Mississippi River and upon the Missouri River there is no ice-harbor. An ice-harbor is provided upon every other river, but not upon this the largest river upon the continent. I have before me a report of the engineers upon this subject and I will ask the Clerk to read it.

Mr. WITHERS. How long is it?

Mr. VEST. It is not very long. Let the Clerk read it as a portion of my remarks, showing the necessity for this appropriation.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read as follows:

The projected closing of this chute compels a consideration of the consequences which will result therefrom to the harbor and commerce of Saint Louis. Heretofore the expansion of the water-way at the island into two channels, either capable of passing the whole volume of the river at ordinary stages, has relieved that portion of the harbor below the bridge from dangerous pressure when ice was running, and the west bank in the vicinity of the island has for many years been considered one of the safest winter harbors on the river. On December 3, 1876, the ice gorged in the Cahokia Chute, compelling the whole body to pass down the Arsenal Channel. The immediate consequence was the total loss of several steamers and barges, and material injury to many others.

The losses were at first estimated at nearly $200,000; but as the river was wholly blocked in a few days, and remained firmly closed for two months, some of the sunken boats were raised, and others endangered were secured, lessening the final loss. Much apprehension was felt lest, when the ice broke up, all the remaining boats should be destroyed. Fortunately the gorge in Cahokia Chute ran out February 1, the other chute remaining closed until the 8th; consequently the hard ice of the harbor found an open passage on the opposite side of the river to the exposed property, and little damage was done. The experience of the last winter from natural causes affords an illustration of what will be the yearly experience when the chute is closed by a dam. There will then be no place within convenient distance of Saint Louis where boats can lie during the winter with reasonable safety. The tonnage employed on the upper rivers will be compelled to retire to Alton Slough betimes, and that of the lower river, of which a considerable part cannot pass under the bridge, will have no refuge, and must remain away from Saint Louis or incur the risk of being lost should a sudden intense cold find them there. As the inevitable result of closing the chute will be to deprive the tonnage of Saint Louis of its only ice-harbor, it seems necessary to call attention to the danger and to suggest a remedy; for the interests of commerce demand that there should be a winter harbor of refuge in the immediate vicinity of Saint Louis. The proposed dam is a necessary improvement, and in my opinion can readily be so designed as to afford a much better winter harbor than has ever existed.

If the proposed dam be made a high one the pool below it will afford a perfectly secure and easily accessible harbor, provided it can be kept from filling up with sand. With a high dam and the side protection of the island there would be little danger of the pool itself filling; the only problem would be to keep a sufficient entrance to it open.

I am confident that this can be done by extending the point of the island artificially to within a short distance of either the railroad embankment and incline opposite Carondelet, or within like distance of a dike, which might be constructed near the Bessemer Iron Works, and near the proposed location of the Saint Clair and Carondelet bridge.

Having made no special surveys for the purpose I am not able to submit any estimate of the cost of modifying the project as suggested. The fact that a part of the working equipment belonging to the United States shared in the danger of last winter mentioned above, and to a small extent in the damage, compelled me to share in the anxiety felt by all interested in the exposed property, and justifies this proposition to extend the projected works with a view to obviate such risks hereafter.

The sudden and unexpected formation of ice at so early a date rendered it impracticable to remove the Government property from the locality, which the results showed to be a dangerous one, though judging from former experience no one could have selected a place less likely to be dangerous.

From comments made last winter, it would seem that comparatively few comprehend the nature of ice-risks in the Mississippi, which are much more serious than would naturally be expected, considering only the latitude and mean climate at Saint Louis.

Ice forms along the margin of the river at a temperature of about +20° F. and below. Owing to the rapid current it is continually being detached, and as the temperature falls the quantity becomes very great. By attrition between the masses it is reduced to the form of mush-ice, which in extreme cold becomes more compact, and when the river is full heavy masses are cemented together under pressure by "regelation." While moving, the mass is often several feet in thickness and capable of crushing vessels by pressure, when its soft condition and very slow movement scarcely suggest the thought of almost resistless power. In this

state it arrives at some part of the river exceptionally narrow or shoal; in the former case the mass is compacted together on the surface and solidifies very quickly under pressure; other ice following, piles upon its surface and is drawn under until a complete dam is formed and the ice is said to be gorged. This dam arrests both ice and water until the accumulated head furnishes energy either to break through the dam, cut around it, or to lift the dam high enough to detach it from the sides; when the first or last contingency occurs the movement is rapid, and no human device can avail to save whatever is exposed. During the last winter the gorge in Arsenal Chute was found by actual measurement to be twenty-two feet in depth, and the water-level, at one time, eight feet higher at the Arsenal than at Elwood street, Carondelet, three miles below. With these facts in mind, it is easy to understand why such serious disasters sometimes occur; indeed, the wonder is that anything escapes.

The losses from ice at Saint Louis since 1865 must aggregate over $500,000. Should the opportunity now available at Arsenal Island not be improved, and the chute be allowed to silt up, as would naturally result from a low dam, there would then be no opportunity to secure a harbor of refuge within thirty miles of the city. I therefore recommend the matter to the consideration of Congress and those interested as worthy of a close examination.

Mr. VEST. I have but a word to add to the statement. In the report made the year after that, in 1877, which I hold in my hand, the colonel of engineers said:

In consequence probably of the suggestion made in my last annual report that this chute would afford a favorable opportunity for the construction of an ice-harbor, a special report and estimates was called for, which was made in my absence by Captain Charles J. Allen, Corps of Engineers.

I have sent for that report; it is in manuscript, not printed, the estimate being for $287,000—

The plan proposed I deem practicable, and the object is certainly an important one. I therefore recommend the matter to the consideration of Congress.

That is the report made in 1878. I do not think that I care to add anything. I simply state, as the engineer does, that an ice-harbor existed near the city of Saint Louis prior to the construction by the National Government of a dam across this chute which destroyed that ice-harbor. This appropriation of $50,000 is simply for the purpose of giving to the Mississippi River near the city of Saint Louis an ice-harbor to protect private property and public property. Unless this appropriation is made, when another hard winter comes as is usual in that climate, not like that of last winter but like that two and three winters ago, the destruction of property belonging to the Government will in all probability be ten times the amount that is asked now in this appropriation of $50,000. I can add nothing myself to what I have already said.

Mr. COCKRELL. In addition to what my colleague has said I desire to say that in the engineer's report for 1877, which was read at the instance of my colleague, a recommendation was made for the construction of an ice-harbor in connection with the construction of a dike at at Cahokia Chute as a part of it. In 1878 that recommendation was renewed. The work at the chute was progressing, and they recommended that an ice-harbor be constructed in connection with that work. Now I desire to read from the last engineer's report, which was made in 1879, and that will show the recommendations continuously from 1877 up to the present time. In the engineer's report for 1879 the last one we have, volume 2, part 2, page 1027, we have this under the title of "Cahokia Chute:"

The dam across the chute east of Arsenal Island was completed as a low dam, the level of its crest being about nine feet above low water. It is proposed to leave it at this height, unless my recommendation of former years that the part of the chute below the dam be made an ice-harbor should be carried out.

Here are three successive recommendations year by year. They recommended it in 1877, when the chute was begun; they recommended it in 1878, when the Cahokia Chute or dike was in process of construction, and in 1879, when they report the completion of the Cahokia Chute, they still insist upon the construction of an ice-harbor there, as it would be cheapest, and is a matter of absolute necessity for the steamboat interests and the commercial interests of the Mississippi Valley.

I am sure that the committee would not have stricken this item out if these reports had been before them. No estimate was sent in simply because no work has ever been commenced upon it. The estimates are made in connection with the dike closing the Cahokia Chute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 825, to increase the appropriation for "improving Shenandoah River, West Virginia," from $5,000 to $15,000.

Mr. ALLISON. I should like to have some explanation of that large increase.

Mr. HEREFORD. As far as the recommendations are concerned, this improvement has the highest recommendations of any in the whole list. It was recommended nearly one hundred years ago by General Washington himself, whose recommendation is referred to in this report. The whole amount recommended is $72,215. The committee, in their economy, only gave $15,000, about one-fifth of the amount recommended. I have the recommendation in my hand.

Mr. KERNAN. Allow me to inquire what is the character of the commerce on this stream?

Mr. HEREFORD. The kind of commerce that there is on any other stream. There can be coal carried over it, or wheat, or barley, or corn, the same as on all rivers—more than on some for which we have made appropriations.

Mr. KERNAN. Allow me to ask is there any ascending commerce or is it merely descending?

Mr. HEREFORD. Ascending and descending both.

Mr. KERNAN. Do steamboats run on the river?

Mr. HEREFORD. Not now.

Mr. KERNAN. Did they ever?

Mr. HEREFORD. No, sir.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 836, after the word "until," to strike out "any local or private property interests to be affected by the improvement or the use thereof" and to insert "the same and a free right of way to all points of the harbor;" and in line 840, after the words "United States," to strike out "*And provided further*, That the total cost of such harbor shall not exceed the estimate of $110,000;" so as make the clause read:

For harbor at Waukegan, Illinois, $15,000: *Provided*, That this sum shall not be expended until a board of three engineers shall have been convened and selected the site, and until the same and a free right of way to all points of the harbor shall have been transferred or relinquished, free of cost to the United States.

The amendment was agreed to.

The next amendment was to strike out from lines 843 to 846, inclusive, in the following words:

Improving Clinch River, Tennessee, $10,000; of which sum $6,000 shall be expended above Haynes, in Clayburn County, and $4,000 below said point.

Mr. BAILEY. I ask the Senate to non-concur in this amendment, and I make this same statement——

Mr. RANSOM. Has the Senator from Tennessee a recommendation?

Mr. BAILEY. I have in my hand not a recommendation, but the survey made by direction of the War Department by the Engineer Department of the Government, and an estimate of the cost of this work.

Mr. RANSOM. What is the cost?

Mr. BAILEY. The cost is about $60,000. The House appropriated $10,000.

Mr. RANSOM. The committee could not find the survey and recommendation. That is the reason why the clause was stricken out.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in line 849, after the word "improvement," to insert "and unexpended;" so as to make the clause read:

Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated, but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training-walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

The amendment was agreed to.

The next amendment was to strike out lines 857 and 858, in the following words:

Improving Chehalis River, Washington Territory, $5,000.

The amendment was agreed to.

The next amendment was to strike out lines 861 to 865, inclusive, in the following words:

Improving Harlem River, New York, $40,000; but this sum is appropriated subject to the provisions and limitations contained in the act of June 18, 1878, relating to said Harlem River improvement and the right of way therefor.

Mr. KERNAN. I do not rise to oppose this amendment, but I take this occasion to call attention for a moment to the Harlem River improvement, which is undoubtedly one of great importance, not only to the State of New York and the adjoining States, but to the commerce of the West. The plan is to make a water-way from the Hudson River, in the upper suburbs of New York City, where the tide ebbs and flows, and where there is a very large open river, across to the East River. I believe it is an improvement that will be made, and when made it will be of the greatest benefit to the commerce of the West. It will enable all the boats that come laden with grain down the Hudson, instead of going around Castle Garden and up the East River, to go across into the East River by the Harlem River, giving a large water frontage and great opportunities for shipping grain.

I merely want to call attention to one or two things. I hold in my hand a communication from General Wright to the Secretary of War, dated the 20th of January last, in which he states that in 1878 there was appropriated for this work $300,000 and in 1879 $100,000. These appropriations were subject to certain conditions as to the right of way, the damage that might be done by building the work. In making this recommendation General Newton, in charge of the work and other works near it, in a report to General Wright on the 5th of January last, states that progress has been made in procuring the right of way by condemnation, and assessments on the property generally, and it is supposed that that will be completed and the right of way secured. He says:

The amount appropriated and available for this work is $400,000, while the amount necessary to make and complete the cut connecting the Upper Harlem with the Hudson is, by estimate, $1,600,000.

He then makes a suggestion to which I ask the attention of the Committee on Commerce, and although they cannot probably now, I hope they will act at the next session. He says that he advised in a former communication—

That some means be devised by necessary legislation to enter into contract for the completion of the whole cut between the Upper Harlem and the North River,

the principal motive being the great economy of such a procedure and the dispatch of completion. The amount of money to be expended each year could be limited.

At the present moment I think the recommendation above is still the best that I can furnish for a satisfactory and economical solution of this problem.

Mr. JONES, of Florida. Will the Senator allow me to ask him a question?

Mr. KERNAN. Let me go through with the facts, and then I will yield. I want now to read a single word from General Wright. General Wright, in a communication to the present Congress, after giving the appropriations made and available now, says that General Newton—

Suggests, therefore, that some means be devised, by requisite legislation, by which a contract may be entered into for the completion of the whole cut between the Upper Harlem and the North River, estimated to cost $1,600,000; the amount to be expended each year to be limited.

There is much force in Colonel Newton's statement; and if his wishes can be carried out, the work will be accomplished with economy and dispatch, and in the best possible way for all the interests concerned.

His views are commended for favorable consideration, and are respectfully submitted for such action as may be deemed advisable.

Mr. JONES, of Florida. I did not hear the Senator at the commencement of his remarks in reference to this improvement. He speaks of the acquisition of the right of way. When you speak of that in connection with a railroad, I can understand what it means; but when you speak of improving a river of the United States or a public water-way, I cannot exactly comprehend what is meant by the acquisition of a right of way.

Mr. KERNAN. If my friend will allow me a moment, I will state that this is a work which must be done by taking private property. The plan is to cut a water-way, as proposed by General Newton, three hundred feet wide and some fifteen feet deep, so as to let the tide ebb and flow from the East River to the North River.

Mr. JONES, of Florida. It is the cutting of a canal?

Mr. KERNAN. The cutting of a canal, making a channel through. The act of Congress appropriating the money, if my memory is right, provided that the right of way must be furnished. As I understand, the proceedings taken are with a view to get the right of way. How successful they will be I am not advised. What I want to say is that it is in every sense of the word a canal, a water-way right across the neck above the crowded part of New York City and above Central Park at the Harlem River, by which, instead of having your navigation go down the Hudson and out through Sandy Hook, if it is by sloops, or instead of having the grain that comes from the West going that hazardous voyage around Castle Garden and up the East River, to enable it to make a short cut and go into the East River, where it can be shipped in vessels drawing a larger depth of water than is on Sandy Hook, and they can go out through Long Island Sound into the ocean and cut off a large course.

Mr. JONES, of Florida. Mr. President——

Mr. KERNAN. Allow me to proceed, because I do not mean to propose anything, and simply wish to say that I know of no reason for appropriating this little $40,000 that is stricken out. I am speaking simply as a duty to the Western people and to the people of my own State in asking the Committee on Commerce to take up this subject. Bills have been referred to them. I ask that they act upon them so as to carry out the suggestions of General Newton as recommended by General Wright, and by which when this work is to be done the Secretary of War shall be authorized to let it by contract, because there are men who say they will take the job of doing it and get the right of way for $1,050,000; I do not know how true it is. Therefore I want such a bill to pass providing that they may have a chance to bid, and if we can do it for less than the estimate I shall be gratified.

I only ask attention to the subject as a duty to the people who have spoken to me, not finding fault at all, but as a serious matter, as one that requires an examination to frame a proper bill, and I hope it will be taken up. If we carry out what is recommended and what I think will find favor when it comes to be understood, there will be a law passed that will authorize the Secretary of War to let this work to the lowest bidder, he giving good security that the work shall be properly done.

Mr. JONES, of Florida. If we enter into the question of cutting canals it is a very big job, and I feel very great interest in it indeed, because if we have authority under the Constitution to cut a canal one hundred yards we have authority to cut a canal one hundred miles to connect the waters of a State. I should like to see a canal cut across my State to connect the waters of the Gulf of Mexico with the Atlantic Ocean. I do not think that any work that ever was contemplated would be more important than that to the commercial interests of the United States, and greater than that which has been referred to by the Senator from New York. Still I suppose if I were to introduce the bill here and have it referred to the Committee on Commerce asking for an appropriation of $60,000,000 to do that great work the point would be raised upon me that that was not a river or harbor improvement within the meaning of the Constitution and the laws under which we have acted. I am only inquiring for information how far we can go in the line of constitutional duty. I have understood that it would be within our power to improve rivers and harbors already in existence, not to make them. If it is thought wise to go into that work, I shall have something to say at the proper time about extending it a little further than is contemplated by improvements in the same way.

Mr. KERNAN. I do not desire to take any time, nor do I desire to discuss the matter. There will be no trouble in bringing this work within the strictest rule of improving harbors.

Mr. ALLISON. This improvement of Harlem River has excited a good deal of discussion. I do not know how it may be with other Senators, but I have had about once a week a pamphlet on the subject of the improvement of the Harlem River. If it be true, as the Senator from New York says, that this is a matter of vast national importance, and if Congress should concur in the recommendation of General Newton that the contract for this improvement should be made as an entirety, all that we have to do is to appropriate $1,000,000 instead of $40,000, and the work will go on. If it is an improvement of the importance which is suggested by the gentlemen who have sent circulars here and as stated by the Senator from New York, I think the sooner we enter upon this improvement of Harlem River the better it will be for the commerce of the country.

But I can see no reason why the Committee on Commerce should be called upon to bring in a separate bill for this purpose, because, of course, the Engineer Bureau can make this contract the moment they have the appropriation of money for the purpose, and they cannot make it until the appropriation is made, no matter what we do. So it seems to me the Senator from New York falls rather short of the requirements of his case in not proposing to insert here an additional appropriation sufficient to complete this work.

Mr. RANSOM. There are now $400,000 in the Treasury already devoted to this improvement and not a dollar spent.

Mr. ALLISON. But the Senator from New York tells us that it is not wise to spend a dollar for this purpose until the contract shall be made for the completion of the work. No such contract can be made until the whole appropriation is made.

Mr. KERNAN. The Senator from New York gave no opinion about it. He read from the report of General Wright, Chief of Engineers, in Executive Document No. 59 of this session. He approves General Newton's suggestion and recommends legislation, and I did not suppose we could properly put it on an appropriation bill because there is here a large work to be given out by contract. The Secretary of War sent the report here. The Chief of Engineers and others say that in their judgment the best plan is that there be legislation by which the whole work may be let to a contractor, limiting the amount to be spent in each year and taking security that he will do the work. That is their conclusion.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment of the committee, to strike out lines 861 to 865.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was to strike out from line 878 to line 888, as follows:

The balance in hand, after payment of any existing liability, collected heretofore as tolls on the Louisville and Portland Canal, or which may hereafter be so collected prior to the passage of an act to make said canal free to the public, is hereby authorized to be expended for its improvement: *Provided*, Such expenditure shall not exceed $60,000: *Provided further*, That so much thereof as may be necessary shall be used in the operation of said canal: *And provided further*, That this enactment shall take effect only upon the passage of this act to make said canal free for public use.

The amendment was agreed to.

The next amendment was to strike out from line 895 to 904, as follows:

Of the sum of $150,000, appropriated by the act of March 3, 1879, for the construction of a breakwater on the Pacific Ocean between the Straits of Fuca and San Francisco, California, the sum of $50,000 is hereby appropriated; of which amount $40,000 shall be expended in the improvement of Yaquina Harbor, Oregon, and $10,000 in the improvement of Coquille River, Oregon, under the direction of the Secretary of War.

And in lieu thereof to insert:

For improvement of the entrance to Yaquina Bay, Oregon, $40,000.
For improvement of the mouth of Coquille River, Oregon, $10,000.

The amendment was agreed to.

The next amendment was, in line 910, to increase the appropriation for "improving Savannah River, above Augusta, Georgia," from $12,000 to $20,000.

The amendment was agreed to.

The next amendment was, after line 910, to insert:

Improving the entrance to Cumberland Sound, Florida and Georgia, $30,000.

The amendment was agreed to.

The next amendment was, after line 915, to insert:

For the reservoirs at the headwaters of the Mississippi River, to be used in the construction of a dam at Lake Winnibigoshish, $75,000: *Provided*, That all injuries occasioned to individuals by overflow of their lands shall be ascertained and determined by agreement or in accordance with the laws of Minnesota, and shall not exceed in the aggregate $5,000.

The amendment was agreed to.

The next amendment was to strike out from line 935 to line 949, as follows:

The Secretary of War shall cause to be let by contract all public works authorized under this act, except for surveys and estimates. Such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material; but this clause shall not be so construed as

to prevent the continuance of the prosecution of the improvement on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest requires such change.

And in lieu thereof to insert:

It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements, other than surveys and estimates, in carrying on the various works by contract or by hired labor, at his discretion, and as in his judgment may be most advantageous to the Government; and, where said works are done by contract, such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders therefor, accompanied by such securities as the Secretary of War shall require.

Mr. VEST. I am opposed to the amendment. My convictions are very clear and strong on this subject that public works should not be done by hired labor, the Government employing, but should be let by contract. The system now adopted by the Government is that the officers of the Government put out the public work not by contract under their supervision and that of their agents, but hire men to work by the day, and it is a power subject to the greatest abuse; it has been most shamefully abused; and for myself I am utterly opposed to it. The result, as every Senator who has paid any attention to the construction of public buildings in this country must know, is that they are never finished. To-day in the city of Chicago a public building is being erected which has been in the course of erection for several years. In the city of Saint Louis a custom-house is being constructed, which for more than six years has been in the hands of the workmen. It ought to have been finished in two years. But it is not the policy of the officers of the Government to finish such a work. So long as it is prolonged, so long as the work is being carried on under the present system, it is putting money in their pockets, and putting political power in the hands of the Administration. I say to-day that this system of constructing public works is the most dangerous one known. Give me a million dollars to-day to be expended in the United States under this system, and I will undertake to control all elections.

Look at it in a close congressional district. Here is a custom-house being erected where millions of dollars are to be expended. A close election is coming on. The persons in charge employ a thousand additional hands; they are put under an unscrupulous superintendent, a creature of the administration of the political party in power. He puts a thousand men on the work. These men's continuance depends upon the ticket they vote, and if they refuse to vote as they are called on to do they are turned out and their wives and their children are houseless and friendless. Congressional districts have been carried by such means. I say it is vicious and wrong, and the statesman that inaugurates a system which will do away with this corrupting mode of doing public work will deserve the lasting gratitude of his country.

Sir, a few years ago, yea, only a year ago, the whole country was shocked by the revelations made in regard to the work on the Chicago building. It was there shown that the superintendents, some of them, had insisted on a system by which they swindled the Government day after day. It was proven that they had a secret society with signs and signals; and one superintendent, who happened in one instance to be an honest man, saw them quit their cards and their liquors and their lunch-room for their work, but the minute his back was turned they went back to their meetings. No wonder that building should be delayed; no wonder we cannot get the custom-house at Saint Louis done; no wonder we cannot get any public building in the United States done, because under this system which puts it in the power of the heads of Departments to use their own retainers, their own tools, their own agents in control of the works for their own purposes, it is to the interest of all of them that the buildings shall not be completed.

I say that the contract system is the only one that secures economy to the Government and honesty in the construction of public buildings. It is a notorious fact to-day that every individual in the city of Washington who undertakes to construct a building can do it for one-half what the Government of the United States is bound and compelled to expend. My experience as a member of the Committee on Public Buildings and Grounds is that the Government of the United States pays 100 per cent. more than any individual for the construction of every public work; and why is it so? Simply because it is the interest of everybody to keep that work unfinished, because if it were finished jobs would be taken from them and money out of their pockets. The House of Representatives were right when they put the provision in this bill that this work should be done by contract. Sir, the system which is cheapest for the individual is cheapest for the Government, and I ask any business man within the sound of my voice how he would construct a building if he wanted to put up an edifice in the city of Washington. Would he not put it out to contract and to the lowest responsible bidder? Would it not be cheaper, would it not be better? Yet the United States adopt the other system, upon which millions and millions of dollars are lost each year and public works are never completed.

I am opposed to the amendment.

Mr. HEREFORD. Mr. President, on behalf of the committee who proposed this change in the bill, I desire to state very briefly the reasons which governed the committee. Every word the Senator from Missouri has said is true, but the Senator has forgotten that the parties who have control of the public buildings of the United States are a very different class of men from those who have control and management of the river and harbor appropriations.

Mr. JONES, of Florida. I think in that respect the Senator from Missouri was mistaken. In the one case the Treasury Department has full control of public buildings, and in the other case the War Department controls the expenditures for river and harbor improvements.

Mr. HEREFORD. The Senator from Florida has only anticipated what I had already prefigured that I was going to say. The Treasury Department has the control of the public buildings; it selects the superintendents, and the buildings are constructed under the supervision of the Treasury Department; but the rivers and harbors are improved under the Secretary of War, and the officers who have charge of the improvement of all the rivers and harbors are officers of the Army. There is in this bill appropriated, or will be certainly by the time it gets through the Senate, as much as $9,000,000. All of the various Army officers under whose supervision these improvements are to be made draw this money from the Treasury, expend it, and have been doing so ever since we have had a government, without ever giving a bond even to the General Government for the money that they receive; and up to this time, through a space of nearly a hundred years, as far as I know the Government has never lost one dollar by the Army officers who have had charge of the improvements of the various rivers and harbors.

And the charge that the Senator from Missouri has made against those who have charge of the public buildings will not hold good as against the Army officers who have charge of the improvements of the various rivers and harbors. They seek to complete these various works as rapidly as possible. If I chose to take the time of the Senate, I could read a report from Colonel Craighill, one of the engineers of the United States, as to the work upon the Great Kanawha River. At first that work was let out by contract, and contractor after contractor failed and has come to Congress to ask it to relieve him because he took the contract at too low a price. Colonel Craighill says in this supplemental report that since the Government has undertaken to do the work itself it has done more work in one year than had been done in six years before that, which I know of my own knowledge is true. The class of men who have control and supervision of the public buildings and grounds and those who have control of the expenditure of the money upon the rivers and harbors are very different. I never yet heard any one on the floor of the Senate or the other House charge any of the Army officers who have had charge of the improvement of rivers and harbors with any dereliction of duty, and I do not think the charge the Senator has made will apply in this case.

Again, the Senator from Missouri, if he will take up this very bill, will find that there are many appropriations in it for the Missouri River to do work that cannot be let out by contract. You do not know what work is to be done; you cannot let it out by contract, and the Government must do it.

Mr. McPHERSON. Will the Senator permit me to ask him a question?

Mr. HEREFORD. Certainly.

Mr. McPHERSON. Why can you not let it out by contract?

Mr. HEREFORD. For this plain simple reason: You go to one of these rivers and you want to take out a snag, for instance, or you want to dredge it. The Government cannot make a dredging contract because it does not know what is the size of the snags underneath the water; it cannot tell how much dredging is to be done. It does not know the character of the material underneath the water that is to be removed or what will be the difficulty about it. Consequently in such cases the Government must do the work. Every flood that comes brings new snags down, brings new *débris* down, and it is a character of work that must be done by the Government because it cannot tell a contractor what he has to do. I learn from parties well acquainted with the improvements of the Missouri River that the nature of the obstructions as well as their location is constantly changing; this year a flood washes the bank away here and next year washes the bank away there. You cannot say to a contractor just what he has to do. The Government itself must feel its way while it is performing this duty.

Mr. VEST. Will the Senator permit me? I assert here that any system is better than that which is now in vogue on the Missouri River, or any other river. I know we hardly get any improvement at all. They send up a snag or dredge boat, and they sound their whistles for two or three months in pleasant weather, make out their accounts, and there is an end of it. I undertake to say that if they let the work out by contract we can save the harbors and bridges upon that river, and do it in one season. The difficulty is that these gentlemen never finish their work.

Mr. HEREFORD. I do not think the charge the Senator makes will hold good so far as the engineers of the Government are concerned. I think he is mistaken there. I have through many years been examining this very subject, and this is the first time that I ever heard it charged against the Engineer Department of this Government that they sought to make political capital. This is the first time I have ever heard it charged upon them that they sought to prolong the work, to keep off the day when it was to be completed. There is no motive, there is no interest why they should do it, because there is plenty of work before them. They take great pride in performing this work and doing it in a manner that will reflect credit upon the engineering skill of American engineers.

Why, Mr. President, there is scarcely a session when the Congress

of the United States is not called upon to furnish relief to A, B, C, or D, who has taken a contract to do work on a river or harbor, and they say he has lost money by it and the Government has got its work, and therefore should pay him. I recollect in the case of the Tennessee River a bill passed through Congress giving $100,000 to a man because he had lost money by his contract. Time after time similar applications have been made all over the country by men to this body and referred to the Committee on Commerce or the Committee on Claims to make them good, because they took contracts too low.

Mr. President, under this bill, if this amendment of the committee prevails, the Government has a right to let the work by contract if it desires. Ample power is given—the amendment says so—to let it by contract or to do it by the Government itself, as the proper authorities may think is to the interest of the General Government, and I for one am willing to leave it with the Engineer Department to say when it shall be done by contract and when by the Government itself.

Mr. McPHERSON. I should like to ask the Senator from West Virginia if he has ever known such a thing as a contract given under the river and harbor appropriation bill to any party whatever?

Mr. HEREFORD. Many a one. I know of half a dozen upon the Kanawha River alone. Last session there was a bill passed, and the Senator from South Carolina reported the bill from the Committee on Military Affairs, to give $100,000 to a contractor on the Tennessee River because he had lost money by his contract, and the Senator voted for it I presume if he was in his seat; and yet he asks me if I ever knew of such a thing. Why, sir, it is done all the time. If the Senator will take the engineer's report he will see that the book is full of just such contracts.

Mr. RANSOM. I understood the remarks of the Senator from Missouri to be made by way of suggestion, and calling the attention of the Senate to this matter without making any motion whatever in reference to the amendment.

Mr. McPHERSON. I will say to the Senator from North Carolina that if the opposition came from the Senator from Missouri only in the form of a suggestion I propose to follow him by the form of a motion. I have never yet known a case where a contract was given out by the Army officers or other officers of the Government where there was no requirement that they should do so in the act. I do know, in my own State, plenty of cases where contractors were willing to do the work at a much less sum than that which the Government had appropriated for the purpose, and in every case they were denied. I do know still further, that under the river and harbor appropriation bills we are passing here year after year, amounting to seven or eight million dollars, the Government would receive from the contract system more than double the compensation by way of improvement that it now receives under the present system. I fully agree with the Senator from Missouri that if this work is given out by contract the Government will receive back more than double what it now receives by way of improvement.

The Senator from West Virginia made the statement that it was impossible to let this work by contract. Why, Mr. President, if a street is to be opened in the city of Washington containing a certain amount of earth excavation and a certain amount of rock excavation, the proposals call for a certain amount of each, the rock excavation to be paid for at a certain price, the earth excavation at a certain other price, a much lower one. The same rule can apply with regard to the opening and dredging of rivers and the improvement of streams; and certainly, in cases where you are building dikes or bulkheads along navigable streams for the purpose of narrowing the channel, they certainly might be made by contract, and at a price not one-half what it costs the Government to make them.

I make no charge against any officers of the Army. I have great confidence in their integrity, as much as the Senator from West Virginia; but I say that there is not that careful supervision of work, there is not that attention to business, they have no supervisors who take such an interest in the work as would be taken by a contractor who was responsible for the result. To my mind, it is the most absurd of all propositions that with plenty of contractors having the necessary materials, having everything in their hands ready and able to perform all this labor and do it at the lowest possible cost, the Government should pay two prices for having this work done, and that the Congress of the United States year after year should appropriate $7,000,000 to do what might be done for half that sum.

Mr. HEREFORD. The Senator said a moment ago that in his State, New Jersey, no contracts had ever been awarded. Why, sir, the Senator certainly is not informed on the subject. Right before me is the last report, and there I find:

Abstract of bids received by Colonel J. N. Macomb, Corps of Engineers, United States Army, at Philadelphia, at 12 m., October 3, 1878, for the improvement of channel of Salem River, New Jersey.

No. of bid.	Name of bidder.	Remarks.	Dredging in Salem River.	Remarks.
			Per cubic yd.	
1	M. F. Brainard, agent	Albany, N. Y.	$0 22	Contract awarded.
2	Franklin B. Colton	Philadelphia, Pa.	28	
3	American Dredging Co.	do	27½	

Abstract of contract entered into by Colonel J. N. Macomb, Corps of Engineers, during the fiscal year ending June 30, 1879, for the improvement of Salem River, New Jersey.

No. of bid.	Name of contractor.	Residence.	Dredging.	Date.	Remarks.
			Per cubic yard.		
1	M. F. Brainard, agent.	Albany, N. Y.	$0 22	Oct. 14, 1878	Contract annulled Nov. 13, 1878.

Then, again——

Mr. McPHERSON. It is not necessary to read further.

Mr. HEREFORD. There is still another:

Abstract of bid received by Colonel J. N. Macomb, Corps of Engineers, United States Army, at Philadelphia at 12 m., April 3, 1879, for the improvement of Salem River, New Jersey.

No. of bid.	Name of bidder.	Residence.	Dredging in Salem River.	Remarks.
1	American Dredging Company.	Philadelphia, Pa.	Sixty-three cents per cubic yard, in accordance with specifications.	No contract awarded. The bid was considered exorbitant.

The Government went on and did that work, and yet the Senator says no contract was ever awarded in his State.

Mr. McPHERSON. I know of no contract that has ever been awarded in the State of New Jersey. If there has been a contract awarded, as the Senator proves from the record, it has been made, I of course admit that what he says is true; but I do know that there have been proposals made by contractors in my State for certain work to be done, and I do know that those proposals have been rejected, and I do know that the work has cost the Government a greater sum to do it than it would have been done for under contract. All that I know.

Now, sir, I am very much in favor of restoring this section of the bill and making it necessary for the Government to award contracts in every case to the lowest responsible bidder for all kinds of work, whether on rivers or harbors, or public buildings, or anything, I care not what kind of work it is, whether it be a building for the War, State, and Navy Departments, or a building for a custom-house.

Mr. BURNSIDE. Mr. President, I am as much in favor of doing all public work by contract as the Senator from New Jersey, or any other Senator, but I think it must be apparent to every Senator who looks at this subject fairly that it would be impossible to make out specifications for a large portion of the work done under the river and harbor bill. You cannot frame a specification to cover the work; and how are you going to make contracts when you cannot frame a specification? It must be apparent to every man that a great deal of dredging work and other work done under this bill cannot be covered by specifications. It is entirely out of the sight and out of the knowledge of everybody.

I think this amendment covers everything. These officers of the Army, to my certain knowledge, are always very glad to have the work done by contract. That has been my experience. I think all the work in Narragansett Bay and all the work in Rhode Island is done by contract. I am rather amazed at what the Senator from New Jersey says about the acts of these officers, because I have never heard their integrity and honesty questioned before, and as a rule they work economically, too, in my opinion.

Mr. JONES, of Florida. There is great force in what has been said by the Senator from Missouri, [Mr. VEST,] and nobody feels it more deeply than I do; but after all I do not think his argument applies to this case. With respect to public buildings and works of that kind in regard to which specific estimates can be made, I am clearly in favor of giving opportunity to the genius and the enterprise of the country, and I think the time has arrived when every public building erected in the United States ought to be let out, according to plans prepared by the Government, to the lowest responsible bidder.

I agree with him that abuses have taken place, and from what we heard from the Senator from Kentucky [Mr. BECK] the other day it seems we have no safeguard whatever. Buildings which were intended to cost a million dollars in the outset have been swelled up to five and six millions by the operations of the Treasury Department; and when appropriations have been made for the construction, they have been expended on one story, leaving the building incomplete until further appropriations are made.

All that is true, and so in respect to other great works in the country. The construction of our ships of war I am not prepared to say ought to be confided entirely to the few men who are within the confines of the Navy Department. I would use the intellect of the whole land, bring it into requisition in every department of mechanics, giving it a fair opportunity.

Now with respect to harbors and rivers, that is a most embarrassing subject. How, I ask, could it be possible for an estimate to be made under which the appropriation of $125,000 made for the port of Mobile could be expended, situated in the State of my honorable friend from Alabama? It is known to everybody that $125,000 will go but a little way toward the improvement of that great harbor. What would an engineer officer have to do if he called for proposals to expend that sum?

Mr. MORGAN. Will the Senator allow me?

Mr. JONES, of Florida. I should like to know——

Mr. MORGAN. I have a letter addressed to my colleague, which has also been supplemented by various other letters on that subject. The engineer in charge of the work on Mobile Bay has made two or three different contracts by letting out the work, and the average bid was considerably above what he considers a fair allowance for the work, and it has been impossible to let satisfactory contracts there at all, and it is impossible to have the work go on unless you submit to a monopoly in the hands of a few men who happen to own dredges. The Government cannot do anything at all, because by a combination between themselves they have offered the work at not less than five to six cents above the estimated value of it, as I understood by the engineer in charge. The citizens of Mobile have asked my colleague and myself that, in the event of the Congress of the United States refusing to pass a general law in the form in which this provision is reported by the committee, we propose that special provision be made for Mobile Bay, in order that the work may be allowed to go on.

Mr. JONES, of Florida. That only confirms what I said. It shows the great difficulty in letting work of this description out by contract. If the precise work to be done was capable of being ascertained, of course there would be no difficulty about it. I remember that a contract was let out as to one of the harbors in my State to remove some wrecks. Nobody, I think, up to this day can ascertain whether the work was ever done or not.

I think the discretion which is given in this amendment to the War Department is a wise one; that is, to enable it to exercise judgment in respect to the cases where contracts ought to be let out and cases where the Government ought to do the work itself, because I am well satisfied that there are cases arising, or which will arise under this bill, in regard to which it would be utterly impossible to make any contract, and I concur at the same time with what has been said by the Senator from Missouri in respect to public buildings and works of that description. I think there the contract system ought to prevail.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Commerce.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in section 2, providing for "examinations or surveys, or both, and estimates of cost of improvements," in line 119, after the word "the," to strike out "town of Union, Franklin," and insert "point opposite Scotia Iron Works, in Crawford;" so as to make the clause read:

Maramec River, Missouri, from the mouth to the point opposite Scotia Iron Works, in Crawford County, Missouri.

Mr. COCKRELL. I move to strike out "Scotia" and insert "Maramec," so as to read, "Point opposite Maramec Iron Works." There is a mistake in the printed amendment.

Mr. RANSOM. I accept that for the committee.

The PRESIDING OFFICER. The amendment will be so modified. The question is on the amendment as modified.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill to line 140 of section 2.

Mr. COCKRELL. I wish to make a verbal correction. "Tugue" should be "Qugue." Then, in line 141, "v" should be stricken out and "r" inserted, so as to read "Charette."

The PRESIDING OFFICER. The correction will be made.

The reading of the bill was continued. The next amendment was, after line 170 of section 2, to insert:

Saint Louis, Missouri, to determine a plan for the construction of an ice-harbor.

The amendment was agreed to.

The next amendment was, after line 172 of section 2, to insert:

Wareham Harbor, Massachusetts.

The amendment was agreed to.

The next amendment was, after line 173 of section 2, to insert:

Red Bank Creek, Pennsylvania, from its mouth on the Allegheny River to Brookville.

The amendment was agreed to.

The next amendment was, after line 175 of section 2, to insert:

Saint Jones Creek, in Kent County, Delaware, and Little Creek, in Kent County, Delaware.

The amendment was agreed to.

The next amendment was, after line 177 of section 2, to insert:

Clinton River and Lake Saint Clair, at the mouth of Clinton River, Michigan.

The amendment was agreed to.

The next amendment was, after line 179 of section 2, to insert:

For the construction of two ice-breakers in the Ohio River, near the West Virginia shore, and below the railroad bridge crossing said river at Parkersburgh.

The amendment was agreed to.

The next amendment was, after line 182 of section 2, to insert:

Ice-harbor at Point Pleasant, West Virginia.

The amendment was agreed to.

The next amendment was, after line 183 of section 2, to insert:

Christiana River, Delaware, from the Delaware railroad bridge to the mouth of the river, with an estimate of the cost of procuring a mean depth of fifteen feet in the channel thereof.

The amendment was agreed to.

The next amendment was, after line 187 of section 2, to insert:

For the opening of a ship-canal across the Charleston Neck, South Carolina.

The amendment was agreed to.

The next amendment was, after line 189 of section 2, to insert:

Chester River, between Kirby's Landing and Spry's Landing, Maryland.

The amendment was agreed to.

The next amendment was, after line 191 of section 2, to insert:

Water-passage between Deal's Island and Little Deal's Island, Maryland.

The amendment was agreed to.

The next amendment was, after line 193 of section 2, to insert:

Bœuf River, North Louisiana.

The amendment was agreed to.

The next amendment was, after line 194, to insert:

Potowomuc River, Rhode Island.

Mr. BURNSIDE. The name is spelled wrong. It should be "t" in place of "c," as the last letter, in line 195; "Potowomut" instead of "Potowomuc."

The PRESIDING OFFICER. The correction will be made. The question is on the amendment as modified.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, after line 195 of section 2, to insert:

For a harbor on Lake Michigan, at Kewaunee, Wisconsin.

The amendment was agreed to.

The next amendment was, after line 197 of section 2, to insert:

For the opening of steamboat communication from the Saint John's River, Florida, by way of Topokalija Lake, to Charlotte Harbor or Pease Creek.

The amendment was agreed to.

The next amendment was, after line 200 of section 2, to insert:

Pocoson River, North Carolina.

The amendment was agreed to.

Mr. FARLEY. I offer the following amendment, which was submitted to the committee, and as I understood from members was to come in immediately after the amendment just voted on.

The PRESIDING OFFICER. The Senator from California will please wait until the committee amendments are through with.

Mr. FARLEY. But this is the point where it comes in. It is an amendment that was handed to the committee.

Mr. McMILLAN. There are other amendments of the committee yet to be acted on.

The PRESIDING OFFICER. The reading of the bill will proceed.

The Chief Clerk continued the reading of the bill. The next amendment of the Committee on Commerce was to strike out section 5, in the following words:

SEC. 5. That the joint resolution approved July 20, 1868, authorizing the construction of the bridge over the Mississippi River, "to connect the island of Rock Island with the cities of Davenport and Rock Island," is hereby so amended as to require the Chicago, Rock Island and Pacific Railroad Company to charge for any cars laden with freight other than its own, and for its own cars when carrying freight for other roads, which it may carry across said bridge, the sum of $5 for every car, and for each empty car other than its own the sum of $2, one-half of which sum shall be paid by said railroad company into the Treasury of the United States each month, and the monthly returns thus made shall be in such form and with such authentication as the Secretary of War shall direct.

The amendment was agreed to.

Mr. FARLEY. Now I offer the following amendment, which, as I understand from members of the committee, was agreed to in committee, but has failed to be reported; it is to insert in section 2, after line 201:

The Secretary of War is hereby directed to cause to be made such examination and surveys as may be necessary to devise a system of works to prevent further injury to the navigable waters of California from the *débris* from the mines, and estimates of the cost of such work, and report the result of such examination, surveys, and estimate of cost of proposed works, made in pursuance hereof, to Congress at its next session.

Also, the Secretary of War is hereby directed to cause an examination to be made to determine the work necessary to be done, and the cost of the same, to improve the channel inside the harbor of Humboldt Bay, California.

These items I understand were agreed to in committee, but failed to be reported in the bill. They are very important.

The amendment was agreed to.

Mr. McMILLAN. The senior Senator from Maine, [Mr. HAMLIN,] who is absent, submitted to the committee, and I am instructed to report from the Committee on Commerce, the following amendment to the bill, to be inserted between lines 14 and 15 of section 1, and to submit a report of the Chief of Engineers, which I send to the desk to be read with the amendment.

The PRESIDING OFFICER. The proposed amendment will be read.

The CHIEF CLERK. At the end of line 14 of section 1 it is proposed to insert:

For the completion of the improvement of Lubec Channel, Maine, $26,000.

Mr. McMILLAN. I send the report of the Chief of Engineers in support of the amendment.

The report was read, as follows:

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., February 17, 1880.

DEAR SIR: I have to acknowledge the receipt of your letter of the 9th instant, and in reply thereto to inclose a copy of a report upon the condition of Lubec Channel, Maine, which it is hoped will furnish the information you desire.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers, Brig. and Bt. Maj. Gen., U. S. A.

Hon. HANNIBAL HAMLIN,
United States Senate.

UNITED STATES ENGINEER OFFICE,
Portland, Maine, February 13, 1880.

GENERAL: I have the honor to furnish the following information in regard to the progress made in the improvement of Lubec Channel, Maine, in answer to the inquiry made by Hon. H. HAMLIN, United States Senate, in his letter, returned herewith, dated the 9th instant.

By the river and harbor act of March 3, 1879, the sum of $10,000 was appropriated for improving Lubec Channel, Maine, and the unexpended balance of the appropriations made in 1867, 1873, and 1874, for the improvement of Saint Croix River, Maine, (namely, $34,000,) was also made available for this purpose, making a total of $44,000. Notification having been received from the Department on the 2d of August last that this appropriation was available for expenditure, proposals were twice invited for the projected dredging, and a contract was made on the 23d of September last with the Atlantic Dredging Company, of Hempstead, New York, for about one hundred and thirty-five thousand cubic yards of the same. Dredging was commenced under said contract on the 8th of October last, and continued until the 12th of November, when it was suspended for the winter, during which period but little progress was made in the work. In letters recently received the contracting party threatens to abandon this contract unless higher prices than those contracted for be paid for the work, under the supposition that the dredging is much more difficult than contracted for. This matter will be settled as soon as it can be thoroughly investigated by a careful survey.

The estimated cost of the projected improvement of Lubec Channel was originally $47,000, which was based on the prices paid for such work at that time; but the prices last bid for the work and now ruling make it necessary to increase that estimate about 50 per cent., making a total of $70,000. This will also necessitate an additional appropriation of $26,000, which I would respectfully recommend should be made as soon as practicable, so that there may be no unnecessary delay in the completion of this very important work.

Very respectfully, your obedient servant,

GEO. THOM,
Lieutenant-Colonel of Engineers, Brevet Brigadier-General.

Brigadier-General H. G. WRIGHT,
Chief of Engineers, United States Army,
Washington, D. C.

The amendment was agreed to.

Mr. McMILLAN. I offer the following amendment from the committee, also recommended by the Engineer Department, and a printed report:

On page 24, after line 573 of section 1, insert:
Improving the Missouri River at Brownville, $10,000.
Improving the Missouri River at Plattsmouth, $10,000.

The amendment was agreed to.

Mr. RANSOM. There is one other committee amendment. On page 37 the committee reported in favor of striking out all the clause from line 878 to line 888. The committee desire only so much of that clause to be stricken out beginning with line 884, namely:

Provided further, That so much thereof as may be necessary shall be used in the operation of said canal.

And this second proviso:

And provided further, That this enactment shall take effect only upon the passage of this act to make said canal free for public use.

The committee desire this to be stricken out, but wish the residue of the House provision to stand.

The PRESIDING OFFICER. It will be necessary to reconsider the vote.

Mr. ALLISON. By unanimous consent it can be done.

Mr. RANSOM. Let the amendment be adopted by unanimous consent.

The PRESIDING OFFICER. That can be done by unanimous consent. Is there objection? The Chair hears none, and the correction will be made.

Mr. ALLISON. The committee amendments being through, I offer a little amendment on page 23, at the end of line 540 of section 1, to insert:

Provided further, That $3,000 of the foregoing sum shall be used in dredging the western channel at or near Guttenberg, Iowa.

Mr. RANSOM. I see no objection to that.

Mr. ALLISON. On page 25, line 585, there is an item:

Improving Missouri River, at Sioux City, Iowa: continuing operations, $8,000.

I desire to increase that from $8,000 to $12,000, and an examination of the reports of the engineers will show that $8,000 is not sufficient to protect the river at that point. The engineer estimates $23,000, but I am content to try and preserve the work going on there with an addition of $4,000 beyond what is suggested by the committee. It is a small amendment, and I trust there will be no objection to it.

Mr. RANSOM. The Senator from Iowa knows how ungracious I feel about this, and how much pain it gives me; but it is my duty to raise the point of order the rule authorizes on that amendment.

Mr. ALLISON. What rule?

Mr. RANSOM. It comes from no committee.

Mr. ALLISON. It is estimated for.

Mr. RANSOM. The amendment has not been referred to the proper committee of this body.

Mr. ALLISON. It is only an increase of an item in an existing bill. I do not understand that the Chair can rule that it is not in order for me to move to increase any item in the bill, or to reduce any item in the bill. If I want to reduce an item here to $5,000, that certainly would be in order, and it is just as much in order to increase it, there being an estimate.

Mr. RANSOM. No.

Mr. ALLISON. I ask that Rule 27 be read, if this is one of the general appropriation bills.

Mr. RANSOM. This is always considered a general appropriation bill. The rules ought to be enforced upon it more closely than upon any bill that comes before the Senate.

Mr. ALLISON. This is estimated for regularly at $23,000.

Mr. RANSOM. I dislike very much to raise the point of order on my friend from Iowa.

Mr. ALLISON. I hope my friend will not do it.

Mr. RANSOM. I feel constrained to do it.

The PRESIDING OFFICER. The Senator from North Carolina has already raised it.

Mr. ALLISON. Then I feel obliged to call the attention of the Senate to the fact that the estimates ask for $23,000 to continue this improvement, whereas the appropriation is only $8,000.

Mr. PADDOCK. I think the Senator should make his increase go to at least $15,000. I am somewhat familiar with that work, and I know it is an important matter that the work should be continued. I do not believe $8,000 or $12,000 will do. The work has already commenced.

The PRESIDING OFFICER. The Secretary will read Rule 28.

The Secretary read as follows:

28. All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are offered, be referred to the Committee on Appropriations; and when actually proposed to the bill, no amendment proposing to increase the amount stated in such amendment shall be received; in like manner, amendments proposing new items of appropriation to river and harbor bills shall, before being offered, be referred to the Committee on Commerce; also amendments to bills establishing post-roads, proposing new post-roads, shall, before being offered, be referred to the Committee on Post-Offices and Post-Roads.

The PRESIDING OFFICER. The Chair will be compelled to rule that the point of order is well taken.

Mr. ALLISON. I am sorry for the Government of the United States.

Mr. HARRIS. In line 809 of section 1, page 34, I move to strike out, after the word "and," the word "Leadvale" and insert "the mouth of Big Creek." It simply extends the area to be improved some ten or fifteen miles further up the river without increasing or diminishing the appropriation.

Mr. RANSOM. I see no objection to that.

The amendment was agreed to.

Mr. BUTLER. I should like simply to make a verbal change. Line 59 of section 2 reads:

For the improvement of Woppoo Cut, South Carolina.

The word "Woppoo" is spelled wrong. It ought to be "Wa" instead of "Wo."

The PRESIDING OFFICER. The correction will be made.

Mr. JOHNSTON. On pages 40 and 41 surveys are ordered for "Clinch River, Tennessee, in the counties of Hancock, Hawkins, and Claiborne." I move to add "Tennessee and Scott and Russell Counties, Virginia." All these streams rise in Virginia and run down into Tennessee.

The amendment was agreed to.

Mr. JOHNSTON. In line 19 of section 2, after the word "Claiborne," I move to insert "Tennessee, and Lee County, Virginia;" so as to read:

Powell River, Tennessee, in the counties of Hancock and Claiborne, Tennessee, and Lee County, Virginia.

The amendment was agreed to.

Mr. JOHNSTON. In line 21 of section 2, after the word "Hamblen," I move to insert "Tennessee, and Washington and Scott Counties, Virginia;" so as to read:

Holston River, Tennessee, in the counties of Sullivan, Hawkins, Grainger, and Hamblen, Tennessee, and Washington and Scott Counties, Virginia.

The amendment was agreed to.

Mr. BUTLER. I offer the following amendment, which I believe the chairman of the committee will consent to, and if he does not I shall not press it. It does not involve any expenditure of money. It is simply for a survey. After line 63 of section 2, page 42, I move to insert:

The headwaters of the Savannah River, in connection with the headwaters of the Hiwassee and Tennessee Rivers, with a view of acertaining if a summit level can be secured of the waters of these respective streams so as to unite them by a canal; that is to say, to ascertain if the waters of the Hiwassee and Tennessee Rivers can be united with the waters of the Savannah River by means of a canal.

I do not think there can be any objection to that. It is simply for a survey.

The amendment was agreed to.

Mr. MORGAN. In line 102, on page 5, I move to amend by striking out "$175,000" and inserting "$200,000;" so as to make the clause read:

Improving harbor at Mobile, Alabama: continuing improvement, $200,000.

I am unfortunate at this moment in not being able to get from the committee-room the papers which were referred to the committee.

Mr. RANSOM. May I ask the Senator from Alabama a question? Does this amendment come from any committee?

Mr. MORGAN. This amendment was offered by myself, referred to the Committee on Commerce, printed, and considered by the committee. I believe it is not open to any question of order.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk or state it again?

Mr. MORGAN. In line 102, strike out "$175,000" and insert "$200,000." In consequence of the absence of the papers, which, of course, is a mere accident——

Mr. RANSOM. Has the Chair decided the point of order?

The PRESIDING OFFICER. No point of order has been raised yet.

Mr. RANSOM. It is my ungracious duty to make the point of order on the Senator from Alabama that this amendment increases an appropriation and has not been reported from any committee.

Mr. MORGAN. It has been referred to the Committee on Commerce.

Mr. RANSOM. If the Chair will read the rule, I think he will come to the conclusion that it is not in order.

Mr. HILL, of Georgia. I should like to have a ruling on the point of order. Does the gentleman raise the point of order that an amendment having been offered under the rule, printed, referred to the committee, and considered by the committee, but not adopted by the committee, cannot be considered in the Senate?

Mr. RANSOM. Not unless it is to carry out an existing law or has been estimated for.

Mr. MORGAN. It has been estimated for. The estimate as I understand the book is $500,000. The book shows that.

Mr. RANSOM. As I understand the reason of the rule it is that any amendment which proposes to increase an appropriation, to be considered in the Senate ought to have the sanction of some committee or of the head of a Department; it ought to come here on an appropriation bill with some other sanction than simply being offered by an individual Senator, however great that sanction may be.

Mr. MORGAN. The amendment I offer is entirely within the estimates made by the Engineer Department, and therefore has the sanction of the head of a Department. If that is conceded, the point of order is not well taken.

Mr. RANSOM. I should like to have the rule read if the Chair pleases.

The PRESIDING OFFICER. The Chair supposes the Senator from North Carolina makes the point under Rule 28, which will be read.

Mr. RANSOM. I am not sure of the number of the rule, but I make the point of order.

The Chief Clerk read Rule 28, as follows:

All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill or to add new items of appropriation, shall, at least one day before they are offered, be referred to the Committee on Appropriations, and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received; in like manner, amendments proposing new items of appropriation to river and harbor bills shall, before being offered, be referred to the Committee on Commerce; also amendments to bills establishing post-roads, proposing new post-roads, shall, before being offered, be referred to the Committee on Post-Offices and Post-Roads.

Mr. HILL, of Georgia. It seems to me that rule simply requires that the amendment shall, one day in advance, be referred to the committee. Can the committee prevent the Senate from considering an amendment unless the committee has agreed to it? If the committee agrees to it, it is the committee's amendment, and need not be offered by a Senator.

It seems to me the rule simply requires that an amendment shall be referred to the committee one day before it is offered in the Senate. I have been in the habit of offering amendments to be referred to the committee. That has been my case and the committee have but agreed to my amendments; they have been derelict in that respect, very derelict in the consideration of the interests of the country, and they have said that my amendments were not right when I knew they were right. The committee have made a mistake.

Now, are we to be told that when we refer an amendment to the committee and the committee does not consider it or does not report it, that takes away the right to offer it?

Mr. RANSOM. The question is not debatable, but I will not cut anybody off.

Mr. MORGAN. Mr. President, when the work of improving the bay of Mobile was inaugurated here under the present system, it had been preceded by various appropriations which had been made irregularly and expended without any regular system. The City of Mobile and the county of Mobile, under the laws of Alabama, had appropriated and applied $193,000 to the dredging out of the bay of Mobile upon the line of the Government survey; so that our people have done a good deal there in reference to building a ship-channel. We have now acquired a depth of thirteen feet of water. When I first came to the Senate an appropriation of $10,000 was made on my suggestion for the purpose of testing and boring that channel to determine whether the channel could be carried to the depth of twenty-two feet. The experiment was entirely successful. It was ascertained that there was a bed of mud and shells at the bottom of that bay, the walls of which stood up like the walls of a brick house.

Major Damrell, of the United States Army, in charge of that work, a very faithful officer indeed, has taken great pains to ascertain the best method of expending the Government money in this object. Two plans were submitted by him to the board of engineers, but unfortunately the submission of his plans came just a little after the Book of Estimates was made up by the Secretary of War and the Secretary of the Treasury. A plan was then agreed upon by the board of engineers, the plan to which this appropriation of $125,000 will apply. The estimate made by Major Damrell for the completion of the work so as to give a seventeen-foot channel, two hundred feet wide, was a little above $1,000,000, and he also in his report asked that $500,000 might be applied to it for the purpose of expediting the economical application of the money.

Mr. RANSOM. Mr. President, I do not wish to interfere with the Senator from Alabama; but I apprehend that he did not understand me as raising the point of order upon this amendment.

Mr. MORGAN. I thought the Senator had withdrawn it.

Mr. RANSOM. No, sir; I stated that the point of order was not debatable, but I did not propose to cut off debate on the point of order.

Mr. MORGAN. I misunderstood the Senator.

Mr. RANSOM. I am satisfied that when the chairman of the Committee on Rules considers his own rules he will be satisfied that this amendment cannot be considered by the Senate, for the rule is very broad and the distinction is very clear.

Now, to the Senator from Georgia [Mr. HILL] I would state what the distinction is. A committee itself cannot report an amendment unless it is introduced the day before except by general consent, and an amendment increasing an appropriation cannot be considered unless it comes from one of the standing committees according to Rule 27 and Rule 28—Rule 27 referring to amendments that have not been reported favorably by a standing committee and Rule 28 referring to amendments that have been reported by a standing committee.

I have raised the point of order on the amendment of the Senator from Alabama.

Mr. MORGAN. The honorable Senator from North Carolina does me honor overmuch by calling that my rule. It was adopted before I came to the Senate. I never had any agency in adopting it. If I had had any agency in framing the rule I would have tried to get one that was more capable of a clear interpretation. I beg leave to say that I do not understand that the Committee on Commerce to whom this matter must be referred, which is the only committee that can consider the subject at all, have the right to stifle a member of the Senate from having a vote of the Senate taken upon his amendment, merely by refusing to act upon it or by acting adversely.

I am required by this rule, in order to have my amendment considered in the Senate, to offer it a certain length of time before the bill is reported, have it printed, and referred to a committee. The only committee I can refer it to is the Committee on Commerce.

Mr. THURMAN. Now, will my friend allow me to ask him did he have his amendment referred?

Mr. MORGAN. I did.

Mr. THURMAN. Is it estimated for?

Mr. MORGAN. It is estimated for.

Mr. THURMAN. In the regular estimates sent to the Senate?

Mr. MORGAN. It is.

Mr. THURMAN. Then I ask the Chair to decide the question according to this rule. Debate is out of order.

The PRESIDING OFFICER. The Chair is of the opinion that this amendment is not obnoxious to the latter part of Rule 28, which provides:

In like manner, amendments proposing new items of appropriation to river and harbor bills shall, before being offered, be referred to the Committee on Commerce.

This amendment, as the Chair understands it, was introduced some days ago and was referred to the Committee on Commerce. The Chair is of opinion that it is not obnoxious to Rule 27, because it has been estimated for by the head of one of the Departments. The Chair is of opinion that the proposed amendment is in order.

Mr. MORGAN. I will detain the Senate only a very short time on this matter. I regret indeed that I have to claim the attention of the Senate; but as this is a very important matter, and as Alabama has done a good share of the work of trying to improve this channel, Mobile alone having expended $193,000, I had determined when I came to the Senate, the completion of this work being of more importance to my State than all other public works in the State put together, to have economy practiced in the expenditure of every dollar. So I went to work and got this preliminary boring and testing to make it absolutely certain how we should spend the money. Now, because of the delay of a very few days in the selection of the channel, the full report did not reach here in time. The appropriation recommended by the Department was $200,000. The House scaled that appropriation to $125,000 in order to bring the general amount of appropriations in this bill within a certain scale; but if the House had had the real estimate before it made by the engineer of $500,000 it would then be entirely apparent that the scaling was too severe.

This estimate is $500,000, and that is the amount of money that can be most economically expended. I am willing, of course, to submit to a reduction in common with the rest in order to get this bill within something like reasonable bounds as to the general outline of the appropriations; but I do think the Government owes it to itself to

apply enough money there to enable the engineer to go on with this work economically. That is all that I claim.

Alabama has no pecuniary or specific interest in it beyond the improvement of her harbor. The money will be expended there by the Government of the United States either by contract or otherwise. A few individuals will be benefited by it, perhaps, around the port of Mobile, but the people of Alabama get no money out of the bill as an appropriation to them. They merely get the advantage to the commerce of the United States. Anybody living in the Northwest particularly who understands the value of the bay of Mobile to the Northwestern States in reference to a great many articles of production that come from the Northwestern States must comprehend that the provision I am advocating now is one that is as much to their advantage as it is to that of the people of my State, and really more, because the commerce they furnish goes out of that port and return cargoes come into that port. It is a very important point indeed.

I think, Mr. President, without taking up the time of the Senate, I have sufficiently explained this matter to justify me in asking at the hands of the Senate the addition of $75,000. Five hundred thousand dollars was the estimate for the harbor of Charleston, and the committee put that up to $175,000. Mobile is as important a point as Charleston is. I make no objection to the improvement of Charleston, and I wish the appropriation there was very much larger than it is; but I refer to it as a parallel case merely to show the justice of the demand I am now making.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Alabama.

Mr. WITHERS. This amendment offered by the Senator from Alabama brings us squarely to confront the proposition as to whether the Senate is willing to add to appropriations made by the House bill, and by the committee of the Senate, and by the Senate itself to-day. It is very manifest that an affirmative vote on the amendment offered by the Senator from Alabama will make a new departure in the direction which I have indicated, and that the effect of it will be that this bill must inevitably, by carrying out the principle which he advocates, be amended to such a degree as to jeopardize, if not, indeed, to prevent the passage of the bill.

The bill as it came from the House, and as it has been amended by the committee and in the Senate, is certainly a liberal one in its provisions; and while I am disposed to complain myself that the estimates have not been more nearly met in the case of most important improvements in my own State, where only one-half of the amount estimated for has been appropriated, still I think it will be safest for those who desire the passage of this bill to stand by it in its present form. And while I have not a word to say in contravention of the arguments urged by my friend from Alabama, and I believe that the harbor of Mobile could be improved by increasing the appropriation to $200,000, and that it would be an economical measure to do that, yet to prevent the destruction of the bill by its being overloaded by amendments, which must inevitably follow in the wake of this if adopted, I have concluded not to support the amendment.

Mr. MORGAN. Mr. President, the committee acted in a conservative way about this matter, and did not feel themselves authorized in view of the amount of actual estimate made to increase this appropriation above $125,000. I showed good reasons why while the committee was not compelled to do it they might have done it. The actual estimate was $500,000, and probably the higher sum would have been appropriated if the report had happened to reach Washington a very few days before it did.

The committee in the exercise of their wise discretion have made an increase in reference to New York. They have increased the appropriation over the House bill $24,000. In North Carolina they have increased it $45,000, and the Senate put on $1,000 to it, making it $46,000. In Texas they have increased it $60,000. In Michigan they have increased it $49,500; in West Virginia, $10,000. Now, why should not the Senate, in doing justice to the port of Mobile, take the liberty of increasing this appropriation to $200,000? I am unfortunate in not having the indorsement of the committee. If I had the indorsement of the committee I should be all right and nobody would object to it. I could not get it because I was not in proper position to demand it—I do not mean demand in the sense of any compulsory process—but really all the equities of this case are in my favor, and it is a mere question not of swelling the bill by bringing in new ideas, but a mere consideration of justice. The committee did not feel authorized to recommend this additional appropriation. I have no doubt the committee would have cheerfully done so if they could have felt that a basis was furnished in the estimates; but they did not want to appropriate up to the whole amount of the estimates while they were scaling other ports.

It is clearly shown by the report of Mr. Damrell, which I have here, which I will not take time to read, a most accurate and able report, that really an appropriation of $500,000 could be economically and wisely expended there. Surely the Senate ought to allow us to come up to the sum of $200,000 in this bill, in order that this great work may be expedited and that there may not be a waste of money.

I beg my friend from Virginia to remember that it is only my misfortune in not being able to get the committee to agree to it that has occasioned so much delay at this time; and it is not because I am demanding anything that is unconscionable or unjust, or because I am trying to swell the general aggregate of appropriation in this bill. I do not want to do that.

Mr. BUTLER. My friend has referred to the increase of the appropriation for Charleston Harbor; and the inference naturally to be drawn from his remark is that there had been some discrimination in favor of some States against Alabama.

Mr. MORGAN. I have not made any such remark.

Mr. BUTLER. I say that is the inference. I drew that inference.

Mr. MORGAN. The inference is not justified by my intention. I was not speaking of discriminating against the State of Alabama, but I was speaking of the fact that the committee had before them the documents authorizing them to go beyond $125,000 in this case.

Mr. BUTLER. Perhaps I am wrong, then, in that inference. I stand corrected in that respect.

I take it for granted, however, that the committee in recommending these various appropriations have been governed by the purpose at least to do justice all around. I do not think my friend from Alabama can complain, that being the rule which guides them, because if I am correctly informed there is an appropriation of over $300,000 for what are known as the Muscle Shoals within the jurisdiction of the State of Alabama, which, added to the $125,000 for Mobile Harbor and several others, I think puts him a little ahead of my State or very many other States for whose rivers and harbors appropriations are made.

My friend may say that the appropriation does not necessarily benefit Alabama; and no more does the appropriation for Charleston Harbor necessarily benefit South Carolina. The appropriation for the improvement of Charleston Harbor is one for the benefit of the general commerce of the country, and really is of no more service to my State than to many other States.

I therefore do not think that when this matter has been considered fairly my friend has any ground of complaint whatever. His State is as amply and liberally provided for as any other. I shall vote against the amendment, not because I am not quite willing to give Mobile everything she is entitled to, but because if this practice be adopted of admitting the increase which my friend from Alabama asks for the bill will be loaded down beyond all bearing and it will result in its defeat.

Mr. RANSOM. Mr. President, now having heard the Senator from Alabama in favor of his amendment at some length, I must avail myself of the privilege which the rules give of moving to lay the amendment on the table as a test question.

Mr. MORGAN. That will carry the bill with it.

Mr. RANSOM. Oh, no, sir. That is an exception to the rule. It does not carry the bill.

Mr. MORGAN. I am sorry the Senator from North Carolina will not allow me to make response to the Senator from South Carolina.

Mr. RANSOM. I thought the Senator was through.

Mr. MORGAN. I tried to get the floor when the Senator from North Carolina rose.

Mr. RANSOM. If the Senator from Alabama desires to say anything more on this matter, I withdraw the motion.

Mr. MORGAN. I did not expect this kind of opposition to come from South Carolina.

Mr. BUTLER. I have made no opposition. I have simply replied to the Senator.

Mr. MORGAN. The Senator has put me in the attitude of making a fight against the committee, which I have not done. I have done my utmost to exonerate the committee from any blame whatever. I have said that they did not have before them the estimates upon which they would have given $200,000 for the bay of Mobile, without going beyond the usual percentage of the estimates. I have explained that that was an accident, the papers having come into the hands of the Chief of Engineers of the United States Army since the original estimates were made up. I felt that the committee was excused, and that this Senate should allow me to have the amount proposed by my amendment, which the committee would have reported if the estimates had come in time.

The Senator from South Carolina of course will vote as he sees proper about this amendment. He is afraid the bill will swell. The bill may swell on account of the amendment proposed by the committee for his harbor. I do not think it is out of proportion at all; but I think it a little hard for the Senator from South Carolina to complain of me for desiring to get what is a fair proportion of the estimate for a public work; and merely because he has got what he wants, he protests against the bill being swelled!

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

Mr. BUTLER. Mr. President——

Mr. RANSOM. Now I must take advantage of my friend from South Carolina, and move to lay this amendment on the table.

Mr. BUTLER. I yield.

The PRESIDING OFFICER. The Senator from North Carolina moves to lay the amendment of the Senator from Alabama on the table.

The motion was agreed to.

Mr. VOORHEES. Nobody need be alarmed now at the amendment which I am going to offer, for it does not propose to increase the appropriations already contemplated by this bill. It proposes, however, to add to the discretion of the Secretary of War in the expenditure

of $150,000 already provided for to make surveys and examinations. I move on page 48, at the end of line 201 of section 2, to insert the following amendment, notice of which was given by the junior Senator from Ohio [Mr. PENDLETON] some days ago, and properly referred:

That for the purpose of making a survey to ascertain the practicability and cost of construction of a ship-canal from Lake Erie, by the Maumee and Wabash Valleys, in the bed of the old Wabash and Erie Canal, or with any variation therefrom that may prove feasible, to the navigable waters of the Wabash River, also for a survey and estimate of cost of a similar canal from Junction City, on the Wabash and Erie Canal, to the Ohio River, by way of the Miami and Erie Canal, or any variation in route to produce the most practical and least expensive ship-canal from Lake Erie to the navigable waters of the Ohio River by the above routes, the estimates in each case to be for a water-channel and locks of the same size and capacity as those of the present enlarged Erie Canal in New York, the sum of $15,000, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated; the same to be expended under the supervision of the Secretary of War.

Mr. SAUNDERS. I will state to the Senator from Indiana that an amendment has already been adopted to take that place in the bill which his amendment would occupy. The amendment was made on the motion of the Senator from California [Mr. FARLEY] to take the place he proposes in the bill.

Mr. VOORHEES. Then this can follow the amendment of the Senator from California.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Indiana, [Mr. VOORHEES.]

The amendment was agreed to.

Mr. BROWN. Yesterday I gave notice of an amendment to the bill now under consideration, on page 5, line 93, referring to the appropriation for the harbor of Savannah, Georgia. The appropriation reported is $65,000. My motion was to strike out "$65,000" and insert "$100,000." I respectfully ask the attention of the Senate while I submit a few remarks on this subject.

The port of Savannah is the second cotton port in the Union. It has a large and growing commerce. During the business season more than one foreign steamer per day clears from the port. It does a large portion of the business of Florida and Alabama, to say nothing of that of Georgia, on account of the railroad connections to that port from those States, and it also does a great deal of business with the West.

The railroad connections that have been recently made and the extensions of lines that have been completed within a short time past are such that the line leading to Savannah is looked to in the future as one of the great competing lines for the business between the West and the eastern cities. As is very well known to the Senate, there are now four great trunk lines of railway between the West and the East, the Baltimore and Ohio, the Pennsylvania, the New York Central, and the Erie. They extend into the West and have done a large proportion of that business, indeed almost all of it. It is well known to Senators from the West that those lines with all their capacity for transportation cannot carry the productions that are offered for transportation. During the past winter there has been frequently an outcry there about delays of freight on account of want of transportation. There is a railroad line now pretty well consolidated under the control of the Louisville and Nashville Railroad Company from the city of Saint Louis, Missouri, to the city of Chattanooga, Tennessee. That corporation controls that line. In connection with that is the Western and Atlantic Railroad of Georgia. That road is an open highway under its charter to continue its use for all the roads that approach it, having a web of five roads at the Chattanooga end and four at the Atlanta end. That, then, extends the line from Chattanooga to Atlanta. Then we have the Central Railroad to Savannah.

Then there is a line of steamers controlled mainly by the Central Railroad that plies between the port of Savannah and New York. They have already five steamers on the line. They are building another splendid steamer for it. They intend to continue to increase the number until they have a daily steamer between Savannah and New York.

As I am informed, a careful estimate shows the line from Saint Louis to New York by way of Savannah, on principles recognized among railroad and steamship men in prorating, is seventy miles shorter than the line by way of the Pennsylvania Railroad. Why, then, may it not become a competitor, and why may it not assume the position of another great line for the transportation of productions between the East and the West, to say nothing of the South?

The port of Savannah, then, is a national port. The West is as much interested as the South is in the port. The roads I have mentioned extend from the State of Missouri through the States of Illinois, Indiana, Kentucky, Tennessee, a portion of Alabama, and through Georgia to the coast. There are seven States that are directly interested in a line that proposes to open a way for the productions of the great West to the markets of the world through the South, by the port of Savannah.

But that is not the only line. The great city of Cincinnati has lately gone into the business of building a railroad, having sat back as long as she could afford it behind Louisville on account of the railroad system, and she has expended already $18,000,000 in the construction of a grand-trunk line from that city to Chattanooga, by which she cuts her way through the mountains and connects with the Western and Atlantic road and reaches the ocean at Savannah. Certainly that great city and the people of that metropolis of Ohio thought there was need of this outlet or they would not have put nearly $20,000,000 into it; indeed, I am informed by the time it is completed they will have to put enough more in to make their investment over $20,000,000.

There is a line from Chicago, by way of Cincinnati, through to Chattanooga, Atlanta, and Savannah that is, I believe, the shortest line across from one point to the other. Then there is another great line westward. There is the Illinois Central Railroad, running from Chicago to Cairo; then the Chicago, Saint Louis, and New Orleans road from there down to New Orleans. That crosses the Memphis and Charleston road at Grand Junction, and if you come down with Illinois freights to Grand Junction and turn thence to Chattanooga, and then over this route again to Savannah, you have about as short a line as any of the others. The three are near enough of one length to constitute competitors for business.

You gentlemen of the West desire to have all the outlets for the great productive region you occupy that you can possibly get. I have not now the reports before me, for I have occupied a seat on this floor but a short time and I am not so well posted on these points as some of you Senators who have been here longer; but my recollection is that the last fiscal year shows a balance of trade in favor of this country of about $250,000,000. Formerly the exchanges of the country were conducted mainly on the cotton and tobacco of the South and the exports of New England.

There is a new element, however, introduced. In former days you burned your corn in the West for fuel because you had no market for it; but long lines of railroad have extended into your midst, and the steel rail connecting all the great cities of the West, to say nothing of the South, has caused that condition of things to cease, and you reap the benefit of the achievement of this great result, and the productions of the West, the grain and meat crops, play an important part in making this grand total in our favor in the balance of trade. You then should certainly encourage every outlet you can for your productions. You have a vast territory there, one that will support comfortably, properly cultivated and properly improved, two hundred millions of people. You cannot rely on the outlets that you now have to the eastern cities. There are reasons, too, why you should have a southern outlet. The eastern railroads are often blocked with snow; the eastern rivers are often blockaded with ice. We have none of that trouble over the line I mention. While it is true that these railroads are not all in as good condition probably as the four great eastern trunk lines I have mentioned, the necessary steps are being taken to put them in condition very soon, and I tell you they will come into the market as a competitor with the four great trunk lines for a large proportion of the products of the West, and the exports of grain and meat will come to Savannah to go to New York and other eastern cities and foreign ports.

Then why should we not improve the harbor of Savannah? If there be any difference the West is more interested than we are, the estimate made by the engineer and appended to the Secretary of War's report for the coming year is $129,320. The actual appropriation that the committee have recommended and that passed the House is $65,000, a long way below the estimate. Now, a word as to the harbor itself.

Savannah, as you are aware, is situated some twenty miles above the bar. The harbor is a splendid one, as good as any on the Atlantic coast. The obstructions are not in the bar; they are in the channel of the river after you get beyond the bar. The waters of the Savannah River are divided by an island and flow down to the city, one half going around the island next the city and the other half in Back River. Back River is the deeper of the two, and there has always been difficulty on that account in having the harbor of Savannah properly improved. The engineers, however, within the last few years have discovered the remedy for that, and they are doing, as I understand, the proper work at the upper end of the island to turn the current down the channel next the city.

The result is already that where fifteen or sixteen feet of water formerly existed we now have nineteen feet, and I am informed by the engineer that if the appropriation is sufficient to keep up the work, within the next year or two it can be brought to twenty-one feet and ultimately to twenty-three or twenty-four feet of water in the channel. As the river goes down, in one or two places, it spreads below the city. By jetties and sinking logs and brush in the side-channel, they turn the water back into the regular channel and deepen the channel. Then the propellers going up and down the channel are always stirring the mud up and it passes off the more readily because the entrance to the harbor is such that there is nothing there to obstruct it. When the dregs are stirred even by the wheels of a propeller they pass out. As I am informed by the gentlemen who run these steamships the channel is every year deepening in that way.

Now, give us an appropriation of $100,000. We are not asking for the full amount of $129,320, but we ask the Senate to give us $100,000. I have a letter from the engineer saying that to give less will be a great mistake; they should have that amount; and I ask the Senate to make the appropriation. It is not a local affair; it is a national affair, and I beg my friends from New England to aid us in getting that amount at least. You may have acted more wisely than we did in the past. I belonged to that old school of democrats who were taught to go against all appropriations for internal improvements by the General Government. You went "for the old flag and an appropriation" before the war; we went for the old flag and the honors, and when the test came we found the appropriations a great deal heavier

than the honors. I have concluded now to abandon that policy, to learn a lesson from you, and while you have taken your part of the appropriations ask you to give us ours. I know you take a national pride in Savannah as well as in other cities of the Union. Now the Union being restored perpetually, I think you will give us at least that small amount.

I have been looking through this bill. The State of Georgia gets by the bill as it now stands $220,500. We appropriate in all, with the amendments made to-day, I suppose, almost $9,000,000. My State has a territory of fifty-eight thousand square miles; as fine probably as there is in the Union; one of the great cotton States of the Union, and not only that; but becoming fast one of the cotton manufacturing States of the Union. We are adding each year now about two good factories to the number we already have. We intend to add more.

In the former days the race was who should own most slaves, and when a man made a thousand dollars he put it into another negro. We have no negroes to buy now, and though I stood by the institution to the last, and would have sacrificed my life, if I knew myself, for it, I proclaim it to-day from the American Senate that if by turning over my hand I could reinstate it I would not do it. As we have now negroes to buy no longer, we are going to put our money into factories and other improvements, and we intend to become rivals with you after a while in that business.

Not only is Georgia a great cotton State and becoming a cotton manufacturing State, but it is great in its other resources. Wheat, corn, and grass grow well there. In the fertile lands of Upper Georgia, between Atlanta and Tennessee, we make as fine clover as you ever raised in Kentucky or Illinois. We can raise all the grasses there. We have there a magnificent country and a fine climate.

That is not all. We have more iron ore in the bosom of our State than rests to-day in the bosom of Pennsylvania, and plenty of coal for all its uses.

This great State, poor now it is true, but grand in her resources, comes here and asks you for $100,000 to deepen the channel and make navigable the stream, for the twenty miles above the bar, to her principal city, so that not only her own productions can be poured out through it, but so that the products of Tennessee, Kentucky, Alabama, and the great West can go out there. I think we have a right to it.

I am aware of the difficulty of the task I have undertaken. The river and harbor bill had been passed upon by the Committee on Commerce before I came into the Senate. The committee has reported only $65,000, the amount as it passed the House of Representatives, for the improvement of the harbor of Savannah. And I am informed by the honorable chairman [Mr. RANSOM] that the committee feel bound to do all they can to carry the bill as it came from the committee. The reason given is that if they permit one amendment increasing the appropriations recommended by them there will be no end to the amendments offered, which they fear will load down the bill and defeat its passage. I admit there is some plausibility in this objection; but I think the reasons which exist for the exception in favor of an increase at Savannah are so strong that it ought to be made an exception.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Georgia, [Mr. BROWN.]

Mr. MORGAN called for the yeas and nays; and they were ordered.

Mr. DAVIS, of Illinois. I hope the call for the yeas and nays will not be insisted on, but let us have a division.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BLAINE. I have not been in the Senate much to-day; but unless there is a determined resistance to adding anything at all to the bill and a purpose to keep it just as the House has prescribed it with the little additional amendments which the Committee on Commerce have permitted, it seems to me that the Senator from Georgia has made a very strong case and has asked a very little addition and I confess for one that I am extremely disposed to support it. I do not want to run counter to anything that may be a kind of an arrangement in the Senate in regard to the bill; but it seems to me I shall vote for the amendment.

Mr. BECK. I have but little to say about this. I have endeavored as hard as I could to keep down the appropriations to something within reason. Will the chairman of the committee tell me about what the amount of the bill is now with the amendments we have adopted? It is very close to $10,000,000 I presume.

Mr. RANSOM. Nine million dollars.

Mr. THURMAN. What was it when it came from the House?

Mr. RANSOM. Eight million six hundred thousand dollars.

Mr. VOORHEES. I will say to the Senator from Kentucky that it is so big that the sum asked by the Senator from Georgia will not make much difference.

Mr. BECK. Mr. President, the democratic party pretended—perhaps that is a better word than proclaimed—when it came into power that it was going to relieve the country from taxation. It has done very little in that regard. It professed that it was going to be reasonably economical in the expenditures. It has endeavored to keep its word in that regard; but this bill is to-day the most extravagant of the bills that ever were sought to be passed by any Congress so far as I recollect.

If we are to be a failure in reducing taxation, and we are going to increase expenditures, then of course we enter the next canvass very well loaded. It is as well to speak plainly, because the country understands it. I read the New York papers of to-day and yesterday, in which they are now asserting with great emphasis and with some truth that we are more extravagant in our expenditures than any Congress has been before. The Secretary of the Treasury has taken extreme pains in all his reports to beg us to keep within the estimates; and if we go beyond them it will not be his fault, because he has warned us over and over and over again that we could very well keep within them and yet have enough for all purposes.

What are the estimates for the rivers and harbors for this country? Five million and fifteen thousand dollars as submitted by the Secretary of the Treasury. Now we have made the appropriation in this bill between nine and ten millions of dollars. Here is what the Secretary says; I hold the book in my hand, and that is the reason why I have been making several suggestions to-day. After giving the list of what the engineers have said ought to be done, the whole amount of which was $14,326,650, the Secretary adds this note:

Reduction by Secretary of War, to make this aggregate correspond with the aggregate of his estimates for rivers and harbors, as submitted December, 1877. (Estimate Book for 1878–'80, p. 138,) $9,311,650; total harbors and rivers, $5,015,000.

That is what the Secretary of the Treasury asks for; that is what he says the Secretary of War demands; and yet a professed democratic Congress presents a bill now close on to $10,000,000, double the estimates of a republican Secretary of the Treasury, of a republican Secretary of War, and seeks to put every dollar of this money into the hands of republican electioneerers to carry the next election, and there is where half the money will go. I have endeavored as far as I could to keep within the estimates. I have endeavored to keep clear of a proper charge being made that we were extravagant beyond what the heads of Departments demanded.

Savannah is a great city; and I will say to the Senator from Georgia that when his State had no representative here and I was at the other end of the Capitol I labored until we had all the appropriations that we could possibly get to clear out all the obstructions from the harbor of Savannah and do whatever we could for her, and to-day I say she is one of the great harbors that ought to be cared for. The difficulty is that every saw-log stream, every creek in everybody's district has been forced upon this committee until they have been unable to hold up. The Committee on Commerce has endeavored to do all that it could, and I have been amazed at the Senator from North Carolina that he has been able to do as much as he has done in holding this bill down to where it is in the pressure made upon it.

Mr. BROWN. If the Senator will allow me to interrupt him a moment, I think much that he says is well said in reference to the amount appropriated; we have gone beyond the estimates, but we have not gone beyond the estimates in the case of this appropriation. The estimate here is $129,320.

Mr. BECK. That is true.

Mr. BROWN. I think it ought not to be visited on our heads when you have gone beyond the estimates so far in other matters, and make us atone for it.

Mr. BECK. I am not sure that this is a good place to cut down the appropriation.

Mr. MORGAN. I will say to the Senator from Kentucky also that in the proposition I made to increase the appropriation for the bay of Mobile I did not propose to go beyond the estimates.

Mr. BECK. I did not see that; I did not happen to be in. The harbor of Savannah is a great harbor; the commerce of Savannah is a great commerce. Whether those estimates have been reduced in the hope that we would disregard them or whether they were *bona fide* reduced is not for me to say, but there they are. The estimate of the Secretary of War and the estimate of the Secretary of the Treasury is $5,015,000. The fact remains that they can assert that we have exceeded their estimates over $4,000,000, and it is not a good exhibit to be obliged to face.

I say that, because while there have been some appropriations for my State, fortunately or unfortunately for us we have had but little. I hold in my hand a book containing all the appropriations for river and harbor improvements from March, 1824, to March, 1875, being Executive Document No. 120, first session Forty-fourth Congress, which shows that there were hundreds of millions appropriated and not one dollar for the State which I have the honor in part to represent. I hold in my hand a continuation of that, from 1873 until 1878, and the largest amount we ever received in a year for anything was $71,000. The Secretary of the Treasury was directed by a resolution of the Senate "to inform the Senate what amount has been expended by the United States for the various public works of the Government in each State and Territory of the Union from June 30, 1873, to June 30, 1878, together with the expenditures of the Government in aid of the construction of canals, railroads, and wagon-roads during the same period."

The Secretary reports to "William A. Wheeler, President of the Senate," many enormous expenditures; but as I said, the State that I have the honor to represent never received over $71,000 in any year, and less than $1,000 several times. We have twenty-five hundred miles of navigable water, most of it improved at our own expense; but that is neither here nor there. I am making no contrast between States, nor complaining of what has been done; but I do profess to say, and it will be heard all over the country, that our extravagance

in this bill has far exceeded what the Departments have recommended or what any other bill has appropriated.

The Secretary of the Treasury in the estimates submitted to us adds in a note:

In addition to the amount, $6,519,500, appropriated for 1880, for works included in these estimates, the sum of $3,232,994.61 was appropriated by the river and harbor act of March 3, 1879, the Eads jetty act of May 13, 1879, and the Mississippi River commission act of June 28, 1879, for works not now estimated for, which makes the total amount appropriated for rivers and harbors by said acts $9,752,494.61.

The jetties themselves were close up to $3,000,000, the Mississippi River commission of course required an expenditure of considerable magnitude, but we are now nearly $3,000,000 above the river and harbor bill for the current fiscal year. That is not a very good exhibit to make unless it is at points where the wants of the commerce of the country are extremely urgent, and Savannah River may be one of them. I am not prepared to say that I shall vote against the improvement of the harbor of Savannah, because in regard to New York Harbor at Hell Gate, the blowing up of those rocks there, the Eads jetties on the Mississippi River, the great arteries of commerce, the harbor of Savannah, the harbor of Mobile, wherever a great harbor along the lakes needs improvement, and in regard to life-saving stations, light-houses, and anything that aids commerce, I believe I am about as liberal as anybody; but the great difficulty is that the bill is loaded down by a thousand things that ought not to be here. There lies the difficulty in doing what the Senator from Georgia desires us to do.

Mr. THURMAN. I was in hopes that we might at least get this bill out of committee to-day. I am now perfectly satisfied that it is impossible to do so, and if my friend who has the bill in charge will allow me to make the motion (which I certainly will not do without his consent) I will move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of Illinois, Mr. KERNAN, and others. Let us adjourn.

Mr. RANSOM. I have no feeling in this matter except that the wish of the Senate is my wish. I will do with this bill as the Senate deem best.

Mr. THURMAN. Several Senators suggest a motion to adjourn. I make that motion.

The PRESIDING OFFICER. The Senator from Ohio moves that the Senate adjourn.

The motion was agreed to; and (at five o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June* 1, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. HAYES. I demand the regular order.

The SPEAKER. The regular order is the morning hour, which is the call of committees for reports.

Mr. COBB. I move to dispense with the morning hour to-day.

Mr. STEPHENS. I trust we will have a morning hour, so that committees may make their reports.

The SPEAKER. The question is on the motion of the gentleman from Indiana, to dispense with the morning hour.

The House divided; and there were—ayes 101, noes 10.

So (two-thirds voting in favor thereof) the morning hour was dispensed with.

Mr. COBB. I now move that the House resolve itself into the Committee of the Whole on the state of the Union to proceed with the consideration of the general deficiency bill; and pending that, I move that all debate thereon be limited to two hours.

Mr. HISCOCK. I move to amend by limiting all general debate to ten minutes.

Mr. McLANE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. McLANE. My point of order is that the gentleman from Indiana in his motion to go into the Committee of the Whole on the state of the Union has no right to designate a particular bill.

The SPEAKER. The Chair has not submitted the motion of the gentleman from Indiana as designating any particular bill. The Chair regards the order of business in Committee of the Whole as belonging exclusively to the committee itself, after the House resolves itself into the Committee of the Whole on the state of the Union. Under the rules of the House, the question will be first taken upon the amendment of the gentleman from New York to limit debate to ten minutes.

The House divided; and there were—ayes 73, noes 41.

Mr. McKENZIE. I make the point of order that no quorum has voted.

The SPEAKER. The point of order being made that no quorum has voted, the Chair will appoint tellers, and appoints Mr. COBB and Mr. HISCOCK.

The House again divided; and the tellers reported—ayes 76, noes 77.

So the amendment was not agreed to.

The SPEAKER. The question now recurs on the original motion, to limit debate to two hours.

The House divided; and there were—ayes 77, noes 46.

So (no further count being demanded) the motion to limit debate to two hours was agreed to.

Mr. HISCOCK. I would like to ask how the time is to be divided on this question?

Mr. COBB. I can only say for myself that I am willing to have the time equally divided between both sides of the House.

Mr. REAGAN. I wish to say to the gentleman from Indiana and other gentlemen that so far as I am individually concerned the question that I propose to discuss in this connection is not one in which parties are politically involved. I hope, therefore, that in making the arrangement for the division of time no consideration of that kind will weigh. I have only to say that as I was allowed by the committee the courtesy of reporting the bill which I have reported I should be glad to have the privilege and hope some arrangement will be agreed to by which I may occupy the floor for a short time in my own right upon the bill to which I refer.

Mr. HENDERSON. I also wish to have some time to discuss this matter.

Mr. McCOOK. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McCOOK. I wish to know whether the Committee of the Whole will be governed by the rules of the House?

The SPEAKER. The rules provide that the Committee of the Whole shall as far as applicable be governed by the rules of the House. What business the Committee of the Whole will take up is for the determination of the committee itself.

Mr. FERNANDO WOOD. I wish to make a parliamentary inquiry, and that is, whether it is in order for the gentleman from Indiana and the gentleman from Texas to make any arrangement to discuss a bill other than that which is pending before the Committee of the Whole?

Mr. HISCOCK. I wish to make one suggestion——

Mr. REAGAN. I hope we will not be determined before going into the Committee of the Whole by the action of the House as to what we will consider in the committee. I hope the House is not going to make any attempt to instruct the committee.

The SPEAKER. In this connection the Chair will cause the rule to be read.

The Clerk read as follows:

1. When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The SPEAKER. The Chair will now cause to be read the eighth clause of Rule XXIII.

The Clerk read as follows:

8. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

Mr. HISCOCK. I have no doubt that the moment the gentleman from Texas attempts to discuss another bill, when we shall have gone into Committee of the Whole, other than the one pending now before the committee and unfinished, the question of order will be raised against him. I think, therefore, some arrangement had better be made squarely to meet that question and go into the Committee of the Whole for two hours' general debate.

Mr. REAGAN. I trust the ordinary course will be pursued in this matter.

The SPEAKER. Under the old practice there was a motion to go into the Committee of the Whole on the state of the Union generally. That motion is not distinctly allowed in the new rules; there is no provision on the subject.

Mr. HISCOCK. Then it is with reference to that old practice that I make the suggestion. My object is to accommodate the gentleman from Texas and allow him such time as he desires.

Mr. FINLEY. I wish to say that if it requires unanimous consent I shall be compelled to object——

Mr. HISCOCK. I am entirely satisfied that the point of order will be made against the gentleman from Texas if he attempts to discuss any other bill.

The SPEAKER. The Chair cannot of course decide what point of order may hereafter be made in committee or decide in advance upon it.

Mr. BRIGHT. I make the proposition that two hours be devoted to general debate when we go into Committee of the Whole.

The SPEAKER. The Chair thinks there might be an understanding reached that the consideration of this bill should be proceeded with, and that thereafter two hours should be allowed for debate, one hour on each side of the House. The Chair would then recognize the gentleman from Texas [Mr. REAGAN] as entitled to one of those hours, and any gentleman who might be selected on the other side as entitled to the remaining hour. Then there would be no rule interfered with and no occasion for dispute.

Mr. BLOUNT. I ask unanimous consent that that arrangement be made.

The SPEAKER. The gentleman from Georgia, [Mr. BLOUNT,] in accordance with the suggestion of the Chair, makes the proposition that the bill in charge of the gentleman from Indiana be proceeded with in Committee of the Whole, and that after the disposition of that bill two hours' debate shall be allowed, one of which shall be given to the gentleman from Texas and one to some gentleman on the other side of the House.

Mr. FERNANDO WOOD. I object to any arrangement of that kind. After this bill is disposed of I intend to press another proposition of greater importance.

Mr. REAGAN. I understand the gentleman from Indiana [Mr. COBB] has moved and the House has voted that two hours of general debate be allowed in Committee of the Whole on the state of the Union; and I understand that that order of the House will enable a member in Committee of the Whole to discuss any subject he thinks proper.

Mr. TOWNSHEND, of Illinois. Let the chairman of the Committee of the Whole decide that when the House shall go into Committee of the Whole.

The SPEAKER. The present occupant of the chair cannot decide points of order which may occur in Committee of the Whole. The Chair has caused the rule on the subject to be read, and would further suggest that the gentleman in charge of the bill after it has been reported from the Committee of the Whole would have an hour prior to demanding the previous question. Perhaps an arrangement for the debate that is desired could be made for having it at that time.

Mr. REAGAN. It occurs to me that a point of order might be made as to that.

The SPEAKER. The Chair is endeavoring to get by agreement an hour for the gentleman from Texas; because it has been stated distinctly on the left that if when the House shall go into Committee of the Whole the gentleman from Texas should address the Chair on any question other than that of the pending bill the point of order would be raised.

Mr. O'NEILL. I wish to ask this question of the gentleman from Texas: whether his desire is to have an hour cut out of the important remaining hours of this session to discuss a bill which cannot be disposed of by the House during this session; whether in other words he desires one of these valuable remaining hours of the session to discuss a mere matter of sentiment on which we are not called upon to vote?

Mr. REAGAN. The gentleman is mistaken. It is not a matter of sentiment at all.

Mr. ROBINSON. I understand the gentleman from Texas desires to discuss the interstate-commerce bill. I wish to ask the Chair whether that bill is in Committee of the Whole?

The SPEAKER. It is not.

Mr. ROBINSON. Is it in the House?

The SPEAKER. It is on the House Calendar, the Chair understands, and is a special order.

Mr. O'NEILL. I do not wish to deprive any gentleman of the opportunity of discussing any matter of importance; but as there are but a few hours of the session now remaining I suggest that we devote them to the actual work of legislation.

Mr. SPRINGER. Do I correctly understand the Speaker to state that the bill relating to interstate commerce is on the Calendar and is a special order?

The SPEAKER. The Chair so stated.

Mr. SPRINGER. Would it not be in order now to move to proceed to the consideration of the House Calendar? The morning hour having been dispensed with I understand it is in order now to make that motion.

Mr. VALENTINE. I call for the regular order.

Mr. PAGE. I ask unanimous consent that it be ordered that the House at four o'clock this afternoon take a recess until half past seven o'clock this evening for general debate.

Mr. SPRINGER. I desire the Chair to answer my parliamentary inquiry.

The SPEAKER. The gentleman will state it again.

Mr. SPRINGER. Is it in order now to move that the House proceed to consideration of business on the House Calendar?

The SPEAKER. It is not, pending the motion that the House resolve itself into Committee of the Whole House on the state of the Union.

Mr. SPRINGER. Can I not antagonize that motion?

The SPEAKER. Certainly. The House can vote the motion down.

Mr. SPRINGER. Cannot the question of consideration be raised?

The SPEAKER. The pending motion does not admit of the question of consideration being raised. The naked issue is presented of the House going into Committee of the Whole on the state of the Union. If the House refuses to go into Committee of the Whole on the state of the Union then the next motion under the rule would be in order.

Mr. PAGE. I should like the Chair to ask unanimous consent for my proposition, that when the House takes a recess this afternoon it shall be until half past seven o'clock, for the purpose of general debate on any subject.

The SPEAKER. The gentleman from California moves that the House take a recess from half past four o'clock until half past seven o'clock this evening.

Mr. HARRIS, of Virginia. I object to that part of the motion which provides that the recess shall be taken at half past four o'clock.

Mr. FINLEY. I object absolutely.

Mr. PAGE. I will put the proposition in this form: that when the House takes a recess this afternoon it shall be till half past seven, for the purpose of general debate.

The SPEAKER. The motion to take a recess is in order, but the designation of the business of the evening session requires unanimous consent.

Mr. FINLEY. I do not withdraw my objection. I will not object to gentlemen on that side being permitted to print their speeches, but I object to a session being assigned for political discussion.

Mr. REAGAN. The gentleman from Ohio is mistaken. There is no party politics in the question on which I desire to speak.

Mr. FINLEY. I did not intend any allusion to the gentleman from Texas when I spoke of political discussions.

Mr. BLOUNT. I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Indiana, that the House resolve itself into Committee of the Whole House on the state of the Union. The motion for a recess is withdrawn.

Mr. BRIGHT. I move that two hours be devoted to general debate; and that there may be no misunderstanding, I move that debate be permitted on any question pending either before the Committee of the Whole or in the House.

Mr. PAGE. Can that motion be made?

The SPEAKER. The gentleman from Tennessee cannot qualify his motion in that way. The Chair recognizes the motion of the gentleman from Indiana [Mr. COBB] as having preference.

Mr. BRIGHT. Is my motion not in order?

The SPEAKER. The Chair thinks the motion in effect changes a rule of the House. The motion of the gentleman from Indiana [Mr. COBB] is first in order.

Mr. SPRINGER. If the House shall vote down the motion to go into Committee of the Whole, I will then move to proceed to the consideration of business on the House Calendar.

The SPEAKER. The gentleman can state that for the information of the House.

Mr. HISCOCK. I suggest to gentlemen on this side of the House that we will get along with this matter much more rapidly if we yield to the desire of the gentleman from Texas [Mr. REAGAN] on the other side, and allow him to have one hour, and then have an hour on this side of the House for the gentleman from Illinois, [Mr. HENDERSON.]

Mr. HAZELTON. After the consideration of the deficiency bill has been closed in Committee of the Whole.

Mr. FINLEY. That arrangement can be made after the committee rises as well as now.

The SPEAKER. Does the gentleman from New York [Mr. HISCOCK] want that debate to be in the House or in the committee?

Mr. HISCOCK. I am willing that it shall be in the House now.

The SPEAKER. The gentleman from New York [Mr. HISCOCK] asks consent that there be allowed now in the House two hours for general debate, one hour to be given to the gentleman from Texas [Mr. REAGAN] and one hour to the gentleman from Illinois, [Mr. HENDERSON,] without restriction as to character of debate.

Mr. FERNANDO WOOD. I object.

Mr. BLOUNT. Then I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Indiana, [Mr. COBB,] that the House now resolve itself into Committee of the Whole on the state of the Union.

The question was taken; and upon a division there were—ayes 114, noes 4.

DEFICIENCIES IN QUARTERMASTER'S DEPARTMENT.

Pending the announcement of the result upon the motion of Mr. COBB to go into Committee of the Whole,

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, recommending the full amount of deficiency estimates of incidental expenses in the Quartermaster's Department for 1878; which was referred to the Committee on Appropriations.

ORDER OF BUSINESS.

The SPEAKER. The vote upon the motion of the gentleman from Indiana, [Mr. COBB,] that the House now resolve itself into Committee of the Whole on the state of the Union, upon a division was—ayes 114, noes 4. The ayes have it.

Mr. McLANE. Has there been any arrangement or understanding in the House as to the disposition of the two hours allowed for general debate? I understand there has not been.

The SPEAKER. The Chair does not understand that there has been any arrangement.

Mr. PAGE. When the House gets into Committee of the Whole cannot the committee determine to take up any business?

The SPEAKER. That is a matter for the committee.

The House accordingly resolved itself into Committee of the Whole, Mr. WHITTHORNE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union. The Clerk will read clause 4 of Rule XXIII governing business in Committee of the Whole.

The Clerk read as follows:

4. In Committees of the Whole House, business on their Calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

Mr. PAGE. What is the first business in order on the Calendar of the Committee of the Whole?

The CHAIRMAN. In the opinion of the Chair, and as advised by the Clerk, the regular order now in Committee of the Whole is the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

The committee will indulge the Chair for a moment. The bill to facilitate the refunding of the national debt was made a special order in Committee of the Whole, but subject to appropriation bills. Hence in the opinion of the Chair, from information derived from the Clerk of the House, the general deficiency bill is the first business now in order in Committee of the Whole. And inasmuch as the House has resolved this morning to limit general debate in Committee of the Whole to two hours, the Chair will not regard the subject coming over from the session of yesterday as unfinished business, but will hold that the committee is now proceeding under further orders or directions from the House, and the Chair in duty bound feels compelled to recognize the gentleman from Texas [Mr. REAGAN] as entitled to the floor for one hour.

Mr. REAGAN. I desire to address myself to House bill No. 4748——

Mr. VALENTINE. I rise to a point of order.

The CHAIRMAN. In a moment.

Mr. REAGAN. I propose to address the committee on House bill No. 4748, which has for its object to establish a board of commissioners for interstate commerce, and for other purposes; and also upon the substitute offered by myself for that bill, and also the substitute for the bill offered by the gentleman from Maryland, [Mr. MCLANE.]

Mr. VALENTINE. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. VALENTINE. My point of order is that the gentleman from Texas [Mr. REAGAN] is not speaking upon the bill now pending before the Committee of the Whole.

Mr. REAGAN. I hope I shall not be interrupted.

The CHAIRMAN. The gentleman from Nebraska [Mr. VALENTINE] rises to a question of order relating to the remarks of the gentleman from Texas.

Mr. VALENTINE. I raise the point of order that the gentleman from Texas is not speaking upon the subject now pending before the Committee of the Whole, and is therefore not speaking within the rule. He has announced his purpose to speak on another bill, which is not even on the Calendar of the Committee of the Whole.

Mr. HENDERSON. I wish my friend would withdraw his point of order until I can be permitted to make a statement.

Mr. VALENTINE. I have no objection to the gentleman from Texas addressing this House at any time when we are not considering any other subject, but I do object to his addressing the Committee of the Whole on any bill except the one now pending before the committee. We have offered the gentleman a night session, and we have offered him two hours in the House for general debate, and he has refused.

Mr. ATKINS. I wish to ask the gentleman from Nebraska [Mr. VALENTINE] if he is not willing to accede to the proposition made by the gentleman from New York [Mr. HISCOCK] to allow the gentleman from Texas [Mr. REAGAN] to address the committee for one hour, and to allow another hour to the gentleman from Illinois, [Mr. HENDERSON?]

Mr. VALENTINE. I am not willing to allow any debate in Committee of the Whole except upon the bill now pending before the Committee of the Whole.

The CHAIRMAN. The Chair will decide the question of order; and the action which may be had by the committee upon his decision will probably lead to a solution of the present embarrassments before the committee. The Chair proposes to decide promptly, and he asks the committee to take action promptly upon his decision. The Chair regrets to differ with the Speaker of the House and other intelligent gentlemen upon this floor as to what latitude of discussion is allowable in Committee of the Whole. The Chair assumes that the gentleman from Texas will address the committee upon an independent measure, and the attention of the Chair has been called—called by direction of the Speaker—called pointedly, too, as the Chair thinks, to the rule of the House and the rule of the committee bearing upon this subject. That is to say, it is provided in the last clause of Rule XXIII that—

"The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

It is provided in the first clause of Rule XXIV that—

1. When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

Mr. VALENTINE. That is the point I make.

The CHAIRMAN. The Chair has the floor. [Laughter.]

Mr. VALENTINE. He has the chair.

The CHAIRMAN. What is the bill now under consideration? It is one of the general appropriation bills for the support of the Government. How far this measure may reach in all its legislation the Chair cannot tell. No occupant of the chair should assume the office of determining how far such a question may reach. This is a question of supporting the Government. The Chair assumes that the question under debate, the real question at issue, is the support of the Government, and here in this bill is one of the means or agencies by which that Government is to be supported. Now, looking back for one moment in the history of this parliamentary body, gentlemen will see that originally the committee of this body which had charge of every matter down to the year 1809 was called a Committee on Public Expenditures. This committee took within its grasp almost every public subject, and from it reports were made to the Committee of the Whole. The Committee on Public Expenditures was succeeded in its main office by the work of the Committee of Ways and Means, which for a long time had jurisdiction of three classes of questions—ways and means, appropriations, and currency. Subsequently the functions of the Committee of Ways and Means were divided among three committees, and to one of these, the Committee on Appropriations, was assigned the duty of reporting general appropriation bills for the support of the Government.

Now, the very question suggested by the gentleman from Nebraska [Mr. VALENTINE] has been raised from time to time; and there is a uniform line of precedent, a uniform custom hardly broken in any instance, that when the House is in Committee of the Whole on the state of the Union for the consideration of measures for the support of the Government the member occupying the floor may discuss any matter affecting the welfare of the Government.

In this connection the Chair calls attention to the fact, well recognized in parliamentary law, that one special purpose of a Committee of the Whole, as distinguished from proceedings in the House, is to allow greater latitude of debate as well as greater facility in the consideration of amendments. The former rules of the House contained provisions substantially identical with the two rules which have been cited as refuting the position of the Chair. Those rules provided, first, that in the House a member "shall confine himself to the question under debate," (Rule 57, December 23, 1811;) and, secondly, that "the rules of proceeding in the House shall be observed in a Committee of the Whole so far as they may be applicable," (Rule 113, April 7, 1789.) Yet in the face of these provisions there has been under the old code of rules a uniform line of decision that in Committee of the Whole House on the state of the Union a member is not bound to confine himself to the question under debate. The Chair reads from page 216 of the Manual:

"A member shall confine himself to the question under debate, and avoid personality," (Rule 57, page 114;) but in Committee of the Whole on the state of the Union he is not bound to confine himself to the question under debate, (Congressional Globe, 2, 30, page 587; 1, 31, page 1475; 1, 32, page 1856;) except where a special order is pending, when the debate must be confined strictly to the measure under consideration, (Rule 114, page 128.)

The exception stated in the last part of this paragraph may seem to contradict the present ruling of the Chair, but the contradiction is only apparent. The provision in the old rules limiting debate in Committee of the Whole "where a special order is pending" is the last clause of Rule 114, (March 16, 1860,) which, referring to proceedings in Committee of the Whole, provided that "all debate on special orders shall be confined strictly to the measure under consideration." But this clause has been omitted from the new rules—omitted not by oversight, but by design. The report which accompanied the body of new rules as presented to the House contains on page 14 this language:

The last clause of Rule 114 has been dropped for the reason that if the Calendar be proceeded with in order there will be little or no occasion to make a bill a special order.

It would thus appear that as to latitude of debate the distinction between special orders and other bills on the Calendar has been by the new rules intentionally abolished. Besides, the pending bill is not "a special order." It is reached in its regular order in the committee, with liberty of "general debate" given by the House.

In this connection the Chair begs to call attention to some comparatively recent precedents occurring within his own experience. In two or three instances during his membership of the House he has himself addressed the Committee of the Whole not upon the subject-matter before the committee, and he can call to mind various other instances of the same kind. On the 20th of May, 1878, the Army appropriation bill being under consideration in Committee of the Whole, the gentleman from Mississippi [Mr. SINGLETON] addressed the committee on the Pacific Railroad; the gentleman from Tennessee, Mr. Caldwell, on the same subject; Mr. Boone, of Kentucky, on Indian policy; General Butler, of Massachusetts, on the relief of labor; and Mr. Harrison, of Illinois, upon the Michigan and Illinois Canal.

Mr. VALENTINE. My point was raised against the gentleman from Texas, not against the gentleman from Tennessee now occupying the chair. I withdraw the point of order.

The CHAIRMAN. The Chair will remark in conclusion that he is

inclined to encourage free discussion upon any question. [Laughter and applause.]

Mr. VALENTINE. I withdraw my point of order and ask unanimous consent that the Chairman have leave to print.

The CHAIRMAN. The present occupant of the chair is against the tyranny of expediency at any time. He would therefore hold the question of order not well taken. The point, however, as the Chair now understands, is withdrawn. The gentleman from Texas will proceed.

Mr. HAWK. It might be well to reserve points of order upon this bill. I think that was overlooked. I do it now to avoid complication.

Mr. RANDALL, (the Speaker.) Points of order have been reserved.

Mr. BAKER. I desire to say that if the opinion just pronounced by the Chair is to stand as the opinion of the committee and go into the RECORD I shall feel constrained to take an appeal from it. If, however, it is to be suppressed——

The CHAIRMAN. The point of order is withdrawn.

Mr. BAKER. If this is withdrawn from the RECORD I have nothing further to say.

Mr. KELLEY. The point of order having been withdrawn, the Chairman's remarks fell with it.

A MEMBER. The point of order fell first. [Laughter.]

Mr. VAN VOORHIS. I object. All this must go into the RECORD.

The CHAIRMAN. The gentleman from Texas will proceed.

Mr. REAGAN resumed his remarks.

Mr. HAWLEY, (interrupting.) I rise to a question of order. If the gentleman from Texas is to proceed in discussing the interstate-commerce bill, (and personally I have no objection to his doing so,) I desire that it be done by unanimous consent. If it is done in accordance with the decision of the Chair, I appeal.

Mr. HARRIS, of Virginia. It is by unanimous consent.

A MEMBER. It is too late to raise the point.

Mr. BLOUNT. The point of order was withdrawn.

Mr. HAWLEY. Well, I hope it will go into the RECORD that the gentleman from Texas proceeds by unanimous consent.

A MEMBER. It will.

Mr. REAGAN. Mr. Chairman, these bills relate to the most important questions before Congress. They are pressed on our attention by numerous petitions from the people of every State in the Union, and by the people and the press of the country, demanding action at our hands. The Legislatures of New York, Pennsylvania, Nevada, and Iowa have passed resolutions favoring such action by Congress as will restrain the monopoly powers of the railroads engaged in transporting interstate commerce, and as will restrict and control their power to levy discriminating charges and unjust exactions on our commerce. Political conventions of a number of States and of all political parties have passed resolutions for the same purpose.

These bills relate to the freight rates and charges, directly or indirectly, of the whole internal commerce of the United States, amounting to about thirty billions of dollars' worth annually. They are intended to influence and control the action of the railroads of the United States, now aggregating about eighty thousand miles in length, and constructed at an aggregate cost of nearly five billion dollars in money.

The broad extent of our country and the great diversity of its climate, soils, productions, and fabrics create a necessity for a large commercial interchange. The grain and meats of the West are carried to their markets in the East and South; the cotton, sugar, and rice of the South are carried to the East and North; while the manufactures of the East are carried to the West and South. Our articles of export are carried from the interior to the sea and our imports from the sea to the interior. Much of this commerce traversing long lines of transportation, our whole people are interested in cheap transportation and steady rates of charges. Our vast railroad system is controlled by those interested in high rates of transportation and, as I may show further on, in unjust discriminations in their charges both between individuals and places. The great question which arises in the consideration of these bills is whether our vast internal commerce shall remain subject to the absolute control and grasping avarice of these railroad corporations or be placed under the protection of just and wise laws, which shall protect the interests of the people and at the same time conserve and protect the railroad interests of the country.

The first question which arises in this discussion is as to the constitutional authority of Congress to pass laws for the regulation of commerce among the States. A fair consideration of the principles involved, of the provisions of the Constitution, and of its interpretations by the courts, will show that there is no doubt of the authority and power of Congress for this purpose. In the first place it is shown by the history of the formation of the Constitution that a principal reason for the transition from the Government under the articles of the confederation to our constitutional government grew out of the hostile legislation of State against State on commercial questions, and out of the necessity of conferring on a common government the power to regulate commerce among the States. This point has been pretty fully discussed in the last few years, and I do not think it necessary to do more now than to make a brief reference to the authorities which sustain this power.

On the subject of the power of Congress to regulate interstate commerce Mr. Chief-Justice Marshall said, in the case of Ogden *vs.* Gibbons, page 189 of the report, that—

> The subject to be regulated is commerce, and our Constitution being, as was aptly said at the bar, one of enumeration and not of definition, to ascertain the extent of the power it becomes necessary to settle the meaning of the word. The counsel for the appellee would limit it to traffic, to buying and selling or the interchange of commodities, and do not admit that it comprehends navigation. They would restrict a general term, applicable to many objects, to one of its significations. Commerce undoubtedly is traffic, but it is something more: it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse.

In what is known as the license cases, 5 Howard, 504–599, Mr. Justice Catron, in speaking of the powers of Congress in this respect, says:

> The power given to Congress is unrestricted and broad as the subjects to which it relates; it extends to all lawful commerce with foreign nations, and in the same terms to all lawful commerce among the States, and "among" means between two only, as well as among more than two. If it was otherwise, then an intermediate State might interdict and obstruct the transportation of imports over it to a third State, and thereby impair the general power.

In the case of Gibbons *vs.* Ogden, page 227 of the report, Mr. Justice Johnson, speaking both of the extent and exclusiveness of the power, says that "the power to regulate commerce here meant to be granted was that power to regulate commerce which previously existed in the States;" that is, before the adoption of the Constitution; and he says that the power "must be exclusive; and hence the grant of this power carries with it the whole subject, leaving nothing for the States to act upon." And Chief-Justice Marshall, in the same case, page 196, says:

> We are now arrived at the inquiry, what is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

In the case of Brown *vs.* Maryland, 12 Wheaton, 419–446, Chief-Justice Marshall says:

> What, then, is the extent of a power to regulate commerce with foreign nations and among the several States?
>
> This question was considered in the case of Gibbons *vs* Ogden, 9 Wheat. Rep., in which it was declared to be complete in itself, and to acknowledge no limitations other than are prescribed by the Constitution. The power is coextensive with the subject on which it acts, and cannot be stopped at the external boundary of a State, but must enter its interior.

In the case of The City of New York *vs.* Miln, 11 Peters, 102–157, Mr. Justice Story says:

> It has been argued that the power of Congress to regulate commerce is not exclusive but concurrent with that of the States. If this were a new question in this court, wholly untouched by doctrine or decision, I should not hesitate to go into a full examination of all the grounds upon which concurrent authority is attempted to be maintained. But in point of fact the whole argument on this very question, as presented by the learned counsel on the present occasion, was presented by the learned counsel who argued the case of Gibbons *vs.* Ogden, 9 Wheaton's R., 1; and it was then deliberately examined and deemed inadmissible by the court. Mr. Chief-Justice Marshall, with his accustomed accuracy and fullness of illustration, reviewed at that time the whole grounds of the controversy; and from that time to the present the question has been considered, as far as I know, to be at rest. The power given to Congress to regulate commerce with foreign nations and among the States has been deemed exclusive from the nature and objects of the power and the necessary implications growing out of its exercise. Full power to regulate a particular subject implies the whole power and leaves no residuum; and a grant of the whole to one is incompatible with a grant to another of a part.

In the case of Grover *vs.* Slaughter, 15 Peters, 449–511, Mr. Justice Baldwin says:

> That the power of Congress "to regulate commerce among the States" is exclusive of any interference by the States has been, in my opinion, conclusively settled by the solemn opinions of this court in Gibbons *vs.* Ogden, 9 Wheat., 186, 222, and in Brown *vs.* Maryland, 12 Wheat., 438, 446. If these decisions are not to be taken as the established construction of this clause of the Constitution, I know of none which are not yet open to doubt; nor can there be any adjudications of this court which must be considered as authoritative upon any question, if these are not to be so on this.

In the case of Corfield *vs.* Coryell, 4 Washington Cir. C. R., 344, 378, as early as 1823, Mr. Justice Washington says:

> Commerce with foreign nations, and among the several States, can mean nothing more than intercourse with those nations, and among those States, for the purposes of trade, be the object of the trade what it may; and this intercourse must include all the means by which it can be carried on, whether by the free navigation of the waters of the several States, or by a passage overland through the States, where such passage becomes necessary to the commercial intercourse between the States. It is this intercourse which Congress is invested with the power of regulating, and with which no State has a right to interfere.

Again, in the great case of Gibbons *vs.* Ogden, 9 Wheaton, 1, 229, Chief-Justice Marshall, in 1824, says:

> Commerce, in its amplest signification, means an exchange of goods; but in the advancement of society labor, transportation, intelligence, care, and various mediums of exchange become commodities and enter into commerce; the subject, the vehicle, the agent, and their various operations become the objects of commercial regulations. Shipbuilding, the carrying trade, and propagation of seamen are such vital agents of commercial prosperity that the nation which could not legislate over these subjects would not possess power to regulate commerce. That such was the understanding of the framers of the Constitution is conspicuous from provisions contained in that instrument.

These cases, and very many others which might be cited, show conclusively that Congress has power, and the sole and exclusive power, to pass laws providing for equality in rates of freight to be paid by different owners of property to be carried by railroads or other common carriers in commerce between different States or with foreign nations; and to provide that such different owners shall have equal advantages and facilities as to the carriage of such property. And this is what it is proposed to do by this bill.

In the case of Welton *vs.* The State of Missouri, 1 Otto, 275–280, the question arose as to the right of the State of Missouri to impose a license tax upon persons selling property not the produce of that State when no such license was required from persons selling similar property the produce of the State. Mr. Justice Field, in pronouncing the opinion of the court, holding that to impose such a tax was in conflict with the power vested in Congress to regulate commerce, &c., says:

Commerce is a term of the largest import. It comprehends intercourse for the purpose of trade in any and all its forms, including the transportation, purchase, sale, and exchange of commodities between the citizens of one country and the citizens or subjects of other countries, and between citizens of different States. The power to regulate it embraces all the instruments by which such commerce may be conducted. So far as some of these instruments are concerned, and some subjects which are local in their operations, it has been held that the States may provide regulations until Congress acts with reference to them; but when the subject to which the power applies is national in its character, or of such a nature as to admit of regulation, the power is exclusive of all State authority.

It will not be denied that that portion of commerce with foreign countries and between the States which consists in transportation and exchange of commodities is of national importance, and admits and requires uniformity of regulation. The very object of investing this power in the General Government was to insure this uniformity against discriminating State legislation.

In the case of the State freight tax, 15 Wallace, 232, 275, the Supreme Court of the United States held as follows:

The transportation of freight or of the subjects of commerce is a constituent part of commerce itself. A tax upon freight transported from State to State is a regulation of commerce among the States.

Whenever subjects, in regard to which a power to regulate commerce is asserted, are in their nature national, or admit of one uniform system or plan of regulation, they are exclusively within the regulating control of Congress.

Transportation of passengers or merchandise through a State or from one State to another is of this nature.

Hence a statute of a State imposing a tax upon freight taken up within a State and carried out of it, or taken up without the State and brought within it, is repugnant to that provision of the Constitution of the United States which ordains that Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes.

The questions arose in respect to the power to thus tax railroad companies as well as other parties, and the decision is applicable, therefore, to the question of the means of transportation as well as to the question of general power. Mr. Justice Strong, in pronouncing the opinion of the court, says:

Beyond all question the transportation of freight, or of the subjects of commerce for the purpose of exchange or sale, is a constituent of commerce itself. This has never been doubted, and probably the transportation of articles of trade from one State to another was the prominent idea in the minds of the framers of the Constitution when to Congress was committed the power to regulate commerce among the several States. A power to prevent embarrassing restrictions by any State was the thing desired. The power was given by the same words and in the same clause by which was conferred power to regulate commerce with foreign nations. It would be absurd to suppose that the transmission of the subjects of trade from the State to the buyer or from the place of production to the market was not contemplated, for without that there could be no consummated trade either with foreign nations or among States. In his work on the Constitution, Judge Story asserts that the sense in which the word "commerce" is used in that instrument includes not only traffic, but intercourse and navigation. And in the Passenger case it was said: "Commerce consists in selling the superfluity, in purchasing articles of necessity, as well productions as manufactures, in buying from one nation and selling to another, or in transporting the merchandise from the seller to the buyer, to gain the freight." Nor does it make any difference whether this interchange of commodities is by land or water. In either case the bringing of the goods from the seller to the buyer is commerce. Among the States it must have been principally by land when the Constitution was adopted.

And see Erie Railway Company *vs.* Pennsylvania, 15 Wallace, 282, holding the same doctrine and reversing the cases of The Commonwealth *vs.* The Erie Railway Company, and other cases, 62 Pa., 280.

In the Granger cases (Munn *vs.* Illinois, 4 Otto, 113; Chicago, Burlington and Quincy Railroad *vs.* Iowa, 4 Otto, 155; Peik *vs.* Chicago, &c., Railroad Company, 4 Otto, 179; Winona and Saint Peter Railway Company *vs.* Blake, 4 Otto, 180) the nature and exclusiveness of the power of Congress to legislate as to the rates of freight in interstate commerce is especially recognized and virtually established. The fundamental doctrine of the cases proceeds upon the idea that when the means by which freight or charges are earned are public in their nature it is within the power of the legislature having control over the subject to regulate and fix the rates of such freight and charges. Some of the subjects in those cases were under the legislative power of a single State. As it is above most clearly established, interstate commerce, its means, the property carried in it, and all things relating to it, are in all the aspects here considered under the supreme and exclusive power of Congress. If rates of freight and charges can be fixed by State Legislatures with respect to subjects under their power, *a fortiori* can they be regulated and made equal by the supreme and exclusive power of Congress as to subjects in this respect within its exclusive control. Indeed, this is directly recognized in the cases last referred to, and (as will be seen below) it is put beyond doubt that should Congress act in regulation of rates of freight, &c., in interstate commerce it would unquestionably have power to do so, and its power would be supreme and exclusive.

These cases settle these points, among others:

1. That "railroad companies are carriers for hire;" that "they are engaged in a public employment affecting the public interest," and that "they are subject to legislative control as to their rates of fare and freight."

2. That where warehouses or railroads are used in an employment affecting public interests as to business "carried on exclusively within a State she may, as a matter of domestic concern, prescribe regulations for them" notwithstanding such property is "used as an instrument by those engaged in interstate as well as State commerce; and until Congress acts in reference to their interstate relations, such regulations can be enforced, even though they may indirectly operate upon commerce beyond her immediate jurisdiction." But "the court does not hold that a case may not arise in which it may be found that a State has, under the form of regulating her own affairs, encroached upon the exclusive domain of Congress in respect to interstate commerce."

And, as has been said, the cases recognize the whole subject as one properly of legislative regulation, and, so far as relates to interstate commerce, as under the supreme and exclusive power of Congress whenever Congress shall choose to exercise its undoubted power.

And see Sheerlock *vs.* Alling, 3 Otto, 99.

Nor is there any doubt as to the power of Congress to exercise this power over railroads and their interstate commerce, of which they form a means, whether the property be wholly or partly carried by one railroad.

1. This must appear from the cases last cited and under the general principles above referred to. But it directly and more conclusively, if possible, appears from the authorities about to be cited.

2. The power extends to railroads and the property carried upon them in interstate commerce, whether the property be carried in more than one State by one railroad or only in one State by one railroad if the part of the carriage be a part of one continuous interstate carriage. That the power extends to one, and any such means of carriage, part of a continuous line of carriage, is expressly recognized in the Granger cases above referred to.

See especially Chicago, Burlington and Quincy Railroad *vs.* Iowa, 4 Otto, 155.

This is expressly held (to cite it again) in the case of The State Freight-Tax, 15 Wallace, 232, 273. This is the attempt, as the court held, to tax the freight—the interstate business, in substance—and the law provided for such taxation where the property was carried by different but continuous lines. The continuity of the carriage, the substance of the carriage as being in interstate commerce, and the act of the carrier as being wholly or part of such interstate carriage were held by the court (see page 273 of the report) to be the substantial features which took the subject from without and placed it beyond State action, placed it under the supreme and exclusive power of Congress.

In the Daniel Ball, 10 Wallace, 557, the question arose as to the character of the Grand River in Michigan, and whether a steamboat employed solely on that river was in certain aspects under the control of Congress. The case involved the precise question as to the character of a carriage performed within one State, and by one means, but part of a continuous carriage. The court held as follows:

The steamer in this case being employed in transporting goods on Grand River, within the State of Michigan, destined for other States, and goods brought from without the limits of Michigan and destined to places within that State, was engaged in commerce between the States, and, however limited that commerce was, so far as it went subject to the legislation of Congress. She was employed as an instrument of that commerce; for whenever a commodity has begun to move as an article of trade from one State to another commerce in that commodity between the States has commenced. The fact that several different and independent agencies are employed in transporting the commodity, some acting entirely within one State and some acting through two or more States, does not affect the character of the transaction. To the extent to which each agency acts in that transportation it is subject to the regulation of Congress.

And see the Montello, 11 Wallace, 411; The General Cass, 1 Brown's Ad. R., 334.

That the power extends to railroads is beyond question under express decision. In Railroad Company *vs.* Richmond, 19 Wallace, 584, the question was as to the effect of two certain acts of Congress, one authorizing railroad companies to receive compensation for certain property carried from one State to another, to connect with other roads so as to form continuous lines, &c., and one to maintain a bridge over the Mississippi and lay tracks over such bridge. The question was as to the effect of these laws upon a private contract between a railroad company and an individual. The acts were regarded as valid under the power of Congress to regulate commerce.

Mr. Justice Field, in delivering the opinion of the court, says:

These acts were passed under the power vested in Congress to regulate commerce among the several States, and were designed to remove trammels upon transportation between different States which had previously existed, and to prevent the creation of such trammels in future, and to facilitate railway transportation by authorizing the construction of bridges over the navigable waters of the Mississippi. But they were intended to reach trammels interposed by State enactments or by existing laws of Congress. The power to regulate commerce among the several States was vested in Congress in order to secure equality and freedom in commercial intercourse against discriminating State legislation.

The more direct and stronger case, for it will be observed of course that the case last cited, as well as others before cited, relates to the power of Congress over railroads in the case of The Clinton Bridge, 10 Wallace, 454. The case arose in the circuit court of the United States for the district of Iowa, Gray *vs.* The Clinton Bridge, 1 Woolworth, 150, S. C., 16 Am. L. Reg., 149.

The questions were with respect to an act of Congress of February 17, 1867, as to a bridge erected by a railroad company across the Mississippi River at Clinton, in the State of Iowa. In commenting upon the act Mr. Justice Miller, of the Supreme Court of the United States, in deciding the case says:

The second of these objections involves consideration of the commercial clause, as it is appropriately called, of the Constitution.

If the determination of the circumstances under which a bridge may be built

over a navigable stream or the prescribing general rules on that subject is a regulation of commerce, either with foreign nations or among the States, then it falls within the powers conferred on Congress by that clause.

It would be sufficient in this court to say that we are concluded on this question by the decision of the Supreme Court in that branch of the Wheeling Bridge case, already referred to in 18 Howard, which expressly holds that the power to declare such a bridge a lawful structure is included within the clause of the Constitution above cited. That case was, however, declined by a court equally divided, and its authority has been much questioned.

I think, however, that the proposition is well founded in principle. The power to regulate commerce is one of the most useful of all those confided to the Federal Government, and its exercise has done as much to create and to foster that community of interests which constitutes the strongest bond of nationality as the exercise of any power belonging to the General Government. The want of this power was one of the strongest necessities which led to the formation of the Constitution. The clause has always received at the hands of the courts and of Congress a construction tending liberally to promote its beneficent object.

The power to regulate commerce is a power to regulate the instruments of commerce. In the case of Cooley *vs.* The Board of Wardens, 12 Howard, 316, the court says that "the power to regulate navigation is the power to prescribe rules in conformity with which navigation must be carried on. It extends to the persons who conduct it as well as to the instruments used." Navigation is here spoken of as one of the subjects of legislation included within the power to regulate commerce. In this view of the subject Congress has passed statutes regulating steamboats, their construction, equipment, officers, and crew, prescribing qualifications of pilots and engineers, limiting the number of passengers they may carry, and laying down the signals they shall use in passing each other, and, in short, has prescribed a minute code for building and navigating those vessels. The right to do this depends wholly upon the power vested in Congress to regulate commerce, and has never been disputed.

Navigation, however, is only one of the elements of commerce. It is an element of commerce because it affords the means of transporting passengers and merchandise, the interchange of which is commerce itself. Any other mode of effecting this would be as much an element of commerce as navigation. When this transportation or interchange of commodities is carried on by land it is commerce as well as when carried on by water; and the power of Congress to regulate it is as ample in one case as in the other. The "commerce among States" spoken of in the Constitution must at the time that instrument was adopted have been mainly of this character, for the steamboat which has created our great internal commerce on the rivers was then unknown.

Another means of transportation, equal in importance to the steamboat, has also come into existence since the Constitution was adopted, a means by which merchandise is transported across States and kingdoms in the same vehicle in which it started. The railroad now shares with the steamboat the majority of the carrying trade. The one has with benefit been subjected to the control of salutary congressional legislation, because it is an instrument of commerce. Is there any reason why the other should not? However this question may be answered in regard to that commerce which is conducted wholly within the limits of a State, and is therefore neither foreign commerce nor commerce among the States, it seems to me that when these roads become parts of great highways of our Union, transporting a commerce which embraces many States, and destined, as some of these roads are, to become the channels through which the nations of Europe and Asia shall interchange their commodities, both with foreign nations and among the States; and that to refuse to do this is a refusal to discharge one of the most important duties of the Federal Government. As already intimated, the shackles with which the different States fettered commerce in their selfish efforts to benefit themselves at the expense of their confederates was one of the main causes which led to the formation of our present Constitution. The wonderful growth of that commerce since it has been placed exclusively under the control of the Federal Government has justified the wisdom of our fathers. But are we to remit the most valuable part of that commerce again to the control of the States, and to all the consequent vexations and burdens which the States may impose through whose territories it must be carried on? And must all this be permitted because the carrying is done by a method not thought of when the Constitution was framed?

For myself, I must say that I have no doubt of the right of Congress to prescribe all needful and proper regulations for the conduct of this immense traffic over any railroad which has voluntarily become part of one of those lines of interstate communication, or to authorize the creation of such roads, when the purposes of interstate transportation of persons and property justify or require it.

Upon the appeal of this case to the Supreme Court of the United States the decision of the circuit court was affirmed, (The Clinton Bridge, 10 Wall., 454–462,) and Mr. Justice Nelson, in delivering the opinion of the Supreme Court, says:

The act of Congress in the case of the Wheeling bridge, whose language it is sought to distinguish from that used in the present one, was more explicit but not more comprehensive. In the Wheeling bridge case the court had rendered a decree directing the obstruction to be removed by elevating the bridge, or, if not, by abatement. No doubt the existence of this decree, which was in the process of execution, led to the very specific terms of the act. But with all its particularity, it is not more comprehensive or decisive in legalizing the bridges than the one before us.

The question whether or not it was not competent for Congress to interfere and legalize the bridge under the power to regulate commerce, and whether or not the act put an end to the pending suit, were questions examined and settled in the affirmative in the case already referred to. The reasons for the conclusions arrived at will be there found, and need not be repeated.

In the late case of The Hannibal and Saint Joseph Railroad Company *vs.* Husen (Chicago Legal News, February 2, 1878) the subject has been again under consideration in the Supreme Court of the United States. The question was as to the power of a State to pass a law prohibiting the driving of cattle into the State of Missouri in certain months of the year, and it arose in the particular case with respect to the applicability of the statute to railroads. Mr. Justice Strong, in pronouncing the opinion of the court, says:

It is a plain regulation of interstate commerce; a regulation extending to prohibition. Whatever may be the power of a State over commerce that is completely internal, it can no more prohibit or regulate that which is interstate than it can that which is with foreign nations. Power over one is given by the Constitution of the United States to Congress in the same words in which it is given over the other, and is necessarily exclusive. That the transportation of property from one State to another is a branch of interstate commerce is undeniable. The Missouri statute is a plain interference with such transportation. But even the right of steamboat owners and railroad companies to transport such property through the State is loaded by the law with onerous liabilities because of their agency in the transportation. Transportation is essential to commerce, or rather it is commerce itself; and every obstacle to it or burden laid upon it by legislative authority is regulation.

And the court holds that the statute is a "plain intrusion upon the exclusive domain of Congress," but of course recognizes as unquestionable the power of Congress, its exclusive and supreme power, to pass such laws—all laws which are "regulations" under the broad definition it gives the word, a definition broad enough to include the whole subject in its every detail—relating to railroads and all means of transportation used in interstate or foreign commerce.

And see Hall *vs.* De Cuir (Chicago Legal News, February 2, 1878) for another very late decision of the Supreme Court of the United States bearing on the whole subject. And see cases cited above.

It therefore must be regarded as decided beyond possibility of doubt that Congress has power to regulate interstate commerce when carried on wholly or partly by one railroad or more, or by one railroad with any other method of carriage, and to regulate it by providing for equality of freights and in other charges; that as to this subject its power is as supreme and exclusive as it is as to many other subjects over which its powers are supreme and exclusive, which it would serve no practical purpose and would require much space here fully to enumerate.

Congress has power to pass such penal laws and to provide for such judicial action or proceedings in the Federal courts as to compel obedience to the powers it constitutionally exercises and to afford remedy to those injured by the infraction of laws so passed. This is beyond question, nor would authority be cited to sustain it were it not that in United States *vs.* Coombs, 12 Peters, 72–78, Mr. Justice Story, in delivering the opinion of the court, employs language which not only determines the precise point in view, but covers the whole subject:

The power to regulate commerce includes the power to regulate navigation as connected with the commerce with foreign nations and among the States. It was so held and decided by this court, after the most deliberate consideration, in the case of Gibbons *vs.* Ogden, (9 Wheat., 189–198.) It does not stop at the mere boundary-line of a State; nor is it confined to acts done on the water, or in the necessary course of the navigation thereof. It extends to such acts done on land which interfere with, obstruct, or prevent the due exercise of the power to regulate commerce and navigation with foreign nations and among the States. Any offense which thus interferes with, obstructs, or prevents such commerce and navigation, though done on land, may be punished by Congress under its general authority to make all laws necessary and proper to execute their delegated constitutional powers.

It remains but to say, as can be said with that strength which belongs to propositions based upon constitutional power, in reason, in principle, and under the reiterated decisions of the Supreme Court of the United States, (for it will be observed that almost every authority above cited is the direct decision of that court,) that it is established with such certainty that to attempt its question would be but the puerility of cavil, that Congress has supreme and exclusive power—a power broad as the subject, and therefore necessarily over all its details—to pass all laws which in its wisdom it may see fit to pass providing for equality of rates of freight upon property carried wholly or partly by railroad in interstate or foreign commerce, and to provide for equality in charges for services performed in or about such commerce; to provide such punishment, such remedies, for infractions of such laws as it may see fit to provide; and for such action and proceedings in the Federal courts as may secure obedience to its power and that justice may be done to the parties engaged in the commerce thus sought to be regulated.

And quoting my language on a former occasion I must say:

In conclusion, I have to say that the interests to be affected by this bill are very important and all-pervading; that the power of Congress to pass it cannot be successfully questioned; that the public opinion of the country, that both public opinion and the best interests of the country appeal to Congress to perform the great public duty of passing such a law as will protect the interests of the people as proposed by my substitute, and at the same time impose no unnecessary burdens and place no embarrassing restrictions on the railroads and other transportation companies.

A law providing for the legal enforcement of this bill would save many millions of money annually to the people, while nothing could more demoralize and debauch the merchants and shippers of the country than for them to feel that they are constantly subject to the arbitrary caprices, and will, and interests of the railroad and other transportation companies for the terms upon which they may carry on their business. And surely the time has at last come when such vast interests should be taken from the domain of arbitrary power and the exactions of monopolies and placed under the protection of just and wholesome legal regulations.

THE REAGAN BILL.

I will now give a partial analysis of the three bills under consideration. But before I do so I will make a brief explanation of a matter which has caused some confusion in the public mind on this subject. The bill of the committee was reported to the House by me as chairman of the committee, along with the substitute offered by myself and the one offered by the gentleman from Maryland for this bill. The bill of the committee does not meet my approval in many respects which I may hereafter point out, and aims at the accomplishment of objects entirely different from those I propose in my substitute to accomplish. My substitute is the bill I introduced in the House on the 9th of December last, No. 1028, "to regulate interstate commerce, and to prohibit unjust discriminations by common carriers." The committee's bill reported by me is House bill No. 4748, "to establish a board of commissioners of interstate commerce, and for other purposes." Though I did not approve this bill the committee allowed me to report it so as to enable me to have control of the subject in the House. I say this much to explain the seeming contradiction of reporting a bill I do not approve, and for which I have offered a substitute; and in order that the public may understand that I do not approve of the appointment of a commission as proposed by this bill, or of extending its provisions to water transportation, or of many other of its provisions. My plan of presenting a

partial analysis of these several bills will be best subserved by first stating the main features of my own bill, which has been often and seriously misrepresented.

Its first section defines interstate commerce by railroads to be "from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country." And then the bill provides:

First. Against all discriminations in freight rates and charges between individuals, requiring like services to be rendered to all persons for like compensation.

Second. It prohibits the allowance of rebates and drawbacks in all cases, as one of the means of preventing unjust discriminations.

Third. It prohibits the pooling of freights by different and competing railroads, so as to secure to the general public the benefits of competition in freight rates and charges, and as a means of limiting and restraining the monopoly powers of the railroads.

Fourth. It provides a limitation on the power of the railroads to discriminate between different places or portions of the country by providing that no more shall be charged for a car-load of freight for a shorter than for a longer distance in one continuous carriage. This portion of the bill recognizes the right of the railroads to make discriminations in favor of the longer hauls, but not to the extent of charging more for a car-load for a shorter than for a longer distance, by the doing of which they have greatly injured the commerce and prosperity of some places for the benefit of others, and often foster and promote schemes of private speculation by railroad managers and their favorites, to the injury of particular communities and persons.

Fifth. It requires that the railroads coming within its provisions shall adopt and keep posted up schedules of freight rates and charges, and that these shall not be changed without five days' notice; and that they shall charge no more or less than the published rates. This is a necessary means of protecting the public against unjust discriminations.

Sixth. It makes the doing of anything prohibited by it unlawful, and the failure to do anything required to be done by it is also made unlawful.

Seventh. It gives three separate remedies against those violating its provisions. First, a civil suit by the injured party, who upon recovery is entitled to triple damages, and in any case of recovery the judgment is to be for at least $500. This is so provided to discourage the large and powerful coporations in their efforts to defeat justice by wearing out poor litigants in court. Second, it provides for a *qui tam* action against offenders against its provisions, and in case of recovery the judgment is to be for not less than $1,000; one-half of this penalty, when collected, to go to the informer. But these provisions, rigorous as they appear, would not protect the public and its interests if these companies could keep their books and the mouths of their officers and agents closed. To overcome this difficulty we provide in the bill that the courts trying cases arising under it shall have both legal and equitable powers; that they may compel parties in interest to testify, with the provision that such testimony shall not be used against them in criminal prosecutions; and that they shall have all the powers now provided by law to compel discovery and the production of books and papers. Without these provisions no such law can be successfully enforced against these corporations. Third, in addition to these remedies this bill also provides for criminal prosecutions against those offending its provisions; and in cases of conviction the penalty is to be not less than $1,000.

It will thus be seen that this bill provides plain, specific remedies for the evils under which the people and the commerce of the country suffer at the hands of these corporations, and that it provides clear and efficient means for the enforcement of its provisions in the courts of the country. And this is to be accomplished simply by an abridgment of their monopoly powers, or without any interference with their legitimate management and embarrassment to them in doing anything which in conscience and right they ought to do. It does not require them to fix high or low rates for freight and charges, but only prevents unjust discriminations and charges and compels them to be impartial and honest. It prohibits them from doing wrong and does not embarrass them in doing right. It touches no subject which requires the knowledge and skill of an expert, and only invokes common sense and common honesty for its full, fair enforcement and for the protection of the people against the enormous wrongs now inflicted on them by these corporations. And I appeal to the representatives of the people to see to it that this substitute for the committee's bill, rendered more perfect if need be, shall be passed into a law.

THE HENDERSON BILL.

I now propose to show some of the features of the committee's bill, known in the committee as the Henderson bill, and to state some of the reasons why it should not be passed into a law.

First. It proposes "to establish a board of commissioners of interstate commerce," as a bureau of the Interior Department, to consist of three commissioners to be appointed by the President, by and with the advice and consent of the Senate; the first commissioners to be appointed for two, four, and six years respectively, and their successors to be appointed for six years, with an annual salary of $5,000 each, payable quarterly. It provides that this board of commissioners shall have a clerk and an accountant to aid them in the performance of their duties, with salaries of $2,500 each. It also provides that the Secretary of the Interior shall furnish these commissioners such additional clerical, engineering, expert, or other assistance as they request and as he shall deem proper; and that "all actual and necessary traveling and other expenses incurred by said commissioners or their employés under their orders" shall be allowed them. And it provides for the appropriation of $25,000 to put this board of commissioners to work.

Now, one would most naturally think that a bill on a subject of so much confessed public importance, presented to the House by one of its committees, and which lays thus broadly and particularly its foundations at so great expense, meant something, and was intended to mean something. We shall probably see what it means as I proceed with my analysis of its provisions.

Second. It provides that these commissioners shall *exercise supervision* over that portion of the business of railroads which relates to interstate commerce.

Third. It provides that said board shall prescribe a railroad year, "and a system of reports covering said year," to be rendered by such railroad companies, see that *all United States laws relating to such companies are enforced*, furnish such information to the several departments of the Government or Government directors of any of said railroads in regard to the tariff of fares and freight on such business, or the accounts of such railroads, and make annual reports to the Secretary of the Interior, (and what else,) "*and otherwise endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate railroad commerce.*"

Fourth. It provides that it shall be the duty of said board to investigate all complaints which may be forwarded to it against such railroads. (I suppose this is what the language means.) "*And if such charges are approved and forwarded by any incorporated board of trade or chamber of commerce or* any State or city government, the investigation, if so desired by the parties forwarding the complaint upon which it is founded, shall be made by one or more commissioners on the spot where such cause of complaint originated *or wherever else it may be found most convenient; and the results of all such investigations and the findings of the commissioners thereon shall*" (now what would you think, after all this preparation, should be done with them?) "*be reported in writing to the parties thereto and included in the next annual report of the board.*"

No relief to the citizen; no remedy for the wrong; but simply reported. Would this not be mocking the people in their calamity?

And what is to be said of the requirement that before a citizen can get an investigation of a complaint where the cause of complaint originated he must have his charges approved and forwarded not by himself, but by some incorporated board of trade or chamber of commerce, or by some State or city government? An unincorporated board of trade or chamber of commerce would not do, you see? And how would it be in our extensive rural regions, where there are no cities, or boards of trade, or chambers of commerce? The county government or some public officer would not do. And when the injured citizen undertakes to get his grievances certified to and forwarded by one of these respectable bodies or governments, to whom is he to apply? These boards and governments are made up of a number of persons. Who is to give voice to their action, and how is the citizen to find that fact out? I want it understood, too, that I am not responsible for the manner in which pronouns are thrown around in this bill.

But to proceed with the bill:

Fifth. It is provided that when the railroads have failed to do their duty, or violated the law, (I suppose is meant,) or when any change in the manner of performing their duties shall become necessary, notice (I suppose is meant) shall be given them by the commissioners; and if they refuse or neglect to comply with the recommendations of the commissioners, (I suppose is meant,) then the commissioners (I suppose) "*shall*" do what? "*Make a statement of the facts in relation thereto, including the reasons assigned for such refusal or neglect by the party making the same in their next annual report, and of such action or legislation thereon as they may recommend in consequence thereof.*" How is the injured citizen to get his redress? The report or recommendation required will not afford it.

Sixth. It provides "that whenever in the judgment of said board it shall appear that any corporation," &c., has violated the law of the United States, or has neglected to comply with the terms of such law, the commissioners shall give notice thereof in writing to such corporation, &c., and if the violation or neglect is continued they shall present the facts to the Attorney-General of the United States, who shall take such proceedings thereon as he shall deem necessary and expedient. But what remedy does this afford the injured citizen? He is studiously ignored in this as in all the preceding sections. First the board is to judge and decide whether the law has been violated, not the wronged citizen. Then the Attorney-General is to take such proceedings as he may think necessary and expedient. Why mock the people with such a sham?

Seventh. It provides, in section 8, that the commissioners, in any investigation, shall have power to summon witnesses and to direct the production of books, papers, &c., and in case of refusal to obey the summons or to produce the books, papers, &c., in so far as they relate to questions and business referred to in section 4 of the bill, may on application of said board be compelled by a United States commissioner as in civil cases in the district or circuit courts. Here, again, there is noth-

ing to aid the citizen. He is left powerless, and his rights are utterly disregarded. This is only intended to aid the commissioners in their fancy work of delay and procrastination.

So far as I have been examining the provisions of this bill which relate to the creation of a railroad commission and define its powers and duties enough appears to show their worthlessness as a means of protection and relief to the public; but, independently of these considerations, I have other and serious objections to a commission. These commissioners are to be appointed by the President, and however honest and devoted to the public welfare he may be, he would of necessity have to rely on others for information as to the men he would appoint, and it would be unreasonable to suppose his appointments would not in some measure be influenced by interested parties. The railroad corporations can easily, and would certainly, concentrate their influence and efforts, covertly if necessary, to secure the appointment of men who would subserve their interests. With their billions of dollars of money interest involved, and the great number of able and influential men in their service as officers, attorneys, and stockholders, it would be unwise—nay, more, it would be reckless—to underestimate their power and influence in such matters. While they could easily concentrate their power and influence, the millions of people having different and adverse interests would be a scattered, unorganized, and powerless mass, and could not expect to exert a combined effort or influence to secure the appointment of proper persons. And the probabilities are, as was recently suggested by the Times newspaper of New York, that these three commissioners would be the salaried apologists of the railroads, and that the people and the commerce of the country would still be subject to their arbitrary and uncontrolled exactions.

I hope Congress will in its wisdom and justice put an end to this farce—this play upon words and experiment on our credulity—by passing into a law such a bill as I offer as a substitute for this, which clearly points out the evils with which the country is now afflicted by these corporations, and which provides specific, speedy, certain, and efficient remedies for them through the agency of the courts of the country.

Eighth. The ninth section of this bill provides that if any of the common carriers of interstate commerce shall charge or receive more than a fair and reasonable rate of compensation for carrying freight or for the transportation of cars, they shall for each violation of the act be liable for extortion and be subject to the forfeiture and penalties provided in a subsequent part of the bill. We shall see what that amounts to further on. These corporations are now and always have been liable at common law for extortion for charging more than fair and reasonable rates of freight. But no citizen would sue a railroad company on an ordinary freight bill for the difference between a fair and an extravagant freight bill, because the expense and loss of time would be greater than any sum he could expect to recover. A different and more vigorous remedy must be afforded, and my substitute gives this.

Ninth. The tenth section of this bill prohibits common carriers, whether by railroad, canal-boat, or other water craft, from charging one person more or less than another for like and contemporaneous service, and requires them to furnish equal transportation facilities to all and to transport merchandise with equal expedition to all. This is substantially the provision contained in my substitute, except that in this section it is made to apply to water transportation. I doubt the propriety of extending this legislation to water transportation. No one has a monopoly of the public navigable waters as is the case with railroads. They are free to all, and transportation on them is subject to free, open competition. With this condition there is little danger of extortionate charges.

Tenth. The eleventh section provides that the common carrier of interstate commerce shall not allow any rebate, drawback, or other advantage on shipments made or services rendered which under like conditions and for like service is not allowed to all other persons. It also provides that the person to whom such service is rendered shall not accept or receive such rebate, drawback, or other advantage, and that the penalties provided in this bill shall apply to the receiver of such rebate, drawback, or other advantage, as well as to the party paying the same.

This section contains some singular features. Why provide for the allowance of rebates to all, as this section does? If allowed to all, there can be no use, no office for them. They would cease to fulfill the purpose of allowing rebates. But take the section altogether, and in its connection with the other provisions of the bill, and the railroads can go on allowing rebates, drawbacks, and other advantages with entire impunity and safety. It provides that the receiver of these advantages shall be punished with the same penalties as the giver. In that case all parties are interested in concealing the crime, and there is no one to prosecute; and we would be in the same condition after this should become a law as if it had never been passed. This was advocated by railroad attorneys before our committee, but I had no expectation it was to be agreed to by the committee.

Eleventh. The twelfth section requires the railroad commissioners to inquire into the method of railroad management or combination known as pooling, and to state the result of their inquiry in their first annual report, and whether, in their judgment, any, and if so what, legislation is expedient in relation thereto.

We do not need the report of a board of railroad commissioners and a year or two of delay to enable us to know that the practice of pooling as it now exists is a denial to the people of all the advantages of competition in freight rates and the charges of transportation on railroads, each of which is a monopoly on its own line, and all of which are made a greater joint monopoly by their pooling combinations. I regard the prohibition of pooling as one of the best and most important provisions in the substitute I offer for this bill. I shall have more to say on this subject in another connection.

Twelfth. The fourteenth section of this bill applies the provisions of its tenth and eleventh sections to water as well as railroad transportation. I have mentioned my objection to the application of this legislation to water transportation.

Thirteenth. The fifteenth section of this bill makes the common carrier guilty of a violation of its provisions liable in triple damages at the suit of the person injured. It also, after a very peculiar fashion, seems to give a *qui tam* action and a penalty of not less than $1,000, but this is to be "recovered by the United States by action on information of the commissioners of interstate commerce, or otherwise," and the otherwise does not seem to be provided for. Why not to be recovered on complaint of the party injured? Why always interpose these commissioners between the citizen and his rights?

Fourteenth. Another serious defect in this bill is that it nowhere makes a violation of its provisions an indictable offense, while it seems all the way through to prevent the assertion of individual remedies for wrongs done them.

If the railroad companies had themselves drawn this bill they could scarcely have made it less efficient for any purpose of good or for the protection and vindication of the rights of the people against the avarice of these corporations and the wrongs being done by them.

THE M'LANE BILL.

But little need be said of the substitute proposed by the gentleman from Maryland, [Mr. MCLANE.] It is confined to a proposition "to establish a board of commissioners of interstate commerce," to be composed of the Secretary of the Interior, the Assistant Secretary of the Interior, the Auditor of Railroad Accounts, to be styled the commissioner of railroad affairs, and an officer or employé of the Department of Justice learned in the law, to be designated by the Attorney-General of the United States, "who are to be" constituted a board of supervisors of interstate commerce and railroads. They are to have general supervision of all railroads and routes of transportation by land or water on which interstate commerce may be carried; but this supervision is to be limited to common carriers of such commerce, and to safety of travel; to investigate complaints as to the charges of such common carriers, and as to the safety of travel; such complaints to be verified by affidavit. Witnesses may be summoned, and the production of books and papers may be required, and the complaints investigated. "And it shall be the duty of said board, on the 1st day of December, to make an annual report to both Houses of Congress on interstate commerce, with such statements, comments, suggestions, and recommendations as to them shall seem to be required."

Some additional provisions are made to carry out this plan, including an increase of the pay of some of the officers who are to constitute the board, and an appropriation of $10,500 to enable the board to commence operations.

But this substitute makes no reference to the many wrongs now notoriously being perpetrated on the people by the railroads engaged in interstate commerce. It makes no prohibitions of them. It provides no remedy for parties injured by them, nor penalties for the wrong-doers, nor means through the courts or otherwise of punishing those who perpetrate them. It is merely a measure of delay and procrastination. Its adoption would be a means of successfully avoiding and delaying the plain duty now devolved on Congress of meeting and disposing of this great and pressing problem by just, wise, and efficient legislation.

A COMMISSION AND EXPERTS.

The idea of a commission has been urged by the officers, attorneys, and agents of the railroad companies in their arguments before the House and Senate committees having this matter under consideration, on the alleged ground that there is some mystery connected with the management of railroads which members of Congress and others not experts cannot understand, and that we must create a commission and examine experts in order to qualify ourselves to act on this problem. The real reason I do not doubt is that it will delay, possibly defeat, any action by Congress on this subject. It certainly would not require the knowledge of an expert to determine the reasons why railroad representatives and lobbyists desire delay by Congress in acting on this subject.

Take my substitute; what is there in it which calls for the help of a commission and experts to enable us to know what to do with it? It provides that one person shall not be charged more than another for the same amount and character of service; that is, that there shall be no unjust discriminations in freight rates and charges between individuals shipping over railroads. Every honest man knows this provision to be just and proper. It only requires an honest conscience to determine it. No outside expert is necessary for that purpose; and these learned railroad men and their representatives in and out of Congress all know it. And I doubt not fair-minded men everywhere may wish to know whether those who oppose present action

on the railroad problem are really in need of an expert to aid them in matters of conscience, for certainly they are not necessary in the matter of our duty.

Then I propose that rebates and drawbacks shall be in no case allowed; that is, that the transportation companies shall not release those they may wish to favor, either for friendship or for a venal consideration, from a part of the price of shipment which they impose on others. In this, too, there is no call for the services of a commission and experts. It is only a question of doing right and being just on the one hand, and of doing wrong and acting oppressively on the other. An honest conscience is the only expert which the case calls for.

I also propose to prohibit the pooling of freights by otherwise competing railroads; that is, that the people who have granted these railroads their franchises and enabled them to have an existence may have the benefits arising from competition. This is simply a question as to whether existing monopolies shall be allowed for their own benefit and advantage to combine themselves into one vast monopoly so as to be enabled to levy unlimited exactions on the commerce of the country, or shall be kept separate and independent in their action, so that with perfect justice to them the public may also save to itself some measure of justice and protect itself against enlarged monopolies, which are denounced by all our constitutions as dangerous to free institutions. This, too, it seems to me, needs only an honest conscience for its solution.

Again, I propose to place a limitation on the power of the railroads to discriminate between one place and another. Not to take away, but to limit this power of discrimination—a power which enables them to confer valuable benefits on one community and to deprive another of its just rights and destroy its prosperity. To do this I propose in section 4 of my bill to prohibit them from charging more for carrying a car-load of merchandise for a shorter than for a longer distance on one line of transportation. It may cost more per mile to carry a car-load of freight a short than a long distance, and there may be other good reasons for allowing some discriminations in favor of long as against short hauls. Recognizing these conditions, I allow them all the margin of the differences of distance, and provide that they shall not charge more for the shorter than for the longer distance, though there is nothing in the bill to prevent them from charging as much. This will simply prevent them from injuring the commerce of one place for the benefit of another. There are plenty of instances in which the managers of railroads, if not the railroad companies, have interests, pecuniary, and sometimes personal, to impel them, so long as the power to do so is allowed them, to make these unjust discriminations between places. I desire to prevent this because it is unjust. They desire to preserve this privilege because it enables them to increase the gains which arise from the employment of monopoly powers and from unconscionable exactions. What use can there be for a commission or experts to determine which of these positions is right?

Then I would require them to post up schedules of their freight rates and charges, and prohibit them, under penalties, from charging more or less than these schedule rates. This I would do as a necessary protection to the public, and to determine, without further proof on trials in courts, what they might and might not charge. What need can there be of a commission or experts to determine whether this is right or wrong? The only objection I have heard urged against this is that it is impracticable. If the proposition is true, the objection is good. My answer to this is that all railroads now make and keep these schedules, though they doubtless violate them as often as they adhere to them; and that this provision only requires them to do what they now profess to do, and what it is now their duty to do. It imposes no new burden on them, but it would furnish a means of punishing them for the violation of their duty, and it would give a most valuable protection to the public.

Now, these are the only provisions of my substitute which it can be pretended require delay for the purpose of obtaining, by a commission or otherwise, information from experts, as a basis for congressional legislation. And I submit that the mere statement of the case shows the absurdity of calling on a commission and experts to tell us a year or two hence what we all know now.

Mr. HENDERSON. Will the gentleman allow me to ask him a single question right here?

Mr. REAGAN. If I can avoid it, I would much rather not.

Mr. HENDERSON. In that connection, let me ask the gentleman, is it not true that the railroad companies advocate a commission simply of inquiry without any legislation whatever upon the subject?

Mr. REAGAN. I have answered that by saying that the gentlemen who urge this commission will not vote for any bill which will give an efficient remedy. That is my answer, and the facts, as this discussion goes on, will develop and prove what I have said.

THE NECESSITY FOR LEGISLATION.

The railroad problem is the greatest one which now confronts the American people so far as their material interests are concerned, and it may prove to be so if the corporations are not placed under the restraints of law as relates to the cause of civil liberty and self-government. It is comparatively a new problem, resulting from comparatively new discoveries, new inventions, and a new system and means of transporting our vast internal commerce. Railroads have only been in existence about fifty years. They are the creations, in our country, of splendid energy and enterprise, of superior genius, and of enormous investments of capital. Already we have about eighty thousand miles of railroad, built at a cost of nearly $5,000,000,000. And though our first railroad was built nearly fifty years subsequent to the date of our Declaration of Independence, they now span our vast continent, and carry much the larger part of our internal commerce, which amounts to about thirty billions of dollars' worth annually. We have no means of forming a correct estimate of how much has been added to the wealth, comfort, prosperity, and power of our country by the construction and operation of our great railroad system, by the facilities they have furnished for travel and transportation, by the markets they have opened, and by the value they have given to other property.

But while our people have been the recipients of these great benefits they find themselves confronted by all the dangers arising from large aggregations of wealth under the control of a limited number of persons and by vast monopolies, which in their relation to the interstate commerce of the Union are entirely free from all legal control, and hold this vast commerce subject nearly entirely to their grace and favor, with all the influences of self and corporate interest impelling them to levy burdensome exactions on it, and to transfer its profits from the mass of the people who produce it to the few who are engaged in carrying it. And thus we are confronted by an antagonism of interests between the people and the corporations, which can only be adjusted by such legislation as will limit and restrain the powers of the corporations and protect the rights and interests of the people against them. To assume that we cannot and shall not enact the laws necessary for these purposes is to assume that our people are incapable of self-government and unworthy of political liberty—that they have not wisdom and virtue enough to control the action of their own Government for the protection of their own interests. I do not envy the man who has reached, or who by his action would favor such a conclusion. And we shall fail to recognize the teachings and warnings of history if we do not comprehend that these corporations must assent to just and proper legal restraints on their powers, and to the proper protection by law of the rights of the people as against their arbitrary exactions, or sooner or later be themselves confronted by the indignation of an outraged people, against whom they will as truly need the protection of the law as the people now need it against them. Only that kind of folly which springs from greed and avarice can induce them to prolong their struggle against just legislation on this subject.

Most of the States of the Union have by their laws and by constitutional provisions in their respective jurisdictions endeavored to protect their people against the rapacity of these corporations, but having no extra territorial authority their action fails to relieve our interstate commerce. Indeed, as we have seen, Congress alone can give this security. The action of the State governments, so general on this subject, it would seem should have some influence in directing the attention of Congress to the necessity of action.

The action of the Legislatures of a number of the States instructing their Senators and requesting their Representatives to support such legislation, as also the exhaustive legislative investigation of this problem in a number of the States, such as New York, Pennsylvania, and California, it would seem ought to have some influence in inducing Congress to act. And a like effect it would seem ought to result from the action of boards of trade, chambers of commerce, and other commercial bodies in many parts of the country.

The thousands of petitions sent to Congress with the names of tens of thousands of petitioners, coming from every State in the Union, and the greater portion of them asking for the passage of the particular bill which I present to the House, it would seem should be entitled to some weight with us.

And the able and earnest advocacy of legislation of this kind by many of the newspapers of the country is an appeal to us by these organs of public sentiment for action. I mention, too, that the many facts brought out in the discussion of this subject in the House during the second session of the Forty-fifth Congress show the necessity of action. Besides these, whole volumes of evidence going to show that we ought to legislate on this subject were made up in the recent investigations of the subject by legislative authority in the States of Pennsylvania, California, and New York. And these are accessible to all who desire to be informed on this subject.

I cannot now take time to present the facts and make the comments necessary in relation to the doings of the Standard Oil Company. These would themselves establish the necessity of congressional legislation for the regulation of interstate commerce. These facts are known to many members of the body, and are a disgrace to our commercial management and almost to our civilization. The conduct of this company and of the railroad companies which aid it in its iniquitous proceedings is a most forcible illustration of both the iniquities and dangers of uncontrolled monopolies.

The discriminations made and special rates and rebates allowed by the railroads has with many of them become almost their rule of action, instead of being exceptional. The proof in the recent investigation in New York showed that while the New York Central Railroad managers denied making discriminations in freight rates, they had made six thousand contracts for special rates in one year. And this road is not believed to be worse in this respect than many others.

But I need not go on multiplying instances to show the necessity of legislative restraint. There is scarcely a member in this House who does not know of the habitual unjust discriminations by railroads in freight rates and charges.

COMPETITION.

There is one other subject to which I will refer, but do not now propose to argue as fully as I may do on some subsequent occasion. It is urged by two at least of the ablest representatives of the railroad interests, Mr. Adams and Mr. Fink, that the idea of competition must be eliminated from the railroad problem before it can be satisfactorily and properly adjusted. They advocate, as I understand them, a sort of universal pool, one of them calling it a "federation" and the other a "combination." But both think the more general it shall be made the better.

I look on this as the most dangerous theory which has been advanced in connection with the discussion of the railroad problem. I can see how such a plan might work to the convenience and advantage of the railroads; but there is at the same time the strongest reasons to believe it would be the very perfection of monopoly power, and that the destruction of competition would operate altogether against the interests of the people in a commercial sense, while it would place in the hands of a very few men the control of such large properties and so many men, and give them such power as to enable them to defy any effort of the political authority to control them in the interest of the people. Think of $5,000,000,000 in railroad property, and a quarter of a million of intelligent, active, energetic men, in vigorous manhood, with the control of the shipment of our internal commerce, being in the hands of a few persons. They could regulate prices, control the markets of all our products, and enrich themselves to any extent, while they could by this process impoverish and degrade and break the spirits, dwarf the manhood, and destroy the independence and self-reliance of our people.

I doubt if this grand and dangerous scheme is practicable. It is to be hoped, if attempted, it will fall of its own weight; but it should be watched, resisted, and defeated. On this point I quote the following from Mr. Adams's book on Railroads, their Origin, and Problem, recently published:

> Contrary to the general and popular conviction an increasing number of those who have given most thought to the subject, whether as railroad officers or simply from the general economical and political points of view, are disposed to conclude that, so far from being necessarily against public policy, a properly regulated combination of railroad companies, for the avowed purpose of controlling competition, might prove a most useful public agency. These persons contend that railroad competition if it has not already done its work will have done it at a time now by no means remote. An enormous developing force during the period of construction, its importance will be much less in the later periods of more stable adjustment. Under these circumstances, and recognizing the fact that the period of organization is now succeeding that of construction, these persons are disposed to see in regulated combination the surest if not, indeed, the only way of reaching a system in which the advantages of railroad competition may so far as possible be secured, and its abuses, such as waste, discrimination, instability, and bankruptcy, gotten rid of. In conducting this traffic, they argue, each road or combination of roads is now a law unto itself. It may work in concert with other roads or combinations or it may refuse to do so. It may make rates to one place where it may think it for its interest that business should go, and may refuse to make them to another place where it is for its interest that business should not go. All this is essentially wrong. Yet the business community of America, from one end of the country to the other, has been from the beginning so thoroughly accustomed to the extreme instabilities of railroad competition that it has wholly lost sight of what its own interest requires. What it needs is certainty, a stable economy in transportation, something that can be reckoned on in all business calculations, a fixed quantity in the problem. This, of all the results the most desirable, is now looked upon with apprehension.

The major proposition contained in this passage is, that what is needed in the proper adjustment of the railroad problem "is certainty, a stable economy in railroad transportation, something that can be reckoned on in all business calculations; a fixed quantity in the problem." I assent to the justice and necessity of this.

The minor proposition is as to the means of attaining this valuable end, which Mr. Adams thinks, or supposes others to think, is to be found "in regulated combination." From this I wholly dissent. "Combination" or "federation" among the railroads might have the effect he supposes in regulating and giving steadiness to freight rates and charges as between the railroads themselves; it might prevent railroad wars, and in this way and for this purpose it would do some good.

But there is another factor, and the most important one of all in this problem, which is wholly left out; that is, the people, the shippers, the owners of the many billions of dollars of commerce which is annually shipped over these roads, and who are interested in it to the extent of 99 per cent. of its value, while the railroads at most cannot justly be interested in it more than 1 per cent. The railroads, under a "combination" or "federation," and left free from the restraints of legislation, and having legitimately no more than 1 per cent. interest in this immence commerce, may control absolutely the rates of freight, may bull or bear the markets at their pleasure, may as to individuals discriminate in freights and charges as they please, allow rebates to whom they please, ruin one city and place and enrich another at their pleasure, and may levy any tax on the commerce of the country which their sweet wills may dictate or their avarice call for. They might by an order any day increase their revenues to be derived from the commerce of the country by a sum greater than is now collected for the support of the Federal Government and the payment of the interest on the public debt. It will not do to say they will not do so. The power to do so is too great to be lodged in the discretion of men.

I may be asked, since I agree that the steadiness and uniformity in freight rates and charges is the great point to be gained in the adjustment of this problem, how I propose to obtain that result. I am prepared to answer this. I would do it by the passage of the substitute I have presented to the House into a law. Its provisions would:

First. Prevent all discriminations in freight rates and charges between individuals.

Second. They would prevent rebates and drawbacks in all cases.

Third. They would prevent pooling of freights.

Fourth. They would limit the power of the railroads in making discriminations between places.

Fifth. They would require the posting up of schedules of rates and charges, and would provide for the punishment of those charging more or less than schedule rates.

There could then be none of the discriminations, cutting of rates, rebates, and other irregularities which now so disgrace railroad management and do so much injury to the people. By this means they would be forced into regular and just business practices just as in the other important branches of business of the country. They would then be compelled to determine what rates of freight and charges on the business of their several roads would pay operating expenses and a fair interest or dividend on the capital invested. The roads could then calculate with reasonable certainty what their expenses, their revenues, and their profits would be. And every citizen could calculate with reasonable certainty how much of the fruits of his labor or the profits of capital invested would belong to him after he had paid the charges for transportation.

This would, under the operation of the bill I offer, I believe furnish the true and proper solution of this great problem.

One more quotation from Mr. Adams's book is given to show to what fearful dangers the theory of "combinations," "confederation," discussed by him, may lead. He says:

> Beyond and behind this, however, the railroad corporations of the United States have from the beginning enjoyed a sort of lawless independence. Corporations, like communities, accustomed to this, necessarily remain for a long time restive under any sense of control. They need constantly to feel that a policeman's eye is upon them, and that there is a station-house in the next street. No one or two great corporations have yet been developed with power sufficient to assume a coercive protectorate over the others and to compel obedience. The combination of the trunk lines and their recent action toward their connections in the West is the first approach yet made toward this result. But without the cohesive influence of some such protectorate there is in all voluntary combinations a natural tendency to anarchy. In the absence, therefore, of any compelling force to secure order and subordination, the mill of competition has got to keep on grinding for some time yet. Its work is not done. Indeed, it will not be done until, through the process of its grinding, the great principle of the survival of the fittest is finally ground out.
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> This process is unlikely to prove a rapid one, for order is not easily established in any community which has been long in a state of anarchy. In such cases the demoralization becomes general; the tone of the individual deteriorates. This is what is now the matter with the railroad system of America. Lawlessness and violence among themselves, the continual effort of each member to protect itself and to secure the advantage over others, have, as they usually do, bred a general spirit of distrust, bad faith, and cunning, until railroad officials have become hardly better than a race of horse-jockeys on a large scale. There are notable individual exceptions to this statement, but taken as a whole the tone among them is indisputably low. There are none of that steady confidence in each other, that easy good faith, that *esprit du corps*, upon which alone system and order can rest. On the contrary, the leading idea in the mind of the active railroad agent is that some one is always cheating him, or that he is never getting his share of something. If he enters into an agreement, his life is passed in watching the other parties to it, lest by some cunning device they keep it in form and break it in spirit. Peace is with him always a condition of semi-warfare, while honor for its own sake and good faith apart from self-interest are, in a business point of view, symptoms of youth and defective education. Under such circumstances, what is there but force upon which to build. It was the absence of the element of force which caused the failure of the Saratoga association and probably will cause the failure of those which have succeeded it. Taken as a whole, the American railroad system is in much the same condition as Mexico and Spain are politically. In each case a Cæsar or a Napoleon is necessary.
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> When, however, the time is ripe and the man comes, the course of affairs can even now be foreshadowed; for it is always pretty much the same. Instead of the wretched condition of chronic semi-warfare which now exists there will be one decisive struggle, in which from the beginning to the end the fighting will be forced. There will be no patched-up truces made only to be broken, for the object of that struggle will be the complete ruin of some one in the shortest possible time. Then will come the combination of a few who will be sufficiently powerful to restrain the many. The result, expressed in few words, would be a railroad federation under a protectorate. The united action of the great through lines is necessary to bring this about; and how to secure that action is now the problem. If the elder Vanderbilt were alive and in the full possession of his powers, he would probably solve the difficulty in the way most natural to him. Meanwhile, although Commodore Vanderbilt is dead, there are very significant indications that his work is going on. His vast property, in the peculiar shape in which he left it and as it is now handled, seems to be little else than an accumulated fund devoted to bringing about a consolidation of railroad interests on the largest possible scale. The New York Central is the basis upon which this superstructure rests.

This is the fatal logic of the principle of "combination," "confederation" of the railroads of the country into one management. And if these extracts and this book, written by a sober, discreet, and scholarly man in the interest of the railroads, does not startle the country and arouse the people and their representatives to action, then, indeed, I shall fear that the lethargy which precedes death is upon them. Comment may break its terrible force. But I will suggest that the court-houses of the country should be "the station-house in the next street," where the law could be administered and where justice could be done; and that good and wholesome laws would be better for us all than "a policeman's eye." I would suggest, too, that the character of railroad men he describes as "hardly

better than a race of horse-jockeys" are not the kind that should be trusted with the vast powers necessary to control and direct the "combined" railroads of the United States. He sees no remedy for existing evils of railroad management but force. He describes with sufficient fullness the character of force he means. It is not the force of law; it is not the force of public opinion; but it is the force, the power of one man, of a Cæsar or a Napoleon or a Vanderbilt; the force of personal will wielding corporate powers unrestrained by just laws; "the few who will be sufficiently powerful to restrain the many;" "a railroad federation under a protectorate," and the people and their property securely in the grasp of power, with no hope save such as might come from the charity of lust or the mercy of avarice.

[Before Mr. REAGAN had concluded, the hammer fell.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. REAGAN. I ask permission to print the balance of my remarks.

The CHAIRMAN. The Chair hears no objection.

Mr. O'NEILL. I do not object, but it struck me that occasionally the gentleman from Texas was calling in question the action of a majority of the Committee on Commerce by stigmatizing those who opposed his measures as representatives of railroads inside of Congress. If there is anything more of that sort in his speech I hope it will be struck out.

The CHAIRMAN. The Chair hears no objection, and the gentleman from Texas has leave to print the conclusion of his remarks.

Mr. BELFORD. I ask leave to print some remarks in the RECORD on the subject of the Ute agreement.

The CHAIRMAN. The Chair hears no objection, and leave is granted. [See Appendix.]

Mr. HENDERSON rose.

Mr. McLANE. Whom does the Chair recognize?

The CHAIRMAN. The Chair will state in justice to the gentleman that yesterday, when he assumed general harmony was prevailing and general debate would go on, the gentleman from Maryland first spoke to him.

Mr. McLANE. The Chair can recognize whom he pleases, but I feel that I should be recognized after the gentleman from Texas.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LOWE having taken the chair as Speaker *pro tempore*, a message was received from the Senate, by Mr. BURCH, its Secretary, notifying the House that that body insisted on its amendments to the bill (H. R. No. 6207) making appropriations for the Agricultural Department for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives, and asked for a conference on the disagreeing votes of the two Houses; and had appointed Mr. WINDOM, Mr. DAVIS of West Virginia, and Mr. WALLACE as managers of said conference on its part.

It further announced that the Senate insisted on its amendments to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House, and disagreed to the amendments of the House to the amendments of the Senate to said bill numbered 71, 72, 109, and 128, and asked for a conference on the disagreeing votes of the two Houses; and had appointed Mr. DAVIS of West Virginia, Mr. WALLACE, and Mr. WINDOM as managers of said conference on its part.

It further announced the passage, without amendment, of the following bill and joint resolutions:

A bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims;

Joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition, and tents to the soldiers' reunion committee of the Northwest; and

Joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri.

It further announced the passage of a bill (S. No. 205) granting an increase of pension to Abigail S. Tilton, in which concurrence was requested.

INTERSTATE COMMERCE.

The committee resumed its session.

Mr. HENDERSON. Mr. Chairman, there is no legislation proposed by this Congress which in my judgment is of greater importance to the people of this country than that of regulating railway transportation, in so far as it relates to or affects commerce between the States; nor is there any which demands from us as representatives of the people a more thoughtful, careful, candid consideration. When we look at the vast railway system of the United States, with its numerous lines reaching out from commercial centers, from the seaboard, the lakes and rivers to every city and to almost every town and village throughout the land; when we consider the large amount of capital expended in the construction and operation of these railways, and the immense commerce which annually passes over them, we must be deeply impressed with the great importance of any legislation by Congress affecting these great interests. There is no doubt, Mr. Chairman, but that legislation upon this subject is demanded by the people, and that we shall fall short of our duty if we do not respond to such demand. But while this is true, it is also true that the highest and best interests of the country require that whatever law we may pass shall be a just law, that it shall be thoughtfully and carefully considered. It should, if possible, be a law so wise and so just in its provisions that while it does no injustice to railway owners and managers, it will permit them to do no injustice to the people who are compelled to employ them for the transportation of their property.

The bill under consideration proposes to establish a board of commissioners of interstate commerce and to empower such board to supervise that portion of the business of all railroads which passes from one State or Territory into or through one or more other States or Territories, or to or from any foreign country. But such supervision is limited to questions of commerce between the States and to the methods of operating railroads by railroad corporations as affecting said commerce, for certainly Congress has no power to do more than this.

In my opinion there is no legislation proposed on this subject of greater importance than the establishment of this board of commissioners. Whatever law we may pass will, I fear, prove of but little benefit to the people unless commissioners shall be appointed whose duty it will be to enforce its provisions and see that they are faithfully executed.

This bill makes it the duty of the board of commissioners to prescribe a railroad year and a system of reports covering said year, to be rendered by all railroad companies affected by the bill. It is also made the duty of said board to examine the books and accounts of said companies in any manner affecting commerce between the States at such times as they may deem necessary; to see that all laws of the United States relating to said companies are enforced; to furnish such information to the several Departments of the Government or to the Government directors of any of said railroads in regard to the tariff of fares and freights on such business or the accounts of said railroads as may be required of them or as they may deem expedient, and make annual reports of their doings to the Secretary of the Interior on or before the 1st day of November of each year. And it is further made the duty of said board of commissioners to otherwise endeavor to procure the data necessary to the enactment of an intelligent system of national legislation regulating interstate railroad commerce.

These are important provisions of this bill, and it seems to me that very little reflection will satisfy every member of the House who favors any legislation whatever on this subject of the fact. It is certainly of great importance that these commissioners shall see that all laws of the United States relating to railroad companies engaged in transporting interstate commerce are enforced; and it is also important that railway companies be required to make reports of their operations so far as they affect commerce between the States, and that the commissioners examine the books and accounts of such railway companies and make report of their doings, so that Congress and the country may know what is being done by such commissioners and the railway companies, and that we may obtain accurate and reliable information in regard to the interstate commerce of the country. But the provision which makes it the duty of the board of commissioners to endeavor to collect the data necessary to the gradual enactment of an intelligent system of national legislation regulating interstate-railroad commerce is especially important.

There is no one who has given much thought to this subject but will acknowledge there are many difficulties in the way of framing a law by Congress which, while it is constitutional, shall at the same time be just in all its provisions. With certainly but few exceptions the railways of the United States have been constructed under State, and not national, authority. Very many of them have been constructed under special charters, with special rights and privileges. Some are operated exclusively within the limits of a single State; others extend from one State into another State or States. Some have been constructed at comparatively great expense, others at less. Some have a large amount of business, others but very little. Some have to compete with numerous other railway lines and routes to the seaboard and the markets as well as with the cheaper transportation of water ways; others have but little or no competition. Hence it is no easy matter to frame a law which will fairly and justly regulate the transportation of interstate commerce over the numerous railways of the country, constructed and operated under so many different conditions and circumstances. And the provision of the bill referred to must commend itself to the good sense and judgment of not only the members of the House but of the whole country. Give us three or, if you please, five commissioners. Let them be men of the highest intelligence and of the highest character for honesty and integrity; let them be men of experience, one in the law and another in railway management. Let them go to work and investigate and examine this question of transportation in so far as it relates to or affects commerce between the States, and let them report from time to time what legislation is necessary to protect the people from unjust discriminations, from unreasonable charges and extortion, and we can then legislate intelligently and enact laws which will be wise and just in their operation both to the railway owners and the people who are not railway owners, but interested in cheap transportation.

But, Mr. Chairman, this bill not only proposes to establish a board of commissioners of interstate commerce with such duties and powers

as those referred to, but the fifth section of the bill makes it the duty of the board of commissioners to investigate all complaints which may be forwarded to it of any unreasonable charges, or of discrimination in the charges, made by any railroad corporation or corporations for their services as a common carrier in commerce between the States; and if such charges are approved and forwarded by any incorporated board of trade or chamber of commerce, or by any State or city government, the investigation, if so desired by the parties forwarding the complaint upon which it is founded, shall be made by one or more commissioners on the spot where such cause of complaint originated, or wherever else it may be found most convenient. And the results of all such investigations and the findings of the commissioners thereon are required to be reported in writing to the parties thereto and included in the next annual report of the board of commissioners.

The sixth section provides that whenever it shall appear to the board of commissioners that any railroad corporation or other organization or person has failed in any matter appertaining to commerce between the States to perform its or their duty as a common carrier, or has violated its or their duties as such, or that any change is necessary or expedient in the manner in which it or they conduct its or their business as such common carrier between the States in order to promote the public interests, they shall give notice thereof in writing to such corporation, organization, or person, with a statement of such changes as they adjudge to be proper; and in case of a refusal or neglect to comply with their recommendations, the board shall make a statement of the facts in relation thereto, with the reasons assigned for such refusal or neglect by the party making the same, in their next annual report, and of such action or legislation as they recommend in consequence thereof.

The seventh section provides that whenever in the judgment of the board of commissioners any corporation, organization, or person owning or operating any railroad or other means of transportation has violated any law relating to such railroad, organization, or person, or has in any respect neglected to comply with the terms of any such law, or that any person, corporation, or organization has violated or neglected to comply with the terms of the act, the board shall give notice thereof in writing to such person, organization, or corporation; and if the violation or neglect is continued after such notice they shall forthwith present the facts to the Attorney-General of the United States, who shall take such proceedings thereon as he shall deem necessary and expedient.

The eighth section provides that in any investigation conducted by or before the board of commissioners they shall have power to summon witnesses and require the production of books, papers, contracts, and reports relating to any subject-matter of complaint or alleged violation of the provisions of this act. And in case any person summoned shall fail or refuse to appear or to produce such books, papers, contracts, or reports, it provides for the manner of compelling the attendance of such persons and the production of such books, papers, contracts, and reports; and that such investigations shall be conducted when practicable at the place where the general office of the corporation owning such books, papers, contracts, or reports may be situate.

The ninth section of the bill prohibits any railroad company engaged in transporting freight or property from one State or Territory to another State or Territory, or to or from any foreign country, from charging or receiving more than a fair and reasonable rate of toll or compensation; and if any such company violates the law in that respect it is made liable for extortion and subject to the penalties and forfeitures provided in the bill.

The tenth section prohibits discriminations and requires railroad companies subject to the provisions of the act to make like charges to all persons for like facilities and for like and contemporaneous service under similar conditions and circumstances; and requires all such railroad corporations and persons to furnish as nearly as may be and as may be reasonably within their power, and without discrimination, the same facilities for the carriage, storage, and handling of all property of like character carried by such railroad corporation or person; and also requires such railroad corporation or person to perform, as near as reasonably may be, with equal expedition the same kind of services connected with the contemporaneous transportation of such property. It is also provided in this section that no break of bulk or interruption, nor any contract or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage from the place of shipment to the place of destination unless such stoppage, interruption, contract, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage or to evade the provisions of the act.

The eleventh section prohibits any rebate, drawback, or other advantage in any form upon shipments made or services rendered from being allowed, either directly or indirectly, to any person or persons which under like conditions and for the same contemporaneous service is not allowed to all other persons; and also prohibits any person or persons for whom such service is done from accepting or receiving such rebate or drawback or other advantage in any form, and applies the penalties provided in the act to the receiver of such rebate, drawback, or other advantage, as well as to the party paying the same.

The twelfth section requires the board of commissioners to inquire into that method of railroad management or combination known as pooling, and to state the result of their inquiry in their first annual report, and whether, in their judgment, any, and if so, what, legislation is expedient in relation thereto.

The thirteenth section prohibits any person or persons engaged in the carriage, storage, or handling of property, as mentioned in the tenth and eleventh sections of the bill, from entering into any combination or agreement the object of which is to prevent, by changes of schedule, carriage in different cars, breaking different car-loads into less than car-loads, or by any other means, the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads.

The fourteenth section applies the provisions of the bill to all interstate commerce and business, including the carriage, storage, and handling of all property, on one actually or substantially continuous interstate carriage or part of such carriage, as provided in the tenth and eleventh sections of the bill, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, or wholly on water, or partly on railroad and partly on water, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

The fifteenth section provides that any corporation or corporations, person or persons, guilty of a violation of any of the provisions of the bill, shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of damage so sustained, to be recovered by suit in any district or circuit court of the United States where the corporation or corporations, person or persons, causing such damage can be found or may have a place of business. And further, that the corporation or corporations, organization or organizations, person or persons so offending shall, on conviction thereof, forfeit and pay for each offense a penalty of not less than $1,000, to be recovered by action on information of the commissioners of interstate commerce, or otherwise, in any district or circuit court of the United States; one-half of such penalty when collected to be paid to the party damaged by such violation of law, and bringing action thereon, or commencing proceedings by complaint to said commissioners. But no action shall be sustained unless brought within one year after the cause of such action shall accrue.

The sixteenth section provides that nothing in the bill shall apply to the carriage, storage, or handling of property less than an ordinary car-load, or wholly within one State or Territory, and not contracted to be carried beyond such State or Territory; or property carried for the United States; or to the transportation of articles free or at reduced rates for State or municipal governments, or for charitable, educational, or scientific purposes, or to or from public fairs and expositions for exhibition thereat.

I have thus alluded, Mr. Chairman, to these different sections of the bill under consideration to show that it does not, as is charged, simply propose a board of commissioners to inquire into and report abuses to Congress or to investigate the railway management of the country, so far as it affects commerce between the States, and make report to Congress, but that it declares certain principles for the government of railroads which are believed to be just and in the interest of the people, and which it is made the duty of the board of commissioners to see faithfully observed and enforced by railroad companies.

Mr. BARBER. I would ask my colleague how they are to be enforced?

Mr. HENDERSON. By suit to be brought by the commissioners in the United States courts.

This bill, like the one for which it was substituted by the majority of the Committee on Commerce, prohibits all unjust discriminations and requires railway companies engaged in interstate commerce to make the same charges for the same services and to furnish the same facilities and perform with equal expedition the same services in the carriage, storage, and handling of property for one man they do for another, so far as may be reasonably within their power. This is a just provision, and one which commends itself to the good sense and judgment of every fair-minded man. Railroad companies should not be allowed to discriminate between individuals or communities; they should not be allowed to build up the business of any one man or set of men and break down and destroy that of another. The favoritism of railroad managers, by which one man or one community is sometimes enriched and another is impoverished, cannot be too strongly condemned; and I would go as far as any other member of the House in providing such remedies as will effectually prevent such injustice and wrong. Railroad corporations are created by the State for the public good. They derive all their franchises, rights, and privileges from the people, and upon the ground that they are to benefit the people, and they should not be allowed to discriminate in favor of one and against another of those who are compelled to transport their property over their roads in reaching the markets of the country and of the world; and this is done as effectually by this bill as it is in the proposed substitute.

This bill does not absolutely prohibit the allowance of rebates, drawbacks, or other advantage upon shipments made or services rendered by persons engaged in the transportation of property; but it does prohibit any person or persons engaged in the transportation of property between the States, or otherwise, from allowing, either

directly or indirectly, to any person any rebate, drawback, or other advantage in any form, upon shipments made or services rendered, which under like conditions, and for the same contemporaneous service, is not allowed to all other persons; and it prohibits any person or persons from receiving or accepting any such rebate, drawback, or other advantage, and applies the penalties of the acts to the receiver of such rebate, drawback, or other advantage, as well as to the party paying the same. In this respect the bill under consideration differs from the one for which it was substituted by the majority of the Committee on Commerce, and which the honorable chairman of that committee proposes to offer again as a substitute for this. That bill makes it unlawful for any person or persons engaged in the transportation of property, coming under its provisions, directly or indirectly, to allow any rebate, drawback, or other advantage, in any form upon shipments made, or services rendered, by him or them.

I am not certain, Mr. Chairman, but that this provision of the proposed substitute is correct, and that such rebates, drawbacks, or other advantages should be absolutely prohibited. But it is claimed that there are circumstances under which rebates and drawbacks may be properly allowed, and when they are of great benefit to the shipper and work no injury to any one. Mr. Gowan, the president of the Philadelphia and Reading Railroad Company, one of the ablest of the gentlemen who appeared before the Committee on Commerce on this transportation question, who impressed me with great earnestness and candor, and who advocated radical remedies for the purpose of compelling railroad companies to perform their duties to the public, said to the committee that open and public drawbacks, which all shippers could obtain, were not wrong; though a secret drawback given to one shipper and not to another in similar circumstances he said "was not only bad policy, but it was bad law and bad morals." He made this statement as to his own road in opposition to prohibiting drawbacks:

> We ship for consignment beyond the borders of Pennsylvania, say, three millions of tons of coal per annum, and we have to compete with other railroads which are only two-thirds of the distance that we are from the markets taking the coal. We therefore make open and public drawback, fully and properly announced, which every shipper to the competitive market can obtain. And such drawbacks are entirely fair, and ought not to be prohibited. If they were prohibited, however, a railroad company by merely publishing several rates to different points could obviate all difficulty imposed by the prohibition. I think it unfair, if not unjust, to prohibit drawbacks of this character.

I call the attention of the gentleman from Texas [Mr. REAGAN] particularly to what Mr. Gowan says as to the easy manner of obviating the prohibition against drawbacks. He explains why it is necessary for him to allow drawbacks. They have extensive coal mines. Their mines, he says, are, say, two hundred miles from New York, while others are from one hundred and twenty-five to one hundred and sixty miles. Therefore the shorter lines would fix the rate to New York, and if their long line desires to compete with the short line they must name an equal charge. He says:

> We must either do that or lose the business; and if you announce the rule of no discrimination in rates, or what in our case would be the same—no drawbacks, the result would be to throw the traffic into the hands of the shorter line and prevent competition by the longer, unless we should be willing to make the competitive rate to New York govern our entire trade.

When told he had the privilege of charging cheaper rates, he said they would not have because rebates and drawbacks are prohibited by the proposed substitute; and as they could not tell where the coal was eventually to go, and as the rebate or drawback applied to the locality to which it was shipped after leaving their line, and not to the person shipping the coal, it would be almost impossible for them to equalize the rate in any other manner than by a drawback, so as to enable them to secure the business to competitive points. He says they must adopt the drawback system, which would be prohibited by the substitute proposed, and that no one is injured by such drawbacks.

Mr. Gowan certainly gave some very forcible reasons for not prohibiting absolutely rebates and drawbacks, and so did some other gentlemen who addressed the Committee on Commerce. Hence, the bill under consideration does not forbid rebates and drawbacks which, under like conditions and for the same contemporaneous service, are allowed to all persons alike. The objection to rebates and drawbacks is that they are a means of unjust discrimination between shippers, and lead to fraud and corruption on the part of railway managers, who often, it is said, share them to the injury of stockholders. But if rebates and drawbacks are open and public and allowed equally to all shippers, there can be no objection to them, it would seem; and, at least before absolutely prohibiting them, it may be well to require the board of commissioners to examine the subject and report to Congress what further legislation should be had upon the subject.

The proposed substitute for the bill under consideration makes it unlawful for any person or persons carrying property under its provisions to enter into any contract, agreement, or combination for the pooling of freights, or to pool the freights of different and competing railroads by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them. The bill under consideration does not prohibit the pooling of freights, but makes it the duty of the board of railroad commissioners to inquire into that method of railroad management or combination known as pooling, and to state the result of their inquiry in their first annual report, and whether in their judgment any, and if so, what, legislation is expedient in relation thereto.

The reasons offered for prohibiting contracts for the pooling of freights are that such contracts or combinations destroy competition, and the object is to preserve competitive railway lines, and thus prevent extortionate and unreasonable freight charges. But it is claimed with great confidence by some who are familiar with railway management and who have given much thought to the subject that the public is benefited rather than injured by such combinations; that by way of such combinations the public, in fact, secure more uniform as well as more reasonable rates of transportation. It is very certain that the competition or strife between different railway lines starting from the same terminal point, as well as those running to and from different cities striving for commercial supremacy, carried to the extent which it has been and is liable to be at any time, has been of serious injury to the business and commerce of the country. When railroads are at war with each other, cutting rates and striving for the carrying trade, the entire business of the country is unsettled and seriously disturbed. No person engaged in business in which the cost of transportation forms an element knows at such time what to depend upon. During such war the very worst evils of which the public complain prevail. Discriminations against individuals and against communities are the inevitable result. Rates of transportation are very low to-day, but no person can tell how long they may continue, and consequently all business in which the question of transportation and the cost of it enters is transacted upon an uncertainty while the war lasts.

The consolidation of competing railway lines, like the agreements for the pooling of freights, has created a great deal of anxiety in the public mind; and the object of the provision of the substitute prohibiting agreements for the pooling of freights of competing railroads is to preserve competition and relieve this public anxiety. But will it do it? Can railroads be compelled to compete with each other? And are not the evils which result to the business and commerce of the country from the wars of competing railway lines—cutting rates to-day and raising them to-morrow, making uncertain the cost of transportation—so great as in themselves to demand some remedy? These are questions which may well be carefully considered and investigated by an able and intelligent commission. England has been struggling with these questions for many years, and it seems has filled many volumes with statutes relating to railways, and the effort there was to maintain competition. But we are told by Mr. Charles Francis Adams, in his book on Railroads, their Origin and Problems, that in 1872 a committee on railroad amalgamations was appointed, of which the Marquis of Salisbury and the Earl of Derby were members, and that they gave the whole subject an intelligent consideration. They took a vast amount of evidence and reviewed the forty years of experience of that country in attempting to regulate railway transportation, and among important conclusions reached by that committee was one that competition between railroads existed only to a limited extent, and that it could not be maintained by legislation; and another was that amalgamation, or consolidation as we term it, of railroads had not brought with it the evils that had been anticipated, but that in any event long and varied experience had fully demonstrated the fact that while Parliament might hinder and thwart, it could not prevent it, and it was equally powerless to lay down any general rules determining its limits or character. But what is equally important and interesting in connection with this subject, that committee cited the case of the Northeastern Railway, which was composed of thirty-seven once independent lines, several of which had formerly competed with each other; and it is stated that—

> Prior to their consolidation these lines had, generally speaking, charged high rates, and they had been able to pay but small dividends. Now, the Northeastern was the most complete monopoly in the United Kingdom. From the Tyne to the Humber it held the whole country to itself, and it charged the lowest rates and paid the highest dividends of all the great English companies. It was not vexed by litigation, and while numerous complaints were heard from Lancashire and Yorkshire, where railway competition existed, no one had appeared before the committee to prefer any complaint against the Northeastern.

In view of such facts as these, and which induced the English committee referred to to report that amalgamation had not brought with it the evils that were anticipated, it seems to me, Mr. Chairman, it would be the part of wisdom and safer for us to let an intelligent and responsible commission investigate this question carefully, and suggest what legislation is expedient in relation thereto, before absolutely prohibiting agreements to pool freights and attempting to compel competition by legislation. In the mean time we have this safeguard, if we adopt the bill under consideration: all railroads and all railroad combinations are allowed to charge no more than reasonable rates for transportation, and if they do they are made guilty of extortion, and it is made the duty of the commissioners to enforce the law in this as well as in all other respects. And I very much doubt whether any better mode can or ever will be provided by legislation for guarding the rights and interests of the people in regard to the transportation of interstate commerce.

And now, Mr. Chairman, as to the fourth section of the proposed substitute, which makes it unlawful to charge or receive any greater compensation per car-load of similar property for carrying the same for a shorter than for a longer distance, I will say that such provision does not commend itself to my judgment at all. I know that many members of this House approve of that section of the proposed substitute, and insist that it is right in principle. They tell you with

great confidence that every man of common sense knows that it does not cost any more to carry freight of any kind a shorter than it does for a longer distance, and that it is a wrong and an outrage to do so. I know this seems to be very plausible indeed, but I assert here that no such rule can be applied to railroads engaged in carrying interstate commerce indiscriminately without doing in many cases absolute wrong and injustice; and it does seem to me not to require much examination and reflection to satisfy any one of the truth of this statement. The rule might be a just rule, and I think it would be, if there were no controlling influences to prevent a railroad from charging at its terminal points a reasonable rate for the transportation of property. Then, and in that case, you might insist that no greater charge should be made for a shorter than for a longer distance. But such is not the case, as every one knows. Take Chicago, Saint Louis, Cincinnati, and many other cities where there are numerous railway lines running to the seaboard, all competing not only with each other but with the cheaper water transportation, and there are times when the strife for the carrying trade between these competing lines, lines constructed and run as far as may be in the interest of rival cities, each striving to build up its own commerce or to maintain its own commercial supremacy, is so great that railways are compelled by this high competition to carry for less than a reasonable rate, for less than a living rate; and then I ask every candid, fair-minded man in this House, is it just to say that because a railway is thus compelled to carry for less than a reasonable rate, or living rate, from the point of such high competition in order to carry anything, that it should not be allowed to charge a reasonable rate, or living rate, from intermediate points where there is no competition whatever, even though such charge be more than was charged for a longer distance on the same line of transportation? I know it is said that if railroads carry from terminal points for less than cost they should not be allowed to make up their losses by exorbitant charges on local freights; in other words, that unreasonably high local rates should not be permitted to compensate for unreasonably low through rates; and that proposition I do not object to. I maintain, however, that unreasonable, extortionate rates should not be permitted anywhere on any railroad; and I insist that the question to be considered should be, what is a reasonable charge from the given point, and not what is charged from some other point.

It is admitted by all who are conversant with the subject that freight can be carried for much less by water than by rail. Some say for one-fourth, and certainly it can be carried for one-half by water that it can be by rail. God made the rivers, the lakes, and the ocean, and the Government dredges the bars, removes the snags and the rocks, and deepens the channels, and all the expense the carrier by water is at is the expense of building his boats and running them, while the construction of the railway costs millions to those who carry by rail to which millions more may be added for rolling-stock, locomotives, and cars, and the expense of operating them. Hence water transportation is by far the cheaper, and railroads that have to compete with water lines of transportation are compelled to carry at the very lowest possible rates; and when you add to that the competition of numerous other railway lines, each striving for business, the rates for carrying freight are in many cases reduced so low that any one can see that to prohibit a railway company, under such circumstances, from charging more from some other point where there is no such competition, and where the shipper has no such advantages as exist at the competing point or points, would be absolutely unjust and ruinous to such company. This is the case at Chicago, and this is the case at Saint Louis, Cincinnati, and very many other cities where competition runs high and railways are striving for business.

My colleague [Mr. SPARKS] who delivered a speech on this subject some weeks since in the House, who approves of the fourth section of the substitute proposed by the gentleman from Texas [Mr. REAGAN] and who thinks it tersely and admirably drawn, said in his speech:

> From Saint Louis pointing east there are five important railway lines, which of themselves and in combination with other roads forming their eastern connections are through lines to the great business centers on the Atlantic seaboard. These railways all pass through the district or parts of the district in Illinois which I have the honor to represent in this House. * * * That district of country is devoted mainly to agriculture, and the productions principally wheat and corn. These crops, together with flour quite extensively manufactured there, constitute the great bulk of its exports, 90 per cent. of which is destined for the markets of the East, such as Baltimore, Philadelphia, New York, and Boston.

He further said that his home was at Carlyle, a way station on the Ohio and Mississippi Railway, forty-seven miles east of Saint Louis; and then shows that in the month of November last freight rates were more from Carlyle to Philadelphia, Boston, and New York than from East Saint Louis.

Now, Mr. Chairman, there are not only the five important railway lines running east from Saint Louis through my colleague's district, but there are competing waterways by way of New Orleans and Chicago, and I would say to him that these five railway lines are compelled necessarily to compete not only with each other, but with these several lines of transportation by water when they leave Saint Louis; and as the proposed substitute for the bill under consideration, which my colleague approves, forbids all poolings of freights and combinations of railways for that purpose, and seeks by legislation to compel competition, and, as he said in his speech, "when railroad companies declare war against each other, during the continuance of such war, at the terminal and intersecting points, their tariff rates are in many cases reduced to ridiculously and ruinously low amounts," I would ask him whether if the Ohio and Mississippi Railroad Company under such circumstances should be compelled by such a war, or by great competition, to reduce its tariff of rates to a ruinously low amount, it should be compelled to charge ruinously low rates at every other point where there is no competition whatever? There can be no good reason given, it occurs to me, why such railroad may not under such circumstances justly charge a fair and reasonable rate from such other points where there is no competition. My colleague says again that on the Pacific Railway, six hundred miles east of San Francisco, shippers are compelled to ship their freights at local rates west to San Francisco, and then ship them back over the same line in order to get the best rates. And this seems to be a great wrong. But why is this, Mr. Chairman? How does it come that this seeming wrong is perpetrated? It is of course because the Pacific Railroad when it leaves San Francisco must compete with transportation by ocean, which is much cheaper; for the railroad was constructed at immense expense, and if it is compelled to carry freight from San Francisco for less than a remunerative or reasonable rate by reason of the cheaper transportation by ocean I would like to have my colleague, or any other gentleman, give me any good reason why a reasonable or remunerative rate should not be permitted at other points east of San Francisco. While no exorbitant charge, no unreasonable or extortionate charge, should be allowed anywhere, it seems to me to be unreasonable to attempt to give people who live ten, twenty, or a hundred miles away from water transportation the benefits he would have if living by it. With as much reason you might as well try to put the man who lives twenty miles away from navigable water, or a railway station, on an equality with the man whose farm is near by.

The same complaints are made in regard to Chicago rates and local rates east of Chicago that are made as to Saint Louis, San Francisco, and many other places. And why? Because Chicago has water transportation by the lakes and by the Erie Canal, and by the Illinois and Michigan Canal, the Illinois and Mississippi Rivers to the Gulf and the ocean. And in addition to these cheaper lines of water transportation, there are numerous railway lines leading to the seaboard and to rival commercial cities striving to build up their commerce, if not to maintain commercial supremacy. Now if, with all these competing lines of transportation striving for business, and especially during a war among railway lines, a railway company is compelled, in order to do any business, to carry at unreasonable or ruinously low rates, I am wholly unable to see any wrong or injustice in permitting such railway company to charge from any station on its line east of Chicago a reasonable rate, even if such charge should be greater for the shorter than is made from Chicago where the advantages of all these competing lines exist, and which would be a longer distance. And the same thing may be said of numerous other cities and places all over the country.

I would ask, Mr. Chairman, why this fourth section, so much commended, permits a railroad company to charge as much for the shorter as it does for the longer distance? We are told that under this section the Pittsburgh, Fort Wayne and Chicago Railway Company may charge as much from Crestline to Pittsburgh as it does from Chicago to Pittsburgh. And so a railroad company may charge as much from Albany to Boston as it does from Buffalo to Boston. Of course, to do this the company must charge as much at every intermediate station between Chicago and Crestline as it does from Chicago, and the same from Buffalo to Albany, and this fourth section permits that to be done. It does not seek to regulate or control charges in any way; it permits a railway company to charge what it pleases for its services. And when it fixes a through rate from its terminal points, whether such through rate be high or low, it permits the high rate to be continued at every intermediate station all the way to the end of the line, and also requires that the low rate shall not be exceeded at any intermediate station on the line. Why is this permitted? And may not the circumstances which would justify charging the same for a shorter distance than is done for a longer be of such character as to justify charging more in some cases for the shorter than is done for the longer distance? It seems so to me, and I am satisfied that the only just rule that can be adopted, both for the interest of the shipper, of the people who are interested in cheap transportation, and of railway owners, is to require railway companies to carry at reasonable rates from all points and for all distances. And I ask, Mr. Chairman, why, if you are permitted to charge as much from Crestline to Pittsburgh as you do from Chicago to Pittsburgh, you may not be allowed to charge a little more from, say, Fort Wayne, which is from one to two hundred miles farther from Pittsburgh than Crestline?

The fact is the rule that a railway shall not under any circumstances charge more for a shorter than is at the same time charged for a longer distance is not a just rule. There are many cases where it seems to me a railway company may without any injustice be permitted to charge more for the shorter distance. Take the railway lines that necessarily have to compete with the cheaper water transportation, as from Louisville, Kentucky, to Memphis, Tennessee. That line must compete with the Ohio and Mississippi Rivers. The railway lines from Pittsburgh, from Wheeling, from Bellaire, and Parkersburgh to Cincinnati, and from Cincinnati to Saint Louis must compete with the Ohio River and with the Ohio and Mississippi Rivers. And in these and many other cases the railway lines may, I think, be permitted justly

to charge more for the shorter distance after leaving the point of competition with water transportation, provided always the charge be a reasonable charge. Nor is it entirely clear that under some circumstances a railway line may not without any injustice be permitted to charge more for the shorter distance even without reference to competition. Take the case of Carlyle, Illinois, mentioned by my friend and colleague from Illinois, forty-seven miles east of Saint Louis. This fourth section only applies to a car-load. Where does the car come from to Carlyle? The probabilities are that it comes from Saint Louis and is hauled empty to Carlyle, and you not only have to stop to leave the car, but it must remain there for a time and you must then stop your train to get it again, and so it may have been better and cheaper for the railway company to have hauled the car loaded all the way from Saint Louis.

I am led to believe, Mr. Chairman, that the proposed fourth section has grown out of complaints that railway lines are discriminating in their freight charges in favor of the West. In New York it is made a matter of complaint that the New York Central and the New York and Erie Railroads discriminate against the people of that State and charge them more proportionately than they do the people of the West. It is the same thing in Pennsylvania with the Pennsylvania Railroad, and perhaps the same charges may be made against the Baltimore and Ohio Railroad. Mr. Thurber, an intelligent gentleman of New York, connected with the board of trade and transportation of that city, who takes a deep interest in the passage of the substitute proposed by the chairman of the Committee on Commerce, is reported to have said, in speaking of the great wrongs which have been perpetrated upon the people of the State of New York by railroads, that—

It is wrong that the farmers of this State [New York] should be charged for transporting their produce a rate proportionately three or four hundred per cent. higher than those of the Mississippi Valley.

This same complaint is made by many others. I have in my hand a paper entitled Public Opinion, containing extracts from a number of newspapers published in New York and Pennsylvania, and perhaps some other States, in relation to this question of railway transportation. I presume other members have received it as well as myself, and on looking over these extracts I find many of them complaining of this discrimination in favor of the West and against the people of New York. One newspaper, the Evening Express, says:

The present system of railway discrimination virtually puts every farmer in New York west of the Mississippi.

The Lake Shore News says:

The Central road alone has made poor men of thousands of New York farmers by reducing transportation from the West to a figure lower than it can be had from this State to New York.

And the same paper quotes from the report of the committee of nine appointed by the Legislature of New York to investigate the methods of railway management, as follows:

The charge that the railroads of this State discriminate against the citizens of the State [New York] and in favor of western and foreign producers is fully proven by the evidence taken.

The Patriot and Gazette says:

The discrimination against our own State [New York] is telling heavily on the farmers. Their lands have declined very largely and are still declining. With the most rigid economy and with the most exacting labor they are constantly growing poorer and poorer. If a barrel of flour can be carried from Chicago to the seaboard cheaper than it can be carried from Oswego, then wheat at Oswego is not worth as much as it is at Chicago.

And then asks the following question:

Shall the railroads be so perverted as to be made to build up Illinois at the expense of New York, or shall it be made to prove a benefit and a blessing to the State from which it derives all of its power?

The same paper, Patriot and Gazette, in another extract says:

The railroads of this State are carrying freight from the West at rates far below those charged on all the above productions of this State, and the result is no farmer or manufacturer is able to hold his own against the competition from the West, aided as it is by the low rates of freight there obtained.

And then states that while flour is carried by all rail from Milwaukee to New York for thirty-six cents per barrel, the charge from Rochester to New York is thirty cents.

The Long Island Farmer says:

Grain, flour, butter, and cheese are brought from the Mississippi Valley to New York, twelve hundred miles, for less than half the freight exacted from farmers living within one hundred and fifty miles of the city, thus practically removing their farms one thousand miles further from the market, subjecting them to a portion of the expenses for transporting the products of the West, and reducing by one-third the cash value of their land.

The Yonkers Statesman says:

Our railroads are being run in the interests of the Western States.

And then repeats the exact language already quoted from the Patriot and Gazette, only substituting "Yonkers" for Oswego.

I might go on and multiply these quotations, but those already referred to are quite sufficient to show that there is a very general feeling in New York that the railways in that State are discriminating in favor of the West; that the people of the Mississippi Valley are getting cheaper transportation than the people of the State of New York, and the same feeling exists in Pennsylvania and other Eastern States to a great extent. But if it be true, I ask, in all candor, why do the railways of New York, or of Pennsylvania, or of Maryland, discriminate in favor of the West? Why do they carry the produce of the Mississippi Valley to the seaboard so much cheaper, proportionately, than they do the produce of the States which give them their very existence? Is it because they love the people of the West better than the people who gave them all their rights and privileges that they thus discriminate in favor of the West and against their own States? It may be these railways wrong the people of their own States which have conferred upon them their franchises; and, if so, I certainly would not defend the wrong nor attempt any apology for it. But whether the people of New York and of Pennsylvania and other Eastern States are charged too much or not, I am very certain railroad companies do not carry for lower rates from the Mississippi Valley than they are compelled to do.

Fortunately for the people of the West and of the Mississippi Valley their products are not compelled to pass over one line of transportation and to pay tribute to it. They have many lines of railway transportation competing with each other; and what is better and more favorable for them, they have lines of water transportation by the Mississippi River and by the lakes so much cheaper than by rail that these railways are compelled to do whatever they do in the way of giving to the people of the West cheaper transportation. Now, I have believed, and still believe, that the intention and the effect of this fourth section, which prohibits railway companies from charging more for a shorter than they do for a longer distance, is to compel such companies to charge higher through rates and lower local rates, and that it will increase the cost of transportation to the people of the West rather than lessen or cheapen it; and for that reason I oppose the section and believe that it would operate injuriously to the people I represent and to the entire West. And knowing, Mr. Chairman, that the New York Board of Trade and Transportation is anxious to maintain the commercial supremacy of New York, I would say to the members of that board, and especially to Mr. Thurber, that the commerce of New York cannot be built up and the commercial supremacy of that city maintained by compelling the people of the Mississippi Valley to pay higher rates of transportation. If you do that, you drive them out of the market, or else you drive them down the Mississippi River by way of New Orleans; and in either case, whatever the railway companies suffer by loss of through traffic has to be made up in some way by charging higher rates on local traffic. This is inevitable unless their receipts are already larger than they should be, or you drive them into bankruptcy.

But the people of the West do not understand they are so highly favored with cheap railway transportation. There are many and loud complaints in the State in which I live of railway extortion, and the people there will be surprised to learn how greatly they have been benefited by cheap transportation. The same complaints are made in the district which I represent of high local rates; and it is undoubtedly true that my constituents, only from one hundred to one hundred and seventy-five miles from Chicago, are compelled often to pay more to or from that city than is charged for four or five times the distance east of Chicago. One gentleman writes me that he paid last fall $18 for a car-load of coal from Pittsburgh to Chicago and $28 for the same car from Chicago to his residence, the latter distance being only about one hundred miles, while the former distance is, say, five hundred miles. Now, if $18 is a reasonable charge from Pittsburgh to Chicago, five hundred miles, $28 is certainly an unreasonable charge from Chicago to Van Orin, one hundred miles. But Congress can give no relief for such wrongful or extortionate charges to my constituents, because our railways are State railways and terminate at Chicago, within the State of Illinois, and are therefore beyond the reach of national legislation.

And again, the people of Illinois complain also that the people of Iowa, Kansas, and Nebraska are getting much cheaper transportation proportionately to Chicago than they do, and that our own railways are discriminating against Illinois and in favor of those States; and without doubt the railways of Illinois are carrying for cheaper rates proportionately for the people of Iowa, Kansas, and Nebraska than they are for the people of Illinois, especially those in Illinois who are not favored in any way by competing lines. This discrimination against the people of Illinois may be very unjust, and if so the injustice should be remedied. But to a great extent it grows out of the fact that Saint Louis, on the Mississippi River, and Chicago, on Lake Michigan, are two great rival commercial cities, and have each numerous railway lines reaching out into the States lying west of the Mississippi and of the Missouri Rivers, which compete with each other and with the rivers named for the carrying business. It is this competition, as any one can see, that gives to the people of Iowa, Kansas, and Nebraska cheaper transportation than the people of Illinois enjoy, and not any particular love the railway companies have for them. I do not object to the people of those States getting cheap transportation, but I do want my own constituents also to have cheap transportation; and while they are now subjected to high local rates to Chicago I protest against any rule which would deprive them of the low rates which, by reason of the competition of numerous lines of transportation by railroad and by water, railway companies are now compelled to give them east of Chicago. And that, in my opinion, would be the effect of the fourth section of the proposed substitute.

The bill under discussion omits the fifth section of the proposed substitute, which requires all persons engaged in carrying property, as provided in the first section of the substitute, to adopt and keep posted up schedules, which shall plainly state, first, the different kinds and

classes of property to be carried; second, the different places between which such property shall be carried; and third, the rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same, &c. In regard to this omission I wish to say but a few words, for I must close my already too lengthy remarks. If there was but a single line of railway carrying, say, from Saint Louis to Boston, or from Chicago to New Orleans, it would be entirely practicable for the company operating such line to adopt and keep posted the schedule required by said fifth section; and so any other line might easily keep posted such schedule of freight rates charged by it over its own line. But it does seem that a railway company should be allowed to ship any kind of property over its road to any part of the United States; and as it may have to be done through many other lines of railroad wholly independent of each other and of the company which originally receives the property for shipment it must be impracticable for such company to keep a schedule of charges extending beyond its own line and over so many different lines of railroads as there are in the United States.

It must be remembered that the interstate commerce of the country, as a rule, is carried, not by a single railroad operated by a single company, but it is carried by different railroads, operated by different companies, and which, while they have running connection with, are yet entirely independent of each other. And in my opinion it would be unreasonable to require any railway company to keep posted a schedule of the freight charges over other lines of road than its own, and for the reason that it would be almost impossible to do it. I think, Mr. Chairman, the English rule is a much better one. It requires every railway company and canal company to keep at each of their stations and wharves a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf, to every station, wharf, siding, or place to which any such rate is charged. And it further requires that such book shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee.

I think this a better and more reasonable rule than the one provided by the fifth section of the proposed substitute, and at the proper time I propose to offer it as an amendment to the bill reported by the Committee on Commerce. It does not require any notice of changes of rates, and whatever else may be said of the fifth section of the substitute, it would seem a very great injustice to compel competition by railway companies; and yet if one competing line reduces its rates so as to increase its business, another competing line must wait five days before it can reduce its rates. And especially would it seem to be unjust when a railway company is compelled to compete with a water line of transportation and with railways running in connection with water lines and not subject to the provisions of the law, which may change their rates every day and every hour in the day, without notice, to require such company coming under the provisions of the law to give five days' notice before it could reduce its rates. Such provision may be a just one, but I am unable to see it.

I have not discussed nor attempted to discuss the power of Congress under the Constitution to regulate railway transportation in so far as it affects interstate commerce. I have taken it for granted that Congress has such power, and that it should be exercised in the interest of the people to prevent extortion, wrong, and injustice. And I believe the bill reported by the Committee on Commerce has been carefully prepared, and kept within constitutional limitations.

The gentleman from Texas [Mr. REAGAN] has stated in the remarks just made by him that the board of commissioners established by the bill under consideration is simply a commission of inquiry; that all the commissioners are to do is to inquire into certain questions and report to Congress. Surely the gentleman has not read the bill aright. If he had studied its provisions with any care, he certainly could not make any such statement. The greatest complaints made by the people against railroad companies are of unreasonable and extortionate freight charges and of unjust discriminations, and these complaints are fully met by the provisions of this bill. They are certainly met more fully and effectually by the bill than they are by the proposed substitute of the gentleman from Texas; and an ample remedy is provided for the enforcement of such provisions. The gentleman from Texas further said in substance, in speaking of the provisions of the bill as to unreasonable charges, that "no one will ever bring a suit against a railway company for the difference between a just and an unjust freight bill." That may be true, Mr. Chairman. The truth is, the great trouble has been that people would not in many cases sue railroad companies because of the unequal contest and the great expense of litigation which a wealthy and powerful railroad company can better afford to pay than a private individual, and especially unless such individual is in good circumstances and able to carry on expensive lawsuits. Hence this bill makes it the duty of the board of commissioners to enforce the provisions as to unreasonable charges and unjust discriminations, to bring suits to recover the penalties imposed for their violation, and relieve the people from the expense of litigating with wealthy railroad companies. I hesitate not to say that these provisions of the bill will prove more beneficial to the people than any remedies found in the substitute proposed by the gentleman from Texas.

Now, Mr. Chairman, a few remarks more and I will close. The bill reported by the majority of the Committee on Commerce has sometimes been called the Henderson bill. I am really not entitled to that credit. I prepared the bill from several bills referred to the Committee on Commerce, and principally from the bill introduced and referred to the committee by Hon. Mr. RICE, of Massachusetts, and I believe he is entitled to more credit for the general provisions of the bill under consideration than any other person. I have said this much in justice to Mr. RICE, who I know has given a great deal of intelligent thought to this subject, and because I am not disposed to claim a credit which justly belongs to another. But I believe this bill to be a just bill in its provisions. I am satisfied it will accomplish far more for the people than the proposed substitute. I believe it to be the very best we can pass, with some amendments which may be made to it, when we come to consider the bill for amendment. I think the commissioners should have a larger salary. They should be required to take an oath of office, and should not be allowed to be interested in any manner in any railroad, as stockholder or otherwise; and the provisions of the bill should extend to shipments of less than a car-load as well as to a car-load. Railway companies should not be allowed to discriminate against small shippers and dealers any more than large ones, and I shall at the proper time propose on my own motion amendments to the bill in accordance with these views. Then I believe the bill can be defended by every man who will carefully examine its provisions and who seeks intelligent legislation on this great subject. No law that we can pass will be found perfect; there are too many difficulties in the way of just legislation to hope for that; but the bill under discussion is a step in the right direction. It proposes at once to relieve the people from unjust discriminations and from unreasonable charges and extortion, and is the beginning of an intelligent system of national legislation regulating railway transportation in so far as it affects interstate commerce. It will, if made the law of the land, prove, in my opinion, of incalculable advantage to the people, in whose interests the bill should pass, and then its provisions may be extended as experience and wisdom shall from time to time dictate.

A DEFENSE OF BUSINESS MEN.

Mr. HORR. Mr. Chairman, I have sat here during this session, and it was the same thing during the extra session, and listened to tirades against the business men of this country until it seems to me the proper time has come when a protest should be entered against this wholesale abuse and denunciation of our most enterprising citizens.

There are many members of this House who seem to think that true statesmanship consists in persistently maligning the bankers, the railroad men, the capitalists, and business men generally, of this our common country, and in clamorously claiming that our entire people are on the verge of despair and ready for immediate mutiny.

At a convention held in this city only a few weeks ago one of its vice-presidents, who also happened to be one of its most prominent speakers, gave utterance to the sentiment that he wished all the directors of the national banks of this country were in the depths of the lowest hell! Now, such a sentiment might be uttered in an unguarded moment by some frivolous, hare-brained fanatic and give rise to little comment; but the reporters tell us that in this case, when the speaker uttered these words, he was interrupted with great applause for the space of five minutes. Just think of the intellectual and moral make-up of an audience that could thus cheer such a fiendish sentiment.

Why, sir, who are the men who constitute the officers of our national banks, or, for that matter, of all the banks in this country? Go with me, if you please, into every village and city of this broad land, and you shall find them to be among the very best citizens of each and every place. My own observation is that there is hardly an exception to this rule. Look about you where you will, and who are the men whom you would trust with a dying legacy to your wife and children, whom you would select to take charge of important interests, requiring capacity, integrity, and honesty, or whom you would look to for assistance in times of real want or genuine distress? You will find that among these men your bank directors will be largely represented. The same thing may also be said of our railroad men. I am not speaking of the railroad wreckers, inside ring men, and stock-jobbers, but of the men who built and equipped these roads, and who manage and operate them. There is surely nothing in the nature of their work which makes them unkind or unfriendly to the poor. Go where you will, and you will find no set of men who possess more energy, more capacity, or who are more keenly alive to a sense of business honor and integrity than these same railroad men. They are also, everywhere, among our ablest and best citizens. Then why all this abuse? Some men would fain make us believe that the moment a man engages in any work for a corporation, the moment he attempts to organize labor and build up any great enterprise, the moment he opens a bank, projects a railroad, starts a saw-mill, erects a tannery, builds a large cotton-factory, or puts in operation a furnace or a foundery, that moment he loses all his manhood, his heart immediately becomes cold and his conscience seared. What consummate nonsense! And somehow these same men seem to take great delight in running down and disparaging the prosperity of our people generally.